

DETECTIVE SENIOR CONSTABLE GRAY

Q1 This is an electronically recorded interview between Detective Senior Constable Stuart Gray and Mr Hugo Van Kretsumar on Wednesday, the 21st of July, 1999 at the Sydney Water Police section at Pymont. The time by my watch is now 12.31pm. Also present seated to my left is Senior Constable David Upston from the New South Wales Water Police. For the purpose of the record, Mr Kretsumar, could you please state your full name?

A Johanne Christian Hugo Van Kretsumar.

Q2 Your date of birth?

A 6/12/57.

Q3 Your current address?

A 116A Victoria Road, Bellevue Hill.

Q4 And your occupation?

A Property developer.

Q5 O.K. Now if I could just inform you of what this interview is all about. As you're aware, Senior Constable Upston and myself are making inquiries in relation to the 1998 Sydney to Hobart Yacht Race. And you being the present Commodore of the Cruising Yacht Club of Australia and the Commodore at the time of, of the 1998 Sydney to Hobart Yacht Race, it's our intention to interview you in relation to a number of issues in relation to that race. So do you understand that?

A Yes.

Q6 O.K. Would you please start by giving me your sailing experience?

A I've been sailing since before I can remember, at age 2, 3 or less. I've raced extensively throughout my life, both in dinghies and off shore. Actually I've done 17 Sydney/Hobart races, three Admiral's Cups, one America's Cup, three Kenwood Cups, various ocean passages, including two trans Pacific crossings and extensive racing, both locally and overseas.

Q7 O.K. Now I believe you were an entrant in the race last year?

A Yes.

Q8 And on what vessel was that?

A Assassin.

Q9 Can you give me some details about that particular boat?

A Assassin is a 40 foot designed boat. It was launched in 1992. It's part owned between myself and a gentleman by the name of Robert Crawford. It's an I.M.S. class boat and it was one of the first I.M.S. class boats that was built and launched in Australia.

Q10 O.K. And how many crew were on that boat last year?

A Nine.

Q11 Right. Are you aware of the stability index of that boat, offhand?

A No.

Q12 O.K. Obviously it's above 115 degrees?

A It is.

Q13 O.K. Now in relation to your involvement with the Cruising Yacht Club of Australia, can you sort of give me a bit of a precis on that?

A I've been a member of the club for, I think about 15 years.

Q14 All right.

A Joined the board, or originally joined the sailing committee of the club, probably about 1993, '92, I think it was.

Q15 Yeah.

A Served on the sailing committee for, from that time through til 1997. Joined the board of the club in about 1994, served as a director for 1 year then as a Rear Commodore for 1 year, then as the Vice Commodore for 2 years. During that 2 year period I chaired the sailing committee then became Commodore of the club in mid-'98.

Q16 And is it the case that you've been re-elected as Commodore this year?

A That's correct.

Q17 O.K. So is it fair to say that in your experience with the Cruising Yacht Club of Australia you have a fairly in depth knowledge of yachting administration?

A Yes.

Q18 Procedures in relation to yacht races?

A Yes.

Q19 Committees?

A Yes.

Q20 Sailing committees?

A Yes.

Q21 Racing committees?

A Not so - - -

Q22 Do you have any experience with racing committees?

A No.

Q23 Yourself personally?

A No.

Q24 O.K. Is it fair to say, as a board member and as a commodore, that you are aware that those individual committees have a specific role to play within the administration?

A Yes.

Q25 O.K. Now what involvement did you have as the Commodore, and I suppose entrant, in the 1998 Sydney to Hobart Yacht Race, apart from the sailing? Administrative side of things.

A Actually relatively little in the administrative -
- -

Q26 Right.

A - - - side of things. The administration of the Hobart race is, or has traditionally been the responsibility of the sailing committee, the sailing office that's our professional staff at

the club who work in the sailing office. We've had on occasions a separate committee called the Sydney/Hobart Committee, which is more associated with logistic issues associated with the race, travel arrangements, presentation venues, those sorts of types of things. Those are the, the three areas that, that in the past have run the event and as Commodore I didn't sit on any of - - -

Q27 All right.

A - - - any of those committees - - -

Q28 Right.

A - - - other than through minutes and reports that come through to the board meeting, little day to day involvement in the administration.

Q29 O.K. Can you tell me who oversees, or is responsible for the running of those committees as a whole?

A Well the board, the board determines what subcommittees will be in place at any particular time in the club, and that changes from year to year. The Commodore generally appoints the chairman of those committees. In the case of the sailing committee, it's been tradition that the Vice Commodore chairs the sailing committee. I believe that's been the case for at least the last 20 years. The actual committee members are then selected by the committee chairmen that have been

appointed by the Commodore.

Q30 Right.

A Generally those selected committee members are referred to the board for a, for a sign off.

Q31 Right.

A But there's no, there's no real vetting process with respect to that other than that, you know, quite often board members might make a suggestion to say, you know, have you considered so and so being on the committee? Or - - -

Q32 Yeah.

A - - - quite often too a board member might say, I'd like to actually sit on that committee as well. We also like to make sure that there's generally at least two board members on any of the club subcommittees.

Q33 O.K. So who is overall, who has overall responsibility for the committee? Or a committee? Whether they be the sailing, the racing, or whatever?

A The chairman of that committee is - - -

Q34 Right.

A - - - is responsible for the actions of - - -

Q35 That committee.

A - - - those committees.

Q36 Right. O.K. Now you said that the chairman of those committees is ordinarily chosen by the Commodore?

A Yes.

Q37 O.K. That's for the sailing committee?

A Well for, for all the committees. For the - - -

Q38 All committees.

A For the sailing committee, as I said, it's been tradition that the Vice Commodore chairs the sailing committee.

Q39 Right. O.K. Now so far as the racing committee is concerned, that is chosen by the Commodore?

A No, the racing committee is - - -

Q40 Chairman.

Q41 The racing committee is appointed by the sailing committee.

Q42 Right.

A And the chairman of the race committee is also, yeah, is also appointed by the sailing committee.

Q43 Right. O.K. Now, so is it the case that the, all of those committees derive their powers from the board, so to speak?

A Yes.

Q44 Or the Articles of Association on the - - -

A Yes.

Q44 - - - constitution of the club?

A Yes, although the constitution and the articles don't actually deal with the powers of committees as such.

Q45 Mmm.

A The, and the powers of committees will vary from

time to time - - -

Q46 Yeah.

A - - - and period to period. It's, it's, generally the activities of the committees and the decisions and recommendations and things that they want to do, are referred to the board each month, where each month each committee chairman presents the activity of - - -

Q47 Yeah.

A - - - their committee during the preceding month's period.

Q48 Right.

A And the board either accepts or, on occasions, might veto or ask for more information with respect to what one of the subcommittees does. So the subcommittees themselves don't actually have any ordained power, if you like - - -

Q49 Right.

A - - - or, or specified limits of authority. And it, it really works on a system that, that what those committees are considering or planning to do really refers back to the board.

Q50 O.K. So final approval is in fact given by the board on most occasions, or some occasions?

A Yes.

Q51 To a recommendation by either of those committees?

A Yeah. Not - - -

Q52

A Not, not always

Q53 Not always?

A Not always in a formal sense.

Q54 Yeah.

A It, it'd be by exception, if there is something that is, that the board considers significant - -
-

A Yes.

Q55 And that the decision will have added weight if the board formally endorses it, then we'll do that. On other occasions if the board is opposed to something that a subcommittee is proposing to do, then it will formally oppose it - - -

Q56 Yes.

A - - - and veto it in fact.

Q57 So it is the chairman's responsibility of that committee to determine whether it goes to the board or whether it stays within the sailing committee or the racing committee or whatever committee it is?

A Well no, the, the minutes of all committee meetings are circulated to all board members.

Q58 Right.

A It's a matter of whether the board members actually read those - - -

Q59 That's right.

A - - - minutes or not, and each committee chairman will give a precis or walk through the minutes of

the last meeting - - -

Q60 Yeah.

A Sometimes it might be as simple as, Can I take the minutes as read?

Q61 Yes.

A Or other times the chairman might say, you know, can I refer you to item 3.2? I'd like the board's view on this particular issue or, or have you actually - - -

Q62 Right.

A - - - thought about what we're planning to do here?

Q63 O.K. Now are you aware of how many members ordinarily sit on the race committee?

A The race committee is not necessarily constituted by members, members only. The - - -

Q64 Right.

A - - - sailing committee endeavours to appoint, appoint a race committee that has the necessary representative skills on it to, to take on the task that it does. And the race committee is actually a separate, or a committee of a different standing to the sailing committee in that the race committee is one that is required to be set up under the Racing Rules of Sailing.

Q65 Right.

A And it is set up under those, in accordance with the Racing Rules - - -

Q66 Yeah.

A - - - and it's roles and responsibilities are specified under the Racing Rules.

Q67 O.K. So is it true, is it fair to say then that a, that a racing committee is established for a particular race? Or, or are they a permanent existing entity?

A In, in the way the club operates the sailing committee is the race committee by default.

Q68 Yes.

A So when we have, for example, a normal seasonal point score where we have racing every Saturday, we don't have a separately appointed race committee. The sailing committee is the race committee. For particular events, and particularly the Hobart race, and the Telstra Cup and the Southern Cross Cup series, we specifically appoint a race committee for that particular event.

Q69 O.K. Now their role, after appointment, what is their role in relation to the Sydney to Hobart, the upcoming Sydney to Hobart?

A The race committee?

Q70 Yeah, the race committee.

A Well their, their role and function is, is specifically what is defined under the Racing Rules as their role being.

Q71 Right. O.K. Now within the racing committee you

have a chairman, that's correct?

A Yeah.

Q72 And you have a race director. Is that correct?

A Yes.

Q73 O.K. Do you know what the role is of the race director?

A The, the race director is primarily responsible for the day to day running and administration of the event. Probably put it into the context of a chief, chief executive of an organisation compared to a chairman of an organisation - - -

Q74 Right.

A - - - where the chairman is less likely to have a, a hands on, day to day involvement - - -

Q75 Yeah.

A - - - and relies on his chief executive to, to run the ship.

Q76 Right. Now who selects the race director?

A The sailing committee.

Q77 And of course, now that's based on experience - - -
-

A Yes.

Q77 - - - of that individual?

A Yes.

Q78 O.K. And in relation to the race committee, is there any thought given to experience of those persons on that race committee, so far as sailing is concerned?

A There is. The, the club's view towards the race committee is that it's needed a, a balance of people on it. It's also needed to be, the members of the race committee shouldn't be competitors in the event itself - - -

Q79 Yeah.

A - - - because there's number of roles that the race committee has to do that happens while the event is on.

Q80 Yeah.

A So that generally precludes quite a lot of people anyway. Again, by custom, the chairman of the sailing committee, if he is not participating in the event, will be the chairman of the race committee - - -

Q81 Yeah.

A - - - as well. But if he's not, then we'll appoint somebody else as chairman of the, well the sailing committee will identify somebody else to be appointed as chairman of the race committee.

Q82 Right.

A The race director has generally been, well the race director is the most critical one in terms of having an intimate knowledge in terms of how the event - - -

Q83 Right.

A - - - runs, and the logistics associated with the event.

Q84 Yeah.

A The remainder of the race committee is then made up of individuals that are seen to have some hands on knowledge and involvement in aspects of the event. For example - - -

Q85

A - - - our general manager is, is usually appointed to the, to the race committee because he is overall responsible for the - - -

Q86 Yeah.

A - - - for the business affairs of running it for the club - - -

Q87 Yeah.

A - - - for example. Generally we appoint at least one officer of the Royal Yacht Club of Tasmania because of their role in, in that side of the event. So the intention is to get a, a balanced team of individuals who each have an area, that either they have a, a day to day functional responsibility for anyway - - -

Q88 Yeah.

A - - - or alternatively have a particular skill base or knowledge or involvement, be it in a voluntary or a - - -

Q89

A - - - paid capacity with, to cover the various aspects.

Q90 Is it the case that in 1998 the race director was

in fact Phil Thomson?

A Yes.

Q91 O.K. Are you aware of anybody on the committee who was paid to be on that committee?

A (NO AUDIBLE REPLY)

Q92 Does that occur?

A No.

Q93 O.K. So - - -

A Oh - - -

Q94 Apart from the general manager who's drawing his wages anyway.

A And Phil Thomson is - - -

Q95 And Phil Thomson - - -

A - - - is drawing his wages. I'm not sure whether, maybe in years gone by where we've had race committee, or race directors who were receiving some reimbursement. I believe Greg Halls was a race director on some years - - -

Q96 Right.

A - - - I'm not sure whether he got paid for that role - - -

Q97 Right.

A - - - or, or didn't.

Q98 So that, that is available, payment if someone needs reimbursement for - - -

A Yes.

Q98 - - - for work done O.K. Now are you able to tell me what role, no before that. Is each

member of the racing committee given a set of instructions as to how they are to operate?

A Not to my knowledge.

Q99 Is it the case that it's a, an assumed, you know, you possess enough knowledge to understand how to do things? How you should conduct yourself, how this should be done?

A Basically.

Q100 Basically, O.K. Are you aware of what the responsibility of the race committee is when applications start coming in for the Sydney Hobart Yacht Race?

A Again there's a, there's a transitional process -
- -

Q101 Right.

A - - - here, whereas I mentioned before that the, the sailing committee is the race committee of default until the race committee is - - -

Q102 Yes.

A - - - instituted. Quite often the race committee comprises people, for example, the people in Tasmania - - -

Q103 Yeah.

A - - - who aren't actually in Sydney on the ground until just prior to the event. So up until, usually say a week before the start of the Hobart race the sailing committee is, is the race committee of default. And until all of the

members of the race committee are, are in Sydney and gathered as a team, that race committee then takes over the responsibilities of the race committee.

Q104 Mmm. O.K.

A I've forgotten the original question.

Q105 That's all right. No, that, that was all right. O.K. then, so would it be fair to say then, not a great deal of applications turn up the week before the race?

A No, all, all the applications will have come in - - -

Q106 By a certain - - -

A - - - prior - - -

Q106 - - - date.

A - - - prior to that.

Q107 And I think that around the 5th of November or something or the 7th?

A Yeah, there's - - -

Q108 Do you know what

A There's two dates. There's a close of entry date, which is the beginning of November. The process we work through is that people initially lodge an application for entry - - -

A Yes.

Q108 - - - and need to provide certain information with that application. That is reviewed - - -

A Yeah.

Q108 - - - and if the application is considered appropriate - - -

Q109 Yeah.

A - - - then an entry form is, is sent out.

Q110 Yeah.

A The closing date for the entries is the end of November and there's a bunch of other paperwork that needs to accompany the entry form and then we have a, then there's all sorts of other bits of paper that, by their very nature, can't be submitted until late in the piece. There's a final cut off date of round about the 21st of December for things like final crew lists and - - -

Q111 Right.

A - - - and bits and pieces. And then there's also a provision for late lodgement of some of the earlier required documents - - -

Q112 Yeah.

A - - - if someone hasn't got their act together.

Q113 Right. O.K. So it's fair to say then that all the documents that were sent in by entrants for last year's Hobart race would in fact have gone through the sailing committee first?

A (NO AUDIBLE REPLY)

Q114 If in fact the race committee hadn't been grouped until the last week or so?

A Not, not necessarily all of them - - -

Q115 Right.

A - - - but the vast, the vast majority of them.

Q116 Majority of them, O.K. Do you know what the role that particular group would be, as those, as those applications come in?

A O.K. The, the way that the, I'm not, I'm not totally sure how the sailing committee ran it this year because I wasn't on it. In the years that I've been involved in the sailing committee, because the sailing committee only meets once a month - - -

Q117 Yes.

A - - - and there's a, you know, a day to day process of applications coming in - - -

Q118 Yeah.

A - - - and, and entry forms needing to be sent out, what the sailing committee has done is has set up a vetting committee, as such, which would generally comprise Phil Thomson as the - - -

Q119 Yeah.

A - - - the race director and sailing manager and one or two other members of the sailing committee - - -

Q120 Yeah.

A - - - who would review the applications for entry that came in in the first instance.

Q121 Yeah.

A A key point being here, and the reason why we established the application for entry process, is

that there is some suggestion that as soon as somebody submits an entry form and their entry fee with it, that a contract is established between the competitor and the club.

Q122 Yes.

A And somewhere in the past we've had difficulty, before we introduced the application for entry - -

-

Q123 Yes.

A - - - process, where somebody had asked for an entry form, we'd send them the entry form, they send in the, the completed form with their money, and then we say, Hey, hang on a second - - -

Q124 Yes.

A - - - we don't think you're an appropriate boat or an appropriate crew to sail. And they say, Well sorry - - -

Q125 Yeah.

A - - - I've already entered the event, now work out how you're gonna get me out.

Q126 Right.

A So we went through this process, O.K. we'll get round that by asking them to apply for an entry form first - - -

Q127 Yeah.

A - - - at that stage we will, we vet the, they're asked to nominate three of their most experienced crew - - -

Q128 Yeah.

A - - - and details, details of the boat, and their rating certificate.

Q129 Yeah.

A From those three primary documents, we vet and - - -

Q130 Yeah.

A - - - and again it's done, in the past it's been done by exception where, because sailing's really quite a small world, and you know the vast majority of boats and you know a lot of the people that are sailing there, if a crew list comes in for a, for a well known boat and three of the well known people, you know, three familiar faces - - -

Q131 Yes.

A - - - names are on there, and they've competed in previous Hobart races, then, then that one receives no further scrutiny and - - -

Q132 Yeah.

A - - - and the entry form is sent out.

Q133 Yeah.

A On other occasions you'll get an application from a boat from interstate, or overseas, or a boat that we haven't heard of before - - -

A Yeah.

Q133 - - - with names nominated as the most experienced people that, that aren't recognised, and at that

point then the vetting committee will start to, to look at those and either ask for more information, do some inquiry, and make a qualitative determination as to whether they should be sent an entry form or not.

Q134 Right.

A Now with a lot of that, in some, sorry, in, during the time that I was involved in the sailing committee, if not all years for the majority of those years we did have a, a vetting group, as such, which comprised Phil Thomson and, and two others. And Phil Thomson would scrutinise all of the applications for entry that came in and then pull out those that he, he was not certain about.

Q135 Yeah.

A And then the vetting group of three would, would go through those and quite often a lot of those would then also get the tick - - -

Q136 Yeah.

A - - - and it might be then that a very short list of, of applications where you'd say, We want some more information in - - -

Q137 Right.

A - - - respect of these.

Q138 O.K. And if that was the case then obviously some correspondence would be forwarded to that boat, if the - - -

A There'd either be correspondence - - -

Q138 - - - or by phone?

A - - - or a phone call, or - - -

Q139 And then depending on the result of the phone call or the correspondence, a conscious decision would be made by the vetting officers or - - -

A sorry.

Q140 You're right.

A I'll turn that off.

Q141 So depending on how that was answered by the entrant, the committee or the vettors, so to speak, would ensure that it complies and - - -

A Yeah.

Q141 - - - take the necessary actions to allow the boat
.....

A Yeah.

Q142 So do you agree then it is the case that there is in actual fact a contract between the Cruising Yacht Club of Australia and the entrant after there is an offer and acceptance and the payment being the consideration?

A I'm, I'm not a lawyer, but I believe that that is the case.

Q143 Yes.

A We've had advice in the past that - - -

Q144 Right.

A - - - that said that, yes, it is.

Q145 So it's a lawful contract. Are you aware, once again not being a lawyer, but are you aware of, of

legal implications so far as duty of care is concerned, after a contract has been formed?

A (NO AUDIBLE REPLY)

Q146 Have you heard about that?

A I'm, I'm really not in a position to - - -

Q147 That's fine. O.K. Now obviously a vetting committee is established within a sailing committee to ensure that compliance is met for, for individual boats. Is that correct?

A (NO AUDIBLE REPLY)

Q148 When I say, compliance, I mean I.M.S. certificate, safety certificate, crew lists, next of kins and that sort of thing.

A No, no. The vetting committee, there's, there's, see there's really a, almost a three stage process - - -

Q149 Right.

A - - - that we go through and they're sort of progressively finer sieve - - -

Q150 Yeah, .

A - - - if you like.

Q151 Right.

A The vetting committee, and I, probably committee might be the wrong word, it's, I mean, it's a group that are allocated - - -

Q152 Yes.

A - - - by the sailing committee to carry out this vetting process, is the course sieve in the first

place - - -

Q153 Yeah.

A - - - that determines which boats are going to be offered an entry form - - -

Q154 Yeah.

A - - - or offered the opportunity to enter into a contract with the club.

Q155 Yeah.

A O.K. And again, the things that we, we're seeking to establish at that point is that the three nominated most experienced crew - - -

Q156 Yeah.

A - - - come up to scratch. That boat is one that is, you know, well maintained, either raced regularly, etc. And that the, the specified eligibility criteria with respect to stability and the, the maximum speed of the boat - - -

Q157 Yes.

A - - - or the maximum speed potential of the boat, that those things are, are all satisfied. So that - - -

Q158 Right.

A - - - if a boat fails on any one of those in the first instance, then that's when either more questions or - - -

Q159 Right.

A - - - or an, or an outright, no - - -

Q160 Yeah.

A - - - occurs at that stage. Quite often the, the crew changes after that point in time. The rating certificate that is submitted which, which is the, the document that establishes stability and speed potential, at the time that it is submitted, might be not current.

Q161 Yeah.

A Rating certificates need to be renewed each year, so it's not unusual to receive a certificate that is, that is, hasn't yet been renewed. And boats regularly make changes to their configuration that will alter their maximum speed potential or possibly their stability as well. So the vetting group just looks at the documentation that is available at the time and it - - -

Q162 Yeah.

A - - - determines whether, in all likelihood the boat will satisfy - - -

Q163 Mmm.

A - - - those conditions. When the entry form is received there is a further level of detail that needs to be provided. If the boat has got through the first sieve, then it's, it's a, you know, a procedural process that's carried out by the sailing office to, to check through and make sure that the boat still fits within the parameters that it was offered the opportunity to enter in the - - -

Q164 Yeah.

A - - - first instance.

Q165 Yeah.

A Even at that stage, and as we discussed earlier,
that date was towards the end of November.

Q166 Yes.

A It may well still be that boats don't have a valid
certificate or a current certificate - - -

Q167 Yeah.

A - - - because they're currently undergoing some
changes. A boat's regularly fine tuning before
the event - - -

Q168 Yeah.

A - - - and it's, it's not uncommon at all for a,
for an owner to say, I'm going to re-incline my
boat. I'm doing some modifications and can I get
an extension for my final current certificate,
even as late as, you know, the 20th of December,
or the 21st - - -

Q169 Yeah.

A - - - December.

Q170 O.K. Well that - - -

A So that - - -

Q171 Sorry.

A After that first core sieve - - -

Q172 Yeah.

A - - - the, the process is handled by the office
staff at the C.Y.C.

Q173 First sieve, yeah.

A No, the, after the first sieve - - -

Q174 After the first sieve, yeah.

A - - - everything is handled by the, the sailing office staff - - -

Q175 Yeah.

A - - - at a club.

Q176 Yeah.

A Only if a boat through, after getting through the first sieve submits documentation that in the opinion of the sailing office staff, would have caused it to fail the first sieve in the first place - - -

Q177 Yeah.

A - - - is it, would it then be referred back to the vetting group - - -

Q178 Right.

A - - - or, or, or would the sailing office refer it to the sailing committee - - -

Q179 Right.

A - - - in some way, shape or form. Now referring back to the sailing committee might be as simple as, as ringing the chairman of the sailing committee - - -

Q180 Yeah.

A - - - and saying, you know, This boat, X, submitted a form and now this paperwork's come in, and what do I do now? Or - - -

Q181 Yeah.

A - - - the three nominated crew have now been replaced by a whole bunch of others and we don't recognise any of their names.

Q182 Yeah

A And then that would cause a re-look at it on a first sieve basis.

Q183 All right. O.K. Now that example that you just gave about, suppose someone that, someone who didn't have their renewed certificate available til the 21st of 22nd - - -

A Yeah.

Q183 - - - of December, O.K. That certificate arrives on the 24th, who's responsible for checking the correctness of that certificate prior to the 26th, in that case?

A Technically the sailing office staff.

Q184 All right. O.K. Because I mean, it's fair to say that someone could say, Oh, well look, my certificate's going to be renewed, and in fact not submit one.

A True, except that the, that the, well that is true. That, the way that the sailing office has traditionally worked with it is with a large white board - - -

Q185 Right.

A - - - in the sailing office. It's got every boat
- - -

Q186 Right.

A - - - listed down one column - - -

Q187 Yeah.

A - - - and then a series of columns that nominate, you know, rating certificate - - -

Q188 Yeah.

A - - -A.B.S. approval, safety, stability, all of that, the various things that actually require paperwork - - -

Q189 Yes.

A - - - to verify compliance. And all the items are ticked off - - -

Q190 Right. As they come in.

A - - - as they're received. So if a boat submitted an invalid, or a non-current rating certificate then it - - -

Q191 Yeah.

A - - - would appear on the board without a tick in that particular spot. And as we get closer and closer to the end date the sailing office starts to chase people up.

Q192 O.K.

A Say, You're still missing, this, this, this and this document.

Q193 Right. O.K. Now is that the case, was it the case last year that in fact the whiteboard was set up?

A Yes, yes.

Q194 And had all the boats on that whiteboard, as far as you're aware?

A As far as I'm aware - - -

Q195 Yeah.

A - - - I've, I've never checked - - -

Q196 Without going in to checking it, the, but, but as far as you're aware it was a set up similar to that?

A Yeah.

Q197 O.K. So at the end of the day, prior to the 26th, or in some cases, probably on the 26th of December - - -

A No, it wouldn't have been the 26th, because we have an absolute cut off date - - -

Q198 Cut off, O.K.

A - - - on, I think it was the, it was at the end of the race briefing last year.

Q199 Right. So at the end of the day, if a boat gets through the committee, or the various committees or, or members on the whiteboard, for example, whose responsibility is it if that boat got through and hasn't complied with a particular piece of paperwork?

A Well the, the, the club relies on the sailing office - - -

Q200 Right.

A - - - to, to check that, to check that process through - - -

Q201 Right.

A - - - at the end of the day. I mean that, that's what they're paid for is to, is to administer the sailing affairs of - - -

Q202 Right.

A - - - the club and, and that includes checking off paperwork.

Q203 O.K. So in fact would the club, if that was the case, would the club divorce itself from, from any action or inaction, taken by the sailing committee so far as a boat getting through?

A I don't understand the question.

Q204 O.K. Ultimate responsibility is the board or the club?

A Yeah.

Q205 O.K. They rely on the sailing committee, or the racing committee or, or whatever, to ensure that their administrative procedures are correct. Is that right? That's what you just said a second ago.

A (NO AUDIBLE REPLY)

Q206 The board - - -

A Yeah, that is, that is the, the the management process - - -

Q207 Management process.

A - - - that is in place.

Q208 Yes, that's right.

A Yeah.

Q209 So the board are aware that there's a process in place whereby the sailing, the sailing committee paid members or unpaid members, race director paid member or non paid member, his ultimately responsibility is to ensure that at, at cannon time on the 26th at 13.00 every boat that's in that race, as far as he is aware, has complied with the requirements on the whiteboard and the Racing Rules?

A Yes.

Q210 O.K. So if a boat gets through, and we can, and we can use the Naiad for example.

A Mmm.

Q211 We can say that the Naiad gets through the, that process, that selection process or that vetting process or that quality assurance process, whichever you want to call it, get through and goes at the gun. Does the club look at the stuff up, so to speak, in the sailing committee as being their responsibility, or do they divorce themselves from the irresponsibility or the inaction of something which has been committed by someone in the sailing office?

A (NO AUDIBLE REPLY)

Q212 Do you understand that?

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

Q213 You may not know?

A No, well I don't believe that, that you can

divorce yourself - - -

Q214 Right.

A - - - from that. I mean it's a question of where does the buck stop - - -

Q215 Exactly right.

A - - - at the end of the day.

Q216 That's what I'm getting at.

A And, you know, like, personally I've always subscribed to the view that, you know, the buck stops - - -

Q217 Yeah.

A - - - at the board.

Q218 Yeah.

A I mean they are the people that are, that are responsible for putting in place all of the processes that exist in the club. Now if, if an officer, a paid employee of the club, has failed in their duty somewhere - - -

Q219 Yeah.

A - - - I mean you could say, go so far as to say, Well the board has failed because it should have had a process in place that made sure that the employee didn't fail.

Q220 Right.

A But I mean, that occurs in everyday life - - -

Q221 That's right.

A - - - absolutely everywhere.

Q222 Yeah.

A But we would continue to support our staff, our -
- -

Q223 Of course.

A - - - committees, etc. unless there was a case of
fraud or, or - - -

Q224 Yeah.

A - - - you know, gross negligence and - - -

Q225 Yeah.

A - - - things like that, and remain supportive of
them. But in terms of saying, it is for example,
my job as the Commodore to actually go through and
check ever piece of paper just to make sure that
the employees have done their job, I'd say, no.

Q226 Yeah.

A So I would divorce myself to the extent of saying,
No, I don't think it's my responsibility to go and
check every bit of paper.

Q227 Yeah.

A But at the end of the day the club organises this
event and it puts in place the people that are
there - - -

Q228 Mmm.

A - - -, to do it and if there is a failure in the
system somewhere along the way, well the club has
to cop the consequences - - -

Q229 Yeah

A - - - of that?

Q230 O.K. Now on the actual entry forms, can I just

suspend the interview for a second? Could you get the entry forms, please? The time by my watch is 1.06pm. This interview is temporarily suspended.

INTERVIEW SUSPENDED

INTERVIEW RESUMED

DETECTIVE SENIOR CONSTABLE GRAY

Q231 The time by my watch is 1.15pm. Interview between Mr Kretsumar and Detective Gray continued. Now, I was just talking in relation to the vetting racing committee. Now I show you a, an application form for the Business Post Naiad. When we find it.

A Lost it, have you?

Q232 Um - - -

SENIOR CONSTABLE UPSTON

We have it somewhere.

DETECTIVE SENIOR CONSTABLE GRAY

A It probably wasn't forwarded over with the documents.

SENIOR CONSTABLE UPSTON

.....

DETECTIVE SENIOR CONSTABLE GRAY

Q233 O.K. Well while we're finding that, in your, in your mind and your experience, what would it indicate on a, on an entry form, I'll, I'll show you an entry form here which has some initials on it. It doesn't have to be the Naiad. I'll show you the entry form for the vessel New Horizons, O.K? You see in the top corner there is a,

initials, P.T. I don't know whether that's P.T. or not, but it looks like P.T

A Mmm.

Q234 That would indicate to me, Phil Thomson, and a G.C. which would be Gus, what I understand as being Gus.

A Could be - - -

Q235 Could be, O.K.

A - - - I don't recognise either of those initials, but - - -

Q236 What would, what would initials indicate to you on a completed entry form?

A No idea.

Q237 No idea. O.K. That's fine. Now in relation to a boat which did not comply or was missing a certain amount of paperwork, I think we discussed this prior to the interview, that it would be the case that either correspondence in written form or, or a letter would be sent to that entrant, applicant?

A Yeah, or possibly a phone call.

Q238 Possibly a phone call, O.K. And we see that in fact in the C.Y.C.A. report at page 54, In 1998 some eight to 10 applicants were asked for more information or asked to provide additional crew with more experience. Do you agree with that?

A I agree that's what it says.

Q239 That's what it says.

A I don't know whether that's accurate or not.

Q240 Whether it occurred or not. O.K. But basically that would be the, the administrative procedure -
- -

A Yes.

Q240 - - - that you understand? O.K. Now in relation to, to stability factors, for the Sydney to Hobart Yacht Race, do you consider that to be an important issue - - -

A Yes.

Q240 - - - as a, as a sailing - - -

A Yes.

Q240 - - - sailor? And on what ground do you, you know, base that on? I mean, what's your idea in relation to stability requirements?

A Well the issue of stability requirements stem, or has the sort of history that goes back probably to the late '70s - - -

Q241 Right.

A - - - where there was a breed of boats that emerged at that stage when, I believe at that time there weren't stability criteria specified under the various rating rules.

Q242 Yeah.

A Where I think it was Bruce Farr, a designer in New Zealand, came out with a, you know, generation of stable of boats that were very lightweight and very - (Tape Beeping) - unstable boats that - (Tape Beeping) - relied very - (Tape Beeping) -

heavily on crew weight - (Tape Beeping) - - -

Q243 Yeah.

A - - - to keep - (Tape Beeping) - them upright.

Q244 Right.

A And, will I stop?

Q245 Yeah. The time by my watch is now 1.18pm. This interview is suspended for tape change.

INTERVIEW SUSPENDED

INTERVIEW RESUMED

DETECTIVE SENIOR CONSTABLE GRAY

Q246 Interview between Mr Kretsumar and Detective Senior Constable Gray recommenced. The time by my watch is 1.20pm. Sorry about that, you were saying about the stability.

A Yeah. So going back away, this new generation of boats emerged that were very lightweight boats with low, what we now call stability index.

Q247 Yeah.

A And quite quickly it was felt by offshore sailors generally that these boats were potentially dangerous in, like, by virtue of the fact of their lack of stability.

Q248 Right.

A As a result of that, and I believe the club was, was instrumental in this, stability requirements started to be introduced for long ocean races. In those days we were racing under a different rule, rating rule, to what we race under now. It's

called the I.O.R. International Offshore Rule, and it had a stability measuring coefficient factor in there, and I forget what the equivalent numbers were to what they are today.

Q249 Yeah.

A With the introduction of the I.M.S. Rule, again this measure of stability was introduced into the rating certificate, particularly to, to be able to establish the relative stability of any particular boat.

Q250 Right.

A So that, that's, oh, its stability - - -

Q251 Yeah.

A - - - became important because boats inherently started to be being designed to be lighter and lighter - - -

Q252 Yeah.

A - - - to increase their performance and, and then the rule makers and the organisers of yachting events stepped in and started to say, We need to put a, put a floor on - - -

Q253 Yeah.

A - - - on this. Again I'm not sure when, but at one stage the floor that was established was 110 degrees as a limit of positive stability for races. And then some time after that, that, that number was changed, or increased to 115 degrees, because it was felt that even 110 was probably too

low a floor.

Q254 Right.

A But a fairly, you know, qualitative judgment - - -

Q255 Yeah.

A - - - rather than a quantitative one - - -

Q256 Right.

A - - - as such. At the time that the club changed its minimum stability requirement from 110 degrees to 115 degrees, which was in line with that shift that believed - - -

Q257 Yeah.

A - - - that the floor was too low, we considered the, the impact that that would have on a number of existing boats - - -

Q258 Yeah.

A - - - and formed the view that whilst the 110 had served the sport well up until that point in time - - -

Q259 Yes.

A - - - we felt it was a step in the right direction to change it to 115, but that it would be unfair or unreasonable to, as a result of that, immediately preclude a whole heap of boats that had successfully raced the Hobart before, that had successfully raced around the world before, without a problem.

Q260 Yeah.

A So decided to introduce a, a grandfathering

provision, not dissimilar to what occurs on motor cars when somebody says, You'll now have seat belts, but if the car's older than such and such, it didn't have to have them - - -

Q261 Yeah.

A - - - but in time you shall all have them, sort of thing. And set those grandfathering rules on the basis of saying, Well as long as a boat has competed in a Hobart race before, meaning that it's, it's actually proven that it's been able to get there before, or it is a boat that is, no, I don't think there was an, or, I was just, if, as long as the boat had competed in the event before, we would accept a stability index of less than 115, but not less than 110.

Q262 O.K. Now the, obviously the Sydney to Hobart Race is a Cat 1 race?

A Yeah.

Q263 Which requires a minimum stability of 115 degrees?

A Yeah.

Q264 And those regulations are in fact set out in, I believe, section 204 of the I.M.S. regulations. Are you aware of that?

A I'm aware that it's set out in there - - -

Q265 O.K.

A - - - I'm not aware as to what the regulation number is.

Q266 So as far as stability is concerned, do you

consider that a serious issue?

A That's a, it's a significant, it's a significant and important measure - - -

Q267 Right.

A - - - of the suitability of a boat - - -

Q268 Righto.

A - - - to compete in a, in a race like the Hobart race.

Q269 O.K. Well, well just on that, do you feel though that it's fair to assume then that if you receive documentation from a boat, or from an owner, I should say, about his boat, that there's been a number of those boats designed and made over a number of years, that it's fair to say that because nothing's happened to that boat over those periods of times, that it still should be eligible to enter a race?

A Um - - -

Q270 Have, having regard to what you say about the importance of the stability rating?

A I, I believe it, I believe it is. I mean clearly it's, it's you know, if, if as new standards are set, desirable that the, you know, the entire group that's operating under those standards, whether it's standards that apply to cars or, or, or safety equipment or whatever it might be, that that's all brought up to those new standards as, as soon as it's, it's reasonable to be able to do

so. But having said that, if, by the same token, a boat has fulfilled its, its purpose and function previously so it's actually, you know, it's, it's, it's, it's proven the fact that it has got to Hobart a number of times before, you would say, Well this is a, a boat that is, you know, has demonstrated that it is, is able to do that, and there's many yacht designers that will, you know, that, that actually support that view. That say, there's no better test than, than out on the water and if the boat performs as is required, then, then it's doing its job.

Q271

But is it fair to say that if a boat participates in a number of races that the owner can make a number of alterations to the vessel without having, because they're not entering into an I.M.S. division which has that stability index, but if they don't enter that particular division and they have, and it's a requirement that they either meet that I.M.S. stability rating or they fall within the ambience of, of 115, or 110 and greater, that I can, or if I was an owner, I can alter that vessel at any time and not have to notify, because it's not my requirement to notify the, the I.M.S. division or the A.Y.F. and in fact unknowingly I can alter the stability rating of the boat if there was a calculation done to be far less than 110?

A O.K. It, it is the owner's responsibility under the I.M.S. Rule definitely, and I believe under the rules of yacht racing as well, that if he does modify his boat in any way shape or form, be it in his view insignificant, he must notify the rating authority and invariably that will lead to a re-measurement and re-rating of the boat. And in fact there are plenty of cases where, you know, other competitors have queried the accuracy of someone's rating certificate. Not necessarily with respect to stability, but with respect to other performance indicators, and have sought the boat to be remeasured or protested or, you know, sought some, some avenue, to ensure that the owner has complied with all his obligations under the rules and, and that the boat does comply and that the certificate does accurately reflect that, the current status of the boat.

Q272 But if he enters a P.H.S category in the race which he doesn't need a requirement to have an I.M.S. certificate, all he has to do is prove to the club, or to the race committee, that the boat is seaworthy and has competed in a number of ocean races before.

A I'd need to just check - - -

Q273 Well - - -

A - - - the wording - - -

Q274 Let me - - -

A - - - of the notice of race - - -

Q275 O.K.

A - - - that applied last year to this - - -

Q276 Let me, let me just bring to your attention a documentation here, which is the application for entry form for the vessel Gundy Grey? All right.

We'll just pull this one out, just 'cause I had it open at that particular time. And it's got a letter attached to it, and I'll just show you that letter.

A Yeah.

Q277 Now within that letter it mentions that there's been a number of yachts, in fact it mentions here, 130 of this particular yacht built. They've sailed extensively around the world, or wherever they've sailed, and that doesn't really withstand what's happened to any of them over a period of time. Yet this person's made application to enter the race. It's been accepted on face value of this letter. What I'm saying, is it fair to say that as an owner, I can alter my boat, I don't need to have, well there's no regulation saying that I have to notify anybody about that boat. I can change a number of things which can in fact alter the stability of the boat and could, in fact, take it below 110 degrees.

A Yeah, I'd, I'd need to just refresh myself on the wording of the notice of race to, to answer your

question as to whether it's fair or not fair, as to whether there is an obligation under the notice of race as it stood for the '98 race with respect to an example like that.

Q278 O.K. Well I'll bring to your attention the notice of race shortly just as we get it for you.

A Yeah.

Q279 But there has been a number of cases, and this is just an example, in this particular race, where people have made application to race using letters, documentation from various sources, to say that we should be eligible to enter. And keeping in mind what you're saying about the, the, the strictness or, or the, the, the importance of 115 degrees and the stability index. And what I'm saying is that people can alter their boats, apply under an old, under a, under a, a different division and the, and you really have no idea what the stability index, whether it be safe or, safe or unsafe to what you're saying.

A Then again I, I just need to check - - -

Q280 Yeah.

A - - - exactly what it says, but - - -

Q281 All right.

A - - - in the case of, I mean, in that particular instance, and the way that in the case of an Adam's 40 I'm not sure of exactly what their stability index is in a unmodified state - - -

Q282 Yes.

A - - - but I believe that they rank actually very highly in terms of stability

Q283 They may - - -

A - - - indices - - -

Q284 Yes.

A And that it would take gross changes to the boat to reduce it to a level where it was below 110.

Q285 Right. That may be the case - - -

A Mmm.

Q285 - - - of, there're, that's one, one issue. But perhaps it was not knowing the design structures of that boat, it was just an issue where, where I raised that a letter is accepted. Did you want sailing instructions or notice of race.

A No, notice of race. O.K. And in, the yacht you referred to was a P.H.S. category yacht, and under the eligibility requirements in the notice of race, 6.1.5.C - - -

Q286 Yes.

A - - - P.H.S. category yachts shall comply with the minimum stability index for O.R.C. race category 1 events. It then goes on to say - - -

Q287 That's 1, 1.1.5?

A That's 1.1.5.C, sorry. That's 115 - - -

Q288 115 degrees.

A - - - degrees, sorry.

Q289 Yes. Yeah.

A It then goes on to say, under 6.1.6, An owner, this still applies to P.H.S. category yachts, An owner who does not have a valid I.M.S. certificate to verify the yachts for conformance with 6.5.1.C

- - -

Q290 Yeah.

A - - - may seek relief from this provision by providing the race committee with information from a qualified naval architect which clearly shows that the righting arm of the yacht when allowed to free should exceed 150 millimetres at 90 degrees Now I don't know exactly what that means, but then, somebody's technical has worked on that and I assume that that's a comparative measure to an I.M.S. stability index of 115 - - -

Q291 Mmm.

A - - - degrees. So in the first instance there is clearly stated in the notice of race, which is part of the, the contract - - -

Q292 Yeah.

A - - - that exists with the competitor, that the yacht shall be not less than 115 degrees. And one way of showing it is with your I.M.S. certificate

- - -

Q293 Yes.

A - - - and the second way of doing it is through a qualified naval architect saying that - - -

Q294 Yeah.

A - - - it is at least something equivalent.

A No.

Q295 Yeah.

A Then it goes on, then there's this grandfathering provision which then says, it, it can actually be as low as 110 degrees provided that the boat has previously raced in the Hobart race.

Q296 Right.

A O.K. So firstly there is clearly an obligation through that, on the owner, to ensure that his boat complies with those eligibility criteria. The letter that you showed me, if that is, and it's the first time that I've seen it - - -

Q297 Yes.

A - - - if that is the supporting documentation for a vessel that has said, I don't have a current I.M.S. certificate, but here is the letter from the qualified naval architect in accordance with clause 6.1.6.A - - -

Q298 Yes.

A - - - then I don't believe that that letter satisfies that clause.

Q299 Mmm. Yeah. Well - - -

A So there's, there's two, there's two issues there and one is, is that there is a provision under the notice of race and - - -

Q300 Yeah.

A - - - the club's published procedure, to say that,

you can't do what you've suggested earlier, being that you - - -

Q301 Mmm.

A - - - can modify - - -

Q302 Yeah.

A - - - a boat and not tell anyone about it.

Q303 Mmm.

A You have a positive obligation to demonstrate that you do comply.

Q304 Yes. Yeah

A All right? So that's one point. And second point, on face value, if that is the only documentation that was submitted to support that boat's compliance - - -

Q305 Mmm.

A - - - if it was the only documentation, then I would say that that is, doesn't achieve - - -

Q306 Yeah.

A - - - doesn't demonstrate the compliance as spelled out here as is required - - -

Q307 Yeah. But in fact - - -

A - - - to be provided.

Q308 I'll just go on, and it, it, it does mention here, and it would be fair to say that, and it's the second paragraph, They have cruised extensively worldwide, including Sydney to Hobart races, and have proven in practice to have satisfactory stability for offshore racing.

A Yes.

Q309 However, it still doesn't make a clause there, anywhere in here, that says that it has a satisfactory righting

A That's true. But we know though from - - -

Q310 Yeah.

A - - - if the boat hadn't been modified, 'cause they have lots of those boats around - - -

Q311 Yes.

A - - - with that, that, they do, I don't know what their stability index is - - -

Q312 Yeah.

A - - - it's probably around 130 degrees or 135 - - -

Q313 Yeah.

A - - - somewhere round there. It'd be easy enough to check - - -

A Yeah.

Q313 - - - with other boats. If that letter went so far as to say, from the owner, and I hereby declare that this boat has not been modified from its original design state - - -

Q314 Yes.

A - - - well then I believe that you could clearly say - - -

Q315 Mmm.

A - - - the owner's declaring that it hasn't been modified - - -

Q316 Yeah.

A - - - and, you know, there's other boats that have actually been measured under the I.M.S. Rule and have shown that they're - - -

Q317 Mmm.

A - - - you know, more than 115, therefore this boat's O.K.

Q318 Yeah. So what you're saying here, what you're saying here is that perhaps further investigation should be made, should have been made as well as, for the eligibility of this vessel?

A Perhaps there should have, if that I the only documentation that exists - - -

Q319 Yeah.

A - - - with respect to it.

Q320 Well this is the documentation that I've been supplied with by the C.Y.C.A. on request.

A I can't, I can't - - -

Q321

A - - - verify whether that's all that was

Q322 No - - -

A - - - there's more to it - - -

Q323 No.

A - - - or not or - - -

Q324 No.

A - - - whatever, but certainly on face value - - -

Q325 Yeah.

A - - -

Q326 O.K.

SENIOR CONSTABLE UPSTON

O.K.

DETECTIVE SENIOR CONSTABLE GRAY

Q327 You right?

SENIOR CONSTABLE UPSTON

Yeah.

DETECTIVE SENIOR CONSTABLE GRAY

Q328 Now, is I could just take you to a situation in the C.Y.C.A. report which is on page 57, which comes back to the chairman of the race committee, and in fact the race committee on page 56 consists of Hans Summer, Howard Elliott, Robert David Boys, Bruce Rowley, Mark Robertson and Phil Thomson, according the document.

A Mmm.

Q329 Now it says in this report that the chairman of the committee was unsure of the precise responsibilities of the committee as a result. Now if you could just sort of give me some idea, this is a, a chairman of a race committee who has expressed in a report we, we are under the opinion that it's been expressed - - -

A

Q330 - - - and put in the report by him, that he was unsure of his responsibilities in the capacity of a chairman. Have you got any comment to make in relation to that?

A Only that I'm, I'm not familiar of, of, I wasn't present when he made those comments. I don't - -

Q330 Righto.

A - - - I don't know the context in which he made those comments.

Q331 Yeah.

A And I'm not really familiar with the, the context in which - - -

Q332 Yeah.

A - - - the comment is published in the report. I don't know to what extent he was unfamiliar or - -

Q333 Yeah.

A - - - unsure of - - -

Q334 O.K.

A - - - his role or responsibility.

Q335 Do you find that, well without knowing, as you say, what, in what context and to what particular area he's talking about, but you as a, as an ex committee member, sorry, as a, as a, well as an ex committee member of various committees and as a member of the board and as the current Commodore, and as the Commodore at that time, do you have some reservations about a comment made like that -

A Yes.

Q335 - - - so far as their - - -

A Yes.

Q335 - - - responsibilities - - -

A Yes.

Q335 - - - duties are concerned? O.K. That's all that needs to be said in relation to that I think. Now just to mention to you that, the comment that is made in fact by somebody portraying to be Hans Summer in the report, we haven't spoken to Hans Summer - - -

A Right.

Q335 - - - obviously. I'll just show you a couple of letters here which, the first letters dated the 25th of November, 1998 and it's to a Mr Jeremy Pierce, one time international. And it's, Re Sydney to Hobart application for Nokia. Now it's signed at the bottom by Mr Hans Summer, chairman of the race committee. Now if you peruse that just quickly, or whatever pace you want to, see that there's some quite technical information involved in that letter?

A Yeah.

Q336 It talks about rules and eligibility and all that sort of thing. Now to my mind that would indicate that certainly Mr Summer has some knowledge and role of his position. Would you agree with that?

A Oh, certain, certainly - - -

Q337 On face value.

A Not only face value. I know that he has, I know

Hans Summer and I know him well and I know he has extensive knowledge of the sport and the aspects associated with it. Having said that - - -

Q338 Yeah.

A - - - the technical features of this letter would not have been written by, I, I strongly suspect that they would not have been written by Hans Summer, and as is normal procedure, certainly in my time involved with the - - -

Q339 Yeah.

A - - - sailing committee as well, a technical, issues of a technical nature like this would, would generally be addressed by the sailing office staff.

Q340 Right.

A And if they weren't certain of the technical aspects they would consult one of the sailing committee members - - -

Q341 Right.

A - - - who, who is, has high level technical knowledge - - -

Q342 Yes.

A - - - with respect to it. They would draft the technical, technical aspects - - -

Q343 Yeah.

A - - - of the letter and it would go out under Hans' signature - - -

Q344 Yeah.

A - - -

Q345 Whether he read or not sort of thing?

A I'm certain that he, well I'm not, I'm not certain, but whether he read it or not - - -

Q346 Yeah.

A - - - is another thing, but it, it would be normal procedure that all these letters would go out under, or that letters, it's not unusual that letters like this would go out under Hans Summer's signature - - -

Q347 Right.

A - - - but it doesn't necessarily give you an indication as to the level of Hans' technical knowledge.

Q348 No. O.K. But you do note that in this, in, in this letter, not not only is there technical information that, that Hans may not be aware of, but certainly there is, attention is drawn to notice of race, which is in fact the working document of the racing committee?

A Yes.

Q349 So it's not all technical, I'm saying.

A Sure.

Q350 O.K. Now in relation to the grandfathering clause which was used in the race last year, has there been some changes to that for this year?

A Yeah, we're proposing to, well not proposing, we have resolved to drop the grandfathering

provision.

Q351 O.K. Has, has that caused any problems within the yachting community that you're aware of?

A It doesn't appear to have.

Q352 Right.

A And as I think, if you, I'm not sure again of the statistics, but I think you'd find that there were very few boats that were relying on the grandfathering - - -

Q353 Right.

A - - - provision anyway.

Q354 O.K. Now are you aware of the difficulties which were experienced, what authorities experienced during the Hobart race around the 27th and 28th of last year, so far as information was concerned? I'm talking about yacht lists, next of kin lists, yacht identification and that sort of thing.

A I'm just trying to think when I got back to shore, which was - - -

Q355 I know, I realise that you were sailing, so - - -

A Yeah. I think I got back on the, at about lunch time on the 28th.

Q356 Yeah.

A Back to Sydney, and from then was for the next 48 hours was in Sydney in Hobart and back and forth and was, was intimately involved in every aspect of - - -

Q357 Yeah.

A - - - of what was going on and I, I certainly was, in fact spent some time in the race control room in Hobart where the primary communication between us as the race organiser, and relatives of those who were still missing at that point in time, and in the particular time that was there we were dealing with the Winston Churchill crew, who were still missing. And had first hand experience there of difficulty contacting next of kin because they weren't at the number where they were supposed to be - - -

Q358 Yeah.

A - - - or they had been and they'd gone to be with a relative.

Q359 Yeah.

A Those sorts of things. There was, there was definitely problems associated with, with contacting people.

Q360 And I think that's been recognised in the report that - - -

A Yes.

Q360 - - - itself. And so far as I can, if I can just tell you that, for example, at Eden, the police at Eden in fact had no records of the number of entrants. You know, the entrants themselves, the type of boat, what sort of, you know, crews and that sort of thing. Have you as a, as a club, had a look at that?

A Yeah.

Q361 Have you come up with any ideas as to what, any proposals you attempt to bring in next year?

A We have. I'm not fully up to speed with the, with the, the specifics of it, other than again, we've, we've recognised that there was a, a communications information - - -

Q362 Yeah.

A - - - gap that existed down at Eden and, and various other places as well. On the one hand we're a little bit surprised by that, in that we have relied on providing the information to AMSA with respect to number of entrants and lists of boats and those sorts of things. And that AMSA as the, you know, the coordinating rescue authority, certainly in my mind, have relied on the fact that because it has gone to them - - -

Q363 Yeah.

A - - - that they will make sure that it's distributed to those others within their network that may be involved in any search and rescue and, and those sorts of types of activities.

Q364 Yeah.

A And why I say all of that is that, 'cause I'm aware that from the 1993 event, at which stage AMSA didn't use to actually sit on our - - -

Q365 Yeah.

A - - - or with our, alongside our race committee

during, during the event, that during the storm in 1993 there was confusion all round between water police, coast guards - - -

Q366 Yeah.

A - - - AMSA commercial shipping, as to who was actually responsible for doing what.

Q367 Yeah.

A And as a result of that it became very clear that, that AMSA were the - - -

Q368 Yeah.

A - - - authority that in the, in the event of search and rescue, took control, and it was as a result of that that AMSA started to take a much more hands on role in the, in the, you know, running of the event whilst the event was actually on, at least in a - - -

Q369 Yeah.

A - - - watchman's type role - - -

Q370 Yeah.

A - - - alongside us so they could step in.

Q371 Yeah.

A And at that stage, if my memory serves me correctly, you know, we started the communication process with AMSA in terms of providing them with lists of boats and, and crew lists and those sorts of things.

Q372 Yeah.

A And I, and certainly in my mind, then said,

because we have done that, is because AMSA are running the event, we don't need to and shouldn't then also try and identify all of the other parties that AMSA feels need this information in the event that they were called in.

Q373 If I was to tell you, correct me if I'm wrong, we spoke to AMSA yesterday and in fact they didn't have any of that information at all. Would that surprise you?

A Yeah, it does actually - - -

Q374 O.K.

A - - - it does.

Q375 If I was to tell you that in fact - - -

A That, that surprise might be because I've actually got it wrong.

Q376 Yeah. O.K.

A Um - - -

Q377 Well if I was to tell you that in fact they had no information at all, and in fact they were calling for information from the C.Y.C.A. and in fact receiving faxes from the C.Y.C.A. or a source that supplied them with information on yacht details, the sort of boats that were in the race names of boats, and in fact the confusion was so bad, that on one occasion they, the Business Post Naiad was actually called the Business Toast Naiad. So AMSA or AusSAR, did not have original documents available to them.

A O.K. Well I mean, possibly a bit of a moot point,
but - - -

Q378 Yeah.

A - - - given that AMSA's nominated representative
was in the same room as the C.Y.C. he certainly
had all that information.

Q379 Yeah.

A And so again - - -

Q380 And AusSAR itself didn't, AusSAR operations didn't
have that information.

A O.K. But one of their operatives who was - - -

Q381 In your - - -

A - - - specifically assigned - - -

Q381 - - - C.Y.C.A - - -

A - - - was specifically assigned by them to the
event - - -

Q382 Exactly right.

A - - - did have all the information. So possibly,
to what I've said is correct, except that - - -

Q383 It's correct.

A - - - it stopped within - - -

Q384 Exactly right.

A - - - AusSAR at, at their own operative level.

Q385 Yeah.

A Yeah.

Q386 And also, if I could say that at Eden, when I was
down at Eden at the time, it wasn't until Mr Halls
arrived that information became available. So

what I've suggesting to you here is, is it a possibility that the, that the club can look at having tactical positioning of information along the coast, you know, for the duration of the race?

A

Q387 I mean, is that an issue?

A Absolutely, I, it is, and I, I believe, or I know that it, that it is an issue that's, like, identified within the report.

Q388 Right.

A It is an issue that we're working on, the detail of all of that. And again we need to recognise AMSA's role in it all and, and work with them in terms of what information, who it's disseminated to, and what communication are established. But it's clearly, it's clearly an area that, that can do with improvement.

Q389 O.K. Now just in relation to a, a couple of things which you may not be aware of. Are you aware that some crew lists on the day, or the crew lists that were supplied to the race committee, or the sailing committee, were different to those, to some boats, to the crews that actually sailed on the boats?

A (NO AUDIBLE REPLY)

Q390 Are you aware of those - - -

A Not, not aware of that, no.

Q391 O.K. Well I can tell you that there were a number

of situations where crew lists were submitted to the organising authority and in fact those crew lists changed on the day of the race, but the paperwork remained the same. What I'm saying here is that A, B, C, D were put in the crew list, forwarded with the application, O.K - - -

A Yes.

Q391 - - - held by the C.Y.C.A. and on race day, D, E, F. G. H got on the boat. That the, there was no changing, there was no notification from the owners of the boats to update the crew list that the C.Y.C.A. had. Do you understand what I'm saying?

A I understand what you're saying.

Q392 Yeah. So Hugo Van Kretsumar was entered in the race on, on Nokia, for example, it was sent to the yacht club, O.K. On the day of the race Dave Upston hopped on the boat in lieu of - - -

A And the club wasn't notified?

Q392 - - - and the club wasn't notified.

A Right.

Q393 O.K.

A No, I - - -

Q394 That's just an issue I just - - -

A I wasn't, I wasn't, I wasn't aware of that.

Q395 Another issue which, which we have become involved in was a, an I.M.S. certificate which was lost somewhere in the administration. And it was for

the boat Computerland. Another boat entered the race which was a, it was the same boat, but a different name. Same hull, and they, the owner made representations to the club that they didn't have an I.M.S. certificate but they could rely on the same certificate that Computerland had. And that was taken at face value and accepted on that basis.

A I'm aware of that.

Q396 O.K. So what I'm saying to you is, this is, all these little administrative things which have to be looked at.

A Yeah, that's clear.

Q397 we're looking at. O.K. Are you able to tell me why Bruce Rowley left the club?

A Yeah. That had to do with a broad strategic objective of the club where Bruce had always had indicated to the club that he saw his role there finishing - - -

Q398 Right.

A - - - just after the olympics.

Q399 O.K.

A We're in the process of rebuilding the club and various other changes and we thought it was important that if the right candidate arose, that we'd like them installed now knowing that Bruce was leaving in a year's time - - -

Q400 Right.

A - - - anyway.

Q401 O.K. Now in relation to radio communications, you may, may, might be able to assist us here. Were you aware of satellite phones placed on a number of boats during the race last year?

A Yes.

Q402 And do you know how many boats that was, were involved?

A Oh, just either six or 10, somewhere round - - -

Q403 Right.

A - - - that number.

Q404 And were those phones activated? Were they in working order as far as you're aware?

A Only be hearsay I've, I've

Q405 Right. O.K.

A I don't know if you're interested in hearsay, but I don't have any first hand knowledge of them.

Q406 Right. O.K. Are you able to name a boat that had, in fact had a phone?

A Yeah. What's it called, the Team Jaguar.

Q407 Right. O.K. Now I believe that a donation was forwarded to the club shortly after, well a month or so or 2 months after the race from Mr Campbell, the father of John Campbell who was in fact a crew member of Kingara.

A Yeah.

Q408 Now are you able to tell me what that amounted to in Australian dollars?

A Approximately, the, the number of either 20,000 or 40,000 sticks in my mind - - -

Q409 Right.

A - - - and I'm not sure whether they were US or Australian dollars.

Q410 Right. O.K. Are you able to tell me what happened to that money?

A Yeah, the money was put on deposit, I'm not sure exactly what form of deposit or under - - -

Q411 Right.

A - - - what entity - - -

Q412 Right.

A Sorry, just backtrack for a moment, the - - -

Q413 Yes.

A The money was received after the club announced that it was going to establish what we now refer to as a Safety of Life at Sea Trust, SOLAS trust fund. And the trust, for various legal reasons, has only just in the last 3 weeks or so been formally constituted.

Q414 Right.

A The primary reason for that was that we needed to achieve Australian Tax Office - - -

Q415 Right.

A - - - ruling with respect to tax deductibility of donations to it. And to be able to do that we needed to clearly spell out the objects of the trust, how it was going to be administered and all

those sorts of things.

Q416 Right.

A So as soon as we announced we were going to do it, donations of the kind that you've spoken about, not too many of that size, have started to roll in, and the club's accountant has pigeonholed those moneys, put them on deposit - - -

Q417 Yeah.

A - - - to the point where now the, the trust is formally instituted and those funds either have been or, or, or will be imminently, transferred across into the trust's account.

Q418 Right. Has there been any consideration in relation to a donation to the Victorian Police Air Wing who in fact rescued John Campbell?

A I can't say whether there's been a specific consideration of it. The, the trust was set up on the basis of it had, initially had, well has, has broad objectives of contributing to safety of life at sea.

Q419 Right.

A And there are three prime avenues in that. And just running from memory here, one of them deals with research and development - - -

Q420 Yeah.

A - - - type projects associated with safety of life at sea. One relates to making donations to, or, or assisting with relatives of those who've passed

away - - -

Q421 Yeah.

A - - - financial assistance. And the third one deals with making contributions to, or donations to, other organisations that are associated with safety - - -

Q422 Right.

A - - - safety of life at sea.

Q423 O.K.

A I believe that out of those the first, well one of those three hasn't received favourable A.T.O. ruling with respect to tax deductibility.

Q424 Right.

A And the other two have.

Q425 Yeah.

A And that once the, the Board of Trustees is established, we're close to having the Board of Trustees established, they will then start to consider the application of those funds - - -

Q426 Right.

A - - - and the application of those funds, ensuring the tax deductibility of them.

Q427 O.K. O.K. Now in relation to crisis and trauma counselling. Was there any trauma or crisis counselling set up by the C.Y.C.A - - -

A Yes.

Q427 - - - immediately after the race?

A Yes.

Q428 And, and who was that run through, do you know?

A I coordinated it in the first instance. We set up
- - -

Q429 Right.

A - - - or engaged, a, a group in Launceston to - -
-

Q430 Yes.

A - - - assist with the relatives of the Business
Post Naiad, and in fact the whole - - -

Q431 Yeah.

A - - - local club sailing community, because
they're a close knit group. I can't actually
remember exactly who they are, but it was done, it
was based locally. And then we at the same time,
set up, engaged a group here in Sydney to provide
counselling for club staff - - -

Q432 Yeah.

A - - - any of the volunteers and, that were
involved from the club site during the process - -
-

Q433 Yeah.

A - - - also spoke with the responsible people on
the three Sydney based boats, Sword of Orion and,
sorry, three, only two.

Q434 Winston - - -

A Sword of Orion and Winston Churchill.

Q435 Yeah.

A Made them aware of the fact that we'd briefed

these people and that they were available and, and strongly encouraged them to - - -

Q436 Yeah.

A - - - to make use of that service if they wanted to, and, and with the consultants that we'd engaged said, Look we, we don't really want to start to get involved in - - -

Q437 O.K.

A - - - the individual boats, but we've spoken to them, told them that you're here, can you sort of pro-actively, you know, they're expecting - - -

Q438 Yeah.

A - - - you to ring, and can you try and keep tabs on the emotional state of people involved and, and keep us informed - - -

Q439 Yeah.

A - - - and let us know how all that's moving.

Q440 So has the club moved to have a sort of a permanent counselling team available, or will you just - - -

A No, no, it hasn't. I mean, I'd - - -

Q440 - - - react as - - -

A - - - see that as a, as - - -

Q440 - - - as it happens?

A - - - have to react as it needs - - -

Q441 Right.

A - - - bring people in on an as needs basis.

Q442 O.K. Now did you have any role to play in the

selection of the race review committee?

A Yes.

Q443 And what role was that?

A Firstly to appoint Peter Bush as the chairman.

Q444 Mmm.

A And then work closely with Peter in terms of identifying, firstly a long list of names, and then shortening that down to a short list and basically between Peter and myself, we signed, you know, selected those - - -

Q445 Yeah.

A - - - on the basis of them having appropriate skills to - - -

Q446 Yeah.

A - - - to fill in the various areas.

Q447 Right.

A And signed off on that.

Q448 And on what basis was Peter Bush selected?

A Well I selected him on the basis of, A, that he had been very much involved in the event as it unfolded.

Q449 Yeah.

A And he did that in a, well he emerged out of that role, A, because he was immediate Past Commodore, B, because I was going to be sailing and Peter wasn't - - -

Q450 Yes.

A - - - that we've always maintained that we need to

have somebody there well is the media spokesman
who - - -

Q451 Yeah.

A - - - who, if there is something of the nature
that happened - - -

Q452 Yeah.

A - - - occurred, who'd, who'd take charge. So
Peter did, and had stayed involved way beyond that
spokesman role - - -

Q453 Yeah.

A - - - right the way through. He provided me with
invaluable advice and, and feedback - - -

Q454 Yeah.

A - - - as, you know, the thing unfolded. Peter's
background of market research in particular,
seemed particularly appropriate - - -

Q455 Yeah.

A - - - to the sort of research tasks that had to be
done. He had, he offered his time to be able to
do it - - -

Q456 Yeah.

A - - - and he'd recently left full time employment
and was able to - (Tape Beeping) - commit full
time to doing the job.

Q457 Yeah. (Tape Beeping)

A And he's got - (Tape Beeping) - extensive ocean
racing experience and extensive knowledge of how
the club operates. So he seemed like an absolute

perfect candidate for the job.

Q458 O.K. At any stage during the, the committee's inquiry, did you assist in any decisions that they made?

A Yes.

Q459 And what would be some of those decisions?

A Oh, the process was, I didn't actually sit on the committee but was invited in a, if you like, you know, ex officio informal capacity to attend whatever meetings that they were having that I wanted to.

Q460 Yeah.

A And particularly wanted to do that to provide a, a link between the committee's thoughts and the board's thoughts. I spent a lot of time with Peter in terms of the, the wording of the report, from a point of view of, I was involved in many of the drafts prior to the final draft being, it was just to make sure that the recommendations as they were written didn't have inadvertent side effects.

You know, inadvertent unintended - - -

Q461 Yes.

A - - - effects. So that the actual effect of the recommendation was accurately reflected - - -

Q462 Yes.

A - - - in the words. And had some involvement in some of the particular recommendations themselves
- - -

Q463 Right.

A - - - the issue of, for example, grandfathering, as to whether that should - - -

Q464 Yeah.

A - - - or shouldn't be allowed to be continued. Issue of minimum age limit, which for the record, I don't agree with the report in that regard - - -

Q465 Yes.

A - - - but that, I mean I, I, I, I had influence in certain areas of it - - -

Q466 Yeah.

A - - - and, and, you know, I'm an experienced ocean racing person and involved in administration of the sport and the committee valued my opinion as it valued other, but never exercised any, any veto role - - -

Q467 Yeah.

A - - - or anything else.

Q468 Copies of those drafts, do you know where they are?

A For?

Q469 I mean, does the, for the report, C.Y.C.A. report?

A No, you'd have to ask Peter.

Q470 O.K. 2.03pm, this interview is concluded for a change of tape.

INTERVIEW SUSPENDED

INTERVIEW RESUMED

DETECTIVE SENIOR CONSTABLE GRAY

Q471 Interview between Detective Gray and Mr Kretsumar is continued. The time is 2.13pm. I believe we were talking about the report, the C.Y.C. report and your involvement. Are you aware of a boat called Renegade which rolled to 180 degrees and a crew member was, so to speak, near drowned - - -

A No.

Q471 - - - and revived? You're not aware of that?

A No.

Q472 Now in relation to the Margaret Rintoul, were you informed by Mr Richard Purcell on the 27/12 in relation to the controversy involving themselves and the Sword of Orion - - -

A Not - - -

Q472 - - - so far as the - - -

A Not the 27th of the 12th.

Q473 O.K. What date do you reckon?

A I had a discussion with him on the, the day that the memorial service was held in Hobart, I think it was the 31st - - -

Q474 Right.

A - - - of December.

Q475 And what was the basis of that conversation, do you recall?

A We, I'd just come off the podium at the conclusion of the service and - - -

Q476 Yeah.

A - - - Mr Purcell approached me in the crowd said

something to the effect of the crew of Sword of Orion are wandering around the pubs bad mouthing me that we sailed past them.

Q477 Right.

A If you don't do something to stop them saying those things there will be trouble and I might sue the club.

Q478 Right. O.K.

A And I said to him that I didn't think that it actually had anything to do with the club. It was the first that I'd heard of it, but that I would be seeing Rob Kothe, the owner of Sword of Orion, in the next 10 minutes, 'cause I'd made an arrangement to go and see him, that I would raise it with him and he said, Well I want a meeting between you and Rob Kothe immediately. And I said, Look, I'll talk, speak to Rob Kothe and ask him to get in contact with you, but I think it's something that you guys need to sort out between yourselves.

Q479 Right. Now do you agree that over, over the few months after that, that it sort of escalated, the situation between the Margaret Rintoul and the Sword of Orion incident?

A Yeah, I don't know if it escalated, it certainly didn't stop for - - -

Q480 Right. O.K.

A - - - from where it was. Well it became escalated

in the public eye, yes.

Q481 The public eye - - -

A Yeah.

Q481 - - - would probably be the right way of putting it. Are you aware if there was a independent inquiry, well not independent inquiry, but an inquiry within the review committee on the actual incident itself?

A I know that somebody from the review committee, and I believe it was Howard Elliott - - -

Q482 Yes.

A - - - interviewed Richard Purcell - - -

Q483 Yeah.

A - - - and some of his crew. I'm not, can't remember exactly which - - -

Q484 Yeah.

A - - - ones, I believe there was more than one - - -

Q485 Yeah.

A - - - where they interviewed them in the course of the interviews that they carried out with a selection of boats.

Q486 Yeah.

A And I've read the record of that interview.

Q487 Yeah. Now, I've got that interview here. In fact it's dated 24 February, 1999, record of interview between Margaret Rintoul and Howard Elliott. I'll just show you that document and you'll see in that

document there is nothing in relation to the incident involving Sword of Orion.

A That has occurred to me previously.

Q488 Would you be able to give an explanation as to that?

A No.

Q489 Would you be able to enlighten us as to why in fact the Margaret Rintoul was interviewed?

A To my recollection Margaret Rintoul was interviewed through a strategy that I actually developed with Peter Bush - - -

Q490 Right.

A - - - when we were talking about the logistics of interviewing boats and trying to work out should we interview every boat or should we just interview some.

Q491 Right.

A And we resolved that we, we'd interview some and that we would make a selection of boats that covered the entire spectrum. So we decided we wanted to interview some boats that made it successfully to Hobart. We wanted to interview boats that had retired - - -

Q492 Mmm.

A - - - from the race and we wanted to interview boats that were involved in search and rescue activities, or that were the subject of search and rescue activities, or that had suffered serious

damage. So those were the three broad groups. Then within each of those groups we selected boats that fell into the, fell into different categories of boats, as in sort of boats that are regarded as, you know, highly stable, more the old fashioned heavier type boats as well as modern racing boats, cruising boats. So we went through it and looked through the entire fleet and selected a whole - - -

Q493 Yeah.

A - - - range of boats in each one of those groups.

Q494 Right.

A And out of that Margaret Rintoul was selected on the basis that she fell into the heavier category - - -

Q495 Yeah.

A - - - of boat and that had reached Hobart without, without any major or, or - - -

Q496 Right.

A - - - serious incident.

Q497 So, so far as the incident involved with the Rintoul and the, the Sword of Orion, did you consider it that it's not a club, it wasn't a club issue?

A Um - - -

Q498 Or, or the committee likewise?

A Well our position, our, our view on, on the incident sort of emerged over time.

Q499 Yeah.

A At the time that we made the selection to interview Margaret Rintoul, whilst there have been this little flare up down in Hobart, it hadn't sort of presented itself as a, as an ongoing issue
- - -

Q500 Yeah.

A - - - and I suppose from, from my own point of view it felt that, that it was a non-issue and it, it had gone away and they'd resolved things amongst themselves.

Q501 Yeah.

A Then as time went on, and Robert Kothe and the Sword of Orion crew, you know, continued to be very critical of, of Margaret Rintoul's actions at the time, and I believe at that stage it had actually been confirmed by the Margaret Rintoul crew that they had in fact seen Sword of Orion and they acknowledge that they'd seen them and that they'd seen a flare - - -

Q502 Yeah.

A - - - and that had only emerged down the track. I certainly wasn't aware of it at the time because -
- -

Q503 Yeah.

A - - - in the first instance Rob, Richard Purcell, when I saw him in Hobart, said that they'd never seen them or, or, you know, at least I've left the

discussion with the impression that, that they had never seen them and he didn't understand what they were talking about. When it became clear to me that there was, that there was potentially an issue here if, if only a public perception - - -

Q504 Yeah.

A - - - type issue. And then at the same time there was some report that came out on Triple M about a rumour of the week thing and, and it had started to come out in the public eye.

Q505 Yeah.

A At that stage I started to form the view that it was an issue for the club to address in so far as a public perception, it was, it was an event that needed to be managed.

Q506 Yes.

A And we hadn't, I certainly hadn't at that stage, formed the view one way or the other, whether there was - - -

Q507 Yeah.

A - - - actually substance to - - -

Q508 Yeah.

A - - - the issue or not, but it was starting to emerge as, as something that was there. Then resolved with Peter when he raised it with me that, that, you know, Margaret Rintoul definitely had seen this boat and had seen flares and, and they'd established a time frame between when

they'd seen flares and, and what they did from a radio communications - - -

Q509 Yeah.

A - - - point of view. I then, and he asked me, What should we be doing with this? And I said, Well I don't believe that it is a job for the review committee to do, because if, if they did not render assistance, and that is something that is covered under the racing rules and - - -

Q510 Yeah.

A - - - there's a whole process of jury and all that sort of thing that should be dealing with it - - -

Q511 Yeah.

A - - - I believe your job as a review committee, is just to identify - - -

Q512 Yeah.

A - - - what happened - - -

Q513 Yeah.

A - - - make sure that, that you guys, the, you know - - -

Q514 Yeah.

A - - - the investigating officers and stuff are aware of it, and just report it within the, within your document - - -

Q515 Yeah.

A - - - that it happened. Up to the club to decide what it wants to do with those facts that you've reported, and up to the coroner or anybody else to

decide what they want to do with it.

Q516 Yeah.

A So that, that's the tack that Peter took with it.

 I then, I then formed the view that, O.K. we, we're going to report it, or Peter's going to report the event in his report. It's already been out in the public that, that this thing happened.

 When we release the report we need to have established a, a strategy and action plan as to what are we going to do with it? Does, does the club have the view to say, It's got nothing to do with us, we're going to - - -

Q517 Yeah.

A - - - ignore it? then formed the view that said that, well the proper way for this to be investigated further under the Racing Rules - - -

Q518 Yeah.

A - - - or the proper way for it to be investigated as far as the club is concerned, is to have it investigated under the Racing Rules.

Q519 Yeah.

A So we then, and I asked Hans to formally refer the matter to the jury - - -

Q520 Yeah.

A - - - and under the Racing Rules the, the jury has the ability to receive information and determine whether it wants to have an investigation into it.

 It's an unusual section of the rules where just

about every other rule requires one party to lodge a formal protest - - -

Q521 Yeah.

A - - - for the, for the jury to take action. In this particular situation the, the jury just has to receive information and they can decide whether they want to investigate, hold a hearing, do whatever. So we referred it to the protest committee. Having done that I then felt from a, you know, public perception point of view, that it would actually be desirable if the event could be brought to a conclusion before we formally released - - -

Q522 Yeah.

A - - - the report. Having thought through the process and in fact been advised by the jury that they'd receive this information, the first thing they would do is adjourn it until after the coronial inquest, 'cause they didn't want to get involved in it if the coroner did want to investigate the thing further.

Q523 Yeah.

A I then asked Hans to approach both Rob Kothe and Richard Purcell on the basis, to advise them both that what I've just said, was the course of action that we were taking, it was going to be reported in the review report and that we had referred the matter to the, or that we were going to refer the

matter to the protest committee formally to see what they wished to do with it - - -

Q524 Yeah.

A - - - but that if, between the two of them they could find their way clear to discuss the matter all the way through, be it with their crew, whatever, and, and satisfy themselves that there really wasn't an issue and that it was more to do with a misunderstanding, or this, that and whatever, and if they could both come back to us and actually say that that was the case, well then we would drop the whole, we would, we would actually, we would still report it in the report, but then we would then, at the press announcement, actually say, you know, the club is not going to do anything further with respect to this because the parties, and in fact we were seeking a statement from them to the effect that we could publish to say, you know, we've talked the whole thing through and, and these were the circumstances - - -

Q525 Yeah.

A - - - and, and, you know, we all understand and nobody's got any problem with what anybody did. The two parties were unable to, to reach that - - -

Q526 Mmm.

A - - - that, you know, concurrence. And then as a

result we then said, O.K. look, you know, we are publishing the report and we're going to refer it to the protest committee.

Q527 Yeah. O.K. Now by the 1st of June, 1999 you were aware, were you aware of mitigating circumstances so far as Mr Purcell's concerned as to why he was unable to assist Sword of Orion?

A I'm, I'm not aware of, sorry, well I'm, I'm aware of certain things that, that Richard Purcell has said.

Q528 Yeah.

A I don't believe that from, certainly from my own perspective, I haven't formed the view as to whether there were mitigating circumstances, or whether, whether there weren't, because nobody has yet had the opportunity to have Richard Purcell formally give evidence with respect to the matter, nor Sword of Orion formally give evidence with respect to the matter, nor both parties to be able to, you know, cross examine each other - - -

Q529 Mmm.

A - - - nor get evidence from the various crew members. So as far as I'm concerned the, the, the issues's sittin' in, in, in, you know, on hold until - - -

Q530 Yeah.

A - - - that process is, is gone through.

Q531 O.K. Now in a press conference on the 1st of

June, 1999 you were asked, Can you tell us what the allegation is? And this was in relation to the Sword of Orion and, and Margaret Rintoul. In fact the, your answer was, I'll read it. Not even sure that is, that it is an allegation as such. There is a report, or there are reports, that have been received from interviewing both Sword of Orion and Margaret Rintoul. They indicate that at some stage Sword of Orion sighted a yacht that passed fairly close by, that they let of various signals and flares to, to try and attract attention. Our understanding is that at that stage they were not in radio communication. They were not sure whether the other boat had actually seen the flare, their flare or not. The conditions were atrocious, visibility was very poor and the Margaret Rintoul did not stop or acknowledge the signals that they had seen. Now so far as that comment that you've made there, is it fair to say that, that you had some knowledge of the interviews that were carried out between the Sword of Orion and the Margaret Rintoul on this issue?

A Yeah, I, I, at that stage I've read our interviews
- - -

Q532 Yeah.

A - - - that, that, that our review committee had
done - - -

Q533 Yeah.

A - - - and I'd also read your interview with, with
Richard Purcell - - -

Q534 Right. O.K.

A - - - on the matter. And that was, that was the
extent of my, other than - - -

Q535 Knowledge.

A - - - the direct discussions I've had with - - -

Q536 O.K.

A - - - with either of the parties.

Q537 Did you think it prudent to mention in that
particular statement that, reasons why, from your
knowledge of the incident and in reading our
reports, the mitigating circumstances or the
reasons why Mr Purcell didn't stop, or assist?

A No, because I really didn't want to enter into the
issue, because I really didn't believe that it had
been properly and fully investigated and - - -

Q538 Right.

A - - - there, there's also two dimensions to this,
in that in, in you know, the view that I do have
on it at the moment is that whilst I believe I, I
would have, particularly in that boat, or in fact
in any boat, sought to have rendered assistance,
unless we were in, in sort of, some sort of strife
ourselves, where we, where we were incapable of
doing so, I believe that I would have tried to do
more than what Margaret Rintoul did. Having said

that though, absolutely acknowledge and recognise that it is the skipper's responsibility to determine whether it is safe to do so or not. And on that basis alone, he is beyond reproach in terms of that - - -

Q539 Mmm.

A - - - it is, it is his obligation, well his obligation to make those decisions, and, and, and end of story.

Q540 Mmm.

A Where I'm unclear in terms of, or uncertain in terms of whether enough was done or not is with respect to the endeavours to communicate, be it directly with Sword of Orion or be it with radio, the radio control vessel, or in fact any other source to be able to communicate to. Now the only fact that I'm aware of at the moment is that there was a time gap of some half hour or, or more between the sighting of the flare and the radio report being given. And I'm aware that, that, the, the, the explanation with respect to that from, from Margaret Rintoul is, is that there was that much, you know, emergency traffic going on -

- -

Q541 Mmm.

A - - - at that point in time that it, it took that long before there was a window of opportunity - -

-

Q542 Yeah.

A - - - to get through.

Q543 Right.

A That may or may not be the case, you've still got
our tapes - - -

Q544 Yeah.

A - - - so it's hard for us to determine that.

Q545 Yeah. That's right.

A But then that begs the question from my point of
view, O.K. there's plenty of other radio
frequencies around, you can talk to Melbourne
radio, you can talk to Sydney radio, you can talk
to whoever else happens, might be wanting to hear.
Was that traffic that was on our own frequency,
was that, you know, Mayday type traffic, or was
it, was it - - -

Q546 Yeah.

A - - - of a lesser priority?

Q547 Yeah.

A And did they make any endeavour to contact Sword
of Orion itself - - -

Q548 Yeah.

A - - - using V.H.F. radio?

Q549 Yeah.

A And did did Sword of Orion actually have a
V.H.F. radio that was working? Did they have a
hand held, etc. So in my view there's still a lot
of things that, that, questions that I don't

believe have been asked, or certainly I haven't seen any evidence of them being asked, and they're issues that, that the protest committee has indicated to me, or the jury has indicated, that they'd like to understand and have answers to before they formed a view as to - - -

Q550 Mmm.

A - - - whether enough was done or not.

Q551 Yeah. O.K. Just a last couple of things, in relation to the report that was issued on the 1st of June, 1999, there was an interview conducted with the Sword of Orion in the body of the report, and in that report on Sword of Orion there was no mention of an accident which occurred with Nokia at the start of the race.

A Yeah.

Q552 However on the subsequent release of the appendices which were put on the Internet, there is in fact mention of the, the collision with Nokia. Are you aware of any explanation as to why that occurred?

A No, my, no, I'm not. I, like, is the first that I'm aware that there was actually something within our own appendices that recognised that.

Q553 Yeah.

A The first that I heard of it was on June the 1st when there was a question from a reporter with respect to it, and I was actually with Peter at

the time and, and he was as gobsmacked and surprised as I was - - -

Q554 About - - -

A About - - -

Q554 - - - what, the - - -

A - - - the fact that, well about the fact that there was a, well sorry, not about the fact that there was a collision between - - -

Q555 Yeah.

A - - - Sword of Orion and Nokia, I wasn't aware of that. I - - -

Q556 Yeah.

A - - - I believe Peter was - - -

Q557 Yeah.

A - - - but the fact that Sword of Orion had issued a message of some sort, an e-mail of some sort, that had actually said that they'd had the collision, that they'd suffered, I don't know, serious - - -

Q558 Yeah.

A - - - or hull damage and, and mast compression.

Q559 Yeah.

A I was not aware of the fact that anybody, I wasn't aware of the fact that they'd, I knew that Nokia had had a collision, but I wasn't aware of who with, and certainly wasn't aware of the fact that Sword had sent an e-mail and, and been particular about the sort of damage that they had suffered.

And no idea as to why Peter didn't know and how in fact it got on our appendices.

Q560 That's fine. That e-mail that you talk about is in fact an e-mail which was sent on the 26th to the C.Y.C.A?

A Well I'm told it was an e-mail from the reporter, I forget which one it was, it was an e-mail that was sent from Rob Kothe to Peter Campbell.

Q561 Right.

A And not - - -

Q562 And who's Peter Campbell?

A Peter Campbell is our media - - -

Q563 Oh, O.K.

A - - - liaison coordinator.

Q564 And that was forwarded on race day, as far as you're aware?

A I'm told yeah - - -

Q565 Right.

A - - - that it was issued fairly shortly after the incident - - -

Q566 Right.

A - - - as a, you know, as a news item.

Q567 Yeah. O.K. Are you aware of the extent of damage?

A No.

Q568 O.K. The radio set up on the radio relay vessel has concerned us somewhat in relation to the recording of conversations. We believe that the,

there is a cassette deck, so to speak, which is positioned in front of the main radio which is activated by pressing play/record to record conversations. On a number of occasions during the Sydney to Hobart last year that cassette deck was thrown to the floor and obviously important things were missed as a result of it and weren't recorded. Have you, as a club, had a look at that and are you going to be looking at measures or ways to overcome that problem?

A (NO AUDIBLE REPLY)

Q569 Do you have a time dated, stamped set up to record, and, and as you understand now, the importance of date stamped recordings would be very valuable to the Margaret Rintoul situation and Sword of Orion.

A Now, I'm, I'm not sure, well I actually don't know what we've done with respect to a tape recording thing and I, I - - -

Q570 Yeah.

A - - - suspect that's because it hasn't actually been addressed as an issue, and I don't believe there's anything in the full report - - -

Q571 No, there's not.

A - - - with respect to it. And again, it's probably because we haven't got the tapes, so we don't know how much is missing off - - -

Q572 Yeah.

A - - - them.

Q573 Yeah.

A The other side of it is that it's probably useful from a forensic point of view - - -

Q574 Yeah.

A - - - rather than from a operational point of view.

Q575 Yeah.

A That doesn't lessen its importance.

Q576 No, no, no, of course.

A But certainly if it's an issue to - - -

Q577 Yeah.

A - - - you know, people like yourselves, there's, there's probably good reason to, yeah, to look at that.

Q578 And certainly yourselves too with internal inquiries - - -

A Yes. That - - -

Q578 - - - to a certain point.

A That, that - - -

Q579 Particularly when you're dealing with international rules and - - -

A Yeah.

Q579 - - - juries and that sort of thing.

A Yeah.

Q580 And futures of yachtsmen- - -

A Yeah.

Q580 - - - so far as banning and that sort of thing?

A Yeah. No, it's a valid point.

Q581 Now have you got any, do you have anything that you'd like to, to add to this interview that you've got any views on or anything you'd like to, I think we've covered just about everything.

A (NO AUDIBLE REPLY)

Q582 Any thoughts you have about the inquiry or - - -

A No, no, my only, my only thoughts are along the lines of, where's who this going to end up? But actually I suppose, no, there is, there is a thought that I, that I think's important in terms of where, what are the issues arising from the inquiry process that are, that are important to us.

Q583 From our inquiry?

A Well the coronial inquiry - - -

Q584 Oh

A - - - coronial inquiry and the, and the outcomes of that and, I mean, we're very, you know, satisfied with the, with the nature of the review that we did and the findings that are there and certainly all the feedback from competitors and everybody that has, that are participants and stakeholders in the sport, is all, is very positive, very thorough, and there's actually very few things that have come up where people said, Oh, you haven't gone far enough, or you should have done this, or you should have done that. So

as a practical working document that serves the sport well - - -

Q585 Mmm.

A - - - I believe there's been a very constructive outcome - - -

Q586 Yeah.

A - - - as a result of the tragedy of last year's -
- -

Q587 Yeah.

A - - - event. And I believe that we're very cognisant of, you know, possibly some of our shortcomings in, on previous years in terms of actually making sure that good ideas were followed through and implemented - - -

Q588 Yeah.

A - - - and, and there's a heavy focus in here on that. So from our point of view, you know, we don't need a coronial inquiry because we don't believe that, that that is going to add any value or further insight with respect to what we've done.

Q589 Mmm.

A Understand that it's got to be held.

Q590 Yes.

A And that there's a, you know, there's a requirement to do that and that's fine. Certainly, you know, I mean if there is, if there is legal action that emanates from it that impacts

on the club well that's a concern, but there's, there's, there's not a lot that we can do about that now. We just have to deal with that as and when it arises. The, the area of biggest concern to me now is that the, with all due respect to yourselves and - - -

Q591 Yeah.

A - - - and, and others that are involved on the coronial team, that don't actually have an intimate knowledge of the sport. You said before there's not much about sailing that you don't - - -

Q592 Yeah.

A - - - know now that you - - -

Q593 That's right.

A - - - that there is to know, but there is a big thing though is that you haven't actually ever participated in the sport - - -

Q594 Yeah.

A - - - and, and enjoyed it from the point of view that our participants do. And it would be a tragedy if inadvertently or, you know, well meaning actions by - - -

Q595 Mmm.

A - - - the Coroner's team end up in, in regulation restriction - - -

Q596 Mmm.

A - - - prohibition of aspects of our sport that,

that diminish it.

Q597 Mmm.

A That, from the very participants in the sport themselves would be saying, Well these guys haven't done us a service at all, they've, they've taken something - - -

Q598 Yeah.

A - - - away from us.

Q599 Yeah.

A And, and that's, I suppose, my, my - - -

Q600 Yeah.

A - - - biggest concern, that the, that the, that the inquiry recognises why people go ocean racing and, and what it is that they're out there - - -

Q601 Yeah.

A - - - that they're out there doing and why.

Q602 Yeah.

A And, you know, I mean you can take the fun out of a lot of life by - - -

Q603 Yeah.

A - - - by getting over regulated about things and -
- -

Q604 Yeah.

A - - - and that. I suppose that's, you know, that's our, that's our primary focus at the moment in, in, in how do we ensure that that doesn't happen?

Q605 There was just one other thing. Are you aware if

the racing committee held discussions, either in Sydney or in Tasmania, in relation to the storm warning which was issued at 14.00 on the 26th?

A No, I was at sea.

Q606 You were at sea. O.K. Is it usual practice for a, for the organisation to make inquiries at various weather reporting stations south of Sydney and on the, on the way to Hobart at the commencement of the race?

A No, no - - -

Q607 That you can't actually - - -

A - - - we rely on the bureau's report and we've built the relationship with them on the basis that, I mean, they've got all the access to all that stuff, I mean, why would we go - - -

Q608 Yeah.

A - - - and second guess - - -

Q609 Yeah.

A - - - the experts?

Q610 Yeah. If I was to inform you that at some stage on the, the 26th of December, 1998 a gentleman in Merimbula tapped his barometer and it dropped some 3 inches and, and indicated near cyclonic weather conditions, would that surprise you?

A I don't know whether it surprises me or not.

Q611 What do you think of that?

A I've got no idea what his barometer's like or who it was - - -

Q612 O.K.

A - - - or, I've heard some very whacko comments
come from - - -

Q613 O.K.

A - - - lots of people down the coast, but - - -

Q614 We'll speak hypothetically here then, to put, I
mean, you know, to put it in some sort of
resemblance of order.

A Yeah.

Q615 If his barometer was perfect and he was honest in
what he said, and he tapped his barometer at 15.00
hours on the 26th of December, 19' whatever, and
it indicated that, that there was a, a sudden drop
in the barometer which indicated near cyclonic, or
cyclonic conditions, how do you feel about that as
a person in the race, not knowing that?

A That - - -

Q616 Take away the Commodore side of things and - - -

A That, that doesn't, that doesn't bother me that I
didn't know that, because - - -

Q617 Right.

A - - - when you go to sea you accept, you go to sea
on the basis that you are totally self sufficient,
that - - -

Q618 Yeah.

A - - - you're not going to be able to rely on any
outside assistance whatsoever and that includes
weather information, because it's not uncommon

that, that, you know, you lose all power and your radio doesn't work or something's knocked the antennas off or, or just the gremlins got into the system. You go out there having to be totally self sufficient. If all your systems work, that's great because - - -

Q619 Mmm.

A - - - you're better informed than what you would be otherwise - - -

Q620 Yeah.

A - - - and so, you don't rely on that, sure, it'd be nice to, to have x-ray vision and to have a crystal ball and to know exactly what you're gonna get next, but you're never gonna get that.

Q621 O.K.

A So I mean, interestingly, most, despite the fact that the bureau's got horribly defensive about their performance in, in the whole thing, most sailors actually hold no, you know, are very uncritical about the bureau's performance because they, I mean I, people ask me before every Hobart race in the 2, 3 days leading up, What's the weather going to be like going to Hobart? And what's this race going to be like? I say, I wouldn't have a clue. I don't listen to the weather report.

Q622 Yeah.

A Like, the only time I start to listen to the

weather reports that are available is, is on race day and, and during the race.

Q623 Yeah.

A Because listening to it 2 days beforehand, you may as well go home and, you know, turn on the opera or something for the amount of - - -

Q624 Mmm.

A - - - useful information that it's gonna give you. And even the weather reports that you get out there invariably are, are either wrong or highly inaccurate or whatever. That's not a criticism of the board, that's - - -

Q625 Yeah.

A - - - that's just the way that it was. I mean it's notoriously difficult to predict weather - - -

Q626 Right.

A - - - out at sea. And it's lovely for a bloke in Merimbula to be saying, you know, my barometer dropped this much, but there's all sorts of other people out there who are making observations who're recording data, and it's just, you can't possibly get all that information out, you know.

Q627 What are your views on having the radios working, you know, 24 hours a day on board the boats?

A I think that's, that's a very positive thing.

Q628 Yeah.

A Particularly a V.H.F. radio. Just from a point of

view that, you know, if somebody is, that, in distress that - - -

Q629 Yeah.

A - - - you can hear 'em. There, that's possibly somewhat impractical as well. I mean - - -

Q630 Yeah.

A - - - you know, when it's sort of blowing hard there's an enormous amount of noise on a boat - - -

Q631 Yeah.

A - - - just through crashing off waves and ropes creaking and all this sort of type of stuff, that to, to actually be able to listen what's, unless somebody's actually manning the radio itself, to just have it on as a listening watch, I mean if the guys are tired, all the blokes down below are asleep, or they're quite a way away from where the radio is, the blokes up on deck certainly won't hear it.

Q632 Yeah.

A So unless you've got the thing absolutely full blast, which just will drive everybody nuts - - -

Q633 Yeah.

A - - - you know, but it certainly increases the chances that if there is, you know, somebody at the nav table at that particular point in time, you know, you've got 100 boats out there that, you know, there might be one or two or whatever that

are, that it substantially increases the chances of somebody getting a message through - -

-

Q634 Yeah.

A - - - by virtue of the fact that it's on. So it's got to be a good thing. But it's not a panacea.

Q635 O.K.

SENIOR CONSTABLE UPSTON

Q636 Just on that, the self sufficiency of, of the yachts and, and being able to cope with any situation and maintain self sufficiency, do you believe that the Sydney to Hobart Yacht Race should be upgraded to a category 0?

A Oh, to my understanding, about the only difference between cat 1 and cat 0 has got to do with the life raft specifications. The other, the other differences are, are, are that minor that it's not a significant upgrade. You know, the life raft specifications are not that, you know, to some extent there's the, the jury's still a little bit out in terms of, of life rafts. And then what is their actual function, and, and, you know, even that much publicised events that occurred with life rafts, did those life rafts actually perform as specified, or didn't they? And, and if they did perform as specified, is that adequate now?

You know, it's a, it's a hard one to answer and it really comes down to a cost thing that if you

start, you know, imposing SOLAS type life rafts on, on cat 1 events, you know, are you driving a nail with a sledgehammer sort of thing? Is it, is it overkill in terms of what's right and I, I don't know the answer to that. Other than that, that's, to my knowledge, the only significant different between cat 0 and cat 1.

Q637 What about the safety factor of the stability? The cat 1 is 115 and cat 0's 120. Do you feel that that has some sort of significant outcome?

A Um - - -

Q638 As far as the safety factor's concerned?

A I mean that, that's more sort of specific issue in terms of should, should the stability index of boats be increased from 115 to some higher number?

Personally I don't, I don't think so. I, and I'd say I don't think so, when you look at the evidence of, certainly that we've sort of uncovered through the review process, and you look up the spectrum of boats that, that suffered capsize, that suffered substantial amount of inversion time, you know, if you put it at 150 degrees in those sorts of conditions, I don't believe that you're making a substantial difference to the, to the safety and welfare of the people that are out there. So why, why impose something that, that isn't going to, to make a substantial difference?

Q639 O.K. All right. Just another quick couple of points. One on being that you would have read the, and getting back to the Margaret Rintoul issue and the Sword of Orion, you would have read the interview that Mr Purcell gave to us - - -

A Mmm.

Q639 - - - prior to giving your, your press interview. In that interview I recall that Mr Purcell mentioned that he had engine trouble and in fact engine failure and couldn't get his engine started. You don't feel that, you don't feel that that was significant to mention within the, within the press interview - - -

A Um - - -

Q639 - - - in his defence?

A I deliberately tried to stay out of the particulars of it altogether and just wanted to deal with the process that we were going to go through with respect to it, because I didn't want to influence one way or the other as to the rights and wrongs. All I wanted to do was to say, there was an incident, it's been reported and this is the process under the Racing Rules that we deal with these things. Now as it happened through, you know, getting things dragged out of you by the media, I probably did say some things that went beyond what my intention was. You know, if I'd gone out there to specifically say, I am going to

give particulars then it would have been remiss of me to have not given all the particulars, just to give selective particulars. As it turned out I gave, I think, some particulars which were the first ones that occurred to me. Now having said that, I don't actually, I don't believe that having a non-serviceable engine would have significantly changed my reaction if I was in charge of that boat in those circumstances at that time. I don't think I would have, in fact I would have started those manoeuvres whatever we were doing without running the engine, because an engine in those sorts of conditions is actually not all that useful to you.

Q640 Right. O.K. That's all.

DETECTIVE SENIOR CONSTABLE GRAY

Q641 Just two more, two more issues and we'll, one of the issues is, did you attend a meeting with the Coroner - - -

A No.

Q641 - - - and the racing committee, and the review committee on the terms of reference?

A No.

Q642 O.K. One other thing that I'd like to bring to

your attention that I would like to seek your views on, is that again it just happens that we mentioned the yacht, Gundy Grey. Now Gundy Grey was a participant in the race and in fact completed the race. Now I show you a document here where it's the mandatory crew list for Gundy Grey.

A Yes.

Q643 And in fact there's seven names that appear on that, that list, is that correct?

A Yes.

Q644 I show you a document that is the Yachting Association of New South Wales Safety Equipment Compliance form, category 1 and 2.

A What am I looking for, life rafts?

Q645 At the top of the list is for Gundy Grey, is that correct?

A Yes.

Q646 O.K. I'll draw your attention to, and, first of all, I'll ask you, is this a requirement for an entry to the race?

A Yes.

Q647 O.K. And there's, this must be complied to and adhered to strictly?

A Yes.

Q648 Otherwise the yacht will be ineligible to race?

A Yes.

Q649 I draw your attention to, life rafts, R.F.D,

capacities, six.

A Yes.

Q650 That was ticked - - -

A Yes.

Q650 - - - as being there?

A Yes.

Q651 Right. And that, the one being present. I also draw your attention to, safety harnesses A-S-2-2-2-7 or equivalent, six.

A Yes.

Q652 I wish to inform you that I'm aware that the yacht raced with this particular life raft only for six persons, was washed over the side, lost and the yacht continued on with a six person life raft when in fact there was only seven, when in fact there were seven persons on board.

A At that stage had no life raft, you said.

Q653 Well it started the race with a six man - - -

A Yes.

Q653 - - - life raft. During the height of the storm it lost the life raft. It inflated and the life raft parted and was lost - - -

A Mmm.

Q653 - - - from the yacht. But what I'm saying is that there was seven people started the race with only a six person life raft. Would you say that that's an oversight?

A Yeah, I'm sorry, I'm just tryin' to think through

the, the process and the obligations again and that, the, the sport of sailing has a - (Tape Beeping) - inherent - (Tape Beeping) - all the way through - (Tape Beeping) - a very - (Tape Beeping) - you know, - (Tape Beeping) - stringent set of obligations on the owner or the responsible person on the boat, and to that extent it's like, it's a self administering, it's a self administering sport, and a lot of that goes back to, you know, the whole sort of, you know, historical nature of, of, you know, the, the captain of a vessel is in charge of his vessel and, and that's that, and that comes back to this whole self sufficiency thing.

Q654 Yeah.

A That, you know, you can control as much as you like when you're on shore, as soon as they cast the lines off, I mean - - -

Q655 Mmm.

A - - - you know, they're a world on their own and, and they've got to support it. So - - -

Q656 Mmm.

A - - - our whole process and our whole system relies on the fact, we say there's certain pieces of paper that you have to provide us with that, that are the points at which you're signing off that you have, you are formally declaring that you have exercised your responsibility, all right?

And that you're actually aware of it.

Q657 Yeah.

A Right. And the safety inspections are, are, are part of that process. What you've identified there is that there is not actually a, a, a link or a control process that we had in place - - -

Q658 Yes.

A - - - that says, you know, by virtue of him signing this and saying he's got six harnesses, six life rafts, he is saying, I'm going to sea with six people.

Q659 Mmm. Exactly.

A That's what he's told us.

Q660 That's right.

A Right. And subsequently he's actually - - -

Q661

A - - - said, Well now I'm going to sea with seven.

Q662 But in fact he's, he has, he has forwarded the mandatory crew list saying that he has seven people on board, not six.

A Yes.

Q663 So the responsibility - - -

A Yeah.

Q663 - - - although is his - - -

A Although - - -

Q663 - - - to a certain degree.

A Yeah, I, there, there is, you're right, there is -
- -

Q664 That would have been forwarded, this safety certificate would have been forwarded with the mandatory crew list.

A Yeah, I don't, do no believe that, that certainly in the time that I've been involved in, and I wasn't this year, but in previous years that I've been involved in the, in the vetting and administration procedure, that there is a link in our process, be it formal or informal, that checks
- - -

Q665 Yeah.

A - - - the number of crew that a skipper - - -

Q666 Mmm.

A - - - is going to sea with on the day - - -

Q667 Mmm.

A - - - with the numbers of safety items - - -

Q668 Mmm.

A - - - that he's got on board. But in our defence with respect to that, we rely on the fact that - - -
-

Q669 Mmm.

A - - - the owner recognises his responsibilities under the rules that he must have a life raft for his total number of crew, and he must have safety harnesses for all his crew - - -

Q670 Yeah.

A - - - and that he has breached his obligations and responsibilities with the fact saying, I'm going

with one more.

Q671 Mmm.

A Yeah.

Q672 Obviously there's fault here on, what, would you say with both parties though? That there's no checks in place to say that seven people are going on a six man life raft?

A I'd say there's definitely fault in place from the owner's point of view, because he's intimately aware of the fact that he's got a six man life raft and a seven people.

Q673 Yeah.

A From the club's point of view it, it comes down to the point where, to what extent do we, are we the policemen of the individual's obligations and responsibilities? And I - - -

Q674 Yeah.

A - - - put it to say that that's actually quite a grey area that comes down - - -

Q675 Mmm.

A - - - to the whole issue of, of duty of care and responsibility of, of race organisers or administrators - - -

Q676 Yeah.

A - - - of any sport. Culturally, the sport has been one of, of, you know, self certification and, and individual owners obligation.

Q677 Yeah.

A Our role is one of, one of ensuring that the playing field is level, in terms of that everybody satisfies their obligations through the same checks and procedures and balances. The purpose of the crew list that we put in place is, is not one to make sure that, that the owner who has said that that's the number of people he's going to sea with with respect to his safety equipment, is actually going to sea with that number of people.

The purpose of that form is, is, was initially to identify next of kin - - -

Q678 Yeah.

A - - - and to actually know who was on board. And the second purpose of more recent times has been to declare crew weight which is important factor with respect to I.M.S - - -

Q679 Yeah.

A - - - yachts and their, and their, and their rating certificate. So in that respect it's, it's saying, tell us what your crew weight is and sign off on that form for the purpose of overall crew weight and acknowledge, and again we don't actually check that his crew weight isn't more than what his certificate says it should be - - -

Q680 But the yacht entered in a P.H.S. where it

A So I filled the crew - - -

Q680 - - - so why fill in the - - -

A - - - weights in - - -

Q680 - - - weights?

A Absolutely, don't know why he did it - - -

Q681 Yeah.

A - - - 'cause there's a slot there to fill it in -
- -

Q682 Yeah.

A - - - so he filled it in.

Q683 Yeah.

A The primary purpose of that form is, is to identify next of kin. Like, from an organising point of view, we believe our responsibility is to make sure that they've identified their next of kin, so if there is a problem we can contact those people. We rely on the owner and, and it's incumbent upon him to do it under the Racing Rules and the terms of entry and everything else, that all his safety equipment and all his compliance issues are actually up to scratch. We're not saying, You turn up with what you want to go with and we'll tell you whether you, you - - -

Q684 Mmm. - - -

A - - - comply or not. The rules are very clear in terms of what you've got to do and what you've not got to do - - -

Q685 Mmm.

A - - - and the rule is also very clear that it's your responsibility to make sure that you comply with all of those things.

Q686 Mmm.

A So what don't have the, the, the check basis that says, Is this bloke actually doing what he has said that he is doing.

Q687 Mmm.

SENIOR CONSTABLE UPSTON

Q688 Although you do have random checks on the day?

A Yeah, we do, yeah.

Q689 What's the - - -

A Yeah.

Q689 - - - purpose of that?

A Um - - -

Q690 If you don't rely on, if you relying solely on the responsibility of the owner, why have you felt it necessary to do random checks to ensure they're complying?

A Because historically with respect to safety equipment, you know, the inspection gets done once a year, you know, a crewman takes gear off the boat inadvertently in a sea bag, it never finds its way back on and, you know, inspection might have been 9 months before the Hobart race and some of the gear might have - - -

Q691 Yeah.

A - - - might have disappeared, so that's, that's really more one of, you know, of just making sure that - - -

Q692 Mmm.

A - - - that things, that things are there. But again - - -

Q693 Mmm.

A - - - in one of those checks we wouldn't be, we haven't in the past - - -

INTERVIEW SUSPENDED

INTERVIEW RESUMED

DETECTIVE SENIOR CONSTABLE GRAY

Q694 Interview between Detective Gray and Mr Kretsumar is recommenced. Tape 3 ejected unknown to us. The time is now 3.02pm.

SENIOR CONSTABLE UPSTON

Q695 Right. Hugo, we were discussing in particular the yacht, Gundy Grey and, and a crew list and a safety certificate list and we were discussing the reasons why the safety inspections are done and in fact spot checks are done. Is that correct?

A That's correct.

Q696 O.K. And what, for what reason was the spot checks, just rehash on what - - -

A

Q696 - - - for reason why the spot checks were done?

A Spot, spot checks are generally done because, recognising the fact that safety inspections are carried out once a year, most items of safety equipment are fairly small mobile type items, and, and we just carry out a spot check process to encourage owners to make sure that they actually

check the integrity of all of their safety equipment on a more regular basis than the once a year inspection. The fact that they know that someone's going to be checking on them causes them to make sure that, are all the flares that they're supposed to have, still there, or did someone let one off one night at a party or something.

Q697 Mmm.

A Are all the safety harnesses still on board, or did one or two disappear in a crew member's crew bag in advertently after a race? Those sorts of type of things.

Q698 Right. Well the, in fact that would indicate to me that there is, there is a duty of care for the club to make sure that, and being that we've already stated there's a, there's a contract between you and the participant, that there is in fact a duty of care between you and the, the crew, that all their safety equipment is on board.

A I don't believe that the, oh, you'd, you'd have to, I'm not legally qualified to say whether the contract calls for a duty of care on our part to ensure that competitors meet all of their obligations that they take on under the contract that exists between us. I don't, I don't have the legal knowledge to be able to say whether there is an obligation of duty of care on our part with respect to that. Having said that, the club takes

a responsible attitude from a point of view, it wants to run a good event, and it wants to run an event with a, with a level playing field. And with respect to safety equipment, it's just a practical matter that from, from our knowledge, you know, regularly things, safety bits of equipment disappear off, not, not because anybody's deliberately taken them off, it's just because they disappear.

Q699 Mmm.

A And through the, the random inspection process is, is there, not so much to catch people out, that's not the intention of it. The intention of it is, is to encourage people because they know that there's a random checking process, to check things more often than what they do. It's just a practical matter.

Q700 Right. Has it ever been the case that yachts have been stopped from racing or, prior to the race, through a spot check until such time as they, that, that the yacht comes up with those, or the owners of the yacht comes up with the correct safety equipment?

A Yeah. I can't name any specific ones, but I'm certainly, you know, aware of instances where a yacht's been spot checked, you know, 2 or 3 days before the event and some items have been found, been found missing and, you know, it might be, oh,

those are off getting repaired at the moment, or -

- -

Q701 Mmm.

A - - - this, that or whatever, or, or that they've genuinely, you know, disappeared during the time when the boat was last inspected. But it does happen.

Q702 Have you ever been aware of any sharing of safety equipment prior to a safety check being conducted, from yacht to yacht?

A No. No. Have you?

Q703 Well I've been informed that that has happened in the past.

A No. I'm certainly not aware of incident where that's actually been found to be the case.

Q704 O.K. I've no further questions.

DETECTIVE SENIOR CONSTABLE GRAY

Q705 Anything further, Hugo?

A No.

Q706 O.K. The time by my watch is now 3.06pm. This interview is concluded.

INTERVIEW CONCLUDED