

W803 82/00 CMM-H1

NEW SOUTH WALES STATE CORONER'S COURT

STATE CORONER: J ABERNETHY

TUESDAY 21 MARCH 2000

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5/98 - EVENT OF THE 1998 SYDNEY TO HOBART YACHT RACE

INQUEST INTO THE DEATHS OF JAMES MICHAEL LAWLER

MICHAEL BANNISTER

BRUCE RAYMOND GUY

PHILLIP RAYMOND CHARLES SKEGGS

JOHN WILLIAM DEAN

GLYN RODERICK CHARLES

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Mr A Hill assisting the Coroner

Mr Stanley with Mr P Santamaria for the Bureau of
Meteorology

Mr O'Halloran for the Lawler family

Mr Morahan for R H Winning

Mr Colefax for L Carter

Mr Harris for The Cruising Yacht Club of Australia

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PART HEARD

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<RICHARD HARCOURT WINNING(10:37AM)

SWORN AND EXAMINED

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HILL: Q. Sir, would you give the Inquest your full name
please?

A. My name's Richard Harcourt Winning.

Q. And your address sir?

A. It's 73 Victoria Road, Bellevue Hill.

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Q. And your occupation?

A. I'm a company director.

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Q. And you were the owner of the vessel Winston Churchill?

A. That's correct.

Q. And that took part in the 1998 Sydney to Hobart race?

A. Yes.

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Q. I think you were also the master, or the skipper of that
vessel during that race?

A. Yes.

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Q. And were you actually the navigator and radio operator
as well?

A. No, Paul Lumtin was acting as navigator in the '98 race.

Q. But you have navigation skills?

A. Yes, I do.

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Q. When did you first buy that vessel, the Winston

Churchill?

A. It would have been late '96.

Q. And what condition was she in?

A. Structurally fairly good, cosmetically she'd been let run down. The previous owner had done a fair bit of cruising in tropical waters and cosmetically it was fairly poor but structurally it was sound. 5

Q. What did - after you purchased it, what work did you do on it? 10

A. Well, as a part of the purchase negotiations, I had the vessel surveyed. It was taken to our slipway at Woolwich and Ian Perdriau surveyed the boat. 15

Q. Ian Perdriau?

A. Perdriau, yes. He surveyed the boat, found nothing structurally wrong with it. We then put a plan together, John Stanley and myself to refurbish the boat. That was done over the period of the next six to eight months with a view to entering the '97 Hobart race. The refurbishment basically involved stripping the furniture of the boat, that's the internal fittings, out of the boat to enable a full inspection of the internal structure. That was all stripped, repainted, chain plates(?) were replaced, the deck was recalced, the hull was cleaned off to bare timber, the fore and aft ends of the boat were refastened at this time. I had a-- 20 25

Q. Now by refastened, what do you mean? 30

A. The boat was originally copper riveted, or copper roved construction--

Q. Now roved means that you knock the nail in and then you bend the end over? 35

A. Well no, that's what they call clenched. Rove is where the nail is knocked in, a little dome shaped copper washer is placed over the end of the fastening and that's panned over with a hammer. That was the way it was done the day she was built. The fastenings had been pulled as part of the survey that Ian did. The purpose of that is to pull a few at random out of the hull, inspect them to see that there's no deterioration of the metal and also to inspect the hull they came out of to see if there's any deterioration of the wood. Well nothing was found in that regard but it was thought prudent to refasten the boat in the bow and the stern where she would likely to be affected by pounding in a seaway. This was done by the means of about two and a half to three thousand bronze screws were placed in the planks in that area of the vessel. 40 45 50

Q. Yes?

A. Further improvements we did at the time, I had a yacht designer re-rig the boat. He drew up - the mast that was in it was one of the original I believe wooden masts, very heavy, a lot of weight aloft. The yacht designer came up with the idea of replacing that with an aluminium mast. It was taller than the timber mast that was removed and saved 55

about 400 kilos of weight. Other improvements involved recalcing the deck and rewiring the boat, all those sort of things we attended to.

Q. What about the rigging and the sails were they used - 5
did you use new materials or did you use materials that would have a certain amount of give or stretch in them?

A. Well, we were always anxious to keep in mind the fact that the boat was not designed for modern materials, so dacron sails were chosen as against spectra(?) or milark(?) 10
dacron having an inbuilt stretch factor. Polyester ropes were used in preference to spectra and all that sort of thing so that unjustified strains weren't put on the structure. She wasn't a vessel designed for all these modern materials and we didn't use them. 15

Q. Prior to the Sydney to Hobart race in 1998 you took part in other races?

A. Yes, the first race we did was the '97 Hobart race. The following year in 1998 we entered the CYC Winter Series on the harbour. We also did the Southport race that year. 20

Q. Where was your vessel usually moored?

A. It spent most of the time either at Woolwich marina or at a mooring in Vaucluse Bay. 25

Q. Can you describe that mooring to us?

A. In Vaucluse Bay?

Q. Yes. 30

A. That was just a buoyed swing mooring which I'd had for quite some time for a previous boat and when we were doing the winter series at the CYC it was more convenient to leave the boat there rather than bring it down from Woolwich every Sunday. 35

Q. Now the other mooring?

A. That was a berth in a marina set up at Woolwich.

Q. And can you describe that to us? 40

A. That was just a standard, non-floating marina berth.

Q. Bow in, stern in, port side to, what was the situation?

A. She was always on the western side of the marina wharf, from memory bow in. 45

Q. I think about a fortnight before, we've heard evidence, the actual race, the 1998 race Sydney to Hobart the vessel was up on a slip, is that right?

A. I think it was less than a fortnight. After the Southport race that year the boat had been slipped at Woolwich, cleaned and re-antifouled. Prior to the race it was slipped again just to blast off the antifoul and give it a buff but I believe that was two to three days prior to the race. 55

Q. Two to three days before?

A. Yeah.

Q. And where was that done?

A. That was done at Woolwich marina.

Q. And then it came from Woolwich to where?

A. The day before the race, Christmas, yes it would have been Christmas eve, John Stanley and I did the grocery shopping and what have you for the race, provision of the boat and brought it down from Woolwich to the CYC at about 5 o'clock in the afternoon. 5

Q. So that was the day before-- 10

A. I think it was Christmas eve, so it would have been the day before, the day before, yeah.

Q. Christmas eve. And the vessel lay there at its berth at the CYC until race day, is that right? 15

A. That's correct, it was berthed at what they call the mast wharf there, bow in, port side out.

Q. You've heard the evidence of Mr Bascombe? 20

A. Yes.

Q. About what he thought was missing caulking and some paint cracking, was that brought to your attention or did anyone say anything about that on race day? 25

A. They did not.

Q. None of your crew?

A. No. 30

Q. Or anyone ashore?

A. No one at all.

Q. So as far as you were concerned the first time you heard that was when? 35

A. The first time I heard that story was when I was interviewed by the police.

Q. And that was some time after your original interview? 40

CORONER: Q. That's the New South Wales police I take it?

A. Yes your Worship.

Q. Because the Victorians didn't speak about it did they? 45

A. No, they did not, it would have been about June '99.

Q. Yes, actually it was 23 July?

A. July was it, yeah that was the first I heard any of this business about missing caulking. 50

HILL: Q. Had you at any stage seen caulking missing in such a fashion on your vessel?

A. No, at no stage and I think Mr Bascombe in his evidence too it got to the stage where a distinction was made between caulking and putty. From my memory Mr Bascombe admitted that he didn't actually see caulking either missing or hanging out of the boat, he saw missing putty and there's a fair bit of difference. 55

Q. All right, well have you ever observed missing putty--

A. Putty occasionally fell out of seams, particularly on the starboard side of the boat. There was one area just below the waterline where we had some missing putty after the Southport race. It's just a matter of putting some more in and painting over it. 5

Q. I see, but had you been notified of this what would you have done?

A. At the very least I would have inspected it. 10

Q. And at the very most?

A. Well, if it - you've got to understand the distinction between some putty missing from a seam and caulking cotton either missing or hanging out of the seam. Now purely hypothetically I don't believe for one minute there was any caulking cotton either missing or hanging out but had there been that would have necessitated a thorough inspection of the fastenings in that area. 15

Q. So are you saying had it been brought to your notice you would have checked on that? 20

A. Absolutely.

Q. Would you have got anyone else to check it with you? 25

A. Well, in the first instance I would have looked at it myself.

Q. Yes?

A. If I considered that it was in any way dangerous I certainly would have sought expert advice. 30

Q. Now race day who were your crew?

A. Myself, John Stanley, Bruce Gould, Paul Lumtin, John Dean, Jim Lawler, John Gibson, Michael Rynan. There's one missing, who have I left out, yes Mike Bannister. 35

Q. And you set off at race time and went down the coast?

A. Correct. 40

Q. What was the weather like on the way down?

A. Fine for the first few hours of the race. It was blowing a good nor'easter, we had a good spinnaker run. That night the breeze changed a bit, we had a few sail changes. Next morning we were fairly close in shore. I recall the next morning seeing Mount Imlay from the boat so I had a rough idea where we were at that stage by looking at that. As the day progressed the breeze backed round to the west more, increased in strength. 45

Q. Just stopping you there, I will come back to that but I want to take you back to the schedule, the sked at 22.00 or 20.00 hours, 8 o'clock the night before. That would be Saturday twenty-sixth at 8.00pm? 50

A. Mmm. 55

Q. Did you listen to that sked?

A. No, I didn't do the skeds.

Q. Who did the skeds?

A. Paul did them.

Q. Did he relay to you the weather report, or did you listen to the weather report?

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A. From memory it would have been relayed. I don't recall actually listening to that report.

Q. Well, what was your understanding of the weather forecast at 8.00pm on twenty-sixth?

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A. Forty to fifty knots was expected for the next day.

Q. What about warnings?

A. I don't recall a warning.

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Q. Now when you say forty to fifty knots, what are you telling us? Are you talking about average winds. Are you talking--

A. Well the forecast was forty to fifty knots, so on my interpretation one could have expected fifty knots with gusts maybe ten per cent more than that.

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Q. So up to fifty-five?

A. Perhaps.

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Q. Well have you heard of this rule about adding 40 per cent for gusts onto the wind as forecast?

A. No, I hadn't heard of that before.

Q. Did you attend the briefing that was given on the Christmas eve?

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A. Yes, I did. The weather briefing, yes I did.

CORONER: Q. Did Mr Lumtin attend with you?

A. No, he didn't your Worship.

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HILL: Q. And who attended with you, if anyone?

A. I don't recall who attended that with me.

Q. What did you - what was your impression of what weather you were going to expect after the briefing was finished?

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A. There was mention of bad weather to come, possibly the second day of the race. I think up to forty knots was mentioned at the briefing, from memory and I think it was up to forty knots sou'west could be expected on the second day.

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Q. I take you back then to 8.00pm on twenty-sixth. You've been told what, winds forty to fifty?

A. To fifty, yes.

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Q. And then you'd add ten per cent. Would you actually add that ten per cent on?

A. Well I'd expect gusts to the tune of approximately ten per cent greater than the average.

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Q. So you do take into account some concept that what you're getting is an average wind and then you add a gust factor onto that?

A. Yes, my understanding is that the forecast is for the average, gusts and lulls are to be expected above and below that average, but not to the tune of 40 per cent. I've never heard of that before.

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Q. Did the phrase 'storm warning' have any particular meaning to you at that time?

A. A storm warning I understood to be just that. Breezes of 50 knots to my mind is a storm warning. A gale warning would be breezes to 45 knots and so on.

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CORONER: Q. But you're not sure you heard the term mentioned by your navigator, is that what you're saying?

A. No, I don't recall the term being used your Worship.

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HILL: Q. So as far as you were concerned you were sailing into weather that would be between forty and fifty knots with gusts up to 55?

A. Yes.

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Q. That's what you had in your mind?

A. That was what I mentally was anticipating.

Q. Well had you known that you add 40 per cent for gusts onto say an average wind of 50 knots what would you have done then?

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A. Well, that would have made 70 knots of breeze possible and for mine that would have been a good reason to seek shelter. I don't think that the way we approached our recreational ocean racing if you like we need to be out there in 70 knots.

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Q. So had that been brought to your attention you would have done what?

A. Probably sought shelter.

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Q. Now had the forecast been that gusts nearing cyclonic force were expected would that have emphasised that to you?

A. Well, it would have. It's not the weight of breeze that does the damage or make things difficult, it's the state of the seas, so if you're told you're going to get 70 knots you can expect a corresponding increase in the size of seas. That for me would indicate keeping out of that area.

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Q. I then take you back to the next day. You said that--

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CORONER: Before you do, could you just--

Q. Did you hear anything about the wave heights at that stage in that report?

A. No, I didn't your Worship.

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HILL: Q. So the navigator didn't pass that on to you?

A. Well no, he - I don't recall hearing or being told anything about the anticipated state of the sea.

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Q. Did he write down the weather report, or what was--

A. No, I don't believe it was his practice to write it down.

CORONER: Q. What's your understanding - in similar terms to the gusts issue, what's your understanding of what were the seas at that time, can you tell me without me looking it up?

What were the height of the seas in that forecast?

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HILL: I'll just find that actually. I think swells one to two metres rising to two to three metres after the change.

CORONER: Q. Well what's your understanding there? You heard the evidence that I have before me, what does that mean to you? In the same terms that you've told us what the wind speed means to you, what does the wave height mean to you, the swell height?

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A. Well, the wave height is the other side of the coin if you like of the wind speed. If for example 50 knots is forecast you can expect a corresponding size of sea with that. What's 50 knots, it's about force ten which is a storm, about 30 feet seas could be expected there, which is a ten metre sea.

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Q. And the odd wave?

A. Well the odd wave can be a good deal more than that. It's like a little rogue wave.

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HILL: Q. Well did you feel confident that your vessel could handle that sort of sea?

A. Yes, I did. I think Dr Badham the other day said most yachtsmen if they're told they're going to get 50 knots will say, 'Yes, I can handle that' and that was my attitude too. I believe we could handle 50 knots and if it's going to be 50 knots you can expect a 30 foot sea. I was confident the boat could handle that, yes.

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Q. What about the rest of the crew, what did they say, if anything?

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A. Very, very experienced crew. I mean at no stage, right up to the final knock down did I detect any apprehension or panic. Everyone had a great deal of faith in the boat.

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Q. Well on the Sunday morning of twenty-seventh you've told us that you were just off Mount Imlay?

A. Mmm. Well I could see Mount Imlay in the distance. I don't know exactly what time that would have been, maybe ten in the morning, perhaps earlier. Between eight and ten in the morning.

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Q. And did you at any stage do any navigating?

A. Up to that stage I hadn't, other than to check the chart occasionally. It was always our practice to mark our position on the chart every hour, as well as note it in the log book.

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Q. If we want someone to actually mark the chart for us, Mr Lumtin would be that person would he?

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A. Yes.

Q. You proceed down, what's the weather like at that stage?

A. From memory it was fairly moderate at that stage. I can't remember what sails we had set but we certainly had the mainsail up. We may have had one reef in it but certainly no more.

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Q. Right?

A. As the day progressed the wind backed more to the west and started to pipe in quite hard, I should say about 1 or 2 o'clock in the afternoon it had got up to - well by 2 o'clock we would have been seeing 50, 55 knots on the wind gauge.

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Q. Were you keeping or maintaining a radio watch?

A. Yes, the radio was on at all times.

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Q. Did you hear any radio messages from other vessels giving the winds and the weather that they were experiencing?

A. No, at no stage we hear that.

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Q. Were you listening to the 2 o'clock sked?

A. Yes, I was - every boat had to report in at 2 o'clock. Paul started to do that sked. It took a fair while to get through every boat in the fleet and being W we were one of the last boats called. I believe he started to do that sked and then handed over to John Dean some way through it

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Q. Well, did anyone bring to your attention that other vessels were bringing up the weather, that they were experiencing 70 knots gusts?

A. No, I heard nothing of that.

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Q. Didn't hear any of that?

A. No.

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Q. Did you hear, or were you told what the weather was going to be?

A. Other than the forecast, which at that stage was still 50 knots from my recollection.

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Q. Well did you hear was it told to you at any stage that other vessels were experiencing gusts far greater than 50 knots?

A. No, I don't recall that.

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Q. What happens next?

A. The breeze had got up to about - I was seeing about 60 knots I suppose I saw on the clock. There was some conjecture on whether the instrument had been set to read higher than that. I don't know. The highest I saw on the wind gauge was 60 knots. By that stage we had the mainsail lashed down, we were down to our storm jib, we were sailing at approximately 170, 180, doing about 6 knots. The seas were quite large at that stage, but all in all I considered we were handling the conditions very well indeed.

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Q. Even at 60 knots?

A. Yes, but it was snugged down well, it was heading in the

right direction, doing a good speed. We were more or less not quite beam seas, a little bit on the bow. She was handling the conditions very well. The driving spray was a bit of a problem so after about 2 o'clock we decided to do about half hour tricks(?) at the helm. Normally you do three hours. It was too hard on the eyes to do the three hours, so we were doing half hour on, half hour off. 5

Q. When did you start doing that?

A. I should say about half past one 2 o'clock we decided to do that. I was alternating with Bruce Gould at that stage. 10

Q. Now what's the highest wind speed that you recall?

A. I don't recall seeing anything higher than 60. 15

Q. And what's the next thing that happens?

A. At about three-thirty, something like that, it might have been closer to four, I was steering with John Dean on watch with me. We were both strapped on with our harness, an extremely large wave, much bigger than the average, appeared on our bow. The size of it didn't concern me half as much as the shape of it. It was almost like a beach wave. I'd never quite seen an ocean wave that shape before. It was breaking at the top and I said to John, I said, "Well this is going to break on us at the very least, so I'll try and get up it as far as I can, try and get the boat over the top." She just didn't have enough speed for that, there was no way that was going to happen. The wave knocked us down, broke on top of us and at the same time threw the vessel down the face of the wave. As the wave broke over the boat, both John and I were swept overboard. All I recall then was just like being dumped at Bondi, totally surrounded by foam. I believe the boat was knocked down to horizontal or maybe a little bit below that, certainly not rolled over. 20 25 30

Q. Yes. 35

A. Then she recovered pretty well. It seemed like a long time you were overboard, but--

Q. I want to just stop you there. Who else is on deck besides Mr Dean and yourself? 40

A. No one.

Q. Right, where were the rest of the crew?

A. John Stanley was in the after cabin. This vessel had a main saloon and like an aft saloon, he was down there and the rest of the crew in the main saloon. 45

Q. Now you've said that the wave appeared, you tried to steer up, now where did the wave strike, what portion of your vessel? 50

A. Well, the boat was knocked down with the port side down.

Q. Right, so the--

A. So the wave came over the-- 55

Q. Tipped you onto your port side did it?

A. Yeah.

CORONER: Q. Bow, all along the side?

A. We were more or less - by that stage we were almost beam onto the sea.

HILL: Q. Right, so it's come over your starboard side?

A. Correct.

Q. Pushed you onto your port side and dumped you down like that?

A. That's right.

Q. You're thrown overboard, along with Mr Dean but your harness has retained you?

A. Yes.

Q. What's the next thing that occurs then?

A. Well the boat righted itself, it can't have been too much more than 15 seconds before it did. The boat had a split back-stay on it which means that the stay that holds the mast up from the rear splits into two about ten feet above the deck. When we had been knocked down, both John and I had been wrapped around that in the surf, if you like. When the boat recovered we were both suspended from that stay by our harness. Neither of us had our feet on the deck, so we were sort of stuck there. We called from John Stanley, who had been knocked around, thrown out of his bunk, I should say. He came on deck and untangled us.

Q. Can I stop you there, you said that you were knocked down possibly so that the mast would have gone what, about 90 degrees or a bit more or what?

A. Well I would have thought the mast was either parallel to the water or perhaps a bit below that, very hard to tell.

Q. What was the stability of your vessel, do you recall?

A. How do you mean by the stability?

CORONER: The rating.

HILL: Q. Well, what was the limit of positive stability?

A. About 123 degrees I think.

Q. About a hundred and--

A. Twenty-three degrees.

Q. Okay, that was on the IMS?

A. The IMS rating, yes.

Q. All right he came back up--

A. So after John Stanley disentangled us from the rigging I started to just look around and see what the state of the vessel was. It then became obvious that the boat had sustained quite serious damage because she started to fill quite rapidly.

Q. All right, did you see any damage on deck?

A. Not at that stage, I did inspect that later.

Q. Okay, we'll come back to that.

A. At that stage it was obvious that we'd been holed in some way under the water. The first thought then was to start--

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Q. Can I just stop you then. Why was it obvious?

A. The water was coming up over the floorboards around your feet very rapidly.

Q. Now, was that rising up or did it have one area that it was coming in from?

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A. No. It was very difficult to tell where it was coming from, just rising.

Q. So it was foundering, it was just filling with water?

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A. Yes, exactly. The first thought then was to start the motor to enable a mechanical pump to be brought into use. The boat had at least one mechanical bilge pump I think with an inch line on it, which would have moved a lot of water, whether it would have enabled the boat to remain afloat I doubt. The motor did start, ran for a very short period of time and then stopped. It's my belief that water was aspirated in the air intake which caused the motor to hydraulic and stop.

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Q. When you say it ran for a short time, are we talking seconds, minutes or--

A. Seconds, maybe 15, 20 seconds. But it did start so I can only assume - the air intake on that motor was at the same level as the top of the motor, so it wouldn't have taken all that much water in the vessel to cause that to happen. At that stage we were pretty well convinced that the boat was going to sink, or at least fill up.

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Q. Hand pumps?

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A. There were hand pumps there but you're absolutely wasting your time for the amount of water ingress. No real attempt was made to fool around with those. Then I went down to the after cabin where the radio, navigational gear, what have you, was kept. I might mention that in the knock down that aft cabin had its own little doghouse on it and three glass windows in each side. The three windows in the lee side or the port side had been totally stove in in the knock down. This had totally flooded that cabin, all the paper was missing, there were no charts, there was no logbook, all the navigation paraphernalia that was kept on the little chart table that was there was missing, no pencils, no dividers, nothing, just totally swept clean. So the first thing to do was to try and get a mayday out and I was conscious of the fact that the most important thing they want to know on a mayday is where are you. No way of knowing. The GPS was inoperable through water damage. Paper chart with the latest position which would have been 2 o'clock gone. The log gone.

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Q. I want to just stop you there. First of all I want to deal with the GPS. That was in the navigation house?

A. In that cabin, yes.

Q. That's electronic?

A. It is.

Q. Battered?

A. It worked off the ship's batteries, yes.

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Q. It works off the ship's batteries?

A. Uh hmm.

Q. Is there a method by which it could work, simply be contained on its own batteries?

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A. Not that one, it was designed - well, it is possible to have a different supply to it but it's designed to run off the ship's supply.

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Q. Are there ones that you know of that are much like burglar alarms, if you cut the outside power off they'll then switch over to a battery?

A. I presume that could be arranged but in addition to that we did have a hand held portable GPS. Now that was stowed in an area in this navigation cabin up where the binoculars and all that sort of thing were kept which wouldn't have got too much water from this knock down. I got that out, Paul

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and I both got that out, I'd used this thing many times before, both at sea and on land as well, it was a good little unit. I thought the main GPS won't work, we'll get this thing going, it had its own self-contained batteries. Couldn't get it to initialise. It picked up one satellite, had to get at least three to get a position. Picked up one, it was coming up with a latitude of 33 degrees which was, you know, totally wrong. So when that - when it became apparent that that wasn't going to work, that was our last chance of an accurate position gone, so then I thought well on the HF radio, attempted to change the frequency to 2182 which is the distress frequency, wouldn't change. It was stuck on the frequency it had been left on, which was the one that picks up the weather faxes. Wouldn't change.

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Q. Did you have weather faxes on board?

A. We did, yes.

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Q. Did you see any of those weather faxes?

A. Yes I did.

Q. Did you read them?

A. Yes I did.

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Q. What about the storm warning, did you see that?

A. The weather fax that we were picking up was transmitted at particular times during the day. It only had a weather map on it, there was no--

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Q. It's a synoptic map?

A. --forecast or any sort of written elaboration of the map itself.

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Q. So all you were actually picking up was the synoptic map?

A. That's right. Yes, so obvious that the HF radio was inoperable, I thought the only chance then is the VHF. I put out a mayday on the VHF which was picked up by the ABC helicopter. He asked our position. I had to basically estimate the position I thought we were in having regard to the angle I'd seen Mount Imlay that morning. That's the only reference I had with all the up to date positions gone. On that basis I estimated - I think I said we were 20 miles or 25 miles southeast of Twofold Bay. He acknowledged that. He asked how many people were on board and I told him there were nine people. I think he asked our condition. I recall saying that we were taking water rapidly, we were getting the liferafts on deck. At that stage I think I came out of the navigation cabin to come on deck to see what was being done with the liferafts. By that stage they were on deck, Bruce Gould was organising that.

Q. I just want to stop you there because I don't want to get too far - your schedule started at 2 o'clock and I think it takes about one and a half hours to complete, is that not so?

A. I don't know that it takes that long.

Q. I'm sorry?

A. I don't think it takes--

Q. How long do you think it takes?

A. I should say less than an hour.

Q. Less than an hour?

A. Uh hmm.

Q. And you were at the end of that schedule?

A. We are.

Q. You would have given Telstra control your position at that time?

A. Yes.

Q. And that would have been some time just before 3 o'clock?

A. Well, yes, yes.

Q. And I think that your vessel begins to founder, what, an hour, and hour and a half later? 5

A. About 4.30. I think that - I don't know - there'd be records of what time that mayday was taken, but I should say that'd be 4.30, quarter to 5. 10

Q. Are you able to estimate what your distance would have been covered during that one and a half hours? 10

A. Yes, well, I think I said earlier, we were doing 6 knots, so it should be a fairly easy extrapolation there. 15

Q. What I'm trying to find out is if someone's got your position at 3, then there's a method by which it could have been worked where you would have been at? 15

A. Yes. 20

Q. So you think you were doing 6 or 7 knots? 20

A. No, not 7, between 5 and a half, and 6.

Q. Sorry, I interrupted you? 25

A. Where was I - that's right, I came on deck having sent out the VHF mayday. At that stage the life rafts were on deck, ready to be inflated, Bruce was helming the boat, he'd brought the boat around square so that the seas were now following up, rather than being on the beam, that's for the purpose of steadying the boat. 30

Q. What were the lift rafts, what type? 35

A. They were both RFD. One was a four man raft that was packed in a fibre glass container. 35

Q. Where was that kept? 40

A. They were both kept just next to the main, the companionway of the main saloon, just to the port side of the companionway. 40

Q. On deck, or below? 45

A. Below deck.

Q. And they were in what sort of containers? 45

A. One was packed in a hard fibreglass container, the other was packed in a valise, which is just like a vinyl bag if you like. 45

CORONER: Q. The other man was a six man, was it? 50

A. Yes, one six man, one four man.

Q. RFD's? 55

A. Yes.

HILL: Q. One round? 55

A. One round, and one rectangular.

Q. The round one was the four man?

A. Yes.

Q. And the rectangular was the six man?

A. Yes.

5

Q. When you come out of the radio shack they're on deck?

A. They're on deck. At that time I took the opportunity to go and have a look at the damage to the lee side of vessel. She was very well down in the water by this stage.

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Q. Is that the port side?

A. Yes the port side, yes, where the damage was done. I found about two metres of bulwark missing.

Q. Perhaps if you'd describe for the Court what the bulwark is?

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A. It's a method of construction that's only found on older boats now. The ribs of the boat are continued on past the deck, the main deck, in this case about just over a foot, and the planking is also continued up those ribs - it's basically a fence round the deck if you like. That was an old method of construction which was a feature of this boat. Approximately two metres of that was missing.

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Q. Had the whole lot gone?

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A. No, just two metres aft from the shrouds.

Q. Ribs, as well as planking?

A. Yes, the whole part of the bulwark.

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Q. Just gone?

A. Was gone. There didn't appear to be any damage that I could see from this quick inspection below the level of the deck, but the chain plate which had the aft lower shroud connected to it--

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Q. Perhaps if you'd just explain to us, first of all, the shroud is--

A. That's the stay that holds - the wire that holds the mast up.

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Q. Chain plate?

A. A chain plate is the - in this case, stainless steel - fitting anchored to the boat, to which the wire is attached. One of the things we'd done when refurbishing this vessel was to replace the chain plates, they were originally made out of steel, and where they came through the deck the original ones had wasted quite a bit. We decided therefore to replace them in stainless steel, and they were carried almost down to the mast, they went a very long way done the side of the boat. I noticed when I was inspecting the bulwark damage that the aft most one of these three chain plates, there are three on each side, and the aft most one on the port side, was totally loose. The wire that it was attached to was dangling. That indicated to me that the chain plate itself, or the timber to which it was attached to, had in some way been displaced.

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Q. You're talking about where it was attached below the water line?

A. Well, not necessarily below the water line but certainly on that side, below the deck on that side. My opinion is, as a result of that inspection, that that's where the damage to the vessel occurred.

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Q. That's where the hull was breached?

A. Yes. By that stage - I always had in the back of my mind an impression that even though the boat would - may completely fill with water, it may still have enough positive buoyancy to float. I mean, that is possible with a wooden vessel. It's possible that the buoyancy in all the wood in the entire structure had enough buoyancy to overcome the weight of the keel, motor, and any non floating items. Up to the last I was sort of hoping that that might be the case here. It wasn't. It became obvious that the boat was going to sink. At that stage the life rafts were launched, in other words they were put over the side. By this stage the boat had no freeboard at all, that's to say the deck was level with the surface of the water. The life rafts were put aft over the side.

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Q. Which side were they put over?

A. The port side. The securing lines, or the tripping lines were attached to a strong point, heaved on the tripping lines, both rafts inflated, which was an absolute thrill to see because it's not unheard of them not to. Four men got into the four man raft. I got the EIPRB from its position, or someone got the EIPRB from its position, and took it into one of the rafts with me. Five other men got into the six man raft. At that stage it was decided that we would rope the two rafts together. This was done with a length of ten or 12 mill rope that was kept in that area of the boat for the purpose of reefing sails. The two rafts were lashed together.

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Q. So it wasn't a rope that belonged to the life raft itself?

A. No. My recollection of the tethering line was part of the ship's rope. The boat definitely sank. The line on the - the tripping line on the larger raft was cut. The knife that I had with me I lost, I'd meant to use that to cut the tripping line on the raft I was in, the four man, which at this stage was still tied to the boat. I wasn't unduly concerned that I'd lost the knife, because I knew these things had a predetermined break anyway, and they wouldn't be pulled down by the sinking vessel, but I mention this purely to establish that the vessel did sink, because it went down and broke the tripping line on our raft.

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Q. I want to take you back, stop you there. Was it just the one mayday that you sent?

A. Just the one. The one that was acknowledged by the ABC helicopter was the one - well, was the only one that was acknowledged I should say. There were many attempts on the HF before we decided that wasn't working, and many attempts on the VHF.

55

CORONER: Q. On the yacht race frequency, on the HF?

A. No, no, on 2182.

Q. On the emergency frequency?

A. Yes. And on 16 on the VHF. But after I'd spoken to the ABC helicopter on the mayday that was acknowledged, I hadn't made it clear to him that we were in fact abandoning ship at that stage. 5

Q. You hadn't or you had?

A. I had not. All I'd told him that were - something to the effect "we getting the life rafts on deck". So I was aware of the fact that he may not have - well, he didn't know that we were in fact abandoning ship. I attempted to raise him again, to appraise him of that situation, no deal. 10 15

Q. You didn't tell him at the first mayday, and that was because you still had the hope that the vessel would not founder?

A. Yes. 20

Q. So as far as he was concerned your position he would have relayed as taking on water with the life rafts on deck?

A. Correct. 25

Q. But not at that stage--

A. That's as much as he was told, so that's as much as he knew. 30

Q. I see?

A. But I was at pains to tell him that we were in fact abandoning ship - couldn't get that message through. 35

Q. Couldn't get that through?

A. Or, I had no way of knowing whether it was through or not. I was saying things to the effect, "Winston Churchill, Winston Churchill, we are abandoning ship." Now, none of that was acknowledged, so I can only assume that it wasn't heard. 40

Q. Right, but you certainly put that out?

A. Yes. 45

Q. And on the same channel that you'd communicated with the ABC helicopter?

A. Yes. 50

Q. That was channel 16?

A. Sixteen. 55

Q. VHF?

A. VHF.

Q. Who was in the life raft with you?

A. Paul Lumtin, Bruce Gould, and Michael Ryan. 55

Q. And the other raft?

A. Mick Bannister, Jim Lawler, John Gibson, John Dean - who

have I left out.

Q. That's enough?

A. Five.

5

Q. The rafts were roped together?

A. Yes. That lasted no more than 5 or 10 minutes. The rope either broke, or the attachment point was ripped out of one of the rafts. By that stage I think we had definitely deployed our drogue, or sea anchor, which was supplied as part of the raft's fittings. I believe they'd done the same in the other raft. Not long after the tethering line broke, the drogues broke, or got ripped out as well.

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Q. The drogue is put in to do what?

A. Well, to steady the raft and to slow down the rate of drift.

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CORONER: Q. How are they fixed to the raft, the drogue?

A. It's just, from memory, your Worship, it's just a little tab of this rubber material they're made of, which is glued on to one of the inflation chambers, with a little eyelet, and the rope's made fast in that.

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Q: And that just came apart--

A. Well, I've no way of knowing whether the anchor point ripped out, or whether the rope broke off it, I'd assumed, since it was ten or twelve, the rope, it was probably the anchoring point that pulled out.

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HILL: Q. Did you lose sight of the other raft?

A. Not until darkness. At last light which would have been about 9 o'clock I suppose, or perhaps just before 9 o'clock, I looked out and I could see them, quite clearly, maybe a hundred, a hundred and fifty metres away. That's the last I saw of them as darkness fell.

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Q. These life rafts, they don't have a light on the outside?

A. They do - on the outside?

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Q. On the outside?

A. No. I don't believe ours did. It had a little light on the inside, I definitely remember that, but I don't recall seeing a light illuminated on the other raft.

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Q. So the light was only, in your raft, on the inside?

A. I believe so.

Q. What were the seas like between the abandonment and the time that you last saw the other raft?

A. Very high, very high seas. A lot of steep waves. We spent a lot of time just surfing down the face. They were horrendous the seas, they appeared more frightening, of course, because we were so much closer to the water in the raft than we had been on the ship. Very, very high seas.

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Q. Was your raft upset at any time?

A. Yes, I couldn't say what time, but through the course of the night, it would have been after 9 o'clock when I had a last look at the others, you could - I mean, you're sitting there in darkness, the little light that was on the inside was very very dim - you're sitting there in darkness and you could hear the roar of the wave coming behind you. It picks you up, just like being on a surfboard, throws you down, and you just saying well, how long is this raft going to stay upright. Well, at some stage during the night we got a wave of the particular size and shape and it turned us upside down. I can recall sort of tumbling down the wave, and coming to rest when the wave passed upside down. That was an extremely frightening experience. You had - this raft had two, two chambers, tyre innertubes if you will, attached to each other, one on top of the other, in a thin material for the floor of the raft. Over one of them it can't be much more than six inches between the surface, free surface of the water and the bottom of the raft when you're upside down, so you are basically treading water, or standing on the canopy which is now the bottom of the raft--

Q. I just want to--

CORONER: Q. Wouldn't do it any good I suppose either, would it?

A. I don't suppose it would, because you've got four bodies of rather large blokes being tumbled around in this pretty flimsy affair.

HILL: Q. It has a canopy, and I think it has an inflated tube that forms part of that canopy, is that right?

A. Well, the inflated tube is part of the top chamber of the raft, I believe.

Q. And I think it has an inflated tube that forms part of that canopy, is that right?

A. Well, the inflated tube is part of the top chamber of the raft, I believe. Air pressure keeps it in position.

Q. It holds the canopy up?

A. Yes. Just like a tent post for a thin canopy.

Q. So all that's inverted?

A. Yes.

Q. And the four of you are standing either on the inside of the canopy or on that inflated tube that's part of the - that holds the canopy up?

A. Yes, it's called treading water, all treading water.

Q. All treading water. Now what was the equipment that you had with you, personal equipment on?

A. Everyone had a life jacket on, PFD or whatever they call them. The ones that we had on this boat were of the type that have a large block of flotation in this area, front and rear, as opposed to the jacket type.

Q. To keep your head above the water?

A. Yes, so that the buoyancy is all below the neck area.

Q. Once you were turned upside down, what was the situation with the seas then?

A. Well, you weren't aware of them. Obviously they were still there and they were no less than they were a minute earlier. In total darkness this time, there was no ambient light, and certainly the little light on the inside of the raft was now on the bottom instead of the top, so total darkness. We knew our situation, we knew obviously we were upsidedown. It didn't take very long before it became difficult to breathe. There was no way of any air getting into this chamber. 5
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CORONER: Q. You could actually feel the lack of oxygen? 15

A. Yes I could. No way of air getting in and no way of carbon dioxide getting out.

Q. How long was this after you were inverted?

A. It seemed like hours your Worship, but it can't have been more than minutes. Well, if minutes. 20

HILL: Q. Had you any training in life rafts?

A. I'd seen them inflated before from a demonstration point of view, but I'd never actually been in one before. 25

Q. Had you ever seen them being righted, that is, when they're upsidedown turned back the other way?

A. I think I'd seen it done in one of those training films years ago I think they showed as part of some first aid course I did. I think I had seen that on film. I was aware there was a righting line on the bottom. 30

Q. Did you know about a righting line?

A. Well, from what I'd seen in this film, I understood that they all had righting lines. 35

Q. And you knew about that when you were upsidedown?

A. Yes. 40

Q. What happens next?

A. Well, I thought, well, I've got to get out and turn up the right way, because if I don't we're all going to asphyxiate. So I - there wasn't a great deal of discussion about it, in fact, I don't think there was any. I just took my life jacket off because I had to exit the raft through the door of the canopy, if you like, which was now under water, it wasn't possible to duck dive down and come out that way with a life jacket on, so I took that off, dived down, exited the raft, came up alongside it, positioned myself so that I was on the lee side of the raft, climbed up on the side of it, got hold of the tripping line, and pushed - and pulled I should say. It righted quite easily. 45
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CORONER: Q. What were the seas like when you came out? 55

A. I - just - wasn't conscious it your Worship.

Q. Just didn't know - were there hand holds that you get

yourself into a position to get hold of the tripping line?
A. I don't recall any hand holds, there may have been, I don't recall them though. I was concerned to get hold of that tripping line, get it up, and get back in.

HILL: Q. So in order to do that you removed your life jacket? 5

A. It would have been impossible to exit the raft with it on.

Q. Went outside, even though you knew what these seas were like? 10

A. Mm.

Q. And righted the raft? 15

A. Yes.

Q. You put yourself at enormous risk?

A. Yes. I mean, it's just - to my way of thinking it just illustrates the chance in these matters. If I'd have been washed away, which would have been easy - well, a large possibility I suppose, everyone would have been saying "what an idiot he was. Had no chance." But it didn't happen. And this happened twice. 20

Q. Did you know the risk when you went outside? 25

A. But the risk of asphyxiation was there also.

Q. Why did you go out?

A. It was my responsibility to. 30

Q. Why?

A. Well, I was the - I was the skipper, owner, master, or whatever you call it. 35

Q. So you saw it was your duty?

A. You can't send another bloke on a job like that. There wasn't any discussion about it anyway, I just did it. It wasn't a case of "I'm going to go if you won't" sort of thing, I just did it. 40

Q. Once the raft was righted what did you do then?

A. I was pulled back in, I don't know whether it was after that roll or the subsequent one that we noticed the EIPRB aerial had broken. It was one of those EIPRBs that has an aerial like a car aerial, a metal one, a metal telescopic one. The top two thirds of that had broken off, and I believe that punctured the floor of the raft, because at some stage, and I think after the second roll we noticed we had a problem with a tear in the bottom of the raft. Had to start bailing after that. 45 50

Q. So you think that was from the EIPRB?

A. I think so. It could have been from the inflation, nitrogen cylinder that was still flopping around, it was still attached to the raft, but I think the likelihood is it was the EIPRB aerial. 55

Q. I think that Mr Lumtin said that the actual inflation bottle might have been doing some damage as well?

A. Well, it could have been, it's hard to know.

Q. But you don't know that?

A. No, I can't say what caused the tear.

Q. Once the raft was righted, what were the effects on it with the sea?

A. Well, we were in the same position as we were before prior to the roll, we were still being pushed around by these huge waves, and just huddled there, the four of us, waiting for the next one to roll us. You could hear them roaring up behind you all the time.

Q. And were you in fact rolled over again?

A. We were.

Q. So you found yourself in the position of being upside down and the four of you inside again?

A. Yes.

Q. Shortage of oxygen. About how long was that after you'd been held(?) before?

A. I've got no idea.

Q. Whatsoever?

A. No idea.

Q. Once you were upside down the second time what did you do then?

A. Well, the same as the first.

Q. Which--

A. Exited the raft, heaved on the tripping line and righted and got pulled back in.

Q. And you did that again?

A. Twice, in all.

Q. So the second time you did that, not discussion?

A. No.

Q. Off with the life jacket?

A. Well, I don't think I put it back on when I got back in the raft, from memory - no, I don't think I had it on after that.

Q. And you went back out knowing the risks?

A. Mm.

Q. And re-righted the raft?

A. Yes.

Q. And after righting the raft the second time, what occurred then?

A. We noticed we were a bit - the provisions that are supplied with these rafts are in a little vinyl bag. We'd

had them out at some stage just to see what was there, there were sachets of water, there were like ship's ration biscuits, a fishing line, a very useful tube of rubber cement that can only be used in dry conditions, that was fairly handy for--

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Q. I want to talk about that actually. So that was the repair kit?

A. Yes.

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Q. So if you had a leak you had to repair it, but I think it said on the package that the area had to be dry and free from moisture?

A. Clean and dry was I think the expression. It was clean, but not dry.

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Q. What about the pump. Was there a pump?

A. There was a footpump - or appeared to be a footpump, together with a hose, and there must also have been originally in the kit some sort of plastic nipple or ferrule affair which enabled the outboard hose from this pump to connect with the valve in the chamber of the raft. Now, that had gone missing from our kit, along with a lot of other things, in one of the rolls, so--

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Q. I just want to stop you there, just so that it's quite clear, you've got a pump, then a hose, then there's a small nipple that you have to fit onto the end of the hose in order to put it in the side. There were three separate pieces?

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A. Correct. We, I mean, Bruce and I were trying to figure this out, and - you know - here's the hose, here's the hole. One will not fit into the other. So we tried paring it down with the knife that's supplied in these rafts, which is a hook knife, if you like, with a U form on the end of it, but only the inside of the U is sharp. The idea is you can cut a piece of rope, or maybe even a piece of fabric with it, but if it's lying around it won't puncture anything on the raft. That wasn't much good for paring the end of this hose down so it would fit in the hole. I don't know how - I can't remember how we fixed it in the end - but we did get the hose in the hole eventually, and we just sat there, operating the foot pump in our hands, on a rotation basis.

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Q. And this was to keep the chambers inflated?

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A. Yes, there was a slow leak in the lower chamber.

Q. Were you rolled over at all again?

A. Only twice.

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Q. The situation was that you were knocked about a bit in the sea. What was happening to the floor of the raft?

A. Because of this slow leak in the lower chamber as the air pressure lessened in that chamber the floor of the raft formed with the weight of the four people in there, into a cone shape, so you more and more assumed a standing position, if you like, rather than a sitting position, as the chamber deflated. I personally was aware of what

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hypothermia can do, not that anyone was particularly cold at this stage, with the currents the way they were the water temperature can't have been much below 18 degrees, so it was comfortable in that sense but we didn't want to have our chests submersed, so the decision was taken just keep pumping because the more pressure we got into the lower chamber the flatter the floor became, and then with bailing we were able to keep ourselves reasonable dry. We were still sitting, obviously, in a couple of inches in water, but our upper torsos were dry.

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CORONER: Q. The pumping seem to keep up with the leak at least, did it?

A. It did, yes. I mean, if you kept at it you could certainly keep ahead of it. And not only that, the bailing and the pumping gave us something to do, which I think was beneficial.

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HILL: Q. And that's what you continued to do?

A. I should say we did that from about 4 in the morning, maybe 3 or 4 in the morning, when these leaks appeared until the time we were picked up.

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Q. What time was that, do you recall?

A. Approximately 4 or 5 the next afternoon, about 25 hours after we actually abandoned.

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Q. The bailing, how was that done? What equipment did you have?

A. We had a plastic bag, one of those resealable plastic bags, and a sea boot.

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Q. What equipment was supplied with the life raft?

A. I'm not aware that there was anything there at all, there must have been but there was so much got lost in the rolls that--

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Q. How does it contain this equipment?

A. In a vinyl bag, draw string bag.

40

Q. Was that lashed to anything, or anything like that?

A. I can't recall whether it did - well, it must have been lashed to the inside of the raft - it had been opened a few times to see what was in there, and there was stuff lying around loose, and it just must have disappeared when we got rolled.

45

Q. Were there no instructions on the inside of the life raft saying what was where, or anything like that?

A. I don't recall anything.

50

Q. So you just had to go in there and forage around?

A. Yes. We knew that there was water there and ration biscuits, but what else was in the kit I had no idea until we opened it.

55

Q. And there was nothing, no sign on the inside of the--

A. I don't recall.

Q. What about any sign for righting the life raft?

A. No, no I don't recall that either.

Q. So if you hadn't have known about that and seen that--

A. Well, yes - if you - I mean it may very well be possible to right it without the righting line, I don't know, I didn't try.

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Q. Because you knew the righting line was there?

A. Yes - I hoped it was there.

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Q. At one stage, I think it was Mr Lumtin, thought that the bottom of the life raft was actually starting to come away from the lower chamber?

A. Well, I don't know, I don't think so. We did have a, as I said, we had a tear in the bottom, but whether that was - I don't recall that increasing in size or nor do I recall any other damage there.

15

Q. As a life raft what was your opinion of it?

A. I think the basic design was alright. My criticism, such as it is, would be of the size I think the - not the size of the raft, the size and the specification and materials used. The material that's used for the bottom, for example, ought to be either thicker, or more hard wearing. These canopies - I mean, the canopy in itself is fine, but the little tent door, if you like, that's supposed to close is totally unsatisfactory. You've got a - little ties of very, very - a tape I think it was - like cloth tape glued on to a little circular patch on the canopy and on the flap, and you're supposed to tie shoelace bows - that's no good at all.

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Q. In fact I think they're made of cotton, were they not?

A. Some sort of cotton tape I though they were.

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Q. And not adequate in your opinion?

A. No, it needs to be velcro. I mean, you're not in a position to be fiddling round with little knots like that under those conditions. All - perhaps something that's easy to open and reseal, and velcro's the ideal go. And velcro also should be utilised to locate items of equipment inside the raft.

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Q. What, sort of like pockets or something?

A. Well, pockets or things like paddles and this pump and all that sort of thing.

45

Q. Were there paddles?

A. I don't remember any paddles. I don't recall paddles, but there may have been, certainly no use to us.

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Q. Would it have helped you had there been a sign on the inside of the canopy saying what particular item were aboard of equipment, so that you knew what you were doing?

A. Perhaps, I don't think that's particularly important. I mean, for example, the survival pack had a fishing line and a fish hook in it. In some situations that might be a life

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saver - in our situation it was no use at all. So, you don't need to know there's a fishing line in the kit in our situation.

Q. It's been pointed out to me that during the weather you mentioned a force 10. That comes from what? 5

A. That's a Beaufort scale.

Q. Are you familiar with the Beaufort scale?

A. Yes, well, fairly familiar. I mean, I - it's what I was taught as a youngster, and that's basically what I've gone by ever since in terms of describing, or knowing what the sea condition will be on a given wind strength. That's the great advantage to know this. 10

CORONER: Q. You translate the weather forecast winds into the Beaufort scale ratings? 15

A. Yes, in that if someone's saying it's going to be 30 knots, well you'll know there'll be a corresponding size of sea. 20

HILL: Q. So as far as you're concerned you were taught the Beaufort scale, and that's what you're inclined to use?

A. Yes. 25

CORONER: I will work down the table. Mr O'Halloran I will let you go last, it's usual, he is your client.

O'HALLORAN: That's fine thank you. 30

CORONER: Mr Stanley.

STANLEY: Q. Mr Winning, do you have with you a copy of your record of interview?

A. No I don't. 35

Q. I will just read parts of it to you, and if you'd like to have a look at it I'll get one for you.

CORONER: Which one Mr Stanley, the one with the New South Wales police? 40

STANLEY: The one dated 29 December 1998 your Worship.

CORONER: That's with the Victorian Police. 45

STANLEY: Q. It appears Mr Winning that this was record of interview you conducted with the police at the Mallacoota Police Station, on 29th, so only a couple of days after the event? 50

A. Yes, I recall that.

Q. While things were vividly in your mind. You said this, and I'm reading from page 2. "We were well aware of the weather forecast pertaining to the low pressure system. We'd been given full information about that". And then, further on, at page 8 you were asked about the conditions and at question 15 it was put to you, "There was obviously a 55

change in the weather at what location, when that hit?". And your answer was "It would have been, yes, just south of Jervis Bay, yes it went sort of, sort of west sou west at that stage. We knew there was more to come from looking at the weather map. The vessel was fitted with weather fax and we knew from the pre race briefings that there was something more to come. That was on the morning of the second day, it started to pipe in more from the south west." And then later on in the second interview that you had with the police, on 23 July last year, you said at page 8, your answer to the question on line 4 is "Well, we'd heard the forecast of 50 knots, we knew there was something down there, and indeed I think they made that quite clear at the weather briefing a day or so prior to the race". I've read that to you as a lead up to asking your opinion as to the briefing that you were in fact given, the pre race briefing at the yacht club. Before can I put the question to you can I also read this to you. It's a quote that attributed to you in an article by Mr Alan Kennedy in the Sydney Morning Herald on 30 December 1998, where he said "Mr Richard Churchill, the owner and skipper of the stricken yacht Winston Churchill said yesterday, 'I think we were give adequate information, yes. Once the voyage started there were weather reports that indicated that it would be difficult, that these conditions would prevail'." Firstly, can I just draw your attention to the pre race briefing. Is it a fair conclusion that your view was that you had been given as much information as could reasonably be expected at that time as to the weather conditions?

A. We were told at the briefing that there was a low pressure system in the offing, in that area, breezes expected, I think, up to 40 knots, is what they said at that briefing, subsequently changed through weather forecasts to 50 knots. Now, as I've said here, that I, I say, "well, we'd heard the forecast of 50 knots. We knew there was something down there", yes. That's what I was expecting, 50 knots.

Q. When you attended the pre race briefing was that because you had to attend, or because you wanted to?

A. No - you really do need to go to that.

Q. That's the briefing given by Mr Batt?

A. Yes.

Q. And why do you say you really need to go to it?

A. Well, not only does it have the latest weather details as they have a the time, but there is other housekeeping matters discussed there.

Q. Was it a requirement that the skipper of the boat attend?

A. The skipper and navigator I believe is the requirement there.

Q. And your navigator was Mr Lumtim?

A. He was.

Q. Did he attend the briefing ?

A. I can't recall who attended that briefing besides myself, I just don't have a memory of that.

Q. At the briefing did you avail yourself of the opportunity to take the literature that was being provided by the bureau? 5

A. Yes, certainly.

Witness shown exhibit 7. 10

Q. Could you have a look at that material. Is there a coloured brochure there - that's the one, yes - and we've been told that that was one of the documents available as it were in the package that was there to be taken by those attending the pre race briefing. Have you seen that before? 15

A. No I haven't seen this one before. Definitely not.

Q. Did you read the material you took from the yacht club, the pre race briefing? 20

A. Yes, but I recall all the material handed out coming in a little satchel thing, with Telstra on it.

Q. You mean like the one his Worship is about to hold up to you? 25

A. Yes that's the one.

Q. I suggest to you that's what is known as a nav bag, is it not? 30

A. Well, I haven't heard it referred to as such - I definitely got on.

Q. The evidence is that that was handed out on the morning of the race. What I'm asking you-- 35

A. The morning of the race?

Q. Yes - is that not your understanding? 40

A. No, I thought I'd picked that up the morning of the briefing.

Q. Perhaps there may be some further evidence about it, but my understanding of the evidence is that that was a bag that was made available by the yacht club, as distinct from the weather bureau? 45

A. No. Well, that Telstra bag I'm almost certain was handed out at the briefing.

CORONER: Q. Did you go to the club and collect any material on the morning of the race? 50

A. No, I don't think I did.

CORONER: You don't think you did - well, that's a little mystery.

STANLEY: Q. At all events you say you have not read the document that's in front of you now? 55

A. No I haven't seen that before.

Q. And the title of that document is--

A. A Guide to Australia's Marine Forecast and Warning

Marine Weather Services.

Q. And you've never seen that at all, anywhere?

A. No. I have not. Or indeed this other one, which had weather map. 5

Q. So if they were there to be taken on the morning of the pre race briefing, you're saying you didn't take them?

A. If I didn't take them I didn't read them - I don't recall taking them though. 10

Q. On the morning of the race did you attend at the stand that the weather bureau had at the yacht club?

A. On the morning of the race? 15

Q. Yes?

A. I don't believe so, no.

Q. Did any of your crew?

A. I couldn't say. 20

Q. So do we take it that you did not obtain any updated forecast from the bureau, or from bureau members, at the yacht club, prior to the race?

A. I don't recall it, Paul may well have done something like that. 25

Q. Paul being?

A. Paul Lumtin. 30

Q. But you certainly didn't as the skipper?

A. I personally didn't do it, no.

Q. So is this the position. You received no further information with respect to certainly documentary information, apart from what was available to you at the pre race briefing on Christmas Eve? 35

A. And the morning's weather map published in the paper. I had that as well. 40

Q. So apart from the weather map in the paper, you had no additional information beyond what you've been told by Ken Batt on Christmas Eve?

A. That's so. 45

Q. Did you ever know before your boat went down, that a gale warning had been issued?

A. I don't recall that, no.

Q. Did you ever know that a storm warning had been issued? 50

A. They were referring to a storm warning from - this is my recollection - the night before, when the - I think 50 knots was then the forecast.

CORONER: Q. The night before? 55

A. That'd be the night--

Q. The evening of the 26th. The night you were--

A. Yes, the night of the 26th. So 50 knots would be

classed as a storm - or close to.

STANLEY: Q. Did you ever see anything on your fax machine that indicated that a storm warning, a priority storm warning had been put out?

5

A. No, only the - only maps came through that, and I don't recall anything on those referring to a storm warning.

Q. Did you listen to the sked at 8pm or thereabouts on 26th?

10

A. No I don't think I did.

Q. How was it that you found out that winds were going to - were forecast at 50 knots?

A. That was talk around, other people had listened to the forecast and that was what was reported to me.

5

Q. You mean other people on your boat?

A. Yes, that 50 knots were forecast.

Q. So just from talking around on the boat someone has said to you or there was discussion that 50 knots had been forecast?

10

A. Yes.

Q. But you as the skipper were never told that a storm warning as such had been issued?

15

A. Not as such. But then 50 knots is a storm so--

Q. You'd never been made aware that a gale warning had been issued?

A. No, I never heard anything about a gale warning.

20

CORONER: Q. Was it your practice to have a formal briefing with your navigator after the sked?

A. We just talk, just say what's the weather, something like that.

25

STANLEY: Q. Just turning to the skeds, do they really have two components, two aspects? First, getting a weather forecast from the Young Endeavour which you understood would have in turn come from the Weather Bureau and secondly, advising your position?

30

A. Yes.

Q. The procedure took a considerable period of time. About how long?

35

A. I would say less than an hour.

Q. On your boat, whose duty was it to listen to and attend to the sked?

A. Paul's.

40

Q. Paul Lumtin?

A. Yes.

Q. I think you mentioned that on one of the skeds there was a change, was it John Dean took over?

45

A. Yes, that was at 2 o'clock on the 27th.

Q. At 2am? Or 2pm?

A. No, 2pm.

50

Q. 2pm.

A. I believe Paul had got the - had entered the position on the chart and in the log in order to give to the radio operator on Young Endeavour and he was tired or something and said to John Dean when our name comes up, give them this position, something to that effect.

55

- Q. When the weather forecast was given over the sked, did your navigator write any of it down?
A. At 2 o'clock?
- Q. Any time? 5
A. I don't recall the weather details being written in the log at any stage.
- Q. It wasn't a procedure that you required--
A. No. 10
- Q. --or that you understood was carried on?
A. The log purely was our position was entered in that.
- Q. So it was really a matter of purely word of mouth? 15
A. Yes.
- Q. How's the weather, what's happening?
A. Exactly. What's the weather. 20
- Q. Apart from the skeds, what other access to weather information and forecast did you have?
A. Occasionally you might - I'm not saying we had it this particular occasion but normally you might hear the local coastal patrol come up with a forecast. 25
- Q. Did you on 26th or 27th that you're aware?
A. Not that I can remember.
- Q. Would it be fair to say that you really were not overly worried about the weather? 30
A. Absolutely.
- Q. No, you weren't overly worried in the sense that when you heard there were 50 knot winds you felt you could cope with that? 35
A. Certainly.
- Q. And that well, we'll just - we'll simply roll on?
A. Yeah, I mean at no stage were we in any way other than 100 per cent confident that we could handle the weather as forecast. 40
- Q. You indicated before that you were conversant with the Beaufort scale. For a force 10 which is what you understood this to be, a 50 knot wind, do you agree? 45
A. Well, I think force 10's 55.
- Q. Force 10 I suggest is 48 to 55.
A. Is it? Yeah, well force 10, yes. 50
- Q. The description about that is that for example on land with winds of that speed they're seldom experienced, trees will be uprooted and there will be considerable structural damage. Do you understand the winds to be that severe? 55
A. Fifty knots can do damage, yes, certainly.
- Q. But to do - to be of such force that they're seldom

experienced on land and if they do occur that they can uproot trees and cause considerable structural damage?

A. Yes, I don't quite understand what - do I understand that a 50 knot wind can do damage?

Q. Yes.

A. Well, yes.

Q. Do you understand that this might be a description of the sea away from land with such a wind and I'll read it to you. "Very high waves with long overhanging crests, the resulting foam in great patches is blown in dense white streaks along the direction of the wind. The surface of the sea takes on a white appearance, the tumbling of the sea becomes heavy and shock-like. Visibility is affected."

A. Yes, that's a good description of what the sea is like in 50 knots, yes, the ocean.

Q. You felt your boat could handle that?

A. Without being gung ho and reckless yes, I was confident in the boat's ability and the crew's ability to handle those conditions.

Q. Is it fair to say that your boat was handling the conditions and that the winds in general were - the mean wind on your estimate was around about 55, 50 to 55 knots gusting up to 60 knots?

A. Well I don't know what it was gusting to because I think our plot was stuck at 60 but I would say the mean was between 55 and 60.

Q. I thought you indicated earlier that the highest your speak that you noticed was 60?

A. It is but I think there's a real doubt as to whether the clock was reading more than that, or could have read more than that had it blown harder than that. But certainly all I saw was 60 but I think there might have been some sort of alarm put on the clock that stopped it reading over 60 knots.

Q. An alarm that would stop it reading over 60?

A. Yes, I'm not familiar with the way these electronics work but there was talk about that. In any event we were definitely getting 60 knots.

Q. Your position is this, that the mean winds that you were noting - noticing and that you've referred to in your records of interview I suggest were in the 50 to 55 range, going up to 60?

A. Yes.

Q. And the seas were such that although they were large you were able to cope with them?

A. Yes.

Q. Until you got this monster rogue wave?

A. In shape and in height, yes.

Q. Apart from your observations of the weather, your own observations from the deck of the ship, is there any other way in which a regular access to weather is kept, apart from the skeds?

A. Only the routine ones that are broadcast by Sydney radio or Melbourne radio, they're picked up. 5

Q. For you to find out what they say, you rely on your navigator do you?

A. Yes. 10

Q. Did you give him any instructions as to what weather he should listen to?

A. Yes. All forecasts were to be listened to and these weather maps when they came through at pre-determined periods were to be obtained off the weather fax and we all looked at those. It was a case where everybody would look at them and say what do you think's going to happen here. 15

Q. Whilst you were in the liferaft you described the waves as being high and perhaps even appearing higher because you were then down in the water rather than being up in the boat. 20

A. Mm.

Q. Perhaps it's a bit hard for you sitting where you are there but just if you could imagine you're in the raft, how high were the waves? I don't mean perhaps the highest but the average wave height? Would it be as high as-- 25

A. Higher than this ceiling. 30

Q. Much higher?

A. Yes, a fair bit higher. I think the wave that rolled us when we were actually on the ship was 55, 60 feet, it was a good deal higher than the mast. But that was a higher one than-- 35

CORONER: Q. Than most.

A. --than average. 40

STANLEY: Q. I was asking you about if you like the average.

A. The standard one in the liferaft would have been - I'm not very good at judging wave heights but certainly the height of this ceiling if not up to five, six feet higher. 45

Q. Up to five or six feet higher than the height of the ceiling?

A. But that is from trough to crest.

Q. Yes. Alright. Thanks, Mr Winning. 50

CORONER: Mr Morahan?

MORAHAN: Could I go last, your Worship? 55

CORONER: Yes, right. Mr Colefax?

COLEFAX: Q. Mr Winning, when did you first commence to race in the Sydney to Hobart Yacht Race?

A. My first race?

Q. Yes.

A. Was '97.

5

Q. On this boat?

A. Yes.

10

Q. Had you raced previously with other boats?

A. Not in the Hobart, no, that was my first Hobart race.

Q. Were you aware that the Young Endeavour was the radio relay vessel for the fleet?

A. Yes.

15

Q. Were you aware that on board the Young Endeavour there were in effect two radio operations?

A. Operations or operators?

20

Q. Operations. One conducted by the Navy and one by the Cruising Yacht Club?

A. No, I was aware of the club, the one conducted by the club.

25

Q. Yes, and that was known as Telstra Control?

A. Correct.

Q. But were you also aware that in addition to Telstra Control having a radio room within the ship there was also the ship's radio room on the bridge?

30

A. I wasn't directly aware of that although one would assume that they had their own equipment there, part of the ship's equipment.

35

Q. Are you familiar with this document called Cruising Yacht Club of Australia Telstra Sydney to Hobart Yacht Race?

CORONER: Sailing instructions.

40

COLEFAX: Q. Sailing Instructions for 1998?

A. Uh hmm.

COLEFAX: I'm sorry your Worship I don't have the exhibit number.

45

Q. Are you aware that on page 12 which is headed Radio Instructions in paragraph 41.1 which from a distance you may see I've highlighted in pink--

A. Uh hmm.

50

Q. --it reads "Young Endeavour will maintain a continuous watch on 2182KHZ and VHF channel 16". Were you familiar with that passage?

A. Yes.

55

Q. Did you understand it to mean that Young Endeavour

bridge as opposed to Telstra Control was maintaining a continuous listening watch on those two channels?

A. Every ship at sea is required to maintain a listening watch on those channels.

5

Q. Would you agree with--

CORONER: Q. But do you agree? Do you understand - did you understand that to mean the actual Young Endeavour bridge or Telstra Control?

10

A. I should imagine they both would have done it. Certainly there would be a requirement on the bridge radio officer to do it as well as the Telstra Control people.

COLEFAX: Q. If I were to suggest to you Mr Winning that in fact Telstra Control did not continuously listen to watch - did not continually listen to band 2182KHZ because that was the bridge's responsibility--

15

A. They were listening--

20

Q. --you would be in no position to disagree with that, would you?

A. Well, they were also maintaining a watch on the race frequency, 4483.

25

Q. I appreciate that distinction but I'm asking you some questions particularly about frequency 2182KHZ. Were you - you would not be in a position to deny, would you, that that was the - the responsibility for listening to 2182 on Young Endeavour was the responsibility of the Navy bridge and not Telstra Control?

30

A. I wouldn't be in a position to deny that, no.

Q. You attempted to initially transmit your mayday by use of 2182KHZ?

35

A. We tried to change the frequency on the transmitter to 2182 but it wouldn't change.

Q. May his Worship take it that the channel on which the radio was stuck was stuck on the 4483 channel?

40

A. No, I believe it was stuck on the weather fax channel.

Q. The mayday which was ultimately picked up you say was picked up by the ABC helicopter by means of the VHF channel 16?

45

A. Yes.

Q. What words did the recipient of your message use to indicate it was the ABC helicopter?

A. I don't recall. In fact at the time I may not have known I was talking to the ABC helicopter, I could have found that out - it could very well be that I found that out later.

50

Q. Do you understand there to be a difference in range between the 2182KHZ and the VHF channel 16?

55

A. Absolutely.

Q. Would it be correct to say that in relation to the first one, 2182KHZ, that its range may be up to as far as even 200 nautical miles?

A. And more.

Q. Insofar as KHF 16 (as said) is concerned, would you agree that the range very much depends upon the height of the antenna transmitting?

A. Yes and then it's line of sight.

Q. That might be in ideal conditions up to 45 nautical miles?

A. At best.

Q. Usually would be 25 nautical miles?

A. I would agree with that.

Q. But in every rough weather it may be significantly reduced to as low as seven nautical miles?

A. Yes, I'd agree with all that.

Q. Are you aware that the commander of the Young Endeavour has recorded a log entry for 1725 to the effect that he had - the boat had attempted to contact Winston Churchill and asked it to launch a red flare to indicate its position?

A. No.

Q. Assuming that the log contains that entry, it is possible is it not that if that was sent by VHF it may have been out of range and not received Winston Churchill?

A. Indeed. I've got no way of knowing how far the Young Endeavour was away from us.

Q. Alternatively I think you told his Worship that after you initially sent the mayday which was picked up by the person you now understand to be the ABC you left the cabin in which the VHF radio was contained?

A. Yes.

Q. You returned at some later point in an attempt to make another transmission to indicate that the situation had deteriorated and you were about to abandon ship?

A. I was concerned that the first transmission, they weren't in a position to know that we had abandoned.

Q. What was the time difference between when you left the cabin having made the first successful mayday and your return to attempt to make further contact?

A. I have no idea but it wouldn't have been any more than five or ten minutes.

Q. If the naval commander had made the attempted communication which I put to you a few minutes ago, it is possible is it not that he transmitted it whilst you were absent from that communications cabin?

A. Well, I may have been absent but Paul was there when I went up to check the damage. The radio was never unattended.

Q. Therefore assuming the log entry to be a correct entry, would you agree that the most likely explanation for Winston Churchill not receiving the message is because Young Endeavour was out of VHF range?

A. It would seem so.

5

COLEFAX: That's my cross-examination if your Worship pleases.

CORONER: Thank you. Mr Harris?

10

HARRIS: I have no questions, your Worship.

CORONER: Thank you. Mr O'Halloran? I'll let you go if there's anything arising from Mr Morahan's cross again.

15

O'HALLORAN: Q. Mr Winning, the Blues Point Marina is a marina that is owned by a family company you family has, correct?

A. It was at this time.

20

Q. John Stanley, a member of your crew, was at the time employed at the marina, is that so?

A. He was.

25

Q. We've heard evidence about the very substantial refit that boat undertook. Would that have been about 18 months roughly before the Hobart of '98?

A. Yes, of that order.

30

Q. Roughly?

A. It was between the acquisition of the boat late '96, early '97 and about - it took about nine months I suppose, nine to ten months to do the refurbishment. The boat was only ready to sail say two months prior to the '97 race.

35

Q. So John Stanley was the manager of the marina, was that correct at that stage?

A. He wasn't the manager but he was employed there.

40

Q. Is it true to say that with the exception of John Stanley no other member of the crew had any involvement in the preparation of the boat for the Hobart race?

A. Apart from myself, no, that's true.

45

Q. There were some lead-up races or some shake-down prior to the--

A. By way of crew training. Just - when I say training, just to familiarise the fellows that hadn't sailed before with the boat.

50

Q. But apart from Mr Stanley none of the other crew had any involvement with the preparation of the boat?

A. No.

55

Q. Mr Winning, the work that was done on the boat was carried out was it not in conjunction with some extremely reputable experts in yachting matters such as Joe Walsh, the

rigger?

A. Yes, Joe did the rigging.

Q. And Ian MacDermid the sail maker?

A. He did. 5

Q. And David Lyons, the naval architect?

A. David Lyons was the naval architect who designed the new rig for the boat, yes. 10

Q. So within a relatively short period of time prior to the 1997 Hobart race the boat had undergone a very substantial refit, the evidence was that the fastenings in the bow and in the stern were redone?

A. Yes. 15

Q. A new mast put in?

A. Yes.

Q. And new rigging? And the chain plates lengthened and strengthened? 20

A. Strengthened, yes, true.

Q. Without wishing to embarrass you, I gather this was a bit expensive undertaking? 25

A. It was, yes.

Q. I suppose with a reasonable degree of comfort you felt you'd practically rebuilt the boat, is that right?

A. As much as was required. I don't want the impression to be gained that the thing was a piece of rubbish that needed extensive work before it was seaworthy. The boat was intrinsically sound the day I got it but there were modifications I wanted made to the rig, to the - for example, it didn't have a shower or a toilet, I wanted those features fitted. The steering was changed because I didn't like the original position. But I don't want the impression gained that the thing was an old hulk that needed all this work to make it seaworthy. It was intrinsically sound but it needed refurbishment. 30
35
40

Q. Mr Winning, you recall when you were interviewed by the Water Police who investigated this incident you made a statement to them in July of last year and you were asked a question about the information that had been passed on to the police by Mr Bascombe, the diver? 45

A. Yes.

Q. You were asked this question about the caulking. I think it's true to say that you effectively said well it's all news to me, I've got no idea what he's talking about? 50

A. That's right, exactly right.

Q. In your statement of 23 July last, you said "there was no missing caulking or caulking hanging out at all, well certainly not two days prior to that"? 55

A. That's right.

- Q. Do you make that statement on the basis that you personally saw the hull two days prior to the race?
A. Two or three days prior to that I saw the boat, yes. 5
- Q. It was on the slips out of the water?
A. That's right. 5
- Q. You were having a look at it, quite reasonably as you would do?
A. The damage or the situation Mr Bascombe was describing wasn't there at that time. 10
- Q. So a dark line of missing caulking between the planking and the bow would have been incredibly obvious, would it not?
A. Absolutely. 15
- Q. Mr Winning, we've heard the evidence about the 26th and the 27th and I won't go through all that because that's already been given. I take it you'd agree that for the best part of the day of the 27th the boat was on a starboard tack heavily reduced sail for long periods of time, port side down low in the water and sailing into fairly heavy breeze?
A. Yes. 20
- Q. Were you not aware - I withdraw that. Were you aware of any feeling of sluggishness in the steering or heaviness in the boat at all?
A. No, on the contrary the boat was handling conditions well. 25
- Q. There was no obvious leaking or--
A. No, at no stage-- 30
- Q. Ingress of water?
A. --did we need to run the pumps, the boat wasn't leaking. 35
- Q. So I think your evidence is you were happy with the way the boat was handling the conditions at the time?
A. Yes. 40
- Q. As the afternoon wore on the conditions obviously deteriorated and I think you said that you were experiencing by about 2 o'clock winds of around about the 50 knots?
A. Yes. 45
- Q. Mr Winning, you had on board some very experienced sailors, did you not?
A. We did. 50
- Q. In particular, Bruce Gould, John Stanley and Jim Lawler, is that so?
A. That's correct. 50
- Q. I think those three gentlemen had a very large number of Hobart races collectively?
A. Yes, very experienced men. 55

Q. So you were in a position where whilst this was your only second Hobart race you were on a boat that you personally felt was sound?

A. Yes.

5

Q. And you were in the company of three extremely experienced yachtsmen?

A. Yes.

Q. In your evidence - I'm sorry, in your statement to the investigating police, you were asked a question about whether any decision or thought had been given to retiring or turning back and you answered the question by saying it didn't turn up as a possibility, meaning pulling into Eden?

10

A. It wasn't discussed, no.

15

Q. Sorry?

A. It wasn't discussed.

Q. Wasn't discussed?

20

A. The possibility of retirement wasn't discussed.

Q. So you had this very considerable reservoir of experience and I gather that during the course of that afternoon some talk was held between yourself and the other members of the crew about what would happen during the course of the next few hours, is that so?

25

A. There was general discussion mainly centred around how we'd handle the situation once we lost the light.

30

Q. I think at that stage the boat was functioning on the basis that there were two crew on deck, yourself and Bruce Gould I think were steering most of the time, is that correct?

A. That's right.

35

Q. And one other person?

A. From 2 o'clock till abandonment there was only Bruce and myself on the helm, I think I don't recall anyone else doing one of those half hour tricks at the helm.

40

Q. So what I would like to understand from you is that with 55 knot winds and very considerable seas was there not some discussion amongst the experienced members of the crew as to what the tactics should be for the ensuing few hours?

45

A. Yes, there was, should we heave to at night, this sort of thing but for the moment the boat was going well, everyone seemed satisfied with the performance and no particular fears or concerns were held out.

50

Q. Was that a view that was - was a consensus view amongst--

A. As far as I know.

Q. So that these very experience yachtsmen were in your opinion all quite happy to continue to proceed?

55

A. Yes.

Q. As you were?

A. Yes. There was no-one that said to me look, let's do this or let's retire or let's go to Eden, no.

Q. So there was some conversation, perhaps in the circumstances not a great deal? 5

A. Basically housekeeping type conversations as to the boat's going well, we're heading the right direction. There was no cause for concern for any particular problem. The only thing that was raised as I said was what would be our procedure after dark. 10

Q. Was there any consensus formed about what would happen after darkness fell?

A. No, we were just discussing that generally. No-one said this is definitely what we'll do. 15

Q. So is what you say there was some discussion about what might happen when it got dark?

A. Mm. 20

Q. But because of events that overtook the boat that was never--

A. That's right, we never-- 25

Q. --developed?

A. --put into a position where we had to make a decision on how to handle the conditions after dark.

Q. But because of the way the boat was handling the conditions, the consensus amongst the crew I take it was that we keep going? 30

A. Yes. In the sense that no other alternative was put up. I mean it wasn't a question. There was no discussion about whether we retire or whether we carry on. 35

Q. Mr Winning, we've heard your evidence about the incident that occurred around about 4 o'clock on this day and you were on the helm and you told us about this extremely steep wave that came from the starboard bow? 40

A. Mm.

Q. You were steering roughly what, 50 degrees into the waves?

A. Perhaps a little less. 45

Q. Yes, 45 to 50?

A. Yes.

Q. You were on the helm yourself, you saw the wave approaching and in your estimation, from what your evidence is, I think you said it was - you thought it was in the vicinity of 60 foot? 50

A. Yes.

Q. And it was breaking at the top of the wave? 55

A. It was.

Q. Would it be a realistic scenario Mr Winning to suggest to you that the boat went up the front of the wave, the breaking water then crashed over the bow of the wave - bow of the boat, drove the bow back down the face of the wave?

A. I don't think that's possible. Are you saying the boat when it was knocked down was in fact going down the face of the wave as a surfboard would do?

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Q. No, no, no, sorry, if I've misled you I'll withdraw that. You were approaching the wave at approximately 45 degrees and the boat's sailing up the crest of the wave?

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A. Yes.

Q. It was a breaking wave and you recall seeing the wave breaking over the bow of the boat.

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A. Well, the side of the boat.

Q. The side of the boat. Then what I suggest to you is that the force of that wave then knocked the boat down the wave so that it fell sideways?

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A. Yes.

Q. Did you personally become aware of any extremely loud noise like a crash or a bang which is of very significant proportions or not?

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A. No, I didn't hear anything like that because as the wave engulfed the boat we were taken overboard, all we could hear was the roar of water.

Q. I understand that.

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A. But I didn't hear any mechanical, for want of a better word, type noises.

Q. So, you've told us about the immediate aftermath of the knockdown, and understandably the confusion and the terror of the moment. When you became untangled from the backstay I think you said the you, very shortly thereafter became aware that the boat was taking a lot of water. Is that so? 5

A. Hm. Because I - after Johnny Stanley got us down I think I immediately went below the aft cabin and then came out from there and had a look down the main saloon. There was a bit of pandemonium down there because the boys that were below didn't see the wave coming, so they had no warning of it. All they knew they were suddenly upsidedown in midair as the boat tumbled down the wave. 10

Q. How long after you had reorganised yourself from the rigging and conducted some inspection of the boat did you realise that portion of the bulwark on the port side had been torn off? 15

A. Well, I think I had a look at that after I - after we'd gone through the business of trying to get the motor going and making the mayday call and all that. I think I did that after all that. 20

Q. Any ideas in terms of times?

A. Well, I mean, the whole thing from knockdown to sink can't have been much more than 45 minutes, so, maybe 15, maybe less. 25

Q. And from your observations to the bulwarks that damage alone wouldn't have accounted for the boat taking ..(not transcribable).. the water, would it? 30

A. No, that was purely above the deck that damage.

Q. I think you said that you noticed one of the inner shroud stays on the port side was loose, was that so? 35

A. Yes.

Q. Although I take it you didn't look further down the side of the vessel, did you, outside the vessel?

A. I couldn't, I couldn't at that stage. 40

Q. So that the damage to the bulwarks and the deck in your view wouldn't have accounted for the massive amount of water?

A. No, no. There was - I didn't see any damage to the deck, it's just that the bulwark had been wiped off from the deck up. The deck was still intact that I could see. 45

Q. And I think Mr Winning that along the top of the bulwark there was a metal fixture upon which blocks and other forms of equipment were placed? 50

A. Yes.

Q. They take a fair amount of strain don't they?

A. Well, they do. 55

Q. So the bulwarks themselves are very solidly and strongly built?

A. Yes.

Q. So massive force must have been required to cause that damage, is that so?

A. Well yes.

5

Q. Just one final thing Mr Winning, with regard to the life rafts that the boat had, did you play any role in the selection of those or not?

A. Yes I bought both of them. The four man I'd bought some years previously. In the previous race, in '97, I borrowed a valise packed raft for that race, and when I gave it back to its owner I thought I better go out and buy a new one, so I bought - I liked the idea of the rafts being packed in a valise, so I went out to RFD and bought a six man valise packed raft. Just prior to the Southport race.

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Q. When did you buy that?

A. Just prior to Southport, so mid year, in June July, somewhere.

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CORONER: Q. Mid 1998?

A. Mid '98, sorry.

O'HALLORAN: Q. From whom did you purchase that raft?

A. RFD at Mascot.

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Q. Did you make them aware of what the purposes of the life raft was for, as far as you were concerned?

A. Well, yes. The life raft was purchased actually through Woolwich Marina who as I said, I was involved with, and they knew it had to be category 1 because it was to be used for a boat entering a Hobart race.

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MORAHAN: Q. Mr Winning, you've given some evidence about the history of the boat in 1997 and the 12 months prior to the 1998 Sydney to Hobart race, and I think that you said that the vessel did the Sydney to Hobart in 1997, the winter season with the CYCA in Sydney harbour?

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A. Yes.

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Q. And the Sydney to Southport race, I take it, in late 1997 - sorry 1998?

A. '98 Southport, yes.

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Q. Mr Winning, was there any history during that season and those races of the boat taking on any water?

A. No, at no stage was the pump used, the bilge pump used, to my knowledge.

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Q. In the early stages of the 1998 Sydney to Hobart race, and by the early stages I mean the period up till the knockdown, was there any observation by you or any of the other crew members of the boat taking on any water?

A. No.

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Q. I think you told us that the boat had been surveyed by Ian Perdriau?

A. Correct.

Q. That was at the time of your acquisition of the boat?

A. It was.

Q. And I think he was involved, at least by observation, in the refit, refurbishment of the boat? 5

A. Yes, Ian was the manager of the operation at Woolwich. For most of the period that Churchill was undergoing a refit he was away on leave - he took four, five months off, and John Stanley had the carriage of the refurbishment, but when Ian came back from his leave he was involved in the latter stages. 10

Q. I think Ian Perdriau is one of the country's leading experts in timber boats? 15

A. I don't - can't think of anyone better.

Q. Did he at any stage make you aware of any structural deficiency in the boat, at all? 20

A. No.

CORONER: Anything arising Mr Hill.

HILL: There is only one question. 25

Q. I draw attention to page 28 of the second interview that you had. Question 105, just to clear this up, you were asked whether you'd ever hit anything--

A. And this was in the journey from the Woolwich Marina to the CYC. 30

Q. Yes, and you said, "No definitely didn't hit anything"?

A. That's true, definitely did not. 35

CORONER: Thank you very much for your help Mr Winning. 35

<WITNESS STOOD DOWN

LUNCHEON ADJOURNMENT 40

CORONER: There are a couple of other questions to be put by counsel for the Lawler family, Mr Winning, if you don't mind. 45

<RICHARD HARCOURT WINNING(2.06PM)
ON FORMER OATH 45

O'HALLORAN: Q. Mr Winning, you might recall when you were giving evidence earlier today about some questions I had asked you in relation to discussions amongst the crew about tactics for the few hours that would follow that afternoon on 27 December? 50

A. Yes.

Q. Mr Winning, I would like you to understand that I'm putting this to you as a matter of fairness to you because I intend to put these questions to other members of the crew. 55

Mr Winning, were you familiar with Jim Lawler before this Hobart race?

A. I knew him, but not well.

Q. Did you know what he did for a living? 5

A. Yes, I knew he as a ABS surveyor.

Q. I'm sorry?

A. I knew he was a surveyor with the American Bureau of Shipping. 10

Q. A marine surveyor?

A. Yes.

Q. And an experienced Sydney to Hobart yachtsman? 15

A. Yes, I'd met him before in Hobart, so I knew his background, yes.

Q. And he was a person whose advice you would respect?

A. Well, certainly. I think most of the decisions were made on that boat by committee and the senior blokes like Jim and John Stanley, and that, had sort of equal input you might say. 20

Q. In the hours leading up to the knockdown around about 4 o'clock on 27th, did Mr Lawler have any input into the decision making process, that you're aware of? 25

A. Not that I particularly recall, no. As I said - I think I said earlier that there was no one raising the question of a possible retirement. 30

Q. Did you personally speak to Lawler about tactics for the next few hours, or not?

A. I don't think I did on that particular occasion, no. 35

Q. I'm clearly dealing with the period of time of maybe two or three hours prior to the knockdown. You were on the helm intermittently, correct?

A. Yes. 40

Q. And then you were in the cabin below intermittently?

A. Yes - intermittently, I was on deck most of the time actually. If I wasn't actually on deck I was sort of hiding in the spray dodger rather than - I didn't go off watch from about early in the morning. 45

Q. So is what you're saying, if I understand your evidence, that Jim Lawler to you knowledge made no particular comment or offered no particular advice in relation to tactics?

A. No. 50

CORONER: Have you any questions arising from that, Mr Morahan - he's gone has he?

PEOPLES: Peoples, solicitor instructing Mr Morahan. 55

CORONER: Yes Mr Peoples.

PEOPLES: He's excused himself--

CORONER: That's alright, but he's got no questions Mr Peoples?

PEOPLES: No your Worship.

CORONER: Nothing arising. Thank you Mr Winning.

<WITNESS RETIRED

<JOHN HOPE GIBSON(2.08PM)
SWORN AND EXAMINED

HILL: Q. Sir, would you give this Inquest your full name?
A. John Hope Gibson.

Q. And your address sir?
A. 52/6 Wyargine Street, Balmoral.

Q. And you are a solicitor of the Supreme Court of New South Wales?
A. I am.

Q. Sir, you were one of the crew member aboard the vessel Winston Churchill in the Sydney to Hobart yacht race in December of 1998, is that correct?
A. That's correct.

Q. What positions in the crew did you have?
A. I assisted mainly in the mid ship section handling sheets.

Q. How many Sydney to Hobarts had you been in?
A. This was my first race.

Q. That was your first race. Sir, do you have much yachting experience?
A. Not in blue water yachting.

Q. But you do have some yachting experience where?
A. I think I started to sail as a very young man, worked my way through the usual dinghies, 18 footer skiffs, I've owned about four boats, I helped run a sailing school, I'd done numerous trips to Pittwater, Lake Macquarie, I did a Coffs Harbour race, and I sailed - this is my hobby.

Q. But this was your first blue water race?
A. This was my second blue water race. The previous one being the 1996 Sydney Coffs Harbour.

Q. Among the crew were two experienced sailors, Mr Lawler and Mr Stanley, is that correct?
A. No it's incorrect. There were three.

Q. Three, who were they?
A. The third one being Mr Gould.

Q. Going down the coast, after the race was started, what was the weather like as far as you can recall?

A. The race started in very pleasant conditions. I think we ran down the coast with a spinnaker, they were fresh nor easters which freshened. They continue to freshen until the evening, Saturday evening. And late Saturday evening we entered a front with extreme lightning and very violent cloud formations, it was quite spectacular, and the wind continued to freshen.

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Q. If I could just stop you there. There was a sked, a schedule, radio sked at 8 o'clock, 8pm on the 26th, race day. Do you recall anything at all about that?

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A. No I don't. Can I explain why. The Winston Churchill has a main saloon, your Worship, which is amidships, and then there is a rather elite area where the captain and the navigator have their own saloon, which is aft, quite considerable distance.

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CORONER: Mr Winnings told us about that, in less florid terms.

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WITNESS: And so what went on in that rather elite section was not to the knowledge of us more lowly crew.

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HILL: Were you told what the weather was expected to be?

A. In general terms I understood we were to strike a southerly front.

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Q. Who told you that?

A. General discussion. The weather forecast was discussed generally.

Q. And with this general discussion what was the opinion of the crew about the weather?

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A. That it was typical Hobart Sydney racing type weather.

Q. The next day I believe it began to worsen, the weather. Is that correct or not?

A. That is correct.

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Q. Perhaps if you could tell us what happened, as you recall it?

A. We ran under freshening breezes late Saturday, and we dropped our spinnaker with some difficulty, it was a very fresh breeze at that time. We then poled out a headsail on the spinnaker pole and proceeded for some considerable time during the dusk and I think the early part of the night under that sail. That was subsequently doused and we during the evening continued to reduce sail, so by Sunday morning I think the only sail remaining was either a staysail, or a storm jib. But the mainsail had been taken off.

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Q. What was the next thing that occurred?

A. Well, by time, I'm referring now to Sunday morning. Extreme wind. I was seasick to my disgust. But the boat movement was not one that would cause me concern. There was the occasional slamming against the hull, but the boat

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appeared to be tacking very comfortably. The weather outside was horrendous, it was raining, driving rain, the desk were awash with blown water. On several occasions I went up just to check the conditions and also because I was ill. So I was using the companionway to get rid of whatever I had to. But that wasn't a problem for me. Most of the crew were down below and I think there were from time to time no more than two persons on deck. One at the wheel, and his companion who would be usually seated to weather next to that main navigators cabin, which was a nice resting place, it was somewhat sheltered there. So, the boat continued along like that, and I felt very comfortable, there was an excessive heel, and I think at that stage - I'm talking about a storm jib - I would say the jib wasn't on what we call "sheeted on tight" your Worship, it was slightly eased, I don't know if we were driving hard into the wind. I believe we were making about 180, 160 degrees, and from my inquiries our speeds were from 5 to 6 knots. And to all intents and purposes it was a quite exciting, fast ride, and I had no concerns.

Q. Was there any discussion at all, because eventually the vessel is knocked down, and founders, but was there any discussion leading up to that point in time when it does founder, about turning around, or the weather?

A. There was not.

Q. No discussion about it?

A. No discussion.

Q. Do you know what winds were reached?

A. I was aware of the wind alarm continually sounding.

Q. Do you know what the wind alarm was set at?

A. It's my guess it was round about 40 to 50.

Q. Who would be able to tell us that?

A. As I understood the evidence of Richard Winning, that was the evidence 40 to - I think - he suggested it was reading 50 with a maximum of 60, and the alarm was going at 50, and I think that was right. That was my recollection.

Q. What sort of alarm is it?

A. It's a audible alarm, it's a continuous beep.

Q. It's a beep is it?

A. It's a continuous beep. I can also indicate, which may assist the Coroner, the wind alarms can be programmed so that above the alarm setting they cease to read, they just flash the work alarm.

CORONER: Q. What's the point of that?

A. I don't know, but that's been my own experience with them.

HILL: Q. What, you can set them at 60, and even though it goes above 60, it will just flash--

A. Alarm.

Q. At sixty?

A. That's right. You have to de-program that alarm as I understand it.

Q. I think that at about 1600 hours as far as you were concerned, about 4 o'clock in the afternoon, and that's Sunday 27th, you were below and you were in a bunk. Is that correct? 5

A. No that's not correct. 10

Q. What was it?

A. I was moving around in the main saloon. John Dean and Richard were on watch upstairs--

Q. That's Richard Winning? 15

A. Richard Winning, and John was seated next to him on the high side of the boat, and they were both harnessed on. And I observed them in that position.

Q. What was the high side of the boat at that stage? 20

A. The high side of the boat would have been, if the front of the boat is where you're sitting, and I'm at the back of the boat a high side is this side, which would be the starboard side. 25

Q. The starboard quarter?

A. The starboard quarter.

Q. You were below, I think, looking for a sail?

A. I was moving sails around. I was going through the process of tidying up generally down below. 30

Q. What happened?

A. I was in the main saloon. On either side of the saloon there are bunks which run the whole length of the saloon, behind them again is a further quarter bunk section, you it's basically a tiered - you have a quarter berth, down to a settee berth, and then you come to the companionway where you walk up and down. I was in the centre section, and it's quite a wide saloon, your Worship. It would be in width from here, I suppose to the legal books on your left. 35 40

CORONER: Q. Here, near the end?

A. No, I'd say somewhere about midway, but it's as - I would say it's about a 12 foot width in the middle of the desk. It recall that I was moving something, possibly a sail or gear at that time, when I was bodily picked up and thrown across the boat, and I struck my head on what would be the port or leeward side of those covers, which were as I've described, your Worship, on the higher section. Below the quarter bunk there was a section of cupboards. Then you had the settee bunk where you'd sit if you were sitting down below, so my head struck those. I was upsidedown in a somersaulted position, and I was covered in gear, and I also had the floorboards on top of me. 45 50 55

HILL: Q. They had come out, had they?

A. Well, the floorboards are - my memory of the floorboards

they're large sections of marine ply, they were painted grey and they were quite long. They would have been probably 9 foot sections. I think they were two distinct large sections. They were heavy pieces of timber, and they were lifted clear from the floor and they landed on top of me. 5

Q. Their 9 feet long, but how wide approximately?

A. They were the - I think - the floorboard was divided into two sections, I might be wrong on this, it might have been one section, but the actual width of the saloon would be possibly 3 feet, not much wider. 10

Q. And they'd come adrift?

A. They'd been physically lifted up. 15

Q. What happens then?

A. I was covered in gear. The sailbags, food, and all the material that had been stowed on the port or windward side of the vessel had been stowed under what we call lee cloths, your Worship, and they're pieces of canvas that run the length of the bunk to stop the incumbrant from rolling out when the vessel heels. Well, they were stowed behind those and they'd been physically lifted out of there. And they fell to leeward. So I sort of unravelled myself from that position, and I was aware that I was bleeding, and I was also had my contact lens had come adrift, so I wasn't seeing that well, and I started to assess the situation. 20
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Q. I think you were bleeding from a head wound is that correct? 30

A. That's correct.

Q. Was there any water in the vessel at that stage?

A. I observed the bilges, and I observed them starting to make water. 35

Q. So you saw water coming into the bilges, that's underneath the floorboards?

A. Where the floorboards had been. The whole of the bilge section was in front of me. I could see it quite clearly, and it was making water. 40

Q. How fast was it making water in your opinion. I mean, could you see it physically rising?

A. I could see it physically rising. 45

Q. What happens next, what do you do?

A. I assist in replacing the ladder to get access to the deck, what we call a companionway, it had become - it had been thrown down to leeward, it was quite a big ladder, and the height from the bottom of the companionway of that main saloon to the deck would have been over 9 feet. So it's a 9 foot heavy timber ladder. That was repositioned and I think Bruce Gould then exited, as did someone else up the ladder and the rest of the crew started to stir and work out what was happening. 50
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Q. Did you go outside then--

A. But I think there is - just like to add something that I missed.

Q. Yes certainly?

A. That there was the most - as I hit the far bulkhead or timber there was the horrendous crash. 5

Q. Crash?

A. Crash, as it we had been struck by another vessel. It was - I thought we had hit something, or another vessel had hit us. 10

Q. Where do you think that crashing sound was coming from?

A. Where I had fallen, it was right underneath me, it was around me, it was just the most amazing crash. 15

Q. So the crashing sound is on the port side as you are propelled into the cupboards on the port side?

A. Correct. 20

Q. When you say a crashing sound, are you talking about an impact type sound of wood, or anything like that?

A. I'm talking about the sort of sound that I'd associate with a semi-trailer hitting a cliff face. It was quite deafening. 25

Q. It wasn't a woody sound, it was simply a loud crashing sound?

A. A loud crashing sound. 30

Q. You made your way up on deck?

A. Not immediately, I moved around the boat, and I considered what I should do.

Q. What did you do next? 35

A. I think I basically assisted moving some of the gear, I knew it was urgent that we start the motors, and shortly after that time Richard came down the ladder and started the motors and I knew that was a priority, because I was aware that we had mechanical pumps. At the back of mind I thought that may have been an option. 40

Q. Were the floorboards replaced?

A. No they weren't. 45

Q. You just made your way across them as they were?

A. Yes.

Q. How was the water rising. Had it now got past the floorboard area, flooded the bilge, and it's into the cabin proper, or did you not see that? 50

A. The time Richard started the motor the water had risen to the top of batteries. It's my opinion that's why the motor stopped, that's my opinion. 55

Q. Are the batteries above the bilge?

A. The batteries I would say are above the bilge. Yes, sorry, the bilge in the Winston Churchill is very deep. The

vessel is, comes down as a wineglass into the bilge. They are deep. Across the bilge are heavy floors, cross sections of timber, and I was very familiar with these because we had previously stowed the anchor chain in this area, and I'd helped do it. Water rose there very very quickly. It went beyond that level and was actually, as the boat was heeled as it continued to tack with the storm jib it was heeled, and the water had risen on the leeward side of the vessel-- 5

Q. That's the port side? 10

A. That's the lower side, the port side, and was covering the batteries at the time Richard attempted to start the motor.

Q. So is it fair to say that by the time that you see the bilge begin to fill, by the time Richard Winning came down, the bilge had filled and come past the battery levels? 15

A. That's my belief.

Q. What occurs then? 20

A. We discussed moving life rafts.

Q. Did the engine start?

A. The engine coughed - it started and coughed, and died. I don't believe personally that it actually fired, I think it actually - the starter motor think, probably turned it once or twice and that's as far as it got. The decision was made to collect flares, buoyancy vests, take the rafts which was stowed underneath the ladder in the companionway that I've described earlier up on topsides. I assisted on that operation, it was a three man operation because the six man raft which was in a valise was quite heavy. And they were taken topside. During this time I had observed Richard attempting to motivate, or activate the GPS which he described in his evidence as being a factory driven GPS, that was the one that he said could only pick up one satellite. I observed him doing that. I then heard the - the channel 16 radio in my recollection was on a loud speaker, so I could hear him quite clearly make his mayday, and I could hear quite clearly the response. 25

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A. That's all I recall of that conversation.

Q. What happened next as you recall it?

A. The water at that stage had moved up to the bunks and it was quite dangerous to go below. John Stanley directed us all to go topsides, and the rafts were manhandled, and I think they were originally stored to the windward or port side of the vessel. A decision was made to lower the storm jib. That was a difficult process. Michael Bannister went forehead and did that, because I recall that the sheets for that vessel were moving around in the wind, and they were like steel bars at that stage, and I had some concerns about that. 5 10

Q. The sheets are the ropes? 15

A. The sheets are the lines attached to the stormsail to the vessel. I recall observing the damage.

Q. What did you see?

A. I saw 6 to 8 feet of the bulwarks were missing. 20

Q. Which side?

A. On the leeward side of the vessel.

Q. That was the port side? 25

A. Yes, that's right. That was in the area where the main shrouds are attached to the chain plates, and the whole of the timber work had gone there.

Q. That's the standard rigging, is it, that holds the mast? 30

A. That is correct. So that section of timber was missing. I didn't go to leeward to the after cabin so I wasn't aware of the nature of the damage there.

Q. Have you an opinion as to where the water had come in from? 35

A. Yes.

Q. What is that?

A. My opinion is that I observed water in the bilge, but I didn't observe a large amount of water running down the sides of the vessel. I think I would have, Although the vessel is lined so that the actual external planking, your Worship, is not optically visible, because there is an internal timber lining. I think the amount of water that it was making, I would have observed. So my opinion is that it was coming from the bottom section of the vessel. 40 45

Q. So that it is literally foundering, it is filling up with water? 50

A. It was filling up from the bottom.

Q. You said that you'd inspected the damage on the port side?

A. Yes. 55

Q. What else did you see?

A. I observed the -we sailed for some time under the storm

jib. Bruce Gould was at the helm. The life rafts were all up topsides. There was an issue of buoyancy material, that's the yellow Mae Wests, your Worship. John Stanley was below checking gear and trying to assess the situation below. We were ordered above because there was some concern to go below was dangerous. The vessel was slowing down. A decision was made to drop the storm jib to further slow the boat. There was quite some discussion as to how we should launch the life rafts, and what else we should be doing, and when I say some discussion, it was a very measured, quiet sort of discussion like you and I are having here.

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There was no sense of urgency, no sense of panic - Do you think we ought to put the life raft down there - oh no, not yet, we'll wait till the boat slows down a bit and then we'll take them down, lower them down - do you think we ought to lower the jib - yes, I think we need to - and Mike Manners said - Well, I'll go forward and do that - and I remember saying - Well, make sure you keep the tension on the sheets because, you know, they're very dangerous. It was just a very--

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CORONER: Q. It was an orderly abandonment?

A. A very gentle discussion about - Well, what do we do next - how do we do it - someone would say - Well, I'll do that - and someone else - Oh, that's goodo, I'll ease the halyard for you, give us a yell when you're ready - I'll ease the sheet - and so it went on. At no time did I observe the luff of the storm sail to fall away which suggested to me that the mast itself hadn't moved.

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HILL: Q. I'm sorry, sir, say that again, the leading stay on a yacht is called the fore stay?

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A. Yes. When a foresaw is set, such as a storm due, the leading edge of the jib ideally should be straight.

Q. Right?

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A. If that wire is slack it'll get a bow in it which is very bad for the shape of the sail because it gives it a big belly but in those conditions that's the last thing you want, you want a flat sail and my observation was that storm sail had retained its shape. In other words, the leading edge of the forestay to the top of the mast was still under tension and that indicated to me that the mast had not moved.

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Q. I see, right. I think that someone else thought that something had given round the mast step area?

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A. As I understand Richard has told his Worship that the leeward shroud and leeward chain plate appeared to be loose and that would be correct. Normally those shrouds would be loose because they're on the leeward tack and the mast has a tendency to fall that way but the sort of looseness that Richard described was a looseness associated with damage.

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Q. I see and what occurred next?

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A. The vessel was slowing down as it filled with water. The storm sail was stowed and the vessel then was steered more or less down wind so that the seas were behind us and we were no longer sailing across the seas. The vessel slowly sank in the water. We could all see the level of the water by looking down the main hatch, you can actually physically see it coming up, and we physically could see the boat settling into the water. A decision was then made to move the life rafts to the port side of the vessel ready for launching and that was done. I recall conversations between John Stanley, Jim Lawler because Bruce was steering and I recall the conversations were - Well, look, you know, we'll wait till the boat slows right down, the last thing we will

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do is launch these rafts because this is the most difficult thing to do - that was made very clear to us, that this was a hazardous operation and we had to be very careful. So the decision was made not to launch the rafts until the vessel was virtually about to sink and as a consequence had slowed down. At that stage the vessel was being washed by waves from behind. I think the nautical expression is "pooked" as the water built up behind the vessel and then the wave broke over the stern and swept down the vessel. So we were taking water down the companionways during that exercise, not that it made any difference because the vessel was going down anyway and we were wanting to slow it down so it really didn't matter much and the boat got slower and slower, heavier and heavier in the water. Bruce continued in the helm to sort of hold it in this direction. We were still moving because it was extreme wind and extreme wave motion. Several seas actually broke over the back of the vessel and the rafts were then inflated. John Dean, Mike Bannister and Jim Lawler and John Stanley participated in that exercise and each raft was inflated and tethered to the side of the vessel.

Q. Now, did you go aboard one of those rafts?

A. Yes, I did. I boarded the six-man raft. I think I might have been the last person to board it.

Q. How did you get on board?

A. I recall that I virtually stepped over the side of the rail. At that stage the vessel was sinking, right, and I had the line tethered to the raft in my hand and moved along it. As I did so I felt that line go taut and then it started to move down and pull me down with it. It was clear it was still attached to the vessel and the vessel was sinking. So I had immediate concern that the raft was going to go down with the vessel and I heard a loud bank, the line parted and fortunately at that stage I was able to grab the raft.

Q. I think you were helped on board the raft by the other people on board, is that correct?

A. Yeah, well I was a bit embarrassed about that because I had hopes of getting in the raft by myself but I wasn't able to. I must have tried five times, your Worship, and there was no way I could physically get to that raft and so I asked for assistance and I was virtually pulled into the raft. The main west in those conditions really is very impeding and it was just for me a physical impossibility to get into it.

Q. I'm going to show you a model of a raft. Now, this is not to scale but this has a rope type ladder. Was that the type of ladder that you were trying to climb up into the raft?

A. Well, during one of my attempts I thought I might use that but its position as such and the motion of the raft as such that it's of no use. You can't get your knee into it. It's too high to get your foot into it and it's too low to be a hand hold.

Q. Now, although this is a four person raft this is the basic shape of the raft that you eventually ended up in, is that correct?

A. That is correct.

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Q. I should emphasise this is not to scale, it is simply a representation of the type of raft that we're talking about though that rope ladder was similar to the one on the raft that you boarded?

A. Yes. Your Worship, you'll observe from the model that there are no hand holds on the upper section.

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CORONER: Q. On the orange section?

A. There's nothing to put your hand in to grab on to something to pull yourself in. Everything is external and my recollection is that I couldn't have got in.

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HILL: Q. Now, it was a six man raft and there were five of you in that raft?

A. That's correct.

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Q. Now, what about the other raft, did you see that at all?

A. I didn't.

Q. And that was a round raft?

A. It was.

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Q. And were those rafts joined together at one stage with a rope?

A. They were.

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Q. What happened to the rope?

A. The rope parted. Now, whether the rope parted or where it was secured to one of the rafts parted I don't know. In retrospect I think it was a good thing because I think it was dangerous to have the rafts tethered like that but that's what happened.

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Q. Now, I think that you put a sea anchor or a drogue, as they're sometimes referred to, outside?

A. We did.

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Q. And at one stage I think that you received a cut to your hands with regards that, can you tell us about that?

A. Yes. Shortly after we were in the raft it was clear that it was moving at a considerable speed. It was spinning and extremely unstable. The line joining the two rafts had parted indicating the very violent motion between the two rafts and had that line not parted I think one of the rafts would have suffered a lot of damage so that's why I say it was a good thing that I think that rope parted, a very violent motion in the rafts and I recall hearing a noise like something breaking and to the best of my recollection it may have been on the model you showed me one of those submersible bags which are underneath.

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Q. Once again they're not to scale but they are meant to fill with water and have some stability to the raft?

A. Yes. Well, I heard a breaking noise or a banging noise and it's my uneducated guess but knowing what I now know that that's probably what it was.

Q. One of those bags coming away? 5

A. One of those bags coming away.

CORONER: Q. You said the raft very soon was careening, you didn't use that word but going very fast?

A. That's right. 10

Q. And haphazardly?

A. That's right.

Q. Did you have the impression the drogue wasn't on at that stage at all? 15

A. No, we hadn't - the drogue that learned counsel is referring to is one that we subsequently deployed. The reference I'm making is to one of those canvas submersible chambers. So my understanding is that one of those had parted or in some way become inoperable and the raft had considerable speed. The decision was then made to deploy an internal drogue which we found in the bag of goodies which was on the raft. 20

HILL: Q. Who made that decision, do you recall? 25

A. No. It was - like all decisions on Winston Churchill - it was very clear that John Stanley was the sailing master and it was very clear that he was calling the shots but on things like - Well, where do we put the raft - or - who'll do this - Jim Lawler might say - Well, look, yeah, that'd be a good idea - or - I'll do that - or Mike Bannister may have said or John Dean, yeah. It was just very calm and it was very learned. It was calm. It was seaman-like and it would have been the same discussion - Maybe we ought to put the drogue out - and I think I physically put it out. I think I had it and there was a discussion about it and I think I physically put it out and so I'm talking about a thing that looks like a butterfly net with a large opening which funnels into a smaller opening and secured with a series of like parachute cords on a long line and that was deployed. The line itself was quite a thin line. It was I think of a nylon manufacture and certainly it was less substantial than, say, this microphone flex. It was quite a thin diameter. That was deployed and it immediately became very, very taut. It was under a lot of pressure and it seemed to have furled itself up around some of the other equipment in the raft and there appeared to be a risk that this line which was so thin would cut the raft in some way. It was actually deployed out the door of the raft. 30 35 40 45 50

Q. So it would have come out of - over the opening and then it crossed the inflated chamber, the first inflated chamber?

A. Correct. 55

Q. And was that a worry, that it was going to cut into that inflated chamber?

A. It was a worry.

CORONER: Q. What was it fixed to?

A. Well, it seemed to be fixed, well, it had become furled but it was fixed inside something inside the raft to my recollection.

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HILL: I think that they're actually stuck on to catches.

CORONER: Yes, but you're saying it was in the inside, it appeared to be fixed.

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WITNESS: The raft was deployed from the inside. Now, whether or not it was so designed that had it not been furled it would have been clear to attach to the outside I can't tell the Court.

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HILL: Q. Now, you made a decision about trying to bring the drogue back in, is that correct?

A. That's correct.

Q. And what happened?

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A. Well, I succeeded in bringing in a lot of line and there was a lot of line out. I should imagine it was - might be 70 metres - and I secured a lot of line and obviously the raft caught a wave and the line suddenly took up in my hands and it just went through my hands like a red hot nail and I received lacerations, both hands.

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Q. So it cut your fingers very badly?

A. That's correct.

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Q. Now, what happened to the drogue then?

A. Well, it was obvious that I'd cut my fingers to the bone on the forefinger, middle finger and ring finger of my right hand and also severely lacerated the little finger of my left hand. The drogue then broke.

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Q. The line parted?

A. It was broke or cut, I can't tell you but it was freed.

Q. I take it the seas were indeed still very rough and tossing the raft about?

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A. The movement of the raft was extremely violent, bodies were being thrown around and it would be quite shortly thereafter that we struck trouble in that John Stanley was injured.

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Q. You were all laying I think with your feet towards the centre of the life raft, is that correct, or sitting in that position?

A. That's correct. We decided to adopt a sort of a star formation with our feet to the centre of the raft and that was the position we were in when we were struck by a violent wave and we were somersaulted about inside the raft. We were in close proximity to each other and our bodies were virtually lifted up and thrown down and limbs went everywhere and when we came to rest it was clear that John Stanley had suffered a significant injury and he was in great pain.

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Q. In fact he had broken his ankle and also pulled ligaments in the hips?

A. That's my understanding, yeah.

Q. What was done next? 5

A. The decision was made to take precautions against further injury of this nature so it was decided that we'd adopt a sardine type formation so we all lay parallel to each other with our feet in the same direction and that's how we remained for the rest of the time we were in the raft until something else happened. 10

Q. Just stopping you there, I think that when the ship was abandoned you came off like everyone else with a life preserver on but you also had your harness on. How did that come about? 15

A. I discussed with my son, who's done several Hobarts, what was appropriate in that type of conditions and he suggested that it was appropriate to maintain full weather gear and harness on at all times so that if you were called on deck you were ready. So that's how I was. I was in full wet weather gear with an internal buoyancy vest and quite a lot of clothing on and then a heavy Henry Lloyd sailing jacket, full Henry Lloyd pants, sea boots and a safety harness and strap. 20 25

Q. And you had those on?

A. I had those on and then on top of that I had donned a Mae West. 30

Q. Now, going back to the raft itself and after the incident where Mr Stanley was injured, was that before or after darkness?

A. Before darkness. It happened quite shortly after. We hadn't been in the raft long when this episode happened. 35

Q. Okay. Could you still see the other raft?

A. At that time I can't recall.

Q. When do you recall last seeing that other raft? 40

A. Probably about three quarters of an hour, maybe one hour after the vessels had parted.

Q. And then you don't recall seeing it again?

A. It was very difficult because the canopy had, as you can see from the model, erected itself. In order to keep water out of the vessel we'd virtually closed the flaps and in order to go looking for the raft you had to actually stick your head out the door and I recall that where I was lying was away from that area so I physically didn't look out the raft myself. 45 50

Q. Now, I think the raft was tossed around a great deal and then it's at about half past twelve that night, 30 minutes into the next morning of 28th, you recall looking at your watch? 55

A. I do.

Q. Now, something happened immediately after that or very soon after that, can you tell us what that was?

A. Yes. The raft was struck by a particularly violent wave. It was spun and tossed, bodies went everywhere. I think the raft would have completed 360 rolls several times and came to rest upside down. 5

Q. Now, so basically the bottom is now the roof, is that correct?

A. That is correct. 10

Q. And I should point out that the doorway on this is quite different to the doorway on your particular raft, in fact it was much higher and well under the water, is that correct?

A. Correct. 15

Q. So that I think you've said in your statement that basically you were now either standing on the inflated part that holds the canopy up or on the canopy itself, the five of you, is that right? 20

A. Well, if I did say that it's slightly misleading because we were virtually relying on our buoyancy vests for buoyancy. The canopy of the raft didn't give any foothold at all. It was a floating membrane without any capacity to take a person's weight. If you put your foot on it it just floated away. It was a floating membrane or kerpy. The section on the model there which holds the roof I think is about a six inch pneumatic tube and if one stood on that it again would just - there was no buoyancy or footholds as such. We were virtually dependant for buoyancy on our Mae Wests with the consequence that we all were complaining of significant chin rash from the vest riding up but my recollection was that there was - that the upside down section of the raft did not provide a foothold or a buoyancy hold as such. 25 30 35

Q. What was the rigidity of the raft like in the water now, its stability?

A. Very much improved, a totally different feeling. It was almost as if someone had switched off the storm. The wind level of-course had disappeared. Prior to that the noise of the canopy flapping was deafening. The raft motion was extremely violent. It became quite quiet. 40

CORONER: Q. It was no longer sailing I suppose? 45

A. Your Worship, the raft - it was a very secure feeling inside the raft. It was as black as the inside of a cow but it was quiet and it was secure and I must say that we all felt considerably more comfortable in it. 50

HILL: Q. Now, I think there then developed the problem with breathing?

A. Yes, it was apparent straight away that something had to be done, that we couldn't remain in that position, and again a very quiet discussion about what was to be done. 55

Q. Was there any discussion in regards to going outside and righting the raft?

A. There was. Michael Bannister was quite emphatic that we had to send someone out and he was going to go out and right the raft. He was very definite about it and he was standing, treading water next to me and I was equally concerned that if he did I'd never see him again. 5

Q. Why was that?

A. And I said to him - Mike, it's death out there - and I recall that at the time I thought that was a very dramatic thing to say because there'd been no talk of death prior to that time and I really thought I'd overstated the position. Within two minutes of me saying it we were swept by a huge wave. The raft again was moved and spun and had he been out at that time we would have lost him and I - it's quite vivid in my memory because I thought - Well, thank God he didn't go out. 10 15

Q. He would have had to take off his Mae West to do that, his life preserver?

A. I think it would have been almost impossible to exit that raft. I think it could have been done but it wasn't going to be easy and it wouldn't have been easy with the Mae Wests in attempting to clamber on the upturned model of the raft with a Mae West on. I think it would have been a difficult exercise. 20 25

Q. So what happened then?

A. Well, we had ignited torches. I think there were at least three torches. I certainly had a torch. Jim Lawler had a torch and John Stanley had a torch. The torches were flashed around the inside of the raft to see if there were any instructions about righting the raft. We didn't see any. We then quietly discussed - Well, what was the way forward - and the discussion very quickly got round to the fact that if we didn't do something we were going to suffocate or words to that effect. The air gradually got fetid and it was quite obvious that we had to make a decision very quickly. The time frame in my opinion was - could have been 10, it could have been 12, it could have been as long as 15 minutes while this took place. It was a very calm discussion and it eventually got down to - Well, we're going to have to cut a hole - and then the discussion was as to where we cut the hole and how we would cut the hole and how it might affect the raft. So again the torches were used to illuminate the bottom of the raft and a section was identified as appearing to be a reinforced section and that was the section in which an incision was made by Jim Lawler. Now, when I say it was made by Jim Lawler, it was like - if we'd been at a wedding we'd all put our hands on the knife because that was the decision. It didn't matter who cut it and that was our decision. 30 35 40 45 50

Q. So that there was a hole cut I think about four inches in the reinforced section?

A. That's correct. 55

Q. Now, I think that by then raising the bottom or what was now the roof of the raft, it acted like a bellows and

brought fresh air in?

A. The raft immediately lowered itself into the water as the air escaped, passing the waves filled the top section so it filled with - it did fill with water and we physically cleared that and then pumped it as a bellow to allow air in. 5

Q. And you were all able to breath?

A. We were able to breath.

Q. What happened after that? 10

A. I don't know for how long we were in that situation but it certainly was some time and we were eventually struck by another wave. Again the raft was thrown around violently and rolled and tumbled and at the end of the wave we were in the right position. 15

Q. You were the right way up?

A. We were the right way up.

Q. As in this? 20

A. Yes. The floor would fill with water. The canopy had been pulled open and that process was then repeated during the night, maybe ten times, not less than ten times.

CORONER: Q. It went from the right way up to upside down, right way up to upside down, is that what you mean? 25

A. No, it mainly, your Worship, stayed upright.

Q. But it did go the reverse a couple of times?

A. But with each time we went through the process the canopy was disintegrating and the raft, the bottom section was disintegrating, so we eventually ended up in a large rubber ring with just the traverse pneumatic tube which you see on the model holding the roof up. 30

HILL: Q. That's the one that runs across the top? 35

A. That is right.

Q. This black one here?

A. That black tube. So the raft lost its rectangular shape and became circular and it would be, depending on how the waves were striking it, it would either be right way up or upside down, just depending. So again as it disintegrated it was just being tossed around and by some extraordinary manner we all stayed inside it and it was about that time that I spoke to James Lawler and said - Well, maybe I should clip my harness on this pneumatic section. 40 45

Q. That's the part that holds the roof up?

A. Yep. He said - John, I don't think that'd do any harm - so that's what I did. 50

Q. So you are now in fact tethered by your safety harness to the strap that holds up the roof?

A. That's correct. 55

Q. And what happened, Mr Lawler said it was right for you to do that?

A. He said it couldn't do any harm.

Q. What happened then?

A. Well, we continued in the raft being thrown around. It was clear John Stanley was in a lot of pain and what little assistance one could get from that pneumatic section he was supporting himself on towards one side of the raft and I think at that stage he had taken off his Mae West, everybody else had their's on and I think we stayed like that for a long, long time listening to the waves coming and sort of preparing ourselves for them and it would have been in my opinion closer to 2 o'clock or after 2, we were virtually dozing in this position fully submersed in water up to our chins, supported by the Mae Wests with myself tethered to the ring, John Stanley down one section hanging on to the section there, when without warning, without any noise or without anything, the raft started to move and I felt my tether being taken off and I was suddenly dragged at speed, I was falling, I was spinning, I was in white water, there was a lot of noise and it just went on and on for a whole, long time, and it was the most extraordinary sensation I've ever had in my life but I was falling, I was moving, I was tumbling, I was being thrown and it eventually stopped.

Q. Now there was no warning of that wave at all? 25

A. Just nothing.

Q. With the others there had been warnings so that you could all prepare yourselves and hang on tight, is that correct? 30

A. The waves sounded like express trains coming across. You could hear them roaring. There was a lot of warning and there was almost a regular pattern. They seemed to be coming every 25 to 30 minutes but this particular wave, I can only conclude, your Worship, that the raft floated up the crest of this wave and then it just broke at a critical moment and swept the raft down its face but it must have been an extraordinary large wave because I certainly free fell and I was thrown and we travelled a long, long way on this raft on this wave and when it eventually stopped I was still in white water. It was quiet and I heard - there was no one there and I heard a voice and said - Who's there - and it was John Stanley and he was on the outside of the raft and he sort of popped up inside the raft because it was just the ring and somehow or other he'd hung on to that pneumatic section that I was tethered to and there was no one else there. 45

Q. There was no one else there. I think that you looked back at that stage and about 75 to 100 metres across white water you saw two figures and you think you saw someone's strobe light, is that correct? 50

A. Yes, my immediate concern was for my shipmates so, you know, we immediately started to look. I heard voices. I couldn't tell you what they were saying. They were a considerable distance back in the white water and I saw a strobe light which I immediately identified as being Jim Lawler's strobe light because he had an identical one to 55

myself. So I immediately illuminated my strobe light and held it up as a signal to him that I was okay. I could see that - see his strobe light and the gap between us was widening as the raft drifted and I had a discussion with John Stanley to the effect, well - Gibbo, the raft's moving, we can't stop it, we can't get back to them - and it was just dreadful.

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Q. I think the wind then took the raft completely away, is that correct?

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A. The raft was moving at considerable speed in the water.

Q. You remained like that until the dawn broke and I believe that the weather began to abate somewhat, is that correct?

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A. That's correct.

Q. Now, it was towards the afternoon at about 4 o'clock I think that you heard an aeroplane?

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A. That's correct.

Q. And then it came over you and I think at one stage you removed your Mae West to wave at it?

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A. Correct.

Q. And that was because the Mae West was of a bright colour?

A. Yes, the remnants of the raft were black so to all intents and purposes we were invisible from the air and the only material we had was the yellow Mae West, so we used that to wave.

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Q. So in effect all that remained of the raft itself was these black rings?

A. Correct.

Q. And nothing else?

A. Nothing.

Q. I think eventually you were seen?

A. That's correct.

Q. And I think a helicopter then retrieved you at about 8pm that night, is that right?

A. I thought it was later but it was certainly dark, I would have thought it was closer to 9pm. That is correct.

Q. I intend going on to another aspect because you have some matters that you want to be raised at the inquest and you have a list of those. Primarily we have dealt with section 1 and it's the life rafts that you have some particular wishes that you wish to tell the Coroner about and I think that the videos have been taken by Mr Boyd down at the Maritime College down at Launceston and you were present?

A. That's correct.

Q. And it was the testing of these rafts and I think that what you wanted to tell the Coroner was that the difficulty that one sees on righting those rafts and getting into those rafts really explains a great deal of what occurred on this occasion, is that right?

A. My understanding is, your Worship, that the - what evidence I can give you of my actual experience that the video tells it all, it was amazing reproduction of the difficulties that we experienced, it was very clearly evident on that video.

CORONER: Q. Good, we have done something right you say?

A. You certainly have.

Q. In the investigation.

A. You have done that part I think good.

Q. A lot of people think we haven't. It's nice to know.

A. It's not my experience.

HILL: Q. There was difficulty entering the raft from your point of view without assistance because of this rope ladder?

A. Correct.

Q. And I think that on some of those other rafts instead of a rope ladder they have more or less a ramp, an inflated ramp, and that appeared to be much easier for people to get up and into the raft?

A. Correct. Your Worship, during the trials your Worship will see the video. Volunteer yachtsmen were asked to participate and of a team of yachtsmen the video will show that practically everyone had difficulty in entering the

raft and I think it was the last participant just physically couldn't enter it, and this is in a swimming pool.

Q. You also wanted to point out that the design of the Mae Wests make it difficult to move in the water and certainly to get into rafts and open rafts and the fact that they do tend to ride up and continually scour underneath the chin? 5

A. Correct. One of the very minor things I was treated for was skin abrasion on the bottom of my chin, I lost all the skin there. 10

CORONER: Q. From the Mae West?

A. From the Mae West. I would have thought that some sort of a belly strap would be required. My recollection of the Mae West is that during that massive wave that I described to your Worship the Mae West was swept from my body and it ended up around my waist. 15

HILL: Q. In fact it was being simply pulled off you--

A. Correct. 20

Q. --by the water itself and something should be done about the design of these because if it had a crotch strap or something like that it may well have stayed with you?

A. That would be my experience. 25

CORONER: Q. You mentioned the colour and particularly the numeric part of the raft.

A. Your Worship, the raft in an upside down position, like we were left with, was totally invisible. 30

HILL: Q. The other thing that you realised during this was when everyone was thrown around inside the raft, especially when John Stanley was injured, there were no handholds within the raft for people to hang on to? 35

A. Yes, your Worship, the inside of the raft is very much like a big rubber bathtub, it's slippery, it's moving and so body movement inside the raft was very violent. Bodies were being thrown against each other, any gear inside the raft was being thrown around and there was no way of taking a handhold or any internal points that one could take a grip of or put one's foot under. It was just like being in a big slippery bath. And in that sea wave the end of that was in fact one broken ankle and torn hip tendons for John Stanley and I guess we might have got off lightly. 40 45

Q. And there was a distinct possibility of actually being thrown out of the doorway itself?

A. It's remarkable that no-one was lost from the raft. 50

Q. And you also noticed that when it was upside down, the raft, there were no handholds?

A. Exactly.

Q. You couldn't secure anyone to anything if someone had been unconscious or indeed injured-- 55

CORONER: Q. Or didn't have their Mae West on, they'd be

treading water?

A. Yes, that's right.

HILL: Q. The equipment for baling the raft was totally unsuitable. What was it, what was the equipment?

A. Well, it was a non-rigid small bag with a capacity of about several litres I think at the most and quite difficult to manoeuvre. Some sort of rigid container was required to act as a scoop and this was a collapsible bag and it was just of no use at all.

CORONER: Q. A shopping bag sort of thing?

A. That's sort of thing.

Q. But stronger?

A. Yes. Your Worship no doubt will have access to the gear on this particular raft, it's a pro-save(?), but we ended up using ..(not transcribable).. were by far superior.

HILL: Q. The other thing that you noted was there was no directions inside the raft on how to right it if it was upside down?

A. That's my observation.

Q. And in fact they appears on the outside of the raft so if you are inside when it's tipped you'd have to be on the outside to find out how you right it again?

A. That's my understanding.

Q. The drogue, you were particularly worried about that, that's the sea-anchor, the drogue, it failed at an early time. What do you want to bring before the Coroner bearing in mind that presumably you'd want it to come adrift, as it were, to break off rather than damage the raft itself? Have you got any proposals at all on that?

A. Your Worship, my understanding is that the rafts travelled a considerable distance in the odd 28 hours after they were deployed and certainly my understanding is that they travelled a distance from 60 to 80 kilometres in those 30 hours. My mathematics is they were doing not less than 2 kilometres an hour. My understanding is that possibly we were drifting against the current so in fact we may have been doing considerably more than that. So that means that if anybody were to be thrown out of the raft or as has happened the raft is going to move away - I mean unless you are attached you are not going to get back to it. The drogue itself did certainly slow the raft down when it was operating and stopped it spinning.

CORONER: Q. Do you think it might have affected its stability in the big waves?

A. I don't know, your Worship, but certainly it couldn't have hurt. I think any form of sea-anchor would have been welcome, which is all it is, a very small sea-anchor. The line itself is extremely dangerous, if anybody is attempting to handle that line they are likely to get cut and if the line itself fails in this section of the raft it's likely to cut the rubber.

Q. Sounds like you are saying that really the whole question of how to attach the drogue to the raft should be revisited by the manufacturers.

A. Yes, your Worship.

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Q. You'll note from the evidence the drogue failed in the other rafts too early in the piece.

A. Yes, your Worship, that's right.

HILL: Q. The other thing that you were talking about is that when the raft was upside down someone had to go out, that it wouldn't hurt to have handholds so that people who are exiting the raft to right it have something actually that they can definitely hang on to without sort of putting their lives at risk, is that correct?

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A. That is correct. The experience of both rafts was that they both tipped over, that is a current occurrence in these type of conditions. Then there should be, in my opinion, a very safe procedure for whoever is going to exit the raft and as your Worship observed this morning the extraordinary heroism of Richard Winning who placed himself at extreme risk. There was no handholds, a righting strap is not a handhold and the righting strap on these rafts is a fairly fine piece of tape and had Richard been caught by one of these waves he would have been washed off that raft.

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HILL: I think in fact that your Worship will see in the video similar to this type of raft when it's trying to righted the strap actually beaks, it comes away, with the result of course that the person would have been washed up and gone.

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Q. The other thing that you do bring up is that you must accept that in seas like this rafts will be turned over and people will find when the raft is turned over that it will be more stable and that some thought should be given to some sort of valve system so that you can breathe under such circumstances, is that correct?

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A. That's correct. I see no reason, your Worship, why if we had had access to a section of velcro or zip system which was properly reinforced, which could have been unzipped to let air in and if and when the raft was thrown over or righted could have been closed again, then we would have survived.

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Q. I think the other thing that you have said is that the gas bottle actually came adrift and loose and the gas bottle that you talk about I think in your raft was actually underneath, was it?

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A. It was exterior. As I understand it it was housed in a section attached to the inflatable section.

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Q. I am told that the pro-saver(?), the life raft you had, it was underneath.

A. Yes.

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Q. That came loose and adrift so that it was on the end of its tube and simply banging up underneath, is that correct?

A. Yes, that bottle was being thrown around when the raft

was being tossed around, so that was quite a lethal weapon.

Q. The other thing that you did is you had these things that you wanted brought to the attention of the race review committee of the CYCA, is that correct? 5

A. Yes.

Q. And you wrote a letter to the commodore, Commodore Hugo Van Kreshmer(?), listing all these things and asking the committee to look into them? 10

A. That's correct.

Q. Did you receive any reply to that?

A. No, I haven't. 15

CORONER: Q. When did you write the letter?

A. My copy is undated but a covering letter that I sent to John Stanley where I copied it is dated 10 June.

Q. So it would have been around that time? 20

A. On or about 10 June, your Worship.

Q. June 1999?

A. Yes, your Worship. 25

HILL: Q. And you have received no reply to that?

A. That's correct.

Q. The other thing that is of interest are EIPRBs. What's your thought with regards EIPRBs both personal and the ones on the life rafts? 30

A. Your Worship heard evidence this morning that the antenna of the EIPRB on the Winston Churchill was of a telescopic construction and rigid steel and it was observed that it had fractured with the movement in the life raft and Richard Winning expressed the opinion it may have in fact severed the bottom of the raft. I don't know. But in any event it would appear that that EIPRB didn't work because the antenna had broken. I would have thought it appropriate to make antennas that are totally flexible and can't constitute a hazard in the life raft or to other people and that EIPRBs in life rafts are likely to be tossed around and aerials will be bent and provisions should be made for that. 35 40

Q. What about personal EIPRBs? 45

A. Well, since Hobart I went and bought one.

Q. What about your opinion on training in life rafts and safety procedures?

A. Well, my opinion is it's absolutely essential. 50

CORONER: Q. It's a whole new world you'd say?

A. Yes, your Worship.

HILL: Q. I think that I have covered just about everything but is there anything else that you would like to bring to the attention of the inquest? 55

A. Your Worship heard evidence from Richard this morning

that the navigational equipment of the Winston Churchill was rendered inoperable. At the time the Winston Churchill was going through its problems in the same area there were not less than seven other vessels I think including Kingura, Solo Globe Challenger, Midnight Special, B2 and Sword of Orion were having problems. I don't know and it might be not a matter for this Court, they also would not have been able to accurately give a position by reason of their navigational systems going down and I think some consideration should be given that standard procedure on vessels is to regularly record a latitude and longitude on some form of record which is virtually indestructible, such as a blackboard or a slate or something that's attached to the navigational area, which was the very problem that we experienced. That is my recommendation.

Q. Those are contained in a letter by you dated 16 March 2000 and the other letter to the CYCA, the commodore, contains also those recommendations, is that correct?
A. That's correct.

EXHIBIT #20 LETTERS DATED 16/03/00 AND 10/06/99 TENDERED, ADMITTED WITHOUT OBJECTION

CORONER: You have just about finished and I have finished. Will you be long, Mr Santamaria?

SANTAMARIA: No questions.

HARRIS: You Worship, I don't have any questions but I hope you'll permit me to thank Mr Gibson on behalf of the yachting community, I think that's appropriate, very cogent and constructive criticisms.

CORONER: My word. That's note, Mr Harris.

O'HALLORAN: Q. Mr Gibson, prior to this particular race were you acquainted with Jim Lawler?
A. Yes, he was a club member.

Q. You knew, did you not, of his occupation?
A. He was a marine surveyor.

Q. And you knew, did you not, if his experience as a yachtsman?
A. I did.

Q. I take it that his advice and opinion would be advice and opinion that you would respect?
A. I put it higher than that. When I made a decision as to which raft I hopped into I went for the raft that Jim was in.

Q. Not only would you respect his opinion but also readily accept it?
A. I would indeed.

Q. We have heard evidence, and I won't go into it in great

details because it's very clear what the evidence is, but you have heard evidence that for the immediate few hours prior to approximately 4 o'clock on 27 December you were personally very happy with the way the boat was performing?

A. Correct.

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Q. It wasn't sluggish in any way and was handling the sea conditions quite well?

A. The vessel had not taken any water on any occasion I'd been on the vessel and I had sailed on the vessel on not less than two occasions where we set a series of sails including our number 1 spinnaker, we set a number 1 genoa, we pressed the vessel. On each time we returned to Greenwich there was no water in the bilge. I personally helped pack the anchor in the bilges prior to Hobart and I had an opportunity to inspect the bilges and they were dry.

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Q. And virtually all of the day of 27 December the boat was on a starboard tack?

A. It was, that's correct.

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Q. And it would have had the portside bow well under water virtually all of that time?

A. The boat was not heeled dramatically, was no more than I would expect. The Winston Churchill is a deep hold vessel, it sails and is designed to sail at an angle. It was sailing as I expected it to sail.

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Q. But as opposed to the starboard side of the bow the portside would have been more likely to be under water having regard to the angle of heel?

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A. The portside was under water.

Q. You told the inquiry that there was no discussion amongst the crew about pulling out of the race?

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A. None.

Q. And I take it you would agree that the crew were interspersed throughout the boat with some members of the crew on watch, others down below?

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A. Correct.

Q. And shortly prior to the incident of about 4 o'clock there would have been approximately four or five hours of daylight left, would that be right?

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A. If we were into daylight saving, certainly it didn't start to get dark until almost 9 o'clock the following night because I recall we were hoping for planes to find us prior to getting dark and I think sunset was as late as 9 o'clock the following night.

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Q. So there was still a considerable amount of daylight available?

A. It was daylight.

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Q. Was there any talk amongst the crew as to what tactics would be employed after dark?

A. Not in my hearing.

Q. Did you personally have any conversations with Mr Lawler in relation to tactics that would be developed over the immediate few hours?

A. No.

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Q. And to your knowledge Mr Lawler gave no advice that was inconsistent with the consensus of you that the boat should remain in the race and not retire?

A. Never discussed in my hearing, I heard Jim make no such comment.

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Q. One final matter, Mr Gibson, in relation to the incident of the cutting of the opening in the life raft. You were in the life raft with the gentlemen that have been described and I think it would be fair to say, would it not, that with Jim Lawler and John Stanley and Mike Bannister, yourself and John Dean that you were in the company of some highly experienced yachtsmen?

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A. I was indeed.

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Q. And would it be correct to describe the decision made to cut a hole in the life raft as a decision made by a committee of experienced yachtsmen in an emergency situation?

A. It certainly was, yes.

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<WITNESS RETIRED AND EXCUSED

DISCUSSION REGARDING WITNESSES AND EVIDENCE FROM THE CREW OF SWORD OF ORION

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<PAUL PATRICK LUMTIN(3.46PM)
SWORN AND EXAMINED

HILL: Q. Mr Lumtin, would you give the inquest your full name please.

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A. Paul Patrick Lumtin.

Q. You address, sir?

A. 3 The Road, Belair.

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Q. And your profession is an accountant?

A. That's correct.

Q. You were aboard the vessel Winston Churchill?

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A. Yes.

Q. For the 1998 Sydney to Hobart race?

A. Correct.

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Q. What was the position that you occupied?

A. Navigator.

Q. Does that also make you the wireless operator?

A. Yes, yes when I am on shift, yes.

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Q. Would there be others on shift as well?

A. On shift operating the wireless while I am on shift?

Yes, sure.

Q. So it's not as if it's your exclusive position?

A. No, not at all.

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Q. The situation was that you went aboard the vessel when?

A. On the morning of Boxing Day, on the 26th. We boarded the vessel at around about a quarter to 10 I think.

Q. About a quarter to 10?

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A. Yes, I think we arrived at about between 9.15 and 9.30 and we had a few errands to run while we were there and we boarded at around about a quarter to 10, yes.

Q. And no-one spoke to you about any missing corking or anything like that?

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A. No.

Q. You set sail, you went across the start line and down the coast. What was the weather like on the first day?

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A. The weather was quite good. We expected to have a northerly behind us for the better part of the day. Yes, the weather we expected on the way down was quite good, it was nice sailing.

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Q. Were you on duty on the radio at 8pm on the Boxing Day, that's the day of the race, for the first sked, the radio schedule?

A. Yes, it wasn't actually my shift but I was up. So I was around, yes.

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Q. Did you hear the weather forecast?

A. Yes I did, yes.

Q. Did you hear the weather forecast for a storm warning south of Merimbula?

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A. Yes, I did.

Q. What do you understand as a storm warning?

A. Well, what I understand of a storm warning originally, as good as my memory serves me, was that here was a gale warning and it was upgraded to a storm warning. I understood that we were going to expect 40 to 59 knots of winds and we were going to expect a 5 metre sea.

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Q. Was that your understanding then of a storm warning?

A. Yes, yes.

Q. So you were fully conversant that that was the highest type of warning that you could get?

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A. My understanding is that there are levels of storm warnings, and that's only from what I have heard in my chatting and, you know, experience with other sailors in that there are three levels of storm warnings. I am not entirely sure exactly what they are but in the company of the sailors that I was in at the time when we received the storm warning everybody heard it and there was nothing particularly said about it which would suggest that we were

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going to get the weather that we did get.

Q. When you say there is three levels of storm warning, what for?

A. When I say there is three levels of storm warnings - once again this is only just through my short experience in storm warnings and I have just heard that there are different levels of storm warnings, I wouldn't be able to tell you what they are.

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Q. Do you know what scale that's from or--

A. No, I don't, no, and that's not a Beaufort scale. I have just heard that there are other levels of storm warnings. Once again this is not something that I have come up with and something I rely on but just something that I have heard of.

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Q. So that was your understanding at that stage?

A. At that stage, yes. That was my understanding, yes.

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Q. Did you understand what the winds were going to be?

A. Yes.

Q. And what were those again?

A. Well, the winds had been upgraded to 40 - from 30 to 40 knots to 40 to 50 I believe at that time.

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Q. What did you understand by that, that you would get a maximum of 50 knots or what?
(No verbal reply)

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Q. I'll put it in this way. What we are told is that you must take the wind that you get, as it were, at 40 to 50 knots, then you add 40 per cent. You look somewhat startled.

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A. Certainly not my understanding, no.

CORONER: Q. What I want is your understanding, on oath, of what you believed to be the position to be at the time you went on that race.

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A. Okay. Well, when they say 40 to 50 knots my expectation at the time would have been 40 to 50 knots probably gusting to 60.

HILL: Q. So that's what you thought you would get?

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A. Mm.

Q. Was there any talk about what the gust would be?

A. No.

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Q. Nothing at all, 40 to 50 knots, that's it?

A. That's what we expected, yes, I think that was the general consensus of the crew. We certainly didn't expect 70 knots.

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Q. Do I take it that when you say that you were expecting 40 to 50 knots with gusts of 60 was that you would have a steady wind of between 40 and 50 and now and again you would

get a gust of up to 60?

A. That's correct.

Q. How long would the gust last, what did you expect?

A. A gust, something that lasts no more than 5 seconds I imagine. 5

Q. That's what you were expecting?

A. Yes, up to 60 knots, sure, yes. 10

Q. But a gust that lasts about 5 seconds?

A. A gust above and below to me, yes, so sometimes 40 knots, sometimes 60 I suppose, yes.

Q. And was there any disquiet about such winds? 15

A. No. No, there was certainly talk about the winds and the weather and it was certainly priority. I don't recall the exact nature of the conversation but I do know that we were all of the understanding that it would be quite rough. And I have never been in 50 knot winds before, or prior to that date, so I didn't really know what to expect. So really relying on the knowledge of people like Steamer and Bruce and Jim. 20

Q. That's Mr Stanley-- 25

A. That's correct, yes.

Q. --that's nicknamed Steamer?

A. Yes, sorry, yes, John Stanley. 30

Q. And who else?

A. Bruce Guy ..(not transcribable).. Hobart and Jim Lawler.

Q. And they didn't express any disquiet about such weather?

A. No, there was no over-concern about that, no. 35

Q. I think the next day it began to become increasingly difficult with regards to the weather, is that right?

A. I don't know whether it became increasingly difficult, I think that everything that was going on was obviously well within the parameters of what these blokes had expected. There was certainly no alarm and I don't believe that up until early that morning there was any talk about the weather being other than expected. 40

Q. Were you at the radio during the morning, that's Sunday morning the 27th? 45

A. On and off. I was really kept busy on the deck at that time because we had had a fairly rough night and I do remember getting called off my off shift to come up and help raise some sails and help on the front deck with Mike Bannister and I actually did spend quite a lot of time up there. So I think I was up for probably a good part of 12-15 hours or something. 50

Q. How many Sydney to Hobarts had you done before this? 55

A. One before that.

Q. And what other type of sailing had you done?

A. I have done some sailing with Richard Winning, I have been sailing with him for about three years in the harbour on and off. I have done another ocean race, Sydney to Southport.

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Q. The previous Sydney to Hobart that you had done, what year was that?

A. That was 1997.

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Q. During the morning, that's the Sunday morning of the 27th, did you do any radio watch at all?

A. I can't remember.

Q. At any stage do you recall radio messages from other vessels in the yacht fleet giving weather broadcasts?

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A. From other vessels?

Q. Yes, from other vessels?
A. No.

Q. Other than, of-course, the sked--
A. The sked. 5

Q. The sked and the Telstra control?
A. No.

Q. Did you hear any other vessels? 10
A. No. No, it was pretty unusual to hear other vessels.

Q. So you didn't hear them, all you heard was Telstra control, was it?
A. That's correct, yeah. 15

Q. Well, how would you know when to come up to give your call sign?
A. Oh, the skeds were-- 20

CORONER: I think he misunderstood you. He was talking about the sked.

HILL: Q. So you heard other vessels during the sked?
A. Oh, sorry, I misunderstood your question. 25

Q. That's all right?
A. I thought that you meant between skeds, had I heard other vessels radioing to us. 30

Q. No, my fault. During the sked you could hear other vessels?
A. Yes.

Q. Did you hear any of those giving weather warnings during the skeds? 35
A. No.

Q. You didn't hear the Sword of Orion?
A. No, I didn't, no. I, by the way, didn't do all of the skeds; because we had on and off shifts generally somebody else would do the sked if I was down below sleeping. 40

Q. Do you recall who did the 2 o'clock, 2 pm Sunday afternoon?
A. Yes, that was John Dean. 45

Q. John Dean did that one, I see, all right. Where were you when that one was being done?
A. I was actually still up on deck at the time the sked was about to commence and I kind of rushed down very quickly to catch the beginning of the sked and the weather forecast and I was actually a bit late for it. I thought - Well, that's not a problem because they do one before and one after - so I sat down, I was - I did my normal thing that I do before a sked, I take a plot, I mark it on the chart, I do a bit of cross-referencing; check the instruments, make a log note and I was getting really, really tired and I was finding it 50 55

hard to stay awake so I asked John would he mind just sitting down and radioing out our position when we were called and he did that.

Q. Okay, because you were I take it quite exhausted? 5
A. I was really exhausted, yeah.

Q. And once you sat down and you began to fall asleep? 10
A. That's right.

Q. And so John took over for you?
A. That's right.

Q. Now, did you remain asleep after that or what was the situation? 15

A. What happened was I left the coach house and I went downstairs and I knew that I was actually going to be down there asleep for a while because I'd been up for so long and I thought - Well, the first thing I'm going to do is to get some comfortable dry clothes on and jump into my bunk and see if I can get some sleep - so I think it might have been around about 2.30 by the time I went to sleep, a quarter to three. 20

Q. How long does the sked take? 25

A. The sked - it depends - on average around 40, 50 minutes and we were always at the end because we're W so it was always a bit of a week - a drag to wait till W so I was finding it hard to stay awake. 30

Q. So by the time it starts at 2 o'clock?
A. It's normally finished by about ten to three.

Q. And you're one of the last ones on?
A. That's right, yes. 35

Q. So you actually did plot where you were?
A. Yes.

Q. At 2 pm on the Sunday? 40
A. That's right.

Q. And that was radioed through you presume?
A. Yes, I assume it was. I wasn't there when it happened but, yes. 45

Q. And then you went to get some sleep?
A. Yes.

Q. What's the next thing that occurs as far as you know? 50
A. Well, as John said before, I was asleep in a little cubby house which is after the mast on the starboard side of the boat and all I remember is waking up with a really loud crash and I got thrown from the starboard side rear of the boat to the port side just in front of the mast. I got literally thrown out of bed. 55

Q. Which side of the vessel were you asleep on?

A. I was on the starboard side.

Q. You were on the starboard side, what wakes you up, being thrown to the port side?

A. No, hitting the deck.

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Q. Or the crash?

A. I don't actually remember flying through the air but I do - I woke up when I hit the - I actually hit the corner of the bunks and the floorboards because all the floorboards came loose and I was actually wedged down in the sail and stuck in between the floorboard and that's when I hit the side of the boat and, as John said, it was like a big crack of thunder. It was just a big crash.

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Q. Now, the floorboards have come up?

A. Yes.

Q. And you've seen the bilges, have you?

A. It was like a bomb had gone off. I didn't particularly see anything at the time. I remember seeing John and he had a cut on his head and it was all very surreal like, you know, the floorboards were up, there was food everywhere, there were bananas floating in the water and apples and there were bags floating around.

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Q. Well, where were they floating?

A. Well, when the boat had tipped up the floorboards had dislodged and there was quite a bit of water at the front of the boat on the port side and just underneath the floorboards so where the floorboards had dislodged there was water in the boat, there was quite a bit of it, and at some stage where the boat would become uneven or get rocked by the waves obviously we weren't on tack anymore but we weren't actually - I don't think we were actually sailing, it didn't feel like it, it just felt like we were flopping around, and as the boat would move the water would fill up in one area so it would actually come above the floorboards and it had bananas and tins of food and bags and books and all sorts of stuff floating around in there.

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Q. Well, what's your impression of how the vessel filled with water?

A. I couldn't see any water coming in. I certainly couldn't see any visible evidence of water coming in. With the amount of water that was there in the boat I could only imagine that the initial large volume of water that came in literally came in through the door. I think that's how it came in and the reason I believe that is because in the coach house it was really waist high full of water, it was full and it had obviously come in that way but because I couldn't see any evidence of water coming in through the sides of the boat I can only conclude that it was coming through the bottom somehow.

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Q. Right. What did you do then?

A. Well, I only had a T-shirt on so the first thing I did was try to find some wet weather gear and some warm gear to

put on, the water was quite cold so I rummaged around and I found my jacket. I couldn't find my pants and as I was looking for it Jimmy Lawler and Mike Bannister were talking about getting things straightened up down here, you know - Everybody stay calm, we're okay. Mick Bannister said to me - I think this is going to be an early ticket home for us, guys - in other words, I don't think we're going to get to Hobart, I think we're going to have to pull out. So Jim and I started to fix the floorboards at the front of the boat with these two long floorboards that John talked about and we started to put them back in and we couldn't get them quite in but we good enough and tried to tidy up a bit and I don't suppose at that time for maybe a couple of minutes I realised the danger we were in until I saw the water and I saw that there was a bit of commotion going on outside. So after I'd done that I found my pants as I was trying to fix the floorboards. I put those on. I thought - Well, the first thing I'd better do is get back to the coach house and find out what's going on, get a report on any damage that might have happened and get a mayday out. So I did that. I went back and I was quite surprised at the damage to the coach house. As Richard's already said, all the windows were smashed in.

Q. Which side? 25

A. They were smashed - the foreside windows were smashed, yeah. There were three windows and they were all smashed because I cut my finger on one of them as I tried to straighten myself and all of the equipment was gone, it was like a bomb had gone off in there as well. The charts were gone. The logs were gone, everything was just a total mess. The printer was actually hanging out the window on its leads, on its cords. 30

Q. So when you say "gone", you mean literally swept out? 35

A. Literally gone, not even a chart in sight, not a book, there was maybe a couple of pens floating around. I did have my wallet there and that went, like, there was just - everything that was on that little - we had a little table and everything that was there was literally gone, it had just washed through and taken a whole lot out so, like I said, the weather fax printer was there but it was hanging out the window. 40

CORONER: Q. Can you show me where you're talking about? 45

A. Yes, sure. In the aft of the boat.

Q. What, those windows, that's one of the windows, is it, right at the aft? 50

A. Yeah, you can't.

Q. What can't you see is around the corner?

A. That's not our boat.

Q. Sorry? 55

A. It's very close but it's not our boat. Do you want me to give you an idea of where it was?

Q. Yes?

A. Sorry. Just there's a little coach house that you can see that that one doesn't have and there's three windows on it.

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HILL: Q. Now, you went into the remains of the coach house?

A. Yes.

Q. And what did you do in there?

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A. Well, the first thing I did was try to look for any charts or any logs that might have been lying around but they just weren't there, I don't know where they were. The second thing I did was try to get the GPS working and it had failed. I don't believe that it had failed due to power, it just failed. The reason I don't think it was a power problem was that the radios were still working and they were running off the same power supply and there was still power going to one of the gauges at the back, one of the wing gauges. So I knew that it was getting power to it but it had just failed, it just would not turn on. So Richard then came in, there was a short discussion about, you know, where are we, you know, we had a little bit of a discussion trying to work out where we might be because we didn't get a GPS reading. Then I went forward and got the back-up GPS that we had on board. As Richard's already said, we got one bar, it gave us an error in its reading and we said - Well, obviously this is not going to work. So then what I tried to do was get the HF radio on track to 2102 or 4403 or whatever I could get but we'd actually - I think before the sked, and I generally do this, if somebody's doing the sked and I know that there's a weather fax coming through I'll say - After you've finished the sked can you switch the HF over to weatherfax so that it comes through and when I come back up I can pick it up. So John had obviously changed the HF over to weatherfax, Volment 76, and when I got to the radio I couldn't change the channel and--

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Q. Well, I just want to ask you this: When you say you couldn't change the channel are you actually talking about the log would not physically move or are you talking about no matter what you did it would not come off that particular frequency?

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A. Yeah, this particular HF radio has an electronic selector which means that it has a mechanical feeling knob on it but it's really changing an electronic channel so it's got digital numbers on it, you turn the thing and it clicks but it's not a mechanical thing, it's just clicking circuits over so it had obviously got wet somehow, I mean, I would assume, I mean, a bucket of water would do it, and it wouldn't change off the weatherfax channel. The other problem was that at the time--

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Q. Yes, but you still haven't answered the question, because the knob would not physically turn--

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A. No, it would turn.

Q. It would turn but it simply was not having any relation?

A. Not doing anything, yes. I think the other thing that might be relevant with that too was that the handset on that particular radio also has the ability to change the channels, it's got buttons on the handset, and that was submerged in the water so I don't know whether or not that particular handset that was submerged in the water was sending an incorrect signal to the radio thereby making the manual function not work, I don't know, but that's what I think.

Q. Okay, now you also talk about the wind gauge?

A. Yes.

Q. And power was still going to that. Did you have anything to do with the wind gauges on the way down?

A. Yes, I had everything to do with those, yeah.

Q. Okay, you set them?

A. Yep.

Q. Tell us about the alarm, what did you do?

A. The wind gauges have a wind alarm function on them which is simply just a little buzzer that goes off when the wind hits a certain speed. It continues to show wind over and above the alarm, it doesn't stop. What happens is that if I set the wind gauge at 50 knots it will get to 50 knots. It will sound and then anything above 50 knots the numbers will flash so if it goes to 55 knots it will show 55 but the numbers will be flashing.

Q. Will it continue to sound the alarm?

A. Yes.

CORONER: Q. Well, you heard Mr Winning's evidence about a peaking of 60, have you got any comment about that?

A. Well, I set the alarm originally at 55 knots. I had a chat to some of the more experienced crew members and I said - We should set the wind alarm - Yes, that'd be very handy, we'll set it at 55 knots. It was originally set at 55 and then I last set it at 60 and when it was on 60 it was constantly going off.

HILL: Q. So it was either reaching 60 or going above it, was it?

A. Yeah, it was pretty much above it all the time actually.

Q. Well, what I want to understand is this: That once it goes above 60 does it continually sound or does it sound only five seconds or what's the situation?

A. It continually sounds so it will go off and continually sound. It's not actually that loud. It's not like something that makes everybody jump out of their skin. It's just a quiet little electronic beep so you can hear it if the wind's not in your ear and, yeah, it was pretty much going off consistently. I think what happened, and I'm not quite sure, but generally if a wind alarm gets to a point where it's consistently sounding we either put it up or turn it off.

Q. What did you do?

A. I think we turned it off actually.

Q. Because of when it was--

A. When it was constantly going off, yeah. At 55 knots it was just going off all the time and then I remember putting it up 5 knots to 60. I don't remember turning it off but I imagine that's what would have been done.

Q. You yourself didn't turn that off?

A. I can't remember.

Q. All right, fine. Now, taking you back into the chart house or the coach house, you've told us the radio would not go off the frequency, the weatherfax frequency, what happened then, what did you do then?

A. The first thing we tried to do was because we knew the limitations of VHF radio we'd figured the best thing to do was try and put a call out on the HF radio just in case somebody had it on a weatherfax and they might have heard it. Now, I know it's a transmitting channel but you do those sorts of things in the hope that it just might work. So I think we put about two or three mayday calls out on the HF radio with no response. I continually tried to change the channels, it wouldn't work. Then Richard picked up the VHF radio and I think the first mayday call that we put out was heard and then after that it was acknowledged by the ABC chopper.

Q. Were you present?

A. Yeah, I was standing by actually.

Q. So it was acknowledged?

A. Yep.

Q. What was said first of all by Richard if you can recall?

A. It would have been a standard - I don't exactly know but - Mayday, mayday, mayday, this is Winston Churchill. I think he said words to the effect that we'd been holed, we're taking on water and we were preparing to put the life rafts on deck. I think the response was - How many people do you have on board - and he said - Nine - and I think that's the last acknowledgment that we got back. We continued to try to contact them but we didn't get anything back and I think the reason for that was that at that stage the house batteries had failed.

Q. Now when you say "the house batteries" what do you mean?

A. The boat's batteries.

Q. Now, how do you know it was the ABC helicopter?

A. Because he acknowledged that it was the ABC chopper when he read back and acknowledged the mayday.

Q. Was he loud and clear or what was the situation?

A. Loud and clear, yeah.

Q. Now then you tried to contact them again but you think

it was the house batteries or the boat batteries that had failed?

A. Yes.

Q. Why do you think that? 5

A. Because the radio went dead. We tried about another three maydays after that first one was acknowledged and then they weren't received and then the radio went dead, everything went dead. 10

Q. And would that have been caused by the batteries downstairs being flooded with water?

A. That would be the most probable cause.

Q. So the radio ran off the batteries downstairs where the engine was? 15

A. Correct, yes. Well, I'm not sure but I assume that there were a set of house batteries and a motor battery, that's a separate battery, a separate battery for the motor and a separate battery for the-- 20

Q. So you've got a domestic circuit and a mechanical circuit?

A. That's correct, yeah. 25

Q. And what's the next thing that happens then?

CORONER: Q. Well, before we leave that, I'm persistent if nothing else, try again, I might have the right boat this time? 30

A. That's a better looking boat. Yeah, okay, see those three windows you see.

Q. Yes, I thought that's what you referred to. Now, it's well up? 35

A. Yes. They - I can only assume that they went into the sea and broke through.

Q. And you said it was the port side?

A. That's correct. 40

Q. And you appeared to roll off the port, is that right?

A. Yes, that's right, the boat went over to the port side, yeah, that's correct. Yeah, the windows on the starboard side were intact. 45

Q. They were intact?

A. Yeah.

HILL: Q. So, having left the chart house what did you do then? 50

A. I had a quick discussion with Richard because I was quite concerned about the state of affairs that we were in and I looked at him and I said - Do you think we're going to lose it - and he said - I think we are. So from that moment on we got into survival mode I suppose and among other things the life rafts were brought up on deck. I wasn't actually involved with that. We brought the flares up and 55

harnessed them to the nav gauge protectors and Johnny Dean and myself were at the rear using the hand pump, just pumping, pumping, it was really cold and really uncomfortable but we figured, well, you know, we've got to try everything here. So we did for a period of time. I didn't actually have a harness on. In fact, I think I was one of the few that didn't have a harness on because I'd just got my gear on so I was quite concerned about getting washed overboard because it kept getting broached and so I kind of sat down in the helm area and there was some talk going on between a few guys about - Well, we should put the rafts off - No, we shouldn't put them off - we should put them off - and I can understand that. There was, you know, a small deal of confusion about as to whether we jump ship or not and I do remember speaking to Richard and I recall a conversation at one time where Richard told me that Sir Arthur Warner, who'd once owned the boat, had swapped the concrete with lead but he'd only put the same amount of lead back in and it didn't have that much in there so I thought well maybe it won't sink, you know, and, as Richard said, we were kind of hoping that it would just kind of wallow in the water and anyway we got broached again and I remember sitting down with the raft, tying it on, and I was really not going to go too far from it because I was just hoping to get out of the whole thing alive and the water came over the deck again and there wasn't really any discussion. I just threw the thing overboard. So I threw the four man raft over, threw the thing out, and jumped out after it, swam out and jumped in.

Q. Did you take the flares, the grab bag that you'd organised?

A. No.

Q. Who took that?

A. Nobody, they put it down. We had good intentions of taking them but at the time I just threw the raft and swam.

Q. You got aboard the four man raft?

A. That's right, yeah. I swam out and climbed in.

Q. And I think Mr Winning was with you?

A. Yeah, there was - basically what happened I jumped off before anybody else because I threw the raft so I don't know who was swimming behind me but I do remember pulling in Richard. I pulled in Bruce Gould and I pulled Michael Rynan. At that stage there were - everybody was in the water and I think it was Michael Bannister and somebody else were trying to climb into our raft and I was getting a bit panicky because two things were happening. The raft was attached to the boat and I couldn't see the other raft and I thought - Oh dear, you know, the other raft hasn't gone up, we're all going to clamber into this one - and I don't what happened, I don't know whether I said first - Listen guys, you know, you'll have to hold on or wait till the other raft goes up - but anyway just as that happened I saw the other raft deployed so that swam towards the other raft which wasn't that far away and just as they did that I saw the

EIPRB in the water because I'd given that to somebody on board just before I'd done something else and I said hold that because that's going to be our ticket home and I saw the EIPRB in the water. So I think I - I don't know how I retrieved it. I think I must have half got out of the raft and grabbed the thing and brought it back in with me. So yeah we got into the raft and there was about a foot of water in it which I didn't think was all that flash. I thought it was supposed to be dry but it wasn't.

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Q. I just stop you there. When you retrieved the EIPRB was the aerial in tact?

A. Yeah. Yes the aerial was in tact.

Q. I'll also just take you on from there and you say that there was about a foot of water inside it. This is the round raft?

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A. Mm.

Q. It wasn't that flash. As far as four people, four men getting into it.

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CORONER: We might have to do the raft tomorrow morning.

<WITNESS STOOD DOWN

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ADJOURNED PART HEARD TO WEDNESDAY 22 MARCH 2000

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CERTIFICATION OF TRANSCRIPT

We the undersigned being Sound Reporters do hereby certify that the within transcript is a correct transcript of the depositions sound recorded at the New South Wales Coroner's Court in the matter of

INQUEST INTO THE DEATHS OF JAMES MICHAEL LAWLER: MICHAEL BANNISTER: BRUCE RAYMOND GUY: PHILLIP RAYMOND CHARLES SKEGGS: JOHN WILLIAM DEAN AND GLYNN RODERICK CHARLES

on TUESDAY 21 MARCH 2000

Dated at GOODSSELL BUILDING
this day of MARCH 2000

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