

NEW SOUTH WALES STATE CORONER'S COURT

STATE CORONER: J ABERNETHY

TUESDAY 28 MARCH 2000

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

Mr A Hill assisting the Coroner
Mr R Stanley QC with Mr P Santamaria for the Bureau of
Meteorology
Mr J Weber for the Cruising Yacht Club of Australia
Mr Colefax SC with Mr Jungwirth for Lewis Carter

PART HEARD

CORONER: Yes, Mr Hill, we're starting on the Business Post
Naiad phase of these inquests.

HILL: Yes.

<STEPHEN ROSS WALKER(10.06AM)
SWORN AND EXAMINED

HILL: Q. Mr Walker, would you give the inquest your full
name, please?

A. Stephen Ross Walker.

Q. And your address, sir?

A. 84 Jackson Street, Wynyard, Tasmania.

Q. And your occupation?

A. I've got my own business as a sail maker.

Q. And I think you've been sailing for some 37 years, is
that correct?

A. Yes.

Q. And you were a crew member aboard the vessel, Business
Post Naiad?

A. That's correct.

Q. And I think that you sailed that vessel before the 1998
Sydney to Hobart race, is that correct?

A. I've sailed on that vessel a lot, yes.

Q. Now, as you know, at one stage there was some lead
removed from the keel?

A. Sorry, was that from the keel?

Q. From the vessel itself?

A. Yes, but not from the keel.

Q. Not from the keel. Well, I'll ask you to explain where it was from and what happened. Now, I think you were in races prior to the Sydney to Hobart of '98, yes?

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A. Yes.

Q. Now, what position did you have aboard that vessel?

A. I was usually a helmsman and second watch leader.

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Q. And were you in effect the 2IC on board the vessel?

A. You could well say that, yes.

Q. Well, tell us about the vessel itself with regard to the lead?

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A. Bruce brought the vessel from Sydney as - it had been set up at that point as an international off-shore racing yacht, an II yacht. It was Swuzzle Bubble 5 or 6, I can't remember which one it was, but it was a New Zealand boat. It was owned by an Australian at the time. He bought it. It was a stripped out IOR racer in that it only had pot clots for bunks, didn't have a toilet, had no galley, anything like that, it was right down to the bare minimum. It had been a top performing boat in the Admiral's Cup which New Zealand had won, I think Swuzzle Bubble had actually second so it was a top performing boat. It's built out of carbon fibre, Kevlar and foam and it was quite light for its day. It was a Bruce Farr design, 40 footer. It was an open cockpit, open to the stern, pretty much a flush deck with a small cabin on it and a fractional rig.

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Q. And I think that that is a scale model of it, is that correct?

A. Yes, that's very similar to her, what I'd say it's definitely a scale model and in that state, that's how it was after we had rolled both times.

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Q. Now, you actually saw the tests that were conducted on that model?

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A. I saw some of the tests, not all of them.

Q. And that was with Dr Reynoldson at the maritime college at Launceston?

A. That's correct.

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Q. Well, taking you back now to after the vessel was purchased, now some modifications were made to it, is that right?

A. Well, at that stage the International Off-shore Rule was becoming redundant. It wasn't used as a handicap rule within ocean racing any more so ocean racing was then being handicapped by the newer IMS rule, international measurement system, and to race the boat under that Bruce's intention was to get it up to a cruiser racer configuration so he had to put a lot of fit-out in the boat to do that, to get it up to an IMS cruiser racer standard that needed a lot of modifications, mainly below deck, and it was mainly just

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fit-out, like cupboards, sinks, freezers, bunks, things like that.

Q. Well, there were certain fit-outs that were done?

A. Yes.

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Q. And after they were completed what was the sailing of the vessel like?

A. Well, probably prior to that first fit-out - I wasn't present so I don't know exactly but I saw some of the fit-out being done at various stages. During that first initial when Bruce first bought it and as he was doing that first bit of a fit-out he pulled out approximately 300 to 350 kilos of internal lead ballast which was mainly positioned behind the companionway.

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Q. Just slow down a bit, internal lead--

A. Lead ballast, yes, which was - some of it was loose, as I was led to believe. Now, I wasn't there and I didn't see it but I did see some that was glassed in so it was sat in the bilges in ingots and then it had fibreglass over the top of it and some of that fibreglass had been damaged because the ingots slowly moved as the boat was moving through the water and it had worn through the fibreglass so it became contaminated with diesel and oil and water and all sorts of bilge rubbish and literally stank and it put a bad smell through the boat so Bruce - well, to start with, the fit-out that he was putting in was putting extra weight in the boat - to counteract that weight he was taking out some of the internal lead ballast to counteract that and he took out the stuff that was loose and contaminated which is what he did and I don't know exactly how much. It would have been in the vicinity of 300 to 350 kilos I'd estimate.

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Q. The fit-out in fact put more weight back into the vessel though?

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A. Yes.

Q. Is that right?

A. That's correct.

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Q. So, what was the next thing that happened?

A. The boat was then in that state, it was then measured to be an international IMS cruiser racer.

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Q. Do you know what the limit of positive stability was on that measurement or anything?

A. Look, around about 117 or 120, I don't know exactly, but it was in that vicinity.

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Q. And what was she like to sail as a helmsman after that?

A. She was a very responsive boat. She was nice and light to steer - when I say "light" the boat wasn't light but it was well balanced. You could set her up. You could change the rig. She was a sweet boat to sail. She was particularly sweet up wind and she was a particularly stiff boat, being 14 foot 6 wide and 40 foot long she would carry a lot of sail well up into the wind range because of her

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beam.

Q. When you say she was a stiff boat what do you mean by that?

A. A stiff boat means she would carry her sail up into the wind range further than most other boats and that's a combination of her ballast as in a keel and internal ballast and the weight of the boat and the boat's beam. She was actually quite narrow on the water line beam but she had very flared top sides and when she leaned over at 15 degrees she stiffened up very quickly. 5
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Q. Now what you mean by "stiffened up" is that in fact she could have a lot of sail on without going too far over, is that basically what you're saying? 15

A. Yes, she would basically got to 20 degrees and then she'd very seldom put her gunnel under. She didn't sail well like that anyway but basically she stiffened up quite quickly and then stayed there. 20

Q. Now, you use the term "stiff" to mean that it's not easy to push the vessel over on to its side?

A. That's correct.

Q. And "tender" means it is easy? 25

A. Yes. In some ways - just let me qualify that if I may?

Q. Yes, certainly?

A. She was initially tender because having a relatively narrow water line beam and because of that, like if you stepped on the side of it the boat would move and initially she'd lean to 5 or 8 degrees very easily but then she'd stiffen up quickly and wouldn't want to go any further than that because of the hull form stability from the beam. 30
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Q. Now, I think then further lead was taken out at some stage, is that correct?

A. I think probably two years after that or 18 months after that another - during that period that lead, the fibreglassing that had held it in had become again damaged and that lead was getting just general bilge muck in it and it was beginning to smell too so Bruce took that out and the intention was when we went IMS racing again - or you have to, you have to go and get the boat re-measured under IMS because you've changed the ballast. That would have been done. However, after that was done we actually raced the boat under IMS mainly in Victorian races. 40
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CORONER: Q. When did this happen, this second re-fit or second removal of lead? 50

A. Probably 18 months prior to the 1998 Sydney/Hobart, like I would have thought in the winter, some time during the winter, and again I wasn't present, in the winter of '96.

HILL: Q. And I think it was about another 300 kilograms of lead was taken out? 55

A. Approximately, yes.

Q. Now, you could then sail it under--

CORONER: Q. You had something you wanted to add?

A. I was just saying that under David Lyon's instructions, he asked me in February, 1999 to go and measure the lead. I didn't realise there was a stability problem at that stage, not that that would have made any difference. However, I did go and measure the lead and faxed a letter to him or a note to him saying that - and the measurement said there was 680 kilos of lead under - that's what I measured the lead to have been taken out of the boat in total was and that was in Bruce's garage under his house and so that was definitely 650 to 680 kilos altogether.

HILL: Q. All told?

A. All told, yes.

Q. Now, after the second amount of lead had been removed you said you could still race it under another, what was it?

A. Under IMS.

Q. And what is that?

A. An Australian measurement system which is a system that the Victorian Yachting Offshore Racing Council were using to measure boats and to conduct their races under. It's a handicap system.

Q. Now, what's the advantage of taking the lead out?

A. It makes the boat slightly lighter so the boat will accelerate quicker down wind and it will also be a little bit more responsive and sail a little bit faster up wind in light breezes. The down side of it is the boat is not quite as low in the water so it loses a little bit of stability going up wind and also when its reaching at 90 degrees to the wind. So the boat's not as powerful when you can't put as much sail on and the boat won't perform quite as well under those circumstances.

Q. Now, in fact with these measurements that they take they measure the hull, is that correct?

A. Yes.

Q. From water line to some point on the deck?

A. Under the IMS rules they do, yes, and they in fact put a computer over it to do it, a lot of it.

Q. Now, in fact I think you were saying to me earlier in conference that if you have the vessel measured in fresh water rather than salt water you can get a difference, tell us about it?

A. In the late stages of the off-shore racing rules it was a practice for some boats which is sort of - it's cheating to some degree - was to get their boats measured in fresh water because the density of fresh water is less than salt water so the boat would sink lower in the water and that would make them appear to be heavier and that would - the rating rule would then make them appear to be slower. So they would actually get a better handicap by being measured

that way.

Q. Was this well known?

A. It was reasonably well known, yes. The Americans were probably best at doing it. They'd take their boats up to Lake Michigan and get them measured there. 5

Q. I see, all right. Now, you sailed the vessel after the second lot of lead had been removed?

A. Yes. 10

Q. What was it like from a helmsman's point of view?

A. I thought the boat was slightly more tender. I could feel a slight difference but not a lot, not to the point that the boat was unseaworthy but it was slightly more tender and it was certainly I'd say a little bit more responsive and it was a little bit more difficult to handle in heavy breezes but not grossly. The boat still felt seaworthy and okay to sail. 15

Q. So you could tell the difference but it didn't worry you? 20

A. It was a very subtle difference and you had to sail the boat a lot to have picked up the difference. 25

Q. I see, okay. Now, eventually it was decided to go into the Sydney to Hobart yacht race, 1998?

A. That's correct.

Q. Now, did you know about the stability rule? 30

A. I hadn't followed the IMS rule since the 50th Sydney/Hobart when I was involved in another boat. I knew the boat had to have a certain stability. I didn't know precisely what that figure was but, yes, I knew it had to pass a certain stability test. 35

Q. Now, were you told of the removal of the second lot of lead?

A. No, I felt it in the boat. Bruce didn't tell me he'd removed it and I didn't look in the bilges to see but after a Melbourne/Stanley race when it was blowing 50 to 60 knots for four hours to the east of King Island the boat just felt a little bit softer in the water, a little bit more tender and I spoke to Bruce about it and that's when Bruce said - Well, look, I've taken 300 kilos of lead out, that was probably something to do with it. 40 45

Q. Did you say anything to that?

A. I said to Bruce - Well, I think she's better up wind and reaching in these heavier conditions with that 300 kilos in it. 50

CORONER: Q. So you were saying it was better to have left -you felt it better to have left it in?

A. Under those circumstances. Bruce's reply to that was - I think the boat's better running and in light airs without it - and I said - Well, I don't think it makes much difference in that stuff but you're probably right - and 55

that--

Q. That was the end of that?

A. That was the end of that, yep.

Q. Now, you had nothing at all to do with the entry forms or anything like that of the race?

A. Only to the point where Bruce and Roz came down and stayed with us, bearing in mind that Bruce and I live 180 kilometres apart but we are good friends and see each other regularly, but he came down and stayed with us one weekend in July, 1998 and we just went down and made a list of the things that had to be done to the boat to get it up to Sydney/Hobart standard. He had the notice of race with him. When it came to decide of all the safety gear and all that, the sails and all the equipment that we were going to need for the race we sort of went through and did that. When we got to the stability side of it we just said - Well, right, the boat's got to be re-measured. If the stability doesn't come up to what it has to be we'll just put lead back in it and run it at that. So I didn't actually have a copy of the notice of race, like Bruce had it there with him then, but didn't leave me with a copy and Bruce basically handled the entry and the IMS rating side of it, like getting the boat measured and getting the rating certificate and so forth. I did actually have the ratings in relation to the sails because I actually made the sails but that was the only bit of it that I had on the old rating certificate.

Q. So he was going to handle that?

A. Yes.

Q. And he actually said to you that if it didn't come up to the stability rating then the lead would go back in it?

A. That's correct.

Q. And was the vessel measured do you know?

A. The vessel was measured.

Q. Were you there or anything like that?

A. No, not at all. I think it was roughly measured first in September/October and there was a measurement that seemed to be wrong, like Bruce said - Well, that measurement's no good and it needs to be re-measured.

Q. When you say Bruce said, what he came and told you about that or phoned you or what was the situation?

A. Look, we were seeing each other that regularly I can't remember which particular occasion but he told me at some point.

Q. And it had to be re-measured?

A. Yes.

Q. And do you know if it was re-measured?

A. Yes, it was re-measured.

Q. And what happened after that?

A. I basically don't know other than an IMS certificate was issued and given to Bruce and then he submitted it to the CYC in some form with the entry. I don't know the exact details, I wasn't there and I--

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Q. Was the main purpose of the re-measurement to find out what the limit of positive stability was on the vessel?

A. I don't know but it may well have been.

Q. What was your understanding of what this certificate meant?

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A. The other major thing that we had done we had taken the mast out and actually weighed it and because it was an old aluminium mast the IMS rule takes the weight of the mast to a default value and your handicap is worked out on that whereas our mast was actually heavier than the default value, so by getting the mast re-measured, measuring it and then submitting the actual weights to the IMS rule that would actually lower our handicap which would give us a handicap advantage. So that was one of the main reasons of actually getting all that done.

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Q. So the sole purpose wasn't for the limit of positive stability?

A. Not at all, not at all, but also change some of the sails marginally. So we measured them and optimised them to the point where we were actually measuring only the sails they were taking with them and there'd only be very minute changes on that.

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Q. So would it be fair to say that the IMS certificate the limit of positive stability was simply one of a number of factors that were going to come out of the re-measurement?

A. That's correct.

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Q. Did you see that certificate at all?

A. No.

Q. Do you know what happened to it?

A. No.

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Q. Was it submitted at all to the CYC to your knowledge?

A. I would have thought - well, Bruce would have submitted it to the CYC, whether he posted it or faxed it I don't know.

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Q. And then nothing more happened with regards that?

A. No. Except - can I?

Q. Yes, please do.

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A. Except Bruce did phone me in the middle of November 1998 and he was really excited that the entry had been accepted into the Sydney-Hobart. It had always been a wish that Bruce sail his own boat in the Sydney-Hobart and he was really happy that the entry had been accepted. And I said to him "what about the stability" and his reply to that was "well, it must be right, they have accepted the entry". And I said "well, what was it" and he said "it was 105", well I

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can't remember if he said it was 105 or 104.7, and I said "isn't it meant to be 115" and he said "no, they have accepted it, it must be right". I said "well, they must have changed the actual requirement", like within the IMS rule and brought it down to being 105 or whatever, but because I hadn't seen the rule for some four or five years and didn't have a copy of the notice of race actually in front of me to cross-reference it on I couldn't really comment with that. But I did push Bruce to the point where he was annoyed with me pushing him. Like on the third occasion he said "no, they have accepted our entry, it must be correct" and that was the extent of the phone call and that was the extent of my pushing him.

Q. So you went then along with the presumption of well it has been accepted, it must be correct? 15

A. That's correct.

Q. But there was an understanding then that the stability on that IMS certificate was about 105 at that stage? 20

A. Well, Bruce had told that, yes.

Q. You then brought the vessel up to Sydney in December? 25
A. Well, I wasn't personally on it but six members of the crew - well, five members of the crew plus a friend sailed the boat to Sydney. I think they left Launceston on 18 December.

Q. And you joined them up here, did you? 30
A. Yes, I flew up on Christmas Day.

Q. You crossed the start line at around about 1 o'clock on Boxing Day? 35
A. That's correct.

Q. Did you attend the CYC's briefing on Christmas Eve? 40
A. No, it's only a place for the navigator and skipper to attend as far as I understand.

CORONER: Q. Who was your navigator? 40
A. Peter Keats.

HILL: Q. So they attended? 45
A. They attended, yes.

Q. Did they come back and tell you about it or did you hear about it when you came up on Christmas Day? 45
A. They talked about the briefing only in general terms and certainly talked about the weather. And on Christmas Day I got weather information from the Launceston MET office, I had rung them up and got all - and got them to fax - well, got the weather faxes all through from there prior to leaving Tasmania on Christmas Day and certainly the main topic of conversation between most of the crew, but particularly Bruce, I and Peter, was the weather. 55

Q. On Christmas Day what was your concept of what weather you were expecting?

A. I knew we were going to get a secondary front through Bass Strait and I had spoken to the MET office in Launceston, I am not sure who the meteorologist was that I spoke to but his assessment was it's a low, it will probably deepen, it could go he thought to a maximum of 55 knots to around about 50 knots, could blow 50 knots, or he said it may just dissipate and you might only cop 30 to 35 knots. But I sort of remember eating Christmas dinner and thinking well I am going to be wet on the night of the 27th and 28th, it's going to be a wet crossing across Bass Strait and we are going to get a bit of breeze. 5
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Q. Boxing Day morning there was I think a place set up where the weather bureau were handing out pamphlets and things like that? 15

A. Yes.

Q. Did you attend that?

A. Yes. 20

Q. What was the weather forecast at that stage, do you know? 25

A. At that stage certainly for heavy - like we were going to get a front on the night of the 26th, basically a southerly change coming down the coast at 20 - no, sorry, at 30 to 40 knots and then they were expecting strong to gale winds in Bass Strait the next day I think at that stage, I don't remember it exactly but we were certainly going to get a fair bit of breeze, a secondary front coming through Bass Strait. It wasn't a storm warning at that point though. 30

Q. Was there a gale warning that you recall?

A. I think it may have been a gale warning but I don't recall clearly. But certainly we were concerned about it and Peter Keats actually asked - went to the guy there and asked him what he thought the low would do and got a bit of an offhand answer in that he said "well, if I knew I'd tell you but I am not God" sort of thing. 35

Q. The guy where? 40

A. I think it may have been the main meteorologist who attended the briefing.

Q. So Keats went to see a guy at the weather--

A. No, at the briefing. I am not sure if it was the CYC briefing or on Christmas day but I think it was after the briefing on Christmas Eve. He was concerned about the low deepening, and when it deepens it usually means it's going to blow. He had some concerns about that and just wanted some additional information on it which wasn't forthcoming. 45
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Q. You went down towards the south coast on the first day and I think there was a weather forecast certainly at 8pm on the sked, the radio sked?

A. I think we first heard of the storm warning at about 2.30 on the afternoon of the 26th, I am not sure. On the first weather sked we heard that it had been upgraded to a storm warning, 45 to 55 knots, we certainly knew that. 55

Q. So that was the voluntary sked in the afternoon?

A. Yes.

Q. You listened to that one?

A. We always have an HF and a VHF radio going all the time on the boat. 5

Q. And you heard of the storm warning then?

A. Yes. 10

Q. You said winds of 45 to 55?

A. That's right.

Q. What did that mean to you?

A. Well, to me a storm warning is unusual in Bass Strait so I thought well we are going to get out backsides kicked here and that we were probably going to get steady 45s to 55 knot winds and gusts probably to 65, maybe the occasional gust to 70 knots. That would be my interpretation of the situation. 15

Q. When you talk about a gust up to 70 knots, how long a gust? 20

A. You'd probably expect a gust to last anything from a few minutes to probably 10 minutes.

Q. Have you heard of the rule that the weather bureau says that they issue a mean wind and then you add 40 per cent on top of that? 25

A. Never.

Q. You have never heard of that? 30

A. No.

Q. But aren't you in fact doing that when you say the wind is going to be between 45 and 55 but you are going to expect gusts up to 65-70? 35

A. Yes, a gust is a gust and it's there and it's gone, it's not building the sea for the whole period. If you have got a steady wind up at 70 to 80 knots for a long period it builds that sea up and then it becomes dangerous and treacherous. So the wind itself is not a problem, it's when it builds the sea. 40

Q. I understand that but what I am asking you to turn your mind to is the rule about the 40 per cent on top of a gust. Aren't you in fact employing that, that you are looking at what they are giving you is in fact an average wind and then you yourself say therefore I will get gusts up to-- 45

CORONER: Q. I expect gusts, I mean you have said it in evidence. 50

A. Yes, that's right, I would expect gusts, I mean that's been my experience in sailing for 37 years. That's my experience. 55

Q. Is it fair to say, and I am not trying to push you, although you didn't know this formula of the weather bureau you have probably read about the weather bureau's--

A. I have never read it before. I have since, not prior.

Q. But since this inquest. Although you didn't know about the 40 per cent the weather bureau is talking about you are employing that--

A. Well, 15 knots is not exactly 40--

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Q. ..(not transcribable).. experience 15 knots above the top.

A. 15 knots is only what, less than 30 per cent, probably 25 per cent.

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HILL: Q. Whatever it is what you do is you do add for gusts?

A. You do.

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Q. No question about that?

A. That's correct.

Q. You were then saying but when you get steady winds. What was the winds that you were getting?

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A. When, on the 27th?

Q. Yes, on the 27th.

A. Well, I guess sailing down on the Sunday morning we were in - like after the initial southerly front had gone through we were in sort of 20 to 30 knots on the Sunday morning, clear - well, basically clear skies with some cloud but we could see a bank of cloud to the south and we knew that that would be the secondary front. I guess we were concerned, we didn't know - we were concerned about that front but the forecast was still saying - sorry, I am probably not answering the question.

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Q. No, go on, you were concerned about it?

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A. That it was still saying 45 to 55 knots. At that point we were getting close to being abeam of Gabo Island and virtually at the point of no return. You are sort of committing yourself to going across Bass Strait or sailing back to Eden, you have really got to that point, we were getting to that critical point.

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Q. You were concerned about this front, you could see it building?

A. Yes.

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Q. What was said?

A. The forecast was still 45 to 55 knots and a storm warning. Look, often the boat could handle 45 to 55 knots and as I said could probably handle squalls up to - gusts to squalls up to 70 knots without any trouble.

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Q. But was there any discussion about putting in to Eden? In other words--

A. We were concerned about the weather enough to think well should we keep going or should we turn back.

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Q. What was said? If you can recall.

CORONER: Q. First of all could you tell us who the discussions were between, Mr Guy obviously, yourself--

A. Bruce Guy, myself and Peter Keats. And I think - I am not sure who else might have been there but perhaps Rob and perhaps Tony Guy. But primarily between Peter Keats and myself and Bruce Guy.

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Q. In answer to that question can you recall basically what was being said at this point when you were - where were you, abeam of Gabo Island?

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A. Probably in that vicinity, yes. We were concerned about the wind being strong and if it was going to be - like if the winds were - I can't recollect the exact words but we were giving the secondary front due consideration as to whether we should sail into it or sail back out of it.

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HILL: Q. What made you go on?

A. We felt the boat could handle 45 to 55 knots capably and the forecast hadn't changed from - like it had been issued at 2.30 the previous afternoon at 45 to 55 knots and it was still 45 to 55 knots, it hadn't changed. There had been no increase in the wind speeds and we were comfortable that the boat would handle that and the crew. And the crew were all in good shape, the boat was all in good shape, we had no problems at all.

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CORONER: Q. With expected gusts I take it?

A. Yes.

HILL: Q. So what you were expecting is this, you were expecting steady winds between 45 and 55 knots?

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A. That's correct.

Q. And you were expecting gusts on top of that reaching a maximum of about 70 knots?

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A. That would have been the extreme that we would have thought out of that system under that forecast.

Q. But that's what you contemplated it was a distinct possibility?

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A. Yes.

Q. How long would you have expected those gusts to last?

A. Anything from 2 minutes to perhaps 10 minutes, 10 perhaps 15 in squalls. Like a gust is a long squall.

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Q. And you would expect to handle that, would you?

A. Yes.

Q. So you were expecting the gusts to then die back to say a maximum of 55?

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A. Yes, and perhaps even moderate. Like initially the storm warning was for 6 to 8 hours so we thought we'd cop it pretty hard 45-55 knots for that period and then the weather would abate.

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Q. And did that change?

A. Through the afternoon of the 27th?

Q. Yes.

A. Certainly did, the winds just got steadily heavier. When we got in under the front initially it just went straight to 35. At the time we had triple reef main and number 4 on - sorry, a double reef main and number 4 on, as soon as we got in under it we put the third reef in the main, the breeze went straightaway to 35 knots, perhaps 40, and then just continued to build. I think at about 45 we took the number 4 off and just proceeded under triple reef mainsail. And that stayed there till 65 knots and we took that off and put the storm jib up. 5
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CORONER: Q. To 65 did you say?

A. Yes. 15

Q. Did you put the storm jib up at 65?

A. Yes.

HILL: Q. What about the seas, what were you expecting?

A. At that stage the seas were relatively benign, like the wind was blowing that hard it was just blowing the seas relatively flat but they were building, and we were in probably one of the worse possible spots, like right on the corner of Gabo. We were outside - we were off the shelf, we were outside the shelf probably 15 miles east of the run line approximately and outside the shelf and we thought that was probably safer than being on the shelf, we would have expected bigger seas on the shelf. We were keen to keep outside in deeper water where we thought the seas would be safer. But we were right at the critical point where the southerly set hits the Bass Strait water and makes a bit of a washing machine of it. 20
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Q. What was your anticipated highest seas that you were likely to encounter, the wave size, and that's from trough to peak? 35

A. I think the forecast at that point was sort of like 6 to 10 metres.

Q. You are confident in that? 40

A. 6 to 10 metres is normal sailing to me.

Q. Is what?

A. Normal sailing, like I am used to sailing 6 to 10 metres of seas. 45

Q. You have told us it was getting up to 65 knots and that's when you just went under the storm jib?

A. We took the mainsail off and put the storm jib up and still continued with the storm jib, yes. 50

Q. Is that gusts up to 65?

A. I guess it was pretty much - it was gusting up to that point and it was probably a steady sort of 55-60 at that point, gusts up to 65. At about the same time we heard Sword of Orion radioing through that they were in 75 knots. 55

Q. So this would have been some time about 2 o'clock in the afternoon?

A. Probably 2 o'clock or a bit later.

Q. Of the 27th?

A. Yes.

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Q. What sort of seas were you getting at that stage?

A. I guess the seas were probably only no more than 10 metres at that point, they were more long ocean swells than seas because the wind was just blowing the seas flat, like the little waves on top were just blown flat by the spume and the wind, but the rollers were there and building.

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CORONER: Q. Did you know Sword's position when you heard them talking about those sorts of winds?

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A. I think she was around about 15 miles south-south-west of us.

Q. South-west of you?

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A. Yes.

Q. 15 miles south-west. What did that mean to you, anything in terms of that particular area of water?

A. We were pretty concerned.

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Q. Why?

A. We were at the point of no return, we had to cop it on the chin. There was no way out of it, we either sailed south into it or we sailed north out of it. If we sailed north out of it we had to go back in over the shelf, if we sailed south we probably kept out off the shelf and out in clearer water and there was just no way that we were going to get out of that 75 knots of wind. We were trapped.

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HILL: Q. So your position at that stage it would be fair to say that you were trying to get out into clearer water rather than go back in?

A. Yes.

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Q. Were you now still racing or are we talking about survival?

A. More survival than racing, I mean the course was still due south but that was probably the most seaworthy course that we thought we could keep the boat on at that point.

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Q. Would it have helped you if other vessels within the fleet had radioed through the seas and the wind that they were getting and their various positions?

A. It probably would have but we were probably still at a point of no return.

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Q. Yes, but would that have enabled you to have a more informed decision as to what you were going to do or would it have made no difference whatsoever?

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A. It wouldn't have made a big difference because they copped it at about the same time as us. There wouldn't have been a big difference what we would have, we would want to

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have known a better forecast earlier. We were probably at a point of being say 60-70 miles south-south-east of Eden and really 40-odd miles - not 40 but say 30 miles south of Gabo and you have really got to get back into the lee of the land to get back out of it, there is no other way out of it.

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Q. Can you explain this, that when eventually the vessel did roll and it was dis-masted and you turned round and motored back--

A. Why?

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Q. --why, why turn back if you've just explained to us that this was a point of no return?

A. I think at that point the winds were at that point the winds were up to we were seeing constant 78's to 87 knots of wind on our wind - prior to the actual roll--

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Q. Right?

A. --for the last half hour prior to the roll which was about 5.30, we were seeing winds steady at 78 to 87 knots, we still felt under that - prior to the roll, that it was still safest heading pretty much due south, but at times it was south east, at times it was sort of south west depending on where the wind was flicking, but once we had rolled and the boat was damaged and we'd lost the rig we probably had 24 to 30 hours of diesel on board, basically our tanks were full but we certainly didn't want to be getting out into the Tasman Sea and away from rescue services. We thought our best bet was to get back up to the closest land and try and get in to the lee of the land, even though we had to go back in over The Shelf which was never going to be good.

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Q. So the position after the roll fundamentally changes in the concept of you only have a motor now--

A. Yes.

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Q. --and a limited amount of diesel fuel--

A. Yes.

Q. --and therefore you're getting back in as close to land as possible for rescue purposes?

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A. If rescue was needed we wanted - we didn't want to be out in the middle of the Tasman Sea.

Q. All right, I'll take you back now to when you were getting that 65 knots and you're under the storm jib, you told us you're beyond the point of no return, what does the weather do then?

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A. Well Bruce was really concerned about it and there was a weatherfax coming through at around about 3 o'clock on 27th and we had a PC which gave us weatherfaxes. We were concerned at the low Maygo(?) cyclic. At that stage it was a 'U' shaped low on the sort of NSW coast Tasmania sorry Bass Strait area. When we got that fax it was still a 'U' shaped low which is usually not as dangerous as a cyclic or a round low which means the wind can go cyclic and when it does that it can go really haywire. The other thing that was - that happened like at probably around 3 o'clock we could see some clear sky to the west of us--

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Q. I'm sorry I missed that?

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A. --at about 3 o'clock when we're in that we could see clear sky to the west of us, like patches of blue sky and sun--

Q. Yes?

A. --and we thought well this is the front and it's going to break up a bit. I think in hindsight it was probably the centre of the low.

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Q. What time was that?

A. Around 3 o'clock.

Q. That was clear sky?

A. Well not - we could see a patch of clear sky to the west south'west of us--

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Q. And sun? Is that in the same direction that the Sword of Orion would've been in from your last--

A. --they may have been further south than that.

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Q. May have been further south, but that was their direction--

CORONER: Q. They were to your west weren't they?

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A. They were to the south'south'west of us.

HILL: Q. So it was in that area down there that the Sword of Orion would've been, whether they were further south or not you're not sure, is that--

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A. No, that's right. It wasn't a big patch of sky but there was a patch of blue sky there and I guess we were hoping that perhaps it would break.

CORONER: Q. We've got evidence of a number of members of Sword of Orion, they sailed through that?

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A. Yes.

Q. Straight through it?

A. Right.

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Q. And the conditions abated completely?

A. Yes.

Q. Is that consistent with where you thought the Sword might have been at that time?

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A. It could well be, yes. It would be fairly consistent I'd imagine yes. I can't say with definition--

Q. Of course not?

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A. But I would expect that.

HILL: Q. That gave you some hope, but what was the weather like where you were?

A. Still blowing pretty hard 65 knots, 60 you know sort of round the 60's.

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Q. How were you reading that off your--

A. Off the - we had a wind indicator at the top of the mast which was relayed down to electronics.

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Q. Now, was your vessel pitching at all?

A. The wind was that hard it was knocking all the seas flat

so that the only thing you had was the big rollers, the big swells, and they were building all the time and starting to break at times, so the boat wasn't pitching a lot, no like it was just laying over on it's side and basically under a reasonable control. Sorry.

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Q. Go on?

A. Until the waves started to break and then we were starting to - like we were - and it wasn't - they weren't breaking regularly but probably get three or four big breakers an hour sort of thing, initially.

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Q. I'm just wondering how accurate the wind indicator was. See if you were pitching whether in fact you're forcing the indicator into the wind and thus getting a false reading?

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A. Well basically we were reaching - like we were probably going slightly to windward.

Q. Yes?

A. Probably going into the waves at about 20 degrees like so we were probably steering it about 70 degrees off the wind and off the waves, sort of basically reaching or just, just, just crack sheets as we call in sailing and the boat wasn't pitching a lot, it was basically more of a sort of - the breeze was basically 70 degrees to us and the boat was fairly steady because we were going across the waves not into the waves.

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Q. Okay, so do you think you were getting an accurate reading of the wind?

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A. It'd be quite accurate like the wind - speed gear on Naiad was accurate, it was good gear, Books and Gatehouse and Bruce had had it serviced and it was, to my way of thinking, quite accurate.

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Q. When had he had it serviced?

A. It was regularly serviced, usually most winters he'd have it serviced.

Q. What did those windspeeds build to?

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A. As the wind build the seas started to build quite quickly until in the finish we were probably up round like when we took the storm jib, the highest wind speed I saw was 87 knots but it was constantly 80 to 85 knots for probably a good half an hour before the first roll.

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CORONER: Q. What time did you take the storm jib down?

A. 5 o'clock and at that point it was 80 knots and the storm jib was overpowering the yacht, the boat was laying over at 40, 50 degrees to the wind and at times travelling out of control on the waves and it was just the sail was dragging the boat along and it didn't matter what you did with the helm you didn't have a brilliant control.

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HILL: Q. You've said that you then took the storm jib down and you went under bare poles?

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A. Yes.

Q. What was the - I think you said the wind was constant for about half hour, what was the speed?

A. 80 to 85 knots.

Q. And that was a constant wind for that time?

A. Yes.

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Q. It didn't drop back at all, you're not talking about a gust?

A. No, no, probably - the lowest I saw and I mean I wasn't watching it constantly but I was down there tidying up the sheets and everything on the leeward side of the cockpit and reading it on that portside repeater and it was constantly 80 to 85, I think I saw it down to 78 and up to 87.

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Q. And that was for a constant period of about half hour?

A. Yeah.

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Q. Is that the half hour that leads up and ends up with the vessel being rolled?

A. Yes. That's correct.

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Q. So what happened?

A. We were always concerned about taking the storm jib off because going under bare poles you can only basically reach across the waves or run with them. We'd tried running with them but the boat'd basically beam, it'd get up into the white water of the wave and the rudder'd then cavitate in the white water and the boat'd just be thrown on it's side and we'd surf down the waves sideways at 25 knots and after doing that three times that that was too dangerous and too risky and the safest way that we could get the vessel through that - those sort of winds was to basically reach or go slightly into the seas and while we had the storm jib on we were doing 8, 9 knots and we could actually have the momentum of the boat and we could actually poke it up into the waves or bear away and miss the waves and we were employing those techniques, but once we took the storm jib off our speed was only 2 to 4 knots and the windage was - there was a lot of windage in the rig and you basically could only steer across the waves and sort of slightly away from them and so it was always a bit of Russian roulette if you like. If you get a breaking wave you were going to have to cop it sweet you couldn't steer out of it's way.

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Q. And the reason you didn't have steerage was because you didn't have your storm jib up?

A. We didn't have enough speed to overcome the windage.

Q. Would you have had enough speed if you'd used your motor?

A. Perhaps.

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Q. Well was that tried or were you--

A. Sorry what?

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Q. --was it tried, was the motor turned on or basically were you still racing?

A. Well, we were considering it, we were still heading south, we'd been bareheaded for three previous periods during the afternoon and the boat had been under a lot. It felt reasonable at that. Bruce was considering starting the motor and heading back, if we did start the motor we'd literally, the boat would not have been able to motor into the wind, we would have had probably better steerage perhaps but with the windage in the rig and motor not being that strong, it'd only push the boat at 6 and half knots at best in flat water. In those seas and in that windage the motor wouldn't have actually done a lot with the rig in the boat. It might have held station - but it would have given us a little bit better control at that point. At that point we were considering whether to actually start the motor and head around and go back, that was certainly on Bruce's mind.

Q. How do you know that?

A. We spoke about it, he said well I'm not sure what's too safe, whether to go back or not or whether to start the motor and go back, but we were still of the opinion it was probably still safest to stay out and try and get through the weather and hopefully it will start to abate. The forecast was still for 45 to 55 knots but we weren't in it.

Q. The time factor for the storm? I think that changed didn't it?

A. It did. From the start it was 6 to 8 hours from memory and then the next Sunday morning it was from 8 to 12 hours and then the 3 o'clock sked in the afternoon I think it was for 12 to 24 hours.

Q. The duration of the storm, would that have had any effect upon you in deciding whether or not to go into that?

A. The longer the storm goes, the bigger the seas get usually.

Q. Would that have effect your attitude to going into it?

A. I guess basically we were still concerned about going back over The Shelf even under motor, prior to losing the rig.

Q. What time was it upgraded from 8 hours duration to, I think you said 12?

A. I think that was early Sunday morning.

Q. Early Sunday morning, well, when you saw that front and I take it that was sometime on Sunday afternoon was it, or in the morning?

A. Probably we first it probably, I'm not sure exactly what time but, it would have been mid morning Sunday morning. Sunday morning I was basically asleep from 9 o'clock to 12 o'clock.

Q. When it's upgraded to a 12 hour duration would it have had any effect on you at that stage before you enter into it to be told that in fact it was going to be a 24 hour duration?

A. Yes it would have concerned us, I mean you just know the

seas are going to worse, we would have been more concerned yes.

Q. Going back to just before the roll, what happened?

A. Just prior to the roll? When we changed to the storm jib we actually got a couple of heavy squalls and actually blew the storm jib out of the headfall(?) track so we had to go and reset the storm jib. We did that and then it got blown out again so the second time we actually tied it to the headfall as well as feed it into the track. So on those two occasions we were bareheaded and the boat felt relatively, like it was only laying over at 20 degrees and felt better, we were probably heading a little bit east of south under those circumstances. So I guess that probably, although we were reluctant to remove the storm jib and certainly I wasn't, Bruce and I discussed removing it and I was for keeping it on and, especially earlier on and so were some of the other crew. But late, like when he said in the finish to take it off, when the wind was up over 80 knots and the boat was literally overpowered and being pushed around by it, I really, it was really a six to one, half a dozen to the other, like you're either going to, like perhaps damage the boat with just the storm jib or run the risk of damaging or not damaging it by being under bare poles.

CORONER: Q. So you had no real opposition to his final decision to take it down by that stage?

A. No, no. I really could say one move was better than the other.

HILL: Q. So it was taken down, you went under bare poles?

A. Yes.

Q. What happened?

A. Probably we'd only been under bare poles perhaps 20 minutes to half an hour or with the storm jib down and, I'd been on deck since from 12 o'clock till then, it was after 5 and I'd been leaving Bruce down to try and, usually he was, the practice, Bruce and I were opposite to each other so if he was below I was on deck or vice versa. I'd been trying to give him as much time down below as possible to assess the weather with Peter and to try and get some rest because we knew it was going to be a long night. I went below, I hadn't eaten since that morning so Peter Keats went to the freezer to actually get me a sandwich and I proceeded to take my waterproofs off, I actually had my waterproof top off but not my trousers but I wedged in between the companionway bulkhead and the companionway, and heard the guys on deck to say - I can't remember the exact words but watch out, but I could hear white water as well and we just got hit by a massive wave right in the crest of it, the boat got lifted onto its side, just laid right over at 90 degrees and sort of then dropped vertically for perhaps 2 or 3 metres with great force and the boat just continued to roll through 360 degrees, the whole thing probably took 10 seconds, very quick.

Q. So it rolled completely over and then back up?

A. Yes.

Q. Who was on deck at the time, can you tell us that?

A. There was 5 on deck, I think in the original evidence there was only 4 but I know now there was 5. There was Bruce Guy, Tony Guy, Bob Matthews, Phil Skeggs and Jim Rodgers. 5

Q. You were told I think that they all went over the side? 10

A. They were all over the side, yes.

Q. No question about that. Then they were all retained by their lanyards?

A. They were all on their safety harness lanyards, yes. 15

Q. Taking you back into the vessel, it turned over, I take it the whole place was a shambles?

A. Yes. 20

Q. What was the damage, did you see any damage to the vessel?

A. One window was broken and cracked, at that point that's basically what I saw but I also had grabbed hold of one of the bulkheads in the companionway which was slip, because it actually cut my hands where I was hanging onto it and I actually got thrown across the boat from one side to the other, through the companionway somehow, I don't know how. The boat took in some water because we had one storm board in and the companionway closed so there's probably a gap of about that by that through which quite a bit of-- 25 30

Q. Sort of, that's what, about--

A. 250 millimetres by 500 millimetres which was half a storm board so to speak, which we left open to keep oxygen and air circulating down below. And that was the only gap that we there. So when we rolled water came in through there but, we didn't taken in great volumes but certainly some water came in through there. You can only take in so much water in 10 seconds in a whole that size. And it was probably 5 or 6 inches of water in the bilge from that. 35 40

Q. Did you go back up on deck?

A. We immediately knew that the guys were over the size, like I mean they would have had to have been so we just went straight on deck and got them back on board. 45

Q. Pulled them back up?

A. Yes. All, there was 4 of us down below and we just, all of just went straight on deck, two guys were in the bunks, Peter was, Peter Keats the navigator who was in the process of going to the, to get me a sandwich, had sails all over the top of him but he just clawed his way out from under those and we just went straight on deck to get the guys back on board. 50 55

Q. Now they were retrieved, the vessel it self was fairly damaged, is that right?

A. Yes that's correct.

Q. What, the mast was off?

A. The mast was broken, yes, and laying down in the water.

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Q. It was in the water?

A. Yes.

Q. Was part of it still on board?

A. Um, yes. Yes if you look at the model the bit that was upright was still there and the bit that's coming roughly 90 degrees down was sort of over, angling out to the gunnel and then the bit that's laying horizontal was all over the side.

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Q. Generally one cuts away a mast that's gone over, why wasn't that done on this occasion?

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A. Our assessment at the time was it was quicker to get it actually back on board, the runner ropes were actually on the winch and Rob was sitting right beside it and he just started to pull the runner rope in and pulled the mast straight back to the boat and we mast back on board in less than 5 minutes.

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Q. So you had ropes still attached to the top of the mast?

A. Yes.

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Q. They were near the winch so you just dragged that back up?

A. Yes.

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Q. If you had tried to cut it away I think it would have taken some time?

A. It probably would have taken us a good 15 minutes to actually cut it free.

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Q. Whereas you had it back on board in a couple of minutes?

A. Yes.

Q. What was the decision then, what was--

A. The decision was to get the mast back on board as quick as possible and clear all the ropes, we had to make sure there was no ropes over the side at all and then we, the plan was to start the motor and start motoring to hold the bow up into the wind. At that point the mast was gone so we didn't have the windage of the mast so the motor was going to be able to manoeuvre the boat much better in those winds without the rig. The plan was then motor back into the lee of land back towards Gabo Island to try and get into the lee of the land and try and get into shelter. But also to be closer to rescue services as such.

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Q. Speaking of the rescue, I think that in fact a mayday was then called from your vessel?

A. Initially the radios didn't work when we came upright but as soon as we got the mast back on board and backstay came back on board, because our HF worked via, the aerial was in the backstay, and when the backstay came back on board the HF radio came to life, and Peter then issued a

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mayday.

Q. So in effect had you cut away the rigging, the aerial would have gone?

A. Yes.

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Q. And someone then sent a mayday?

A. Yes the navigator Peter Keats did.

Q. Did you hear the mayday?

A. I didn't hear him actually sending it but he came and told us that he'd sent it.

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Q. It was in fact relayed by another vessel?

A. I think it was relayed by Yendys.

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Q. Yendys. During the period that followed there was the Yendys, a vessel called Tilting at Windmills and the vessel called Midnight Express, they all relayed your messages to the various Telstra Control establishments, is that right?

A. Yes, yeah that's right.

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Q. Did you have any conversation with any of those people on those other vessels?

A. No, no not at all. I was mainly, I guess I left that side of it to Bruce and to Peter while I was more concerned with the running of the boat, making sure the boat was as seaworthy as possible and organising people to run the boat.

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Q. But, was it your impression that you could rely upon those other vessels when they were within range to relay the messages that you were sending out?

A. Totally.

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Q. Totally. Relied upon them?

A. We didn't seem to be able to get direct to Telstra Control, we had to rely on radio relays for whatever reason, probably because our aerial was in the water and because of the atmospheric conditions at the time.

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Q. But the point I want to make is that those other vessels, certainly assisted you and there were no questions about that?

A. Totally, with every co-operation, they did their best at the time for what they could for us.

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Q. You told us you motor towards Gabo Island or towards Eden way. Now I think another mayday was sent to get some people off the vessel. What was that about?

A. I wouldn't say the mayday was sent, I think the mayday wasn't removed, you can only really send one mayday unless you take it off and then do it again. At no stage was our mayday downgraded by us, but Peter did make a request for, if possible, for a vessel to standby us and for perhaps 3 people to be taken off if possible.

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CORONER: Q. Which 3?

A. I think he was looking at Rob Matthews himself and

Matthew Sheriff.

Q. Why?

A. Well Rob had gone off, after the first roll he'd complained of a numb arm and he'd gone and laid on the bunk basically for 3 hours so we were concerned for him. Matthew Sheriff had been seasick most of the afternoon, although he had basically, after we'd rolled or just prior to taking a roll he'd taken some medication to help which helped him and he'd been able to help us through that, but we were still concerned about him because he'd basically been vomiting blood. Or not, it was getting down towards that anyway, like bile. And Peter had been thrown off the companionway steps when trying to get a hand held GPS reading of our position and broken a couple of ribs when he'd fallen against a piecot and he was concerned for those, I think that was his major reason for that call. 5
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HILL: Q. How was Mr Guy during this period? That is between the first roll and the second roll? 20

A. I think after the first roll he initially took the helm when we started the motor or was at helm when we started the motor. Tony didn't, Tony Guy his nephew who was the other helmsman who was on the boat, he wasn't happy with the way Bruce was steering at the time and he felt that he was sort of in some form of shock, like the situation that was happening, and he took the helm off Bruce. Well he offered to take the helm off Bruce and steer the boat himself because he felt that Bruce's steering was not as good as it could have been under those circumstances or he felt that he could do a better job. It was no incident or anything, Tony just offered to take the helm and took the helm and that was it-- 25
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CORONER: Q. He did take the helm? 35

A. Yes he did take the helm and gave Bruce the opportunity to go below and perhaps, or to try and recover and try and assess the situation a little bit better.

HILL: Q. I think he went below then? 40

A. Yes.

Q. The lead up to the second roll, if I can use that term, what happened?

A. After the first roll, like initially when the first mayday was sent we were probably, a couple of us probably through that the mayday was a little bit premature but we'd been on deck and working on the boat, like getting everything right there, but when we went back down below there was, like the deck was cracked, the windows were broken and cracked and there was quite a bulkheads sprung away from the boat and the boat was in worse shape than we considered it to be, which Peter would have seen instantly because he'd been down there all the time. 45
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Q. What was the state? 55

A. The boat was a mess. Because Peter had been in the process of opening the freezer, all our food had been spewed

out into the bilge, there were basically about 60 prepacked frozen foods there.

Q. But what about damage?

A. Damage, as I said the deck was cracked and working, open, on the port side. 5

Q. In the middle of - on the port side?

A. No on the port side, yes. The windows on the port side were, one was broken pretty much completely and the other one was cracked and partially broken away. 10

Q. If I can take you back to the deck, what was the deck made of?

A. Probably kevlar and foam. 15

Q. So it's that is cracked, and when you say working, what do you mean by that?

A. Well, it was actually cracked right through from one side to the other and the deck was sort of working slightly and opening and closing and working and letting water through. 20

Q. So it's coming apart, letting water through, closing, coming apart as the sea itself would have torn it apart?

A. Yes. Not large volumes but it was coming in. 25

Q. The window was broken you've told us and one was cracked. What else, damage?

A. Quite a few of the bulkheads or the companionway bulkhead, and some of the partial bulkheads down under the port side quarter berths were split and broken away from the main hull, so the hull was flexing up against those. I think some of the stringers down the port side portab berth were actually broken away from the deck as well so that was sort of, the deck was moving and-- 30 35

Q. Perhaps if you could explain what the stringers are?

A. Stringers are stiffeners that run underneath the, or well, stringers are just stiffeners that are actually glassed and attached to the hull or the deck to strengthen them. 40

Q. Some of those were broken did you say?

A. Broken and actually split away from the underside of the deck. 45

Q. Was that getting worse, are you in a process of the vessel breaking up or is this just the initial damage which remains?

A. It's basically the initial damage which remained. It might have been getting marginally worse but not alarmingly worse. 50

Q. Were you talking water at all?

A. Yeah, we were constantly getting some water through the broken windows and that, we stuffed with pillows to try and stop the bulk of the water but there was just a constant, 55

not an uncontrollable amount of water coming on board but it was just steading dripping through.

Q. So the hull itself wasn't breached, it was these particular portions of damage that were letting water in? 5
A. Yes.

Q. How was that water got rid of?
A. Um, we tried to use the pumps but they just blocked up straight away so we just baled occasionally with a bucket. 10

Q. I take it they blocked up because they're taking the debris that's being thrown about the vessel itself?
A. Inside the vessel, like the floorboards had come loose, so they were loose, the food which had all come out of the freezer and the food that was in cupboards all just came out so there was packaging there that was, like paper and that were all in the bilge, the charts, like all the navigators charts and that, well not all of them but some of them had actually come out of the navigator's compartment and they were all in the bilge. 15 20

Q. Can you think of any system that would, some sort of grating system or something like that that would prevent the intake pipe being blocked in that way? 25

A. Probably not because the debris is always going to go to where the water is trying to get out. So unless you're there physically removing it with your hands, I mean some of the other problems was like clear plastic, like plastic bags. 30

Q. Well could you do that, could you get to the inlet--
A. We had got to it but it just continued to block up and it was just easier to bale it with a bucket. 35

Q. So that was the reality of it, it was simply easier to bale with a bucket?
A. Yeah. We didn't have to do it a lot. And it wasn't constant. 40

Q. What happened with the second roll?
A. I guess, I probably should say after the first roll the boat's motion in the water was far sharper. 45

Q. What do you mean by that?
A. The mast wasn't there so there was nothing there do dampen the boat's motion. Like with a yacht with a mast in it it's motion is dampened by the mast, by the wind pressure on it and by the sheer mass there and when the mast had gone the boat felt like it could easily flip again, it just felt lively and like it just felt, like another wave could easily just get it and flip it, in fact it felt as though it could flip a lot easier than it had prior to that. That was certainly the case, like we were concerned that we could easily do another flip. 50 55

Q. What happened?
A. I guess through that period we were changing helmsmen

and crew on deck on an hourly basis because that's as much as the helmsmen could take, literally his eyes were blasted out and, because the boat was so whippy in the water and felt like it could flip, the helmsman really needed to feel the boat and to have all his wits about him to be able to steer out of the way of the bad waves and present the boat to the seas to its best to stop it, or we felt to stop it from flipping. And to do that we changed every hour, we felt that the helmsman needed to be fresh to do that. At the end of each hour your eyes were just blasted to pieces, you couldn't see or, like the wind and the waves are just, it was as much as you could take, we were literally getting a lot of breaking waves over the boat, like within the hour that I was there I think three times I was literally inundated with water, like I was underwater, the boat was submerged in water.

Q. You were below decks were you not?

A. Yes I was.

Q. What did you hear or?

A. I was below decks, we had the, at that point we had the life rafts taken out from their normal stow position under the companionway and we'd had them, the front of the companionway between the companionway bulkhead and the companionway. I was resting on those, sitting on top of them literally to keep myself out of the water, bearing in mind the floorboards were adrift, the diesel was running and Rob Matthews and Phil Skeggs are on deck, and Rob Matthews was helming and Phil Skeggs was in the cockpit watching the compass and calling out the heading headings to Rob because he couldn't see them because of the spume in your eyes. So he was calling out the compass headings so he could know where to steer. I just heard a, it was 11 o'clock at night, I just heard another wave, like a huge wave coming towards us, just breaking water and instantly we were flipped over 180 degrees. In that second, when we were flipped, luckily Peter Keats had a light on his head, a bushwalking lamp that you can keep on your head and I had one on as well, so when we flipped all the electrics went out because they were instantly under water, like the boat filled with water very quickly through the broken windows. Within a very sort space of time we were waist deep in water on the cabin top. Bruce came out of bunk and said 'quick get up on deck', and I said 'Bruce we can't, the boat's upside down', so he was totally disorientated. My first reaction was to look for the keel to see if the keel had gone, so with my light I could look to see where all the keel bolts were and they were still intact so I knew that there was not holes in the bottom of the boat for the air to escape so I then knew that the boat wasn't going to sink instantly because of the air lock and the sea coming in and trapped inside the hull. At that point we knew that we could then open a companionway as well because of the air lock so Bruce and I then attempted to, then proceeded to open the companionway so that we had a means of escape, so we took the storm boards out and opened the sliding hatch aft so that we had access into the sea and then to dive out under the boat if needed to. Bruce then

proceeded to push a life raft out through the hole, I stopped him from doing that saying that's only going to float up and get caught in the cockpit and we wouldn't be able to get it out, and just to stop and wait another wave would hit us and the boat would roll upright again. And that's what he did, and the boat did roll up right again. Through that process I could hear Rob Matthews calling out for Phil Skeggs.

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Q. He was outside the vessel?

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A. Rob was outside the vessel, Rob and Phil were both outside the vessel, they'd been on deck.

Q. But you could hear him calling?

A. I could hear him calling, yes. So I knew Rob was sort of okay somewhere but I never heard a reply from Phil.

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CORONER: Q. How long were you underwater? What time were you inverted?

A. I'd estimate that we were there from at least 4 minutes and perhaps 6 minutes.

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HILL: Q. How have you estimated that time?

A. I think just from the amount of time that it took us to do what we were doing. Like to get upright, turn your light on, look at the keel bolts, the companionway boards weren't easy to get out and the companionway wasn't easy to open because you had to get, put your head under the water to get your hands down to do it, all that took time, to actually find the life rafts and get it there. In the process the other guys were making sure the other guys downstairs were okay and, well, we're all pretty much stunned that everyone was alive down below so.

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Q. So that's how you come to that process of that time. Now you've said the vessel righted itself, what did you do then?

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A. The vessel righted itself, as it righted itself, like once it leaned over it righted itself very quickly so we were actually, we were all flung about quite violently below deck, like as the keel came to being 90 degrees across, 90 degrees to the vertical, the boat came upright very quickly.

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Q. Did you hear any wave hit or anything like that?

A. I felt a wave hit it, yes.

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Q. So you actually felt a wave hit it and then it righted itself?

A. Yes, as the wave hit it the boat lent and then the lead in the keel took effect and flung the boat upright you would say. It didn't just gently do it, it was flung violently upright and we were flung around. Like again, as we have been in the first part of the 180 degree, well in the first 180 degree roll we were literally flung upright and again we were flung about the cabin.

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Q. You started to come back up on deck, is that right?

A. At that point we started, we were standing then in waist

deep, like the boat, down below we, there was 7 of us standing waist deep in water, a couple of people ran straight up on deck and Bruce slipped, like because there were no floor boards there we were standing on top of the keel floors and springers and he slipped over and, I don't know what he slipped on because I, he was waist deep in water but he went down into the water and, I don't know whether his head went under or not but Jim Rodgers helped him, grabbed him to help him get up and he as he got up he had a, I could see a massive pain emanating from his left chest and--

Q. What did he do?

A. I assumed at the time he was having a heart attack, his eyes rolled, he arched his back violently and his eyes rolled back in his head, he just went deathly pale to grey, bearing in mind I'm watching this with a bushwalking headlamp torch, that was the only light we had, and literally Jim Rodgers and myself grabbed him and, because there was no where down below dry to keep him and all the water down below was surging around the boat like a little beach with the little surf on it, all I could do was sit on bunk and hold Bruce's head up out of the water and clear his airways, and I was feeling for his pulse and his chest to see to see if he was breathing.

Q. I think you have said that in fact there was a pulse there for a little while?

A. I think there may have been a very faint pulse bearing in mind that - I guess I was hoping there was a faint pulse there as well but my hands had been - like I was basically wet all day and I was in a pretty fatigued state so I don't know whether there was or not, but I certainly - I think initially I might have felt a very weak pulse but--

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Q. Afterwards you couldn't feel it?

A. No, I couldn't feel any breathing through his mouth, any air expiration, and I couldn't feel any movement of his chest.

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Q. I think you checked the wrist for a pulse and also the neck?

A. Checked the wrist, the neck and the groin.

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Q. And you detected no pulse?

A. No.

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Q. Did you go back up on deck then or did you go up on deck?

A. As that's going on Rob was literally calling for someone to come up on deck, somehow he had managed to end up back on deck and was calling out for help for Phil. Shane Hanson and Matthew Sheriff went instantly to help Phil and they found that he wasn't breathing and they started to do CPR on Phil. I don't know exactly what was happening, Rob can probably tell you exactly because I was otherwise engaged with Bruce. But I did hear them call for help, that Phil was in strife on deck and needed some help.

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Q. The reality is that Mr Skeggs was quite athletic, is that correct?

A. Phil was a big person, he was 6 foot 2/6 foot 3, weighed 90 kilos and extremely fit. He was an active footballer, an Australian Rules player, an excellent ruckman. He was extremely fit. He would swim 5 kilometres three times a week, he was strong in the water and he was also a scuba diver. He was probably the fittest and strongest in the crew. He was, no doubt about it.

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Q. I think that it has been put forward as the hypothesis that he may well have been trapped unable to undo his lanyard that attached him by his harness to the vessel itself. Have you got any thoughts on that?

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A. He was attached to two points, he had an attachment on his - like he could have detached himself at his chest where he had a safety harness line attached to his chest and it was also attached to the U-bolt of the companionway, the stainless steel U-bolt of the companionway. So he had two points that he could have undone himself from if he had been able to. I really haven't got any idea, I mean there was no evidence of how he might have tried to help himself and I really wasn't in that situation at that time to know. I believe he was lying across the deck and the boys just instantly opened his waterproofs up and tried to get to his

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chest to get the water out of him and give him mouth to mouth resuscitation and I wasn't there to know.

Q. I think that eventually you were rescued, is that correct?

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A. That's correct.

Q. And that was by what?

A. The Care Flight helicopter, the NRMA Care Flight helicopter.

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Q. And that took each one of you off?

A. I guess initially - do you want me to go into what happened?

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Q. Yes, go on.

A. After the boat came upright on the night of the - do you want me to continue? I am sorry.

Q. Yes I do, yes.

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A. After that had happened, after about half an hour of trying to work on Phil and Bruce, we decided that they were dead and put Bruce in a quarter berth and secured Phil in the cockpit. Meanwhile a loom of light had been seen to the east of us so probably half a dozen flares were fired in the hope that we may have been seen.

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Q. When you say a loom of light what do you mean by that?

A. There was like a reflection of the moon or something like that, you could see a reflection of light on the clouds to the east of us. Like you would see a lighthouse before you can actually see it, you can actually see the loom of a light cross the water before you can actually see the light itself.

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Q. Go on.

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A. At that point the boat was very close to sinking with a metre of water in it. The water was coming up the cockpit and over the companionway and down below so the boat - the bow was just about level with the water so we were right on the point of sinking. We put the storm boards back in to stop that. We passed the fires - sorry, the flares were fired to try and attract attention. Both life rafts were passed up into the cockpit, one was activated and put over the side in case the boat sank so we had something to get into. That continued just to flip itself over and do all sorts of crazy things in the wind and sea, so we filled that up with wet sleeping bags and all sorts of gear that we could just throw into it to try and weigh it down in the water. After the first attempt it just laid that over and emptied it and we just did it again, but then it eventually settled down and stayed there.

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Q. I want to stick with that loom of light because I think that you have actually gone through the positions of the Naiad after those rolls and you have clarified those with a fishing vessel, is that correct?

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A. Yes.

Q. What was the fishing vessel?

A. The Moira Elizabeth as I understand it.

HILL: This is there and what I propose, Mr Coroner, is to ask to adjourn at this point so that everyone is quite conversant with this because this is important.

Q. Because you think that the fishing vessel, the Moira Elizabeth, was approximately 3 miles away from the Naiad at that particular stage, is that correct?

A. I didn't know that at the time, that's from deduction afterwards that that could well have been the case. I don't know with any degree of certainty but that's a probability.

HILL: I'll take you through that document after the morning tea break if that's convenient.

SHORT ADJOURNMENT

<STEPHEN ROSS WALKER
ON FORMER OATH

HILL: Q. You have that document?

A. Yes, I created that document.

Q. If I take you to the first line there, you say that the first 360 degree roll was approximately 5.30pm?

A. That's correct.

Q. You say the mayday was sent out at 1750 hours and it was relayed to Telstra control by Yendys and you were then at the position and you give the latitude and longitude there, is that right?

A. Yes.

Q. At 1900 your position at the next place and you were motoring at 5 to 5.5 knots and headed in approximately 300 degrees position relayed by Yendys again?

A. That's correct.

Q. I want to take you through those because you have given your positions and then Midnight Special comes in and at 2230 hours you say you were positioned and you were motoring again, Midnight Special was positioned near you and at this stage Peter Keats requested a boat to stand by if possible for three crew to be removed if possible via relay Midnight Ramp ..(not transcribable).. Telstra control, there was no reply and your mayday was still current. Is that it?

A. Yes, that Midnight Ramp might be meant to be Midnight Special, I am 100 per cent certain on that.

Q. That's all right. What sort of vessel were you after to stand by?

A. Another yacht couldn't possibly have stood by in those conditions, they just would not have been able to stay on station. It would have to be a large vessel.

Q. Just so that I understand, you said another yacht couldn't stand by remain on station. What do you mean, you

differentiate between those two things?

A. Well, basically it would be nearly impossible for another yacht to remain on station or for two yachts to actually travel with very similar speeds. They'd be different boats and to be safe in those conditions they'd probably have to be steaming at different speeds and perhaps slightly different courses for them to be on "safe courses". I mean if you add those distances up too travelling at 5.5 knots we should have been a lot further down the track than we were towards Gabo. But we weren't, we were only actually moving at about 1.5 to 2 knots in a north-north to slightly west of north direction because of the windage and the tide and the seas that we were pushing.

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Q. So what sort of vessel were you looking for?

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A. If there was a fishing boat or the Young Endeavour or something like that around or perhaps a ship. I don't know, I wasn't down below when that was actually sent but that was the request. I was actually on deck helming at the time when that was sent.

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Q. You have got 2100 hours Moira Elizabeth, a fishing boat looking for Team Jaguar, was positioned 37 degrees 45 south and 150 degrees 31 east and you say that 2140 hours the Moira Elizabeth again looking for Team Jaguar was approximately 3 miles from the Naiad at that stage, is that right?

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A. Yes, bearing in mind I have actually gained all these positions from - there was a fishing boat in Eden that was taking all the communications that were coming through and they were jotting down positions as they could, so these positions have come from a variety of sources and I wouldn't say they were dead accurate. They are accurate as far as I can make out but I can't guarantee those positions.

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Q. You go on to say "At 2140 hours Team Jaguar was positioned", and you give the position, and you say "Young Endeavour must have been very close as well. Team Jaguar took up a lot of chat time on 4483 at 40 meg power from 3.30pm on the 27th, 12 to 5.30am on the 28th. This literally blocked most yachts talking to Telstra control". First of all what do you mean by at 40 meg power?

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A. I am not exactly sure what it means because I am not a radio operator myself, I just know that it means it's a fair bit of power, a fair bit of power output from HF radio.

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Q. Off who?

A. Off it was either Team Jaguar or Telstra control. Like they were using basically full power so anyone close literally gets blasted away from them, you can't contact them as I understand it.

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Q. Could you hear Team Jaguar or Telstra control?

A. Yes, we could hear incoming - we could hear all the incoming - we could hear incoming stuff but we couldn't transmit to them.

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Q. I see, so you didn't have a powerful enough transmitter?

A. Or probably because our HF radio was in the water and - yes, basically.

Q. But you could hear Team Jaguar?

A. Yes.

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Q. And you could hear Telstra control?

A. Yes.

Q. And you seem to be saying here that they - well, what are they doing, they are monopolising the time or something?

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A. Well, they were trying to get - I didn't hear all this myself because a lot of the time I was on deck or dealing with other things, but I did hear some of it. A lot of it was Telstra control trying to help Moira Elizabeth actually find Team Jaguar and--

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OBJECTION (COLEFAX). SECOND-HAND HEARSAY. EVIDENCE ALLOWED.

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Q. Having looked at this document what is it that you want to bring before the inquest, what do you actually--

A. It's wasn't even meant to be - it was just a record for me to know roughly where we were and where other boats were. I mean it's not really for me - I guess it was just something for me to have and to keep, I suppose you might say, and just to know roughly where boats were at the time because I didn't know at the time. It's just pieces that I have managed to piece together since.

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Q. We have heard evidence from a Mr Murray that he felt that your mayday had, for want of a better expression, slipped through the cracks. Is that what you are saying in this document?

A. We certainly felt that way, we certainly very much felt that way on that night.

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Q. And your feeling that way, is this why you made this document? What you are saying is that because the radio waves were jammed basically with Team Jaguar's efforts?

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A. I don't know why I have made it, I just made it for a personal record. Maybe just some of the emotion coming out of me or whatever but I just felt I needed to make it.

Q. The other thing you told us about just before the adjournment was the letting off of rockets at this light that you saw.

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A. Yes.

Q. You have described as like when you see a lighthouse, the reflection.

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A. Yes.

Q. Was it anything on land or was it--

A. No, it was to the east of us so it had to be out over the sea. It was on the horizon as such so it had to be something close down by the sea in the east. It certainly wasn't the moon because the moon was starting to at that

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point come out spasmodically and that would have been much higher than that.

Q. What sort of flares did you let off?

A. Parachute rocket flares.

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Q. What colour were they?

A. I don't know, I didn't personally do them but I think they were red. Bearing in mind at that time I was down below holding Bruce's head above the water--

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CORONER: Q. About what time was this?

A. Would have been 11.15pm on the 27th.

HILL: Q. So it's shortly after the second rollover?

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A. Yes.

Q. Was there any answer from these flares?

A. No, none whatsoever.

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Q. Who let the flares off, do you know?

A. Peter Keats and Matthew Sheriff.

Q. I think the next morning you were picked up, is that right?

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A. Yes, that's correct.

Q. You had no radio transmissions after the second roll?

A. After the second roll all our electrics were immersed in water when we were upside down 180 degrees and when we came up they were still under water with the boat upright with the amount of water inside the boat. So we had no electrics and no radios, the only means of communication we had at all was an EIPRB which we had fired off after the first roll. That had a broken aerial but the red light was still flashing.

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Q. What sort of aerial did it have?

A. It had like a transistor radio aerial, like a slip up and down metal one, like a car aerial, probably pulled up about that high roughly.

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Q. I think that's about what, 18 inches?

A. Something like that, yes, and it broke in the second roll. So we had probably a stub of about that much, it hadn't broken right off but it was laid over to one side.

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Q. Left about 6 inches, did it?

A. Well, 6 inches vertical and the rest at an angle.

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Q. I understand that in fact you kept that on the vessel?

A. The instructions said to throw it over the side so it could operate out of the water and to attach it by a bit of flimsy cord.

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Q. Well, it didn't say a bit of flimsy cord, did it?

A. No, it said--

Q. It said attach the cord--

A. Attach the cord to the boat and throw it over the side.

Q. What was the cord like?

A. A pretty flimsy bit of cord, you could have broken it with your hands. And that was only attached to a fairly light lug on the EIPRB which to my way of thinking you could have broken with your hands if you tried.

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Q. A light lug, a sort of eye, was it?

A. Yes, sort of a plastic lug with a way of attachment.

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Q. Plastic?

A. Mm.

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Q. So you didn't feel that you were willing to sort of test that to the elements?

A. I wasn't - none of us were prepared to let that EIPRB out of our sight and we put it in a rug bag inside the companionway and just left the companionway a couple of inches open with the aerial sticking out through the companionway.

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Q. So can we draw three conclusions from that, that is the telescopic aerial is not good, the attachment of the rope to the EIPRB is not sufficient and the rope itself is not sufficient?

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A. It seems - I mean it's probably got quite a high breaking strain but it doesn't seem sufficient at the time.

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Q. The next morning you were spotted, is that correct?

A. Yes, I guess - we'd also activated the life rafts, one life raft, and another one had got accidentally activated when we were trying to bring it back down below. We had actually baled the boat out, from sort of 11.30 through to 2am we actually baled the boat out and got it to a point where there was only half a metre of water in the boat, it felt more stable with some water in it so we left it there. Sorry, the next morning?

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Q. I think you actually put one of the life rafts out, is that correct?

A. Yes, that's correct.

Q. And what happened to it?

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A. That life raft was activated and in trying to bring the other one back down below it was accidentally activated down below, so we quickly got it back on deck and it was deployed over into the cockpit at that point in time, this was probably 2am, and then the wind just blew it over the side and we left it there. So both life rafts were over the side. Rather than put a knife in it and have a hole in it down below we chose to let it activate itself and stay full. At 3 o'clock we - at that point we went down below and battened the boat right down, closed all the hatches but the gap for the EIPRB and we all just went below apart from Phil who was secured in the cockpit.

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Q. So you were just drifting at that stage?

A. No, we had also thrown the storm jib and the spinnaker over the bow of the boat to try and hold the bow up into the waves and--

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Q. So they were acting like what, sea anchors were they?

A. Sort of a sea anchor cum drogue, yes. And also we had lashed the helm down to starboard so that when a wave hit the boat the stern would swing quickly around and put the bow up into the seas and the bow would actually be held there by the storm anchor and the spinnaker.

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Q. It was a type of heaving to, was it?

A. A form of heaving to, yes.

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Q. What happened to the life rafts?

A. At 3 o'clock we got another major wave completely submerge us, wash over us and completely submerge us, and we didn't see the life rafts after that.

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Q. So can we draw from that an inference of you don't really deploy the life rafts until you are actually going to get in them because in that sort of weather they can simply tear away from the vessel?

A. Precisely, that's why we were endeavouring to get the other one down below unactivated so we had a secondary - second option.

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Q. You were spotted?

A. We were spotted by a fixed wing aircraft at about 7am roughly on the morning of the 28th and we fired two flares although it appeared that he was homing in on our EIPRB anyway because he was sort of coming towards us, but we fired off a white parachute flare or a red parachute flare and an orange hand-held flare and they virtually came straight to us and circled us. We had also put a red sail bag over the mainsail on the deck which was attached to the boom so that hopefully red would be a better colour to make the yacht visible from the air than just the white and grey decks.

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Q. I think that at one stage last year Mr Peter Bush from the Cruising Yacht Club of Australia, the CYC, came down to interview you. Is that right?

A. All yachts that competed in the Sydney-Hobart were asked to fill out a questionnaire, which we duly did, and they interviewed several yachts too. And Peter came down to interview the whole of the Naiad crew, unfortunately Tony Guy couldn't be there but the other six survivors were.

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Q. And did he ask you questions about the IMS certificate?

A. No.

Q. What was the discussion about, what did he interview you about?

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A. Basically he went through the questionnaire as such, so he just basically went through there and asked us what we experienced and what happened and I guess - we had already

filled the questionnaire in but he didn't have it in his possession till that night so we just basically went through that with him one evening, it probably took three hours or so.

Q. And what did he tell you about the police investigators, the Coroner's police investigators and the Coroner?

A. He said we didn't have to answer their questions if we didn't want to basically and we'd be best to get advice on it.

Q. What did he say about the inquest itself, the Court?

A. Not a great deal other than it was happening.

Q. Did he say about answering questions or not?

A. That you don't have to answer them unless you want to and you'd be best to seek legal advice on it.

Q. In the Coroner's Court?

A. Yes.

STANLEY: Q. Mr Walker, I want to ask you some questions generally relating to the weather because I am appearing for the weather bureau. Can I just ask you this though, in your racing experience on yachts have you ever been on a boat that's pulled out of a race because of a forecast?

A. I think I have to say yes to that.

Q. As a result of getting a forecast?

A. Well, and the weather is not good. Like I have - that's probably--

Q. That's an observation?

A. Yes, sorry, yes that's an observation, yes. Generally speaking the races have been called off because of the forecast and I haven't raced because of that, in my experience.

Q. Can you perhaps help us with that, where was the last race that you can recall being called off because of the weather forecast?

A. Probably a fortnight ago at home ..(not transcribable)..

Q. What sort of boats were--

A. In trailer(?) sailer(?), sports boat trailer sailers at the time. The winds were 30/35 knots.

Q. So is it common for this to happen?

A. It's common at club level, yes.

Q. Because you are dealing more with perhaps less experienced sailors--

A. No, I am not saying--

Q. --and smaller boats?

A. Smaller boats and boats that are only a category 5 and category 6 safety level, yes, and certainly in offshore - in Tasmanian waters if there is a gale warning out in category

3 or category 4 races they call the race off, you don't start.

Q. How many Sydney to Hobarts have you sailed in?

A. That was my fifth. 5

Q. Have you ever before anywhere raced in seas where a storm warning has been issued by the weather bureau?

A. I'd have to say no but I have been in 70 to 75 knot before in a race. 10

Q. My question is directed to where a storm warning as such has been issued and you know that and yet you have raced. You don't know of any case where that's happened?

A. No, in fact I have been - perhaps I should say there the Offshore Racing Club of Victoria have actually postponed the start of the Melbourne-Hobart and Melbourne-Devonport races because of storm warnings and also the fact that you can't get safely out through the rip at the heads. So I have been involved in races where that's happened. 15
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Q. What did it mean to you in December 1998 before the race, what did it mean to you if a storm warning was issued?

A. It's pretty serious weather to me. 25

Q. Did you know then that that was the most extreme forecast that could be issued by the weather bureau for these waters?

A. No, I guess I have probably been brought up with the Beaufort scale and I would have expected for the weather we had that perhaps sort of like you got a violent storm after that and then a hurricane and so forth depending on that. No, I wasn't aware that that was the most severe weather warning that could have been issued for those waters but I was aware that it was certainly above a gale and certainly to me it was-- 30
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Q. Serious stuff?

A. Serious stuff, yes. 40

Q. But you know not that it's the most extreme warning that the weather bureau can issue for these waters?

A. Well, I guess it's not the most extreme warning because it was a storm warning at 45 to 55 knots and it could have been a storm warning for 65 to 75 knots. 45

Q. So far as the storm warning itself is concerned, that's issued once you get over a certain forecast--

A. Yes, once you get over 48 knots it's a storm warning. 50

Q. So 48 up to 100 is storm warning?

A. Yes, as I know it now.

Q. But you weren't aware of that then?

A. No, I thought we would have probably got perhaps a hurricane warning or something like that for the winds that we were about to encounter. 55

Q. In some documents that are included amongst your record of interview is a document obviously prepared by you some time after the race, it's an additional document, it appears to comment on a number of questions. Do you know the document I am talking about? 5

A. Which page is it? I have got it in front of me.

Q. It's entitled 'Sydney-Hobart 1998, Business Post Naiad, Skipper Bruce Guy, Additional document by Steve Walker". 10

A. Yes, what page?

Q. I am sorry, you have got that?

A. That's an additional document that was prepared for the CYC questionnaire. 15

Q. Approximately when was it that you prepared that?

A. A year ago. I actually was gathering information for it through February/March and actually put this document together just after Easter in 1999. 20

Q. You say in respect of storm forces that "Since the storm most of us have done a lot of thinking and reading about storms".

A. Yes. 25

Q. Is that the fact?

A. That's the fact. And I can't find anything where you have a storm warning any higher than what you are stating for these waters but there are in tropical waters. 30

Q. Had you done most reading about weather and storms before this race?

A. Not specifically but in general yes and I have certainly been - I have been a member of the Tasmanian state sailing team and the Australian sailing team where we had lectures from meteorologists at various times so I guess while I am not an expert in the weather by any means I have got a basic understanding of it. 35

Q. And your own experience out in the water has told you that where a forecast is given you must on top of that make an allowance for gusts? 40

A. Yes.

Q. And those gusts as you said in your experience can last perhaps even up to 15 minutes? 45

A. That's correct, yes.

Q. And whilst you may not have heard of any, if you like, formula that says you add on 40 per cent, in practice the way you operate you are adding a significant amount depending upon the level of the winds forecast? 50

A. That's correct. That's been my experience.

Q. Have you ever seen a document which is a pamphlet put out by the weather bureau which details marine weather services? Perhaps you might like to have a look at it. 55

A. I don't think so. Not off the top of my head but yes

I'll be happy to have a look at it.

Q. It's just the top document.

A. No, I have never seen that.

5

Q. Do you subscribe to or receive the journal Offshore?

A. No. Sometimes I read it, sometimes I buy it and read it.

Q. Did you sail in the 1997 Hobart race?

A. No.

10

Q. Let me put this to you, it's in an article entitled 'To be or not to be, a guide to weather prediction at sea with a Hobart race bias' by Mr Ken Batt who is a meteorologist.

You know of him?

A. Only that he has been the meteorologist for the Sydney-Hobart over a number of years, I don't know him personally.

15

Q. So this is the sort of article, if you had received this journal,--

A. I would have read it.

20

Q. It would have been of interest to you?

A. Yes.

25

Q. I'll hand it up to you and you can follow it with me as read it to you. It's the part that's been highlighted in yellow. You see that area? It says "Gusty winds will occur in the area around a cold front". I take it in your experience you accept that?

A. Yes.

30

Q. "But some evidence suggests that when we have a tight pressure gradient, isobars close together on a weather chart, the wind arranges itself in corridors of stronger wind interspersed with areas of lighter winds and these stronger winds can be 20 knots or more higher in speed than the average wind speed". You agree with that?

A. I wouldn't be so sure on that, I don't know that I have been in that situation to be able to comment on it.

35

Q. So you haven't had that experience, is that what you are telling us?

A. Yes.

45

Q. By reference to looking at the weather map and seeing where the isobars are close and finding that you get a--

A. Generally speaking as the isobars get closer the wind is going to be stronger, I accept that.

50

Q. Have you not experienced situations where there have been corridors of stronger winds?

A. Yes, I have experienced that.

55

Q. And then I'll just take you to the next paragraph "This situation is similar to waver at sea where we talk about average wave heights but nonetheless there can be some waves

at least twice that height". Do you accept that?

A. Yes, I accept that.

Q. So when you hear a forecast and it says, let's say, 45 to 55 knots so far as the wind speeds are concerned, what does that mean to you in terms of how it has been assessed?

5

A. I guess I have already answered that previously that--

Q. Not quite. Perhaps I'll put it to you and see if you agree.

10

A. Sorry.

Q. Do you understand that they are giving mean or average between speeds--

A. Yes.

15

Q. --measured over a period of time, in this case 10 minutes?

A. Yes.

20

Q. And do you know where the measurement is made vis-a-vis ground level?

A. No. I would assume it's probably 30 to 50 metres above the ground level.

25

Q. In fact it's 10 metres above sea level. The measurements taken on your boat by means of the anemometer would be significantly higher than that, wouldn't they?

A. Our mast was 17 metres and the boat was probably 1.5 metres above the water.

30

Q. So we are looking at almost double the height?

A. Yes.

Q. And you would accept that the higher you go, as a rule, the stronger the wind strength?

35

A. That's correct.

Q. Just while we are on that, do you accept that the reading on the anemometer in the seas that you were experiencing could be disturbed or perhaps rendered not so accurate as a result of the movement of the mast itself?

40

A. It would be diminished but basically the boat was - well, unless we weren't smashed by a wave it was relatively steady. It wasn't as bad as, say, a 30 knot south-wester in Bass Strait where the boat is being smashed into the waves constantly and where the motion is very uncomfortable, it was much smoother than that.

45

Q. You were first spoken to by the police and your first record of interview was on 28 December?

50

A. Yes.

Q. That's the day after?

A. Yes.

55

Q. When no doubt events were very strong in your mind?

A. We had only just been rescued, yes, and we hadn't slept

for 30 hours.

Q. In that statement, if we could call it that, you mentioned speeds of the wind and the highest speed that you mentioned that the wind got to was around 60 to 65 knots? 5

A. 65 to 70, it was the highest speed at that - what had actually happened there was the repeater on the starboard side had broken and I was unaware that the one on the port side was actually reading the wind speed, but Rob had actually changed it from reading depth to wind speed because we were out on the shelf and it wasn't reading anything and he changed it over wind speed and I knew what those numbers were. And it wasn't until afterwards that interview that I realised what had happened and those numbers on the port side one are actually wind speeds that I was seeing there. 10 15
The starboard side repeater had actually broken down, and that was usually the one that we read or wind off, and that was gone and the port one was reading these figures around 78 through to 87 knots maximum that I saw. And that was on the port side repeater, at the time I thought that was depth but I wondered why it was depth at the time and after we came back I discussed it with Rob, he said that he had changed it over to being reading wind speed and wasn't reading depth. 20 25

Q. Do you accept that at the time you spoke to the police the day after you believed at that time that the maximum speed, apart from gusts, was around 60 to 65 knots?

A. Yes, but I certainly saw 75 on occasions on the starboard side repeater as well. 30

CORONER: Page 10.2, 65 to 70.

STANLEY: Q. Yes, 65 to 70 knot winds was mentioned?
A. Yes and I did see that repeater hit 75 before it failed.

Q. You, at some stage, had the concern that the Telstra Control and or the weather bureau were effectively holding things back from you, that you weren't getting the full picture? 5

A. Well, I mean, we were out there in it and when they were reading out that it's the right of each skipper to continue or not, I just wondered what other information that they were going, was at hand, you know. 10

Q. Did your vessel have an e-mail facility?

A. No. And I also mentioned in there that we should have been chasing Melbourne radio and got all the land based station reports through Bass Strait and if we'd done that we probably would have known that there was more wind coming than necessary, than actual. 15

Q. If you'd done that which, would you have been interested to know what the situation was at Wilsons Promontory? 20

A. Well in conjunction with other ones I would, yes.

Q. Which other ones?

A. Well you'd want to know what was going on with the oil wells as well as Gabo Island, as well as Cape Border(?) and Cape Ottway(?). 25

Q. We have in evidence in the preliminary report where the bureau, the actual observations of winds at various coastal observation points, and would you have benefited to know what was happening at Mallacoota? 30

A. I would have been at the time.

Q. What relevant time would it have been for you to have known what was happening at Mallacoota? 35

A. I guess we would, we really needed to know what was coming through Bass Strait by sort of 9 - 10 o'clock Sunday morning to be making a decision not to be where we were. 40

Q. Does that mean you'd like to know what was happening at Wilsons Promontory at about 9 or 10 o'clock?

A. Yes.

Q. If you had contacted Wilsons Promontory or had been advised as to what the actual wind speeds observed there were, you'd have been told that on the Sunday at 6am it was 71 knots, at 9am it was 79 and at 12pm it was 66. What would that have told you? 45

A. I guess most yachts take the Prom with a little bit of respect because of its height and also the channelling effect of the winds down through the Great Australian Divide there, but we still would have been worried by it. 50

Q. When you most yachtsmen take it with it-- 55

A. They normally take, most I think is a general rule, most yachtsmen would at least 10 to 15 knots off the wind speed, yes.

Q. I think there have been some estimates given of even more than that that you would take off?

A. On occasions, yes. But as a general rule like 10 to 15 knots is pretty accurate.

5

Q. If you were as concerned as you've indicated, why wasn't an attempt made to obtain this information?

A. I guess we were putting, we assumed, I mean the weather forecast that we'd been given by the Yacht Club, well at the Yacht Club on the morning of 26th were very good and we assumed that that would continue through the race. And we assumed that Telstra Control would be gathering that information and passing it on to the fleet as they deemed necessary.

10

15

Q. But in fact within a matter of hours of you starting - no just a minute - within a matter of hours of you starting the race you knew that that picture had changed, that now there was to be a storm warning, something that you'd never experienced before in a race?

20

A. No that's correct.

Q. So the whole picture had changed hadn't it and you found that out sometime pretty early on the Saturday afternoon, not long after the race started?

25

A. That's correct.

Q. When was the last forecast that you heard, you personally heard before you got to 2 o'clock on the Sunday, the 2 o'clock sked?

30

A. I don't think I personally heard a forecast because I was either sailing the boat or asleep. It was relayed to me by the navigator.

Q. In your evidence today you said that the initial storm warning was of 6 to 8 hour duration, do you recall that?

35

A. As I understand it, yes.

Q. What lead you to believe that?

A. That was what the navigator came up and said to me on deck at the time. That was my understanding of the situation at the time.

40

Q. Who was the navigator?

A. Peter Keats.

45

Q. He was the man that was having all the dealings with Telstra Control?

A. He was at the radio, yes, taking those matters.

50

Q. What, he told you that it had been forecast that the storm was only going to last 6 to 8 hours?

A. Well, that the winds would be that strong and then they'd be abating after that. That was, that was the gist of what he heard.

55

Q. That was clearly a matter of importance to you because it mean it was what, a relatively short lived storm, is that

what you--

A. Yes that's right, yes.

Q. But then, if you'd known it was to have been say approximately 24 hours duration or that it was going to go all day Sunday, the wind would not to have abate until the Monday morning, would that have meant something different to you? 5

A. It would have concerned us more because the seas would have been bigger. 10

Q. Would it have stopped you?

A. I can't answer that honestly. And we would have thought about it a lot harder, put it that way. 15

Q. Realistically Mr Walker, do yachtsman in a race such as this, do they use weather forecasts to advise them whether to pull out and seek shelter, or rather to try and enable them to get a competitive edge, to find the best way to get to Hobart in the shortest time? 20

A. Both, you'd use them in both ways.

Q. Can I just take you to your record of interview to the police, do you have a copy of it?

A. Yes. 25

Q. Now the first one, the very first one, I take you to page 5 and about the 6th line you talk about the second western front coming, do you see that. You then go 'initially around 35 45 which was quite quite manageable, continue to build over the next couple of hours'. That would have been what, at about midday when that western front, that second front-- 30

A. It was approximately midday, yes. 35

Q. Actually if you look at the preceding page, the bottom of the preceding page, you say 'about midday it started to freshen quite hard'?

A. Yes. 40

Q. So we're talking at about midday 'it's 35 to 45 and then over the next couple of hours we were wondering' you say 'because there were 3 or 4 of us on deck, we were discussing what to do, we knew we had too much sail'. And you then describe the sail-- 45

A. Sorry, hang on.

Q. Then you go on little further down, about 4 lines further down 'eventually we got a hell of strong gust and it got heavily flogged and the top batten flew out which meant it was going to flog itself to pieces quickly so we dropped it'. That's what happened? 50

A. Ah, in a round about way, yes.

Q. So in a sense you waited until something happened and then you reacted? 55

A. We always do that on a yacht, well not always but you, I mean where in a position where we could drop it quite

quickly and we did?

A. Yes.

Q. Is that fair though that to say that you always do that on a yacht, you wait until you have to? 5

A. Well generally speaking you try and keep as much sail on as long as you can when you're racing.

Q. Because you're racing? 10

A. Yes that's right.

Q. You then went on and described how you were just sailing under the storm under the storm jib - I'm now at the 5th last line - 'at this stage it was probably blowing 50 to 55 knots, the breeze continued to build and the seas continued to build'. I can take you over the page - without going through all the other description - in the 4th line you say 'conditions were deteriorating to the point where they were nearly the worst I've been in'. That so? 15

A. Yes. 20

Q. You still had the storm jib on and you were doing 6 to 8 knots most of the time?

A. Yes. 25

Q. You then said, the next line, 'we got big squalls and bad waves that popped out of the track'?

A. That's not right, it caused the storm jib to pop out of the track, in transcript it's not accurate. 30

Q. Popping out of the track, what it's something to do with--

A. The sail is set on a track in the front of boat, yes.

Q. You then go on 'when we just blown away by a big wave and we were at the wrong angle and it just popped out', that's the sail? 35

A. Yes. That was the smallest sail we had on the boat so that so was our last option. We weren't really racing, we were trying to survive. 40

Q. Let me just, you sure about that?

A. Yes, I'm sure about that.

Q. Well let's just look 4 lines further line down, you said 'I suppose at this stage we were still racing', that's what I wanted to ask you about? 45

A. We were still heading in a southerly course because we thought it was the safest course but we weren't really, I mean whilst we were still keeping the boat under way, we weren't driving it as perhaps, I mean we were being driven by as hard as the boat could take because the storm jib was our smallest sail and that was our last option, and were loathe to take it off because we would then not have steerage. 50 55

Q. But Mr Walker, yachtsmen, it would be fair to consider from what we've heard in this court, make a big distinction

between being still racing and being in survival mode?

A. At that point, you are, I mean that was our survival mode full stop. Our storm jib is our last resort and that's the smallest sail as we could get and we were heading on the safest course that we thought we could steer the boat at that point. 5

Q. That may be so but the fact is you regarded yourself as at that time still racing?

A. Well I wouldn't have regarded it as racing, I would have regarded it as keeping the boat as safe as we could at that point, even though we were still on course to Hobart, in inverted commas. 10

Q. Are you saying that had you decided the safer was to go towards the north in some way, you'd have done that at that stage? 15

A. Precisely. We just happened to be south at that point.

Q. Approximately are you able to tell us when was that? 20

A. I guess that was probably from 3 o'clock until we took it off. Until we took the storm jib off finally because that was overpowering the boat.

Q. When was it approximately? 25

A. When we took it off? Um, around about 5 o'clock.

Q. So about a further half an hour later--

A. No, no, probably nearly 2 hours later. 30

Q. A further half hour on was when you tipped over? 30

A. Yes that's correct, when we were under bare poles. We were still heading south at that point because we thought it was the safest course. But we didn't want to take it off I might add. 35

Q. I just want to take you back to the wind speeds, you indicated before that with Wilsons Prom yachtsmen generally make a reduction because they know the readings there of wind speeds tend to overstate the actual conditions? 40

A. They probably don't overstate at the Prom but they probably do in general.

CORONER: Q. For the Strait? 45

A. Yes.

STANLEY: Q. The maximum speed actually observed on that day and recorded was the 9am one that I put to you before of 79? 50

A. Yes.

Q. During the day the winds went from 41 up to 79 and then down again to 48? 55

A. Yes.

CORONER: It's a long way away Mr Stanley, it's quite a long way away from where the boats are. Doesn't that depend on which way the storm is coming?

STANLEY: I'm sure it does your Worship, it's just a matter of, this witness' evidence has the wind speeds of, I would say, certainly out of kilter with the--

CORONER: Wilsons Promontory, but that's just my point. We're talking about east of the Bass Strait into the Tasman Sea where he is. 5

WITNESS: I am only telling you all I saw on the boat, I am not lying. 10

STANLEY: Q. Mr Walker you indicated that you'd previously sailed in this boat in seas of 6 to 10 metres?

A. Yes. 15

Q. Just perhaps to give us an idea of, how high would you estimate this ceiling to be?

A. Five and half metres.

Q. Yes. So you're suggesting that the waves that you sailed in and were quite happy to accept to sail in were twice as high as this ceiling? 20

A. Correct.

COLEFAX: Q. Mr Walker, in the course of your evidence today you've referred on a number of occasions to Telstra Control. In 1998 during the course of this race, was it your impression that the entity known as Telstra Control had some function for the gathering of weather information? 25

A. I would have thought that they would have been gathering the information, probably from somewhere to relay onto yachts. They were certainly giving out weather forecasts. 30

Q. Did you have the impression in December 1998 that Telstra Control had some function in the co-ordination of rescue vessels? 35

A. Not necessarily.

Q. Was the use of the word Telstra, in referring to that organisation as say Telstra Control, did it convey to you some impression that that telecommunications organisation was involved in the broadcasting of race information? 40

A. I wouldn't have thought so, no.

Q. You are aware are you not that Mr Murray, Mr Andrew Murray, is of the opinion that the Telstra Telecommunications Organisation had some involvement with what we are calling Telstra Control? 45

A. I don't know that.

Q. Do you know that in fact Telstra Control is a description for 3 volunteer workers who have no connection whatsoever with the Telstra Telecommunications Organisation? 50

A. I wasn't aware of that at the time but I am now.

Q. Are you aware now that the reason it's called Telstra Control is nothing more than a reference to the fact that Telstra is a sponsor of the race? 55

A. I'm aware of that, yes.

Q. And that for advertising purposes the Cruising Yacht Club radio broadcasters are called Telstra Control. Do you understand that now?

A. Yeah I understand that.

Q. Do you know that the equipment which Telstra Control broadcast during the course of the race is housed in the mess of the naval ship Young Endeavour?

A. I've got no idea what those arrangements are.

Q. Is that the first time you've heard that suggestion?

A. Yes.

CORONER: Q. And the mess that goes to the radio, the naval radio set up on the Young Endeavour.

A. Sorry what was that?

Q. The mess of the ship as opposed to the naval communications centring on the ship? You didn't know that?

A. No I did not know that.

COLEFAX: Q. I want you to assume for the purpose of the questions I ask you that on board the naval vessel Young Endeavour there were in fact in 1998 two sources of radio equipment. The first being that which was on the naval bridge?

A. Yes.

Q. Operated by the naval personnel and the second being in the mess of the ship which had been converted for the purposes of the race for use by the Cruising Yacht Club?

A. Yes.

Q. And that second source was known as Telstra Control. Can you assume that?

A. I can assume that now, yes.

Q. Were you aware that before the commencement of the 1998 race at the briefing on Christmas Eve there was distributed to the skippers and navigators of each ship sailing instructions for the course of the race?

A. Yes.

Q. Do you see in my hand now a document that purports to be a copy of the Cruising Yacht Club of Australia 1998 sailing instructions?

A. Yes.

Q. Did you see that document during the course of the 1998 race?

A. I would have read it prior to the start.

Q. I appreciate that you were not the navigator on the ship and you weren't the skipper. Would those facts, the fact that you weren't the skipper and the navigator mean that you did not pay particular attention to the section entitled

radio instructions?

A. Yes.

Q. You had left that for the skipper and Mr Keats to concentrate on would you? 5

A. Yes.

Q. Did you have any regard to it at all?

A. I certainly would have read when the skeds had to happen and the course. Basically I guess my role on the boat was to sail the boat as well as possible. 10

Q. There's no question about that, I'm just trying to pinpoint what knowledge you actually had about the radio instructions section of the sailing instructions? 15

A. I would have read through them but not taken particular note.

Q. Did you appreciate when you read through them that those radio instructions drew a distinction between Telstra Control on the one hand and the Young Endeavour, the naval ship on the other? 20

A. No.

Q. Did you appreciate when you read it that Telstra Control, the Cruising Yacht Club volunteers, would be maintaining a continuous listening watch on an HF channel 4483? 25

A. I would have thought that would have been the case, yes. 30

Q. Did you appreciate that 4483 was the designated general traffic channel for the race?

A. That was my understanding.

Q. Did you appreciate that a quite separate radio channel, namely 2182 was being maintained by the Navy as a designated distress channel? 35

A. I was unaware of that.

Q. You've told his Worship some of your concerns about the way in which the radios were being operated by Telstra Control during the critical part of the race when everything started to seem to come undone? 40

A. After we'd been rolled the first time do you mean? 45

Q. That would be an appropriate start. In particular I think you've told his Worship, and if I use your notes, you express a concern that Team Jaguar took up a lot of chat time, to use your word, on the line 4483. You used those terms didn't you? 50

A. Yeah well chat time, that might be an inappropriate word because they considered it to be serious.

Q. Yes it probably is inappropriate but nevertheless, leaving aside that colourful expression, you had a concern that too much time was taken up on 4483 by Telstra Control and Team Jaguar. That is a concern? 55

A. I thought that to be the case at the time, yes.

Q. Are you aware that the radio on Team Jaguar was jammed so that it could not transmit on any other line other than 4483?

A. We were unaware of that at the time, yes.

5

Q. Are you aware of that now?

A. I have read it in a yachting magazine since, yes.

Q. So that if Team Jaguar needed to communicate with any other organisation it had to be on 4483?

10

A. Yes. We also didn't know how many HF radios were on Telstra Control.

Q. If I tell you that there was only HF radio on Telstra Control would that come as some sort of news to you?

15

A. That would be news and it would be a shock.

CORONER: Q. Why would it be a shock? See I'm a land lover. You tell me why it's a shock?

A. I would have thought that to conduct the Sydney Hobart race you'd probably want three HF radios for situations like that and three operators.

20

Q. Three radios and three operators?

A. Yes.

25

COLEFAX: Q. And of course you would appreciate that a decision to put radios and the number of them and operators on board the vessels that was a decision for the Cruising Yacht Club, not for the three volunteers who were on board the boat. You appreciate that don't you?

30

A. Precisely, yes.

Q. You've expressed your concern about Team Jaguar. I'd just like to ask you some questions about the frequency with which Team Jaguar actually did use the 4483 channel and which you and Mr Murray assert resulted in too much time being taken up with that boat's problem. I wonder if I could ask his Worship's officer to provide you with a photocopy which I have here of the radio log which is now exhibit 24A, the original of which his Worship has. Would you be kind enough to open the bundle of sheets at sheet 15. You will see the first one is numbered one and could you go through to sheet 15?

35

40

A. Yes I've got that.

45

Q. Do you see the very first entry on that page is at 16:00 hours, a message is recorded that Team Jaguar has been dismasted, that it is seeking assistance and requesting assistance. Do you see that?

50

A. Yes.

Q. Do you see that on that sheet the only other entry referable to Team Jaguar is at 16:30 hours when its position has been logged?

55

A. Yes.

Q. Do you see by reference to the following entry at 16:32

hours that the 16:30 transmission by Team Jaguar could have been of no more than two minutes duration if that log is accurate?

A. That's correct.

5

Q. Would you turn the page to sheet 16?

A. Yes.

Q. Do you see that on that sheet there is no recorded transmission by Team Jaguar at all?

10

A. Yes.

Q. Would you turn to sheet 17?

A. Yes.

15

Q. Do you again see that on that sheet there is no recorded transmission by Team Jaguar?

A. Yes.

Q. But you will see at the bottom of the page the time 17:49 a transmission from Yendys advising Telstra Control of the mayday from Business Post Naiad?

20

A. Yes.

Q. Can I just interrupt this line of questioning on that log Mr Walker to ask you this question? Are you aware that at 17:49 when that transmission from Yendys was being recorded that Mr Michael Brown, one of the three volunteer radio operators was transmitting the substance of the mayday to Mr Sam Hughes at the Hobart Royal Yacht Club and he's part of the official rescue organisation. You know about that?

25

30

A. I don't know about him but I know of - that's--

Q. Do you know now that at 17:49 hours your mayday was being transmitted by mobile telephone to the rescue authorities by Telstra Control?

35

A. No I don't.

Q. Is that the first time you've heard it?

40

A. Yes.

Q. Indeed if that had been done as evidence will be given that it was done, that would have been - you could have asked for no more from the volunteer operators at Telstra Control so far as transmitting the mayday to the rescue authorities was concerned. Would you agree with that? In other words if at the very moment they are being told by Yendys of your mayday at that very moment they are communicating it to the rescue authorities you don't suggest there's anything more they could have done at that time to alert the authorities do you?

45

50

A. No at that instant no, no not at all.

Q. Could you turn please to sheet 18 and do you see there at 18:05 Bin Rouge transmits on behalf of Business Post Naiad your position? Do you see that? It's the third entry?

55

A. Yes I can see that.

Q. Do you also see that at 18:15 hours there seems to be a transmission from a boat entitled Disaster Bay recording your position. Do you see that? 5

A. Yes I can see that.

Q. So that relevantly if at 18:05 or at 18:15 the officials organising the rescue needed to know your position, if they thought it was necessary and if EIPRB wasn't operating, if they thought it was necessary they could have contacted Telstra Control to obtain your position and a log was kept of your position? 10

A. It appears so, yes, definitely. 15

Q. Do you see that on sheet 18 there is only one reference to Team Jaguar and that is at 18:25 hours at the bottom of the page? 20

A. Yes.

Q. And that was the first entry since 16:30 hours? 25

A. Yes. That's probably not the period that I was trying to--

Q. We are coming to it. Could you turn please to sheet 19 and do you see towards the bottom of the page an entry at 19:15 hours whereby Yendys has logged your position? 25

A. Yes.

Q. Again if the Sea Rescue officials had wished to know your position it was there to be communicated? 30

A. I guess we probably didn't know that that was being logged.

Q. No but you now see it to be-- 35

A. Yes I can see it to be so, yes.

Q. You appreciate don't you Mr Walker that you've made criticism of the people at Telstra Control and not only you but Mr Murray in a most disturbing way have suggested that these volunteers ignored the mayday. You understand that that's been said in open court, mostly by Mr Murray but to a lesser extent by you? 40

CORONER: No that's all right. I was going to say he's not making the point that you necessarily said that but that Mr Murray said it. 45

COLEFAX: I think your Worship that Mr Hill led some evidence with the expression slipped through the cracks. 50

CORONER: Well his answer was "We felt it had slipped through the cracks" and it's obviously predicated on what he knew at the time. 55

COLEFAX: Yes.

WITNESS: I must say I on deck and I wasn't listening to the

radio and getting all that.

COLEFAX: Your Worship can I say the reason I'm taking some care about this with this particular witness is because I didn't - and it's no reflection at all on the way this inquest has been conducted but your Worship will be familiar with the circumstances in which the allegation was articulated by Mr Murray who asserts that he was listening to the radio all the time.

5

CORONER: Yes.

10

COLEFAX: A suggestion was made in his evidence, unprompted by counsel assisting, it was volunteered. It received a lot of publicity.

15

CORONER: It did.

COLEFAX: Mr Carter was not represented and Mr Murray was not adequately, if at all, cross-examined on these assertions.

20

CORONER: I'm glad Mr Carter has representation. I am not in any way trying to inhibit your cross-examination.

25

COLEFAX: Thank you your Worship.

Q. Now Mr Walker do you see that on sheet 19 there is only one reference to Team Jaguar?

A. Yes.

30

Q. It's immediately after the reference to Business Post Naiad and it's an entry also for 19:15 hours. Can you see it?

A. 19:59 on page 20?

35

Q. No you must have - we are back still on 19. It's right at the bottom of the page?

A. Yes.

40

Q. Do you see that there's an entry there referring to Team Jaguar and also making a reference to the Moira Elizabeth?

A. Yes.

Q. Could you turn the page and at number 20 first of all do you see there's an entry at 09:58 hours referring to your boat and it's an entry from Yendys communicating the fact that three men are overboard - I withdraw that. There's a communication at 19:58 hours referring to your boat, it seems either to have been communicated by Yendys if you look at the left hand column or Tilting at Windmills, if you look at the right hand column, but nevertheless there's information there - 19:58 hours I think it is.

45

50

A. Yes.

55

<WITNESS STOOD DOWN

LUNCHEON ADJOURNMENT

RESUMPTION

<STEPHEN WALKER
ON FORMER OATH

COLEFAX: Just one housekeeping matter your Worship before I
continue my questions. I think on a number of occasions
during the course of my appearances here I have referred to
the 1998 sailing instructions and I've waived it around and
generally I have assumed that it was an exhibit but on
reflection over lunch I am not so certain that it is an
exhibit.

5
10

CORONER: Yes it is.

15

HILL: All that's happened is that any particular document
that wanted to be highlighted has actually gone in.

WEBER: If it's of assistance I think it's in more than one
spot but it's certainly in volume 13D as appendix 7 to my
client's--

20

CORONER: Thanks very much.

COLEFAX: Q. Mr Walker before lunch I was asking you some
questions about sheet 20 of the radio log. But can I just
take you back please to sheet 19 and the second entry on
that sheet for 18:30 hours is a message from the ship
Kingurra in which a mayday is recorded, the position and
then the words "Lost man overboard". Do you see that entry?
A. Yes.

25

30

Q. Do I correctly recall your evidence before lunch to be
to this effect that you personally did not hear all of the
transmissions involving Team Jaguar?

35

A. Personally I heard very few because a lot of the time I
was on deck.

Q. So that you would not know therefore that a number of
the Team Jaguar transmissions to Telstra Control were
concerned with the man lost overboard by Kingurra?

40

A. No, not at all.

Q. That would of course affect your judgment about whether
this was just chatter if what in fact was being spoken about
was Team Jaguar's efforts to find the man lost overboard
wouldn't it?

45

A. That's possible.

Q. You wouldn't regard that as just chatter would you?
A. No, but again I wasn't listening to the radio personally most of the time.

Q. Going back to sheet 20 - before I do that, one other thing. Are you aware that the information recorded on the log and being received by Telstra Control was simultaneously being received by the rescue authorities in both Hobart and Canberra? 5

A. No I haven't seen that log. 10

Q. The suggestion I'm putting to you is the information that was received by Telstra Control and recorded in log exhibit 24A which is in front of you, was at the same time as it was being heard by Telstra Control, being heard by the rescue authorities in Hobart and Canberra. Did you know that? 15

A. No.

Q. On sheet 20 I think we were dealing with the entry at 19.58 hours where Business Post Naiad's position was recorded, do you recall that? 20

A. Yes.

Q. Do you see that on that sheet there are two entries for Team Jaguar, one at 19.25 hours at the top of the page, do you see that? 25

A. Mm.

Q. And do you see the second entry at 21.14 hours, see they being the only two entries on that page for Team Jaguar? 30

A. Yes.

Q. Could you please turn to sheet 20A, have you got that?

A. Yes I have. 35

Q. Do you see that first of all on that sheet there are no entries referable to Team Jaguar, do you see that to be so?

A. Yes.

Q. And do you see that there are two entries in there in relation to Business Post Naiad, the first being at 20.29 hours when Midnight Special relayed your position to Telstra Control? 40

A. Yes. 45

Q. And do you see a further entry at 20.47 when apparently it was recorded that contact with your boat was lost. Do you see that?

A. Yes. 50

Q. And that presumably means contact by a vessel relaying information to Telstra Control?

A. Yes.

Q. Would you turn now to sheet 27 and you may accept Mr Walker from me and you can check the radio log sheets if you like, that between sheets 21 to 26 there is no reference 55

to your boat in consequence of you having been--

A. Quite a few in relation to Team Jag.

Q. Yes but there are no references to you because your contact was lost?

5

A. Yes.

Q. And just looking at the last contact, can I interrupt you and ask you to back to 20A, at the entry for 20.47 can you assist me in saying whether that is before or after the second roll?

10

A. That is after the first roll and prior to the second roll.

Q. Are you able to now in this distance of time assist his Worship in saying how close to the second roll that entry was?

15

A. Our second roll was at 11 or 2300 hours.

Q. In your note that you prepared, in reference to an entry for 20.30 hours your note suggests that your navigator who was the radio operator, had communicated to Midnight Special the fact that three crew were to be removed if possible from your boat?

20

A. Requesting assistance if possible and that was in one of these previous pages here that I saw before lunch in here.

25

Q. In the log?

A. There was a reference for that yes.

30

Q. For your boat?

A. Yes.

Q. Are you able to assist his Worship where you think that was if it wasn't one that I took you to?

35

A. I can't see it now but I thought I did see it somewhere.

Q. Is it possible you confused that entry for another boat skimming through the document?

A. Skimming through the document that may have been the case yes.

40

Q. In any event Mr Walker the note that you prepared nominates the communication at 20.30 hours on 27 December--

A. That's very approximate.

45

Q. --as being the communication in which the request for crew to be removed was made do you see and do you see that in the radio log there is in fact an entry not for 20.30 hours but for 20.29 hours, one minute different?

50

A. Yes.

Q. So we're likely to be looking at the relevant entry on page 20A aren't we?

A. That's possible yes.

55

Q. It as you can see, makes no reference to a request for crew to be removed?

A. No.

Q. Are you confident - do you know from your discussions with Mr Keats, whether he says that he conveyed that request to Midnight special? 5

A. I don't know for a fact, I can't recall that for a fact.

Q. So that's an inference you've drawn is it from a variety of material?

A. Well I know he made a request for assistance. 10

Q. Is what you're saying you know he requested assistance?

A. Yes.

Q. You do not know but assume he requested crew to be removed? 15

A. I'd never be 100 per cent certain that that actually happened but he did request that three members be removed if possible and also a vote to stand-- 20

Q. And that request of his was made to Midnight Special?

A. I don't know which boat it was made to.

Q. According to your note it would seem to suggest that wouldn't it? 25

A. Yes.

Q. And the log would seem to suggest it?

A. Yes it would seem. 30

Q. And of course you're unable to say what information was conveyed by Midnight Special to Telstra Control beyond looking at the radio log?

A. That's correct. 35

Q. You accurately say that on sheets 21 to 27 there are a number of references to Team Jaguar but that is at a time when radio contact with your boat had been lost?

A. Well we could hear them but they couldn't hear us. 40

Q. You couldn't transmit to them could you?

A. No that's right--

Q. And you'd never been able to transmit directly to Telstra Control after the first roll? 45

A. That's correct.

Q. You were transmitting by way of relays?

A. Yes. 50

Q. And it's the position isn't it that after 20.47 you were unable to transmit to any other relay boat?

A. As far as I'm aware yes.

Q. So whether or not after 20.47 Telstra Control was talking to Team Jaguar, any other boat or nobody, would make no difference so far as Business Post Naiad was concerned? 55

A. Yes they were unable to communicate - we were unable to

communicate directly with them or via relay, yes that's correct.

Q. And so far as you now know your position was being logged on each time a call was being made to telstra Control by a relay vessel? 5

A. As far as I know yes. We were unaware whether they were hearing us or not.

Q. But you now know that to be the fact that your position was being logged by Telstra Control? 10

A. Yes.

Q. And being noted by the rescue authorities in Canberra and Hobart? 15

A. Yes I know that now.

Q. So far as the Young Endeavour was concerned you've suggested that you thought it might have sole role in rescue? 20

A. I don't think it could have actually rescued but it may have been able to stand by as such.

Q. And of course you've seen from the radio log the enormous demands that were being put on Young Endeavour in relation to a lot of boats that had got into trouble? 25

A. Exactly.

CORONER: Young Endeavour or Telstra Control? 30

COLEFAX: I'm not quite sure what I said your Worship but--

CORONER: You..(not transcribable).. Yung Endeavour now but the radio log refers to Telstra Control as I understand it. 35

WITNESS: Young Endeavour is the navy part of it and--

COLEFAX: I'm grateful to Mr Hill for drawing that deficiency to my attention. 40

Q. Mr Walker do you know whether Team Jaguar is owned by a member of the Cruising Yacht Club of Australia? 45

A. I believe it is owned by a member of the Cruising Yacht Club of Australia, yes.

Q. Do you know whether friends or relatives of that person were aboard the Team Jaguar during the race? 50

A. You would assume he'd have some friends on board.

Q. So may his Worship take it therefore that given those facts and given your previous answer, knowing those facts you regarded as extremely unlikely that they would have been in any way relevant to the conduct of the volunteers on board Telstra Control? 55

A. I don't see how it would affect Lew's conduct at all if Lew is who you're talking about.

Q. I am actually being Lew Carter?

A. I can't see how it would be relevant at all.

Q. You know him to be an honourable man who's participated in these races since 1989, is that right?

A.

COLEFAX: I meant to say Young Endeavour.

CORONER: That's fine.

COLEFAX: Q. You're aware that after your maybe from Business Post Naiad was dispatched, a number of vessels had got into trouble?

A. Yes.

Q. A number of maydays had been issued?

A. Yes.

Q. And it would have been impossible for Young Endeavour to attend to all of them?

A. Yes.

Q. And do you now understand that Young Endeavour's primary responsibility was that of the radio control vessel for the fleet?

A. Young Endeavour or--

Q. Young Endeavour was to provide the--

A. The platform for Telstra Control.

Q. --platform for Telstra Control?

A. Yes.

Q. You told his Worship that before the first roll your vessel was 15 miles from the edge of the continental shelf or thereabouts?

A. Somewhere there yes.

Q. And that was an important factor because it had an impact upon your decision to continue rather than turn back?

A. Yes.

Q. Would you say that at that position you were one of the furthest - at the furthest perimeter of the shape of the fleet? Do you follow that question?

A. No there was lots of boats a long way further to the east than us.

Q. Is that right?

A. Yes.

Q. Are you aware of the suggestion made by Mr Murray that the activities of Telstra Control particularly Mr Carter in dealing with the Business Post Naiad's position was somehow compromised by an improper relationship between Telstra Control and Team Jaguar boat?

A. No.

Q. Have you discussed this incident with Mr Murray since

December 1998?

A. When we were rescued we actually stayed on his boat, yes.

Q. And since that time?

A. Some of it but not all of it.

CORONER; Q. He's a Tasmanian isn't he?

A. He's a Tasmanian but he's been in America for just about since that time, so I haven't seen a lot--

Q. He comes from the same part of Tasmania as you?

A. No he's 200 kilometres to the east of me.

Q. What, around Devonport or somewhere?

A. Launceston.

COLEFAX: Q. Have you heard Mr Murray assert to you that, this is at page 13 of the record of interview your Worship, that the Team Jaguar was owned by someone who was a committee member of the Cruising Yacht Club and the personal friends or relatives of that person were aboard the Team Jaguar and that that fact in some way affected the manner in which Telstra Control responded to your vessel's mayday, have you heard him say that?

A. No.

Q. And so far as you know that would be a completely wrong statement wouldn't it?

A. I don't think that would be relevant, no.

Q. You don't think--

A. I don't think it's right.

HILL: I'm just a little worried about that last statement with which the witness has agreed. There's about three or four facts contained in that question and I'm just wondering what it is that the witness has agreed to.

CORONER: Can you go further Mr Colefax and spell it out.

COLEFAX: I'm grateful to Mr Hill for drawing that deficiency to my attention.

Q. Mr Walker do you know whether Team Jaguar is owned by a member of the cruising Yacht Club of Australia?

A. I believe it is owned by a member of the Cruising Yacht Club of Australia yes.

Q. Do you know whether friends or relatives of that person were aboard the Team Jaguar during the race?

A. Well you would assume he'd have some friends on board.

Q. So may his Worship take it therefore that given those facts and given your previous answer, knowing those facts you regard it as extremely unlikely that they would have been in any way relevant to the conduct of the volunteers on board Telstra Control?

A. I don't see how it would affect Lew's conduct at all, if Lew is who you're talking about.

Q. I am actually, mean Lew Carter?

A. I can't see how it would be relevant at all.

5

Q. You know him to be an honourable man who's participated in these races since 1989, is that right?

A. I respect Lew Carter as an operators yes.

10

Q. And you hold him in the highest regard and a man of honour and integrity?

A. Well I don't know him--

Q. And from that assertion it was quite untrue and unfair?

15

A. That's not us. I don't know Lew personally but I hold him in high regard and respect him for his position and the job he was doing.

Q. Thank you Mr Walker?

20

A. I can't answer to the rest--

WEBER: Q. Mr Walker I think you told his Worship that you're a sailmaker by trade?

A. That's true.

25

Q. Did you make and supply the sails which were on Business Post Naiad during the 1998 Sydney to Hobart?

A. Most of them yes.

30

Q. Were you in charge of sails if I can put it that way, on the vessel?

A. What do you mean by that question? That's a loaded question.

35

Q. How many sails were on board Business Post Naiad on that trip to Hobart in 1998?

A. We had a mainsail, a trysail, storm jib, three spinnakers, two genoas, one number three, one number four.

40

Q. And a storm jib, I think that's 11?

A. Somewhere in that vicinity yes.

Q. Have you got any idea how much those sails weigh when dry?

45

A. You would have to think a couple of hundred kilos.

Q. And have you got any idea of how much those sails would weigh when wet?

A. Could easily be double that or more.

50

Q. So it would be what, say five or six hundred kilos?

A. Six hundred would probably be high unless they've got a lot of water trapped in them but if they were just wet they could well be - could easily be 400 kilos.

55

Q. And if they were in sail bags and wet, then they could obviously have a lot of water trapped in them couldn't they?

A. Most of the sail bags as such were open and the water could drain out of them. They were turtle bags for the headsails which mean the water can drain.

Q. I think one of your crew has described in the police the fact that the mainsail when dry was a 3-man carry? 5

A. The mainsail when dry I think in actual fact weighed 31 kilos and you can see that from the IMS certificate. I'm not exactly sure on that exact figure but it's in that range. So one person can lift it. I could certainly lift it by myself. 10

Q. Could you - when the vessel rolled for the first time I think you described it variously as being - the under parts of the vessel as being in disarray? 15

A. After the roll or prior to? Prior to it was in order, after it was in disarray.

Q. Had the anchors come away from their securings? 20

A. No.

Q. They hadn't?

A. The chain had moved but the anchors hadn't.

Q. The chain had moved? 25

A. Yes.

Q. Where had the chain moved to?

A. It ended up in the bilge but we put it back in its locker. 30

Q. The stove broke from its retainers didn't it?

A. Yes it did.

Q. Where did it end up? 35

A. It ended up wedged sort of across - like in the centre of - have you got a photo of the inside of the boat?

Q. No?

A. It ended up sort of wedged between the motor and its station where it was normally kept so we put it back into position. 40

Q. And the sails, where did they end up after the first roll? 45

A. The sails were normally kept under the cockpit floor jammed up in under the quarterberths and under the cockpit floor in the stern of the boat.

Q. You qualified that answer by generally, were they in fact stowed there immediately prior to the first roll? 50

A. All but one was.

Q. Where was the one that wasn't?

A. One was on a leeward side. It was the number four that we'd taken down, hadn't been turtled(?) and put into a bag at that point. 55

- Q. So it was just lying open waiting for somebody to bag it?
A. I wouldn't say open, it was laying on the side of the boat. It was pretty wet and we didn't want to get it back into the dry accommodation area. 5
- Q. Where did the sails that were stowed end up after the first roll?
A. Most of them stayed back there where they were kept. 10
- Q. How many of them didn't?
A. Basically the only one that - the one that was forward, the number four that was in the cockpit floor - the cabin side. 15
- Q. I'm sorry, the problem is no doubt mine but did any of the bagged sails move from where they were stowed in the first roll?
A. Not to my knowledge. 20
- Q. Was the area in which they were stowed--
A. Just from memory, sorry, the number one heady might have been jammed down on the port side quarter berth area as well and might not have been in a bag. I can't remember precisely. 25
- Q. The sails which stayed where they were stowed, did that area become inundated with water?
A. Not in the first roll but certainly in the second roll. 30
- Q. Well it would have taken some water in the first roll wouldn't it?
A. Yes but they were up on a higher part of the bilge.
- CORONER: Q. Above the water line-- 35
A. They were basically on the water line yes.
- WEBER: Q. on the water line?
A. They were at the water line level and the cabin side would have been that far beneath the level where most of them were stowed. 40
- Q. But some of them would definitely have taken water in their bags?
A. Yes. 45
- Q. And thus increased their weight significantly?
A. Yes.
- Q. And the batteries, did they move in the first roll? 50
A. No not at all.
- Q. The internal ballast?
A. There was no internal ballast. 55
- Q. There was none at all?
A. No.

Q. And the hatches to the companion way, did they move?

A. No.

Q. And we know don't we that because of the fact that I think it was Mr Keats who was kindly about to get you a sandwich when this calamity occurred?

5

A. Yes.

Q. He was at the freezer and the effect of that was that the entire contents of the freezer were put into the bilge?

10

A. Basically say three-quarters of our provisions for the race yes.

Q. And all the dry food which had been stowed came away?

A. Quite a few of the cabin lockers burst open and quite a few of the cabin doors actually burst in the impact of that first roll. The perspex that was the sliding part on some of them just burst and even plates and saucers that went across the cabin just broke into pieces..(not transcribable).. the other side.

15

20

Q. Did most of the cabin lockers give way given the force of the first roll?

A. Most of the drawers flung open yes. There wasn't a lot of cabin doors a such though--

25

Q. But virtually everything that was supposed to be stowed away after the first roll was no longer stowed away?

A. Pretty much so.

30

Q. And it was all in the bilge?

A. Yes.

Q. Floating in water?

A. Yes.

35

Q. And that would include wet weather gear?

A. Most of us had our wet weather gear on.

Q. Or personal gear?

A. No that was pretty much in lockers and secure.

40

Q. None of that came away?

A. No. Bunk cushions certainly got wet.

45

Q. Sleeping bags?

A. Yes.

Q. They would have been soaked in water and floating in the bilge?

50

A. Not all in the first roll but certainly after the second roll everything was.

Q. And of course we know that the mast - the vessel was dismasted?

55

A. Yes.

Q. And you've described very helpfully the way in which you

and the crew retrieved the mast and lashed it to the deck?

A. Yes.

Q. To which side of the deck was the mast lashed?

A. To the starboard.

5

Q. As appears in the model to which you're now looking?

A. The boom was on the port side and the mast was on the starboard side.

10

Q. The boom on the port?

A. The boom was still attached to the goose neck and lashed to the port side of the cockpit cum galley.

CORONER: Q. Bit like in the model?

A. Pretty much - the model is very accurate.

15

WEBER: Q. And there was considerable damage to the integrity of the vessel which you've already relayed to the Coroner?

A. Yes.

20

Q. You gave some evidence this morning of having been interviewed by Mr Bush about your recollections of these events?

A. Yes.

25

Q. And I think you told his Worship that with the exception of one crew member all the survivors were present?

A. Yes.

30

Q. And I think you told Mr Bush on that occasion that the vessel rolled sideways and dropped on its cabin sides and top, correct?

A. No that's not correct. We didn't say on to its top, it was dropped on to its side.

35

Q. The mast was broken, correct?

A. In the process of the first roll yes.

40

Q. Most of the bulkhead sprung?

A. Yes.

Q. One window was gone?

A. Yes.

45

Q. The rest cracked?

A. Not the rest, the other one on the port side was, the starboard one--

50

Q. So that one port window as broken, the other was cracked?

A. Cracked and had a small piece missing.

Q. And those two breaches were the source or ongoing ingress of water?

A. Yes but not to an alarming degree but it was a source.

55

Q. And you told Mr Bush that there was a fracture two feet long across the coach- house and a hole in the top of the cabin, correct?

A. There was no hole in the top of the cabin but there was a fracture. 5

Q. And where the compass was fixed in the side decks was cracked, correct?

A. Yes. 10

Q. And the deck delaminated?

A. Ye. 15

Q. And then once you were righted the level inside was still below the floor boards, is that correct?

A. Floor board level. 15

Q. But your crew was concerned that the vessel was taking water, correct?

A. We weren't sure if it wasn't taking water elsewhere yes at that time. 20

CORONER: Q. Through the hull you mean?

A. Yes through the hull. 25

WEBER: Q. And the crew observed that water was streaming in from the stern?

A. I don't recollect that.

Q. Do you recollect anybody telling Mr Bush that? 30

A. No.

Q. Are you aware that in the report to the CYC in dealing with your vessel that that's what's reported as being the result of the conversation with your crew? 35

A. No.

Q. Would you deny that Mr Bush was told that?

A. I can't deny someone else's statement, I can just deny that I didn't say it. 40

Q. Well this interview, was it conducted with each one of the crew members there present individually or as a group?

A. As a group. 45

Q. So if someone would have told Mr Bush that the crew had observed water streaming in from the stern, it would have been said in your presence wouldn't it?

A. Not necessarily because at various times of the evening we were in smaller groups then bigger groups but mainly we were together most of the time. We were in a room a quarter of the size of this. 50

Q. So you can neither confirm nor deny whether Mr Bush was told that? 55

A. No.

Q. I'm sorry I don't want to be difficult but when you say

no you in fact mean yes?

A. I mean I can confirm that I cannot - sorry, come again, I'm confused?

Q. You can neither confirm to his Worship nor deny that someone in the crew told Mr Bush that it was observed that water was streaming in from the stern? 5

A. That is correct. I can deny that I didn't.

Q. I wasn't being offensive to you about that, it's a problem with barristers and witnesses all the time. At the risk of stating the obvious, after the roll Business Post Naiad was nothing like the vessel that set sail from Sydney was it? 10

A. No it would have been hurt. 15

Q. And you immediately observed an example of how it wasn't the same vessel in the way that it was handling the weather, agreed?

A. I would say that most of that was because of the loss of the mast, yes that's right. You feel the motion in the boat and you could feel the way it was behaving. 20

Q. But you'd lost the mast, correct?

A. yes. 25

Q. You'd suffered a reasonably significant ingress of water, correct?

A. Yes. 30

Q. And a lot of what was down below was no longer in the spot where it was supposed to be, correct?

A. Yes.

Q. I think you've told his Worship that you - it's the fact isn't it that you've previously done Bass Strait crossings and experienced winds of up to 60 knots? 35

A. Probably up to 75 actually.

Q. When have you experienced those?

A. Seventy-knots would have been in a west coaster probably 15 years ago only off the top of my head. 40

Q. But you've experienced 60 knots in Business Post Naiad haven't you?

A. Yes. 45

Q. Leaving to one side the 1998 Sydney to Hobart, have you experienced 60 knots in Business Post Naiad after the removal of both 300-kilo-- 50

A. On one occasion - on two occasions, sorry.

Q. And she handled that all right?

A. She didn't feel unseaworthy to me, put it that way.

Q. We'll come to that but when you rolled the first time I think it's clear that the vessel righted itself immediately? 55

A. Yes.

Q. And what side of the vessel did the first wave that rolled you hit?

A. In the first roll?

Q. We were on starboard tack. The seas were coming to us on our starboard side and the boat rolled to port right through.

5

Q. So the big wave was from the starboard?

A. Yes.

10

Q. I just want to then take you to the second roll. What side of the vessel did the second breaker that rolled you hit?

A. Port side.

15

Q. And you were down below when that occurred?

A. Yes.

Q. And in your statement to the police I think you estimated that you might have been inverted for some four to five minutes, correct?

20

A. Yes.

Q. And I think you told his Worship today four to six?

25

A. Might have been six but I didn't look at my wrist watch.

Q. It must have seemed like an eternity at the time, agreed?

A. No it didn't seem that long at all because we were too busy. We were trying to assess the situation.

30

Q. You would accept that in the crisis you couldn't be particularly precise about how long you were inverted for?

A. No, correct.

35

Q. And Mr Matthews in his statement to police said that he thought that she was inverted between two and five minutes?

A. Yes agreed. We were in different spots.

40

Q. Sure, both suffering different crises?

A. Yes.

Q. So would it be fair to say that the range of time within which the vessel was inverted could have been as low as two, might have been as high as five?

45

A. I would have thought it was more than two personally. It could have been as little as that but I somehow doubt it.

Q. Do you have your record of interview with you?

50

CORONER: Which one?

WEBER: The first your Worship.

55

WITNESS: Yes.

WEBER: Q. You were asked--

A. Which page?

Q. I'm about to take you to 23 but just - you were asked why you thought that it took the vessel longer to right itself the second time than the first and on top of 23 you said the following and I'm reading from the second line: 5

"They were extreme conditions. I rather suspect we stayed upright because I rather suspect that behind the wave there was just a lot of white spummy water and often behind a big wave you just have a clear spot for a while". I realise you couldn't see what was going on? 10

A. That's right.

Q. But by the same token you could very much feel what was going on because you were in a cocoon if you like? 15

A. Yes I'm not used to feeling the boat in that situation.

Q. But your impression and doing the best you can, then and now was there was a lull in the wave activity, correct?

A. I think in that I was stating that that was a possibility but there could well have been because the boat didn't feel to be violently thrown around at that point yes. 20

Q. I mean if you were being thrown around you'd have well and truly known it wouldn't you? 25

A. Yes exactly.

Q. And you had no impression of that at all?

A. No violent movement, no. 30

Q. And your experience as an experienced mariner is that often times a big breaking wave can be followed by what you've called spummy water, correct?

A. Just white spummy water yes. 35

Q. That after a big breaking wave you do indeed get a clear spot for a fair while?

A. That's usually the case.

Q. And it's your impression isn't it albeit gained from the disadvantage of being in the hull, that as soon as a the next reasonable size wave came along she righted herself? 40

A. That's how it felt to me.

Q. And then when she righted herself it would be fair to assume that the disarray that you previously described after roll one was all the worse, correct? 45

A. Very much so.

Q. I don't want to take you through my shopping list of things that might have moved but could you help his Worship with the more significantly weighted items which had moved as a result of the second roll? 50

A. Some of the hatches on top of the quarterberths - not so much quarterberths, the pilot berths, the floor boards moved more or more of the floor boards moved, the motor stopped, diesel and oil were spewed out of the motor and went everywhere. 55

Q. Had all the sails moved from where they were--

A. No they were still - I think the number one heavy and I think at that stage the storm jib and the number four had certainly moved forward and maybe one of the spinnakers in a bag or so but yes some had moved but not--

5

Q. And all the sails in their bags now regardless of whether they stayed put or moved would have been absolutely saturated wouldn't they?

A. Precisely.

10

Q. And very heavy?

A. For instance when we deployed the half spinnaker it took Tony Guy and myself all our strength to get it out the hatchway which we'd normally carry easily by one person.

15

Q. I just wanted to ask you a few questions about the late Mr Guy. I think in your statement to the police, the first one, you used the adjective meticulous to describe him. Is that a fair adjective to describe the man especially when it came to preparations for racing

20

A. He prepared the boat as well as any person would.

Q. Yes?

A. Yes.

25

Q. And he was a very keen sailor?

A. Yes.

Q. I get the distinct impression that most people in the Hobarts are keen but would you say that he was keener than most? 5

A. I guess we're all a bit silly.

CORONER: It's a very hard, particularly difficult question to answer. 10

WEBER: Q. I withdraw it. He was very keen to sail in this Hobart wasn't he?

A. No, not particularly. He did particularly want to sail a Hobart in his own boat but there was no - I mean at one stage in his life he had a particular wish to sail a Hobart in his own boat, but-- 15

Q. Sure, but when did he first decide that 1998 would be that Hobart? 20

A. He was probably talking about it in the Christmas to '97.

Q. So a full year earlier?

A. Yes. 25

Q. And you were a good mate of his weren't you?

A. A good friend, yes.

Q. Yes, so you would have seen the plans to undertake the 1998 Hobart evolve all the way through 1997? 30

A. Yes, yes.

Q. And he ended up putting a lot of time and money into the preparations, correct? 35

A. Yes.

Q. And so certainly by say July and August he was very, very keen to get Business Post Naiad into that race and racing out of the Sydney heads on Boxing day? 40

A. He was keen to enter the race, yes.

Q. And you sailed the vessel to Sydney on the Friday before Christmas didn't you?

A. I can't be quoted on it but I'm pretty sure they left on 18 December. I wasn't on board. 45

Q. I see. Did you say they left Hobart or they arrived in Sydney?

A. No, sorry. They left Port Dalrymple in Launceston and I think it was 18 December, but I'm not 100 per cent certain on that. 50

Q. I'm terribly sorry, you're correct. You told the police in your first interview, "Bruce and five others bought the boat up and they left on the Friday before Christmas, Friday week before Christmas." So that was eighteenth? 55

A. I haven't got a calender in front of me.

Q. Well accept from me that Christmas was on a Friday that year and so they set out a week early, and do you know when they arrived?

A. You'd have to ask Rob that, because he was on board--

5

Q. I shall.

A. I think it was three days later.

Q. You will recall giving evidence this morning of discussing with Mr Guy the fact that the ultimate IMS certificate that issued seemed to suggest that the vessel was under an LPS ratio of 110 degrees?

10

A. Yes, well Bruce - I didn't see a certificate.

Q. No?

15

A. I can only relate that to a conversation.

Q. Yes, yes and I think you told his Worship this morning that he said to you in one of these conversations, "If it doesn't come up, we'll just put some more lead in."?

20

A. If the stability factor wasn't right.

Q. Yeah?

A. We'll put some more lead in and he had it re-measured.

25

Q. Yes, and that would have been a tolerably simple thing to do wouldn't it?

A. Yes.

Q. And even if the problem would have--

30

A. And it may or may not have fixed it. You would assume it would.

Q. Well, I mean there isn't any realistic prospect that if you put some lead sufficiently below the centre of gravity you would have fixed the problem?

35

A. I've seen taking lead out make the stability of a boat grater, so I wouldn't say that it was foolproof, but you would expect it to, yes.

40

Q. Well come back to that but you would have expected it to?

A. Yes.

Q. And even if the problem had reared its ugly head quite close to the start of the race?

45

A. Yes.

Q. And Mr Guy being very keen to get that boat started--

A. Yes.

50

Q. --would have set to and done that wouldn't he?

A. Yes.

Q. There's just no doubt about that is there?

55

A. Exactly. I mean there's no point racing to be disqualified.

Q. When did Mr Guy first tell you that an IMS certificate had issued which seemed to suggest the ship, the boat I should say was LPS 104.7?

A. The only conversation that I had with Bruce in relation to it at that point was probably mid-November. 5

Q. And could you just relay that to me again please?

A. It came about when he - when we - he rang to say the entry had been accepted. He was happy about it and I said, "Is the stability okay?" and he said, "It must be, the entry has been accepted, so it must be right." And I said, "Well what was the LPS?" and he said, "105." I didn't know at that time that it had to be 115 because I didn't have the numbers of the race in front of me. I did say to him, "What does it have to - doesn't it have to be 115?" And he said, "Well, they've accepted the entry, so it must be right." And that was the extent of the conversation in relation to the LPS. 10 15

Q. Are you sure you didn't know that the LPS was apparently 105 earlier in time than that? 20

A. No, not at all.

Q. When you were told - I withdraw that. I think you told his Worship this morning that you pressed this conversation with Mr Guy as to the LPS rating at 105 to the point where he got annoyed? 25

A. Well annoyed where he rang up me and he was happy that the boat had been entry (as said) and expected me to be happy but I pressed that and I guess he was annoyed at the fact that I wasn't happy and was just double checking him, or questioning. Not annoyed to be nasty or anything, it was just I could tell by the inflection that I was annoying him. 30

Q. You were saying to him, 'But hang on, isn't 105 too low?'

A. Yes. 35

Q. And he was saying, 'Look, don't worry about that, it's in.'?

A. That's right. 40

Q. And if having the apparently low LPS of 105, let's round it up?

A. Mm. 45

Q. Had advantages to the vessel didn't it? Sorry, I'll be more specific, had handicapping advantages to the vessel didn't it?

A. Yes, but the trouble is if we'd got there and it was seen to be - sorry, your IMS certificate is a public document and if we got there and - we would have been disqualified once someone had checked - at some point someone would have looked and-- 50

Q. But as you conversed with him on the phone that day? 55

A. Yes.

Q. You knew that the certificate at 105, and rounding it up, provided a handicapping benefit to Business Post Naiad?

A. No, I didn't know that, because I hadn't seen what the GPs - what the - no, I didn't know that for a fact.

5

Q. But you suspected it would?

A. No, I would have expected it to change and been a handicap advantage after re-measuring the mast and that but I didn't think that LPS would necessarily have benefited the boat.

10

Q. When you heard that the vessel apparently had an LPS of 105 your initial reaction was, that's a mistake, wasn't it?

A. No.

15

Q. No?

A. So when did I - what instance are you talking about.

Q. I'm asking you when did you initially come to understand that the vessel had - was said to have an LPS of 105?

20

A. Well Bruce told me in that telephone conversation in the middle of November that it was 105.

Q. Didn't you think to yourself then and there, 'That can't be right.'?

25

A. Not really, because I didn't - I hadn't, I hadn't been following the IMS for the last three or four years and I certainly hadn't been investigating into the stability factor of boats closely for the last four or five years.

30

Q. But you knew didn't you that previous IMS certificates had indicated that the LPS of the vessel was significantly higher?

A. I think the last previous one that I had seen was the 113 or 117, one of those, yes. I found it hard to believe, yes, in that context.

35

Q. Let's cut to the chase, your initial reaction was 105, that's wrong?

A. No, not necessarily wrong but I wondered if they'd actually changed something within the calculations of the rule to make it different, initially.

40

Q. Didn't you tell the police that to go from a LPS of 146 to 105 is pretty perplexing, to put it mildly?

45

A. One hundred and forty six, I mean, I don't think I ever saw an IMS certificate with 146.

Q. But is that what you told the police wasn't it?

A. It is, yes.

50

Q. And, similarly to go from 119 to 105 would be also very perplexing wouldn't it?

A. It would be more than you'd expect, yes, especially with the removal of that amount of lead, yes.

55

Q. That's right, it couldn't - that amount of removal of lead couldn't conceivably have resulted in such a drastic

fall in LPS, could it?

A. Not unless they'd changed the formula.

Q. No.

A. Within the rule which we're not party to that rule, to that formula. 5

Q. But you didn't know of any change of formula?

A. I don't know what the formula is. 10

Q. Nobody had ever told you as an experienced yachtsman "the handicapping formulas have changed", have they?

A. No.

Q. And so when you heard that a certificate had admitted or emerged which said that Business Post Naiad was LPS rated at 105 you thought "That's wrong". 15

A. No, I didn't think that. I guess I just accepted that that's what it was and that's what it was, and actually to tell you the honest truth I thought they must have changed the boundaries for us to be accepted. 20

Q. But that's not what I'm asking you about. I'm not asking you about the boundaries for acceptance, I'm asking you whether or not you thought the proposition that that vessel that you knew so well was all of a sudden rated at 105 was wrong. 25

CORONER: And he's told you twice or three times he didn't think that. 30

A. No, I didn't think it was wrong, I thought it was different, and that didn't perplex me, I thought it was strange. 35

Q. Why did you think it was strange--

A. But I'm not an expert in the IMS at all.

Q. Why did you think it was strange?

A. Because it was probably lower than I would have expected it to be, yes. 40

Q. You told the police, didn't you, that to lower an IMS from 146 to 105 you wouldn't need 600 kilos of lead, you'd probably need to take out 2000 kilos of lead? 45

A. That was just - that's just--

HILL: I wonder could you point where he actually says that so that we can read it too? 50

CORONER: Are you talking about the first interview?

WEBER: Yes, your Worship, p 21.

CORONER: I'm having trouble finding it. 55

WEBER: I'm sorry, it's the second interview. Second interview, p 21.

CORONER: Is that the interview dated 16 March taken with my investigators, Constables Gray and Upston, is that right?

WEBER: That's right, yes, your Worship.

CORONER: Q. All right, question 124 Mr Walker.

A. Do you want me to comment on it, sir?

It's up to the cross-examiner.

WEBER: Q. You did tell the police, didn't you, that you thought in order to change an LPS ratio from 146 to 105 you'd need to probably take out 2000 kilos of weight out of the vessel?

A. Yes, but that was only something off the top of my head. It wasn't a precise figure at all.

Q. Nobody's suggesting it was precise but it is suggestive of the fact--

A. It's an enormous change, yes.

Q. And similarly, while not as enormous, very significant if it's gone from say 119 to 105, isn't it?

A. It's a big change, yes.

Q. And that sort of change would not be capable of being explained by the removal of some 600 kilos of ballast, would it?

A. I would find that unusual, yes.

Q. Impossible.

A. I'm not a naval architect so I wouldn't say impossible, but I'd find it most unusual.

Q. And see, you took some comfort in the conversation with Mr Guy in which he told you about the IMS certificate from the fact that you doubted whether it was correct, didn't you?

A. No.

Q. Well certainly you--

A. What I didn't know was whether - I didn't have the - I suppose the notice of race in front of me where the stability factors were. I didn't know correctly at that time that the requirement for the Sydney-Hobart was 115.

Q. Now there's not the slightest suggestion, is there, that even when you knew that an IMS certificate had apparently emerged showing the vessel at 105 LPS that you had any doubts about its seaworthiness?

A. I felt the boat was quite seaworthy, yes.

Q. Unequivocally?

A. Yes.

Q. And I think you've told his Worship this morning that you had to have a fairly supple pair of hands as the helmsman to work out that there was any difference in the

handling of the vessel at all?

A. Yes, that's correct.

Q. And you had a personal preference for putting it back because you thought that it performed better into the wind with an extra 300 kilos on it? 5

A. And reaching, yes.

Q. And reaching.

A. Yes. 10

Q. And Mr Guy had the contrary view, thought on balance it would be better in the lighter air?

A. Yes, that's right. 15

Q. And it's obviously a area of discourse in which two intelligent sailors could differ?

A. Yes.

Q. And you were quite happy with his conclusion? 20

A. It's his boat, it's his decision.

Q. Sure.

A. Yes. 25

CORONER: Q. Well that's not quite answering the question.

A. Sorry.

Q. It's all right, don't apologise. It was put to you you were quite happy with his conclusion. 30

A. Yes, yes, I was quite happy with his conclusion.

WEBER: Q. And of course, just so that everyone is clear, while 680 kilos of lead was taken out in toto--

A. Yes. 35

Q. --the net effect on the vessel wasn't a reduction in its weight of 680 kilos, was it?

A. No, because it had had an IMS fit-out for cruiser racing. 40

Q. Yes, and what did you estimate the weight of the fit-out to be?

A. It would have been a minimum of 200 kilos and perhaps 300. 45

Q. 300?

A. Yes.

Q. So his Worship would be safe to work on the basis that the net effect of this was say 380 kilos? 50

A. Somewhere in that order, yes.

Q. And again to put that in context, the vessel in its measured state is about 6000 kilos? 55

A. Yes.

Q. So it's not--

A. It's a small proportion of the total mass.

Q. Yes. Is it fair to say that you don't have a lot of confidence in what LPS ratios are capable of telling you as a yachtsman?

5

A. I've seen some silly answers come out of it.

Q. And I think you told his Worship in answers to my questions that you've seen vessels where weight's been taken out of them and their LPS ratio has increased?

10

A. That's correct.

Q. And I think you told the police, p 27 second interview, that some boats would pass that easily - and you were referring to stability indices - and they'd be less stable than other boats that don't pass.

15

A. Yes.

Q. And that's your view?

A. Yes, that's my view.

20

Q. That remains your view?

A. Yes.

Q. And so you were, from a safety point of view, quite indifferent to what the IMS certificate suggested was the LPS ratio of Business Post Naiad?

25

A. I wouldn't say "indifferent" but - well I wouldn't - you don't put all your - you don't count it as being--

30

Q. Well you don't put much store on it at all, do you?

A. I don't put a great deal of store on it, no.

Q. You put store on your experience as a helmsman. Correct?

35

A. And how the boat feels and what it's doing, yes.

Q. That's what I was - driving the boat?

A. Yes.

40

Q. The feel of the boat?

A. Yes.

Q. I mean, you trust your hands--

A. Yes.

45

Q. --rather than bits of paper that the AYF produced.

A. Exactly, that's right.

Q. I'll just move you to another topic if I could, Mr Walker. My learned friend Mr Colefax asked you some questions about Mr Andrew Murray. Do you recall that? Mr Colefax is in the elegant light grey suit.

50

A. Yes.

Q. Do you recall him asking you some questions about Mr Murray?

55

A. Sorry?

Q. Do you recall Mr Colefax asking you some questions--

A. Yes, I do recall that.

Q. And how well do you know Mr Murray?

A. I know him reasonably well. 5

Q. Well can you help us a bit more than that?

A. I guess he's a sailing friend and he's been a customer of mine over - like over a number of years. 10

Q. A customer?

A. Yes. I've made sails for him and I've sailed against him in races, not with him in races, but I've known of him for a fair while. 15

Q. A good sailing friend?

A. A reasonable sailing friend, yes.

Q. And you said that you spent time with him immediately after you were rescued at Eden? 20

A. Well after we were discharged from hospital we had nowhere to go but he came there and offered us to come and stay on his boat till such time as we could get back home.

Q. He was related to one of the crew, wasn't he, by marriage? 25

A. Yes, he was.

Q. Can you remind us of what that relationship was?

A. Tony Guy was his brother-in-law. 30

Q. I see. And when he spoke to you after you went and stayed on his boat did he relay to you his concerns about what he'd heard when he was monitoring the air traffic between the fleet and Telstra control. 35

A. Yes, certainly he was concerned with some of the traffic, yes.

Q. He was incensed, wasn't he?

A. He was annoyed, yes. 40

Q. Yes. He thought that you'd been ignored and preference were given to other yachts. Is that correct?

A. That was his feeling at the time, yes. 45

Q. Was it your feeling at the time?

A. We felt that we'd been ignored but not necessarily to the point of other boats. When I say "ignored" we just felt that no-one had acknowledged - we had no acknowledgment where we were at and we really didn't know where we were at. Like-- 50

Q. So you must have felt when you were at sea and having been rolled the first time--

A. Yes. 55

Q. --extremely isolated?

A. We were, or we felt isolated. That's an apt word, yes.

Q. Yes, and vulnerable. Correct?

A. Yes.

Q. And you were no doubt in fear for your life?

A. Yes.

5

Q. And of course when you rolled the second time all of those feelings would have been amplified. Is that reasonable to expect?

A. I reckon so, yes.

10

Q. And at that time did you have in your mind that you'd been abandoned by Telstra control?

A. No, "abandoned" is the wrong word. We didn't know what they knew about us. We didn't know because we hadn't had any communication. We hoped that they'd had our positions and passed it on but we didn't know because we hadn't been able to confirm it with them, which because we were relying on relays that could probably never have been the case. But although we could hear them, they weren't trying to contact us, or we couldn't hear them trying to contact us either so--

15

20

Q. Well at the time, rightly or wrongly, your feeling was "I'm in a crisis here and I'm being ignored". Correct?

25

A. You feel that way, yes.

Q. And I suppose that feeling of being ignored could only have been magnified when you spoke to Mr Murray on shore. Correct?

30

A. I don't know that it changed it much because we were just - at that point we were pretty much stuffed I suppose you'd say.

Q. Yes.

35

A. I mean we were probably past feeling with that sort of adrenalin.

Q. And you were still angry at the perception of being ignored when you spoke to Mr Murray, weren't you?

40

A. I don't think angry. I mean we had been rescued, when it was all said and done, so I don't think we were angry because we'd been ignored. I mean there was other boats out there in trouble and we had to take a preference so I hold no grudges personally.

45

Q. All right.

A. Or anger at this point.

Q. At that point or this point?

50

A. That point or this point.

Q. All right.

A. Personally.

55

Q. Well do you hold any grudges other than personally?

A. I can only speak for myself. I can't speak for the other six members of the crew.

Q. Very well. And after you spoke to Mr Murray in Eden did you subsequently speak to him about these events?

A. Yes, I spoke to him on a couple of occasions about it.

Q. Did he continue to articulate his view that your vessel had been ignored?

5

A. He certainly felt that we had been, yes.

Q. And did he continue to articulate the view that your vessel had been ignored and another vessel's interests preferred?

10

A. Not strongly or forcibly, no.

Q. I didn't ask you whether it was strong or forcible.

A. It was said, yes. It was said, yes.

15

Q. Did you consider whether that was a view that you also held?

A. No. Well, I didn't necessarily--

20

Q. What I'm asking you, and it wasn't a question--

A. Yes, yes.

Q. I'll withdraw it and I'll ask you again. When he told you that did you consider that as a possibility yourself?

25

A. There might have been a little bit of - there might have been a little bit in it but I didn't put any great credence in it.

Q. Did you put it to one side or was it lingering there in the back of your mind?

30

A. Yes, I just put it to the back of my mind I suppose.

Q. Where it lingered?

A. Yes.

35

Q. And are you sure that when Mr Murray explained to you his theory of the way that you were treated he didn't mention to you that Team Jaguar's skipper was on the board of the CYC?

40

A. I've heard that but I'm not sure that I heard it from Drew. I don't know where I've heard it from, but I have heard that, yes.

Q. You sure he didn't tell you?

45

A. I'm not sure that Drew told me or not.

Q. Well doing the best you can, from where did you hear that?

A. I heard it in Eden somewhere. Now whether it came from Drew or someone else I don't know.

50

Q. So almost from - within say 24 hours of being rescued--

A. Yes.

55

Q. --you knew that a committee member of the CYC was the skipper of Team Jaguar?

A. Yes.

Q. Did Mr Murray play any part in the preparation of the document that you prepared which is headed Naiad's Position and Times After the First Roll 27/12/98?

A. Not personally, no.

5

Q. Well did he play any part in it other than personally?

A. No.

Q. Did he play any part in it at all?

A. No, he wasn't here. That was done long after he was gone to America.

10

Q. You chose to describe contact between Telstra control and Team Jaguar in these terms. "Team Jaguar took up a lot of chat time on 4483 at 4 meg power from 3.30 27/12/98 to 5.30am 28/12/98." They're your words?

15

A. Yeah - well--

Q. Well "yes" or "no"?

A. Yes.

20

Q. Now we already know, don't we, that you don't know anything about 4 meg power?

A. That's right.

25

Q. Who told you about the 4 meg power?

A. Peter Keats, our navigator.

Q. And so did you discuss this with him, this whole conduct?

30

A. It was discussed amongst the crew. I mean we could hear quite a bit of chatter in relation to Team Jag at times on our radio, prior to losing our power.

Q. "Chatter" infers that the subject of the conversation is pretty insignificant and irrelevant, doesn't it?

35

A. Yes, it does.

Q. And you were attempting to convey by the expression "chat time" that Team Jaguar and Telstra control were engaged in idle chatter, weren't you?

40

A. It wasn't - no.

OBJECTION(HILL). PRESSED. LEGAL ARGUMENT. QUESTION REPHRASED.

45

Q. What's "chat time" meant to convey, Mr--

A. It was just discussions going on.

Q. Chat?

50

A. Not chatting but just there was talk, talk on the radio, yes.

Q. All right, well would you describe the relaying of a mayday as chat?

55

A. No.

Q. Would you describe the relaying of the fact that a

vessel's being de-masted as chat?

A. No.

Q. Had you seen the log at the time of describing it as chat time? 5

A. No, but I had heard the comment about the food being chatted about, previously.

Q. You'd heard that?

A. Yes. 10

Q. Did you hear it yourself or was that relayed to you?

A. That was relayed to me.

Q. I see, and did you remember it before Mr Hill's objection? 15

A. No, but you hadn't asked the question.

Q. Did you remember the reference to the food before Mr Hill, the barrister over here, made a submission in support of an objection? 20

A. No.

Q. So that you grabbed that lifebuoy, didn't you?

A. He pointed it out to you, yes. 25

Q. And you grabbed it?

A. Yes, that's right.

Q. Do you now withdraw the description of the radio transmissions between Team Jaguar and Telstra control as being a lot of chat time? 30

A. Yes.

CORONER: He did to Mr Colefax. I'm just saying to Mr Weber he basically withdrew that in cross-examination by Mr Colefax. 35

WEBER: Q. Did your--

A. I'm saying that this document is not a precise document. I'm saying that was a personal document which I brought up for myself today just to check the positions and I'm not - that's not meant to be a public document to be handed around. It was just a personal document that I had. 40

Q. To the best of your knowledge at any time did your vessel communicate with Telstra control using frequency 2182? 45

A. Not that I know of.

Q. So to the best of your knowledge the emergency communication, the designated emergency communication procedure, was not used by your vessel? 50

A. I don't know because I was basically on deck while that happened. 55

Q. To the best of your knowledge--

A. Yes, to the best of my knowledge that is correct.

Q. If that is in fact correct do you lay any part of the blame for communication difficulties between your vessel and Telstra control at your end?

A. I don't know how to answer that, to be quite frank.

5

Q. Well do you think a failure to convey maydays--

A. Well the mayday was conveyed on 4483 and that was the official race frequency and the mayday was sent over that as far as I know. He may have tried to send on 2183 but I don't know the answer to that.

10

Q. Right.

A. Who does? Otto(?) might.

Q. Well--

A. Or another vessel that may have been listening on that day. I don't know.

15

Q. Wouldn't your navigator?

A. Yes, he would know, but I've said that.

20

Q. You conceded to Mr Colefax that you could ask no more - I'm sorry, I withdraw that. Mr Colefax took you carefully through the log of communications relevant to your vessel between Telstra control and Yendys on the one hand and search authorities on the other. Correct?

25

A. Yes.

Q. And you conceded that you could ask for no more from the three volunteers for whom he appears than the fact that they immediately conveyed your mayday to the search authorities?

30

A. Yes, I'll agree with that.

Q. Do you also concede that you could ask no more of the CYC than to have that done?

35

A. That's probably true at the time, yes.

Q. Not "at the time", now.

A. Now. Yes, that's right.

40

Q. And you told his Worship that you were shocked when you found out that Telstra control had only one radio receiver and only one radio operator operating at any one time.

A. Mm.

45

Q. Are you still shocked about that?

A. Yes.

Q. And you floated the - asked what you would have expected you said that you would have expected there to be three radios and three radio operators.

50

A. Yes.

Q. Now it's fair to say, isn't it, that you don't know anything about the technical side of radio transmission?

55

A. That's right. He was asking my opinion.

Q. Sure, and for your suggestion to operate it's obvious,

isn't it, that the three radios would all have to be operating on 4483?

A. Or different frequencies. They could be on different frequencies.

5

Q. But wouldn't that be a recipe for chaos if the fleet didn't know what the designated radio frequency was?

A. If it had been prearranged you can switch from one frequency to the other very easily and you could have had - I mean Lew was literally inundated with the amount of radio chatting - not chatter, radio talk going on - and one radio couldn't cope with the situation and I think more radios would have helped and more operators would have helped.

10

Q. Do you have the normal usage of the word "chatter" that the rest of seem to have?

15

A. Sorry, I don't - I withdraw that, I did not mean "chatter". It was said but I didn't mean it.

Q. So what you're suggesting is three different radios with three different frequencies?

20

A. All radios have got about 20 frequencies in them. You can switch from one to the other.

Q. All right, so I withdraw the question. What you're suggesting is three different radios and three different race frequencies. Is that right?

25

A. No. You could have one race frequency and if one was busy you can change to the other channel and then leave that one free for other work.

30

Q. So that would become a secondary race frequency, would it?

A. No.

35

Q. It wouldn't?

A. No.

Q. Would it become an emergency frequency?

A. It would become another frequency that you could talk over the radio with.

40

Q. More or less like an emergency frequency?

A. Not necessarily an emergency frequency.

45

Q. But an emergency frequency would have that effect, wouldn't it?

A. Not necessarily, no. You're not meant to chatter - you're not meant to talk on an emergency frequency. You're meant to leave that free.

50

Q. So your suggestion is that there be three radio operators, three radios, and a choice of three frequencies?

A. Or more.

55

Q. Or more?

A. Yes. I mean they could switch to a frequency that was free to talk to another boat and not take up the official

race frequency.

Q. And in your theory how many people do you postulate would be necessary to co-ordinate the communications between the three frequencies? 5

A. If you had one person in charge they could be in contact with the three operatives and know what was going on.

Q. Were you aware that frequency 4483 was being monitored by the CYC in Eden? 10

A. At the time, no.

Q. Do I take it that you've subsequently become aware of it?

A. No, I don't know that the CYC was but I assume that Eden Coastal Patrol were listening to it. I don't know about the Cruising Yacht Club at all. 15

Q. Well I want to suggest to you that the CYC was monitoring 4483 in Eden. Do you accept that? 20

A. I accept that that could have been the case.

Q. And that they were also monitoring 4483 in Hobart?

A. Yes. 25

Q. Do you know that?

A. I know that that usually is the case, yes.

Q. Did you know that at the time of the race?

A. I think I - I'm sure I would have, yes. 30

Q. Well armed with the knowledge that - sorry, on the assumption that what I've put to you is correct, namely that 4483 was being monitored first by Telstra control, secondly in Eden by the CYC, and thirdly in Hobart by the CYC, do you still adhere to your view that there should have been three radio operators on Telstra control? 35

A. Yes. Only one person can use 44383(as said) at a time.

Q. When did you say you first were told that there was an IMS certificate which has emerged for the vessel which suggested that it had a LPS ratio of 105? 40

A. With a phone call from Bruce around about the middle of November 1998.

Q. In your second interview with the police on page 23 you say in answer to a question which curiously is question 140 - perhaps I should go back earlier, 22 you say at question 135 "Taking all that into account the certificate was issued with a limited positive stability of 104.7". You answered "Yes". "Sent away to the Cruising Yacht Club". Your answer "That would have been sent after the initial application for entry was sent". Just stopping there, the original application for entry was sent but it had expired in time hadn't it? 5 10

A. I don't know what exactly happened but I suspect what happened was that Bruce sent in his entry with the expired IMS certificate and with a covering note to say that he would send it in with the updated one later. I suspect, I don't know. 15

Q. And the earlier one - the one that expired or stale was the one that you recall having an LPS of 117 or something like that? 20

A. I think so yes.

Q. And the next question is "Yes" and then you said "So they would have had the old certificate of 120 plus. That one would have been sent to them okay" "Yes". "Okay". "Irrespective of that the second certificate has been sent away that you know of?" "Yes". "Okay". Answer: "And I knew that the boat stability factor was 105. I hadn't seen the notice of race since July". When are you referring to there in the answer to question 140? 25 30

A. Sorry?

Q. It is difficult to follow and I can't help you? 35

A. I knew that the boat stability factor from the conversation of that one phone call with Bruce in mid November he told me that it was - the stability factor was 105. What I didn't have in front of me at that time was a notice of race to cross reference that in to find out what the required stability factor was for the race so I could cross reference that to know precisely that it was under what it was required personally. 40

Q. Then you say in answer to a question which curiously is "Yep" at 142, "It was always my understanding that boats had to be 115? 45

A. In the previous Sydney to Hobart that's what I've done which was the fiftieth Sydney to Hobart, that was the requirement then and that's what I was referring to. 50

Q. Then you say in answer to 143 "Under IMS to be entered into it and when Bruce went off the new thing and our entry was accepted and came back he rang me up and said I'd spoken to Bruce and said we've probably got a stability problem, we're going to have to put some lead back in because the boat is not 115". Did you say that to him in the conversation in November? 55

A. No that was the conversation in July when we'd been looking at the requirements for the race. Because we hadn't had the boat re-measured my feelings were that perhaps there might be a problem there and we might have to put some lead back in to get the stability factor right so it was right for the race. 5

Q. So you'd seen the notice of race in - your view in July was that the requisite LPS was 115?

A. No I couldn't recall that precisely because-- 10

Q. But didn't you say in July we've probably got some stability problems here, we're going to put some lead back in?

A. Well I knew it was 117 or 113 or 117 or what the old one was and taking that 300 kilos may have made it - be less than required so we might have had to put some back in to adjust that. 15

Q. Your perception was that taking 300 kilos out might drop you from 117 to a little bit below 115? 20

A. I thought that may have been a possibility yes.

Q. Certainly not to 104?

A. I wouldn't have thought that, no. 25

Q. Then you say "We had entered an IS for two years so I don't know what they've actually changed the index or not. Having read the notice of race some previous four months it slipped my mind in that respect but I did say to Bruce on the phone well why have they accepted our entry with a stability factor of 105 and he said I don't know but they've accepted it". Is that correct? 30

A. Yes. 35

Q. And then you were asked "When did you have that conversation?" and your answer was "Just after the certificate was - probably a couple o weeks after the certificate was" and then you were interrupted "sent back to you". Then you say "sent back to us". Were you agreeing with the proposition that you had the conversation a few weeks after the certificate was sent back to you? 40

A. No that conversation took place after Bruce got the - our entry was accepted into the Sydney Hobart which was mid November was the same conversation. 45

Q. So you weren't suggesting an answer to question 145 that there was a conversation which occurred just after the certificate was sent back to Bruce from the AYF?

A. No I don't know when that certificate was sent back to Bruce. I never did see that certificate. 50

Q. Then you say, "So actually it was sent back and Bruce sent it off to the CYC obviously to amend his entry, his earlier entry and I'm not sure exactly what those dates are". Is that correct? 55

A. That's right.

Q. "He just rang me up and said we're right, we're in and I said Bruce have they changed the stability factor". Is that correct?

A. Yes.

5

Q. And then you were asked what did he say and he said well they've accepted our entry and I said well it's possible and I said I haven't checked into that for a couple of years and not having the notice of race in front of me to go back and read I couldn't question him on that. Correct?

10

A. Yes.

Q. But you did press him on it to the point where you indicated that he was annoyed but not to the point of being unpleasant with you?

15

A. Yes.

Q. And at page 11 of the second record of interview you were asked by those assisting the Coroner in his investigations to return to that question and you described his, that is Mr Guy's reaction to the news that the certificate had been accepted and thus - it's the interview of 22 September 1999, page 11. You describe his reaction to the fact that the certificate being accepted and thus the vessel being accepted in to race was one of jubilation. You see that?

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25

A. On page 11?

Q. Yes.

30

CORONER: Q. About half way down, jubilation?

A. Yes he was certainly happy that the entry had been accepted.

WEBER: Q. And he was also happy that the IMS certificate at 105 had got through?

35

A. Well I don't know that he knew - well he obviously knew it was 105 at that point when he was talking to me but he was happy that it had gone through and it was seemingly okay yes.

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HILL: Q. One point where my friend was cross-examining you just now, Mr Weber, about the - he asked some questions about when the vessel turned over the first time and various items eventually ended up in the bilge area that weren't there previously. The extra weight in the bilge area, I understand it after the second roll the vessel filled up with water to..(not transcribable).. amount?

45

A. During the second roll when the boat was inverted it filled up with water to a metre deep when we were standing on top of the cabin top - on the under side of the cabin top.

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Q. And then when it turned back up the right way you had water in the bottom of the vessel?

55

A. Yes approximately a metre deep that way too.

Q. You didn't bale that out?

- A. We did bale that out.
- Q. All of it?
- A. Not all of it no, we left at least half a metre in. 5
- Q. Why?
- A. Because the boat felt more stable in the water.
- Q. So the added weight in the bottom of the vessel gave the vessel to your feel more stability? 10
- A. It felt like it was less likely to be flipped by a big wave. Because it was heavier in the water it felt as though it would take more for a wave to flip it again because there was more mass. 15
- Q. So in effect the more weight after the first time it capsized in the bottom of the bilge area, the better for you?
- A. Yes to a degree. 20
- Q. Provided it didn't actually take you down?
- A. Yes. 25
- <WITNESS STOOD DOWN 25
- <ROBERT CLIVE MATTHEWS(3.48PM)
SWORN AND EXAMINED
- HILL: Q. Would you give the inquest your full name please?
- A. Robert Clive Matthews. 30
- Q. And your address sir?
- A. 27 Eccleston(?) Road, Launceston.
- Q. And your occupation?
- A. I'm a maintenance supervisor with the State Housing Department. 35
- Q. And you have how much experience sailing?
- A. I've been sailing around 33, 34 years and off shore sailing for around 30. 40
- Q. You were a crewman aboard the Business Post Naiad in the Sydney to Hobart yacht race in December of 1998?
- A. I was. 45
- Q. What position was yours aboard the vessel?
- A. Helmsman and mainsheet hand.
- Q. First of all did you know anything about the removal of any lead out of the vessel?
- A. No I didn't. 50
- Q. When did you first find out about that?
- A. When we were in Eden it was mentioned briefly but the first time I realised that there may have been a problem with it was when the police came to Launceston and interviewed me later in the year. 55

Q. Did you know anything about the IMS certificate?

A. No I had nothing to do with the IMS certificate or the measurements or anything to do with that.

Q. What was your understanding of stability ratings requirements for the Sydney to Hobart? 5

A. The last time that I recall talking about it was with the crew of Mirrabooka which is another boat I did a Hobart race on quite a few years ago and at that stage I'm probably talking 8 or 10 years ago, it was mentioned to me that the limit of positive stability was 115 degrees. They had modified the keel on Mirrabooka and they were a bit concerned that it might go below that. 10

Q. Was there any discussion at all about the limit of positive stability in regards to the Business Post Naiad prior to the race? 15

A. I never heard any of that, no.

Q. I want to take you to - I think you brought the vessel up to Sydney for the race? 20

A. Yes.

Q. Did you attend the briefing on Christmas Eve?

A. No. 25

Q. Did you know anything about the weather, were you told anything about the weather after that briefing?

A. We sat down with the navigator and Bruce and discussed what was supposedly coming, yes. 30

Q. When was that?

A. It would have been shortly after the briefing when Bruce and Peter came back to the boat with their bag that they bring back with all the goodies in it. 35

Q. That's the little satchel per se?

A. Mm.

Q. What did they tell you about the weather? 40

A. At that stage from memory it was - I can't remember whether it was a gale warning but I know that there was certainly going to be strong wind, a nor'easterly to start with and then a southerly coming through that night, the first night and then a second front coming through the following day. 45

Q. This is the conversation that you had after the briefing on the 24, Christmas Eve, is that right?

A. I can't recall days all that well at that time of the year. 50

Q. That's fine?

A. It would have been after the briefing yes. 55

Q. Was there another discussion on Boxing Day before the race started?

A. I can't recall one.

- Q. That's okay. When you crossed the start line, what did you have in your mind the weather was going to be?
A. We assumed all along that we were going to have a bit of tough stuff to get through but that's just a normal Sydney Hobart. We weren't expecting anything out of the ordinary at that stage. 5
- Q. Did you know what the winds were going to be?
A. To be honest I can't recall. 10
- Q. That's fine, it's perfectly okay. When did - did you hear about a storm warning?
A. Not until after the start of the race. 15
- Q. Do you did hear about a storm warning?
A. Yes. 20
- Q. Was that prior to actually encountering bad weather?
A. Yes. 25
- Q. What did you understand a storm warning would be?
A. At that stage I knew that a storm warning was - meant a lot stronger wind than a gale warning, anything over about 47, 48 knots. I used to say 50 myself but - and I didn't know any of this other stuff about cyclones not being called cyclones when they're that far south. 30
- Q. Never mind about that but what were the wind speeds you were expecting?
A. I was expecting 45 to 55 with perhaps slightly stronger gusts. 35
- Q. When you say slightly stronger gusts, what sort of realm?
A. I wouldn't have been expecting as much as Steve was saying but perhaps up to 60, 65 maybe. I-- 40
- Q. Just stop there. What do you mean by a gust, how long is that?
A. A gust to me is - can be anything up to a couple of minutes, 3 or 4 minutes, 5 minutes maybe. Anything over that you'd call it a squall I suppose. I mean it's an airy fairy thing. 45
- Q. But you would expect the wind speeds between 45 and 55 and then you would expect gusts on top of that?
A. Yes. 50
- Q. Perhaps up to 65?
A. Yes. 55
- Q. But only for a maximum of about 5 minutes, is that--
A. Yes not for very long. 55
- Q. Just so we understand what you were expecting. I think the next day you actually saw this storm front, is that right?
A. Yes.

Q. Was there any discussion about it that you can recall?
A. The only discussion was that we are going to have a bit of a touch-up and we're going to have to - at that stage we were just going to hunker down and get through it.

5

Q. What were you expecting?
A. I was expecting 45 to 55 with as I said slightly stronger gusts.

Q. What about the seas?
A. I wasn't expecting anything like the seas that we encountered. Yes, I expected the seas to get up and--

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Q. To what?
A. Ten metres, 12 metres.

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Q. Is that the maximum or do you take rogue waves on top of that?
A. It depends on what you call a rogue wave. IT's a difficult thing to judge sea heights because you've got waves on top of swells and it is a difficult thing to tell. Most of the seas that I've encountered in wind strengths of 65 knots and above have been long slow rollers, not steep fronts and steep backs like the ones that we ended up encountering.

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CORONER: Q. So a lot of that 10 to 12 metres you thought might be swell?
A. Yes.

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Q. I'm not putting words in your mouth?
A. Yes.

HILL: Q. You sailed into this and I think it became worse, certainly more than what you expected, is that right?
A. Yes.

35

Q. And I think you went to - I'll just get you to put the storm jib up as it were, what was that, you had to go to a storm jib did you?
A. Yes.

40

Q. What were the winds you were getting at that stage that made you do that?
A. The first time it went up it was probably, you're really testing me now, 45 to 50 and by the time it had blown out of the track a couple of time and Steve had gone up and put it back up again it was over 60, a steady 60. Got stronger later.

45

50

Q. What were the seas like at that stage?
A. The seas at that stage weren't really too much to worry about. Some of them were pretty steep but we felt that we could handle them as long as it didn't get any worse.

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HILL: I wonder if this witness can stand down now and I can recall Mr Walker. There appears to be a further question that should be asked of him.

<WITNESS STOOD DOWN

WEBER: Your Worship late in Mr Walker's evidence-in-chief he gave some evidence about what Mr Bush told him and the crew in Hobart and I've got some instructions on the run about that and I seek to put it to him. 5

<STEPHEN ROSS WALKER
ON FORMER OATH, EXAMINATION CONTINUED

WEBER: Q. You recall in your oral evidence this afternoon you gave some evidence about what Mr Bush told you and your crew when he came to speak to you in Hobart and I think your evidence was that he told you that you needn't speak to police if you didn't wish to, correct? 10 15

A. Yes.

Q. And you needn't speak to the police assisting the Coroner if you didn't wish to? 20

A. Yes.

Q. And that perhaps you should be getting legal advice?

A. yes.

CORONER: Wasn't it didn't have to speak to the Coroner? 25

WEBER: Q. Didn't have to speak to the Coroner?

A. That's the way I interpreted it at the time yes.

Q. What did he actually say could be important? 30

A. I can't remember the exact words, I mean I didn't write it down.

Q. He might have mentioned the Coroner by name mightn't he?

A. No not the Coroner personally but I think he said you don't have to talk to the Coroner's Court if you don't want to, Coroner's Court, and you're best to seek legal advice on it. 35

Q. And there was someone else that he said you didn't need to talk to as well wasn't there? 40

A. Well there' the two police and the Coroner as far as I understand that I recall.

Q. He also said to you you needn't talk to him didn't he? 45

A. I think he did earlier on in the interview yes definitely.

Q. In the same context he told you that you didn't need to speak to the police if you didn't want to? 50

A. Yes.

Q. And by the same token you didn't need to speak to him?

A. Yes.

Q. And you might wish to seek legal advice? 55

A. Yes that's correct.

HILL: Q. My friend said in the same context but earlier you said that he told you at the beginning you didn't have to speak to him. Are we talking about two separate conversations?

A. Three hours apart. 5

Q. So do I take it what happened is he said to you "You don't have to speak to me" and then went into the interview and asked some questions?

A. At the start of the interview as I recall it he said "Look, you don't have to talk to us if you don't want to" and that's-- 10

Q. And then you had an interview?

A. Yes. 15

Q. For how long?

A. In the vicinity of three hours.

Q. And then comes the conversation about you don't have to speak to the police or the Coroner's Court if you don't want to? 20

A. Yes.

Q. So it's not one distinct conversation? 25

A. No.

CORONER: Q. How did the conversation about talking to the police and the Coroner's Court come up do you remember?

A. It was towards the end of the interview and I can't recall how it came up. It may have come up - stability wasn't mentioned at all and then I brought it up at the finish and I'm not sure if it came up during or around that period. I can't remember. 30

HILL: At the risk of overstaying my welcome, can I raise something. I put to the witness that in one context Mr Bush said you needn't speak to me and you needn't speak to the police and I thought he accepted that as a proposition. In re-examination he now, and I don't say this in a critical way, appears to be resiling from that proposition. 40

CORONER: Not really. 35

HILL: I didn't put to him in terms it all happened at the one time because of a view that that's what he was agreeing to. Perhaps in fairness to him I should have put it to him in simple English. 45

CORONER: I just want to know what was going on with Mr Bush and I'm asking this witness, no bones about it. I just want to know on what basis this witness thought that Mr Bush was putting that proposition about not speaking to anyone. 50

HILL: I wish it to be made perfectly clear and this witness in fairness to be able to respond to the proposition that he was - that the warning if I can put it that way that Mr Bush provided to him and his crew mates was all in the one brace 55

of conversation, that it wasn't split over time.

CORONER: He says it was.

HILL: Yes but I just want to put it to him unequivocally lest somebody say to me-- 5

WEBER: Just before my friend does let's get the proper what happened. The witness said yes he did, he warned us three hours before. Then my friend said in the same context. Now that's not saying in the same time frame. 10

CORONER: He wants to cross-examine further to put certain instructions. Go ahead. 15

HILL: Q. What I want to suggest to you sir is that Mr Bush suggested that you needn't speak to him - you weren't required to speak to him nor were you required to speak to the police at the same time in the conversation?

A. No that didn't happen, they were separate times. 20

<WITNESS RETIRED AND EXCUSED

<ROBERT CLIVE MATTHEWS
ON FORMER OATH, EXAMINATION CONTINUED 25

HILL: Q. Did Mr Bush interview you?

A. Yes.

Q. Were you at the same interview with Mr Walker? 30

A. Yes.

Q. Do you recall Mr Bush saying anything to you about not speaking to him?

A. No I don't recall that. 35

Q. Do you recall Mr Bush saying anything to you about not speaking to the police who were investigating on behalf of the Coroner?

A. Yes. 40

Q. What did he say that you can recall?

A. I can't recall the exact words but it was along the lines of "You don't have to speak to the police if you don't want to and you don't have to speak in the Coroner's Court". I can't recall the exact words but it was along those lines. 45

Q. When do you recall him saying that, was it at the beginning, half way through, what was the situation?

A. It was fairly late in the evening, sort of two-thirds of the way towards the end, somewhere there. 50

Q. And what had you been discussing at the time do you recall?

A. No I don't recall. 55

Q. The storm jib was put up and the situation is you were on deck along with Mr - I think a few others, is that right?

A. Yes.

Q. When the first roll happened?

A. Yes.

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Q. Prior to that roll what were the wind speeds like?

A. We were getting well over 75 knots and up into the eighties when I could see the instrument through the spume. I was steering the boat and the instrument was on the other side of the cockpit but still clearly visible.

10

Q. And what happened, where did the wave come from?

A. We had quite a few waves come through and they virtually dumped on the boat and raked it, you know, wave right across the boat. The boat had been sitting lying a hull and seemed to be fairly steady, you know, like it was okay, felt okay and then it was just another bigger wave that came virtually beam on and like the curling face of a wave on a beach.

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Q. You said it was beam on. Which side?

A. It was coming from the starboard side.

20

Q. It hit the vessel?

A. Yes.

25

Q. What happened?

A. It broke over the vessel and then the boat was picked up in the face of this wave and then dropped on the port side of the cabin roof seemed to take the brunt of the impact.

30

Q. And then did it go right over and come back up?

A. Very quickly.

Q. What happened to you?

A. I was steering and the tool was just wrenched out of my hands and it happened that quickly that the first thing I knew I was bobbing around in the water on the starboard side of the boat at the end of the stern with Tony Guy just behind me and the other guys up along the side of the boat.

40

Q. So you were overboard were you?

A. Yes.

Q. Were you dragged back on or helped back on or what?

A. I helped Tony get back on to the boat and then he helped drag me along with I think Peter Keats and maybe Steve. I can't remember who but all I know is yes, I was assisted back through the rails.

45

Q. What was the damage on deck that you can recall?

A. Well the first thing that I saw was the mast. I can't recall any other damage at that particular time apart from being concerned about the mast and perhaps it punching a hole through the side of the boat. I got back on the helm again and attempted to try and steer but it was just like very sluggish and bit of a waste of time trying to steer it. So I noticed the runner rope over the side and the guys got it, put it round the winch and we just wound the mast up on

55

to the deck. It was quite a simple job.

Q. The line was actually attached to the top of the mast was it?

A. Probably 6 or 8 feet from the top of the mast. 5

Q. But anyway it was round the winch and then you brought the whole thing back on board?

A. Yes. 10

Q. Which was a fairly easy manoeuvre rather than cutting away?

A. Surprisingly easy yes. I was expecting it to be a lot more difficult than it wa. 15

Q. I think the vessel was then checked on deck for lines overboard and things like that?

A. Yes. 20

Q. Before the motor was started anyway?

A. Yes. I went downstairs to - I knew that the backstay aerial had been possibly damaged and it was down out of the way and I thought we're going to need better communications. There was a spare whip aerial downstairs and I went down to try and hunt that out to see if I could find that and the first aerial that I came across was the VHF aerial and to hook the VHF aerial in I had to dismantle the back of the chart table and as I was doing that and plugging the VHF antenna I still had the other bit in my hand in the boat, the HF crackled to life, I don't know how, and we could hear people talking and that's when Peter Keats got on the radio. 25

Q. So you were there when the sent the mayday?

A. Yes. 30

Q. Do you recall what he said?

A. No not specifically. All I know is that he started off by just saying the mayday, mayday, mayday and what vessel it was and all that stuff that goes along with it. 35

Q. Then that was answered?

A. Not straight away from memory but within sort of 10 to 15 - 30 seconds. It seemed like an eternity. 40

Q. I think that you lay on your bunk for a little while, is that right? 45

A. I don't know whether I was suffering from a bit of shock or whether the helm when it had been wrenched out of my hands it strained my arms, I know that I was cold because all I had on was my wet weather gear with a t-shirt underneath it because when we'd pulled the mainsail off the boat early in the day it was an all hands on deck to get up there just to tie the mainsail down and all I did was drag my wet weather gear on, went out on deck to help do that and then things just sort of went from there and then I ended up steering for a little while and I was actually talking to someone about me going back down to my bunk and getting some dry clothes on but never got there. 50 55

Q. So you lay on the bunk and I think you actually saw some damage. Where was that damage?

A. I pulled a bunk cushion out of the water and put it up on what was left of the bunk and just lay there and I could see the cabin room on the port side just - it appeared to be working and there was water squirting through it when the waves were dumping on the deck. The port window was broken and the other one was cracked.

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Q. Did you observe any other damage later on?

A. Yes the bulkhead that was near my head was cracked, there appeared to be other bulkheads that were working. The boat was starting to feel like a bit of a jelly, it just didn't feel right.

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Q. Now the second roll that took place was some hours later?

A. Yes.

Q. By this stage you were motoring back--

A. Yes.

Q. --towards Eden way, seeking shelter?

A. Yes.

Q. What happened, where were you prior to the second roll?

A. I was steering again.

Q. Yes?

A. Phil was calling out, screaming out the compass headings to me so that I could--

Q. That was Phil Skeggs?

A. Phil Skeggs.

Q. All right, yes.

A. Was screaming out the compass headings to me so that I could - I was trying to judge my way up the waves, keeping the boat as close to the course that had been set as well as feeling the wind on my face and the spume on my face as to which - and also the way the boat was rising as to which way we were going up the waves so that hopefully when we get to the top I could punch through any crests that were there and then go down, drop it over the back. It was really really difficult in the dark. Nearly impossible. And when the wave that hit us was coming I couldn't actually see the wave. All I could do was feel that we were going up and up and up and then we actually hit it almost square on but it just slammed the bow around to starboard and rolled us over.

Q. So you were trapped underneath the vessel for some time, is that right?

A. Yes.

Q. What was the situation, why didn't you undo your harness?

A. I couldn't get the clip undone out of the stainless steel angle on the front.

Q. Now why was that?

A. The notch in the end of the carbine hook was catching and I was right at the end of my harness line and the boat was at times taking off and - well virtually surfing down waves on its roof.

Q. And so you were well and truly hooked on, were you?

A. Yes. Yes, I was right at the end of my harness and no matter how hard I pushed I couldn't get that clip undone. The boat was lifted by a wave, there was a shaft of air came down inside the cockpit and I got a good snout full of air and with that I grabbed hold of the lifelines which I was outside over the - in the back part of the cockpit and I dragged myself forward and managed to unclip myself. I

could feel the back of the boat not far behind me and I went back there and I just grabbed ahold of the runner blocks which were dangling upside down.

Q. So you freed yourself?

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A. Yes.

Q. And then what did you do?

A. I didn't know what to do for quite a while. I had to get my breath, I was coughing out a lot of sea water. I was there long enough for the boat to take off again on another wave. The bow was aimed down the seas and it seemed to want to go straight down the waves as if it was right side up and at one stage I was hanging onto the runner blocks at the back like you would on a kid's surfboard, on the back of the boat flapping in the waver. I can remember that. I can remember looking up at the rudder and what went through my mind was pictures of Thiery Dubois in the southern ocean during the round the world - one of the single-handed round the world races and I looked up at the rudder and I thought that looked like a good place to be and I thought "I want to be there". I can remember calling out for Phil hoping that he got out, screaming my lungs out hoping that he was somewhere around, hoping he was hanging on because it would have been quite easy to get swept away. During one of the lulls between the waves I thought if I got round to the side of the boat and got my feet on the lifelines which were under the water, up to about there, I thought I might be able to stand on a lifeline and heave myself up onto the rudder and sit up on the boat. As I was swimming around the side I bumped into what I thought at that time was the boom and it turned out it was the mast, the piece of mast that was sticking out at the back of the boat, and I just sat on that for quite a long time trying to get my breath, hanging on because the boat was getting slammed about. Then I tried to lift myself up to stand on what I thought was the boom but was the mast, to get ready to heave myself up there. I didn't know how I was going to hang on when I got up there because the thing was flapping around madly. Just as I - well after three or four attempts even to get my legs up on the boom I realised that I wasn't going to be able to do it and another big wave just came out of the dark, slammed into the keel - the boat had spun around side-on at that stage - slammed into the keel and just whacked it back over. Just bang, like that.

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Q. What happened to you?

A. I was - the position I'd been sitting in, I actually did a backflip and landed in the back of the cockpit where I'd started from with my safety harness line still sitting there. I just clipped myself back on and climbed back in, into the cockpit. I found Phil with his legs up on the top line of the sea rail on the port side and his face down pressed into the footrest, the helmsman's footrest. I gave him a couple of thumps thinking he was - he might have just been winded or something, then I realised he was in trouble and he'd been under the boat. He had his life jacket on which must have been holding him up under the boat. I went

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to try and roll him over and I couldn't because he seemed to be pinned down by ropes. They weren't so much wrapped around him as just wrapped around everything else and holding him down on the deck. Might have been five or ten ropes across him. I got those free, all the time yelling for somebody to come out from downstairs, hoping there was still somebody okay down there. Matthew Sheriff and Shane Hanson came out and between us we rolled him over. I was having to hold the helm out of the way because the tiller was slamming backwards and forwards and hitting Phil in the shoulders and stuff like that. I was still trying to steer the boat, I don't know why. Phil had on a life jacket, his wet weather gear which from memory had an integral harness in it, and he also had a storm seas flotation jacket under that which wasn't inflated so we had to get all of that free of his chest. I was feeling for a pulse but you've got to remember that all the time that I was trying to check for a pulse the boat's still being raked by a big sea and many times we were just saying "Hang on, here comes another one", putting my arm around a winch and just hanging on. So it took a long time for us to even get Phil's jacket and gear undone. I couldn't feel a pulse even when I first checked him but that doesn't mean there wasn't one.

Mr Coroner, I note the time.

Q. Can you come back tomorrow morning?

A. Yes.

That might be an appropriate time because I do want to go into the battles of the hulls(?).

<WITNESS STOOD DOWN

DISCUSSION CONCERNING WITNESSES TO BE EXAMINED ON WEDNESDAY 29/03/00

CORONER: I urge you to try to focus on the matters you really have to question this witness about. I wouldn't imagine your cross-examination would be anywhere near as wide-ranging as it was with the previous witness. Are we all agreed about that?

COLEFAX: Mr Coroner, I'd seek your leave after Mr Carter to withdraw until the Cruising Yacht Club witnesses and Mr Carter are called at some later time in the inquest.

CORONER: You're not interested in Mr Kothe?

COLEFAX: No.

CORONER: Leave is granted, Mr Colefax.

ADJOURNED PART HEARD TO 9.30AM WEDNESDAY 29 MARCH 2000

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