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NEW SOUTH WALES STATE CORONER'S COURT

STATE CORONER: J ABERNETHY

MONDAY 24 JULY 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 Santamaria for the Bureau of
 Meteorology
 Mr R Weber for the Cruising Yacht Club of Australia
 Mr PR Callaghan SC for the Royal Australian Navy
 Mr Lancaster for the Australian Maritime Safety Authority

PART HEARD

HILL: First some administrative matters, Mr Coroner.

CORONER: I'll just note the appearances, Mr Hill.
 Mr Remington's not here, is he. Yes, Mr Hill?

HILL: Mr Coroner, the statement of Mr Honeysett should have
 been served, does everyone have a - yes, it has been served.
 At some stage we will be calling him. Mr Honeysett was the
 person that spoke to Mr Sam Hughes as we heard in evidence
 down in Hobart and said that he had a facsimile showing
 weather at Wilsons Promontory.

CORONER: Yes. I haven't got a copy of that yet as far as I
 know.

HILL: I'll make sure you get a copy of that. And this
 morning we have Lieutenant Commander Galletly and Mr John
 Young from AMSA and then we have Andrea Holt.

CORONER: Yes.

HILL: I think the Lieutenant Commander was still to be
 asked questions by the representative from AMSA.

CORONER: Yes.

<NEIL RONALD GALLETLY(10.11AM)
 RESWORN, EXAMINATION CONTINUED

HILL: Q. Sir, just for the record would you repeat your
 full name?

A. Neil Ronald Galletly.

-24/07/00

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GALLETLY X (HILL)

Q. And your address - professional address?

A. Care of the Royal Australian Naval College in Jervis Bay, HMAS Creswell.

Q. And your rank?

A. Lieutenant commander.

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Q. And you were in command of the vessel HMAS Young Endeavour is it?

A. STS Young Endeavour, that's correct.

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Q. SDS?

A. STS, sail training ship.

CORONER: Q. Sorry, SDS?

A. STS.

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CORONER: Sail training ship. Yes, Mr Lancaster.

LANCASTER: Q. Lieutenant Commander, I think you gave evidence that the Young Endeavour was chartered for the purpose of the Sydney Hobart race. Who were the charterers, could I ask?

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A. I'm not sure if charter is the right word in a legal sense but the - because the whole vessel was not entirely chartered to anybody. We had on board the Telstra Control radio relay team from the CYC, so I'm not sure if that constitutes a charter of a vessel. It certainly wasn't a charter of the whole vessel.

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Q. It remained a Navy vessel for the whole duration of the race, didn't it?

A. Yes.

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Q. The ultimate authority of a Navy vessel is its commanding officer in accordance with - commanding officer on board in accordance with Navy superior orders--

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A. Correct.

Q. Did you receive any particular orders from your superior officers in the Navy in the course of 27 or 28 December?

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A. No.

Q. So it's fair to say that you were the person with ultimate control over the course and direction of the vessel?

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A. Yes.

Q. At some stage you have said you decided to commit the vessel to search and rescue efforts?

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A. Correct.

Q. I think you said on Friday that you volunteered the ship under the operational control of the RCC?

A. That's right.

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Q. Was that just a general comment or were you referring to some specific message that you sent?

A. It was as a result of a phone call that I had with Sam Hughes as I recall. I don't recall if he called me or I called him but we were talking and it was basically yes mate, you know, we'll get on and do the job.

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Q. You didn't regard that as removing your independent decision making power in relation to what happened to your vessel?

A. It doesn't remove it but if I'm offering myself - I was offering myself up to the professional guidance of the nation's search and rescue coordinators but ultimately I could say no, that's correct.

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Q. Indeed when you independently received the mayday from Winston Churchill, you decided independently to respond to that, didn't you?

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A. We would have to check the records very carefully for that. As I said the other day I can't remember if I altered course before I was told to or if I did it immediately after. I don't remember that. I was going to Stand Aside and then the mayday happened. It would have been arguably remiss if I had turned away from that directive to go to a rescue somewhere else.

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Q. If you turned away from the Stand Aside directive do you mean?

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A. Yes. It would have been remiss of me to turn away from one directive albeit possibly less urgent than the mayday that I'd heard myself without confirmation to do that, because I don't have the information as to whether the RCC may be allocating other assets to in this case the Winston Churchill. If we all dictated our own I'll go here, I'll go here, what's the point in having a coordinator? So what I did was send a signal saying - if you read the signal, giving them a prompt that - first of all we passed on the mayday, that we've received it and then we sent the signal saying I'm on my way to Stand Aside. And it was a bit of a prompt, saying--

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Q. You're on your way to Winston Churchill, do you mean?

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A. No, currently en route to yacht Stand Aside 10 nautical miles south of Winston Churchill, request advise priority. So I was saying to the people that I was working with or for I want to - I really want to go to Winston Churchill, request - you tell me your priorities and then I said intend - in the same signal intend proceeding to Winston Churchill unless otherwise directed. Now what I can't recall is if I then put the wheel over and started heading to Winston Churchill or if I awaited the actual yes, go ahead. My log tells me that I altered course at a time - I'll just check that and if we check the time of the signal from Winston Churchill there saying please proceed, that's my signal 5, then you can determine whether I altered course before or after. It says I altered course at 1748 to 010, which is datum 1 and - here we go, I can work it out and there's the timing and the signal from RCC is 1746. So I received the signal from Winston Churchill - from the RCC and two minutes later I altered course. So to be able to alter course

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within two minutes meant that I'd done my preps, sails, crew all ready, get the go ahead, so we turned away from Stand Aside over to Winston Churchill.

Q. You'll see in message 4 that you've been referring to I think intend proceeding to Winston Churchill unless otherwise advised? 5

A. Correct.

Q. That's clearly stating to the RCC isn't it that you would go there unless they had good reasons to overrule you or in fact did say no we have other information or other search assets that we're sending there instead? 10

A. If I was saying to them that I am altering course then I would say I have altered course or something like that. No, intend proceeding to Winston Churchill, it's a pretty strong hint saying give me some direction guys, I'm not far away, send me there and they did. I think they took the hint. 15

Q. I think you said on Friday that it was the kind of thing that you do in the Navy from time to time to say this is what I'm going to do, you tell me to do otherwise if you want me to do otherwise? 20

A. The meaning I wanted to convey the other day was yes, it's a trick that you - alright, a technique that you can use to say to your superior look, this is my advice to you and you say intend. It puts the ball back in their court, they have to give you a directive. They shouldn't really leave it unanswered. 25

Q. That's certainly consistent with an independent decision by you to go to the Winston Churchill in response to the mayday. 30

A. Is that question?

Q. It's a suggestion, you can agree or disagree. 35

A. Can you say the words again?

Q. Message 4 is consistent with an independent decision being made by you to go to the Winston Churchill in response to the mayday? 40

A. I suppose it can be taken two days. The reality is as shown by the signal traffic is that I waited for them to turn me and I turned two minutes after they gave me the word. So I was sticking to what I - my last directive from my superior which was go to Stand Aside, gave them the very strong prompt. They altered - they gave me the directive to turn, I turned. 45

Q. In your statement from time to time on Friday you referred to what the RCC said to you as orders. They're not orders in the sense of binding orders from a superior in the Navy, were they? 50

A. I'm not sure about that. I--

Q. You've agreed you had independent control, the last word so to speak, of where your vessel went? 55

A. Yes, ultimately everything rests with the captain of the

ship, that's absolutely right. But--

Q. So the reference--

CALLAGHAN: No, just a moment. Please let the witness finish. 5

A. When I had put myself under the control of the RCC, I think with that comes a certain responsibility to cooperate and not then go off and do my own thing. So I have faith in the RCC, I put my faith in them and allowed the - my ultimate decisions to revolve around the orders, directions, whatever you want to give, from the shore authorities run by the nation, the national coordination centre. Look, I certainly could overrule them or - sorry, not overrule them, do my own thing but it would be at my own peril if I was wrong and my duty as a subordinate, I see myself as subordinate to them, is to provide them with as much information as I can and get on with the job. 10 15 20

LANCASTER: Q. You gave some evidence on Friday about two sets of radios on the Young Endeavour, one was the Telstra Control set and the other was your vessel's own set?

A. Yes. 25

Q. That there was fairly constant interaction between the two areas in which messages were received. It's fair to say there was a flood of communications on the VHF channels weren't there from the fleet?

A. There were at times, that's correct. 30

Q. You knew that the RCC didn't directly receive VHF signals?

A. No, I don't know that. 35

Q. You don't know that? Have you ever visited--

A. There are repeaters - repeater stations all up and down the coast and I would expect them to be able to receive - they wouldn't - their aerial in Canberra isn't going to receive a VHF signal but I would be surprised if they did not have some kind of coverage using repeater stations and then a landline, and also with VHF from the aircraft. 40

Q. But you don't know whether or not RCC monitored VHF during the race? 45

A. They couldn't monitor directly from Canberra but I think I know what you're getting at. I knew that they had the - received the mayday, because they sent the mayday signal - they said the exact wording from RCC that they've got the - that they've received the mayday. Well, if they've received the mayday they've got it by some means. I would say that because there was an aircraft above them, the aircraft passed it on to the RCC. So I don't think they would have necessarily got it directly but they certainly got it and then - and I told them as well, we relayed it. I'm not sure what you're getting at. 50 55

Q. Just speaking more generally, it would be the case

wouldn't it that not every one of this flood of VHF communications would be something that became known to the RCC to your understanding?

A. I'd have to speculate as to what they did and did not receive. Remember that the mayday from Winston Churchill was before the great flood, it was the beginning of the flood if you like, it wasn't the - the pandemonium on the communication sets came later. 5

Q. Just not focusing on the mayday for a moment but just speaking more generally, it's correct to say that you might have been in possession of information gained from VHF communications that the RCC didn't have? 10

A. That could happen, sure. If I thought that I would push it up the line. 15

Q. You mean you'd relay it--

A. I'd do that.

Q. --if you had information? 20

A. And indeed I did relay the mayday.

Q. I take you've been involved in search and rescue operations before, is that fair to say? Before December '98 or not? 25

A. No. Unless there's something I've forgotten.

Q. In terms of raising concerns that you might feel in response to a directive or order or whatever it is that you would like to call it, would you agree it's important for a senior officer in command of a vessel, the man on the spot so to speak, to raise any significant concern about directions from some central coordinating centre? 30

A. Yes, it's a question that I asked myself. What was it that caused me to not make earlier approaches to the RCC and the answer to that-- 35

Q. Before we get to what you did, you'd agree it's important for the man on the spot to raise any significant concern with a central coordinating centre? 40

A. Yes, of course, I'm on the scene, yes.

Q. If I could just take you briefly to your narrative of events that you prepared, do you have a copy of that? 45

A. Yes.

Q. This is a narrative prepared on 28 December it says?

A. Yes.

Q. When on the 28th did you prepare that? 50

A. During the course of the afternoon I think. I typed that out very quickly so that I could fax it back to maritime headquarters while it was fresh in my memory and before we went out of phone range going across Bass Strait. 55

Q. Is it fair to say that the narrative is your brief explanation of the 14 satcom messages that you annexed to your statement?

A. Yes.

Q. The times we take it are times that you've ascertained from, what, looking at the log book or where did you get the times in the narrative? 5

A. Those times would be from the log book and from the signal traffic, that'd be right, yes.

Q. At 1711 you've - 1711 local time you have a reference to Stand Alone, that's Stand Aside I take it? 10

A. Yes.

Q. 1719 you have an entry indicating overheard VHF mayday from Winston Churchill. It follows from that doesn't it that you received the mayday independently of the rescue coordination centre? 15

A. Yes.

Q. You got it directly?

A. That's correct. 20

Q. Then at message 3 you also got it through the RCC?

A. That's correct.

Q. You've referred to message 4 where you indicate your intentions, you've given some evidence about that. Then the entry at 1815 you have Young Endeavour altered course to close southern position. Then in brackets you have YE noted that this did not tie in with the mayday which said Winston Churchill was 20 nautical miles southeast of Eden. Where was that noted? 25 30

A. In my head.

Q. On page 2 of the narrative you have the descriptor OC and then a large paragraph of text? 35

A. Uh hmm.

Q. In the third sentence there you say in particular conversation heard between aircraft CS SAR--

A. CS is call sign. 40

Q. Call sign SAR and vessel call sign OYQJ2, do you know what vessel that was?

A. No. I didn't know at the time. 45

Q. Do you know now?

A. It could be something - Natasha Y or something?

Q. Patsy Ann(?) I'm told?

A. Patsy Ann, yes. Patsy, Natasha. 50

Q. Do you know at approximately what time you overheard that conversation?

A. No, I don't really know except it was we'd reached a very busy stage, it was probably - I have a memory recollection it was nightfall, I was hanging on with one hand trying to stand up on the yacht and trying to talk with these two people that were already engaged in a 55

conversation, trying to talk with them without success.

Q. So you can't even approximately say when that might have been?

A. Working through it was after the mayday and--

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Q. Sometime between 8 and 11, was it?

A. Yes. Between 8 and 11 for sure.

Q. Did you relay that overheard conversation to the RCC?

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A. No. There was nothing to relay.

Q. It amounted to an independent verification of what the SAR had seen didn't it?

A. If you're saying to me that the SAR were talking to a merchant ship and had found something, maybe Winston Churchill or what they thought was Winston Churchill, I knew that the RCC already knew that because they told that to me in their mayday relay.

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Q. But what this conversation you overheard said was SAR talking directly to the merchant ship saying aircraft believe Winston Churchill to be at southern position, in other words your datum 2?

A. Yes, that's what it says there, in particular conversation heard between the aircraft and the vessel which aircraft believe Winston Churchill to be at southern position, yes, that's right.

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Q. So quite apart from what RCC was telling you, you knew that SAR was saying we think we've seen Winston Churchill at the southern position?

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A. That's right and the southern position was datum 2 which is my gut feeling was the wrong one, so that conversation was tying in with what the RCC were saying to me, go to datum 2. They're saying the same thing so there was nothing new to pass on to the RCC.

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Q. No but it was in--

A. It just corroborated it, that for me not to worry about position 1, it was another thing saying going to position 2, another piece of corroborative evidence go to position 2.

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Q. You then have an entry at 1.16am on the 28th, received message 13 establishing amended northern point?

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A. Yes.

Q. In a position - that position is very close to position A or datum 1 as you've called it?

A. Yes, that's right.

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Q. That was some six hours or more before - well, some six hours before your telephone conversation in which you said on Friday you raised doubts about--

A. That's right.

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Q. --position B or datum 2?

A. Yes.

Q. So you'd accept that the Young Endeavour knew at 1.16am that the search effort had been redirected to the original location?

A. Yes, from that, yes.

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Q. The last entry in the narrative at 0700, would you accept that that phone call took place at about 7.40am?

A. Yes, I do, I've seen the phone logs this morning from Young Endeavour and it took place at 7.40. I called Sam - from my phone logs which I saw this morning, we gathered over the weekend that at one minute to 7 I called Sam in Hobart and we had a conversation at 7.40 is when I called the RCC, yes, that's correct.

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Q. Did you find any record of the conversation you couldn't remember whether you had or not during the night with the RCC?

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A. I found lots of phone records to a phone number, in fact we'll be tendering them as evidence shortly. I found a dozen or 15 phone calls to a number which I think it's a Hobart number and therefore I think it's the ops room in the yacht club in Hobart. But I can't categorically say that.

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Q. If you're told that the RCC records had been searched and there's no record of such a call being made before 7.40, you wouldn't--

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A. I'd accept that.

Q. --dispute that?

A. No, I wouldn't dispute it. The 1800 number, if I may add, the 1800 number was the only time I called it, 1800 being AMSA in Canberra. All the previous calls were to Hobart, was an AMSA rep in Hobart and the yacht club.

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Q. You say it crossed your mind that the revised location, the message in relation to datum 2, once you received that it crossed your mind that that location was incorrect?

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A. Yes.

Q. And that crossed your mind, what, during the night of the 27th?

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A. It more than crossed my mind, it was worrying me and my officers and I discussed it at great length as to whether it was right and if I may add, to clarify anything, the real clincher for us as to why we thought well, you know, these guys - in addition to AMSA having all the information and the beautiful ops room and the cast of thousands et cetera, was it was a positive ID from an aircraft. I didn't feel in the scheme of things with communications becoming jammed that it was right for me to say to the professionals on the job guys, are you sure you've got a positive ID. That's elementary.

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Q. Because you knew that the RCC message was based on the SAR positive ID, is that the case?

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A. I'll just check that. A positive aircraft ID, I think it was SAR. ABC aircraft, we knew the ABC aircraft was in contact, message 2.

Q. Message 10 is perhaps relevant?

A. Message 10, yes, SAR, that's correct, that's later on though, yes.

Q. So you knew from the RCC and you also knew as we've heard this morning independently from conversations you overheard that there'd been a positive ID according to SAR of Winston Churchill?

A. Yes.

Q. That's why I suggest to you that there was no significant concern in your mind that that revised location was indeed the most fruitful place to go in terms of search and rescue efforts?

A. Can you say that again?

Q. If it had been a significant concern that that revised location was not correct, you would have raised it? I think you said this morning that--

A. Yes. It was - it was concerning me, it certainly was and I would go so far to say significant, but you know it was a gut feeling and when you're out there in command responsible you've got to look at logic and look at the facts and gut feelings don't stand up to logic and the fact was that the professionals had a positive ID. I followed my orders.

Q. You didn't raise a query with the RCC about the revised position, did you?

A. Not prior to that - not directly to the 1800 number prior to 7.40, that's correct.

Q. And when you say 7.40, you're referring to what your subtle hint as I think you've called it before about--

A. No, it's 7.40 in the morning, 7.40 in the morning.

Q. Before 7.40, right.

A. No, the subtle hint if you like or less than subtle hint at message 4 was just to get away from going towards Stand Aside and get ourselves to the closer datum 1 of Winston Churchill.

Q. Your original answer intended to convey did it that you didn't raise a concern about or query about the revised location with the RCC before 7.40 of the morning of the 28th?

A. That's right.

Q. That I suggest to you is because you didn't have a significant concern that that location was not a correct location to go to on the available evidence?

A. No, I suggest to you that I had a gut feeling significant that maybe a mistake had been made but--

Q. If you had a significant gut feeling I suggest you would have raised it with the RCC?

A. No. I looked at the facts as I saw it and the professionals in Canberra had a positive ID.

Q. I think in your statement to the police you referred to the evidence being pretty hard evidence about the revised location, do you remember saying that to the police?

A. If it's in there then I said it. And that's right. A positive ID is pretty hard evidence. 5

Q. Not only was the RCC telling you about that pretty hard evidence but you independently knew about that pretty hard evidence? This conversation you overheard with--

A. Yes, that's right, that's correct. Provided that it had been a positive ID, with the benefit of hindsight we all know it wasn't a positive ID, it was mistaken. 10

Q. Yes but you agree at the time there were perfectly good reasons for the redirection to have occurred? 15

A. Okay. Were there perfectly good reasons. To answer that, I believe the Coroner needs to ask what is the protocol that the RCC use to determine what is a positive ID and if there is no protocol, that's a problem. If there is a protocol and that wasn't used or they used it incorrectly then there's a problem. It seems to me if you can say God given you flew over a yacht and it had Winston Churchill written on the side of it and all the rest of it and then a 406 EIPRB saying Winston Churchill, that's a pretty good positive ID. But something else has happened. It was a mistaken ID for whatever reason. So maybe the RCC should have talked to their helicopter and said why is it, why are you so certain, especially with clues like their mayday saying that they had abandoned the - they were abandoning into liferafts and the ID as it turned out was a dismasted yacht with people on deck. That's a clue that it wasn't the right one. 20 25 30

Q. Lieutenant Commander, I suggest that you say that now but in terms of what was happening at the time this pretty hard evidence warranted nothing but a redirection in terms that the RCC gave? 35

A. If you are arguing that the RCC did the right thing by going to Winston Churchill, argue, I don't want to - I'm not here to say they did the wrong thing, I'm here to say I did not fully appreciate why they did it. People above me will decide whether they did the right thing or not. 40

Q. Yes. But the pretty hard evidence for the revised location was such that it didn't even encourage you to make a formal query with the RCC? 45

A. That's right, the RCC having filtered the information received and telling me it was positive ID was good enough for me at the time, I had faith. 50

Q. Can I just take you back to your messages, in your annexures to your statement. You see message 4 you have intend proceeding to Winston Churchill, that's at the original location, message 5 RCC is saying back to you please proceed to that position? 55

A. Uh hmm.

Q. Then the revised location was alerted to you in

message 7 at 6.50 Zulu time so 5.50pm on the 27th?

A. Yes.

Q. And then that gives the new coordinates. You'd accept
wouldn't you that the RCC never said to you in relation to
the revised location please proceed to the revised location?

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A. Good question. Did I jump to a conclusion, is that what
you're saying?

Q. No, I'm just saying all you had with the information
about the revised location, RCC didn't direct you to go
there, did they?

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A. I believe they did.

CORONER: They knew it was going.

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LANCASTER: I beg your pardon?

CORONER: They knew he was going to do it.

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LANCASTER: Yes.

WITNESS: Maybe this is one of the conversations that I had
with the people in Hobart and it was a verbal go there but I
was under no doubt to go to datum 2, absolutely no doubt
that I'd been directed, because I mean I didn't want to go
there, gut feeling was telling me it's wrong, I would have
given anything to find a reason to not go there. But I was
definitely told to go to that position. And if you're
saying it's not here, you've found something that me who is
closely involved in this is not aware of but there was
absolutely no doubt that I had to go to the datum 2. Is it
not here? That's interesting. Might have been a phone
call.

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LANCASTER: Q. In any event you--

A. May I continue to answer that query, that's an
interesting one. I would have to find a basis upon which to
continue to datum 1, in view that they told me datum 2,
that'd be hard to justify to anybody.

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HILL: I'm loath to interrupt but I think that perhaps the
Lieutenant Commander's attention should be drawn to message
number 6 which was the cancellation of position A.

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WITNESS: Here we go.

HILL: That may well resolve this conflict, you see.

LANCASTER: Q. I'm not suggesting that you weren't acting
consistently with what the RCC was putting out, I'm just
suggesting to you that they didn't in the same way that they
had in terms of the first location asked you to proceed to
the revised location. It was more in the nature of your
volunteering to the rescue effort that you then volunteered
your ship to go to the revised location, you'd accept that's
what occurred?

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A. No, not really because I can remember being told to go

there, I can remember go to - you know, I can remember having to go to datum 2, being turned around. So they've cancelled that mayday, then they tell me the revised position is that. Gee, it'd be a gutsy play to continue to the one that they've cancelled, even with a gut feeling.

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Q. Yes but your gut feeling didn't - wasn't a very strong one was it, I suggest to you? You discussed this matter on the bridge--

A. Have you read the Sydney Morning Herald headline on Saturday? Agony for 20 months. No, I'd say - okay, that's from a reporter, that's not from me, but we had long and hard discussions on the bridge about whether we were going to the right place or not.

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Q. But the fact is you didn't raise a direct query with the RCC in relation to the revised location?

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A. Correct, because--

Q. And at the time--

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A. --they had the positive ID.

Q. Sorry?

A. Because they had a positive aircraft ID.

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Q. At the time and indeed now sitting in the box you would accept that there was pretty hard evidence for that revised location at the time?

A. Provided that they knew in their own minds that a positive ID was a positive ID and not a furphy.

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Q. What if you hadn't heard from the RCC at all and you just overheard this conversation between SAR and the merchant ship in relation to the visual identification of Winston Churchill at the southern position? How would you have responded to that information?

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A. That's speculation and if I was under orders to go to datum 1 I would continue to datum 1 and depending on the clarify of the conversation I might say I've overheard - say it was clear as a bell, right, just say it was absolutely clear as a bell, that would alert me to something and I would speculate that I might say hmm, I overheard this conversation and I'd let them make the decision. But I wouldn't go away from datum 1, especially as my gut feeling, the VHF radio com was - and it was 10 miles away, I'd stick with datum 1.

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Q. Given that the RCC had a positive ID from an aircraft said to be overhead the Winston Churchill, you accept that fact for the moment?

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A. Uh hmm.

Q. You agree the RCC did the only responsible thing that they could have done with that information by conveying that to those involved in the search and rescue effort?

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A. That's their call, if they want to tell the - or justify their actions to the assets under their control, for sure, it helps the person on the scene in control of that asset

know why he's going where, yes.

Q. Indeed it would be irresponsible not to convey a positive aircraft ID said to have come in from one of the yachts in distress? 5

A. I wouldn't go so far as to say it would be irresponsible. I mean it would certainly help an asset, a ship or an aircraft, to know why they're going to a place but I wouldn't say that that omission would be irresponsible, it would just be - they might have a reason to not do it, such as let's keep our messages short for communications brevity, could be a million reasons why they might not. 10

Q. If I could just explore for a moment what evidence you gave on Friday in relation to plans that you were starting to make for what would occur when you got to the original location, to datum 1? 15

A. Yes. 20

Q. What is it that you might have done had you got to the original location? 20

A. For what might have been? Well, we were expecting to find people in liferafts as opposed to people in a stricken vessel because they said they were abandoning to liferafts, so we were planning how on earth do we get people in liferafts aboard Young Endeavour, it has quite full ship's sides, especially when you're in the water looking up at them. And the plan that we devised, that I devised, was that we would probably launch one of our liferafts, or one of our liferafts, tether it to Young Endeavour, go upwind of the yacht and stream the liferaft down to their liferaft, they make a transfer and then we drag our own liferaft back to us. As opposed to us trying to manoeuvre alongside them and try to have them leap onto our ladder or something like that. At least if we tethered - brought the liferaft to our leeward side, if I could create a lee somehow, and then pass more - once they were close alongside, throw more lines to them and - or fire lines, we could fire lines with a rifle and secure people, while they're still in our liferaft if you like, and just heave them aboard. 25 30 35 40

Q. So that was I take it the rescue plan. Did you have any search plan in relation to what you would have done? 45

A. Yes, good question. The search plan - I mean I headed for the search and rescue manual and the plan was to go to the datum, the exact coordinates, and--

Q. That was some hour, hour and a half later? 50

A. Yes, that's right. And then try - the book says do say an expanding square search, something like that. We couldn't, it was absolutely impossible for us to do something like that, because we were under storm sails, low powered main engines in ..(not transcribable).. you can't - we would not be able to steer an exact square. So it was to go to the point and work from that point outwards with attention to the expected drift rate and direction and with youth crew aloft. Youth crew were aloft in the masts as 55

soon as we heard the mayday, well, a few minutes after the mayday call really. They had extra sets of eyes.

CORONER: Q. They'd have a sort of a crows nest?

A. Yes, well not exactly a crows nest your Worship but certainly plenty of places in the mast to go up high and search.

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Q. And the Young Endeavour crew would go up?

A. I had mainly the youth crew, they were youth crew that had been in the ship before, they had their sea legs, young eyes. They just needed to be briefed a little bit in the technique of scanning the horizon and scanning back that any basic naval lookout would know and then up they went.

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Q. Binoculars?

A. Binoculars are actually not much use, because you have a very narrow field of view and up there in the rigging with the mast swaying, no binoculars. Also they're dangerous, they could drop them and crown somebody. Binoculars are much better if you're closer to the deck.

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LANCASTER: Q. And of course by the time you would have got to datum 1 it's possible that a liferaft would have drifted up to three or four nautical miles, isn't it?

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A. For sure.

Q. Datum 1 would have had conditions similar to the conditions you were actually in where--

A. I would expect so. They weren't actually that bad at that stage of the game. It was later on it got a little--

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Q. It was later on that a tug mistook your vessel for a yacht?

A. Yes.

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Q. So conditions would have been atrocious even earlier in the evening and becoming gradually worse?

A. It's probably better instead of using words like atrocious if we used what the log described the sea state and all that sort of stuff. Atrocious could mean different to anybody. If I may digress and to hold up that point, this is not the worst weather Young Endeavour has been in, so I'd suggest that we were out in a storm with a lot of racing yachts and they came unstuck. We've been in worse by ourselves and of course it doesn't make the news. It was quite rough.

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Q. I'm just exploring what might have happened had you got to datum 1. You would have had roughly three-quarters of an hour you suggest of light or twilight in which to search for liferafts in very bad conditions?

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A. Correct, that's right, yes.

Q. That would only be a visual search, they didn't have a beacon, anything of that nature?

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A. The yacht didn't have a beacon are you saying?

Q. No, the liferaft. It would have just been visual?

A. No, they probably - liferafts are unlit I think, yes. They would have had torches I hope in their grab bag but they would be hard to find possibly, certainly in the dark.

LANCASTER: Yes, thank you, no more questions. 5

CORONER: Thanks Mr Lancaster. Anything arising - sorry, Mr Callaghan? 10

CALLAGHAN: I'd like to clear up a few matters.

Q. These young people who went up into the rigging, up the masts, they volunteered to do that, did they?

A. They were - yes, they more than volunteered, they were begging me, could we go up now ..(not transcribable).. 15

Q. How high up did they go?

A. I think initially I restricted them to the lower top, 18, 20 metres I think. It's been 18 months since I've been on board the ship, I can't remember how high the lower top is. 20

Q. Apart from the height, there would have been a considerable amount of movement up there?

A. Yes. Yes, absolutely. Not for the fainthearted. 25

Q. But the purpose of having them up there of course was to get the extended line of sight?

A. Uh hmm. 30

Q. Correct?

A. Yes. I wanted as many eyeballs looking and the bridge would fill up very quickly. The rest of the deck was out of bounds so the only other place is to be in the rigging. 35

Q. Can I just go back to the situation that obtained in the time you were sailing down or motorsailing down to the second datum, you're going down south to southeast down there. You were asked some questions about entries in your narrative that you sent to the fleet commander the following day, particularly on page 2, that large paragraph, which is introduced by a reference O/C. What's that for? 40

A. On completion. 45

Q. You were asked about your communications with the aircraft and the merchant ship. You weren't taken to some of the further parts of what you've written there. You suspected that possibly - you suspected the possibility that the aircraft had mis-identified Stand Alone for Winston Churchill for a start? 50

A. Yes.

Q. In the chart which we tendered on Friday, the marked up chart, exhibit 42, the position of Stand Aside is not shown but if I were to suggest to you that her position-- 55

A. The Young Endeavour - if I could interrupt, the Young Endeavour chart has Stand Aside.

Q. Wherever that may be at the moment. But if I could make this suggestion to you in the interim that at 1700 on 27 December Stand Aside was at 37 degrees 37 minutes south and 150 degrees 37 minutes east.

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HILL: I think before he answers that--

CALLAGHAN: Q. Just have a look at the chart, thanks.

CORONER: Stand Aside is marked on exhibit 42.

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CALLAGHAN: It is marked, I'm sorry, yes. It is marked there.

CORONER: So it's near datum 2?

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CALLAGHAN: It's very near datum 2 and very near Team Jaguar.

CORONER: Yes.

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CALLAGHAN: Q. Then returning - does that confirm--
A. It does.

Q. --confirm what's on the ship's chart?

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A. Stand Aside is on here because it was the first vessel with a position that we were heading for before Winston Churchill even came into the picture. It's here and it's near datum 2. It's six, seven miles away.

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Q. Then returning to your narrative here, you broadcast on channel 16 to the aircraft and the merchant ship suggesting checking that they had indeed correct location of Winston Churchill?

A. That's right.

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Q. You say you got a response from the merchant ship but you say but SAR may not have. Just what happened as best you can recall now?

A. I overheard conversation between this SAR and the merchant ship and I tried to talk to them both simultaneously on channel 16 which you really shouldn't be doing because it's meant to be a calling frequency, distress frequency, and not the frequency to have a chat on. But that's what they were doing. So I tried to talk to them and I said just that, look, aircraft have you - and ship, are you sure you've got the right one and I never - I didn't hear anything back from the aircraft, which kind of surprised me because we should have had a good line of sight. But the ship, it didn't come back with anything useful that I can use but I knew they'd heard me because they did say something like ship calling and there was an attempt at a response on their part. But unfortunately we didn't establish anything.

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Q. In any event you arrived at datum 2 and at 23.19 you transmitted a message that you were hove to there, that's message 11--

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A. Uh hmm.

Q. --in your set of signals. Set north at four knots keeping best lookout, wind 269 degrees, 50 knots gusting to 65 knots, heavy seas, poor visibility. And it was thereafter you received perhaps not a response but a further signal, signal 14, from RCC saying no specific task for you at present, please continue with your normal duties with the fleet.

5

A. Mm.

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Q. They weren't surprised that you were down there?

A. No.

Q. You were given the liberty to go about your ordinary duties. What did Young Endeavour do, by the way?

15

A. We proceeded sort of in company with Team Jaguar and made our way with the wind and the sea state to the north and Moira Elizabeth was trying to find Team Jaguar so we were with them for a while in company and I hope providing a bit of moral support for those guys. Then we made our way back in shore, a but if a dual purpose there, to go back to the tailenders that we thought would be way back there, to go back for the yachts coming out of Eden to recontinue when the weather abated, give my crew a rest and go back towards datum 1.

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Q. It was shortly after you embarked on that course that you received the messages 12 and 13 cancelling the previous distress situation in relation to Winston Churchill and signalling a new mayday or distress situation with a new position to the north?

30

A. Correct.

Q. Not far from datum 1?

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A. Correct.

Q. Just to now clarify a few matters that arose on Friday, you were asked some questions I believe by Mr Weber for the CYC in relation to the receipt or otherwise by Young Endeavour of faxes during the race. Now what is the situation? You reflected on this over the weekend I gather?

40

A. Actually it was on Friday afternoon, I realised how difficult communications can be even between two people so close, eye to eye. You were asking me questions about weather faxes and a little later on about direct communications with the Weather Bureau. I said we didn't have fax and we didn't have direct coms. That was incorrect. When I hear fax, the word fax, or weather fax, I have a recollection of a rather ancient piece of machinery the Navy used to have for receiving letter faxes and I think what you were really asking - well, what you were asking was, was I receiving synoptic charts, pictorial representations of the weather and yes, I was and I was receiving those on satcom Charlie. I don't call satcom Charlie a fax, so probably you were asking me was I receiving that information, pictorial representations that looks like a fax, yes, absolutely, rely on them a lot from

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the Navy. And indeed on this occasion I would correct my earlier statement where I said we were not getting anything directly from the Weather Bureau because I was still thinking back to faxes or what I call a fax. I recall being asked to call a fellow at the Weather Bureau in Melbourne prior to the race, we were to give him our satcom Charlie identity number or phone number if you like and he would send us the weather. I don't recall whether the weather was from Weather Melbourne, because this fellow was in Melbourne, or whether it was from Weather Sydney, but we definitely received direct weather from the Weather Bureau. So I apologise for that problem, I apologise for giving you the wrong information as I understood it.

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Q. You were also asked some questions whether you knew of a request made by CYC of the Navy, more correctly the Young Endeavour Youth Scheme, to have a fourth person join the crew of Young Endeavour for the 1998 race?

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A. That's right.

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Q. You have located or there has been located a letter dated 25 November 1998 and a response from Young Endeavour of 1 December 1998.

CALLAGHAN: I'll tender these your Worship but I'll just state the substance of them in making the tender.

25

Q. The request was for one of the CYC's - sorry, the request from CYC was passing on a request from Telstra for one of their technical staff, a product manager, to join the crew in the journey to Hobart, CYC making the request explained that they did not know what they'd be able to do about costs, they did not have anything in their budget to cover this and asked whether this could be done at no cost. The response was in substance unfortunately the ship has a full complement and no spare berths are available before we even consider the question of cost.

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EXHIBIT #45 LETTER DATED 25/11/98 FROM CYC TO YOUNG ENDEAVOUR YOUTH SCHEME AND A FAX RESPONSE OF 01/12/98 TENDERED, ADMITTED WITHOUT OBJECTION

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Q. You were asked some questions this morning about the chartering of Young Endeavour.

45

CALLAGHAN: Your Worship, I have a bundle of correspondence here which I will tender. I don't have copies. The substance of it is that CYC asked the Young Endeavour Youth Scheme that as in previous years the scheme would permit the use of Young Endeavour as the official radio vessel and with three CYC volunteers joining the crew for the event and the necessary radio equipment being placed on board the vessel for the journey and there was a fee negotiated, it really speaks for itself but it doesn't go beyond that. I'll show it to my friends.

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CORONER: Show it everyone.

EXHIBIT #46 BUNDLE OF CORRESPONDENCE FROM THE CYC TO THE
YOUNG ENDEAVOUR YOUTH SCHEME TENDERED, ADMITTED WITHOUT
OBJECTION

CORONER: It just ties in the circumstances by which 5
Mr Carter and others were on the ship.

CALLAGHAN: Yes.

Q. You spoke this morning of the telephone log, that's the 10
Young Endeavour telephone log, is that right?

A. That's the CO's official mobile phone.

Q. I see, this is the printout of your calls?

A. Mm. 15

Q. You've marked on page number 5 various items including a 20
018 number which was the subject of calls in the evening of
27 December, multiple calls, and on which appears also the
1800 number being the subject of the 7.40 call, 0740, on
28 December 1998, is that correct? 20

A. That's correct.

CALLAGHAN: I tender that telephone log, again I don't have 25
copies available at the moment but if that could be--

EXHIBIT #47 TELEPHONE LOG TENDERED, ADMITTED WITHOUT
OBJECTION

CALLAGHAN: Those are the matters that I wished to deal 30
with.

HILL: Q. It may have been suggested to you Lieutenant 35
Commander that you could disregard any of these messages
from the rescue coordination centre. What would be the
likely consequences of you disregarding anything that was
sent to you from them?

A. Dire.

<WITNESS RETIRED AND EXCUSED 40

SHORT ADJOURNMENT

<JOHN YOUNG (11.33AM) 45
SWORN AND EXAMINED

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

A. John Young.

Q. And your address sir? Professional address would be 50
fine.

A. I'm currently employed by the Australian Maritime Safety
Authority in Canberra.

Q. Your position there? 55

A. I'm currently the operations manager of the search and
rescue centre.

Q. I think you joined AMSA in December of 1998, is that correct?

A. I joined AMSA in May of 1998 but in a different capacity. I became the acting operations manager in March of '99. 5

Q. Prior to that, you were some 31 years in the Royal Australian Navy?

A. That's correct. 10

Q. As a seaman officer and principal warfare officer?

A. That's correct. 10

Q. On 27 and 28 December 1998 you were where, performing what? 15

A. I was actually the analysis officer in the search and rescue centre. My function was to look at incidents after they'd completed, replay them if you like, reconstruct them and see what we could learn from the incident. As it turned out, I was in the operations room on the night of the 27th. I had been on leave at the time but it looked like there was plenty going on so I went in to watch it. 20

Q. Now you weren't actively involved in any decision making on that night? 25

A. That's correct.

Q. You have a four page statement that you made on 20 July of this year?

A. Yes. 30

Q. Do you have a copy of that?

A. I have a copy.

Q. What I propose to do is take you through that paragraph by paragraph. You say there that on 27 December 1998, this is the fourth paragraph on the first page-- 35

A. Yes.

Q. --at 0622 UTC, what's UTC? 40

A. It's what we know as Zulu time or Greenwich mean time.

Q. So it was 5.22pm local time?

A. That's correct. 45

Q. Mr Garry Ticehurst, the pilot of the ABC helicopter VHNTV, advised the Australian Search and Rescue Coordination Centre that he had received a distress message from the yacht Winston Churchill? 50

A. Yes.

Q. So that was your first information with regards to the Winston Churchill?

A. Indeed. 55

Q. The distress message said that the Winston Churchill was sinking rapidly in a position 20 miles southeast of Twofold Bay and that the crew were abandoning the vessel into

liferrafts. AUSAR advised VHNTV, that's Ticehurst, of an intention to send a Southcare helicopter to the scene?

A. Correct.

Q. So that was the first thing that happened?

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A. Yes.

Q. In response to what Ticehurst had said. Now, that is a fairly specific message, was sinking rapidly?

A. Yes.

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Q. And the crew were abandoning the vessel into liferafts. So that's quite clear?

A. Yes.

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Q. You say there at the same time the crew of fixed wing aircraft, VHSAR, tasked by AUSAR and that's--

A. That's the Australian Search and Rescue Centre.

Q. --AMSA as it were, the same?

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A. Uh hmm.

Q. Earlier in the afternoon to home on a distress beacon relayed Winston Churchill's distress message to another AUSAR officer and advised that he would attend the Winston Churchill. So do I take it that that's a fixed wing aircraft in the air?

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A. Correct.

Q. At that time looking at another beacon, another EIPRB?

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A. He was tasked to home to a distress beacon, he hadn't got there at that stage.

Q. He picked up the distress message as well, did he?

A. Indeed.

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Q. Is that correct?

A. Yes, that's my understanding.

Q. And he advised that he would attend to the Winston Churchill?

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A. Correct.

Q. So at that stage we've got the helicopter initiating to you and then the fixed wing aircraft saying I'm going to go to the Winston Churchill?

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A. Yes.

Q. You say then between 0626 UTC, so that's--

A. Four minutes after we received the distress message.

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Q. So it's 5.26pm?

A. Yes.

Q. Local time. And 5.38pm AUSAR attempted to contact a Southcare helicopter VHNSC to respond to the Winston Churchill but Southcare was temporarily out of contact having been sent to refuel at Merimbula. She'd been up at

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that stage for a fair while, is that correct?

A. I don't recall the entire movements of Southcare, she had been grabbed from another state task early in the afternoon. If I remember correctly she was actually on the way back from Sydney to Canberra when the search and rescue centre got hold of her and directed her down there. I don't know, I can't recall if she was going directly to Merimbula to refuel in order to be tasked or if she'd been out doing something else. I think she was actually going to Merimbula to refuel.

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Q. Yes, I think she was diverted on her way back from Canberra, she'd grabbed some equipment and then gone straight to Merimbula and was to be tasked out after refuelling?

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A. That would fit, yes.

Q. You say there the only rescue helicopter in the area at that time was Helimed 1 which was already committed to another known distressed yacht, Stand Aside?

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A. That's correct.

Q. You then say a distress broadcast notifying shipping of Winston Churchill was issued at 5.33pm?

A. Uh hmm.

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Q. In this broadcast the initial distress position 20 miles southeast of Twofold Bay was converted into a latitude and longitude search position for each of reference by ships and aircraft and the converted position was 37 14 south, 115 19 east, you refer to it as position A thereafter.

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A. Yes.

Q. Now that's the position that Lieutenant Commander Galletly has talked about as position north?

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A. Yes, datum 1--

Q. Datum 1.

A. --in his evidence, yes.

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Q. At 5.44pm Young Endeavour advised that the vessel was en route to Stand Aside but now intended to change course for Winston Churchill and at 5.46pm AUSAR agreed with that intention and requested the Young Endeavour to proceed to position A?

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A. Correct.

Q. Datum 1 as far as Lieutenant Galletly was concerned - sorry, Lieutenant Commander was concerned and position A as far as you're concerned?

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A. Yes.

Q. The first position. Now, at about the same time Helimed 1 began winching the first 12 survivors from Stand Aside. Then at 5.52pm AUSAR contacted the fixed wing aircraft VHILM on the ground at Merimbula and tasked the aircraft to search for the Winston Churchill or liferafts in the vicinity of position A?

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A. Yes.

Q. So you got someone up and he was told to go to the position 20 miles southeast of Twofold Bay?

A. That's correct.

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Q. Then at 5.55pm Melbourne Flight Service advised AUSAR that the aircraft VHSAR, that's the one that originally took that call the same time as Ticehurst took the call?

A. Yes.

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Q. Advised was overhead a yacht in distress in position 37 46 south 150 33 east, position B. So if I could just stop there to recapitulate. That initial fixed wing aircraft that also heard the Winston Churchill's distress and was proceeding to the Winston Churchill's position had now come back in and said he was above or overhead a yacht in distress in that position which is datum 2 for Lieutenant Commander Galletly and position B as far as your report is concerned?

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A. That's correct, advising through aeronautical frequencies basically, so he would have been talking on an aeronautical circuit which was tracked by air traffic control in Melbourne and they called us to pass that piece of information on.

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Q. He said in that message that there were still people on board based on information reported through Air Services Australia's aeronautical communications, that's what you got from them?

A. Yes.

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Q. So you didn't speak directly with that aircraft, is that correct?

A. Not at 5.55pm, no.

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Q. At 5.57pm AUSAR was contacted by VHSAR directly. That's the fixed wing aircraft we've just been speaking about?

A. Yes, it was a mobile phone connection.

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Q. That aircraft advised that it was overhead a vessel in position 37 46 south, position B?

A. Yes.

Q. Believed to be the Winston Churchill, the vessel was in distress, with no mast and people were on deck. That aircraft noted that there was apparently a rescue boat on the way. So this a direct - this is the communication from him?

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A. Yes.

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Q. So they believed at that stage it was the Winston Churchill?

A. Correct.

Q. What's this rescue boat on the way?

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A. My recollection of the phone call is that he said there was a rescue boat on the way with the call sign Mike Whisky

Kilo Rescue 1. The phone call was a little broken. The AUSAR officer concerned queried that, what was Mike Whisky Kilo Rescue 1 and VHSAR didn't know. That was the end of that part of the conversation.

Q. So did you ever find out what that boat was?

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A. No. I can make some guesses but not confirmed.

Q. What do you think it was?

A. It seems to me in retrospect and having looked at all the positions it may well have been the Moira Elizabeth. When you look at the positions, there were Stand Aside, Team Jaguar and Renegade may have been in the same area as well. Team Jaguar was in the process of trying to get a tow, so therefore was in the process of trying to get a boat to come out there. I theorise that this might have been Team Jaguar. It may well be in fact that it wasn't Team Jaguar and SAR had a conflict between looking at the yacht down there, listening to channel 16 radio communications and maybe even presuming that a channel 16 message came from the yacht, which is another confusion factor that could enter into it. We've never tied that one down precisely.

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Q. I diverted you a bit there, I'm talking you back now to the aircraft where it says believed to be the Winston Churchill.

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A. Yes.

Q. The AUSAR officer acknowledged this information and requested the aircraft to confirm that the yacht was definitely the Winston Churchill, so that came back confirmed. The aircraft responded affirm, yes. In response to further questioning the aircraft advised that it looked like the yacht would remain afloat. Was that questioning simply to do with the state of the yacht, or was it still seeking confirmation of what this vessel was?

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A. No, it was about the state of the yacht. If you would find it useful, with 10 minutes of setup I can actually play the call so you can hear it, you might like to do that later. The nature of the call was that VHSAR rang in and said I'm overhead the yacht in position B, it looks like the Winston Churchill or words to that effect. The AUSAR operator used the words are you definitely sure it's the Winston Churchill, got the answer back affirm. He then said hold on please SAR and went off the line for a very short time and in recording we can hear him calling across to one of the other senior staff in the ops room to say we've got the Winston Churchill. There's then a period in which SAR is waiting and when he comes back on the line what he's saying is does it look like it's going to remain afloat. So at that stage it seems to me that the RCC has accepted this identification of the yacht and is now thinking about what its next actions are going to be. The first question would be how long have we got to deal with it. Hence the question does it look like it will remain afloat.

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Q. So basically the reliance then is upon the aircraft saying that yes, this is the Winston Churchill?

A. That's what we did on this occasion, yes.

Q. Was there any knowledge of what the Winston Churchill was? What did they go out to look for?

A. They went to look for a yacht in distress basically and they found one, when you get right down to it. I know that - I mean I've revisited this issue in my mind many times and I'm quite sure that the AUSAR operator like Commander Galletly has revisited that telephone call many times in his own mind. I guess one of the things you could say we've learnt along the way is that the better question to ask would have been how do you know it's the Winston Churchill rather than are you sure it's definitely the Winston Churchill. We accepted the information as it came back from the aircraft. I'd go on and point out that I wouldn't want anyone to get the wrong impression about Sierra Alpha Romeo either. That aircraft and their operators are one of the most - I mean, they're regarded as the most reliable - among the most reliable aircraft that we work with, it's a highly respected unit. That may be another reason that we accepted their information so readily.

Q. So really and I'm going to stop here and I will take you to the rest and we will listen to it but the reality is does it appear that what we have is a case of a mistaken identity?

A. Yes.

Q. And from the position of any recommendation, the reality is there must be a system in place so that these vessels can be recognised individually from an aircraft, a search and rescue aircraft?

A. Yes, that's true. There are two issues that arise from it that have previously been addressed by the Court and I think I might have mentioned it the last time I was here. One is that it would be very useful if yachts could be identified by some form of reference number that was clearly visible from a decent height, so that aircraft could make a positive identification.

CORONER: Yes.

A. The other issue that could also resolve it is if they carried some form of emergency waterproof VHF transceiver that could go in the grab bag if they had to go over the side into the liferaft too. Either of those measures would tend to have prevented this mistake from occurring. The transceiver one is a particularly useful one because you don't just get an identity of the yacht but you also get information back about what it is that's going on down there, what the nature of the distress is.

Q. Going back, in response to further questioning, the aircraft advised that it looked like the yacht would remain afloat. This was acknowledged and AUSAR directed the aircraft to remain overhead the yacht pending the arrival of a helicopter at about--

CORONER: 6.45 to 6.50.

HILL: Q. Yes, 6.45 to 6.50pm?

A. Yes.

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Q. Then at 5.57 Helimed 1, so we're going back a step, 5.57pm Helimed 1 departed Stand Aside with eight survivors, leaving four still to be rescued. Southcare helicopter then undertook this task. So if we go back to the time of that aircraft over it, he's there at 5.57, so it would appear that he's got there just after Helimed has already taken people off, is that how you see that?

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A. No it's not.

Q. How do you see it?

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A. My recollection of the events is that Southcare in fact arrived at Stand Aside before Helimed left. So I understand that there were in fact two helicopters there at the time that Helimed left. It's a bit difficult to piece it together because these are the times at which the RCC got particular pieces of information. Sometimes they're a little in arrears so Helimed 1 leaves Stand Aside and then some short time after contacts the RCC to tell them what it's done. So there might be five minutes either side on some of these things.

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CORONER: Q. But it seems that VHSAR was in a position to see at least one of the helicopters at about that time, is that right?

A. Yes, I guess the point I was making when I made the statement was according to my reading of the evidence it seems unlikely that the yacht that was seen was actually Stand Aside, it's much more likely it was either Team Jaguar or perhaps less likely Renegade.

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HILL: Q. I see, so it's not - possibly wasn't Stand Aside but one of the other ones that was dismantled?

A. Yes.

Q. You then say effectively from 5.57pm the Winston Churchill operation was progressively shifted from a search for liferafts near position A towards a winch rescue from a floating yacht at position B?

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A. Correct.

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Q. So that's it. In other words, what's happened is that the assumption is we've got the Winston Churchill, she hasn't sunk, they're not in liferafts and then this is how this mistake compounds itself along?

A. That's correct. Having that new information, I'd have to say it's not unusual to get to a distress situation and find it's not quite the way you thought it was. But having that new information, we have switched the operation from one form to another and I say progressively because it took time to get the various assets that were involved and give them a new form of tasking.

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CORONER: Q. But you would think whoever sent the original

mayday, I presume Mr Winning I think it was, saying the vessel was sinking, you'd take that very seriously surely, as though he ought to know? It's unlikely to be incorrect?
A. We can put whatever interpretation on it you want, your Worship. What happened was we took the aircraft's information as being good.

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Q. Yes, of course.

A. At the end of the day that's what we did. I point out that there were six other search and rescue operations going on at the time.

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Q. I appreciate that.

A. And that tended to--

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Q. I appreciate the difficulty, yes, I think I've got some appreciation of the difficulty.

HILL: Q. You then go on to say at 6.05pm Melbourne Flight Service was asked to communicate with VHILM. Which one was VHILM?

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A. It's a new fixed wing aircraft.

Q. New fixed wing?

A. New to the scene, yes.

25

Q. Which had been tasked at 5.52pm with searching for Winston Churchill to conduct a wider search for distressed yachts north of 37 30 south?

A. Sorry, I gave you an inaccurate answer there. Back at 6.52 or 5.52pm we had sent VHILM to position A to search for Winston Churchill or liferafts.

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Q. Did it actually get there?

A. Yes, it did. According to the recollection of the officers that were on shift at the time and I've said it a little later in the statement, they think the aircraft was there for about 40 minutes in that vicinity searching for liferafts.

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Q. So that's in position A or datum 1?

A. Yes, in the vicinity thereof, yes.

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Q. So it was now to conduct a wider search for distressed yachts north of 37 30. When you say a wider search, is it still going to be in the vicinity of Winston Churchill or does it move away?

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A. No, the intent was clearly to try and get on the front foot if you like and get a fixed wing aircraft that wasn't holding over a yacht to go out and have a look and see what else it could see in an attempt to put together some sense out of what was really a very confused picture of events at the time.

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Q. But the point that I'm trying to make is that wider search, does it also encompass position A as well?

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A. Yes, it does.

Q. You just extended out further as well?

A. Yes.

Q. But still over that initial position?

A. Position A remained within the area of ILM's search but he'd been moved effectively from a liferaft search onto another task, that is to find out what's going on out there.

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Q. The next paragraph says in the hours following the tasking of VHILM AUSAR made continuous efforts to relocate the yacht still believed to be Winston Churchill and rescue survivors. So even at that stage it was felt that that was a different yacht, it wasn't the Stand Aside?

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A. That's right. We believed Winston Churchill was in position B or had been in position B with survivors on board to be rescued. That's where we were trying to get to.

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Q. Okay but certainly as far as you were concerned, there were two yachts in that area, there was the Stand Aside and that had been dealt with and this other yacht was in that area, that's the one seen by the aircraft that had identified it as Winston Churchill and this was a separate yacht as far as you were concerned at that stage from Stand Aside?

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A. As far as we were concerned it was Winston Churchill, yes.

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Q. Yes and that's separate from Stand Aside--

A. Yes.

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Q. --that's the point I'm making. And the Young Endeavour was proceeding to position B. The Young Endeavour had in fact been altered its course and sent to position B, there's no question about that?

A. When we got the information from Sierra Alpha Romeo part of the process of progressively shifting the search from one position to another was to cancel the distress broadcast that referred to that position, position A, and put out a new one referring to position B. We did - I think we gave Young Endeavour a specific instruction to head there but I would regard that as the reasonable thing to do under the circumstances.

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Q. At I think it's 7.36pm the Lifesaver 3 helicopter was tasked to search in the vicinity of position B, assisted later by Helimed 1 which was tasked at 9 minutes past 9pm - past 8pm?

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A. Nine minutes past 8, 9 and 11 - yes, 9 minutes past 8.

Q. And then at 6 minutes past 8pm the ship Patsy Ann alerted by AUSAR distress broadcast passed through the area but reported making no sightings. What was the Patsy Ann?

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A. Patsy Ann was a merchant vessel passing through the area. She was along with a number of other merchant vessels was in receipt of the distress broadcast that we sent out. She passed through the area and called us up on satcomsea to report the fact that she hadn't seen any sighting or made any sighting and I think we asked her to resume her voyage

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at that stage.

Q. And then you go on to say however aviation weather conditions also influenced the effort along with competing demands from other distress events. You've said there were six other events going on? 5

A. By this stage and I have to say this is while we were looking in what we now believe to be the wrong position, at this stage there were more than - ten events and Sword of Orion was about to happen. In fact the Sword of Orion event was already happening but the RCC hadn't found out about it yet. 10

Q. In fact, you go on to say that Sword of Orion absorbed substantial effort? 15

A. Yes.

Q. That was first - how did that come about that you knew about Sword of Orion, do you recall that?

A. I don't have the file with me right at the moment but I recall I think it was 8.29 we got the message about Sword of Orion. In fact, I spoke about that last time I was on the stand, I can't remember exactly what I said. 20

Q. Yes, that's right, yes. Okay. VHSAR was at one time driven off the scene by adverse weather. 25

A. Yes.

Q. VHSAR was the one that had said, that's the aircraft, a fixed wing one, it said yes, this is the Winston Churchill? 30

A. That's correct.

Q. Then it was over the Sword of Orion?

A. That's right. In fact it was driven away from Sword of Orion, you might recall that we asked it to drop liferafts in the hope that Glyn Charles might accidentally pick one up but SAR couldn't do that, the weather was too bad. The other event that I'm referring to there is that although we tasked Lifesaver 3 to go out to the vicinity of position B I don't believe Lifesaver 3 actually made it. That aircraft is what we call night VFR equipped, it can fly in visual flight conditions at night but the weather was too bad for it to do that so they retreated ashore. 35 40

Q. Then at 11.05pm an AUSAR officer spoke with Gary Ticehurst and confirmed the distress message received from Winston Churchill. Mr Ticehurst confirmed the original wording of the distress message and indicated that he had communicated personally with the Winston Churchill briefly but had to leave the scene to refuel. I've been speaking to Mr Ticehurst and he says that when he heard about position 2 or position B he was in a helicopter coming back to refuel and he actually made a call to AUSAR and said - he questioned position B for position 2 for the Winston Churchill and then he says that when he landed at Merimbula to refuel he actually phoned up and he played the taped message of the Winston Churchill mayday, because he had taped it, and questioned again position 2. Do you know 45 50 55

anything about this?

A. No. I've had a look through - if I could take a minute to explain how our telephone recording system works?

Q. Certainly.

A. What it does is record the start and stop time of messages coming in to any one of 22 phone lines. What I got when I went to go and look at the telephone records was something just a little more complex than the mobile phone record that was submitted earlier. I know that there's a phone call has come in, what channel it's gone to and how long it - what its duration was, I have no idea what's inside it. I haven't personally been through every one of the phone calls that we received that evening. I passed that to one of the staff of AUSAR to do that and identify who each call came from and do a very quick synopsis of what was in there. So I can't speak from personal knowledge. I've been through that synopsis and the records of what phone calls we had as analysed by one of the other AUSAR staff and I can't find the call that you're talking about. That's not to say it's not there, not to say I couldn't find it and replay it but I haven't got it at the moment.

HILL: What I might do is after we go through these last two paragraphs Mr Coroner I may ask for a short adjournment so we can set up that tape recording and we can also have a chat--

CORONER: Alright. Do counsel want that done?

HILL: Does anyone want to listen to the tape recording?

SANTAMARIA: I'm going to be asking a question about one conversation so it might be useful.

CORONER: Mr Callaghan, you'd like to hear it?

CALLAGHAN: If it's going to be played, I'd certainly like to hear it.

CORONER: Mr Lancaster?

LANCASTER: I did intend to tender a transcript of the SAR--

CORONER: Alright. Okay.

HILL: I'll just go on with this now.

Q. Then at 11 - sorry--

A. Excuse me Mr Hill, just so I don't give you the wrong impression. What I have with me today is a list of the phone calls close typed that allow me to get back to the appropriate place on the recorder in Canberra. Now, some of those that are thought to be relevant that I found along the way and which are referred to in the statement I have on a laptop. I won't have the one referred - that you've just referred to where Mr Ticehurst played the tape.

CORONER: No, I understand that.

HILL: Q. Yes, I understand now. Okay, now at 11.12pm AUSAR spoke with Mr Neil Boag aboard VHSAR en route to Moorabbin to confirm the information relating to position B. Mr Boag confirmed that the position was 37 46 south, however when questioned about identification of the yacht he advised that VHSAR had not been able to get low enough to identify the yacht positively and was unable to communicate with it.
A. Correct.

Q. So from an affirmative it now comes down to--
A. This is not an identification to be trusted, yes.

CORONER: Q. So you're saying that on what you've been able to analyse that that aircraft has gone from an affirmed - a confirmed sighting to not being able to get down close enough to make it a confirmed sighting?
A. Yes.

HILL: Q. Based on the information from Mr Ticehurst and what Mr Boag had said, AUSAR concluded that the yacht reported at position B at 5.57pm had not been the Winston Churchill and the search was then reoriented to a search for survivors in liferafts in the vicinity of position A. How was that done?
A. The reorientation?

Q. Yes.
A. We did a number of things. We had a RAF, an Air Force P3 Orion aircraft had actually been launched to provide a commander control effort for the operation. We got him to do a flare search along the most likely drift line of the liferafts. What you do with a flare search is that the aircraft flies along and periodically drops a high intensity flare with the intention that anyone in the liferafts will see that, recognise that there's an aircraft there, fire their own flare back and it gives you an opportunity to make a night time sighting. That was unsuccessful. During the same period, between basically midnight and first light, we put together a search effort with multiple fixed wing aircraft, each one conducting what's called a creeping line search. So we actually established quite a large area north and east of position A in which the liferafts could have gone, subdivided it for individual aircraft to fly backwards and forwards through the area on a visual search and then launched them to be out there at what we call first search light, first time that the light is actually likely to be good enough to confidently make a visual sighting. We did such search all through the forenoon of 28 December with no result. We repeated it in the afternoon with a couple of extra aircraft in it and towards the end of the afternoon the first of the liferafts was sighted. That then gave us a much more refined area in which to look, because we now knew roughly where the liferafts had gone and we put more aircraft in there. Sometime after dark on 28 December a P3 Orion aircraft out there spotted a light, I think there was a steady light and a strobe light were sighted, so he held

over there until we could get a helicopter out and that aircraft rescued the two people from liferaft B. Then on the morning of the 29th we had I think it was six helicopters go out on what was really quite a long distance search off the shore and do a very fine grained search for people in the water, which is difficult to do with fixed wing, they're too fast and the helicopters did a very fine grained search and found two of the men dead and didn't find the third.

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SHORT ADJOURNMENT

Q. Sir, have you fixed up so that we can hear those conversations?

A. I have. I have a selection of conversations here.

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Q. If we could go to the first one, there's a transcript of conversation number 4 and that's the one that deals with the first sighting of the vessel that's believed to be the Winston Churchill.

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A. Sorry, I'm not with the transcript numbers. Can you tell me how it starts?

Q. It's the one that - it's the search and rescue, Tony Marshall.

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A. Yes. Okay, this is it.

TAPE PLAYED

Q. Is there any other particular messages that you want to draw our attention to?

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A. The statement that I tendered in fact was made up at least in part from listening to those phone messages. I don't know what direction you want to take, Mr Hill.

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Q. No, no, I'm--

A. I have a whole bunch of them here which I thought might be relevant. I'm happy to--

Q. If anyone's got - wants those, they're available in the statement.

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CORONER: We could make the transcripts available to everyone and if they really need the tape well perhaps that can be arranged to be played. But there's nothing in issue about that, is there?

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HILL: I don't think there's a real issue--

CORONER: The essential thing is that what this witness - his analysis is that they sought confirmation that it was the Winston Churchill and it was confirmed, and it wasn't.

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HILL: Yes, that's the reality and of course it couldn't have been anyway because the evidence has been from Mr Winning and the rest of the crew that the Winston Churchill didn't lose her mast.

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CORONER: No.

HILL: She was always intact, it was the sides that had been stove in.

CORONER: That's right. So that's really--

HILL: Yes, I have nothing further, thank you.

SANTAMARIA: Q. Mr Young, may I ask you a couple of questions on behalf of the Weather Bureau?

A. Yes.

Q. There's been evidence given to the Coroner by Mr Brett Gage, an employee of the bureau, that on 26 December, Boxing Day, he telephoned AMSA and had a conversation with a Mr Andrew Burdon. Was Mr Burdon a member of the AMSA staff on 26 December 1998?

A. Yes he was, he was one of the search and rescue officers on shift that afternoon.

Q. Was he a junior or a senior officer?

A. He's a junior officer.

Q. He would report to whom?

A. He'd report to the senior search and rescue officer (maritime). We have maritime and aviation officers in the RCC. He would report to the senior search and rescue (maritime).

Q. Does Mr Burdon presently live and work in Canberra?

A. Yes he does, he's still a member of the staff.

Q. Being an emergency search and rescue service and it's apparent from the tape that's been played, telephone calls made to the service are routinely tape recorded?

A. That's correct.

Q. That was the case in December 1998 when Mr Gage telephoned AMSA?

A. That's correct.

Q. In the course of preparing your evidence for this Inquest, did you have occasion to go through the records to isolate the call which Mr Gage said he made to Mr Burdon on 26 December?

A. I did that as a special if you like. I actually commenced my analysis at a time 0320 on 27 December, so that was 1420 but I became aware that this phone call was of interest so I went and found it.

Q. Could you confirm that my record is that the telephone conversation from Mr Gage to AMSA ended at 1435 on that day? Is that roughly--

A. That's about right. I've got it recorded as coming in at 1428 that afternoon and it's about six minutes long so that's about right.

Q. Subsequently have you had a transcript of that conversation prepared?

A. I have.

Q. Do you have a copy of the transcript with you, Mr Young? 5

A. I actually don't think I do.

SANTAMARIA: I wonder whether Mr Lancaster might have one or more copies of the transcript. 10

CORONER: We can get that copied. Are you seeking to tender that?

SANTAMARIA: I do, thank you. 15

CORONER: Q. That's the transcript, Mr Young?

SANTAMARIA: I seek to tender that.

A. Yes, that's right. 20

EXHIBIT #48 TRANSCRIPT OF TELEPHONE CONVERSATION BETWEEN MR GAGE AND MR BURDON TENDERED, ADMITTED WITHOUT OBJECTION

SANTAMARIA: Q. When he gave his evidence to the Coroner about that conversation, Mr Gage told the Coroner in essence that it was not normal for the bureau to ring a search and rescue authority. Would that accord with your experience? 25

A. I actually speak to that personally. We do talk to the Weather Bureau backwards and forwards quite a lot. It tends to be more in the context of when we want some information we go and find it. 30

Q. You've read the transcript of the conversation between the two gentlemen? 35

A. Yes.

CORONER: Can we just wait and get that copied so that everyone will have a copy? 40

SANTAMARIA: I beg your pardon, yes.

WITNESS: I have also listened to the call.

CORONER: Are you prepared to go on? I've got a copy, you're getting yours, they'll be a few minutes. Do you want to wait? 45

SPEAKER: I have a copy. 50

SANTAMARIA: I think everyone's got one, sorry.

CORONER: Alright, okay, we're off, go on.

SANTAMARIA: Q. On the assumption that everyone has read it or is about to finish reading it, the transcript speaks for itself Mr Young but I want to simply walk you through it, if I could. 55

A. Uh hmm.

Q. It begins with Mr Gage introducing himself to Mr Burdon, Mr Gage then reads out the relevant warnings which had been issued by the bureau?

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A. Yes.

Q. He tells him that a priority storm warning had been issued and reads through the contents of the warning?

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A. Yes.

Q. Then on the fourth page Mr Gage says to Mr Burdon, okay, I thought we'd better get on to you now because we might need a bit of support in the area. He then asks - he then tells Mr Burdon he's also going to ring Eden Coastal Patrol, the Sydney Hobart media centre and also his regional director and then he asks Mr Burdon is there anyone else you think would need to know and there's a discussion about the Navy.

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A. Uh hmm.

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Q. It's the case isn't it that Mr Gage suggested to Mr Burdon that if the Navy's going to be contacted, it would be AMSA that would do so, do you agree with that? I'm looking at about point 8 on page 3 where he says it might be worth if you need any Navy support whatever perhaps if you could contact them. Mr Burdon says yeah.

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A. I wouldn't disagree with that.

Q. I think on the last page Mr Gage says better let you know this is just what our high risk model is saying, if it's not as bad as this well I guess there's no harm done, apart from getting a few people off holidays but yeah if we don't forecast it we are going to be in for an awful amount of criticism, so. Mr Burdon says mm, yeah for sure, well thanks for that, that's great. You're welcome, Andrew. Mr Young, you were interviewed by Detective Senior Constable David Upston on 20 July 1999, do you remember being interviewed by the investigating police?

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A. I certainly do.

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Q. If you have a copy of that interview in front of you--

A. I know I've got one in here somewhere.

Q. I can pass you this page if it helps, it's only one question I want to ask you about. It's question 140, if you can just read that and the answer. As I don't have a copy, I wonder if you could read the question and the answer?

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A. Sorry, okay. The question in fact is a long way back. I will use my copy.

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Q. Sorry. I think question 140 is on page 31.

A. Sorry, I've misinterpreted it. We also mentioned earlier about lessons learnt and we just touched briefly on it at the moment. Is there anything that you feel that you could add to this interview as far as the lessons learnt from AUSAR was the question to me. My response was yes, I think next time if there's a next time that takes the same

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kind of format we would actually start spinning things up earlier. We didn't make anything of what I would call a precautionary deployment in order to see the weather pattern developing, anticipate what it might mean and start getting assets into the area.

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Q. Thank you. Having read the transcript of the telephone conversation between Mr Gage and Mr Burdon, would you accept that it's evident that one of Mr Gage's purposes in telephoning Mr Burdon was to urge or encourage AMSA to ready itself for the possibility of sea rescues being undertaken?
A. Yes, that's not unreasonable.

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CALLAGHAN: Q. On the last page of your statement you speak of a telephone discussion by an AUSAR officer with the pilot of the ABC helicopter at 2305 local time?
A. Yes.

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Q. Something seems to have prompted a reconsideration by AUSAR of the Winston Churchill's location at that stage?
A. Yes.

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Q. From the Navy's point of view we know that at 2319 Young Endeavour signalled AUSAR that she'd arrived at position B or datum 2 and was hove to and was keeping best lookout, she saw nothing?
A. Correct.

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Q. So it wouldn't have been the report from Young Endeavour would it that prompted the reconsideration?

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A. No, look I - without revisiting every telephone call that came in and went out of the RCC, it's hard for me to say precisely what it was that prompted this and certainly Young Endeavour was - in reality, as a search asset Young Endeavour was never really part of our calculations at all, she's just not a suitable asset for that purpose. I do recall - I mean I was in the ops room at the time, being employed on various bits and pieces that I could be, even if it was only getting coffee. I recall a constant thread during the evening in which it just kept coming up, every 40 minutes or so, we haven't found the Winston Churchill yet, what about the Winston Churchill. I think what happened in the RCC was there was a steady rethinking going on as the evening wore on. That was in amongst a whole lot of other stuff that was going on. There were two other events that I have to say honestly even if we'd known precisely what was going on with Winston Churchill, two other events would have had priority and those were the men overboard from Kingara and Sword of Orion and Winston Churchill would have come third, because the people were in liferafts and those other men were in the water. But as time offered itself this question kept coming back, what about the Winston Churchill. I think that's what happened in the RCC, we kept sending assets out there, kept sending them out looking for a floating dismasted yacht that we thought was Winston Churchill and didn't find it and that's actually what prompted the revisit.

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Q. I just want to raise with you now some other factual positions concerning Navy and Winston Churchill. You've had a look at the CYC's report?

A. Not recently but I have seen it, yes.

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Q. I just tell you this, that as at midnight on the 27th, 000 28 December '98 this report has a helicopter dispatched to search for Winston Churchill.

A. Uh hmm.

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Q. The first Navy helicopter dispatched or tasked to search for Winston Churchill was a Sea Hawk Tiger 75 which was so tasked on 28 December at 12.30?

A. 12.30 local?

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Q. 12.30 local time.

A. Okay.

Q. Are you able to throw any light on what helicopter or what helicopter tasking was made at midnight on the 27th in relation to Winston Churchill? 5

A. The truth is no, not without doing a complete reconstruction of the operation, which I have not done. I would point out that from the time of last light on the 27th through until the time of first search light on the 28th, the chances of finding liferafts were very small. During the period while we were directing our effort to position B, not position B, position B and a floating yacht, we had a prospect that by sending aircraft out there we might have a reasonable chance. 10 15

CALLAGHAN: Your Worship, the statement by Lieutenant Commander Neville, the flight commander of Tiger 75, contains details of that task and which I've put to Mr Young. 20

And also another matter. There has been some suggestion in recent evidence that it was only Navy helicopters that were capable of night flying or more particularly night rescue. Is that right or wrong? 25

A. That's my understanding of it, yes..

Q. You tasked some other helicopters to go to position B, certainly at dusk or post-dusk on the 27th in relation to Winston Churchill? 30

A. Yes, yes.

Q. In relation to that night flying, night rescue facility, there is another entry in the CYC report at page 25 that I'd like to raise and you seem to be the appropriate person to raise it with, that at 23:22 hours on 27 December another helicopter was searching the area for man overboard from Sword of Orion. Now we do know that a Sea King helicopter had to go to Sword of Orion at 22:10. This is at page 25 of the CYC report. But Navy's interested in this other helicopter searching the area for man overboard. Navy's records of the events certainly do not have any other Navy helicopter, or any Navy helicopter for that matter, tasked at any stage to search for the man overboard from Sword of Orion. Can you make any comment on that at this stage? 35 40 45

A. Not without doing a complete reconstruction I'm afraid.

Q. As I say, that matter has to be raised and it's appropriate perhaps to raise it with you. And one other matter of intelligence that I'd like to raise, I haven't mentioned it previously, is that a Sea King helicopter Shark 905 on 28 December, in the early hours of the morning, up in a position near datum 1 or position A, actually saw a submerged strobe light flashing and that this was reported by FIS, via FIS. That's flight information is it? 50 55

A. Flight information service.

Q. That would be an aeronautical channel to flight

information service Melbourne perhaps?

A. Yes.

Q. And then on to AUSAR?

A. I would presume so.

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Q. Just a moment, I'll get the reference for that. It was Lieutenant Commander Lea - correction, Lieutenant Payne and it was Shark 905.

A. It probably was Shark 20 or there was another call sign. 905 is like a big aircraft side number.

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Q. Yes, which call sign I can't assist you with off the top of my head at the minute. This is what Lieutenant Payne who's the observer in Shark 905 said, "relaunched at 00:27 following refuel to locate Renegade tasked by AUSAR. Fleet at datum position 37 18 south 150 10 east and conducted expanding square search but with no joy. However did locate what appeared to be underwater flashing strobe in vicinity. However due to the conditions were unable to verify what it actually was. Details passed back via FIS." To that I can add that verbal enquiries of Lieutenant Payne confirm that it was indeed a flashing strobe beneath the water. You would not be in a position to comment on that at this stage?

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A. No, I would need to go back to the records.

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CALLAGHAN: Those are the matters that I wish to raise with you, thank you.

WEBER: I don't wish to cross-examine Mr Young.

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LANCASTER: Q. Mr Young, over the weekend you prepared a map. If I could show that to you.

A. Yes.

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Q. Could I ask you to briefly describe what it is that represents?

A. This is partly a reconstruction without time involved in it, if I might add, just positions of some of the key events that were happening for the search and rescue centre. Where you see anchors, those are yachts that were at some stage during the search and rescue operation in distress in some form or another. Where you see the blue upright triangles, those are three positions that are relevant to Winston Churchill. Position A is as I've described position A in my statement. Position B is as I've described it in my statement, and the sked position at 14:00 local is Winston Churchill's report position at 14:00 that afternoon, although I understand now that it wasn't Winston Churchill herself that reported that position in, it was another yacht that said it was about a mile or so astern.

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Q. And I understand you took that sked position from one of the charts provided to you by counsel assisting, is that--

A. Yes, from the police brief.

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Q. And you've also noted where survivors were located from the liferaft?

A. Yes, they happened in the order - you can see out to the east there, four survivors that were recovered from the liferaft late in the afternoon of the 28th, then some time after dark on the 28th two survivors were recovered from another liferaft to the west, and on the forenoon of the 29th - I think it was the forenoon but certainly during the 29th, a helicopter search recovered the two bodies that are marked there. They appear to cluster close together very well, but there was another - the two people in the water had been drifting for another 12 hours or so, so at the time the liferafts were picked up the two people in the water were probably further to the west.

Q. I think you were in Court on Friday when evidence was given about working backwards from where the liferafts and the bodies were recovered to perhaps making an educated guess about which position Winston Churchill may have been when the mayday was issued.

A. Yes.

Q. Can one do that kind of exercise with any accuracy in your opinion?

A. No, I couldn't do that with any confidence whatsoever. The uncertainties that go into preparing a search plan reflect the fact that we rarely know exactly what the current is doing, we rarely know exactly what effect the wind is having on the object, and objects tend to behave differently according to their shape. So from position A for example we actually created a very large search area off to the north and east, and it was very large because we didn't know where the object was going to be inside that probability area. The same applies in reverse. In order to theorise where the objects might come from, they can come from a very large area and still arrive at this spot. You can't say exactly where they came from. Doing a preliminary analysis, I mean I haven't done this very - enormously deeply, a preliminary analysis would suggest to me that in fact they could have come from any of the positions, A, B or the 14:00 local spot, and viably ended up where they did end up.

Q. And because as you understand it where Winston Churchill actually went down is not known to this day?

A. I don't think it's accurately known, no. I might point out also that one of the bits of evidence on Friday was to suggest that because I think it was Business Post Naiad drifted broadly eastward, that made position A more likely than position B or the sked position. I would actually disagree with that. The search and rescue manuals that we use indicate very clearly - a long-known body of knowledge, there is a factor that we know as leeway divergence or divergence angle and it's - what it is that when the wind blows on the exposed structure of an object in the water it imparts certain forces to it. The part of the body or the vessel that's in the water has its own resistance and between the two of them they determine actually where the vessel will go. Some vessels or some objects like a round liferaft or a person in the water will tend to drift

directly downwind. Vessels on the other hand tend to sit - if they wind is blowing this way they tend to sit across the wind and make up a little headway. No object is actually better designed to do that than a deep keel yacht, it's actually designed to go across wind or up wind. So Business Post Naiad was in fact most unlikely to have drifted directly downwind. The conclusion that I would reach his that whatever direction Business Post Naiad took, the liferaft and the people in the water probably took another direction because Business Post Naiad would be going cross wind to a significant extent. 5 10

Q. The little anchor symbols indicating the search and rescue incidents, they covered a range of search and rescue incidents? 15

A. Yes.

Q. There's normally a priority that is attached to different search and rescue incidents. That's the case? I think you mentioned earlier man overboard was perhaps a first priority incident? 20

A. Yeah, normally is not really the right word because we normally only have one at a time, but in any search and rescue incident there is an order of precedence for what you do in order to minimise the time that it will take to rescue these people. In this particular case the priority objectives were the man overboard from Kingura, the man overboard from Sword of Orion and the people in the liferafts from Winston Churchill, once we recognised again that that's what we were looking for. I well remember on open night the search and rescue mission co-ordinator for the evening being swamped with all this information and trying to make resource judgments, went over to the - he dragged everybody around the chart table and went over to the whiteboard and he said "this is the order, guys. People in the water, people in liferafts, yachts in danger of sinking, yachts with injuries. Go to it." That was the nature of the prioritisation. 25 30 35

Q. You've given some evidence about the log of calls that the RCC makes, that the centre makes. 40

A. Yes.

Q. You've consulted that list of calls in relation to calls received on 27 and 28 December over the weekend have you? 45

A. Yes, I have.

Q. Did you find any telephone call from the Young Endeavour over that period of time?

A. I searched from the beginning of the analysis, I said about 14:30pm on the 27th, through until the call that was mentioned in evidence this morning at 7.30 in the morning. No, I didn't find a telephone call into the RCC. 50

Q. Other than the 7.40am call? 55

A. Other than the 7.40 call.

Q. You've seen Lieutenant Commander Galletly's statement

and the annexures thereto?

A. Yes, I have.

Q. Could I just ask you some questions about the annexures.

CORONER: I note the time, Mr Lancaster. Will you be long? 5

LANCASTER: I'll be about 10 or 15 minutes, your Worship.

LUNCHEON ADJOURNMENT 10

Q. Mr Young, before the luncheon adjournment I was about to take you to the annexures to Lieutenant Commander Galletly's statement. Do you have that in front of you?

A. Yes, I have. 15

Q. You'll see in the 14 Satcom message texts that are reproduced in the annexure, to take an example, in message 3 there's a reference number 98/4372. Could you tell the Coroner what that refers to? 20

A. The number 98 4372 refers to the AUSAR file that this matter is being followed on. We started the Sydney Hobart operations with a Sydney Hobart file. It was 98 4372.

Q. So there's one file devoted to the whole of the race to start with? 25

A. At the start.

Q. And then other messages, for example, message 5 refers to 98 4381. What does that indicate? 30

A. That indicates that we in fact took what we thought was a single file operation and started to split it up. As we got more events, each one attracted its each file, its own file number and its own number with respect to messages that we sent out to the outside world so that people out in the outside world can track Winston Churchill by the file number 4381, and that reflects the way that the operation was snowballing. 35

Q. And approximately when can you recall was the general file split up and then there became specific files in relation to specific incidents? 40

A. I don't recall precisely but it must have been some time in that period. 45

Q. And 4381 was Winston Churchill's file, just to be certain about it?

A. 4381 was the first - it was certainly the first message here in the annexure that refers to that file number. Clearly the file, that particular file number wasn't in place when message 3 was sent. Clearly it was by the time you got to message 5. And not just Winston Churchill. The decision was break this all up into individual events. 50

Q. Message 5, if you could have a look at that. 55

A. Mm hmm.

Q. And the reference to a message from RCC to Young

Endeavour saying "please proceed to position as indicated." Would you say that is something in the nature of an order, that message?

A. The first thing is that the search and rescue centre isn't customarily in the business of ordering ships around. The normal way a SAR operation evolves is that we push out a distress broadcast for information. Ships then respond to that, they're obliged by law to respond to that if they're in a position to be able to help. We then establish a one on one relationship with a individual ship and whatever the Master is happy to do, we will either concur with or provide him guidance about what else we might do. I mean that's clearly a reply to message 4 in which Young Endeavour has said he intends proceeding to Winston Churchill unless otherwise advised, and we've said yes, seems like the right idea to us, here's the position we've put in a broadcast basically, please proceed to position A, carry on. 5 10 15

Q. And then message 7 is the broadcast of the revised position after aircraft SAR had been in contact with the RCC? 20

A. Yes.

Q. And I think you said earlier in evidence it was the reasonable response of the Young Endeavour to turn to that new location? 25

A. Yes, I would see it that way. It offered to go to the Winston Churchill's position, we'd said yes, please proceed to the - effectively to the Winston Churchill's position. When we put the new broadcast out that relationship was again established. For whatever reason in fact he came back a little while later and said yes, he was going to that position. I see nothing particularly abnormal about that series of transactions. 30 35

Q. So according to your analysis of the records, that's as high as it went in terms of directing Young Endeavour to the new position?

A. Sorry sir, can you give me that again? 40

Q. That revised location being broadcast was as high as it went in terms of RCC providing information to the Young Endeavour about the new location, the revised location?

A. Indeed. Look, I probably ought to put the communications with the Young Endeavour in context. What we were doing was running a series of largish operations by air. Young Endeavour really wasn't in a position to contribute as a search platform and by virtue of her mobility not really well positioned to contribute as a rescue platform. So we were responding to Young Endeavour when she talked to us but she didn't loom large in our considerations, she just happened to be a vessel that was on scene really. 45 50

Q. In message 8 there are the words from Young Endeavour to RCC "proceeding to Winston Churchill position at the new reference. Attempting coms with SAR aircraft for direction." How would you interpret those last words? 55

A. I could actually clarify a piece of previous evidence here too. That message, although the time doesn't appear in the transcript here, in the photocopies here, was actually received at 07:34 UTC that evening, so that was something that the Court didn't know last week.

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Q. So that's 6.34pm?

A. Seven and eleven's 18, yeah, 6.34. "Attempting coms with SAR aircraft for direction." It's - to me what that says is he knows he's going to the last known position of Winston Churchill. He thinks there's a SAR aircraft over the top, how do I get there? The best way is to have the SAR aircraft vector me into the right spot. I interpret the words "for direction" to mean giving him homing assistance rather than some sort of command and control sense, giving him orders or asking for orders.

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Q. In relation to message 10, a comment was made in evidence on Friday in relation to that being a message particularly to the Young Endeavour. Can you suggest any explanation for the specificity of message 10?

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A. Yes. As I think I might have said earlier, the way the communications evolves is that we send out a general distress broadcast in the nature of message 7. That goes out as a targeted broadcast to all shipping that's on Satcomsea within a particular area, in this case covering Bass Strait. Individual ships then come up back to us on Satcomsea and have conversations with us. This is one with the Young Endeavour. So it's addressed to Young Endeavour because she was one of the vessels that we were communicating with. We actually have other messages that are to Patsy Ann and Union Rotoma(?), Iron Baron I think - sorry, not Iron Baron, Iron Monarch. Each ship had its series of messages with us, so the fact that it's Young Endeavour just recognising their communications.

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Q. Then message 13, that's from RCC at 14:09 Zulu time, so that's 1.09am on 28 December?

A. Yeah.

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Q. And that's indicating an amended position, an amended position A as I understand it. Is that the case?

A. Very slightly. It's been moved two and half miles.

Q. What's the explanation for the amendment, if you know?

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A. I'm not 100 per cent sure. I would theorise that the chart had got all sort of cluttered by then and someone replotted it, and 20 miles southeast of Twofold Bay, depending on where you put the dividers into Twofold Bay, in the middle or between the two heads or towards one or the other, could make that much difference. So I suspect it's simply a replotting on a new chart because one got - the other one got filled up.

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Q. Apart from the Young Endeavour's role, what search efforts - well you have given some evidence about the other search efforts that were being made in relation to the Winston Churchill.

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A. Yeah.

Q. I think there was one aircraft that searched for some 40 minutes you said in relation to position A?

A. Yes.

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Q. That was on the evening of the 27th before nightfall?

A. Yes. We think India Lima might - one of the fixed wing aircraft got into the area for about 20 minutes before he was effectively re-tasked through Melbourne flight information service.

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Q. Given the time of day at which the mayday came in from position A, could I ask what is the best way to search for liferafts from a vessel-issuing such a mayday, had attention just been focused on position A from the start and never re-diverted?

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A. The very best way to get to people in distress is if there's a distress beacon, and in this case we didn't detect any distress beacons associated with the liferafts. Given that, the only effective way from that point on is to get a visual sighting of the liferaft, and in the conditions that were prevailing at the time we would need to get an aircraft to pass within a quarter of a mile or so of the liferaft in order to have a reasonable chance of making a visual sighting. So the question then becomes how big is the area that needs to be searched and how many aircraft can you get hold of that will be able to do that very fine graded search in a period of time. If I - forgive me if I - can you ask the question again please?

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Q. I was asking what the best way to search for the liferafts would have been had the redirection never occurred?

A. Sorry. The very best way to search for the liferafts under those conditions that evening was to have multiple helicopters available. Depending on the uncertainty that you put around the initial position, 20 miles southeast of Eden - sorry, southeast of Twofold Bay, that starts you off with something that's basically about five miles in diameter, so it's actually quite a large area to be searched. You then need to get an observer to pass within about a quarter of a mile of the liferaft in order to get a visual sighting. Helicopters are by far the best way to do that because they can fly low and they can fly slow and give you a really good chance of actually making a sighting. If you don't have enough helicopters, then the next bet after that is multiple fixed wing aircraft. They fly higher and faster and therefore it's more difficult to see the liferaft to start with, although you can cover a slightly larger area with them. Typically we find that operations involved with large numbers of fixed wing aircraft because they're easier to get hold of, a smaller number of helicopters because they're more difficult to get hold of, they have other people competing for their assets. On the afternoon concerned we would have needed at least three, probably five helicopters to do what I would regard as a thorough, high probability search for the liferafts in the remaining light

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that was available. So the resources really weren't there to do what I would call a search that had a decent chance of actually finding the liferafts before last light on the 27th. Whether we'd known the right position or not, it really would have been very difficult. A beacon would have made a big difference.

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Q. Where on the scale of effectiveness would you have placed the Young Endeavour in a search for a liferaft from the position A, the original position in the mayday?

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A. Very low down the scale of effectiveness. You might recall your Worship, when we were talking about Sword of Orion and Margaret Rintoul I said at that stage I didn't regard Margaret Rintoul as a viable search platform. Young Endeavour really fits into the same category. She could have people higher up the masts and perhaps sweep 200 yards wide rather than seven or ten, but it's a very small sweep compared with the area to be dealt with. This was a job for an aerial search, not for a search by Young Endeavour. She was on the other hand potentially quite useful as a rescue platform.

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Q. I think you said in answer to a question from my learned friend Mr Callaghan that the chance of finding a liferaft overnight was very small.

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A. Yes.

Q. What's the difficulty there?

A. The difficulty with a search at night is - for liferafts or for people in the water is that there really is - there's no effective way other than visual means of doing it. If the liferaft is specially equipped with transponders or radar reflectors or something of the type, you might have a chance with an electronic search. We had no chance with infrared that night. We actually had Polair 1 searched for - if memory serves me right I think she searched for the man overboard from Sword of Orion, Glyn Charles, using forward-looking infrared and very quickly concluded that there was nothing in that, that it wasn't going to do anything that night. So we were in for a visual search. The very best chance of getting a visual sighting is if the survivors cooperate by firing a flare at the right time, and that was the purpose of - I think I said earlier, we put a P3 Orion in to drop his own flares in the hope that would stimulate the survivors to see them and fire theirs. I don't know what the outcome of that was. Perhaps the aircraft was seen and were unable to respond. Perhaps they did respond and they weren't seen, I don't know, or maybe the aircraft wasn't in the right place.

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LANCASTER: Your Worship, I don't think it's been formally done so I would tender the transcript of the conversation between RCC and aircraft SAR, a two page transcript.

EXHIBIT #49 TRANSCRIPT TENDERED, ADMITTED WITHOUT OBJECTION

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Q. Mr Young, just before I conclude, just in relation to the general functions of the Australian Maritime Safety

Authority and in particular the rescue and co-ordination centre, what is its general charter, if I can put it that way?

A. The charter of the Maritime Safety Authority is to provide legislative and - sorry, regulatory cover for SOLAS shipping. There are some rules attached to which is which, but basically it's for ships rather than for fishing vessels, pleasure craft, yachts et cetera, and that regulatory arrangement is mirrored in the search and rescue arrangements. The national search and rescue plan divides responsibility on the basis that AMSA is responsible for search and rescue for SOLAS shipping, and State - the States that make the legislation that cover fishing vessels, pleasure craft, yachts, are also responsible in the first instance for the search and rescue effort for those vessels.

Q. One thing that came up in evidence this morning, does the RCC, does the centre monitor VHF broadcasts in relation to the Sydney Hobart race in '98? Did they monitor?

A. No, no, we don't monitor VHF in fact. My understanding is that there isn't - along that coast it's covered by volunteers rather than any methodical system.

Q. So there's no system whereby VHF broadcasts are relayed to the centre in any way?

A. No, not in a systematic fashion. What happens is we can get information out on VHF by sending it to the coast radio stations that are currently operated by Telstra. Telstra will transmit those on HF and locally on VHF. Down the coast of New South Wales there are variety of volunteer groups that work VHF as well for their local purposes, so if a VHF transmission is made that has some distress content in it and it happens within their hearing, then they will often pass it through to us. They'll often pass it directly to the police and the police will talk to us. On occasion it goes the other way round. But we don't have a systematic cover out there VHF.

Q. And what's relayed back to you turns on the choices that people manning those stations make in relation to the message they receive?

A. Yes, it depends on their understanding of who is responsible for this. But I go on to say that the search and rescue centre and the New South Wales Police have a very close liaison in that sense. We all understand what we're doing and talk to each other as we need to.

LANCASTER: No further questions, thank you.

HILL: There are two questions that arise. I'm not sure whether the chart has in fact been tendered.

EXHIBIT #50 CHART TENDERED, ADMITTED WITHOUT OBJECTION

Q. Do you have a copy of that chart with you, Mr Young?

A. Yes.

Q. All I want to know is this. That sked position at 14:00

local time. Was AUSAR in possession of that at the time of all this?

A. Not during the relevant period. I might say that this chart has been produced from - largely from what information AUSAR holds, but that sked position in fact was taken off the police chart and put on this.

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Q. The point that I'm making is this, that would it not have been important to know that - for AUSAR and the purposes of any rescue what the position was or said to have been at 14:00 hours on that afternoon of the Winston Churchill?

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A. Not in the first instance. I mean in the first instance we believed what we heard on the distress relay. Twenty miles southeast of Twofold Bay is better than a 14:00 sked position. If we'd known it at the time and looked at the two positions we might have even started to question more whether 20 miles southeast of Twofold Bay was correct, but we weren't aware of that at the time. I have a recollection, and it's somewhere in the records, that we did find out those sked positions later in the evening when we were going through that questioning process of saying why haven't we found Winston Churchill and--

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Q. Sorry, go on.

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A. Sorry. I think we talked to - probably to Sam Hughes in Hobart to find out what that information had been.

Q. The other thing was this, that one of the liferafts aboard the Winston Churchill did have an EIPRB with it. That seems to have not been discussed. What was the position with that?

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A. I only - in fact it was when I was reading the statement that we got from the police brief, that I actually found out that one of the liferafts had an EIPRB in it. We certainly didn't detect it.

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Q. The aerial was snapped off.

A. Was it?

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Q. So what happens then?

A. If the EIPRB is not working to specification then the prospects are high that it's not going to be detected effectively.

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Q. What I'm looking at is--

A. We do get a mix though. We get EIPRBs that are working outside specification with broken antennas or lying down or under snow or whatever that we do pick up. Equally we get ones that are just marginally outside that we have difficulty--

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CORONER: Q. But your recollection is there was no EIPRB noted from Winston Churchill?

A. I don't recall, and I've had a look at the charts that have been produced by the New South Wales displaying our EIPRB positions, and I don't see any of them that correlate well with Winston Churchill. I know also that if the beacon

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had been transmitting and was detectable at all really during the following hours and the search the following day, it would have been heard, and if it had been transmitting effectively at all when the people were rescued from the liferaft, it would most certainly have been heard because we had a suitably equipped helicopter going right to the spot, and there was no report of beacon transmissions coming from either liferaft. 5

Q. See what I'm looking at is from the point of view of recommendations, if this aerial could be broken in such a way and thus render the whole thing inoperable, then obviously something should be done about that. Is that a likelihood, that once the aerial is broken off that the thing is practically useless? 10

A. It certainly can't be relied upon. I might make the point that distress beacons, I mean by their nature they're not the best form of communications because they don't tell you anything other than that a distress beacon is going off. We would always prefer to have voice communications. The real value of a distress beacon is that when everything else has failed it should reliably bring somebody to you, so if it's not reliable it's not performing its function. 15 20

HILL: I've nothing further. 25

<WITNESS RETIRED

CORONER: We don't need the computer any more do we? 30

HILL: No. That can be dismantled.

LANCASTER: Your Worship, might I be excused at this stage?

CORONER: Yes, Mr Callaghan. Thanks for your help. Yes, Mr Lancaster. 35

<ANDREA MARGARET HOLT(2.33PM)
SWORN AND EXAMINED

HILL: Q. I wonder could you give this inquest your full name please? 40

A. Andrea Margaret Holt.

Q. And your professional address? 45

A. Cruising Yacht Club of Australia, New Beach Road, Darling Point.

Q. And your position there?

A. I do secretarial assistant work in the sailing office. 50

Q. Miss Holt, there are one or two questions I want to ask. You've given a statement on 30 June 2000. Do you have a copy of that with you?

A. Yes, I do. 55

Q. Perhaps you could get that out. You were asked to give a statement on 20 October 1999.

A. Mm hmm.

Q. And what you say about that is that - this is in your second statement - "on 20 October 1999 I did not participate in the police interview because I felt intimidated. The police came to the CYCA with no prior warning and said they would like to interview me in 20 minutes. As I was advised that I did not have to participate in a police interview I decided not to." How were you intimidated?

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A. Well--

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OBJECTION (WEBER). WITNESS SAID FELT INTIMIDATED, NOT WAS INTIMIDATED. QUESTION REPHRASED.

Q. How did you feel intimidated?

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A. Well just the fact that the police came down and wanted to interview me. It's sort of not a regular occurrence for me.

Q. But they had been interviewing plenty of people at the CYCA hadn't they?

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A. Yes, they had.

Q. And you had met them before?

A. Yes.

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Q. You had indeed made them coffee on occasions?

A. I hadn't made them coffee, I'd got them coffee.

Q. You had brought them coffee on occasions?

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A. Brought them, yes.

Q. Okay, fine. And because of that you felt you didn't want to participate in an interview?

A. They'd told me earlier that they didn't need - want to speak to me.

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Q. Well would you tell his Worship what certainly made you want to make an interview of some seven pages on 30 June 2000? What had changed?

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A. The club's solicitors had asked me to.

Q. Is that the same club solicitors, John Reginald Kaval(?) Harris who told you - who was with you in the first interview?

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A. Yes.

Q. So the first interview you had taken advice not to give an interview and then the second interview you had taken advice from the same solicitor to give an interview, a statement?

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A. Yes.

Q. Let's go to the second statement. You've been working full time in the Cruising Yacht Club of Australia since November 1997?

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A. Yes.

Q. And prior to November you were employed in a part time position?

A. Yes.

Q. In the same position?

A. No. When I first worked there I worked in the media centre for the 50th Hobart in 1994 and then I did that for three months and then I started working part time in the sailing office in December 1995.

Q. And then you went on to full time in November 1997?

A. Yes.

Q. And you say you are responsible for the secretarial work associated with the sailing office and you report to the sailing office manager, Mr Phil Thompson.

A. Yes.

Q. You knew that one of the lines of inquiry in regards to this inquest was how the Business Post Naiad had got into the race, is that right?

A. Yes.

Q. When did you first find that out?

A. In January 1999.

Q. So it was very early after the race?

A. Mm.

Q. How did you find out?

A. Phil Thompson mentioned it to me.

Q. What did he say?

A. He said Business Post Naiad's IMS certificate didn't meet the stability requirements.

Q. What did you say to that, do you recall?

A. I don't recall what I said, no.

Q. Well whose function was it to check the IMS certificates?

A. Mark Robinson's.

Q. You say Mark Robinson's. Have you seen Mark Robinson's statement?

A. No.

Q. Well he says that it was Phil Thompson's.

A. Phil Thompson checked the certificates at the application for entries stage, but after entries were received and for boats wanting to race IMS in the Sydney Hobart race, Mark Robinson looked after all the IMS certificates.

Q. So as far as you're concerned it was Robinson who was supposed to look after the IMS certificates?

A. Yes.

Q. After the initial ones?

A. Yes, after the close of applications for entry and we got entry forms, Mark Robinson was supposed to look after all the IMS certificates.

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Q. Mark Robinson. And that's despite me telling you now that Mr Robinson said it was Mr Thompson's job to do that?

A. Yes, that's correct.

Q. Well why didn't you tell the police this in October last year?

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A. Because I was told I didn't have to participate in their interview.

Q. And that was the only reason?

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A. Yes.

Q. You say there in paragraph 6 that the notice of race requirements application for the entry for the Sydney to Hobart yacht race, that is the applications, and you go on to say "the majority of the applications had been received in the two weeks prior to 2 November 1998?"

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A. Yes.

Q. And then you go on and you say "applications were received over the sailing office counter by facsimile or by mail, and applications received by the sailing office were put on either my desk or Mr Thompson's desk. So that's whether they come over the counter, facsimile or mail, they end up either on your desk or Mr Thompson's desk?"

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A. Yes.

Q. None on Mr Robinson's desk at this stage?

A. No.

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Q. And you say "it was my practice in 1998 to deal with applications I received as follows. Read the application with particular regard to" and (b), one of the items there is "if the applicant had included an IMS certificate which showed the yacht had a limit of positive stability or minimum stability index of greater than 150 degrees or would comply with the grandfathering clause." Is that right?

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A. Yes.

Q. What do you mean by "comply with the grandfathering clause"? How would it comply?

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A. Well yachts that had participated in the Sydney Hobart race before came in under the grandfathering clause so they didn't have to have a minimum stability of 115, they could be - their minimum was 110.

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Q. So how would you do that?

A. Well I would only do that if I personally knew that the yacht had been before.

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Q. Well how would you find out?

A. Well I found - if I personally knew it had been, like a yacht that participated every year, I just knew that.

Q. Well yes, but you said "or would comply with the grandfathering clause." Well how would it comply? Tell us how you would know if it complied.

A. He would have given me an IMS certificate, sorry.

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Q. And how would you know if that vessel complied?

A. By looking at the stability index or the limit of positive stability on the certificate.

Q. Supposing it has a positive stability of 112. How then do you sort it out and see whether it complies with the grandfathering clause?

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A. Well if I personally knew that the yacht had been before, I'd say that was okay. Otherwise I'd give it to Phil Thompson to sort out.

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Q. Well why didn't you put that in, if I personally knew it complied with the grandfathering clause?

A. I sort of thought that that meant that.

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Q. Are these your words?

A. I - it's my - I was interviewed by Tiffany from the CYC solicitors, but she did the draft of the statement.

Q. So this isn't really - you didn't sit down and write this?

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A. No.

Q. Someone else has written this for you?

A. Yes.

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Q. So this isn't the sort of grammar that you would employ?

A. It's not dissimilar to my grammar.

Q. Well for a start you would have said if I personally knew the yacht had been before and complied with the grandfathering clause, that's what you would have said?

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A. Mm.

Q. Well you say the way it reads there it sounds as if there was some sort of list for those that would comply with grandfathering?

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A. No.

Q. No?

A. There was no list.

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Q. Then you say (c) "if the applicant wished to enter PHS or CHS category and had not included an IMS certificate, that other verification of the yacht's stability was included with the application." What other?

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A. Maybe a letter from the designer or something like that.

Q. Saying what?

A. Saying that it complied or saying that it had a - what its stability was.

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CORONER: Q. What about those ones that didn't appear to

comply with either the 115 degrees or the grandfathering clause? What did you do with them?

A. I gave them - put them on Phil Thompson's desk.

HILL: Q. And you say, 2, "if the crew's offshore experience and an IMS certificate was included which appeared to comply with the stability requirement, I wrote okay Gus," being your nickname, and then you placed it on Thompson's desk for his review and approval?

A. Yes.

Q. In other words, he checked to make sure. Is that right?

A. Yes, that's correct.

Q. So he reviewed the system?

A. Yes.

Q. So do I take that that's a second back-up system?

A. Yes.

Q. In a sense that's a second check of the same thing?

A. Yes, it is.

Q. Is that how I am to look at that?

A. Yes.

Q. You then say "if the application did not appear to comply with the crew experience or stability requirements, I placed the application on Thompson's desk for his review with no note on the top right hand corner."

A. Yes.

Q. In the case of the Business Post Naiad, what were you looking for? Were you looking for current IMS certificates?

A. No, we were just looking for an IMS certificate.

Q. Well how would you know, if it wasn't current, that there hadn't been alterations to the vessel?

A. I wouldn't know that.

Q. Well who would have?

A. The owner I guess.

Q. Say for instance we have a vessel that's entered and it's got an IMS certificate that isn't current. How will that be checked on?

A. Well if he was competing in the PHS division it wouldn't be checked. You would assume that the owner had given you something that was - like - sorry, just assume that that was correct for his boat, that he hadn't made alterations.

Q. So you're relying on them to be honest about the whole thing?

A. Yes.

Q. Over on paragraph 9 you say "if a yacht wished to enter the IMS category and had included an IMS certificate which was valid but not current, I still wrote okay Gus on the

application. I did this because current certificates were frequently unavailable when yachts submitted their applications and consequently the sailing office had developed a practice of still sending those yachts an entry form." When you say "developed a practice," so if they put an IMS certificate in that wasn't current they'd still get a form, is that right? 5

A. Yes.

Q. What do you mean by "had developed a practice"? I take it that is at one stage they had never done that? 10

A. No, they'd always done that, or as long as IMS was in anyway.

Q. Well what is meant by "had developed"? 15

A. That was just the practice.

Q. Yes, but it must have developed from something because you say "had developed a practice."

A. Well that was what I was always instructed to do since I worked there, so that was the practice. 20

Q. Well should that read had a practice?

A. Probably, yes. 25

Q. Because there had been no development?

A. No.

Q. "However, yachts falling into this category were not eligible to race IMS unless they provided a valid current certificate by 22 December 1998." 30

A. Yes.

Q. So 22 December was the cut-off date. Presumably all those who were required to have current certificates could be checked on the 23rd to see whether they had done that? 35

A. Yes.

Q. Was that a system that was had, done?

A. I didn't do - I did not do that. 40

Q. Who was supposed to do that as far as you were concerned?

A. Mark Robinson. 45

Q. You then say "after Thompson reviewed applications he often asked me to file the accepted applications in the 1998 Sydney to Hobart application folder. The application folder contained all the accepted applications in alphabetical order." So there was a folder of the accepted applications? 50

A. Yes.

Q. So there was no need to revisit that folder at all?

A. No. 55

Q. So if one happened to get in there that shouldn't have got in there, there was no system of going through that again?

A. I didn't have a system of that.

Q. You certainly didn't. Did you know of any?

A. No.

5

Q. And you say there at 11, "at that filing stage it was my practice to file all documentation included with the application in the applications folder except current IMS and CHS certificates. I put any current IMS and CS certificates on Robinson's desk for his review."

10

A. Yes.

Q. So he was meant as far as you were concerned to review these things?

A. Yes.

15

Q. Review them for what?

A. For whatever he had to do with them.

Q. Well what about the stability? Would he be looking at that?

20

A. I don't know.

Q. It's all right. If you don't know, you just say so. But that's what you were told to do were you?

25

A. Yes.

Q. Who told you to do that?

A. Phil Thompson.

30

Q. So the current ones went to Robinson, his desk, and you think for his review and approval, and then subsequent filing in the '98/99 IMS certificate folder?

A. Yes.

35

Q. And the IMS folder contained all the current IMS and CHS certificates in alphabetical order?

A. Yes.

Q. Once they were in there, do you know of any system that was adopted to go through those one final time or anything like that?

40

A. I'm not sure, but they would have had to look through them for when they were ticking off all the certificates on the chart. They would have had to look through that folder.

45

Q. But if they'd got in that folder and they're ticking off on the chart, would it be a reappraisal of the whole certificate or simply that the certificate is there?

A. I don't know.

50

Q. Don't know, all right, that's fine. Paragraph 14 you say "the notice of race required entry forms to be returned to the CYCA by 27 November. Entry forms started to be returned shortly after they were posted and were received over the sailing office counter by mail or by facsimile," and you say "entry forms received by the sailing office were put on either my desk or Thompson's desk."

55

A. Yes.

Q. Once again the same system is it? And then again you say in 15 "it was my practice in 1998 to read entry forms I received and deal with them as follows," and (2), and this probably just slightly different, "if a current IMS or CHS certificate was included, I placed it on Robinson's desk for his review, approval and subsequent ticking on the 1998 chart." 5

A. Yes. 10

Q. What did you check on an IMS certificate that came in like this?

A. With the entry form? 15

Q. Mm.

A. Nothing.

Q. Well how would you know if it was current?

A. Sorry. I check the date. 20

Q. You would check the date?

A. Yes.

Q. And nothing else? 25

A. Nothing else.

Q. And then you would put it onto Robinson's desk for his review?

A. Yes. 30

Q. Approval and subsequent ticking on the chart?

A. Yes.

Q. Who told you he would be doing that? 35

A. No one told me I suppose. Mark looks after all the IMS at the club so I would have just assumed.

Q. All right, I'll go back a step. Who told you to check the dates, make sure they were current and put it onto Robinson's desk? 40

A. Phil Thompson.

Q. Phil Thompson told you to do that. Now therefore do I take it you assumed that he would review them, approve them and subsequently tick the chart? 45

A. Yes.

Q. Is that an assumption on your part?

A. Yes. 50

Q. So you were never actually told that's what he would do?

A. Well I know that he ticked the chart because I saw him.

Q. You saw him tick the chart? 55

A. Mm.

Q. All right, I'll come into that shortly, but no one

actually told you that he would review those things, approve them and subsequently tick the chart?

A. No.

Q. You realise that the Business Post Naiad, its current certificate showed that it had a stability rating of less than 110?

5

A. Yes.

Q. What would you have done had you seen that?

10

A. I would have shown Mark Robinson or Phil Thompson.

Q. Why?

A. Because obviously it wouldn't be meeting the eligibility criteria.

15

Q. You say at 16, "as far as I am aware, in or about December 1998 Robinson reviewed the entry folder in order to do the division and category lists for the Sydney to Hobart yacht race." The entry folder is going to contain what?

20

A. The entry form.

Q. Anything else? IMS certificate or anything like that?

A. No.

25

Q. "At or about that time he ticked the certificate column on the 1998 chart for all yachts for which he had received a current IMS certificate." You saw him do that did you?

A. I saw him ticking the chart on different occasions.

30

Q. But what was he ticking?

A. The certificate column, the IMS or CHS certificate column.

Q. Was there anyone with him when he was doing that?

35

A. Sometimes Phil Thompson would help him or I might help him.

Q. What would you do?

A. Well I might be the scribe if he said oh Gus can you - I've got a certificate here for Canon Maris, can you tick it, so I would tick it if he asked me to.

40

Q. You would do the ticking?

A. Not generally. That would occasionally happen.

45

Q. I'm just trying to work out just the one solitary occasion, all right? I just want to know what you would do. Would you tick on the column or would you read from the IMS certificate? What would be the situation?

50

A. I would tick on the column if he asked me to.

Q. What would he say to you?

A. He'd just read out the boat names, then I'd just tick the column.

55

Q. The only columns were the IMS columns and the CHS category yachts is it? The columns where he placed these

ticks, there were only two of them, two columns?

A. No, there was lots of columns, probably about 15 columns on the chart. The IMS and CHS were one column.

Q. You say in 17, "in the weeks leading up to the Sydney to Hobart yacht race, yachts continued to submit outstanding entry documentation." That would include IMS certificates? 5

A. Yes.

Q. "As that documentation came into the sailing office, it was the practice in the sailing office for the person who received that documentation to put safety and radio certificates and any other documentation relating to safety into Lawson's tray." 10

A. Yes. 15

Q. And he's the safety officer wasn't he?

A. Yes.

Q. "Put current IMS and CHS certificates on Robinson's desk for his review, approval and subsequent ticking." Who told you to put them onto Robinson's desk? 20

A. I can't remember. It would have been Thompson or Robinson but I can't recall exactly who it was.

Q. Well who was in charge of the office? 25

A. Phil Thompson.

Q. You say "for his review." Is that again an assumption from you, that that's what you think he was doing? 30

A. Yes.

Q. No one actually told you that that's what he would do, he would review them and approve them or anything like that? 35

A. No.

Q. At paragraph 18, that's over the next page, you say "I did not tick the 1998 chart when we received current IMS certificates or safety documentation. Only Robinson was permitted to tick the certificates column." 40

A. Yes.

Q. That's right, he was the only one. When you say that, he would of course on occasions say to you tick Canon Maris and you would tick it for him because you were near it? 45

A. Yes, yeah.

Q. But you would not have done that on your own volition?

A. No.

Q. Under no circumstances at all? 50

A. No.

Q. So there's no question of you picking up an IMS certificate and walking over to that column and ticking it-- 55

A. No.

Q. --and then putting it into the folder?

A. No.

Q. No question of that. You say that it was also common in 1998 for the member of the sailing office responsible for a column to go through the relevant folder and another staff member to stand at the 1998 chart while that person read through the folder to ensure all yachts had been ticked who had supplied that documentation. This would not have occurred in relation to the certificate or safety columns unless Robinson or Lawson were present." 5 10

A. Yes.

Q. What you're saying or appear to be saying is that the folder - when you say "the relevant folder," what do you mean? 15

A. Well we might decide to check that we had insurance certificates for all the yachts or that they'd been ticked on the chart, so I would get the insurance folder and just get Thompson or Robinson or - and say - or just check that all these ones have been ticked off. 20

Q. How about the IMS certificates? How would that be done?

A. I didn't do the IMS certificates.

Q. Do you know if it was done? 25

A. I don't know.

Q. Do I take it from that there was no real set system that said at 9am on 23 December we will check the following matters, 1, 2, 3, 4? 30

A. No.

Q. There was nothing like that?

A. No. 35

Q. It was a system where - well what sort of system was it?

A. It was just the system that we had.

Q. Yes, but I'm trying to find out. Was it a system that said on the 23rd at 9am we will do X, then you will do Y and then you will do so forth? 40

A. No.

Q. Well how was it done? Was it haphazard, ad hoc, what we think of today, that's what we'll do? How was it done? 45

A. Well it was all done off the chart.

Q. Once there had been a tick on the chart, how was it then checked to make sure that that tick was rightfully there?

A. Well as I said, with the insurance folder, I remember doing that one and that's how it was checked. 50

Q. So what did you do with the insurance folder? Tell us.

A. I just went through the folder and had someone standing at the chart and just said I've got so and so's, like went through the fleet and ticked them off. 55

Q. And there were already ticks there and they were just

making sure?

A. They were just double checks.

Q. Do you know if there was a double check for IMS certificates?

5

A. I don't know.

Q. Was there supposed to be double checks?

A. No - I don't know.

10

Q. So there's no manual that we could look at that says there will be a double check on IMS certificates?

A. No.

Q. There's no sort of description that says you will do this?

15

A. No.

Q. Nothing like that. So what I'm trying to find out is how then was it organised?

20

(No verbal reply)

Q. When you did the insurance check, how did you know to do it?

A. Because it was one of the requirements in the notice of race to supply that, so I knew to do it because we had to check that the people had done it.

25

Q. Yes, but how did you know to check it on the particular day that you did check it? What inspired you to do that?

30

A. I just decided to check it.

Q. You just decided to check it, so there was no formulation, there was nothing set down that said you will check this or anything like that?

35

A. No.

Q. If you didn't check it, if you decided not to check it because it was already ticked, would that have been a problem?

40

A. No.

Q. So in other words, when you did that second check that was simply--

45

CORONER: Your initiative.

HILL: Q. --your initiative?

A. Yes.

50

Q. I'm going to take you over to page 6 and this deals with 26 December, and you say that you were in and out of the sailing office helping prepare for the start of Sydney Hobart yacht race. "Throughout the morning I was serving people and answering enquiries. I was very busy with 20 or so people at the counter at any one time. I recall that two men from the Bureau of Meteorology arrived between approximately 8.30 and 9am and asked me to do lots of

55

photocopying while they set up the weather stand outside the sailing office."

A. Yes.

Q. And you then say "I deny having a conversation with them in relation to the race committee, their whereabouts or knowledge of the weather. I deny I said to the effect that it's okay, they know the way." That's what you're saying. "I would not presume to respond on behalf of the race committee in relation to any subject and in particular in relation to the knowledge of the weather or whether they needed a weather briefing from BOM." Not your job?

A. No.

Q. "I also deny that anyone from BOM requested that I inform the race committee that they wished to see them. The only conversation I can recall having with BOM was in relation to the photocopying they wanted me to do. I recall they needed me to photocopy more material as a result of a new weather forecast that morning."

A. Yes.

Q. And then you say "in any event, Thompson and Robinson were in and out of the sailing office all morning. To the best of my recollection Hans Sommer, Howard Elliott and Bruce Rowley were also in and out of the sailing office that morning." And then you say "at approximately 11am I left the sailing office and went out on the harbour with Robinson to lay the starting line. I returned to the CYC at approximately 3pm, went directly to the CYCA bar." When you say approximately 11 o'clock, 11am that you went out there, how far - which side of 11 o'clock could it have been? No earlier than say quarter to 11 or are you--

A. I believe it was 11 o'clock.

Q. So it's going to be a minute or so around there?

A. Yes.

Q. Do you recall any conversations that Mr Thompson had with the fellow named Batt? I'm sorry, I've forgotten his first name. Do you know his first name?

A. I know Ken Batt.

Q. Ken Batt is it?

A. Yeah.

Q. You know him?

A. Mm.

Q. Well do you recall - did you know him then at the--

A. Yes.

Q. Do you recall a conversation with him and Mr Thompson on that morning?

A. No.

Q. At about 12 o'clock?

A. No.

Q. Well is that possible, that you had a conversation with Mr Thompson, or you were present at a conversation where Mr Thompson had a conversation with Mr Batt at 12 o'clock?
A. No. I'd already left to go out on the water.

5

Q. What about Thompson? He'd gone with you out on the water?
A. No, he goes on a different boat to me.

CORONER: Q. Did you see him out on the water at about midday?
A. Thompson, no.

10

Q. Do you know where he was at midday?
A. He goes out on a - I'm up one end of the start line and he's on the other on the Telstra boat, so--

15

Q. So you believe him to be on another boat?
A. Yes.

20

Q. On the other side of the start line?
A. Yes.

HILL: Q. See when Mr Batt was being examined here, he was asked about a conversation that he had and he was asked this question. Question, "yes, and you've told the court that that activity down at the Cruising Yacht Club assisting the yachtsmen finished at about 12 o'clock." This is from page 43 of the transcript of 15 March. And the answer from Batt was "about 12 o'clock, yes." Question, "do you recall at about that time having a brief conversation with Mr Thompson?" Answer, "no, I can't. As I said earlier, I spoke to a lot of people on that day and I cannot recall. I'm not saying that during the course of the day that I would have passed the time of day with him, but I just don't know." And question, "you don't recall having--" answer, "no, I cannot recall." Question, "I'm just wondering if what I'm to put to you might assist your memory." This was put by Mr Harris, that's the person that we've mentioned earlier. "You don't recall a discussion about the weather in the race office of the Cruising Yacht Club shortly after you'd concluded your briefing, present being Mr Thompson and Ms Holt?" Answer, "no." Now there's no question in your mind that you weren't present--

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30

35

40

A. No.

45

Q. --on the 26th at 12 o'clock in the race office--
A. No.

Q. --where a conversation took place?
A. No.

50

CORONER: Q. And in fact you believe Mr Thompson was on the water as well?
A. Mr Thompson was on the water, but I don't know what time he left.

55

Q. But at 12 o'clock?

A. It could have been. I don't know what time Mr Thompson left.

HILL: Q. So as far as you're concerned, there was no conversation as I've just stated to you? 5

A. No.

Q. Not that you witnessed anyway?

A. No.

Q. You then say in 29, "before leaving the CYCA I recall stopping in at the sailing office and having a conversation with Thompson to the following effect. I said 'I'm off, can I do anything before I go?' He said 'no, it's all okay.'" That's about what time? 10

CORONER: That's in the paragraph before. 15

HILL: Q. How long did you stay at the bar?

A. About 4.30 I left. 20

Q. So it's 3 o'clock you get back?

A. Yes.

Q. And then you leave at about 4.30 and you pass the sailing office and speak to Mr Thompson? 25

A. Yes.

Q. During the time you got back and 4.30, where were you?

A. In the bar. 30

Q. Did you do anything there with anyone with regards any facsimiles or anything like that?

A. No.

Q. It was just a social time? 35

A. Yes.

Q. Do you know anything about any facsimile that came from the Weather Bureau about that time? 40

A. No.

Q. Anyone mention any storm warning or anything like that?

A. No.

Q. Do you know what a storm warning is - or did you know then? 45

A. Well I didn't see any forecasting at all because I was just in the bar having a drink.

Q. And you're certainly not aware of anyone calling from the bureau? 50

A. No.

Q. 27 December, that's the day after, you say "when I came to work" - this over at 33, paragraph 33 - "when I came to work at the sailing office on 27 December 1998, Thompson and Robinson were preparing to fly to Hobart." What time was 55

that?

A. About 8.30am.

Q. And they were preparing to go from the CYC?

A. Yeah. They were just in the foyer, waiting for a taxi. 5

Q. If I could go back to when you went out on the water the day before at 11 o'clock. Who was in charge of the sailing office? Who was there?

A. No one. 10

Q. Is there a facsimile machine in the sailing office?

A. Yes.

Q. If I wanted to contact someone, what would I have done?

A. Rung us up. 15

Q. But if I rang the sailing office I wouldn't get through?

A. You would ring the normal - the general CYC number and the receptionist would give you a phone number. 20

Q. What sort of day is it? Is it a big day for the staff at the CYC?

A. It's a busy day for the staff. 25

Q. So you say that if I just rang the normal number and asked to be put through to the sailing office, that's what would have happened?

A. No, the receptionist would have said they've left, can I take a message or would have asked the nature of their enquiry. On Boxing Day lots of people ring up asking for the sailing office, so they sort of screen the calls a bit. 30

Q. When you say they screen the calls, in what way?

A. Well people ring up and we're very busy in there, so they try and help us by not putting so many calls through if they can answer the calls. 35

Q. You say that "if BOM had left a message with the media centre, they would have told me as they were just upstairs from the sailing office in the CYCA building." When you say they would have, is this another assumption?

A. Meredith, who was working upstairs, would have buzzed me and said there's a-- 40

Q. Meredith who?

A. I don't know her surname. 45

Q. I'll just get the list of witnesses and we'll go through them and we'll see if we can find a Meredith. 50

SPEAKER: Gray.

HILL: Meredith Gray is it?

Q. Is that the name, Meredith Gray? 55

A. Yeah, that - that would be it.

Q. Why would she have buzzed you through?

A. Because she was working up in the media centre.

Q. Well so would a lot of other people. Why would--

A. No, she was the only one on that morning of the 27th working in the media centre.

5

Q. The 26th I'm after.

A. Sorry, on the - sorry, I thought you were talking about the 27th. On the 26th - could you repeat the question please?

10

Q. If a call had come through on the 26th when the sailing office wasn't staffed--

A. Yes.

15

Q. --what would have been the position?

SPEAKER: Call to the media centre?

20

HILL: No, call to the sailing office.

A. Nothing.

Q. When you say nothing, what, would it ring out or would it go back to the switchboard or--

25

A. It would - if they called, the sailing office has a direct number. If they called that it would ring out unless one of the other staff members answered it, or if it went - if they spoke - went through reception then it would go back to reception if it was unanswered.

30

HILL: I've nothing further.

STANLEY: Q. Let me just deal with the office and the phone situation at the sailing club at this time. We've heard that there's the sailing office and there's the general office.

35

A. Yes.

Q. Are they separate rooms?

40

A. They're separate room.

Q. Perhaps you could just indicate how they're positioned relative to each other. Are they on the same floor?

45

A. Yes. The general office would sort of be - like the door would be there, so if we left the door open we could see all the people working in there.

CORONER: Q. Adjoining?

50

A. Adjoining.

STANLEY: Q. So they're adjoining with a door between?

A. Yes.

55

Q. And what about the media office?

A. That was upstairs.

Q. So that was as it were separate?

A. Yes.

Q. And not so easily accessible?

A. Yes.

5

Q. The phone system. Firstly there was a phone in the general office?

A. Everyone's desk has a phone.

10

Q. Does that mean that everyone's desk has a different line?

A. No, only - the sailing office has its own line as well as all the other lines that we can pick up, and the general manager has his own line.

15

Q. Do you know the numbers?

A. I know the sailing office number.

Q. Can you tell us whose number this is, 9363 9731?

20

A. That's the general - ring up the CYC reception answers number.

Q. So it's the general office number?

A. Yes.

25

Q. What is the same number except the last digit instead of being 1 is 2?

A. I don't know.

30

Q. The next one, the same number except the last digit is 3?

A. I think that they're the numbers for the whole phone system but anyone can access those numbers to make an outgoing call.

35

Q. So to make an outgoing call there are a number of lines coming through the same phone?

A. Yes.

40

Q. But to different phones in the office?

A. To all the phones in the office.

Q. What of the number 9363 4445?

A. That's the sailing office's direct number.

45

Q. Do you say that if someone was to ring the general office and ask to be put through to the sailing office, if no one was there the phone would simply ring out or it would be returned back to the receptionist?

50

A. I'm not sure.

Q. You don't know?

A. No, I don't know.

55

Q. How many staff were in fact employed to work in the sailing office on this day, that's the day of the race?

A. Three.

Q. That's yourself and who else?

A. Thompson and Robinson.

Q. And in terms of the secretarial or administrative tasks such as receiving and sending faxes, whose job was that? 5

A. Whoever picked the fax up off - no one specifically had the job.

Q. So there was no system that required you, for example, as the secretary to be responsible for receipt and recording of faxes? 10

A. No.

Q. It's just if anybody happened to pick it up, good luck? 15

A. Yes.

Q. Were you in fact on duty this day?

CORONER: The 26th. 20

A. The 26th?

STANLEY: Q. The 26th, yes, I'm sorry. All these questions relate to the 26th. 25

A. Yes.

Q. Were you on duty?

A. Yes.

Q. Being paid? 30

A. Yes.

Q. What, being paid to go to the bar?

A. I put that I finished my work at 3 o'clock. I went to the bar in my own time. 35

Q. So you commenced work at what time?

A. About seven.

Q. Who took over from you in the sailing office after the time you left to go out on the boat, out on the harbour? 40

A. At 11?

Q. Yeah.

A. No one. 45

Q. For the rest of that day was there anybody in charge of the sailing office, to your knowledge?

A. Not in the office. 50

Q. So the office was effectively left empty, to the best of your knowledge, for the rest of the day?

A. Till Phil Thompson and Mark went back in there, yes.

Q. Well did you see them back in there? 55

A. Yes.

Q. When did you see them back in there?

- A. When I left.
- Q. What time was that?
A. Four-thirty. 5
- Q. And they were both there were they?
A. Yes.
- Q. Was that the first time you'd seen Phil Thompson since going out onto the water yourself? 10
A. No.
- Q. Where had you seen him after you returned from the water?
A. I saw him over near the marina office when I came back in. 15
- Q. At about 3 o'clock?
A. Yes.
- Q. Did you see him after that before 4.30? 20
A. No.
- Q. Didn't see him anywhere in the precincts of the club?
A. I didn't see him in the bar where I was. 25
- Q. Did you see him anywhere up until 4.30?
A. No.
- Q. Were there many people in the bar? 30
A. A reasonable - I don't--
- Q. Is it a day of some festivity once the boats have gone?
A. It's pretty quiet once the boats have gone. 35
- Q. The festivities are before the boats go is it?
A. Yes.
- Q. One of the requirements of your job, so far as the position description is concerned, is that you must maintain a knowledge of sailing. You recall that? 40
A. Yes.
- Q. Do you have a knowledge of sailing?
A. Yes. 45
- Q. And was it because of that that it was necessary for you to go out onto the water in the boat with Robinson?
A. Yes.
- Q. You're there performing an official function are you? 50
A. Yes.
- Q. What actually do you do?
A. I have a-- 55
- Q. You I mean. Not him, you.
A. I have a list of entries, a list of all the fleet, and

they all have to come in and come past offshore to register that they're there and starting and to let me know how many crew they have on board.

Q. Did it occur to you that it would be desirable for someone to remain in the sailing office? 5
A. No.

Q. Did you hear the evidence of the former race director, Mr Brenac last week? 10
A. No.

Q. Were you aware that prior to you taking over the office when he was there, his secretary, the secretary to the race director and sailing manager, invariably remained in the sailing office throughout the whole day? 15
A. I wasn't aware of that.

Q. But it certainly was a very busy day for you when you were there? 20
A. Yes.

Q. And the morning was I suggest to you exceptionally busy. 25
A. It was busy.

Q. And one of the factors that made it even busier and more difficult for you was the fact that the Weather Bureau people had had some trouble with their fax - sorry, with their photocopying? 30
A. Yes.

Q. I suggest to you that you received a phone call advising you of that at 8 o'clock on the morning, a phone call from the Weather Bureau, Mr Batt in fact, telling you that they were having problems with their photocopying and would you be able to help, and your response was yes, you would. Do you recall that, at 8 o'clock, a phone call lasting-- 35
A. I don't recall the phone call. I do recall doing the photocopying. 40

Q. Well the evidence is, and it's confirmed by the Telstra records, that at 8 o'clock there was a phone call that lasted just over three minutes - I'm sorry, just fractionally less than three minutes, to the general office number and the evidence is that that was a request that you assist with the photocopying. Do you accept that? 45
A. Yes.

Q. There was subsequently I suggest to you a further phone call from Mr Batt to the general office number, came through to you, and at that time requesting you to stop running off the package because there'd been a new forecast. 50
A. Yes.

Q. You recall that? 55
A. I don't recall the phone call but I remember a new forecast coming in on the fax at about 10 o'clock and I remember copying it.

Q. Well if the records establish that such a phone call was made at 8.45 from Mr Batt to the CYCA general office number, you wouldn't dispute that that was the purpose or the gist of that phone call?

A. No.

5

Q. Because I suppose the morning being so busy, it was hard for you to remember every phone call you received?

A. Yes.

10

Q. Subsequently Mr Gage, Brett Gage - that is the gentleman seated in Court, you recognise him there do you?

A. I don't recognise him. I asked - I found out at lunchtime that that was Mr Brett Gage.

15

Q. So you weren't able to recognise him?

A. No.

Q. You didn't know him well enough to do that?

A. No.

20

Q. But you are now aware that he was the person that came to the - one of the two people that came to the yacht club on this day?

A. Yes, I'm now aware of that.

25

Q. Did you have any recollection of that before, before today?

A. All I can remember is getting a couple of tables organised for them and giving them some Blu-Tac and doing their photocopying.

30

Q. And do you remember that you were required to - or it was necessary to make an amendment to the package because of the new forecast that had just been issued?

A. They just gave me the photocopying and I just photocopied it.

35

Q. Are you saying you have no recollection whatever of there being a new forecast?

A. I remember a new forecast coming through on the fax.

40

Q. And did you know what that forecast was?

A. I didn't read it, I just started photocopying it.

45

Q. Was it of any interest to you at all?

A. It would have been of interest but I didn't get a chance to read.

Q. So are you saying you didn't know what it was, even though it would have been a matter of interest to you?

A. All I did was photocopy it.

50

Q. This day there were a number of faxes that came through to the sailing club office were there not?

A. Yes.

55

Q. What happened to the faxes that arrived that you're

aware of?

A. The recipients came and collected them.

Q. Are you aware that there were a number of faxes from the Weather Bureau on this day? 5

A. I'm only aware of the ones that I photocopied, of only the one that I photocopied, because the Weather Bureau brought down their forecast first of all and then I remember there being one more on the fax, which I photocopied and was giving to them outside. 10

Q. So you remembered there was one on the fax?

A. Yes.

Q. When did you remember that? 15

A. When I saw it there.

Q. Well the fax had arrived from the Weather Bureau. It was left there was it?

A. Yes. 20

Q. You didn't do anything with it?

A. I photocopied it.

Q. And is that the one that was photocopied and that you understand went into the package? 25

A. I don't know. I wasn't aware of any packages. There was just a big sort of--

Q. Pile of paper. 30

A. Pile of papers that I was just putting in, the photocopier was stapling and collating them and I was just passing them outside.

CORONER: Q. But that fax was added to that pile of papers was it? 35

A. I'm not sure if it was added to or replaced.

Q. Replaced an existing one?

A. Yes. 40

STANLEY: Q. Were you aware that there had been a new forecast and that it was to be faxed to you before it in fact arrived?

A. I remember that now because I've read in the paper that Ken Batt or someone told me that Ken Batt said - so that that's what happened. 45

Q. So you accept that's the situation?

A. Yes. 50

Q. Apart from that fax, on the 26th there had also been a special race forecast that had been faxed to the yacht club at six minutes past nine. Do you know what happened to that special race forecast? 55

A. Was that from Roger Badham or from--

Q. No, from the Weather Bureau.

A. No, I don't know.

Q. See the records show that the special forecast, the second schedule forecast under the arrangement between the Weather Bureau and the yacht club, was faxed to the yacht club at six minutes past nine. A gale forecast, the one that was amended and had to be put into the package for the yachtsmen, it was faxed at 11 minutes past nine, the records disclose. Are you able to tell the Court what happened to the first of those faxes? 5 10

A. I don't remember.

Q. Under the arrangement between the yacht club and the bureau, it was intended and the arrangement and agreement was that a further special forecast would be forwarded and would be faxed to the yacht club at about 1 o'clock or up to 1 o'clock on that day. You're aware of that are you not? 15

A. No.

Q. Have you never seen the agreement between the yacht club and the bureau? 20

A. No.

Q. Well were you aware that a fax of the special forecast was in fact to be sent to the bureau at a time when you were going to be out on the water? 25

A. No.

Q. So that if there'd been an arrangement between the bureau and the yacht club for a special race forecast to have been issued some time between midday and 1 o'clock, as far as you are aware there would have been no one in the sailing office to get it and consider it? 30

A. No.

Q. And there would have been no one there until at least 3 o'clock in the afternoon? 35

A. No.

Q. Do you know what happened to the fax that was in fact sent at 11 minutes past 12 to the sailing office? 40

A. No.

Q. To the yacht club from the bureau? 45

A. No.

Q. Did you ever see one of these special race forecasts faxed from the bureau?

A. I don't know what one looks like, what distinguishes it from a normal forecast. If you showed me one I'd know. 50

Q. Perhaps we can put it this way. You mentioned before that you did see a fax that gave the amended forecast shortly after 9 o'clock. Did you see any other fax from the Weather Bureau at all on this day? 55

A. No. The only faxes I took I just put in the photocopier and copied them and gave them to the Weather Bureau outside.

Q. So if any other faxes arrived from the Weather Bureau, you didn't see them and you've got no idea who did?

A. No.

Q. Because there was no system there for filing them or ensuring they were seen by the person they were intended for?

5

A. Not that I'm aware of.

Q. Did you ever discuss with Mr Thompson the fact that the bureau or someone from the bureau had rung you with a request that your photocopier be used?

10

A. I don't remember.

Q. At all events, he certainly wasn't in the sailing office when that request was made was he?

15

A. He could have been.

Q. Well are you saying you just don't know?

A. I don't know.

20

Q. When the two gentlemen from the bureau arrived and there was then the necessity to change the weather forecast, did this put additional pressure on you in terms of trying to get the photocopying done?

25

A. Yes.

Q. It was at that time a pretty frantic situation wasn't it in the office?

A. Yes, it was very busy.

30

Q. Because you were getting phone calls from all sorts of people about all sorts of things?

A. Yes.

35

Q. Some important, some unimportant?

A. Yes.

Q. And as you said before, the receptionist staff were trying to screen calls, is that so?

40

A. Yeah, they were just trying to help us out.

Q. What instruction would they have been given, do you know, as to how and who they should screen?

A. I don't know. They would have just - people ring up and say what - we're having a party at Wollongong, what time will the boats be coming past, so obviously they wouldn't put a question like that through to us, they'd sort of keep it to the more sort of mainstream direct competitors things rather than just the general public.

50

Q. Apart from yourself was there any other secretarial staff in or associated with the sailing office?

CORONER: On that day.

55

STANLEY: Q. On that day, yeah.

A. No.

Q. What about to assist for example with the photocopying?
The photocopier was in another room wasn't it?

A. No.

Q. It was actually in the sailing office? 5

A. Yes, but we've got two photocopiers. I had them both going.

Q. So they were both working?

A. Yeah. 10

Q. Does that mean you had two people operating them, you doing one and someone else doing it?

A. No, I was doing both. 15

Q. So you were there trying to operate two photocopiers?

A. Yes.

Q. See I suggest to you that when Mr Gage and his offsider arrived from the bureau, he indicated to you that - and the reason he spoke to you initially was that he wanted to speak to one of the race - or to the race directors. You're nodding. Do you accept that's the case? 20

A. That could well be the case, yes. 25

Q. You were aware at that time that the race directors certainly weren't around and in a position to be talking to--

A. No, they were around, they were all right next to me. 30

Q. Were they?

A. Yes.

Q. Well did you indicate them?

A. Well they were all standing around the counter - well Phil Thompson and Mark Robinson were standing around the counter helping people out as well, so they would have said I'm on the race committee, speak to me. Every single person that came in didn't only speak to me, they spoke to-- 35 40

Q. Are you suggesting that Mr Thompson was in the sailing office at the time that the two gentlemen from the bureau arrived? Can you say that?

A. I'm not 100 per cent sure. He could have been but he might have been, but I was not in the sailing office by myself at any time, so there was always someone else in there. 45

CORONER: Q. Did you leave the sailing office to go out on the water before Mr Thompson or after? Can you remember that? 50

A. Before.

Q. And Mr Robinson, before?

A. I went with Mr Robinson. 55

STANLEY: Q. Did you advise anyone, any of the other CYC people, using it broadly, that a new forecast had been

issued?

A. No.

Q. You didn't tell Mr Thompson?

A. Well Mr Thompson would have realised because he would have said what are you copying and I've said oh more stuff for the Weather Bureau.

5

Q. Well you say that's what would have happened. Is this what you're really saying, that Mr Thompson did know that a forecast, an amended forecast had been issued?

10

A. I don't know if he - I don't remember any exact conversations. He would have been aware of what I was doing.

15

Q. In your mind there's no doubt about that?

A. No.

Q. Because he was there and he would have seen you with all the photocopying and you would have told him in general discussion?

20

A. Yes, yeah.

Q. And did he look at the forecast, the amended forecast?

A. I don't know. I can't remember.

25

STANLEY: Thank you.

WEBER: Q. Miss Holt, Mr Hill, who's counsel assisting, asked you some questions about the manner in which your statement came to be prepared. Do you recall that?

30

A. Yes.

Q. You recall that you indicated that a draft was produced by who you referred to as Tiffany?

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A. Yes.

Q. And that's Tiffany Nugan, is that correct?

A. Yes.

40

Q. Did Ms Nugan come to see you and get from you the facts which ultimately became embodied in a draft of a statement?

A. Yes, she did, she came to the Cruising Yacht Club and met me there.

45

Q. How long did that first conference go?

A. Probably an hour and a half.

Q. And then subsequently did she return to see you with a draft of a statement?

50

A. She faxed through a draft to me and then I went into her office to go through it with her.

Q. Did you request changes be made to the draft so it--

A. Yes.

55

Q. Just let me finish if you don't mind, sorry. So it more accurately reflected precisely that which you wished to say?

A. Yes.

Q. Was a draft of a statement finally prepared with which you were completely happy?

A. Yes.

5

Q. Before you signed that draft did you read it carefully?

A. Yes.

Q. And by signing it did you intend to adopt its contents as your own?

A. Yes.

10

Q. And in reality and leaving aside matters of grammar, is what's in your statement truly what you wish to put before the Coroner?

A. Yes.

15

Q. To the extent to which your statement contains statements of fact, are those statements of fact facts which you believe to be true?

A. Yes.

20

Q. And to the extent to which the statement contains statements of your opinion, are those opinions opinions which you genuinely hold?

A. Yes.

25

Q. Can I just take you then to a couple of small matters arising out of your statement. Could you go to paragraph 22 where you're talking about participating in the handing out of briefing kits. Did you have a system in place to ensure that each crew got a kit?

A. Yes.

30

Q. Could you explain to his Worship what that system was?

A. Each yacht receives a skite(?) plate which is a sort of a little metal plaque with their boat name engraved on it. I had them all set up on a table just at the briefing and I had a whole heap of navigator's bags which contained the sailing instructions and sked sheets et cetera, so when a representative or owner of a boat came in I gave him the plate and a bag, and because there was none left at the end I assumed that each got one.

35

40

Q. If you go to paragraph 27 please madam, and this finds echo in some questions that my learned friend Mr Stanley for the Weather Bureau asked you, you say in paragraph 27 that Thompson and Robinson were in and out of the sailing office all morning and also that Mr Sommer, Mr Elliott and Mr Rowley were also in and out during the morning.

A. Yes.

45

50

Q. Doing the best you can, at any given time how many sailing race committee people would have been at the office?

A. A minimum of two.

55

Q. At any given time?

A. Yeah.

Q. I realise this is close to an impossible question so if it is tell me, but doing the best you can, how regularly was Thompson in and out of the office? 5

A. He would have been there the majority of the time.

WEBER: I tender if your Worship pleases.

CORONER: Yes, all statements we could - unless there's some objection we'll make part of the brief. 10

WEBER: Yes, I'm content with that, your Worship.

CORONER: So you're happy with that? 15

WEBER: Yes.

HILL: There's nothing arising, your Worship. 20

<WITNESS RETIRED AND EXCUSED

HILL: Your Worship, tomorrow morning the first witness is Mr Carter, radio communications, followed by Mr Colin Betts and then Mr Richard Purcell. Now it may well be that the time makes - I'm wondering if I could have the indulgence of starting at 9.30. 25

CORONER: Yes, I think so. 30

HILL: I will inform Mr Colefax just in case.

CORONER: Only Mr Colefax actually. No, I wonder whether Mr Hunt would want to be here. 35

HILL: Mr Hunt as well, yes, we'll contact those as well.

CORONER: That's fine, agree with that, 9.30 start tomorrow? Is there anything else? 40

HILL: That's all.

ADJOURNED PART HEARD TO TUESDAY 25 JULY 2000 AT 9.30AM 45

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CERTIFICATION OF TRANSCRIPT

I, We the undersigned being (a) Sound Reporter(s) do hereby certify that the within transcript is a correct transcript of the depositions sound recorded at the New South Wales Coroner's Court in the matter of in the matter of

INQUEST INTO THE DEATHS OF JAMES MICHAEL LAWLER: MICHAEL BANNISTER: BRUCE RAYMOND GUY: PHILLIP RAYMOND CHARLES SKEGGS: JOHN WILLIAM DEAN AND GLYN RODERICK CHARLES

on 24 July 2000

Dated at GOODSELL BUILDING
this 26~~th~~ day of July 2000

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