

SENIOR CONSTABLE UPSTON

Q1 This is an electronically recorded interview between Senior Constable David Upston of the New South Wales Water Police, Sydney and Peter Baynes on Monday, the 26th of the 4th, '99 at Mooloolaba Yacht Club in Queensland. The time on my watch is now 11.19am and also present, seated directly opposite me, is Detective Senior Constable Gray from Bega Detectives. Peter, for the purposes of the interview, would you please state your full name?

A My name is Peter John Baynes.

Q2 And your date of birth?

A Born 12th March, 1950.

Q3 And your address?

A 31 Barellan Avenue, Buddina, Queensland, 4575.

Q4 And your occupation, please?

A My occupation is bus operator.

Q5 O.K. Peter, could you please give us your, your sailing history, your sailing background?

A I'm 49 years of age and have been sailing since I was 11 through dinghies in New Guinea and then in the southern suburbs of Sydney around Botany Bay, then advanced into yacht racing in, out of Port Hacking and, and then when we moved to Mooloolaba here, I continued yacht racing. I've owned three yachts, of which Midnight Special was the third.

Q6 All right. And, I'll take you to the, the, the 27th of December, 1998 when you were participating in the

Sydney to Hobart Yacht Race and you continued down the coast and the vessel experienced severe storms, wave, high waves, strong winds and the vessel was rolled. Where were you positioned on the vessel at the time of the first roll?

A At the time of the first roll I was asleep on the floor in the galley and it was by my recollections about 8.30 at night, and during the roll I was moved from the port side of the boat and when we, we righted ourselves I was under the nav station on the starboard side of the boat.

Q7 O.K. Were you wearing any life, safety harnesses or lanyards?

A Harnesses were on but no life jackets, just wet weather gear and, and harness.

Q8 O.K. Was that, the harness lanyard attached to any point inside the yacht?

A Not inside the boat, no.

Q9 O.K. Were you injured at the time of the roll?

A No, oh, not that I was aware of. At the end of the race and several days after, I realised I had a sprained ankle and a torn muscle in my forearm, but those injuries didn't restrict my movement on board the boat at all.

Q10 O.K. After the vessel righted itself and certain things happened about the boat, obviously you went into a survival situation. What happened then? Did you go out on top of the deck?

A The, the group of us proceeded to, to attempt to bail the boat which, in time, did take place. With nine of us there wasn't room for all of us to, to bucket but, but duties were given to, to various people. I went out on deck with Neil Dixon and we, we removed the rigging from the boat, while the other fellows bailed and secured the, the hull.

Q11 O.K. I'm led to believe an aircraft was then sighted -
- -

A Um - - -

Q11 - - - after some time?

A Oh, the, the roll early in the evening and, and the subsequent removal of the rigging took hours. The aircraft wasn't sighted or heard until just pre-dawn, so we experienced a hove to arrangement for whatever, say 10 o'clock at night through 'til 5 o'clock in the morning. The aircraft was heard at 5.00 and I think there was two aircraft over a period of time, then finally the first helicopter arrived.

Q12 O.K. As a result of the roll, you, you've told us that the mast, or the vessel was demasted and the H.F. aerial was a backstay aerial?

A That's correct.

Q13 O.K. And your only communication then was via E.P.I.R.B?

A That's correct.

Q14 You didn't have a handheld V.H.F. radio?

A Negative.

Q15 O.K. And you didn't attempt to rig any other type of jury aerial?

A No, we didn't feel that radio communication was, was possible. At the same time, being the middle of the night, we felt it was best just to, to hove to and, and weather the storm.

Q16 O.K. Were you present on the, on the deck when flares were, were fired?

A No.

Q17 O.K. Have you ever fired a flare before?

A Absolutely.

Q18 Right.

A Many.

Q19 You understand the full operation - - -

A Yes.

Q19 - - - of the different types of flares that you've been shown?

A Surely do, yeah.

Q20 O.K. Did you attend a life raft and flare demonstration at the C.Y.C. at a time prior to the commencement of the race?

A No.

Q21 All right. Were you aware that there was one on?

A No.

Q22 O.K. After the, the first helicopter arrived, what happened then?

A The, the arrival of the first helicopter, four fellows went out into the cockpit, I remained below and it was

after the second person was, no, yeah, the second person, I believe, was being hoisted or winched, that we ... experienced the second rollover, during which time the boat stayed upside down which I felt for 30, 30 seconds and then I felt that the next wave caused it to roll back upright again. Thank goodness.

Q23 How much water was in the vessel at the time of the, the second roll?

A Prior to the roll there was a small amount, small amount of water below the, the, the floor beams. We'd bailed it as dry as we could get it. During the roll we were waist deep in the upturned hull and, when it rerighted itself, similarly the water was waist deep in the upright hull.

Q24 And that was at the second roll?

A After the end of the second roll - - -

Q25 Yeah.

A - - - the water was waist deep inside the boat.

Q26 O.K. Did you, after gathering your thoughts, did you attempt to, to bail that amount of water?

A No, no attempt was made to bail the boat after the second roll, as the helicopter was in position. As the boat rerighted itself the, the, the volume of water inside the hull, during the rolling motion, had caused the hatch cover, the main hatch, to blow out, which left a 2 metre long by 1 metre wide opening in the top of the cabin. Fully exposed to the ocean we felt that, that bailing was pointless, considering that we were in

the middle of a rescue.

Q27 O.K. And water continued to actually influx into the vessel - - -

A Yes.

Q27 - - - whilst - - -

A Waves - - -

Q27 - - - you were inside the cabin?

A - - - waves were, well, we all, we all evacuated the cabin - - -

Q28 Right.

A - - - and maintained position in the cockpit - - -

Q29 Mmm.

A - - - and we were being overcome by broken waves all the time.

Q30 O.K. Did you fear for your own safety at any time?

A Yeah. At 3.30 on the Monday afternoon I looked at the sea and felt that we were, there was a possibility we could come to grief.

Q31 Yeah. And then you were winched from the, from the, from the vessel?

A The first helicopter took, took five of the crew and then it was, it moved away. 30 minutes later we, I think it was about 30 minutes later, the second helicopter arrived.

Q32 O.K. Do you, where, what can you tell me now that, that you feel could assist us in the, in our inquiry as far as safety equipment that could be available to you or any, any possible information that could assist us

in our inquiry?

A My attitude to the, to the, the situation that we had was that we were there of our own free will, we were experienced sailors, we were comfortable with ourselves, we were comfortable with the sea and we were comfortable with the boat. The situation that we had, I don't feel could have been made any better by any improvements in equipment, apart from radio. The capacity to communicate was a problem. We misunderstood the instructions from the first helicopter. They wanted us to jump into a raft and we were communicating by hand signals and, and rather than launching the raft and hopping in the raft, it was misunderstood and one of the fellows, instead of throwing the raft over the back, he threw himself over the back. So those first five fellows ended up with a 10 minute swim, which we felt was particularly dangerous. The second method of rescue, where instead of the crew member being displaced into the ocean, the second helicopter from the Victorian Police, the swimmer was dragged up to the back of the boat and just by eye, eye signals, he indicated that we would jump, one at a time, and we were in the water for about 10 seconds, compared to the, the first five fellows who were in the water for about 10 minutes each. So being about to communicate from the boat to the helicopter would have been an advantage.

Q33 You didn't have a, a handheld V.H.F. - - -

A No.

Q33 - - - radio.

A No.

Q34 Do you think with one of those implements, it would have assisted you?

A Oh, I think there would have been a far easier rescue sequence.

Q35 Mmm.

A Whether the method that they were, were, were preferring was the correct method, we would debate. Manhandling the life raft in those conditions was probably beyond our capacity. We were tired, physically exhausted and to have a, a, an inflated life raft and, and be expected to manhandle it back and forth as we, and, and we talked to them later, they wanted two people to hop in the raft, float away, be picked up and then us retrieve the life raft back to the boat. I don't think we would have had the capacity to do that. We were, we were buggered.

Q36 Mmm.

A And, and we've seen that the life rafts are not all that flash - - -

Q37 Mmm.

A - - - in such big seas and strong winds.

Q38 Mmm. What, how, what brings you to that statement? About the life rafts?

A As not being flash?

Q39 Mmm.

A Well, from what we've seen and heard on television and, and in the press, the, the wind speed with an inflated balloon arrangement, it's a bit like surfing on a Lilo, they're not a stable platform in strong winds and high seas.

Q40 What sort of wind speeds were you experiencing at the time?

A Our wind gear was swept away early in the, in the piece, but on radio we heard from Sword of Orion that they were experiencing 78 knots and they were 10 miles ahead of us.

Q41 Mmm.

A So we feel that we were experiencing winds of that magnitude.

Q42 Did you attend the weather briefing at the C.Y.C. - -

-

A

Q42 - - - prior to the race?

A Yes.

Q43 And what winds would, would, were you told to experience?

A 40 knots, I believe, from my recollection. Probably, no, I, I, I'll take that back. I don't believe that a wind speed was nominated at the briefing. Strong winds were forecast for the first night, a, a break in the weather and then strong winds were forecast further on down the Tasmanian coast. I believe that the weather forecast was not explicit, but then, 3 days before the

event, it's understandable that they couldn't be all that accurate. It was a slightly confusing experience to be at the briefing and listen to the weather forecast. At the end of the weather forecast we all looked at each other and thought, well, he's not telling us anything. He told us he had three models to work with and neither of them matched each other. So it was not, not a clear, clear message.

Q44 Were you issued with any hard copy of a strong wind warning or any, or gale warning?

A On the morning of the race, one of the crew got a hard copy from the Weather Bureau tent in the C.Y.C. grounds.

Q45 And can you recall what that said?

A It did indicate that there, I believe, and I didn't see it myself, but the talk on board was that there was going to be a southerly change at some time.

Q46 If you were told by the Weather Bureau that you were going to experience winds of between 45 and 55 knots, what would you expect that you would experience? Up to mean winds and mean winds

A We would have expected 55 knots.

Q47 O.K. And gusts?

A 55 knots.

Q48 O.K. Stuart?

DETECTIVE SENIOR CONSTABLE GRAY

No.

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Q49 All right then, Peter, is there anything further that you would like to add? Feel free to, to inform us on anything that you feel may assist us.

A I have a, I have a personal belief that, that the, the, that the weather forecast was chosen on commercial, on a commercial basis and that perhaps that the weather forecast provider was not the best available in the commercial arena - - -

Q50 Mmm.

A - - - on the day. I also received a phone call at mid afternoon on Christmas Day from a friend, saying that a commercial weather provider had said there was going to be 60 knots in Bass Strait, and that was not conveyed to us by the race organisers. So I think that they should investigate the best weather provider, weather forecaster, for the event.

Q51 Do you feel that the, what's your opinion on the weather forecast as it stands from the one that you were given from the Bureau of Meteorology, as a professional service?

A In hindsight it wasn't accurate. Whereas the information I received casually was far more accurate. Whether that was a stroke of luck by that forecaster, I'm not sure.

Q52 Mmm.

A I, I don't have enough accurate proof to say that one is better than the other, but it appeared at the time

that there was better services available.

Q53 Right. What is your experience in, in determining weather and, as far as sailing is concerned?

A I'm not a weather forecaster. We have experienced 50, and 50 knots wind on two occasions in 1998, under racing, and we were comfortable at that wind speed, as comfortable as you could be, and we did not have a worry - - -

Q54 Mmm.

A - - - about experiencing that wind speed.

Q55 O.K.

A After the race I, I asked the crew to, to give a written report of their experiences while it was fresh in their mind, and I have already provided these three reports from crew members. I have a report here from myself, Peter Baynes, another report from crew member Roger Barnett, who, also a, a report from crew member Neil Dixon and a fourth one from Dr David Leslie. So of the nine crew, four reports were, were received with their comments about their experiences on the race.

Q56 O.K.

A These have been forwarded to the C.Y.C. with the questionnaire that we completed.

Q57 O.K. Are these copies for us?

A Yes, they are.

Q58 O.K. Thank you. O.K. The, the time on my watch is now 11.36. This interview is now concluded.

INTERVIEW CONCLUDED