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SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT
LEGISLATION COMMITTEE

Reference: AusSAR's role in the search for the Margaret J in March 2001

WEDNESDAY, 27 NOVEMBER 2002

LAUNCESTON

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SENATE

RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE

Wednesday, 27 November 2002

Members: Senator Heffernan (*Chair*), Senators Buckland, Cherry, Colbeck, Ferris and O'Brien

Participating members: Senators Abetz, Boswell, Brown, Carr, Chapman, Coonan, Eggleston, Chris Evans, Faulkner, Ferguson, Harradine, Harris, Hutchins, Knowles, Lightfoot, Mason, Sandy Macdonald, McLucas, Murphy, Payne, Robert Ray, Santoro, Stephens, Tchen, Tierney and Watson

Senator Greig for matters relating to the Fisheries portfolio

Senator Lees for matters relating to air safety

Senator Allison for matters relating to the Transport portfolio

Senators in attendance: Senators Buckland, Colbeck, Ferris, O'Brien and Stephens

Terms of reference for the inquiry:

To inquire into and report on:

- (a) the role of Australian Search and Rescue (AusSAR) in the search for the fishing boat the *Margaret J* and its crew; and
- (b) all communications between AusSAR and the Tasmanian police regarding the role of the Tasmanian police in the search for the missing boat and other related matters

WITNESSES

ARCHER, Constable Steven Lyle, Marine and Rescue Services, Tasmania Police 36

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LINDSAY, Inspector Ian, Tasmania Police 36

**PEARCE, Constable Gilbert D., Master, Police Vessel *Van Diemen*, Marine and Rescue Division,
Tasmania Police 36**

Committee met at 10.01 a.m.

ACTING CHAIR (Senator Colbeck)—I declare open this meeting of the Senate Rural and Regional Affairs and Transport Legislation Committee. This is the committee's second hearing to consider matters in relation to its inquiry into the role of the Australian Maritime Safety Authority and AusSAR in the search for the vessel *Margaret J* in April 2001. While this matter was referred to the committee on 25 June 2001, the committee resolved not to proceed with its inquiry until the Tasmanian coroner had completed the coronial inquest and handed down his findings. The coroner handed down those findings on Monday, 26 August 2002. The committee commenced its hearing program in Canberra on 19 September 2002. Tasmania's hearing is public and open to all. A *Hansard* transcript of the proceedings is being made and will be available from the committee secretariat or via the Parliament House Internet home page next week. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the order of the Senate of 23 August 1990 concerning the broadcast of committee proceedings.

Before the committee commences taking evidence, let me place on record that all witnesses appearing before committees of the parliament are protected by parliamentary privilege with respect to submissions made to the committee and evidence given before it. Consequently, any act by any person which may operate contrary to these rules or to the disadvantage of a witness on account of evidence given by him or her before the Senate or any committee of the Senate may be a breach of parliamentary privilege and may also be regarded as contempt of the Senate. Parliamentary privilege means special rights and immunities attached to parliament or its members and others necessary for the discharge of functions of the parliament without obstruction and without fear of prosecution.

In this regard, I wish to emphasise an important point: all witnesses giving evidence today are protected by the provisions of the Parliamentary Privileges Act 1987. In particular, section 16 of that act provides that no evidence given to the committee, either orally or in writing, can be used, questioned or raised in any inquiry, litigation or other proceedings that may arise subsequently in any court or tribunal. The second matter that I draw attention to is that, as chair, I will ensure that all questions put to those appearing today are relevant to this inquiry and that the information sought is necessary for the purpose of the committee's specific interest in the role of AMSA and AusSAR into the *Margaret J* search.

While the committee prefers to hear all evidence in public, if requested the committee may agree to take evidence in camera and record that evidence. Should the committee take evidence in this manner, I remind the committee and those present that it is within the power of the committee at a later date to publish or present all or part of that evidence to the Senate. The Senate also has the power to order production and/or publication of such evidence. I should add that any decision regarding publication of in camera evidence or confidential submissions would not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

[10.05 a.m.]

ARCHER, Constable Steven Lyle, Marine and Rescue Services, Tasmania Police

LINDSAY, Inspector Ian, Tasmania Police

PEARCE, Constable Gilbert D., Master, Police Vessel *Van Diemen*, Marine and Rescue Division, Tasmania Police

ACTING CHAIR—I welcome representatives of the Tasmania Police. Do you wish to add to the capacity in which you appear today?

Insp. Lindsay—I was the search commander during the search for the *Margaret J*. My substantive position at the moment is the staff officer to the Assistant Commissioner for Planning and Development.

Const. Archer—At the time, I was performing the duties of a search controller.

Const. Pearce—The patrol vessel *Van Diemen* was involved during the search in that area, and I am master of that vessel.

ACTING CHAIR—Thank you. Would you like to make any opening remarks?

Insp. Lindsay—None of the representatives here today will be making any submission or remarks. Anything of that nature would be done through the commissioner's office at a later date. I am not flagging that that will occur, but that would be the appropriate mechanism for that to occur.

ACTING CHAIR—Thank you.

Senator O'BRIEN—Firstly, on Monday morning my office requested, through the committee, that an officer of the Tasmania Police be made available to take questions about changed administrative procedures that followed the loss of the *Margaret J*. This morning the committee has been provided with a copy of the letter that was received in Canberra last night, advising that no officer was available for today. The letter contains some limited information about what has happened in that regard. There are some questions that I will put to officers today that they may be able to answer, but I think we will need to seek a more detailed response from Tasmania Police on these matters at a later time. I thought I should flag that at the start.

I would like to thank the officers for attending the hearing today. There is no formal obligation to attend, and no summons has been issued in relation to the attendance, but it will certainly be helpful to the conduct of this inquiry. I would also note that these hearings and the evidence that may be given may upset those who lost loved ones on the *Margaret J*. That is unfortunate, but I think it is the responsibility of this committee to conduct its inquiry into the administration of organisations such as AusSAR and AMSA. An organisation needs to conduct

itself in the best interests of the community, and I am not convinced that that has been the case in this case.

There are two issues I want to focus on in the hearings today. The first issue is the coordination of search and rescue between the state and the Commonwealth. The second issue is the findings of the coroner that the fishermen lost their lives around the time that the *Margaret J* sank. I think there is some doubt in each case. Inspector Lindsay, I note from the transcript of the coroner's inquest that you had not been a member of the search and rescue squad prior to your appointment to Burnie in December 1999. Is that correct?

Insp. Lindsay—That is correct.

Senator O'BRIEN—And you had not been trained in relation to search and rescue?

Insp. Lindsay—That is correct.

Senator O'BRIEN—But you had been appointed search commander?

Insp. Lindsay—Yes.

Senator O'BRIEN—In relation to the search for the *Margaret J*, you appointed Constable Archer as field commander?

Insp. Lindsay—Yes.

Senator O'BRIEN—But it was you who had overall responsibility for coordinating the search?

Insp. Lindsay—Yes.

Senator O'BRIEN—Thank you. Constable Archer, do you know whether you became search coordinator because of your location in the area where the vessel had gone missing or because coordinating searches was a specific and defined part of your job?

Const. Archer—The latter. It was a specific role that I took part in.

Senator O'BRIEN—What was the nature of the training provided to you to equip you to coordinate such a search? I am talking about the period when the *Margaret J* was lost.

Const. Archer—Initially, you enter a search and rescue squad within the state. That entails certain selection and training courses. You progress through that squad over a number of years, doing subsequent courses which take the part of professional development. Eventually, you do what is called the search controllers course, which I did in 1998. Upon the successful completion of that course, you may find yourself doing the duties of a search controller.

Senator O'BRIEN—Who provided the training for the search controllers course?

Const. Archer—That is run by Tasmania Police, and AusSAR contribute instructors to the course.

Senator O'BRIEN—Who provided the prior training?

Const. Archer—Tasmania Police.

Senator O'BRIEN—Where was it provided?

Const. Archer—At various locations, in particular at the Tasmania Police Academy at Rokeby.

Senator O'BRIEN—Over what period did that training occur?

Const. Archer—I first joined search and rescue in 1990-91, and commenced by doing a basic search and rescue course. Over the years, I progressed to other courses that search and rescue ran.

Senator O'BRIEN—Was the training state specific or did it go to the role of Tasmania Police in a search coordinated out of Canberra?

Const. Archer—It was state specific.

Senator O'BRIEN—I am specifically interested in the knowledge you have been provided with regarding the provisions of the *Australian national search and rescue manual* and the form of the relationship between Tasmania and the Commonwealth as laid out in that manual.

Const. Archer—The manual is published by AusSAR. It is the manual from which each state and territory of Australia would take their lead and train their officers.

Senator O'BRIEN—Were you trained specifically as to the provisions of that manual?

Const. Archer—Yes.

Senator O'BRIEN—When did that training occur?

Const. Archer—In 1998.

Senator O'BRIEN—I take it from your evidence that AusSAR assisted in providing the training that you had with regard to the *Australian national search and rescue manual*?

Const. Archer—Yes.

Senator O'BRIEN—Had you had any relationship with AusSAR prior to the *Margaret J* search?

Const. Archer—No, I did not, personally.

Senator O'BRIEN—When you say 'personally', what do you mean by that?

Const. Archer—Other than having the relationship of being a student on a course where they had instructors, I had no interaction with them.

Senator O'BRIEN—Would it be fair to say you considered AusSAR to be ultimately responsible for search and rescue activities in Australia?

Const. Archer—Yes. I regarded AusSAR, in accordance with my training, as being the premier search organisation in this country.

Senator O'BRIEN—Would it be fair to say that you would expect the national search and rescue body—the premier one, as you describe it—to be the key source of advice to any organisation, Tasmania Police included?

Const. Archer—Yes.

Senator O'BRIEN—And certainly on the organisation and management of any search?

Const. Archer—I agree. That is my understanding. At the end of the day, they write and publish the manual from which we work.

Senator O'BRIEN—I do not think that is an unreasonable conclusion for anyone to reach. It is a fair assumption that AusSAR would play a key advisory role were any request to be made for assistance, even when the search remained the responsibility of Tasmania Police. Constable Archer, when you were first contacted about the missing fishing boat, the *Margaret J*, there was also a search under way for a missing aircraft. That was being coordinated by AusSAR, as I understand it. Were you aware that that search was going on and did you or any of your colleagues have any direct or indirect role in that search?

Const. Archer—I was aware that that search was going on. To my knowledge, we did not have any direct input in that we were not tasked by AusSAR to perform any function. One of our communications services operators out of Hobart did contact AusSAR—he was also aware of that search—and did brief them that we had an overdue fishing vessel. He asked whether their search assets that were looking for the aircraft could also keep a look out for that vessel.

Insp. Lindsay—I was also aware of the missing aircraft. I believe that the search was being coordinated by AusSAR. I believe at a subsequent date—when I say 'subsequent' I am talking from the Friday—at a latter point, we may have been involved with some task. I do not know the specifics of that but certainly we were not coordinating the search.

Senator O'BRIEN—Yes. As I recall it, this was a search for an aircraft where there was no real idea of any splash or crash point, and the search was somewhat speculative. AusSAR were not even certain that the aircraft was missing in the area of Tasmania.

Insp. Lindsay—My limited knowledge in relation to it was that initially there was a lack of available information as in a flight plan et cetera. Not being involved in the progression of the search, I am not sure what information was received and what they were reacting to.

Senator O'BRIEN—I guess it is interesting to compare the two, given that there were, as you described, search assets involved in searching for the aircraft without some specific knowledge of crash point or location. Those search assets were used in some way to assist in searching for the *Margaret J*.

Insp. Lindsay—Yes. We were mindful during our search that there was a missing plane and pilot. So whilst our primary focus was obviously the missing vessel, the *Margaret J*, if we had ascertained anything that could be useful in the search for the aircraft we obviously would have provided that information.

Senator O'BRIEN—The *Margaret J* was not located until 16 April but, once it was located, you had a point to work from and, I guess more importantly, AusSAR had key pieces of information. Is that a fair way of stating things?

Insp. Lindsay—That was the first time that we had a splash point, yes.

Senator O'BRIEN—As I understand it, we knew the point where the boat apparently sank, the fact that there were no bodies on the boat and that a life raft was missing.

Insp. Lindsay—Yes.

Senator O'BRIEN—I want to go to the communications between Tasmania Police and AusSAR on that day, and most of them involved Constable Archer. I think you had seven conversations with AusSAR on that day. Would that be approximately right?

Const. Archer—That would be right, yes.

Senator O'BRIEN—I believe Mr Hooper was also contacted to get information about the life raft. Do you know whether that is the case?

Const. Archer—I did speak to Mr Hooper on a number of occasions, yes.

Senator O'BRIEN—So were you, Inspector Lindsay and Constable Archer, of a view at that time—that is, on 17 April—that there was sufficient information to mount a search for a life raft but the Tasmania Police did not have the resources to run such a search?

Insp. Lindsay—Certainly after the dive there was a possibility—on the information that we had—obviously with the life raft being missing and the men being missing, that they were with that, and we had a splash point. We then negotiated or discussed with AusSAR, in relation to drift data, where things could go from there.

Senator O'BRIEN—Was it your view that the Tasmania Police did not have the resources to run such a search?

Insp. Lindsay—Certainly in reality, at that point, because of the time that had elapsed since the last contact. In relation to replies from AusSAR, the size of the search was confirmed. We were positioned and capable of conducting coastal searches, which we had done to that point. When you are getting involved in a search of the magnitude of the Bass Strait, which involves

two jurisdictions—Tasmania and Victoria—you then start to get to the point where it is way beyond our capabilities firstly to conduct the search and secondly to coordinate it.

Senator O'BRIEN—I note from the comments of the coroner that the only real difference between circumstances as at 17 April and those at 30 April was increased media attention and the actual transfer of responsibility of the search to AusSAR. AusSAR had developed a drift plan that it said covered an area of 50,000 square nautical miles. That was their view on 17 April.

Insp. Lindsay—Yes.

Senator O'BRIEN—AusSAR was saying on 17 April that such an area would require 100 aircraft to search and that it was not viable to conduct such a search.

Insp. Lindsay—Yes. In respect of that, I believe they advised that it would take in excess of 100 aircraft and the resources were not available.

Senator O'BRIEN—I must say I find those comments somewhat unsatisfactory. Is it fair to say that any search organisation, in your view, would match its resources with a prioritised search area in case a widespread area needed to be searched?

Insp. Lindsay—Could you be a bit more specific? I am not sure what the question is.

Senator O'BRIEN—I am asking you: do think it is fair to say that, in the coordination of any search where there is a large area to be searched, the search organisation would match its resources to a prioritisation of the area to be searched?

Insp. Lindsay—That is certainly a possibility. I would not like to be more definitive than that.

Senator BUCKLAND—In being more definitive, is that a matter of taking into account wind type and weather conditions or is it just general?

Insp. Lindsay—As has been highlighted during the first couple of questions from the senator, I do not have a range of search and rescue experience. The role that Constable Archer was performing was that of a search and rescue expert. I am just saying that I am not in a position to actually make a comment.

Senator O'BRIEN—On those two dates, 17 April and 30 April, in relation to the missing life raft and the location of the boat, you really went through the same process on 30 April that could have been done on 17 April.

Insp. Lindsay—Do you mean in relation to the search that was performed?

Senator O'BRIEN—Yes. Ultimately the only difference is that then AusSAR assumed responsibility for the search.

Insp. Lindsay—Yes, at that stage I suppose that we had information that tended to indicate that the life raft had been deployed. Certainly AusSAR then assumed responsibility for the search and did conduct the search which you have outlined.

Senator O'BRIEN—So there was a little more certainty about deploying the life raft, although you knew it was not with the *Margaret J*, nor were there any bodies in the vicinity on 17 April. The area to search was 50,000 square nautical miles—is that right?

Insp. Lindsay—Yes.

Senator O'BRIEN—Presumably, if it was 50,000 square nautical miles on 17 April, it would have been like the size of the Tasman Sea by 30 April.

Insp. Lindsay—Yes. I think the advice on 17 April—and Constable Archer might correct me if I am wrong—was that it was already halfway into the Tasman Sea and possibly larger. So obviously, extrapolating that across to 30 April, it had increased.

Senator O'BRIEN—So we lost 13 days because AusSAR did not act on 17 April. I do not think you should comment on that; I just stated a fact.

Insp. Lindsay—No, I was not going to comment.

Senator O'BRIEN—I would like to go to a transcript of a conversation between two AusSAR officers that occurred, according to transcripts I have seen, at 10.44 p.m. on 30 April. I do not know if their clock is running right, but that is what is recorded. It is in relation to the request from the Tasmania Police for AusSAR to take over the search. It was a conversation between Mr Francis and Mr Lamming. The conversation also reflected the political pressure being applied by the families of the lost men for a response to the new information available to the authorities once the boat had been salvaged. Both men doubted the merits of preparing another search plan. They were also confronted with the problem of AusSAR formally rejecting any proposal to mount a search on 17 April because of the estimated search area.

A decision taken to do a review of all the data with the aim of rejecting a second request for a search is the key in the transcript that I find alarming and I suspect Constable Archer will find it alarming. It goes like this:

Mr Lamming: And I mean I can talk to the police—

that is the Tasmania Police—

now and get him to go back to his office and give us all those details. I don't know if you want that.

Mr Francis: No. No. Just leave it to him. So in order for us to effectively do anything we need to know exactly what they've done and all of the intelligence they've gathered, all the people they have spoken to, all the information so that we can evaluate it and go from there.

Mr Lamming: Alright, I'll try.

Mr Francis: If it takes him two weeks that's his problem.

It is clear, isn't it, that these officers are seeking to deal with the political problem rather than getting on with the analysis of information already presented to them about the search?

ACTING CHAIR—Senator, I am not too certain that the officers should be expected to answer that particular question. It is asking them to judge another office holder and I think that is getting a little close to the line.

Senator O'BRIEN—Those judgments are always made, but I will respect that ruling, Chair. I must say that the information on its own indicates that AusSAR were happy to use the Tasmania Police as an excuse for their own inaction at the time, on the face of it. I think, Chair, it would be important to put on the record here that AusSAR is recorded as saying on 2 May that:

... the only practical search would be of the Northern Tasmanian coastline, Stanley to Banks Strait and off-lying islands including the Furneaux, Curtis, Hogan and Kent groups.

So a practical search plan was developed and implemented on 2 May that could have been implemented on 17 April. I want to ask about actions that followed the loss of the *Margaret J* by both Tasmania Police and AusSAR. Inspector Lindsay, Constable Archer or Constable Pearce, are you able to give us any information on changed procedures within the Tasmania Police Search and Rescue Service post the *Margaret J* incident?

Insp. Lindsay—When you say 'changes', I can certainly highlight some of the things that have occurred post the incident. For anything more definitive, that would be information that would have to be provided through the commissioner's officer. There have been amendments in relation to the police manual. The police manual, for the information of the committee, basically has some instructions and guidelines which provide us with guidance as to how we perform our duties. There have been some changes there.

A forum was held in Launceston earlier this year involving AusSAR representatives and Tasmania Police representatives. I did not attend that myself. That may have included other interested parties. We have a register at the moment which details the available fishery resources. Some training has been undertaken in relation to commanders. To make a distinction for the committee's information, each of the geographical and support districts within Tasmania Police has a commander. There has been training in relation to commanders and in general involving AusSAR officers for those who are more likely to be involved in the search. There is a contingency plan which I believe has been updated. This was a west coast contingency plan and there is one under way which I do not think has been implemented to date, which involves the north-west coast. That gives you a broad overview of some of the changes that have been made.

Senator O'BRIEN—Which of those changes flowed, to your knowledge, from the forum held in Launceston earlier this year?

Insp. Lindsay—I do not know; I could not answer that.

Senator O'BRIEN—Is this an area you are now involved in, Inspector Lindsay, or have you moved on to other areas of endeavour in the Tasmania Police?

Insp. Lindsay—My previous position was Burnie Divisional Inspector and, in the interim period since the search, mid this year I was transferred to another position, as Staff Officer to the Assistant Commissioner for Planning and Development.

Senator O'BRIEN—That is nothing to do with search and rescue?

Insp. Lindsay—No.

Senator O'BRIEN—Would it be normal for key officers to attend the forum in Launceston, to your knowledge?

Insp. Lindsay—My understanding is that the key officers, the relevant officers, were the representative of the commissioner, I believe the deputy commissioner, and Inspector Williams, who is the inspector in charge of Marine and Rescue. I do not know the make-up of the others who attended, so I really cannot comment on who attended. Having not seen the agenda for the day I would only be speculating as to the attendants.

Senator O'BRIEN—Has any officer present here today been involved in any way with the national police search and rescue training course in Canberra?

Const. Archer—No.

Senator O'BRIEN—Do you know if any officers from Tasmania Police have been involved?

Const. Archer—Yes, a number of officers have been.

Senator O'BRIEN—Can you tell us the length of the course? Do you know what is involved?

Const. Archer—I understand it is a two-week course. Obviously it is the same syllabus that Tasmania Police run and it deals with command and control of searches and the technicalities behind that.

Senator O'BRIEN—Okay. Has the infrared light for the police helicopter promised by AMSA been provided and fitted?

Const. Archer—That is my understanding. I may be speaking above my level in our organisation but it is my understanding that it is going to be provided and will be fitted to the aircraft early next year.

Senator O'BRIEN—Okay. I guess we should ask someone else why it is going to take until early next year.

Const. Archer—Yes.

Senator O'BRIEN—Constable Archer or Constable Pearce, can you tell us which particular new arrangements with AusSAR have been put in place or are planned following the flaws in the system exposed by the *Margaret J*?

Const. Pearce—I am aware that there have been some procedural changes made within the department in relation to the coroner's report being handed down. I do not think it is appropriate that I or Constable Archer answer that. We are not privy to those decisions. Those decisions are made by ranks higher than us. I do not believe that either of us are in a position to discuss what changes have in fact been made.

Senator O'BRIEN—You know what changes have been made?

Const. Pearce—No.

Senator O'BRIEN—Okay. I guess you cannot answer if you do not know.

Const. Pearce—That is right.

Senator O'BRIEN—I was just asking if you knew what they were.

Const. Pearce—We can guess, but we would only be guessing.

Senator O'BRIEN—It is not in anyone's interests that you guess and I am not asking you to; thank you for that. Have there been any courses conducted by Tasmania Police with regard to those changes—any refresher courses?

Const. Pearce—None that directly affect me, but there have been some general search and rescue courses conducted since the *Margaret J* inquiry.

Insp. Lindsay—All I can add in relation to that is to mention the amendments that have been made to our police manual, as I outlined previously. The police manual outlines a range of different things. We are a reasonably dynamic organisation in that there is a range of external factors that can impact on the way we do business, and we are always responding to things. One of the amendments that was made was, as I outlined, in relation to the search and rescue aspect. That is a document that everyone has access to through our intranet site, and there is an expectation that people will peruse it because it provides information in relation to what amendments have been made. There is an expectation that, with that being available to everyone, they would be examining issues relevant to them.

Senator O'BRIEN—I am hesitant to explore it. There seems to be a bit of a difference of opinion as to whether officers who were involved on a daily basis are fully aware of those changes.

Insp. Lindsay—I am not prepared to get into a discussion about who knows and what it has done. We are talking about strategic matters in relation to the organisation—why things were done et cetera—and that is more appropriate to today. One of the commissioners who was dealing with things on a daily basis and who therefore has a total overview of when things were done would be able to provide details.

Senator O'BRIEN—Inspector, are you aware—and maybe you are not the person to ask, so if other officers know the answer they may answer—whether there have been any meetings between Tasmania Police and AusSAR since the coroner reported?

Insp. Lindsay—I am not aware of any. There may have been. I mentioned previously the forum that was held. I do not know whether there has been something specifically since the handing down.

Senator O'BRIEN—Are you aware, or is any other officer present today aware, of any field exercises to test the interaction between AusSAR and Tasmania Police's search and rescue unit since the coroner's—

Const. Pearce—No.

Senator O'BRIEN—You are not aware of any?

Const. Pearce—Not to my knowledge.

Const. Archer—To my knowledge, I do not think there have been any.

Senator O'BRIEN—Is any officer here aware of there now being in place a standard procedure for the transfer of responsibility for a search to AusSAR?

Const. Archer—I am aware that they have created a pro-forma for that and that there is more specific direction about how that occurs.

Insp. Lindsay—I am also aware of that.

Senator O'BRIEN—Perhaps, Inspector Lindsay, you could ask if Tasmania Police would provide us with a copy of the pro-forma.

Insp. Lindsay—Yes.

Senator O'BRIEN—Thank you.

Insp. Lindsay—Are we talking about a pro-forma form to hand over?

Senator O'BRIEN—Yes—to hand over a search.

Insp. Lindsay—Yes.

Senator FERRIS—I have a number of questions arising from a letter that we received this morning, and some of the recommendations. Inspector Lindsay, I notice from your letter No. 4 that an open forum of all parties interested in maritime searches was conducted with AusSAR in April 2002. Can you tell me what form that took and some details.

Insp. Lindsay—No, I am sorry, I did not attend that meeting, so precise details would have to be provided by either the deputy commissioner or Inspector Williams, who may be able to provide details on the role that I outlined.

Senator FERRIS—It would seem that it reflects recommendation 8 of the coroner's report, which says that there needs to be a closer working relationship between those officers in

Tasmania Police who were involved in search and rescue and those employed by AusSAR. Are you telling me, Inspector Lindsay, that nobody at the table attended that open forum?

Insp. Lindsay—I certainly did not attend that forum.

Senator FERRIS—Did either of the other two gentlemen attend?

Const. Pearce—It was not required.

Const. Archer—I did not attend.

Senator FERRIS—It seems unfortunate that we do not have an opportunity to learn a little more about that, since it was quite an important finding of the coroner. Could you take that on notice for us, please. We would like to know about that forum—who attended it and what role they now fill in the Tasmania Police, particularly in search and rescue. Very clearly, this will be important in the future to ensure that we learn lessons from this tragic experience. Is it possible for you to take on notice that the committee would like some more information about that?

Insp. Lindsay—Certainly. On receipt of the *Hansard*, we will commit to referring it to the deputy commissioner for the facilitation of the information that you require.

Senator FERRIS—Thank you. I now want to talk about recommendation No. 3, which is at the top of page 2. The professional fishing association has updated a list of contact details for fishermen able to assist and provide advice. I again go back to the recommendations that the coroner made. One of them, which seems to me to be a very important one, relates to the safety of the people who put to sea. That recommendation suggests that EPIRBs be fitted to every vessel and that fishermen be required to keep in regular radio communication and so on. Given the smallness of Tasmania and the relatively small size of the Tasmanian fishing fleet, have the police liaised at all with that professional fishing association to see how those recommendations are being implemented?

Insp. Lindsay—Unless there is something to be added by either of the constables, what I can say about that is that generally the liaison role is performed by Inspector Williams as the officer in charge of Marine and Rescue. I am presuming that a function such as that would have been referred to him and perhaps he would be able to advise the committee, on notice, of the extent to which that is occurring. I certainly cannot answer as to what has occurred since.

Senator FERRIS—Again, I have to say, Inspector, that I do find it disappointing that you are not able to help the committee with these answers. We have all come down here to try to ensure that a tragedy of this sort never happens again, whether it is in a practical sense or a bureaucratic sense in relation to handovers and better communication and so on. I am really disappointed that we are not able to have more information in relation to these recommendations, because it is now some time since the coroner made his recommendations and they do seem to me to be crucial to both safety at sea and safety of searches at sea.

Insp. Lindsay—I can certainly say that every endeavour was made. I believe the commissioner nominated Deputy Commissioner Johnston to attend today and unfortunately, due to other commitments, he was unable to attend. I understand that Inspector Williams is on the mainland, otherwise he would have been here today to answer the questions. It is just

unfortunate that the short notice that was given of the fact that the hearings were being held today did not enable us to make those people available, due to prior commitments.

Senator FERRIS—I think it is important that I say that I accept the coroner's finding. Launching a large number of planes to search for a vessel which may or may not have sunk or for a life raft which may or may not have been launched would have been placing the lives of the searchers at risk. Such a risk, in the overall circumstances, was not warranted, excepting that surely the police and also the national body must be looking to see what lessons can be learned. It seems to me that the recommendations that I have referred to and that excerpt of your letter that I have read out are at the nub of making sure that those lessons are learned. I look forward very much to receiving further information about both of those particular areas of this issue.

Const. Pearce—I have attended a number of meetings throughout the state that involved the professional fishermen's associations. There have been discussions with regard to generating a better contact register. There have been discussions with those organisations that relate directly to the findings of the coroner's report with regard to generating a better flow of information between fishermen, industry people, industry representatives et cetera. So that most certainly is in place as far as the coroner's report has indicated. There have also been discussions with the local authorities, being Marine and Safety Tasmania, the people who regulate the safety requirements of industry vessels in relation to the fitting of EPIRBs. I understand now that there is a recommendation that EPIRBs be fitted to the life rafts as supposed to the fishing vessels themselves—I stand corrected if I am wrong.

There have also been discussions with industry people with regard to maintaining regular radio contact. There are reasons why that does not happen now and there are also very good reasons why it will not happen in the future. This comes from industry people themselves. But all of the meetings that I have attended—and I have attended meetings with Inspector Williams from our organisation in Hobart—have emphasised that it is good practice to try to educate these people to maintain regular contact with their bases. That is something industry have to be convinced to take on board. They have been a bit slow to date, and I cannot imagine that that will happen. They have given us assurances wherever we have been that they will take more care and more notice of where their colleagues are. Registers have now been established in different locations around the state whereby we can gain on-the-spot information from industry people, and that in itself will be of benefit to the organisation.

Senator FERRIS—Thank you for that information. As a matter of interest, do you know what the cost of an EPIRB is?

Const. Pearce—At the moment they are around \$400 or \$500. There are some cheaper ones available. There are some changes to that legislation coming up soon which—

Senator FERRIS—Would those changes require them to be compulsory?

Const. Pearce—They are compulsory now on fishing vessels over a certain size.

Senator FERRIS—I mean all of them.

Const. Pearce—No. At the moment it is not compulsory to have them on very small fishing vessels but they are compulsory on bigger ones. The larger the vessel, the more expensive the

EPIRB required. The ones that are fitted to the life rafts in the fishing vessels we are talking about in general here are available for \$400 or less.

Senator FERRIS—Presumably it would make your life a lot easier if everybody had them.

Const. Pearce—It is fair to say that an EPIRB in a life raft is a bit easier to find than one in a fishing boat.

Senator FERRIS—Indeed.

Const. Pearce—But other logistical things have to be considered with regard to EPIRBs. Their positioning on vessels and all of those sorts of things cannot be covered by a blanket requirement to have them in a life raft. There are other issues that need to be addressed.

Senator FERRIS—Nevertheless, it is hard to believe that people are still only talking about it 18 months after this tragedy occurred. I am not asking you to respond to that.

Senator STEPHENS—Constable Archer, at the time when you were the controller, in how many previous events had you acted as controller? I am new to this committee, so I may have missed your giving a response to this question before.

Const. Archer—Approximately 40.

Senator STEPHENS—How many since this incident?

Const. Archer—It would probably be only about five or six since that incident, but my role has changed somewhat. I have now been transferred into a rescue specialist role, so my duties now are more in particular cliff and cave helicopter rescue—they are more practical and hands on.

Senator STEPHENS—In recommendation 16 of the coroner's report, he recommended the establishment of what he referred to as a 'forward command post'. In your experience, would that assist improved coordination?

Const. Archer—No. According to my training and the NATSAR manual, the requirements of a forward command post are to be able to deploy search assets into the field and to be able to communicate with them. In the search for the *Margaret J*, from the command post at Devonport we could obviously deploy our search assets—which were coming from areas such as Devonport, Smithton and Burnie and from vessels at sea et cetera—and we had clear communication lines with them. I know the assertion is that a forward command post could have been at Stanley, but to be geographically closer to the area you would have chosen the property of Woolnorth, for example. The only advantage I can see in placing a forward command post at Stanley would have been, perhaps, for public relations purposes. It may have assisted with information gathering, although we did have numerous marine and uniformed police who were local to the area conducting inquiries on the ground anyway. In a nutshell, I do not think it would have changed the search at all; it certainly would not have improved the coordination of the search.

Senator STEPHENS—Inspector, has that recommendation been acted upon by the police service?

Insp. Lindsay—Which recommendation?

Senator STEPHENS—The establishment of forward command posts, which is recommendation 16. I am sorry, you have not got in front of you. The recommendation states:

Consideration should be given to the establishment of what I will call a forward command post.

Insp. Lindsay—Consideration is given to what is going to be done in relation to every operation. On this occasion, in consultation with Constable Archer, I decided where we were going to locate the command post and if, during the search, I thought that a forward command post at Stanley would have facilitated something further we would have done that. As part of normal operational procedures, we are always considering where different things are going to be situated. To give you an example from our police manual, and in relation to the role that Constable Archer performed, depending on what the circumstances are—it may be because we are dealing with land searches—the actual advice is confined not just to maritime searches. For example, if we have a search such as that outlined by Constable Archer, which is at Woolnorth, because of circumstances it may be that you are dealing with land parties, and that is where the forward command post will be.

In the case of the search for the *Margaret J* it was different because the primary search asset we were using was aircraft. We had aircraft leaving from a number of locations. We also fairly quickly identified within the search that we had resources performing a number of duties. For example, we had resources down the West Coast, we had resources on King Island and we obviously had resources at Stanley, so we fairly quickly identified that we had a number of resources, and the key to it are the communications. Certainly we as an organisation will always consider the factors, and we certainly have taken on board the coroner's recommendations in relation to the consideration we should give.

Senator STEPHENS—Recommendation 12 by the coroner is about accurate notes of information being supplied and check sheets for information required being used. Is that recommendation being implemented?

Insp. Lindsay—I am not sure about the status in relation to that, so I am not in a position to advise as to what advice has been distributed.

Senator STEPHENS—But, in practical terms, as someone on the ground who is involved in search and rescue at the moment, are you using check lists as an operational procedure?

Insp. Lindsay—I am not actually involved in search and rescue at the moment, so I cannot comment. I can comment only from a personal perspective, and I certainly have taken on board the coroner's recommendations.

Senator STEPHENS—Constable Archer, are you using check lists, as in the coroner's recommendation?

Const. Archer—There are check lists within an appendix to the *National Search and Rescue Manual*. They have always been used and they were used during that search so, once again, nothing has changed. We were using check lists.

Insp. Lindsay—I think some of the criticisms, which I certainly accept, were about our note taking more than about the check lists. That is certainly something that has been taken on board, and it is a criticism that I accept.

Senator STEPHENS—Thank you very much.

ACTING CHAIR—Constable Archer, you said that you completed your search and rescue training in 1998.

Const. Archer—Yes.

ACTING CHAIR—Is there a process of regular updates to that training?

Const. Archer—Every year each police district runs an exercise and, for example, if your role is a search controller, you will perform the duties of a search controller in that exercise. Every two years there is a state-wide multiday SAREX, which is once again designed to test people in their various roles. So it is updated in that way.

ACTING CHAIR—Have there been any specific updates as a result of the coroner's findings on the *Margaret J*, or have the updates basically been those regular updates?

Const. Archer—We have done a number of exercises since that incident, but they were just regular programmed training. Although they did address the issues, obviously, they were not to my knowledge extraordinary training particularly for that; they were just the regular exercises that we run.

ACTING CHAIR—But they did address specific issues that were raised in the coroner's findings?

Const. Archer—They did, in that the police manual, for example, has changed—the amendments that I am aware of and that would affect me at my level in our organisation are those to the police manual. The police manual has changed in that it is more specific about the duties of a search controller, a forward commander and a search commander. It delineates the duties in more specific terms and general terms. So with regards to that: yes, they did, in that in the exercise we have done the specifics have been examined—whether or not you are specifically doing those duties.

Senator FERRIS—According to your letter:

An open forum of all parties interested in maritime searches was conducted with AusSar in April 2002.

If you are still involved in maritime searches—and it seems that you are—why were you not invited to take part in that open forum of all parties interested in maritime searches?

Const. Archer—I cannot answer that from my rank as a constable in the organisation.

ACTING CHAIR—I am not certain that he can actually answer that question, Senator.

Const. Archer—Obviously, it is an issue for Inspector Williams.

Senator FERRIS—Sure, but it does say, ‘all parties interested’, which intrigues me because I would have thought you were a party that was interested.

Const. Archer—I can see what you are saying. Obviously, if I had been directed to attend as part of my duty, I would have, but I was not, so I could not.

Senator FERRIS—That is another question for the inspector, perhaps.

Insp. Lindsay—Not having been involved and not knowing the full details of the forum, I obviously cannot provide specifics in relation to that. I can indicate generally the way that issues that arise out of this would be devolved. As Constable Archer and Constable Pearce have outlined, we have a range of people across our organisation to whom anything that comes out of this is relevant. It is obviously not possible for all those individuals to attend something like that. My recollection is—and I stand to be corrected—that the deputy commissioner attended and Inspector Williams, as head of Marine and Rescue, also attended. If I can just give you a bit of an overview: there would be an expectation that issues out of this would be devolved out through the organisation, so it is not necessary that everyone—.

Senator FERRIS—But, given the stress that Constable Archer has been through with this issue and with those families and given the ongoing nature of this—it has been 18 months now—I am surprised that the Tasmanian police did not see it as important to include him. I am not having a go at you or him; I would just be interested to see what Inspector Williams comes back with as an explanation.

Insp. Lindsay—You have highlighted stress; the other side to it is that something like that could potentially work both ways.

ACTING CHAIR—Senator, I do not think we can pursue this any further. This is really an internal Tasmania Police issue, not necessarily a relationship issue between AusSAR and the Tasmania Police.

Senator FERRIS—I agree; it is up to the Chief Inspector.

Senator O’BRIEN—There are a couple of little points I would like to follow up. The coroner recommended that there was a need for a senior police officer to sign off on a decision to suspend a search. Has any change been made to procedure in that regard?

Const. Archer—Yes.

Senator O’BRIEN—How might it work in practice?

Const. Archer—My understanding is that a pro forma has been developed.

Senator O’BRIEN—For suspending a search?

Const. Archer—Yes. Obviously, that comes with the caveat that it be signed by a senior officer. That was utilised in the search at Federation Peak recently.

Senator O'BRIEN—Inspector Lindsay, do you think there would be a problem with the committee having a copy of that form?

Insp. Lindsay—We could certainly refer it to the commissioner. I do not see there being an issue.

Senator O'BRIEN—The Launceston forum in April this year resulted in a proposal being put forward that there should be greater use of local expertise and the establishment of a local asset register. Is anyone aware of that having happened?

Const. Pearce—I mentioned earlier that there have in fact now been registers compiled throughout the state at different geographical locations that involve industry personnel and industry assets—vessels, people, their local knowledge and those sorts of things. They are now in place throughout the state as a result of the handing down of the coronial inquiry. They now cover all of those areas so yes, that does address that problem.

Senator O'BRIEN—So you have seen such an asset register, Constable Pearce?

Const. Pearce—I have seen the asset registers, if you want to call them that, in those particular locations. I am assuming that there is a central register somewhere. I am not a party to that but I have seen the general ones in the local areas, yes. The local police stations in geographical areas have those available to them so, yes, they are available in those areas.

Senator O'BRIEN—Constable Archer, you talked about annual exercises as being a form of maintaining and updating knowledge. Does that mean that, following those exercises, there is some sort of brainstorming exercise where it is decided where there may be deficiencies in the process? Is there a means of feeding in information where individual participants have a view that some aspect of the procedure does not work properly?

Const. Archer—Yes. Generally, an exercise will be written by an inspector or sergeant and they will obviously develop and write the exercise to test issues. During the course of the exercise, the people with key roles will be assessed on their performance. At the end of it there will be a debrief where the assessments will be revealed and for any inadequacies, or anything else that is identified, you will receive training, if you like, in the area of the deficiency.

Senator O'BRIEN—But that describes how, if the officer were somehow deficient in performing the exercise, the officer would be assessed. What I am asking is: if an officer said, 'There's a problem with this process,' how that would be addressed.

Const. Archer—That is all part of the debrief. For example, if there is a systems failure and not an individual failure, that is also addressed in the debrief and it would be modified from that.

Senator O'BRIEN—Has this process changed in the last two years?

Const. Archer—No.

Senator O'BRIEN—So, what occurred before is continuing to occur, to the extent that deficiencies that may have been revealed by the *Margaret J* problem have not been revealed through this process of exercises?

Const. Archer—Yes, in that what we have learnt from the debrief and the *Margaret J* has now obviously been programmed into the exercises and things have changed, and the changes are being assessed.

Senator O'BRIEN—Thank you for that. Chair, the other questions I have are not of a nature that these officers could answer. The deputy commissioner or another appropriate officer may be able to answer them, either directly at a hearing or on notice. That is something the committee may want to explore after the hearing.

ACTING CHAIR—Okay. I think we need a small break in proceedings so that some evidence may be brought in. Gentlemen, thank you again for your evidence this morning.

Senator FERRIS—We look forward to Inspector Williams's responses to those questions that you were not able to answer.

Insp. Lindsay—Yes.

Senator FERRIS—Thank you, Inspector.

Proceedings suspended from 11.04 a.m. to 11.14 a.m.

HOOPER, Mr Richard James, Life Raft Surveyor, Tamar Marine Pty Ltd

ACTING CHAIR—Would you like to make any opening remarks? At the conclusion of your remarks, I will invite members of the committee to submit questions to you.

Mr Hooper—I want to talk about the search. Obviously, initially, I was very interested in this because I serviced their life raft. So, as soon as the boat was reported missing, I was instantly interested. As soon as we had some sort of splash point for a search, I was in contact with Tasmanian police and I told them what my knowledge was and offered my advice. That went down the line over the days of the search, particularly when the wreck was spotted under water. That was when I really got involved.

Senator O'BRIEN—I am going to ask some questions, Mr Hooper, which, as with Inspector Lindsay and Constable Archer, you may have already answered on the record at the coronial inquest, but we need the information recorded for the purposes of the Senate inquiry. I apologise in advance if we are going over the same area that you have been over before.

Mr Hooper—Don't apologise!

Senator O'BRIEN—For how long have you been involved in the work that you are doing now with Tamar Marine and surveying life rafts?

Mr Hooper—I have been doing this since 1990 and I have done courses and hold diplomas from eight different life raft manufacturers. All life raft diplomas have to be redone every three years, so in that 12-year period I have done approximately 12 life raft courses. Prior to that, I was involved in the fishing industry as a salesperson for Tamar Marine and, prior to that, I was inspector of fisheries with the then Department of Sea Fisheries or the Fisheries Development Authority. I spent six years at sea doing patrolling and fisheries work, so I understand exactly what is happening.

Senator O'BRIEN—You have had a lifelong association with the water, by the sound of it. In relation to the qualifications and refreshers that you have done in relation to life rafts, do you have authority to state that a life raft is functional and complying with requirements?

Mr Hooper—Yes. Part of my duties is that I unpack a life raft—in the case of the *Margaret J*, that is exactly what I did—and I inflate it, not with its own cylinder but with a compressor, and then I test it for pressure tests and relief valve function, all in accordance with the manufacturers manual, which we use religiously. I then go through the survival pack and make sure that the time-expired items are replaced—which was the case with the *Margaret J* five weeks before it was used. I make out a test report, which features all these things, and then I write a certificate for the relevant marine authority. In the case of the *Margaret J*, it was for Marine and Safety Tasmania, and that certificate authorises the life raft for use in that capacity for one year.

Senator O'BRIEN—You mentioned that you became aware that the *Margaret J* was missing at some stage—I am not sure that you gave a date.

Mr Hooper—There were press statements on Good Friday, the 13th, that the *Margaret J* was overdue and that there was some concern about her. I heard later from press reports that the police had suspended the search pending additional information. At that point, the vessel was missing and nobody really knew anything. There was no idea of a splash point, a starting point or anything. You could only guess. A good guess would have been somewhere in the Hunter Group. However, on the 16th, an aircraft flying to King Island spotted the wreck underwater. Then I was interested; we had a splash point. So I rang the police search and rescue unit.

Senator O'BRIEN—On the 16th?

Mr Hooper—Yes. I talked to a lady who said she would pass on my information. I told her who I was, what I did for a living, that the *Margaret J* had a life raft on it and that I had serviced it, and I suggested that I could give them a list of the survival equipment on board. I offered any assistance I could give. During the following day, which was when the *Van Diemen* actually got to Stanley with the divers, I received two phone calls from two different officers. I did not write down who they were, which was remiss of me. They were both asking the same question: where was the life raft stored? I told them it was stored on the wheelhouse roof. I understand that other people also informed them that the life raft was not only aboard but it was on the wheelhouse roof.

Late that afternoon or early evening, I had a phone call from Constable Archer of the Devonport police. He said that they had dived on the *Margaret J* that day and that the life raft was missing. Also missing were the generator and two drums of fuel. Then he said something incredible. He said, 'We thought they had been stolen.' I am sorry, but it is amusing. I thought: 'There is the brain of a police officer.' I then went on to argue that the survivor life raft that was on the boat was the market leader in the world in survival equipment and that it was well insulated—it had a double insulated floor and an insulated canopy—that hypothermia was not really going to be an issue, that there were rations on board for 10 people and there were only three of them. So the survival time would be long. I noticed a distant tone in Constable Archer's voice. I asked him, 'Am I talking too fast? Do you want me to slow down? Are you writing this down?' He said, 'No, I do not have a pen.' I thought it incredible that I was giving such information and that no-one was interested enough to write it down. I came to the conclusion that they had made the decision to abandon the search and that was that; they were going to carry it out.

The Three Peaks Race was starting at midday on 13 April and the *Van Diemen* had been volunteered to be the safety vessel for that race—not that it needed a safety vessel, but they had volunteered it. There were senior police officers on board the *Van Diemen* on the 13th ready for that start. When the events came up and the boat had to go up the north-west coast to commence the search, those people had to get off and a search crew got on. They went up to Stanley and searched for about a day and a half and then, on the morning of the 14th, the boat slipped back to Beauty Point and they announced that night that the search had been suspended pending additional information. The guests got on board and then went to Flinders Island, and the vessel was seen at Flinders Island with guests on board.

Then the aircraft spotted the wreck under water on the 16th and the *Van Diemen* had to be recalled. They went back to Beauty Point. A dive squad was formed in Hobart, which is their base. They were briefed in Hobart and then they went by vehicle to Beauty Point and got on board the *Van Diemen*, where they were briefed again by the search and rescue personnel. They

then went to Stanley and arrived there at about midnight on the 16th. The following morning, they commenced their diving program. Amongst the equipment they had was a video recorder. They videoed their dives. However, the video that we were later to see at the coronial inquest showed no footage at all of the wheelhouse roof where they had been explicitly told to look for the life raft.

What does this tell us? Does it tell us that the divers were not briefed or that the divers ignored their briefing and did not look? The vessel was lying on its side; all they had to do was swim alongside and film the wheelhouse roof, but apparently it was not done. I would suggest that it was done and that that piece was eventually edited. One of the greatest mysteries of this whole thing is that you cannot launch a life raft without leaving behind its painter line. That is part of the deal. You tie the painter line onto a strong point on the vessel—the wreck—and then you manhandle the life raft to the side and throw it over. You pull out what remains of the painter line, and the last two metres or the last metre and a half triggers the cylinder which inflates the life raft. The end of that painter line is tied to a strong point on the life raft. I cannot be more emphatic about this because, without that, in any form of wind the life raft inflates and simply blows away and everyone drowns. Nobody drowned there; they got in the life raft, and that is clear. What happened to that painter line? There were 25 metres of it. I have formed the view—and I am emphatic about this—that the social agenda that was planned for the *Van Diemen* was more important than the search and that the painter line was removed from the wreck.

Senator FERRIS—That is a very serious charge, Mr Hooper.

Mr Hooper—It is a very serious charge indeed. I ask that the transcript of this hearing go to the Director of Public Prosecutions. It is an appalling state of affairs. The RFD Surviva life raft is an English life raft which is built in Ireland, as is the painter line. The painter line is supplied in a satchel like the one I have here.

Senator FERRIS—For the benefit of Hansard, are you showing us the painter line now?

Mr Hooper—I am showing you a painter line satchel from the Surviva life raft. This comes in a crate with the life raft. This particular painter line is of an unusual loose weave and is easily identifiable. It is typical only to Survivas. Later, there was an accusation that Jim Hursey actually planted the painter line on the wreck. As a surveyor of life rafts, including Survivas, I cannot buy this by the metre. I cannot sell it. I can only buy it as a spare part in a complete satchel. How does Mr Hursey come by it?

Senator FERRIS—If, indeed, he did come by it.

Mr Hooper—I suggest that he did not. I suggest that the pieces of painter line that were found about that wreck—they are very short pieces; there were no long pieces at all—physically came from the life raft. I have here another painter line. That comes from a Beaufort life raft. You can see without any close examination that they are completely different in texture. This is an Australian made section of painter line currently in use. I have these in reels. I can sell this by the metre, but this is totally different from that. There was a great mystery all the time as to where this was.

Getting back to the *Van Diemen* after it left the search scene, after the dives on 17th, it went to Beauty Point and got there at approximately midnight. The dive squad got off, got into the vehicles and returned to Hobart. With regard to the *Van Diemen*, I have heard that Gilbert Pearce wanted to search the Furneaux Group, which would have been a wise thing to do, but he was ordered to go direct to Hobart and on or about 19 April, cocktail parties were being held on the back deck of the *Van Diemen* on the River Derwent.

I will now go to the three people in the life raft. I know the coroner has said that they were dead by the 11th, but I refer to the evidence of the forensic pathologist to the coroner. The question from the coroner was, 'In your opinion, how soon before you inspected them had they died?' He apologised that he could not be more precise because of the differing decomposition rates between the two bodies: one was buried and one was laying on the beach. In his opinion, they had been dead for between 10 and 14 days. He inspected them on 3 May. There are 30 days in April, so that means they died somewhere between 23rd and 19th—about the same time as the cocktail party was being held on the *Van Diemen*.

Senator O'BRIEN—Getting back to the life raft itself, you told the coroner there was a special survival booklet located in the raft, which was an AMSA publication.

Mr Hooper—Correct.

Senator O'BRIEN—What is the significance of that booklet being located in the raft?

Mr Hooper—There was a copy of it put into the inquest as an exhibit. The significance of it is that the book talks about hypothermia and dehydration—two very important events in life raft survival. The book explains how to close the life raft off to insulate it. It then goes on to quote research in the Northern Hemisphere. In subzero temperatures with the life raft closed off, the air temperature within it will increase to a minimum of 16 degrees Celsius within one hour simply by the stored heat of the people in the raft itself.

Senator O'BRIEN—Does it matter how many people are in the raft?

Mr Hooper—I would argue that it was possible that the rate of increase would slow down if the raft was not fully loaded. However, in this case, I would argue that it did not really matter anyway, because April is at the height of our game fishing season when the waters around Tasmania are never warmer. They are not colder; they are warmer. The mean temperature in eastern Bass Strait would be somewhere around 17 degrees Celsius. That might not be comfortable but it is not hypothermia generating stuff.

Senator FERRIS—Mr Hooper, if you are correct in your assumption, why were the flares unused? Why were all the provisions not exhausted, in particular, the water? I am not doubting your supposition; I am simply questioning it. If your supposition is to be logically followed, these people would have to have been drinking water and they would have tried to use all the flares, surely. They certainly would have been eating some of the food. How do you explain that in the coroner's finding?

Mr Hooper—I was invited by Tasmania Police, by the police assisting the coroner, to inspect the life raft at the police garage, which I did do. There were two satchels containing the survival pack in that life raft and the contents of them were still in there. I opened them and examined

them. Of 20 half-litre satchels of water, one and a half satchels was left. They were good drinkers. Of the 500 gram containers of food, only one of them was left. So they were hungry as well as thirsty. There were also batteries on that life raft providing power for the lights which gave light for 12 hours. They would have been gone after the first night, and they were indeed flat. There were six silene lights, which give 12 hours of quite acceptable light, in the survival pack. All six of those were used. So the forensic pathologist said, right at the start of his evidence, that he believed that they lasted for at least seven days. The fact that they used all those things concurs with that evidence.

With regard to the dehydration piece of it, in average moderate conditions with people breathing, your body loses approximately half a litre of water per day. These people had seven half-litre satchels of water each. Just because they did not get half a litre of water a day does not mean they would have died. It means that the moisture content of their bodies would have started to drop. If they were seasick or had diarrhoea the moisture loss would have increased grossly. However, they would not have had a chance to die within two days. In my opinion it would have taken seven to 10 days.

Senator FERRIS—Do you discount the coroner's comment on page 27 where he says that on 11 April the temperature was 10 degrees Celsius, giving a survival time of one to six hours?

Mr Hooper—I absolutely refute that. That is impossible.

Senator O'BRIEN—If they were in the life raft?

Mr Hooper—Yes, if they were in the life raft; but I argue that the water temperature would not have been that cold anyway.

Senator O'BRIEN—That is the air temperature he is talking about.

Senator FERRIS—On the evidence you have just given about the consumption of food and water, it is clear that in your view they would have been alive for longer than six hours to have consumed that quantity.

Mr Hooper—Yes. The *Survival at Sea* manual, which goes into these aspects of survival, instructs the people in the life raft not to drink water for the first 24 hours. The reason for that is that you want your waterworks to shut down. There is no use drinking water and then urinating it over the side. If the body senses that it is starting to dehydrate it will close down the bladder and you will not wee. That is documented in this book.

Senator FERRIS—Was there evidence the book had been read?

Mr Hooper—I sent off faxes of selected pages from the book to the coroner's advocate, Lorenzo Lodge, and I kept the copies of the things that I faxed with the fax sheet. I have them here.

Senator BUCKLAND—Does that indicate that they had read it?

Mr Hooper—The faxes had got through to his office. Whether he had read them I do not know.

Senator BUCKLAND—Did those on the life raft read the book?

Senator FERRIS—That is hard to know.

Mr Hooper—If there were three people sitting in a life raft for a number of days with nothing else to do they would read the book.

Senator BUCKLAND—We do not know that, do we?

Senator FERRIS—Do you think Mr Hill would have been the sort of person to have done that?

Mr Hooper—Mr Hill did a lot of strange things but I think someone would have read the book. Kirkpatrick was a deckhand on the fishing boat. He would have understood the significance of it.

Senator FERRIS—When the life raft was found so far away from the search area were you, as somebody who has spent a lot of time at sea around Tasmania, surprised at where it was found?

Mr Hooper—No, this has happened before. There is a chilling, frightening similarity to another incident. In December 1975 a yacht called the *Bunyip* set sail from Melbourne on a voyage to Devonport. It got caught in a south-westerly gale of about 60 knots. A crewman was washed overboard and drowned right there and then and the yacht was badly damaged. The three survivors got into the life raft they had—an old Beaufort—and they drifted for three days. When the yacht sank it was approximately 30 or 40 nautical miles short of Devonport which should have been on the path of the *Margaret J*'s life raft. Three days later, in those strong winds and with an inadequate drogue, that life raft rocked up at Flinders Island, four nautical miles from where the *Margaret J*'s life raft went ashore. So I am not surprised at all.

What I am surprised about is the difference between the two searches. On 20 December Inspector Byrne, then from Devonport, and another police officer chartered an aircraft and flew backwards and forwards from King Island to Flinders Island for about five hours, searching for the *Bunyip*. Dick Richey, who was then very prominent in search and rescue, flew with Constable Darryl Johnson from Bridport to Flinders Island and searched. They knew where to look. There were four aircraft and an RAAF Orion from Sale. All these resources went into finding these three men, who were successfully rescued. But all we got on this particular search was that it was beyond our resources. It was too much effort and money. The social agenda of the *Van Diemen* went on but it was too much money.

Senator FERRIS—What are you saying, Mr Hooper? Cut to the nub of what you are saying. Are you saying that the police deliberately engineered an agenda to stop the search?

Mr Hooper—No. What I am saying is—

ACTING CHAIR—Senator, I am not sure that Mr Hooper can actually answer that, because it really does not relate to the role of AMSA or AusSAR in the search, so we really should confine ourselves to—

Senator FERRIS—I agree, Chair, but I think that the accusations or the observations that Mr Hooper has made this morning are pretty serious. So that they can be properly handled and not remain as rumours to further antagonise and upset these families, they should be laid out on the table so that they can be dealt with 18 months later.

ACTING CHAIR—By the same token, I do not think that we can examine motives or things of that nature with respect to our questioning.

Senator O'BRIEN—I suspect it would be supposition by this witness about what was in the minds of people. He can only give evidence as to what he knows and state his own views about what was appropriate. I go back to some of the issues relating to your supposition or your informed view which conflict with that of the coroner about the likely time of death. You talked about the level of insulation against the weather that the raft provided.

Mr Hooper—Yes.

Senator O'BRIEN—Did you say that it was tested in Arctic or sub-Arctic conditions?

Mr Hooper—The Surviva life raft is a SOLAS approved life raft. To get that approval it has to go through a series of tests, the temperature test being one of them. There are drop tests: it must survive a 30-metre drop from the deck of a ship into the sea and be functional. It must do all of those tests. The Surviva was such a life raft, so it would have been at that stage that these tests were done. However, that is at about a 16-degree increase in temperature in the raft. This would have been information gathered by marine authorities, including AMSA, over many years. That is why it appears in their publication. It is very sound advice.

Senator O'BRIEN—I understand that the double insulation of the floor of the raft is critical to maintaining the internal temperature?

Mr Hooper—It insulates your body from the cooling effect of the sea. Alternatively, if the life raft is in tropical areas, you have an in-built airconditioning plant. You let the floor down and allow for the cooling effect of the sea. You open the canopy so that the breeze can come through. All that is explained in the *Survival at Sea* manual.

Senator O'BRIEN—There was evidence in the coronial inquest from Mr Boyle of the Australian Maritime College, where he cast considerable doubt on the ability of the men to survive in the life raft. He said that it would have been very unstable in high winds.

Mr Hooper—The Surviva life raft has seven water pockets. Each one of those water pockets holds approximately 20 litres of water. The combined weight of those would be something like 105 kilograms. I conduct life raft drills. I did a recent one at the Devonport pool with yachting people who wanted their yachtmasters certificate. One of the exercises they had to do was to right an overturned life raft. We got a six-man Surviva life raft to the edge of the pool and tried to tip it over. It took four of us, grunting and groaning, just to get it over on its lid. Even then we had to wait until some of the water had drained out of the water pockets before we could

manage it, it was so heavy. Added to that, the *Surviva* has a huge SOLAS-approved drogue. That drogue was set. It was organised in the packing of the life raft, so it set itself automatically as soon as it inflated. When I examined the life raft at the police garage, it was still attached to it. But, significantly to me—

Senator O'BRIEN—What is a drogue?

Mr Hooper—It is a sea anchor. The drogue is always on the windward side. The raft is being blown down the leeward and the drogue is on the windward side. As well as lifting up this huge weight of water to roll it over, the wind has to overcome the drag of the drogue as well. With due respect to Tony Boyle, Mr Boyle is a lecturer in shipboard safety at the Maritime College. He has no knowledge of the construction, repair or features that relate to the construction of life rafts. While Mr Boyle has his uses professionally, I would say that he is not a life raft expert.

Senator O'BRIEN—With regard to his evidence, rather than his qualifications, he suggested that the men had little chance of surviving in very rough conditions. What effect would rough water conditions have on the stability of the life raft?

Mr Hooper—Over that period, the worst wind that I saw was 50 knots. The people on the *Bunyip* had inadequate water pockets and no drogue on their life raft, and their life raft was not tipped over. They had no difficulties. The three of them survived in it, and they were in 60 knots of wind. Going back through the weather records, on the day that vessel sank the wind speed was 20 to 25 knots, which is not all that horrific. You would think twice about taking a 10-foot tinnie to sea but, for the purposes of survival equipment, that is not significant. On Easter Sunday it blew 50 knots. That is quite dramatic. They would have been uncomfortable and they might have been seasick, but their lives would not have been at risk. By comparison, we go to the 1998 Sydney to Hobart. On that occasion, it was blowing 80 knots. You had a real humdinger there. It was life threatening.

One of the two life rafts deployed was an RFD Petrel in dubious condition. It got rolled over twice during the night. The men were in it for 24 hours before being rescued by helicopter. Despite being in poor condition, that life raft did its job. Unfortunately, another one—a new one—failed, and three of the five men in it died. But it is significant that the Petrel that retained its floor and water pockets only got flicked over twice during the night whereas the other one, because it lost its floor and water pockets, was like being inside a washing machine. The two who survived did so only because they still had their safety harnesses and they strapped themselves into what was left of the life raft. But the argument that the *Surviva* would have been inadequate in the weather conditions prevailing at that time—and 50 knots would have been tops—is just preposterous. They would have had an uncomfortable but safe ride.

Senator O'BRIEN—What about securing the raft against water being blown in or splashing in?

Mr Hooper—That happens automatically when they insulate themselves inside.

Senator O'BRIEN—So it was just a zip-up canopy?

Mr Hooper—No. There were two entrances, one on each side; a large velcro patch about as big as your hand; and an elasticised edge. You pull the elasticised edge down over the top

chamber of the life raft, and the velcro patch on the inside of the thing glues to the one on the top chamber and will not readily come undone.

Senator O'BRIEN—It is not hard to do, in other words.

Mr Hooper—It is easy to do up and easy to undo. There is a small immediate action manual in the life raft, which explains all this and how to do it. There are also illustrations on the inside of the top chamber, which the occupants can look at, that tell them how to close the canopy top. All that was there for them.

Senator O'BRIEN—I turn to knowledge of using the contents of the raft. I think you have already given evidence about this, but I want to be clear. You have no doubt that the manual available would have told the occupants how to use the raft contents, its water and food?

Mr Hooper—Yes.

Senator O'BRIEN—Can you say, from your experience, how that information has been used in previous incidents like the *Margaret J*, where perhaps for the first time experienced people found themselves in a life raft?

Mr Hooper—It is in plain, simple language. It explains in plain language how to survive and what to do. Most of us want to survive; we have an instinct for living. The only way people would not survive is if they utterly dropped their bundle and the will to live just left them. That is not unknown. There is another question that I have not answered, in relation to the flares. There were two red hand-held flares and one orange smoke flare in that life raft, which were packed to coastal regulations. One red hand-held flare and one orange smoke flare were still in the raft when I inspected it. One red hand-held flare was missing. I assume they used it, but without anyone searching there is no point. Various books say: 'Don't waste your resources. If there's no-one there to see a flare, don't use one.'

Senator O'BRIEN—Going to the communications, you said you had two calls from the police on 17 April. Did you receive any on the 16th?

Mr Hooper—No. My call to them was the only one.

Senator O'BRIEN—In your conversations you attempted to impress on the police officers you spoke to the merits of the raft and its ability to keep men alive?

Mr Hooper—Yes.

Senator O'BRIEN—You offered the police a list of equipment on the raft but, I understand, they did not pick it up until 18 April?

Mr Hooper—Yes. They picked it up. I was on leave at the time and I organised our people in Launceston to find the document and to hand over a photostat copy of it—to keep the original. They did that. Someone arrived there, and it was picked up.

Senator O'BRIEN—Can you supply the committee with a copy of the document?

Mr Hooper—Yes.

Senator O'BRIEN—Can you tell me what communications you had with AusSAR about the raft or any related matters?

Mr Hooper—I had no contact with them at all.

Senator O'BRIEN—To your knowledge, they never made an attempt to contact you?

Mr Hooper—No.

Senator O'BRIEN—Did you attempt to contact them?

Mr Hooper—No.

Senator O'BRIEN—At no time? What about after 30 April?

Mr Hooper—My only contact was with Tasmania Police.

Senator FERRIS—Didn't you think that you might have had some information about that raft that might have been useful to AusSAR? I am not being critical of you for not ringing them; I am wondering why they did not ring you.

Mr Hooper—I was in court when all the telephone conversations between officers of AusSAR and Constable Archer were being played back. I noted that at no time did Constable Archer ask them to take the search over. My understanding of the protocol is that, had he done so, they would have had to. But he did not. He asked hypothetical questions all the time.

Senator FERRIS—Did they mention the raft in those conversations at all?

Mr Hooper—Yes. The raft was foremost—the drift rates of rafts and what have you—and this was on 17 April.

Senator FERRIS—Do you think they would have known what was in that life raft without coming to you to find out?

Mr Hooper—Yes.

Senator FERRIS—How would they have known without asking you?

Mr Hooper—My service station is approved by AMSA. They approve life rafts.

Senator FERRIS—They would have had on record in Canberra exactly what was in that life raft so they would not have needed to come to you?

Mr Hooper—Yes. They would not have needed to come to me.

Senator O'BRIEN—Once they knew what sort of raft it was?

Mr Hooper—The only difference was that, while it was a SOLAS quality raft, it was not on a Commonwealth survey chip. Therefore, the contents of the pack only had to comply with the USL code.

Senator O'BRIEN—For the record, what does USL stand for?

Mr Hooper—Universal shipping laws. In that vein, it was packed to coastal regulations. One reason there was no EPIRB in the life raft is that coastal regulations do not require them to be there.

Senator FERRIS—Did you ever suggest to Mr Hill that he should put one in?

Mr Hooper—I serviced that life raft approximately five times. Initially there was one in it but the batteries went out of date. I suggested to him that we put a new one in, and he asked the price of the new one. It was \$220, so he declined and it never went in. It was a commercial decision that he made.

Senator FERRIS—A pretty costly one.

Mr Hooper—It was indeed.

Senator O'BRIEN—I understand that there are a number of options for EPIRBs. There is even an option for an EPIRB that might be fitted to the external wheelhouse of a vessel which is released if the vessel goes under.

Mr Hooper—Yes; that is a 406-kilohertz EPIRB. They are fairly expensive items. The cheapest is about \$1,700. They can be manually activated and/or automatically activated. The automatic one that you are thinking of has a hydrostatic release that, as the ship sinks and gets to a certain depth, releases the EPIRB and it comes up to the surface activated. In the process of that activation it tells AusSAR, if they are the ones looking for it, that it has been automatically activated. It gives them some idea of the nature of the emergency. For example, if it has been manually activated, there must be people there to activate it, so that is a better sign.

The others, the 121.5-kilohertz and 243-kilohertz EPIRBs, are all manually activated. The ability of the satellite to track them is nowhere near as good as with the 406. There is a reasonable time delay until a satellite can get a reasonable fix on them: it may be half an hour or two hours, and the maximum is six hours, but it eventually gets a fix. The beauty of the 406 is that it not only says where they are quickly and with reasonable accuracy, it also says whether it has been automatically or manually activated and it says who they are, because all the 406s are registered. They can go into the computer and find that it is the *Margaret J* and that it has a crew of three.

Senator O'BRIEN—Would that be a better option, albeit an expensive one, than the location of an EPIRB in a life raft?

Mr Hooper—I very much defend the one in the life raft because the life raft is the last port of call; it is your last chance. There are opinions about the sinking of the *Margaret J* that say it happened quickly, but I argue that it was a bit more casual than that. They left behind, to sink

with the boat, two EPIRBs that they could have actually used—that is incredible. There were two radios switched on which were unused—equally incredible. They took, of all things, a wretched mobile phone to call for help. And they tried to call for help—that is how they were able to ascertain the time of the sinking—but it failed them because of the nature of mobile phone signals. It did not work for them, which is very unfortunate. But there is all this mandatory equipment—the EPIRBs—and one of them had out-of-date batteries but that would not have mattered because it still would have worked and one of them was in accordance with MAST regulations.

Senator O'BRIEN—I think it is pretty clear that had one of those EPIRBs ended up in the life raft we might have had a different outcome. Would it have mattered whether they had been activated in the life raft or on the vessel?

Mr Hooper—No, it would not have mattered.

Senator O'BRIEN—If the vessel went down?

Mr Hooper—Well, if it had been still in the vessel when the vessel sank, the signal would have stopped because the water pressure broke the containers of them.

Senator O'BRIEN—In terms of AusSAR's knowledge of life rafts and the like, you gave information to the Tasmania Police. You believe AusSAR had enough knowledge to know of the survivability of life in a life raft?

Mr Hooper—I in my innocence naturally thought the Tasmania Police would refer the matter to Australian Search and Rescue and that it would all happen, but it did not.

Senator BUCKLAND—I have a couple of questions about the life raft itself to clarify it in my own mind. I think you said there were seven 20-litre water pockets, or was it five?

Mr Hooper—There are seven. There are eight sides to the life raft and one side has the cylinder in it, so that is occupied. Each of the other sides has this large water pocket which is lead loaded so that it fills quickly.

Senator BUCKLAND—How does it fill?

Mr Hooper—Just with seawater. It is in the water; it is on the floor of the raft underneath.

Senator BUCKLAND—So it just fills automatically?

Mr Hooper—It fills automatically.

Senator BUCKLAND—The painter rope is the other thing that fascinates me somewhat. You say that it is secured to the vessel itself at a point that is secure. Could that point have broken with the vessel sinking? You said there was no evidence of the painter rope still being attached to the vessel. How would it become dislodged from the vessel, assuming that you undo it when you get onto the life raft?

Mr Hooper—I did not know at the time, but Donna Beeton, the partner of Kirkpatrick, told me that she had looked at the life raft. With this particular end of it, all this is inside the canister and this bit sticks out. From this loop is a metre and a half of a similar line, and that should tie off to a strong point. When this debate about painter lines was coming on, she said she saw the painter line was actually tied off to the cradle that the life raft was sitting on. When I inspected the *Margaret J* the cradle was still there and the generator they said had been stolen was still there and firmly bolted down. That painter line, all 25 metres of it, would have flaked out. The last bit of it, this end of it, goes onto the operating head and sets a cylinder off and the bitter end goes round the strong point in the life raft, as I have explained. If the life raft is launched without this being tied off, it simply blows away.

Senator BUCKLAND—So you would have to physically untie that end.

Mr Hooper—You would have to physically untie this end to remove it.

Senator BUCKLAND—I am sorry, the occupants of the life raft would need to untie that end.

Mr Hooper—Yes. I have not mentioned this, but when I inspected the life raft I noted the drogue was attached and had been in use, but this end of the painter line, which would normally be tied off with a bowline and a tape end, was missing. I thought: why would three blokes in fear of their lives bother to remove that? But it was removed. That is also one of the things that fuels my theory that the police removed the painter line.

Senator BUCKLAND—I am still a little unclear about this; I am sorry if I am not putting the questions to you sufficiently clearly. Someone entered the life raft. How did they dislodge themselves from the vessel that was now in distress?

Mr Hooper—Inside the inflation tube of the life raft there is a large picture showing a man holding a knife and cutting the painter line. There is a floating safety knife packed in the life raft for that specific purpose, and a picture showing how to use it. So you do not have to read the manual; the life raft tells you. That is what you do.

Senator BUCKLAND—Okay. I thought you might untie it, but you in fact cut it. That is clear now.

Mr Hooper—The irony of the whole thing is that, if they had ignored that and hung off the wreck by the 25 metres of painter line, they would still be here. It is very unfortunate.

Senator O'BRIEN—It is the one instruction you think they should not have followed.

Mr Hooper—That was the one instruction that maybe it would have been wise not to follow.

Senator BUCKLAND—After recovery of the vessel, the painter line attached to the vessel itself was never found?

Mr Hooper—Small bits and pieces of it. I inspected the wreck in late November and I was deliberately looking for it. I searched and searched but I could not find any. But there were

some oily, horrible, tangled-up nets—they were really badly tangled. I formed the view at that point that the painter line had been removed, that it had been interfered with. I thought, ‘Where would you go to find painter line where no-one else has found it?’ So I went into this horribly, oily, dirty mass of tangled netting and, lo and behold, there was about a metre and a half of it.

Senator O’BRIEN—Of that particular—

Mr Hooper—Of that particular painter line.

Senator BUCKLAND—And that is not commercially available?

Mr Hooper—It is not commercially available.

Senator BUCKLAND—Which could indicate that during the salvage operation, where the police were not present, it could have been cut for purposes of—

ACTING CHAIR—This is getting a little outside the scope of where we really should be with this particular matter.

Senator BUCKLAND—I understand that. I would like an answer to the question.

Mr Hooper—I would suggest that there were two salvage attempts. The first one was done by the police themselves, and all the tangling of the netting and various bits and pieces would have taken place then.

Senator FERRIS—Do you believe that the pieces were cut or had broken?

Mr Hooper—They were cut. There was one piece that showed evidence of chafe but generally they had been cut.

ACTING CHAIR—Mr Hooper, thank you for your evidence this morning. A copy of your evidence in the *Hansard* transcript will be forwarded to you as soon as it becomes available. That concludes today’s hearing. I thank the witnesses, senators and Hansard.

Committee adjourned at 12.18 p.m.