

THE

MARLBOROUGH MYSTERY

'We still cannot find evidence that links Scott Watson to this tragedy. It has led us to believe beyond any doubt that Scott Watson is innocent.'

MIKE KALAUGHER

**THE
MARLBOROUGH
MYSTERY**

MIKE KALAUGHER

First published in New Zealand in 2001

Copyright© 2001 Mike Kalaugher

ISBN 1 8771 78 91 8

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means electronic, mechanical, photocopying, recording or otherwise without the prior written permission of the publishers.

Contents

About the author		5
Foreword	<i>by Arthur Allan Thomas</i>	6
Preface		7
Chapter one	<i>The disappearance of Ben Smart and Olivia Hope</i>	10
Chapter two	<i>Chronology of the investigation</i>	14
Chapter three	<i>Circumstance or evidence?</i>	25
Chapter four	<i>Building a case that fits</i>	38
Chapter five	<i>Changing the tune</i>	55
Chapter six	<i>Ketch vs sloop – the evidence re-examined</i>	88
Chapter seven	<i>Where was the ketch?</i>	106
Chapter eight	<i>The mystery man</i>	127
Chapter nine	<i>What is really known about the mystery ketch?</i>	141
Chapter ten	<i>Conclusion – and a plea for further information</i>	158

About the author

Mike Kalaugher is 53 years old, is married to Jenny, and has an accounting practice on Waiheke Island. He comes from a yachting family and sailing has been a lifelong passion.

He competed in the 1996 two-handed Round the North Island race and survived the extreme conditions of the Sydney to Hobart race of 1998 in a 30-foot yacht. Most weekends you will find him sailing the Hauraki Gulf.

Mike has written accounts of these events and articles on heavy-weather sailing for yachting magazines in New Zealand and the USA. His account of the 1998 Sydney to Hobart race was included in the book *Surviving the Storm* by Steve and Linda Dashew, published in the USA.

Foreword

In 1970 most New Zealanders thought of me as the perpetrator of a double murder. In 1979 I was granted a royal pardon - my innocence proven.

The police investigation was later proven by a Royal Commission of Inquiry to be corrupt. Driven by desperation to gain a conviction. The police were resourceful enough to sell to a jury a convincing story on two different occasions years apart. Both would subsequently condemn me.

Because of my own experience, I know that it is possible to be tried not only by a jury but by members of the public. There are the pressures of publicity in general and pressure on the press to get a good story out. It is easy to view someone as guilty from the onset.

This concept cost me close to ten years of my rightful freedom.

My challenge to you is to read this book with an open mind.

Arthur Alan Thomas

Preface

In the summer of 1998 my wife, Jenny, and I were cruising in the Hauraki Gulf. We heard the news of the disappearance of Ben Smart and Olivia Hope, two young people who were partying in the Marlborough Sounds on New Year's Eve, the prominence of a 'mystery ketch' then the focus on Scott Watson.

That two young people should go missing within the yachting community was strange enough: that other yachties on a ketch were possibly responsible, worse. It took us a little while to realise that this was not the usual yachties' party. It appeared that there were a lot of people who knew little or nothing about boats.

When the reports (and rumours leaked as news) as to why Scott Watson was the prime suspect began to filter through, we and lots of yachties started making jokes. "Why are you hanging off a rope cleaning the side of your boat, I'm going to report you."

Nobody makes jokes any more.

A year or two ago we at the eastern end of Waiheke Island. We arrived late in the evening, finding approximately 50 boats in the bay, a party going strong on the beach. We moored on the outer perimeter of boats, where we saw a young man, drunk as a lord, rowing around in his dinghy trying to find his boat. Eventually he passed us, heading out towards the Coromandel Peninsula. We tried to persuade him that he should come and sleep on our boat, but that did not work, so we offered him a drink. That worked. After an hour or so, it was not difficult to convince him to sleep down below on our boat and find his own boat in the morning. When we awoke, he was gone - we assumed he had found his boat. We didn't even know his name, but we thank God this guy did not go missing. With hindsight, we are grateful he did not change his mind after we were asleep, get back in his dinghy and continue on his way to the Coromandel. The Police would have probably found an empty dinghy in the Firth of Thames and we would have been his murderers, not his rescuers.

So we continued to follow the Watson case, and were perplexed when it was not thrown out at the Depositions hearing and shocked when Watson was convicted. We still had not heard or read any real evidence that tied him or his boat to Ben and Olivia's disappearance let alone to rape and murder. We decided we could not let the matter drop.

We started investigating in earnest, although we agreed that if we found anything that pointed in Scott Watson's direction we would call it off and enjoy our yachting. We studied everything we could lay our hands on: interviews with witnesses, trial transcripts; we talked to literally dozens of yachties, yacht designers world-wide, and witnesses who reported sightings of the ketch. The list goes on and still we cannot find evidence

that links Scott Watson to this tragedy. Nor can other supporters who are looking into other areas.

In fact it has led us to believe beyond any doubt that Scott Watson is innocent.

The following is the result of some of the inquiries made to date. It is by no means a definitive account, as to cover every aspect would require a book the size of an encyclopaedia. Instead, I have focused on what the police and prosecution put forward as their main arguments, and on the yachting aspects.

ONE

The disappearance of Ben Smart and Olivia Hope

This is the story of how the young partygoers Ben Smart and Olivia Hope went missing on the early morning of 1 January 1998. They disappeared from the New Year's Eve party at Furneaux Lodge, in the Marlborough Sounds. People throughout New Zealand and overseas felt the pain of their loss.

This is the story of how the confusion of a tired man set the police off on a wild goose chase. It shows how the police investigation compounded this initial confusion instead of clarifying it. It shows how insubstantial evidence led to the wrongful conviction of Scott Watson.

It is a true story of pain, sadness, loss and confusion: of a police investigation that went wrong; and a criminal justice system that endorsed and intensified the errors in the police investigation.

It is also the story of the loss by the Watson family of their son Scott Watson, who was wrongly convicted of the murder of Ben and Olivia after a highly emotive trial based on

circumstantial evidence. From January 1998 he has been, and still is, subject to a sustained programme of character assassination. He is still in prison.

The result is that Ben and Olivia have not been found, and their parents do not know what happened to them. Scott Watson languishes in prison for a crime he did not commit. Millions of dollars of taxpayers' money have been wasted and the criminal justice system has been brought into disrepute.

The Watson family is astounded and saddened by the continuing lie that Scott would not like the bodies of Ben and Olivia found. It is in the interests of all three families for the truth and the bodies to be found. It would bring some closure for the Smart and Hope families, while the uncovering of some real evidence would be a positive step for the Watson family on the long road towards the release of their son.

It is also the continuing story of the quest of the Watson family and their supporters to find out the truth and the progress that has been made in that direction. Finally it is a plea for more information and help, to discover what really happened to Ben and Olivia.

The police investigation into the disappearance of Ben Smart and Olivia Hope was code named "Operation TAM". (Short for Tamarack.) TAM was characterised by information overload from day one, and confusion in the accounts of many witnesses. The overload was compounded by a huge increase in police staff allocated to the inquiry when there was no existing infrastructure to support that scale of investigation.

Ben and Olivia had disappeared from amongst up to 2500 people and were last seen boarding one of up to 200 boats moored off Furneaux Lodge. Furthermore, they were staying in a remote place during a holiday period. Nothing about the job was necessarily going to be easy.

The case has generated an overwhelming amount of information - but little knowledge. The number of police files disclosed to the defence lawyers exceeds 7500: no index was provided. Of course the files didn't all arrive at once, because the police were still working on the case right up to the trial. In amongst the more than 7500 files, mostly on disk, were the ones that read "Deleted" when opened. Then there was the scientific evidence, the photographs and videos, and the new evidence from secret witnesses.

The defence had to sift through and come to grips with all of this and then work out what was required from its own scientific witnesses and investigators, its expert witnesses and its private investigators.

Overlaying all this is the unfortunate fact that the police "lost the plot" at an early stage. They had standard procedures for producing identikit pictures of people – but not for yachts. Unable to find a boat, they concentrated on finding a murderer.

Four hundred and ninety crown witnesses were called at the trial. If there was some hard evidence, why so many witnesses? The amount of real knowledge provided to the jury, that would illuminate the truth about what really happened to Ben and Olivia, was in inverse proportion to the volume of information supplied. The crown supplied the jury with information from a police investigation that was fatally flawed.

In scientific research the problem often lies in how to interpret the research data. When an erroneous conclusion is reached it makes sense to review the way the conclusion was drawn from the data. To avoid drowning the reader with masses of information, I have made my own judgment as to what was relevant and what would lead to a true understanding of the case. Whilst much information has already come into the public domain, the spin that has been placed on it has not helped the

public to understand the case. When I have drawn from police statements, I have shown the police document numbers to clearly reference this. The material from the police files, and the transcripts of the depositions hearing and the trial, has been added to by additional investigative work done by others and myself.

TWO

Chronology of the investigation

In compiling this chronology I have drawn firstly from the information made public in the early days of the investigation, and then I have added other relevant information. Times and dates given in this section are as reported: this does not mean they are true. There is continuing confusion and uncertainty about the times and dates of significant events which took place during a holiday period when many of the people concerned were not wearing watches, or were not particularly interested in what time something happened. Furthermore many people were interviewed after a lapse of days or weeks after the events occurred.

Friday, 2 January

The alarm is first raised by Gerald Hope (Olivia's father) who advises the police that his pretty, blond, 17-year-old daughter Olivia and her 21-year-old friend Ben Smart, are missing, having not been seen since the New Year's Eve party at Furneaux Lodge.

He says it is out of character for Olivia not to be in touch with her parents. He faxes a list of people on the charter yacht *Tamarack* to the police. The *Tamarack* is a Davidson 28 (i.e. a

yacht designed by Davidson that is 28 feet long) and was anchored in the bay off Furneaux Lodge on New Year's Eve. Hope says he has learnt from the other people on *Tamarack* (including Olivia's sister Amelia Hope) that Ben and Olivia came aboard about 3.00 am on 1 January 1998. *Tamarack* was crowded, so they left at about 4.00 am on a rubber Naiad water taxi that already had three other passengers to be dropped off at other boats. The *Tamarack* crew said Ben and Olivia had been intending to go ashore to Furneaux Lodge, or to go over to the Vercoe Bach near Punga Cove where Ben and his friends were staying. Gerald Hope describes Ben and Olivia's clothing.

The people on *Tamarack* described the driver of the Naiad as a member of Furneaux Lodge staff: he was in his 50's, had very short hair and a tanned wrinkly face.

Saturday, 3 January

The police contact Ben and Olivia's banks to check on account movements. They place calls on radio channels to say the couple is missing. They contact motels to try and locate the missing couple, and post flyers in local hotels. Inspector Steve Caldwell of the local Blenheim police is in charge of the 'Missing Persons' inquiry. Police and volunteers search around the Furneaux Lodge area.

After questioning Furneaux Lodge staff, the police identify Guy Wallace (aged 32 and not very wrinkly) as the driver of the Naiad water taxi. Wallace was a barman at Furneaux Lodge, and was used to boats and sailing yachts. From about 4.00 am to 5.00 am he acted as a relieving water taxi driver and took partygoers back to their boats.

Wallace says he finished work at the bar about 4.30 am (*Author's note:* Remember that these times aren't necessarily very accurate.) He says he took 'a girl and a guy' (later

identified as Sarah Dyer and Hayden Morresey) to the Doctor's Jetty, about 500 m from Furneaux Lodge. Then on his next trip he took some people to the *Tamarack*, and picked up two people (later identified as Ben and Olivia) who said there were too many people on the boat to get any sleep. He proceeded to another boat, dropping the two off at about 5.00 am together with another man who had been in the Naiad.

The other boat was a timber ketch with round portholes. (A ketch is a yacht with two masts, the taller mast being nearer to the bow.) It was blue and white, really old and 38-40 feet long. The side was white at the bottom, then had a very dark blue stripe, and was white again above the stripe. It had a lot of rope.

Wallace draws a sketch of the ketch. He thinks it was moored just starboard of the Furneaux jetty. When looking at the map shown to him, it would have been next to the boat *Spirit of Marlborough*. The man who boarded the ketch with Ben and Olivia was 5 foot 9 inches tall, unshaven, and smelt like a bottle of bourbon.

Guy Wallace's account of where he went on his first few trips is confused and inaccurate; he had been working for 20 hours by the time he did his first Naiad trip.

Sunday, 4 January

Wallace says he thinks the ketch was tied up to a Markline launch. ('Markline' is the brand of a modern style launch.) The Coastguard is helping the police. The police take statements from some of the people on *Tamarack*. The switchboard at the Blenheim Police Station is becoming overloaded with calls from the public. The police circulate a description of the mystery ketch around New Zealand and send photos and descriptions of Ben and Olivia to police stations.

Monday, 5 January

The Hope and Smart families appear on TV. The police take statements from the people on the Andersons' runabout, which was rafted up to the *Tamarack*, from more people off the *Tamarack*, and from the other water taxi drivers. They interview Sarah Dyer, who says that she and Hayden Morresey were on Wallace's first trip; they approached him while he was cleaning up the grounds, shortly after 3.45 am, and he agreed to give them a ride back to the Doctor's Jetty. Dyer, Morresey and Wallace walked down to the Furneaux Jetty together. Dyer goes on to say that she and Morresey were not his only passengers – they had dropped off Ben, Olivia and another man at a boat before they carried on to the Doctor's Jetty. The other man had got on to the Naiad at the Furneaux Jetty.

Wallace's account of his first trip on the Naiad is contradicted by one of the people who were on the Naiad with him.

The police can't identify a ketch near the *Spirit of Marlborough*, and now think it was rafted between other boats. The families believe Ben and Olivia have been abducted, and are seriously concerned about how the abductors may react to publicity. The inspector in charge of the investigation announces that the pair had been among 2500 people who celebrated New Year at Furneaux Lodge.

Guy Wallace draws another sketch, *with a differently shaped stern* (see Chapter 6). He says the mystery man on the Naiad who boarded the ketch with Ben and Olivia had wavy, medium-length hair, a wiry build, and about two days' growth on his face. He was 'Bourboned up', and his eyes weren't focusing. He was wearing a Levi shirt with short sleeves, coloured between khaki and very pale green.

Tuesday, 6 January

The police ask the Air Force and Navy to keep an eye out for a mystery ketch at the centre of a search for two people missing in the Marlborough Sounds since New Year's Day.

Fifteen police officers have been brought in to work on the inquiry and they focus the investigation on finding the mystery ketch that Wallace, Morreseay and Dyer saw the three people board - the three people being Ben Smart, Olivia Hope and another man. Up to 200 boats are thought to have been moored in the bay at the time.

The police take statements from friends of Ben and Olivia, including those staying with Ben at the Vercoe Bach at nearby Punga Cove, and from the security guards at Furneaux Lodge. A report is received, initially through Coastguard, of a mayday (distress) call made by a woman on a vessel named *Mad Dog* on 2 January. The public is reporting many ketch sightings to the police. A young couple tell the police they had felt uncomfortable talking to a man named Scott who said he had previously been to prison; he had short hair, a solid build and wore a blue denim shirt. Scott Watson, aged 26, had his homebuilt steel yacht anchored in the bay off Furneaux Lodge and had gone ashore to celebrate New Year's Eve. His boat was tied alongside two other yachts.

Guy Wallace states why he thought the mystery ketch was rafted up (tied alongside) to other boats near the *Spirit of Marlborough*: "I knew there were about four or five vessels in the group, because I had been past them earlier when I went to the Pines."

(*Author's note*: Wallace is still confused about his different trips, and we will see later that this statement of his is the key to sorting out the confusion.)

The police contact boat owners to find which boats the mystery ketch was rafted up to. They want to contact Scott Watson to see if the ketch was rafted to his yacht.

A Detective Inspector from Christchurch takes over as head of the investigation.

Wednesday, 7 January

The police interview charter skipper Ted Walsh; he states he saw the mystery ketch leaving Queen Charlotte Sound between 10.30 and 11.00 a.m. on the 2nd January. On board was an attractive young female with long blonde hair sitting right next to a young man. They didn't look happy. The blond girl had on a black top with long sleeves. Another man was amidships. It was definitely the same ketch he had seen on 31 December moored by itself in Endeavour Inlet, near The Pines. Walsh had seen it approaching Endeavour Inlet during the day on New Year's Eve, and had passed the mystery ketch many times as he ferried people between Punga Cove and Furneaux Lodge.

Hayden Morresey is interviewed; he confirms the description of the ketch given by Guy Wallace, but does not remember it being rafted to any other boats. Morresey says it was the first Naiad trip that Wallace had done that night. Both Sarah Dyer and Hayden Morresey have now contradicted aspects of Wallace's account of his first Naiad trip.

Scott Watson returns to Picton and reports to the police that he was at Furneaux Lodge.

The Missing Persons inquiry becomes upgraded to a Homicide inquiry, to enable the allocation of more staff. The police dive squad is called in.

Thursday, 8 January

The police interview more Furneaux Lodge staff. Other water taxi drivers remember seeing the ketch. The police interview Watson for the second time and photograph him, and an updated description of the suspect is published; he is described as having tattoos. Police apply for a warrant to search Watson's boat and the homes of his parents and sister. They obtain photos of the boats in the bay and an artist's impression of the ketch is issued, with bulbous stern based on Guy Wallace's sketch of 5th January. More ketch sightings are reported by the public.

Sixty of the 200 boats that were present at Furneaux have now been identified. Shoreline searches of Endeavour Inlet begin.

Friday, 9 January

Stories of a 'Bar Romeo' filter through to the media. The Bar Romeo arrived at the Lodge at about 8.00 pm and left at about 4.30 am.

Around 60 searchers, including deerstalkers, DOC staff, and air force personnel join the police searches.

The police release a detailed description and sketch of the mystery ketch.

A local female police officer identifies Scott Watson as fitting the police description. (No, she wasn't at Furneaux Lodge!) Guy Wallace is shown a single photo of Scott Watson and constructs an identikit of the mystery man.

Saturday, 10 January

Police numbers are boosted from 29 to 44. Extensive ground searches are undertaken. The police try to cope with information overload. The focus of the inquiry shifts further towards Scott Watson. Hair is collected from the Hope residence, especially from Olivia's hairbrush.

Sunday, 11 January

Photo ‘montage A’ is constructed of six different people, one of whom is Scott Watson.

The interrogation of Guy Wallace – quoted at length in Chapter 5 – takes place.

An aerial search for a ketch off Gisborne is mounted; this ketch sighting seems promising but police hopes are dashed yet again.

Police have spoken to 300 of the people who were at Furneaux at New Year’s Eve, and they have been receiving up to 150 calls a day about ketch sightings.

Charter boat operator Ted Walsh goes public and says he saw the mystery ketch heading out into Cook Strait on 2 January.

Monday, 12 January

There is more follow up of the mayday call from *Mad Dog*. Some boys at Titirangi Bay, near the entrance to Pelorus Sound, are overheard by an adult as they hear on their toy walkie-talkie radios a distress call from some people on *Mad Dog*. First there was a male voice and then a female voice. The note at the end of police job sheet states ‘NOTE – Also ascertain from other staff that the vessel *Mad Dog* is now called *Blade*.’ Scott Watson had not actually named his boat, but was using the name *Blade* when he booked it into marinas.

The police search the Watsons’ family home. Later on, they start recording telephone conversations and bugging (Doc 41061) their home. Scott Watson’s boat is seized, taken out of the water, then trucked to Woodbourne. He is interviewed by the police at Picton from 12.30 pm to 8.30 pm. His sister is interviewed for a similar period at Blenheim.

Police start to 'build a case' against Watson: the focus of searches for bodies shifts to areas where he has been and where he is purported to have been seen.

From about this time some people coming forward with ketch sightings are discounted: the police 'have their man'. The witnesses who saw the ketch react with disbelief on hearing that the police are focusing on a 26-foot steel sloop and its owner.

From this point on the police get no closer to solving the mystery of the disappearance of Ben and Olivia, but they do go to great lengths to build a case against Scott Watson. This case was 'successful' in court.

The trial was held eighteen months after the last contact family and friends had with Ben and Olivia, who were not the sort of people to remain out of touch voluntarily. Despite extensive searching of Queen Charlotte Sound neither their bodies or any of their clothing have ever been found.

The Crown prosecutors said it was a logical conclusion that they had been murdered. Ben and Olivia were last seen boarding a small yacht with a third person. The Crown called many witnesses to establish that no other person who was at Furneaux Lodge was responsible for their disappearance. 'Their' Scott Watson was motivated by sex and had a long-harboured intention and desire to kill a woman. Because he disposed of the bodies and expertly cleaned away the forensic evidence, there was little for the police to find. Watson had lied to avoid detection but had admitted to others in prison that he had killed the pair.

Guy Wallace had picked Scott Watson as likely to be the man from a police photo montage. The part of the bay where Wallace dropped off Ben and Olivia with the man was significant: Wallace had always been consistent about where that was - in the same area as Watson's boat. Morresey and

Dyer supported Wallace on the location as well. But, the prosecutors' maintained, Wallace was wrong when he said that he had taken Ben, Olivia and the other man to a 38-40 foot wooden ketch. Jurors needed to treat the evidence of Morresey with care, they said, as he hadn't seen any other boats rafted to the ketch.

The prosecution's opening statement used carefully chosen words about the short-lived interest in ketches and the hundreds of ketch sightings reported by the public:

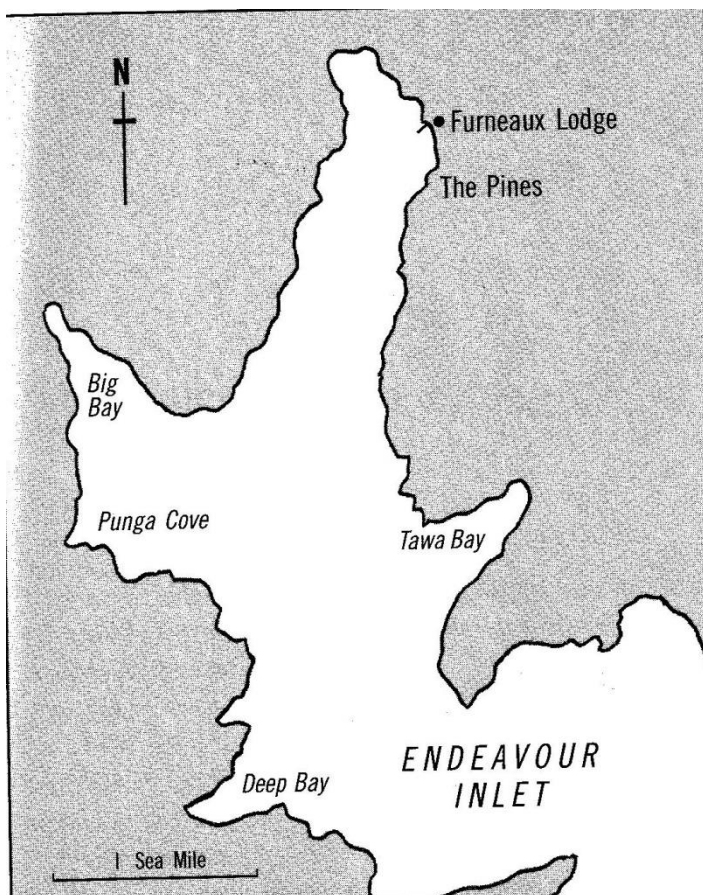
'Of course, as you would expect, all such sightings were considered by the police or followed up by them to see what light could be shed on the matter. But the end result of all this activity is that the police have been unable to locate any ketch of that description that had been at Furneaux Lodge and moored in the position given by Guy Wallace in relation to the jetty, rafted up to other boats, that could accord with the boat Guy Wallace said he dropped the three people off at.'

The picture the prosecutors paint of Scott Watson is quite ghoulish; he had apparently started preying on women as soon as he had gone ashore.

The two hairs from Olivia Hope which had been found on Watson's boat were a telling factor against him.

The jurors were told:

'The more certain you become that Watson was the man on the Naiad, the less concern you have to have about the reliability of the ketch. If it was Mr. Watson that was with them when they got off the boat, it was Mr. Watson that killed them.'



Endeavour Inlet is a large inlet within Queen Charlotte Sound. Queen Charlotte Sound is part of the Marlborough Sounds. The Furneaux Lodge holiday resort is at the north-east end of Endeavour Inlet, and access is by boat or walking tracks. 'The Pines', with its baches and jetties, is about 0.5 km south-west of Furneaux Lodge. Punga Cove resort is three nautical miles away to the south-west; access is by boat or motor vehicle.

THREE

Circumstance or Evidence?

A yachtsman who attended the trial as an interested member of the public compared the whole process to the fairy story of the emperor with no clothes.

Many people were aghast at the lack of real evidence. The most convincing part of the whole case appeared to be the Crown's portrayal of the defendant as a 'nasty piece of work'. The best one could say is, 'Well the evidence was not very convincing but he certainly sounds like a bad person, and who else could have done it?' This reminded me of the case against Arthur Allan Thomas, in which an ordinary man was portrayed as a murderer.

I, at first, accepted the view that Scott Watson sounded like a bad person, but the evidence about boats did not make sense to me as a yachtsman. What happened to the ketch, I wondered? I was quite prepared to walk away if it appeared that Scott Watson had somehow managed to kill Ben and Olivia. But the more I found out about the case the less convincing it became - and the less related to Scott Watson.

The two books already published on the case are quite divergent in their attitudes. *Ben and Olivia, what really happened?* was written by Jayson Rhodes and Ian Wishart. It is an excellent account of the case and the trial. It is critical in an intelligent, healthy way.

John Goulter, who worked in the office of Jenny Shipley, the Prime Minister at the time, wrote *Silent Evidence* the second book, which reads like a police response to the criticism in the first book. As the author drew so heavily from police sources he has repeated many of their errors. For example on page 109, he says Watson's boat had 'previously been known by different names, including *Cascade*, *Caligula*, *Terror* and *Mad Dog*.' When Watson booked into marina berths and paid for them he had used the name *Blade* for his boat. He had never called his boat *Cascade*. He had considered naming his boat *Caligula* or *Terror* but he had never used those names. His sister had suggested that he call the boat *Mad Dog* but he never had. Further down on page 109 of *Silent Evidence* the inspector in charge of the case is quoted as saying of the mayday call from *Mad Dog* that, 'We've gone back to the manufacturer's. It was not possible under any atmospheric conditions for those radios to pick up marine radio.' However, the toy walkie-talkies operate on 27.145 MHz and this is noted on police document 11135 of 20 January 1998. CB (Citizen Band) radios have HF (High Frequency) channels that fall in the above 26 MHz to 28 MHz frequency range and use AM. This is noted in police document 10707 of 12 February 1998. It is common knowledge that many cruising yachts and fishing boats carry a CB radio.

SOME PEOPLE WONDERED WHAT HAD REALLY HAPPENED

Had Ben and Olivia really both been murdered on 1 January 1998? Why not on 2 January, or 3 of January, or the fourth or

the fifth? Come to think of it, why were the police so sure that they had been murdered at all? The case was at first treated as a disappearance, then as an abduction; it was finally officially treated as a homicide so that more staff could be allocated to the inquiry. What exactly is this evidence that makes it so clear that two murders have taken place?

I NEVER KNEW HE HATED WOMEN – WHERE DID THIS COME FROM?

People who knew the Watson family and their son Scott began to have difficulty in recognising him as the same man they knew. They are just an ordinary kiwi family, they began to say. Sure Scott had been ‘off the rails’ in his late teens. He had some minor convictions for cannabis and petty theft and for being a nuisance. But he was out of that phase now - he had sorted himself out and built himself a boat. Quite proud of it he was, and justifiably so. He hadn’t stopped at building it; he was out sailing in it. What is this stuff about him being a loner? He is quite a social sort of guy. Sure he is a cheeky bastard at times, inclined to swear and wind some people up.

WHAT ABOUT THE BOATS NOT IN THE PHOTOS?

What about the boats that came into the bay after dark and left before dawn? The police claimed they had accounted for all the boats moored off Furneaux Lodge that night. Then some people began to realise that they seemed to have identified only the boats in the photos that were taken. The police called 490 witnesses at the trial to ‘prove’ that all the boats were accounted for, but they never did account for all the boats. They cast the spell of their own confusion over the jury. The police focus never shifted from the boats in the middle of the bay.

WHAT ABOUT THE SCRATCHES IN THE HATCH?

The crown said there were 176 scratches on the hatch which were consistent with the scratching motion of fingernails.

Chris and Beverly Watson's neighbour, Beryl, heard of how Scott's nieces (age two and four) had scratched the hatch, while the hatch was open, well before the New Year's Eve. Sandy Watson, his sister has also confirmed to me that it was her children who scratched the hatch, and that she was aboard at the time.

This was meant to have been a spur-of-the-moment crime. The forward hatches of all yachts are designed to be secured from inside the boat, for safety reasons. Nobody wants to be trapped in the bow of a sinking boat and to be unable to open the forward hatch to get out. Forward hatches are not designed to be secured from the outside, and this is common knowledge and accepted practice. Scott was preparing his boat to meet the safety standards for sailing offshore. A forward hatch that could be fastened from the outside would not meet New Zealand safety standards. The hatch can be opened with ease from below. There is no reason for a person who wants to get out to scratch it; they can simply open it and get out. The police investigation confirmed that the hatch on Scott's boat is designed like that of any other yacht, and there is no practical way of securing it from the outside.

The rear hatch (companionway hatch) that opens onto the cockpit can be secured from the outside. Most boats are padlocked here when there is no-one aboard. On a small keel yacht like Scott Watson's both the forward and rear hatch lead out from a common area below, there are no internal doors.

The other relevant point is that the scratches had obviously been made while the hatch was open, as it was not possible to make scratches so close to the edge when the hatch was closed.

Defence scientist Tony Gummer pointed this out to Detective Paul Merritt and Peter Wilson from the ESR Laboratory on 24 May 1999. It was clear that the scratches were not evidence of any wrongdoing. The prosecution wanted the jury to be able to picture a terrified Olivia scratching the hatch. Perhaps this vivid picture would remain in the minds of the jury even after the defence lawyers had destroyed its basis. The depth of the scratches was consistent with their being made by very young children – and definitely inconsistent with the scratches which would be made by a frightened young woman.

At the trial defence lawyer Bruce Davidson cross examined Peter Wilson of the ESR Laboratory:

Davidson: And then she {an ESR technician} made these two marks which you have just pointed out, do you recall that she was instructed to make the first mark in a hard fashion or with a degree of force or significant degree of force, call it what you might like?

Wilson: Yes, she made one mark with [sic, word missing]. It had a lot of downward pressure; I made a note of that.

D: Indicate to us please which of the two marks resulted from that.

W: From my notes the wider marks were the ones that were made with the harder downward pressure.

D: So by the wider marks, you mean with a greater gap between the ridging that puckered up on the foam.

W: Yes, the width of them.

D: Then she was asked to make a second mark in a lighter fashion.

W: Less pressure yes.

D: That mark was different in what way.

- W:** They were not as wide, they were 4-5 millimetres in width.
- D:** So in other words the ridging that puckered up from the foam was closer together, is that a fair way of putting it?
- W:** Closer together, not as wide yes.
- D:** The two marks, one made with the greater pressure and one made with the lesser pressure are quite significantly different in appearance aren't they?
- W:** I wouldn't say significantly different in appearance, they are different in appearance. One is wider, and one is narrower, it depends on what you call significant difference.
- D:** They are different in appearance.
- W:** They are different in appearance yes, they are different widths.
- D:** Would you agree that the greater number of the other markings on the hatch cover correspond visually with the marking made with the lighter pressure?
- W:** The greater number – there seems to be, if you are referring to those two there, a greater number yes had been made with a lighter pressure than actually digging out the foam.
- D:** So the Jury will be able to see this exhibit closely themselves in due course, but the greater preponderance of scratch marks on the hatch cover correspond or are similar to the experimental mark made with the lesser pressure?
- W:** Yes that is correct.

WHAT ABOUT THE DNA EVIDENCE?

The prosecution argued firstly that there was very little evidence of a crime on Watson's boat because he had cleaned up the evidence. This included extensive and selective cleaning. All hard surfaces had been wiped down. Secondly it argued that two hairs were found that came from Olivia Hope and that these were 'a telling factor against him.'

Let us firstly consider the absence of evidence that was inferred to be evidence of murder.

A real crime scene resulting from three people fighting and one being knifed and another raped and murdered in the confines of a 26-foot yacht, would assuredly have produced DNA evidence in the normal sense of that term. There would have been blood, saliva, faeces, skin, bone, semen or some other body substance that could be tested by the normal DNA methods. So the first point to be clear on is that, after rigorous and extended inspection and testing; none of this sort of DNA evidence was found at all.

The crime was described as being spontaneous. But it must have been carried out with great organisational skill and scientific knowledge. There was no evidence because the murderer had spontaneously managed to remove all trace of the crime with only primitive instruments at his disposal – evidence that a scientist in a laboratory would have difficulty in removing.

Watson or his sister had wiped down about 30-50 percent of the surface areas inside his boat using a dishcloth. This is not a sufficient area of cleaning to remove all DNA evidence if a double murder had really been committed on the boat. Furthermore the standard of cleanliness obtainable by the methods used would not be sufficiently sophisticated to remove all DNA evidence. Nobody tested what methods would be

necessary to clean all DNA evidence from a steel yacht (with carpet on the inside of the hull and on the cabin floor). They did find some blood, Watson's blood. He had cut his foot on an oyster while at Erie Bay. Fish blood was also present.

Scott Watson would have had to remove all the fingerprints and DNA evidence of the supposed murders whilst leaving the fingerprints and DNA evidence from his own presence. I am not aware of any method by which this could possibly be achieved. The scientific expert who pointed this out to me does not think that this would be possible.

I asked a retired police officer with homicide experience what a real crime scene was like. He told me that I would be surprised how far blood could be spread and what a mess it can make. There is nothing subtle or hard to spot about the 'normal' scene of a homicide.

To make any sense of the DNA evidence about the two hairs we need to proceed slowly and bear in mind the relevant dates.

22 January 1998

Susan Vintiner of the ESR Laboratory examines hairs that had been taken by other ESR staff from the blanket off Watson's boat. There were eleven such hairs. As they were from Watson's boat they were coded "YA" for yacht, 69 for the blanket, and then numbers 1 to 11. So you have the first hair being YA69/1. Similarly there were a few hairs from the scrubbing brush in the cockpit of Watson's boat.

All these hairs were extensively tested in New Zealand, Australia, and England and none of them were found to have anything to do with Ben Smart or Olivia Hope.

27 January 1998

The reference hairs taken mainly from Olivia Hope's hairbrush, by the police, arrived at the ESR Laboratory. They had not been counted by the police, nor were they counted by ESR.

7 March 1998

Vintiner examines the reference hairs from Olivia's hairbrush on the table. She puts them away, and changes the blotting paper. (But she doesn't even change her lab coat.) Then she gets out the hairs from the blanket off Watson's yacht and examines them on the same table.

She searches through these hairs and doesn't find any more that look as if they could belong to Olivia. She searches again through the blanket hairs and at last she is successful. She finds two more hairs that from their general appearance could have come from Olivia Hope - two hairs worth testing.

So now ESR has hairs YA69/12 and YA69/13.

A CTT Nuclear DNA test was done on hair YA69/13 and this test did not eliminate it. Following this success an SGN Nuclear DNA test was done but no result was obtained.

The hair was sent to Australia for more testing; but as the reagent blanks (tubes that contain all the chemicals that are added during the extraction process, they do not contain DNA) were not sent as well, the Australians were given no way of testing for contamination. This too yielded no conclusive result so the hair was sent to England for Mitochondrial DNA testing. The English test finally showed that the hair was contaminated and showed the DNA of at least two people. Bugger.

But there is one hair left - YA69/12. After no result from Nuclear DNA tests, this hair was sent to England for Mitochondrial DNA testing and the tests showed that it may have been a hair from Olivia Hope. I am sorry I can't be more precise than this. The technical reservations are that the

MtDNA test gave a match on 12 out of 13 locations, the confirmation test was of an arguable scientific standard, and another technical difficulty is that there is no New Zealand database for Mitochondrial DNA.

Mitochondrial DNA testing is a scientific tool for tracking changes measured in thousands of years. It can be used to determine the lines of maternal ancestry back fifty generations. In other words the hairs could equally have come from Olivia, her sister, her mother or another female relative. The testing does have some place in police investigations but care needs to be taken not only in carrying out the tests according to rigorous scientific standards but also in interpreting the significance of the results.

Let us consider other options of how the hair could have come to be associated with the blanket on Scott's boat. There are some valid reasons for a direct transfer straight from Olivia's head being an 'unsafe' conclusion:

Only one hair was found after a supposedly violent fight and double murder.

- ❖ The hair was only found at a later date after several searches.
- ❖ The sample hairs gathered by the police from Olivia's hairbrush were not counted by the police or the laboratory.
- ❖ The mystery ketch was anchored about 200 m from Scott Watson's boat, so a direct transfer of hair from Olivia Hope's head to Watson's blanket was physically impossible.

Secondary transfer is possible. Olivia's (or Amelia Hope's) hair could have gone to someone else's clothing, and from there to

Watson's clothing and hence to his boat. This would be quite possible in a crowded bar.

Here are some examples of secondary transfer:

- ❖ In one charge of rape (Queen Vs Damevski Melbourne 1992 from the Case Report of Jane Moira Taupin, M.A. 'Hair and fibre transfer in an abduction case') there were hairs found belonging to the victim and the rapist. There were also hairs found belonging to other people - such as the victim's mother and the rapist's wife. This shows that the mere presence of hairs is not, of itself, evidence of a particular person having committed a crime. In this case the neither the victim's mother nor the rapist's wife were involved in the crime – but their hairs were there.
- ❖ A researcher in mitochondrial DNA tested hairs he found on his clothing. ('Secondary Transfer of Human Scalp Hair' Gaudette, B.D. and Tessarolo, A.A. in *Journal of Forensic Sciences JFSCA* Sept 1987; 32: 5) He expected to find his own hairs along with the hairs of other people with whom he had been in contact. However he also found many hairs from people he had not come in contact with, so his curiosity was aroused. Hairs had arrived on his clothing by being transferred from one person to another then to another. This is quite common when we are referring to a small number of hairs such as one, two or three. If 50 hairs belonging to one person are found at a crime scene then it is a pretty safe bet that the person concerned had been at the crime scene. This is not so if only one or two hairs are found.

The blanket on Scott's boat had about 400 hairs. To save money the ESR staff tried only to find hairs from Olivia Hope and no enquiry was made to establish the source of any other

hairs. Susan Vintiner's letter to the prosecution, dated 11 June 1999, says that 16 of the hairs on the blanket came from animals. As no animals have been on Watson's boat it is clear that these hairs arrived by secondary transfer.

Aside from secondary transfer there is another way for hair from Olivia to be associated with Scott Watson: a mix up at the ESR laboratory is a possibility. The question here is whether the sample hairs from Olivia's hairbrush were mixed up with hairs taken from Scott's boat. This possibility cannot be ruled out. The Defence asked why the two hairs weren't seen on two examinations in January but were found on 7 March in the sample of hairs from the blanket. This was after the uncounted hair samples from Olivia's hairbrush had arrived. The jury was also reminded about the unexplained snip in the corner of the bag that held the reference hairs. Did this snip allow a hair to become separated from the bag? Was it a sign that some unauthorised tampering had taken place? In a laboratory with supposedly stringent standards, how can such a snip be left unnoticed?

At the time of the trial the ESR was itself under investigation. In the period of September to December 1998 the ESR told the Wellington CIB that some blood found at a crime scene in Wellington was at least 3000 million times more likely to have come from a particular person who lived in Christchurch than from an unrelated male individual chosen at random from the general population. Fortunately the Wellington CIB had the good sense to be able to determine that the Christchurch man had not been on the North Island at the time. The report on the ESR recommended not only that samples from crime scenes should not be examined on the same table, by the same person on the same day, as the reference

hairs – but that they should not even be examined in the same building.

The police held Scott Watson firmly in their sights. No other yacht of any description was subjected to forensic examination at any stage of their enquiries. Nor was the clothing of any other person tested.

FOUR

Building a case that fits

*I'll tell me Ma when I get home,
the boys won't leave the girls alone.* Irish ditty

The starting point of the police case against Scott Watson was the premise that he had been drunk at a party on New Year's Eve, and had tried to pick up a woman.

I have had comments to the effect that 'There but for the grace of god go I!' People have noticed that this method of nominating murderers gives the police a wide field of choice.

WAS THE MYSTERY KETCH NEXT TO WATSON'S BOAT?

An early possibility that the police considered was that the ketch had been rafted between Scott Watson's boat and the *Mina Cornelia*. Later they wondered if Watson's boat had been rafted the other way around, so that his stern was next to *Mina Cornelia*'s bow and vice versa. The police thought this could explain why Guy Wallace mistakenly believed there was a ketch. Please note, this type of theory is constructed without any regard to reality or experience. I can't ever remember seeing a boat rafted this way overnight. Although it is possible to raft boats bow to stern, there is no advantage in the practice, and there are some definite disadvantages. It is easier to

manoeuvre and control the boats bow to bow. When coming in at low speed to stop next to another boat, it is easier if you are bringing the bow into the wind. The boats lie more comfortably together bow to bow, as the windage on each is more even, the even balance keeping the group of boats head to wind. If the group of boats came more side on to the wind they would be more likely to drag anchor because of the increased windage. Even the wind flow over the boat is more comfortable for those below, as the hatches and ventilators are designed for wind from the bow. If the raft of boats start to drag anchor during the night it is easier for boats to peel apart when they are all bow to bow, and to do so without running aground. (Boaties are accustomed to going to sleep in a gentle breeze and finding that at 3.00 am it is blowing a gale from a different direction.)

The photos disproved the bow-to-stern theory. They also showed that there was no ketch rafted between the two boats. The Watson family was staggered when they heard these fantastic theories from the police. But it got worse! They were completely floored when the police told them that their son had murdered two people, and that he and his sister had then chopped up their bodies with knives in the galley of a 26-foot boat! The combined area of the galley and main cabin is about 2 m wide by 2.6 m long.

THE MAYDAY CALL FROM THE MAD DOG

On 6 January 1998, the police heard (Police Document Number 13410 - I have not altered the spelling or language of the quotations) that a woman at Titirangi Beach on 2 January ‘had youths next to her say they had heard on a CB radio that *Mad Dog* vessel sinking off Cape Lambert.’ The police naturally wondered whether this was related to the disappearance of Ben and Olivia.

My inquiries have revealed that the actual message was that the vessel was sinking off Alligator Head, which is the headland at one end of Titirangi Bay. If the call had really come from a boat off Cape Lambert, it is unlikely the youths would have heard it on their walkie-talkie radios. Titirangi Bay is on the approaches to Pelorus sound and is within an easy day's sail from Queen Charlotte Sound. (See map on page 148.)

On 11 January the woman was interviewed. Inquiries were made about vessels called *Mad Dog* and a racing yacht of that name in Christchurch was ruled out. The job sheet ends on 12 January with 'NOTE - Also ascertain from other staff that the vessel *Mad Dog* is now called *Blade*.'

The police check of Watson's boat revealed that the only radio capable of transmitting was a Uniden MC610 VHF, which could not have sent out a mayday call on the CB frequency range. The police also checked with Watson's girlfriend to see if he had ever had a CB radio on his boat. He hadn't. Later checking established that Watson could not have been within range for the kid's walkie-talkies to pick up a call.

When Scott's sister was interviewed on 12 January she mentioned in passing, at the beginning of the interview, that she thought her brother should call his boat *Mad Dog*. She had seen the name painted on a wharf in Picton. She said that she didn't know what he was calling the boat. In fact, Scott Watson had not settled on a name for his boat. He had launched it in August 1997 and didn't need to finalise the name until he registered the vessel.

SHAKING THE TREE

The police were trying to find two missing teenagers - and time was running out. If the young people were on a ketch, and it had headed off, then the radius of the circle to search was

increasing at about 100 to 150 nautical miles a day. Speed was essential. The implication is that the police must have had good reasons, which they did not make public, to believe that one of their 130 suspects, Scott Watson, was their man. However, I have all of the police disclosure files and there is nothing in them to substantiate this. At any rate, they pulled his boat out and give it a going over. They also searched his parents' house, planted bugs in his boat and in his parents' house, and tapped phones - even the local call box. Presumably, they hoped he would do or say something that would enable them to nail him.

All they found out was that Scott was angry the police had taken his boat (which was also his home), and that he consistently claimed to have nothing to do with the disappearance of Ben and Olivia.

Extracts from these tapes were played to the jury during the trial.

THE WITNESSES ARE MISTAKEN ABOUT THE MYSTERY KETCH!

The police claimed that the witnesses made a mistake - a genuine mistake of course. Ben and Olivia were not dropped off at a 40-foot wooden ketch with high topsides: they were really taken to a 26-foot steel sloop with low topsides. This is equivalent to confusing a truck with a Mini. A longer boat is usually wider and higher out of the water; the volume and weight of the boat increases out of proportion to just its length. The police claimed that it was dark so the witnesses couldn't tell. On the other hand, because it wasn't that dark, Guy Wallace could clearly see and remember Scott Watson - even though it took him over three months with considerable pressure from the police to do so.

Ironically the police accepted the witnesses' accounts that they had gone alongside the port side of the boat.

It took a while for the police to publicly swear off the hunt for the ketch. They did do follow-up work on ketch sightings after 11 January; it was still important to eliminate ketches to counter possible defence arguments. But they no longer made a serious and determined effort to find the ketch described by the witnesses. The focus had shifted to the owner of a small sloop. Perhaps it also depended on which police officer you spoke to: an early attempt by Steve McClellan to report the sighting of a ketch with portholes, in Pelorus Sound, was met with a response to the effect that, 'we are no longer interested in ketches - we have our man.' On this ketch, Steve said, were a young blond woman and a young man with dark hair. The pattern of ketch reports being dismissed was replayed around New Zealand and even from New Zealand police in Australia (12932).

A good example of this came from Richard Low in New Plymouth. He and two friends sighted a ketch out to sea off Cape Egmont early in January 1998. Later he rang the police 0800 number and advised them of what he had seen.

The sketch drawn by Low portrays the stern of the ketch more accurately than the police identikit. The drawing of the stern drawn by one of his friends shows the word 'Australia' on the stern.

Richard Low's report to the police was not passed on to the defence lawyers by the police. Low later contacted the defence himself, as he was concerned that relevant information might not be disclosed to them. In other countries the law about the police passing exculpatory evidence on to the defence is quite strict. Cases can be thrown out and convictions quashed if such

evidence is not passed on. (Exculpatory evidence, in layman's terms, is evidence that may prove the defendant is not guilty.)

I have heard that the New Plymouth police received quite a number of calls about this vessel (or one extremely similar to it) when it called in to New Plymouth. I understand that they may have spoken to two fishermen about the boat. Was it the same ketch reported by the people in Queen Charlotte Sound? Well, it's hard to tell when the information does not get passed on. What if the police do not think it is relevant at the time but it later turns out to be relevant? What other information do the police have that has not been passed on? What if it wasn't even recorded? This whole question of whether the police have passed on all the evidence may not be grounds in law for a quashing of the conviction. It does, however, generate questions and create nagging doubts that will not go away.

During the court case the prosecution tried to suggest that the ketch seen by Ted and Eyvonne Walsh (and other people on the boat *Sweet Release*) was the scow *Alliance*. This proved to be something of a pattern; reports of sightings of the mystery ketch for which the police had been searching were jumbled together with sightings of the *Alliance*. We will explore this further in chapter 9.

In practice, to someone familiar with boats, the *Alliance* would not be confused with the mystery ketch. The whole shape of the *Alliance* is quite different to that of a typical yacht. It is a scow, which is very much a working boat - more like a barge with sails.

The police did experience a degree of justifiable confusion in this area. Many of the witnesses who reported ketch sightings were not familiar with boats. Their descriptions were brief; such as 'I saw a boat, I think it was blue or white, I think it may have had some portholes, it may have had two masts.' I agree

there is not much that the police (or anyone else) can do with such reports. This problem appears to have been compounded by the failure to ask the right questions, to sift out the gold from the ore. Along with the gold went their hope of finding out what happened to Ben and Olivia.

SEARCHING FOR BODIES

If the gold had not been thrown out the police would have realised that it was a waste of time to conduct the searches in the Queen Charlotte Sound. Why concentrate on searching the Queen Charlotte Sound when the ketch was seen leaving the Queen Charlotte Sound on 2 January -- with Ben and Olivia still aboard? For the ketch to be leaving on that course it was either going to Pelorus Sound, or to somewhere like Tasman Bay or Golden Bay, or perhaps north past Cape Egmont. But with the fresh northerly wind it was unlikely to be heading past Cape Egmont on that day.

The searching of Pelorus Sound was limited to two brief aerial searches, even though the police received at least one tip-off that the bodies of Ben and Olivia were in Pelorus Sound.

During the trial, several of the supposed sightings of Scott Watson's boat were not really of his boat at all. At the trial the defence called an expert witness, Brian Askew, who is a well-known yachtsman and boat designer. He pointed out that it was impossible for Watson to have taken his boat that far out into Cook Strait, and to still arrive back in Erie Bay by the time he was supposedly sighted there. To do so he would have had to do about 22 knots in a displacement-hulled keeler with a waterline length of 8m. The boat could not average more than seven knots, even with a strong wind from behind and a clean bottom. The maximum speed of such a yacht is directly related to the square root of its waterline length. Yet the police

continue to claim that Scott Watson killed Ben and Olivia and dumped their bodies in Cook Strait.

They went to considerable trouble to construct a scenario for how their Scott Watson disposed of two bodies on 1 January 1998. The start of the problem was that the real Scott Watson had woken up the people on the yachts rafted up to his yacht when he came back to his yacht from the party at Furneaux Lodge. No one on these other two yachts heard anybody else with him. There were no sounds of rape or murder. When he arrived at Eerie Bay later on 1st January he was alone. The only logical explanation for this was that their Scott Watson must have carried out the rape and murder and disposed of the bodies before he went ashore at Erie Bay.

In Scott Watson's statement on 8 January (10083) he said that he left Furneaux at about 7.00 am and sailed to Erie Bay in the Tory Channel. He spoke with the caretaker there. He wasn't wearing a watch and didn't have a functioning clock on his boat. Consequently, some of his estimates of time are rather vague and inaccurate. Later, when he expected that the police would ask him what time he arrived at Eerie Bay he must have realised that he really didn't know, so he rang the caretaker and asked him. The caretaker said that he thought Scott had arrived between about 10.00 am and 12.00 midday. Watson then told the police he arrived about 10.00 am (Doc 40483).

The caretaker on 14 January (20066)

'I was doing bits and pieces around the house. I looked up and saw that Scott had arrived in his yacht. He had it anchored in the bay. I didn't see it sail in. He came out of the blue, I can't even tell you what time he came in. I would put the time about between 10 am and midday.'

The caretaker's daughter, aged 13 years on, 14 January (20064) 'I think that around 1.00 pm on New Year's day we looked out of the kitchen window and saw that Scott had sailed into the bay.'

The caretaker's son, aged 10 years, on 14 January (20082)
'Scott came this year around New Year's day. I think it was lunchtime.'

Sam Edwards had seen Watson off Kurakura Point at about 10.00 am; the point is about half way from Furneaux Lodge to Erie Bay. When one plots the times and distances, taking into account the tides, it makes sense that Scott left Furneaux at about 7.00 am or 8.00 am and went past Kurakura Point about 10.00 am and arrived at Erie Bay about 12.30 or 1.00 pm. But from the police perspective there is a serious problem with this simple account, because it doesn't leave Watson the time to commit rape and murder and dispose of the bodies.

To appreciate how this story developed one must appreciate that the police are very persistent – and the caretaker had been charged with the 'possession' of about 200 cannabis plants which the police discovered on 14 January 1998.

The caretaker on 23 January (20392)
'I would now put the time at around 3.00 pm.'

The caretaker's daughter on 23 January (10373)
'We had a barbecue lunch at about 12 'ish.'
'About half an hour after lunch we were all sitting at the table when we saw Scott coming in.'

The caretaker's son on 10 March (20999)
'I think that the time was about 3 pm.'

The caretaker's daughter on 10 March (20998)

'The only change I would make is the time that Scott arrived on New Year's day. We were inside watching the horse racing on TV. Scott arrived after the Auckland Cup. I don't know what time that was.'

Jobsheet on 12 March (10964)

'1000 hrs. Speak to {the caretaker} at the Blenheim District Court *prior to his Court appearance* to confirm the time that Scott Watson had arrived at Erie Bay on New Year's Day, 1998.'

'States: 'It was definitely after the Auckland Cup was raced because I remember listening to it. And I am pretty sure that it was after the next race because the kids got a good trifecta in the next race and Scott wasn't there when that happened.'

'DELETION'

The caretaker on 18 March (30948)

'I remember now the time that Watson arrived at Erie Bay.'
'It was after 5 pm I think.'

13 May 1998

The caretaker is sentenced to nine months in prison but the sentence is suspended for one year. He is also ordered to do 2000 hours of community service.

THE NAVY SEARCHES FOR BODIES

From 31 July to 8 August 2000 *HMNZS Moa* surveyed an area in Cook Strait for the police, using side-scan-sonar. The area was 4 km long and 1.65 km wide, an area of 6.6 square km. The search was conducted 'with Senior Sergeant John Ray of

the Christchurch Police providing direction.’ They reported their recommendations on 29 September 2000.

‘It is recommended that Police:

- a. Note that the area detailed has been thoroughly searched using the most sophisticated sonar equipment available in New Zealand.
- b. Note that all contacts located were investigated thoroughly and that targets were analysed in depth.
- c. Note that there is no indication that the missing remains of Ben Smart and Olivia Hope are present or visible on the sea bed inside the search area.
- d. Note that the RNZN does not have any capability to conduct further underwater operations to visually identify Target 1.
- e. Endorse the RNZN view that no further undersea investigation is warranted inside the search area – and
- f. Suspend OP Tam from a maritime perspective without further information or leads.’

The note ‘d’ reference to ‘visually identify Target 1’ is explained earlier in the report. The targets 1 and 2 ‘appear to be depressions created by a man made event. There is little evidence of dense material present.’ Nevertheless, this reference was sufficient for a further private search to also be carried out, with the result indicated by the Navy’s report.

There is one aspect of the Navy search which I find confusing, and that is why they picked a 4 km line that runs across the ferry path at a distance of 2 nautical miles from the entrance to Tory Channel. The search area reached out 0.825 km on either side of this line. The captain of the *Aratika*, Richard Davis, said in court that the *Aratika* was about 5

nautical miles from the entrance when it was running at a slower speed. That is the time given by witnesses William and Matthew Gay for their supposed sighting of Watson's boat. They reported Watson's boat as being from 200 to 500 m from the *Aratika* at the time. I have checked Richard Davis's estimate of 5 miles with the other information given in court at it appears to me to be reasonably accurate. I don't know why the Police would want to search an area 3 nautical miles from there.

WATSON DISGUISES HIS BOAT

The claim that Scott attempted to disguise his boat on 2 January by painting his cabin sides blue and taking the vane off his self-steering gear and stowing it below has been met with disbelief by boaties. The claim is that he made these small changes to his boat, in the area where he was living, and then stayed in the same area. Having made no attempt to hide himself or his boat he then reported voluntarily to the police. He unwittingly drew attention to himself by painting the cabin sides blue, the same colour as the stripe on the mystery ketch the police were searching for at the time.

Sam Edwards on 17 January (10376)

Edwards described how he had seen Scott's boat on 1 January while it still had red cabin sides. He knows Scott and knows his boat.

'On 2 January I can definitely say it was blue and painted.'

Author's note: It was actually the 3 January; Watson did the painting at Erie Bay on 2 January.

Sam Edwards on 20 January (10394)

'I again saw the boat on what I believe is the following day when Scott was heading to Picton. I have tried to go over in my mind the time but I can't be sure. The only reason I recall it is because I said to myself, "Scott has painted his yacht".'

It is not uncommon for boaties to paint, oil, or varnish such things as cabin sides while the boat is in the water. A change of paint colour on one part of a boat does not greatly affect how a boat is recognised. Factors such as the length and the type of design and style or shape are much more relevant than the colour of the paint on the cabin sides. Sam Edwards had no trouble in identifying the 'disguised' boat two days later.

WATSON WIPES HIS CASSETTE TAPES

The fact that Scott had wiped salt spray off his cassette tapes was introduced to show the lengths that the murderer had gone to in order to remove evidence. In the real world a sensible boat owner will wipe salt spray off cassette tapes to stop ruining the cassette player by getting corrosive moist salt inside it. Failure to do this will quickly result in the destruction of the player.

In December 1997 Scott and his sister had a boisterous sail down the Wairarapa Coast and through Cook Strait with a series of frontal systems coming through. These parts of New Zealand have an international reputation for heavy going; if you can sail through those conditions you can sail anywhere. Small keel yachts get at least salt-laden moisture everywhere in those conditions; it was after that trip that Scott cleaned up his boat, including the cassette tapes.

WIPE-MARKS ON THE HULL

The case against Scott Watson is characterized by the interpretation of normal yachting events and behaviour as being

sinister and evidence of murder. For example, when the police pulled Watson's boat from the water it was glaringly obvious that part of the hull, underwater near the stern, had been cleaned. Watson advised the police that he and his sister had cleaned some of it with a scrubbing brush, which was still in the cockpit when the boat was seized. The police then took a statement (10803) from the club manager of the Waikawa Boating Club on 26 February 1998 which cast this in a suspicious light:

'The marine growth on the bottom of the boat (Blade) was minimal consisting of a light green coloured covering of marine growth similar to a marine slime. It was no thicker than an 1/8 to a ¼ of an inch.'

'The marks referred to in my earlier statement were noticeable because the marine growth referred to had been cleaned/wiped away.'

'The amount of growth on the bottom of the sloop, in my opinion, would not have slowed the boat down at all.'

'I have been involved in boats and yachts for about 15 years.'

All sailors, and especially keen racing sailors, are all too aware of the difference in speed from a dirty hull. In this case it would be in the order of 0.5- 1 knot. As a boat with a waterline length of 8m would average no more than 5 knots this is quite an appreciable decrease in speed.

Most sailors will be familiar with what happens when you try to clean your hull with a scrubbing brush while swimming: as you try to scrub the hull, your body slides away from it. Newton discovered this law of physics quite some time ago. After a while, people tend to give up trying with this method - which is just what Scott did.

The fact that the cleaning marks were made with a scrubbing brush was readily apparent from the photographs (see page 57) and video footage. To infer something suspicious from this is plainly ridiculous.

The objective of arousing this suspicion was to infer that Scott had cast two bodies over the side and that they had bumped against the side of the hull. In practice the same law of physics would apply to these theoretical bodies as applies when you are in the water trying to clean a hull. Every action has an equal and opposite reaction: there is no traction. To be able to rub any appreciable amount of slime off a hull with one or two bodies would be extraordinarily difficult. You would need to attach ropes to each end of the bodies and lead the ropes forward and aft underwater around the hull. Then you would need to lead them up on deck, to a place where force could be applied. You would then need to vigorously manage both lines in a coordinated fashion to try to remove some slime. (The nautical term for this is keel hauling; the British navy found careening was a more effective way to clean a hull.) Even then, because of the shape of the hull, it would be very unlikely if much slime was removed. The little slime that did come off would not show a pattern at all similar to that made by a scrubbing brush.

There is no realistic scenario where the brush marks can be related to the possible disposal of bodies. It was hinted that the bodies could have had a rope attached and that the rope could have got caught around the propeller. This however begs the question as to why any single person would try to throw bodies over the side of a boat while it is motoring. The assumption would be, surely, that the supposed killer would weight bodies down with anchor chain. If the bodies were weighted down, they would sink quickly without leaving any marks on the hull.

If the bodies were not weighted down they would return to the surface in a few days' time and would have been found. Most sailors, including myself, would not have a clue how much chain would be required; it would be well in excess of all the chain Watson had on his boat. For Watson to accomplish this he would have had to prepare for the 'spontaneous crime' by purchasing extra chain in advance.

In the book *And the Sea Will Tell* by Vincent Bugliosi with Bruce B Henderson (W. W. Norton & Company, 1991), there is a passage about the testimony of Dr. Boyd Stephens, who was the chief medical examiner and coroner for the City and County of San Francisco:

'There have been cases in San Francisco Bay where a human body floated to the surface with as much as 200 pounds of weight attached to the body.'

The police checked whether there was any chain or anchors missing from Scott's boat. None was missing. This selection of supposedly circumstantial evidence was carefully made from the material the police had gathered. Here is an example of what the jury were not told:

Philip Vining on 12 March (30856)

'I have been boating for about 35 years in Nelson and the Sounds. I have been selling boats for 20 years. I was present when the sloop *Blade* was being lifted from the water at Franklins Travel Hoist, Waikawa Marina.

'There was slime on the bottom, that in my opinion was consistent with the boat being in the water for up to 6 months since last being cleaned and there was also some fouling of the prop.

'I believe this would cause a loss in boat speed of around $\frac{1}{2}$ a knot and certainly no more than a knot On the starboard side of the hull under the water forward of the prop and aft over the rudder over an area approx 1.5 m by 1.5 m there was an area where the slime had been rubbed off the bottom. It is most likely that someone has dived and cleaned this area while the boat was still in the water.'

My layman's understanding of the law relating to circumstantial evidence is that if there is a plausible alternative given by the defence for any piece of evidence then it must be accepted and the prosecution evidence must be considered as being not beyond reasonable doubt and disregarded.

FIVE

Changing the Tune

The interrogation of Guy Wallace

The police video interview of Guy Wallace at 1300 hours on 11 January 1998 marks a turning point in the investigation.

After he had finished work as a barman, Wallace drove the water taxi that took Ben Smart, Olivia Hope and an unknown man to a boat that Wallace described as a ketch in the early hours of the morning of 1 January 1998. Hayden Morresey and Sarah Dyer were with him for that part of the trip. Amelia Hope and Rick Goddard were only on the water taxi for the earlier part of the trip, the part from the Furneaux Jetty to the yacht *Tamarack*.

Guy is familiar with boats and appeared to have a good memory, but there was something inconsistent in what he remembered. Was the focus of the police to find out the truth in an objective fashion, and to clarify aspects on which Wallace was obviously confused, or was the focus on gaining the conviction of Scott Watson? Was it part of a process of wearing Guy down so that he would be more malleable?

A case against Scott Watson could fail without identification of him by someone in the same Naiad water taxi.

The interview lasted for two hours and forty-seven minutes, and this is an exact transcript of part of it. Wallace had already been interviewed by the police on 3, 4, 5, 6, 7 and 9 of January.

[Police]: Okay so that boat [pause] like this boat worries me.

Wallace: Yeah?

P Yeah it worries me.

W Yeah I think it worries me. I'm right in the middle of this and [pause] I don't know what to bloody do, I'm just trying to help as much as I can type of thing.

P [Sigh] 'Cos it's important that we get to the truth you know?

W What do you mean?

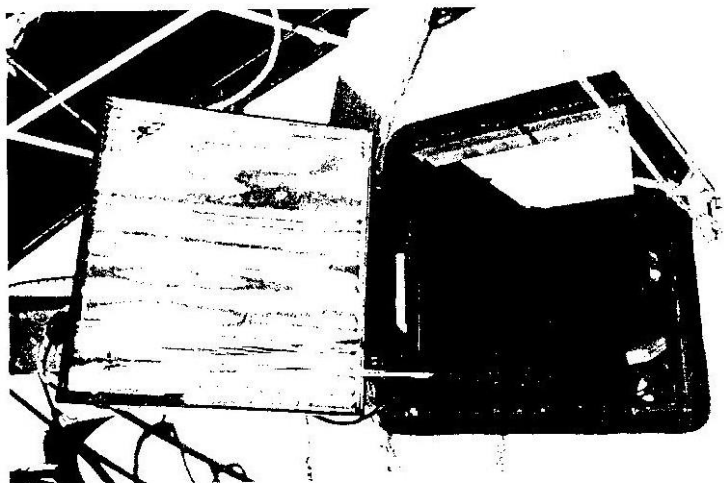
P Well, cos it's important that we get to the truth you know?

Author's Note: The following people had already given statements to the police which confirmed that they also had seen the ketch and that Wallace's description of it was broadly true: Hayden Morresey, Ted Walsh, Robert Mullen (Doc 10062), Eyvonne Walsh, Don Anderson (Doc 10065), and Greg Taylor (Doc 12350). See also chapter 6.

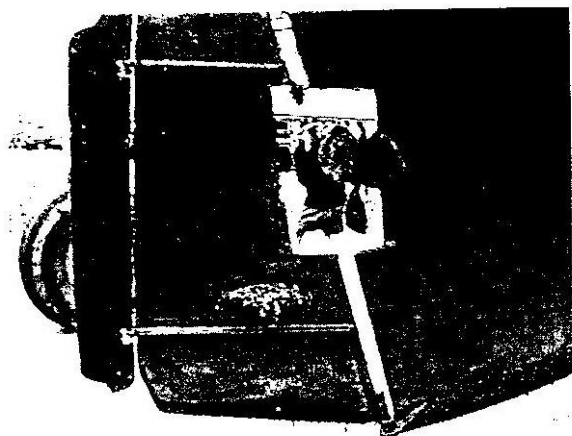
W Well Ted saw it.

P No Ted didn't say he saw this boat, you said he might've seen a boat coming round the [sic, word missing], that was blue and white.

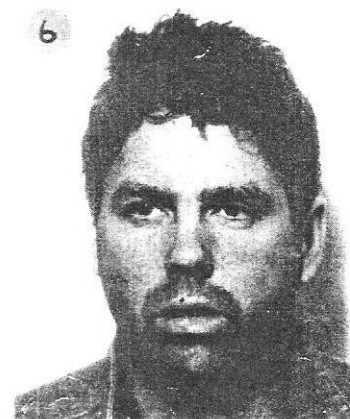
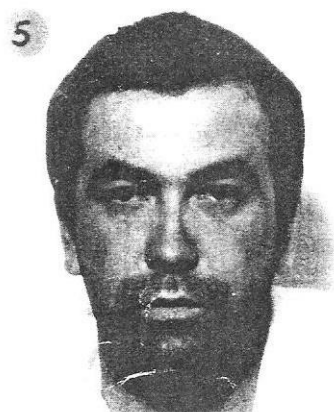
Author's Note: Ted Walsh had said that he saw the ketch on three separate occasions; during the day on 31 December 1997, anchored off Furneaux Lodge that night, and on 2 January while he had a boat full of people with him, and that it was the same boat.)



*The forward hatch of Watson's boat
The scratched foam lining shows as a patterned surface*



The hull of Watson's boat showing signs of cleaning



The photo montage (this page and following).



4



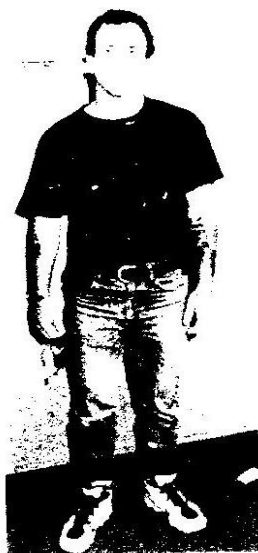
8



*Spot the man with his eyes half closed. That's Ed Watson
was taken at close range with a wide-eyed look. Some of
the other people in the photos were at the same location*



Scott Watson "being a loner", just before he went ashore on New Year's Eve



A candid photo of Scott Watson taken on his last day

W Yeah.

[P] No one else, you help me out. Let me give you a scenario that I've got okay.

W Yeah.

[P] There's four Naiad drivers who are working.

W Mm.

[P] Up to eight hours right? And in your own words you told me before that this boat is so dominant it stands out, anyone would see it.

W That's right.

[P] Right?

W Mm hmm.

[P] They've never seen it. They're delivering people all night.

Author's Note: Robert Mullen and Don Anderson who also drove water taxis that night had already made statements to the police that they had seen the ketch.

W Yeah I know, I know what you're saying. I'm giving you my description of what I think it's like and I'm bloody sure that's how it is.

[P] They've never seen it.

W Well I'm not pricking you around.

[P] They've never seen this boat.

W Like, who was I talking to, another guy.

[P] No, no one, you haven't answered my question.

W I have answered your question!

[P] Look at it from my point of view.

W I'm looking at it from every point of view I can.

[P] Okay.

W How many times do you think it's gone over in my head.

[P] Well you look at it from my point of view, I've got four other people.

W Mm hmm.

[P] Who have worked out there in daylight.

W Mm.

[P] Right through to when you got out there.

W Yeah.

[P] And some say later, right?

W Mm hmm.

[P] And they know that harbour better than anybody.

W Right.

[P] They know every boat by name just about. People get on, take me to the Nugget.

W Mm hmm.

[P] Take me to the Alliance. They know where it is.

W Yeah.

[P] 'Cos Rachel's told me where they all are. They all know, they know it off the back of their hands, it's only a small inlet. Here's a 38 foot outstanding ketch that you've given us a brilliant description of.

W Outstanding, yep.

[P] No one's seen it. Nobody.

(The full transcript is 193 pages, so we will skip some pages..)

[P] Explain to me Guy why no one else has seen it.

W Oh mate I can't explain it to you! I've explained all I can to you.

[P] Well we've identified a hundred and over boats.

Author's Note: They had identified the boats in the photos. Witnesses described that the mystery ketch was anchored just past the left-hand edge of the photos.

W Yeah.

[P] Just about, practically every single boat in that harbour that night.

W Righto.

[P] And spoken to every single person.

Author's Note: In November 1998 the police were still identifying people who had been at Furneaux Lodge and there is still no reliable method of ascertaining how many people were really at Furneaux Lodge that night.

W Yep and no one remembers seeing it.

[P] No one, bar you, has seen this bloody thing.

W Oh!

[P] Now that's not possible. That is not possible.

W Well I don't see how it is.

[P] That's not possible.

W Not possible.

[P] That's not possible. I've worked on many enquiries mate.

W Yeah.

[P] And.

W I I I'm not fuck'n, oh Christ.

[P] You're talking about, you're talking about 500 or more people on boats in that harbour.

W Mm, no one seen it, I find that hard to believe.

(We will skip some more pages.)

[P] The mystery man you described to me, the mystery man you drew an identikit picture of.

W As well as I could.

[P] He doesn't exist either.

W Oh fuck! Come on, what are you going to do? Try and lay this on me.

[P] He doesn't exist.

W Are ya? Is that what you're trying to do.

[P] There's.....

W A scapegoat?

[P] There's a guy in the bar.

W I'm not saying anything else mate.

[P] There's a guy in the bar right?

W Christ, you guys are just trying.

[P] Listen to me.

W To pin this on me aren't ya.

[P] I'm not trying to pin anything on you, you're trying to explain to me what you said.

W Yeah.

[P] There's a guy in the bar, right?

W That's right, yeah.

[P] He's, you've described him.

W Yeah.

[P] You've taken him out there.

W Yeah.

[P] No one else has ever seen him either.

W Oh bullshit!

[P] They've seen a guy.

W Yeah.

[P] Don't get me wrong. They've seen a guy in the bar.

W Yeah.
[P] Sleazing around women.
W Right.
[P] You say it's not him.
W I don't reckon.
[P] Someone else.
W The photo of, was it, Scott?
[P] You say it's someone else.
W Or Simon, WHAT, WHAT WOOTTON? Was the name I was given with the photos. I don't think it was him [pause] may have been two different guys sleazing round the bar.

Author's Note: It took from this point until 20 April 1998 for Guy Wallace to agree that the man on the ketch may have been Scott Watson. Note the phrase **'the name I was given with the photos.'** (We will skip some more pages.)

[P] No, well up until now you might've thought but have another think. Because I tell you what Guy.
W [Sighs]
[P] If you're involved in this in any way.
W Oh really!
[P] Listen to me.
W Yeah I'm listening, I know exactly what you're going to say too. I'll be implicated wouldn't I.
[P] Now is the time.
W No implication here mate.
[P] No, now is the time son.
W Now is what I'm telling ya.
[P] No. Think.

W I I don't have to think.
[P] You do have to think.
W It's right off.
[P] 'Cos you've told me an absolute crock.
W Oh fuck off!

Author's note: There is a huge difference in the style of the statements taken for this case by the Australian police. The Australian statements contain references to whether the person being interviewed is being placed under duress. At the end of their interviews another officer, who is not working on that case, seeks confirmation that the person being interviewed was not placed under undue pressure.

(We skip some more pages.)

[P] You're not telling the truth.
W I am telling the truth.
[P] You've got a reason not to tell the truth, what is it.
W I haven't!
[P] What is it?
W There's no reason.
[P] Come on.
W Look y'know all the time frames and everything put together.
[P] Of the time frames.
W I wouldn't have time to do anything with them.
[P] You had a lot of time mate.
W Oh!
[P] You had a lot of time. You had a lot of time Guy I'm afraid.
W So you're implicating me with it are ya?

[P] I wanna know the truth. I wanna know.
W I've been telling you the truth.
[P] No, I wanna know the truth.
W Well what I, what I, do you wanna know what I think? I think you guys can't find them, you're looking for a reason so you're gonna put it on me.
[P] Do ya?
W Yeah.
[P] Nah. Nah, not true.
W Why did you smirk like that then?
[P] 'Cos that's that's a nice wee answer there for you isn't it.
W Doesn't answer anything really.

(We skip some more pages.)

[P] Because you can't sleep at night either.
W No.
[P] Because you know you're not telling me the truth.
W Oh bullshit! No way mate.
[P] No.
W I'm telling you the truth, straight up.
[P] You're not, rubbish. You're never going to sleep again at night. Trust me, you are never going to sleep again at night.
W There's nothing more I can tell you.
[P] You're never going to sleep again mate.
W If that's the way it goes, that's the way it goes
[P] The nightmares will kill ya.

Author's Note: One of the remarkable coincidences of this case is that 'Secret Witness A' was repeatedly interviewed by the

same policeman who interviewed Guy Wallace. In court this witness made a point of saying that Scott Watson had nightmares.

W Nightmares?

[P] Yep it will kill ya, you can't sleep.

W About dropping two people off onto a ketch?

[P] Nah, you might've dropped them off but you dropped them, you know exactly where you dropped them and it wasn't on that.

W Well I think it was.

[P] It wasn't on that mystery boat mate. It was on the boat that you know whose boat it was.

W On a boat whose I know whose boat it was?

[P] You tell me. You tell me.

W I'm afraid not.

[P] You tell me, come on Guy, tell the truth.

W [Sigh]

[P] Now's the time to tell the truth mate, don't cover up for anyone else.

W I'm not covering up!

[P] Don't cover up for anybody else.

W I'm not covering up.

[P] Don't even think about covering up for anybody else.

W I wouldn't, I wouldn't. What have I got to gain for covering up for somebody else.

[P] You tell me.

W Yeah, well right.

[P] You tell me.

W [Sigh]

[P] 'Cos it's not looking good for you is it. Telling lies.

W I'm not telling lies.
[P] You are telling lies.
W No I'm not.
[P] Well don't tell me that everybody else, including your work mates, is telling us lies.
W I'm not saying they're telling you lies but I reckon they've been, I reckon you're just leading me along the line.
[P] You know I wouldn't do that to you.
W No I don't.
[P] Why would I lead you along the line?
W Try and get a, result out of something, I dunno.
[P] Eh?
W Try and get a result.
[P] [Lengthy pause]
W So where's the time frame I'm missing?
[P] You've got about an hour there Guy, you know it and I know it.

Author's Note: Guy's estimates of his times were about as vague as most of the other witnesses, this was a holiday period and many witnesses weren't that interested in keeping an accurate record of times.

W Nah.
[P] Come on, you made a statement to us earlier on that said I had a Maori guy on my Naiad .
W A Maori guy?
[P] Ah sorry, an unknown guy on my Naiad.

(We will skip some more pages)

[P] You know you've been seen with him.
W Eh?
[P] And you know you'd, come on.
W I don't know him eh.
[P] Don't lie to me Guy.
W I never met him before that night.
[P] Don't lie to me.
W Otherwise why.
[P] I didn't say you'd met him, maybe you didn't meet him before that night.
W I didn't.
[P] You certainly know who he is now.
W I don't!
[P] Yes you do.
W I don't.
[P] You do.
W I don't.
[P] You know who he is.
W No I don't.
[P] Yes you do.
W Nah.
[P] You know who he is.
W No I'm not. No I don't.
[P] You do, you do.
W I don't, oh look [name deleted] I don't, I do not know who he is. I hadn't seen him before that New Year's Eve.
[P] Think, think.
W Haven't seen him before.

[P] You're going to have to think Guy. Because let me tell you mate.

W Mm.

[P] Now is the time.

W I know what you're saying.

[P] Now is the time.

W [Sigh]

[P] You don't have someone in your boat.

W Why don't you guys believe anything I say.

[P] You don't have someone in your boat and not talk to them when you're delivering people.

W I may have talked to him.

[P] You said you didn't. Don't change your mind on me.

W I may have, oh it was late, it was early.

[P] It was early.

W Tired.

[P] Pissed off.

W Yeah, pissed off, may have spoken to him, may not of.

[P] Yeah.

W I dunno.

[P] You drop a gorgeous looking woman on a boat with a guy that you know.

W I don't know.

[P] Or you certainly go, did you go back to the boat?

W No.

[P] I think you might've.

W Oh! No, no.

[P] Think hard Guy.

W Thinking.

[P] Remember.

W I didn't go back to that boat.
[P] Remember.
W After I dropped them off.
[P] Remember there's other people involved here.
W Yeah, sweet. Pretty confident about that myself. Very confident.
[P] And remember, there's a lot of people in that inlet.
W Yep.
[P] [Lengthy Pause]
W What do you want from me, I'm telling you all I know [name deleted] I am, I'm telling you all I know. I know it seems hard to believe that no one else has seen this boat, I just don't know mate. I don't know. And I haven't been back to the boat, I don't know the name of the guy, I don't know him.

(We have skipped some more pages; we rejoin them as they talk about the missing boat again.)

W Could've slipped in.
[P] Come on. It couldn't have slipped in, they'd [water taxi drivers] been working there all night, no one comes in in a 38 foot ketch by themselves.

(We will skip some more.)

[P] Who is this guy, Guy? [refers to identikit picture] Who is he?
W Dunno his name.
[P] Yes you do.

W No, he was drinking in the bar that's all I know. He was the same guy that was on the boat [Naiad] that I took them over to the ketch with.

[P] [Pause] Did he try and pick up women in the bar that night?

W Not sure.

Author's Note: The case against Scott Watson was based on the idea that he was trying to pick up women in the bar.

[P] Do you think this guy and this guy might be the same person [refers to identikit pictures]

W [Compares to identikit pictures] Yeah it could be, I 'spose, I dunno. Right around the eyes, slanted a lot. Looks a bit thinner in the cheeks for this guy that I thought [pause] no I doubt it [lengthy pause] Can I [refers to comparing pictures again]

[P] We've got you going to a boat that no one else has seen with a guy in it and no one else has seen. They've seen a guy but not the guy you've described. True?

W Seemingly so.

(We skip more pages, and rejoin them on the science of witness identification.)

[P] And this guy at the bar.

W Yeah.

[P] Other people have described this guy that's picking up women as a local guy called Scott WATSON.

W Okay.

[P] You're aware of that now aren't ya.

W Aware of it now?

[P] You'd been aware it, well you were aware of it before I said.

W I've heard his name over at the Blenheim CIB press up.

[P] Yeah. Do you know him?

W The WATSON name rings a bell, the Scott doesn't.

[P] Do you know him?

W No.

[P] You don't know him.

W Nope, not as Scott WATSON, I dunno he might have another name, I don't know Scott WATSON.

[P] How do you know, when you mentioned it to one of the other officers, you mentioned he worked at the Kerry Boat Builders.

W Just now?

[P] [Nods]

W 'Cos I'd had that mentioned to me over there.

[P] By who?

W By one of them, I dunno.

[P] Over where?

W Over at Blenheim.

[P] Blenheim Police?

W Yeah.

[P] No, not true, not possible.

W Not Police, CIB.

[P] Blenheim CIB? Not possible.

W Sorry, it was mentioned to me.

[P] When?

W They'd said he'd built his boat or worked at Kerry's Boat Yard.

[P] When was this?

W Um [pause] oh the day you took the statement off me [pause] when they were fixing the, what's it called, sketch computer.

[P] Yeah.

W Remember when that broke down.

[P] Mm hmm.

W Well it was just before I left and Simon, it was Simon and someone else, a guy, balding guy, was it, I dunno there was two there showing me the photo, it might've been, was it you?

Author's Note: One might ask whether it is appropriate for the police to show Guy Wallace a photo of Scott Watson at the same time as they are getting Guy to provide an identikit picture of the man from the ketch.

[P] [Shakes head]

W No? Okay they were showing me the photo, you know this guy and I said no, didn't look like him at all, like not like, sorry not like the guy the sketch is made of.

INTERVIEW TERMINATED 1547 hrs DLST: 11 January 1998

Guy Wallace on 20 April 1998 (40462) finally identified Scott Watson from a montage of photos.

'I believe photograph number 3 is the person who was in the bar and on the boat with me. At that time however he had good growth on his chin and face. He had a more unkempt look. His hair had more length to it and was more bushy and wavy. This meant that his fringe was lower down his forehead towards his eyebrows. It's the eyes of the person in photograph number 3 that stand out for me more than anything.'

At the depositions hearing in November 1998 defence lawyer Mike Antunovic showed Guy Wallace a photo of Scott that was taken just before he went ashore to the party, whilst aboard the yacht *Mina Cornelia*. (See page 60) It showed that Scott was

clean-shaven, had very short hair, and that the hair at his temples receded. (When looking at this photo you may need reminding of the police assertion that Scott Watson is a loner!)

Antunovic: Well, can I just tell you that that photograph was taken on New Year's Eve?

Wallace: Really.

A: Yes. At probably around 10 or half past 10 in the evening some five, six hours before you delivered these people to the ketch?

W: Well, I'd find that very hard to believe.

A: Well, Scott Watson couldn't have been the man, could he?

W: I find it very hard to believe that's the time element that that photo was taken.

A: Just accept from me for the moment if you would that that photograph was taken some hours before you dropped those people off to the ketch?

W: Okay.

A: That is proved by other evidence in the case, and I believe it was some time around 10 or 10.30 on New Year's Eve?

W: Well, if that is the case then it wasn't Scott Watson that I dropped off.

It is accepted that Guy Wallace drove the Naiad water taxi and that Ben Smart and Olivia Hope were aboard along with Hayden Morresey and Sarah Dyer and the mystery man. On the first part of the trip (i.e. from the Furneaux Jetty to *Tamarack*) the people aboard were Guy Wallace, Hayden Morresey, Sarah Dyer, Amelia Hope, Rick Goddard and the mystery man.

Amelia Hope and Rick Goddard got off onto the *Tamarack* and Ben and Olivia got on to the Naiad.

Neither Amelia Hope nor Rick Goddard claimed that Scott Watson was the mystery man. Neither did Hayden Morresey and Sarah Dyer. That left Guy Wallace.

The supposition, that Scott Watson was the other man on the Naiad, left open the question as to why he was going to a ketch rather than to his own boat. It was also inconvenient that Don Anderson, another water taxi driver, had confirmed that he had taken Watson back to his own small steel sloop earlier in the morning. Perhaps the reference to the emperor with no clothes is appropriate.

The saving grace for the case was the inference introduced without any supporting evidence in the Crown's closing address that Scott Watson 'must have' gone ashore again. This premise also required a demolition of the consistent and corroborated evidence from the relevant witnesses that Ben and Olivia were taken to a ketch that could not be mistaken for Scott's boat.

A CHANGING TUNE – WATSON THE MURDERER

One of the secret witnesses at the trial gave a picture of Watson's character that was damning, yet during the trial it did come out that the witness and her husband had invited him onto their boat *Unicorn* for drinks on the afternoon of New Year's Eve. If she and her husband thought so badly of Scott, why they had invited him onto their boat?

12 January the secret witness makes a statement (20038).

The statements don't show the questions asked, but one must assume that she was asked directly if Scott fitted their 'profile'. 'I have seen the Suspect Boat Owner Profile and don't know who this is. It could be similar to Scott Watson.'

21 January, her next statement (10331). ‘I remember reading in the paper the description of the person at Furneaux Lodge that the Police were looking for. As soon as I read it I thought of Scott.’

So here we have a progression: -

31 December Invite a friend (Watson) over for drinks.

12 January. She doesn’t recognise the suspect boat owner profile. It could be similar to Scott.

21 January. ‘As soon as I read it I thought of Scott.’

The witness’s later statements included references to how Watson had talked to her of killing people. On 24 August 1999 at the trial she said that Watson and her husband had come back from drinking at a hotel. Watson had said that a woman had been annoying them. The rest of this remembered conversation was that Watson supposedly said that he should have killed the woman in the bar.

It is a disquietingly easy process for the police to build up damning ‘evidence’ against a murder suspect. If you interview a hundred people about Mr Joe Average, 80 people will just say, ‘He is an average guy.’ Ten people will say, ‘Oh, he’s quite a good bloke. He’s helped me out a few times.’

The remaining ten will say: ‘He’s got a big mouth’ or something derogatory.

Of these ten people you can then interview a carefully selected five people. It is important to start the interview by sharing with them the knowledge that you *know* that Mr Joe Average murdered two people. You have proof, of course: ‘Have you ever noticed anything in his previous behaviour that was a sign that he may one day do something like this?’

Some witnesses, after reinterpreting previous behaviour in this new light, will remember something murderous in the previous behaviour of the suspect. Other witnesses, who regarded Scott as an average guy, were impolitely asked why they would want to stick up for a murderer.

Is this how our police officers should build a case?

SECRET WITNESSES

The English case of the trial of Patrick Nicholls for the murder of Mrs Heath in 1975 showed how effective the use of a secret witness can be. The case was basically that Mrs Heath had died of a heart attack brought on by the shock of being attacked during a robbery. The evidence of Jack Boorer was quite damning; he was a convicted criminal who at the time shared a remand cell with Mr. Nicholls and was expecting an eight-year sentence for burglary. He claimed his cellmate had admitted murder. But *the International Express* revealed that Boorer had made up the remand-cell confession as part of a deal with the police. A careful examination of the pathology evidence showed that Mrs Heath had not actually been murdered. She had firstly had a heart attack and then fallen down the stairs. There was no robbery. After being wrongfully imprisoned for 23 years Patrick Nicholls was finally set free.

The first off-the-cuff response I heard from a lawyer (not associated with the case) about the use of ‘cellmate confessions’ (called jailhouse snitches in the USA) were words to the effect that ‘Of course they had to use cellmate confessions because they didn’t have any bloody evidence’.

Scott had been warned about cellmate confessions before his arrest. He had also been warned not to answer ANY questions when he was arrested. When a detective finally arrested him for murder he wouldn’t even answer the question about his date of birth. Why would he supposedly blab all to a dubious cellmate?

The psychiatric report on secret witness A by A.B. Marx MB, ChB, FRANZCP, reports that: 'The diagnosis of severe Antisocial Personality Disorder traits indicates a reasonable possibility that [the witness] will not tell the truth. In my opinion acceptance of [the witness's] statement of events should only occur if it is corroborated from other sources. In a medical context it is usual to distrust what is said by people with Antisocial Personality Disorder or the traits of such a disorder.'

The questions and answers in the trial were quite revealing:

Q. And how long have you had psychiatric problems for?

A. Since 1986.

Q. And have you been into psychiatric institutions?

A. Yeah.

Q. How many times?

A. Quite a few.

Q. Have you been into Lake Alice or the National Psychiatric Security Unit?

A. Yeah.

Q. How many times have you been in there?

A. Twice.

Q. And have you attacked any of the staff in there?

A. Yeah.

Q. What with?

A. With a pool ball in a sock.

Q. Anything else?

A. Pool cue [sic].

Q. Attacked any other patients?

A. Yeah.

Q. Do you know what the psychiatrists say is your illness?

A. Depression.

Q. And that is because some close family members have died is it?

A. That's right, and don't even go there.

Q. I am sorry.

A. Don't even go there.

Q. Is this two brothers of yours that died?

A. That's right.

Q. Do you see them in your mind?

A. I see them here.

Q. Do you see them in your heart?

A. That's right.

Q. But do you see in your mind incidents involving them, come to you from time to time?

A. Yeah.

Q. Aside from depression or grief or whatever you may want to call it, do you know what other aspects of your illness the psychiatrists have identified?

A. Na.

Q. Have you been told for example that you have got a personality disorder?

A. Mmm.

Q. Have you been told that you have got substance abuse problems, that is abusing alcohol and drugs?

A. Yeah.

Later on, another revealing question and answer:

Q. You changed your story completely didn't you between October of last year and May of this year?

A. Yeah.

His soul was troubled before his statements changed, I doubt that his contact with the police will have helped his mental health. The *NZ Herald* reported (4 November 2000) that Secret Witness A was in hiding, fearing for his life.

The second informer, Secret Witness 'B' matched the character description that the police had invented for Scott Watson. His character was revealed at the trial during cross-examination by defence lawyer Mike Antunovic.

Antunovic: 'And what has prompted you to come forward and give this evidence is solely the thought of what you say he told you he did, did you feel sickened and disgusted that sort of thing?

Witness B: I don't believe in hurting innocent people, women and children especially.

Later...

Antunovic: The charge you were facing when you first went into police custody after your arrest on 23rd June was it a charge of injury with intent to cause grievous bodily harm?

Witness B: Yes.

Antunovic: That was against your partner?

Witness B: Yes.

Antunovic: A female?

Witness B: Yes

Antunovic: And what the police were alleging against you at that stage was that you had first of all punched your partner to the head repeatedly with a closed fist.

Witness B: Yes

Antunovic: And then you came into a rage and you started to head butt your partner?

Witness B: Yes.

Antunovic: In the head area?

Witness B: Yes.

Antunovic: At one point she lost consciousness for a moment as a result of what you were doing to her?

Witness B: Yes

Antunovic: She fell on the floor and you then kicked her while she was lying on the ground?

Witness B: If that is what the statement says yes.

Antunovic: Then you took a bone handled kitchen knife and proceeded to prod her in the back didn't you?

Witness B: That is what the statement says yes.

Antunovic: And as a result of the force that you were using the blade broke from the knife didn't it?

Witness B: Its what the statement says.

Antunovic: And then she picked up an iron bar of some kind to try and defend herself from you didn't she?

Witness B: You are reading it out.

Antunovic: And then you took that bar from her and hit her a number of times around the head with it?

Witness B: That is what it says.

Antunovic: Yeah. And then you got another knife and threatened to stab her in the chest?

Witness B: That is what the statement says, yes.

Antunovic: Then when you got the second knife you then used that to cause an injury to her left arm.

Witness B: Yes.

It was revealed during the trial that Secret Witness ‘B’ had received a motor vehicle and a cellphone from the police, and had the charges against him reduced. He has acted as a police informant on at least one earlier occasion.

(The practice of rewarding police informants is one which apparently exists in New Zealand. The NZ Herald of 10 June 2001 reported: ‘Police have paid nearly \$1.5 million to informants in the last five years, but have declined to answer questions about the practice, to protect the “public interest.” In response to an Official Information Act request, police said \$285,000 had been paid to informants in the last year. A total of \$1.46 million was paid between 1995 and 2000. Police declined to say more, citing obligations to protect confidences and the supply of such information.’)

Noticeable by its absence from the supposed confessions recounted by these two informers is any credible description of the actual murders. We are given the impression that Olivia was strangled and that this presumably occurred on Watson’s boat. It is graphic yet extraordinarily vague and incapable of any sort of verification.

Secret Witness ‘A’ was questioned at the trial by the prosecution:

Q. What did he say?

A. Showed me.

Q. Did he say anything about it before he showed you?

A. Said the bitch kept on punching and kicking him.

Q. Can you remember if he said anything else, if you are not sure don't worry?

A. Just that she was fighting back heaps.

Q. When you say he showed you, what did he show you?

A. How he pulled her down.

Q. You say he showed you how he pulled her down, how did he show it though?

A. Just showed me, grabbed me.

Q. He grabbed you, right what did he do when he grabbed you, just tell us?

A. Just grabbed me up around here.

Q. Just when you say round here round the sort of top of your clothes near your neck, top of your chest?

A. Put his leg between mine and using his hip to push me up against the wall.

Q. Was he grabbing you round your chest with both hands or with just one hand?

A. One

Q. What did he do with the other arm or hand if anything?

A. Up on my arm.

Q. Can you just show us on your body where up on your arm where he put, the top of your arm by your shoulder.

A. um um

Q. And what did he do with that, so that he had you round the neck with one hand?

A. Yeah.

Q. Round the top of your clothing should I say with one hand, the other hand was around the top of your arm by your shoulder?

A. One was, put like top across here sort of like ah.

Q. Pulling your clothing across your neck, yes what was the other one doing?

A. Just holding me back up against the wall.

Q. So he had you pushed back against the wall of the cell did he is that right and then what did he do with you?

A. And he just pulled me down to the ground.

Q. And were you fighting with him or were you letting him show you what he did?

A. Letting him show me.

Q. And when you were down on the ground what did he do?

A. Got up.

Q. Did he do anything else to you physically with you or your clothing at all while you were down on the ground?

A. Oh just pulled it in a sort of a strangulation sort of thing.

Why would any sane person in the cold light of day imagine that the testimony of these two witnesses should be more reliable than that of Jack Boorer, in the wrongful conviction of Mr Nicholls?

The recalling of conversations in which Scott Watson had taken part was an important part of the whole case. The justification was that it aided the process of identification. One can certainly see that this process needed all the help it could get. But all these remembered conversations were portrayed as factual evidence to the jury – and the jury has to go on the evidence presented in court.

So how accurate are these reports of remembered conversations? Professor Coulthard in the book *Advances in Spoken Discourse Analysis* states:

‘There is a commonly held belief that people are able to remember verbatim what was said to them - everyday story-telling depends crucially for its vividness on this assumption:

and then I said . . .

and then she said . . .

However, this is just not true. Experiments show that it is impossible for participants successfully to remember, even immediately afterwards, what was said to them in a two-party conversation that lasted for as little as five minutes (Hjemquist 1984). Participants can typically reproduce only 25-30 per cent of the ideas contained in their interlocutor’s contributions and then only in a paraphrased form. Their ability to reproduce verbatim can be as low as 1 per cent. Secondly, perhaps more surprisingly, speakers do not remember accurately even their own contributions.’

SIX

Ketch Vs sloop – the evidence re-examined

My initial misgivings about this case stemmed from my experience that a boatie is likely to give a better description of a boat than of a person. I have spoken to literally dozens of boaties about this; all hold the same view.

When looking at an approaching boat from the water it is common for boaties to recognise either the particular boat or the design type from a distance. As the boat gets closer the boatie might recognise some of the people on it. It is easier to recognise a forty-foot boat than a much smaller person. This is especially the case when the boat is described as being unusual.

At first glance from a distance it may be unclear whether a boat has one or two masts. But Guy Wallace was not describing a boat at a distance; he was right alongside the ketch in a Naiad water taxi looking up at the masts. From this distance and angle it is not the sort of error that people make. People might get the shade of colour wrong, get the length wrong and get the name confused with another boat. But if two witnesses in the same

water taxi alongside the boat (Guy Wallace and Hayden Morresey) say it is a ketch then they will invariably be correct, as it is not hard to tell whether a yacht has one mast or two. **If boaties made this basic sort of error how would they recognise whether they were going to get aboard the right boat?**

The initial police approach was to try and locate the ketch as a way of finding out what happened to Ben and Olivia. This approach is still sound, even if it is difficult.

One of the first difficulties we faced in trying to identify the mystery ketch was that of unravelling a web of confusion. ('We' in this context means Chris and Tom Watson, my wife Jenny and myself, Dr Barry Kirkwood and a number of other experienced sailors.) This included two versions of the shape of the stern. The style and shape of the ketch had also changed in the process of the police getting an identikit of the mystery ketch drawn up. While it may sound simple to draw an identikit of a yacht from a rough sketch and some descriptions, it is deceptively difficult in practice. The police have the experience and computer systems in place to draw identikit sketches of people, and even then a high degree of accuracy is not expected. The person trying the same process for a yacht is a pioneer, and is subject to the pioneer's learning curve. Guy Wallace wasn't happy with the identikit. The man who drew it wanted the chance to improve it. Late at night on 8 January 1998 he called in to the police station (Doc: 30838) and said: 'I was the artist that drew the sketch of the ketch that is being looked for. I have been at home tonight thinking about the boat. I knew that it wasn't quite right and I wasn't happy with the final impression.'

The publication of this erroneous identikit leads to the possibility that if the police found the mystery ketch and

compared it to their identikit they could then form the view it was a different boat. Similarly the publication of an inaccurate identikit confused the public. There are many, many first-class observers of boats in New Zealand with good memories. The police identikit now acts as a hurdle to be overcome in trying to get good reports of the identity of the mystery ketch.

The key witnesses are obviously Guy Wallace, Hayden Morresey and Sarah Dyer as it is they who were in the water taxi that dropped off Ben Smart and Olivia Hope to a boat. Amelia Hope and Rick Goddard got off the Naiad on to the *Tamarack* before it arrived at the other boat.

Guy Wallace on 3 January 1998 (10861).

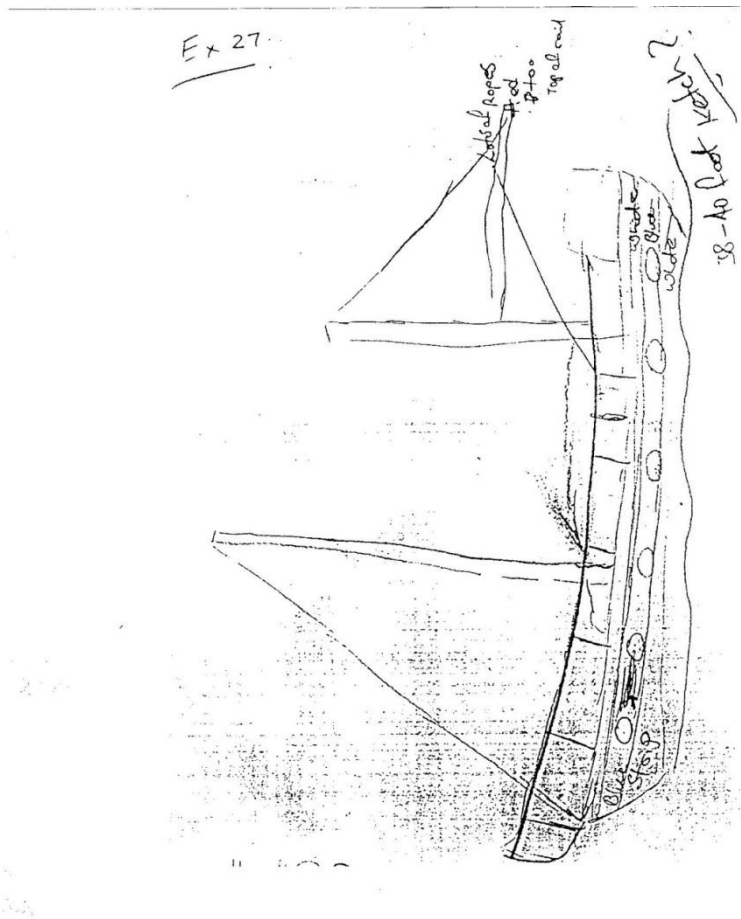
‘It was a timber ketch with round portholes. It was blue and white and really old. It had a blue stripe on it which was really dark blue.’

Astronomical twilight started at 3.47 am and the sun rose at 5.54 am. The trip to the mystery ketch was between 4.00 am and 5.00 am so it was during the pre-dawn period during which the sky gradually lightens. Guy said there was sufficient light for him to tell the colour of the stripe (remember that his eyes were only inches from it). From my own experience of being on boats at that time of the morning I have found it harder to recognise colours because they are fainter. But there is nothing which would lead me to doubt someone else’s ability to recognise colour at that time of the morning. Wallace took other people to their boats after his first fateful trip, and many of them commented on the good visibility and how light the sky was.

Guy continues later the same day (10859)

'I'd say the ketch was about 38-40 foot long. I'm pretty sure it had two masts. It had quite a low cabin in the middle. I remember the side had a very thick railing on it. It was white on the bottom then through the middle it had a very dark blue strip and then it was white on top. I remember there were a lot of ropes hanging around by the cabin. I'm not sure how many portholes there were but they were round.'

Here is the sketch that Guy drew on 3 January:



Guy Wallace on 5 January (10017)

'The bow of the ketch was pointing to the shore and I came port side on. I was pulling up at his port side - port to port. I was facing away from the shore.'

‘The ketch I would describe as a timber ketch, about 38-40 foot. It’s what I would describe as a typical old ketch design. I’d say it’s designed in the 60’s era. It was white with a dark blue stripe running along the side above the waterline. It had round portholes, which were below the deck. I’m not sure how many but I think 5 - 7 per side. I’m not sure if the portholes went through the blue stripe. It had a bulbous transom [stern] (refer sketch).’

‘The ketch had heaps of ropes on it. Even though it was old it was very well maintained. It had a flexi side rail with stanchions running along the side. The buffer strip was blue and chipped.’

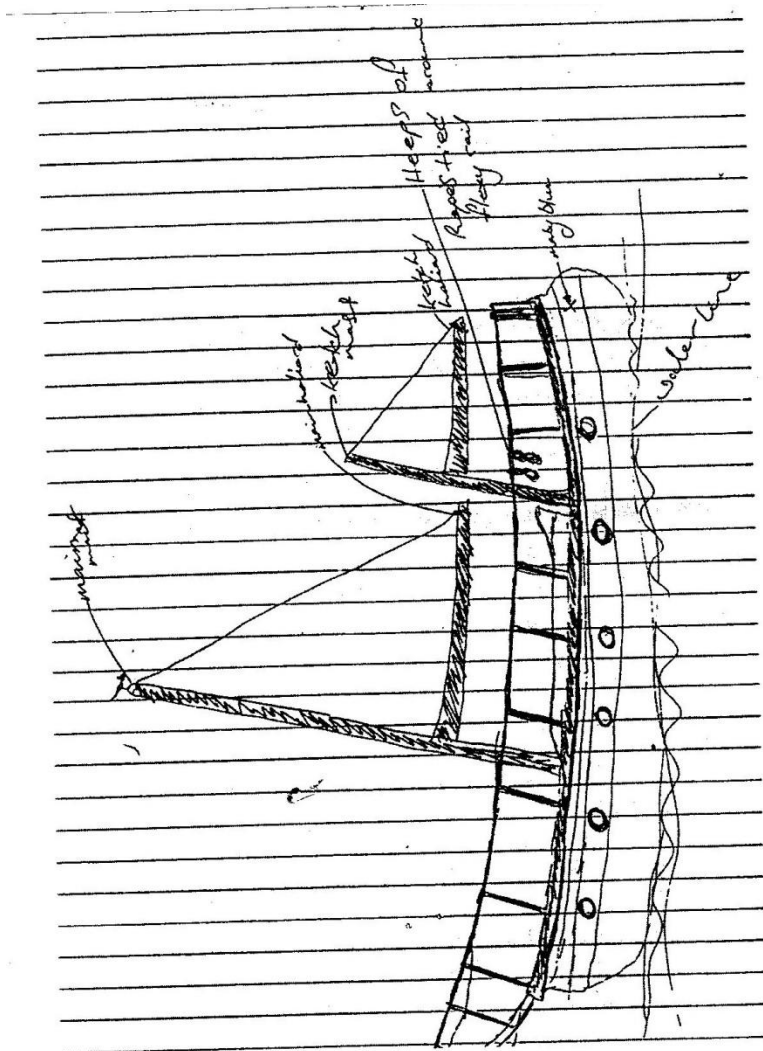
‘There were brass surroundings on the portholes.’

‘... the cabin was very low to the deck due to the portholes being below the deckline. They would have provided most of the light getting into the cabin. I think the cabin may have been creamy colour. It wasn’t white like the sides. ‘

The ketch had no cabin lights on at the time. Wallace’s reference to light getting into the cabin is related to the design of the boat. He means that as there were portholes in the hull there was less need to have a high cabin with windows to allow for sunlight to enter the boat. In the same line of thought, boats designed like this typically have the deck higher up from the water than other boats.

On the following page is the second sketch that Wallace drew.

Author’s note. Take notice of how the shape of the stern has changed.



Guy Wallace on 9 January (10081)

'I pulled up alongside the ketch and remember thinking "this is a nice old boat." It looked very tidy and extremely well kept. The ketch did not smell of fish at all. It was very tidy. The ropes

at the back made me believe it was used for fishing. I have seen ropes like that before on other fishing boats. We had one very similar at Ohope Beach where I grew up. They use the ropes for tying marker buoys to long lines.'

'I backed away from the ketch, went to the bow and carried on to the Doctor's Jetty.'

Hayden Morresey on 7 January (10031)

'I would describe the boat as a yacht. When we came up to the boat I can remember seeing a bit of white at the top of the side and then another colour and then white again. I can't remember what the middle colour was. I can't remember a lot about the yacht other than it having heaps of ropes. I can remember a mast near to the back and there was heaps of ropes coming off that.'

Hayden Morresey on 8 February (20616)

'The railing was quite smooth and I grabbed it with my right hand like I would grab a stubbie.'

Author's Note: Hayden is describing a stanchion, the vertical 'fence post'.

'I could get my hand around it quite firmly. It was metal. I wouldn't know how tall it was or how many other there were. I didn't really stand up to grab it from where I was sitting on the Naiad, but crouched up a little bit. I wasn't standing on the top edge of the Naiad.'

'The boat I saw had a mast just in front of a cabin. The cabin was at the back of the boat. It had lots of ropes all over the boat. They were up in the air more. I couldn't see the colours because there wasn't much light, but they looked dark - it could have just been because it was dark. They were slack sort

of, not tightly bound. They were sagging. The ropes were about twice as wide as an electric cord (extension cord).’ ‘The darker colour stripe was a bit higher than the side of the Naiad when it was next to the boat.’

‘I think this boat was longer than the *Tamarack*. It looked longer.’

Author’s Note: The *Tamarack* is 28 foot long.

‘The middle of the boat went down slightly.’

‘The cabin was more box like than in your picture.’ (Referring to the identikit sketch.) ‘There wasn’t the wide canvas at the back (refers to awning around the sides of the cockpit on Scott Watson’s boat). Also the cabin didn’t seem as long as the one in the sloop picture.’ (He is being shown a photo of Scott Watson’s boat.)

Morresey had not noticed whether there were any portholes. Later in court he gave an excellent description of how high the gunwale of the boat was above water level. After Scott Watson was convicted of murder and had lost his appeal, Hayden was asked whether he saw the deck and what it was made of. The answer was planked timber, the same style as a teak deck. He was also asked whether the horizontal safety rails were of pipe or whether they were flexible - the answer was flexible.

When looking at the police identikit sketch of the ketch in court he described the aft mast as being aft of the fourth porthole back from the bow. A mast situated that far aft just has to be the second mast of a boat - he was just using the portholes on the identikit sketch as markers to indicate the position. He also described ropes going up in front of this mast, toward the bow. Hayden was facing towards the stern of the ketch and

whilst he didn't actually see the forward mast he could rightly assume the ropes were going up to something.

When describing the visit to the *Tamarack* Hayden stated:

'I am sure this first yacht had steps in the back of it. I think it had a mast.'

He hadn't paid that much attention as to whether *Tamarack* had a mast, but his description was nevertheless accurate.

Sarah Dyer on 8.1.98 (10080)

'As we got close to his [the mystery man's] boat he said, 'It's that one there' and pointed to a yacht. I can't remember if it was next to other boats or not. I can't remember what the yacht looked like.'

Sarah did however describe this boat as being longer and higher out of the water than the *Tamarack*.

It is quite clear that Guy Wallace and Hayden Morresey are describing the same boat. The colour scheme of the hull is the same in both accounts, as are the number of masts and the ropes. Morresey just didn't notice whether there were portholes or not: he wasn't driving the *Naiad* and wasn't as used to yachts as Wallace. His attention was more focused on the area higher up on the boat, when they came alongside.

This description of a wooden ketch does not match up with any of the boats identified by the police as having been at Furneaux or the Pines.

Ted and Eyvonne Walsh say that they saw the mystery ketch a number of times on New Year's Eve and also on 2 January, when they were on their charter boat *Sweet Release*. Six other people aboard that day also described the ketch they saw. Here we look at the Walsh's descriptions of the ketch to try and see if it is the same boat as described by Wallace and Morresey.

Ted and Eyvonne Walsh on 7 January

Ted and Eyvonne Walsh faxed to the police their separate sketches of the ketch they had seen. At the time they were running a charter boat. On the evening of New Year's Eve Ted Walsh was running a launch between Furneaux Lodge and Punga Cove as a water taxi service. Eyvonne Walsh was helping out on the Furneaux Lodge jetty.

Eyvonne Walsh on 8 January (10063)

She described seeing the same ketch on 2 January that she had earlier seen at Furneaux Lodge on the evening of New Year's Eve.

'Here's this Chinese junk again.'

'It was long with hatch at back. It had two masts. The most noticeable things were the portholes; they were dark blue and round - about five or six of them. The other thing was all the ropes coming off the two masts - it reminded me of a sailing boat.'

Eyvonne Walsh on 30 January (20235)

'What made me notice the boat was the back of it. It had old-fashioned type rope work which went to a point at the top of the masts. It was clearly visible from the back as you looked at it. It had a white hull with a thick blue stripe around it. It just struck me as an unusual yacht then. The rigging on the boat was the thing that caught my eye.'

Eyvonne describes seeing this boat again on 2 January

'I'm pretty sure this boat was the same one I had seen at Endeavour inlet on New Year's Eve which I have described previously in this statement. I had a closer look at the boat

then. I guess it would have been 50 m from us. It was a ketch, would have been 40 or 45 feet long, bargey looking, the front was quite pointy and the back of it was squarish but not really squared. I would say the back was a bit tapered. It had a cockpit at the back, which gave it a Chinese junk look to me. I could see clearly then that it had a deep blue stripe on a white hull. In the stripe were maybe 5 or 6 round portholes. I noticed the old-fashioned rope work on it. The rope work around the hand railing went around the boat in a zig zag pattern. It appeared to be real rope. I noticed the ropes, which secured the masts, ended by hanging over the hull a small length. It gave it an old fashioned look. I guess I would be 90% sure that this yacht was the yacht I saw at Endeavour Inlet on New Year's Eve. It was definitely a sea going vessel. I can't remember a name on the boat but I feel it could have had gold writing on it.'

Eyvonne Walsh on 5 February (30627)

'I have just been shown a photo of four ketches, the boat I saw on the 2nd January is not in the photo. The ketch I saw had a railing similar to the one on the photo of the *Toroanui* but the rope work was very much diagonally, zig zagging through. The boat mast ropes didn't just go to the deck; they went over the side of the boat and must have hooked onto the hull somewhere.'

Eyvonne later told me that there was no dolphin striker under the bowsprit, but there was netting.

Ted Walsh on 7 January (10955)

He faxed this description to the police along with his crude sketch of the ketch:

‘Approx 40 foot long, bow rail ran from forward to aft, heavy ropes everywhere, especially around cockpit at rear of vessel. Line of blue approx 2 feet wide and through portholes. Older style vessel, with low angled saloon area. Name written/painted in gold on the angled front part of the hull. (Name unknown).’

Ted Walsh on 8 January (10058)

Ted described passing the mystery ketch at about 2.45 pm on 31 December 1997 when...

‘.. returning from Gem Resort which is in the Bay of Many Coves. I passed a ketch coloured white and blue. The blue was a line and was a royal blue colour with round portholes possibly right down the boat and in number 6 to 8. The portholes were within the blue strip. I have seen a picture (identikit sketch) of the boat and I would say that the boat I saw and this are the same, although I saw a lot of rope dangling between the stanchions. The blue I saw was darker and wider but other than that similar as the picture.’

‘.. when I came back into Endeavour Inlet I recall seeing the ketch I had earlier described just entering the Inlet.’

‘The picture (identikit sketch) is slightly wrong with the second mast in front of the cockpit. The cabin went back further and was very small.’

Ted Walsh on 30 January (10786)

‘The third distinctive boat I saw off Kurakura Point was similar to the *Alliance* but older, not with a flat bottom. It was similar in colour to *Alliance* but the blue line did not go all the way up

to the gun whale. It had similar portholes; it had a little cockpit at the back, which was not a cabin. Just in front of the cockpit was a very low lying dodger, the opening where people would walk down below. I can't say how many masts it had but I seemed to have the impression of two, although I can't remember two booms. There was a handrail all around this boat, which had thick rope hanging from it. The rope appeared to be old. There was also rope hanging from a mast. This rope gave me the impression that someone knew what they were doing, it also made it distinctive.'

He was shown the police identikit sketch of the ketch:

'I am unsure about the rounding of the back but the artist's impression of a long boat whereas my thought of a Chinese junk being shorter'.

This last comment of Ted's was unclear to me until I discussed with him a third identikit sketch of the ketch that one of our team had drawn. My first move in trying to identify the mystery ketch was to start asking around yachties to see what design it was that the artist had drawn. I contacted sailors, designers and builders in the United States, and Thailand. The answer was that it looked like a 'Hans Christian' or 'Lord Nelson'-designed hull but with portholes.

The trouble is that neither design was built with portholes. The police identikit turns out to be of a boat that has probably never been built, let alone found. People in the U.S.A. said 'Are you sure the stern was really like that?' Good question! Ted and Evyonne Walsh certainly didn't think the stern was like that. Guy Wallace drew two different sterns for the ketch one on 3 January and another on 5 January. He said that he approached

the ketch from its bow, came alongside port to port and then reversed away so that he never went around the stern. As this was at night he can't have had a very good look at the stern. He must have tried to guess at the shape of the stern from the lines of the hull forward of the stern - and that is deceptively difficult to do, especially for an older and unusual design. Ted talked, above, of the boat being 'shorter'. When discussing one of our earlier identikits of the sketch it became apparent what he meant by that. He meant a squatter or chunkier type of hull shape - less sleek and long looking than the Hans Christian or Lord Nelson designs.

We considered the question of whether the boat described by Ted and Evyonne Walsh was in fact the same boat as that described by Guy Wallace and Hayden Morresey. The very similar features are the colour scheme of the hull. This is an exact match with all four witnesses. This does not match any other boat identified by the police. All four people described the boat as having two masts. All four commented about the unusual amount of rope. All four in a similar fashion describe the high freeboard, the low cabin and the cockpit at the stern. The descriptions of the length are reasonably consistent. All four spoke of the middle of the boat being lower than the bow and stern. Three of the four referred to a bowsprit, and noted the boat was well maintained. Three of the four described the round portholes in the blue stripe. Morresey said he didn't notice whether there were portholes or not. The differences are in the stern and in some aspects of the style of the boat; the descriptions by Ted and Evyonne Walsh were from sightings in daylight so they are more likely to be accurate in these respects than the descriptions of Wallace and Morresey. Guy Wallace later commented to the police that their identikit portrayed the ketch as being sleeker than it really was.

It seemed extremely clear to us that all four people were describing the same boat, and that it was a boat that could not be confused with any other boat at Furneaux Lodge, even the *Alliance*.

Mention is made in Chapter 9 of the descriptions of the ketch given by Kevin Ries and Kyle Ramsay. Their descriptions are consistent with those of Ted and Evyonne Walsh.

Cherie Quinn and Greg Feek were also on Sweet Release that day and saw the ketch go past. The words they use aren't very nautical but they clearly saw the same boat.

Cherie Quinn on 11 January (10219)

'The thing that caught my eye were the windows. There were four or more windows. The windows were small, round windows. There was a blue stripe on the boat. The blue stripe was somewhere near the window. I thought it was some sort of holiday yacht. There were two poles and the boat didn't have its sails up. The rest of the boat was white.'

From comparing the descriptions of Guy Wallace, Hayden Morresey, Ted Walsh, Evyonne Walsh and the other people on Sweet Release who saw the ketch it is clear that they are all describing the same boat.

We also checked to see whether these descriptions matched Scott Watson's boat.

Comparison of the two boats :

Mystery ketch

Two wooden masts

Round portholes with brass surrounds in the hull

The lowest part of the hull is white, to a level just above the height of the Naiad.

There is a royal blue stripe surrounding the portholes

This blue stripe is about 600 mm high, then there is a Further white strip above that

Hull made of timber

Deck made of timber

Flexible side rail

Short cabin top

Cabin sides coloured cream

No lee cloth around the cockpit

38-45 feet long

Large amount of unusual ropework and ropes

Plenty of room for two extra people

Scott Watson's boat

One aluminium mast

No portholes anywhere on the boat

All the hull is white, the hull Being about the same height as the Naiad

There is no blue paint on the hull or cabin

Hull made of steel

Deck made of steel

Galvanised pipe rail

Long cabin top

Cabin sides coloured brown

Had a lee cloth around the cockpit

26 feet long

Usual amount of ropes

Not much room inside

At the trial Guy Wallace was asked to compare Watson's boat to the mystery ketch. He answered that

'about the only similarity is that it floats.'

The police failed to recognise that Ted and Eyvonne Walsh, and other people on *Sweet Release* (see Chapter 9) were talking of the same boat. By that stage the police were still confused by Guy Wallace's mistake as to where in the bay the ketch was located.

SEVEN

Where was the ketch?

It was central to the prosecution's case that the police had been unable to locate any ketch that had been at Furneaux Lodge and moored in the position given by Guy Wallace in relation to the jetty, rafted up to other boats, that could accord with the boat Guy Wallace said he dropped the three people off at. In this chapter we will review in detail the evidence that supports or opposes this view.

In doing so we will make use of the diagrams used by the police to establish the positions of the boats in the bay at Furneaux. These diagrams were very detailed and included a scale for measurements. In the material that follows I have used the working assumption that the positions of the boats are sufficiently correct for the purposes of this chapter.

The police asked Terralink New Zealand Ltd to prepare the diagrams; they mapped the coastal outline and wharf locations from stereo aerial photography acquired with a

photogrammetric mapping camera. The photography was taken at a scale of 1:50,000.

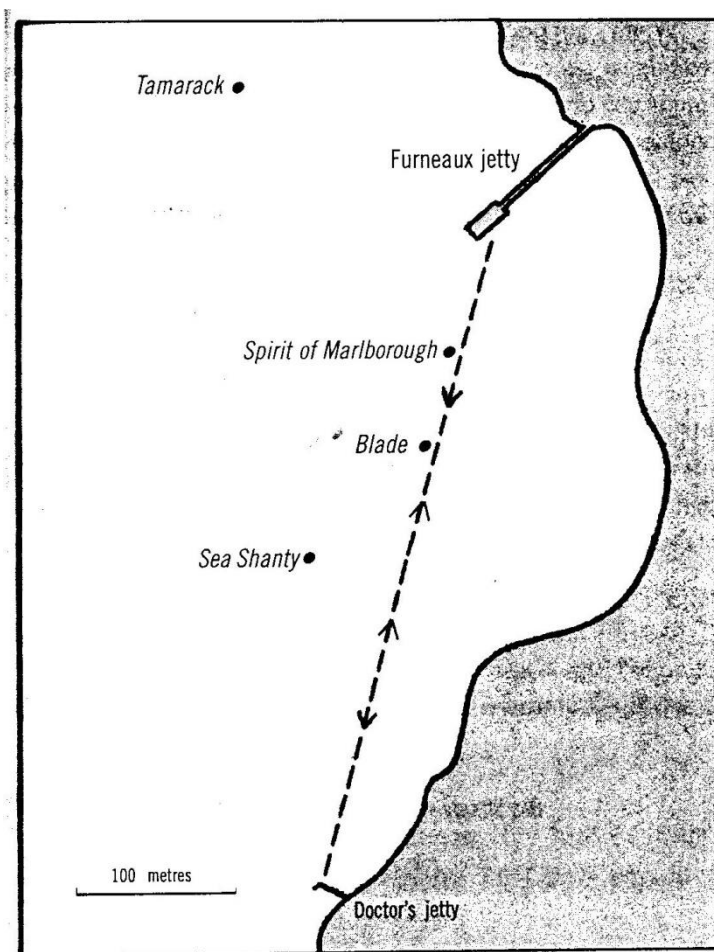
There are thirteen permanent moorings in the bay and their positions were determined by ground survey. The mapping of the boat positions was performed from an amateur camera photo of Endeavour Inlet taken at about 7.00 pm on 31 December 1997. The photo was taken from the land, above sea level, and the boats' positions were measured using PhotoMedeler photogrammetric measurement software. The police identified the boats in the photo from interviewing the water taxi drivers and the people on the boats.

In terms of the use to which I have put the diagrams, I think the position of Scott Watson's boat and the *Spirit of Marlborough* are quite accurate, as they were on permanent moorings. The position of the Tamarack would be reasonably accurate, as it was not far from *Tormilind*, which was on a permanent mooring. The position of *Sea Shanty* would be approximate only.

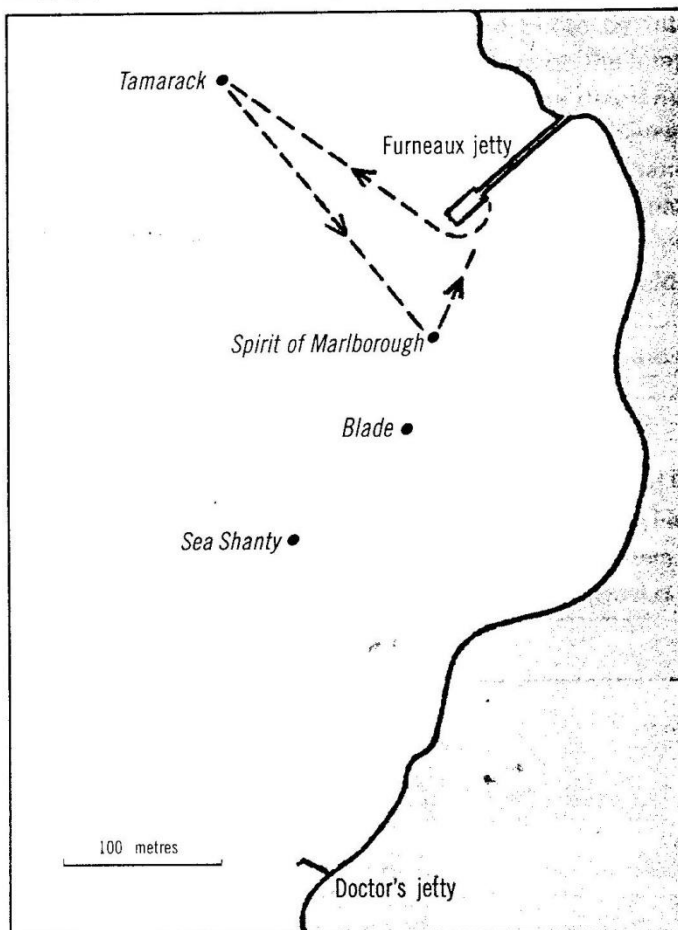
To simplify the diagrams I have omitted boats that are not referred to.

Guy Wallace on 3 January 1998 (10861)

'There was girl and a guy who had got lost on the track and they wanted a ride out to a jetty because they were living at the Pines. No one wanted to take them out so I offered to take them out and I dropped them off at the Doctor's Jetty. It was about a five minute trip.'



'When I got back there were about 4 or 5 people on the jetty waiting to go out to their boats and 4 of them were going to *Tamarack* and there was one other guy who was going to another yacht, I went to *Tamarack* and dropped the people off onto *Tamarack* and picked up two people from the *Tamarack*.



The two people I picked up said that there were too many people on the boat to get any sleep and they got into the tender and I proceeded to this other boat and dropped them all off.'

'I think it was moored just starboard of the jetty. Looking at the map it would have been next to the *Spirit of Marlborough*.'

It is not disputed that the 'girl and guy who had got lost on the track' were Hayden Morrese and Sarah Dyer and that they were on the naiaid for the trip to the mystery ketch. It was the first trip Guy Wallace did.

The *Spirit of Marlborough* was rafted with other boats at a fifteen-degree angle from the line of the wharf and about 100 m from it. Looking from the shore it was to the left of the jetty. The distance from the jetty to *Tamarack* was about 200 metres and the distance from *Tamarack* to the *Spirit of Marlborough* was about 200 metres. The distance from the *Spirit of Marlborough* to the Doctor's Jetty is about 400 metres.

Guy Wallace on the 3 January (second interview) (10869)

'I have just seen a video of boats at the Furneaux and I'm pretty sure the boat I dropped the people off on is next to the *Spirit of Marlborough*.'

Guy Wallace on 4 January (10860)

There was a note: 'Guy Wallace thinks boat tied up to 'Markline'. 'Markline' boat may be called *Nugget*.'

Author's Note: The *Nugget* is a ketch and not a Markline launch. Markline is the brand name of a modern design of launch.

Guy Wallace on 5 January (10017)

He stated again how he took the girl and guy to the Doctor's Jetty at The Pines, just the three of them on the naiad. He then came back to the floating jetty at Furneaux Lodge.

'The round trip would have taken 7 or 8 minutes. That was my first trip. I did about 4 trips all up.'

Regarding part of the route from *Tamarack* to the mystery ketch he stated:

'that was back towards the jetty. I remember Ben saying, "Please say that's it." Ben was referring to a big Markline that was there. This other guy said, "No, but it's tied next to it if that helps".'

On one of Guy Wallace's later Naiad trips he dropped off the Andersons to their launch *Panache* which was moored with a 'Markline' launch called *Kartel*.

After dropping off Ben, Olivia and the other guy 'away I went back to the jetty.'

'The *Tamarack* was anchored about 80 to 100 metres from the jetty.'

Authors note. The *Tamarack* was actually about 200 m from the jetty.

'From the jetty to the *Tamarack* would have taken me four to five minutes and from the *Tamarack* to the ketch would have taken me about the same time.'

Note that for a boat to take four minutes to travel 200 metres is a speed of about one and a half knots, which is extraordinarily slow. This is about half the speed a person walks.

Guy Wallace on 6 January (10016)

The following is a very significant statement from Guy as it shows how confused he was in thinking the mystery ketch was rafted up to other boats near the *Spirit of Marlborough*.

‘Then I took Olivia and Ben and the other guy out to the ketch I noticed that the ketch was in a group of about five vessels.’

‘I knew there were about four or five vessels in the group *because I had been past them earlier when I went to the Pines.*’

Here it is apparent that Guy’s description of where the mystery ketch was anchored was based on his memory that he dropped off Ben and Olivia on his second trip - *the trip after he had taken Hayden and Sarah to the Doctor’s jetty at The Pines*. He went past the *Spirit of Marlborough* after he had dropped off Ben and Olivia and after he had also dropped off Hayden and Sarah.

Guy Wallace had been working for about 20 hours. The trip on which he dropped off Ben and Olivia was uneventful. He simply couldn’t remember clearly which people he had dropped off on which trip. He got them jumbled up. The key to clarify this is a comparison of his statements to those of the other witnesses on each trip.

Hayden Morresey on 7 January (10031)

Morresey recounts how he and Sarah Dyer abandoned their attempt to walk back to their bach at The Pines and were then refused a ride in a water taxi.

‘As we were heading to the bar we saw a fellow picking up rubbish around the grass area. He was a staff member at Furneaux. He was aged between about 25 - 30 years, short hair and he was quite a big fellow. I knew he was a staff member

because he had a Furneaux top on. I asked him if he could get us a ride to the bach and he said he would take us out.'

Two or three other people also got aboard.

'We left the jetty and we headed out to our right. We were going quite slow and we had to weave for a couple of boats heading out to where one of the other guys was going.'

Morresey says that they called at a white yacht and some people got off and a girl and a guy boarded the naiaid.

(Author's Note: He was speaking of the Tamarack.)

'We then headed back towards the jetty *but further out to sea*. When we got to the guy's boat, I looked back toward the jetty the right side of it looking at it from the sea.'

'After we dropped them off we headed out to our bach and that would have only taken us about 5 minutes.'

(Author's Note: 'About 5 minutes' can also mean 'not long'; he doesn't give a clear picture of the relative timings of the different stages of the trip.)

Hayden Morresey on 8 January (10079)

'As you were looking towards the jetty [from the water taxi] this second yacht was definitely to the right of it. I reckon this second boat was reasonably close to the jetty.'

'I can't remember seeing any boats on the other side of it.'

From the above statements the mystery ketch is still situated on the left-hand side of the wharf when looking seaward from the

wharf. There is doubt cast by Morresey on whether it was rafted up to any other boats.

Sarah Dyer on 8 January (10080)

She recounts how they went to the *Tamarack*.

‘It took about a minute or maybe two at the most to get to their boat.’

Then they headed to the mystery ketch.

‘It probably took about three or four minutes to get to his boat.’

Then the naiad carried on to the Doctor’s Jetty.

‘It took us about two minutes to get to the wharf.’

Dyer couldn’t remember what the ketch looked like; she was cold and tired and wanted to go to bed. She wasn’t particularly interested in the boats - but she was interested in how cold it was and how long it was taking. Because of this, I think her account of the timings is more likely to be accurate than any timing remembered by Morresey or Wallace. This is the only clear description of the relative times taken for each stage of the Naiad’s first trip with Guy Wallace as the driver. Guy travelled slowly because it was quite a chilly night and speed increases wind chill.

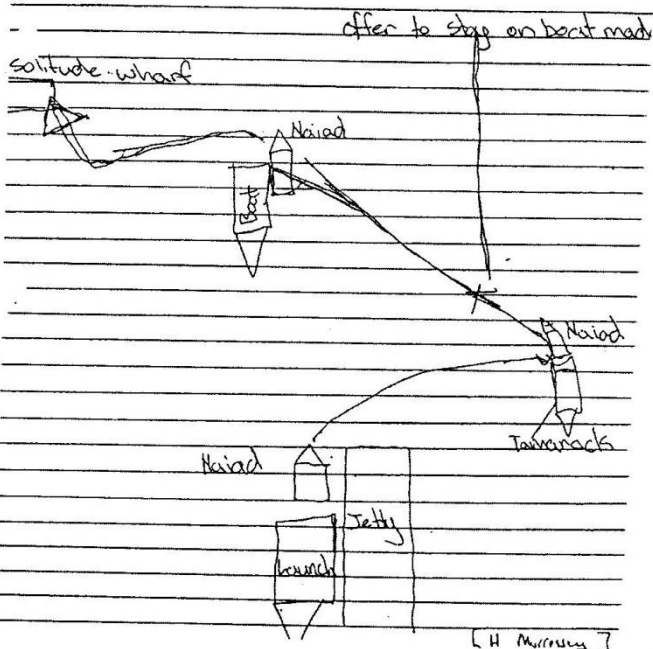
Hayden Morresey on 8 January (20616)

Morresey drew a sketch of the Naiad’s route from the Furneaux jetty to the *Tamarack*, to the mystery ketch, and to the Doctors’ Jetty (which is next to the Solitude wharf).

Movements of Naired + Positions of Boats.

8/2/08

H. M. Munn



Guy Wallace on 9 January (10081)

'I remember a launch kept spotlighting me as I was driving.'

This leads us to the question of reliable ways of judging distances at night on the water. At night a person's eyes adjust to the low level of light. Provided no one shines a light in your eyes you can see reasonably well with a bit of practice, which includes learning to pay attention to the different degrees of blackness. For example an unlit boat can at first just seem like a deeper darkness. But night sight is more two-dimensional than day sight; the lack of light interferes with the sense of perspective and distance. An experienced sailor learns to attach much more importance to angles than a sense of distance at nighttime.

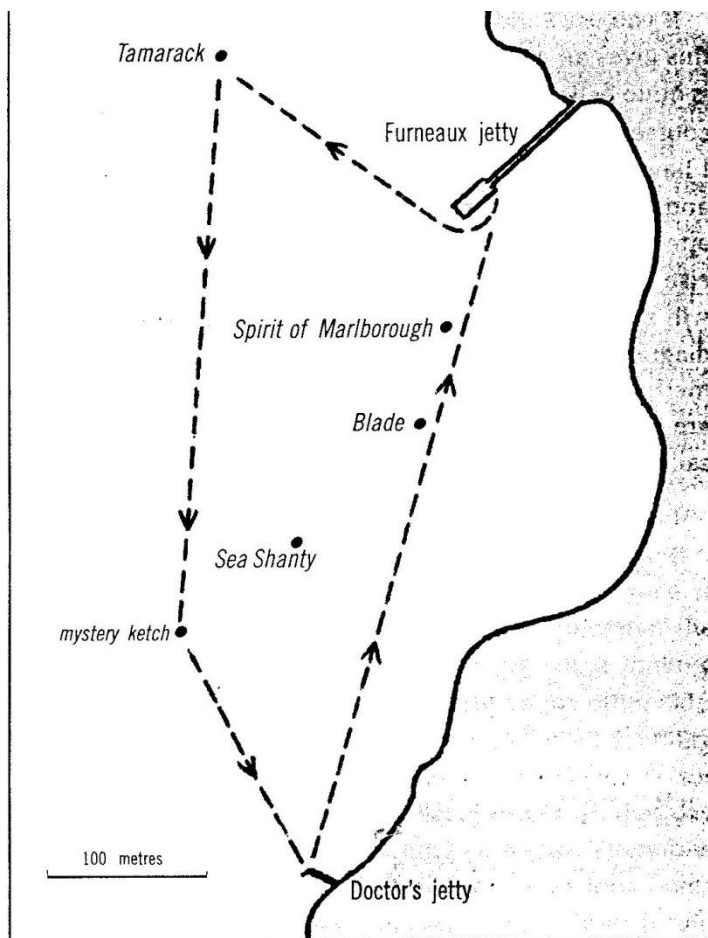
In this case Guy Wallace's estimate of how far the *Tamarack* was from the Furneaux jetty was 80-100 m - and the real distance was 200 m. So he was out by a factor of 100 percent. This is not because Wallace has bad eyesight; it is directly due to the lack of a proper sense of distance at night. Everyone has this problem. His description of the *Tamarack* being to the right of the wharf when looking seaward, and the mystery ketch being on the other side, was quite correct - because like everyone else his ability to judge angles was unimpeded.

The other relevant factor was that it was Guy's first trip as a Naiad driver on that day and evening, as he had been working in the bar. Therefore, he did not have a clear idea of where the various boats were. By that stage all the other water taxi drivers would have known where the *Tamarack* was because the *Tamarack* crowd had used the taxis a lot. Wallace, on the other, needed instructions to find it. Now if you don't know where the various boats are, and it is night-time, and it is your first trip, and then someone shines a spotlight in your eyes - you would

have little idea of where you were. However the ability to judge angles would be unimpeded.

If you use Sarah's times as being relative distances this gives an average Naiad speed of about 3 knots which is quite believable. I have plotted on the diagram below the course taken by the Naiad on its first trip. To plot this course I have used the corroborated testimony of the witnesses and the angle from the Furneaux Jetty, and have paid attention to Hayden Morressey's sketch. There is nowhere else on the diagram to position the ketch that will satisfy all of these criteria. The position shown in this diagram is about 200 m from Scott Watson's boat. The methods of calculation used in determining this position are a simple application of the same methods used by sailors in navigating at night.

Where the Naiad really went on its first trip



How does the foregoing compare to what other witnesses said about the location of the mystery ketch?

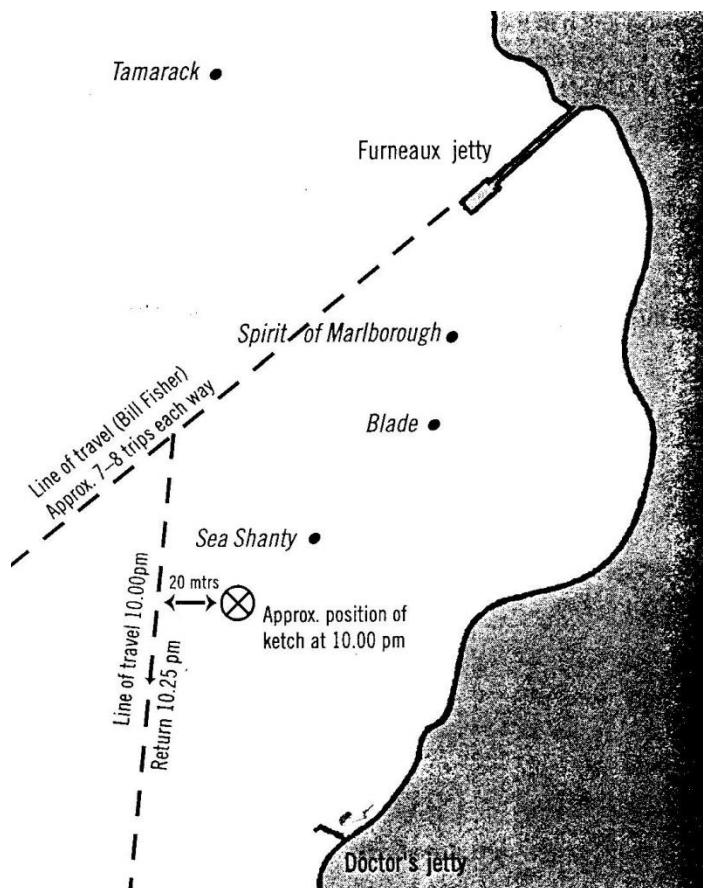
Eyvonne Walsh on 30 January (20235)

'I remember amongst other things that night seeing an unusual looking ketch in the Inlet. This boat was on anchor, near the Pines area but not that close to the coastline. It was anchored by itself and it looked to me to be in line with the point in the inlet which sticks out and leads to the Pines area. You can see this point clearly from the main Furneaux Jetty looking back to the Sound. I would have noticed this boat between 8.00 pm and 9.00 pm I can't really be sure of the time. "

'I can't judge how far away this boat was but it was further out than the majority of the other boats.'



Ted Walsh's trips past the mystery ketch



Ted Walsh on 7 January (10955)

He continued his description of the ketch he had seen on 2 January:

'It was definitely the same ketch that I had seen on 31.12.97 moored in Endeavour Inlet near the Pines.'

Ted Walsh on 30 January (10786)

'I have just been shown a photo titled 'Endeavour Inlet 31.12.97 6 - 7 p.m.' The Chinese junk is not in this photo but it's mooring at Barbeque Point was not far out of the photo. The Chinese junk was sitting on an anchor (impression given) on its own on the outer edge of the cluster of boats.'

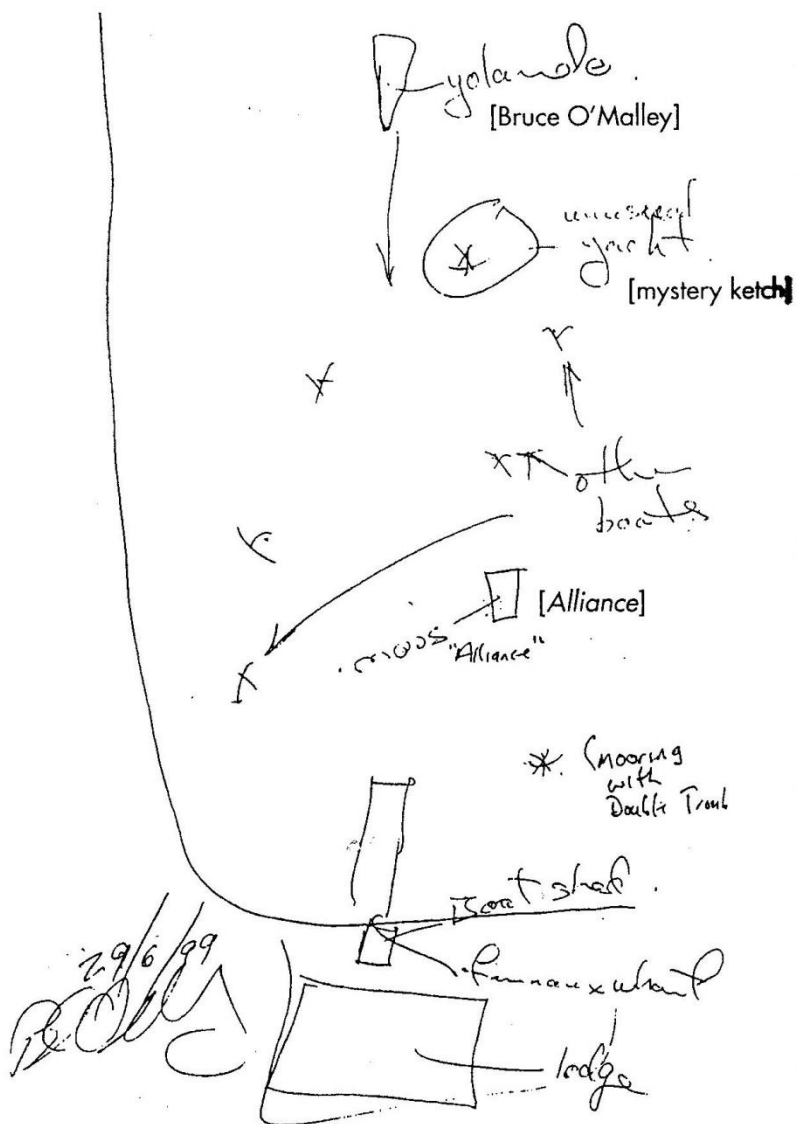
Bruce O'Malley's (from the *Yolande*) diagram gives a similar impression of the position of the ketch. He also shows the position of the *Alliance* to confirm that he was describing two separate boats.

Yvonne Lloyd on the *Sea Shanty* described seeing a boat with portholes anchored further out in the bay from her boat. I have shown the position of the *Sea Shanty* on the diagram. (see page 112)

The 'Where the Naiad really went on its first trip' diagram was drawn up by me from information provided to the police by Sarah Dyer and Hayden Morresey and the use of simple navigation methods. This position is remarkably consistent with the separate evidence from Evyonne Walsh, Ted Walsh, Bruce O'Malley and Yvonne Lloyd.

The time required to travel at 3 knots from Scott Watson's boat to the Doctor's Jetty was three minutes. The time required to travel at 3 knots from the position I have plotted for the mystery ketch to the Doctor's Jetty was two minutes. There has not been any suggestion from Morresey, Dyer or Wallace that this leg of the trip took more than two minutes.

Diagram drawn by Bruce O'Malley





CONFIDENTIAL
SAC, NEW YORK
JAN 10 1977
JAN 10 1977

Identikit sketch of the mystery man by Guy Wallace.

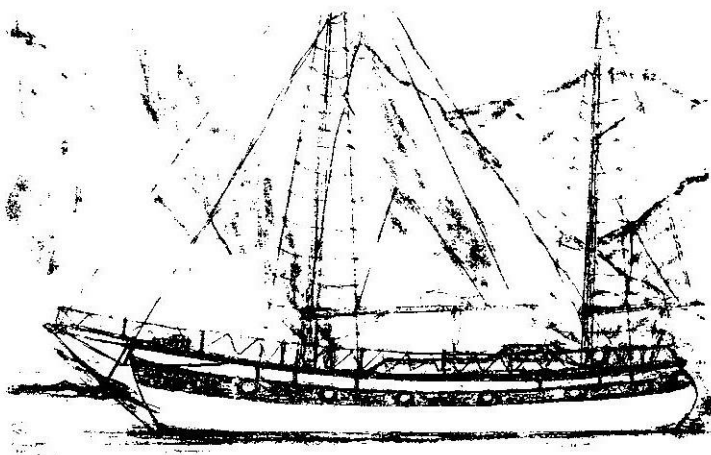
1177



Identikit sketch of the man at the bar by bar staff

[118]

Identikit sketch of the man at the bar by bar staff



The police identikit of the mystery ketch.



The scow Alliance.

At the trial Guy said this leg of the trip took less than two minutes, rather than more.

We have a situation where the information provided by six people is remarkably consistent. There was only one other different position given for the ketch and that was supplied by Guy Wallace, solely because he had mixed up in his mind the various trips he had done. For the same reason it was Wallace alone who said the ketch was rafted to other boats.

In everyday life this simple confusion by Wallace would have been readily solved; he and Morresey would have talked about it together for a few minutes, then Wallace would have mentally kicked himself and said, ‘Oh that’s right, I remember now...’ But the police went to considerable trouble to discourage Guy Wallace from talking to Hayden Morresey. That meant it was up to the police to sort it out – and they never did.

As a yachtsman the foregoing evidence from six witnesses points strongly and clearly to the mystery ketch being anchored alone about 200 m from Scott Watson’s boat. This evidence has a bearing on the identity of the boat that Ben and Olivia boarded and needs to be taken into account when judging the validity of the evidence about hairs from Olivia Hope that were supposedly found on a blanket on Scott Watson’s boat.

The police investigation, and the subsequent prosecution, was based on the premise that Guy Wallace was right in saying that he had dropped the three people off at a boat near the *Spirit of Marlborough*. I have shown above how his error about the position of the ketch arose from his jumbling of the sequence of events. In similar fashion, Wallace could never remember whether his next Naiad trip was to the Anderson’s boat or to Charlie Proctor’s boat. It is an everyday experience that when talking with friends one might say, ‘Do you remember when we

last met and did so and so?’ The friend then also remembers this occasion and perhaps adds some extra detail. Then the conversation turns to, ‘Now when was that?’ and both parties engage in the mental process of trying to reconstruct when it was. Questions may be asked of a spouse or another friend to help identify or calculate by reference to other events when the incident that both parties recall actually took place. The secondary difficulty of trying to establish the order of events is not related to the accuracy of the original memory of the incident.

EIGHT

The mystery man

Trying to identify one young man amongst a crowd of up to 2500 people is fraught with difficulty. More than one young woman was wrongly identified as being Olivia Hope - and one of these mistaken identifications was by Guy Wallace. Later in the morning of 1 January he asked a blonde woman at Furneaux Lodge how staying overnight on the ketch had worked out. The young woman didn't know what he was talking about. It then became apparent that he had mistaken her for Olivia Hope.

Bear in mind that Amelia Hope and Rick Goddard knew they had gone by water taxi to *Tamarack* but neither of them identified Guy Wallace as the water taxi driver, let alone identifying the mystery man.

Guy Wallace on 3 January (10861): The first description of the 'mystery man'

'The two people I picked up off *Tamarack* asked this other guy if he had any room on his boat and he said just jokingly that to the girl that she could come on board but she doesn't have to

bring her mate with her. This was said as a joke and there was no animosity at all.'

'Before I dropped them off on this other yacht, I asked both of them if they were o.k. with that because they didn't know the guy.'

'The guy on this ketch would have been about 32, about 5 ft 9 inches tall, wiry build. He was unshaven but didn't have a moustache. He had short dark wavy hair and smelled like a bottle of bourbon. It would have been very near 5.00 am or just after when I dropped these people off.'

The points to note here are firstly that the trip was uneventful. There was no sign of a pathological hatred of women or any other suggestion that something was wrong or would go wrong. It might have been night-time - but that does not affect the sense of smell. Scott Watson had not drunk bourbon for years. In all the confirmed sightings of Scott Watson he was drinking rum or beer.

Guy Wallace (10859) Later that same day

'The guy off the boat was not the owner. I remember asking him and he said he was just crewing.'

Guy Wallace on 5 January (10017)

'Olivia got on first, then Ben and he got on last. I remember Olivia saying, 'This is really nice of you. Are you sure there's enough room?' His reply was something like, 'Yeah, heaps.'

'The guy that got aboard with Olivia and Ben was a male, Caucasian, aged about 32 years. He was about 5' 8" tall, wiry build. I think he may have had tattoos on his arms but I can't be sure. His hair was a brownie colour, wavy and medium

length. He had about two day's growth on his face. He was bourboned up, like his eyes weren't focusing. He was wearing a Levi shirt with short sleeves, 100 per cent cotton. It had a collar with a button-up front. I saw the Levi brand on it. It was a short sleeved shirt and the colour was between khaki and very pale green. He was wearing blue jeans and I think sandals.''

The points to note here are:

- ❖ Scott Watson was wearing a long-sleeved blue denim shirt.
- ❖ His hair was very short and not wavy, and he was clean shaven.
- ❖ Watson is 26 years old. Wallace was 32 years old, so he was saying that the mystery man was about the same age as himself.

Guy Wallace on 6 January (10016)

'I now recall the guy from the ketch drinking in the bar for most of the night, probably from about 8.00 or 9.00 pm onwards. He spent most of the time in the one area. This was on the right just as you walk into the bar through the main doors. He was actually drinking at the bar. This area is known as 'Reg's Corner' which is where Reg McManaway always drinks. I recall Reg being there that night but I don't know what time he left. He would have been sitting right next to this guy and the guy from the ketch was standing. The guy from the ketch didn't have any accent. He just sounded like your average Kiwi guy. I remember that he did definitely go out on the naiaid with Charlie Proctor. I spoke to them at the jetty. There was Charlie and his crew and this other guy. They were

talking about the fights that happened in the bar and about how badly things were handled with security. When he got on the naiaid he was sitting on my right. I was in the naiaid and the guy from the ketch got in first. Then Charlie's mate got on. He went to sit on the left pontoon and he said, 'Nice soft pontoon' and then he fell in."

Author's Note: Wallace is still confusing the various naiaid trips he did. There were four passengers on that Naiad trip, they were Charlie and his three friends and they were going to Proctor's runabout. They were all interviewed by the police and their accounts are completely consistent - there was no 'guy from the ketch' on that trip.

'When the guy from the ketch was drinking in the bar he was drinking double bourbons and coke. He would have paid cash when I served him. Furneaux only takes cheques from locals and any EFTPOS that night was done through reception. When this guy was in the bar he appeared to be a bit of a loner. He would chat away to people that came up to the bar but there was no particular person that he appeared to be with. He seemed friendly enough, just pissed.'

Note the complete absence of the man who was meant to have been pestering women. This was a later addition to the story.

The police at this stage took a photo of the shirt Guy was wearing (30677)

'Photograph shirt worn by Guy Wallace as he described the one the suspect wears as the same colour, make, style except

the suspect had short sleeves and may not have had the same buttons.'

Hayden Morresey on 7 January (10031)

'I can only remember seeing the back of the guy that I thought was the owner of the boat. I'm not sure of his race. I would put his age at between 25 and 35 years. His hair was quite scraggly looking. By that I mean it was quite wavy. It went down to just before his shoulder line. I think it was brownish in colour. He had long pants on and I think he had a long sleeved shirt on but I can't remember anything about it. I didn't take that much notice of him or the other couple that got on his boat.'

Hayden Morresey on 8 January (10079)

'I think that the guy who had been walking in front of us had longish hair. By this I mean it looked like it needed a bit of a cut. It was wavy and sort of shoulder length. This is the guy who got on to the second yacht.'

This is a corroborating description of the mystery man without any later additions. The description of his hair does not match that of Scott Watson.

When I try to imagine how the police are meant to identify anyone from these descriptions, I despair. Now let us go back to Wallace's first description of the man who got on the ketch and see what, if anything, we have to work with:

'The guy on this ketch would have been about 32, about 5 ft 9 inches tall, wiry build. He was unshaven but didn't have a moustache. He had short dark wavy hair and smelled like a

bottle of bourbon. The guy off the boat was not the owner. I remember asking him and he said he was just crewing.'

Let us assume for a moment that this really is a description of the man from the ketch. To aid our imaginations look at the photos of Scott Watson (page 60), Guy Wallace's identikit of the man from the ketch and the bar staff identikit of the mystery man at the bar on pages 117-118. The question is, of course, whether Watson resembles these descriptions.

In document 10159 on 13 January a witness described what Scott looked like on the night in question:

'He had straight dark brown hair that was the same length all over. I think he was clean shaven. He looked like he had been outside a lot. He was of a solid build - a manual worker. He was wearing a blue, long sleeved denim shirt, jeans, brown lace-up boots.

Man from the ketch

Male

Wearing short sleeved Levi shirt

Shirt was between green and khaki

32 years old

5' 9" tall

Wiry build

The identikit pictures give the impression of a gangly build, look at the neck

Had ten fingers, according to bar staff

Unshaven but didn't have a moustache

At least two days growth

Short dark wavy hair - Guy Wallace

His hair was quite scraggly looking. By that

I mean it was quite wavy. It went down to

just before his shoulder line. - Hayden

Morresey

Smelled like a bottle of Bourbon

The guy off the boat was not the owner. I

remember asking him and he said he was just

Crewing - Wallace

Paid for his drinks from an untidy roll of notes.

Scott Watson

Male

Wearing long sleeved denim shirt

Shirt was blue

26 years old

5' 7" tall

Solid build

Compact rather than gangly

Is missing the tips of two fingers

Clean shaven - he shaved

eight hours earlier

Straight dark brown. Very short hair receding at the temples

Not wavy or scraggly looking

Same length all over

Had definitely not been drinking Bourbon as he never drinks it.

He had drunk rum and beer.

Owns the boat he was on - he built it. And proud of this.

Had very little money on him.

The little there is to go on, doesn't point to Scott Watson at all.

Guy Wallace is purported to have identified the man as being Scott from his eyes in April 1998. But Wallace's sole original reference to the man's eyes was that they didn't appear to be focusing very well because of the Bourbon he had drunk that evening. At that stage Guy described the trip as being uneventful: even the comment from the mystery man about

Olivia coming on to the ketch without Ben had been taken as being without malice. His quasi-identification came after a highly publicised search for bodies and the presumption that Ben and Olivia had been murdered - and after the pressure that had been put on him by the police and the media. The camera used for the photo of Scott Watson that was shown to Guy Wallace had a wide angle lens and it was taken quite close to his face. Because of the angle of view of the camera it gives a slightly distorted appearance, especially of his nose. Because of the quality of reproduction, his '5 o'clock shadow' is accentuated. It is the only photo in the group which shows a person with partly closed eyes.

The water taxi driver Don Anderson, who did take Scott Watson to his boat that morning, was unable to identify Watson from this photo, although he was able to identify his boat. He also tended to ruin a good story because he said that Scott behaved much more politely than most of the other passengers (20470) (40980).

Don Anderson on 6 February (10670)

Anderson makes a very revealing comment about identification:

'I saw the TV news item showing the person Scott WATSON. I was unable to recognise the person from the news item, I can't understand how Guy could.'

To identify a person at night on a Naiad solely in terms of his eyes is a very risky business. Remember that there were many males of a similar age group at Furneaux.

The people who had shared at least part of the Naiad trip with the man from the ketch were Guy Wallace, Hayden

Morresey, Sarah Dyer, Amelia Hope, Richard Goddard and Ben and Olivia. The descriptions given by Guy Wallace up to 8 January don't match Watson, as we have seen above. Did either Morresey, Dyer, Hope or Goddard identify Scott Watson as being the man from the ketch? NO. It is as simple as that.

I can find no reference at all to the idea that Guy Wallace should identify Scott Watson as the man from the ketch until he was interviewed on 11 January. By this date the focus of the police inquiry seems to have been centred on Scott Watson and the process of building a case against him had begun.

I can find no intelligent reason for the focus on Scott Watson from the description of the boat or the person from it. The only basis for this focus was Wallace's incorrect description of the position of the boat at which he dropped Ben and Olivia. This incorrect description arose from his confusion between the various water taxi trips he did, as explained in Chapter 7.

THE MAN IN THE BAR

The process of identifying Watson as the man described by Roz McNeilly, the bar manager serving at the same bar as Guy Wallace, is not as straightforward as has been previously described. She also remembered serving double bourbons to the man Wallace described as being in the bar. In the book *Silent Evidence* by John Goulter (Random House, 2000) the police version of McNeilly's supposed identification of Scott is given: 'The importance of that is that Roz McNeilly identified Watson from a photographic montage, saying that is the bloke who was at the bar who made a real nuisance of himself.' (Wallace and McNeilly said he was a nuisance to bar staff solely because he was sitting in front of the till.)

Roz McNeilly described to me her reaction at reading this part of Goulter's book. She was amazed and irate. 'That is not

what I said at all,' she told me. She described how they had shown her a collection of photos - a montage - and there was only one photo that was anything like the bourbon drinker. She told the police that the photo of Watson was the closest photo of the group *but that it wasn't the same person*. She was using the photo to help her describe the man she had seen.

The male in photo 3 of montage B had similar eyes, but would have had a lot more hair and had one to two days' facial growth. The identikit picture that was attributed to bar staff was done by her and one other. She was not happy at the time with the length of hair.

'Also the original did not look like that; only after it was photocopied did it come out so black around the face, giving a full beard appearance. I was never shown photo montage A; if I had been I would have picked the male with the longest hair, saying he was the most similar. I would not have picked Scott Watson. Also the male I saw was wearing a black fishing type jersey, not a shirt.'

She did not notice any fingers missing, and Scott has the tips of two fingers missing.

'I was never shown the photo taken of Scott Watson taken on New Year's Eve just before he went ashore. The first time I saw this photo was in the book *Silent Evidence*. Having seen this photo, I know, without any doubt in my mind, that the male I served at Furneaux Lodge Bar was not Scott Watson.'

It does seem likely that the identikits are of a person who bought bourbon at the bar, but it is clear that this bourbon drinker was not Scott Watson. The first identikit was drawn up by Guy Wallace, and the second was drawn up jointly by Roz

McNeilly and another barman. But how sure can anyone be that this bourbon drinker from the bar was the same bourbon drinker who boarded the ketch with Ben and Olivia?

Incidentally, Wallace said the bourbon drinker was at the bar between 8.00 p.m. and 9.00 pm Scott Watson did not go ashore until just before 10.00 pm.

Roz McNeilly said the bourbon drinker at the bar was wearing a black, fishing type jersey and not a shirt. Guy Wallace said that the bourbon drinker who boarded the ketch was wearing a short-sleeved Levi shirt coloured between khaki and very pale green. On 6 January when Wallace said that he remembered the man from the ketch drinking at 'Reg's Corner' in the bar, he also incorrectly remembered the same person being on the Naiad trip with Charlie and friends, well after the trip to the ketch. It seems to me that the bourbon drinker at the bar, who featured in the two identikit sketches, may well be a separate person from the bourbon drinker who got aboard the ketch with Ben and Olivia.

FROM A FRIEND'S PERSPECTIVE

As regards the personality of Scott Watson, Document 12881 of 22 July gives a straightforward account of what one of his mates thought of him, when interviewed by a constable in the North Island.

'I met Scott WATSON about two years ago. He is short, a Pakeha, black hair, about 26 or 27 years old.

'I was just driving along the road one morning and he was walking along the road. He was carrying a gas tank for his boat. I took him to his boat and started talking. I hit it off with him and said to him he'd have to take me out fishing. I left him your address and that. Had a cup of tea on his boat and

was with him for about 2 hrs. His boat was tied up at Tutukaka.

‘About a week later he turned up at my place and wanted to know if I wanted to go fishing. I went with him. We stayed out for two nights. We went out a couple of times after that. Whenever he turned up for a fish I’d go down and meet him. I went out on the piss with him a couple of times. We’d start from the pub. Drink until we’d drop. We’d go out to parties as well.

‘Maybe once every month, twice sometimes he’d turn up. First an average [sic], every now and again. We’d made plans to paint his boat but never got around to do it. I can’t remember what the name of his boat was. Robinson, that’s all I know what sort of boat it was. It was painted red and white.

‘I got on really well with [him]. Stayed out fishing with him, got on the piss, really rotten. On one occasion one of our mate’s got beaten up. I sat in the cop car to show them where the guy went and Scott was really bummed out.

‘He was in a relationship in Whangarei but it was dribs and drabs. I don’t know her name.

‘He was a cheeky fella when he was drunk. Looked like the type of fella you’d dong on the head and he would just sit back.

‘He’s quite a funny joker all of the time, a hard case, a placid joker, never looked for trouble.

‘I’ve only really done what mates would do. Go out and have a feed. A few beers at the pub, grab some beers and go home again.

‘There has been a change in his personality. He was a bit quieter since January. He would come over for a rest. He used

to enjoy it. I'd say to him 'did you' and he'd say 'Na' and I'd leave it at that. 'That's the only times I'd ask him about Olivia HOPE and Ben SMART.'

'He's just been to my place twice since January. I can't remember the dates and that.

'He just looked the same. He always had short hair. He was a bit unhappy. I don't think he has any scars on his face or anything, not that I can remember.

'I wouldn't know about him and women. He's met my missus and been no problems. I remember he asked one woman out but she turned him down and that was the end of that. He just said "oh well some one would love me". He did look a little sleazy.

'Whenever I spoke to him about HOPE and SMART I'd say, 'did you do it' cause he was in my house, my family, my kids and I wanted to know. 'He'd just say he was being hassled by the cops. Media always in his face. Reckoned every time he drove out someone was there.

'He told me he was at the party and that he went voluntarily to the Police to say he was there at the party. He didn't say whether or not [he] met them, SMART and HOPE. I asked him and he said he met a lot of people. That he just raged all night and woke up in the morning. He didn't say where he woke up. I just thought the boat. He never said what he did the next day and that.

'When we were on the piss, he wasn't [a] violent critter, just smart.

'What I thought of him was just an average joker. That's about all I know about him.

'The statement is true and I got nothing else [to] say'''

NINE

What is really known about the mystery ketch?

For the first few days of the investigation, the Blenheim police accepted there was a ketch involved in the disappearance of Ben & Olivia. Because of the failure to find a ketch in the position erroneously given by Guy Wallace, and because of the shift from the Blenheim police to the Christchurch police, the focus of the investigation shifted to finding a murderer.

To summarise what is consistent in the descriptions of the mystery ketch we can say that:

Hull

The hull low down near the waterline was white. Above the white area, there was a royal blue stripe, not as dark as navy blue. Within the stripe were about six portholes with brass surrounds. The brass surrounds were about 100 mm wide and the blue stripe was about 400-600 mm deep. Above the blue stripe was some more white-coloured hull. Although the metal

surrounding the portholes is consistently described as being brass it could also be lacquered bronze.

The hull is made of timber, the deck is made of planked timber, the exterior of the cabin sides are cream coloured. The boat is described as being about 38 to 45 feet long. There was an unusually large amount of rope-work. The older-style rope-work that zigzagged fore and aft through the safety fence helped to make it appear like an old-fashioned boat. The rope was about 30 mm thick and was described as fawn-coloured manila or hemp.

Rig

Evyonne Walsh has told me quite clearly that the masts were wooden, and not aluminium. Guy Wallace and Hayden Morresey described, each in their own fashion, the boat having two masts. As they saw it at night it is not clear that they would be able to easily distinguish between a ketch (or yawl) and a schooner. A ketch is a yacht with two masts and the forward mast is higher than the other mast. A schooner also has two masts but the forward mast is the lower one. In court, Morresey described the rearmost mast as being a long way aft. To me he sounds like he is describing a ketch rather than a schooner.

Kyle Ramsay, a passenger on *Sweet Release* described the mystery ketch as having “a big mast at the front and a smaller mast at the back”.

The Walshes and the other people on *Sweet Release* are more used to observing launches rather than sailing yachts, so their description of the hull is better than their description of the masts and rigging. Their observations of the hull are quite believable and clear. Ted Walsh has a special interest in ropes, so his observation that it had some older style manila or hemp ropes is fair enough. It is interesting that neither he nor

Eyvonne Walsh drew booms on the masts when they did their sketches for the police. This stops me from assuming that the ‘ketch’ necessarily had booms. When Wallace and Morresey came alongside at night they would not necessarily have noticed whether the boat had booms. In Wallace’s first sketch he drew a boom on the mizzen (rearmost) mast but not one on the main mast. Some older fishing boats with a ketch rig do not have a boom on the main mast. The mainsail is loose-footed, which leaves the deck in this area unencumbered and allows room for a derrick and/or tuna poles. The *Podgora* was rigged like this for tuna fishing. If such a boat was seen with the mizzen boom hauled up on the mast, then no booms would be visible.

If you were sitting alongside a yacht in a Naiad at night would be easy to see if there were two masts, but not so easy to tell if it was a ketch or schooner. If we simply follow the evidence with an open mind, we don’t end up describing the boat as being anything like a small steel sloop, but we are still left with aspects of uncertainty. Eyvonne Walsh also noticed that the lights at the tops of the mast were quite prominent, and she commented to me that the spreaders (struts which protrude from the side of the mast) seemed very high up the mast. Ted Walsh thought there were about four stays on each side, for each mast, which appeared spread further fore and aft than more modern, high-aspect rigs. The difference in height between the masts was about 2.5 m. Eyvonne Walsh described the rope-work near the spreaders as being more complex than that of a standard modern rig. On the mystery ketch the stays that support the mast are secured externally to the hull.

The combination of high spreaders, more ropes in the rigging, a lower aspect ratio and lower tension rig, and older-

style ropes points quite strongly to a gaff rig, but we can't be certain of this.

It has been noticeable that there have been no confirmed sightings of the mystery ketch under sail. This could be due to the fact that the police identikit sketch described the mystery ketch with a modern rig, so if people saw a gaff-rigged boat under sail they would assume it was not the ketch being sought.

Ted Walsh commented to me that when he saw Ben and Olivia sitting in the cockpit it looked like they were overhanging the water, because of the way the stern protruded and rose up. The unusual shape of the stern led Eyvonne Walsh to describe as being a bit like an old-fashioned sailing ship or a Chinese junk.

Bruce O'Malley described it as an antique boat. Some people, who saw a very similar (or identical?) boat off New Plymouth, described the boat they saw as a character boat. They mean by that a boat of a much older style - more reminiscent of the days of Captain Cook and old sailing ships.

The words 'Chinese junk', 'Captain Cook', 'antique' and 'character' are simply ways for people to try and describe an unusual, older style boat. When I was looking at a real Chinese junk with Eyvonne Walsh she told me that the stern of the mystery ketch was not like the stern of a real Chinese junk, but that she had been using the phrase to characterise an unusual stern.

The police had a questionnaire in which they asked people literally whether they had seen a Chinese junk.

Kevin Ries on 17 February (10763)

Ries was on *Sweet Release* with the Walshes on 2 January.

'About 40' long. Twin masted ketch rear mounted cabin. Was under power, the unusual part was where the cabin was

placed at the rear, and the shape of the gunwales. Very old style – like a Chinese junk.”

Kyle Ramsay on 22 January (10433)

Ramsey was on the boat *Sweet Release* with the Walshes on 2nd January.

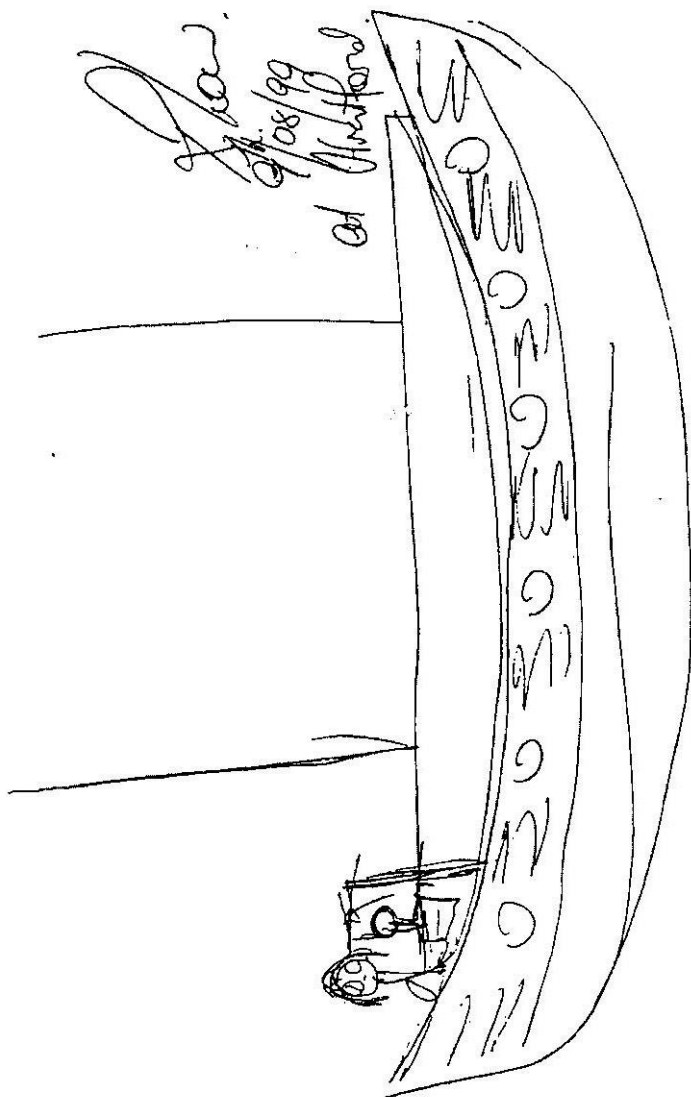
‘The cabin wasn’t that big but the back of the boat was raised and a lot higher than at the front. The raised back was squared off and because of the high back it definitely looked like a junk.’

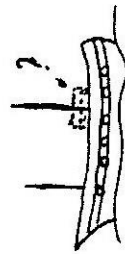
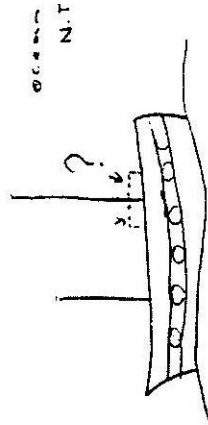
The prosecution inferred in court that this unusual description meant that the witnesses were somehow stupid or unreliable. In reality it seems that they were just having difficulty in finding the right words to describe the features of the boat they had seen. For a knowledgeable yachtsman it would have been simpler if the witnesses had compared the stern to that of a Herreshoff or a William Garden design.

Guy Wallace’s sketch of 3 January (page 88) does convey something of the style of an older design type. Take particular note of the stern.

Here are some sketches of the boat seen off New Plymouth by Richard Low and one of his friends.

WHAT IS REALLY KNOWN ABOUT THE MYSTERY KETCH?





drawn by Murray Kenzler on 16.8.99



Murray Kenzler

[142]

The style of the stern on Richard Low's sketch is similar to what Eyvonne Walsh drew for me. The above sketches both show a schooner rig, rather than a ketch rig, but in other respects the boat is a fairly good match. Note the word 'Australia' on the stern, it is possible that the mystery ketch came from Australia.

It is very hard to find a boat like this in New Zealand, - and yet one was seen off New Plymouth that is so much like it. The sighting of this boat by three reputable witnesses was not even mentioned to the defence team.

If valuable reports arrived too late they were not followed up, as was the case with information provided by Peter Dix.

Peter Dix on 29 January (12704)

Peter's report by phone didn't warrant an interview, as he wasn't reporting on Scott Watson's boat. Fortunately some notes were made of the call in which he described seeing an interesting ketch on 31 December at about 11.30 am near East Bay in Queen Charlotte Sound.

'Definitely 2-mast ketch. Commented on the ugly sails – colour co [sic] style real old fashion style of sails. Unusual stern on vessel, similar to Chinese junk.'

'38 ft fawn coloured hull, couldn't tell colour of cabin, didn't recall any other colour, ugly boat, shroud over back, cut down angled stern.'

It's hard to tell if Peter Dix is describing the mystery ketch or another boat.

So far we have determined that the mystery ketch is significantly different from the police identikit sketch.

To summarise the errors in the police identikit sketch:

- ❖ The stern is wrong (and an unusual stern is extremely difficult to describe).
- ❖ The rig (gaff or Marconi) is probably wrong
- ❖ The shade of the blue stripe is wrong
- ❖ The style of the identikit is too sleek and modern.

A major difficulty in identifying the mystery ketch is the inaccuracy of the police sketch. This incorrect picture has stayed in the public mind and now acts as a barrier to be overcome. There has been only one person who has come forward to say that they remember the mystery ketch from a year or so ago.

Document 11740 gives this description:

‘The ketch I saw has six portholes on each side. The boat was all white in colour. It was distinctive as the stern was of a round shape, not like most which was square. It looked homemade. It didn’t have the professional finish. It had two masts with a lot of ropes hanging off them. It was about 40-45 feet long 12-14 feet wide.’

This witness described how he had seen the ketch several times in Pelorus Sound around February and March of either 1994, 1995 or 1996. The last time he saw the ketch was in February 1997 when it was heading up the Endeavour Inlet in Queen Charlotte Sound.

The name of the ketch

Guy Wallace said that the man from the ketch had told him the name of the ketch, but that he couldn’t now remember what it was. On 5 January (10017) Guy gave the police a jumbled

version of his trips on the Naiad. He said he took Hayden Morrese and Sarah Dyer to the wharf, then Charlie Proctor and his mates back to their boat, then made the trip to the *Tamarack* and the mystery ketch. Then there is an interesting comment:

‘After I dropped them off I went back to the jetty and I tied up. Two guys came down to the jetty and I took them out to a private vessel that was moored by the fishing trawlers. It was a yacht with an unusual name. I remember laughing about the name.’

I wondered what yacht he was talking about here. When checking the descriptions of the vessels that Guy Wallace took people to that morning, it dawned on me that he took people to only two yachts - the *Tamarack* and the mystery ketch.

Looking for leads

When Ted Walsh faxed his sketch of the mystery ketch to the police he tried to recall the name of the vessel but couldn’t remember it. Eyvonne Walsh couldn’t remember the name either but recalled something about how it was written on the ketch.

‘Something in my mind sticks about the yellow writing on a boat, it wasn’t the same as the yellow lettering on the *Alliance*, it was more swirling like that of the *Waves*.’

Ted Walsh was willing to undergo independent and professional hypnosis, to see if he could remember the name of the boat and some other relevant details. The name he

remembered was – *Mad Dog*, painted in gold writing on the bow, printed in gold writing on the stern.

There is no certainty that a name recalled under hypnosis is true. However, the hypnotist certainly got the impression from the whole hypnosis session that it was most likely to be true. She told me she was about 90 percent sure the name would be correct. (One also needs to consider that a similar name such as *Magog* could be remembered as *Mad Dog*.)

I began to wonder why this name had been so important to the police and why they had been so concerned to associate it with Scott Watson's boat. They started taking an interest in the name when they heard reports of a woman on *Mad Dog* issuing a mayday call on 2 January 1998. Later they learnt that that the call was started by a male and continued by a female. This boat must have been near Alligator Head and Titirangi Bay, approaching Pelorus Sound from Queen Charlotte Sound. There is a reef off the southern side of Titi Island, which is off Alligator Head. As Ben and Olivia were missing, you would expect that a mayday call by an unidentified woman from an unidentified boat would arouse police interest. However, when they found out that the call could not have come from Watson's boat they seemed to have lost interest in the mayday call. The report of the distress call was not brought forward at the trial.

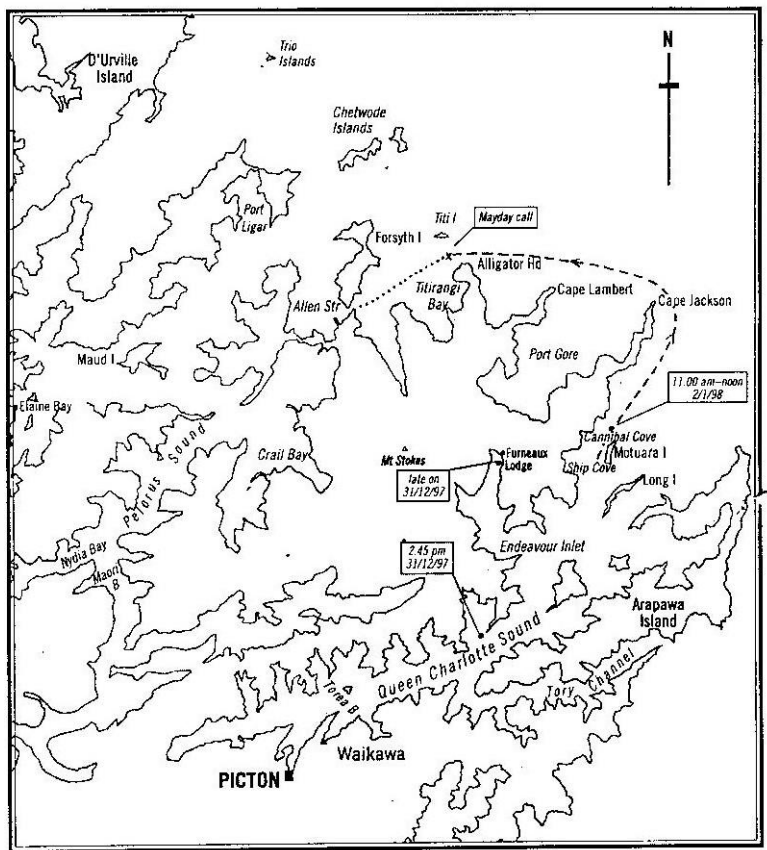
The irony is that the name *Mad Dog* may be connected with the disappearance of Ben and Olivia in a very significant way. The people on *Sweet Release* saw the old-style ketch with six portholes with brass surrounds within a royal blue stripe (etc) heading towards Cape Jackson (i.e. leaving Queen Charlotte Sound) on 2 January. The timing was late morning. The mayday call was mid-afternoon of the same day, at a distance which is a comfortable sailing distance from Cape Jackson within that time period.

The mayday call said that the yacht had hit a reef and was in danger of sinking. If a yacht had hit the reef off Titi Island it does not necessarily follow that she would sink. A heavy impact would certainly make the people on a boat wonder if she was going to sink, and if that were the case getting the bow close to shore for inspection and possible repair would be sensible.

I received a report of a ketch of the same description anchoring that very same night at a bay near the Allen Strait. The ketch had left again very early the following morning. This ketch had her bow very close to the shore

From this possible position near the Allen Strait a ketch could go further into Pelorous Sound, it could go to Tasman Bay or Golden Bay, or it go north past Cape Egmont; or it could go to all of these places.

The chart on the following page shows will give you some idea of the possible routes the mystery ketch could have taken.



Is it likely that the people seen on the ketch on 2 January were anyone else but Ben and Olivia? It would be a coincidence of amazing proportions for there to have been two separate, unusual ketches in the same area whose descriptions match so well. It would be even more amazing for neither of them to have been identified by the police. It would be extravagantly more amazing for them to also have such very similar people aboard.

Ted Walsh is now quite clear in his own mind – the girl he saw on the ketch was Olivia Hope. The irony is that Walsh did not fully realise that it was Olivia Hope on the ketch until after he had given his evidence at the trial. When he told the police of the woman with blond hair on the ketch they showed him some photos of Olivia - but they didn't show him the photo of Olivia that was taken at Furneaux Lodge that night. In the photos shown to Ted Walsh her hair was a darker shade and different style. **He asked if those photos showed her hair as it was on that night and was reassured.** When he saw Olivia's hair colour as shown later on TV from the Spicer photo he realised with a shock that it was her he had seen on the ketch.

The crown case implicitly assumed that Scott Watson murdered both Ben and Olivia on 1 January. There is actually no evidence that Ben and Olivia died on that day; but there IS evidence that they were alive on that day and that they were still on the mystery ketch.

There are two separate pictures to which witnesses compared the mystery ketch. The first of these is the identikit sketch (see page 120), which the police issued. The second picture is the scow *Alliance* which added to the general confusion in many ways. Fortunately it can also help in our search for greater clarity.

The police identikit is drawn like a 'Hans Christian' design with portholes added. Craig Beckwith is the US distributor for Hans Christian and he wrote to me:

'In my 21 years with Hans Christian, I have never heard of the type and style of portholes being placed in the hull of a Hans Christian ketch. We built about 30 ketches in the later 70's and early 80's, but no factory boat was built this way to my

knowledge. Due to the interior layout of the Hans Christian, I doubt this could be done.'

The shape of the stern is wrong and very misleading; The lines of the identikit boat are sleeker than the mystery ketch. The identikit does not do justice to the 'banana boat' or sway-backed shape described, as the middle of the mystery ketch was appreciably lower than its bow and stern: Ted Walsh thinks it was about 600 mm lower. The positioning of the rear mast and cabin is incorrect. The point of the bow also protrudes forward a bit more. We are looking for a boat that looks as if it is of an older design. The dolphin striker under the bowsprit can go, and be replaced by some netting. The sturdy wooden bowsprit is about 1200 mm long. The pastel blue needs to be changed to a royal blue, not as dark as a navy blue.

In comparing it with the hull colour scheme of the *Alliance*, we can remember that the mystery ketch had a strip of white hull above the blue stripe. The portholes and blue stripe on the mystery ketch also appeared more centred on the hull. The *Alliance* doesn't have a railing, and the shape of the stern and the absence of a cockpit are fundamentally different. The shape of the bow is also very different and the bowsprit is too long.

Now look at the overall shape. The *Alliance* is a scow and her lines are quite dissimilar to those of the mystery ketch. No banana shape here - the height above water amidships is not markedly different to the height of bow and stern above the water. Now look at the photo showing the bow of the *Alliance*: to a boatie, she is obviously made of steel. In older designs like this, the bends in the steel are distinctive. Guy Wallace in the water taxi would have recognised her as a steel boat, if he had gone to her. Ted Walsh would have noticed the steel shape as a characteristic of the boat. Many sailors in trying to describe the

Alliance would start off by saying that she was a scow (and many did just that), and add that she had a ketch rig. The *Alliance* is also quite a well-known boat and is based in Picton, at Waikawa Marina. It is not a distinctive ketch that had never been seen before by people like Ted Walsh.

Eyvonne Walsh:

‘The closest out of those 4 ketches would be the *Alliance* but the ketch I saw was a lot higher, out of the water, the blue stripe was down further on the hull and the port holes were more centred on the hull. The *Alliance* photo doesn’t have a railing.’

TEN

Conclusion – and a plea for further information

The impression has been given that a single person, Guy Wallace, was mistaken about the boat he described. However, the evidence in the police files does not support this view.

Wallace's description of a ketch was in fact corroborated by Hayden Morresey, Ted Walsh, Eyvonne Walsh and several other people on the boat *Sweet Release*. It was also consistent with the evidence of Yvonne Lloyd, Bruce O'Malley and Robert Mullen. The evidence suggests that the last sighting of Ben and Olivia was when they were sitting close together in the cockpit of the same ketch as it was leaving the Marlborough Sounds on 2 January 1998.

Wallace gave a mistaken account of the position of the ketch in the bay and of it being rafted to other boats. The police failure to match up the testimonies of the witnesses led them to accept the mistaken evidence and to reject the accurate evidence - this in spite of the fact that they knew Wallace was confusing in his mind a number of the different trips that he did in the water taxi. He has been unable at any time to give an accurate account of which Naiad trips he did and in which order.

The police insistence on confusing legitimate sightings of the mystery ketch with sightings of the scow *Alliance* compounded the problem further, and the change in focus from finding the ketch to identifying a person seen in a bar had disastrous consequences.

The more I have found out about this case, the less I see any relationship between Scott Watson and the disappearance of Ben and Olivia. The police had up to 130 'suspects'. It would not have been unreasonable for Scott Watson's name to be temporarily on this list: his boat was not far from where Guy Wallace believed the ketch was anchored; his boat was a yacht, and not a launch; it was rafted to other boats and could be approached from the port side. Watson was on his boat alone, so there was no one else on the boat to corroborate his account of what he had done. He also had some previous minor convictions from when he was in his teens. Last but not least was the coincidence of the name *Mad Dog* being attributed to his boat as well as being the name of the vessel from which a woman gave a mayday call. But none of these factors should have kept him on the suspect list for very long - he should have just been eliminated with the rest.

The question remains as to what pressures came on the police to gain a conviction. Did this pressure overshadow the need to convict the right person? Have the changes in the police

management systems made this sort of error more likely than was previously the case? Or is this just a more blatant example of the errors that have been happening for years?

ABDUCTION?

The general assumption has been that Ben and Olivia have been murdered. However, it is just an assumption, so far. Although abductions are uncommon in New Zealand they are far from uncommon in many other countries - try looking up the Internet to see how many people a year are abducted. It is a huge international problem. It would be technically simple to drop off a young couple, or a single young woman, on a fishing boat out at sea. There are many ports of entry for this sort of traffic.

TAKEN OFFSHORE?

Another possibility that comes up is whether a sailing boat could have headed straight offshore to another country shortly after Ben and Olivia came aboard. Customs clearance would not prove a major problem. This sounds a simple explanation, but in practice it is very unlikely. One question is whether the boat was ready and seaworthy for a possibly hazardous offshore voyage. The biggest problem would have been whether it had enough food, water and diesel already aboard, sufficient for a long trip. Furthermore the mystery ketch was actually seen leaving the Queen Charlotte Sound on 2 January. It had probably spent 1 January somewhere quite close to Endeavour Inlet.

HOW MANY PEOPLE WERE ON THE MYSTERY KETCH?

It is accepted that Ben and Olivia boarded the ketch with one person; but this is not proof that there was only one person

aboard other than the two young people. It would not be a surprise to find more than one person on a boat of that size. Yvonne Lloyd got the impression there were two men aboard the boat with portholes, which anchored seawards of her boat *Sea Shanty* at Furneaux Lodge.

IS IT DRUG RELATED?

Lone Bird was at Punga Cove (about 5 km away from Furneaux Lodge) on New Year's Eve. Mr Fry started inquiring about the purchase of *Lone Bird* before New Year's Eve of 1997/1998. She is a topsail schooner: a real character boat.

When the police interviewed Sir Thomas Fry on 2 September (13471) about the purchase of *Lone Bird* the subject of drugs was not mentioned. By that stage Fry had a string of serious drug convictions. He and a friend were arrested in Australia on 1 February 2000 for the attempted importation of 500 kilos of Colombian cocaine and have now been convicted.

What are some of the other words that come to mind when a member of the public thinks of half a tonne of Colombian cocaine? How about very large amounts of money and some very dangerous characters! It seems that no one told the police officer who interviewed Fry about his record. What did come up in his interview by the police was that he had met Scott Watson's father briefly when he was having some work done on *Lone Bird* in Picton.

Fry seems to have quite an interest in yachts with two masts: of the two boats directly involved in taking the cocaine to Australia, one was a yawl and one was a ketch. I can't help wondering if some of his business associates also like old character boats with two masts...

In amongst the 130 suspects were some people who are still of interest. Two men were recently arrested in Nelson for the

murder of Keri Stephens and I was taken aback on seeing the name of one of them, because he had been nominated as a suspect in the disappearance or murder of Ben and Olivia. He has worked as a fisherman and is an experienced sailor. He had a topsail schooner, a real character boat, and he had owned another keeler earlier on. His boat had come to the attention of the police. It had come to our attention independently of that, from people who had seen it in the Manukau Harbour.

To investigate him as a suspect in Operation TAM the police asked his mother where he was on New Year's Eve of 1998 and she said he was in Nelson and not at Furneaux Lodge. There is no other sign of further investigation.

MORE INTERESTING PEOPLE

We would like to learn more about a colourful character who claimed to a group of young people to have murdered Ben and Olivia. He made the claim on 1 February 1998 at the Victorian Rose hotel in Nelson. He is described as having weird, 'sort of vacant eyes' and being of lean or medium build with brown hair, dark hazel or brown eyes and no beard or moustache. He was with another man in his early forties or late thirties about 5' 8" skinny build, with long red-dy-blond hair to his shoulders and possibly longer, fair skin with freckles. This second man had sometimes been seen with his hair in a ponytail. He dresses in hippie-style clothing and always carries a cloth shoulder bag, and has been seen at various pubs around Nelson. There is no suggestion that the second man has done anything wrong - simply that he happened to be present at the time.

CAN YOU HELP ME?

By the 22 January 1998 there was an established story line that Ben Smart and Olivia Hope had boarded Scott Watson's boat at

Furneaux Lodge and had not been seen since. They had boarded the Naiad water taxi from the *Tamarack* and were seen to do so by their friends on that boat. Trying to piece together the times to within a few hours proved to be difficult, but at least it seemed clear that Ben and Olivia boarded a boat on the early morning of 1 January 1998.

But on the 22 January a young woman, who knew Olivia because she had been one year ahead of her at school, came to the police with a fascinating story. She had been at the Federal Hotel on the waterfront in Picton on New Year's Eve. After the hotel had closed she later walked past the Federal Hotel by herself. She met Olivia, two Caucasian males, two Maori males and a Maori girl. Olivia had her glasses on and her hair was out, but as she was in the middle of the group the young woman couldn't really see what she was wearing.

Document 20331: 'Olivia turned her head to look at me and said, "Can you help me". These were her exact words. I kept walking and said back to her "I can't help you".'

As this conversation took place the Maori guy in front turned around to look and sort of pulled Olivia inside the pub. When Olivia asked for help, she wasn't crying but looked sad and scared. The Caucasian guy that was dressed nice I think looks like the photo of Ben Smart. I don't know Ben Smart but after I seen his photo I realised that I think it was the nicely dressed younger Caucasian guy that I saw with Olivia. He had looked at me outside the pub but did not speak to me.

'When I last saw them, they were going through the doors into the bar. I don't know if they definitely went inside or not but if they didn't go inside they had to have gone back up

towards the main street. I walked down about 2 or 3 shops and then turned around and came back. Initially when Olivia had talked to me and asked for help, I heard the rough looking Caucasian guy talking to someone from the pub in the doorway. I heard a man's voice from inside the pub say something like "what have you been doing". The rough looking Caucasian guy said back "We've just come from the Sounds and we are off to the bay". I thought he said Tory Bay but I am not sure if it was or not. I also heard the guy inside the pub say "What are you going to do with them" and the rough Caucasian guy said, "I don't know".

Author's Note: There is no Tory Bay, but there is a Torea Bay close to Picton.

The woman explained why she hadn't reported this earlier:

'I didn't call the police because I thought that she couldn't have been there because of what the papers said and that when they found Olivia she might not have remembered seeing me there or that I was mistaken.'

The police did follow up the young lady's report, but nothing really came of it. The defence made a point of visiting her and felt that she was a reliable witness, even though she had been drinking. The story appears to be a contradiction of what has been learnt from the people on the *Tamarack* and on the water taxi. On the face of it she must be mistaken, you would suppose. And perhaps it is as simple as that - a genuine mistake. Everyday logic says that I too should forget it, but when I try to it is as though the tale comes back and says to me 'Are you sure it was just a mistake?' and I find myself unable to give a simple

answer. What if the mistake in the story was solely in the date? If one thinks the story through with a date of 2 January then it doesn't clash with anything else that is known. I can think of two other reputable witnesses in this case who had trouble trying to get the day right.

CONCLUSION

Taxpayers spent about five million dollars pursuing the conviction. Those New Zealanders trying to find out what really happened are now faced with legal and financial difficulties in trying to carry on the investigation. One person who indicates that he has information of interest to us is not prepared to help: he is in prison and says the police have indicated to him that if he divulges information they will make things very difficult for him.

When we looked at mounting a serious attempt to see if one or both bodies are in Pelorus Sound (in about 40 m of water, where there is no visibility for the bottom 7 m), we found that it would be very expensive. It is still expensive even if you want to search Latitude 41 degrees 2 minutes 46 seconds, Longitude 173 degrees 50 minutes 43 seconds. (We don't know if the bodies are there or not, but it does seem more likely than the places the police have searched.)

If we want to get a professional private investigator to take a statement from someone in a way that would be acceptable in court later, there is a bill to go with it.

The support and encouragement from the Association In Defense Of The Wrongly Convicted, in Toronto, Canada, is especially welcome. At the time of writing two lawyers, Joanne McLean and Lisa Will, are reviewing the case.

Scott Watson is innocent of murder. He's just a guy who was in the wrong place at the wrong time - or at least the wrong New Year's Eve party!

Some of the necessary steps to redress this situation are:

- ❖ Free Scott Watson from his wrongful imprisonment, pay him reasonable compensation and apologise to him and his family.
- ❖ Reopen the inquiry into the disappearance of Ben Smart and Olivia Hope, and apologise to their family and friends for the errors in the investigation.
- ❖ Convene a royal commission of inquiry into the handling and investigation of this case with wide-ranging terms of reference.

A PLEA FOR FURTHER INFORMATION

If you have information that might help our investigation, then please share it with us.

We are not the police. We would welcome more information about the boat and the people involved. We do not require that people with information identify themselves to us; we are not really interested in drug dealings, or other illegal activities, as such. We are prepared to respect that people providing us with information may not want peripheral matters to be pursued by us, and we are not under any obligation to pass on information to the police. All we need is enough detail to be able to uncover sufficient information to work out what really happened.

Information can be provided to the author. Where there is sensitive information involved it may be more secure if you make the first contact by mail or email.

I need to hear from anyone, anywhere, anytime who has ever seen a ketch with the characteristics described – anytime, anywhere. The boat must have at least fuelled and bought stores

somewhere. We want to identify it. We are just as interested in hearing where it was in 1996 or 1997 (or any year for that matter), even if someone else owned it at that time.

Finding the actual ketch itself is of secondary importance: it may have sunk for all we know. The key thing is for us is to be able to identify it. We want to be able to trace it back through its various owners: who built it, its history, and who has sailed on it at different times. We want to know who sold it to the people who had it on 1 January 1998. We can't rule out the possibility of the ketch having been stolen, borrowed or chartered.

Somewhere in New Zealand there are people who know the ketch and its occupants. Perhaps they did not recognise the boat from the previous inaccurate identikit sketch.

The New Zealand Customs Service say they do not have a record of a boat named *Mad Dog* clearing Customs (entering or leaving New Zealand) between 1994 and 1998; nor were there any registered fishing boats of a suitable length with that name. But if there are any vessels with either that name or one similar to it, we would be very interested to hear.

If you have a boat that could be confused with the mystery ketch, please let me know. A photo with the name of the boat and the places it has been would be a help. This would enable me sort out false alarms.

If you have approached the police and been rebuffed, or think the police attitude was dismissive of your evidence, I especially need to know, as this information may not have been passed on to the defence.

Whilst we know there were more boats at Furneaux Lodge on the New Year's Eve it is not easy for a few amateurs to identify them so much later. For example some witnesses reported there was a yacht *Ambiance* that was not recorded by

the police. The police eliminated a Farr 1020 with the same name moored at Westhaven in Auckland, but there may well be other boats around with the same name. The police received a tip-off that the fishing ketch *Podgora* was at Furneaux but she is not on the police list of boats there on New Year's Eve. In court Guy Wallace referred to a launch named *Squadron* being at Furneaux but she is not on the police list of boats either.

My best estimate of the number of boats that were anchored at Furneaux Lodge and not identified by the police is about 20. This figure was arrived at by comparing some boat counts at different times to the defence boat schedules for those same times. It would be helpful to be able to identify more of these boats. The police did not pay much attention to identifying boats near where the mystery ketch was really anchored. Their attention had been drawn, by Guy Wallace's error, to the part of the bay nearer to where the *Spirit of Marlborough* was moored. If we could identify some more boats on the outer perimeter and more towards 'The Pines' this would be of considerable assistance.

We have had a report, which we have been unable to verify as yet, that there were some other boats anchored just seawards of the *Rowallan*, *Dreadnought*, *Saint Paul* and *Sandpiper*.

On 7 April 1998, following a Crimescene programme, a caller to the police reported sighting a yacht acting suspiciously in Pelorus Sound on 2 January (20493). The police note read 'Not believed to be relevant and caller to be rung and thanked.' We would very much like to hear directly from this caller.

On about 15 June 1998 someone phoned the police, apparently following a Crimescene programme, and said the bodies of Ben and Olivia were weighted down in a place known by the locals as Maori Bay (12811). The charts show two Maori

Bays in Pelorus Sound. The police note read ‘a considerable distance from likely search areas.’ We do not share this view and would very much like to hear more from the caller.

We would like to hear from the owner of a dark green sloop with its name written in large letters on the side in the middle. The name started with ‘S’. This yacht was seen near Elaine Bay in Pelorus Sound around midday on 6 January 1998.

We appreciate the moral support and interest we have received from many people in New Zealand, from all walks of life. The website [www./freescottwatson.com](http://www.freescottwatson.com) has been set up, and is run by Tom Watson (Scott’s brother). It has been well received by many. It gets updated as new information comes to hand.

Another way people can help is by joining the network of people who are willing to make inquiries about particular boats that may have been in their vicinity at some stage.

Judge H. Lee Sarokin:

‘Furthermore, the prosecution has resources unavailable to the average criminal defendant. Therefore, it is imperative that information which is essential to the defence in the hands of the prosecution be made available to the accused. If trials are indeed searches for the truth rather than efforts to conceal it, full and fair disclosure is necessary to protect and preserve the rights of the accused against the awesome power of the state.’

Contact Mike Kalaugher
Phone: 07 544 9856
 022 012 9464
Mail: 5 Holmburn Street.
 Welcome Bay
 Tauranga. 3112
Email: mikekalaugher@gmail.com

Appendix

Boats at Endeavour Inlet on New Years Eve 1998

Alliance	Dickson runabout
Anderson runabout	Doblanovic runabout
Anna	Doodlum
Aquareen 11	Double Trouble
Aroha 3	Dreadnought
Asterix	Endeavour Express
Awesome	Enya
Banika	Equaliser
Bayliss runabout	Foam
Beau Dor Rell	Free Spirit
Bedouin	Frenzy
Benedictine	Frolic
Beryl	Genesis
Bianco	Gordon runabout
Big Red	Gunmetal
Bill Fisher	Gypsy Dancer
Blade	Hoani

Blue Mist	Hoki Maru
Bonecrusher	Ikie
Boniface runabout	It Zor Ite
Brooks runabout	Jan Maree
Bullet Proof	Jans Coastal
Cappy	Javelin
Caramba	Johnston runabout
Cheers	Kaela Rose
Clansman	Karewa
Cougar 1	Kartell
Kopec	Premio
Koputai	Proctor runabout
Kristiana	Quietly
Lady Jen-Alley	Radford runabout
Lambada	Rapport
Lauren C	RB
Lifestyle	Rebecca Jane
LJ	Revenge
Madison	Rinker launch
Mah Jong	Rippa
Mama Duck	Robertson runabout
Manaia	Rowallan
Mariner	Rudkin runabout
Maya	Saint Paul
McKay runabout	Salty Dog
Megamuse	Sandpiper
Menzies runabout	Scarlett O'Hara
Miller runabout	Sea Crest
Mina Cornelia	Sea Shanty
Mistress 4	Sea Swirl

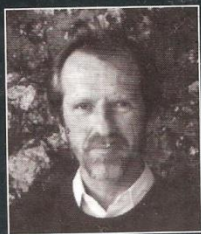
Monde	Sherryl
Moonshine	Simpson runabout
Morresey runabout	Sirrah
Narwhal	Somerville-Smith runabout
Nerissa	Sounds Exciting
Ngatea	Southern Comfort
Nugget	Southern Endurance
Olympus	Spirit of Marlborough
Oranui	Starkey runabout
Our Gem	Stephenson Naiad
Panache	Stepping Stone
Pearson runabout	Strophe
Phad	Summer Winds
Summo	Trikaya
Sweet Release	Trooper
Swift N Sure	Unicorn
Syrena	Titirangi
Taihoa	Tormilind
Talaria	Toroanui
Tamarack	Waves
Tardis	Wet Mink
Tardis 11	Whats Happening
Tautane	White Pointer
Te Anau	Wild Honey
The Gambler	Winsome
The Sheriff	Yolande



When BEN SMART and OLIVIA HOPE disappeared on the morning of 1 January 1998, New Zealand was alerted to try to identify the ketch to which the two young people had reportedly been delivered. Many members of New Zealand's yachting community were subsequently surprised when, despite a number of possible sightings, the police shifted their investigation to Scott Watson whose boat bore no resemblance to the original description. Mike Kalaugher, however, remained unconvinced and continued his own detailed investigation of this horrendous tragedy.

This thorough investigation throws into question many aspects of the police enquiry and maintains convincingly that moving the focus of the investigation to Scott Watson distracted them from the pursuit of the mystery ketch and that there is no evidence to suggest that Scott Watson is guilty.

This is a sensational and worrying investigation which concludes that the mystery of Ben and Olivia has not been solved.



MIKE KALAUGHER is a dedicated yachtie who has an accounting practice on Waiheke Island. He comes from a yachting family and sailing has been his lifelong passion. He competed in the 1996 two-handed Round the North Island race and survived the extreme conditions of the Sydney to Hobart race of 1998 in a 30-foot yacht.