Every child deserves to be loved and protected; we are all responsible for all children. Helping Barnardos to give assistance to children and families in crisis should be a top priority for everyone.

Noni Hazlehurst & John Jarratt

Please give to Barnardos, The Childrens Charity.

1800 061 000

Please send your donation to: Barnardos Australia
Locked Bag 1 Million Broadway NSW 2007
Tel: (02) 9281 7933 Fax: (02) 9281 0526

$250 □ $100 □ $50 □ $150 □ $ □

Name: ____________________________ P’code: ________ Tel: ________

MCard □ Visa □ BCard □ Amex □ Diners □

Signature: ____________________________ Exp. date: __________

The Childrens Charity Barnardos Australia
A Co. Ltd by Guarantee - ACN 068 557 906
Registered Charity No CFN 13840

Australian Defence Force Journal

Board of Management
Commodore P.F. McGuire, RAN, (Chairman)
Commodore W.A.G. Dovers, CSC, RAN
Colonel D.W. Kibbey, AM
Group Captain B.H.F. van der Wijngaart, RAAF
Ms C.M. Robinson
Adviser to the Board of Management
Brigadier P.J. Tys

The fact that an advertisement is accepted for publication in the Australian Defence Force Journal does not imply that the product or service has the endorsement of the Australian Defence Force Journal, the Australian Defence Force or the Department of Defence. Readers are advised to seek professional advice where appropriate as the journal can accept no responsibility for the claims of its advertisers.

Contributions of any length will be considered but, as a guide, 3000 words is the ideal length. Articles should be typed double spaced, on one side of the paper, or preferably submitted on disk in a word processing format. Hardcopy should be supplied in duplicate.

All contributions and correspondence should be addressed to:
The Managing Editor
Australian Defence Force Journal
Building B-4-26
Russell Offices
CANBERRA ACT 2600
(06) 265 2682 or 265 2999
Fax (06) 265 6972

Advertising Enquiries:
(06) 265 1193
(03) 9690 1548

General Enquiries:
(06) 265 3234

© Commonwealth of Australia 1997
ISSN 1320-2545
Published by the Department of Defence
Canberra 1997
Contents

4. Letters to the Editor

5. Some Aspects of UNCLOS III and the Rights of Warships
   Lieutenant R.J. McLaughlin, RAN

    Major Bruce Oswald, AALC

27. Law as a Factor in Australian Special Forces Strategy
    Christopher J. Flaherty

33. Injuries in the Army – The need for change
    Lieutenant Colonel Rudzki – RAAMC

41. Darwin 1942
    Air Commodore A.D. Garrison, (Ret).

78. Book Reviews

Contributors are urged to ensure the accuracy of the information contained in their articles; the Board of Management accepts no responsibility for errors of fact.

Permission to reprint articles in the Journal will generally be readily given by the Managing Editor after consultation with the author. Any reproduced articles should bear an acknowledgement of source.

The views expressed in the articles are the author’s own and should not be construed as official opinion or policy.
The Australian International Airshow at Avalon on 18-23 February will incorporate one of the world’s great flying and static aircraft displays with a wide variety of military aircraft present to thrill the crowds, whether they be aviation professionals, enthusiasts or members of the general public.

Some 30 countries from around the globe will participate in the Airshow, the biggest aviation and aerospace event in the Southern Hemisphere.

Military aircraft from up to 10 nations will be represented at Avalon, with two, (yes, two!) Russian Sukhoi Su-27 Flanker fighters topping the bill. These state-of-the-art aircraft have thrilled air show visitors all over the world with their ‘impossible’ Cobra manoeuvre and are a ‘must see’ part of the show. The Flankers come to Australia from the Gromov Flight Research Institute and one of them will be flown by the master air show pilot, Anatoly Kvochur.

 Appropriately, the largest military presence at Avalon comes from the Royal Australian Air Force and the Royal Australian Navy. Among the aircraft which will be seen are the F/A-18 Hornet, F-111, Caribou, C-130 Hercules, P-3 Orion, Boeing 707 and the Seahawk helicopter.

It is expected two of the most recent recruits to Australia’s defence capability will have aircraft on display at Avalon. Late last year the British Aerospace Hawk 100 was selected as the preferred new Royal Australian Air Force lead-in Fighter aircraft.

British Aerospace will be a major exhibitor at the airshow, its prominent display featuring the Eurofighter Demonstration Dome, where the audience can experience a pilot’s-eye view of a mission in the Eurofighter 2000, the world’s newest and most advanced fighter jet.

Another newly selected preferred Australian tenderer at Avalon will be Kaman Aerospace International. This month the Minister for Defence, Mr Ian McLachlan announced Kaman Aerospace International was the preferred tenderer to supply 11 Super Sea Sprites for Australian ANZAC frigates.

The Super Sea Sprite is a multi-purpose helicopter designed to operate from the frigates plus other Australian naval vessels and won its selection for its combination of sensor and weapon systems.

The helicopter’s primary role will be to increase the combat effectiveness of the ANZAC frigate by providing over-the-horizon surveillance and targeting ability. The helicopter will also be fitted with an advanced Norwegian “Penguin” anti-ship missile.

Sea Sprite assembly including flight simulation and a computer software support centre will mostly take place in Australia, with some works carried out in the United States. It is expected the helicopters will be in service early next century.

Aside from these two major companies, a host of other Australian based sub-contractors to the defence forces will be exhibiting in the Aerospace Expo building, a massive temporary structure shipped from Belgium to provide 12,000m² of space to do business.

A KPMG study in the wake of the 1995 Avalon event identified trade worth some $42.7 million was generated for Victoria’s economy. A further $45 million in extra business was estimated to be written by Australian aerospace companies following their Airshow participation.

Heading the US Air Force contingent at Avalon will be three F-16 fighters, C-141 Starlifter, C-17 Globemaster III and probably one or two surprises from the US military, negotiations for which continue.

Other military attractions include the Pilatus Britten Norman Defender and transport aircraft from several nations. Highlights include Russia’s Ilyushin II-76M and II-78 aerial refuelling tanker plus the MI-171 helicopter.

A special Airshow offer means Defence Personnel in uniform will be admitted free to the event during the trade days only. Department of Defence civilian personnel carrying their workplace ID will also be admitted free to the trade days which include a spectacular flying display 2-4pm daily.

Something not to be missed is the spectacular ‘Night Alight’ event on the Friday evening of the show. Among its attractions will be the F-111 performing its awesome ‘dump and burn’ routine. This is amazing enough in broad daylight but under the cover of darkness it is simply indescribable.

ADF personnel are invited to stay on at Avalon after the trade day session to enjoy this spectacular flying display – all free of charge!
Dedicated to serving defence customers through excellence of value added systems, products and through life support.

Honeywell

HONEYWELL LIMITED A.C.N. 000 646 882 Space & Aviation Control
5 Thomas Holt Drive North Ryde 2113 Phone: (61-2) 9353 7000 Fax: (61-2) 9353 8425

Helping You Control Your World
Dear Editor

In his interesting article "Trafalgar Night?" (ADFJ Sep/Oct 96) Sub-Lieutenant Lewis asserts that the former RAN tradition of the Trafalgar Night dinner should be reinstated because Nelson provides a worthy role model for our navy. While I do not wish to question the historical content of the article (though it is rather too uncritical for my liking) nor Nelson's merits as a great commander, I must take issue with Mr Lewis as to the relevance of a British tradition for the modern ADF.

Certainly, naval officers should study the Nelsonian legacy as part of their professional education - in the same manner that army officers study Clausewitz or air force officers study Douhet. However, commemorative dinners are more than mere recognition of achievement, for if this were the case Ist Armoured Regiment should have a Kursk dinner. No, such dinners are important mechanisms for fostering esprit de corps within the service and as such they should project those common elements which bind the members of a force together. Now, those of us who are of Anglo-Celtic extraction, and I assume this includes Mr Lewis, may feel some affinity to Nelson's England but not so the serving members of many other ethnic backgrounds who feel excluded by British tradition. For instance, an officer of Greek descent could claim, with some justification, that we should celebrate the victory of Themistocles at Salamis rather than Trafalgar because it was the first known case of naval power being the decisive factor in a conflict. The main point is that traditions must unite us in our common aim of defending the nation, rather than dividing us as celebrating a foreign victory does.

Furthermore, the idea that the RAN needs to borrow traditions from the British reeks of the worst sort of cultural cringe and implies that they lack a worthy history of their own. Of course this is nonsense, since the RAN has a rich history of accomplishment and gallantry, in their own right. Two examples are the famous "Scrap Iron Flotilla" in the Mediterranean and Captain Waller and HMAS Perth at the battle of Sunda Strait in World War II.

There is no point in yearning for a bygone imperial era in Australian defence, when we should be preparing to meet the challenges of the future.

Captain John Sholl
Aust Inst

1998 Churchill Fellowships for overseas study

The Churchill Trust invites applications from Australians, of 18 years and over from all walks of life who wish to be considered for a Churchill Fellowship to undertake, during 1998, an overseas study project that will enhance their usefulness to the Australian community.

No prescribed qualifications are required, merit being the primary test, whether based on past achievements or demonstrated ability for future achievement.

Fellowships are awarded annually to those who have already established themselves in their calling. They are not awarded for the purpose of obtaining higher academic or formal qualifications.

Details may be obtained by sending a self addressed stamped envelope (12x24cms) to:

The Winston Churchill Memorial Trust
218 Northbourne Avenue, Braddon,
ACT 2612.

Completed application forms and reports from three referees must be submitted by Friday, 28 February, 1997.
Some Aspects of the Law of the Sea Convention 1982 and the Rights of Warships

By Lieutenant R.J. McLaughlin, RAN

Introduction

The Law of the Sea, one aspect of the increasingly complex web of International legal instruments and customs which bind Australia in its capacity as a "citizen" of the community of nations, has undergone sustained and significant development and codification since 1945. D.J. Harris, a noted commentator on International Law, has observed that "the Law of the Sea was the subject of the first completed attempt of the International Law Commission to place a large segment of international law on a multilateral treaty basis." The first UN Conference on the Law of the Sea (UNCLOS), held in 1958, resulted in the four 1958 Geneva Conventions on the Law of the Sea, which covered the issues of: The Territorial Sea and the Contiguous Zone, The High Seas, The Continental Shelf, and Fishing and Conservation of the Living Resources of the High Seas. Australia was one of the few nations to both sign (an expression of intent to be bound) and ratify (giving the treaty the force of law domestically) all four Conventions. These Conventions, however, left many issues unresolved. The rapid pace of technological advancement, such as the development of the capability to undertake mining of the deep seabed, and inherent faults in the 1958 Conventions such as the failure to establish a size limit for the Territorial Sea, offered merely two instances which indicated that the Conventions required re-visiting and revision. The Law of the Sea Convention (LOSC) 1982, developed during UNCLOS III, was the primary response to this widely held perception.

UNCLOS III met for its first substantive session in 1974, with negotiations involving 157 states over eleven sessions continuing until 1982. The final result was the 1982 Convention, a densely formulated treaty of 320 Articles in 17 Parts, with nine complex Annexes relating to issues such as tribunals, procedures, and arbitration of disputes. The Convention was adopted on 30 April 1982 by 130:4 with 17 abstentions. The United States voted against the treaty, while the United Kingdom and the then Federal Republic of Germany were amongst the abstentions. The treaty was finally opened for signature on 10 December 1982 at Montego Bay. LOSC 1982 entered into force on 16 November 1994, twelve months after Guyana became its 60th ratifying state. Australia ratified the Convention on 5 November 1994, but as noted above, several major maritime powers did not sign or ratify the treaty. One of the particular grounds for this was the inequality which some of those nations believed marred the new regime established for the exploitation of the deep seabed, as contained in Part XI of the Convention. However, an Agreement on the Implementation of Part XI of the Convention - 1994, to which Australia is also signatory, has revised this regime and promises to bring, most particularly, the US under the LOSC 1982 umbrella.

Outline

The aim of this article, having introduced LOSC 1982 on a general level, is to precis a number of the Convention's more important provisions as they relate to Warships. To this end, it is proposed to overview Warship rights regarding two aspects of the treaty: The sea zones of Territorial Sea, Internal Waters, and Archipelagic Waters; and the Right of Innocent Passage. In order to facilitate this, the concept of "Warship" as it is defined under the Convention, must first be outlined.

Many commentators on the Law of the Sea have noted that the Convention does not provide a general definition of "vessel" or "ship", even though it does on occasion define or describe specific types of ships. Arnd Bernaerts believes that "the large range of topics covered by the Convention would have made a general definition [of vessel] inadequate", and adds his view that "it is completely acceptable to define the terms [i.e. vessel/ship] against the background of the aims and purposes of specific laws and regulations". He cites the "Rules of the Road" definition of "vessel" as his prime example. The Convention explicitly avoids this interpretive issue with respect to
Warships however, and offers at Art. 29 a comprehensive definition:

For the purposes of this Convention, “warship” means a ship belonging to the armed forces of a state bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the state and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline.7

Thus, with our subject defined, it is now possible to embark upon an overview of the Warship’s position under some of the specific regimes of the Convention.

### Warship Rights in Certain Zones

Of the several zones codified and developed in the Convention, three of the most important, under which certain limitations are imposed on navigational rights, are: The Territorial Sea, Internal Waters, and Archipelagic Waters.

#### The Territorial Sea

Article 3 of the Convention expressed, for the first time, a definitive upper limit on claims over a Territorial Sea - 12 nautical miles. The 1958 Convention had never resolved this fundamental issue, and differing international claims had offered ambitions varying from three nautical miles - the “cannon shot rule” of the 19th century - out to 200 nautical miles - as proposed by some South American states in compensation of having no continental shelf to claim.6 Both the United States and Canada, for example, argued initially for a three, and then a six nautical mile Territorial Sea, basing their proposal on the argument that a narrower zone was more easily monitored and kept navigationally safe (one of the duties of a coastal state with respect to its Territorial Sea - Art. 24). The representative for Byelorussia, voicing the then Soviet position on this issue, expressed his belief that the “West” had ulterior motives in this advocacy, stating that...the main objective of the champions of the six-mile limit was to obtain for their navys unconditional, so-called legitimate, access to foreign waters close to coasts in which they were interested for strategic or political reasons.9

The weight of opinion did eventually come down in favour of the 12 nautical mile limit now enshrined in LOSC 1982, but the existence of these differing views did create tensions prior to 1982. One example was the “Pueblo Incident” in January 1968, when North Korean forces boarded, arrested, and impounded a US intelligence gathering ship which they claimed had steamed up to 4.9 nautical miles inside their 12 nautical mile Territorial Sea. The US responded by stating categorically that they recognised only a 3 nautical mile Territorial Sea, but added their assertion that the Pueblo had not approached within 15 nautical miles of the coast. The Pueblo, the USN declared, had been “under orders to stay at least 13 miles from North Korea, i.e. at least one mile beyond waters presumably claimed by North Korea.”10 Such tensions in interpretation and scope for conflict, clearly illuminated in this case, certainly provided a major impetus to the final resolution of the issue in LOSC 1982.

Warships, as with merchant vessels, may assert the Right of Innocent Passage (discussed below) through Territorial Seas.11 Generally, certain categories of the laws of the coastal state, as outlined in Art. 21, apply with full force in the Territorial Sea. These categories of laws include those promulgated for, or in connection with, navigational safety and the regulation of maritime traffic, conservation, pollution, fishing, research and so on. However, paragraph 2 of Art. 21 expressly limits the coastal states rights in that...such laws and regulations shall not apply to the design, construction, manning or equipment of foreign ships unless they are giving effect to generally accepted international rules or standards [such as Rule of the Road requirements].12

Thus it is clear that a coastal state cannot legislate discriminatorily to prohibit Warship passage through its Territorial Sea. The coastal state can not apply its laws to a foreign Warship’s right of Innocent Passage because it is independent of regulation by the coastal state. The basis of this sovereign immunity is found in long established customary international law, and codified under Art. 32.13 which reinforces the fact that Warships still retain their traditional immunities, including that which directs that a coastal state is not to interfere with a Warship engaged in Innocent Passage of the Territorial Sea.This immunity is limited only by the provisions of Art. 31 on damage caused by a Warship during the passage, and by Art. 30, which states that:

If any warship does not comply with the laws and regulations of the coastal state concerning passage through the territorial sea, and disregards any request for compliance therewith which is made to it, the coastal state may require it to leave the territorial sea immediately.14
The Destroyer escort HMAS Swan
The inherent unanswered question is, of course, what level of force is envisaged as justifiable in such “requiring”. Certain other limitations are also present in the Convention, such as the requirement that Submarines must navigate on the surface and show their flag. It is also worthy of note that the Right of Innocent Passage through a Territorial Sea does not extend to overflight, and Art. 19(2)e specifically includes in its list of activities not compatible with Innocent Passage, “the launching, landing or taking onboard of any aircraft [my italics]”. The coastal state may also, under the conditions set out in Art. 22, require foreign ships to use “such sea lanes and traffic separation schemes as it may designate or prescribe for the regulation of the passage of ships”.

Coastal State Jurisdiction over Foreign Ships in the Territorial Sea

Articles 27 – 28 of the Convention outline the criminal and civil jurisdictions of the coastal state over foreign ships passing through the Territorial Sea. However, these rights to investigate or arrest a ship do not impact upon Warship immunity as defined in customary international law and reflected in LOSC 1982. Consequently, there is absolutely no right resting in the coastal state to board, inspect or arrest a Warship transiting that state’s Territorial Sea. It is equally clear under customary international law that even where a Warship is not engaged in Innocent Passage, the coastal state still does not gain the right to board or inspect, and is limited to the power – contained in Art. 30 as outlined above – to “require” the Warship to leave the Territorial Sea immediately, exercising in the process whatever justifiable levels of force this concept may entail. The parameters of this concept have been explored by, amongst others, D.P. O’Connell, who notes that the use of reasonable force must be contemplated as within the scope of the concept. He refuses to rule out, for example, the “legality” of Swedish and Norwegian use of depth charges to force Soviet Submarines, suspected of non-Innocent Passage in their respective Territorial Seas, to the surface.

Internal Waters

Internal Waters are defined generally as those “waters on the landward side of the baseline of the territorial sea”. This baseline is usually – but certainly not always – synonymous with the low-water line, but specific rules exist for establishing baselines across and around reefs, rocks, bays, outlying islands, and so on. The use of “Straight Baselines” is a commonly accepted alternative to the default “Low Water Line” method, but often entails conflict over how expansive such boundaries can become. No right of Innocent Passage exists for Internal Waters, and Warships must only be present in a foreign state’s Internal Waters with that state’s agreement. Given this, however, the Warship’s immunity from the host state’s jurisdiction has generally been accepted as a form of “extra-territoriality”. The British Government, for example, has defined this status as entailing a Warship’s “immunity from local jurisdiction and enforcement of local laws”. This immunity has a long pedigree in international law, but is caveated by some equally well developed limitations. In describing this “extra-territoriality” the British Government also observed that “it is not correct to regard it [an RN Warship visiting a foreign port] as floating United Kingdom territory, and all laws of the United Kingdom do not necessarily apply to all persons onboard that ship”. This response was formulated after the British press had discovered that Ronald Biggs, the “Great Train Robber”, who was a British citizen and a fugitive from British law, had not been arrested whilst onboard an RN Warship at the invitation of some of the Ships Company. The Warship, HMS Danae, had been alongside in Rio de Janeiro at the time.

Archipelagic Waters

The issue of Archipelagic Waters is a relatively contentious one under the Law of the Sea as it is a new concept and there are significant differences of opinion as to its content. Archipelagic baselines are delineated by a method particular to the geography of archipelagoes and form, essentially, a further sea zone which exists between the islands. These waters are outside of Internal Waters (which are established in the same way as for other states via Arts. 9-11), yet cannot properly be characterised as Territorial Sea. If a circular archipelago is envisaged, the Territorial Sea would be that 12 nautical mile band of sea around the circumference, while the Archipelagic Waters would be constituted by those waters inside the circumference. Ships, including Warships, have a right of Innocent Passage through Archipelagic Waters which is similar to that available in the Territorial Sea. This right, as with the Territorial Sea, is suspendable however, and the archipelagic state may...
Archipelagic states have the power to designate archipelagic sealanes and air routes through Archipelagic Waters, and vessels using these sealanes enjoy a form of transit — “Archipelagic Sealanes Passage” — which is less restrictive than the general right of Innocent Passage.\(^\text{26}\) Outside of these sealanes, the normal right of Innocent Passage continues to apply\(^\text{27}\). Australia was one of seven states to initially object to this new regime and has long registered its concerns regarding its restrictive nature. Negotiations currently underway with Indonesia, over the designation of appropriate sealanes through Archipelagic Waters, exemplify Australia’s attitude on this issue.

### The Right of Innocent Passage

Section 3 of Part II of the Convention details and codifies the long standing customary international legal right of Innocent Passage.\(^\text{28}\) Article 17 grants the right generally, while Arts. 18 and 19 define its scope. The concept of “passage” is defined in Art. 18 in the following terms:

1. Passage means navigation through the territorial sea for the purpose of:
   (a) traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or
   (b) proceeding to or from internal waters or a call at such roadstead or port facility.
2. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.\(^\text{29}\)

Article 19 refines the concept further, and elucidates the meaning of “Innocent” passage:

...Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal state.

Paragraph 2 of Art. 19 outlines activities that are considered to be “prejudicial” to this peace, good order or security, and includes: any exercise or practice with weapons of any kind (what of the use of various RADAR, excluding those used for navigation and meteorology, and what of the “legal” status of DSOTS on Fire Control systems, mounts and turrets?); any act aimed at collecting information to the prejudice of the defence or security of the coastal state (yet there does not seem to be any reciprocal limitation on the coastal state); aircraft operations; wilful or serious pollution; survey or research activities; fishing; and the catch-all category of “any other activity not having a direct bearing on passage”. OOW manoeuvres and delaying breakdown drills, for example, are arguably prohibited under the “continuous and expeditious” and “not having a direct bearing on passage” limitations on Innocent Passage through the Territorial Sea. For its part, the coastal state has a corresponding obligation, provided the passage is innocent, not to hamper that passage.\(^\text{30}\) Again, the coastal state can temporarily suspend the right with respect to parts of its Territorial Sea,\(^\text{31}\), and this “suspendable variety of innocent passage” needs always to be differentiated from the non-suspendable Innocent Passage and “Transit” regimes which apply to Straits used for International Navigation as encompassed by Part III of the Convention.\(^\text{32}\)

### Warships and the Right of Innocent Passage

The question of whether a Warship enjoys the right of Innocent Passage has been a vexed and much debated issue in the Law of the Sea, and is for some states an as yet unsettled point in the interpretation of LOSC 1982. For a not insignificant number of states which attended the UN Conferences on the LOS, the judgment of US Judge Elihu Root in the 1910 North Atlantic Coast Fisheries Arbitration, carried an unassailable logic when he asserted that

...Warships may not pass without consent into this zone because they threaten. Merchant ships may pass because they do not threaten.\(^\text{33}\)

As one commentator, Francis Ngantcha has noted, for many in the past, “the simple appellation ‘warship’ tainted the ‘innocence’ required for passage”.\(^\text{34}\) Thus a significant number of states have argued, both at the plenary sessions for LOSC 1982 and to a lesser degree since, that the right of Innocent Passage for Warships is subject to a scheme of “previous authorisation or notification”\(^\text{35}\). Such schemes effectively grant the coastal state the “right” to deny Warship access to Territorial Seas and Archipelagic Waters, because they make that access conditional on coastal state approval. It is essentially a veto-power regarding Warship transit. Article 19 neither affirms nor disputes this aspect of pre-existing customary Law of the Sea. This leaves the interpretation of the Innocent Passage provisions, as they apply to Warships, at the mercy of two diametrically opposed and yet equally plausible
conclusions: That Art. 19 does not preclude a state from enforcing a system of prior authorisation for Warship passage, or alternatively, that it does. The former Soviet Union has long and vigorously espoused the first view – certainly up until 1983 – and until recently maintained a more restrictive interpretation of the right than most nations of the “West”. One example of the friction inherent between these differing interpretations is found in the 1986 “Black Sea Incident”, when the Soviet Fleet went on alert after two USN Warships, exercising their right of Innocent Passage through the Soviet Territorial Sea, ignored Soviet instructions to leave those waters. The Soviet Navy stated that, while it no longer required previous authorisation for Warship transits through its Territorial Sea, such transit was “permitted only in specially authorised coastal areas which have been announced by the Soviet Government”.36

This uncompromising Soviet (and others) interpretation has always been met with an equally intransigent advocacy of the opposite view by the United States and others. For these states, Art. 19 of the Convention clearly excludes schemes of authorisation, and allows Warships to enjoy a right of Innocent Passage which is the equal of that granted to other types of ships. Amongst other legal devices, these advocates can rely on three interpretive approaches to Art. 19 for support. First is the fact that the Section on Innocent Passage is set out under the heading of “Rules applicable to all ships”.37 Second, the Convention specifically sets out further rules on Innocent Passage for two classes of ship – “merchant ships and government ships operated for commercial purposes”, and “Warships and government ships operated for non-commercial purposes” – thereby seeming to indicate that the set of “all ships” must include, at the least, both of these categories. Finally, Art. 20, specifying that Submarines must navigate on the surface and show their flag when engaged in the Innocent Passage of a Territorial Sea, is subsumed under the “all ships” Section. This would seem to imply the possibility that naval vessels – because the overwhelming majority of the world’s Submarines belong to this category – must be contemplated as entitled to the full right of Innocent Passage.38 As at 1994, only eight states had registered reservations to the treaty which were designed to “safeguard their claimed right to subject passage by Warships to previous notification or authorisation”, those parties being; Belarus (Byelorussia), Bulgaria, Columbia, the then Czechoslovakia, Hungary, Romania, the Russian Federation, and the Ukraine.39

NOTES
4. ibid., p.7-14.
5. For example, “Pirate Ship” per Art. 103, or “Fishing Vessel” per Art. 62 para 4.
8. Harris, op cit., p.353.
9. UN Document A/Conf. 19/C.1/SR17 at page 3; See also Harris, op cit., p. 354.
10. See Harris, op cit., p. 411-412.
12. Article 21 ibid.
13. See for example The Nicaragua Case ICJ Rep 1986 14, where the International Court of Justice stated, at p. 111, that a large part of the LOS Convention – Art. 18 (1)b in particular in this case – “does no more than codify customary international law”.
15. Article 20 ibid.
16. See for example Bernaerts, p. 28-29, who sets out on tabular form the restrictions on, and rights of, both the vessel and the coastal state with respect to the Territorial Sea.

Conclusion

The aim of this article has been to provide a brief overview of the status of Warships under a small selection of the regimes enshrined within LOSC 1982. To this end, it has attempted to precis, as they apply to Warship transits, certain aspects of the Territorial Sea, Internal Waters and Archipelagic Waters, and of the system of Innocent Passage rights as it operates within them. It has also attempted to outline some of the more contentious interpretive issues which still haunt the Convention in this regard, for despite the seemingly comprehensive nature of the treaty, it is clear that “grey areas” still exist. Any meaningful understanding of the Law of the Sea must take into account the inescapable fact that not every nation sees these issues as we do. An appreciation of this fact, whilst not challenging our own interpretation of the Convention, will nonetheless assist us in understanding and managing such tensions if, when, and wherever they may on occasion arise.

I wish to acknowledge the invaluable and instructive comments which LCDR D. Stephens graciously provided for this article. Any errors or inconsistencies, however, are my own.
SOME ASPECTS OF UNCLOS III AND THE RIGHTS OF WARSHIPS

19. Article 5 ibid.
20. Bernaerts, op cit., p. 34; Harris, op cit., p. 386.
21. From debate in House of Commons, 29 April 1972. For a more fulsome explanation of the circumstances surrounding this statement see, for example, Harris, op cit., p. 395.
22. The Schooner Exchange v McFadden, an 1812 US Supreme Court case, for example.
23. See Harris, op cit., p. 395.
25. Articles 52, 54 ibid. For the right to suspend Innocent Passage through Territorial Seas, see Article 25.
26. Articles 37-39 ibid. “Transit Passage” expressly permits passage by aircraft, and appears to allow divided passage by Submarines: See I.A. Shearer “Problems of Jurisdiction and Law Enforcement Against Delinquent Vessels” (1986) 35 ICLQ 320; and O’Connell, op cit., p. 333. Due to the absence in the section pertaining to Transit Passage of any equivalent to Arts. 27-28 (on coastal state enforcement jurisdiction in Territorial Sea Innocent Passage), Shearer concludes, at p. 332 of the ICLQ article, that such enforcement jurisdiction does not generally exist over Transit Passage. However, he leaves this question open regarding Archipelagic Sealane Passage (Arts. 53-54), and does not raise it in I.A. Shearer, Starke’s International Law: Eleventh Edition, Butterworths, Sydney, 1994, p. 241.
30. Article 14 ibid.
31. Article 25 ibid.
32. Articles 34-45 ibid. See Brown, op cit., p. 118.
34. ibid., p. 123.
35. Brown, op cit., p. 65.
36. Harris, op cit., p. 380.
38. See Harris, op cit., chapter 7 for a general overview of the debates surrounding the Convention.

By Major Bruce Oswald, AALC

At approximately 0915 hours, 1 August 1995, a United Nations (UN) landrover with five Australian peacekeepers, on its way to Kigali Airport, Rwanda was stopped and surrounded by about 50 Rwandan Patriotic Army (RPA) soldiers. The peacekeepers were forced out of the vehicle and then butt stroked, punched and threatened by the Rwandan soldiers. Some RPA soldiers also cocked their weapons. The Australian soldiers had their radios and weapons confiscated. The RPA then forced the peacekeepers to drive to the Rwandan President's Headquarters. The peacekeepers were released after approximately an hour.

Introduction

Each peacekeeping mission has placed UN soldiers in life endangering circumstances. The above example is one of many situations in Rwanda where the lives of peacekeepers were threatened and their liberty denied. The need to have a regime protecting peacekeepers becomes more important as UN missions increase in frequency and complication. While conventions such as the Geneva Conventions of 1949 protect combatants involved in international armed conflict there has, to date, been little formal protection afforded to peacekeepers.

The Secretary-General (SG) and member States of the UN, having recognised the lack of formal protection afforded to UN personnel and others engaged by the UN, adopted the Convention on the Safety of United Nations and Associated Personnel (hereinafter referred to as “the Convention”). The UN also used the adoption of the Convention as an opportunity to formally express the application of aspects of international humanitarian law to UN operations and further establish the relationship of UN and other personnel with host and transit States.

As of April 1996 there were 43 signatories and 6 parties to the Convention. Australia signed the Convention on 22 December 1995. The Convention has not entered into force because 22 countries have not ratified, accepted, approved or acceded to it.

Arguably the Convention will have little practical effect on UN operations till it comes into force. However, in view of the increase in the number of Australian Defence Force (ADF) deployments on UN sponsored missions it is important that commanders and soldiers keep abreast of legal developments concerning the protection afforded to personnel who work for or on behalf of the UN. It is also important to consider how this Convention is likely to impact upon international law generally.

The object of this article is to analyse the aim of the Convention, whom it protects, under what circumstances it will apply, what are considered to be crimes under it, the rights and duties of UN and associated personnel and the responsibilities of States. To develop this analysis I will start by briefly describing the legislative history of the Convention.

Drafting History

As far as international conventions go, few would dispute that the Convention developed rapidly. As stated earlier, the SG made known his concerns about the safety of UN personnel in his 1992 Agenda for Peace statement. New Zealand then raised the issue of a legal instrument to protect UN personnel in March 1993 during its presidency of the Security Council (SC). This led to debate on the issue at the Sixth Committee of the 48th General Assembly (GA) in October 1993. At that stage New Zealand put forward a proposal suggesting the establishment of a regime recognising the rights of States to exercise criminal jurisdiction over individuals accused of committing or attempting to commit serious crimes of violence against UN personnel. Another suggestion, made by the Ukraine, sought to codify all existing principles of international law as they might apply to UN operations so a comprehensive regime could be established covering the range of situations likely to involve UN personnel.

By late 1993 the UN established an Ad Hoc Committee on the Elaboration of an International Convention Dealing with the Safety and Security of United Nations and Associated Personnel. By March 1994 New Zealand and the Ukraine had
The Aim of the Convention

The Convention is an attempt to get the international community to recognise that personnel representing the UN on missions should have their safety ensured whenever deployed in conditions of strife. As the following statistics demonstrate UN personnel (including peacekeepers), and humanitarian workers working on UN operations face considerable dangers in fulfilling their mission. There have been over 850 deaths of both military and civilian UN personnel between 1948 and 1995, with over 450 of these occurring between 1991 and 1995. Humanitarian aid workers have also suffered death and injury. For example, during the period of 1992 and 1993, 18 civilian aid workers were killed. In December 1994, Serbs detained 1200 Bangladeshi peacekeepers in BiHac. In February 1994, Somali gunmen took 15 UN aid workers hostage and demanded a ransom for their release. None of the perpetrators of these attacks have been brought to justice. The Convention therefore acknowledges that existing measures of protection for these personnel are inadequate.

To achieve universal protection for UN and other personnel involved with UN operations the Convention seeks to have countries:

a. take a more active role in protecting UN and associated personnel;

b. recognise the special position UN and associated personnel are placed in;

c. draft national laws that will prosecute and punish individuals or groups that attack or threaten to attack the safety of UN employees and others working on behalf of the UN; and

d. if unable to prosecute an individual or group, to extradite them to a country that can prosecute.

The preamble to the Convention makes it clear that the UN views any attack, or other mistreatment, of personnel who act on behalf of the UN as "unjustifiable and unacceptable" (paragraph 2). The Convention makes it mandatory for States party to the Convention to take all necessary steps to ensure that UN personnel, their equipment and premises are not made "the object of attack or of any action that prevents them (the UN personnel) from discharging their mandate" (Article 7(1)).

The Convention establishes the rights and duties of UN personnel and others working on behalf of the UN. It also deals with issues such as self defence, compliance with host nation laws and identification of military and police components of a UN operation.

It is generally accepted that the nature of soldiering on peacekeeping missions has some inherent dangers. Attacks on peacekeepers or aid workers by criminals or bandits will always be considered a risk that goes with the job and there is little the international community can do to "legislate" against these attacks. The Convention seeks to stop officially "sanctioned attacks" where a community or a State specifically targets UN and associated personnel to achieve a particular aim. The kidnapping and subsequent assault of Canadian Captain Rechner, a UN military observer in Bosnia, is an example of the type of attack that breaches the Convention. More recently the United Nations Interim Force in Lebanon (UNIFIL) saw three peacekeepers (a Fijian and two Nepalese) wounded by the Hezbollah and four Fijian peacekeepers killed when Israeli forces shelled the UN Headquarters (HQ) in Qana. It is arguable the attacks by the Hezbollah would be criminal acts under the Convention. It is still unclear whether Israel officially sanctioned the attack upon the UN HQ in Qana. The UN investigation into the attack suggests that the Israeli's consciously targeted the camp while Israel argues that it was a mistake. While the truth may never be known, clearly such an attack, if intentional, would be in breach of the Convention.

From one perspective the Convention is arguably a logical extension of the development of the law arising from a number of international conventions. Some of these conventions include the Convention on Privileges and Immunities, the Vienna Convention on Diplomatic Relations and the Convention on
Privileges and Immunities of Specialised Agencies. These conventions recognise that there are certain categories of persons who, because of their special positions in world affairs, require international protection. Similarities also exist between the Convention and criminal conventions such as the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents and the International Convention Against Taking of Hostages. These criminal conventions recognise that one of the ways to combat international crime is to force national governments to extradite or prosecute an accused. The Convention is not intended to affect the applicability of the above conventions or other principles of international humanitarian law to UN personnel and other persons working on behalf of the UN (Article 20(a)).

**Personnel Protected**

Article 1 of the Convention distinguishes between UN and associated personnel. UN personnel include the following categories of persons who are carrying out activities in support of a UN operation:

a. military, police or civilian components of a UN operation; and

b. other officials and experts on a mission of the UN or its specialised agencies or the International Atomic Energy Agency (IAEA) who are present in the area where a UN operation is being conducted.

The Convention does not define who would be considered a part of the military, police or civilian component of a UN operation. For example, would a General visiting his national troops for a few days in Cambodia during a contingent’s deployment to UNTAC be a member of the military component of a mission? What about a civilian technician setting up telephones for the Australian Contingent in Rwanda? Is the technician a part of the military or civilian component of the mission? What about the status of the Quarantine official who flies to Somalia to assist in ensuring that equipment returning to Australia complies with Australian quarantine laws? These are important questions for which the Convention provides no answers. A wide definition of military, police and civilian personnel would include the above categories of personnel under the umbrella of the Convention because they are carrying out activities in support of the UN operation. A narrower approach would restrict personnel to those described in the Status Of Force Agreement (SOFA) which the UN enters into with a host nation. For example, Article 1 of the SOFA entered into between the UN and Rwanda defines the military component to consist of military and civilian personnel made available by participating states to serve as a part of a mission. The civilian element consists of UN and officials and other persons (including civilian police) assigned by the SG to assist the Special Representative or made available by participating States to serve as a part of a mission.

Arguably, for reasons of precision and certainty, the definition of military, police and civilian component should be restricted to those who are officially notified as belonging to such components by the contributing country. For example, before the deployment of the medical mission to Rwanda the Australian Government sent the following diplomatic note to the UN stipulating what the military component would consist of:

"[Australia]... has the honour to convey the decision of the Government of Australia to contribute [ADFJ personnel and equipment for service with the second United Nations Mission for Rwanda (UNAMIR II)."

As requested by the [UN], Australia will contribute to UNAMIR II for the period twelve (12) months, or such other period as may be mutually determined, a formed body of troops ...(the “Australian Contingent”), being a specialist medical support unit with protection and administration capability..."

Adopting such a narrow definition would arguably exclude the General from protection under the Convention and, unless Australia and the UN entered some other agreement dealing with civilians the technician and Quarantine official may also be excluded.

It is difficult to argue against adopting a wide definition of who makes up the military, police or civilian component. This is especially the case when one considers the wide approach taken in offering protection to associated personnel. Furthermore, it is difficult to justify in practical terms why individuals who are supporting their national components on an operation should not be considered a part of that component and therefore acting on behalf of the UN.

The Convention does not specifically define the category of “other officials and experts on mission”. One legal officer for the UN has stated that the phrase “other officials and experts” refers to “personnel from all UN organs, offices, programmes and funds”. It is not clear whether the definition includes UN Military
Observers (UNMOs) who have traditionally been considered experts on mission.

Arguably, UNMOs should fall in the military component category described. However this would lead to confusion because historically the unarmed status of UNMOs has given them “experts on mission” status that is a higher status than that offered to the military component under a SOFA. Experts on mission have quasi diplomatic status, which amongst other things, accords them with immunity from personal arrest or detention from seizure of their personal baggage and immunity from legal process concerning any acts committed by them in their official capacity. Again it is unclear why the Convention did not clarify exactly where the UNMOs fit so that the matter does not lead to confusion between the applicability of the Convention and a SOFA. The IAEA is specifically mentioned because it is not a specialised agency.

The second category of persons covered by the Convention are those considered “associated personnel”. This category includes the following who are carrying out activities in support of the UN operation, including:

a. persons assigned by a government or an intergovernmental agency with the agreement of a competent organ of the UN;

b. persons engaged by the SG of the UN or by a specialised agency or by the IAEA;

c. persons deployed by a humanitarian non-government organisation (NGOs) or agency under an agreement with the SG of the UN or with a specialised agency or with the IAEA.

This definition of “associated personnel”, though wide, arguably requires a nexus between the activity being carried out by the associated personnel and the UN. How extensive must this nexus be? At least two commentators have argued that the above provisions require a measure of control (for example a contractual link) by the UN over the activities of the individual or the group deployed on an operation. Elsewhere it has been argued that the nexus is a double requirement:

“that activities of associated personnel are in support of the operations mandate; and that the UN system gives its express consent to such activities, either through the agreement of a component organ or through a contract or through an agreement with the relevant non-governmental organisation, depending on the category of personnel.”

Persons assigned by a government to work on a UN operation would include, for example, the Multinational Force that assisted the United Nations Mission in Haiti (UNMNIH). In such circumstances there needs to be some form of agreement between the UN and the contributing State that a person(s) is being assigned to work on a particular operation.

Persons engaged by the SG or by a specialised agency would cover, amongst others, contractors who supply the UN with logistical support on a particular operation. This category of persons had little formal protection on UN missions. In practice the UN will need to get agreement from this category that they are willing to subject themselves to the provisions of the convention.

The inclusion of NGOs as associated personnel is an interesting development that has probably arisen from a recognition that on many UN operations NGOs play an integral role in ensuring the success of the operation. Traditionally, NGOs have had to rely upon national, rather than international, laws to protect them while carrying out their functions in a host country. Under the Convention protection is now afforded to NGOs and agencies that are working in the host country with UN permission.

Arguably, the UN will have to advise the host country and other UN personnel which NGOs are operating in the host country with its permission so that there is no uncertainty as to which NGOs receive protection and which do not.

Interestingly the International Committee of the Red Cross (ICRC) has argued that the Convention should not apply to them. The ICRC argued that the application of the Convention to their organisation may imply a close association between themselves and the UN and that this would be detrimental to the perception of impartiality upon which they heavily rely. A further reason suggested for the ICRC stance is that their personnel already receive international protection under the Geneva Convention. One can accept the first argument but it is difficult to see the reasoning behind the second argument because the Geneva Conventions only apply in situations of international armed conflict. Most UN Missions are not viewed as international armed conflicts and therefore on such missions the ICRC would have no international protection.

The UN’s acceptance of this Convention, arguably adds to the norm of international law of including UN and associated personnel as internationally protected persons. The addition of
Australian military personnel with the UN in Western Sahara.
NGO’s as a protected category of persons is a welcome development of this norm.

**Operations**

Having looked at the categories of personnel covered by the Convention it is now necessary to analyse in what situations this Convention will apply. The Convention will apply to all operations (Article 2(1)) established by the UN according to the UN Charter and conducted under UN authority and control where the:

a. operation is for the purpose of maintaining or restoring international peace and security; or
b. Security Council (SC) or the GA has declared, for the purposes of the Convention that there exists an exceptional risk to the safety of personnel participating in the operation (Article 1).

The issue therefore is not the size of the operation but its purpose and that it is under the authority and control of the UN. This allows an extensive range of UN operations to fall under the ambit of the Convention. Operations for maintaining or restoring international peace and security include operations in the interest of preventative diplomacy, peacekeeping, and post-conflict peace building.

Operations sanctioned by the SC and GA involving an exceptional risk to the safety of personnel, such as humanitarian or election monitoring missions, will also be seen as operations for the purpose of the Convention. It is unclear how this declaration will work in practice. For example, what circumstances will be considered to lead to “exceptional risk”? Do deaths and injuries have to occur before an operation will be considered an exceptional risk?

It does not appear that the Convention will apply to a peacekeeping force that is not under the command and control of the UN. Thus personnel involved with the South Pacific Peace Keeping Force for Bougainville (SPPKF) would not have been covered by this Convention as that force was a regional one. It is unclear why the Convention does not include operations conducted by regional organisations, such as the SPPKF. This point is all the harder to understand when one considers that Chapter VIII of the UN Charter recognises the use and role of regional arrangements for dealing with international peace and security. At the very least the Convention should extend to peacekeeping forces that have the approval of the UN SC even if the force is not under the command and control of the UN.

Article 2(2) provides further guidance as to the applicability of the Convention to UN operations. This provision is important because it raises the application of the Laws of Armed Conflict (LOAC) (eg. the Geneva Conventions). Article 2(2) specifically states that the Convention does not apply to enforcement operations under Chapter VII of the UN Charter in which “any of the personnel are engaged as combatants against organised armed forces to which the law(s) of international armed conflict apply”. Arsanjani argues that the application of the Convention in such circumstances requires a cumulative four step test:

**Step 1:** Is it an action authorised under Chapter VII of the UN Charter? The answer to this question may be explicitly stated in the resolution establishing the operation. For example, the mandate establishing Operation Turquoise in South-West Rwanda stated, amongst other things, “Acting under Chapter VII of the Charter of the United Nations (the UN) authorises the Member States...using all necessary means to achieve the humanitarian objective...”

**Step 2:** Is it an enforcement action? This question is harder to answer because it is not always clear from the mandate whether the UN has intended for the operation to be an enforcement one. Arguably it is possible for an enforcement action to occur under Chapter VI of the UN Charter. For example UN Resolution 925 establishing UNAMIR II stated that UN troops were to:

>4(a) “Contribute to the security and protection of displaced persons, refugees and civilians at risk in Rwanda, including through the establishment and maintenance, where feasible of secure humanitarian areas;”

The words “establishment and maintenance, where feasible of secure humanitarian areas” can be interpreted to mean that UNAMIR II had the SC authority to enforce the UN mandate of “Contributing to the security and protection” of people in Rwanda by establishing secure areas. In other words, if it had been necessary, UN troops could have established secure areas by actively controlling the areas in question. Options to do this include patrolling in depth, the confiscation of weapons, detaining “criminals” and establishing curfews.

An assessment whether the mandate of a particular mission permits enforcement action must therefore be made from the words of the UN Resolution and not from whether it is a Chapter VI or a Chapter VII operation.

**Step 3:** Are UN troops deployed as combatants? Answering this question requires reference to the
meaning of combatants. A combatant is a member of an armed force (excluding medical personnel and chaplains covered by Article 33 of Geneva Convention III) who is "under a command responsible... for the conduct of its subordinates... (and) subject to an internal disciplinary system which, inter alia, shall enforce compliance with the rules of international law applicable in armed conflict" (Geneva Convention, Protocol I, Article 43).

Step 4: The laws of international armed conflict must apply to the operation. Such laws will apply in "cases of declared war or any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognised by one of them" (Geneva Conventions, Common Article 2). Protocol I to the Geneva Conventions extends the idea articulated in Common Article 2 to situations of armed conflict in which people are "fighting against colonial domination and alien occupation and against racist regimes in exercise of the right to self-determination..." (Article I).

Arguably, unless all four steps are fulfilled the Convention will apply. For example, the Convention would have applied to Operation Turquoise notwithstanding that it was established under Chapter VII of the UN Charter and was an enforcement action because Steps 3 and 4 had not been met. The forces taking part in that operation were not combatants, nor were they deployed against an organised armed force and the laws of international armed conflict did not apply. If all the steps are met then combatants and non-combatants on the mission would be afforded the established protections provided by the Geneva Conventions and their additional Protocols. Clearly if an operation changes from peacekeeping to enforcement with all the above steps being complied with then the Convention will no longer apply.

Can situations arise where both the Convention and LOAC will apply? At least one commentator states that this may happen in practice. Evan Bloom, a lawyer at the UN, argues that situations may arise where attacks against peacekeepers that are crimes under the Convention may lead to conflict resulting in the applicability of Common Article 2 of the Geneva Conventions. Bloom's view is that this overlap ensures that peacekeepers "do not lose the benefits of the Convention simply because they respond in self defence and a fight ensues".

The use of the words "any of the personnel" in Article 2(2) leads to the argument that if any part of a UN force fulfils the requirements of the four steps discussed above then the whole mission falls outside the scope of the Convention. Arsanjani argues that there may be situations in future where some UN personnel on the mission would be engaged in an enforcement action as combatants against organised armed forces where the laws of international armed conflict apply and therefore all the other personnel on the mission will fall outside the protection afforded by the Convention.

### Crimes Against UN and Associated Personnel

Pursuant to Article 9 of the Convention the following intentional acts committed against UN or associated personnel will be considered a crime and therefore must be made an offence under national law:

(a) A murder, kidnapping or other attack, upon the person or liberty of any United Nations or associated personnel;

(b) A violent attack, upon the official premises, the private accommodation or the means of transportation of any United Nations or associated personnel likely to endanger his or her liberty;

(c) A threat to commit any such attack with the intention of compelling a physical or juridical person to do or to refrain from doing any act;

(d) An attempt to commit any such attack; and

(e) An actual participation in any such attack, or in an attempt to commit such an attack, in organising or ordering others to commit such attack.

Arguably the criminal concept of murder and kidnapping is universal and therefore no confusion should arise whether they have been committed. The same simplicity does not however attach to the concept of "other attack"? Does it mean a serious attack in the sense that grievous bodily harm is caused or is it sufficient if actual bodily harm arises from the attack or is it any attack that causes any level of harm? Furthermore, what is the distinction between "other attack" as stated in Article 9(1)(a) and "a violent attack" as stated in Article 9(1)(b)? Considering the aim and purpose of the Convention the widest definition of attack should be adopted.

It seems clear from Article 9(1)(a) that any act that is an "attack upon the...liberty" of a UN or associated personnel is also a crime. This provision read in conjunction with Article 8 reiterates that the detention of the Bangladeshi peacekeepers in Bihac and Australian peacekeepers in Rwanda described...
Australian military personnel on UN duty.

above would be unlawful under the Convention. Article 8 deals with this type of situation by stating that where UN and associated personnel are detained or captured in the course of performing their duties and their identification has been established, "they shall not be subjected to interrogation" and they are to be released and returned promptly to the UN or other appropriate authority. The term "interrogation" is not defined in the Convention but taking its widest meaning it is arguable that any questioning which goes beyond identifying the accused UN or associated personnel would be an "interrogation" and therefore a breach of the Convention.

Would the detention of a UN employee by an authority of the host nation exercising its "legal powers" be considered an "attack on liberty"? For example, the Israelis have done this on occasion to UNMOs to deny them access into an area. In Rwanda, the RPA also adopted this approach to deny or delay UNMOs and peacekeepers from entering particular parts of the country. If the widest definition of interrogation is adopted it is arguable that a lawful detention may indeed violate the Convention if the authority detains the accused for more than the necessary time to establish the accused’s identity.

While in the custody of the host states lawful authorities, UN or associated personnel must be treated according to "universally recognised standards of human rights and the principles and the spirit of the Geneva Conventions of 1949" (Article 8). In practical terms this means that detainees are, at the very least, to receive food, water, shelter from the elements, basic medical care and are not to be degraded and/or humiliated. The failure to meet this standard while not considered a crime under Article 9, would arguably, be a crime under humanitarian international law. Article 8 permits specific provisions for handling UN and associated personnel who have been captured or detained through appropriate provisions in a SOFA.

Violent attacks on property including official premises, private accommodation or the means of transport that are likely to endanger the life or liberty of UN or associated personnel are offences under Article 9. This particular crime requires that the premises, accommodation and means of transport be occupied by UN and/or associated personnel. However, what is an "official premise" or "private
accommodation"? Would an attack on temporary overnight premises of UN personnel be a crime under the Convention? The answer must again lie in looking at the object and context of the Convention. Reading the Preamble and article 7 of the Convention together suggests that the purpose of this Convention is to ensure that the safety of UN and associated personnel is of primary importance and therefore any act that jeopardises that safety should be a crime under the Convention.

What of attacks on equipment, other than the means of transport? While Article 9 is silent on this point, in some circumstances, attacks on equipment can endanger the life or liberty of UN or associated personnel. For example, damage to a water purification plant in a remote area or the destruction of mission essential drugs that are not in an "official premise" could in some circumstances lead to a life threatening situation amongst UN and associated personnel. Therefore each attack on equipment will need to be looked at on its facts.

Situations may arise where a peacekeeper is accused of attacking another peacekeeper. In such cases it is arguable that the peacekeeper would only be subject to his own military discipline system because the Convention "does not exclude any criminal jurisdiction exercised in accordance with national law" (Article 10 (5)).

It should be stated that the above crimes are similar to those found in the 1973 UN Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. The International Court of Justice upheld the application of that Convention in the case of United States of America v Iran (1980).

Article 9(1)(c) makes it a crime to threaten to commit an attack with the objective of compelling a person to do or refrain from doing something. This provision is badly drafted because no reference is made to what "any acts" means and who exactly is a "physical or judicial person". Does the UN intend to limit the application of Article 9(1)(c) to those acts which directly impact upon the attainment of the UN operation? In practical terms this is arguably the most logical approach. The use of the terms "physical and judicial person" also, seem too wide, especially when one considers that the thrust of the Convention is to protect UN and associated personnel. Practically it may be necessary to read these words down to referring only to UN and associated personnel.

General Rights and Duties

It is very important that participants on UN operations understand their own rights and duties as such an understanding will ensure a successful operation and effectively implement the Convention. Equally important is the need to understand what rights an accused has.

One of the most basic and important rights granted to UN and associated personnel is that of self defence. Article 21 of the Convention states that nothing in the Convention "is to be construed so as to derogate from the right to act in self defence". This right is a formal statement of a customary international law principle that recognises that any individual threatened with a loss of life or serious injury has the right to protect herself/himself.

The right to self defence for UN military personnel is more extensive than personal self defence. The concept, at the very least, extends to other UN personnel on the mission and depending on the mandate for the operation, may extend to "civilians at risk" in the operation. For example, Resolution 965 required UN troops in Rwanda to:

"2(a) Contribute to the security and protection of displaced persons, refugees and civilians at risk in Rwanda...(and)
3(a) Contribute to the security in Rwanda of personnel of the International Tribunal for Rwanda and human rights officers..."

Does this right to self defence extend to the protection of property or to freedom of movement? In some recent cases the UN has argued that it does. A senior UN legal officer has stated that the UN views self defence to include:

"resistance to attempts by forceful means to prevent [the UN force] from discharging its duties under the mandate of the Security Council"

Thus if a Resolution stated that property, for example "...the Prosecutor's office in Rwanda was to be protected, then the concept of self defence would extend to the protection of such property. Arsanjani also draws attention to the fact that SC Resolutions 836 (1993) and 871 (1993) for the United Nations Protection Force (UNPROFOR) expanded the notion of self defence to include "freedom of movement".

Article 21 may also be interpreted not to derogate the right of States to take unilateral military action to protect its personnel pre-emptively. For example, pursuant to the Convention the assault on 27 May 1995 by a French peacekeeper to retake a UN
observation post in Sarajevo that had been captured a few hours earlier by Bosnian Serb troops would have been a permissible act on the basis that it was pre-emptive.

Article 8 of the Convention gives UN and associated personnel the right to be treated according to "universally recognised standards of human rights and the principles and spirit of the Geneva Conventions of 1949" should they be captured or detained while carrying out their duties. The Convention does not offer this protection if personnel are detained for committing an offence that did not arise in the course of their duty. Such cases of offenses that have no nexus to the duty of UN personnel are usually dealt with in the applicable SOFA for the UN operation. The SOFA does not cover associated personnel such as contractors and NGO’s.

The protection given to UN and associated personnel comes with some obligations. Article 6(1) requires that UN and associated personnel respect the laws and regulations of the host and transit States. Arguably it is intended that such respect is to be consistent with established principles of international law and humanity. For example, UN peacekeepers should respect principles of international laws rather than respect the laws of a host nation that disregard basic principles of human rights.

Furthermore, UN and associated personnel must ensure that their actions and activities are not incompatible with the “impartial and international nature of their duties” (Article 6(1)(b)) and they are “obligated to act in accordance with the terms of the mandate of a UN operation.” (Article 20(c)) and according to international humanitarian law generally (Article 20(a)). The failure to adhere to these duties, by a peacekeeper for example, will not justify a host nation attacking a peacekeeper.

Article 3 requires that military and police components of a UN operation, their vehicles, vessels and aircraft have distinctive identification. The Article makes it clear that the military and police components have no choice in identifying themselves. However, in the case of other personnel, vehicles, vessels and aircraft involved in the UN operation the SG may waive the requirement for clear identification. One reason for this distinction is that in some cases the wearing of a UN symbol might lead to an increased risk of attack. Bloom also states that it “was the clear intention of negotiators that the wearing of identification by the victim not be a pre-requisite for the criminal liability of a defendant”.

The Convention also safeguards an accused’s rights. A person accused of committing a crime under the Convention is to receive fair treatment, a fair trial and full protection of her/his rights during the investigation and any subsequent proceedings (Article 17(1)). In particular, an accused shall have the right to communicate with, and be visited by, a representative of the country of which the accused is a national (Article 17(2)).

**Obligations of States**

The Convention sets up a regime of obligations upon States to enforce the provisions of the Convention. Article 11 (1) requires States to take all practicable measures to prevent preparations in their territories for the commission of crimes within or outside their territories and to exchange information and coordinate administrative and other measures as appropriate to prevent the commission of crimes (Article 11). To achieve this States party to the Convention are to make punishable under their domestic law the crimes described in the Convention (Article 9 (2)).

The provisions of Article 9 are further supported by those of Article 7 that stipulates that States have a duty to ensure the safety and security of UN and associated personnel. In particular States are required to take “all appropriate measures to ensure the safety and security of (UN) and associated personnel” (Article 7(2)) while ensuring that their equipment and premises are not made the “object of an attack or of any action that prevents them from discharging their mandate” (Article 7(1)).

Jurisdiction over crimes committed against the Convention is based upon where the crime was committed and the nationality of the alleged offender (Article 10(1)). Jurisdiction may also be established over any crime committed:

"a. by a stateless person whose habitual residence is in that State;

b. with respect to a national of the State; or

c. in an attempt to compel that State to do or to abstain from doing any act"(Article 10(2)).

If the State then resists that jurisdiction then again there is an obligation to notify the SC (Article 10(3)).

Once a State has established jurisdiction it may try or extradite the accused. In either case, the country must take the necessary steps to ensure the presence of the accused for extradition or prosecution (Article 13(1)). The State must then notify the UN, and either directly or indirectly notify, the State where the crime was committed, the State of which the accused is a
national, the State of which the victim was a national and other interested States of what steps were taken (Article 13(2)).

The Convention “does not exclude any criminal jurisdiction exercised in accordance with national law” (Article 10(1)). It is therefore possible to argue that should a State prosecute its own national then another State will not be able to claim jurisdiction for the same offence. The issue becomes more complicated however when a State or the world community accuses another State of failing to deal with an accused properly.

Clearly the Convention does not allow a particular military contingent on a mission to have jurisdiction to deal with or try an accused who is not a part of their contingent. Contingents do not have legal personnel for this purpose and therefore cannot take judicial action against an accused. This does not however stop a peacekeeper from detaining the accused and handing them to an appropriate authority.

**Relationships between the UN, the Host and Transit State**

It is current practice for the UN to enter into a SOFA with the host nation before a UN operation. If such a SOFA has not been signed there is little formal protection offered to the UN and associated personnel. The issue of entering into SOFAs has been taken further by the Convention. Article 4 requires the UN and host nation to conclude a SOFA as soon as possible. This SOFA is to include the status of all personnel involved in the operation, including “provisions for the immunities and privileges for military and police components of the operation” (Article 4). In practice there are at least two difficulties with this Article. Firstly, the Article does not seem to take into account those situations where a host nation is unable to enter into a SOFA with the UN. For example, enforcement actions by their nature may take place in situations where there is no host country authority to negotiate with. Secondly, historically SOFAs have restricted themselves to referring only to UN personnel on a mission. Article 4 now requires that the host nation and the UN agree as to the status of all personnel engaged in the operation. In practice such an agreement will not be easy to achieve because the difficulty the UN will face in getting NGO’s, contractors and other associated personnel to agree with the terms of the SOFA.

The Convention raises a number of issues referred to in the model SOFA for peacekeeping operations. For example, the model SOFA does stipulate that the UN peacekeeping operation and its members shall “respect all local laws and regulations” (Paragraph 6). Another example of an issue raised in both the Convention and the model SOFA is that of identification.

An important development arising from the Convention that relates to an operation is the requirement that transit States allow the unimpeded transit of UN and associated personnel and their equipment to and from the host State (Article 5). This has important implications because it arguably does away with the need for a separate SOFA with the transit State. For example, before the deployment of the Medical Support Force (MSF) to Rwanda in August 1994, there was a contingency plan for the MSF to land in Kenya and from there to transit by road to Rwanda. This plan did not take place as Kigali Airport opened to UN flights. If however there had been a requirement to transit through Kenya; Australia, or the UN, may have been required to enter into a SOFA that covered such issues as permission to transit through Kenya with ammunition, weapons and drugs. In practice transit States may have difficulty accepting this requirement unless the UN is proactive in ensuring that UN and associated personnel are not involved in crimes such as smuggling and customs violations.

**Conclusion**

The development of the Convention on the Safety of United Nations and associated personnel is clearly a welcome and significant step in international law. The Convention is welcome because it formally recognises the special position of UN and associated personnel in world affairs. It is significant because it formalises to some extent what laws apply on UN operations, to whom they apply and when. The Convention also guides participants on UN operations as to some of their rights and obligations.

Will the Convention be effective in providing greater protection to UN and associated personnel? The answer to this question will depend partly on how consistent the UN and member States will be in implementing the provisions of the Convention. Politics will have to be put aside when UN and associated personnel are attacked. The UN will need to insist that an accused is brought to justice and States will need to implement national laws that will deny an accused a safe haven. The success of the Convention will also depend in part on how seriously
the associated personnel, such as contractors and NGOs take their responsibilities under the Convention. If associated personnel flaunt host nations’ laws or fail to adhere to the provisions of the mandate establishing the UN operation then the Convention will lose its effectiveness.

The problems in the Convention arising from inadequate definitions such as which operations it will apply to, what personnel make up the military component and how widely the term attack is defined will hopefully be resolved with usage and practice.

The psychological impact of the Convention should not be underestimated. At last UN and associated personnel have some formal recognition that the role they play in world affairs is important enough for them to be protected.

NOTES
1. I would like to thank Colonel M.B. O’Brien, Lieutenant Colonel PM Boyd, Lieutenant Colonel G.J. Cartledge, and Lieutenant Colonel J.A.T. Dunn for their helpful comments on earlier drafts of this article. All responsibility for errors is mine.
4. A host State is defined as a state in whose territory a UN operation is conducted (Article 1(d)).
5. Transit State is a State, other than the host State, in whose territory UN personnel, or people working on behalf of the UN, or their equipment are in transit or temporarily present in connection with a UN operation. (Article 1(e)).
6. Argentina, Australia, Bangladesh, Belarus, Belgium, Bolivia, Brazil, Canada, Czech Republic, Denmark, Fiji, Finland, France, Germany, Haiti, Honduras, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, New Zealand, Norway, Pakistan, Panama, Philippines, Poland, Portugal, Romania, Russian Federation, Samoa, Senegal, Sierra Leone, Singapore, Slovakia, Spain, Sweden, Togo, Tunisia, Ukraine, United Kingdom, United States of America and Uruguay.
7. Denmark, Japan, Norway, Panama, Singapore and Ukraine.
8. Article 27 of the Convention states that the Convention will enter into force 30 days; if after 22 instruments of ratification, acceptance, approval or accession have been deposited with the SG of the UN.
16. Preamble to the Convention.
17. Time Australia, 23 October 1995, page 45. Captain Rechner was sitting in a UN Military Observers office in Pale, when three armed Bosnian Serb militiamen burst in. The Observers were beaten and kept hostage for over 24 days. It appears there was official Serb sanction for the attack and subsequent imprisonment of the Observers.
20. Specialised agencies of the UN include, amongst others, the Food and Agriculture Organisation of the United Nations (FAO), the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD), the World Health Organisation (WHO), and any other agency in relationship with the UN in accordance with Articles 57 and 63 of the UN Charter.
21. Current practice suggests that the UN views such visits as national and not UN business.
22. See discussion below.
24. The model SOFA. Article 26, states that UNMOs are to be treated as experts on mission.
32. Arsanjani, op cit, page 27.
35. After the civil war of April 1994, the situation in Rwanda never deteriorated to the state where it was necessary to establish “secure humanitarian areas”.
36. It should be noted that this is just one definition of combatants. Another more detailed definition states that a combatant is commanded by a person responsible for his subordinates, has a fixed distinctive sign recognisable at a distance, carrying arms openly and conducting operations in accordance with the laws of war (Geneva Convention III, Article 4).
38. Arsanjani, op cit page 33.
40. One definition for assault occasioning “grievous bodily harm” is where serious bodily harm occurs and it is not necessary the injury should be permanent or dangerous. See New South
41. One definition of assault occasioning "actual bodily harm" is where actual bodily harm occurs and the injury need not be of a permanent character nor amount to grievous bodily harm". See R. Watson and H. Purnell, Criminal Law in New South Wales Indictable Offenses, Volume 1, R Watson and H. Purnell, (Law Book Co Ltd. Sydney), paragraph 248.


43. For a more detailed description of this case see Digest of United States Practice in International Law, (Department of State Publication, Washington DC (1980)), pages 302-321.


49. A transit State is a State in whose territory UN and associated personnel or their equipment are in transit or temporarily present in connection with a UN operation.

50. Bourloyannis-Vrailas, op cit page 574.


52. Bloom, op cit, page 628.

53. Australia is likely to do this after it has ratified the Convention.

54. Members is usually defined to include any person of the civilian or military element but not locally recruited persons unless specifically stated. See for example the SOFA entered into for UNTAC, paragraph 4.

Major Bruce Oswald, CSC, has completed a Bachelor of Business (Royal Melbourne Institute of Technology), a Master of Arts (Public Policy) (University of Kent at Canterbury) and a Bachelor of Laws (Australian National University). After graduating from Law School in 1990 he transferred from the Army Reserve to the Regular Army. In the Army Reserve he was a soldier with Melbourne University Regiment and Sydney University Regiment. During his service in the Reserves he has also served with the British Territorial Army - 351st Civil Affairs Command. Since joining the Regular Army as a legal officer he has had postings to Sydney, Townsville, Rwanda and Brisbane. He is currently posted to HQ 1 Div as the S02 Legal.
As the largest supplier of electricity in the country, EnergyAustralia can take care of all your business energy needs, both now and well into the future. We will work with you to create a competitive energy contract specifically designed to save you valuable time and money. Speak with us today about an innovative energy solution that will improve your bottom line. Just call 13 13 65.
Law as a Factor in Australian Special Forces Strategy

By Christopher J. Flaherty

Australian constitutional emergency powers, have been predicated historically on the existence of Special Forces in the Australian Defence Force. In short, the emergency powers exercised by the Cabinet can only properly operate when the Protocols of Government are followed, the Rules of Engagement are drafted with suitable authority, and Special Forces tasked by Cabinet are designated to the task at hand. The concept of emergency is broadening as it becomes entwined with an increasingly pragmatic application of the notion of low-intensity operations. These developments mark the rise of Special Forces, specifically tasked by Cabinet, and operating under executive powers as posing a solution to the legal problem of using the Defence Forces as an aid to the civil powers. This is because of the comparative differences in training, experiences, skills and command structures between the Regular Defence Force and Special Forces in Australia today.

The Law and the Decision Making Process

The decision making process in any form of conflict is based on the ODA loop or cycle. The ODA cycle is a three phase process, involving observing an adversary’s actions, orientation of forces to the new situation and deciding on a countermove, and acting on it. Hence observation, decision and action.

Regardless this takes place in any of the three fields of operation. Conceptually, beyond the normal decision making cycle there are three essential fields of operation (see figure 1). These are Australia’s civil domain or domestic sphere, war, and action in another country other than Australia during normal relations (between Australia and that country).

Figure 1: Three Essential Fields of Operation

<table>
<thead>
<tr>
<th>Phase 1</th>
<th>Observing adversary’s actions, orientation of forces to new situation</th>
<th>Strategic Formulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 2</td>
<td>Deciding a move or countermove</td>
<td>Injection of Law in Issue</td>
</tr>
<tr>
<td>Phase 3</td>
<td>Acting on it</td>
<td>Formation of Rules of Engagement</td>
</tr>
</tbody>
</table>

Conceptually, actions or operations in Australia’s domestic sphere or in another country during normal peaceful relations are considered low-intensity (or level) conflicts, or operations. No matter what the nature or environment - conflict, domestic or covert emergency action - the ODA cycle still continues. This entails observing the adversary’s actions, orienting one’s own forces to the changing situation, deciding on a countermove and then acting on it and the side that competes these cycles more quickly (in other words, gets inside its adversary’s loop first) will prevail.

As can be seen in table 1, there are three phases to this process - observation, decision, action. This is based on the formation of the “Rules of Engagement” (these carry the “Strategic Formulation” - the political aim into operation).

One of the key portions of the definition of Australian Special Forces strategy is that its actions, are intended to strike at opposition - to maintain or enhance Australia’s security interests. These are acts tasked by Cabinet under Executive powers. The fundamental issue, however, is the relationship between political aims and the use of military power. When ever military force is used the human element is always at issue, that is the unequivocal need to use force, as the military’s object is to follow orders, yet underlying this is the task of surviving the engagement. The political object is to achieve a particular aim. This requires the constraint of force. The issue is irreconcilable as Clausewitz and ancient Greek moral teachings asserted, this is because war is composed of two essential elements - passion and destruction, held in tension with reason or strategy.

Overriding the use of military force is the need to control, from afar its exercise by the Cabinet, this...
equals both the measure that the law desires to inject into conflict and in such cases the law is fundamentally a similitude for strategy; it is, however, at the same time an issue in its own right - a separate element in the calculation. In terms of operations in Australia’s civil Domain, or indeed operations in another country during normal or peaceful relations, the point of departure is that all Special Forces actions are tasked by Cabinet. These essentially, therefore are actions by Executive powers.

Rules of Engagement

Amendments to the Defence Act ostensibly, provide for the introduction of the notion of a defence emergency and the restricted calling-out of the Reserve Forces in time of war or defence emergency. Further provision is made for calling-out of the Reserve Forces following a proclamation by the Governor-General. This would provide for a call-out of up to 3 months, with a provision for an extension of a further 3 months. Subsection 4 binds the member so called-out to render continuous service for the duration of the call-out, until released. Section 50G requires the Governor-General to state the reasons for the Proclamation, and to communicate the reasons to each House of Parliament. If a House is not sitting, it is to be recalled within 10 days to receive the communication. Fundamentally, in Australia, such deployment is provided for under law to enable military forces aid to the civil power. However, there is a political as well as an actual danger in deploying troops on tasks outside their publicly perceived role and for which they may not be prepared or trained. Legally, there is support, on plain reading, for Regular Force involvement and Reserve Forces under the call-out to protect vital assets in a situation falling short of a defence emergency. Some of the notions affecting the development of practice are seen, for example, in the training notes for low-level operations. These legal guidelines emphasise the importance of Rules of Engagement. It is also emphasised, with a direction that they, must be carefully spelt out and thoroughly understood by all.

The Legal Guidance for Commanders provides insight into the practical considerations involved in low-level contingencies. This scenario is particularly difficult as military forces have no special powers available to them. As well, it may be anticipated that the Commonwealth and State Governments, as well as the general civilian populace, will be interested in a business as usual approach. As a result, military personnel are put in the same position as any police officer. However, the emphasis is on the need to call on police as the first line, and in the alternative extensive legal instruction is provided, for example on the power of defence personnel to arrest. Unlike a citizen, it is expected that soldiers will bear arms, and have orders to use them. However, placing a soldier in a position where a detailed knowledge of the law and its effect is required, is in some circumstances unrealistic and unfair. A police constable, on the other hand, having sworn to uphold the law, is less accountable at law; and may rely on personal discretion as a constable to cover situations of doubt. No such independent discretion may be claimed by service personnel. The guidelines in such cases note the risks to Service personnel in assisting Police, and these are:

- a soldier acting within the law is protected by the law for any damage or injury caused.
- if a soldier exceeds his lawful authority, he may be:
  - charged with a criminal offence
  - liable for actions in a civil action

Possible Risks are:

- use of excessive force may lead to charges ranging from assault to murder
- unlawful arrest may lead to an action for wrongful arrest or false imprisonment
- following offenders on to land or premises without permission may lead to an action in trespass
- an action is lawful, but it is conducted without due care, a civil action for damages may arise
- it is no defence to state that the action took place under orders from a superior officer.

If soldiers overstep the fine line of duty they will be held accountable for their actions. The onus is left on Service personnel to gain an understanding of the law and all members have to be made aware of its tenor. The requirement for soldiers on the ground to have a working knowledge of the state criminal law puts them sometimes in an untenable position, and places a whole new dimension on the soldier’s dilemma. Will they or won’t they be liable for following commands to shoot or will they employer be liable. It remains uncertain whether a soldier in such a position will have any redress or indemnity from the Commonwealth.

The rights of the individual are subordinated to the necessities of the state in times of war. As to what approach the courts would take to a defence emergency or situations falling short of a defence emergency is quite open.

Were it to be argued that a defence emergency existed, arguably no liability would lie.
Equally, if Service personnel were found to be carrying out a military task no liability might lie.

Similar considerations would apply to an injured member of the public. While subsections 56 and 64 of the Judiciary Act enable litigants to pursue claims in tort against the Commonwealth, this has been limited by the actual cases to instances in which the officer of the crown was exercising an independent power or duty. Again, questions would arise as to the precise role taken by troops in the first instance. The question to be asked would be whether the actions complained of were committed in the exercise of an independent power or duty or upholding Commonwealth laws as an exercise of independent duty. Conversely, if it were found that the conduct was within the scope of their duty or authority, the crown would be held vicariously liable. No proof as to the specific command would be required.

Instructions giving guidance on the Application of Force - General, state:

- never use more force than necessary
- only open fire when all other means to control the situation have failed
- if you have to open fire:
  - Fire only single aimed shots
  - Fire no more rounds than necessary
  - Be prepared to justify your actions

Orders for opening fire would be issued by the Force Commander. These would include direction on; warnings to be given prior to opening fire, firing after warnings, circumstances in which warnings are not required, the method of challenging, accounting for ammunition and produce, and action to be taken after weapons have been used. Accordingly it is recommended that units, should include training with realistic Rules of Engagement. Three further sets of Rules need to be taken into account, for example, as to the varying contingencies facing the force. These divide an area of operations functionally, and according to the gravity of consequences if one of these were to be compromised. There are three of these - the entry/exit point, the communications area, and the alternative entry/exit point. In the case of all of these, they incorporate a cordon and achieving and maintaining security of depth. The basic frame, therefore, for Rules of Engagement, are:

(a) Protection of entry/exit point to enable evacuation.
(b) To provide secure communications.
(c) Protection of alternative entry/exit point to enable evacuation.

The Variation between the scenarios is not great, and some effort is needed to modify them to provide for the application of minimum use of force. Essentially, these operate by the principle that an Australian Soldier is responsible only to their commanders and other Australian authorities. The broad, initial, Rules of Engagement provided and distributed by a Legal Officer, are to be clear in their application of the use of minimum force. A warning should always be given before opening fire, and then only in cases of an attack with deadly force:

**Fire After Warning**

After warning you may fire on a person:

(a) CARRYING a dangerous weapon (such as a firearm, a petrol bomb or a machete); AND
(b) if you BELIEVE he is about to attack you or Australian citizens being extracted; AND
(c) he refuses to stop; AND
(d) there is no other way of stopping him.

Firing without warning is limited to the protection of Service personnel, or Australian citizens, from the use or threatened use of a dangerous weapon, where no other option exists. The Rules as to the entry/exit point is guided by graduated response and these would be considered vital. As such,

At first the serviceman’s rifle is to be in the unloaded state. Only after the challenge: STOP, IDENTIFY YOURSELF, does the soldier proceed to “ACTION”. Firing is only permitted if the person does not stop and the soldier believes a hostile attack is about to take place. If not apparent, the member should prepare to protect themselves (including using their weapon as a shield or to butt stroke). DO NOT FIRE unless in self defence.

Similar instructions are given to the guards conducting searches at the Cordon Entry Point. There some of the soldiers would be tasked with the function of covering those being searched. Should a deadly weapon be produced and it appears it is about to be used in an attack, they may fire without warning. However, the soldier guarding the Evacuees Line is given a wider discretion, as they may fire if he or she believes they are being attacked, and may be injured or killed. This is rationalised on the basis that this soldier will be very close to a large number of possibly dangerous people. In the event of a general hostile situation in the staging area, endangering the lives of Australian Defence Force members or likely to cause substantial damage to their ability to continue the mission, the member may open fire after a warning. Following insertion and achieving security
in depth unauthorised persons apparently carrying weapons could be shot without warning, as could a person removing something from concealment and, when believed is about to produce a dangerous weapon. Guards at the communications area would likewise be able to shoot without warning at an unauthorised person who breaks away from, kills or avoids the other guards.

**Defence Force Aid to Civil Powers**

It is likely that troops involved in aid to the civil power may be ill prepared for their roles. While the policy of training in low-level operations is providing increasing familiarity as each new scenario will require a new set of rules, and it is likely that troops will not act consistently, nor be familiar with the specifics of their duty. As well, there is nothing to suggest that the legal and general officers will be any more familiar with these concepts. This raises policy questions as to the precise nature of the role the military need to develop for themselves, and its validity and standing in relation to the law. The difficulty arises from the view taken that in low-level conflict the Defence Force will be required to operate in a situation of continuing civilian activity. While no complaint can be made about the resulting adoption of primacy of the civil authority, a force tasked either to restore the Area of Operations to its pre-incursion state or to maintain the current situation in the Area of Operations infer the maintenance or restoration of normal civilian activity. There is a need therefore for a detailed set of Rules of Engagement, and a close connection between Cabinet, military, police, state and federal authorities. Such as, for example the Disaster Civil Emergency Committee System. Public relations is of concern and a positive public information stance will be an important element in the maintenance of local, national and force morale. Locals need to be kept on side, as they can provide valuable intelligence and is not likely to be displaced by hostile action, and occurrences within the Area of Operation. However, all of these factors point to a highly political and complex situation. In short, "it is assumed that the... Command will receive an Operational Directive from the Chief of the Defence Forces or Joint Force Command specifying the mission, political aims, the nature of the conflict, the desired civil/military relationship in the Area of Operations, and detailed Rules of Engagement."

The problem with the CDF or JFC as the direct source of the operational directive is that the nexus of the law and authority is stretched to the point of dissipation. This combined with the inherent difficulties of working within the law for soldiers and commanders alike the practical solution is to attach the actions of the Defence Force to that of Cabinet actions. This in practical terms takes the form of Special Forces operations, tasked by Cabinet. The starting point is the Protocols of Australian Government. Here, if there is need of Executive powers, and use of the Australian Defence Force in an emergency to promote Australia’s security interests (in the terms of Defence Aid to Civil Powers), there is need therefore of a meeting consisting of the Special Forces Commander, the Chief of the Australian Defence Force, the Governor-General, the Prime Minister and his Executive, and the Chief Justice of the High Court of Australia. These direct and draft the mission, operation and Rules of Engagement, as in themselves the Strategic Formulation of the political aim intended to be achieved by the use of military force. These then act as the operational point of reference of the mission and in this way strengthens the exercise of such powers, as much as the training, skills and command and control of the use of Special Forces mitigate against the friction of war.

**Conclusion**

Rules of Engagement hold the equivalent position as that between Frederick the Great, in the era of the dynastic wars and the army, these allowed full scope to the art of generalship, so that the commander could form his conceptions in the knowledge that these will be realised. With all else shaped to his hand, his presiding intelligence would be free. In terms of defence aid to the civil power the practical effect of primacy of the civil power is that by using Special Forces for emergency actions, that have been tasked by Cabinet, coupled with clear Rules of Engagement that were drafted under the conditions of the Protocols of Australian Government, create the necessary nexus for Executive powers to be invoked. This, however, does not nullify the legal rights, obligations, duties of Service personnel, under state or federal laws, nor the need to be confirmed in such matters as authority to enter and search. Primarily, as the battlefield widens the inevitable consequence is that the Defence Force finds itself involved in issues of domestic or political concern. Primacy of the civil power remains the overriding concern. Use of forces in the instances of force are still restricted, and subject
to political control. Fundamentally, however, there are still several competing issues, namely, that the emergency prerogative, now tempered within Constitutional framework and by the accretions of practical experience, even though providing a basis at law for a virtually unfettered discretion, even when taken with rationalisation to the law (under the Protocols), do not entirely remove from the High Court of Australia its capacity for overview.

NOTES


2. Low-intensity operations occur during Low-Intensity Conflicts. These are events falling short of war, where a national emergency occurs. These legally require the use of military force inside or outside Australia. This can also span into military aid to civil powers. Low-Level Conflict was originally designed as a planning tool. See Dibb, P., (1939-), Review of Australia’s Defence Capabilities: Report for the Minister of Defence, (AGPS). See also The Defence of Australia, 1987, (DGA 87), (AGPS). See also Charters, D., and Tugwell, M., (1989), Armies in Low-Intensity Conflict, (Brassey’s).

3. Special Forces are defined as a multi-composite group, designed to be employed usually in small parties, usually behind another country’s or organisation’s borders or spheres of influence, on tasks beyond the normal scope of warfare in the field and involving operations that will only be tasked by cabinet. These provide strategic options which links diplomatic measures with military and paramilitary initiatives. These are a multi-dimensional instrument designed to project Australia’s security interests, and usually goes well beyond strictly military capabilities and embraces traditional diplomacy, politico-military capabilities in the border zone between defence and military power. As well, these can span into engagement via diplomacy, economic and trade relations, and development assistance.


5. United States of America Marine Corps, (1989), Warfighting FMFM 1, (Department of the Navy, HQ the USMC).

6. In the broad scheme of affairs, Special Forces operations are treated as a form of low-intensity operation.


8. Handel, M.L., (ed.) (1986), Clausewitz and Military Strategy, essay by Herbig, K.L., “Change and Uncertainty”; Clausewitz created a metaphor for the nature of war where three elements passion, chance and reason – form a triangle held together less by harmony and more by tension. In Greek mythology Ares as god of war is a symbol of its evil, its suffering and its wanton destruction. Then there is Athena, the goddess of wisdom, who provided the warlord Odysseus his shrewd strategies. In essence, she is the patron of strategists.


10. Drawn to assist infantry commanders in the lead-up to exercise Kangaroo ‘89.

11. Issued for “Operation Speculate”.

12. Salu, op. cit. These were issued for “Operation Morris Dance”, in respect to the Fiji military coup, 21 May to 4 June, 1987. Here Australian Defence Forces were called to evacuate Australian nationals.


14. See Earle, E.M., (ed.) (1943), Makers of Modern Strategy, Chapter 3, “Frederick the Great, Guilbert, Bulow: From Dynastic to National War”. This allowed full scope to the art of generalship. The commander could form his conceptions in the knowledge that they will be realised. With all else shaped to his hand, his presiding intelligence would be free.

15. Salu, op. cit.

Formerly of the Australian Tax Office, Christopher Flaherty is a practising Lawyer, who recently graduated with a masters degree in Economic Demography from the University of Adelaide. This was on migration, trade and economic integration between Australia and Vietnam, 1975 to 1993. He is also the author of Australian Manoeuvrist Strategy (Seaview Press, 1996), and of Seaview’s forthcoming publication, Far Horizons in Strategy: Australian Special Forces Strategy.
AUSTRALIANS IN VIETNAM

An account of the War in Vietnam and the 30th Anniversary Commemorations of the Battle of Long Tan

Australians in Vietnam gives an account of Australian participation in the Vietnam War 1962-1973 and follows the return visit of veterans to commemorate the 30th Anniversary of the Battle of Long Tan, the first major battle fought by Australian troops in Vietnam.

Australians in Vietnam is an Australian Defence Force Journal production. This case-bound book is the ninth in a series commemorating anniversaries of Australia’s participation in war.

Australians in Vietnam is available from the Office of the Australian Defence Force Journal at a cost of $29.95.
Injuries in the Army – The need for change

By Lieutenant Colonel Rudzki, RAAMC

Introduction

The number and severity of injuries seen in soldiers has been a concern to medical officers for some time. Concerns have been raised about various training methods, but there is impassioned resistance to any proposed change. The aim of this article is to present an overview of the injury situation in Army and argue that these findings present a compelling case for change.

This article will present data drawn from the Army OH&S database, Defence Compensation, the DFRDDB and MSBS statistical compendiums, civilian and Service research studies.

Injury Rates

Figure 1 shows the reported non-fatal rate of injury for Army as obtained from PM24 reports of injury for the period 1987-91 and 1995/96 (1 May – 30 April). The large increase in rate seen in 1995/96 probably represents greater reporting due to increased awareness of compensation entitlements. The most comparable civilian data is from Worksafe Australia in 1993, where the highest reported rate was 65 injuries/1000 workers/year.

These figures are not entirely comparable, as the Worksafe data only includes those reported injuries or illnesses which incurred more than five days of lost work time. The PM24 data includes a number of injuries which produced less than five lost working days.

Site of Injury

Figure 2 shows the location of reported injury from the Worksafe 1993 data. In civilian industry, back injury is the single most common site of injury, followed by the upper limb (hand/shoulder 19.3 per cent) and then lower limb (knee/ankle 10.8 per cent).
Defence Compensation data (Fig 3) shows a predominance of lower limb injuries, with a three times greater claims rate for knee injury in the ADF, than the civilian community.

Knee injuries are not only more frequent, they are also more severe. Figure 4 shows that leg/knee injuries had a disproportionate effect in terms of restricted duty, sick leave and days of hospitalisation. The PM24 unfortunately did not have a separate category for knee problems, combining them with leg.

The impact of knee injuries is also shown by arthroscopy data from military hospitals. In 1991, there were 674 knee arthroscopies performed at a rate of 21.7 arthroscopies/1000 soldiers. This represents 2.2 per cent of the army having a knee arthroscopy in that year. Arthroscopy was the most common cause of surgical admission to hospital, and the rate was three times greater than the most common civilian cause of admission (kidney dialysis 6.5/1000).

The Cost of Injury

External Medical Service Costs (Account Group 39)

It is not possible at present to distinguish between outlays for illness or injury related causes. But from the PM24 data and clinical experience, injury accounts for at least half of all specialist referrals and well over half of all cases of surgery. It is therefore reasonable to assume that injury accounts for at least half of all external medical costs.

Defence Compensation Costs

ADF compensation costs have nearly doubled in the past four years from $34.5M in 1991/92 to an estimated $70.7M in 1995/96. Figure 6 shows that Army has been the main cause with a steadily increasing share of costs, while the other two services have remained relatively stable.

An actuarial analysis was recently conducted on the Military Compensation Scheme to calculate the outstanding liabilities for injuries incurred on or before 30 June, 1995. These were estimated to be $375M for Army, $102M for Navy and $98M for the RAAF. The notional workers compensation premiums calculated to meet the estimated annual liability were $44.3M for Army, $11.1M for Navy and $11.1 for the RAAF. (2a) At present, compensation costs are a “below the line” item and funded by the Department of Finance.

Figure 6. The relative compensation costs ($ millions) for the three services 1991/92 to 1994/95

MSBS Invalid Pension Data

Review of the MSBS statistical compendium provides a further confirmation of this grim picture.

Figure 7. Rates of invalidity per 1000 MSBS contributors, all services 1993/94 and 1994/95.

Intangible Costs

These are the pain and suffering borne by the individual soldier and the loss of career and promotion prospects. It is no secret that promotion opportunities are limited for Non-FE soldiers, and this situation is likely to worsen within the new Force structure. Table I summarises those soldiers who left the Army between 1988 and 1992.
The risk of a Non-FE soldier separating was much greater than an FE soldier, and this risk increased as the number of overall discharges decreased. It can be therefore inferred that injury and subsequent medical downgrading are significant factors in the decision to discharge. Premature separation of soldiers as a consequence of injury incurs both a retaining cost and a loss of experience which at this time we cannot quantify.

Understanding the Problem

The PM24 data implicated sport and physical training as the two main causes of injury. The lower limb and in particular, the knee, are the major sites of injury. Knee injuries are particularly associated with contact sports and distance running. Distance running has in turn become identified as a major cause of injury in the Army.

Running Injuries

Van Mechelen conducted a major review of all epidemiological research into civilian running injuries. The reported incidence of injury varied from 24-77 per cent of all runners: in studies with more than 500 subjects, the annual incidence varied from 37-56 per cent.

The most commonly reported injury in competitive runners was tendonitis, in adolescents it was stress fractures/shin pain and in joggers, strain and tendonitis. Most injuries were associated with overuse, with one study attributing 75 per cent of injuries to overuse.

Knee injuries accounted for 25-40 per cent of all injuries, the feet in 2-22 per cent, ankles 9-20 per cent and the shin 6-31 per cent. In general, running injuries were located from the knee down in 70-80 per cent of cases.

<table>
<thead>
<tr>
<th>Year</th>
<th>FE</th>
<th>NON-FE</th>
<th>FE</th>
<th>NON-FE</th>
<th>RISK</th>
<th>RISK</th>
<th>NON-FE : FE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1988</td>
<td>26 334</td>
<td>4292</td>
<td>9 633</td>
<td>2233</td>
<td>36.6%</td>
<td>52.0%</td>
<td>1.42</td>
</tr>
<tr>
<td>1989</td>
<td>25 581</td>
<td>4356</td>
<td>7 128</td>
<td>1820</td>
<td>27.9%</td>
<td>41.8%</td>
<td>1.50</td>
</tr>
<tr>
<td>1990</td>
<td>25 219</td>
<td>4683</td>
<td>4 672</td>
<td>1475</td>
<td>18.5%</td>
<td>31.5%</td>
<td>1.70</td>
</tr>
<tr>
<td>1991</td>
<td>25 884</td>
<td>4985</td>
<td>2 883</td>
<td>1081</td>
<td>11.1%</td>
<td>21.7%</td>
<td>1.95</td>
</tr>
<tr>
<td>1992</td>
<td>24 647</td>
<td>5120</td>
<td>1 306</td>
<td>679</td>
<td>5.3%</td>
<td>13.3%</td>
<td>2.50</td>
</tr>
</tbody>
</table>

Table 1. The number and risk of discharge for members who were FE and Non-FE for the period 1987-1992.

Risk Factors for Running Injury

Van Mechelen identified four major risk factors for running injury:
1. Weekly running distance
2. Competitive running
3. Previous injury, and
4. Running experience

Weekly running distance

Running distance has been found to be the most important risk factor in all studies. Kopland found an almost linear relationship between increasing weekly distance and the incidence of injury in both men and women. A number of other studies have confirmed this relationship.

Sudden increases in weekly mileage were associated with increased injury, and this is thought to be due to the inability of the tissues to adapt to sudden change. Any sudden increase in weekly distance or change in interval training without a gradual build-up is considered to be a training error. Lysholm defined a training error as running “too long, too fast or too frequently”. He found training errors to be associated with running in about 60 per cent of cases.

Competitive Running

Yzerman showed that injury was strongly related to motivation score. The higher the score, the higher the rate of medically treated injury. He speculated that more motivated runners ignore the first signs of injury and consequently sustain more injuries. Marti and Walter both found competitive running, as distinct from recreational running, to be significantly associated with running injuries. Marti found this association still significant even after...
INJURIES IN THE ARMY – THE NEED FOR CHANGE

adjusting for mileage, while Walter argued that the increased incidence was due to increased mileage in the more motivated.

**Previous Injury**

Powell found that runners with a previous injury were more likely to be injured. He attributed this to three factors: the original cause may remain; the repaired tissue may not function as well as the original and the injury may not have healed properly.

Marti found that after adjusting for weekly distance, there was a 65 per cent increased risk of injury in those runners with a history of previous injury. Similar findings were reported by Macera and Walter, suggesting that previous injury was a strong and independent risk factor for running injury.

**Running Experience**

Marti found that after adjusting for age, there was a positive association between years of jogging and a decrease incidence of injury. Macera found that runners with less than three years of regular running experience had twice the risk of lower limb injuries than those with more than three years experience.

This may reflect an adaption to running, or more likely, be an example of the “healthy runner” effect: This is a “Darwinian” process, where only those without injury can continue to run for prolonged periods, while those with recurrent injuries give up (in civilian life).

**Preventative Strategies**

Van Mechelen argued for three strategies:

- **Education**: Educate runners about the main risk factors. Teach runners to listen to their bodies and not “run through” the pain. Ignore the common adage of “no pain, no gain”.

- **Early Treatment/Complete Rehabilitation of Injury**: Complete rehabilitation from injury was seen as a major means for preventing re-injury. Complete rehabilitation was defined as (1) freedom from pain, (2) muscle strength at pre-injury level, and (3) joint range of motion at pre-injury level.

- **Training Guidelines**: Runners should (1) build up training gradually (initially on alternate days), (2) use a running speed that allows comfortable speech, and (3) have an individual program while doing group training or be streamed into a group of similar ability.

Excessive weekly mileage should be reduced, however this is unacceptable to some runners who are determined to run. In principle, running shorter distances faster (increased intensity), has an equal or better effect on aerobic capacity. Increased running speed may cause injury but this relationship is not clear.

### The Effect of Running in Army Recruits

The injury effects of running were demonstrated in a study of Recruits conducted at 1RTB in 1989. Four pairs of platoons were followed over the 12 week course. Four platoons underwent the standard training programme, while matched pair platoon substituted all formal running periods with a march activity. All PM60 records of RAP attendance were subsequently examined. The results are summarised in Table 2.

<table>
<thead>
<tr>
<th>Walk</th>
<th>Run</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number injured</td>
<td>64</td>
</tr>
<tr>
<td>Number of injuries</td>
<td>90</td>
</tr>
<tr>
<td>Rate of injury (per 100 recruits)</td>
<td>52.9</td>
</tr>
<tr>
<td>Number of lower limb injured</td>
<td>43/170 (25.3%)</td>
</tr>
<tr>
<td>Number of knee injured</td>
<td>15/170 (8.8%)</td>
</tr>
</tbody>
</table>

Relative risk = \( p = 0.00018 \)
Relative risk = \( p = 0.011 \)

**Table 2. Summary of Injury data weight-load walking study 1 RTB 1989**

Table 2 shows that there were more injured recruits in the run group, but more importantly there was a statistically significant increase in the number of both lower limb and in particular knee injuries. The risk of a knee injury being 2.14 times greater in the run group compared to the walk group.

Not only were there fewer injuries, they were less severe. Table 3 summarises the relative morbidity of the two groups.

<table>
<thead>
<tr>
<th>Walk</th>
<th>Run</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Medical Assistant visits</td>
<td>90</td>
</tr>
<tr>
<td>Number of Medical Officer visits</td>
<td>44</td>
</tr>
<tr>
<td>Days of restricted duty</td>
<td>356</td>
</tr>
<tr>
<td>Days not fit for duty</td>
<td>44</td>
</tr>
<tr>
<td>Hospital bed days</td>
<td>42</td>
</tr>
</tbody>
</table>

**Table 3. Relative morbidity associated with injury in the run and walk groups.**
The walk group had nearly half the number of RMO visits and also half the number of days restriction, not fit duty and hospitalisation. The walk group completed all terminal objectives of recruit training including a BFA.

This study demonstrated that running is a potent cause of lower limb injury, and that by reducing the running distance, injury frequency and severity can be reduced.

### Proposed Solutions

Knowledge of these risk factors have led to proposed changes in the Army Basic Fitness Assessment (BFA). These changes include a reduction in the run distance to 2.4 km and eliminating gradings to remove the competitive nature of the test.

The BFA aims to provide a test of the minimum level of acceptable fitness, and must be both suitable and safe for the entire Army population. It cannot be all things to all people.

It may be appropriate that different Corps introduce specific tests of fitness that take into account the occupational requirements of their specific job. This is a “horses for courses” approach, and would appear to be a more logical way to cater for the diverse nature of required physical capability within Army.

Change to the BFA is but the first step. A review of physical training policy is warranted, so that the desired outcomes are clearly defined and our fitness tests reflect these outcomes.

A more professional approach to physical training, making use of more modern training methods (such as interval training), is clearly needed to prevent overuse and training errors.

Physical training should be standardised across Army and conducted in 6-8 week cycles culminating in a BFA. The emphasis should shift to the maintenance of fitness with frequent regular testing, rather than the seeking of continual improvements in fitness.

Injured members should be individually assessed and provided with tailored exercise programs and a suitable alternative fitness test. This will ensure that all members of Army are fit with their capabilities. A “one size fits all” approach to training and testing will unnecessarily marginalise injured members.

Sports competitions should be professionally organised, coached and refereed with strict adherence to the rules. No team should be fielded without a properly accredited coach, referee and sports trainer. These are norms in the civilian sector and should equally apply in military sports.

Improvements in the early treatment and rehabilitation of injuries are also indicated, with standardisation of treatment regimes across army to ensure that all soldiers receive the same treatment for the same injury, and that these regimes are in accordance with best practice.

### Summary

This article has demonstrated Army has high reported rates of injury. Lower limb injuries predominate in a manner that is significantly different to civilian industry.

Sport and physical training are the major causes and the patterns of injury are consistent with those seen in civilian runners. Given the emphasis placed on the five kilometre run, it is likely that there is significant overtraining and training errors occurring in unit PT.

Research in civilian runners has identified a number of risk factors for injury, the most pertinent to prevention being weekly running distance and competitive running. Research in recruits has shown that lower limb injuries can be reduced by decreasing running distance, without any loss of military effectiveness.

Physical fitness is a subject which generates extremes of opinion, and any proposed change to the BFA is met with impassioned resistance. Research findings have indicated appropriate preventive strategies, and there would seem to be a duty of care to implement them. People are the Army’s greatest asset and to preserve that asset will require change.

### NOTES


Lieutenant Colonel Rudzki graduated MBBS from the University of Adelaide in 1982. He has served in 3RAR, 8/12 Mdm Regt, 2 Fd Svy Sqn, IFd Hosp and ASC Minurso. He completed a Graduate Diploma in Sport Science in 1986, and was awarded a Fellowship of the Australian College of Sports Physicians in 1991. He was a Defence Force Fellow in 1992, and a Research Student at the National Centre for Epidemiology and Population Health, ANU. Lieutenant Colonel Rudzki is the Commanding Officer, Canberra Area Medical Unit.
Australia Remembers records many of the activities of Australian Service men and women who served overseas and at home during World War II. It also records the role played by the men and women of the Australian Defence Force in ensuring that the ceremonies for the pilgrimages of the “Australia Remembers” program were conducted in the most fitting and solemn way.

This is the 8th in a series of books produced by the Australian Defence Force Journal commemorating anniversaries of Australia’s participation in war.

Australia Remembers is available from the Office of the Australian Defence Force Journal at a cost of $49.95
Darwin 1942

By Air Commodore A.D. Garrisson, (Ret)

Introduction

The first air raid against Darwin was launched on 19 February 1942 and, with the passage of time, would now appear to have been one of the heaviest and most devastating single raids ever sustained by any of the allies in the Second World War. A royal commission was immediately established by the Government to enquire into all circumstances of the raid, but its contents remained secret until a partial release in 1945. The full report was not made public for another 35 years.

The Prime Minister issued a statement immediately after the raid, acknowledging that Darwin had been attacked by the Japanese, and that there had been “considerable damage” and “some casualties” but that further details were not yet available. In the absence of any further official information, stories continued to circulate with charges of mass desertion and lack of discipline among Air Force and Army personnel, panic by the civilian population and failure of officials to take any appropriate action to control the situation. These rumours and accusations continued to grow in volume and substance for many years, until interest finally waned in the light of more important events as the war progressed.

Then in 1992, the Northern Territory Government organised many special events to commemorate the Fiftieth Anniversary of what was variously referred to as “Australia’s Pearl Harbor”, “Australia’s Frontline”, “The Battle for Australia” or “The Northern Territory’s War”. These activities were widely reported and military and civilian reunions were organised on a large scale.

Once again all the old rumours reappeared, despite the fact that by now all aspects of the raid and its aftermath were fully and freely available. Much of what was written appeared to be done primarily to sensationalise the perceived panic and breakdown in discipline, rather than to acknowledge the many acts of bravery and dedication to duty by civilians and Service personnel alike.

Although Darwin was not included in the excellent programme “Australia Remembers” which was no doubt because of the very wide coverage by the earlier commemoration events in 1992. However, five years have passed since then and this article sets out to provide some form of background, as it were, which might help to place the events leading up to the initial raid in their true perspective. In particular, it will try to cover the relationship of these events to one another and the possible effect they may have had on contemporary opinion and judgement in the light of their knowledge and experience at that time.

The Raid

At 9.58 a.m. on the morning of 19 February 1942, enemy bombs fell on Australian soil for the first time. The Japanese attacked Darwin with a force of 188 aircraft launched from a naval carrier task force. They arrived without warning and surprise was complete, with the attack being mainly directed at the harbour and port facilities. The “All Clear” was sounded 40 minutes later, but the first attack was quickly followed less than two hours later by a second, with a force of 54 land-based aircraft operating from the Celebes, and solely aimed at neutralising the RAAF base.

The two attacks left behind a trail of death, destruction and confusion hitherto unknown in Australia and never again equalled. A total of 242 persons had been killed and 302 injured and of 52 vessels in the area, ten had been sunk and 15 badly damaged. Additionally, from a total of 55 Allied aircraft, 29 were destroyed or damaged, with extensive damage sustained by the port, township, installations and airfields.

The Official History claims that the first raid on Darwin was “one of the most devastating air raids of the Second World War”, and compares it to Coventry, which Churchill described in his memoirs as “the most devastating raid which we sustained”. (Appendix D).
Background to Events

The Japanese attacked Pearl Harbor on 7 December 1941 (Pearl Harbor time) with simultaneous attacks on the Philippines and Malaya, although the latter events are officially recorded as occurring on 8 December. This apparent anomaly, however, is due purely and simply to the vagary of the international date line, which places these areas and the Western Pacific area, including Australia, one calendar day ahead of the USA and Eastern Pacific area.

In fact, RAAF aircraft operating out of Kota Bharu, on the east coast of Malaya, had sighted an invasion fleet about mid-day on 6 December (Singapore Time), and an RAF Catalina was sent out later that night to investigate. It did not return and was later confirmed to have been shot down by the same Japanese task force, the aircraft and crew of which thus became the first Commonwealth casualties of the Japanese.

Bad weather the following day hampered the search for the convoy, but it was again located by RAAF aircraft late on the afternoon of 7 December, one of which was fired on but was able to take successful evasive action. Despite these incidents, however, the British Far East command was not yet certain the ships were bound for Malaya. As a result, no offensive action was taken under standing orders that British forces were not to open fire unless they were first attacked themselves, except that anti-aircraft batteries could fire on any proven unidentified aircraft.

Shortly after midnight of 7-8 December (Singapore time), enemy warships, having approached close inshore under cover of darkness and heavy cloud, began shelling the beach at Kota Bharu. No. 1 (Hudson) Squadron RAAF was ordered to attack with all available aircraft so that the RAAF, and most appropriately No. 1 Squadron, became the first Commonwealth force to strike a blow against the Japanese.

Six aircraft were already standing by, bombed-up and on alert. The remaining four serviceable aircraft in the squadron were quickly made ready, with enemy troops already coming ashore only a mile and a half (2.4 km) from the airfield. The first Hudsons took off just after 2 am on 8 December (Singapore time) in clear weather with a rising moon, followed at intervals of two to three minutes by six others. All carried out low-level attacks on the convoy, but on an individual basis due to the very close proximity of the ships to the airfield.

Several hits were scored, but one of the aircraft failed to return, and several of the others were damaged by heavy and accurate anti-aircraft fire. Another sortie was immediately mounted, and again several hits were scored on the ships, but another aircraft failed to return. Further attacks were carried out continuously until 6 am when a short halt was called so the aircraft could be re-fuelled and checked for damage.

In the meantime No. 8 (Hudson) Squadron RAAF based a little further south at Kuantan had also been brought into the action and was attacking the landing barges and beaches, together with two RAF fighter squadrons from Kuantan and Kota Bharu. These units were joined by three RAF Blenheim squadrons from Kuantan, Alor Star and Tengah. By this time, at least two enemy transports had been sunk and one damaged, and 24 barges had been destroyed or overturned.

However, the rest of the enemy force, particularly the naval vessels, appeared to have withdrawn to attack another destination. The rest of the events in Malaya have no place in this narrative, and the opening stages have only been given to show how it all began and to acknowledge the immediate involvement of Australian forces.

It may also be noted in passing that at about midnight on 7-8 December (local Singapore time), Japan had occupied Shanghai, and launched a seven-point attack on British, American and Thai territories. Thus, within a few hours Malaya, the Philippines, Guam, Hong Kong, Shanghai and Wake had all been attacked and by the middle of January most of the Philippines, Borneo, the Celebes and much of Malaya had been lost to the Japanese. The enemy were already in Java and were known to be mounting an attack on Timor. In fact, the expected Timor landings took place at Dili and Koepang only one day after the raid on Darwin.

Nearer to home, the Japanese occupied Kavieng and Rabaul on 23 January and on 3 February Port Moresby was bombed. On 8 February they occupied Lae and Salamaua on the east coast of New Guinea. Meanwhile, Ambon had been occupied on 5 February, followed by landings at Palembang (Sumatra) on 14 February. Then on 15 February Singapore fell. With the Japanese already in what was then known as the Netherlands East Indies (NEI) and only a few hundred miles from our shores, the Darwin attack came just four days later.
These events may be put into their chronological perspective by the following summary, which is also displayed at Map 1:

16 December - Brunei (Borneo) invaded.
23 " - Kuching (Borneo) captured.
11 January - Tarakan (Borneo) taken.
23 " - Balikpapan (Borneo) taken.
" - Kavieng (New Britain) captured.
" - Rabaul (New Britain) falls.
24 " - Kendari (Celebes) occupied.
31 " - Ambon occupied.
3 February - Port Moresby bombed.
9 " - Macassar (Celebes) occupied.
14 " - Landings at Palembang (Sumatra).
15 " - Singapore surrenders.
18 " - Bali invaded.
19 " - DARWIN BOMBED.
20 " - Dili (Timor) occupied.
20 " - Koepang (Timor) occupied.

It appeared the Japanese were invincible, and were now driving relentlessly towards Australia. With the occupation of Ambon on 31 January, Darwin itself had come within range of Japanese land-based bombers. The Fall of Singapore on 15 February had been widely publicised, and the news was received in Australia with shock and dismay.

When reviewing the circumstances from this distance in time, it is quite impossible to fully understand the feelings, attitudes and fears of the people involved. The rush of events had appeared to overtake them and, as we shall see, they had neither the time, the leadership, the experience, nor the resources to deal with the situation when it occurred.

---

Darwin - Pre-Raid

The possibility of an attack on Darwin, whether by bombing or by invasion, was recognised by the Government a few days after Japan entered the war. It is almost forgotten that a mass evacuation of women and children, and the aged and infirm, was ordered as early as mid-December 1941. No one now denies that this was a wise precaution, but in fact the Administration actually had no statutory powers at that time to order people to move.

However, in the event, more than two thousand civilians were sent south from Darwin. Most of them were not only willing, but anxious, to go. Those who were sent against their will were told a refusal to do so would be an offence, and the powers were never challenged.

It was true that under the very wide wartime powers derived from the National Security (Emergency Control) Regulations, the Australian Government could proclaim a state of emergency and then “do any act or thing” which undoubtedly included the power to order the evacuation of a civil population. However, at the time the evacuation of Darwin was ordered, these regulations in relation to the Northern Territory had not yet been gazetted. In the final event, this was not in fact done until 23 February, four days after Darwin was bombed.

An even earlier development in Darwin was the establishment of a Civil Defence, or Air Raid Precautions (ARP), organisation as early as June 1940. The town was zoned, and ARP wardens appointed. They were to become familiar with their areas, and maintain a roll of residents, brought up to date by a weekly check of arrivals and departures. As can be imagined, however, the organisation was not taken too seriously until the attack on Pearl Harbor.

Then, only three days later, there was an air raid alert at 10.45pm on 11 December, local time. Wardens patrolled the streets, advising people where to go and what to do, and seeing that all lighting was blacked out. Enemy planes did not come, and the all-clear was sounded at 12.30am. No explanation was given as to what had caused the alarm, but from then on people slept with one ear open, just in case there was another alarm.

The wardens, however, were most concerned at their lack of true authority and the morning after that alarm, the Chief Warden and three of the zone wardens called on the Administrator, Mr. C.L.A. Abbott, who had been a former Minister for Home Affairs in the Bruce-Page Government. The wardens asked Abbott to obtain from the Government an immediate grant of statutory powers by declaring a state of emergency under the National Security Regulations. The Administrator refused the request, saying that such action might cause panic, and in any case considered it unnecessary. The Chief Warden was Arthur Miller, Chief Surveyor of the Territory, and he told Abbott that all wardens were convinced Darwin would be bombed in the near future.

He pointed out that if the sea lanes were cut by the enemy, the town could not survive for more than two weeks. There was no all-weather road to the south, and the nearest rail link to the rest of Australia was 1,000 miles (1600 km) away at Alice Springs. Until late 1941 the only road that existed between Darwin and the south was a bush track which wound its way along the Overland Telegraph route to Alice Springs.
In November 1940 the “Track”, as it was known, was upgraded to an all-weather road from Birdum to Tennant Creek, a further 300 miles (500 km) to the south. Within a year this was finally extended to Alice Springs and became known as the Stuart Highway. However, a narrow-gauge rail link of very limited capacity, operated by North Australian Railway (NAR), did exist between Darwin and Birdum, 340 miles (547 km) to the south.

In the meantime, however, there were only limited air services with small ten-seater aircraft that could certainly not cope with the supply situation. The town depended on shipping routes which were over 3,000 miles (4800 km) long and highly vulnerable. Miller strongly urged evacuation of all but the most essential of the civilian population. Abbott did not appear to appreciate the situation, or any need for immediate action.

Finally, however, at the insistence of the delegation, Abbott did send a telegram to the Prime Minister’s Department asking for a general grant of power to effect the evacuation of women and children and aged persons. The Prime Minister, John Curtin, replied giving War Cabinet’s approval. The evacuation was to be carried out at Commonwealth expense and with the cooperation if necessary of the Navy and Army. However, legal authority was not mentioned, and Miller is quoted as saying: “We bluffed people into believing that we could do what we were doing.”

A list of evacuation priorities was published in mid-December, but it was roughly women and children first, except for women considered to be in essential jobs, who could remain. A notice was delivered to every household, setting out who was to go, and what they could take with them. It is interesting to note that each person was to be allowed one suitcase, two blankets, drinking and eating utensils and a waterbag. Pets were not to be taken, but destroyed before departure; except that domestic poultry was to be left as an auxiliary food supply for those remaining.

Although authority to enforce the evacuation did not exist, it was so taken for granted that within four days, the first of the evacuees had already departed by sea, and what they could take with them. It is interesting to note that each person was to be allowed one suitcase, two blankets, drinking and eating utensils and a waterbag. Pets were not to be taken, but destroyed before departure; except that domestic poultry was to be left as an auxiliary food supply for those remaining.

Although authority to enforce the evacuation did not exist, it was so taken for granted that within four days, the first of the evacuees had already departed by sea. However, not all those the Government hoped to evacuate went without protest. More than two hundred women either refused to go or took “essential” jobs. This category included nurses, stenographers and clerks employed by the Government and the Services, telephone operators and boarding house proprietresses. Such qualifications were quite easily acquired.

Nevertheless, as already noted, between mid-December 1941 and 1 February 1942, one thousand women and nine hundred children were evacuated by sea, and another three hundred left by aircraft returning south after bringing extra wharf labourers to Darwin. By 18 February, the population had been reduced to about 2,000, of which finally only 63 were women. There were no children. Also about this time a grave shortage of food, petrol, and beer occurred, and amenities and supplies generally were stretched to the limits by the continuing arrival of more and more troops.

Also, in December a running battle had begun between the wardens and the Administrator. They were unable to enforce anything; from requesting citizens to build slit trenches to obtaining their own ARP posts for first aid and other related requirements. On several occasions wardens came to blows with citizens, who defied instructions from wardens and their authority to enforce them.

By 26 January, all wardens had resigned over the lack of action on the part of the authorities, and advised the Prime Minister of their action by telegram. The resignations included first aid men, stretcher bearers, firemen and demolition workers. The friction continued right up to the day of the initial attack, and included even such items as the refusal of the Administrator to agree to citizens carrying some form of identification in case they became casualties.

On 12 February, there were only two fighter aircraft serviceable at Darwin. They were both American P40 Kittyhawks left behind with engine trouble when the 3rd Pursuit Squadron, of the United States Army Air Corps (USAAC), was staging through Darwin, and had departed for Java on 10 February. The pilots were Lieutenants Robert G. Oestreicher and Robert J. Buel. The latter subsequently failed to return from convoy escort duty on 15 February and it was later learnt that he had shot down a Japanese Mavis 4-engine flying boat which had been shadowing the convoy, but had also been shot down himself during the engagement.

That left one P40 Kittyhawk plus five unserviceable RAAF Wirraways at Darwin, with another nine Wirraways at Batchelor, 60 miles (96km) away. The Wirraway was a two-seat single-engine monoplane with two forward firing machine-guns operated by the pilot, and carrying an observer/gunner in the rear cockpit equipped with a...
light machine-gun so mounted that it could be rotated horizontally or vertically. The Wirraway was Australian built, and prior to Pearl Harbor was the standard RAAF fighter. Wirraway squadrons were located at all the main bases, including Darwin, for local air defence. However, even if all 14 had been serviceable and were all actually together in the immediate Darwin area on 19 February, they could not have been used as fighter aircraft due to a recent change in policy.

During the Japanese assault on Rabaul in January, the Wirraways based there had launched their total strength of eight aircraft against an enemy force of more than 100 bombers escorted by Zeros. They were completely outclassed by the Zeros in speed, manoeuvrability and firepower. In what was a brave but hopeless defence by No 24 Squadron the Wirraways had just literally been shot out of the sky in an engagement which lasted for less than ten minutes. Six of the eight aircraft were lost, and from a total of 16 aircrew engaged, six had been killed and five wounded.

Shortly after this tragic debacle a directive was issued that Wirraways were not to be used as fighters, but were to be reserved solely for dive-bombing duties. In Darwin they did not have the range to reach any Japanese forces in the NEI, and were used for short range seaward reconnaissance. In any case no suitable replacement fighter aircraft were as yet available to the RAAF.

In addition to the Wirraways the only other operational RAAF aircraft of any kind in the area were nine Hudsons at Darwin, six of which had only arrived from Java that morning, and seven at Daly Waters but which were all without crews. There was also, of course, the one single remaining P40 of the two left behind from the USAAC 3rd Pursuit Squadron which was the sole operational fighter in the area. As it turned out, however, a further ten fully operational P40s and pilots of the United States Army Air Corp (USAAC) also became available on 19 February.

An additional squadron of American P40s had earlier been diverted to Darwin to provide cover for a convoy due to sail from there to Timor. After many delays on the way, ten out of an original 15 which had left Brisbane, arrived at Darwin on 15 February only to find that the convoy had already sailed the day before. These aircraft, forming the 33rd Pursuit Squadron, USAAC, were under the command of Major Floyd Pell, who reported that the aircraft required some much needed maintenance and that it would take at least 72 hours to put eight of them back into combat readiness. To make matters worse, the maintenance party did not arrive until late on the 16th. On the 16th Lieutenant R. G. Oestreicher also joined the unit, giving it a strength of 11 aircraft and 11 pilots.

The convoy, which was briefly mentioned above, had left Darwin at 2am on the morning of 14 February with the intention of reinforcing Koepang in Timor. It comprised four merchant ships, of which three were American and one Australian, carrying 1800 troops, including a detachment from a United States artillery regiment, a troop of anti-tank gunners, some pioneers and a variety of specialised units, together with ammunition, explosives and other necessary stores. They were escorted by four warships, two of which were American and two Australian. The two American vessels were the heavy cruiser USS Houston and the destroyer USS Peary and the Australian ships were HMAS Swan and Warrego, both sloops.
The P-40E, generally similar to the P-40D but having two additional 0.5-in. guns.

It was originally intended that the convoy would have air cover but, as we have seen, the American squadron of P40s intended for this duty were delayed along the way. After waiting for two days, the convoy left without them on the authority of Captain E.P. Thomas, RAN, who was the senior naval officer in Darwin and the naval officer in charge of the port (NOIC). However, it is recorded that he did this with a good deal of misgiving. Being well aware of the rapid advance of the Japanese through the NEI he was not certain that Koepang would still be in Allied hands. In any case there were no port handling facilities there and the convoy would have no protection during what could become a lengthy unloading phase.

The first day and night at sea were quiet and uneventful, but at about 10am on the second day a single Japanese four-engine flying boat was sighted approaching from the north. It circled at a safe distance and then turned back in the direction from which it had come. Houston immediately broke wireless silence to advise Darwin that the convoy had been sighted.

Then at 1.30pm another single aircraft was seen coming from the north and, after sounding the alarm, Houston opened fire. The enemy aircraft then dropped a bomb harmlessly some distance from the convoy before turning away. These tactics were repeated at frequent intervals during the afternoon, with Houston firing in the direction of approaching aircraft which then dropped their bombs into the sea and turned away.

Captain Thomas had received the message from Houston, which only confirmed his worst fears. However, once the convoy had left Darwin it passed out of his control and became the responsibility of General Wavell's Allied Headquarters in Java. However, after consultation with the RAAF, he decided that if a recall had not been ordered within the next three hours, he would send a signal to General Wavell's headquarters suggesting this be done. In the event, he sent the signal but it was ignored, even though it was by now fairly obvious that the Japanese would strike when ready.

They appeared only to be waiting for confirmation that the convoy was in fact headed for Timor, and was also finally out of reach of any Allied aircraft based at Darwin. However, it was not until 11.17am the following day that the inevitable happened and the convoy was attacked by 35 bombers and 9 flying boats. Houston at once turned away from the convoy in an effort to draw the attackers, dodging bombs and keeping up a continuous rate of fire. Fortunately, and despite the weight of attack, once it was over all ships were still afloat, and damage was particularly light. Casualties also were remarkably low, with just 29 injured, although one died later.

By this time both Houston and Peary were running out of ammunition and it was almost certain another attack of even greater intensity could be expected at any time. Accordingly, Houston advised Wavell's headquarters that it would be foolish to continue and requested permission to turn back. It was not until a further two hours that the order finally came through that the convoy was to return to Darwin. On the journey back they were under almost constant surveillance by Japanese reconnaissance aircraft, but there were no further attacks. The convoy finally arrived back at Darwin in the late afternoon of 18 February and added a further eight ships to an already over-crowded harbour.

With the convoy once more safe in harbour, Houston and Peary refuelled immediately and after replenishing their ammunition sailed again the same day for the Java Sea. On the way Peary made contact
with a submarine and during a series of unsuccessful depth charge attacks became so short of fuel had to return to Darwin for more. Houston went on alone, but after a number of sweeps without any contact also returned to Darwin, arriving early the following morning.

On 19 February, therefore, there were now 49 named ships of various sizes and types located within Darwin harbour or the immediate vicinity, and three unnamed auxiliary craft. Of the named ships, one was an oil tanker and ten were merchant vessels operating as troop transports or cargo vessels. Four of these were American, four Australian, one British and one Norwegian. Those unnamed were a floating dock, an oil lighter and a stores lighter. Of the remainder, one was the Australian hospital ship Manunda, two were the American naval vessels, 32 were Australian naval vessels, and two were civilian launches. They ranged in size from a 12,500-ton transport to a 12-ton patrol boat.

Meanwhile, on 17 and 18 February, the USAAC 33rd Pursuit Squadron had flown high altitude patrols morning and afternoon over Bathurst and Melville Islands and gave escort to a small convoy. By then the Timor convoy had been ordered back to Darwin, and Pell and his unit were ordered to move on to Java. This was a most extraordinary decision, having regard to the current situation. Java was already coming under heavy attack and there was little hope that the P40s would be able to land there, even if they were not shot down first by a superior force of Zeros before they arrived. Their departure would also leave Darwin without any air defence, just when the return of the convoy was expected to draw a possible attack by the Japanese.

The squadron took off from Darwin at 9.15am on the morning of the 19th, in company with a B17 as a navigation escort. At 9.30 Pell received radio advice from the USAAC operations officer at Darwin reporting heavy rainstorms and a 600 feet (180 m) ceiling on the route to Java. He was advised to return and did so.

On the morning of 19 February, therefore, by the time of the first raid, there was now a total of 54 military aircraft on strength in the Darwin area. They consisted of 43 RAAF and USAAC aircraft of mixed types and the eleven USAAC P40s which had only just returned. There was also one Qantas Short Empire flying boat at the flying boat moorings. By early February, partly for security, but mainly because of the growing congestion, some of the RAAF units and aircraft had been dispersed from the RAAF station at Darwin to other airfields in the area. Full details of aircraft strength by type and locations are set out at Appendix A.

Although the permanent fighter defence provided at Darwin was in effect non-existent, due to the complete absence of any fighters, the anti-aircraft defences were described as “relatively strong”. There were 18 A/A guns in all, of which there were sixteen 3.7 inch (9.4mm) and two 3 inch (7.6mm) calibre guns, with supporting searchlight and machine-gun posts of various calibres. These were mostly set up round the port and town, but some machine-gun protection had also been provided at some service camps and important installations.

The total Army strength at Darwin was about 6,670 troops, of which the main force comprised one brigade of infantry with supporting arms, together with one pioneer battalion, two militia battalions and one AIF Independent Company. These were all dispersed in camps to the south of the town and spread over an area of some 30-40 miles (48-64km). The Army headquarters, together with artillery, base and support units were located in, or near, the town and port. The complete Army Order of Battle is set out at Appendix A, but it should be noted that the list also includes two United States artillery units which had been disembarked only the day before from the returning Timor convoy.

The RAAF had a total of 2000 all ranks in the area, mainly at RAAF Station Darwin, but with detachments at the civil aerodrome, Batchelor and Daly Waters as well as various advanced operational bases in the area. Air raid precaution practices had been held recently, but for anti-aircraft defences the base only had ten twin-Vickers machine-guns, twelve 0.5 inch machine-guns supplied by the United States Army, and a few Lewis guns. These, together with 63 rifles and 257 revolvers made up the total of the RAAF defences at RAAF Darwin.

There were no anti-aircraft weapons at the civil aerodrome or Batchelor and Daly Waters or any of the dispersed airstrips. Some personal arms training was organised as far as availability of weapons permitted, and rifle squads were formed, but as most were unarmed due to the shortage of personal weapons, few could be given even the rudiments of elementary combat training. However, according to the Official History and other sources, it was intended that the Air Force ground troops would combine with the Army as infantry in the event that no aircraft were left to service.
The Attackers

Against these general defences the initial Japanese strikes against Darwin were aimed at neutralising that base in preparation for, and to protect, their further operations against the NEI, and Timor in particular. They planned to attack Darwin harbour and port with 188 carrier-borne aircraft, consisting of 36 fighters, 71 divebombers and 81 level bombers. These were to be launched from a position east of Timor, and about 220 miles (354 kms) N.W. of Darwin. These were to be followed by a second wave of 54 land-based bombers operating from Kendari (Celebes) and Ambon, aimed at neutralising the RAAF station. (Appendix B and Map 2).

The carrier-borne force was launched from the same Japanese Carrier Fleet which had taken part in the original attack on Pearl Harbor, and had also supported the Japanese invasions of Rabaul and Ambon. It consisted of four modern aircraft carriers, the Akagi and Kaga, each of 36,000 tons and the Soryu and Hiryu each of 27,500 tons. These were supported by four heavy cruisers, each of 12,000 tons, and accompanied by nine destroyers.

The carrier-borne force was launched from the same Japanese Carrier Fleet which had taken part in the original attack on Pearl Harbor, and had also supported the Japanese invasions of Rabaul and Ambon. It consisted of four modern aircraft carriers, the Akagi and Kaga, each of 36,000 tons and the Soryu and Hiryu each of 27,500 tons. These were supported by four heavy cruisers, each of 12,000 tons, and accompanied by nine destroyers.

The task force was commanded by Admiral Chuichi Nagumo who had led the same task force when it attacked Pearl Harbor, Rabaul and Ambon. The leader of the airborne strike force was Commander Mitsuo Fuchida who had led a bomber group from the same carrier force, in the attack against Pearl Harbor, and again at Rabaul and Ambon. Each were considered experts in their own field and were both undoubtedly experienced and resolute officers.

Command Arrangements

Control of all naval and air force operations and movements at Darwin was coordinated through an Area Combined Headquarters (ACH), with the specific responsibility for defence of the sea routes and concentration points for shipping in their defined area, with full authority to initiate such trade defence operations as might be required against the enemy. Similar organisations had been set up at Sydney, Melbourne, Fremantle, Townsville and Port Moresby, and all were manned by a combined naval and air force staff.

An important adjunct within the ACH was a Combined Operations and Intelligence Centre (COIC), including a maritime movements section. It was manned by a staff of officers drawn from all three Services who sifted all intelligence material, and provided joint reports and recommendations on current and anticipated situations.

Additionally, and for specifically defended ports for which naval, military and air forces had been provided, such as Darwin, a Combined Defence Headquarters (CDH), with a fully integrated staff had been set up. Similar arrangements already existed at Sydney, Brisbane, Adelaide and Hobart, Newcastle, Port Moresby, and Thursday Island. The purpose of each CDH was to provide coordinated operations by all three services to counter an enemy attack against the relevant port.

Control of the individual services by each of the above headquarters was exercised through the appropriate single service headquarters which, in Darwin, were the Office of the Naval Officer in-charge Darwin (NOIC); Headquarters 7th Military District (HQ7MD), covering the whole of the the Northern Territory; and Headquarters North-Western Area, RAAF (HQNWA), with responsibility extending over a wide arc to the north of Darwin (See Map 5).

The general procedure was that the ACH (or CDH) would, according to circumstances, decide the precise nature and purpose of the operations required and pass these broad instructions to the relevant Service operations room. Here the broad plan would be converted to a more detailed level, and the necessary orders issued to the units.

Following the Japanese invasions throughout the Far East, an inter-allied command had been set up, known as the American, British, Dutch and Australian Headquarters, or the ABDA Command, under General Wavell. His authority was mainly over what was then known as the Netherlands East Indies (NEI) area. However, after the fall of Rabaul and about the time of the withdrawal from Ambon, Wavell's responsibilities were extended to include the defence of Darwin together with a strip of adjoining coast considered necessary for this purpose (Map 3).

Accordingly, as from 7 February, the Darwin ACH and CDH together with all service headquarters and units under their command, whether Dutch, American or Australian, were transferred to ABDA Command, breaking any direct link with the Australian operational command system.

The decision to move the P40 squadron to Java was yet another example of the complicated and unworkable command situation which existed. Despite the fact that the squadron was situated at Darwin, in what was HQNWA territory, that
command had no authority to issue it any orders, which came direct from ABDA command. If the squadron had remained at Darwin, it is extremely doubtful that NWA would even then have had the authority to order it to intercept the attacking aircraft.

The ACH, CDH, and HQNWA and their respective operations rooms were all located at RAAF Station Darwin, which also had its own separate operations room. These various organisations, with differing levels of responsibility and function, shared much of the communication network and more or less used the same or adjoining operation rooms. Many of the facilities, even when provided separately, were so close to each other, often in adjoining rooms or in the same building, as to confuse the normal chain of command.

As an example, the ACH was actually located in the RAAF operations building thus making it most difficult to provide at least an appearance of separate functions. To add to these difficulties of identification was the fact that HQNWA would normally be interposed in the chain of command and control between the ACH and the station. To further complicate matters, several staff appointments were duplicated, and some officers held individual appointments at more than one headquarters.

The confusion resulting from this duplication of appointments particularly applied to the staffing of ACH and CDH, and station operations room. This added yet further confusion to the ability to clearly separate the differing and distinct roles of the two Headquarters, where the lines of authority and responsibility were in any case not clearly defined, or even understood.

The confusion caused by these shared arrangements was even further compounded, in the case of the Air Force, by the domestic arrangements. The Air Officer Commanding North-Western Area, Air Commodore D. E. L. Wilson, with his own headquarters already physically superimposed on the station headquarters, lived with members of his senior staff in the station commander’s house. Rather than having the expected cohesive effect, this proximity only led to further confusion and eventual chaos, making it even more difficult to distinguish between the levels of command and the separation of powers.

The Station Commander, Wing Commander S. de B. Griffith, who had only arrived two weeks earlier, was later to say he had little effective authority on his own base. He was required to live, as well as work, with officers senior to him in rank as well as appointment, and in particular, where their tasks should have been complementary, they were frequently duplicated.

HQNWA officers frequently interfered in local levels by issuing orders direct to his units without his knowledge, and which at times even resulted in overriding orders previously issued by him. In particular he appeared to be without any status or authority in his own operations room and as a result was frequently absent on other station duties. There is no doubt that the confusion in the Air Force chain of command in particular and its relationship between and within both the CDH, ACH and HQNWA, played a vital part in subsequent events.

However, the procedure for handling reports of unidentified aircraft were quite positive and unambiguous, but were in fact difficult and complicated to implement. Any sighting reports which came through Darwin Radio were to be directed in the first instance to the RAAF Station operations room. This was strictly enforced on the grounds that the RAAF was considered the only agency capable of deciding whether the aircraft was friend or foe.

If either the Navy or Army received a report of an unidentified aircraft they, too, were also required to refer it in the first instance to the RAAF for identification. In turn, RAAF operations would assess the report and pass it up to ACH where it would be examined by the three Service representatives together with the civilian authority, and a joint decision made as to what action, if any, would be taken.

The ACH was thus intended to be a central clearing house planned to ensure all three Services, as well as the civilian authority, would simultaneously receive warning of an impending air raid. It then became the responsibility of the individual Service and civil representatives to pass the ACH assessment on to their individual headquarters where yet another evaluation would be made.

As many as five officers, in almost as many separate locations or headquarters, could thus be involved in assessing a single report, with inevitable delays between the time of the first sighting and a final decision to sound the alarm. Further delays could also occur due to the very confused chain of command and the poor state, unreliability and general inefficiency of the communication system between the RAAF, ACH, CDH, and the various service headquarters and their units, as well as the civilian services. The whole system of communication between the Navy, Army, RAAF, CDH, ACH, and the town was precarious and almost certain to break down.

An additional factor which undoubtedly had an effect on the RAAF difficulties was that over the past
three months there had been 17 changes of officer personnel in the operations room and it was later claimed that over the previous five months no less than 30 different officers had been through the system. Furthermore, they were all comparatively junior and inexperienced, and had received no special training.

There also appears to have been an underlying confusion between the roles and responsibilities of the ACH and the CDH. In the chain of events leading up to 19 February, and any action taken then or later, no reference can be found in the official records to any report ever being made to the CDH, or to any action having been taken by the CDH. This can possibly be explained in the first instance by the fact that all reports of unidentified aircraft were referred to the ACH, and any follow-up action initiated by them. Any further developments would then tend to flow naturally to and from that source.

Also to be considered was the fact that several posts within the two headquarters were frequently held by the same officers, and the separate lines of control and responsibility never clearly emerged. However, and perhaps more to the point, was that in the beginning and as events unfolded, there would still be no need for the CDH to be involved. The ACH had the specific task of protecting shipping, the trade routes and concentration points, and this would normally only concern the Navy and the Air Force.

The CDH, on the other hand, was charged with the defence of the port itself, and carried a responsibility to coordinate and control all three Services. Initially the threat which developed on the 19th appeared to be concerned merely with the problem of some unidentified aircraft. It was only discovered at the very last moment that it might involve all three Services, and the civilian authorities, in the actual defence of the base. By this time it was already too late to change the command arrangements, even if it had occurred to anyone at the time to do so, or in fact it would have been possible.

On 19 February, the Air Officer Commanding (AOC), NW Area, Air Commodore D. E. L. Wilson, was absent from Darwin on an official visit to ABDA in Java, and Group Captain F. R. W. (later Air Chief Marshal Sir Frederick) Scherger was acting AOC. He had been the Officer Commanding RAAF Station Darwin since his original posting to Darwin on 3 October 1941, but transferred to the post of Senior Air Staff Officer at NW area in December. Scherger had left the RAAF base at 9.50 am to meet Air Marshal Williams, who had just arrived in Darwin that morning by flyingboat from overseas. He had only driven about one and a half miles (2.4km) towards the town when he heard the anti-aircraft guns open fire and looking up sighted 27 Japanese planes approaching in a V-formation.

Realising that he would be going straight into the probable target area, he immediately turned round and drove back until he came to what he considered to be a relatively safe spot near the civil aerodrome. Almost at once, however, he saw smoke rising from the RAAF airfield, and realised it was under attack as well. He immediately set out as fast as possible in an effort to get back to the base, but soon realised it was too dangerous to go any closer. During a lull he judged it safe to drive on, but came under fire from a strafing Zero, and again was forced to take cover until the raid was over.

In the immediate events leading up to the first raid, therefore, there had been no senior air force officer available in any of the command headquarters, and hence no one to whom the duty staff could refer for advice or possible decision.

Warnings Ignored

Melville Island, which lies about fifty miles (80 km) north from Darwin (Maps 2 & 4), had a coast watching station, reporting direct to the senior intelligence officer at Darwin Naval Headquarters. The coastwatcher manning this station was situated on the north coast of the island, bearing 85 miles (90 km) from Darwin, had a radio transmitter, and the use of a code for immediately warning Darwin of any sightings, and his communications were direct with a naval signals station just outside Darwin.

Shortly after 9.15am, this post reported a “large number of aircraft” and although there were no other details, such as numbers and direction of travel, they could not be assumed as friendly. The message was immediately passed by the Darwin operator to the senior Naval Intelligence Officer, Lieutenant Commander James McManus, who in turn passed the information at once to the RAAF in accordance with standing orders. He was told by the RAAF of the P40s which, at that time were still thought to be on their way to Java, and were probably the cause of the Melville Island sighting.

However, McManus did not fully accept this interpretation, as Melville Island was well north of the direct route from Darwin to Java, while just the time factor alone made it suspect. He wanted to sound the alarm at once, but was overruled by the RAAF duty officer on the basis that there had been too many earlier false alarms.
Even a cursory look at the map by the RAAF duty officer would have made it clear that, on a direct course to Java, the P40s were almost certainly Japanese. The RAAF operations room had been informed that the P40 Kittyhawk, which had only taken off from Java ten minutes earlier, was forced to return due to engine failure. The entry of these aircraft into the Darwin area was an already complicated situation, and the failure to identify the aircraft as Japanese because of it, was to have a most disastrous effect on what followed. Even when confirmation of a further sighting came fifteen minutes later from Bathurst Island, action was still not taken.

Bathurst Island, lies to the west of, and immediately adjacent to, Melville Island, being separated from it by only a narrow stretch of water (Refer Map 4). It was the home for a Catholic missionary, and at 9.30am on 19 February, a large number of aircraft appeared in the distance, heading in the direction of Darwin. Father John McGrath, sensing the implications of what he saw, ordered the evacuation of the village, and tuned the mission's radio transceiver to an emergency frequency always kept open by the Amalgamated Wireless coastal station in Darwin.

The primary role of this radio station was for communication with shipping, but it also provided contact with isolated communities who had no telephone or telegraph. It had also taken over responsibility for contact with the network of coastwatchers which had recently been set up on the northern islands and a large stretch of the coastline.

Father McGrath's message read: "I have an urgent message. An unusually large air formation bearing on us from the north-west. Identity suspect. Visibility not clear. Over." A few minutes later fighters were strafing the mission and Father McGrath was forced to take shelter. When he returned to the radio to report he found the channel to Darwin jammed.

The AWA station received the message at 9.35am and passed it to RAAF operations at 9.37am in accordance with standard practice, and was clearly acknowledged by the duty officer. It should have given the defenders at Darwin at least twenty minutes notice of what was to happen, but it also was completely ignored. The duty officer considered this new sighting was still the squadron of P40s, but now on their return journey. However, it would have been fair to assume they would most certainly choose to return on the reciprocal of their outward track of 280 degrees, thus passing well to the south of Bathurst Island. In the event, no general alarm was given in the town until just before 10 o'clock.

This mistake in identification was undoubtedly the principal reason for the failure on the part of the RAAF to sound the alert. However, the message from Bathurst Island was passed to the station commander whose office was immediately below the operations room. Nevertheless, the RAAF operations room had failed to carry out one of the key elements laid down for the reporting of unidentified aircraft. It had not immediately passed the message to the Area Combined Headquarters, where it would be passed to the three Service headquarters and the civilian authority - even though no alarm had yet been sounded.

The mistake was corrected five minutes later (at 9.42am) when the RAAF duty officer passed the message to ACH, but with the added comment that the aircraft were "probably" American. It was not passed to Naval Headquarters until 9.45 but with the rider that it was almost certainly a false alarm. The message was never passed to the Army or civilian authorities. At ACH the duty controller had decided to wait for the confirmation which never came. In any case, under standing orders he did not have the authority to sound the alarm or to alert any other authority to do so.

The station commander later stated that he was called to the operations room shortly after the warning message from Bathurst Island was received. He was told by the duty RAAF operations officer that it had already been passed to HQNWA and ACH, and he now considered it was their duty to act, although he did not agree that the returning P40s were the cause of the report. He personally believed that the alarm should have been sounded at once. However, under the laid down system he was required to wait until he received instructions from ACH or HQNEA before taking such action on his own initiative.

The delay in declaring an air raid alert was also no doubt due to the confusion as to who was responsible, and by the fact there was no senior officer present to whom the matter could have been referred for decision. Previous false alarms had caused a good deal of concern because of their unsettling effect on
morale, and this in turn resulted in a particularly cautious attitude by staff manning the various operations rooms. However, although there were by now several other clear indications of an imminent attack, they actually decided to do absolutely nothing about them.

The Army had actually received its own warning of the approach of unknown aircraft from an Army post located on the north coast directly opposite Bathurst Island which read “Planes approaching from seaward at great height unable to identify”.

This was sent at 9.38am but was not received at Army Headquarters until 9.50 owing to the various stages through which it had to pass. Short as the notice might have been it would still have been better than nothing, particularly for the ships in the harbour. The message was not passed to the RAAF, as was mandatory, or to the ACH, nor did the Army itself sound an alarm. What it did do, however, was to alert the anti-aircraft batteries, although this was not done until 9.56. However, this did at least ensure the guns and gun crews were ready for action when the raid started.

While all this was going on, the RAAF operations room was still trying to decide whether or not the two sightings referred to Japanese or American aircraft. It is difficult to believe that there should have been any doubt. Even a casual look at the chart (Map 2) would show it was highly unlikely that, on a direct course to Java, they would even have been within sight of the Melville Island post. This would have been particularly so, as at the time of the first report they had only been airborne for about two minutes and, as previously noted, their course to Java would have taken them well to the south of Bathurst Island.

By the time the Bathurst Island report had been received RAAF operations had been told that the P40s were on their way back, and once more the same mistake in identification was made against even more improbable odds. On this occasion also, there was no possible way that the P40s could have passed over Bathurst Island on the return track for Darwin, particularly as they had then only been airborne for a total of ten minutes, and it was most unlikely they could have even reached Bathurst Island before turning back.

Naval intelligence had previously calculated that an aircraft travelling at 140 knots (220 km/h) would take 12 minutes to cover the 80 km from Bathurst Island to Darwin. This had been done so they would know the expected warning time they might receive, and Captain Thomas later revealed he was well aware of this figure, and many others must also have been aware of it. It is therefore difficult to understand why these basic operational figures had not been considered by the RAAF during their deliberations.

In addition to the above obvious areas there were also several other factors which would have warned an experienced RAAF officer that the oncoming aircraft were the enemy. There was the jamming of the radio transmission from Bathurst. Similarly the course taken by the P40s out of Darwin was known to be 280 degrees and they would choose to return on the same track for safety reasons. Many aircraft had been flying in and out of Darwin without reporting their intention and only that morning some returning Hudsons had been fired upon.

Several false alarms had certainly been sounded since the one on 11 December. One had been sounded as early as 1 January, and another on 5 January when a force of warships and transports was seen sailing towards the port. They were at first thought to be a Japanese task force about to make a landing, until they were eventually identified as American. Further problems had arisen as recently as 15 February, when Major Pell had originally flown in unannounced with his squadron of USAF P40s.

In fairness, however, there was an even better reason for caution. Just two hours before the raid, an anti-aircraft battery at Fannie Bay, north of the town, had engaged six RAAF Hudsons returning to Darwin carrying Australian and American troops they had evacuated from Timor. There had been an error in aircraft identification by the Army, but fortunately for all concerned, no hits were scored, and the Hudsons landed without damage or casualties. However, this event did little for the RAAF to have any real degree of confidence in Army reports of enemy aircraft which were received just two hours later.

On the other hand, there had been several other indications that an attack on Darwin of one kind or another by the Japanese was imminent, and a less cautious attitude should have prevailed. The return of the Timor bound convoy the previous day had already given the NOIC at Darwin, Captain Thomas, cause for considerable concern which he had passed on to others.

Although relieved at seeing the ships back safely, he appreciated the risks caused by their return. He fully believed that the Japanese would now assume with a fair degree of certainty that they had returned to port in Darwin. And, in his own words: “.... they’ll be back here soon enough to finish it off.” He is also reported as having said that: “It required no second sight or military knowledge to realise that we would have visitors the following day.” There were many who shared his views.
He became so concerned about the very large number of ships in port that he had attempted to allot anchorages much further apart than was normal practice. He also ordered all troops to be disembarked from their transports as rapidly as possible, although this had not occurred until the following morning, his reasons for doing so were well known. Only some of the units had been taken off their ships when the raid began, and the delay no doubt led to far greater casualties than may have otherwise occurred.

There were other factors which make it difficult to understand why the alarm was not sounded earlier. Area Combined Headquarters had received the Navy report from Melville Island, as well as the one from Bathurst Island.

About this time also, but clearly not known to Darwin until later, a USN Catalina on a routine patrol off the north-west cape of Melville Island at a height of 600 feet (182 m) was attacked by nine Zeros from the carrier force then on its way to Darwin. Although the Catalina was severely damaged, and the pilots both wounded, they managed to make a successful emergency landing on the water, and the aircraft stayed afloat long enough for the crew to launch and evacuate in a rubber dinghy.

However, the action was so fast and the radio so badly damaged, that it was impossible for the crew to make any contact with their base ship. The crew of eight were picked up about thirty minutes later by an American supply ship, the Florence D. By this time the attack on Darwin had already begun, and the ship itself later came under attack and was sunk by the force returning from Darwin, as will be described later.

There had also by now been more recent and most positive sighting reports from the Army. At 9.46am, still twelve minutes before the raid began, a Major Hone telephoned RAAF operations, from an artillery unit seven miles (11 km) north of Darwin, to say he had seen a P40 crash into the sea, with an open parachute high above it. On asking if there were any enemy aircraft in the area, he was assured “That if this is a raid we know nothing of it.” Although already in possession of the signal from Bathurst Island just nine minutes before, no one in RAAF operations connected the two incidents.

At 9.50am the same officer telephoned Army Headquarters and reported an aerial dogfight between a Zero and P40. The Army acknowledged the message, but did nothing about it. The bombing did not begin until 9.58 but as will be seen later, the returning squadron of P40s had already made contact with the attacking force.

Also, and not far from the above-mentioned artillery unit, there was a machine-gun detachment at Casuarina Beach, ten miles (16 km) north of the town. A lookout ran to the NCO in charge and shouted “The Japs are here!” On being asked how he knew they were Japanese, the trooper replied “They’ve got bloody great red spots on ‘em.”

The NCO in charge immediately phoned his Brigade Headquarters, reporting “We’ve got Japanese planes.” On being asked how he knew, he also replied “They’ve got bloody great red spots on ‘em.” The report was passed at once to Army Headquarters, but by then the Japanese were able to identify themselves by dropping their bombs a moment later. Meanwhile, at 9.57am, the auxiliary mine sweeper HMAS Gunbar had been attacked by nine Zeros as she was passing through the harbour boom gate.

The method for alerting ships in harbour to an impending raid was by raising a flag on shore at Naval Headquarters and at the same time giving a blast on their fog horn. The first ship sighting or hearing the warning would then sound its own fog horn, and this would be taken up by other nearby ships and repeated right across the harbour.

In the event, not until McManus walked outside his office at 9.58am and saw the Japanese planes with bomb bays open, was a firm decision made about sounding the alarm. He went quickly to Captain Thomas, and told him what he had seen and Thomas at once broke the glass over the alarm button and pressed it, sounding the sirens. The flag also most certainly went up to announce the raid, but the enemy aircraft were already overhead, and the bombs were already falling and had begun exploding in the wharf area before the alarm was seen or heard.

Furthermore, there had been a build up of very accurate intelligence reports over the previous few days which indicated that Japanese aircraft were very active and in strength in the area, particularly in the vicinity of Timor, which indicated the close presence of a large carrier force. These reports were still being processed when the attack was launched.

It was later disclosed that the RAAF had also received warning at least 24 hours previously of a large build-up of enemy air activity close to Portuguese Timor. It had come by coded cable from David Ross, the Australian consul in Dili, who had daily contact with Darwin through the Civil Aviation Department radio station. He reported several flights of between 24 and 40 aircraft in the vicinity.

Instead of taking any immediate action on the information, the RAAF wanted to prove the reliability of the information and began an evaluation. Ross received a signal from Darwin early on the morning.
of 19 February asking if he could specify the types of aircraft and whether they were biplanes or monoplanes. He was unable to reply as the RAAF radio had already been destroyed. He was captured by the Japanese the following morning.

The staff in the RAAF operations room were still deliberating the matter, when the bombs began to fall, and they heard machine-gun fire to find the base already under attack and sounded the local alarm.

By another unfortunate stroke of fate, the first operational radar set in Australia was actually being installed at Darwin on 19 February, at a site a few miles north of the town. It faced the Timor Sea and was capable of picking up enemy aircraft 100 miles (160km) away; but the antenna had not yet been erected. The set had been designed independently by the CSIR (which later became the CSIRO) from one being developed for use against shipping. Three sets had been ordered on a crash programme.

On 28 January, 1942, Wing Commander (later Group Captain) A. G. Pither, Director of Radar, went to Darwin to select a site and acquire a building for the equipment. He found the AOC most sceptical as to both the efficiency of radar and Pither's ability to obtain a building. On the other hand, Pither found the Works Department very cooperative and he did obtain the required accommodation.

The RAAF had already trained supervisors and operators and the set together with an advanced party arrived on 5 February to be met with absolute apathy by the base staff. No one would believe it possible to see an enemy aircraft on a screen from 100 miles (160 km) away. As far as they were concerned, it was in the realm of fantasy.

Subsequently the set became operational and proved its worth. However, Pither says that even if it had been working on 19 February the result would have been the same. The bombs would have been falling as the siren went. Later, when the unit located its first enemy planes a warning was passed to the RAAF. The message was not believed, or at least not acted on, and again falling bombs became part of the warning system. From then on the radar's word was never questioned.

In the RAAF operations room, all the various warning messages were certainly being received, but it was still believed that the aircraft being reported were the squadron of American Kittyhawks returning to Darwin. As it was, these aircraft would later have a very definite role to play in the drama then unfolding.

The 33rd Pursuit Squadron had arrived back over Darwin at 9.40am and Pell ordered Oestreicher, his one experienced pilot, to take his flight of five aircraft to 15,000 feet (4500 m) and remain on patrol over the harbour for two hours. He then took the remainder of the squadron in to land. Oestreicher's flight began to climb and when at about 8,000 feet (2400 m), above the entrance to Darwin harbour, he looked up and saw several aircraft diving at him from about 2,000 feet (600 m) above. He recognised the profile and the red roundels on the fuselage and wings at once and shouted “Zeros! Zeros!” through his radio and dived away.

The rest of the flight followed him, but the American formation was broken by the absolute surprise of the attack, and never succeeded in regrouping. Realising how very heavily outnumbered they would be, and having counted at least 18 enemy fighters above him, Oestreicher ordered his pilots towards heavy cloud cover which was visible at 3,000 feet (914 m) about five miles (8 km) south of Darwin. However, none responded.

Lieutenant Elton S. Perry was already dead, having been shot down and killed during the initial pass by the Zeros.

From later evidence it was officially confirmed that he was the first P40 pilot to be shot down in this engagement, and he would, therefore, undoubtedly appear to be the first person to have died in the direct defence of Australia.

Lieutenant William Walker was wounded with a bullet through his shoulder, and limping back towards the airfield where he managed to land his badly damaged P40 with one hand. He just had time to taxi in and jump into a trench before a strafing run by the Japanese Zeros. Lieutenant Jack Peres was also under fire from the Zeros and was soon shot down. However, he was unhurt, and managed to bale out.

The fifth pilot was Lieutenant Max Wiecks. His radio was dead and he did not hear the order to break but quickly realised they were under attack. With his aircraft badly damaged and out of control, he baled out and landed in the sea at least ten miles (16 km)
The Curtiss XP-40, originally the tenth production P-36A, with the coolant radiator under the rear fuselage.

from land. He managed to make the shore, and was found by Australian troops and taken to hospital where he eventually recovered.

Oestreicher was now alone, but managed to fight his way out and stay in the air, with the help of some temporary cloud cover, until the raid ended. During this time, he managed to shoot down two confirmed enemy “Val” dive bombers. At one stage, on emerging from his cloud cover he saw and intercepted two Vals at 15,000 feet (457 metres). One burst into flames and crashed, and he saw smoke coming from the other as it dived into cloud. Oestreicher was later told that both planes had been found within a mile of each other and he could thus claim the first aerial victories in combat over the Australian mainland.

He landed at 11.46am with a damaged wheel and tyre, which were being replaced, when a second raid began twelve minutes later. No other plane was available, and he had to seek shelter in a trench as the RAAF Station came under attack, as described later. His own plane was destroyed.

Meanwhile, Pell had been sitting by the wing of his plane with the radio on when he heard Oestreicher’s voice urgently shouting and repeating “Zeros, Zeros”. He looked up and saw not only Zeros but bombers as well. The wisest thing for he and the other pilots to do at this stage would have been to take cover. Instead he jumped to his feet, ran for the cockpit and tried to get into the air with the four young inexperienced pilots behind him. They did not stand a chance.

A flight of Zeros attacked them the moment they were airborne, and Pell’s aircraft was hit and burst into flames at a height of 80 feet (24 m). He managed to eject, but his parachute had only just opened as he hit the ground. He was seen to begin to crawl away when the Japanese aircraft came back to see if he was dead. They saw him move and opened fire and killed him in another strafing run.

Lieutenant Hughes did not even get airborne. His aircraft was strafed as it gathered speed and crashed before the wheels lifted, with the pilot dead in the cockpit. A third aircraft, with Lieutenant McMahon, did get fully airborne and engaged some Zeros, but it also was soon shot out of the sky, although the pilot managed to bale out with only a slight wound in the leg. The Japanese opened fire on him as he came down, shooting away some of his shroud lines, but he landed safely in some mangroves.

The fourth and fifth aircraft, with Lieutenants Burt Rice and John Glover, were able to climb to 5000 feet (1515 m) before Rice had his controls shot away, and the aircraft went into a wild spin. He
managed to eject, but hit his head as he went out and was knocked unconscious. However, the parachute had opened with Rice dangling from it and the Zeros closing in for the kill. Glover, with great courage tried to break them up while flying in tight circles round the parachute as it descended in a suicidal attempt to protect his fellow-pilot, but his own aircraft was hit and he went into a steep dive. However, he managed to level out just before he struck the ground.

The aircraft somersaulted over and over and broke up into small pieces, but Glover miraculously survived. Dragging himself clear he wandered off down the airfield where an Australian sheltering in a slit trench dragged him to safety just ahead of the Zero which had come to finish him off. His attempt to come to the aid of Rice gave the latter just the few moments he needed to reach the ground, where he landed in a swamp where the water brought him back to consciousness. He made his way back to base.

This left only three pilots available, with three others wounded and four dead, and no aircraft out of an original American squadron strength of eleven. There were no Australian aircraft or pilots engaged.

There was no doubt that all the American pilots displayed bravery of the highest order, and all of them were awarded the American Distinguished Service Cross. However, bravery was not in itself enough against the very experienced Zero pilots, many of them veterans of Pearl Harbor and the campaigns which followed. Although the Zero was not quite so fast as the P40, it was far more manoeuverable and had the advantage of being able to climb higher.

The Japanese Attack

Harbour and Town

It later became clear that the enemy formations crossed the north coast well to the east of Darwin, making a wide sweep round the town, and then turning north to make their final approach to the harbour and town from the south east. This would not only be unexpected, but would also allow the bombers to depart on a direct course for home, and be clear of the harbour and well out to sea as the bombs began to fall.

Observers in the town had noticed the aircraft approaching but, as no sirens had sounded, assumed them to be friendly and many believed them to be American. Also in any case, the aircraft were coming from the south which would be exactly the opposite direction from which they would expect an enemy to approach. The 81 level-bombers were all flying together at 14,000 feet (4268 metres) in three large V-formations, each of which consisted of 27 bombers flying in smaller v-formations made up of three groups of nine. These were accompanied by the dive bombers and fighters in formations of their own.

The first wave of the attack was aimed at the wharf and harbour area, whilst the second and third waves attacked the town and airfields more or less simultaneously, except for a separation time of a few minutes between each. Having pattern bombed the ships, the Japanese aircraft, still at high altitude and holding their formation, came in for a second attack with the bombs falling in a line from the shore directly across the town. Then as the bombers finished their run, the fighters and dive bombers came in over the harbour attacking individual selected targets.

Early in the attack several heavy bombs hit the wharf simultaneously, one of which struck the shore end of the wharf where the wharfies had just gathered for their 10am "smoke-oh". This single bomb killed 21 workers, tossed a railway engine into the sea and destroyed a complete span of the wharf, which disappeared completely, thus cutting off any chance of escape to the shore by any survivors beyond this point.

It should be noted that the wharf was of unique construction. Ships took much longer to load or unload than would be normal elsewhere due to the nature of the wharf itself. It ran out on piers until it reached deep water when it took a sharp right angled-turn. Ships were berthed along this turn, with the larger ships on the outside, and room for a smaller one on the inside.

There were no cranes or other equipment on the wharf itself. All loading and unloading had to be done with the ship’s own winches and machinery. In any case there was a rise and fall of tide averaging twenty-two feet (6-7 metres) which meant that at low tide it became difficult to swing any cargo out of the holds and on to the wharf.

The turn itself was half way along the wharf and far too sharp to be negotiated by rail trucks drawn by a locomotive. To overcome this problem a turntable had been installed which held two trucks, These were shunted on by a locomotive, and hauled off by hand and pushed along the wharf to the ship’s side by hand, and then pushed back to the turntable when fully loaded. Also until 1942 there had been no decking of any kind for motor vehicles. Passengers had to walk three-quarters of a mile with their luggage before they could reach transport of any kind.
The end of a proud ship. Neptuna lies on her side beside the shattered wharf.

These handling problems added considerably to the port congestion and delays in turning vessels round.

The freighter Barossa and the motor vessel Neptuna were berthed on either side of the wharf with Barossa on the inside. The Neptuna, with 200 depth charges in her holds, had received a direct hit. Fire broke out almost at once and was so fierce that the order was given to abandon ship. The Barossa, with a cargo of wooden piles, was also on fire. As well as the blazing ships, oil pipelines along the wharf had burst and had also caught alight.

The Barossa was still burning on the other side of the wharf when the naval tug Wato gallantly moved in and pulled an oil lighter, which was berthed alongside, away from her side and then came back to tow away the burning freighter. They had just got Barossa clear when the Neptuna was blown apart by an explosion which tore the ship to pieces and shook the whole town, with parts of the ship being scattered over a wide area, landing on the shore, the town and ships. The remains of the stern, with the engines, went down alongside the wharf, while the bow floated momentarily and then turned on its side and sank.

The explosions from the bombs falling in the harbour area left the townspeople in no doubt that an air raid was in progress, siren or no siren. Some were able to take what shelter there was before the next load of bombs fell in their midst just two minutes later. It was later estimated that fifteen one thousand pound (450 kgm) bombs fell on the town in what was quite a small and concentrated area.

A stick of bombs straddled the Administrator's office, the police barracks, the adjoining police station and the Government offices. All were completely demolished. The post, telegraph and cable office and the postmaster's residence also received direct hits. The postmaster, Mr Hurtle Bald, with his wife and daughter, accompanied by four women phone operators and another office worker, had all managed to take cover in a large shelter he had built in his garden. This also received a direct hit and all eight were killed instantly.

Government House and the Darwin civilian hospital was also severely damaged, although the Japanese later claimed the latter had been mistaken for the nearby Army barracks which looked very much alike, and which they had meant to attack. However, the Army hospital at Berrimah, nine miles from the town, was strafed by the attacking Zeros and the RAAF hospital was also bombed and damaged.

The attack on the harbour and town lasted for about 45 minutes, during which the harbour became an area of almost total devastation. Of the 45 ships
The floating dock (at left) survived dive bomb attacks by Japanese aircraft.

The Don Isidro bombed and set on fire by Japanese dive-bombers returning to their carrier after the raid on Darwin. She drifted on to Melville Island.
which were in the harbour, 25 had been sunk or damaged. Ten had been sunk, four were beached and eleven severely damaged (refer Appendix C for details). Of the total of 242 people known to have died overall, 190 were on ships in the harbour. Eighty of these had been on the Peary and 45 on the Neptuna which had been tied up alongside the wharf. A further 21 had died among the 70 wharf labourers who had been on duty that day.

The fact that the ships had received no warning was without doubt the cause for such heavy casualties and damage.

Given that the accuracy of the dive bombers was undoubtedly high, and they had very little real opposition, with such a large number of stationary vessels they could hardly miss. Should the ships have had the twenty minutes they should have had, at least from the Bathurst Island warning, things may have been very different.

The great majority of vessels, both naval and merchant ships were already under steam and would have at least been able to get under way, if not to clear the harbour completely. It was a well-proven belief that a moving ship has always been an extremely difficult target to hit, and this applied particularly to ships capable of high speeds, such as most naval vessels. Many believe that the heavy casualties on Peary in particular may have been completely eliminated, and the ship itself would have had an excellent chance of surviving, rather than being sunk at her moorings.

Nevertheless, both the RAN and the USN did much that morning in helping defend the port and in rescuing survivors. Among the disciplined men of the naval services there was no indication of any lack of steadiness under fire and the behaviour of the sailors was described as “exemplary”.

The crews of many small craft also carried out splendid rescue work moving back and forth in the harbour bringing in wounded from the ships and those stranded from the wrecked wharf. In particular were the crews of the ship’s boats which were lowered from HMAS Southern Cross while the attack was still underway, to go to the aid of USN Peary. They picked up survivors from the doomed vessel while bombs were still falling and machine-guns bullets were striking all round them. As described later in official dispatches of the action: “The bravery and devotion to duty shown by every officer and man, all in equally exposed positions, in picking up Peary’s survivors, excludes the possibility of distinction of individuals.”

Also deserving of special mention was John Waldie, the 25-year old coxswain of a launch from

The post office and postmaster’s residence where nine people died in one explosion.
the Department of Civil Aviation. He rescued more than one hundred men from the burning wharf, staying with his launch from the start of the raid until well after it had ended. Within minutes of the beginning of the raid, he could see there was an urgent need for a rescue boat under the wharf where men were badly injured and threatened with being burnt alive, so he went out to help them.

On his first trip some thirty men climbed aboard the launch, which was heavily overloaded and in danger of capsizing. With only one boathand to help him, he returned again and again, and in all made five return trips from wharf to shore while bombs were still dropping and the fighters were strafing the area. In addition, he towed five crowded lifeboats while all the time having to avoid patches of burning oil, and in the vicinity of an ammunition ship on fire. When the raid was over he went round the bombed ships to pick up other survivors. For his action he was awarded the M.B.E.

Darwin Civil Hospital

The old civil hospital had recently been replaced by a new 130-bed hospital of the most modern tropical design, which had just been opened in January 1942. An operation had been scheduled to begin as the first bombs began to fall in the harbour. In the wards patients who could do so were ordered to lie under their beds. Those unable to do so were lifted by wardsmen and nurses and placed under the beds. In the middle of all this activity, a stick of six bombs hit the hospital and surrounding area, completely wrecking one ward and damaging three others. Stones, glass and building material was hurled up by the blast, and several large rocks crashed through the roof onto beds vacated only moments before.

Nurses who had been sheltering under the beds before the attack began remained there for only a few moments, but returned to work and continued helping patients. As soon as the all clear was sounded, the theatre sister and two naval surgeons returned at once to the operating theatre. Within ten minutes casualties began arriving and surgery began immediately with the most seriously wounded. Nurses and doctors not needed in the theatre had rushed off to the wards and manned the outpatients and emergency departments. Thereafter, the medical and nursing staff worked without pause throughout the day and well into the night.

Matters were made very difficult by the loss of serum, saline and blood which had been stored in the ward which had been destroyed. When the emergency battery lighting eventually gave out, operations were continued by the light of torches held

The ruins of the hospital.
by volunteers. An added problem was the fact that no communication was possible between the hospital, Red Cross, ARP and the military due to the total loss of the telephone exchange. In all, 148 men were admitted to hospitals over the next few hours, but mainly to the civil hospital.

Sixty-eight of these had wounds from bomb fragments and 80 with wounds caused by blast or flying debris. A further 78 required treatment for lacerations and abrasions but not requiring admission to hospital. An urgent request was sent to the military hospital for nurses to help out at the civil hospital and four arrived immediately, thus easing the pressure on the civil nurses.

At 1.30am the next morning an order was issued by the Army's medical director that all patients in the civil hospital were to be transferred to the 119th Australian General Hospital at Berrimah. Despite strong protests from the civil staff, the transfer began with the arrival of Army trucks just before dawn and a total of 300 civilian and Service patients on stretchers, some of whom were still in a state of shock or unconscious, were carried out to the Army vehicles. The walking wounded were left to take care of themselves. This left the civil hospital empty while the 119 A.G.H. was overcrowded.

RAAF Base

Simultaneously with the raid on the harbour, the RAAF base came under heavy attack from dive bombers and strafing Zeros. The latter carried out very low-level strafing runs using explosive and incendiary bullets. After dropping their bombs, the dive bombers returned to the attack with their machine-guns.

Personnel at the RAAF base were completely surprised as the attack against their base began. There had in fact been two air raid practices within the previous ten days, and although all ranks had been assigned particular slit trenches and knew where they were, there was little or no time to reach them, and they took cover wherever they could.

However, those who had been allotted to machine-gun posts and rifle positions, numbering about 50, certainly manned them and fought with great bravery and enthusiasm. Several officers manned machine-guns including the station adjutant, Squadron Leader Andrew Swan, who manned a Lewis gun in one of the trenches.

Among the first fatalities was the station armament officer, Wing Commander Archibald Robert Tindal, who was sitting on the edge of a trench firing a Vickers machine-gun when he was killed instantly by a cannon shell from an attacking Zero. He was the first RAAF officer to be killed in actual combat on Australian soil and an airstrip south of Katherine was named after him. More recently Tindal has been reactivated and brought up to date to become the new RAAF F18-Hornet base and by retaining the name, continues to perpetuate his memory.

While nine USAF P40s had been destroyed and one damaged in direct aerial combat with the raiders, only two other aircraft had been damaged as a direct result of the actual attack on the airfield. However, most of the buildings had been either bombed or strafed and there were many fires, including the explosive store which was well alight. A party of volunteers, led by Swan, showed great courage and initiative by entering the burning ammunition store, and carrying out most of the explosives before they could explode. Another party of four airmen from the transport section removed an ammunition truck from the equipment store. All other vehicles were either destroyed or damaged, including the fire tender. The attacking aircraft broke away soon after 10.30am, and the all clear was sounded at 10.40am.

Although the aerodrome itself and most of the buildings had been damaged, and was described at the time as moderately heavy, the raid on the base was certainly much lighter than that on the harbour and town. Nevertheless it had clearly had a very severe effect on morale, and left many of the men just moving aimlessly about.

Civil Airport

Darwin also had a civil airport, which was at Parap midway between the town and the RAAF base, and this also came under attack by a combination of dive bombers and very low-level strafing by fighters. It was used mainly by civil aircraft flying scheduled services from Adelaide and Brisbane, and KLM, the Dutch overseas airline. In addition it was used as a base by the RAAF detachment of Wirraways, and the Department of Civil Aviation were also housed there in a small operations building, manning airport facilities including civil air communications.

Only one aircraft, a Puss Moth, was destroyed and none damaged, but damage to hangars and workshops was severe and many buildings were on fire, including the oil and consumable stores. The hangar, workshops and power plant were badly damaged and one end of the administration had been blown in. A small hut used by the RAAF as an ammunition store had been hit and hundreds of 0.303 rifle bullets were exploding. The attack also put all civilian air communications out of action, and they remained so for the next five days.
All anti-aircraft guns were in action continuously during the raid, and the gunners were praised for their courage and discipline. Yet despite this, their shooting was not very effective and did not cause the Japanese any problems. It appeared the shells were bursting about 100 metres below their targets.

At the time it was thought this was due to the inexperience of the crews coupled with the excitement of being in action for the first time. It was subsequently learnt, however, that the cause was due to incorrect setting of the fuses laid down in tables based on the more temperate zones of Europe, with no adjustment for the tropical conditions. Nevertheless the guns were credited with having shot down one Zero.

Despite the severity and complete surprise of the attack, there was little or any panic, and acts of heroism and bravery had already become apparent while the raid was still in progress. Outstanding examples of this on the harbour have already been described and also, as has been noted, at the air force station where fire-fighting and salvage operations were already under way well before the all clear was sounded.

In the town rescue parties and police, who had initially taken cover, soon realised there was an immediate need for their services and had, without hesitation, resumed their duties while the raid was still in progress. Overall, it can be said also that those in other essential occupations, such as the Department of Works engaged in repair and salvage, and the various medical teams, behaved in a very commendable manner, carrying on with their duties calmly and in close cooperation with each other.

While not engaged during the raid itself, but in the immediate aftermath, there were many others who carried out their tasks with great dedication and devotion to duty. Prominent among them was Harry Hawke, the senior post office engineer, and his team of linesmen who went about the task of restoring telephone and telegraph communications.

**Communications**

All telephone circuits in the town were dead and Darwin's telegraph connection with Adelaide and the outside had been cut. The postal hall was a shambles, having received the full blast of a bomb. However, the battery and engine rooms and their equipment were intact, and Hawke and his team were able to connect emergency power to the Lands Office about a mile away. From here they set about providing an emergency telegraph line to Alice Springs. It was via this route, that they were able to pass a message through to Adelaide within 45 minutes of the end of the first raid, giving news of the raid to the outside world. They then faced up to the task of restoring the local telephone service.

However, Hawke soon realised that the office in the Lands Department would not be large enough to accommodate all his staff. Also for safety reasons and because he was worried by possible damage to vital equipment as well and continuous interruptions by any possible raids in the future, he decided to move the telegraph office out of town. He selected an abandoned settlers’ hut ten miles from town and moved for the second time that day. By 3 pm, only four hours after the first message, the telegraph line was fully restored, and by 5 pm a steady flow of traffic was being handled.

By the end of the day he had gathered together about 50 linesmen, mechanics, telegraphists and various other postal employees at the new location. He had also arranged with the Army to provide food and tents for his group, and for the men to collect what they could from their old rooms at the battered post office. Most managed to find a mattress, mosquito net and stretcher, while the cooks brought back sufficient pots and pans and cooking equipment to provide a meal. As a result, the postal workers were among the few in Darwin to have a hot meal, as well as a good night’s rest under reasonable conditions.

Meanwhile, the Department of Civil Aviation technicians and operators at the civil airport, headed up by Arthur Tarlton and Tedd Betts, had not been idle in restoring their communication links. In addition to the group at the airport, a separate staff was maintained at the Flying Boat Base, and its task was to provide support for Qantas flying boats on the Sydney-Singapore service, which was now being routed through Broome via Perth.

The land line to Broome from Perth had been damaged during a recent cyclone, and all messages were being handled by the aeradio network in Darwin. As a result the operators were handling a heavy traffic load and had been working between 14 and 17 hours a day. They were tired and when the Japanese attacked had been in need of a rest, but their services now became even more necessary.

Betts and the operators salvaged transmitters and receivers, but these could not be used because the town power was cut and their own emergency unit was damaged and on fire. However, there was a direct land-line to the AWA coastal radio station, and through this direct contact Betts was able to arrange the immediate use of the AWA emergency facilities. He drove across at once and within a few minutes had managed to transmit a message warning all civil air...
traffic that aircraft must not fly into Darwin until further notice.

He also contacted the DCA office in Melbourne and gave them details of the raid. For the next five days all communications concerning civil air operations were sent through these emergency facilities, while Betts and his staff also established second and third reserve stations, in addition to their normal watch-keeping and other related duties. It was later recorded in an official report that: "Control of the situation was possible only because Betts and his operators worked like Trojans for days. Their chief concern was that Civil Aviation should not lose its invaluable communications facilities".

Epilogue to First Raid

As the Japanese passed over Bathurst Island on their withdrawal from Darwin, they sighted and attacked two more Allied ships. First hit was the Don Isidro, a Filipino supply ship of 3,200 tons which was soon on fire from five direct hits. The crew abandoned ship in the belief that she was sinking, but she drifted ashore and burnt for several days. After being in the water for ten hours, 84 survivors managed to reach the beach, of which 11 later died and were buried there. The remaining 73 were rescued by HMAS Warnambool and brought to Darwin where two more died.

Next to meet with a similar fate in the same area, as mentioned earlier, was the US supply ship Florence D. of 2,638 tons with a cargo of ammunition when she was attacked by nine carrier based dive bombers, scoring four direct hits and five near misses. She was abandoned and sank immediately but the water was so shallow that her stern remained above the surface and most of her crew returned aboard.

Forty survivors from the ship, including the crew of eight from the Catalina, managed to get ashore at Bathurst Island, where they were sighted two days later by an RAAF search aircraft. Some were rescued by HMAS Warnambool, while 11 others, four of whom were badly burnt, were picked up by a lugger from the mission and taken to Darwin. Two days later a further 20 survivors arrived at the mission, after walking across the island.

The Second Raid

Only a little over an hour after the “All Clear” had been sounded, a lookout on HMAS Platypus reported to ACH that 27 aircraft, with bomb doors open, were approaching the town from the south-west at an estimated height of 18,000 feet (5486 metres). This time there was no hesitation at ACH and the alarm was promptly sounded at 11.58am, less than three minutes after the sighting. Many who had also seen the planes expected them to drop parachutists as the first move in a Japanese landing which they felt was imminent.

Although not immediately known, a second formation of 27 aircraft were also approaching from north-east at a slightly different height and direction, making 54 raiders in all. This time the enemy force was composed entirely of land based level bombers, of which 27 were Type 2601 (Nell) from Kendari, and 27 Type 2596 (Betty) from Ambon. There were no fighters or dive bombers.

Observers in the harbour initially thought the ships and port were to be attacked again, but the formation passed harmlessly over the harbour and town bound directly for the RAAF Station. There was barely time for personnel to take what shelter there was before the first bombs began to fall on the airfield. The initial wave of bombers released their bombs simultaneously and they landed with one shattering explosion. For the next few minutes the RAAF base was subjected to an attack with pattern bombing of incredible intensity and accuracy.

The ships in harbour had a grandstand view of the attack and as one eye witness aboard the Platypus later recalled: “With one big crash they dropped their entire loads on the aerodrome and buildings. This was the first time I had seen a large number of bombs fall together on a target. It was a fearful sight. With a noise like the roll of heavy thunder, a thick cloud of smoke, dust and red and yellow flame shot into the air and left a long line of smoke to join up with the flame clouds already hanging over Darwin. Surely nothing could be alive in that area.” In about 20 minutes it was all over and the damage was immense. The pattern bombing had not only caused heavy damage to buildings, but the very surface of the aerodrome itself had also been almost destroyed.

It would appear that the two enemy formations had crossed each other, and their bombing was so accurate that the RAAF hospital had been virtually destroyed, while four blocks of airmen’s quarters and
Clearing debris from the Police Barracks.

Damaged hangar, Darwin aerodrome.
DARWIN 1942

their mess, together with several married quarters had been severely damaged. Most were still burning furiously two hours later. The only two hangars on the base, together with the central equipment store, had been burnt out, and the transport section and recreation hut had been wrecked beyond repair.

Six Hudsons, two P40s, and one Liberator had been destroyed on the ground, with another eight P40s lost in air combat with the enemy. When Major General Blake paid a visit to the base later in the afternoon, he reported that it had ‘been blasted off the face of the earth.’ Another early visitor after the raid, familiar with the effects of bombing, described the base as “the most complete job of destruction he had ever seen”.

Only the operations building and officers’ quarters escaped serious damage. Electricity and water had failed and communications ceased to exist. However, although the base had been smothered with heavy bombs, the only casualties were six airmen killed, four of whom died instantly when the trench they were in received a direct hit.

The RAAF did not have either the facilities or the tradesmen to repair the damage, or even fill in the bomb craters. However an arrangement existed with the Department of Public Works whereby they would move in immediately after a raid to restore essential services and carry out any other emergency repairs. In fact, no one even came near the base for at least a week, and during the whole of that time all water, electricity and telephone services remained either destroyed or were not functioning.

The Exodus

The Town

In the town, most of the townspeople were convinced that the second raid, following so soon after the first, was a pre-invasion attack. This would have been in keeping with the standard enemy invasion tactics which they had been carrying out in their advance through the NEI. Rumours quickly spread and were readily believed and there was a definite break-down in morale, if not absolute panic. The situation can best be summed up in the words of the Official War History: “To most of the people of Darwin the rapidity with which the second raid followed the first meant only one thing. It was a pre-invasion bombardment”.

Many were shocked, and had but a single thought - to get as far from Darwin as possible. Therefore it is not too surprising that many left as fast as they could. Houses were abandoned in haste and by mid-afternoon people were seeking to leave town by every available means. They were walking, running, riding bicycles, driving cars and some were even on horseback.

The commercial life of the town also started coming to a halt and was soon in voluntary liquidation. Shopkeepers quickly came to realise that on the morrow there would just be no customers, and simply closed their shops, complete with contents, and left. Many just walked out without even closing their doors. Hotels were vacated with food and drinks still on the tables and refrigerators and storerooms stocked with fresh food and supplies.

The road south to Adelaide River, a distance of 72 miles (116 km), was soon crammed with all sorts of vehicles, which at first contained only civilians but these were soon joined by deserting soldiers, sailors and airmen, all eager to take part in what later became known as the “Adelaide River Stakes”. Among the motley collection of vehicles were garbage trucks and an ice-cream cart, and even a road grader, while the Official History records that the first vehicle to reach Adelaide River was a sanitary truck. When vehicles broke down, often because they were overloaded, drivers and passengers just began walking, abandoning their load of food and household goods, but to which other evacuees soon helped themselves.

There is some evidence that the police told the civilians that the town was being evacuated, and that Martial Law had been declared. Many of the refugees later recorded that they were encouraged to leave, in no uncertain terms, by several military policemen who shouted: “Keep going! Don’t come back here. We don’t want bloody civilians in the town.”

After the second raid Abbott, as Administrator, considered his main responsibility was to evacuate the remaining civilians. As a start, by noon he had ordered Miller, the Chief Warden, to send away all women, wounded and old men. These were to be assembled at the police station at Parap, two and a half miles out of town, where they were to be put aboard a freight train. Miller was assisted in his task by Judge Wells, of the Darwin Supreme Court, and two constables.

Wardens patrolling their areas gave the necessary orders, without any legal power, for women and old men to report at Parap to embarkation on the train. Any wounded who could not walk were carried aboard the train, which consisted of cattle trucks and flat-tops. Miller also sent several civil defence assistants to collect food, by whatever means they could, for the proposed journey of 1000 miles (1600
km) by rail and road to Alice Springs, which was expected to take at least five days.

Several fit men attempted to board the train, but all were refused permission and Miller became so concerned that they might force their way on board that he sent to the Army barracks for armed protection, and two soldiers arrived with automatic weapons.

By noon, many shipwrecked sailors who had managed to get ashore, also started arriving at Parap. They were without food or money and had only the clothes they were wearing. They began asking “Which way is Adelaide?” and were given the stock answer by one of the constables: “Straight down that road - two thousand miles.” Despite this, many began walking south, but later in the day Judge Wells sent a truck to bring them back to Darwin. They did not resist and were soon billeted in houses which were rapidly becoming vacant.

At 4pm Miller finally gave permission for the train to leave with about 70 passengers sitting and standing on the flat tops and in the cattle trucks. By the following day it was estimated that not more than 500 civilians remained in the town. Even so, very few of these were former residents. Most were seamen, survivors from the damaged and sunken ships. Most were also still in the clothes in which they had swum ashore, and most were without footwear. They camped in deserted homes or any other shelter they could find.

**RAAF Station**

As the second raid ended, men at the RAAF station came out of their slit trenches dazed from the concussion and shocked by the sight of the station in ruins.

Immediately after the all clear, the station commander gave verbal instructions to Squadron Leader Swan that everyone should move to a point “half a mile down the road and then half a mile inland, where arrangements would be made to feed them.” Griffith said later that his intention had been to move everyone well away from the station in case there was another raid and have them all together at the one point where they could be easily fed and accounted for. He considered this essential, as the station sirens were out of order and with no way to sound a general alarm, it was possible that troops could be caught either in the open or inside buildings, with no chance or time to take cover if another raid developed.

As the order was passed on by word of mouth, it received an ever wider and distorted meaning to the original intention and soon led to absolute chaos. As it passed from man to man it became so garbled that it finished up as an order for an immediate and general evacuation. Some said they had been told to go five miles, others ten, or even twenty, and those who did get the distance correct, were not sure whether they were to move off the road to the right or left.

By the time the order had been passed on a few times, it had simply become an instruction “to go bush”, and if any further incentive needed, strong rumours of an impending Japanese landing began to come from the town and spread rapidly. Finally, visible support for these rumours soon came from the increasing number of vehicles and civilians which began to move past the station as the civilian exodus gathered momentum. It was not long, therefore, before the situation at the RAAF station was out of control.

Men gathered what personal belongings they could carry and began to stream off the station. Some officers were able to check groups at certain points, such as the gates, but few used the normal exits and the majority just streamed off the station by going through or over the fences.

The result was probably inevitable for men who were almost untrained and to all intents unarmed, and had just been subjected to their first bombing attack, followed within two hours by a second, which by any standards had been a particularly heavy one. Most importantly, it later transpired that they were poorly led and many were recent arrivals who were mostly strangers to each other, in a strange land, with no common purpose or spirit to sustain them.

However, while it was true to say that many RAAF members continued to move aimlessly south, it was equally true to state there were many excellent NCOs and airmen who did not show the least sign of panic. In fact many even declared their readiness to join with the Army units in anticipation of a Japanese landing.

In particular the men of the transport and equipment sections distinguished themselves by remaining on duty, and immediately the raid was over they at once became involved in salvaging damaged vehicles and equipment. At roll call the next day only four of these men failed to report, and they were the ones who had been killed the day before when a bomb hit their trench.

Special mention should also be made of the staff of doctors and nurses at the RAAF base hospital, where for some days before the raid, the number of patients had been steadily mounting. Hudson aircraft had been flying in daily with wounded and sick evacuees from the NEI. All were heavily overloaded, with some passengers standing to make room for...
others, and six aircraft loads had only arrived that morning. Among the evacuees were two RAAF doctors, both of whom were ill with malaria, but who went to work immediately to assist the local staff, consisting of one senior medical officer and six qualified nurses.

The senior medical officer was Squadron Leader Donald Howie, and as the Japanese advanced, he arranged for the digging of enough trenches to accommodate all patients and staff, and regularly organised practice evacuation of the hospital by day and by night. On the morning of 19 February all beds were occupied, breakfast was over and hospital rounds were proceeding, when the sirens sounded for the first raid. Within five minutes all patients and staff were in their trenches, a result achieved with equal success for the second raid two hours later.

This time, however, they were showered with stones and rubble from near misses and they emerged dishevelled but unhurt to see that their hospital was just a burning wreck. However, there were wounded to attend to, and they were soon at work treating casualties in the open, amid burning and damaged buildings. They were now without a hospital, but Howie had four ambulances fully equipped with emergency gear, and these were used as surgeries and for transferring the badly wounded to the AGH at Berrimah.

Howie was later to say that he had no idea of what was happening, and had no information about where to go or what to do. They were left entirely on their own. However, they noticed that everyone seemed to be leaving the station, so they followed them down the road for about half a mile or so. Here they set up a first aid post in the bush, but later returned to the base and set up a hospital in the nurses quarters, which was badly damaged, but still standing. Later that night they did eventually receive instructions to pack up and move to the AGH.

Also the men from the two Hudson squadrons which had arrived that morning were very steady and also had a 100 per cent attendance at parade the next day. They were all trained men who had been together for some time, and they knew and trusted one another. As a result their morale was high, added to which they had also been under attack before. They had left the station with others and started walking south, but soon came to realise that no plan was in place and decided to return.

Meanwhile, Scherger in his capacity as acting AOC, and the senior officer present, had ordered the civil aerodrome to be taken over for use by the RAAF as a temporary station, and at once some semblance of order began to appear. The men from the Hudson squadrons, together with many others who had also decided to come back, now returned to the civil aerodrome where RAAF units and sections had begun to operate normally and all those who returned were fed, but told to sleep in the open.

By late afternoon the RAAF base was almost deserted, although a large group of men were now together in a clearing in the bush, less than a mile away, under the discipline of officers and NCOs who had not fled. They had been directed there by Swan who had managed to intercept them as they came down the road, and had somehow also managed to arrange for a catering team to feed them. This group later returned in an orderly fashion and reported for duty at the civil aerodrome.

For the next four days Swan, and a team of NCOs, were busy gathering up as many of the missing troops as they could find. Many were just hiding in the bush on either side of the road, or in the bush near the aerodrome. Many were finally forced by hunger into just returning, or giving themselves up. Some, however, had managed to get as far away as Adelaide River and Daly Waters (300 miles/482 km), and one man actually reached Melbourne (2,500 miles/4023 km) in thirteen days.

Nevertheless, despite all the later charges of mass desertion and panic by the RAAF, it should be particularly noted that at a muster parade just four days later, on 23 February, there were only 278 who were still missing from a total strength of approximately 2,000 men who had been in the Darwin area on 19 February.

Army

The Official War History records that soldiers as well as airmen ran away after the raid. This would have had little or no effect on the morale of those civilians left in the town had it not been for the secretive departure, at 3am on the morning after the raid, of the 2,000 soldiers at Larrakeyah Barracks. It convinced those remaining in the town into assuming that the Japanese must have arrived, and served to strengthen a widely held belief that the Army was only concerned with its own survival, when they should have been defending the town.

It would have been difficult for people to see it in any other light when the troops finally took up their advance position 35 km (22 miles) behind the town. This move later turned out to be in accordance with the Army deployment plan, no matter how ill-advised this may have been. To add to the bewilderment of the civilians left behind, as the troops departed they
kept calling out from their trucks: “Get out as fast as you can!”

By the evening of the 19th looting had broken out in some of the business premises and vacant houses, and went on continuously in the days and weeks that followed. It is difficult to explain why it went on for so long. It was clear, however, that proper supervision and control was not being exercised by either the police or military. Although this looting was indulged in by both civilians and members of the military, it is clear that the military were mainly involved.

There seemed to be a complete breakdown in military discipline and it was incredible that, given the possibility of an invasion at any moment, units made no effort to control their troops. Empty houses were raided by packs of servicemen and stripped of everything they contained. They took furniture, stoves, refrigerators and even pianos and clothing. It even reached the stage where items such as refrigerators and radios, and even sewing machines, were being taken in army vehicles to the wharf and being sold to sailors in exchange for cigarettes and tobacco.

On the other hand, much of the stolen property found its way into the various Australian and USA camps being set up as the troops deployed to various battle stations. At first the tented camps which sprang up as the troops were dispersed lacked basic comforts, but were soon equipped with easy chairs, and inner spring mattresses.

The Darwin area finally came under military control on 21 February, and Major General Blake was in sole charge from that date forward. However, contrary to common belief, Martial Law was never proclaimed, and civil law remained. Judge Wells stayed on, and acted as magistrate in addition to his judicial duties. Also one solitary constable remained as a reminder to all of the existence still of civil authority, and was the only policeman from then until November 1943. He retained the power of arrest, and frequently took servicemen into custody and brought them before Judge Wells.

Japanese Casualties

Japanese casualties were relatively very light. There is some doubt as to the exact number of Japanese aircraft lost in the two raids, but it is now generally agreed that there were five confirmed as destroyed with a further two probably lost. The very first enemy aircraft to be shot down over Australian territory was a Zero fighter shot down by a machine-gunner on board HMAS Coonawarra, and the pilot was later buried nearby. Another Zero was damaged by machine-gun fire over Darwin and made a forced landing on Melville Island.

After wandering loose for a few days, the pilot was captured by a local aboriginal and handed over to the authorities at Bathurst Island, and thus became the first Japanese to become an Australian POW. He was Petty Officer Hajime Toyoshima, and was later escorted to the Cowra POW Camp where he was issued with POW number PWJ11001. He became a ringleader in the camp and subsequently died after being wounded in the famous Cowra breakout in August 1944.

Apart from the loss of the above two Zeros and the two Val dive bombers credited to Oestreicher, there were no other Japanese casualties, nor were any Japanese ships lost or damaged.

The Lowe Report

The Government immediately appointed a Royal Commission to enquire into the circumstances of the 19 February raids. Mr. Justice Lowe of the Victorian Supreme Court was appointed Commissioner on
3 March and hearings began in Darwin from 5-10 March and in Melbourne from 19-25 March.

The terms of reference included the degree of cooperation between the three Services and the state of preparedness by the Services and civil authorities; the steps taken to meet the attacks, the damage and casualties, and whether any military leaders or civilian authority failed in their responsibilities; and further to recommend any changes which might be necessary for the future. The hearings were held in camera, and witnesses were assured of confidentiality.

Mr Justice Lowe made two reports to the Government, one on 27 March and a second on 9 April, which must be a record for the submission of any findings of any investigative body, let alone a Royal Commission in the midst of such confusion. In his reports he severely rebuked several members of the RAAF in Darwin, but much of his criticism was also directed to RAAF Headquarters, and the Federal Government, for their failure to equip the Darwin base with modern aircraft and weapons, manned by properly trained officers and men.

His most bitter criticism was directed at the failure of either the RAAF, or the ACH, to sound a general alarm on receipt of the message from Bathurst Island, reporting that a large formation of aircraft was heading in the direction of Darwin. He stated that: “On full consideration of the evidence I find (this) inexplicable.” Later in his report, after referring to the RAAF excuse that the delay had been due to the time taken in a debate as to whether these aircraft were the P40s returning to base, and not enemy aircraft, he concluded that:

He found it difficult to accept this explanation as: “The evidence shows almost conclusively that most of the American P40s had actually landed on the RAAF station when this message was received (sic). Moreover, the direction from which the planes were reported was not that in which the P40s would normally be returning ... The delay in giving the general warning was fraught with danger.”

He further commented that a prompt decision to sound the alarm 20, or even 15, minutes earlier would have saved many of the lives lost on the harbour by allowing the ships to get under way, and the men working on the wharf to escape to safety. However, in his opinion, the failure to take action did not appear to be due to the system itself, but more to the inexperience of those who were operating it at that time.

He also found that the verbal order by Wing Commander Griffith was “extremely unfortunate”, but that it would be unfair to attribute blame for lack of organisation to him as he had been less than three weeks in Darwin. However, in his opinion, the condition of the station was a prime factor in the events leading up to, and following, the raid. He found that “little had been done to meet such an attack as came on 19 February.”

The Director of Air Intelligence, Wing Commander Gerald Packer, in evidence before the Commission had made it clear that practically all the deficiencies evident at Darwin were known to authorities in Melbourne well before the attack finally came, and that the Air Board had been fully advised of every defect: “It knew there was no camouflage; that all the facilities were concentrated in one small area; that the fighter and gun defences (for the RAAF Station) were inadequate or non-existent; and that there was no warning system that could be relied on. It knew, yet in spite of repeated prodding and coaxing, it did nothing for 18 months.”

There was not a single shortcoming which he had not also brought personally to the attention of the then DCAS, whom he accused of having been indifferent to Darwin’s fate, and who had become a bottleneck for every proposal advanced to effect improvements. Among the changes Packer had wanted to implement was an observer network to free the RAAF from reliance on the Navy coastwatchers. The same officer also refused permission to establish wireless intelligence units, which had become increasingly important to the conduct of operations. These units not only provided interception of enemy communications, but also identified the location of the source of such transmissions. Without them the RAAF would be denied access to a very critical source of intelligence.

He also recalled that he had personally arranged for an officer of the RAAF Reserve (Wing Commander Garnet Mallay), who had served as air adviser to the Chinese Government, to lecture at principal air stations throughout eastern and northern Australia on measures for protecting aerodromes that had been successfully adopted against the Japanese in the war in China. Not a single commander had attempted to incorporate any of the lessons expounded.

In his findings, the judge said that what was certain, was that the lessons taught by the war in Crete, Malta and Malaya, and by German practice, had not been incorporated at Darwin: “These lessons
were known to many officers of the RAAF, and Memorandum No. 3 of 20 August from the Directorate of Air Intelligence contains much information on the subject ... in my opinion the condition of the station was a prime factor in the extent of the losses."

After the two and a half years that Australia had been at war with the Axis powers, and the more recent threat from Japan over the past ten weeks, the total RAAF front line aircraft in North Western Area was 17 Hudsons and 14 Wirraways. Even this modest force was not all at Darwin. Eight of the Hudsons were at Daly Waters, 300 miles (186 km) to the south, but all without crews. The remainder were in Darwin, but six had only arrived that morning from Timor. Nine of the Wirraways were at Batchelor with the rest at Darwin, where all five were unserviceable. The RAAF did not have a single fighter to defend the area, as the Wirraway had already been discounted as such. It was merely by chance that the only fighters in the area that morning were the ten American P40s which had earlier left for Timor.

However, it was not only in the provision of aircraft and defence measures, that the Air Board, and Government, had failed in their responsibilities to the RAAF in Darwin. Communications at all levels, particularly at tactical and operational levels, was primitive to say the least. Communication with aircraft depended on obsolete equipment which still relied on messages sent in morse code by radio telegraphy, which in turn required trained operators both in the air and on the ground. The Department of Telegraphy, which in turn required trained operators.

There was also no independent or reliable link between the various dispersal areas and the Darwin command. The RAAF had been in Darwin since 1939 with the main aerodrome occupied in January 1940. In 1941 Batchelor was established as a satellite airfield and became the main centre for storage and supply of bombs ammunition and fuel. However, there was no radio link between the two and communication between them was by land line, operated through the civil exchange, and often unserviceable. Orders frequently were passed by courier as being the most reliable and rapid means.

None of the three generally accepted methods of air raid warning had been in use — radar, an air observer system, or wireless intelligence units — for the interception and direction finding of enemy aircraft. The installation of radar at Darwin had been discussed as early as November 1940, and again in August and September 1941. Although an installation of the type used in UK was at all time available, it was only on the last date that it was decided to erect a unit at Darwin. Even then, however, the matter had been treated with a "leisureliness out of keeping with the urgency of the occasion."

Mr Justice Lowe also made the following comments on conditions at the RAAF base after the raids: "The base was practically deserted. For several days thereafter men were straggling back, but at a parade on February 23, the muster showed two hundred and seventy eight still missing. As the casualties were very small the result can only be regarded as deplorable."

Nevertheless, he did go on to say that: "I saw some of these men before me and am satisfied that their quality was not unsatisfactory but the failure arose owing to lack of training and leadership at the relevant time." He had been told that "these men were scarcely at all trained in the use of arms". He was willing to believe, as Air Vice Marshal Bostock (RAAF Deputy Chief of Air Staff) had told him, that much of the trouble was due to the very rapid expansion of the air force, but in other respects "did not appear incapable of remedy."

The Commissioner did commend Group Captain Scherger for his "great courage and energy...which is deserving of the highest praise." He also commended Squadron Leader Swan for his conduct during and after the raids.

**Army and Civil**

One of the strangest conclusions arrived at by the Commissioner was that "the morale of the townspeople was not noticeably affected by the raids" and "that nothing in the nature of immediate panic developed." As already noted the very reverse was true, and that complete panic and mass exodus began within an hour of the raid. However, later in his report, Mr Lowe goes on to confirm that there was in fact a panic: "Rumours quickly spread and were readily believed. Houses were abandoned in haste. I myself observed in the Hotel Darwin tables upon which drinks remained half-consumed, and (many other) signs of a very hasty exit. By the middle of the afternoon people were seeking to leave town by every available means. Business houses were closed and the civil life in the town practically ceased."

Mr Lowe then went on to comment that: "On the night of the 19th looting broke out... and (continued) thereafter... even to the time when the Commission was sitting." This looting was indulged in both by civilians and members of the military forces. It is hard to believe that if proper supervision had been exercised this could have occurred."
He notes that the Administrator arranged for a provost company to assist the police in keeping order "but I am satisfied that he was not fully acquainted with the conditions which were developing." Mr Lowe had heard evidence regarding the earlier differences between the civil defence (ARP) wardens and the Administrator, and their charges of his apathy and lack of cooperation to any of their requests or advice.

Mr Lowe then had this to say about the situation: "I am clear that this difference prevented the police from being aided by ARP officers in preserving law and order after the raids ... The absence of planning was largely responsible for the subsequent disorganisation ... and the attempt to do so was inadequate and a failure. Cooperation between the civil and military authorities was clearly called for (and) was afforded at too late a stage." Mr. Lowe laid clear responsibility on Abbott for his lack of foresight or planning in this regard, as well as for several other matters where it was considered he had acted unewisely, or not at all.

It is interesting to note, however, that Justice Lowe had no comment to make about the breakdown of discipline and resultant lack of control by Army units over the behaviour of their troops, or to lay any blame or responsibility for their failure to do so. The extent of the looting alone would not only have been apparent to the most casual of observers, but was in fact clearly encouraged and approved, if not ordered, by some unit commanders.

Equally strange was the fact that the Commissioner failed to comment on the dedication, initiative and courage of many of the civilians and military who did remain steady and quietly carried on with their duties. In particular, he failed to recognise, or comment on, any of the fine rescue work on the harbour and wharf, the fortitude and dedication of staff at the civilian hospital or the discipline and steadiness of the gunners. Another noticeable omission, was his failure to even mention the heroism and initiative of the personnel on the ships in the harbour, and on the wharf. It was as if they had never existed.

The War Cabinet decided to take no action against Abbott, but the Air Board removed every RAAF officer who had been involved in any way with the debacle in Darwin, including Swan and Scherger. No action was taken by the Military Board to remove any Army officers despite their failure to control looting and other poor behaviour by the troops. More particularly, neither did the Air Board take any action against any officers within the Department of Air for failure to provide the Darwin base with even a minimal defence capability. The blame seemed to lie heavily and solely with the Board itself.

Public release of the reports was withheld at the time and were not even tabled in Parliament until late 1945, when the findings and recommendations were finally released. However, the actual transcript of the report, on which these were based, remained classified and was not cleared for release until almost 35 years later. The findings on their own, without supporting evidence, only appeared to confirm much of the mystery and rumour surrounding the raids. With the passage of time and eventual release of the full Lowe report, it may have been expected that many of the rumours and accusations would have been finally laid to rest. However, by that time, they appeared to have aroused little interest or comment.

Interest in the Darwin raid was again renewed by the Commemoration activities for the 50th Anniversary organised by the Northern Territory Government. There was much publicity in the press, radio and television, but there was such a mass of personal detail and other material presented that the main stream of events tended to become obscured.

Comment and criticism of events was often made with the benefit of hind-sight with little, if any, attempt to consider the events and circumstances leading up to the raid itself. There was certainly no attempt to understand how these prior events may have appeared at the time to those taking part, and the effect they may have had on their judgement, having regard to their existing knowledge or experience. It is hoped that this article may at least help to a better understanding of the background to the problems as they developed, and the actions of those involved, both before and after the raids, on that fateful February day in 1942.

Overall, there were 64 enemy raids against Darwin, the last of which occurred on 12 November 1943. Never again, was there a single recorded case of desertion, low morale or poor behaviour by any of the military beyond those which occurred on 19 February 1942 or its immediate aftermath.

---

**Epilogue**

After the first attack, the Japanese did not resume their raids until the beginning of March, and in the meantime the radar station had been installed and a fighter sector established. On 18 March the 9th Pursuit Squadron (USAAF), flying P.40s, arrived,
and on the 22nd the radar picked up a Japanese force some 135 km (84 miles) from Darwin. The squadron was scrambled by the fighter sector, and claimed their first victory by shooting down a “Babs” bomber. This was also the first successful radar controlled interception in Australia.

The 9th Pursuit Squadron was joined by 7th Pursuit Squadron (USAAF) on 6 April, and the two squadrons, together with the 29th Interceptor Control Squadron, were formed into the 49th Pursuit Group, USAAF. Later, and pending a move to New Guinea, their task was gradually taken over by RAAF Kittyhawks with the arrival of No.77 Squadron in early August and No.76 Squadron a month later. By mid-October the changeover was complete and the RAAF took over responsibility for the defence of North Western Area.

Although the Americans had accounted for 70 of the enemy, success was patchy, despite what was by now a well organised fighter defence. The Japanese continued to mount raids of 25-30 bombers, escorted by an equal number of fighters and, except on one occasion when six Japanese were shot down, the Pursuit Group seldom managed to account for more than one, or occasionally two, of the enemy, and quite frequently suffered similar losses of their own. The RAAF Kittyhawk squadrons continued to have similar and equally disappointing results.

It was not until March 1943, that the defences had any real success. By that time three Spitfire squadrons, deployed from the European theatre to form No. 1 Fighter Wing, had finally joined the Darwin defenders. The wing was commanded by Group Captain A. L. Walters, a permanent RAAF officer, with Group Captain Clive R. Caldwell as wing leader. Two of the three squadrons (Nos. 452 and 457) were completely Australian EATS squadrons, but it is not generally known that the third squadron (No. 54) was an entirely RAF squadron.

On 15 March, the Japanese mounted a raid on Darwin by 24 bombers, escorted by an equal number of fighters. Against this the whole wing was put into action, and a general dogfight took place over Darwin harbour. Although suffering the loss of four of their own aircraft, the wing succeeded in shooting down six of the enemy, with a further nine probably destroyed, and five damaged. Three of the four Spitfire pilots shot down were recovered safely.

By this time, the Darwin radar screen and Fighter Sector Headquarters had settled down and were an experienced and efficient combination fully capable of directing the defending fighters to an exact interception with any attacking force. It also ensured a fair degree of warning could be expected, at least in time to allow the Spitfires to intercept the raiders before they reached the harbour or other target areas.

Meanwhile, Darwin had become a base for a strong and developing Allied offensive against Japanese airfields, bases and shipping to the north. From late 1942, the principal role of HQNWA was to protect the sea lanes to New Guinea and maintain an offensive against the NEI. There were now four Australian squadrons and one Dutch bomber squadron based in Darwin, reinforced on occasions by American units.

By the destruction of aerodromes, shipping, oil stocks and harbour facilities as far afield as Java and New Britain they gradually helped gain supremacy in the air over the Netherlands East Indies. This strong Allied offensive began to have such an adverse effect on the enemy, that eventually there were only very sporadic raids in small numbers against Darwin, until November 1943 when they finally ceased altogether.

It should be noted, however, that the reduction and eventual cessation, of enemy raids was largely due to absolute air superiority gradually achieved by the heavy and sustained counter-attacks carried out by the Australian, Dutch and American bomber squadrons based on Darwin against Japanese bases to the north.

NOTES

BIBLIOGRAPHY
A deserted Smith Street after the first raid on Darwin. Westpac bank still stands on this site.

Map 1 – The Japanese advance through the Netherlands East Indies.
Map 2 – Courses of attacking Japanese force

Map 3 – The ABDA and Anzac Areas
Map 4 – Squadron Dispositions, December 1942 with Melville and Bathurst Islands

Map 5 – North Western Area of Operations
APPENDIX A

Allied Strength—Darwin

19 February 1942

Air Force

RAAF Station Darwin
3 Hudsons, bomber/reconnaissance
6 Hudsons
1 Hudson
10 P40 Kittyhawk, fighters
1 P40 Kittyhawk
1 B24 Liberator, heavy bomber
2 Beechcraft C45 light transports
1 B17, heavy bomber
1 Consolidated LB-30, AL521
1 Douglas A-24
188 Carrier borne aircraft

Civil Air Base
5 Wirraway, used for sea recce.
1 Fairey Battle light bomber
1 Puss Moth
3 Moth Minor, light communication

Francis Bay, Darwin
3 PBY Catalina flying boats
9 Wirraways

Daly Waters
7 Hudsons (no crews) Nos 2 & 13 Sqns RAAF

Bathurst Island
1 Beechcraft
1 Douglas C-53

Army

HQ, 7th Military District
23 Infantry Brigade
19, 27 & 43, Battalions
7 & 8 Battalions
19 Machine Gun Bn
2/14 Pioneer Battalion
Darwin Fortress Coy
Artillery: 2/14 Field Regt
1/54 Anti Aircraft Coy
1/54 A/Searchlight Coy
2/11 Field Coy
23 Field Coy
14 Anti-Tank Bty
147 Field Regiment (USA)
148 Field Regt (Y Troop) (USA)

APPENDIX B

Composition of Japanese Strike Force

For the two attacks on Darwin on 19 February 1942 the Japanese launched 188 carrier borne aircraft for the first and 54 land based aircraft for the second. Details of the source and composition of the aircraft involved are set out below. (For approach routes and launch points see Map 2).

First Air Strike:
Cmdr Mitsuo Fuchida from carrier *Akagi* led with total of 81 level bombers from all four carriers.
Lt Cmdr Takashige Egusa from carrier *Soryu* led 71 dive bombers from all four carriers.
Lt Cmdr Shigeru Itaya from *Atago* led 36 fighters from *Atago* and *Soryu*.

From Carrier *Akagi*:
18 fighters (Type 2600)-Zeke or Zero
18 dive bombers (Type 2599) - Val
27 level bombers (Type 2597) - Kate
1 level bomber for Cmdr Fuchida

From Carrier *Soryu*:
18 fighters
18 dive bombers
27 level bombers

From Carrier *Hiryu*:
13 level bombers
17 dive bombers

From Carrier *Kaga*:
13 level bombers
18 dive bombers

Second Air Strike:
The second air strike consisted of 54 land-based aircraft from Kendari in the Celebes and Ambon. Composition of the force was:

From Kendari:
Lt Cdr Toshihiro Irima led 27 level bombers (Type 2601 - Nell)

From Ambon:
Lt Cdr Takeo Ozaki led 27 level bombers (Type 2596 - Betty).

APPENDIX C

Allied Shipping at Darwin

On 19 February 1942 there were 49 named ships of various sizes and types located within Darwin Harbour or the immediate vicinity, and three unarmed auxiliary craft. Of the named ships, ten were merchant vessels of which four were American, one British, four Australian and one Norwegian. Of the remainder, one was a hospital ship, two were American naval vessels, 32 were Australian naval vessels, and two were civilian launches. Those unarmed consisted of a floating dock, and oil lighter and a stores lighter.

Of these eight were sunk, 15 were damaged (of which two were beached). Additionally, two named US cargo ships were sunk at Bathurst Island. The 25 ships sunk or damaged are listed below:

<table>
<thead>
<tr>
<th>Name</th>
<th>Tonnages</th>
<th>Type</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meigs</td>
<td>12,568</td>
<td>US Transport</td>
<td>sunk</td>
</tr>
<tr>
<td>British Motorist</td>
<td>6,891</td>
<td>UK oil tanker</td>
<td>sunk</td>
</tr>
<tr>
<td>Manna Loa</td>
<td>5,436</td>
<td>US transport</td>
<td>sunk</td>
</tr>
<tr>
<td>Neptune</td>
<td>5,552</td>
<td>Aust passenger ship</td>
<td>sunk</td>
</tr>
<tr>
<td>Zealandia</td>
<td>6,683</td>
<td>Aust coastal trader</td>
<td>damaged</td>
</tr>
<tr>
<td>Peary</td>
<td>1,190</td>
<td>USN destroyer</td>
<td>sunk</td>
</tr>
<tr>
<td>Magpie</td>
<td>14</td>
<td>RAN lugger</td>
<td>sunk</td>
</tr>
<tr>
<td>Kelat</td>
<td>1,894</td>
<td>Aust coal hulk</td>
<td>sunk</td>
</tr>
<tr>
<td>Mamunda</td>
<td>9,115</td>
<td>Aust hospital ship</td>
<td>damaged</td>
</tr>
<tr>
<td>Barossa</td>
<td>4,239</td>
<td>Aust freighter</td>
<td>damaged</td>
</tr>
<tr>
<td>Port Mar</td>
<td>5,551</td>
<td>US transport</td>
<td>damaged</td>
</tr>
<tr>
<td>Talagi</td>
<td>2,300</td>
<td>Aust coastal trader</td>
<td>damaged</td>
</tr>
<tr>
<td>Admiral Halstead</td>
<td>3,289</td>
<td>USN seaplane tender</td>
<td>damaged</td>
</tr>
<tr>
<td>William B Preston</td>
<td>1,190</td>
<td>USN seaplane tender</td>
<td>damaged</td>
</tr>
<tr>
<td>Platypus</td>
<td>3,455</td>
<td>RAN depot ship</td>
<td>damaged</td>
</tr>
<tr>
<td>Swan</td>
<td>1,060</td>
<td>RAN sloop</td>
<td>damaged</td>
</tr>
<tr>
<td>Gunbor</td>
<td>481</td>
<td>RAN aux mine sweeper</td>
<td>damaged</td>
</tr>
<tr>
<td>Kara Kara</td>
<td>252</td>
<td>RAN boomgate vessel</td>
<td>damaged</td>
</tr>
<tr>
<td>Kokakurra</td>
<td>730</td>
<td>RAN boomgate vessel</td>
<td>damaged</td>
</tr>
<tr>
<td>Kangaroo</td>
<td>730</td>
<td>RAN boomgate vessel</td>
<td>damaged</td>
</tr>
<tr>
<td>Coongooka</td>
<td>34</td>
<td>RAN motorboat</td>
<td>damaged</td>
</tr>
<tr>
<td>Karalee</td>
<td>117</td>
<td>water lugger</td>
<td>damaged</td>
</tr>
<tr>
<td>Benjamin Franklin</td>
<td>7,034</td>
<td>Norwegian oil tanker</td>
<td>damaged</td>
</tr>
<tr>
<td>Florence D</td>
<td>2,638</td>
<td>US cargo vessel</td>
<td>sunk</td>
</tr>
</tbody>
</table>
APPENDIX D

Allied Casualties

In Ships: 172 killed 
19 later died of wounds
On Wharf: 21 killed from 70 wharfies on duty
In Town: 14 killed, six of them women, five of whom were manning the switchboard.
Elsewhere: 7 RAAF killed.
7 USAF killed.
2 Aust Army killed.
242 TOTAL DEAD.

Plus: 302 injured
** 45 killed in Peary from crew of 80
45 killed in Neptuna from crew of 125

Allied Aircraft Losses

26 were destroyed:
10 P-40s of 33rd Pursuit Squadron - in combat.
2 USN Consolidated PBY Catalinas - at moorings.
1 USN Consolidated PBY Catalina - Bathurst Island
6 Lockheed Hudsons
2 Beechcraft C-45s
1 Douglas A-24 of 27th Bomb Group
1 Consolidated LB-30, ALS21 of 7th Bomb Group
1 Douglas C-53 (at Bathurst Island)
1 Puss Moth
1 Hudson lost later during an evacuation flight.

3 were damaged:
1 Hudson severely damaged
2 Wirraways slightly damaged

(Source: Official History)*

**"Australia in the War of 1939-45": Series 3 (Air): Vol 1.
RAAF 1939-42, Douglas Gillison, Canberra, Aust War Memorial.

FOOTNOTE: The official history claims that the first raid on Darwin was "one of the most devastating air raids of the Second World War" and compares it to Coventry, which was described by Churchill in his memoirs Their Finest Hour Vol 2: (p307) as: "the most devastating raid which we sustained.

In retrospect, the first Darwin raid was in fact one of the three or four heaviest single air raids sustained by the Allies in the war.

Four hundred were killed during the German raid against Coventry on 14 November 1941. The city was actually subjected to not just one raid, but was attacked by a constant stream of 500 bombers throughout the night.

The Japanese sank 18 ships at Pearl Harbour, destroyed 64 aircraft and killed 2,000 people.

At Darwin, 25 ships were sunk or damaged, 29 aircraft were destroyed, with 242 people killed and 302 injured, in a single attack by 188 aircraft.

The initial attack on Manila (Clarke Field) on 8 December by 54 bombers, followed by a strafing run with Zeros, resulted in 100 killed with 252 wounded.

The first raid on Singapore on 8 December 1941 by 36 bombers left 61 dead and 133 injured.

MAPS

Map 1. The Japanese advance through the NEI.
Map 2. Course of attacking Japanese force and USAAF P.40s.
Map 3. The ABDA and Anzac Areas.
Map 4. Squadron Dispositions, Darwin, 1942, with Melville and Bathurst Islands.

Air Commodore Garrison graduated from Point Cook as a pilot in 1937, and later qualified also as a navigator and weapon officer. He saw operational service during World War II in England, Australia and New Guinea in a variety of flying, command and staff appointments. In the immediate post war years he served with the British Occupation Force in Japan and later saw further operational service with No 1 Squadron during the Malayan Emergency. A posting in 1954 to command RAAF Base Fairbairn was followed by a tour of duty at the Department of Air as Director General of Organisation and in 1960 he was posted to Washington as the Australian Air Attache.

On his return to Australia in 1963 he became Officer Commanding RAAF Base Amberley and in 1965 was posted to be Commandant RAAF Staff College. In 1967 he was seconded to the Royal Malaysian Air Force where he formed, and then commanded, the RMAF Tactical Air Force. He retired from the RAAF in 1970 to become the Australian Consultant to the Grumman Aerospace Corporation, thus retaining a close and continuing association with military aviation.

After retiring from the latter appointment in 1979 he was awarded a three-year research grant by the Australian War Memorial to research the subject of Command and Control of the RAAF - in Peace and War. This was followed by an appointment in 1983 as a Visiting Fellow to the Strategic and Defence Studies Centre at the Australian National University where he continued to extend his studies in the field of command and control of the armed forces.

He has lectured and written extensively in his chosen field and in 1984 was elected to full membership of the Australian Society of Authors. He is a regular contributor to the Australian Dictionary of Biography and until recently was also a member of the defence advisory committee for that organisation. He has also been an external defence consultant to the Parliamentary Library Research Service where he contributed several papers on a variety of related subjects.

He is a member of the Military Historical Society of Australia, the Royal Aeronautical Society and the Royal United Services Institute and has a degree as Bachelor of Economics from the University of Queensland.

Reviewed by Major Darren Kerr

Now here is a quirky book. SILENT HEROES: The Bravery and Devotion of Animals in War is a book which might be rejected as frivolous, however, that would be to miss out on an enjoyable read. SILENT HEROES deals with a subject which many of us may not have considered at any length before; the important role played by animals in war.

Evelyn Le Chene has published two previous books on war themes, Mauthausen: History of a Death Camp, and Watch for Me by Moonlight: The Story of British Agents with French. In this book, she has combined a well researched, analytical approach to history with an emotive telling of acts of courage and devotion by a variety of animals. The structure of each chapter is identical. One animal in one battle is discussed – first, by setting the scene with an informative summary of the historical setting of the battle, and then by writing about the specific animal and its acts. It is worth noting that the book is not arranged in any evident structure, ranging in time and space, from Maiwand in 1879 to Burma 1943 and back to Gallipoli 1915. Similarly, the animals are not dealt with by species. This is somewhat disconcerting, a simple chronological or species structure would have enhanced the book; giving it a flow which it currently lacks.

However, despite the lack of coherence in the book, the bravery and devotion of the animals is strongly evoked. Dogs, mules, donkeys, pigeons, bears and cats all get their 15 minutes of fame retold. It must be said though, that some readers may have difficulty accepting that a cat simply sitting among the ruins of Sebastopol should be equated with the courage of Irma, the blitz dog who worked in bomb-damaged London finding the dead and dying amidst the rubble and unexploded bombs. This is not to say that cats can’t play an important role in war, their usefulness in chemical warfare experiments should not be down-played (although, unfortunately, Le Chene has overlooked this role).

Overall, I enjoyed reading this book. The short synopsis of each battle was particularly informative, and the story of each animal was told with unceaseful emotion. Memorable chapters include the mule Chindit Minnie, Bobbie and the Battle of Maiwand, Rob of the SAS and Rifleman Khan. Of particular interest was the chapter on the use of pigeons by the British intelligence services in WWII. The important, and dangerous role, they played in the Allied intelligence successes should not be underestimated.

If I found any weakness in this book it would lay perhaps with Evelyn Le Chene’s undisguised zeal for each animal. As she says in her preface, ‘In the end the telling of their stories is my tribute to the undaunted spirit of them all.’ Her passion occasionally leads her to a very subjective anthropomorphising of the animals. This results in some very questionable statements about the presentiment abilities of various animals. For example, Voytek was a brown bear which served with a WWII Polish unit in Italy and the Middle East. In February 1944 his unit was deploying to Italy from Egypt and animals were not allowed onto the field of combat. Le Chene writes that ‘Voytek sank disconsolately onto his rear... and he groaned. He understood the importance of the rejection, for what would happen to him and the others if they were abandoned?’ This loss of objectivity can be excused, however, for as she says ‘Few of us can be untouched by stories involving animals.’

This is probably not a book for everyone, hardened cynics in particular should steer well clear. Nevertheless, if you are looking for a different slant on war, or a timely reminder of the special bond which exists between soldiers and animals, this may just be the book for you. Except for the bit about cats!


Reviewed by Lieutenant Colonel Derek Roylance (Ret)

This edition of David Horner’s history of the Australian Special Air Service was first published in 1989 and covers the first 30 years of the SAS in this country.

It is an absorbing read, starting, unlike many histories, with an account of a particular incident – a patrol in South Vietnam. The patrol of six men, the youngest aged just 19, was lead by Sergeant Frank Cashmore on what was his first operational patrol. Its
significant in preparing the reader for what is to come is that it demonstrates the theme of this book – that training, attention to detail, cooperation with other branches of the Army and other Services, the ability to overcome setbacks represents the ethos of the SAS in that the constant requirement to meet the high standards demanded produces a confidence in every soldier necessary to accomplish the work they do.

This patrol, known as “The Tractor Job,” Cashmore’s men had the cooperation of the engineers to devise a trigger for the explosive charge which was to destroy the tractor, and of the RAAF whose 9 Squadron helicopters were to insert and extract the patrol. It overcame the setback of one man tearing ligaments on alighting from the helicopter and requiring evacuation, and managed with the loss of a radio. The patrol, each man carrying one of the largest combat loads ever carried by troops in Vietnam, was down to five, but still carried on and completed its mission, destroying the target, inflicting casualties on the enemy, and returning unscathed to Nui Dat.

The author claims this book is not an organisational history nor a book of personalities and events. Nevertheless, in combing through almost 1400 patrol reports and describing the background of some of the participants, plus detailing the way successive commanders have made their contribution to building the regiment over its first 30 years, he certainly introduces us to many of the characters who have been the mainstay of the regiment and helped establish its traditions and enviable reputation.

Horner early disposes of the misconceptions about the men of the SAS. “They are not Rambo types, super soldiers or wild men itching for a fight. There is no doubt that they are tough, but they are intelligent, highly disciplined and professional in their approach,” he writes. Because their operational experience in their first 30 years has been in the jungles of Borneo and South Vietnam, it is perhaps best to regard them as did the Viet Cong Ma Rung – the phantoms of the jungle.

Australia has a proud record with Independent Companies in WWII, and the individualism which we pride as a national characteristic, nevertheless, there was some ambivalence about the need for special forces. The steps were slow and a little tortuous. In 1951 a Parachute Platoon of the Royal Australian Regiment was formed to be followed in 1955 by the formation of the Commando Companies as part of the Citizen Military Forces (CMF), now the Army Reserve. Eventually the SAS Company was formed in 1957 and located at Campbell Barracks, Swanbourne WA, which has been its base ever since.

It was originally suggested the Company be allocated to the RAR to give it a “spiritual home”, but the then Deputy Chief of the General Staff, Major General H G Edgar rejected this, saying the SAS company was the first component of a new infantry regiment – The SAS Regiment. Its functions were different from normal infantry and Edgar was signalling that for the first time Australia was to have a Regular special forces unit.

The late fifties and early sixties were taken up with training, developing operating procedures for its unique operational environment and developing an esprit de corps.

Also during this time moves were under way to define the status of the SAS Company. In September 1964, 21 years after the Lae-Nadzab operation in New Guinea in 1943, the SAS Regiment was formed.

In January 1965, at the request of the Government of Malaysia, 1 SAS Squadron was ordered to Borneo for a six-months tour. Elements of the regiment were to serve in Borneo and Sarawak until July 1966, and by that time other elements were in South Vietnam.

They gained valuable operational experience in Borneo and Sarawak which was to serve them in good stead in the years ahead in Phuoc Tuy Province.

The bulk of this book is taken up with the Vietnam experience. It is fascinating reading. With every change of command of the Task Force, and with the rotation of the squadrons, varying roles were demanded. Some required the SAS to be the eyes and ears of the Task Force, and avoid contact with the enemy where possible. Others demanded a high kill rate.

What emerges is the way the SAS coped with these changes and carried out whatever was demanded of them, and at the same time keep ahead of a determined enemy, who was able to work out SAS methods and were sometimes waiting for them as they were inserted into remote landing zones. The other salient point is the great cooperation with the RAAF’s helicopter squadron in South Vietnam and the mutual respect between the aircrews and the SAS soldiers.

In October 1971 the SAS left Vietnam ending more than six years of continuous active service. Many of its men had done two or three operational tours in that time. The overwhelming number of patrols had been reconnaissance patrols, which the SAS sees as its main role. There were recce-ambush patrols, ambush patrols, fighting and surveillance patrols, special and psy ops patrols.

In all that time the SAS lost three men in Borneo, one gored by a rogue elephant while on patrol and two accidentally drowned on operations. In Vietnam they lost only one soldier who died of wounds as the
result of enemy action. Another was killed in a grenade accident; two were accidentally shot, one fell from a rope during a helicopter extraction, and another died from illness.

The remainder of the book is taken up with the SAS role in the defence of Australia. The return to long range strategic surveillance, as opposed to the tactical use to which the SAS was put in Borneo and Vietnam, and the development of specialist skills including the counter-terrorist role for which it is more recognised by the general public today.

David Horner ranks among our foremost military historians. This book is fascinating and hard to put down.

WAR DOGS (British Mercenaries in Bosnia Tell Their Own Story) by Keith Cory-Jones, Century, London 1996.

Reviewed by Lieutenant Colonel R.E. Bradford

"It was beer and bullshit time again - art forms at which all mercenaries excel. Topics ranged from heroic exploits with women and wars to football teams and pop music; lies were told with such conviction and so often that the storyteller now believes them, even if nobody else does". This quote from pp 101-102 of the book summarises succinctly my attitude to this book.

The book purports to be a narrative of a bunch of mainly British men who sold their military skills to the Croatian Army in 1992, to help fight the Serbians. It describes their activities in a number of situations but mainly those associated with their training and combat activities with the Croatian Army's only English speaking company. It describes in unnerving, somewhat unbelievable detail combat activities conducted mainly at night.

It is this over attention to detail that initially caused doubts in my mind. Detail such as the number of multiple rounds that hit an enemy soldier during a contact at night seemed to indicate elaboration of truth into a story more suitable for publication in the sensational press. Whilst I could appreciate the descriptions of the atrocities the mercenaries discovered in their travels through the countryside, much of which has been supported by the journalists and United Nations forces engaged in the conflict, I harboured great doubts about the veracity of other detail provided in the book.

The role of author in the conflict was never clarified in the work. Cory-Jones writes in the first person indicating a personal presence but at no time does he cover any personal activity or emotions that result from this first hand experience. All descriptions of emotions seemed to emanate from the other people in the book. I never discovered whether he fought as a mercenary or simply as a journalist attached himself to their group for an extended period of time.

The book is easy to read if one does not mind sensationalist type descriptions of combat and associated military training activities. It appeared to me that the author did not pitch the book at the serious reader or the historian but concentrated on those more interested in entertainment. If you put yourself in the first category, don't waste your money. Those readers simply seeking entertainment might, however, find that the book has merit and something to offer them.
Every child deserves to be loved and protected; we are all responsible for all children. Helping Barnardos to give assistance to children and families in crisis should be a top priority for everyone.

Noni Hazlehurst & John Jarratt

Please give to Barnardos, The Childrens Charity.

1800 061 000

Please send your donation to: Barnardos Australia
Locked Bag 1 Million Broadway NSW 2007
Tel: (02) 9281 7933 Fax: (02) 9281 0526

$250 □ $100 □ $50 □ $150 □ $ □

Name: ___________________________ P'code: ___________
Address: _________________________ Tel: _________________________

MCard □ Visa □ BCard □ Amex □ Diners □/□

Signature: _________________________ Exp. date: ___________

Australian Defence Force Journal

Board of Management
Commodore P.F. McGuire, RAN, (Chairman)
Commodore W.A.G. Dovers, CSC, RAN
Colonel D.W. Kibbey, AM
Group Captain B.H.F. van der Wijngaart, RAAF
Ms C.M. Robinson
Adviser to the Board of Management
Brigadier P.J. Tye

The fact that an advertisement is accepted for publication in the Australian Defence Force Journal does not imply that the product or service has the endorsement of the Australian Defence Force Journal, the Australian Defence Force or the Department of Defence. Readers are advised to seek professional advice where appropriate as the journal can accept no responsibility for the claims of its advertisers.

Contributions of any length will be considered but, as a guide, 3000 words is the ideal length. Articles should be typed double spaced, on one side of the paper, or preferably submitted on disk in a word processing format. Hardcopy should be supplied in duplicate.

All contributions and correspondence should be addressed to:
The Managing Editor
Australian Defence Force Journal
Building B-4-26
Russel Offices
CANBERRA ACT 2600
(06) 265 2682 or 265 2999
Fax (06) 265 6972

Advertising Enquiries:
(06) 265 1193
(03) 9690 1548

General Enquiries:
(06) 265 3234

© Commonwealth of Australia 1997
ISSN 1320-2545
Published by the Department of Defence
Canberra 1997