

21 Frauds

SBLT Elder's letter of proceedings

- 21.1 Dr WP Evans alleged he found objects from HMAS SYDNEY washed up on a beach near Kalbarri, in Western Australia, in August 1980.¹ Describing himself as an 'amateur historian'², Dr Evans kept the objects for about two years. In 1982 he made them available to the Minister for Home Affairs for assessment.³
- 21.2 Among the items said to have been found were a canvas bag claimed to be from SYDNEY⁴, what Dr Evans described as an 'HMAS SYDNEY box' made of wood, and in that box various artefacts, including the following⁵:
- a detailed account of the engagement with KORMORAN, dated 20 November 1941 and entitled 'A record of an action in which a German armed raider was damaged south-west of Sharks Bay' – the letter of proceedings⁶
 - a corroded volatile-liquids flask that contained the letter of proceedings
 - a notebook containing shorthand
 - an officer's cap badge
 - Australian and English coins
 - photographs and newspaper cuttings.

Near the box Dr Evans says he found an inflatable life vest stamped with a name.

¹ WAM.005.0098 at 0102

² WAM.005.0098 at 0102

³ WAM.005.0098 at 0102

⁴ AWM.008.0137

⁵ AWM.008.0108

⁶ WAM.004.0241

21.3 No one now asserts the veracity of the letter of proceedings. There are numerous anomalies in the letter that indicate it is a forgery:

- There is reference to the sighting of a Japanese I-class submarine at what was stated to be a distance of 3 miles 'on surface'.⁷ This, according to the letter, occurred on 19 November 1941 at 1457H, and the submarine submerged at 1503H.⁸ This is not credible. That SYDNEY would come within 3 miles of a surfaced submarine before sighting it, in a time of war, is improbable, as is the assertion that the Japanese submarine (allegedly on a covert mission) took about six minutes to submerge.
- The narrative describes SYDNEY as first sighting, 12 miles away, a 'suspicious merchant vessel' making 'a large volume of smoke'⁹ at 1556H. The SYDNEY logs the Inquiry examined and other evidence suggest that sightings are more likely to take place at a much greater distance, at least 20 miles.¹⁰ This would be particularly the case if the 'suspicious merchant vessel' was making 'a large volume of smoke'.
- The narrative describes the raider at 1620H showing a Norwegian flag 'at her ensign staff and on her hull sideboard'.¹¹ At 1700H it is recorded that, in reply to the demand from SYDNEY at a distance of 14,200 yards 'What are your signal letters', the raider by flag hoist responded 'LHGJ'.¹² The evidence establishes that it is not possible for a flag hoist to be read at 14,200 yards.¹³
- The narrative states that at 1708H, in response to a previous demand from SYDNEY, 'Cannot read your signal. Show your flags clear', the raider hoisted a new set of signal letters, 'PKQI', and ran up the Dutch national flag.¹⁴ The idea that the raider used two disguises and two sets of signal letters is not credible.
- The narrative states that, after a demand from SYDNEY to stop, the raider broke out a white flag at 1718H, and at 1748H SYDNEY closed bows on her and at 3,000 yards hove to. At this time, according to the letter of proceedings, the raider was ordered to close up to half a mile. At 1749H to 1755H 'the prize' made smoke as if on fire, SYDNEY stopped engines at 1,650 yards and a boat

⁷ WAM.004.0241 at 0242

⁸ WAM.004.0241 at 0242

⁹ WAM.004.0241 at 0242

¹⁰ TRAN.022.0001_R at 0014_R

¹¹ WAM.004.0241 at 0242

¹² WAM.004.0241 at 0242

¹³ UKAA.002.0043: NAA.074.0065: TRAN.022.0001_R at 0032_R

¹⁴ WAM.004.0241 at 0242

was ordered to be lowered. Before the boat could be lowered SYDNEY was hit underwater aft of A turret by a torpedo 'from the concealed tube of the raider'.¹⁵ If SYDNEY had been in a 'bows on' position and had approached to 1,650 yards, an effective hit by an underwater torpedo would have been impossible: the underwater torpedo could only be fired abaft the beam at an angle of 35°. ¹⁶

- The narrative describes SYDNEY being hit by 'deadly four inch explosive shells'.¹⁷ KORMORAN was not equipped with such armament.
- At 0300 hours, the narrative states, SBLT BA Elder cast adrift the box and its contents (which purportedly were found some 40 years later) in case SYDNEY foundered. The narrative says SBLT Elder had taken command of the ship at 1808H. The forger would have it that the junior officer who had taken over command of the ship prepared the account, extending over four tightly spaced typed pages, on SYDNEY whilst she was on fire and foundering. Again, the story is not credible.

- 21.4 I make no criticism of SBLT Elder. It appears that the forger randomly chose his name. Since the person responsible for the hoax has not been identified, it is impossible to understand the reason for use of that name. Its use could have done nothing other than cause further anguish for SBLT Elder's family.
- 21.5 The Australian War Memorial examined the materials allegedly found on the beach. The bag, the box and the typescript were demonstrated 'to be the result of an elaborate fraud'.¹⁸
- 21.6 The crest on the alleged Navy bag did not match the Navy crest of 1941 but was similar to the current Navy badge.¹⁹ An examination of the bag under ultraviolet light revealed that the bag fluoresced a patchy light-blue colour. Natural cotton does not fluoresce a light blue. On testing and attempting to duplicate the light-blue fluorescence, the investigators found that the blue fluorescence appeared to be an optical brightness similar to that created by the use of 'OMO'® brand washing powder and then saturation in a salt solution. ²⁰ OMO washing powder did not exist in 1941.

¹⁵ WAM.004.0241 at 0243

¹⁶ DSTO.003.0001 at 0147

¹⁷ WAM.004.0241 at 0243

¹⁸ WAM.070.0010 at 0017

¹⁹ AWM.008.0137

²⁰ AWM.008.0137 at 0138

The Australian War Memorial's report concluded that the bag was probably 'specially constructed from readily available 1940s fabric and then distressed and salted'.²¹

- 21.7 The letter of proceedings was allegedly in a corroded volatile-liquids flask. The flask was examined by the War Memorial's Paper Conservator:

It seems most remarkable that this item [the letter] could have been removed from the corroded, volatile liquid flask (item 10). The document shows minimal rust staining. Such staining would have been unavoidable considering the advanced state of corrosion of the flask.²²

The conservator referred to the use of two different ballpoint pens in the address book recovered and offered the opinion that it was 'curious' that a ballpoint pen would be used in a document reputed to be from 1942 [sic].²³

- 21.8 Staff of the War Memorial examined the life vest said to have been found on the beach and were of the opinion that it was in 'extraordinarily good' condition for an object supposedly subjected to ultraviolet rays, heat and light over 40 years.²⁴

- 21.9 War Memorial staff also examined the photographs. They described them as being in 'extraordinarily good' condition given the supposed history of 40 years in a wooden box exposed to the elements.²⁵ The sophistication of the fraud involved is attested to by the photographs: they are indicative of the technology of the 1940s, and they depict matters consistent with the era of the loss of SYDNEY.²⁶

- 21.10 In 1996 Dr M McCarthy of the Western Australian Maritime Museum wrote to the family of SBLT Elder about the fraudulent nature of the letter of proceedings. He stated in part:

To me it was all quite simple. The box was reputed to have come from the intertidal zone or just above it on a beach north of Kalbarri (just south of Shark Bay). I understand that it was half buried in sand. From my work in that region on the VOC [East India Company] ship *Zuytdorp* (1702-1711), I quickly came to learn that any organic materials such as cloth, wood or paper are quickly consumed by white ants, even in the intertidal zone. The evidence for this was a butcher's

²¹ AWM.008.0137 at 0139

²² AWM.008.0142

²³ AWM.008.0142

²⁴ WAM.005.0083 at 0084

²⁵ WAM.005.0083 at 0084

²⁶ WAM.005.0083 at 0084

block cast ashore in that vicinity, which when turned over was found to be riddled with termites. We now know that only timbers that are cast upon rocks, with no part of their structure in contact with the sand will survive. We also know that materials in the intertidal zone are the subject of rapid corrosion, none of which was evident in the case of the box and materials related to the supposed letter. I am quite convinced therefore that the box and its contents are not as they purport to be.²⁷

- 21.11 In 1990 Dr McCarthy had written to Mr B Kelson of the Australian War Memorial. He referred to the authenticity of the material said to have been located by Dr Evans²⁸ and stated:

I agree with your assessment on the doubtful authenticity of the 'Evans box' but would be stronger in my wording to the effect that it is undoubtedly a hoax ...

To me, the 'Evans box' is a useful reminder of the lengths people will go to in such controversies and should, in my opinion, be kept as such and as a possible link with Roebotham [sic] and the continuing HMAS Sydney saga.

- 21.12 There is no doubt the 'Elder letter of proceedings' is a fraud.

The Montagu letters

- 21.13 Mr John Montagu has been a frequent commentator on matters to do with the loss of SYDNEY. He provided a submission to the Parliamentary Inquiry²⁹, wrote and self-published a book entitled *The Lost Souls and Ghosts of HMAS Sydney II 1941*³⁰ and made submissions to this Inquiry.

- 21.14 The theories put forward by Mr Montagu in connection with the loss of SYDNEY have varied over time. He submitted to the Parliamentary Inquiry that SYDNEY was sunk by a torpedo from KORMORAN:

It is my consortiums [sic] opinion that the HSK Kormoran was east of Sydney around this chart fix and either torpedoed her without being seen by the Sydney's watch. Or had her torpedo carrying motor cutter sink the HMAS without the Australian ship firing a shot. Or Sydney hit a Kormoran mine.³¹

²⁷ WAM.027.0087_R

²⁸ WAM.063.0109

²⁹ PINQ.SUBS.001.0057

³⁰ CORR.010.0002

³¹ PINQ.SUBS.001.0057 at 0060

21.15 In his book he made the following assertions:

- SYDNEY was sunk when at night she steamed into 'a practice minefield' laid by KORMORAN.³²
- There was no shell fire from SYDNEY in a battle.³³
- The sinking of KORMORAN occurred on 22 November 1941 as a result of a mine explosion two days after SYDNEY was sunk.³⁴
- The sinking of KORMORAN occurred as a consequence of KORMORAN accidentally hitting one of its own laid mines.³⁵
- After SYDNEY was sunk 30 sailors from among her crew were picked up by KORMORAN as prisoners of war.³⁶
- 'The laws of average' indicate that 230 of SYDNEY's crew 'would be expected to be around the area of the Australian cruiser's loss site'.³⁷
- In order that KORMORAN could carry out its objective of attacking AQUITANIA, the floating wreckage, the dead from SYDNEY and those crew members still alive from SYDNEY had to be destroyed. This was achieved by KORMORAN dumping fuel oil on the water and igniting it.³⁸

21.16 When examined by this Inquiry, Mr Montagu was bereft of any explanation or evidentiary material to support his various theories. The propositions he puts forward are without substance. A reading of the transcript of Mr Montagu's evidence reveals a witness unwilling to answer direct questions but willing to prevaricate and evade. For example:

- Mr Montagu accepted that the location of SYDNEY is as plotted by the Finding Sydney Foundation—that is, 24°14'37"S 111°13'03"E. He did not accept, however, that the wreckage of KORMORAN was where the foundation located it—that is, 26°05'49.4"S 111°04'27.5"E. His theory was that the foundation might have given a false location for KORMORAN because there could be 'booty' on her: 'Basically, there is a lot of secrecy about the *Kormoran*

³² CORR.010.0002 at 0025, 0072 to 0076

³³ CORR.010.0002 at 0025

³⁴ CORR.010.0002 at 0025

³⁵ TRAN.029.0001_R at 0022_R

³⁶ CORR.010.0002 at 0013

³⁷ CORR.010.0002 at 0013

³⁸ CORR.010.0002 at 0014

because—and this is my opinion, anyway—maybe there might be some recoverable booty on it, like gold or something like this’.³⁹

- Having asserted that SYDNEY sank after hitting a mine in ‘a practice minefield’, he claimed that 30 members of SYDNEY’s crew were taken on board KORMORAN. When asked for evidence to support that theory, he responded, ‘I suppose a lot of it’s just conjecture’.⁴⁰
- In relation to his theory that fuel was used to burn bodies and survivors in the water, Mr Montagu gave the following evidence:

Q: From this sort of material, you have gone on to assert that survivors of *Sydney* were set on fire by diesel being poured in the water by the personnel of *Kormoran*?

A: That’s correct.

Q: What’s your basis for that?

A: Basically, 845 men - -

Q: No, there weren’t 845 men.

A: Sorry, excuse me, 645 men – 645 men on a ship 120 nautical miles from the coast of West Australia in summer conditions, there must have been survivors, and because the *Aquitania*, which was coming down from – two days later, the Germans could not afford to have bodies floating around the ocean. It wasn’t the *Sydney* that was the target for the *Kormoran*; it was the *Aquitania* that she wanted. She wanted to keep it clear so that there would be no problems. She didn’t want the *Aquitania* seeing dead bodies or sailors floating around in the ocean.⁴¹

Mr Montagu had nothing to support his theory.

- 21.17 Crucial to Mr Montagu’s theories and speculations are two documents first published in his book. One, said to be from the British Ministry of Defence, is dated 28 June 1962 and purports to be a translation of a German document. It is in the form shown in Figure 21.1.

³⁹ TRAN.029.0001_R at 0021_R

⁴⁰ TRAN.029.0001_R at 0022_R

⁴¹ TRAN.029.0001_R at 0035_R



Ministry Of Defence.
Whitehall London.
SW1. ACU.



COI.005.0289

(This document is the property of His Majesty's Britannic Government.)

Secret.

Copy No 3

S.A.C. S.R. (93)2.

28th June, 1962.

Government Information Committee.
Far Eastern Zone C.

German kriegsmarine Naval Documents.

Source. British Intelligence. Major General. C Gibbons. MC. OBE. Director.

Major. Kaswick. Prosecutions.

Documentary Evidence. Kriegsmarine Rolle. 106662. Treatment Of Survivors.
War Crimes Inquiry Section. Loss of His Majesty's Australian
Light Cruiser Sydney and entire complement of 645 Officers and
men, in Indian Ocean 20th November 1941. by German Raider action
Handelsschiff Kreuzer Kormoran, Schiff 41.

Information Matter. Translated from German Naval report as per Kriegsmarine Rolle
106662. Time and co-ordinate of loss of Light Cruiser. Date 20th
November 1941. Torpedoed and sunk Gmt 1930. 19th November 1941.
Western Standard Time. 0315. 20th November 1941. 27° 25' S.
112° 15' E. Depth, 1800 metres.

Reference. 106662.
Casualties.

Thirty Crewmen were recovered from the Light Cruiser sinking.
Eight Officers and twenty two other ranks were recovered from
the Indian Ocean, only ten seamen had life jackets on. The ships
capsize to port was the cause of very few of the light cruisers
plus the hours of darkness were responsible for the high loss of
life.

Kontaradmiral, Otto Schniewind.

21st november, 1941. Seekriegsleitung. Kiel.

Great George Street.
SW1

28th June 1962.

S. Rimington. Director. British Intelligence.

Figure 21.1 Purported translation of a German document crucial to Mr Montagu's theories and speculations⁴²

⁴² COI.005.0289

21.18 The document is an obvious fake for at least the following reasons:

- On 28 June 1962 Queen Elizabeth II was on the throne. Documents produced at that time were the property of 'Her Majesty's Government', not 'His Majesty's Government' as shown in the document.
- The document states a time and place for SYDNEY's sinking. Yet the evidence from German archives makes the following clear: first, KORMORAN did not signal Germany about the engagement; second, discovered records show that the German Navy believed KORMORAN was still afloat after 21 November 1941; third, the location of the supposed sinking of SYDNEY is wrong and different from that given by CAPT Detmers on interrogation; fourth, the English translation in the box does not make sense; fifth, the German Admiral's name is misspelt by the omission of the letter *n*.

The Inquiry confirmed with CAPT C Page RN Rtd, head of the Naval Historical Branch of the Royal Navy, that the document is a fake.⁴³

21.19 The second document purports to be a German Navy document. It is in the form shown in Figure 21.2.

21.20 In his book Mr Montagu sought to give credibility to this document:

The Kriegsmarine documents were also examined. A British intelligence woman officer by the name Irene Moore located an incident concerning the German raider Schiff 41 (*Kormoran*) was examined due to the loss of 645 *Sydney* crew complement of officers and crewmen without trace.⁴⁴

21.21 When Mr Montagu was examined by the Inquiry it turned out that Irene Moore was 'a relative of my wife's basically – well, a friend of the wife's, not a relative' and was a stenographer, not a 'British Intelligence woman officer'.⁴⁵

21.22 The document is an obvious fake for at least the following reasons:

- 'Vizeaadmiraal' is misspelt by the inclusion of an extra letter *a*.
- The third sentence contains the English expression 'mono phase'.
- The German Admiral's name is misspelt: it should be 'Schienwind', not 'Shiewind'.
- The heading should read 'Deutsche' not 'Deutschen'.

⁴³ CORR.022.0163

⁴⁴ CORR.010.0002 at 0081

⁴⁵ TRAN.029.0001_R at 0026_R

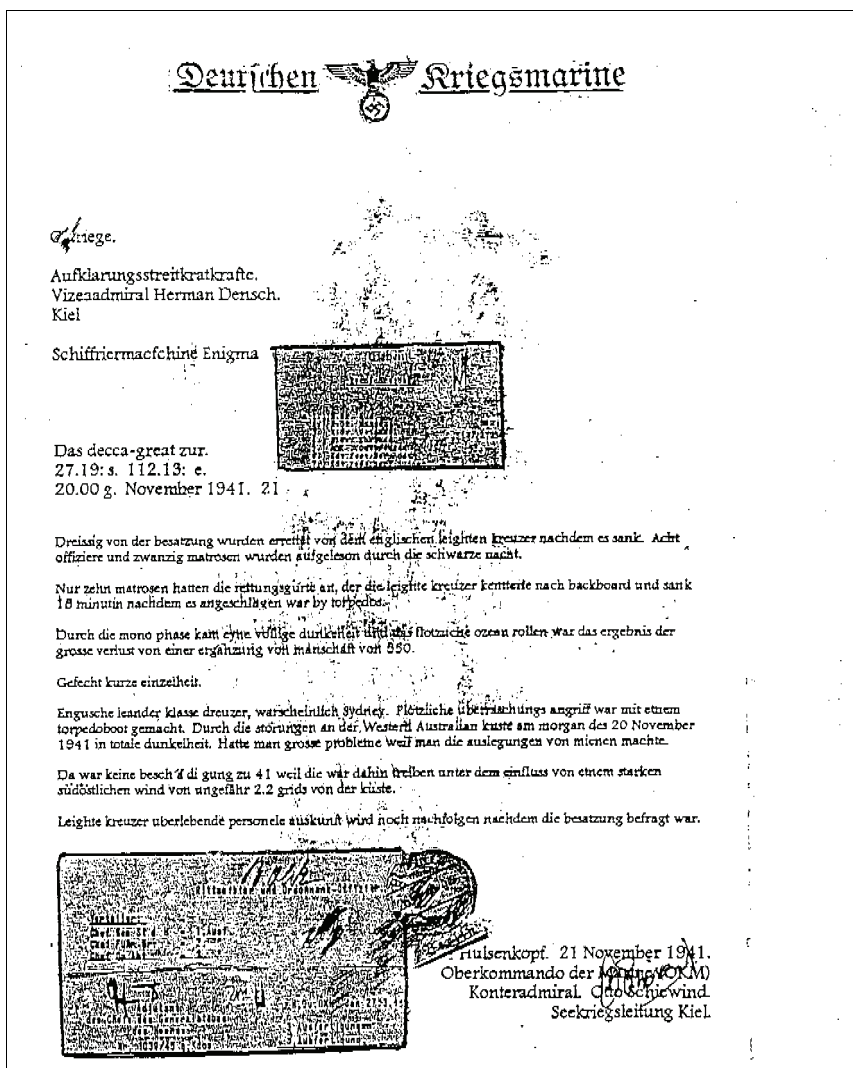


Figure 21.2 Purported German Navy document crucial to Mr Montagu's theories and speculations⁴⁶

The Inquiry confirmed with Dr T Menzel, the director of archives, German Military Archives, that the document is a fake: 'I find that this is a case of an absolutely amateurish and altogether very clumsy forgery'.⁴⁷ Ms Jozwiak, also of the German Military Archives, states that the document 'with certainty is a forgery'.⁴⁸

⁴⁶ CORR.010.0002 at 0084

⁴⁷ EML.005.0347_E

⁴⁸ CORR.018.0376_E

- 21.23 Asked to explain the source of these obviously false documents, Mr Montagu had two responses. The first was that he and his wife had an extensive family spread around the world. He had expressed his interest in the sinking of SYDNEY and had asked family members to do some research for him. His wife's brother, who lived in England, had forwarded to him the British document, said to have been found in a maritime museum in Cornwall.⁴⁹ The German document is said to have come from 'a girl in America', who, he thought, obtained it in the state of Virginia. He thought the girl was 'a friend of the family but not an awfully good friend. I think it was Simons or something. She worked for the British Government as a typist or a clerk or something'. Mr Montagu could give no further information about the provenance of the documents.⁵⁰
- 21.24 The story that these two people, one in the United Kingdom and the other in the United States, each provided to Mr Montagu a document central to the theories put forward in his book—each document plainly being a fake—is not credible. I reject Mr Montagu's evidence in those respects. It follows that Mr Montagu was himself involved in the creation of the fake documents, in an effort to lend some credibility to his book. I drew this to Mr Montagu's attention in order to give him the opportunity to place before me anything he wished to advance in rebuttal.⁵¹ He advanced nothing of substance, whilst denying any involvement in the fraud.⁵²
- 21.25 Mr Montagu's second response was that he had put a disclaimer in his book, saying that there were only two documents in the book that 'we could authenticate'⁵³, those being documents from CPO Jürgensen and Dr List. He repeated this 'disclaimer' several times during his evidence, as though in some way it excuses the use of obviously faked documents.⁵⁴ It does not.
- 21.26 Mr Montagu understood that the forged British document conformed to his speculations about survivors of SYDNEY⁵⁵ by reference to the date 21 November 1941 and survivors being taken on board KORMORAN. His evidence was that he was aware of the dubious nature of the document from the outset, just as he was aware of the dubious nature of the so-called Deutschen Kriegsmarine document.

⁴⁹ TRAN.029.0001_R at 0030_R compare TRAN.029.0001_R at 0023_R

⁵⁰ TRAN.029.0001_R at 0025_R to 0026_R

⁵¹ TRAN.029.0001_R at 0033_R to 0034_R, 0044_R to 0046_R

⁵² CORR.011.0173_R; CORR.020.0220_R

⁵³ TRAN.029.0001_R at 0026_R

⁵⁴ TRAN.029.0001_R at 0023_R to 0026_R

⁵⁵ TRAN.029.0001_R at 0034_R

21.27 During the examination of Mr Montagu I said I had formed the preliminary view that I was unable to accept that he was unaware the two documents were a fraud.⁵⁶ I subsequently reread the transcript of evidence and Mr Montagu's book. I concluded that at the time of publication of his book Mr Montagu knew the documents he used to support his theories were bogus. He justified the publication of the documents by reference to the disclaimer in his book. The disclaimer that 'A number of copy documents displayed in this publication have not been authenticated'⁵⁷ reinforces the conclusion I reached – that Mr Montagu published the documents in the knowledge that they were forgeries.

The unique story of a Japanese submariner

21.28 As a consequence of its research at the Ballina Naval and Maritime Museum in New South Wales, the Inquiry received from the museum an article about the loss of SYDNEY entitled 'Half a century of silence – unique story of a Japanese submariner in the Pacific War'.⁵⁸

21.29 The article was nominally written by a young Japanese woman, Ms Michiko Takahashi, with the assistance of an Australian acquaintance, Mr Peter Johnson. A 'Note to readers' at the conclusion of the article states:

The publication of *HALF A CENTURY OF SILENCE*, with its sensational revelations, has been made possible only under strict conditions prescribed by Michiko Takahashi of Japan, namely, that it may not appear in print in her native land while her grandfather was still alive, and that there must remain complete confidentiality concerning the true identity of herself and her grandfather as well as that of her Australian researcher friend, Peter Johnson, who basically put the story together in Australia. The names Michiko Takahashi and Peter Johnson which appear in *HALF A CENTURY OF SILENCE*, are pseudonyms. The story was submitted for publication by "Peter Johnson".⁵⁹

21.30 In summary, the story recorded in the article is as follows:

- In 1995 Ms Takahashi travelled to Australia, where, for the first time, she became aware of wartime atrocities alleged in relation to Japan.⁶⁰

⁵⁶ TRAN.029.0001_R at 0044_R

⁵⁷ CORR.010.0002 at 0016

⁵⁸ WIT.024.0003

⁵⁹ WIT.024.0003 at 0015

⁶⁰ WIT.024.0003

- She determined to research this subject, and during the course of her research at the State Library in Sydney she met Mr Johnson, a retired teacher who was researching the Pacific War.⁶¹
- They discussed many aspects of and theories about this war, and Mr Johnson told her about a book entitled *Who Sank the SYDNEY?* by Mr Michael Montgomery and the allegation in that book that a Japanese submarine had been involved in the loss of SYDNEY.⁶²
- Ms Takahashi's interest was sparked by this because her grandfather had served in the Imperial Japanese Navy, in submarines. In fact, he had lost his right hand as a result of an explosion on a submarine.⁶³
- She determined to discuss the matter with her grandfather. On her return to Japan after six months in Australia, she approached her grandfather. He expressed great reluctance to discuss the war on a number of occasions, despite her approaches.⁶⁴ Over weeks and months she kept seeking information from him.⁶⁵ (The article nominally by Ms Takahashi shows a photograph of her grandfather in the Imperial Japanese Navy during gunnery practice in 1936.⁶⁶)
- Eventually, her grandfather gave her a full account of his Naval service. He disclosed that after the battle between KORMORAN and SYDNEY the Japanese submarine in which he was serving torpedoed SYDNEY. When SYDNEY survivors took to lifeboats the Japanese submarine, using deck guns and machine guns, slaughtered the SYDNEY survivors.⁶⁷

21.31 On receipt of the article, the Inquiry investigated its authenticity. The account, the story, and the people involved are a fabrication. The article was written by Mr Alexander McAndrew in 1995. Because of infirmity, Mr McAndrew was unable to attend the Inquiry for examination, but the Inquiry did obtain a statutory declaration from him.⁶⁸

21.32 In his declaration Mr McAndrew described the article as a 'work of fiction'. He said his purpose in writing it was to provoke thought about what happened with the engagement between SYDNEY and

⁶¹ WIT.024.0003 at 0004

⁶² WIT.024.0003 at 0006 to 0007

⁶³ WIT.024.0003 at 0008

⁶⁴ WIT.024.0003 at 0009 to 0010

⁶⁵ WIT.024.0003 at 0009 to 0010

⁶⁶ WIT.024.0003 at 0011

⁶⁷ WIT.024.0003 at 0013

⁶⁸ WIT.024.0003

KORMORAN: he held a belief that the full details of the engagement had been suppressed by government.⁶⁹

- 21.33 The article contains no text or notation to alert the reader to the fact that it is a work of fiction. In fact, its presentation and the inclusion of letters, photographs and Japanese symbols are designed to create the very opposite impression.
- 21.34 Mr McAndrew had submitted the article to the *Sydney Morning Herald* and the *Canberra Times* without telling them it was a work of fiction.⁷⁰ He provided the article to the Ballina Naval and Maritime Museum under cover of a letter describing it as a story but without saying it was a story of fiction.⁷¹ The article was in the museum without any form of acknowledgment that it was fiction.
- 21.35 The McAndrew article represents yet another deliberate attempt to sensationalise and promote controversy about the loss of SYDNEY and her crew by a person determined to force his own views on others at the expense of reasoned analysis and the truth. Mr McAndrew is to be criticised for distributing as a factual account an article he knew was a work of fiction.

The Kitsche diary

- 21.36 On 1 January 1942 the *Digest of World Reading* published an article by a journalist named Robert S Close. The title of the article is 'Toll for the brave'. Under the title appears the following: 'A noted sea writer reconstructs the sinking of HMAS Sydney'.⁷²
- 21.37 In the article the author makes the following claims:
- CAPT Detmers ordered the hoisting of the Norwegian flag.
 - SYDNEY ordered KORMORAN to 'close to half a mile, and heave to'.
 - CAPT Detmers ordered engagement with SYDNEY 'immediately we have closed to half a mile'.
 - CAPT Detmers ordered that the engagement be under the Norwegian flag because 'the first to get in a broadside at that point blank range will be the victor'.

⁶⁹ WIT.024.0001_R

⁷⁰ WIT.024.0001_R at 0002_R

⁷¹ WIT.024.0001_R at 0002_R

⁷² BATT.008.0017

- KORMORAN fired first but SYDNEY immediately replied, causing great damage to KORMORAN.
- CAPT Detmers ordered, 'Cease fire!'
- CAPT Detmers ordered all able men to abandon ship and 'pull toward the enemy cruiser as if seeking to be picked up by her'.
- CAPT Detmers ordered that the wounded be left to die on KORMORAN.
- CAPT Detmers said that, as soon as the KORMORAN survivors in boats were clear, he would fire two torpedoes at SYDNEY, which he did.
- The torpedoes hit SYDNEY, causing her to sink immediately with all hands.

21.38 It is extraordinary that anyone reading this account—published some six weeks after the sinking of SYDNEY and said to be a 'reconstruction' by the author—could give it any credence. However, in his book *Who Sank the Sydney?* Mr Michael Montgomery relied on this account of the battle between SYDNEY and KORMORAN. He asserted the account was provided by CPO H Kitsche, a crew member of KORMORAN, describing the provenance of the account thus:

The third such testimony appears in an account of the action written by Petty Officer H. Kitsche, which first came to light during Mr Robotham's unofficial search of the prisoners at Carnarvon and which the latter translated into his own somewhat florid English and published under another name (for very obvious reasons) in a Melbourne-based magazine dated 1 January 1942. It was then reincorporated in a notebook which Kitsche kept during his later imprisonment, and which was discovered after the war hidden in the false back of a box under a house in New South Wales belonging to a German expatriate; it seems that it was smuggled there by a sympathizer following an escape that Kitsche made from Murchison, for which he received twenty-eight days imprisonment.⁷³

Mr Montgomery's source for this information was apparently a report in the *West Australian* newspaper of 17 November 1970.⁷⁴

21.39 His theory at that time seems to have been that Mr Robotham had translated CPO Kitsche's diary and published it under the false name of Mr Close.

⁷³ PUB.002.0001 at 0067 to 0068

⁷⁴ PUB.002.0001 at 0130

- 21.40 In correspondence with Mr P Beesley on 8 October 1979, before publication of his book, Mr Montgomery described the Kitsche document as follows: 'One of my sources is an account of the action written by a Kormoran Petty Officer, which was found in a false wall of a house in Sydney belonging to an ex-German in 1947'.⁷⁵
- 21.41 Its provenance had substantially changed by the time Mr Montgomery was before the Inquiry. The former involvement of Mr Robotham was now unclear. The Kitsche diary, or account, according to Mr Montgomery, was in fact a German translation of a newspaper article written by a journalist, Mr Robert Close, in 1942. The involvement of CPO Kitsche was that he '...seems to be the translator' of the newspaper article.⁷⁶ Mr Montgomery accepted that CPO Kitsche otherwise had no involvement in the account.⁷⁷
- 21.42 Having been told that the so-called Kitsche diary was no more than a translation of an article by Mr Close, Mr Montgomery contacted Mr Close, who told Mr Montgomery the basis for his story was a conversation he (Mr Close) had overheard between two people on a bus travelling between Warrandyte and Melbourne. But Mr Montgomery thought that, because Mr Close was a journalist, he would not have told him the truth about his sources, even 40 years after the event. Accordingly, the information must therefore have come from an intelligence source:

Q: Have I got this right, that this Kitsche account is something that you heard about from Mr Robotham?

A: Yes.

Q: That it was found in a box or under a house in Sydney, that is said to be written by Mr Kitsche or at least translated; it turns out to be a translation of an article by a Mr Close; Mr Close says that he got the information for the article from overhearing a conversation on a bus; your logic, then, is that because he was a journalist, that can't be true, and, therefore, he must have got it from some superior intelligence source?

A: Yes.

Q: Is that the logic?

A: Certainly.⁷⁸

⁷⁵ CHUR.001.0034 at 0035

⁷⁶ TRAN.018.0001_R at 0074_R to 0075_R

⁷⁷ TRAN.018.0001_R at 0074_R to 0075_R

⁷⁸ TRAN.018.0001_R at 0077_R

- 21.43 It is now known that the loss of SYDNEY did not occur in the manner described in this account. SYDNEY did not sink near KORMORAN. The account is obviously manufactured. The language of the document would not be the language used on the bridge of KORMORAN, as Mr Montgomery agreed. Yet the account was put forward and relied on to support an argument of German treachery in the engagement.
- 21.44 The document is not CPO Kitsche's account. It was not taken from CPO Kitsche on his arrival in Carnarvon, as initially alleged by Mr Montgomery. Apart from the alleged conversation of two unidentified people on a bus, there is no source at all for the account. It is an article by Mr Close, a journalist with a vivid imagination. The account is implausible on its face and does not accord with the facts. Mr Montgomery recognised this during the course of evidence.⁷⁹ The allegation that the document is the diary of CPO Kitsche is wrong.

The McLeod story

- 21.45 On 19 January 2009 Mr John Samuels told the Inquiry he had conducted a recorded interview with a woman named Mrs X, who informed him that she had a neighbour who was a survivor from SYDNEY. He said Mrs X was Mrs Grace Carr.⁸⁰ That evidence was consistent with an email Mr Samuels' partner sent to Mr George Karlov, who claims to be Mr Samuels' publisher. Mr Samuels' book, *Somewhere Below*, was published by Halstead Press, which is owned by a Mr Richardson, whose mother, Mrs Grace Richardson was the sister of Capt Snook, who, it was proposed, carried out an autopsy on the body of a SYDNEY sailor. The coincidental relationship between all these people who advance theories is remarkable.
- 21.46 Mr Samuels' account, which Ms Goode (his partner) forwarded to Mr Karlov, read as follows:

A woman living in a regional Queensland town has come forward to reveal the startling story that three men escaped HMAS Sydney. The woman who at this point will not be named by this author says that she knew a man who was on the Sydney and she saw and spoke with him after the war was over. Mrs X says that the man in question borrowed his uncle's identity in the form of his drivers licence in order to join the navy. A check of military records confirms that the man now deceased was in the RAN. The persons uncle does share his name with a crewman declared dead among the 645 aboard the Sydney.

⁷⁹ TRAN.018.0001_R at 0071_R

⁸⁰ TRAN.022.0001_R at 0124_R

The woman is very clear there is no mistake and there were three survivors of Sydney's sinking picked up by a British warship and taken to Sydney NSW.

Investigations are intense and following exclusively to the Post.

So far there is sound evidence to believe the woman's story.

JOHN SAMUELS⁸¹

21.47 Notwithstanding Mr Samuels' coyness about the name of Mrs X, shortly after the finding of the SYDNEY wreck an interview with Mrs Carr was published in the *South Burnett Times*, under the sensational heading 'Sydney survivor'. The account in the newspaper mirrors the account Mrs Carr gave to the Inquiry.

21.48 In brief, Mrs Carr's evidence was that in the summer of 1948 a Keith McLeod, whose family Mrs Carr had known since childhood, was with her brothers Steve and Andy Carr when Mr McLeod told his story. They were in the small township of Ellalong, in New South Wales, where they lived. Mr McLeod asked her brothers, who had been in the Army, whether they had received their severance pay. He then said, 'They won't send me mine. I've been fighting to get it. They won't believe I was in the Navy'; and later, 'They won't believe I was on SYDNEY; they keep saying there were no survivors and there are at least three of us'. Steve Carr replied, 'Your name would have been down in the books, but weren't you too young to be in the Navy then?' Mr McLeod replied, 'Yes, I put my age up using an uncle's driving licence when I was 15'. He then explained how he had left home at the age of 15. He tried to join the Army at the Cessnock recruiting office but was rejected on the basis of his age. He tried a second time and was rejected again, for the same reason. Accordingly, the story went, he 'borrowed' his uncle's driving licence and joined the Navy, producing a driving licence in the name of Herbert Charles McLeod. Having successfully enlisted, he returned the licence to his uncle. He subsequently trained for nine months and was then transferred to SYDNEY. Mrs Carr's account continued:

Then a full alert, a ship was spotted, the men took up positions waiting to see if it was friendly or not. It appeared to be a freighter but the Captain was cautious, and signaled it to state who she was, the ship claimed to be a Norwegian freighter heading home for Christmas and what cargo it was carrying and the name of the port it sailed from plus the day and time it left. 'Sydney's' Captain warned it not to come any closer but it kept coming, he knew if they fired upon a friendly ship there would be all hell to pay.

⁸¹ COI.005.0070_R at 0071_R

He broke radio silence and called the port. The answer came back, "Yes a freighter had left a certain port on such a time and day and would be in that same area right now, it was okay". So Captain Burnett was completely convinced. The crew of the freighter was lining the rails and waving, they were dressed in old work clothes so the 'Sydneys' crew were stood down from positions and they lined the rails and smiled and waved back, calling greetings, mainly about getting home for Christmas. 'Sydneys' Captain asked the other Captain, a real friendly smiling chap, if he had heard how things were about the war, the other Captain said it was much the same as before. They could hear and see each other clearly. The Norwegian flag was flown by the new ship. Suddenly the canvas was whipped off the freight, the guns underneath had really chosen their targets. The first big gun fired, took away 'Sydneys' Captain and officers standing beside him.

Keith said they were all frozen for a moment then dived for their places. Each shot from the German guns wiped out a big gun on the 'Sydney' before the crews could man them. He said he was diving to get below, the gun crew beside him had just got into place when they were hit. I can't quite remember what Keith called the stairway he tried for. He said, "My position was down below, I was a stoker 2nd class". He said this very proudly, he had never imagined getting a "gong". He didn't make it, as he was blown high into the air and came down in the sea. There were already many men in the sea, dead and the wounded and dazed. Then he saw the oil pouring out of the ship, he said he knew what that meant and started to swim away from the ship as fast as he could, he kept yelling at the others to swim away from the ship, he couldn't understand why a lot didn't, they must not have realized the danger or didn't hear him having been deafened. Some started to swim away then turned and swam back to the ship.

The oil caught fire, he saw only about seven swimming away near him, two of them covered in oil. He heard one of their small guns start to fire for a moment then silenced, he saw a life boat lowered and a heap of screaming burning men tried to scramble into it, the boat was on fire too.

Then Keith broke down and sobbed. I was sitting there so shocked and appalled I couldn't cry. I looked at Steve he looked how I felt, Andy had tears running down his face. Keith was crying and shaking his head and saying "They knew we were there, the bastards knew we were there".

...

But I wanted to know how he was rescued and asked him. He said "Well I kept well clear of the oil and when I looked again to see how many was with me, I counted just five, some had disappeared. One of us five had a belly full of oil and kept retching and calling for his mum. The ship was sinking, I thought it looked in two pieces a big one and a small one. I could hear rifle shots coming from the ship, they

were still trying to fight back, couldn't have been many left aboard, there were hundreds in the water. Then the small guns from the Germans shut the rifles up, and the German ship just sailed off. Keith counted heads again near him and saw there was only the three of them now. The two injured had gone.

This action happened late evening, about 2 hours later an American warship came by and sailed right over where the 'Sydney' had gone down, some of the oil was still burning, they yelled as loud as they could but they weren't seen, it was dark and they hadn't been heard. They had no watches to tell the time.

Just on dawn an English warship nearly ran over the top of them, they were just seen in time and pulled aboard. I asked him how did they manage to stay afloat for so long? Keith said it was easy, the sea is so salty there it holds you up you can't sink.

...

He was told as the German ship sailed away, it strangely enough, he thought, sailed across the path of the American ship, who saw it 'scutterling' away from the glow on the horizon. The American signalled the German ship to stop, instead it put on speed and changed direction. The Americans were convinced then the German ship had sunk the British ship they had made good friends with. He was told the British and American ships had been hiding among some small islands while some big brass had a 'pow-wow' for three days. The crews had the run of both ships and made great friends swapping everything they could with each other including home addresses and promises of visiting homes.

Keith said the Americans weren't officially at war at that time but the crew was so angered about the loss of their British buddies the Captain ordered on shot at the Kormoran to cripple it so it couldn't get too far, certainly not back home or to Japan.

The Captain of the British ship told the survivors they would be incorporated into his own crew, they couldn't be taken straight back to Sydney as the British ship had to finish its patrol. It was quite a few days later Keith thought, maybe a week or ten days, the ship was told to return to England immediately, it was urgent. They had to stop at Sydney to re-fuel. The Captain told them he couldn't waste time there with reports, so told them to report themselves. They were put on the wharf late at night. Two of the young men had money in their pockets for tram fares to the Sydney suburbs they lived in and said to Keith he was the senior and he could report for them. (Keith in age was the youngest, not quite seventeen.) He had no money and needed train and bus fares, also he was duty bound to report. He had to wait hours before the naval office opened. He cheered himself up with thoughts of being home for Christmas and plenty of pay waiting.

Soon as the office opened he was straight in. He reported at the desk. The silly lot of young female twits as he referred to them as, wouldn't

believe his story and kept saying “Where’s the other two? You’ve made the story up, you’re a drunken bum who’s been A.W.O.L. and thinking up a wild excuse. He had given his name etc. They said there was no Keith McLeod on the ‘Sydney’ list and the books had been closed on the ‘Sydney’. After just one week the Navy had declared there were no survivors. Keith argued with them saying what if others have been picked up by a ship from another country, how could they get back in a week? He also asked them Is this the way you treat survivors? They thought it very funny and told him they never got survivors they all go down with the ship. He told them the latitude and longitude where the ‘Sydney’ had gone down, they said the ‘Sydney’ was no where near there. Keith said it definitely was there he’d checked an hour before the sinking.

He demanded to speak with a male officer, they said there were none. Finally one of the women telephoned a male officer who agreed with the girls, he was a drunken bum with wild stories.

He was asked where his kit bag was, he said at the bottom of the sea. “You’ve lost it while drunk, you’ll get it docked from your pay. Within six hours Keith was on another ship. I can’t recall the name exactly ‘Singleton’? ‘Dungog’? It wasn’t the Cessnock or the Newcastle. In his shocked condition Keith hadn’t realised he’d told the girls his true name instead of his uncles. He sailed right back into the war zone. He fought on two different ships after the ‘Sydney’, now under his real name.⁸²

21.49 I accept that Mrs Carr believed the story she was told. It is, however, obvious that it is pure fabrication.

21.50 Service records show that Herbert Charles McLeod, the so-called uncle of Keith McLeod, joined the Navy on 6 February 1939. He had been born on 8 March 1916, so was approaching the age of 23 years. The records show that an extract from his birth certificate was sighted on 7 March 1939. He was posted to SYDNEY and was lost with the ship. His mother, Dorothy Anne McLeod, lived in Regent, Victoria. After his death a war gratuity was paid, but his mother’s claim for a war pension was rejected by the Repatriation Commission owing to her ‘income in excess’. In SYDNEY he held the rank of acting leading stoker.

Keith McLeod also joined the Navy but did so on 4 November 1943. He had been born on 29 September 1925 at Bellbird, New South Wales, so was 18 at the time of entry. His mother was Mrs Alma McLeod of Ellalong, Cessnock, New South Wales. On entry on 4 November 1943 he was examined by a surgeon commander who noted his height, weight, hair, eyes and complexion and the fact he had an appendix scar. He joined the Navy almost two years after SYDNEY was lost. The

⁸² COI.006.0247 at 0249 to 0252

documentary record of his service is complete, showing the various ships in which he served. He was demobilised on 22 July 1946. On 19 August 1946 he was paid deferred pay and monies in lieu of accrued leave; he was also paid a war gratuity. He did not join the Navy at the age of 15.

- 21.51 As the records show, the two McLeods who joined the Navy had different-coloured eyes, different types of complexion and different-coloured hair, and one had an appendix scar and the other a scar on his shin. They also had different service numbers. The notion that a sailor supposedly rescued by an English vessel was deposited in Sydney with no kit bag or other equipment and turned up at a Naval depot and was allowed on board is not credible. Nor is it credible that any ship picking up survivors from SYDNEY off the Western Australian coast on or after 19 November 1941 and, having steamed to Sydney and deposited such survivors there, would not have made it known that the survivors said they were from SYDNEY. By that time the loss of SYDNEY was well known.
- 21.52 The Inquiry obtained a statutory declaration from Mrs Beryl Luscombe.⁸³ She is a cousin of LS Stoker Herbert Charles McLeod, and she knew he had been posted to SYDNEY after joining the Navy. She confirmed that it was Herbert Charles McLeod who joined the Navy and was lost on board SYDNEY. Contrary to the story told to Mrs Carr by Keith McLeod, Herbert Charles McLeod did not have any nephews.
- 21.53 There is no doubt that the account Mrs Carr said she heard when she was 18 and that she recalled and recounted 60 years later, in 2008, shortly after the finding of SYDNEY, was an account fabricated by Mr Keith McLeod.

⁸³ SUBM.008.0223_R