

24 Speculations and allegations: bodies in the water

- 24.1 One question dealt with in Chapter 18 is why there were no survivors from HMAS SYDNEY and what became of the bodies of the 645 officers and sailors who served in her.
- 24.2 As a result of the damage she suffered in the battle with HSK KORMORAN, SYDNEY was subjected to intense fires throughout much of the ship. She was observed to be burning fiercely from about 1800H until 2300H. In that period of five hours it is certain that the remains of many of those killed by gunfire or trapped below decks were consumed by flames. The dead bodies that were not consumed by flames and were below decks would have been trapped inside the ship when she sank to the sea bed. The bodies of those on deck when she sank probably floated free. The oft-reported presence of sharks in the area makes it likely that any remains were taken by marine life. Only one person, in a Carley float, is known to have escaped the sinking, and the shrapnel lodged in the front of that person's skull suggests that the shrapnel wound was ultimately fatal and occurred when he was near the Carley float.
- 24.3 The characteristics of bodies that are dragged underwater upon the sinking of a large ship or that float free upon such a sinking are now understood. Those characteristics are discussed in the report by the Defence Science and Technology Organisation and in Chapter 18. It must be concluded that the prospect of any bodies that surfaced or floated free from SYDNEY surviving to be washed up on the Australian coastline, some 180 kilometres from the wreck site, is extremely remote.
- 24.4 Nonetheless, such an eventuality has been the subject of assertions advanced by a small group of commentators, who argue that shortly after the sinking of SYDNEY the crew of the lighthouse tender SS CAPE OTWAY saw bodies floating in the water off the coast of Western Australia. Coupled with this assertion is a second one—that those bodies were recovered by an Army detachment and buried in the sand on a beach in the vicinity of Dirk Hartog Island and False Entrance.
- 24.5 One remarkable feature of these assertions is that the bodies said to have been found were those of Australian sailors. The German accounts have it that a considerable number of German sailors—between 60 and 80—drowned on leaving KORMORAN, when a rubber life raft capsized. It is now known from the wreckage that the two ships were about 12 nautical miles apart when SYDNEY sank and the German

sailors drowned. If bodies from SYDNEY drifted to the coast of Australia, one would expect the same to have occurred with the German bodies. If Australian bodies were found, one would expect German bodies to be nearby. Air searches did not result in any Australian bodies being found and only one German body, in a Carley float, yet the assertions about bodies being found and later recovered and buried on the beach relate only to Australian sailors.

This anomalous situation is explained by a realisation that the discovery of Australian sailors' bodies and the failure to disclose it are a necessary ingredient for those advocating a 'cover-up' by Australian authorities. Discovery of German bodies is irrelevant to that thesis.

The proponents

- 24.6 It is useful to trace the history of the emergence of the assertions that bodies were seen in the water by crew members on CAPE OTWAY and that the bodies were subsequently recovered by an Army unit and buried on the beach.

Mr Michael Montgomery

- 24.7 In 1981 Mr Michael Montgomery, son of the navigator in SYDNEY, published a book entitled *Who Sank the Sydney?* His main thesis was that SYDNEY was not sunk by KORMORAN but was instead sunk by a Japanese submarine. To uphold that thesis it was necessary to disbelieve the accounts given by the German survivors, who made it clear, both in their interrogations and in subsequent publications, that SYDNEY sank as a result of the battle with KORMORAN. Mr Montgomery claimed there had been a cover-up by the Australian Navy. He posed the question:

Why did Australian Naval Intelligence and, by extension, the Naval Board, see fit to accept the officers' account of the action in its entirety, in spite of the many glaring discrepancies and outright falsehoods that it contained?¹

As part of the alleged cover-up, said to be for the purpose of 'on the part of the living ... [transferring] the onus of possible criticism from their own shoulders to those of the dead'², Mr Montgomery alleged both the 'suppression of evidence from official records' and, in the case of the log of the tug UCO, 'deliberate misrepresentation' of evidence.³ He asserted that the tug's log book must 'at some later stage [have]

¹ PUB.002.0001 at 0110

² PUB.002.0001 at 0115

³ PUB.002.0001 at 0114

been re-written to exclude all reference to the Q signal made by KORMORAN.⁴

- 24.8 By the time of publication of the 1983 edition of his book, in addition to the allegations of suppression of evidence from official records and misrepresentation of UCO's log book by rewriting, Mr Montgomery had added 'palpable forgery':

J.H. Hazlewood [sic] served as a Petty Officer Stoker in the *Sydney* until September 1941, when he received a shore posting to Albany (on the southern coast of Western Australia). Some time during the following year he fell into conversation with two officers from the lighthouse-service ship *Cape Otway*, who told him that while taking part in the search for the *Sydney* they had found several bodies at sea, but that when they had signalled the information to naval headquarters they had been instructed to leave them where they were. Not having previously come across any mention of the *Cape Otway* in the official accounts of the search before Mr Hazlewood contacted me, I was unsure what significance, if any, should be attached to this information – until I was able to inspect her Master's Logbook in the offices of the Department of Transport in Perth (the Deck Logbook, I was told, had been destroyed in 1952). Examining first the record of arrivals and departures, I found that she had put into Carnarvon on 1 December 1941 and into Geraldton on the 3rd – in other words, that she had indeed sailed through the heart of the search area. Reading on further, I discovered that a page had been patently cut out and another inserted in its place, while the Master's Official Log had equally obviously been rewritten to end on 18 November (the day before the action) – and this despite the fact that the next Log does not begin until 30 March 1942, and that the Crew List contains several entries made in the interval and thus demonstrates that the ship was continually in service throughout this period.

The extent of this misrepresentation suggests something more than desire on the part of those responsible to bury from view a disagreeable event on the laudable principle of *de mortuis nil nisi bonum*; it suggests, on the contrary, a less-than-laudable concern on the part of the living to transfer the onus of possible criticism from their own shoulders to those of the dead. Nor is it difficult to envisage the form that such criticism might take.⁵

Mr Montgomery was thus asserting, apparently on the basis of contact with Mr JH Hazlewood between 1981 and 1983, that crew members of CAPE OTWAY had seen 'several bodies at sea' floating in the water, that CAPE OTWAY's log book had pages removed from it and replaced with others, implicitly to remove evidence contained in the removed pages that would confirm the sighting of bodies in the water.

⁴ PUB.058.0001 at 0003 to 0004

⁵ PUB.002.0001 at 0114 to 0115

24.9 At the 1991 HMAS SYDNEY conference, Mr Gordon Laffer and CMDR RJ Hardstaff RAN Rtd presented a paper to which were attached notes on various topics. In connection with CAPE OTWAY they wrote:

Montgomery relates that an ex Petty Officer from SYDNEY then serving in Albany, in 1942, met two officers from CAPE OTWAY who related how during the search they had found several bodies at sea and had sent the information to Navy HQ, but were instructed to leave the bodies where they were. Montgomery further describes how he inspected the Master's logbook and found that the relevant page had been cut out, replaced, and rewritten to end on 18/11/41. See photocopy and note smudging of the last entry.

Mr W.E. Hardman was first mate on the CAPE OTWAY in 1941 and was discharged at Fremantle on 2/3/42. He signed the log on 18/11/41. Later he attained the rank of Captain, and we discovered his address in July 1886 [sic]. Ean McDonald visited him and found that the old gentleman was 80 years old and confined to bed, and he had no memory of 1941. Not long afterwards Ean met Mrs Hardman at a social function and she remarked that her husband had died and had been hallucinating about bodies in the water before he died.⁶

It is to be noted that Mr Hardman 'had no memory of 1941'. He thus gave no support to the story said to have been told to Mr Heazlewood. As a matter of fact, he did not speak at all during the so-called interview, the discussion being between Mr McDonald and Mrs Hardman.⁷

24.10 Mr Laffer and CMDR Hardstaff also wrote, 'W.A. Hopkins joined the CAPE OTWAY on 2/7/34 and resigned in Brisbane on 4/11/43. He stated that they were ordered to remain within 5 miles of the coast, and had no memory of finding bodies'.⁸

24.11 The information relating to Mr Hopkins' service in CAPE OTWAY appears to have been taken from the vessel's log for the period 1942 to 1945.⁹ Hopkins' name does not appear in the 'List of crew and report of character' in CAPE OTWAY's 1934 log but, importantly, his name is listed in the log that covers November and December 1941.

24.12 In respect of CAPE OTWAY's official log book, it is apparent that Mr Laffer was content to ignore obvious facts if they did not support his preferred view. It is clear from a reading of page 27 of *HMAS Sydney II: another view* that he must have inspected at least two of CAPE OTWAY's official log books. Thus, having inspected CAPE OTWAY's

⁶ BATT.004.0105 at 0131

⁷ COI.002.0085_R at 0086_R

⁸ WAM.002.0132 at 0158

⁹ NAA.028.0140 at 0143

log book for the period 1942 to 1945, he should have been aware that this log book contained insertions similar to those in the 1936 to 1941 official log book. But he persisted with his allegation that pages had been removed from CAPE OTWAY's 1936 to 1941 log and had been rewritten.

The Heazlewood story

- 24.13 In 1993 Mr Jack Heazlewood was interviewed for a television production called *No Survivors*. The program gave a dramatised account of Mr Heazlewood's conversation with the supposed captain of CAPE OTWAY. In it the actor captain says:

We came across all these bodies. Australian sailors.

We contacted the Australian Navy and said we've found all these bodies and debris floating in the water what will we do?

They asked: 'Are there any survivors?'

There were no survivors.

Navy came back: 'Leave the area immediately. Resume your normal duties'.

Mr Heazlewood wrote of this depiction of his meeting with the captain, 'It was told in an abstract sort of way that was not as clearly depicted as I would have liked however I was grateful for the chance to tell the story'.¹⁰

- 24.14 In 1994 Mr Heazlewood (who died in 1997) wrote to Dr M McCarthy at the Western Australian Maritime Museum, setting out his account of the meeting on which Mr Montgomery had based his allegation. At some time between 1943 and 1945 Mr Heazlewood had been in Albany on board HMAS LANAKAI. He wrote:

During my stay in Albany the Cape Ottway [sic] came into port. On this particular visit I met the captain of the Cape Ottway and two of his Officers in the Freemasons Arms Hotel. They invited me to join them which I did.

During the conversation the Captain Aubrey Baddham or Baddham Aubrey. I believe that was his name (I had forgotten but have since been told this was his name) asked what ships I had served on and I told them that my main ship was the Sydney. Whereupon the Captain said to his two Officers "Will I tell him" they agreed "why not" or something similar.

¹⁰ PINQ.SUBS.008.0015 at 0025

The Captain of the "Cape Ottway" then went on, "We found the bodies and debris off the Sydney". I of course was astounded by this. "What happened then?" I asked. He said "We radioed the Navy and told them what we found. After some time the Navy [radioed] back "Any survivors" and we answered "No apparent survivors".

Later came the signal from the Navy "Leave the area immediately, resume your normal duties".¹¹

24.15 A submission by GD Hayward to the Parliamentary Inquiry stated:

The Captain of the Cape Ottoway [sic] has stated that they sailed through bodies (number unknown) and that the bodies were of European extraction (how would they have known after days in the water?) and some wreckage. It is a pity that this ship's log has vanished or, being generous, misplaced for this period.

Local people remember seeing bodies, wreckage and possibly a lifeboat washed up, but were told to shut up, possibly with threats. Why?¹²

If the man in the Albany Hotel was in fact the captain of CAPE OTWAY, he did not say either that 'they sailed through bodies' or that the bodies were 'of European extraction'. The only two accounts available, and said to have come from the captain, are Mr Heazlewood's account, as just quoted, and the dramatised account from the television program.

No material was provided to support the statement about what 'locals remember seeing'. Nor was it explained by whom or to whom instructions to 'shut up' were said to have been given.

24.16 Before the Parliamentary Inquiry in 1997 and 1998 the matter was discussed in submissions. Ms Glenys McDonald submitted:

...

The Cape Otway's log would have been particularly interesting given the anecdotal, but unprovable oral histories which surround it. The Cape Otway was instructed to search within 5 miles of the coast and appeared to do so.

Jack Heazlewood sincerely believed that he had been told by two crew members of the Cape Otway that they had sailed amongst bodies against the Zuytdorp Cliffs and were told to leave the area. The wife of the first mate of the Cape Otway, Mrs W.E Hardman, reported that

¹¹ PINQ.SUBS.008.0015 at 0024 to 0025

¹² PINQ.SUBS.011.0030

prior to his death, in his eighties, he had been hallucinating about bodies in the water before he died.¹³

Mr Heazlewood did not say that CAPE OTWAY had 'sailed amongst bodies against the Zuytdorp Cliffs'. He said he had been told CAPE OTWAY had 'found the bodies off the Sydney'. It is of note that Ms McDonald omitted to say Mr Ean McDonald had recorded that Mr Hardman had no memory of 1941.¹⁴

24.17 In a subsequent submission to the Parliamentary Inquiry, Ms McDonald wrote:

...

My previous submission and others have referred to the anecdotal evidence that the *Cape Otway* sailed amongst bodies (I understood this area to be near the Zuytdorp Cliffs).

Recently a person, who wished to remain anonymous, contacted the Sunday Herald Sun with information that when attached to 1st Signals Corps' Special wireless monitoring group located at Park Orchards, an outer Melbourne suburb, signallers heard *Cape Otway* reporting the discovery of many bodies, but the search ship was ordered to leave the area immediately. Copy of one of the articles printed on 1 February 1998 by journalist Derek Ballantine is attached. I have written a 'Letter to the Editor' asking for this person to come forward and make a submission to your Inquiry.¹⁵

No one came forward with any such submission.

24.18 In 2005 Ms McDonald returned to the matter in her book *Seeking the Sydney: a quest for truth*:

I believe there was a cover-up of some grave errors of judgment. I also believe the debris field from the sinking of Sydney was located and never made public.

In addition, I believe two issues were not dealt with adequately by the Federal Parliamentary Inquiry:

- The possibility that *Sydney* sent signals, both as she engaged and following the battle, and
- That the ss *Cape Otway* discovered bodies in the water and was told to leave the area.

¹³ PINQ.SUBS.001.0079 at 0085

¹⁴ WAM.002.0132 at 0158

¹⁵ PINQ.SUBS.010.0043 at 0044

All we have for these scenarios are oral testimonies, which are difficult to prove.¹⁶

24.19 Ms McDonald supported her theory with her finding that the log book of CAPE OTWAY had been ‘tampered with’ and concluded, ‘Why was its log interfered with? Unless, of course, the tender reported locating bodies’. She wrote:

When I examined the archived log of the *Cape Otway* in Perth, I noticed it had been tampered with; a page appeared to have been removed. Careful attempts had been made to reconstruct the log as per the original, but scrutiny of the serial numbers at the foot of the pages clearly point to an error having been made.

In his book Frame attempted to explain away the tampering with logs:

In several instances it would appear that pages were removed from the logs of ships involved in the recovery of the *Kormoran* survivors by naval staff shortly after the loss of *Sydney* became known. Those pages of these logs were then re-written with exactly the same information to ensure that the ship’s records remained complete. There is nothing to prove that the contents of the re-written pages varied from the original pages removed by naval staff.

I believe it takes a quantum leap of faith to believe Frame’s suggestion that this process was necessary in the days before photocopiers. Besides, the *Cape Otway* was not involved in rescuing Germans, and did not take part in any officially recorded collection of debris, so why was its log interfered with? Unless, of course, the tender reported locating bodies.¹⁷

The oral histories Ms McDonald relied on were those of the following individuals:

- Mr Jack Heazlewood
- WE Hardman, as recounted by Mr Gordon Laffer and CMDR Hardstaff
- Mr D Ballantine, a journalist who recounted a story by an anonymous informant
- Mrs May Bounds, who said she had seen on the BBC a documentary about the loss of SYDNEY
- Mr Jim Blythe

¹⁶ PUB.035.0001 at 0185

¹⁷ PUB.035.0001 at 0187

- Mr Barry Kempton
- an unknown US seaman who made comments to the 'Ash family'
- Mrs Noreen Lings (nee Coote)
- fishermen whose stories were relayed by a UK source
- a MacRobertson Miller Airlines pilot.

After assessing that material Ms McDonald wrote the following extraordinary passage:

The last thing the Navy would have wanted made public in 1941 was that badly decomposed bodies of sailors from *Sydney* had been located floating in the ocean. The weather in November is warm. There were no refrigerated trucks in the area in 1941. The only way to 'clean up' bodies would have been to bury them temporarily on the coast, or machine-gun them in the water to sink them, as occurred with the bodies from the *Indianapolis*.

It is therefore no surprise that the *Cape Otway* was ordered to leave the area, its crew sworn to secrecy, and a page removed from its log. Could this be the source of the rumour about the crew from *Sydney* being machine-gunned in the water?¹⁸

Having determined that CAPE OTWAY had been 'ordered to leave the area, its crew sworn to secrecy, and a page removed from its log', Ms McDonald then addressed the 'oral history' provided by a Mr Ted King, who had interviewed the daughters of Mr Kempton Davidson, the lighthouse keeper at Cape Leveque. Mr Davidson had been in CAPE OTWAY during the voyage in which it was said the bodies had been sighted and CAPE OTWAY 'ordered to leave the area'. The daughters had told Mr King they had not seen any bodies. Ms McDonald was able to dismiss this 'oral history', which did not fit with her already stated conclusion, on the following basis:

It was obvious from the comments of crew members in the other anecdotal stories that they only gave out information to ex-crew members, family or other lighthouse keepers. They also appeared to keep the information secret until later in the war. It is possible Davidson was told, but not surprising that two girls aged 15 and 8 were not informed.¹⁹

It was necessary for the Inquiry to investigate each of these so-called oral histories. The Heazlewood story and the Hardman story have already been addressed.

¹⁸ PUB.035.0001 at 0190

¹⁹ EXH.167.0001 at 0012; PUB.035.0001 at 0190

The Ballantine story

24.20 On 1 February 1998 Mr Derek Ballantine, a journalist with the *Sunday Herald Sun*, published an article based on an anonymous letter apparently received by that newspaper.²⁰ The letter was said to be from a former military signaller ‘attached to the heavy wireless branch of 1st Signal Corps, which operated from the Albert Park Cricket Ground and a Park Orchards property called “The Chalet”’. The supposed signaller ‘identified himself only as a member of a secret monitoring group which listened into transmissions between Japan and enemy ships’.

According to the article, presumably recounting what was in the anonymous letter, the signaller and other personnel at The Chalet heard ‘the call from CAPE OTWAY to Navy Headquarters telling of “many bodies found at sea”’. The article stated that ‘CAPE OTWAY, the lighthouse tender, was told to leave the search area immediately after reporting the bodies’.

Notwithstanding a request to do so, the alleged anonymous author did not come forward. The article does no more than restate Mr Heazlewood’s allegations, which were then in the public domain. There is no record of any signals such as those referred to. The story is probably a complete fabrication designed to stir up interest in the matter a week before the Parliamentary Inquiry was to set its hearing dates. An anonymous letter is no basis for any finding of fact.

The Bounds story

24.21 Mr F Sheldon-Collins wrote a submission (number 50) dated 28 November 1997 to the Parliamentary Inquiry.²¹ Attached to his submission was a letter written by Mrs May E Bounds of Lismore, New South Wales. The letter had been written to the RSL publication *Reveille*, and it stated that Mrs Bounds and her husband, then aged 73 and 79 years respectively, had seen a documentary while they were living in the United Kingdom in 1994. The documentary, said to have been produced by the BBC and shown on its channels, was entitled *The Sinking of HMAS Sydney*. Mrs Bounds’ letter said:

Also on this documentary were the two elderly skippers of trawlers fishing in that area at that time. They spoke of their horror on awakening one morning to find themselves fishing in a sea of floating bodies.

They radioed to Darwin and were told to leave the area with all possible speed and to forget what they had seen. They were to speak

²⁰ PINQ.SUBS.010.0043 at 0048

²¹ PINQ.SUBS.003.0076

to no one about it as this was classified information and to do so would be deemed treason and punishable as such. Neither men had ever spoken of the horror they had witnessed until this documentary was being made. I suppose one could say they were frightened to death!²²

- 24.22 The Inquiry contacted the BBC and asked for a copy of the video referred to by Mrs Bounds. In emails dated 10 and 11 September 2008 the BBC responded that a search of its archives did not locate a documentary of that name or any other film or documentary relating to SYDNEY.²³ It may be that Mrs Bounds was mistaken in her recollection that the documentary she referred to was produced by the BBC. The circumstances she relates, however, are similar to those described by Mr Heazlewood in his statement about the conversation he had with the men in the bar who said they were from CAPE OTWAY.

The Blythe story

- 24.23 Ms McDonald referred to 'oral recollections' from a number of sources. The first is contained in a letter dated 6 July 2001 from Mr Jim Blythe, who wrote:

... Dad's next posting was to Cape Leveque lighthouse (1950-53) and we travelled there on the lighthouse tender ship *Cape Otway*. It was during that voyage that we were told the horrific stories by several crew members of the *Cape Otway's* crew spotting bodies floating in the sea on its south bound journey, in the vicinity of N.W. Cape. The conversation came from older members of the crew who had sailed with the ship for a few years. I remember one of the crew was the ship's cook named Syd. Another was Tom Arcus, the ship's chippie. Not much went on on board without either of these men knowing about it. It was logical for Mum and Dad to assume that the event had been reported at the time. How many bodies were sighted is not known by myself, but 'bodies' would indicate that more than one, and there was no mention of what the bodies were clad in ...²⁴

- 24.24 The Cape Leveque lighthouse records show that lighthouse keeper AO Blythe arrived on 30 April 1949.²⁵ CAPE OTWAY's records support this, showing that on 29 April 1949 she was en route between Broome and Cape Leveque.²⁶ This lends support to the suggestion that Mr Blythe's father was the lighthouse keeper and travelled there on CAPE OTWAY.

²² PINQ.SUBS.003.0079

²³ EML.001.0178_R at 0179_R; EML.001.0181_R

²⁴ PUB.035.0001 at 0188 to 0189

²⁵ COI.003.0045_R at 0049_R

²⁶ NAA.028.0219 at 0241

24.25 CAPE OTWAY's log book for 28 November 1936 to 18 November 1941 does not show any person named Tom (or Thomas) Arcus as a member of the crew.²⁷ In fact, he joined the crew of CAPE OTWAY on 2 November 1942, almost a year after the alleged sighting of the bodies.²⁸ He could not have seen any bodies in November–December 1941. If he recounted doing so in 1949, he was fabricating the story.

There are entries showing a person named 'Sydney' Watson referred to variously as a 'temp steward' and a 'cook'. He was engaged as a temporary steward on 4 April 1940²⁹ and was discharged at Fremantle on a date unknown. He was re-engaged as a cook on 27 January 1942.³⁰ Whether he was on board during the voyage from Darwin to Fremantle between 17 November and 5 December 1941 is not known.

24.26 It is of note that, according to Mr Blythe's letter, CAPE OTWAY's crew placed the location of the bodies said to be floating in the water 'in the vicinity of N.W. Cape'. Ms McDonald seeks to support the seeing of the bodies, and their location, by an unattributed statement in the following terms:

Supporting this suggestion were the comments by the American seaman who confided to the Ash family, 'No-one was alive from *Sydney* and they had to get rid of all the evidence'. The alleged search for debris occurred in the area off Exmouth. If this seaman's ship was the *Ohio*, he would have been in the Exmouth area on 2 December. According to the plotting chart, the *Ohio* was well out to sea, but could have been diverted to assist in the 'clean up' following the *Cape Otway* report on 29 November.³¹

24.27 In assessing Mr Blythe's information, regard should be had to the fact that the information he recounts as coming from crew members is his recollection in 2001, when he was 66 years old, of what he recalls he, and apparently his family, were told by members of the CAPE OTWAY crew when they travelled to Cape Leveque lighthouse in 1950, when he was aged 15 years.³² As has been demonstrated, one supposed source of the sighting was not on the vessel at the relevant time.

The material said to support what Mr Blythe wrote was told to him in 1950 about what CAPE OTWAY's crew had seen in 1941 is a supposed statement by an unnamed American sailor serving in an unnamed ship and said to have been made to the 'Ash family'. The assumption is then made that the sailor's ship was OHIO, which was—regrettably for

²⁷ NAA.028.0056 at 0060 to 0062

²⁸ NAA.028.0140 at 0144

²⁹ NAA.028.0056 at 0104

³⁰ NAA.028.0140 at 0145

³¹ PUB.035.0001 at 0189

³² See letter dated 6 July 2001, J Blythe to M McCarthy, WAM.003.0043_R.

Ms McDonald's thesis—in the wrong location.³³ It is then suggested, without any basis at all, that OHIO might have been diverted to a position in the vicinity of North West Cape, and thus it is said there is support for what Mr Blythe says he was told by sailors about the existence of floating bodies and their location. No sensible tribunal of fact could accept such a process of reasoning.

Ms Glenys McDonald

The Kempton story

24.28 Ms McDonald also referred to a note in her file of a conversation with a Mr Barry Kempton of Geraldton. She said Mr Kempton's uncle was the cook in CAPE OTWAY, and Mr Kempton remembered talking to him about 'the bodies episode'. According to the list of crew, there was no crew member named Kempton serving in CAPE OTWAY on her passage south in November–December 1941. The crew list shows there was a temporary cook (G Frances) who was promoted to chief cook on 20 February 1942. Another temporary cook (C Brown) was discharged in Brisbane on 1 October 1941, and a new assistant cook (R Vingoe) was taken on board on 8 October 1941.

On 10 August 2008, in a telephone conversation with counsel assisting the Inquiry, Mr Barry Kempton said his uncle's name was Eric Welsh.³⁴ There is no entry recording an Eric Welsh being embarked in CAPE OTWAY between 1936 and 1941.³⁵ The first entry for Eric Welsh in a CAPE OTWAY log appears in the 1949 to 1957 log: it records Mr Welsh as having joined the vessel on 26 June 1950.³⁶ He was thus not on board during the voyage south in November–December 1941 and could not have seen any supposed bodies.

Mr Barry Kempton denied telling Ms McDonald that his uncle had ever told him about 'bodies' being seen in the water off the Western Australian coast.³⁷

The Kempton story does not support any bodies being sighted by CAPE OTWAY.

The Lings story

24.29 Ms McDonald relies on information she says she received from Mrs Noreen Lings (nee Coote). Ms McDonald said that either during or after

³³ OHIO departed from Singapore on 26 November 1941, arriving at Fremantle on 5 December 1941 (MSC.022.0214 to 0215).

³⁴ CORR.016.0368_R at 0369_R

³⁵ NAA.028.0056 at 0060 to 0062

³⁶ NAA.028.0219 at 0223

³⁷ CORR.016.0368_R at 0369_R

1941 Mrs Lings worked at a shipping agency in Port Hedland and apparently spoke of an unnamed pilot who worked for MacRobertson Miller Airlines and flew 'a coastal route' in 1941. According to the information Ms McDonald said she received from Mrs Lings—who received it from the unnamed pilot at an unspecified time in 1941 or later—the pilot 'reported seeing bodies in Shark Bay' and 'the army were given the job of putting holes in the bodies'. Quite how the Army could achieve that objective of holing bodies said to be floating in the sea is not explained.

The story by the daughters of Mr Kempton Davidson

24.30 The remaining matter dealt with by Ms McDonald concerns statements by two daughters of Mr Kempton Davidson, who, as noted, became lighthouse keeper at Cape Leveque. Mr Davidson, his wife, Alma, and four children, including Shirley and Sue, then aged 15 and 8, were passengers on board CAPE OTWAY, the service boat travelling from the lighthouse to Geraldton. According to statements made by them to a Mr D King, two days before reaching Carnarvon—that is, on 29 November 1941, Carnarvon being reached on 1 December 1941—CAPE OTWAY received a Morse message their father was asked to help translate. The message is said to have directed CAPE OTWAY to go to a particular location to search for a lifeboat with about 40 people on board. CAPE OTWAY did so but did not find the lifeboat and so proceeded to Carnarvon. According to Mr King's notes, Ms Shirley Davidson said, '... furthermore there were no bodies sighted at all, and if there had been they would certainly have known about it'.³⁸

As for Ms Sue Davidson, Mr King's notes say the following:

There was no sighting of bodies and there was never any mention of this, then or years later. The First Officer from the Cape Otway kept in touch from time to time over the years and not at any time when the conversation turned to this episode was there any mention of floating bodies.³⁹

24.31 These statements, of people on board CAPE OTWAY, did not fit with Ms McDonald's thesis, so she discounted them, saying, 'The two girls, Shirley and Sue, did not hear anything about bodies, but, unlike King, I do not think this necessarily means the ship did not locate bodies'.⁴⁰ Ms McDonald speculated, without foundation, that Mr Davidson might have been told but his daughters were not. She also speculated that crew members might not have given out to others the information about the bodies. She overlooked the fact that the two girls were on

³⁸ WAM.003.0040

³⁹ WAM.003.0040 at 0041

⁴⁰ PUB.035.0001 at 0190

board the vessel with their parents and siblings and could see what was there to be seen. She then suggested that 'the authorities' might have been told about the bodies by the MacRobertson Miller Airlines pilot and therefore diverted CAPE OTWAY from its standard coastal route by giving it a false location to search for survivors in a lifeboat so that CAPE OTWAY, with civilians on board, would be kept away from the area where floating bodies might have been seen by the MacRobertson Miller pilot. There is no basis for any such contorted speculation. In any case, if the scenario was accurate, it would negate Ms McDonald's thesis that the captain and others in CAPE OTWAY saw bodies.

- 24.32 There was other material that did not fit Ms McDonald's stories. Having referred to a conversation with a Mr Gosling, who erroneously recalled that he had been on board CAPE OTWAY during the November voyage from Darwin to Fremantle (when it is said the bodies were seen) when in fact he had left the ship in March 1941, Ms McDonald noted, 'However, two other men, interviewed by other researchers, did not remember bodies'.⁴¹

Ms McDonald did not note down the names of the two crew members who did not remember any bodies or the researchers who had interviewed them. When asked to clarify this, she said she thought Mr Gosling had given her the name of one of the crew members and that Mr Wesley Olson might have interviewed the other. Mr Olson advised the Inquiry that he did not interview either person. Ms McDonald had not interviewed either.⁴²

She apparently accepted, however, that the two men who were on board during the relevant voyage had not seen bodies, at the same time as accepting that the account of seeing bodies said to have been given to Mr Heazlewood by the captain and officers of CAPE OTWAY was true. Accordingly, she posed the questions:

Was it possible that the master and first mate of the *Cape Otway* and just a few crew members were privy to this information? Could the incident have occurred in the early hours, or after dusk when others were not on deck? Information circulated on a strictly 'need to know' basis?⁴³

- 24.33 In this way she sought to avoid the direct evidence apparently available from two crew members that no bodies were seen. Nor did she respond to the statement in Mr Olson's book *Bitter Victory: the death of HMAS Sydney*, published in 2000, that 'It is also relevant that Mr John Dunn, a

⁴¹ PUB.035.0001 at 0188

⁴² CORR.016.0368_R at 0369_R

⁴³ PUB.035.0001 at 0188

former crew member of the *Cape Otway*, and on board at the time of the discovery, has said that no bodies were sighted'.⁴⁴

According to the ship's log, the correct name of the crew member is John B Dunne, who was a deck boy.⁴⁵ The Inquiry was not able to locate Mr Dunne, and it is thought he is now dead. Mr Olson confirmed to the Inquiry that he had spoken to Mr Dunne in August 1996, when Mr Dunne told him he did not see any bodies.⁴⁶

Mr John Samuels

24.34 In 2007 Mr John Samuels published a book entitled *Somewhere Below: the Sydney scandal exposed*. Although he presents in it a bibliography and a list of sources, he does not attribute sources to any statements made in his book.

Mr Samuels also has CAPE OTWAY finding bodies floating in the water, but on a different date and in a different location. According to him, the 'Deck Officer's Logbook' from CAPE OTWAY was destroyed in 1952. He also asserts that the 'Master's Logbook' has been 'doctored'. He wrote:

TWENTY THREE DAYS HAD GONE BY since *Sydney* vanished. The lighthouse tender *Cape Otway* was on station at its usual position off the Zuytdorp Cliffs, South of Dirk Hartog Island, these mighty cliffs rise out of the Indian Ocean and join the desert above, now, because of its uniqueness, a world heritage national park. On December 12th 1941 the watch aboard *Cape Otway* sighted the bodies floating at the foot of the cliffs.

And later:

The need to doctor the log stemmed from what the ship's officers recorded, after the search was over, on December 12, 1941.

Cape Otway reported by radio to the Navy that she was on station and that bodies were floating at the steps of the Zuytdorp Cliffs. The Navy ordered the master of the ship to leave the area immediately.

Cape Otway's presence and the bodies in the sea sighted by her officers are well established facts that have been addressed time and time again by many researchers. Every one of them has failed to ask the obvious—what happened next? Sound evidence again exists that Jack Hazlewood, who was a Petty Officer Stoker aboard *Sydney* until his reassignment three months before *Sydney's* loss, spoke with the

⁴⁴ PUB.003.0001 at 0332

⁴⁵ Mr Olsen confirmed to the Inquiry on 1 August 2008 that he had spoken to Mr Dunne only by phone and thus assumed the spelling 'Dunn'.

⁴⁶ CORR.001.0085_R

captain of *Cape Otway* and two of his officers at the Freemason's Arms Hotel in Albany, Western Australia. The *Otway's* men reluctantly told Hazlewood the aforementioned story about the bodies and their being ordered off station by the Navy. Hazlewood's account is reported in Michael Montgomery's book, *Who Sank the Sydney* [p. 191]. What reason could Jack Hazlewood have had for fabricating such a lie? What reason could the officers of *Cape Otway* have had for telling it to him?⁴⁷

Regrettably for Mr Samuels' thesis, on 12 December 1941 CAPE OTWAY was berthed in Fremantle.⁴⁸ She was not 'on station at its usual position off the Zuytdorp Cliffs', as Mr Samuels asserts.

Mr John Montagu

24.35 A fourth author, Mr John A Montagu, published in 2006 a book entitled *The Lost Souls and Ghosts of HMAS Sydney II, 1941*. His thesis is that there was no battle at all between SYDNEY and KORMORAN. He asserts that on 20 November 1941 SYDNEY sailed into a minefield and sank. There were many SYDNEY survivors in the water, of whom 30 were rescued by KORMORAN. Because the rescue operation was slow and KORMORAN could not afford to remain in the area, Mr Montagu claims she pumped oil into the water and set it alight, thus killing any survivors in the water. Two days later, on 22 November 1941, he claims a mine in KORMORAN exploded as she was preparing to attack AQUITANIA. Seventy-nine of KORMORAN's crew members were killed. The 30 SYDNEY survivors, locked in cells below deck, all perished when KORMORAN sank.⁴⁹ He asserts:

In the case of the *Sydney's* crew who were in the water and burnt by the oil fire, the north westerly under tow of two knots current would have influenced the direction of the bodies floating with under tow and hit the reef area effected [sic] by the Nov-Dec North inshore current that hugs the coast and passes under the Zuytdorp Cliffs where the life [sic] house ship *Cape Otway* was on station. Bodies 50 decomposed and bloated were floating around the cliffs location. The navy immediately ordered the *Cape Otway* from her station, and organised a shore patrol from Perth to travel overland to the cliffs location.

...

It is interesting to note that the Zuytdorp Cliffs bodies were all in a decomposed state and it was the army who had the task of recovery

⁴⁷ PUB.001.0001 at 0138 to 0139

⁴⁸ NAA.028.0056 at 0068

⁴⁹ CORR.010.0002 at 0012 to 0013 and 0085

from the water and they were buried on the high land above the cliffs ...⁵⁰

- 24.36 No evidence in support of any of these allegations is provided. A document on which Mr Montagu says he relied (which is said to be from the German Navy) and its English translation (said to be by British intelligence) are both forged (see Chapter 21).

Were bodies seen in the water?

- 24.37 CAPE OTWAY left Darwin on 17 November 1941.⁵¹ Between that date and 5 December 1941, when she reached Fremantle⁵², the vessel made a number of short stopovers, details of which are recorded on her Merchant Ship Movement Card.⁵³ It is known that she called in at Cape Leveque, where lighthouse keeper Davidson, his wife and four children (aged between 20 and 8 years) were embarked.⁵⁴ She then stopped at Broome on 23 November, Cossack (near Port Headland) on 27 November and Geraldton on 3 December, before sailing via Jurien Bay to Fremantle.⁵⁵
- 24.38 The master of CAPE OTWAY in November 1941 was Captain A Badman, the previous master, Captain JH Thompson, having resigned on 31 March 1941.⁵⁶ The temporary first mate was E Pedersen, and the temporary second mate was RE Hardman.⁵⁷
- 24.39 CAPE OTWAY was not, however, in the vicinity of, or 'on station' off, the Zuytdorp cliffs south of Dirk Hartog Island, as Ms McDonald, Mr Samuels and Mr Montagu assert. Nor was she in the vicinity of 'N.W. Cape', as referred to in Mr Blythe's recollections. Mr Heazlewood gave no location in his account of what he was told.

The South Western Area Combined Headquarters log for Saturday 29 November 1941 records, 'Late report from Anson. Saw at Anchor Island at 0230 Z/29 a ship at anchor was C. Otway. FIG-HG-SG-BK-STN no superstructure aft of funnel giving island effect to bridge. Flag

⁵⁰ CORR.010.0002 at 0087

⁵¹ Merchant Ship Movement Card and NAA.028.0056 at 0068

⁵² SS CAPE OTWAY's official log (NAA.028.0056 at 0068) records her arriving at Fremantle on 5 December 1941, whereas her Merchant Shipping Movement Card (MSC.006.0192 and 0193) records her arrival as occurring at 2337H on 4 December 1941.

⁵³ MSC.006.0192 and 0193

⁵⁴ WAM.039.0182

⁵⁵ MSC.006.0192 and 0193

⁵⁶ NAA.028.0056 at 0060 and 0062

⁵⁷ NAA.028.0056 at 0060 and 0062

VJPK. Approx. 2000 tons'.⁵⁸ (0230Z/29 is 1030H local time on 29 November.)

On the day on which it is said CAPE OTWAY found bodies and steamed among them off the Zuytdorp cliffs, she was at anchor at Anchor Island (also known as Bessieres Island), more than 600 kilometres to the north—see Figure 24.1.

- 24.40 On 27 November 1941 the Naval Board sent a message to the district Naval Officer Western Australia by cipher, stating 'my 0021Z/28 to "EVAGORAS". "CAPE OTWAY" should also search if in vicinity'.⁵⁹ The copy message shows a time of origin of 0156Z/28, that being the time of despatch from the Naval Board on the east coast of Australia. (It is equivalent to 0821H on 28 November 1941 local time.)
- 24.41 According to Ms Shirley Davidson and Ms Sue Davidson—as noted, aged 15 and 8 years at that time and on board CAPE OTWAY—the vessel diverted to search for survivors in a lifeboat. They each said in a conversation with a Mr King that no bodies were seen in the water and they heard no discussion of any such bodies. It is improbable that, had the captain and crew of CAPE OTWAY seen bodies or steamed among them, those two children did not know of that fact. It is equally improbable that in the ensuing years their parents or their elder sister, then aged 20, would not have mentioned the incident.
- 24.42 There are two further circumstances that render improbable the account said to be given by the captain of CAPE OTWAY to Mr Heazlewood in a bar some time between 1943 and 1945. Crucial to the veracity of the account, and crucial to the thesis of a cover-up by Naval authorities, is the suggestion that, having told the Navy of the finding of the bodies, CAPE OTWAY was directed to leave the area immediately. Mr Heazlewood does not, however, suggest in either account he gave that the captain or officers were instructed not to speak of the matter or threatened with consequences if they did.

⁵⁸ NAA.016.0001 at 0065

⁵⁹ SPC.006.0087.

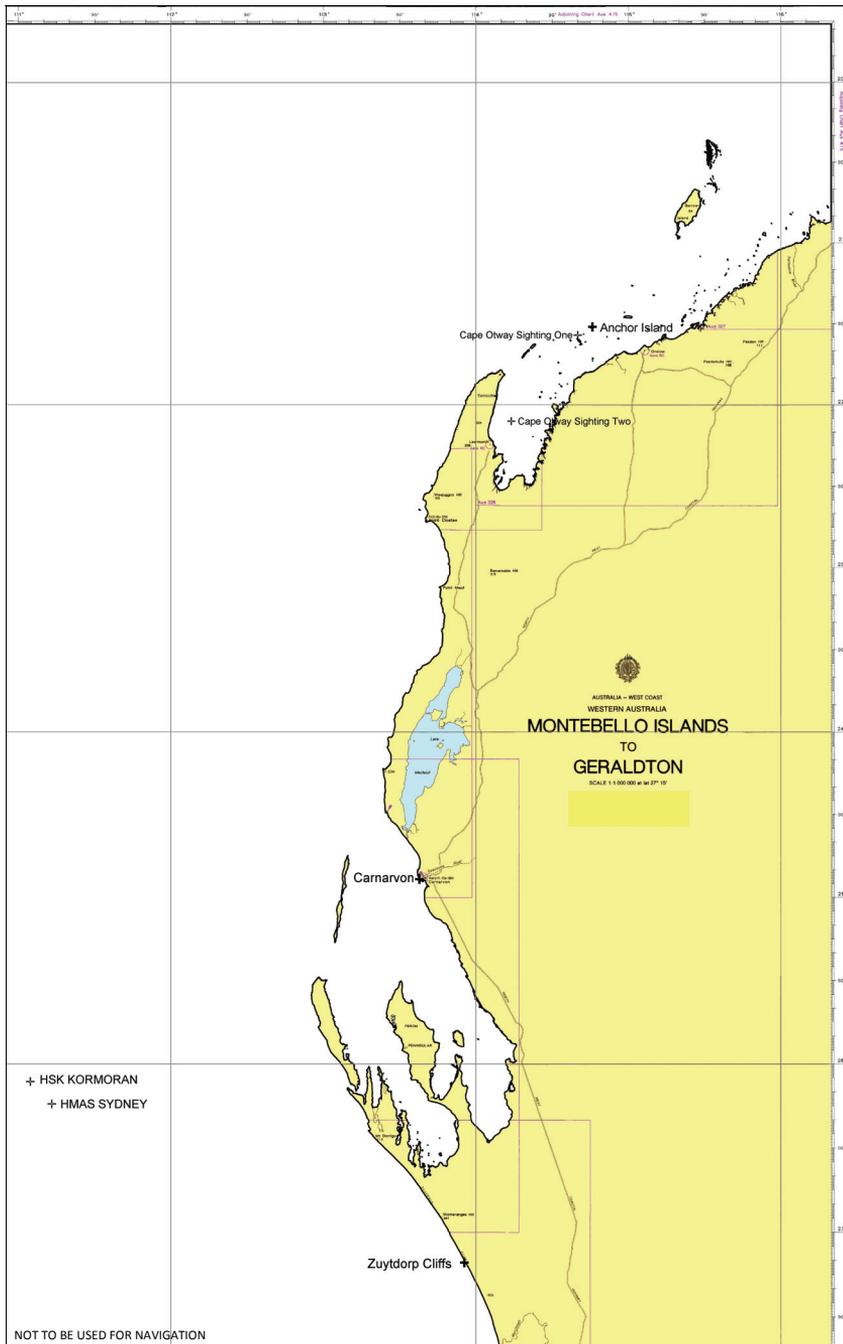


Figure 24.1 CAPE OTWAY'S location at the time of the alleged sightings off the Zuytdorp Cliffs⁶⁰

⁶⁰ RAN.002.0175

The suggestion of threats and a requirement to keep silent about the matter first emerged in Mr Heyward's submission to the Parliamentary Inquiry in 1997, was embellished in the letter from Mrs Bounds (based on her recollection of a television program seen some years before) and was relied on by Mr Sheldon-Collins. None cites any basis for this supposed restriction on speech.

Had CAPE OTWAY in fact located bodies floating in the water or sailed among them, it would be extraordinary that the captain or crew members, of whom there were about 10, would not have spoken of this. The likelihood of keeping such a matter private, even in wartime, would be remote. The story did not emerge until more than 40 years later, when Mr Heazlewood spoke of his recollection of a conversation in the bar of a hotel some 40 years earlier.

24.43 The second aspect of improbability is the alleged direction by the Navy not to do anything about the floating bodies said to have been found but to leave the area. The SWACH log records all signals received and sent by South Western Area Combined Headquarters. Signals directed the search for SYDNEY. The log of these signals is replete with signals directing searches, by both sea and air, with the objective of finding SYDNEY, her boats, any survivors or any debris that might establish her fate. Table 24.1 shows the date, time and expressed objective of searches by air and sea directed by signals noted in the SWACH log.

24.44 To suggest that, having found the bodies of Australian sailors floating in the sea on 29 November 1941 and having advised the Naval authorities of this fact, CAPE OTWAY was directed to do nothing and leave the area immediately is absurd. The very purpose of SWACH operations since 24 November had been to locate SYDNEY, any survivors, or any boats, rafts or wreckage that might explain the ship's fate.

Further, it is to be noted that there is in the SWACH log no record of any signal from or to CAPE OTWAY advising of the discovery of bodies or instructing CAPE OTWAY to leave a particular area. It is also to be noted that anything that was found during the search was recorded in the log – see Table 24.2 for extracts.

Table 24.1 Signals recorded in the SWACH log, 24 to 29 November 1941⁶¹

Date	Local time	Objective
24.11.41	2130	Locate HMAS SYDNEY or ship's boats
25.11.41	0001	HMAS SYDNEY and ship's boats
	1147	Locate rafts or ship's boats
	2008	Locate rafts and ship's boats
26.11.41	0230	Searching force to locate possible SYDNEY survivors
	0435	Searching force to locate possible SYDNEY survivors
	1208	Locate ship, boats or rafts
	1501	Locate ship, boats or rafts
	1926	Locate ship, boats or rafts
	1927	Locate ship, boats or rafts
	1935	Locate ship, boats or rafts
	1938	Locate ship, boats or rafts
27.11.41	0420	To locate SYDNEY if proceeding to dock Singapore or Surabaya
	1154	Locate ship, boats or rafts
	1748	Locate ship, boats or rafts
	1749	Locate ship, boats or rafts
	1813	Locate ship, boats or rafts
	1830	Locate ship, boats or rafts
	1907	Locate ship, boats or rafts
	1913	Locate ship, boats or rafts
28.11.41	0038	Locate SYDNEY or ship's boats
	0210	Locate ship, boats or rafts
	0410	Locate ship, boats or rafts
	1031	Locate wreckage
	1059	Locate ship, boats or rafts
	1200	Rafts or wreckage
29.11.41	1202	Rafts or wreckage
	0306	CAPE OTWAY sighted at anchor at Anchor Island at 0230
	0418	Locate ship, boats or rafts
	0502	Search for SYDNEY to cease on conclusion operations on 29 November unless sighting or new intelligence indicates for further search

Table 24.2 SWACH log extracts⁶²

Date	Local time	Entry
27.11.41	2010	Picked up RAN lifebelt.
28.11.41	0055	WYRALLAH picked up inflated RAN-type life belt.
	0229	WYRALLAH picked up two Carley floats, one German body badly decomposed. Burial at sea supplied. Stripped of all effects.
	0030	Picked up foreign kapok lifebelt—colour black, indicating been on fire, pieces of shrapnel stuck.
	1315	Saw patch of oil.
29.11.41	0320	Sighted ... plank approx. 1 foot by 3 feet on beach 1 mile East Pt Cloates.

⁶¹ NAA.016.0001 at 0047 to 0066⁶² NAA.016.0001 at 0059 to 0066

It is inconceivable that if CAPE OTWAY reported that she had come across floating bodies of Australian sailors—who were the objective of the search—it would not have been recorded in the log. The log did record the finding of one German sailor's body: there is no reason not to similarly record the finding of Australian sailors' bodies.

Instruction was given on 29 November to call off the search for SYDNEY and any survivors or wreckage 'unless sighting or new intelligence indicates for further search'. The finding of Australian sailors' bodies would undoubtedly have been a trigger for further searches: it would have been the only specific finding of objects that might have given a clue to what happened to SYDNEY and would have indicated there could be other people or objects to be found.

24.45 A weighing of the evidence results in the following:

- In favour of a finding that CAPE OTWAY found or sailed among bodies of Australian sailors somewhere near the Zuytdorp Cliffs:
 - what Mr Heazlewood recalled in 1993 and 1994 he had been told about 40 years earlier at a meeting in the bar of a hotel by a person he did not know and whose name he could not remember but who, he was told, was the captain of CAPE OTWAY.
- Against a finding that CAPE OTWAY found or sailed among bodies of Australian sailors somewhere near the Zuytdorp Cliffs:
 - CAPE OTWAY was not in the area where this was said to have occurred on 29 November 1941. She was more than 600 kilometres to the north.
 - Three people who were on board CAPE OTWAY stated that no bodies were seen.
 - No one in the Davidson family in the years since 1941 ever mentioned any such incident.
 - One member of the Davidson family kept in touch with the first officer of CAPE OTWAY for some years after 1941. He never mentioned the supposed event.
 - For 40 years after the supposed event, no one mentioned it.
 - There is no entry in the SWACH log of any such finding, notwithstanding that the objective of extensive air and sea searches recorded in the log was to find SYDNEY, any survivors, her boats or rafts, debris or any other matter or thing that might explain her fate. If the story was true, that search

was partially successful, yet it was not recorded. Items found were recorded in the log—a German body, life belts, debris—yet the supposed finding of Australian bodies was not.

- There is no record of any signal from CAPE OTWAY advising of the finding of bodies, or of any signal from the Navy or SWACH directing CAPE OTWAY to leave an area.
- The search for SYDNEY and its survivors, boats, rafts or debris was to continue after 29 November 1941 only if new findings pointed to the desirability of continuing the search. Had it been reported that bodies of Australian sailors had been found, there would undoubtedly have been further searches to seek to locate any more bodies, survivors or debris.

24.46 It should be remembered that the only basis for this story about finding bodies in the water is Mr Heazlewood’s recollection of what he was told, about 40 years earlier, in the bar of a hotel by a person he believed to be the captain of CAPE OTWAY. That is no basis for a finding that what he recalled he was told was, in fact, true.

24.47 There is no evidence that Captain Badman—if that was the person in the Freemason’s Arms Hotel in Albany—ever recounted that story to anybody else. Nor is there any evidence from any officers or crew of CAPE OTWAY of seeing bodies. There is material available from people who were on board CAPE OTWAY on this voyage. Their evidence is all to one effect: no bodies were seen.

24.48 The only rational finding available is that CAPE OTWAY did not come upon bodies floating in the sea, either on 29 November 1941 or at any other time.

24.49 Two other aspects of this cover-up allegation require consideration. The first is the assertion that the CAPE OTWAY log book was ‘doctored’ by removing some pages and replacing them with others. The second is the assertion that the bodies found floating in the sea by CAPE OTWAY were recovered and buried by a detachment of soldiers from the Australian Army. This second aspect is dealt with in Chapter 25.

Was a log book tampered with?

24.50 The condition of CAPE OTWAY’s official log book for the period November 1936 to November 1941⁶³ is used by proponents of the

⁶³ Examined by Commissioner TRH Cole QC RFD at 2.30 pm on Monday 11 August 2008. The official log books for CAPE OTWAY for the periods 1932 to 1934 and 1942 to 1945 were also examined at this time.

‘floating bodies’ allegation both to reinforce that allegation and as a prop for the cover-up theory. The argument is as follows:

- The official log book has been tampered with by the removal of some pages and their replacement with others.
- That must have been done to hide something.
- What it was sought to hide were the entries made in the log book relating to the finding of the floating Australian bodies by sailors on CAPE OTWAY and the direction from the Navy for that vessel to leave the area immediately.
- Therefore, not only must there have been a cover-up, but the fact of the need for a cover-up is further evidence that CAPE OTWAY did find floating bodies.

24.51 Mr Heazlewood did not mention a log book that had been tampered with. It was first mentioned by Mr Montgomery in the 1983 edition of *Who Sank the Sydney?* He wrote:

Not having previously come across any mention of the *Cape Otway* in the official accounts of the search before Mr Hazlewood contacted me, I was unsure what significance, if any, should be attached to this information – until I was able to inspect her Master’s Logbook in the offices of the Department of Transport in Perth (the Deck Logbook, I was told, had been destroyed in 1952). Examining first the record of arrivals and departures, I found that she had put into Carnarvon on 1 December 1941 and into Geraldton on the 3rd – in other words, that she had indeed sailed through the heart of the search area. Reading on further, I discovered that a page had been patently cut out and another inserted in its place, while the Master’s Official Log had equally obviously been rewritten to end on 18 November (the day before the action) – and this despite the fact that the next Log does not begin until 30 March 1942, and that the Crew List contains several entries made in the interval and thus demonstrates that the ship was continually in service through this period.⁶⁴

24.52 Professor Tom Frame discussed the question of logs in his 1993 book *HMAS Sydney: loss and controversy*. After discussing the log book of the tug UCO, he wrote:

In several instances it would appear that pages were removed from the logs of ships involved in the recovery of the *Kormoran* survivors by naval staff shortly after the loss of *Sydney* became known. Those pages of these logs were then re-written with exactly the same information to ensure that the ship’s records remained complete. There is nothing to

⁶⁴ PUB.002.0001 at 0114 to 0115

prove that the contents of the re-written pages varied from the original pages removed by naval staff.⁶⁵

24.53 The same 'irregularities' thus appear in the log book of the tug UCO, but this not did invite speculation about tampering.⁶⁶ It is clear that pages have been inserted into the book to account for the amendments to the legislative requirements relating to the conduct of safety drills, and other matters.

24.54 Ms McDonald discussed the subject in 2005 in *Seeking the Sydney: a quest for truth*. She wrote:

When I examined the archived log of the *Cape Otway* in Perth, I noticed it had been tampered with; a page appeared to have been removed. Careful attempts had been made to reconstruct the log as per the original, but scrutiny of the serial numbers at the foot of the pages clearly point to an error having been made.

In his book Frame attempted to explain away the tampering with logs:

In several instances it would appear that pages were removed from the logs of ships involved in the recovery of the *Kormoran* survivors by naval staff shortly after the loss of *Sydney* became known. Those pages of these logs were then re-written with exactly the same information to ensure that the ship's records remained complete. There is nothing to prove that the contents of the re-written pages varied from the original pages removed by naval staff.

I believe it takes a quantum leap of faith to believe Frame's suggestion that this process was necessary in the days before photocopiers. Besides, the *Cape Otway* was not involved in rescuing Germans, and did not take part in any officially recorded collection of debris, so why was its log interfered with? Unless, of course, the tender reported locating bodies.⁶⁷

24.55 In 2007 Mr Samuels, in *Somewhere Below: the Sydney scandal exposed*, wrote:

The Deck Officer's Logbook from the *Otway* is never going to reveal a thing. It was destroyed in 1952. The remaining log is the Master's Logbook and it doesn't require a team of Scientific Branch specialists to tell you that it's been doctored. It is held today by the Perth office of the National Archives of Australia. The relevant entries in this logbook conveniently end on November 18th and do no [sic] resume until March 30th 1942. However, a check of the crewing register makes it clear that *Cape Otway* was never at any time off station.

⁶⁵ PUB.038.0001 at 0194

⁶⁶ NAA.028.0118

⁶⁷ PUB.035.0001 at 0187

The need to doctor the log stemmed from what the ship's officers recorded, after the search was over, on December 12th 1941.⁶⁸

24.56 In submissions to this Inquiry Mr PG Shepherd also alleged that the CAPE OTWAY log has been interfered with. The interference he suggests is as follows:

- All pages have a serial number or printer's mark 'C.377/2.22-C1527' except the pages between 16 and 17, which are of a different colour and have a different serial number.
- The pages between 16 and 17 bear the handwritten notations, made by Mr Shepherd, 'A', 'B', 'C', 'D', 'E', 'F', 'G' and 'H'. He asserts:
 - Pages marked B and D, headed 'Record of Boat musters, boat collisions, fire and rocket drills', have a serial number 'C.2196'.
 - Pages A, C, F and H are blank and have no serial number.
 - Page E is a continuation of D, covering the same dates.
 - Page G is a continuation of B, covering the same dates.
- 'Interference with the log is indicated by the fact that the last voyage entry at p.11 is dated 3/12/41 and refers to leaving Geraldton at 6p.m. on that date and arriving Fremantle 5/12/41, and the last notation entry at p. 37 is dated 8a.m. 18/11/41.'⁶⁹

In an earlier submission Mr Shepherd had said the log had been interfered with to 'remove reference to certain events which potentially occurred between 2pm on Monday, the 1st of December 1941 and 6pm on Wednesday, the 3rd of December 1941'.⁷⁰

In his later submission Mr Shepherd submitted 'that the remains of an unspecified number of the crew of HMAS SYDNEY II were buried by an Army party near Dulverton Bay on Carrarang Station in Western Australia in December 1941'.

24.57 The log book has not been 'tampered with' or 'doctored'. The allegations that it has arise from a failure to understand the requirements of the *Navigation Act 1912* (as amended), and the Navigation (Master and Seaman) Regulations. They also arise from a failure to approach the examination of the log book with an open mind.

⁶⁸ PUB.001.0001 at 0139

⁶⁹ CORR.006.0051

⁷⁰ CORR.002.0215_R

Nor is there any evidence that CAPE OTWAY kept a separate 'ship's log' or 'deck log' in addition to the 'official log book'.

The Navigation Act 1912 and the Navigation (Master and Seaman) Regulations

24.58 As an Australian-registered vessel, CAPE OTWAY was subject to the provisions of the *Navigation Act 1912*.⁷¹ By that Act she was required to maintain an official log book that was to be in the 'prescribed form'.⁷² Details required to be entered in that official log book were to be 'as prescribed'.⁷³ Ships could, if they wished, keep a ship's log, but the keeping of any other logs did not detract from the requirement to maintain the official log book.⁷⁴ There were various amendments to the Navigation Act that are not at present material.

24.59 On 22 February 1922 the Navigation (Master and Seaman) Regulations were prescribed under the *Navigation Act 1912-1920*.⁷⁵ Regulation 24(1) provided:

24. (1) An official log-book, in Form M. & S. – 16, shall be kept by the master of every ship other than a limited coast-trade ship of less than 50 tons gross registered tonnage or a river and bay ship.⁷⁶

Thus both s. 171 of the Navigation Act and Regulation 24(1) required CAPE OTWAY to keep an official log book in the prescribed form, which was Form M. & S. – 16.

24.60 CAPE OTWAY's official log book, said to have been 'doctored' or 'tampered with', is as prescribed. It is called 'Official Log Book' and bears on the top of the front cover and the first page the printed notation '(50 pages 120 men)'. All 50 pages are present in the CAPE OTWAY official log, and the pages bear the printed numbered sequence of pages 2 to 50, the first page being unnumbered but its reverse being page 2. Each page bears a 'footer' or printers mark 'C:377/2.22-C.1527', except page 8, which bears the footer 'C.468/11.24-C16276'. That footer is contained on a printed strip addressing an addendum relating to freeboard allowed for all seasons of the year and was glued over an earlier printed section. Page 8 is the reverse of page 7, which bears the usual footer.

⁷¹ COI.006.0137

⁷² COI.006.0137 at 0138

⁷³ COI.006.0137 at 0138

⁷⁴ COI.006.0137 at 0138

⁷⁵ COI.006.0168

⁷⁶ COI.006.0168 at 0169

24.61 The official log book, as prescribed by Form M. & S. - 16, contains various topics relating to voyages and crew, as follows:

- pages 3-6—‘List of crew and report of character’
- page 7—‘Ship’s draught of water and deck and load lines’
- pages 8-12—dates of arrival in and departure from each port
- pages 13-15—‘Marriages, births and deaths’
- page 16—‘Record of collision, boat and fire drills and examination of life saving and fire extinguishing appliances as required by Regulations under Sections 217A and 235 Navigation Act’
- pages 17-50—official log.

24.62 Page 16 has a diagonal line across it to show it is not being used. The reason it was not used was a change in the recording requirements under the Navigation (Master and Seaman) Regulations, which required that more detailed records be kept. Page 16 had five columns. After the amendment to the Regulations these columns were both inappropriate and insufficient to record the required information. The changed Regulations prescribed new forms of double-page spread, with each entry to be read across the double page. The recorded information is in 17 columns.

These pages were interleaved between pages 16 and 17 because they contain the revised required material relating to musters and drills that was previously required to be entered on page 16. The completed interleaved pages are marked B, D, E and G, referring to the notations made by Mr Shepherd. The reason pages A, C, F and H are blank is that they are the blank reverse of B, D, E and G: they were never intended to be written on.

24.63 The Regulations requiring additional recording relating to musters and drills to which I refer are as follows:

- Navigation (Boat Drills) Regulations, Statutory Rules 1923, No. 20, deemed to commence 1 March 1923
 - Regulation 3(1) and Schedule 1, which prescribed the information required to be recorded in a ‘boat Station Muster Book’
 - Regulation 13, which required entries to be made in the official log book regarding the boat muster and boat drill

- Navigation (Collision, Boat and Fire Drills) Regulations, Statutory Rules 1923, No. 89, deemed to commence on 1 October 1923
 - Regulation 5, which required entries to be made in the official log book of details regarding the boat muster, boat, fire or collision drills, and rocket drills.

The inserted pages are in the form prescribed by the Navigation (Master and Seaman) Regulations introduced by Statutory Rules 1924, No. 199.

24.64 There is one further matter some authors have relied on to suggest tampering with the official log book. Page 35 of the log concludes with an entry dated 9 March 1940. Page 36 begins with an entry dated 20 October 1941. The log on pages 36 and 37 proceeds chronologically to the last entry on page 37, dated 18 November 1941. Page 38 begins with an entry dated 2 April 1942. It is obvious that, in error, when turning over from page 35, the master turned two pages to page 38. The log then proceeded chronologically to page 50 where, at the end of the page, the master wrote 'see page 36'. Page 50 concludes with an entry dated 17 October 1941. The log then continues on page 36 with the entry dated 20 October 1941. It is obvious that the master returned to page 36 to continue log entries on the two blank pages (36 and 37) that had been passed over in error.

24.65 Another suspicion raised by some authors and commentators is that the narrative log ends on 18 November 1941. As noted, Mr Samuels says:

The relevant entries in this logbook conveniently end on November 18th and do not resume until March 30th 1942. However a check of the crewing register makes it clear that *Cape Otway* was never at any time off station.

The need to doctor the log stemmed from what the ship's officers recorded, after the search was over, on December 12th 1941.⁷⁷

The log records promotions of crew members, disciplinary matters, engagements of crew members, and medical matters affecting the crew. If none of these things occurs on a particular day there is nothing to enter in that section of the running log. Other sections record matters required by Regulation 24. The absence of an entry means there was nothing to enter. For example, in CAPE OTWAY's voyage outward from Fremantle to Darwin between 17 July and 7 August 1941, a voyage of 21 days, there are no entries in this part of the log. On the return voyage, from Darwin to Fremantle between 17 November and 5 December 1941, there is one entry—that on 18 November, recording

⁷⁷ PUB.001.0001 at 0139

the resumption of light duties by a seaman previously injured. To say, as Mr Samuels does, that the log 'conveniently ends on November 18th' is, at best, mischievous.

To say, as Mr Montgomery does, that

a page had been patently cut out and another inserted in its place, while the Master's Official Log had equally obviously been rewritten to end on 18 November (the day before the action) – and this despite the fact that the next Log does not begin until 30 March 1942, and that the Crew List contains several entries made in the interval and thus demonstrates that the ship was continually in service throughout this period.⁷⁸

is factually wrong and misleading.

The page Mr Montgomery says has been cut out has not been cut out. It exists in the log. It is apparent that when the interleaving pages were being glued in, the glue caused a hardening of that portion of the pages adjacent to the spine, rendering the pages inflexible. The result was that, with frequent turning, page 15 cracked along the edge of the rigid portion of the page where glue had been applied.

When the two new double pages (totalling four single pages) were being glued in, it is obvious that a binding piece of some other document has been used to strengthen the insertion of the four pages interleaved and glued in between pages 16 and 17.

24.66 An impartial researcher reading the CAPE OTWAY official log would have observed that CAPE OTWAY was laid up in Fremantle on a number of occasions:

- between 15 December 1936 and 9 March 1937
- between 10 December 1937 and 8 March 1938
- between 10 December 1938 and 7 March 1939
- between 8 December 1939 and 5 March 1940
- between 20 December 1940 and 11 March 1941.⁷⁹

It is known that CAPE OTWAY arrived in Fremantle again on 5 December 1941, having been in service since 11 March that year. The reason the next log does not begin until 30 March 1942 is that she was laid up in Fremantle for some three months, as she had been for each of

⁷⁸ PUB.002.0001 at 0114 to 0115

⁷⁹ NAA.028.0056 at 0065 to 0068

the previous five years during the summer. Entries in the crew list during those periods in Fremantle do not mean that the vessel 'was continuously in service throughout this period'.

- 24.67 I closely examined the official log book. It is intact and complete. It has not been tampered with. The pages interleaved are there because the Navigation Act Regulations required that the information in the entries on the interleaved pages be in the official log book. The last entry in the running portion of the log, dated 18 November 1941, is there as the last entry because it was the last matter required to be noted. There are later entries dealing with movements of the ship and crew because the vessel returned to Fremantle on 5 December 1941. As just noted, the next ship's log was not begun until 30 March 1942 because the vessel was laid up for about three months over summer, as had been the practice for the previous five years.
- 24.68 There are no suspicious circumstances arising from the log. There is no basis whatsoever for suggesting it has been 'doctored' or interfered with to remove references to the finding of bodies floating in the water or to receiving instructions to leave an area where such floating bodies were allegedly found.
- 24.69 It is of note that the next official log book for CAPE OTWAY, starting 30 March 1942, also has pages interleaved. To provide space to record matters concerning the crew where the existing printed space on pages 3 and 4 was inadequate, there are pages interleaved between pages 4 and 5. Further, four pages are interleaved between pages 12 and 13; the interleaved pages record boat musters, boat, collision, fire and rocket drills, and examination of lifesaving and fire extinguishing appliances. This is exactly as the previous log had such pages interleaved. Neither log was 'tampered with': pages were interleaved in each log in order to comply with the Navigation Act and Regulations.

Conclusion

- 24.70 Although Mr Heazlewood might have believed what he recalled being told some time between 1943 and 1945, the evidence is overwhelming that CAPE OTWAY had not 'found the bodies and debris off the Sydney'.⁸⁰ Nor did she report any such finding to Navy Headquarters and nor was she ordered to leave the area 'immediately' by Navy Office signal. Since 24 November 1941 the Navy and the Air Force had been conducting a search for sailors or debris from SYDNEY and had recorded all items found. To suggest that it ordered the non-disclosure of the very object of the search is absurd.

⁸⁰ PINQ.SUBS.008.0015 at 0024

Those on board CAPE OTWAY—the first mate, the Davidson sisters and Mr Dunne—all said no bodies were seen. The log book was not ‘tampered with’ to remove a record of the finding of bodies from SYDNEY: it had pages inserted in it to comply with the requirements of the Navigation Act and Regulations. Those asserting that CAPE OTWAY had seen bodies off the Zuytdorp Cliffs had the vessel there at a time when she was in fact more than 600 kilometres to the north of the area.

She could not have seen any bodies. Why no bodies could have been where the theorists suggest has been explained by the Defence Science and Technology Organisation and is discussed in Chapter 18.

There is no foundation for the speculation and allegations that bodies were seen by CAPE OTWAY.

