

## 30 Speculation: why SYDNEY came so close to KORMORAN

30.1 A number of commentators have theorised that HSK KORMORAN engaged in an illegal *ruse de guerre* or other trick to lure HMAS SYDNEY into such close proximity that SYDNEY's advantages as a fighting unit were minimised and KORMORAN's maximised. There are a number of theories in this regard:

- KORMORAN was flying a Norwegian flag.
- KORMORAN pretended to surrender.
- KORMORAN feigned an engineering or medical emergency.
- KORMORAN emitted a smoke screen from her smoke dispenser.
- KORMORAN stopped on an order from SYDNEY.
- KORMORAN knew and used STRAAT MALAKKA's secret call sign.
- KORMORAN opened fire before raising the German battle ensign.

30.2 Those advancing these theories face a major difficulty. Unless there was an instruction given to the 305 survivors to conspire to hide the truth of the encounter and substitute for it an agreed German version of events that did not disclose the alleged *ruse de guerre* or other trick, the truth of the encounter would probably emerge. The evidence assembled in Chapter 8 makes it clear that there was no such assembly of survivors and no such instruction given. It necessarily follows that if there is a similarity in the evidence about the events of the encounter that account is likely to be the truth.

30.3 Even if there had been a conspiracy to hide the true account of events, the prospect of the truth remaining undisclosed for the following 67 years is remote indeed.

30.4 At the heart of the theories advanced is an unwillingness to accept that CAPT Burnett sailed SYDNEY close to KORMORAN without being deceived into doing so. He was an experienced Naval officer and was supported by experienced bridge officers. To place SYDNEY in close proximity would be foolish: he must therefore have been in some way tricked into doing so. CAPT Burnett would not have been so careless as to have placed SYDNEY in this position. Implicitly, the theorists assert

that the German account, which contains none of the asserted tricks, must be untrue because if it was true CAPT Burnett must have acted delinquently. They disregard the evidence in their search for an exculpatory factor for CAPT Burnett. That is not a proper approach to assessing evidence.

## Was KORMORAN flying a Norwegian flag?

- 30.5 The theory that KORMORAN was flying a Norwegian flag was advanced by, at least, Mr WA Jones, Mr Michael Montgomery and Mr Graham Ward.

In 1944 Mr Jones, co-author of *Prisoner of the Kormoran* wrote:

On or about November 20 ... [t]he raider was probably flying the Norwegian flag. Personally, I should say certainly flying the Norwegian or some other neutral flag, for she always, to my own knowledge, had neutral colours ready for instant use.<sup>1</sup>

This is obvious speculation.

In 1981 Mr Montgomery wrote in his book *Who Sank the Sydney?* that CAPT Burnett would have seen 'a modern merchant ship flying the Norwegian flag'.<sup>2</sup>

In 2006 Mr Ward wrote, 'Detmers had his ship painted in the colours of a Norwegian ship, the *Straat Malakka*, and flew a Norwegian flag from her mast'.<sup>3</sup>

- 30.6 The evidence the theorists advanced in support of this speculation was sparse. Mr Jones advanced none. Even if it was the case that KORMORAN had neutral colours available, that is no basis for asserting that she flew the Norwegian or any other particular flag on 19 November 1941.
- 30.7 In his book Mr Montgomery relied on the discredited Kitsche diary (see Chapter 21)—a statement from an unidentified ex-merchant marine seaman Mr Montgomery said was 'quartered with *Kormoran* survivors at Murchison' and who said to Mr Montgomery, 'They all told me the same story: they were flying the Norwegian flag'—and a statement to similar effect by a Mr Pat Young, 'a member of a truck party' that collected survivors from Carnarvon. Mr Montgomery wrote that in a conversation with a prisoner Mr Young was told, 'not only was the *Kormoran* flying the Norwegian flag, but that boards painted with the

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<sup>1</sup> PUB.020.0001 at 0127 to 0128

<sup>2</sup> PUB.002.0001 at 0077

<sup>3</sup> SUBM.007.0045\_R at 0047\_R

word NORGE were also hung over her sides'.<sup>4</sup> In a paper prepared in 1991 Mr Montgomery wrote:

If it is taken that the *Kormoran* could not have been disguised as the *Straat Malakka* on that particular day, who then was she purporting to be? The most obvious nationality for Detmers to have adopted was that of Norway, because there were over ninety ships operating under that country's flag in the Far East at that time, and there is indeed a strong body evidence indicating that this was precisely the case. Much of it lies in statements which were made by *Kormoran* survivors to their rescuers before they were reunited with their officers and which, as I have already argued, were therefore more likely to have represented the truth. Three officers of the *Trocas* testified to me, quite separately and independently, that they were told that the *Kormoran* had been flying the Norwegian flag at the time.

...

On December 3rd Prime Minister Curtin issued an announcement of the *Sydney's* loss which included the statement that the *Kormoran* had been flying the Norwegian flag.<sup>5</sup>

30.8 The Prime Minister's statement of 3 December 1941 did not say KORMORAN was flying a Norwegian flag. It made no mention of flags.<sup>6</sup> The Kitsche diary is now discredited; it was based on an article by Mr Robert Close, a journalist who based his story on what he said he had overheard on a bus travelling between Warrandyte and Melbourne. A translation of that article into German was the basis of the Kitsche diary. There is overwhelming evidence that KORMORAN was disguised as STRAAT MALAKKA.

30.9 Much to be preferred to second- or third-hand hearsay accounts from unidentified people is the primary evidence obtained by interrogators of KORMORAN's survivors in December 1941. Each of the following survivors gave evidence that KORMORAN was flying the Dutch flag:

- AB Otte<sup>7</sup>
- CPO Ahlbach<sup>8</sup>
- LCDR Meyer<sup>9</sup>
- SBLT Bunjes<sup>10</sup>

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<sup>4</sup> PUB.002.0001 at 0067;BATT.004.0001 at 0004 to 0005

<sup>5</sup> BATT.004.0001 at 0004 to 0005

<sup>6</sup> NAA.025.0019

<sup>7</sup> NAA.012.0139\_OTTE

<sup>8</sup> NAA.012.0093\_AHLBACH

<sup>9</sup> NAA.012.0787\_MEYER

<sup>10</sup> NAA.012.0521\_BUNJES

- WO J Schneider<sup>11</sup>
- LS Schaumburg<sup>12</sup>
- PO Krahn.<sup>13</sup>

In 2008 LEUT von Gösseln gave evidence that the Dutch flag was being flown.<sup>14</sup>

- 30.10 The war diary shows that on 8 July 1941 KORMORAN discarded her disguise as a Japanese freighter, KINKA MARU, and adopted the disguise of the Dutch ship STRAAT MALAKKA.<sup>15</sup> She thereafter maintained that disguise. It would have made no sense at all for her to have flown the Norwegian flag rather than the Dutch, particularly when sailing near the Dutch East Indies.

### Summary

- 30.11 The evidence establishes, and logic suggests, that KORMORAN was flying the Dutch flag as SYDNEY approached. There is no evidentiary basis for the theory that KORMORAN was flying the Norwegian flag.

### Did KORMORAN pretend to surrender?

- 30.12 The speculation that KORMORAN pretended to surrender was advanced by LtCol TW Whittaker (Retd) and Mr G Bathgate and alluded to by Professor T Frame. LtCol Whittaker wrote:

There is evidence that when challenged *Kormoran* stopped. Detmers flew a white flag and pretended to surrender. *Sydney* closed in to take her prisoner. Detmers fired a torpedo from *Kormoran's* secret underwater tube. When the torpedo hit, he hoisted the German Ensign, decamouflaged and opened fire with his guns.<sup>16</sup>

And later:

In order to get *Sydney* to close within range of his under-water torpedo tube, Detmers pretended to surrender and flew a white flag (3).

We can infer that, having accepted *Kormoran's* surrender, *Sydney* closed in to take her prisoner.

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<sup>11</sup> NAA.012.0065\_SCHNEIDER

<sup>12</sup> NAA.012.0082\_SCHAUNBURG

<sup>13</sup> NAA.012.0147\_KRAHN

<sup>14</sup> WIT.019.0022

<sup>15</sup> BUA.100.0176.0131\_E (BUA.100.0176.0001 at 0131)

<sup>16</sup> CORR.003.0070

Detmers would have turned *Kormoran* slowly to starboard to align her underwater torpedo tube with *Sydney* (6). Then, with a white flag still flying, he launched a torpedo from the underwater tube, hitting *Sydney* just forward of A Turret.<sup>17</sup>

Mr Bathgate was unwilling to specify the mode of supposed surrender but wrote:

As there was no alternative, at 1812 hours, with the ships nearly 9000 metres apart, the surrender is formalised. [The mode of surrender may have consisted of lowering the ships' ensign, hoisting a white flag, or signalling by flag or lamp – *Sydney* may also have issued a warning advising against attempts to scuttle]<sup>18</sup>

30.13 Professor Frame put forward the surrender theory as an 'alternative reconstruction'<sup>19</sup>:

There are two main objections to these reconstructions, and it should be emphasised that they are possible accounts of the action which are not inconsistent with the evidence, particularly those aspects which involve firing under a neutral flag or an indication to surrender. The first objection is that the assertions that *Kormoran* may have stopped or indicated an intention to surrender are not supported by evidence.

...

The first objection can be overcome by a resort to the first principles of historical method. It must be conceded that there is no positive evidence of a surrender signal. For this reason, this reconstruction is an alternative. However, other than the statements of those Germans who were in a position to observe and interpret all the communications between the two ships, the possibility remains open. If Detmers did signal to *Sydney* that he intended to surrender, and those in the *Kormoran's* crew who were aware of it later made no mention of such a signal being sent, it could be successfully and permanently concealed.

...

To suggest that a surrender signal may have been sent or to contend that *Kormoran* might not have fired under the German ensign is not speculation. It is a function of regarding the German accounts with proper reservations about their reliability and their truthfulness. It is simply to leave open a possibility that is not closed off by the evidence or its proper handling by the historian. Other reconstructions are possible but, in my view, they are much less convincing.<sup>20</sup>

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<sup>17</sup> CORR.003.0070 at 0071

<sup>18</sup> CORR.008.0203 at 0268

<sup>19</sup> PUB.039.0001 at 0291

<sup>20</sup> PUB.039.0001 at 0292 to 0293

30.14 It is to be noted that none of the proponents of this theory advances any evidence in support of it. Professor Frame concedes 'there is no positive evidence of a surrender signal'.<sup>21</sup> Absent evidence to support the theory, each of the three theorists adopted a different approach in an effort to overcome that difficulty.

30.15 LtCol Whittaker took an interpretive approach. He seized on the passage in CAPT Detmers' book where the sea trials and testing of KORMORAN's weapons systems were described. CAPT Detmers described the firing of an underwater torpedo and commented, 'Neither of us suspected how bitterly earnest a situation should develop in which the torpedoes would play such a role'.<sup>22</sup>

30.16 LtCol Whittaker wrote:

There is evidence that when challenged *Kormoran* stopped. Detmers flew a white flag and pretended to surrender. *Sydney* closed in to take her prisoner. Detmers fired a torpedo from *Kormoran's* secret underwater tube. When the torpedo hit, he hoisted the German Ensign, decamouflaged and opened fire with his guns.<sup>23</sup>

There is no relationship between a comment on a torpedo trial in 1940 and the supposed surrender to SYDNEY in 1941.

30.17 Mr Bathgate's logic was equally flawed:

Detmers was not prone to suicidal tendencies – he had the welfare of his crew to consider. His ship carried no armor protection, had 300 mines on board, hundreds of 150 mm shells with cordite, torpedoes, thousands of smaller munitions and 2000 tons of fuel, a recipe for disaster. As there was no alternative, at 1812 hours, with the ships nearly 9000 metres apart, the surrender is formalised. [The mode of surrender may have consisted of lowering the ships' ensign, hoisting a white flag, or signaling by flag or lamp – *Sydney* may have also issued a warning advising against attempts to scuttle.]<sup>24</sup>

It does not follow that, because KORMORAN was facing a superior warship, CAPT Detmers surrendered.

30.18 Professor Frame sought to escape the admitted absence of evidence to support the theory by denying that obvious conjecture was 'speculation' and by resort to 'the first principles of historical method'.<sup>25</sup>

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<sup>21</sup> PUB.039.0001 at 0293

<sup>22</sup> CORR.003.0070 at 0072; compare COI.006.0254\_E

<sup>23</sup> CORR.003.0070

<sup>24</sup> CORR.008.0203 at 0268

<sup>25</sup> PUB.039.0001 at 0293

30.19 There is, and was, evidence about the flags flown by KORMORAN. It was available from:

- CPO Ahlback<sup>26</sup>
- AB Otte<sup>27</sup>
- AB Lins<sup>28</sup>
- AB Krug.<sup>29</sup>

None of these men spoke of the flying of a white flag. No officer or crew member interrogated suggested KORMORAN surrendered. No interrogator suggested it. The account of the engagement the German survivors gave was a coherent account without any mention of surrender.

During the Commission's investigations in Germany in 2008, witnesses interviewed denied that KORMORAN surrendered or flew a white flag.<sup>30</sup>

## Summary

30.20 KORMORAN did not fly a white flag or otherwise surrender or indicate she was surrendering. The German account of the engagement makes that clear. The speculation that such a surrender occurred has no basis in fact and is an invention of those seeking to find a justification for SYDNEY approaching close to KORMORAN.

## Did KORMORAN feign an engineering or medical emergency?

30.21 The main proponent of the theory about KORMORAN feigning an engineering or medical emergency is Mr Montgomery. In his book he posed the question and provided the answer:

What other circumstances, then, could possibly have induced Burnett to dispense with the full recognition procedure and prepare to lower a boat, while apparently disregarding the need for the most elementary precautions? ... he could only have acted in such a manner if he had been about to *render assistance in response to a distress call*.<sup>31</sup>

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<sup>26</sup> NAA.012.0093\_AHLBACH

<sup>27</sup> NAA.012.0139\_OTTE

<sup>28</sup> NAA.077.0067

<sup>29</sup> NAA.012.0093; NAA.012.0480; see also PTE.004.0235

<sup>30</sup> ROI.001.0150 to 0151; TRAN.006.0001\_R at 0094\_R; TRAN.013.0001\_R at 0049\_R; TRAN.013.0001\_R at 0051\_R

<sup>31</sup> PUB.002.0001 at 0076

He suggested the feigned emergency was accompanied by a ‘flagged SOS’.<sup>32</sup> His contention was that such a feigned emergency, coupled with ‘some other, more visible, signals of distress’ such as smoke, would corroborate the distress signal and corroborate SYDNEY’s supposed receipt of KORMORAN’s Q signal, ‘sent apparently from some distance’.<sup>33</sup>

- 30.22 No evidence was advanced to support any of this. The posing of the question, however, makes it obvious why Mr Montgomery was engaging in the speculation—namely, to try to exculpate CAPT Burnett.
- 30.23 None of the evidence given by German survivors during interrogations in November–December 1941 and no writings by them since give any support to the speculation that KORMORAN feigned an engineering or medical emergency. Survivors were asked about this in interrogation. For example, notes of the interrogation of LCDR Meyer record, ‘Says no trick used to bring Cruiser so near, except Dutch flag. No answer given to Cruiser than by flags’.<sup>34</sup>
- 30.24 Suggestions of illegal ruses or trickery were also put to survivors interviewed in Germany in 2008. Those asked denied that this had been the case.<sup>35</sup>
- 30.25 The circumstances of the encounter make it extremely unlikely that any medical or engineering emergency was feigned. The notion that a ship that had been steaming into the sun and away from SYDNEY for at least an hour at about 14 knots suddenly signalled a medical or engineering emergency and by that signal drew SYDNEY closer is fanciful. A ship with an engineering or medical emergency would approach a sighted vessel, not flee from it.
- 30.26 Mr Montgomery has seized on a conjecture of CMDR Ramage, in a note said to have been made before CMDR Ramage interviewed survivors, to suggest there could have been an emergency signal from KORMORAN. The Inquiry did not see that document, which Mr Montgomery said was ‘obtained’ privately. What CMDR Ramage is said to have written was that he considered it:

unlikely, but possible that in reply to signals from the cruiser she [the *Kormoran*] may have (a) signalled to [the] effect that main engines were out of action or propeller shaft broken; (b) signalled for medical assistance. If [the] raider said that engines were out of action, any boat

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<sup>32</sup> PUB.002.0001 at 0076

<sup>33</sup> PUB.002.0001 at 0076

<sup>34</sup> NAA.012.0787\_MEYER

<sup>35</sup> ROI.001.0150 to 0151; TRAN.006.0001\_R at 0094\_R; TRAN.013.0001\_R at 0049\_R; TRAN.013.0001\_R at 0051\_R

lowered from her would take hours to reach [the] cruiser if latter was at long range.<sup>36</sup>

Mr Montgomery construed this statement as providing a reason for SYDNEY to lower a boat.

Not having seen the alleged document, I do not know whether CMDR Ramage wrote it, any circumstances that might have given rise to him writing it or any context surrounding the quoted passage. But, be that as it may, assuming it was written by CMDR Ramage before the completion, or perhaps even the start, of interrogation, as Mr Montgomery asserts, the speculation is no basis for any allegation that KORMORAN did in fact signal either that her engines had failed or that she had a medical emergency.

30.27 It is to be remembered that CMDR Ramage, having interviewed survivors, prepared reports dated 27 November 1941<sup>37</sup> and 6 December 1941.<sup>38</sup> In neither report did he suggest that KORMORAN signalled an engineering or medical emergency, and he wrote it was, 'Generally considered that with few exceptions survivors spoke the truth'.<sup>39</sup>

## Summary

30.28 There is no evidence at all to support the speculation that KORMORAN signalled that she had suffered a mechanical or medical emergency. No one on board KORMORAN ever suggested she did. The account of the engagement, and of the signals sent, clearly establishes that she did not. The speculation is advanced by Mr Montgomery in an attempt to exculpate CAPT Burnett for bringing SYDNEY so close to KORMORAN.

KORMORAN did not feign an engineering or medical emergency or send an 'SOS' message on 19 November 1941 in order to lure SYDNEY closer.

## Did KORMORAN emit a smoke screen to lure SYDNEY closer?

30.29 The smoke screen idea is a variant of the engineering distress concept advanced by Mr Montgomery. The theory is that KORMORAN might have made smoke from her smoke machine, as distinct from her

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<sup>36</sup> PUB.002.0001 at 0076

<sup>37</sup> NAA.023.0165

<sup>38</sup> NAA.096.0022

<sup>39</sup> NAA.023.0165 at 0166

engines when she increased speed, thus giving the impression that she was in distress and thus luring SYDNEY closer.<sup>40</sup>

- 30.30 Mr Montgomery has no evidence to support this speculation. He referred only to 'Kriesel spoke of smoke from the *Kormoran* "drifting towards the *Sydney*, giving the effect of a screen", and LEUT Brinkman stated that the *Kormoran* had created a smokescreen "accidentally".<sup>41</sup>
- 30.31 The notes prepared for CMDR Dechaineux read, in connection with Kriesel: 'According to one survivor (KREISEL), wind caused smoke from Raider to drift towards Cruiser, producing the effect of a smokescreen for cruiser'.<sup>42</sup> In no way does this support the speculation that KORMORAN used a smoke machine to give the impression of distress and so lure SYDNEY closer. It simply is an observation that smoke came from KORMORAN, no doubt from her guns, drifted towards SYDNEY and to an extent enveloped her.
- 30.32 The interrogation notes of LEUT Brinkmann record: 'Fired sonthat [sic] A.A. and torpedo of cruiser could not be used. - midships - Cruiser sent torpedoes in the second phase of fight no smoke screen from cruiser but accidentally from "Kormoran"'.<sup>43</sup> LEUT Brinkmann was obviously speaking of smoke generated after the battle had started. His statement provides no support at all for Mr Montgomery's assertion that KORMORAN generated smoke in order to draw SYDNEY closer.
- 30.33 In interviews in 2008 LEUT Messerschmidt expressly denied that KORMORAN's smoke generator was used on 19 November 1941.<sup>44</sup>

## Summary

- 30.34 KORMORAN did not use her smoke dispenser to create a smoke screen in order to lure SYDNEY closer.

## Did KORMORAN stop on an order from SYDNEY?

- 30.35 The speculation that KORMORAN stopped on an order from SYDNEY has both vessels stationary or nearly stationary in the water and SYDNEY on the point of lowering a boat to investigate the supposed STRAAT MALAKKA. The speculation is associated with the white flag surrender theory just discussed. It is also associated with the

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<sup>40</sup> PUB.002.0001 at 0076 to 0077

<sup>41</sup> PUB.002.0001 at 0077

<sup>42</sup> BATT.010.0142

<sup>43</sup> NAA.012.0773\_BRINKMAN

<sup>44</sup> TRAN.012.0001\_R at 0004\_R to 0005\_R

underwater torpedo theory because such a torpedo could be fired only if KORMORAN was travelling at less than 3 knots.

- 30.36 The main proponent of the KORMORAN stopping theory is Dr TJ McArthur, who wrote, 'Firstly, both ships were stopped and, secondly, *Sydney* was about to investigate'.<sup>45</sup>

Many others have agreed. Mr G Bathgate wrote, 'At 1834 hours, *Sydney* was almost stopped and only just maintaining headway into the SW swell while preparations were being made to lower the port-side cutter for boarding'.<sup>46</sup>

Professor Frame wrote:

Burnett was justified in approaching the Dutch ship because she had obeyed his orders [to stop], and because he would need to board the ship if she were unable to prove her identity.<sup>47</sup>

And later:

While appearing to comply with *Sydney's* order to stop, *Kormoran* would need to proceed very slowly through the water at two or three knots, both to prevent her bow from swinging around across the swell and exposing her entire profile and to help her maintain her westerly course into the sun.<sup>48</sup>

Other supporters of the theory are Mr Montgomery<sup>49</sup>, Mr J Samuels<sup>50</sup> and LtCol Whittaker.<sup>51</sup> LtCol Whittaker wrote:

(b) *Sydney - Stopped in the Water?*

In his earlier interrogations in November 1941, Detmers made the point that *Sydney* was stopped. In his Battle Report discovered in his prisoner of war camp in 1945 he wrote:

- 1725 Morse signal in (MAKS): Hoist Your Secret Call. Further delay can only make situation worse. (Cruiser) stops engines, thus has not the least suspicion. Therefore.
- 1730 Removal of disguise. Dutch flag struck, War flag flies clear from the mainmast. Time taken 6 seconds, Guns and torpedoes given permission to fire. Enemy drops slowly astern.

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<sup>45</sup> USQ.001.0003 at 0256

<sup>46</sup> CORR.008.0203 at 0271

<sup>47</sup> PUB.039.0001 at 0283

<sup>48</sup> PUB.039.0001 at 0284

<sup>49</sup> PUB.002.0001 at 0077

<sup>50</sup> PUB.001.0001 at 0114 to 0115

<sup>51</sup> CORR.003.0070 at 0079

2 torpedoes inclination 80, speed 14, point of aim, bow and stern also slow alteration to 260 so as not to interfere with guns. First salvo short.

He also claimed that Sydney had ordered him to stop before she sent the signal to show the secret call sign. Another prisoner, Heinz Schott, declared that Sydney “sent messages ordering us to stop”.<sup>52</sup>

LtCol Whittaker based his theory on CAPT Detmers’ first interview, the translated war diary and the evidence of LS Schott.

- 30.37 Dr McArthur’s first proof—that ‘in his earlier interrogations in November 1941, Detmers made the point that SYDNEY was stopped’—is simply wrong. CAPT Detmers did no such thing. The notes record, ‘Cruiser signalled “stop”’.<sup>53</sup>

On no occasion did CAPT Detmers say KORMORAN did stop. Nor did any other survivor.

The second aspect of Dr McArthur’s argument is also unsustainable. He has relied on an erroneous translation of the war diary captured from CAPT Detmers in 1945 to suggest that SYDNEY had stopped.<sup>54</sup> The translation states, ‘1725 (Cruiser) stops engine’.<sup>55</sup> The original German text makes no reference at all to ‘cruiser’. No doubt that is why the word is in parentheses in the translation relied on. The correct translation of the entry is ‘turns engine off therefore completely unsuspecting’.<sup>56</sup> That obviously refers to the Walrus aeroplane on board SYDNEY.

- 30.38 The third supporting ‘proof’ fails for at least three reasons. First, LS Schott was in the engine room and could see nothing.<sup>57</sup> Second, his diary does not state that SYDNEY ‘sen[t] messages ordering us to stop’.<sup>58</sup> Third, if his diary had recorded a message ‘ordering us to stop’ that would not establish that KORMORAN had stopped.

- 30.39 Mr Bathgate does not advance any evidence to support the theory. Rather, he says, ‘it is logical to assume that all three torpedoes were used, firstly, the underwater torpedo, (before declaring) followed by the deck torpedoes’.<sup>59</sup>

As I understand his thesis, it is that because the underwater torpedo was fired KORMORAN must have been stationary or moving at less

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<sup>52</sup> USQ.001.0003 at 0288 to 0289

<sup>53</sup> NAA.012.0766\_DETMEERS

<sup>54</sup> NAA.012.0605

<sup>55</sup> PUB.029.0001 at 0157

<sup>56</sup> COI.004.0213\_E

<sup>57</sup> NAA.012.0109\_SCHOTT

<sup>58</sup> NAA.012.0645 at 0648

<sup>59</sup> CORR.008.0203 at 0271

than 3 knots. SYDNEY did not pass KORMORAN, so she must have been travelling at a similar speed and was in any event preparing to lower a boat. This is perverse reasoning that is not supportable.

30.40 Professor Frame refers to three matters to support his thesis:

The suggestion that *Kormoran* had either slowed down or, more likely in my view, ceased making headway has support in some German accounts. Indeed, sketches prepared by Fritz Treber for Captain Farncomb of the engagement seemed to show that *Kormoran* was not underway as *Sydney* approached. In his book, Detmers says that he watched the compass bearing until *Sydney* 'had come practically to a standstill'. Although the reference to a compass bearing would normally mean that *Sydney's* bearing from *Kormoran* was steady, his choice of words suggests that the Australian ship was not underway or making way. There is also a reference to *Sydney* stopping in Detmers' action report, although its meaning is debatable. It is unclear from the original German version of the decrypted action report whether Detmers was recording that the *Sydney* stopped main engines, or that the aircraft's engine was shut down. Both interpretations of this entry in the report are possible.<sup>60</sup>

30.41 These matters do not support the theory advanced that SYDNEY and KORMORAN were either stationary or travelling at less than 3 knots.

30.42 First, to be accurate, the so-called Treber sketches were not LS Treber's at all. LS Treber and another rating had prepared 'rough sketches'.<sup>61</sup> An 'attempt'<sup>62</sup> was made, by whom precisely is unknown, to turn the two rough sketches into a sketch of the movements of the two ships during the action. What is assumed to be the resulting document<sup>63</sup> is written in English and makes references to 'yards', whereas the Germans used the metric system.

The sketch does not purport to be to scale or to provide a comprehensive visual depiction of the encounter, accurate in every detail. If one were to take these sketches literally, looking at the second sketch one would then say that KORMORAN was on fire in her bows, not amidships, something that is known—from the overwhelming majority of accounts of the KORMORAN survivors and the condition of the wreck of KORMORAN found off the Australian coast in 2008—not to be true.

The other difficulty with relying on the Treber sketches to imply stationary or slow speed positions is that such an implication is

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<sup>60</sup> PUB.039.0001 at 0284

<sup>61</sup> NAA.040.0031 at 0032

<sup>62</sup> NAA.040.0031 at 0032

<sup>63</sup> WAM.015.0043

contrary to CAPT Farncomb's report, in which he relied heavily on the 'particularly loquacious' Treber.<sup>64</sup> CAPT Farncomb's report does not suggest that either SYDNEY or KORMORAN was stopped at the time of engagement. On the contrary, his report describes the action as being 'fought on a Westerly course'.<sup>65</sup>

The Treber sketches were plainly not intended to depict the speeds of the vessels. As CAPT Farncomb wrote, '... An attempt has been made at a sketch of the movements of the two ships during the action (Appendix I) from rough sketches supplied by Treber and another rating'.<sup>66</sup>

The second matter advanced by Professor Frame is also untenable. The reference to the compass bearing is obviously a reference to the relative bearing of the ships as shown on the compass. Any doubt about that is removed by considering the correct translation of the passage in CAPT Detmers' book. It reads, 'I established from the bearing compass that the bearing of the opponent had almost stopped changing'.<sup>67</sup>

The third element in Professor Frame's argument is also unsustainable. He has relied on the erroneous translation of the war diary, as did Dr McArthur.<sup>68</sup>

- 30.43 There is thus no evidence at all to support the speculation that KORMORAN stopped. No German survivor said she did. All the accounts of the engagement are to the contrary.
- 30.44 There remains only the suggestion that SYDNEY was about to launch a boat and, so the argument runs, must have slowed down to do so.

The source of this suggestion is found in the 'Notes for Commander Dechaineux'.<sup>69</sup> It is not known who prepared the notes. Relevantly, they read:

(4) LENSCH stated to 3rd Engineer, "TROCAS", that he had been told that cruiser lowered a boat before fire was opened. He, LENSCH, refused to repeat this when visited in hospital by 3rd Engineer and Intelligence Clerk on 28th.<sup>70</sup>

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<sup>64</sup> NAA.040.0031

<sup>65</sup> NAA.040.0031

<sup>66</sup> NAA.040.0031 at 0032

<sup>67</sup> PUB.068.0207\_E. For the original text in German, see COI.006.0271. Compare also CAPT Hore's translation at EML.002.0054.

<sup>68</sup> NAA.012.0605

<sup>69</sup> BATT.010.0142

<sup>70</sup> BATT.010.0142

WO Lensch was a member of the engine crew and was below deck during the battle.<sup>71</sup> He came on deck only when the 'fight was over' and below deck became 'intolerable'. He could not have seen any preparation to lower a boat from SYDNEY and did not claim to have done so. He refused to repeat the hearsay account of anything he might have been told by an unknown person in relation to SYDNEY supposedly preparing to lower a boat. When further extensively interrogated on 4 and 5 December 1941, on which occasions he was forthcoming about a wide variety of matters, he made no mention of the hearsay account.<sup>72</sup>

## Summary

30.45 KORMORAN did not stop on any order from SYDNEY. It is unlikely any such order was given. SYDNEY did not lower a boat for the purpose of investigating or boarding KORMORAN, nor was she preparing to do so.

## Did KORMORAN know and use STRAAT MALAKKA's secret call sign?

30.46 The report of the Parliamentary Inquiry stated:

4.104 The suggestion has been made that Captain Detmers may have known the *Straat Malakka's* secret call sign, thus removing the possibility that he was forced to open fire when he could not respond to Captain Burnett's request that he show it. Mr Patrick Burnett told the Committee that '... it does seem possible that Captain Detmers may in fact have been in possession of *Straat Malakka's* secret call sign and may have given it in reply to the challenge, and that that may have been a factor in the events leading up to the action'. He did not offer any documentary evidence to support his suggestion.

4.105 This contradicts the official history, which clearly states that Detmers was unable to supply the secret call sign and for this reason he was forced to declare himself.<sup>73</sup>

30.47 One starts with CAPT Detmers' clear evidence that he did not know the sign. His interrogation notes read, '... ordered raider by searchlight in plain language to give secret call. Did'nt [sic] know so had to fight'.<sup>74</sup>

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<sup>71</sup> NAA.010.0284\_LENSCH

<sup>72</sup> NAA.010.0284\_LENSCH; NAA.010.0286\_LENSCH

<sup>73</sup> PINQ.REP.001.0001 at 0038 to 0039

<sup>74</sup> NAA.012.0766\_DETHERS

He did not deviate from that statement in any of his later accounts. In his book he wrote:

But at the same time she morsed: "Give your secret call!" We had been expecting some such signal for about an hour. There it was at last. The dénouement was very close now, because, of course, we did not know the secret call sign of the *Straat Malakka*.<sup>75</sup>

CPO Ahlbach supported that evidence. His interrogation notes state, "Then by flashlight "Show your secret sign". "Kormoran" did not answer. Then the fight began'.<sup>76</sup>

So, too, did LCDR Meyer support the evidence: "'Hoist your Signal Letters" - gave name of a Dutch ship. Asked her Secret Signal - "Kormoran" did not reply'.<sup>77</sup>

30.48 Common sense dictates that if CAPT Detmers knew STRAAT MALAKKA's secret call sign he would have used it. His orders were to avoid engaging Allied warships, and his best chance of avoiding battle with SYDNEY was to persuade her that KORMORAN was STRAAT MALAKKA. The best chance of doing that was to give her secret call sign. He did not because he did not know it.

30.49 German records have now been analysed for all known signals between KORMORAN and German establishments. That signal traffic, discussed in Chapter 7, would suggest that, if German authorities knew STRAAT MALAKKA's secret call sign, they did not inform KORMORAN of it. If they knew the sign, they obviously would have told KORMORAN because they knew she was disguised as STRAAT MALAKKA from June 1941. That indicates that German authorities did not know the secret call sign and nor did KORMORAN.

30.50 CAPT R Arundel RAN Rtd, Dr McArthur and Mr Montgomery also addressed this theory.

CAPT Arundel gave evidence and presented a number of thoughtful submissions to the Inquiry. He did not assert that KORMORAN did know the secret call sign; rather, he thought the matter required investigation using British and German archival sources to establish whether or not the book containing secret call signs had been compromised or whether in some other way KORMORAN might have come to know the secret call sign. His own research had not produced any evidence that KORMORAN knew the secret call sign:

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<sup>75</sup> CORR.007.0034 at 0131

<sup>76</sup> NAA.012.0093\_AHLBACH

<sup>77</sup> NAA.012.0787\_MEYER. See also SBLT Bunjes: BATT.010.0091\_BUNJES at 0092\_BUNJES

Q: You have found nothing to suggest that *Kormoran* had *Straat Malakka's* secret call sign?

A: That is correct. I couldn't find anything that I could concentrate on that may well lead to further research.<sup>78</sup>

30.51 CAPT Arundel was aware that all secret call signs had been changed on 1 June 1941. That meant that if the new call signs had been compromised that must have occurred after that date. There is no evidence of any capture of warships that carried the secret call sign book from that date until 19 November 1941. Merchant ships knew their own secret call sign but not those of other merchant ships. Accordingly, if a merchant ship had been captured after 1 June 1941 it would not have been able to convey the secret call sign of STRAAT MALAKKA.

That resulted in the position, recognised by CAPT Arundel, that the only possible method by which the secret call sign could have become known was if German signallers were monitoring signal traffic and in some way thereby discovered STRAAT MALAKKA's secret call sign. CAPT Arundel's position is illustrated in the following exchange:

A: Well, may I just make the point that there is nothing written and there is nothing to indicate that *Kormoran's* SIGINT team did not do their own research. They were well positioned in the Indian Ocean. They had a competent group of radio operators. They could have monitored all British Naval ship-shore and broadcast circuits and simultaneously merchant ship MF and the occasional HF - that is, medium frequency and high frequency - circuitry.

...

Q: That would require me to use the secret call sign in one or other of those transmissions?

A: Yes, it would.<sup>79</sup>

There is no evidence that this ever happened. It is pure speculation to suggest that, by signal analysis, KORMORAN became aware of STRAAT MALAKKA's secret call sign. It is contrary to the evidence of CAPT Detmers and his signaller, and it is contrary to the common-sense position that if KORMORAN knew the secret call sign, she would have given it.

30.52 CAPT Arundel advanced a second proposition seeking to explain why SYDNEY came so close to KORMORAN. It was that at some distance

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<sup>78</sup> TRAN.023.0001\_R at 0089\_R Line 13

<sup>79</sup> TRAN.023.0001\_R at 0089\_R to 0090\_R Line 46

SYDNEY might have misread the repeated signalling of 'PKQI' as 'IP'. Thus, the argument ran, CAPT Burnett might have been told by his yeoman of signals that KORMORAN had given the expected response, 'IP', to SYDNEY's challenge of 'IK'. It was put in the following way:

Q: ... This point here is that because it was so difficult to see the flag hoist anyway, particularly from any sort of distance, there is the possibility that the repeated use of "PKQI" might have given *Sydney* the impression, or at least they might have had a doubt, as to whether the signal "IP" had been given?

A: Yes.

Q: And, therefore, *Sydney* would have come closer to confirm that they had in fact given what they might have thought was the secret call sign. Do I understand that to be what you are saying, sir?

A: Yes, that's correct.

...

A: If I am on the flag deck of my ship and I am told by the Chief Yeoman or somebody else from the Bridge, "We've challenged her. You should get a reply any moment now and the reply will be 'IP'", and if the signalman happens to think that he saw that and calls out, "We have the response; we have the correct response", it might have had an effect on the Bridge to change the perception of what they were doing.<sup>80</sup>

The difficulties with that proposition are apparent. They were put to CAPT Arundel. He had no satisfactory response:

Q: There are problems with all of that. Let me enumerate a few of them. The first is that you had an inexperienced Yeoman of Signals. I wouldn't make that assumption on *Sydney*. The second is you are looking to see if there is the correct response, which is "IP". If it is said that that may have been mistaken from a re-flagging of the *Straat Malakka's* flags, it would have been a four-flag hoist, "PKQI". No Yeoman of Signals would have misinterpreted a four-flag hoist as a two-flag hoist. The third is, if he was going to look at a four-flag hoist and get correct signals "IP", he would have to transpose the "P" and the "I". That seems to me to be our problem. Those three difficulties seem to me to be immediate and apparent in this thesis.

A: Commissioner, we're not talking about flags. We're talking about light, a light signal.

Q: From *Kormoran*?

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<sup>80</sup> TRAN.023.0001\_R at 0094\_R to 0095\_R Line 47

A: From *Kormoran*.

Q: There is simply no evidence that *Kormoran* ever used lights.

A: There is evidence that the lamp was used, a Varta lamp was used.

Q: By *Kormoran*?

A: By *Kormoran*.<sup>81</sup>

CAPT Arundel was not correct: the overwhelming evidence is that KORMORAN signalled only by flags.<sup>82</sup> Although CAPT Arundel 'believe[d]'<sup>83</sup> KORMORAN would have used a lamp, that is not supported by the evidence.

There are two other matters of relevance. First, SYDNEY's yeoman of signals was CPO James Tyldsley, who had been her chief yeoman of signals since 1936. He would not have mistaken a four-flag hoist for a two-flag hoist or read a four-flag hoist as displaying only two letters.

Second, the evidence is clear that the challenge from SYDNEY to KORMORAN to hoist her secret call sign and SYDNEY's making 'IK' occurred when the ships were abeam, on a parallel course and about 1,000 metres apart. There is no possibility of misreading signals in that position.

30.53 In his thesis, Dr McArthur asserts that CAPT Detmers did know STRAAT MALAKKA's secret call sign:

That Detmers and others have insisted on *Sydney* sending that precise signal may be explained. Detmers was aware of *Straat Malakka's* secret call sign and of the response which should be given to a warship. Montgomery has shown this in his interviews with the Australian Army officer, Major Shrader, who had dealt with Detmers at the Tatura Internment Camp for prisoners of war. It happened at a meeting of the two men on an occasion when the war was over and prisoners were awaiting repatriation:

Detmers let drop certain confidences that he had hitherto kept rigidly to himself, among them being an admission that he had indeed already known the *Straat Malakka's* secret call sign.

It follows from this revelation to Montgomery that, as Detmers knew the call sign, he was able to identify himself to the satisfaction of Burnett. This implies a correct response to the *IK* signal. However, it is necessary at this point to consider the interview conducted with Heinz Ernst.

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<sup>81</sup> TRAN.023.0001\_R at 0095\_R to 0096\_R Line 42

<sup>82</sup> See also the interrogation of LCDR Meyer: 'No answer given to Cruiser than by flags' (NAA.012.0787\_MEYER).

<sup>83</sup> TRAN.023.0001\_R at 0097\_R Line 4

Heinz Ernst's interview now describes a different scenario in which the German ship had halted on *Sydney's* command because the warship intended to send a boat across to inspect her clearance certificate for sailing independently as a merchantman. This supports a persuasive argument that Detmers had replied with the correct responses to identify his ship as *Straat Malakka* when *Sydney* was close (but not beam on). After all, there is no reason why German Naval intelligence should not have given Detmers the secret callsign information as there is evidence that *B-Dienst* "had been reading all British naval codes without difficulty since the beginning of the war".<sup>84</sup>

I have already rejected the speculation that KORMORAN and SYDNEY were stopped.

- 30.54 Mr Montgomery addressed CAPT Detmers and CPO Ahlback's evidence that 'IK' had been signalled and they did not know the response. When that occurred, according to Mr Montgomery, CAPT Burnett had two options – 'to put a shot across [KORMORAN's] bows and order her to heave to ... or to lower a boarding party while keeping bows-on at a distance and withdraw before ordering the merchant ship to close their boat'.<sup>85</sup>

This neglects entirely the position the ships were in when the signal 'IK' was made.

Mr Montgomery then wrote:

That Burnett followed neither of these procedures may be taken, therefore, as sufficient proof in itself that he did not ask Detmers for his secret callsign, which in turn would seem to prove that Detmers would only have been able to quote the letters IK because he already knew that they were the two middle letters of the *Straat Malakka's* secret callsign.

W. Brooksbank, who was serving on the Naval Staff at the time, told me that he considered it 'very likely' that Detmers was indeed in possession of this prior knowledge, but the most direct evidence that this was the case comes from no less than Detmers himself. While he and his crew were awaiting repatriation after the war, they came under the tutelage of Major Heinrich Schrader, who had formerly been the Camp Commandant of the Tatura Internment Camp. Either beguiled by such a name into believing that here was a kindred spirit or elated perhaps by the prospect of his return to the Fatherland after five years on the other side of the globe, Detmers let drop certain confidences that he had hitherto kept rigidly to himself, among them being an admission that he had indeed already known the *Straat*

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<sup>84</sup> USQ.001.0003 at 0254 to 0255

<sup>85</sup> PUB.002.0001 at 0065

*Malakka's* secret callsign. What he did not know, however, was Major Schrader's long record of service on the other side, dating back to enlistment in the British Royal Artillery in World War I and his transfer in 1919 to military intelligence.<sup>86</sup>

30.55 By this remarkable process of reasoning, Mr Montgomery seeks to establish two things:

- CAPT Burnett did not signal 'IK' or ask STRAAT MALAKKA for her secret call sign.
- Therefore, because CAPT Detmers mentioned 'IK', he must have known STRAAT MALAKKA's secret call sign.

That was said to be supported by:

- W Brooksbank saying he thought it 'very likely' that CAPT Detmers knew the secret call sign
- MAJ Schrader having told Mr Montgomery that CAPT Detmers had told MAJ Schrader he had known STRAAT MALAKKA's secret call sign.

30.56 The Inquiry asked Mr Montgomery to produce the evidence he had in support of this position. In relation to W Brooksbank, he produced a note of conversation:

W. BROOKSBANK (Naval Intelligence)

LETTER 13.7.78

... Unfortunately, I can throw no light on the tragedy ...

TELEPHONE CONVERSATION

Don't know of any RAAR report – skeptical, but if it exists it should be in Naval Staff Office, Fremantle; could have been kept in W.A. Don't know of Sydney getting off a radio message; could be in W/T station, Jandicot [sic]. Very likely that Germans knew the secret merchant [navy] code. Interviewed Merchant Navy Captains from Emirau [put ashore by raiders Komet and Orion], skeptical of their claim of a mini-sub on board. Don't believe other Carley floats were found [from Sydney].<sup>87</sup>

Whatever Mr Brooksbank might have thought about whether Germans 'knew the secret merchant [navy] code', he made no mention of the war secret call signs. There were many Merchant Navy codes that were

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<sup>86</sup> PUB.002.0001 at 0065

<sup>87</sup> EML.004.0010 at 0011

supposed to be kept secret, and some of them the Germans had compromised. They are, however, entirely separate from the war secret call signs in books warships carried, which the Germans had not compromised.

Mr Montgomery had converted what the note recorded Mr Brooksbank as saying into Mr Brooksbank telling him that he considered it 'very likely' that Detmers was indeed in possession of this 'prior knowledge', meaning the secret call sign. On Mr Montgomery's own note, Mr Brooksbank said no such thing.

- 30.57 Mr Montgomery's note of his conversation with MAJ Schrader in June 1978, when MAJ Schrader was aged 84 years<sup>88</sup>, reads as follows:

NOTES ON INTERVIEW 6.78

[I enlisted in the] Royal Artillery [in WWI, then joined] Military Intelligence in 1919. Detmers said he knew the Straat Malakka's secret callsign, and that Sydney was preparing to put down a boat [when he opened fire]. He was surprised by the effect of his first salvo: [it] blew the bridge clean apart. Next salvo on XZ turret blew it clean off. Sydney launched a torpedo, hit Kormoran in the stern. I asked [him], 'why no survivors?' Detmers 'She went [down] too quickly.' Dhurringile [was] the name of [the] homestead at Murchison. I [was] directed by War Office in London to keep anyone from getting the [true] story from Kormoran survivors; [the] compound [was] separated by barbed wire [from the officers]. Friend (naval) thought it a tragedy when Burnett appointed to Sydney. Detmers told me he drank a lot. Others accused him of 'bad sexual habits' ... Detmers 'Dear God, why?' when Sydney came alongside. Amazed that Sydney didn't use plane. 'Saw Sydney before she saw us.' Kormoran was stopped, cleaning boilers when Sydney was sighted; only one boiler going, just to up, generators. '[So] Sydney caught you with your pants down?'; Detmers laughed. Burnett had reputation as an ammunition saver - wouldn't fire unless he had to because of the cost.

I received three further letters from him saying little more than how much he was looking forward to reading my book, but sadly he died in June 1980 before its publication.<sup>89</sup>

- 30.58 If that note records what CAPT Detmers told MAJ Schrader, which I doubt, it is riddled with apparent errors. SYDNEY was not preparing to put down a boat. The second salvo did not blow the 'XZ' turret apart: X turret was the one that kept firing. SYDNEY did not launch a torpedo that hit KORMORAN in the stern: if she had, KORMORAN would have blown up since that is where the munitions were stored. The notion that

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<sup>88</sup> EML.004.0010 at 0011

<sup>89</sup> EML.004.0010 at 0011

‘War Office in London’ would have directed an Australian Army major in central Victoria to keep anyone from getting ‘the [true] story from Kormoran survivors’ is absurd. And KORMORAN was not ‘stopped cleaning boilers’ when SYDNEY was sighted.

It is noteworthy that MAJ Schrader contacted Mr Montgomery after Mr Montgomery put an advertisement in a local Melbourne newspaper<sup>90</sup>, asking people who had information about the SYDNEY-KORMORAN engagement to contact him. In response, MAJ Schrader wrote to Mr Montgomery on 21 June 1978:

Dear Sir,

In reply to your letter in the Melbourne Sun of 20th June, I am one of the few people in the world who can write the full and true story of the Sydney-Kormoran action.

I was Commandant and CO of No. Camp Tatura from 1944 to 1946. Among the prisoners there was the entire living crew of the Kormoran sunk by the Sydney in her final death throes.

Some years after an article was written for, and published by, a Melbourne weekly. It was so wrong in every detail that I was driven to make an appointment with the late Mr. Pacini, the editor of the Melbourne Sun, to whom I gave the true facts.

After hearing my story, he made a cash offer to me – but, in doing so, I had to get relief from the Official Secrets Act.

Hot apace, I went to Victoria Barracks in St. Kilda Road, the residence of the then Chief of Staff, Lt. General Sir Sydney Rowell, who was a fellow staff cadet with me in the early days of Duntroon.

He contacted the Senior Naval Intelligence Officer, who, as soon as he heard my story, decided that it was too big for him to make a decision, and that he would contact Headquarters in Canberra and give me the news of their decision.

That decision is contained in the enclosed Photostat of the letter I received [see below]. That letter speaks for itself – I speak with the authority of being the only living person in Australia who has read the log of the Kormoran on that fateful day – by the courtesy of the Kormoran’s Commander, Captain Detmers, who let me read it in his cabin on the ‘Southern Cross’ before she sailed from Port Melbourne for Hamburg.

Any stories you may get in answer to your letter I would ask you to let them read the letter sent to me from Naval Intelligence.

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<sup>90</sup> TRAN.018.0001\_R at 0069\_R and 0070\_R

Yours faithfully,

(signed) H.C. Schrader<sup>91</sup>

30.59 MAJ Schrader attached a letter dated 12 June 1958 from the Naval Intelligence Division advising there was 'no security objection to the publication of the story of the "Sydney" as you envisage it'. The letter continued:

Without attempting to persuade you not to proceed with this project, as no doubt the "few bob", as you put it would be very welcome. I would like to remind you that there are today many people who lost their fathers, brothers, sons etc in "Sydney" and are so very proud of the way "Sydney" died. To destroy this pride would be inexcusable.<sup>92</sup>

MAJ Schrader did not publish any story in 1958. The notes Mr Montgomery made of his conversations with MAJ Schrader, if they are accurate, record the ramblings of an old man seeking recognition and notoriety in the forthcoming book by telling a sensational story. No sensible person would give any credence to an account so full of demonstrable errors.

## Summary

30.60 There is no doubt that KORMORAN did not have STRAAT MALAKKA's secret call sign. There are several reasons for this:

- The German archival records make it clear that the German authorities did not communicate the sign to KORMORAN.
- The call sign changed on 1 June 1941. There is no evidence that Germany obtained the changed sign or other secret call signs before 19 November 1941.
- CAPT Detmers said he did not know the secret call sign.
- If he had known it, he would have used it. He did not.
- CAPT Detmers' lack of knowledge of the call sign meant he was obliged to engage a warship, contrary to his orders.

30.61 KORMORAN did not seek to draw SYDNEY closer by giving STRAAT MALAKKA's secret call sign.

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<sup>91</sup> EML.004.0010

<sup>92</sup> EXH.055.0001

## Did KORMORAN open fire before raising the German battle ensign?

30.62 In his book CAPT Detmers wrote:

My eyes were glued to the bearings compass, and as soon as I saw that the enemy had come practically to a standstill I gave the order "Decamouflage!" The time was exactly 17.30 hours. The Dutch flag was hauled down, and the German naval war flag ran up and fluttered proudly in the breeze from our foretop.

As soon as my Chief Signalman reported "War flag flying", I gave the order to open fire both to my gunners and the torpedo batteries. From the moment the order to de-camouflage was given the miracle of speed and efficiency which my men had been preparing for and practising for months took place. The ship's rails folded down, the heavy camouflage covers fore and aft were whisked away, Hatches 2 and 4 opened up to reveal their guns, the 2 cm. anti-aircraft guns were raised, the torpedo flaps opened, and all barrels and torpedo tubes swung onto the target. Within six seconds of the order to de-camouflage the first shot was fired from our leading gun. Four seconds later the other three went into action, scoring direct hits on the enemy's bridge and in his artillery control post.<sup>93</sup>

30.63 Much has been written about this passage because commentators have been unwilling to accept that KORMORAN could lower the Dutch flag, raise the German war ensign, unveil the various armaments and fire within six seconds.

30.64 Professor Frame wrote:

The statement in Detmers' account which provokes the strongest reservation is that it took just six seconds from the time the order to decamouflage was given until the first shot was fired at *Sydney*. While the crew of the *Kormoran* were very efficient in raider operations, they were not as good as that. According to Detmers, on the order to decamouflage:

The ship's rails folded down, the heavy camouflage covers fore and aft were whisked away, hatches 2 and 4 opened to reveal their guns, the 2-cm anti-aircraft guns were raised, the torpedo flaps opened, and all barrels and torpedo tubes swung onto the target.

Conceding that every preparation had been made before the order to decamouflage was given, it is difficult to believe that the Dutch flag was lowered and the German battle ensign was hoisted by one man, and that this was reported by the same individual to Detmers; and that the ship was decamouflaged and the guns were trained and fired, all

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<sup>93</sup> CORR.007.0034 at 0132

within six seconds. Paul Kobelt, who manned the midships 5.9-inch gun on the starboard side, said that 'there was an error in transmission of order [to fire] and he received order to fire on the port side'. Bunjes stated during interrogation the sequence of events described by Detmers took something nearer to one minute to complete while von Gosseln stated that it took nearer to 45 seconds for the heavier guns to be trained outboard from their position fore and after behind the camouflage.

The claim that decamouflage action took six seconds, and that *Sydney* did not seem to be at action stations, far too conveniently explains how *Kormoran* was able to decamouflage and fire on *Sydney* without it resulting in any action from *Sydney*. It was standard procedure for warships to go to action stations whenever a suspicious ship was sighted.<sup>94</sup>

And later:

It is difficult to determine whether *Kormoran* initially fired under the Dutch flag, the German ensign, or no flag at all. It is doubtful whether this aspect of the engagement occupied as much of Detmers' attention as he later claimed. His foremost priority was to hit *Sydney* first. However, this reconstruction does not depend on the country-of-origin flag-hoists in *Kormoran*.

It is, of course, vital to Detmers' reconstruction of the engagement that *Kormoran* took only six seconds to decamouflage and fire. Had the period been any longer, *Sydney*, whose gun crews were closed-up and ready to fire, would have ended any chance that the raider had of inflicting damage.<sup>95</sup>

This last paragraph assumes SYDNEY was at action stations. I am satisfied she was not.

- 30.65 Those passages expose the erroneous argument that has been the subject of the debate. It has been assumed that SYDNEY was at action stations because she was approaching a suspicious ship. Therefore she was ready to open fire immediately; and therefore the moment KORMORAN hoisted a German flag or de-camouflaged SYDNEY would fire at her. The German account was that KORMORAN fired first, causing great damage to SYDNEY, so it must follow that KORMORAN opened fire while flying a Dutch flag. If the sequence of lowering the Dutch flag, then hoisting the German flag and then decamouflaging had been followed, the argument goes, SYDNEY would have fired on KORMORAN on the lowering of the Dutch flag or at the latest on the hoisting of the German flag. On the German account she

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<sup>94</sup> PUB.039.0001 at 0136 to 0137

<sup>95</sup> PUB.039.0001 at 0291

did not. Thus that sequence could not have been followed. KORMORAN, it is argued, must have fired before the flag exchange.

A secondary aspect of this argument is that all the activity just described could not occur within six seconds. Accordingly, CAPT Detmers was lying in order to disguise the true circumstance that he fired before hoisting the German ensign.

30.66 The argument hinges on SYDNEY being at action stations. If she was not, as I have found, the issue descends simply to which ship fired first and whether, when KORMORAN did fire, the Dutch flag was struck and the German ensign was flying. It becomes irrelevant whether it took six seconds or longer for KORMORAN to open fire – provided that when she did so the flag exchange had occurred.

30.67 Two things are not in doubt:

- KORMORAN continued flying the Dutch flag until SYDNEY was in a position abeam of KORMORAN, at a distance of about 1,000 metres. That is what CAPT Detmers and the other Germans survivors said happened.
- KORMORAN fired first. Not only does that accord with the evidence of the German survivors: it is also consistent with the now observable damage suffered by SYDNEY. In its essence, it explains SYDNEY's loss of the battle because the initial damage was so crippling.

The only true question that remains in this regard is whether, when she did fire, KORMORAN was flying the German war ensign.

30.68 If the German war ensign had not been flying when KORMORAN opened fire, a breach of international law occurred. This fact greatly influenced Professor Frame. Rather than examining the evidence on whether or not the ensign was flying at that time and, depending on the answer, deciding whether an offence had been committed, he relied on his view of the character of CAPT Detmers, found he had a capacity – indeed 'the capability and probably the willingness'<sup>96</sup> – to violate international law and used that finding to seek to justify an otherwise unsupported speculation that KORMORAN fired under a Dutch flag and thus gained an illegal advantage over SYDNEY.

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<sup>96</sup> PUB.039.0001 at 0298

Professor Frame wrote as follows:

Was Detmers capable of knowingly violating international law and lying to conceal the fact if the operational demands were necessary? Being mindful of his ruthless determination to achieve his objectives and the need to avoid ignominious defeat, one must conclude that Detmers had the capability and probably the willingness to violate international law and, later, to deceive his captors. He could do this by justifying any technically illegal conduct in terms of the imperatives of Germany's war aims and by rationalising his subsequent concealing of the truth in the context of his understanding of naval professionalism. By these standards, Detmers did not believe he acted wrongly.

When Detmers realised after the war that the version of events he had relayed in late 1941 and early 1942 had been accepted by the RAN and seemed unlikely to be challenged seriously in the future in the absence of any new evidence, there was no need for him to make any contradictory post-war statement on the action. Had he made any statement suggesting that an illegal ruse was used to sink *Sydney*, it would have had the effect of diminishing the magnitude of his success off Carnarvon and the reverence in which he was held in naval circles in post-war Germany.<sup>97</sup>

Professor Frame apparently could not countenance the prospect that CAPT Detmers, and many others, might have been telling the truth—namely, that KORMORAN fired after the Dutch flag was struck and the German ensign was hoisted. His is an illogical and impermissible process of reasoning.

- 30.69 Professor Frame was not alone in contending that KORMORAN might have breached international law. Mr Montgomery wrote that CAPT Detmers' 'motive in selecting this figure of six seconds' is because of his 'wishes to convince us that he did not open fire while still flying a neutral flag, in contravention of International Law'.<sup>98</sup> It will be recalled Mr Montgomery speculated that KORMORAN was flying a Norwegian flag.

### The evidence

- 30.70 I have quoted CAPT Detmers' account in his book. That account states that the German ensign was flying before he opened fire.

On 9 December 1941 CPO Ahlback, who was KORMORAN's senior signaller, was recalled for further interrogation. He was asked specifically about the hoisting of the German ensign. The notes of his interrogation record the following:

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<sup>97</sup> PUB.039.0001 at 0298 to 0299

<sup>98</sup> PUB.002.0001 at 0078

Dutch flag was flying from flag mast, and German flag was hoisted when the screens were dropped.

On the command "drop screens", the German flag was simultaneously hoisted; it took less than a minute - 10/15 seconds were enough for hoisting the flag.

German flag hoisted to mast head (aft mast) by the man on duty. There were always two men by the flag - 1 signaller and 1 ordinary seaman. This flag was always hoisted when ships were stopped (as soon as screens were dropped) The Captain was always strict on this point.

Signalmen were Lins, Krug, Otte and himself. On bridge with him at time of flight was Lins. The other two were aft by the German flag.

Does not know who took the Dutch flag down, probably Krug or Otte helped by an ordinary seaman.

Does not know whether the German Flag went up before the Dutch flag came down, or vice versa. Thinks it was the former. Captain always emphasized that German Flag MUST be hoisted before any firing began.<sup>99</sup>

On the same day, AB Otte was interrogated twice. On the first occasion it is recorded, 'Says no shots were fired before ensign was hoisted' and 'Flag was ready unfurled'.<sup>100</sup>

When he was recalled for further interrogation, the following is recorded:

9. December 1941

OTTE (2nd hearing).

Was a signaller - was flag flown before first shot (on big aft mast head)

Dutch Flag was on flag mast (ensign staff).

Could not see if Dutch flag was lowered before German flag was hoisted (he hoisted the flag himself in accordance with instructions from bridge) (by telephone).

The war flag was ready unfurled, and was plainly visible as soon as they began to hoist.

It was always hoisted when ships were sunk.

It was 2m.50cm. by 3m.60 cm.

...

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<sup>99</sup> NAA.012.0093\_AHLBACH

<sup>100</sup> NAA.012.0140\_OTTE

When first shot was fired flag would be at top, as it could be hoisted in 8-10 seconds.

He always did the hoisting when alarm was given.

...

Norwegian flag was never used.<sup>101</sup>

30.71 This evidence makes it clear that the war ensign was hoisted on a mast different from the one that bore the Dutch flag. The German ensign was unfurled and ready to be hoisted immediately the order to de-camouflage was given. There were dedicated personnel to deal with the flags—one to lower the Dutch flag on the ensign staff and another to hoist the war ensign on the aft mast. That occurred on an order from the captain, although there is some divergence of views on whether a separate order was given to hoist the ensign or whether the hoisting occurred on the giving of the de-camouflage order ('When the alarm was given'). The war ensign could be hoisted in 8 to 10 seconds according to AB Otte. Each account makes it clear that the war ensign was hoisted before a shot was fired.

30.72 WO Schneider, stationed on the signal deck, confirmed this evidence when questioned on 6 December 1941:

When attacking ship used the war flag, but previously used Dutch flag.

Flag hoisted on aft mast which is very high - Could be hoisted very quickly as it was always ready.

Insists that German war flag was flown before any shots were fired, and that the surprise was complete.

Flag was not hoisted and ready to unfurl, but was unfurled and ready to hoist.

One of the signalmen had the job of looking after the flag.

Wind blew from forward, so the flag could be seen by cruiser.<sup>102</sup>

To the foregoing is to be added the evidence of other German survivors:

- WO Weinig—'He knows that "Kormoran's" Captain's Orders (invariable custom) were always to hoist the National flag just prior

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<sup>101</sup> NAA.012.0139\_OTTE

<sup>102</sup> BATT.010.0100 at 0101

to the beginning of an engagement. Two ratings were told off always to do that'.<sup>103</sup>

- AB Beyer—'I saw the German war flag after the engagement ... I did not see German flag hoisted at commencement of fight, but I am sure it was hoisted'.<sup>104</sup>
- LEUT von Gössehn—'Raider had signalled that she was "STRAAT MALAKKA" and flew Dutch flag. Before first salvo Dutch flag down, German flag up'.<sup>105</sup>
- LS Möller—'Our flag, German, was flying when I left the ship - I saw this in the lifeboat ... The flag was flying during action'.<sup>106</sup>
- LS Schaumburg—'We flew the Dutch flag before we went into action. We called ourselves "Straat Malakka" ... In action we flew our German war flag'.<sup>107</sup>
- LS Lemke—'Whilst in lifeboat I saw German flag on our ship; I believe it was hoisted at start of action'.<sup>108</sup>
- LS Berghoff—'We hoisted the German war flag before the fight started, and I saw this after we started firing'.<sup>109</sup>
- CPO Hennig—'They hoisted the German war flag "I did not see the Dutch flag on our ship" ... Only saw the German flag hoisted during sinking of enemy ships'.<sup>110</sup>
- PO Krahn—'"Kormoran" flew the German flag in all actions ... His position was on centre gun ... "I am certain we gave your Cruiser our Nationality as Dutch" - Will not admit Dutch flag was flown but obviously this was so ... "I know during action the German flag was flying" ... "I cannot say exactly at what time during the action the Dutch flag was lowered"'.<sup>111</sup>

This evidence was confirmed by PO Ernst in Germany in 2008.<sup>112</sup>

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<sup>103</sup> BATT.010.0084\_WEINIG

<sup>104</sup> BATT.006.0037\_BEYER

<sup>105</sup> NAA.012.0326\_VONGOSSEHN

<sup>106</sup> BATT.006.0018\_MOLLER

<sup>107</sup> BATT.006.0028\_SCHAUMBURG

<sup>108</sup> NAA.012.0131\_LEMKE

<sup>109</sup> NAA.012.0134\_BERGHOFF

<sup>110</sup> NAA.012.0147\_HENNIG

<sup>111</sup> NAA.012.0147\_KRAHN

<sup>112</sup> ROI.010.0026\_R at 0034\_R

- 30.73 The statement in Professor Frame's book that 'it is difficult to believe that the Dutch flag was lowered and the German battle ensign was hoisted by one man, and that this was reported by the same individual to Detmers'<sup>113</sup> demonstrates a misunderstanding of the flag-lowering and flag-hoisting procedure. The flags were on two different masts attended by two different seamen.
- 30.74 Any doubts about the speed with which KORMORAN could de-camouflage and simultaneously hoist the German ensign are removed by the independent evidence of CH Hill-Willis, First Mate of AGNITA, a ship sunk by KORMORAN in March 1941:

At 8.20 a.m. ... a stranger was sighted ahead on our port bow. She appeared to be on a passing course; but in accordance with standing orders I altered course to the north. I informed the Captain, and when he came on to the Bridge he asked me why I had made such a large alteration. I was watching the other ship through my binoculars ... I said to the Captain "That vessel is not loaded, and has got her forward derricks rigged for working. She is not an Allied ship as there is no gun aft. I think that I have seen her before or one like her in the Kiel Canal". The Captain became very worried

...

The stranger was steaming at about 17 knots. She was not making any obvious alterations of course, and would pass astern of us at a distance of two or three miles if she continued.

I instructed the Gunlayer to load both guns. I also ordered the Second Officer to prepare a smoke float for dropping. The Radio Officer was given our position for transmission if necessary.

When the stranger reached a position off our port quarter he suddenly altered course directly towards us; it was a tense moment, and we watched carefully for the next move. It was not long in coming, for instantly and simultaneously the forecandle head folded down, the deckhouses on the fore and afterdecks vanished, No. 3 hatch rolled back, and a large platform mounting a rangefinder shot up the foremast, whilst the German flag appeared at the mainmast head. This whole transformation had taken only seconds, and what had seemed to be a harmless merchant ship was now a very lethal looking warship. The armament that was now displayed was very formidable, and I could only see half of it.<sup>114</sup>

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<sup>113</sup> PUB.039.0001 at 0136

<sup>114</sup> PUB.008.0001 at 0070. See, for example, interrogation of Werner Beyer (NAA.012.0091\_BEYER), Fritz Erz (NAA.012.0091\_ERZ), Carl Luchen (NAA.012.0088\_LUCHEN), Alex Januczkiwicz (NAA.012.0118\_JANUCZKIWICZ), Heins Leichsenhring (NAA.012.0132\_LEICHSENHRING) and Willy Lerch (NAA.012.0135\_LERCH).

## Summary

30.75 The evidence makes it clear that the German battle ensign was flown before KORMORAN opened fire. KORMORAN's crew had the capacity to hoist the ensign and lower the Dutch flag simultaneously and with great rapidity. There was a crew member dedicated to that task at each of the two masts on which the Dutch and German flags were separately flown. CH Hill-Willis witnessed the capacity of the KORMORAN crew to perform this task and simultaneously de-camouflage.

## Conclusion

30.76 None of the theories or speculations advanced by the authors referred to explains why SYDNEY approached so close to KORMORAN. The theories have been advanced in an attempt to find an explanation for the approach that would exculpate CAPT Burnett by establishing conduct on the part of KORMORAN and CAPT Detmers that was in breach of international law or was otherwise an impermissible *ruse de guerre*. When examined, not one of the theories advanced has any substance.

