

COMMISSION OF INQUIRY INTO THE LOSS OF HMAS SYDNEY II

Before The Hon TRH Cole AO RFD QC

Held at level 5, 55 Market Street, Sydney

Counsel Assisting: CMDR J Rush RFD QC RANR  
LEUT J Nottle

On Monday, 1 September 2008 at 10am  
(Day 14)

1 THE PRESIDENT: Yes, LCDR Renwick.

2

3 LCDR RENWICK: Sir, my name is Renwick, along with  
4 LCDR Katter, who is on my right, and on the instructions of  
5 CDRE Rory Burnett, may we seek leave to appear in the  
6 interests of the late CAPT Burnett?

7

8 THE PRESIDENT: Yes, that leave is granted.

9

10 CMDR RUSH: Sir, I appear with LEUT Nottle as counsel  
11 assisting this morning.

12

13 THE PRESIDENT: Yes, CMDR Rush.

14

15 CMDR RUSH: Sir, firstly could I tender some documents  
16 that have been submitted to the Commission of Inquiry, and  
17 I would ask, sir, if you have been provided with a folder  
18 of documents headed "Documents for tender on 1 September"?

19

20 THE PRESIDENT: Yes, I have.

21

22 CMDR RUSH: Sir, the proposal is that, rather than provide  
23 you with voluminous material, all this material will be on  
24 the website of the Commission of Inquiry; hard copy will be  
25 provided as necessary. But for the purposes of the tender,  
26 sir, we desire to tender the indexes which demonstrate the  
27 nature of the material that is the subject of the tender.

28

29 THE PRESIDENT: Very well.

30

31 CMDR RUSH: Sir, the first document is an index to 19  
32 volumes of submissions to the parliamentary inquiry, which  
33 contains 448 documents.

34

35 THE PRESIDENT: All right, I shall mark that as an  
36 exhibit. What is the next exhibit number?

37

38 CMDR RUSH: The next exhibit number is 29.

39

40 EXHIBIT #29 INDEX TO 19 VOLUMES OF SUBMISSIONS TO THE  
41 PARLIAMENTARY INQUIRY CONTAINING 448 DOCUMENTS

42

43 CMDR RUSH: Sir, the next document is an index to the  
44 transcripts of the parliamentary inquiry containing, in  
45 all, seven documents for the seven days of hearing of that  
46 inquiry.

47

1 EXHIBIT #30 INDEX TO THE TRANSCRIPTS OF THE PARLIAMENTARY  
2 INQUIRY CONTAINING 7 DOCUMENTS

3  
4 CMDR RUSH: The next document, sir, is the report of the  
5 parliamentary inquiry into the loss of HMAS Sydney II.

6  
7 EXHIBIT #31 REPORT OF THE PARLIAMENTARY INQUIRY INTO THE  
8 LOSS OF HMAS SYDNEY II

9  
10 CMDR RUSH: The document entitled "Government response to  
11 the parliamentary inquiry into the loss of HMAS Sydney II".

12  
13 EXHIBIT #32 GOVERNMENT RESPONSE TO THE PARLIAMENTARY  
14 INQUIRY INTO THE LOSS OF HMAS SYDNEY II

15  
16 CMDR RUSH: The next document, sir, is an index of the  
17 report of the parliamentary inquiry into the loss of HMAS  
18 Sydney II.

19  
20 EXHIBIT #33 INDEX OF THE REPORT OF THE PARLIAMENTARY  
21 INQUIRY INTO THE LOSS OF HMAS SYDNEY II

22  
23 CMDR RUSH: The next document is an index to the  
24 submissions and transcript of evidence of that inquiry.

25  
26 EXHIBIT #34 INDEX TO SUBMISSIONS AND TRANSCRIPT OF INQUIRY

27  
28 CMDR RUSH: The next document is an index of witnesses and  
29 submissions of witnesses to the inquiry and transcripts of  
30 oral evidence from the parliamentary inquiry.

31  
32 EXHIBIT #35 INDEX OF WITNESSES AND SUBMISSIONS OF WITNESSES  
33 TO THE INQUIRY AND TRANSCRIPTS OF ORAL EVIDENCE FROM THE  
34 PARLIAMENTARY INQUIRY

35  
36 CMDR RUSH: The next document, sir, is an index of oral  
37 evidence for this inquiry. We'll need to check the date of  
38 that index. May I come back to that document 8 and get an  
39 instruction on that, sir?

40  
41 THE PRESIDENT: This is the oral evidence before the  
42 parliamentary inquiry, I think.

43  
44 CMDR RUSH: The dates would suggest that, sir. I just  
45 wasn't quite sure, but I think it is.

46  
47 THE PRESIDENT: Yes, it is.

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CMDR RUSH: It is, sir, thank you.

EXHIBIT #36 INDEX OF ORAL EVIDENCE - INQUIRY INTO LOSS OF  
HMAS SYDNEY - TRANSCRIPT OF ORAL EVIDENCE 27.3.1998 -  
29.6.1998

CMDR RUSH: Then, sir, the next document is an index to  
the submissions, 133 documents in all, provided to this  
Inquiry.

EXHIBIT #37 INDEX TO SUBMISSIONS CONTAINING 133 DOCUMENTS

CMDR RUSH: The next, sir, is an index to what have been  
called private collections, which are various documents,  
articles and matters that have been provided by members of  
the public to the Commission of Inquiry.

EXHIBIT #38 INDEX TO PRIVATE COLLECTIONS CONTAINING 87  
DOCUMENTS

LCDR RENWICK: Sir, of course we have no objection to any  
of those, but in due course we may wish to make submissions  
as to weight.

THE PRESIDENT: Of course.

CMDR RUSH: Sir, we have a number of witnesses to be  
called today. One witness, sir, we're making inquiries as  
to his whereabouts at the moment, but Mr Ruston is our  
first witness and I call him, sir.

THE PRESIDENT: Thank you.

<IAN STANLEY CLARENCE RUSTON, sworn: [10.08am]

<EXAMINATION BY CMDR RUSH:

CMDR RUSH: Q. Mr Ruston, is your full name  
Ian Stanley Ruston?

A. Stanley - I've got a Clarence in there, too, just for  
good measure.

Q. Thank you. Do you reside at [REDACTED]  
[REDACTED]?

A. Yes.

1 Q. Mr Ruston, were you born on [REDACTED]?

2 A. Yes, slightly older than you.

3

4 Q. Mr Ruston, in these proceedings, have you sworn  
5 a statutory declaration --

6 A. Yes, I have.

7

8 Q. -- that contains evidence in relation to your time in  
9 the Royal Australian Navy, particularly circumstances and  
10 events as a wireless telegraphist in the navy?

11 A. Yes.

12

13 Q. Do you have a copy of that before you?

14 A. Yes.

15

16 Q. Are the contents of the statutory declaration true and  
17 correct?

18 A. Yes.

19

20 CMDR RUSH: Sir, that declaration is contained on  
21 Summation at WIT.012.0001.

22

23 THE PRESIDENT: Thank you.

24

25 CMDR RUSH: I tender that document, sir.

26

27 EXHIBIT #39 STATUTORY DECLARATION OF IAN STANLEY CLARENCE  
28 RUSTON, WITN.012.0001

29

30 CMDR RUSH: Q. Mr Ruston, do you remember what year you  
31 joined the navy?

32 A. No. I can't tell you that. I think you told me,  
33 actually.

34

35 Q. Did you attend the Flinders Naval Depot?

36 A. Yes, I did. I was 18 months there. The wireless  
37 staff spent more time in FND than in any of the other  
38 branches.

39

40 Q. Did you undertake a course at the Flinders Naval Depot  
41 in relation to wireless telegraphy?

42 A. Yes.

43

44 Q. That course was for approximately how long?

45 A. It covered the full 18 months, actually.

46

47 Q. When you joined the navy, had the Second World War

1 commenced or not?

2 A. No, no.

3

4 Q. 1938 - would that be approximately the time that you  
5 joined?

6 A. Yes.

7

8 Q. Did you join HMAS Sydney on completion of that course?

9 A. Yes.

10

11 Q. Was that in April 1939?

12 A. That's about right.

13

14 Q. When you joined Sydney, what was your role and where  
15 were you posted?

16 A. I was just an ordinary telegraphist and became one of  
17 the communications staff on Sydney.

18

19 Q. In all, approximately how many communications staff  
20 were in the ship?

21 A. It would have been about 30, I think.

22

23 Q. Mr Ruston, your recollection in relation to the  
24 transmission of signals to and from the ship - firstly, how  
25 was that done? What was the nature of the signalling?

26 A. All communications, particularly in wartime, are by  
27 code.

28

29 Q. If a signal were received by HMAS Sydney, what sort of  
30 code was it received in? How was it received on the ship?

31 A. It was usually a four-letter code. It would come over  
32 the wireless. There would be an operator on duty all the  
33 time, of course, and sometimes several operators.

34

35 Q. When you mentioned "code" and "received over the  
36 wireless", was it received in Morse code?

37 A. Oh, definitely.

38

39 Q. Did you receive signals in Morse code?

40 A. Yes.

41

42 Q. At your station, what was the apparatus that was used?  
43 How would you hear or listen to the signals?

44 A. I had a pair of earphones, a wireless in front of me  
45 and a typewriter.

46

47 Q. On receiving Morse code letters, what would you do?

1 A. No, it would be Morse code. It's not letters.  
2  
3 Q. I'm sorry, when receiving Morse code, what would you  
4 do?  
5 A. Just type out the letters.  
6  
7 Q. Type out the letters?  
8 A. Yes.  
9  
10 Q. Would you understand the signal as received?  
11 A. Wouldn't have a clue. It was code, highly secret and  
12 not my responsibility or any operator's responsibility to  
13 try to interpret what was in it.  
14  
15 Q. On receipt of the signal, it would be typed out as you  
16 received it?  
17 A. Yes.  
18  
19 Q. Where would it go from there?  
20 A. It would go from there to the officer - it could have  
21 been petty officer or chief petty officer - of the watch,  
22 who would assemble all the signals. They would then go to  
23 the signal officer.  
24  
25 Q. What would the signal officer do with it?  
26 A. It was his responsibility to decode them, put them in  
27 a file, which would go to the captain, commander and any  
28 other relevant officers.  
29  
30 THE PRESIDENT: Q. Mr Ruston, did you translate the  
31 Morse into letters?  
32 A. Yes, into letters.  
33  
34 Q. And you just typed out the letters which were in  
35 a code?  
36 A. Yes. You had no way of knowing what was coming over,  
37 and that code was changed regularly to confuse any enemy  
38 that was trying to decode them.  
39  
40 THE PRESIDENT: Thank you.  
41  
42 CMDR RUSH: Q. As far as the code, were you aware,  
43 Mr Ruston, at this time how frequently the code changed?  
44 A. To my knowledge that we'd been told, it would be every  
45 24 hours.  
46  
47 Q. Was there a code book, as you understood it or saw it,

1 that was used by the officer?

2 A. I've never seen it, but I understand that there was  
3 not only a code book but perhaps a machine, too.

4  
5 Q. But you never had any part of that?

6 A. Never saw it, no. They were highly secret, and  
7 understandably so.

8  
9 Q. Where were those signals received in the ship?

10 A. In the main wireless office.

11  
12 Q. Where was the main wireless office situated?

13 A. Down below the upper deck towards the rear of the  
14 ship.

15  
16 Q. Was that the only place where signals were received or  
17 sent from the ship?

18 A. Normally, but there was the remote control office just  
19 under the bridge and slightly abaft it, and then there was  
20 one wireless office, which to my knowledge was never used,  
21 right down in the very bowels of the ship.

22  
23 Q. You refer to the remote office.

24 A. Yes.

25  
26 Q. Do you remember the title of it?

27 A. Remote control.

28  
29 Q. Remote control office. What was performed in that  
30 office?

31 A. Well, not very much on Sydney, from the point of view  
32 that at no time in those early days was fighter control  
33 ever put to the test, because there were no planes --

34  
35 Q. By "fighter control", you mean aircraft control?

36 A. Yes.

37  
38 Q. Later in your service, was that office used in  
39 relation to contact with aircraft?

40 A. Yes, it was RT then.

41  
42 Q. Whilst you served on Sydney, Mr Ruston, apart from the  
43 Morse code telegraphy, was there any other method of  
44 signalling?

45 A. Not to my knowledge, not that I can remember.

46  
47 Q. In particular, to your memory, was there any radio

1 capability of plain spoken word communication?

2 A. No.

3

4 Q. Do you have any recollection of a signal called a VAI  
5 signal?

6 A. Oh, definitely. We were made very aware of that,  
7 because it was a signal that came over at least daily,  
8 possibly more often, which denoted where all the friendly  
9 merchant ships were in the area.

10

11 Q. And in relation to that signal that came in, the VAI  
12 signal, were you able to tell when you received a VAI  
13 signal or when you didn't?

14 A. No. It was highly secret, just the same as any other  
15 message coming in, and I understand that quite often  
16 signals that we took were just nothing; they were there to  
17 stop surges when operations were beginning to take place,  
18 and so on.

19

20 Q. In relation to the VAI signal, you say that you have  
21 a good recollection of it. Was that on the basis of your  
22 discussions and knowledge of the nature of signals that  
23 came on to the ship?

24 A. No. As I said, you couldn't tell, just reading  
25 a signal, what was in it. We were informed of it. Collins  
26 tried at all times to keep his ship's company well aware of  
27 what was happening, and also it would have been the  
28 responsibility of the chief telegraphist to say, "Now,  
29 you've got to read them as accurately as possible", from  
30 the point of view that it saves a lot of time and trouble  
31 if you get it right the first time.

32

33 Q. Mr Ruston, in your statutory declaration, you refer to  
34 the VAI signal as emanating from HMAS Harmon. Is that  
35 a firm recollection?

36 A. No, not at all. I can't tell you where it came from.  
37 It's just that we at that stage understood that that was  
38 the centre of operations.

39

40 THE PRESIDENT: It came from navy office in Melbourne,  
41 didn't it?

42

43 CMDR RUSH: I think it did, sir. There will be evidence,  
44 sir, that the plotting of those ships was conducted in  
45 Melbourne.

46

47 Q. You also refer in your statutory declaration to

1 direction-finding equipment. Do you have any recollection  
2 of that being equipment that was on Sydney during your  
3 time?

4 A. No, none at all. The only direction finding of any  
5 description was the ASDIC.  
6

7 Q. You have said that it was around April 1939 that you  
8 joined Sydney, and did you serve on Sydney until  
9 approximately December 1940?

10 A. Yes. I left Sydney about a week before she actually  
11 came back.  
12

13 Q. During your time on HMAS Sydney, Mr Ruston, when the  
14 ship was called to action stations, where was your position  
15 at action stations?

16 A. Mainly in the remote control office. If I was on  
17 watch, of course, it would have been in the main wireless  
18 office.  
19

20 Q. In the remote control office, were you provided with  
21 a view of --

22 A. Too right.  
23

24 Q. What sort of view?

25 A. You could step outside the door and see everything  
26 that was going on.  
27

28 Q. And from time to time did you do that?

29 A. Definitely.  
30

31 Q. Do you have any recollection of occasions during your  
32 service in Sydney when action stations were called in  
33 relation to the identification of ships?

34 A. Yes. It's understandably a bit vague, but I think it  
35 happened several times that we went to action stations,  
36 weren't actually told why at that stage but then later  
37 stood down after going around a ship that was a fair  
38 distance away.  
39

40 Q. Do you recall now in relation to those occasions  
41 whether the ships were merchant ships or war ships or --

42 A. No, merchant ships.  
43

44 Q. When you say, as I understand your evidence, "standing  
45 a fair way away", do you have a recollection of the  
46 operation of the ship at all and the course of the ship in  
47 relation to the merchant ship that, as you understood it,

1 you were seeking to identify?

2 A. Yes. Until the captain was satisfied that it was in  
3 fact a ship in the VAI, we would be at action stations the  
4 whole time and everything would be trained on that ship.

5  
6 Q. In your statutory declaration, you refer to, in the  
7 best of your recollection at the time that was signed by  
8 you, as occurring on two occasions, to the best of your  
9 recollection. Do you have any idea now where the ship was  
10 geographically at the time?

11 A. No. It would have been very difficult for me to have  
12 any idea at all, because we would have been out of sight of  
13 land, and the sea just looks the sea.

14  
15 Q. Of the same nature, do you know whether at the time of  
16 those occasions that you refer to Sydney was on convoy or  
17 escort duty as opposed to any other type of duty?

18 A. No, if you were on escort duty, it was well known  
19 which ships you were escorting, and no problem there at  
20 all.

21  
22 Q. In relation to the identification of a merchant ship  
23 whilst on convoy or escort duty, do you have any  
24 recollection now as to the circumstances of identification  
25 of such a ship in that situation as opposed perhaps to when  
26 you weren't on escort duty?

27 A. No. Any convoy duty, we would join the convoy which  
28 would already be assembled.

29  
30 Q. May I go back to the wireless telegraphy, one matter  
31 I didn't ask you about, Mr Ruston.

32 A. Yes, sure.

33  
34 Q. What was the course of conduct, as you recall it, in  
35 relation to the sending of signals from Sydney?

36 A. To my knowledge, we didn't send any signal at all. It  
37 is possible that any information would have been conveyed  
38 by signal - that's flags - to the commodore of the convoy,  
39 but transmissions were kept at an absolute minimum always.

40  
41 Q. The transmissions being kept at a minimum - what was  
42 the reason or your understanding of the reason for that?

43 A. Well, it was just the fact that any transmission could  
44 be detected by the enemy and perhaps a signal that was  
45 secret could have been decoded.

46  
47 Q. In your time, did you have any understanding whether

1 there was a different methodology in relation to signalling  
2 from the ship once a ship was engaged with another ship in  
3 action with another ship?

4 A. No, the main thing was by semaphore.

5  
6 Q. You've indicated that there was no signalling or, if  
7 there was, it was to a minimum. In relation to your  
8 understanding of transmissions from Sydney, was there any  
9 difference between a signal perhaps coming from Sydney if  
10 Sydney was about to engage with another warship?

11 A. Once contact had been established, there were no  
12 inhibitions about sending plain language, letting the  
13 authorities know what was happening.

14  
15 Q. Did that ever occur during a time that you were on  
16 watch at your post on Sydney?

17 A. Yes, it occurred, much to Admiral Cunningham's relief,  
18 when Sydney engaged the Colleoni, and Cunningham had been  
19 sending frantic signals out, "Where are you, Sydney? Where  
20 are you, Sydney?" There was dead silence from Sydney until  
21 such time as we contacted the Colleoni and surprised it.

22  
23 Q. On contact with Colleoni, it was --

24 A. Plain language.

25  
26 Q. -- plain language signal to Admiral Cunningham?

27 A. Yes.

28  
29 Q. I asked you about your station, where you went at  
30 action stations. Do you have any recollection of how long  
31 it took the ship from the call to action stations for the  
32 ship to be at action stations?

33 A. Pretty slick. Very slick, actually.

34  
35 Q. In terms of time, are you able to give some estimation  
36 in relation to that?

37 A. I would imagine about three to five minutes, the ship  
38 would be at full action stations.

39  
40 Q. You referred to three positions on the ship capable of  
41 signalling.

42 A. Yes.

43  
44 Q. The third position - can you go back and indicate  
45 again where that was in the ship?

46 A. It was well down below the waterline, a very small  
47 office, very rarely used. In fact, I used to use it as

1 a study centre. To my knowledge, I don't think anybody  
2 ever went there.

3

4 Q. Was there ever any difficulty receiving signals during  
5 your time on Sydney?

6 A. No.

7

8 CMDR RUSH: They are the matters, sir.

9

10 LCDR RENWICK: No questions, sir.

11

12 THE PRESIDENT: Q. Mr Ruston, after Sydney returned from  
13 the Mediterranean campaign in early 1941, she was engaged  
14 in convoy and other duties around the Australian coast  
15 essentially, I think.

16 A. I had left Sydney in the Mediterranean, actually.

17

18 Q. You left in 1940 or 1941?

19 A. I'd have to look that up, I'm afraid. My memory of  
20 dates is atrocious, I admit it.

21

22 Q. How long before Sydney's final voyage did you leave?

23 A. Well, I left Sydney when she was in the Mediterranean  
24 and I got back in Australia about a week before she  
25 arrived.

26

27 Q. Did you rejoin her?

28 A. No.

29

30 THE PRESIDENT: I have no other questions.

31

32 CMDR RUSH: If I could clarify?

33

34 THE PRESIDENT: Yes.

35

36 CMDR RUSH: Q. In your statutory declaration, Mr Ruston,  
37 you refer in paragraph 2(c) to your serving in Sydney  
38 until December 1940. Did you have, at the time of the  
39 preparation of your statutory declaration, records  
40 available to you in relation to those dates?

41 A. I had my service record.

42

43 CMDR RUSH: Thank you. I have no other matters, sir.

44

45 THE PRESIDENT: Yes, thank you, Mr Ruston. You've been  
46 very helpful, thank you.

47

1 <THE WITNESS WITHDREW

2

3 CMDR RUSH: Sir, Mr Sheldon-Collins is the next witness.  
4 I understand that he has been located. I would ask, sir,  
5 for five minutes.

6

7 THE PRESIDENT: Right. I will adjourn for about  
8 five minutes. Let me know when you're ready.

9

10 SHORT ADJOURNMENT

11

12 CMDR RUSH: Thank you, sir. I call Mr Sheldon-Collins.

13

14 <FRANCIS CHARLES SHELDON-COLLINS, sworn: [10.50am]

15

16 <EXAMINATION BY CMDR RUSH:

17

18 CMDR RUSH: Q. Mr Sheldon-Collins, is your full name  
19 Francis Sheldon-Collins?

20

A. Yes.

21

22 Q. And you reside at [REDACTED]

23 [REDACTED]?

24

A. That's correct.

25

26 Q. Mr Sheldon-Collins, were you born on [REDACTED]?

27

A. Yes.

28

29 Q. Did you enlist in the Royal Australian Navy on  
30 11 April 1938?

31

A. That's correct.

32

33 Q. When you enlisted, where did you go?

34

A. Flinders Naval Depot.

35

36 Q. There did you undertake a course?

37

A. Yes, I did a series of courses as a cook and  
38 eventually passed out of the school of cookery and  
39 classified as an officer's cook.

40

41 Q. Your first ship that you joined - was that  
42 HMAS Sydney?

43

A. That's correct.

44

45 Q. Did you join that ship on 11 March 1939?

46

A. That's correct.

47