

1
2 THE PRESIDENT: Yes.

3
4 **SHORT ADJOURNMENT**

5
6 THE PRESIDENT: Yes, LCDR Kerr?

7
8 LCDR KERR: Thank you, sir. I call Greg Bathgate.

9
10 **<GREGORY KEITH BATHGATE, affirmed: [3.20pm]**

11
12 **<EXAMINATION BY LCDR KERR:**

13
14 LCDR KERR: Q. Sir, could you please tell this
15 Commission of Inquiry your full name?

16 A. Gregory Keith Bathgate.

17
18 Q. Your address?

19 A. [REDACTED]

20
21 Q. And your occupation?

22 A. Retired.

23
24 Q. You are the author of a book entitled "*HMAS Sydney*
25 *1941: The Analysis*"?

26 A. That's correct.

27
28 Q. Can I ask you your occupation before you retired?

29 A. I was a civil designer with the Water Corporation in
30 Perth.

31
32 Q. You have made a number of submissions to this
33 Commission of Inquiry?

34 A. I have.

35
36 Q. Concerning various incidents about *HMAS Sydney*,
37 including an analysis of an encounter?

38 A. Yes.

39
40 Q. Some submissions in relation to what you say were
41 signals sent by *HMAS Sydney*?

42 A. Yes.

43
44 Q. The Carley float?

45 A. Yes.

46
47 Q. And a number of other areas that you have covered in

1 a less comprehensive fashion. If we could, sir, please
2 bring up CORR.008.0176. You will see that on the screen in
3 front of you, sir. This is appendix 1 to your 15 July 2008
4 submission to the Commission in which you, as it states,
5 analysed the action between *HMAS Sydney* and *HSK Kormoran*.
6

7 Sir, may I commence by noting that there are some
8 areas in that appendix that are in bold print and others
9 that are in ordinary font. Could you tell me the
10 significance of the bold print? What is that meant to
11 identify?

12 A. The area in bold print indicates, in general terms,
13 Detmers' action report.
14

15 Q. Is that verbatim or is it paraphrased?

16 A. It's not verbatim, because there are so many reports
17 as such, but it's generally in accordance with the reports,
18 plural.
19

20 Q. How many reports are you referring to?

21 A. I know of at least two, and they were prepared by the
22 Navy at the time, and then you have Detmers' report, which
23 is the other one, yes.
24

25 Q. In the pages that comprise your appendix 1, the
26 analysis, you make some comments, proffer some opinion and
27 draw some conclusions. Could you please explain to the
28 Commission on what basis you make those opinions and draw
29 those conclusions?

30 A. When I wrote the book, I had a massive amount of
31 information. A lot of that information was taken from the
32 Parliamentary Inquiry, and I analysed all that information
33 and I came up with the most logical explanation for the
34 battle.
35

36 Q. When you say "logical", what objective processes did
37 you apply? Why did you discount certain theories instead
38 of others?

39 A. What I did finally was to draw some time line
40 diagrams, and this seemed to indicate to me that this was
41 the best indication of the action. So I selected those
42 items that people had indicated, and some of my own, so
43 that the action itself would fit into a time line, because,
44 after all, Detmers gave separation distances and whatnot
45 and it was something to achieve in the way of producing the
46 final action, particularly that period between 1815, or
47 1715 if you want to call it that, and 1830. That's the

1 area where there is a lack of detail in all the reports.

2

3 Q. Having read your analysis, you have reached a view, as
4 I understand it, that CAPT Detmers wasn't being full and
5 frank, particularly in that time period?

6 A. Yes.

7

8 Q. Why do you say that?

9 A. I think it's a case of looking at the relative
10 positions of the vessels at that stage. The two reports
11 I have indicated that the vessels went out to 90
12 hectometres. Those reports are in the National Archives.
13 So that was the area that I based the actual engagement,
14 from that period, from 1715 to 1730 hours.

15

16 Q. For the benefit of those listening, what distance is
17 90 hectometres?

18 A. It's 9,000 metres.

19

20 THE PRESIDENT: Q. Mr Bathgate, apart from the account
21 given in his interrogation in November, December and
22 January 1941, I think there are four separate accounts that
23 CAPT Detmers gave apart from his book, one being what is
24 called the dictionary account, which may or may not have
25 been the first, the second being the account that Dr Habben
26 took back to Germany, the third being the account which was
27 decoded by Frumel in 1945, and the fourth being the account
28 which was confiscated from CAPT Detmers when he was
29 repatriated on the *Orontes* in 1947. Did you make any
30 comparison of those accounts?

31 A. No, sir, I didn't have those particular accounts.

32

33 Q. So what is the baseline, the account on which you
34 worked?

35 A. I worked on the two reports that are registered with
36 the National Archives, and I worked with Detmers' report.

37

38 Q. When you say "Detmers' report", what do you mean?

39 A. As per the book that he wrote.

40

41 Q. The book?

42 A. Yes, yes.

43

44 Q. The Detmers' book?

45 A. Yes.

46

47 Q. If I'm not wrong - I've read your book and I've read

1 your submission - in appendix 1, CORR.008.0176, in that
2 first paragraph, you say:

3
4 *The sequence of events preceding the*
5 *encounter, the action and the destruction*
6 *of Kormoran and Sydney can be largely*
7 *attributed to the information contained*
8 *within the Action Report prepared by*
9 *Captain Detmers.*

10
11 That's one of the documents that you took from the
12 archives, is it, the action report?

13 A. Not from the archives, no.

14
15 Q. Where did you get that from?

16 A. That was from Detmers' account. That was in papers
17 submitted to the Parliamentary Inquiry.

18
19 Q. You go on in that paragraph, later on:

20
21 *Consequently, any assessment needs to take*
22 *into account whether some of the detail may*
23 *be designed to mislead or is just plainly*
24 *fabricated. There is also a need to*
25 *identify any obvious omissions and to*
26 *assess the logical sequence of the Report.*
27 *In this respect, it is therefore important*
28 *to visualise the respective actions that*
29 *Detmers and Burnett would logically take in*
30 *the given circumstances. It is also*
31 *considered that the Report should be*
32 *interpreted, inclusive of more recent*
33 *information obtained from other crewmembers*
34 *of the Kormoran.*

35
36 Then you set out a diagrammatic reconstruction of the
37 timetable of events that ultimately depicts a more accurate
38 account of the action.

39
40 If I understand correctly what you are saying there,
41 you have determined what, in your view, you think it likely
42 that CAPT Burnett would have done and what CAPT Detmers
43 would have done and said that if the actual accounts given
44 by CAPT Detmers or others do not accord with your view
45 about what they would likely have done, then you would
46 disregard what it is said they did?

47 A. Yes, at about 18 or 1715 hours, Detmers was under

1 extreme pressure. He was faced with *Sydney* with all the
2 guns pointed towards the *Kormoran*. I think if you set the
3 scene, this is what I mean about trying to get into the
4 head of Detmers and Burnett, as far as Detmers is
5 concerned, you have a desperate man. He is certainly under
6 extreme pressure. He's faced with all the guns bearing on
7 his ship. He knows that, in one second, he whole game's
8 over, including the ship itself. It's stacked with 400
9 mines. It has just taken on 5,000tons of fuel. It has
10 numerous shells and cordite. It's just an accident waiting
11 to happen.

12
13 Under those circumstances, I concluded that because of
14 this extreme pressure - and I'm not saying that he wasn't
15 an honourable man, but I'm saying that he would have given
16 thoughts about surrendering. So under these circumstances,
17 he had to get the upper hand, he had to get the drop on
18 Burnett, and he did that by surrendering.

19
20 I've indicated that that took place when the vessels
21 had a separation distance of about 90 hectometres. I think
22 that was the most likely time that Detmers would have
23 surrendered, at that stage, because going out on this
24 reconnaissance, if you like, Burnett had a better chance of
25 identifying a vessel. He didn't have a problem with the
26 sun. He would have noticed that the stern features were
27 different. He would have noticed that probably it didn't
28 have a gun platform on the deck, and he would have noticed
29 that there was a huge difference in tonnage.

30
31 So these are the things I weighed up, and I thought,
32 well, Detmers would have thought that the game was up,
33 because Burnett would have had a better view; he would have
34 realised that their cover had been blown, and that's the
35 situation that I think both the captains were in.

36
37 Q. The problem with that is that there is no evidence at
38 all.

39 A. Sorry?

40
41 Q. There is no evidence at all that I'm aware of that
42 *Kormoran* did surrender.

43 A. Well, that's not the sort of evidence you're going to
44 get from German survivors. I think you have to try to
45 interpret - and this is what I've done - the events and
46 draw your own conclusions. That's the only way to do that.

1 Q. That involves disregarding all the evidence.

2 A. All of the evidence?

3

4 Q. Yes, or most of it, certainly all of the oral evidence
5 and all of the accounts that have been given by 300-odd
6 people.

7 A. I think that the only difference in the evidence is
8 that the surrender aspect is one that has never been
9 discussed or never been offered by the Germans, and I can
10 understand that. I think everyone can, because it would
11 have been in contravention of international law if that had
12 been the case.

13

14 Q. Yes, but you can't just say, "Well, they surrendered,
15 although there's absolutely no evidence; because they
16 didn't say they surrendered, therefore they did". You have
17 to have some basis to make statements like that.

18 A. My basis - and I have just mentioned the fact that
19 Detmers would have been aware that his disguise had
20 probably been exposed, because Burnett was at a distance
21 and he could certainly recognise the ship as not being the
22 *Straat Malakka*.

23

24 Q. So let me try to get this clear. Your contention is
25 that at some point in time - and no doubt we'll come to the
26 detail of it - when *Sydney* was distant whatever metreage
27 you wish to tell me about from *Kormoran*, CAPT Burnett knew
28 that this ship was a raider?

29 A. That's correct. I would imagine that that would have
30 been his conclusion.

31

32 Q. What distance do you say that occurred at?

33 A. I think that occurred when Burnett took *Sydney* out to
34 90 hectometres, at some stage. I think I have a diagram in
35 the book that indicates roughly when Burnett would have
36 recognised that the ship was not the *Straat Malakka*.

37

38 Q. The evidence that *Sydney* went out to 90 hectometres is
39 very thin, is it not?

40 A. No. There are at least two -- I think I have copies
41 here; there are two papers lodged with the National
42 Archives that indicate just that. These were papers that
43 were prepared as a result of the interrogations of the
44 prisoners and of Detmers himself.

45

46 Q. Just so that I am clear about your thesis, it is that
47 on the approach of *Sydney*, at some point, distant how far,

1 she recognised that the vessel ahead of her was a raider.
2 What distance do you think that was?

3 A. It would be somewhere around 9,000 metres.

4

5 Q. And thereafter what happened?

6 A. I think Burnett would have forced Detmers to stop.
7 Whether he fired a shot --

8

9 Q. I think you should use "did" rather than "would have",
10 or is this just speculation?

11 A. No, no.

12

13 Q. It has to be based on some sort of material.

14 A. This is just a logical way of looking at it. Once he
15 recognised that the ship was not the *Straat Malakka*, he
16 would have thought: Well, we have to make her stop. Now,
17 whether he ordered that a shot be fired or whatever I don't
18 know. He may have signalled --

19

20 Q. There is no evidence of that at present, I don't
21 think.

22 A. Obviously not from the *Kormoran* survivors, no.

23

24 Q. No.

25 A. Sorry, where were we?

26

27 Q. You were telling me what happened after about
28 9,000 metres out. *Sydney* is approaching. You said Burnett
29 would have realised that he had to make the *Kormoran* stop.
30 Then you said that he would have fired a shot across her
31 bow, or whatever.

32 A. Yes. I would expect that would be normal procedure,
33 particularly at that distance. I don't think there would
34 be any point in signalling from that distance. After he
35 had fired the shot, I think he would have sped in - I think
36 the surrender would have been made, probably not by flag,
37 because that would have been too conspicuous, particularly
38 amongst his own crew. I think it would have been made by
39 lamp. I think, in that case, the *Sydney* would have sped in
40 to a position where she could stop alongside or within
41 reasonable distance of *Kormoran* in order to board the
42 *Kormoran* itself.

43

44 Q. Is it your contention that the *Kormoran* stopped?

45 A. Yes, or nearly stopped.

46

47 Q. And what about *Sydney* - did she stop, too?

1 A. Yes, in order to lower a boat.

2

3 Q. And it is then that you say that the engagement
4 occurred?

5 A. Yes, while Detmers had surrendered. He had to get the
6 drop, as I mentioned before, on Burnett. After the
7 surrender, he would have made preparations to launch
8 a surprise attack by torpedo and by gun. Yes, I believe
9 that's really what occurred. In other words, he opened
10 fire while in surrender mode.

11

12 Q. You have no evidence to support that at this time?

13 A. No.

14

15 Q. It's just your theory about what might have happened?

16 A. We're not going to get that sort of evidence from
17 German survivors.

18

19 Q. At what distance do you say the engagement occurred?

20 A. Approximately 900, 1,000 metres. I think the Germans
21 are correct in that. The whole report does stack up except
22 for that period between 1715 and 1730 hours. That's the
23 section of the report that hasn't got the detail that we
24 need.

25

26 Q. Why do you accept the Germans in some places and not
27 in others?

28 A. As I've mentioned, I've drawn these time line diagrams
29 and I think that you can tell from the separation distances
30 that Detmers' report is fairly accurate. There's no doubt
31 about that. Even after the battle, the separation
32 distances that he indicated are quite accurate and they
33 really account for the speeds of both the vessels. So what
34 I'm saying is that Detmers' report is not a complete
35 fabrication. The only thing that is missing from the
36 report is that detail for a quarter of an hour before the
37 battle.

38

39 Q. So you accept his report, except that he says nothing
40 about surrendering?

41 A. He really doesn't say anything about the relative
42 positions of the ships during that quarter of an hour
43 period. He does mention it once. I think in one of the
44 reports, he said that they were as close as 900 metres.
45 But there is no actual description of what happened during
46 that - they were the fatal 15 minutes.

47

1 Q. What's the evidence that you rely on to say that the
2 *Kormoran* stopped almost and *Sydney* stopped?

3 A. What I'm saying is that Detmers' report indicates that
4 both of the vessels were travelling at 14 knots. Now, that
5 wasn't the case. Messerschmidt has since torpedoed that
6 suggestion, I suppose, because he's on video saying that,
7 when he was asked about the speed of the ships, he said,
8 no, they weren't going very fast at all.

9

10 I notice the Commission, when they interviewed him in
11 Germany, really didn't press that point as far as the speed
12 of the vessels was concerned just before the battle, and
13 I think that was something that we missed out on there.

14 I really believe that we should have got a clearer
15 indication as to the speed of the vessels. But with
16 Messerschmidt saying, "Well, the ships weren't going too
17 fast at all", I would imagine that they would be moving
18 slowly, probably just keeping headway into the swell, or
19 across the swell, as it was.

20

21 Q. Why do you imagine that rather than going forward, as
22 they said they were going forward?

23 A. Going into the swell, they couldn't stop completely;
24 they couldn't stop their engines.

25

26 Q. No, but what's the evidence that they did stop or were
27 intending to stop at all?

28 A. Well, there's no evidence from the *Kormoran* survivors,
29 no, there's no evidence, except that, as I've said,
30 Messerschmidt indicated that, when asked how fast the
31 vessels were going, "No, they weren't going very fast at
32 all." I think he was demonstrating at the time the
33 relative positions of the ships, and I think probably
34 everyone has seen the video on that. It was a video that
35 was produced by the ABC when David Mearns was getting
36 together the search.

37

38 Q. So there was a surrender, you say, and then a battle.

39 A. *Sydney* was caught off guard, because I would expect
40 that after the surrender, they would have been in some sort
41 of relaxed state compared with being at full Action
42 Stations.

43

44 Q. Relaxed state for a vessel which has just surrendered
45 and so is known to be an enemy?

46 A. Yes. I honestly believe that there was some
47 relaxation. I'm not saying that the guns were not still

1 trained on the *Kormoran*. I think that the mental attitude
2 was probably that, "Okay, she's surrendered. Let's get the
3 boat down", and maybe they were distracted when launching
4 the boat. There were other things to do, I suppose.
5

6 Q. Is it your assumption that *Sydney* was at Action
7 Stations?

8 A. Yes.
9

10 Q. What do you base that on?

11 A. When you look at transcripts that you obtained in
12 Germany, I think that nearly all of the witnesses indicated
13 that all *Sydney's* guns were pointed at the *Kormoran*.
14

15 Q. I don't think they did. The 6-inch guns were.

16 A. Sorry, I stand corrected, the 6-inch guns.
17

18 Q. And the 4-inch guns were not. At Action Stations they
19 would have been?

20 A. They should have been.
21

22 Q. So why do you say that she was at Action Stations?

23 A. You would expect that all the 6-inch guns would be
24 manned at full Action Stations. If they were at Cruising
25 Stations, I believe they're not all manned. Is that
26 correct?
27

28 Q. I'm not answering questions here; I'm asking them.

29 A. Anyway, I believe that that was the case, yes, so
30 I would imagine they would have been at Action Stations if
31 all the 6-inch guns were trained on the *Kormoran*.
32

33 Q. Even though at Action Stations they should have had
34 both 4-inch guns and machine guns manned?

35 A. Yes, and torpedos.
36

37 LCDR KERR: Q. Mr Bathgate, as I understand what you've
38 written, when you say *Kormoran* surrendered, what flag do
39 you say she was flying when she surrendered?

40 A. I go along with the Germans that they flew a Dutch
41 flag, yes.
42

43 Q. So we have an unidentified vessel, as far as *Sydney* is
44 concerned, flying a Dutch flag, having received some
45 responses to her inquiries by flag or by light, and at some
46 point we have that vessel flying a Dutch flag surrendering.
47 Is my assumption correct?

1 A. Yes, yes. The surrender could have been by lowering
2 the Dutch flag. That may have been another form of
3 surrender.

4
5 Q. But we have a ship with a Dutch flag, a neutral ship,
6 surrendering. My question to you is: what is your opinion
7 of what message that would have sent to CAPT Burnett and
8 his command team?

9 A. I think that Burnett would have realised that it was
10 not the *Straat Malakka*. In other words, it wouldn't have
11 mattered what flag they were carrying, he would have taken
12 the action that he did.

13
14 THE PRESIDENT: Q. Which, on the German account, was to
15 draw up close and parallel?

16 A. No, at that stage they were out further, as per my
17 diagram in the book. They were out towards 90 hectometres.

18
19 Q. Then, how did it come about that she got, as you said,
20 to about 900 metres on the starboard quarter, starboard
21 beam?

22 A. A good indication can be gained by consulting that map
23 or diagram in the book.

24
25 THE PRESIDENT: Let's have a look at that.

26
27 LCDR KERR: It is the next page, actually.

28
29 Q. Is that the correct one, Mr Bathgate?

30 A. No. Keep going.

31
32 Q. If we go three or four pages on, that one?

33 A. That's it.

34
35 Q. For the record, that's CORR.008.0181. Look at that,
36 Mr Bathgate, you have the two ships at a maximum distance
37 apart of 8,900 metres at 1812, and that is the time that
38 you say *Kormoran* surrendered?

39 A. Yes.

40
41 Q. May I return to my question that I asked you a few
42 moments ago. In your answer to the Commissioner, you said
43 that you believed that after *Kormoran* surrendered, *Sydney*
44 may have relaxed somewhat.

45 A. After *Kormoran* surrendered at 9,000 metres, *Sydney*
46 came in very quickly to take up position in order to board
47 *Kormoran*.

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Q. That wasn't my question, with respect, sir. You say, do you, that *Sydney's* command team relaxed?

A. Yes.

Q. In the face of a ship which was obviously now known, on your scenario, to be flying a false flag?

A. When I say "relaxed", I don't say relaxed completely, but certainly they should have been more concerned with the possibility that they could have been fired on. I think one of the reports by one of the Admirals was that the gunnery officer wasn't ready, and I think they laid the blame squarely on the gunnery officer, that he didn't open fire.

You would expect that the torpedos from the *Kormoran* would have been observed, particularly the above-water torpedos. You would have expected that they would have been seen when they splashed into the water. Not so the underwater torpedo, of course, and I believe that they would have fired all of their torpedos. They were desperate at that stage. I couldn't imagine that Detmers would have held back on any of his armaments. Otherwise, he would never have had a chance to possibly ever use them, particularly the underwater torpedo.

Q. When do you say he fired his underwater torpedo, using your time line as a guide?

A. I would suggest that it was fired before the above-water torpedos were launched.

THE PRESIDENT: Q. Why do you say that?

A. It was concealed. The launching wasn't going to be observed by the people on board *Sydney*. I think it was a perfect opportunity to use that weapon.

Q. You have to have, for your theory, the ships almost stationary, don't you?

A. Yes.

Q. Otherwise, you can't fire the underwater torpedo.

A. That's right.

Q. So if you believe in underwater torpedos, you have to get the ship stopped somehow or other?

A. They have to be nearly stopped.

1 Q. Three knots or thereabouts?

2 A. Yes, yes. That's what this diagram shows.

3

4 Q. There's no evidence that you can point me to in
5 relation to either ship stopping?

6 A. I think it has been mentioned in various publications,
7 but there is certainly no firm evidence from the German
8 survivors.

9

10 Q. There are two pieces of evidence. On his first
11 interview, Detmers said that he was ordered to stop, but
12 his signaller who took the signal said there was never any
13 order to stop received. So I'll have to make something of
14 all that. Apart from that, I'm not aware of any evidence
15 about it. And CAPT Detmers never repeated that piece of
16 evidence.

17 A. If the Germans had revealed that they had fired the
18 underwater torpedo, that would have indicated that they
19 were stopped and possibly they fired before their
20 declaration.

21

22 Q. Why would it indicate that? Why would it indicate
23 that they might have fired it before the declaration?

24 A. No, the fact is that an underwater torpedo can't be
25 seen. The launching can't be seen. So any suggestion that
26 Detmers was stopped would have meant that they could have
27 fired the underwater torpedo while he was surrendered.
28 That's my logic.

29

30 Q. The reality is, isn't it, that your logic is that
31 because *Kormoran* was able to seriously damage *Sydney* and
32 come off best in that battle - although she herself sank -
33 therefore she must have got an advantage. There are two
34 possible advantages. One is precisely as CAPT Detmers and
35 about 17 other people said occurred did occur, or there's
36 your theory, which was that to get the advantage she
37 needed, she had to use a disguised underwater torpedo.
38 Therefore, you say, she must have stopped or slowed down.

39 A. Yes.

40

41 Q. Therefore, she must have surrendered, because
42 otherwise *Sydney* would not have come in so close. That's
43 the train of logic that you follow; is that roughly right?

44 A. Yes, that's correct.

45

46 Q. I understand that, but if I may say, it does involve
47 a rejection of basically all the evidence that has come

1 from the German survivors.

2 A. Yes. I indicated before that you could not expect the
3 Germans at this stage, or at any stage, to have mentioned
4 that this was the case. I mean, you couldn't expect that.
5 It was against international rules to do that. It wasn't
6 in their interests to even mention it. Even today, I don't
7 think you're ever going to drag it out of them.

8

9 Q. If it happened.

10 A. We've missed the boat in that regard; we've missed the
11 boat.

12

13 Q. Did you consider the circumstance that the survivors
14 were rescued by six, I think, maybe five, different vessels
15 in addition to those who reached the shore?

16 A. Sorry, I don't follow you.

17

18 Q. The 300 people who survived, in round terms, were,
19 when they were rescued, divided into roughly six separate
20 groups. At no point of time after abandoning ship were
21 those people all together. They were interviewed by six
22 different experienced Naval and other Officers, and the six
23 different groups each gave individual accounts, not as
24 a group but as individuals, and it was up to the six Naval
25 Officers to themselves prepare a report on what the
26 particular group of survivors that they had interviewed
27 said. Six experienced Naval Officers did that - or five,
28 whatever the number is - and they each formed a view.

29 A. I think those that were rescued by the *Aquitania* and
30 taken to Sydney gave a different version. A few of those
31 survivors indicated - and this sort of reinforces the point
32 that *Sydney* was out at 9,000 metres - that *Sydney* fired
33 first. I think there were three - you'll find those in the
34 records - survivors who indicated that *Sydney* fired first
35 from a distance, and I think they nominated a distance of
36 about 5 miles.

37

38 That sort of evidence didn't seem to come through as
39 far as the survivors that were in Western Australia were
40 concerned. I found that a bit odd. Whether they had got
41 together, whether there was some collusion, I don't know,
42 but it was significant that those that were taken to Sydney
43 gave a slightly different version.

44

45 Q. Not materially different, I don't think, as I recall
46 it. The elements of the encounter from each of the six
47 groups, as distilled by five or six different Naval

1 Officers, is essentially the same.

2 A. I'm sorry, I haven't read every account of the
3 evidence that the survivors gave, but I think those that
4 were rescued by the *Aquitania*, who were remote from the
5 rest of the group, who were rescued in Western Australia -
6 I think their evidence is relevant in this regard.

7
8 Q. I will recheck that, but that's not my present
9 understanding.

10 A. Mmm.

11

12 LCDR KERR: Q. Mr Bathgate, in your introduction to your
13 analysis, you said that there was a need to identify any
14 obvious omissions, to assess the logical sequence of
15 Detmers' report and to visualise the respective actions
16 that CAPT Detmers and CAPT Burnett would logically take in
17 the given circumstances. What qualifications or experience
18 do you have that enabled you to do that objectively and
19 expertly?

20 A. It's a case of filling in the blanks. This is what
21 I've attempted to do. You can only do that by looking at
22 all the possibilities, looking at logic, looking at what
23 you would have done in that position, maybe. Even if
24 people have a special qualification to comment on it,
25 I think people's reactions would have been obviously
26 different. But not being there - and in the case of
27 Detmers, he being under so much pressure, and I don't doubt
28 that he was an honourable man, I think in this case it was
29 just a plain case of survival and he did something that he
30 probably wouldn't normally do, but in order to survive, he
31 had to do it. He was 12,000 miles from home. He had no
32 chance of being rescued. He was going to be a prisoner of
33 war for the rest of his term. You know, these are the
34 things that come into it. And the disgrace of having his
35 ship taken - you put yourself in his position.

36

37 Q. You said that he was an honourable man, but you've
38 also suggested that he fired under a white flag, or
39 equivalent?

40 A. Yes.

41

42 Q. That's not an honourable thing to do, is it?

43 A. No, but otherwise, in other cases - take, for example,
44 the prisoners that he took. He looked after them. I think
45 that he did everything by the rules. But, on this
46 occasion, I doubt whether that happened because of the
47 extreme pressure that he was under.

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Q. So in answer to my question, sir, you have no special qualifications, no maritime qualifications?

A. No, no.

Q. Have you studied Naval battles and Naval Commanders?

A. Yes, I have various books at home on a lot of Naval issues, yes.

Q. Have you studied them strategically?

A. Not strategically, no.

Q. You wouldn't know what CAPT Burnett might do, would you?

A. Well, no-one would any more than I would.

Q. I suggest to you, sir, that CAPT Collins would, CAPT Farncomb would.

A. Well, yes, but in that situation, we're looking at the action report, for example, and it's not all there, so someone has to fill in the blanks, and I think I've taken a logical viewpoint in order to do that. That's what I believe.

THE PRESIDENT: Q. At page CORR.008.0169, I think you are addressing the submarine hypothesis. Could we go back to the previous page, please, which says:

... whether the loss of Sydney was caused by Kormoran's actions alone, or whether the disaster could have been assisted by outside intervention.

In the first dot point, you refer to some matters, namely, a media report and an Admiralty report, and say:

As these revelations would appear to be inextricably linked, it suggests that the Admiralty may have been aware of the circumstances of the Sydney's fate and it could have obtained this information directly from the FECB in Singapore.

I take it that you haven't considered all of the signals which passed between the Australian Naval Board and China Station and Admiralty, or have you?

A. I haven't seen any signals between the Royal Navy in

1 Singapore and the Admiralty. I've seen signals between the
2 Admiralty and the Australian Navy, yes.

3

4 Q. Signals from the Australian Naval Board to both
5 C-in-C China --

6 A. Yes.

7

8 Q. -- and Admiralty?

9 A. I think there was one I saw that included the
10 Admiralty when they were asking for a - when a full report
11 became available on their assessment of the loss of the
12 *Sydney*, they should forward it. I think that was the tenor
13 of the request.

14

15 Q. Then if we go to the next page, you deal with surprise
16 torpedo attack, Pastor Wittwer and the *Cape Otway*. Have
17 you been present when the *Cape Otway* log has been discussed
18 here?

19 A. No, actually I read it on the transcript yesterday.

20

21 Q. Do you accept that?

22 A. Yes, I mean, I have no comment to make about the
23 *Cape Otway*. I included that in the book because it was
24 part of the information. It was controversial information.
25 I included that to demonstrate that if there were bodies
26 sighted near the cliffs, the Zuytdorp Cliffs, and in
27 consideration of the area that I had identified where the
28 ships had sunk, bodies could have drifted within that time
29 frame to an area near the Zuytdorp Cliffs where these
30 bodies were purportedly sighted.

31

32 That was a demonstration as far as trying to clarify
33 the evidence - I'll put it another way - sustaining the
34 evidence of my position in regard to the wreck sites.
35 That's the way I introduce that.

36

37 Q. You raised the question in it whether or not the
38 torpedo, which undoubtedly did hit *Sydney*, came from the
39 *Kormoran* or a third vessel.

40 A. Yes.

41

42 Q. What's your view about that?

43 A. All the German evidence points to the fact that the
44 torpedo certainly came from the *Kormoran*. All I've done is
45 point out the fact that because the Germans saw a torpedo
46 explosion on the *Sydney*, they all assumed that it came from
47 the *Kormoran*. If there happened to be, say, a submarine

1 about, they wouldn't have known; they wouldn't have known
2 whether it was their torpedo or one from the submarine.

3
4 Q. That's just speculation, isn't it?

5 A. Yes, yes.

6
7 Q. You go on in the second-last dot point, towards the
8 end, and this is about *Sydney* going slowly and being an
9 irresistible target to a third party:

10
11 *Therefore, in order to prevent the illegal*
12 *act of surrender being exposed by those*
13 *aboard the Sydney ... it could be argued*
14 *that it became necessary to eliminate any*
15 *likelihood of the Sydney reaching safety.*
16

17 Is that a suggestion that this third vessel, if it ever
18 existed, would have known that there was a surrender?

19 A. Yes.

20
21 Q. Would have known that *Kormoran* had committed an
22 illegal act?

23 A. Yes.

24
25 Q. And, therefore, to stop there being any evidence of
26 that, the third vessel sent a torpedo and sunk *Sydney*?

27 A. That's the logic of it.

28
29 Q. But, again, that's just pure speculation?

30 A. Pure speculation.

31
32 Q. I think the next paragraphs on the next page just
33 expand on that, basically.

34 A. What I'm trying to do is to cover all the
35 possibilities. There had been so much discussion about
36 Japanese submarines. I had to make some attempt to analyse
37 some of this information and include it in the book,
38 because it's such a controversial issue. So I looked at
39 all the possibilities as to whether a submarine could have
40 been involved, and I've indicated there the circumstances
41 under which it could have been involved.
42

43 But this is all speculation. There's a whole chapter
44 in the book about submarines, and I put it under the
45 heading of "speculation", because I don't advance it as
46 fact, although I am interested in the whereabouts of some
47 of those submarines that were listed to go to their

1 respective ports before the declaration, yes.

2

3 Q. If we go to page 0172, you are then addressing the
4 German narrative. If you go down towards the bottom, in
5 the third-last paragraph, "Detmers' description",
6 et cetera, you say that it is a carefully crafted account.
7 Towards the end, you say:

8

9 *Perhaps the reference to the full salvo was*
10 *included in order to conceal the fact that*
11 *the Sydney had fired to force the issue of*
12 *surrender, as witnessed by survivors*
13 *rescued by the Aquitania.*

14

15 That's your reference, is it, to your recollection that
16 some persons on the *Aquitania* say that *Sydney* fired first?

17 A. They are records. Those records are available.

18

19 Q. There was nobody on the *Aquitania*, was there, who said
20 or implied that *Sydney* fired first to force a surrender or,
21 in fact, that the *Kormoran* did surrender?

22 A. No, they indicated that *Sydney* fired first, but they
23 didn't indicate certainly that *Kormoran* surrendered.

24

25 Q. At page 0173, "After the Battle", in the first dot
26 point you have some calculations. Perhaps this is shown in
27 a diagram that we might go to of drift vectors. Where do
28 you say that *Kormoran's* engines failed, which would be the
29 start of the drift?

30 A. That would be on the diagram that we previously saw.

31

32 Q. Could we look at that again, please.

33

34 LCDR KERR: Page 0187.

35

36 THE PRESIDENT: Q. Yes.

37 A. It is figure 4. With this diagram, I've assumed that
38 from Detmers' observations or von Malapert's observations
39 on the first day, that the wind was from the south-east,
40 but apparently, after the *Kormoran* had stopped, the wind
41 had swung around to the south-west and had strengthened,
42 hence the vectors that I've indicated.

43

44 Q. Where do you say the drift began?

45 A. The drift began at 1850, 1750 G time.

46

47 Q. That's way over there on the left.

1 A. All those separation distances check fairly well.
2 That's why I've indicated that his report is, for all
3 intents and purposes, a fairly accurate report as far as
4 the relative positions of the vessels are concerned.
5

6 Q. Could we go back to page 0173, please, at the bottom
7 of the page, the last dot point. You say:
8

9 *... there were potentially four other boats*
10 *available which have not been located that*
11 *could have accommodated at least 100*
12 *survivors. Providing that any of these*
13 *boats were seaworthy --*
14

15 And the evidence that I have received from the technical
16 people is that they were probably not --
17

18 *and were able to be launched --*
19

20 And the evidence I have received is that that would be
21 unlikely --
22

23 *the survivors would have set an easterly*
24 *course ...*
25

26 That all depends on those matters?

27 A. That's correct.
28

29 THE PRESIDENT: Yes, LCDR Kerr.
30

31 LCDR KERR: Q. Mr Bathgate, I want to move on and ask
32 you some questions about some other areas. Do you say that
33 *Sydney*, as fitted in 1941, could send voice messages?

34 A. All the evidence is - and most of the evidence has
35 come from people associated with wireless equipment of that
36 era - that *Sydney* didn't ever send voice messages. I've
37 done some further work on this and I've found that - and
38 this might alarm or surprise you - you can modulate W/T
39 signals and obtain R/T signals. Now, if you like, I would
40 like to table some information, if I could.
41

42 Q. My question was, sir, in November 1941 - I'll make it
43 a bit more specific - do you think that *Sydney* was fitted
44 so that she could send voice transmission?

45 A. From the information that I have now, it indicates
46 that modulation was required even for W/T. For example,
47 when you turned the set on, it had to be modulated for

1 frequency and amplitude. If you went a step further, you
2 could enable voice messages by splitting the continuous
3 wave. There is continuous wave for W/T. It's a single
4 wave, if you like.

5
6 Once you modulate further, you split that wave and you
7 get a reciprocal wave; you get the reciprocal of that wave,
8 which gives you a band within which to send sound.
9 I wasn't aware at the time that transmitters could do this
10 sort of thing, but a transmitter is a transmitter,
11 according to the information I have.

12
13 In the case of *Sydney*, *Sydney* would never, ever have
14 sent R/T signals, particularly in times of war it would
15 never be done. So those on board *Sydney*, the
16 telegraphists, would not have learnt or would not have been
17 able to use the R/T component of it. They probably weren't
18 aware of how to do it. They certainly probably weren't
19 taught, because they were never, ever going to use it. It
20 was never to be used.

21
22 I would imagine that they would have had a key lock on
23 the amount of modulation that the transmitter could
24 modulate, if that's the right word. So under normal
25 circumstances - or under no circumstances would anyone be
26 able to send R/T signals.

27
28 Q. So it follows, as I understand it, that you don't
29 espouse that *Sydney* sent voice messages on 19 November?

30 A. Well, that's debatable.

31
32 Q. Why is it debatable?

33 A. There is some evidence that some people had received
34 voice messages. That's all I say about that. As to
35 whether this actually occurred, I don't know.

36
37 THE PRESIDENT: Q. All the evidence that I have received
38 to date in relation to capacity to send voice messages is
39 that *Sydney* could not do so.

40 A. That's right.

41
42 Q. Now, if you're suggesting something different and you
43 have some basis for doing so, you had better tell me about
44 it.

45 A. I have a document. Actually, it's very common. It's
46 written in very simple terms. It's actually out of an
47 encyclopaedia, and it's out of an encyclopaedia which is

1 more relevant to the times we're talking about, because
2 when you look at modern encyclopaedias, you get a lot of
3 modern technology when you're talking about signals,
4 wireleses and whatnot.

5
6 I have extracted this information, which I would like
7 the Commission to accept, and I think that the Commission's
8 next step would be to probably consult with persons who
9 might have expertise in the circuitry of Type 48 and
10 Type 49 transmitters.

11
12 Q. They're the people who have given the evidence that it
13 couldn't be done.

14 A. I'm not sure whether they said that. I thought it was
15 more a case that they never used W/T.

16
17 Q. No; it wasn't possible. They could only send in
18 morse, as I understand it.

19 A. If the R/T was keyed off, there was no possibility
20 that they could send R/T, if the modulator was keyed off
21 for that component.

22
23 Q. If you will hand that material to LCDR Kerr, we will
24 mark it as an exhibit and see whether it is necessary to
25 consider it further.

26 A. I have highlighted the --

27
28 LCDR KERR: Q. You don't suggest, do you, that while
29 *Sydney* was engaged in her encounter with *Kormoran*,
30 necessary adjustments were made to her radios to allow her
31 to transmit in voice?

32 A. No.

33
34 THE PRESIDENT: I'll mark the excerpt from the
35 encyclopaedia as exhibit 197.

36
37 **EXHIBIT #197 EXCERPT FROM "EVERY MAN'S ENCYCLOPAEDIA"**
38 **PROVIDED BY MR GREG BATHGATE, EXH.197.0001**

39
40 THE PRESIDENT: Q. Which encyclopaedia is it?

41 A. It's called "Every Man's Encyclopaedia".

42
43 Q. It doesn't sound a very venerable and learned basis
44 for this.

45 A. It is, because it was actually quoted, if you recall,
46 by Bob Dyer and Jack Davey. In those days, they used it
47 for reference. I'm sure that modern encyclopaedias will

1 give the same information, but that is particularly clear
2 and very understandable.

3

4 LCDR KERR: Q. Just so that I understand the definition
5 or the difference between encoded morse and encoded morse
6 when you use it in your submission, what's the difference?

7 A. I understand the difference, yes.

8

9 Q. Can you explain it to me, briefly?

10 A. Encoded is encrypted morse.

11

12 Q. And ordinary is not?

13 A. And ordinary morse is plain morse, plain language.

14

15 Q. That's as I understood it. I just wanted to make
16 sure. I want to ask you some more questions about the
17 signals briefly. If we could turn, please, to
18 CORR.008.0164. You've heard the evidence, Mr Bathgate,
19 I take it, about the fact that people believe that a number
20 of signals were received from *Sydney*? You seem to have
21 focused on the Geraldton signals in particular, although
22 you do reference other signals.

23 A. Yes.

24

25 Q. If I could ask you to look at the bottom of the first
26 paragraph that appears on the page, you talk about the
27 signal that you say was received in Geraldton, and I'll
28 turn to that in a minute. You say:

29

30 *It also further corroborates the plain*
31 *voice messages received in Singapore at*
32 *Tanglin Barracks by RN telegrapher*
33 *Arthur Lane in evidence given to the*
34 *Parliamentary Inquiry.*

35

36 Who told you that he was a telegrapher?

37 A. That would have come from the - it would have been
38 mentioned somewhere in the Parliamentary submissions.

39

40 Q. I can tell you, sir, that he was a drummer.

41 A. He was a drummer, was he?

42

43 Q. Yes, he wasn't a telegrapher, although he says that he
44 spent some time in the radio office. You say that there
45 was some corroboration in the Geraldton message of the
46 plain voice messages received in Singapore?

47 A. All I'm doing there is drawing attention to the fact

1 that signals were sent at the same time, or roughly the
2 same time.

3

4 Q. There have been assertions by a number of people that
5 they have heard signals from *Sydney*, as I said, and you
6 would be aware, if you think about it, that none of these
7 signals purport to say the same thing, meaning that, if
8 they're all true, *Sydney* sent between six and ten different
9 signals. Surely, you don't accept that?

10 A. I don't know. That's difficult. *Sydney's*
11 telegraphists would have been trying to, obviously, if they
12 were able to, have the equipment serviceable, or made
13 serviceable, after the battle. They could have sent,
14 I guess, any number of signals - any number.

15

16 Q. You refer in particular to the signal to Geraldton.

17 A. Yes.

18

19 Q. And without going through it any great detail you have
20 heard the evidence about the signal, the wording?

21 A. Yes, I've read that. Very strange, some of it.

22

23 Q. Then, sir, rather than entering into a debate with you
24 about whether what was heard was what was heard, I'll put
25 some propositions to you. Firstly, it is recorded in the
26 SWACH log that SQNLDR Cooper had reported information that
27 had been reported to him to a third party. Are you aware
28 of the entries in the SWACH log on 4 December?

29 A. Oh, yes, I've seen those, yes.

30

31 Q. You've referred to it in your submission.

32 A. Have I?

33

34 Q. Yes.

35 A. Okay.

36

37 Q. I think that you implied that the SWACH log was false.

38 A. Are we talking about the message purportedly received?

39

40 Q. Yes, by CPL Dawson?

41 A. On the short wave receiver.

42

43 Q. In the Esplanade Hostel?

44 A. Yes, yes.

45

46 Q. It is recorded as being reported by SQNLDR Cooper on
47 4 December 1941 in the SWACH log?

1 A. Yes.

2

3 Q. Do you have a view on that? Before I ask you to
4 answer that, you are aware that SQNLDR Cooper now says that
5 he made that report on 19 November.

6 A. Yes.

7

8 Q. Do you have a view on the veracity of the SWACH log?

9 A. Yes, that's very strange, that they could associate
10 that message with it having been sent on the 4th. The
11 content of the message is not PMG jargon. Take the word
12 "Singapore". If we look at the word "Singapore", what does
13 Singapore have to do with PMG?

14

15 Q. Before we go to that, may I say to you that any
16 military man might look at that and say that it is not
17 military jargon, either. Just to make it clear, your
18 contention is that that was a signal sent from Sydney on
19 19 November?

20 A. Yes, yes.

21

22 Q. And thereby you say that the SWACH entry is somehow
23 false?

24 A. Yes. I read some of the transcript of Glenys
25 McDonald's evidence the other day, and she mentioned more
26 or less that it may have been a case that the message was
27 received but it wasn't acted upon and someone's duck
28 shoving, and for some reason they have PMG able to verify
29 the fact that this was a message from PMG, from Sydney to
30 Darwin. To me, it probably makes a lot of sense. I had
31 thought about this before, and really that might explain
32 that entry, because I think part of the entry says, was it
33 on an authorised wavelength?

34

35 Q. That's the 6 December entry you're talking about?

36 A. Yes. PMG would not normally be on short wave; they
37 would be on medium wave. If they were sending messages to
38 Darwin, they wouldn't be on a short wave channel, if you
39 like, that was being used by high frequency stations,
40 particularly the Navy and military stations throughout the
41 world. In other words, their messages could have been
42 picked up almost anywhere in the world. So I doubt that
43 this was a short wave message from Sydney to Darwin.

44

45 THE PRESIDENT: Q. From Sydney, the city?

46 A. Yes, from Sydney City to Darwin.

47

1 Q. Why do you think that, when on the 7th it is recorded
2 that they have investigated the matter and that's exactly
3 what it was?

4 A. Yes. I think the most relevant part is --

5

6 LCDR KERR: Q. Before that, if NAA.023.0142 could be put
7 on the screen, please. Is that the document you're
8 referring to, sir?

9 A. Yes, sir.

10

11 Q. We'll go briefly through it and then perhaps you would
12 like to comment. The third line in the text says:

13

14 *Calling Darwin or Technical Telegraph*
15 *Operator - Call from Sea Sydney calling*
16 *send Carrier men on board.*

17

18 The Navy didn't have a carrier, so --

19 A. The "carrier" is a wave.

20

21 Q. Exactly, a PMG term, I would suggest.

22 A. Yes, all waves are carriers.

23

24 Q. These are people sending distress messages.

25 A. Mmm.

26

27 Q. It states:

28

29 *This MS Sydney calling, message received,*
30 *frequency satisfactory ...*

31

32 Do you really think that someone who is in distress is
33 likely to make that response?

34 A. I think you have to take the thing in overall context.

35

36 Q. I'm trying to, sir. You said in your submission that
37 these forms of transmission - and you're talking about the
38 messages that are said to have come from Sydney - are
39 a measure of Sydney's plight, the desperation and urgency
40 of the situation. With respect, there is nothing in that
41 document that demonstrates desperation or urgency. Nowhere
42 in that document --

43 A. It says:

44

45 *Call from sea Sydney calling send Carrier*
46 *men on board...*

47

1 What they're doing here - my interpretation here is that
2 they're trying to attract the attention of Singapore and
3 Darwin in order that they can get a signal or a bearing on
4 Sydney's signal. That's the clear interpretation I get out
5 of this.

6
7 Q. So they're asking for someone to respond so that they
8 can send them a distress signal?

9 A. No, they're asking Darwin and Singapore to get
10 a bearing on Sydney's signal.

11
12 THE PRESIDENT: Q. Mr Bathgate, it goes on:

13
14 *This MS Sydney calling.*
15 *Message received frequency satisfactory*
16 *will put through in morse at ...*

17
18 a given time.

19 A. Yes, yes, so they've established contact then.

20
21 Q. That couldn't possibly be a vessel in distress,
22 surely.

23 A. To me, it indicates that they've established contact.

24
25 Q. Why wouldn't they keep on signalling, if that's the
26 case? Why would they say, "We'll send you a signal" in
27 whatever time it was, another hour's time?

28 A. The thing that's most relevant is the message was sent
29 on 24.5 metres. When you look at the top, that's high
30 frequency. High frequency is between 10 metres and
31 100 metres. This would be normal frequency that Sydney
32 would be sending. Sydney would be sending on 24.5 metres,
33 which is in that band from 10 to 100 metres.

34
35 LCDR KERR: Q. And everyone would know that?

36 A. No.

37
38 THE PRESIDENT: Q. What's the distress frequency?

39 A. Distress frequency is normally 500 cycles, which is
40 very low frequency.

41
42 Q. So this is not sent on the distress frequency?

43 A. No, this is very high frequency; 24.5 metres is about
44 12 megacycles, I've worked out, which is 12 million cycles
45 per second.

46
47 Q. One thing you would think that Sydney radio operators

1 would know is, if they are sending distress messages, they
2 would send it on the distress frequency.

3 A. Yes, but that didn't have the range. That is very low
4 frequency. This message that was sent on 24.5 could be
5 heard probably anywhere around the world on that frequency.
6 Like I said, the frequency is about 12 megacycles.

7
8 Q. Yes, I understand what you're saying.

9 A. Now, 12 megacycles is also right in the middle of the
10 ambit of short wave that you might find on a radio
11 receiver. In other words, that 24.5 metres, which is
12 12 megacycles, if that message was sent, it should have
13 been picked up on a short wave receiver by someone.

14
15 LCDR KERR: Q. Why would *Sydney* be so interested in
16 making sure that Singapore or Darwin received this message?

17 A. Well, this is high frequency. Darwin and Singapore
18 had high frequency stations.

19
20 Q. So did the Esplanade Hotel, apparently.

21 A. No.

22
23 Q. Well, they are the ones that you say have received
24 this?

25 A. No, this was received on a short wave receiver. That
26 has nothing to do with transmitting. This is
27 a transmission. Anyone can pick it up on a short wave
28 receiver. That's a different process.

29
30 Q. The men that you say were sending this signal were
31 trained communicators; they would have been trained in
32 processes and procedures to deal with precisely the
33 predicament that the *Sydney* was in. I suggest to you, sir,
34 that they wouldn't have been sending signals using that
35 language in that form over an unknown radio band to those
36 places. They would have had a dedicated emergency channel,
37 and they know that once the nearest location received it,
38 that location would contact a direction finding place -
39 Darwin, Singapore, whichever - and another whole range of
40 procedures would fall into place. This is the military
41 that you're talking about, not two guys in a boat who are
42 having trouble.

43
44 This signal doesn't contain, as you say is mandatory,
45 the coordinates of *HMAS Sydney*. You say that it is
46 mandatory, don't you, that emergency signals must contain
47 coordinates?

1 A. Normally they would.

2

3 Q. You said that it was mandatory?

4 A. It depends on the state of the ship. It depends on
5 what personnel were available to send the message. It
6 depends on a lot of things.

7

8 THE PRESIDENT: Q. If they could send a message as
9 extensive as that, surely they could put the coordinates
10 in.

11 A. This may have been only part of the message. This is
12 the other point. Do we have the middle part, or the first
13 part, or the whole lot? Who knows.

14

15 LCDR KERR: Q. You said that the message was encoded.

16 A. I said it was encoded?

17

18 Q. Yes. If we can go to CORR.008.0189.

19 A. No, this is the plain message. Sorry, did I make that
20 mistake?

21

22 Q. I'll show it to you, sir, and you can comment. If we
23 can go to the third paragraph below the heading "Signals
24 from Sydney". You say:

25

26 *The encoded message (in morse), transmitted*
27 *between the hours of 2140 and 2255 ...*

28

29 A. Yes.

30

31 Q. Do you say that's an error now?

32 A. Yes, it's an error.

33

34 Q. Because if it wasn't an error, it would have to be the
35 case that CPL Dawson was sitting in the Esplanade Hotel
36 decoding it, and that would be beyond the pale?

37 A. Yes.

38

39 Q. If we could return to that previous document, please,
40 for a moment, and this is my final proposition to you on
41 this particular point, Mr Bathgate. I am referring to
42 NAA.023.0142.

43

44 You would agree with me, sir, that not only does that
45 document not contain the coordinates of Sydney, but apart
46 from one suggestion, at its highest, that there is
47 a problem, "Sydney calling send carrier men on board",

1 there is nothing in that document which suggests that HMAS
2 *Sydney* is in trouble?

3 A. We're assuming that this is the complete message that
4 was sent. We don't know that.

5
6 Q. So you say that the words "help" or "SOS" or "being
7 attacked by raider" or "fire on board" might appear in
8 another part?

9 A. No, I'm saying that when they picked up this message
10 on the short wave receiver, there was no way that they - it
11 would have been unusual if they had listened to that
12 signal, the whole signal. What they did, apparently, was
13 to detect that there was this sort of morse code coming
14 through on this particular wavelength, and they wrote down
15 the message.

16
17 Now, that message may have included the whole lot,
18 part of it; it might have been the first part, the last
19 part or the central part - who knows? We can't guarantee
20 that's the complete message that *Sydney* has sent. I would
21 suggest that it would be part of it. Unfortunately, we
22 can't ask SQNLDR Cooper whether the message was complete or
23 whether they stumbled across it and they wrote down
24 whatever message was being sent.

25
26 Q. Do you know, or are you aware of the steps that that
27 message went through before it got into the SWACH log?

28 A. No, not altogether.

29
30 Q. Are you aware that CPL Dawson telephoned --

31 A. Yes.

32
33 Q. -- 4 SFTS, spoke to FLG0FF Bogue, contacted
34 SQNLDR Cooper, who were in Western Area Command, who rang
35 the SWACH office, and it was entered in the log?

36 A. Mmm-hmm.

37
38 Q. Look, please, at NAA.016.0069. If we could go to the
39 right-hand page, perhaps, to the 1545 entry and the one
40 above at 1543, which says this:

41
42 *Received following by telephone from*
43 *Western Area Command: SQNLDR Cooper at*
44 *Geraldton reports ...*

45
46 And he goes on to say what he reports. The entry in the
47 SWACH log refers to three identities: the SWACH, of

1 course, Western Area Command and SQNLDR Cooper. If the
2 proposition that you and others put forward is that this is
3 a false entry that has occurred on the 19th, then there are
4 at least three conspirators, if I can use that word.
5 I suggest to you that that could not be the case?
6 A. I haven't seen this information before. I've never
7 considered it. What is the date of this again?
8
9 Q. Those entries are on 4 December.
10 A. They're on the 4th?
11
12 Q. Yes.
13 A. Why would they have been made on the 4th?
14
15 Q. Because that's when they occurred.
16
17 THE PRESIDENT: That's when they were received.
18
19 LCDR KERR: Q. That's the simple answer, isn't it?
20 A. Well, I don't know.
21
22 THE PRESIDENT: Q. Why would they record them in the log
23 if they hadn't been received?
24 A. Maybe they had been overlooked.
25
26 Q. And put in a log ten days later?
27 A. Ten days later, yes, yes.
28
29 Q. That can't be a serious proposition, can it - that
30 someone finds some signal pad notes a fortnight later and
31 so decides to put them into the logbook and falsifies some
32 new times?
33 A. It seems strange.
34
35 THE PRESIDENT: It's ridiculous.
36
37 LCDR KERR: Q. Could I move on to your submission that
38 *Sydney* was directed to intercept a raider and you suggest,
39 on the basis of an entry in an internet log by LCDR Mason,
40 that *Sydney* was directed by an unidentified party to
41 intercept *HSK Kormoran*.
42 A. Oh, yes, I recall the piece of paper.
43
44 Q. Could we bring up, please, COI.004.0247. You're aware
45 of the internet pages I'm talking about?
46 A. Yes.
47

1 Q. Service Histories of RN Warships in World War II.

2 A. Yes, yes, this was something that was pointed out to
3 me. It seemed quite odd at the time.

4
5 Q. What's your position on it today, sir? Can we go down
6 to the bottom of the page, please.

7 A. In order to confirm that, we would need signals to
8 that effect from RN Singapore, Royal Navy in Singapore.
9 That would be the only way of confirming that.

10
11 Q. May I tell you, sir, that the Admiralty archives have
12 been searched by this Commission, and no such signals have
13 been found. LCDR Mason has been approached and asked to
14 provide verification for this entry and has been unable to
15 do so.

16 A. Mmm-hmm.

17
18 Q. On top of that, if you look at the entries for the
19 17th and the 19th, you will note that they are incorrect.
20 *HMAS Sydney* did not return independently after being
21 relieved by *HMS Durban*. She escorted *Largs Bay*. On the
22 19th, *HMAS Sydney* did not intercept *HSK Kormoran* 3 00 miles
23 off Western Australia.

24 A. You mentioned *Largs Bay*. Have we established that
25 *Sydney* may have escorted *Largs Bay*?

26
27 THE PRESIDENT: Q. I don't believe so.

28 A. No.

29
30 LCDR KERR: I stand corrected. I understood that there
31 was evidence to that effect.

32
33 THE PRESIDENT: A suggestion has been put forward, which
34 I thought we had established was wrong, but you may want to
35 check that.

36
37 LCDR KERR: Q. I withdraw that, sir, but I suggest to
38 you that without some verification of the entry on
39 18 November, no reliance can be placed upon it.

40 A. I didn't place a lot of reliance on this, myself.

41
42 Q. The last point I would like to turn to, sir, is what
43 you say about the Carley float. CORR.008.0201. I'm
44 talking about the Christmas Island Carley float. This is
45 the Shipping Intelligence Report from *SS Islander* dated
46 25/2/1942. It refers to the fact that CAPT JR Smith, the
47 harbourmaster from Christmas Island was on board.

1 CAPT Smith was one of the men who located the Carley float
2 and helped bring it ashore. In the third paragraph, it
3 says:

4
5 *In Captain Smith's opinion, the Carley*
6 *float in question was undoubtedly of Naval*
7 *pattern. The wooden decking was branded*
8 *with the word "PATENT" and one hole,*
9 *apparently caused about you a bullet was*
10 *found in this decking.*

11
12 *The outer covering of the float was damaged*
13 *in several places, a few pieces of metal*
14 *being found embedded in the kapok filling.*
15 *One of these pieces, in the opinion of the*
16 *gun's crew on the island, was what remained*
17 *of a bullet.*

18
19 It goes on to describe the construction and writing on the
20 internal parts of the Carley float. At page 144 of your
21 book, CORR.008.0203 --

22 A. I noticed the mistake myself after the book was
23 published.

24
25 Q. It doesn't say anywhere in that intelligence report,
26 does it, sir, that there was no evidence of shrapnel
27 damage --

28 A. No.

29
30 Q. -- which is what you said in your book?

31 A. Well, bring it up. Where is it?

32
33 Q. On page 144 in the second paragraph below the main
34 heading:

35
36 *According to the Harbour Master, Reg Smith*
37 *the float contained bullet holes (similar*
38 *to the float found by Heros), but with no*
39 *evidence of shrapnel damage.*

40
41 Do you accept that that's an error?

42 A. Yes, it's an error.

43
44 THE PRESIDENT: Q. Then the conclusion that you draw
45 from it must fall as well, must it not? You say:

46
47 *It therefore seems likely that some of the*

1 *Kormoran* survivors were responsible for
2 this action and possibly for the death of
3 the occupant(s) of the float.

4
5 Do you wish to withdraw that?

6 A. I withdraw that.

7
8 LCDR KERR: Those are my questions, sir. Thank you.

9
10 THE PRESIDENT: Q. Mr Bathgate, you described in your
11 submission - CORR.008.0185 - the action as being an amazing
12 one-sided contest. In the context that you're suggesting
13 CAPT Detmers may have been engaging in some form of
14 exaggeration or personal aggrandisement, CMDR Rush will
15 remind me about this, but the stern of *Kormoran* has been
16 blown away by the explosion of the mines, and there is - is
17 it a third or a half?

18
19 CMDR RUSH: It's approximately a half.

20
21 THE PRESIDENT: Q. -- about a half of *Kormoran* which is
22 now visible. The evidence of the German survivors was, in
23 essence, as I recall, that *Sydney* was successful in hitting
24 *Kormoran* on three occasions.

25
26 According to the experts, there is no evidence
27 whatsoever that the forward half of *Kormoran*, which has now
28 been photographed, has suffered any shell damage at all,
29 which would seem to give some credence to the German
30 accounts of the extent to which *Sydney* was successful in
31 her use of her armaments. Does that cause you to revise
32 anything that you've written in this submission?

33 A. I don't think so, no.

34
35 THE PRESIDENT: Very well. Is there anything further?

36
37 LCDR KERR: Nothing, sir, thank you.

38
39 THE PRESIDENT: Thank you, Mr Bathgate. Thank you very
40 much.

41
42 <THE WITNESS WITHDREW

43
44 THE PRESIDENT: Yes, CMDR Rush?

45
46 CMDR RUSH: That concludes the evidence today, sir.
47 I think that there is Mr Montagu and Mr Brett Christian

1 tomorrow morning.

2

3 THE PRESIDENT: What is the position about Mr McArthur, do
4 we know?

5

6 CMDR RUSH: I understand, sir, that he was not at all well
7 today and it is most unlikely that he will be able to
8 attend.

9

10 THE PRESIDENT: All right. I will adjourn until 9.30
11 tomorrow.

12

13 **AT 5PM THE COMMISSION WAS ADJOURNED**
14 **TO FRIDAY, 6 FEBRUARY 2008 AT 9.30AM**

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