

1 CMDR RUSH: Sir, I call Mrs Grace Carr.

2

3 <GRACE CARR, sworn:

[12.37pm]

4

5 <EXAMINATION BY CMDR RUSH:

6

7 CMDR RUSH: Q. Mrs Carr, is your name Grace Carr and do
8 you reside at [REDACTED]?

9

A. Yes.

10

11 Q. You have provided this morning an affidavit sworn on
12 3 March 2009 concerning an account given to you by
13 a person, Keith McLeod, relating to what he told you and
14 two of your brothers in or about the late summer of 1948
15 concerning his Navy service and his account to you that he
16 survived the battle with the German raider from Sydney?

17

A. Correct.

18

19 Q. Perhaps if I can hand this to you, Mrs Carr, is that
20 the affidavit that you have sworn in relation to that
21 account?

21

22

A. Yes.

23

24

CMDR RUSH: I tender that affidavit, sir.

25

26 **EXHIBIT #204 AFFIDAVIT OF GRACE CARR, SWORN 3 MARCH 2009,**
27 **EXH.204.0001**

28

29 CMDR RUSH: Q. That affidavit substantially, or almost
30 exactly, takes up an account that had previously been
31 provided to the Commission of Inquiry concerning the story
32 that was told to you in the late summer of 1948?

33

A. Yes. It is exactly the same as what you received
34 before.

35

36

37 Q. What I might work off, because we have it on our
38 records, is the account that is not in affidavit form,
39 which is at COI.006.0247.

39

40

40 THE PRESIDENT: Q. It's on the screen in front of you,
41 Mrs Carr.

41

42

A. Oh, yes, that's right.

43

44

44 CMDR RUSH: Q. What you set out here, without reading it
45 in its entirety, is that you heard this story with your two
46 brothers, Steve and Andy Carr, who had been in the
47 Air Force as gunners --

47

1 A. Not the Air Force, the Army.

2

3 Q. The Armed Forces, sorry, the Army, as gunners.
4 Thank you. And this story was told to you by Keith McLeod,
5 who had been in the Navy?

6 A. Yes.

7

8 Q. You and your family, from what I understand, had known
9 the McLeod family for a very long time?

10 A. Ever since I was six years old.

11

12 Q. At the time in 1948, how old were you?

13 A. Not quite 18.

14

15 Q. Did the McLeod family live locally or near you?

16 A. Well, we lived on a farm, and we used to walk past
17 their houses when we went to the little shop in the
18 village, and then we moved later, but we would have been
19 about a mile away from each other.

20

21 THE PRESIDENT: Q. Do you remember Keith McLeod's
22 mother's name?

23 A. I couldn't, because everybody, all the women, were
24 "Mrs" in those days, so it wasn't until recently my
25 daughter looked on the internet, and I believe it could
26 have been Alma.

27

28 Q. Alma?

29 A. Yes.

30

31 CMDR RUSH: Q. You recount his attempts, as told to you
32 by Keith McLeod, to join the Armed Services as
33 a 15-year-old in the Second World War?

34 A. Yes.

35

36 Q. And that during this time, he apparently worked at the
37 Kalingo Colliery?

38 A. Yes.

39

40 Q. And he got a number of knock-backs, one because he had
41 worked in a colliery and, he'd said to you, also because of
42 his age?

43 A. Yes.

44

45 Q. He then informed you, if we can go to 0248 at the
46 bottom paragraph:

47

1 *He said they know me by now, so I couldn't*
2 *try there again. Then an uncle who was*
3 *a few years older than Keith came to stay*
4 *on holidays and with just the right name.*
5 *Keith said he was learning a few tricks by*
6 *then and wanted a name he would be sure to*
7 *answer to if he was called. He 'borrowed'*
8 *his uncles drivers licence (unknown to his*
9 *uncle of course) and got on the train to*
10 *Newcastle. On the train he saw a large*
11 *poster saying "join the navy", so he*
12 *decided to try them, he did like to see the*
13 *sea and maybe they were more desperate for*
14 *men.*

15
16 *Keith said he had thought before of using*
17 *his brothers birth certificates but knew*
18 *the age gap was too much and Bert had*
19 *already joined the army with my brother*
20 *George as mechanics.*

21
22 And he told you that he had no trouble and he joined the
23 Navy, calling himself "Herbert Charles McLeod".

24 A. Yes.

25
26 Q. Was his uncle also in the Navy?

27 A. No. From what I understand - it was taken off the
28 internet - his uncle later joined the Army.

29
30 Q. Did you know his uncle?

31 A. No.

32
33 Q. Licences in those days were pieces of paper?

34 A. Yes, and no photos on them.

35
36 Q. They did have dates of birth on them, I think?

37 A. Yes, they did.

38
39 Q. Do you know what year Keith's uncle was born?

40 A. No, I don't. I assume it was several years older than
41 Keith but not as old as his brother, Bert.

42
43 Q. The records, which we will come to, suggest that he
44 was born in 1919 and Keith was born in 1925.

45 A. Yes, Keith was in 1925.

46
47 Q. So his uncle, on the basis that that be the

1 relationship, was six years older than him?

2 A. Yes, approximately.

3
4 Q. From there, he went on to recount his training, and
5 I will read from the last paragraph on that page:

6
7 *One of my brothers said to Keith "Didn't*
8 *you realise that would cause problems? And*
9 *what about your mail?" Keith said once his*
10 *parents knew he was really in the navy they*
11 *wouldn't try and stop him and told his mum*
12 *just to put K. McLeod on the envelope, his*
13 *mothers writing wasn't good and he said he*
14 *could pass it off as an 'H'.*

15
16 *He was put on a training ship and later*
17 *another one, I believe he said nine months*
18 *all up, then he was transferred onto the*
19 *'Sydney'.*

20
21 *It wasn't much longer before the 'Sydney'*
22 *sailed. All the crew had great respect for*
23 *the Captain, he didn't keep anything from*
24 *them, they trusted him completely. The*
25 *orders were to patrol the ocean way off the*
26 *Western Australian coast and not to break*
27 *radio silence unless it was a dire*
28 *emergency. They were told it was*
29 *a complete radio silence so no-one would*
30 *know they were there.*

31
32 *The 'Sydney' sailed around out there, Keith*
33 *said for weeks they never saw another ship,*
34 *no islands, not even a plane went over.*
35 *The men were bored and hoping for action,*
36 *they were well trained and longed to engage*
37 *the enemy.*

38
39 So that, in general terms, was his account of his
40 enlistment, training and then the lead-up to the engagement
41 with this German ship?

42 A. Yes, sir.

43
44 Q. If I could ask that COI.006.0240 be put on the
45 screens. Mrs Carr, we have from Archives, as you see,
46 "Royal Australian Naval Reserve, Record of Mobilised
47 Service", "Keith McLeod" - that's the name, and it has his

1 date of birth as 29 September 1925.

2 A. Yes.

3

4 Q. And place of birth?

5 A. Bellbird.

6

7 Q. Bellbird, New South Wales?

8 A. Yes, near Cessnock.

9

10 Q. What religion were the McLeods, do you remember?

11 A. I haven't a clue. They never went to church that
12 I know of.

13

14 Q. That seems to indicate they might be RC.

15 A. That would fit in with Mrs McLeod and Mr McLeod:
16 when, after four years, they decided their son must have
17 been killed, they had a priest in to have a little ceremony
18 with them. Yes.

19

20 Q. If we go down into the next box, it reads as follows:

21

22 *The above-named member has been*
23 *mobilised ...*

24

25 THE PRESIDENT: Q. Just before that, could we expand
26 "Next of Kin (relationship and address)". What does that
27 say? I can't read it.

28 A. It would only be a post office address, because
29 everyone had to go to the post office.

30

31 CMDR RUSH: The next of kin seems to be "Alma" --

32

33 THE PRESIDENT: Q. Yes, "Alma Jessie McLeod", "Ellalong
34 near Cessnock"?

35 A. Ellalong.

36

37 CMDR RUSH: Q. "Ellalong near Cessnock".

38 A. Seven miles out of Cessnock.

39

40 Q. And "Alma" would be consistent with your recollection
41 of her first name?

42 A. Yes, yes.

43

44 THE PRESIDENT: Q. Somebody has written in there,
45 "Address on Dis", which presumably means "address on
46 discharge", in what looks like pencil, so it's not clear
47 whether that address was written in then or at some later

1 point of time. The handwriting of that Ellalong address is
2 very different from that of the name of the mother.

3
4 CMDR RUSH: I agree, sir.

5
6 THE PRESIDENT: Thank you.

7
8 CMDR RUSH: Q. If we can go back to the box on the
9 left-hand side, which reads:

10
11 *The above-named member has been mobilised*
12 *for service by proclamation. He reported*
13 *for duty on 4 November 1943.*
14 *Rank or Rating: Ordinary seaman.*
15 *Seniority 4 November 1943 ...*
16 *Service to which allocated on Mobilisation:*
17 *HMAS Cerberus NES*
18 *Date 8 November 1943.*

19
20 The record would appear to indicate, Mrs Carr, that
21 Keith McLeod entered the Navy on 4 November 1943.

22 A. Making out that he was 18 years old. But this was
23 after - while he was on the *Sydney*, he was under the name
24 of Bert. But after the sinking - we're jumping a fair bit
25 ahead now here - when he reported back after being dropped
26 off by the English ship, he was in such a state of mind he
27 gave his correct name, and there was no record taken. They
28 said he wasn't in the Army. Anyway, that is still to come
29 up, and that will explain why. So they made it look as if
30 he joined when he was 18, but he did not. He was 15.

31
32 Q. So this is what he told you --

33 A. He was in the Navy since 1940.

34
35 Q. He told you that he had been in the Navy since 1940?

36 A. Yes.

37
38 Q. And he explained this entry? What, he told you that
39 he had changed his name and told Navy his correct name and
40 particulars as of 4 November 1943?

41 A. Yes, because he was in a terrible state of mind.

42
43 Q. But *HMAS Cerberus* is the training school for the Navy.
44 What he told you was that he rejoined a ship very quickly
45 after his return to Sydney and then went on active duty?

46 A. Yes. They wouldn't believe his story and they bundled
47 him off within - he didn't get home for Christmas, and he

1 wasn't quite 17 and they bundled him off within six hours
2 of him being landed on the Sydney wharf - six hours later,
3 they had him on another ship.

4
5 Q. His record shows that, in fact, he entered
6 *HMAS Cerberus*, which is the training establishment for
7 recruits in the Navy, on 8 November 1943.

8 A. No, it wouldn't have been 1943. It would have been
9 1941.

10
11 Q. But if we have a look at what his record shows, it
12 shows him being allocated on mobilisation to *Cerberus* on
13 8 November 1943.

14 A. And I don't believe that's correct.

15
16 Q. Why not?

17 A. They didn't want it known that there was a 15-year-old
18 within the Navy, so they put down that date, whoever it
19 was, to make it look as if he was 18 when he joined.

20
21 Q. But in 1943 --

22 A. See, he wasn't even 17 when that ship sank.

23
24 Q. But the Navy took 15-year-olds into the Navy, did they
25 not?

26 A. No, they did not. You had to be 18.

27
28 Q. I'm not so sure about that. In any event, one of the
29 issues that he spoke about with your brothers on this day
30 was that he had not been paid any entitlements once he had
31 been discharged from the Navy?

32 A. Yes, he was fighting for his entitlements. Later on,
33 he did get it, after having some officers sign a paper for
34 him on the ships that he had served in.

35
36 Q. Perhaps if we can go down the page, do you see that it
37 says on 19 August 1946, "Deferred Pay Paid"?

38 A. Yes.

39
40 Q. Then the stamp for the War gratuity in the amount of
41 89 pounds 10 shillings also being paid, and I suggest that
42 on 19 August 1946 his entitlements had been dealt with.
43 That's not what he told you?

44 A. Not what he told us, and he was very upset that they
45 weren't coming through.

46
47 CMDR RUSH: Then if we can go to the next page - I've had

1 a look at this, sir. It's particularly hard to see it on
2 the --

3
4 THE PRESIDENT: Yes, I couldn't read it.

5
6 CMDR RUSH: Perhaps if I can go to another document.

7
8 THE PRESIDENT: Could we enlarge this a bit, please? The
9 first line is "4/11/43", which is the date of enlistment,
10 according to the previous page. Then it says "*Cerberus*,
11 9/11/43", something or other, "38500". Then beneath that,
12 "*Penguin Pool*". Then there's "Ammunition Guard". Then
13 "*Penguin*, 12/4/1944". "*Townsville*, 14/4/1944", went there
14 by train. "*Penguin (Pool)*", I think that says, does it?

15
16 CMDR RUSH: Yes, sir.

17
18 THE PRESIDENT: "15 May 1944". Is that "Tarani 1944"?
19 "28 May 1944". "*Penguin (disposal)*, 3 June 1944". I can't
20 read the next line, "23 June 1944".

21
22 CMDR RUSH: I think it's --

23
24 THE PRESIDENT: A correction, is it?

25
26 CMDR RUSH: "Civil custody". It's a matter referred to
27 previously.

28
29 THE PRESIDENT: Yes. Then something "in custody". Can we
30 scroll down a little. It looks as though he went on to
31 "*Torrens*, 29 January 1945"; "*Kiama*, 1 February 1945";
32 "*Leeuwin*, 23 March 1945"; then back to *Cerberus* on 31 March
33 1945.

34
35 CMDR RUSH: Yes, sir.

36
37 THE PRESIDENT: Just scroll down a little further, please.
38 "Leave &" - is it "*Westralia*, 2 June 1945". "*Penguin*,
39 *Westralia*, 16 June 1945". "*Morotai, Westralia*, 5 July
40 1945". "*Bungaree*, 5 July 1945". Some other entries
41 relating to *Westralia*, "17 October 1945", and so on.

42
43 CMDR RUSH: If I could go back to the previous page, do
44 you see, Mrs Carr, that there is an entry under
45 "Examinations and Notations Subsequent to Mobilisation",
46 the entry of 2 December 1943 is "Qual A/G 1 day *Cerberus*",
47 which would indicate that he was still undergoing training

1 at *Cerberus* as of that date?

2 A. Yes, and I understand why. All these dates here are
3 after he returned from the *Sydney* sinking, and he gave his
4 real name. He was under such shock, he gave his real name
5 when he came back from the *Sydney*, and that's why he was
6 told there was no record of him ever being in the Navy. In
7 his mind, he clean forgot that he should have given his
8 name as Herbert again, but he gave his true name as Keith,
9 which wiped out any record in their minds.

10

11 CMDR RUSH: If we could have a look at COI.006.0179, we
12 have here the entry for Herbert Charles McLeod. I was
13 mistaken on the date of birth. It was in fact 8 March
14 1916, so he was nine years older than Keith McLeod. The
15 place of birth is given as Richmond, Victoria; and
16 religion, C of E.

17

18 THE PRESIDENT: Q. His mother was Dorothy Ann of
19 9 Myrtle Grove, Regent, Victoria.

20 A. Yes, it was his car driver's licence that Keith used.
21 That man, Herbert Charles, worked in a cake shop in
22 Melbourne.

23

24 CMDR RUSH: Q. I guess there was no reason why he would
25 give religion of "C of E" as opposed to "RC"?

26 A. I wouldn't know about the religion at all.

27

28 Q. What we see for Herbert Charles McLeod is an entry of
29 6 February 1939, and if we go down a little further to the
30 "Examinations and Notations" box, he underwent training and
31 examinations through March, February and May and was issued
32 with a lifebelt on 14 December 1939 and, it seems, posted
33 to *Sydney*.

34

35 THE PRESIDENT: Q. There is another very great
36 difference between these two gentlemen.

37 A. Yes. The date it had for him joining - the date and
38 the month would be pretty much right from when Keith went
39 in, but it wasn't 1939; it was 1940. I'll even go so far
40 as to say that that "39" is a misprint.

41

42 Q. It's unlikely. Do you see in the document in front of
43 you, "Herbert Charles McLeod", "Description of person"? He
44 has a scar on his left shin. Do you see that on the
45 screen?

46 A. Well, I don't think they would have asked Keith to
47 pull up his trousers to show them the scar on his shin when

1 he joined. See, they were so desperate, anyone could join;
2 they were so desperate for men in those days.

3
4 Q. If you go back to the previous, COI.006.0240, it shows
5 that Keith McLeod was in fact examined by a surgeon
6 commander, and he had an appendix scar. It looks like
7 they're two different people. They had different coloured
8 eyes, different types of complexion, one has brown hair and
9 one has dark-brown hair, one has an appendix scar and the
10 other one has a scar on his shin.

11 A. No, sir, I still believe the story that Keith told.

12
13 Q. I'm sure you do, but there's an awful lot of material
14 here which indicates that that story is not true.

15 A. And I'm positive. No man could tell that story and
16 break down - no matter how good an actor a person is, they
17 couldn't have broken down how Keith did when telling the
18 story.

19
20 Q. You'll see at the top of this document that there is
21 a thing called a service number, "8/9193". I would suggest
22 to you that it would be almost impossible for somebody to
23 go onto a new ship without indicating to those on board
24 what their service number was. Yet if this account that he
25 gave you is right, this gentleman didn't have a service
26 number at the time he went onto this new ship six hours
27 after he reported, because he didn't exist.

28 A. No, they reckon he didn't exist, not as Keith McLeod.

29
30 Q. If he didn't exist, he didn't have a service number,
31 and if he gave his service number --

32 A. That's why he found it hard to collect any money
33 coming.

34
35 THE PRESIDENT: Yes, CMDR Rush.

36
37 CMDR RUSH: Q. If we can go back to COI.006.0179, do you
38 see, Ms Carr, under "Examinations and Notations", the
39 bottom box, there is a War gratuity paid in relation to
40 Herbert Charles McLeod of 131 pounds 5 shillings. Who do
41 you think that was paid to?

42 A. Possibly to the uncle.

43
44 Q. I'm sorry?

45 A. If it was sent to Herbert Charles McLeod and the
46 address that was on that licence, the uncle's family would
47 have got that gratuity, not Keith's family.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

Q. But it wouldn't be paid at all if the story was correct that he, in effect, confessed to the Navy that he had given the wrong name and was immediately bundled onto another ship?

A. There was no record. They refused - they never wrote a thing down, the little twits of young girls, as Keith called them, in that office, when he reported back and to report the other two survivors with him.

Q. Did he explain to you, then, how it was that he started a new record in 1943 if those in the office wouldn't pay any attention to him?

A. The ship he was put on within that six hours - he arrived there with nothing, and, anyway, the Captain of that ship arranged for him to be able to get paid once more and entered in then. It was the Captain of the ship that helped him.

Q. If we can go over the page to 0180, we have Herbert Charles McLeod, at the top of the page, doing his training at *Cerberus* and then being posted to *HMAS Sydney* on 18 June 1939, at a time when Keith McLeod would have been 14, in 1939, and then serving until, as noted here, 20 November 1941, the day after the loss of *Sydney*.

A. I will argue back about that "39". It should be "40". And I know the Government does make mistakes, because my sister and I had our birthdays, when we sent for records, completely switched around to what our real birthdays were. So I don't hold with the surety of this. And it would have been the second month when Keith joined at Newcastle.

Q. So you accept, for the story of Keith McLeod to be correct, that the records are wrong?

A. For that particular year of 1939, it should have been 1940.

CMDR RUSH: Sir, I tender COI.006.0240, the record of the Royal Australian Naval Reserve service of Keith McLeod.

**EXHIBIT #205 RECORD OF SERVICE OF KEITH McLEOD,
COI.006.0240**

CMDR RUSH: And I tender COI.006.0179, the record of service of Herbert Charles McLeod.

1 EXHIBIT #206 RECORD OF SERVICE OF HERBERT CHARLES McLEOD,
2 COI.006.0179
3

4 CMDR RUSH: Q. I very briefly want to go back to the
5 account that was given to you, Ms Carr, at COI.006.0249.
6

7 THE PRESIDENT: Q. Mrs Carr, you may not understand this
8 or appreciate this, but one can't simply walk onto
9 a warship. If somebody turns up, presumably dressed as
10 a sailor, with no gear, no kit --

11 A. They were desperate times back in those days.
12

13 Q. I understand that - and no service number, there is no
14 way that person would be let onto a warship.

15 A. Well, he was, and it was desperate days in those days.
16

17 CMDR RUSH: Q. At 0249, just a couple of matters. He
18 described to you in the second-last paragraph:
19

20 *[Captain Burnett] broke radio silence and*
21 *called the port. The answer came back,*
22 *"Yes a freighter had left a certain port on*
23 *such a time and day and would be in that*
24 *same area right now, it was okay." So*
25 *CAPT Burnett was completely convinced. The*
26 *crew of the freighter was lining the rails*
27 *and waving, they were dressed in old work*
28 *clothes, so the 'Sydneys' crew were stood*
29 *down from positions and they lined the*
30 *rails and smiled and waved back, calling*
31 *greetings, mainly about getting home for*
32 *Christmas. 'Sydneys' Captain asked the*
33 *other Captain, a real friendly smiling*
34 *chap, if he had heard how things were about*
35 *the war ...*
36

37 So the account he was giving to you was that CAPT Burnett
38 was having a chat, as the ships were in the middle of the
39 ocean, with the Captain of the ship that eventually sank
40 Sydney?

41 A. Yes. The *Kormoran* - I know now its name - was posing
42 as a Norwegian ship.
43

44 THE PRESIDENT: Q. She wasn't, actually.

45 A. She kept sailing towards the Sydney. The Sydney
46 didn't sail towards her. She kept sailing towards the
47 Sydney, and CAPT Burnett told the crew, "All hell will

1 break out if I shoot on a friendly ship." So he held fire,
2 because he knew that if he killed friendly people, there
3 would be big trouble.
4

5 And there was something about a code. The German
6 Captain gave the previous code, and when told that was
7 wrong, he said, oh, he can't already, with freighters and
8 everything, so that's why CAPT Burnett broke radio silence
9 and called the port to ask an affirmation, was it
10 a friendly ship or not, and they said, yes, it was
11 a friendly ship.
12

13 Now, the men were all in position ready to fight. As
14 Keith said, they were longing for a big fight. So when
15 they found out it was a friendly ship, they were allowed to
16 leave their positions. They lined the rails like the other
17 crew. The *Kormoran* crew was all in civilian clothing, all
18 smiling and waving, and their decks had tarps over the
19 freight.
20

21 They were calling out mainly, "We'll all be home for
22 Christmas", and, "Yes, we'll be back for Christmas",
23 Christmas greetings, all in broken English. They could see
24 each other's faces and hear each other's voices. They were
25 calling across the water, so they weren't far apart. Then
26 the *Kormoran* whipped the covers off and it was guns
27 underneath. They were well targeted. The first shot blew
28 away CAPT Burnett and the officer standing beside him, and
29 before the *Sydney* crew could get into their places, each
30 large gun was blown away.
31

32 Keith said, "I was stoker second class", and for
33 a moment he said, "I never thought I would get a gong, but
34 I was stoker second class." He was just about to dive down
35 to get below and there was a terrific blast from underneath
36 him, which threw him right up in the air. He said if he'd
37 landed on the deck, he would have been killed, but he came
38 down in the water. And from in the water, he said he got
39 the shock of his life - there were hundreds of men in the
40 water.
41

42 Then he saw the oil gushing out from the ship, so he
43 was screaming at them, "Swim out, swim away from the ship,
44 get away from the oil." Some started to swim out and then,
45 for some unknown reason, they swam back to the ship. Then
46 the oil caught on fire. There were hundreds of men burning
47 to death and screaming in that oil. Seven men, some

1 wounded, had swum out with him. There were a lot of
2 wounded in that water.

3
4 The *Sydney* lowered a lifeboat. Blazing men climbed
5 into that lifeboat. Screaming, blazing men climbed into
6 that lifeboat. The boat caught on fire, too. As I said,
7 there had been seven of them that swam out, Keith said.
8 After a while, he looked around. One man had been trying
9 to swim with a broken arm, and there was a young lad
10 coughing and retching and crying for his mum, because he
11 had swallowed a bellyful of oil. And they just
12 disappeared. This was late afternoon.

13
14 Then Keith heard from the water one of the small guns
15 on the *Sydney*. None of the big guns were fired, none of
16 them at all. None of the big guns were fired. He heard
17 from the water one of the small guns start up for just
18 a moment. Then it was blown away. Then he said he heard
19 rifle fire from the *Sydney*. The few remaining aboard the
20 *Sydney* were firing at the *Kormoran* with rifles.

21
22 They were wiped out, silenced, with small fire from
23 the Germans. Then the German ship turned and sailed away.
24 And Keith looked around again and he said there was only
25 the three of them left floating there in the water.

26
27 Two hours later, approximately, he thought, because
28 they had no watches, an American warship came and sailed
29 directly over where the *Sydney* had gone down, but they
30 didn't see the men in the water. They called and waved,
31 but they weren't seen, and it wasn't till just on dawn the
32 next day that an English warship came along and nearly ran
33 over the top of them before they were seen and helped them
34 aboard.

35
36 Then the rest of the story Keith heard from the
37 English sailors. The Captain said to Keith, "We can't take
38 you back straightaway and drop you off at your home port.
39 I will take you in with my sailors. You'll join my crew
40 until we can get to a safe port." So he was out there - he
41 wasn't sure just how long - 10 days or so, before the
42 British ship got a call, "Get back home to England
43 immediately"; they were desperately wanted. Then that's
44 how they were dropped off in the middle of the night on the
45 dock in Sydney and told to report themselves, because the
46 English ship was just refuelling and belting off home for
47 England.

1
2 While aboard that English ship, Keith was told that
3 the English warship and the American warship were having
4 a three-day high-priority meeting up among some islands, if
5 you could call them islands. It seems that nobody lived on
6 these islands, because the water at high tide or storms
7 washed right over, so they were disguised to look like, if
8 any plane went over, just part of the island.

9
10 The English and the American crew used to visit each
11 other back and forwards on each other's ships, exchanging
12 names and swapping whatever they could swap - caps,
13 everything, I don't know what - and inviting each to come
14 and visit in their own home.

15
16 So when the American ship saw the glow on the horizon
17 that evening late, and then the next thing this German ship
18 was coming towards them, the American Captain called out,
19 signalled for them to stop. The *Kormoran* did a turn and
20 clapped on speed, so they were convinced then that the
21 Germans had sunk the British ship, their pals that they had
22 become friendly with. They were so incensed that the
23 Captain ordered one shot into the *Kormoran* to cripple it,
24 so it wouldn't get back to - well, Germany or Japan.

25
26 Now, this was a week before America was legally in the
27 War, a week or so before Pearl Harbor, so they weren't
28 supposed to fire upon it; they weren't supposed to, but
29 they were so incensed about the sinking of the British ship
30 that they just crippled it.

31
32 Then they sailed on to see if there were any
33 survivors, but they missed seeing Keith and the other two
34 lads in the water, and they sailed on until the English
35 ship picked them up the next day. I said to Keith, "How
36 could you swim all night long in that water? How could you
37 stay afloat?" He said, "That water is so salty, you can't
38 sink." He said, "It was easy to stay afloat."

39
40 So it was an American ship that sank the *Kormoran*, and
41 I did see on TV recently the *Kormoran* Captain said that the
42 *Sydney* went down all in flames, that it was a burnt-out
43 hulk at the bottom of the sea. Now, we know now that that
44 isn't true, because there's not a sign of burning on those
45 decks or anything.

46
47 Q. There is. There's a great deal of burning.

1 A. Well, I was told there is no burning.

2

3 Q. Well, that's wrong. There are so many things wrong
4 with this account that you were told that it's just
5 a fabrication, I'm afraid.

6 A. But no-one - look, I still believe Keith. No-one - he
7 was a shattered man. He used to have to sleep down in the
8 bush of a night, because his family was so disturbed by his
9 screaming when he went to sleep.

10

11 Q. He may have been disturbed, mentally or otherwise, but
12 the account that he gave you is so different from many
13 matters which we now know are established fact that it
14 could not possibly be true.

15 A. It seems that way, looking at that, but I am convinced
16 Keith told the truth. I have known him since a kid, and
17 Keith wasn't a liar. He might have pinched somebody's
18 wallet, but he wasn't --

19

20 Q. He might have been disturbed by his experiences in the
21 War, but on the material that we now know, you can be very
22 sure that the account that he gave to you was simply
23 a fabrication. I'll explain it all in my report in due
24 course.

25 A. And he said that most of the crew had been blown into
26 the water and they died in blazing oil.

27

28 CMDR RUSH: Q. You don't know what happened to Charles
29 Herbert McLeod, then, on your account?

30 A. I never knew Charles Herbert McLeod.

31

32 CMDR RUSH: I can say, sir, that counsel assisting are in
33 the process of obtaining an affidavit from his family as to
34 his loss in 1941 on *Sydney*.

35

36 THE WITNESS: And what did Herbert McLeod join? What
37 Armed Forces was he in, then?

38

39 THE PRESIDENT: He was on the *Sydney*.

40

41 CMDR RUSH: Q. He was on the *Sydney*, in the Navy.

42 A. Mmm, I can't understand that at all, frankly. I just
43 can't understand it.

44

45 THE PRESIDENT: Sometimes people get disturbed in their
46 minds, and this does seem to be one of those occasions.

47

1 CMDR RUSH: Sir, I don't want to go through them, but
2 there are a number of matters.

3
4 THE PRESIDENT: You can point them all out in submissions
5 to me, no doubt.

6
7 CMDR RUSH: Yes, sir.

8
9 CMDR RENWICK: Nothing from me, thank you, sir.

10
11 THE PRESIDENT: Thank you, Mrs Carr, for coming down from
12 Kingaroy.

13
14 THE WITNESS: Thank you. Look, with due respect, I will
15 say I still believe every word Keith --

16
17 THE PRESIDENT: I understand that you are persuaded that
18 the person you were speaking to was telling you the truth.

19
20 THE WITNESS: Yes.

21
22 THE PRESIDENT: I think I am able to say to you that it
23 can be established by indisputable evidence that what he
24 told you was simply not the truth, and I will address it
25 fully in my report.

26
27 THE WITNESS: Yes, I can understand that, too, I think.

28
29 THE PRESIDENT: Thank you very much.

30
31 **<THE WITNESS WITHDREW**

32
33 THE PRESIDENT: Yes, CMDR Rush.

34
35 CMDR RUSH: Sir, that is the evidence for the hearing
36 today. There are hearings in Sydney commencing on Monday
37 week, which I think will be for three days, and again the
38 following week for three days.

39
40 THE PRESIDENT: Yes, very well. I shall adjourn to Sydney
41 on Monday week.

42
43 **AT 1.30PM THE COMMISSION WAS ADJOURNED**
44 **TO MONDAY, 16 MARCH 2009**

45
46
47