

COMMISSION OF INQUIRY INTO THE LOSS OF HMAS SYDNEY II

Before The Hon TRH Cole AO RFD QC

Held at Level 5, 55 Market Street, Sydney

Counsel Assisting: CMDR J Rush RFD QC RANR
LEUT P Kerr RANR

Counsel Representing: LCDR J Renwick RANR

On Monday, 1 December 2008 at 9.30am
(Day 19)

1 <MICHAEL STEPHEN JULIAN MONTGOMERY, on former oath: [9. 30am]

2
3 <EXAMINATION BY CMDR RUSH CONTINUING:

4
5 THE PRESIDENT: Q. Mr Montgomery, you're on your former
6 oath.

7 A. Yes.

8
9 THE PRESIDENT: Thank you.

10
11 CMDR RUSH: Thank you, sir.

12
13 Q. Mr Montgomery, on Friday, you told the Commissioner of
14 your opinion that Sydney, at the time of commencement of
15 the engagement with Kormoran, was definitely at Action
16 Stations.

17 A. Your Honour, if I may defer for a moment answering
18 that question, I would like to seek a direction from you on
19 the legal function of this Inquiry.

20
21 In my understanding of legal terminology, there is
22 a very clear distinction between a court of inquiry and
23 a court of law. A court of inquiry, such as we are now
24 engaged in, has the function, in the words of your own
25 opening statement, to provide an independent, reasoned and
26 fact-based account, and a court of law has the function to
27 determine the guilt or otherwise of the defendant by an
28 adversarial process in which the prosecution seeks to
29 discredit the defence.

30
31 THE PRESIDENT: Q. That is one small portion of the
32 functions of a court of law.

33 A. Yes, yes. If I'm correct in this, I'm bound to
34 observe that the manner in which I was questioned on Friday
35 was much more akin to the latter. To give but one example,
36 counsel went to great lengths to resurrect letters which
37 I had written to Professor Hinsley and Mr Patrick Beesly in
38 1979 when I was assembling material for the first edition
39 of my book and I was sounding them out on evidence that the
40 German warship Scharnhorst had been involved in Sydney's
41 loss. By the time that I came to write the second edition
42 of my book in 1983 - that is, 25 years ago - I freely
43 acknowledged that that evidence was mistaken.

44
45 The only possible purpose in counsel's introducing
46 that on Friday was in order to discredit me generally as
47 a witness. As a result, a very considerable amount of my

1 time and of your even more valuable time was wasted, and,
2 as a consequence, there are several vital items of
3 evidence, of which I am happy to give you a list if you so
4 wish, which were never even mentioned, let alone discussed.
5

6 I would therefore humbly invite you to give
7 a direction to counsel to conduct his questioning of me
8 today in a manner more appropriate to a court of inquiry
9 and to a joint endeavour to elicit the facts in accordance
10 with your own stated objective.
11

12 Q. Is that all you wish to say?

13 A. Yes.
14

15 Q. My function as a commissioner is distinct from my
16 function which I exercised when I was a judge. A judge is
17 able to make binding determinations, whether it be between
18 civil parties or whether it be between the State and
19 a person accused of a crime. I have no such powers and I'm
20 sitting here as a commissioner of inquiry under the
21 Defence Act, but my obligation is to examine all of the
22 material which I might regard as relevant to see what
23 weight should be attached to it.
24

25 I propose to do that, and the way I propose to do it
26 is to assemble, as best I can, all of the material which
27 I might regard as evidence and to form views based on that.
28 But in addition to what I have described as evidence, there
29 are a number of people who, over the years, have advanced
30 theories which they espouse and which may be either
31 consistent with or inconsistent with what I've called the
32 evidence.
33

34 One valid way of testing theories which have been
35 advanced is to trace their history and to show any
36 inconsistencies that may have existed in relation to those
37 theories over the years, and a valid way of testing that is
38 to determine whether or not a person has changed their mind
39 about a theory they are advancing and, if so, why.
40

41 You may be assured that I will not allow the time of
42 this Inquiry to be wasted in any way at all, and if
43 I thought for a minute that CMDR Rush or anybody else who
44 asks questions in this Inquiry was wasting my time, I would
45 stop them. I have not reached any view that any questions
46 that CMDR Rush asked you on Friday were a waste of time of
47 this Inquiry.

1
2 You are not here on any charge or accusation. You are
3 here as a person who has an interest in this area, who has
4 investigated it and written much about it. The materials
5 and the views you have espoused have caused interest in
6 society both here and overseas, and accordingly it is
7 important that I be able to understand fully your views and
8 the basis for them.

9
10 CMDR Rush did say to you at the end of Friday that he
11 had not yet concluded the matters that he thought were
12 material, and no doubt he will do that today. But if, at
13 the end of that examination, you feel that there are
14 matters which you think you wish to advance to me which he
15 has not touched upon, then you will be given every
16 opportunity to do so.

17 A. Yes, thank you.

18
19 THE PRESIDENT: Yes, CMDR Rush.

20
21 CMDR RUSH: Q. You told the Commission of Inquiry last
22 Friday that, in your opinion, Sydney was definitely at
23 Action Stations.

24 A. I did, yes.

25
26 Q. And you pointed to the evidence in relation to that of
27 Mr Messerschmidt, as given to the Commissioner in Germany.
28 Is that a view that you have always held?

29 A. I think so, yes, from the very early stage.

30
31 Q. I just need to go back to your paper of 1991 at
32 WAM.002.0215. Perhaps if we go towards the top of the
33 page, to the paragraph that commences, "To have been able
34 to demonstrate". Here, you were discussing the ability or
35 the supposed ability of Kormoran to decamouflage in six
36 seconds, and you will note in this paragraph - perhaps it
37 is best to read it:

38
39 To have been able to demonstrate that the
40 Sydney had gone through the full challenge
41 procedure and thus left Detmers with no
42 option but to resort to action would also
43 have removed his exposure to accusations of
44 breaching International Law on a further
45 count, namely, that of having launched an
46 unprovoked attack while still flying
47 a false flag. In his book Detmers claims

1 that "Within six seconds of the order to
2 decamouflage the first shot was fired from
3 our Number One gun"; why he should choose
4 to put quite such a precise time on this is
5 apparent from the Action Report, whose
6 relevant entry reads: "Removal of
7 disguise; Dutch flag struck; war flag flies
8 clear from main mast. Time taken six
9 seconds" - in other words, he is making out
10 that he opened fire under his own flag.
11 However, he himself describes the process
12 of decamouflaging thus: "The ship's rails
13 folded down, the heavy camouflage covers
14 fore and aft were whisked away; Hatches 2
15 and 4 opened up to reveal their guns, the
16 2cm anti-aircraft guns were raised, the
17 torpedo flaps opened, and all barrels and
18 torpedo tubes swung on to the target" - all
19 this, he invites us to believe, took place
20 in the place of six seconds! Even Bunjes
21 conceded during his later interrogation
22 that it took a full minute after the
23 opening of the plates concealing the
24 Number One gun to get off the first round,
25 while another survivor quoted a time of two
26 to three minutes - and even then, according
27 to both Detmers' Action Report and his
28 Gunnery Officer, the first salvo fell
29 short.
30

31 That is something that you have taken up, is it not,
32 Mr Montgomery, in your submission to the Inquiry - that
33 six seconds for decamouflage, in your opinion, is
34 impossible?

35 A. Yes.

36
37 Q. May I take you to the next paragraph. You state:

38
39 Even though she was very evidently not at
40 Action Stations, the Sydney would still
41 have had one of her four gun turrets closed
42 up, a fact borne out by the consensus among
43 the Kormoran survivors that it was her
44 X turret which inflicted all the damage on
45 them, and which would hardly have taken
46 a full minute to get a round off.
47

1 I'm just wondering, Mr Montgomery, in 1991 you formed the
2 view that the weight of evidence was that Sydney was not at
3 Action Stations.

4 A. Was not at Action Stations?

5
6 Q. I think that's what you say. I'll read it again:

7
8 Even though she was very evidently not at
9 Action Stations, the Sydney would still
10 have had one of her four gun turrets closed
11 up, a fact borne out by the consensus ...

12
13 A. I think that is a misreading of the word "though". It
14 should be read as "if", "Even if she was not at Action
15 Stations, the Sydney would still have had one of her gun
16 turrets closed up".

17
18 THE PRESIDENT: Q. That doesn't make sense. That view
19 of what you have written may be correct if you hadn't put
20 the word "evidently" there, if you read "though" as "if",
21 "Even if she was not at Action Stations", but you haven't
22 written that; you've said, "Even if she was very evidently
23 not at Action Stations".

24 A. Yes, well, that's badly phrased. I was meaning that
25 even if there was evidence that she was not at Action
26 Stations, she would still have had one turret closed up,
27 and that's, by the way, because I'm totally convinced that
28 she was at full Action Stations; it was absolutely
29 inconceivable that she should be going through a challenge
30 procedure without being at Action Stations, and the
31 statement of Messerschmidt to you only this year bears that
32 out.

33
34 CMDR RUSH: Q. So the words as written there, you say,
35 are mistaken?

36 A. Yes, or badly phrased and written in 1991.

37
38 Q. Well, written in 1991 or not, it would be very
39 material, of course, if you had changed your mind from 1991
40 to 2008 in relation to Sydney being at Action Stations,
41 wouldn't it?

42 A. Yes. Well, over the space of 17 years, that would not
43 be surprising.

44
45 Q. Well, have you changed your mind?

46 A. I have indeed, yes.
47

1 Q. About Sydney being at Action Stations?

2 A. Well, I'm saying that that phrasing that I used in
3 1991 was badly put and that I did not in fact mean that she
4 was, in my own mind, not at Action Stations. I was just
5 making a conjecture on the basis of some evidence.

6

7 THE PRESIDENT: Q. I hear what you say, Mr Montgomery,
8 but I have to say to you that as a matter of ordinary
9 English language, what you have written there is a very
10 clear statement of a view that Sydney was not at Action
11 Stations, because you go on to describe a standard of
12 readiness which is consistent with cruising stations.

13 A. Well, even if I do concede that, 17 years have passed
14 and I definitely do not hold that opinion today.

15

16 CMDR RUSH: Q. Mr Montgomery, how long do you say it
17 would have taken Kormoran to decamouflage?

18 A. To fully decamouflage would have taken, in the words
19 of I think it's a Kormoran survivor named Pattner [sic],
20 two to three minutes.

21

22 Q. And is that what you rely on - you rely on the
23 survivor accounts in relation to two to three minutes?

24 A. Well, there's really no other source that you can rely
25 on for that.

26

27 Q. Have you made any study at all of the plans of
28 Kormoran in relation to the mechanisms that were on the
29 ship in relation to decamouflage?

30 A. Yes, yes.

31

32 Q. What did you make of those?

33 A. That I think two of the main armaments were concealed
34 behind flaps, which could be lowered quite quickly, but the
35 guns still had to be directed at the target. Another two
36 of the main armaments were held below deck in holds, which
37 then had to be hydraulically raised and, again, swung to
38 target.

39

40 Q. What was the timing of that?

41 A. Well, I would say that was the extreme, at the extreme
42 of the estimate of three minutes.

43

44 Q. When you say you "would say that", on what engineering
45 basis are you putting that?

46 A. I'm merely quoting the evidence of Kormoran survivors.
47 There was more than one; there were others apart from

1 Pattner [sic] who stated that.

2

3 Q. Then just discussing this theory, Mr Montgomery: if
4 it took up to two or three minutes for Kormoran to be in
5 the position to fire, what prevented Sydney from firing
6 quite a considerable number of salvos in that period of
7 time?

8 A. Because she had been torpedoed under A and B turrets,
9 which would have thrown out her gunnery control immediately
10 and left the turrets under individual control to reply.

11

12 Q. But if she was torpedoed, as you say, under A and
13 B turret, how would that affect director control in
14 relation to X and Y turret?

15 A. I'm making that assumption.

16

17 Q. Well, based on what do you make the assumption?

18 A. That this would very evidently have been the case.

19

20 Q. Well, why?

21 A. That her means of communication to A and B turrets
22 would have been cut and that therefore her general
23 communication with the turrets as a whole would have been
24 affected.

25

26 Q. So you say that because A and B turret communications
27 were cut to director control, that would have cut
28 communications with X and Y turret?

29 A. I would assume that.

30

31 Q. I know that you have assumed it, but apart from an
32 assumption, is there any other basis for your saying that?

33 A. No.

34

35 Q. To fire the underwater torpedo required Kormoran to be
36 on a specific angle to Sydney, did it not?

37 A. It did, yes. The angle of the underwater torpedo tube
38 was set at 135 degrees.

39

40 Q. So on your account, what would the respective
41 positions of Kormoran and Sydney have been?

42 A. Sydney would have been lying as here, as described
43 only in March, on her starboard quarter and stationary.

44

45 Q. If that be the position, would Sydney have been
46 following fighting instructions in relation to the manner
47 in which she should have approached Kormoran?

1 A. I'm sorry, could you explain that a bit further?

2

3 Q. If that be the position, as you theorise, would Sydney
4 have been in compliance with Fighting Instruction 128 in
5 relation to which she, as a single warship, should have
6 approached an unidentified merchant ship?

7 A. I'm understanding that this instruction would have
8 meant that she would have been at full Action Stations.

9

10 Q. In a situation such as presented to Sydney, on your
11 theory, was she not required to approach either bow on or
12 stern on, so as to avoid any potential danger from torpedo
13 attack?

14 A. To minimise that danger, yes.

15

16 Q. So the position that you theorise, that the underwater
17 torpedo would have been fired, would have been against that
18 instruction?

19 A. She still would have presented some target - it may
20 have been a minimal target, but some target - and you would
21 have expected any torpedo from Kormoran to hit her, indeed,
22 in that area.

23

24 Q. That, of course, depends on the approach, doesn't it?

25 A. What do you mean by that?

26

27 Q. It depends upon where Sydney is as to whether it is
28 going to be hit in any specific area.

29 A. Yes, but according to the most recent evidence, that
30 of Herr Ernst, she was actually sitting stopped in the
31 water in exactly that position.

32

33 Q. That most recent evidence being?

34 A. From Herr Ernst, who made a statement only in March of
35 this year.

36

37 Q. Mr Montgomery, if I can turn back to your theory in
38 relation to the submarine, I'd ask you to look at page 14
39 of your submission, 0092. You there refer to what you say
40 is "concrete evidence of a separate vessel being
41 responsible came with the entry in Admiral Crace's diary",
42 and you refer to part of the entry as follows:

43

44 Naval Board are very worried about Sydney.
45 She should have arrived Fremantle on 21st
46 (Friday) and is overdue - she has been
47 called by wireless without result. They

1 think there is a possibility that a Vichy
2 submarine escorting a Vichy ship has
3 torpedoed her.

4
5 You refer to that as concrete evidence of a quite separate
6 vessel. You would agree that that's somewhat of an
7 overstatement, having regard to the diary entry?

8 A. Not at all. It shows that the Naval Board had
9 information on which they drew a conclusion or belief that
10 Sydney might have been torpedoed by a submarine. And can
11 I go on to add another important factor?

12
13 THE PRESIDENT: Q. No, no, they think there is
14 a possibility.

15 A. Yes, yes, but they must have had some information on
16 which to base that.

17
18 Q. Yes?

19 A. And may I also introduce another important factor, and
20 that was the relationship between Admiral Crace, the
21 Commander of the Australian Squadron, who was based in
22 Sydney, and the Naval Board, who were based in Melbourne.
23 Admiral Crace arrived to take up his position in I think it
24 was June 1941, and he very soon found himself
25 cold-shouldered by Naval Board in Melbourne, who made it
26 clear to him that they did not want him interfering in, if
27 I can say so, the running of the show.

28
29 The situation got so bad that in October 1941,
30 Admiral Crace, as recorded in his diary, offered to resign
31 his post, and the Naval Board replied that, in wartime, he
32 was not permitted to do that.

33
34 I therefore submit that for the Navy Board to transmit
35 the fear of this possibility that Sydney had been sunk by
36 a submarine, they must have had some very real evidence for
37 that before they imparted it to Admiral Crace.

38
39 CMDR RUSH: Q. So that is an assumption of yours?

40 A. What is an assumption?

41
42 Q. That they must have had real evidence.

43 A. Indeed, yes.

44
45 Q. And can you point to any real evidence that the
46 Navy Board had?

47 A. Well, that is what we would all like to know.

1
2 THE PRESIDENT: Q. But, Mr Montgomery, what the diary
3 entry says is:

4
5 They think --

6
7 that is, the Naval Board thinks --

8
9 there is a possibility that a Vichy
10 submarine --

11
12 which we know is wrong --

13
14 escorting a Vichy ship --

15
16 which we know is wrong --

17
18 has torpedoed her.

19
20 That's one person speculating or stating what he thinks the
21 Naval Board regards as a possibility, most aspects of that
22 possibility which we now know to be wrong, so why do you
23 call that concrete evidence?

24 A. Because they must have had some very good reason for
25 coming to that belief, especially a very good reason for
26 having then imparted it to Admiral Crace.

27
28 THE PRESIDENT: I can assure you that that would not be
29 regarded as evidence in any form of a court of law.
30 Anyway, go on.

31
32 CMDR RUSH: Q. Mr Montgomery, do you say at this time
33 that the Naval Board had information that this was
34 a Japanese submarine?

35 A. At this time, if you recall, your Honour, the point
36 was raised about the presence of three very senior officers
37 on Rottneest Island the previous day. I should have also
38 added that the person who gave this evidence, who was
39 a yeoman of signals, Etheridge, at Military Headquarters in
40 Fremantle, went on to add that he had accompanied these
41 officers with the specific purpose of rigging up an extra
42 signals facility which would enable them to receive signals
43 from Japanese vessels based in the north-west of Australia
44 and whose signals were already being picked up by Darwin.

45
46 Q. So is the answer to my question that it is your
47 opinion that the Naval Board, at the time of this entry in

1 Crace's diary, knew of the involvement of a Japanese
2 submarine?

3 A. Indeed.

4
5 Q. Thus, what you would therefore allege is that there
6 was some form of conspiracy that the members of the Naval
7 Board knew about, i.e., a Japanese submarine, but they kept
8 Admiral Crace ignorant of that?

9 A. Until the 24th, yes.

10
11 THE PRESIDENT: Q. No, no, but on the 24th they didn't
12 mention a Japanese submarine.

13 A. No, but that was the only possible conclusion. He
14 says a Vichy submarine, but there was no Vichy submarine
15 within 3,000 miles.

16
17 CMDR RUSH: Q. But his note is, as you indicate, a Vichy
18 submarine, and you allege that the Naval Board knew of
19 a Japanese submarine. So there's no mistake, is there,
20 that the Navy Board, in your opinion, knew of a Japanese
21 submarine, yet at the board meeting, it would appear, in
22 the meeting of the Naval Board, they've mentioned a Vichy
23 submarine?

24 A. Well, that was what they transmitted to Admiral Crace.

25

26 Q. And that's my question: are you alleging that they
27 were transmitting something to Admiral Crace which was
28 different to the opinion or the knowledge that they had of
29 the involvement of a Japanese submarine?

30 A. Yes, given the state of relationship between the Naval
31 Board and Admiral Crace, I don't think that's an
32 unreasonable assumption.

33

34 THE PRESIDENT: Q. But why would they do that?

35 A. Because they still wanted to keep Admiral Crace at
36 arm's length.

37

38 Q. So they would tell him that it was a Vichy submarine,
39 not a Japanese submarine?

40 A. That's what I would suspect, yes.

41

42 Q. Why would that keep him at arm's length?

43 A. Because if they told him outright that it was
44 a Japanese submarine, there was no way they could have kept
45 him out of their councils.

46

47 Q. I don't understand that.

1 A. Well, he was nominally in command of the Australian
2 Squadron.

3

4 Q. I appreciate that, but what difference does it make if
5 they tell him that Sydney possibly may have been sunk by
6 a Vichy submarine, as distinct from a Japanese submarine?

7 A. Because he would not then immediately be expected to
8 be invited to join their councils.

9

10 Q. Because the submarine was Vichy and not Japanese?

11 A. Vichy rather than Japanese.

12

13 Q. What difference would that have made?

14 A. Well, I can't conceive that he would then have been
15 happy to remain out of their councils if he had been told
16 that Sydney had been sunk by a Japanese submarine.

17

18 Q. But he would be happy to remain out of their councils
19 if he was told that it was a Vichy submarine?

20 A. I think so.

21

22 Q. Why?

23 A. Because it would represent less of a threat.

24

25 CMDR RUSH: Q. You don't see the words, "They think
26 there is a possibility that a Vichy submarine" as being
27 a form of speculation as to the loss of Sydney?

28 A. I think they were phrasing their words very carefully.

29

30 THE PRESIDENT: Q. And what about the reference to
31 a Vichy ship?

32 A. Well, I think that can be construed as further
33 evidence that Kormoran was working in collaboration with
34 a submarine.

35

36 Q. No, no, the diary entry says:

37

38 ... there is a possibility that a Vichy
39 submarine escorting a Vichy ship ...

40

41 Are you suggesting that that means a Japanese submarine
42 escorting a Japanese ship?

43 A. No, escorting Kormoran.

44

45 Q. So "a Vichy submarine" becomes "a Japanese submarine",
46 and "a Vichy ship" becomes "a German ship"?

47 A. Yes.

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Q. Why?

A. For reasons which I've already explained - as a means of keeping Admiral Crace at arm's length.

Q. And this was an intentional deception by the Naval Board?

A. Indeed.

Q. You have no factual basis for that, except for your view that there was, if you like, a lack of cooperation between the Naval Board and Admiral Crace?

A. No, because, of course, we have no record at all of the communications that were taking place between the Naval Board and Admiral Crace.

CMDR RUSH: Q. Just following on, the next aspect you refer to in your submission, Mr Montgomery, as supporting the involvement of a submarine is an article by Bernard Hall that appeared in the London Daily Express. Do you see that at the bottom of page 14 of your submission? Tab 42 in the file, COI.004.0219.

A. I think we have the wrong one.

Q. That's the second page. I think you gave the date as 1 December.

A. Yes.

Q. I think in fact it is 3 December, which is the purpose of that page - "Wednesday, the 3rd" at the top of the page. But going down to the headline, which is 0220 --

A. The copy I have of this is as the lead headline of the edition of 1 December.

Q. Do you have that copy with you?

A. I have.

Q. Is it different from what's on the screen?

A. It is.

Q. Why do you say that's different from what's on the screen?

A. Because in the edition that I saw, it was presented as the lead headline.

Q. Just have a look at it and compare - what you have is a large photocopy of it, but if you look to the right-hand

1 column, you'll see at the conclusion of the article by
2 Mr Hall, "120 in casualty list".

3 A. Yes.

4

5 Q. Is that what's on your copy?

6 A. Yes.

7

8 Q. Do you not agree that what you're looking at is
9 a blown-up version of what's on the screen?

10 A. One has to remember that, in those days, the
11 newspapers were badly constricted for space and for
12 newsprint, and there was the habit of repeating news items
13 in later editions.

14

15 Q. Mr Montgomery, just have a look at that. Join them up
16 as they're presented. I suggest that that's the page of
17 the Daily Express from which this article was extracted.

18 A. I'm not familiar with that photograph of the
19 Ark Royal. I have never seen it before.

20

21 Q. Mr Montgomery, what is it about this article that you
22 say supports a theory of submarine, and particularly
23 Japanese submarine, involvement?

24 A. This is the first statement in public that there was
25 a possibility that a submarine had been responsible for
26 Sydney's loss.

27

28 Q. So when you talk about the possibility - possibility
29 of, what, a submarine being involved in Sydney's loss - are
30 you referring to the paragraph commencing after the opening
31 paragraph:

32

33 Whether the torpedo was fired by the Nazi
34 vessel or by an attendant submarine is
35 uncertain.

36

37 Is that the part you're referring to?

38 A. Yes. That was the first time that such a possibility
39 had been floated in public.

40

41 Q. And when you put it as a possibility, that is
42 a possibility being put forward by the journalist, Mr Hall;
43 is that right?

44 A. Yes. I was able to interview Mr Hall finally in the
45 late 1980s - that is after I had produced both editions of
46 my book - and he confirmed the story. He also confirmed
47 that his source for the story was within the FECB. I then

1 interviewed CMDR Nave, who will be known to you as the top
2 cryptanalyst within the whole Navy, and he confirmed to me
3 that he had been the source for Bernard Hall, and he went
4 on to remark, "Yes, we knew all about that. It was
5 a terrible business."
6

7 Q. You refer to CMDR Nave at page 19 of your submission,
8 0097, paragraph D, where you say this:

9
10 In a 1991 interview with the late Captain
11 Eric Nave, the cryptanalyst attached to
12 FECB ...

13
14 FECB is the Far Eastern Combined Bureau; is that correct?

15 A. Yes.

16
17 Q.

18 ... who had been the first to break the
19 Japanese Naval codes, told me, "We knew all
20 about the Japanese submarine sinking the
21 Sydney, it was a terrible business." He
22 also divulged that he had been the source
23 for Bernard Hall's scoop in the Daily
24 Express ...

25
26 And you refer to the date of 1 December 1941. Now, you say
27 that CAPT Nave had informed you that he was attached to the
28 FECB?

29 A. Indeed.

30
31 Q. Is that he informing you or you surmising that?

32 A. No. It's a known fact.

33
34 Q. When was he attached to the FECB?

35 A. I think for reasons of ill health, he was transferred
36 to Melbourne some time in the course of the middle of 1941.

37
38 Q. I want to put to you that that's not correct, that he
39 was not transferred to Melbourne at all; that in February
40 1940, he was transferred to Adelaide, and then a couple of
41 months later, in May 1940, came to Melbourne. Is that
42 something that you were aware of?

43 A. That he was transferred to Melbourne? As I say,
44 I stand to be corrected on the actual date.

45
46 Q. Here in your statement to the Commission of Inquiry,
47 you are alleging that CAPT Nave was attached to the FECB

1 and was the source for Mr Hall's scoop. That's correct,
2 isn't it?

3 A. Yes, yes, that he had somehow been in communication
4 with Mr Hall.

5
6 Q. No, you don't say that, do you?

7 A. Well, that has to be the assumption.

8
9 Q. No, what you say is, if you look at it reasonably,
10 I suggest, Mr Montgomery, that he was a cryptanalyst
11 attached to the FECB, which was based in Singapore; you
12 know that, don't you?

13 A. Yes.

14
15 Q. And you say to the Commission that you also knew that
16 at the time of the sinking of Sydney, CAPT Nave was not
17 based in Singapore?

18 A. That's right.

19
20 Q. Did you not think it responsible to place that in the
21 submission - that he had nothing to do with the FECB at the
22 time of the sinking of Sydney?

23 A. But he was in permanent touch with the FECB.

24
25 Q. Did you not think it reasonable or proper to place in
26 your submission that, at the time of the sinking of Sydney,
27 he was not attached to the FECB?

28 A. Well, he was attached. That is my understanding, that
29 he was - if you could, say, put it in popular phraseology,
30 he was FECB's man in Melbourne.

31
32 Q. What you have put in your submission, I suggest, for
33 the purposes of trying to improve your theory, is that he
34 was a cryptanalyst that was based in Singapore and attached
35 to the FECB at the time of the sinking of Sydney?

36 A. Sorry, could you repeat that?

37
38 Q. For the purposes of attempting to promote your theory,
39 what you have written is that Nave was attached to the FECB
40 in Singapore, when in fact you knew at the time he was not?

41 A. I don't think I say that. I make it quite clear that
42 he was in Melbourne at the time.

43
44 Q. Where do you make it clear that he was in Melbourne?

45 A. Sorry, I'm struggling to find the reference to
46 CAPT Nave.

47

1 THE PRESIDENT: Q. It is on page 19.

2 A. 19.

3

4 Q. Page 19, paragraph D.

5 A. No, I don't mention the fact that he was then in
6 Melbourne, but I have mentioned that fact in my submission
7 to the 1997 Inquiry.

8

9 CMDR RUSH: Q. Perhaps if you have a look at page 15 of
10 your submission, and in the first paragraph under the
11 quote, you say:

12

13 Bernard Hall confided to me that his source
14 had been inside C-in-[Chief] China's
15 Headquarters - the same place where
16 Hetty Hall ... had worked as a cypher
17 clerk.

18

19 Mr Montgomery, what you have done is attempt to create the
20 false impression that CAPT Nave was working inside
21 C-in-C China?

22 A. No, I did not intend to create that impression.

23

24 Q. Do you agree that the words create that impression?

25 A. They could be read as that.

26

27 Q. Well, how else would you read them?

28 A. I'm sorry, I'm still struggling to find the reference
29 to him on page 15.

30

31 THE PRESIDENT: Q. It is on page 15, in the second
32 paragraph after the bold letters.

33 A. I see it, yes.

34

35 Q. Mr Montgomery, what is your allegation? Is it that
36 CAPT Nave, whom you say you interviewed some 40 years after
37 the event, told you that whilst he was in Melbourne,
38 somehow or other - I'm not quite sure how he would do
39 this - he contacted C-in-C China in Singapore, learnt
40 somehow that a Japanese submarine had been involved, and
41 whilst in Melbourne did not tell anyone within the Naval
42 establishment but told a journalist; is that what you're
43 saying?

44 A. He was in constant communication with FECB in
45 Singapore, and so he would have learnt this from FECB in
46 Singapore. How he then communicated with Bernard Hall, how
47 that got to Bernard Hall, whether directly from CAPT Nave

1 or whether through an intermediary, I can't be sure.

2

3 Q. How do you know that CAPT Nave was in constant contact
4 with C-in-C China in Singapore?

5 A. He told me that himself.

6

7 Q. In November 1941?

8 A. Yes, and I think --

9

10 Q. That would have to be by signal, I take it, would it?

11 A. Yes, and I think he describes that quite fully in the
12 book that he co-wrote with James Rusbridger.

13

14 CMDR RUSH: Q. What you told the parliamentary inquiry,
15 just so we have it clear, Mr Montgomery, is as follows:

16

17 ... the late CAPT Eric Nave (the leading
18 cryptanalyst of Japanese Naval codes at
19 FECB) stated, "We knew all about the
20 Japanese submarine sinking the Sydney, it
21 was a terrible business."

22

23 And, again, you put forward the proposition that he was
24 connected with FECB, at FECB?

25 A. Yes, well, that was as he himself described it to me.

26

27 Q. You knew at all times, both at the time you made your
28 parliamentary submission and at the time you made the
29 submission to this Commission of Inquiry, that he was not
30 attached to the FECB?

31 A. No. He certainly was attached to the FECB. As I have
32 said before, he was FECB's man in Melbourne.

33

34 Q. I suggest to you, Mr Montgomery, that what the book
35 you've referred to says is that he set up a completely new
36 system, a new intelligence office, in Melbourne?

37 A. He did indeed, which was linked with FECB.

38

39 Q. How did he communicate with Mr Hall?

40 A. I don't know that.

41

42 Q. How do you think he might have communicated with
43 Mr Hall?

44 A. I really can't speculate on that.

45

46 Q. Well, you've done a fair bit of --

47 A. When I interviewed him, he was a very elderly man.

1 I think he was aged 91, he told me.

2

3 Q. He was in his 92nd year when you interviewed him.

4 A. Ninety-second year, yes.

5

6 Q. He was a very elderly man.

7 A. Yes.

8

9 Q. Did you not ask him how he communicated with Mr Hall?

10 A. I didn't, no.

11

12 Q. Can you imagine --

13 A. I don't think I did.

14

15 Q. He is a man, a very senior intelligence officer;
16 correct?

17 A. Yes.

18

19 Q. And you are asserting that he has communicated with
20 Mr Hall from Melbourne, with Mr Hall based where - in
21 Singapore or in London?

22 A. Yes, in Singapore.

23

24 Q. How can you imagine that such a communication took
25 place, by what means?

26 A. I didn't like to speculate on that. Being a man as
27 old as he was, I was happy to take him at his word.

28

29 Q. But just looking at it now, how would you think he
30 communicated with him?

31 A. I would imagine through some sort of intermediary, but
32 I can't go beyond that.

33

34 THE PRESIDENT: Q. Do you follow the sequence that you
35 use to determine the existence of this submarine,
36 Mr Montgomery? Let me just put this to you. This is why
37 I raised it with you on Friday afternoon. If you go to
38 page 14 of your statement, you say that the first concrete
39 evidence of the existence of a submarine is a possibility
40 referred to in Admiral Crace's diary, what he may have been
41 told by the Naval Board, which relates not to a Japanese
42 submarine but to a Vichy submarine escorting a Vichy ship,
43 which you have transmogrified into a Japanese submarine
44 accompanying a German ship. That is said to be the first
45 concrete evidence of a submarine of any sort.

46

47 The next step you put is at the bottom of that page.

1 You say, "The second such item", which I read as being "the
2 second piece of evidence", is a speculation in a newspaper
3 article in London of the 1st or the 3rd - I'm not sure
4 which - of December, which doesn't say that it was
5 a Japanese submarine or any submarine at all. What it says
6 is, "Whether the torpedo was fired by the Nazi vessel or by
7 an attendant submarine is uncertain". Neither of those
8 suggests that there is a submarine at all. There are two
9 pieces of speculation - one said to be a possibility, the
10 other said to be uncertain.

11
12 But what you do in the next paragraph is then say:

13
14 All investigation and discussion at an
15 official level of the possible nationality
16 and identity of that attendant
17 submarine ...

18
19 What you have done is to transfer a speculation plus
20 a possibility into a certainty, and you have left it on the
21 basis that the only debate was what the nationality of the
22 submarine was, wherein the reality is that you have put the
23 possibility and your speculation together and you've turned
24 them into a certainty of existence of a submarine.

25
26 Now, that is not a very happy process of logic, if
27 I may say so.

28 A. Well, one has to remember the context in which it was
29 happening at the time. This was at a very tense political
30 moment when President Roosevelt was negotiating with the
31 Japanese for a modus vivendi under which Japan would
32 undertake no further aggressive moves, provided that
33 America lifted the embargo on oil exports to her. So it
34 was an extremely tense political situation.

35
36 I produce evidence in my book, which I haven't
37 introduced here because it involves quite a considerable
38 extra area of investigation which at the moment I don't
39 think is germane to this Inquiry, that on the night of
40 26 November, at 3am, Churchill sent a cable to Roosevelt,
41 and I reproduce in my book the covering note that went with
42 it to the American Embassy, opposite page 147. It is
43 headed, "Most Secret":

44
45 Dear Mr Beam,

46
47 I enclose a Telegram from the Former Naval

1 Person to the President for dispatch as
2 soon as possible. I am so sorry to trouble
3 you at this hour.

4
5 That hour being 3.20am. I have researched what that
6 telegram could possibly have been, and the only one that
7 the records offer is one which basically suggests to
8 President Roosevelt that Mr Churchill was happy to leave
9 all the negotiations to him; he just has a slight worry
10 that Chiang Kai Shek, the leader of the Chinese
11 Nationalists, would be left out in the cold. But apart
12 from that, he says, "I'm happy to leave it to you."

13
14 Now, President Roosevelt's reaction, when he received
15 that cable, was to skip his breakfast entirely, to go
16 straight to his office and to break off the negotiations
17 with Japan. And I am suggesting that that cable, which has
18 been either lost or concealed, revealed the fact to
19 President Roosevelt that Sydney had been sunk by a Japanese
20 submarine and that Australia - and, by association,
21 Britain - was thereby in a de facto state of war with
22 Japan, a condition which, as I told you on Friday,
23 Churchill described as unthinkable.

24
25 Q. Well, Mr Montgomery, I have to say to you that what
26 you just recounted relates to events some seven days after
27 the sinking, and you've incorporated into a cable that
28 you've never seen a speculation on top of a possibility on
29 top of a previous speculation as to whether or not that may
30 have referred to any Australian situation, let alone the
31 sinking of Sydney.

32
33 There are so many barriers of a factual area for you
34 to get over to mount that speculation that it really
35 doesn't bear thinking about. The first might be: were
36 your speculation to have any substance whatsoever, how is
37 it that Mr Churchill would have come to be aware of all
38 this? How is it that the Australian Naval Board was not
39 aware of it? How is it that there wasn't some
40 communication between the Naval Board and Admiralty about
41 this matter? There is no mention of a Japanese submarine
42 anywhere in any of the cables passing --

43 A. Any of the cables that exist.

44
45 Q. Well, we've seen a great number of them, I assure you.
46 So your speculation involves somebody going through all of
47 the cables between the 19th, or I think the 18th, on your

1 theories - because, as I understand it, you say that they
2 knew about the Japanese submarine on the 18th - and the
3 26th, culling every one that related to a Japanese
4 submarine. The only reason you have to do that is because,
5 without doing that, your thesis can have no basis
6 whatsoever?

7 A. I don't think that's a true position, a true statement
8 of the position, at all. There are several items of
9 information pointing in the same direction.

10

11 Q. Well, I'd like to know what they are. So far, I've
12 heard that because three people went to Rottneest Island on
13 the 18th, and you've added in this morning I think for the
14 first time the suggestion that they went there for the
15 purpose of establishing some form of telecommunications
16 system to intercept signals --

17 A. Sorry, can I interpose for a moment? That is not
18 a suggestion on my part. That is a statement, a statutory
19 declaration, made by the yeoman of signals, Mr Etheridge.

20

21 Q. We'll come to that, I have no doubt. That is the
22 first piece of information, and that, you say, was for the
23 purpose of establishing some signal system to intercept
24 transmissions from Japanese submarines which you say were
25 stationed off the north coast of Australia; is that right?

26 A. Yes.

27

28 Q. Do I have that right?

29 A. As described by Mr Bathgate.

30

31 Q. As described by Mr Bathgate?

32 A. Yes.

33

34 Q. That's the gentleman who wrote the book recently?

35 A. Yes.

36

37 Q. Is he a frequent correspondent of yours?

38 A. Sorry?

39

40 Q. Is he a frequent correspondent of yours?

41 A. Not at all, not in the least. I was notified of the
42 publication of his book and he sent me a copy. This was
43 some time, I think it was March last year. I had no
44 previous communication with him whatever.

45

46 Q. I have read his book. Perhaps we'll speak with him at
47 some stage. That's the first piece of information, and

1 that dates from 18 November. What's the next piece of
2 information about Japanese submarines?
3

4 You've got Admiral Crace's diary, which doesn't
5 mention Japanese submarines but talks about a Vichy
6 submarine accompanying a Vichy ship. You've transposed
7 that into a Japanese submarine accompanying a German ship.
8 That's point number two.
9

10 Point number three is a speculation by a journalist on
11 either 1 or 3 December in relation to an attendant
12 submarine as being one of two possibilities of the vessel
13 that might have fired a torpedo, the other being a Nazi
14 vessel. That's three points. What else is there?

15 A. Well, I do list other points that I'd like to
16 introduce here.
17

18 Q. Just before you go on, on pages 15 and 16, and it goes
19 over to page 17, you then list a whole series of events,
20 starting with 11 November, if I may say so, none of which
21 have anything to do with the existence or otherwise of
22 a Japanese submarine.

23 A. Sorry, I'm now looking for a copy of the notes that
24 I made of an interview with Mr Pat Young, who I think
25 I referred to on Friday, who was the manager of the
26 Gascoyne Trading Company, who accompanied his company's
27 trucks when they were ordered up to the beaches to collect
28 the German survivors. On his way down in his ute, he took
29 a former merchant seaman in a German passenger liner with
30 him, who spoke very good English and who gave him
31 a description of what had happened. If I can just find it
32 for you.
33

34 Q. This is the fourth point, is it? And this is --

35 A. I don't seem to have mentioned this in my submission.
36

37 Q. Just tell me his name again?

38 A. Pat Young.
39

40 Q. I think you've mentioned this in the submissions to
41 the parliamentary inquiry.
42

43 CMDR RUSH: If it's of any assistance --
44

45 THE PRESIDENT: Q. It's at page 18 of your submission,
46 point numbered 1 in the middle of the page.

47 A. I'm sorry, I don't seem to have it. Oh, yes, I have

1 it right here. I'm sorry for that delay. Can I just read
2 it to you, the evidence of this particular point --

3

4 Q. Is this the passage on page 18 of your submission?

5 A. No, it's not included in my submission.

6

7 Q. Yes, it is included in your submission. If you go to
8 page 18 --

9 A. Yes.

10

11 Q. -- paragraph numbered 1.

12 A. Oh, page 18. Yes, it is. That is it.

13

14 Q. That's the point?

15 A. I'm sorry, that is it, yes.

16

17 Q. Right, so that's the fourth point that I've noted.

18 The fifth --

19 A. Could I just read what he said to you direct?

20

21 Q. What are you reading from?

22 A. My notes of my interview with him.

23

24 Q. With Mr Young?

25 A. Yes.

26

27 Q. Right.

28 A. "Kormoran had been supplying Japanese submarines and
29 was stopped in the water when she met Sydney."

30

31 Q. Just pardon me a minute. Could you tell me who
32 Mr Young said the German survivor was?

33 A. He did not identify him by name.

34

35 Q. So we have your account of what Mr Young told you of
36 what he was told by an unidentified German survivor who
37 spoke English?

38 A. Yes.

39

40 Q. And he said what?

41 A. He said that, "Kormoran had been supplying Japanese
42 submarines and was stopped in the water when she met
43 Sydney."

44

45 Q. Yes, and from that you derive the view that it was the
46 Japanese submarine that Kormoran had been supplying that
47 launched the torpedo that sank the Sydney?

1 A. Indeed.

2

3 Q. Would you mind showing that to CMDR Rush.

4 A. (Document handed to CMDR Rush).

5

6 CMDR RUSH: Could I get a copy made, sir, and perhaps come
7 back to it?

8

9 THE PRESIDENT: Yes. I'll mark the document exhibit 56
10 when it comes back.

11

12 EXHIBIT #56 COPY OF MR MONTGOMERY'S INTERVIEW NOTES FROM AN
13 INTERVIEW WITH PAT YOUNG

14

15 CMDR RUSH: Q. Mr Montgomery --

16 A. Sorry, could I also go on to make a further quotation
17 from this interview with Mr Young --

18

19 Q. Mr Montgomery, could we possibly deal with that when
20 we all have copies of it? I'm just getting some copies
21 made.

22 A. Indeed.

23

24 THE PRESIDENT: Q. Do you have another page of your
25 interview with Mr Young?

26 A. No.

27

28 Q. So what's that document?

29 A. I'm sorry?

30

31 CMDR RUSH: Q. That's another copy of it, I think.

32 A. Another copy.

33

34 THE PRESIDENT: Just wait until we all get copies, if you
35 wouldn't mind.

36

37 CMDR RUSH: Do you want me to deal with another matter and
38 come back to it?

39

40 THE PRESIDENT: Yes.

41

42 CMDR RUSH: Q. Mr Montgomery, do you claim, as of
43 25 November, that Admiralty knew of the involvement of
44 a Japanese submarine?

45 A. Yes.

46

47 Q. That Churchill knew of the involvement of a Japanese

1 submarine?

2 A. Yes.

3

4 Q. That the C-in-C China Station knew of the involvement
5 of a Japanese submarine?

6 A. Yes.

7

8 Q. And that the Naval Board knew of the involvement of
9 a Japanese submarine?

10 A. Yes.

11

12 Q. I want you to have a look at a cable of 25 November
13 1941, which is at NAA.070.0245. Do you see what's in front
14 of you, Mr Montgomery, is a cable from Admiralty to the
15 Australian Commonwealth Naval Board and C-in-C China, and
16 then what it reads is as follows:

17

18 ACNB's 0016 25th. The only explanation we
19 can think of is that raider torpedoed
20 "Sydney" before being sunk.

21

22 Request your views and details of steps
23 that you are taking to try and locate her.

24

25 Is that a deliberately misleading cable, in your view?

26 A. I wouldn't say it's deliberately misleading, but it's
27 couched in very careful tones, given the extremely
28 sensitive political situation obtaining at the time.

29

30 Q. What Admiralty are putting forward is the suggestion
31 that the raider torpedoed Sydney. That's what it says,
32 isn't it?

33 A. That's what it says.

34

35 Q. There is nothing about a submarine and nothing about
36 a Japanese submarine?

37 A. No. I am suggesting that this is a request to provide
38 information before they start making any allegations or
39 accusations, which would have extreme political
40 implications. They wanted to be very certain of their
41 facts.

42

43 Q. So that's your explanation for this cable from
44 Admiralty?

45 A. That would be my interpretation of it, yes.

46

47 Q. Why isn't your interpretation as it reads, that, "The

1 only explanation", the only explanation from Admiralty's
2 point of view, is one that the raider torpedoed Sydney
3 before being sunk? Why can't we interpret it as it reads?

4 A. Because it's very unlikely that the raider would have
5 been able to destroy Sydney just with one or two torpedo
6 strikes.

7
8 THE PRESIDENT: Q. Why is that?

9 A. Because we have examples of other cruisers - and
10 I quoted one the other day; in fact, I showed you the
11 illustration of the cruiser Arethusa, who is quite similar
12 to Sydney, being severely torpedoed in her bows and yet
13 being able to return to Alexandria, to port, 120 miles
14 away.

15
16 Q. That is why, for your thesis, you must have I think
17 it's certainly three, but probably four, torpedoes hitting
18 Sydney to sink it?

19 A. Yes, indeed.

20
21 Q. And if the technical evidence indicates that there is
22 only one torpedo strike, your explanation is that either
23 the three or the four all hit in the one place?

24 A. Yes, because nearly all the Kormoran survivors speak
25 of a final explosion over the horizon, to which the Sydney
26 was proceeding, and when we see the evidence of the wreck
27 now, there is no evidence of an explosion in the magazines,
28 which were amidships. The hull amidships is completely
29 intact and it's only the bows which are missing.

30
31 CMDR RUSH: Q. Just to ensure that we understand it,
32 your explanation is that two, three or four torpedoes all
33 hit Sydney in the one place?

34 A. More or less.

35
36 Q. Could we turn to NAA.040 --

37
38 THE PRESIDENT: What was the reference to that last one?

39
40 CMDR RUSH: NAA.070.0245. I'll tender these, sir, in the
41 same way as we did on Friday.

42
43 THE PRESIDENT: Yes.

44
45 CMDR RUSH: Q. This is a cable of 25 November 1941,
46 NAA.040.0391. Do you see that this is a cable,
47 Mr Montgomery, from C-in-C China to Admiralty and to the

1 Australian Commonwealth Naval Board of 25 November, with
2 C-in-C China saying:

3
4 Concur that this is probable explanation.
5 ACNB is organising search with assistance
6 from CZM.
7

8 This is a search for Sydney, which you say they knew had
9 been sunk by a Japanese submarine?

10 A. They were not prepared to make that accusation at that
11 extremely sensitive political time.
12

13 Q. Why, if they all knew about it, would they not
14 correspond with each other about it?

15 A. But they were corresponding with each other.
16

17 THE PRESIDENT: Q. Yes, but they were corresponding on
18 the basis of it being sunk by a raider.

19 A. Well, they were couching their correspondence in very
20 sensitive terms.
21

22 Q. Well, they weren't. Just go back to the previous one,
23 would you, please. The English is plain.
24

25 The only explanation we can think of ...
26

27 They're speculating. There's only one thought that they
28 can come up with as being a sensible explanation, and that
29 is that she was torpedoed by a raider. And as you've seen
30 from the next cable just shown to you, that was the common
31 view of Admiralty, C-in-C China and the Naval Board. Why
32 should I not accept that?

33 A. That was as far as they were prepared to go at that
34 moment.
35

36 Q. Well, that's just pure speculation. You have no basis
37 for saying that, do you?

38 A. Well, I have the evidence that I've laid out before
39 you.
40

41 Q. The evidence that, some time later, Mr Churchill's
42 secretary sent a letter to President Roosevelt enclosing
43 a letter which you've never seen but which you assume
44 exposes that Sydney was sunk by a Japanese submarine;
45 that's your position?

46 A. I am putting forward that as a thesis, as the only
47 possible explanation for the reaction of President

1 Roosevelt to that cable from Churchill. Until we have the
2 record of that cable, obviously it must remain a thesis.

3
4 Q. Theses normally have some basis in fact,
5 Mr Montgomery. People set about proving them or disproving
6 them; I appreciate that. But you have no basis in fact for
7 what you're saying at all?

8 A. Well, I think you will find that I have, if you go on
9 to the further items that I produce in evidence.

10
11 THE PRESIDENT: We'll do that in due course. I've noted
12 six so far.

13
14 CMDR RUSH: Q. Can we go to cable NAA.074.0241. This is
15 a signal from the Naval Board to Admiralty, to China
16 Station and to various other recipients, stating, on
17 28 November:

18
19 ... raider captain confirms previous
20 reports with addition that action took
21 place latitude 26 degrees 31 longitude 111.
22 Sydney's two torpedoes missed, raiders
23 torpedo hit forward and salvo amidships.
24 Sydney badly on fire action began 19th at
25 1600 broken off 1830 raider struck in
26 engine room and on fire. "Sydney" last
27 seen turning behind smokescreen turning 153
28 5 miles from raider and steering south
29 5 knots. Raider had 25 killed remained of
30 400 in boats and rafts experienced bad
31 weather.

32
33 Now, again, insofar as the cable goes, there's no reference
34 to "submarine", no reference to "Japanese submarine", no
35 reference to "Japanese torpedo". Are they playing games
36 with each other?

37 A. Well, this is a description only of the action with
38 Kormoran.

39
40 Q. And in the sense that Admiralty, C-in-C China Station
41 and the Naval Board knew of the involvement of Japanese
42 submarines, is what is set out here those three parties at
43 least playing games with each other?

44 A. Well, they are preferring not to make an accusation or
45 an allegation which would have extremely sensitive
46 political implications.

1 Q. What would be the purpose of writing and delivering
2 that cable if the three parties knew of the demise of
3 Sydney by a Japanese submarine?

4 A. Because they would realise the extreme political
5 sensitivity.

6
7 Q. Why would they bother with this charade?

8 A. They would be giving a description of the action with
9 Kormoran and confining themselves to that.

10
11 Q. I just want to go to the next one, Mr Montgomery,
12 NAA.026.0017. It is from the First Sea Lord to the First
13 Naval Member of the Australian Commonwealth Naval Board, of
14 30 November:

15
16 When you have been able to collect from
17 prisoners all available information
18 regarding the action between the Sydney and
19 the raider, I should be grateful if you
20 would let me know what happened so that we
21 can deduce any lessons for the future.

22
23 That's a charade as well, is it?

24 A. Not at all.

25
26 Q. Not at all?

27 A. No.

28
29 Q. Are you seriously suggesting that that has been
30 written in the knowledge that a Japanese submarine sank the
31 Sydney?

32 A. Yes, because only - well, either the day after or
33 within two days of the Sydney's loss, the Admiralty had put
34 out a signal warning all warships that raiders might be
35 cooperating with a submarine.

36
37 Q. Mr Montgomery, are you seriously suggesting that the
38 First Sea Lord suggested getting all the information from
39 the PoWs, the prisoners of Kormoran, so that they can put
40 together and learn from those lessons for the future - that
41 that is some sort of charade on his part, because at all
42 times he knew that the Sydney had been sunk by a submarine?

43 A. No, this is no charade. He's merely asking for
44 a detailed description of the action with Kormoran.

45
46 Q. He's asking for what lessons can be learnt for the
47 future?

1 A. Well, he'd already given notice that they had received
2 that lesson.

3

4 Q. Apart from looking at cables of this nature, is there
5 anything that exists that you have seen between the
6 Naval Board, C-in-C China Station and Admiralty which in
7 any way purports to disclose a Japanese submarine?

8 A. No, because we know that a great many of the signals
9 and records have been either hidden or destroyed.

10

11 Q. We know that, do we?

12 A. We do.

13

14 Q. So the picture that is being put forward here on the
15 basis of those cables is a cover-up?

16 A. Indeed.

17

18 THE PRESIDENT: Q. Who was it who went through all these
19 cables and destroyed them, destroyed those that related to
20 Japanese submarines?

21 A. We have a description of CMDR Long, at the end of the
22 war, making what is described as a bonfire of files
23 relating to Sydney and that he issued an advice to the
24 Government that no further statements should be made on the
25 loss of the Sydney.

26

27 CMDR RUSH: Q. And it is this cover-up that you maintain
28 has been held by successive Australian Governments of all
29 political persuasions --

30 A. And British.

31

32 Q. -- and British Governments --

33 A. Yes.

34

35 Q. -- of all political persuasions since 1941?

36 A. Exactly.

37

38 Q. Mr Rudd covers it up, as Mr Curtin covers it up?

39 A. Exactly.

40

41 Q. Mr Menzies covers it up, as Mr Hawke covers it up?

42 A. Exactly.

43

44 Q. And Mr Churchill covered it up, as Mr Blair covered it
45 up?

46 A. Exactly, for reasons which I have detailed in my
47 submission.

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Q. It's a cover-up and signals have been destroyed?

A. It is.

Q. That is your basis - a continuing cover-up by both Governments?

A. It is indeed.

Q. And all the members of the Naval Board?

A. Yes.

Q. And all the Sea Lords?

A. Yes.

THE PRESIDENT: Q. And I think we have to include the American Government as well in that?

CMDR RUSH: Q. And the American Government?

THE PRESIDENT: Q. Because, on your thesis, they also knew but never disclosed the fact that Sydney was sunk by a Japanese submarine?

A. Yes, but the questions are unlikely to arise in America as they would here and in Britain.

CMDR RUSH: Q. An account that you relied on, Mr Montgomery, in relation to the involvement of a Japanese submarine is an account of a Kormoran survivor allegedly given to a Pastor Ivan Wittwer; is that correct?

A. Yes. If we are to continue to proceed in chronological order, could I also bring to your attention two diaries that were captured from Kormoran survivors when they landed. One of these was the diary of Dr Franz List, who was the intelligence officer of the Kormoran and who would have known everything that Detmers knew.

THE PRESIDENT: Q. He's the gentleman who did the sketches that we spoke of on Friday?

A. Yes, indeed, one and the same man. In the daily entries from Thursday, 13 November to Tuesday, the 18th, he has the following entries: "Course south/south-east", or, as it then became on the Friday, on the 14th, "course east", and so on, for five successive days. Now, this is totally at variance with the official story that has Kormoran steering north.

He then goes on to add in each of these entries the

1 word "Manilfahrt". That word in German means literally
2 "towards Manila". But, of course, if Kormoran was going
3 east, she was a very long way from Manila, which was almost
4 due north, so I am suggesting that that word can only be
5 interpreted as a rendezvous point.

6
7 Q. What is the basis for that?

8 A. I'm saying that is my only possible interpretation.

9
10 Q. A word which, properly interpreted, means "towards
11 Manila" --

12 A. Yes.

13
14 Q. -- you say can't mean that, because she wasn't
15 travelling towards Manila, and therefore it was a disguise
16 for a rendezvous?

17 A. Yes, that is my suggestion.

18
19 Q. But is there any basis for the suggestion?

20 A. I would invite other possible interpretations of it.

21
22 THE PRESIDENT: Yes, CMDR Rush.

23
24 THE WITNESS: Can I then go on to the other diary, which
25 is one of Wilhelm Grun, on Sunday, 17 November, in other
26 words, two days before the action. He wrote, "If it were
27 not for the boredom, one has no interest in anything.
28 Seagoing liner must soon be met."

29
30 CMDR RUSH: Q. You've referred to that in your
31 submission as "ocean-going liner".

32 A. Well, that is a matter of translation. "Seagoing
33 liner" would not make much sense, because all liners went
34 to sea.

35
36 Q. And what are we to make of that?

37 A. That, I have suggested, could only refer to the
38 Aquitania.

39
40 Q. And what's the next point?

41 A. I'm sorry?

42
43 Q. Is there anything else?

44 A. No.

45
46 Q. You refer at page 20 of your submission to something
47 else, Mr Montgomery. You say at the bottom of the page:

1
2 Moreover, the Navy itself early on accepted
3 Kormoran had to have an accomplice. In an
4 article in The Australian magazine,
5 18 March 1998, based on a letter he had
6 written in 1972, ex-Kormoraner Hans Koblitz
7 stated that, "I was questioned in December
8 1941 by a commission of Australian Naval
9 officers who told me, 'We cannot believe
10 Kormoran sank Sydney alone. There must
11 have been other warships, perhaps
12 a Japanese submarine around'."

13
14 Is that right?

15 A. Yes.

16
17 Q. That was something that you allege was said to
18 Mr Koblitz; correct?

19 A. This was quoted on page 3065 of submissions to the
20 Senate inquiry in 1997.

21
22 Q. Mr Koblitz disagreed with the proposition that was put
23 forward to him by those officers in his interrogation?

24 A. I don't see any expression of disbelief on his part.

25
26 Q. So the statement of Mr Koblitz that these officers
27 put, they couldn't believe that the Sydney was sunk by
28 Kormoran alone, that there must have been another warship
29 or perhaps a Japanese submarine, provides a basis for you
30 to assert what?

31 A. That I agree with their conclusion.

32
33 Q. What's their conclusion?

34 A. That there must have been other warships, perhaps
35 a Japanese submarine, around.

36
37 Q. And what do you say we interpret from that as to the
38 knowledge of the interrogators?

39 A. That they may or may not have had that knowledge at
40 that point.

41
42 Q. Can we have a look now at the account of
43 Pastor Wittwer?

44 A. Indeed.

45
46 Q. The account is at SUBM.006.0097. Just to hopefully
47 save some time, Mr Montgomery, this is an account of

1 a conversation that Mr Wittwer alleges he had with a person
2 who gave his name as Gerhardt Heinz Grossmann in 1951 [REDACTED]
3 [REDACTED] in New South Wales?

4 A. Yes. We know now that that was not his real name.

5
6 Q. You say that Grossmann confessed to him that after
7 Sydney disengaged Kormoran, Sydney was hit by two torpedoes
8 fired by an unnamed Japanese submarine; is that right?

9 A. Yes.

10
11 Q. The basis upon which this person was put forward is
12 that he nominated himself, according to Wittwer, as the
13 gunnery officer of Kormoran; is that correct?

14 A. That was how he represented himself.

15
16 Q. And you know that there was no Grossmann that was the
17 gunnery officer on Kormoran?

18 A. Indeed. And Glenys McDonald, in her book, who
19 attempted to trace him back to Germany, could only find
20 a Grossmann that lived in East Germany and had never
21 visited Australia in his life. However --

22
23 Q. She did a bit better than that, didn't she? She
24 traced Gerhardt Grossmann, the person that this man
25 purported to be --

26 A. Yes, yes.

27
28 Q. -- to East Germany.

29 A. Yes.

30
31 Q. That he had married in 1948.

32 A. Indeed, yes.

33
34 Q. That he died in 1986 and that he had never left
35 Germany.

36 A. Exactly, yes.

37
38 Q. And that he had two brothers, who lived in the same
39 town, who also had never left Germany.

40 A. Exactly, yes, yes.

41
42 Q. And she went on to say that, as a consequence of that,
43 the Wittwer account really could not be relied upon.

44 A. That was her conclusion.

45
46 Q. In other words, if the account of Ivan Wittwer be
47 accepted for the purposes that it was given, that the

1 person who gave it was a complete fraud?

2 A. By name, yes. But it is clear from his interrogation
3 by Colonel Spry, the head of ASIO at the time, that he was
4 a member of Kormoran's crew. What his motive would have
5 been for passing himself under another name must be
6 a matter for speculation.

7

8 Q. How is it clear from any interrogation that this
9 person was a member of Kormoran's crew?

10 A. Because he said so.

11

12 Q. Sorry?

13 A. He said so in the records.

14

15 Q. He has said so, the fraud has said so; is that what
16 you rely on?

17 A. No, no. He was questioned as to his background, and
18 it was made very clear that he had a detailed marine
19 background and answered questions concerning the Kormoran
20 which demonstrated that he had a detailed knowledge of
21 Kormoran.

22

23 Q. So your evidence now is, as opposed to what you just
24 said, that he demonstrated in an alleged interview with
25 ASIO --

26 A. Yes.

27

28 Q. -- that he had a detailed marine background?

29 A. Yes.

30

31 Q. And that is sufficient for you to place this fraud as
32 a member of the Kormoran crew?

33 A. Well, I'm saying it was sufficiently credited at the
34 time by ASIO for them to arrange his immediate deportation
35 on the pretext that he failed an oral examination in
36 Gaelic.

37

38 Q. Since when did Australian immigration authorities give
39 a detailed examination in Gaelic?

40 A. I don't know, but that was the pretext on which he was
41 deported.

42

43 Q. Who said?

44 A. Pastor Wittwer said so.

45

46 Q. Pastor Wittwer said so?

47 A. Yes.

1

2 Q. And how does Pastor Wittwer know?

3

4 A. Because he received it from his successor as Lutheran
5 pastor to the German immigrants on the Snowy Mountains
6 hydro-electric scheme.

6

7

8 Q. What sort of basis do you now put on this account in
9 the knowledge, not outlined in your submission, but now in
10 the knowledge that the person who gave the account is
11 a fraud - what sort of credence do you put on what he said?

11

12 A. He may have been a fraud as far as his name went, but
13 he was a fraud in no other sense, and this was the sense in
14 which Wittwer was happy to accept him, Wittwer being
15 a Lutheran priest who had no, any obvious, motive for
16 fabricating such a story.

16

17

18 Q. Let's just go back. You say Wittwer was happy to
19 accept him. Wittwer did not appreciate, at the time he
20 accepted him, that he was a fraud of the nature as outlined
21 by Glenys McDonald, did he?

21

22 A. He had severe doubts as to him. He described him
23 elsewhere as a conman.

23

24

25 Q. Just answer the question. Wittwer did not know, at
26 the time that he gave this account, that this man was
27 a fraud of the nature that we've just outlined in this
28 Commission of Inquiry?

28

29 A. He did not know the details of his background, of his
30 family, et cetera, but he did express his own doubts.

30

31

32 Q. The man told Wittwer that he had taken up the name of
33 his brother that had been killed on the Russian Front.

33

34 A. Indeed.

34

35

36 Q. And that also was a lie?

36

37 A. It was, yes.

37

38

39 Q. Did Wittwer know that?

39

40 A. I don't think so.

40

41

42 Q. You don't think so?

42

43 A. I don't think so.

43

44

45 Q. So do you think that, when you say Wittwer accepted
46 him, that in the knowledge of what we have just discussed,
47 he might have been so willing to accept him?

47

A. Sorry, I'm not understanding your question.

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Q. I'll withdraw the question. Did you go through the account and then measure it up against the matters that we have been discussing over almost a day and a half?

A. Yes. And I must also add that ASIO seems to have taken it equally seriously.

Q. Why do you say that?

A. Because when Wittwer finally came out with a statement after his release from the 30-year rule, he stated his intention to make a statement at an Anzac Day parade and --

Q. He made the statement at the Anzac Day parade.

A. He did, yes, but he had also made it known that he was going to make the statement, and shortly before he left for the parade, two men, who described themselves as reporters, turned up on his doorstep, and he had to tell them that he was about to go out on to the parade, but if they cared to hang around, he would be happy to talk to them when he came back. When he came back, he found the whole house had been turned over and that his files on the Sydney had been removed. Furthermore, he was told by his bank that these two gentlemen had approached the bank, using his name, in an attempt to get at his safe deposit.

THE PRESIDENT: Q. Did they both use his name or just one of them?

A. I can't say, which I think demonstrates the seriousness with which ASIO took Ivan Wittwer's evidence.

CMDR RUSH: Q. That account, just to go through it so we understand it - Mr Wittwer says that he recounted what Grossmann had told him about two weeks later to Colonel Spry in Canberra; correct?

A. Yes. I think it was three weeks later, actually.

Q. And Spry was telephoned by the person where he was having dinner and turned up at his house in Canberra that night?

A. I don't know that. As far as I understand it, Wittwer arranged an interview with Colonel Spry and with the head of the hydro-electric scheme, Sir William Hudson, and two other Naval Intelligence officers at the YMCA in Canberra in a morning approximately three weeks later.

Q. And just have a look at it. The allegation is, as I understand it, that the head of the Snowy Mountains

1 Authority met the head of ASIO and operatives, as they are
2 called, at the YMCA in Canberra for a discussion about what
3 Grossmann was saying?

4 A. The so-called Grossmann was also himself present and
5 repeated the account which he had given Wittwer three weeks
6 earlier.

7
8 THE PRESIDENT: Q. In Grossmann's account to Wittwer,
9 what does he say happened?

10 A. Both ships, the Kormoran and the Sydney, scored hits
11 on each other. Then there was a massive explosion as two
12 torpedoes from a Japanese submarine hit the Sydney
13 broadside on. Grossmann stated that the submarine was two
14 and a half miles from the Sydney.

15
16 Q. Well, now, that's one of the bases that you use for
17 accepting or advancing the view that there may have been
18 a Japanese submarine there?

19 A. Indeed.

20
21 Q. What about the evidence given to me on oath by
22 a number of people on Kormoran who said that there were no
23 submarines involved at all? Why should I not prefer that
24 evidence?

25 A. There is no inconsistency there, because, as we now
26 know, the Sydney was 12 nautical miles away, when she went
27 down, from seeing the action.

28
29 Q. Which means that Grossmann's account must be quite
30 wrong?

31 A. No. He could have been sufficiently near, in one of
32 the lifeboats, not necessarily --

33
34 Q. The account you've just read me said that both ships
35 were stationary in the water --

36 A. But this was --

37
38 Q. -- when the submarine fired from two and a half miles
39 away and hit with two torpedoes?

40 A. Yes, but this was many hours later and the lifeboats
41 could have covered a considerable amount of distance in
42 that space of time.

43
44 Q. Did Grossmann tell Pastor Wittwer his account of what
45 he saw whilst he was in a lifeboat?

46 A. Yes.

47

1 Q. Did he?

2 A. Well, he can't have seen it from anywhere else.

3

4 CMDR RUSH: Q. The account of Grossmann, I suggest, as
5 recorded or reported by Wittwer, was to the effect that two
6 and a half miles away from Kormoran, a Japanese submarine
7 fired two torpedoes into Sydney?

8 A. My understanding of the words is that the submarine
9 was two and a half miles away from Sydney, but --

10

11 Q. I think if you go to the top of CORR.004.0244, the
12 second page of the account:

13

14 Each scored hits on the other. Then there
15 was a massive explosion as two torpedoes
16 from a Japanese submarine hit the Sydney
17 broadside on. Grossmann stated that sub
18 was two and a half miles from the Sydney.
19 I have not fired torpedoes, so do not know
20 if this degree of accuracy could have been
21 attained.

22

23 Whether the submarine be two and a half miles from Sydney
24 or not, that account is given in the context of an
25 engagement between Kormoran and Sydney, is it not?

26 A. No. What he is describing is a quite separate action.

27

28 Q. When it says at the top of the page, "Each scored hits
29 on the other. Then there was a massive explosion as two
30 torpedoes from a Japanese submarine hit the Sydney", that
31 is part of the ongoing engagement, is it not, when he says
32 "then"?

33 A. No. You could interpose a considerable period of time
34 between the two.

35

36 Q. Why, or how?

37 A. Why not?

38

39 Q. Why do we need to do that when it says, "Then there
40 was a massive explosion"?

41 A. It doesn't follow that they were necessarily
42 successive events.

43

44 Q. If the submarine was two and a half miles from Sydney
45 at the time of the massive explosion, it would mean that
46 Sydney was some nine and a half miles from the submarine?

47 A. That's not what he's saying, no.

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Q. No, I know, but we know that Sydney sank 12 miles from Kormoran.

A. Yes.

Q. And the submarine, at the time of firing the two torpedoes as alleged here, was two and a half miles from Kormoran?

A. No.

Q. From Sydney?

A. Yes.

Q. Two and a half miles from Sydney at the time it sank the Kormoran?

A. No.

Q. Two and a half miles from Sydney at the time it fired the torpedoes?

A. At the time it fired the torpedoes, not at the time it sank Kormoran. There was an interval of several hours between those two events.

Q. At the time stated, the sub was two and a half miles from the Sydney at the time that it fired its torpedoes?

A. Yes.

Q. And on the basis of the explosion as described by Grossmann, it would mean Sydney sank at the time of the firing of the torpedoes?

A. Yes.

Q. How would you think that Grossmann would be in a position to see that, if Sydney was 12 miles away from Kormoran?

A. Because he could have been as near as nine and a half miles, even without the progress made in his lifeboat.

Q. So he could have been as near as nine and a half miles and seen what he alleges?

A. Yes, but, in the interval, he would have made considerable progress in his lifeboat. They would have been - they've described how they were rowing east towards shore, and if you put the interval at maybe six hours between the two events, he could have covered, at the very least, another six miles.

1 Q. Six miles rowing?

2 A. Yes.

3

4 Q. We're not in motorboats, are we?

5 A. No - well, that's another open question. What
6 happened to what is called the LS3, the mine-laying torpedo
7 boat, which Kormoran survivors have to this day refused to
8 mention in any account of the abandonment of their ship?

9

10 Q. Grossmann describes a bow-on approach by Sydney, does
11 he not?

12 A. Grossmann does?

13

14 Q. Yes.

15 A. Yes.

16

17 Q. What do you say as to that - a bow-on approach by
18 Sydney?

19 A. Well, that's what fits all the other evidence.

20

21 Q. A bow-on approach to Kormoran?

22 A. Yes.

23

24 Q. Approaching Kormoran on the bow; is that what you're
25 saying?

26 A. Sydney is approaching bows on.

27

28 Q. So which way is the underwater torpedo angled?

29 A. It's aimed at 135 degrees on a fixed bearing --

30

31 Q. But is it aimed to the bow or the stern of Kormoran?

32 A. Sorry, what torpedo are we talking about?

33

34 Q. Is the angle of the underwater torpedo aimed to the
35 bow of Kormoran or to the stern of Kormoran?

36 A. What torpedo are we talking about?

37

38 Q. The underwater torpedo that was on Kormoran --

39 A. On Kormoran, being fired at Sydney?

40

41 Q. Yes. Is it aimed forwards or is it aimed aft?

42 A. It's aimed 135 degrees to her starboard quarter.

43

44 THE PRESIDENT: Q. Which is aft.

45 A. Sorry?

46

47 Q. Which is aft.

1 A. Yes, 135 degrees.

2

3 CMDR RUSH: Q. Aft?

4 A. Yes.

5

6 Q. Then how do we explain the underwater torpedo hitting
7 Sydney if it's a bow-on approach?

8 A. What is there to explain? The torpedo is aimed at
9 Sydney, which is in a bows-on position.

10

11 Q. I understand a bow-on approach as the Kormoran facing
12 one way and the Sydney facing the other. Am I wrong?

13 A. No, they're facing --

14

15 Q. Is that what Grossmann describes?

16 A. No, they're facing the same way.

17

18 Q. They're facing the same way - is that what Grossmann
19 describes?

20 A. I think so. It's what everybody else describes.

21

22 Q. Is it what the fraud described? It's not, is it?

23 A. Yes. The only difference is that, as he describes it,
24 Sydney drew within four miles of Kormoran bows on and asked
25 for her secret call sign. Most people put that distance at
26 rather less - at within a mile.

27

28 THE PRESIDENT: I think we will take a short adjournment.
29 We'll adjourn for 10 minutes.

30

31 SHORT ADJOURNMENT

32

33 CMDR RUSH: Q. Just two more matters on the Wittwer
34 matter, Mr Montgomery. To accept that account, one would
35 have to be satisfied that the torpedoes, fired over a range
36 of two and a half miles, on the basis of what you saw of
37 the wreckage of Sydney on Friday, hit Sydney in exactly the
38 same position - to accept the account?

39 A. In and about, yes, because as I explained at the time,
40 this would be no surprise because it would be normal, when
41 you are aiming at a moving target, to aim at the bows.

42

43 Q. And over a distance of 5,500 yards or thereabouts?

44 A. Yes.

45

46 Q. And in a sea state described as somewhere around
47 sea state 3?

1 A. Sorry, what is that?

2

3 Q. It's not great conditions at the time. On the
4 evidence that we have of the conditions at the time of the
5 engagement and the aftermath, the sea conditions were
6 around sea state 3.

7 A. Oh, "sea".

8

9 Q. Sea state, yes.

10 A. Yes.

11

12 Q. And you say, at the time, Sydney was a moving target?

13 A. Yes. Can I at this point introduce a signal, which
14 I was told about when I was in Geraldton, that had been
15 received at Geraldton from the Sydney and which is being
16 submitted by the source to this Inquiry, under the name of
17 Mrs Baynton.

18

19 THE PRESIDENT: Q. Mrs Baynton?

20 A. Baynton, B-A-Y-N-T-O-N, and the signal read, "We have
21 been in a battle. We are somewhat beaten up, but we are
22 still under way, heading for Geraldton, and expect to be in
23 port tomorrow afternoon."

24

25 I would also like to introduce a further piece of
26 evidence. When CAPT Detmers was being transported down
27 from Carnarvon to Fremantle, the state of the roads being
28 such at the time that they were obliged to stop at
29 Geraldton overnight, Detmers was interrogated by a police
30 officer in Geraldton, and when he was asked what was his
31 last sight of Sydney, he replied, as they all did, that
32 Sydney was last seen going over the horizon, on fire, but
33 he added this additional piece of information, "She had all
34 her lights still on", indicating that she was therefore
35 still under control, under command. And you can find the
36 source for this in Glenys McDonald's book.

37

38 CMDR RUSH: Q. And on the basis of what was shown to you
39 on Friday of the 47 just the 5.9 inch shell hits on
40 starboard side and something just a little bit less on port
41 side, do you think it's feasible that the lights of Sydney
42 would still be on?

43 A. Yes, because I think you've indicated to me that
44 nearly all, or a vast percentage of, these hits did not
45 penetrate.

46

47 Q. Mr Montgomery, you mentioned signals there and you

1 refer to signals in your submission - signals received at
2 Harman, signals on Uco, signals at Geraldton, which are
3 plain voice signals. Do you say that Sydney was capable of
4 sending plain voice signals?

5 A. No, most of those signals were not voice. They were
6 short-wave Morse.

7
8 THE PRESIDENT: Q. When you say "most", were there any
9 in voice?

10 A. Sorry?

11
12 Q. When you say "most", do you say that there were any
13 received in voice?

14 A. Yes.

15
16 Q. By whom?

17 A. Received by whom?

18
19 Q. Yes.

20 A. There were two recorded as having been received in
21 Singapore by Hetty Hall, whom we mentioned on Friday, and
22 by a gentleman named Arthur Lane, who was part of the Army
23 signals operation in Singapore, and my understanding is
24 that this signal that I've just quoted, received at
25 Geraldton, was in plain voice.

26
27 CMDR RUSH: Q. And do you say that Sydney was capable of
28 transmitting in plain voice?

29 A. Well, from the evidence of these signals, she was.

30
31 Q. What was the nature of the transmission equipment that
32 permitted Sydney to transmit in plain voice?

33 A. There has been a lot of argument about this, but the
34 consensus seems to be that she did have a voice
35 transmission capability.

36
37 THE PRESIDENT: Q. I don't know what consensus you're
38 speaking of, but I have received evidence in this Inquiry
39 from people of considerable competence in the area, and he
40 has told me that Sydney had no voice transmission capacity.

41 A. Well, there are others equally qualified who say that
42 she did have.

43
44 Q. And who are they?

45 A. I can't quote them off the top of my head, but I think
46 there are other submissions which go into this in much
47 greater detail.

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THE PRESIDENT: Yes.

CMDR RUSH: Q. Then I take it, Mr Montgomery, you're not able to tell us the type of transmission equipment that would have enabled Sydney to transmit by voice?

A. No. I don't have that detailed technical knowledge, but there are many others who do.

Q. And you say that the signal received - you refer to Mrs Hetty Hall - was a voice signal in Singapore?

A. I may stand to be corrected on that. Can you --

Q. At page 12 of your submission at 0090, in the third line of the first full paragraph on that page, you're referring to signals and you say as follows:

The first was Hetty Hall ...

A. Yes. Now, that's clearly not a voice signal.

Q. Let me just read it:

... who as a cypher clerk at C-in-C (RN) China headquarters in Singapore at the time had recorded in her diary signals from Sydney to the effect that she was "being attacked by a raider that had been disguised until they opened up on them ... and were sailing at three knots" ...

You say that's recorded in Mrs Hall's diary?

A. Yes.

Q. On what basis?

A. Sorry?

Q. On what basis?

A. She herself stated that.

Q. Who did she state it to?

A. To - well, she certainly stated it to a reporter of the Geraldton Guardian and she had previously stated it to somebody else who I can't recall at the moment, and she is prepared, what's more, I gather, to submit herself to this inquiry.

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Q. Well, Mrs Hall has submitted herself to this Inquiry. We have her diary. There is no entry concerning Sydney in her diary - none. So where does that leave that particular signal?

A. I can't answer that.

Q. Not only that; her diary for 19 November records her on the morning shift and going to bed at 8pm, so that would tend to put that signal out of the running, would it not?

A. Unless she was then awoken, but --

Q. Unless she what?

A. Unless she was then subsequently awoken or called, but I can't answer for her.

Q. You refer to a submission of MAJ Austin Chapman in your submission at page 19, 097. You refer to MAJ Austin Chapman, whom you state:

... arrived in Tokyo in January 1946 as part of the Allied Occupation Force, testified to the [parliamentary inquiry] in 1997 how he had seen a mural in the entrance of the Japanese Imperial Naval Academy at Eta Jima depicting a Japanese submarine engaging a cruiser flying the Australian White Ensign; questioned about it next day, a Japanese ex-admiral had refused to answer, but by the following week the mural had been painted over, "There was no doubt in my mind that this mural represented the sinking of the Sydney by a Japanese submarine", he added.

THE PRESIDENT: Q. Page 19 of your submission, Mr Montgomery, at paragraph E.

CMDR RUSH: Q. Do you have that in front of you, Mr Montgomery?

A. Yes, I have it somewhere.

Q. I think it is on the screen - you have it?

A. Yes, I have it.

Q. Do you see what I have read, and particularly just going to the third line:

1
2 ... the entrance of the Japanese Imperial
3 Naval Academy at Eta Jima depicting
4 a Japanese submarine engaging a cruiser
5 flying the Australian White Ensign ...
6

7 No doubt you are familiar with the Australian White Ensign?

8 A. Yes.

9

10 Q. And do you know when it was first flown on Australian
11 ships?

12 A. I don't.

13

14 Q. It was first flown on Australian ships in 1968. Were
15 you not aware of that?

16 A. No.

17

18 Q. It would be, I suggest, impossible in that context, if
19 you accept that, for a Japanese mural to be depicting the
20 Australian White Ensign, when it was never flown by
21 Australian ships until 1968; it didn't exist?

22 A. Yes, well, that is a detail which you would have to
23 take up with MAJ Chapman, but it does not invalidate the
24 rest of his story.

25

26 Q. Does not invalidate the rest of his story?

27 A. No.

28

29 Q. The rest of his story that --

30 A. Yes, he was saying that it was flying some flag that
31 identified it as an Australian cruiser.

32

33 Q. No, what he was saying was that it was flying the
34 Australian White Ensign.

35 A. Well, that's what he understood it to be at the time.

36

37 Q. What else could it possibly be?

38 A. A flag which identified it as an Australian cruiser.

39

40 Q. Mr Montgomery, do you accept the research that was
41 done in 1993 by the Australian War Memorial into the Carley
42 float that was recovered by Heros and its conclusion that
43 it sustained multiple strikes from shrapnel?

44 A. No, I have to say that I regard that as a fabrication.

45

46 THE PRESIDENT: Q. Why do you do that?

47 A. Because it described the damage as having been

1 inflicted by shrapnel only, when we have descriptions from
2 none other than CAPT Collins himself, who was responsible
3 for transferring it from Fremantle to Canberra in 1942, and
4 he wrote in his covering letter describing it as heavily
5 damaged by machine-gun fire, underlined, and shrapnel. We
6 have also the evidence of those who were engaged in
7 recovering it, and they've described how they souvenired
8 machine-gun bullets from it.

9
10 Q. They were apparently fortunate enough to take every
11 machine-gun bullet, because there aren't any there now.

12 A. No, they handed them in to Navy Office, and from there
13 they disappeared.

14
15 Q. Don't you find it a little odd that with all the
16 penetrations in this float, they managed to extract every
17 machine-gun bullet but left a large number of samples of
18 shrapnel?

19 A. I'm not saying that they did.

20
21 CMDR RUSH: Q. What you're saying is that the
22 investigation done by the Australian War Memorial is
23 a fabrication?

24 A. I'm saying that it is very probable that there were
25 machine-gun bullets still inside it and that they weren't
26 declared.

27
28 Q. The Australian War Memorial report found that there
29 was no evidence of small arms fire, meaning machine-gun
30 fire.

31 A. Indeed.

32
33 Q. Is that a fabrication?

34 A. Yes. They also wheeled out a spokesman, who stated to
35 the 1997 Inquiry that there was no possibility that the
36 Carley float recovered at Christmas Island came off Sydney
37 and that on no account should any Government money be spent
38 in any attempt to recover it.

39
40 THE PRESIDENT: Q. I don't think that was the Australian
41 War Memorial who said that.

42 A. Yes.

43
44 Q. Was it that, or was that Navy?

45 A. No, that was one Professor Creag. He also went on to
46 state that the damage to the float recovered by Heros and
47 in the Australian War Memorial could only have been damaged

1 by shrapnel from Sydney herself.

2
3 CMDR RUSH: Q. Could we have COI.002.0047, and down to
4 the last 10 lines of the paragraph. You'll need to have
5 a look at the screen for this, Mr Montgomery. This is the
6 conclusion of the researchers from the Australian War
7 Memorial, reading from about the middle of the last
8 paragraph:

9
10 The standard ammunition for use with German
11 machine-guns right through the Second World
12 War was the copper alloy jacketed,
13 lead-filled 178 gr weight bullet with
14 a muzzle velocity of 676 m/s. If, as
15 proposed, the float was shot at by
16 machine-guns, any projectiles from the
17 German weapons then in use would be
18 expected to have penetrated the relatively
19 soft body of the float with clean entry and
20 exit holes. No such holes --

21
22 referring to machine-gun --

23
24 were found and nothing discovered and
25 removed from the Carley float has any
26 morphological or metallurgical resemblance
27 to the type of machine-gun bullets that
28 could have been used during the Naval
29 action in November 1941.

30
31 Now, is that also a conclusion, you say, that is based on
32 a fraud?

33 A. Yes, because anybody looking at that float, or at the
34 time that I examined it in 1980, I counted - I made
35 a drawing of it at the time and I counted at least
36 18 perfectly circular perforations, which could only have
37 been inflicted by machine-gun.

38
39 THE PRESIDENT: Q. Do you have some armaments
40 qualifications?

41 A. I'm sorry?

42
43 Q. Do you have some armaments qualification?

44 A. I don't myself, no.

45
46 CMDR RUSH: Q. Mr Montgomery, in relation to the
47 fragment of metal found in the skull of the body at

1 Christmas Island, do you have any theory in relation to
2 that?

3 A. I'm sorry, if you could bear with me. This is
4 obviously an important item. Yes, I submitted the
5 photograph of this "object" to Peter Bull, who is described
6 as the top forensic scientist in the UK. He happens to be
7 a professor of Oxford. And his reply to me was as follows:

8
9 The object does indeed look like a bullet,
10 from the photograph. There certainly does
11 seem to be a degree of doubt which needs
12 further investigation. There appears to be
13 no need for such undue haste for
14 re-interment.

15
16 THE PRESIDENT: Q. Doubt about what?

17 A. I'm sorry?

18
19 Q. Doubt about what?

20 A. As to whether it was a bullet or a piece of shrapnel,
21 as claimed.

22
23 Q. But there has been a metallurgical examination of
24 that.

25 A. Yes.

26
27 Q. And it has been determined that it's shrapnel.

28 A. But can I --

29
30 Q. Well, do you accept that or not?

31 A. No, I don't, because can I repeat to you the
32 description of the skull when it was first found and
33 reported to Mr MacGowan, whose brother was lost in Sydney
34 and who was instrumental in inspiring the final successful
35 search. He told me that CAPT Parsons had examined the
36 skull and found --

37
38 Q. Who was telling you this? Who was telling you this?

39 A. This is the Navy's press representative, Mr John
40 Perryman, or lieutenant.

41
42 CMDR RUSH: Q. He's Navy's what?

43 A. Navy spokesman.

44
45 Q. Mr --

46 A. John Perryman.
47

1 Q. Is the Navy spokesman?

2 A. Yes, or is he an historian?

3

4 THE PRESIDENT: Q. I just want to know what you're about
5 to read now. Is it in your report, in your submission?

6 A. It is, yes.

7

8 Q. Page?

9 A. At the top of page 25.

10

11 Q. It starts at the bottom of page 24.

12 A. Yes. This is Mr MacGowan, who received a call from
13 CAPT Jim Parsons.

14

15 Q. At the bottom of page 24, you say:

16

17 The brother of a fellow crew member has
18 stated to another of those bereaved ...

19

20 Now, who were those people?

21 A. It was Mr Edward MacGowan and Mrs Barbara Craill.

22

23 Q. So what you're saying in that sentence is that
24 Mr MacGowan has stated to Mrs Craill that on 29 September
25 2006 Mr MacGowan said - and then you've set out the quotes;
26 is that what that's meant to say?

27 A. Yes, and Mr MacGowan has since corrected me in that it
28 was not CAPT Parsons who spoke to him directly, but it was
29 relayed from CAPT Parsons to him through Mr John Perryman.

30

31 Q. So what you've put at the bottom of page 24 is not
32 right?

33 A. This was after I had put in my submission that I had
34 this conversation with Mr MacGowan.

35

36 Q. But there was no conversation between anybody and
37 CAPT Parsons about this matter?

38 A. No. He transmitted this information to Mr John
39 Perryman, who that same evening relayed it to Mr MacGowan.

40

41 Q. Yes.

42 A. He told me that Captain --

43

44 Q. Who told you - Mr MacGowan?

45 A. Yes.

46

47 Q. All right, what did Mr MacGowan tell you?

1 A. Exactly what John Perryman had told him, as had been
2 told to him by CAPT Parsons.

3

4 Q. Yes.

5 A.

6 ... Capt Parsons had examined the skull and
7 found a low calibre perfectly round bullet
8 hole in the back of the head and the round
9 metal --

10

11 I think the word "object" has dropped out there --

12

13 was on the inside of the forehead, without
14 puncturing the forehead. The remainder of
15 the skull was in perfect condition.

16

17 When I queried the low calibre bullet to
18 the back of the skull, and lodging ...

19

20 Q. Excuse me, who is the "I" in that?

21 A. This is Mr MacGowan.

22

23 Q. Yes.

24 A.

25 When I queried the low calibre bullet to
26 the back of the skull, and lodging on the
27 inside of the forehead, I said "execution
28 style". He ...

29

30 Q. Who is "he"?

31 A. This is --

32

33 Q. It appears to be CAPT Parsons?

34 A. Yes.

35

36 He did not reply.

37

38 Q. Who was "he"?

39 A. CAPT Parsons.

40

41 The indication was that Capt Jim Parsons
42 knew what he was looking at.

43

44 In the course of the next two months, in successive
45 statements from the Navy Department, the bullet became
46 a shrapnel splinter with an entry in the forehead.

47

1 The Navy refuses to release any photographs of the
2 skull. They told me originally that if I presented myself
3 in Canberra in person, I would be allowed to see them. To
4 me in England, that was not a lot of use.
5

6 When they became aware that I was going to come out
7 here to attend the service on 19 November - and this is not
8 necessarily a cause and effect, but they put out a further
9 email saying that under no circumstances would these
10 photographs be released.
11

12 I suggested to you, your Honour, in my covering letter
13 with my submission that this was a prime piece of evidence,
14 indeed the only firsthand piece of evidence that we have on
15 how these 645 men died, and that that should be preserved
16 and be made ready for inspection to this Commission.
17

18 Q. Well, I can tell you that I have seen the photographs,
19 and there is no hole in the back of the head, round or
20 otherwise.

21 A. When are we going to be allowed to see them?
22

23 Q. That's beside the point. What I'm telling you is that
24 pictures of the skull do not show any hole in the back of
25 the head.
26

27 THE PRESIDENT: Yes, CMDR Rush.
28

29 CMDR RUSH: Q. There has also been an investigation done
30 of the fragment, Mr Montgomery. Might that be brought up -
31 NHQ.001.0023.

32 A. Sorry, before we get on to that, could I say that if
33 the entry wound had been to the forehead, that would have
34 been immediately visible and obvious to anybody engaged in
35 the recovery of that body. No such statement was ever made
36 by any of those people.
37

38 Q. Are you saying no such statement was made by
39 CAPT Parsons?

40 A. No, I'm saying those engaged in the recovery of the
41 body on Christmas Island.
42

43 Q. CAPT Parsons led the recovery of the body on Christmas
44 Island.

45 A. No, I'm talking about in 1942.
46

47 Q. Oh, I see. Could we go to the introduction, which is

1 the third page in, and to the "Summary of Conclusions".
2 This is the summary of the conclusions done by personnel
3 from the Australian War Memorial concerning the metal
4 fragment found in the skull. They state:

5
6 With regard to the fragment recovered from
7 the skull exhumed from the gravesite on
8 Christmas Island, the following conclusions
9 were deduced:

10
11 . The fragment is definitely not a small
12 arms projectile since there is no trace of
13 lead.

14
15 . It is unlikely that the fragment is
16 a piece of German small arms
17 ammunition ... because the elemental
18 analyses are substantially different.

19
20 . The absence of either Nickel or Copper
21 indicates that the fragment is unlikely to
22 have come from a Japanese large calibre
23 armour piercing projectile.

24
25 And over the page:

26
27 . It is probable that the fragment is
28 a piece of shrapnel from a German large
29 calibre, armour piercing projectile, given
30 that the elemental analysis is consistent
31 with the documented hardenable steels and
32 the composition of German artillery shells
33 of the period, and that the fragment is
34 harder than untreated mild steel.

35
36 That conclusion would put an end to any small arms theory,
37 would it not, Mr Montgomery?

38 A. No, it wouldn't.

39
40 Q. It wouldn't?

41 A. Because it says it's only unlikely. It still leaves
42 open the possibility.

43
44 Q. It leaves open your Dr Peter Bull, does it, at Oxford
45 University?

46
47 THE PRESIDENT: Who hasn't seen the sample.

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CMDR RUSH: Q. He is not an expert in ballistics, is he?

A. As far as I know, he is.

Q. He is a university lecturer in physical geography.

A. Yes, but he is regarded as a top forensic scientist, who would clearly have knowledge of firearms.

Q. Thirty years studying sediments and currently concerned with forensic sedimentology relating to crimes such as murder. His ballistics speciality is not apparent from his curriculum vitae.

A. It is not his speciality, obviously, but he, equally obviously, has knowledge of it.

THE PRESIDENT: Q. Yes, but, you see, the Australian War Memorial does have ballistics expertise, and they have done the tests and they are saying that it is not small arms fire; it is a shrapnel fragment from German artillery. So why do you not accept that against the view of a man who has not seen the piece of metal and who has expert knowledge, apparently, in sedimentation in relation to crime?

A. Because we have reasons to doubt the conclusions of the Australian War Memorial in the past.

THE PRESIDENT: Very well.

CMDR RUSH: Q. You have also had correspondence with Dr Duflou, have you not?

A. Yes.

Q. He is a specialist forensic pathologist; correct?

A. Yes.

Q. He, in fact, in an email, extracted part of his report concerning his examination of the skull and sent it to?

A. Yes.

Q. And, in that report, made it very clear that the entry of the metal object was to the front of the skull?

A. This was in his second email to me. The first one was by no means as positive as that.

Q. On 1 May 2008, he emailed you and extracted his report that had been supplied, pointing out to you that his examination clearly indicated that the metal object had

1 entered the skull from the front of the skull?

2 A. Well, that was an observation which was not shared by
3 anybody else, any member of the public, who had seen that
4 skull.

5
6 Q. What member of the public has seen the skull?

7 A. The people who recovered it in 1942 on Christmas
8 Island, and surely the accepted meaning of "forehead" is
9 the area of the head below the hairline, and any entry into
10 that would have been immediately visible.

11
12 Q. So was Dr Duflou looking at the wrong skull?

13 A. If you care to suggest it, I wouldn't exclude it.

14
15 Q. Well, is he part of the conspiracy theory?

16 A. He was acting under orders.

17
18 Q. Under what orders?

19 A. To make his findings consistent with the official
20 account of the action.

21
22 THE PRESIDENT: Q. Mr Montgomery, you said that his view
23 that any entry to the skull was through the front of the
24 skull, not the back, was not something that you accepted,
25 because it wasn't accepted by members of the public in
26 1942.

27 A. Exactly.

28
29 Q. Who were the members of the public in 1942 to whom you
30 refer? I've not seen any statements by them.

31 A. The people on Christmas Island at the time, who
32 included the harbourmaster, Mr Smith --

33
34 Q. What statements did they make about this?

35 A. I'm sorry?

36
37 Q. What statements did they make about this?

38 A. They made no --

39
40 Q. I've read their reports, but I don't recall any
41 statements about them saying that there was any entry
42 otherwise than from the front of the skull, if they said
43 that at all.

44 A. Yes, they made no remark on this at all. But if there
45 had been an entry wound in the forehead, they would surely
46 have remarked on it.

47

1 Q. And if there had been entry from the rear, they would
2 not?

3 A. No, because it would still be covered by the hair.

4
5 CMDR RUSH: Q. Just so I understand it, are you
6 indicating by your previous answer to me that John DeFlou,
7 who is the Chief Forensic Pathologist, the Department of
8 Forensic Medicine at Glebe, New South Wales and Joint
9 Professor in the School of Medicine in the National Drug
10 and Alcohol Research Centre at the University of New South
11 Wales, has doctored his report because he was acting under
12 orders to make it fit in with the accepted theory put
13 forward by Navy?

14 A. Well, this is evident from the whole process which
15 we've seen from the original statement of CAPT Parsons to
16 the statements two months later made by the Navy and by the
17 Minister of, I think, Veterans Affairs at the time,
18 Mr Billson.

19
20 Q. So you are prepared to say that Professor Duflou has
21 doctored his report to fit in with the requirements of the
22 War Memorial or Navy, or something like that?

23 A. I suspect that.

24
25 THE PRESIDENT: Q. Mr Montgomery, from what you've told
26 me so far, your theory involves a conspiracy by
27 Mr Churchill and every British Government since, Mr Curtin
28 and every Australian Government since, every member of the
29 Naval Board, the Navy since 1941, the metallurgists and
30 others who wrote reports about this matter at the
31 Australian War Memorial, Professor DeFlou, and each and
32 every one of those - and C-in-C China, I left out that; and
33 Admiralty, I left out that - have been engaged in
34 a cover-up to prevent the disclosure of what you say
35 happened, namely, sinking of Sydney by a Japanese
36 submarine, and, what's more, that cover-up has continued
37 now for 67-odd years?

38 A. That is precisely my position.

39
40 Q. Yes, thank you.

41 A. And on page 24 of my submission, I have set out the
42 mutating motives for that.

43
44 Q. Yes.

45 A. I think I have said enough already about Churchill's
46 reasons.

47

1 Q. The basis of your theory is very similar to that of
2 CAPT Bourne as to why he says there was a cover-up.

3 A. Who is "CAPT Bull"?

4

5 Q. He is a gentleman who was a flight lieutenant in 1941.
6 Have you not heard of him before?

7 A. No.

8

9 CMDR RUSH: Group captain, by the way.

10

11 THE PRESIDENT: Q. Group captain.

12 A. Oh, GCAPT Bourne?

13

14 Q. Bourne.

15 A. Bourne, yes. But can I go on?

16

17 Q. Yes.

18 A. Two months ago, in England, a file was finally
19 released on the matter of the massacre of Allied POWs being
20 carried in the Japanese freighter Suez Maru, which was
21 returning them to Japan when she was torpedoed in 1943 by
22 an American submarine. Before the ship went down, the
23 Japanese crew machine-gunned all the Allied POWs in the
24 water in order to prevent them reporting the maltreatment
25 to which they had been subjected.

26

27 A report on this was made following the admission by
28 one of the Japanese crew that this had taken place in 1948
29 and consideration was then given to whether those
30 responsible should be charged as war criminals. However,
31 the Minister for Defence at the time, Mr Emmanuel Shinwell,
32 decreed that the matter should not be disclosed, should not
33 be made public, because Japan was too important an ally for
34 the West. In other words, political considerations
35 overrode the need or demand for the truth.

36

37 THE PRESIDENT: Well, that may or may not be so.
38 I haven't looked at that. That will no doubt give some
39 conspiracy theorists a lot of air. It doesn't, however,
40 excuse me from looking at facts.

41

42 CMDR RUSH: Q. Mr Montgomery, on the penultimate page of
43 your submission, 27, you refer to how you placed
44 advertisements in 1977 in leading newspapers of each State,
45 seeking information about Sydney. Towards the bottom of
46 the page or the bottom of that last paragraph, you say:

47

1 Out of the nearly 200 replies that
2 I received one, in a brown (unstamped)
3 envelope bearing a Melbourne postmark,
4 contained the following missive written in
5 distinctly Germanic capitals:

6
7 YOU LAZY BASTARD!
8 FIND OUT FOR YOURSELF

9
10 It was then I was first certain that the
11 official story represented something other
12 than the truth.

13
14 What you set out, "You lazy bastard! Find out for
15 yourself", provided the certainty that the official story
16 represented something other than the truth?

17 A. That was one indication to me, yes.

18
19 Q. What is it about what I suggest is a typically
20 Australian saying, "You lazy bastard!" - what is it about
21 the writing that is distinctively Germanic?

22 A. That happens to be a copy of the original which I made
23 because somehow water had got on to the original and the
24 ink had run. I think, if I show it to you, you will see
25 that those Germanic characteristics are more apparent.

26
27 Q. So you say that that's Germanic printing?

28 A. I would draw your attention particularly to the
29 writing of the letter "Y".

30
31 CMDR RUSH: And there are two examples of it - one in the
32 first line and one in the fourth line.

33
34 THE PRESIDENT: There are two in the first line. Yes.
35 Make a copy of that, please.

36
37 CMDR RUSH: Q. That represents the sort of basis upon
38 which you would make an assertion as to the official, as
39 you describe it, version of the loss of Sydney?

40 A. That was almost the first indication I received that
41 the two did not tally.

42
43 CMDR RUSH: I think I have exhausted my relevant matters,
44 sir.

45
46 THE PRESIDENT: LCDR Renwick?

47

1 LCDR RENWICK: No questions, sir. We will make some
2 submissions in due course.

3
4 THE PRESIDENT: Yes.

5
6 Q. Mr Montgomery, I said to you that I would give you the
7 opportunity, at the conclusion of CMDR Rush's questioning
8 of you, to say anything that you wanted to draw to my
9 attention that you thought hadn't been adequately
10 addressed. Now I'm giving you that opportunity.

11 A. Yes. I think we have now explored all those that
12 I had in mind, apart from just one further item which
13 I would like to bring to your attention, and that is
14 a statement made by LEUT Rycroft, who was the first officer
15 to interrogate the Kormoran survivors in Carnarvon after
16 they had landed, and he reported that their account of the
17 action was obviously being cooked up.

18
19 Q. Where do I find that?

20 A. You will find that in Glenys McDonald's book.

21
22 Q. I prefer to go to original sources rather than
23 authors' interpretation of them. Do you have the original
24 source?

25 A. I think she does give a source for that. It was made
26 in conversation with a friend of his, Dr Habenfeld, who was
27 the medical officer on the Centaur, the ship that
28 transported --

29
30 Q. So what we have is Ms McDonald's account of what she
31 says LEUT Rycroft says was a view he expressed to Dr - who?

32 A. Habenfeld.

33
34 THE PRESIDENT: Do you have the reference to that?

35
36 CMDR RUSH: The only reference to Rycroft in Ms McDonald's
37 book, sir, is LCDR Rycroft at page 88. But as I quickly
38 look at it, I can't see where LCDR Rycroft is referred to
39 at that page.

40
41 THE PRESIDENT: Q. Do you have a reference to
42 Ms McDonald's book, Mr Montgomery?

43 A. I don't think so, because I only read her book last
44 week for the first time. This was obviously after I put in
45 my submission.

46
47 THE PRESIDENT: Yes, very well. We can look for that in

1 due course.

2

3 CMDR RUSH: I'll look for it.

4

5 THE PRESIDENT: Q. Is there anything further you wish to
6 add, Mr Montgomery?

7 A. Yes. I don't think enough attention has been paid to
8 the statement to the 1997 Inquiry of Mr Clark, reporting
9 the conversation that he'd had with LEUT Petersen, who was
10 on temporary posting to the Centaur.

11

12 Q. You refer to that in one of the footnotes to your
13 submission.

14 A. Yes, yes.

15

16 Q. I have read those.

17 A. I don't think that has been given the importance that
18 it should.

19

20 Q. That's referred to in footnotes 64 and 66 of your
21 statement. Is there anything further?

22 A. I'm sorry?

23

24 Q. Is there anything further?

25 A. No, I don't think so. I'm just saying that I don't
26 believe sufficient importance --

27

28 Q. I have marked it. That was submission 131 to the
29 previous Inquiry, and I have read it. Indeed, I've made
30 lots of notes about it here. It's the recollections,
31 apparently, in 1997, of what Mr Clark says he was told in
32 1942 by a LEUT Petersen.

33 A. This is concerning the surrender by Kormoran.

34

35 Q. It goes much further than that.

36 A. Yes.

37

38 Q. It alleges that the battle took place under a white
39 flag.

40 A. Exactly.

41

42 Q. It alleges that the boats of Kormoran had machine-guns
43 mounted on their bows. It alleges that all of the
44 survivors were armed with rifles. It alleges that all of
45 the officers had holsters with revolvers in them and that
46 they shot all the people in the water, and that's why there
47 were no survivors. But that's not consistent with your

1 theory, because your theory has these people being shot
2 12 miles away by Japanese submarines. So I don't think
3 your theory and Mr Clark's theory can live together very
4 happily.

5 A. From my memory, I don't think Mr Clark makes
6 a statement about how the Sydney survivors were killed.

7
8 Q. He concludes by saying:

9
10 I have often wondered why the lifeboats
11 were armed with machine-guns and is this
12 why there were no survivors?

13
14 A. Oh, this is speculation on his part, yes.

15
16 Q.
17 Was it a case of dead men tell no tales?

18
19 So he is speculating, but that's what his speculation is?

20 A. Yes.

21
22 Q. But if what he says is right --

23 A. But it's a statement --

24
25 Q. -- it can't live with your theory, because your theory
26 is that they were not shot by the German survivors; they
27 were shot by the Japanese people in the submarine.

28 A. Exactly, exactly, and that's merely a speculation on
29 his part.

30
31 Q. So I'll have to make up my mind --

32 A. But what he is stating as fact is that the Germans,
33 the Kormoran, surrendered and then opened fire under
34 a white flag in contravention of the rules of warfare.

35
36 Q. Do you want me to accept part of what his recollection
37 is, but not the other part?

38 A. No. He's stating one as fact and he's stating the
39 other as speculation on his part.

40
41 Q. No, no, he's not. He's recounting what he says
42 LEUT Petersen told him. Materially, he told him two
43 things: one was that the battle took place under a white
44 flag, and the second was that all of the Kormoran's boats
45 were armed and that is why there were no survivors, because
46 the Kormoran survivors, using those arms, shot those people
47 who survived, in the water. Now, that is not your theory?

1 A. But he ended that with a question mark.

2

3 Q. You want me to accept the white flag portion, but you
4 don't want me to accept the arming of the lifeboats?

5 A. I don't accept the second part, and he didn't make it
6 as a statement of fact, either.

7

8 Q. Yes, I think you are eliding things. He was
9 recounting what he said LEUT Petersen told him. What he
10 thought in 1997 is irrelevant. The question is, what was
11 he told and was he told the truth? As I've said, he was
12 told two things. You want me to accept one and reject the
13 other as being what he was told by LEUT Petersen, and
14 I have to consider whether I should accept any of it or
15 half of it or all of it. All I'm saying is that it is not
16 consistent with the theory you're advancing.

17 A. Can I just - if you could just give me time to bring
18 up the reference I have to that? I'm sorry, my notes have
19 got a little out of order here. Can you give me --

20

21 Q. It's in volume 11 --

22 A. No, because I have it here with me, but can I have the
23 reference I make to it in my submission?

24

25 Q. It is in the two footnotes that I referred to before.
26 It's in footnotes 64 and 66.

27

28 CMDR RUSH: PINQ. SUBS. 011. 0097.

29

30 THE PRESIDENT: Q. You may be assured that I will have
31 regard to that.

32 A. Oh, yes, there we are.

33

34 Q. Is there anything else you wish to put to me?

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

36

37 THE PRESIDENT: Yes, very well, thank you. Thank you very
38 much for agreeing to give evidence before this Inquiry.

39

40 <THE WITNESS WITHDREW

41

42 CMDR RUSH: Sir, I think Professor Horsfield, who was
43 mentioned in Mr Montgomery's evidence on Friday, will be
44 available at 2 o'clock.

45

46 THE PRESIDENT: Good. Thank you very much. Then I shall
47 adjourn until 2 o'clock.

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SHORT ADJOURNMENT

CMDR RUSH: Thank you, sir. Professor Horsfield indicated that he had an engagement this afternoon. I call Professor Horsfield.

<BRUCE HORSFIELD, sworn: [12.52pm]

<EXAMINATION BY CMDR RUSH:

CMDR RUSH: Q. Professor Horsfield, is your name Bruce Horsfield?

A. Yes.

Q. And are you the Honorary Professor of Communication and Media Studies with the School of Humanities and Communication at the University of Southern Queensland?

A. Yes.

Q. Apart from that honorary professorship, what is your occupation?

A. I'm currently an independent documentary film-maker.

Q. Mr Horsfield, in the course of Mr Montgomery's evidence on Friday --

THE PRESIDENT: Q. If I could just interrupt, are you making a film on the Sydney?

A. No.

Q. Are you involved with Mr Karlov?

A. No.

CMDR RUSH: Q. In the course of Mr Montgomery's evidence on Friday, he referred to you having conducted an interview with a person who was a Naval coxswain with the Occupying Forces in Japan concerning some matter. Firstly, let's start at the beginning. Have you conducted an interview with a person that was formerly in the Occupying Forces in Japan?

A. Yes. I don't know which force he was in, whether it was Navy or Army small boats. I just don't know that. I got the impression he was Army, actually. And the second part of your question, sorry, was?

Q. He was in the Occupying Forces of Japan?

1 A. He said he was.

2

3 Q. Mr Montgomery has referred to him as being a Naval
4 coxswain.

5 A. Since I got the contact from Mr Montgomery, I wouldn't
6 know anything about that. I just had this vague idea since
7 I knew that the Army had a small ship squadron at one
8 stage, and I just had a vague idea he was Army, but
9 I didn't look into it.

10

11 Q. What were the circumstances arising that brought you
12 to interview - what's the person's name?

13 A. Jack Kendle.

14

15 Q. And is that spelled --

16 A. An unusual "Kendle" spelling. I think Mr Montgomery
17 would have it that it was K-E-N-D-L-E. I've never seen
18 that spelling before.

19

20 Q. Do you know his address?

21 A. No. I know his suburb or where he was when
22 I interviewed him, but I looked up the White Pages on the
23 internet the other day after I'd had a contact from the
24 Inquiry, and the only J Kendle I could find was at
25 Fern Bay, north of Newcastle. Now, whether he has died
26 since or moved to Newcastle I don't know, but I haven't had
27 any contact with him since I shot my film.

28

29 THE PRESIDENT: Q. When was that?

30 A. Sir, I'm trying to remember when that was. It was
31 a couple of years back. No, sorry, it may have been more
32 recent than that. It may have been last year. I'm vague
33 because I'm not very good at remembering certain things
34 that I haven't had much need to follow up on.

35

36 Q. Do you have the film?

37 A. I do.

38

39 CMDR RUSH: Q. And can you provide that to the
40 Commission of Inquiry?

41 A. Yes, I can provide the entire uncut footage on a DVD,
42 if the Commission requires.

43

44 THE PRESIDENT: Thank you. That would be very useful.

45

46 CMDR RUSH: Q. Professor, how is it that Mr Kendle came
47 to be interviewed by you?

1 A. At one stage, I was working with Mr Montgomery on the
2 possibility of a two-part documentary on the Sydney. Out
3 of that work, that scriptwriting, I put it to him that it
4 would be nice if we could actually have some of these
5 people that he had identified actually on tape while they
6 were still around. Some of them are getting on a bit. So
7 he gave me a list of people, and I did my best to try to
8 get interviews with them, but only in relation to the
9 subject of the Sydney. I didn't go into their life stories
10 or anything like that. I stayed only with that.

11

12 Q. So, Professor, are there other persons in addition to
13 Mr Kendle that have been interviewed in relation to the
14 Sydney?

15 A. Yes. I shot film, the sort of, you know, interview
16 close-up, with about - I think three or four I did, and
17 I occasioned one to be shot on my behalf in Manchester in
18 England.

19

20 Q. Is it possible for you to provide copies of those
21 various pieces of film or DVD to the Commission of Inquiry?

22 A. Yes and no. If I could explain my answering in that
23 way, one of the key informants so-called was the late
24 Eric Cooper, and Eric Cooper agreed for me to go to his
25 home and film his statement about communications that he
26 said he had sent to Perth on the night the Sydney was lost.
27 And when I went along - I'm not an experienced cameraman;
28 I usually hire people, but this time I took along a camera
29 myself and a tripod and a mic, and so on, and unfortunately
30 my recording, for some reason, didn't work.

31

32 But, as luck would have it, I had obtained permission
33 from Eric Cooper to allow David Kennedy of The Australian
34 to accompany me. David Kennedy had his camera. So the two
35 of us were filming. Mine didn't turn out. David's turned
36 out. David sent me a copy of his. So the original of that
37 that I have would be in David's possession for Eric Cooper.
38 But for the others, I think I have them. If I'm vague
39 about it, it's because I haven't looked at them since I did
40 them. The project that we were working on didn't go
41 forward, and I got on with other things.

42

43 Q. Apart from Mr Kendle and Mr Cooper, are you able to
44 tell us who else was --

45 A. Oh, yes. I interviewed a Mrs Richardson, whose first
46 name I don't know, and she lives out towards Cobbitty,
47 Camden way. And I interviewed a guy at Double Bay by the

1 name of - the one who saw the two murals, he said.

2

3 Q. That's MAJ Chapman.

4 A. Thank you. I talked to him on camera. And
5 Arthur Lane in Manchester. Sorry, I would have been
6 prepared with all this --

7

8 Q. That's all right. So there's Lane, there is
9 Chapman --

10 A. Lane, Chapman, Cooper, Richardson and --

11

12 Q. Kendle.

13 A. -- Kendle. I don't know if there are any more.

14

15 Q. And you have the originals of four and a copy of one?

16 A. Yes, yes. Can I just run that through my mind again?
17 Arthur Lane was done for me by Daryl Sparkes at the
18 University of Southern Queensland, when he was in England,
19 so he gave me the original, so, yes, I have that.
20 Mrs Richardson I have, and, in fact, she's on the same film
21 cassette as Jack Kendle. Eric Cooper I have there
22 somewhere, and Chapman I must have somewhere. If I'm
23 sounding just a little bit iffy there, it's because I've
24 moved house twice since shooting that film. I'm sure
25 I have all that videotape still together and I could find
26 it if I had to.

27

28 Q. On the same basis, can we make arrangements with you
29 to get copies of those five pieces of DVD?

30 A. Most certainly. I could expedite that.

31

32 THE PRESIDENT: That would be very helpful. Thank you.

33

34 CMDR RUSH: Q. Just to read what Mr Montgomery said, he
35 was asked:

36

37 Q. You have maintained, have you not,
38 Mr Montgomery, that survivors of Sydney may
39 have been picked up in a Japanese
40 submarine?

41 A. I'm not certain of this. There is
42 certain evidence - there is an item of
43 evidence which has only just, in the last
44 two weeks, come to hand, if this is a fit
45 moment to repeat it. It came from a Naval
46 coxswain who was with the Occupying Forces
47 in Japan soon after the surrender and he

1 was detailed to accompany a Naval
2 Intelligence officer, and that Naval
3 Intelligence officer visited a township or
4 place of residence which was known to be
5 occupied by Japanese submariners, and he
6 came back with a sack, and when he asked
7 what was in that sack, he was told, "It's a
8 number of Sydney tallies" - nametags.

9
10 A. He said "tally bands".

11
12 Q. Tally bands?

13 A. That was the word he used. I'd never heard the word
14 before, but I remember the word.

15
16 Q. And he indicated they were Sydney tally bands?

17 A. Absolutely. That was what he said, yes. I mean, this
18 is all on the DVD I can give you. But, yes, quite
19 unmistakably, that was the whole point of my interviewing
20 him - that anecdote.

21
22 Q. And will your records reveal where Mr Kendle could be
23 contacted?

24 A. I don't know where he is. I could tell you - I could
25 get close, the reason being that it was one of those things
26 that was so long ago I didn't keep records on it. I could
27 tell you the suburb. I think it was Minto, out there in
28 that new area that has developed between Sutherland and
29 Lucas Heights.

30
31 THE PRESIDENT: Q. Minto is between Liverpool and
32 Campbelltown.

33 A. Oh, it is, too. It's a name starting with M. It's a
34 name like that.

35
36 CMDR RUSH: Q. Menai?

37 A. Menai, Menai. Sorry. He was over in that Menai area.
38 Now, whether he has a silent phone I don't know, but
39 certainly the spelling checked out.

40
41 Q. And was the name and the address provided to you by
42 Mr Montgomery?

43 A. Yes, yes. He might have them. My memory is at the
44 head of a cul-de-sac in a new area, but I don't have
45 a record of that. Mrs Richardson you could find through
46 her son, who's a solicitor [REDACTED]. I wish I could be
47 more helpful on the addresses, but I had no reason to keep

1 them.

2

3 THE PRESIDENT: Q. Did you get far with the writing of
4 the script?

5 A. Sir, it depends on what you mean by "getting far" in
6 an industry which is fraught with difficulties in advancing
7 a project. We got to the point where, between the two of
8 us toing-and-froing, we wrote up two by one-hour script and
9 sent it to SBS, and SBS had it for a while and then they
10 sent it back to us rejecting it, and then they a few weeks
11 later asked for it again and I sent it to them again and
12 they rejected it again. At that point, Australia having so
13 few television outlets, I couldn't see anywhere else we
14 could go. I don't think the ABC were interested, and the
15 commercial channels - it's not their kind of thing, not our
16 treatment, anyway.

17

18 Q. And do you still have the script?

19 A. Probably, sir. I probably have it filed away
20 somewhere. It would be very out of date in view of the
21 fact that we did it several years ago and so much has
22 happened. The curve of research has gone steeply upwards,
23 I think. It would be old hat.

24

25 CMDR RUSH: I have no further matters, sir.

26

27 THE PRESIDENT: Thank you very much indeed.

28

29 <THE WITNESS WITHDREW

30

31 CMDR RUSH: I will make inquiries of Mr Montgomery to see
32 if we can ascertain the address.

33

34 THE PRESIDENT: Yes, thank you. All right, I shall
35 adjourn to a date to be fixed.

36

37 AT 1.05PM THE INQUIRY WAS ADJOURNED TO A DATE TO BE FIXED

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#	991:7, 991:26, 991:29, 996:32	4	957:26	Admiral [16] - 942:41, 943:20, 943:23, 943:30, 943:37, 944:26, 945:8, 945:24, 945:27, 945:31, 945:35, 947:4, 947:12, 947:15, 953:40, 957:4
#56 [1] - 959:12	1943 [1] - 993:21 1946 [1] - 981:21 1948 [2] - 969:31, 993:28 1951 [1] - 969:2	4 [1] - 938:15 40 [1] - 951:36 400 [1] - 963:30 42 [1] - 947:22 47 [1] - 978:39	accompany [2] - 1001:34, 1003:1 accompanying [3] - 953:44, 957:6, 957:7 accomplice [1] - 968:3 accordance [1] - 936:9 according [3] - 938:26, 942:29, 969:12 accordingly [1] - 937:6 account [30] - 935:26, 941:40, 958:35, 966:26, 966:28, 968:42, 968:46, 968:47, 969:43, 969:46, 971:7, 971:9, 971:25, 972:3, 972:31, 973:5, 973:8, 973:29, 973:34, 973:44, 974:4, 974:12, 974:24, 976:8, 977:34, 977:38, 983:37, 991:20, 995:16, 995:30 accounts [1] - 940:23 accuracy [1] - 974:20 accusation [3] - 937:2, 962:10, 963:44 accusations [2] - 937:43, 960:39 accused [1] - 936:19 acknowledged [1] - 935:43 ACNB [1] - 962:5 ACNB's [1] - 960:18 Act [1] - 936:21 acting [2] - 991:16, 992:11 action [13] - 937:42, 963:20, 963:24, 963:37, 964:8, 964:18, 964:44, 967:26, 973:27, 974:26, 984:29, 991:20, 995:17 Action [19] - 935:15, 937:23, 938:5, 938:27, 938:40, 939:3, 939:4, 939:9, 939:14, 939:21, 939:23, 939:25, 939:28, 939:30, 939:40, 940:1, 940:4, 940:10, 942:8 actual [1] - 949:44 add [5] - 943:11, 944:40, 966:47, 972:5, 996:6 added [4] - 944:38, 956:13, 978:33, 981:34 addition [3] - 936:28, 963:20, 1001:12 additional [1] - 978:33 address [3] - 1000:20, 1003:41, 1004:32 addressed [1] - 995:10 addresses [1] - 1003:47 Adelaide [1] - 949:40 adequately [1] - 995:9 adjourn [3] - 977:29, 998:47, 1004:35 ADJOURNED [1] - 1004:37 adjournment [1] - 977:28 ADJOURNMENT [2] - 977:31, 999:2	admission [1] - 993:27 advance [1] - 937:14 advanced [2] - 936:29, 936:35 advancing [4] - 936:39, 973:17, 998:16, 1004:6 adversarial [1] - 935:28 advertisements [1] - 993:44 advice [1] - 965:23 Affairs [1] - 992:17 affect [1] - 941:13 affected [1] - 941:24 aft [4] - 938:14, 976:41, 976:44, 976:47 Aft [1] - 977:3 aftermath [1] - 978:5 afternoon [3] - 953:37, 978:23, 999:5 aged [1] - 953:1 aggressive [1] - 954:32 ago [4] - 935:42, 993:18, 1003:26, 1004:21 agree [4] - 943:6, 948:8, 951:24, 968:31 agreed [1] - 1001:24 agreeing [1] - 998:38 aim [1] - 977:41 aimed [7] - 976:29, 976:31, 976:34, 976:41, 976:42, 977:8 aiming [1] - 977:41 air [1] - 993:39 aircraft [1] - 938:16 akin [1] - 935:35 Alcohol [1] - 992:10 Alexandria [1] - 961:13 allegation [3] - 951:35, 963:45, 972:46 allegations [1] - 960:38 allege [3] - 945:5, 945:18, 968:17 alleged [2] - 970:24, 975:7 allegedly [1] - 966:28 alleges [6] - 969:1, 975:40, 996:38, 996:42, 996:43, 996:44 alleging [2] - 945:26, 949:47 Allied [3] - 981:22, 993:19, 993:23 allow [2] - 936:41, 1001:33 allowed [2] - 988:3,
'	1968 [2] - 982:14, 982:21 1972 [1] - 968:6 1977 [1] - 993:44 1979 [1] - 935:38 1980 [1] - 984:34 1980s [1] - 948:45 1983 [1] - 935:42 1986 [1] - 969:34 1991 [7] - 937:31, 939:1, 939:36, 939:38, 939:39, 940:3, 949:10 1993 [1] - 982:41 1997 [7] - 951:7, 968:20, 981:24, 983:35, 996:8, 996:31, 998:10 1998 [1] - 968:5 19th [2] - 955:47, 963:24 1st [1] - 954:3	5 [3] - 934:29, 963:28, 963:29 5,500 [1] - 977:43 5.9 [1] - 978:39 55 [1] - 934:29 56 [1] - 959:9	admission [1] - 993:27 advance [1] - 937:14 advanced [2] - 936:29, 936:35 advancing [4] - 936:39, 973:17, 998:16, 1004:6 adversarial [1] - 935:28 advertisements [1] - 993:44 advice [1] - 965:23 Affairs [1] - 992:17 affect [1] - 941:13 affected [1] - 941:24 aft [4] - 938:14, 976:41, 976:44, 976:47 Aft [1] - 977:3 aftermath [1] - 978:5 afternoon [3] - 953:37, 978:23, 999:5 aged [1] - 953:1 aggressive [1] - 954:32 ago [4] - 935:42, 993:18, 1003:26, 1004:21 agree [4] - 943:6, 948:8, 951:24, 968:31 agreed [1] - 1001:24 agreeing [1] - 998:38 aim [1] - 977:41 aimed [7] - 976:29, 976:31, 976:34, 976:41, 976:42, 977:8 aiming [1] - 977:41 air [1] - 993:39 aircraft [1] - 938:16 akin [1] - 935:35 Alcohol [1] - 992:10 Alexandria [1] - 961:13 allegation [3] - 951:35, 963:45, 972:46 allegations [1] - 960:38 allege [3] - 945:5, 945:18, 968:17 alleged [2] - 970:24, 975:7 allegedly [1] - 966:28 alleges [6] - 969:1, 975:40, 996:38, 996:42, 996:43, 996:44 alleging [2] - 945:26, 949:47 Allied [3] - 981:22, 993:19, 993:23 allow [2] - 936:41, 1001:33 allowed [2] - 988:3,	
0	0016 [1] - 960:18 0090 [1] - 980:14 0092 [1] - 942:39 0097 [1] - 949:8 0220 [1] - 947:31 097 [1] - 981:18	6 [2] - 996:20, 998:26 645 [1] - 988:15 66 [2] - 996:20, 998:26 67-odd [1] - 992:37 676 [1] - 984:14	admission [1] - 993:27 advance [1] - 937:14 advanced [2] - 936:29, 936:35 advancing [4] - 936:39, 973:17, 998:16, 1004:6 adversarial [1] - 935:28 advertisements [1] - 993:44 advice [1] - 965:23 Affairs [1] - 992:17 affect [1] - 941:13 affected [1] - 941:24 aft [4] - 938:14, 976:41, 976:44, 976:47 Aft [1] - 977:3 aftermath [1] - 978:5 afternoon [3] - 953:37, 978:23, 999:5 aged [1] - 953:1 aggressive [1] - 954:32 ago [4] - 935:42, 993:18, 1003:26, 1004:21 agree [4] - 943:6, 948:8, 951:24, 968:31 agreed [1] - 1001:24 agreeing [1] - 998:38 aim [1] - 977:41 aimed [7] - 976:29, 976:31, 976:34, 976:41, 976:42, 977:8 aiming [1] - 977:41 air [1] - 993:39 aircraft [1] - 938:16 akin [1] - 935:35 Alcohol [1] - 992:10 Alexandria [1] - 961:13 allegation [3] - 951:35, 963:45, 972:46 allegations [1] - 960:38 allege [3] - 945:5, 945:18, 968:17 alleged [2] - 970:24, 975:7 allegedly [1] - 966:28 alleges [6] - 969:1, 975:40, 996:38, 996:42, 996:43, 996:44 alleging [2] - 945:26, 949:47 Allied [3] - 981:22, 993:19, 993:23 allow [2] - 936:41, 1001:33 allowed [2] - 988:3,	
1	2 [3] - 938:14, 998:44, 998:47 20 [1] - 967:46 200 [1] - 994:1 2006 [1] - 986:25 2008 [3] - 934:39, 939:40, 990:45 21st [1] - 942:45 24 [4] - 986:11, 986:15, 986:31, 992:41 24th [2] - 945:9, 945:11 25 [7] - 935:42, 959:43, 960:12, 961:45, 962:1, 963:29, 986:9 25th [1] - 960:18 26 [2] - 954:40, 963:21 26th [1] - 956:3 27 [1] - 993:43 28 [1] - 963:17 29 [1] - 986:24 2cm [1] - 938:16	8 [1] - 995:37 8pm [1] - 981:9	admission [1] - 993:27 advance [1] - 937:14 advanced [2] - 936:29, 936:35 advancing [4] - 936:39, 973:17, 998:16, 1004:6 adversarial [1] - 935:28 advertisements [1] - 993:44 advice [1] - 965:23 Affairs [1] - 992:17 affect [1] - 941:13 affected [1] - 941:24 aft [4] - 938:14, 976:41, 976:44, 976:47 Aft [1] - 977:3 aftermath [1] - 978:5 afternoon [3] - 953:37, 978:23, 999:5 aged [1] - 953:1 aggressive [1] - 954:32 ago [4] - 935:42, 993:18, 1003:26, 1004:21 agree [4] - 943:6, 948:8, 951:24, 968:31 agreed [1] - 1001:24 agreeing [1] - 998:38 aim [1] - 977:41 aimed [7] - 976:29, 976:31, 976:34, 976:41, 976:42, 977:8 aiming [1] - 977:41 air [1] - 993:39 aircraft [1] - 938:16 akin [1] - 935:35 Alcohol [1] - 992:10 Alexandria [1] - 961:13 allegation [3] - 951:35, 963:45, 972:46 allegations [1] - 960:38 allege [3] - 945:5, 945:18, 968:17 alleged [2] - 970:24, 975:7 allegedly [1] - 966:28 alleges [6] - 969:1, 975:40, 996:38, 996:42, 996:43, 996:44 alleging [2] - 945:26, 949:47 Allied [3] - 981:22, 993:19, 993:23 allow [2] - 936:41, 1001:33 allowed [2] - 988:3,	
1 [8] - 934:39, 947:26, 947:33, 949:26, 957:11, 957:46, 958:11, 990:45 1.05PM [1] - 1004:37 10 [2] - 977:29, 984:4 11 [2] - 957:20, 998:21 111 [1] - 963:21 12 [5] - 973:26, 975:2, 975:34, 980:14, 997:2 12.52pm [1] - 999:8 120 [2] - 948:2, 961:13 128 [1] - 942:4 13 [1] - 966:40 131 [1] - 996:28 135 [4] - 941:38, 976:29, 976:42, 977:1 14 [3] - 942:38, 947:21, 953:38 147 [1] - 954:42 14th [1] - 966:42 15 [4] - 951:9, 951:29, 951:31, 957:18 153 [1] - 963:27 16 [1] - 957:18 1600 [1] - 963:25 17 [4] - 939:42, 940:13, 957:19, 967:25 178 [1] - 984:13 18 [7] - 957:1, 957:45, 958:4, 958:8, 958:12, 968:5, 984:36 1830 [1] - 963:25 18th [4] - 955:47, 956:2, 956:13, 966:40 19 [9] - 934:40, 949:7, 951:1, 951:2, 951:4, 981:8, 981:18, 981:36, 988:7 1940 [2] - 949:40, 949:41 1941 [12] - 943:24, 943:29, 949:26, 949:36, 952:7, 960:13, 961:45, 965:35, 968:8, 984:29, 992:29, 993:5 1942 [6] - 983:3, 988:45,	9 [1] - 953:3 9.30am [1] - 934:39 91 [1] - 953:1 92nd [1] - 953:3	admission [1] - 993:27 advance [1] - 937:14 advanced [2] - 936:29, 936:35 advancing [4] - 936:39, 973:17, 998:16, 1004:6 adversarial [1] - 935:28 advertisements [1] - 993:44 advice [1] - 965:23 Affairs [1] - 992:17 affect [1] - 941:13 affected [1] - 941:24 aft [4] - 938:14, 976:41, 976:44, 976:47 Aft [1] - 977:3 aftermath [1] - 978:5 afternoon [3] - 953:37, 978:23, 999:5 aged [1] - 953:1 aggressive [1] - 954:32 ago [4] - 935:42, 993:18, 1003:26, 1004:21 agree [4] - 943:6, 948:8, 951:24, 968:31 agreed [1] - 1001:24 agreeing [1] - 998:38 aim [1] - 977:41 aimed [7] - 976:29, 976:31, 976:34, 976:41, 976:42, 977:8 aiming [1] - 977:41 air [1] - 993:39 aircraft [1] - 938:16 akin [1] - 935:35 Alcohol [1] - 992:10 Alexandria [1] - 961:13 allegation [3] - 951:35, 963:45, 972:46 allegations [1] - 960:38 allege [3] - 945:5, 945:18, 968:17 alleged [2] - 970:24, 975:7 allegedly [1] - 966:28 alleges [6] - 969:1, 975:40, 996:38, 996:42, 996:43, 996:44 alleging [2] - 945:26, 949:47 Allied [3] - 981:22, 993:19, 993:23 allow [2] - 936:41, 1001:33 allowed [2] - 988:3,		
1	3 [4] - 947:29, 957:11, 977:47, 978:6 3,000 [1] - 945:15 3.20am [1] - 955:5 30 [1] - 964:14 30-year [1] - 972:10 3065 [1] - 968:19 31 [1] - 963:21 3am [1] - 954:40 3rd [2] - 947:30, 954:3	A	admission [1] - 993:27 advance [1] - 937:14 advanced [2] - 936:29, 936:35 advancing [4] - 936:39, 973:17, 998:16, 1004:6 adversarial [1] - 935:28 advertisements [1] - 993:44 advice [1] - 965:23 Affairs [1] - 992:17 affect [1] - 941:13 affected [1] - 941:24 aft [4] - 938:14, 976:41, 976:44, 976:47 Aft [1] - 977:3 aftermath [1] - 978:5 afternoon [3] - 953:37, 978:23, 999:5 aged [1] - 953:1 aggressive [1] - 954:32 ago [4] - 935:42, 993:18, 1003:26, 1004:21 agree [4] - 943:6, 948:8, 951:24, 968:31 agreed [1] - 1001:24 agreeing [1] - 998:38 aim [1] - 977:41 aimed [7] - 976:29, 976:31, 976:34, 976:41, 976:42, 977:8 aiming [1] - 977:41 air [1] - 993:39 aircraft [1] - 938:16 akin [1] - 935:35 Alcohol [1] - 992:10 Alexandria [1] - 961:13 allegation [3] - 951:35, 963:45, 972:46 allegations [1] - 960:38 allege [3] - 945:5, 945:18, 968:17 alleged [2] - 970:24, 975:7 allegedly [1] - 966:28 alleges [6] - 969:1, 975:40, 996:38, 996:42, 996:43, 996:44 alleging [2] - 945:26, 949:47 Allied [3] - 981:22, 993:19, 993:23 allow [2] - 936:41, 1001:33 allowed [2] - 988:3,	
1/12/08		1		

<p>988:21 alloy [1] - 984:12 ally [1] - 993:33 almost [3] - 967:3, 972:4, 994:40 alone [4] - 936:4, 955:30, 968:10, 968:28 America [2] - 954:33, 966:24 American [4] - 954:42, 966:16, 966:18, 993:22 amidships [3] - 961:28, 963:23 ammunition [2] - 984:10, 989:17 amount [2] - 935:47, 973:41 AN [1] - 959:12 analyses [1] - 989:18 analysis [1] - 989:30 anecdote [1] - 1003:20 angle [3] - 941:36, 941:37, 976:34 angled [1] - 976:28 answer [6] - 944:46, 971:24, 981:6, 981:15, 981:30, 992:6 answered [1] - 970:19 answering [2] - 935:17, 1001:22 anti [1] - 938:16 anti-aircraft [1] - 938:16 anyway [1] - 1004:16 Anyway [1] - 944:30 Anzac [2] - 972:11, 972:13 AO [1] - 934:25 apart [4] - 940:47, 941:31, 955:11, 995:12 Apart [3] - 965:4, 999:21, 1001:43 apparent [3] - 938:5, 990:11, 994:25 appear [1] - 945:21 appeared [1] - 947:20 appreciate [3] - 946:4, 963:6, 971:18 approach [7] - 942:11, 942:24, 976:10, 976:17, 976:21, 977:7, 977:11 approached [3] - 941:47, 942:6, 972:23 Approaching [1] - 976:24 approaching [1] - 976:26 appropriate [1] - 936:8 Aquitania [1] - 967:38 area [10] - 937:3, 942:22, 942:28, 954:38, 955:33, 979:39, 991:9, 1003:28, 1003:37, 1003:44 Arethusa [1] - 961:11 argument [1] - 979:33 arise [1] - 966:23 arising [1] - 1000:11 Ark [1] - 948:19 arm's [3] - 945:36, 945:42, 947:4</p>	<p>armaments [4] - 940:33, 940:36, 984:39, 984:43 armed [3] - 996:44, 997:11, 997:45 arming [1] - 998:4 armour [2] - 989:23, 989:29 arms [6] - 983:29, 989:12, 989:16, 989:36, 990:18, 997:46 Army [5] - 979:22, 999:43, 999:44, 1000:7, 1000:8 around' [1] - 968:12 arrange [1] - 970:34 arranged [1] - 972:41 arrangements [1] - 1002:28 arrived [3] - 942:45, 943:23, 981:21 Arthur [3] - 979:22, 1002:5, 1002:17 article [6] - 947:19, 948:1, 948:17, 948:21, 954:3, 968:4 artillery [2] - 989:32, 990:19 ascertain [1] - 1004:32 ASIO [6] - 970:3, 970:25, 970:34, 972:5, 972:29, 973:1 aspect [1] - 947:17 aspects [1] - 944:21 assemble [1] - 936:26 assembling [1] - 935:38 assert [1] - 968:30 asserting [1] - 953:19 assertion [1] - 994:38 assistance [2] - 957:43, 962:5 Assisting [1] - 934:32 association [1] - 955:20 assume [2] - 941:29, 962:43 assumed [1] - 941:31 assumption [7] - 941:15, 941:17, 941:32, 943:39, 943:40, 945:32, 950:7 assure [2] - 944:28, 955:45 assured [2] - 936:41, 998:30 AT [1] - 1004:37 attached [12] - 936:23, 949:11, 949:27, 949:34, 949:47, 950:11, 950:27, 950:28, 950:34, 950:39, 952:30, 952:31 attack [2] - 937:46, 942:13 attacked [1] - 980:28 attained [1] - 974:21 attempt [3] - 951:19, 972:24, 983:38 attempted [1] - 969:19 attempting [1] - 950:38 attend [1] - 988:7 attendant [4] - 948:34,</p>	<p>954:7, 954:16, 957:11 attention [5] - 966:31, 994:28, 995:9, 995:13, 996:7 Austin [2] - 981:17, 981:18 Australia [5] - 944:43, 955:20, 956:25, 969:21, 1004:12 Australian [34] - 943:21, 946:1, 955:30, 955:38, 960:15, 962:1, 964:13, 965:28, 968:4, 968:8, 970:38, 981:28, 982:5, 982:7, 982:10, 982:14, 982:20, 982:21, 982:31, 982:34, 982:38, 982:41, 983:22, 983:28, 983:40, 983:47, 984:6, 989:3, 990:16, 990:25, 992:28, 992:31, 994:20, 1001:33 authorities [1] - 970:38 Authority [1] - 973:1 authors' [1] - 995:23 available [2] - 964:17, 998:44 avoid [1] - 942:12 aware [5] - 949:42, 955:37, 955:39, 982:15, 988:6 awoken [2] - 981:11, 981:14</p>	<p>bastard [2] - 994:14, 994:20 Bathgate [2] - 956:29, 956:31 battle [3] - 978:21, 996:38, 997:43 Bay [2] - 1000:25, 1001:47 Baynton [3] - 978:17, 978:19, 978:20 BAYNTON [1] - 978:20 BE [1] - 1004:37 beaches [1] - 957:27 Beam [1] - 954:45 bear [2] - 955:35, 985:3 bearing [2] - 976:29, 994:3 bears [1] - 939:31 beaten [1] - 978:21 became [3] - 966:42, 987:45, 988:6 becomes [2] - 946:45, 946:46 bed [1] - 981:9 Beesly [1] - 935:37 began [1] - 963:24 beginning [1] - 999:39 behalf [1] - 1001:17 behind [2] - 940:34, 963:27 belief [2] - 943:9, 944:25 below [2] - 940:36, 991:9 bereaved [1] - 986:18 Bernard [6] - 947:20, 949:3, 949:23, 951:13, 951:46, 951:47 beside [1] - 988:23 best [3] - 936:26, 937:37, 1001:7 better [1] - 969:23 between [19] - 935:22, 936:17, 936:18, 943:20, 945:30, 947:12, 947:14, 955:40, 955:47, 964:18, 965:5, 974:25, 974:34, 975:22, 975:45, 986:36, 1003:28, 1003:31, 1004:7 beyond [1] - 953:32 Billson [1] - 992:18 binding [1] - 936:17 bit [6] - 942:1, 952:46, 969:23, 978:40, 1001:6, 1002:23 Blair [1] - 965:44 blown [1] - 948:9 blown-up [1] - 948:9 Board [32] - 942:44, 943:8, 943:22, 943:25, 943:31, 943:34, 943:46, 944:7, 944:21, 944:33, 944:47, 945:7, 945:18, 945:20, 945:22, 945:31, 947:7, 947:12, 947:15, 953:41, 955:38, 955:40, 960:8, 960:15, 962:1, 962:31, 963:15, 963:41, 964:13, 965:6, 966:9, 992:29</p>	<p>board [1] - 945:21 boat [1] - 976:7 boats [4] - 963:30, 996:42, 997:44, 999:43 body [5] - 984:19, 984:47, 988:35, 988:41, 988:43 bold [1] - 951:32 bonfire [1] - 965:22 book [17] - 935:39, 935:42, 937:47, 948:46, 952:12, 952:34, 954:36, 954:41, 956:34, 956:42, 956:46, 969:18, 978:36, 995:20, 995:37, 995:42, 995:43 boredom [1] - 967:27 borne [2] - 938:42, 939:11 bother [1] - 964:7 bottom [8] - 947:21, 953:47, 967:47, 986:11, 986:15, 986:31, 993:45, 993:46 bound [1] - 935:33 Bourne [4] - 993:2, 993:12, 993:14, 993:15 bow [9] - 942:11, 976:10, 976:17, 976:21, 976:24, 976:31, 976:35, 977:7, 977:11 bow-on [5] - 976:10, 976:17, 976:21, 977:7, 977:11 bows [7] - 961:12, 961:29, 976:26, 977:9, 977:24, 977:41, 996:43 bows-on [1] - 977:9 breaching [1] - 937:44 break [2] - 949:18, 955:16 breakfast [1] - 955:15 bring [3] - 966:31, 995:13, 998:17 Britain [2] - 955:21, 966:24 British [3] - 965:30, 965:32, 992:27 broadside [2] - 973:13, 974:17 broken [1] - 963:25 brother [3] - 971:32, 985:33, 986:17 brothers [1] - 969:38 brought [2] - 988:30, 1000:11 brown [1] - 994:2 BRUCE [1] - 999:8 Bruce [1] - 999:13 Bull [3] - 985:5, 989:44, 993:3 bullet [9] - 983:11, 983:17, 984:13, 985:9, 985:20, 987:7, 987:17, 987:25, 987:45 bullets [3] - 983:8, 983:25, 984:27 Bunjes [1] - 938:20 Bureau [1] - 949:14 business [3] - 949:5,</p>
		<p>B</p>		

949:21, 952:21 BY [2] - 935:3, 999:10	Centaur [2] - 995:27, 996:10 Centre [1] - 992:10 certain [5] - 960:40, 994:10, 1000:33, 1002:41, 1002:42 certainly [6] - 952:31, 961:17, 980:43, 985:10, 1002:30, 1003:39 certainty [3] - 954:20, 954:24, 994:15 cetera [1] - 971:29 challenge [2] - 937:40, 939:29 changed [3] - 936:38, 939:39, 939:45 channels [1] - 1004:15 Chapman [7] - 981:17, 981:19, 982:23, 1002:3, 1002:9, 1002:10, 1002:22 characteristics [1] - 994:25 charade [4] - 964:7, 964:23, 964:41, 964:43 charge [1] - 937:2 charged [1] - 993:30 checked [1] - 1003:39 Chiang [1] - 955:10 Chief [1] - 992:7 China [13] - 951:21, 951:39, 952:4, 960:4, 960:15, 961:47, 962:2, 962:31, 963:15, 963:40, 965:6, 980:25, 992:32 China's [1] - 951:14 Chinese [1] - 955:10 choose [1] - 938:3 Christmas [7] - 983:36, 985:1, 988:41, 988:43, 989:8, 991:7, 991:31 chronological [1] - 966:31 Churchill [8] - 954:40, 955:8, 955:23, 955:37, 959:47, 963:1, 965:44, 992:27 Churchill's [2] - 962:41, 992:45 circular [1] - 984:36 circumstances [2] - 988:9, 1000:11 civil [1] - 936:18 claim [1] - 959:42 claimed [1] - 985:21 claims [1] - 937:47 Clark [3] - 996:8, 996:31, 997:5 Clark's [1] - 997:3 clean [1] - 984:19 clear [11] - 935:22, 938:8, 940:10, 943:26, 950:41, 950:44, 952:15, 970:2, 970:8, 970:18, 990:40 clearly [3] - 980:20, 990:7, 990:47 clerk [2] - 951:17, 980:24	close [2] - 1001:16, 1003:25 close-up [1] - 1001:16 closed [4] - 938:41, 939:10, 939:16, 939:26 CMDR [74] - 934:32, 935:3, 935:11, 936:43, 936:46, 937:10, 937:19, 937:21, 939:34, 940:16, 943:39, 944:32, 945:17, 946:25, 947:17, 949:1, 949:7, 951:9, 952:14, 957:43, 959:3, 959:4, 959:6, 959:15, 959:31, 959:37, 959:42, 961:31, 961:40, 961:45, 963:14, 965:21, 965:27, 966:18, 966:26, 967:22, 967:30, 972:31, 974:4, 977:3, 977:33, 978:38, 979:27, 980:4, 981:39, 983:21, 984:3, 984:46, 985:42, 988:27, 988:29, 990:2, 990:29, 992:5, 993:9, 993:42, 994:31, 994:37, 994:43, 995:7, 995:36, 996:3, 998:28, 998:42, 999:4, 999:10, 999:12, 999:35, 1000:39, 1000:46, 1002:34, 1003:36, 1004:25, 1004:31 co [1] - 952:12 co-wrote [1] - 952:12 coast [1] - 956:25 Cobbitty [1] - 1001:46 codes [2] - 949:19, 952:18 COI.002.0047 [1] - 984:3 COI.004.0219 [1] - 947:22 cold [2] - 943:25, 955:11 cold-shouldered [1] - 943:25 Cole [1] - 934:25 collaboration [1] - 946:33 collect [2] - 957:27, 964:16 Collins [1] - 983:2 Colonel [3] - 970:3, 972:33, 972:41 column [1] - 948:1 Combined [1] - 949:14 coming [1] - 944:25 command [2] - 946:1, 978:35 Commander [1] - 943:21 commencement [1] - 935:14 commences [1] - 937:33 commencing [1] - 948:30 commercial [1] - 1004:15 commission [1] - 968:8 COMMISSION [1] - 934:18 Commission [9] - 937:21, 949:46, 950:15, 952:29, 971:27, 988:16, 1000:40, 1000:42, 1001:21	commissioner [2] - 936:15, 936:20 Commissioner [2] - 935:13, 937:27 common [1] - 962:30 Commonwealth [3] - 960:15, 962:1, 964:13 communicate [1] - 952:39 communicated [5] - 951:46, 952:42, 953:9, 953:19, 953:30 Communication [2] - 999:16, 999:18 communication [7] - 941:21, 941:23, 950:3, 951:44, 953:24, 955:40, 956:44 communications [4] - 941:26, 941:28, 947:14, 1001:25 Company [1] - 957:26 company's [1] - 957:26 compare [1] - 947:46 competence [1] - 979:39 complete [1] - 970:1 completely [2] - 952:35, 961:28 compliance [1] - 942:4 composition [1] - 989:32 concealed [2] - 940:33, 955:18 concealing [1] - 938:23 concede [1] - 940:13 conceded [1] - 938:21 conceive [1] - 946:14 concerned [1] - 990:10 concerning [6] - 970:19, 981:3, 989:3, 990:37, 996:33, 999:38 concluded [1] - 937:11 concludes [1] - 997:8 conclusion [11] - 943:9, 945:13, 948:1, 968:31, 968:33, 969:44, 982:42, 984:6, 984:31, 989:36, 995:7 conclusions [3] - 989:2, 989:8, 990:24 Conclusions" [1] - 989:1 concrete [5] - 942:40, 943:5, 944:23, 953:38, 953:45 Concur [1] - 962:4 condition [2] - 955:22, 987:15 conditions [3] - 978:3, 978:4, 978:5 conduct [1] - 936:7 conducted [2] - 999:36, 999:39 confessed [1] - 969:6 confided [1] - 951:13 confining [1] - 964:9 confirmed [3] - 948:46, 949:2 confirms [1] - 963:19	conjecture [1] - 940:5 conman [1] - 971:22 connected [1] - 952:24 consensus [4] - 938:42, 939:11, 979:34, 979:37 consequence [2] - 936:2, 969:42 consider [1] - 998:14 considerable [7] - 935:47, 941:6, 954:37, 973:41, 974:33, 975:42, 979:39 consideration [1] - 993:29 considerations [1] - 993:34 consistent [6] - 936:31, 940:12, 989:30, 991:19, 996:47, 998:16 conspiracy [4] - 945:6, 991:15, 992:26, 993:39 constant [2] - 951:44, 952:3 constricted [1] - 948:11 construed [1] - 946:32 contact [4] - 952:3, 1000:5, 1000:23, 1000:27 contacted [2] - 951:39, 1003:23 contained [1] - 994:4 context [3] - 954:28, 974:24, 982:18 continue [1] - 966:30 continued [1] - 992:36 CONTINUING [1] - 935:3 continuing [1] - 966:5 contravention [1] - 997:34 control [5] - 941:9, 941:10, 941:13, 941:27, 978:35 conversation [5] - 969:1, 986:34, 986:36, 995:26, 996:9 convinced [1] - 939:27 cooked [1] - 995:17 Cooper [7] - 1001:24, 1001:33, 1001:37, 1001:43, 1002:10, 1002:21 cooperating [1] - 964:35 cooperation [1] - 947:11 copies [5] - 959:20, 959:34, 1001:20, 1002:29 Copper [1] - 989:20 COPPER [1] - 984:12 copy [1] - 959:12 copy [12] - 947:32, 947:35, 948:5, 956:42, 957:23, 959:6, 959:31, 959:32, 994:22, 994:35, 1001:36, 1002:15 CORR.004.0244 [1] - 974:11 correct [11] - 935:33, 939:19, 949:14, 949:38, 950:1, 953:16, 966:29, 968:18, 969:13, 972:34,
---	--	---	---	---

<p>990:33 corrected [3] - 949:44, 980:12, 986:27 correspond [1] - 962:14 correspondence [2] - 962:19, 990:29 correspondent [2] - 956:37, 956:40 corresponding [2] - 962:15, 962:17 couched [1] - 960:27 couching [1] - 962:19 councils [4] - 945:45, 946:8, 946:15, 946:18 Counsel [2] - 934:32, 934:35 counsel [2] - 935:36, 936:7 counsel's [1] - 935:45 count [1] - 937:45 counted [2] - 984:34, 984:35 couple [2] - 949:40, 1000:31 course [12] - 939:39, 942:24, 947:13, 949:36, 963:11, 966:42, 967:2, 987:44, 995:2, 996:1, 999:25, 999:35 Course [1] - 966:41 court [7] - 935:22, 935:23, 935:26, 935:32, 936:8, 944:29 cover [7] - 965:15, 965:27, 966:2, 966:5, 992:34, 992:36, 993:2 cover-up [7] - 965:15, 965:27, 966:2, 966:5, 992:34, 992:36, 993:2 covered [5] - 965:44, 973:41, 975:45, 992:3 covering [3] - 954:41, 983:4, 988:12 covers [5] - 938:13, 965:38, 965:41 coxswain [3] - 999:37, 1000:4, 1002:46 Crace [13] - 943:20, 943:23, 943:30, 943:37, 944:26, 945:8, 945:24, 945:27, 945:31, 945:35, 947:4, 947:12, 947:15 Crace's [4] - 942:41, 945:1, 953:40, 957:4 Crail [2] - 986:21, 986:24 Creag [1] - 983:45 create [3] - 951:19, 951:22, 951:24 credence [1] - 971:10 credited [1] - 970:33 crew [6] - 970:4, 970:9, 970:32, 986:17, 993:23, 993:28 crime [2] - 936:19, 990:23 crimes [1] - 990:10 criminals [1] - 993:30 cruiser [5] - 961:11,</p>	<p>981:27, 982:4, 982:31, 982:38 cruisers [1] - 961:9 cruising [1] - 940:12 cryptanalyst [5] - 949:2, 949:11, 950:10, 950:34, 952:18 cul [1] - 1003:44 cul-de-sac [1] - 1003:44 culling [1] - 956:3 curriculum [1] - 990:12 Curtin [2] - 965:38, 992:27 curve [1] - 1004:22 cut [3] - 941:22, 941:27 cypher [2] - 951:16, 980:24 CZM [1] - 962:6</p>	<p>defendant [1] - 935:27 defer [1] - 935:17 definitely [4] - 935:15, 937:22, 940:14, 989:11 Deflou [2] - 992:6, 992:31 degree [2] - 974:20, 985:11 degrees [5] - 941:38, 963:21, 976:29, 976:42, 977:1 delay [1] - 958:1 deliberately [2] - 960:25, 960:26 delivering [1] - 964:1 demand [1] - 993:35 demise [1] - 964:2 demonstrate [1] - 937:39 demonstrate" [1] - 937:34 demonstrated [2] - 970:20, 970:24 demonstrates [1] - 972:28 Department [2] - 987:45, 992:7 depicting [3] - 981:26, 982:3, 982:19 deportation [1] - 970:34 deported [1] - 970:41 deposit [1] - 972:24 derive [1] - 958:45 describe [2] - 940:11, 994:39 described [16] - 936:28, 941:42, 952:25, 955:23, 956:29, 956:31, 965:22, 971:21, 972:16, 975:28, 975:43, 977:22, 977:46, 982:47, 983:7, 985:5 describes [7] - 938:11, 952:11, 976:10, 977:15, 977:19, 977:20, 977:23 describing [2] - 974:26, 983:4 description [6] - 957:31, 963:37, 964:8, 964:44, 965:21, 985:32 descriptions [1] - 983:1 destroy [1] - 961:5 destroyed [4] - 965:9, 965:19, 966:2 detail [2] - 979:47, 982:22 detailed [8] - 964:44, 965:46, 970:18, 970:20, 970:28, 970:39, 980:7, 1003:1 details [2] - 960:22, 971:28 determinations [1] - 936:17 determine [3] - 935:27, 936:38, 953:35 determined [1] - 985:27 Detmers [5] - 937:41, 937:47, 966:35, 978:26, 978:29 Detmers' [1] - 938:27 developed [1] - 1003:28</p>	<p>diaries [1] - 966:32 diary [15] - 942:41, 943:7, 943:30, 944:2, 945:1, 946:36, 953:40, 957:4, 966:33, 967:24, 980:26, 980:33, 981:3, 981:4, 981:8 died [3] - 969:34, 988:15, 1000:25 difference [3] - 946:4, 946:13, 977:23 different [4] - 945:28, 947:38, 947:41, 989:18 difficulties [1] - 1004:6 dinner [1] - 972:38 direct [1] - 958:19 directed [1] - 940:35 direction [3] - 935:18, 936:7, 956:9 directly [2] - 951:47, 986:28 director [2] - 941:13, 941:27 disagreed [1] - 968:22 disappeared [1] - 983:13 disbelief [1] - 968:24 disclose [1] - 965:7 disclosed [2] - 966:21, 993:32 disclosure [1] - 992:34 discovered [1] - 984:24 discredit [2] - 935:29, 935:46 discussed [2] - 936:4, 971:45 discussing [3] - 937:34, 941:3, 972:4 discussion [2] - 954:14, 973:2 disengaged [1] - 969:7 disguise [2] - 938:7, 967:15 disguised [1] - 980:29 dispatch [1] - 955:1 disproving [1] - 963:5 distance [3] - 973:41, 977:25, 977:43 distinct [2] - 936:15, 946:6 distinction [1] - 935:22 distinctively [1] - 994:21 distinctly [1] - 994:5 divulged [1] - 949:22 doctored [2] - 992:11, 992:21 Document [1] - 959:4 document [2] - 959:9, 959:28 documentary [2] - 999:23, 1001:2 documented [1] - 989:31 done [9] - 951:19, 952:46, 954:19, 982:41, 983:22, 988:29, 989:2, 990:17, 1002:17 doorstep [1] - 972:17 Double [1] - 1001:47</p>	<p>Doubt [2] - 985:16, 985:19 doubt [7] - 937:12, 956:21, 981:32, 982:7, 985:11, 990:24, 993:38 doubts [2] - 971:21, 971:29 down [7] - 938:13, 947:31, 957:28, 973:27, 978:26, 984:3, 993:22 Dr [6] - 966:33, 989:44, 990:30, 991:12, 995:26, 995:31 draw [2] - 994:28, 995:8 drawing [1] - 984:35 drew [2] - 943:9, 977:24 dropped [1] - 987:11 Drug [1] - 992:9 due [4] - 963:11, 967:4, 995:2, 996:1 Duflo [3] - 990:30, 991:12, 992:20 during [2] - 938:21, 984:28 Dutch [1] - 938:7 DVD [4] - 1000:41, 1001:21, 1002:29, 1003:18</p>
D				
<p>990:33 corrected [3] - 949:44, 980:12, 986:27 correspond [1] - 962:14 correspondence [2] - 962:19, 990:29 correspondent [2] - 956:37, 956:40 corresponding [2] - 962:15, 962:17 couched [1] - 960:27 couching [1] - 962:19 councils [4] - 945:45, 946:8, 946:15, 946:18 Counsel [2] - 934:32, 934:35 counsel [2] - 935:36, 936:7 counsel's [1] - 935:45 count [1] - 937:45 counted [2] - 984:34, 984:35 couple [2] - 949:40, 1000:31 course [12] - 939:39, 942:24, 947:13, 949:36, 963:11, 966:42, 967:2, 987:44, 995:2, 996:1, 999:25, 999:35 Course [1] - 966:41 court [7] - 935:22, 935:23, 935:26, 935:32, 936:8, 944:29 cover [7] - 965:15, 965:27, 966:2, 966:5, 992:34, 992:36, 993:2 cover-up [7] - 965:15, 965:27, 966:2, 966:5, 992:34, 992:36, 993:2 covered [5] - 965:44, 973:41, 975:45, 992:3 covering [3] - 954:41, 983:4, 988:12 covers [5] - 938:13, 965:38, 965:41 coxswain [3] - 999:37, 1000:4, 1002:46 Crace [13] - 943:20, 943:23, 943:30, 943:37, 944:26, 945:8, 945:24, 945:27, 945:31, 945:35, 947:4, 947:12, 947:15 Crace's [4] - 942:41, 945:1, 953:40, 957:4 Crail [2] - 986:21, 986:24 Creag [1] - 983:45 create [3] - 951:19, 951:22, 951:24 credence [1] - 971:10 credited [1] - 970:33 crew [6] - 970:4, 970:9, 970:32, 986:17, 993:23, 993:28 crime [2] - 936:19, 990:23 crimes [1] - 990:10 criminals [1] - 993:30 cruiser [5] - 961:11,</p>	<p>daily [1] - 966:39 Daily [3] - 947:20, 948:17, 949:23 damage [3] - 938:44, 982:47, 983:46 damaged [2] - 983:5, 983:47 danger [2] - 942:12, 942:14 Darwin [1] - 944:44 Daryl [1] - 1002:17 DATE [1] - 1004:37 date [5] - 947:25, 949:26, 949:44, 1004:20, 1004:35 dates [1] - 957:1 David [3] - 1001:33, 1001:34, 1001:36 David's [2] - 1001:35, 1001:37 days [5] - 948:10, 955:26, 964:33, 966:43, 967:26 de [2] - 955:21, 1003:44 dead [1] - 997:17 deal [2] - 959:19, 959:37 Dear [1] - 954:45 debate [1] - 954:21 decamouflage [6] - 937:35, 938:2, 938:33, 940:17, 940:18, 940:29 decamouflaging [1] - 938:12 December [8] - 934:39, 947:26, 947:29, 947:33, 949:26, 954:4, 957:11, 968:7 deception [1] - 947:6 deck [1] - 940:36 declaration [1] - 956:19 declared [1] - 983:26 decreed [1] - 993:32 deduce [1] - 964:21 deduced [1] - 989:9 Defence [2] - 936:21, 993:31 defence [1] - 935:29</p>	<p>defendant [1] - 935:27 defer [1] - 935:17 definitely [4] - 935:15, 937:22, 940:14, 989:11 Deflou [2] - 992:6, 992:31 degree [2] - 974:20, 985:11 degrees [5] - 941:38, 963:21, 976:29, 976:42, 977:1 delay [1] - 958:1 deliberately [2] - 960:25, 960:26 delivering [1] - 964:1 demand [1] - 993:35 demise [1] - 964:2 demonstrate [1] - 937:39 demonstrate" [1] - 937:34 demonstrated [2] - 970:20, 970:24 demonstrates [1] - 972:28 Department [2] - 987:45, 992:7 depicting [3] - 981:26, 982:3, 982:19 deportation [1] - 970:34 deported [1] - 970:41 deposit [1] - 972:24 derive [1] - 958:45 describe [2] - 940:11, 994:39 described [16] - 936:28, 941:42, 952:25, 955:23, 956:29, 956:31, 965:22, 971:21, 972:16, 975:28, 975:43, 977:22, 977:46, 982:47, 983:7, 985:5 describes [7] - 938:11, 952:11, 976:10, 977:15, 977:19, 977:20, 977:23 describing [2] - 974:26, 983:4 description [6] - 957:31, 963:37, 964:8, 964:44, 965:21, 985:32 descriptions [1] - 983:1 destroy [1] - 961:5 destroyed [4] - 965:9, 965:19, 966:2 detail [2] - 979:47, 982:22 detailed [8] - 964:44, 965:46, 970:18, 970:20, 970:28, 970:39, 980:7, 1003:1 details [2] - 960:22, 971:28 determinations [1] - 936:17 determine [3] - 935:27, 936:38, 953:35 determined [1] - 985:27 Detmers [5] - 937:41, 937:47, 966:35, 978:26, 978:29 Detmers' [1] - 938:27 developed [1] - 1003:28</p>	<p>diaries [1] - 966:32 diary [15] - 942:41, 943:7, 943:30, 944:2, 945:1, 946:36, 953:40, 957:4, 966:33, 967:24, 980:26, 980:33, 981:3, 981:4, 981:8 died [3] - 969:34, 988:15, 1000:25 difference [3] - 946:4, 946:13, 977:23 different [4] - 945:28, 947:38, 947:41, 989:18 difficulties [1] - 1004:6 dinner [1] - 972:38 direct [1] - 958:19 directed [1] - 940:35 direction [3] - 935:18, 936:7, 956:9 directly [2] - 951:47, 986:28 director [2] - 941:13, 941:27 disagreed [1] - 968:22 disappeared [1] - 983:13 disbelief [1] - 968:24 disclose [1] - 965:7 disclosed [2] - 966:21, 993:32 disclosure [1] - 992:34 discovered [1] - 984:24 discredit [2] - 935:29, 935:46 discussed [2] - 936:4, 971:45 discussing [3] - 937:34, 941:3, 972:4 discussion [2] - 954:14, 973:2 disengaged [1] - 969:7 disguise [2] - 938:7, 967:15 disguised [1] - 980:29 dispatch [1] - 955:1 disproving [1] - 963:5 distance [3] - 973:41, 977:25, 977:43 distinct [2] - 936:15, 946:6 distinction [1] - 935:22 distinctively [1] - 994:21 distinctly [1] - 994:5 divulged [1] - 949:22 doctored [2] - 992:11, 992:21 Document [1] - 959:4 document [2] - 959:9, 959:28 documentary [2] - 999:23, 1001:2 documented [1] - 989:31 done [9] - 951:19, 952:46, 954:19, 982:41, 983:22, 988:29, 989:2, 990:17, 1002:17 doorstep [1] - 972:17 Double [1] - 1001:47</p>	<p>Doubt [2] - 985:16, 985:19 doubt [7] - 937:12, 956:21, 981:32, 982:7, 985:11, 990:24, 993:38 doubts [2] - 971:21, 971:29 down [7] - 938:13, 947:31, 957:28, 973:27, 978:26, 984:3, 993:22 Dr [6] - 966:33, 989:44, 990:30, 991:12, 995:26, 995:31 draw [2] - 994:28, 995:8 drawing [1] - 984:35 drew [2] - 943:9, 977:24 dropped [1] - 987:11 Drug [1] - 992:9 due [4] - 963:11, 967:4, 995:2, 996:1 Duflo [3] - 990:30, 991:12, 992:20 during [2] - 938:21, 984:28 Dutch [1] - 938:7 DVD [4] - 1000:41, 1001:21, 1002:29, 1003:18</p>
E				
<p>990:33 corrected [3] - 949:44, 980:12, 986:27 correspond [1] - 962:14 correspondence [2] - 962:19, 990:29 correspondent [2] - 956:37, 956:40 corresponding [2] - 962:15, 962:17 couched [1] - 960:27 couching [1] - 962:19 councils [4] - 945:45, 946:8, 946:15, 946:18 Counsel [2] - 934:32, 934:35 counsel [2] - 935:36, 936:7 counsel's [1] - 935:45 count [1] - 937:45 counted [2] - 984:34, 984:35 couple [2] - 949:40, 1000:31 course [12] - 939:39, 942:24, 947:13, 949:36, 963:11, 966:42, 967:2, 987:44, 995:2, 996:1, 999:25, 999:35 Course [1] - 966:41 court [7] - 935:22, 935:23, 935:26, 935:32, 936:8, 944:29 cover [7] - 965:15, 965:27, 966:2, 966:5, 992:34, 992:36, 993:2 cover-up [7] - 965:15, 965:27, 966:2, 966:5, 992:34, 992:36, 993:2 covered [5] - 965:44, 973:41, 975:45, 992:3 covering [3] - 954:41, 983:4, 988:12 covers [5] - 938:13, 965:38, 965:41 coxswain [3] - 999:37, 1000:4, 1002:46 Crace [13] - 943:20, 943:23, 943:30, 943:37, 944:26, 945:8, 945:24, 945:27, 945:31, 945:35, 947:4, 947:12, 947:15 Crace's [4] - 942:41, 945:1, 953:40, 957:4 Crail [2] - 986:21, 986:24 Creag [1] - 983:45 create [3] - 951:19, 951:22, 951:24 credence [1] - 971:10 credited [1] - 970:33 crew [6] - 970:4, 970:9, 970:32, 986:17, 993:23, 993:28 crime [2] - 936:19, 990:23 crimes [1] - 990:10 criminals [1] - 993:30 cruiser [5] - 961:11,</p>	<p>daily [1] - 966:39 Daily [3] - 947:20, 948:17, 949:23 damage [3] - 938:44, 982:47, 983:46 damaged [2] - 983:5, 983:47 danger [2] - 942:12, 942:14 Darwin [1] - 944:44 Daryl [1] - 1002:17 DATE [1] - 1004:37 date [5] - 947:25, 949:26, 949:44, 1004:20, 1004:35 dates [1] - 957:1 David [3] - 1001:33, 1001:34, 1001:36 David's [2] - 1001:35, 1001:37 days [5] - 948:10, 955:26, 964:33, 966:43, 967:26 de [2] - 955:21, 1003:44 dead [1] - 997:17 deal [2] - 959:19, 959:37 Dear [1] - 954:45 debate [1] - 954:21 decamouflage [6] - 937:35, 938:2, 938:33, 940:17, 940:18, 940:29 decamouflaging [1] - 938:12 December [8] - 934:39, 947:26, 947:29, 947:33, 949:26, 954:4, 957:11, 968:7 deception [1] - 947:6 deck [1] - 940:36 declaration</p>			

<p>ended [1] - 998:1 engaged [5] - 935:24, 983:6, 988:34, 988:40, 992:33 engagement [5] - 935:15, 974:25, 974:31, 978:5, 999:5 engaging [2] - 981:27, 982:4 engine [1] - 963:26 engineering [1] - 940:44 England [4] - 988:4, 993:18, 1001:18, 1002:18 English [4] - 940:9, 957:30, 958:37, 962:23 Ensign [5] - 981:28, 982:5, 982:7, 982:20, 982:34 ensure [1] - 961:31 entered [1] - 991:1 entire [1] - 1000:41 entirely [1] - 955:15 entrance [2] - 981:25, 982:2 entries [3] - 966:40, 966:41, 966:47 entry [17] - 938:6, 942:41, 942:42, 943:7, 944:3, 944:47, 946:36, 981:3, 984:19, 987:46, 988:33, 990:40, 991:9, 991:23, 991:41, 991:45, 992:1 envelope [1] - 994:3 equally [3] - 972:6, 979:41, 990:13 equipment [2] - 979:31, 980:5 Eric [7] - 949:11, 952:17, 1001:24, 1001:33, 1001:37, 1002:21 Ernst [2] - 942:30, 942:34 escorting [6] - 943:2, 944:14, 946:39, 946:42, 946:43, 953:42 especially [1] - 944:25 espouse [1] - 936:30 espoused [1] - 937:5 establishing [2] - 956:15, 956:23 establishment [1] - 951:42 estimate [1] - 940:42 et [1] - 971:29 Eta [2] - 981:26, 982:3 Etheridge [2] - 944:39, 956:19 evening [1] - 986:39 event [1] - 951:37 events [5] - 955:26, 957:19, 974:42, 975:22, 975:45 evidence [52] - 935:39, 935:43, 936:3, 936:27, 936:28, 936:32, 937:26, 939:2, 939:25, 940:5, 940:46, 942:29, 942:33, 942:40, 943:5, 943:36,</p>	<p>943:42, 943:45, 944:23, 944:29, 944:38, 946:33, 953:39, 953:45, 954:2, 954:36, 958:2, 961:21, 961:26, 961:27, 962:38, 962:41, 963:9, 970:23, 972:29, 973:21, 973:24, 976:19, 978:4, 978:26, 979:29, 979:38, 983:6, 983:29, 988:13, 988:14, 998:38, 998:43, 999:26, 999:35, 1002:42, 1002:43 evident [1] - 992:14 evidently [5] - 938:39, 939:8, 939:20, 939:22, 941:18 ex [2] - 968:6, 981:29 ex-admiral [1] - 981:29 ex-Kormoraner [1] - 968:6 Exactly [10] - 965:36, 965:39, 965:42, 965:46, 969:36, 969:40, 987:1, 991:27, 996:40, 997:28 exactly [3] - 942:31, 977:37, 997:28 EXAMINATION [2] - 935:3, 999:10 examination [6] - 937:13, 970:35, 970:39, 985:23, 990:37, 990:47 examine [1] - 936:21 examined [3] - 984:34, 985:35, 987:6 example [1] - 935:35 examples [2] - 961:9, 994:31 except [1] - 947:10 exclude [1] - 991:13 excuse [1] - 993:40 Excuse [1] - 987:20 execution [1] - 987:27 exercised [1] - 936:16 exhausted [1] - 994:43 exhibit [1] - 959:9 EXHIBIT [1] - 959:12 exhumed [1] - 989:7 exist [2] - 955:43, 982:21 existed [1] - 936:36 existence [4] - 953:35, 953:39, 954:24, 957:21 exists [1] - 965:5 exit [1] - 984:20 expect [1] - 978:22 expected [3] - 942:21, 946:7, 984:18 expedite [1] - 1002:30 experienced [2] - 963:30, 1001:27 expert [2] - 990:2, 990:21 expertise [1] - 990:17 explain [4] - 942:1, 977:6, 977:8, 1001:22 explained [2] - 947:3, 977:39 explanation [10] - 960:18, 960:43, 961:1, 961:22,</p>	<p>961:32, 962:4, 962:25, 962:28, 962:47 explored [1] - 995:11 explosion [8] - 961:25, 961:27, 973:11, 974:15, 974:29, 974:40, 974:45, 975:28 exports [1] - 954:33 exposes [1] - 962:44 exposure [1] - 937:43 express [1] - 971:29 Express [3] - 947:20, 948:17, 949:24 expressed [1] - 995:31 expression [1] - 968:24 extra [2] - 944:41, 954:38 extract [1] - 983:16 extracted [3] - 948:17, 990:36, 990:45 extreme [4] - 940:41, 960:39, 964:4 extremely [4] - 954:34, 960:27, 962:11, 963:45</p>	<p>952:30, 952:31, 952:37 FECB's [2] - 950:30, 952:32 fell [1] - 938:28 fellow [1] - 986:17 Fern [1] - 1000:25 few [2] - 1004:10, 1004:13 fifth [1] - 958:18 fighting [1] - 941:46 Fighting [1] - 942:4 file [2] - 947:22, 993:18 filed [1] - 1004:19 files [2] - 965:22, 972:21 filled [1] - 984:13 film [9] - 999:23, 999:29, 1000:27, 1000:36, 1001:15, 1001:21, 1001:25, 1002:20, 1002:24 film-maker [1] - 999:23 filming [1] - 1001:35 final [2] - 961:25, 985:34 finally [3] - 948:44, 972:9, 993:18 FIND [1] - 994:8 findings [1] - 991:19 fire [11] - 938:10, 941:5, 941:35, 963:24, 963:26, 978:32, 983:5, 983:29, 983:30, 990:19, 997:33 firearms [1] - 990:7 fired [14] - 938:2, 942:17, 948:33, 954:6, 957:13, 969:8, 973:38, 974:7, 974:19, 975:18, 975:20, 975:25, 976:39, 977:35 firing [3] - 941:5, 975:6, 975:30 First [3] - 964:12, 964:38 first [27] - 935:38, 938:2, 938:24, 938:28, 948:24, 948:38, 949:18, 951:10, 953:38, 953:44, 955:35, 956:14, 956:22, 956:47, 980:15, 980:18, 982:10, 982:14, 985:32, 990:42, 994:10, 994:32, 994:34, 994:40, 995:14, 995:44, 1001:45 firsthand [1] - 988:14 Firstly [1] - 999:38 fit [3] - 992:12, 992:21, 1002:44 fits [1] - 976:19 five [2] - 966:43, 1002:29 fixed [2] - 976:29, 1004:35 FIXED [1] - 1004:37 flag [10] - 937:47, 938:7, 938:10, 982:30, 982:38, 996:39, 997:34, 997:44, 998:3 flaps [2] - 938:17, 940:34 flies [1] - 938:7 flight [1] - 993:5 float [8] - 982:42, 983:16, 983:36, 983:46, 984:15, 984:19, 984:25, 984:33</p>	<p>floated [1] - 948:39 flown [3] - 982:10, 982:14, 982:20 flying [5] - 937:46, 981:27, 982:5, 982:30, 982:33 folded [1] - 938:13 follow [3] - 953:34, 974:41, 1000:34 following [7] - 941:46, 947:17, 966:41, 981:30, 989:8, 993:27, 994:4 follows [5] - 942:42, 952:15, 960:16, 980:16, 985:7 footage [1] - 1000:41 footnotes [4] - 996:12, 996:20, 998:25, 998:26 FOR [1] - 994:8 force [1] - 999:42 Force [1] - 981:22 Forces [4] - 999:38, 999:40, 999:47, 1002:46 fore [1] - 938:14 forehead [7] - 987:13, 987:14, 987:27, 987:46, 988:33, 991:8, 991:45 forensic [4] - 985:6, 990:6, 990:10, 990:33 Forensic [2] - 992:7, 992:8 form [5] - 936:27, 944:29, 945:6, 946:27, 956:15 formed [1] - 939:1 former [3] - 935:1, 935:5, 957:29 Former [1] - 954:47 formerly [1] - 999:40 fortunate [1] - 983:10 forward [10] - 948:42, 952:23, 960:30, 962:46, 963:23, 965:14, 968:23, 969:11, 992:13, 1001:41 forwards [1] - 976:41 four [8] - 938:41, 939:10, 961:17, 961:23, 961:32, 977:24, 1001:16, 1002:15 fourth [3] - 957:34, 958:17, 994:32 fragment [10] - 984:47, 988:30, 989:4, 989:6, 989:11, 989:15, 989:21, 989:27, 989:33, 990:19 Franz [1] - 966:33 fraud [10] - 970:1, 970:15, 970:31, 971:10, 971:11, 971:12, 971:19, 971:26, 977:22, 984:32 fraught [1] - 1004:6 freely [1] - 935:42 freighter [1] - 993:20 Fremantle [4] - 942:45, 944:40, 978:27, 983:3 frequency [2] - 956:37, 956:40 Friday [19] - 935:13, 935:34, 935:46, 936:46, 937:10, 937:22, 942:46,</p>
		F		

<p>953:37, 955:22, 957:25, 961:41, 966:38, 966:42, 977:37, 978:39, 979:21, 998:43, 999:26, 999:36</p> <p>friend [1] - 995:26</p> <p>froing [1] - 1004:8</p> <p>FROM [1] - 959:12</p> <p>Front [1] - 971:32</p> <p>front [6] - 960:13, 981:39, 990:41, 991:1, 991:23, 991:42</p> <p>full [6] - 937:40, 938:22, 938:46, 939:28, 942:8, 980:15</p> <p>fully [3] - 937:7, 940:18, 952:11</p> <p>function [5] - 935:19, 935:24, 935:26, 936:15, 936:16</p> <p>functions [1] - 935:32</p> <p>Furthermore [1] - 972:22</p> <p>future [3] - 964:21, 964:40, 964:47</p>	<p>Government [6] - 965:24, 966:16, 966:18, 983:37, 992:27, 992:28</p> <p>Governments [3] - 965:28, 965:32, 966:6</p> <p>gr [1] - 984:13</p> <p>grateful [1] - 964:19</p> <p>gravesite [1] - 989:7</p> <p>great [4] - 935:36, 955:45, 965:8, 978:3</p> <p>greater [1] - 979:47</p> <p>Grossmann [18] - 969:2, 969:6, 969:16, 969:20, 969:24, 972:33, 973:3, 973:4, 973:13, 973:44, 974:4, 974:17, 975:29, 975:33, 976:10, 976:12, 977:15, 977:18</p> <p>Grossmann's [2] - 973:8, 973:29</p> <p>Group [2] - 993:9, 993:11</p> <p>Grun [1] - 967:25</p> <p>Guardian [1] - 980:44</p> <p>guilt [1] - 935:27</p> <p>gun [14] - 938:3, 938:24, 938:41, 939:10, 939:15, 983:5, 983:8, 983:11, 983:17, 983:25, 983:29, 984:22, 984:27, 984:37</p> <p>gunned [1] - 993:23</p> <p>gunnery [3] - 941:9, 969:13, 969:17</p> <p>Gunnery [1] - 938:28</p> <p>guns [7] - 938:15, 938:16, 940:35, 984:11, 984:16, 996:42, 997:11</p> <p>guy [1] - 1001:47</p>	<p>946:18, 953:27, 954:26, 955:8, 955:12, 971:13, 971:17, 972:19</p> <p>harbourmaster [1] - 991:32</p> <p>hardenable [1] - 989:31</p> <p>harder [1] - 989:34</p> <p>hardly [1] - 938:45</p> <p>Harman [1] - 979:2</p> <p>haste [1] - 985:13</p> <p>hat [1] - 1004:23</p> <p>Hatches [1] - 938:14</p> <p>Hawke [1] - 965:41</p> <p>head [10] - 970:3, 972:41, 972:47, 973:1, 979:45, 987:8, 988:19, 988:25, 991:9, 1003:44</p> <p>headed [1] - 954:43</p> <p>heading [1] - 978:22</p> <p>headline [3] - 947:31, 947:32, 947:44</p> <p>headquarters [1] - 980:25</p> <p>Headquarters [2] - 944:39, 951:15</p> <p>health [1] - 949:35</p> <p>hear [1] - 940:7</p> <p>heard [3] - 956:12, 993:6, 1003:13</p> <p>heavily [1] - 983:4</p> <p>heavy [1] - 938:13</p> <p>Heights [1] - 1003:29</p> <p>Heinz [1] - 969:2</p> <p>held [3] - 937:28, 940:36, 965:28</p> <p>Held [1] - 934:29</p> <p>helpful [2] - 1002:32, 1003:47</p> <p>Heros [2] - 982:42, 983:46</p> <p>Herr [2] - 942:30, 942:34</p> <p>herself [4] - 980:40, 980:46, 981:2, 984:1</p> <p>Hetty [4] - 951:16, 979:21, 980:11, 980:18</p> <p>hidden [1] - 965:9</p> <p>himself [9] - 938:11, 943:24, 952:5, 952:25, 969:12, 969:14, 970:5, 973:4, 983:2</p> <p>Hinsley [1] - 935:37</p> <p>hire [1] - 1001:28</p> <p>historian [1] - 986:2</p> <p>history [1] - 936:35</p> <p>hit [11] - 942:21, 942:28, 961:23, 961:33, 963:23, 969:7, 973:12, 973:39, 974:16, 974:30, 977:37</p> <p>hits [5] - 973:10, 974:14, 974:28, 978:39, 978:44</p> <p>hitting [2] - 961:17, 977:6</p> <p>HMAS [1] - 934:18</p> <p>hold [1] - 940:14</p> <p>holds [1] - 940:36</p> <p>hole [3] - 987:8, 988:19, 988:24</p> <p>holes [2] - 984:20</p> <p>holsters [1] - 996:45</p>	<p>home [1] - 1001:25</p> <p>Hon [1] - 934:25</p> <p>Honorary [1] - 999:16</p> <p>honorary [1] - 999:21</p> <p>Honour [3] - 935:17, 944:35, 988:12</p> <p>hopefully [1] - 968:46</p> <p>horizon [2] - 961:25, 978:32</p> <p>Horsfield [6] - 998:42, 999:4, 999:6, 999:12, 999:13, 999:25</p> <p>HORSFIELD [1] - 999:8</p> <p>hour [3] - 955:3, 955:5, 1004:8</p> <p>hours [3] - 973:40, 975:21, 975:44</p> <p>house [3] - 972:20, 972:38, 1002:24</p> <p>Hudson [1] - 972:42</p> <p>hull [1] - 961:28</p> <p>Humanities [1] - 999:17</p> <p>humbly [1] - 936:6</p> <p>hydraulically [1] - 940:37</p> <p>hydro [2] - 971:5, 972:42</p> <p>hydro-electric [2] - 971:5, 972:42</p>	<p>958:7, 991:32</p> <p>inconceivable [1] - 939:29</p> <p>inconsistencies [1] - 936:36</p> <p>inconsistency [1] - 973:25</p> <p>inconsistent [1] - 936:31</p> <p>incorporated [1] - 955:27</p> <p>Indeed [14] - 943:43, 945:3, 947:8, 949:29, 959:1, 959:22, 965:16, 968:44, 969:18, 969:32, 971:33, 973:19, 983:31, 996:29</p> <p>indeed [9] - 939:46, 942:21, 952:37, 961:19, 966:7, 966:39, 985:9, 988:14, 1004:27</p> <p>independent [2] - 935:25, 999:23</p> <p>indicate [1] - 945:17</p> <p>indicated [4] - 978:43, 990:47, 999:4, 1003:16</p> <p>indicates [2] - 961:21, 989:21</p> <p>indicating [2] - 978:34, 992:6</p> <p>indication [3] - 987:41, 994:17, 994:40</p> <p>individual [1] - 941:10</p> <p>industry [1] - 1004:6</p> <p>inflicted [3] - 938:44, 983:1, 984:37</p> <p>informants [1] - 1001:23</p> <p>information [13] - 943:9, 943:15, 944:33, 956:9, 956:22, 956:47, 957:2, 960:38, 964:17, 964:38, 978:33, 986:38, 993:45</p> <p>informed [1] - 949:27</p> <p>informing [1] - 949:31</p> <p>ink [1] - 994:24</p> <p>inquiries [1] - 1004:31</p> <p>Inquiry [22] - 935:19, 936:42, 936:44, 936:47, 937:21, 938:32, 949:46, 951:7, 952:29, 954:39, 971:27, 978:16, 979:38, 980:47, 981:2, 983:35, 996:8, 996:29, 998:38, 1000:24, 1000:40, 1001:21</p> <p>INQUIRY [2] - 934:18, 1004:37</p> <p>inquiry [8] - 935:22, 935:23, 936:8, 936:20, 952:14, 957:41, 968:20, 981:23</p> <p>inside [5] - 951:14, 951:20, 983:25, 987:13, 987:27</p> <p>insofar [1] - 963:33</p> <p>inspection [1] - 988:16</p> <p>inspiring [1] - 985:34</p> <p>instruction [1] - 942:4</p> <p>Instruction [2] - 942:7, 942:18</p> <p>instructions [1] - 941:46</p>
G	H	I	I	
<p>Gaelic [2] - 970:36, 970:39</p> <p>games [2] - 963:35, 963:43</p> <p>Gascoyne [1] - 957:26</p> <p>gather [1] - 980:46</p> <p>GCAPT [1] - 993:12</p> <p>general [1] - 941:22</p> <p>generally [1] - 935:46</p> <p>gentleman [4] - 956:34, 966:37, 979:22, 993:5</p> <p>gentlemen [1] - 972:23</p> <p>geography [1] - 990:5</p> <p>Geraldton [8] - 978:14, 978:15, 978:22, 978:29, 978:30, 979:2, 979:25, 980:44</p> <p>Gerhardt [2] - 969:2, 969:24</p> <p>German [17] - 935:40, 946:46, 953:44, 957:7, 957:28, 957:29, 958:32, 958:36, 967:1, 971:4, 984:10, 984:17, 989:16, 989:28, 989:32, 990:19, 997:26</p> <p>germane [1] - 954:39</p> <p>Germanic [4] - 994:5, 994:21, 994:25, 994:27</p> <p>Germans [1] - 997:32</p> <p>Germany [6] - 937:27, 969:19, 969:20, 969:28, 969:35, 969:39</p> <p>given [13] - 937:15, 937:27, 945:30, 960:27, 965:1, 966:29, 969:47, 973:5, 973:21, 974:24, 989:29, 993:29, 996:17</p> <p>Glebe [1] - 992:8</p> <p>Glenys [4] - 969:18, 971:20, 978:36, 995:20</p>	<p>Habenfeld [2] - 995:26, 995:32</p> <p>habit [1] - 948:12</p> <p>hair [1] - 992:3</p> <p>hairline [1] - 991:9</p> <p>half [17] - 972:4, 973:14, 973:38, 974:6, 974:9, 974:18, 974:23, 974:44, 974:46, 975:7, 975:14, 975:18, 975:24, 975:36, 975:39, 977:36, 998:15</p> <p>Hall [19] - 947:20, 948:2, 948:42, 948:44, 949:3, 950:4, 951:13, 951:16, 951:46, 951:47, 952:39, 952:43, 953:9, 953:20, 979:21, 980:11, 980:18, 981:2</p> <p>Hall's [3] - 949:23, 950:1, 980:33</p> <p>hand [2] - 947:47, 1002:44</p> <p>handed [2] - 959:4, 983:12</p> <p>hang [1] - 972:19</p> <p>Hans [1] - 968:6</p> <p>happily [1] - 997:4</p> <p>happy [10] - 936:3, 946:15,</p>	<p>idea [2] - 1000:6, 1000:8</p> <p>identified [3] - 982:31, 982:38, 1001:5</p> <p>identify [1] - 958:33</p> <p>identity [1] - 954:16</p> <p>iffy [1] - 1002:23</p> <p>ignorant [1] - 945:8</p> <p>Il [1] - 934:18</p> <p>ill [1] - 949:35</p> <p>illustration [1] - 961:11</p> <p>imagine [3] - 953:12, 953:24, 953:31</p> <p>immediate [1] - 970:34</p> <p>immediately [4] - 941:9, 946:7, 988:34, 991:10</p> <p>immigrants [1] - 971:4</p> <p>immigration [1] - 970:38</p> <p>imparted [2] - 943:37, 944:26</p> <p>Imperial [2] - 981:25, 982:2</p> <p>implications [2] - 960:40, 963:46</p> <p>importance [2] - 996:17, 996:26</p> <p>important [5] - 937:7, 943:11, 943:19, 985:4, 993:33</p> <p>impossible [2] - 938:34, 982:18</p> <p>impression [4] - 951:20, 951:22, 951:24, 999:44</p> <p>improve [1] - 950:33</p> <p>inch [1] - 978:39</p> <p>include [1] - 966:15</p> <p>included [3] - 958:5,</p>		

<p>instrumental [1] - 985:34</p> <p>intact [1] - 961:29</p> <p>Intelligence [3] - 972:43, 1003:2, 1003:3</p> <p>intelligence [3] - 952:36, 953:15, 966:34</p> <p>intend [1] - 951:22</p> <p>intention [1] - 972:11</p> <p>intentional [1] - 947:6</p> <p>intercept [2] - 956:16, 956:23</p> <p>interest [3] - 937:3, 937:5, 967:27</p> <p>interested [1] - 1004:14</p> <p>interfering [1] - 943:26</p> <p>intermediary [2] - 952:1, 953:31</p> <p>interment [1] - 985:14</p> <p>International [1] - 937:44</p> <p>internet [1] - 1000:23</p> <p>interpose [2] - 956:17, 974:33</p> <p>interpret [2] - 961:3, 968:37</p> <p>interpretation [4] - 960:45, 960:47, 967:8, 995:23</p> <p>interpretations [1] - 967:20</p> <p>interpreted [2] - 967:5, 967:10</p> <p>interrogate [1] - 995:15</p> <p>interrogated [1] - 978:29</p> <p>interrogation [4] - 938:21, 968:23, 970:2, 970:8</p> <p>interrogators [1] - 968:38</p> <p>interrupt [1] - 999:28</p> <p>interval [3] - 975:21, 975:41, 975:44</p> <p>INTERVIEW [2] - 959:12, 959:13</p> <p>interview [12] - 948:44, 949:10, 957:24, 958:22, 959:17, 959:25, 970:24, 972:41, 999:36, 999:39, 1000:12, 1001:15</p> <p>interviewed [9] - 949:1, 951:36, 952:47, 953:3, 1000:22, 1000:47, 1001:13, 1001:45, 1001:47</p> <p>interviewing [1] - 1003:19</p> <p>interviews [1] - 1001:8</p> <p>INTO [1] - 934:18</p> <p>introduce [4] - 943:19, 957:16, 978:13, 978:25</p> <p>introduced [1] - 954:37</p> <p>introducing [1] - 935:45</p> <p>introduction [1] - 988:47</p> <p>invalidate [2] - 982:23, 982:26</p> <p>investigated [1] - 937:4</p> <p>investigation [5] - 954:14, 954:38, 983:22, 985:12, 988:29</p> <p>invite [2] - 936:6, 967:20</p>	<p>invited [1] - 946:8</p> <p>invites [1] - 938:19</p> <p>involved [5] - 935:40, 948:29, 951:40, 973:23, 999:32</p> <p>involvement [10] - 945:1, 945:29, 947:19, 948:23, 959:43, 959:47, 960:4, 960:8, 963:41, 966:27</p> <p>involves [3] - 954:37, 955:46, 992:26</p> <p>irrelevant [1] - 998:10</p> <p>Island [9] - 944:37, 956:12, 983:36, 985:1, 988:41, 988:44, 989:8, 991:8, 991:31</p> <p>issued [1] - 965:23</p> <p>item [4] - 954:1, 985:4, 995:12, 1002:42</p> <p>items [4] - 936:2, 948:12, 956:8, 963:9</p> <p>itself [1] - 968:2</p> <p>Ivan [3] - 966:29, 969:46, 972:29</p>	<p>J</p> <p>Jack [2] - 1000:13, 1002:21</p> <p>jacketed [1] - 984:12</p> <p>James [1] - 952:12</p> <p>January [1] - 981:21</p> <p>Japan [9] - 954:31, 955:17, 955:22, 993:21, 993:33, 999:38, 999:41, 999:47, 1002:47</p> <p>Japanese [80] - 944:34, 944:43, 945:1, 945:7, 945:12, 945:19, 945:20, 945:29, 945:39, 945:44, 946:6, 946:10, 946:11, 946:16, 946:41, 946:42, 946:45, 948:23, 949:19, 949:20, 951:40, 952:18, 952:20, 953:41, 953:43, 954:5, 954:31, 955:19, 955:41, 956:2, 956:3, 956:24, 957:2, 957:5, 957:7, 957:22, 958:28, 958:41, 958:46, 959:44, 959:47, 960:5, 960:9, 960:36, 962:9, 962:44, 963:34, 963:35, 963:41, 964:3, 964:30, 965:7, 965:20, 966:22, 966:27, 968:12, 968:29, 968:35, 969:8, 973:12, 973:18, 974:6, 974:16, 974:30, 981:25, 981:26, 981:29, 981:34, 982:2, 982:4, 982:19, 989:22, 992:35, 993:20, 993:23, 993:28, 997:2, 997:27, 1002:39, 1003:5</p> <p>Jim [2] - 986:13, 987:41</p> <p>Jima [2] - 981:26, 982:3</p>	<p>Jindabyne [1] - 969:3</p> <p>John [6] - 985:39, 985:46, 986:29, 986:38, 987:1, 992:6</p> <p>join [1] - 946:8</p> <p>Join [1] - 948:15</p> <p>joint [1] - 936:9</p> <p>Joint [1] - 992:8</p> <p>journalist [3] - 948:42, 951:42, 957:10</p> <p>judge [2] - 936:16</p> <p>JULIAN [1] - 935:1</p> <p>June [1] - 943:24</p>	<p>997:46</p> <p>Kormoran's [3] - 970:4, 970:9, 997:44</p> <p>Kormoraner [1] - 968:6</p>	<p>968:5, 983:4, 988:12, 994:29</p> <p>letters [2] - 935:36, 951:32</p> <p>LEUT [8] - 934:33, 995:14, 995:31, 996:9, 996:32, 997:42, 998:9, 998:13</p> <p>level [2] - 934:29, 954:15</p> <p>lie [1] - 971:35</p> <p>lieutenant [2] - 985:40, 993:5</p> <p>life [2] - 969:21, 1001:9</p> <p>lifeboat [3] - 973:45, 975:37, 975:42</p> <p>lifeboats [4] - 973:32, 973:40, 997:10, 998:4</p> <p>lifted [1] - 954:33</p> <p>lights [2] - 978:34, 978:41</p> <p>line [5] - 980:15, 981:47, 994:32, 994:34</p> <p>liner [3] - 957:29, 967:28, 967:33</p> <p>liner" [1] - 967:31</p> <p>liners [1] - 967:33</p> <p>lines [1] - 984:4</p> <p>linked [1] - 952:37</p> <p>list [4] - 936:3, 957:15, 957:19, 1001:7</p> <p>List [1] - 966:33</p> <p>list" [1] - 948:2</p> <p>literally [1] - 967:1</p> <p>live [2] - 997:3, 997:25</p> <p>lived [2] - 969:20, 969:38</p> <p>Liverpool [1] - 1003:31</p> <p>lives [1] - 1001:46</p> <p>locate [1] - 960:23</p> <p>lodging [2] - 987:18, 987:26</p> <p>logic [1] - 954:26</p> <p>London [3] - 947:20, 953:21, 954:3</p> <p>longitude [1] - 963:21</p> <p>look [15] - 942:38, 947:46, 947:47, 948:15, 950:9, 951:9, 960:12, 968:42, 972:46, 984:5, 985:9, 995:38, 995:47, 996:3, 1000:9</p> <p>looked [3] - 993:38, 1000:22, 1001:39</p> <p>looking [8] - 948:8, 953:29, 957:23, 965:4, 984:33, 987:42, 991:12, 993:40</p> <p>Lord [2] - 964:12, 964:38</p> <p>Lords [1] - 966:12</p> <p>LOSS [1] - 934:18</p> <p>loss [7] - 935:41, 946:27, 948:26, 948:29, 964:33, 965:25, 994:39</p> <p>lost [3] - 955:18, 985:33, 1001:26</p> <p>low [3] - 987:7, 987:17, 987:25</p> <p>lowered [1] - 940:34</p> <p>LS3 [1] - 976:6</p> <p>Lucas [1] - 1003:29</p>
		<p>K</p> <p>K-E-N-D-L-E [1] - 1000:17</p> <p>Kai [1] - 955:10</p> <p>Karlov [1] - 999:32</p> <p>keep [4] - 945:35, 945:42, 1003:26, 1003:47</p> <p>keeping [1] - 947:4</p> <p>Kendle [10] - 1000:13, 1000:16, 1000:24, 1000:46, 1001:13, 1001:43, 1002:12, 1002:13, 1002:21, 1003:22</p> <p>Kennedy [2] - 1001:33, 1001:34</p> <p>kept [2] - 945:7, 945:44</p> <p>Kerr [1] - 934:33</p> <p>key [1] - 1001:23</p> <p>killed [3] - 963:29, 971:32, 997:6</p> <p>kind [1] - 1004:15</p> <p>knots [2] - 963:29, 980:31</p> <p>knowledge [12] - 945:28, 964:30, 968:38, 968:39, 970:20, 971:8, 971:9, 971:45, 980:7, 990:7, 990:14, 990:22</p> <p>known [5] - 949:1, 949:32, 966:35, 972:14, 1003:4</p> <p>Koblitz [4] - 968:6, 968:18, 968:22, 968:26</p> <p>Kormoran [60] - 935:15, 937:35, 938:43, 940:17, 940:19, 940:28, 940:46, 941:4, 941:35, 941:41, 941:47, 942:21, 946:33, 946:43, 958:28, 958:41, 958:46, 961:24, 963:38, 964:9, 964:39, 964:44, 966:28, 966:32, 966:34, 966:45, 967:2, 968:3, 968:10, 968:28, 969:7, 969:13, 969:17, 970:19, 970:21, 970:32, 973:10, 973:22, 974:6, 974:25, 975:3, 975:8, 975:15, 975:21, 975:35, 976:7, 976:21, 976:24, 976:31, 976:35, 976:38, 976:39, 977:11, 977:24, 995:15, 996:33, 996:42, 997:33,</p>	<p>L</p> <p>lack [1] - 947:11</p> <p>laid [1] - 962:38</p> <p>landed [2] - 966:33, 995:16</p> <p>Lane [5] - 979:22, 1002:5, 1002:8, 1002:10, 1002:17</p> <p>language [1] - 940:9</p> <p>large [4] - 947:47, 983:17, 989:22, 989:28</p> <p>last [12] - 937:21, 956:43, 961:38, 963:26, 978:31, 978:32, 984:4, 984:7, 993:46, 995:43, 1000:32, 1002:43</p> <p>late [4] - 948:45, 949:10, 952:17, 1001:23</p> <p>latitude [1] - 963:21</p> <p>latter [1] - 935:35</p> <p>launched [2] - 937:45, 958:47</p> <p>law [4] - 935:23, 935:26, 935:32, 944:29</p> <p>Law [1] - 937:44</p> <p>laying [1] - 976:6</p> <p>LAZY [1] - 994:7</p> <p>lazy [2] - 994:14, 994:20</p> <p>LCDR [5] - 934:35, 994:46, 995:1, 995:37, 995:38</p> <p>lead [4] - 947:32, 947:44, 984:13, 989:13</p> <p>lead-filled [1] - 984:13</p> <p>leader [1] - 955:10</p> <p>leading [2] - 952:17, 993:44</p> <p>learn [1] - 964:40</p> <p>learnt [3] - 951:39, 951:45, 964:46</p> <p>least [4] - 956:41, 963:43, 975:46, 984:35</p> <p>leave [3] - 955:8, 955:12, 981:4</p> <p>leaves [2] - 989:41, 989:44</p> <p>lecturer [1] - 990:5</p> <p>led [1] - 988:43</p> <p>left [10] - 937:41, 941:10, 954:20, 955:11, 969:34, 969:39, 972:15, 983:17, 992:32, 992:33</p> <p>legal [2] - 935:19, 935:21</p> <p>length [3] - 945:36, 945:42, 947:4</p> <p>lengths [1] - 935:36</p> <p>less [4] - 946:23, 961:34, 977:26, 978:40</p> <p>lesson [1] - 965:2</p> <p>lessons [3] - 964:21, 964:40, 964:46</p> <p>letter [6] - 962:42, 962:43,</p>		

<p>luck ^[1] - 1001:32 Lutheran ^[2] - 971:3, 971:14 lying ^[1] - 941:42</p>	<p>material ^[5] - 935:38, 936:22, 936:26, 937:12, 939:39 Materially ^[1] - 997:42 materials ^[1] - 937:4 matter ^[11] - 940:8, 955:41, 959:37, 967:32, 970:6, 977:34, 986:37, 992:30, 993:19, 993:32, 999:38 matters ^[6] - 937:11, 937:14, 972:3, 977:33, 994:43, 1004:25 McDonald ^[2] - 969:18, 971:20 McDonald's ^[5] - 978:36, 995:20, 995:30, 995:36, 995:42 mean ^[7] - 940:3, 942:25, 967:14, 974:45, 975:29, 1003:17, 1004:5 meaning ^[3] - 939:24, 983:29, 991:8 means ^[8] - 941:21, 946:41, 947:3, 953:25, 967:1, 967:10, 973:29, 990:43 meant ^[2] - 942:8, 986:26 measure ^[1] - 972:3 mechanisms ^[1] - 940:28 Media ^[1] - 999:17 medical ^[1] - 995:27 Medicine ^[2] - 992:8, 992:9 meeting ^[2] - 945:21, 945:22 Melbourne ^[16] - 943:22, 943:25, 949:36, 949:39, 949:41, 949:43, 950:30, 950:42, 950:44, 951:6, 951:37, 951:41, 952:32, 952:36, 953:20, 994:3 member ^[7] - 970:4, 970:9, 970:32, 986:17, 991:3, 991:6, 992:28 Member ^[1] - 964:13 members ^[4] - 945:6, 966:9, 991:25, 991:29 Memorial ^[11] - 982:41, 983:22, 983:28, 983:41, 983:47, 984:7, 989:3, 990:17, 990:25, 992:22, 992:31 memory ^[2] - 997:5, 1003:43 men ^[3] - 972:16, 988:15, 997:17 Menai ^[4] - 1003:36, 1003:37 mention ^[5] - 945:12, 951:5, 955:41, 957:5, 976:8 mentioned ^[8] - 936:4, 945:22, 951:6, 957:35, 957:40, 978:47, 979:21, 998:43 Menzies ^[1] - 965:41</p>	<p>merchant ^[2] - 942:6, 957:29 merely ^[3] - 940:46, 964:43, 997:28 Messerschmidt ^[2] - 937:27, 939:31 met ^[4] - 958:29, 958:42, 967:28, 973:1 metal ^[6] - 984:47, 987:9, 989:3, 990:21, 990:41, 990:47 metallurgical ^[2] - 984:26, 985:23 metallurgists ^[1] - 992:29 mic ^[1] - 1001:29 MICHAEL ^[1] - 935:1 middle ^[3] - 949:36, 957:46, 984:7 might ^[9] - 936:22, 936:27, 943:10, 952:42, 955:35, 957:13, 964:34, 971:46, 1003:43 Might ^[1] - 988:30 mild ^[1] - 989:34 mile ^[1] - 977:26 miles ^[25] - 945:15, 961:13, 963:28, 973:14, 973:26, 973:38, 974:6, 974:9, 974:18, 974:23, 974:44, 974:46, 975:2, 975:7, 975:14, 975:18, 975:24, 975:34, 975:37, 975:39, 975:46, 976:1, 977:24, 977:36, 997:2 Military ^[1] - 944:39 mind ^[10] - 936:38, 939:39, 939:45, 940:4, 959:3, 959:35, 981:32, 995:12, 997:31, 1002:16 mine ^[1] - 976:6 Mine ^[1] - 1001:35 mine-laying ^[1] - 976:6 minimal ^[1] - 942:20 minimise ^[1] - 942:14 Minister ^[2] - 992:17, 993:31 Minto ^[2] - 1003:27, 1003:31 minute ^[4] - 936:43, 938:22, 938:46, 958:31 minutes ^[6] - 938:26, 940:20, 940:23, 940:42, 941:4, 977:29 misleading ^[2] - 960:25, 960:26 misreading ^[1] - 939:13 missed ^[1] - 963:22 missing ^[1] - 961:29 missive ^[1] - 994:4 mistake ^[1] - 945:19 mistaken ^[2] - 935:43, 939:35 modus ^[1] - 954:31 moment ^[7] - 935:17, 954:30, 954:38, 956:17, 962:34, 980:45, 1002:45 Monday ^[1] - 934:39</p>	<p>money ^[1] - 983:37 MONTGOMERY ^[1] - 935:1 Montgomery ^[55] - 935:5, 935:13, 938:32, 939:1, 940:7, 940:16, 941:3, 942:37, 944:2, 944:32, 947:18, 948:15, 948:21, 950:10, 951:19, 951:35, 952:15, 952:34, 953:36, 955:25, 959:15, 959:19, 959:42, 960:14, 961:47, 963:5, 964:11, 964:37, 966:27, 967:47, 968:47, 977:34, 978:47, 980:4, 981:37, 981:40, 982:40, 984:5, 984:46, 988:30, 989:37, 991:22, 992:25, 993:42, 995:6, 995:42, 996:6, 1000:3, 1000:5, 1000:16, 1001:1, 1002:34, 1002:38, 1003:42, 1004:31 MONTGOMERY'S ^[1] - 959:12 Montgomery's ^[3] - 998:43, 999:25, 999:35 months ^[4] - 949:41, 987:44, 992:16, 993:18 Moreover ^[1] - 968:2 morning ^[3] - 956:13, 972:44, 981:9 morphological ^[1] - 984:26 Morse ^[1] - 979:6 most ^[6] - 942:29, 942:33, 944:21, 979:5, 979:8, 979:12 Most ^[3] - 954:43, 977:25, 1002:30 motive ^[2] - 970:4, 971:14 motives ^[1] - 992:42 motorboats ^[1] - 976:4 mount ^[1] - 955:34 Mountains ^[2] - 971:4, 972:47 mounted ^[1] - 996:43 moved ^[2] - 1000:26, 1002:24 moves ^[1] - 954:32 moving ^[2] - 977:41, 978:12 multiple ^[1] - 982:43 mural ^[4] - 981:24, 981:31, 981:33, 982:19 murals ^[1] - 1002:1 murder ^[1] - 990:11 must ^[14] - 943:15, 943:36, 943:42, 944:24, 961:16, 963:2, 967:28, 968:10, 968:28, 968:34, 970:5, 972:5, 973:29, 1002:22 mutating ^[1] - 992:42 muzzle ^[1] - 984:14</p>	<p style="text-align: center;">N</p> <p>NAA.026.0017 ^[1] - 964:12 NAA.040 ^[1] - 961:36 NAA.040.0391 ^[1] - 961:46 NAA.070.0245 ^[2] - 960:13, 961:40 NAA.074.0241 ^[1] - 963:14 name ^[18] - 957:37, 958:33, 969:2, 969:4, 970:2, 970:5, 971:11, 971:31, 972:23, 972:26, 978:16, 999:12, 1000:12, 1001:46, 1002:1, 1003:33, 1003:34, 1003:41 named ^[2] - 940:19, 979:22 namely ^[2] - 937:45, 992:35 nametags ^[1] - 1003:8 National ^[1] - 992:9 Nationalists ^[1] - 955:11 nationality ^[2] - 954:15, 954:21 nature ^[4] - 965:4, 971:19, 971:26, 979:31 nautical ^[1] - 973:26 Naval ^[44] - 942:44, 943:8, 943:22, 943:25, 943:31, 944:7, 944:21, 944:33, 944:47, 945:6, 945:18, 945:22, 945:30, 947:7, 947:12, 947:15, 949:19, 951:41, 952:18, 953:41, 954:47, 955:38, 955:40, 960:8, 960:15, 962:1, 962:31, 963:15, 963:41, 964:13, 965:6, 966:9, 968:8, 972:43, 981:25, 982:3, 984:28, 992:29, 999:37, 1000:3, 1002:45, 1003:1, 1003:2 Nave ^[13] - 949:1, 949:7, 949:11, 949:27, 949:47, 950:16, 950:39, 950:46, 951:20, 951:36, 951:47, 952:3, 952:17 Navy ^[16] - 943:34, 943:46, 945:20, 949:2, 968:2, 983:12, 983:44, 985:43, 986:1, 987:45, 988:1, 992:13, 992:16, 992:22, 992:29, 999:43 Navy's ^[2] - 985:39, 985:42 Nazi ^[3] - 948:33, 954:6, 957:13 near ^[3] - 973:31, 975:36, 975:39 nearly ^[3] - 961:24, 978:44, 994:1 necessarily ^[3] - 973:32, 974:41, 988:8 need ^[6] - 937:31, 974:39, 984:4, 985:13, 993:35,</p>
---	---	--	---	---

<p>1000:34 needs [1] - 985:11 negotiating [1] - 954:30 negotiations [2] - 955:9, 955:16 never [11] - 936:4, 948:19, 955:28, 962:43, 966:21, 969:20, 969:34, 969:39, 982:20, 1000:17, 1003:13 New [3] - 969:3, 992:8, 992:10 new [4] - 952:35, 952:36, 1003:28, 1003:44 Newcastle [2] - 1000:25, 1000:26 news [1] - 948:12 newspaper [1] - 954:2 newspapers [2] - 948:11, 993:44 newsprint [1] - 948:12 next [10] - 938:37, 947:17, 953:47, 954:12, 957:1, 962:30, 964:11, 967:40, 981:29, 987:44 NHQ.001.0023 [1] - 988:31 nice [1] - 1001:4 Nickel [1] - 989:20 night [3] - 954:39, 972:39, 1001:26 nine [3] - 974:46, 975:36, 975:39 Ninety [1] - 953:4 Ninety-second [1] - 953:4 nominally [1] - 946:1 nominated [1] - 969:12 none [3] - 957:20, 981:4, 983:2 normal [1] - 977:40 normally [1] - 963:4 north [5] - 944:43, 956:25, 966:45, 967:4, 1000:25 north-west [1] - 944:43 note [3] - 937:36, 945:17, 954:41 noted [2] - 958:17, 963:11 notes [4] - 957:23, 958:22, 996:30, 998:18 NOTES [1] - 959:12 nothing [4] - 950:21, 960:35, 984:24 notice [1] - 965:1 notified [1] - 956:41 November [15] - 952:7, 954:40, 957:1, 957:20, 959:43, 960:12, 961:45, 962:1, 963:17, 964:14, 966:40, 967:25, 981:8, 984:29, 988:7 Number [2] - 938:3, 938:24 number [8] - 936:29, 941:6, 955:45, 957:8, 957:10, 973:22, 983:17, 1003:8 numbered [2] - 957:46, 958:11</p>	<p style="text-align: center;">O</p> <p>o'clock [2] - 998:44, 998:47 oath [2] - 935:6, 973:21 oath:[9.30am] [1] - 935:1 object [5] - 985:5, 985:9, 987:11, 990:41, 990:47 objective [1] - 936:10 obligation [1] - 936:21 obliged [1] - 978:28 observation [1] - 991:2 observe [1] - 935:34 obtained [1] - 1001:32 obtaining [1] - 960:28 obvious [2] - 971:14, 988:34 obviously [6] - 963:2, 985:4, 990:13, 990:14, 995:17, 995:44 occasioned [1] - 1001:17 Occupation [1] - 981:22 occupation [1] - 999:22 occupied [1] - 1003:5 Occupying [4] - 999:37, 999:40, 999:47, 1002:46 ocean [1] - 967:31 ocean-going [1] - 967:31 October [1] - 943:29 odd [1] - 983:15 OF [3] - 934:18, 959:12 offer [1] - 955:7 offered [1] - 943:30 Office [1] - 983:12 office [2] - 952:36, 955:16 Officer [1] - 938:28 officer [9] - 953:15, 966:34, 969:13, 969:17, 978:30, 995:14, 995:27, 1003:2, 1003:3 officers [7] - 944:36, 944:41, 968:9, 968:23, 968:26, 972:43, 996:45 official [6] - 954:15, 966:44, 991:19, 994:11, 994:15, 994:38 often [1] - 997:10 oil [1] - 954:33 old [2] - 953:27, 1004:23 one [54] - 935:31, 935:35, 938:41, 939:10, 939:15, 939:26, 940:47, 944:20, 947:23, 954:9, 954:28, 955:6, 955:7, 956:3, 957:12, 961:2, 961:5, 961:10, 961:22, 961:23, 961:33, 961:38, 962:22, 962:27, 964:11, 966:39, 967:25, 967:27, 972:27, 973:16, 973:31, 977:12, 977:34, 983:45, 990:42, 992:32, 993:28, 994:2, 994:17, 994:31, 994:32, 995:12, 996:12, 997:38, 997:43, 998:12, 1000:7, 1001:1, 1001:17,</p>	<p>1001:23, 1002:1, 1002:15, 1003:25, 1004:8 One [5] - 936:34, 938:3, 938:24, 948:10, 966:33 one-hour [1] - 1004:8 ongoing [1] - 974:31 open [3] - 976:5, 989:42, 989:44 opened [5] - 938:10, 938:15, 938:17, 980:29, 997:33 opening [3] - 935:25, 938:23, 948:30 operation [1] - 979:23 operatives [1] - 973:1 opinion [7] - 935:14, 937:22, 938:33, 940:14, 944:47, 945:20, 945:28 opportunity [3] - 937:16, 995:7, 995:10 opposed [1] - 970:23 opposite [1] - 954:42 option [1] - 937:42 oral [1] - 970:35 order [5] - 935:46, 938:1, 966:31, 993:24, 998:19 ordered [1] - 957:27 orders [3] - 991:16, 991:18, 992:12 ordinary [1] - 940:8 organising [1] - 962:5 original [7] - 992:15, 994:22, 994:23, 995:22, 995:23, 1001:36, 1002:19 originally [1] - 988:2 originals [1] - 1002:15 otherwise [4] - 935:27, 957:21, 988:20, 991:42 OUT [1] - 994:8 outlets [1] - 1004:13 outlined [3] - 971:8, 971:19, 971:26 outright [1] - 945:43 overdue [1] - 942:46 overnight [1] - 978:29 overrode [1] - 993:35 overseas [1] - 937:6 overstatement [1] - 943:7 own [5] - 935:24, 936:10, 938:10, 940:4, 971:29 Oxford [2] - 985:7, 989:44</p>	<p>986:9, 986:11, 986:15, 986:31, 989:1, 989:25, 992:41, 993:42, 993:46, 995:37, 995:39 Page [3] - 951:4, 981:36, 986:8 Pages [1] - 1000:22 pages [1] - 957:18 paid [1] - 996:7 painted [1] - 981:31 paper [1] - 937:31 parade [4] - 972:11, 972:13, 972:16, 972:18 paragraph [16] - 937:33, 937:36, 938:37, 948:30, 948:31, 949:8, 951:4, 951:10, 951:32, 954:12, 958:11, 980:15, 981:37, 984:4, 984:8, 993:46 pardon [1] - 958:31 parliamentary [4] - 952:14, 952:28, 957:41, 981:23 Parsons [13] - 985:35, 986:13, 986:28, 986:29, 986:37, 987:2, 987:6, 987:33, 987:39, 987:41, 988:39, 988:43, 992:15 part [18] - 942:42, 948:37, 956:18, 964:41, 968:24, 974:31, 979:22, 981:22, 990:36, 991:15, 997:14, 997:29, 997:36, 997:37, 997:39, 998:5, 999:45, 1001:2 particular [2] - 958:2, 981:4 particularly [3] - 948:22, 981:46, 994:28 parties [3] - 936:18, 963:42, 964:2 passage [1] - 958:4 passed [1] - 940:13 passenger [1] - 957:29 passing [2] - 955:42, 970:5 past [1] - 990:25 pastor [1] - 971:4 Pastor [6] - 966:29, 968:43, 970:44, 970:46, 971:2, 973:44 PAT [1] - 959:13 Pat [2] - 957:24, 957:38 pathologist [1] - 990:33 Pathologist [1] - 992:7 Patrick [1] - 935:37 Pattner [2] - 940:19, 941:1 penetrate [1] - 978:45 penetrated [1] - 984:18 penetrations [1] - 983:16 penultimate [1] - 993:42 people [16] - 936:29, 956:12, 973:22, 977:25, 979:39, 986:20, 988:36, 991:7, 991:31, 996:46, 997:1, 997:27, 997:46, 1001:5, 1001:7, 1001:28</p>	<p>People [1] - 963:5 percentage [1] - 978:44 perfect [1] - 987:15 perfectly [2] - 984:36, 987:7 performations [1] - 984:36 Perhaps [3] - 937:32, 951:9, 956:46 perhaps [5] - 937:36, 959:6, 968:11, 968:29, 968:34 period [3] - 941:6, 974:33, 989:33 permanent [1] - 950:23 permission [1] - 1001:32 permitted [2] - 943:32, 979:32 Perryman [5] - 985:40, 985:46, 986:29, 986:39, 987:1 Person [1] - 955:1 person [15] - 936:19, 936:38, 937:3, 944:20, 944:38, 969:1, 969:11, 969:24, 970:1, 970:9, 971:9, 972:37, 988:3, 999:37, 999:40 person's [1] - 1000:12 personnel [1] - 989:2 persons [1] - 1001:12 persuasions [2] - 965:29, 965:35 Perth [1] - 1001:26 Peter [2] - 985:5, 989:44 Petersen [5] - 996:9, 996:32, 997:42, 998:9, 998:13 phone [1] - 1003:38 photocopy [1] - 947:47 photograph [3] - 948:18, 985:5, 985:10 photographs [3] - 988:1, 988:10, 988:18 phrased [2] - 939:24, 939:36 phrasology [1] - 950:29 phrasing [2] - 940:2, 946:28 physical [1] - 990:5 picked [2] - 944:44, 1002:39 picture [1] - 965:14 pictures [1] - 988:24 piece [12] - 954:2, 956:22, 956:47, 957:1, 978:25, 978:33, 985:20, 988:13, 988:14, 989:16, 989:28, 990:21 pieces [3] - 954:9, 1001:21, 1002:29 piercing [2] - 989:23, 989:29 PINQ.SUBS.011.0097 [1] - 998:28 place [15] - 938:19, 938:20, 947:14, 950:20, 950:25, 951:15, 953:25,</p>
. 1/12/08		P	<p>page [41] - 937:33, 942:38, 947:21, 947:25, 947:30, 948:16, 949:7, 951:1, 951:9, 951:29, 951:31, 953:38, 953:47, 954:42, 957:19, 957:45, 957:46, 958:4, 958:8, 958:12, 959:24, 967:46, 967:47, 968:19, 974:12, 974:28, 980:14, 980:15, 981:18,</p>	

<p>961:23, 961:33, 963:21, 970:31, 993:28, 996:38, 997:43, 1003:4</p> <p>placed [1] - 993:43</p> <p>plain [6] - 962:23, 979:3, 979:4, 979:25, 979:28, 979:32</p> <p>plans [1] - 940:27</p> <p>plates [1] - 938:23</p> <p>playing [2] - 963:35, 963:43</p> <p>plus [1] - 954:19</p> <p>Point [1] - 957:10</p> <p>point [17] - 943:45, 944:35, 957:8, 957:34, 957:46, 958:2, 958:14, 958:17, 961:2, 967:5, 967:40, 968:40, 978:13, 988:23, 1003:19, 1004:7, 1004:12</p> <p>pointed [1] - 937:26</p> <p>pointing [2] - 956:9, 990:46</p> <p>points [2] - 957:14, 957:15</p> <p>police [1] - 978:29</p> <p>political [10] - 954:29, 954:34, 960:28, 960:39, 962:11, 963:46, 964:4, 965:29, 965:35, 993:34</p> <p>popular [1] - 950:29</p> <p>port [3] - 961:13, 978:23, 978:40</p> <p>portion [2] - 935:31, 998:3</p> <p>position [13] - 941:5, 941:45, 942:3, 942:16, 942:31, 943:23, 956:7, 956:8, 962:45, 975:34, 977:9, 977:38, 992:38</p> <p>positions [1] - 941:41</p> <p>positive [1] - 990:43</p> <p>possession [1] - 1001:37</p> <p>possibilities [1] - 957:12</p> <p>possibility [22] - 943:1, 943:14, 943:35, 944:9, 944:21, 944:22, 946:26, 946:38, 948:25, 948:28, 948:38, 948:41, 948:42, 953:39, 954:9, 954:20, 954:23, 955:28, 983:35, 989:42, 1001:2</p> <p>possible [8] - 935:45, 945:13, 954:15, 955:2, 962:47, 967:8, 967:20, 1001:20</p> <p>possibly [4] - 946:5, 955:6, 959:19, 982:37</p> <p>post [1] - 943:31</p> <p>posting [1] - 996:10</p> <p>postmark [1] - 994:3</p> <p>potential [1] - 942:12</p> <p>powers [1] - 936:19</p> <p>PoWs [3] - 964:39, 993:19, 993:23</p> <p>precise [1] - 938:4</p> <p>precisely [1] - 992:38</p> <p>prefer [2] - 973:23, 995:22</p> <p>preferring [1] - 963:44</p>	<p>prepared [5] - 962:10, 962:33, 980:46, 992:20, 1002:6</p> <p>presence [1] - 944:36</p> <p>present [1] - 973:4</p> <p>presented [5] - 942:10, 942:19, 947:43, 948:16, 988:2</p> <p>preserved [1] - 988:15</p> <p>PRESIDENT [70] - 935:5, 935:9, 935:31, 937:19, 939:18, 940:7, 943:13, 944:2, 944:28, 945:11, 945:34, 946:30, 951:1, 951:31, 953:34, 957:45, 959:9, 959:24, 959:34, 959:40, 961:8, 961:38, 961:43, 962:17, 963:11, 965:18, 966:15, 966:20, 966:37, 967:22, 972:26, 973:8, 976:44, 977:28, 978:19, 979:8, 979:37, 980:2, 981:36, 982:46, 983:40, 984:39, 985:16, 986:4, 988:27, 989:47, 990:16, 990:27, 991:22, 992:25, 993:11, 993:37, 994:34, 994:46, 995:4, 995:34, 995:41, 995:47, 996:5, 998:30, 998:37, 998:46, 999:28, 1000:29, 1000:44, 1002:32, 1003:31, 1004:3, 1004:27, 1004:34</p> <p>President [7] - 954:30, 955:1, 955:8, 955:14, 955:19, 962:42, 962:47</p> <p>press [1] - 985:39</p> <p>pretext [2] - 970:35, 970:40</p> <p>prevent [2] - 992:34, 993:24</p> <p>prevented [1] - 941:5</p> <p>previous [7] - 944:37, 955:29, 956:44, 962:22, 963:19, 992:6, 996:29</p> <p>previously [1] - 980:44</p> <p>priest [1] - 971:14</p> <p>prime [1] - 988:13</p> <p>printing [1] - 994:27</p> <p>prisoners [2] - 964:17, 964:39</p> <p>probable [3] - 962:4, 983:24, 989:27</p> <p>procedure [2] - 937:41, 939:30</p> <p>proceed [1] - 966:30</p> <p>proceeding [1] - 961:26</p> <p>process [4] - 935:28, 938:11, 954:26, 992:14</p> <p>produce [2] - 954:36, 963:9</p> <p>produced [1] - 948:45</p> <p>professor [1] - 985:7</p> <p>Professor [12] - 935:37, 983:45, 992:9, 992:20,</p>	<p>992:31, 998:42, 999:4, 999:6, 999:12, 999:16, 1000:46, 1001:12</p> <p>professorship [1] - 999:21</p> <p>progress [2] - 975:37, 975:42</p> <p>project [2] - 1001:40, 1004:7</p> <p>projectile [3] - 989:12, 989:23, 989:29</p> <p>projectiles [1] - 984:16</p> <p>promote [1] - 950:38</p> <p>proper [1] - 950:25</p> <p>properly [1] - 967:10</p> <p>propose [2] - 936:25</p> <p>proposed [1] - 984:15</p> <p>proposition [2] - 952:23, 968:22</p> <p>prosecution [1] - 935:28</p> <p>provide [5] - 935:25, 960:37, 1000:39, 1000:41, 1001:20</p> <p>provided [3] - 954:32, 994:15, 1003:41</p> <p>provides [1] - 968:29</p> <p>proving [1] - 963:5</p> <p>public [7] - 948:24, 948:39, 991:3, 991:6, 991:25, 991:29, 993:33</p> <p>publication [1] - 956:42</p> <p>puncturing [1] - 987:14</p> <p>pure [1] - 962:36</p> <p>purported [1] - 969:25</p> <p>purports [1] - 965:7</p> <p>purpose [6] - 935:45, 944:41, 947:29, 956:15, 956:23, 964:1</p> <p>purposes [3] - 950:33, 950:38, 969:47</p> <p>put [31] - 938:4, 939:19, 940:3, 948:41, 948:42, 949:38, 950:29, 950:32, 952:23, 953:36, 953:47, 954:22, 964:33, 964:39, 965:14, 968:22, 968:27, 969:11, 971:7, 971:10, 975:44, 977:25, 981:10, 986:31, 986:33, 988:8, 989:36, 992:12, 995:44, 998:34, 1001:3</p> <p>putting [3] - 940:45, 960:30, 962:46</p>	<p>968:7, 970:17, 981:28</p> <p>questioning [2] - 936:7, 995:7</p> <p>questions [5] - 936:44, 936:45, 966:23, 970:19, 995:1</p> <p>quickly [2] - 940:34, 995:37</p> <p>quite [12] - 938:4, 940:34, 941:6, 943:5, 950:41, 951:38, 952:11, 954:37, 961:11, 973:29, 974:26, 1003:18</p> <p>quotation [1] - 959:16</p> <p>quote [2] - 951:11, 979:45</p> <p>quoted [4] - 938:25, 961:10, 968:19, 979:24</p> <p>quotes [1] - 986:25</p> <p>quoting [1] - 940:46</p>	<p>reasonable [1] - 950:25</p> <p>reasonably [1] - 950:9</p> <p>reasoned [1] - 935:25</p> <p>reasons [5] - 947:3, 949:35, 965:46, 990:24, 992:46</p> <p>receive [1] - 944:42</p> <p>received [13] - 955:14, 965:1, 971:3, 978:15, 979:1, 979:13, 979:20, 979:24, 979:38, 980:10, 986:12, 994:2, 994:40</p> <p>Received [1] - 979:17</p> <p>recent [3] - 942:29, 942:33, 1000:32</p> <p>quoted [1] - 956:34</p> <p>recipients [1] - 963:16</p> <p>recollection [1] - 997:36</p> <p>recollections [1] - 996:30</p> <p>record [3] - 947:13, 963:2, 1003:45</p> <p>recorded [5] - 943:30, 974:5, 979:20, 980:26, 980:33</p> <p>recording [1] - 1001:30</p> <p>records [6] - 955:7, 965:9, 970:13, 981:8, 1003:22, 1003:26</p> <p>recounted [2] - 955:26, 972:32</p> <p>recounting [2] - 997:41, 998:9</p> <p>recover [1] - 983:38</p> <p>recovered [5] - 982:42, 983:36, 983:46, 989:6, 991:7</p> <p>recovering [1] - 983:7</p> <p>recovery [3] - 988:35, 988:40, 988:43</p> <p>refer [15] - 942:39, 942:42, 943:5, 947:18, 949:7, 949:26, 967:37, 967:46, 979:1, 980:10, 981:17, 981:18, 991:30, 993:43, 996:12</p> <p>reference [12] - 946:30, 950:45, 951:28, 961:38, 963:33, 963:34, 963:35, 995:34, 995:36, 995:41, 998:18, 998:23</p> <p>referred [10] - 952:35, 953:40, 955:30, 957:25, 967:30, 995:38, 996:20, 998:25, 999:36, 1000:3</p> <p>referring [4] - 948:30, 948:37, 980:16, 984:22</p> <p>refused [2] - 976:7, 981:30</p> <p>refuses [1] - 988:1</p> <p>regard [6] - 936:22, 936:27, 943:7, 982:44, 989:6, 998:31</p> <p>regarded [2] - 944:29, 990:6</p> <p>regarding [1] - 964:18</p> <p>regards [1] - 944:21</p> <p>reject [1] - 998:12</p> <p>rejected [1] - 1004:12</p>
			R	
			<p>rafts [1] - 963:30</p> <p>raider [11] - 960:19, 960:31, 961:2, 961:4, 962:18, 962:29, 963:19, 963:25, 963:28, 964:19, 980:28</p> <p>Raider [1] - 963:29</p> <p>raiders [2] - 963:22, 964:34</p> <p>rails [1] - 938:12</p> <p>raised [4] - 938:16, 940:37, 944:36, 953:37</p> <p>range [1] - 977:35</p> <p>RANR [3] - 934:32, 934:33, 934:35</p> <p>rather [3] - 946:11, 977:26, 995:22</p> <p>re [1] - 985:14</p> <p>re-interment [1] - 985:14</p> <p>reached [1] - 936:45</p> <p>reaction [2] - 955:14, 962:47</p> <p>read [20] - 937:37, 939:6, 939:14, 939:20, 951:25, 951:27, 954:1, 956:46, 958:1, 958:19, 973:34, 978:20, 980:22, 981:46, 986:5, 991:40, 995:43, 996:16, 996:29, 1002:34</p> <p>readiness [1] - 940:12</p> <p>reading [2] - 958:21, 984:7</p> <p>reads [4] - 938:6, 960:16, 960:47, 961:3</p> <p>ready [1] - 988:16</p> <p>real [4] - 943:36, 943:42, 943:45, 969:4</p> <p>realise [1] - 964:4</p> <p>reality [1] - 954:22</p> <p>really [4] - 940:24, 952:44, 955:34, 969:43</p> <p>rear [1] - 992:1</p> <p>reason [6] - 944:24, 944:25, 956:4, 1001:30, 1003:25, 1003:47</p>	
			Q	
		<p>QC [2] - 934:25, 934:32</p> <p>qualification [1] - 984:43</p> <p>qualifications [1] - 984:40</p> <p>qualified [1] - 979:41</p> <p>quarter [2] - 941:43, 976:42</p> <p>Queensland [2] - 999:18, 1002:18</p> <p>queried [2] - 987:17, 987:25</p> <p>questioned [4] - 935:34,</p>		

<p>rejecting [1] - 1004:10 related [2] - 956:3, 965:19 relates [2] - 953:41, 955:26 relating [2] - 965:23, 990:10 relation [17] - 936:36, 937:26, 939:40, 940:23, 940:28, 940:29, 941:14, 941:46, 942:5, 942:38, 957:11, 966:27, 984:46, 985:1, 990:22, 1001:8, 1001:13 relationship [2] - 943:20, 945:30 relatively [1] - 984:18 relayed [2] - 986:29, 986:39 release [2] - 972:10, 988:1 released [2] - 988:10, 993:19 relevant [3] - 936:22, 938:6, 994:43 relied [2] - 966:26, 969:43 rely [4] - 940:22, 940:24, 970:16 remain [3] - 946:15, 946:18, 963:2 remainder [1] - 987:14 remained [1] - 963:29 remark [2] - 949:4, 991:44 remarked [1] - 991:46 remember [4] - 948:10, 954:28, 1000:30, 1003:14 remembering [1] - 1000:33 Removal [1] - 938:6 removed [3] - 937:43, 972:22, 984:25 rendezvous [2] - 967:5, 967:16 Renwick [2] - 934:35, 994:46 RENEWICK [1] - 995:1 repeat [3] - 950:36, 985:31, 1002:45 repeated [1] - 973:5 repeating [1] - 948:12 replied [2] - 943:31, 978:31 replies [1] - 994:1 reply [3] - 941:10, 985:7, 987:36 Report [2] - 938:5, 938:27 report [8] - 983:28, 986:5, 990:36, 990:40, 990:45, 992:11, 992:21, 993:27 reported [3] - 974:5, 985:33, 995:16 reporter [1] - 980:43 reporters [1] - 972:16 reporting [2] - 993:24, 996:8 reports [3] - 963:20, 991:40, 992:30</p>	<p>represent [1] - 946:23 representative [1] - 985:39 represented [4] - 969:14, 981:33, 994:11, 994:16 Representing [1] - 934:35 represents [1] - 994:37 reproduce [1] - 954:41 request [1] - 960:37 Request [1] - 960:22 required [2] - 941:35, 942:11 requirements [1] - 992:21 requires [1] - 1000:42 research [2] - 982:40, 1004:22 Research [1] - 992:10 researched [1] - 955:5 researchers [1] - 984:6 resemblance [1] - 984:26 residence [1] - 1003:4 resign [1] - 943:30 resort [1] - 937:42 respective [1] - 941:40 responsible [5] - 942:41, 948:25, 950:20, 983:2, 993:30 rest [3] - 982:24, 982:26, 982:29 result [2] - 935:47, 942:47 resurrect [1] - 935:36 return [1] - 961:13 returning [1] - 993:21 reveal [2] - 938:15, 1003:22 revealed [1] - 955:18 revolvers [1] - 996:45 RFD [2] - 934:25, 934:32 Richardson [4] - 1001:45, 1002:10, 1002:20, 1003:45 rifles [1] - 996:44 rigging [1] - 944:41 right-hand [1] - 947:47 RN [1] - 980:24 roads [1] - 978:27 room [1] - 963:26 Roosevelt [6] - 954:30, 954:40, 955:8, 955:19, 962:42, 963:1 Roosevelt's [1] - 955:14 Rottnest [2] - 944:37, 956:12 round [5] - 938:24, 938:46, 987:7, 987:8, 988:19 rowing [2] - 975:43, 976:1 Royal [1] - 948:19 Rudd [1] - 965:38 rule [1] - 972:10 rules [1] - 997:34 run [2] - 994:24, 1002:16 running [2] - 943:27, 981:10 Rusbridger [1] - 952:12 Rush [8] - 934:32, 936:43,</p>	<p>936:46, 937:10, 937:19, 959:3, 967:22, 988:27 RUSH [61] - 935:3, 935:11, 937:21, 939:34, 940:16, 943:39, 944:32, 945:17, 946:25, 947:17, 951:9, 952:14, 957:43, 959:6, 959:15, 959:31, 959:37, 959:42, 961:31, 961:40, 961:45, 963:14, 965:27, 966:18, 966:26, 967:30, 972:31, 974:4, 977:3, 977:33, 978:38, 979:27, 980:4, 981:39, 983:21, 984:3, 984:46, 985:42, 988:29, 990:2, 990:29, 992:5, 993:9, 993:42, 994:31, 994:37, 994:43, 995:36, 996:3, 998:28, 998:42, 999:4, 999:10, 999:12, 999:35, 1000:39, 1000:46, 1002:34, 1003:36, 1004:25, 1004:31 Rush's [1] - 995:7 Rush [1] - 959:4 Russian [1] - 971:32 Rycroft [5] - 995:14, 995:31, 995:36, 995:37, 995:38</p>	<p>966:12, 978:9 sea [1] - 978:7 Seagoing [2] - 967:28, 967:32 seaman [1] - 957:29 search [3] - 962:5, 962:8, 985:35 second [11] - 935:41, 947:25, 951:31, 953:4, 954:1, 954:2, 974:12, 990:42, 997:44, 998:5, 999:44 Second [1] - 984:11 seconds [5] - 937:36, 938:1, 938:9, 938:20, 938:33 secret [1] - 977:25 Secret [1] - 954:43 secretary [1] - 962:42 sedimentation [1] - 990:22 sedimentology [1] - 990:10 sediments [1] - 990:9 see [19] - 936:22, 946:25, 947:21, 948:1, 951:33, 960:13, 961:26, 961:46, 968:24, 975:34, 981:46, 988:3, 988:21, 988:47, 990:16, 994:24, 995:38, 1004:13, 1004:31 seeing [1] - 973:27 seek [1] - 935:18 seeking [1] - 993:45 seeks [1] - 935:28 seem [3] - 957:35, 957:47, 985:11 Senate [1] - 968:20 sending [1] - 979:4 senior [2] - 944:36, 953:15 sense [5] - 939:18, 963:40, 967:33, 971:12 sensible [1] - 962:28 sensitive [4] - 960:28, 962:11, 962:20, 963:45 sensitivity [1] - 964:5 sent [9] - 954:40, 956:42, 962:42, 990:37, 1001:26, 1001:36, 1004:9, 1004:10, 1004:11 sentence [1] - 986:23 separate [3] - 942:40, 943:5, 974:26 September [1] - 986:24 sequence [1] - 953:34 series [1] - 957:19 seriously [3] - 964:29, 964:37, 972:6 seriousness [1] - 972:29 service [1] - 988:7 set [7] - 941:38, 952:35, 963:5, 963:42, 986:25, 992:41, 994:14 seven [1] - 955:26 several [4] - 936:2, 956:8,</p>	<p>975:21, 1004:21 severe [1] - 971:21 severely [1] - 961:12 shall [2] - 998:46, 1004:34 shared [1] - 991:2 Shel [1] - 955:10 shell [1] - 978:39 shells [1] - 989:32 shift [1] - 981:9 Shinwell [1] - 993:31 ship [17] - 940:29, 942:6, 943:2, 944:14, 946:31, 946:39, 946:42, 946:46, 953:42, 953:44, 957:6, 957:7, 976:8, 993:22, 995:27, 1000:7 ship's [1] - 938:12 ships [5] - 973:10, 973:34, 982:11, 982:14, 982:21 shooting [1] - 1002:24 shore [1] - 975:44 short [3] - 938:29, 977:28, 979:6 SHORT [2] - 977:31, 999:2 short-wave [1] - 979:6 shortly [1] - 972:15 shot [10] - 938:2, 984:15, 996:46, 997:1, 997:26, 997:27, 997:46, 1000:27, 1001:15, 1001:17 shouldered [1] - 943:25 show [4] - 936:35, 943:27, 988:24, 994:24 showed [1] - 961:10 showing [1] - 959:3 shown [2] - 962:30, 978:38 shows [1] - 943:8 shrapnel [10] - 982:43, 983:1, 983:5, 983:18, 984:1, 985:20, 985:27, 987:46, 989:28, 990:19 sic [2] - 940:19, 941:1 side [2] - 978:40, 978:41 side [1] - 978:31 sign [1] - 977:25 signal [12] - 952:10, 956:23, 963:15, 964:34, 978:13, 978:20, 979:24, 980:10, 980:11, 980:20, 981:5, 981:10 signals [20] - 944:39, 944:42, 944:44, 956:16, 956:19, 965:8, 966:2, 978:47, 979:1, 979:2, 979:3, 979:4, 979:5, 979:23, 979:29, 980:16, 980:26 silent [1] - 1003:38 similar [2] - 961:11, 993:1 Singapore [14] - 950:11, 950:17, 950:34, 950:40, 951:39, 951:45, 951:46, 952:4, 953:21, 953:22, 979:21, 979:23, 980:11, 980:25</p>
S		<p>sac [1] - 1003:44 sack [2] - 1003:6, 1003:7 safe [1] - 972:24 sailing [1] - 980:30 salvo [2] - 938:28, 963:23 salvos [1] - 941:6 sample [1] - 989:47 samples [1] - 983:17 sank [8] - 958:47, 964:30, 968:10, 968:27, 975:2, 975:14, 975:21, 975:29 satisfied [1] - 977:35 save [1] - 968:47 saw [4] - 947:43, 973:45, 977:36, 1002:1 SBS [2] - 1004:9 Scharnhorst [1] - 935:40 scheme [2] - 971:5, 972:42 School [2] - 992:9, 999:17 scientist [2] - 985:6, 990:6 scoop [2] - 949:23, 950:1 scored [3] - 973:10, 974:14, 974:28 screen [5] - 947:38, 947:42, 948:9, 981:43, 984:5 script [3] - 1004:4, 1004:8, 1004:18 scriptwriting [1] - 1001:3 sea [5] - 967:34, 977:46, 977:47, 978:5, 978:6 Sea [4] - 964:12, 964:38,</p>		

<p>single [1] - 942:5</p> <p>sink [1] - 961:18</p> <p>sinking [10] - 949:20, 950:16, 950:22, 950:26, 950:35, 952:20, 955:27, 955:31, 981:33, 992:35</p> <p>sitting [2] - 936:20, 942:30</p> <p>situation [5] - 942:10, 943:29, 954:34, 955:30, 960:28</p> <p>six [8] - 937:35, 938:1, 938:8, 938:20, 938:33, 963:12, 975:44, 975:46</p> <p>Six [1] - 976:1</p> <p>sketches [1] - 966:38</p> <p>skip [1] - 955:15</p> <p>skull [21] - 984:47, 985:32, 985:36, 987:6, 987:15, 987:18, 987:26, 988:2, 988:24, 989:4, 989:7, 990:37, 990:41, 991:1, 991:4, 991:6, 991:12, 991:23, 991:24, 991:42</p> <p>slight [1] - 955:9</p> <p>small [8] - 935:31, 983:29, 989:11, 989:16, 989:36, 990:18, 999:43, 1000:7</p> <p>Smith [1] - 991:32</p> <p>smokescreen [1] - 963:27</p> <p>Snowy [2] - 971:4, 972:47</p> <p>so-called [2] - 973:4, 1001:23</p> <p>society [1] - 937:6</p> <p>soft [1] - 984:19</p> <p>solicitor [1] - 1003:46</p> <p>somewhat [2] - 943:6, 978:21</p> <p>somewhere [5] - 977:46, 981:41, 1002:22, 1004:20</p> <p>son [1] - 1003:46</p> <p>soon [4] - 943:24, 955:2, 967:28, 1002:47</p> <p>sorry [16] - 942:1, 951:28, 955:2, 957:47, 958:1, 958:15, 959:29, 967:41, 984:41, 985:3, 985:17, 991:35, 996:22, 998:18, 999:45, 1000:31</p> <p>Sorry [16] - 950:36, 950:45, 956:17, 956:38, 957:23, 959:16, 970:12, 971:47, 976:32, 976:45, 978:1, 979:10, 980:37, 988:32, 1002:5, 1003:37</p> <p>sort [7] - 953:31, 953:45, 964:41, 971:7, 971:10, 994:37, 1001:15</p> <p>sounding [2] - 935:39, 1002:23</p> <p>source [10] - 940:24, 948:47, 949:3, 949:22, 950:1, 951:13, 978:16, 978:36, 995:24, 995:25</p> <p>sources [1] - 995:22</p> <p>south [1] - 963:28</p> <p>South [3] - 969:3, 992:8,</p>	<p>992:10</p> <p>south/south [1] - 966:41</p> <p>south/south-east [1] - 966:41</p> <p>Southern [2] - 999:18, 1002:18</p> <p>souvenired [1] - 983:7</p> <p>space [3] - 939:42, 948:11, 973:42</p> <p>Sparkes [1] - 1002:17</p> <p>speaking [1] - 979:38</p> <p>specialist [1] - 990:33</p> <p>speciality [2] - 990:11, 990:13</p> <p>specific [3] - 941:36, 942:28, 944:41</p> <p>speculate [2] - 952:44, 953:26</p> <p>speculating [3] - 944:20, 962:27, 997:19</p> <p>speculation [17] - 946:27, 954:2, 954:9, 954:19, 954:23, 955:28, 955:29, 955:34, 955:36, 955:46, 957:10, 962:36, 970:6, 997:14, 997:19, 997:28, 997:39</p> <p>spelled [1] - 1000:15</p> <p>spelling [3] - 1000:16, 1000:18, 1003:39</p> <p>spent [1] - 983:37</p> <p>splinter [1] - 987:46</p> <p>spokesman [3] - 983:34, 985:43, 986:1</p> <p>Spry [4] - 970:3, 972:34, 972:37, 972:41</p> <p>Squadron [2] - 943:21, 946:2</p> <p>squadron [1] - 1000:7</p> <p>stage [4] - 937:29, 956:47, 1000:8, 1001:1</p> <p>stand [2] - 949:44, 980:12</p> <p>standard [2] - 940:11, 984:10</p> <p>starboard [3] - 941:43, 976:42, 978:40</p> <p>start [2] - 960:38, 999:39</p> <p>starting [2] - 957:20, 1003:33</p> <p>starts [1] - 986:11</p> <p>state [12] - 938:37, 945:30, 955:21, 977:46, 977:47, 978:6, 978:9, 978:27, 980:42, 981:19, 983:46, 989:4</p> <p>State [2] - 936:18, 993:44</p> <p>statement [24] - 935:25, 939:31, 940:10, 942:34, 948:24, 949:46, 953:38, 956:7, 956:18, 968:26, 972:9, 972:11, 972:13, 972:15, 988:35, 988:38, 992:15, 995:14, 996:8, 996:21, 997:6, 997:23, 998:6, 1001:25</p> <p>statements [7] - 965:24, 987:45, 991:30, 991:34,</p>	<p>991:37, 991:41, 992:16</p> <p>stating [5] - 944:20, 963:16, 997:32, 997:38</p> <p>Station [4] - 960:4, 963:16, 963:40, 965:6</p> <p>stationary [2] - 941:43, 973:35</p> <p>stationed [1] - 956:25</p> <p>Stations [16] - 935:16, 937:23, 938:40, 939:3, 939:4, 939:9, 939:15, 939:21, 939:26, 939:28, 939:30, 939:40, 940:1, 940:4, 940:11, 942:8</p> <p>stations [1] - 940:12</p> <p>Stations" [1] - 939:23</p> <p>statutory [1] - 956:18</p> <p>stayed [1] - 1001:10</p> <p>steel [1] - 989:34</p> <p>steels [1] - 989:31</p> <p>steeply [1] - 1004:22</p> <p>steering [2] - 963:28, 966:45</p> <p>step [1] - 953:47</p> <p>STEPHEN [1] - 935:1</p> <p>steps [1] - 960:22</p> <p>stern [3] - 942:12, 976:31, 976:35</p> <p>still [19] - 937:46, 938:40, 939:9, 939:15, 939:26, 940:35, 942:19, 945:35, 951:28, 978:22, 978:34, 978:35, 978:42, 983:25, 989:41, 992:3, 1001:6, 1002:25, 1004:18</p> <p>stop [2] - 936:45, 978:28</p> <p>stopped [3] - 942:30, 958:29, 958:42</p> <p>stories [1] - 1001:9</p> <p>story [9] - 948:46, 948:47, 966:44, 971:15, 982:24, 982:26, 982:29, 994:11, 994:15</p> <p>straight [1] - 955:16</p> <p>Street [1] - 934:29</p> <p>strike [1] - 961:22</p> <p>strikes [2] - 961:6, 982:43</p> <p>struck [2] - 938:7, 963:25</p> <p>struggling [2] - 950:45, 951:28</p> <p>Studies [1] - 999:17</p> <p>study [1] - 940:27</p> <p>studying [1] - 990:9</p> <p>style" [1] - 987:28</p> <p>sub [2] - 974:17, 975:24</p> <p>subject [1] - 1001:9</p> <p>subjected [1] - 993:25</p> <p>SUBM.006.0097 [1] - 968:46</p> <p>submarine [101] - 942:38, 943:2, 943:10, 943:36, 944:10, 944:34, 945:2, 945:7, 945:12, 945:14, 945:18, 945:19, 945:21, 945:23, 945:29, 945:38, 945:39, 945:44, 946:6, 946:10, 946:16, 946:19,</p>	<p>946:26, 946:34, 946:39, 946:41, 946:45, 947:19, 948:22, 948:23, 948:25, 948:29, 948:34, 949:20, 951:40, 952:20, 953:35, 953:39, 953:42, 953:43, 953:45, 954:5, 954:7, 954:8, 954:17, 954:22, 954:24, 955:20, 955:41, 956:2, 956:4, 957:6, 957:7, 957:12, 957:22, 958:46, 959:44, 960:1, 960:5, 960:9, 960:35, 960:36, 962:9, 962:44, 963:34, 964:3, 964:30, 964:35, 964:42, 965:7, 966:22, 966:28, 968:12, 968:29, 968:35, 969:8, 973:12, 973:13, 973:18, 973:38, 974:6, 974:8, 974:16, 974:23, 974:30, 974:44, 974:46, 975:6, 981:27, 981:34, 982:4, 992:36, 993:22, 997:27, 1002:40</p> <p>submariners [1] - 1003:5</p> <p>submarines [9] - 956:24, 957:2, 957:5, 958:28, 958:42, 963:42, 965:20, 973:23, 997:2</p> <p>submission [35] - 938:32, 942:39, 947:18, 947:21, 949:7, 950:21, 950:26, 950:32, 951:6, 951:10, 952:28, 952:29, 957:35, 957:45, 958:4, 958:5, 958:7, 965:47, 967:31, 967:46, 971:8, 979:1, 980:14, 981:17, 981:18, 981:36, 986:5, 986:33, 988:13, 992:41, 993:43, 995:45, 996:13, 996:28, 998:23</p> <p>submissions [4] - 957:40, 968:19, 979:46, 995:2</p> <p>submit [2] - 943:34, 980:46</p> <p>submitted [3] - 978:16, 981:2, 985:4</p> <p>subsequently [1] - 981:14</p> <p>substance [1] - 955:36</p> <p>substantially [1] - 989:18</p> <p>suburb [2] - 1000:21, 1003:27</p> <p>successful [1] - 985:34</p> <p>successive [4] - 965:28, 966:43, 974:42, 987:44</p> <p>successor [1] - 971:3</p> <p>Suez [1] - 993:20</p> <p>sufficient [2] - 970:31, 996:26</p> <p>sufficiently [2] - 970:33, 973:31</p> <p>suggest [8] - 948:16, 950:10, 950:32, 952:34, 974:4, 982:18, 991:13, 994:19</p>	<p>suggested [3] - 964:38, 967:37, 988:12</p> <p>suggesting [6] - 946:41, 955:17, 960:37, 964:29, 964:37, 967:4</p> <p>suggestion [5] - 956:14, 956:18, 960:30, 967:17, 967:19</p> <p>suggests [2] - 954:8, 955:7</p> <p>Summary [1] - 989:1</p> <p>summary [1] - 989:2</p> <p>Sunday [1] - 967:25</p> <p>sunk [11] - 943:35, 946:5, 946:16, 955:19, 960:20, 961:3, 962:9, 962:18, 962:44, 964:42, 966:21</p> <p>supplied [1] - 990:46</p> <p>supplying [3] - 958:28, 958:41, 958:46</p> <p>supporting [1] - 947:18</p> <p>supports [1] - 948:22</p> <p>supposed [1] - 937:35</p> <p>surely [2] - 991:8, 991:45</p> <p>surmising [1] - 949:31</p> <p>surprise [1] - 977:40</p> <p>surprising [1] - 939:43</p> <p>surrender [2] - 996:33, 1002:47</p> <p>surrendered [1] - 997:33</p> <p>survived [1] - 997:47</p> <p>survivor [6] - 938:25, 940:19, 940:23, 958:32, 958:36, 966:28</p> <p>survivors [15] - 938:43, 940:46, 957:28, 961:24, 966:32, 976:7, 995:15, 996:44, 996:47, 997:6, 997:12, 997:26, 997:45, 997:46, 1002:38</p> <p>suspect [2] - 945:40, 992:23</p> <p>sustained [1] - 982:43</p> <p>Sutherland [1] - 1003:28</p> <p>sworn [1] - 999:8</p> <p>swung [2] - 938:18, 940:37</p> <p>SYDNEY [1] - 934:18</p> <p>Sydney [119] - 934:29, 935:14, 937:22, 937:40, 938:40, 939:2, 939:9, 939:15, 939:40, 940:1, 940:10, 941:5, 941:36, 941:41, 941:42, 941:45, 942:3, 942:10, 942:27, 942:44, 943:10, 943:22, 943:35, 946:5, 946:16, 946:27, 949:21, 950:16, 950:22, 950:26, 950:35, 952:20, 955:19, 955:31, 958:29, 958:43, 958:47, 960:20, 960:31, 961:2, 961:5, 961:12, 961:18, 961:25, 961:33, 962:8, 962:44, 963:24, 963:26, 964:3, 964:18, 964:31, 964:42, 965:23, 965:25,</p>
--	--	--	--	---

<p>966:21, 968:10, 968:27, 969:7, 972:21, 973:10, 973:12, 973:14, 973:26, 974:7, 974:9, 974:16, 974:18, 974:23, 974:25, 974:30, 974:44, 974:46, 975:2, 975:11, 975:14, 975:18, 975:25, 975:29, 975:34, 976:10, 976:18, 976:26, 976:39, 977:7, 977:9, 977:12, 977:24, 977:37, 978:12, 978:15, 978:31, 978:32, 978:41, 979:3, 979:27, 979:32, 979:40, 980:6, 980:27, 981:3, 981:33, 983:36, 984:1, 985:33, 992:35, 993:45, 994:39, 997:6, 999:29, 1001:2, 1001:9, 1001:14, 1001:26, 1002:38, 1003:8, 1003:16</p> <p>Sydney's [5] - 935:40, 948:26, 948:29, 963:22, 964:33</p> <p>system [3] - 952:36, 956:16, 956:23</p>	<p>951:31, 953:34, 957:45, 959:9, 959:24, 959:34, 959:40, 961:8, 961:38, 961:43, 962:17, 963:11, 965:18, 966:15, 966:20, 966:37, 967:22, 967:24, 972:26, 973:8, 976:44, 977:28, 978:19, 979:8, 979:37, 980:2, 981:36, 982:46, 983:40, 984:39, 985:16, 986:4, 988:27, 989:47, 990:16, 990:27, 991:22, 992:25, 993:11, 993:37, 994:34, 994:46, 995:4, 995:34, 995:41, 995:47, 996:5, 998:30, 998:37, 998:40, 998:46, 999:28, 1000:29, 1000:44, 1002:32, 1003:31, 1004:3, 1004:27, 1004:29, 1004:34, 1004:37</p> <p>themselves [2] - 964:9, 972:16</p> <p>theories [4] - 936:30, 936:34, 936:37, 956:1</p> <p>theorise [2] - 942:3, 942:16</p> <p>theorists [1] - 993:39</p> <p>theory [21] - 936:39, 941:3, 942:11, 942:37, 948:22, 950:33, 950:38, 985:1, 989:36, 991:15, 992:12, 992:26, 993:1, 997:1, 997:3, 997:25, 997:47, 998:16</p> <p>thereabouts [1] - 977:43</p> <p>thereby [1] - 955:21</p> <p>therefore [6] - 936:6, 941:22, 943:34, 945:5, 967:15, 978:34</p> <p>Theses [1] - 963:4</p> <p>thesis [5] - 956:5, 961:16, 962:46, 963:2, 966:20</p> <p>they've [3] - 945:22, 975:43, 983:7</p> <p>thinking [1] - 955:35</p> <p>thinks [2] - 944:7, 944:20</p> <p>third [3] - 980:14, 981:47, 989:1</p> <p>Thirty [1] - 990:9</p> <p>though" [1] - 939:13</p> <p>threat [1] - 946:23</p> <p>three [19] - 938:26, 940:20, 940:23, 940:42, 941:4, 944:36, 956:12, 957:10, 957:14, 961:17, 961:23, 961:32, 963:42, 964:2, 972:35, 972:44, 973:5, 980:31, 1001:16</p> <p>thrown [1] - 941:9</p> <p>Thursday [1] - 966:40</p> <p>timing [1] - 940:40</p> <p>TO [2] - 1004:37</p> <p>today [3] - 936:8, 937:12, 940:14</p> <p>together [4] - 954:23,</p>	<p>964:40, 997:3, 1002:25</p> <p>toing [1] - 1004:8</p> <p>toing-and-froing [1] - 1004:8</p> <p>Tokyo [1] - 981:21</p> <p>tomorrow [1] - 978:23</p> <p>tones [1] - 960:27</p> <p>took [10] - 938:19, 938:22, 941:4, 953:24, 957:28, 963:20, 972:29, 996:38, 997:43, 1001:28</p> <p>top [11] - 937:32, 947:30, 949:1, 955:28, 955:29, 974:11, 974:28, 979:45, 985:6, 986:9, 990:6</p> <p>torpedo [22] - 938:17, 938:18, 941:35, 941:37, 942:12, 942:17, 942:21, 948:33, 954:6, 957:13, 958:47, 961:5, 961:22, 963:23, 976:6, 976:28, 976:32, 976:34, 976:36, 976:38, 977:6, 977:8</p> <p>torpedo" [1] - 963:35</p> <p>torpedoed [11] - 941:8, 941:12, 943:3, 943:10, 944:18, 960:19, 960:31, 961:2, 961:12, 962:29, 993:21</p> <p>torpedoes [16] - 961:17, 961:32, 963:22, 969:7, 973:12, 973:39, 974:7, 974:15, 974:19, 974:30, 975:7, 975:19, 975:20, 975:25, 975:30, 977:35</p> <p>totally [2] - 939:27, 966:44</p> <p>touch [1] - 950:23</p> <p>touched [1] - 937:15</p> <p>Towards [1] - 993:45</p> <p>towards [6] - 937:32, 967:2, 967:10, 967:15, 975:43, 1001:46</p> <p>town [1] - 969:39</p> <p>township [1] - 1003:3</p> <p>trace [3] - 936:35, 969:19, 989:12</p> <p>traced [1] - 969:24</p> <p>Trading [1] - 957:26</p> <p>transfer [1] - 954:19</p> <p>transferred [4] - 949:35, 949:39, 949:40, 949:43</p> <p>transferring [1] - 983:3</p> <p>translation [1] - 967:32</p> <p>transmission [4] - 979:31, 979:35, 979:40, 980:5</p> <p>transmissions [1] - 956:24</p> <p>transmit [3] - 943:34, 979:32, 980:6</p> <p>transmitted [2] - 945:24, 986:38</p> <p>transmitting [2] - 945:27, 979:28</p> <p>transmogrified [1] - 953:43</p> <p>transported [2] - 978:26, 995:28</p>	<p>transposed [1] - 957:6</p> <p>travelling [1] - 967:15</p> <p>treatment [1] - 1004:16</p> <p>TRH [1] - 934:25</p> <p>tripod [1] - 1001:29</p> <p>trouble [1] - 955:2</p> <p>trucks [1] - 957:27</p> <p>true [2] - 956:7</p> <p>truth [4] - 993:35, 994:12, 994:16, 998:11</p> <p>try [2] - 960:23, 1001:7</p> <p>trying [2] - 950:33, 1000:30</p> <p>tube [1] - 941:37</p> <p>tubes [1] - 938:18</p> <p>Tuesday [1] - 966:40</p> <p>turn [3] - 942:37, 961:36, 1001:35</p> <p>turned [5] - 954:23, 972:17, 972:21, 972:38, 1001:35</p> <p>turning [2] - 963:27</p> <p>turret [6] - 938:44, 939:26, 941:13, 941:14, 941:26, 941:28</p> <p>turrets [7] - 938:41, 939:10, 939:16, 941:8, 941:10, 941:21, 941:23</p> <p>twice [1] - 1002:24</p> <p>two [56] - 938:25, 940:20, 940:23, 940:33, 940:35, 941:4, 954:8, 957:8, 957:12, 961:5, 961:32, 963:22, 964:33, 966:32, 967:26, 969:7, 969:38, 972:16, 972:23, 972:33, 972:42, 973:11, 973:13, 973:38, 973:39, 974:5, 974:7, 974:9, 974:15, 974:18, 974:23, 974:29, 974:34, 974:44, 975:6, 975:7, 975:22, 975:24, 975:45, 977:33, 977:36, 979:20, 987:44, 992:16, 994:31, 994:34, 994:41, 997:42, 998:12, 998:25, 1001:2, 1001:34, 1002:1, 1002:44, 1004:7, 1004:8</p> <p>Two [3] - 975:14, 975:18, 993:18</p> <p>two-part [1] - 1001:2</p> <p>type [2] - 980:5, 984:27</p> <p>typically [1] - 994:19</p>	<p>938:10, 941:8, 941:10, 941:12, 951:10, 954:31, 970:5, 978:16, 978:22, 978:35, 988:9, 991:16, 992:11, 996:38, 997:33, 997:43</p> <p>underlined [1] - 983:5</p> <p>understood [1] - 982:35</p> <p>undertake [1] - 954:32</p> <p>underwater [7] - 941:35, 941:37, 942:16, 976:28, 976:34, 976:38, 977:6</p> <p>undue [1] - 985:13</p> <p>unfortunately [1] - 1001:29</p> <p>unidentified [2] - 942:6, 958:36</p> <p>University [4] - 989:45, 992:10, 999:18, 1002:18</p> <p>university [1] - 990:5</p> <p>Unless [3] - 981:11, 981:13, 981:14</p> <p>unlikely [5] - 961:4, 966:23, 989:15, 989:21, 989:41</p> <p>unmistakably [1] - 1003:19</p> <p>unnamed [1] - 969:8</p> <p>unprovoked [1] - 937:46</p> <p>unreasonable [1] - 945:32</p> <p>unstamped [1] - 994:2</p> <p>unthinkable [1] - 955:23</p> <p>untreated [1] - 989:34</p> <p>unusual [1] - 1000:16</p> <p>up [43] - 938:15, 938:31, 938:42, 939:11, 939:26, 941:4, 943:23, 944:41, 944:44, 948:9, 948:15, 952:35, 957:27, 962:28, 965:15, 965:27, 965:38, 965:41, 965:44, 965:45, 966:2, 966:5, 971:31, 972:3, 972:17, 972:38, 978:21, 980:29, 982:23, 988:30, 992:34, 992:36, 993:2, 995:17, 997:31, 998:18, 1000:22, 1000:34, 1001:16, 1002:39, 1004:8</p> <p>up" [1] - 939:16</p> <p>upwards [1] - 1004:22</p> <p>useful [1] - 1000:44</p> <p>ute [1] - 957:28</p>
T				
<p>Tab [1] - 947:22</p> <p>tales [1] - 997:17</p> <p>talks [1] - 957:5</p> <p>tallies [1] - 1003:8</p> <p>tally [3] - 994:41, 1003:10, 1003:16</p> <p>Tally [1] - 1003:12</p> <p>tape [1] - 1001:5</p> <p>target [8] - 938:18, 940:35, 940:38, 942:19, 942:20, 977:41, 978:12</p> <p>technical [2] - 961:21, 980:7</p> <p>telecommunications [1] - 956:15</p> <p>Telegram [1] - 954:47</p> <p>telegram [1] - 955:6</p> <p>telephoned [1] - 972:37</p> <p>television [1] - 1004:13</p> <p>temporary [1] - 996:10</p> <p>tend [1] - 981:10</p> <p>tender [1] - 961:40</p> <p>tense [2] - 954:29, 954:34</p> <p>terminology [1] - 935:21</p> <p>terms [1] - 962:20</p> <p>terrible [3] - 949:5, 949:21, 952:21</p> <p>testified [1] - 981:23</p> <p>testing [2] - 936:34, 936:37</p> <p>tests [1] - 990:18</p> <p>THE [75] - 934:18, 935:5, 935:9, 935:31, 937:19, 939:18, 940:7, 943:13, 944:2, 944:28, 945:11, 945:34, 946:30, 951:1,</p>	<p>theory [21] - 936:39, 941:3, 942:11, 942:37, 948:22, 950:33, 950:38, 985:1, 989:36, 991:15, 992:12, 992:26, 993:1, 997:1, 997:3, 997:25, 997:47, 998:16</p> <p>thereabouts [1] - 977:43</p> <p>thereby [1] - 955:21</p> <p>therefore [6] - 936:6, 941:22, 943:34, 945:5, 967:15, 978:34</p> <p>Theses [1] - 963:4</p> <p>thesis [5] - 956:5, 961:16, 962:46, 963:2, 966:20</p> <p>they've [3] - 945:22, 975:43, 983:7</p> <p>thinking [1] - 955:35</p> <p>thinks [2] - 944:7, 944:20</p> <p>third [3] - 980:14, 981:47, 989:1</p> <p>Thirty [1] - 990:9</p> <p>though" [1] - 939:13</p> <p>threat [1] - 946:23</p> <p>three [19] - 938:26, 940:20, 940:23, 940:42, 941:4, 944:36, 956:12, 957:10, 957:14, 961:17, 961:23, 961:32, 963:42, 964:2, 972:35, 972:44, 973:5, 980:31, 1001:16</p> <p>thrown [1] - 941:9</p> <p>Thursday [1] - 966:40</p> <p>timing [1] - 940:40</p> <p>TO [2] - 1004:37</p> <p>today [3] - 936:8, 937:12, 940:14</p> <p>together [4] - 954:23,</p>	<p>torpedoes [16] - 961:17, 961:32, 963:22, 969:7, 973:12, 973:39, 974:7, 974:15, 974:19, 974:30, 975:7, 975:19, 975:20, 975:25, 975:30, 977:35</p> <p>totally [2] - 939:27, 966:44</p> <p>touch [1] - 950:23</p> <p>touched [1] - 937:15</p> <p>Towards [1] - 993:45</p> <p>towards [6] - 937:32, 967:2, 967:10, 967:15, 975:43, 1001:46</p> <p>town [1] - 969:39</p> <p>township [1] - 1003:3</p> <p>trace [3] - 936:35, 969:19, 989:12</p> <p>traced [1] - 969:24</p> <p>Trading [1] - 957:26</p> <p>transfer [1] - 954:19</p> <p>transferred [4] - 949:35, 949:39, 949:40, 949:43</p> <p>transferring [1] - 983:3</p> <p>translation [1] - 967:32</p> <p>transmission [4] - 979:31, 979:35, 979:40, 980:5</p> <p>transmissions [1] - 956:24</p> <p>transmit [3] - 943:34, 979:32, 980:6</p> <p>transmitted [2] - 945:24, 986:38</p> <p>transmitting [2] - 945:27, 979:28</p> <p>transmogrified [1] - 953:43</p> <p>transported [2] - 978:26, 995:28</p>	U	V
			<p>Uco [1] - 979:2</p> <p>UK [1] - 985:6</p> <p>Ultimo [1] - 1003:46</p> <p>uncertain [2] - 948:35, 954:10</p> <p>uncertain" [1] - 954:7</p> <p>uncut [1] - 1000:41</p> <p>Under [1] - 991:18</p> <p>under [18] - 936:20,</p>	<p>vague [4] - 1000:6, 1000:8, 1000:32, 1001:38</p> <p>valid [2] - 936:34, 936:37</p> <p>valuable [1] - 936:1</p> <p>variance [1] - 966:44</p> <p>various [2] - 963:16, 1001:21</p> <p>vast [1] - 978:44</p> <p>velocity [1] - 984:14</p>

<p>version [2] - 948:9, 994:39 vessel [6] - 942:40, 943:6, 948:34, 954:6, 957:12, 957:14 vessels [1] - 944:43 Veterans [1] - 992:17 Vichy [23] - 943:1, 943:2, 944:9, 944:14, 945:14, 945:17, 945:22, 945:38, 946:6, 946:10, 946:11, 946:19, 946:26, 946:31, 946:38, 946:39, 946:45, 946:46, 953:42, 957:5, 957:6 videotape [1] - 1002:25 view [15] - 936:45, 937:28, 939:2, 939:18, 940:10, 947:11, 958:45, 960:25, 961:2, 962:31, 973:17, 990:20, 991:22, 995:31, 1004:20 views [4] - 936:27, 937:5, 937:7, 960:22 visible [2] - 988:34, 991:10 visited [2] - 969:21, 1003:3 vitae [1] - 990:12 vital [1] - 936:2 vivendi [1] - 954:31 voice [13] - 979:3, 979:4, 979:5, 979:9, 979:13, 979:25, 979:28, 979:32, 979:34, 979:40, 980:6, 980:11, 980:20 volume [1] - 998:21</p>	<p>weapons [1] - 984:17 weather [1] - 963:31 Wednesday [1] - 947:30 week [2] - 981:31, 995:44 weeks [6] - 972:33, 972:35, 972:44, 973:5, 1002:44, 1004:10 weight [3] - 936:23, 939:2, 984:13 west [1] - 944:43 West [1] - 993:34 whatsoever [2] - 955:36, 956:6 wheeled [1] - 983:34 wherein [1] - 954:22 whilst [3] - 951:37, 951:41, 973:45 whisked [1] - 938:14 White [6] - 981:28, 982:5, 982:7, 982:20, 982:34, 1000:22 white [4] - 996:38, 997:34, 997:43, 998:3 whole [6] - 941:23, 949:2, 957:19, 972:20, 992:14, 1003:19 Wilhelm [1] - 967:25 William [1] - 972:42 willing [1] - 971:46 wireless [1] - 942:47 wish [6] - 936:4, 936:12, 937:14, 996:5, 998:34, 1003:46 WITH [1] - 959:13 withdraw [1] - 972:2 WITHDREW [2] - 998:40, 1004:29 WITNESS [3] - 967:24, 998:40, 1004:29 witness [1] - 935:47 Wittwer [25] - 966:29, 968:43, 969:1, 969:12, 969:43, 969:46, 970:44, 970:46, 971:2, 971:13, 971:17, 971:18, 971:24, 971:31, 971:38, 971:44, 972:9, 972:32, 972:40, 973:5, 973:8, 973:44, 974:5, 977:33 Wittwer's [1] - 972:29 wondered [1] - 997:10 wondering [1] - 939:1 word [11] - 939:13, 939:20, 953:27, 967:1, 967:4, 967:10, 987:11, 1003:13, 1003:14 words [11] - 935:24, 938:9, 939:34, 940:18, 946:25, 946:28, 951:24, 967:26, 969:46, 974:8, 993:34 World [1] - 984:11 worried [1] - 942:44 worry [1] - 955:9 wound [2] - 988:33, 991:45 wreck [1] - 961:26</p>	<p>wreckage [1] - 977:37 write [1] - 935:41 writing [4] - 964:1, 994:21, 994:29, 1004:3 written [12] - 935:37, 937:4, 939:19, 939:22, 939:34, 939:36, 939:38, 940:9, 950:39, 964:30, 968:6, 994:4 wrote [6] - 952:12, 956:34, 967:26, 983:4, 992:30, 1004:8</p>
Y		
<p>Y" [1] - 994:29 yards [1] - 977:43 year [6] - 939:31, 942:35, 953:3, 953:4, 956:43, 1000:32 years [10] - 935:42, 936:29, 936:37, 939:42, 940:13, 951:36, 990:9, 992:37, 1000:31, 1004:21 yeoman [2] - 944:39, 956:19 YMCA [2] - 972:43, 973:2 YOU [1] - 994:7 Young [7] - 957:24, 957:38, 958:24, 958:32, 958:35, 959:17, 959:25 YOUNG [1] - 959:13 YOURSELF [1] - 994:8 yourself [1] - 994:15</p>		

W

wait [1] - 959:34
Wales [3] - 969:3, 992:8, 992:11
WAM.002.0215 [1] - 937:32
war [4] - 938:7, 955:21, 965:22, 993:30
War [12] - 982:41, 983:22, 983:28, 983:41, 983:47, 984:6, 984:12, 989:3, 990:16, 990:25, 992:22, 992:31
warfare [1] - 997:34
warning [1] - 964:34
warship [3] - 935:40, 942:5, 968:28
warships [3] - 964:34, 968:11, 968:34
wartime [1] - 943:31
WAS [1] - 1004:37
waste [1] - 936:46
wasted [2] - 936:1, 936:42
wasting [1] - 936:44
water [8] - 942:31, 958:29, 958:42, 973:35, 993:24, 994:23, 996:46, 997:47
wave [1] - 979:6