

COMMISSION OF INQUIRY INTO THE LOSS OF HMAS SYDNEY II

Before The Hon TRH Cole AO RFD QC

Held at level 4, Commonwealth Law Courts
Corner Tank Street and North Quay
Brisbane

Counsel Assisting: CMDR JT Rush RFD QC RANR
LEUT MR Tyson RANR

Counsel Representing: CMDR J Renwick RANR

On Thursday, 5 March 2009 at 10.20am
(Day 30)

1 CMDR RENWICK: Sir, may I apologise for being late. Two
2 Qantas planes cancelled this morning.

3
4 THE PRESIDENT: It's not your fault, Commander. Yes,
5 CMDR Rush.

6
7 CMDR RUSH: Sir, the first witness to be called this
8 morning is Dr Poniewierski.

9
10 There is another witness, Mrs Grace Carr, who is
11 driving from Kingaroy, because Mr Samuels, whom I will come
12 to in a minute, is unable to attend today. We are hoping
13 that she will be here around midday.

14
15 Mr Samuels, sir, informed the Commission of Inquiry
16 and counsel assisting that he is ill and unable to attend.
17 It was desired that he attend, to explain some differences
18 between the documentation that he provided to the
19 Commission of Inquiry and his evidence to the Commission of
20 Inquiry and that given by Mr Brett Christian in Perth, who
21 is the editor of the Subiaco Post. They are matters that
22 are still material to the investigations of counsel
23 assisting.

24
25 Mr Samuels has indicated that he will provide
26 a medical certificate as to his absence today. Counsel
27 assisting will attempt to follow those matters up by
28 communications in writing. If that fails, sir, we may have
29 to take other steps for his attendance.

30
31 With that explanation, I would ask Dr Poniewierski to
32 take the witness box.

33
34 **<BARBARA ELLEN PONIEWIERSKI, sworn: [10.23am]**

35
36 **<EXAMINATION BY CMDR RUSH:**

37
38 CMDR RUSH: Q. Dr Poniewierski, could you state your
39 full name to the Commissioner, please?

40 A. Barbara Ellen Poniewierski.

41
42 Q. And your address?

43 A. [REDACTED]

44
45 Q. And your occupation?

46 A. Retired, as far as an author and a housewife ever
47 does. Previously, a school teacher.

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Q. Your qualifications, and particularly your doctorate qualifications, are what?

A. I have a BA (Hons) from the University of Western Australia, German Honours; I have two certificates from the University of Heidelberg in Germany; a Diploma of Education, actually entitled at that time "Certificate of Education", from the University of Western Australia; a Master of Arts from Queensland; and a Doctor of Philosophy from Queensland.

Q. You have authored a book called "*HMAS Sydney: fact, fantasy and fraud*", which was published, I think, in 1984.

A. That's correct.

Q. What was it that led you to become involved in the circumstances of the loss of *HMAS Sydney*?

A. The long story or the short one?

Q. I think the succinct one.

A. I was 10 years old when *Sydney* was sunk. We lived on the Great Northern Highway between Perth and Geraldton, much closer to Perth, and we were run off the road by a military convoy belting through the darkness, and we were led to believe that it was taking prisoners from the *Kormoran* to Perth.

That was not so. We found they went down by ship. It wasn't even Detmers and Foerster, because they didn't go down at night; they went in the afternoon. But I wasn't terribly interested. When I was in Germany in 1954-55, I didn't see or seek to see any member of the crew.

When I was thinking of giving up teaching in 1977, I became interested in Hans Bertram, a flyer who was lost in the Kimberleys in 1932. The Australian Encyclopaedia said that he was interned in Dhurringile Camp in Victoria, where I knew Detmers had been, because I had read about the escape. I thought it was rather a coincidence that both of them should have been in Australia around about the same time, 1932-33, and then been together in a camp in Australia.

It turns out that the Encyclopaedia was wrong and it was a different Bertram. By then, I was also interested in the *Sydney/Kormoran* story, and after I wrote the book on Hans Bertram, I followed it up with one on *Sydney*.

1 I suppose that's the long story.

2

3 Q. As a consequence of your book, both before and after
4 the writing of it, you have maintained contact with persons
5 who have informed you of various things and, if you like,
6 been involved in some of the more controversial aspects and
7 debate concerning the loss of *Sydney*?

8 A. It wasn't easy to get in contact with *Sydney* crew,
9 because most of those who knew anything recent were killed.
10 I did interview a few in Western Australia. I met with
11 several crew members in Victoria. Do you want their names?

12

13 Q. No. I'm just asking generally at the moment.

14 A. Right. I joined the Queensland Maritime Museum and
15 talked with old sailors there while chipping rust from
16 *Diamantina*. I wrote to Germany. I was surprised to find
17 that my first letter was in 1977; I thought it was rather
18 later. I didn't think it was a good idea to approach them
19 by saying, "Your Captain was a war criminal and you are
20 responsible for colluding and covering it up. Tell me the
21 story." I thought it was more appropriate to say, "Can you
22 tell me about this?"

23

24 Q. In general terms, it's fair to say, is it not, doctor,
25 that your book and your theory in relation to the loss of
26 *Sydney* follows and accepts fundamentally the German account
27 of the battle?

28 A. It seemed to be the logical account when you took all
29 the circumstances into consideration. Oh, I didn't quite
30 fully answer the previous question.

31

32 I did keep in contact with three members of the crew:
33 Hermann Ortman in Victoria, who had a most charming wife,
34 and we were very good friends; Otto Jurgensen; and
35 Heinfried Ahl in Germany. The Ahls stayed with us twice
36 when they visited Queensland, I think it was in 1979 and
37 1988.

38

39 The contents of the letters after about 1985 were
40 seldom related to *Kormoran*. They related to possible
41 publication of a book in Germany, the reception of the book
42 and all sorts of other things, from teaching to flying to
43 shoes and ships and ceiling wax.

44

45 Q. In your submission to the Commission of Inquiry,
46 doctor, you submit that *Kormoran* complied with the Rules of
47 Warfare?

1 A. Pushed them to the absolute limit but, in the end,
2 complied.

3

4 Q. That any ruse in relation to the engagement that was
5 put into effect or conducted by *Kormoran* was in accordance
6 with the Rules of Warfare?

7 A. Yes. It has been pointed out that British ships did
8 the same in World War I and were prepared to do it in World
9 War II. It could also be noted that *Sydney* herself went
10 into an Italian harbour disguised as an Italian ship and
11 that the British boats taking the commandoes on the
12 San Nazaire raid went in flying a German flag and using
13 German signals.

14

15 Q. As far as *Kormoran* is concerned, doctor, as I've said,
16 that any ruse conducted by *Kormoran* was in accordance with
17 the international rules in relation to warfare?

18 A. As far as can be ascertained. It cannot be proven
19 differently.

20

21 Q. Again, in general terms, as to the accounts of the
22 battle that have been given by CAPT Detmers, in a general
23 sense you have accepted them?

24 A. In general, but not entirely in detail.

25

26 Q. There are some aspects of the account of CAPT Detmers
27 that are inexplicable?

28 A. For example?

29

30 Q. For example, CAPT Detmers' reference to seeing the
31 tracks of four torpedoes fired from *Sydney*'s starboard
32 side.

33 A. Did he say that in the action report?

34

35 Q. That's the example I put. Do you agree?

36 A. I'd want to know whether he put it in the action
37 report or the book, because he did not write the book.

38

39 Q. You are familiar, doctor, with the interrogation of
40 CAPT Detmers?

41 A. Yes.

42

43 Q. You are familiar with the book that he wrote?

44 A. Yes, more so with the German version than the English
45 one.

46

47 Q. In his book and in his interrogation, he made

1 reference to the firing of four torpedoes from the
2 starboard side of *Sydney*?

3 A. Incorrect. In his interrogation, he said two
4 torpedoes.

5
6 Q. And then on 1 December?

7 A. Isn't that also two torpedoes? I don't recollect the
8 dates.

9
10 Q. Be it two or be it four - and we'll come to the
11 interrogation notes - that account, I suggest, is
12 inexplicable.

13 A. In the sense that he could not possibly have seen
14 them, yes. That they were reported to him by Heinfried Ahl
15 and Wilhelm Brinkmann - he might have been using the
16 "I saw" or "we saw" as a synonym for "the ship".

17
18 Q. CAPT Detmers, from your research, it is fair to say,
19 was a very experienced Naval officer?

20 A. Extremely - experienced at sea and in battle.

21
22 Q. And if anyone at that stage of the Second World War
23 would understand torpedoes and torpedo warfare, it would be
24 CAPT Detmers?

25 A. Precisely. He would also have known that German
26 torpedoes were highly defective and there was
27 a court-martial about them.

28
29 Q. As far as observations in relation to the tracking of
30 torpedoes once fired by an enemy ship, you would also
31 anticipate, I suggest, that there would be no more
32 experienced officer sailing in any of the Navies of the
33 world than CAPT Detmers to make a judgment in relation to
34 that?

35 A. I don't know that I'd go that far. There were a lot
36 of very experienced men around on both sides. But he would
37 have been pretty experienced.

38
39 Q. Could we have a look at the interrogation of
40 CAPT Detmers, which is at NAA.012.0493. Do you see
41 halfway down the page, it refers to "Kapitan Anton Gunther
42 Theodor DETMERS"?

43 A. Yes.

44
45 THE PRESIDENT: What is the date of this?

46
47 CMDR RUSH: I believe it to be 1 December 1941, sir.

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THE PRESIDENT: Yes.

CMDR RUSH: Q. If we start about halfway down, do you see:

The third turret of the Cruiser hit the raider.

A. Yes, that was turret X.

Q. So if I start reading there:

The third turret of the Cruiser hit the raider. He thought the Cruiser was going to ram him, but it passed astern of the Raider and then fired four torpedoes.

A. Yes.

Q.

Raider turned towards the torpedoes, and they passed ahead and astern of him.

A. Now, that is quite clearly wrong. At that point, I think he had been --

Q. Just one thing at a time. Firstly, for the purposes of this account, it was given by CAPT Detmers, I suggest, on 1 December 1941. You're familiar with that, I take it?

A. Yes.

Q. It is an account that was fresh with the battle itself?

A. Yes.

Q. When you, as a researcher, would anticipate memory is at its best?

A. Memory possibly, but there are several points with regard to this interrogation. One is that Detmers did not see any torpedoes.

Q. How do you know that?

A. Because he couldn't have.

Q. How do you know that?

A. Because he was on the Bridge, and they passed astern.

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Q. How do you know that he could not see four torpedoes, tracking over considerable distance to his ship, from the Bridge?

A. It seems to me to be self-evident. It was getting dark. There was smoke from both ships. The only people who could possibly have seen them were the officers on the poop deck.

Q. I don't understand why they are the only people that could possibly have seen them?

A. Because there was too much smoke and fire amidships on *Kormoran*, apart from --

Q. Doctor, how do you know what the vision astern from the Bridge was on *Kormoran* in regards smoke and fire?

A. I've been in a few fires. I know what you can see.

Q. Thus, you say that CAPT Detmers is wrong?

A. He is wrong. He has had time - in a previous interrogation, he said two torpedoes. When he comes to this interrogation, he's had time to talk to the officers concerned and they have changed his mind. Now, the officers on the poop deck would have seen two torpedoes. They would have thought, "Well, if she fired two, she would have fired the whole four. Seeing they didn't pass astern, they must have passed ahead." It's just reconstructed evidence.

Q. That's your reconstruction --

A. That's my reconstruction of what they constructed.

Q. -- or explanation for what CAPT Detmers said in his interrogation?

A. Yes.

Q. Yet, in your book, you also said that *Sydney* fired a spread of four torpedoes?

A. Yes, because I took what he said in the book. I thought that what he said in the first interrogation was an error.

Q. You were content, in your book, to rely on what he said in this interrogation as to the firing of four torpedoes from *Sydney*, but you now say that CAPT Detmers was in error?

A. Obviously, he was, because the pictures of the wreck

1 show that.

2

3 Q. But you would have been aware, at the time you wrote
4 your book, of smoke and fire and vision from the Bridge?

5 A. Of course, of course.

6

7 Q. You would have been aware of the earlier account of
8 two torpedoes?

9 A. Of course. I don't know whether, at that time,
10 I realised the extent of the fire and smoke on *Kormoran* and
11 that he would have been relying on the reports of Ahl and
12 Brinkmann.

13

14 Q. You don't know, doctor, whether he was relying on the
15 reports of Ahl and Brinkmann or not?

16 A. I didn't at that time.

17

18 Q. And you don't now?

19 A. Well, I had considerable contact with Ahl over
20 a period of 12 years. Brinkmann I had no contact with at
21 all.

22

23 Q. In his book, written many years later, CAPT Detmers
24 stated that *Sydney* fired four torpedoes.

25 A. That's right.

26

27 Q. Perhaps if we could have a look at that -
28 CORR.007.0133.

29 A. While we're waiting for that, may I say that neither
30 Brinkmann nor Ahl was held in terribly high esteem aboard
31 *Kormoran*. They were among the most junior of the officers,
32 and if other officers had said, "It must have been four
33 torpedoes. Ahl and Brinkmann don't know what they're
34 talking about", then once Detmers changed his mind, it
35 would have stayed changed.

36

37 Q. If those two officers be held in the esteem that you
38 say, it would be even less likely that CAPT Detmers would
39 rely on them?

40 A. Well, the first report he was bound to rely on, the
41 action report at the time during the action, when they --

42

43 Q. My question was pretty direct: if Ahl and Brinkmann
44 be held in the esteem that you say, it is even less likely
45 that CAPT Detmers would have relied upon them?

46 A. I think it's legitimate to say that at the time, he
47 would have; later, he would not have.

1
2 Q. This is the English version of the book. On the
3 right-hand side, page 187, at the top paragraph, if we
4 start at the second line, where CAPT Detmers is stating:

5
6 *... the engine-room telegraph reported that*
7 *the revolutions of both machines were*
8 *falling away rapidly and that contact with*
9 *the engine-room had been broken. At that*
10 *moment I saw the wake of four torpedoes the*
11 *enemy had discharged at us, but to my*
12 *relief it was clear that at our present*
13 *speed and on our present course they were*
14 *going to pass harmlessly astern.*

15
16 A. Obviously, he could not see them, and I would like
17 again to point out that not a great deal of this book was
18 in fact written by Detmers, which is not clear in the
19 English edition.

20
21 THE PRESIDENT: Q. He did take responsibility for it,
22 though, did he not?

23 A. The way publishers treat authors, I don't know if he
24 would have seen it before it went to print.

25
26 Q. I doubt that. He had many years to read it.

27 A. Many years to read it? From when to when?

28
29 THE PRESIDENT: You go on, CMDR Rush.

30
31 THE WITNESS: This was published in 1959, was it?

32
33 CMDR RUSH: Q. Doctor, that account that I have just
34 read to you in the book of which he is a joint author
35 states:

36
37 *... I saw the wake of four torpedoes the*
38 *enemy had discharged at us ...*

39
40 A. Yes, obviously, that is not true, unless he is using
41 "I" to mean "we, the ship" or unless Brennecke had decided
42 to spice it up.

43
44 Q. As to the torpedoes allegedly fired by Sydney at
45 *Kormoran*, the assertion in the German account has been that
46 they were fired from the starboard side of the ship.

47 A. That's right.

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Q. And in your book, I think you have referred to the firing of the torpedoes from the starboard side of the ship?

A. Probably, yes.

Q. We now know that that account could not be correct?

A. The tubes with the two torpedoes in were fired from the port side?

THE PRESIDENT: Port side.

CMDR RUSH: Q. The tubes with the two torpedoes were on the port side.

A. I don't know how that could have happened.

Q. It's fair to say that you don't know how it could have happened if we accept the German account of the battle?

A. I don't know how it could have happened, full stop.

Q. If we could examine the evidence in relation to those torpedoes, and if we could have DST0.003.0225. I will preface the question, doctor, by indicating that this is the evidence that has been presented to the Commission of Inquiry, and what I'm going to is the joint report of the Royal Institution of Naval Architects and the Defence Science and Technology Organisation after their examination of the photographs and video of *Sydney* and the wreck of *Kormoran*.

If we can go down to the bottom, figure 193, what we see there at figure 193 is what's referred to as the starboard torpedo quad tubes, showing the damage to three remaining torpedoes.

A. Yes.

Q. So three are depicted there, and if we can go over two pages to page 227 and figure 196, that shows the end caps and the firing sequence of the torpedoes. You see in that photograph that Q is the first torpedo that would be fired, then X, Y and Z. What we know is that the torpedo that is missing is Z torpedo, the last of the four, and that that couldn't be fired without the firing of Q, X and Y. So you understand the firing sequence, and, in essence, we know that there was a torpedo found in the debris field.

I'm just putting this to you as a matter of the

1 evidence, doctor, that we can, in effect, account for the
2 four starboard torpedoes.

3
4 If we go over to the next page, to figure 198, this is
5 the port side quad tubes with two torpedoes missing. What
6 I want to suggest to you, doctor, is that if torpedoes were
7 fired at *Kormoran* from *Sydney*, they could not have been
8 fired from the starboard side?

9 A. Provided that the torpedo tubes landed on the bottom
10 where they should have with relation to the hull of the
11 ship.

12
13 Q. On any view, *Sydney* did not fire four torpedoes at
14 *Kormoran*?

15 A. No, definitely not.

16
17 Q. In that respect, the accounts that have been given on
18 1 December and in his book by CAPT Detmers are
19 inexplicable?

20 A. The only explanation that could be provided for the
21 torpedoes being fired at *Kormoran* is if *Sydney* fired them
22 before she crossed over *Kormoran*'s stern, which would have
23 been fairly close to the beginning of the action. I don't
24 see how that could happen, but there were others who also
25 said during interrogation that *Sydney* fired two torpedoes -
26 I know for sure Jurgensen. You won't find anything from
27 Ahl, because he virtually said nothing.

28
29 THE PRESIDENT: Q. I don't recall Jurgensen saying that.
30 I'll check that.

31 A. Jurgensen. Yes, I checked it out.

32
33 Q. You say that he said two were fired?

34 A. He said two. If I'm wrong, excuse me, but that's how
35 I remember it, and I did specifically check to see what
36 some of them had said in interrogation. He was
37 interrogated five or six times. One of the problems is
38 that the officers were saying as little as possible.
39 Therefore, they did not necessarily mention this. If you
40 like, I'll check it out later and send it to the
41 Commission.

42
43 Q. No, we can check it. Thank you. My recollection,
44 which is probably faulty, is that the only person who ever
45 said that two torpedoes were fired was CAPT Detmers in his
46 first interview. He never repeated that. I don't recall
47 anyone else saying two. My recollection also is that all

1 witnesses who gave evidence about torpedoes said that there
2 were four and that they were all fired from the starboard
3 side.
4 A. That would have been after they consulted with each
5 other. Hardly anyone would have seen them.
6
7 Q. Whatever; that's what they said.
8 A. But Jurgensen, I am convinced, said two torpedoes.
9
10 Q. Yes, very well. Where was Jurgensen on the ship, do
11 you say?
12 A. On the Bridge. He also would not have seen them. He
13 would have had the report from Ahl and Brinkmann.
14
15 Q. So is it your supposition or deduction that it was
16 Jurgensen on the Bridge, who would have told CAPT Detmers
17 on the Bridge that there were two, and that's why
18 CAPT Detmers said that?
19 A. No. My deduction is that everybody on the Bridge
20 would have heard that report.
21
22 Q. Would have heard what report?
23 A. The report that there were two torpedoes heading for
24 them. It's a matter of timing.
25
26 Q. But the only person who referred to two was Detmers.
27 A. And, if I'm correct, Jurgensen.
28
29 Q. Yes, but none of the other officers on the Bridge who
30 gave evidence referred to two.
31 A. That's not surprising. There's a lot they didn't talk
32 about. But Detmers and Jurgensen would have had no contact
33 prior to interrogation.
34
35 CMDR RUSH: Q. Doctor, if it be that the torpedoes were
36 fired from the port tubes, that would cause you, would it
37 not, to reflect on the overall evidence given of the German
38 account?
39 A. Not really - well, to some extent. In the heat of
40 battle, what happens and the sequence in which it happens
41 are quite a bit confused.
42
43 THE PRESIDENT: Q. But we're going far beyond that. We
44 know that CAPT Detmers gave at least four accounts whilst
45 he was in captivity and one after captivity, in a book?
46 A. Yes.
47

1 Q. Subject to the use of "two torpedoes" in the first, in
2 each of the other three, given whilst in captivity and in
3 his book, he said "four".

4 A. That's right.

5

6 Q. We know that's wrong.

7 A. Yes.

8

9 THE PRESIDENT: Yes, CMDR Rush.

10

11 CMDR RUSH: Q. If *Kormoran* stopped, that would also
12 cause us to reflect on the overall German account?

13 A. There's nothing that says that *Kormoran* stopped,
14 except a translation from an interpreter whose competence
15 in both German and English is unknown, because some of the
16 interpreters were Dutch.

17

18 Q. There is an account in the interrogation notes of
19 CAPT Detmers of 1 December 1941 which attributes to him an
20 account that *Kormoran* was ordered to stop.

21 A. Is it there?

22

23 Q. You're familiar with that?

24 A. I do know it in fact, but is it there?

25

26 Q. Perhaps if we can go back to NAA.012.0493. We're back
27 with the interrogation. If we can go down the page of the
28 notes of interrogation on 1 December, reading from the
29 second paragraph of the notes:

30

31 *At four o'clock ship's time (1700H) on the*
32 *19th, sighted Cruiser and altered course*
33 *from North to South West (250 degrees)*
34 *increased to full speed - not allowed to*
35 *tell speed.*

36

37 That's the note of the interrogator.

38 A. Yes.

39

40 Q. Then:

41

42 *Cruiser "Perth" class. Cruiser made signal*
43 *"NNP" - didn't understand, didn't answer.*
44 *Cruiser signalled "stop" ...*

45

46 A. Yes, I'm aware of that. What I have Detmers saying is
47 that he expected the cruiser to signal "stop".

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Q. What you have him saying is your opinion that what that represents is really CAPT Detmers' view that, in some way or another, he expected Sydney to order him to stop, not that Sydney actually ordered him to stop?

A. Yes.

Q. Which, if we look at the actual words that are used in relation to the notes, is inconsistent, and it is direct, as one might think of an order, "Cruiser signalled 'stop'?"

A. There is also the testimony of Ahlbach, who says that the cruiser did not order them to stop.

CMDR RUSH: Correct.

THE PRESIDENT: Q. The two statements are undoubtedly in conflict.

A. Yes.

Q. Nonetheless, CAPT Detmers said in terms, insofar as the statement reflects what he said, that he did receive an order to stop.

A. What we have there is what the typist thought that the interpreter thought that Detmers had said.

Q. No, what we have there is the interrogator's understanding, conveyed to a typist, of a translation by an unknown translator of what it is said CAPT Detmers said.

A. Yes, what he said he said he said.

Q. Nonetheless, if one is going to place reliance, as you have, on the balance of that account, one equally should place reliance on that passage, which says that he was ordered to stop?

A. And why don't I? Because it would have been a stupid thing for the cruiser to have said at that distance.

CMDR RUSH: Q. Why? Why would it be a stupid thing for a cruiser to order a ship that is not on the VAI and that has all the hallmarks being characteristics of a raider to stop?

A. He has brought himself within the range of the cruiser's guns, even their secondary armaments, and then he tells them to stop?

Q. Why would it be a stupid thing to do, in all the circumstances of a suspicious ship, to tell that ship to

1 stop?

2 A. It would have been suicidal, as it did turn out to be.

3

4 Q. It depends when the order to stop was given, doesn't
5 it, doctor?

6 A. If you take it in sequence, the cruiser made the
7 signal NNP, which of course it wasn't; it was NNJ. That
8 was made by flag signal when *Sydney* was very close.

9

10 THE PRESIDENT: Q. What do you mean by "very close"?

11 A. Nine hundred metres, by the sequence of events. It
12 has to be noted that in Detmers' action account, he is
13 taking the times to the nearest five minutes, so that
14 cannot be precise. The signal NNJ was not given until
15 almost the very end, and that was obviously a light signal.
16 When *Kormoran* could not answer, *Sydney* then sent - sorry.
17 NNJ was a flag signal. When *Kormoran* could not answer,
18 *Sydney* then said, "Show your secret call sign."

19

20 Q. I'm sorry, that's just not right.

21 A. In what way?

22

23 Q. In the dictionary account, Detmers says that the
24 signal NNJ was sent at 1605.

25 A. Would you show me that, please?

26

27 CMDR RUSH: The *Orontes* script --

28

29 THE PRESIDENT: No, I was looking at the dictionary
30 script, but they're probably all the same.

31

32 CMDR RUSH: Q. The *Orontes* script states:

33

34 *Cruiser turns towards range over*
35 *15,000 metres, gives signal NNJ.*

36

37 A. 15,000 metres?

38

39 Q. 15,000 metres, not 900 metres.

40 A. No, I'm sorry, I must have that wrong.

41

42 Q. In the context of what is reported here, allowing NNJ
43 for NNP, it would be quite in order for *Sydney* to order the
44 ship to stop, if it be in the range of 15,000 metres or
45 even 10,000 metres?

46 A. If. I would like to have another look at that, all
47 the same.

1
2 THE PRESIDENT: Q. I can give you the reference, if you
3 need it. It is repeated in the 1945 account translated by
4 Frumel. That says:

5
6 *Cruiser turns towards; range about 150 hm,*
7 *approaches slowly, flashes signal NNJ ...*

8
9 A. Just a minute, which Frumel translation is that?

10
11 Q. I'm dealing with the one translated by British
12 Admiralty.

13 A. Is that on screen somewhere?

14
15 Q. I don't think we need to see it. You can take it from
16 me that in the dictionary account, it says "1605 NNJ" --

17
18 CMDR RUSH: I can bring it up on the screen, sir. It is
19 NAA.012.0605. At 1605:

20
21 *Cruiser turns towards; range over 150 hm.*

22
23 That is 15,000 metres, isn't it, doctor?

24 A. Oh, right, yes. NNJ at that time --

25
26 Q. It says:

27
28 *Approaches slowly making NNJ [by]*
29 *searchlight.*

30
31 A. Yes. This is not an Admiralty translation. This is
32 a Frumel translation, and it's a faulty one. But, still,
33 that would be right. It is at 1725 that he says:

34
35 *"HOIST YOUR SECRET CALL".*

36
37 So he spent an hour and 10 minutes, an hour and 20 minutes,
38 between asking for the secret call sign in code, NNJ, and
39 asking for it in plain language.

40
41 Q. But, doctor, that's if we accept what CAPT Detmers
42 said here.

43 A. Yes.

44
45 Q. But if we accept what he put and what is put in the
46 interrogation note of 1 December, we have him being ordered
47 to stop at 15,000 metres after the signal NNJ, and you said

1 that was stupid.

2 A. Wait a minute. Well, in this report here, even in
3 this faulty translation, where would you find a place for
4 the order to stop being given?
5

6 Q. Doctor, you know as well as I do that CAPT Detmers
7 never, ever repeated, in any account, that he had been
8 ordered to stop, apart from 1 December 1941.

9 A. Right.

10

11 Q. What I'm putting to you is that if we accept that the
12 NNJ signal, as is demonstrated in that account from
13 CAPT Detmers, was given at 15,000 metres and the order to
14 stop was given, going back to 1 December, at the same time
15 or very near the time of the NNJ signal, then that would
16 not be stupid, but that would be absolutely proper
17 procedure by *Sydney*?

18 A. And the next proper procedure when she didn't stop
19 would have been to open fire.
20

21 Q. We'll take them one at a time, but you volunteered
22 that that would have been stupid, and what I'm saying to
23 you is that it would not have been stupid?

24 A. Yes, okay, okay, if it had been at that distance, no,
25 it wouldn't have been stupid, but I doubt that it was at
26 that distance. I think that's an error.
27

28 THE PRESIDENT: Q. Which part do you say is an error?

29 A. The time when the first NNJ was sent, because --
30

31 Q. But it's repeated time and time again by CAPT Detmers
32 in each of his accounts.

33 A. It seems extraordinarily strange, because there's no
34 record that *Sydney*, under CAPT Burnett, ever asked for
35 a secret call sign, let alone at that distance.
36

37 THE PRESIDENT: That seems to me, if I may say so, to be
38 beside the point, if one is going to rely upon what
39 CAPT Detmers said in each of his accounts where he said
40 that the signal was given at 1605.
41

42 CMDR RUSH: Q. Doctor, NNJ is not a request for a secret
43 call sign, is it?

44 A. I don't know.
45

46 Q. You don't know?

47 A. Well, what is it? I'm sorry.

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Q. NNJ is a request for the ship's signal letters.
A. Signal letters - yes, well, that - yes, he would have asked for it.

Q. Again, an NNJ request at 15,000 metres, by light --
A. Yes, right, that's perfectly correct. That's perfectly correct.

Q. -- would be absolutely in accordance with proper practice?
A. Correct.

THE PRESIDENT: Q. One other thing I should say is that I have great difficulty in accepting CAPT Detmers' evidence that he did not understand what NNJ meant. It is, as I understand it, a well-recognised international signal. He had been at sea for a long, long time --
A. Yes, obviously, he answered with the signal for "Straat". Somehow I've got the NNJ wrong, and he's got it wrong.

Q. No, no. What he said was that he did not understand what NNJ meant, and I have the greatest difficulty accepting that.
A. That would be correct. All right? I have mixed up the place for the NNJ.

CMDR RUSH: Q. He refers, in what is in front of you, to NNJ.
A. Yes, correct.

Q. In the interrogation note, it's NNP. I suggest to you that, at all times, CAPT Detmers was well aware that what he was being requested for at 15,000 metres was the ship's signal letters, and he understood that?
A. Yes, yes, correct. It's nearly 30 years since I wrote the book. I don't remember all the details, even though I've been going through them again.

Q. While that is on the screen, doctor, you refer to these times in this account of CAPT Detmers as being approximate times.
A. Yes.

Q. If you go down to 1715, allowing for the mistakes, in essence what CAPT Detmers is saying at 1715 is:

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Cruiser draws away on starboard beam 90 hm distant.

A. Yes. If you get to the original translation, or notes, the zero has been inserted, because the translator couldn't believe that the ship would really have come to 9 hm. But if you get to the actual cipher written by Detmers, the zero just isn't there.

Q. We'll have a look at that in a minute, but I'm more interested in the times at the moment. If we accept for the purposes of the question that it's not "90 hm", but it's "9 hm", which is about 900 metres, at 1715:

Cruiser draws away on starboard beam [and we accept 9 hm, 900 metres] distant.

A. May I make a comment on that particular translation? The German does not say, "Cruiser draws away".

Q. You say that the translation is that the cruiser --
A. The correct translation is, "The cruiser is running on the starboard beam", not "is running away".

Q. You say that the correct translation is that at 1715, or thereabouts, both ships are running, effectively, side by side at 900 metres?

A. That's right. Right.

Q. Then we have 1725:

*Morse signal ... "HOIST YOUR SECRET CALL".
Further delay can only make situation worse.*

And you dispute this, as I understand it:

(Cruiser) stops engines ...

A. That "(Cruiser)" is obviously an interpolation.

Q. In brackets:

(Cruiser) stops engines, thus has not the least suspicion. Therefore

1 And then --

2 A. Is this the place to show why that is wrong?

3

4 Q. Not just yet, but we will be going to it. At 1730:

5

6 *Removal of disguise. Dutch flag struck.*
7 *War flag flies clear from main mast. Time*
8 *taken 6 seconds.*

9

10 A. Yes.

11

12 Q. The idea of the ships travelling abeam, side by side,
13 from 1715 to 1730, I suggest to you --

14 A. Is bizarre.

15

16 Q. -- indeed, is bizarre?

17 A. Yes. Allowing for approximation, *Sydney* and *Kormoran*
18 could well have been travelling side by side at that
19 distance for 10 minutes, bizarre or not.

20

21 Q. In any terms, for that length of time, you would start
22 to question this account, wouldn't you, on times?

23 A. To within five minutes plus or minus.

24

25 Q. I would suggest to within a good ten minutes.

26 A. I don't think so.

27

28 Q. Again, just going back to the personality and the
29 character we are dealing with, what we know about
30 CAPT Detmers is that he was precise and detailed.

31 A. When he had the evidence with him. He's working here
32 from memory.

33

34 THE PRESIDENT: Q. I doubt that.

35 A. You think he had the notes with him?

36

37 Q. I think he was working from a conjunction of what he
38 has been told by all his officers.

39 A. Yes, from their memories and his memories. They were
40 not in the business of writing an historical account. They
41 were in the business of surviving.

42

43 CMDR RUSH: Q. Now, doctor, can we deal with what you
44 contend are translation errors in relation to a couple of
45 matters in this report. If we can go to 1715:

46

47 *Cruiser draws away on starboard beam 90 hm*

1 *distant.*

2

3 A. Yes.

4

5 Q. Now, 90 hm would be 9,000 metres; 9 hm would be
6 900 metres, or thereabouts.

7 A. There is another translation of this done later by
8 Frumel, which gives the correct translation. This
9 translation is so bad that coming from a top-class
10 cryptanalysis unit, it's really a wonder that we won the
11 War.

12

13 Q. Nevertheless, it is one that has been relied upon in
14 quite a few accounts of the engagement, is it not?

15 A. Yes, unfortunately, by people who do not understand
16 German. At 1715, what was said was, "Kreuzer lauft
17 steuerbord ab". That means - no, wait on, sorry. Wait
18 a minute. "Cruiser draws away on starboard beam". I'm not
19 sure what this - it says "querab". Now, "ab" --

20

21 Q. We will come to it individually. We will deal, first
22 of all, doctor, with the 90 hm or the 9 hm, as described
23 there.

24 A. Yes.

25

26 Q. To deal with that properly, if we can keep what we're
27 looking at handy, I want to go first to NAA.044 --

28 A. Which one is this one, so I know what we're talking
29 about?

30

31 Q. This is the 90 hm or 9 hm.

32

33 THE PRESIDENT: Q. What you are presently looking at,
34 I think, is the action report.

35 A. Oh, yes, it's the interim translation of the action
36 report; I know that, but I wanted the reference number.

37

38 CMDR RUSH: NAA.044.0002.

39

40 THE PRESIDENT: Q. That is the one that's about to come
41 up on the screen, not the one that was there.

42 A. Right. Yes.

43

44 CMDR RUSH: Q. What we have here, doctor, is the
45 Intelligence memorandum that was prepared on this action
46 report which was taken from CAPT Detmers, and it concerned
47 the deciphering of that report.

1 A. Yes.

2

3 Q. I want to go down the page to where the Naval Section
4 decrypters state, just above the letters and numerals:

5

6 *There is a substitution table for numerals.*

7

8 That is, CAPT Detmers was using a substitution table.

9

10 *It would appear to be:*

11 *A [equals] 1*

12 *B 2*

13 *C 3*

14 *D 4*

15 *E 5*

16 *F 6 [and then]*

17 *H 7 ...*

18

19 They leave out "G".

20 A. Exactly. And I reckon a 10-year-old should know
21 better than that.

22

23 Q. Well, maybe. So "G" is left out.

24 A. "G" should be 7; "H" should be 8; and "I" should be 9.

25

26 Q. So "G" should be 7; "H" should be 8; and "I" should be
27 9?

28 A. And "J", when it was used, was one of the things for
29 zero, except that the underlined "D" was also used for
30 zero.

31

32 Q. Then if we could bring up, sir, SPC.004.0148.

33 A. That letter is really shameful. This has done it
34 correctly. This has done the "AGAE" correctly, 1715.

35

36 Q. If we can go down to just above halfway down the page,
37 there are entries there. Do you see "BST"?

38 A. Yes. "Abstand" means "distance".

39

40 Q. Yes. "BSTAND", "I", and then there is an "8" there,
41 "IHM".

42 A. And the "I" should clearly be 9.

43

44 Q. And the "I", you say, should be 9?

45 A. You can see there they have the "G" correctly as a 7
46 both on the line above and the line below. They've got it
47 very badly transcribed.

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Q. So on the basis of the left-out letter, you say that "I" should be 9?

A. Obviously.

Q. Instead of that, they've made it 8?

A. Yes.

Q. How does that, then, translate or relate back to what we were looking at as the "90 hm distant"?

A. Well, by then, they have realised that the "I" should be 9, but someone has shoved in a zero. There is no "80hm" about that - no "90 hm", no "80 hm". It's just a single figure. There's no zero there.

Q. So "I" should be 9, and "hm" is hectometres?

A. Hectometres, and there is nothing between them. There is no zero there.

CMDR RUSH: Sir, if I tender those two pages, which are the Intelligence memorandum number 76, the action report, at NAA.044.0002, and the decoding notes for the action report, which commence at SPC.004.0146, and specifically at 0148.

EXHIBIT #203 INTELLIGENCE MEMORANDUM NUMBER 76 - ACTION REPORT, NAA.044.0002; DECODING NOTES FOR THE ACTION REPORT, SPC.004.0146 AT 0148; NOTES OF THE CRYPTOLOGICAL ANALYSIS, NAA.044.0020 & 0021

THE WITNESS: That particular alteration of the "I" to the 8 and the interpolation of a zero has caused the most trouble. It misled the previous Inquiry. It misled Montgomery, Frame, Bathgate and Olson. They didn't get the amended report.

CMDR RUSH: Q. I want to look at the entry at 1725, if we can go back to NAA.012.0605.

A. Where are we - 1725?

Q. Yes, "Morse signal". If we can highlight that a little bit, at 1725:

Morse signal ...

A. That "MAKS" should be "KLAR", which means "plain language". It's an enciphering error.

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Q. ... "HOIST YOUR SECRET CALL". Further delay can only make situation worse. (Cruiser) stops engines, thus has not the least suspicion. Therefore

A. Right, now, "(Cruiser)" is obviously an interpolation. What the original says is "stoppt maschine", "maschine" in the singular, not "engines"; one engine; or "maschine" meaning aircraft. Pilots routinely call their aircraft a machine, both in English and in German.

Q. We will come to that. If we can just look at what you say is a mistake but go to the written notes of the decoder at NAA.044.0020. At the bottom of the page, in the handwritten notes of the decrypter, do you see right at the bottom at 1725:

*Further signal "Hoist your secret call".
Further delay can only make situation worse. Cruiser stops engines, therefore completely unsuspecting.*

A. Now, this is not the cryptanalyst's work. This is a translator's work. If you go back to the original German, there is no mention of "Cruiser stops engines". It's just "stops machine".

Q. We'll have a look at that now. On SPC.004.0148, at the last two lines of the decoder there, we have "STELLT MOTOR AB AL" --

A. Now, that says "turns motor off". And "motor" was not used for the engines of a ship. It is singular and does not refer to ship's engines.

Q. If I can just ask the questions at the moment.

A. Sorry.

Q. Your point here, as I understand it, is that there is no mention of "cruiser"?

A. That's right.

Q. It is "turned motor off"?

A. "Motor" singular, not "motors".

THE PRESIDENT: Q. "Turned" or "turns"?

1 A. "Turns motor off".

2

3 Q. It's "STELLT", is it?

4 A. Yes.

5

6 CMDR RUSH: Q. In another account, CAPT Detmers referred
7 to that being an aeroplane engine with the initials "FLG".

8 A. Yes. "FLZG", and that's "flugzeug".

9

10 CMDR RUSH: Sir, I have tendered the notes of the
11 cryptological analysis. May I tender the notes at
12 pages NAA.044.0020 and 0021.

13

14 THE PRESIDENT: I will add those to exhibit 203.

15

16 CMDR RUSH: Q. If we could have a look at COI.004.0169,
17 what I'm bringing up, sir, is what has been referred to as
18 the "*Orontes* script", which is another account of
19 CAPT Detmers, that was removed from his person, as
20 I understand it, on *Orontes* on his repatriation to Germany.
21 This account, at 1725, about six lines from the bottom --

22 A. Yes.

23

24 *Opponent turns off aircraft motor; is*
25 *therefore completely unsuspecting.*

26

27 Would you like to do now the line above it, because that's
28 also relevant?

29

30 Q. In the *Orontes* script?

31 A. Yes.

32

33 Q. Why is that relevant?

34 A. Because of the claim that the cruiser was turning
35 away. You have there:

36

37 *Kreuzer lauft [steuerbord] querab mit,*
38 *Abstand 9 Hm.*

39

40 The comma is in the wrong place.

41

42 *Cruiser is running parallel to us on the*
43 *starboard beam.*

44

45 It has "mitlaufen" there instead of "ablaufen".

46

47 THE PRESIDENT: Q. CAPT Hore has translated it as

1 meaning:

2

3 *Cruiser opens out on starboard beam at*
4 *range 900 metres.*

5

6 A. I'm sorry, but CAPT Hore is not a very good German
7 linguist. He only thinks he is.

8

9 CMDR RUSH: Q. Doctor, if I might say, it might be
10 better if you don't comment about people like that.

11 A. Yes. But the whole point is this translation and
12 people being taken as experts in things they're not experts
13 in. He is a Naval officer and a cryptanalyst. He's not
14 a linguist. The verb "ablaufen" can mean "to run away",
15 but the "ab" in that phrase is attached to "querab", which
16 means "abeam". It's not attached to the "laufen".

17

18 Q. Doctor, I want to go to a couple of matters that you
19 raised all those years ago in your book, and at
20 CORR.006.0279 --

21

22 THE PRESIDENT: Q. Just before you do that, what I've
23 called the Frumel translation, made by British Admiralty,
24 translated that 1715 entry as:

25

26 *Cruiser draws away on starboard beam*
27 *900 metres distant.*

28

29 CAPT Hore translated the *Orontes* account as:

30

31 *Cruiser opens out on starboard beam at*
32 *range 900 metres.*

33

34 Those two translations appear to be very similar, of two
35 different accounts.

36 A. Yes.

37

38 Q. Am I to understand you to say they are each incorrect?

39 A. Yes. May I ask where you get the information that
40 that is an Admiralty translation? Frumel had nothing to do
41 with the Admiralty. Frumel merely sent it to the
42 Admiralty.

43

44 Q. I'm sorry, I don't answer questions. I ask them.

45 A. Right. Well, I would suggest that there is no
46 evidence that that is an Admiralty report, only that it is
47 a report sent to the Admiralty, on which CAPT Hore relied,

1 perhaps, but it is still wrong. Candidly, I would expect
2 better from a Grade 12 student.

3
4 CMDR RUSH: Q. Doctor, there is one aspect we're looking
5 up and that I will come back to in relation to that.
6 I want to turn to some matters in the book that was
7 published in 1984, at COI.006.0279.

8 A. Yes, this is my book, is it?

9
10 Q. This is your book. If we can go down to just below
11 halfway down the page, where you say:

12
13 *Sydney went to Action Stations, as was her*
14 *custom, no matter how innocent the ship*
15 *looked.*

16
17 What do you base that on?

18 A. On what should have been done, and perhaps I was being
19 too generous.

20
21 Q. So as far as the statement is concerned in relation to
22 her custom, that was not something that you in any way
23 researched, at least at that time?

24 A. They were all dead. Can you show a bit further above,
25 take it down a bit to show what I've said above there?

26
27 Q. What you said in the paragraph above is about Sydney
28 "ambling home".

29 A.

30 *(Exactly what happened aboard Sydney can*
31 *never be known for certain. This account*
32 *is based on (i) actions observed by*
33 *Kormoran crew, (ii) usual procedures, as*
34 *reported by former Sydney crew or recorded*
35 *in log books, (iii) documents issued,*
36 *procedural orders and signals sent, as*
37 *recorded in Archives ... The possibility of*
38 *error is acknowledged, but the account is*
39 *a reasonable reconstruction.)*

40
41 It's what should have happened.

42
43 Q. In relation to the term that you used, of Sydney's
44 custom of going to Action Stations no matter how innocent
45 the ship looked - I take it that the statement about
46 Sydney's custom is not based on anything that you
47 researched; it is more your opinion as to what should have

1 happened?

2 A. I did read right through *Sydney's* logs, certainly from
3 1939 until the end, possibly even earlier, and the
4 definition of "Action Stations" in the log is very fluffy.

5
6 Q. There is only one definition of "Action Stations" in
7 the log.

8 A. There maybe should be only one definition, but they
9 weren't using the term "Action Stations". They were
10 using - Burnett, at least, was using "degrees of
11 readiness".

12
13 Q. And the first degree of readiness is --

14 A. Cruising.

15
16 Q. -- a ship at Action Stations?

17 A. Yes, right, and fourth is Cruising.

18
19 Q. And *Sydney* came to Action Stations every day during
20 the War at dawn?

21 A. That has been disputed, but I don't know. The
22 evidence --

23
24 Q. You said that you have looked at the log.

25 A. Yes.

26
27 Q. The log records the ship coming to Action Stations
28 every day at dawn. Do you dispute that?

29
30 THE PRESIDENT: At sea.

31
32 CMDR RUSH: At sea. Thank you, sir.

33
34 THE WITNESS: I mistrust all documents, including
35 Detmers', including logs, including encyclopaedias. There
36 are people --

37
38 CMDR RUSH: Q. Doctor, that was the routine in every
39 Royal Australian Navy ship and Royal Navy ship of the
40 Second World War. Are you saying that you distrust that
41 routine?

42 A. And there are reports from seamen aboard *Sydney*, who
43 said that they never, ever went to Action Stations at
44 dawn - they personally, not the ship; they personally never
45 took up their Action Station. I don't know what's true.
46 You decide that.

47

1 Q. What are those reports?

2 A. Mainly oral reports, but I think you'll find there are
3 two or three to the Commission, if you read through the
4 lot.

5
6 Q. Two or three sailors?

7 A. At least one, and I think more than.

8
9 Q. Saying that the ship didn't come to Action Stations at
10 dawn?

11 A. The ship maybe did, but they were not at their Action
12 Stations. Therefore, it was not really at full Action
13 Stations. I do not know what went on.

14
15 Q. Yet, in your book, you say that the ship went to
16 Action Stations.

17 A. That was my impression at the time. This information
18 about people not going to their Action Stations at dawn has
19 turned up later, including at the Commission.

20
21 Q. What do you think happened when the ship altered
22 course for identification and the ship went to first degree
23 of readiness?

24 A. Probably.

25
26 Q. What do you mean, "Probably"?

27 A. I mean that they possibly had, or quite likely had,
28 a mental reservation about a second degree of readiness,
29 which was not stated, but where people like cooks did not
30 go to their Action Stations.

31
32 Q. Why do you pick cooks?

33 A. Because that was all that came to my mind as being
34 necessary to feed the crew, and they were allegedly seen.
35 I don't know that that's true, but I have a nasty feeling
36 about this.

37
38 Q. You put in your book that the ship went to Action
39 Stations.

40 A. That was my opinion at the time.

41
42 Q. But in the very next paragraph, if we go down the
43 page, you say there:

44
45 *But it appears that ventilators were not*
46 *turned off, nor complete watertight*
47 *integrity established, and not all damage*

1 *and fire control parties were on station.*

2

3 How do you put that in?

4 A. Well, I have said "it appears that". I haven't said
5 that was the case.

6

7 Q. On what possible basis do you note that it appears
8 that that happened?

9 A. What I was relying on 30 years ago is not altogether
10 in my memory. I think that would have been oral evidence
11 from former *Sydney* crew members, of whom I could consult
12 very few.

13

14 Q. There is certainly no account that exists of the
15 battle --

16 A. No, there's no written account of that sort of thing
17 happening.

18

19 Q. -- concerning those matters?

20 A. No. It was all oral to me.

21

22 THE PRESIDENT: Q. From people who weren't there?

23 A. From people who had been aboard *Sydney* but were
24 obviously not there at the time of the battle, but who knew
25 what had happened previously.

26

27 THE PRESIDENT: They couldn't possibly know what happened
28 on this occasion. They weren't there, and there was no-one
29 to tell them.

30

31 CMDR RUSH: Q. Doctor, you then, in the next paragraph,
32 say:

33

34 *Captain Burnett was a gunnery specialist*
35 *who favoured his artillery.*

36

37 A. Yes.

38

39 Q. What are you driving at there?

40 A. He was a gunnery specialist. He liked his guns. He
41 liked to use his guns. He would have had the general Naval
42 attitude, probably, that torpedoes were not the first
43 weapon to fire in an action during daylight. You possibly
44 know the expression about torpedoes: main armament by
45 night, main ornament by day.

46

47 Q. Well, they weren't, if we are to understand the

1 account of CAPT Detmers.

2 A. That was a question of an unusually close range. At
3 the normal range for a battle, if you could see the
4 torpedoes coming, you could dodge them.

5
6 Q. If we can go over to 0282, about a quarter of the way
7 down the page, after "PKQI", you say:

8
9 *From the shipping plot in the charthouse,*
10 *Captain Burnett could see that PKQI was not*
11 *due in any Australian port. And no ship*
12 *which was not bound for or coming from an*
13 *Australian port had any reason to be in*
14 *that area.*

15
16 A. Correct.

17
18 Q. What do you base that on?

19 A. On the pious hope that the shipping plots were fairly
20 accurate, the Vessels in Area Indicated.

21
22 Q. The shipping plots no longer exist.

23 A. Then.

24
25 Q. The shipping plots, the day-to-day shipping plots that
26 were kept in the Mercantile Movements Section at
27 Navy Office in Melbourne, no longer exist.

28 A. Terminological error. I meant Vessels in Area
29 Indicated.

30
31 Q. We're talking about the same thing. How do you know
32 what was indicated in Vessels in Area Indicated at this
33 time, on 19 November 1941?

34 A. Well, she shouldn't have been on the area indicated,
35 because she was plying between East Africa and the
36 Netherlands East Indies. She wasn't in an Australian port
37 for another two years. If she was on the shipping plot or
38 the VAI, there was something very wrong with the plotting.
39 She's certainly not in the Combined Operational
40 Intelligence Centre reports, nor in any merchant shipping
41 plot that I have seen from that date.

42
43 THE PRESIDENT: Q. But the COIC reports don't refer to
44 ships due in port?

45 A. It's variable. Some of them do; some of them don't.

46
47 Q. I don't believe that's correct.

1 A. I think they mainly referred to warships rather than
2 merchant ships, but there are references to ships. I did
3 not know that when I wrote the *Sydney* book. I think I did
4 not know that when I wrote the *Sydney* book. I investigated
5 them pretty closely when I was doing the book on CMDR Long.
6

7 CMDR RUSH: Q. If we go to the third-last paragraph on
8 that page, where you come back to the VAI.

9 A. Yes.

10

11 Q. After the signalling, you refer to:

12

13 *FROM FREMANTLE ... TO BATAVIA has been*
14 *suggested, while von Goessel'n, battle watch*
15 *officer on the bridge, maintained: FROM*
16 *BATAVIA TO LOURENCO MARQUES ...*

17

18 Then you say:

19

20 *Whatever the answer, Straat Malakka should*
21 *not have been there. How much confidence*
22 *could anyone place in Getting's "almost*
23 *water-tight system"?*

24

25 You appear to be raising the issue as to the manner in
26 which *Sydney* may have considered the VAI?

27 A. Probably. Do you know the *Cyclops* affair?

28

29 Q. I know of the *Cyclops* affair.

30 A. And you know about the *Yandra's* unknown ship, the
31 *Salland*?

32

33 Q. The fact of the matter is, doctor, that CAPT Burnett,
34 during his time in Navy Office, on the evidence that the
35 Commission has received, was intimately involved with the
36 VAI and its processes, going in there quite often --

37 A. Could well have been.

38

39 Q. -- to check on ships and the like.

40 A. It may not be quite as well realised, but he conducted
41 the inquiry into that mysterious ship that *Yandra* was
42 supposed to have misread. He knew that the report was not
43 necessarily 100 per cent correct.

44

45 Q. I think we may be at cross-purposes to some extent.

46 A. Right, sorry.

47

1 Q. As far as the VAI is concerned, there is no reason to
2 anticipate that CAPT Burnett would not have had confidence
3 in it.

4 A. I think there's no reason to consider that he would
5 have had confidence in it, total confidence, particularly
6 if he was no longer involved in compiling it and CMDR Long
7 was away.

8
9 THE PRESIDENT: Q. He was never involved in compiling
10 it, I don't think.

11 A. What - Burnett?

12

13 CMDR RUSH: Q. He never compiled the VAI.

14 A. No, I can well believe that, but he was supervising
15 the compilers.

16

17 Q. No, he was a person who, from time to time, made it
18 his business, on the evidence before the Commission of
19 Inquiry, to go into the Mercantile Movements Section, to
20 look at it, to observe it, and would do so even on Sunday
21 mornings, when the person that supervised it would
22 accompany him?

23 A. Yes, and he was no longer there to do that.

24

25 THE PRESIDENT: Q. Indeed, he went in there for the
26 purposes, it would seem, of testing its accuracy and
27 completeness.

28 A. But he was no longer there to do that.

29

30 THE PRESIDENT: No, he was on board *Sydney*.

31

32 CMDR RUSH: Q. There is one other matter that I had
33 threatened to come back to, doctor, concerning this action
34 report. If we can go back to NAA.012 --

35

36 THE PRESIDENT: Q. Just before you leave where you are,
37 in the book, you say that there was debate about whether or
38 not a signal was received, "Where are you going to? Where
39 are you coming from?", et cetera, and a debate about the
40 response?

41 A. Yes.

42

43 Q. We have Ahlback on one side and von GoesseIn on the
44 other giving two different responses.

45 A. Yes.

46

47 Q. Is it your recollection that they're the only persons

1 who addressed that matter?

2 A. The only people who would have been able to read the
3 signal were Ahlback and Lins.

4
5 Q. But Ahlback said nothing about it in his
6 interrogation.

7 A. Ahlback said "to Batavia".

8
9 Q. In his interrogation?

10 A. In my belief, yes.

11
12 CMDR RUSH: We think he might have, sir.

13
14 THE WITNESS: If you have the right interrogation. He was
15 interrogated several times. What von Goesseln would have
16 heard would have been Detmers telling Ahlback what signal
17 to send. Ahlback would then have sent the signal.

18
19 THE PRESIDENT: Q. Ahlback's evidence, as I recall it -
20 and I may well be wrong - was that there was a reply,
21 "Batavia", but I don't recall that he gave evidence about
22 what the question was. Presumably, it was, "Where are you
23 going?" Anyway, we can check that.

24
25 CMDR RUSH: Sir, I think it's at NAA.012.0093. I don't
26 ask that it be brought up now.

27
28 THE PRESIDENT: No, we'll check it later on.

29
30 CMDR RUSH: There are a couple of other matters, sir, that
31 I overlooked.

32
33 THE WITNESS: With regard to the situation there, I would
34 be inclined to believe Ahlback, because von Goesseln was
35 writing that later, I think, and he knew that the track, or
36 the route, covered by *Straat Malakka* was Batavia, Lourenco
37 Marques, or vice versa, and he has transposed what he knew
38 was the route to what they said in response to *Sydney's*
39 signal. That's only working out a reasonable explanation.
40 I would believe Ahlback.

41
42 THE PRESIDENT: Q. I think I'm correct also in thinking
43 that in none of the accounts given by CAPT Detmers until he
44 wrote his book is that matter referred to.

45 A. That could well be. I don't think he considered it
46 important. I can see why the Commission considers it
47 important - because it deals with what justification

1 CAPT Burnett would have had for believing the response. It
2 wouldn't have been important to Detmers after the action.

3
4 CMDR RUSH: Q. Just a couple of matters out of the book,
5 doctor. At 0286, page 134 --

6 A. My book?

7
8 Q. Yes. About a third of the way down the page, you
9 refer to:

10
11 *The port cutter was swung out and the*
12 *boat's crew were standing by.*

13
14 A. Yes.

15
16 Q. Again, the cutters of *Sydney* were always swung out,
17 were they not?

18 A. I don't know. The *Kormoran* crew said that the boat
19 "was swung out". Now, that is ambiguous, because "was
20 swung out" can refer to either an action or a state. Do
21 you know what I mean by the difference?

22
23 Q. I do, and the state that the cutters were in when
24 *Sydney* was at sea was that the cutters were swung out.

25 A. The observation is still correct.

26
27 Q. In those circumstances, the idea of the boat's crew
28 standing by, if the ship be at the first degree of
29 readiness, would not be correct?

30 A. Not necessarily. If they were planning to fly off the
31 aircraft, I'm told that the boat's crew was always ready in
32 case the plane crashed. That is something I have been told
33 and something for which I cannot vouch.

34
35 Q. Perhaps a couple of other matters. If we go a bit
36 further down the page to the paragraph that states:

37
38 *The call sign of Straat Malakka was*
39 *transposed from the code book. It came*
40 *out, according to naval authorities, as*
41 *IIKP. Though Sydney, using the code book,*
42 *could work out what Straat Malakka's secret*
43 *call sign ought to be, this did not mean*
44 *that the call sign had ever been issued to*
45 *her. Dutch ships had begun to be issued*
46 *with secret call signs only after 1 June*
47 *1941, and this recognition procedure was*

1 *still "only applicable to red ensign and*
2 *some Dutch ships".*

3
4 You refer to "Message 1618A, 16 December 1941, quoted in
5 Battle Summary No. 13".

6 A. Could you take it down the screen so that I can see
7 the reference?

8
9 Q. It's at the bottom of the page.

10 A. Right.

11
12 Q. In your records, do you have a copy of that?

13 A. No. Now, there's a very sad story about that battle
14 summary. When I was writing the book, I went to the War
15 Memorial and a nice old chap came out to me and said,
16 "Look, we'd love to show you this, but it's a British
17 secret and we can't. You'll have to write to the
18 Admiralty."

19
20 So I wrote to the Admiralty. About six months later,
21 I got back a message saying, "Not us. Someone or other
22 else." So I wrote again to London and finally got
23 permission to see this Battle Summary 13.

24
25 When I went back to the War Memorial, they said, "That
26 is not one of our accession numbers. We don't have it", at
27 which time I threw one of my tantrums, and I said, "How do
28 you want me to cite this when I put it in my footnotes?"
29 And they said, "Oh, this number", so I cited that number.

30
31 About a year after my book was published, someone went
32 to the War Memorial and said, "That's not our number. We
33 don't have it." So I threw another tantrum. The War
34 Memorial has that battle summary, whatever they access it
35 as.

36
37 Q. We have Battle Summary No. 13.

38 A. Hooray.

39
40 Q. We can't find that reference, but you don't have it,
41 either, I take it?

42 A. I did have it, but I don't know where it is, not after
43 30 years.

44
45 Q. There is one other matter, if I could, at 0287.
46 Towards the bottom of the page, you are there referring to
47 the decamouflaging of *Kormoran* and you state:

1
2 *The bow and stern guns could decamouflage*
3 *fastest, and the No. 1 starboard gun under*
4 *Fritz Ahsbaas had the fastest crew. The*
5 *first shot left their gun within*
6 *six seconds.*
7

8 Where do you obtain that information from?

9 A. If you had asked me 25 years ago, I might have known.
10 Ahsbaas had the fastest crew. That was known to all the
11 gun crews, so any one of them could have told me.
12

13 Q. You're effectively saying that the decamouflage
14 process and the first shot from that gun crew was fired in
15 six seconds. I know it's a test, in a sense, but do you
16 recall at all what you based the "six seconds" on?

17 A. Everybody consulted, practically, except Ahlback and
18 one other person, said six seconds. That was their aiming
19 time. Now, it wasn't a question of Detmers saying,
20 "Decamouflage", and Ahlback or someone saying, "Right,
21 we're decamouflaged. The flag's flying. Now let's get the
22 guns going." Everything happened simultaneously. They had
23 been told ever since *Pinguin* was sunk, with the loss of all
24 but 50 of her crew, "Your life depends on your speed." So
25 they were as quick as they could get it - six seconds,
26 eight seconds, even ten seconds - but six seconds is still
27 reasonable. The guns could be raised. They were trained
28 before they decamouflaged.
29

30 Q. There have been timings done of the guns, have there
31 not?

32 A. Oh, yes, stopwatches. They had a practice gun below
33 decks. They didn't use the real guns for practice. They
34 timed them, and all the other guns were trying to beat
35 Ahsbaas, and they couldn't. They were not only the
36 quickest to get started; they could produce 13 shells
37 a minute.
38

39 Q. Doctor, the final matter from your book is at 0291,
40 page 139, where in the second paragraph you say this:
41

42 *The light was beginning to fail as the gap*
43 *between the two ships opened steadily. At*
44 *a distance of 9000 metres, Kormoran sent*
45 *down another torpedo from her port*
46 *underwater tube. This time Greter counted*
47 *the seconds in vain, but it really no*

1 *longer mattered whether the torpedo hit or*
2 *not.*

3
4 A. I have since become a little bit dubious about whether
5 I really knew that it was the underwater port torpedo.
6 I assumed that since only one torpedo was fired, it would
7 have been, because if he fired the above-water torpedoes,
8 he would have fired both. I also reasoned that it was more
9 important to get the underwater torpedo fired and out of
10 the ship, not with the idea of hitting *Sydney* but to
11 prevent it blowing up and setting off the mines, or
12 vice versa. It was closer to the mines than the underwater
13 torpedo tubes were.

14
15 THE PRESIDENT: Q. If that is right, one would need to
16 fire an underwater torpedo from each of the port and
17 starboard sides, would one not?

18 A. It would have been desirable, but the starboard side
19 was covered in flames.

20
21 Q. I don't recall any evidence to that effect.

22 A. I do. The wind was blowing from the port side, and it
23 was blowing the flames over, and the officers or the crew
24 who were on the Poop could not get through - well, they
25 could get through to the Bridge for a time on the port
26 side, but not the starboard side, and then they couldn't
27 get through on either side.

28
29 CMDR RUSH: Q. Apart from the reasoning that you have
30 just outlined, there is no evidence at all - no evidence at
31 all - that the port underwater tube was fired.

32 A. No evidence that it was the underwater tube, but there
33 is definitely a consensus among those who have discussed
34 the matter at all that one torpedo that was fired in the
35 direction of *Sydney* had to come from the port side.

36
37 Q. There is material that suggests that the starboard
38 underwater torpedo was fired, for the very reason that you
39 said it couldn't have been fired.

40 A. What evidence?

41
42 Q. The account of Mr Greter.

43 A. Does he say starboard?

44
45 Q. Mr Greter said that he was ordered back onto the ship
46 to fire the starboard underwater torpedo tube.

47 A. Weird. "Ordered back onto the ship"? He didn't get

1 up from the lifeboat and then go back to the ship.

2

3 Q. So that's weird? I'll just find it for you.
4 SPC.004.0069. This is an account of the battle by
5 Mr Greter. If we go to 0071 --

6 A. I have not seen this before.

7

8 Q. The paragraph at the bottom of the page states:

9

10 *At the same time, I had to go back into the*
11 *burning ship. The Kommandant had given me*
12 *the order to fire the torpedo in the*
13 *starboard underwater torpedo tube before it*
14 *exploded in its tube and took us and the*
15 *ship into the depths. With my heart*
16 *beating, I went back down below deck to the*
17 *underwater torpedo room. An oppressive*
18 *silence reigned below deck. The ship lived*
19 *no more, there was no longer the usual*
20 *noise of the motors. The clammy coolness*
21 *of the rooms reminded shockingly of a tomb*
22 *and I was happy once I had fired the*
23 *torpedo and stood in the fresh air above*
24 *deck once more.*

25

26 You've just said that that's stupid. Why?

27 A. No, I said "weird".

28

29 Q. Weird. I'm sorry.

30 A. What you said was:

31

32 *At the same time I had to go back [to] the*
33 *burning ship.*

34

35 That's weird. What he has written is "into" the burning
36 ship, which is slightly different.

37

38 Q. "I had to go back into the burning ship".

39 A. That's not what you said, or not what I heard. What
40 I heard you say was "had to go back [to] the ship", which
41 would have implied that he was already off the ship.
42 That's what was weird.

43

44 Q. So this is an account that you were unaware of?

45 A. I've never seen it before.

46

47 Q. You have described previously in your evidence any

1 firing of that torpedo or going into the ship for the
2 firing of the torpedo as being - I'm not sure you used the
3 word "impossible" --

4 A. Yes.

5

6 Q. -- but that seemed to be the intent of your evidence,
7 and yet we have the torpedo officer saying that's exactly
8 what he did.

9 A. It would depend on when he was sent there, and I would
10 suspect that this is wrong.

11

12 Q. Why?

13 A. Because of the number of accounts that have said that
14 they fired a port torpedo aft of *Sydney*. Whether it was
15 possible for --

16

17 Q. I'm reminded of something I have to correct. This has
18 nothing to do with *Sydney*. If you look at the paragraph
19 above, you will see that what he describes as
20 a "masterpiece of seamanship" - the boats had been put in
21 the water, filled with supplies.

22 A. Yes.

23

24 Q. This is well after *Sydney* is off on the horizon, with
25 the ship on fire.

26 A. I would dispute Greter's account in this case.

27

28 Q. Why?

29 A. Because it's out of sequence. That particular
30 paragraph is out of sequence and not logical.

31

32 Q. It's not out of sequence as he puts it in the account.

33 A. I know it's not out of sequence as he puts it. It's
34 out of sequence as logic puts it, considering that I have
35 not seen the whole report.

36

37 Q. Well, doctor, why do you put in your book that the
38 port torpedo tube was fired? What's the logic of that?

39 A. Because they said that it was fired at *Sydney*, which
40 was off the port side.

41

42 Q. And I'm corrected, that the port underwater torpedo
43 was fired - what's your logic of that?

44 A. Are you questioning first the port, or the underwater,
45 or both?

46

47 Q. I'm questioning your statement in your book, or your

1 conclusion in your book, that the port underwater torpedo
2 was fired.

3 A. Yes. We'll stay with the underwater torpedo, because
4 we agree on that. Port, because it was supposed to have
5 been fired at *Sydney*, and *Sydney* was definitely no longer
6 on the starboard side.

7
8 Q. Who says that the port underwater torpedo was fired?

9 A. Well, if it was being fired at *Sydney*, where else was
10 it going to come from?

11
12 Q. It would be fired on the orders of the Captain, would
13 it not?

14 A. Yes, but where would it have come from, if it hadn't
15 come from the port side?

16
17 Q. According to his *Orontes* script, he ordered it fired,
18 but it didn't come from the port underwater tube.

19 A. Could we have the *Orontes* script back again, please?
20 I want the time. I want the time when he said that.

21
22 Q. Yes, COI.004.0169. If you go to 1800, towards the
23 bottom of the page, this is the account of CAPT Detmers
24 taken from him when he was on *Orontes*, and he refers to one
25 torpedo being fired at 7,000 metres.

26 A. Yes, a single shot, right. Now, *Sydney* has crossed
27 over from *Kormoran*'s starboard side to her port side.
28 Right?

29
30 Q. Yes.

31 A. And it says, where the line begins "60 hm":

32
33 *The opponent is travelling at a slow speed*
34 *approximately on a southerly course.*

35
36 Are you following where I'm translating?

37
38 Q. I'm more interested in the line below it.

39 A. Yes, I'm positioning the ships.

40
41 *Sydney was on Kormoran's port side.*

42
43 So when it gets to 1800:

44
45 *Our own torpedo shot at 70,000 metres*
46 *[probably] with an inclination of*
47 *110 degrees. Opponent's speed 5 knots,*

1 a miss behind.

2

3 If Sydney is on *Kormoran's* port side and they are shooting
4 in her direction, it had to come from the port tube, no
5 matter what Greter says.

6

7 Q. I have no issue with the port tube. I'm just
8 wondering why you say it's the underwater tube.

9 A. Because if he was firing one single tube, he would
10 have had to use the underwater tube; if he had fired the
11 above-water tubes, the deck tubes, he would have fired
12 both, besides which, the underwater torpedo was the one in
13 most danger of exploding roughly at the same time as the
14 mines, either being set off by the mines or overheating and
15 then setting off the mines. I'll stand by that.

16

17 THE PRESIDENT: Q. So that theory - at that stage,
18 *Kormoran* was either stopped or going very slowly?

19

A. Yes.

20

21 Q. Something less than 3 knots or thereabouts?

22

23 A. Wait a minute. I'll have to follow through. Yes,
24 that would be about 10 minutes after *Kormoran* lost power,
25 about, because all these times are approximate.

25

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

27

28 CMDR RENWICK: Nothing from me, thank you, sir.

29

30 THE WITNESS: I would rather like to know whether that
31 Greter report was written in English or in German, and, if
32 it was in German, who translated it. Greter was quite
33 capable of writing it in English, but I'd like to know
34 whether he did.

35

36 CMDR RUSH: We have it in both, sir.

37

38 THE PRESIDENT: Q. Doctor, one of the issues that I have
39 to address is the veracity of the German account, and one
40 way of approaching that is to consider who it was who could
41 sensibly give an account.

42

A. Yes.

43

44 Q. Namely, those people who could see what was happening.

45

A. Depending on what you're asking.

46

47 Q. Now, I don't recall, but do you in your book set out

1 who you say could see? Other authors have. I'm not sure
2 if you have.

3 A. I'm having a bit of trouble hearing you.

4
5 Q. I'm not sure if you set out in your book who you say
6 could see the action.

7 A. Yes.

8
9 Q. Do you do that or not?

10 A. Oh, yes.

11
12 Q. Could we go to that, please? Could someone find that
13 for me? I had a copy of your book, but counsel assisting
14 stole it from me.

15 A. I took into account, were they people doing what was
16 described; were they people who could see what was being
17 done; were they lying; would they have heard orders and
18 comments over the ship's communications system?

19
20 Q. Yes, I understand that. All I'm concerned with at
21 this stage is to try to establish who it was who could
22 actually see.

23 A. See which?

24
25 Q. See the approach, to start with, and then see the
26 engagement when it occurred.

27 A. The first person, the only person, to see *Sydney* while
28 *Kormoran* was on her original course was Jansen in the
29 crows nest. Even Detmers didn't see that.

30
31 Q. What about Bunjes? He said he went up there shortly
32 afterwards.

33 A. Yes, five or ten minutes afterwards.

34
35 Q. Well, he would have seen *Sydney*.

36 A. Oh, he would have seen *Sydney*, but by then *Kormoran*
37 was already changing course, because he said it was on the
38 starboard bow.

39
40 Q. So you had Jansen and Bunjes in the crows nest?

41 A. Jansen first, who saw *Sydney* on the port bow, or fine
42 on the port bow. Bunjes later, when *Kormoran* had already
43 turned and *Sydney* was more on the starboard bow. By then,
44 Detmers would also have been on the Bridge.

45
46 Q. Never mind that. Who was on the signalling deck above
47 the Bridge?

1 A. Ahlbach and Lins. I don't know who else was on the
2 signalling deck, assuming that that was not attached to the
3 Bridge.
4
5 Q. The evidence, I think, establishes that both
6 Messerschmidt and Skeries were there.
7 A. Skeries was obviously on the gun platform. Maybe the
8 gun platform is the same as the signalling deck. I don't
9 know enough about the configuration of the ship to tell
10 that.
11
12 Q. On the Bridge, there was CAPT Detmers?
13 A. Yes.
14
15 Q. Von Goesseln?
16 A. Yes. Now, von Goesseln was the senior. Apart from
17 Detmers and Foerster, he was the senior deck officer.
18 Bretschneider was an administrative officer; Messerschmidt
19 also was not a watch officer; von Goesseln --
20
21 Q. Please, I'm just trying to find out who you say the
22 evidence establishes was on the Bridge.
23 A. Detmers, Foerster, von Goesseln, Jurgensen, Weinig,
24 the helmsman --
25
26 Q. Sorry, who?
27 A. W-E-I-N-I-G, the helmsman. Apparently, the radio room
28 was attached to the Bridge, and Malapert was in the doorway
29 or commuting between the two. There would also have been
30 a Bridge messenger. I don't think I could name others.
31
32 Q. Let me run through some. Detmers?
33 A. Yes.
34
35 Q. Von Goesseln?
36 A. Yes.
37
38 Q. Meyer?
39 A. Oh, yes, he was definitely there, because he was hit
40 in the back by a piece of shrapnel.
41
42 Q. Diebitsch?
43 A. Diebitsch - possibly. I don't know.
44
45 Q. Greter?
46 A. It depends where the button for pushing the torpedoes
47 was. He wasn't down with the torpedoes, apparently.

1
2 Q. von Malapert?
3 A. Radio room.
4
5 Q. Jurgensen?
6 A. Bridge.
7
8 Q. Schaefer?
9 A. His job was with the useless LS boat. I don't know
10 what his Action Station was. It could have been something
11 like damage control. I don't think he was on the Bridge.
12
13 Q. Schaumburg?
14 A. Who?
15
16 Q. Schaumburg.
17 A. Spelled?
18
19 Q. S-C-H-A-U-M-B-U-R-G.
20 A. What's his rank?
21
22 Q. I have no idea.
23 A. Excuse me, could I ask Tyson to give me the ranks?
24 I have a full list of ranks there.
25
26 CMDR RUSH: He was just a sailor, sir.
27
28 THE PRESIDENT: Q. He was a sailor. Right. Do you know
29 if he was on the Bridge or not, according to the evidence?
30 A. No, but that might tell me.
31
32 Q. All right. And Ahlback, I suggest.
33 A. Ahlback was on the signalling platform. I don't know
34 if that was attached to the Bridge.
35
36 Q. Then there were people on the afterdeck guns?
37 A. Yes.
38
39 Q. That would be Roenchen?
40 A. I don't know.
41
42 Q. Brinkmann?
43 A. Yes.
44
45 Q. Martin Schneider?
46 A. I don't know.
47

1 Q. And Johann Schneider?

2 A. I don't know. Ahl was there. Ahl was definitely with
3 Brinkmann. He was the second-in-command of the secondary
4 armament as well as being the flying officer.

5
6 THE PRESIDENT: Yes, very well. Is there anything
7 arising?

8
9 CMDR RUSH: No, sir.

10
11 CMDR RENWICK: No, thank you.

12
13 CMDR RUSH: May Dr Poniewierski be excused, sir?

14
15 THE PRESIDENT: Yes. Thank you very much, doctor.

16
17 THE WITNESS: Did you want to ask something?

18
19 CMDR RENWICK: No, thank you.

20
21 THE PRESIDENT: No. I have offered him the opportunity
22 twice. Thank you very much, doctor.

23
24 THE WITNESS: Thank you. Might I add that I wrote the
25 book as accurately as possible, but not with the purpose of
26 finding the wrecks. I had the position of the battle too
27 far to the north-west, because when I estimated it from the
28 noon position, with course, et cetera, I overestimated the
29 speed of the current. Nor was I particularly concerned
30 with the minutiae of the sequence of shots. I did what
31 I could at the time with what was available. A lot has
32 become available later, quite a bit of it owing to my
33 efforts.

34
35 THE PRESIDENT: Yes, thank you.

36
37 <THE WITNESS WITHDREW

38
39 CMDR RUSH: Sir, Mrs Carr is the next witness.

40
41 THE PRESIDENT: I will briefly adjourn.

42
43 **SHORT ADJOURNMENT**

44
45
46
47

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

2

3 <GRACE CARR, sworn:

[12.37pm]

4

5 <EXAMINATION BY CMDR RUSH:

6

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

9

A. Yes.

10

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

17

A. Correct.

18

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

22

A. Yes.

23

24 CMDR RUSH: I tender that affidavit, sir.

25

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

28

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

33

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

35

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

39

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

42

A. Oh, yes, that's right.

43

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

1 A. Not the Air Force, the Army.

2

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

6 A. Yes.

7

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

10 A. Ever since I was six years old.

11

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

13 A. Not quite 18.

14

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

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

20

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

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

27

28 Q. Alma?

29 A. Yes.

30

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

34 A. Yes.

35

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

38 A. Yes.

39

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

43 A. Yes.

44

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

47

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

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

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

24 A. Yes.

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

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

29
30 Q. Did you know his uncle?

31 A. No.

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

34 A. Yes, and no photos on them.

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

37 A. Yes, they did.

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

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

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

45 A. Yes, Keith was in 1925.

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

1 relationship, was six years older than him?

2 A. Yes, approximately.

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

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

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

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

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

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

42 A. Yes, sir.

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

1 date of birth as 29 September 1925.

2 A. Yes.

3

4 Q. And place of birth?

5 A. Bellbird.

6

7 Q. Bellbird, New South Wales?

8 A. Yes, near Cessnock.

9

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

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

13

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

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

19

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

21

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

24

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

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

30

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

32

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

35 A. Ellalong.

36

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

38 A. Seven miles out of Cessnock.

39

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

42 A. Yes, yes.

43

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

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

3
4 CMDR RUSH: I agree, sir.

5
6 THE PRESIDENT: Thank you.

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

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

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

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

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

33 A. He was in the Navy since 1940.

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

36 A. Yes.

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

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

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

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

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

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

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

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

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

15
16 Q. Why not?

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

20
21 Q. But in 1943 --

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

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

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

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

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

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

38 A. Yes.

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

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

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

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

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

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

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

15
16 CMDR RUSH: Yes, sir.

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

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

23
24 THE PRESIDENT: A correction, is it?

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

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

34
35 CMDR RUSH: Yes, sir.

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

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

1 at *Cerberus* as of that date?

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

10
11 CMDR RUSH: If we could have a look at COI.006.0179, we
12 have here the entry for Herbert Charles McLeod. I was
13 mistaken on the date of birth. It was in fact 8 March
14 1916, so he was nine years older than Keith McLeod. The
15 place of birth is given as Richmond, Victoria; and
16 religion, C of E.

17
18 THE PRESIDENT: Q. His mother was Dorothy Ann of
19 9 Myrtle Grove, Regent, Victoria.

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

23
24 CMDR RUSH: Q. I guess there was no reason why he would
25 give religion of "C of E" as opposed to "RC"?

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

27
28 Q. What we see for Herbert Charles McLeod is an entry of
29 6 February 1939, and if we go down a little further to the
30 "Examinations and Notations" box, he underwent training and
31 examinations through March, February and May and was issued
32 with a lifebelt on 14 December 1939 and, it seems, posted
33 to *Sydney*.

34
35 THE PRESIDENT: Q. There is another very great
36 difference between these two gentlemen.

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

41
42 Q. It's unlikely. Do you see in the document in front of
43 you, "Herbert Charles McLeod", "Description of person"? He
44 has a scar on his left shin. Do you see that on the
45 screen?

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

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

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

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

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

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

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

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

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

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

34
35 THE PRESIDENT: Yes, CMDR Rush.

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

42 A. Possibly to the uncle.

43
44 Q. I'm sorry?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1
2 While aboard that English ship, Keith was told that
3 the English warship and the American warship were having
4 a three-day high-priority meeting up among some islands, if
5 you could call them islands. It seems that nobody lived on
6 these islands, because the water at high tide or storms
7 washed right over, so they were disguised to look like, if
8 any plane went over, just part of the island.
9

10 The English and the American crew used to visit each
11 other back and forwards on each other's ships, exchanging
12 names and swapping whatever they could swap - caps,
13 everything, I don't know what - and inviting each to come
14 and visit in their own home.
15

16 So when the American ship saw the glow on the horizon
17 that evening late, and then the next thing this German ship
18 was coming towards them, the American Captain called out,
19 signalled for them to stop. The *Kormoran* did a turn and
20 clapped on speed, so they were convinced then that the
21 Germans had sunk the British ship, their pals that they had
22 become friendly with. They were so incensed that the
23 Captain ordered one shot into the *Kormoran* to cripple it,
24 so it wouldn't get back to - well, Germany or Japan.
25

26 Now, this was a week before America was legally in the
27 War, a week or so before Pearl Harbor, so they weren't
28 supposed to fire upon it; they weren't supposed to, but
29 they were so incensed about the sinking of the British ship
30 that they just crippled it.
31

32 Then they sailed on to see if there were any
33 survivors, but they missed seeing Keith and the other two
34 lads in the water, and they sailed on until the English
35 ship picked them up the next day. I said to Keith, "How
36 could you swim all night long in that water? How could you
37 stay afloat?" He said, "That water is so salty, you can't
38 sink." He said, "It was easy to stay afloat."
39

40 So it was an American ship that sank the *Kormoran*, and
41 I did see on TV recently the *Kormoran* Captain said that the
42 *Sydney* went down all in flames, that it was a burnt-out
43 hulk at the bottom of the sea. Now, we know now that that
44 isn't true, because there's not a sign of burning on those
45 decks or anything.
46

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

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

2

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

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

10

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

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

19

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

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

27

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

30 A. I never knew Charles Herbert McLeod.

31

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

35

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

38

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

40

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

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

44

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

47

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

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

6
7 CMDR RUSH: Yes, sir.

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

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

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

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

19
20 THE WITNESS: Yes.

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

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

28
29 THE PRESIDENT: Thank you very much.

30
31 **<THE WITNESS WITHDREW**

32
33 THE PRESIDENT: Yes, CMDR Rush.

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

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

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

45
46
47

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