

COMMISSION OF INQUIRY INTO THE LOSS OF HMAS SYDNEY II

Before The Hon TRH Cole AO RFD QC

Held at residence of Dr Habben
[REDACTED] Germany

Counsel Assisting: LEUT Matthew Tyson
LEUT Stephen Harper

On Friday, 11 July 2008
(Day 12)

33 THE PRESIDENT: Today is 11 July 2008 and I'm at the home
34 of Dr Habben [REDACTED] in the north of Germany. Dr Habben
35 is, in fact, the son of Dr Habben, who was the doctor on
36 board the Kormoran. I've come here today to take the
37 evidence of Herr Messerschmidt, who was an officer on the
38 Kormoran.

39

40 Q. Thank you, Herr Messerschmidt, for agreeing to see us.

41

42 INTERPRETER [GERMAN]: Today is the 11th of July 2008 . We are [REDACTED], in Northern Germany
43 at the house of Dr Habben. Dr Habben is the son of Dr Habben, the man, [could not be understood]
44 who worked as the ship's physician on the Kormoran.

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46 MESSERSCHMIDT [GERMAN]: We can call him Dr Siebelt Habben, [could not be understood]
47 That is how he is known. That is the given name.

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THE INTERPRETER: Dr Siebelt Habben, that's his first name.

INTERPRETER [GERMAN]: I have come here to question Mr Messerschmidt, who worked as an officer on the Kormoran.

THE PRESIDENT: Yes. Herr Messerschmidt, would you mind taking the oath to – is the evidence that you are going to give to my Commission the truth, the whole truth, and nothing but the truth, please say “So help me God.”.

<HEINZ MESSERSCHMIDT, sworn:

MESSERSCHMIDT [GERMAN]: So help me God. [English] So help me God.

THE PRESIDENT: Thank you very much. I should point out that Herr Messerschmidt is a little modest. He reads English and speaks English well, but we have with us the interpreter, who will interpret as Herr Messerschmidt wishes.

INTERPRETER [GERMAN]: I have to add that Mr Messerschmidt is very modest as to his knowledge of English, as he speaks English very well and is able to read English very well. But we have our interpreter Mr Thomas here who shall assist us, if required.

THE PRESIDENT: What was the date of the interview?

LEUT TYSON: 12 June.

THE PRESIDENT: On 12 June, there was an interview conducted by Counsel Assisting with Herr Messerschmidt and a tape of that interview, a videotape and a recording is available. Subsequent to that, Herr Messerschmidt asked that there be prepared a statement from what he had said in that interview, setting out in some detail the evidence that he could give to the Inquiry.

INTERPRETER [GERMAN]: On 12.06.2008, the Counsel Assisting the Commission of Inquiry conducted an interview with Mr Messerschmidt. This interview was recorded as an audio tape as a video tape. Subsequently, Mr Messerschmidt asked us to summarise in detail in a statement evidence which he gave during this interview.

1 THE PRESIDENT: Pursuant to that request, Counsel Assisting prepared a
2 draft statement and it was available when we arrived here
3 today about lunchtime. For the last four hours or so, Herr
4 Messerschmidt has been through that statement, reading it
5 and clarifying it and changing it where it was necessary.
6

7 INTERPRETER [GERMAN]: Therefore, the Counsel Assisting has prepared a draft of a statement.
8 When we arrived here at lunchtime today, this draft was presented to Mr Messerschmidt.
9 During the past four hours, Mr Messerschmidt has looked at this draft and added clarifications
10 rectifications and corrections, where these were required.
11

12
13 Q. And, Herr Messerschmidt, may I pass to you the
14 statement --

15 A. MESSERSCHMIDT [GERMAN] (Not through interpreter). Okay.
16

17 Q. -- as amended to accord with the evidence that you
18 wish to give to this Inquiry. It comprises some 40 pages.
19

20 A. MESSERSCHMIDT [GERMAN] (Not through interpreter). Forty pages, okay.
21

22 INTERPRETER [GERMAN]: Mr Messerschmidt, may I now hand you the statement, with the corrections
23 you wished to make and in the way you wish your statement to be given to the Commission?
24

25
26 Q. And I would ask you to sign that --

27 Q. -- as a correct statement of your evidence.

28 A. MESSERSCHMIDT [GERMAN] (Not through interpreter.) Yes.
29

30 INTERPRETER [GERMAN]: I would like you to sign that as a correct statement in regard to your evidence.
31

32
33 Q. Thank you.

34 A. MESSERSCHMIDT [GERMAN] (Not through interpreter.) Okay.
35

36 THE PRESIDENT: That will become exhibit 26.
37

38 INTERPRETER [GERMAN]: Thank you. I shall include this as Exhibit Number 26 within our document.
39

40
41 EXHIBIT #26 SIGNED STATEMENT OF EVIDENCE OF HEINZ
42 MESSERSCHMIDT DATED 11/7/2008
43

44 THE PRESIDENT: Do you have any further questions,
45 Leut Tyson?
46

47 LEUT TYSON: I just have some very brief matters,

1 Mr President.

2

3 LEUT TYSON: Q. Herr Messerschmidt, in your statement
4 you refer to your battle station on 19 November 1941.

5 Could I ask you, sir, to please indicate on this diagram
6 where that battle station was?

7 A. MESSERSCHMIDT [ENGLISH] (Not through interpreter). Just here.

8

9 Q. Could you mark it with a cross, please, sir?

10

11 Sir, you also refer in your witness statement to a
12 37mm gun which you saw firing into the bridge of HMAS
13 Sydney. Could you please indicate with cross and a circle
14 around that cross where that 37mm gun was?

15 A. MESSERSCHMIDT [ENGLISH] (Not through interpreter). That is on the starboard
16 side of the bridge, bridge knock, it's a knock here. It
17 must be here. This is the bridge and this part of the
18 bridge is open.

19

20 Q. Yes?

21 A. MESSERSCHMIDT [ENGLISH] (Not through interpreter). Must here.

22

23

24 Q. Thank you, sir.

25 A. (Not through interpreter). That's all right.

26

27 LEUT TYSON: Mr President, would that be convenient to be
28 marked as exhibit 27?

29

30 THE PRESIDENT: Yes.

31

32 INTERPRETER [GERMAN]: Mr President, may I hand this to you as Exhibit Number 27?

33

34

35 EXHIBIT #27 DIAGRAM SHOWING POSITION OF 37MM GUN

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37 LIEUT TYSON: Q. Herr Messerschmidt, just two final
38 questions: On 19 November, 1941, during the engagement
39 between Sydney and Kormoran, are you aware whether or not
40 there was a dummy antisubmarine gun on the poop deck of
41 Kormoran?

42 A. MESSERSCHMIDT [ENGLISH] (Not through interpreter). I'm sure we had not.

43

44 Q. And a final question: On 19 November 1941, was there
45 any smoke generator or machine to create smokescreens that
46 was used by Capt Detmers on the afternoon?

47 A. MESSERSCHMIDT [ENGLISH] (Not through interpreter). No, it worked by a -

1 but it must have damage (inaudible) something on the windows (inaudible), on the pipes. We
2 didn't expect that the fog came.

3

4 Q. But was it used at all on 19 November 1941?

5 A. MESSERSCHMIDT [ENGLISH] (Not through interpreter). Never; it was never used.

6

7 LEUT TYSON: Mr President, if that's convenient, they are
8 the questions on behalf of Counsel Assisting.

9

10 THE PRESIDENT: Q. All right. Herr Messerschmidt, I
11 just have a couple of questions: In some writings that I
12 have read, it was suggested that the Kormoran had been sent
13 to intercept the Aquitania; is that true?

14 A. MESSERSCHMIDT [ENGLISH] (Not through interpreter). No, it's not true.

15

16 Q. It's also been said that the Kormoran knew of the
17 presence of HMAS Sydney in the locality; is that true?

18 A. MESSERSCHMIDT [ENGLISH] (Not through interpreter). We did not know.

19

20 Q. And it's also been said that the Kormoran knew that
21 Sydney has been escorting Zealandia up to the Sunda Strait;
22 is that true?

23 A. MESSERSCHMIDT [ENGLISH] (Not through interpreter). We did know - did not know
24 about that.

25

26 Q. In your statement, you refer to the fact that the
27 battle ensign was taken down and taken by Capt Detmers with
28 him in the boat in which you left the Kormoran. Could you
29 tell me, please, what happened to that flag?

30 A. MESSERSCHMIDT [ENGLISH] (Not through interpreter). This flag was thrown
31 overboard just before we went out by the cent (?) (inaudible) tower.

32

33 Captain Detmers ordered that.

34

35 Q. All right. I have no further questions. Thank you
36 very much indeed for your cooperation in making this
37 detailed statement. It's been a great help, thank you.

38 A. MESSERSCHMIDT [ENGLISH] (Not through interpreter). I hope it will bring
39 everything to a good end.

40

41 Q. Yes.

42 A. MESSERSCHMIDT [ENGLISH] (Not through interpreter). And, furthermore, I'm
43 happy to help. You got it as a living part of a crew of
44 the Kormoran.

45

46 Q. Well, I'm glad you've still survived. You're doing
47 very well at the age of 93 years, if I may say so. Thank

1 you very much indeed.

2 A. MESSERSCHMIDT [ENGLISH] (Not through interpreter). Okay.

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