

CHAPTER 1

INTRODUCTION

1.1 The loss of HMAS *Sydney*¹ in November 1941 was a tragedy on a number of levels. For the 645² crew on the ship and their families, it was a devastating blow, one from which many close relatives never recovered. For the Royal Australian Navy, the loss of the 'glamour ship' of the fleet was a blow to both operational effectiveness and morale. For the Australian population, who had feted *Sydney* on her return from the Mediterranean just nine months before, it was a sudden and shocking reminder of the nature of war and the proximity of the threat facing Australia and her allies.

1.2 What for many was so incomprehensible was that *Sydney* could be lost with all crew, while over 300 crew of the German raider *Kormoran* survived the engagement. As the story of the engagement was based on accounts by the *Kormoran* survivors, many Australians doubted that the full story was being told. Government attempts to censor reports of the ship's loss in the latter part of November 1941, prior to an official announcement being made, only served to suggest, in some people's minds, that the true fate of *Sydney* and her crew was being withheld from the Australian population.

1.3 In the 57 years since the loss of *Sydney*, the debate on the fate of *Sydney*, the exact nature of the engagement, and its aftermath has intensified rather than abated. The Committee found itself at a great disadvantage in reviewing the events of November 1941, as there was apparently no formal naval inquiry or public inquiry held, either immediately after the disaster or in the post-war period. While an inquiry may not have been held in December 1941 given the declaration of war by Japan and Australia's increasingly threatened position, the lack of a formal review after the war meant that the opportunity for the Government to collate the extant evidence was lost. Over the years, hand in hand with detailed research, both in Australia and overseas, has come speculation and innuendo. A series of books on the subject (see Chapter 2) has added fuel to the debate as individuals and groups all over Australia speculate about what happened to *Sydney*.

1.4 Western Australia, while not the sole location of the debate, has certainly been one of the areas where debate has been strongest. While people from every major town and city in Australia had lost a relative or a friend, many of the crew were drawn from Western Australia.³ Perhaps because of this, or because it was off the Western Australian coast that

1 More accurately, HMAS *Sydney* II, variously described as a modified *Leander* or *Perth* class light cruiser. The first HMAS *Sydney* was a Chatham class light cruiser commissioned in June 1913, and best remembered for its successful engagement with the German cruiser *Emden* off the Cocos Islands during World War I. *Sydney* I was paid off in 1925. There have been two further RAN vessels bearing the name of *Sydney* since World War II: HMAS *Sydney* III, a light fleet aircraft carrier, commissioned in 1948, served during the Korean and Vietnam wars, and was paid off in 1973. HMAS *Sydney* IV, an Adelaide class guided missile frigate, was commissioned in 1983. Department of Defence, Submission, pp. 3185-3221.

2 635 naval officers and ratings (of whom seven were Royal Navy), six RAAF and four civilians. Department of Defence, Submission, p. 1968.

3 Ryding, Transcript, p. 154.

Sydney was lost, the interest by many Western Australians in *Sydney's* fate has been long-standing. The late Senator John Panizza, a former member of this Committee, and a Senator for Western Australia, raised the matter on a number of occasions in the Senate. Two Western Australian members of the House of Representatives in the 38th Parliament, Mr Stephen Smith MP and Mr Paul Filing MP, were instrumental in the negotiations to establish this parliamentary inquiry into the loss of HMAS *Sydney*.

1.5 An inquiry into the circumstances surrounding the loss of HMAS *Sydney* was referred to the Joint Standing Committee by the then Minister for Defence, Hon Ian McLachlan MP on 26 August 1997. The Committee asked its Defence Sub-Committee to undertake the inquiry on its behalf, and on 11 October 1997 advertisements calling for submissions were placed in the Australian press. The Committee also wrote to as many organisations and individuals with an interest in *Sydney* as it was able to identify, requesting submissions. The Committee also approached a number of the German survivors and made a more general request for information through the *Kormoran* Association in Germany. The response to these approaches was limited. Mr Adolf Marmann, resident in Germany, made three submissions to the inquiry;⁴ Mr J Greter wrote to the Committee indicating he had nothing to further to add, except that it was his desire for the dead to rest in peace. The Committee understands the reluctance of the *Kormoran* crew to become involved in the debate again at this stage, so long after their story was first told.

1.6 Approaches were also made to a number of foreign governments, through their diplomatic representatives in Australia. The governments of Japan, the United Kingdom, the Netherlands and Germany were advised of the inquiry and their assistance sought in this matter.

1.7 Following the dissolution of Parliament on 31 August 1998 the Committee and its inquiry lapsed. Parliament resumed on 10 November 1998, and the newly formed Committee sought to resume the inquiry. The matter was re-referred to the Committee by the Minister for Defence, Hon John Moore, MP, on 23 December 1998.

1.8 In total some 201 submissions and 208 supplementary submissions were received by the Committee during the inquiry. Such a public response after so many years indicates the enormous residual public interest in this matter, and the ongoing burden of pain felt by families and friends of those on *Sydney*. Public hearings were held in Canberra, Perth, Melbourne, Sydney and Brisbane and over 570 pages of oral evidence gathered. The Committee would like to place on record its thanks to all who assisted the Committee in its work.

1.9 The Committee preferred to have as much material on the public record as possible, and indeed was the subject of some criticism by individuals who felt that the content of some of the submissions was personally vindictive and critical. While the Committee agrees that the personal attacks contained in a number of submissions were unfortunate and unnecessary, it held to the view that its role was not to censor material put before it. To this end the Committee ensured that a 'right of reply' was available to those who felt they had been unfairly criticised. The divisions among researchers existed long before this inquiry, and were not of the Committee's making.

4 Marmann, Submission, pp. 2499-2504, 3797-3798 and 4019-4020.

1.10 A number of individuals made confidential submissions to the inquiry, or included some confidential sections in their otherwise public submissions. The Committee agreed to those requests for confidentiality, because the comments contained therein were largely personal observations that the authors did not wish to be made public. The comments, while of general background interest, were deemed by the Committee not to be central to the consideration of the issues under examination.

1.11 The Committee is deeply appreciative that so many people took the time to write to it, either making a formal submission, or simply expressing an interest in the inquiry. Similarly, the extent of public interest was noticeable at the public hearings held in a number of state capitals around Australia. The submissions from the families of those lost with *Sydney* were particularly poignant reminders of why the inquiry was so important.

1.12 In making this report, the Committee wishes to emphasise a number of matters:

- the Committee did not set out to duplicate the work of historians and produce another academic work on *Sydney*. The Committee instead decided to limit its comments and conclusions to those matters on which it itself took direct evidence and felt able to comment.
- the Committee is aware that this report may not put an end to the wilder accusations and speculations that surround this matter. It is unavoidable that those who choose to see cover-up and conspiracy will not be satisfied with many of the conclusions of the inquiry, and will seek to condemn it as part of that same cover-up. The Committee can only stress that it decided to determine what a reasonable person would believe and looked at the balance of probabilities.
- many people, in good faith and from the best motives, contacted the Committee with firmly held points of view. The Committee in no way doubts the honesty of any individual who made a submission to it, and is grateful that so many took the time to offer assistance to the Committee in its work. However, the Committee feels compelled to say that a firmly held belief that something is true does not necessarily make it so. Similarly, a statutory declaration is an indication that the person making the statement believes it to be true; making such a declaration does not make the assertion true or necessarily raise its value as evidence.

1.13 It is most unfortunate that the inquiry is only now being held, 57 years after the tragedy, when so many who may have been able to shed light on the events in November 1941 are either dead, or infirm. The Committee was faced with a vast array of claims and counter-claims, and while it has reached conclusions in a number of areas, there was insufficient evidence on many of the points raised from which to draw conclusions. The Committee has no illusions that its report will put an end to the debate on the fate of *Sydney*, a debate which has grown over the years rather than subsided. Research into the *Sydney* will continue beyond this inquiry, and the Committee wishes all researchers well in their efforts to shed light on the events of November 1941. However, the Committee has to agree with

Dr Tom Frame that, at least on some matters, 'those with an interest in the loss of this proud Australian ship must learn to live with the unknown, and the unknowable'.⁵

1.14 From all that the Committee has read and heard in the course of the inquiry, one thing is very clear – *Sydney* and her crew fought bravely and their courage should be remembered and honoured. This report is dedicated to the memory of those who lost their lives on board HMAS *Sydney* in 1941 and to their families. If the report goes some way to explaining to the bereaved families what may have happened, and gives them some peace, then it will have been a worthwhile exercise.

5 Frame, T, *HMAS Sydney: Loss and Controversy* (Sydney, Hodder and Stoughton, 1993, reprinted with Preface, 1998), p. 231. Unless otherwise stated, references are to the 1993 edition.

CHAPTER 2

THE DEBATE ON HMAS SYDNEY

G Hermon Gill

2.1 Much of the controversy that has arisen over the fate of HMAS *Sydney* derives from perceived inadequacies in the treatment of the encounter in G Hermon Gill's *Royal Australian Navy 1939-1942*,¹ the first part of his two volume study of the RAN in the official series, 'Australia in the War of 1939-1945', edited by Gavin Long. Gill's account of the encounter with *Kormoran* has been attacked, Gill himself has been attacked, and the description 'official history' has been interpreted by many in a way that has never been intended by the authors of *any* volumes in *any* of the official history series that have dealt with the First and Second World Wars, the Korean War, and Australian involvement in Southeast Asian conflicts 1948-1975. Together these criticisms have done much to fuel the charge that from the very beginning there has been an official cover-up.

2.2 British by birth, Gill served in the British Merchant Marine in the First World War, and migrated to Australia in the 1920s, where he began a long career as a journalist and writer on naval and maritime matters. He joined the Royal Australian Naval Reserve and on the outbreak of war in 1939 was mobilised, spending most of the war years in the Naval Intelligence Division, where he was Publicity Censorship Liaison Officer. He was well placed to write the official naval history, not least in terms of his understanding of the interaction between high policy, intelligence and operational matters.

2.3 Gill's work in the Naval Intelligence Division has led to speculation that his account in the official history was biased in favour of the RAN, and that he went out of his way to protect that RAN and its senior officers from criticism. On the contrary, when approached by the official historian, Gavin Long,² to participate in the official history project, Gill insisted, as has every other author in the various official histories, that he be given unrestricted access to relevant records and that, except for comments that might compromise the intelligence-gathering process, he be free from any government censorship or restriction. Each volume in the Gavin Long series contains the statement that 'The writers of these volumes have been given full access to official documents but they and the general editor are alone responsible for the statements and opinions which the volumes contain'. Long's personal papers in the Australian War Memorial contain copious evidence of his determination to protect the integrity of his series, and his fierce resistance to any attempt to interfere with his and his authors' independence of judgement. Criticism of various drafts of individual volumes came from other governments, notably the British, who did not extend the same freedom to their own 'official' authors, and from prominent wartime individuals –

1 Canberra: Australian War Memorial, 1957.

2 The title 'Official Historian' is bestowed on the general editor of each series (C E W Bean for the First World War, Gavin Long for the Second World War, and Peter Edwards for Southeast Asian conflicts 1948-1975) or on the sole author of a whole series (R J O'Neill for the Korean War). Authors of individual volumes are not technically 'Official Historians' but authors of volumes in the 'official history'.

civilians and military – whose evaluation of their own performance did not accord with that offered in the official history. In every case, attempts to have critical comments deleted were rebuffed, and there is no evidence to support claims, such as those by Mr James Eagles,³ that Long interfered in Gill's writing. In the long history of 'official history' in Australia, there is only one documented case of an individual author having his judgement overridden: in the official history of Australian participation in the First World War, C E W Bean, bowing to pressure from the Naval Board which wanted a heavy-handed measure of censorship applied to the volume, undertook the final revisions himself, but retained most of Arthur Jose's sharp criticisms of lack of naval preparedness in the pre-war years.⁴

2.4 The term 'official history' is misleading, and its use has caused many critics in the *Sydney* controversy to attribute motives and outcomes to the authors of individual volumes – and to those who commissioned the volumes in the first place. The term 'official' does not mean the *authorised* (in the sense of *approved*) version. It simply means that at a time when official records are closed to members of the public under various archival restrictions⁵ (originally the '50 year rule', changed in the 1960s to the '30 year rule') a designated historian or group of historians has been given access to all records in order to write as full an account of a particular period as they are able. That privileged access at the time of writing may have given the official histories a special standing at the time of publication, but now that almost all the records relating to the Second World War are open to any researcher, the volumes must stand – or fall – on their own merits.

2.5 Gill's account of the *Sydney-Kormoran* encounter, including some background material, runs to only 14 pages, in a volume of 686 pages covering the first two years of the war. Many of the issues that submissions to the inquiry have canvassed are not raised in Gill's account, or rate only the barest of mentions. It is, therefore, extremely succinct – not unreasonably so given the overall range of the volume – but in its brevity it makes a number of points that have been central to the continuing controversy. Gill states that the reasons for Captain Burnett acting as he did can never be known with certainty: why did he bring *Sydney* so close to *Kormoran* as to negate his own ship's superiority of speed and fire power; why did he not use his aircraft to check more thoroughly on the *Kormoran* from a comparatively safe distance; and why did he not send a signal to Navy Office requesting confirmation of the presence in the area of the Dutch merchant ship *Straat Malakka*, which *Kormoran* claimed to be?⁶

2.6 While emphasising that it was not possible to answer these questions – there being no survivors from *Sydney* to provide information, let alone (obviously) any testimony from Captain Burnett – Gill does offer some possible clues to Captain Burnett's actions. He

3 Eagles, Submission, p. 3868.

4 See Ellis, S, 'The Censorship of the Official Naval History of Australia in the Great War', *Historical Studies* 20: 80 (April 1983), pp. 367-382. The fate of Arthur Jose, author of *The History of the RAN in World War I*, was better than that of his British counterpart, Julian Corbett, whose official history of the Royal Navy in the First World War was formally disowned in the front of the book by the Lords of the Admiralty. (Corbett was spared this humiliation by dying shortly before the book was published, but his death was attributed to causes related to the stress under which the whole episode had placed him.) This controversy was over a major difference of views on the naval conduct of the war between the leading British naval and maritime strategic thinker and the naval establishment, rather than over disputes on matters of individual fact.

5 See Chapter 3 on archives legislation in Australia.

6 See Chapter 4 for a more detailed discussion of these and other matters.

suggests that Captain Burnett may have been sensitive to the criticism that Captain Farncomb's expenditure of ammunition in his March 1941 clash between HMAS *Canberra* and the German ships *Coburg* and *Ketty Brövig* attracted in Navy Office, and to the comment by the Commander-in-Chief, East Indies, Admiral Leatham, that Captain Farncomb's caution in approaching no closer than 19,000 yards was excessive, and resulted in a waste of ammunition. Gill further speculates that Captain Burnett, 'influenced by the near approach of darkness ... was moved to determine the question quickly; and was thus swayed to over confidence'. Even had *Sydney* triumphed against *Kormoran*, Gill writes: 'it is improbable that it would have been without damage and casualties, and Captain Burnett would have been unable to explain the risks he ran'.⁷

2.7 Gill's short account was notable for its criticism of the manner in which the news of *Sydney's* loss was made public. The Navy Board and the Government were 'equally culpable' in failing to observe established censorship procedures, so that when the official announcement of the loss was made five days after the issuing of a censorship notice, rumours about *Sydney* had already started which 'threw suspicion' on the Government's announcement. This caused 'deep distress' to next of kin, whose 'pain and distress' continued to be fuelled by stories, 'either malicious or mischievous', of *Sydney* survivors being held in Japan.⁸ Thus did Gill lay much of the blame for the continuing speculation over the circumstances surrounding the loss of *Sydney*, speculation which many submissions to this inquiry have suggested still cause pain and distress to the families of the *Sydney* crew, at the feet of the political and naval authorities. Gill, however, did not attribute the actions of either the Government or the Naval Board to a desire to hide the truth, once that truth had been established with reasonable certainty, let alone to a wish to protect the collective reputation of the Navy, as several submissions have claimed, but to simple ineptitude. Their actions, according to Gill, were (to paraphrase him), incompetent but not malicious.

2.8 Gill's account – and the account by every other writer on the *Sydney-Kormoran* encounter – necessarily relied on the information that could be obtained from interrogating survivors from *Kormoran*. Gill described these interrogations as 'exhaustive', and said of the description of *Sydney's* demise derived from them that 'no room was left for doubt as to its accuracy'.⁹ Criticism of the absolute certainty of that judgement has been one of the constant themes in many of the submissions to the inquiry, but it must be said that Gill has his supporters. When Gill's volume was reprinted in 1985, it was introduced by Associate Professor John Robertson, a West Australian and himself the author of a distinguished study of Australia in the Second World War. Robertson wrote of the 'mystery' surrounding the loss of *Sydney*, especially the loss of its entire complement of officers and men compared with a high rate of survival on *Kormoran*, adding that the mystery 'has attracted the attention of amateur historians, resulting in a misleading version of *Sydney's* loss'. Robertson concludes: 'The best, most polished, account we have of its encounter with *Kormoran* is still Gill's gripping story'.¹⁰

7 Gill, G H, *Royal Australian Navy 1939-1942* (Canberra: Australian War Memorial, 1957), p. 458.

8 *ibid.*, p. 459.

9 *ibid.*, p. 453.

10 Robertson, J, 'Introduction to 1985 Reprint', in G H Gill, *Royal Australian Navy 1939-1945* (Sydney: Collins, in association with the Australian War Memorial, 1985), p. xx.

Michael Montgomery

2.9 Following the publication of Gill's first volume in 1957, nothing of any note about the *Sydney* appeared until Michael Montgomery, whose father, a Royal Navy officer, had been lost with *Sydney*, published *Who Sank the Sydney?* in 1981.¹¹ In contrast to Gill's sober and succinct narrative, Montgomery's account was wildly speculative and sensational. Despite his claim that it was not his purpose 'to stir up recriminations among parties to an episode now so far removed in time ...', he concluded his book with the hope that he had brought comfort to the bereaved families of *Sydney* who had been deceived 'all these years by the conspiracy of concealment', and that he had demonstrated to the wider public that the responsibility for the loss of *Sydney* should no longer be allowed to rest on '... the lonely, and conveniently silent, figure of Captain Joseph Burnett'.¹²

2.10 Montgomery was at pains to discredit Gill's description of the *Sydney-Kormoran* encounter, claiming that it was based almost entirely on an account written by the Medical Officer on board *Kormoran*, Dr S Habben, who was repatriated to Germany in 1943. According to Montgomery, an abbreviated version of Habben's account was published in the Nazi Party newspaper *Völkische Beobachter* in August 1944, and reproduced in the Australian press on 2 September 1945. In its original form, Montgomery states, it became the basis of Gill's account.¹³

2.11 The inadequacies of Gill's account are, in Montgomery's view, largely derived from the blatant and unresolved contradictions in Habben's account, which itself failed to reconcile conflicting versions given by various rescued members of the *Kormoran* crew before they had the opportunity to co-ordinate their stories. Among the conflicting details provided by various crew members, Montgomery notes the disagreement over whether the *Kormoran* was flying the Dutch or Norwegian flag at the point of interception by *Sydney*; whether *Sydney* had lowered its boat to approach *Kormoran* before the engagement took place; whether *Sydney* was hit by a torpedo from *Kormoran* before the latter opened fire with her guns; whether *Sydney* blew up shortly after the engagement rather than drifted away into the darkness; and whether *Kormoran* was abandoned hastily rather than scuttled in an orderly, unrushed manner.¹⁴

2.12 Montgomery rejected Gill's suggestion that Captain Farncomb's encounter with *Coburg* and *Ketty Brövig* might have influenced Captain Burnett's approach to *Kormoran*, making him more inclined to take risks:

It cannot be seriously entertained that he [Burnett] would have felt compelled to close to a distance of well under a mile in order to save himself from criticism applied to one of almost eleven miles.¹⁵

Montgomery took considerable care to establish at some length Captain Burnett's competence and reputation for caution and coolness, and concluded:

11 Montgomery, M, *Who Sank the Sydney?* (London: Leo Cooper, Secker and Warburg, 1983). Unless otherwise specified, references are to the 1983 edition.

12 *ibid.*, pp. 213-216.

13 *ibid.*, p. 30.

14 *ibid.*, p. 31.

15 *ibid.*, p. 97.

Yet we are asked to believe that this same man [‘a most capable and rigorously efficient officer with a thorough grasp of all aspects of naval procedure’] was guilty of ignoring the most elementary precautions and of flouting the most elementary rules of warfare ... Fortunately, there are other grounds for believing that this was not in fact the case.¹⁶

2.13 Those grounds are, in Montgomery's account, largely centred on the character and behaviour of the captain of *Kormoran*, Theodor Anton Detmers. Montgomery paints Captain Detmers as a politically committed captain who even in captivity maintained tight Nazi discipline over his fellow prisoners, and who while at sea was prepared to use ruthless, not to say illegal, tactics against his opponents. He was, says Montgomery:

... a man totally committed to his country's pursuit of victory and its prevailing ethos, who would follow without question the instruction of his Commander-in-Chief [Hitler] that ‘if decisive successes are expected from any measure considered a war necessity, it must be carried through even if not in accordance with International Law’.¹⁷

The reader is invited to believe that the latter sentiments (which are Hitler's words), were absolutely shared by Captain Detmers, although no evidence is produced to sustain this assertion, which is critical to Montgomery's thesis.

2.14 The central thrust of Montgomery's argument is that Captain Detmers did indeed engage in acts that were contrary to international law, by flying the flag of a neutral country (i.e. the Norwegian flag), by sending out a false distress signal – thereby luring *Sydney* in close, and by launching a surprise, illegal attack. Montgomery quotes a Government statement of 5 December 1941 to the effect that were those charges to be found to be true, the crew of the *Kormoran* would be treated not as prisoners of war but as pirates, liable to summary execution.¹⁸

2.15 Montgomery accuses Captain Detmers of further crimes against international law. He cites as proof of Captain Detmers' willingness to use illegal tactics – in this case his ploy of pretending to surrender and having his crew take to lifeboats that were to be rowed towards *Sydney* in order to provide cover for a torpedo launch – an account by Petty Officer H Kitsche, whose florid description concludes:

In the darkness a great ship split apart and disappeared, her brave crew with her. There remained only the monsoon, which roared an eternal requiem to the dead, and the memorial to Nazi treachery.¹⁹

2.16 According to Montgomery, Captain Detmers then compounded his criminality by having his crew use machine guns against those members of *Sydney* who had abandoned ship, for Montgomery argues that the carley float²⁰ that was subsequently recovered from

16 *ibid.*, pp. 53-57; quotation at p. 57.

17 *ibid.*, pp. 89-90.

18 *ibid.*, p. 107. The statement was published in the *Sydney Morning Herald*. Montgomery, *op. cit.*, p. 218.

19 Montgomery, M, *op. cit.*, 1981 edition, p. 151. Montgomery has italicised ‘treachery’ in his reproduction of this extract. For a telling refutation of Kitsche's account, see Frame, *op. cit.*, pp. 136-137.

20 See Chapter 7 for a detailed discussion of the carley float.

Sydney had a large number of machine gun perforations which to Montgomery indicates it was fired on *after* it had been launched into the water. This, Montgomery suggests, was entirely in keeping with Captain Detmers' previous actions, when – it is alleged – he had fired on lifeboats from the tanker *British Union* (18 January 1941) and the *Eurylochus* (29 January 1941).²¹ In order to conceal these illegal acts, Captain Detmers deliberately concocted the story of a cinefilm having been taken of the *Sydney-Kormoran* action, a film which had subsequently been lost but which would – conveniently – have proven the legality of *Kormoran's* actions as Captain Detmers subsequently described them.²²

2.17 The most striking of Montgomery's claims was that of Japanese involvement, specifically of a Japanese submarine which, according to Montgomery, took part in, or may even have been 'wholly responsible for', the 'disposal of the *Sydney's* survivors in the water'. No evidence is produced to support this assertion of Japanese involvement, apart from the disparity of survival rates between the crews of *Sydney* and *Kormoran*, and the suggestion that since the *Kormoran* survivors showed few signs of stress or exposure when picked up by *Aquitania*, they must have been assisted by a Japanese submarine.²³

2.18 In his final chapter ('The Navy's Cover-Up') Montgomery accuses the Royal Australian Navy of deliberately fabricating evidence to cover its own inadequacies by doing everything it could to underpin the German account, and by shifting whatever blame could be apportioned to those who from the very beginning could no longer respond, i.e. the dead. He concludes:

Small wonder, then, that they [the RAN] have sought to 'evade the subject', both in 1943 and ever since.²⁴

Whatever might be said of the evidentiary basis for these claims, they constituted a powerful, and for some readers, a compelling indictment, and the most sustained, if erratic, attack on Gill's version of events in the official history.

Barbara Winter

2.19 Three years after the appearance of Montgomery's book, Barbara Winter (Mrs Barbara Poniewierski) published *HMAS Sydney: Fact, Fantasy and Fraud*.²⁵ In the preface she explained her motives:

The spur was sheer disgust that hurt and insult continue to be caused by repetition, whether ignorant or malicious, of unfounded rumours – rumours which are generally based on pub gossip, self-important romancing, tasteless hoax, and at least one malicious forgery. It is

21 Montgomery, op. cit., 1983 edition, pp. 142-147.

22 *ibid.*, p. 147. Montgomery asserts that far from the film being lost by accident, it was thrown overboard on Detmers' own orders (p. 89).

23 *ibid.*, pp. 178-179.

24 Montgomery, 1981 edition, p. 213.

25 Winter, B, *HMAS Sydney: Fact, Fantasy and Fraud* (Brisbane: Boolarong Publications, 1984, reprinted with additions, 1990). Barbara Winter is actually Barbara Poniewierski, and it is under the latter name that she has made a number of submissions to the inquiry. For ease of reference, in the body of the report Winter has been used throughout; the footnotes indicate whether it is the book (Winter) or the submission or transcript (Poniewierski) being quoted.

time these were stopped by a bit of common sense and some genuine information.²⁶

2.20 Much more than either Gill or Montgomery, Winter's focus was on *Kormoran*, because, Winter writes, 'she was engaged in more action' and because certain details of 'her construction, her armaments, her orders and her early activities' were important factors in 'evaluating subsequent capabilities and actions'.²⁷ More than Gill or Montgomery (although in the former case, following the general pattern of the official histories to that time, there was no indication of sources used), Winter used a wide variety of sources, including German archival records and captured German records in American archives. This, together with the fact that she gave much greater credence to the accounts of the German survivors than Montgomery had been prepared to do, subsequently gave rise to charges that she was little more than an apologist for the allegedly fabricated German version.

2.21 The essence of Winter's account, indeed the central focus of all the *Sydney-Kormoran* accounts, is her reconstruction of the encounter. She based it on:

- (i) recollections of *Kormoran* survivors of actions they witnessed;
- (ii) usual procedures, either reported by former members of *Sydney* or recorded in log books;
- (iii) archival records of procedures, instructions and signals; and
- (iv) what was known of the character and personalities of officers involved in the action.

'The possibility of error is acknowledged', she added, 'but the account is a reasonable reconstruction'.²⁸

2.22 According to Winter, when *Kormoran* was sighted by *Sydney*, Captain Detmers had to play for time, hoping that he could lure the cruiser in close enough to negate through surprise its advantages of speed and firepower. Disguised as the *Straat Malakka*, *Kormoran* fumbled or delayed its response to signals from *Sydney* requesting identification, and Captain Detmers kept his crew out of sight. The picture thus presented to Captain Burnett was by no means clear: was this a merchant ship as it claimed to be, was it a disguised raider, or an enemy ship possibly carrying allied prisoners? Could it be captured and taken as a prize, perhaps with valuable documents on board, before its crew had time to scuttle it? As long as Captain Burnett had no real answers to these questions, caution cut two ways: the closer *Sydney* came to *Kormoran* in order to make a convincing identification, the greater the danger; the less sure the identification by keeping a safe distance, the greater the chance Captain Burnett had of making a serious mistake or losing a possible prize. When impatience to resolve the dilemma caused Captain Burnett to make the demand to which Captain Detmers had no answer except to fight – 'Give your secret call sign' – Captain Detmers gave the order to decamouflage. Within six seconds No. 1 starboard gun had fired, and 'within 20 seconds of the order to decamouflage *Kormoran*'s big guns scored their first hits'. *Sydney* returned fire, and within five minutes 'both ships were doomed'. As darkness fell *Sydney*

26 *ibid.*, p. i.

27 *ibid.*

28 *ibid.*, p. 127.

drifted over the horizon. 'Lifeboats had been blown to pieces; rafts or floats had been holed or blown overboard'. Some five hours or more later, some of the *Kormoran* survivors saw a 'sudden, silent flare' far in the distance: *Sydney* had exploded.²⁹

2.23 In its essential details, Winter's version of the *Sydney-Kormoran* encounter was remarkably similar to Gill's. In contrast to Gill's bald assertion that his account left no room for doubt, Winter devoted considerable time in her book to refuting many of the charges of inadequacy that had been levelled against Gill and which had found their most vocal proponent in Montgomery and his alternative explanation. Chapter 17, 'Aftermath', is a point-by-point refutation of the main charges, each of which Winter shows to be demonstrably untrue. Some of those charges were:

- that *Kormoran* was disguised as a Norwegian, not a Dutch, vessel;
- that *Kormoran* illegally opened fire under a neutral flag;
- that *Kormoran* pretended to surrender in order to lure *Sydney* within range of her torpedo tubes;
- that *Kormoran* must have machine-gunned *Sydney* survivors because splinters entered a carley float 'from above';
- that *Kormoran* might have machine-gunned *Sydney* survivors because of her previous actions against lifeboats from *British Union* and *Eurylochus*; and
- it was a Japanese submarine which finally sank the *Sydney*.

2.24 John Robertson's restrained comment in his introduction to the 1985 reprint of Gill's first volume was that 'Many of the questionable assertions in [Montgomery's book] are convincingly refuted in the more thorough [book by Winter]'.³⁰ What Winter had shown was that many of the 'questions' that were raised over the *Sydney-Kormoran* encounter were open to answer by careful reasoning and methodical analysis, and that those answers were, more often than not, straightforward and unequivocal. Her book gave little comfort to those convinced of a German conspiracy or an Australian Government and naval cover-up; indeed, she became the *bête noire* of those who sought, and continue to seek, darker explanations of the *Sydney* tragedy. Their continued attacks, in turn, have made her more determined to refute their claims, hence the number of her submissions to the inquiry.³¹

29 *ibid.*, pp. 125-139.

30 Robertson, 'Introduction to 1985 Reprint', *op. cit.*, p. xxi.

31 See Appendix 1 for details of submissions.

Tom Frame

2.25 The most detailed and analytical study of the *Sydney* story is that by Dr Tom Frame, *HMAS Sydney: Loss & Controversy*, first published in 1993.³² Frame stated in his introduction that his academic background – he holds a PhD in history – enabled him to move beyond the account of Gill (whom he claimed, without any elaboration, 'was naturally constrained by the inherent editorial limits of his task in what he could say about *Sydney*')³³ and of the 'more populist works of Montgomery and Winter'.³⁴ His own book, Frame asserted, 'has essentially superseded and by-passed the work of both Montgomery and Winter'.³⁵ While acknowledging Winter's achievement in 'painstakingly' identifying and discrediting various 'fantasies and frauds', Frame declined to pursue theories which he said either did not deserve the measure of credibility that a close examination would invariably bestow upon them, or which were essentially irrelevant to the main issue of why *Sydney* was sunk.³⁶

2.26 The structure of Frame's book is designed to draw out the 'evidence' surrounding the *Sydney-Kormoran* encounter, to analyse that evidence as it has been used by previous accounts, and then to pose a considered reconstruction of the event on the basis of what evidence stands up to scrutiny and what evidence has had to be discarded (and with it those earlier theories based upon it). Thus he asserts 'Montgomery's investigative method and literary style were better described as tabloid journalism than serious history'.³⁷ Winter's book is acknowledged as a 'reasonable and persuasive account', but is criticised as being too ready to accept the various German versions, despite their demonstrable variance, and to attribute the end result to the incompetence and professional deficiency of Captain Burnett.³⁸

2.27 Frame's criticism of Winter's alleged readiness to accept the overall veracity of the German accounts is important in underpinning his own reconstruction of what happened, which is based on a willingness to impute bad motives to Captain Detmers (he 'was just as disposed to commit a war crime as any other professional German naval officer').³⁹ Frame's reconstruction suggests that perhaps under cover of surrender, Captain Detmers unleashed a devastating attack on *Sydney*. Thus Captain Burnett's caution combined with Captain Detmers' treachery to produce a situation in which *Sydney* was doomed. Thereafter comments by Captain Detmers about the possibility of him being tried for war crimes is construed by Frame as evidence, or at least a strong suggestion, that Captain Detmers had good reason to think that his own past behaviour might render him so liable.⁴⁰

32 Frame, F, op. cit.

33 *ibid.*, p. x.

34 *ibid.*, p. xii.

35 *ibid.*

36 *ibid.*, p. xiii.

37 *ibid.*, p. 139.

38 *ibid.*, p. 141. Frame's example from Winter is not convincing. He quotes Winter's comment on Captain Burnett's lack of command experience (which is indisputable) and concludes: 'She thus infers that Burnett was incompetent'. This is, to say the least, a curious reading of Winter, who was making the point that Captain Burnett was inexperienced, not that he was incompetent.

39 *ibid.*, p. 218.

40 *ibid.*, pp. 218-219.

2.28 More than his analysis of the constituent parts of the controversy, it was Frame's conclusion that made him, and continues to make him, part of the controversy. His book ends with the words:

In the case of *Sydney*, we will never know *how it really was*. Those with an interest in the loss of this proud Australian ship must learn to live with the unknown, and the unknowable.⁴¹

These are unremarkable comments for an historian to make. They state what is surely obvious, namely that the evidence, such as exists, may not be able to advance an explanation beyond a certain point; that there are some questions to which there can be no answers; that speculation, however well founded, remains just that because it lacks a comprehensive evidentiary base. There are some things we cannot know. Many of those who have read Frame's book may have refused to accept that conclusion; indeed, they have been offended by it.

The *Sydney* Forums

2.29 In 1991 the Western Australian Maritime Museum convened 'The HMAS *Sydney* Forum', which brought together a number of historical researchers (Michael Montgomery, Barbara Winter and Tom Frame) and some of those interested in the question of how to locate the wreck of the *Sydney*. Over three days of presentations and discussions, the main elements of the emerging controversy were delineated, and the technical problems of locating the *Sydney* outlined in some detail. However, rather than producing any consensus among the historical researchers, the Forum served to accentuate the differences between them, and to entrench in some quarters the view that there was a cover-up at the highest levels, a cover-up in which some historians had become unwitting partners.⁴²

2.30 Another Forum was held in 1997, convened by the 'End Secrecy on *Sydney*' group,⁴³ but so marked was the antagonism between those who held differing views on a range of aspects of the *Sydney-Kormoran* encounter that the meeting degenerated into a partisan verbal melee and no record of the proceedings was produced. Both at the 1997 Forum and subsequently, the statement of differing views has become a dialogue of the deaf rather than a fruitful exchange within the norms of historical discourse.

41 *ibid.*, p. 231. Frame's use of the words 'how it really was' are a conscious reflection of the claim of the 19th century German historian, Leopold von Ranke (1795-1886), who stated in his preface to *History of the Latin and Teutonic Peoples*: 'History has had assigned to it the task of judging the past, of instructing the present for the benefit of the ages to come. To such lofty functions this work does not aspire. *Its aim is merely to show how things really were*' ('*wie es eigentlich gewesen*'). See Walsh, G, *History & Historians* (Canberra: School of History, ADFA, 1996), p. 162.

42 No formal publication emerged from the 1991 Forum, but the papers and transcript of the discussion were collated and made available on a limited distribution basis.

43 End Secrecy on *Sydney*, Submission, p. 3482.

CHAPTER 3

DOCUMENTARY EVIDENCE

*There has to be a large box somewhere holding all these missing documents.*¹

3.1 The above quotation summarises a commonly held view regarding the status of the evidentiary material relating to the loss of HMAS *Sydney*. As a result of the ongoing suspicion that material has been misplaced, concealed or lost, the Committee was asked to examine as part of its Terms of Reference (1) the extent to which all available archival material has been fully investigated and whether any relevant material has been misplaced or destroyed; and (2) all relevant archival material available from allied and former enemy forces.

Australian Material

3.2 The National Archives of Australia² has the responsibility for preserving and making available for research Commonwealth government records. There was no legislative control over the disposal of Commonwealth records until the *Archives Act 1983* which confers on Archives wide powers of control over the disposition of records generated by Commonwealth government departments and agencies. Prior to that date, the control, retention and disposal of records was the responsibility of individual government departments and Commonwealth agencies.³ Their practices and standards of archival maintenance varied widely, especially in the area of retention and culling. While some departments marked the appropriate register or index with the annotation 'Destroyed' when a document was discarded, this was by no means a universal practice. It is therefore not possible, with any degree of certainty, to establish whether a document once existed and has subsequently been destroyed.⁴ This has had an important bearing on the allegations made in a number of submissions that material has been withheld or destroyed by 'Archives' (a term that is often used generically to denote record-maintaining bodies prior to the proclamation of the *Archives Act*): in the case of alleged destruction, it would not always be possible to establish that a particular document ever existed.

3.3 The policy on access to records held by Archives has evolved over the past 25 years. Until 1966, access was restricted to records at least 50 years old (the '50 year rule'). Following the example of the Public Record Office (PRO) in the United Kingdom (the repository for British official records), which introduced a 30 year rule in the mid 1960s to enable the First World War records to be studied as a whole rather than on an annually advancing piecemeal basis, the Australian Government changed the access rules in Australia to permit access to records up to the end of 1922. A 30 year rule (excepting Cabinet records)

1 Eneberg, Transcript, p. 413.

2 Formerly known as 'Australian Archives', under which it made its original submission (No 63) to the inquiry. For ease of reference, the term Australian Archives has been used throughout this report.

3 Australian Archives, Transcript, p. 82.

4 Australian Archives, Submission, p. 873.

was introduced in 1970, and the decision was taken to accelerate access to records pertaining to the Second World War, which in general were available for public examination from 1972. However, government departments had the power unilaterally to withhold documents on the grounds of a reasonably wide definition of 'sensitivity' (involving, for example, questions of national security or personal embarrassment), and there was no right of appeal against such a decision.

3.4 It was not until the proclamation of the *Archives Act* that the public was granted a statutory right of access to Commonwealth government records over 30 years old. In cases where access is refused, the reasons for the refusal must be provided, and an applicant now has the right to have the decision reviewed by an independent assessor, usually the Administrative Appeals Tribunal.⁵

3.5 In 1995, partly in response to the persistent calls from some *Sydney* researchers for a systematic archival search for material that might have some bearing on the controversy, Archives began to prepare a wide-ranging guide to the records that were either known to exist or which could be located in a search centred on the 12 government departments or agencies most likely to have relevant material in their record holdings.⁶ The result of this search was Richard Summerrell's *The Sinking of HMAS Sydney: A Guide to Commonwealth Government Records*, a 190 page listing, with commentary, of 'all Commonwealth government archival records that are known to exist on the loss of HMAS *Sydney*'.⁷ Although the Director-General of the National Archives of Australia, Mr George Nichols, said in his appearance before the Committee that the role of Archives staff was as archivists rather than researchers,⁸ it is the Committee's view that the *Guide* is a piece of substantial research in its own right, and notwithstanding the criticisms of it from some quarters, it remains the single most impressive assessment of the government's records.

3.6 In compiling the *Guide*, Archives staff examined the indexes and registers of the 12 key government departments and agencies 'that might be expected to have been involved in events surrounding the *Sydney*'s loss'.⁹ The records generated by these departments and agencies comprise 21.6 shelf kilometres of documents.

3.7 In the *Guide*, its submission to the inquiry and its statements to the Committee, Archives has stressed that while its search has been conducted on a wide basis, 'it is not possible to claim that all relevant records have been identified'.¹⁰ This statement holds true

5 The development of the Commonwealth Government's access policy is outlined in Richard Summerrell, *The sinking of HMAS Sydney: A Guide to Commonwealth Government Records* (Canberra; Australian Archives, 1997), Appendix 6, pp. 181-182. The Guide is now available on the Archive's web site at <http://www.naa.gov.au/publicat/guides/sydney/contents.htm>.

6 The departments or agencies were: Navy Office, 1939-1954; Naval Board, 1941-1949; Department of Defence Coordination, 1939-1942; Department of Defence, 1942-1971; RAN Hydrographic Office, 1920-1956; Department of the Army, 1939-1945; Directorate of Prisoners of War and Internees, 1942-1947; Department of Air, 1939-1961; Department of Information, 1939-1950; Investigation Branch, 1939-1945; Attorney-General's Department, 1939-1949; Prime Minister's Department, 1939-1945.

7 *ibid.*, p. 5.

8 Australian Archives, Transcript, p. 82.

9 Australian Archives, Submission, p. 870.

10 To illustrate this point, a file detailing the discovery of a lifebuoy ex HMAS *Sydney* on a French beach in 1951 has just come to light, and was recorded in a card index in the Australian Archives. The file is not listed in the Australian Archives Guide (for details see Page, Submission, pp. 3715-3717 and 3912-3913.) While Page claims the lifebuoy may have come from HMAS *Sydney* II, the Department of

for *any* archival search on *any* subject, and would not cause any experienced researcher any surprise. Records can be poorly indexed so that their discovery is more of a matter of chance than focused research; they can, over time, be mis-filed – thereby making them all but inaccessible to any rational search – or they can be lost or inadvertently destroyed. Archives goes on to say that any further search, short of examining every file in every record of every government department or agency, would have to be undertaken on the basis of an explicit rationale and methodology that restricted the scope of the search to manageable proportions. Given that the Archives search has already encompassed the 12 key government departments and agencies, it is difficult to see on what basis such a search could be conducted.

3.8 The suggestion that *all* records held should be examined on the remote possibility that they might contain something related to *Sydney* does not commend itself to the Committee. Archives has stated that if the search in the 12 chosen departments and agencies were to be extended beyond that suggested by examining the registers and indexes, i.e. if every document in the 21.6 kilometres of records was to be examined, 'this ... would take 27,102 working (8 hour) days, based on a reading/skimming rate of 10 centimetres of records (approximately 1000 pages) per hour'.¹¹ Such an unfocused search would defy the principles of historical research, would be extravagant in terms of time and cost, and could not be demonstrated, in advance, as offering any reasonable chance of producing commensurate outcomes. However, as the Director-General made clear in his testimony to the Committee, any member of the public is entitled to search any records held by Archives, whether or not those records have been identified as being potentially of relevance.¹² It is not the role of Archives to direct the research of individuals but to assist where possible in research that individuals wish to undertake. The *Guide* is an invaluable resource in this regard, but it is not definitive, and does not claim to be so.

3.9 A key concern of many enquirers into the loss of HMAS *Sydney* is the existence (or absence) of signals from *Sydney* at the time of the action. In evidence before the Committee in Canberra on 27 March 1998, officers from the Defence Signals Directorate stated that a number of documents in the series MP1074 (Classified outward signals, 1939-1964) which DSD had examined for sigint¹³ material that might require exemption from public release under section 33 of the *Archives Act 1983* had gone missing between DSD and the Melbourne office of Australian Archives in December 1991.¹⁴ In May 1998, following concerns expressed by several members of the Committee about the importance of locating the missing material in order to allay suspicions that vital records relating to signals from or about the *Sydney* were being withheld from the public, DSD examined all 2000 boxes of the MP1074 records, but was unsuccessful in finding the missing documents.¹⁵

3.10 In June 1998 DSD located duplicates of all but three of the missing 218 items, and by positively identifying the copies, has been able to reconstruct the file almost in its entirety. From the details recorded in the 1991 list of exemptions applied by DSD, it can be determined that the three missing documents refer to the period April-May 1941, and thus are unlikely to have any bearing on the *Sydney-Kormoran* encounter. Further, when DSD

Defence believes it more likely to have originated from HMAS *Sydney* III, which was in European waters between July and October 1950 (Submission, p. 4487).

11 Australian Archives, Submission, p. 871.

12 Australian Archives, Transcript, p. 82.

13 signals intelligence. See DSD, Transcript, p. 44.

14 *ibid.*, pp. 55-56.

15 DSD, Submission, p. 4004.

examined the previously exempted documents, it concluded that the exemption was no longer justified on the grounds of any continuing sensitivity, and on 5 June 1998 it advised the Melbourne Director of Australian Archives that the exemptions should be lifted, with immediate effect.¹⁶ Prior to this decision, the historical adviser assisting the inquiry examined all those signal packs in MP1074 that fell within the date range in which signals relating to *Sydney* might reasonably be expected to be found (i.e. allowing for mis-filing in what were chronologically arranged sequences). No signals, other than those identified in Richard Summerrell's *Guide*, were located.

3.11 The Committee believes it is unlikely that any material relating to the Second World War still retains a degree of sensitivity that warrants exemption. The question of access is further complicated by the practice whereby material that is technically 'open' cannot be accessed until it has been cleared on a piece by piece basis. The Committee believes that the decision should be taken to make all material relating to the Second World War open to public access on a blanket basis, thereby placing the onus on individuals to undertake the archival research that underpins historical inquiry, free of restrictions which in the past have fuelled suspicions that material is being withheld.

3.12 The Committee recommends that:

- 1. the Australian Government review the operations of the *Archives Act 1983* in regard to World War II material, with a view to providing full public access to all material.**

Overseas Sources

3.13 In the course of the inquiry, and in the published literature that has surrounded the controversy, frequent reference has been made to the possibility of the existence of relevant material in foreign archives that has not yet been accessed by *Sydney* researchers. There would appear to be widespread acceptance of the view put forward by one witness that 'there must be material in documents in the UK, the USA, Holland, Hong Kong, and all sorts of places ... that will assist us all in discovering the truth'.¹⁷ Another witness argued that the search should be widened to include, among others, Russian and Polish archives.¹⁸ In this regard the advice of the Director-General of the National Archives of Australia holds true; any further search must be based on an explicit and rational basis that offers some chance of success. The historical adviser assisting the inquiry has undertaken clarification of the archival situation in several countries most likely to hold relevant material.

3.14 German records were used extensively by Barbara Winter in her writings on *Sydney*.¹⁹ There are no obvious sources remaining to be checked, and unless a reasoned basis

16 *ibid.*, p. 4005.

17 McDonald, E, Transcript, p. 226.

18 Jones, Gascoyne Historical Society, Transcript, p. 259. The rationale for examining Polish archives appears to be the fact that the *Kormoran's* original wartime home port was Gdansk (formerly Danzig). The connection is tenuous, to say the least. Similarly, the fact that on a recent visit to Russia the German Chancellor sought to reopen the long-standing question of the return of German records taken to the Soviet Union at the end of the Second World War in no way establishes a possible connection with the fate of *Sydney*, nor does it suggest any basis for the belief that the Russian archives might contain relevant material.

19 Winter, *op. cit.*, pp. 271-274.

for further searches in the German archives could be developed, it is unlikely that anything would be gained by additional work in this area. There is also a contradiction in the position of those who call for more research in the German archives yet who reject the general thrust of the German accounts: if the latter are unreliable, what could be gained by more research in German sources, especially given that the bulk of such German sources bearing on the activities of the *Kormoran* would have been generated by the very people whose eyewitness accounts are regarded as fabrications.

3.15 Dutch signals intelligence operating out of the Netherlands East Indies (with several operatives also, it is claimed, working in Western Australia)²⁰ is the most obvious likely source of additional material on *Sydney*. However, it has been confirmed by the Dutch Institute for Maritime History that all this material was destroyed before the Japanese capture of the Netherlands East Indies, and that Dutch accounts of the pre-war period in Southeast Asia were reconstructed from secondary accounts and personal recollections.²¹ Similarly, there is no material in the central Dutch archives in The Hague relating to activities involving the *Sydney*.²²

3.16 The great bulk of British records concerning the Second World War were released for public examination in 1972.²³ Some records relating to intelligence matters were excluded from this release but most have subsequently been opened. All material known to relate to HMAS *Sydney* has been released to the Public Record Office where it is available for public inspection.²⁴ Two possibilities remain:

- (a) Fleet Order No 4131 issued by the Admiralty at the beginning of the Second World War required that in any case involving loss of or damage to one of HM Ships, a copy in duplicate of the Board of Inquiry (if one was held) had to be deposited with the Admiralty in London. The Head of the Naval Historical Branch in the Ministry of Defence (the successor to the Admiralty) has confirmed that no such report relating to the loss of HMAS *Sydney* is held by the Ministry of Defence.²⁵ This is not conclusive proof that there *was* no Board of Inquiry, but if there was, there is no evidence of its report being held in London. The fact that despite extensive searches no such report has been located in Australia tends to suggest that despite the seriousness of the loss of *Sydney*, the war situation in late 1941-early 1942 was so precarious that there were other more pressing matters to occupy the time and energy of senior naval personnel. It seems highly unlikely that had a report been written, it would not have been passed to the Admiralty, not least for the purpose of instructing the Royal Navy in what *not* to do when encountering a suspected raider. This matter is discussed further in Chapter 6.²⁶

20 *ibid.*

21 Letter, Dr P C van Royen, Director, Institute for Maritime History, 20 January 1998, to Professor Peter Dennis.

22 Letter, Dr P C van Royen, Director, Institute for Maritime History, 17 November 1997, to Professor Peter Dennis.

23 See *The Second World War: A Guide to Documents in the Public Record Office* (London: HMSO, 1972), 'Introduction', p. vii.

24 Letter, Dr A J Pocock, Acting British High Commissioner, 29 October 1997, to Professor Peter Dennis.

25 Letter, Mr J D Brown, OBE, 1 July 1998, to Professor Peter Dennis.

26 See paras 6.108-6.120.

- (b) A 75 year closure has been imposed on some Churchill-Roosevelt correspondence relating to late 1941; that closure was lifted in August 1998, and the material is now open to public access in the Public Record Office. Given that the nature of this correspondence was, in accordance with the closure, not revealed, there was scope for suggesting that it referred to the *Sydney*, most probably to the alleged involvement of a Japanese submarine, which – so the theory runs – Churchill was anxious to conceal (but not from Roosevelt) so as to enable the latter to declare war once Japan had attacked Pearl Harbour. A broader consideration of Anglo-American relations makes this scenario unlikely in the extreme, but so long as these records remained closed, such claims could not be refuted with certainty. The opening of those records has destroyed those claims, at least in so far as this previously closed file was alleged to provide evidence to support them.²⁷

3.17 A number of submissions, together with such books as Michael Montgomery, *Who Sank the Sydney?*, allege that a Japanese submarine was involved. Japanese naval records were largely destroyed at the end of the Second World War, but what records now exist offer no evidence in support of this allegation. The movements of all I-class submarines, the only ones capable of operating at the distances required for them to have been involved in the loss of *Sydney*, have been accounted for: none was in or near the area concerned. It remains for those who have made these allegations to produce more substantial evidence than they have heretofore proffered in support of their theory. The claims of Japanese submarine involvement in the loss of HMAS *Sydney* are considered in more detail in Chapter 5.

27 The previously closed material refers to the activities of a number of British men who were alleged to have undesirably close relations with the Japanese embassy in late 1941. Suspicion fell in particular on the Scottish peer, Lord Semphill (1893-1965) who had been retained by the Japanese as an adviser since 1925, having led a mission to organise the Imperial Japanese Naval Air Service, and whose activities had been investigated by the Attorney-General and the Director of Public Prosecutions. Although it was decided not to proceed against Semphill, he undertook to sever his relations with the Japanese government and the Mitsubishi Company and to accept no further payment from them. Suspicions about Semphill continued to circulate, especially in light of his position in the Department of the Director of Air Materiel in the Admiralty, where his work on air accidents gave him access to the latest technical information about aircraft and equipment. On Churchill's direct orders, 9 October 1941, Semphill was removed from his position (Source: PREM 3.252/5). The material that has been released refers to the period 17 September-16 October 1941, and therefore has no bearing on the *Sydney-Kormoran* encounter. There are two exclusions in the material, but given the date range it is reasonable to assume that these withheld documents similarly have no connection with the *Sydney*.

CHAPTER 4

THE ENGAGEMENT

*Obviously the thing that is coming out of all of this is that NO ONE knows what happened to the Sydney and the Kormoran. Every thing appears to be heresay (sic) from all witnesses and all the information obtained from the prisoners of the Kormoran.*¹

The Debate Surrounding the Loss of Sydney

4.1 In the 57 years since *Sydney* was lost, theories about the battle and its aftermath have flourished, assisted by the lack of a complete documentary record of the incident. The absence² of definitive records, and in particular any report of a Board of Inquiry, has frustrated researchers and in some cases led to suspicions of a cover-up. Quite contradictory theories about the loss of *Sydney* have developed. While they are open to challenge and criticism, the various theories raise questions about the accuracy of the official history, published in 1957.

4.2 The Terms of Reference for the inquiry asked that the Committee 'investigate and report on the circumstances of the sinking of HMAS *Sydney* off the West Australian coast ...'. The Committee, while hopeful of addressing some of the major issues related to the loss of *Sydney*, did not aim to examine in minute detail the technical dimensions of the engagement. The evidence about what might have occurred is often contradictory, and as LCDR Ean McDonald, RAN (Retd) observed:

The whole point about this, as we must all appreciate, is that we are all guessing.³

4.3 The same claims and counter claims covered in works by Montgomery, Winter and Frame continue to be raised and merit some comment. The Committee was conscious that, in commenting on the engagement and its aftermath, it too could be accused of speculation, and it accepts that this may well be the case. However, the Committee has attempted in this, and the following chapters, to present the various arguments made in evidence to it, and where possible make some reasonable judgement.

4.4 Among the most frequent suggestions about the lead up to the battle and the engagement itself are that:

- (a) the encounter between the two ships was not in fact a chance one (Captain Burnett knew a raider was present in the area and had been directed to pursue the *Kormoran*);

1 Honor, Submission, p. 3857.

2 In some cases these records are thought to exist but cannot be located; in others they are believed to have been destroyed. The matter of official records is discussed in Chapter 3.

3 McDonald, E, Transcript, p. 228.

- (b) *Kormoran* employed a *ruse de guerre* to lull *Sydney* in close, acting in contravention of international conventions;
- (c) *Kormoran* was not solely responsible for sinking *Sydney*, but in fact acted in concert with another party;
- (d) the Germans (or other co-conspirators, depending on the particular version) fired upon *Sydney* survivors in the water, to ensure that no one was left alive to dispute their version of the battle;⁴
- (e) the battle between the two ships did not take place where Captain Detmers and the official history claim.

These matters are discussed in this and subsequent Chapters.

4.5 What also remains in people's minds after 57 years of debate and speculation is how *Sydney*, the superior ship, was lost with her full complement of 645 men, and with virtually no trace, while over 300 of the *Kormoran* crew survived the sinking. The issue of no survivors is discussed in Chapter 6.

Gill's Account

4.6 In the official history, Gill acknowledged that several questions remained unanswered, namely:

Why Captain Burnett did not use his aircraft, did not keep his distance and use his superior speed and armament, [and] did not confirm his suspicions by asking Navy Office by wireless if *Straat Malakka* was in the area.⁵

4.7 Notwithstanding the questions that remained, as noted earlier, it was Gill's emphatic (and, some would argue, premature) conclusion that 'the story of [*Sydney*'s] last action was pieced together through exhaustive interrogation of *Kormoran*'s survivors. No room was left for doubt as to its accuracy'.⁶ Despite this assertion, many of the submissions to the inquiry focussed on one or more aspects of Gill's account, raising concerns about its accuracy and completeness.

4.8 In Gill's history, HMAS *Sydney*, under the captaincy of Captain Joseph Burnett RAN, left Fremantle on 11 November 1941, escorting troopship *Zealandia* to the Sunda Strait. *Sydney*'s expected arrival time back in Fremantle was pm on 19 November or am the following day, an estimated time of arrival that was subsequently amended by *Sydney* to Thursday 20 November 1941 as she departed from Fremantle.⁷ After handing escort duty to

4 This matter is discussed in detail in Chapter 6.

5 Gill, op. cit., p. 457.

6 ibid., p. 453.

7 ibid., p. 451; Summerrell, op cit., p. 32.

HMS *Durban* at noon on 17 November,⁸ *Sydney* commenced the return journey to Fremantle.⁹

4.9 When *Sydney* did not arrive on 20 November, the District Naval Officer, Western Australia reported accordingly to the Naval Board on the morning of 21 November. According to Gill, this was not an immediate cause for concern as it was known that *Zealandia* had arrived late in Singapore and it was assumed that *Sydney* would therefore also be delayed. However, 'when [*Sydney*] had not returned by the 23 November, she was instructed by the Naval Board to report by signal'.¹⁰ She did not respond. By 24 November, all high power wireless stations in Australia were instructed to call her continuously.¹¹ However, there was no response to these calls, nor did an air search that day produce any sign of the ship.

4.10 Late on the afternoon of 24 November the British tanker *Trocas* reported that it had picked up a raft carrying 25 Germans, and from their accounts came the first indication that all was not well with *Sydney*. By 30 November (following an extensive search), six boats and two rafts carrying a total of 315 *Kormoran* survivors¹² had been found, and the German account of the battle started to be pieced together.

4.11 According to Gill, at approximately 4pm (GMT+7 hours; 1600G) on 19 November 1941 the German ship *Kormoran*, approximately 150 miles south-west of Carnarvon, reported 'a sighting fine on the port bow'¹³ which was soon identified as a warship. Captain Detmers ordered the crew to action stations, and altered the course of his ship to head straight into the sun. *Sydney*, approximately 10 miles distant at this stage, 'altered towards and overhauled on a slightly converging course on *Kormoran*'s starboard quarter', continuously signalling NNJ to *Kormoran*.¹⁴ *Kormoran*, whose speed was impeded by the breakdown of an engine, did not reply, hoping to avoid action by masquerading as the Dutch merchant ship *Straat Malakka*.

4.12 Captain Detmers showed Dutch colours and hoisted the flag signal PKQI for *Straat Malakka*, in a location which was difficult to read. *Sydney* requested a clear hoist of *Kormoran*'s signal letters, and at 5pm the *Kormoran* sent out a radio (QQQ) signal, as *Straat Malakka*, that a suspicious ship was in the vicinity. This message was picked up, although faint and in 'mutilated form',¹⁵ by the tug *Uco* and by Geraldton wireless station, which read the time and part of a position of *Kormoran*. Following reception of the signal, Geraldton

8 Gill, op. cit., p. 452.

9 *ibid.*, p. 451. These timings have been disputed, with claims that *Sydney* broke off escort duty early and never completed the handover (see for example Collins, Transcript, p. 352). Others however have confirmed that the handover did take place as recorded (see for example the oral histories recorded in Page, Submission, p. 4172).

10 *ibid.*, p. 451.

11 *ibid.*

12 There is some confusion about the exact number of survivors recovered during the search, and estimates range from 315 to 317, plus several Chinese who were also on board. See Chapter 6, footnote to Table 6.1 for further details.

13 *ibid.*, p. 453. As Winter states, 'several times zones are quoted in reports, the principal ones being: Z=Greenwich Mean Time; G=Z+7 (*Kormoran*); H=Z+8 (*Sydney*, Fremantle); K=Z+10 (Melbourne)' (p. 126).

14 *ibid.*, p. 453.

15 *ibid.*, p. 453.

broadcast a request to all ships asking for further information, to which it received no reply. No significance was initially placed on the reception of that message.¹⁶

4.13 Soon after 5.15pm, *Sydney* had drawn almost abeam of *Kormoran* to starboard, less than a mile from the other ship, and was at action stations with all guns and torpedo tubes bearing.¹⁷ *Sydney* requested that *Kormoran* indicate her destination, to which the ship responded 'Batavia'. At that point:

Sydney made a two-flag hoist, the letters IK, which the raider could not interpret. They were in fact (and their being quoted correctly under interrogation is [according to Gill] corroboration of the German story) the centre letters of the *Straat Malakka's* secret identification signal, which was unknown to the Germans. They made no reply.¹⁸

4.14 According to Gill, the German Captain, realising he could not avoid a fight, struck the Dutch colours and hoisted the German ones, gave the order to fire and struck his first blow shortly after 5.30pm.¹⁹ At the same time as opening fire, Captain Detmers ordered that two torpedoes be fired. *Kormoran's* first two salvos missed the mark, but subsequent direct hits were scored on *Sydney's* bridge and director tower. The ensuing action was, by all accounts, fast and furious. *Sydney*, although severely disabled, managed to fire a sufficient number of salvos and torpedoes to damage *Kormoran* so severely that Captain Detmers ordered abandon ship, and *Kormoran* was scuttled just after midnight. *Sydney* was last seen by the *Kormoran* survivors:

... about ten miles off, heading approximately S.S.E. Thereafter, until about 10 p.m., a distant glare in the darkness betokened her presence. Then occasional flickerings. Before midnight, they, too, had gone.²⁰

Gill believed it was probable that *Sydney* sank during the night of 19-20 November 1941.²¹

4.15 While Gill believed that the 'story of how *Sydney* was lost would appear to be straightforward', he also remarked that: 'What induced Captain Burnett to place her in the position where her loss in such a way was possible, must remain conjecture'.²²

4.16 Gill was convinced of Captain Burnett's culpability, noting his relative inexperience in command and lack of the kind of wartime sea experience which may have helped him in such a situation. As Gill stated, Captain Burnett 'lacked that experience which, gained in a recognised war zone, sharpens suspicion and counsels caution on all chance meetings'.²³ Gill also sought explanations for Captain Burnett's actions in part by recording the criticisms made of Captain Farncomb in March of that year in his encounter with the

16 *ibid.*, pp. 453-454.

17 *ibid.*, p. 454.

18 *ibid.* To Captain Detmers, this signal meant 'prepare for a hurricane, cyclone or typhoon', Winter, *op. cit.*, p. 135.

19 Gill, *op. cit.*, p. 454.

20 *ibid.*, p. 456.

21 *ibid.*, p. 458.

22 *ibid.*, p. 456.

23 *ibid.*, p. 457.

Coburg and the *Ketty Brövig*. Captain Farncomb was criticised for standing off and shelling the ships, with a significant expenditure of ammunition.²⁴ Gill also speculated that:

... it may well be that, influenced by the near approach of darkness, he [Burnett] was moved to determine the question quickly; and thus was swayed to over confidence; first in the genuineness of *Straat Malakka*; second in *Sydney's* ability, with all armament bearing and manned, to overwhelm before the trap, if such existed, were sprung. Yet to act as Burnett did was to court disaster should a trap exist ...²⁵

4.17 Thus, despite possible extenuating circumstances, the ultimate responsibility for the loss, at least in Gill's opinion, lay with the captain. However the questions that Gill himself raised about the engagement remained unanswered.²⁶ As noted in Chapter 2, subsequent works on the *Sydney-Kormoran* engagement by Montgomery, Winter and Frame to varying degrees challenged or supported Gill's account.

Reconsidering the Engagement

4.18 In its deliberations, the Committee felt it was necessary to focus on several key aspects of the engagement itself:

- (a) the role of the two captains;
- (b) the battle readiness of *Sydney*;
- (c) whether or not Captain Burnett was aware that there was a raider off the coast of Western Australia prior to the encounter with *Kormoran*;
- (d) whether or not *Sydney* was at action stations as it approached *Kormoran*;
- (e) why Captain Burnett may have brought *Sydney* close enough to *Kormoran* to be sunk by her (and whether or not Captain Detmers employed a *ruse de guerre* to entice *Sydney* in close);
- (f) whether or not *Kormoran* fired a submerged torpedo;
- (g) whether or not signals were sent from *Sydney*;
- (h) the possibility of the involvement of a third party, in particular a Japanese submarine.

The remainder of this chapter and Chapter 5 examine each of these in turn.

The Two Captains

4.19 There can be no doubt that the captains of the *Sydney* and *Kormoran* played a vital role in the fate of their two ships. Consequently, attempts to ascertain the reasons for

24 *ibid.*

25 *ibid.*, p. 458.

26 See Chapter 2, para 2.5.

Sydney's loss are invariably coupled with analyses of the personalities of the these two men: Captain Joseph Burnett and Captain Theodor Detmers.

4.20 Although the captains were from vastly different backgrounds and on very different missions, both bore responsibility for the safety and well-being of all the men in their charge. Evidence received by the Committee has revealed a diversity of opinion about the personalities of both men.

Captain Joseph Burnett

4.21 The capability and suitability of Captain Burnett as *Sydney's* captain has been widely debated by historians and researchers. Those who criticise Captain Burnett usually do so on the grounds that he lacked experience in command, and that it was because of this that he brought his ship in too close to *Kormoran*. Conversely, others portray Captain Burnett as a 'by-the-book', cautious captain who would not expose his ship and crew unnecessarily to danger.

4.22 Captain Joseph Burnett had taken over command of the *Sydney* from Captain John Collins on 15 May 1941.

One of the original 1913 entry at the Naval College, Captain Burnett was an officer of professional achievement and promise. He was the third college graduate to reach the rank of Captain in the Royal Australian Navy, being promoted in December 1938 ... he was a gunnery specialist and had a 'Five First Class' record in lieutenant's courses ... [Admiral Colvin later] wrote of him: 'He had much service in ships of the Royal Navy and came to me from them as my Vice-Chief of the Naval Staff for a few months after the outbreak of war with my high recommendations. These were not belied, for his capacity to grasp a situation rapidly and to formulate decisions was quite remarkable. His thoroughness, his appetite for hard work, and his powers of organisation were invaluable, and he had a special faculty for getting to the heart of a problem and of stripping it of unessentials which is given to few'.²⁷

4.23 The proposition that *Sydney* was lost through the human error of one man has proved extremely difficult for many to accept. That Captain Burnett was appointed to the position of Captain is sufficient evidence for some that he was up to the task. For those people, 'it is incomprehensible that an experienced commanding officer of full captain's rank would not have observed all [mandatory and rigorously observed procedures of challenge, identification and recognition for both warships and merchant vessels]'.²⁸

4.24 The Department of Defence stated that Captain Burnett was 'an experienced executive officer ... [and] ... a very well-reported staff officer'.²⁹ *Sydney* was Captain

27 Gill, op. cit., pp. 450-451.

28 Anderson, Submission, p. 125.

29 Department of Defence, Transcript, p. 24.

Burnett's first command experience, although he had had 'considerable sea experience and operational experience'.³⁰ The Committee also heard that:

[i]t was recorded that Captain Burnett was regarded by his seniors as one of Australia's three best officers, along with Collins and Waller ... His experience was almost the same as was Captain Collins' when he sank the *Bartellomeo Colleoni* (sic).³¹

4.25 LCDR J J Ravenscroft, RANR (Retd), who served under Captain Burnett from May to October 1941, commented:

My impressions were that Captain Burnett was a capable ship handler. He was aware that he commanded a highly skilled and well trained ship's company and was backed up by highly trained, experienced and battle hardened senior officers. He struck me as a man who would listen and take advice.³²

4.26 In other evidence to the inquiry, Captain Burnett was described as 'a man of caution, careful, not radical, not prepared to put his ship and crew at risk at any time'.³³ Other sources stated that '[Captain Burnett] was always a safety-first man and not one to take risks',³⁴ that Captain Burnett was 'very cool, calm and collected'³⁵ and that he was 'an extremely competent officer'.³⁶ If this testimony is to be believed, Captain Burnett was certainly not the type of person one would expect to approach an unidentified ship without taking all the proper precautions.

4.27 Countering these more positive comments, the Committee received evidence that '[t]he only conclusion you can come up with [about the loss of *Sydney*] is that, one way or another, the captain made a mistake. The question is whether he made a foolish mistake or whether he was deceived into it'.³⁷

4.28 Barbara Winter made the point that there is a difference between incompetence and simply making a mistake, which is what she believes happened in the case of Captain Burnett.³⁸ Winter pointed out that Captain Burnett was 'relatively inexperienced in command, ... none [of his experience was] in what was considered a "hot" operational area ... [and] on 19 November 1941 Captain Burnett made a mistake'.³⁹

4.29 Mr Alastair Templeton, who served on *Sydney* under Captain Burnett, was more critical of his former captain:

On paper he had an enviable, and mainly highly creditable, record as an officer, subject to the ultimate proviso that his ability in command

30 *ibid.*, p. 25.

31 McDonald, E, Submission, p. 523.

32 Ravenscroft, Submission, p. 2583.

33 McArthur, Submission, p. 2244.

34 Rev. Norman Symes, cited in Montgomery, *op. cit.*, p. 55.

35 Fisher, Transcript, p. 306.

36 Ross, Transcript, p. 307.

37 Creagh, Transcript, p. 121.

38 Poniewierski, Submission, p. 1358.

39 *ibid.*

of a ship had never been assessed as he had never previously had a command ... My ... views have firmed rather than softened in subsequent years. Others put it differently [suggesting that he was]

lacking a bit of commonsense

too confident in his own ability to deal with anything that might come up

ambitious

reluctant to take advice, as others and I have observed – but not all others.⁴⁰

4.30 Mr F C Sheldon-Collins who also served on HMAS *Sydney* under Captain Burnett, was also critical:

... in Burnett's eagerness to outshine his predecessor, Collins, and with little likelihood of any naval battles in the area, he threw caution and prudence to the wind and largely played at being at war.⁴¹

4.31 According to Michael Montgomery, 'the common verdict on [Captain Burnett] (also a verdict fostered by Detmers, for reasons of his own) to date has been that "if Collins had still been in command, the *Sydney* would never have been lost" '.⁴² Montgomery's final conclusion on Captain Burnett is that 'all [the evidence he found] would seem to bear out the opinions, previously quoted, of him as being a most capable and rigorously efficient officer with a thorough grasp of all aspects of naval procedure'.⁴³

4.32 Given that Captain Burnett had been appointed captain of *Sydney*, and in light of his exemplary track record, albeit in an administrative capacity, the fact that he brought *Sydney* in close enough to *Kormoran* to be sunk by the German ship raises serious questions about his reasons for such an action. While there has been much speculation about his actions on the night *Sydney* was lost, there seems to be a general consensus that Captain Burnett was a man who went by the book. If this was indeed the case, the reasons for the loss of *Sydney* may go far beyond being the result of a poor decision by the captain. As Barbara Winter suggested:

If there is any significant conspiracy regarding *Sydney* it is this: what official source is going to admit that part of the reason for the loss of an Australian ship was that an Australian captain put into practice (once too often, for it had been done frequently by others) the theoretical advice of the British Admiralty? It is claimed, with some cause, that in the same circumstances neither Collins not (sic) Farncomb would have lost his ship; that assumes that they had the instinct, self-confidence and perversity to know *when* to ignore advice

40 Templeton, Submission, pp. 2027, 2031.

41 Sheldon-Collins, Submission, p. 619.

42 Montgomery, op. cit., pp. 54-55.

43 *ibid.*, p. 57.

and disobey orders. That is perhaps that mark of an inspired commander, rather than a merely adequate one.⁴⁴

Captain Theodor Detmers

4.33 Captain Detmers' main interest in life was the sea, having joined the German navy in 1921 at the age of 19.⁴⁵ In 1934 he was appointed to command a torpedo gunboat (G11) and in 1938 the destroyer *Hermann Schoemann*.⁴⁶ In July 1940 Captain Detmers was appointed to command Auxiliary Cruiser 41, *Steiermark*, later named *Kormoran*. Under Captain Detmers' command, *Kormoran* had captured one ship and sunk 10 others during the 11 months at sea prior to sinking *Sydney*.⁴⁷

4.34 Captain Detmers was described in glowing terms in some evidence given to the Committee. Mr Richard Lamb told the Committee that Captain Detmers was 'a brilliant and aggressive skipper and a brilliant seaman ... [and] a brilliant tactician'.⁴⁸ He was 'held in high regard in his profession ... [and was an] ... honourable man, protective of his men, as are all excellent captains'.⁴⁹ In short, Captain Detmers was a razor-sharp fighting seaman,⁵⁰ and '... what Detmers did, Detmers did right'.⁵¹

4.35 Captain Detmers certainly had the tactical advantage in the lead up to the confrontation with *Sydney*. As Winter pointed out, 'if that was a raider, the captain had a cool nerve to let a cruiser get so close without cracking'.⁵² As another submission pointed out, '[Captain Detmers]' greatest advantage was that [he was] conscious of the *Sydney* as an enemy vessel. Therefore [he was] from the beginning fully prepared for battle'.⁵³ Of all the criticisms directed at Captain Detmers, none suggested that he was ill-prepared or ill-equipped for the position he occupied.

4.36 Oft-repeated suggestions that the *Kormoran's* captain was a Nazi seem to have been disproved by evidence given to the inquiry, that:

... under German military law no serviceman was permitted to belong to any political party, nor even to vote in elections. Thus a man such as Detmers, who joined the navy in 1921 while the Nazi party consisted of a few hundred members in Bavaria and he was too young to vote, and did not leave the navy until the war was over, could say confidently, not only that he was never a member of the Nazi party, but that he never voted for the Nazis ... One would expect his political

44 Poniewierski, Submission, p. 3320. Emphasis in original.

45 Winter, op. cit., p. 251.

46 Detmers, T, *The Raider Kormoran*, (London: William Kimber, 1959), pp. 7-8.

47 Department of Defence, Transcript, p. 36.

48 Lamb, Transcript, p. 309.

49 Sheedy, Submission, p. 6.

50 Loane, Transcript, pp. 218 and 221.

51 Poniewierski, Transcript, p. 542.

52 Winter, op. cit., p. 134.

53 Professor Ahl in Gascoyne Historical Society, Submission, p. 1229. See also Loane, Transcript, p. 219, 'Detmers also had the element of surprise'.

inclinations to be nationalistically inclined, but that is a different thing.⁵⁴

4.37 According to Mr Bill Loane, 'during my research on Captain Detmers and the action between *Sydney* and *Kormoran*, I took an overview and I read every book about every Raider captain in both wars, everything that has been written about their activities. I do not believe Captain Detmers was a Nazi, although I believe that certainly there were Nazis on board'.⁵⁵ He added that:

... no-one has really ever taken any note of the tactics used by Detmers, Like his methods or not, he was ... getting the real thing regularly. In other words, he was out finetuning his crew in a combat situation a lot more times than could Captain Burnett, who was only relying on exercises to keep his crew up to scratch.⁵⁶

4.38 Notwithstanding these assessments, there is no doubt that Captain Detmers used a method of 'constant and practised deception'.⁵⁷ It is suggested that he 'hoped to be awarded the Knight's Cross of the Iron Cross',⁵⁸ a rare award given to captains who were able to sink in excess of 100,000 tonnes of Allied shipping.⁵⁹

4.39 It was also argued by some that Captain Detmers cared less about his men than some reports would have us believe. It was asserted by one witness to the inquiry that:

For some convenient reason, the German captain put all of his badly injured [men] into a very unstable rubber boat which conveniently tipped over and they were all drowned. My theory on that is that had those men been picked up and required anaesthetic for treatment, they could have talked and told the truth under the influence of anaesthetic ... it does not give much reward to [Detmers'] faithful crew who fought with him to have been got rid of that way.⁶⁰

While this view has been put, the Committee notes the high esteem in which Captain Detmers was held by his surviving crew.

The Battle Readiness of *Sydney*

4.40 One issue that was raised in a number of submissions was whether or not *Sydney* was battleworthy at the time of her loss. This is probably due to the fact that in theory *Sydney* was a far superior ship to *Kormoran*, and as such should not have been sunk by the German ship, so long as she maintained a position in which superior armament would prevail. *Kormoran's* armament consisted of '6 x 5.9-inch, 2 x 37mm AA, 5 x 20mm AA guns, 6 x 21-inch torpedo tubes (2 submerged), 2 aircraft, 360 mines'.⁶¹ *Sydney* had an armament which

54 Poniewierski, Submission, p. 338.

55 Loane, Transcript, p. 217.

56 *ibid.*, pp. 218-219.

57 Burnett, R, Submission, p. 15.

58 Frame, *op. cit.*, p. 63.

59 *ibid.*, p. 64 and also Doubay, Submission, p. 3501.

60 Ryding, Transcript, p. 144.

61 Frame, *op. cit.*, p. 277.

'consisted of eight 6-inch guns, four 4-inch anti-aircraft guns, four 3-pounder saluting guns, three 4-barrel 0.5-inch machine guns and eight 21-inch torpedo tubes'.⁶²

4.41 Many of the concerns raised about *Sydney's* battle readiness mention the state of the 'A' turret when she departed Fremantle for the final time. Serving on *Sydney* up until her penultimate voyage, Mr E V Ryding observed:

Thinking I may have been the only one alive who knew of the faulty 'A' turret on *Sydney*, I had not said anything about it, not being able to support my statement, however, since the 1997 Fremantle Forum on *Sydney*, I now hav[e] eye witness support of 2 people, one, the Uncle of A/PO. Williams, on return to the ship the night before she sailed, said, 'Jim, if we run into anything out there we've had it, these guns don't bear properly, or words to that effect' ... the guns he referred to were 'A' Gun turret. ... Where are the records that *Sydney* was sent to sea to escort our Troop Ships in a condition that prevented her from using all of her fighting power when the need arose.⁶³

4.42 In another submission, Mr B K Thomson QC noted that:

There are a number of matters I submit that are calling for enquiry here, firstly was the ship battleworthy at the time of its loss to the *Kormoran*. I say this because the last photograph that there is available of the ship shows the front turret dangling fully awry over the deck and in such a position being completely useless. I believe this happened some months before the loss, in a fierce storm encountered going though the Great Australian Bight. In spite of its condition it was allowed to continue in action without as I understand any repairs being done to the same ...⁶⁴

4.43 Michael Montgomery also raised concerns about the state of 'A' turret on *Sydney*, when he stated that:

... there was, irrefutably, another factor: namely, the damage suffered by A turret during very heavy seas met on 20 to 22 September while escorting a convoy across the Great Australian Bight. R. Dennis recalls an impression of it being almost lifted off its mountings by a huge wave, and it was left jammed in a position almost 90 degrees to port ... On arrival at Fremantle it was man-handled back into fore-and-aft position from the inside, and the rollers taken out and machined; the roller path itself, however, had also been damaged, so that even when the rollers were replaced the turret could only be trained manually ...⁶⁵

62 *ibid.*, p. 16.

63 Ryding, Submission, p. 627.

64 Thomson, Submission, p. 353.

65 Montgomery, *op. cit.*, pp. 194-195. This incident is also referred to in Craill, Transcript, p. 346.

4.44 Despite the fact that Montgomery described *Sydney* as '... seaworthy, but not battleworthy',⁶⁶ he then went on to acknowledge that '[highlighting deficiencies with 'A' turret] was not to imply that this was a contributing factor to the outcome of the action itself, because under ordinary circumstances she should have had no difficulty in disposing of the *Kormoran* with her remaining three turrets'.⁶⁷

4.45 Mr Templeton, who served on *Sydney* under Captain Burnett, gave evidence to the inquiry which suggested *Sydney* was not ready for battle. He noted that 'to anyone possessing sound knowledge of cruisers and their internal management, it should have been quite apparent in 1941/2 (sic) that *Sydney* was NOT, inter alia, fully operational and properly prepared for her action against *Kormoran* and had paid the price'.⁶⁸ However Mr Templeton rejected the claim that A turret was not fully operational:

Some possible information to dispel the notion that 'A' turret was unserviceable or defective at the time of the action against *Kormoran*. In my letter home of 15.10.41, I say: Monday afternoon there was a shoot at a target and another at night. My recollection is of the night shoot with main armament banging away and my mess table vibrating a bit. However, the latter does not quite tie in with the log entries. A sub-calibre target shoot is recorded as completed by 1100, i.e. during the forenoon. The night shoot, using star shell, occurred 1930 – 2040 and was in conjunction with the Army in night encounter exercises. Looking at these things now triggered some recollection that all was well with 'A' turret. The following afternoon the evolution of mooring ship took place, when we, officer trainee hopefuls, we lined up for instruction for'ard of the guns of 'A' turret which were assuredly trained fore and aft ... Some kind of lingering doubt reposed in my memory, for I made a point during my November 1986 visit to Hamburg to enquire casually of *Kormoran* men whether all four turrets were trained on them as *Sydney* approached on the fateful day and whether all four fired. Absolute affirmation obtained.⁶⁹

4.46 Mr Ryding also told the Committee that 'there is a report from the log in the month prior to *Sydney's* loss where the captain reports that A turret had been repaired'.⁷⁰ The Committee did not sight a copy of this report.

4.47 In other evidence received by the inquiry, mention was made of longer-standing concerns about the vulnerability of *Sydney*. Mr John Ross told the Committee that:

... I think it is plausible that *Kormoran* could have defeated *Sydney* in a fair fight. I base this on a report from Captain J Waller on 21 October 1938 when he sent an urgent but secret communication to the navy office after conducting gunnery trials off the coast, stating that he was absolutely appalled at the extreme vulnerability of the gun control systems. He said that the primary control of main armament

66 *ibid.*, p. 193.

67 *ibid.*, p. 195.

68 Templeton, Submission, p. 1997.

69 *ibid.*, pp. 2465-2466.

70 Ryding, Transcript, p. 154.

and high-angle fire was extremely vulnerable and that the first and second alternatives, which were back-up systems for the main armament, were seriously inefficient and that group control was unworkable due to noise ... Captain Waller was extremely uncomfortable knowing that, with the imminence of war, if he had to close on an enemy ship during action there was a possibility that if the control circuits were damaged he would be severely disadvantaged.⁷¹

4.48 Those recommendations had not been acted on 13 months later when Captain Burnett, as Assistant Chief of Naval Staff, noted and initialled a file showing that Admiralty had yet to act on the advice. It did not act for three years.⁷²

4.49 The Committee was told by Mr Rex Turner that he had concerns about the vulnerability of the valve handles on *Sydney*. He gave evidence that:

... [the valve handles] were constructed of aluminium alloy which was found in service to melt in a fire which meant that, if a fire passed through a compartment, the valves in that compartment would be useless from that point onwards ... we can assume that *Sydney* would have been a lame duck [as] far as fire fighting and pumping out flooding compartments [were concerned].⁷³

4.50 The concerns about *Sydney* were not just specific to that ship, but applied to the type:

... the three *Perth* class cruisers had technical weaknesses which could make it difficult to carry out their allotted tasks and leave them vulnerable in an emergency.⁷⁴

4.51 Although some believe that *Sydney* may not have been at her optimum state of battle readiness, the Committee felt that it was not demonstrated that *Sydney* was any more unprepared for battle than other ships of her class. The Committee found no documentary evidence to support the claim that *Sydney* was in need of major repair on 19 November 1941.

Reports of Raiders in the Area

4.52 The issue of whether or not Captain Burnett was aware of the presence of a raider⁷⁵ in the Indian Ocean is crucial to understanding why he might have approached *Kormoran* too closely. However, establishing whether or not Captain Burnett was aware of a raider's presence is difficult, given the conflicting evidence received by the Committee.

71 Ross, Transcript, pp. 307-308.

72 Ross, Submission, p. 2946.

73 Turner, Transcript, pp. 489-490.

74 Winter, op. cit., p. 9.

75 In evidence to the Committee, Mr David Kennedy made the point that the definition of a raider was somewhat unclear in the lead up to *Sydney's* loss. He stated that 'Raiders were referred to then as the actual auxiliary cruisers and their supply ships. If it was thought that a supply ship was the target, then the raider might still be around, or vice versa' (Kennedy, Transcript, p. 456). Winter also noted that '... it always sounded more dramatic [for the Admiralty] to call supply ships "raiders" ' (Winter, op. cit., p. 205).

4.53 Many researchers are convinced that Captain Burnett knew of the existence of a raider off the West Australian coast. In the final September 1941 Weekly Intelligence Report, it was noted that 'it is probable that a raider is in this area and will soon resume operations'.⁷⁶

4.54 Mr Templeton also believed Captain Burnett knew there was a raider in the vicinity of the Western Australian coastline. He gave evidence that '[Captain Burnett] had told us during the previous voyage that there was a raider "in the area" – meaning perhaps anywhere in the Indian Ocean – and that postulated that **any** ship acting strangely could be an enemy and should be treated as such until proved otherwise'.⁷⁷ This evidence was corroborated by Mr C G Davis, who stated that 'evidence prooves (sic) [Captain Burnett] was convinced that it was highly probable a raider could be close by and it is on record that he said "there is a raider in the area, and we are going to get it"'.⁷⁸ The 'evidence' spoken of in this submission seems to be the word of someone present when Captain Burnett made the statement, but was never put on record.

4.55 The End Secrecy on *Sydney* Group was also convinced that the presence of a raider was well known:

Of course, if on 19 November 1941 Captain Burnett was aware he was confronting a raider already tracked to that Indian Ocean position by HF/DF; that *Kormoran/Steiermark's* and *Straat Malakka's* photographs had been circulated to him – as evidence proclaims – Detmers' and his crew's stories about *Sydney's* 19 November behaviour are shown to be total fabrication, with deep criminality the probable reason ... After all, the Germans were not aware they had been HF/DF tracked – as *Steiermark*, Raider 'G', Ship 41 – during November 1941 or any other time.⁷⁹

4.56 There were other submissions which suggested that Captain Burnett was not aware of a raider in the area. For example, one submission stated that 'the *Sydney*, chancing on the *Kormoran* while returning from escort duties, and without any intelligence of enemy raider activity in the Indian Ocean, would have been at the mercy of the *Kormoran's* active deception until the trap had been sprung'.⁸⁰

4.57 The Department of Defence gave evidence that 'there was an Intelligence Report to say that there were no raiders in the eastern part of the Indian Ocean'.⁸¹ Defence also suggested that Captain Burnett did not know that *Kormoran* was a raider, 'otherwise he would not have approached so close'.⁸²

4.58 In his guide to the Australian Archives holdings, Mr Richard Summerrell challenged the presumption of the Department of Defence that Captain Burnett believed there were no raiders in the area. He cited a summary of Combined Operational Intelligence

76 Frame, op. cit., p. 124.

77 Templeton, Submission, pp. 2001-2002.

78 Davis, Submission, p. 493.

79 End Secrecy on *Sydney* Group, Submission, p. 3010. Emphasis in original.

80 Jones, Submission, p. 1309.

81 Department of Defence, Transcript, p. 33.

82 *ibid.*, p. 34.

Centre summary based on Admiralty intelligence of 28 October 1941 in which '... Admiralty state that there is now no evidence of a raider being in the Indian Ocean'.⁸³ However, Mr Summerell went on to say that:

Given that this information did not appear in the Combined Operational Intelligence Centre's daily summaries until 12 November, the day after the *Sydney's* departure from Fremantle, it is possible that the *Sydney* was only aware of earlier intelligence which suggested that there was evidence of raider activity in the Indian Ocean ...⁸⁴

4.59 Others have also suggested that the C-in-C China (Singapore) was directing HMAS *Sydney's* movements, was aware a raider was in the area and directed *Sydney* to the area to intercept it.⁸⁵ However, this theory fails to explain, if Captain Burnett was acting under these orders, why he was not apparently on full alert.

HF/DF Tracking

4.60 The question of whether or not Captain Burnett and Australian authorities knew of the presence of a raider must be examined in light of claims of HF/DF⁸⁶ tracking at the time. Mr Reg Lander, employed as a radio technician by AWA during the war,⁸⁷ claimed that the raider 41 (*Kormoran*) was being tracked from Holsworthy NSW, the QANTAS flying boat base in Rose Bay, NSW and the RAAF Base at Pearce, WA.⁸⁸

4.61 In a statutory declaration supplied to the Committee, Mr Lander stated he was told by a superior that 'there was a German raider on the west coast operating outside Fremantle and moving up and down the coast, or so they thought, transmitting on a certain frequency each night making a rendezvous with Danzig radio'. Mr Lander went on to state that the HF/DF was still experimental. The signals were also monitored by the RAAF at Pearce, to provide a cross bearing. Mr Lander indicated that a ship was monitored over an 8 to 10 day period as it moved up the coast, and that 'I didn't know then that it was *Kormoran*'.⁸⁹

4.62 Mr Lander's evidence has formed the basis of much of the later assertions that Admiralty, and Captain Burnett, knew a raider was in the vicinity. In a submission to the inquiry, Mr John McArthur claimed that Captain Burnett would have been aware of the existence of a raider off the Western Australian coast, and would consequently have been ready should he encounter it.⁹⁰ Mrs Glenys McDonald supported this view, stating 'I now believe that the *Sydney* knew that a German raider was in the area and she was updated on it from Direction Finding bases in operation around Australia and controlled at this point from Singapore'.⁹¹

83 Summerell, op. cit., p. 92.

84 ibid.

85 McDonald, E, Submission, p. 539.

86 High Frequency Direction Finding.

87 McDonald, E, Submission, p. 538.

88 Department of Defence, Submission, p. 1847.

89 Lander, in End Secrecy on *Sydney* Group, Submission, pp. 2160-2161.

90 McArthur, Submission, p. 2239.

91 McDonald, G, Submission, pp. 175-6.

4.63 The veracity of Mr Lander's claims that *Kormoran* was being tracked by various stations around Australia depends on a combination of external factors:

- Captain Detmers would have to have been transmitting signals very frequently;
- the Allies would have to have had HF/DF tracking occurring at precisely the right time and frequency when the raider transmitted its messages; and
- in order to make use of any information contained in *Kormoran's* signals (i.e. to predict *Kormoran's* movements), the Allies would have had to have broken the German codes.

4.64 The difficulties inherent in HF/DF detection in the early part of the war were described in a paper by the Far East Combined Bureau in August 1940. While acknowledging the practical value of such a system, the paper indicated that:

... it is most unusual to obtain a bearing which can be rated as better than second class, by which is implied a possible error of + or - 5°... Entirely distinct from this is the error due to the W/T wave being deviated from its normal great circle path ...; errors of as much as 78° have been recorded in a bearing which has appeared quite reasonably good to the operator.⁹²

4.65 The paper went on to indicate the varying factors that could result in tracking errors:

- position of D/F station
- range of target
- difference of longitude between target and D/F station
- bearing of target
- proximity of target to D/F stations antipodal point
- time of day and season of year
- frequency.⁹³

4.66 In response to claims that HF/DF tracking specifically of *Kormoran* may have taken place in November 1941, one submission stated that 'Reg Lander's group of wireless operators may not have been tracking *Kormoran*, rather monitoring a raider-search operation'.⁹⁴ They may well have been performing the duties he describes, without ever having known exactly where *Kormoran* was.

4.67 Mr John Doohan, co-convenor of the End Secrecy on *Sydney* Group, told the Committee that *Kormoran* must have been sending out signals every day:

Kormoran would have to have been getting a signal every day [from the Japanese]. She got the signal down to her. Originally the information would come from the Japanese consulate in Singapore ... our people would have been reading everything that was going to

92 Exhibit No. 46, p. 3.

93 *ibid.*

94 Kennedy, Submission, p. 3074.

Kormoran anyway. But all *Kormoran* would do was send back maybe only a couple of blips, 'Message received. Understood.' She would have to, otherwise they would keep on sending the signal until they knew their target had got it. So every day she had to send signals back⁹⁵
...

4.68 However, evidence was received by the Committee that 'Detmars (sic) was very parsimonious in his use of radio',⁹⁶ throwing doubt on the claim that a daily process of tracking was possible.

4.69 Winter unequivocally states that '[a]ccusations of covering up evidence of tracking *Kormoran* ... are nonsense. The auxiliary cruisers sent very few signals, usually from isolated areas and with long intervals in between. Once it became necessary to send a signal, the ship sending it moved, their survival depended on their location remaining a mystery'.⁹⁷

4.70 Winter also rejects claims that authorities had broken the codes used by raiders and were thus aware of *Kormoran*'s intended movements:

... the cipher used by the auxiliary cruisers on the high seas, called 'Pike' by Britain and '*Ausserheimisch*' or '*Aegir*' by Germany, was **never broken. NEVER.** ... Thus the Allies never knew the location of a raider by reading its own signals. Occasionally one was located by HF/DF, and on a few other occasions by reading the signals to or from a U-boat that was due to rendezvous with a raider. ... Anyone making a claim based on an assumption that the raider ciphers were being read is poorly informed on the topic. Anyone claiming that the navy 'must have known' where *Kormoran* was 'because we were reading the German code' is grossly ignorant in this field.⁹⁸

4.71 Winter's statements about code breaking are supported by the Department of Defence, which gave evidence that:

Assuming that [*Sydney* had obtained information about the future positions and intentions of *Kormoran*], then *Sydney* still would not have been any the wiser as the Enigma key used by German raiders was never broken by the British.⁹⁹

4.72 The Defence Signals Directorate (DSD) echoed this sentiment when it gave evidence to the Committee about code breaking activities during the war. The Acting Director of DSD stated that:

... the German navy during the Second World War were using the Enigma machine. It had a number of codes – it had a foreign code, if you like, and a domestic code. About five per cent of the users,

95 Doohan, Transcript, p. 249.

96 Farquhar-Smith, Submission, p. 3177.

97 Poniewierski, Submission, p. 331.

98 *ibid.*, p. 337. Emphasis in original.

99 Department of Defence, Submission, p. 1848.

including the users of this code system, including raiders, armed merchantmen like the *Kormoran*, used the foreign code, and the foreign code was not broken during the war.¹⁰⁰

4.73 Given that much of the evidence of a raider off the coast of Western Australia comes from the testimony of Mr Lander, it is pertinent to note the observations of Barbara Winter who states that 'Reg Lander ... admitted in 1991 that they did not know the origin of the signals, but his evidence has since been contaminated ...'.¹⁰¹

4.74 The Department of Defence, in commenting on Mr Lander's claims, noted:

Of the sites mentioned by Mr Landers (sic) neither the Defence Signals Directorate or Army are able to identify the Holsworthy site, the Rose Bay 'site' was operated by a non-Defence organisation and the function of the HF/DF facilities at RAAF Pearce may also have been as an aerial navigation aid. The use of facilities at Rose Bay and Holsworthy would not provide a good enough cut to aid in obtaining a fix as they would both produce the same bearing to a target in the Indian Ocean.

... Whilst it is unlikely that the organisation as described by Mr Landers (sic) carried out the work he states, it is possible that these stations were involved in some form of HF/DF work. Though no station could be identified at Holsworthy, a facility known as the Australian Radio Research Station did exist in the Liverpool area. The exact functions of this facility are unknown, however, it may have been involved with experimental work in association with Rose Bay and RAAF Pearce.¹⁰²

4.75 The Committee does not believe there is sufficient evidence to prove that the *Kormoran* was being tracked by HF/DF as suggested. The Committee notes that HF/DF was still in the developmental stage; that its accuracy was open to question; and that it would be unthinkable that an experienced raider captain would be sending daily messages allowing such tracking to take place. There is nothing to suggest that the statement by Mr Lander about his work during this period was wrong in so far as his involvement in the development of a HF/DF facility, but there is insufficient evidence to show that it was *Kormoran* that was being tracked (and as a consequence, that authorities, and possibly *Sydney*, knew with some accuracy the location and movements of the *Kormoran*).

Was *Sydney* at Action Stations?

4.76 There has been considerable speculation as to whether or not *Sydney* was at action stations when she approached *Kormoran*. Stories of *Kormoran* crew seeing men in white on the deck of *Sydney* as she approached were repeated in many submissions to the inquiry. Establishing whether or not *Sydney* was at action stations at it approached *Kormoran* is important because:

100 Defence Signals Directorate, Transcript, p. 48.

101 Poniewierski, Submission, p. 314.

102 Department of Defence, Submission, p. 1847.

- (i) If *Sydney* was **not** at action stations when it approached *Kormoran*, what had convinced Captain Burnett he could safely approach and drop his guard?
- (ii) If *Sydney* **was** at action stations, why were men in white lining the rails on the upper deck of the ship, and why did Captain Burnett bring her in so close?

4.77 There have been a range of suggestions as to who the 'men in white' lining the rails might have been. While Captain Detmers assumed they were 'pantrymen in their white coats lining the rails to have a look at the supposed Dutchman', there has also been the suggestion that they were in fact 'damage-control people, dressed in fire-fighting gear'.¹⁰³

4.78 In the official history, Gill had no doubt that *Sydney* was at action stations as it approached *Kormoran*. He presented this as a clear indication that Captain Burnett had approached *Kormoran* with suspicion. Gill wrote that:

From the fact that [Captain Burnett] went to actions stations and approached *Kormoran* with his main armament and torpedo tubes bearing, it would seem that he had suspicions of her *bona fides*.¹⁰⁴

4.79 There is an important link between whether or not *Sydney* was at action stations, and Captain Burnett's reasons for bringing the ship in close to the *Kormoran*. As CMDR T A Dadswell stated:

Captain Burnett and his officers were aware that German raiders were operating at sea in 1941 and would have treated any sighting of an unknown ship with suspicion. *Sydney* would have remained at long range and closed up at 'action stations' until satisfied as to the identity of the vessel.¹⁰⁵

4.80 According to Montgomery, 'to suggest ... that [the *Sydney*] was at action stations and at the same time had men standing at the rail is also to suggest that he was acting contrary both to all naval procedure and to every known precedent of his own conduct'.¹⁰⁶ Given that these two stories (i.e. that *Sydney* was at action stations *and* at cruising stations) have been widely quoted, Montgomery concludes that in fact both are true, although they did not happen simultaneously. That is, Montgomery believes that *Sydney* was initially at action stations, and later went back to cruising stations,¹⁰⁷ when the captain had been convinced that by doing so, the crew was not in danger. The question is, what could Captain Detmers have done to persuade Captain Burnett that it was safe to go back to cruising stations? This leads to some consideration of what action *Kormoran* might have taken to allay the concerns of *Sydney* as she approached.

Did *Sydney* Come Too Close?

103 Eagles, Submission, p. 400.

104 Gill, op. cit., p. 457.

105 Dadswell, Submission, p. 204. Emphasis in original.

106 Montgomery, op. cit., p. 119.

107 *ibid.*, p. 120.

4.81 Several theories, either singly or in combination, were put to the Committee, to attempt to address whether or not (and if so, why) Captain Burnett brought *Sydney* in so close to the German ship:

- (a) Captain Burnett was inexperienced, and it was this inexperience that led him to make the fatal mistake of bringing *Sydney* in too close to the unidentified vessel;
- (b) Captain Burnett was following orders (on 4 November 1941, 'Admiralty [issued] instructions to its commanding officers to capture enemy merchant ships',¹⁰⁸ and Captain Burnett may have acted on this instruction from the Admiralty and tried to capture *Kormoran*, sending in an anti-scuttling party to board her);
- (c) *Kormoran* was flying a Norwegian¹⁰⁹ or Dutch flag;
- (d) *Kormoran* feigned a medical emergency or signalled under a white flag, lulling *Sydney* in close, before firing upon the Australian ship;
- (e) *Sydney* mistook *Kormoran* for the supply ship *Kulmerland*;¹¹⁰
- (f) Detmers knew and could supply the secret call sign of the *Straat Malakka*, convincing Captain Burnett that *Kormoran* was not an enemy ship;
- (g) *Sydney* did not come in too close to *Kormoran*; in fact a Japanese submarine fired the fatal torpedo, after which time *Kormoran* inflicted damage on *Sydney*'s superstructure.¹¹¹

4.82 When considering the likelihood of *Kormoran* employing a *ruse de guerre*, it must be borne in mind that this ship was on a mission of deception in Australian waters. '*Kormoran* was a raider, and as such all means of guile and deception was (sic) used, including mis- and dis-information, to conceal its identity and presence...'.¹¹²

4.83 When Captain Burnett is criticised for coming too close to an unidentified ship, as he frequently is, it is interesting to examine his possible reasons for doing so. According to one submission to the inquiry, '[coming in close to an unidentified ship] was not as unusual as has been claimed; even Collins had done it'.¹¹³ As the Department of Defence pointed out:

One of the practicalities – going back a bit – of approaching close is that you were talking about visual signalling with flags. I do not know how far you can see those sorts of signal flags at sea, but in 1942 you still had the Royal Navy captains complaining about the ineptitude of merchant seaman who did not understand the regulations, or foreign captains who themselves were not following them because of the

108 Olson, Transcript, p. 213.

109 See for example Baldwin, Submission, p. 150 and Heinrich, Transcript, p. 291.

110 Loane, Transcript, p. 219.

111 This is discussed in detail in Chapter 5.

112 Creagh, Submission, p. 1010.

113 Winter, Submission, p. 296.

problems of wartime restrictions being placed on them. So given that sort of technology you would have to get in close anyhow.¹¹⁴

4.84 Alternatively, the Committee was made aware of a perception that Captain Burnett should never have put the *Sydney* into a position where her loss was possible. As one submission pointed out, 'Every ship which [Captain Burnett] challenged should have been considered an enemy until proved otherwise'.¹¹⁵ It is unclear why, if Captain Burnett was a 'book man' who followed established procedures meticulously, he saw fit to bring *Sydney* in close enough to *Kormoran* to endanger the lives of his crew.

Following Standard Procedures?

4.85 Evidence given to the Committee highlighted the dilemmas faced by cruiser captains. The HMAS *Sydney* Foundation Trust pointed out that:

... it is fairly clear from that material [relating to the instructions available to cruiser captains] that they were put in something of a position of conflict. On the one hand, they had to protect their ship as their prime responsibility ... but on the other hand, there was also an expectation that when the opportunity arose they would capture any non-armed auxiliary vessels that might be carrying material to Germany. In that sense, there was a conflict in the instructions coming to these people from their two responsibilities in this setting.¹¹⁶

4.86 Rear Admiral D Holthouse RAN (Retd), appearing with the HMAS *Sydney* Foundation Trust, expressed an opinion that 'A lot has been said about the background to [the loss of *Sydney*] – the strictures that were imposed ... on command in the use of ammunition and the conservation of ammunition in circumstances where there was no certainty about the nature of the possible target'.¹¹⁷ Admiralty orders clearly influenced the actions of captains. As one submission put it:

... in going too close to *Kormoran*, Captain Burnett was the immediate cause of the loss of *Sydney*, but the ultimate responsibility lay much higher up and further away. He was following Admiralty advice, given repeatedly in Weekly Intelligence Summaries, to identify unknown vessels by close inspection ...¹¹⁸

4.87 Put another way, it was suggested:

Perhaps the question should not have been: how did this disaster happen to *Sydney*? Perhaps it should have been: how had so many ships got away with doing exactly the same thing, time and time

114 Department of Defence, Transcript, p. 38.

115 Wilson, Submission, p. 3327.

116 HMAS *Sydney* Foundation Trust, Transcript, p. 182.

117 *ibid.*, p. 185.

118 Poniewierski, Submission, p. 3320.

again? They had used similar procedures, and avoided the same fate only because the ships they challenged were not armed.¹¹⁹

4.88 Others contradicted this sentiment, and stated that:

The Captain of the *Sydney* was 24 hours late in arriving at his rendezvous and had taken a risk in getting so close to the raider. In doing so he had not followed his orders. Further, the Gunnery Officer of the *Sydney* was not ready. He should have been able to fire first and get in two salvos before the raider attacked.¹²⁰

4.89 As noted earlier (see para 4.16), in attempting to highlight Captain Burnett's error, Gill cited two examples (*Ketty Brövig* and *Atlantis*) where opening fire on a suspicious ship proved to be the correct course of action. However, he also pointed out that in the former case the decision was questioned within Navy Office (where Captain Burnett had been working). In a communication from Admiral Leatham (Commander in Chief, East Indies) after the incident and despite the favourable result, it was implied that there had been an unnecessary expenditure of ammunition. Captain Burnett would undoubtedly have been aware of this advice and have acted in the knowledge that his every move would later be scrutinised.

4.90 To say that Captain Burnett did not follow orders is simplistic. He had, only a few weeks prior to his encounter with *Kormoran*, received instruction from the replacement Assistant Chief of Naval Staff, Captain Getting, that '*if any suspicion exists, the ship should be boarded*'.¹²¹ Captain Burnett had many things to consider when faced with an unidentified ship. In addition to the recent instances where Allied commanders had been criticised for wasting ammunition,¹²² Captain Burnett also had to consider the possibility that there may have been Allied prisoners aboard the ship, and he did not want to be responsible for their deaths. There may also have been an opportunity to send an anti-scuttling party, which could have retrieved valuable documents for the Allies. As Mr David Kennedy pointed out:

... Captain Burnett had all signs of encouragement to go in and board. He had been training anti-scuttling parties on his convoy duty up to the Sunda Strait. He went in on the quarter ... If Captain Burnett had wanted to board, as Admiralty instructions suggest, then he was in the right position to do that.¹²³

Was Kormoran sailing under a Dutch or Norwegian Flag?

4.91 Claims that *Kormoran* was flying a Norwegian flag have been in existence since 1942 and were mentioned in some contemporary newspaper accounts. Winter rebutted this suggestion in her 1983 book,¹²⁴ and in a submission to the Committee indicated that the origins of the story of *Kormoran* flying a Norwegian flag may rest with the fact that raider

119 Winter, op. cit., p. 205.

120 Minutes of Advisory War Council Meeting, 18 March 1942, reproduced in Summerrell, op. cit., p. 25.

121 Barbara Winter, op. cit., p. 134. Italics in original.

122 See Gill, op. cit., pp. 457-458.

123 Kennedy, Transcript, p. 463.

124 Winter, op. cit., pp. 226-227.

Pinguin, sunk some time earlier, had been disguised as Norwegian.¹²⁵ Frame also covers the matter in some detail,¹²⁶ however, the story has persisted. Mr Juergen Heinrich, the nephew of one of the *Kormoran* crew, told the Committee that he believed the *Kormoran* was sailing under the Norwegian flag. He indicated:

It is a Chinese man called Shuh Ah Fah ... [who] stated clearly that the *Kormoran* was flying under a Norwegian flag. Obviously it is not just a coincidence. Adding further weight to the scenario, on the log itself it states that, while waiting for the supplies for (sic) *Kulmerland* in October 1941, the sides [of *Kormoran*] were cleaned off and then repainted, but it did not actually state to what. So I think there is much corroboration that there is a possibility that, instead of *Kormoran* sailing the accepted flag of *Straat Malakka*, it was actually sailing under a Norwegian flag.¹²⁷

4.92 Mr Heinrich was convinced that the British had been reading the German codes and knew of the presence of a raider in the Indian Ocean and believed the raider to be flying the Dutch flag. He argued that the authorities were also aware of the *Kulmerland* being in the area to resupply *Kormoran*, that *Kulmerland* was flying the Norwegian flag, and was believed to be unarmed. Mr Heinrich continued:

Sydney ... [is] suddenly confronted with a merchant vessel of a similar look to the *Kulmerland* flying a Norwegian flag. They figure it to be the unarmed *Kulmerland*, since they had been advised by navy intelligence that the *Kormoran* was flying the Dutch flag. Burnett, acting on his orders to arrest unarmed merchantmen, moved in to do just that.¹²⁸

4.93 While Mr Heinrich's theory is possible, there is no documentary evidence to support Allied knowledge of the flags being flown by either *Kormoran* or *Kulmerland*.

4.94 Regardless of what disguise *Kormoran* was sailing under, the suggestion has been made that *Kormoran* opened fire without first showing the German flag. There is certainly evidence to suggest that the *Kormoran* had in place a system to raise the German flag very quickly.¹²⁹ While it is debatable whether this was done or not in this instance, in effect it had no outcome on the final result of the battle. *Sydney* was already compromised by being within firing range of *Kormoran*'s guns, and *Kormoran* had the element of surprise.

Was Kormoran mistaken for Kulmerland?

4.95 Related to the issue of the flag, is the suggestion that Captain Burnett may have approached so close because he may have confused *Kormoran* for the supply ship

125 Poniewierski, Submission, p. 3580.

126 Frame, op. cit., pp. 97-99.

127 Heinrich, Transcript, p. 291.

128 ibid., p. 292.

129 Winter, op. cit., p. 135.

Kulmerland (see para 4.92). Mr David Kennedy suggests that 'Sydney was advised, or became satisfied, that she had stopped the unarmed supply ship *Kulmerland*...'.¹³⁰

4.96 Another witness to the inquiry described the *Kormoran* as 'a merchant vessel of a similar look to the *Kulmerland*'.¹³¹ In evidence to the Committee, Mr Bill Loane also supported the suggestion that Captain Burnett may have moved in close to *Kormoran* thinking it was *Kulmerland*.¹³²

4.97 Mrs Glenys McDonald also considered the possibility that Captain Burnett believed he had come across *Kulmerland*. She suggested that Captain Burnett:

... would have come in close if he had information from intelligence or if he saw something on board the *Kormoran* that led him to believe that she was a merchant or supply ship, in particular the *Kulmerland*. So if he had been told to go in and intercept and capture the *Kulmerland* which was not armed [nearly as heavily as] *Kormoran* ... he may have done that.¹³³

Did Kormoran Surrender?

4.98 Several submissions suggested that *Kormoran* may have feigned surrender, thus explaining why *Sydney* came so close. Mr E V Ryding believes this was the case because '... when *Sydney* hove into view, there would have been a quick discussion on the bridge of the *Kormoran* having sighted a warship. Now, they would know that with a warship – which they would readily identify as a cruiser – they could not outrun it, they could not outshoot it. The only one option was to surrender'.¹³⁴ According to Mr Ryding, as soon as the German ship surrendered, '*Sydney* should have broken radio silence to report all that was taking place'.¹³⁵

4.99 There is no record or suggestion that *Sydney* transmitted a message reporting that the German ship had surrendered. Nevertheless, Mr Ryding is convinced that the reason *Sydney* came so close to the *Kormoran* was that the *Kormoran* had raised a white flag.¹³⁶ Mr Ryding sees 'absolutely no other reason [for *Sydney*] to get any closer [than eight nautical miles] to a ship other than to board it, and she would only be boarding a surrendered ship'.¹³⁷

4.100 LCDR McDonald RAN (Retd) is also of the view that a simulated surrender by *Kormoran* may have been the ruse used by Captain Detmers to bring *Sydney* within firing range. While not giving details, LCDR McDonald mentioned 'evidence given to [him] from more than one source that *Kormoran* flew a white flag before opening fire'.¹³⁸ As LCDR McDonald told the Committee:

130 Kennedy, Submission, p. 957.

131 Heinrich, Transcript, p. 292.

132 Loane, Transcript, p. 221.

133 McDonald, G, Transcript, p. 295.

134 *ibid.*, p. 145.

135 *ibid.*, p. 146.

136 *ibid.*

137 *ibid.*, p. 147.

138 McDonald, E, Submission, p. 540.

After many years of researching and consideration of the mystery, I have concluded that a simulated surrender by the Germans answers most of the questions as to how *Sydney* was lured to her destruction.¹³⁹

4.101 In his appearance before the Committee, Mr James Eagles suggested that Captain Detmers would not even have needed to fly a white flag, as the smoke which was coming from *Kormoran's* damaged engine (see para 4.11) would automatically be seen as a sign of distress.¹⁴⁰

4.102 The seriousness of sailing under a white flag has been misinterpreted, according to one submission, which stated that 'Either Captain Burnett at some point, made a wrong decision, or he was enticed into a position to lose his ship by some illegal action, and it should be pointed out that to sail under a false flag was not illegal'.¹⁴¹ However to *open* fire under a white flag contravened established rules of engagement.

4.103 The Gascoyne Historical Society expressed a view that *Kormoran* did not open fire under a white flag. According to Mr Hayden James, 'The testimony has been given not only by the captain and the flight officer but even by ordinary sailors, some of whom are here in Australia; they did come back ... They have said that there was no white flag raised ...'.¹⁴²

Did Captain Detmers Know Straat Malakka's Secret Call Sign?

4.104 The suggestion has been made that Captain Detmers may have known the *Straat Malakka's* secret call sign, thus removing the possibility that he was forced to open fire when he could not respond to Captain Burnett's request that he show it.¹⁴³ Mr Patrick Burnett told the Committee that '... it does seem possible that Captain Detmers may in fact have been in possession of *Straat Malakka's* secret call sign and may have given it in reply to the challenge, and that that may have been a factor in the events leading up to the action'.¹⁴⁴ He did not offer any documentary evidence to support his suggestion.

4.105 This contradicts the official history, which clearly states that Detmers was unable to supply the secret call sign and for this reason he was forced to declare himself.¹⁴⁵

Why Was the Sea Plane Not Deployed?

4.106 HMAS *Sydney* was equipped with a spotter aircraft, a Walrus. Many theories have been put forward about Captain Burnett's decision not to send up the Walrus prior to the

139 *ibid.*

140 Eagles, Transcript, p. 570.

141 Poniewierski, Submission, p. 3594.

142 Gascoyne Historical Society, Transcript, pp. 265-266.

143 Burnett, P, Transcript, p. 486.

144 *ibid.*

145 Gill, *op cit.*, p. 454. RADM Oxenbould, RAN, of the Department of Defence also gave evidence that 'I think it is feasible as it is explained. *Sydney* came up close aboard, within about 1,500 yards of the *Kormoran* and on the *Kormoran's* starboard beam, while it was going through this interrogation process. The process reached a point where the *Kormoran* knew that it could not provide the next answer' (Department of Defence, Transcript, p. 33).

battle. Gill, in his official history, raised this issue,¹⁴⁶ but provided no answer as to why Captain Burnett did not deploy the aircraft. One submission expressed the view that:

The surmise that Captain Burnett did not use his aircraft because of weather is unbelievable. The wind, according to Detmers, confirmed by Von Malapert, was only 10 to 15 knots, gentle to moderate, hardly enough to break wave crests. No deterrent to a seaplane.¹⁴⁷

4.107 If it was not because of the weather, then what might have caused Captain Burnett not to send up the plane, when he could have gained a tactical advantage by doing so? Another submission suggested that the complicated fuelling and defuelling procedures associated with launching the Walrus may have left insufficient time to prepare the plane.¹⁴⁸

4.108 The importance of not sending up the Walrus may in fact have been exaggerated, as one submission suggests that 'It should be noted the launching or retrieval of the Walrus is really irrelevant, as *Sydney* was not looking for a ship, she had found one'.¹⁴⁹ While Captain Burnett's reasons for not sending up the plane will never be known, it is perhaps useful to bear in mind Mr Davis' observations, given that any impact the plane might have had on the engagement is pure speculation.

146 Gill, op. cit., p. 457.

147 McDonald, E, Submission, p. 526. There is some doubt as to the weather on that day. 'The Naval Intelligence reconstruction of the 19 November 1941 suggests that "the weather at the time was rough, as it had been for two or three days", while [a] prisoner's letter written from Murchison ... speaks of "waves as high as a house" ' (Montgomery, op. cit., p. 116). Montgomery argues that the reason why Captain Burnett did not launch the plane was because, in these conditions, it would have been too difficult to recover from the ocean. (ibid., p. 117). Barbara Winter states in her book that Detmers would have considered the IK signal as 'Ridiculous! In that area at that time of year, and with the weather so fine? It had to be a mistake' (Winter, op. cit., p. 135). One of the Germans aboard *Kormoran*, Heinfreid Ahl, stated that 'The weather was sunny, visibility very good, wind 3 to 4, calm sea, medium swell from south-west' (Gascoyne Historical Society, Submission, p. 1227).

148 Bain, Submission, pp. 3741-3748.

149 Davis, Submission, p. 495.

Did Kormoran Fire an Underwater Torpedo?

4.109 The armaments of the *Kormoran* included six 21-inch torpedo tubes, two of which were submerged.¹⁵⁰

4.110 In the official history, Gill does not mention the use of an underwater torpedo as such, describing only that Detmers gave 'the order to open fire with guns and torpedoes'. Gill goes on to indicate that with the opening fire, *Kormoran* fired two torpedoes, one of which struck *Sydney* under A and B turrets. *Kormoran* later fired another torpedo but it missed its target.¹⁵¹

4.111 The Committee was told that, in order to fire her underwater torpedo, *Kormoran* would have to have been stationary or nearly stopped.¹⁵² Under interrogation, Captain Detmers had initially admitted that *Sydney* had ordered *Kormoran* to stop, but later changed his story. Frame noted that 'The Admiralty thought it was possible that *Kormoran* opened fire with an underwater torpedo before declaring herself'.¹⁵³

4.112 CMDR R J Hardstaff, RAN (Retd), claimed *Sydney* lowered a boat intending to board *Kormoran*, at which time Captain Detmers had two choices:

... comply or ... run the risk of being sunk. Detmers took his time to comply, knowing his **SECRET and ACE weapon was the submerged torpedo**, which could be fired unobserved while still keeping underway at slow speed. *Sydney* was now obliged to send across the boarding party in an oared boat, when at a close distance. While closing *Kormoran's* starboard quarter, the **first torpedo would be fired from the fixed underwater tube on its bearing of 45 Degrees abaft the starboard beam** ... thus catching *Sydney* completely by surprise and having her bows almost severed between A & B turrets.¹⁵⁴

4.113 Mr David Kennedy was informed by Mr Hans Linke, a former radio operator on *Kormoran*, that at the start of the action *Kormoran* 'fired an underwater torpedo and it hit *Sydney* on the bridge. It was under the waterline level with the bridge ...'.¹⁵⁵ Mrs Glenys McDonald told the Committee that 'in [her] interview with Herman Ortman, he admits now that ... [*Kormoran*] did fire the underwater torpedo'.¹⁵⁶

4.114 The Committee believes a strong case can be made that the *Kormoran's* underwater torpedo capability played a major role in the defeat of *Sydney*.

150 Frame, op. cit., p. 277.

151 Gill, op. cit., pp. 454-456.

152 McDonald, G, Transcript, p. 295.

153 Frame, op. cit., p. 103.

154 Hardstaff, Submission, p. 48. Emphasis in original.

155 Linke quoted in Kennedy, Submission, p. 966.

156 McDonald, G, Transcript, p. 296.

Conclusions

4.115 What then can be said about the engagement? In sifting through the claims and counter-claims placed before it, the Committee reached the following conclusions:

- Captain Burnett was aware that there had been raider activity in the Indian Ocean, and while he may not have been alerted to the presence of one particular raider, should have been extremely cautious in approaching any unknown vessel;
- it was common practice, however, for warships to come close to unknown ships, to identify them, and to prevent scuttling. It was Captain Burnett's and his crew's misfortune that a practice that had worked on other occasions should end so disastrously on this occasion;
- the account of the engagement as given by the Germans is feasible, given that very few of the *Kormoran* survivors would have been in a position to be privy to all of the command decisions taken and to all aspects of the engagement; both the *Sydney* and the *Kormoran* fought a fierce battle with bravery and great tenacity. While *Sydney* was mortally wounded, she had inflicted so much damage on *Kormoran* that the German ship had to be scuttled.

CHAPTER 5

SIGNALS, SUBMARINES AND SPEEDBOATS

... I firmly believe that jammed signals were heard. *Kormoran* always jammed signals sent by any ship that she was involved with. The [*Kormoran*] radio operator said that he did jam signals, so I do believe signals were sent [from Sydney].¹

5.1 The issue of whether or not signals were sent from *Sydney*, and where those signals may have been picked up, has been one of the most widely debated issues of the inquiry. The principle areas of dispute are whether or not *Sydney* sent signals and whether or not those signals were received by Harman Naval Station outside Canberra. Also open to debate is the accusation that signals were sent and received, but not acted upon.

Signals Sent from *Kormoran*

5.2 It is widely accepted that *Kormoran* sent a Q signal² after she had encountered *Sydney*. Evidence of this signal exists in the Archives, and it is not in dispute in this inquiry. This signal was probably sent for two reasons. First, Captain Detmers hoped that by sending the signal, he could dupe *Sydney* into thinking there was another suspicious ship in the area, and that *Sydney* would cease pursuit of *Kormoran*, allowing her to escape. Second, the Q signal was a way to '... inform Germany that the raider or the vessel sending it was in trouble'.³ Apparently:

... if [the signal] had a particular letter sent with the time, that indicated to outside sources that the raider was in strife. The Q signal sent by the *Kormoran* was only picked up in mutilated form by two receivers. One of them noticed that the time was present and it finished with 'GMT' which was unusual – you do not send the time as well as the letters 'GMT' – indicating that the Germans were trying to advise someone else they were in trouble. I have heard it may have been intended for a nearby station which would then repeat it and that that repeat of the signal would have been picked up in Germany.⁴

5.3 In her book, Winter raised the point that 'a ship that knew enough to send "Q" signal was probably under Admiralty orders and could thus have expected to have a secret call sign'.⁵ The Q signal was designed to convince Allied ships that *Kormoran* was not the enemy and may have contributed to Captain Burnett's decision to bring *Sydney* in close.

1 McDonald, G, Transcript, p. 295.

2 According to Richard Summerrell, ' "Q" messages (or more correctly QQQQ messages) were distress signals used by merchant vessels to indicate that they were being attacked by a disguised merchant raider' (Summerrell, op. cit., p. 29).

3 Olson, Transcript, p. 210.

4 ibid., pp. 208-9. GMT – Greenwich Mean Time.

5 Winter, op. cit., p. 134.

Even if *Kormoran* had been unable to supply the *Straat Malakka's* secret call sign, Captain Burnett may not have been convinced she was an enemy ship. According to Winter:

Though *Sydney*, using the code book, could work out what *Straat Malakka's* secret call sign ought to be, this did not mean that the call sign had ever been issued to her. Dutch ships had begun to be issued with secret call signs only after 1 June 1941, and this recognition procedure was still 'only applicable to red ensign and *some Dutch ships*'.⁶

5.4 In evidence given to the Committee, Dr Kim Kirsner of the HMAS *Sydney* Foundation Trust, stated that:

The critical three or four [pieces of data] come from three or four people who were in the radio transmission section of *Kormoran*, all of whom identified the source of contact – not the actual battle, but the source of contact – as 26 111 which actually falls right on the edge of [the area where the Trust believes *Sydney* sank]. They all claimed, as did many of the other survivors, including Detmers ... that there was a signal from *Kormoran* at the moment of contact. They basically represented themselves as a merchantman signalling contact with a ship approaching them. That signal was picked up by two Australian sources, a vessel off the coast [*Uco*] ... and ... Geraldton radio where the latitude was corrupt but the longitude was not.⁷

5.5 Interviews undertaken by Mr David Kennedy with Mr Hans Linke, a wireless operator on the *Kormoran*, indicate that '*Kormoran* jammed *Sydney's* signals. ... [Linke said] "we jammed by pretending to call other ships. Brazilians, neutrals, we called. We made wireless traffic that did not really exist"'.⁸

Signals Sent from *Sydney*

5.6 A great many submissions to this inquiry addressed whether or not signals were sent from *Sydney* prior to, during and indeed after her encounter with the *Kormoran*. The issue is complicated by uncertainty about whether the messages attributed to *Sydney* were transmitted in plain voice (para 5.32), morse or encrypted code and the reports of signals are largely anecdotal.

5.7 A number of reports of signals believed to have been from *Sydney* have emerged, including:

- the Q signal, actually sent by *Kormoran*, but originally thought to have possibly originated from *Sydney*;⁹
- a message allegedly received at Naval Communications Station, HMAS *Harman*, (according to Mr Robert Mason) that *Sydney* had 'bailed up a quere (sic)

6 *ibid.* Italics in original. See also Olson, Submission, p. 4204.

7 HMAS *Sydney* Foundation Trust, Transcript, p. 165.

8 Linke, in Kennedy, Submission, p. 3073.

9 Summerrell, *op. cit.*, p. 29.

customer' and was going to investigate. There is also a report from the same source of a signal that *Sydney* was about to open fire, and a later message that was not recorded as the operators had supposedly left the headsets unattended;¹⁰ and

- the 'Sydney calling Darwin' signal, indicating the ship was on fire and the crew were preparing to abandon ship (see paras 5.28-5.33). This signal, in morse but not encoded, may also be the message heard on short wave radio at the Esplanade Hotel in Geraldton.¹¹

5.8 With the exception of the 'Q' signal which has already been discussed above, the evidence for these signals is examined in this section. Verifying the source of the signal has proved difficult, as can be seen from the following comments. According to one submission, 'the puzzling radio communication question arising from the incident is the apparent lack of any official record of any message ever having been received in any form either in plain language or code from either ship in the encounter'.¹²

5.9 A corollary of this is that if signals were sent from *Sydney* before or during the action and received, why was a search for *Sydney* not sent out until 24 November,¹³ a full four days after her amended estimated date of arrival in Fremantle. The official version of events states that 'From *Sydney* herself, no word was ever received'.¹⁴

The Official Account

5.10 During wartime, radio silence would normally have been observed, and the official account reflects a belief that, upon meeting an unidentified ship and subsequently being sunk by it, the *Sydney* sent out no radio message to indicate its position or the trouble it was facing.

5.11 The Department of Defence drew attention to the fact that 'There were standard occasions for breaking radio silence when it was imposed, and one of them was contact with the enemy'.¹⁵ If no signal was sent from *Sydney*, as the Department of Defence asserts, this suggests several possibilities: that Captain Burnett must have been convinced that the ship it had encountered was not the enemy; or Captain Burnett did not have sufficient time to send a signal before *Sydney's* communications systems were inoperable; or finally, that at the time of the encounter between the two ships, *Sydney* was passing through what Barbara Winter refers to as a 'dead spot'.¹⁶

5.12 Mr James Eagles theorised that:

10 *ibid.*

11 *ibid.*, p. 38; and Laffer, Statutory Declaration, in End Secrecy on *Sydney*, Submission, p. 2185.

12 Anderson, Submission, p. 126.

13 Even the date on which the search was sent out is unclear, and evidence has been received by the Committee which suggests that the official search was not sent out on 24 November, as officially reported, but on 23 November. This is discussed in more detail in Chapter 6.

14 Gill, *op. cit.*, p. 453.

15 Department of Defence, Transcript, p. 42.

16 Barbara Winter writes 'As far as wireless reception in Perth and Fremantle is concerned, the area west of Carnarvon is a notorious "dead spot", especially by day' (Winter, *op. cit.*, p. 236). See also McDonald, E, Submission, p. 2613.

... some of the first shell hits apparently were in the bridge area and around the director. They could quite easily have taken out all the aerials on the ship, including the roof aerials. So while all the transmitters might have been quite functional and a signal might actually have been sent and jammed, there may not have been enough range or power output to actually get out a signal.

He went on to suggest that emergency aerials might have been rigged, depending on the level of damage sustained during the engagement.¹⁷

Mason's Claims and his Critics

5.13 Mr Robert Mason, a Naval writer posted to *Harman*, has stated that a message was in fact received at *Harman* on the evening of 19 November 1941, and that all staff present there that night were sworn to secrecy. Mr Mason was told a message had been received that the *Sydney* had a 'queer customer bailed up' and was attempting to identify her. There was another signal indicating *Sydney* was going to open fire. A further signal was lost as the two headsets had been left unattended for a short period.¹⁸ He claimed that the Naval Board knew *Sydney* was in trouble, but decided not to send out a search. Other staff present at *Harman* on 19 November 1941 have made submissions to this inquiry, refuting Mr Mason's account of what happened that night.

5.14 In support of Mr Mason's claims, the Committee was told by Mr David Kennedy that he interviewed Mr David 'Ron' Griffiths in 1997, who said:

... that he was a young and very conscientious telegraphist relieving at HMAS *Cerberus* for a week when he picked up a signal in three-letter emergency fleet code on ship-shore frequency just before 8pm on 19 November. Griffiths said, 'It was difficult to read, fading and I was only getting bits of it but what I received I wrote in the log ... I didn't decipher it ...'.¹⁹

5.15 Griffiths also said that he handed over to a senior WRAN at the end of his shift, telling her that he thought the message was something important. When he returned a couple of minutes later 'the headphones were on the desk and the WRAN was in the galley making coffee'.²⁰ Both *Harman* and *Cerberus* logs are missing²¹ and there is no documentary evidence to suggest that signals either to or from *Sydney* were received.²²

5.16 If anyone had heard a signal from *Sydney* it would most probably have been *Harman*, '... the most powerful wireless station in the Southern Hemisphere ...',²³ (more powerful than stations in Western Australia) and there would have been at least two wireless ratings listening to the frequency set aside for enemy reporting. In the event of a signal being

17 Eagles, Transcript, pp. 561-562.

18 Interview with Mason, in Kennedy, Submission, p. 962.

19 Kennedy, Submission, p. 965.

20 Griffiths, in Kennedy, Submission, p. 965.

21 Kennedy, Transcript, p. 453.

22 The Archives indicated that 'A total of 10 signals were transmitted to the *Sydney* after her departure from Fremantle. The last two signals [were] sent on 14 November ...' (Summerrell, op. cit., p. 32).

23 Sheedy, Submission, p. 2.

received, the signal would (normally) have been redirected to the Australian Commonwealth Navy Board (ACNB), which would have in turn forwarded it to the Admiralty in London.²⁴

5.17 Mr John McArthur was convinced by Mr Mason's account of 19 November at *Harman*. In evidence to the inquiry, Mr McArthur stated that:

Interviews with [Mason] before his death and the subsequent release of his documents give rise to the gravest doubts about Navy's position. Even in the face of Mason's evidence the Navy has gone to great lengths to destroy Mason's story. The fact that another person, D(avid) Griffiths has emerged to confirm the receipt of signals at HMAS *Cerberus* has been studiously ignored. My own research has put me in contact with the duty RAN signalman in Fremantle on the night of 19 November. In front of a witness he related what happened to him that night. Early in the evening watch he received a signal from *Sydney*: RRRR v *Sydney*. It meant that *Sydney* had encountered a warship. The signalman notified the Chief Petty Officer on Duty, CPO Roberts. But a senior officer could not be found ... The last signal [the signalman] recalls was in clear English – no need for code. *Sydney* was '*on fire, abandoning ship*'.²⁵

5.18 This claim is supported by Mr Kennedy. He submitted details of an interview with *Kormoran* wireless operator Hans Linke which:

... tends to support the statements made by Robert Mason that signals were received from *Sydney* and allows for them being broken up – as also described by David Griffiths at *Cerberus* ... It should also be considered that Mason's references to *Sydney* having bailed up a queer customer would have been what Mason was told by Ben Tiller, in paraphrased colloquial form, rather than a direct quote of a signal.²⁶

5.19 Mr Kennedy's point about Mr Mason not actually hearing the message personally is important, and discussion on this possible signal is not always clear on this point.

5.20 Miss Marion Stevens, a WRAN present at *Harman* on the night *Sydney* sank, has refuted Mr Mason's claims, criticising them on a number of grounds. First, Miss Stevens states that 'no CAPTAIN or any other officer would authorize a message '**AM ABOUT TO OPEN FIRE**'. The *Kormoran* would have been monitoring *Sydney* and a message like this one would give the *Kormoran* a distinct advantage to get off the first 'shell'.²⁷ She also stresses 'the fact that the Transceiver in *Sydney* **WAS THE LATEST AND MOST MODERN 'NAVY No 36' BUT IT WOULD ONLY HANDLE MORSE CODE** ... Any R/T signals originating anywhere **DID NOT ORIGINATE FROM THE SYDNEY**'.²⁸

24 *ibid.*, p. 3.

25 McArthur, Submission, pp. 2252-2253. Emphasis in original.

26 Kennedy, Submission, p. 2307. See also Kennedy, Submission, p. 965.

27 Stevens, Submission, p. 3925. Emphasis in original.

28 *ibid.*, p. 3925. Emphasis in original.

5.21 This evidence is damning of claims made in the documentary 'No Survivors',²⁹ in which it was stated that 'weak plain language signals [were] received from *Sydney* by RAAF personnel in Darwin. According to this programme, signals indicated that *Sydney* was on fire ... the message was passed on to Naval authorities but no searching aircraft were sent out because the Navy claimed that *Sydney* was not then overdue'.³⁰

5.22 Mrs Daphne Wright, also present at *Harman* the night *Sydney* sunk, supports Miss Stevens' recollections. Mrs Wright's submission to the inquiry stated that:

During the period when HMAS *Sydney* was apparently overdue, my clear recollection and experience was of receiving firm and urgent instructions ... to listen out ... for a signal from HMAS *Sydney*.

To my knowledge, no one was aware at that time of the encounter of HMAS *Sydney* with an enemy ship on the 19 November in the Indian Ocean off the West Australian Coast as HMAS *Sydney* **did not break W/T silence** to advise of the impending engagement. Certainly not as far as HMAS *Harman*'s reception was concerned. Also, as **no signal of distress** was received from HMAS *Sydney* at HMAS *Harman*, presumably after the fatal encounter with the German raider *Kormoran*, it may be assumed that its wireless apparatus had been destroyed.³¹

5.23 Miss Stevens also rebuts the evidence of Mr David Griffiths about *Cerberus*, pointing out that there were no WRANS present at *Cerberus* until May 1943.³²

5.24 One of the WRANS present at *Harman* the night of 19 November, Mrs Judy Saunders, initially supported Mr Mason's claims that a something significant happened that night. In a submission to the inquiry, Mrs Saunders stated that:

I was a telegraphist on watch at Harman on 19th November. I remember the C.O. had the headphones on, which was most unusual. I cannot say if he received a message or had been called in because of one, but he put the headphones on and rushed into his office – we were told it was to ring Navy Board in Melbourne. From then on we all kept watch on all possible channels listening for a message from the ship. Somehow we all knew it was the *Sydney* we were searching for.³³

5.25 Mrs Saunders, in a supplementary submission, indicated that 'on reflection I realise my dating of the incident which occurred at *Harman* could be inaccurate ...'.³⁴

29 Exhibit No. 20, 'No Survivors – The Mysterious Loss of HMAS *Sydney*'. Prospero Productions, Fremantle, 1993.

30 McDonald, E, Submission, p. 2613.

31 Wright, Submission, p. 1123. Emphasis in original.

32 Stevens, Submission, p. 3927.

33 Saunders, Submission, p. 133.

34 *ibid.*, p. 1977.

5.26 Mr Alan Cohn was a Senior Coder in one of the four watches at *Harman* in November 1941. As such he was 'privy to all matters which occurred during a watch on which [he] was on duty'. It is Mr Cohn's 'considered opinion that no message was received by *Harman* from HMAS *Sydney* at or after her action with the German ship *Kormoran*'. Mr Cohn recollects calls going out from *Harman* for *Sydney* over several days, but to his knowledge there was no response.³⁵

5.27 In the light of the evidence of four people intimately involved in monitoring of signals at HMAS *Harman* in November 1941, doubt must exist regarding the accuracy of Mr Mason's recollections about the timing and indeed nature of the signal.

Other Signals

5.28 Other claims that signals were received emerged after the war. According to PMG Officer Len Hall, stationed at the Hamelin Pool PMG repeater station at the time, late in the night of 19/20 November 1941 heavy telephonic traffic (between Fremantle and RAAF Pearce) took place on the line between Perth and Carnarvon,³⁶ with that situation continuing for the next five or six days. Mr Hall, in an interview many years later, claimed 'he had heard a signal recording that *Sydney* opened fire first'.³⁷

5.29 Another signal supposedly received from *Sydney* in Darwin (as '*Sydney* calling Darwin') was sent in plain language (i.e. unencrypted). Mr Gordon Laffer reportedly saw a file in RAAF intelligence records, indicating a message along the lines of '*Sydney* calling Darwin. On fire fore and aft. Preparing to abandon ship ...', followed by a latitude and longitude. No record of the signal or the file can be found. The potential failure of people to properly identify signals is illustrated by an instance in which LCDR Ean McDonald RAN (Retd) advised the Committee that a similar signal was reportedly logged by HMAS *Perth* in Port Phillip Bay, about 25 November 1941. LCDR McDonald acknowledges that he realised later the signal could not have come from *Sydney* as it was some days after the ship was actually lost.³⁸

5.30 In her book *The Intrigue Master*, Barbara Winter cites this signal, stating that 'the key is an entry in the South West Area Combined Headquarters Log for 1543 on 4 December 1941:

S/L (Squadron Leader) Cooper and Geraldton reports one of his operators listening on 24.5 metres heard R/T telephone sign calling Darwin or technical telegraph operator. Signals weak & operator thought it may be from HMAS *Sydney*. Later Geraldton report strength of signal increasing.³⁹

5.31 It has been accepted by many *Sydney* authors that this signal was not, as is widely believed, from HMAS *Sydney*, but rather, from the PMG *Sydney*.⁴⁰ Mr David Kennedy has also raised the possibility that the signal may have been 'messages sent to wireless stations

35 Cohn, Submission, pp. 3143-3144.

36 Exhibit No. 5, p. 93.

37 McDonald, E, Submission, p. 538.

38 *ibid.*, pp. 534-536.

39 *The Intrigue Master*, p. 118, cited in Poniewierski, Submission, p. 298.

40 See also Templeton, Transcript, p. 471.

from a central authority about signals from HMAS *Sydney*. Basically, we appear to have Darwin and Singapore being informed of efforts to get signals from, or to, a distressed *Sydney* ...'.⁴¹

5.32 Other reports of plain voice distress calls attributed to *Sydney* have emerged from time to time. For example, Mrs Glenys McDonald recounts the recollections of a young girl living in the Port Gregory area who 'recalled a plain voice distress call from HMAS *Sydney* breaking into her evening radio programs'.⁴² However, in regard to these and other such claims, it is relevant to note the statement by Alastair Templeton that '*Sydney* did not even have an R/T capability, so any words heard were not from *Sydney*'.⁴³

5.33 The Committee agrees with Dr Frame that:

It is also possible, and one suspects probable, that some individual on board *Sydney* would have attempted to send some signal during the action if the ship's communications equipment was operational. If this individual was not a specialist radio operator, or if some or all of the ship's communications equipment was damaged, ... it is likely that signal transmissions from *Sydney* could have been totally unsuccessful, broken and incoherent, difficult to decipher, or sent on inappropriate frequencies or by suspect methods in the hope of raising some alarm ashore.⁴⁴

Records of Signals

5.34 The process of intercepting radio communications was a hit and miss affair. A signal, even if not picked up in Australia, may have been picked up elsewhere, for example in London or Washington or Berlin.⁴⁵ The Acting Director of DSD pointed out that navy signals intelligence operators in Australia would have been focusing not on signals from Australian ships, but on foreign signals. He added that 'If they did roll onto an Australian communication for some reason, they would keep going because their whole reason for being is to focus on foreign communications'.⁴⁶

5.35 DSD's Acting Director went further when he stated that 'as a signals intelligence organisation, [DSD] would not collect signals intelligence against Australian platforms under any circumstances; therefore, if we were operating at the time [which was not the case], we would still have no records related to [the loss of *Sydney*] because that is not part of our function as a foreign intelligence collector'.⁴⁷

5.36 As noted in Chapter 3, there is a large volume of signals packs in the custody of the Australian Archives that has not been examined. However, as Australian Archives has indicated:

41 Kennedy, Submission, p. 4449.

42 McDonald, G, Submission, p. 169.

43 Templeton, Transcript, p. 472.

44 Frame, op. cit., pp. 189-190.

45 DSD, Transcript, p. 47.

46 ibid.

47 ibid., pp. 49-50.

In order to identify all signal traffic passing to or from the *Sydney*, the Archives has conducted a search of these signal packs for messages sent and received between 11 and 20 November 1941 inclusive, the period during which any signals sent by the *Sydney* after her departure from Fremantle would have been transmitted. No signals either to or from the *Sydney* during this period, other than those described, have been found.⁴⁸

5.37 The historical adviser to the Committee, Professor Peter Dennis, also inspected signal packs at the Australian Archives Melbourne office, without locating anything new by way of signal traffic (see para 3.10).

5.38 On balance, the Committee believes that it is likely that *Sydney* attempted to signal once the engagement was underway, but there is no evidence that the signals were received by naval or other authorities. The Committee can find no evidence that signals were received and were ignored deliberately by the RAN or by the Admiralty.

Theories of Third Party Involvement

5.39 The magnitude of the loss of *Sydney* and the ensuing debate on her fate has focused in large part on whether the engagement was as described by the German survivors or whether another explanation was more likely:

Hovering above all on the mystery of the *Sydney* there remains a burning flame of suspicion on how a gallant cruiser which had proved itself as totally efficient and well-armed in several major engagements of actual combat, could be sunk without even one survivor of her 645 crew, in an encounter with an armed merchant raider which although itself sunk, had 315 survivors from its crew of 400 (sic). That is why it has already been suggested that there was a third party involved at the scene of the encounter.⁴⁹

5.40 Since the loss of *Sydney*, there has been a proliferation of theories that *Kormoran* did not act alone. Among the suggestions put forward in this inquiry are that a Japanese submarine, an Italian submarine⁵⁰ or a German U-boat⁵¹ were involved in or responsible for the sinking.⁵² The accusations levelled at the Japanese extend to claims that they murdered survivors from the *Sydney* so as to leave no trace of the battle and to cover up their

48 Summerrell, op. cit., p. 32.

49 Denholm, Submission, p. 1256.

50 See for example Heazlewoods Solicitors, Submission, pp. 1346 and 1349. This submission contains a Statutory Declaration by Mr V C Gambling, in which he states an Italian POW said that *Kormoran* opened fire and *Sydney* was crippled by a torpedo. However 'he didn't say his ship fired the torpedo **but I think it did** and he was concealing this from us' (emphasis added).

51 See for example Submissions, Nitschke, p. 1339, Gould, p. 2279 and Sharkey, p. 2955. Evidence was received by this Committee that 'No German submarine reached the Indian Ocean by [the time *Sydney* was sunk], owing to problems of supply of fuel and provisions' (Poniewierski, Submission, p. 2639).

52 Suggestions were also made that a French submarine was involved in sinking *Sydney*. According to Frame, Rear Admiral Crace, in his private diary of 26 November, commented that 'Naval Board think there is a possibility that a Vichy submarine escorting a Vichy ship has torpedoed [*Sydney*]' (Frame, op. cit., p. 5).

involvement.⁵³ Of these theories, the Japanese submarine theory is the most widely repeated, experiencing a resurgence in the aftermath of the publishing of Michael Montgomery's book in 1981. Until the publication of Montgomery's book, theories about a Japanese submarine had been largely ignored by mainstream commentators. As one person noted:

Hitherto, the question of a Japanese submarine has been scorned, largely on the grounds that the Japanese would have taken great pains to ensure that there were no 'incidents' prior to 7 December which would have alerted their enemies.⁵⁴

5.41 Notwithstanding Mr Montgomery's contribution to the theory that a Japanese submarine sank *Sydney*, the theory itself circulated many years earlier, soon after the ship was lost. According to one submission, 'The [Japanese submarine] rumour continues today. No one seems to know how it started, but it was supposed to have come from some-one who was on a ship in the Indian Ocean at the time of the battle'.⁵⁵ Another submission asked:

What was the origin of the story of a Japanese submarine? Strangely enough, this seems to have started with a propaganda broadcast from Tokyo, sponsored by the Department of Naval Propaganda, probably in late December, although transcripts from that period do not seem to have survived. The aim of these broadcasts was to create confusion and despondency in Australia. In this case, they succeeded only too well ... The Japanese were not responsible for sinking *Sydney*, but they were responsible for the rumour that they did.⁵⁶

5.42 It was suggested that probably in late December 1941 Radio Tokyo (sponsored by the Department of Naval Propaganda) was transmitting that a Japanese submarine was responsible for sinking *Sydney*.⁵⁷ Evidence was given by the Western Australian Maritime Museum (WAMM) that in 1942 Radio Tokyo broadcast that *Sydney* survivors were being held in Japan, a story proved later to be false.⁵⁸

5.43 Others submitted evidence to the inquiry which supported the theory of Japanese involvement in sinking *Sydney*. Mr J J Collins told the inquiry that:

... when we were in Victoria Point in Burma we were working for the Japanese and got to speak to a Japanese Lieutenant (known as a chui) who told use they were a part of the Emperors Guard, from memory he said his unit was called 'Nino Ichi Emma Gee' this was a machine gun unit and they referred to M.G. as emma gee – the same as we did at the time. This was in July 1942 when Japan was triumphant in its war with the allies, and they were boasting of their success. He said quite openly that they 'of course had sunk the *Sydney*!'⁵⁹

53 The claim that *Sydney* survivors were murdered in the water is discussed in Chapter 6.

54 Baker, Submission, p. 90.

55 Wilson, Submission, p. 3327.

56 Poniewierski, Submission, p. 3596.

57 *ibid.*, p. 3596. See also Wilson, Submission, p. 3327.

58 Western Australian Maritime Museum, Submission, p. 4076.

59 Collins, Submission, pp. 131-132, and Collins, Transcript, p. 354.

5.44 Mr Collins also referred to an incident which occurred some weeks before *Sydney* was lost, in which *Sydney* received reports of a submarine in the Indian Ocean. Mr Collins was on board *Zealandia* at the time and the two ships had been together when *Sydney* received the report.⁶⁰

5.45 Mr Collins also recounted the story:

... of a gentleman who went over with BCOF and went to the Kure training area, which was analogous with Annapolis or with Jervis Bay in Australia. When he was looking through the place straight after the war he noticed a mural in this large room. One of the murals, the large mural, showed a Japanese submarine sinking an Australian cruiser. He queried it with the admiral in charge who looked at him ... and said nothing. The next day he came back and it had been taken off the wall.⁶¹

5.46 Mr Bernard Eneberg also supports the involvement of a Japanese submarine:

I do not believe [Burnett came in too close.] The scenario I had was that he stood some distance away and commenced to shell the *Kormoran* and then a submarine intervened ... and put a couple of torpedoes into the *Sydney*. The *Sydney* heard the torpedoes coming on their asdic and started up ... After she was hit, she had no control over her momentum, which could have brought her up to the *Kormoran* and the *Kormoran* then took over and attacked her with all her armament.⁶²

5.47 Mr Eneberg theorised that the reason for the Japanese presence off the coast of Western Australia on 19 November 1941 was that the Germans and the Japanese had hatched an elaborate plan to transfer specialised Japanese communications personnel to Germany. Mr Eneberg suggested that:

At the beginning of November ... perhaps the Japanese High Command decided that it was necessary to send an important group of personnel to co-ordinate the war effort with her Axis partner Germany. Rear Admiral Wegener in Tokyo would have offered the services of the German raider *Kormoran* to meet with a Japanese submarine and take aboard the German group.⁶³

Mr Eneberg believes that when *Sydney* interrupted the transfer, the Japanese were forced to open fire. The Committee considered this theory, but found it unconvincing. Japanese plans for war were well advanced and it appears most unlikely the Japanese would have chosen such an uncertain and dangerous route for transferring personnel to Germany. Again, there is a total lack of documentary evidence to support Mr Eneberg's theory.

60 Collins, Transcript, p. 354.

61 *ibid.*

62 Eneberg, Transcript, p. 424.

63 *ibid.*, pp. 428-431, and Eneberg, Submission, pp. 2046-2047.

5.48 One other possible source for the Japanese submarine theory is a series of sketches by Dr List (of the *Kormoran*), which many have suggested contain shorthand revealing Japanese involvement in the sinking of *Sydney*. However, 'Dr List has always maintained that there were no shorthand signs in the sketches'.⁶⁴ The lines in the sketch have never been identified. Winter discussed the supposed 'shorthand' and noted 'the symbols are certainly not in any of the major German [shorthand] systems...'.⁶⁵

5.49 In their book *Betrayal at Pearl Harbor*, James Rusbridger and Eric Nave briefly cite the *Sydney/Kormoran* encounter as evidence of Japanese involvement in World War Two prior to the attack on Pearl Harbour.⁶⁶ It is their claim that 'on 19 November 1941 Japan commenced hostilities. Not against America or Britain, but Australia, when the German surface raider *Kormoran* met the Australian ... cruiser HMAS *Sydney* off the western coast of Australia and fought the most mysterious sea battle of World War Two'.⁶⁷

5.50 Nave and Rusbridger cite as their source Michael Montgomery's book *Who Sank the Sydney?* They also challenge several key theories which are accepted by many, namely that 'not a single body [from the *Sydney*] was ever found' and that 'since the *Kormoran* was not in a state to fire the last torpedo it must have come from another vessel'.⁶⁸ Nave and Rusbridger also believe that by 24 November 1941 the Australian Naval Board 'were satisfied (although they had no absolute proof) that a Japanese I-class submarine had been operating in conjunction with the *Kormoran* and had sunk the *Sydney*'.⁶⁹ No evidence is given by Nave and Rusbridger to support their claim.

5.51 Other submissions point to the presence of Japanese milk bottles in the possession of the Germans as somehow proving that a Japanese submarine was involved in the action. However, *Kormoran* was re-supplied by *Kulmerland*, which in turn obtained supplies from Japan. It is therefore not surprising that some of the items would have Japanese markings on them.⁷⁰

64 Winter, op. cit., p. 233.

65 ibid.

66 Rusbridger, J and Nave, E, *Betrayal at Pearl Harbor*, Summit Books, New York, 1991, p. 134.

67 ibid.

68 ibid.

69 ibid.

70 See for example Winter, op. cit., p. 191.

Evidence Against Japanese Involvement

5.52 One of the difficulties facing researchers who support claims that a Japanese submarine was responsible for sinking *Sydney* is the lack of evidence of Japanese submarines in the area. Submissions stated:

There is no documentation and never has been in any official military files in Japan about Japanese submarine involvement.⁷¹

... my research and speaking to Japanese authorities cannot unearth one shred of positive evidence which could position a Japanese sub[marine] within six or seven thousand kilometres of the scene off the WA coast on 19.11.41.⁷²

Japan did not have any submarines swanning in this area, they would have been in the North Pacific.⁷³

5.53 The Department of Defence completely discounted the possibility of a Japanese submarine being involved. It believed that 'there is nothing which has provided any evidence for us to believe that [the *Kormoran* was supported by supply ships in an offensive role against *Sydney*] ... We have nothing that links the presence of a Japanese submarine to that action'.⁷⁴

5.54 There is a striking lack of evidence to support the theory that a Japanese submarine was involved in, or responsible for, sinking *Sydney*. This, however, does not stop the theory from being stated.⁷⁵ Mr John Doohan, of the End Secrecy on *Sydney* Group, told the Committee that:

I have not said that there were Japanese submarines there, but everything points to them being there. *Kormoran* certainly did not [sink *Sydney*]. There were no German submarines in the Indian Ocean at that time. That is their record and I believe it ... We had Jap submarines in the Indian Ocean before we had German submarines.⁷⁶

5.55 Some suggested that evidence had been deliberately destroyed to cover up Japanese involvement. However, Mr Doohan suggested to the Committee that:

71 Loane, Submission, p. 2905.

72 *ibid.*, p. 200.

73 Roper, Submission, p. 212.

74 Department of Defence, Transcript, p. 29.

75 The resilience of the Japanese submarine theory is remarkable. Most recently, in a paper to The Enigma Symposium 1998, Hugh Skillen put forward this theory, based largely on the 'Kitsche diary' that Michael Montgomery also used in his book (Skillen, H, 'A Personal Rapport with German raider *Kormoran*', in Enigma Symposium 1998 papers, Print in Black, Bath, 1998, pp. 132-138). It should be noted that Barbara Winter and Tom Frame have both rejected the diary as genuine, with Frame stating that 'the alleged diary was merely a German translation of an English magazine article written by the journalist Robert Close' (Frame, *op cit.*, p. 136; see also Winter, *op cit.*, pp. 226, 245-246). Skillen goes on to suggest that submarine I-8 was responsible for the sinking of *Sydney*, largely on the reputation of its commander as a 'war crime specialist' (Skillen, p. 137). No details of its prior movements leading up to November 1941 are given by Skillen. Winter places submarine I-8 patrolling 'south of Oahu before and during the attack on Pearl harbour' (Poniewierski, Submission, p. 320).

76 End Secrecy on *Sydney* Group, Transcript, p. 275.

Any records of a Japanese submarine involved in sinking of an Australian ship by mistake – the Japanese certainly did not want to sink *Sydney* – that may have involved Germany or Japan or their involvement before the war were never going to be put on a piece of paper to go into archives – particularly with 645 men dead.⁷⁷

5.56 Research on the whereabouts of Japanese submarines on 19 November 1941 refutes the claim that a Japanese submarine was responsible for sinking *Sydney*. Much attention has focused on what are called the I-class submarines, and in particular submarine I-124.⁷⁸

5.57 Submarine I-124, which was sunk in Darwin Harbour in January of 1942, has been rejected by others however as the reason for *Sydney's* loss. Specifically:

I-124 would have been a spectacularly bad choice; she was one of the I series submarines with the shortest range and slowest speeds, both surface and submerged. She was one of four special mine-layers, and they were all engaged in minelaying around the Philippines (sic) and Malaya in the early days of the war.⁷⁹

5.58 In his work on submarine I-124,⁸⁰ Mr Tom Lewis notes concerns (raised by Mr Ed Ferrier), that Japanese submarine I-124, sunk in the waters off Darwin, may contain information which could shed light on the circumstances surrounding the loss of *Sydney*. He suggested that this accounts for the reluctance on the part of the Japanese to allow the investigation of the wreck of I-124 in Darwin Harbour.⁸¹ However, Mr Lewis states that 'there is no record of I-124 being in southern waters at that time'.⁸² Mr Lewis also cites the work of David Jenkins, who states that I-124 was 'in Japanese ports in early November preparing for operations in the South China Sea'.⁸³

5.59 Mr Lewis concluded that, following the publication of Montgomery's book, and other works, '... the myth of the Japanese submarine has slowly been accepted as factually based'.⁸⁴ He believes that 'there is no basis for suggestion that a Japanese submarine – and that includes I-124 – was involved in the tragic loss of HMAS *Sydney*'.⁸⁵ Mr Lewis also made a submission to the inquiry, in which he stated that 'I also wish to place on record my opinion that there was no "cover-up"'.⁸⁶

77 Doohan, Transcript, p. 284.

78 Winter stated that 'it should be noted that there was no such thing as an "I-Class" submarine, as the submarines with the "I" prefix were of different classes, as is indicated in good reference books on submarines. Japanese submarines had the prefixes "I", "RO" and "HA", on the pattern of an ancient poem that began "I-ro ha ni-ho-he-to" ' (Poniewierski, Submission, p. 319).

79 Gascoyne Historical Society, Submission, p. 1280.

80 Exhibit No 6: *Sensuikan I-124 – A History of the Imperial Japanese Navy Fleet Submarine Sunk in Northern Territory Waters*.

81 *ibid.*, p. 71.

82 *ibid.*, p. 72.

83 *ibid.*

84 *ibid.*, p. 71.

85 *ibid.*, p. 73.

86 Lewis, Submission, p. 135.

5.60 Mr J J Collins told the Committee that, despite his belief that the Japanese were responsible, he had no proof of such a theory. He stated in evidence that:

I have read how the Japanese had the best torpedo during the war – the long lance torpedo. There is evidence on that. I have heard people say, without corroborating it, that they were able to fire under the *Kormoran* and get the *Sydney*. There is no doubt that they did have the best torpedoes. There is plenty of evidence of that around. But no, I have no corroborating evidence for what the [Japanese officer said about the Japanese being responsible for sinking *Sydney*].⁸⁷

5.61 The evidence suggests that all I-class submarines were able to be accounted for in locations other than off the coast of Western Australia on that date. If no I-class submarines could possibly have been responsible for sinking *Sydney*, the challenge to researchers now is to provide concrete evidence of the involvement of a particular submarine, rather than more generally proposing the theory of Japanese involvement. As Winter points out:

Japan ... had a finite number of submarines, and they can all be located elsewhere at a time that would have made it operationally unfeasible for them to have been in the area where *Sydney* was sunk, at the time when she was sunk.⁸⁸

Pastor Wittwer

5.62 The Committee received evidence from Pastor Ivan Wittwer that, while attached to the Snowy Mountains Hydro Electric Authority in 1951, he met a man who claimed to be Gerhard Heinz Grossman, former gunnery officer on the *Kormoran*. This man told Pastor Wittwer that a Japanese submarine had been responsible for sinking the *Sydney* and that this fact had been covered up by the Germans.

5.63 Pastor Wittwer claimed that Grossman told him the fatal torpedoes were fired from a Japanese submarine, from a distance of about 2.5 miles. Grossman also told Pastor Wittwer that *Sydney* survivors were killed in the water by machine gun fire, and stated that the number of the Japanese submarine was camouflaged.⁸⁹

5.64 Mr Bernard Eneberg supports Pastor Wittwer's claims, despite his doubts about Grossman, the man who recounted the story to Pastor Wittwer. He told the Committee that 'Pastor Wittwer is quite confident that whoever it was knew what he was talking about, and I would certainly go along with that. Whether the man was Heinz Grossman is up for argument, but he evidently knew what he was talking about'.⁹⁰

5.65 Pastor Wittwer, in his submission to the inquiry, related details of his subsequent interview by ASIO.⁹¹ Having signed the *Official Secrets Act*, Pastor Wittwer claimed he was not able to release the information until 1982.⁹² ASIO has not denied the interview occurred,

87 Collins, Transcript, p. 350.

88 Poniewierski, Submission, p. 319.

89 Wittwer, Submission, pp. 3486-3487.

90 Eneberg, Transcript, p. 421.

91 See Wittwer, Submission, p. 3487.

92 *ibid.*, p. 3488.

but advise that 'It is possible that such an interview took place and the record was subsequently destroyed prior to the operation of the *Archives Act 1983*' or perhaps that the 'records associated with the interview may have been transferred to the predecessor of the present day Department of Defence'.⁹³

5.66 The Committee has no reason to doubt that Pastor Wittwer did have a conversation with a person purporting to be Heinz Grossman, and that he may well have been interviewed by ASIO about this matter. However, the Committee has serious reservations about the identity of the person claiming to be Grossman and hence his truthfulness is also suspect. As Pastor Wittwer himself acknowledged:

Grossman was a con man, who cleverly worked himself into a position as representative of all the Germans.⁹⁴

5.67 Given that the identity of the person claiming to be Grossman is not clear, the impact of his evidence is diminished, although there are those who still choose to believe his claims and/or the sentiments expressed by him.⁹⁵ Suggestions were made in the inquiry that Pastor Wittwer harboured negative feelings the Japanese, which may have influenced his reaction to the information given to him by the man claiming to be a *Kormoran* survivor.⁹⁶

Conclusion

5.68 The Committee was not convinced that a case has been made to show that the Japanese were responsible for sinking *Sydney*. Of all the submissions expressing support for the theory of Japanese involvement, none provided any hard evidence to prove Japanese involvement. The complete lack of any evidence in Japanese archives pertaining to *Sydney* also lessened the weight of the argument supporting Japanese involvement. Given that no Japanese submarine has been identified as being in the vicinity of where *Sydney* was sunk at the time of her loss, it is impossible to prove that the Japanese were involved in any way in sinking *Sydney*.

5.69 The Committee found that there is no evidence to support the involvement of a third participant in the engagement, whether it be a Japanese submarine, a German U-boat or an Italian submarine, as suggested in some submissions. The possibility of a third party being involved in the sinking appears to have had its genesis in the shock of the loss and the inability of people to accept that *Sydney* could be defeated in such a manner. It is unfortunate that the claims of third party involvement still continue to circulate in the absence of any substantive evidence.

The Leichtes Schnellboot (Light Speed Boat)

93 ASIO, Submission, p. 1771.

94 Exhibit No. 43, p. 2.

95 See for example, Eneberg, Submission, p. 2049.

96 Mr David Kennedy told the Committee that Pastor Wittwer confided to him that '... he could have killed the Japanese who killed his cousin or uncle, and how he was having to struggle against these feelings'. Mr Kennedy felt that Pastor Wittwer 'had a serious personal problem to come to terms with over the loss of his relative and the Japanese' (Kennedy, Transcript, p. 459).

5.70 Several submissions examined the possible role of the Leichtes Schnellboot (LS-3),⁹⁷ *Kormoran's* mine-laying speedboat which was 'specially constructed of light metal'⁹⁸ and 'was 41 feet long, weighed 11 and a half tons ... and was capable of at least 45 knots'.⁹⁹ It was armed with two mines able to be discharged vertically through tubes on the stern; plans for these type of vessels to carry two to four torpedoes were made but not implemented for this version (LS-4 on the raider *Michel* did carry torpedoes).¹⁰⁰ It is important to note that this vessel was not a motor torpedo boat, as a number of submissions called it; it was not equipped with torpedoes, but rather with mines.¹⁰¹

5.71 A number of theories were put forward about the LS-3's possible involvement in the events of November 1941:

- LS-3 was laying mines in *Sydney's* path, two of which exploded, thereby explaining the inconsistency in accounts seen by some on how many torpedoes struck *Sydney*;¹⁰²
- LS-3 was used to tow some of *Kormoran's* lifeboats after the ship was scuttled (according to Mr Eagles until the morning of 22 November when the LS-3 was itself scuttled), thereby explaining the speed with which survivors apparently reached the Western Australian coast.¹⁰³ It is also claimed that the towing would explain why some of the Germans were reported as being 'clean-shaven' and in good condition when rescued;¹⁰⁴ and
- the LS-3 was used to trail *Sydney* survivors in the water, allowing the Germans to dispose of those who remained from *Sydney's* crew.¹⁰⁵

5.72 Mr Eagles is convinced that the role of LS-3 has been insufficiently examined to date, and believes that there exist many compelling reasons why Captain Detmers may have used LS-3.¹⁰⁶ Mr Eagles told the Committee that:

Detmers was a torpedo boat captain. He was a torpedo specialist, although the motor torpedo boat was not armed with torpedoes. I believe that his two assets, the things that he knew most about – the

97 Leichtes Schnellboot 3 was the updated model of the LS-1 and LS-2. See Eagles, Submission p. 2365 and p. 3618.

98 Winter, op. cit., p. 26.

99 Eagles, Submission, p. 2365.

100 Conways Maritime Press, quoted in Eagles, Submission, p. 3618. Mr John Doohan, of the End Secrecy on *Sydney* Group has incorrectly stated that LS-2 and LS-3 were 'exactly the same' (Transcript, p. 254). This ignores the different engines used in LS-1 and LS-2, compared with LS-3, and the different fitout for laying of mines.

101 For example, Mr James Eagles refers to the vessel as an MTB (motor torpedo boat), although in his submission he acknowledges that the LS-3 did not carry torpedoes (Eagles, Submission, p. 2394).

102 *ibid.*, p. 2368.

103 *ibid.*, p. 2394.

104 McDonald, E, Submission, p. 553.

105 McDonald, E, Transcript, p. 234. McDonald also raises questions about the use of the motor torpedo boat after the battle in a submission (McDonald, E, Submission, pp. 3173-3174).

106 Eagles, Submission, p. 2368.

motor torpedo boat and underwater torpedoes – are the two things that he would have used ...¹⁰⁷

5.73 Mr Eagles feels that during the interrogations of Captain Detmers and his crew, insufficient questions were asked about the significance of the LS-3.¹⁰⁸ He believes that the Leichtes Schnellboot was laying mines near *Sydney*. He suggested that the inconsistency regarding the torpedo strikes on *Sydney* may be explained by the theory that LS-3 was using magnetic mines to force *Sydney* to turn, and that two mines exploded. Mr Eagles further suggests that the reason for the battle taking place 300 miles off the coast was that this was the limit of the LS-3's range, and that Captain Detmers had calculated this on the grounds that LS-3 might be needed to tow survivors to shore.¹⁰⁹ Mr Eagles also maintains that part of the reason for secrecy about the role of the speedboat was 'not to attract any importance to it. They [*Kormoran*] were the first to use the LS boats'.¹¹⁰ This however, ignores the fact that other raiders already operating were fitted with similar boats.¹¹¹

5.74 In his submission to the inquiry, Mr Michael Montgomery supported the second of Mr Eagles' claims, but with an apparently different destination for the LS-3. He stated that:

Looking at a plot of the positions in which the *Kormoran* lifeboats were found, one is immediately struck by the greater distance – at least 80km – covered by the two which made land at 17-Mile Well and Red Bluff. My book includes a photograph of the pile of stores landed at the latter far in excess of what one would expect to be contained in a boat already crammed with 57 men ... while one of the survivors at the former indicated that they had been beached there the previous day – ie the 23rd. This necessarily implies that both boats had been assisted by a motorised vessel, possibly the *Kormoran*'s large motor boat which was then scuttled ...¹¹²

5.75 Mr John McArthur agreed with Mr Eagles and Mr Montgomery, supporting the theory that LS-3 played an important role in the confrontation between *Sydney* and *Kormoran*. Of concern to Mr McArthur was:

How a heavily laden boat with a lug sail could travel against a strong SE wind and cover such a distance is truly remarkable UNLESS it was towed while having only 40 men and then the occupants of the towing boat ditched their craft and came on board knowing that rescue was only hours away. An explanation [is that it was] the Leichtschnellboot from the *Kormoran*. The same boat that Frame ignores completely,

107 Eagles, Transcript, p. 565. Barbara Poniewierski states in a submission that the LS-Boot on *Kormoran* was equipped to lay mines (not torpedoes), and therefore that *Sydney* cannot have been attacked by 'Kormoran's torpedo boat' (Poniewierski, Submission, p. 316).

108 Eagles, Transcript, p. 568.

109 Eagles, Submission, p. 2368.

110 *ibid.*, p. 2383.

111 *ibid.*, p. 3618.

112 Montgomery, Submission, p. 638.

Winter says could not have been used, and Detmers conveniently ignores altogether.¹¹³

5.76 This opinion is supported by LCDR McDonald RAN (Retd) who claimed that 'the "shaven" group collected by *Aquitania* could well have been the crew of the MTB'.¹¹⁴

5.77 Contrary to these theories is evidence about the use of the LS-3 from Barbara Winter who notes in her book that the propeller of the boat was damaged in early 1941 and that it was not used after that, and that furthermore the boat was unable to be raised when *Kormoran* was being abandoned.¹¹⁵

5.78 It is apparent, however, that the theories of the use of the LS-3 are only speculative, with there being no agreement on whether it towed all of the boats for a period, whether it towed two boats to land (according to Michael Montgomery) or whether it towed the boat that was eventually picked up by *Aquitania*. The Committee felt that, without any evidence, it was impossible to determine if the LS-3 played any role either during or after the battle.

5.79 The Committee also rejects the claims that the LS-3 was used to shadow survivors of the engagement, and kill them as they floated in the water. There is absolutely no evidence to suggest that this occurred, and the continued claims of such behaviour, as with so many unfounded claims about the whole *Sydney-Kormoran* engagement, are both malicious and distressing to family members of those lost on *Sydney*.

113 McArthur, Submission, p. 2259. In fact, Frame mentions the LS-3 on p. 47 of his book; and Detmers refers to it on a number of occasions in his book: pp. 20, 30, 38.

114 McDonald, E, Submission, p. 3174.

115 Winter, op cit., pp. 58, 142.

CHAPTER 6

THE AFTERMATH

The reason why we are still talking about [the loss of Sydney] 55 years on is that there are so few facts and so many possibilities of finding an explanation.¹

6.1 This Chapter examines what the official history said about the searches that took place in the days following the battle, discusses possible reasons for the complete lack of *Sydney* survivors, and examines the veracity of accounts of the battle which emerged from the interrogations of *Kormoran* survivors. Discrepancies between the evidence presented by the official history, and testimony that a search was sent out earlier than the official history suggests, are also examined in this Chapter.

6.2 The public was not officially made aware that *Sydney* had been lost until 11 days after the encounter. When the Australian Government decided to inform the public:

News of the action, and of the presumed loss of *Sydney*, was publicly released in an official statement by the Prime Minister, Mr Curtin, on the 30th of November 1941. The next of kin had been informed by personal telegram three days earlier. Unfortunately, however, through failure to observe correct censorship procedure in which both the Naval Board in Melbourne and the Government in Canberra were equally culpable, leaking of information occurred on the 25 November and gave rise to rumours which circulated throughout Australia and caused deep distress to the next of kin.²

6.3 By the time an official announcement that *Sydney* had been lost was made on 30 November 1941, rumours had already begun to spread about how the ship might have been lost. The circumstances surrounding the event were immediately sensationalised, giving rise to a proliferation of theories about who was responsible for sinking *Sydney*. Rumours about *Sydney* survivors being murdered in the water after the battle circulated throughout the general public.

6.4 Of concern to many was the manner in which information was released to the bereaved families and to the Australian people. The fact that the only accounts of the encounter were pieced together from the information provided by *Kormoran* survivors left many with a perception in the years that followed that the whole story was not known.

1 Creagh, Transcript, p. 112.

2 Gill, op. cit., p. 459.

Discovery of *Kormoran* Survivors

6.5 *Sydney's* fate had been sealed several days before the first *Kormoran* survivors were picked up by Allied ships. According to Winter's account:

Just before 0600 on Sunday 23 November, a cabin boy on the liner-transport *Aquitania* saw a low-lying raft bobbing on the pearly morning sea. The 26 men on the poorly equipped raft had seen her long ago, and were waiting anxiously for a sign that they had been noticed.³

6.6 The *Aquitania* picked up these *Kormoran* survivors at 24°35'S, 110°57'E,⁴ 200 kilometres off the coast of Western Australia. The official history, and indeed subsequent accounts, has *Aquitania* maintaining radio silence and not reporting the discovery until her arrival off Wilson's Promontory on 27 November (see paragraph 6.24).⁵

6.7 Soon after, on 24 November, the British Tanker MV *Trocas* picked up 25 Germans in another life raft, and sent a coded signal to this effect to Navy Office.⁶ Later, another lifeboat landed, with 46 men, at Quobba Station, north of Cape Cuvier.⁷ This boat was one of two which were found along the coast north of Carnarvon, the other with 57 men.

The Search for *Sydney* Begins

6.8 According to Gill's account, the search for *Sydney* began on 24 November 1941.⁸ The search was coordinated by Captain Farquhar-Smith, District Naval Officer, Western Australia,⁹ who had 'operational control over *Sydney* when she was working out of Perth or Fremantle ... He was the one who initialled the search action so he obviously had some operational control responsibility of the ship. He initiated search action once [*Sydney*] was missing and he also reported back to the Chief of Naval Staff and to the navy office'.¹⁰

6.9 Once Navy Office had received word from *Trocas*, indicating that she had rescued survivors from a ship (which, according to Gill was the first the authorities knew about *Sydney's* fate), a full scale search was mounted, which included 'every available aircraft in Western Australia'.¹¹ HMAS *Wyrallah*, *Olive Cam*, *Heros*, *Bonthorpe* and *Alfie Cam* were

3 Winter, op. cit., p. 145.

4 ibid.

5 There have also been suggestions that *Aquitania* stopped at Gage Road, Fremantle, but was ordered to proceed with her journey to the eastern states. This has also been disputed equally vehemently (see for example, Eneberg, Submission, p. 4115).

6 Winter, op. cit., p. 147.

7 ibid., p. 151.

8 There is some confusion as to the estimated time of arrival of *Sydney* in Fremantle. Some sources put the time at pm on 19 November, while others state that it was am on 20 November. According to Poniewierski, '*Sydney* had been due in Fremantle on the afternoon of 20 November' (Poniewierski, Submission, p. 295). In any case, '*Sydney* would not have signalled her ETA Fremantle, her ETA Fremantle would have known before she sailed ...' (Ryding, Submission, p. 627). Regardless of the exact time *Sydney* was due, criticism has nevertheless been directed at the RAN for delaying the search. How delayed it was is a matter of contention.

9 Summerrell, op. cit., p. 168.

10 Department of Defence, Transcript, pp. 38-39.

11 Winter, op. cit., p. 149.

sent out the same day.¹² *Hermoin, Pan Europe, Saidja, Herstein, Sunetta and Centaur*, all ships of the merchant navy, were 'instructed to pass through positions between 24 degrees 06 minutes south, 111 degrees 40 minutes east'.¹³ An indication of the activity can be seen from the chronology of events assembled by CMDR R J Hardstaff RAN (Retd).¹⁴

6.10 According to Mr Summerrell:

The search that ensued over the next five days, until search operations were concluded on 29 November, involved more than 825 flying hours by RAAF aircraft and the participation of 21 naval and merchant vessels.¹⁵

6.11 During the six days of searching for survivors or a sign of *Sydney*, it became evident that the *Kormoran* had fared much better in the confrontation than had the Australian ship. As an increasing number of survivors from the German ship were rescued by Allied ships or landed on the Western Australian coast, and as the picture of *Sydney's* fate became clearer, hope of finding survivors faded.

6.12 The search for *Sydney* survivors formally ended at 10.48pm on 29 November 1941 following instructions from the Central War Room.¹⁶ On Sunday 30 November, the Secretary of the Department of the Navy sent the following message to the Governor-General and the Prime Minister:

The Naval Board regret that after intensive air and surface search of the area, no evidence of HMAS *Sydney* has been sighted except two RAN lifebelts and one Carley float badly damaged by gunfire. It is concluded that *Sydney* sank after the action and further search has been abandoned.¹⁷

6.13 The only traces of *Sydney* acknowledged in Gill's account were a carley float picked up by *Heros* and several lifebelts.¹⁸ Of the 645 men on board *Sydney*, not a single survivor was found.

6.14 Table 6.1 provides details of the people and items recovered after the engagement. Table 6.2 provides details about some of the searches undertaken.

12 *ibid.*, p. 148.

13 Summerrell, *op. cit.*, p. 18.

14 Hardstaff, *Submission*, pp. 50ff.

15 Summerrell, *op. cit.*, p. 46.

16 *ibid.*, p. 47.

17 *ibid.*

18 This carley float is accepted by Department of Defence as being from *Sydney* (Department of Defence, *Transcript*, pp. 12-13).

Table 6.1 **People and Debris Recovered after the Engagement, November 1941**

TABLE (end of chapter)

Table 6.2 Air Searches and Their Outcomes¹⁹

Date	Search Area	Search Vehicle(s)	Objects Located
24 November 1941	Fan search from Rottneest Island to 480 kilometres, between 260° and 340°	6 Hudsons	None
25 November 1941, a.m.	24°10'S, 108°53'E - 23°S, 111°E 29°56'S, 112°30'E - 28°50'S, 114°48'E	7 Hudsons	None
26 November 1941, a.m.	23°03'S, 110°28'E - 23°03'S, 113°49'E 25°10'S, 110°28'E - 25°10'S, 113°49'E	4 Hudsons	Found boats picked up by <i>Koolinda</i> and <i>Centaur</i>
26 November 1941, p.m.	24°40'S, 109°E - 24°40'S, 113°35'E 27°20'S, 109°E - 27°20'S, 114°E	4 Hudsons	
26 November 1941, p.m.	26°04'S, 110°57'E - 26°04'S, 113°10'E 27°37'S, 110°57'E - 27°27'S, 113°57'E	8 Ansons	
27 November 1941, a.m.	24°12'S, 107°40'E - 24°12'S, 109°15'E 27°S, 107°40'E - 27°S, 109°15'E	2 Catalinas	
27 November 1941, a.m.	Parallel track search, South East Datum Point - 25°43'S, 112°56'E°	5 Hudsons	
27 November 1941, a.m.	Parallel track search, South East Datum Point - 27°S, 113°36'E	7 Ansons	Boat found picked up by <i>Yandra</i>
27 November 1941, p.m.	Square Search 20°08'S, 111°07'E - 20°08'S, 112°43'E 24°14'S, 110°27'E - 24°14'S, 111°56'E	4 Hudsons	
28 November 1941, a.m.	Square Search 22°S, 109°E - 22°S, 111°E 24°S, 109°E - 24°S, 111°E	2 Catalinas	

6.15 Of the wreckage, the RAN carley float believed to be from *Sydney* is now in the Australian War Memorial in Canberra. An official investigation of it was conducted in 1993 by the AWM.²⁰ The location of the two lifebelts is not known.

6.16 *Sydney* researcher Mrs Glenys McDonald suggested that several other items which may have been from *Sydney* (and which were not included in the official history) came ashore at Port Gregory. Among these items were:

19 Winter, op. cit., pp. 161-162.

20 See Chapter 7 for more detailed information on this investigation.

... a four-gallon tin of cabbage; a brand new tyre on a very damaged rim, which [the finders] put on their truck and later on a tractor; a hissing four-gallon tin of metho[lated spirits], which they did not touch because it looked too dangerous; a 150-gallon tin of kapok and four or five lifebelts that were knocked around a bit but not burned.²¹

6.17 Mrs McDonald also gave evidence that :

... [a] packing case board with HMAS *Sydney* painted, attached to a fired flare was picked up by a VDC patrol and handed in to the military authorities in Geraldton. I do not know why it has not appeared on any list. There was [also] a box marked HMAS *Sydney* that was found on Green Islet, a record of which is in the Australian War Memorial but which is also not on any official list.²²

6.18 Mrs McDonald learnt of the retrieval of these additional pieces of 'wreckage' from *Sydney* when she collected oral evidence from residents of the Port Gregory area. It was also suggested to her, and later substantiated, that a grey lifeboat had come ashore near Baleine station, but admits that she has 'got no other information other than that the Forrester family obviously believed that a boat came in and that it was taken away'.²³

An Earlier Search?

6.19 The veracity of Gill's account of the search for *Sydney* has been challenged by a number of people. It has been suggested that the official search for *Sydney* was started not on 24 November, but one day earlier than Gill states. This view also challenges the position taken by the Department of Defence and Australian Archives, that the search for *Sydney* commenced on 24 November, five days after the engagement.

6.20 The challenge to the official history is largely based on the evidence of one man, Group Captain C A V Bourne, MBE, AE, (Retd) that he participated in an aerial search for *Sydney* on 23 November. GPCAPT Bourne argues that the search was sent out directly in response to a radio message received from the *Aquitania*, soon after it had picked up *Kormoran* survivors in the early hours of 23 November. GPCAPT Bourne told the Committee that:

[When we flew out from Pearce on 23 November] We flew from Pearce to Rottnest. We set course from the lighthouse on Cape Vlamingh and flew along the normal shipping lane, which was about 15 miles to seaward. This was shown on our aeronautical chart, which was in fact a Mercator's projection. The Germans on board the *Aquitania* had said that the battle took place 130 miles south-west of Fremantle. The logical thing for us to do would have been to go down and search that area with a square search, but we went down a parallel track search. We were nowhere near that area.²⁴

21 McDonald, G, Transcript, p. 191.

22 *ibid.*

23 *ibid.*, p. 199.

24 *ibid.*, p. 239.

The total significance [of this earlier search] is the fact that the *Aquitania* broke radio silence. That is why I was sent south because that morning the Germans in the lifeboats of Detmers and Gosseln (sic) both said they saw the *Aquitania* in the morning five miles and eight miles away. That afternoon they were circled by an aircraft. It was a strange aircraft. It was a yellow and black aircraft and Bunjes said it was a bomber. In fact, it was a Fairey Battle ... My flight, together with this flight by a yellow and black Fairey Battle confirms that *Aquitania* did break radio silence. There has been a colossal web of deceit woven around the *Aquitania*.²⁵

6.21 GPCAPT Bourne claimed that entries in the Unit History Sheet for November 1941 of the No. 4 Service Flying Training School showing the Fairey Battle on towing duties are 'false and an attempt at deliberately covering up the real purpose of this flight on this day'.²⁶ GPCAPT Bourne's reference to the Fairey Battle target tug was picked up by Mr David Vincent, who contacted the pilot of the aircraft, Mr David Daly. According to Mr Vincent:

Mr Daly has confirmed that his aircraft ... was ordered from Geraldton to Pearce for towing duties on 23 November 1941 as indicated in No. 4 Service Flying Training School's records ... there is no indication from his log book entries or what he has told me that suggests he was involved in anything other than 'towing duties' ...²⁷

Mr Vincent also challenged assertions by GPCAPT Bourne that RAAF Pearce had their own Fairey Battles, noting that there 'were only two Fairey Battles in Western Australia at this time ... Both aircraft were on the strength of No. 4 Service Flying Training School ...'.²⁸

6.22 In evidence to the Committee, Mrs McDonald explained the significance of GPCAPT Bourne's claims:

Group Captain Bourne was making it clear to you that he definitely searched on 23 November [and the significance of that was] 'it means that *Aquitania* radioed'. I do not think he made it clear enough, because to me that means there was a 4 1/2-day delay in initiating the search. The reason for that delay has always been: 'We did not know that *Sydney* was in trouble until 3 p.m. on 24 November when the *Trocas* picked up the Germans'. ... The point is that we have always stated that we did not search for 4 1/2 days because we [the RAN] did not know that there was anything wrong. [GPCAPT Bourne's] point is that we must have known something was wrong for him to be up there on the 23rd.²⁹

6.23 Mr Bernard Eneberg also told the Committee of his concerns about *Aquitania*'s role in the aftermath of the tragedy. He pointed out that:

25 *ibid.*, p. 242.

26 Bourne, Submission, p. 1040.

27 Vincent, Submission, p. 4318.

28 *ibid.*

29 McDonald, G, Transcript, p. 295.

... the *Admiralty* had the ability to control *Aquitania's* movements – not only hers, but *Sydney's* as well, of course. *Sydney* was due at Sunda Strait about midday on 17 November. The *Aquitania* could have left on the 15th and met her. Why did she not do so? Logic suggests that she should rendezvous with *Sydney* for protection but she does not. She stays in Singapore. This suggests that *Sydney* was not going to be available to escort her south. Was it because *Sydney* had business elsewhere, perhaps a date with the *Kormoran*?³⁰

However, the Committee notes it could equally be argued that, given her speed, *Aquitania* could outrun most enemy shipping she was likely to encounter and was therefore in no need of an escort from *Sydney*.

6.24 After being detained in Singapore dry dock for eight days³¹ *Aquitania* proceeded south through Sunda Strait. She came across the German survivors early in the morning of 23 November, and stopped to pick them up. *Aquitania* then proceeded south and according to the official history did not break radio silence until approaching Wilson's Promontory on 27 November. Mr Eneberg suggested that Captain Gibbons of the *Aquitania* may have been under orders from Admiralty to stop and pick up any survivors.³² Mr Eneberg stressed that:

... the point about *Aquitania's* options after picking up German survivors is the impact her knowledge could have had on the fate of the 645 personnel lost on the *Sydney*. It would seem apparent that, if the *Aquitania* had taken a different action, the fate of some of the *Sydney* survivors could have been changed.³³

6.25 That a search was sent out shortly after *Aquitania* picked up survivors, is, GPCAPT Bourne argues, clearly a sign that the *Aquitania* broke radio silence. He argues that as the search in which he participated was sent out a full day before the official history records, this is proof a conspiracy was taking place in which the Australian Government was aware that there may have been *Sydney* survivors who were not rescued. In his submission, he asks:

But what is the point of debating whether or not the *Aquitania* broke radio silence at about 7 a.m. on Sunday 23 November 1941? The point is to show that the RAN was being deceitful in their official stance that the Australian Naval Board knew nothing of the *Sydney/Kormoran* battle until 4 p.m. on Monday 24 November 1941 when they were advised of a signal from the tanker *Trocus* (sic) relayed through Singapore that at 3 p.m. that day she had picked up a liferaft with 25 survivors ...³⁴

6.26 GPCAPT Bourne is not alone in his claim that a search was sent out for *Sydney* one day earlier than the official history claimed. For example, in the Westhoven Report

30 Eneberg, Transcript, p. 415.

31 *ibid.*

32 *ibid.*, pp. 415-416.

33 *ibid.*, p. 416.

34 Bourne, Submission, p. 1218.

(prepared by Third Officer Westhoven, WRANS)³⁵ cited in the Australian Archives' Guide to HMAS *Sydney* papers, the initial search was dated 23 November. GPCAPT Bourne took issue with the correction made to this entry by Archives which stated:

... [w]hen [*Sydney*] had not arrived on November 21, a signal was sent out to Navy Board, and on November 23 [in fact November 24] an air search was carried out from Rottneest.³⁶

6.27 The Department of Defence in its first submission initially indicated that a search was sent out on 23 November, but this was corrected in a supplementary submission, in which Defence stated:

The statement [was] made that the initial air search commenced on PM 23 November. This is not so, the decision to conduct an air search was made on PM 23 November. The actual air search was initiated the following day.³⁷

6.28 In the source document cited in this submission, it is not clear when the decision to mount a search took place. The document includes the following entry:

MONDAY 24th November 1941: Air Search: A diverging search was carried out from Rottneest Island between bearings 270 and 340 to a depth of 300 miles by six (6) Hudsons. Result negative.³⁸

6.29 However, in this document, it is not stated that this was the initial search or that another search had not been carried out prior to this one, one day earlier, and no date is given for when the decision was made to send out this particular search. Therefore, it cannot be assumed from this search report that the 24 November search for *Sydney* was the initial search.

6.30 Evidence given to the Committee by Australian Archives is quite clear that there is no documentary evidence that the *Aquitania* broke radio silence, and that her Captain had very sound reasons for not doing so. According to a report cited by Richard Summerrell:

... Captain Gibbons [the Captain of *Aquitania*], initially thought that the sailors [picked up by *Aquitania*] may have been victims of a German raider attack and he did not radio this to the authorities because he feared a German raider might still be in the area. Once he had determined that the survivors were from a raider which had been in action with a cruiser he assumed the cruiser would report the action and therefore did not break wireless silence. It was not until 27 November that the *Aquitania* signalled the Wilson's Promontory Signal Station with this advice.³⁹

35 Summerrell, op. cit., p. 15.

36 ibid., p. 18. See also Bourne, Submission, p. 1086 and pp. 2588-2589.

37 Department of Defence, Submission, p. 2469.

38 Bourne, Submission, p. 1914.

39 Summerrell, op. cit., p. 56.

6.31 Gill also argued that *Aquitania* did not at any time break radio silence, stating that '[n]ot until *Aquitania* passed Wilson's Promontory at 1.20pm on the 27th and was able to pass a visual signal, did the Naval Board learn that she had met the raft and had [*Kormoran*] prisoners on board'.⁴⁰

6.32 The Bourne proposition is also contrary to the view expressed in secret and confidential Navy correspondence files, that 'it was not until 27 November that the *Aquitania* signalled the Wilson's Promontory Signal Station [that it had picked up survivors]'.⁴¹ Mr Ian Farquhar-Smith, the son of the then District Naval Officer, echoed these sentiments and is also adamant that *Aquitania* did not break radio silence immediately after picking up *Kormoran* survivors.⁴² The claims made by GPCAPT Bourne regarding a search being sent out for *Sydney* on 23 November are not supported in any official records and GPCAPT Bourne's own log books were lost during the war.

6.33 While not doubting the sincerity of the views held by GPCAPT Bourne, a number of aspects of his account, particularly in relation to the movements of *Aquitania*, troubled the Committee. The first issue is whether there was sufficient time for *Aquitania* to have sighted the raft, picked up the crew, conducted an interrogation and notified authorities, leading to GPCAPT Bourne being tasked at 0745 hrs.⁴³ There is some confusion about the time the raft was sighted, and the time the Germans were actually picked up. GPCAPT Bourne has stated 'HTM *Aquitania* picked up 26 Germans ... at 0600H ...'.⁴⁴ However, in an earlier paper, he asserted 'At 5.50 a.m. (WST) ... *Aquitania* ... stopped for 45 mins ... [to pick up the Germans and] and at 7 a.m. (WST) the *Aquitania* resumed cruising ...'.⁴⁵ Captain Gibbons of the *Aquitania* stated that he picked the survivors up at 2230 GMT (6.30 a.m. WST).⁴⁶ Winter stated that the sighting was just before 6.00am and that it 'was nearly 2 hours before *Aquitania* had them safely on board ...'.⁴⁷ The delay between sighting and boarding of the Germans was also suggested by Mr Eneberg, who indicated it could have taken 1½ hours for *Aquitania* to slow, turn back and pick up the raft.⁴⁸

6.34 Associated with the time discrepancies, is the issue of what was learned from the initial discussions with the Germans. GPCAPT Bourne claims that the Germans gave a fictitious battle site 130 nm south west of Fremantle and that '*Aquitania* broke radio silence between 6-7 a.m. WST...' to advise authorities of this. However, in a report to DNI, dated 31 December 1941, detailing the questioning of the *Aquitania* prisoners when they arrived in Sydney, the Germans gave a location of 130 miles due west of Perth as the site of the battle.⁴⁹ GPCAPT Bourne's flight, he claims, was from the western end of Rottnest Island down the normal shipping lane 'as far south as Lat 34°30'S to abeam Point D'Entrecasteaux, then to step aside 40 nm to the west and return ... on a parallel track'.⁵⁰ He acknowledges that it

40 Gill, op. cit., p. 452.

41 Secret and Confidential Correspondence Files 1923-1950, MP1185/8, referred to in Summerrell, op. cit., p. 56.

42 Farquhar-Smith, Submission, p. 3877.

43 Bourne, Submission, p. 1092.

44 Bourne, Submission, p. 1783.

45 Exhibit No. 3, *HMAS Sydney/HMT Aquitania* (2nd Edition), p. 3.

46 Report to Secretary, Naval Board, 2 Dec 1941, reproduced in Exhibit No. 3.

47 Winter, op. cit., p. 145.

48 Eneberg, Submission, p. 4570.

49 Reproduced as Appendix in Bourne, Submission, p. 1808.

50 Exhibit No. 3, op. cit., p. 10.

would have been more logical to conduct a square search from a datum point 130 nm south east of Fremantle. He explains this difference as an Air Commodore directing the search 'without consulting his ... more experienced maritime Operations Officers'.⁵¹

6.35 Captain Gibbons' account of events on the morning of 23 November stated that the prisoners were turned over to the Staff Captain for interrogation and 'it was not until nearly noon (local time) that [he] read the results of the interrogation of the prisoners and realised that there had been an action ...'.⁵² An examination of files relating to *Aquitania* and her prisoners provides no further details beyond those already noted above.

6.36 What troubled the Committee the most, however, was the apparent lack of an appropriate response by authorities had *Aquitania* indeed broken radio silence to report her discovery. One aircraft on a limited search, as proposed by GPCAPT Bourne, would seem a disproportionately small response if indeed *Aquitania* had advised of her find, particularly as the following day five aircraft were ordered out to search for the overdue *Sydney*. No plausible explanation has been put forward as to why the RAN in those circumstances failed to act.

6.37 Given the passage of so much time, the fallibility of memory and the lack of documentary evidence, the purpose of GPCAPT Bourne's flight on 23 November may never be clear. The Committee does note that rumours were circulating in Fremantle about *Sydney* being overdue, and it may well have been a flight authorised by the RAAF as a low-key attempt to see if *Sydney* could be located.

6.38 Ultimately, even if GPCAPT Bourne is correct and a search was sent out under government direction on 23 November 1941, and not 24 hours later, the outcome of the search might have been no different. As Gill suggested:

It is therefore probable that the delays in receiving information from the wireless stations of the receipt of *Kormoran*'s mutilated 'suspicious ship' message, and from *Aquitania* of the earlier rescue of survivors from *Kormoran*, unfortunate though they were, had no bearing on the ultimate fate of such of *Sydney*'s complement as survived the actual fighting.⁵³

51 Bourne, Submission, p. 4287.

52 Report to the Secretary of the Naval Board, 2 December 1941, reproduced in Bell, Submission, pp. 3901-3903.

53 Gill, op. cit., p. 459.

Release of Information about the Loss

6.39 As has been stated previously in this report, there has been considerable criticism of the handling of the immediate aftermath of the loss of *Sydney* by the RAN and the Australian Government, particularly in relation to the enforcement of censorship restrictions on the release of information, following the loss of *Sydney*.

Censored

6.40 Despite it being war time, the controversy surrounding the loss of HMAS *Sydney* was ignited, in part, by the manner in which the Australian Government dealt with the release of information after the event. This suspicion has, over time, been compounded by the absence of particular pieces of information, for example the log books of ships which may have come across the wreckage of *Sydney*. Many feel they may contain significant (and hitherto undisclosed) information about how *Sydney* was lost.

For twelve days the government maintained the strictest secrecy, issuing no less than 11 censorship notices preventing the publication of details. Even after the Prime Minister's public statement announcing the loss the broadcasting licences of three radio stations were suspended for contravention of a 48 hour ban on broadcasting the details.⁵⁴

6.41 Attempts to contain news of the disaster were unsuccessful, and 'Despite the government's concern that nothing be disclosed, by the afternoon of 25 November *The Herald* in Melbourne had heard that an Australian warship had been sunk. Earlier that day, G Hermon Gill advised the Chief of Naval Staff that "to issue a censorship instruction at this stage would be to start a flood of rumour throughout Press channels"'.⁵⁵ The issuing of a censorship instruction at 2.30pm on 25 November proved to be a mistake, fuelling more rumours than it dispelled.⁵⁶

6.42 As Winter suggested:

Although there was a censorship order prohibiting speculation, the papers had had five days to collect information. They knew a great deal, and the guidelines as to what they could not publish had not foreseen all the things the navy might have wished to forbid.⁵⁷

6.43 A negative reaction to the lack of 'official' information was explicable in part because:

For the public the shock of the loss was accompanied by a sense of bewilderment that such a disaster could occur ... A suspicion that information was being concealed was strengthened by several factors: the delay in making the official announcement despite widespread public rumour; the lack of any real explanation when the

54 Summerrell, op. cit., p. 13.

55 ibid., p. 77.

56 ibid.

57 Winter, op. cit., pp. 181-182.

announcement did come; the secrecy which surrounded the official investigation of the disaster, which continued into January 1942; and the many obvious questions which the government failed to publicly address.⁵⁸

6.44 Many rumours later emerged which may have had their origin in the initial handling of censorship restrictions on *Sydney*. Following the loss of *Sydney*:

... [and] in the absence of any official statement on the *Sydney* from the 25 November the 'grapevine' began circulating a spate of disturbing rumours especially when it leaked out that German survivors had started arriving on the coast of Western Australia.⁵⁹

6.45 In his official history, Gill attempted to dispel some of the rumours about the botched handling of information about *Sydney*'s loss in the days following the disaster. By way of explanation, Gill blamed the Naval Board for failing to properly brief the Chief Publicity Censor. According to Gill, Naval Intelligence followed up any information which may have shed light on the fate of *Sydney*, but to no avail.⁶⁰ The instruction, for 'No reference press or radio to HMAS *Sydney*'⁶¹ drew attention to the ship and gave rise to a perception that there was something to hide in regard to *Sydney*'s condition. In retrospect, giving no instruction at all would perhaps have been a wiser approach to minimising discussion about *Sydney*.

6.46 By late November the news that a German raider had sunk *Sydney* was being broadcast in Germany, and in Britain and in the United States the information had also been released. Advice of the censorship restrictions had been sent to the British government. Problems, however, arose due to the fact that:

These instructions, however, had not been imposed on the B.B.C. and United Kingdom press and the broadcast of information by the B.B.C. on 2nd December and publication in the United Kingdom press forced the premature release to the Australian press of other material which it was desirable for the time being to withhold.⁶²

6.47 Three radio stations in Australia (3AR, 3KZ and 2UW) were suspended for broadcasting information about *Sydney* while the media blackout was on.⁶³

58 Summerrell, op. cit., p. 13.

59 Gascoyne Historical Society, Submission, p. 1253.

60 Gill, op. cit., p. 460.

61 *ibid.*, p. 459.

62 War Cabinet Meeting Minute of 4 December 1941, reproduced in Summerrell, op. cit., p. 71.

63 Summerrell, op. cit., p. 80.

Justification from the Government

6.48 According to Summerrell:

The government was well aware of the damage that would be done to national morale by disclosure of the *Sydney's* loss. However, from the records it appears that the main reason it delayed an announcement and imposed blanket censorship restrictions on any news of the *Sydney* was the Navy's concern that an enemy supply vessel may have scheduled a rendezvous with the *Kormoran*. It did not wish to scare off such a vessel by prematurely announcing details of the *Kormoran's* sinking.⁶⁴

6.49 The government also tried to justify not releasing information on the grounds of 'maintain[ing] public morale by not allowing publication of the fact that there were so many German survivors yet none from the *Sydney*'.⁶⁵

6.50 In retrospect it is easy to say that the handling of the release of information to the public was unnecessarily secretive. However, there is a danger in underestimating the uncertainties of 1941, a time when Australia was at war and faced a difficult situation. Actions taken then should not be judged from a perspective of the 1990s, when the public expects far higher standards of transparency and openness from the government. It is unfortunate that information on the loss of *Sydney* was handled as it was, with many of the lingering doubts about the event in large part able to be sourced back to decisions taken in the aftermath of the loss.

The Interrogations

6.51 The interrogations of *Kormoran* survivors began almost immediately after they were picked up. The following account appears in the Australian Archives Guide:

Except for survivors recovered by the *Trocas* and the 26 men picked up by the *Aquitania*, the prisoners were transported by sea and land to Carnarvon, where the first interrogations took place. These were conducted by Lieutenant Commander Rycroft, the Staff Officer (Intelligence) in Fremantle aided by an interpreter. Both had been sent by air to Carnarvon to begin the interrogations early on 26 November. The information they obtained was supplemented by reports of the interrogations conducted on board the *Trocas* and the *Yandra*. As information emerged it was cabled and telephoned to the Naval Board in Melbourne, where it was passed to the government. The *Trocas*, with its 25 survivors proceeded directly to Fremantle, while the *Aquitania* continued its voyage east. When it landed in Sydney the interrogation of the 26 Germans it had recovered was undertaken by Captain Farncomb, the Commanding Officer of HMAS *Canberra*. Once the prisoners from Carnarvon and from the *Trocas*

64 *ibid.*, p. 77.

65 *ibid.*, p. 68. For further discussion of possible reasons for the lack of survivors, see paragraphs 6.74-6.84.

arrived in Fremantle the interrogations continued, with the officers being taken to Swanbourne Barracks, headquarters of the 5th Garrison Brigade in Perth, and the men to No. 11 Internment Camp at Harvey, 87 miles south of Perth. Some interrogations were also conducted at Fremantle Detention Barracks.⁶⁶

6.52 Attempts to ascertain details about the *Sydney/Kormoran* encounter did not stop with the initial interrogations. A sustained effort was made for many years to elicit the truth from the German survivors. It is interesting to note the observations of Winter, that:

Those who maintain that interrogations in Australia were not thorough enough are offering a **gross insult to Commander R.M.B. Long**, also a friend and colleague of Captain Burnett, and to a lesser extent to Admiral Sir John Crace, Captain Farquhar-Smith, Captain Farncomb, and Lieutenant-Commander Rycroft, and others who were involved in interrogations. For years, Long in particular, with the cooperation of the army, tried every known interrogation trick, from hidden microphones to informers and guards who were not allowed to admit they understood German. There was nothing more, short of thumbscrews and the rack, that they could have done.⁶⁷

6.53 Winter's claims are also supported by Frame, who wrote that 'While the broad details of the German accounts seem to have been accepted by the Naval Board in early 1942, [the RAN] obviously felt that the entire story might not have been told. Listening devices were placed in the POW quarters while attempts were made to infiltrate the camp with Australian agents. Neither method obtained any useful information'.⁶⁸

6.54 The evidence obtained through the interrogation process has been assessed quite differently. For example:

The one thing that gives the German story more credibility is the fact that the survivors were quite dispersed when they were picked up and they were interrogated in different positions ... So there was a remarkable consistency within the story of what actually occurred, as it unfolded, to give it more creditability (sic).⁶⁹

But ...

What I am saying is and from the record ... is that all the evidence I have and, I think, people way above me have is that the whole German story is a mass of contradictions; it is a mass of lies ...⁷⁰

66 *ibid.*, p. 87.

67 Poniewierski, Submission, p. 2290. Emphasis in original.

68 Frame, *op. cit.*, p. 107.

69 Department of Defence, Transcript, pp. 36-37.

70 Doohan, Transcript, p. 279.

Criticisms of the Interrogation Process

6.55 Several problems were encountered in the interrogation process, which may have led to inaccuracies in the way the action between *Sydney* and *Kormoran* came to be understood. According to the Australian Archives Guide:

Until 2 December the interrogations were carried out with little formal guidance and were not handled well in the view of some. ... The failure to segregate the prisoners in the early stages appears to have escaped the attention of Captain Farquhar-Smith ... The *Instructions for Interrogating Prisoners of War ex No. 41* were finally issued on 2 December by Rear Admiral Crace, but by then a considerable amount of interrogation had already been undertaken ... By December 9 all the prisoners in Western Australia had been interrogated except for two who were still hospitalised, and preparations were made for their transfer to Victoria. They were interned at Murchison prisoners of war camp in northern Victoria, along with those rescued by the *Aquitania* and taken to Sydney. The officers were later moved from Murchison to nearby Dhurringile and in 1943 the men were transferred to a timber felling camp at Graytown. The prisoners were finally repatriated in 1947.⁷¹

6.56 Frame also criticised the manner in which the interrogations were carried out. He wrote:

As practically no preparation had been made for such a contingency, the whole interrogation was handled poorly from the beginning. It was disorganised, very amateur, lacked a sense of urgency ...⁷²

6.57 Frame also compared the methods of interrogation in Sydney and Western Australia, and concluded that '... the circumstances for conducting interrogations in Sydney were very different from those prevailing in Western Australia, where the prisoners had been reunited and discussion between them was taking place'.⁷³

Veracity of the German Accounts Given in Interrogations

6.58 Over the past 57 years, many criticisms have been directed at the German accounts of the battle, and many questions have been raised about their accuracy. These criticisms have not always been logical, however. On one hand, there are those who use the consistencies in the German accounts as evidence that complicated conspiring took place between Germans before they were rescued or arrived on land. On the other hand, there are those who use the inconsistencies in the German accounts to defend their belief that the German were lying. They take the position that if the Germans were telling the truth, their stories would be identical in every way.

6.59 From the initial interrogations, it appeared that the government was largely satisfied that it had obtained a clear picture of what had happened to *Sydney*. It was felt that:

71 Summerrell, op. cit., p. 88.

72 Frame, op. cit., p. 80.

73 *ibid.*, p. 81.

... from th[e] interrogation it was possible to get from the Germans an almost complete picture of the action. How far this account varied from the truth, however, is something that it would be almost impossible to establish.⁷⁴

6.60 In his second and final public announcement on 3 December 1941, the Prime Minister noted that:

In releasing this information [ie a reconstructed account of the action], I emphasise that in the absence of any information from the *Sydney*, one side only is given from direct evidence. Certain of the aspects on board the *Sydney* must remain a matter of surmise as to details. The broad canvas can, however, be taken as giving an accurate picture.⁷⁵

6.61 Notwithstanding the official endorsement of the German⁷⁶ accounts, and contrary to Gill's claim that 'no room for doubt was left as to its accuracy',⁷⁷ doubt still remained for many about the veracity of the German version. It was not the 'Germanness' of the accounts that called into question their integrity. Rather, it was the nature of the way in which the information was obtained that gave rise to doubts about its accuracy. In his book *Who Sank the Sydney?* Michael Montgomery pointed out that 'it should be borne in mind that most officers, on whatever side, held in captivity considered that they had an absolute duty to do all they could to deceive the enemy'.⁷⁸

6.62 Others also shared Montgomery's scepticism about the content of the Germans' accounts. Given that it was war time, it would have been unrealistic to expect the German survivors to offer any more information than they had to. Montgomery's suggestion that a systematic method of deception was practised in interrogations was echoed in several other submissions. For example, it was noted in one submission that 'the Germans gave false information at the time during the interviews. This was 'par for the course' as it still is today. Captured Allied soldiers and officers during World War II were notorious for leading German interrogators 'up the garden path' with misinformation.⁷⁹

6.63 Although the German accounts have largely stood the test of time, a degree of scepticism about their veracity still exists. One of Captain Burnett's sons, CDRE Rory Burnett RAN (Retd), suggested in a submission to the inquiry that:

There is certainly no obligation to give the German version any official seal of approval, despite recent pressure from *Kormoran* survivors to have themselves cleared of any possible guilty conduct.

74 Summerrell, op. cit., p. 20.

75 ibid., p. 22.

76 It is correct to say that the post-battle accounts were overwhelmingly, if not exclusively, German. It is commonly stated that the only account of the battle came from *Kormoran* survivors, and this is also true. However, there were four Chinese on board the German ship when it sank the *Sydney* [they had been taken captive from the *Eurylochus* 10 months earlier – see Summerrell, op. cit., p. 87], and three of those prisoners survived the sinking. According to Winter, 'interrogation of only one of these [Chinese] is retained in the files relating to *Sydney* ... At least one of them was interviewed, about April 1942 ...' (Poniewierski, Submission, p. 307).

77 Gill, op. cit., p. 453.

78 Montgomery, op. cit., p. 90.

79 Loane, Submission, p. 200.

On the contrary, there is an obligation to the lost Australian seamen to ensure that while doubt exists, as it always must, no official sanction is given to the German version.⁸⁰

6.64 In his submission to the inquiry, Captain Burnett's other son, CMDR Patrick Burnett, RAN (Retd), echoed his brother's sentiments, stating that 'we cannot be certain that there are not some errors or omissions in the German version which, if identified, might show the events leading up to and during the action in a different light'.⁸¹

6.65 In his book *Frame* was more specific about the inconsistencies in Captain Detmers' account of the battle. According to *Frame*:

There were four significant differences between the information Detmers had given under interrogation at Swanbourne Barracks, and in the action report which was later confiscated. First, Detmers stated that *Kormoran* was ordered to stop before the cruiser signalled in plain language for the secret callsign of the *Straat Malakka* to be hoisted. Second, that *Sydney* was preparing to lower a boat. And third, that the cruiser had fired first. Fourth, that *Kormoran*'s first salvo fell short of *Sydney*. Detmers' later descriptions were inconsistent with these statements.⁸²

6.66 Rather than focusing on the possibility that new information might come to light, some concentrated on criticising the Germans for misleading their captors. For example, Mr E V Ryding expressed a sentiment that:

... if all the [Germans] who were able were on the upper deck to abandon ship, they would all have been told the circumstances prior to opening fire and what had happened when they did open fire. They are being told that by their captain who was, we believe, a real Nazi. There was no way that any of those men were going to tell anything else. They were all national heroes. Were any of them going to admit that they opened fire with a white flag, thereby spoiling their position as national heroes after knocking off the Australian pride of the fleet? You believe in Father Christmas if you believe that.⁸³

6.67 It is important to bear in mind the fact that few of the men on board *Kormoran* would have been in a position to see the engagement, or been privy to the motivation and tactics behind it. On this basis it is possible to challenge the German accounts, if only because at some point some of them were probably relaying information which had been passed on to them, rather than recounting their own personal recollections of the incident.

6.68 LCDR Ean McDonald RAN (Retd) also expressed concern about the correctness of German accounts of the battle. He believed the Germans had received instructions that 'this is the story you will all tell – You will learn it well – and you will stick to it forever'.⁸⁴

80 Burnett, R, Submission, p. 16.

81 Burnett, P, Submission, p. 121.

82 *Frame*, op. cit., pp. 87-88.

83 Ryding, Transcript, p. 149.

84 McDonald, E, Submission, p. 530.

However, the Committee believes that while fabricating a story under such circumstances, in the aftermath of a fierce battle and in the process of abandoning ship, would have been very difficult, it is highly improbable that the German crew would hold to the story for 57 years with so very little deviation.⁸⁵

6.69 Allegations of inconsistencies in the German accounts were refuted in some submissions to the inquiry. For example, one submission suggested that 'It must be considered that the battle was both fierce and intense in its ferocity leaving no time for any individual to consider an outcome or what statements should be rehearsed in the event of a defeat and subsequent capture. The allegations that the crew of HSK *Kormoran* conspired to cover up alleged atrocities at the conclusion of the battle are imaginative in the extreme'.⁸⁶

6.70 Of all those who commented on the veracity of German accounts of the action between *Sydney* and *Kormoran*, one submission noted the following:

If it is the considered belief that the *Kormoran* survivors were lying at the time, then its only outcome has been (ultimately) to protect those on the bridge of the *Sydney*.⁸⁷

6.71 In the absence of any Australian eyewitness accounts of the battle, it is extremely difficult to establish to what extent the Germans' accounts clearly and accurately reflected the events of 19 November 1941. While it was likely that during war time, the Germans would have attempted to deceive the Australian interrogators (as their Australian counterparts would have done), without any Australian accounts it is almost impossible to know if the Germans were lying and if so, to what degree. A great deal of research had been done into what the Germans told the Australian authorities during the aftermath of the battle. The fact that Captain Detmers and some of his men attempted to escape from POW camps has also been suggested as 'proof' that he lied.⁸⁸ However, the Committee was not convinced that there was necessarily a link between the two, and believes that Captain Detmers' escape attempt cannot be used to discredit the information obtained through the interrogation process.

Conclusion

6.72 Significant, in the Committee's view, was the fact that, despite years of questioning and cross-examination, the *Kormoran* survivors have maintained that they told the truth in interrogations. The relationship between *Kormoran* survivors and Australians who question the official accounts has become strained as a result of the lack of acceptance of the German accounts among many *Sydney* researchers. Winter believes that:

The Germans who have been involved ... [in 'harassment' from those seeking 'the truth'] have developed a great contempt for the mean-spiritedness of those Australians who are not mature enough to accept

85 Frame notes that key events 'could have been observed by as few as four or five individuals in *Kormoran* ...' (Frame, op. cit., p. 105).

86 McDonough, Submission, p. 859.

87 Mackenzie, Submission, p. 1336.

88 End Secrecy on *Sydney* Group, Submission, p. 3010.

an unpalatable truth (namely, that the captain of *Sydney* blundered), and who therefore seek to blackguard others.⁸⁹

6.73 While the Committee accepts that relatively few of those on board *Kormoran* would have known exactly what happened on 19 November 1941, the endurance of the German accounts over time lends weight to the survivors' recollections of events.

No Survivors

6.74 One of the most tragic dimensions of *Sydney's* loss was the fact that there was not a single Australian survivor, and yet over 300 Germans survived the loss of the *Kormoran*. The fact that history was recorded on the basis of the information contained in the German accounts of the battle was unacceptable to the families of *Sydney's* crew and those Australians who had known and fought with men lost on *Sydney*. For those people, the loss of *Sydney's* entire complement was inconceivable, and the official history provided no satisfactory explanations for the loss.

6.75 Gill was convinced that there was nothing sinister in the total lack of survivors from *Sydney*. Accordingly, in the official history, Gill wrote that :

It is not surprising that there were no survivors, for after the punishment she received from shells and bullets, and the ravages of the fires on board, it is unlikely that much that could float remained.⁹⁰

6.76 Gill explained the complete lack of survivors by the sheer number of hits *Sydney* received, and saw no connection between delays in transferring messages intercepted from the *Kormoran* and the rescue of *Kormoran* survivors by *Aquitania*, and the total lack of *Sydney* survivors.⁹¹

6.77 The speculation surrounding the lack of *Sydney* survivors is fuelled by a widespread perception that there have been no other cases of ships sinking with a total loss of life. There have in fact been quite a significant number of ships that have sunk with heavy or total loss of life. Those ships and their casualties are listed in Tables 6.3 and 6.4.

6.78 In each of the cases where survivors were picked up, it is clear that this was possible because 'there were other ships in the immediate vicinity able to pick them up shortly after their sinking'.⁹² This was not the case with *Sydney* and *Kormoran*, who were each unaccompanied at the time of their encounter. This alone, however, does not explain the difference in survival rates from the two vessels.

89 Poniewierski, Submission, p. 306.

90 Gill, op. cit., p. 459.

91 ibid.

92 Exhibit No. 23.

Table 6.3 Naval Vessels Sunk With All Hands⁹³

Name	Type	Nationality	Crew Loss	Location	Cause
<i>Good Hope</i>	Armoured cruiser	British	800	Coronel, 1914	Shelled, Fire. Magazine explosion
<i>Monmouth</i>	Armoured cruiser	British	800	Coronel, 1914	Shelled, Fire. Magazine explosion
<i>Scharnhorst</i>	Armoured cruiser	German	750	Falklands, 1914	Shelled to destruction
<i>Defence</i>	Armoured cruiser	British	900	Jutland, 1916	Shelled, Fire. Magazine explosion
<i>Black Prince</i>	Armoured Cruiser	British	900	Jutland, 1916	Shelled, Fire. Magazine explosion
<i>Pommern</i>	Battleship (Pre-dreadnought)	German	844	Jutland, 1916	Torpedoed
<i>Jarvis</i>	Destroyer	American	247	Savo Island, 1942	Aircraft bombing
<i>Friedrich Eckoldt</i>	Destroyer	German	295	Barents Sea, 1942	Shelled to destruction

Table 6.4 Major Warships Sunk With Heavy Loss of Life⁹⁴

Ship	Type	Crew	Survivors	Location	Cause
<i>Invincible</i> (British)	Battlecruiser	1000	6	Jutland, 1916	Shelled, Magazine explosion
<i>Indefatigable</i> (British)	Battlecruiser	1000	2	Jutland, 1916	Shelled, Magazine explosion
<i>Queen Mary</i> (British)	Battlecruiser	1000	10	Jutland, 1916	Shelled, Magazine explosion
<i>Hood</i> (British)	Battlecruiser	1419	3	N Atlantic, 1941	Shelled, Magazine explosion
<i>Bismarck</i> (German)	Battleship	2200	110	N Atlantic, 1941	Shelled and torpedoed
<i>Scharnhorst</i> (German)	Battleship	1968	36	N Cape, 1943	Shelled and torpedoed

93 Exhibit No. 23.

94 *ibid.*

6.79 The Department of Defence suggests that the reason for there being no survivors from *Sydney* was that most hands would have been closed up at battle stations and would have been inside the ship. Those who were on the upper decks 'manning some of the lighter armament would be likely to be concussed or killed by the severity of the explosion'.⁹⁵ After the initial explosion, a large number of the command team would in all likelihood have been killed or incapacitated.

6.80 Some submissions contained information which tended to support the view expressed in the official history. As Mr Alastair Templeton wrote:

It is no wonder there were no survivors. Torpedo damage, progressive flooding, 20 tonnes or more of explosive from *Kormoran's* main armament plus thousands of rounds of 37mm and 20mm shells ... spelt wreckage and slaughter ...⁹⁶

6.81 The Department of Defence pointed out that 'there would have been [some men outside on the decks with the light armament], but they would have been relatively few. Of the 645 men on board, there would only have been in the tens, twenties or thirties manning some of the light armament'.⁹⁷ This would have meant that the vast majority of *Sydney's* crew would have been below decks during the encounter, and may not have had the opportunity to abandon ship before it sank.

6.82 The view that very few men on board *Sydney* would have been in a position to abandon ship was challenged by Mr Ryding in a submission to the inquiry. He stated in evidence given to the Committee that:

... [the officer in charge of the X and Y turrets] would have seen that *Kormoran* was in a state of surrender when she opened fire ... [and] there would have been at least 100 men on *Sydney* down aft at guns crew – the lobby crews, the magazine and shell room crews were all scattered down aft. Medical and repair parties had not been damaged at this point in time. At least 100 men could possibly have got off the *Sydney* from down aft, let alone those who may have got off from forward.⁹⁸

6.83 The Committee received many submissions suggesting possible alternative explanations for the lack of *Sydney* survivors. Some of these suggestions contradicted each other, and were quite unique. For example, one person suggested that:

It is ... our considered opinion after much research and actual contact with the *Kormoran* survivors organisation that the HSK *Kormoran* picked up Australian crew survivors from the HMAS *Sydney* after the war ship went down ... And held them prisoners on the *Kormoran* until the night of the 22nd November 1941 ... We consider that the HMAS *Sydney* survivors all perished but two who took to the rubber

95 Department of Defence, Transcript, p. 31.

96 Templeton, Submission, p. 1996.

97 Department of Defence, Transcript, p. 40.

98 Ryding, Transcript, pp. 148-149.

curley (sic) float from the deck of the HSK *Kormoran* and one being washed up on Christmas Island ...⁹⁹

6.84 Unpalatable as it may be, it is important to remember that the area in which *Sydney* is thought to have sunk, approximate as it may be, was in shark-infested waters. It is not necessary to examine the implications of that geography in detail, except to take note of the observations of *Kormoran* survivor Mr Adolf Marmann, that:

Sydney having been very severely damaged, in particular her superstructure, it cannot be expected under the best of circumstances to come across reliable rescue material other than debris. This means however that survivors are fully submerged and easy prey in a heavily shark-infested area. In my boat we had a school of sharks following us in our wake until we got into shallow waters in sight of the coast. In my opinion – and I regret very much having to say so – there is absolutely no ground for expectations of *Sydney* survivors.¹⁰⁰

Did Sydney Explode?

6.85 During the inquiry, the Committee received a number of submissions which addressed the issue of whether or not *Sydney* blew up. The Committee examined this evidence in the context of the complete lack of *Sydney* survivors, in the knowledge that if it could be demonstrated that *Sydney* exploded, this might explain why there were no survivors.

6.86 The submissions supporting the theory that *Sydney* exploded differed from the official history, which stated that *Sydney* was 'last seen about ten miles off, heading approximately S.S.E. Thereafter, until about 10 p.m., a distant glare in the darkness betokened her presence. Then occasional flickerings. Before midnight they, too, had gone'.¹⁰¹

6.87 In evidence to the inquiry, questions were raised about the accuracy of this account. For example, one submission cited evidence that Admiral Crabb (sic) had noted:

... at close range naval gunnery is like shooting a .22 rifle into a matchbox at three yards. The trajectory (sic) is flat. There is no doubt that at this point blank range, *Sydney* could well have exploded killing all of her crew. How else would they all be lost?¹⁰²

6.88 Other submissions described *Sydney*'s final minutes, writing that:

... [a]n hour later HMAS *Sydney* was 20 miles away [from *Kormoran*], but the speed would have been detrimental to the firefighting. The fire would have inevitably reached the magazines and the ship blown-up, all flotsam burned beyond recognition. HMAS SYDNEY WAS SUNK WITHOUT TRACE ... The last sighting of HMAS *Sydney* by the

99 Montagu, Submission, pp. 114 and 116.

100 Marmann, Submission, p. 3797.

101 Gill, op. cit., p. 456.

102 Davis, Submission, p. 499.

survivors of the encounter, was steaming away, with smoke and flames coming from her.¹⁰³

6.89 One submission to the inquiry by Mr L J Luxton recounted the testimony of a projectionist in 3 A.O.D. Camp Cinema at Wallangarra Camp, QLD, during the war. While at the camp, Mr Luxton had met and talked with a German projectionist, who said that *Kormoran* and *Sydney* 'were only in action for about 20 minutes, when the *Sydney* blew up from one end to the other (from stem to stern). I asked him were there any survivors, he told me there were two'.¹⁰⁴ The submission did not include any documentary evidence to support this claim, and Mr Luxton did not remember the name of the gentleman who gave him this information. Again, it is difficult to assess the veracity of such claims when there is no evidence, for example from interrogations, that German survivors actually witnessed *Sydney* exploding.

Did Sydney Roll?

6.90 Another suggestion about the possible explanation for the lack of *Sydney* survivors was given by Mr Bernie O'Sullivan, who wrote that:

It is quite understandable, that when the ship heeled over, and stayed over, it was accepted, this was because the water was laying on that side, not that, because of the loss of stability, the ship had listed, allowing the centre of buoyancy and centre of gravity to act in the same vertical line, and assume neutral stability (angle of loll). If this state was allowed to continue without losing this 'top weight', then the ship would remain stable, but should the firefighting continue, then, the angle of loll would increase, until such time as it reached a point of no return when the ship would turn over ... giving very little hope for any survivors.¹⁰⁵

6.91 In other evidence given to the Committee, other reasons for the lack of survivors were given. It was suggested that:

As to the reason for the lack of survivors although the ship was still afloat and under way when last seen by German survivors from the raider. Eyewitness accounts indicate that the *Sydney* vanished from the surface of the sea rather than over the horizon. There are many accounts of sailing ships from the windjammer days being 'sailed under' when proceeding in heavy seas. I suggest, the *Sydney* being heavily down by her bows and under way, she 'sailed under' with most of her crew. Of the handful of survivors who might have been able to get off at the last moment, their chance of being recovered in that vast sea was indeed slim.¹⁰⁶

103 O'Sullivan, Submission, p. 601. Emphasis in original.

104 Luxton, Submission, pp. 1125-1126.

105 O'Sullivan, Submission, p. 3765.

106 Arnold, Submission, p. 2710. Another theory was that there were in fact *Sydney* survivors. According to one submission, 'During the war, rumours were rife that there were survivors from the *Sydney* in

Theories About Murdered *Sydney* Survivors

6.92 One of the recurring accusations relating to the aftermath of the battle between *Sydney* and *Kormoran* is that there were survivors of the engagement from **both** ships, but that the *Sydney* survivors were 'massacred' in the water after the battle. This accusation is commonly raised in conjunction with the theory that a Japanese (or other)¹⁰⁷ submarine was responsible for, or involved in, sinking *Sydney*.¹⁰⁸ There is no direct evidence to support the theory that survivors were massacred in the water, except the fact that there were no survivors.

6.93 When Montgomery suggested that the Japanese were somehow responsible for sinking *Sydney*, he stated that '[the fact that] the Japanese either assisted in, or were wholly responsible for, the disposal of *Sydney* survivors in the water has an altogether greater probability'.¹⁰⁹ To illustrate his claim, Montgomery cited an order issued to commanders of the First Submarine Force, 'Do not stop with the sinking of enemy ships and cargoes; at the same time that you carry out the complete destruction of the crews of enemy ships, if possible seize part of the crew and endeavour to secure information about the enemy'.¹¹⁰ He presents this order as possible evidence that the Japanese were responsible for killing *Sydney* survivors.

6.94 Montgomery suggested that the carley float picked up by *Heros* constitutes evidence that *Sydney* survivors were machine gunned in the water. He stated that:

The *Heros* float ... was also considerably marked by gunfire. The five or six larger holes caused by shrapnel are spread haphazardly over its circumference, but there is a much greater number of machine gun perforations ... and the depth of their penetration all point to their having been inflicted at a much closer range than the consensus figure of 1,200 yards ... [and] suggest that the float was fired on not while it was still on board the *Sydney*, but after it had been launched into the water.¹¹¹

6.95 Montgomery also included a photograph of the carley float in the Australian War Memorial in his book, which appears with the caption 'note the numerous machine gun bullet punctures'.¹¹² In fact, an investigation carried out by the Australian War Memorial in 1993¹¹³ conclusively found that the holes in the carley float were not from machine gun fire, but were the result of shrapnel damage.¹¹⁴ Those who seek to prove that *Sydney* survivors were machine gunned in the water, and who cite this float as evidence of a slaughter, fail to acknowledge the findings of the AWM examination. Montgomery has repeated the claims of 'small arms' damage to the carley float, despite being well aware of the AWM investigation

Japanese prisoner-of-war camps. With the end of the war, however, these rumours were found to be false ...' (Pless, Submission, pp. 230-231).

107 See for example Heazlewoods Solicitors, Submission, pp. 1346 and 1349.

108 For a discussion of the possible involvement of a Japanese submarine in the sinking of *Sydney*, refer to Chapter 5.

109 Montgomery, op. cit., p. 181.

110 *ibid.*

111 *ibid.*, pp. 142-143.

112 *ibid.*, photograph no. 22.

113 See Exhibit 30: *The Scientific Investigation of a Carley Float*, Australian War Memorial, 1993.

114 See Chapter 7 for more details of this examination.

and its findings. He has sought to imply that the AWM investigation was not independent or was flawed. In a submission to the inquiry, he stated that:

I would also venture to suggest that a fresh examination be made of the Carley float in the War Memorial by independent experts; although it is marked by some two dozen perfectly circular perforations which could only have been inflicted by bullets rather than shrapnel splinters, the report of the examination carried out in 1993 by the Memorial's scientists concluded that 'no identifiable bullets or bullet holes were found' ...¹¹⁵

6.96 Montgomery's book led to a proliferation of theories supporting his claim of Japanese responsibility for sinking *Sydney*. The book *Betrayal at Pearl Harbour* also contains the claim that 'the only one of the *Sydney*'s life rafts to be found was riddled with bullets, plainly suggesting that her survivors were machine-gunned in the water to ensure that there were no witnesses to the incident'.¹¹⁶ No evidence is provided in the book to support these claims, except for Montgomery's book, whose claims have been the subject of sustained debate and widespread criticism since it was published in 1981.

6.97 Theories about who might have murdered *Sydney* survivors are not limited to Japanese involvement. While Mr Ryding supported the view that *Sydney* survivors were killed in the water and stated that '... the cover up is that it was the Japanese who machine-gunned the HMAS *Sydney* survivors, not the Germans',¹¹⁷ this opinion is contradicted by other views. For example, LCDR McDonald suggested that the Germans, not the Japanese, were responsible for machine gunning *Sydney* survivors in the water after the battle.¹¹⁸

Refutations of the Murdered Survivors Theories

6.98 There were also many submissions to the inquiry which did not support Montgomery's theory about Japanese involvement in murdering *Sydney* survivors. According to one *Kormoran* survivor, Mr Philipp Berhard, in a letter written in 1981, 'The allegation that the crew of the *Kormoran* killed survivors of the *Sydney* is not true and must be rejected as an outrageous insinuation'.¹¹⁹ Mr Berhard, who was in the underwater torpedo room during the battle between *Sydney* and *Kormoran*, states in his letter that:

... a meeting between a Japanese submarine and the *Kormoran* has never occurred, neither before, during or after the battle with the *Sydney*. Therefore, there cannot have been a 'slaughter' of survivors from the *Sydney*. I personally have never had any knowledge of the use of a Japanese submarine during or after the battle with the *Sydney*.¹²⁰

6.99 For those who defend the official history, and refute claims that a Japanese submarine was responsible for sinking *Sydney*, theories about those same Japanese

115 Montgomery, Submission, p. 638.

116 Rusbridger, J and Nave, E, *Betrayal at Pearl Harbour*, Summit Books, New York, 1991, p. 134

117 Ryding, Transcript, p. 151.

118 McDonald, E, Transcript, p. 234, and Submission, p. 552.

119 Exhibit No. 24, p. 2 of translation.

120 *ibid.*

submariners brutally murdering *Sydney* survivors warrant no attention whatsoever. Given the dependence of those theories on the claim that the *Heros* float was riddled with machine gun bullet holes, the findings of the 1993 Australian War Memorial investigation effectively removes the foundation of their argument (see paras 7.37 to 7.39).

6.100 Bearing in mind the findings of the Australian War Memorial investigation, Mrs Glenys McDonald asked that those who do not support the theory that *Sydney* survivors were machine gunned in the water give a measure of understanding to those who do. She wrote that:

Some researchers have been at pains to decry any persons who stated that this carely (sic) float was damaged by machine gun fire in addition to shrapnel damage. One needs to be aware that when *Heros* called into the port of Geraldton, the damaged float was visible for all to see. I assume the same might be said of her arrival in Fremantle. The float looked as if it had received shrapnel and machine gun damage, and indeed this is how it was described to the Australia War memorial by the Commodore-in-Charge, Senior Naval Officer of Western Australia.¹²¹

6.101 Notwithstanding the fact that these misconceptions are founded on honest misunderstandings, the Committee was convinced that the evidence given in the AWM investigation was sufficient to remove any possibility that the float had been damaged by machine gun fire.

6.102 The Department of Defence submission lent support to the argument that *Sydney* survivors were not machine-gunned in the water. It was its contention that :

[The machine gun theory] is a speculative theory with no solid evidence to support it. It has usually been associated with attempts to link Germans with war crimes or justify the lack of survivors from *Sydney*. One solid piece of evidence which does help to counter this theory is the inclusion amongst the survivors of Chinese laundrymen. Had the Germans acted as claimed then these potentially independent and hostile witnesses would not have survived.¹²²

Claims of criminality

6.103 Mr John Doohan, in a submission on behalf of the End Secrecy on *Sydney* Group, recounted his attempts to have a criminal investigation conducted by the Attorney-General into the deaths of the *Sydney* crew, and in particular 17 personnel for whose families Mr Doohan was acting. Mr Doohan indicated he believed the deaths occurred 'in circumstances which prima facie indicate gross criminality of agency/ies still to be positively identified'.¹²³ The office of the Attorney-General indicated that as the Committee's inquiry was underway,

121 McDonald, G, Submission, p. 2310.

122 Department of Defence, Submission, p. 1851. Of the four Chinese on *Kormoran* in November, three survived the engagement. There have been claims of the fourth being murdered on land, but this has not been proved.

123 End Secrecy on *Sydney* Group, Submission, p. 2064.

'Any investigation that the Committee may wish to make is a matter for the Committee'.¹²⁴ Mr Doohan called for a 'clear statement by Committee (sic) that it will specifically investigate the 17 identified deaths in conjunction with the overall 645'.¹²⁵

6.104 The Chairman of the Committee responded to Mr Doohan in February 1998 indicating that the Committee did not propose to treat the deaths of those 17 named persons any differently from the rest of the ship's complement. The Chairman also noted that, depending on the conclusions and recommendations of the Committee, it will be a matter for the Attorney-General to consider any future requests for such an investigation.

6.105 On the evidence before it, the Committee can see no justification for a criminal investigation into the deaths of the *Sydney* crew, as called for by Mr Doohan. The deaths occurred as a result of a wartime engagement, and while there were no Australian survivors to provide an account of the battle, there was no evidence presented to the Committee to suggest that any agencies or individuals acted in a 'criminal' manner.

6.106 The Committee also notes that Captain Detmers' record in both the Atlantic in early 1941 and later in the Indian Ocean does not support accusations of criminal behaviour. While *Kormoran* accounted for 12 ships and there was some loss of life during attempts to stop those vessels or prevent them from signaling, Captain Detmers took crew from the ships on board after each encounter.¹²⁶ Frame notes in his book that 'His [Detmers] treatment of prisoners appeared to be humane and considerate'.¹²⁷

6.107 Several submissions also referred to the deaths of at least 75 *Kormoran* crew, and suspicions held that the injured from that ship were all placed on one lifeboat which subsequently capsized, to avoid them being interrogated, thus telling a different story from that agreed by the Germans.¹²⁸ The Committee has also found no evidence to support these suspicions.

Was an Inquiry Held?

6.108 In the aftermath of the tragedy, and before the official history was released in 1957, several reports were written about the loss of *Sydney*. The Dechaineux Report (completed on 16 January 1942),¹²⁹ the Eldridge Report (submitted to the Director of Naval Intelligence on 28 January 1942)¹³⁰ and finally the nine page Westhoven Report (1945), all endeavoured to shed light on the fate of *Sydney*. However, no report of a formal inquiry has been located, and doubt exists as to whether such an inquiry was in fact held.

124 Quoted in *ibid.*, p. 2109.

125 *ibid.*, p. 2064.

126 Winter, *op. cit.*, pp. 37-101; Frame, *op. cit.*, pp. 45-79

127 Frame, *op. cit.*, p. 56

128 See for example, Ryding, Transcript, p. 144; McDonald, E, Submission, p. 529.

129 Frame, referred to in Summerrell, *op. cit.*, p. 28.

130 *ibid.*, p. 24.

6.109 In his guide to Commonwealth records, Richard Summerrell states that:

No records of anything that could be described as a 'full inquiry' have been found. A large number of consolidated reports of the searches and interrogations exist, many of which were submitted to the Naval Board, but nothing that could be considered a comprehensive review or inquiry, formal or otherwise, into all the evidence and circumstances surrounding the *Sydney's* loss.¹³¹

6.110 While no concrete evidence of a court of inquiry has ever been found, Richard Summerrell pointed out that 'there is, however, one puzzling reference to a "Court of Enquiry" in the records of the Advisory War Council. This occurred at a meeting of the Council on 18 March 1942'. The minutes of this meeting note that:

In reply to an enquiry by the Prime Minister, the Chief of Naval Staff said that a Court of Enquiry had investigated the circumstances surrounding the loss of HMAS *Sydney*.¹³²

6.111 The minutes of the Advisory War Council Meeting of 18 March 1942 go on to describe the conclusions of the aforementioned Court of Enquiry, which were that:

The *Sydney* had worked into a position approximately 1500 yards from the raider. The raider opened fire and launched two torpedoes, one of which hit the *Sydney*. The raider had given a wrong name and was not on the daily list. The Captain of the *Sydney* was 24 hours late in arriving at his rendezvous and had taken a risk in getting so close to the raider. In doing so he had not followed his orders. Further, the Gunnery Officer of the *Sydney* was not ready. He should have been able to fire first and get in two salvos before the raider attacked.¹³³

6.112 It would appear from these minutes that the conclusion of the War Advisory Council was that the blame rested with Captain Burnett, first for taking a risk in bringing the *Sydney* in too close to the raider, and secondly, for not following orders. The minutes reflect the 'official' belief that a lack of preparedness (rather than any clandestine outside intervention) is what led to the loss of *Sydney*.

6.113 There is some doubt as to what investigations were being referred to by the Chief of Naval Staff when he said a court of inquiry had been held. One view held that 'The only other identified source that may be the basis of the Chief of Naval Staff's reference to a 'full inquiry' [into the loss of *Sydney*] is an investigation apparently carried out by Commander Emile Dechaineux, an officer of the Directorate of Naval Intelligence who was seconded to assist with the interrogations in Western Australia'.¹³⁴ It was suggested to the Committee that pages were missing from the Dechaineux Report.¹³⁵ However, in his last submission to the inquiry, Mr Wes Olson stated that '[although] I thought that there were pages missing from this document ... after careful scrutiny, I have found that the document, including the 'Interim

131 *ibid.*

132 *ibid.*, p. 23.

133 *ibid.*, p. 25.

134 *ibid.*, p. 24.

135 Olson, Submission, p. 4198.

Report', is complete. Dechaineux ... appears to have had the confusing habit of not numbering the first page [of his reports]'.¹³⁶ The final report has never been found.

6.114 In his guide to Commonwealth records, Mr Summerrell cites what he calls 'the nearest to what might be called a systematic examination of the evidence' – a report by Mr F B Eldridge, a senior master on the teaching staff at the Royal Australian Naval College.¹³⁷ Mr Eldridge examined existing material, and his report was approved by the Chief of Naval Staff on 6 February 1942.¹³⁸

6.115 This report was criticised in one submission to this inquiry, in which it was claimed that 'The Eldridge Report, compiled almost single-handedly from the Western Australian interrogation "evidence", embodied all the German fabrications and "red herrings". It was, nevertheless, unquestioningly "accepted" by Military Intelligence Systems and Governments of Australia, Britain and Canada. The Eldridge Report ... is the first officially "accepted history" of [the] loss of *Sydney* and her 645 crew'.¹³⁹ However, as Mr Olson indicated:

Generally, the report prepared by Eldridge shows how [*Sydney*] was lost but not why. The naval board did not seem to come to any sound conclusion as to why *Sydney* was lost ... While the Eldridge Report says 'This is what happened, and we have got reason to disbelieve the Germans', there is no explanation as to why the vessel was lost. There is no criticism of the procedures, Admiralty instructions, how the vessel was commanded or whom it was commanded by, so I think there should have been a board of inquiry.¹⁴⁰

6.116 Regarding the likelihood of a court of inquiry, Mr Eneberg observed:

The Chief of Naval Staff must not make casual remarks at a meeting with the heads of government and this meeting was chaired by the Prime Minister himself, so a court of inquiry must have been held, although no evidence of one has surfaced. There has to be a large box somewhere holding all these missing documents.¹⁴¹

6.117 On the available evidence, it is not possible to prove that a court of inquiry into the circumstances surrounding the loss of *Sydney* actually took place. Anecdotal evidence suggests that one may have been conducted, however, no documentary evidence exists to support this claim. As Mr Olson pointed out:

If the Eldridge Report was the 'final' report into the loss of HMAS *Sydney*, it would be logical to assume that such a report would have been used in evidence at a Board of Inquiry. However, it is conceivable that on the strength of the Eldridge Report, the Naval

136 *ibid.*

137 Summerrell, *op. cit.*, p. 24.

138 *ibid.*

139 End Secrecy on *Sydney* Group, Submission, pp. 3001-3002.

140 Olson, Transcript, p. 212.

141 Eneberg, Transcript, p. 413.

Board decided not to convene a Board of Inquiry into the loss of the *Sydney*.¹⁴²

6.118 However, if an inquiry was indeed held, Mr Olson noted:

... a copy of an Admiralty fleet order issued in December 1939 [which read]: 'Reports of boards of inquiry held to investigate losses of, or damage to, HM ships, other than small craft, by enemy action, are to be rendered to the admiralty in duplicate'. And this is 1939 and it applied to all HM ships, including Australian ships. It would be logical to assume that an inquiry was conducted for the loss of the *Sydney*. The Royal Navy conducted two boards of inquiry into the loss of the *Hood*. The sister ship of the *Sydney*, HMAS *Hobart*, was torpedoed in July 1943, and a board of inquiry was conducted into how she was damaged.¹⁴³

6.119 Inquiries were also held into the loss of *Perth* and *Canberra*. Given that it seems to have been common practice to conduct formal inquiries when HM ships were lost, it seems highly likely that this practice would have been implemented following the loss of *Sydney*. As noted earlier (para 3.16) the British Ministry of Defence has confirmed that no report of such an inquiry is held by the Ministry. However, the possibility remains that the report may be on files held by the British Public Record Office.

6.120 The Committee recommends that:

2. **a search be undertaken by the Australian Government at the Public Record Office in London for any records of a court or board of inquiry report into the loss of HMAS *Sydney*.**

142 Olson, Submission, p. 4198.

143 Olson, Transcript, p. 205.

Table 6.1: People and Debris Recovered after the Engagement, November 1941¹

Date	Description	Found by	At:
23 November 1941	26 Germans in a raft	HT <i>Aquitania</i>	24°35'S, 110°57'E (approx. 100 nm off the coast of Carnarvon)
24 November 1941	25 Germans in a raft	MV <i>Trocas</i>	24°06'S, 111°40'E ² (120 nm North West of Carnarvon).
24 November 1941	Lifeboat with men in it.	Sighted by an aircraft, and picked up by HMAS <i>Yandra</i> on 27 November (see separate entry)	24°52'S, 111°05'E
24 November 1941	Lifeboat containing 46 men	Sighted by aircraft	17-Mile Well, Quobba Station.
25 November 1941	Lifeboat containing 57 men, landed.	Sighted by aircraft	Red Bluff, North of Carnarvon.
26 November 1941	1 lifeboat ³ containing 62 from the <i>Kormoran</i> (61 Germans and 1 Chinese) ⁴	SS <i>Centaur</i>	24°30'S, 111°35'E
26 November 1941	31 Germans in a lifeboat	<i>Koolinda</i>	24°07'S, 112°47'E
27 November 1941	Lifeboat containing 70 Germans and 2 Chinese	HMAS <i>Yandra</i> . MV <i>Herstein</i> was also in the vicinity but was ordered to stand clear while <i>Yandra</i> picked up survivors ⁵	24°59'S, 112°22'E
27 November 1941	RAN type life belt	HMAS <i>Wyrallah</i>	In vicinity of 24°22'S, 110°49'E
27 November 1941	British life belt	<i>Evagoras</i>	23°06'S, 110°47'E ⁶

28 November 1941	Foreign life belt, 2 foreign type carley floats, and 1 dead German	HMAS <i>Wyrallah</i>	In vicinity of 24°10'S, 110°54'E
28 November 1941	RAN type carley float; a green box resembling a dog box was also sighted; a linseed oil patch was also noted in the area.	HMAS <i>Heros</i>	24°07'S, 110°58'E
28 November 1941	Oil patch	Sighted by a Catalina and investigated by <i>Wyrallah</i> but not located	23°49'S, 110°10'E

NOTES:

- 1 Compiled from Australian Archives, *Guide to Commonwealth Records No 3: The Sinking of HMAS Sydney*; Montgomery, op cit., Winter op cit., Frame, op cit., Hardstaff, Submission, p. 76.
- 2 This position is disputed by CMDR Hardstaff who believes the correct longitude to be 110° 40'E. CMDR Hardstaff's correction has been accepted by a number of other researchers. Hardstaff, Submission, p. 76.
- 3 There is confusion in some reports on the number of life boats. While the Germans were discovered in one boat, and put under tow, it started to leak. The captain of the *Centaur* then had two life boats lowered, and the Germans transferred into them. Hence, reports of the *Centaur* with two boats in tow as she approached port (See Winter, op cit., pp. 166-168).
- 4 There is also confusion on the exact number of men rescued from the *Kormoran*. Estimates range from 315 to 317 crew, and three of four Chinese who were on board. The confusion appears around the figures for *Centaur* and *Yandra*. Winter's estimate is for 316 Germans and 3 Chinese crew rescued, with 61 Germans and 1 Chinese on *Centaur*, and 70 Germans and 2 Chinese on *Yandra* (p. 254). Frame is less exact, indicating that 'HMAS *Yandra* recovered a further seventy German sailors' (p. 8) with an overall total of 314 Germans and 3 Chinese recorded (Frame, p. 95). Richard Summerrell indicates there were 315 Germans and 3 Chinese rescued: 60 survivors picked up by *Centaur* and 72 by *Yandra* (of whom 2 were Chinese) (Australian Archives Guide, pp. 47, 127).
- 5 See Winter, op cit., p. 170.
- 6 Hardstaff gives a slightly different position for this, namely 24°06'S, 110°49'E (Submission, p. 76). Another submission has challenged this position totally, (see Templeton, Transcript, p. 474).

CHAPTER 7

THE UNKNOWN SAILOR

*There are probably very few parents of sailors who were lost on HMAS Sydney who are still surviving but there are many wives, children, brothers, sisters and other relatives who are. They are part of the Sydney family and most would wish to know the identity of the sailor on Christmas Island.*¹

7.1 On or about 6 February 1942 a carley float,² containing a corpse, was recovered off Christmas Island in the Indian Ocean. The body was partly decomposed and clothed in a blue boilersuit which had been bleached white by exposure. A shoe or boot was also found in the carley float, and the island doctor believed that it did not belong to the deceased. The body was examined by the doctor, who found that it was the body of a white male, but as there were no personal effects or identifying items on the body, his identity could not be determined. After examination the remains were interred in an grave in the old European cemetery on Christmas Island. The burial was conducted with 'military honours'.³

7.2 Mr J C Baker, who had been in charge of the Radio Station on Christmas Island, indicated that when he left Christmas Island on 17 February 1942, 'an inquest, which had been delayed owing to illness of an official, was in progress. A full report is to be forwarded to Australia as soon as this inquest is concluded'.⁴ It is not known whether the report of the inquest was ever forwarded to Australia, as no inquest report or autopsy report has ever come to light. Christmas Island was overrun by Japanese Forces on 31 March 1942. Whether records of the body were destroyed during this period, or whether they were removed and later lost, is not clear.

7.3 For many who made submissions to this inquiry, the body on Christmas Island was a central concern. If the body was indeed that of one of HMAS Sydney's crew, there was a strong feeling that it should no longer lie in an unmarked grave in a remote part of the Indian Ocean. For some, the body on Christmas Island symbolised what they felt had been the neglect of the Sydney and her crew, and was a condemnation of the government's inactivity:

... the grief of the surviving relatives still forms a large part of at least many of them ... There is a sense of frustration within the community that the navy has not revealed the full circumstances surrounding the deaths of the crew of HMAS Sydney. There is a mixture of hope and despair that the body on Christmas Island may be a relative, and ... the

1 McGowan, Submission, p. 897.

2 Named after Carley in England, where they were originally manufactured. Defence advised that the term carley float is often used generically, and hence it has been written in lower case throughout this report (Department of Defence, Transcript, p. 13).

3 Department of Defence, Submission, p. 1854.

4 Shipping Intelligence Report No 137/1942, reproduced in Department of Defence, Submission, p. 1964.

country for whom that relative has given his life is so unfeeling, unbending, contemptuous or irreverent as to ignore the compelling evidence and not be bothered to carry out a proper investigation so that the deceased sailor's remains should/could be identified.⁵

7.4 The Committee's Terms of Reference required that it specifically address:

... the practicability of accurately locating the grave of an alleged body from HMAS *Sydney* which was allegedly buried on Christmas Island; [and] the identification of any scientific procedures now available which could verify the identity of human remains alleged to be those of a crewman of HMAS *Sydney* buried on Christmas Island if and when such remains were located.

7.5 As a preliminary to addressing those two issues, the Committee felt that it was necessary first to establish whether or not, on the balance of probability, the body came from HMAS *Sydney*. If this could not be determined satisfactorily, the issue for consideration was then whether there was any other basis on which to seek an exhumation.

7.6 In examining this issue, as indeed with many of the issues raised in this inquiry, the question of standard of proof was central. As one submission argued:

[To] demand ... a 'definite link' implies proof beyond reasonable doubt, a standard demanded by law in a criminal prosecution but one, which ... should not have to be met in an inquiry of this nature. To apply such a high standard would make the task of the Committee impossible. I respectfully suggest that the Committee is obliged to examine all relevant material and then attempt to reach a conclusion by saying that, on balance, it is more likely e.g. that situation (a) happened rather than did situation (b).⁶

7.7 The Committee was conscious of comments such as these in conducting the inquiry, and as noted in the introduction to this report, has sought to determine what a reasonable person would believe and has looked at the balance of probabilities.

Origins of the Carley Float

7.8 Contemporary accounts of the discovery of the body indicate that it was thought by many at the time that the carley float and body had originated from HMAS *Sydney*. After the war, the Director of Naval Intelligence, Captain G C Oldham, investigated the matter. His brief report,⁷ noted that '... the clothing found on the corpse could possibly have been that of an R.A.N. rating', however 'it seems reasonably certain from the particulars given of the covering of the Carley Float that the Float did not belong to an H.M.A. Ship'. On this basis, Captain Oldham concluded that the carley float was 'not ex H.M.A.S. *Sydney*'.

5 Heazlewoods Solicitors, Submission, p. 1419.

6 McGowan, Submission, pp. 890-891.

7 The report is reproduced in a number of submissions. See for example, Heazlewoods Solicitors, Submission, p. 1482 and Department of Defence, Submission, p. 1957.

7.9 This appears to have been the end of the matter as far as Navy and indeed the Department of Defence were concerned. There is no record of other investigations having been made, and the Department of Defence has maintained the position that 'Given the lack of further details it is difficult to come to any definitive conclusion on the origins of the Christmas Island carley float'.⁸

7.10 Gill indicated that it 'was at first thought that [the body] might be from *Sydney*, but in the early post-war years, and after detailed investigation of all reports and descriptions of the float and its occupant, the Director of Naval Intelligence at Navy Office (then Captain Oldham, RAN) concluded that this could not be so'.⁹ This view has been challenged by a number of researchers and interested parties, with many claiming that the evidence overwhelmingly supports the carley float being from *Sydney*.

7.11 Michael Montgomery, in his work on the *Sydney*, implies that the carley float sighted off Christmas Island was from the same source as the carley float recovered by the *Heros*, i.e. from *Sydney*.¹⁰

7.12 Barbara Winter was more explicit, arguing that:

The float did not materialise out of thin air. It came from a ship sunk in the Indian Ocean about November 1941, off the coast of Western Australia; a ship which had been shelled, and from which men were missing; a ship with an Australian-made, naval pattern Carley float. It came from *Sydney*. ... In an unnamed grave at Flying Fish Cove, beneath the soaring cliffs of Christmas Island, lies the only man from HMAS *Sydney* to find a grave ashore.¹¹

7.13 Among the more recent accounts of the loss of *Sydney*, Tom Frame has been the only one to doubt that the body and the carley float originated from that ship. Frame argued that:

There were no marks on the float which linked it to *Sydney*; its association with *Sydney* from the outset was only circumstantial. ... It remains the responsibility of those who assert that the float originated from *Sydney* to prove conclusively that [the condition of the items found] ... is consistent with its purported origins and that, furthermore, it discounts other possibilities.¹²

However, in the second edition of his book, released in July 1998, Frame indicated he was 'now inclined to believe the float was from *Sydney*' while contending that more work needs to be done in establishing a direct material connection between the float and *Sydney*.¹³

7.14 In submissions to this inquiry, debate about the possible origins of the carley float has revolved largely around three key points:

8 Department of Defence, Submission, p. 1856.

9 Gill, op. cit., pp. 459-460.

10 Montgomery, op cit., p. 142.

11 Winter, op. cit., p. 241.

12 Frame, op. cit., pp. 203-204.

13 Frame, op. cit., 2nd edition, Preface, p. xii.

- the oceanographic conditions that would have affected a carley float adrift in the Indian Ocean;
- whether there were other ships in the area from which the carley float might have been lost; and
- the physical characteristics of the float.

Each of these will be examined in turn in this section, before considering the question of location of the body and exhumation.

Oceanographic Factors

7.15 Was it possible for a carley float, lost from the reputed site of the battle, to have reached Christmas Island by early February 1942? For those who argue that the Christmas Island carley float was from HMAS *Sydney*, the work of Dr John Bye, an oceanographer at the Flinders Institute for Atmospheric and Marine Research, Flinders University of South Australia, is of particular interest. On 7 October 1994, 943 drift cards were released near the supposed site of the sinking of HMAS *Sydney* (27°3'S, 111°3'E). As of January 1997, nine cards had been reported – one found in June 1995 on South Island, Cocos (Keeling) Islands, three on the coast of Kenya, one each on the coasts of Mauritius, Zanzibar and Tanzania, and two in Kwa Zulu Natal province, South Africa.¹⁴

7.16 Based on the cards recovered, Dr Bye has reached the following conclusions:

- the cards recovered indicate an anticyclonic drift pattern, northward to the vicinity of Cocos (Keeling) Islands, westward towards East Africa, and then southward down the African coast; and
- the results of the drift card experiment strongly support the possibility that a drifting object from the site of the sinking of HMAS *Sydney* could have arrived at Christmas Island.¹⁵

7.17 The card that was found on Cocos (Keeling) Islands was not found until June 1995, some eight months after its release. Dr Bye accounts for the longer time compared with the carley float as follows:

- (a) the drift card release was about a month earlier in the year than the sinking of HMAS *Sydney*;
- (b) the track of the cards may have passed by Christmas Island one or two months before arrival off Cocos (Keeling) Islands;
- (c) the apparent transit time from Cocos (Keeling) Islands to the Kenyan coast was very short, which suggests that the card found on Cocos (Keeling) Islands may have arrived well before it was discovered;

14 Exhibit No. 9, Table 1.

15 Exhibit No. 9.

- (d) there is the possibility that the carley float may have been propelled by its crew towards the coast of Western Australia in the early hopeful days of its journey.¹⁶

7.18 Dr Bye's findings from this experiment, are reinforced by the recovery of a drift card, released in December 1969 in a previous Southern Ocean experiment, at 40°00'S, 111°32'E, which was found on 10 January 1971 on Dolly Beach, Christmas Island.¹⁷

7.19 The work of Dr Bye is supported by a study by Professor Matthias Tomczak, Professor of Oceanography at Flinders University, who found:

The location [of the wreck site] ... is sufficiently west of the continental slope and thus outside the reach of the Leeuwin Current, which in November is at its weakest. From these general conditions it can be concluded that any raft set adrift from HMAS *Sydney* before it sank would most certainly have drifted northward. ... In summary, there is little doubt that a carley raft released at a position near 26°30'S, 111°00'E in mid-November, drifts northward at least to about 20°S. Thereafter the drift of the raft depends on a number of factors. It is possible for the raft to reach Christmas Island by February, particularly if the raft's exposure to the current is minimal and its drift is mainly determined by the wind. It is therefore not unreasonable to assume that the carley raft retrieved at Christmas Island ... could have reached the island after having been released at a position near 26°30'S, 111°00'E in mid-November.¹⁸

7.20 CMDR R J Hardstaff, former Deputy Hydrographer RAN, also supported the theory that the carley float that was found off Christmas Island was from HMAS *Sydney*.¹⁹

7.21 In a paper attached to its original submission, the Department of Defence posed two questions – could an object originating near 24°S, 111°E on 19 November arrive at Christmas Island in early February; and what other possible points of origin could there be for such an item?²⁰ In response to the first question, the paper found '... it is possible for an object released off the west coast of Australia to be carried to the vicinity of Christmas Island by currents within three months in the early part of austral summer's monsoon period'.²¹ On the basis of this evidence, the Committee rejects the view put by Professor Creagh that '... none of the meteorological conditions prevailing at that time would lead to an expectation that the float could have drifted towards Christmas Island'.²²

7.22 While acknowledging also that the results of the drift experiments 'tend to support the theory that an object could have drifted from the location of the battle to Christmas Island'

16 Exhibit No. 9a.

17 Exhibit No. 11a, p. 3.

18 Tomczak, Professor M, reproduced in Exhibit No. 11a.

19 Hardstaff, Transcript, p. 446.

20 *Oceanographic Conditions near Christmas Island, November through February*, Attachment O to Department of Defence, Submission, pp. 1968-1971.

21 *ibid.*, p. 1970.

22 Creagh, Submission, p. 1012.

the Department of Defence indicates there are at least four other possible points of origin for the float:

- Java Sea;
- Banda Sea;
- Timor Sea/North West Shelf; and
- West-Northwest of Christmas Island.

The Department concludes that 'the source area of the float could not be determined with certainty'.²³

7.23 The Committee believes that the Department of Defence would have to mount a more thorough case than that presented in its submission to support the view that there are four other points of origin for the float. No comparable study to the drift card study undertaken by Dr John Bye appears to have been undertaken by Defence. A detailed hydrographic assessment of currents in each of the four areas, together with the locations of the putative source of the carley float (either a damaged or sunk vessel) would seem a prerequisite to making such assertions.

7.24 However, if the Department of Defence is correct in its assertion that there are four other possible geographic sources for the carley float, the question then to be asked is, if the carley float originated in one of these areas, from what vessel did it come?

Could the Carley Float have come from a Ship other than *Sydney*?

7.25 In its submission, the Department of Defence indicated that it believes that the float may have originated from any one of 11 merchant ships and 11 naval vessels sunk in the broad area of the Indonesian archipelago in the period June 1941 to February 1942.²⁴ In addition, Defence noted:

During the period leading up to the Japanese occupation of Singapore and the Netherlands East Indies large numbers of craft attempted to flee the region to Australia. Many were lost. No records are known to exist giving details of these craft or their occupants and it is possible the float may have originated from one of them.²⁵

7.26 However, Mrs Rosslyn Page has conducted an extensive review of shipping that might possibly have been the source for the carley float, examining not just the 21 ships nominated by Defence, but over 100 ships including:

- all Allied and Axis warships sunk in the Indian Ocean, at or south of the Equator, before 6 February 1942;
- all Allied, Axis and Neutral merchant ships sunk, scuttled or seized in the Indian Ocean at or south of the Equator, before 6 February 1942;

23 Department of Defence, Submission, p. 1857.

24 *ibid.*, p. 1856.

25 *ibid.*

- all Allied and Axis warships sunk at or south of the Equator, before 6 February 1942, in South East Asian seas;
- all Allied, Axis and Neutral merchant ships sunk, scuttled or seized at or south of the Equator, before 6 February 1942, in South East Asian seas;
- all warships sunk at or north of the Equator, before 6 February 1942, in South East Asian seas;
- all merchant ships sunk, scuttled or seized at or north of the Equator, before 6 February 1942 in South East Asian seas; and
- loss of crew-members (where known) from Allied and Axis warships and crew-members and/or passengers from merchant ships, sunk, scuttled or seized before February 1942.²⁶

7.27 Mrs Page concludes from her work that 'the only Allied warship sunk in the Indian Ocean, *at or south* of the Equator between 1939 and before 6 February 1942, equipped with a Carley float manufactured to RAN specifications and marked "LYSAGHT DUA-ANNEAL ZINC. MADE IN AUSTRALIA" ... was HMAS *Sydney*'.²⁷

7.28 A suggestion made to the Chairman of the Committee, that the body may have originated from a convoy during 1940-1941,²⁸ was also examined by Mrs Page and discounted. As Mrs Page pointed out, the carley float recovered off Christmas Island was 'riddled with shrapnel', indicating it had been in proximity to a battle, rather than the result of someone going overboard.²⁹

7.29 Several vessels were not covered by Mrs Page's review, but Dr John Bye, using the drift current patterns of the region and the required average speed for debris to arrive at Christmas Island from the position given for each sinking, reached the following conclusion: 'that there are NO listed ships (except for HMAS *Sydney*) which could have been a source for the Christmas Island Carley Float'.³⁰

7.30 A summary of those vessels identified by Defence, and comments by Mrs Page and Dr Bye are in Table 7.1.

26 Page, Submission, pp. 690-792.

27 *ibid.*, p. 3685.

28 Referred to in letter on behalf of Mr Eric Krake and Mr Ed Krake, in Knight, Submission, pp. 3313-3315; Knight, Transcript, p. 388, and by Chairman in Transcript, p. 378.

29 Page, Submission, p. 3915.

30 Bye, quoted in Page, Submission, p. 3697.

Table 7.1 Comparison of Vessels as Possible Source for Carley Float³¹

Name of Ship	Date Lost	Location	Comments³²
<i>Velebit</i>	26.6.41	10°N, 88°E	Current drift towards Malacca Strait.
<i>Perekop</i>	18.12.41	Near Senoa, Natuna Island, Dutch East Indies	As for <i>Banka</i> . Also too fast. ³³
<i>Kwangtung</i>	4.1.42	09°12'S, 111°10'E	Carley floats did not form part of her peacetime equipment; <i>Kwangtung</i> never visited Australia. ³⁴ However, possibility of drift towards Christmas Island.
<i>Baynain</i>	11.1.42	Off Tarakan, Dutch East Indies	Captured. Too fast.
<i>Jalarajan</i>	14.1.42	00°12' S, 97°E	Current drift westward away from Christmas Island.
<i>Senang</i>	16.1.42	01°15' N, 104°50'E	As for <i>Banka</i> . Also too fast.
<i>Eidsvold</i>	20.1.42	Off Christmas Island	All 31 crew saved. ³⁵
<i>Zannis L Cambanis</i>	21.1.42	01°15'N, 104°31'E	As for <i>Banka</i> . Also too fast.
<i>Taisang</i>	24.1.42	00°55'N, 103°35'E	As for <i>Banka</i> . Also too fast.
<i>Harpa</i>	27.1.42	Main Strait, Singapore	Main Singapore Strait, (1°15'N, 104°00'E). As for <i>Banka</i> . Also too fast.
<i>Giang Seng</i>	29.1.42	Dutch East	Not recorded in Lloyd's War Losses, but Dutch sources indicate vessel not sunk until 2 March 1942.

31 Department of Defence, Submission, p. 1856. All positions are as given in this submission.

32 Drawn from Page, Submission, pp. 740-790 and Bye, Dr J, *Possible Origins of the Christmas Island Carley Float – An Oceanographical Assessment of Sources Other than HMAS Sydney*, Exhibit No. 37.

33 'Too fast' refers to a comparison of the 'required average speed' for the arrival of debris at Christmas Island, given the position and date of sinking. In the event that this speed was greater than the mean current speed on the direct path between the sinking site and Christmas Island, the ship was excluded as 'too fast' (Exhibit No. 37, p. 3).

34 Page, Submission, pp. 740-741.

35 *ibid.*, p. 748.

		Indies	Sunk near Surabaya, situated on the Madura Strait which opens onto the Java Sea (not the Indian Ocean). ³⁶
<i>Sydney</i>	19.11.41	26°S, 111°E (est)	
<i>Prince of Wales</i>	10.12.41	3°34'N, 104°26'E	Debris from the ship was subject to the clockwise gyres of Northern Hemisphere Oceans and the Equatorial Counter Current, which flows West at and to approx. 7° north of the Equator. Opposing currents South from Sunda Strait to Christmas Island.
<i>Repulse</i>	10.12.41	3°37'N, 104°21'E	As for <i>Prince of Wales</i> .
<i>Kampar</i>	13.12.41	Penang	As for <i>Banka</i> . Also too fast and opposing currents in Malacca Strait.
<i>Banka</i>	10.12.41	East Coast of Malaya	At or North of the equator, between 0° and approximately 7°N, the Indian Counter Current flows west. Debris (if any) would have to negotiate the various Straits and localised currents, to come into the Indian Ocean. ³⁷
<i>Kudat</i>	30.12.41	Port Swettenham	Lloyds reported the loss of Kudat as occurring on 10 January 1942. Flow of debris: see comments for <i>Banka</i> . Also too fast.
<i>Prins van Oranje</i>	11.1.42	South of Boengoe Island, Tarakan	Too fast.
<i>Thanet</i>	27.1.42	2°40'N, 103°42'E	Subject to the same forces which governed the ocean currents as for <i>Repulse</i> and <i>Prince of Wales</i> . Also too fast.
<i>Kelana</i>	16.1.42	Malaya	As for <i>Banka</i> . Also too fast.
<i>Larut</i>	22.1.42	East Coast of Sumatra	Crew saved. ³⁸ Also too fast, and opposing currents.
<i>Raub</i>	22.1.42	East Coast of Sumatra	Crew saved. ³⁹

36 *ibid.*, p. 762.

37 *ibid.*, p. 768.

38 *ibid.*, p. 789.

39 *ibid.*, p. 786.

7.31 A similar exercise in examining the ships listed by the Department of Defence as possible sources of the carley float was undertaken by the former Deputy Hydrographer RAN, CMDR R J Hardstaff RAN (Retd). He examined the location and date each ship was sunk, the shortest distance in nautical miles to Christmas Island, the days between sinking and the arrival of the carley float at Christmas Island, the miles needed to be covered per day, and the drift rate. Taking into consideration which vessels would be likely to carry naval carley floats similar to that found off Christmas Island, CMDR Hardstaff concluded that 'serious consideration should be given to HMAS *Sydney* only'.⁴⁰

7.32 It has also been claimed that the carley floats were an accountable item,⁴¹ and records kept of floats lost during this period. However, other evidence has suggested that such floats were 'a throw-away item', replaced as necessary.⁴² There was also the suggestion that the float may have originated from a Defensively Equipped Merchant Ship (DEMS), which sometimes carried carley floats. However there were no known DEMS lost in the Indian Ocean at that time from which the float might have come.⁴³

7.33 It is apparent from an examination of Table 7.1 that while a number of the vessels listed by the Department of Defence are most unlikely as possible sources of the carley float, not all of the vessels can be ruled out. The Committee believes that while it is not possible, on this basis, to prove conclusively that the carley float originated elsewhere than the *Sydney*, it is also not possible to discount the view that the carley float may have come from the *Sydney*.

The Nature of the Carley Float

7.34 The description given by Captain J R Smith, Harbour Master from Christmas Island of the carley float was as follows:

In Captain Smith's opinion, the Carley float in question was undoubtedly of Naval pattern. The wooden decking was branded with the word 'PATENT' and one hole, apparently caused by a bullet was found in this decking.

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

The inside framework, also the divisions between the buoyancy tanks were branded as follows:-

LYSAGHT DUA-ANNEAL ZINC. MADE IN AUSTRALIA
INSIDE.

40 Hardstaff, Submission, pp. 3955-3956.

41 Heazlewoods, Submission, p. 1420.

42 Department of Defence, Transcript, p. 13. See also Australian War Memorial, Transcript, p. 103: 'They were not part of the ship's equipment. It was at the discretion of the captain to take on whatever equipment like that he could'.

43 Olson, reproduced in Heazlewoods Solicitors, Submission, p. 1692.

All the roping attached to the float had a red yarn running through the strands.⁴⁴

7.35 While substantially agreeing with this description, Mr J C Baker also added that the float was marked No. 2 on the outside covering. His recollection of the inscription varied slightly, and was 'MADE IN N.S.W. ANNEALED ZINC INSIDE'.⁴⁵ Both men referred to marine growth on the float, indicating that it had been in the water for some time.

7.36 It is believed that part of the carley float was taken by Captain Smith to Fremantle in late February 1942 and that it was given to naval authorities who reportedly agreed that it came from an Australian ship.⁴⁶ There are no records pointing to the fate of the remains of the carley float, and most assume that it has been destroyed in the intervening period.

7.37 Captain Oldham based his findings that the float was not from *Sydney*, largely on the physical description of the carley float. A second carley float, found by naval auxiliary *Heros* during the search for *Sydney* in November 1941, has survived and is currently in the collection of the Australian War Memorial (AWM). The Department of Defence accepts that 'there is very strong evidence to suggest that it came from the *Sydney*'.⁴⁷ The AWM float was subjected to extensive scientific analysis, the report of which was published in 1993.⁴⁸ In summary, that investigation found:

The extensive damage to the float appears to have been caused by particles of shrapnel from at least one high-explosive shell detonating on or near the main structure of the ship and ricocheting into the float. There is no evidence of damage by small arms fire. Nor does the exterior structure of the float have any heat or burn marks to indicate that it was exposed to the fires reported to have broken out on *Sydney*.⁴⁹

and

The *Sydney* was described by Detmers as ... 'a mass of flame' ... If Detmers' account is accepted it supports our speculation that the float was not on the *Sydney* at the time of which he was speaking, and probably was damaged and either blown or washed overboard some 15 minutes earlier during the action before the *Sydney* passed behind the *Kormoran*.⁵⁰

7.38 The report also noted that other damage to the float 'has been caused by early investigative techniques and as the result of being on "open" display from 1942 to 1960'.⁵¹ In

44 Shipping Intelligence Report No. 137/1942, 25/2/1942, S/S "ISLANDER" from Christmas Island. Reproduced in Department of Defence, Submission, p. 1962.

45 Shipping Intelligence Report No. 137/1942, 23.2.1942, M/V "HERMION" from Christmas Island. Reproduced in Department of Defence, Submission, p. 1964.

46 Based on reports from Mrs J Smith, contained in Department of Defence, Submission, p. 1854.

47 Department of Defence, Transcript, p. 13.

48 Ashton, Challenor and Courtney, *The Scientific Investigation of a Carley Float*, Technical Paper of the Australian War Memorial No. 1 (November 1993), Exhibit No. 30.

49 *ibid.*, p. 8.

50 *ibid.*, p. 27.

51 *ibid.*, p. 24.

regard to the often repeated accusations that the Germans machine-gunned Australian survivors, the following comment in the scientific investigation report is of note:

If, as proposed, the float was shot at by machine-guns, any projectiles from the German weapons then in use would be expected to have penetrated the relatively soft body of the float with clean entry and exit holes. No such holes were found and nothing discovered and removed from the Carley float has any morphological or metallurgical resemblance to the type of machine-gun bullets that could have been used during the naval action in November 1941.⁵²

7.39 The Committee notes with concern that, despite this clear indication of an absence of bullets, a number of submissions still continue to describe the carley float as 'heavily marked by bullet perforations', holding to the theory that its occupants were machine-gunned.⁵³

7.40 A comparison of the descriptions of the Christmas Island float and the float in the AWM is not conclusive, although there are a number of similarities. The comparison is summarised in Table 7.2. On the basis of this comparison, the Department of Defence believes that 'Given the lack of further details it is difficult to come to any definitive conclusions on the origins of the Christmas Island carley float'.⁵⁴

7.41 In looking at the descriptions, Mr Wes Olson noted that the red yarn in the rope indicated that it was navy issue rope, or Admiralty rope. Further, the numbering of the float is not inconsistent with it coming from *Sydney*, as there is evidence that Captain Burnett had the rafts numbered on the ship (as reflected in the number 5 on the float in the Australian War Memorial). Mr Olson also notes that Lysaghts of Newcastle, New South Wales produced a treated sheet steel product which was known as Zincanneal. The AWM carley float has 'Lysaght Zincanneal Australia Panel Quality' stamped on its steel panels. He concludes that 'As British manufactured Carley floats were constructed of copper, the fact that both the Christmas Island float and the AWM float were constructed of Australian galvanised steel would suggest that both were made in Australia'.⁵⁵

7.42 The main difference between the two floats then appears to be kapok versus cork. Some doubt has been raised about the accuracy of the observation that kapok was what was seen in the Christmas Island float. It has been suggested that in fact it might have been balsa which had degenerated as a result of shellfire damage and long exposure to salt water and sun. 'Both reconstituted cork and balsa wood are rigid materials and would provide an adequate support for the outer wrapping of canvas strips. On the other hand kapok occurs in flock form, has insignificant tensile strength so that it could not be glued to the buoyancy tubes (as were cork and balsa) and has insufficient compressive strength to withstand the forces generated by being wrapped in canvas'.⁵⁶ However the evidence is not conclusive, and as Mr Olson suggested:

52 *ibid.*, p. 26. Professor Creagh, who participated in the examination of the shrapnel, using an electron microscope, has claimed that metal fragments found were from *Sydney* (Transcript, p. 118).

53 See for example, Montgomery, Submission, p. 635.

54 Department of Defence, Submission, p. 1856.

55 Olson, W, letter of 6 March 1997, included in Heazlewoods Solicitors, Submission, pp. 1691-1692.

56 Turner, Submission, p. 3972.

The question that begs to be answered though is were all wartime manufactured floats constructed with the specified materials? It is quite possible that due to wartime shortages some contractors may have supplied the R.A.N. with Carley floats with a kapok covering. Alternatively was Baker mistaken when he said that the float had a kapok filling? ... One is therefore left wondering how Oldham could ignore the fact that the float was numbered in navy fashion, and carried navy rope, and then decide it was not a navy float on the sole grounds that it may have had a kapok covering.⁵⁷

Table 7.2 Comparison of the Christmas Island and AWM Carley Floats⁵⁸

Item	AWM Float	Christmas Island Float	Remarks
Colour	Grey	Grey	
Markings (wood)		'PATENT'	
Markings (steel)	LYSAGHT ZINCANNEAL AUSTRALIA PANEL QUALITY ⁵⁹	LYSAGHT DUA-ANNEAL ZINC MADE IN AUSTRALIA INSIDE or MADE IN NSW ANNEALED ZINC INSIDE ⁶⁰	
Markings (hull)	5	2 ⁶¹	Possible raft number
Covering	Cork	Kapok	No information identified on how widespread the use of Kapok was.
Rope	Blue yarn in strands	Red yarn in strands	1938 <i>Seamanship Manual</i> states that rogues yarn was used in naval rope as follows: Red for rope manufactured at Devonport Dockyard; and Blue for rope made by trade.

57 Olson, W, letter of 6 March 1997, included in Heazlewood's Solicitors, Submission, p. 1692.

58 Source: Department of Defence, Submission, p. 1855.

59 Exhibit No. 30, p. 12.

60 The descriptions vary slightly between the accounts given by Mr Smith and Mr Baker (see Department of Defence, Submission, pp. 1962-1965).

61 In the Department of Defence Submission (p. 1855) the numbers appearing on the two rafts are incorrectly attributed, being shown as '2' marked on the AWM float and '5' on the Christmas Island float, when the reverse is actually correct. See Shipping Intelligence Report No 137/1942, reproduced in Department of Defence, Submission, p. 1964, and Exhibit No. 30, p. 8.

7.43 In a later submission, Mr Olson also noted that kapok was used for flotation purposes and may have been used as a wartime substitute for cork.⁶²

7.44 Mr R H Turner, in commenting on the carley floats, reported a recent conversation he had with a former sailmaker of Garden Island, who had been the repair point for life rafts and carley floats during the war. That person indicated that these type of rafts, as described in the Australian War Memorial report, had been brought in as a wartime expedient with a limited service life, and therefore the raft could have been an RAN raft.⁶³

7.45 Mr Olson has also examined two carley floats found in the collection of the Western Australian Maritime Museum (WAMM). One float was the same size and pattern as the carley float now in the AWM, was found to be constructed of Lysaght Queen's Head galvanised sheet iron, and the outer covering was balsa wood covered by painted canvas. Mr Olson concluded that 'it would appear that [it] was Royal Navy or Royal Australian Navy issue. Given that the inside framework is Australian manufactured Lysaght galvanised iron, it would appear probable that [it] is ex-Royal Australian Navy'.⁶⁴

7.46 The second float was also examined, was of similar size and construction, and due to some markings 'it is considered probable that [it] is ex-Royal Australian Navy. Year of manufacture was probably 1944, although a 1945 or later year of manufacture cannot be ruled out'.⁶⁵

7.47 The significance of these examinations is in regard to the investigation conducted by Captain Oldham in 1949 into the origin of the Christmas Island carley float. As Mr Olson observed, one of the main deciding factors in Captain Oldham rejecting the float as being from an HMA Ship was the covering of the carley float:

Although the Admiralty specifications called for copper buoyancy tanks and a cork covering, was Oldham justified in expecting that all Royal Australian Navy issue Carley floats should be manufactured from these materials?

We know that one surviving Australian manufactured Carley float was constructed of galvanised iron, and covered with cork and canvas. [AWM float]

We know that another surviving Australian manufactured Carley float was constructed of galvanised iron, and covered with cork and canvas. [WAMM Historic boat 27]

We know that a third surviving Australian manufactured Carley float was constructed of galvanised iron, and covered with balsa wood and canvas. [WAMM Historic boat 26]

As none of the three surviving Australian manufactured Carley floats were made from copper, and only two had a cork covering, one is left

62 Olson, Submission, p. 2323.

63 Turner, Transcript, p. 493.

64 Olson, Submission, pp. 2320-2321.

65 *ibid.*, p. 2321.

with the impression that Captain Oldham was probably not correct in his conclusion.⁶⁶

7.48 The examination of the two carley floats held by the Western Australian Maritime Museum was preliminary only. The Committee believes that more information might be forthcoming, if the two carley floats were subjected to the same type of examination as the carley float in the Australian War Memorial. The Director of the WAMM has recommended that 'a comprehensive scientific and historical examination is carried out on the two floats (and comparisons [made] with the War Museum float) ...'.⁶⁷

7.49 The Committee recommends that:

3. **the two carley floats in the collection of the Western Australian Maritime Museum be subject to scientific examination by the Western Australian Maritime Museum in conjunction with the Australian War Memorial.**

Conclusion

7.50 The Committee believes that there is insufficient evidence to prove conclusively that the carley float recovered off Christmas Island in 1942 was from the *Sydney*. However, the Committee has concluded that based on the oceanographic studies, the physical description of the float and an investigation of other possible sources for the float, there is a strong probability that the float originated from *Sydney*. While it is not possible to prove the origin of the float beyond any doubt, it is equally impossible to prove the alternative, that the float, and its unfortunate occupant, were not from that ship.

The Body

7.51 The Committee also considered whether there were any clues as to the origin of the float and its passenger to be obtained from the brief description of the body itself. As noted earlier, the body recovered from the carley float had nothing (such as dog tags) to assist in its identification.⁶⁸ Mr Baker, who assisted in the recovery of the body, is reported as indicating that 'The Shore doctor established that the body was that of a white man. All the flesh was gone from the right arm, also the eyes and nose were missing. Otherwise the corpse was decomposed in parts'.⁶⁹ Professor Ranson, Deputy Director of the Victorian Institute of Forensic Medicine, has indicated that '... the reports of the body being decomposed certainly would not be inconsistent with that time interval [i.e. originating from *Sydney*] but, to be quite honest, you cannot be 100 per cent sure'.⁷⁰

7.52 Reports that the body had a perfect set of teeth appear to have originated with Mr Jack Pettigrew, an Island resident who had attended the funeral. Mr Pettigrew said that when examined, the Island medical personnel found the body to have 'a perfect set of teeth – no

66 *ibid.*, p. 2322.

67 Western Australian Maritime Museum, Submission, p. 3449.

68 One submission suggested that 'the absence of name tags excluded Military/Naval personnel' (O'Sullivan, Submission, p. 3763) but other evidence has indicated that tags were often not worn. See for example, Winter, *op. cit.*, p. 241.

69 Shipping Intelligence Report No 137/1942, reproduced in Heazlewoods Solicitors, Submission, p. 1474.

70 Ranson, Transcript, pp. 320-321.

extractions or fillings', which was felt to be unusual for the time.⁷¹ This observation was confirmed by other Christmas Island residents.⁷² There is some indication that this was a comparatively rare event for the time (see para 7.113), but at least three of the submissions refer to crew on the *Sydney* who had perfect teeth, and hence the belief by some that the body may be from the *Sydney*.⁷³

Was there a coronial inquiry?

7.53 Mr Baker also indicated that when he left Christmas Island on 17 February 1942 'an inquest, which had been delayed owing to illness of an official, was in progress. A full report is to be forwarded to Australia as soon as this inquest is concluded'.⁷⁴ It is not clear who was conducting the inquest, but Mrs Rosslyn Page, in her research on this period indicates that she believes the designated authority to hold an inquest lay with the District Officer, Tom P Cromwell.⁷⁵ Mrs Page goes on to say:

Tom P Cromwell probably wrote on, or typed an official document (Death Certificate), attesting the truth of the facts stated, as of death ... Dr J Scott Clark, the Medical Practitioner, would have conducted a cursory autopsy/post mortem, to determine gender and cause of death.⁷⁶

7.54 At the time of World War II Christmas Island was a colony of the United Kingdom, administered from Singapore. It became an Australian Territory on 1 October 1958, but up until 1992 the Territory had a Singapore based legal regime. According to the Department of Transport and Regional Development, 'records relating to the Territory's administration prior to 1958 were returned to the United Kingdom during the 1980s and may now be in the custody of the Public Records (sic) Office' in London.⁷⁷ The Committee, through its Historical Adviser, approached the Public Record Office to attempt to determine if records relating to Christmas Island were available and has confirmed that some material is available at the PRO dealing with Christmas Island and the British Phosphate Corporation.⁷⁸

71 Conversation between Mr Jack Pettigrew and Mr Kevin Lourey, reported in a letter from Mr Lourey to Mrs Rosslyn Page, reproduced in Exhibit No. 11b, Appendix A.

72 Exhibit No. 11b, p. 7.

73 See for example, Mr Curtis, in Craill, Submission, p. 3731; Craill, Transcript, p. 346; McGowan, Submission, p. 895; Fraser, Submission, p. 3550.

74 Shipping Intelligence Report No. 137/1942, reproduced in Heazlewoods Solicitors, Submission, p. 1474.

75 Both Mr Cromwell and Dr Scott Clark were interned at POWs, on Christmas Island, Surabaya and the Celebes, and returned to live in England.

76 Page, Exhibit No. 11b, pp. 38-39.

77 Department of Transport and Regional Development, Submission, p. 2198.

78 The PRO holds material under CO273 [Colonial Office], Straits Settlements Original Correspondence 1838-1946. All other PRO records are to series outside the 1941-1942 date range (E-mail, PRO to Professor P Dennis, 8 April 1998).

7.55 The Committee recommends that:

4. **the Australian Government continue inquiries to determine if, within the records of the Public Record Office London, there are any records relating to a coronial inquiry undertaken on Christmas Island on the unknown sailor.**

Clothing

7.56 The clothing found on and near the body provided some information. In addition to the boiler suit, bleached white from exposure, a shoe was found beside the body. According to reports, the Medical Officer did not believe the shoe belonged to the dead man, raising the possibility that there may have been others on the float.⁷⁹ The descriptions of the shoe vary somewhat: Mr Clark states that the shoe was 'probably branded 'CROWN BRAND PTY 4', although he had some doubts about 'CROWN' '4'.⁸⁰ Harbour Master Captain Smith's recollection was of a canvas shoe branded either 'McCOWAN' or 'McEWAN' and also 'PTY' followed by a crown and/or a broad arrow.⁸¹ A later description, given in 1949 by Mr J W Brown, former Sergeant of the Christmas Island Platoon of the Singapore Volunteers, referred to a 'pair of boots'.⁸²

7.57 While it appears that the boiler suit did not coincide with the type stocked by the RAN, Defence has acknowledged that the 'fact that the overalls may not have been of naval origin does not preclude the possibility that the body was. Sailors were, and are, renowned for buying their own non-standard items of clothing. ... The RAAF did use a blue coverall'⁸³ and there were 6 RAAF personnel on *Sydney*.

7.58 In regard to the shoe, Defence has indicated that the broad arrow mark was 'a general indication of Government issue'. Defence went on to say that 'Based on the descriptions given the DNV [Director of Naval Victualling] stated that the markings on the shoe definitely corresponded to RAN supplies, provided the shoes were of leather and not canvas. A check of Commonwealth Gazettes for the period 1938 to 1941 showed that Jas McKeown & Sons Pty Ltd were suppliers of both light boots and canvas shoes to the RAN during this period'.⁸⁴

7.59 The Committee found that the Defence submission strained the bounds of credibility in suggesting that 'the shoe ... may have belonged to a merchant seaman from a sunken vessel who could have been given the shoes as part of an issue of clothing after being picked up by a warship'.⁸⁵ If Defence's scenario is correct, that unfortunate soul was then lost overboard again, with a naval type carley float and from there found his way to Christmas Island. While it cannot be ruled out absolutely, the Committee considers such a scenario to be highly unlikely.

79 Neale, *We Were the Christmas Islanders*, (Bruce Neale, 1998, ACT), p. 60.

80 Shipping Intelligence Report No. 137/1942, reproduced in Heazlewoods Solicitors, Submission, p. 1474.

81 Shipping Intelligence Report No. 137/1942, reproduced in Heazlewoods Solicitors, Submission, p. 1476.

82 Department of Defence, Submission, p. 3193.

83 *ibid.*, p. 1858.

84 *ibid.*

85 *ibid.*

7.60 On the basis of the descriptions of the body and clothing, the evidence again is inconclusive. However, there is nothing in the description of the body and clothing to suggest that it was from a non-RAN source, and the shoe in fact points to the opposite conclusion. The Committee therefore believes, on the balance of probability, that the body and the carley float found off the shore of Christmas Island in February 1942 were most likely from HMAS *Sydney*.

7.61 Given this probability, the Committee then considered the specific issues contained in its Terms of Reference:

- the practicability of accurately locating the grave; and
- identification of any scientific techniques which could verify the identity of those human remains if and when they were located.

The remainder of this chapter addresses these two issues, as well as the implications of any exhumation.

The Cemetery

7.62 The body recovered off Christmas Island was buried in the Old European Cemetery overlooking Flying Fish Cove. Europeans were buried in that cemetery from 7 June 1907 until 2 January 1950. The Shire of Christmas Island has indicated that, based on tombstone markings and a copied register, there is evidence of ten persons having been buried in that cemetery, including the unknown sailor (although there is a suggestion of the burial there of an eleventh, Mr Hobson, about whom the Shire Council is seeking further information).⁸⁶

7.63 The Old European Cemetery has been described thus:

[It] is in an area known to be steep and heavily covered with limestone. There is evidence of burrowing by red crabs and movement of boulders and topsoil from above. There is no evidence to suggest that any of the identified graves have been subject to movement greater than 5cm. It is possible that a grave which was not retained by a significant masonry surround could have been covered by continual downward movement of soil and debris. It is probable that bodies were interred between limestone which may have reduced any slippage or movement.⁸⁷

and

The entire hillside behind the 'Old European Cemetery' is basically loose volcanic material which, in turn, is overlain by rocks and boulders that have fallen from the limestone cliffs which fringe the entire Cove. Resting at an angle of about 35 degrees, the soil is fairly

86 Shire of Christmas Island, Submission, p. 2606. There is some question as to whether Mr Hobson, a sailor from a visiting ship who died on 31 October 1950, was buried on the island, and if so where, or whether he was buried at sea. The list provided by the Council does not include the name of Mr Norman Howard, whose grave was mistakenly marked as that of the unknown sailor in 1994.

87 *ibid.*, p. 2607.

stable when dry, but when saturated the entire slope becomes unstable, mobile, and dangerous.⁸⁸

7.64 There is no indication of whether the corpse was buried in a coffin or not.⁸⁹ If a coffin was not available, 'the usual procedure was to wrap deceased personnel in a shroud (bag) or blanket'.⁹⁰ The grave site was recorded as unmarked.

Locating the body

7.65 There are no records giving the exact location of the burial place of the unknown sailor in the Old European Cemetery, and therefore the exact location of the remains cannot be precisely identified. Eyewitness accounts, such as those of Joseph 'Bunny' Baker, described the burial in the following terms:

We carried him up the hillside to a lovely park site overlooking the Cove and surrounded by a mass of bougainvillea. He was buried in what was then the cemetery near to the coffee gardens. The District Officer conducted a short service whilst we few volunteers provided a military escort. A Sikh policeman sounded the Last Post and the notes floated down the hillside to the shore in the quiet evening.⁹¹

7.66 Mr Kevin Lourey, a civil engineer and Island Manager for the British Phosphate Commission between 1966-1969 surveyed the grave sites in the Old Cemetery in 1950. Mr Lourey left Christmas Island in 1969, but maintains that he is able to identify the location of the grave site, based on his knowledge of the area and where locals, present at the time of burial, had indicated it was located. While acknowledging that 'after the lapse of 27 years since I left the Island my memory may be a little astray' but that the general location was correct, Mr Lourey has indicated on a map where he believes the grave to be.⁹² Photographs of the cemetery, found by Mr D Inglis in Australian Archives files, and subsequently examined by Mr E McGowan and Mr Lourey, appear to show a mound of earth in the same area as indicated by Mr Lourey in his evidence to the Committee.⁹³

7.67 Mr David Powell also conducted a survey of the Old European Cemetery in the mid-1960s, and indicated the site where he believes the unknown sailor lies. Others who have lived on the island also have their views on the location of the grave site.⁹⁴

7.68 The degree of confusion about the exact location of the grave site is reflected in the fact that in 1994 a group of relatives and friends of *Sydney* personnel arranged for a cross to be sent to Christmas Island for erection on the grave site of the unknown sailor.⁹⁵ A

88 Statutory Declaration from Mr D Powell, reproduced in Heazlewoods Solicitors, Submission, p. 1564.

89 There is a suggestion that the body may have been buried in a 'coffin ... built to conform to the body as it lay'. Unpublished papers of Jonathon Rowbotham, referred to in McDonald, G, Submission, p. 179. However, there is no indication that Mr Rowbotham was present at the burial, and accounts of others who were present do not mention an oddly shaped coffin. See comment by Mr Lourey that 'Certainly the people who told me about [the burial] never said that to me' (Transcript, p. 362).

90 Exhibit No. 11d, p. 5.

91 Neale, M, op. cit., p. 60.

92 Exhibit No. 11d, p. 8.

93 McGowan, Submission, pp. 4703-4707.

94 See for example Collins, Submission, pp. 3145-3149.

95 Exhibit No. 11d, p. 6.

memorial service was held, attended by community representatives, and a cross and plaque erected over what was believed to be the grave on 9 August 1994. However, it subsequently transpired that the cross and plaque had been placed on the grave site of Norman Howard, a British Phosphate Commission Overseer who had died in 1924. The incorrect site was also accepted at that time as the burial site of the unknown sailor by the then Department of the Environment, Sport and Territories.⁹⁶

7.69 The confusion about the alleged burial site was repeated in a number of submissions, and indeed photographs were provided to the Committee in the sincere belief that they showed the grave site.⁹⁷ Most of the references appear to be to what is now generally accepted as the grave of Mr Howard (with a well-defined surround, but no formal headstone in place).

7.70 An archaeological survey of the Christmas Island cemetery was carried out in December 1995 by Dr M Gibbs, who was undertaking a conservation study of the nearby Christmas Island Club building. In an article written about the survey, Dr Gibbs noted that:

... while the cemetery has not been regularly maintained for several decades, some of the vegetation has been cut back by interested members of the CI Club ... The ground surface around the cemetery is soft and appears quite unstable, primarily as a result of the annual burrowing of thousands of red crabs ... [and] the destructive effects on the graves, surrounds, monuments and the land surface in general was readily apparent. Combined with vegetation clearance and water runoff it is not surprising that there has clearly been a heavy movement of soil down the slope and across the site.⁹⁸

7.71 Dr Gibbs recommended that a 'remote sensing survey should be made of the cemetery, focussing (sic) on the apparently empty areas between the visible graves ...'. Dr Gibbs cautioned, however, that 'discovery of a grave will not necessarily confirm its identity as the 1942 burial'.⁹⁹

7.72 The Shire of Christmas Island advised the Committee that it had requested a consulting engineering geologist to inspect the Old European Cemetery and provide advice on procedures to locate the grave of the unknown sailor. A site marked on an Archaeological Survey 1995 diagram as a likely grave site, and supposedly now covered by a boulder, appears in fact to be a rocky outcrop.

7.73 There have been several suggestions that the body may have been removed from Christmas Island.¹⁰⁰ The Committee has not found any evidence to support these suggestions.

96 Correspondence from Department of the Environment, Sport and Territories, reproduced in Heazlewoods Solicitors, Submission, p. 1600.

97 See for example, Crooke, Submission, pp. 3949-3954.

98 Gibbs, Dr M, *The Corpse in the Carley Float: An archaeological survey of the Christmas Island Cemetery and the possible burial site of an HMAS Sydney sailor*, reproduced in McGowan, Submission, p. 911.

99 *ibid.*, p. 914.

100 See for example, End Secrecy on Sydney Group, Submission, pp. 2067, 2086.

7.74 It is unfortunate that the Old European Cemetery has deteriorated over the years, complicating the search for the burial site of the unknown sailor. The Committee hopes that sufficient resources will be provided to the Christmas Island Shire Council to allow for restoration work to be undertaken on the Old European Cemetery and other cemeteries on the Island as required.

7.75 The Committee recommends that:

5. **the Minister for Regional Services, Territories and Local Government arrange for an assessment of the condition of the cemeteries on Christmas Island, and provide sufficient additional funding to the Christmas Island Shire Council to allow restoration and maintenance work to be undertaken.**

Should the Body be Exhumed?

7.76 Before considering whether or not it is technically possible to locate the grave site, and once located, identify the remains, the Committee first considered whether, as a matter of principle, it should support the calls for the body to be exhumed. Central to those considerations was identifying what purpose such an exhumation would serve, and what the likelihood would be of its success.

7.77 A number of attempts have been made in recent years to gain consent for the exhumation of the unknown sailor on Christmas Island. In each case, 'the purpose in seeking exhumation was to attempt to determine whether the unknown sailor had been a crew member of HMAS *Sydney*'.¹⁰¹

7.78 The Committee agrees with the view put by Heazlewoods Solicitors that the granting of an exhumation order does not of itself guarantee the location and identification of the remains. Should an exhumation order be granted, there are a number of possible outcomes:

- it may be that the grave site cannot be located;
- if the grave site is located, there may be no remains left;
- if sufficient remains are found, scientific examination can be undertaken to try and determine the identity of the remains;
- if the remains are not able to be identified, they could be reinterred in an appropriately marked grave; and
- if the remains are identified, action would need to be taken to determine the final resting place of the remains.¹⁰²

7.79 Professor John Hilton, Director of the New South Wales Institute of Forensic Medicine, in support of the exhumation, made the point that:

101 Department of Transport and Regional Development, Submission, p. 2198.

102 Heazlewoods Solicitors, Submission, pp. 1654-1655.

... the question has been put and I think, unless it is investigated, it will never be satisfactorily answered. It may not be satisfactorily answered at the end of the day even with investigation. In essence, it is better to investigate than to speculate. ... It is perhaps a small link in Australia's historical chain, but there has been so much historical speculation about this that I think it is incumbent on us to try and resolve this now if we possibly can, remembering that as time passes the chances of success diminish.¹⁰³

7.80 Professor Hilton also referred to the humanitarian aspects of this matter:

It is quite extraordinary ... that, even after a space of 50 to 60 years, or even longer, the surviving relatives and descendants might like to know where their relatives ended their lives and where they were interred.¹⁰⁴

7.81 Dr Carl Hughes indicated that he felt there were two main reasons for attempting to exhume the body: one from a forensic and evidential point of view; and second that the 'representation of one of the bodies, where it is not possible to identify other bodies, is helpful to the relatives'.¹⁰⁵ The emotional toll that the loss of *Sydney* has taken, and indeed still continues to take, was mentioned in many of the submissions to the inquiry.¹⁰⁶ As Mrs Barbara Craill indicated:

It is long overdue that the body be exhumed. ... It could be my father. DNA and dental records held by the Navy would prove beyond doubt. My father deserves this. A crew member deserves this. All relatives and friends of HMAS *Sydney* would celebrate this honourable happening and the haunting would fade.¹⁰⁷

7.82 In considering the issue of exhumation, the need to protect the other consecrated graves from disturbance is extremely important. However, the Department of Transport and Regional Development indicated that it should be possible for the Minister to issue an exhumation order in such a way as to limit the area exhumed within the cemetery.¹⁰⁸ The Committee, however, does not support an open-ended search of the cemetery, should the initial exhumation (based on the best possible evidence available) be unsuccessful.

7.83 Navy indicated to the Committee that it would have no objection to the body being exhumed, if a link between it and the *Sydney* were able to be made.¹⁰⁹ Under the heading of 'Evidentiary Guidelines', Defence Instruction PERS 20-4 states:

Allegations that the remains of MIA members of the ADF have been located need to be supported by strong circumstantial or definite evidence before public funds are used to investigate the remains ...

103 Hilton, Transcript, pp. 402, 407, 408.

104 *ibid.*, p. 408.

105 Hughes, Transcript, p. 496.

106 See for example, Craill, Submission, p.1403; Bickle, Transcript, p. 501.

107 Craill, Submission, p. 1404.

108 Department of Transport and Regional Development, Transcript, p. 70.

109 Department of Defence, Transcript, p. 20.

Unsubstantiated hearsay evidence is insufficient grounds for the ADF to investigate human remains. When hearsay evidence is provided to the ADF, in an endeavour to substantiate information provided, the appropriate civilian authorities (foreign or otherwise) should be requested to carry out initial inquiries.¹¹⁰

On this basis, the Committee believes that an attempt should be made to locate the grave and identify the remains, and the Department of Defence, and in particular, Navy, should be involved in the process.

7.84 The Committee finds the calls from the families for action in resolving the identity of the Christmas Island body, and the arguments of Professor Hilton and Dr Hughes to be most persuasive. In examining the submissions, it is apparent there is a strong desire, among those who submitted, for some positive action to be taken by the Government, and this underlies many of the comments. The Committee is of the view that it will only be by proceeding with an attempt to locate and identify the body, regardless of the outcome, that Australian authorities can then truly say they have done everything possible to pursue this aspect of the *Sydney* controversy.

Legal Authority for Exhumations

7.85 The legislative basis for a legal exhumation in the Territory is as follows:

The Coroner's Act [*Coroner's Act 1922 (WA)(CI)*, and the *Coroner's Act 1988 (WA)(CI)*] empower the Western Australian Coroner – who has jurisdiction in the Territory – to order the exhumation of a body if the Coroner believes that it is necessary to conduct a coronial inquiry into a death.

Section 58 of the *Cemeteries Act 1986 (WA)(CI)* (the *Cemeteries Act*) provides that:

The Minister [for Territories] may in writing order the exhumation of a body and the re-burial or disposal of the ashes after cremation of the body in accordance with this Act and may further order how and by whom the costs of the exhumation, re-burial or disposal shall be met.¹¹¹

7.86 The then Department of Transport and Regional Development¹¹² noted in its submission that 'no statutory criteria' are provided to guide the discretion provided under Section 58, and that Commonwealth policy on exhumations 'has been that a cogent case must be presented before an order under the *Cemeteries Act* can be made to disturb consecrated grave or graves and remove human remains buried with appropriate ceremony'.¹¹³

110 Exhibit No. 59, p. 2.

111 Department of Transport and Regional Development, Submission, p. 2198.

112 Now, the Department of Transport and Regional Services.

113 Department of Transport and Regional Development, Submission, p. 2199.

7.87 In May 1997, when considering a request for exhumation by solicitors acting for a group of relatives of those lost on the *Sydney*, the then Minister gave the following reasons for his decision not to grant an exhumation order:

- the Minister was not satisfied that the evidence presented established a sufficient connection between HMAS *Sydney* and the carley float in which he was found (and in particular, the possibility that the deceased may have come from other vessels or drifted from other areas had not been adequately addressed);
- the evidence provided did not overcome the Minister's concern that the precise position of the deceased's grave could not be located prior to exploratory excavations taking place in the cemetery;
- the applicant failed to convince the Minister that, even if the correct remains could be located and uncovered, the means existed to identify them conclusively as being of a particular crew member of HMAS *Sydney*.¹¹⁴

Subsequent requests that the decision be reconsidered have been unsuccessful.

7.88 The Committee believes that in the intervening period, a great deal of work has been done by people such as Mrs Rosslyn Page and Dr John Bye addressing the first of the Minister's concerns. While there is never going to be conclusive proof that the carley float was from HMAS *Sydney*, the Committee believes that on the balance of probability, it did originate from that vessel (see para 7.60). On the third point, the Committee believes that, given the scientific techniques available, particularly in regard to DNA testing, perhaps there is a chance that, should remains be uncovered, the identity may be determined. While the chance of a definitive identification of the body being made is remote, the wishes of many of the relatives weighed heavily on the Committee and it felt obliged to respond to their continuing pressure for all steps possible to be taken, once and for all, to attempt to resolve the question of the identity of the body.

7.89 The Committee believes that the second concern of the Minister's is the most relevant at present. While there is anecdotal evidence of the location of the grave, its exact location is still unclear. The Committee believes that a small team should be sent to Christmas Island, comprising an archaeologist with relevant experience, and a representative from Defence, together with Mr K Lourey, to try and more accurately determine the location of the grave. The team should not only examine the Old European Cemetery, but should also consider all available documentary evidence, consider the feasibility of the various technologies for locating the grave, as well as consult with long-time residents of the Island and the Shire Council, in an attempt to locate the grave of the unknown sailor.

7.90 The Committee recommends that:

6. (a) **the Department of Transport and Regional Services and the Department of Defence attempt to locate the grave of the unknown sailor on Christmas Island, by sending a small team (including an archaeologist) to the Island; and**

114 *ibid.*, pp. 2200-2201.

- (b) should the grave site be accurately located, the Minister for Regional Services, Territories and Local Government issue an order for the exhumation of the remains for the purpose of identification.**

7.91 The Department also indicated that, in considering whether to grant an exhumation order, the Minister and the Administrator have consulted the Territory's Shire Council to determine the Christmas Island community's views on exhumation.¹¹⁵ While there may have been community opposition in the past,¹¹⁶ in a submission to the Committee the Christmas Island Shire Council indicated that 'the community would not object to an exhumation of the body of the unknown sailor provided that other graves were not disturbed and that non-intrusive methods are used to locate the grave site'.¹¹⁷

7.92 The Committee recommends that:

7. (a) **the Christmas Island Shire Council be fully informed and consulted about any proposed exhumation; and**
- (b) attempts be made to contact the relatives of those also buried in the Christmas Island Old European Cemetery before any exhumation order is made.**

7.93 Should the Minister for Regional Services, Territories and Local Government decline to order the exhumation of the remains of the unknown sailor, Heazlewoods Solicitors, acting for a group of relatives of those lost on *Sydney*, would support an inquest being held into the death. The basis for an inquest is quite specific:

An Inquest could only be held into this death if it could be established that no Inquest had been held in 1942, or if the original Inquisition was quashed and a new Inquest was ordered by the Supreme Court (see section 14 of the *Coroners Act 1920* {WA}).¹¹⁸

7.94 To date the WA Coroner has argued that there is no reason to assume an Inquest was not held in 1942, even though no record of the verdict given can be located. The Committee understands that Heazlewoods will be pursuing this matter, seeking to have the Supreme Court of Western Australia order a new inquest.¹¹⁹

Locating the grave

7.95 A number of possible techniques for locating the grave site were brought to the attention of the Committee during the inquiry. Ground Penetrating Radar (GPR) was mentioned in several submissions.¹²⁰ However, GPR is not the only option available:

115 *ibid.*, p. 2199

116 *ibid.*

117 Shire of Christmas Island, Submission, p. 2607.

118 D A McCann, WA Coroner, correspondence reproduced in Heazlewoods Solicitors, Submission, p. 1613.

119 Heazlewoods Solicitors, Submission, p. 1659.

120 See for example, McGowan, Submission, p. 918; Olson, Submission, p. 218.

GPR is one of a range of options which may be used for non-invasive sub-surface examination. Other options include sonar, magnetometer survey and resistivity survey. The method used is entirely dependant upon the nature of the sub-surface disturbance or deposit to be identified. Sonar may be used when air spaces are known to exist below the surface, for instance in coffins ... Resistivity can be used to detect disturbance, while magnetometry may be used when metal is expected as part of the sub-surface deposit.¹²¹

7.96 GPR was used in 1990 in an attempt to delineate the Rottnest Island Aboriginal Prisoners Cemetery. The survey 'located zones of disturbed ground which are considered highly likely to represent grave sites. ... [The] archaeological applications of GPR in other circumstances could be highly beneficial'.¹²²

7.97 However, a consulting engineering geologist advising the Shire of Christmas Island, Mr Fred Baynes, 'believes that neither ground penetrating radar nor the use of magnetometers would provide optimum results because of the geological features of the cemetery and the likelihood that the body was not buried with any metal objects ...'.¹²³ Mr Baynes has suggested that a contract archaeologist be used to research the site and carry out controlled digs as required.¹²⁴

7.98 There has been a suggestion that some blasting might be required to remove boulders in the cemetery as part of the attempt to locate the grave site.¹²⁵ The Christmas Island Shire Council has reservations about blasting at the site, as the area is subject to rockfall.¹²⁶ The Committee supports the Shire Council in its reservations, and would not wish to see such action taken in this site.

7.99 It appears that, should the decision be taken to attempt to locate the grave of the unknown sailor, technology currently available would assist in its location. The Committee is concerned that the grave site be accurately located with as minimal disruption to the other graves as possible, and is concerned about the possibility of there being possibly one additional unmarked burial site (that of Mr Hobson – see para 7.63).

Identification of the Body

7.100 Should remains be found in the Old European Cemetery, the question to be asked is whether there is any chance of identifying those remains. To a large extent that will depend on the physical condition of the remains. Factors such as depth, moisture, heat (soil temperatures) and insects affect the decomposition of human remains. Where the exact location of the remains is not known, a range of techniques may need to be employed to try and determine the position of the body.

121 Quoted in McGowan, Submission, p. 919; Heazlewoods Solicitors, Submission, p. 1441.

122 Randolph, Wilson, Frampton, Merrit, *Rottnest Island Aboriginal Prisoners Cemetery: Delineation of extent using ground penetrating radar*, reproduced in McGowan, Submission, pp. 921-938.

123 Shire of Christmas Island, Submission, p. 2607.

124 *ibid.*

125 Department of Transport and Regional Development, Submission, p. 3124.

126 Shire of Christmas Island, Submission, p. 2607.

7.101 The soil in the area near one of the graves in the Old European Cemetery has been tested and showed a soil PH in excess of 9.¹²⁷ While the PH value of the soil may influence the state of the remains, Professor Hilton indicated that 'you can speculate on the effect of PH but ... you do not know until you look'.¹²⁸

7.102 Depending on the state of the remains, some information may be able to be obtained by an initial physical examination. Heazlewoods Solicitors, acting for the families of some 63 deceased crew members, argued that the following action should be taken once the remains have been exhumed:

- measurement of the long leg bones to ascertain the height of the deceased;
- identifying obvious deformities such as broken bones;
- identifying which teeth might have been missing or received treatment;¹²⁹ and
- DNA testing.¹³⁰

7.103 On the basis of the first three actions, Heazlewoods believes that a forensic scientist 'would then be able to exclude from further investigation those crew members who did not fall within the height parameters, or who did not have obvious deformities, old fractures or missing teeth which coincided with the skeleton. If all else fails, DNA testing could be carried out with all surviving relatives'.¹³¹

7.104 While a physical examination would provide some evidence, its usefulness will in large part rely on the type of medical records that exist for the *Sydney* crew, and to a degree, the recollections of family members about the general health of their particular relative (i.e. recollection of childhood bone breakages etc).

Medical records

7.105 The Committee received somewhat conflicting evidence during the course of the inquiry on the nature and availability of medical records for those who were lost on *Sydney*.

7.106 The Department of Defence, in a letter to Heazlewoods Solicitors in January 1998, indicated:

A random check of some records of HMAS *Sydney* crew members reveals that very little information of relevance is available. The records checked consist in the main of fairly rudimentary enlistment records **with nothing that may be usefully used in any identification process.** Some sailors enlisted a number of years before the sinking as young as 14 years of age and physical stature would have changed significantly as the individual matured. Dental records are little more than a record that the individual was dentally fit. Records of dental treatment history, which might have helped identification, were not evident on the files and may well not have been maintained at the time.

127 Correspondence from Professor J Hilton, reproduced in Heazlewoods Solicitors, Submission, p. 1599.

128 Hilton, Transcript, p. 403.

129 Or indeed, confirm the initial observations of 'a perfect set of teeth'. See para 7.113.

130 Heazlewoods Solicitors, Submission, p. 1444.

131 *ibid.*, p. 1445.

Given that the ship's complement totalled 645 crewmen, the task involved in potentially providing copies of records for all crew members is substantial and beyond the scope of the resources of ADF Health Records Navy. In any event the provision of copies of these records is **unlikely to assist any identification**.¹³²

7.107 When Defence appeared before the Committee in March 1998, it advised that:

To the best of our knowledge, there would be some medical records for all RAN personnel ... Those records by today's standards are incomplete. We have not undertaken a detailed examination of all the personnel on the *Sydney*, but we have undertaken a very limited examination of a small number of records to determine what sort of information would be contained in them ... It is quite a major undertaking for us to reconstruct what medical information actually would be available for each individual person.¹³³

7.108 On the same occasion, when asked whether the records would be of use in trying to determine the identity of the Christmas Island body, however, Defence indicated that:

We believe there is some information that would assist that process, provided a body was located. The sort of information I am talking about is the basic entry parameters when they join the navy and these include height, weight and the state of the dentition. However, there are limitations on this information. Several of the records that we have looked at contain details of the men when they were 14-year-old boys. Clearly, their height, weight and dentition would have changed in the 10 or 16 years until the time they died. **But that information, we believe, is available, certainly for the RAN personnel, and would be made available of course, if necessary, if a body was found.**¹³⁴

7.109 It appears to the Committee that the records, while possibly incomplete and not as comprehensive as those kept on ADF personnel today, may be of some assistance in attempting to identify any remains located on Christmas Island. The Committee can see no valid reason why access to those records should be denied to family members after so many years. To attempt to restrict access to such documentation is to invite suspicions of cover-up or indeed indifference to the whole matter.

7.110 The office of the Minister for Defence advised in August 1997, in response to a request for medical records for the crew of HMAS *Sydney* from Heazlewoods Solicitors, acting on behalf of some of the families that:

... the administrative actions needed for the retrieval/copying/examination of all records relating to the 645 crew members of HMAS

132 Letter reproduced in McGowan, Submission, p. 3277. Emphasis added.

133 Department of Defence, Transcript, p. 7.

134 *ibid.* Emphasis added.

Sydney, would be a very large undertaking, and it may be necessary to initiate a cost recovery if such a request were to be ordered.¹³⁵

7.111 The Committee recommends that:

- 8. the Department of Defence provide the families of those lost on HMAS *Sydney* with a copy of their relative's medical records, such as exist, if requested to do so by the families, at no cost to the families.**

Other identification techniques

7.112 As Professor David Ranson, Deputy Director of the Victorian Institute of Forensic Medicine, stated:

The identification of human remains including skeletal remains is largely based on comparison procedures. ... [I]n the case of badly decomposed bodies and skeletal remains ... the most effectively used method ... is evaluation of dental structures and comparison with known dental records ... Where good clinical dental records are not available, it is often possible to take photographs of the dentition of the skeletal remains and compare these with photographs of an individual taken in life where through the person's smile the anterior dentition can be seen. Careful and accurate superimposition of images from these photographs with images of the skull can result in useful comparisons from which identification can sometimes be made.¹³⁶

7.113 As indicated above (see para 7.52), there is some indication that the unidentified sailor had a perfect set of teeth. Evidence given to the Committee suggests that this was unusual for that time,¹³⁷ but by itself it would not be sufficient to identify the body. Comparison with dental records (if they still exist) or by superimposition might prove more productive. In addition, as the dental examination was conducted by a medical doctor and not a dental specialist, any observations are of more limited forensic value.¹³⁸

7.114 Dental records in particular may be of varying utility. The Department of Defence advised that of the small group of records it examined, at least three different types of dental description were provided: one saying that the teeth were in good health or not; one describing each tooth by number; and the third, a visual depiction of the teeth.¹³⁹

7.115 Facial reconstruction is another method that might be employed to assist in the identification of the body, should a skull be recovered from the burial site. Such three-

135 Jennings, correspondence, reproduced in Heazlewoods Solicitors, Submission, p. 1680.

136 Ranson, letter to Mr Ted McGowan, reproduced in McGowan, Submission, pp. 944-945.

137 See for example the extracts from 'A Survey of Dental Caries in the RAN 1940' by Surgeon Capt. Woolcott, in McGowan, Submission, pp. 3286-3287. Woolcott found that at 18 years of age 76 per cent of the Australian born recruits were likely to have caries, and by the age of 20, 91 per cent were likely to have caries. However, even on these percentages, several sailors on HMAS *Sydney* could potentially have had 'perfect teeth', and this is reinforced by claims of several relatives that the body might be their family member.

138 Hilton, Transcript, p. 404; and Ranson, Transcript, p. 324.

139 Department of Defence, Transcript, p. 8.

dimensional reconstruction is generally 'only used when more reliable methods have failed or are impossible. As a technique used for identification, it has definite limitations ...'.¹⁴⁰

7.116 There has been an assumption in a number of submissions that DNA testing will provide the identify of the body on Christmas Island. In assessing the usefulness of DNA, the Committee took evidence from Professor Ranson, and Professor John Hilton, Director of the New South Wales Institute of Forensic Medicine.

7.117 Professor Ranson indicated that:

DNA testing is a comparison test, and you must have some idea of who the person is in order to carry out a matching process ... and what you would like is ... some original biological material from the person ... [e.g. a lock of hair].

There are two types of DNA that could be recovered in the system. The first is nuclear DNA and the other is mitochondrial DNA. Nuclear DNA is probably more likely to be lost. However, it does provide the best identifying type of characteristics. Mitochondrial DNA can be recovered from some poorer specimens and is of great use in comparison work, but it does not have the same reliability in terms of discriminating ability as nuclear DNA. Mitochondrial DNA ... is inherited via a maternal line.¹⁴¹

140 Exhibit No. 39, Taylor and Angel, 'Facial reconstruction and Approximation' in Clement and Ranson (eds), *Craniofacial identification in forensic medicine*, (Arnold, Great Britain, 1998) p. 177.

141 Ranson, Transcript, pp. 321-322.

7.118 Professor Hilton, however, sounded a note of caution about reliance on DNA:

We use DNA as a last resort when other methods have failed. It is expensive. It is tedious ... [and] despite the publicity given to it in the popular press, the test is not as easily completed as many people would like us to think ... [U]nder the circumstances we are examining here ... Mitochondrial DNA would be a possibility. I would not guarantee the success of it, but it would be a possibility.¹⁴²

7.119 In terms of the costs associated with DNA testing, Professor Ranson indicated that the cost would depend on the number of tests being done, but thought that a figure of \$300 to \$400 per test would be likely, and doing the tests in bulk would reduce the costs even further.¹⁴³ He indicated that if experts charged at commercial rates, it would be expensive, but that experts may be prepared to do the work pro bono. Expenses would then be limited to transport to Christmas Island, on-island expenses and ancillary charges. The DNA testing might also be able to be done on a 'highly modified cost recovery basis'.¹⁴⁴

7.120 As Professor Ranson noted, 'It may well be that no individual technique on its own will be able to satisfy the issue of identity beyond all reasonable doubt. However, by combining several techniques it is often possible to arrive at identity to a high degree of certainty and one which satisfies the legal burden imposed on Coroners and the courts'.¹⁴⁵

7.121 It is apparent to the Committee that the attempted examination of the grave site and the remains within will also require the specialist skills of a number of professionals: a physical anthropologist, anatomists and forensic pathologists. Australia is fortunate in having a number of highly skilled people in this area. Any work in this area will require a multi-disciplinary team.

Reinterment

7.122 The question of reinterment of the body will depend largely on whether a positive identification of the remains is able to be made. If an identification is possible, then the Committee believes the family should be closely involved in determining the final resting place of the remains.

7.123 The Committee was advised that 'the community on Christmas Island would prefer that any remains be reburied on Christmas Island as this has been his resting place for the last half century. This position may change depending upon an identification being established'.¹⁴⁶

Reinterment of unidentified remains

7.124 Should the remains of the unknown sailor be exhumed, but not be conclusively identified, the Committee believes it would be appropriate that they be reinterred on Christmas Island as close to the original burial site as possible in the Old European Cemetery.

142 Hilton, Transcript, pp. 404, 407.

143 Ranson, Transcript, p. 327.

144 Hilton, Transcript, p. 407.

145 Ranson, in McGowan, Submission, p. 945.

146 Shire of Christmas Island, Submission, p. 2608.

The Committee also believes that the grave site should be appropriately defined (with some form of border and headstone) and that regular maintenance be undertaken of the cemetery as a whole (see paras 7.74-7.75). The headstone should be appropriately marked, indicating that the remains are believed to be those of the unknown sailor, and giving the date of the recovery of the body from the Indian Ocean.

Reinterment of identified remains

7.125 The situation should the remains be positively identified, is more complicated. Under long-held Australian Government policy, the repatriation of remains of military personnel killed overseas has been prohibited. Following World War I it was agreed by Commonwealth Nations 'that military personnel killed in war would be buried in the nearest War Graves Commission Cemetery to the place of death'.¹⁴⁷ An exception to this policy was made in 1966 when the Australian Government authorised a variation that permitted the remains of Vietnam casualties to be repatriated to Australia if the next-of-kin so wished. Disinterment for reburial in Australia was not permitted.¹⁴⁸

7.126 Should the remains be positively identified as from HMAS *Sydney*, then Defence Instruction (General) PERS 20-4 is relevant. It states that:

The ADF retains responsibility for the recovery of human remains of ADF members killed in conflict. Where the remains are alleged, or identified, as belonging to those of a member of a specific Service, then that Service is responsible for the recovery of the remains ... Once remains have been identified as those of an ADF member, the investigating authority should contact the Office of Australian War Graves (OAWG), Department of Veterans' Affairs ... [which will] ... advise of the appropriate cemetery in which the remains should be interred.¹⁴⁹

7.127 OAWG have advised that once they were advised by the Department of Defence that the remains were that of an Australian sailor, identified or otherwise, 'our role would then be to simply mark the grave in situ on Christmas Island and, if the remains were positively identified, we would erect a headstone recording that name. We would seek from any next of kin a personal inscription to go on the headstone'.¹⁵⁰ It is the responsibility of the OAWG, to also maintain the grave in perpetuity on behalf of the nation.¹⁵¹

7.128 There seems to be little scope, according to OAWG, for the repatriation of the remains back to mainland Australia. However, as the actual location at which the death occurred is not known (being presumably somewhere between the battle site and Christmas Island), and given the geographic isolation of Christmas Island, the Committee believes that sympathetic consideration should be given to the wishes of the family in determining the final resting place of the sailor. If the remains are returned for burial on mainland Australia, the Committee believes it would be appropriate for a small memorial cairn to be erected on Christmas Island, marking the site where the remains lay for over half a century.

147 Exhibit No. 59, op. cit., p. 1.

148 *ibid.*

149 *ibid.*, p. 2.

150 Office of Australian War Graves, Transcript, p. 91.

151 Department of Veterans' Affairs, Submission, p. 346.

7.129 A view was expressed to the Committee that the remains should be returned to Australia and buried in a memorial to *Sydney*, possibly in Canberra. While the Committee does not reject this idea, it believes that the final resting place should be a consultative decision, involving the family as well as OAWG and the Department of Defence.

7.130 The Committee recommends that:

9. (a) **should the remains on Christmas Island be positively identified, the Australian Government ensure that the next of kin be involved in the decision-making process regarding the reinterment of the remains and any commemorative activities;**
- (b) **if the remains are returned to mainland Australia for burial, a memorial cairn be erected on Christmas Island marking the original burial site; and**
- (c) **if the remains are not positively identified, they be reinterred in an appropriately marked grave site on Christmas Island.**

CHAPTER 8

SEARCHING FOR SYDNEY AND KORMORAN

It seems inconceivable that a nation such as Australia, with its magnificent military history, can permit the fate of one of its most famous warships to remain shrouded in mystery and for the fate of 645 of her crew to remain unverified. It is, in short, a national disgrace and a scandal ... When a country such as Australia refuses to engage in a search for its lost heroes just off the shore of its own continent, it defies belief.¹

What we say is that it is irrelevant how the Sydney was sunk. It will not change history ... What I, my mother, her brothers and sister (and I am sure all the wives, children, brothers, sisters and loved ones – plus one surviving mother of one of the Sydney's crew) would like to know is where the wreck of the Sydney is lying on the ocean floor, and if the body on Christmas island is that of one of the Sydney's crew.²

8.1 Under paragraph (3) of the Terms of Reference, the Committee was asked to investigate and report on 'the desirability and practicability of conducting a search for HMAS *Sydney* and the extent to which the Commonwealth Government should participate in such a search should one be deemed desirable and practicable'. The Terms of Reference also requested that the Committee comment on measures which should be taken to protect the final resting places of both ships, if and when located.³

8.2 In searching for the ships, it is likely that *Kormoran* will be located more easily than *Sydney*, as the general area where *Kormoran* was scuttled is believed known, whereas *Sydney* was seen 'drifting rather than sailing, and little more than a flaming hulk ... she gradually faded into the darkness, apparently making for Perth'.⁴

8.3 This chapter examines the attempts made to date to locate both ships; what might be achieved by locating the wreck sites; the technical challenges to be overcome if the search is to be successful; the equipment needed for further searches to be undertaken; and the management issues raised should the search be successful. However, before looking at these matters, the Committee felt it was appropriate to consider a more basic issue – whether an attempt should be made to locate the wrecks.

1 Pless, Submission, pp. 223-224.

2 Fraser, Submission, p. 3549.

3 Terms of Reference, paragraph (3).

4 Detmers, op. cit., p. 187.

Should a Search be Mounted?

8.4 In the evidence put before the Committee, it was by no means unanimous that a search should be mounted to locate the wrecks of *Sydney* and *Kormoran*. While some argued that a search was of great symbolic importance, as a demonstration of the nation's commitment to its war dead, there was also a strong opinion that there would be little practical value in locating the wrecks, and indeed that actual harm might be caused by exposing the wrecks to possible interference.

8.5 Common to a number of submissions was a hope that the wreckage might shed some light on the nature of the engagement:

Finding the remains of HMAS *Sydney* will determine immediately if she was sunk by a jap sub. Only the Germans can report if *Sydney* was hit by their torpedo – makes you wonder doesn't it? Who is to say they struck her anyway. One would need 2 holes in 'her' hull if so.⁵

The hull of HMAS *Sydney* lies mute but will silently reveal the details and the manner of her sinking upon inspection.⁶

In the interest of the pursuit of knowledge it is desirable that the *Sydney* be found.⁷

8.6 When asked about a search, RADM Oxenbould, RAN, commented that:

... we would certainly like to know where its resting place is, and if it was possible to carry out some surveillance or photography of that wreck for anything which might aid in confirming the history as we know it, we would be very supportive of anything we could do in that regard.⁸

8.7 For others, a search was seen more as a sign of faith, from the Government to the families of the survivors:

To maintain credibility the Government and Navy need to find the ships to put an end for all time to the popular belief of a cover up. Where the ships are located and what damage they sustained will go a long way to achieve this.⁹

8.8 Dr K Kirsner and Dr J Dunn summarised the case for a search in the following terms:

[The case] rests on three arguments. The first argument involves scientific and historic curiosity ... The second argument involves

5 Bray, Submission, pp. 30-31.

6 Munyard, Submission, p. 93.

7 Western Australian Maritime Museum, Submission, p. 148.

8 Department of Defence, Transcript, p. 9.

9 McDonald, G, Submission, p. 171.

memory and commemoration. The argument is that knowledge about the resting place of the wreck of HMAS *Sydney* is integral to her commemoration of that vessel and her crew. ... The third argument concerns the management of national disasters, in peace and war. It is our contention that disaster management in a democratic society requires full accountability and transparency; and that the government of the day should leave no stone unturned in its attempts to understand the conditions that led to specific disasters. The extent of public interest in HMAS *Sydney* illustrates this point directly, and suggests, furthermore, that conspiracy theories expand to fill the vacuums left by the absence of transparent disaster management processes. Discovery of the wreck site will not dispel all of the demons. But it will expel some of them, and that is perhaps the best that can be expected 60 years after the event.¹⁰

It should be noted that, in making these comments, Kirsner and Dunn felt that only the second and third arguments justified the expenditure of public funds.¹¹

8.9 There was also a sentiment of desire for closure, a desire to bring to an end the doubts that had plagued the families of those on *Sydney* for so long:

Those men who lost their lives on *Sydney* deserve no less and, indeed, it is my view that, if nothing else, they should be comforted by the fact that we, as a nation, have done everything we could do to search for them, to find them. All we can do now is to spiritually bring them home, but we should do that ... [D]o we care enough, as a nation, to search for the *Sydney* and to do everything we can to find the ship and, as I said, to spiritually bring those people home?¹²

8.10 For a number of people who made submissions to the inquiry, their interest in the search was more equivocal. Mr Pat Burnett, for example, indicated that:

I think unless they were extremely lucky, it [the search] would be a very long and expensive project. My own personal wish would be that the matter be left in peace after over 50 years and that the search not be carried out. I quite appreciate the desire of next of kin to know as far as possible the truth of what happened and the whereabouts of the *Sydney*. I would certainly not oppose such a scheme.¹³

8.11 The arguments against further searches for the wrecks of HMAS *Sydney* and *Kormoran* revolve around two main issues, firstly the cost of any search, and secondly, what the discovery of the wrecks might achieve.

8.12 Professor D Creagh, in commenting on this matter, noted that 'it is difficult to see how such a search could be justified. It certainly will be a difficult and expensive operation, given that the two wrecks have escaped detection for the past fifty five years. I do not believe

10 Kirsner and Dunn, Submission, pp. 2738-2739.

11 *ibid.*

12 Edwards, Transcript, pp. 180-181

13 Burnett, P, Transcript, p. 487.

that the position for the KSN (sic) *Kormoran* was correctly given so the area of search is probably very wide'.¹⁴ The issues of cost and defining the search area are intertwined, and are dealt with in more detail later in this chapter.

8.13 The view was also put that the wrecks may well not shed any light on the engagement, and that the debate would continue on how *Sydney* met her fate:

I really do not think this will ever go away. We know what happened to the *Titanic*. We know how she was lost; but the *Titanic* is going to be around for a few years to come. I believe the *Sydney* will be the same. Even if we find the wreck tomorrow and fully explain her loss the day after, in 12 months time people are still going to be saying, 'I wonder if that was really what happened?' I do not think the mystery will ever go away, but I think we should be doing as much as we can, while we can, to establish where and how she went down, and to answer some of the other questions.¹⁵

8.14 Some cynicism about the motives of those who wished to conduct a search was also apparent in several submissions:

There are a number of people in W.A. who would like the search for HMAS *Sydney* and the *Kormoran* to be approved so they can go to the public for funds to undertake research. But I consider it a big scam, playing on the public's sympathy for a gigantic rip off.¹⁶

Conclusion

8.15 After considering all of the arguments the Committee was of the opinion that an attempt should be made to locate the sites of the *Sydney* and *Kormoran* wrecks. The Committee is not convinced that the wrecks will explain much about the actual engagement beyond its location (either confirming or disproving at least that part of the German survivors' accounts). However, and more importantly, the Committee considers that the discovery of the final resting place of so many Australians who served on *Sydney* would bring at least some comfort to the families who have had to live with the frustration of not knowing the site of the wreck for over half a century. The actual wreck sites would also provide a focus for future commemorative activities that might be held (the question of commemoration is dealt with in more detail in Chapter 9).

Technical Challenges

Defining the Search Area

8.16 The major hurdle to be overcome in any search is defining the search area sufficiently, not only to make the exercise economically viable but also to maximise the chances of success. Advice from the Western Australian Maritime Museum indicated that 'the search area for *Kormoran* is 7,200 square kilometres with the area for HMAS *Sydney* being far larger'. The search areas for the *Titanic* and *Bismarck*, which are often referred to

14 Creagh, Submission, pp. 1011-1012.

15 Olson, Transcript, p. 213.

16 Sheldon-Collins, Submission, p. 622.

by those advocating the likely success of a search, were of the order of 500 square kilometres.¹⁷

Searches to date

8.17 The initial search for *Sydney* was called off on 29 November 1941.¹⁸ By that time, lifeboats containing German survivors had been found at sea, and a two further boats located ashore. A variety of flotsam and jetsam had also been recovered. A summary is in Table 6.1.

8.18 In its submission the Department of Defence enclosed a paper detailing the searches for *Sydney* undertaken primarily by HMAS *Moresby*, since her homeporting in Western Australia in 1974 up until approximately 1991. The searches were conducted on passage through the area, some were as part of routine hydrographic work, and some were deliberate searches investigating unusual features, both magnetic and acoustic.¹⁹

8.19 An example of the type of searches undertaken is one conducted in October 1981. Michael Montgomery in his book raised the possibility that the wreck could lie in shallow water, and a promising magnetic anomaly off the Zuytdorp cliffs north of Kalbarri was examined by a combined WAMM/RAN team using HMAS *Moresby*. Upon closer examination, the magnetic anomaly was shown to be a geological formation lying approximately 200 metres below the seabed off Kalbarri.²⁰

8.20 With regard to the RAN searches, however, 'All the searches have been on the continental shelf in depths less than 200 metres'.²¹ The Department noted that 'In deeper water ... the probability of detection is much lower, because of the method of the surveys and the limitations of the equipment'.²²

8.21 Defence advised that the most recent search for *Sydney* was undertaken by HMAS *Protector* during July 1997.²³ However, Defence advised that 'the RAN does not have the specialised equipment required to conduct searches in waters off the continental shelf'.²⁴

8.22 The searches conducted by *Moresby*, however, were in no way exhaustive or comprehensive. As CMDR Hardstaff RAN (Retd) observed:

Apart from normal surveying operations, *Moresby* did three things. She carried out investigations for magnetic anomalies, in 1981; she did specific investigations of dangers, or underwater features, picked up in the surveys; and she did the passage on sounding on a regular

17 Department of Communications and the Arts, Submission, p. 352.

18 Department of Defence, Submission, p. 1844.

19 *ibid.*, pp. 1920-1930.

20 McCarthy, 'HMAS *Sydney*/HSK *Kormoran* and the Western Australian Maritime Museum', in Western Australian Maritime Museum, Submission, p. 4065.

21 Department of Defence, Submission, p. 1920.

22 *ibid.*, p. 1930.

23 *ibid.*, p. 1844.

24 *ibid.*

basis, working from inshore out, but nowhere where the wreck sites are.²⁵

8.23 CMDR Hardstaff also drew attention to an area from '25 degrees 30 south, down to 28 south which has not yet been surveyed'. This area is just north of the Houtman Abrolhos.²⁶

The 1991 Sydney Forum

8.24 In 1991, at the HMAS *Sydney* Forum organised by the Western Australian Maritime Museum, a panel of experts was asked to give their opinion on whether the *Sydney/Kormoran* action could have taken place at the position stated in the German accounts: 26 degrees 34 minutes S, 111 degrees E. The location of the various lifeboats and other debris were used in an attempt to track back to the likely site of the battle, and from there to estimate the approximate location of the wrecks.

8.25 The experts agreed that both ships could have been lost in the position stated by the Germans. However, the group of researchers:

... proved unable to reduce the search area down to anything like the proportions of the two successful deep-water searches [*Titanic* and *Bismarck*]. The area for *Kormoran* was c. 7000 square kilometres in area, for example. The area for HMAS *Sydney* is potentially far larger, given that the amount of wreckage found after the battle was limited. ... [A] large-scale search for *Sydney* was ruled out as a result of the findings of the 1991 Forum (on the basis of the size of the search area and the equipment then available) ...²⁷

8.26 Since the Forum, the WAMM has 'continued to work in the water both independently and with the assistance of the RAN examining snags, magnetic anomalies, unusual echo sounder traces or other indications of a wreck ... This work is on-going ...'.²⁸ The WAMM has established contact with the Woods Hole Oceanographic Institute (WHOI), a leading US-based oceanographic research organisation responsible for locating the wreck of the *Titanic*. The WHOI has 'promised support in locating HMAS *Sydney* provided the search areas could be narrowed down to *Bismarck* and *Titanic* parameters'.²⁹

8.27 In addition to the work of the WAMM, considerable work has also been undertaken by a number of groups and individual researchers, aimed at further defining the most likely search area.

25 Hardstaff, Transcript, pp. 438-439.

26 *ibid.*, pp. 438, 445.

27 McCarthy, in Western Australian Maritime Museum, Submission, p. 4065.

28 *ibid.*

29 Western Australian Maritime Museum, Submission, p. 146.

Comparisons with the Titanic and Bismarck

8.28 The discovery of the *Titanic* and the *Bismarck* in the mid 1980s signalled to many that locating *Sydney*, should she rest in deep water, was now technically feasible. It is instructive, however, to note that a number of factors about the experience in locating *Bismarck* and the *Titanic* vary from the situation facing those searching for *Sydney*.

8.29 The Department of Defence, in commenting on whether a deliberate search should be mounted, made the following observation:

The greatest difficulty in initiating such a search is the lack of an adequate datum upon which the search could be based ... In the searches undertaken by Dr R D Ballard for the *Titanic* and *Bismarck* there was an accurately known starting position. In the case of *Sydney*, even with a known datum the search area could be substantial. Sinking ships do not plunge vertically and can move a reasonable distance from the sinking position to the final resting position eg after a three week search, *Bismarck* was located some 3.2 km from the reported sinking position.³⁰

Titanic was located in 4000 metres of water and *Bismarck* in 4800 metres of water. *Titanic* was located in two pieces, half a mile apart. Even with reasonably accurate locations for both ships, it took three weeks to locate the wreck of the *Bismarck*. The leader of the *Titanic* and *Bismarck* search teams, Dr Robert Ballard from WHOI, is reported as commenting that 'finding the wreck of *Sydney* cannot be described as looking for a needle in a haystack because the haystack has not yet been found'.³¹

8.30 However, the discovery of both *Titanic* and *Bismarck* does indicate that the technology is available not only to locate wrecks at these depths, but also to examine them.

Current location theories

8.31 The Committee agrees with the proposition that:

In making a determination of the most probable search position, the assessment must be based on sound navigational, hydrographic and oceanographic information ...³²

8.32 Given that the actual site of the engagement is still in dispute among researchers, it was perhaps not very surprising to find an even more vigorous debate in progress on the possible locations for the wrecks of *Sydney* and *Kormoran*. Differences emerge according to whether the German view of events (in whole or in part) is believed, and on whether alternative scenarios of the engagement are considered possible. A number of different possible wreck sites were put forward to the Committee, and these are summarised in Table 8.1.

30 Department of Defence, Submission, p. 1845.

31 Frame, op. cit., p. 225.

32 Slade, Submission, p. 2603.

Table 8.1 Possible Locations of Battle Site and Wreck Sites

Location	Source/comments:
26°34'S, 111°E	Location of the engagement given by Captain Detmers. ³³
27°S, 111°E	Location of the engagement, as given by the Navigation Officer of <i>Kormoran</i> . ³⁴
27°11.71'S, 113°12.88'E	Possible location of the <i>Kormoran</i> wreck, as identified by Mr D R E King. ³⁵
24°S, 110°E, in a depth of 3000-4000 metres	Position of <i>Kormoran</i> as given by Mr J Montagu; position of <i>Sydney</i> is not conclusive. ³⁶ Based on the report of linseed oil sighted by HMAS <i>Heros</i> on 26 November 1941.
26°20'S, 112°25'E	<i>Kormoran</i> sinking position, given by LCDR Ean McDonald. ³⁷
28°38.39'S, 113°21.86'E	Knight/Whittaker position (KDLS Target 3), believed to be the <i>Kormoran</i> . ³⁸
24°54'S, 108°42'E	Position of battle given by Mr James Eagles. ³⁹
26°42.3'S, 111°46.8'E 26°28.35'S, 111°32.6'E 26°38.7'S, 111°41.9'E	Action site. <i>Sydney</i> wreck (note, the <i>Sydney</i> and <i>Kormoran</i> wrecks in this proposal are believed to be 13 nm apart). <i>Kormoran</i> wreck. Positions as provided by CMDR R J Hardstaff. ⁴⁰
26°15'S, 111°E	Kirsner and Dunn battle site position. ⁴¹
26°30'S, 111°30'E	Hughes position of battle site. ⁴²
26°40'S, 110°40'E	Steedman and McCormack battle site. ⁴³
28°S, 113°32'E	Possible site of the <i>Sydney</i> wreck, given by Mrs Glenys McDonald. ⁴⁴
26°19.6'S, 111°41.8'E	Fugro Survey Pty Ltd, prepared for the HMAS <i>Sydney</i> Foundation Trust. ⁴⁵

33 Department of Defence, Submission, p. 1845.

34 *ibid.*

35 King, Submission, p. 3983.

36 Montagu, Submission, p. 110.

37 McDonald, E, Submission, p. 547.

38 Knight, Submission, p. 2207.

39 Eagles, Submission, p. 3611.

40 Hardstaff, Submission, p. 47.

41 Kirsner and Dunn, Submission, p. 4039.

42 Quoted in Kirsner and Dunn, Submission, p. 4039.

43 *ibid.*

44 McDonald, G, Submission, p. 174.

45 HMAS *Sydney* Foundation Trust, Submission, p. 843.

8.33 The differences of opinion can be classified into two main groups: those who basically agree with the position of the engagement given by the Germans (in the vicinity of 26°34'S, 111°E); and those who believe the engagement occurred much further south, approximately at latitude 28°S. Two of the positions that have attracted varying degrees of support are discussed in this section, as an illustration of the complexities of defining the search area.

The Kirsner/Dunn Position

8.34 The HMAS *Sydney* Foundation Trust has been very active in its attempts to define the possible search area for the wrecks. Among the procedures it has been undertaking are:

- oceanographic hind-casting (ie reconstructing the movement of all objects and debris thought to have been from the two vessels)
- archival searches (both in Australia and overseas)
- archival analysis.⁴⁶

8.35 The results of the work so far are contained in a submission to the Committee by Dr Kim Kirsner and Dr John Dunn. The paper comments on the feasibility of a search for the wrecks of *Sydney* and *Kormoran*.⁴⁷ Examining both the oceanographic data and the archival data (survivors reports), the paper suggests an area identified for the *Kormoran* of a comparable size to that of the searches for the *Titanic* and *Bismarck*. The paper identifies two areas as possible sites for a search: the smaller of the two circles (five nautical miles in radius from position of 26°15'S, 111°E)⁴⁸ provides a search area similar in dimensions to that of the *Titanic* and *Bismarck*. The larger circle (with a 15 nm radius) is certainly bigger than *Titanic* and *Bismarck*.⁴⁹ Water depth in both areas is approximately 2500 metres.⁵⁰

8.36 The paper also looks at estimates of the wreck site produced by Mr Sam Hughes, a search and rescue expert from the Australian Maritime Safety Authority and Mr Ray Steedman, an oceanographer. While 'these studies involved different techniques and differed considerably in regard to longitude, they were very similar in regard to latitude, at 26°19'S to 26°40'S'.⁵¹

8.37 Some concerns about the methodology used by Kirsner and Dunn were raised by Mrs Glenys McDonald, as she found it difficult to fully assess the 'hindcasting for the seven lifeboats/rafts without a detailed analysis from each boat as to what sails were rigged'.⁵² Mrs McDonald also cautioned about placing so much emphasis on 'the small amount of debris found from two large ships, which were apparently both burning fiercely. None of this debris was found with any evidence of fire damage'.⁵³

46 *ibid.*, pp. 824-825.

47 Kirsner and Dunn, Submission, pp. 2727-2742.

48 *ibid.*, p. 2734.

49 Kirsner, Transcript, p. 173.

50 HMAS *Sydney* Foundation Trust, Transcript, p. 169.

51 Kirsner and Dunn, Submission, p. 2729.

52 McDonald, G, Submission, p. 3351.

53 *ibid.*, p. 3354.

8.38 Mrs McDonald also raised the problem of what we should or should not believe of the German account:

Kirsner and Dunn state that we should believe the German story in total and not just accept or reject bits that fit in with our hypothesis. They then go on to say they used a formula which acknowledged that some of the Germans may have lied or deliberately misled. I have no absolute method of knowing if the Germans told the truth. Therefore I feel that some of the alternative hypothesis that people have produced is not unreasonable given the many variances in the German testimonies.⁵⁴

8.39 Kirsner and Dunn also state that they believe '*Sydney* sank 10 to 20 miles to the south of that position [26°15'S, 111°00'E]'.⁵⁵ Mrs McDonald challenges that opinion, indicating that Kirsner and Dunn have not examined the possibility that *Sydney* could have travelled much further on in a south or south-easterly direction. 'There are many examples of badly damaged ships, with damage similar to that inflicted on HMAS *Sydney* by HSK *Kormoran* travelling for many hours before either sinking or reaching safety'.⁵⁶

8.40 McDonald, Kirsner and Dunn are at variance also on the value of oral history (and hence the value of the reports by Port Gregory residents of their sightings of a battle at sea in November 1941). Kirsner and Dunn, while acknowledging the 'intrinsic value' of oral history conclude that 'we should not expect eyewitness testimony to provide reliable information about the time and location of specific events after 30 or 40 years'.⁵⁷ In a supplementary submission they add:

It is our view that analysis of the eyewitness reports from Port Gregory have (sic) been treated literally when the length of the interval between the original event and the recording sessions, and the lack of independence among the witnesses during the early months and years after knowledge of the event became widespread, suggests a less than literal approach might have been more appropriate.⁵⁸

8.41 However, Mrs McDonald rebuts this view, indicating that while oral history is 'subject to inaccuracies ... so too is the written archival information of the time' and that 'In debunking the value of memory and therefore the collection of oral histories of a battle sounds (sic) off the coast from Port Gregory, Kirsner and Dunn have not adequately explained what it was these people saw'.⁵⁹ In their supplementary submission, Kirsner and Dunn address this briefly, suggesting four possible explanations for the events that triggered the reports of Port Gregory residents:

- an independent incident now lost to us;

54 *ibid.*, p. 3352.

55 Kirsner and Dunn, Submission, p. 2734.

56 McDonald, G, Submission, p. 3354.

57 Kirsner and Dunn, Submission, pp. 2736-2737.

58 *ibid.*, p. 4045.

59 McDonald, G, Submission, pp. 3359 and 3361.

- the passage of *Uco* on the inshore route at about 0400 on 20 November 1941 (the vessel reportedly often made a lot of smoke);
- reflection of light from high level cloud from the battle or from the 1000' column of flame that marked the end of *Kormoran*; and
- light propagation involving low level cloud from a source in the Port Gregory area.⁶⁰

Some of these are obviously more likely than others, and the only thing that is certain is that the debate about what Port Gregory residents saw will continue.

8.42 Mrs McDonald argues for a search for *Kormoran* based on German evidence, and then a search for *Sydney* based on both German and coastal sightings.⁶¹

... we do have the Captain of the *Kormoran*'s position and the Navigator's position, plus we have a report of a large sighting of linseed oil by the RAAF and HMAS *Heros* ... [which] should give us a reasonable grid search for the *Kormoran*. If the ship cannot be located in this area, then it is probable that the Captain and Navigator lied and that the battle was much closer to shore than they stated ...

The second position I feel should be grid searched is an area with a central focus of 28°S 113° 30E ...⁶²

8.43 In commenting on the views put forward by Kirsner and Dunn, CMDR R J Hardstaff, RAN (Retd) observed that 'I think the Professor's conclusions are a little far-fetched in this case and his trust in the German POW's too overpowering for him to reach a clear decision'.⁶³

8.44 The HMAS *Sydney* Foundation Trust has indicated its willingness to have its proposed search plans subject to a technical audit.⁶⁴

The Knight/Whittaker Position

8.45 The Committee also received evidence from Mr Lindsay Knight and Mr Warren Whittaker, who in January 1998, using the Knight Direction Location System (KDLS)⁶⁵ conducted an airborne search over an area of more than 16 000 square miles off the Western

60 Kirsner and Dunn, Submission, p. 4045.

61 McDonald G, Submission, p. 3361.

62 *ibid.*, p. 173.

63 Hardstaff, Submission, p. 3753.

64 The Trust has established 'a technical audit procedure to review the position analyses, the feasibility of an in-water search, and technical issues associated with the in-water search'. The audit would involve a select group of international experts (Submission, p. 828). The Committee believes the Trust would also welcome the contribution of Australian researchers as well as international experts.

65 The KDLS, developed by Mr Knight, 'consists of a Transmitter/Receiver, and a set of specially constructed and tuned hand held aerials. In addition, a magnetometer and a computer is used ... To use the system, the operator tunes the transmitter to broadcast the predetermined KDLS resonant frequency of the substance to be detected. If the substance is present in the ground or under water, at any depth, the micro energy from the resonating target material is detected' (Knight, Submission, p. 2219).

Australian coast and located three 'targets'. Mr Knight believes that Target 1 is possibly HMAS *Sydney*, Target 2 'a mystery ship', and Target 3, possibly the remains of *Kormoran*. A second survey was flown several days later, over an area of 26 600 square miles and examined the site of the action as stated by Captain Detmers. No modern wrecks were discovered.⁶⁶

8.46 According to Mr Knight, the suspected wreck of the *Sydney* is 85 nm from the KDLS identified *Kormoran* site, and outside the range of the air searches carried out by authorities in the days after *Sydney*'s disappearance. He also believes that the wreck of what he believes to be *Kormoran* (at 28°38.39'S, 113°21.86'E) is close to where the action must have taken place. This site is some 193 nm from what he calls the 'official' site.⁶⁷ According to Mr Knight, the target believed to be the *Sydney* is in somewhere around 4,900 metres of water; the vessel that is believed to be the *Kormoran* is in 800 metres of water.⁶⁸

8.47 Although Targets 1 and 2 are 30 nautical miles apart, Mr Knight believes that they may be parts of the same ship.⁶⁹ While others such as Frame believe that *Sydney* may well be in one or two large pieces on the ocean floor,⁷⁰ the distance of 30 nautical miles would seem to rule out the suggestion that Targets 1 and 2 are parts of the one ship.

8.48 The accuracy of the KDLS in depths such as those indicated has not been tested, although Mr Knight claims that depth of water does not affect its detection ability.⁷¹ He indicated to the Committee that KDLS shipwreck surveys have been carried out in a number of sites around Australia, and also in PNG, Guernsey, Indonesia, the Philippines and the United States.⁷² Mr Knight has given a number of examples of actual discoveries made using his system, for example, a World War II ammunition ship was located in PNG using the signature of Japanese small arms ammunition; and Japanese ships located in the area of the Philippines.⁷³

8.49 Doubts about the utility of the KDLS system have been raised by Kirsner and Dunn, who were critical of the lack of information about the system's sensitivity and specificity (i.e. its capacity to detect a target when one is present, and whether it will detect targets if they are weak; and lack of information about the system's ability to differentiate responses caused by other factors such as magnetic anomalies).⁷⁴ While the Committee does not reject the findings arising from the KDLS surveys, it would like to see more evidence of the accuracy of the KDLS before giving the system its endorsement, in the absence of any explanation of the methodology involved.

8.50 Mr Whittaker, in a separate submission to the Committee, examined the relationship between the targets detected by the KDLS, the evidence provided by the objects recovered during search and rescue operations conducted in November 1941, and oral history as collected by Glenys McDonald and others. Mr Whittaker concluded that:

66 *ibid.*, pp. 2204-2206.

67 *ibid.*, pp. 2206-2208.

68 Knight, Transcript, p. 394.

69 *ibid.*, p. 392.

70 Frame, *op. cit.*, p. 226.

71 'KDLS Targets can be located at any depth regardless of type of cover' (Knight, Submission, p. 2218).

72 Knight, Submission, p. 2221.

73 *ibid.*, p. 2222.

74 Kirsner and Dunn, Submission, p. 4026.

- there are grounds for thinking that the German survivors lied about the location of the action;
- the KDLS survey did not detect any modern wrecks north of Latitude 28°30'S; it is certain that if the wrecks were present, they would have been detected; and
- the action between HMAS *Sydney* and HSK *Kormoran* took place near the site identified as KDLS Target No 3 (at 28°38.39'S, 113°21.86'E), i.e. west of the Houtman Abrolhos.⁷⁵

8.51 Mr Whittaker reported the wreck thought to be that of *Kormoran* (28°38.39'S, 113°21.86'E) and that of the *Sydney* (29°58.53'S, 112°48.26'E) but did not comment on the third target site identified in the survey.⁷⁶

8.52 Kirsner and Dunn made the observation that according to the Western Australian Maritime Shipwreck data base, 'there are 76 modern wrecks offshore in Geraldton-Abrolhos region, the location of only two of which are known with any certainty. Without additional argument, it cannot be safely concluded that any of the "modern wrecks" detected by the KDLS is not one of these'.⁷⁷ Kirsner and Dunn also make the point that, given the large number of wrecks in the area, it is somewhat surprising that the KDLS only detected three signals.

8.53 Kirsner and Dunn also raise concerns about the Knight/Whittaker claim that HSK *Kormoran* is at 28°30'S, 113°22'E, as their reconstruction:

... puts *Kormoran* a mile or two to the south of Evening Reef, within sight of the lighthouse on North Island, and, as she was steering 25°, within a mile or two of accidental loss on Noon Reef ...⁷⁸

8.54 The Knight/Whittaker conclusions place the action site further south than the Kirsner/Dunn area, and in the latter's opinion 'until Knight and Whittaker publish an independent audit, including information about the probability of false alarms and errors of omission for their procedure, the value of this evidence is unclear'.⁷⁹ Kirsner and Dunn are also critical that the Whittaker hypothesis 'depends on selection of the most extreme values for wind and current ...'.⁸⁰

8.55 Criticisms of the Knight submission were also made by Mr Alastair Templeton:

There seemed to be inconsistencies in it, quite apart from a bit of carelessness in presenting coordinates ... What caught my eye at first was that the carley raft was plotted way up north, but it was a full degree of latitude out: it was plotted north of where it was actually picked up. ... All I can say is that if this submission is to be taken

75 Whittaker, Submission, pp. 3636-3639.

76 *ibid.*, p. 3642.

77 Kirsner and Dunn, Submission, pp. 4026-4027. Modern wrecks are defined as ships lost since 1900.

78 *ibid.*, p. 4043.

79 *ibid.*, p. 2735.

80 *ibid.*

seriously ... someone should have a damn good look at it because it does not stack up.⁸¹

8.56 Mr Templeton was also critical about a more southerly site of an action:

For survivors to be picked up in that position from this mooted idea of near the Abrolhos beggars description. I think it is not physically, navally or seafaringly possible, so I tend to dismiss that area for that reason.⁸²

8.57 It is the belief of the WAMM that the 'first step in any "in-water" search for HMAS *Sydney* would be to examine an area at or near 26°32-34'S, 111°E, for any evidence of HSK *Kormoran* at least. It is clear from the submissions received to date that most search groups and individuals, irrespective of their deductions as to the whereabouts of HMAS *Sydney*, would see this a useful preliminary step, given that it is one capable of providing positive or negative evidence of considerable significance'.⁸³

Conclusion

8.58 It is apparent from the brief discussion above that there is still a great deal of work to be done on defining a search area. While the Committee supports in principle the idea of mounting a search to locate the wrecks, it would be far too costly to mount a search on the information available at present. The Committee would like to see a phased approach to the search undertaken, beginning with a seminar or workshop, sponsored by Navy, to examine the various theories about possible wreck sites. This seminar/workshop would follow on from the work conducted at the 1991 Forum and the many hours of work since by interested researchers. The value in the seminar would be primarily in subjecting the various views to critical consideration and debate.

8.59 The Committee recommends that:

- 10. the Royal Australian Navy sponsor a seminar on the likely search areas for *Sydney* and *Kormoran*, involving as many of the individual researchers and groups as possible.**

8.60 Depending on the outcome of that review, the Committee believes the next step should be an investigation of the area identified by the WAMM (at or near 26°32-34'S, 111°E), should this continue to be the most likely area after careful analysis.

81 Templeton, Transcript, pp. 473 and 475.

82 *ibid.*, p. 476.

83 Western Australian Maritime Museum, Submission, p. 4060.

8.61 The Committee recommends that:

11. **after the search area is more accurately defined, some preliminary surveys be undertaken to try and confirm the accuracy of the wreck locations, prior to a full in-water search. An initial search for HSK *Kormoran* at or near 26°32-34'S, 111°E, if supported by the seminar, would seem a logical starting point.**

Search Technology

8.62 In addition to defining the search area using hydrographic, oceanographic and archival sources, the Committee believes a number of initial surveys should be undertaken to determine that the search is in the correct area, prior to a full search being mounted. These modified searches can take a number of forms.

8.63 Mr Wes Olson has put the view that:

There is a possibility that the *Sydney* and the *Kormoran* are releasing minute amounts of oil from corroding or ruptured fuel tanks. With the technology that is now available, and given the right conditions, it is feasible that a suitably equipped aircraft would be able to detect any oil seeping up from the wreck(s). Such an operation would not be overly expensive and would offer the best chance of narrowing the search area.⁸⁴

8.64 Professor Penrose, a Trustee of the HMAS *Sydney* Foundation Trust, discussed two techniques for determining hydrocarbons: using fluorescence (excited by a laser on a passing aircraft and detected by sensors on that aircraft); and by examining the sheen on the water viewed from satellite space records.⁸⁵ Professor Penrose explained that should an expression of hydrocarbons on the surface be found, there are two main sources, one being natural seepage, and the second that a shipwreck is emitting oils (though it may not necessarily be from either HMAS *Sydney* or HSK *Kormoran*).⁸⁶

8.65 While there is some doubt about whether the wrecks would be still releasing oil, the Trust has looked at two wrecks that were sunk in about the same time frame: *Royal Oak* in Scapa Flow and HMAS *Perth* in Sunda Strait. Both appear to still show oil slicks, although both are in much shallower water than is likely for *Sydney* or *Kormoran*.⁸⁷ The oil may be strongly dispersed by the time it reaches the surface, but it may give an indication of a general search area, if taken with other estimates of the likely wreck sites.

8.66 Deepwater side scan sonar is another technique that might be used in a search. It involves a sideways looking sonar being towed behind a vessel. While the side scan sonar can detect an object, it cannot say what it is:

The object could be man-made, it could be a natural feature. It could be a volcanic plug or a shipwreck. What a side scan sonar system or a

84 Olson, Submission, p. 217.

85 Penrose, Transcript, p. 171.

86 *ibid.*, p. 172.

87 *ibid.*, p. 169.

swath mapping system will do is identify a shape that looks out of the ordinary ... What you then need to inspect that with is something like a deepwater remotely operated vehicle or an ROV ..., vehicles available that can work in deep water. They are fitted with a video-type camera.⁸⁸

This technology can provide a more accurate picture of an object, assisting in its identification. The Trust believes that an initial broadscale search will probably involve a sonar side scan or swath type of technology.⁸⁹

8.67 To effectively operate side scan sonar technology, a vessel must have a differential global positioning system, to provide accurate navigation. The vessel also has to have the capacity to tow a deep water side scan sonar.

8.68 In addition to these systems, a magnetometer may also be of use. 'At appropriately short ranges a deep towed magnetometer will tell whether any piece of wreckage or a natural structure is or is not ferromagnetic'.⁹⁰ HMAS *Moresby* used side scan and magnetometry in some of its searches in the 1980s. Given the depth that the wrecks are likely to be in, flying an airborne magnetometer is unlikely to be productive.

8.69 All of the above technologies are available commercially in Australia, either permanently or a regular visiting basis.

8.70 It was apparent from the evidence received by the Committee that the vessel needed for the search will require capabilities currently not possessed by the RAN. This was confirmed by Defence which argued that should a deliberate search be mounted it would 'require the charter of a specialised vessel for an indeterminate period of time. Such a venture would be extremely expensive and hard to justify in the current fiscal climate'.⁹¹

8.71 HMAS *Moresby* has been decommissioned, and HMAS *Protector* does not at present have the capabilities for deep water survey operations. The Committee was advised that:

The two new RAN survey Ships *Leeuwin* and *Melville* will only be fitted with a shallow multibeam each eachsounder (sic) system however the ship configuration would enable embarking suitable search systems.⁹²

8.72 In addition to the ability to locate the wrecks, possibly using ships equipped with deep water side scan sonar, once the wrecks are located there will need to be a vessel with a Dynamic Positioning Capability i.e. capable of holding a position over the wreck site in deep ocean while the wreck is examined using an ROV. Mr Ed Punchard, Chairman of the HMAS *Sydney* Foundation Trust, advised the Committee that it was his understanding that vessels with the capacity to be dynamically positioned are being acquired by the RAN.⁹³ Regardless

88 Graham, Transcript, p. 160.

89 Penrose, Transcript, p. 161.

90 *ibid.*

91 Department of Defence, Submission, p. 1845.

92 Slade, Submission, pp. 2603-2604.

93 Punchard, Transcript, p. 175.

of whether the RAN acquires this capability, the Committee believes that all avenues for obtaining a suitable vessel should be examined. For example, suitable vessels (with some modification) might be available through other areas of the Australian Government e.g. the Australian Geological Survey Organisation or the CSIRO. In addition:

From time to time, foreign research and survey vessels operate under contract or in cooperation with Australian government agencies in research, geological and maritime boundary related surveys. These vessels are fitted with hull mounted deep water multibeam echosounder technology, towed side scan systems and positioning and logging systems. Such vessels could be utilised in addition to their prime tasking for 'one off' sweeps in a planned search area over a period of time when entering, departing or during a contract or cooperation period with the government agency.⁹⁴

8.73 CMDR Hardstaff supported a search, but suggested it be conducted by:

... the navy and not other people. It is only a question of hiring a deep sides container with a 1,000-metre cable. The equipment is available to do it, but if that is impossible you have these oil rig vessels on the station passing through on and off all the time. They are operated by other government agencies in Australia and they could do exactly the same job. It would probably cost you a lot more money but they would do the job for you, provided they were told exactly what to do.⁹⁵

8.74 A vessel such as HMS *Scott* would be well suited for such search activities. *Scott*, an ocean survey ship of the Royal Navy, has the ability to sweep a path 60 nm wide at 5000 metre depths.⁹⁶ It is possible that the RN could be approached about participating in a search, should it prove to be financially feasible. However, other alternatives appear available, and will be reasonably cost effective provided that the search area is more manageable.

Funding a Search

8.75 The Committee was asked in its Terms of Reference to consider the extent to which the Commonwealth Government should participate in a search. The Committee has interpreted participation to be not only in direct funding, but also in terms of logistical assistance and the possible provision of equipment.

8.76 The cost of any search is likely to be in the order of several million dollars, and there are a number of ways this could be funded. Many of the submissions to the inquiry called for Commonwealth funding to be provided to allow the search to be undertaken. For some, there was little doubt as to who should bear the cost of any search:

WITHOUT QUESTION the [Commonwealth Government] should bear 100% of the cost, and forthwith at that. The Seamen were

94 Slade, Submission, p. 2604.

95 Hardstaff, Transcript, p. 448.

96 Hardstaff, Submission, p. 78.

'Employees' of the Commonwealth Government, and that means the relatives of the lost seamen and other Australians should NOT be called on to contribute. The HMAS *Sydney* was owned by the Commonwealth Govt. and they have to use their money to pay for locating the hull. The Telecom Float need not all be spent on the Greenies and paying off our Overseas Debt, all worthy causes, but this locating and examining the wreck of the HMAS *Sydney* now, at once, if not done will remain a BLOT ON THE MEMORY OF ALL THOSE OF US WHO FOUGHT TO SAVE AUSTRALIA FROM WHAT WAS ALMOST German and Japanese control.⁹⁷

8.77 Other sources of funding, however, might also be possible. Mr Walter Pless, in his submission, noted that:

There must also be philanthropists and other wealthy individuals or organisations who would be willing to contribute funds for such a search ... International groups and identities, including military forces and private corporations with an interest in Australia, may also be willing to assist in financing a properly conducted search and could be approached ... I am sure that a national fund-raising campaign would result in ordinary members of the public contributing to costs of a search. Surviving relatives of HMAS *Sydney* crew members would, I am sure, be in the vanguard of such a public fund-raising campaign. The RSL and its many members, I am certain, would be more than willing to contribute in some way to the mounting of a search.⁹⁸

8.78 The Committee considered a range of options for funding, including a proposal that rather than fund a search, a substantial reward be offered for 'a proven find of one or other wreck'.⁹⁹ While this idea has some appeal, the Committee believes it appropriate that a more co-ordinated approach be taken to any search. It is unlikely that the wrecks will be found by chance, given that deliberate attempts to locate the wrecks have been unsuccessful to date, and despite a reward already being possible under the *Historic Shipwrecks Act*. As the wrecks are most likely in deep water, the cost to an individual or small group of enthusiasts of the technology and equipment to conduct a search is almost prohibitive.¹⁰⁰

8.79 The Committee would prefer to see a more co-ordinated and cost effective approach to a search, rather than a 'free-for-all' that might result from a large reward being offered. The Committee also acknowledges that a successful search will require a multi-disciplinary approach, a high degree of coordination, and clever management if the result is to be achieved. To this end, the Committee has concluded that the HMAS *Sydney* Foundation Trust is the most appropriate body to co-ordinate the search activities at present.

8.80 The Committee also considered whether the search should be funded solely by the Government, but given the financial constraints on all levels of government, did not

97 Ross, Submission, p. 476. Emphasis in original.

98 Pless, Submission, p. 224.

99 See for example Poniewierski, Submission, p. 3593.

100 For example, Mr J Montagu indicated that his group was quoted a cost of A\$1,000,000 per calendar month by the Woods Hole Institute several years ago, with no guarantee of success (Submission, p. 2673).

believe this was either practical or desirable. For some, it was indeed preferable if the search was independent of the Commonwealth:

... [the search's] objectivity would be enhanced in the eyes of those who, like myself, lost relatives in the *Sydney* if it was undertaken independently of the Navy and under the auspices of such a body as the HMAS *Sydney* Foundation Trust.¹⁰¹

8.81 However, the Committee believes that the Commonwealth Government should be involved in the search, and its proposed role, and the role of the HMAS *Sydney* Foundation Trust, are discussed below.

The HMAS *Sydney* Foundation Trust

8.82 The HMAS *Sydney* Foundation Trust (hereafter referred to as the Trust) was established 'to locate the wreck and commemorate those who were lost. It is committed to a non-invasive inspection of the wrecks of HMAS *Sydney* and, should it be found first, HSK *Kormoran*. The wreck-sites will then be treated as "graves-at-sea", and protected accordingly'.¹⁰² It has Trustees 'representing the Returned Service Organisations, business, technical search audit expertise, technical search companies and institutions, world-recognised archivists, the Western Australian Maritime Museum, and the legal profession'.¹⁰³

8.83 The Trust has been established as a charitable trust¹⁰⁴ and lays claim to being 'probably the only Australian organisation suitably equipped from the technical and organisational standpoints to search for HMAS *Sydney*. The Trust therefore represents a significant collaborative initiative involving a broad cross-section of scientific, technical and industrial expertise'.¹⁰⁵

8.84 The Trust has indicated that a critical part of its business plan involves a public appeal for funds. While the appeal has been deferred pending the outcome of this inquiry, the Trust has indicated it has the legal and financial arrangements in place to start, including an auditing process. The Trust has indicated the appeal will seek funds for the technical audit; commemoration activities; the in-water search; and the operating costs of the Trust (which have largely to date been funded by the Trustees, companies associated with them, and some public donations).¹⁰⁶

8.85 The Trust in its submission proposed that consideration be given to the Commonwealth Government setting aside:

... a sum of money specifically for search and commemoration purposes. It is further recommended that funds from this source be available on a dollar for dollar basis based on public donations up to a maximum value, thereby setting a limit on public liability. It is further suggested that a figure in the vicinity of 20% of the total anticipated

101 Montgomery, Submission, p. 638.

102 HMAS *Sydney* Foundation Trust, Submission, p. 798.

103 *ibid.*, p. 3627.

104 Punchard, Transcript, p. 176.

105 HMAS *Sydney* Foundation Trust, Submission, p. 798.

106 *ibid.*, p. 831.

costs would significantly facilitate the search for the vessel while setting an appropriate limit on the extent to which the project would draw on public funds.¹⁰⁷

8.86 The Trust provided the Committee with a number of estimates for various components of its program. To complete the work to identify the target area, an amount of \$93,000 was sought, as follows:

- \$57,000 – for reviewing and revising hind-analysis, analysis of reports provided by *Kormoran* survivors, enhancement of oral history data base from Port Gregory and preparation of a final report;
- \$12,000 – for an independent review and evaluation of remote sensing; and
- \$24,800 – Trust administration, including appointment of a part-time manager.¹⁰⁸

8.87 The budget for the actual search contains a number of options which obviously vary the expenditure. The estimates range from \$3.53 million up to \$4.08m.¹⁰⁹ However, the preliminary stages involve more modest amounts of expenditure:

Phase 1 (Alternate A): short survey using a vessel fitted with a narrow beam deep water echo sounder to determine the roughness of the seabed, prior to swath mapping: \$110,000

Phase 1(Alternate B): gathering suitable water depth data, if it exists, and producing it in chart form: \$15,000

Phase 2 (Alternate A): use of airborne Remote Sensing Technology, using laser fluorescent technology to investigate possible oil seeps from the wreck site: \$440,000

Phase 2 (Alternate B): use of satellite photography and sophisticated proprietary hardware and software utilised by some resource companies. Completion of work undertaken to date via a sponsor: \$20,000.¹¹⁰

8.88 The major expense foreshadowed by the Trust is in the Phase 3 (in-water swath survey – \$1.7m) and Phase 4 of the project (close inspection by Remotely Operated Vehicle – \$1.79m).¹¹¹

8.89 The Trust believes that 'considerable cost savings can be achieved by having various services donated. These could well include Freight, Airfares, Accommodation, Port Charges and Fees including pilotage, wharf fees, wharf labour, Vessel hire, Vessel crew donating their services free of charge, fuel and communications'. Indeed, the Trust has

107 *ibid.*, p. 832.

108 *ibid.*, pp. 3256-3259.

109 *ibid.*, pp. 3628-3633.

110 *ibid.*, pp. 3628-3629.

111 *ibid.*, pp. 3630-3632.

argued that 'the funding of this exercise may well combine a combination of resources'.¹¹² In compiling budget estimates, no allowance for savings such as these were included.¹¹³

8.90 As noted earlier, the Trust has stated that there are vessels available for charter in Australia capable of undertaking the survey work. For the ROV work, there are around four vessels in Australia (three operating in the offshore oil and gas industry) and one working with the RAN, capable of remaining over one location without anchoring while the ROV is deployed.¹¹⁴ It is the express desire of the Trust that Australian companies be utilised in the search,¹¹⁵ and the Committee endorses this approach.

8.91 The Committee is aware, however, that the establishment of the Trust and its operations have not been universally welcomed. There has been some concern expressed about the possible conflict of interest between some Trustees who have businesses that might be involved in the work of the Trust as it undertakes the search. There has also been concern expressed that the Trust is more a money-making venture than an organisation dedicated to the commemoration of those lost on *Sydney*.¹¹⁶ The Committee notes these concerns but does not share them.

8.92 After having examined the Deed of Trust and having reviewed the material provided by the Trust to the inquiry, the Committee believes there are adequate safe-guards to ensure that funds raised in the name of the Trust are used properly. The Committee notes that under the Deed of Trust establishing the HMAS *Sydney* Foundation Trust, the accounts of the Trust are to be audited.¹¹⁷ The Committee also acknowledges the many hours of unpaid work undertaken by the Trustees and the facilities provided by their companies to date. However, in the dispersal of publicly raised funds, the Committee believes it is important that the Trust ensures that any of its work involving the use of commercial enterprises be undertaken following an independent tendering process.

8.93 The Committee has concluded that it would be appropriate for the Commonwealth Government to be involved in the search for HMAS *Sydney*, giving support not only morally but also in a tangible way. While the Committee believes the HMAS *Sydney* Foundation Trust should be the prime co-ordinator of the search, RAN resources should also be made available to assist in the search as required. To this end the Committee would like to see closer liaison between the Trust and Navy, along the lines of the MOU signed between the Trust and the Western Australian Maritime Museum.

8.94 The Committee recommends that:

12. the HMAS *Sydney* Foundation Trust and the Australian Government negotiate a Memorandum of Understanding governing the search for, and subsequent protection of, the wrecks of HMAS *Sydney* and HSK *Kormoran*.

112 *ibid.*, p. 3628.

113 *ibid.*

114 *ibid.*, p. 3633.

115 *ibid.*, p. 825.

116 See for example, McDonald, E, Transcript, p. 227; Hardstaff, Transcript, p. 449; End Secrecy on *Sydney* Group, Submission, p. 2066.

117 HMAS *Sydney* Foundation Trust, Submission, p. 3628.

8.95 The Committee also supports the provision of Commonwealth funding to the Trust on the following basis:

- an initial grant of \$100,000 to cover activities associated with defining the search area for the wrecks. A report on the expenditure is to be provided to the Minister for Defence;
- funding thereafter to be provided on a dollar for dollar basis, matching publicly raised funds, with an upper limit of \$2 million being set for Commonwealth liability;
- support provided 'in-kind' by commercial and other sponsors not to attract the reciprocal funding of the Commonwealth;
- assistance 'in-kind' provided by the RAN not to be counted towards the liability of the Commonwealth; and
- that a period be negotiated for the completion of the search and related activities.

8.96 The Committee recommends that:

13. (a) **the Australian Government provide an initial grant to the HMAS Sydney Foundation Trust of \$100,000 to cover activities associated with defining the search area, with a report on its expenditure to be provided to the Australian Government; and**
- (b) **the Australian Government match public donations, on a dollar for dollar basis, up to a total of \$2 million.**

Management Issues

8.97 The Committee's primary concern, should the wrecks be located, is that they be adequately protected as the final resting place of so many Australian servicemen. The importance of the wrecks is such that there was no question in any of the submissions that a proper management plan should be developed.

Protection of the Wrecks

8.98 The protection of historic shipwrecks and relics located within Australian waters is provided for by the *Historic Shipwrecks Act 1976* (HSA). Australian waters are defined as being 'from the low water mark to the outer edge of the continental shelf but not including State waters'.¹¹⁸ In practice this means that 'if the wreck is anywhere in waters from Australia's low tide mark to the continental shelf, it would be covered by the act'.¹¹⁹

118 Department of Communications and the Arts, Submission, p. 349. Note, responsibility for the HSA now resides with the Department of the Environment and Heritage (Administrative Arrangements Order, 21 October 1998).

119 Department of Communications and the Arts, Transcript, p. 60.

Departmental officers with responsibility for the Act confirmed that the Act extends to the extent of the continental shelf, irrespective of the economic zone boundary.¹²⁰

8.99 The Act prohibits damage, interference, removal or destruction of an historic shipwreck or associated relics, except in accordance with a permit, and is administered in co-operation with the States, the Northern Territory and Norfolk Island.¹²¹ Under the Act, the Minister for the Environment and Heritage has delegated certain of his powers under the HSA to the States and Northern Territory: the Minister's delegate in Western Australia is the Director of the Western Australian Maritime Museum.¹²²

8.100 The Department advised that wrecks covered by the Act may be protected in three main ways:

- a wreck in waters under Commonwealth jurisdiction is automatically classed as historic and thus protected if it is 75 years of age or older;
- a wreck may be protected if it is considered to have historic significance and a specific declaration is made by the Minister; and
- a protected zone may be declared around an historic wreck preventing entry except by permit for specified purposes.

Recommendations for the declaration of shipwrecks as historic and for the creation of protected zones are usually made to the Minister by Delegates, but may also be made by any member of the public.¹²³

8.101 The Western Australian Maritime Museum indicated that permits for access to a protected zone would be issued:

... for *bona fide* research or official purposes only. The purposes for which a permit can be issued can include remembrance services, non-disturbance assessments of the wrecks and the wreckage plumes and the obtaining of data and information pertaining to the publication or promulgation of material in written, film or electronic media form for official or public purposes. Entry into the wreck(s) and removal of material from either site is not envisaged.¹²⁴

8.102 Penalties of up to \$10,000 (\$50,000 for corporations) and five years in gaol apply for breaches of the Act. The Act also provides for a reward to persons who 'first provide a description sufficient to enable a historic shipwreck to be located'.¹²⁵ The Department stressed that its funding did not cover the financing of searches for wrecks.

120 *ibid.*, p. 61.

121 Department of Communications and the Arts, Submission, p. 349.

122 *ibid.*, p. 350.

123 *ibid.*

124 Western Australian Maritime Museum, Submission, p. 146.

125 Department of Communications and the Arts, Submission, p. 350.

8.103 It is apparent from para 8.100 above, that the second and third methods of protection would best apply to HMAS *Sydney*, should she be located within Australian waters.

8.104 The Committee recommends that:

14. (a) **should the wrecks of HMAS *Sydney* and HSK *Kormoran* be located in Australian waters, they be declared wrecks of historical significance, under the terms of the *Historic Shipwrecks Act*; and**
- (b) **the Minister for the Environment and Heritage make a declaration creating a protected zone around the site of the wrecks.**

8.105 Anyone is able to go searching for the wrecks. The protection provided under the HSA only applies once the location of the ship is known and the Minister has made a determination under the Act. As an officer of the then Department of Communications and the Arts advised:

Anyone out in the ocean can be looking for anything they like while they are out there, as far as our act is concerned. If they come across a ship and identify it, the *Sydney* in this instance, they would be required under the act to advise the minister accordingly and then the protective mechanisms would be swung into place.¹²⁶

8.106 The Department of Defence considers that:

... adequate legislative powers exist, in the guise of the Historic Shipwrecks Act of 1976, to protect the wrecks of *Sydney* and *Kormoran* should they be located. Further to this legislation, the wrecks are protected by international conventions which hold that they belong to the flag state unless that state has relinquished its claim on them.¹²⁷

8.107 One submission to the inquiry argued that, should the wrecks be found:

- their locations should be kept secret;
- the wrecks be protected through appropriate government ordinances;
- reporters should be excluded from the search: it is unlikely that they would respect the need for secrecy;
- no items should be removed from the wreck; and
- visual examination only should take place.¹²⁸

8.108 While the Committee does not endorse keeping the location secret, it is concerned that the wrecks be protected from exploitation and interference. Even with the declaration of a protected zone around the site, there is still concern that it would not prevent unscrupulous people diving on the wreck and trying to take souvenirs. Of course, much will depend on the depth of the water, but even *Titanic*, resting in 4000 metres has not been totally protected

126 Department of Communications and the Arts, Transcript, p. 65.

127 Department of Defence, Submission, p. 1860.

128 Creagh, Submission, p. 1012.

from the curious and the avaricious. Mrs Glenys McDonald has advocated community involvement in protecting the site and reporting of unauthorised activity; 'we need the community to do that protecting with the help of the authorities, not by the authorities alone'.¹²⁹

8.109 The Committee believes there is merit in Mrs McDonald's suggestions of involving fishermen, dive clubs and others in monitoring the site, and would hope that the Western Australian Maritime Museum would consider community involvement in the steps it puts into place to protect the site. The Navy should also be involved in the development of a management plan for the protection of the wreck sites, as should other 'stakeholders', defined by the WAMM as including 'the RAN, other Museums (notably the War Memorial and the National Maritime Museum), the German Government, the HSK *Kormoran* Survivor's Association, Australian Statutory Authorities (such as the Department of Veterans Affairs), the Geraldton-based search and research groups, individual researchers and authors, family groups, the Woods Hole Oceanographic Institute and the HMAS Sydney Foundation Trust'.¹³⁰

8.110 The Committee recommends that:

- 15. in addition to consultations with the HMAS Sydney Foundation Trust on a management plan for the wreck sites, the Western Australian Maritime Museum also consult with the Royal Australian Navy, community groups and other stakeholders.**

8.111 If HSK *Kormoran* is found in Australian waters, the German Government will obviously be closely involved in decisions about its protection and management. In 1991 the WAMM, through the Australian Department of Foreign Affairs, advised the German Government that should *Kormoran* be located:

... it would not be disturbed in any way, only recorded and photographed. Furthermore the Museum states that the remains of the HSK *Kormoran* would be treated with respect as the last resting place of those sailors who had gone down with the ship. ... Similar measures [under the HSA] could be taken to protect the wreck of the HSK *Kormoran*, if it is found also in Australian waters, following consultation with and the agreement of the German government.

These principles were endorsed by representatives of the German and Australian Governments and other stakeholders, establishing 'the precedent for all future deliberations on the management of the two wrecks'.¹³¹

8.112 Should the wrecks be found to be in international waters, the situation with protection is less clear. If in international waters, 'warships are generally claimed by the country that originally owned that warship', according to Mr G Henderson, the Director of the Western Australian Maritime Museum.¹³² However, Mr Henderson also advised that:

129 McDonald, G, Submission, p. 182.

130 Western Australian Maritime Museum, Submission, p. 4060.

131 *ibid.*, pp. 146-147.

132 Western Australian Maritime Museum, Transcript, p. 128.

... there are discussions going on at the moment within UNESCO along the lines of developing an international convention for the preservation of material in that area which is outside territorial limits. The understanding that we have is that the legislation going to the extreme of the continental shelf should indeed cover this.¹³³

8.113 There is no legislative basis, however, on which to impose access restrictions on a site in international waters:

There is no legislation which effectively covers the deep seabed, but people have access to that deep seabed, primarily through developments that have taken place in the oil industry ... until there is some sort of international legislation covering the deep seabed, there is a dreadful threat to anything on the deep seabed.¹³⁴

A War Grave?

8.114 Suggestions have been made that the wreck should be declared an official 'war grave'. The Australian War Memorial, in fact, noted that the 'wreck is a war grave'.¹³⁵ While the wreck is certainly the final resting place of those lost during a wartime engagement, the term 'war grave' has specific connotations. The Commonwealth War Graves Commission commented:

Although the wrecks of ships sunk in action are often popularly described as war graves the term is, in these cases, purely descriptive and confers no legal right or title on the Commonwealth War Graves Commission. The Commission discharges its responsibility for the commemoration of those lost in such ships by the inclusion of their names on its memorials and in its memorial registers.

Since the Commission has no responsibility in respect of such ships it cannot give or refuse permission to dive in their vicinity. The wrecks of ships of the Royal Navy are in law the property of the Crown in right of the United Kingdom acting through the Ministry of Defence. Presumably, analogous provisions apply in Australia.¹³⁶

133 *ibid.*

134 *ibid.*, p. 132.

135 Australian War Memorial, Submission, p. 580.

136 Commonwealth War Graves Commission, included in Department of Veterans' Affairs, Submission, p. 347.

The Trust/WAMM MOU

8.115 In July 1996 a Memorandum of Understanding (MOU) was signed between the Western Australian Maritime Museum and the HMAS *Sydney* Foundation Trust. The MOU is a 'statement of general intent between the parties'.¹³⁷

8.116 Under the MOU, the Trust Fund will be used as follows:

- to finance, through fundraising, appropriate research and an expedition to search for the final resting place of the World War II Australian Warship HMAS *Sydney*;
- to fund a commemorative service with the assistance and inclusion of ex-servicemen groups to commemorate the final resting place of the World War II warship HMAS *Sydney*;
- to conduct a search of all possible locations that have been assessed as viable by scientific and technical studies and historical studies;
- available funds will be used to assist representation of the next of kin of those lost on the World War II Australian Warship HMAS *Sydney* where possible to attend the commemorative service;
- to ensure that the wrecksites of HMAS *Sydney* and HSK *Kormoran* are respected as graves at sea and are afforded the full protection of all appropriate legislation, including the *Historic Shipwrecks Act 1976*;
- to set up a structure that allows donor funds to be held on behalf of those donors, but that may be expended for the purposes of the Trust's search for the HMAS *Sydney*;
- to provide support to Maritime Museums, Maritime research centres and public benevolent institutions which satisfy the requirements of Section 78(1) of the Income Tax Assessment Act; and
- generally for Public Charitable Purposes in order to foster objects similar to the Trust.¹³⁸

The Museum's intentions are also listed in the document, and include provision of curatorial and educational assistance to the Trustees, provision of expert advice on archival work, and co-operation with the Trustees in examining wrecksites.¹³⁹

8.117 The Trust has indicated that it 'will facilitate protection of the sites by inviting staff from the Museum ... and from the Department of Defence, to attend and observe all in-water search operations'.¹⁴⁰ Furthermore, it has indicated that a plan for inspection of the wreck will be developed and then reviewed by the WAMM, who will also observe the inspection, as will representatives of the relevant service and ex-service agencies. Procedures

137 Exhibit No. 55a, para 2.

138 *ibid.*, para 3.

139 *ibid.*, para 4.

140 HMAS *Sydney* Foundation Trust, Submission, p. 817.

will include a wreck identification procedure, a survey to determine the general state of the wrecks, and a photographic record of the exposed surfaces of the vessels. The Trust has assured that 'all of the procedures will be non-invasive'.¹⁴¹

8.118 The establishment of an MOU is a sensible step, listing as it does the extent of the co-operation between the Trust and the WAMM. However, the Committee wishes to stress that the WAMM, as the delegate under the HSA, must retain full and final control of who has access to the site of the wrecks for research purposes, and must be vigilant in its moves to protect the wreck sites. The WAMM has acknowledged the need for independence in this matter:

... the Memorandum is also designed to ensure that the Museum remains independent in its dealing with the Trust and that the wrecks of both ships, if found, are dealt with on behalf of the Australian and German nations in accordance with the terms of the 1976 Historic Shipwreck's Act and in the spirit of existing agreements and understandings held by the various stakeholders, both informal and in writing. ... Thus, though the Maritime Museum will assist the Foundation Trust in its stated endeavours and will encourage others to join with the Foundation Trust, it is necessary that the WA Maritime Museum maintain its independence in order that it can deal with its statutory responsibilities under the Act.¹⁴²

8.119 The Committee endorses the Trustees declared intention to abide by the HSA, and in regard to the located wrecks, that no entry will take place within the structure of either ship, and that there will be no disturbance of the site or removal of items from the site or surrounding seabed.¹⁴³

8.120 The Trust has proposed that, should the wrecks be located, video footage be obtained, via the deployment of a Remotely Operated Vehicle (ROV). In its submission, the Trust states: 'All video, together with navigation data relating to the vessel and ROV are stored electronically, commonly on CD disc (sic) for later examination and processing and archiving'.¹⁴⁴ The Committee has no difficulty with such video footage being taken, providing that it is available to other researchers and interested parties, perhaps via the Virtual Memorial.

Conclusion

8.121 The search for *Sydney* and *Kormoran* is not guaranteed of success. If it does succeed, it may provide those interested in the fate of the ships some further insights into the events of 19 November 1941. If the search is unsuccessful, it does not mean that people will no longer wonder about the final resting place of the ship. However, an attempt to find the *Sydney* will be a sign that Australia cares about the 645 men who gave their lives in defence of their country, as well as their families and friends.

141 *ibid.*, p. 827.

142 McCarthy, in Western Australian Maritime Museum, Submission, pp. 4068-4069.

143 Exhibit No. 55a, para 5.

144 HMAS *Sydney* Foundation Trust, Submission, p. 3632.

CHAPTER 9

COMMEMORATION

We know that Sydney went down just off our coast. The memorial to her gallant crew is the sea itself, and the memories of her whole career.¹

My personal belief is that a memorial for the Sydney is in people's hearts and minds, and I think that that memorial is very strong at the moment and will continue to be.²

9.1 The final matter contained in the inquiry's Terms of Reference involves what 'measure[s] ... should be taken to protect and honour the final resting places, if and when located, of HMAS *Sydney* and KSN (sic) *Kormoran*'. The issue of protection of the wreck sites has been discussed in the previous chapter; this chapter considers what would be the most appropriate way, after the passage of so many years, to honour both ships, and in particular the 645 Australians who died in the engagement.

9.2 The Committee thought it appropriate to examine what commemorative activities had already been undertaken, before assessing whether these were adequate. The Committee then considered what might be appropriate in the future, including some consideration of the various options available, depending on whether or not the wrecks are located.

9.3 Although the Committee was asked to consider commemorative activities that might involve the *Kormoran*, it felt that specific action to commemorate that ship was more appropriately the responsibility of the German Government. However, it is obvious that mention of the *Kormoran* and her crew will be inevitable in some of the commemorative activities envisaged, and where it is appropriate the Committee has commented on these.

Commemoration to Date

Physical Memorials

9.4 The Department of Defence was most explicit in its view that:

Additional commemoration of *Sydney* and her crew is not warranted. The ship is commemorated through the current HMAS *Sydney*. The crew of *Sydney* are remembered, along with the (sic) all of Australia's fallen, at the Australian War Memorial. At least two additional memorials to *Sydney* and her crew, one located at Bradleys Head, Sydney and the other at Carnarvon, Western Australia, exist.³

1 McDonald, E, Submission, p. 3172.

2 Burnett, R, Transcript, p. 537.

3 Department of Defence, Submission, p. 1860.

9.5 The Department of Veterans' Affairs, while less blunt in its assessment, noted that those who died on *Sydney* have been officially commemorated:

... on behalf of the nation, by the Commonwealth War Graves Commission on the Naval Memorial to the Missing at Plymouth in the United Kingdom. Their names are also listed on the Roll of Honour at the Australian War Memorial.⁴

9.6 While it is correct that there is a memorial at Bradleys Head in Sydney, it is a memorial to all four ships that have borne the name *Sydney*, not just HMAS *Sydney* II.⁵ In addition, for a number who made submissions to the inquiry, the commemoration in Plymouth was not seen as sufficient recognition:

... only Canada and New Zealand has seen fit to have their navy dead, whose only grave is the sea, commemorated in their homeland.

I consider this a dereliction of duty on the part of successive Australian governments. These sailors from HMAS *Sydney* and sailors from other RAN ships, whose only grave is the sea, MUST be brought home.⁶

9.7 The Committee is aware that there is a memorial to the Navy in Anzac Parade, Canberra. Officially opened in 1986, it is dedicated to 'all those men and women who have served or are serving as permanent or reserve members of the Royal Australian Navy', not as suggested by Defence to 'all naval personnel who have been lost at sea during the wars'.⁷

9.8 Smaller memorials exist at a number of locations around the country:

The names of all victims of the *Sydney* are listed on our local memorial and a special memorial cairn has been erected at the 17 mile well on Quobba Station. A memorial to the deceased of the *Kormoran* has also been built within the Gascoyne Historical Society precinct.⁸

9.9 *Sydney* is commemorated in smaller, but no less important ways, for example with a memorial plaque in the Naval Memorial Garden in Adelaide.⁹ Services have been held at various times around Australia to honour the *Sydney*, and a number of naval historical presentations have been established.¹⁰

9.10 The continued interest in *Sydney* is reflected in plans for a memorial to be constructed in Geraldton, by the Rotary Club of Geraldton, with the support of the Geraldton City Council, the RSL Geraldton Sub-Branch and the Batavia Maritime Heritage

4 Department of Veterans' Affairs, Submission, p. 346.

5 Department of Defence, Submission, p. 3199.

6 Aylott, Submission, p. 1322. Emphasis in original.

7 Department of Defence, Transcript, p. 21.

8 Gascoyne Historical Society, Submission, p. 1144.

9 Craill, Submission, p. 3732.

10 See for example Davey, Submission, p. 3917.

Association.¹¹ The Rotary Club explained why a memorial to *Sydney* was most appropriate in that location:

The planned site for the memorial ... is ... Mount Scott Park ... overlooking the shores of the blue-green Indian Ocean [and with] views which are of vital significance to any meaningful memorial to HMAS *Sydney*. The first is a commanding view of one of HMAS *Sydney*'s last port (sic) of call in Australia – the port of Geraldton. The second is a commanding view of the Indian Ocean and the path of her last voyage in which she disappeared so tragically, so mysteriously.¹²

9.11 The Rotary Club has advised that it has received 'phenomenal' community support for the project. It is conducting a search for input into the design of the memorial and will be conducting a fund raising exercise through all Australian RSL Clubs. It is considering, in addition to the Mount Scott Park memorial, 'a Sentosa Island (Singapore) type display at the nearby Marina housed in the Maritime Museum'.¹³ The final form of the development is not yet decided.

9.12 The Western Australian Maritime Museum has also advised that a new Maritime Museum and enhanced maritime precinct is to be developed at Fremantle. The new Maritime Museum will contain 'a substantial naval and wartime element, part of which will include the activities of the RAN and other navies ... on this coast. ... With respect to the loss of HMAS *Sydney*, and its crew in waters off this coast, there is a desire and indeed a need for the new Maritime Museum to treat the demise of the vessel in the context of its entire career, of the RAN and of the "war on our doorstep" in general'. The WAMM went on to stress that these aims 'do not preclude the strong support of the Museum for the initiatives presented by others to the Committee with respect to a specific-purpose "real" or "virtual" memorial specific to HMAS *Sydney* and its crew or for the establishment of archival databases and the like with a similar aim in mind'.¹⁴ The potential certainly exists, and would be supported by the Committee, for an integration of the efforts of the Trust and the WAMM towards appropriately commemorating the *Sydney*.

9.13 Various views were expressed to the Committee (by those who felt existing memorials were not sufficient), as to how and where *Sydney* should be commemorated. Suggestions of possible memorial sites ranged from Quobba, Carnarvon, Geraldton, Christmas Island, Fremantle and Canberra. Each location has particular strengths and disadvantages. The idea of a tripartite memorial was raised with the Committee: a three point memorial, covering Fremantle (the last point HMAS *Sydney*'s crew were on Australian soil); Christmas Island, marking the body believed to be from *Sydney*; and Quobba where two lifeboats of *Kormoran* survivors landed.¹⁵ While this idea has significant merit, the Committee believes that as there is already a small memorial on Quobba, and with some expected permanent marking of the Christmas Island grave (see Chapter 7), it is not necessary to proceed along these lines.

11 Rotary Club of Geraldton, Submission, p. 4495

12 *ibid.*, p. 4497.

13 *ibid.*, p. 4499.

14 Western Australian Maritime Museum, Submission, pp. 4059-4060.

15 Poprzeczny, Transcript, p. 313.

9.14 The Committee notes that many of the smaller memorials are a result of public interest in the fate of *Sydney* and a desire to mark the passing of those on the ship in some form or other. After considering whether a further memorial should be erected to *Sydney*, the Committee concluded it would be appropriate for a major memorial to be erected in Fremantle, the port from which *Sydney* sailed. The Committee believes that the memorial should be jointly funded by the Commonwealth and Western Australian Governments, and that it be dedicated on 19 November 2001.

9.15 The Committee recommends that:

- 16. the Commonwealth and Western Australian Governments jointly fund the construction of a memorial to HMAS *Sydney*, to be erected in Fremantle, with the memorial to be dedicated on 19 November 2001.**

9.16 While the Committee acknowledges the role that such memorials play, in giving a focus to commemorative activities, there are also other ways in which the memory of those who died on *Sydney* will live on. The Committee has some sympathy with the views expressed thus:

It is very nice to put a monolith up, but I do not know what good it does. It you had something like a program or a scholarship to train people. ... I think that is better than putting up a stone monolith that the pigeons rest on every now and then.¹⁶

9.17 The Committee supports this desire to commemorate *Sydney*, not only through a physical memorial but also through a 'living' form of memorial. The Committee supports the establishment by the RAN of a research grant scheme in the name of HMAS *Sydney*, through which the memory of those lost on the ship will be remembered. It would be appropriate for recipients of the scheme to be either civilian or military, but the scheme should support research into aspects of Australian naval history, and operate along the lines of the Army History Grants Scheme. The scheme should be administered by an appropriate body such as the Australian War Memorial, with broad criteria to encompass both university and community based research. The Committee believes that a sum of \$50,000 should be made available per annum for this purpose, with bids being made from individuals and groups for funding within this overall amount.

9.18 The Committee recommends that:

- 17. the Royal Australian Navy create a research grant scheme in the name of HMAS *Sydney II* and her crew, to the value of \$50,000 per annum, to support research into aspects of Australian naval history.**

Other Activities

9.19 The HMAS *Sydney* Foundation Trust, in its first submission to the inquiry, indicated that its long-term aim was 'to achieve a wider and enduring remembrance of those who gave their lives. The Trust considers this a matter of honour, and aims to achieve a

16 Collins, J J, Transcript, p. 353.

"spiritual homecoming" for those whose whereabouts for so long remained a mystery'.¹⁷ The Trust is considering two forms of commemoration:

- a 'virtual memorial', involving computer-based displays; and
- development of a film based on on-water and in-water photography from the search. Funding for this project will be sought through independent channels. The Trust has also indicated that footage from the search will be one of the sources of this activity.¹⁸

Each of these is discussed briefly in this section.

Virtual memorial

9.20 The Trust has argued that, as the physical remains of *Sydney* and *Kormoran* will remain where they are after they have been located, one way to create a suitable memorial is through the creation of a 'virtual memorial' site on the Internet. It will provide educational, historical and cultural information, including design specifications and plans of both vessels, information about the equipment on each, the living and working conditions on each vessel, details of the crews, reconstruction of the engagement, information about the search for the wrecks and so forth. The Trust notes that 'The database will include digitised copies of papers and reports from the archives, and it will therefore depend on cooperation from the Australian Archives, the Australian War Memorial, the Western Australian Maritime Museum and other bodies in Australia and overseas ... The final product will be accessible on the World Wide Web in both English and German'.¹⁹

9.21 Funds will be needed to develop the software for the virtual memorial, to fund maintenance and system development over an initial three year period, and to allow acquisition of equipment and rental accommodation suitable for the public access sites in Fremantle and Sydney.²⁰ While the Committee questions the need for rental of public access sites (given that a virtual memorial would be accessible from any computer linked to the internet), the Committee believes it appropriate that the funds raised by the Trust through a public appeal (see paras 8.83-8.96) be directed not only to the search, but also to the memorial aspects of the Trust's work.

A documentary

9.22 The Committee has no in-principle objection to the making of a film about the search for HMAS *Sydney* and HSK *Kormoran* and their discovery, provided that the film is made in a suitably respectful manner. Any profits from the film should be used by the Trust in its commemorative activities.

A Memorial Service

9.23 Commemorative services were held immediately after the loss of *Sydney*, although not all relatives were able to attend.

17 HMAS *Sydney* Foundation Trust, Submission, p. 819.

18 *ibid.*, p. 829.

19 *ibid.*, p. 838.

20 *ibid.*, p. 832.

9.24 The year 1991 was a significant year for those interested in the fate of *Sydney*, as it saw the 50th anniversary of the battle, with a number of memorial ceremonies and dedications being held. It would be fitting if, by the year 2001, the 60th anniversary of the loss of *Sydney*, that some form of larger commemorative activity be undertaken, most probably in concert with the search for the wrecks, but also in connection with the commemoration of a new memorial in Fremantle (see para 9.15).

9.25 Should the site of the wreck of HMAS *Sydney* be established, the Committee believes it would be appropriate for the Department of Defence to co-ordinate a service at that location. Mrs Glenys McDonald has argued that such a service be held, even if the exact site of *Sydney*'s final resting place is not known, at an area of 'most likely occurrence':

I would like to see all next of kin, even all relatives, if possible, plus the researchers who have devoted many years to this subject, and the surviving members of the *Kormoran*, to sail to this position on several of the Navy's largest ships. The delegation should include Federal and State politicians, the Governor etc.

The ceremony should be scheduled between 6.30 pm and 7.30 pm as the sun sets. Each family should have the opportunity to throw a wreath overboard. As too should the Germans.

The ceremony should be widely telecast throughout Australia.

Then and only then do I believe we can 'let go' and say goodbye to our 645 valiant men and boys. Then and only then will people accept that the Government and the Navy valued their lives. Then and only then will Australians appreciate that our servicemen are valued in either victory or defeat.

For the sake of our future, we must make this gesture to the past.²¹

9.26 The memorial in Fremantle should also be a focus of commemoration in 2001, with commemorative activities also being undertaken in Sydney for those on the east coast unable to travel to Western Australia.

21 McDonald, G, Submission, pp. 182-183.

9.27 The Committee recommends that:

18. **the Department of Defence co-ordinate services of commemoration for HMAS *Sydney* II in the year 2001, at the site of the wreck if determined, but also at the new memorial in Fremantle, and in Sydney.**

Future Research

9.28 The Committee is well aware that the level of interest in *Sydney* and her fate is so extensive, that regardless of the outcome of this inquiry, individuals and groups will continue to research the topic and expound on their various theories. This is to be welcomed, if it is undertaken with an openness to the information available and a willingness to listen and to take into consideration opposing views.

9.29 During this inquiry, the Committee was concerned that research into *Sydney* may be being hampered by animosity between the various 'groups' with an interest in the matter. For example, there have been claims that the Trust has been less than forthcoming in sharing of information:

[Other researchers] have been alienated. I think, really, if the foundation trust did a bit more public relations with some of the people who have had their heads in this for a long time, then we might be heading in a proper direction. I think the foundation trust people are very anxious and excited at the prospect. It is just that I think they have gone about it the wrong way.²²

9.30 One of the main benefits of this particular inquiry has been the pooling of knowledge and opinion into one consolidated source, available to all who are interested. This process will obviously cease when the Committee has reported, but the Committee would like to see some means by which this information sharing might continue. The 1991 Forum on *Sydney*, organised by the Western Australian Maritime Museum was a successful and productive venture. Unfortunately the 1997 Forum was less so, but the concept of gathering researchers together is a valuable one.

9.31 The Western Australian Maritime Museum has indicated that, should the inquiry seek it, the WAMM is willing to assist in continuing to fill the vacuum currently being filled by the Committee.²³ The WAMM has played a most constructive role so far in encouraging scholars and other institutions pursuing *Sydney*-related research, and a number of papers have been published by the Museum on this subject. The Committee would encourage the WAMM to continue in this work.

9.32 It is important that information and theories be shared and examined. The Committee strongly believes there is a need for all involved in the *Sydney* debate to move beyond animosity and antagonism and find common ground. No one group 'owns' *Sydney*, or has a monopoly on truth. The Committee hopes that in future researchers will rise above the personal acrimony and suspicion that has marred so much of the debate thus far. The 'dialogue of the deaf' that characterises so much of this debate is counter-productive. An

22 Kennedy, Transcript, p. 461. See also Kennedy, Submission, p. 2304.

23 Western Australian Maritime Museum, Submission, p. 4059.

exchange of differing views is a positive process, and can only lead to a better understanding of the events of November 1941. HMAS *Sydney* deserves no less.

Senator David MacGibbon
Chairman