COMMONWEALTH OF AUSTRALIA

JOINT STANDING COMMITTEE

ON

FOREIGN AFFAIRS, DEFENCE AND TRADE

(Defence Subcommittee)

Reference: HMAS *Sydney* inquiry

CANBERRA

Friday, 27 March 1998

OFFICIAL HANSARD REPORT

CANBERRA

JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

(Defence Subcommittee)

Members:

Senator MacGibbon (Chair)
Mr Ted Grace (Deputy Chair)

Senator Bourne	Mr Bob Baldwin
Senator Ferguson	Mr Bevis
Senator Sandy Macdonald	Mr Bradford
Senator Margetts	Mr Brereton (ex officio)
	Mr Brough
	Mr Dondas
	Mr Georgiou
	Mr Hicks
	Mr Lieberman
	Mr McLeay
	Mr Price
	Dr Southcott
	Mr Taylor

To inquire into and report on:

The circumstances of the sinking of HMAS *Sydney* off the Western Australian coast on 19 November 1941, with particular reference to:

(1) the extent to which all available archival material has been fully investigated and whether any relevant material has been misplaced or destroyed;

(2) all relevant archival material available from allied and former enemy forces;

(3) the desirability and practicability of conducting a search for the HMAS *Sydney* and the extent to which the Commonwealth Government should participate in such a search should one be deemed desirable and practicable;

(4) the practicability of accurately locating the grave of an alleged body from HMAS *Sydney* which was allegedly buried on Christmas Island;

(5) 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;

(6) measures which should be taken to protect and honour the final resting places, if and when located, of HMAS *Sydney* and KSN *Kormoran*.

WITNESSES

CARMODY, Mr Shane Patrick, Acting Director, Defence Signals Directorate, Building M, Russell Offices, Canberra, Australian Capital Territory 44

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JOINT STANDING COMMITTEE ON FOREIGN AFFAIRS, DEFENCE AND TRADE

(Defence Subcommittee)

HMAS Sydney inquiry

CANBERRA

Friday, 27 March 1998

Present

Senator MacGibbon (Chair)

Senator Sandy MacdonaldMr Dondas

Senator MargettsMr Ted Grace

Mr Hicks

Mr Taylor

The subcommittee met at 9.15 a.m.

Senator MacGibbon took the chair.

CHAIRMAN—I declare open this public hearing of the Defence Subcommittee of the Joint Standing Committee on Foreign Affairs Defence and Trade. This hearing is the first of an inquiry presently being conducted by the Defence Subcommittee into the loss of HMAS *Sydney* in 1941 off the coast of Western Australia with all 645 of its crew. The subcommittee has received a large number of submissions from all over Australia: from the families of those lost, from amateur historians with an interest in the events of 1941 and from a large number of ordinary Australians who have been fascinated with the events of 56 years ago.

The subcommittee has been asked to examine the circumstances of the loss of HMAS *Sydney* and in particular to examine: firstly, whether there was any archival material either in Australia or overseas which may not have been examined; secondly, whether it is desirable or even practical to conduct a search for *Sydney*; thirdly, whether the body at Christmas Island, believed by some to be from the *Sydney*, can be located and identified; and, lastly, what measures should be taken to protect and honour the final resting place of *Sydney* and the German raider *Kormoran*, which also sank after the engagement.

In the course of this inquiry, the subcommittee will be conducting a number of public hearings around Australia. I welcome everyone here today, including a number of members of the public interested in this matter.

[9.16 a.m.]

OXENBOULD, Rear Admiral Christopher John, Deputy Chief of Navy, Department of Defence, Russell Offices, Canberra, Australian Capital Territory 2600

FLYNN, Commodore Michael, Director General, Strategic Health Resource Policy, Department of Defence, Russell Offices, Canberra, Australian Capital Territory 2600

STEVENS, Lieutenant Commander David Murray, Director of Naval Historical Studies, Department of Defence, Russell Offices, Canberra, Australian Capital Territory 2600

STRACZEK, Mr Jozef Henry, Senior Naval Historical Officer, Department of Defence, Russell Offices, Canberra, Australian Capital Territory 2600

CHAIRMAN—To start this hearing I welcome the representatives of the Department of Defence. I must advise you that the proceedings here today are legal proceedings of the parliament and warrant the same respect which proceedings in the respective houses of parliament demand. Although the subcommittee does not require you to give evidence on oath, you should be aware that this does not alter the importance of the occasion. The deliberate misleading of the subcommittee may be regarded as a contempt of the parliament.

The subcommittee prefers that all evidence be given in public but, should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. The committee has received the Department of Defence submission together with the supplementary submission and both have been authorised for publication. Are there any additions or amendments to that submission?

Rear Adm. Oxenbould—No, Senator, there are no additions or amendments.

CHAIRMAN—I now invite you, Rear Admiral Oxenbould, to make a short opening statement before we proceed to questioning.

Rear Adm. Oxenbould—Thank you very much, Mr Chairman. I am here as the Deputy Chief of Navy. We thank you for the opportunity to come before this inquiry. With me this morning I have Commodore Flynn, who is the Director General of Corporate Health Services and the Senior Naval Medical Officer. I also have Lieutenant Commander Stevens, who is the Director of Naval Historical Studies, and Mr Straczek, who is the Senior Naval Historical Officer and the officer who put together the department's submission.

As an opening statement I would like to emphasise how keen the Department of Defence and Navy are to cooperate with your inquiry and assist in whatever way possible

to resolve the mystery surrounding the enormous tragedy of the loss of 645 men in HMAS *Sydney* on 19 November 1941, over 56 years ago. During the intervening years there have been a number of questions raised concerning the loss of the ship. Because the available evidence has been mostly limited to the accounts from the survivors of the *Kormoran*, many questions have been left unanswered. The search for answers has not been helped by the need for security during the war and over the years the loss of much historical documentation.

There have been many theories as to what happened to the *Sydney* and there have also been suggestions of an ongoing policy aimed at preventing people who might have information from coming forward. In particular, there have been suggestions that criminal or official secrecy sanctions would apply to people who disclosed information that had come to their knowledge around the time of the loss of the *Sydney*. Navy has sought for some time to make it clear that no sanctions will apply to people who come forward with information. On behalf of the Chief of Navy, Vice Admiral Chalmers, I confirm that this applies very much to those who can provide information to this inquiry. Navy encourages any person with information to bring it forward. Within Navy we have looked as thoroughly as we can for information that might provide answers to what happened to the 645 men on HMAS *Sydney*.

We take very seriously the legal and moral obligations placed on the Department of Defence by the Archives Act and other relevant Commonwealth legislation. We are, however, as sure as we can be that there is no more information held by Navy or the department. Importantly, no known records relating to the loss of *Sydney* are being withheld from public access by the Department of Defence. It is likely, therefore, that any further details will have to come from outside of today's Navy, and we very much hope people who can help will come forward and do so. We therefore wish you every success with this important investigation. Mr Chairman, again I thank you for this opportunity to come forward, and we look forward to assisting your inquiry.

CHAIRMAN—Thank you very much, Admiral, and thank you for the message on behalf of Vice Admiral Chalmers that there are no sanctions applying under any secrecy provisions to any former members of the Department of Defence. I can advise you that evidence before this subcommittee is covered by parliamentary privilege and that, even if those prohibitions were still in existence, witnesses would not be denied giving evidence to this subcommittee about the events at that time. I now open the hearing to questions from the subcommittee.

Senator MARGETTS—I have general questions. After 56 years, are there still files which it is not possible for the public to access? If this is so, why would that be the case?

Rear Adm. Oxenbould—Archives, who are coming before you this afternoon, might be able to answer this more fully, but I have some expert advisers with me who

would be able to assist in answering that question. If a file which is in the open period is identified—in other words, it is over 30 years old—an application is then made for the release of that file. The application is then reviewed and the information within that file is reviewed. There may be some cases where, in the interests of security, access may be denied, but there have been no such cases with information requested regarding the *Sydney*.

Senator MARGETTS—And no such requests made?

Rear Adm. Oxenbould—Requests have been made by a number of the historians who have researched the sinking of the *Sydney* over the years, and all that information has been made available.

Mr Straczek—Section 40 of the Archives Act provides for members of the public to request access after records enter the open period. Unfortunately, given the sheer volume of records produced by government, it is impractical to have a purely proactive process of releasing records, and there are some files which are in the open period which are still closed because they have not been examined, or they have not gone through the archival process of being opened. In particular, in Melbourne there is a series of signal packs which are described in Richard Summerrell's guide which are substantially still closed. Again, that is because members of the public have not requested access to those files under section 40 of the act.

Mr DONDAS—How many files are we talking about?

Mr Straczek—The signal packs, in particular, consist of approximately 2,000 archive boxes, but I have no idea of the totality of files which are closed across government.

CHAIRMAN—Why can't those files just be opened to the public? If the public wishes to see them, you really cannot maintain the argument that there is confidential information from a low technology area 50 years on. There is nothing in signals activities of 50 years ago that needs to be held secret today.

Mr Straczek—I think the difficulty is the mechanisms that are applied under the Archives Act. The mechanisms of the act allow for the release of governmental documents—and, again, Archives are probably better placed to go into greater depth on that—but if government decides that they wish carte blanche to release records from a particular period, then I suspect that would have to be passed through the parliament.

Mr TAYLOR—In relation to the destruction of records, your submission on page 14 talks about records being destroyed in part to maintain security of highly classified intelligence procedures and also to reduce the volume of records. Is it not unreasonable for this committee to assume that elements of sensitivity, particularly in government

mismanagement, might have also been destroyed?

Mr Straczek—Possibly.

Rear Adm. Oxenbould—I think that would be speculation. There were a lot of records destroyed at the end of the war for the reasons which were stated in the submission, but what was actually contained within those records would just be speculative.

Mr TAYLOR—But you could not exclude that possibility?

Rear Adm. Oxenbould—That is correct.

Mr HICKS—Were there records kept of the actual files destroyed, perhaps as a group? Is there any record there of the files that may have been destroyed?

Rear Adm. Oxenbould—As far as I am aware, no, and the record keeping process was not that precise that many years ago. Certainly the records that we have now do not provide us with that information. That is my understanding.

Mr HICKS—Is that correct?

Mr Straczek—That is correct, yes.

Mr DONDAS—Have the records that you have got been made available to the public?

Rear Adm. Oxenbould—We have made available every record which has been requested. In our own search, everything that we think is pertinent to the sinking of the *Sydney* we have gained access to.

CHAIRMAN—In your submission you say that no known records relating to the loss of the *Sydney* have been withheld from public access. I can understand that you cannot speak for the totality of the records you have, but can you assure the committee that that is the only reason you put that qualification in?

Rear Adm. Oxenbould—Yes, that is correct.

Mr TAYLOR—On the question of medical records, can we confirm the extent of medical records held for World War II personnel?

Rear Adm. Oxenbould—I will ask Commodore Flynn to answer that.

Cdre Flynn—To the best of our knowledge, there would be some medical records for all RAN personnel. I make the point that there were members of the Royal Australian

Navy, some members of the air force and some civilians on the ship. 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. They are, as I said, by today's standards fairly incomplete. It is quite a major undertaking for us to reconstruct what medical information actually would be available for each individual person.

Mr TAYLOR—Are they kept separate from central archives? Where are the historical medical documents held?

Cdre Flynn—I believe they are located here in Canberra at either Tuggeranong or Mitchell.

Rear Adm. Oxenbould—As I understand it, the records are very different from the medical records that we currently compile and are compiled by most medical practices throughout the country at the moment. There was not a pack for each individual; in fact, a record was made when that individual reported to the ship's sick bay or a naval hospital and that record was then contained within the medical journal for that ship or naval hospital. So you have to go back and find where an individual was serving, at what time, and then obtain the medical journal for that period and then see if he reported to sick bay to develop a history of that individual's medical history.

Mr TAYLOR—If we were able to determine that there was a body on Christmas Island, could that body be exhumed and could something be done? I am trying to get at whether it would be possible then to trace back through some medical documentation as to whom that person was. Is there any link?

Cdre Flynn—We believe there is some information that would assist that process, provided a body was located. The sort of information I am talking about are the basic entry parameters when they join the navy and these include the height, weight and the state of the dentition. However, there are limitations in this information. Several of the records that we have looked at contained the 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.

CHAIRMAN—Can we get a little more precise in this? I understood from Admiral Oxenbould that it was only when the RAN members appeared in the sick bay that a record was kept. But you are telling me that on enlistment there was a full weight, height, blood group—

Cdre Flynn—Yes.

CHAIRMAN—Was a full dental examination carried out?

Cdre Flynn—It varied. The dental examination, we believe, was carried out by medical officers not by dental officers. They were only referred to a dentist if there was perceived to be a problem.

CHAIRMAN—So you would only have a record of dental treatment?

Cdre Flynn—No, not to my knowledge.

CHAIRMAN—No, I said you would only have a record of dental treatment performed. You would not have a statement on enlistment, or through their service, of their dentition in detail. It seems to me the key identifier that you are going to have, if you can find the body, will be through some sort of forensic approach to the dentition. Now the starting point for that is a known state of that dentition at some point in time—what teeth were present and what the restorations were.

Cdre Flynn—The group of records that we have looked at contains three different dental descriptions. One is just a statement that the teeth are in good health or not in good health. The second is a more elaborate one, describing each tooth by number. The third is a visual depiction of the teeth. So there are three different groups of descriptions of the teeth in the records that we have looked at.

Rear Adm. Oxenbould—And that is in six records, Senator, so it is quite a high variation.

CHAIRMAN—I see. So it is possible that some of the medical records would not contain any dental information at all?

Cdre Flynn—All the records we have looked at have got some information, with the qualification that one group just describes whether they are in good condition or not. But the others do give some definite information.

CHAIRMAN—How practical do you think it is to search for the *Sydney*?

Rear Adm. Oxenbould—With the information that we have got at the moment, I do not think it is practical to conduct a search because the datum of where you would start that search is very vague, and the common position where most research believes the ship to have sunk is right on the edge or just beyond the continental shelf, so it is in very deep water which makes it very difficult. There is often a comparison with the search for the *Titanic* and the *Bismarck* and the work done by Dr Ballard. When he has been consulted on this approach, he has indicated that the search datum is just too vague for him to use his methods and techniques. So it is a very difficult problem before us, unless we get any information that could refine that search datum position.

Mr TAYLOR—Has any thought been given within the Department of Defence, has it been raised at ministerial level, as to whether, bearing in mind the emotion, the uncertainty and everything that has been generated by the sinking, people like Dr Ballard or search resources overseas might be used in a reasonable area for one final search?

Rear Adm. Oxenbould—I am not sure what the involvement of ministers has been in this or the level at which it has been taken up. But I understand Dr Ballard has been approached and his statement was that there was insufficient definition of the search area for him to be able to conduct his search.

Mr TED GRACE—Could you give details of what the RAN manoeuvres were to find the *Sydney*? Would you believe that all reasonable efforts were made to find her?

Rear Adm. Oxenbould—Immediately after she was sunk, around November 1941?

Mr TED GRACE—Yes, or later.

Rear Adm. Oxenbould—Or later? There are two very different questions there. I think in the immediate—

Mr TED GRACE—After the war, say—have any efforts been made by the RAN after the war?

Rear Adm. Oxenbould—The only efforts which have been made by the navy after the war have been to do with the hydrographic surveying which has been done on the Western Australian coast, but that has been limited to the continental shelf, because of the priority for that hydrographic survey. A large proportion of the Western Australian coast in the vicinity of where the *Sydney* was thought to have sunk has been surveyed and nothing has been found within those surveys. That was defined in attachment G to our submission.

Mr TED GRACE—What would the feeling of the navy be at the present time regarding the search for *Sydney*? Do you believe, like some people—myself, for instance—that she should be left in peace?

Rear Adm. Oxenbould—We certainly would not want to disturb the wreck of the *Sydney*. We would like it to stand there as a memorial to the 645 people who were lost in the *Sydney*. But 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.

Mr TED GRACE—But the danger then is that, once it is pinpointed, other people will eventually find out where she is and the place would be contaminated.

Rear Adm. Oxenbould—I do not believe so. I think there is sufficient legislation in place to prevent that and provide for protection of the *Sydney* as a war wreck. There are other wrecks in the world in possibly more accessible waters which have still been able to be preserved. The wreck of HMAS *Canberra* in the vicinity of Savo Island in the Solomon Islands is an example.

Mr TED GRACE—That was my next question. What does history show of other wrecks that have been discovered that are memorials to seamen lost at sea? How are they protected—are they protected? Have they ever been—?

Rear Adm. Oxenbould—They are protected by legislation which prevents people from exploiting or damaging those wrecks. There is some—

Lt Cmdr Stevens—A good example is the Japanese submarine that was sunk off Darwin in 1942, I124, and the legislation that exists to protect that site. Diving, et cetera, is not allowed to take place on that wreck.

Mr TED GRACE—With all due respect, the public interest in *Sydney* would far outweigh the sinking of a Japanese submarine off Darwin. My worry, and the worry of people I have spoken to, is that the site will be contaminated at a later stage. I am looking for some evidence of some other well-known wrecks that have been located and whether any contamination has taken place, because it is a matter of dollars for publicity purposes.

Lt Cmdr Stevens—Until *Sydney* is found it is hard to say, but it would seem that *Sydney* is in such deep water that it is not a recreational dive, it is not a cheap dive; you are looking at great resources expended to find it.

Mr TAYLOR—On resources, I would like to come back to the question of the capacity of the RAN. Provided you were given the appropriate direction, does the RAN have the technical expertise in waters off the continental shelf, in a reasonable area, to carry out a reasonable search? In your submission you talk about *Moresby* on transit across the continental shelf, et cetera, but it was only the continental shelf. Do you have the technical capacity and wherewithal to carry out a wider and more technical search?

Rear Adm. Oxenbould—No, we do not. In conducting such a search, we would use a side scanning sonar, which would be towed behind a vessel. The current depth limitation we have on that is down to around 500 metres. As soon as you get off the continental shelf, you go down to very deep depths of over 1,000 metres. The more likely position of where *Sydney* is resting is well over 1,000 metres. So it is beyond our capability.

Mr TAYLOR—Do any navys have that capability?

Rear Adm. Oxenbould—Yes, some navys do have a deeper capability but most of

that type of capability resides within some of the research organisations, such as Woods Hole in the United States where Dr Ballard comes from. If we were able to refine the position, and were able to conduct a search, we would have to draw on that level of technology and expertise but it is beyond the normal core business of what we do within the navy.

Senator MARGETTS—Some people have suggested the reason the navy has not been able to locate the *Sydney* so far is that they are looking in the wrong place. Can you comment in relation to those people who say that there are eye witness accounts of what appeared to be a sea battle off the coast of Geraldton and what the implications for locating might be there. Secondly, do you ever work in with some of the offshore mining research technologies? Are they more able to find the location of such things as ships at great depths than what is currently available with the navy?

Rear Adm. Oxenbould—There have been many stories put forward and many variations on the history which is currently accepted for what happened to *Sydney*. We look at those. With regard to the sightings from the shore there, the area that they are suggesting the battle took place, that is the same area as where HMAS *Moresby* carried out a detailed survey. I am confident that if the wreck did lie close to the coast off Port Gregory that it would have been found during the survey that was conducted by HMAS *Moresby*. There has been no substantiated evidence to prove any of those claims of where else the *Sydney* may be. We have got nothing better to go on than the history which has been provided from the *Kormoran* people.

Senator MARGETTS—What kind of technology did the *Moresby* have?

Rear Adm. Oxenbould—The *Moresby* had quite sophisticated echo sounders on board. She is a purpose built survey ship and she also used side scanning sonar to investigate any protrusions from the seabed, because that is part of the hydrographic work that she was doing. With regard to the use of other technologies, such as those available to offshore mining research, we have not specifically tasked anybody or any of those companies to do any of that work. Some have come forward with their ideas and we look at those, and some have come forward in very recent days with some suggestions of where *Sydney* may be lying. They are quite separate and quite a long distance from what is regarded as the popular position of where *Sydney* may be resting. It is also in extremely deep water. It is in close to 5,000 metres of water. So it would be very difficult to conduct a search there, and it is beyond the capability that we have within the navy.

CHAIRMAN—And you are aware of any technology that DSTO may have, apart from the RAN, that would aid in this?

Rear Adm. Oxenbould—DSTO is doing some work on an improved side scanning sonar which would increase our capability beyond that level of about 500 metres that I mentioned. But it is designed more for mine warfare as opposed to this type of very deep

research. The depths that we are talking about are beyond mine depths and they are not depths that we are interested in normally for our core business.

Mr HICKS—On a slightly different area, in the document from the Australian Archives, exhibit No. 26, entitled *The Sinking of HMAS Sydney: a guide to Commonwealth Government Records* by Richard Summerrell, there is an article showing the minutes of an Advisory War Council Meeting. It says:

Loss of H.M.A.S. "Sydney".
6.In reply to an enquiry by the Prime Minister, the Chief of the Naval Staff said that a Court of Enquiry had investigated the circumstances surrounding the loss of H.M.A.S. "Sydney". Its conclusions were summarised by the Chief of the Naval Staff as follows:-

It has a lot to say there about what they think happened and I think this came from survivors of the *Kormoran*. Then it says:

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 salvoes before the raider attacked.

It was signed by the Prime Minister and the Secretary of Defence I think. With respect to that sentence, 'Further, the Gunnery Officer of the '*Sydney*' was not ready. He should have been able to fire first and get in two salvoes before the raider attached', do you think that is a little harsh, given that they were only taking evidence from German survivors? It was signed by the Prime Minister but, as we have no clear evidence of what happened there, that seems to me to be a little harsh.

Rear Adm. Oxenbould—I do not know the basis for that conclusion or speculation or supposition. It is very difficult to comment here some 56 years later about what was in people's minds with regard to that. From the evidence that we have before us at the moment, I think it would be difficult to draw those conclusions.

Mr HICKS—On another matter, in the same document—

CHAIRMAN—Noel, if you do not mind, I would rather deal with the tactical picture later on in detail. I am trying to do it as an entire thing. We will firstly work through these notes that we have. I think we finished on that topic of the search for the *Sydney*. Could we now have a look at the carley float, the one in the AWM. Does Navy unequivocally accept that that came from *Sydney*?

Rear Adm. Oxenbould—The one in the War Memorial?

CHAIRMAN—Yes.

Rear Adm. Oxenbould—It was picked up by the *Heros* in the vicinity of where the *Sydney* sank around that time so I think there is very strong evidence to suggest that it came from the *Sydney*.

CHAIRMAN—Were carley floats carried by merchant ships at all?

Rear Adm. Oxenbould—I believe some carried them during the war, yes.

Mr Straczek—I think the difficulty with carley floats is that the term is quite often used generically now. What originally was the carley float, manufactured at Carley in England, and what subsequently was referred to as carley floats could be quite different. I suppose a modern analogy is with IBM computers—when you are not really referring to IBM by trade name you are referring by IBM clone. All merchant ships requisitioned for service and passenger liners fitted out as troop ships had to have additional lifesaving equipment provided and that style of lifesaving float was quite compact and easy to use.

Senator MARGETTS—I guess those ships would have had them replaced at times. Would all of those ships have had exactly the same types of carley floats on board?

Rear Adm. Oxenbould—Unfortunately, I have no idea.

Senator MARGETTS—That seems to be quite strong in the evidence. Someone is saying that because the carley float on Christmas Island seemed to have different threads or different lining that that somehow proved that it was not from the *Sydney*. I am trying to establish, and considering that was used quite strongly as an argument, whether there are any records that a ship only had one type of carley float?

Rear Adm. Oxenbould—No, unfortunately.

CHAIR—There never was an identifier on them, for the parent ship, was there?

Mr Straczek—No.

CHAIRMAN—They were just a throw-away item, a life raft.

Mr Straczek—That is right. If one was damaged they replaced it. These things were quite easy to manufacture and they were probably manufactured around the world. So if a ship damaged one they may have had it replaced. There is every likelihood that you did get carley floats or life floats, whichever word you prefer, from different origins placed on the ships.

Mr TAYLOR—But the only markings on it—and I think there is an indication of it in the evidence here—are a numerical marking which indicates the stowage. The stowage or number 15 or 17 is mentioned here in part of it. With the War Memorial one,

how recently has a scientific examination been carried out on that float to determine whether there is any residual fragmentation in it and some sort of assessment made of whether it was as the result of battle damage in the water? I know it is very difficult.

Rear Adm. Oxenbould—The Australian War Memorial did conduct a scientific analysis of that float in 1993. The report of that was published as a public document. It is probably best for them to go through the detail of that analysis when they attend.

Senator SANDY MACDONALD—Do modern ships carry carley floats?

Rear Adm. Oxenbould—No, they do not. They carry inflatable life rafts instead, which are more compact and have a greater carrying capacity and provide better protection.

Senator SANDY MACDONALD—And are identifiable?

Rear Adm. Oxenbould—No, they are not identifiable with that particular ship, but they are a generic life raft.

Senator SANDY MACDONALD—A study of the ocean currents between November 1941 and February 1942 indicates that the carley float that was found on Christmas Island could have been from HMAS *Sydney*. Do you think that is sufficient support or evidence to warrant a search of Christmas Island for that buried sailor?

Rear Adm. Oxenbould—There are a couple of answers to that question. Although an examination of the ocean currents indicate that it is possible that the carley float could have come from where we believe the HMAS *Sydney* had sunk, and it could have reached Christmas Island in that 2½ month intervening period, a study of the ocean currents also indicates there are four other areas that a float could have come from as well within the Indonesian archipelago. It could have come from the north; it could have come from further to the east from the Timor Sea. The fact that it may have come from HMAS *Sydney* does not provide a direct or positive proof.

With regard to the search for the body on Christmas Island, there is still quite a bit of confusion over where the actual grave site is and where that body was buried. I think that that would need to be looked at very closely.

Senator SANDY MACDONALD—Would you view it as being extremely unusual for a sailor or a serving sailor not to be wearing some form of body identification?

Rear Adm. Oxenbould—It is very difficult to comment on what happened 56 years ago and what the navy of 56 years ago was like. Today we do not normally wear body identification for our normal operations. However, in a combat zone, we do wear body identification and have that on us at all times.

Senator SANDY MACDONALD—What is that?

Rear Adm. Oxenbould—Just a dog tag around your neck.

Mr TAYLOR—On the carley float, you said it could have come from a number of areas. Why then did GC Oldham—I used to be his flag lieutenant—when he was DNI just dismiss it in three paragraphs? Is there something missing? Is there a more comprehensive assessment? He has changed the view, which was the original view, and said that it did not come from HMAS *Sydney*.

Rear Adm. Oxenbould—I assume there is a lot more detailed study behind those three paragraphs. It is not available to us at the moment. I think he makes his linkage a lot more on the clothing, but he does use some conditional phrasing there. He talks about being reasonably certain that it did not come from an RAN ship.

Mr TAYLOR—This is an important one. Have you tried to find further or supplementary material to this within DNI? If nobody else did, I think DNI would keep pretty comprehensive records of all sorts of fairly minor occurrences.

Rear Adm. Oxenbould—I will ask Mr Straczek to answer that question.

Mr Straczek—In Captain Oldham's report, basically he was asked, 'Did the carley float come from *Sydney*?' He asked his various professional advisers, which included the manager of victualling who looked after clothing and footwear. Acting on a base, predominantly on what their advice was, he has reached that conclusion. The problem with respect to records held by the then DNI is that that was an area where the record keeping was outside the central registry. Again, there may have been, over a period of time, a culling of a vast number of records related to all sorts of subjects just to keep the volume down, which we are unaware of.

Mr TAYLOR—Well, is file 194/222 available? I mean, it looks to me that is where it has come from.

Mr Straczek—Those photocopies have actually come out of an archives file.

Mr TAYLOR—Is that the official Navy office file or a naval intelligence division file, 194/222, or is that an archival number?

Mr Straczek—That was the NID number given internally and unfortunately I cannot from the photocopy get the exact—

Mr TAYLOR—Is that file available? These are just extracts from the file.

Mr Straczek—Unfortunately, I cannot get into the margin to see the photocopy; I

would have to go back to the office and refer to the original copies and provide further advice.

Mr TAYLOR—Could we ask, Mr Chairman, whether that file could be perused in a little more detail and whether it is possible for the committee to have a look at it?

Mr Straczek—If that is the complete file, it is in archives. This is a photocopy of it. I would have to get into the margin of the photocopy to see it. That is the difficulty.

Mr TAYLOR—It would help the committee, if we were to have access to some of the preamble discussion, if that indeed appears on the file, in addition to what the Director of Victualling has included.

Rear Adm. Oxenbould—We can certainly take that on notice, but my understanding is that is all we have of that report from the file. We have accessed the file and that summation is all that is available. We can certainly take that on notice, Mr Chairman; we will see whether there is any further information.

Mr TED GRACE—What evidence, if any, is available on the autopsy on the body washed ashore at Christmas Island?

Rear Adm. Oxenbould—The examination was carried out by the doctor on Christmas Island. Christmas Island was a British territory at that stage. Only a matter of weeks after that, it was overrun by the Japanese and overtaken by the Japanese. Very few records are available and there is no detailed record of the examination of that body. I am not sure if there are any—

Cdre Flynn—There are none whatsoever.

CHAIRMAN—It would be a pretty reasonable assumption, though, that it was a very superficial autopsy on a body that had been in the tropics for two months, that was in an advanced state of decomposition.

Rear Adm. Oxenbould—Yes, there are a couple of conflicting things with regard to that in the report on the body. Sections of it were in a very advanced stage of decomposition. The marine growth on the carley float was, in some circumstances, reported as being six inches long. If it was of that length, I would have expected it to have been in the water for a lot longer than 2½ months but then I would have expected the body to be a lot further decomposed if it had been—

Mr TED GRACE—That is where I was coming from. Surely, because remarks have been made, if medical examination of the body indicated that the body was so many weeks or months in the water, that is the indication that it came from *Sydney* and if that

period also measured up to the time of the sinking of the *Sydney*—that is what I am getting at.

Rear Adm. Oxenbould—Unfortunately, there is no medical record and it is because of the timing and the very imminent overrunning by the Japanese.

Senator MARGETTS—Is there any record of the sort of marine growth that you are talking about?

Rear Adm. Oxenbould—No. Again the reports on what occurred there were second or third hand and they were by the wife of the harbour master and the captain of the port who went out in the boat to retrieve the carley float and by some other people on the island. So there is no specific or accurate scientific report or any documented report. It was taken some time later, once they had evacuated from Christmas Island and had taken up residence in Fremantle.

Senator MARGETTS—Presumably, there could be six inches of algae?

Rear Adm. Oxenbould—It varies. There is no consistency. In one place, it does mention that the growth was about six inches long. I think that is probably an inaccurate statement of the decomposition of the body.

Mr TAYLOR—Is there not fairly consistent evidence that the shoe was not necessarily belonging to the body? Somebody must have seen that it was a size 8—

Rear Adm. Oxenbould—It was stated clearly that the shoe or the boot—the piece of footwear—did not belong to the body. Now what that was based on, we do not know. But that was stated in the reports.

CHAIRMAN—There also seems to be some ambiguity as to whether there was one boot or two. Some reports indicate that there were two boots.

Lt Cmdr Stevens—Yes. There was a later report that there was a pair, but that came even later than the original report, which said there was one. So things do change over time. There is certainly no definitive answer on those sorts of questions.

Mr TAYLOR—On the nature of that shoe or boot, can you just run through the general description of the boot or shoe?

Rear Adm. Oxenbould—There was some confusion as to whether it was canvas or leather, as I recall.

Mr TAYLOR—It had a broad arrow on it or something.

Mr Straczek—Yes. It was identified as having a broad arrow with the letters 'PTY'. They made out a word which is described in the text as either 'McEwan' or 'McCowan'. A check of the government gazettes going back to 1941 indicates that a company called McEwan did manufacture footwear for the navy. Because the information, the description, is verbal and vague, there is every likelihood or a possibility that the word that was on the shoe could have been the manufacturer's name. I will quickly check.

Mr TAYLOR—But they were not sole providores to the RAN, were they? They could have gone to the merchant navy as well.

Mr Straczek—No. They were basically a general shoe maker. In fact, they could also have manufactured footwear for the army and air force.

CHAIRMAN—You cannot adduce a link between a boot being a naval boot and the body being a naval personnel?

Mr Straczek—Well, we cannot even say definitively that the boot was a naval boot. All we can say is that the broad arrow would indicate that it was supplied to a government contract. So it could have been army, navy or air force.

Mr TAYLOR—That was a Commonwealth identifying thing in those times?

Mr Straczek—Yes. Generally.

CHAIRMAN—The other thing was that there were coupons, and clothing, including footwear, was in short supply. Military equipment was also highly prized by people. It could have started in one of the services, but it could have ended up anywhere.

Mr Straczek—That is a possibility. In the submission, I make the comment that there is also the possibility that the footwear could have been issued to a merchant seaman and picked up.

Mr TAYLOR—Yes, maybe.

Mr Straczek—There could be no direct linkage.

Mr DONDAS—Were there any other merchant ships that went down in that region that we know of?

Rear Adm. Oxenbould—There were. Within the region and to the north of the

Indonesian archipelago, if we are also looking at the Christmas Island area, which is quite close to Indonesia, a total of 21 ships went down.

Mr DONDAS—How many of them would have been likely to have been issued with some Australian produced equipment?

Rear Adm. Oxenbould—That is impossible to say. I can identify 21 ships which went down from just north of the equator to south of the equator in the period from June 1941 to February 1942. There were 11 merchant ships and 10 warships.

Mr DONDAS—Why would the Australian government in those days issue items of equipment to non-naval or non-military personnel?

Rear Adm. Oxenbould—I am not aware; I do not know.

CHAIRMAN—There was a war on and ships were likely to be sunk. I would have thought that merchant ships and naval ships would have picked up equipment, if it was available, at any port and that the authorities would have made it freely available to them. They might have charged them, but there would not have been any barriers to a merchant ship going to sea if it wanted a few more life rafts.

Mr DONDAS—I am just wondering whether the Department of Defence could concede that the body was from the *Sydney*, and you cannot do that.

Rear Adm. Oxenbould—I do not believe we can with the evidence which is available to us.

Mr TAYLOR—In relation to those 22 ships, they range from June 1941 through to January 1942. The latitude and longitude are given here. Has any analysis been done with currents and all the rest of it as to completely deleting some of these? Have you defined it down to one or two of them, or is it just that there were 22 ships and it is—

Rear Adm. Oxenbould—No. That is a very broad area. The top one, for example, goes 10 degrees north, so that is well north of Singapore. It is possible, and it is feasible, for something to have floated down within that period. The currents do run down through the Indonesian archipelago. Christmas Island is a route on the barrier at about 10 degrees south. It is a route on the barrier of the northern current coming down from the Indonesian archipelago as well as the circulatory current within the Indian Ocean, which goes in a counter-clockwise direction towards the—

Mr DONDAS—It is very close to Indonesia.

Rear Adm. Oxenbould—Yes, it is.

Senator MARGETTS—Yes, and the Indonesian currents come straight down to Christmas Island, so anything that goes up that way is likely to come straight down to Christmas Island.

Rear Adm. Oxenbould—But then they should go west, Senator.

Senator MARGETTS—They arrive on Greta Beach.

Mr TAYLOR—They arrive on Christmas Island.

Mr TED GRACE—I want to get back to the body. You would be aware that a great part of the interest in this inquiry is the body on Christmas Island. Part of the perception that the public who have spoken to me in Sydney have relates to the criticism of Navy on their lack of documentation after the war when they were told about that member of the Defence Force—that is, a member of HMAS *Sydney*. It had been such a highlighted affair, but no effort was made by Navy to pinpoint the grave or do anything about it. From that the perception is that Navy is not really interested in finding the body. The question is: if the spot were pinpointed, would Navy go along with exhuming the body?

Rear Adm. Oxenbould—Certainly Navy is interested. Navy was interested in trying to make a connection. After the war, in 1949, when Captain Oldham conducted his inquiry, the conclusion was that there was no connection between that body and the *Sydney*. The conclusion was caveated, though. It said there were reasonable grounds to believe that it was not connected. Therefore, in my conclusion—it was a personal conclusion—that apparently was accepted. That is why I speculate there was no greater interest shown by Navy at the time.

Again, there is still no definite linkage between that carley float and HMAS *Sydney*. It was physically possible, from when the *Sydney* sank in the position that we believe it sank, for the raft to get to Christmas Island. But it is also possible that that raft could have come from a lot of other areas. Add to that the complication of not knowing exactly where the grave is, the fact that it was unmarked when the body was buried and the fact that people left the island in a hurry.

There were very imprecise records kept. There were no records because they were lost when the Japanese took over the island. Add to that the fact that it was then a local who came back and said, 'This is where the body was buried.' The accuracy of that made the whole linkage too tenuous for us to follow in the past. If any further evidence could be brought to bear to refine any of those vagaries or those uncertainties, we would certainly be interested in doing what was appropriate to try to find out a bit more about what happened to the *Sydney*.

Mr TED GRACE—On page 21, the submission is very adamant that additional

commemoration of the *Sydney* and her crew is not warranted. However, there is no specific Australian memorial. I would like to hear your remarks on this. It has come to my attention through inquiries about this inquiry—inquiries made at my office. I was very surprised that there is, in fact, no memorial in Australia to seamen—or, indeed, any members of the defence forces—lost at sea. In other words, there is no memorial to the Defence Force personnel who have no grave other than the sea. Do you think that that would be a suitable memorial for the *Sydney*?

Rear Adm. Oxenbould—There are several memorials. There is the naval memorial on Anzac Parade which commemorates all those who have been lost at sea.

Mr TED GRACE—That is just a standard memorial; it is not a specific memorial.

Rear Adm. Oxenbould—It is a specific memorial for all naval personnel who have been lost at sea during the wars. There is also a Commonwealth memorial for HMAS *Sydney* in Portsmouth—is that correct?

Lt Cmdr Stevens—It is for all seamen who have been lost at sea. That is a Commonwealth memorial.

Mr TED GRACE—Yes, but there is not one in Australia. The only one is in Dartmouth in England. There is no specific memorial in Australia to Australian Defence Force personnel who have no grave other than the sea.

Mr Straczek—Not generally, as far as I am aware. With respect to *Sydney*, there is—

Mr TED GRACE—We know that, yes.

Mr Straczek—In general context, there is no memorial the equivalent to the Commonwealth memorial at Portsmouth. But that, I think, comes from our Commonwealth tradition, much the same as our—

Mr TED GRACE—Why haven't we got one in Australia?

Mr Straczek—That is what I am saying: this grows up, I think, from our Commonwealth traditions, much as the honours and awards system in the past grew up from our Commonwealth traditions. It is only recently that we have instituted specific Australian honours and awards in recognition of service by Australian servicemen, which was previously recognised by British Commonwealth awards.

Mr TAYLOR—I want to come back to the grave on Christmas Island. We have received a letter dated 14 March from a Mr Irving. I quote in part from that letter:

Our daughter lived on Christmas Island for 13 years, and while there was doing a thesis for a master's degree in history—the history of the island. The story of the body on the raft came into this, and BPC very generously allowed her to view their records, including the map of BPC's Cemetery, and the position of the sailor's grave—now covered by a large chunk of old coral rock which had fallen on it. I gave the chart of the graves together with a photograph to the museum.

He is talking about the museum at HMAS *Cerberus*. Is this something of which Navy is aware? This seems to me to be quite relevant—at least to chase it.

Mr Straczek—No, we are not aware of it.

Mr TAYLOR—It is a letter dated 14 March. We have only just received it. We received it into the record just this morning, in fact, but it seems to me that it is very relevant. It may not bring up anything else, but he did say that it did, however, bring to mind the memory of some other papers which 'I gave to the museum at *Cerberus* a couple of years ago'.

Mr Straczek—No, we are not aware of it. But it could be that that is the same information as on the last couple of pages of the Defence submission. There is a copy of the redrawn map of the European cemetery on Christmas Island, and following that there are two photographs which were taken on Christmas Island which show a local pointing to what is believed to be the grave he is talking about and which has a large rock on it. Again, there is no real proof that that is a grave. I think the representatives from Territories, when they come, have further information on the grave sites and the cemetery area.

Mr TAYLOR—Would you take that on notice and check on it?

Mr Straczek—Yes.

Senator MARGETTS—Technology was used on Rottnest Island to locate the burial grounds of many Aboriginal prisoners who had died on that island. Even if the location of the grave was under a piece of coral or rock—as has been claimed in the letter—to your knowledge, would that technology be able to be used to find out from the surface whether or not there was a gap or some space within the rocks which might harbour the remains of a body?

Rear Adm. Oxenbould—I do not know whether that technology would be suited. But, if a decision were made to go and have a closer look at the graveyard, I think we would need to explore all those avenues.

Senator MARGETTS—It has been mentioned to me on several occasions that nothing happens on Christmas Island without just about everybody knowing about it. I asked somebody at one stage whether or not the body could have been removed from Christmas Island without people knowing. I was decidedly told it could not have happened without everybody on Christmas Island knowing. But it occurs to me that there are people

who have lived on Christmas Island for several generations and there are families who have lived on Christmas Island all through that time, including during the war. These might be non-European Christmas Islanders. Has any contact been made, that you know of, with those people, perhaps elderly people, who have lived on Christmas Island all through that time, including the Japanese occupation?

Rear Adm. Oxenbould—I do not know the specific answer to that question, but my assumption is that, with the information that is present, with the surveys that we have got and with the layout that we believe to be there of the European graveyard, all those sources have been accessed in getting the data that we have got at the moment. But that is my assumption—I do not know specifically.

CHAIR—I would like to move to some of the specific points about the *Sydney* itself. What do we know about the condition of the ship at the time it was lost? We know it was commissioned into the RAN in 1934, and presumably by September 1939 you had a mature system for the ship and its crew. Then it served two years in the Middle East. What was the physical state of the ship at the time it was lost?

Rear Adm. Oxenbould—The physical state should have been good. The ship had returned from the Mediterranean and had gone through a maintenance period in Sydney before she returned to escort duties within the Indian Ocean. So she should have been in fairly good condition.

CHAIR—Clearly it preceded the introduction of radar?

Rear Adm. Oxenbould—*Sydney* was not fitted with radar.

CHAIR—When did radar come in for RAN ships?

Rear Adm. Oxenbould—I am not sure of the exact date.

Mr Straczek—I am not sure of the exact date, but radar started to be used on board Royal Navy ships even pre-World War II—very rudimentary sets.

CHAIR—Okay. What do we know about the crew? How many of the crew on board had served in the Mediterranean, particularly the deck officers?

Rear Adm. Oxenbould—Most of the command team were those who had served in the Mediterranean. Although there had been a change in command and Sir John Collins had handed over to Captain Burnett, most of the wardroom remained there, so there was a high level of experience within that team.

CHAIRMAN—What was Navy like in those days? I have an impression that captains of ships in those days had not changed much from Captain Bligh? There is a

relevant point here.

Rear Adm. Oxenbould—I do not know; it was 56 years ago. I have been in the navy 36 years and I first went to sea some 33 years ago. The navy has changed a lot in my experience at sea, and I am sure there was a great change from the navy in the early parts of World War II to when I first went to sea, but it would be very speculative of me to comment in any detail.

CHAIRMAN—But would it be a likely proposition that, if a captain was doing something, the executive officer or the watch-keeping officer on the bridge would not say, 'Look, you ought to think about this,' or 'There's a better way of doing it,' or 'You are wrong.' That would not have happened in the navy in 1941, would it?

Rear Adm. Oxenbould—I do not believe it is fair to make that comment. I think it would be very risky to jump to such conclusions. Captain Burnett had been an experienced executive officer as well. He had served in HMAS *Canberra* for two to three years. Before that he was a very well-reported staff officer and very well-reported to take over the command of HMAS *Sydney*.

CHAIRMAN—The impression I have got from contemporaries of mine who were at sea post-war is that discipline in the navy was very tight at that time, on a hierarchical basis. Would you agree with that?

Rear Adm. Oxenbould—I believe that is certainly a characteristic of that period of the navy, yes.

CHAIRMAN—Let us turn to Captain Burnett himself. What is known about Captain Burnett?

Rear Adm. Oxenbould—As I just mentioned, he was an experienced and well-reported naval officer.

CHAIRMAN—Had he had command before?

Rear Adm. Oxenbould—I am not sure. He had certainly, as I mentioned, served as the Executive Officer of the *Canberra*. I have just been informed that this was his first command experience.

CHAIRMAN—Was he at sea at all after September 1939, before he went to sea with *Sydney*?

Rear Adm. Oxenbould—No. He was in the *Canberra* I think from 1933 to 1936 and then he had shore postings up to this posting.

Mr Straczek—Captain Burnett's career was predominantly from the early 1930s through to 1941. It included a period in the early 1930s as the gunnery officer with British destroyers. He subsequently went to various staff appointments. He was Executive Officer of the *Canberra* for two years. I think he did a course at the Imperial Defence College or did the RN staff course in the UK. He served for a period of about two years as the Staff Officer Operations on the flag officer commanding one of the British battle squadrons, that is the battle ships. When he came back to Australia he served in staff appointments through to taking up command of *Sydney*.

CHAIRMAN—He was Deputy CNS wasn't he?

Rear Adm. Oxenbould—Yes, he was.

CHAIRMAN—That was a post that was traditionally held by a junior captain, was it not?

Rear Adm. Oxenbould—I am not sure of the relative seniorities of whether it was a junior or a senior captain's posting. I think there is always a lot of danger in nominating a posting as a senior or a junior captain's posting because they change a lot. It depends upon the best person for the job.

Mr TED GRACE—So we really had a situation whereby, in the ward room, the only senior officer had no wartime experience—the senior officer on board, the captain?

Rear Adm. Oxenbould—This was quite early in the war as well.

Mr TED GRACE—It was two years into it.

Rear Adm. Oxenbould—Yes, two years but he had considerable sea experience and operational experience. The position on the operations staff of the battle fleet would have been an important operational position, and he had served as the Executive Officer and second-in-command of a similar ship, HMAS *Canberra*.

CHAIRMAN—Were any records kept of the nature of an assessment of an officer through his career in those days?

Rear Adm. Oxenbould—Yes, those records were kept.

CHAIRMAN—Were they meaningful or were they just on the old boy net: you scratch my back and I will scratch yours, and we will all pass?

Rear Adm. Oxenbould—No, they were very meaningful. Maybe Mr Taylor might be able to comment more on those!

CHAIRMAN—This precedes Mr Taylor's time.

Rear Adm. Oxenbould—It was a closed reporting system and the reports which were written in those times were very direct and, certainly, if necessary, they were very critical. But the report on Captain Burnett was that he was a very well-reported officer.

CHAIRMAN—Let us get down to what happened to the ship itself. It escorted the *Zealandia* from Fremantle to Sunda Strait. Why was the escort provided?

Rear Adm. Oxenbould—The *Zealandia* was a troop ship and therefore it was a ship of high value. I believe I am correct in saying that the *Sydney* took over escort duty from the *Adelaide* and then handed it over to an RN ship just south of Sunda Strait, the HMS *Durban*.

CHAIRMAN—Why was a ship of the value of the *Sydney* used as the escort? Why didn't the *Adelaide* go up, for example?

Rear Adm. Oxenbould—I would not be able to answer that specifically but I do not consider it unusual, and the *Adelaide* was a ship of similar capability.

Lt Cmdr Stevens—The *Adelaide* was quite an old ship and it was deliberately kept south in Australian waters because it was not up to the latest standards as the *Sydney* was. As the Admiral just mentioned, our troops ships were extremely valuable and they were always escorted. The cruisers were deliberately designed to be trade protection type escort ships. That was their job.

CHAIRMAN—Would you comment on the presumption that the escort was provided because of the likelihood of raider activity?

Lt Cmdr Stevens—There was always a threat that there would be enemy activity, particularly in the Indian Ocean, and it was very difficult to know exactly what was happening. You always had to assume the worst case so you always had an escort for important vessels.

CHAIRMAN—Presumably there would be an accurate record of the time, the date and the position of where *Sydney* handed over to the British cruiser in the Sunda Strait. Does that exist?

Lt Cmdr Stevens—I have not seen it. But I would assume that in the records for HMS *Durban* there would be a note in their log that the handover had taken place.

Rear Adm. Oxenbould—We have got the specific time, I believe, in the record.

CHAIRMAN—It seems to me that we then move into areas of great uncertainty

because we do not where the action took place and we do not really know the time. The last fixed point we would have would be that handover, would it not? Would that be right or wrong?

Rear Adm. Oxenbould—Certainly the last fixed point that we can confirm, other than from the sources of the *Kormoran*; yes, that is a true statement.

CHAIRMAN—From there, what passage speed would *Sydney* have made and what track would it have followed?

Rear Adm. Oxenbould—It was returning to Fremantle and it was expected to get to Fremantle by 20 November. So you would have expected it to make a fairly direct passage to Fremantle.

CHAIRMAN—At what speed?

Rear Adm. Oxenbould—Twenty-four knots is mentioned. From reading the history surrounding it, the ships did passage at high speeds and, again, that was a means of self-defence as well.

CHAIRMAN—But that is a very long leg, is it not? Why would the self-defence come into it if it was unlikely that there would be German submarine traffic in that area?

Rear Adm. Oxenbould—Yes, the only threat would be from the raiders and the self-defence should not be an issue.

CHAIRMAN—If that ship was travelling at 24 knots for a distance of about 1,800 nautical miles, that is a very high fuel burn, as opposed to a passage of 18 knots or 16 knots, is it not?

Rear Adm. Oxenbould—Yes. Certainly, it would increase fuel consumption by travelling at that high speed.

CHAIRMAN—The point I am leading to is, if we can fix the time in Sunda Strait, was it physically possible to be there at 5 o'clock, where Detmers claimed he met the *Sydney*, because some of the submissions question the timing of the ultimate action. It seems to me that if we can fix a point up there and make an assessment of the transit speed, we can come to some assessment as to when the action finally took place.

Rear Adm. Oxenbould—I have not done that calculation.

CHAIRMAN—Can that be done?

Rear Adm. Oxenbould—I have done it in the broadest of terms and it all looked

feasible to me, at normal passage speeds, to get down to where the action is alleged to have taken place. But we can certainly do that and come back with the specifics for you. We can take that on notice.

CHAIRMAN—I would be grateful for that, thank you.

Mr TAYLOR—Could you do that at 20, 22, 24 knots, just to give us a feel for the difference that it would make—it will not make all that much difference, but just the order of difference it would make in the likely position?

Rear Adm. Oxenbould—Yes.

Mr TAYLOR—You could do it at 20, 22, 24?

CHAIRMAN—Probably down to 18.

Mr TAYLOR—Eighteen, 20, 22, 24.

CHAIRMAN—Some of the submissions we have had do question the accepted time that the action took place, whether *Sydney* indeed was lying in wait for *Kormoran* or *Kormoran* was lying in wait for *Sydney*—all sorts of computations of that. What is Navy's view on the likelihood of the existence of other ships in the area where the action took place, whether *Kormoran* was supported by one or two supply ships? Is there any intelligence information on that?

Rear Adm. Oxenbould—No, there is not, and we have no information at around the time of the incident on 19 November that there were any other ships involved.

CHAIRMAN—The supply ships that supported raiders in general—were they ever armed or were they unarmed merchantmen?

Rear Adm. Oxenbould—I should imagine they would have some armament on board. Any ship at sea during that war period would have some form of armament. You talk of *Kormoran*, though, as a raider. You could nearly call her an auxiliary cruiser. Her armament was very substantial. She had the same size guns as the *Sydney*—she had six of them, instead of eight, but they were six-inch guns—and six torpedo tubes and a very effective, especially at close range, anti-tank gun. So what she had was not so much a sophisticated but a very potent armament. But I would expect—and I will take advice from the historical representatives—that most merchant ships would have some form of armament.

CHAIRMAN—Yes, but wasn't there a convention, a Geneva convention or a maritime convention, that armed merchant ships, other than armed merchant cruisers, carried a gun on the stern for self-protection when they were running away? It was not in

an offensive position.

Mr Straczek—I am unaware of it being a convention. I think quite often it was on the stern because that was the most convenient place to put it. I know that a lot of merchant ships were constructed in the interwar periods when there were government bounties placed on them for strengthening of certain areas where they could be armed in wartime, and that sort of bounty actually extended later. But the positioning of the guns, I think, was often one of convenience more than convention.

CHAIRMAN—Would you like to comment, Admiral, on the likelihood of *Kormoran* being supported by supply ships in an offensive role against *Sydney*?

Rear Adm. Oxenbould—I would comment that there is nothing which has provided any evidence or anything for us to believe that that was the situation.

Mr TED GRACE—That includes the supposition made in some references to a Japanese submarine, does it?

Rear Adm. Oxenbould—Yes. It is a very different question, because you would not expect a Japanese submarine to be in the support of the *Kormoran*. But we have nothing which links the presence of a Japanese submarine to that action.

Mr TED GRACE—What is Navy's opinion about a Japanese submarine in the area? Would she be capable of coming so far south?

Rear Adm. Oxenbould—Certainly the submarines would be capable of coming so far south.

Mr TED GRACE—The submarines that Japan had?

Rear Adm. Oxenbould—The submarines that the Japanese had would be capable of coming that far south. But, again, there is nothing to suggest or there is no linkage of a Japanese submarine being involved. If you take into consideration the Japanese naval histories which have been produced post the war and also the time of this incident with relation to Pearl Harbour and the situation there, it becomes even more unlikely that a Japanese submarine would be this far south and that it would be committed to such an action.

Mr TED GRACE—Is there any evidence, in Navy's opinion, that Japanese warships, Japanese submarines, were active prior to Pearl Harbour?

Rear Adm. Oxenbould—They were certainly at sea, but they—

Mr TED GRACE—Any incidents?

Rear Adm. Oxenbould—No, I am not aware of any incidents, and we would have expected them to be further north and a lot further east, towards Hawaii or north of the South China Sea.

Mr TED GRACE—The reason I asked that question is that, as you would be aware, there are submissions that say that there could be—

Rear Adm. Oxenbould—I am aware of those submissions and we have looked at those closely to see if there is any linkage and we have not been able to find anything.

Mr TED GRACE—I know I am jumping ahead of the chairman's wishes—

CHAIRMAN—That is all right.

Mr TED GRACE—but the presence of a submarine probably would account for all hands being lost, that is, that—

CHAIRMAN—Why would that be?

Mr TED GRACE—Japanese submarines, I understand, had surface machine guns.

Lt Cmdr Stevens—Yes, they did have surface armaments—so did every other submarine. It is extremely difficult for a submarine, or for any ship, to actually erase all traces of a sinking. There are certainly—

Mr TED GRACE—Somebody erased it.

Lt Cmdr Stevens—It is very difficult to erase all traces of a sinking by a submarine with small arms fire, which is what they are talking about.

Mr TED GRACE—It is also very difficult to erase all signs of a ship sinking normally as well.

Rear Adm. Oxenbould—No, there are not; there are several examples of warships sinking with all hands. Some have been affected by sea states, whether there have been other vessels in the proximity and how the ship was sunk. But there have been some very clear examples where there has been a catastrophic explosion on board a ship, such as HMS *Hood* during the engagement with the *Bismarck*, where she was in company with a whole lot of other ships pursuing the *Bismarck*. She went down very quickly when her magazines blew up and even though there were ships right on the spot they were only able to rescue three personnel.

There was another example, the *Neptune*, which was the same class—a Leander class cruiser—as the *Sydney*. She was sunk as a result of a mine explosion and went down

very quickly. There was only one survivor because there were no other ships in the vicinity. There are other examples as well. By the nature of the way people were closed up in the ships, most of them within the ship, if there was an explosion of the magazine the ship could sink extremely quickly and with very few lives surviving.

Mr TED GRACE—What do you mean by 'closed up'?

Rear Adm. Oxenbould—That they would be closed up at their battle stations or their action stations within the ships. Most of the people are closed up internally within the ship. There are very few people who are on the upper deck. But even those on the upper decks manning some of the lighter armament would be likely to be concussed or killed by the severity of the explosion anyhow. So this is not the only example, unfortunately, of a ship being lost with nearly all its hands.

Mr TED GRACE—There is evidence—admittedly from enemy sources—that she was actually in retreat at the time; she actually did retreat over the horizon, according to evidence. Closed up stations would not apply then, surely, would it—if she was on fire, for instance?

Rear Adm. Oxenbould—There would, because they would be really striving to keep that ship afloat, and part of the closing up for action means to close down the watertight compartments within the ship and people would still be standing by their action stations—or this is what I would presume. It is certainly what has followed on and what we do today, that if you are in an emergency situation, you would have all the people in their action stations so that you could access them to provide extra assistance where necessary to carry out damage control, fight fires and the like. It is only in the very last stages, and after the decision is made, that you would go to leaving ship stations or abandon ship. If the explosion took place before the ship went to that stage, you would still expect a large proportion, or all of the ship's company, to be closed up at their action stations.

Mr TAYLOR—Can we just explore the action station situation in a little more detail? Could you just go through what the action station situation would have been in World War II, unlike perhaps today? In other words, the command team in particular would have mainly been on the bridge, wouldn't they, in the *Sydney*?

Rear Adm. Oxenbould—Yes.

Mr TAYLOR—That situation is unlike today where they would be in the combat information centre. Can you just give us an idea? Captain Burnett would have certainly been on the bridge.

Rear Adm. Oxenbould—Yes.

Mr TAYLOR—Who would have been manning the operations room?

Rear Adm. Oxenbould—It would have been a very unsophisticated operations room. You would expect the navigator and the captain to be on the bridge, possibly with the executive officer.

Mr TAYLOR—Would the gunnery officer have been—

Rear Adm. Oxenbould—It would depend on where they directed the guns from. Sometimes the gun direction plots were very close to the bridge. We have a profile here of the *Sydney*, but it is normally in that bridge structure.

Mr TAYLOR—So the gunnery officer would have been at the GDP, or wherever.

Rear Adm. Oxenbould—Yes, and in *Sydney* it looks as if that is in the very near vicinity of the bridge.

Mr TAYLOR—So most of the command team would have been in the bridge?

Rear Adm. Oxenbould—Yes.

Mr TAYLOR—If you take the *Kormoran* report, then that was the area of one of the first hits, wasn't it?

Rear Adm. Oxenbould—That is correct, yes.

Mr TAYLOR—So it could be reasonably expected that a very large proportion of the command team would have been killed or incapacitated?

Rear Adm. Oxenbould—Yes.

Mr TAYLOR—Coming in the way it did, or the way it has been reported that it did, how different is that to what you would do today? Just put it in the contemporary situation of Captain Oxenbould coming alongside something in a similar situation. Would you be on the bridge, or would you be in the CIC?

Rear Adm. Oxenbould—I would be in the CIC, in the operations room, the command information centre. I would have my warfare officers and the control of all the weapons available in that operations room. The ship's actions would be conducted from the operations room.

Mr TAYLOR—Can you give us your views of what the *Kormoran* survivors have reported in relation to the close action, as you understand it?

Rear Adm. Oxenbould—As I have read the history which we have got before us, 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.

Mr TAYLOR—Was that because it could not provide the balance of the code?

Rear Adm. Oxenbould—That is right—*Kormoran* did not know what the response was. However, it still had the initiative at that stage so it then struck the first blow. I think it was a very lethal blow that was struck. When I said the *Kormoran* was quite sophisticated, it had counterweighted screens which were covering the guns. The guns could be trained on the *Sydney* without *Sydney* being aware of it. Those counterweighted screens would be lowered and then the engagement would take place.

From reading the history, it was a very furious battle but it only lasted for a few minutes. The *Kormoran* had a great deal of capability and got in a very powerful first blow that mortally wounded the *Sydney*.

Mr TED GRACE—As a naval officer though, how would you explain the captain coming so close to a ship after having already been warned? Signals had already gone out that raiders were prominent in the area.

Rear Adm. Oxenbould—There was an intelligence report—

Mr TED GRACE—This is one of the questions that everybody wants put.

Rear Adm. Oxenbould—Yes, and I cannot really answer that question because I cannot answer what was in Captain Burnett's mind and I cannot answer what the specific tactics were that they were using 56 years ago. But I can understand some of the pressures which may have been on him. There was an intelligence report to say that there were no raiders in the eastern part of the Indian Ocean.

CHAIRMAN—Why did *Sydney* go up to Sunda Strait then?

Rear Adm. Oxenbould—Because intelligence is not that perfect.

CHAIRMAN—Then Captain Burnett should have been cautious.

Rear Adm. Oxenbould—There is always a risk and you have to assume it. With the best of information available from the intelligence organisation, I do not think he was alerted to the fact that the ship which was reporting itself as the *Straat Malakka* was a raider. Clearly, I do not think he identified it as a raider or otherwise he would not have approached so close. It was coming on to sunset, and he was going to be in the invidious

position of deciding what he was going to do in the next stage if he had not gone through the identification procedure. I can see some time pressures being there, and this might have been a way to pressure them.

CHAIRMAN—It was good weather and he had an aircraft. He could have shadowed it through the night and found it next morning if he could not have got through his identification in the three hours of daylight left.

Lt Cmdr Stevens—It was very difficult to shadow something at night. You did not have radar.

Senator MARGETTS—They had access to that land based radar.

Lt Cmdr Stevens—You did not have access to the facilities you have today. You really had to get things done during daylight. Obviously, we cannot put ourselves exactly in his position but, as the Admiral said, daylight was failing and there was no positive system in existence until after the *Sydney* action to determine what was an enemy ship and what was a friendly ship.

Senator MARGETTS—But weren't they in contact with land based radar tracking?

Rear Adm. Oxenbould—No, there was no land based radar. There was a land based direction finding system which has been mentioned in some of the reports, but that was of limited utility as well.

CHAIRMAN—I can see that he was under pressure with three hours of daylight left, but I come back to the point that the weather was good, he had an aircraft and it is unlikely that a ship that was making 12 knots at top speed would have got too far away in 10 or 12 hours of darkness without being found next morning.

Rear Adm. Oxenbould—Again, it is difficult to put yourself in his position, but he was not sure that it was a raider or whether it was a merchant, which it was purporting to be, and whether it was necessary for him to trail this merchant ship through the night to continue these identification procedures the following morning. I am just saying that I can understand there would have been some time pressure on Captain Burnett to complete these identification procedures before dark.

Mr TAYLOR—Who was the operations officer on board?

Rear Adm. Oxenbould—I am not sure. We should be able to find out.

Mr TAYLOR—I think it would be interesting to the subcommittee to have a little more background. You say that all but the captain basically came from the command team

from the Mediterranean?

Rear Adm. Oxenbould—That is right, and so they were experienced.

Mr TAYLOR—Perhaps we could have a thumbnail sketch of the command team. Were the whole lot of them members of the Mediterranean team?

Rear Adm. Oxenbould—My understanding is that they were all in the Mediterranean team, with the exception of the commanding officer.

Mr TAYLOR—It would be interesting to have a thumbnail sketch over the previous three or four years of the commander, the gunnery officer and the navigating officer. If there is somebody else, Chris, who in your assessment is appropriate, would you give us the same sort of summary? That would give us a little more background as to the command team.

Senator SANDY MACDONALD—What do you know of the interrogation of the *Kormoran* crew?

CHAIRMAN—Could we just stick with the battle for the moment?

Senator SANDY MACDONALD—That is exactly what I want to ask about. On the basis that those who are the victors write history—and I was looking at the attached plan of the engagement—how many people, apart from Commander Detmers himself, would have been in a position where they could have seen what actually happened? I am asking about the accuracy of the plan of the engagement. How many people on the bridge of the *Kormoran* would have been in a position to give a valid appraisal of the engagement?

Rear Adm. Oxenbould—I cannot answer that specifically, but I should imagine that the way that the raiders were organised would be very similar to the way a naval ship was organised in that regard. They would have had a small command team that would have been aware of the plan and would have gone through these types of exercises and evolutions and worked through a number of these scenarios of how they would deal with this situation which was presented to them. The very fact that Captain Detmers was reported to have steamed off into the sun indicates that that was clearly one of his first operating procedures he had because it made the identity of the ship that much more difficult, especially with the sinking sun, as well—the low sun in the sky. They would have gone through these various stages and you would expect them to be very proficient and very well worked up at it.

The ship had been running for about 11 months since it had first gone to sea. It was a new ship. It had had a number of successes. It had captured one ship and had sunk another 10 ships during that 11-month period that it had been operating. It had operated

through the Atlantic and had come into the Indian Ocean, so you could imagine them to be a very proficient and well worked up crew. There would certainly be a core of, be it a half a dozen or a dozen, people who would be aware of the plan and what the captain was thinking about and what his expected reactions would be.

Senator SANDY MACDONALD—So you would be quite confident that the plan of engagement that we have would be accurate?

Rear Adm. Oxenbould—As I said, I believe that what is described in that history is certainly feasible. I do not see any gross inconsistencies or things that I believe are totally impractical and would not have been able to occur.

Mr TED GRACE—Except for the *Sydney* coming so close to—

Rear Adm. Oxenbould—I cannot really comment on that. I do not know why Captain Burnett took his ship that close, or what was going through his mind.

Mr TED GRACE—In naval terminology it would be unusual.

Rear Adm. Oxenbould—No, that is not the case, either. In fact, there are several cases in history of that occurring, even in World War I, where a ship was lost in a similar situation when it pulled up too close to a raider. But what was going through Captain Burnett's mind there I do not know and I cannot speculate.

Mr TED GRACE—The past history then should prove that he should have been aware. He would have been aware of approaching—

Rear Adm. Oxenbould—They were then developing tactics. There was an example in World War I where this had occurred. There were some other examples in World War II and near misses and, as a result of those, they were learning the lessons of these approaches. Unfortunately with history, we do have to relearn many lessons. The lessons of submarines and convoys across the Atlantic had to be relearned in both World War I and World War II. But they were developing the tactics and, as a result of the experience of the *Sydney*, it helped to refine them.

Senator SANDY MACDONALD—I just want to ask about the 390-odd crew on the *Kormoran*. If three or four of Detmers's mates had got together in a lifeboat and said, 'This is the story we are going to tell. This is the plan of battle,' would it have been possible to get that story and make it stick in cement?

Rear Adm. Oxenbould—The one thing which 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. Some were picked up by a ship which proceeded to Sydney and off-loaded people there. Some got ashore on the Western

Australian coast and were captured there, and others were picked up at sea and taken back to Fremantle and put into Swanbourne barracks in Fremantle. So there was a remarkable consistency within the story of what actually occurred, as it unfolded, to give it more creditability.

CHAIRMAN—I want to return to this 1,500 yards because it is really crucial. If you had been at sea for a week or 10 days and you knew there was a rock there, as captain of a ship, you would not move within 1,500 yards of that rock, would you, if it was out in the mid-ocean?

Rear Adm. Oxenbould—It all depends how deep the water was around the rock.

CHAIRMAN—I think you would be judged as foolish if you moved closer than five or six miles, unless you had a good operational reason to go in. Why did he move in closer than five or six miles—10,000 or 12,000 yards?

Rear Adm. Oxenbould—Again, I cannot answer the question. But there are other considerations and theories that people had about preventing the ship being scuttled and not being able to capture it, and so they needed to be close to be able to prevent that if the raider took that action. That is what some of the other raiders had done in action.

CHAIRMAN—Yes, but Captain Burnett, as Deputy Chief of the Naval Staff had signed the orders or the report of the action of *Canberra*, when *Canberra* captured the *Ketty Brovig* and another supply ship at a range of 20,000 yards. In fact, he wrote across it a criticism of the expenditure of ammunition: he thought the expenditure of eight-inch ammunition was quite excessive. Would that have been an indication of his mental state at the time of his encounter with the *Kormoran*?

Rear Adm. Oxenbould—I cannot answer that question, I really cannot.

CHAIRMAN—What hard information do we have of the intelligence picture that we had at the time? You are suggesting that he had a general belief that there were no raiders in that part of the Indian Ocean.

Rear Adm. Oxenbould—We have a copy of one intelligence report which was dated 12 November which reflected that there were no raiders in the eastern part of the Indian Ocean.

Mr Straczek—It is actually attached to the submission. The remarks came out of the daily summary of the combined operational intelligence centre that was located—

CHAIRMAN—Yes, I read that. I just wondered what authority we should ascribe to that?

Mr Straczek—That would have come from the Admiralty. They would have based that on information which they had received, be it through reports of the intelligence organisation around the Indian Ocean. At the time, there was only one missing ship and in those days it probably was not unusual for a ship to disappear even because of weather, not necessarily through any action. There was this long period of inactivity of *Kormoran* when she had the breakdown, which I think contributed to the fact that they are saying that there was no evidence to prove there was a raider.

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 Royal Navy captains complaining about the ineptitude of merchant seamen who did not understand the regulations, or foreign captains who themselves were not following them because of the problems of wartime restrictions being placed on them. So given that sort of technology, you would have to get in close anyhow.

Mr TAYLOR—What were the command and control arrangements at that time? It comes back to Senator MacGibbon's question of that intelligence assessment. What were the command and control arrangements on the Australia station? Who was responsible to whom in the war situation?

Mr Straczek—Unfortunately the archival information we have is not very thick on actual operational procedures. There is a lot more on administrative and general policy stuff. We are not too sure exactly whom *Sydney* would have been reporting back to. She was operating out of Fremantle—

Mr TAYLOR—We are not sure? That seems to me to be unbelievable.

Mr Straczek—This is the problem with the archival record. Not having come from that period—

Mr TAYLOR—But surely there is somebody, some anecdotal evidence. I am just absolutely amazed that there is no historical record of what the command and control arrangements were.

Rear Adm. Oxenbould—My understanding from reading the information that I have about the *Sydney* was that the district naval officer who was over there in the west would exercise a control over his area. That was Captain Farquhar-Smith and he was based in Perth or Fremantle. My understanding of it was that he would have had what we now refer to as operational control of the *Sydney* when she was working out of Perth. He would be given these tasks to escort ships, such as *Zealandia*, up to the Sunda Strait and he would apply the resources to that. He was the one who initiated the search action so he obviously had some operational control responsibility of the ship. He initiated search action once it was missing and he also reported back to the Chief of Naval Staff and to

the navy office.

There are records of the telephone discussions and the messages which took place between him and the Chief of Naval Staff. Then the Chief of Naval Staff or the navy office made the decision to send out the message instructing HMAS *Sydney* to break radio silence and report its position. It was the navy office who controlled the coastal radio stations to call HMAS *Sydney* to try and establish contact.

Mr TAYLOR—Surely at the executive level there would be cabinet records, which would now be open, to indicate what the general communications and control arrangements for the whole war effort were. That is something that I would have thought would be available. Further down the line, in terms of the Australian defence effort, there must have been some subset of that which reflected our command and control, otherwise who was leading who?

Rear Adm. Oxenbould—I believe that the Chief of Naval Staff was exercising full control.

Mr TAYLOR—Is it possible to know that? It must be available from Admiralty. The secretariat of this committee can perhaps have a look at the higher level or cabinet level. There must be something. I hope we did not go into this war effort absolutely flying blind.

Lt Cmdr Stevens—I can certainly say from some research I have been doing that the area is very sparse. It is not until after the Americans started coming into Australia that you see an awful lot of material on command and control, because they seemed to regard it as a lot more formalised.

Mr TAYLOR—Are you saying we were just the colonials?

Lt Cmdr Stevens—I am saying the material is very sparse and how it worked is still being researched as we speak.

Rear Adm. Oxenbould—We were certainly more likely to assign forces and hand them over to other operational commanders. That is the way Australia had provided forces up until that date. It is quite feasible that that command and control where the district naval officer was responsible for HMAS *Sydney* and the way that it—

Mr TAYLOR—Unless we have that sort of information, it is difficult for us to assess our reaction time. There has been some criticism in some quarters that nothing was done for several days and in others that there was something done reasonably quickly. Unless we have a feel for the parameters of that command and control, it is very difficult.

Senator MARGETTS—Last year I tabled some photographs of a torpedo boat of

a type carried on the *Kormoran*. The existence or otherwise of that torpedo boat would appear to differ from official accounts of the action. Is there any explanation from Navy about that?

Lt Cmdr Stevens—No evidence that Navy is aware of shows that *Kormoran* carried a motor torpedo boat of the type you are describing. She did not have the facilities to lower and pick up something like that. If there is new evidence that someone has found, I do not believe that Navy is aware of it.

Senator MARGETTS—Have you seen the photographs?

Lt Cmdr Stevens—I have not.

CHAIRMAN—There was a recent article in a Queensland publication about that.

Senator MARGETTS—Perhaps that could be taken on notice. That would be very useful.

Lt Cmdr Stevens—It has been looked at in the past on previous suggestions that that was the case and certainly there was nothing. The basic problem was that the *Kormoran* did not have the huge davits, cranes, you would need to get that sort of thing on and off.

Senator MARGETTS—But another German ship of the same type carried exactly that kind of equipment and there is photographic evidence of that.

Lt Cmdr Stevens—I have not seen that sort of evidence. I do not believe we have been made aware of it.

Mr HICKS—When the HMAS *Sydney* was at battle station, you said most of the men were locked up inside the ship. There must have been some outside on the decks with the light armament, surely?

Rear Adm. Oxenbould—Yes, there would have been, 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.

Mr HICKS—When they went into battle, they would all have had life jackets on surely.

Rear Adm. Oxenbould—I do not know. Certainly our current practice is to carry life jackets in those sorts of situations. I am not sure what the procedure was and whether they would have been actually on.

Lt Cmdr Stevens—Some of the contemporary photographs certainly indicate a completely different attitude to what we would today regard as action dress. The type of life preservers we think about today, which are little pouch things, were not in existence then. They were much more bulky and it was much harder to operate with those. They tended to be kept in one spot, where you would grab as you were going over.

Mr HICKS—So there is a good chance that the people on the deck or the exterior of the ship, when it was in action or went down, may not have had life jackets on.

Lt Cmdr Stevens—Looking at contemporary photographs, action seemed to be taking place in shorts and sandals.

CHAIRMAN—What do you think of the German accounts that even the cooks were on deck hanging over the rails looking at the *Kormoran*? Was that at all likely to be true?

Mr Straczek—Regarding the account of the white dressed personnel on deck, if HMAS *Sydney* was approaching and not at action stations at that time, it is highly likely that a number of individuals would have been standing on the deck looking at this merchant ship off in the distance. It is just natural curiosity.

CHAIRMAN—It leads to the question: is it likely that the ship was not at action stations when it was approached?

Rear Adm. Oxenbould—That would be difficult to judge from that evidence. Some people within the ship, such as the cooks whose action station might have been in the galley preparing food, might have been able to go out on the upper deck. It is extraordinary, but I do not think you could draw the conclusion that, just because some people were sighted on the upper deck and in white clothing, the ship was not at action stations.

CHAIRMAN—All right. Of some significance are the explanations for the delays in looking for HMAS *Sydney*. These ran into three or four days before the decision was taken to go searching. While radio silence was maintained were there no routine operation normal broadcasts made on a daily basis or anything like that?

Rear Adm. Oxenbould—No.

CHAIRMAN—What was the limiting period? Would you let a ship go for three days or 33 days?

Rear Adm. Oxenbould—I do not know the specifics which were in force at that time with regard to that. It would appear quite normal that, as the HMAS *Sydney* sailed on the 11th and was due to get back to Fremantle on the 20th, they would not expect any

radio communications from that ship. Messages that it had sent beforehand were not transmitted by radio. They were sent as base ground messages. In other words, they were sent from Fremantle before she sailed and in that period she maintained complete radio silence.

CHAIRMAN—Was there any practice or requirement to broadcast if they joined in action with another hostile ship?

Rear Adm. Oxenbould—There were standard occasions for breaking radio silence when it was imposed, and one of them was contact with the enemy. These perpetuated through to when I first went to sea.

CHAIRMAN—Why was that not done?

Rear Adm. Oxenbould—I am not sure about that stage. If the situation was as explained by the *Kormoran* and the command team was knocked out with the first salvo of the battle and they were taken by surprise, that could have taken out the communications as well. They may not have been able to transmit and had lost the core of the command team anyhow.

CHAIRMAN—Yes, but there are recorded cases where warships at this period, on being uncertain about the identity of a freighter, radioed for identification prior to closing with them.

Rear Adm. Oxenbould—Yes. I think there were variations in the standing operating procedures. Other incidents have been recorded where the ships did not and they maintained their radio silence right throughout. We must assume that the *Sydney* took the *Straat Malakka* or the *Kormoran* for what it said it was to start off with and did not think it was necessary to report it as a enemy ship.

Mr TAYLOR—Isn't there a report of a garbled message saying—

Rear Adm. Oxenbould—That was from the *Kormoran*. The *Kormoran* sent a message which was, again, what I would have thought to be her standard operating procedure, to transmit to say that they have got some strange warship approaching them and they are being threatened by this ship, and to transmit that as the ship that they were trying to be disguised as. That was picked up by a tug off Geraldton.

Mr TED GRACE—That signal would have been picked up by *Sydney* also.

Rear Adm. Oxenbould—I would expect so.

Mr TED GRACE—Would you think that was maybe one of the reasons why they swallowed the bait?

Rear Adm. Oxenbould—I do not know. It would have been another thing for Captain Burnett and his command team to think about, whether again that was what it actually was or whether it was a genuine ship. It would throw some more uncertainty into his mind.

Mr TAYLOR—Can I just go back to the action states and these reports of white-clothed personnel leaning on guard rails or something? In World War II, did you just go from cruising stations to action stations or was there something in between?

Rear Adm. Oxenbould—No. As I understand it, you used to go to action stations—straight from cruising stations to action stations—and then you could go to action stations relax, but you had to close up to the action stations in the first part and make sure all the ammunition and everything which was necessary for the ship to fight was provided. Then you could relax that so that you could send some people off to have meals or—

Mr TAYLOR—That is equivalent to today's defence stations or something like that?

Rear Adm. Oxenbould—Something like that, but it was a relaxed form. You were able to send away part of your action stations.

Mr TAYLOR—If that was the case, if they were in action stations relaxed, and if you accept what some of the *Kormoran* people said then, one would assume that it was a question of identification of *Kormoran*. Maybe the command assessed it as being what it said it was and that is why it came in so close.

Rear Adm. Oxenbould—It could have been.

CHAIRMAN—I would like to thank you very much for your attendance today. If you are providing additional material, would you please forward that to the secretary.

Proceedings suspended from 11.12 a.m. to 11.24 a.m.

CARMODY, Mr Shane Patrick, Acting Director, Defence Signals Directorate, Building M, Russell Offices, Canberra, Australian Capital Territory

SKIMIN, Mr Arthur William, Consultant, Records and Information Management, Defence Signals Directorate, Building M, Russell Offices, Canberra, Australian Capital Territory

CHAIRMAN—I welcome representatives of the Department of Defence. I must advise you that the proceedings here today are legal proceedings of the parliament and warrant the same respect which proceedings in the respective houses of parliament demand. Although the subcommittee does not require you to give evidence on oath, you should be aware that this does not alter the importance of the occasion. The deliberate misleading of the subcommittee may be regarded as a contempt of the parliament.

The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. The subcommittee has received the Defence Signals Directorate's submission, and it has been authorised for publication. Are there any additions or corrections you would like to make to that submission?

Mr Carmody—No, Mr Chairman.

CHAIRMAN—Thank you, Mr Carmody. I invite you now to make a short opening statement, if you so desire.

Mr Carmody—Thank you, Mr Chairman. I am acting as Director of the Defence Signals Directorate. My normal position is Deputy Director of the directorate. I have with me Mr Arthur Skimin, who is a DSD historical consultant, and I am sure he will be able to add weight if I have any questions or issues that I need to explore.

Mr Chairman, thank you very much for inviting DSD to appear before the inquiry today. With the subcommittee's permission I would like to make a brief opening statement. We have been the subject of some speculation as to DSD's role in the management of records dating from the time of the loss of HMAS *Sydney*, and we welcome the opportunity to clarify the position for the committee.

Firstly, I would like to make it clear that DSD does not have in its possession any documents relating to HMAS *Sydney*, other than some administrative files dating from the 1990s. There was no national signals intelligence organisation in existence in 1941, and signals intelligence activity at that time was conducted by service units—army, navy and air force units. DSD's precursor organisation, the Defence Signals Bureau, was not created until 1947. Should any signals intelligence related documents dating from the time of the

Sydney and *Kormoran* sea battle exist, they would be contained in the wartime records of the services, especially those of the navy.

Any SIGINT related records held by elements of the defence organisation or other government departments are examined by DSD prior to their public release under the 30-year rule. As the national authority for signals intelligence and information security, DSD is required to examine such records to ensure that their release would not be in breach of national security. None of the material so far submitted to DSD for examination contains any information relevant to the *Sydney* that has not been made available to the public.

Under the provisions of the Archives Act, DSD can request that particular documents be exempted from public release after the expiry of 30 years. The only exemptions currently in force in relation to World War II records relate to a very small number of naval records dating from 1940 and 1941, which contain information of continuing sensitivity to Australia's World War II allies. However, these records contain no references to HMAS *Sydney*, and DSD expects to be in a position to lift the exemptions on these once it has consulted with the relevant authorities in the UK.

Given the extent of speculation as to the role SIGINT might have played at the time of the loss of the *Sydney*, I would like, if I may, to very briefly clarify the situation in relation to the operation of signals intelligence units around 1941. At that time, signals intelligence activity in Australia was very limited and uncoordinated. The three services each had a small scale capability, but no organisation comparable to DSD existed. Most SIGINT operations against Germans were conducted by the British. The German navy was an important SIGINT target, including its fleet of armed merchant raiders, of which the *Kormoran* was one. However, the particular encryption system used by those vessels was not broken during the war. Therefore, even if a SIGINT unit had intercepted any of the *Kormoran*'s communications, it would not have been able to decrypt them.

It was only many months after the loss of the *Sydney* that Australia became a significant base for signals intelligence operations. In mid-1942, with the South-West Pacific now a major theatre of war, two important SIGINT organisations were established in Melbourne. These were the central bureau, which later relocated to Brisbane, and the Fleet Radio Unit, Melbourne, known as FRUMEL. These organisations maintained full records of their activities and operations, and these records have been declassified and are available for examination in Washington. DSD has cited only a small portion of the records of the central bureau, and FRUMEL and has identified only one reference to the *Sydney*. This was released in 1996.

As noted in our submission, we still retain one FRUMEL record which contains some Japanese enciphered message traffic. We have now determined that this record is suitable for release, and it is currently being prepared for dispatch to Australian Archives. This set of documents constitutes the last remaining file from World War II held by DSD.

In summary, DSD has carefully examined all material submitted to it for inspection and those records of the wartime allied SIGINT agencies that were retained in Australia after the war. We have identified only a very small number of references to the *Sydney*, and none of these casts any light on its battle with the *Kormoran*. All of the records have been released for public inspection, either at the Australian Archives repositories or in the Australian War Memorial. Thank you.

CHAIRMAN—Thank you, Mr Carmody. I must say in my time here I cannot recall a situation where DSD has appeared before the parliament.

Mr Carmody—Nor can I.

CHAIRMAN—I am aware that the defence subcommittee has visited DSD installations over the years at widely spaced intervals, but thank you for coming.

Mr Carmody—My pleasure.

CHAIRMAN—You mentioned in your introduction that DSD still had exemptions for 1940 and 1941 on material that did not relate to the *Sydney* but the reason for those exemptions was that they were sensitive to Australia's allies of the period. Could I ask the general question: is the sensitivity in relation to the content of those messages or to the technology or to the collection or assessment?

Mr Carmody—The actual sensitivity that is referred to in this case is Allied entities and address groups—that is, communications identities: who the messages were from and to—not the content of the messages themselves.

CHAIRMAN—I see.

Mr Carmody—It is the extent of the wartime signals intelligence organisations that operated and who was communicating with whom.

CHAIRMAN—This period that we are dealing with precedes, by many years, the setting up of the Defence Signals Bureau, which preceded DSD. For the benefit of the committee could you just take us to what the basics of signals traffic and signals intelligence would have entailed in 1941? Presumably it was all an HF transmission area. What sort of wavebands or wavelengths were they operating at? Were there certain frequencies that were restricted for naval traffic, for army traffic and for air force?

Mr Carmody—I can answer the question in a number of ways. I am not certain whether there were particular bands available for particular services in which to communicate. I would say that, during that period of the late 1930s and early 1940s, high frequency was the principle medium of communications. Everyone who was communicating was essentially using high frequency, so the whole of the high frequency spectrum was filled

with conflicting communications. It was cluttered and was quite difficult as an intercept target for an intercept organisation to work against. The way intercept organisations or signals intelligence organisations function is to collect communications of interest in the spectrum and endeavour to reconstruct networks and reconstruct backwards who is talking to whom.

CHAIRMAN—But a listening organisation would guard a certain frequency and would try to monitor all traffic on that wavelength, would it?

Mr Carmody—A signals intelligence organisation would do that. In terms of our communications, which is not an area that a signals intelligence organisation normally focuses on because we focus on the enemy's communications and not our own, I understand that Australian frequencies would have been allocated by the Admiralty. So we would know, to an extent, who was operating in which particular bands. In terms of German and other frequencies, we would be searching the communications bands; that is, the likely high frequency communications bands based on predictions of the distances over which the targets were communicating and therefore whether they needed to be higher up in the high frequency band or lower in the high frequency band, and trying to collect in those. That is what signal organisations would have done at the time and what organisations like ours, after it was formed, were doing in the late 1940s and through the 1950s.

CHAIRMAN—It would be a presumption that the naval transmitters in ships like the *Sydney* and the rest of it would be reasonably high powered, would it not?

Mr Carmody—Yes, I would presume so.

CHAIRMAN—So any transmission of the *Sydney*, while it might not have been picked up in Melbourne or *Harman* or anywhere here, could well have been picked up in London or Washington or Berlin?

Mr Carmody—Depending on what power they were using, certainly. Of course, again, as the communications from something like the *Sydney* could be picked up over that distance, speaking from the Defence Signals Directorate's perspective we would not have—and I do not believe that the signal units that were in Australia at the time would have—collected anything on the *Sydney*. 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.

CHAIRMAN—Hand in hand with that, radio direction finding techniques were pretty primitive, were they not?

Mr Carmody—They were extremely primitive at the time. They are somewhat more sophisticated now, but they were extremely primitive at the time. Elements of radio

direction finding are essentially that a communicating entity must radiate, must send a message, and whilst it is sending a message, the organisation, or the receiver that receives that message, can take a line of bearing, a direct line back to where that came from.

The inherent difficulty with radio direction finding is that you need to have multiple sites to have any success. If a message comes from somewhere in the Indian Ocean, for example, and it is received by a radio direction finding unit, it could be coming from the middle of the ocean, it could be coming from India, it could be coming from all the way around the world directly on that line of bearing, depending on the power.

The way that direction finding works, therefore, is that direction finding units must essentially cross-reference to narrow the arc; so that a direction finding element from the north, a direction finding element from the south, can take the same line of bearing on the same target at the same time, pinpoint it and say that where those two lines of bearing cross is likely to be the point where the communication emanated from, not further on and not further in the other direction. It is preferable to have three.

The difficulty in the early stages of World War II was coordinating those activities between a communications facility, say in the south of Australia, and something in Batavia, something in the north of Australia or something in the east of Australia. Communications were extremely unsophisticated.

Being on the right frequency at the right time, to take the right line of bearing, is a complicated activity, even if you have the sophisticated communications to tip off each of the elements in the direction finding network. I see no evidence of a network of direction finding units.

CHAIRMAN—So the reason for the radio silence was not so much the revelation of the position of the transmitter but the content of the message.

Mr Carmody—That would be my understanding.

Mr TED GRACE—Mr Carmody, in your opening statement, did I understand you to say there were no codes, German or Japanese, broken?

Mr Carmody—No, let me make it clearer: 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, 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.

Mr TED GRACE—In your submission, you state that some Japanese and German codes were broken.

Mr Carmody—Yes, some were broken during the war, certainly.

Mr TED GRACE—The Department of Defence submission makes reference to a facility known as the Australian Radio Research Station in the Liverpool area in Sydney. Are you aware of this station and what its functions are, and what its function was during the war?

Mr Carmody—No, I am afraid I am not.

Mr Skimin—It was a research organisation, the little we know of it. That information is coming out of World War II navy records. As we understand from what we are seeing, it was staffed in part by academics drawn from the Sydney University combining with Navy. It was a research organisation that appeared to also be part of their communications network at that time.

Mr TED GRACE—Could you give the committee some idea of the amount, in bulk, of documents that you have available to signals during that period?

Mr Skimin—What we have looked at, from the DSD's perspective—

Mr TED GRACE—Are there hundreds or thousands?

Mr Skimin—We have looked at probably 20,000 single messages since the 1980s, but I understand, from listening to the navy's submission this morning, that there are something like 4½ million single documents in that collection in the Melbourne archives.

Mr Carmody—If I may add a point of clarification, DSD does not have its own records of the period because we did not exist prior to that period, so we actually have no records. We are reviewing—

Mr Skimin—We are reviewing navy records.

Mr Carmody—records which are passed to us for review but we have no archival records of the period.

Mr TED GRACE—So you could well understand the perception in the public's mind—accusations of cover-ups being made. Of all the thousands of signals that you have, there is no recorded signal either in any period prior to the sinking of the *Sydney* or by any ship immediately after. The public has to believe that; is that right?

Mr Carmody—I can understand the perception. If I may elaborate a little: again, as a signals intelligence organisation, we would not collect signals intelligence against Australian platforms under any circumstances; therefore, if we were operating at the time, we would still have no records related to that because that is not part of our function as a

foreign intelligence collector. I can understand the scepticism that there may have been communications between other entities, but, again, it was well prior to our period of existence and we have seen nothing in an archival review that would indicate that.

Mr TED GRACE—Have you examined any documents indicating signals from foreign ships in the area in that period?

Mr Carmody—My understanding is no, aside from—

Mr TED GRACE—But that is your function, you have just told me.

Mr Carmody—DSD's function, in this case, in the archival case, is to review the material that is passed to us for review. I understand that the records have shown nothing on references to HMAS *Sydney* during the period that has not been released. Unless I am confusing the question, in terms of DSD's activities, because we did not exist—

Mr TED GRACE—Yes, I realise that, but some material must have been passed to you for review. It is not an unknown item. Some material should have been passed to you or would have been passed to you regarding foreign signals in that period. It is inconceivable to anybody to think that no signals are available regarding *Sydney*. Now you are telling me no signals are available regarding any enemy activity within that region. That is what you are telling us.

Mr Skimin—In the material that DSD has reviewed to this point, coming out of the navy World War II collection, there was no signal that I have seen in the last 15 years relating to movements of enemy ships other than British intelligence reports coming from the Admiralty in London.

Mr TED GRACE—And none of them related to enemy activity signals, either?

Mr Skimin—Not directly, no.

Mr TED GRACE—What do you mean 'not directly'?

Mr Skimin—They related to shipping movements but the shipping movements that they were reporting on were also Allied shipping movements, so that there was nothing that I can recall dealing with movements of enemy vessels in the material we have looked at to this point.

Mr TED GRACE—So you can understand the confusion of this committee and the general public that there is nothing available. It is just absolutely amazing. It is not believable, really, to put it bluntly, that nothing is available. I will attack it from another angle: are there any other documents that need to be reviewed by DSD that you think could turn up something? It is inconceivable to say that no signals were sent because

signals obviously were sent in the area.

Mr Carmody—I am certain that signals were sent in the area. If I can focus on the *Kormoran*, the material was unreadable. If it was intercepted by an organisation that preceded DSD, the material was still unreadable. The pre-1942 records of other Allied units that operated throughout South-East Asia and eventually relocated to Australia may have held some clues or some intercept of activity in the region, but, as we indicated in our submission, what became the Fleet Radio Unit, Melbourne—and there were Fleet Radio Units around South-East Asia—was evacuated originally from Corregidor, then to Java and then ended up in Australia.

It would be my view that, as they were evacuated at very short notice by submarine, they would not have been carrying reams of material with them. In a SIGINT professional way, they would have taken details of any codes, ciphers and things that they needed to continue their activities, but I would not have seen them carrying extensive records during their evacuations from the Philippines and Java back to Australia. So even those other units would have little material, if any, and the material they have has in fact been made available, or everything that is on the FRUMEL records and central bureau records is available.

Mr TED GRACE—Are you saying categorically that you are absolutely confident that there are no documents available that would throw any light on the activity of enemy ships in the area during that period?

Mr Carmody—I cannot say that categorically because I do not know what information might be brought to us for review. I can say categorically that we have seen no information and that nothing has been passed to the directorate for review that has not been released and that sheds any light on the fate of the *Sydney* and the *Kormoran*. It would be impossible for me to state absolutely that nothing exists. Because of the nature of the way archives material is stored and the way requests for clearance are passed to us, it is an impossible question for me to answer categorically.

Mr TED GRACE—Is it an ongoing operation; in other words, are you still delving into documents of that period?

Mr Skimin—Yes. Most of the material that DSD has been asked to examine is coming out of what they call the MP1074 series, a registered series in Australian Archives in custody of the Melbourne regional office. That is quite a large navy holding. It was alluded to this morning as so many boxes, and they potentially represent something like 4½ million individual documents. DSD has been asked to look at something like 20,000 of those documents in the last 15 years. What is in the remains of them no-one will know until someone actually sits down and looks at them.

Mr TED GRACE—I am sorry to pursue this matter, but you have just told me

that you have been pursuing those documents for 15 years, so the mystery of the *Sydney* would have been known from the start of your existence. Were the documents referred to you specifically to find out signals from the *Sydney* or the *Kormoran*?

Mr Skimin—No.

Mr TED GRACE—Why do you think that was so? Why would other documents which would obviously be irrelevant to the public be sent to you but the one set of documents which is relevant to this country, the documents regarding the sinking of the *Sydney* in signal terms, not be referred to you specifically? Is that right?

Mr Carmody—We can only review documentation that is passed to us for review. If there are any references to the *Sydney*, as we have indicated, we have ensured that those are on the public record. An enormous number of documents have been provided to us for review within the last 15 years on the complete range of activities related to the signals intelligence business, and I think that process will continue.

Mr TED GRACE—But your organisation, Mr Carmody, does not request specific documents even if you think they will marry with some documents which you already have? Do you request specific documents?

Mr Carmody—We have not at this stage—or have we?

Mr Skimin—Occasionally that has happened when DSD has been obliged, because of the linkage and the compilation between one document and another, to bring forward other documents to look at them in context, but on very few occasions has that happened.

The material that DSD has looked at has been the material focused upon by public access requests lodged with Australian Archives, and they are the only requests we have been reacting to. If a member of the public deposits a request for access to a particular series of records that are held in custody and they have a linkage in any way to the national role at SIGINT or communications security, DSD has been obliged to examine that material, but that is all that they have been doing.

Mr TED GRACE—Could I suggest to you that most of those requests would have been about the *Sydney*?

Mr Skimin—No, not one.

Mr TED GRACE—Not one?

Mr Skimin—No.

Mr TED GRACE—No requests from the general public for archival correspond-

ence regarding the *Sydney*?

Mr Skimin—Not one transferred to DSD, no.

Senator MARGETTS—It is a case of ask no questions and be told no lies. If you have not been asked for it, then you will not be required to speak on it.

Mr Skimin—I think the point to remember, too, is that the records people have been asking about, and that DSD have been examining, do not belong to DSD; they belong to the navy office.

Senator MARGETTS—Yes, so we hear. Was there, at the time of the incident, a high frequency direction finding facility located in the Holsworthy area?

Mr Carmody—According to the Defence submission, I understand there was, but it is not something which DSD has any formal knowledge of.

Senator MARGETTS—So there was a facility. Do you have any knowledge of how that was used or where that might have fitted in?

Mr Carmody—No, I am sorry, none whatsoever. Again, I am sorry to sound like I am labouring the point, but it was well prior to our existence and we have no records and would not expect to. It is very much a service related activity.

Mr Skimin—What we have seen in the material that we have examined from the navy series—the MP1074 series—is enough information to suggest that there was a facility in the Liverpool region, and that facility was a radio research and development type of facility. That is all the knowledge that I have had in examining documents at the document level.

Senator MARGETTS—Have you also had any information, by the same means, that the high frequency direction finding facility may have worked in conjunction with flying boats or the RAAF base in Pearce, WA?

Mr Carmody—No. I am sorry, we have no information at all.

CHAIRMAN—Could we go back to the nature of the *Kormoran* signal traffic? Presumably if they had an unbreakable code that they were using for encryption, they would not have been too fussed about maintaining radio silence, would they?

Mr Carmody—I think there are two points. Firstly, maintaining radio silence does prevent any direction finding activities, if there are direction finding activities or any ship that might happen to be just over the horizon, from knowing of your existence. But I am not familiar enough with the operational scenario of the vessels, or navy vessels, to answer

it. I think all organisations that send encyphered material think that their codes are not readable. They would not know that, in fact, they were some of the five per cent that really were unreadable. Everyone would have had the same expectation of the Enigma machine in the war.

CHAIRMAN—How would the signal be transmitted? Would it be in morse?

Mr Carmody—In high frequency transmission I would expect it would be in morse.

CHAIRMAN—How would that be recorded? Would it be by somebody doing it by hand?

Mr Carmody—Yes, doing it by hand. I do not believe there were any recorders at the time. I think it was prior to recorders, so it was operators taking down the letters by hand.

CHAIRMAN—Have any of those signals, to your knowledge, been preserved in the archives?

Mr Carmody—No, not to my knowledge.

Mr Skimin—No.

CHAIRMAN—Has that Enigma code been broken today?

Mr Carmody—I am actually not certain. I know the foreign code was definitely not broken during the entire period of the war. Unfortunately, I do not know whether it was subsequently broken.

Senator SANDY MACDONALD—The Enigma code was only broken because the machine was found, wasn't it?

Mr Carmody—There are many ways to break codes. Yes, I think that is correct.

Mr Skimin—There were various versions of the Enigma machine. There were Enigma machines operating with commercial codes and Enigma machines operating with military codes. There were varying levels of technology within that Enigma design.

CHAIRMAN—You indicated that some material that should be in the archives in Melbourne cannot be found. Can you confirm that this is material from the MP1074/8 series?

Mr Carmody—Yes, we can.

CHAIRMAN—That is all subject to exemptions by DSD?

Mr Skimin—Those exemptions applied by DSD to that material from the MP1074 series is the material that Mr Carmody alluded to earlier on, the call and the station identification material which, once the material is found in Australian Archives, we believe, after consultation with our partners, will be lifted.

CHAIRMAN—You have got no idea where that would be stored?

Mr Skimin—It should be in the Melbourne regional Victorian office of Australian Archives.

CHAIRMAN—It is one of those four million-plus items, is it?

Mr Skimin—Yes, that is right, but the fact that we have had it and it was returned to the custody, it is very difficult to understand why those boxes are now missing, despite a search that we have tried to initiate at our level. It seems to be that the authorities in the Victorian office are not able to physically retrieve them to bring them back to us. I think Professor Dennis might have experienced a similar problem when he went searching for similar material in recent times.

Mr TED GRACE—You were satisfied when you checked, when you originally had the boxes you were given?

Mr Skimin—Yes. There was nothing on *Sydney*.

Mr TED GRACE—So why did you ask for them back then?

Mr Carmody—Sorry?

Mr TED GRACE—Why did you request the return back to your organisation?

Mr Skimin—Because there are exemptions on the material and it is in the critical date range. We had the feeling that there is a public perception that we were being secretive, and there must be something to do with *Sydney* there.

Mr TED GRACE—You can imagine why.

Mr Skimin—I can understand why. I think from DSD's perspective, as Mr Carmody has been advising, our aim is to remove those exemption claims to show that there is nothing to do with the *Sydney*.

Mr Carmody—We hope as soon as they are located that that will be able to take place.

Mr TED GRACE—Are there many documents involved in the missing documents, roughly?

Mr Skimin—There are 22, 23 perhaps.

Mr TED GRACE—Boxes?

Mr Skimin—Variations and duplications. There might be in total, if you take duplications of documents through, 100-plus, but not much more than that.

Mr TED GRACE—Quite a significant number, though?

Mr Skimin—Yes, but it is all the same material. It is all address groupings. As I say, nothing on the *Sydney*. We have got an extract of what the—

Mr TED GRACE—Is it possible you missed something?

Mr Skimin—No, sir.

Mr TED GRACE—Not possible?

Mr Skimin—Not possible.

Mr TED GRACE—You sound very confident. Why would they disappear like that? It suggests that something was on there that you actually missed.

Mr Skimin—I believe, too, that perhaps a reason is that the Australian Archives organisation were relocating physically from premises in Brighton to new premises somewhere in the Dandenong region. With a physical stock location that they would have been confronted with, it would be quite easy for some boxes to be either renumbered, regrouped and physically located on a shelf in a location that is not coming up on their search aids.

Mr TED GRACE—It could still be there?

Mr Skimin—Yes. I believe it is there.

Mr Carmody—That would be our expectation, that it would still be there, somewhere.

Mr TED GRACE—You can understand the general feelings that it is not there, that it has been destroyed.

Mr Skimin—Yes.

CHAIRMAN—As there are no further questions, I would like to thank you very much for your attendance here today.

[12.01 p.m.]

SNIGG, Ms Patricia, Line Area Officer, Department of Communications and the Arts, 38 Sydney Avenue, Forrest, Australian Capital Territory

WOHLERS, Mr Kevin, Acting Assistant Secretary, Cultural Heritage Branch, Department of Communications and the Arts, 38 Sydney Avenue, Forrest, Australian Capital Territory

CHAIRMAN—On behalf of the subcommittee, I welcome officers from the Department of Communications and the Arts. I must advise you that the proceedings here today are legal proceedings of the parliament and warrant the same respect which proceedings in the respective houses of parliament demand. Although the subcommittee does not require you to give evidence on oath, you should be aware that this does not alter the importance of the occasion. The deliberate misleading of the subcommittee may be regarded as a contempt of the parliament.

The subcommittee wishes, or prefers, that all evidence is given in public, but should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. We have received your department's submission and it has been authorised for publication. Would you like to make any additions or corrections to that formal submission?

Mr Wohlers—No.

CHAIRMAN—Thank you. I would invite you now to make a short opening statement before we proceed to questioning.

Mr Wohlers—Patricia Snigg is with me. She is the Line Area Officer who administers on a day-to-day basis the Historic Shipwrecks Act 1976. Our submission was basically an expression of interest in regard to our role and responsibility in administering that act and to provide any assistance we can to the committee.

CHAIRMAN—Thank you. We will go to questions.

Mr TED GRACE—In questions to an earlier witness, I telegraphed my opposition to the actual finding of the *Sydney* for various reasons—the contamination of the site. It is not just my opinion, it is the opinion of a lot of constituents—families of people from the *Sydney*—who approached me in my capacity as the member for Fowler.

Your submission states that the Historic Shipwrecks Act provides for the protection of historic shipwrecks and relics located in Australian waters, but not in state waters, which actually refers to the area of my worries this morning. How are state waters defined, and what relevance do you see in that regarding the search for the *Sydney*?

Mr Wohlers—We work in conjunction with the states in terms of administering the act. The states have provided to the Commonwealth the authority to administer the act in those regions. We work essentially as a collaborative. We work through representatives of the minister who delegates under the act. We rely on their expertise, knowledge of the local area et cetera to allow the administration of the act.

Mr TED GRACE—That was not my question. My question is: how are state waters defined? What is the boundary—how many kilometres?

Mr Wohlers—Perhaps I could answer it in this way. If the shipwreck was in waters, be it anywhere in the Australian continental shelf, it would come under the act.

Mr TED GRACE—Are you sure of that?

Mr Wohlers—Yes.

Mr TED GRACE—Nobody knows where it is. The possibility is that it could be inside the continental shelf and then the Historic Shipwrecks Act would not apply. How would it be protected as a war grave?

Mr Wohlers—The War Graves Act does not fall under our portfolio. It is a matter for Veterans' Affairs. However, I understand that the War Graves Act would not cover any bodies on the wreck.

Mr TED GRACE—It would not cover it?

Mr Wohlers—That is my understanding.

Mr TED GRACE—You cannot give me any idea of the kilometre range where state waters apply? It is not a trick question.

Ms Snigg—Under most legislation, state waters extend from three kilometres up to the low water mark, and also estuaries and rivers—internal waters. But under our legislation, the states have given authority over those waters—that is, from the low tide mark to 3nm offshore—back to the Commonwealth, and the Commonwealth has then delegated certain responsibilities for those waters back to the states. If the wreck is found anywhere between the low water mark and anywhere extending out over the continental shelf, the act has jurisdiction and can provide a level of protection.

Mr TED GRACE—So that is anywhere from three kilometres offshore?

Ms Snigg—That is anywhere from the low water mark to—

Mr TED GRACE—Which will roughly be three kilometres offshore?

Ms Snigg—That is the area that the states have jurisdiction over but, under our legislation, they have given that authority back to the Commonwealth who then has delegated responsibilities back to the states. So our delegates have responsibility in relation to an area that extends from the low water mark all the way out to the continental shelf. The meaning of state waters is not the same under this legislation because of the cooperative arrangements.

Mr TED GRACE—I understand where you are coming from, but, as I understand it, state rights far exceed the low water mark. Could we have extra information as to the arrangement because this is one of the procedures that is worrying me, through representations made to me. How do we decide, if it was ever discovered?

Mr Wohlers—It is fair to say that, under the collaborative arrangement in which the act is administered and the Commonwealth and state agreements covering 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.

CHAIRMAN—I am not an authority on this, but I thought it was dealt with by the Gorton government, wasn't it, under the Seas and Submerged Lands Act, or something? My understanding is exactly as the witnesses have said, that the states have ceded or granted control from low water mark out to the edge of the continental shelf to the Commonwealth.

Mr Wohlers—Yes.

Senator SANDY MACDONALD—Where do the obligations or agreements impact? I mean, are there situations where the continental shelf extends further than the exclusive economic zone, for instance, where it goes more than 320 kilometres from the coast?

Mr Wohlers—I understand that, for the most part, those two zones—that is the continental shelf and the exclusive economic zone—are essentially one and the same thing, but there are some areas where the continental shelf extends beyond that and that area may be subject to debate. We would need to take legal advice.

Senator SANDY MACDONALD—Where we have, arguably, these two wrecks within the exclusive economic zone because the action took place 150-odd miles off Carnarvon, if both of them were found, would you have, under your legislation, the ability to control both of them?

Mr Wohlers—Yes.

Senator SANDY MACDONALD—What about the German interest?

Mr Wohlers—Ships of any nationality fall under the act if they are within that zone. We would, of course, need to have close consultation through the various Commonwealth departments and the—

Senator SANDY MACDONALD—Is that by international agreement outside the exclusive economic zone responsibilities that we have? Is that an agreement controlling the high seas or is it part and parcel of the exclusive—

Mr Wohlers—Those areas where the continental shelf extends beyond the economic zone are ones that we would need to take legal advice on.

Senator SANDY MACDONALD—That extend past?

Mr Wohlers—That extend past the economic zone.

Senator SANDY MACDONALD—Assuming they are 150 miles?

Mr Wohlers—The act extends to the extent of the continental shelf, irrespective of the economic zone boundary.

Senator SANDY MACDONALD—And they fall within the act because, subject to other international agreements, countries have ceded that to each other.

Mr Wohlers—It is based on the sovereign rights up to the 200 nautical miles of the economic zone.

CHAIRMAN—Can we move to the hypothetical situation that the *Sydney* was found within an area of your jurisdiction. What examinations would be permitted under law?

Mr Wohlers—Essentially, upon finding the ship the minister is required to be notified and can make a determination of the historic significance of the vessel to provide preservation and protection, which are the two main planks of the legislation. The initial stage of the declaration means that the ship cannot be interfered with, damaged, removed or in any way damaged, unless expressly allowed for in a permit issued by the minister.

In addition to that, a protective zone can be declared around the ship which effectively ensures that without an appropriate permit, no-one can approach within a specified distance from the vessel. We would then take advice from the delegate in the state, in this case the head of the Western Australian Maritime Museum, who is the delegate in Western Australia. We would take advice from him, as our local expert, in terms of what steps should be taken in preserving and protecting the wreck.

CHAIRMAN—What about the granting of the permit that you mentioned? What

are the conditions that would apply?

Mr Wohlers—Effectively, the question for the minister is one of historical significance. There are guidelines to determine that. I do not think there is any doubt that this ship would fall into that category.

CHAIRMAN—Say someone wanted a permit so they could dive and recover some object for a reason. Would a permit be granted on those grounds?

Mr Wohlers—That would be subject to negotiation with Defence and any relevant parties to determine the extent and type of operation which would occur in and around the *Sydney*.

Mr TED GRACE—What would your department's role be if the Commonwealth made a concerted effort to find the *Sydney*?

Mr Wohlers—Our role commences once the declaration has been made by the minister of the significance of the shipwreck. We have no role until such time as that occurs. Following that declaration, our role is specifically the preservation and protection of the ship for the historical basis of the wreck. Obviously, there are much wider concerns in the case of this particular ship. It would need to be negotiated out in terms of the most appropriate, applicable and reasonable actions to take in regard to the *Sydney*.

Mr TED GRACE—But you would not be averse to a dive taking place to remove some object, or would you?

Mr Wohlers—It would depend entirely on the circumstances. We would take advice on—

Mr TED GRACE—I am just talking about your department. You do not have to take advice. You want something. Would you be averse to someone diving to the *Sydney* and removing objects? It is a straightforward question.

Mr Wohlers—Unfortunately, I am not sure whether it is quite that straightforward. As I mentioned, there are delegates in the states and territories whom we rely on in terms of their particular expertise and experience. We would have to take their advice in terms of preserving the historic nature of the wreck to ensure there was no damage or anything else untoward that would occur to the site.

I am cognisant of the fact that there are obviously much broader implications than that, including trying to determine exactly what happened to the *Sydney*, when and where. Also, there is the question of, to use the term loosely, the war graves, and what action could and should be taken in respect of that. We would need to take advice from other parties on those issues before a decision could be taken. The first thing that we would

want to do would be to put in place the protective order effectively.

Mr TED GRACE—Part of your department is the arts.

Mr Wohlers—Correct.

Mr TED GRACE—You are telling me there are no plans in your department to remove any object from the *Sydney*, supposing she is found?

Mr Wohlers—That is correct.

Mr DONDAS—What is the significance of the ship having to be 75 years old before it is considered to be historic?

Mr Wohlers—Unfortunately, I cannot answer that off the top of my head. There are a number of benchmarks in terms of determining the historical significance of moveable cultural heritage, which can range from artworks to artefacts to engineering works of significance. They cover the whole spectrum. There have been, over many years now, assessments made of at what point in time you would consider something to become significant.

I have to say to you that is a subjective assessment. I do not think there is anything more significant about a date of 75 years than any other date necessarily. After looking at the age of the country and the timing of its people coming to this country, et cetera, an assessment has been made about what time frame would be involved in something becoming significant. If you looked at any item and said, 'Is it significant after 10 years?', the answer is probably no. In historical terms, if you asked, 'Is it significant after 200 years?', you would think so. So somewhere in between there you make a judgment. Someone, at some stage in the game, has made a judgment.

Mr DONDAS—It is probably an unfair question but your HSP gets $400,000 a year. For what? Is it for surveillance, due care, maintenance, or what?

Mr Wohlers—It is essentially to maintain and look after known shipwrecks, the shipwrecks that effectively are currently on the books. It is also to maintain the register of those wrecks and relics, and for an educational program about responsibilities under the act, about informing the minister if an artefact or the location of a ship becomes known, et cetera. Those sorts of educational activities, in good part, are aimed at the diving community, for example, the types of people who would be out there in the waters and getting around.

Mr DONDAS—To follow up on the question asked by Mr Grace, how many applications for diving on wrecks would the department approve a year? Would it be hundreds?

Mr Wohlers—Unfortunately, I cannot give a specific answer to the question.

Mr DONDAS—Is it lots, or a few?

Mr Wohlers—Very few, apparently. That decision is taken by our delegates in the states and territories who are on hand in the local area.

Mr DONDAS—Thank you very much.

CHAIRMAN—Following on from there, what sort of surveillance or patrolling do you do of the wrecks that you have registered? Do you wait to read about it in the papers, or are you out there?

Mr Wohlers—There are inspectors appointed under the act who, as a normal part of their activity, would patrol waters and certainly patrol waters of known sites. They have powers under the act, in the broadest terms, which are designed to protect such shipwrecks and relics. They have powers to question people, board boats, enter premises, search, arrest, et cetera.

Mr TED GRACE—The historic shipwrecks program has a $400,000 annual budget for the protection of shipwrecks and relics. Have you any specific programs regarding the protection of shipwrecks?

Mr Wohlers—Essentially, the delegates from the states submit to us programs for a particular year. We review those requests and give approval to those which best meet the outcomes required under the act.

Mr TED GRACE—Are you in consultation with the HMAS *Sydney* trust? Have you given any specific assistance to them? Have they applied for any specific assistance from you?

Mr Wohlers—As I understand it they have an agreement with the Western Australian Maritime Museum to try to facilitate a program of finding the *Sydney*. Whilst our delegate in Western Australia is the head of the Western Australia Maritime Museum and therefore has some responsibilities under our act, the agreement that the museum has with the trust is specifically the museum's project and does not fall under the act.

Mr TED GRACE—Would you have to give them permission under the act to look for the *Sydney*?

Mr Wohlers—To look for the *Sydney*?

Mr TED GRACE—Regarding your protection role.

Mr Wohlers—The protection role commences basically once we know a ship's location and the minister has made a determination under the act. That is when our protection role begins. 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.

Mr TED GRACE—So under the act there is no inhibiting factor at the present time. I could shoot out there in the morning and have a look for it?

Mr Wohlers—That is correct.

Mr TED GRACE—And make my mission known. Under the act it is okay. Is that correct?

Mr Wohlers—That is correct.

Mr TED GRACE—Until it is found?

Mr Wohlers—That is correct.

CHAIRMAN—As there are no further questions, thank you very much for your attendance here today.

Sitting suspended from 12.23 p.m. to 1.14 p.m.

VAROVA, Ms Sema, First Assistant Secretary, Territories and Local Government Division, Department of Transport and Regional Development, GPO Box 594, Canberra, Australian Capital Territory 2601

WALSH, Mr Owen, Director, Legislation and Policy Support Section, Department of Transport and Regional Development, GPO Box 594, Canberra, Australian Capital Territory 2601

CHAIRMAN—Good afternoon, ladies and gentlemen. I call the meeting to order. On behalf of the subcommittee, I welcome officers from the Department of Transport and Regional Development. I must advise you that the proceedings here today are legal proceedings of the parliament and warrant the same respect which proceedings in the respective houses of parliament demand.

Although the subcommittee does not demand that you give evidence on oath, you should be aware that this does not alter the importance of the occasion. The deliberate misleading of the subcommittee may be regarded as a contempt of the parliament. The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. We have received the department's submission and it has been authorised for publication. Do you wish to make any additions or corrections to that submission?

Ms Varova—No.

CHAIRMAN—I invite you to make a short opening statement before we proceed to questions.

Ms Varova—I have a couple of opening remarks. I would like to say that the submission we have put forward we believe covers all the pertinent elements that the terms of reference outlined. From the point of view of the minister, he certainly has accepted and has made it clear in any communications that he is willing, on an ongoing basis, to accept and consider any new information on this particular issue. Otherwise, there are no additions that we make to the submission at this stage.

Mr TED GRACE—In your submission it is stated that the Christmas Island administration has advised your department that there are no burial records available concerning an unknown sailor. It says it is understood that:

Records relating to the Territory's administration during that period would now be in London.

What attempts have been made to retrieve those documents from England, if there are any?

Ms Varova—The department has not made an attempt to retrieve any documents from London. In essence, the advice and information put forward in the various submissions to the minister by the applicants covered a range of different pieces of information. We provided an applicant with a series of lists of where information may be obtained, but certainly we are not an investigative body so we had no ability to actually pursue that.

Mr TED GRACE—In view of the numerous requests made to exhume the body, would it not follow on that your department's responsibility would be to at least request the public records people in London to see if are any records available?

Ms Varova—From the point of view of gathering information, we did not have the ability to go through and investigate every series of points that records may be available. They are many and varied and we just did not have the capacity for that sort of investigation.

Mr TED GRACE—I am talking about a request. Surely, it is no big deal to request. I am sure it would come within the ambit of your department. Correct me if I am wrong.

Mr Walsh—We did undertake a search of the departmental records and also the records of the administration held on island. Also we wrote to the shire council to see if they had any records. We did go to archives and compile a list of all the available records that we could find and that we were aware of. We provided those to Mr Heazlewood, on the understanding that he would pursue the matter and write to the UK London office.

Mr TED GRACE—But you specifically did not find it within the orbit of your responsibilities to write to London. I thought that would be the first place, in view of the fact that that is where you believe some records are kept.

Ms Varova—It is one possibility that records may be there. Records may be with the British Phosphate Company as well. There are a variety of spots where the records could be kept. What we did do, within our capacity, was to search as far as possible through the Commonwealth records.

Mr TED GRACE—Sorry for pursuing this, but a simple request would have established whether records are there or not.

Ms Varova—It could have.

Mr TED GRACE—This mystery of the *Sydney* is not an everyday occurrence.

Ms Varova—No, but there was certainly an understanding with the applicant that we would provide as much information as possible about where records might be, but they would pursue the existence of those records.

Mr TED GRACE—You are aware of the number of requests that have been made, are you? What do those requests state? Have any requests pinpointed a body in any cemetery on Christmas Island?

Mr Walsh—None of the requests has actually pinpointed a body per se. The first request was made to the administrator back in 1994. At that stage, it was generally assumed that a clearly marked grave on Christmas Island surrounded by a concrete border was what we call the unknown sailor's grave. That mistake stemmed from a notation on a survey plan which I understand was prepared in the 1960s to late 1970s. So, at the stage when that application was made, it was generally accepted that we knew where the body was—that it was fairly straightforward. It subsequently transpired that it was proved to be the wrong grave.

Mr TED GRACE—It was proved to be wrong, was it?

Mr Walsh—Yes. The headstone to the grave was found downhill and it is now generally accepted. More witness statements have come to light saying the body is buried somewhere else.

The second application was an application to dig in one spot where they believed the remains to be buried, having regard to statements made by an ex-Christmas Island resident and a current resident. But at no point have they had records saying, 'This is where the body is.' As more information is coming to light and more people come forward, we seem to be having more uncertainty as to the precise location of the grave. For example, Mr Lourey's initial statement and his subsequent statements, provided courtesy of Mr Heazlewood, indicate that there is another covered grave of someone who was buried in 1950. The precise location of that grave was not known until recently. The witness concerned has provided a statement and a map showing where he recalls that particular grave to be.

Senator SANDY MACDONALD—What confidence would you put on that assertion?

Ms Varova—I think the level of confidence is becoming more difficult as time passes, because there are vagaries and recollections. Some witness statements have been modified—and understandably so—with the passing of time. There are no concrete records indicating the exact location and, therefore, it does rely very heavily on people's recollections and they seem to be changing. The sudden discovery of another unknown body in the graveyard also complicates it further from our perspective. There are vagaries and it is very difficult to determine at this stage where that body might be. No-one knows and no-one can clearly pinpoint a certain point.

Obviously, that is overlaid by the geography of the graveyard, and there are various views on what has happened over time. For example, if there has been a little rock

slippage, soil erosion or movement, that is not scientifically determined in a way that we could exactly say that certain geological events have occurred and, therefore, we could predict that the body might be in a certain place. So it is very inconclusive at this stage.

Mr Walsh—On the information that is available to me from Mr McGowan, who is one of the applicants, the situation at the present time is that Mr Lourey is sure that the body is buried in one spot. He recalls being told the body was buried in an area 10 metres from where another Christmas Island resident recalls being told that the body was buried. So we have some discrepancy between the witnesses.

Senator SANDY MACDONALD—Is Mr McGowan the father of one of the people wanting you to exhume the body?

Mr Walsh—Mr McGowan believes it to be his brother.

Mr TED GRACE—Bearing in mind that other graves would have to be disturbed, how would the department feel if an application was made to exhume the body—and bearing in mind of course that it is a criminal offence to disturb a grave without proper authority? I am quoting the Coroners Act 1922. How would permission be given to do this? What is the department's view on it? Would you give permission?

Ms Varova—That would be the minister's decision.

Mr TED GRACE—That is right, yes.

Ms Varova—The minister would have to be satisfied that, on the balance of probability, the grave had been located reasonably accurately and that there was a very high likelihood that the remains could be found so that they could be exhumed. One of the issues in the consideration thus far has been the difficulty and the vagaries of actual location. Because the location is not known, it is difficult to gauge how likely it would be that other remains could be disturbed. Again that has been an issue for the shire council. Obviously we have consulted with the local shire council on this matter, and they too have a concern that other graves may be disturbed. Therefore, yes, it is a very important issue.

Mr TED GRACE—Bearing in mind that criterion, is it very unlikely then that any attempt would be made to exhume?

Ms Varova—As I said previously, if evidence came to light—and people are coming forward in different ways and means—that did give a degree of perhaps not absolute certainty but a quiet confidence on balance that the correct remains could be exhumed, then I am sure the minister would take that very much into account.

Mr TED GRACE—But it is unlikely that anybody would come forward now; nobody has come forward in the past. It is probably unlikely that somebody would come

forward now with that specific reliable information, isn't it?

Mr Walsh—If I could go back to your first point about authorisation and the criminal offence, the Western Australian criminal code which applies in the territory does make it generally an offence to disturb or exhume remains without proper authority. My understanding is that the authority to exhume stems from the Coroners Act and also the Cemeteries Act. They make specific provision for exhumation of remains. So I think in those circumstances, if the minister issued an exhumation order, having first decided that a case had been made for exhumation, it would be an authorised exhumation.

Mr TED GRACE—For a body?

Mr Walsh—Yes. Now, I am not sure of this, but I would expect that the minister could issue an order in such a way as to authorise the exhumation of remains in a certain area—for example, 'I authorise an exhumation of any bodies found in a clearly delineated area.' That would appear to cloak any exhumation in sufficient authority for it to proceed in accordance with the relevant legislation.

Mr TED GRACE—Then the whole thing gets really complicated because we do not even know if that is the body. For instance, if there was a group of four bodies, how do we determine whether that desecrated the other bodies—even for DNA testing?

Mr Walsh—There are two issues there. The applicants have suggested that there may be means to conduct remote sensing. I understand there are various scientific methods where they can go in and carry out tests before they actually exhume. The minister has made it clear that he does not have any objections per se to them actually going and doing that, carrying out the surveys and then bringing the information back to him so he can assess it. But, at the moment, we have contacted the applicants and asked them to clarify before they dig which tests they are proposing to carry out and the likely accuracy of those tests. In my mind, at least, there may be a problem—even if you conduct a survey and identify one or more unmarked graves, or possible unmarked grave sites, how do you then determine which is the 1942 burial?

That brings me to the point that, from the local community's point of view, as I understand it, there is some sensitivity about disturbing graves. In 1994, for example, the Cemeteries Board was vehemently opposed to exhumation and rejected the proposal. I understand that there has now been a change of view. However, the latest correspondence that I have been getting from the shire council indicates that the community will have some real concerns if other graves were disturbed. Once again, that seems to go back to the nature of what I call the preliminary tests that they propose to carry out before they actually come back and say, 'We want to exhume on this particular spot.' I suppose, in that case, we would then have to assess why that particular spot was chosen.

Mr TED GRACE—I am glad to hear that it was turned down. Hopefully it would

be turned down again. My worry, from the people that are talking to me, is that the obvious testing is of course DNA testing. Where do we start with DNA? One can only assume that there must be a percentage of relatives now long past belonging to some of the crew. Assuming that there is nobody that can give the required DNA for testing, we would still be in the dark regarding the body.

Mr Walsh—On that point, I understand that the applicants have been putting to the minister that—assuming that they have got to the point where they know that they have got the 1942 remains—they propose to conduct DNA testing. Suppose DNA testing is not available. That raises the first point, which is whether or not it is the right set of remains. The second point is that if they are fairly confident from other evidence, witness statements or whatever, that it is the 1942 remains, they propose to attempt to conduct a series of forensic tests—measuring leg bones, estimating height, noting any obvious injuries—and use that as a basis for comparing it with the Defence medical records.

Mr TED GRACE—But we were told this morning that there are no medical records. So where do we go from there?

Mr Walsh—That is right. At this stage, I cannot see a way forward. We have put that question to the applicants and they are preparing a response on how they propose to address that issue. That was one of the real concerns.

Mr TED GRACE—Assuming it was a crew member, it was made very plain this morning that even if he had reported sick within a reasonable period prior to the sinking of the *Sydney* it is very unlikely that there was any medical record at all. We were told this morning that there were no specific single packages available.

Mr Walsh—That is certainly my understanding of what I was told by Defence as well.

Mr DONDAS—Did the Department of Territories make any inquiries with the archival office or naval intelligence regarding any information as to where the grave site might be on Christmas Island?

Ms Varova—We certainly had some comprehensive dealings with the defence department, obviously, when we received the application. As you would be well aware, if it is the body of a serviceman, the defence department would be responsible. Therefore, there was a fundamental issue there where we really had to seek the advice and comment of the Department of Defence on the whole issue. They obviously had any relevant records, which we were not able to access. In our view, they also obviously had access to any historical and relevant details. So we did contact Defence—

Mr DONDAS—So there was no information forthcoming from the department that identified the grave site?

Ms Varova—No.

Mr Walsh—Not that I am aware of.

Mr DONDAS—Are you aware of the existence of a press release that was passed on to navy staff in 1949? Before I finish that line of questioning, how many cemeteries are there on Christmas Island?

Mr Walsh—It is my understanding that there are four.

Mr DONDAS—In the last sentence of the press release—the committee can provide you with a copy of it—where it talks about identifying the body that came out of the carley raft, it says:

And there he rests on that Island in the Indian Ocean in the little cemetery on the hillside under the Towering cliffs. Who he was we shall never know, he rests in honour.

Would that description give you an idea of the locality of that cemetery?

Mr Walsh—Yes. As I recall it that statement was taken from that witness after the war. He was an ex-military man who served on the island during the war.

Mr DONDAS—He was the sergeant of the Christmas Island Platoon of the Singapore Volunteers.

Mr Walsh—That is right. I think it is that statement, among others, which has meant that most of the attention has focused on what we call the old European cemetery behind the Christmas Island Club. Statements such as that have been corroborated, as it were, by recollections of Christmas Island residents. For example, a well-known island identity, Mr Jack Pettigrew, who was a prisoner on the island during the war, was, as I understand it, present at the funeral. He apparently told Mr Lourey and Mr Powell where he recalls the body was buried. The point I am trying to make is that we are fairly sure that it is in the right cemetery and that it is the old European cemetery. The problem is we know the general area where the grave is but the precise location within the cemetery is one of the problems.

Mr DONDAS—How many sites are there ‘under towering cliffs’?

Mr Walsh—When you say ‘sites’, do you mean cemeteries or graves?

Mr DONDAS—How many grave sites?

Mr Walsh—At that stage, there would have only been one, and that was the European cemetery. In those days, they had a European cemetery and a Chinese cemetery.

Mr DONDAS—Is it true that your minister—Alex Somlyay—on his last visit to Christmas Island was shown the grave site?

Ms Varova—Yes, I understand that he visited the cemetery and walked over it and had a look.

Mr DONDAS—So the minister was advised that this was most likely the site of the unknown sailor?

Mr Walsh—He visited the cemetery and he would have been told, 'This is the cemetery in which the unknown sailor is buried.' As far as I am aware, he was not told that a particular spot in the cemetery was where the unknown sailor was.

Mr DONDAS—Do you feel that the territories department has taken every conceivable action necessary to try to identify or obtain some historical records from Britain? You may be aware that in 1942 there were quite a number of people located on the island. As of 18 February 1942, there was a district officer, a doctor, a manager, a constructional engineer, a junior pilot, an electrician and an engineer, an officer and a four-man gun crew. There was also an unknown number of Indian police and 23 British Indians. Do you not think that the district officer, or maybe the doctor, who were obviously under British control in those days, may have provided the British government with a report and a location site of a burial of an unknown sailor who may have been Australian?

Ms Varova—As I said at the beginning, we relied on our liaison with the defence department to find out what they may know about the whole issue. Certainly, we did not have the capacity to investigate in that detail by virtue of it being a very small area in the government. We are a small unit and we do not have an investigative capacity of that nature. We attempted to provide the applicant with every piece of knowledge we had about where records might lie so that they could pursue that themselves.

Mr DONDAS—In light of the inquiry now, and the interest it is obviously creating, do you think it is advisable for the department to enter into some correspondence with the British authorities to see whether they have maintained or are aware of any records pertaining to Christmas Island before 1958?

Ms Varova—We certainly could pursue it further, if that is a recommendation of the inquiry.

Mr DONDAS—This issue is not going to go away, is it?

Ms Varova—No. If that is a recommendation, of course, we would pursue it further. What I am giving is the logic of the time when we were investigating this issue within our own confines, the sorts of resources that we had at our disposal and our attempt

to, as broadly as possible, provide as much information to the applicant so that, for those areas we could not pursue ourselves, he had the ability to pursue them.

Mr DONDAS—Thank you.

Senator SANDY MACDONALD—If I were the minister for territories and I came to you and said, 'I want to exhume this body and I want you to provide me with the best reasons and range of reasons to do that,' what would comprise your brief to me?

Ms Varova—I think we would have to, as we have already done, go through the facts of the case to ascertain what is speculation and what is assertion and provide to you information on the three issues that we have outlined in our submission. Firstly, there is the issue of the balance of probability of the deceased being from the *Sydney*—what evidence is on the table with regard to that and what new evidence may have come to light. If there is any, we would certainly be including that. Secondly, there is the issue of the location. That is critical because of the impact and because of the surrounding issues relating to possible disturbance of other remains.

There is also the issue of the likelihood of identification and whether there is clear evidence of a link to the *Sydney*. If there is clear evidence as to the location, we would include the likelihood of identifying the remains. We would also have to take into account the Defence records at our disposal—for example, medical records and other records relating to the crew of the *Sydney*—the technology available for determining identification and the feasibility of that. I think we would have to put those issues forward again and remain open to the fact that any new material that comes to light can obviously impact and change things.

Mr Walsh—There are a number of other points that we would also need to take into account. Firstly, there is the legal context in which the minister would be operating. I understand that he is under a duty of care, when exercising his powers, to exercise reasonable care. There is also the issue of relatives and whether they might object. It is unlikely in this case. But there was a burial there in 1950 and his relatives may object if his grave was disturbed. There is also the issue of the community concerns. As I mentioned, there is some real sensitivity on this issue.

Senator SANDY MACDONALD—I know that I am asking you a difficult question, but I am asking you to give the strongest possible arguments for the exhumation.

Ms Varova—It is difficult in so far as I do not know if there is an eyewitness who could come forward and reliably say, 'Look, this is the spot.' That can be verified through a number of measures, not with great certainty, but at least with enough likelihood for the minister to be assured that there is a likelihood of finding the remains.

Senator SANDY MACDONALD—The real sticking point at the end of the day is

the identification of the body. Because you could find the body—it was a long time ago—and there is absolutely no proof that that person might have living relatives and we can do DNA testing.

Ms Varova—Very much so. In essence, if the deceased is exhumed, we may be left with a set of remains and no conclusive evidence about anything, whether the person was or was not from the *Sydney*. Let us assume the DNA testing was conducted with all available relatives of the crewmen of the *Sydney*. My understanding of that is that you could only do about 10 per cent, for example. You could only really find about 10 per cent.

Senator SANDY MACDONALD—You could only find 10 per cent of relatives of the *Sydney*?

Ms Varova—When it comes to the records.

Senator SANDY MACDONALD—Within a range?

Ms Varova—That is right.

Mr Walsh—At present, we only have 63 relatives. That is my understanding. The applicants have said they only have relatives of 63 members of the crew.

Ms Varova—We have got 645 crew members. In essence, the likelihood of DNA testing matching is probably slim.

Senator SANDY MACDONALD—In theory, if you had the capacity to test a close relative, that is a mother, father, brother or sister, of every one of those 645 dead members of the *Sydney* company, and you were able to test the DNA of this skeleton, what would be the certainty of 100 per cent correlation?

Mr Walsh—At this stage, that is one of the questions we have put to the applicants. They have said, 'We can conduct DNA testing,' and that is one of the questions we put to them. Previously they have not provided information on this point and we have asked them, 'What is the viability of the various tests you are proposing to carry out on the remains?' Hopefully, they will address that point in their second submission.

Senator SANDY MACDONALD—That must be a scientific answer, though.

Ms Varova—Certainly. I am not a DNA specialist.

Senator SANDY MACDONALD—No. Clearly, that is scientific.

Ms Varova—That is right.

Senator SANDY MACDONALD—They would say, 'Well, in theory, if we were able to test the 645 relatives of the deceased, then, yes, we would be able to tell you 100 per cent or within 10 per cent or 20 per cent, or we have really only a very marginal chance of 50 per cent.'

Mr Walsh—I understand that the applicants have got some eminent scientists. There is a professor from Victoria who is from the National Forensic Institute. He is qualified in the field and, hopefully, he will be commenting and providing some information to us.

Another point is that the assumption is that there will be a set of remains uncovered from which it will be capable of extracting DNA material. What has not been quite made clear as yet is what remains you need. What is the state of remains you need in order to conduct DNA testing? Secondly, what if a partial set of remains are uncovered or they have decayed for one reason or another, how can you then conduct the other set of tests by matching Defence records in case DNA testing is not available? Once again, we are waiting on the applicants to come back to us on that one.

Senator MARGETTS—You mentioned the cemetery behind the Christmas Island club and I have heard the same, obviously. Which was the cemetery that you mentioned where there was a report or a concern expressed in 1994? Was that the same?

Ms Varova—It was the same cemetery.

Senator MARGETTS—Do you have or does the committee have a copy of the letter from the Christmas Island council as to the basis of their concern about exhumation on this occasion?

Mr Walsh—I am not sure.

Ms Varova—We could certainly provide any documentation that we have on that matter.

Senator MARGETTS—Was the Mr Powell you were referring to David Powell?

Mr Walsh—This is the statement by David Powell?

Senator MARGETTS—Yes.

Mr Walsh—Yes.

Senator MARGETTS—He was on the island last time I was there, so he is still obviously around. It might be useful if the committee could talk to him by phone or whatever. I do not think there are many people who know the island better than David

Powell, so it might be useful. If he has actually had a direct conversation with someone who saw the funeral, it might be useful at some stage if the committee could talk to him.

Mr Walsh—It might also be worthwhile to contact Mr Lourey.

Senator MARGETTS—Yes.

Mr Walsh—As I said, there are some differences of opinion between Mr Lourey and Mr Powell as to the precise location of the grave. If you can throw any light on it, we would be more than happy.

Senator MARGETTS—There were also some written opinions that there was a lump of coral rock at that particular location. Was that particular cemetery—the old European cemetery behind the Christmas Island club—also the one with the big lump of coral rock?

Ms Varova—Yes, it is. There is still a debate on whether it was as a result of a rock fall or whether it is part of a pinnacle.

Mr Walsh—Are you talking about the memorial or the actual boulder in the centre?

Ms Varova—No. There is a boulder.

Senator MARGETTS—I know there is a headstone.

Ms Varova—A boulder.

Senator MARGETTS—Evidence was given to the committee or it was suggested that the site of the grave actually had a big rock fall on top of it.

Mr Walsh—Unfortunately, another point of contention is whether it is a boulder fallen from the cliff. All the area is in a rock fall situation. We have a lot of problems with rocks coming down. There was an archaeological report prepared by Dr Martin Gibb in 1995 who states that it is a boulder which has come from the cliff. I have been talking to the shire council. They went out and had a look at it with a consulting engineer who says it is a limestone pinnacle. What happens is that the limestone weathers and rock outcrops appear. So there is a bit of a difference of opinion there. The implication of that argument is, if it is not a boulder, then Mr Lourey's recollection of the grave is somewhat—

Senator MARGETTS—So you are saying it is a pinnacle that always was there.

Mr Walsh—No.

Ms Varova—There is a difference of opinion.

Mr Walsh—That is another issue.

Senator MARGETTS—But one of the theories is that it is a pinnacle that always was there that perhaps has been mined around or something.

Mr Walsh—That is what the shire is suggesting in its latest correspondence. Their consulting engineer thinks it is a pinnacle, as opposed to a boulder. If it is a boulder, I understand there is a proposal for some minor use of explosives to blow it up and then dig. We are trying to get some more information from them before they ask permission to do it. Again, that is one of the issues which has to be resolved. We will have to go back to the shire council on that one.

Senator MARGETTS—I know Senator Macdonald said there were no medical records, but we were advised today that when people joined up—at whatever age they joined up—there was some medical record and those medical records should still be available somewhere. Whilst there might not be specific up-to-date medical records of the crew at the time they became the crew, there is some medical record of all the crew somewhere, which gives some basic dental detail, height, weight and so on.

Mr TED GRACE—In preparing a hypothetical report to the minister, as suggested by my colleague, would you take into consideration that in a reasonably short period in 1949 a naval investigation concluded that the body was not from HMAS *Sydney*? There has been no evidence whatsoever available ever since that suggests that the body is from the *Sydney*.

Mr Walsh—Clearly, that is a relevant consideration. That would be a matter that would be taken into account. If I were preparing a submission to the minister, that would be one of the starting points. Then I would go to the Department of Defence and say, 'This is what the applicants have said to argue against the Oldham inquiry. Do you have any comments? Do you still stand by that report and why?'

In preparing the submission, I would put Defence's views, if any, and the facts of the naval inquiry to the minister and, on the other hand, the arguments by the applicants as to why that inquiry should be discounted. So it would be canvassed in the submission, yes.

Mr DONDAS—I have one more question. How many other unmarked graves are there in the cemeteries on Christmas Island?

Ms Varova—We understand there is another one in that particular cemetery. Originally, when the submission was first being considered, we were not aware there was another unmarked grave, but that information has come to light very recently.

Mr DONDAS—In the 1940s, would it be obvious to assume that the cemeteries were operated by the British Phosphate Company?

Ms Varova—Yes.

Mr DONDAS—Would it be possible at the same time, if you are contemplating entering into some correspondence with the British authorities, to try to ascertain whether any archival records for the operation of the cemetery were kept by British Phosphate? Would that be possible?

Ms Varova—Yes.

Mr Walsh—If I could just expand on that point about unmarked graves, at present we know from Mr Lourey's statements that there is at least one other unmarked grave in the area. However, given what I am advised—that is, that there are no relevant burial records for the period—it is possible that there may be more unmarked graves in the vicinity.

Mr DONDAS—In 1942, things were pretty hectic. They were obviously a bit worried about submarines drifting around the ridges there, but were there people from the Phosphate Company on the island at the time?

Mr Walsh—Yes. I understand there were also people from what I would call the administration. At that stage, Christmas Island was administered—I am not sure of its exact status—from Singapore as part of a Singapore colony. Having regard to, for example, the intelligence reports, which I understand you have got copies of, they would have had a district officer and various administrative staff out on the island. I assume that, if it were not the British Phosphate Company, it would have been the administration—in which case, the Public Records Office may have material available in the form of government records, as opposed to records held by the company.

Mr DONDAS—Thank you.

CHAIRMAN—As there are no further questions, I thank very much the two witnesses who have come along.

[1.58 p.m.]

NICHOLS, Mr George, Director-General, National Archives of Australia, PO Box 7425, Canberra Mail Centre, Fyshwick, Australian Capital Territory 2610

SUMMERRELL, Mr Richard, Assistant Director, Access and Information Services, PO Box 7425, Canberra Mail Centre, Fyshwick, Australian Capital Territory 2610

CHAIRMAN—I now welcome the witnesses from the National Archives of Australia. I must advise you that the proceedings today are legal proceedings of the parliament and warrant the same respect which proceedings of the houses of parliament demand. Although the subcommittee does not require you to give evidence on oath, you should be aware that this does not alter the importance of the occasion. The deliberate misleading of the subcommittee may be regarded as a contempt of the parliament.

The subcommittee prefers all evidence to be given in public, but should you at any stage wish to give any evidence in private, you may ask to do so and the committee will give every consideration to that. We have received the Archives' submission and it was authorised for publication. Are there any corrections or additions that you wish to make to that submission?

Mr Nichols—No, Mr Chairman.

CHAIRMAN—Thank you. I invite you now to make a short opening statement before we move to questions.

Mr Nichols—Thank you, Mr Chairman. Naturally the National Archives welcomes this opportunity to address the inquiry. The Archives is, of course, the ultimate repository of a great many of the records relevant to the sinking of the *Sydney*. In its submission, the Archives has commented on four specific matters: the search that has already been undertaken to find Commonwealth government records related to the sinking of HMAS *Sydney*, the history of access decision making relating to the records concerning HMAS *Sydney*, past practices regarding the destruction of Commonwealth records and records held in other archives. I would like to comment briefly on those four points in these opening remarks.

Firstly, identifying Commonwealth records about the sinking. I have to stress here that our searches have been concentrated on what we regard as the most relevant records in the most relevant period. Over the last 20 years, the Archives has taken what it considers to be reasonable steps to identify and promote public awareness in research use of all relevant records in its collection and in the collection of the War Memorial relating to this incident. This work culminated in the publication in January 1997 of a 188-page research guide entitled *The Sinking of HMAS Sydney: a guide to Commonwealth Government Records*. It described in detail all known Commonwealth government records on the

subject that seemed relevant. My colleague, Richard Summerrell, is the author of that guide.

A volume of some 21.6 kilometres of shelf records was assessed by checking indexes and registers to identify records that might be of relevance. I have to stress that they were identified, not analysed. We are archivists, not researchers, so our task was to attempt to identify records, not analyse them. The introduction to the guide says:

> The search for archival material has been systematic and extensive, but that it is not possible to claim that all relevant records have been identified . . . For practical reasons the search has been targeted at the most likely sources of material rather than all possible sources.

Were a search for relevant records to be extended beyond research that has already been undertaken in the hope of finding information on HMAS *Sydney* that has been misfiled or that is in files whose titles do not indicate any connection, the research task would be enormous. Indeed, if every page of every file in the 21.6 kilometres of records mentioned above were checked, we estimate that this alone would take some 27,000 working days, based on a skimming rate of 10 centimetres of records or approximately 1,000 pages per hour.

One of the difficulties in mounting a broader search would be to identify the methodology and the precise scope of the search. The Archives believes that the scale of such an undertaking at the moment would be impractical and, in light of the search that has already been conducted, feels it is unwarranted.

I would now like to go to the second point—the access to records about HMAS *Sydney*. A fundamental element of the Archives Act is a requirement that all Commonwealth records, once they reach 30 years of age, should be made publicly available unless they contain exempt information. Access is available via the Archives, regardless of which agency created the record and whether or not the record is in the physical custody of the Archives. From the 1970s, particularly as records relevant to the sinking of the HMAS *Sydney* were identified or requested by researchers, the overwhelming majority were wholly released for public access.

Until recently, the only material apparently relevant that was not publicly available was personally sensitive information in crew ledgers and Defence signal packs. In neither case did these records relate to the sinking. Cryptographic information was supplied by a foreign government and a plain text version of that has been publicly released, together with an assurance by the Department of Defence that the withheld portions threw no new light on the sinking. The access decisions on those few records that remained withheld from public disclosure were reviewed during the preparation of the guide—and I stress they are the records we are aware of.

The restrictions on access to personally sensitive information were upheld, but it

was noted that none of the restrictions related directly to the sinking of the HMAS *Sydney*. Following representations by the Archives to the Department of Defence in late 1996, the records previously withheld on national security grounds, and relating to the immediate period, were released.

Now I would like to go to past practices regarding the destruction of records. While today the destruction of records is a closely regulated event, and can only be authorised by the National Archives, it is difficult to speak with any certainty or precision about the disposal practices of Commonwealth government agencies during and after the Second World War. There was no legislative control over the disposal of Commonwealth records until the Archives Act was proclaimed in 1984, and indeed there was no archives in 1941. Although it was a wartime creation, it happened a little later in the war, and the mechanisms governing disposal were certainly not mechanisms authorised by the Archives for many years to come.

Destruction of records during the war and in the postwar years would have been carried out on the basis of internal guidelines and practices. These would have been formulated principally on the basis of the continuing administrative need for the records. When records were destroyed, it was common practice for the agency undertaking the destruction to stamp or annotate corresponding indexes and registers with the word 'destroyed'. However, this practice has not always been followed. Any research directed at determining what records relating to the *Sydney* sinking may have been destroyed would thus be inconclusive and frustrated by this practice, or the lack of this practice.

In producing the guide, the Archives is concerned only with identifying relevant material in its own collection and the collection of the War Memorial. While the published works on the sinking of the HMAS *Sydney* cite records in several overseas archival institutions, the Archives is not aware of the extent to which interested researchers have utilised these records, nor are we aware of the volume and nature of the material held by these institutions.

For these reasons, we believe that a proposal to conduct a large scale search for additional archival material would need to have clearly defined objectives and a rigorous methodology, and that expected outcomes would need to be carefully weighed against the very great resource cost of such an exercise. Equally, we believe that a large scale search to identify records that have been destroyed would be problematic, time consuming and, I think, ultimately inconclusive for the reasons I have outlined. On the other hand, there is nothing preventing researchers undertaking a systematic folio by folio examination of all the records that the Archives has identified as being potentially of relevance, but once again it would be a laborious task.

In summary, in all this the Archives sees itself in its role as a facilitator, I must stress, not as a researcher. It has already put extensive work into identifying records because it has perceived the level of researcher interest warrants that. The Archives

cannot, however, undertake the research itself.

CHAIRMAN—Thank you very much, Mr Nichols. I think I can speak for all of the committee when I say we have found Mr Summerrell's publication very useful as a consolidated account of what archival material is there.

Mr TED GRACE—Mr Nichols, under the Archives Act 1984, records should be made publicly available after 30 years unless they contain exempt information. What sort of information is considered to be exempt information, and what information regarding *Sydney* would fall within that category?

Mr Nichols—There are a series of clauses in the act which detail the categories which are exempt information, and I will give you a summary of those. I think I will get most of them. First and foremost, there is material which would be an unwarranted intrusion on personal affairs, so there is a privacy aspect to it.

Secondly, there is material which would have an impact on national security; material sourced from foreign governments which is under arrangements agreed with them; material which would have a commercial sensitivity; material for which undertakings of confidentiality had been given and which would therefore be honoured. I think in general terms that is the range of them, and the two that have come down in any of the material that we have examined in relation to the *Sydney* relate to the unwarranted intrusion into personal affairs and therefore the privacy aspect, and I mentioned that in relation to the crew ledgers, and then the broader issue of national security.

Mr TED GRACE—So some stuff possibly regarding the *Sydney* is still classified information.

Mr Nichols—Yes, that is possible. But—and I think I am right—I do not believe any of the material we have identified is being withheld for that reason.

Mr Summerrell—Not related to this.

Mr Nichols—Not relating to the sinking of the *Sydney*, no.

Mr TED GRACE—This morning during evidence the Director of the Defence Signals Directorate, Mr Carmody, gave information on their perusal of a swag—for want of a better word—of documents. In his evidence he mentioned the return of documents to the Archives that have since disappeared. Can you give any explanation as to why those documents would disappear?

Mr Nichols—I am sorry—documents returned to the Archives which have disappeared?

Mr TED GRACE—Yes, that were then requested again but they have since disappeared.

Mr Nichols—Were these documents relating to the HMAS *Sydney*?

Mr TED GRACE—Yes.

Mr Nichols—No, I am not aware of any documents relating to the sinking of the HMAS *Sydney* that have disappeared.

Mr TED GRACE—They were documents regarding signals that could be applicable to the *Sydney*, but the batch of documents was perused by Signals Directorate, then returned to the Archives, then requested again, and a certain amount of these documents have gone out somewhere.

Mr Nichols—My understanding is that there have been no documents relating to the sinking of the *Sydney* that Defence Signals have found missing.

Mr TED GRACE—But these are documents that the directorate requested to be perused to see if there was any information regarding any signals that could have been sent by *Sydney*. They did not say that they specifically went to any evidence of the *Sydney*, but in view of the public interest those documents were again requested and—

Mr Nichols—Right.

Mr TED GRACE—They have disappeared, and I am interested in why they have disappeared.

Mr Nichols—Indeed, so am I; and no, I am not aware of that. Perhaps we could get some information for the committee on that, I think that is the best thing.

CHAIR—You can get the transcript and you can get back to us on that point.

Mr Nichols—I will indeed.

Mr TED GRACE—Because this is part of it. We are trying to sort out all of the things that are applicable to the inquiry, the conspiracy theories and so on. If statements like that are correct, this adds to and gives credence to some of those people, and that is why I am interested in it.

Mr Nichols—Of course, and I am interested because I am always interested when something is alleged to be missing, obviously.

Mr HICKS—Mr Summerrell, I also would like to congratulate you on this

publication. It is very interesting. In one part there that you would know about it mentions, according to the author Tom Frame, Commander Dechaineux, a Frenchman, who apparently prepared a report. He was supposed to have been the person who prepared the most believable report, if you like, because he interviewed the 25 sailors off the *Kormoran*. But somehow or other, as you say here, the reports disappeared. You say:

. . . it is possible that the report of the investigation by Commander Dechaineux completed on 16 January 1942 is not in archival custody.

I just wonder—and you might give an opinion—I do not know whether Commander Dechaineux is still alive or not—

Mr Summerrell—No, he was killed in the war.

Mr HICKS—Killed in the war, was he? He probably would not have had the opportunity, but sometimes, of course, as we know—as you say down further—papers and different artefacts are handed on to the family. I wonder whether the family may have a copy of the report. It is only a million-to-one shot, but what would you think?

Mr Summerrell—I would have thought that would probably be unlikely because of his employment in the naval intelligence field.

Mr HICKS—Your paper here says that, when the action was taking place between the *Kormoran* and HMAS *Sydney*, one sailor was filming the action. Apparently when they scuttled it, he had the film below decks and he did not go back for it because he was getting into a life raft, so the film went down. But another sailor who was one of those who landed on the beach said he took photographs of the action. He said at an inquiry that he placed the photographs in a cave. If they were in the cave, they would probably be a bit useless. I wonder if anyone ever went looking for the cave or the photos.

Mr Summerrell—Yes, the records indicate that an expedition was sent there. I think that was in 1945. I believe I refer to it at some point in the guide. The crewman of the *Kormoran* who made that claim accompanied the party and they were not able to locate with any certainty the area in which he had claimed to bury the camera. There was some suggestion that the severe weather on that part of the coast had changed the topography of the coastline and the cave may well by that stage have been filled with sand.

Senator MARGETTS—During the evidence that was given to us by the DSD today, a few of us were a bit surprised that they indicated that they did not have any of the general archival information about signals in general during the wartime. If I am not incorrect, they indicated that the war signals are all archived. They basically also indicated that signals information that they had looked through did not relate to the specific time and details of the sinking of HMAS *Sydney*. How much information about signals is in the

archives?

Mr Summerrell—There is quite a vast volume of material. Do you mean specifically emanating from the period of interest or generally?

Senator MARGETTS—I am just trying to get a handle, first of all. We are all a bit taken aback that the DSD were saying it was all there and they had not asked for it; it was there, but they had not asked, so you had not given it to them. Broadly how much do you have? How many of those kilometres are signal information and how accessible is that kind of information?

Mr Summerrell—We have in custody many hundreds, if not thousands, of shelf metres of signal material. It is generally arranged chronologically, so it is quite accessible if you are looking for material within a particular date range. Most of that material is in the consolidated signal packs in our repository in Melbourne. It is generally available upon request, but we refer back to the Department of Defence for examination anything that has not previously been released. Otherwise, it is generally available.

Senator MARGETTS—What proportion of it has restrictions on it?

Mr Summerrell—I could not tell you exactly and certainly not in relation to any security related exemptions. I understand that not infrequently exemptions are made to protect medical or disciplinary information relating to individual service personnel.

Senator MARGETTS—You also mentioned privacy in relation to crew ledgers. Would the argument for privacy provisions for crew ledgers still hold after 56 years?

Mr Summerrell—The Privacy Act does not apply to records over 30 years old, but the exemption provisions in the Archives Act that relate to privacy issues take over. It is certainly not the case that all information, by any means, is withheld simply because it is of a private or personal nature. There needs to be some degree of unreasonable disclosure attached to the act of disclosing it before we could withhold it. In cases where information relates to certain medical conditions which today still carry a stigma, and we are aware that relatives of individuals are likely to be still living, that type of material would normally be exempt.

Senator MARGETTS—Are the medical records of the crew likely to be found among the crew ledgers?

Mr Summerrell—Not detailed medical information. There might be, for example, a notation that somebody had a particular illness which required special treatment, but there would not be details of medical treatment or a person's medical history. They would be incidental references at most.

CHAIRMAN—What advice could you give the committee about relationships with overseas archival bodies which may be of value? Are there parallel organisations to yours in Holland, Germany, Japan, the United States and the UK? If so, could you identify those? What is your view of chasing those up?

Mr Nichols—There are certainly parallel organisations in each of the countries you mentioned. We have quite close relations with them on an ongoing basis in terms of the practice of archives. We could give you a list of all those institutions. I would not attempt to do it from memory.

I have to say that we do not know what they hold in any detail. A search would need to be done. It is possible that there are records. Until someone does a detailed search, it is impossible to say that there are no records, obviously. The more obvious institutions would be those with which Australia had the closest relationships, but on the other hand the German body may well be as relevant in that context. We have not made any assessment at all of the relevance of what their holdings might be.

Researchers cover all sorts of subjects in our reading rooms, not just this one. We often find they are great travellers and research across the world in all types of areas and often find things in both countries where there is an issue that involves two countries. We have no idea what might be contained. I could only say that, if the volume of signal packs that we hold represents the output of this country, those in Washington may defy description in terms of numbers. On the other hand, they may not have retained them all. The British, likewise, may not have retained everything.

Mr TED GRACE—In view of the tremendous public interest in the HMAS *Sydney*, I find it a bit weird that the Australian Archives have not made requests for information to overseas archives. For instance, I presume the Dutch may well have some information for the period. Has nobody ever requested you to request any information from overseas archives?

Mr Nichols—There are two things. There is a matter of our own practice. We would not do that. I think I stressed earlier on that as archivists we are not researchers, and we—

Mr TED GRACE—I did not ask you to research. I asked you to request information on the archives. I cannot see how that would go against your principles of not being researchers.

Mr Nichols—I do not have any problem with that, but I suppose what I am saying is that it is not a task we would customarily undertake. Researchers themselves are the ones who make inquiries about records, rather than us. I imagine they have, although it is interesting to note that over the period we have identified 20-odd kilometres of records that are potentially of interest, but we know that not all of those 20 kilometres have been

looked at by people researching, for the same reasons that I have stated—that it is just a huge task.

Mr TED GRACE—So it is purely by chance, then, that any information could come from your organisation. There is just a chance that you would come across it.

Mr Nichols—If we came across information relating to the *Sydney*, given the high public profile, it is something that our archivists would note very quickly.

Mr TED GRACE—Mr Summerrell said in evidence a few minutes ago that items were categorised which could refer to a period of time, and a file could be pulled out.

Mr Nichols—That was in relation to signal packs, I think.

Mr TED GRACE—It did not relate to any information other than signals—specific categorisation?

Mr Nichols—That was purely in relation to signal packs, where they are arranged chronologically, as I understand. I have not actually seen them. It is the daily signals—day after day. Most record keeping systems are organised differently from that.

Mr TED GRACE—So no system categorises the movement or the loss of Australian ships—not just the *Sydney*, but throughout the war period. There is not a place you can go to and pull out information on *Canberra*, *Adelaide*, *Sydney*. It has not been done?

Mr Nichols—No. As I said at the start, we are a repository of records. We take in the record keeping systems that agencies transfer to us, or the portions of the record keeping systems that they have decided need to be kept. We take them in and keep them in the order that they provide them in, which is the order that they would have operated the record keeping system in.

Mr TED GRACE—'They' being?

Mr Nichols—The agency that created the records. So if it was a single annual number file series, that is what we would receive, and we would not alter that arrangement. If it was a chronological set of signal packs, that is the way we keep it.

Mr TED GRACE—So in your professional capacity, you think it is impossible for any organisation to sit down in the archives and go through the information relating to that period of the war. Is that what you are telling us?

Mr Nichols—No. I am saying that, in order to do any research of that sort, you would have to identify the possibly relevant record keeping systems and agencies of the

particular period and request to see the indexes and registers for those periods.

Mr TED GRACE—It would be a large task.

Mr Nichols—That is right, because often there are so many links between different record keeping agencies on the same subject.

Mr TED GRACE—Would it be worth pursuing that line? The reason I ask the question is that, at the end of this inquiry—I have a feeling what the result will be—we will have to answer questions from the Australian public as to whether we pursued all avenues to get information. That is why I am pursuing the line as to whether you think it is worthwhile. Is it a line worth pushing that we request an organisation to specifically have another look at the archives?

Mr Nichols—I would have to say that the tenor of our submission and my opening remarks, which I would stand by, would argue against that. We believe that all reasonable steps have been taken. But that is not to say there is not information there that would not be discovered at some point. I suppose one of the problems we have, as I said, is that we cannot see a methodology to approach a wider search that does not encompass the entire archives and other institutions. We cannot see a methodology to approach a wider search than the one we have adopted in attempting to identify this material.

Senator MARGETTS—Theoretically, you could search the signals archives and provide to the committee any relevant material from that particular signals archives that might be of use to us?

Mr Summerrell—That has been done. For the period after HMAS *Sydney* left Fremantle until 20 November, the day after its loss, for any material coming from the *Sydney*, the detail of that is given in here and there is nothing of any import in that run of signals between 11 and 20 November.

Senator MARGETTS—Was that signals from everywhere?

Mr Summerrell—Yes. All the inward signals and all the outward signals, both classified and unclassified.

Senator MARGETTS—Did that include the potential of things like the low frequency signal stations at Holsworthy and so on?

Mr Summerrell—I have no technical knowledge as to which transmitters these messages may have come through but the collection of signals is the department of navy collection, which was navy wide. I have no knowledge of what cryptographic transmissions there may have been that are not represented in this collection. That would be something for the Department of Defence but, certainly, the Archives does not normally

take custody of cryptographic material.

Mr TED GRACE—DSD are interested in having a real look at it; that was the basis of my question to you. They stated in evidence this morning that some of the files are not now available. We would really like to find out the explanation as to why those files were available some time ago, returned to you and have now disappeared.

Mr Nichols—Yes.

CHAIRMAN—There being no further questions, I thank you very much for your attendance here today.

[2.32 p.m.]

CARTWRIGHT, Mr Ian, Deputy Director, Office of Australian War Graves, Department of Veterans' Affairs, PO Box 21, Woden, Australian Capital Territory 2606

CHAIRMAN—Welcome, Mr Cartwright. I must advise you that the proceedings here today are legal proceedings of the parliament and warrant the same respect which proceedings in the respective houses of parliament demand. Although the subcommittee does not require you to give evidence on oath, you should be aware that this does not alter the importance of the occasion. The deliberate misleading of the subcommittee may be regarded as a contempt of the parliament. The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request. We have received the department's submission and it was authorised for publication. Are there any additions or corrections to that submission that you wish to make?

Mr Cartwright—No.

CHAIRMAN—Would you like to make a short opening statement before we proceed to questions?

Mr Cartwright—No.

Senator SANDY MACDONALD—Have you been part of the process of government advice to ministers concerning the possible exhumation of a grave on Christmas Island?

Mr Cartwright—From time to time, when the issue has arisen, we have provided advice to the Minister for Veterans' Affairs as to our role should remains be discovered on Christmas Island. That is the extent of our advice.

Senator SANDY MACDONALD—If it were found to be a serviceman, what process would come into play given the fact that it would then be a war grave?

Mr Cartwright—If the Department of Defence, which have responsibility for the investigation and recovery of remains, advised us that they had discovered remains and they were certain that they were 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. If it were an unknown Australian sailor, the headstone would simply be marked as an 'Australian sailor known to God'.

Senator SANDY MACDONALD—Do you have a primary responsibility for the erection and maintenance of war memorials?

Mr Cartwright—That would depend. For the war cemeteries in Australia and Papua New Guinea, the Office of Australian War Graves has responsibility on behalf of the Commonwealth War Graves Commission to maintain those. We do not actually erect new war cemeteries. All war cemeteries for the Commonwealth dead of the two wars, the world wars, have been closed since December 1947. We simply maintain them; that is, we horticulturally and structurally maintain the cemeteries. We do build memorials to honour battles and events around the world but that is a different situation.

Senator SANDY MACDONALD—What particular memorials exist for the *Sydney*?

Mr Cartwright—I am not aware of specific memorials for the *Sydney*. Her crew have all been officially commemorated by the Commonwealth War Graves Commission on the memorial to the missing at Plymouth for naval forces. Their names also appear on the roll of honour at the War Memorial.

Senator SANDY MACDONALD—Not in Canberra, not in Western Australia, nowhere is there a single memorial to the *Sydney*?

Mr Cartwright—I am not aware of any. It is not something that it is within my authority to know.

Senator SANDY MACDONALD—In other Commonwealth countries is that usually the case?

Mr Cartwright—I cannot really speak for other countries.

Senator SANDY MACDONALD—Do you think there is a memorial for the loss of the *Hood*?

Mr Cartwright—I do not know.

Mr TED GRACE—I can assure you there is.

Senator SANDY MACDONALD—The navy advised that they thought, on this aspect, there was no requirement for further commemoration or memorial for the loss of the *Sydney*. Do you have an opinion on that?

Mr Cartwright—No I do not. I only restate that the dead of the *Sydney* have been officially commemorated on behalf of this nation.

Senator SANDY MACDONALD—They have been officially commemorated in the War Memorial?

Mr Cartwright—No, the official commemoration is made by the Commonwealth War Graves Commission on the Plymouth memorial to the missing on behalf of this nation. I suppose in a sense the roll of honour at the War Memorial is another form of commemoration, although within War Graves we talk about official commemoration being something the Commonwealth War Graves Commission does.

Senator SANDY MACDONALD—Does it seem a little strange to you that for a capital ship—the pride of the fleet, nearly, which was lost virtually without trace—there has not been a designated memorial to the ship and to the crew?

Mr Cartwright—It is not something I can really comment on. As I said, the role of War Graves is not to be building memorials to individual ships. As you would be aware, of course, there have been memorials built on the Western Front and elsewhere, but it is not really our role to decide whether an individual ship or anything else should have a memorial built to it.

Mr TED GRACE—One question I was going to ask you was about the relationship or the connection between the Office of Australian War Graves and the Commonwealth War Graves Commission but I think you have just answered it. We just have responsibility for this area, is that right?

Mr Cartwright—Yes. All the war cemeteries and all the war graves in Australia and Papua New Guinea are the responsibility of the Commonwealth War Graves Commission. The Office of Australian War Graves is their agent in this region and we maintain those war cemeteries on their behalf. Our office is funded by the Commonwealth government. They are the Commission cemeteries and, from time to time, people come from the UK to inspect the cemeteries to ensure they are meeting the required standards.

Mr TED GRACE—You have just stated that it is not the responsibility of the Office of Australian War Graves to erect specific single memorials. I think it very strange—and this is the presumption of the Australian public who have contacted me regarding this inquiry—that in Australia we do not have a memorial that designates the loss of Australian defence personnel who have no grave other than the sea. You have stated that there is one in Plymouth. It was the one I had; you say it is in Plymouth. Does it not seem strange to your organisation that no move was ever made to establish a memorial? We lost countless merchant seamen. Do you not think that a memorial of some description should be like the one in Great Britain?

Mr Cartwright—No, because our role is not to erect memorials, it is to commemorate the dead on behalf of the Commonwealth.

Mr TED GRACE—That is part of having the memorial.

Mr Cartwright—I suppose there is a bit of a debate about what a memorial is. We would say that the Plymouth memorial is the official memorial to the dead.

Mr TED GRACE—That is in another country, Mr Cartwright.

Mr Cartwright—I understand.

Mr TED GRACE—You are not suggesting that England is part of Australia?

Mr Cartwright—No. There are many ships on that memorial in Plymouth from various countries. I repeat that it is not our role to decide to build memorials to individual ships or battalions.

Mr TED GRACE—This is not individual, this is overall. This is for the loss of all defence personnel during the war of this country who have no grave other than the sea.

Mr Cartwright—I repeat that I really do not have a view on it. In our business we view the primary commemoration as that individual name. It is individual. It is about commemorating individuals, not as groups of people but as individuals. That is how they are commemorated by name, whether it is at a grave or on a memorial to the missing.

Mr TED GRACE—But then why have we got other memorials, if your theory is right? We have other specific memorials. Why aren't the Australian public then just happy with the one memorial? They are not. Would you take it on board, for your organisation, that such a thing should be looked at?

Mr Cartwright—Yes, we can have a look at it.

Mr TED GRACE—And research—do not just take my word. There is a movement out there that says that we should have one.

Mr Cartwright—Right.

Mr TED GRACE—I would appreciate that. Thank you.

CHAIRMAN—Mr Cartwright, in response to Senator Macdonald you said that if it were identified as the body of a serviceman you would put a headstone on it. Why would you not rebury that body on a Commonwealth War Graves Commission site?

Mr Cartwright—Normally if a grave is in a place that is not threatened, for example, such as Christmas Island, the policy has been to leave them where they are buried and mark the grave accordingly. Whilst we have war cemeteries, which are a

concentration of individual graves, there are individual war graves in civil cemeteries throughout Australia and they got there because at the time families may have chosen to bury their son beside other family members.

CHAIRMAN—There are the ones at Taiping and there are also some graves at Cocos Island of air force personnel, probably RAF not RAAF. Who looks after them?

Mr Cartwright—Well if they are war graves—

CHAIRMAN—It is not a formal war grave, but there would be probably half a dozen grave sites there, by the look of it.

Mr Cartwright—If they are not war graves I am not sure. If they were war graves this office would look after them through an arrangement with people on the island.

Mr HICKS—In those areas where you find it difficult to find a grave—I am trying to find some graves and I know how hard it is, particularly if they are disturbed on top—do you have the science to be able to find them?

Mr Cartwright—No. We would attempt to locate graves via documentation, cemetery locations and records, but not through a scientific means.

CHAIRMAN—Do DVA have any responsibilities if that body was shown to be—or, really, to any of the relatives of the *Sydney's* crew? Apart from war widows pensions and things like that, are there any other compensatory mechanisms that would be open under current legislation for DVA?

Mr Cartwright—Not that I am aware of.

CHAIRMAN—Okay.

Senator SANDY MACDONALD—You mentioned that if you were satisfied that it was a serviceman or an Allied serviceman, unknown, you would commemorate it with a headstone saying, 'An Allied serviceman known only unto God'. With the knowledge that we already have, and the conjecture that surrounds it, what evidence would you need to erect that headstone at this time.

Mr Cartwright—We would need the Department of Defence to advise us that they have located a grave and that, through their means, they have identified the particular sailor by name—

Senator SANDY MACDONALD—No, not necessarily by name.

Mr Cartwright—or they have identified, through their investigations, that it is an

Australian sailor but one who cannot be identified. That is the information that we would require.

Senator SANDY MACDONALD—What about an Allied sailor?

Mr Cartwright—If it was an Allied sailor our office is not responsible for their commemoration. If the nationality could be identified we would talk to the nation responsible, advise them of it.

Senator SANDY MACDONALD—What about a Commonwealth sailor?

Mr Cartwright—Not knowing which nation they belonged to? If it was a Commonwealth sailor of the Second World War, we would have responsibility on behalf of the Commonwealth War Graves Commission.

Senator SANDY MACDONALD—So it would only take a letter from the Department of Defence requesting you to commemorate that grave site?

Mr Cartwright—That is correct. Perhaps I can give an example to illustrate the relationship. Recently, air crew have been buried in the Lae War Cemetery. The way the process went was that someone found the aircraft, Defence were advised, the Department of Defence then put in their people to recover the remains and identify them, Defence identified the next of kin and advised them, Defence arranged the funeral and the ceremony, and Defence took the relatives to the Lae War Cemetery.

Our role in all that was simply to identify a grave site, dig the grave, arrange for some temporary markers and, after the burial ceremony had concluded, close the grave. We would also contact the next of kin to obtain personal inscriptions and we would arrange, in the case of Lae, for bronze plaques to be cast and the grave marked and then maintained in perpetuity.

Mr TED GRACE—Maybe this question was asked while I was out. Could you give us the nature of any agreement, if there is one in existence, between the Australian and German governments regarding the burial of the *Kormoran* survivor who is buried in Victoria? Do we play any part—

Mr Cartwright—The arrangement is between the Commonwealth War Graves Commission and the German government. We simply maintain the grave on behalf of—

Mr TED GRACE—We actually maintain it?

Mr Cartwright—Yes.

Mr TED GRACE—That would be applicable to some of the war graves that we

visited in Europe as well, would it?

Mr Cartwright—In Europe—

Mr TED GRACE—I know we have the Commonwealth commission.

Mr Cartwright—the Commonwealth War Graves Commission has its own staff and most of the land, I understand, was gifted by the host country at the end of the respective wars.

Mr TED GRACE—So we just do it as a matter of courtesy?

Mr Cartwright—Yes.

Mr TED GRACE—With the agreement?

Mr Cartwright—Yes.

Mr DONDAS—The Department of Veterans' Affairs, you just indicated, would have a responsibility if it could be proven that this lost soul was a sailor. Do you feel that between the Department of Defence, the department of territories and your Department of Veterans' Affairs enough has been done to try and verify, firstly, the location and, secondly, that it was an Australian sailor? The carley was drifting around the Indian Ocean in early February 1942; the carley had Australian markings on it that said 'made in New South Wales'. Wouldn't the Department of Veterans' Affairs try and claim some responsibility and give whoever the lone sailor, the lost sailor, the lost soul may be the benefit of the doubt that he was an Australian sailor?

Mr Cartwright—The answer to that question is no. Our responsibility is simply as I have already described. Identification is the responsibility of the Department of Defence.

Mr DONDAS—The Department of Defence is saying, 'This is our area of responsibility.' The department of territories is saying, 'This is our area of responsibility.' Archives are saying that they have got 36 kilometres of archived material but they are only archivists, not researchers. Don't you think it is about time somebody took it by the throat and said, 'Once and for all, let's try and resolve this situation'? And shouldn't it be Veterans' Affairs?

Mr Cartwright—No, I do not think it should be Veterans' Affairs.

Mr DONDAS—Why do you pass the buck? A moment ago you said that if it was a sailor, then the Department of Veterans' Affairs would be responsible. Let us assume he was a sailor, because he was in a carley and the carley had some Australian markings on it. He might not necessarily have been off the *Sydney*. The clothing in the reports that we

have got indicate that he was a sailor, a naval rating. Obviously the information that has been given to the committee must be available to you, so why doesn't somebody take it by the throat and say, 'Let's resolve this matter once and for all'?

Senator MARGETTS—Because a minister would have to give the authority—

Mr Cartwright—I am sorry?

Senator MARGETTS—I was just saying that a minister would have to give you the authority to spend the money required to push those other departments to give you the information.

Mr DONDAS—I just wanted it on the record, that is all.

Mr TED GRACE—On my last question on the Commonwealth War Graves Commission, I am sorry I did not make myself clear. Does the organisation upkeep graves now in Germany?

Mr Cartwright—Yes.

Mr TED GRACE—It extends into Germany?

Mr Cartwright—Yes. The people of the commission who look after Germany are based in Ypres in Belgium, for the northern Europe area. They either maintain them by their own staff or they may have contractors in countries. The commission's staff look after war cemeteries as far east as Indonesia. We take over in Australia and Papua New Guinea and around that region.

Mr TED GRACE—The bottom line was: are there agreements between the Australian and German governments regarding the maintenance of the war graves we have it here in Australia?

Mr Cartwright—No, we do not have an agreement with the German government. The Commonwealth War Graves Commission does that on behalf of all the Commonwealth nations.

Mr TED GRACE—But this is a German grave—

Mr Cartwright—I am sorry, I misunderstood. The German sailor in Tatura War Cemetery?

Mr TED GRACE—Yes.

Mr Cartwright—The relationship is between the Commonwealth War Graves Commission and the German government. The Commonwealth War Graves Commission maintain that grave on behalf of the German government, and we are the ones that actually do the main—

Mr TED GRACE—But there is an agreement there?

Mr Cartwright—I am presuming so; I have never sighted an agreement. That is the way it has been for many years.

CHAIRMAN—There are no further questions. I would like to thank you very much for your attendance, Mr Cartwright.

[2.54 p.m.]

COURTNEY, Mr Robert Charles Hearson, Senior Curator, Military Heraldry and Technology, Australian War Memorial, PO Box 345, Canberra, Australian Capital Territory 2605

PELVIN, Mr Richard Harold, Curator of Official Records, Australian War Memorial, PO Box 345, Canberra, Australian Capital Territory 2605

WHITMORE, Mr Mark Graham, Assistant Director (National Collection), Australian War Memorial, PO Box 345, Canberra, Australian Capital Territory 2605

CHAIRMAN—On behalf of the subcommittee I welcome you to this hearing of the HMAS *Sydney* inquiry. I must advise you that proceedings here today are legal proceedings of the parliament and warrant the same respect which proceedings in the respective Houses of parliament command. Although the subcommittee does not require you to give evidence on oath, you should be aware that this does not alter the importance of the occasion. The deliberate misleading of the subcommittee may be regarded as a contempt of the parliament. The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give any evidence in private, you may ask to do so and the subcommittee will give consideration to your request.

Your submission on behalf of the Australian War Memorial has been received and authorised for publication. Are there any additions or corrections that you wish to make to that document?

Mr Whitmore—No. There are no issues or corrections.

CHAIRMAN—We invite you then, Mr Whitmore, to make an opening statement, if you so desire.

Mr Whitmore—Thank you, Mr Chairman. I will just make a brief statement and then answer any questions that the committee may have. Firstly, I offer apologies from our director, Major-General Gower, who unfortunately is overseas and therefore cannot attend.

The memorial, it is fair to say, has had a very longstanding interest in the loss of the *Sydney*. The very fact that the ship was sunk barely a week after the War Memorial was opened in 1941 is a very strong correlation between the two. Indeed, the carley float which probably came from the *Sydney* is probably the only surviving relic of the engagement with the *Kormoran* and was one of the very first Second World War relics to be displayed at the memorial. The official historian Hermon Gill obviously produced one of the first official accounts of the engagement between the *Sydney* and the *Kormoran*.

Over the years a lot of records have been transferred to the memorial and, along

with the other records that we hold, we have given a very high priority to ensuring that these are properly documented, recorded and made accessible to users. We also commemorate all members of the crew of the *Sydney* who died on the roll of honour, so the complete crew is recorded there. We exhibit, as I say, the carley float and other material relating to the *Sydney* and, at the moment, we are in the process of redeveloping that display as part of the much broader, very extensive redevelopment of exhibitions at the War Memorial.

Most recently, we have undertaken a detailed evaluation of the carley float. That was the subject of this report, and we can table it if you do not have a copy. That is the main potential link with the *Sydney* and various suggestions and theories have been advanced. Analysis was done to assess the extent to which that might throw further light on the investigations.

On the other aspects of the inquiry, the search, we have not gone into great detail on that. Obviously if the wreck could be found, it may throw further light on the situation. But having been involved over the years in a number of conferences, meetings, correspondence, et cetera, on the *Sydney*, we are aware of the enormous practical difficulties in trying to locate the wreck, both in terms of the size of the search area and the depth of water.

We do not offer comments on the Christmas Island situation with the remains there. That really falls outside our bailiwick. On the protection of the site, if it were found, we would assume that it would be regarded as a war grave and would be given appropriate protection as a shipwreck site. We do understand that there is a modest memorial, on Quobba Station. I have not seen it and I am afraid that that is very much a secondary source of information. It may well be that there is a case for providing a more substantial memorial than the one which apparently exists. I understand that there is a modest one on Quobba Station which is just north of Carnarvon in Western Australia—that is the area where the German survivors from the *Kormoran* came ashore.

Senator SANDY MACDONALD—There is no other memorial—not Bradley's Head in Sydney?

Mr Whitmore—The one on Bradley's Head, I believe, is the first *Sydney* one, rather than this one, but I do not claim to have detailed knowledge.

CHAIRMAN—One of the things that is troubling the committee is the incompleteness of records. As a repository of records on a grand scale, how common is this for war records to be missing, and what is your record position in relation to the Korean War or the Vietnam War? How complete are your records?

Mr Whitmore—There are always gaps in the records. They vary enormously

between conflicts and over time and, particularly, if you are trying to investigate a very detailed event, inevitably there will be records which perhaps you wish people had kept, or gaps in the records where for whatever reason they were not passed to us in the postwar period.

CHAIRMAN—You note in your submission that there is a missing section for HMAS *Yandra*. As I understand it, the reports of proceedings were required to be filed every month for every ship commissioned by the RAN. You note in your report that the month of November 1941 is missing. That is a really crucial part of evidence from the point of view of our inquiry because *Yandra* picked up a number of sailors from the *Kormoran* at sea. What explanation can you offer for the absence of that report? I believe that somebody else put a submission in saying that the ship's log for one of the other ships in the area had pages torn out for the period around 19 to 25 November.

Mr Whitmore—The general comment I can make is that obviously we can document only those records that were passed to us. Many of these records would have been passed to us a good many years after the war. If you look at the broader—

CHAIRMAN—I will intrude there with respect: you are quite sure that when you received the records they were incomplete, that no-one has got to them after the AWM got them?

Mr Whitmore—The documentation will have occurred over a period of time, so naturally I cannot guarantee that every item was documented as soon as it arrived at the memorial. But the majority of the records have been documented shortly after they arrived. Quite often, when a series is transferred, it may be a great many shelf metres of material which then have to be progressively worked through. But they are recorded as delivered to us.

Mr TED GRACE—With regard to the second carley float that was found off Christmas Island, what is the AWM's position regarding that? Has any work been done to compare the descriptions, or collate similar material, if there was similar material? Can you offer any explanation as to where it was lost? It has disappeared.

Mr Whitmore—I cannot throw a lot of light on that, I am afraid. Our main concentration has certainly been on the records and the carley float that we hold. I am not aware that there has been a detailed evaluation or comparison. It is certainly referred to in the report that we did on the investigation of the carley float, but as far as I am aware, we do not hold very extensive records on the carley float which was found on Christmas Island, and it never, of course, came into our custody.

Mr TED GRACE—So you have done no work to compare them?

Mr Whitmore—As I recall, there was a passing reference in this report, but with

done a detailed comparison, no.the paucity of material which we have available on the Christmas Island one, we have not

Senator MARGETTS—It might be possible that it still exists on Christmas Island, but in some form that has been grown over. Things get lost and things get grown over—entire buildings get grown over. It is possible that some elements of it still exist. Does anyone know whether there is any record of it being taken off the island?

Mr Whitmore—I believe that it was taken back to Fremantle. I might ask Mr Courtney to say a few words on that.

Mr Courtney—I am the senior curator of heraldry technology at the Australian War Memorial. I wrote part of the scientific investigation paper and did a small amount of work on the carley float that was washed up on Christmas Island. It differed slightly from the one that we have in that it had kapok instead of cork. To the best of my knowledge, it did not have any Australian markings on it.

Senator MARGETTS—Neither did the other one, did it?

Mr Courtney—The one that we have does.

CHAIRMAN—Which is the one that has the Lysaght marking?

Mr Courtney—That one that we have.

CHAIRMAN—I see.

Mr Courtney—The carley float that was washed up on Christmas Island, I believe, was taken back to Fremantle, cut in half, put in store, and subsequently lost. It was removed from the island before the Japanese invaded.

Senator MARGETTS—In answer to a question this morning it was established that there was no specific rule or practice that a ship had to have all the same kind of carley floats, and it is likely that carley floats which were fairly readily available from a number of sources could have been sourced from almost anywhere.

Mr Courtney—That is correct. 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. So it might have been British or American made.

Senator MARGETTS—So information that showed that the material used in the carley float was different does not actually prove anything in relation to what ship it came from?

Mr Courtney—No, it does not.

Senator SANDY MACDONALD—Mr Courtney, in the submission put in by the Department of Defence, they describe the Christmas Island float as being marked 'LYSAGHT DUA-ANNEAL ZINC. MADE IN AUSTRALIA INSIDE'. That is contrary to what you are saying.

Mr Courtney—I am not quite sure what report you are referring to.

Senator SANDY MACDONALD—It is on page 16 of their report which is their submission. It is the paragraph starting with the words:

The float which was found off Christmas Island is described as being grey in colour and of the usual oval shape. The wood was branded with the word PATENT and one hole, described as having been caused by a bullet, was in the decking. The outer covering was damaged in several places by either direct gunfire or shrapnel. The buoyancy tanks were described as being covered by kapok. The metal used to manufacture the buoyancy tank was marked "LYSAGHT DUA-ANNEAL ZINC. MADE IN AUSTRALIA INSIDE". The rope fitted to the carley float had a red thread running through it. The exterior of the float was marked with a numeral 2.

So either you are right and they are wrong—

Mr Courtney—The Department of Defence float—

Senator SANDY MACDONALD—This is their submission to this inquiry.

Mr Courtney—I am sorry, I have not read that report. The report that I read was not like that. In fact, that very much sounds like ours.

Senator SANDY MACDONALD—They then go on to describe the differences between the War Memorial float and the Christmas Island float and there is just a little table. There is actually not a lot of correlation between them because one was cork and one was kapok. One used blue yarn, which was yours, and one used red yarn, which was theirs, but they were both coloured grey. I just wonder whether you might have a look at their report and come back to us on it.

Mr Courtney—Yes, I would like to. I have not been able to see that report. When I was doing my investigations that information was not available.

CHAIRMAN—There were five cryptogram sketches by Fritz List. There is a supposition or an assertion that they were shorthand messages of some form or other. Barbara Winter was quite scathing in dismissing these sketches and rejects that they are any form of German shorthand. Has the AWM done any work on that to see whether there was anything in the assertion?

Mr Whitmore—I am not aware that there has been any recent work done on cryptograms.

CHAIRMAN—Do you have a personal view on it?

Mr Whitmore—No, I do not have a personal view. I have read the diversity of views.

CHAIRMAN—Moving on to the material in the Wilson Evans collection of the so-called 'letter of proceedings' on page 13, has the AWM declared that material to be a hoax?

Mr Whitmore—Mr Chairman, it has not been finally and definitively declared as such. As we indicate in our report, there are serious doubts as to the authenticity of the material. That is on page 14. Our belief is that it is far more likely that it is not genuine material relating to the *Sydney*.

Mr DONDAS—It relates to item AWM 50/3/35/18. It regards the life jacket belonging to a seaman of the *Kormoran* presented by Flight Lieutenant C. Bourne in 1946. The file dealt with this chap donating to the War Memorial the life jacket as an exhibit, after it had been souvenired by members of 14th Squadron. In the final sentence of the submission, it says:

In thanking him for the donation to the War Memorial asked if he would be willing to amplify the details of the search for the *Sydney* and the recovery of the survivors, as he witnessed the events.

Did Flight Lieutenant Bourne ever provide the War Memorial with that further information?

Mr Whitmore—Could you tell me which page of the submission you are referring to?

Mr DONDAS—Mine is page 222; I do not know what your page is.

Mr Whitmore—I am sorry, what is the record number?

Mr DONDAS—Your page 8. It is curiosity more than anything else.

Mr Whitmore—I might ask Mr Pelvin to respond to that. He has a greater depth of knowledge than I do.

Mr Pelvin—No reply was received at that time from Mr Bourne. However, Mr Bourne has written a monograph which is publicly available, which has been included in the printed records of the library section of the War Memorial. It was not as a result of our prompting, as far as I know.

Mr DONDAS—Thank you.

Mr TED GRACE—Mr Whitmore, does the AWM have any suggestions about an appropriate location or a new memorial to the *Sydney* and what form it should take?

Mr Whitmore—We do not have a War Memorial view, as approved by the Council, no. We are not involved in the development of memorials outside Canberra because our act is specifically about the national memorial. Although we obviously take an interest in other memorials, we do not develop them anywhere else.

Mr TED GRACE—You would probably be aware of some of my questioning today regarding a memorial to Australian defence personnel lost at sea, where no other grave exists except the ocean. Has any approach ever been made to you for such a memorial to be erected in Canberra, for instance, or in Australia, equivalent to the one which is in the UK?

Mr Whitmore—All Australians who have died in war are recorded on the roll of honour. That is clearly our principal memorial to those who have died. The only addition to that is a merchant navy memorial which is currently under development in the grounds of the memorial, which does list all merchant seaman who are known to have died in the First and Second World Wars. That has been the only other approach that I am aware of.

Mr TED GRACE—There are more than merchant navy personnel involved—there are airmen and army. My question involved an overall memorial to people who have no grave other than the sea. I am very surprised that the Australian War Memorial has not been more active in that area to see whether something can be done in that regard. To most Australians who have spoken to me on the subject, it seems unbelievable that we have to go to another country to get that overall memorial—that is, the UK.

Mr Whitmore—I am sorry if I have slightly misunderstood your question. The answer I think is that the Australian War Memorial is that memorial.

Mr TED GRACE—It is not.

Mr Whitmore—It lists all those who have died—

Mr TED GRACE—With all due respects to you, Mr Whitmore, it is not. There is no memorial in Australia equivalent to the ones in Dartmouth or Portsmouth in England. There is no memorial equivalent in Australia for Australian war dead who have no grave other than the sea.

Mr Whitmore—Perhaps it is a matter of interpretation. Certainly, we list every Australian service person who has died in war. Something like one-third of the people who died in the First World War, for example, have no known grave. They are all recorded at the Australian War Memorial. The unknown Australian soldier stands as a symbol to all those who have no known grave, and because we combine a commemorative

function with a museum function, we do very consciously attempt to commemorate all Australians who died, whether in the air, at sea or on land. Hence, this is why we are redeveloping the exhibition we have on the *Sydney* within the galleries.

Mr TED GRACE—If you go through to London, you have the same system as you have here, and yet we have this overall memorial which I go back to. You think it is irrelevant that we should have it in Australia in spite of the fact that there is a demand for it, through organisations—for instance, merchant seamen who regularly bombard my office about their memorial. You have admitted that yourself; I know you are well aware of it.

Mr Whitmore—There is a major difference. In England, the Imperial War Museum is not a memorial. It is purely a museum. The Australian War Memorial was set up as a memorial museum, so it has a fundamentally different role. Ours is specifically Australian. The Imperial War Museum is all Commonwealth, so they have a very different mandate from the one that we have. We have no argument with the idea of other memorials to particular events, to particular deaths and so on. We do not see any conflict. All we would be saying is that there is a national memorial and it covers all Australians who died in war. It certainly does cover all those who died in HMAS *Sydney* and we do take that responsibility very seriously.

CHAIRMAN—As there are no further questions, I thank you very much, gentlemen, for coming along this afternoon.

[3.17 p.m.]

CREAGH, Professor Dudley Cecil, Professor of Physics, University of Canberra, Canberra, Australian Capital Territory 2600

CHAIRMAN—I would like to welcome Professor Creagh on behalf of the subcommittee. I must advise you that the proceedings here today are legal proceedings of the parliament and warrant the same respect which proceedings in the respective houses of parliament command. Although the subcommittee does not require you to give evidence on oath, you should be aware that this does not alter the importance of the occasion. The deliberate misleading of the subcommittee may be regarded as a contempt of the parliament.

The subcommittee prefers that all evidence be given in public, but should you at any stage wish to give any evidence in private, you may ask to do so and the committee will give consideration to your request. Your submission was received and it was authorised for publication. Are there any additions or corrections you wish to make to that submission?

Prof. Creagh—I am professor of physics at the University of Canberra and a member of the Cultural Heritage Research Centre. I make the submission on my behalf and on behalf in part of the Australian War Memorial, because I did the technical analyses on the carley float. I do have a couple of minor textual changes to make, and I have the disk here to give to the secretary.

CHAIRMAN—Thank you. Is it the wish of the committee that we receive that? It is so ordered. I invite you, Professor, to make a short opening statement before we proceed to questions.

Prof. Creagh—Thank you, Senator. My submission dealt to a large extent with the carley float itself. In the course of the day it has become apparent to me that there are some items relating to the Christmas Island carley float which may not have been covered fully in my submission. We heard from Admiral Oxenbould earlier about the arrival of the carley float at Christmas Island. What he did not do was give a good description of the currents and the winds that were present at the time, and this bears especially on where the action happened.

There are some Western Australians here, I see, and they will be well aware that the Leeuwin current flows south very fast along the coast and inside the continental shelf. The West Australian current runs more or less northerly up to about latitude 15, where it meets the current coming down from the Timor Sea, and they both flow on about latitude 12 degrees. That is about the boundary. This is substantially short of the latitude of Christmas Island.

I do not know whether I could be more precise about it than I am going to be. But the hydrographers and oceanographers in the Department of Defence ought to be able to verify a trajectory for the carley float, given that if it were in the West Australian current—which is the only current it could be in—it would have a mean drift speed of about half a kilometre an hour. If it were to go straight to Christmas Island it would probably arrive there later than the date it was found. I say 'probably' because I fed the information I have into the computer program that I have, and it is probably not as good as the one that Defence has. So there is a fair degree of uncertainty that that carley float relates to the sinking of the *Sydney*.

CHAIRMAN—Wouldn't there be another point, Professor, that there was a fair degree of windage with a float like that?

Prof. Creagh—The windage is towards the Australian continent.

CHAIRMAN—That is the point I would make. There is very little draft—this is sitting right on top of the water—and there would be prevailing winds blowing out there.

Prof. Creagh—Prevailing winds would be towards the Australian continent at that time of the year.

CHAIRMAN—So you are telling us it is unlikely.

Prof. Creagh—I think it is unlikely. As I said, my qualification is that I have got a fairly unsophisticated set of data. They have all the benefits of satellite mapping of these things and they should be able to work out pretty well what the trajectory might be.

What I have not said is that there is an easterly flowing stream close to Java, the South Java current, which is a fast flowing current. It is the one that the boat people probably come in on. There is one north of the island and one south of the island. Between all these currents there are considerable vortices, so that the current actually loops around on itself. For something to go from this current to that current, there are these areas of what you might call vortex motions, so it would be possible for something to go in there and go around and around in circles for a while.

This same situation occurs south of Shark Bay, and the bottom line of that is that it would be relatively unlikely that the action took place close in to the mainland because anything there would be caught up in the Leeuwin current and swept south. Anything between the Leeuwin current and the West Australian current would be caught up in the vortex currents and could conceivably go around more or less—at least in a fairly long time, say, a week-long situation—in the same spot.

This bears on where you find the debris and where the action occurred. Admiral Oxenbould said that there was credibility in the evidence given by the *Kormoran* crew,

because the life rafts were quite dispersed. My reaction, having heard that, was one of disbelief, because these people all started off at the same time but they went through a night. During that night, if they were in this area of vortex, it is quite conceivable that one current would take one life raft that way, another this way and another that way, and so they would get separated. Initially they were together and they had the opportunity to swap stories, and I have no doubt in my mind that that is what happened. I believe Tom Frame probably has the same view, but I will not speak for him.

Another thing came up with respect to signals, and I should elaborate a little on that, too. I will first give a little of my background. When I trained in England, one of my professors was—how shall I put it?—the start of British Scientific Intelligence: R.V. Jones was one of them. Charles Frank was another. We talked about Enigma machines at some length. His advice to me was that, at that time, Churchill would have said that no information from decrypted signals would be made available, because they would not want to compromise the knowledge that they had of Enigma. I believe you will find references to this in R.V. Jones's book, as well. It is called *Most Secret War*.

There are bits and pieces of the testimony, as it went through the day, where I think that that elaboration is needed. The other thing, Senator Margetts, was that the records I have for *Kormoran* in German do not show motor torpedo boats as part of the armory. This also bears on the evidence that Navy gave about the lack of davits sufficient to carry them out into the water.

CHAIRMAN—As I was referring to with one of the earlier witnesses, the Queensland Royal United Services Institute journal published this week has an article by a late merchant marine captain, a Captain Whish, and he has quite a construction there of how Captain Detmers was out to avenge whoever the captain of the *Emden* was and to sink the successor to the First World War *Sydney*. In this he has a story of a decoy boat—not an MTB but a launch type of thing—which presumably would have come off a small ship's davit. What we can draw from that, I do not know.

Prof. Creagh—I am glad you brought that up because, over a period of time, I have had considerable correspondence on the HMAS *Sydney* mystery. I only brought one example in and this happens to be from Captain Whish RAN, who must be a gentleman of 85 or so years.

CHAIRMAN—I think he is dead now.

Prof. Creagh—I am sorry to hear that, because he sounded like an interesting gentleman.

CHAIRMAN—With respect, I thought some of his scholarship was wrong, because he identified the *Mareeba* as a British-India ship, when clearly it was an AUSN ship.

Prof. Creagh—Yes. I said he was an 'interesting gentleman'; I did not say he was correct. I have here a letter from him, and it makes interesting reading. In this one we have HMAS *Sydney* taking on not one, not two, but three raiders and sinking three of them and getting sunk itself. It places its position as just off Dirk Hartog Island and definitely in the region of the Leeuwin current—which means that, when *Heros* picked up the carley float, if it came from HMAS *Sydney*, it was miles off course, according to this document. What I am saying is that you get lots and lots of these things, and they show scholarship, but you do not know what they mean.

CHAIRMAN—I want to take you back to your assertion that there was collusion between the crew of the *Kormoran* after they abandoned ship. One of the assumptions that I had made—and I do not know whether the other members of the committee did—was that here you had a ship that went through an intense period of conflict, took a lot of battle damage and was on fire. They destroyed the ship at about 10 o'clock or 11 o'clock at night. They then took to the boats.

It would not be very easy in that circumstance to maintain order: you might maintain discipline, but maintaining order is another matter. You have a ship full of mines with demolition charges set in it. The human reaction would be to get the hell out of it pretty fast in whatever floated. You have 20 or 40 survivors who have drowned because of the accident with the life boats. You have another 20 or 40 killed by gunfire. It would not really be a well-ordered situation and it would not be conducive to sober planning, shall we say, as to what the alibi would be.

Prof. Creagh—Yes. I do not know. We are all speculating on this. I guess the crux of the matter is, as you are saying, where the discipline lay. I believe the German crew must have been highly disciplined people. When you embark as a raider, you are like a commando; you are like the SAS. You are into disguise, deception and destruction, and this would be a very superior crew and I have no doubt that they would get off in good order. They did not have that much damage. Their damage was such that they could not keep going.

CHAIRMAN—Why? Because they could not steer it?

Prof. Creagh—Because they had lost motive power, I guess.

Senator SANDY MACDONALD—Why did they get off at night then, if that was the case?

Prof. Creagh—It was on fire, but they might have decided that they did not want to risk staying there to contain the fire. They had to make a balanced judgment. Everyone has to make balanced judgments. If they thought that the fire could have caused the danger of mines going off, obviously they had to be off the ship.

Senator SANDY MACDONALD—Senator MacGibbon talked about the possibility of collusion. When the survivors were picked up, they were picked up in quite a dispersed fashion, I believe. Presumably they were interrogated. There were 300-odd survivors; almost all were interrogated. Where is that material?

Prof. Creagh—I do not know. Those have to be archivally held somewhere, and there has been a lot of question about where records are and where records are not. I am not a professional archivist, so I do not know. But my experience is that institutions change, record keeping changes, and material goes from this repository to that repository. It has to be accessioned, and not very many resources are made available for handling old documents. It is only since 1983-84 that we have actually had an Australian Archives, for heaven's sake. Those documents were probably typed out on a typewriter. Flimsies probably only exist at this stage—if they existed at all—and they would be held somewhere.

Senator SANDY MACDONALD—You inferred, and I think Senator MacGibbon picked it up, that there was collusion.

Prof. Creagh—It is one of the possible stories. The reason we are still talking about it 55 years on is that there are so few facts and so many possibilities of finding an explanation.

Senator SANDY MACDONALD—But, firstly, you have got the number of people, secondly, that they were picked up in different places, and, thirdly, this great test—and I first thought about this because my father did it at the end of World War II when he had to interview Nazis. I said, 'How did you tell whether they were telling the truth?' 'Well', he said, 'you asked them detailed questions, then you locked them up again. Three months later you brought them back again and asked them the same questions. If they were telling the truth, that is the truth.' Now it is a long time for the story to stay right. You have got people on their deathbeds who wish to face their maker with a clear conscience.

You could argue and say that there are very few people who actually knew what was going on. Most people would be at battle stations and down in the bowel of the ship, and that is why I asked this morning how many people actually knew what Commander Detmers was doing. If you were going to concoct a story, how close would you have had to keep it when you have only had to keep it for eight or 10? If you have a crew of 300 who survived, who were found fully dispersed in various places, they are not going to sing the same tune.

Prof. Creagh—Yes, that is true. As I said, this all comes down to trying to think what might have happened 55 years ago. I do not know that this sort of collusion went on. I had another letter from a man who said—and I will try and get this right because I did not prepare this—that his uncle was on a troop train going from some place in Victoria to

some place in South Australia, and they fell into this conversation. No, I have got it the wrong way; it was going from South Australia to Victoria. They fell into a conversation. His uncle, or whoever it was, was actually a German speaker because he came from the winegrowing areas, so he listened to another conversation. He says that there was collusion. This is hearsay, hearsay, hearsay.

CHAIRMAN—If there was collusion, what were they trying to conceal? What is your interpretation of how *Sydney* met its fate?

Prof. Creagh—The big imponderable is the one that everyone comes back to—why do you get into about a mile range when you are a ship of the line and you have an unknown merchantman? That is the big unknown.

CHAIRMAN—Fallible human beings. People make mistakes.

Prof. Creagh—Yes. But what is a mistake, Senator? A mistake can be that you make an error of judgment, or a mistake can be that you are deceived.

Senator SANDY MACDONALD—That is the point, Professor.

Prof. Creagh—I think this is my point.

Senator SANDY MACDONALD—If they were putting up a white flag, then 95 people would have known, and they might have been the five people on the bridge. Is that what you are saying?

Prof. Creagh—Yes. I am not saying that that is a fact. What I am saying is that there are a whole stack of things that could happen. This is one of the interesting things about this: you can sit down and write scenarios. What do you know? You know you have got a radio transmission. You have got a carley float that is picked up. You have picked up all of these people out of the water and they tell you a variance of the same story. You know that you have a ship of the line that has gone down pretty swiftly, really, through close approach. You know that from the German record. There is no reason for the Germans to be lying about what they are going to say about that.

But, if you look at the official history, if you look at Gill, the *Kormoran* is coming this way, and *Sydney* is coming this way. *Kormoran* deviates that way and *Sydney* intercepts. You are going north-west, and *Sydney* is supposed to have signalled ‘Where are you bound’—and this is some time further along the line. ‘Where are you bound’, and the answer is ‘Batavia’. Batavia is there. Wouldn’t that make you a little bit suspicious?

CHAIRMAN—Yes, but maybe *Kormoran* could defend that in so far as it is another nationality of the warship. If we take your hypothesis of the white flag—

Prof. Creagh—No, that was—

CHAIRMAN—Let us discuss that for a moment. If that hypothesis is put up, then Allied people do not run up a white flag before an Allied warship. You would assume that it was an enemy ship surrendering and you would maintain full alert and full battle stations. You would not go in and say that you were caught unawares, as the *Sydney* appears to have been.

Prof. Creagh—Remembering that we are playing scenarios at the present moment, it has nothing to do with fact, but it is interesting. What happens if *Sydney* intercepts the radio transmission that says 'Raiders' and simultaneously *Kormoran* makes smoke—and makes a lot of smoke? It is a diesel electric so it has to have a smoke making machine to do that. Supposing it makes a lot of smoke. *Sydney* says, 'Aha! Ship on fire over there; merchantman in trouble; will go to assistance.'

Senator SANDY MACDONALD—That's too big a scenario, because somebody would say something about that.

Prof. Creagh—Yes, but it is one of those things. There are so few facts: that is the problem. One of the things that I have great difficulty with at the present moment is where the currents are and where the action actually took place because, if it took place west of Shark Bay where Detmers says it did—I have read some of Detmers' stuff—then it takes place in between the West Australian current and the Leeuwin current. *Sydney* steams off—according to the German account—to the south-east towards the Leeuwin current. It could well be, of course, that the flotsam is going rapidly south when people are looking for evidence to the north. In other words, the physical evidence that has come from the sunken ship has actually gone in the opposite direction from where the search was called.

CHAIRMAN—There was very little physical evidence of *Sydney* when it sank because warships were just gutted at the outbreak of hostilities. Everything combustible in the form of wooden furniture and fittings was dispensed with.

Mr Creagh—Oh, I understand that. But it was on fire when it was sailed over and, according to the German record, it had sustained very substantial damage to the super-structure, and the carley float, as I understand it, the one that the War Memorial has, certainly has only debris damage—damage that has come from shards of material knocked off the superstructure. It has no bullet holes or anything like that in it. There is no evidence whatsoever on any of the materials being consistent with bullets of any kind.

It was presumably there on deck or lashed up against a bulkhead, and it came loose when the ship sank. And I agree with you, there would not be too much on the surface that is combustible. But there had to be some people on deck, there had to be some bodies which would break free of the wreck, even if they came from the damaged bridge. So

there had to be something.

Mr HICKS—One of the things I cannot understand relates to the aircraft on the *Sydney*. There was an aircraft, and there are different stories about the aircraft. Some say that it was out of action, others say that it was ready to go and that the first sail away from the *Kormoran* destroyed the aircraft, put the fuel on the deck and caused the fire. I am not a naval person, but were those planes seaplanes? Could they land in the sea?

Prof. Creagh—Yes, certainly, that is what they were.

Mr HICKS—Was it the practice to send out the plane to check the enemy out?

Prof. Creagh—You would have to ask the naval people that. I do not know what their standard practice would be. I assume that they would send out a reconnaissance plane if they had to, but they would not send it out routinely, I guess: I do not know. According to the German record, the plane was on deck and the engine was turning over. Again, that is one observer's view of the world.

Mr TED GRACE—Going back to the carley float, in view of your obvious expert knowledge of the area's meteorological conditions, you would obviously agree with the 1949 naval investigation that the carley float did not come off the *Sydney*; would that be right?

Prof. Creagh—I think we denigrate some of these people when we question, the way some people have, their findings. I think DNI made a pretty substantial investigation of the whole matter. If they existed today, if the whole problem had happened last week, last month or last year, we would be able to be much more accurate about what happened, because we have better physical and oceanographic information.

Mr TED GRACE—What is your answer to Dr John Bye's investigation which runs opposite to yours, assuming he would have had the same meteorological conditions available to him, which suggests that the float could get to Christmas Island?

Prof. Creagh—I do not know exactly the premises that he used for this.

Mr TED GRACE—Would he have had those meteorological conditions?

Prof. Creagh—Meteorological conditions are only subsidiary to the oceanographic ones.

Mr TED GRACE—Was he an expert in that field?

Prof. Creagh—The oceanographic conditions are important, but what is paramount is the starting point.

Senator MARGETTS—My understanding is they tried from a number of potential starting points. I believe they did it during the same times of the year when the event took place. So nobody can prove one way or the other.

I suggest that the evidence has clearly been given that the *Kormoran* survivors were widely dispersed. If we know that the *Kormoran* survivors went here, there and everywhere, wouldn't it be reasonable to suggest that the carley float got caught up in one of those berserk currents and ended up in the same way Dr Bye suggests can happen, because some of his drift cards ended up in that direction? Can you in fact prove that it is not the case? He has, I would have thought, proven that it could be the case.

Prof. Creagh—You have got to prove that it could be the case in the time frame.

Senator MARGETTS—Yes.

Prof. Creagh—That is the important thing.

Senator MARGETTS—Isn't that what he has suggested?

Prof. Creagh—You are quite right: one cannot say absolutely no. But you can say: what are the probabilities? I think, on the modelling that I have done, if it happened south-west of Shark Bay, it would not have gone anywhere very far. In fact, it probably would have gone towards Perth eventually. If it happened north of Shark Bay, then the possibility is that it is going to go up towards latitude 15. How far it goes above latitude 15 is entirely open to debate because we do not know specifically what the oceanographic conditions were at that time.

Senator MARGETTS—But we do know the *Kormoran* survivors were picked up in widely dispersed places.

Prof. Creagh—That is right. That is why I think it has probably happened south-west of Shark Bay, because that is a fairly confused area of ocean currents. I am guessing; and this is just based on the current patterns as I know them now and what they might have been 50 years ago could be a bit different.

CHAIRMAN—Accepting your theory of a vortex generation there, and using that to account for the dispersion of the crews in various lifeboats from the *Kormoran*, you could also say that that dispersion would have been enhanced by those lifeboats leaving the ship at different times and thereby exposed to different positions within the current.

If I accept your proposition that there has been collusion there, with 300 people, that meeting would have taken a good couple of hours. But if they were all together, they must have been roped together in some way, otherwise they would have drifted apart while the conference was going on. If they were that close, why didn't they stay roped

together, because it was not unknown for crews to rope lifeboats and rafts together so that they were concentrated?

Prof. Creagh—We are hypothesising, to a large extent, on a scenario. To come back to what Senator Macdonald said, which was about how few people would know exactly what happened, you then come to a question that was asked this morning about lines of command, when we are talking about the situation on the bridge of the *Sydney*. What happens in a naval situation is that the senior people disperse between lifeboats. You would not get all your executive on the one lifeboat, so you only need one person saying, 'This is how it is, chaps' in each one of the lifeboats and you have four or five days to get a good story together.

CHAIRMAN—You still must have the initial conference to get the ingredients together.

Prof. Creagh—Yes, it is a very interesting and fascinating subject, but there is so much conjecture there.

Senator SANDY MACDONALD—Do you think they would stick to their story for over 50 years?

Prof. Creagh—If you were in the situation of doing something piratical, you might, but I am not saying they did. To answer your question, if you had been party to what is something of a sin, you might only talk to your priest about it when you are dying and the priest is not going to say anything.

Senator SANDY MACDONALD—Is Dr Bye's research the research that we have got here?

CHAIRMAN—Yes.

Senator SANDY MACDONALD—He admits his research is inconclusive, doesn't he?

Prof. Creagh—Yes. I do not think you can say absolutely no, but I come back to what I said initially: I think that Defence have the oceanographers who could actually put this through their computer programs.

Senator SANDY MACDONALD—If they knew what the starting point was.

Prof. Creagh—Yes, if they knew the starting point. They could actually go back to the starting point. The thing you have to remember is that in these regions between the current flows, of course, there are turbulent currents. It is like not knowing exactly what initial conditions you have—whether you are going this way or that way, starting here or

there.

Senator SANDY MACDONALD—Did the log of the *Kormoran* survive?

Prof. Creagh—That is a good question. I am trying to remember because I tried to think about it. I have not looked at Detmers' book for some years now. I suspect that it probably existed in some form or another. It certainly existed in his head.

Senator SANDY MACDONALD—It existed in his head but I was thinking it is harder to concoct a story if there is some record.

Prof. Creagh—These people—I go back again to a statement I made before—were raiders, commandos. They were not playing by the Marquess of Queensberry's rules.

Senator SANDY MACDONALD—And all the evidence suggests that he was quite an extraordinary commander who commanded enormous loyalty from his men.

Prof. Creagh—He was a very good captain and he had a very strong rapport with his men. His men loved him. There is no question about that. The German record shows that, again.

CHAIRMAN—I take you back briefly to the AWM carley float. I understood you to say that the metal fragments in that were off the *Sydney*, not shrapnel from—

Prof. Creagh—No, they were off the *Sydney*.

CHAIRMAN—Did you make a metallographic examination of those?

Prof. Creagh—Yes, certainly. What is more, my electron microscopist and I continued on looking at ammunition taken from Japanese and German sources in order to see whether we could find any match at all, and we could not. You might ask why we checked Japanese sources. We know that *Kormoran* was resupplied ex-Kobi, so it could conceivably have been given ammunition which was of Japanese extraction. But we could not find it.

CHAIRMAN—What is your guess as to the actual battle scene then? Is it this area south of Shark Bay?

Prof. Creagh—Where it is, I do not know. I would have to look up where *Heros* picked up the float. I had a feeling that the carley float was picked up off Carnarvon. If Detmers said it took place off Shark Bay and if the carley float was picked up off Carnarvon, it means that the float was likely in the Western Australian current. But we do not have any information at all, apart from the fact that it was picked up and so on. They did not record surface currents, winds or whatever.

CHAIRMAN—Do you think it is worthwhile looking for *Sydney* and, if we could find *Sydney*, would it tell us anything?

Prof. Creagh—How much money have you got, Senator?

CHAIRMAN—That was not my question.

Prof. Creagh—The navy has had hydrographic vessels up and down the coastline for the last 50 years. They have been pretty well equipped but they have not found anything on the seabed that was interesting. A 7,000-odd tonne ship lying on the seabed would be a fairly large object.

CHAIRMAN—Yes, but what if you presume the ship blew up because the fire got to the magazines, and there would have been 200 or 500 tonnes of ammunition there?

Prof. Creagh—That is an 'if'. If it were struck by a torpedo, leaking below the hull waterline, steaming off into the distance, according to the German record, my belief is that it could actually have gone down intact—

CHAIRMAN—If you put that hypothesis forward, then why weren't there survivors? From pretty well every ship that was torpedoed, people got off it in varying numbers. It is only when a ship detonates completely, when the fire goes to the magazines, that no-one survives.

Prof. Creagh—That is again one of the imponderables. One does not know the magnitude of the damage that it had taken. Certainly, above the waterline, according to the Germans, it had taken a very, very substantial pounding.

CHAIRMAN—True. But it looks probable that the ship may well have been torpedoed initially when it was off the starboard quarter of *Kormoran*. It could not have taken more than two or three torpedo strikes at the most.

Prof. Creagh—Yes.

CHAIRMAN—Ships survive torpedos. They may go down, but the crews get off it.

Prof. Creagh—If it did blow up, then the chances of finding it are severely minimised. The same with the *Kormoran*. I think the *Kormoran* had 300 or something mines on board. It too could have been blown to smithereens. But my guess is that all of this is taking place off the continental shelf. The direction that *Sydney* was going could have lodged it down against a ledge in the continental shelf and it could be wedged in underneath. *Kormoran*, if it were scuttled, would have gone down pretty well intact, unless

the mines blew up and then there would be a problem.

Is it worthwhile doing? I think there is an extremely large cost. As a scientist, I see scientific funds being cut rather substantially for doing things like setting up semi-conductive industries and so on. I find it very difficult to justify spending tens of millions of dollars to look for a wreck which could be anywhere within, let us be generous, 10 nautical miles by 10 nautical miles—100 square nautical miles. I find it very difficult to justify.

Mr TED GRACE—Are there any other factors that should be considered, other than financial, as to why the Australian government should not fund it?

Prof. Creagh—The human factors are always extremely important. The reason that this interest has continued—quite apart from the fact that I think it is something that you could invent lots of good stories about—is that the relatives and friends would like to know what happened and so on. But finding it is only a start to a big problem, because you have to then protect the wreck, which is outside the continental shelf likely. I do not know that I understood what the war graves and other people said, but I had the impression that, if you go outside the continental shelf, Australian laws do not apply.

CHAIRMAN—I think that was the gist of what they were saying.

Prof. Creagh—In which case, there is a real problem about locating it.

Senator SANDY MACDONALD—I think what they were saying was that the continental shelf and the 320 kilometre EEZ are more or less one and the same thing, but I am not sure whether at that area of Western Australia the 320 kilometre EEZ is the edge of the continental shelf or not.

Prof. Creagh—I do not know, but it is sort of a counter problem because, if you find it, then it is likely to be lying in deep water, let us put it that way. If it is over the continental shelf, it could be 1,000 metres down.

Senator SANDY MACDONALD—Five thousand metres.

Prof. Creagh—I cannot remember. I am trying to visualise contour lines but it is probably a long way down—a couple of thousand feet perhaps. I cannot visualise the contour lines but, if you go over the shelf, then it is quite a way down and recovery of artefacts is not impossible. We have quite close relations with the Western Australian Maritime Museum and its curators. One of my group who works with the Queensland Museum is currently recovering *Pandora* in North Queensland. It is not an impossible thing to get things off. But I think it would be a desecration of the grave, frankly. Certainly, they went down fighting because *Kormoran* was immobilised. What can you do? This is their resting place. You have been making that point all the time, Mr Grace,

haven't you?

Mr TED GRACE—We have a lot in common, professor. Everybody has a theory as to what happened. Are you prepared to give us your theory?

Prof. Creagh—I gave you part of it before.

Mr TED GRACE—Can you go a bit further?

Prof. Creagh—It is all to do with deception and it is just a scenario. But visualise this: the raider pretended it was in real trouble. It made smoke and had people running around the decks and looking in disorder. HMAS *Sydney* could have come up abeam of it at what it thought was a safe distance to make the necessary signals, at which time the torpedo was in the water. Once the torpedo hit, all the guns went off and that was it.

Mr TED GRACE—I completely agree with you that these guys were not playing by the Marquess of Queensberry rules. Do you have a theory? Obviously, you think HMAS *Sydney* came in too close and was caught with its pants down, but the ship was still flying a foreign flag.

Prof. Creagh—When I first became involved in this project with my colleagues at the Australian War Memorial, I went through all the possibilities. The only conclusion you can come up with 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.

Mr TED GRACE—Taking out all the conspiracy theories.

Prof. Creagh—And we would like to believe that he was deceived rather than that he made a real boo-boo.

CHAIRMAN—But even if there was this elaborate deception, caution should have been present and that should have been vested in the commanding officer.

Prof. Creagh—Certainly the executive officer, the commanding officer and the navigator all ought to have been on the bridge. I did have a nautical diagram of the HMAS *Sydney*. They certainly would have been all present at the same time in the same place. They should have made the decision.

Senator MARGETTS—I notice the evidence given by the Department of Defence includes oceanographic conditions near Christmas Island from November through to February. They would indicate that at that time of the year—especially towards the January side—the Leeuwin current is the weakest for the year. So the impact of the Leeuwin current probably would not have been as great if their report is correct.

Prof. Creagh—But the Leeuwin current would only have had an effect at the time of the sinking in November. Once the float is outside the Leeuwin current, it is in the other current.

Senator MARGETTS—Sure, but by the same token their evidence also shows that they have only looked over a couple of degrees and they have German survivors picked up here, there and everywhere.

Prof. Creagh—Yes, that is along the lines of what I am saying about the location being a real question mark. If I were the captain of a raider and it went down, I would not be telling my captors exactly at what latitude and longitude I scuttled the ship.

Senator MARGETTS—I am just making a suggestion about where they were picked up from. There is insufficient conclusiveness and there are no indications about what the currents were doing. They could have been quite diverse at that time.

Prof. Creagh—And does it show on that chart where they picked up the carley float?

Senator MARGETTS—It does. There is a report in here which indicates where they picked up the float. I just have to find it.

Prof. Creagh—I ask that because Detmers's position is not the same as the position that is quoted in the official history.

Senator MARGETTS—Yes, I had it. That will be available for you to have a look at.

Prof. Creagh—I will be able to look at that. My belief is that it would have to be drifting at better than half a kilometre an hour in order to go the distance, if it went the distance directly.

Mr TED GRACE—That is a pretty significant drift, is it not?

Prof. Creagh—The current is supposed to be about half a kilometre an hour, but to get from this current to that current you have to go across about 50 to 100 kilometres of these swirly sorts of flows.

Senator MARGETTS—It does suggest that the carley float was picked up at 24 degrees, 7 south, 110.58 east.

CHAIRMAN—Thank you for your attendance today, Professor Creagh. You will be sent a copy of the transcript. I also thank all the witnesses who appeared.

Resolved (on motion by **Mr Ted Grace**, seconded by **Senator Margetts**):

That this subcommittee authorises publication of the evidence given before it at public hearing this day.

Subcommittee adjourned at 4.12 p.m.