DEFENCE

Australian Defence Force Journal

A U S T R A L I A N
DEFENCE
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JOURNAL

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The Royal Australian Regiment on the way to Vietnam on board HMAS Sydney, *1967*

What Factors Led to Australian Military Involvement in the Vietnam Conflict Between 1962 and 1972?

By Lieutenant Colonel Chris Field

All the way with LBJ.[1]

Harold Holt, Australian Prime Minister,
July 1966 Washington, DC

We will go a-Waltzing Matilda with you.[2]

John Gorton, Australian Prime Minister,
May 1969 to US President Richard M. Nixon

Three major related factors combined to take Australia to Vietnam: the aftermath of World War II in the Pacific; European decolonisation of Indo-China, South-East Asia, and the Pacific; and the emergence of the Cold War.[3] *These factors, and the uncertain environment they created, led the Australian Government to seek solutions for, and make contributions to, regional stability through: the military strategy of Forward Defence; the Australian-New Zealand-United States (ANZUS) Security Treaty; the South-East Asian Treaty Organization (SEATO); the initial commitment of an Army Training Team and Air Force elements to Vietnam; and finally a major deployment of Australian forces to support US efforts in Indo-China.*

Regional Change – Post World War II Challenges

World War II had brought the Japanese military to Australia's doorstep, and in a campaign lasting a few months, Japan replaced Britain, France, the Netherlands, Portugal, the United States, and Australia, as the colonial power in South-East Asia. Despite the return to peace in 1945, Australian defence planners needed to focus on the northern approaches to Australia, and develop an independent capability in the region; while, if possible, retaining the United States and Britain as allies in what was becoming a volatile region.[4]

From an Australian perspective, decolonisation further destabilised the region. When the European empires ended, the influence of communism grew: Indonesia's new regime had communist links and was expansionist; Vietnam was split between a communist north and a pro-Western south; and Malaya/Malaysia suffered a communist guerrilla emergency followed by a confrontation with Indonesia.[5] To help counter this instability, Australia entered into three treaties or understandings: ANZAM (Australia, New Zealand and Malayan area – 1948) with Britain, New Zealand, and Malaya for the defence of Malaya; ANZUS Security Treaty (1951), with New Zealand and the US for mutual defence in the Pacific; and SEATO (1955), with France, Britain, the US, New Zealand, Pakistan, Thailand, and the Philippines, with South Vietnam, Laos, and Cambodia as protocol states. To help give ANZAM and SEATO teeth, Britain, Australia, and New Zealand established a brigade-strength Commonwealth Forces Strategic Reserve in Malaya supported by several squadrons of aircraft.[6] In seeking security from Asia, Australia relied heavily on alliance with Britain, making military commitments during

the Malayan Emergency (1948-60) and the "*konfontasi*" (confrontation) with Indonesia (1963-66).[7]

Cold War events exacerbated regional tensions and the Soviet Union's Asian ally, China, was seen by Australia's conservative government of the period as the nurturer of communist movements in Indonesia, Malaya, the Philippines, and Indo-China. The PKI (Indonesian Communist Party) in 1965 proclaimed the importance of a "Peking-Jakarta axis",[8] which led to speculation that Asia could become the hemisphere for other "Chinese satellites". With post-World War II crises in Korea, Vietnam, Hungary, Suez, Cuba, Laos, and Vietnam again; it seemed the world was gradually succumbing to communism. Australia feared the "falling dominoes", as had been graphically described by President Eisenhower.[9] This theory was plausible enough to an Australian Government whose members had witnessed the Japanese advance of 20 years earlier; who had committed Australian forces to fight communists in Korea from 1950; who believed South Vietnam to be the victim of unprovoked aggression; and who were "not in the habit of forming opinions independent of Washington".[10] Simultaneously, Australia was struggling to consolidate its own strategic priorities in the region, amidst competing demands from two dominant allies: Great Britain and the United States. With these pressures, a greater role for Australia in regional defence was inevitable.

Forward Defence – Foundation of Australia's Post–World War II Strategic Architecture

During the period 1955-72, Australia's broad military strategy was *Forward Defence*:

> *Australia's defence policy is soundly based on the principle that the security of the Australian mainland and its island territories is best achieved by a forward defence strategy to hold South East Asia; thus providing a defence in depth for Australia.*[11]

This strategy had emerged from, and paralleled, the strategy of integration in Imperial (and later Commonwealth) defence (1901-42 and 1945-69), with Great Britain. *Forward Defence* was also sandwiched between the strategy of *Defence of Australia*, which occurred out of necessity between 1942-1945; and was developed as a mature strategy from 1973, and continues to the present day. Changes in strategy tended to be gradual and there were considerable, and at times even dissonant, overlap during the transition periods. Each strategy was a response to the circumstances of the era in which it was formulated, and each was heavily influenced by domestic economic considerations, rather than solely driven by an objective view of strategic reality. A common strategic theme throughout, in both theory and practice, has been the desire to forestall the development of a direct threat to territorial Australia.[12]

Fighting alongside the United States in the Pacific during World War II revealed common interests, and established the United States as Australia's most important ally. The events of the 1942 Japanese threat to Australia highlighted the need to find the right balance between security through alliance with stronger partners, and a sufficient measure of self-reliance.[13]

The strategy of *Forward Defence* gradually emerged after World War II, reflecting both the traumatic war experience, and the Australian Government's focus on instability in Asia. The spread of communism and the weakness of the emerging states of South-East Asia were of particular concern to Australian policy makers. The late 1960s saw Australia complete its transition from reliance on Great Britain to alliance with the United States, while the creation of a small Regular Army from the late 1940s acknowledged the need to increase the element of self-reliance in Australia's defence capability.[14]

Forward Defence brought both costs and benefits. On the one hand, it was relatively

inexpensive in that Australia did not have to maintain large armed forces. For example, the deployment of forces to Malaya/Malaysia contributed to the long-term stability of the area, and from a military perspective Australia learned much from operating with British and, in Vietnam, from American forces. On the other hand, it laid the Government open to the charge of fighting other countries' wars. Further it restricted the Government's ability to make its own independent foreign policy; and created an impression that Australia was constantly seeking guidance from Britain and the United States.[15]

However, in 1965 when Australian ground combat forces were committed to South Vietnam, most Australians felt that *Forward Defence* was an appropriate policy for the Australian Government to pursue. *Forward Defence* had helped an independent and friendly government emerge in Malaya in the 1950s, and was helping the enlarged Federation of Malaysia to defeat the communist-supported threat in the 1960s; it seemed reasonable to expect that it would be equally successful in Vietnam, if supported by a framework of security structures.[16]

National Security Requirements – ANZUS Treaty – 1951

As part of Australia's *Forward Defence* strategy, defence planners determined that a close relationship with the US was both warranted, and desirable. This led to the 1951 Australia-New Zealand-United States (ANZUS) Security Treaty for mutual defence in the Pacific, which was the first pact ever negotiated between members of the British Commonwealth and a foreign power.[17] It was based on Australian and New Zealand concerns that the post-World War II peace treaty with Japan was too lenient, and US recognition of Australia's and New Zealand's prompt commitment of military forces to the Korean War.[18] Another factor was the desire by Australia and New Zealand to earn their places

under the US "nuclear umbrella", a notion that over time changed, and ironically led to New Zealand being suspended from the treaty in 1986 for its anti-nuclear policies.[19]

The aim of ANZUS was to implement a trilateral security agreement, but as years passed it became clear that ANZUS offered few direct guarantees; it merely committed the three countries to *consult* if one came under threat of attack.[20] Regardless, in the early 1960s American policy makers indicated that Washington's price for support of Australia under the ANZUS Treaty was active Australian support in Vietnam.[21]

National Security Requirements – SEATO – 1955

Forward Defence recognised that the Cold War impacted on Australia's relations with South-East Asia, and was predicated on the fear that communist forces in Asia would expand and directly threaten Australia's vital interests. In 1955 Australia combined with Britain in successfully pressing the United States for a new regional security agreement: the South-East Asia Collective Defence Treaty (usually known by the organisation it created: SEATO). This achieved the Australian goal of joining the United Kingdom and the United States in a formal commitment to the collective security of the South-East Asian region.[22]

Despite contingency planning that occurred between the US and Britain as a result of SEATO, Britain was never prepared to contribute directly to the defence of Indo-China, nor the US to the defence of Malaya/Malaysia. Australia found itself with a delicate task of making a sufficient contribution to the causes each major partner held dear, in order primarily to preserve their sense of obligation to Australia; but not to do so much for one as to arouse the resentment or suspicion of the other, nor to do so much for both as to take vital funds from Australia's domestic development programs.[23] Therefore, the intricacies of *Forward Defence* presented

both diverse and difficult challenges for Australian defence planners, as a balance was sought between what was best for Australia, and what allies required.

Regional Influences – Confrontation with Indonesia – West New Guinea

The importance of Australia's relations with Indonesia in influencing the tone and direction of Australia's relations with the US and South-East Asia in the early 1960s, has been obscured by Australia's major military involvement in Vietnam; but for much of that time it was the principal foreign policy issue confronting Canberra. Indeed, the doubts created in Australian minds by America's failure to fully support an ANZUS ally in its conflicts with Indonesia, particularly over Dutch West New Guinea (WNG), was a crucial factor propelling Australia towards involvement in Vietnam.[24] As Robert Komer, Special Assistant to President Kennedy stated in early 1961:

> *West New Guinea is one of those thorny issues which have slid too far for any interim solution. We must bite the bullet, for this issue is heading towards a crisis, and the stakes involved – Indonesia's potential swing to a pro-Soviet stance – dictate cold realpolitik...So to gain us time in Indonesia; to fight what will be at worst a protracted conflict; or at best pro-Western neutralism, West Irian is the price.*[25]

This US position, combined with a Dutch desire to leave WNG with honour, left Australia unable to prevent the inexorable drive by Indonesia for control of what became known as Irian Jaya. In the view of the Australian Government, there were to be no further concessions to Indonesia, if WNG was Australia's "Munich", then Papua New Guinea would be its "Poland": a *casus bellum*.[26] By the end of 1962, with Indonesia imbued with confidence, and possessing military power that overshadowed Australia; Canberra had to take military and diplomatic steps to redress the balance of power by expanding its own armed forces and aligning closer with its major allies, including clear alignment with the US in Vietnam.[27]

Forward Defence in Practice – Australian Army Training Team Vietnam

In Vietnam, the US State Department was sensitive to the charge by the Viet Cong, and North Vietnam, that theirs was a nationalist movement struggling against American imperialism. Thus America initiated what became known as the "many flags" program, which aimed at having as many nations as possible standing with her and the South Vietnamese in order to forestall any charges of American hegemony. In May 1962, Admiral Harry D. Felt, Commander-in-Chief Pacific (CINCPAC), informed the Australian Service Chiefs of specific proposals for an Australian contribution to Vietnam. He stressed that the force should wear the national uniform, and that the Australian flag should be flown over their headquarters.[28]

CINCPAC's proposal had followed considerable discussions on the form of an Australian contribution to South Vietnam between Washington, the Australian Embassy in Saigon, the Australian Government, and the Australian Department of Defence. In the late 1980s, the former Australian Ambassador to the US 1957-64, Sir (Oliver) Howard Beale, stated that Australia committed troops to Vietnam for two reasons: Australia took the same view of the danger of the spread of communism in Asia as the US, and Australia wanted South Vietnam to survive as a non-communist country; further, Australia lived in a potentially dangerous area, and as a Western outpost "*hard by Asia in revolution...we needed allies.*" The ANZUS Treaty, like others, was written in general terms and was not a legally enforceable document. Therefore it was "not the letter of the ANZUS Treaty upon which we [Australia] had to rely, but the spirit in which it was responded to by the other party in time of need".[29]

Therefore, Australia's strategy of *Forward Defence* was extended to Vietnam. The US position on the fate of WNG fell heavily on the minds of members of the Australian Government; and it was hoped that a demonstration of Australian willingness to respond to the American request at this time might also assist to elicit a positive response from America to any future Australian defence related request.[30]

Australia's initial contribution was to deploy 30 advisers, forming the nucleus of the Australian Army Training Team Vietnam (AATTV), in 1962.[31] Their role would be "to assist in the training of the ground forces of South Vietnam".[32] A squadron of Royal Australian Air Force (RAAF) fighter aircraft was also sent to nearby Thailand.[33] By December 1964, the AATTV was still of limited size: less than 100 advisers, and a flight of Caribou aircraft.[34] Members of the AATTV would continue to serve with, and train the Army of the Republic of Vietnam (ARVN), Special Forces, covert forces, and RVN local force troops, independent of the main Australian combat forces, until the time of Australia's main force withdrawal from Vietnam in 1972.[35]

Regional Influences – Confrontation with Indonesia – Borneo

By 1963, cross border tensions on the island of Borneo between Indonesia, and the newly formed Malaysian Federation; placed British pressure on Australia to expand its support in what became known as the Confrontation with Indonesia. Again, Australia sought US support, based on the ANZUS Treaty, for its involvement in Borneo operations. Again, US support was not unequivocal. As in the West New Guinea dispute, the US felt compelled by the threat to its larger interests in the anti-communist struggle to reluctantly intervene in order to facilitate a negotiated settlement.[36] The US

feared that, if it was forced to cut aid to Indonesia in support of the Malaysian/ Commonwealth position on Borneo, it would isolate Indonesia further leaving the Sukarno Government open to greater communist influence.[37] With involvement in Vietnam on the increase, the Kennedy administration used the ANZUS Treaty to support a political dichotomy: the US "could thus appear sympathetic to Indonesia, but point out its unavoidable treaty commitments which prevented it from greater support of the Indonesian position".[38]

The US response to the Confrontation in Borneo, from an Australian perspective, meant that the 1962 commitment of Australian troops to Vietnam had done little to "tighten the disturbingly loose bonds of ANZUS".[39] The Australian Government began to realise that an option to tighten these bonds would probably be greater support of US policies in Vietnam. In 1964, Australian defence planners were further concerned that Indonesian troops might infiltrate from Irian Jaya across the border into the Australian Territory of Papua New Guinea, and consequently the Australian Government faced the possibility of deploying troops into three areas: Vietnam, Borneo, and New Guinea.[40]

In November and December 1964, following a diplomatic defeat orchestrated by Malaysia in the UN Security Council over the cross-border confrontation in Borneo, Indonesian President Sukarno began to establish closer ties with China; which in October had exploded its first atomic bomb. On 10 November the Australian Prime Minister, Sir Robert Menzies, made a major defence statement in Parliament aimed squarely at meeting the perceived threat from Indonesia. He announced that Australia would introduce selective national service, or conscription, from mid-1965,[41] to increase the size of the Regular Army from 22,750 to 37,500 men, as well as expanding the Royal Australian Navy, Royal Australian Air Force, and the Citizens Military

Forces (CMF or Army Reserve). In addition, the heavier late 1950s designed, Pentropic Division, which was an adaptation of the Pentomic Division used by the United States Army, with only two regular battalions and augmented by reserve battalions; was to be replaced by a lighter, air portable division consisting of nine regular battalions.[42]

Considering that five months later, in April 1965, the Australian Government announced the deployment of a battalion to Vietnam as the first step in Australia's combat commitment, many members of the public saw the defence expansion of November 1964 as laying the groundwork for that decision. While perhaps future deployment to Vietnam was a consideration, the expansion was directed primarily towards Indonesia. Prime Minister Menzies' parliamentary speech stated: "It is clear Indonesia is carrying on an active and entirely unjustified armed aggression against Malaysia", and further that there was a "real risk of war" with Indonesia.[43]

Regional Influences – The United States Requests Further Support

On 4 December 1964, less than a month after Prime Minister Menzies' announcement, William Bundy, the US Assistant Secretary of State for East Asian and Pacific Affairs, informed the Australian Ambassador in Washington that the US was considering sending ground forces to South Vietnam: "together with such ground forces as Australia and New Zealand might be able to provide."[44] After various discussions between the Australian and US governments over the exact composition of the Australian commitment to South Vietnam, the Australian Government's Ministerial Cabinet agreed on 7 April 1965, to offer an infantry battalion.

Menzies' statement in Parliament on 29 April 1965 gives a clear indication of the feelings held by Australian strategic decision-makers of the period:

The takeover of South Vietnam would be a direct military threat to Australia and all countries of South and Southeast Asia. It must be seen as a thrust by Communist China between the Indian and Pacific Oceans...[T]he Australian Government is now in receipt of a request from the Government of South Vietnam for further military assistance. We have decided – and this has been in close consultation with the Government of the United States – to provide an infantry battalion for service in South Vietnam.[45]

That political view represented the culmination of a "major period of gathering alarm in Canberra",[46] based on security concerns over the situation in Indonesia, and the long-term future of South Vietnam, Laos, and Cambodia, and even Thailand, Malaysia, and Singapore. This led to the political illusion that the North Vietnamese were mere proxies for China, despite the thousand-year historical record of Vietnamese resistance to Chinese domination.[47] Menzies did not mention ANZUS or SEATO by name, but noted that "alliances, as well as providing guarantees and assurances for our security, make demands upon us".[48]

In addition, the validity of Menzies' reference to a request from the South Vietnamese Government was challenged by Professor R.G. Neale, who authored *Australia's Military Commitment to Vietnam,* a paper tabled in accordance with Prime Minister Gough Whitlam's statement to the House of Representatives, 13 May 1975. Professor Neale's conclusion was that Australian military assistance to South Vietnam:

Was not at anytime in response to a request for defence aid from South Vietnam as a Protocol State to SEATO...the commitment was in fact made as a projection of the Forward Defence policy to which [Australia was] committed. This policy developed in Australia independently of any outside pressure. The cornerstone of this policy was a compelling necessity to commit the power

of the United States into the Asia area and thus commit her to a practical guarantee of active support to Australia through the ANZUS and SEATO treaties.[49]

However, there had been requests for Australian assistance from the South Vietnamese Government, specifically President Diem, General Nguyen Van Khanh, and other officials, between 1961 and 1964; requests which were not prompted by external pressure. Therefore, it can be argued that the Australian offer of an infantry battalion was made in the context of a succession of non-specific South Vietnamese requests for aid, going back several years. Ultimately, the Australian military presence in South Vietnam existed with the clear consent of the Saigon Government.[50]

Australia Commits Troops to Vietnam

As a result of the Menzies' Government decision, 1st Battalion, The Royal Australian Regiment, was designated to join the US 173rd Airborne Brigade (Separate)[51] at Bien Hoa Airbase, in June 1965, as its third manoeuvre battalion.[52] By 1968, the Australian commitment to South Vietnam, based on a Task Force or Brigade structure, had expanded to include three infantry battalions, a tank squadron, an APC squadron, an artillery regiment, helicopter squadron, and other specialist units, bringing the total Australian contribution to 8,300 men.[53]

From 1966 until 1972, Australian ground forces substantially operated in their own allocated area of Phuoc Tuy province and beyond, cooperating with American forces and making use of American combat transport and logistics (which the Australian Government diligently paid for);[54] but developing their own philosophy, their own "civic action" programs, and maintaining their own professionalism.[55] This aspect was usually overlooked by Australian critics of their country's involvement in the war. By the time of Australia's withdrawal from Vietnam in March 1972, almost 50,000 Australians had served

there, a total of 16 battalions of The Royal Australian Regiment had served in action, 501 Australians had died, and 3,502 were wounded on active service.[56]

Conclusion

This article has examined the factors that led to Australian military involvement in the Vietnam conflict, between 1962 and 1972, arguing that significant regional change; national security requirements based on *Forward Defence;* and regional influences based largely on Indonesian and US policies and pressures, ultimately led Australia to commit forces to the conflict in Vietnam.

Forward Defence proved to be a paradox for Australian defence planners, as it enmeshed Australian foreign policy in a series of alliances and agreements, such as ANZAM, ANZUS and SEATO, that only tenuously provided security to Australia; but, simultaneously demanded the forward commitment of Australian troops.

The Menzies' Government, which had lived with the disappointment of the US failure to support its position against Indonesia on West New Guinea, and felt increased Indonesian pressure in Borneo, was delighted to see a US ground force on the Asian mainland. The Australian Government was keen to encourage the US move by the ready commitment of Australian ground combat forces. The Minister at the Australian Embassy in Washington, Alan Renouf, summed up Australia's reasoning for going into Vietnam as early as May 1964 when he wrote in one of his official communications that it would allow Australia "to achieve such an habitual closeness of relations with the United States and a sense of mutual alliance that in our time of need...the United States would have little option but to respond as we would want".[57]

Epilogue

Lack of strategic success in Vietnam resulted in a reassessment by both Australia and the United States of their respective

commitments to direct support of allies in Asia. President Nixon's Guam Doctrine of 1969 declared that, while the US remained committed to the Asia Pacific region, the nations of the region should not assume that the US would commit combat troops to their defence. In the aftermath of Australia's withdrawal from Vietnam in 1971-72, a gradual but continual reassessment of Australia's military strategy began.[58]

In the late 1960s the British Government announced that it would withdraw its military forces from "East of Suez" by 1971 which, coupled with America's decision in 1969 to withdraw from Vietnam, called into question the efficacy of existing collective security agreements. SEATO became moribund, and in 1971 Australia updated its commitment to Malaysia through the Five-Power Defence Arrangement (FPDA), which now included Singapore. Ironically for Australia, which had held such high hopes for American military involvement in the region, the US forces left mainland South-East Asia within four years of the British.[59] It became obvious to Australian strategic planners that *Forward Defence* was no longer serving Australia's best interests.

Australia, like the US, left Vietnam with mixed emotions and a nation domestically divided. It was not until 1987 that a mass "Welcome Home" march was held; and Australia's Vietnam Memorial – like its Washington equivalent, "consciously designed to provide a space for catharsis" – was dedicated only in 1992.[60]

Australia's maturing as a nation was partly precipitated by the Guam Doctrine, which forced Australia to begin a direct dialogue with its neighbours in the region. At the dawn of the 21st century, this dialogue resulted in a quintuplet of strategic objectives that: ensure the defence of Australia and its direct approaches; foster the security of Australia's immediate neighborhood; promote stability and cooperation in South-East Asia; support strategic stability in the wider Asia-Pacific region; and support Global Security.[61]

NOTES

1. C. Bridge, & P. Lowe, (ed), *The Vietnam War,* St Martin's Press, New York, 1998, p. 189.
2. ibid.
3. ibid., p. 181
4. ibid., p. 182
5. ibid.
6. ibid.
7. F.A. Mediansky, (ed)., *Australian Foreign Policy – Into the New Millennium*, MacMillan, South Melbourne, 1997, p. 253.
8. P. Edwards, *A Nation at War – Australian Politics, Society and Diplomacy during the Vietnam War 1965-1975*, Official History of Australia's Involvement in Southeast Asian Conflicts, Allen & Unwin, Sydney, 1997, p. 23.
9. C. Bridge, & P. Lowe, P, (ed), op. cit., p. 182. Ironically for xenophobic Australians, it was difficult to perceive that for America the "last domino" in Asia was not Australia, but Japan. Eisenhower stated in 1959: "Japan is an essential counterweight for communist strength in Asia. Her industrial power is the heart of any collective effort to defend the Far East against aggression." Pemberton, G., *All the Way – Australia's Road to Vietnam,* Allen & Unwin, Sydney, 1987, pp. 64.
10. G. Bolton, *Oxford History of Australia – Volume 5 – The Middle Way 1942-1995,* Oxford University Press, Melbourne, 1996, pp. 159.
11. Pemberton, G., op. cit., p. 205.
12. Doctrine Wing, CATDC, *Land Warfare Doctrine 1: The Fundamentals of Land Warfare,* Commonwealth of Australia (Australian Army), 1998, Annex C p. C-1. Under the Imperial, and later Commonwealth, defence strategy, Australia maintained a small, predominantly part-time, Army for the land defence of Australia, and a Navy that was intended to mobilise as a fully integrated element of the Royal Navy in a global role. This strategy was fiercely debated among the Services and within Government, and its adoption was largely predicated on Government reluctance to fund the military, naval, and air power necessary for Australia to have a sufficient degree of strategic independence. The fall of Singapore in early 1942 vindicated critics of the strategy, and proved the Imperial defence strategy untenable. In 1942, for the first time, Australia's northern towns had been attacked repeatedly and invasion was perceived as a real possibility.

13. Doctrine Wing, CATDC, op. cit., p. C-2.
14. ibid.
15. F.A. Mediansky, op. cit., p. 81.
16. P. Edwards, op. cit., p. 2.
17. J. Gunther & W.H. Forbis, (ed), *John Gunther's Inside Australia*, Harper & Row, New York, 1972, p. 337.
18. R. Breen, *First to Fight – Australian Diggers, NZ Kiwis, and US Paratroopers in Vietnam, 1965-66*, Allen & Unwin, Sydney, 1988, p. 2.
19. CIA, *The World Factbook – 1998*, Office of Public Affairs, Washington, DC, 1998, p. 536. The US suspended security obligations to New Zealand on 11 August 1986.
20. F.A. Mediansky, op. cit., p. 80.
21. P. Edwards, op. cit., p. 24 and CIA.
22. F.A. Mediansky, op. cit., p. 253.
23. T.B. Millar, *Australia in Peace and War – External Relations 1900-1977*, St Martin's Press, New York, 1978, p. 183.
24. G. Pemberton, op. cit., p. 70.
25. ibid., p. 87.
26. ibid., p. 105.
27. ibid., p. 106.
28. I. McNeill, *The Team – Australian Army Advisers in Vietnam 1962-1972*, Hippocrene Books, New York, 1984, p. 4. Eventually 990 all ranks would serve with the AATTV between 1962 and 1972, with members receiving numerous awards including four Victoria Crosses (1965, 1967, and 1969 (twice)). These were the only Victoria Crosses awarded to Australian servicemen during the Vietnam War.
29. G. Pemberton, op. cit., p. 162.
30. I. McNeill, op cit., p. 4.
31. ibid., pp. 507.
32. ibid., p. 5.
33. P. Edwards, op. cit., p. 24.
34. D. Horner, (ed), *Duty First – The Royal Australian Regiment in War and Peace*, Allen & Unwin, 1990, p. 178.
35. P. King, (ed), *Australia's Vietnam,* George Allen & Unwin, Sydney, 1983, p. 58 (Quoting: *Australia's Military Commitment to Vietnam, Paper tabled in accordance with the Prime Minister's statement to the House of Representatives, 13 May 1975, pp. 2-3)* p. 59.
36. G. Pemberton, op. cit., p. 187.
37   ibid., p. 223.
38. D. Horner, op. cit., p. 189.
39. ibid., p. 190.
40. ibid., p. 178.
41. C. Bridge & P. Lowe, (ed), op. cit., p. 192. Between 1965 and 1972, 761,854 men turned 20 years old and registered for conscription. Selection was by birthday. The dates were drawn out of a lottery barrel, and after medical and psychological examination, the Government chose 63,735 conscripts. Of these 19,450 went to Vietnam, where 1479 became casualties, of whom 200 died. A further 34,940 avoided the draft by joining the Citizens Military Forces (Reserves); 1012 men were accepted by the courts as conscientious objectors; and 12,000 failed to register for conscription. Overall, Australia's twenty-year-old men had a one-in-twelve chance of being called up.
42. D. Horner, op. cit., p. 179.
43. ibid.
44. ibid., p. 180.
45. ibid., p. 181.
46. P. Edwards, op. cit., p. 22.
47. F.A. Mediansky, op. cit., p. 57.
48. P. Edwards, op. cit., p. 28.
49. R. Breen, op. cit., p. 9, T.B. Millar, op. cit., p. 262, and P King, (ed), op. cit., p. 58.
50. J. Grey, Dr., *A Military History of Australia,* Cambridge University Press, Cambridge, 1990, p. 230.
51. R. Breen, op. cit., p. 11. The US 503rd Parachute Infantry regiment, which had been under operational control of the Australian 7th Division at Nadzab (Lae) in New Guinea in 1943, was a lineal ancestor of the US 173rd Airborne Brigade (Separate). A battalion of volunteers of the 7th Division were the lineal ancestors of 1st Battalion, The Royal Australian Regiment. Bien Hoa was to be the second airfield where the airborne battalions of the 173rd were to join Australian infantrymen on operations.
52. D. Horner, op. cit., p. 207.
53. ibid., p. 185.
54. L. McAulay, *The Battle of Coral,* Hutchinson Australia, Melbourne, 1988, p. 6.
55. T.B. Millar, op. cit., p. 216.
56. I. McNeill, *To Long Tan – The Australian Army and the Vietnam War 1950-1966,* Official History of Australia's Involvement in Southeast Asian Conflicts, Allen & Unwin, Sydney, 1993, p. 478.
57. C. Bridge & P. Lowe, (ed), op. cit., p. 186.
58. Doctrine Wing, CATDC, op. cit., p. C-3.
59. C. Bridge & P. Lowe, (ed), op. cit., p. 190.
60. ibid., p. 195.
61. The National Security Committee of Cabinet, *Defence 2000 – Our Future Defence Force,* Commonwealth of Australia, 2000, p. 46.

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The National Security Committee of Cabinet, Defence 2000 – Our Future Defence Force, Commonwealth of Australia, 2000.

Deterrence, Capacity and Skill Retention: Some thoughts on the acquisition or removal of platforms within the Australian Defence Force

By Lieutenant Tom Lewis, RAN

In the debate about whether the Australian Defence Force should acquire or dispense with certain major pieces of equipment, some thought might be given to considerations of why we should – or should not – have those items within our armoury. This article suggests there are three important aspects which should be considered when debating whether or not we need a weapons system. They are the deterrent effect of having those platforms for use in war; the peacetime capacities that those platforms have which we would be discarding by removing them, and the skills which those personnel who operate those platforms have which might be lost upon the platform's removal.

The article discusses historical examples of platform acquisition and removal, and also makes comment upon the capacities of modern weaponry within the ADF's armoury. It makes a proposal that we should examine platform acquisition within these guidelines in the future.

Submarine Acquisition and Removal – A Brief History

It is notable that the RAN acquired submarines in the early years of the Fleet, but then disposed of them – primarily for financial reasons, as will be seen.

During World War II the RAN did not operate submarines in an offensive capacity.[1] Yet submarines were deployed in this manner from Australia; American, British and Dutch submarines. The war in the Pacific was prosecuted most successfully by the undersea platform, with some commentators claiming the war against Japan was primarily won by the submarines' capacities to choke trade.

After the war a decision was made to acquire such weapons, and they have been within the ADF's armoury ever since. Interestingly the first platforms were acquired for anti-submarine training purposes.

During World War I the RAN had two submarines, the AE1 and the AE2, both of which were lost – the former went missing during a deployment around Rabaul, and the latter was scuttled after a successful offensive action in the Dardenelles. A decision was immediately made to acquire more submarines, and in 1919 the Royal Navy "gifted" six "J" class boats to the Australian Navy. These were modern, fast vessels, with a speed on the surface of 19.5 knots and a submerged speed of nine knots. However, refitting for further duty and the cost of maintaining them in a time of fleet reductions due to post-war manoeuvring saw the Navy scrap them in the mid 1920s. [2,3]

Even then the submarine option was not fully discarded. Two "O"-class boats – at a much smaller cost – were bought from Britain. But by 1931 they too were discarded; eventually returned to the RN due to a combination of funding shortfalls, limitations on submarine tonnage due to the *London Naval Treaty*, and the anti-submarine feelings of some RAN officers, particularly Rear Admiral G.F. Hyde.

What therefore was the result of this acquisition, then disposal, of submarines? First,

the RAN had acquired a deterrent factor by possessing submarines. Knowing of the RAN's submarine force, a potential enemy might well have been deterred from approaching Australia's coast. In reality, the loss of AE1 early in the war and the deployment of AE2 to the Middle East meant that deterrence factor effectively disappeared. However, the principle is established – that by having a platform, so too is the deterring threat of it also acquired.

The RAN acquired peacetime capacities by having these platforms. These included having the submarines to practise anti-submarine warfare upon them; the ability (only then being developed) of covert intelligence gathering, and the ability to develop surface vessels' abilities to best minimise or neutralise the dangers posed by submarine attack.

Furthermore, the RAN acquired a range of personnel skills along with the submarines. These were diverse, and included:

– the ability to maintain and service submarines;

– the ability to launch submarine weapons such as torpedoes;

– the ability to attack surface ships from underwater;

– the ability to hunt submarines from surface ships; and

– the ability to move covertly in a submarine and gather intelligence.

Despite this impressive list of abilities, at the beginning of WWII the RAN had no submarines at all. This had two important repercussions for the country's war effort: Australia could not operate against Japanese and German ships with this potent weapon, and additionally Australia's own forces could not practise anti-submarine warfare. Indeed, the Dutch submarine K9 was acquired during WWII for precisely the latter reason, although it never saw effective use, due to a variety of factors.

Deterrence

So, simply by possessing a platform type the ADF and Australia has deterrence. A potential aggressor knows that if conflict

HMA Submarine AE2   Photograph: Naval Historical Collection.

comes, then that platform is there to perform its range of functions. A case in point is the RAN's present submarine squadron. Knowing of their existence, a potential aggressor must take into account what those submarines can do in time of conflict. The submarines, from the Oberon platform to the Collins, are armed with Mk. 48 torpedoes and Sub-Harpoon, a subsonic cruise missile with a range of around 90 nautical miles. Each submarine therefore represents a formidable threat, with both close range and medium range precision weapons.

Given the covert nature of the undersea strike, any enemy must convoy merchant ships; maintain an active watch on board warships for the submarines' presence, and know that the submarine can strike with its torpedoes and cruise missiles a range of targets which must be guarded against such strikes.

It is important to realise the fact that the platforms have deterrence merely by their **presence** in the ADF's armoury. So long as the submarines are able to put to sea, and so long as they have demonstrated their lethality by publicised weapons practice, then the enemy must factor in their presence. A multiplier factor must also be taken into account. One submarine, given its calculated endurance and weapons range, can be a presence in a very large circle, and it would take a number of enemy platforms to guard against its presence. So one submarine does not demand one anti-submarine ship to cover it – it would demand a number of frigates to guard each convoy; a number of anti-submarine warfare (ASW) platforms and measures to guard each harbour. One submarine may indeed "tie up" quite a number of enemy ships.

Defence Minister Ian McLachlan said in his speech at the commissioning of the Collins-class submarine HMAS *Farncomb* in January 1998[4]:

We read and hear in the media, and it is often claimed, that there is no foreseeable threat to Australia. My view is, that if HMAS Farncomb *and her sister submarines are even partially responsible for maintaining that state of affairs for the next 30 years, the investment in their construction and the dedication in training and professionalism of the men and women who man and support our submarines will have been very worthwhile indeed.*

If, of course, that submarine is removed from the armoury, then all of its deterrence is lost.

Peacetime Capacities

The peacetime capacities platforms have are considerable. In scenarios short of war, some ships, aircraft and Army units can perform a range of functions unique unto themselves.

The modern submarine is suited to a wide range of intelligence gathering measures, and indeed this has often been a major submarine role in the past. The Imperial Japanese Navy, for example, gave submarines this role in their first Combined Fleet Tactical Instruction:

"1. Submarines, aided by naval aircraft, reconnoiter enemy bases or anchorages."[5] Submarines can loiter near foreign navies' exercises, and gather sensor information about platforms, so that they might be later listed and catalogued. They can measure performance capacities for those navies, so that a measure of their effectiveness can be gauged. All of these pieces of information could later be of vital importance in times of conflict. And of course, the knowledge of whether another nation indeed does have capacity can be a strong bargaining chip in future political discussions. If, for example, our Government knows that despite the presence of anti-ship cruise missiles in a hostile nation's armoury, it has never successfully deployed one in exercise, then our Government's bargaining position is made commensurately stronger.

A war platform in peacetime might also be said to have "presence". The submarine is not a great example of this, for by its nature it operates in a covert fashion. Nevertheless, it is easy enough to release information to show a

submarine or submarines are on station within an area. The knowledge that Australian submarines regularly patrol an area can limit another nation's potential aggression.

The appearance of a squadron of ships within another nation's harbour on a "flag-waving" visit can be a tangible reminder that Australia possesses warships and all of their fighting capacities. Such "showing the flag" roles advertise the presence of Australia and its will. How much do RAN visits to Pacific island nations contribute to stability there and also to Australia's image as a "friendly big brother"?

It is easy to see further examples in the ADF armoury. RAAF Hercules, for example, can:

– lift troops or civilians from point to point to avoid conflict; e.g. act as evacuation platforms;
– lift troops or civilians from point to point to begin or sustain conflict; e.g. act as peacemakers or peacekeepers, as in Timor;
– lift cargoes from point to point; and
– act as observation platforms.

Ships such as HMAS *Tobruk* can operate in the same role, although with the twin added benefits of being able to handle vastly more tonnage and also provide her own evacuation points – off helicopter landing fields or off beaches via landing craft.

The Skill Base

By keeping a platform in service the ADF retains the skills associated with maintaining and operating that platform. For example, the Orions have roles of long-range recon-naissance and patrol, and maritime strike.

To take a large, four-engined aircraft a long distance for many hours (the Orion can stay aloft for 23); search for submarines, and prosecute an attack against a target means a range of complex skills must be embarked. The pilots and flight engineer must be capable of flying for long periods and obtain the maximum cost benefit from the aircraft. This might mean navigating long distances; shutting down engines when the aircraft is

loitering; maintaining safe separation distances – no mean feat low down and close to an ocean; act in response to the warfare team searching for the submarine, and if necessary repeat the whole exercise time and again. Such skills are not normally learnt in theory by aircrew. They come from constant expert training in the real environment. As such, if they are not practised and maintained, eventually they are lost.

The RAN possesses, for example a mere six submarines. This is perhaps the bare minimum needed to maintain deterrence, capacities and the skill-base associated with operating this particular platform. In a time of conflict, this minimum capacity must be built upon at an immense rate if it is assumed the war will last. As an example, we can look at the numbers of submarines Germany had at the beginning of WWII – 57[6] – and compare that with the total numbers available built by the end of 1941 – 249.[7] By the end of the war she had built 1,162.[8] By having submarines in its peacetime armoury Australia possesses the range of skills which can, if necessary, be built upon in war.

Australia lost a great deal of expertise when it decided to move away from operating an aircraft carrier. With the demise of HMAS *Melbourne* in 1982, the Navy discarded a collection of capacities. These ranged from the maintenance and operation of an aircraft carrier by naval seamen, to the operation of both fixed-wing and rotary-wing aircraft from a moving platform. To land or take off from a platform high above the sea, which is moving up and down as much as five metres in the vertical plane, and rolling and yawing at the same time, is a skill not lightly learnt. Yet the political decision to scrap *Melbourne* was made largely on cost grounds: "All parties found the cost of carrier aviation daunting…"[9] How much consideration was made of the skills, which would also be scrapped with her?

It would certainly seem that the skill capacities an aircraft carrier gives to a navy were well known at the time the decision was

being made that *Melbourne* was to pay off and HMS *Invincible* was to be acquired from the Royal Navy. A ministerial statement declared:

> *The acquisition of a purpose designed ship provides a basis upon which to retain and further develop a core of skills which could be used in response to an emergency or a contingency; it provides both flexibility for response and a basis for expansion.* [10]

It is presumed that some of the skills went to the capacity to operate helicopters from the flight decks of Australia's FFGs and the ANZAC-class. However, many skills associated with the use of fixed-wing aircraft would have been lost. These included abilities such as bombing land and sea targets; strafing the same; acting as a forward reconnaissance, providing targeting information, acting as a Combat Air Patrol for a task force, and more. All were aspects of making war that could not be usefully passed across to the helicopter pilots, whose main role at the time was anti-submarine; transport and search and rescue. Ironically, the ability to attack shipping targets from the air is now being re-learnt by the RAN with the acquisition of the Kaman Super Seasprite and Penguin missiles.

The Future

Some comment has been made in the development of the current White Paper about sacrifices being made in the future. Does the mention of "surface combatants" linked to the word "only" mean thoughts are being entertained that perhaps submarine combatants will *not* be part of the ADF's Order of Battle?

> *...surface combatants will, in many circumstances, be the only practicable means which Australia possesses, or will possess, in the foreseeable future of deploying continuous combat power at all but the shortest distances from the mainland.... surface combatants are here to stay because they are integral to the effective operation of so many of our defensive and offensive capabilities, not least of which is our ability to deploy, support and protect land forces by sea.* [11]

Of course, the loss of a platform type need not be made by a firm decision. Sometimes a platform might quietly "softly and suddenly fade away" as Lewis Carroll put it – and some might see the recent disappearance of the two DDGs *Perth* and *Hobart* as being such a departure. The demise of these two ships leaves one DDG – *Brisbane* – in the role of anti-air and command facilities ship. This whittling down of the surface fleet seems to many to herald the loss of a certain type of weapons platform: without having made a conscious decision to do without such a type.

There are many dangers in paying off any type of weapons platform. One of the prime factors that precipitate such actions is the notion of a "silver bullet" which may act as a replacement – "...the idea that specialisation in a particular capability will allow the ADF to dispense with many other elements whose utility seems questionable", as Thomas Coveney put it in *Asia-Pacific Defence Reporter*. An example of this type of thinking seems to be the embracing of ideas such as Tomahawk acquisition. The acquisition of a long-range strategic missile, the argument runs, can therefore lead to other platforms being discarded: in this particular argument, perhaps leading to the demise of the long-range strategic bomber the ADF possesses – the F1-11.

However, what this article urges is that the disposal of a platform is not so simple a measure as it sounds. Disposal of anything currently in the ADF's armoury should take recognition that three main aspects of its presence need consideration: that of deterrence, capacities and skill base. To do otherwise may well lead Australia and its ADF into a decision that in the end could prove much more costly than first thought.

NOTES

1. The Dutch submarine K9 was operated by the RAN for anti-submarine training purposes, although it remained the property of the Dutch Government. In the end, K9 proved to be unusable, and she was later wrecked after parting her tow on the NSW coast, where she remains today.

2. The description is drawn from *Australian Submarines: a History.*

3. In fact the submarines went to a variety of ends. According to *Australian Submarines,* J3 was sunk in Port Phillip Bay as a pier in February 1923; J1, J2, J4 and J5 were stripped and then sunk as targets by Defence Department aircraft in May-June 1926, and J4 – after an accidental sinking alongside – was sunk outside Port Phillip Heads. J7 went to a different fate: for some years she provided power to Flinders Naval Depot, and eventually in 1930, was stripped and her hull sunk for use as a breakwater at the Sandringham Yacht Club Pier in Port Phillip Bay.

4. *The Australian,* 29 January 1998, p. 13.

5. Carl Boyd, and Akihiko Yoshida, 1995, *The Japanese Submarine Force and World War II,* London: Airlife, p. 193.

6. Donald Macintyre, 1961, *The Battle of the Atlantic*, London: Batsford, p. 29.

7. Bernard Brett, *History of World Seapower,* London: Deans, p. 206.

8. Chuck Lawless, 1991, *The Submarine Book,* New York: Thames and London, p. 76.

9. David Stevens, (Ed.) 1999, *Prospects for Maritime Aviation in the Twenty First Century,* Canberra: Maritime Studies Program, p. 11.

10. Anthony Wright, 1998. *Australian Carrier Decisions, Canberra: Maritime Studies Program,* p. 168.

11. *John Mason, 2000,* "The Navy and the White Paper: the Surface Combatant Problem", *Asia-Pacific Defence Reporter,* June/July 2000, pp. 21-22.

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The Applicability of Navigational Rights Under UNCLOS During Times of Armed Conflict

By Major B.A. Wood, RAA

Any measure of maritime interdiction or coercion comes into conflict with one of the most fundamental principles of the law of the sea – that is, the principle of the freedom of the high seas. Yet, even in its most expansive interpretation, the freedom of the high seas has never been an unfettered freedom.[1]

For centuries the ability of states and individuals to utilise the world's oceans has rested upon the principle of mare liberum*, as argued by the Danish academic Hugo Grotius in the 17th century.* Mare liberum*, the notion of the freedom of the high seas, has since become customary international law, with the key principle of this freedom being the right of navigation. Since the development of a widely accepted Law of the Sea, however, this freedom of the seas has been diminished by the growth of coastal states' rights, primarily through the entry into force of the United Nations Convention on the Law of the Sea (UNCLOS). Key amongst these rights is the ability to influence the nature and location of passage of the world's merchant and military navies. Integral to UNCLOS is the existence of a navigational regime that details the varying degrees of freedom of passage that can be exercised in certain maritime zones. This regime, however, was created in the context of peace,*[2] *and therefore its applicability during periods of armed conflict is uncertain.*

This article will analyse the navigational regime as detailed within UNCLOS, with an emphasis upon the respective rights of innocent and transit passage. Through examination of these aspects of the regime in the context of periods of warfare or armed conflict since the inception of UNCLOS, this article will seek to determine just how applicable these navigational rights are during times of war.

UNCLOS Navigational Regimes

With the adoption of UNCLOS came the formal recognition of maritime zones incorporating varying degrees of coastal state control over access to and exploitation of the inherent resources.[3] While Article 87 of UNCLOS reinforces the principle of *mare liberum* by stating that; "The high seas are open to all states, whether coastal or land-locked;"[4] the extent of true high seas has been significantly reduced through the creation of territorial seas, contiguous zones and exclusive economic zones (EEZ), and the existence of archipelagic states. Such maritime zones now occupy key straits and waterways, and therefore maritime powers are keen to retain a degree of freedom of navigation through these areas despite their enclosure within the territorial seas or EEZs of coastal states. As a result, a navigational regime incorporating the notion of innocent and transit passage was included within UNCLOS.

Innocent Passage

The rights to innocent passage by vessels in the territorial sea have been developed through a combination of both customary international law, judicial decisions and Conventions.[5]

First codified at the 1958 Convention on the Territorial Sea and Contiguous Zone (CTSCZ) the notion of innocent passage was established to allow the transit of both commercial and military shipping through waters that, because of UNCLOS, were now within the territorial sea of coastal states. This

transit was allowed as long as it was "innocent"; that being not prejudicial to the peace, good order or security of the respective coastal state. Actions of passing vessels that are considered "not innocent" include the launching and recovering of aircraft, the loading or unloading of illegal substances or people, and any fishing activity.[6]

With regard to warships, UNCLOS includes a small sub-section dealing with rules applicable to warships conducting innocent passage. The key specific ruling is the requirement for submarines to surface and show their flag whilst navigating through territorial seas,[7] however, as Rothwell concludes; "The basic proposition is that warships are entitled to enjoy the right of innocent passage through the territorial sea."[8]

Since the creation of UNCLOS, however, the instances of coastal states requiring prior notification or authorisation for this innocent passage of foreign warships, or even temporarily suspending the right of innocent passage, have been increasing. First debated at the 1930 Hague Conference, initial resolution was reached with the release of the statement:

> *As a general rule, a coastal state will not forbid the passage of foreign warships in its territorial sea and will not require a previous authorisation or notification...*[9]

Debate again continued at UNCLOS I and III Conferences but, as Brown reported:

> *The unencumbered passage of warships is clearly a very important aspect of innocent passage for many of the parties to the Convention and there would certainly be strong grounds for regarding a requirement of prior authorisation as an intolerable restraint. A requirement of prior notification ... is at least less open to objection, even though there must be few Defence Departments which would favour the idea of an obligation to inform foreign states in advance of the movement of their naval vessels.*[10]

Debate continues today as to the requirement for prior notification and/or authorisation, and much of it centres on nuclear powered and armed warships.[11] Successive Law of the Sea Conferences witnessed repetitive statements from nations such as Albania, Romania, Yemen, and China, who; "...reiterated that the Convention's provisions on innocent passage did not prejudice the right of the coastal state to require prior authorisation or notification for the passage of foreign warships through the territorial sea in accordance with its laws and regulations."[12] UNCLOS, however, is definite in stating that warships enjoy the right of innocent passage, and nowhere does it call for prior notification.

The notion of innocent passage as a facet of the navigational regime within UNCLOS has a number of significant limitations with respect to the unimpeded movement of military vessels. As already indicated, "normal" mode of transit cannot be used during innocent passage, and this has implications for both the movement of submarine forces and the conduct of military activities or exercises during passage. Moreover, UNCLOS empowers the coastal state to temporarily suspend the innocent passage of foreign shipping if it is essential to ensure its own security.[13] Such a broad ruling is open to misuse by coastal states, especially if passage by non-allied nuclear-powered naval fleets is imminent. The unreliability of innocent passage therefore drove the major maritime powers at UNCLOS to seek an alternate regime that would ensure the unimpeded passage of their fleets through key international straits and strategic maritime choke points. The result was the creation of the transit passage regime, applicable to straits used for international navigation, the third right of entry by foreign ships into a coastal state's territorial sea.

Transit Passage

Arising from the 1949 Corfu Channel Case, the International Court of Justice's (ICJ) judgement included the phrase; "Unless otherwise prescribed in an international convention, there is no right for a coastal state to prohibit such [innocent] passage through straits in time of peace."[14] This ruling, based upon international customary law, came to be represented within UNCLOS as the principle of transit passage. As UNCLOS clearly articulates, transit passage applies to straits that are used by international shipping between one area of EEZ or high seas and another, and therefore fewer restrictions are placed on transit passage. Significantly, for military vessels it also allows warships to pass in normal mode of continuous and expeditious transit.[15] For submarines, this enables submerged passage, and for surface vessels part of a carrier task force, this ruling has been interpreted to include normal close air patrol (CAP) activity and active use of radars. Most significantly, overflight is also permitted in the airspace above the international strait. In essence, the adoption of the transit passage regime as a navigational right allows the continuation of the high seas or an EEZ through what would otherwise be territorial seas, with the accompanying reassurance that bordering coastal states are not allowed to suspend transit passage.[16]

While vessels passing through an international strait are required to show due care toward the maritime environment and refrain from threatening force against bordering states' territorial sovereignty, there is still much conjecture over both where international straits commence and finish, and hence what activities are acceptable in their "approaches", as well as the nature of military activity able to be conducted within the international strait itself. While Article 58 enables all states to enjoy freedom of navigation and overflight in the EEZ, it is still a point of contention as to whether the freedom of navigation enjoyed by warships under the terms of Article 87 includes the freedom to conduct military exercises. Brown argues that military exercises are in fact well established "internationally lawful" uses of the sea, established under state practice and subsequent customary international law.[17] Indeed, UNCLOS contains no restrictions on the conduct of military exercises within the EEZ. Therefore, if agreement exists that manoeuvres or military exercises are acceptable to *mare liberum*, the logical question is whether such activity can be conducted during the transit passage of naval and Air Force vessels through an international strait? In the territorial sea such activity would be considered "not innocent" and therefore the coastal state would retain the right to deny passage, however, within an international strait this power is not as clearly defined. Moreover, does the onset of war or armed conflict either within the region or between states possessing respective naval fleets or interests change the situation at all?

Law of Neutrality

During the Third UN Conference on the Law of the Sea, it was universally held that the negotiations were not intended to touch on the law of war and neutrality at sea. It has been increasingly suggested, however, that the transit passage regime as laid down by the Convention…is nevertheless applicable to international straits under the jurisdiction of neutral states in times of war or armed conflict.[18]

The outlawry of war by the UN Charter and the (unrelated) international acceptance of peacetime navigational rights has created legal chaos. The relationship between UNCLOS and the law of naval warfare, and principally the law of neutrality at sea, remains unclear. For belligerent states involved in a conflict, passage of their naval, air and merchant fleets through international straits is of paramount importance, however, for nations bordering

these straits, but not embroiled in the conflict, maintaining their status of neutrality is of equal significance. As Mayama argues;

> *Under the traditional law of neutrality at sea, neutral coastal states have been required to allow passage of belligerent vessels through their international straits in times of war, so long as the passage of the vessels is innocent in nature...*[19]

This traditional law, however, is in conflict with the UNCLOS principle of transit passage, and in particular the innocent nature, or otherwise, of the passage being undertaken. It is also generally accepted that the traditional law of neutrality prohibits both the submerged passage of belligerent submarines and the overflight of belligerent military aircraft through neutral international straits. Because of this conflicting interpretation it has been suggested that the transit passage regime detailed within UNCLOS be applied to straits under the jurisdiction of neutral states during periods of conflict. Indeed, in 1987 the US Navy (USN) adopted such a position in its *Commander's Handbook on the Law of Naval Operations* (NWP9). The implications of such a shift, however, are extremely significant. As transit passage does not necessitate innocence of passage, belligerent forces, including submarines and air forces, could pass through international straits in "normal" mode with very limited security restrictions able to be enforced by neutral coastal states.

The combination of UN focus remaining toward a peaceful international environment, and the world's largest maritime power stating that "peaceful" navigational rights are applicable during times of conflict has resulted in state practice, principally that of the USA, reinforcing this notion of the wartime application of UNCLOS navigational rights. While the international community has remained focussed on preserving the neutrality of coastal states that allow the passage of belligerent states' vessels during times of war, (as first prescribed in 1907),[20] the major

maritime powers have sought change that will prevent neutral states from controlling or impeding the passage of naval vessels, regardless of their intention, through internationally recognised straits. In essence, while passage of belligerent states' vessels through territorial seas can still be prevented, a neutral state is no longer permitted to impede or control transit through an international strait.[21]

In the absence of a key agreement relating specifically to navigational rights during times of war or armed conflict, the adoption of the UNCLOS principles of innocent and transit passage for use during these times has been reinforced by instances of state practice since 1982. The 1980-88 Iran-Iraq war, which will be examined in further detail, illustrated what Mayama calls; "...a tendency toward the application of the transit passage regime to neutral international straits;"[22] however, this application was transitional in nature. Through examination of more recent periods of conflict a better understanding can be gained of both whether this transition of "peacetime" navigational rights under UNCLOS to times of armed conflict has occurred, and just how applicable such rights have been.

US Navy's Freedom of Navigation Program

Despite delays in ratifying UNCLOS,[23] the USA has long accepted the Convention's navigational principles as customary international law, and since 1979 has sought to use its position as a major naval power to protect these navigational rights and freedoms by exercising them where they are being openly challenged. While the Freedom of Navigation (FON) Program of the USA has as its goal, "to foster coastal and island nation compliance with UNCLOS," it is also designed to clearly demonstrate the non-acquiescence of the USA to maritime claims that are excessive or do not conform to the principles of UNCLOS.[24] The FON Program consists initially of informal and formal diplomatic assertions

and, if unsuccessful, an operational assertion of navigational rights, principally innocent passage through territorial seas and transit passage through internationally recognised straits that coastal states may claim as territorial sea. The program is claimed to be non-discriminatory in targeting all claims with respect to navigational rights that do not conform to UNCLOS, however, several states are continually targeted. China, North Korea, and Libya all maintain excessive claims, including "maritime exclusion zones" within territorial sea limits, and are favoured targets for operational assertions. This often consists of the USN exercising their right of innocent passage through respective territorial seas. The most infamous incident involving this FON Program was the Black Sea "Bumping" Incident of 1988.

Although not during a time of open hostilities, the Black Sea "Bumping" incident occurred during a tense period of the USA-USSR "inspired" Cold War. In February 1988, two USN warships, the USS *Caron* and USS *Yorktown*, were ordered to exercise the FON Program by altering their courses so as to enter Soviet territorial waters off the south-western tip of the Crimean Peninsula. Upon entering the 12Nm territorial water limit claimed by the USSR under its 1983 Soviet Navigation Rules domestic legislation, both ships were shadowed by two Soviet warships. After manoeuvring to within 50m of the USN vessels and issuing verbal warnings about entering Soviet waters, both Soviet vessels "bumped" into their USN counterparts as they continued on their pre-determined course. Little physical damage resulted from this incident, and the USN vessels remained "escorted" until they departed Soviet waters, but both governments exchanged a series of diplomatic protests over the Black Sea "Bumping" Incident.[25] These protests included Soviet claims of the right to require prior notification and authorisation for the planned innocent passage of foreign warships through its territorial waters, and that

this passage of the USN warships had not been innocent because it deviated from the most direct and expeditious route through the Black Sea. The USA countered by re-emphasising the purpose of its FON Program, but on 23rd September 1989 both states reached a degree of resolution over the right of innocent passage of warships by signing the Uniform Interpretation of Rules of International Law Governing Innocent Passage. This agreement was designed to diffuse any lingering tension between the states, but the most surprising aspect of the agreement was that, as Grunawalt states;

> *... both parties ... looked to UNCLOS to find the applicable rules of international law governing innocent passage. And they did so even though neither had ratified that Convention [at the time].*[26]

Although this incident did not occur during a period of armed conflict it did serve to reinforce both the regard with which the world's major maritime powers held the navigational rights as detailed in UNCLOS, and the acceptability of those rights during times of escalated tension, and potentially armed conflict.

1982 Falkland Islands War

> *...the British reliance on exclusion zones demonstrated that exclusion zones, while not widely accepted under international law, provide a realistic and workable solution to some of the dangers inherent in conducting opposed naval operations...*[27]

Maritime exclusion zones are not authorised under UNCLOS, and indeed are actively tested by the USA's FON Program. Both UNCLOS and the USA FON Program, however, have been established to operate primarily during periods of peace, with the latter reinforcing the freedom of navigation principles established by the former Convention. During periods of armed conflict between two belligerent states, the situation changes somewhat. On the 7th April 1982,

following the Argentinean invasion of the Falkland Islands, the British Government declared a Maritime Exclusion Zone (MEZ) centred upon these islands. Any Argentinean warship or auxiliaries found within this 200Nm MEZ were to be treated as hostile, and therefore open to attack from Royal Navy (RN) ships. This MEZ made no mention of Argentinean aircraft, or of ships or aircraft from third (or neutral) states. As such, it was essentially limited in its purpose; that being to force a political backdown by the Argentinean Government, and the subsequent withdrawal of its forces. Upon Argentina's refusal to withdrawal, the United Kingdom (UK) proclaimed the MEZ to be a Total Exclusion Zone (TEZ), thereby prohibiting all ships and aircraft, civil or military, from entering the area. Due to the isolation of this conflict, and the distance from any international straits, this TEZ declaration presumed that any third state's shipping or aircraft in the area could only be there to support the Argentinean war effort.

While the declaration of a TEZ may seem anathema to the concept of *mare liberum* and of the navigational rights as detailed within UNCLOS, both the MEZ and TEZ locations were clearly articulated in Notices to Shipping. Moreover, as Gilliland states; "Ships and aircraft from other nations could enter the total exclusion zone by obtaining prior permission."[28] In this way, the creation of a TEZ facilitated the innocent passage of international shipping by limiting the extent of hostile naval operations, thereby significantly reducing the likelihood of an accidental attack by belligerent forces. Upon conclusion of the war the TEZ was replaced by a 150Nm Falkland Islands Protection Zone, into which Argentinean vessels were asked not to enter without prior British Government permission. This zone was lifted in 1990 following agreement being reached on a new security system that requires both nations to inform the other of future air or naval exercises in vicinity of the Falkland Islands.[29]

While UNCLOS makes no allowance for the creation of exclusion zones such as those used in the Falkland Islands War of 1982, these zones were generally accepted by the international community.[30] Part of the reason for this general acceptance was the fact that the declaration of such zones did not impact upon the principle of freedom of navigation, later expressed within the innocent passage regime of UNCLOS, and because as Churchill and Lowe correctly state;

> *... the United Kingdom conducted the whole of the 1982 naval conflict over the Falkland Islands...on the basis of its rights of self-defence.*[31]

Under Article 51 of the UN Charter, the UK conducted military operations in order to resolve an issue of disputed territorial sovereignty, and military planners believed that the most expedient method of resolving this dispute included the use of properly regulated exclusion zones within which to conduct naval operations. Unlike the maritime exclusion zones targeted by the USA in its FON Program that both impede innocent passage of military and merchant shipping, and are permanent in nature, the Falkland Islands exclusion zones upheld the notion of *mare liberum* by clearly specifying their location and remaining only for the period of the armed conflict. Overarching all of this was the fact that they were declared as part of the UK's response under UN Charter Article 51 to an invasion of its sovereign territory. For these reasons this use of limited maritime exclusion zones found favour within the international community. It can therefore be argued that, as long as the establishment of such exclusion zones is limited to naval operations of a particular conflict, and follows certain rules, including, as suggested by Gilliland, that; "Exclusion zones should not be declared in international straits, archipelagic sea lanes, or other heavily trafficked areas;"[32] then widespread acceptance of the concept will remain.

1984–1988 Iran-Iraq "Tanker" War

Under the traditional laws of naval warfare and law of neutrality, belligerent states have the right to conduct operations against neutral shipping as a means of limiting the economic trade of enemy states. As stated by Astley and Schmitt;

> ...*belligerent warships in the exercise of their right of visit and search may board neutral merchant vessels outside neutral waters and inspect their cargo.*[33]

In attempts to wage economic warfare within the context of the military conflict that was the 1980-88 Iran-Iraq War, both belligerent states moved beyond "visit and search" operations. From 1984 Iraq began targeting oil tankers within its exclusion zone in the vicinity of the Kharg Island oil terminal, and any tankers within Iran's self-declared exclusion zone running along its entire Persian Gulf coastline. Iran, in response, began the indiscriminate targeting of all shipping proceeding to and from Gulf ports, even while within Kuwait's territorial sea.[34] In 1987 as many as 174 ships were targeted for attack by both sides within the Persian Gulf, the Strait of Hormuz, and Gulf of Oman.[35] The consequences of both Iranian and Iraqi actions during the so-called "Tanker War" of 1984-88; principally the establishment of exclusion zones within one of the busiest waterways in the world, and then attacking all shipping within these areas, impinged upon navigational rights under UNCLOS. The response of the world's major maritime powers was multi-faceted, but essentially was intended to uphold the applicability of both innocent and transit passage regimes, in conjunction with the inherent right of self-defence as afforded by the UN Charter.

The US-led multinational armada was deemed to be neutral in this war, and had the mission of ensuring collective defence of neutral shipping in order to secure the free and uninterrupted flow of oil from the Gulf States. In response to Iran's legal right to conduct "visit and search" operations, the US Government chose to convoy its ships, including 11 re-flagged Kuwaiti oil tankers, within the Strait of Hormuz and the Persian Gulf. The USN certified that the ships that it was escorting were contraband-free, thereby impeding Iranian attempts to stop and inspect these vessels. The USA also argued that its manoeuvres and military "exercises" within the Persian Gulf were legitimate under the terms of transit passage, while Iran in particular disputed such actions as both threatening to its territorial sovereignty and illegal because they were occurring within its self-declared exclusion zone. After enduring both missile attacks and significant damage to its warships from floating mines within an international strait, the USN moved beyond its mission of escorting neutral convoys in accordance with the transit passage regime.[36] Subsequent attacks on Iranian boats and mine-layers, and the destruction of a military ocean platform that was suspected of launching missiles at USN ships and aircraft went beyond reinforcement of the navigational regimes of UNCLOS, however, these actions were justified to the international community as acts of self-defence under the UN Charter.

As mentioned previously, the application of navigational regimes under UNCLOS during the "Tanker War" of 1984-88 was transitional in nature. International action came as a result of the combination of reinforcement of the laws of neutrality and the principle of transit passage, and the right of self-defence as stipulated by the UN. In essence, the navigational rights upheld by the transit passage regime allowed the international community to intervene in naval operations being conducted in the Iran-Iraq War. The actions that followed, however, were extensively the realm of collective self-defence under the terms of the UN Charter, and therefore beyond UNCLOS.

1990–1991 Persian Gulf War

The international community sought, under Chapter VII of the UN Charter, to coerce one of its members to accede to its will by establishing a total and complete economic embargo through the use of a maritime interdiction.[37]

The actions of various navies in conducting maritime interception operations (MIO) within the context of the Persian Gulf War, both as a part of the right of individual and collective self-defence prior to formal UN Security Council (UNSC) authorisation, and subsequently under the authority of UNSC Resolution 665 of 25th August 1990, have been given a number of different labels. Despite differing interpretations, as Robertson correctly argues, the characteristics of the MIO against Iraq conducted during this war did not involve the seizure or capture of vessels attempting to penetrate the interception zone. Pending inspection of documents and cargo holds for prohibited goods, vessels were allowed to proceed to transhipment ports such as Aqaba. Vessels carrying prohibited cargo were diverted to ports other than in Iraq.[38] Because the passage of shipping was not prevented, the naval operations were not consistent with a traditional blockade, but rather an MIO. As detailed by Zeigler;

MIOs are a legitimate form of mare clausum*, and have roots in blockade and visit and search. However, blockade and visit and search are distant ancestors in that they are belligerent rights while MIOs are not....MIOs are closer to the concepts of pacific blockade and quarantine, as they are designed to resolve disputes peacefully, but allow limited and controlled force to be used...*[39]

For this reason, MIOs are a widely accepted form of naval operation during times of armed conflict because they do not seek to escalate the situation and only control the passage of international shipping, rather than impede it. As such, US action to commence MIO in areas of the Persian Gulf including the Strait of Hormuz, Straits of Tiran and other choke points, and in the vicinity of key ports and oil pipeline terminals prior to receiving formal UNSC authorisation were widely supported as they reinforced the war effort without significantly impeding the right of innocent passage for shipping through the Gulf.[40] Moreover, these actions were also consistent with state practice during other post-WWII conflicts involving naval operations.

As with the situation in the same region between 1984 and 1988; "...the United States and other significant powers operate[d] navies around the world, and certainly near the historic global flashpoints, such as the Persian Gulf."[41] This ability of maritime powers such as the USA and UK to have naval forces deployed to such flashpoints as the Persian Gulf region lies within the navigational principles contained in UNCLOS. The authority for these forces to conduct military exercises also lies within the transit passage regime, however, the authority for naval powers such as the USA to protect shipping within an international strait, or enforce the economic goals of a larger military campaign is derived from either the inherent right of individual and collective self-defence contained within the UN Charter, principally Article 51, or a specific UNSC Resolution. As evidenced by recent conflicts, the UNCLOS principles of innocent and transit passage are applicable during times of war, but will always be overcome by states' rights of self-defence and subsequent UNSC authorisation to utilise; "...such action by air, sea or land forces as may be necessary to maintain or restore international peace and security."[42] This delineation will not change because UNCLOS and its navigational rights were developed for a time of peace. The fact that naval operations during the 1990-91 Persian Gulf War, the most intense period of conventional armed conflict since the drafting of UNCLOS, incorporated maintenance of the principles of innocent and transit passage

when Article 42 in fact allows for a complete naval blockade, indicates the significance of these navigational rights to the international community during both times of peace and armed conflict.

Conclusion

The law of the sea has continually evolved throughout the twentieth century and in the last 50 years has reflected a combination of State practice and conventional law. While UNCLOS is therefore the basis for an understanding of the law of the sea regarding innocent [and transit] passage, there is also a need to reflect upon state practice to gain a complete understanding...[43]

This statement is particularly pertinent to understanding the applicability of UNCLOS' navigational rights during periods of armed conflict. Since 1982, the major maritime powers have taken it upon themselves to apply the navigational principles of UNCLOS when required in response to an outbreak of armed hostilities. The USA has also stated categorically that the principles of innocent and transit passage apply equally to times of war, thereby attempting to eliminate any confusion over rights and obligations that may have stemmed from the previous traditional law of neutrality. Even when state practice has included the creation of a maritime exclusion zone, not specifically authorised under UNCLOS, the application of such zones has often been conducted with a view to limiting the impediment to the freedom of navigation inherent within the transit and innocent passage regimes.

Despite protests from nations bordering international straits or key strategic maritime choke points, the actions of the major maritime powers in utilising the navigational rights afforded to them by UNCLOS to pre-position active naval fleets in international straits have gained widespread approval from the international community. The subsequent actions of these naval fleets within the context of the particular military operation remains outside the scope of UNCLOS, and has usually been justified by reference to the UN Charter or UNSC Resolutions sanctioning the use of such force. The fact that this recent use of naval force has been conducted with a view to limiting the effect on maritime navigation is testament to both the world's contemporary reliance upon seaborne trade and the recognition of the applicability of the navigational rights as detailed in UNCLOS during times of war.

The truly successful application of UNCLOS navigational rights to times of armed conflict has indeed come through state practice. As such, these principles have withstood the test of battle, and while sometimes modified through varying state interpretation, their intent has been firmly established as the basis for conducting contemporary naval operations.

NOTES

1. H. R. Robertson JR, "Interdiction of Iraqi Maritime Commerce in the 1990-1991 Persian Gulf Conflict" in J. L. Jacobson (ed.) *Ocean Development and International Law,* Volume 22, 1991, p. 289.
2. *Charter of the United Nations and Statute of the International Court of Justice,* Department of Public Information (DPI), United Nations, New York, Article 1. The UN Charter, and subsequently UNCLOS, were created with a view to maintaining a world free from war.
3. *United Nations Convention on the Law of the Sea,* Division for Ocean Affairs and the Law of the Sea (DOALOS), Office of Legal Affairs, United Nations, New York, December 1982, Parts 2 to 7.
4. ibid, Article 87.
5. D. R. Rothwell, "Innocent Passage in the Territorial Sea: The UNCLOS Regime and Asia Pacific State Practice" in D. R. Rothwell & S. Bateman (eds.) *Navigational Rights and Freedoms and the New Law of the Sea,* Martinus Nijhoff Publishers, The Hague, 2000, p. 74.
6. *United Nations Convention on the Law of the Sea,* Article 19.
7. ibid, Article 20.
8. Rothwell, "Innocent Passage in the Territorial Sea", p. 77.

9. 1930 Hague Conference, Article 12, in F. T. Ngantcha, *The Right of Innocent Passage and the Evolution of the International Law of the Sea, The Current Regime of "Free" Navigation in Coastal Waters of Third States,* Pinter Publishers, London, 1990, p. 125.

10. E. D. Brown, *The International Law of the Sea, Volume 1*, Introductory Manual, Dartmouth Publishing Company Ltd., Aldershot, UK, 1994, p. 66.

11. See ibid, p. 68, for a detailed account of the Albanian and Iranian position regarding prior notification.

12. Chinese Delegation in Brown, *The International Law of the Sea*, pp. 68-69.

13. *United Nations Convention on the Law of the Sea,* Article 25(3).

14. Brown, *The International Law of the Sea,* p. 78.

15. *United Nations Convention on the Law of the Sea,* Articles 37 and 39.

16. ibid, Article 44.

17. Brown, *The International Law of the Sea*, p. 241.

18. A. Mayama, "The Influence of the Straits Transit Regime on the Law of Neutrality at Sea" in J. L. Jacobson (ed.) *Ocean Development and International Law,* Volume 26, No. 1, January-March 1995, Abstract, p. 1.

19. ibid, p. 1.

20. 1907 Hague Convention, Article 10.

21. J. Astley & M. N. Schmitt, "The Law of the Sea and Naval Operations" in *The Air Force Law Review*, Air Force Judge Advocate General School, 1997, p. 11.

22. Mayama, "The Influence of the Straits Transit Regime on the Law of Neutrality at Sea", p. 14.

23. The USA declined to initially ratify UNCLOS because of the articles pertaining to Deep Seabed Mining. The remainder of the Convention has been accepted, and pending US Congressional approval of a separate Deep Seabed Mining Annex (Annex IV) within UNCLOS, the USA will ratify the entire convention.

24. R. J. Grunawalt, "Freedom of Navigation in the Post-Cold War Era" in D. R. Rothwell & S. Bateman (eds.) *Navigational Rights and Freedoms and the New Law of the Sea,* Martinus Nijhoff Publishers, The Hague, 2000, p. 15.

25. For greater detail of the respective USA and USSR diplomatic protests over the Black Sea "Bumping" Incident see J. W. Rolph, "Freedom of Navigation and the Black Sea Bumping Incident: How 'Innocent' Must Innocent Passage Be?" in *Military Law Review,* Winter, 1992, p. 4.

26. Grunawalt, "Freedom of Navigation in the Post-Cold War Era", p. 19.

27. J. Gilliland, "Submarines and Targets: Suggestions for New Codified Rules of Submarine Warfare" in 1985 *Georgetown Law Journal,* Georgetown University Law Centre, February 1985, p. 2.

28. ibid, p. 11.

29. G. Knight & H. Chiu, *The International Law of the Sea: Cases, Documents, and Readings,* Elsevier Science Publishers Ltd., London, 1991, p. 806.

30. R. R. Churchill & A. V. Lowe, *The Law of the Sea,* Manchester University Press, Manchester, 1999, p. 425.

31. ibid, p. 424.

32. Gilliland, "Submarines and Targets: Suggestions for New Codified Rules of Submarine Warfare", p. 15.

33. Astley and Schmitt, "The Law of the Sea and Naval Operations", p. 12.

34. Robertson, "Interdiction of Iraqi Maritime Commerce in the 1990-1991 Persian Gulf Conflict", p. 293.

35. Knight & Chiu, The International Law of the Sea: Cases, Documents, and Readings, p. 807.

36. ibid.

37. R. E. Morabito, "Maritime Interdiction: Evolution of a Strategy" in J. L. Jacobson (ed.) *Ocean Development and International Law,* Volume 22, 1991, p. 306.

38. Robertson, "Interdiction of Iraqi Maritime Commerce in the 1990-1991 Persian Gulf Conflict", p. 296.

39. R. Zeigler, "Ubi Sumus? Quo Vadimus?: Charting The Course of Maritime Interception Operations" in *USN Naval Law Review,* 1996, p. 9.

40. As at 17th August 1990, the UNSC had passed Resolution 661, calling for an embargo on the import of all commodities and products originating in Iraq and Kuwait for the purpose of export. Based upon the wording of Resolution 661, Kuwait's request for international assistance, and the collective right of self-defence contained within the UN Charter, the USN commenced MIO.

41. Zeigler, "Ubi Sumus? Quo Vadimus?", p. 3.

42. *Charter of the United Nations,* Article 42.

43. Rothwell, "Innocent Passage in the Territorial Sea", p. 93.

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Mens est Clavis Victorai
(The Mind is the Key to Victory)

By Lieutenant Colonel Philip R. Swinsburg

The Australian Defence Force (ADF) is presently facing a period of high tempo. Local security in Australia continues to remain higher due to the September 11 terrorist attack in the United States. The Australian Government has committed personnel to the "war on terrorism", against the backdrop of ongoing commitments to curtail illegal boat arrivals, the United Nation mission in East Timor, the Peace Monitoring Group in Bougainville, and an uncertain situation in the Solomon Islands. There is also continued unrest throughout the Indonesian Archipelago. The emergence of threats along non-traditional lines and an increase in intra-state instead of inter-state conflict presents the Australian Government with an unpredictable future for the employment of the Australian military.

The ability to predict the nature of future warfare is difficult but necessary for national survival. It is a process that must be conducted to the best of our ability. History describes how many countries have tried to predict the nature and location of future warfare. History also describes that almost all countries get this process wrong. The challenge for the ADF is not to make better guesses about the future, but to be more flexible and versatile in our planning of the future force, so that when the time comes, we can tailor the most correct response.

Recognising that the ability to predict the nature of future warfare is difficult and is likely to only produce a 70 *per cent* solution is critical to understanding the need to adjust the conduct of operations in the future.[1] This adjustment is undertaken to make up for the changes in the nature of warfare that was unable to be predicted. The ability to recognise the difference between the predicted nature of warfare, the current force capabilities and the actual nature of warfare required, and then change to meet the new conditions faster than the adversary, is critical for future success. This is the hallmark of an adaptable, versatile and intelligent force.

Technology is often looked upon as being an insurance policy at getting a result better than 70 *per cent*. Technology will be unable to solve all problems likely to appear in the future. Again history has many examples of where technologically superior forces have been defeated by less technologically capable forces. The perception that technology has the solution to our future problems is contrary to historical reality.

This article will highlight, through the use of historical examples, that future success lies within the human and not the technological dimension. The human dimension provides the ability to recognise the need for change. This ability to recognise the need for and the style of change will determine success. The mind is therefore the key to victory. The rigorous training of the mind through the study of history, military theory and the conduct of practical applications, trains the mind to be able to recognise the need for change. The mind is able to interpret information, gain knowledge and evolve into understanding, against the backdrop of history and theory. It is only within the human dimension that change can be either enacted or rejected, with technology merely being a companion.

France 1940

The French Army pre-World War II, was a technologically superior and better trained

force than that of the German Army. Due to the massive expansion of the Germany Army from 1933, only 38 *per cent* of soldiers were properly trained.[2] Non-Motorised units still relied upon horses for logistics and troop movement. In September 1940, only 5-6 *per cent* of German units were equipped with modern equipment, and only 14 of the 103 divisions were fully motorised.[3] The German Army's initial victories lay not so much within itself, but in the weakness of its enemies.[4] The Germans speedy victories against a technologically superior French force was because the Germans operated differently to what the French had expected.

The fundamental difference between the French and the German Armies did not lie in the equipment used, but in the way they were used and developed. At the core of the German Army lay the doctrinal concept of decisive manoeuvre. These concepts were informed by previous military planners and theorists such as Frederick the Great, Carl von Clausewitz, Gerhard Scharnhorst, Helmut von Moltke and Alfred von Schlieffen. The German lessons from World War I emphasised the need for the German military to have greater mobility.

The development of the tank and the radio allowed units to operate independently. Lorry trucks allowed logistics to support the mechanised forces, enhancing their mobility. An emphasis on mission command orders (*Auftragstaktik*) was enforced allowing commanders to better overcome the added friction caused by the increased pace of operations. Supporting arms were integrated into individual units, and where possible were made mobile.

In contrast the French maintained an emphasis on static warfare. The French predicted a future war with Germany would be fought similar to the last with static trench warfare and massed infantry assaults. The French had formulated a doctrine, organised and equipped units for the wrong type of war. The French had built an Army they thought could win decisively in a World-War I-type struggle.[5] Hence, the development of modern tanks and artillery were not employed as mobile units but relatively static infantry support weapons. French artillery was only used to fire in support of massed infantry assault. The French maintained a small standing Army with the desire for large-scale mobilisation once war was declared, denying the ability for technical training and reinforcing the massed infantry assault concept. With the French Maginot Line holding the southern French border against German penetration, the French intended to advance through Belgium, joining battle with the Germans in a meeting engagement similar to 1914. The attack by the Germans through the Ardennes Forest, precisely at the point where the French were weakest, psychologically paralysed the French High Command.

The German Army used the inter-war period as a time of renewal. General Hans von Seekt was in charge of the re-organisation of the German Army from 1920-1926. Von Seekt is credited with starting the German Army on the road to modern day motorisation. On September 1, 1921, Von Seekt issued Army Regulation 487 *Leadership and Battle with Combined Arms*.[6] This document described Von Seekt concept for combined arms that were heavily influenced by teachings from Helmuth von Moltke and Alfred von Schlieffen, emphasising mobility and flank attacks. Von Seekt insisted that tanks be represented "in war games and maneuvers as often as possible" so that troops could learn to cooperate with them in attacks and practice anti-tank defence.[7] Von Seekt's Army Regulation allowed new concepts to be explored, and develop ways of fighting within an environment of rapid decision making. The German Army's emphasis on continual improvement after the defeat in World War I encouraged experimentation and the acceptance of change as well as the acceptance of failure.

Technology was not the critical determinate of the defeat of France in 1940. France maintained technologically and numerically superior tanks and artillery to Germany. France, however, forgot that "war is not waged against an abstract adversary, but against a real one who must always be kept in mind."[8] Germany was influenced by history, while the French were blind to it. Germany's command climate accepted the need for change and provided the means for junior commanders to provide new ideas and challenge existing ideas through the means of wargames and applying technology. Analysis by the French should have provided the realisation that Germany was unable to sustain a two front war. Hence, Germany's need for speed and mobility to resolve a conflict on either front. France's adoption of static defences, its reliance upon slow mobilisation plans, and the conduct of a counter-attack, did not strike at countering the adversary's strategy of mobility and speed. France did not use its relative advantage in technology to complement the nature of warfare that existed.

France's ability to accurately predict the nature of future warfare was hampered by an over-reliance on centralised command and little acceptance of new ideas and tactical innovation. The invasion of Poland provided an example of Germany's style of warfare. France had adopted a deliberate strategy based upon their anticipation of the continuation of a similar style of warfare from 1918. Both Germany and France looked back at World War I. In the technology of the second stage of the industrial revolution, France saw a means of perfecting the past; but Germany saw a means of leaping beyond it.[9] The inability to recognise the changed nature of warfare resulted in France's 1940 defeat. The challenge for organisations today is to identify the need for change without having to suffer a military defeat.

Another example of the changing nature of warfare is the conflict in South Vietnam between the United States-led coalition, including Australia, against North Vietnam and communism. The Vietnam conflict provides an example of where another technologically superior force, limited by political objectives, was unable to change to the nature of warfare which existed.

Vietnam

The strategy in the Vietnam War adopted by Ho Chi Minh evolved over time and after a careful study of the way the US military and coalition partners were fighting the war in Vietnam. It relied heavily upon concepts of protraction developed by Mao Tse Tung, using both time and space as weapons against the adversary.

The strategy of a protracted operation allows time to be used as a trade-off for superior adversary size and strength. It creates in the adversary's mind a sense of endlessness, reducing the hope of victory. This in turn generates a secondary psychological effect. The fact of protracted conflict rather than the issue of war itself, becomes the chief destructive force at work. This erodes values such as loyalty, integrity and honour, without which a society or a military force cannot exist. External to the country, protracted conflict obscures the world's understanding of what is actually occurring and makes for easy manipulation of external perception, especially through the media.

The US national strategy to combat communism in Vietnam was one of containment, with the aim of preventing nuclear escalation or Chinese intervention. The military strategy adopted by the US was one of counter-insurgency operations complemented by training and material assistance to the South Vietnamese military and political support to the Diem Government. However, in early 1964, the North Vietnamese started to send regular forces into South Vietnam changing the nature of warfare.[10] This change provided a tangible link to a state-based actor

attempting to conduct a strategic offensive to take over another country.[11] These North Vietnamese regular forces were involved in the conflict with the US 1st Cavalry Division in the Ia Drang Valley in November 1965. Instead of being viewed as a demonstration of the nature of warfare that had to be fought, this battle was viewed as an anomaly to the broader strategy of counter-insurgency.

The US military strategy of counter-insurgency focused upon the symptom of the war and not the cause. The US was restricted to the degree of military activity undertaken due to political constraints, yet never adopted a military strategy able to solve the strategic problem. The counter-insurgency operations waged by the US and her coalition partners were tactical in nature with no ability to be linked to strategic success.

Time and space became the weapons used by North Vietnam, rather than the goals.[12] In order for the US to realise the outcome of their strategy they needed to redefine fundamentally what the adversary was attempting to achieve. The North Vietnamese adopted a paradoxical strategy, whereby in order to win they simply had to avoid defeat. The US on the other hand, had to win decisively in order to claim victory and therefore conduct operations over a short time period. But the US maintained a conventional approach to the conduct of operations, defining military success in attrition of an adversary's military force, not through the attainment of operational or strategic objectives.

The Vietnam War was also characterised by technological over-match by the US. Yet the superior technology and the reliance upon it did not ensure victory. The North Vietnamese study of the US and coalition partners vulnerabilities, resulted in the North Vietnamese adopting a strategy to attack those vulnerabilities. Intangible concepts such as time and space were used as an asymmetrical weapon against a military that defined success through attrition. The US and Allies military mind, having trained

and equipped for a conventional conflict in East Europe, was unable to adapt to the new nature of warfare.

The Vietnam War highlighted a significant shift in the nature of warfare, from largely conventional to unconventional and guerilla operations. The outcome was a failure in strategic military doctrine. Specifically, it was a failure due to the military's inability to focus on political objectives to be achieved, in this case, the containment of North Vietnam and not counter-insurgency.[13]

Adaptability of Adversary Continues

Subsequent conflicts continue to reinforce the paradigm that the nature of warfare is continually changing and every conflict is different from the past. The changes to warfare continue to reinforce Clausewitz's notion that warfare is not waged against a lifeless entity, but a living, breathing and adaptable opponent.

The Kosovo Conflict provides another example of an adaptable adversary. Far from reinforcing the advantages of superior technology and air supremacy, the Kosovo Conflict highlighted the problem with a one-dimensional approach to warfare. The Serbian reaction to the US airpower display resulted in a reaction very similar to that of the North Vietnamese during the Vietnam War. Serbian forces dispersed their equipment, improved camouflage and used complex terrain and deception to counter US air supremacy. Slobodan Milosovic and the Serbian military were prepared to endure the threat of firepower alone at the expense of protracting the conflict. The Serbian dispersion however, made them more vulnerable to the ground forces of the Kosovar Liberation Army (KLA) ultimately causing them to reposition, thus making them more vulnerable to air attack. This combined with the ground threat from Task Force HAWK in Macedonia and Albania, and the bombing of Belgrade, ensured the capitulation of the Serbian forces. This process took 78 days, much longer than the few days originally expected.

General Wesley Clark, NATO Supreme Allied Commander in Europe, commented that "it was neither the conflict we had prepared for nor the war we wanted to fight... we had to learn a new kind of war, while we were fighting it."[14]

In 1999 two Chinese Air Force Colonels, Qiao Liang and Wang Xiangsui, published *Unrestricted Warfare*, a treatise for developing countries to compensate for their military inferiority during a high tech war against the United States. They state that:

> *war itself has now been changed...A war (1991 Gulf War) which changed the world ultimately changed war itself...what we are referring to are not changes in the instruments of war, the technology of war, the modes of war, or the forms of war. What we are referring to is the function of warfare...The only point which is certain is that, from this point on, war will no longer be what it was originally...It is impossible for us to deny the impact on human society and its soul of the new motivations represented by economic freedom, the concept of human rights, and the awareness of environmental protection, but it is certain that the metamorphosis of warfare will have a more complex backdrop.* [15]

Liang and Xiangsui describe warfare in the future as being determined by the "unrestricted" nature of warfare. They believe the concept of warfare is no longer limited to the Clauzewitzian maxim of "using armed force to compel the enemy to submit to one's will", but rather "using all means, including armed force or non-armed force, military and non-military, lethal and non-lethal means to compel the enemy to accept one's interests."[16] Liang and Xiangsui state that future warfare will see a reduction in (state based) military violence, but an increase in political, economic and technological violence."[17]

The treatise described by Liang and Xiangsui is an example of how in order to overcome technological disparity, less technologically capable countries are beginning to describe future warfare and how it may need to be fought. The ADF needs to be able to adapt to this new concept should it appear. Both Mao Tse Tung and his concept of *Protracted War*, as well as Liang and Xiangsui *Unrestricted Warfare* are examples of alternative approaches to warfare being proposed and/or adopted.

Complex Adaptive Organisation

How then must the ADF train its future leaders to be able to recognise when changes need to be made and why is the prediction process inherently faulty? The answer lies in the understanding of complexity. Most military organisations are complex adaptive organisations and hence adapt and change unpredictability to external factors.

Generally, a complex adaptive system is an organisation that can change unpredictably. The organisation is also capable of spontaneously self-organisation meaning that as individual components interact, they can produce a synergistic, albeit unpredictable effect, not inherent by the individual components. Such are the benefits described from a Joint Force.

A complex adaptive organisation is also capable of learning from its experiences, allowing it to anticipate what the organisation needs to do to be successful in the future. For this reason, the ability to predict how military organisations will perform in the future is very difficult due to the number of variables to consider. The ability to predict the future out to the year 2020 contains many thousands of possible variables unable to be modeled accurately. As the requirement to predict further into the future increases, the level of complexity increases exponentially. However, conflicts are not fought in the future, but in the present. Therefore, the ability to respond to unfamiliar military environments quickly will contribute to success. The amount of change required is determined upon the accuracy of

the prediction process and how closely the prediction of future warfare reflects reality.

The ability to adapt and learn is not limited to Western militaries. Any adaptive complex organisation is capable of change and will change. Therefore, any prediction about the future nature of warfare that the ADF conducts is likely to be incorrect. It will be incorrect not necessarily because of poor prediction, but because the adversary will continually change. The speed of change that the ADF undertakes and the adaptability of the ADF are therefore critical to future success. The ability to recognise the nature of warfare that the adversary has embarked upon, and countering that strategy quicker than the enemy has the ability to respond, will result in future success.

The Mind is the Key

The study of complex organisations such as the military allows linkages to be identified and a greater appreciation for the effect actions will have on those organisations. The study of military theory provides a theoretical framework emphasising how to think about conflict, war, and the responsibilities of the profession of arms. The study of history provides examples of the relationship to military theory and the evolution of the nature of warfare. Through the study of history and military theory together, the mind is able to see order in apparent chaos. Through the practical application of contemporary problems, the mind is able to link past examples with the theory of warfare, allowing the mind to overcome complex problems. Study allows the mind to see the system as a whole and understand the linkages within systems. Understanding therefore, that military organisations are complex adaptive organisations and are likely to change; leaders who have been trained in military theory and history will be more capable of understanding the issues of complexity that face the ADF in the future. These leaders will be able to more

readily recognise the type and style of change needed.

The mind provides the key to a commander's ability to visualise and conceptualise the battlefield. It provides the commander with the ability for insight, something which technology will never be able to provide. Visualisation enables the commander to form a mental picture of the current situation and a future state, enabling the commander to see the friendly and adversary forces and terrain in terms of time and space and purpose. The mind provides the "intellect that, even in the darkest hour, retains some glimmerings of the inner light which leads to truth; and second the courage to follow this faint light wherever it may lead."[18]

Presently the ADF does not target individuals for specialist operational planning studies, preferring to adopt a generalist approach. This approach is cost-effective, but may not be suitable for the level of complexity facing the ADF in the future. A course similar to the one conducted by the United States Army, School of Advanced Military Studies (SAMS) is needed by the ADF. The US SAMS course was started during the US Army renewal period in the post-Vietnam era. It is designed to train military officers to think and provide solutions to commanders on complex military problems. The level of study undertaken and the depth of knowledge graduates of this program possess is presently not matched by any other Western military school.

Conclusion

A study by the French prior to 1940, incorporating history and an honest interpretation of the nature of warfare should have resulted in the need for a more mobile approach to warfare, than the one adopted. France's technological and numerical superiority did not provide the pathway to success. A similar study by the US during their operations in Vietnam would have lead to the

realisation that their present military strategy would not lead to the attainment of the strategic objectives. The hesitation to change operations and the over-reliance upon technology also contributed to the US and coalition members' demise in Vietnam.

The Kosovo Conflict is recognition of the synergy able to be achieved when joint forces are finally brought to bear upon an adversary. The one dimensional air operations resulted in an unnecessary protraction of the conflict, increasing the friction brought about by the political dimension. This increased political involvement to which General Clark refers is tangible evidence of the nature of future warfare.

Other insights into the nature of future warfare have been provided by articles such as *Unrestricted Warfare* and *Protracted Operations*. The ADF needs to ask itself whether we are preparing our future leaders for the level of complexity likely to be experienced on the future battlefield. Are we mentally adaptable enough to change organisations, doctrine, training and capabilities at short notice to meet a threat? The ability to rapidly change and arrest the initiative back from the adversary will determine how quickly the ADF will be able to resolve future conflict.

The nature of warfare will continue to change. Potential adversaries will also continue to change to improve their possibilities of success. The prediction of future warfare will need to undergo continual adjustment and refinement. Technology cannot predict the nature of future warfare and must be driven by the human dimension's ability to understand the variables and work within a complex environment. Technology is merely an enabler to the resolution of the conflict, not the determinant. The ADF must focus upon the human dimension for future success. The mind is therefore the key to victory.

NOTES

1. This figure has been determined through an estimation by the Author and is not based upon scientific analysis.
2. Mathew Cooper, *The German Army: 1939-1945* Stein and Day, New York, 1978, p. 161.
3. ibid, p. 165.
4. Cooper, *The German Army,* p. 117.
5. Gordon R. Sullivan and Michael V. Harper, *Hope is Not a Method,* Broadway Books, New York 1996, p. 33.
6. James S. Corum, *The Roots of Blitzkreig,* University Press of Kansas, Lawrence, 1995, p. 39.
7. Corum, *The Roots of Blitzkreig,* p. 133.
8. Carl Von Clausewitz. 1976, *On War,* Edited by Michael Howard and Peter Paret, Princeton University Press, Princeton New Jersey, p. 161.
9. Sullivan, *Hope is Not a Method,* p. 33.
10. Summers Jr, Harry G. 1995, *On Strategy, A Critical Analysis of the Vietnam War,* California, p. 86.
11. Summers Jr, *On Strategy, A Critical Analysis of the Vietnam,* p. 87.
12. Paret, Peter. *Makers of Modern Strategy,* Princeton University Press, Princeton New Jersey, 1986, p. 839.
13. Summers Jr, *On Strategy, A Critical Analysis of the Vietnam,* p. 89.
14. General Clark, Wesley. K., *Waging Modern War,* Public Affairs, New York 2001, p. 19.
15. Qiao Liang and Wang Xiangsui, *Unrestricted Warfare*, PLA Literature and Arts Publishing House, Beijing, February 1999, p. 6.
16. Liang, *Unrestricted Warfare,* p. 7.
17. ibid., p.6. An example of this new style of warfare described in *Unrestricted Warfare* includes: "there is reason for us to maintain that the financial attack by George Soros on East Asia, the terrorist attack on the U.S. embassy by Usama Bin Laden, the gas attack on the Tokyo subway by the disciples of the Aum Shinri Kyo, and the havoc wreaked by the likes of Morris Jr. on the Internet, in which the degree of destruction is by no means second to that of a war, represent semi-warfare, quasi-warfare, and sub-warfare, that is, the embryonic form of another kind of warfare." p. 6.
18. Carl Von Clausewitz. 1976, *On War,* p. 102.

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Lieutenant Colonel Philip R. Swinsburg graduated from the Royal Military College, Duntroon in 1987. After appointments in the 1st Field Regiment and 131st Divisional Locating Battery he was selected for attendance on the Gunnery Staff Course, Depth Fire, at the Royal School of Artillery, Larkhill, UK. Upon graduation, Lieutenant Colonel Swinsburg was attached to a British Army Training Establishment in Germany, where he instructed principally in MLRS and UAV operations in the British Army, followed by two years as the Senior Instructor at Surveillance and Target Acquisition Wing at the School of Artillery in Sydney, NSW. After command of the 131st Surveillance and Target Acquisition Battery in 1997/8, Lieutenant Colonel Swinsburg was selected to attend the US Army Command and General Staff College in Fort Leavenworth Kansas, USA. During this year, the US Army designated Lieutenant Colonel Swinsburg as a Strategist and as a Master Tactician. Lieutenant Colonel Swinsburg graduated from Staff College first in his class and was selected to stay for an additional year of study at the School of Advanced Military Studies (SAMS), where he was the first Australian to be selected for the course and only the 8th international student to undertake the Advance Military Studies Program. Lieutenant Colonel Swinsburg has a degree in Disaster Management, a Masters in Strategy and a Masters in Theatre Operations. Other articles written by Lieutenant Colonel Swinsburg include: The Australian Indirect Firepower Capability: Bridging the Paradigm between Industrial Age to Information Age Firepower *(170 pages);* Lethal and None Lethal Effects: The Need for Reorganisation to Harness the Power of the Revolution *(69 pages); and* The Strategic Planning Process and the Need for Grand Strategy *(51 pages). Currently Lieutenant Colonel Swinsburg is posted to Strategic Operations Division as the Staff Officer Grade 1, Land Operations.*

AIF Headquarters – Syrian Campaign 1942
Photograph from Sir Rupert Hamer's private collection.

From Private to Premier – Sir Rupert Hamer's Years at War

By Roger de Lisle

In anyone's terms, Sir Rupert (Dick) Hamer is a gentle-man. The solicitor turned politician who served as Premier of Victoria, 1972-81, also served in another role – Australia's wartime Army.

His mild, accommodating manner belies the cold, hard resolve of the soldier who put his life on the line many times. A "Rat of Tobruk", a survivor of the battle for El Alamein, a jungle fighter in the rugged New Guinea campaign, a participant in the Normandy landings, Dick Hamer fought in four of World War II's major battles.

His strength of character under fire, and an astute military mind, gave him the leadership qualities that were to take him to Europe, as part of the D-Day landings.

Private R.J. Hamer enlisted in the Army in 1940. He spent his first night at Caulfield Racecourse, camped under the members' stand. The memories are vivid: "We spent the night on the cold, hard concrete, but it was a darn sight better than our billet later in Western Australia, the pigeon and poultry sheds at the Claremont Showgrounds." Prior to enlistment, he had studied law at Melbourne University and after completing his articles, Private Hamer became the first person admitted to the Victorian Bar in uniform.

In June of 1940 he was sent to Victoria Barracks to work in the top secret decipher section.

Italy had just entered the war and the Australian 6th Division was already in the Middle East. The first of the coded messages started to trickle in. "Decipher this", was the order, as a signal dropped on his desk. Working feverishly, expecting to find the first news of the 6th Division in action, he uncovered instead an unusual request from Divisional Headquarters. A newsreel cameraman attached to the Division had dropped his camera down a ravine – "send a replacement urgently". This was his first, but by a long way not his last encounter with the demands of the media.

By now he had showed an aptitude for bigger and better things. He was posted to a course at an Army Intelligence School and on completion of his studies was promoted to sergeant and sent to join a South Australian battalion stationed in Woodside – the 2/43rd.

In December 1940, embarkation orders were issued. Now a 2nd lieutenant, Dick Hamer began his long journey to war in the troopship, *Mauritania*. With other members of the Australian 9th Division, he set sail for Suez, then travelled by train to Palestine. "We didn't have long to prepare, Rommel's *Afrika Korps* was getting ready to advance, with Egypt and the oil fields of the Middle East the main objective", he recalls. "We were sent into North Africa to relieve the 6th Division which had captured and occupied Libya."

The German push began at Easter, 1941. Field Marshal Erwin Rommel was desperate to take Tobruk – the strategically important seaport was pivotal to his campaign to control North Africa. After failing to inflict another "*blitzkrieg*" type victory, similar to those carried out with devastating success in Europe, the elite panzer (tank) divisions placed a steel net around Tobruk – leaving the allied troops caught in a siege that was to last for eight months. Trapped in their tunnels and trenches, the German propagandist, Lord Haw-Haw, dubbed them "The Rats of Tobruk".

They liked the name and adopted it with great fondness, but 60 years on they are better

9th Division "Rats of Tobruk"

Photograph from Sir Rupert Hamer's private collection.

remembered for their stubborn resistance which held Rommel's forces at bay for eight months until a British-led task force broke through and relieved Tobruk's gritty defenders.

"We survived because of determination, camaraderie and the good old fashioned diggers' sense of humour", Sir Rupert says.

"We knew we were the only obstacle in Rommel's push to reach Cairo, while we held Tobruk the German supply line was stretched like a taut piece of string."

He recalls that Tobruk's defenders controlled no-man's-land. Patrols would probe the enemy's lines at night. He also remembers the fierce methods of the British trained Gurkhas, who used a short, broad-bladed sword called a "kukri" in close combat. "They would cut off the ears of the enemy they had killed and return from patrol with them as proof of their night's work.

"The Gurkhas also kept our forward observations posts on high alert with their uncanny stealth. They would suddenly appear from the darkness and grab us from behind, running their hands over our Australian uniforms, to identify us from German and Italian troops."

The troops of the 9th Division showed great courage and resourcefulness. There was for example the "Bush Artillery". This was a group of "odd-bods"; cooks, orderlies, riflemen and the like, who manned captured Italian field guns and gave the luckless Italians a taste of their own medicine.

The Australians also had to share their meagre rations and water with some 14,000 Italian POW's who surrendered rather than face the prospect of a desert grave. Food and supplies were ferried in by British and Australian warships which had to run the gauntlet to Tobruk. The *Luftwaffe* squadrons kept the daring "Tobruk ferries" under constant attack, their aircraft bombing and strafing the ships to stop supplies getting through. HMAS *Parramatta* and HMAS *Waterhen* were among the 27 vessels that were sunk.

The bravery of Tobruk's defenders resulted in World War II's first Victoria Cross to an Australian, Corporal John Edmondson. He was wounded twice in a bayonet attack on German

positions, but still managed to come to the aid of his platoon commander, who was engaged in a deadly wrestle with two enemy soldiers. Edmondson killed the Germans, but died the next day from wounds. His posthumous VC was presented to his mother in September 1941.

Some 14,000 Australians fought at Tobruk. They paid a high price, more than 3,000 killed or wounded and nearly 1,000 taken prisoner – but against impossible odds they had stopped Rommel's relentless advance, and destroyed the myth surrounding his invincibility.

Dick Hamer's battalion was withdrawn in late October 1941, having survived 1,000 air raids, constant barrages by artillery and tanks, and daily hand-to-hand fighting with German and Italian troops.

By now, he had been promoted to captain and was about to face Rommel again, this time at El Alamein. The Germans launched their second offensive in January 1942, and were successful in taking control of Tobruk.

Rommel's panzers surged into Egypt, but once again the original defenders of Tobruk were able to take part in inflicting another defeat on the *Afrika Korps* – first by stopping the advance at El Alamein, then victory in the following climatic battle, which signalled the beginning of the end for the Axis forces in North Africa.

It was an encounter Sir Rupert describes as a battle more like those of World War I, with a pounding of artillery fire and a frontal attack by foot soldiers. "More than one thousand Allied guns opened up at 9.30 at night – followed by an infantry assault on the same narrow front. We broke through the enemy's forward lines and held our positions for several days. Monty's (General, later Field Marshal Montgomery) forces used our position as a springboard for the final assault."

Although the tide of war was beginning to turn in Africa and Europe, the threat to Australia of an invasion by Japan's Imperial Forces led to some panic in the high command.

The Australian Government wanted the experienced 6th and 7th Divisions brought back to protect their homeland. Prime Minister John Curtin defied his British counterpart, Winston Churchill, and ordered the urgent recall of the two Australian divisions from the Middle East.

These desert fighters were to learn new skills; the techniques of jungle warfare and amphibious landings, before facing a fanatical enemy who would happily die for the Emperor. After a staff college course, Dick Hamer was posted to Darwin in March 1943 and promoted to major. Within a matter of weeks he found himself a member of an invasion force, its objective to liberate Lae from the Japanese Army.

In the first concentrated strike against the Japanese, the Australians landed in thick jungle, about 15 kilometres from Lae, then began the dangerous trek through the undergrowth to launch their attack. They inflicted a critical defeat on the Japanese land forces. More victories were to follow in quick succession. Dick Hamer also took part in a second sea-borne landing, this time to capture Finschafen.

He returned to Australia on leave and married in March 1944 – but the demands of war brought an abrupt end to the honeymoon. The Allies were in the advanced stages of equipping an invasion force of mammoth proportions to land on the French coast and to begin rolling back the Nazi forces. What they desperately needed were experienced leaders, men who had what it takes to overcome the odds and win. Major Dick Hamer was right for the job. He had felt the full blast of German armour in the deserts of the Middle East; he had fought and defeated the Japanese in the jungles of New Guinea.

In April 1944, bags were packed, farewells were said, and Dick Hamer was again off to war.

He flew first to the United States, then across the top of the Northern Hemisphere

from Newfoundland to Scotland, where a Liberator bomber was waiting to take him to London.

The British brass attached him to their Combined Operations Headquarters – to be part of the training team for the greatest amphibious invasion in the history of modern warfare. His first job was as an instructor; teaching tactics and techniques associated with amphibious operations. When the Allied armada crossed the English Channel, Dick Hamer was part of it, landing on the French coast at Arromanches attached to a company of Royal Marine commandos.

The lifeline for the Allied forces was an artificial harbour that had been towed across the English Channel. The "Mulberry", as it was known, was to play a decisive part in the epic battles that followed in the liberation of Europe.

"It was a marvellous piece of engineering", he recalls. "It provided a sheltered harbour for the safe landing of troops, supplies and ammunition. I wanted to check first hand its capabilities to see if it could be used in support of amphibious operations against Japan." As it turned out, it wasn't needed with the capitulation of the Japanese forces after the cities of Hiroshima and Nagasaki were devastated by the atomic bomb.

Normandy was Dick Hamer's third theatre of war – he pushed his luck, yet somehow survived without a scratch. His Army records show he accumulated 66 months of wartime service and that he was Mentioned-in-Despatches for his role in the New Guinea campaign. Battle weary, he finally got back to Melbourne in October 1945.

Asked about his best moments during his 66 months of wartime service, he nominates VJ day.

I was in Edinburgh when the news of Japan's surrender was announced. It was unexpected and came as a tremendous relief. To capture the Japanese mainland and islands would have cost hundreds of thousands of lives. It really was a wonderful piece of news, the celebrations went late into the night.

But Sir Rupert's military days were far from over. With the rank of lieutenant colonel, he was appointed to the Victorian Scottish Regiment, serving as the regiment's Commanding Officer from 1954 to 1958. Private R. J. Hamer had come a long and eventful way from the 29 April 1940 when he first pulled on a digger's slouch hat.

An edited version of this article was published in The Age *of 10 December 2001 titled "Sir Rupert remembers the Rats of Tobruk".*

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Reviews

A SPY'S LIFE by Henry Porter, published by the Orion Publishing Group Ltd. London, 2001, 402 pages, softcover. RRP $27.95

Reviewed by Dr Hank Prunckun

From the opening scene to the book's end, Porter captures the essence of the spy fiction genre. This is a first-class novel by a master storyteller. Porter, who also wrote Remembrance Day (a terrorism thriller by Orion, 2000), has crafted a story of espionage, spy craft, international relations, humanitarianism, and romance to rival the works of some of the greats – Graham Greene, John Le Carre, and Len Deighton.

A Spy's Life is a fascinating story of Robert (Bobby) Cope Harland, an ex-career MI6 intelligence officer. The plot is well developed, based on the time honoured Good-versus-Evil-and-Good-wins-in–the-end scenario. Harland, is a spy hero who served many years in secret operations targeting the West's Cold War enemies in Eastern Europe. However, on his last mission, just after the fall of the Berlin Wall, he is betrayed, captured behind what is left of the Iron Curtain and tortured, before he is eventually freed in a dramatic rescue operation by Allied (spy) forces. Harland now suffering from the effects of his brutal interrogation decides to leave MI6 and turn his talents to more direct and visible avenues of assisting humanity – the Red Cross and UN.

Twelve years after his rescue, and while on UN business (writing a report on the ownership of the world's dwindling fresh water resources), his path crosses that of ex-CIA agent Alan Griswald. Griswald was his colleague in the operation that managed to lift Stasi files from East Berlin and a related operation to seize files from the Czechoslovak State Security Service – StB. It was in the operation against the StB

that Harland was captured. Griswald is now pursuing Bosnian war criminals for the Tribunal and he and Harland happen to share a UN commuter flight from Washington DC to New York one evening. However, on its approach to La Guardia Airport the aircraft crashes in suspicious circumstance and Harland is the sole survivor.

Suspecting sabotage, Harland is now driven by the same passion that he pursued in his duties as an MI6 operative and takes on another mission-in-life – to hunt down those responsible for the death of Griswald and the others. Using the skills he learned as an intelligence officer, Harland gathers then fits together the pieces of the puzzle in order to identify the saboteurs, and their motives. In doing so, Porter weaves an intriguing story of past and present, loyalty and betrayal, honour and disgrace, power and weakness, and of course, love and hate. All of which takes place in the classic spy framework of plot and counterplot, double- and triple-cross. Porter keeps the reader in suspense to the end.

A Spy's Life is well written and Porter's style is a delight to read. Porter sets Harland's adventures in the present day (i.e. 2001) with reference to technology, lifestyle, cultures, and dealings that make it seem like these events are straight out of the daily newspapers. Particularly interesting is how he incorporates laptop computers, the Internet, mobile telephones, and e-mail into Harland's kitbag of spy tradecraft.

Porter's description of the geographic locations in the book reflects, no doubt, the detailed and excellent research he carried out. His descriptions of New York, Prague, and Bosnia are superb. Likewise Porter's descriptions of historic events against which the novel is set – the Velvet Revolution, the Cold War, the various missions of the UN, and the ethnic cleansing in the former Yugoslavia

– create the illusion that Harland is a real-life character.

Likewise, Porter's portrayal of the other characters – Harland's ex-lover Eva, his son Tomas Rath, MI6 spymaster Walter Vigo, Alan Griswald, Macy Harp, The Bird, and the villain Oleg Kochalyin – are wonderful. The only aspect of Porter's book that was somewhat disappointing was what seemed to be an almost unbelievable coincidental relationship between the many characters, even for fiction. Nevertheless, this minor criticism aside, Porter's book is excellent reading for anyone interested in a good spy story. It is imaginative, fast moving and pleasurable to read – providing welcome relief from the stream of "serious documents" that cross a professional's desk each day. Recommended.

SIR JAMES WHITESIDE McCAY: A TURBULENT LIFE by Christopher Wray, Oxford University Press, Melbourne, 2002, 280 pages, hard cover, $55.00.

Reviewed by A. Argent

Along the corridor, close to my cubicle at Army Headquarters in Canberra, more than a generation ago, were a number of photographs of the Military Boards. I was interested in the 1905 photo of the first Military Board because of its historical piquancy. It showed the Minister of Defence with the members of his Board, one of whom was Lieutenant Colonel W. T. Bridges. Within 10 years Bridges would be a divisional commander and he selected his former Minister of Defence to be one of his brigade commanders. When this brigade commander came ashore on 25 April 1915 the situation there forced him to deploy his brigade contrary to the orders issued by his general.

The brigade commander was Colonel James Whiteside McCay, the subject of this most readable biography, one of the Australian Army Historical Series.

If McCay is remembered at all today, it is because he is associated with three disasters –2nd Brigade's heavy casualties, 1,056 officers and men, in the fruitless attacks towards Krithia, on the Cape Helles front, two weeks after the Landing; the march across the desert from Tel-el-Kebir to Ferry Post in early April 1916 where the 14th Brigade of his 5th Division suffered needlessly and for the appalling casualties, 5,533 officers and men, of the 5th Division at Fromelles during 19/20 July 1916.

Of course, there was much more to McCay's life than these events during his command of AIF formations.

He was born in Northern Ireland on 21 December 1864. His father was a Presbyterian minister and the family migrated to Castlemaine in Victoria in 1865. At age 12, McCay won a scholarship to Scotch College, Melbourne and was dux of the school in 1880. In the class below him was John Monash. They were to become life-long friends.

McCay commenced Arts at the University of Melbourne, left before getting his degree, took up school teaching and running a school, joined the militia, entered local politics, finished his BA degree, completed a law degree, won a seat in the Victorian Parliament, opposed sending colonial troops to the South Africa war, married, set up the legal firm of McCay & Thwaites and was elected to the first Federal parliament in 1901. When he was sworn-in as Minister of Defence and chaired the first Military Board he was a lieutenant colonel in the militia with two years seniority.

All this is covered by the author in some detail. The early years of the Commonwealth defence forces and the politicking that went on are of particular interest.

About a third of the book is devoted to McCay's AIF service. The three disasters during his commands are carefully and fairly dissected. What stands out is that, although he came into much criticism and never won the hearts of the men under his command, as did, for example, "Pompey" Elliott, no one ever doubted his bravery under fire and his ability. Elliott, who commanded a battalion in McCay's 2nd Brigade at the Landing and who commanded a brigade at Fromelles, strongly defended McCay.

The author writes of the friendship of McCay and Monash and their parallel careers and explores the reasons why Monash was successful and McCay forgotten in the post-war years, although McCay was knighted in 1919 for his AIF services. Much of the opprobrium he attracted now seems most unfair. I heard some of this criticism in the 1960s from survivors of Krithia and Fromelles.

McCay led a busy post-war life including working with Monash during the Victoria police strike in 1923. He died in 1930 and was buried in Box Hill cemetery, Melbourne. There was no military funeral.

The author, a former principal of today's McCay & Thwaites, is to be commended for his diligent research and for his capturing the atmosphere of the times. His task was made more difficult because when McCay knew he was dying he destroyed all his private papers.

Readers of Bean's histories and his later *Anzac to Amiens*, which first came out in 1946, will be aware that he used another spelling of McCay – M'Cay – throughout those publications. The author opted for "McCay" because of contemporary documents and family use of that spelling. Whichever way it is presented, it is pronounced "McKie".

Regrettably, one map does not have a scale, there is one obviously wrong year given and the important front photo on the dust jacket is printed back-to-front.

This book has an excellent index, an extensive bibliography and I strongly recommend it because it shows McCay as he really was and what he did for Australia.

CATALINA DREAMING by Andrew McMillan Duffy & Snellgrove 2002 paperback, 200 pages, $21.95

Reviewed by Lex McAulay
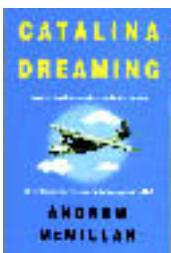
Books are almost always a labour of love, and in this book one reads of two such aspects of Andrew McMillan's life: The Catalina flying boat and the people and places of Northern Australia. Son of a wartime RAAF navigator, the young Andrew was given a model Catalina, which sparked his long interest in the aircraft type and the men who operated it 1941-45.

This is a collection of anecdotes from veterans of the Catalina squadrons, in chronological order, from aircrew and groundcrew, with background text painting the general war situation and changes in aircraft tasking.

What makes this book so different is the "other background" to the stories, the memories of the local people, who suddenly found modern warfare imposed on their area. Andrew McMillan's evocative descriptions of the Northern Australian environment and flying conditions conjure vivid mind pictures of the locations and times, the men, the aircraft, and the sorties they flew.

There have been at least five other books on Australian Catalina operations, and this latest contribution is a worthwhile addition to the collection.

JUDGE ADVOCATES IN COMBAT: ARMY LAWYERS IN MILITARY OPERATIONS FROM VIETNAM TO HAITI by (Colonel) Frederic L. Borch III, Office of the Judge Advocate General and Center of Military History United States Army, Washington DC, September 2001. Hardbound, 413pp, with illustrations, maps and charts. Available from the Superintendent of Documents, PO Box 371954 Pittsburgh, PA 152250-1954. $US44.

Reviewed by Wing Commander John Steinbach

This book represents something between a Boy's Own-narrative and an official military history. It actually arrived with a pre-written review from the publisher with everything a good review should have: a summary (no need to read it?), highlights, some background, why it was written and its essential essence — the evolving role of US Army lawyers between 1959 and 1996. Is this the new way – pre-digested reviews ? Perhaps. But I decided to read the book anyway and found it extremely

informative and interesting: it deserves to be read by all ADF lawyers who should in turn encourage their operational commanders and anyone else heavily involved in operations planning to do likewise. Moreover, they should also start writing their own history.

In Vietnam, where the story begins, legal issues dealt with by Judge Advocates were simply the bread and butter stuff: wills, discipline and contracts. My Lai and the confusing nature of the war in which the provisions of the Geneva Convention were anything but straightforward were seminal, and were to change the role played by the military lawyer in fundamental ways, and through which would evolve those rules and processes now termed operational law. For the United States, Vietnam was also the start of other campaigns (Grenada, Panama, Haiti, the Persian Gulf and Somalia) the legal status of which under international agreements was not altogether clear and which required lawyers to deal with *in situ*. So we have a Colonel Smith, Staff Advocate of the 82d Airborne Division on his way to Panama: "Smith carried a .45-caliber pistol, thirty rounds, his protective mask, and six meals ready to eat. The side pocket of his battle dress uniform contained a microfiche *Manual for Courts-Martial*, a fiche handreader, a notary seal, along with condensed versions of Army regulations on military justice, war trophies, and claims. He carried Field Manual 27-10, *The Law of Land Warfare*, in the top of his rucksack."

It was inevitable American lawyers would eventually move into that last frontier, the frontline, but whether or not it has increased commanders' ability to achieve mission success as is claimed, is debatable: B-52 carpet bombing usually has more bearing on that. But what lawyers have achieved, at least in what this book covers, which is up to the US intervention in Haiti (Operation *Uphold Democracy*), is a sort of standardisation of the behavior of American soldiers serving overseas. Rules about war trophies seem to be a perennial issue, even in place like Grenada. Other interesting "cases" relate to the treatment of US Service women in Saudi Arabia during

Desert Shield/Desert Storm to reconcile but not solve the conflicting demands of Saudi law and US anti-discrimination laws; and the conduct of Catholic, Protestant and Jewish religious services in a country where the practice of any religion other than Islam is illegal. In lawyer fashion, in the latter case, such religious services were referred to as "morale services", but these had nevertheless to be held out of public view. Such legerdemain with words may be legal stratagem but it highlights an important point: questions of law are open to debate and this book provides only one side's view of how the law of warfare should be interpreted and applied, almost for the sake of self-justification. This problem with words and their meanings comes up again during *Desert Storm* when General Schwarzkopf wanted Rules of Engagement drawn up to enforce UN Security Council Resolution 661, imposing an embargo on the import and export of all commodities originating from Iraq and occupied Kuwait. Rather than use the term "blockade", which the action factually was but which is defined as an act of war under international law, and to avoid using "quarantine operation" or "maritime interdiction", because these were used in operations associated with the crises atmosphere that marked naval operations during the Cuban missile crises of 1961, the name selected was "maritime intercept operation". It is easy to form the opinion that the law sides with the big battalions. (Appendix B lists Rules of Engagement for some of the overseas campaigns featured, as well as those for the Los Angeles Civil Disturbance of 1992 in which US military personnel participated.)

This book is not about the ethics of war, neither does it consider the wider issues of morality or justice, the short-comings of purely legalistic approaches to war, or even how the law operates in the fog of war without the intelligence upon which correct decisions must be based.

In Grenada, the US Office of the Judge Advocate General went to considerable effort to get the classification for prisoners correct.

There, all captured personnel were accorded prisoner of war status which gave them more rights and privileges then would otherwise have been the case. I look forward to the continuing adventures of the Judge Advocates, to see how, for example, the status of prisoners at Camp X-ray was rationalised, under what rules of warfare President Clinton authorised a cruise missile attack on a Sudanese pharmaceutical factory, or what pre-emptive strike/regime change has to do with international law.

CHASED BY THE SUN, Courageous Australians in Bomber Command in World War II, by Hank Nelson, ABC Books, Sydney, 2002. RRP $32.95

Reviewed by Major Jim Truscott
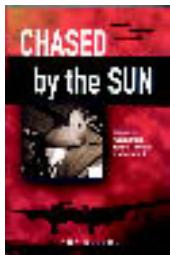
I raced through this book searching for references to my own uncle who failed to return from the first of the 1000 bomber raids over Cologne. However the most definitive book could not account for all of the 4,050 Australians who died in Bomber Command. Even readers without a personal connection with the war in Europe will find this book remarkable reading, as it documents every aspect of life in training and on operational bases particularly the fear of battle, courage in battle, and the stress and delight of returning from battle.

Hank Nelson is to be commended for revealing a little recorded part of Australia's military history. Most Australians will be familiar with Australia's role in Asia and the Middle East, but I would be surprised if many actually realise the extent to which Australia contributed more than its fair share of blood to defeating Germany on German soil, albeit from the air. While the book does not dwell on the comparative death toll, the gut-gripping stories of multiple 12-hour missions leave an indelible impact on the reader's mind.

They are very personable stories because crews did not stay together for longer than their tour, sometimes only lasting several months. Hence the author relates a continuous series of accounts from many individuals, many of whom did not survive their tour. The concept of a tour is an anathema to modern short-duration conflicts, but it is easily understood in the context of the horrific odds that aircrew endured. The concept of not letting down other members of one's crew during a tour continues to be part of Australia's military psyche, and it is supported by the "press-on regardless" spirit of the many mission accounts.

The fact that this group suffered higher casualties than any other major group of servicemen necessitates asking whether the end justified the means? The author provides some qualitative explanation as to the effectiveness of bombing and its contribution to the overall war effort, but it is without comprehensive argument. While this is not the purpose of the book, it leaves the reader to query the point of it all. Nevertheless this story of Australians fighting in Europe is deserving of more books about their fear and courage. It provides balance to the many books about Australia's human losses in other campaigns, and I would recommend it to all Australians as a reminder of what is like to fight in a perpetual state of fear.

THE MARINE, A Guadalcanal Survivor's Final Battle by Ben Wofford and William Richard White Available from Naval Institute Press, 291 Wood Rd Annapolis Maryland **21402–5034** $US 28.95.

Reviewed by Lieutenant Katter
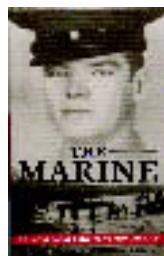
As a seven-year-old I visited Guadalcanal Island within the Solomon Islands. Less than 20 years later my memories of that visit have dimmed. William Richard White went to Guadalcanal as a young United States Marine over 50 years ago. His memories, as described in Ben Wofford's book *The Marine* are vivid. War embedded itself in his memories of the Island.

This book is an absorbing account of the personal experiences of a Marine who landed on Guadalcanal on 7 August 1942. Guadalcanal Island is the largest island within what was then known as the British Solomons. The island was captured on 7 August 1942 by United States Marines. That conflict was recently depicted in Terrence Malick's motion picture, *The Thin Red Line*. As former President G. H. Bush, himself a veteran of the Pacific campaign, stated: "There was a rhyme passed around during those dark six months that I'm sure many marines here today out front remember, six months, as the battle raged on, when freedom hung by the unbreakable thread of American bravery and resolve. Every marine who wasn't fighting on the island knew the lines, "Say a prayer for your pal on Guadalcanal".

William Richard White joined the Marines in September 1941. During the Second World War he fought at Guadalcanal, Bougainville and Guam. Later he also served in the Korean War.

This monograph is written by Ben Wofford. Wofford himself served in the US Navy in the Pacific during World War II and on an aircraft carrier during the Korean conflict. Later, in 1966, he graduated with a medical degree after leaving the Navy.

The book is divided into two parts. The first deals with White's experiences on Guadalcanal. The second part is Ben Wofford's account of White's struggle against cancer.

This book is far more than a soldiers account of a specific battle. It illustrates the important military significance of the Marines during World War II. During the two decades before that war, the Marine Corps had developed the doctrine, equipment, and organisation needed for amphibious warfare. That development was no better exemplified than in the conflict on Guadalcanal. The success of this effort was proven first on Guadalcanal, then on Bougainville, Tarawa, New Britain, Kwajalein, Eniwetok, Saipan, Guam, Tinian, Peleliu, Iwo Jima, and Okinawa. By the end of the war in 1945, the Marine Corps had grown to include six divisions, five air wings and supporting troops.

In many ways the book describes the progression, through life, of White's generation. Throughout the 1960s, 1970s and 1980s this generation dominated society. The second part of the book metaphorically examines their "passing" as a generation. This book describes more than just the life and experiences of William White. It provides an insight into a generation of men, who served their nation in battle.

Here's health to you and to our Corps
Which we are proud to serve;
In many a strife we've fought for life
And never lost our nerve.
If the Army and the Navy
Ever look on Heaven's scenes,
They will find the streets are guarded
By United States Marines.

Flight Lieutenant H.S. (Hugh) Brennan (Ret'd) a long standing book reviewer for the *Australian Defence Force Journal* died in September 2002.

Flight Lieutenant Brennan wrote many book reviews for the *Journal* and was part of the *Journal* family for many years. He will be missed by many readers who looked to his book critiques as an excellent guide to further reading.

The Board of Management and staff of the *Australian Defence Force Journal* send their condolences to Flight Lieutenant Brennan's family.