

Tom Hughes: Legion D'Honneur

In this article, Bar News records a little known dimension of the very full life of Hughes QC, recently recognised by his award of the French Republic's highest honour.

Sixty years ago this year Flight Lieutenant Tom Hughes commanded a Sunderland flying boat hunting German submarines. Tom's service in the Second World War helped form the courageous advocate who commanded every post war courtroom in which he appeared. Early this year the president of the Republic of France recognised Tom's war service with France's highest military decoration, the Legion of Honour.

With the modesty of those who have truly seen active service, Tom claims to have had but 'a quiet war'. Perhaps contrasted with the carnage suffered within Bomber Command is his argument may persuade. The war conducted by Sunderland flying boats was anything but quiet.

Much of Tom's style is explained by his war service: his ramrod-straight bearing; his courtesy to fellow combatants; his resolute determination to pursue a cause; his instinctive grasp of the tipping point which leads to victory; his courtroom presence; but above all his sense of humanity and justice.

Until France conferred its highest honour upon Tom earlier this year few at the Bar knew of his war record. With this account the Bar recognises and celebrates his service.

Tom's entry into the Royal Australian Air Force in 1942 was no accident. Tom was only sixteen when he completed the leaving certificate at St Ignatius College, Riverview in 1940. Tom keenly wanted to join the air force. His father had joined the Royal Flying Corps during World War I but in 1940 Tom was still too young for entry. Instead in 1941 he launched into first year law at Sydney University. At the law school in that year Tom encountered former High Court judge, Bert Evatt lecturing in constitutional law. In this less acclaimed part of his career, HV Evatt was still five years away from becoming the foundation secretary-general of the United Nations. Tom recalls that being lectured by this former member of the High Court was not particularly inspirational.

Finishing first year law in 1941 Tom entered the RAAF early in 1942 during the darkest phase of the war. He was attested and took his oath of loyalty as a member of the services at the Sydney Recruiting Centre at Wollomooloo.

Tom's early recruit training was undertaken in suburban simplicity at Bradfield Park under Nissen huts located at the end of Fidden's Wharf Road, Killara. At war's onset these structures sprouted like incongruous galvanised mushrooms throughout Sydney's parks and open spaces. They housed all manner of defence related activity, including the elementary training involved in Tom's Recruit Course 28 in Killara.

The demands of war meant that young pilots needed to quickly earn their wings after basic recruit training. In Tom's case that meant a posting to No. 8 Elementary Flying Training School at Bundaberg. The RAAF's slow and safe single-engined bi-plane, the Tiger Moth, was the standard initial training aircraft. Tom graduated and was awarded his wings in April 1942 at about the same time that the Battle of the Coral Sea was taking place.

In one of those curiosities of military posting which probably helped to save Tom's life he was not sent directly overseas but to 1 Air Navigation School at Cootamundra for what was initially thought to be for a few months. There for the first time he flew the twin-engine Avro-Ansen. Hardly a leading edge war plane of its day, this aircraft required the navigator to manually unlock and wind the under carriage up after take off. Landing was equally a test of the aircrew's teamwork in cranking the landing gear into a safe position. At barely 19 Tom was training pupil navigators at Cootamundra. His posting at Cootamundra lasted for 13 months. Strange as it may seem to us now more pilots were lost in training than in operations during World War II. The danger of Tom's early training work should never be overlooked.

Tom finally received his overseas orders and crossed the Pacific in the troopship the USS *Mount Vernon* in August 1943. Tom and 150 Australian aircrew arrived in San Francisco in September and set out across the United States by train.

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In the course of this train journey something happened which marked out Tom as a leader among his contemporaries. Somewhere in the middle of the United States the officer commanding his cohort of aircrew had a breakdown and could not continue. In accordance with a tradition which spontaneously broke through in Second World War among Australian troops in places as diverse as the Kokoda Trail and the Burma Railway – in the absence of external orders Tom's peers took the initiative and by democratic ballot elected him to command them. Such ceremonies of military democracy have roots in classical times, when as Xenophon records in the *Anabasis*, 10,000 Greeks finding themselves in hostile Persian territory elected the generals to command their retreat to safety.

Tom soon faced the problems of command. His aircrew were billeted at Camp Miles Standish outside Boston. Their close confinement in barracks led to an outbreak of scarlet fever. He managed his men through this crisis, and then in the first week of October 1943 Tom and his aircrew were sent to New York, where they embarked on the *Queen Mary*.

The *Queen Mary* was fast enough to out pace the German U-boats still infesting the Atlantic but she was vulnerable nevertheless. As an officer, Tom was lucky enough to have a cabin with a porthole. His principal duties on board were to

see to the morale and welfare of the Australian NCOs. This was quite a challenge. For the trans-Atlantic passage sixteen NCOs were shoehorned into the cabins below the water line.

Landfall for the *Queen Mary* was at Grenoch in the Firth of Clyde. From there Tom entrained with fellow aircrew to Brighton, where a holding depot for RAAF air crew was maintained throughout the war. Tom remembers his period here as one of suffocating boredom. Young pilots objected to being marched up and down the Brighton seafront whilst disciplinary warrant officers shouted at them.

It is difficult to imagine a universe in which Tom Hughes was not a barrister. Yet after one year's law, Tom was genuinely uncertain about the form of his future career in the law. His father was a solicitor. To relieve the tedium of Brighton Tom travelled up to London to see the Royal Courts of Justice. There the rule of law was being administered whilst it was being defended in the skies above. These trips to court were Tom's first serious encounter with practice at the Bar. The experience formed Tom's future choice. Somewhere on the train to Brighton or sitting in the Royal Courts of Justice Tom decided upon a career at the Bar.

It was an exciting time to be in legal London. In the darkness of war, *Liversidge v Anderson* had just been decided and executive power was in the ascendant.

RAAF Brighton was a manpower pool from which Australian aircrew were drawn to replace the constant casualties in RAF squadrons.

Many RAAF personnel at Brighton were sent to operational training units for RAF Bomber Command. A chance contact led to a rare opportunity to serve with a RAAF Squadron. 10 Squadron RAAF at Plymouth was the only wholly RAAF staffed squadron in England. It needed volunteers. Tom jumped at the chance to escape from Brighton and see some action.

10 Squadron flew Sunderland flying boats. The Sunderland design had been developed pre-war to compete in the growing market for trans-Atlantic air travel. A RAF version was developed at the outbreak of the war. These massive aircraft were used for long range reconnaissance, maritime patrol, anti-submarine operations and sea rescue. With a cruising speed of 110 knots (about 115 mph) the Sunderland had a lugubrious personality when compared with the nimbler Spitfire. However the Luftwaffe had found them very hard to destroy. As early as April 1940 a Sunderland operating off Norway was attacked by six German Junkers-88 fighters. It shot one down, damaged another and drove off the rest. The Germans had their own nickname for the Sunderland, 'Fliegende Stachelsweine' or 'the flying porcupine'. Defensive armaments were machine guns in forward, upper and tail turrets. In attack depth charges were cranked out under the wings before being deployed against submarines.



The Hon Tom Hughes AO QC talks to artist Jaiwei Shen.
Photo: David Moir / Fairfaxphotos

Tom arrived at Mountbatten Airbase on Plymouth Sound late on Christmas Eve 1943. 10 Squadron's newest member walked into its Christmas party celebrations.

For the next 18 months Tom lived with a ghost whose genius may also help to explain just a little of Tom's independence of mind. Aircraft Sergeant Thomas Edward Lawrence had been based at RAF Plymouth until he was killed on his motorcycle near the airbase in 1935. Disillusioned with military hierarchies Lawrence of Arabia left the British army at the end of the First World War. He later enlisted in the RAF. He refused an officer's commission being content instead to serve in the supportive non-commissioned environment of RAF Plymouth.

A RAAF squadron based in England was an anomaly to be explained. In 1939 the Australian Government sent 10 Squadron to England to collect and fly back a number of Sunderland flying boats to Australia to assist Australia's defence effort. The squadron took possession of the Sunderlands but then war broke out. The mission to repatriate the Sunderlands to Australia was abandoned. The result was that 10 Squadron became the only RAAF squadron based in the UK during the Second World War.

Plymouth Sound faced a fair share of punishment during the Second World War. It was heavily bombed by the Luftwaffe several times during 1941.

A Sunderland's aircrew on operations were an extended family of twelve or thirteen. The crew consisted of three pilots, a captain, a first pilot and a second pilot. They were supported by two navigators, two flight engineers, plus up to six wireless operator / air gunners.

Sunderlands patrolled for up to 13 hours. Crew members used binoculars to look for the enemy below, day and night. Pilot

alertness was maintained by rotation of duties. A pilot could expect two hours on in every three flown, with one hour's rest.

Flying at 1000 feet with six depth charges slung under its wings, the Sunderland was a capable submarine hunter. Once contact with a submarine was made, a depth charge bombing run would be initiated along the submarine's course, usually with terminal consequences for the submarine. The Sunderland's hunting became much more difficult once the Germans developed snorkels so U-boats could run diesel engines and recharge batteries just below the surface.

Tom started as a second pilot on his first Sunderland in the last week of 1943. Somewhat like the junior articled clerk the second pilot officer's tasks included supervising the aircraft's refuelling, clearing the cockpit window with a chamois before takeoff and executing various dogbody jobs. The line of promotion was to first pilot and then to captain.

Just prior to D-Day Tom became a first pilot in his crew. During D-Day operations Tom was on patrol guarding the invasion fleet against enemy submarines in the English Channel and the Bay of Biscay.

In an age before the satellite and with only elementary radar capacity, maritime patrol to find the enemy was an essential part of the war effort. Like the albatross, the Sunderland's flight path tracked invisible lines of longitude up and down the Bay of Biscay or over to northwestern Ireland hunting the declining but dangerous species of German U-boat. A typical flight path took a Sunderland down to Cape Finistere, at the north western end of the Spanish coast. During the summer of 1943 Junkers 88 fighters had been very busy intercepting Sunderlands in the bay but this threat was reducing by late 1943. When Tom arrived six months before D-Day a central Allied focus was ridding the area of German U-boats before the summer of 1944. A few Sunderlands were lost in battle well after D-Day. German fighters were active until after mid-1944. Junkers 88s shot up many RAAF Sunderlands during this period leaving their aircrew to limp home into Plymouth Sound. Every Sunderland flight was a crossing into danger.

Especially in the six months prior to D-Day U-boats were active and were equally actively being hunted by 10 Squadron. In January 1944 Flight Lieutenant Roberts and the crew of a Sunderland found and sunk a U-boat without Allied casualties. Another famous member of 10 Squadron, Flight Lieutenant Bill Tilley DFC did a little more only a few months later. Strict orders prohibited Sunderlands landing on the Bay of Biscay for fear that the large swells in the area would destabilise the aircraft or cause it to lose a float. Intelligently disobeying orders Bill Tilley successfully landed in the Bay and rescued

stranded Allied aircrew. Tom is readier to speak of the achievements of these adventures than his own.

Just prior to D-Day Tom became a first pilot in his crew. During D-Day operations Tom was on patrol guarding the invasion fleet against enemy submarines in the English Channel and the Bay of Biscay. Tom was often first officer to Captain Jack Mabbett, who after the war became head of Repco Australia. During this phase of his war service, Jack's Sunderland encountered a German ship *Rostok* disguised as a hospital ship. This action presented the first concrete problem of Tom's legal career. Misrepresenting itself in the colours of a hospital ship the *Rostok* was bound for a Spanish port. Jack Mabbett discerned the German ruse: he broke radio silence to guide a Royal Navy strike force towards the ship, which was captured and taken to Plymouth under escort.

Maritime law gave Royal Navy participants in the capture an entitlement to prize money. Jack Mabbett, Tom's captain, thought that justice demanded the RAAF Sunderland, which initiated the capture, should share in the prize. The Australians all missed out. It's a point Tom would still like to rerun some day.

In January 1945 Tom was promoted to captain commanding his own Sunderland and crew of 12. Thus by the age of 21, a young man who had not yet commenced second year law assumed heavy responsibilities. He had final responsibility for the safety and security of eleven fellow air crew in time of war. No life was lost under Tom's command. This was not for want of dangerous encounters with the enemy.

By late 1944 Sunderlands began to undertake close in coastal and photographic reconnaissance as German forces withdrew from southwestern France. By early 1945 it was widely assumed by Allied intelligence that all pockets of German resistance in France had been eliminated. Under Tom's command a Sunderland flying boat proved that intelligence wrong not just once, but twice. The story of just what happened on the first occasion is perhaps no better told than in the words of fellow crew member Noel Haggett who wrote to Tom upon his recent award:

It is now 60 years ago that we were shot at by both light and heavy flak between Belle Isle and St Nazaire and later on at Lorient. You will remember that we were on a photo reconnaissance mission and were briefed that all that area was in Allied hands. How we were not shot down I will never know. I was in the nose turret at the time and well remember the puffs of black smoke all around us and the sound of the rattle of hail on the tin roof. From memory, you did a couple of low level corkscrew rolls that got us out of serious trouble. Thank God we are still here to tell the tale.

Tom was fired upon in a second similar incident near the French coast. Even today, on tours of St Nazaire the anti-

aircraft gun emplacements which shot at Noel and Tom's Sunderland in April 1945 can still be seen.

On VE Day Tom's aircraft was patrolling the Channel Islands providing support for the RN ships rounding up German vessels caught off shore at the surrender.

After VE Day the short term plan was to fly 10 Squadron back to Australia. This plan was aborted at the end of the Pacific war. Tom was shipped back to Australia in November 1945 but not before using his time in England to apply for and be interviewed for a Rhodes scholarship. Like many returned servicemen of the day he resumed his study of the law in 1946.

The Legion of Honour is the French Republic's highest award. Created by Napoleon Bonaparte in 1802 he first bestowed it just over 200 years ago in July 1804 in the chapel of Les Invalides. As the republic's first consul, Napoleon instituted the order to found a single elite corps associating military bravery and civil talent. A handful of non-French citizens receive the honour annually. Tom Hughes is one of them. With stylish Gallic understatement, the medal's miniature is a tiny centimetre long slash of crimson. Tom now justly wears it with pride.

Charity at the Bar

Indigenous Barristers' Trust Fund cocktail party

By Keith Chapple SC

On Wednesday evening 13 April 2005 the Indigenous Barristers' Strategy Working Party held a cocktail party in the Sky Phoenix Restaurant as a fundraiser to encourage and assist Indigenous law students and barristers.

The event was hosted by the patron of the Indigenous Barristers' Trust, the Hon Sir Gerard Brennan AC KBE.

Sir Gerard spoke about the work of the trust and the need for support for indigenous barristers coming to and already at the Bar. His sentiments were echoed by the president of the New South Wales Bar Association, Ian Harrison SC.

The main speaker for the evening was the high profile indigenous leader and adviser to the federal government on Indigenous welfare issues, Noel Pearson. In a well-received speech Mr Pearson spoke about Indigenous lawyers and also provided some careful analysis of High Court land rights cases. His comments were perfectly weighted for his largely legal audience.

The evening was a great triumph of organisation by Chris Ronalds SC and her colleagues.

The trust deserves a great deal of support. It has taken over and expanded the work begun by Mum Shirl many decades ago. Anyone who saw her efforts in the prisons and on the streets of Redfern could not fail to be impressed.

The trust is a highly organised and far reaching organisation that needs funds. The silks of 2004 made it the major beneficiary of their donations. More is needed.



Noel Pearson talks to the media following his speech at the fundraiser.
Photo: Bob Finlayson / News Image Library