



JEW/CF.

AUSTRALIAN MILITARY FORCES

MINUTE PAPER

SUBJECT: TRIAL OF JAPANESE WAR CRIMINALS : LT. KAWAZUMI, T., SUB LT. HAYASHI, M.,
CHIEF P/O IKEDA, C., P/O IKEBATA, H.,
CHIEF P/O KAGAWA, H., P/O KUWABARA, M.,
CHIEF P/O OKI, K., CHIEF P/O SHIBATA, S.,
P/O YOSHINO, I.

D.P.W. & I (for Confirming Authority).

I have read through the proceedings of the Court convened under the War Crimes Act for the trial of the above officers and other ranks who were all charged with between February 1942 and August 1945 ill-treating Australian and Dutch prisoners of war at Ambon by -

- (a) physical beatings and torture,
- (b) compelling sick and infirm prisoners of war to go out on working parties, and
- (c) failing to ensure the provision of proper food supplies

and who all pleaded not guilty to such charge when Lt. Hayashi and P/O Ikebata were found not guilty and Lt. Kawazumi was found guilty of failing to ensure the provision of proper food supplies and sentenced to 10 years' imprisonment and the remaining six other ranks found guilty of physical beatings and torture and sentenced to terms of imprisonment ranging from 2 years to 10 years.

2. I have also read the petition of the accused found guilty against the findings and sentences.

3. The proceedings are not satisfactory. If they had been taken before a civil Court or military Court I would have had no hesitation in advising that the findings could not be confirmed.

4. Under what are called trials under the War Crimes Act, none of the rules of evidence, that have been considered necessary to protect accused persons, apply and the Court can admit and consider anything it thinks might assist it in arriving at a conclusion.

5. The fact that there are no rules of evidence makes it extremely difficult to deal with petitions against the findings on the grounds that there is no evidence to support the findings as anything can be admitted and considered by the Court that the Court sees fit to admit, but the Act has not taken away the necessity of the Court being satisfied beyond a reasonable doubt that the accused person is guilty of the charge.

6. I would have thought that much of the evidence admitted in these proceedings even under the system of there being no rules of evidence, should not have been admitted as being relevant to the charges before the Court.

7. I advise that the finding against Lt. Kawazumi should not be confirmed. He was found guilty of "failing to ensure the provision of proper food supplies". He was the Quarter-master in charge of the supplies of the camp and a subordinate officer. There is no doubt that from August 1944 there was a serious failure to supply food to the prisoners of war but I can find nothing in the evidence to show that Lt. Kawazumi was responsible for such failure. There is no



suggestion anywhere in the proceedings that this Lieutenant could have obtained more supplies. During July/August 1944 a transport containing 3,000 tons of rice was sunk by the Allies when en route to Ambon and the Air Force bombed and destroyed to a large extent the stocks of reserve food held at Ambon and from that time on, there was almost a complete blockade of the Island making the importation of food practically impossible. Under these conditions, the issue of rice, the chief food supply to both the Japanese and prisoners of war, was progressively reduced, and there is no doubt that during 1945 the rations issued to the prisoners of war were starvation rations and not sufficient to properly support life. Although the reduction of rations to the Japanese troops was not as great as that to the prisoners of war, their rations were also below what was ~~the~~ necessary to properly support life and there is a statement in the evidence that some 5,000 Japanese died as the result of disease brought on by malnutrition.

8. The fact that a lesser ration was to be issued to the prisoners of war than to the Japanese troops was not left to the decision of a junior Lieutenant but was the result of orders from higher authority.

9. On consideration of the whole of the evidence, I cannot see that any Court could be satisfied beyond a reasonable doubt, or at all, that Lieut. Kawazumi was personally responsible for failing to ensure the issue of proper food to the prisoners of war.

10. The remaining six accused were found guilty of ill-treating prisoners of war by physical beatings and torture. During the period when the ration issue was on the starvation basis not unnaturally the stealing, or attempted stealing, of food was rife and there is evidence (as that term is used in these War Crime trials) that the accused have at times beaten prisoners of war attempting to improperly obtain food supplies. The findings can therefore be confirmed.

11. I find it difficult to appreciate the reasons for the difference of punishment from 10 years to 2 years but they are lawful sentences and subject to the remarks that I have made in previous trials about keeping the Japanese in prison for long terms, they may be confirmed. I would suggest for your consideration however, that the long terms of 10 years appear to be excessive and might be mitigated.

19.3.46.

JUDGE ADVOCATE GENERAL.