

THE WAR CRIMES ACT 1945.

TRIAL OF:

Sgt Maj OHASHI Shigeru
Sgt Maj KOMODA Yoshifumi
Sgt INOUE Masami
L/Cpl NARUSE Masami
L/Cpl TANAKA Kazuo
L/Cpl KAWAMOTO Jasujiwa
Sup Pte OZAWA Motomitsu

all of Japanese M.F. Corps

DATE OF COURT

20th March 1946

PROSECUTING OFFICER

Major F. Derham Green, AALC, HQ 8 M.D.

DEFENDING OFFICER

Lt. D. G. E. Hill, Legal qualifications, att War Crimes Section,
8 M.D.

THE ACCUSED ARE BROUGHT BEFORE THE COURT

THE MEMBERS OF THE COURT AND JUDGE ADVOCATE ARE DULY SWORN

Civilian interpreter HATORI employed by the Japanese Army is sworn
as interpreter (Japanese)

THE CHARGE IS READ TO THE ACCUSED

All accused plead NOT GUILTY to the charge

The prosecuting officer does not desire to make an opening address.

The prosecuting officer states that he does not propose to call any
witnesses for the prosecution, but tenders statements made by LOKIS,
HEBAM, Frederick William KAPPA, and LAMUS.

The Defending officer does not object to this form of procedure.

By consent, prosecuting officer tenders statements which are read to
the court, admitted, and marked.

Statement by LOKIS marked Exhibit 'A'
Statement by HEBAM marked Exhibit 'B'
Statement by Frederick William KAPPA marked Exhibit 'C'
Statement by LAMUS marked exhibit 'D'

and annexed to the proceedings.

CLOSE OF CASE FOR PROSECUTION.

Defending officer makes a brief opening address which he does not
desire to have recorded.

Defending officer proceeds to call first witness for Defence, accused
KOMODA.

FIRST WITNESS FOR DEFENCE

Accused Sgt Maj KOMODA being duly sworn is examined by Defending Officer through interpreter Hattori.

Guided by my conscience I swear to tell the truth without withholding any evidence whatsoever and also, I will not add anything besides the truth.

葛田嘉文

My name is Sgt Maj KOMODA Yoshifumi of the Japanese Military Police Corps. I was the officer in charge of maintenance of peace section at the Vunarima area on April 44. At Vunarima about that month which covered the ~~area~~ district was considered the main defence area of the Rabaul area and it was considered a very forward line. The CO in C Gen Imamura had issued the No 2 Preparation order. All the units in the Vunarima area were at their battle positions. The attitude of the natives in that area was very anti Japanese in that they used to commit acts of treason and had a rebellious attitude, stealing provisions and petrol and in all it was very anti Japanese. Desertion by natives were very frequent. I and my unit were responsible for the maintenance of peace and order in the area. I remember the incident of the explosion of 800 drums of petrol. I was despatched to make the investigation of this explosion and when I did make this investigation I learned that the explosion of petrol in drum ~~area~~ had expanded but among them I found that there was one bib out in a drum ~~area~~ which had been caused by an axe. I considered the explosion to be the result of sabotage. I remember the attack on Marusa. It was a native who attacked him. I remember who the native was. I remember the attack on civilian Fujiwara. I remember him being threatened by 3 natives with rifles. ~~in August~~ Shimaji was shot at by on the banks of Keravat river. It was a half caste named Bernard responsible. I investigated that matter. I remember wholesale robberies from the hospital. I found out who was responsible for that. I found out that Bernard gave orders to two natives to ~~take~~ this, and I therefore found out who was the responsible party. On 14 Aug Lakunai ~~was~~ brought in ~~and~~ natives for questioning. They were interrogated by me. I found out that they were working under the instructions of Bernard. I found out that they had been gathering firearms and carrying out anti Japanese activities. I did not illtreat them in any way during the interrogation. On 22 Aug I searched Bernard's house. At that time there was a WO Matsumoto in charge who gave me the instructions to go to Bernard's house to search it. I went to Bernard's house with Sup ~~the~~ ~~area~~. I found in his personal belongings one colt pistol and ~~some~~ rounds of ammunition. Instructions had been given that they were not to have firearms. The firearms were confiscated from Bernard's house. I found them in his clothing box. I took him back to Vunarima and his interrogation began. Bernard was in the house himself at this time. On 27th Aug he made a final confession. He confessed that "in view of the fact that the Japanese had come to the island his life had become unbearable and very difficult and in order to have peace come once again the only way out was to get rid of the Japanese." "In order to combat this type of situation it is necessary for me to carry out treason and other rebellious activities and therefore I assembled about 25 men." "In order to carry out such activities I had assembled the men as well as fire arms and these firearms included 11 rifles 250 rounds of ammunition and about 20 hand grenades." He did state where he got the fire arms from. The rifles were brought from a place called Toma which the Australians had left in their retreat from Rabaul, and the hand grenades were stolen on his orders from a Japanese ammunition dump. The ammunition for their rifles was brought from the same place as the rifles came from. Bernard did give an explanation about the explosion of the gasoline. Bernard stated at the time he ordered ~~two~~ and two other natives to carry out this gasoline explosion. Bernard himself stated that he attacked Shimaji with his pistol. He also admitted that ~~the~~ ~~area~~ orders to his native subordinates ~~it~~ was carried out by one of his men. He did state that there were rifles and ammunition stocked around his house. As a result of that I went to his house near Bernard's and arrested ~~the~~ natives. I found there 11 rifles 250 rounds of ammunition for the rifles and 20 hand grenades. I proceeded to interrogate the natives.

They confessed that they had been acting on instructions of Bernard. They admitted that they intended to get rid of the Japanese and ~~use~~ use the firearms against them for this reason, with the purpose of spreading the idea of dereliction amongst the Japs. ~~This~~ report was sent to the ~~MP~~ MP at Rabaul on 31 Aug. On Sept 3rd Lt. Yamada came to the Vunarima detachment. He again investigated the whole matter. He commenced the investigation to see the object of such activity. The investigation commenced on Sept 4th. He interrogated Bernard and the natives. Then he went back and made reports to ~~MP~~ HQ. He came to and from Vunarima to carry out these investigations about three round trips. He came again in 12 Sept. ~~On the 13th Sept three MG native boys came to the detachment and asked to be employed. At that time Ohashi stated that he must receive permission of the detachment of the officer in charge and that he would get the permission the following day and that in the meantime they could dig caves. I do not remember their names. That night I thought that the natives were working in digging the caves. I heard from Ohashi that these three boys had been talking with the natives who were already confined and among them was Josef. At 1030 that morning a native agent came back running. The report that I received from the native was that the MG native boys were contemplating an attack against the Jap MP to get Bernard and his party released. He mentioned that during the time when the MP would be resting. Then thinking about the 3 natives of the previous day and what this native boy had told me, I reported the matter to Lt. Yamada. Then Lt. Yamada ordered me that a Military trial will be held urgently. This court was composed of Lt Yamada Ohashi and myself and the interpreter L/Cpl Tanaka. Lt. Yamada opened the court and spoke a few words and then with all the interrogation papers in front of him and the evidence of the rifles and the firearms, and then Bernard and his party were brought into the room. Then each man was brought forward and Lt Yamada went through the court proceedings. After all the men had been brought before the court and the court proceedings completed ~~the court decided that a decision over the case. As the result of the conference between the three of us, the death sentence was unanimous. Then the matter was referred to the MP HQ for confirmation. Then Lt. Yamada telephoned the Provost martial and an order came from the Provost martial confirming the sentence and that it should be carried out and then a warning should be issued to all the natives that such rebellious activities should not be permitted. This order was conveyed by telephone. There was a written confirmation of the order. I did see it. It was signed by the Provost Martial's personal seal upon it. Then Lt Yamada ordered me to carry out the execution with my subordinates and that assistance from other units would be obtained to carry out this order, and then Bernard and his party were executed. Myself and the other accused executed nine men. That did not include Bernard. I remember that it was a naval man who had come to assist in the execution that killed Bernard. Since I was ordered by Lt Yamada I believed it to be a lawful order. The navy men killed five and the natives killed three. They were the native Kappai boys.~~~~

Q. Did that trial appear quite regular to you.

A. Ordinarily they would be sent to a Court martial ~~but under these circumstances~~ was recognised that under this circumstance that a military summary trial could be held.

Q. Who took the initiative in deciding that.

A. It was the C in C of the 8th Army

Q. Who took the initiative in deciding whether these particular circumstances warranted a summary trial instead of a court martial.

A. Lt. Yamada.

Q. Did you have any reason to doubt his decision.
A. No.

Q. Did the whole trial with proceedings seem a lawful affair to you.
A. Yes, I believed it to be a lawful ~~trial~~ and fair trial.

Q. As far as you knew ~~xxx~~ was it properly conducted.
A. Yes, it was conducted properly.

Q. Was the charge read out to the accused.
A. Yes, the charge was read out.

Q. Can you remember how they pleaded.
A. They pleaded guilty.

Q. Were witnesses examined again.
A. Yes, they were examined again.

Q. Were the accused questioned again.
A. Yes, they were questioned again.

Q. Was there any intimidations of the accused at all
A. No, there was no intimidations.

Q. Were they chained or tied up in any way.
A. No, they were not.

Q. Were they all in Court at the same time.
A. Yes, they were all brought in court.

Q. Who actually pronounced the verdict of guilty.
A. It was Lt. Yamada.

Q. Who actually pronounced sentence.
A. It was Lt. Yamada.

Q. Was it pronounced to all the accused in court.
A. Yes, it was pronounced to all.

DEFENDING OFFICER SHOWS BOOK TO WITNESS.

Q. Are you familiar with that book.
A. Yes.

Q. Tell the court what it is.
A. It is the book of regulations of military discipline.

Q. Is that the book that ~~the~~ ~~must~~ know the provisions of ~~this~~ ~~book~~.
A. Yes.

Q. Were you at this time familiar with its provisions.
A. Yes I was very familiar.

DEFENDING OFFICER SHOWS ANOTHER BOOK TO WITNESS.

Q. Do you recognise that book.
A. Yes.

Q. What is that book.
A. It is fundamental principals of Japanese tactics and operations.

Q. Were you familiar at the time with the provisions of that book.
A. Yes I was.

BOOKS MARKED FOR IDENTIFICATION.

1st Book is marked MF/1
2nd Book is marked MF/2.

Q. Were the accused asked if they had anything to say at the end of the trial.

A. They were asked if they wanted to state anything.

A (cont) it was at the execution that we asked them if they had anything further to say.

Q. About what.

A. If there was any last will they wanted to make to their parents or relatives.

Q. They gave their final will.

A. They stated there was nothing they wanted to say.

Q. Were they led up one by one for execution.

A. Yes, they were taken one by one and executed.

Q. The mode of execution was what.

A. They were beheaded by sword.

Q. Is that a lawful and honourable means of execution in the Japanese Army.

A. Yes. It is a custom in the Japanese Army and it is considered honourable.

Q. Were any shots fired at the bodies.

A. After beheading these men in order that some of those who did not die immediately would not suffer they were shot.

Q. Does that mean that some of the heads did not roll off immediately.

A. Yes that is what I mean.

Q. Did you make sure that all the bodies were dead before covering them over with dirt.

A. Yes. I saw to it that they were completely dead before burial.

Q. Did you make arrangements for a burial ~~xxxxxxx~~ ceremony.

A. Yes I did ~~xxxxx~~ have a form of ceremony.

At 1200 hrs Court adjourn to 1330 hrs.

At 1335 hrs Court re-assembles pursuant to adjournment.

~~DEFENDING OFFICER CONTINUES EXAMINATION~~

CROSS EXAMINED BY PROSECUTING OFFICER.

Q. Was there a written charge sheet at the time of this trial you have described.

A. Yes, there was a written charge sheet.

Q. ~~Was there a charge sheet at the time of this trial you have described.~~

Q. Did the signature or seal of the Provost Martial appear on the charge sheet.

A. This trial that Lt. Yamada held was carried out by Lt. Yamada himself and I did not see any seal of the Provost Martial.

Q. Do you know whether the charge was referred to the Provost Martial before trial.

A. The documents were referred to the Provost Martial before trial. Particulars of the charge were referred to the Provost Martial and Lt. Yamada brought back the documents from the Provost Martial himself.

Q. You actually perused the written charge yourself.

A. Yes I did.

Q. Was there more than one charge.

A. Yes, there was more than one charge.

Q. How many.

A. There were 5 charges.

- Q. What were they.
A. The first charge was the assault on Shimaji.
- Q. Who was that charge against.
A. It was against Bernard and his party.
- Q. How many.
A. Eighteen in all, that is all the people who were executed.
- Q. What is the second charge.
A. The attack against Maruse was ordered.
- Q. Who were the accused in that charge.
A. A boy called Karun.
- Q. And the third charge.
A. Against Mapa and two others for blowing up this gasoline dump.
- Q. And the fourth charge.
A. Against Yoser and two others on the orders of Bernard to steal provisions.
- Q. Charge No 5.
A. The fifth one was against Anos and ~~three~~ others for stealing grenades and handing them over to Bernard.
The fifth charge was that on Aug 10th Anos and three other natives for spying on Army Hq as well as stealing grenades from the Liguam Ammunition dump on the orders of Bernard.
- Q. What witnesses were called on the first charge of assault on Shimaji.
A. Shimaji himself was called. He was the only witness called.
- Q. What was the exact nature of the assault on Shimaji.
A. The evidence that was given in that case was that Shimaji who had gone out on an observation trip who had returned about 5 o'clock in the evening around the Karavat River and he was fired upon several times, but fortunately he dropped to the ground to save himself and he noticed a native escaping.
- Q. Was it just one native.
A. It looked like a native, but was wearing a shirt
- Q. Was that the full extent of Shimaji's evidence.
A. That was all the evidence that he stated
- Q. And he was the only witness.
A. There was no others persons at the scene of the incident.
- Q. Were the accused who were charged found ~~as~~ guilty of all five charges.
A. Yes, that is correct.
- Q. On the first charge of assault against Shimaji 18 people were found guilty.
A. That is correct.
- Q. Two books were put in this morning. Are you quite familiar with the entire contents of both.
A. Yes, I know the contents.
- Q. Do you know whether all the accused are familiar with the contents of those books.
A. I think they know the contents. Of course it may be a long time since they refreshed their memories for some time.
- Q. On 18th Sept 44 ~~Maruse~~ was it their duty to know the contents of those books.
A. Yes.
- Q. Will you show me in either of those books the provisions relating to a summary trial.

- Q. What were they.
A. The first charge was the assault on Shimaji.
- Q. Who was that charge against.
A. It was against Bernard and his party.
- Q. How many.
A. Eighteen in all, that is all the people who were executed.
- Q. What is the second charge.
A. The attack against Maruse was ordered.
- Q. Who were the accused in that charge.
A. A boy called Karun.
- Q. And the third charge.
A. Against Mapa and two others for blowing up this gasoline dump.
- Q. And the fourth charge.
A. Against Yoser and two others on the orders of Bernard to steal provisions.
- Q. Charge No 5.
A. The fifth one was against Anos and ~~three~~ others for stealing grenades and handing them over to Bernard.
The fifth charge was that on Aug 10th Anos and three other natives for spying on Army HQ as well as stealing grenades from the Liquan Ammunition dump on the orders of Bernard.
- Q. What witnesses were called on the first charge of assault on Shimaji.
A. Shimaji himself was called. He was the only witness called.
- Q. What was the exact nature of the assault on Shimaji.
A. The evidence that was given in that case was that Shimaji who had gone out on an observation trip who had returned about 5 o'clock in the evening around the Karavat River and he was fired upon several times, but fortunately he dropped to the ground to save himself and he noticed a native escaping.
- Q. Was it just one native.
A. It looked like a native, but was wearing a shirt
- Q. Was that the full extent of Shimaji's evidence.
A. That was all the evidence that he stated
- Q. And he was the only witness.
A. There was no others persons at the scene of the incident.
- Q. Were the accused who were charged found ~~as~~ guilty of all five charges.
A. Yes, that is correct.
- Q. On the first charge of assault against Shimaji 18 people were found guilty.
A. That is correct.
- Q. Two books were put in this morning. Are you quite familiar with the entire contents of both.
A. Yes, I know the contents.
- Q. Do you know whether all the accused are familiar with the contents of those books.
A. I think they know the contents. Of course it may be a long time since they refreshed their memories for some time.
- Q. On 18th Sept 44 ~~Maruse~~ was it their duty to know the contents of those books.
A. Yes.
- Q. Will you show me in either of those books the provisions relating to a summary trial.

A. Lt. Yamada under article 5 of the Fundamentals of Japanese tactics and operations in view of the pressing situation carried out the trial.

Defending officer tenders certified translation of Article 5 referred to above. Article read and admitted in evidence and marked Exhibit "A"

Q. Was that the only authority under which Lt. Yamada conducted the trial.

A. It is not only that. In view of the urgent and pressing situation at that particular time immediate means of defence was necessary. It was recognised by the GOC 8th Army that in such a pressing situation that he could carry out the summary trial.

Q. Was there a written instruction to that effect.

A. Yes there was a written instruction to that effect.

Q. Where is the written instruction now.

A. There isn't any documents left now.

Q. How many summary trials did you sit on pursuant to that order.

A. That was the only time.

Q. When was this order issued by the GOC.

A. I have seen the order but I cannot remember the date.

Q. What other kinds of trials are there under Japanese Military Law.

A. There is what we call the court martial.

Q. Are there any other form of trials.

A. Other small trials for petty offences.

Q. Is there an authorised scale of punishment in respect of trials for petty offences.

A. Yes there is a scale of punishment.

Q. In what book is that scale laid down.

A. It is included in the Military Rules and regulations.

Q. And what is the maximum permissible punishment on that scale.

A. Whipping.

Q. When the GOC authorised the special summary courts did he lay down a scale of punishment.

A. I have not seen the scale of punishment.

Q. When you sat on this court and you deliberated as to sentence, what was your guide as to punishment.

A. We considered the crime committed, and to compare the crime with the punishment

Q. How do you know that death was a legal punishment.

A. Because an act of war treason would be the death penalty.

Q. At what stage of the trial are the accused asked to plead.

A. At the beginning of the proceedings.

Q. You told us in evidence in chief that the accused were questioned at the trial. If they pleaded guilty why was that necessary.

A. Despite the fact that they did plead guilty it was necessary to confirm the whole thing in the proceedings.

Q. Is stealing an act of war treason.

A. Stealing may not be war treason but in this particular case it was committed by Bernard and his conspirators.

Q. Why was Bernard not charged with stealing.

A. Bernard in general was charged.

Q. Am I to take it then that there were 6 charges.

A. Bernard was charged for everything in general he was the ringleader

- Q. Was there a sixth charge.
A. There was no sixth charge against Bernard.
- Q. ~~Maximilian~~ In the charge against Angus and three others, was Bernard one of those three others.
A. No he was not on that charge.
- Q. Yusuf and two others. Was Bernard in that charge.
A. No he was not included.
- Q. Mapa and two others was he in that charge.
A. No he was not included.
- Q. Against Karus/
A. No he was not in that charge.
- Q. In the charge of the assault on Shigaji was he in that charge.
A. Yes, he was in that.
- Q. Was Bernard identified by Shigaji.
A. Yes.
- Q.

REEXAMINED BY DEFENDING OFFICER

- Q. What ~~exactly~~ did you think warranted a summary trial instead of a court martial.
A. The reason for having an urgent Military summary trial was the New Guinea natives had already planned to attack the Japanese MP detachment in order to free Bernard and his party and therefore it was most urgent.
- Q. Do you honestly believe that at that time it was justified on those grounds.
A. Yes, I believe it was fair on those grounds.
- Q. How far did you rely on the advice and opinion of Lt. Yamada in coming to the verdict.
A. Lt. Yamada was the centre of this whole decision and I did not contradict his decision.
- Q. Did you yourself honestly believe the accused to be guilty.
A. Yes I believed them to be guilty.

QUESTION BY COURT

- Q. At what time of the day on 14th Sept, the sentence was passed.
A. The sentence was passed at 1130 in the morning.
- Q. Was that on all the accused.
A. Yes on all the accused.
- Q. At what time was the execution carried out.
A. It commenced from 1230 on the same day.
- Q. At what time was the working party detailed to dig the grave.
A. From 1150 a.m.
- Q. And how many was in the party detailed to dig the hole.
A. There was about 10 men.
- Q. You mentioned that an attack was expected by some natives about noon according to information received. Did such an attack take place.
A. No attack was carried out.
- Q. Can you inform the court as to when the written confirmation arrived from the Provost Martial with regard to the sentence.
A. It arrived in the night of the 14th at about 8 o'clock I think.

Sheet No. 9

NO FURTHER QUESTIONING.

Evidence is read over to witness who does not desire to correct same.

I swear that I have told you the truth without adding anything.

舊田嘉文

SECOND WITNESS FOR DEFENCE

Gen. IMAMURA being duly sworn is examined by Defending Officer through interpreter Hattori.
Guided by my conscience I swear to tell the truth without withholding any evidence whatsoever, and also I will not add anything besides the truth.

今村均

Q. What is your full name rank.

A. I am General HITOSHI Imamura C in C of the 8th Group Army

Q. Did you make the Vunarina area an emergency area in April 44.

A. Yes, I did make it an emergency area.

Q. In the case of the inhabitants of occupied territory who are charged with war treason and war rebellion what are the usual means of proceedings against such persons.

A. In this area I heard that there were espionage activities such as signalling to enemy aircraft and other rebellious activities. Under normal conditions it would be to send the person to a court martial but under pressing circumstances unit commanders would have the authority which had been provided by the Emperor to carry out on their own for the protection of the army.

Q. Exactly what is that authority.

A. To carry out for the protection of the Army.

Q. Where does this authority apply. Does it apply in an emergency area.

A. It would come under that emergency area and the fundamental principals of Japanese tactics and operations would apply.

Q. Would that apply to a summary trial in the field.

A. It is provided that in case the accused cannot be sent to a court martial then the unit commander may carry out his own investigation and decision.

Q. Do you know of anything which regulates the holding of a summary trial.

A. No there is not.

Q. On whose judgement would the conduct of a military trial rest.

A. It would rest with the unit commander of that particular area.

Q. Would an officer representative of MP HQs have authority to preside at a summary trial held in a unit detachment.

A. It is possible if the circumstances are pressing.

Q. Would the person who judges whether the circumstances are pressing or not be the officer representative of the MP HQs visiting the detachment. Would he be the person to decide whether the circumstances are pressing.

A. Yes he can. I also recognised the fact that New Britain was considered a very forward area in that the allies would be landing at any moment.

Q. Is there anything irregular about NCO's sitting in judgement in a summary trial.

A. Normally and officially an officer must preside but in case officers are not available in that particular unit then a non commissioned officer may sit.

Q. Is it quite regular for a summary trial to consist of an officer and two NCOs.

A. I cannot say whether it is normal or not but it depends on the circumstances. It would be guided by the principals laid down in the fundamental principals of Japanese tactics and operations that normally an officer would be in charge but in case the unit commander is an NCO then he may sit on the court.

Q. In any event he would be required to do what the officer told him to do.

- V8
- A. That is the principal.
 - Q. May a summary trial pass the sentence of death.
 - A. It is possible if the unit commander decides so and it would be definite under military operations.
 - Q. Do you consider that the Vunarina comes within the meaning of the military operations area, at this particular time.
 - A. This Vunarina area was considered as an anticipated allied landing point and was therefore considered very tense.
 - Q. Would that sentence have to be confirmed by a higher authority before it could be carried out.
 - A. Normally a confirmation is required by a higher officer, and when I did find out about this incident it was after the whole incident was completed, and I acknowledged the fact that under the circumstances at that time it was ~~unjustified~~ justified.
 - Q. Would verbal confirmation from the provost martial give authority to carry out the sentence.
 - A. In that incident I would consider it sufficient.

NO CROSS EXAMINATION

QUESTION BY COURT

- V8
- Q. Is it the normal method of execution by beheading, as was carried out in this instance.
 - A. Normally shooting would be the method but there is a long tradition in the Japanese people that beheading is more honourable for the person to be executed.
 - Q. Under the circumstances that existed in this particular case is it normal to give a saboteur ~~an~~ honourable death.
 - A. In this circumstance beheading was the Japanese method which would be more honourable and although Japan does recognise the western system of shooting there is still that tradition still remaining in the Japanese custom.
 - Q. Is it normal that shooting should also take place to make sure that the victim is killed in case the beheading was not completed properly.
 - V8 A. Ordinarily when a beheading takes place and if the person is not killed then a second stroke with the sword would be normal. ~~It is not permissible according to Japanese Military codes but~~ beheading is a Japanese tradition.

QUESTION BY DEFENDING OFFICERS BY LEAVE OF COURT.

- V8
- Q. If the victim was shot after the sword cut to alleviate pain ~~that~~ there be anything unlawful in that.
 - A. Whether it is lawful or unlawful but from a humane point of view I would consider that to alleviate pain it would be a humane thing to do.

Evidence is read over to witness who does not desire to correct same.

I swear that I have told the truth without adding anything.

今村均

At 0920 hrs/Court Reassembles pursuant to adjournment; present the Judge advocate and same members.

THIRDAITNES FORREFERENCE

The accused Ohashi being duly sworn is examined by Defending officer through interpreter Matori.

Guided by my conscience I swear to tell the truth without withholding any evidence whatsoever and also, I will not add anything besides the truth.

大橋 茂

Q. Rank full name and unit.

A. I am Ohashi Shigeru Sgt Maj of the Vunarima MP detachment

Q. What was your position in Vunarima in April 44.

A. I was in charge of any incidents arising from soldiers and civilians and at times assisted Sgt Maj Komoda.

Q. Were you subject to the orders of Komoda.

A. No, I was not subject to his orders. I was subject to the orders of the detachment OC.

Q. What was the name of the detachment OC.

A. The OC of the detachment was ~~Kikuya~~ Takahashi Kikuya.

Q. In Takahashi's absence were you then subject to the orders of Komoda.

A. Yes.

Q. What actually was Komoda's position.

A. Sgt Maj Komoda was in charge of the maintenance of peace.

Q. Was ~~he~~ IC of the detachment

A. Yes, it was Sgt Maj Komoda.

Q. Do you remember the summary trial of Bernard and 17 natives.

A. Yes, I do remember.

Q. Who was present on the bench of that trial.

A. There were 4 men, Lt. Yamada, Sgt Maj Komoda, myself and interpreter Tanaka.

Q. Were you ordered to be a member of the bench.

A. Yes.

Q. Who ordered it.

A. It was Lt. Yamada.

Q. Were all the accused brought into court.

A. Yes, they were all brought into court.

Q. And were the charges read out to them.

A. Yes.

Q. As far as you can remember did those charges include ~~the~~ Bernard and all the 17 natives in court.

A. Yes.

Q. And were they all asked how they pleaded.

A. Yes, they were all asked.

Q. And what did they all plead.

A. They pleaded guilty.

Q. Will you tell us what were the proceedings from then on.

A. Firstly Bernard was brought in front of Lt. Yamada and was confronted with the following evidence, 11 rifles, 255 rounds of ammunition, 20 hand grenades, 1 colt pistol and 20 rounds of ammunition for the pistol.

A. (Cont) and then he admitted his crime.

Q. What was that crime.

A. He admitted the fact that he was making war treason as well as preparing rebellious activities and that the course of this rebellious activities were carried out.

Q. Did he say anything in respect to the fire arms and ammunition in court.

A. With regard to the arms and ammunition he stated that he ordered Jaking and the three other natives to obtain ammunition. As regards the hand grenades Bernard ordered Anos and three other natives to steal the grenades from the Japanese ordnance stock.

Q. As regards the colt pistol and cartridges for same he said that he got them from a depot which the Australians had left behind in their retreat. The ammunition for the rifles were brought from the same place as the rifles which was at Toma. All these ammunitions were hidden in the vicinity of his house at a big tree. The pistol itself was discovered in Bernard's clothing box in his house. He further admitted that this was the pistol that he used in attacking Shimaji. When questioned about the explosion of the gasoline dump Bernard admitted that he ordered Mapa and two other natives to carry out this sabotage.

Q. Who was asking the questions.

A. It was done by Lt. Yamada. He further admitted that Anos and three other natives were ordered to sneak into the Japanese camp to obtain information as well as stealing hand grenades from this ammunition dump. It was further stated that he ordered Josef and 3 other natives to carry out enormous thefts to be used in rebellious activities. That Bernard ordered Angau-Mari to threaten a Japanese called Fujiwara. Bernard did not order Karun to carry out this attack on Maruse but Karun carried it out on his own. Bernard also stated that the object of his activities was to weaken the Japanese Army. This is all I remember.

Q. Do you remember if any of the natives were called to corroborate the evidence of Bernard.

A. Yes.

Q. Give us the details of what they said and so on.

A. The natives stated that they were ordered by Bernard and it was also their intention to carry out rebellious activities.

Q. Did all of them confess that.

A. Yes, they all stated that.

Q. When the verdict was reached was it announced to Bernard and the 17 natives in court.

A. Yes it was pronounced to all.

Q. Who pronounced it.

A. It was Lt. Yamada. It was guilty.

Q. Can you tell us exactly what was your function on the bench.

A. I was ordered by Lt. Yamada to sit on the bench. I did not have any special duties.

Q. Did you have a vote in the final vote and sentence.

A. I did not vote. Lt. Yamada stated that the sentence should be as such and I did not make any remarks.

Q. What was the sentence pronounced by Yamada.

A. "He stated that it was very clear that you have carried out acts of sabotage and war treason and therefore you are sentenced to death."

Sheet No 14

4. Did he state the method of execution.

A. No, he did not.

4. Did he order anybody to arrange and carry the execution out.

2. Then Lt. Yamada ordered Sgt Maj Komoda to use Sgt Maj Ohashi and the rest of the ~~men~~ as well as two members of the navy and 3 native ~~camp~~ boys to carry out the execution by sword.

4. "were you yourself" ordered to take part.

2. I was ordered.

2. By whom.

4. was ordered by Lt. Iamada.

4. Was there a burial ceremony.

A. We held an official burial ceremony by lining up all the men in front of the grave and called the native priest to offer prayers and then everybody saluted and the ceremony was closed. We offered flowers to the grave.

4. Are the rest of the accused apart from Komoda regular MPs.

A. Yes. Only Sgt Inoue is a ~~sergeant~~, and the rest are just soldiers who were attached to the ~~unit~~ for duty.

4. Are you familiar with the regulations for military discipline enacted by the Emperor in 1943.

A. Yes, I do know the contents.

4. are you familiar with particulars ^{of} ~~from~~ the articles in that publication, with regard to obedience.

4. Yes, I am familiar.

4. Was there anything about this summary trial which struck you as being improper and unlawful.

4. Yes, I believed it to be a fair trial.

2. Did you yourself honestly believe that Yamada's orders to you were proper and lawful.

4. Yes, I did believe ~~that~~ to be lawful.

4. Is it true that an attack was ~~supposed~~^{expected} by hostile natives with the object of rescuing Bernard and his companions.

Yes. The native agents brought the information that the MP detachment would be attacked.

At 1010 hrs Court adjourn to 1330 hrs on 21 March 46.

Court further adjourns until 0900 hrs on 22 March 46.

At 0900 hrs on 22 Mar 46 Court reassembles pursuant to adjourn~~ment~~
present the Judge Advocate and same members

Q. What time was it that this native came in with the report.

A. He came around 1030.

Q. Did you notice any signs of excitement among the other natives in the detachment compound.

A. About 2 or 3 natives of Bernarda party were again questioned when the report came in ~~that they were not working in the~~ ~~days.~~

Q What time did the trial end.

A. The trial ended at 1130.

Q. what time was the hole dug in preparation for the execution.

Q. It was about 1150 in the morning.

Q. Was that after Lt. Yamada had pronounced sentence and given

Q. (cont) orders for the execution to be carried out.
A. Yes.

Q. OKOS EXAMINED BY PROSECUTING OFFICER

Q. Where was this trial held.
A. This trial was held at the Vunarima MP detachment investigation room.

Q. How big was the room.
A. The size of the room would be 6 by 8 paces.

Q. In addition to the court were there any spectators present at the trial.
A. No, there were no spectators.

Q. How many witnesses were called altogether excluding the accused.
A. ~~There were 2 witnesses, Shimaji and Maruse.~~ There were 2 witnesses, Shimaji and Maruse.

Q. Was Maruse present throughout the entire proceedings.
A. He only appeared when it concerned him in the case.

Q. Was Shimaji present during the whole proceedings.
A. He was there only when he was required.

Q. Who was the interpreter.
A. It was L/Cpl Tanaka.

Q. Was he present during the whole of the proceedings.
A. Yes, he was there from the beginning to the end.

Q. How was the court room arranged.
A. The accused stood standing in front in two lines and the members of the court were sitting down on one side.

Q. Was the interpreter sitting down with the court.
A. No, the interpreter was standing.

Q. Was there a table in the court room.
A. Yes, there was one table in front of the presiding officer.

Q. Were the accused charged individually or as a group.
A. They were charged in a group.

Q. Were all charges interpreted to them.
A. Yes.

Q. Was the evidence of the witnesses Shimaji and Maruse interpreted to them.
A. Yes, it was interpreted to them.

Q. Did they give evidence as to all the details of those two charges.
A. Yes.

Q. For how long did Shimaji give evidence.
A. It was about 3 minutes.

Q. And for how long did Maruse give evidence.
A. It was only for about a minute.

Q. Did each accused have an opportunity of making a full explanation.
A. Yes.

Q. And did each accused make an explanation.
A. Yes.

Q. Were those explanations interpreted in full to the court.
A. Yes.

Q. How long did the court confer before arriving at a finding of guilty.
A. It took 10 minutes.

Q. (cont) orders for the execution to be carried out.
A. Yes.

QROB EXAMINED BY PROSECUTING OFFICER

Q. Where was this trial held.
A. This trial was held at the Vunarima MP detachment investigation room.

Q. How big was the room.
A. The size of the room would be 6 by 8 paces.

Q. In addition to the court were there any spectators present at the trial.
A. No, there were no spectators.

Q. How many witnesses were called altogether excluding the accused.
A. ~~There were 2 witnesses, Shimaji and Maruse.~~ There were 2 witnesses, Shimaji and Maruse.

Q. Was Maruse present throughout the entire proceedings.
A. He only appeared when it concerned him in the case.

Q. Was Shimaji present during the whole proceedings.
A. He was there only when he was required.

Q. Who was the interpreter.
A. It was L/Cpl Tanaka.

Q. Was he present during the whole of the proceedings.
A. Yes, he was there from the beginning to the end.

Q. How was the court room arranged.
A. The accused stood standing in front in two lines and the members of the court were sitting down on one side.

Q. Was the interpreter sitting down with the court.
A. No, the interpreter was standing.

Q. Was there a table in the court room.
A. Yes, there was one table in front of the presiding officer.

Q. Were the accused charged individually or as a group.
A. They were charged in a group.

Q. Were all charges interpreted to them.
A. Yes.

Q. Was the evidence of the witnesses Shimaji and Maruse interpreted to them.
A. Yes, it was interpreted to them.

Q. Did they give evidence as to all the details of those two charges.
A. Yes.

Q. For how long did Shimaji give evidence.
A. It was about 3 minutes.

Q. And for how long did Maruse give evidence.
A. It was only for about a minute.

Q. Did each accused have an opportunity of making a full explanation.
A. Yes.

Q. And did each accused make an explanation.
A. Yes.

Q. Were those explanations interpreted in full to the court.
A. Yes.

Q. How long did the court confer before arriving at a finding of guilty.
A. It took 10 minutes.

Q. Did the accused have a full opportunity of addressing the court in mitigation of sentence.

A. Yes, it was done.

Q. Did the accused take advantage of that opportunity.

A. They stated that there was nothing to say.

Q. Was each one given the opportunity separately.

A. Yes.

Q. Were their answers taken separately.

A. Yes.

Q. For how long did Bernard address the court altogether.

A. About 20 minutes.

Q. For how long did Yosef address the court.

A. For about 3 minutes.

Q. Lumbes.

A. I do not remember.

Q. Etuat.

A. I do not remember.

Q. Anos.

A. Anos would be about 2 minutes.

Q. Tobimafa.

A. I do not remember.

Q. Mapa.

A. About 3 minutes.

Q. Karun.

A. About 2 minutes.

Q. Kuimbu.

A. I do not remember.

Q. Unganari.

A. About 2 minutes.

Q. Jaking.

A. About 2 minutes.

Q. Suggui.

A. I do not remember.

Q. Golujong.

A. I do not remember.

Q. Iskar.

A. I do not remember.

Q. Duabin.

A. I do not remember.

Q. Saki.

A. I do not remember.

Q. However you do remember that each of the accused made a full explanation.

A. Bernard and the rest of his party were given the opportunity of giving explanation.

Q. Did each of the accused make a full explanation.

A. Yes, they did.

Q. And were these explanations fully interpreted.

A. Yes, they were fully interpreted.

Q. After the accused had made their explanation did the court ask them questions or any of them.

- A. Yes, they were.
- Q. Were all of them questioned by the court.
- A. Only the presiding officer asked the questions.
- Q. Did he question all the accused.
- A. Yes, he did question all the accused.
- Q. Did all questions and answers go through the interpreter.
- A. Yes, it was through the interpreter.
- Q. At what time did the trial commence.
- A. It started around 1040.
- Q. After the natives had been given an opportunity of speaking in mitigation of sentence did the court confer again as to what the penalty should be.
- A. Yes they conferred for about 10 minutes on the question of sentence.
- Q. Would you be satisfied if you were getting a similar trial today.
- A. Yes, I would be satisfied.
- Q. Was a defending officer provided for these natives.
- A. No, it was not provided in view of the time element.
- Q. Did any natives or Bernard make a general address on behalf of anybody.
- A. Bernard ~~made a general address~~ did speak generally.
- Q. Was that address in addition to his own address in respect to his own offence.
- A. It was for all the accused. It was separate /o his own.
- Q. How long did that general address take.
- A. He probably talked for only about a minute.
- Q. Were the accused ^{Inoue} ~~men~~, Kawamoto and Maruse aware of what took place at this trial.
- A. Yes. They were aware that the trial was being held but they would not ~~be~~ aware of the nature of the proceedings.
- Q. Did Inoue, Maruse, Kawamoto, and Ozawa supervise the digging of the hole.
- A. No, they did not.
- Q. Were they present when the hole was commenced.
- A. No they were not there. They were still at the MP detachment.
- Q. Did you see the written charge sheet.
- A. Yes, I saw Lt. Yamada had it.
- Q. Did You read it.
- A. No I did not read it.
- Q. Did you hear the charges read out by Lt. Yamada.
- A. Yes, I did hear it.
- Q. What was the charge against Bernard.
- A. The charge against him was war treason and rebellion.
- Q. Was he charged with anything else.
- A. Inside of that was also the charge of assault against Shimaji, and that he had ordered natives to carry out sabotage activities, that is blowing up of gasoline dumps, and the pilfering of arms, and to the assembling of ordnance and the stealing of provisions, and to investigate the Japanese Army strength. As far as I can remember, that is all I can remember.
- Q. Was that all read out from the charge sheet by Lt. Yamada.
- A. Yes.
- Q. And was fully interpreted to Bernard.
- A. Yes it was interpreted.

- Q. Who gave evidence in respect of the blowing up of the oil dump.
A. Mapa and two others gave evidence.
- Q. Was that evidence against Bernard.
A. The evidence was that they were ordered by Bernard.
- Q. In addition to giving that evidence on the charge of blowing up the dump did they also give evidence in their own defence.
A. Yes, they did.
- V8 Q. On the charge of stealing you have told us that Yosef and two others were charged. Who gave evidence on that charge.
A. At that time Yosef and the two other natives stated that they were ordered to do so by Bernard.
- Q. In addition to that evidence did they also give evidence in their own defence.
A. Yes they did.
- Q. On the fifth charge of spying and stealing grenades. Anos and three others were charged. Did they give evidence against Bernard.
A. Yes, they did.
- Q. In addition to that evidence did they also give evidence in their own defence.
A. Yes.
- Q. Was any other person identified in respect of Bernard's assault against Shimaji.
A. Yes, it was Shimaji.
- Q. Was any other native identified regarding that incident.
A. No, there was no other native identified.
- Q. Who was found guilty in respect of the assault against Shimaji.
A. Bernard admitted the guilty.
- Q. Was Bernard the only one found guilty on that charge.
A. Not only Bernard but all the rest of the natives were also found guilty.
- Q. On what evidence were the other 17 found guilty.
A. The reason why they were all found guilty is that they were all under orders of Bernard in carrying out various activities.
- V8 Q. Did the natives plead guilty to the charge of assaulting Shimaji.
A. Bernard admitted the guilty of the assault on Shimaji and the others ~~was denied it~~
- Q. Am I to take it from that answer that the natives pleaded not guilty to the assault on Shimaji.
A. Yes, with regard to Shimaji's incident the natives said 'not guilty'.
- Q. What witnesses were called against the natives in respect of this assault against Shimaji.
A. Shimaji was called.
- V8 Q. Did Shimaji identify the natives as having taken place in the assault.
A. He stated that at the time of the assault ~~that he saw only one.~~
- V8 Q. And did he identify that one man as Bernard.
A. Yes he did identify ~~that~~ Bernard.
- Q. Was any other evidence called on this charge/against the 17 natives of assault
A. There were some natives among the 17 who knew about such an assault.
- Q. How many.
A. The natives all knew about it because Yosef had told the natives that one man was shot.
- Q. Did you think that the natives were present when Bernard carried out this assault.
A. I think that the other natives were not there.



7

1

1

1

V

V

大橘·茂

DEFENDING OFFICER.

I would like ~~ask~~ to ask the court, in regard to the accused who were not present in the summary trial and who merely took part in the orders for execution - Inoue, Haruse, Ozawa, and Kawamoto, - whether at this stage the court desires to hear any further evidence in relation to those four accused.

JUDGE ADVOCATE.

Mr. Prosecutor. Can you carry the case any further against Inoue, Haruse, Kawamoto or Ozawa, or any of them.

PROSECUTING OFFICER.

If the court pleases, I cannot carry the case any further against the accused who were not at the trial.

JUDGE ADVOCATE

I would advise the court that in my opinion there is insufficient evidence for the court properly to convict any of these four men. The court does not desire to hear the defence further in respect of Inoue, Haruse, Kawamoto or Ozawa.

V.8.

The accused L/Cpl Tanaka being duly sworn is examined by Defending officer through interpreter Hattori.

Guided by my conscience I swear to tell the truth without withholding any evidence whatsoever and also, I will not add anything besides the truth.

田中一雄

Q. What is your name rank and unit

A. I am Tanaka Kazuo L/Cpl of the Vunarima MP detachment.

Q. Are you a regular MP

A. No I am not

Q. What was your job in the Vunarima detachment.

A. I was assisting the MP there.

Q. In what way were you assisting.

A. I was under orders from the MP of that detachment and was undertaking investigations during investigation.

Q. ~~Remember~~ Do you remember any incident concerning a half caste Bernard and 17 natives which took place in the morning of 14th Sept 44.

A. Yes I remember on that day from 1030 in the morning an emergency summary trial was held.

Q. Were you present at that trial.

A. Yes, I was present at the trial as an interpreter.

Q. Did you have any other function than that of an interpreter.

A. No, I did not.

Q. Who presided at that trial.

A. It was a Lt. Yamada.

Q. Did you take part in deliberating the verdict and sentence.

A. No, I did not.

Q. Who pronounced verdict and sentence.

A. ~~xxxxx~~ The finding and sentence was pronounced by Lt. Yamada.

Q. Did you interpret verdict and sentence to all the accused in that court.

A. The finding and sentence was interpreted to the accused by Sgt Maj Komoda who also spoke pidgin.

Q. Can you tell us why Komoda interpreted on that occasion instead of you.

A. At that time Sgt Maj Komoda pronounced the verdict and sentence because he was quite capable of speaking pidgin and I was there to assist him in pidgin English.

Q. Can you speak pidgin English.

A. Yes, I do understand pidgin.

Q. What language did Komoda use in interpreting finding and sentence.

A. He spoke pidgin.

Q. According to your knowledge of the language did Komoda interpret it correctly.

A. Yes he interpreted correctly.

Q. Did you take part in the execution.

A. Yes, I did take part in the execution on orders from Lt. Yamada and commanded by Sgt Maj Komoda.

CROSS EXAMINED BY PROSECUTING OFFICER

Q. If Komoda spoke pidgin, why was it necessary for you to be present at the trial at all.

A. The reason why I attended was because when the language became difficult for Sgt Maj Komoda I was there to assist him.

Q. When Komoda interpreted the sentence and finding of the court did he announce the finding and the sentence of death at the one time?

A. Yes, it was done separately to Bernard and his 17 men. The finding was announced first and then later the sentence.

Q. What happened between the announcement of finding and the announcement of sentence.

4. After the finding was announced it was not very much later that the sentence was announced. After the finding was decided Lt. Yamada telephoned the MR HQ to the Provost Martial, and then the telephone message was received from the HQ that they should be executed.

Q. How long did that telephone message take to get through.
A. Lt. Yamada telephoned, so I would say it

A. Lt. Yamada telephoned so I would not know.

Q. Was Lt. Yamada absent from the court while he was telephoning.
A. Yes, he was out of the court.

A. Yes, he was out of the court.

Q. Were you present in the court while Yamada was absent.
A. Yes. I was there.

A. Yes, I was there.

Q. For how long was Yamada absent.

A. If I remember correctly it was probably about 10 minutes.

4. Were the accused asked if they had anything to say in mitigation of punishment.

A. Yes,

Q. Was this before or after the telephone conversation.

A. After the finding of guilty was pronounced they were given the chance to say a few words.

Q. Was this before or after the telephone conversation.
A. It was before the telephone conversation.

Q. It was before the telephone conversation.

Q. Did you interpret what the accused said in mitigation.
A. Yes. It was Sgt Maj Kordeck who interpreted.

A. Yes, It was Sgt Maj Komoda who interpreted it.

Q. How long would you say that the ~~main~~ statements from the whole
eighteen took.

A. I think it was about a minute.

Q. A minute for each man or a minute for all of them.

A. If I remember correctly it was Bernard who spoke on behalf of all of them.

Q. Are you saying that Bernard spoke in mitigation of punishment of all the other accused.

A. He did speak on behalf of the accused.

Q. Were the remaining accused given an opportunity of saying what they wanted to say.

A. They were given the opportunity but they did not say anything.

Q. Did you hear Ohashi state that Bernard was the accuser of the natives in respect of the assault on Shimaji.

A. I did not. I know that the natives were not with

Q. At the court in Sept 44 did you hear Bernard accuse the natives of assault in regard to Shimaji's incident.

A. Yes I think Bernard did accuse the 17 natives.

Q. How much of Ohashi's evidence this morning did you hear.
A. Almost all.

A. Almost all.

4. Do you agree with Ohashi's statements concerning times taken by the various witnesses at this trial in Sept 44. (Defending officer, ~~does~~ not object to this question)

A. I think they are probably correct, but I do not remember exactly

Q. At what time did that trial end.
A. I think it ended around 1130.

NO QUESTIONS BY COURT.

~~xxxxxx~~

Evidence is read over to witness who does not desire to correct same.

I swear that I have told the truth without adding anything.

田中一雄

28

Col Mikuchi being duly sworn is examined by the Defending Officer through interpreter Mattori.

Guided by my conscience I swear to tell the truth without withholding any evidence whatsoever and also, I will not add anything besides the truth.

菊池 寛

Q. What is your full name, rank, unit and posting.

A. I am Mikuchi Satoru Col, of the 6th field Japanese Air unit I was CO of that unit.

Q. Did you hold that position in Sept 44.

A. Yes.

Defending officer show document to witness.

Q. Is that your signature.

A. Yes.

Q. Were the contents of this document read over to you before signature.

A. It was interpreted to me.

Q. Are you satisfied that the document was correctly interpreted to you.

A. It is to my satisfaction.

Defending officer tenders document, which is admitted in evidence read, marked ~~xxxxxx~~ Exhibit 'F' and annexed to the proceedings.

~~I wish to add to that statement:~~
to the duties of Mrs they would also be governed by the Japanese criminal code article 22 as well as the fundamental principals of Japanese tactics and operations.

CROSS EXAMINED BY PROSECUTING OFFICER

Q. The fact that a trial had been held first came under your notice when you recieved a telephone call from Lt. Yamada. Is that so.

A. ~~xxxxxx~~
Lt. Yamada and Maj Matsuda ~~xxxxxx~~ were despatched to Yunarima to guide and assist in the investigation of these incidents.

Q. When did you first learn that a summary trial had been held.

A. I think it was Sept 14th before noon.

Q. From what source did you gather that information.

A. There was a telephone call from Lt. Yamada to Major Matsuda and Maj Matsuda told me.

~~xxxxxx~~
~~xxxxxx~~

~~xxxxxx~~
Migness warned that he need not answer any questions tending to incriminate him.

At 1210 hrs court adjourn to 1330 hrs.

At 1335 hrs court reassembles pursuant to adjournment.

Warning is explained at length to witness through interpreter and witness states that he understands it.

Q. Was it your duty to ascertain that a fair and proper trial had been held before authorising an execution.

A. Yes.

Q. Have you at all times faithfully carried out that duty.

A. Yes, I have.

Q. What steps did you take in regard to the execution of Bernard and the 17 natives to ascertain whether or not a fair and proper trial had been carried out.

A. After the report had been received I saw to it that Major Matsuda and Lt. Yamada had been despatched to the Vunarima detachment to give assistance and guidance in the investigation. Early in Sept Lt. Yamada came back and reported about this case to me and therefore I became acquainted with the incident. In the final phase on Sept 14th the OC of the detachment came to me personally to report on the affair and I feel firmly confident that Lt. Yamada who was despatched by myself and one of my trusted subordinates carried out a fair and just trial.

Q. When did you first consider that a trial would be necessary in this case.

A. I did not order Lt. Yamada to carry out a trial. He considered the trial necessary on his own initiative.

Q. You have told us that you first heard of the trial having taken place from Major Matsuda who had received a telephone message from Lt. Yamada. What consideration did you give to the question of sentence before authorising Lt. Yamada to sentence the accused to death.

A. First of all the consideration I gave was why was such an urgent trial necessary and whether it was a proper and fair trial. These are the two points that I gave consideration to.

Q. Did you give any consideration to the gravity of the offence.

A. Yes. I further state that in view of the fact that ~~there was~~ an attack on the detachment would be taking place in the afternoon it would be necessary to give consideration immediately.

Q. After coming to that conclusion did you yourself ring up Lt. Yamada.

A. Before telephoning I called in Major Matsuda who received the telephone call and WO Takahashi and asked them their opinion of the matter.

Q. How long did that conference last.

A. It was a just a short time.

Q. After the conference what action did you take.

A. First of all I gave instructions to Major Matsuda to telephone Lt. Yamada and then gave him the written order. Firstly in this written order "authorisation of the verdict is confirmed and the execution is to be carried out immediately." Secondly "If the conspirators come to try to rescue Bernard and his party that they should be exterminated." Thirdly "That 8 men to assist would be despatched."

Q. How long elapsed between the time you received the message from Major Matsuda to the time that you told Major Matsuda to ring up.

A. About 10 minutes.

Q. Do you recall giving evidence before a military court on 18th Dec 45.

A. Yes, I do remember.

Q. Was that in relation to the trial of Innagaki.

A. That is correct.

Q. Do you remember saying these words "There was no trial for this...."

Document shown to Witness by Prosecuting officer.

That is my signature on the document.

"There was no trial for the Chinaman Innagaki notified me message to Innagaki that the Chinaman be permitted to be killed. It was in effect an order that he would impose the death penalty. I gave that order when I was aware that there had not been a court held."

A. I do remember.

Q. Was that statement made by you on 18th Dec 45 true and correct. ✓

A. That is correct.

Evidence is read over to witness who does not desire to correct same.

I swear that I have told the truth without adding anything.

菊池 覺

Major Matsuda being duly sworn is examined by Defending Officer through interpreter Hattori.

Guided by my conscience I swear to tell truth without withholding any evidence whatsoever, and also I will not add anything besides the truth.

松田才二.

Defending officer shows document

Q. What is your full name rank and unit.

A. I am Matsuda Saigi Major of the 6th Field MP.

Q. What was you posting at the time of this incident.

A. I was intelligence officer.

Q. Where were you stationed.

A. I was at the MP H Q.

Defending officer shows document to witness.

Q. Is that your signature.

A. Yes.

Q. Are you satisfied that this document contains a correct translation of what you said.

A. Yes.

Q. Was it read over to you before you signed it.

A. Yes.

Defending officer tends ^{read} document which is admitted in evidence, marked Exhibit 'G' and annexed to the proceedings.

CROSS EXAMINED BY PROSECUTING OFFICER

Q. When you took this telephone message to Col Kakigi were you called into conference on the matter.

A. Yes, I was, requested to report on the situation of Wunarima.

Q. How long did that conference last.

A. I do not remember exactly but it was not very long.

Q. Can you give us any ~~time~~ idea of the time that elapsed between the time that you received the telephone call from Lt. Yamada until the time that you phoned Lt. Yamada back.

A. I am not too sure but I think it might have been about 20 minutes.

NO FURTHER QUESTIONS

Evidence is read over to witness who does not desire to correct same.

I swear that I have told the truth without adding anything.

松田才二.

51

Sheet No 30.

CLONE OF CASE FOR DEFENCE.

The Prosecuting and Defending Officers make an address which is not recorded.



SUMMING UP BY MAJ. I.A.H. SPAIN JUDGE ADVOCATE.

The accused Sgt Maj OHASHI Shigeru, Sgt Maj KOMODA Yoshifumi, Sgt INOUE Toshohiko, L/Opl HARUSE Masami, L/Opl TANAKA Kazuo, L/Opl KAWAMOTO Yasujiro and Sup. Pte OZAWA Motomitsu are charged with the murder of a half caste BERNARD and seventeen natives at VUNARIMA on 14 Sept 44.

The charge is one covered by the War Crimes Act 1945 and the jurisdiction of the Court has been established by the unchallenged evidence of the residence of the natives and the events occurring in an Australian Territory.

You should accept my advice upon questions of law, but you alone are the judges of fact.

Murder is a criminal charge and the accused are presumed by law to be innocent until they are proved guilty.

The onus of proving the guilt of the accused rests always on the prosecution.

Unless you are satisfied beyond a reasonable doubt as to the guilt of the accused, you must acquit him.

A reasonable doubt is one which would influence your decision in matters of grave importance.

The offence of murder is committed when 'A person of sound memory and discretion unlawfully killeth any reasonable creature in being and under the King's Peace with malice aforethought either express or implied. Everyone of these elements must be proved beyond a reasonable doubt.

I will explain such elements briefly;

'A person of sound memory and discretion':- Murder cannot be committed by an idiot, lunatic or infant, unless indeed he show a consciousness of wrong doing and a discretion or discernment between right and wrong.

When the killing is by several persons in circumstances where it cannot be known by whose hand the life was actually extinguished it is murder on the part of each of the persons engaged in carrying out the common act of all.

'A reasonable creature in being and under the King's Peace':- the person killed must actually have been born into the world in a living state. As to the King's Peace, there is no contest here, the deceased were Australian Nationals in New Britain at the time.

The manner of killing must be unlawful and not excusable or justifiable.

'Malice aforethought':- Malice is either 'express' or 'implied'. Express malice is where "one with a sedate and deliberate mind and formed design doth kill another, which formed design is evidenced by external circumstances discovering that inward intention". In many cases where no malice is expressed or openly indicated the law will imply it from a deliberate cruel act committed by one person against another. It may be implied where death occurs as the result of the voluntary act of the accused which was (A) intentional and (b) unprovoked.

Any unlawful and felonious killing of another without any malice either express or implied is manslaughter.

To establish murder the prosecution must prove

- (a) death as the result of the voluntary act of each of the accused.
- (b) malice on the part of each accused
- (c) that the deceased died of the wounds or other injuries given them by the accused or any of them in the execution of a common design within a year and a day after they were received.

To establish manslaughter the prosecution must prove each of those factors other than malice.

It is open to each of the accused to show by way of defence that the murder was not committed by him or that the offence actually committed does not amount to murder.

Here the killing is admitted and the defence is justifiable homicide.

If homicide is justifiable it is neither murder nor manslaughter.

One example of justifiable homicide is that of the proper officer executing a criminal in conformity with his sentence.

The justification of KOMODA, OHASHI, and TANAKA does not fall within this example as the first two were members of the court and the latter interpreter during the proceedings against the deceased.

The justification relied upon by the remainder of the accused is within the example.

Certain of the facts are undisputed.

All the deceased who were British subjects were civilian inhabitants of New Britain then in the occupation of an enemy, Japan.

All the accused were members of the Japanese armed forces. By the Laws and Usages of War inhabitants of occupied territories have not only certain rights but owe certain duties to the occupant, who may punish any violation of those duties. Certain acts if committed by such inhabitants are punishable by the enemy as war crimes.

Amongst such acts are:-

- (a) illegitimate hostilities in arms committed by individuals who are not members of the armed forces.
- (b) espionage and war treason.

The deceased would, being civilian inhabitants of an occupied territory, be guilty of the war crime known as War Rebellion if they rose in arms against the occupant.

War Treason includes such acts by private individuals as damage to war material or conspiracy against the armed forces or against members of them.

The accused alleged that all the deceased were guilty of a conspiracy against the armed forces of Japan in pursuance of which individual conspirators in pursuance of the common design concealed weapons, stole grenades and rations, blew up a petrol dump and attacked, on one occasion, a Japanese soldier, and on another, a Japanese civilian. These allegations have not been rebutted. The evidence affirming them raises a reasonable hypothesis that they are true. Such hypothesis must be resolved in favour of the accused.

Their actions rendered the deceased liable to punishment as war criminals.

Charges of war crimes may be dealt with by military courts or such courts as the belligerent concerned may direct.

In every case there must be a trial before punishment and the utmost care must be taken to confine the punishment to the actual offender. All war crimes are liable to be punished by death.

So far as I have been able to ascertain from the limited authorities available to me there is no provision in International Law regulating the composition of such courts or the procedure to be followed at the trials.

The type of trial to which the deceased were entitled was therefore, subject to certain fundamental principles of justice, that directed by Japan.

General IMAMURA, C-in-C Eighth Army Group who commanded RABUL area at the relevant time said that he declared VUNARIMA an emergency area in April 1944, that where inhabitants of an occupied territory are charged with war treason or war rebellion they are under normal conditions sent for trial by Court Martial, but "under pressing circumstances unit commanders would have the authority which had been provided by the Emperor to carry it out on their own for the protection of the Army".

Later he refers to summary trials in the field, and to the wide discretion accorded to unit commanders not only as to the convening and constitution of the courts but also as to penalty.

He further says that confirmation of sentence would normally be required and that confirmation by the Provost Marshall should, in the circumstances surrounding the accused, have been sufficient.

General Imamura should be accepted by the Court as competent to say that Japan had directed a summary trial in the field for war criminals under certain operational conditions, and that those conditions obtained at VUNARIMA in Sept 44.

The Provost-Marshall, Col KIKUCHI says he confirmed the finding and authorised the execution and that he believed the trial to be a fair and just one.

The Court has already agreed with my opinion that there is insufficient evidence against INOUE, MARUSE, KAWAMOTO or OZAWA to justify a conviction, so I will not deal further with the case in relation to any of them.

KOMODA, OHASHI and TANAKA were present at the proceedings which they claim were a trial of the deceased; later they all took part in the execution. Their defence is justifiable homicide. Once a prima facie case has been made out the onus of establishing justification lies on the defence.

The degree of proof required of the defence is less than that the prosecution must adduce to establish the guilt of the accused.

The defence must raise a reasonable hypothesis that the facts which it claims amount to justification do exist.

If such hypothesis is not rebutted by the prosecution, the court should assume the existence of such facts and decide whether they actually amount to justification.

If the Court decides affirmatively, then the accused are entitled to acquittal; if the court decides in the negative, then it may convict of murder or manslaughter according to whether the one offence or the other is established beyond a reasonable doubt.

It was not suggested by the defence that there was no case to answer. Therefore you should next consider the question of justification.

Here the defence of justification amounts to this, that the deceased had a fair and reasonable trial, that such trial was of the kind directed by Japan and that the accused were authorised to take part in such trial and execution.

I expressed the opinion that it is for the belligerent to decide the form of trial subject to certain fundamental principles of justice.

I consider these principles to be

(a) consideration by a tribunal comprised of one or more men who will endeavour to judge the accused fairly upon the evidence using their own common knowledge of ordinary affairs and if they are soldiers their military knowledge, honestly endeavouring to discard any pre-conceived belief in the guilt of the accused or any prejudice against him.

(b) The accused should know the exact nature of the charge preferred against him.

(c) The accused should know what is alleged against him by way of evidence.

(d) He should have full opportunity to give his own version of the case and produce evidence to support it.

(e) The court should satisfy itself that the accused is guilty before awarding punishment. It would be sufficient if the court believed it to be more likely than not that the accused was guilty.

(f) The punishment should not be one which outrages the sentiments of humanity.

"Unless provision is made for observance of all of these principles I do not consider any other form of proceedings which a belligerent might direct would in law really amount to a trial.

"I advise therefore that the court should decide the following questions.

A. Do the proceedings directed by Japan which may be described as a Summary Trial in the Field really amount to a trial.

B. Were the proceedings against the deceased conducted in accordance with the directions given by Japan.

C. Were the proceedings conducted in accordance with the above six principles

D. What part did each of the accused actually take in such proceedings.

"If you decide questions A and B affirmatively the accused would in my opinion be entitled to an acquittal.

"If you decide A and B in the negative and C in the affirmative you should then consider the whole of the evidence and particularly that which is relevant to D.

"If you are then satisfied that the acts of the accused amounted to an unlawful and felonious killing then you may find the accused guilty of manslaughter.

"I feel that your deciding C in the affirmative would negative the existence of malice.

"If you decide A, B and C, or A and C in the negative then the acts of the accused may amount either to murder or manslaughter.

"You should consider the whole of the evidence and in particular that relevant to question D.

"You should in addition bear in mind that the accused were soldiers consider what orders were given them, and their duty to obey, also the limited protection afforded subordinates by superior orders as explained in Manual of Military Law, Australian Edition Page 288 Para 443 as amended which I will now read out to you.

"Furthermore you should give close attention to the question of good faith in the accused as regards holding the proceedings at all as has a direct bearing on deciding what was their attitude during the proceedings, keeping in mind of course their relationship towards Lt. YAMADA.

I should remind you that the statements of the native witnesses were admitted under section 9 of the War Crimes Act and in considering them the Court should give them such weight as it thinks proper.

All questions of fact, the weighing of evidence and the credibility of witnesses are entirely for you, not me, to decide.

As to any authorities quoted by Counsel or myself or referred to by you, you will observe the following rules.

1. The War Crimes Act, the Hague Conventions and the judgments of superior British and Australian courts are binding on you.

2. Text books by learned jurist such as Oppenheim, and the Manual of Military Law in its explanatory passages are strongly persuasive and should be followed by this Court unless it is well satisfied to the contrary.
3. You will use in your deliberations your common knowledge and your military knowledge but no other peculiar or expert knowledge any of you may possess, otherwise you will arrive at your decision strictly according to the evidence.

Finally, before you may convict any of the accused of either murder or manslaughter you must be satisfied that every essential element of that offence has been proved against him beyond a reasonable doubt.

I also add the following direction: you will consider whether at such proceedings the deceased did in fact plead guilty and the effect such a plea would have on the minds of the tribunal in arriving at a verdict and sentence.

THE COURT IS CLOSED FOR CONSIDERATION OF FINDING at 1025 hrs.
At 1135 hrs Court reopens.

The President announces the Court has found the accused:

Sgt INOUE Toshihiko	}	NOT GUILTY of the charge, and
L/Cpl NAKUSE Masami		
L/Cpl TANAKA Kazuo		
L/Cpl KAWAMOTO Yasujiro		
Sup Pte OZAWA Motomitsu		
Sgt Maj OHASHI Shigeru	}	GUILTY of the charge.
Sgt Maj KOMODA Yoshifumi		

The Defending officer does not desire to call any evidence as to character of the accused, but makes a brief address in mitigation of sentence which is not recorded.

The Court closes at 1145 hrs to consider sentence.
The Court re-opens at 1155 hrs.

The President announces that the court has sentenced the accused Sgt Maj OHASHI Shigeru and Sgt Maj KOMODA Yoshifumi, to imprisonment for life.

The President informs the accused that the finding and sentence of the Court are subject to confirmation by higher authority.

Signed at RABAUl this 23rd day of March 1946.

Landrain
Maj. Judge Advocate.

Thompson
Lt-Col President.

82

Exhibit A
J.P. - 11 of 11
Sandpiper
Aug 31

WOKIN having been called on this 27th day of December, 1942 and du sworn states as follows:-

About August, 1944 I was at VUNARIMA. At this time the Japanese TABASI was in charge of the Military Police and KOMONDA was the 2nd in charge.

About this time I saw KOMONDA and a native of KAVIRING named MASEP questioning a Half Caste named B. HART with some other native. MASEP was acting as an interpreter. I think it was the morning after this that we all lined to receive our orders for work, when MASEP to me and four other natives named :-

- LAKAUS - a KAVIRING now in Native Compound Rabaul.
- SANDI - of KAVIRING, New Hanover, New Ireland - now returned to his place.
- LANDO - of KAVIRING who is now deceased.
- HEBAU - of KAVIRING now at Native Labour Compound, Rabaul.

to wait first time. He then detailed all the other natives for work and then told us to go and dig a hole and he showed us where to dig it. We dug this hole which was about 6 feet square and about 5 feet deep. We then returned to our quarters as it was lunch time. After lunch KOMONDA told me and the four abovementioned natives, also MASEP and JOHN a BUKA Native to look after 17 natives and one Half Caste who were sitting close by, eating Rice and Smoking Cigarettes which KOMONDA had given them. KOMONDA then told us to tie their hands behind their backs. We tied all their hands as instructed, then KOMONDA (carrying a sword), HOSAKI (carrying a sword) INOH (carrying a sword) all who were of the Military Police, also two other Japanese who were an anchor in front of their caps, each carrying a sword, also several low ranking members of the Military Police including TANAKA SONOBI, HARUSE KANAMOTO and HOSOKA each carrying rifles proceeded to where we had dug the hole. KOMONDA instructed us to bring the 17 natives and 1 Half Caste in question. We did so. They went in the direction of where we had dug the hole, but just before we got there KOMONDA stopped us. He spoke to TANAKA in Japanese who in turn translated it in Pidgin English to us. Addressing the 17 natives and 1 Half Caste he said "Now to-day we are going to cut all you fellows" KOMONDA then said, "blindfold them all" MASEP, JOHN, LAKAUS, SANDI, LANDO, HEBAU and myself blindfolded them with some cloth which we had brought with us. KOMONDA then said to MASEP "Bring one of them along". The following Military Police then went to the hole - KOMONDA, HOSAKI, INOH, HOSOKA and 3 other Japanese went to the hole which was about 25 yards from where we were standing. MASEP took one of the blindfolded natives (name unknown) to the hole and JOHN, LAKAUS, LANDO and myself followed them to the hole. When the natives reached the edge of the hole HOSAKI drew his sword and told MASEP to make the native kneel down. He then cut his head off. HOSAKI beheaded three, KANAMOTO beheaded the Half Caste, INOH two, HOSOKA one, KOMONDA two, One Naval man beheaded three and the other Naval man one. MASEP beheaded one, JOHN one, TANAKA one, HARUSE one. The bodies were all buried in the one hole. KOMONDA told me to behead one but I was too frightened.

Signature X

Statement taken by me W. H. Nicks Major.
(W. H. Nicks, Rabaul Police Station)

Exhibit 'B'
J. H. C. 1/24/46
J. H. C. 1/24/46
J. H. C. 1/24/46

HEBAU of Lamui Village, Kavieng having been called on this 28th day of December, 1945 and duly sworn states as follows;

When the Japanese invaded Rabaul I went to V. H. H. H. and later I was made work for the Japanese Military Police as a prisoner.

I remember the time when there were 17 natives and 1 Half Caste all sitting on their haunches and bowing to the Japanese.

Each morning we were lined in front of the Japanese Military Police and detailed to our duties, and on this particular morning a Japanese Military Policeman named KOMUNDA told four other boys LAMDO, LAKAUS, HOKIS, SANDI and myself to get our belongings as we were going to MANDRESS. We returned with our things and were then ordered to go and get a shovel each. KOMUNDA went into the bush and picked out a place for the hole and then sent another Military Policeman back to show us the place. The name of this Military Policeman was OKATARA. KOMUNDA then told us to dig a hole and when it was finished we were to report back to him. We did this and KOMUNDA then told us to watch the 17 natives and Half Caste and he appointed two Japanese Native Police Boys namely JOHN and MASEP to watch and see that the prisoners did not run away.

After we had lunch KOMUNDA told MASEP to get some material which he did and then we were all told to tear it up into lengths about 2 feet long and 4 inches wide. We were then told to blindfold the natives and the Half Caste and some other Military Police named TANAKA, HARUSE, HOFASI, HOSOMA, SUNOBI, KANAMOTO and some other Japanese whose names I do not know supervised our work. After the prisoners were blindfolded we each took one by the arm and led him to the hole. The name of the prisoner that I led was ISKAR a native of New Britain. I know only three names of the other native prisoners, they are YOSEF, LUGNIS, ETUAT and I think the name of the Half Caste was BERNARD. KOMUNDA was standing on the edge of the hole and ordered that the prisoners be brought before him one by one and as each one came up to him they were made kneel down and then KOMUNDA beheaded them. As their heads fell into the hole HOFASI and KANAMOTO fired shots into them. LAMDO brought up the first prisoner and KOMUNDA beheaded him. All the Japanese TANAKA, HARUSE, HOFASI, HOSOMA, SUNOBI, KANAMOTO, and one Japanese Naval Man took turns in beheading the natives. I do not know who beheaded the Half Caste.

After the executions had been completed KOMUNDA ordered us to fill in the hole and having done this we went to a house owned by HIAS who was the Boss Boy. KOMUNDA then told us that all the natives and the Half Caste that had been beheaded were friends and spies for America and Australia.

The Japanese Native Police Boys JOHN and MASEP beheaded one native each.

Signature: [Signature]

Statement taken by me [Signature] Woll.
Rabaul Police Station
28th December, 1945

Exhibit C

J. H. G. G. G. G.

J. H. G. G. G. G.

FREDERICK WILLIAM KAPPU, having been called on the 3rd day of January 1946 and duly ~~affirmed~~ states :

My name is FREDERICK WILLIAM KAPPU. I am a native of AMBOINA now residing at RABAU. I have been a resident of the Territory of New Guinea since 1911.

In January 1943 I was sent by the Japanese to live at KERAVAT. I was there employed in the gardens as a labourer.

On Friday 31st August 1944 at about 3p.m. Sgt. (now Sgt. Major) KOMODA, a second in charge of the military police at VUNARIMA, came to my house and said, "Are you KAPPU?" I replied "Yes". He immediately tied my hands behind my back with fishing line and said, "You are in trouble". He then searched my house and took some private letters which I had received prior to the outbreak of the war. The letters were purely personal. He placed the papers in his pocket and punched me in the chest. He then took me to the naval supply depot and I was made to sleep with four natives and BOB KRAUS, a half caste. Next morning I was taken by native police to Police H.Q. at VUNARIMA. KOMODA travelled by motor cycle.

I waited at VUNARIMA until the following Tuesday. On that day KOMODA took me to a house nearby, where he questioned me concerning a report which had been submitted against me by the native ANOS. It was alleged in the report that I was a spy for the British. I denied being a spy and I could not give any reason why ANOS should make the allegation. KOMODA then set upon me with a cane. I was made to squat down on a box with a piece of timber behind my knees. Two natives were sawing on the piece of timber. At the same time KOMODA was beating me about the head and body with a cane. This lasted until I fell to the ground unconscious.

When I regained consciousness some natives were pouring water on my head. I was then taken into another house and allowed to lie down. I remained there until Thursday morning. I was given a little tapioca to eat but no water. When I asked for water I was given water which had previously been used for washing clothes.

KOMODA then came to the house and said "KAPPU, you are an old man. I am sorry that I flogged you. I have since found out that ANOS was lying." He then permitted me to return to KERAVAT.

The next day KOMODA came to KERAVAT and told me that as they had discovered ANOS to be a liar, they were going to behead him, together with the half-caste BERNARDINE. He invited me to come and witness the execution. I refused the invitation.

I later heard from some natives that BERNARDINE, ANOS, TOBI, MAPA, KARUH, KUIMBU, UNGARMERI, JAKING, SUNGAIU, GOLUJONG, DUABIN, and SAKI, were all beheaded at VUNARIMA on 18th. September 1944, by KOMODA and his police.

Signature.

J. H. G. G. G. G.

Statement taken by *[Signature]* Major.
(R.B. Hicks, Rabaul Police Station.)

7

LAKAUS having been called on the 4th day of January 1946, and duly affirmed states:

My name is LAKAUS. I am a native of LASSU, New Ireland, now residing at RABAU.

About June 1944 I was employed by the Japanese Military Police at VUHARINA as a native policeman.

Later in the year I was sent to MASAP in the BAININGOS. I remained there one week and then returned to VUHARINA. Upon my return the half-caste BERNARDINE and a number of natives were held in custody at VUHARINA. The following morning MASEP, the native police boss boy, detailed the following natives to dig a hole: SANDI, (now returned to New Ireland), LANDO, NOKIE, KASAP and myself. Masep came with us and indicated the spot where the hole was to be dug. By luncheon time the hole was completed, and we returned and reported this to MASEP. After lunch Sgt. Major KOMONDA came and called the half-caste and seventeen natives and gave them each a cigarette, at the same time saying, "Today is a big day for the Japanese. It is Christmas." He then left, shortly to return with TANAKA, INOK, HARUEN, KAWANATO, HOSU, and HOSASI, all of the Japanese military police. There were some other Japanese there whose names I cannot remember, but whom I could identify. Some carried swords-I think four-and the others carried rifles. KOMONDA then called the above-named four natives and myself and told us to stand near the eighteen prisoners. We were then encircled by the Japanese, plus the natives JOHN and MASEP. KOMONDA instructed us to tie the hands of the prisoners behind their backs with fishing line and said "We are going to RABAU! We tied the hands and some Japanese then moved off in the direction of the hole, taking with them the eighteen prisoners. The Japanese remaining then came along behind. We five natives accompanied the prisoners. When about 20 yds. from the hole a halt was made and KOMONDA then spoke to TANAKA in Japanese. TANAKA turned to the assembly and, speaking in Pidgin English, said "You eighteen men were spies for the Australians and Americans. You five boys", addressing us, "look at them all. We are now going to execute them. If you boys do not do as you are told we will treat you likewise".

The eighteen prisoners were then led separately to the hole. I took one, whose name I do not know, and when I arrived near the hole I blindfolded him. I became frightened and left him there and returned to where the remainder were waiting. I did not actually witness any execution, but I heard numerous rifle shots.

After the last prisoner had been led to the hole and apparently executed, we five who had previously been detailed to dig the hole were then instructed to fill it in. Upon arrival at the hole I saw a number of headless bodies lying in disorder in the hole. Several Japanese were still around the hole when we arrived and I noticed numerous pieces of Blood Stained paper which apparently had been used to wipe the blood from the swords. After we had filled the hole KOMONDA instructed us to get into the line, as we were to pay reverence to the dead. We natives and Japanese lined around the grave and were ordered by KOMONDA to "KEMI". We bowed our heads for a few seconds then left the hole and returned towards the camp. Upon arriving at the house of the Native BOAS a halt was made and natives in the immediate area were assembled. KOMONDA addressed the saying "Now we have executed seventeen natives and one Half Caste because they were spies for the Australians and Americans. If any of you boys are spies for the Australians or Americans we will execute you too".

We then returned to our quarters.

Signature. Lakaus

Statement taken by me W. H. Jones
Rabaul Police Station.

*Whitely E.
L. H. H. H. H. H.
H. H. H. H. H. H.*

(1) **FUNDAMENTAL PRINCIPLES OF JAPANESE MILITARY TACTICS AND OPERATIONS**
(Enacted by the Emperor on September 29, 1938)

ARTICLE 5

Your own discretion is exceedingly demanded in the field. To do anything by your own responsibility is in no way inconsistent with obedience in its spirit. Always by discerning clearly your superior's intention and judging properly the general situation, choose for yourself the best means to attain your objective and meet the demand of the situation, taking appropriate measures against the change of state of affairs.

(2) **ARMY CRIMINAL LAW (RIKUGUN KEIHO)** enacted by the Emperor with the consent of the Imperial Diet on April 10, 1908

ARTICLE 22

Any act necessitated in order to suppress a riot caused by force of numbers, or to maintain strict military discipline in face of the urgent situation of any unit opposing the enemy, is not punished.

(3) **REGULATIONS FOR MILITARY DISCIPLINE** (Enacted by the Emperor on August 11, 1943)

ARTICLE 5

Obedience is extremely important in order to maintain strict military discipline. Therefore, you should obey your superior's orders with utmost sincerity, and absolutely observe them, thus forming your habit of obedience.

ARTICLE 11

You should observe respectfully your superior's order and perform them without delay. You are not permitted to argue whether the orders are right or not, or to question their causes, reasons, or what not. Should the new orders be inconsistent with the former ones, you should gently report this and your superior's instructions.

ARTICLE 12

Once your superior has decided anything, even if your opinion is opposite to that of your superior, you should try every possible means in order to achieve his intention, always disregarding your personal sentiment.

ARTICLE 7

Although harmonious connection between the parties concerned must of course not be neglected in managing military affairs, yet you are strictly prohibited to hesitate the performance of your duty or to shun your responsibility by relying upon others or asking your superior's instructions for any new occurrence.

(4) **"REGULATIONS ON THE DUTIES OF M.P. IN THE FIELDS"** (Enacted by the Emperor)

ARTICLE 3

The duties of M.P. in the fields are as follows:-

1. Arresting and exterminating of enemy spies, or performers of propaganda or strategem.
2. Arrest and extermination of natives of enemy character, and
3. Collection of information.

(5) "SERVICE REGULATIONS OF M.P." (Enacted by the Emperor)

ARTICLE 14

1. In case the M.P. should happen to be in danger of being attacked by others, and
2. In case there was no other measure to protect or defend the area occupied by M.P.
The M.P. is authorized to resort to arms.

I, Interpreter S. UEMOTO of Labour HQ Rabaul, do hereby certify that the above is a true and faithful translation into English of the Japanese Military Acts.

S. Uemoto

Colonel KIKUCHI states:-

I am Col. KIKUCHI, Commander of the M.P. Corps attached to the 8th Group Army.

The following is an outline of the duties and authorities given to the Japanese M.P.:-

a) According to the "regulations on the duties of M.P. in the field."

1. Arresting and exterminating of enemy spies, or performers of propaganda or strategem.
2. Arrest and extermination of natives of enemy character, and
3. Collection of information.

The above-mentioned are recognized by the Japanese Army as military operation itself of the M.P.

b) According to the "service regulation of M.P."

1. In case the M.P. should happen to be in danger of being attacked by others, and
2. In case there was no other measure to protect or defend the area occupied by M.P.
The M.P. is authorized to resort to arms.

c) According to the "regulations on garrison services" the M.P. is authorized to take every necessary measure for self-defence in order to answer the urgent situation.

Such acts of war treason war rebellion or espionage among the natives in the Japanese occupied areas with the intention of profiting the enemy are, on general occasions, to be executed to the court-martial and be punished.

But, on the other hand, in case the situation and condition should become serious and tense and there was no other means whatever, every unit commander is entitled to punish the criminals after one kind of summary trial without holding a formal court (N.B. this trial is one kind of summary trial approved for military operation and is quite different from that provided in the "regulations on summary trial of the 8th Group Army" applicable only to petty offense, although both bear the same appellation).

*Exhibit F.
Page 164.
Landsman May 8th.*

7

144

The above-mentioned disposition is, therefore, generally approved by the Japanese Army, and this opinion of mine will be testified by the G-in-G who is expected to appear in court as a witness.

I take that the disposition in question is no other than military operation in the field and a necessary measure for self-defence of the Army. Moreover, I am of opinion that this punishment without resorting to a formal trial, of war treason and war rebellion in the war time by no means infringe the Hague regulation.

I know the VUNARIMA incident of war treason and war rebellion.

Around Sept. 1944 the war situation became serious to the utmost, and as to the peace and order at VUNARIMA, the very forward area for the RABAU defence, there prevailed the greatest confusion in those days, when war treason and war rebellion occurred in rapid succession there, the VUNARIMA M.P. continued investigations directed on several occasions by Lt YAMADA, despatched by the M.P. HQ. From Lt YAMADA I received the following urgent report over the telephone about 11:30 A.M. on Sept. 14, regarding the most urgent and grave situation prevailing then at the VUNARIMA M.P. : we came, after the summary trial, to conclude the acts of war treason and war rebellion in the war-time, and the attempted assault of the natives of enemy character and the undertone of the natives for recapturing the criminals in custody; consequently, we decided to sentence these criminals to death; eagerly waiting for your decision.

According to this report the M.P. HQ., synthesizing various situations, concluded the necessity of urgent disposition, issuing to the VUNARIMA M.P. operation orders to this effect; "the highest commander of the M.P. admits the decision reached by the summary trial for the criminals; you must arrest and exterminate all the invading anti-Japanese elements; 8 M.P. shall be despatched post-haste from the HQ. in order to support you."

In those days RABAU had been placed under the orders of the second war preparations in order to repel the anticipated Allied

L

landings and every troop was stationed in respective battle positions naturally enough under these circumstances, the VUNARIMA M.P. had been entrusted with the maintenance of peace and order in the same area. The M.P. was distant more than four kilometres from any adjacent troops. Moreover, any day-time movement was almost impossible in those days owing to furious air-raids.

菊池. 寛

I hereby certify that the above is a true and correct translation.

S. Homato

Exhibit 9
J. C. C.
Prescribed
Landspain
May 8A.

Major MATSUDA states:

I am Maj. Matsuda of 6th Field M.P. Corps.

WUNARIMA area and its whole vicinity were the front line of the main defensive positions of Rabaul. As the war situation grew more and more unfavourable for the Japanese forces, the peace and order in UNARIMA area deteriorated to the utmost. I know of many incidents of treason which occurred in about July or August in 1944. Especially, in connection with the treason of Bernard and his party, I went over to WUNARIMA once or twice to supervise the investigation of the case. Lt. YAMADA also went over there three or four times to supervise the investigation.

I remember the incident of 14th September. At that time, Lt. YAMADA had been despatched to WUNARIMA and I was in the M.P. HQ. on the Rabaul Tunnel Hill. At about half past six on the morning of 14th September, W.O. TAKAHASHI of WUNARIMA came over to the M.P. HQ and reported to the commander of the outline of Bernard incident and the result of the investigation made in Massaba. At about half past eleven just before the midday meal, I received an urgent telephone message from Lt. YAMADA, saying that as a result of the emergency summary trial carried out to meet with the urgent situation, Bernard and his party had been sentenced to death, and that final confirmation was requested and your reinforcements would be appreciated. I immediately conveyed his message to the commander of the M.P. Corps. The commander judged from the various informations and immediately issued a military operations order. I conveyed his order through the telephone to Lt. YAMADA. The outline of this order was to the following effect: The sentence passed by summary trial is confirmed, catch and annihilate the attacking enemy. 8 men will be immediately detailed from this HQ to your assistance. I wrote this military operations order and put it in the military operations order file.

At about two or three o'clock in the afternoon on that day I was advised by Lt. YAMADA of the execution of the sentence and I reported that to my commander.

Those who have committed treason, rebellion, espionage and other enemy-benefitting conducts should in ordinary cases be committed for trial by the courtmartial. However, it is generally recognized in the Japanese Army that in case the situation is imminent and there are no other ways to do, the commander of the corps might punish criminals by means of a sort of summary trial. This is rather a military operation itself and is considered as a means of self-defence in the field operations. In this sense, the disposition of WUNARIMA incident is considered as right and proper.

松田 才二

I hereby certify that the above is a true and correct translation.

R. Ishihara

Major MATSUDA states:

I am Maj. Matsuda of 6th Field M.P. Corps.

WUNARIMA area and its whole vicinity were the front line of the main defensive positions of Rabaul. As the war situation grew more and more unfavourable for the Japanese forces, the peace and order in WUNARIMA area deteriorated to the utmost. I know of many incidents of treason which occurred in about July or August in 1944. Especially, in connection with the treason of Bernard and his party, I went over to WUNARIMA once or twice to supervise the investigation of the case. Lt. YAMADA also went over there three or four times to supervise the investigation.

I remember the incident of 14th September. At that time, Lt. YAMADA had been despatched to WUNARIMA and I was in the M.P. Hq. on the Rabaul Tunnel Hill. At about half past six on the morning of 14th September, W.O. TAKAHASHI of WUNARIMA came over to the M.P. Hq. and reported to the commander of the outline of Bernard incident and the result of the investigation made in Passaba. At about half past eleven just before the midday meal, I received an urgent telephone message from Lt. YAMADA, saying that as a result of the emergency summary trial carried out to meet with the urgent situation, Bernard and his party had been sentenced to death, and that final confirmation was requested and your reinforcements would be appreciated. I immediately conveyed his message to the commander of the M.P. Corps. The commander judged from the various informations and immediately issued a military operations order. I conveyed his order through the telephone to Lt. YAMADA. The outline of this order was to the following effect: The sentence passed by summary trial is confirmed, catch and annihilate the attacking enemy. 3 men will be immediately detailed from this Hq. to your assistance. I wrote this military operations order and put it in the military operations order file.

At about two or three o'clock in the afternoon on that day I was advised by Lt. YAMADA of the execution of the sentence and I reported that to my commander.

Those who have committed treason, rebellion, espionage and other enemy-benefitting conducts should in ordinary cases be committed for trial by the courtmartial. However, it is generally recognized in the Japanese Army that in case the situation is imminent and there are no other ways to do, the commander of the corps might punish criminals by means of a sort of summary trial. This is rather a military operation itself and is considered as a means of self-defence in the field operations. In this sense, the disposition of WUNARIMA incident is considered as right and proper.

松田 才二

I hereby certify that the above is a true and correct translation.

R. Iohihara

FORM FOR ASSEMBLY AND PROCEEDINGS OF A MILITARY COURT

19th day of March 1946

WHEREAS it appears to us, the undersigned, an Officer authorized to convene a Military Court under the War Crimes Act 1945 that the person named in the annexed Schedule has committed the war crimes in the said Schedule mentioned, I hereby convene a Military Court to try the said person and to consist of the Officers hereunder named.

PRESIDENT

Lt. Col J. ROYCE, HQ 8 MB

Is appointed PRESIDENT

MEMBERS

Lt. Col A. G. CAMERON

2ND LIEUT

Capt C. A. ANDERSON

29/46 Bn

Capt A. J. ROWLEY

37/52 Bn

Are appointed MEMBERS

JUDGE ADVOCATE

Major I. A. D. GRAHAM, HQ 8 MB

Is appointed JUDGE ADVOCATE

(Signed, Kenneth W. Bather

Maj-Gen

COMD 11 AIR STY

CONVENING OFFICER.

SCHEDULE

Number, Rank, (s) Name and Unit of Accused	Offence charged	Plea	Finding, and if convicted Sentence (b)	How dealt with by Confirming Officer (c)
Capt SHIMOHARA Aitaro, Capt NEMOTO Toyofu both of 102 Inf. Regt. and Capt SHOJI Take, asu of HQ 51 Div. Inf. Group	a violation of the laws and usages of war in that they in May 1945 when members of a Military Court convened to try two natives of KAMBANGURU viz. POPAKU and MARAK failed to ensure that such natives were afforded a fair and proper trial.	all pled Not Guilty	Capt SHIMOHARA Capt NEMOTO and Capt SHOJI all guilty of the charge Capt SHIMOHARA victims Capt NEMOTO Toysu and Capt SHOJI victims each to be imprisoned for five (5) years.	Findings and Sentences Not confirmed Discontinued 14 June 46 MGM

I CERTIFY that the above is a true copy of the original Convening Order which was lost subsequent to the termination of the Trial.

W.P.D.

COMD 11 AIR STY
CONVENING OFFICER (a)

1. Name President.

CERTIFICATE OF PROMULGATION

Promulgated in the case of Capt SHINOHARA Eitaro this 29th day
of June 1946.

(Sgd)
Name, Rank and Unit of Officer
affecting promulgation.

Promulgated in the case of Capt MOTO Toyochi this 29th day
of June 1946.

(Sgd)
Name, Rank and Unit of Officer
affecting promulgation

Promulgated in the case of Capt MOTO Takeyasu this 29th day
of June 1946.

(Sgd)
Name, Rank and Unit of Officer
affecting promulgation

W. C. Cummings
Lt-Col
8th Military District

NOTE

The records of the proceedings of the Court will be attached to this form.

- (a) If the accused is not a member of the Navy, Military, or Air Force of an enemy or ex-enemy Power the name, occupation, and residence of the accused will be inserted.
- (b) Recommendation to mercy, if any, to be inserted in this column, or on a separate sheet attached to the proceedings, with the reasons for the recommendation.
- (c) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
- (d) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

I CERTIFY that the above Court assembled on the 30th March and day of April 1946 and duly tried the person named in the Schedule, and that the Plea, Finding, and sentence in the case of such person were as set out in the third and fourth columns of that Schedule and that the Regulations for the trial of War Criminals have been complied with.

I ALSO CERTIFY THAT -

1. The Members of the Court
 2. The Judge Advocate
 2. The Witnesses
 4. The Interpreter
 5. The Shorthand writer
- were duly sworn.

SIGNED this 1st day of April 1946.

[Signature]
PRESIDENT OF THE MILITARY COURT

0. I have dealt with the findings and sentence in the manner stated in the last column of the Schedule, and, subject to what I have stated, I HEREBY CONFIRM the above findings and sentences.

CONFIRMING OFFICER

PROMULGATED in the case of

(Date) (a)

1946.

Signed.

- (a) When several cases are promulgated on the same day the Officer effecting promulgation need only sign once.

THE WAR CRIMES ACT 1945.

TRIAL OF

Capt SHINOHARA Eitaro	of 2 Bn, 102 Inf Regt.
Capt NEMOTO Toyoji	of 2 Bn, 102 Inf Regt.
Capt SHOJI Takeyasu	of HQ 51 Div Inf Group.

DATE OF COURT

30th March, 1946, at 1830 hrs.

PROSECUTING OFFICER

Capt J. D. STEED of AALC HQ 8 MD.

DEFENDING OFFICER

Capt L. A. CHISHOLL of AALC HQ 8 MD

THE ACCUSED ARE BROUGHT BEFORE THE COURT

THE MEMBERS OF THE COURT AND JUDGE ADVOCATE ARE DULY SWORN

Civilian Interpreter Jiro Mishimura employed by the Japanese Army is sworn as interpreter.

THE CHARGE IS READ TO THE ACCUSED.

All accused plead not guilty to the charge.

The Prosecuting officer does not desire to make an opening address.

Prosecuting Officer tenders statement of interrogation of Sgt Maj ARAI Kenji which is read and admitted in evidence, marked Exhibit A, signed by the President and annexed to the proceedings.

The Prosecuting Officer informs the court that Sgt Maj ARAI is available if required by the court for questioning.

Prosecuting Officer tenders written interrogation of accused SHINOHARA which is read and admitted in evidence, marked Exhibit B, signed by the President and annexed to the proceedings.

Prosecuting Officer tenders interrogation of accused NEMOTO which is read, admitted in evidence, marked Exhibit C, signed by the President and annexed to the proceedings.

Prosecuting officer tenders statement of interrogation of accused SHOJI which is read and admitted in evidence, marked Exhibit D, signed by the President and annexed to the proceedings.

CLOSE OF CASE FOR THE PROSECUTION.

DEFENDING OFFICER.

I ask the court whether at this stage it desires to hear me as far as the case for the defence is concerned, or whether the Prosecution's case being closed, the court will use its inherent jurisdiction to find the accused not guilty.

I now propose to make submissions to the court without the accused being called on to enter into any defence.

I ask that the prosecution tender statement of Kawakubo under Section 91 (1).

President announces that in fairness to the accused it should be put in.

PROSECUTION REOPENS CASE

Prosecuting officer tenders statement of Kawakubo which is read, admitted in evidence, marked Exhibit F, signed by the President and annexed to the proceedings.

The Prosecuting Officer informs the court that Lt. Gen Kawakubo is available if required by the court.

At this stage defending officer submits that there is no case to answer.

PROSECUTING OFFICER

The points of my submission are:

1. Impartial tribunal.
2. accused being informed of the charge.
3. evidence being given against the accused.
4. accused entitled to speak in their own defence and call witnesses.
5. defending counsel.

The latter is postulated by Ariga ALJ p 290 note.

DEFENDING OFFICER.

The court by its inherent jurisdiction, having heard the case for the prosecution, has right to find accused not guilty.

Defending officer contended.

1. That it was an impartial tribunal and referred to statement by Lt. Gen Kawakubo who stated he had appointed an impartial tribunal.
2. That the trial of the natives was a lawful trial. Referred to statement of Arai. Quotes definition of War Crimes and war crimes punishable by death (ALJ para 450 and p 287 at seq.)
3. Written statements produced at trial of natives was in order and referred to provision of Sect. 9 (1) of War Crimes Act.
4. As to not knowing what charge to answer referred to statement "I read over Arai's investigation to each native etc."
5. As to contention by prosecution that no evidence given against natives at trial - quote from Arai's statement.
6. As to contention that natives not allowed to speak in own defence quoted from Arai's statement "The accused spoke in their own defence and admitted their guilt".
7. As to contention that not entitled to an advocate, defending officer contended that
 - a. there was no evidence that he was not allowed one.
 - b. that there is no obligation on the prosecution to employ a counsel for the defence.
8. As to contention that no interpreter. Submits evidence says did

have an interpreter at trial.

9. As to type of trial refers to Chinese type where accused brought in one by one and interrogated by court separately and witnesses interrogated similarly and contended that prosecution could not contend that type of trial was not fair, when similar type of trial used by one of our allies.

10. Quite legal to obtain statement from person without knowing what statement obtained for. Referred to practice of Japanese not being warned before statements obtained ~~XXXX~~ and then such statements or interrogation used against them on trial. (See War Crimes Act).

11. Evidence disclosed that court considered evidence before coming to finding.

12. Quotes ILL p 272 para 366 as to exigencies of war and also note and contends what done was done in accordance with law.

13. Quote p 275
p 287 para 443
p 289 para 449

14. Composition of Jap court could not be queried by any member of it. Administrative action -.

15. Referred to very short interrogation of Capt Shoji and apparent mistake in it where says "three officers etc." and saw should be "the three officers" etc.

16. As to interpreter going with court when deliberating referred to interpreter going with court when deliberating with Chinese on cases under War Crimes Act for offences against Chinese.

PROSECUTING OFFICER

All the evidence consists of admissions by the accused, and there is no reason to disbelieve the accused. The question is whether there is some evidence of a breach of international law as we are charging them under international law. Whether Lt. Gen Kawakubo or his 2 i/c thought it a fair trial has nothing to do with it. It is for this court to determine whether there is evidence of a fair trial being conducted.

International law provides that a trial must be held ILL p 289.

Submits fair trial involves following elements.

Gives 5 points noted previously.

I submit that on these 5 points there is evidence that the trial was not fair and I further that if the court finds that even on any one of them that the trial was not fair, there must be a case to answer.

At 1455 hrs court adjourn to enable Judge Advocate to consider question.
At 1505 court reopens.

JUDGE ADVOCATE.

After considering the whole of the evidence I feel I must advise the court that there is a case to answer in law. More than that I do not propose to say unless called upon to state reasons.

At 1510 hrs court closes to consider submission of defence.
At 1520 hrs court reopens.

THE PRESIDENT announces that the court does not uphold the submission of the defence and that the court considers there is a case to answer.

At 1535 hrs court adjourn until 0900 hrs on Monday 1st April 1946.
At 0900 hrs 1st April 46 court reassemble, present the Judge Advocate, President and same members.

Sgt Arai being duly sworn is cross examined by Defending Officer through Interpreter Jiro Wshimura.

Guided by my conscience I swear to tell the truth without withholding any evidence whatsoever and also, I will not add anything besides the truth.

新井 健次

- Q. What is your full name unit and rank.
A. Sgt Arai Kenji of 18th Army Provost
- Q. Were you present at the trial of 2 natives by the name of ~~Kopaku~~ ^{Popaku} and Maran in about May 45.
A. Yes I was present.
- Q. Did the trial open at about 0800 hrs.
A. Yes.
- Q. Were the members of the court the three accused.
A. Yes.
- Q. Were they 3 members of the court seated in the court ~~xxxxxxxxxx~~
A. Yes, they were seated.
- Q. Were the 2 accused then brought into court.
A. Yes.
- Q. Did Capt Shinohara announce the opening of the court.
A. Yes.
- Q. Did Capt Shinohara read the charge sheet.
A. Yes.
- Q. Did you interpret the charge to the natives.
A. Yes.
- Q. Was the charge along the following lines. In April 45 the treason of the villagers of Kankanburan were led by Kopaku No 1 Capt and Maran boss boy and 3 others. For this criminal act it is necessary to hold a trial.
A. Yes.
- Q. Were the statements of ~~Kixxix~~ yourself and Capt Shinohara then placed before the court.
A. Yes.
- Q. Did Shinohara then instruct the witness to take Maran to the office.
A. Yes.
- Q. Did ~~xxx~~ you take Maran to the office.
A. Yes.
- Q. Is it customary in Japanese court procedure for the accused to be brought in one by one.
A. Yes.
- Q. Did Capt Shinohara ask Popaku his name and whether he was No 1 Capt of the Kankanburan.
A. Yes.
- Q. After that did Capt Nemoto ask some questions.
A. Yes.
- Q. Were the questions along these lines, Did the natives fail to supply sac. Why they took anti Japanese action, what was the cause of the attack on the Japanese, was Popaku the leader of the move, Did Popaku order his men to fight to the end. Did Popaku fight to the last.
A. Yes.
- Q. Did Popaku admit that all that had been asked him in questions had been correct.
A. Yes he admitted that.
- Q. Was Popaku ^{then} asked, "Do you think the actions you took was bad."
A. Yes.
- Q. Did Popaku answer 'I was wrong'
A. Yes.

- Q. Was Kopakku then asked whether he wanted to say anything in self defence.
A. Yes.
- Q. Did he reply 'I have nothing to say'.
A. Yes.
- Q. Was Kopakku then taken into the office.
A. Yes.
- Q. Did the court then adjourn for about 20 minutes.
A. Yes.
- Q. When the court resumed was Maran brought into court.
A. Yes.
- Q. Did Capt Shinohara ask Maran his name and whether he was boss boy of Yamaburu.
A. Yes.
- Q. After this did Capt Memoto question the accused.
A. Yes.
- Q. Did Capt Memoto do most of the questioning.
A. Yes.
- Q. Were the questions along the following lines. Why they did not supply sac sac. Why they took anti Japanese action. Did they fight against the Japanese, whether Maran incited Kopakku No 1 Capt to fight against the Japanese. Kopakku said that when they first talked about fighting with the Japanese No 2 and 3 Capt did not agree but were forced to fight. Was Maran asked did Kopakku say to continue fighting for the Americans will soon land.
A. Yes.
- Q. Were those questions based on the report the you had put in.
A. Yes.
- Q. Was Maran then asked whether he thought his actions were bad.
A. Yes.
- Q. Did Maran reply that he was wrong.
A. Yes.
- Q. Was Maran asked if he had anything to say for his self defence.
A. Yes.
- Q. Did Maran reply that he had nothing further to say.
A. Yes, he said yes.
- Q. Did Capt Shinohara ask you if the words the accused were saying is true.
A. Yes.
- Q. Did the ~~Japanese~~ reply yes.
A. Yes.
- Q. After that did the 3 accused go into the next room.
A. Yes.
- Q. ~~Did you subsequently go into the next room where the accused were.~~
Did you subsequently go into the next room where the accused were.
(the accused present in court today.)
A. Yes.
- Q. Did Capt Memoto say that the accused were guilty of War rebellion in Article 25 of Japanese Criminal Law.
A. No he did not tell me that.
- Q. Did you hear Capt Memoto say that the accused were guilty of War Rebellion in article 25 of the Military Criminal law and should be punished to death.
A. I did not hear that.
- Q. ~~Did you hear the court say that the sentence should be death.~~
Did you hear the court say that the sentence should be death.
A. I did not hear that.
- Q. Was the court adjourned for about 20 minutes altogether while they

2. You.

A. Yes.

A. Yes.

A. Yes.

A. Yes.

RE-EXAMINED BY PROSECUTING OFFICER.

Defending officer objects on the ground 1. It is not a question that arises out of cross examination. 2. That it tends to attack the credibility of the prosecutors own witness.

A. A convening order and a charge sheet are entirely different.

Defending officer objects on the ground that this question does not arise out of the cross examination.
Question is allowed.

4. What did Maran reply when Capt Nemoto asked him did Kopaku say 'continue fighting as the Americans will soon land.'

A. Maran replied that Kopaku did say that.

1. In what language ^{did} you inter. reted the charge sheet to the natives.
2. ⁱⁿ used pidgin.

4. who else asked questions.
A. Capt Shinohara and Capt Shoji asked questions also.

Q. What language did he use.
A. Capt Shinohara asked him in pidgin.

Q. Earlier in cross examination you stated that the charge was along certain lines. (Interpreter reminds witness of that statement) Will you repeat the same charge in pidgin to the court.

A. No 1 Capt belong Kumbumburu name belong him Kopaku. Cross boy belong Kumbumburu. Name belong him Maran. You two felle you make him trouble along Japan soldier. His peela trouble now make court. (M Tsal).

Sheet No 7

NO FURTHER QUESTIONING.

The evidence is read over to the accused who does not desire to correct same

I swear that I have told the truth without adding anything.

新井健次

Lt. Gen Kawakubo being duly sworn is cross examined by Defending Officer through interpreter Jiro Nishimura.

Guided by my conscience I swear to tell the truth without withholding any evidence whatsoever and also, I will not add anything besides the truth.

Q. What is your full name and rank.

川久保鎮馬

A. Lt. Gen Kawakubo Shizumo commander of the 51st Inf Division.

Q. Were the 3 accused excellent soldiers and men of excellent character who you knew to be upright and impartial.

A. Yes.

RE EXAMINATION BY PROSECUTING OFFICER.

NO QUESTIONS BY COURT

Evidence is read over to witness who does not desire to correct same.

I swear that I have told you the truth without adding anything.

川久保鎮馬

CLOSE OF CASE FOR PROSECUTION

JUDGE ADVOCATE.

There are several matters that the court would like you to address upon, without suggesting that you limit the generality of your address but there are 3 or 4 points the court would like dealt with.

1. Whether you claim the offence is created by a law or by a usage of warfare.
2. To refer the court to these articles or opinions which would cover the offence and as to the effect of, if it is a usage, the statement contained in LML page 194 para 2 and after dealing with those aspects of law would you deal please with what acts by the accused persons do you consider constitute their guilt, constitute their failure to hold a fair and proper trial.

PROSECUTING OFFICER

May it please the court the accused are charged under the War Crimes Act 45 with a violation of the laws and usages of war, a breach of the laws of war in the first instance. The particular law to which I refer is the Hague Conference 1899, rules set out at page 146. Our own reference is note 3 page 289 of LML. I suggest the act complained of is a breach of the usages of war to the extent that that principle has been expounded by international jurists. In so far as the case for the prosecution relies on usages of war, I submit that the usages of war although customs are nevertheless binding on this court under the War Crimes Act which provides that any violation of the laws and usages of war shall be a war crime, and so far as the opinion of jurists that I have referred to, I refer to the opinion of Professor Arega LML p 290 note 1.

I submit that for a trial to be a trial, it must be a fair trial and not colourable trial and that that involves the following elements.

1. impartial tribunal
 2. that the accused be notified of the charge before the beginning of evidence.
 3. that some evidence be given in court against the accused.
 4. that the accused should be protected against incriminating himself before the court
 5. that he be given the right to call witnesses and speak in mitigation and
 6. that he be given defending counsel or the procedure and his rights be explained to him.
- That is the essence of the case.

Irrelevant portion of address omitted from proceedings.

Continues:-

In fact I am suggesting these accused were with the same opinion, involuntary plea of guilty was obtained from them as they were simply brought in and asked questions with no suggestion that they need not incriminate themselves if they didn't want to.

DEFENDING OFFICER OBJECTS.

What right has an accused person to be told before a court that he need not incriminate himself. I must ask that the prosecuting officer confine his remarks to facts before the court.

At this stage prosecutor replied to the following effect, that in a police court the magistrate would advise the accused that he had the right to give evidence if he wished. Such accused could elect not to do so as the accused had done in this case.

The defending officer objected to this as a comment on accused failing to give evidence and asked for a new trial.

PROSECUTING OFFICER

A Magistrate in a police case or crown case always tell him that and

he has the right to give evidence as he does and it is provided for in the Army Act. If he does give evidence he can be cross examined but in any other offence chargeable on indictment there is a rule that I am not to say something which I claim I have not said, and I am not saying now.

JUDGE ADVOCATE

I think you did say it accidentally but you have commented on it.

PROSECUTING OFFICER

I do not want to labour anything on the Baskerville Judge Advocate General's ruling. Nothing I have said is objectionable in any way but the general rights of any accused. All page 91 has a note to section 245 where it says "except where a statute.....".

I will ask the court to exclude entirely from its mind the last few sentences I spoke.

DEFENDING OFFICER

In view of that I withdraw my objection.

JUDGE ADVOCATE

I ask you to dismiss any possible inferences from your minds.

PROSECUTING OFFICER

To sum up briefly what I have been saying

Repeats 5 points which constitutes a trial.

DEFENDING OFFICER ADDRESSES.

Submission.

1. There was no mens rea. This evidence to be wholly upon conduct of accused.
2. Constitution of court not disputed by members of court.
3. The natives were given a fair trial - obviously a fair trial and I adopt the definition that trial is ascertaining of truth or otherwise of an allegation.
4. Burden of proof was on the Prosecutor and if there was a reasonable doubt the accused should be given the benefit of the doubt.
5. Evidence of the good character for the accused had been given by Lt. Gen Kawakubo one of the witnesses for the prosecution.
6. No injustice whatever had been done in so far as the natives were concerned.

Counsel also referred to the Prosecutor's statements as to having a trial of the natives in public and referred to trials even in Australia and in England and particularly refers to trials of spies during war.

Defending officer also referred to Prosecutor's address where he stated that parol evidence if available should be given against the accused, and referred to statement of Arai in which he stated that evidence had not been given by certain counsel and also referred to War Crimes Act Section 9 where evidence other than parol evidence was admitted even though the prosecution was in the position to call Sgt Maj Arai to give their evidence orally and Lt. Gen Kawakubo to give his evidence orally.

Counsel referred also to the arguments as used in the application that a prima facie case had been made out against the accused and criticised the evidence for the prosecution and submitted that the accused should be found not guilty.

JUDGE ADVOCATE SUMS UP.

The accused are charged under the War Crimes Act 1945 with a violation of the laws and usages of war in that they in May 1945 when members of a Military court convened to try 2 natives of Kanbanburu, viz, Popaku and Maran failed to ensure that such natives were afforded a fair and proper trial.

You should accept my advice upon questions of law, but questions of fact are entirely for you to decide.

The charge is a criminal one and the onus of proving the guilt of the accused rests always on the prosecution.

The accused are presumed innocent unless their guilt is proved. Guilt must be proved beyond a reasonable doubt.

A reasonable doubt is one which would influence your decision in matters of grave importance.

There is a maxim of law "actus non fit reus nisi mens sit rea". Which means that to constitute a crime the act must be accompanied by a guilty mind.

I refer to this maxim as the mental element appears to be of considerable importance in respect of the charge.

The deceased were civilian inhabitants of a territory occupied by Japan. It is not in issue whether or not the accused were properly appointed to constitute a court for the trial of the two natives.

It is conceded by the prosecution that there was sufficient evidence before ~~the~~ ^{the} court to justify its finding, the natives Popaku guilty of war rebellion provided that they were first given a fair trial. Any war crime is punishable by death.

The question arises whether the accused were bound by international law to accord the natives a fair and proper trial. In my opinion they were so bound.

I consider that the natives were entitled to a trial by the laws of war before being executed.

I refer you to Appx 6 (MIL p. 323) and art. 46 also to para 449 and to note 3 and MIL p 275 note 5.

Now international law does not appear to lay down any fixed form of procedure for Military courts trying civilian inhabitants of occupied territories. That appears to be at the discretion of the belligerent in occupation, subject to the fundamental principles of Justice being observed.

I consider these principles to be -

a. Consideration by a tribunal comprised of one or more men who will endeavour to judge the accused fairly upon the evidence using their own common knowledge of ordinary affairs and if they are soldiers their military knowledge honestly endeavouring to disregard any preconceived belief in the guilt of the accused or any prejudice against him.

b. The accused should know the exact nature of the charge preferred against him.

c. The accused should know ~~the exact nature of the charge~~ what is alleged against him by way of evidence.

d. He should have full opportunity to give his own version of the case and produce evidence to support it.

e. The court should satisfy itself that the accused is guilty before awarding punishment. It would be sufficient if the court believed it to be more likely than not that the accused was guilty.

f. The punishment must not be one which outrages the sentiments of humanity.

I suggest the court should consider whether the trial held by the accused observed such principles.

If the answer is 'yes', then all the accused should be acquitted.

If 'No' you should there consider whether all or any of the accused had the necessary guilty mind.

You should be careful to consider the mental attitude of each of the accused separately. This necessitates a careful study of the evidence before you.

Sheet No 12

Did each of the accused honestly satisfy himself that the natives were guilty and deserved to die.

Did the natives acknowledge their guilt.

If so what effect would that have upon the accused.

In conclusion I must remind you that it is not for the accused to establish their innocence, but for the prosecution to prove them guilty beyond a reasonable doubt.

At 1410 hrs court closes to consider finding.
At 1450 hrs court reopens.

The President announces that the court finds Capt Shinochara, Capt Mamoto, and Capt Shoji all guilty of the charge.

PROSECUTING OFFICER.

There are no previous convictions against any of the accused nor any other charges pending against them.

DEFENDING OFFICER IN LITIGATION.

If the court please, in this case the accused have been found guilty in that they failed to ensure that such natives were accorded a fair and proper trial. The trial which was accorded to them was one which was in accordance with Japanese law by virtue of the international situation and law on the subject. Apparently it was not and therefore by virtue of the War Crimes Act it constituted an offence. I would ask the court particularly to take into account in determining sentences to be imposed on these 3 men, their character of which the highest has been spoken, and the prosecutor has been good enough to say there are no other charges pending against them. The thing is they thought they were doing right and if we regard the actual trial, it is in so far as the court was concerned, that had the natives been tried in a proper manner then the verdict would have been the same and the sentences against them. Then there is the matter of various degrees of guilt as amongst the accused. I don't think I need labour that, as the court should be able to say whether one is more guilty of the charge than the other etc. I ask the court when considering sentence to take these matters into account, and particularly take into account their good conduct as given by the prosecutor.

At 1505 hrs court adjourn to consider sentence.
At 1520 hrs court reopens.

The President announces that the court sentence Capt. Shinochara, Capt Mamoto, and Capt Shoji, each to be imprisoned for 5 years.

The President informs the accused that such finding and sentences are not final until confirmed by a higher authority.

At 1525 hrs Court is closed.

Signed at Rabaul this 1st day of April, 1946.

Sandpaw

Major. Judge Advocate.

J. H. H. H.

Lt.Col. President.

INTERROGATION OF

Sgt. ARAI Kenji, Military Police, 18 Army.

*Exhibit A
J.A. clay*

1. I am 28 years old.
2. I joined the Japanese Army in 1940 and became a member of the Military Police after completing recruit infantry training. I came to NEW GUINEA as a member of the 18 Army Military Police Unit and landed at WEWAK in Aug 43.
3. I stayed at WEWAK for a few days and then went to ANGORAM. I was stationed at various times at ANGETJI, MARIENBERG KAUP and KAMBRIENDO.
4. In Oct 44 I went to BRANBA and stayed there until the surrender. I was under command of Capt SHINOHARA 102 Inf Regt who was at MOIM. I was commander of BRANBA area. There was only one other Japanese soldier at BRANBA namely L/Cpl SUMITANI Jiro of 102 Inf Regt.
5. My task was to collect sac-sac from the surrounding villages and to construct gardens.
6. In Jan 45 I prepared a fortnightly quota of sac-sac to be supplied by the surrounding villages. I calculated the quota from the available sac-sac and the population of each village.
7. The natives used to bring the sac-sac into BRANBA and I used to ship it by canoe to MOIM.
8. Among the villages from which I required a quota was KANBANBURU. I locate this village on the map as about 2 miles North of ARAI. There is no village of KALBAPI or KAMBABIT known to me in that area. The KANBANBURU quota was about 2 cwt of sac-sac per month.
9. The KANBANBURU natives supplied their quota regularly in Feb. and Mar. 45. In April 45 no sac-sac was brought in from KANBANBURU.
10. At the end of April 45 I sent a native to KANBANBURU to find out why the sac-sac had not arrived and to tell the villagers to send it to BRANBA.
11. The native was hit over the head and was sent back with a message that the KANBANBURU natives would send no more sac-sac.
12. The next day I sent 3 natives to KANBANBURU. They found that the KANBANBURU natives had gone into the bush. They collected some of them. The KANBANBURU natives told these 3 natives that they would have nothing to do with them Japanese Army and would not supply them with sac-sac. They said the Japanese Army were fools (BAKA) and that they would resist any attempt by the Japanese to get sac-sac from KANBANBURU. The KANBANBURU natives threatened the 3 messengers with bows and arrows and spears and the messengers left KANBANBURU and returned to BRANBA.
13. I reported this to Capt. SHINOHARA in writing. I received a reply ordering me to go to KANBANBURU and find out where the natives had gone. Capt SHINOHARA also sent 5 or 6 Japanese to BRANBA. A few days later with these Japanese and 20 natives I went to KANBANBURU. There were no natives in the village. I sent a patrol into the bush nearby. Some natives threw spears at them and shouted threats. The patrol returned to KANBANBURU. This met similar reception and one of my natives received a spear wound in his buttock. It took about ten days to heal. The patrol returned to KANBANBURU and I sent a report to Capt. SHINOHARA. The next week I moved between KANBANBURU and BRANBA where I had other duties.
14. Capt. SHINOHARA came to BRANBA and told me to collect the KANBANBURU natives and bring them to BRANBA. Capt. SHINOHARA returned to

We stayed there overnight and next day sent and natives' father

I Interrogation of ARAI (continued)

- MOIM at once. I had found out where the KANBANBURU natives were living some distance from KANBANBURU and went to the spot with a patrol of 5 or 6 Japanese and 20 natives. They engaged us with bows and arrows and spears, but none of our party was seriously hurt. We closed in on them from all sides and arrested them. There were about 25 of them about 10 being young men. We tied the hands of the ten young men and brought the whole 25 to BRANBA. This was about the middle of May 45. Until the end of May I investigated the attitude of each man. I found that 5 natives were principally involved in the resistance of the Japanese. I reported this to Capt. SHINOHARA. He then came to UENABA and spent three days checking my investigations. He interrogated the ~~three~~ five ^{natives} ~~one~~ himself as he could speak Pidgin. He found that 2 of the natives were principal offenders. Capt. SHINOHARA then returned to MOIM. Three days later Capt. SHINOHARA returned bringing with him Capt. NEMOTO and Capt. SHOJI.
15. These three officers interrogated the 2 natives who were POPAKU No. 1 Capt. of KANBANBURU and MARAN his boss-boy.
16. Capt. SHINOHARA ordered me to assemble the chiefs of all the neighbouring villages. He addressed them telling them of the misdeeds of the KANBANBURU natives and exhorting them to co-operate with the Japanese. The 3 officers then returned to MOIM.
17. Four or five days later I received a written order from Capt. SHINOHARA to execute POPAKU and MARAN.
18. I took them to the graveyard and had some natives dig a grave. I placed the natives in the grave, bound them together and despatched them with one rifle shot which killed them both. The execution was witnessed by the chiefs of the surrounding villages.
19. POPAKU and MARAN were found guilty under military law of the ~~following~~ offences :-
- (i) Opposition to the Japanese Army.
 - (ii) Trying to influence other natives to oppose the Japanese Army.
20. I consider that the investigation by the 3 officers amounted to a lawful trial by a proper military Court. I was present at the investigation acting as interpreter. KANBANBURU natives were called as witnesses implicating the accused. One was named WAI and there were two or three others names I do not remember. The accused spoke in their own defence and admitted their guilt. No spectators were allowed.

Interrogated at CAPE WOM
6 Jan 46 by me

Capt.

(John. D. Steed)

I certify that the above writing is a true translation of Witness's statements.

A. KLESTADT WO 12

*Unofficial true copy
John D. Steed Capt.*

INTERROGATION OF

CAPT SHINOGARA EITARO, 2 BN, 102 INF

Exhibit 8
Interrogation
President
Sandstein
dis
SA

19

1. I was stationed with my unit at MOIM between Jan 45 and Jun 45.
2. In Apr 45 I received a written report from Sgt ARAI that KANBANBURI, a village in his district was not forwarding sac sac. This I reported to HQ 51 Div Inf Gp. I sent a reply to ARAI to try and persuade the natives to bring in the sac sac and if they would not to arrest the whole village.
3. Sgt ARAI sent another report some time later saying that he could not find the natives. I sent him about 5 soldiers to help him. I told ARAI to go himself and arrest the whole of the natives. Because ARAI's stated that the natives of KANBANBURI had refused to supply sac sac, had deserted their village and had sent belligerent messages to ARAI I declared them enemies of the Japanese.
4. About 20 days later I received word from ARAI that 20 or 30 men had been assembled. I told ARAI to make an investigation to find out who were the ringleaders of the village who had thrown spears at the Japanese patrol.
5. ARAI sent me his findings a week later. He said all the men had ~~had~~ had spears but only 5 had been responsible for the trouble.
6. I then went to BRANBA and conducted an investigation into the cases of these 5 natives. I believe that about 20 to 30 KANBANBURI natives were in BRANBA at that time.
7. I read over ARAI's investigation to each native, one by one, and asked him if it was correct. Each man said "Yes". I also asked other questions, particularly of the Luluwai POPAKU and the boss boy, MARAN. They all admitted all ARAI's allegations. The only persons present were myself, ARAI and the 5 natives.
8. I then dismissed the 5 natives and asked questions of a number of the other KANBANBURI natives. I did not ask their names. These natives all implicated POPAKU and MARAN. I made a written report giving as my opinions that these two natives were guilty of rebellions I then returned to MOIM and sent ARAI's and my own reports to HQ 51 Div Inf Gp.
9. A few days later Capt SHOJI arrived from HQ 51 Div Inf Gp, bringing with him a written order from Maj-Gen KAWAKUBO convening a Court Martial at BRANBA for the trial of POPAKU and MARAN. The order convening the Court named me as President and Capt SHOJI and Capt NEMOTO as members. Sgt ARAI was NOT a member of the Court, and did NOT act as a member. He was interpreter only. SHOJI was a member NOT a Judge-Advocate. I showed Capt NEMOTO and Capt SHOJI the reports made by ARAI and myself.
10. We then called POPAKU in and Capt NEMOTO and Capt SHOJI asked him questions.
11. I did not ask any questions. I knew the facts from my previous investigations.
12. We sent POPAKU out when he had been questioned and brought MARAN in. He was questioned in the same way by Capt NEMOTO and Capt SHOJI.
13. I then brought both POPAKU and MARAN into the room and asked them if they had spoken the truth when answering the questions. They each said, "Yes". Nothing else was said to the natives until I passed sentence of death on them.

14. While the accused and Sgt ARAI remained in the room Capt NEMOTO, Capt SHOJI and I looked up the Rules for Court-Martial procedure (RIKUGUN KEIHO) and agreed that the accused were guilty under Rule 25 of rebellion by carrying weapons, resisting the JAPANESE and inciting others to taking hostile actions against the JAPANESE. The death penalty is provided as the only penalty for the leaders of a rebellion.
15. Sgt ARAI did NOT take part in the discussions. When we had come to our decision which was unanimous I told the accused that we had found them guilty of rebellion and that they were sentenced to death.
16. After the sentence was passed the accused were asked by NEMOTO and SHOJI whether they had anything to say. The accused replied "No".
17. After the trial I prepared an abstract of the questions and answers, the charge, the finding and the sentence. This record was sent by Capt S SHOJI to Maj-Gen KAWAKUBO.
18. We returned to our units and about a week later Maj-Gen KAWAKUBO confirmed the sentence and ordered it to be carried out. I passed the order on to Sgt ARAI.
19. After I made my first investigation I was convinced that the two accused were guilty of rebellion.
20. If I were nominated as a member of a court-martial and did not know any of the facts before the Court opened I would not know whether the accused was guilty or innocent. In this case I knew before the trial started that the accused were both guilty.
21. Capt NEMOTO was in my unit and I acquainted him with the facts before the trial commenced.

Interrogated at WENAK
10 Jan 46 by me

(JOHN DAVID STEED) Capt.

I certify that the above writing is a true translation of the above witness's statements.

A. KLESTADT. W.O. 11.

*Certified true copy
John David Steed Capt.*

Trial of Captain Eitaro Shinohara
2 others

Ans. 52.

INTERROGATION OF

CAPT NEMOTO TOYOJI, 2 BN, 102 INF REGT

Exhibit C
J. H. - 11/11
Land 11/11
May 11/11

1. I was stationed with my unit at MOIM between Feb 45 and May 45.
2. I visited BRANBA three times, early in Feb, in May and June.
3. The first time I went to arrange for the natives of the district to collect sac sac and bring it in to the Japanese garrison at BRANBA. I stayed there one night only.
4. The second occasion I stayed two days.
5. After the fall of WEWAK, the front-line troops were becoming short of food and it was necessary to have increased supplies of sac sac from the SEFIK area. Late in Apr 45 Sgt ARAI reported that KANBANBURU had sent in no sac sac during that month. ARAI later reported ~~that he had made several patrols~~ having made several patrols to KANBANBURU and received opposition on each occasion.
6. Capt SHINOHARA ordered Sgt ARAI to bring in to BRANBA as many KANBANBURU natives as he could find.
7. Sgt ARAI later reported that he had brought the KANBANBURU natives into BRANBA.
8. Capt SHINOHARA, Capt SHOJI and I went to BRANBA to conduct a trial of the KANBANBURU natives according to special Court Martial rules laid down by 18 Army for the trial on active service of natives. He was President of the Court and Capt SHOJI and I were members.
9. Two natives were accused before the Court.
10. When the trial opened Capt SHINOHARA, Capt SHOJI, Sgt ARAI, the two accused and myself were present. We all remained together until after the sentence had been pronounced. Capt SHINOHARA announced that trial was about to begin. The records of Sgt ARAI's and Capt SHINOHARA's previous investigations were before us. Capt SHOJI and I began the trial by asking the natives questions. We asked them why they had refused to bring in sac sac and why they had attacked the JAPANESE patrols. The natives told us that they had led the other villagers into failure to co-operate with the JAPANESE. The natives said that they realized that they had done wrong in doing so.
11. Capt SHOJI and I then decided that both accused were guilty of an offence under Rules of Court-Martial Procedure, clause 24 or 25. We decided that they should be sentenced to death.
12. The offence of which we considered them guilty was treason in that they took up arms against the JAPANESE. The offence of failure to supply sac sac does not carry a death penalty and we did not convict them of that offence. We told Capt SHINOHARA of the charge of which we thought they were guilty and the sentence we thought appropriate. He thought for a moment and then said that he agreed with us and sentenced the accused to death.
13. From the time when Capt SHOJI and I had finished questioning the natives until Capt SHINOHARA passed sentence of death, nothing was said to the natives.

14. I now say that before SHINOHARA pronounced sentence I asked the accused if they had anything to say and they replied in the negative. I swear this by the Emperor.
15. The accused had no defending officer or advocate. No witnesses were called at the trial but documentary evidence of the previous investigations by Capt SHINOHARA and Sgt ARAI was before the Court.
16. The trial took about 4 hours. After sentence was pronounced the accused were taken away in custody. A record of the trial was sent to Maj-Gen KAWAKUBO who later confirmed the sentence.
17. I am not a legal officer and I do not know what would have happened had Capt SHINOHARA considered that no charge was made out against the accused. I think in such case SHINOHARA would have acquitted the accused. I am not certain of this for the possibility of a disagreement never occurred to me.

Interrogated at CAPE WOM
8 Jan 46 by me

(JOHN DAVID STEED) Capt.

I certify that the above writing is a true translation of the above witness's statements.

ATIS 85

*Certified true copy
J. H. O. A. C.*

INTERROGATION OF

CAPT SHOJI TAKEYASU HQ 51 DIV INF GP

*Exhibit D - all provided
Sandpiper
day
3-11*

1. I was with HQ 51 Div Inf Gp at ANGORAM in May 45.
2. I was sent by Maj-Gen KAWAKUBO to be recorder and observer of a trial of 2 natives at BRANBA in May 45.
3. I was sent because I know something of military Law.
4. The members of the Court were Capt SHINOHARA, Capt NEMOTO and Sgt ARAI.
5. When the Court opened the two natives were brought in and asked a number of questions by Capt NEMOTO. Then Capt SHINOHARA asked similar ~~questions~~ and recorded the answers. I asked no questions as I had no prior knowledge of the facts.
6. Capt NEMOTO when the questioning was finished, asked the natives if they had anything to say. They replied, "No".
7. The 3 officers and Sgt ARAI then went into another room. Capt NEMOTO and Sgt ARAI conferred for a while and then told me that the accused were guilty of treason under Clause 26 of the Rules of Court-Martial procedure and deserved the death penalty. I told them that in my opinion the charge was justified by the evidence and that the sentence was lawful.
8. They reported this to Capt SHINOHARA who again looked at the record of the previous investigations and said that he agreed with them.
9. He then wrote out a record of the findings and sentence and gave it to me. I took this back to Maj-Gen KAWAKUBO.

Interrogated at CAPE WOM.
8 Jan 46 by me

JOHN DAVID STEED Capt.

I certify that the above writing
is a true translation of the above
witness's statements.

ATIS 88

*certified true copy.
Shindler Apr.*

INTERROGATION OF

LT-GEN KAWAKUBO SHIZUMA HQ 51 DIV INF GP

Exhibit E
WCF
Revised
Aug 54

1. In May 45 my Hq were located at KASIMIN. HQ 51 Div was at PASSAM.
2. In May 45 I received a report from Capt SHINOHARA which disclosed offenses by two natives of KANBANBURU. I think Capt SHINOHARA asked for a Court to be convened to try them.
3. I produced my recollection of an 18 Army order regarding trial of natives. I received this when I arrived in HQ in Feb 44 and I think it had been issued before then.
4. Under this order the senior JAPANESE in any remote locality, whatever his rank, may try offenses committed by natives and inflict the death penalty without prior reference to any superior Comd.
5. I convened a Court instead of letting Sgt ARAI deal with the case because I considered the natives as my children and, although I could not allow their conduct to hold up the Army's operations, I wanted them to have as fair a trial as possible.
6. I convened a Court and personally decided its composition; namely, Capt SHINOHARA Pres, and CAPTS NEMOTO and SHOJI as members. Capt SHOJI was a member of the Court. If he says otherwise he is wrong. He has had malaria and is sometimes forgetful.
7. At SHINOHARA'S HQ the only officers were ~~SHOJI~~ and NEMOTO. I had only 5 healthy officers at my HQ but I spared Capt SHOJI to sit as a member of the Court.
8. 2 Bn, 102 Inf Regt, under Maj SERIKAWA's command, was at KASIMIN. They had 3 or 4 officers.
9. HQ 102 Inf Regt was at MARIENBERG. 3 Bn with Maj OBA commanding was at BIEN. 1 Bn with Maj IRIMAWO commanding was at ANGORAM.
10. I consider that I chose an impartial Court. Although Capt SHINOHARA had reported that the natives had in his opinion committed offenses, I do not know that he was absolutely convinced of that before the trial. I am confident that he would deal fairly with the case. I do not consider it likely that Capt NEMOTO would be influenced by Capt SHINOHARA.
11. I consider that it is not just that any man should be sent for trial on a capital charge without defending counsel to represent him.
12. Appointment for defending counsel is not provided for in 18 Army order. In any case natives are as children and uneducated and it would be no use anyone trying to defend them.
13. No defending counsel was available and I told Capt SHOJI to see that the trial was impartial.
14. I am a JAPANESE Staff Corps officer and passed through the Staff College in 1911. I have heard about the HAGUE Conventions. I read it at the Staff College but have forgotten its provisions.
15. I consider that I am bound to observe the HAGUE Conventions. I know that there is a body of International Law for regulating the relations of nations at war and I am bound to observe International Law.

Interrogated at WENAK
11 Jan 46 by me

JOHN DAVID STEED Capt.

I certify that the above
writing is a true translation
of the above witness's statements

R. KLESTADT WOLL

Collected & Transcribed
11 Jan 46

18 ARMY ORDERIssued Amoy July 1943.

Exhibit F.
[Signature]
 Sandpiper
 May
 3.9

1. Punishment of criminal not committed by the natives will be decided not only by this 18 Army Order but at the same time conforming to JAPANESE MILITARY LAW.
2. Minor crimes or acts committed in outlying (distant) areas may be tried by the senior army personnel in charge of that area.
 The carrying out of a sentence must be reported to the higher echelon.
3. The trial should be held at Regt. Hq. Legal officers may be absent from this trial. Other officers within the Regt may be selected by the Regt CO to act instead of legal officers.
4. Sentences may include whipping (with whip) along with the punishment provided in the Army Law.
5. This 18 Army Order was issued to facilitate and aid the carrying out of Army operations and to conform to the will of the Jap Army but the reactions of the natives to different kinds of punishments should be carefully weighed and the natives should not be used as laborers without due consideration.

TRANSLATED BY

ATIS 126.