

Singapore Cases - Details of Trial Records

Compiled by Stephanie Beckman, Intern
U.C. Berkeley War Crimes Studies Center
Singapore Cases: No. 235/975
Otsuka Case

Accused: (1) Maj. Gen. OTSUKA Misao
(2) Major KOBAYASHI Shozo
(3) Major KAMIYA Haruo
(4) Capt. YAJIMA Mitsuo
(5) Lieut. SUGIHARA Kenji
(6) Jud. W.O. OKI Yoshio
(7) Jud. W.O. KUBO Shinkichi
(8) Sgt. Maj. HANAWA Hatsuo
(9) Sgt. Maj. YOSHIYAMA Kinichi
(10) Sgt. Maj. SHINOJIMA Zinso
(11) Sgt. Maj. SATO Takeo
(12) Sgt. MORIMOTO Ichiro
(13) Sgt. NIIBARA Hideo
(14) Sgt. KOBAYASHI Toshio
(15) Sgt. KOGA Tsutomu
(16) Sgt. MURATA Misasuchi
(17) Sgt. HIEDA Isamu
(18) Sgt. MINO Teruo
(19) Sgt. NAMATA Takeshi
(20) Sgt. SATO Akira
(21) Sgt. TSUKUDA Keiji
(22) Sgt. OKAMURA Kazuo
(23) Sgt. YAMANISHI Nobuharu
(24) Sgt. SHIMOI Masao
(25) Sgt. HATTORI Tenji
(26) Sgt. OKUDAHIRA Masamori
(27) Sgt. OTAKE Kiyotaka
(28) Sgt. YAMANE Masatsugu
(29) Sgt. KOYAMA Unsaburo
(30) Sgt. YAMASHITA Atsushi
(31) Cpl. HACHIYA Jutarō
(32) L/Cpl. HIROSE Yoshio
(33) GCP No.1 NAKAMURA Hideo
(34) GCP No.6 KADONO Snoichiro
(35) GCP No.52 GOTO Tatsuji
(36) GCP No.66 CHIKAMURA Toshiharu
(37) GCP No.70 WATANABE Heikichi
(38) GCP No.80 TANAKA Toshiro
(39) GCP No.413 FURUHATA Seigo
(40) GCP No.416 SAITO Kosaku
(41) GCP No.419 NISHIDA Koichi
(42) GCP No.430 SUGANO Kurao
(43) Maj. Gen. HIDAKA Mineo
of the Imperial Japanese Army

Place and Date of Trial: Singapore, 8-9, 12-15, 20-22, 26-28, 30-31 Aug 46; 9-12, 16-20, 23 Sept, 46; 2-3, 5, 7-10 Oct 1946

Finding and Sentence:

Accused 26, 32, 38 & 39 - Not guilty - Acquitted

Guilty Accused Sentence

1, 2, 4, 35, 43 Death by hanging

3, 5, 6, 7, 23 Imprisonment for Life

17 15 years imprisonment

8, 11, 16, 19 12 years imprisonment

9, 10, 20, 21, 33 10 years imprisonment

15 8 years imprisonment

22, 27, 29, 31, 34, 37 7 years imprisonment

13, 14, 18, 24, 30 5 years imprisonment

12, 40 4 years imprisonment

25, 36, 41, 42 3 years imprisonment

28 1 year imprisonment

Note: Accused 5's sentence was remitted to 10 years imprisonment by G.O.C.

Singapore District.

Charge: Committing a War Crime in that at Singapore between the 16th February 1942 and the 15th August 1945 when responsible for the well being of the persons in custody in the Military Section of the OUTRAM ROAD Prison, were, in violation of the laws and usages of War, together concerned as parties to the ill-treatment and neglect of certain of such persons causing the death of about thirteen British Prisoners of War, about four Dutch Prisoners of War and about twenty-two civilians, and physical suffering to many other British, Dutch and American Prisoners of War and civilians there in custody.

Facts relating to the charge: The Abstract of Evidence outlined the facts relating to the case:

1. This prosecution is based upon the brutality and callous negligence of the Accused in their treatment of Prisoners of War and certain Civilians alleged to have been guilty of offences and imprisoned in the Military section of the Prison, Outram Road, Singapore
2. The first accused Maj-General Otsuka was from about 3rd April 1944 until 15th August 1945 the Head of the Judicial Department of the 7th Area Army of the Japanese Army, and as such was in command of the whole of the staff of the said Prison and on many occasions personally inspected it.
3. The second accused Major Shozo Kobayashi was appointed Commandant of the Prison about 1st August 1942. On 1st May 1944, he left and returned about 5th September 1944, and thereafter remained as Commandant until the Japanese surrender and the re-occupation of Singapore. During the absence of the Second Accused the Third Accused, Major

Kamiya, took charge of the Prison, and he was at all material times otherwise concerned in the administration as Senior Assistant Staff Officer to the First Accused.

4. The Fourth Accused was from about August and September 1944 and the Fifth Accused was from about September 1944 to June 1945 the Medical Officer of the Military Section of the Prison, and as such as callously negligent in his duty of tending prisoner patients thereby causing needless suffering to prisoners, and in advising upon their conditions of health.

5. The Staff of the Prison was divided into Chief Warders and Warders. The Sixth, Seventh, Eighth, Ninth, Tenth and Eleventh Accused were Chief Warders. The Warders were the Twelfth to the Thirty-third (inclusive) Accused. The First, Second and Third Accused also used as Warders. Japanese good conduct prisoners were in particular the Thirty-fourth to Forty-third (inclusive) Accused to assist in the administration of the Prison.

6. The conditions within the prison were as follows:-

a) No private was allowed except in solitary confinement for long periods and all prisoners were continually subjected to brutal treatment by the Accused.

b) The food provided was totally inadequate and resulted in deficiency diseases of every kind.

c) There was no proper medical attention, and medical advice given was ignored.

d) There were no proper washing or sanitary arrangements.

Other evidence relating to conditions in the Gaol is contained in the affidavits.

7. A number of the Prisoners of War, British and Dutch, and Civilians died as a result of their ill-treatment and neglect by the Accused including:-

Captain deVries, L/Bdr. Bradley, Pte. Brown, Pte. Peters, Pte. Marshall, Pte. Pekel, Pte. Knight, Sepoy Mohamed, Sepoy Malya, Pte. Ross, Pte. Allen, Cpl. Fainey, Sup. Davis, Capt. Van Hemert, Gunner Dilling, Lt.Col. Van Dyken, Dr. Shelley, Cpl. Small, Mr. Hughehaser, Mr. Rendler, Mr. Gehnder, Mr. Middlebrook, Mr. Davies, Mr. Barter, Mr. Masaro, Mr. Coroad, Mr. Eoernander, Mr. Logan, Mr. Tan San Leong, Mr. Chan Toh Hay, Mr. Moh Kay, Mr. Koh Hook Swee, Mr. Wory Yet Hak, Mr. Koi Gee Gee, Mr. Tong Tai Yip, Mr. Lim Too Teon, Mr. Lin Ah Liang, Mr. Nah Wee Hung, Mr. Igurahim, Mr. Ponpa

8. All the Accused are charged in the terms of the first charge as being guilty of a War Crime resulting from concerted action upon the part of all of them as being the Commanding Officer and Staff of the Prison respectively.

9. Specific acts of brutality were committed by the Accused following and approved of acquiesced in and/or assisted by all the other Accused in particular:-

a) The Second Accused caused 10 Prisoners of War to be locked up without food and water for 3 days. Ebert states that they did so as they were suspected of conveying information to other prisoners.

b) The Sixth Accused, on many occasions supervised or did

not interfere when prisoners were being beaten as stated in the affidavit of Weynton.

c) The Seventh Accused committed assaults and acts of brutality as appears in the affidavits of Moon, Minty and Weynton. Ebert states "that the Fifth Accused was one of the administrative staff. I think he was second in charge."

d) The Eighth Accused was concerned by his neglect in the death of Father Morano. This accused further committed acts of brutality as stated in the affidavits of Minty, Green and Weynton.

e) The Eleventh Accused committed acts of assault and brutality as appears in the affidavits of Moran, Cherry, Marriott, Moffat, Minty, Macgregor, Morris, Green, Dean and McGregor.

f) The Twelfth Accused is concerned in:-

i. The death of two Australian soldiers as stated in the Affidavits of Moran and the evidence of Picozzi.

ii. The deaths of POWs being Captain Van Hemert, Lance Bombardier Bradley and Gunner Dilling as appears in the affidavits of Slater and others.

iii. Acts of brutality as stated in the affidavit of Dean.

g) The Thirteenth Accused is concerned in the death of an Indian soldier as appears in the affidavit of Moran and the evidence of Picozzi. This accused also committed assaults and acts of brutality as appears in the affidavits of Major Smith, Minty, Green, Dean and McGregor.

h) The Fourteenth Accused committed assaults and acts of brutality as appears in the affidavits of Cherry, Minty, Weynton and McGregor as well as the evidence of Picozzi.

i) The Fifteenth Accused committed acts of ill-treatment and brutality as appears in the affidavits of Macalister, Minty, Morris and Green and a statement of Picozzi.

j) The Sixteenth Accused is charged with assault and acts of brutality on Marriott and Picozzi, as stated in the affidavit of the former.

k) The Seventeenth Accused committed assaults and acts of brutality as appears in the affidavits of Weynton, Minty, Green and Dean. He also withheld rations. Picozzi and Ebert also made statements.

l) The Eighteenth Accused committed assaults and acts of brutality as appears in the affidavits of Moon, Minty, Pedley, Weynton and McGregor. Picozzi and Ebert also made statements.

m) The Nineteenth Accused was concerned in the death of a Prisoner of War named Brown. Picozzi stated that he constantly beat Brown and administered general ill-treatment. The Accused also committed acts of brutality and short-issued rations as appears in the affidavits of Weynton.

n) The Twentieth Accused was concerned in the death of a Chinese, whom Picozzi states that the accused was responsible for. The accused also committed assaults and acts of brutality as appears in affidavits of Moran, Bradley, Weynton and Green. Ebert also made a statement.

o) The Twenty-first is charged with assaults and acts of

brutality as appears in the affidavits of Moran, Pedley, Minty, Green and Dean. Ebert and Picozzi also made a statement.

p) The Twenty-second Accused is charged with acts of brutality as appears in the affidavits of Moon, Minty, Slater, Screwthen and Dean. Picozzi also said that he reduced rations.

q) The Twenty-third Accused is said by Picozzi to have ill-treated prisoners.

r) The Twenty-fourth Accused is concerned in the death of Father Massano. Picozzi said that the accused kicked and beat him. The accused also committed assaults and acts of brutality as appears in the affidavits of Moran, Cherry, Minty, Bradley, Weynton and Dean.

s) The Twenty-fifth Accused is charged with brutality and ill-treatment of prisoners as appears in the affidavits of Macalister, Dean, Green and Weynton. Picozzi and Ebert also gave similar statements.

t) The Twenty-sixth Accused committed assaults and acts of brutality generally as appears in the affidavits of Minty and in particular in respect to a prisoner of war named Lawson who as a result suffered a fracture of two ribs. The accused on several occasions kicked prisoners until they were unconscious. Picozzi and Ebert state that the accused beat prisoners and threw them about.

u) The Twenty-seventh Accused committed assaults and acts of brutality as appears in the affidavit of Moon, Minty, Slater and Sharpe.

v) The Twenty-eighth Accused committed assaults and acts of brutality as appears in the affidavits of Moran, Moon, Slater and Sharpe.

w) The Twenty-ninth Accused committed assault and acts of brutality as appear in the affidavit of Moran.

x) The Thirtieth Accused committed assaults and acts of brutality as appears in the affidavit of Sharpe.

y) The Thirty-first Accused committed assaults and acts of brutality as appears in the affidavit of Moon, and the evidence of Picozzi and Ebert.

z) The Thirty-second Accused generally ill-treated prisoners as appears in the affidavits of Weynton, Dean and McGregor. Picozzi stated that he generally ill-treated prisoners.

z1) The Thirty-third Accused committed assaults and acts of brutality as appears in the affidavits of Marriott and Cherry.

z2) The Thirty-fourth Accused committed assaults and acts of brutality as

appears in the affidavits of Wells, Weynton, Marriott, Macalister, Slater,

Lomax, Moon, Cherry, Morris, Green, Minty, Smith, and Smits.

z3) The Thirty-fifth Accused committed assaults and acts of brutality in

particular against Smith, as appears from the affidavits of the said Smith and Weynton, and Smits, Bekkering and Trap.

z4) The Thirty-sixth accused is concerned in the following

matters:

- (i) The death of a prisoner of war being Capt. Van Hemert, as appears in affidavits of MacWilliam, Slater, Macalister, Wortman, Koets, Smits, Siegmund and Knoester.
- (ii) The death of Private Bradley as appears in the affidavits of Slater, Macalister and Minty.
- (iii) The death of Gunner C. Dilling as appears in the affidavit of Morris.
- (iv) Assault and acts of brutality as appears in the affidavits of Cherry, Moon, Weynton, MacWilliam, Macalister, Smits, Bekkering and Koets.
- (v) Stealing prisoners' food as appears in the affidavits of MacWilliam, and Koets.
- (vi) Refusal of medicine as appears in the affidavits of Private MacWilliam.
- z5) The Thirty-seventh Accused committed acts of brutality as appears in the affidavit of Weynton.
- z6) The Thirty-eighth Accused committed assaults and acts of brutality as appears in the affidavits of Moon, Morano, Wells, Weynton, Lomax, Minty, Smits, Wortman and Siegmund.
- z7) The Thirty-ninth Accused committed assaults and acts of brutality as appears in the affidavits of Moran, Weynton, Macalister and Minty.
- z8) The Forty-first Accused committed assaults and acts of brutality as appears in the affidavits of Moran, Weynton, Slater, Smith, Minty, Macalister and Smits. Picozzi states that he starved and beat prisoners.
- z9) The Forty-second Accused committed assault and acts of brutality as appears in the affidavit of Weynton. Ebert states that he ill-treated prisoners.
- z10) The Forty-third Accused committed assaults and acts of brutality as appears in the affidavits of Weynton, Macalister, Minty and Smits.

Accused handling of the charges: All the accused denied the allegations made by the prosecution witnesses and evidence against them. In some cases they admitted to parts of the allegations against them. In particular Accused 34, 35, 37, 38, 41, 42 and 43 were good conduct prisoners. Their defences were denials of the charges of ill-treatment and neglect brought against them by the prosecution.

Main issues of the case raised by prosecution and defence:

Due to the length and complexity of the closing addresses, I will be handling the issues of the defence and prosecution separately.

Defence:

The defence structured its closing defence going through each of the accused and discussing their involvement in the case and their relation to the alleged charges. I will be grouping them and giving the main arguments for that particular group.

Accused 6 to 11

- 1) The defence outlined their duties in the camp, and mostly discussed their involvement in clerical duties. This meant that they were not always involved with the prisoners of war and hence less likely to be involved in the ill-treatment.
- 2) Evidence was discussed which showed that no witnesses backed up the accused's involvement in ill-treatment of the POWs. Basically, there was not enough evidence to prove the alleged charge.
- 3) Concerning rations, it was argued that the accused always looked to the amount set by regulation and served out the food accurately according to the ration scale. Accused 7 denied that he had cut the rations in half and said that he reduced rations under the direction of the medical officer. He did all he could according to the power that he had.
- 4) There was denial by the accused of the alleged charges against them.
- 5) The accused made efforts towards the well-being of the POWs. Accused 10 made every possible effort to supply sufficient food for the maintenance of the prisoner's health.
- 6) The time lapse from the time this happened to the time of the court proceeding could have contributed to the evidence being less accurate. For example, with Maj. Anker testifying against Accused 10, the defence claimed that this witness only saw Accused 10 once 3 years ago.
- 7) The ill-treatment administered was done as punishment to the POWs. For example, Accused 11 argued that he administered punishment to the POWs for not responding to roll call.

Accused 12-19

- 1) The defence argued that evidence brought up was unreliable and could be considered as hearsay evidence. Also, for some of the points brought up, no other evidence was produced by other people and there was no corroborative evidence. Hence it was doubtful that it actually happened.
- 2) There were witness accounts that the accused had not used any violence on the prisoners of war as alleged.
- 3) The evidence brought up was unclear. For example, Mr. Picozzi's evidence described that the cause of death of the two Australian prisoners was hunger, but it was not at all clear whether it was the accused 12 who was responsible.
- 4) Some of the affidavits presented were also not corroborative evidence as they did not mention the accused's involvement in the alleged crime. Also, the defence argued that it was doubtful whether the witness would have said the same things he mentioned in his affidavit had he been cross-examined in court.

- 5) Some of the alleged crimes and incidents were denied in the defence's arguments. For example, Accused 13's concern with the death of one Indian Sepoy.
- 6) The defence argued that Mr. Picozzi's evidence when testifying against Accused 13 was extremely unreliable as he was kept in a solitary cell throughout his imprisonment and had no opportunity to come into contact with other prisoners. Therefore, he could not have known whether the Indian Sepoy died or not, or the cause of his death.
- 7) The Witness Ebert's evidence was also unreliable, and the defence argued that it was based on guess work and hearsays.
- 8) There was more evidence that was claimed to be unreliable by the accused. The defence argued that Dr. Morris' evidence was hearsay and Lt. Machado's evidence was vague and uncertain.
- 9) There were people who testified for the accused that they had never seen the crime that they were charged with.
- 10) The defence again brought up the various accused's duties in the camp, making reference to their involvement in clerical work.
- 11) Accused 18 was argued to be sickly and hospitalized and absent from work during the same time that he was supposed to be concerned in the crime. Hence the defence argued that there had been some mistake in this case.
- 12) The accused 19 was not at all concerned with the distribution of foodstuff. Therefore, he was not in a position to reduce the rations allotted to the prisoners.

Accused 20-25

- 1) Many of the accused denied in court that they were guilty, and had not carried out the crime they were accused of.
- 2) Regarding Accused 20 and the Chinese prisoner, the defence argued that the prosecution's assertion that the accused constantly beat the prisoner was pure fabrication. What really happened was that this Chinese prisoner committed suicide by dashing headforemost against the wall of his cell.
- 3) Some of the evidence presented was mere hearsay and was not a true witness account and hence unreliable.
- 4) There were affidavits acknowledging good aspects of the accused personalities.
- 5) Some of the ill-treatment was administered as punishment, to the prisoners who broke the rules after necessary warnings.
- 6) There were instructions given by the accused 22 to treat the prisoners well, therefore he could not have performed brutal acts against the prisoners.
- 7) The curtailed amount of ration to be supplied for the prisoners was due to the bad food situation throughout the district and the Japanese Army authorities were compelled to effect a large scale ration reduction affecting all Japanese units. Hence the accused had no choice in the matter.

Accused 26-33

- 1) The defence argued that the accused were only fulfilling their duties and everything done showed the rigour with

which they performed their duties.

2) The accused made efforts to alleviate the conditions of the prisoners.

3) The accused denied in court that they were guilty, and said that they were never engaged in the crimes that they were accused of. In particular, these crimes involved ill-treatment of the prisoners.

4) The rations were only diminished due to the deterioration of the food conditions.

5) Some of the evidence against the accused had been exaggerated by sentiment and made to sound worse than it actually was.

6) For accused 33, the defence claimed that he was never in Singapore at the time that he supposedly committed the crime. Therefore it was a case of misidentification and he was not involved in the crime he was charged with.

Accused 34-43

For these last 10 accused, the defence made a remark concerning these accused who had been Japanese convicts with specific reference to good-conduct prisoners.

The defence argued that the accused 34-43 were Japanese convicts, all of whom excepting the accused 39 and 40 were what they called good-conduct prisoners. This conception of good-conduct prisoners was essentially a product of the principle of education punishment. An educational punishment was a means to educate its recipient or a measure to socially improve a criminal, instead of an evil meant for revenge. The theory behind this was placing weight on the betterment of a criminal as one of the most important policies in criminal affairs. Therefore the whole system of criminal administration should be theorized on the fundamental principles of practical reformability of criminals.

The development of education punishment arose from the following three main causes:-

(1) A gradual clarification in due course of the cause of a crime, especially its social one to ensure a great change in public views of crimes and criminals.

(2) An advance in education technique and keeping pace with positive sciences, led to the development of a wider view of education.

(3) A transformation of modern states from those of sovereignty into those of culture, led to the application of the same idea even to criminals.

In this way, from the viewpoint of social defence, a view had come to be generally accepted that a punishment should be meted out with special discretion in a teleological sense, instead of an evil of revenge. There is a duty of the nation which is the education, that is, reformation or social re-adaptation of a criminal.

The defence argued that Accused 2, as the Commandant, was a practical follower of the principle of education punishment.

He adopted a good-conduct prisoner as a means to carry out the said progressive system. He chose good-conduct prisoners out of those who had served over 3 months with high marks, and how he exerted himself to give them better treatment and lead them into the righteous ways and reformation by making the best of their natural aspiration. Of course, they were under constant surveillance of the guards, and if their conduct was good, they would be awarded an exceptional favour of provisional release even prior to the expiration of their term. The defence brought this up in the earnest hope that the Court would thoroughly understand the delicate circumstances surrounding these good-conduct prisoners. The good-conduct prisoners that the defence were defending were those chosen out of many of their fellow inmates to share in the work with the Allied prisoners. All of them constantly harboured hopes of immediate honourable release throughout their gloomy prison days. They were constantly cautioned by accused 2 not to behave roughly and proudly towards the Allied prisoners. Hence the defence submits that they would not have dared abandon their hope for a free and innocent life and go the length of administering atrocities to the Allied co-workers in open defiance of the guards, as alleged by the prosecution.

The defence mentioned the dates that each of the accused (34-38, 41-43) worked with the allied prisoners. The maintained that none of these eight good-conduct prisoners had ever struck any of the Allied prisoners, and this was clearly stated by each of the accused in Court.

With regards to Accused 37 and 42, it was said that they sometimes struck the prisoners, but they were not worse than the others. There were witnesses who testified and mentioned that they had even and kind dispositions, and hence were not capable of ill-treating the prisoners. For accused 41, the defence argued that there were three entirely wrong photographs which were identified as those of the accused 41 in the affidavits produced by the prosecution. Accused 39 was also believe to have been misidentified. For accused 40, it was maintained that he had no contact with the Allied prisoners, as testified by himself and many others.

Prosecution:

1) Time frame

The prosecution discussed the periods covered by the charge in their closing address. They argued that the Accused were responsible for the prisoners in this Gaol, not from 16 February 1942 but from 1 August 1942. They argued that the reason for the earlier date was due to the fact that the prisoners themselves and the prosecution witnesses did not know who ran the Gaol, and, some of them considered the Gaol always run by the Kempeitai and some by the Military and others did not know who ran it. With the number of

Accused involved in the case it was necessary to take the full period.

2) Evidence

The prosecution brought up the Hague Convention relating to the evidence presented. With regards to "humane treatment", the prosecution argued that the standard of humane treatment was the standard set by the Civilized States in the Comity of Nations and the States who entered into this International Convention. Japan was such a state and in considering the law and meaning of humane treatment they should be considered as according to the standard applicable during the present century and indeed the past 5-6 years.

The prosecution argued for group responsibility by the accused. They pointed out that the charge spoke of the responsibility for the well-being of the prisoners and then went on that the Accused were together concerned with the ill-treatment of these prisoners. It did not use the expression "conspire" or the expression "acted in concert". Conspiracy had no application to the present charge at all. As regards the expression "Acted in concert" the prosecution had sought to show that purely for evidential and procedural purposes under Regulation 8L (ii) because, as you know, if we prove concerted action the acts of one Accused can be used as prima facie evidence of the responsibilities of the other members of the group, and secondly, the Accused could be, as they had been in this case, jointly tried.

The prosecution argued that the Accused were charged with causing the death of 13 British and 4 Dutch prisoners of war and 22 civilians and injuries to many others. The prosecution said that the true situation with regards to evidence was that the only complete record of the deaths in the Outram Road Gaol was that kept under the supervision of Accused 2 and destroyed by him. Therefore, no one really knew how many prisoners died in the Military Gaol.

The prosecution defended strongly the evidence presented by Mr. Westerhaut, who mentioned 17 deaths that took place.

The prosecution prepared for the court a list of deaths which the prosecution said they had proved to have taken place either in the Outram Road Gaol or in the Changi Hospital or the civilian hospital as a result of treatment in the Outram Road Gaol. This list showed more than the number charged. It showed the death of 14 British soldiers; 4 Dutch and 23 civilians, and which witnesses gave evidence supporting the occurrence of these deaths.

In conclusion, the prosecution argued that there was a mass of evidence before the Court to prove these brutalities. They wished to draw to the attention of the court to one or two points relating to the evidence as a whole. As regards to witnesses who had been called in the court, they had been absolutely unshaken in cross-examination as to acts of brutality which they saw committed. The witnesses were of different nationalities and of different races and yet all without exception spoke of acts of brutality committed by

some of the Accused. The major part of the evidence of brutality was contained in affidavits. These affidavits had been subject to comment by the defence and it was true that where we have identification by photograph, it was not a very satisfactory method of identification and may have given rise to a mistake. On the other hand a weakness of Affidavits in one sense may for another purpose be a source of strength; and the prosecution submitted that in this case that as far as the evidence of brutality was concerned, the facts that these acts were provided by Affidavit strengthened rather than otherwise the fact of that evidence. The affidavits repeated time and again that same conditions and events as having occurred in the Outram Road gaol, hence they were deemed as reliable sources of evidence.

3) Conditions

The prosecution discussed the conditions of the prisoners and the negligence and ill-treatment that took place.

With regards to injury and suffering, the prosecution submitted that there was so much evidence, both oral and Affidavit, of the prisoners themselves that there should be no doubt on the grounds of injury and suffering. Regarding ill-treatment and neglect, the prosecution summarized before the court the evidence that showed this took place.

- 1) There was no proper medical treatment given although many complaints were common, especially things like deficiency diseases, ulcers and scabies.
- 2) There was practically no medical attention given to the prisoners. Medical officers who were appointed did not make rounds of the non-Japanese.
- 3) There was no shortage of medicine or drugs up to and including the year 1944.
- 4) There was no disinfection for the patients or their isolation and dysentery could be proved without any doubt.
- 5) There was no attempt to treat sick men on reception or indeed for some time after reception.
- 6) Many of the prisoners were not allowed to go to the hospital. Most of them were in dying conditions, and still not allowed to go to Changi hospital. They were instead made to go into the gaol there, into a ward room which was made specially.
- 7) There were no adequate bathing arrangements. There was no proper provision for the washing and disinfecting of clothes and blankets. There was an almost total lack of soap. There was no proper or adequate exercise period, particularly for those who were untried and presumably not guilty.
- 8) Food given to prisoners of war and civilians was less than that given to the Japanese. In fact, not only did they admit that but they also produced a regulation which showed it was so. The prosecution showed that there were three scales of food applied to non-Japanese prisoners, depending on the amount of work they had to do. There was no food shortage until

1944, yet the food given to the prisoners of war resulted in illness.

The prosecution discussed witness Picozzi's solitary confinement. They argued that Picozzi was in solitary confinement the whole time and none of the Accused had even sought to explain why. There was no reason given, and the man himself said that for some weeks he could not move - paralyzed. They drew to the court's attention the mental effect upon the men concerned in solitary confinement. The prisoners lived in fear - terrified at the idea of going back to this place and that these prisoners sent there were frightened to death of doing anything for fear of being beaten by wardens.

The prosecution also discussed the acts of individual accused in the latter half of their closing address:

Accused 1, 43 and 2

There were attempts by Accused 1 and 43 to shift responsibility in court for the alleged charges, but the prosecution submitted that there was some responsibility on these two accused seemed to be admitted. Accused 1 and 44 were both chief of the Judiciary, though at different periods. Accused 2 was under them. The two important points when dealing with accused 1 and 43 was the question of responsibility and the certificates of death. They did in fact; know the conditions under which the prisoners were kept. They admitted that they received reports from accused 2 frequently. These reports let them know about the conditions of the camp. The death certificates were filed in the Judicial Department Office and therefore Accused 1 and 43 knew about these deaths that took place. These men knowing these conditions made no reports upon them to the Commander in Chief though it is submitted by Accused 43 and it seems to be obvious that it was their duty to do so.

The prosecution also submitted with regards to liability, that these two accused were callously negligent in that knowing the conditions in this prison from their visits, from reports and from the death certificates, they did nothing by direction to the Accused 2, nor sent advice or reports to the Commander-in-Chief to improve it. Accused 1 was charged with what he did not do. He did not treat these prisoners humanely and that was his duty.

The prosecution argued that Accused 2 was the principal accused and he was primarily responsible for all that happened in this prison. He knew the conditions and ill-health of the prisoners, the lack of proper medical attention and all the matters to which the attention of the Court has already been drawn. With regards to his reports, he kept the Headquarters of the Japanese Army in ignorance so far as he could and in ignorance assisted by the neglect of their duty by Accused 1 and 43. There was evidence against him showing his responsibility, his knowledge and indeed, in some cases his own ill-treatment of prisoners.

Accused 3

Accused 3 was commandant of the prison from 1st May to 5th September 1944. It was argued that he did in fact know the details of prison administration, despite the evidence that he presented. He knew of deaths and sickness in his jail, yet he made no complaints and gave no advice to the first Accused, before, during, or after his appointment to this jail.

Accused 4/5

They were medical officers who failed in their duties as doctors and further than that made untrue reports of the conditions in the jail and in doing this, assisted Accused 2. They were responsible to a large measure for the ill-treatment of prisoners and for the total inadequacy of medical treatment and medicine which was made available to them. There were a number of cases of sick prisoners that should have been attended to by Accused 4, but were not. The prosecution argued that deaths did occur while Accused 4 and 5 were medical officers but not admitted to.

Accused 6-32

The prosecution said that all these guards either actively ill-treated prisoners or in rare case supervised such ill-treatment. All the guards knew of that ill-treatment and except in rare instances took no steps to stop these, though they had the power to do so. That they had full powers seemed clear. All of them knew what was happening in the jail and they all should accept responsibility for it. All the guards were responsible in some or other degree for what happened in this jail, as suggested by the prosecution based on evidence against them.

Accused 34-4, excluding 39 & 40

The prosecution argued that these good conduct prisoners were more brutal than the guards themselves. Accused 36, far from working with the Allied prisoners, in fact supervised them and they did work for him.

The prosecution also dealt with individual instances of ill-treatment and neglect which were alleged against these accused. They submitted that in fact there was concerted action by the accused.

Individual instances of ill-treatment and neglect by accused 6-16, 18-24, 25-32, 35, 37-43, included beatings, no medical treatment, assaults, slapping, kicking, and deprivation of rations. This is also outlined in the abstract of evidence (above: facts relating to the case).

In conclusion, the prosecution said that they proved beyond any reasonable doubt whatsoever that all these men did concert together and were concerned in the ill-treatment and brutal neglect of the prisoners who were in their charge - and that as a result of what they did, and of what they did not do, these men - prisoners of war and civilians, died. And those who did not die would for years suffer from the injuries and

from the debilities which they suffered at the hands of these Accused.

D.J.A.G.'s submission:

The D.J.A.G. who reviewed the case submitted that the accused were well-identified and the evidence adduced by the prosecution was ample, well-corroborated, and fully supported the findings and sentences which were well-balanced. He advised that the findings and sentences be confirmed.

[back to top](#)

© 2004, Regents of the University of California