

CONFIDENTIAL.

BM/JAG/65199,
General Headquarters,
South East Asia Land Forces.
5th May, 1947.

Commander,
Singapore District.

Subject:-

War Crimes Trial.

Reference the proceedings of the trial of

- (1) Lt. Gen. NISHIMURA Takuma.
- (2) Lt. Gen. KAWAMURA Saburo.
- (3) Lt. Col. OISHI Masayuki.
- (4) Lt. Col. YOKOTA Yoshitaka.
- (5) Major. JYO Tomotatsu.
- (6) Major. ONISHI Satorou.
- (7) Capt. HISAMATSU Haruji.

all of the Japanese Army, and the attached petition.

1. The accused were tried by Military Court at Singapore from 10th March to 2nd April 1947 on a charge for committing a war crime, in that they were together concerned in the massacre of Chinese civilian residents of Singapore. The accused, who pleaded "Not Guilty", were convicted and sentenced as follows : Nos. 2 & 3 to death by hanging and the remainder to imprisonment for life.

2. The facts of this case were briefly as follows.

Shortly after the entry into Singapore of the Japanese forces in February 1942, several thousand Chinese were massacred. This is undisputed and so is the fact that the massacre was carried out in accordance with orders issued by General Yamashita.

On establishing his H.Q., General Yamashita allocated different areas of the island to the various formations under his command. The Imperial Guards Division under the 1st accused (Lt. Gen. Nishimura) was given control of the eastern half of the island. The immediate town area came under the 2nd accused (Lt. Gen. Kawamura). The northern and western sectors were commanded by officers who were not concerned in this trial.

Kawamura, who commanded the Kebeital area, i.e. the town area, divided it into three sub-areas, one of which was commanded by the 3rd accused (Lt. Col. Oishi) under whom came all the Kempeitai in the town area.

Oishi split his zone into five sectors, three of which came under the 4th accused (Lt. Col. Yokota) and two under the 5th accused (Major Jyo).

The 6th accused (Major Onishi) commanded one of the sectors under Yokota and the 7th accused (Capt. Hisamatsu) one of the sectors under Jyo.

When the occupation was completed, a directive was issued by Yamashita to the effect that undesirable Chinese

elements were to be disposed of. These orders, in amplified form, were passed down by Nishimura to his Chiefs of Staff and by Kawamura to his three sub-area Commanders who in turn passed them on to their subordinates. The actual execution of the plans which originated from Yamashita was carried out by the sector Commanders within whose scope fell the responsibility of selecting the time, place and method of killing.

That the executions were accordingly carried out is undoubted - several of the prosecution witnesses were selected victims who had by some lucky chance escaped the fate designed for them. The declared object was to eliminate Chinese anti-Japanese elements of the following categories :

- (i) Former volunteer members
- (ii) Communists
- (iii) Looters
- (iv) Persons harbouring arms
- (v) Persons who obstructed the Japanese operations.
- (vi) Persons who were disturbers of peace and order or those likely to be so.

Nishimura commanded the Imperial Guards Division which was to take part in the Sumatra campaign and it appears that his main duty was to re-organise the Division for that purpose. He left Singapore with his troops very early in March. When he was in Singapore it was necessary for certain units under his command to be placed at the disposal of the appropriate authorities to facilitate the execution of Yamashita's plan and he was required to issue orders to that end. The defence submitted that such orders were of a formal routine nature; his Chief of Staff received instructions from Yamashita's H.Q. and he was required merely to give formal approval to the use of his troops. It is clear, however, that he knew the massacre was to be carried out and was in fact carried out partly in the area allotted to his Division.

Kawamura commanded the town area and Oishi was his chief subordinate under whose supervision the massacre was carried out. On behalf of the former, the defence contended that the operation was planned at Yamashita's H.Q. and that when he was subsequently appointed Kebeitai Commander it fell to his lot to implement the orders received, although he was due to go to the Phillipines and did in fact go there a few days after the completion of the operation. It was contended that though nominally in command at the time of the massacre he was only a puppet and an instrument for the transmission of superior orders. On behalf of the latter, who was head of all the Kempeitai in the town area, the defence maintained that all he did was to tender advice as to how the screening and executions were to be organised and carried out. He merely worked out the details and had no part in original planning or issuing of the order, his role being only a subordinate one. Both these accused were sentenced to death.

The remaining four accused were comparatively junior in the chain of command. Nos. 4 and 5 were Commanders of

Yokota J40.

Groups of Sectors and Nos. 5 and 6 were actual Sector Commanders upon whom fell the task of screening and disposal of suspects. The defence maintained that these accused merely obeyed orders which they were bound to obey under Japanese military law.

3. It will thus be seen that the defence relied mainly on two contentions, namely that the orders were lawful and that superior orders were a cover for subordinate officers.

In regard to the former line of defence, it was submitted that the orders were operational. Members of the Volunteer Force who discarded their uniforms lost their right to be treated as prisoners of war. The members of Dalforce were undesirable political elements and their action in discarding their uniforms and organising underground activities justified operational plans and orders for their elimination.

Operational orders against the defeated enemy who have discarded their uniforms and gone underground to carry on subversive activities are justified, but the contention in this case was negatived by the fact that there was ample evidence to show that other elements were included in Yamashita's plan and that the method of screening was so casual as to result in the killing of innocent persons. It is also apparent that the order was planned even before the actual occupation of the town and that the object of the massacre was twofold, namely a reprisal against those who assisted in the defence of Malaya and a deterrent to potential or imaginary trouble-makers. In no circumstances could such an act of cruelty be justified by operational necessity.

In regard to the contention that superior orders were a cover for subordinate officers, it must have been obvious to all concerned that the order to kill all those helpless victims was not a lawful command and that those who carried it out were not to be excused for doing so on the ground of superior orders. For the purpose of assessing punishment, however, the court were entitled to take this matter into consideration and it appears that they did so in the case of accused 4, 5, 6 and 7. In the case of accused 1, the court apparently considered that the only active part he took in the massacre was to attach some of his troops to the authorities concerned under orders from Yamashita's H.Q., with knowledge of the use to which those troops were to be put.

4. An irregularity occurred after the close of the case for the prosecution, when defence counsel applied for leave to recall certain witnesses (p. 134). The prosecutor opposed this application on the alleged ground that witnesses should not be recalled to supplement any negligence on the part of the defence and he based his objection on note 4 to R.P. 86. Apart altogether from the fact that the application fell under paragraph (A) of that Rule, while that note relates only to paragraph (D) and stipulates that witnesses should not be called or recalled under the provisions of that paragraph to supplement any negligence on the part of the prosecution, no question of negligence on the part of the defence had then arisen, for counsel's submission was that fresh matter had come to light in regard to previous statements made by accused 2, 3, 6 and 7 which necessitated the recall of certain witnesses. The court's rejection of the application without questioning counsel as to the alleged necessity was not a proper exercise

of their discretion. It is clear from the subsequent transactions of the court, however, that the accused in question were not prejudiced in any way, for the witnesses whom the defence wished to examine in this connection, namely Major Watson, Capt. Kuniguka and Stephen Sim, were in fact called or recalled at a later stage and questioned by the defence (Pages 264 - 281; 299 - 301). A fourth witness, Capt. Chin, was also offered to the defence in this connection, but they declined to recall him (p. 301).

5. In my opinion, there was sufficient evidence to support the findings. The sentences are legal and I advise confirmation.

The petition does not disclose any material factors which were not before the court and I advise that it be dismissed.

6. In the local Chinese press there has been a great outcry against what are said to be the "lenient" sentences of imprisonment for life, a clamour for enhancement of those sentences, and other criticisms which I need not mention here.

A sentence of imprisonment for life cannot reasonably be described as lenient. In any case, the court had discretion in the matter and there are no means of enhancement, for a sentence cannot be increased on revision and it would be an abuse of judicial discretion to refuse confirmation of the findings concerned, on grounds wholly unconnected with the validity or justice of those findings, merely for the purpose of enabling another court to be convened to pass more severe sentences. It is open to you, of course, to reserve confirmation to the C-in-C.

FGT DAVIS.

FGTD/RRH

Brigadier,
DJAG, South East Asia Land Forces.