

Doc. 2172 Evid.

Folder 7

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INTERNATIONAL PROSECUTION SECTION

Doc. No. 2172

Date: 21 June 1946

ANALYSIS OF DOCUMENTARY EVIDENCE

DESCRIPTION OF ATTACHED DOCUMENT

Title and Nature: Certified copy of "Extract from Petition
of Lt. Gen. FUKUEI, Shimpei on Shooting of PW's."

Date: 12 March 1946 Original () Copy (X) Language:
English

Has it been translated? Yes () No (X)
Has it been photostated? Yes () No (X)

LOCATION OF ORIGINAL (also WITNESS if applicable)

Commander, Singapore District, SEAC.

SOURCE OF ORIGINAL: See above.

PERSONS IMPLICATED: TOJO; Lt. Gen. UEMURA; SAITO, Masatoshi

CRIMES TO WHICH DOCUMENT APPLICABLE: Violation PW convention.

SUMMARY OF RELEVANT POINTS (with page references):

Petition states that the shooting of recaptured, escaped
prisoners of war was done on order from War Ministry in Tokyo.

Analyst: W. H. Wagner

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FAST AIR MAIL

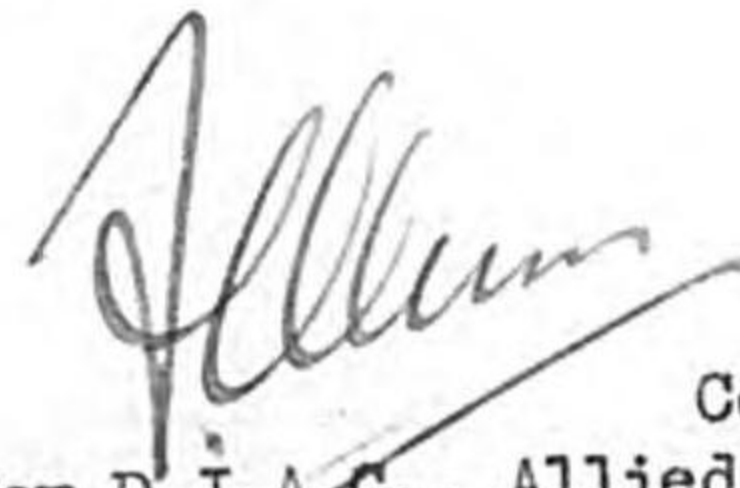
No. 11773 WCLS.
HQ, Allied Land Forces,
South East Asia Command.
5 June 1946.

British War Crimes Tokyo.

Subject :- Trial of Major War Criminals.

Ref your signal B38 of 31 May 46 and further to this HQ
Signal No. 3 WCLS of 5 June 46.

1. Herewith affidavit together with annexures thereto sworn by Colonel F.C.A. Kerin in respect of extracts from the Petition of Lt.General FUKUEI Shimpei and from the Proceedings of the Trial of this officer.
2. These extracts contain statements to the effect that the acts perpetrated by Lt.General FUKUEI were carried out on instructions from Tokyo


Colonel, Legal Staff,
for D.J.A.G., Allied Land Forces, S.E.A.

/KCAM

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#2172

IN THE MATTER OF MAJOR WAR CRIMES SEAC.

A F F I D A V I T

I, Colonel Frederick Cecil Anthony Kerin, O.B.E. Department of J.A.G. in India, with present address at HQ Allied Land Forces, South East Asia, Singapore, make oath and say as follows:-

1. I am an officer of the Department of the Judge Advocate General in India and now hold the appointment of Colonel in charge War Crimes Legal Section Allied Land Forces, South East Asia.

2. An extract from the Petition of Lt.General Shimpei Fukuei to the Commander Singapore District dated 12 day of March 1946 and an extract from the Proceedings of Trial of the said Lt. General Shimpei Fukuei are hereunto annexed and marked Annexure 'A' and Annexure 'B' respectively.

3. I have personally examined the said extracts with the original said Petition and the original said Proceedings and I make oath and say that the said extracts are true copies from the original said Petition and Proceedings.

Sworn by the said Frederick Cecil Anthony Kerin }
at Singapore this *7th* day of June 1946. }

Frederick C. Kerin
Colonel

Before me

at Souman
Capt Ra

An officer detailed by the Commander-in-Chief to interrogate witnesses.

↘

EXTRACT FROM PETITION OF LT. GEN. SHIMPEI FUKUEI TO THE
COMMANDER SINGAPORE DISTRICT DATED 12 DAY OF MARCH 1946

In the Article 5 of the Regulations concerning Treatment of Prisoners of War, compiled in Japan, it is stated as follows:-

"When a prisoner of war acts disobediently he may be confined, bound or dealt with other necessary measures."

It is submitted that your Petitioner acted lawfully and in accordance with international laws and with regulations in Japan, when he compelled the prisoners to sign the document which bound them under oath not to attempt escape. This was done as one of the necessary measures as stipulated in the Japanese regulations cited above. The meaning of the word "parole" in the said Article (Hague, 1907) does not apply in the case for which your Petitioner is accused with the first charge.

IT is submitted that your Petitioner required the prisoners to sign the said documents at orders from the Minister of War in Tokyo, and that it was not an action of your Petitioner's initiative. This was made clear by the evidence given by Major/General Masatoshi Saito, witness, and your Petitioner. Your Petitioner only acted in compliance with the orders from his superior. Such orders were issued lawfully, and your Petitioner carried it out believing in the lawfulness of such orders. Even if it were unlawful in the British laws to make prisoners sign such documents, it is submitted that evilness of an act should be evaluated on the basis of laws of the State to which the offender belongs, and that your Petitioner should not be held responsible.

This is the copy of the extract from the Petition of Lieutenant General Shimpei Fukuei marked Annexure 'A' referred to in the Affidavit of Colonel Frederic Cecil Anthony Kerin hereunto annexed and made before me

this *Fifu* day of June 1946.

Al Sant'anni
Capt RA.

EXTRACTS FROM PROCEEDINGS TRIAL OF LT. GEN. FUKUEI SHIMPEI.(a) Lt. Ge. Fukuei Shimpei - Examined by Counsel for Defence.

- Q. During the time you were Commandant of the Malaya P.O.W. Camp Supervision was there such an incident as making the P.O.Ws to sign a document which bound them under oath not to escape?
- A. Yes there was.
- Q. When did this happen?
- A. I do not remember the date clearly now. After my soldiering in the Philippines my memory is slipping, but I think it was towards the end of August, 1942, probably the 29th or 30th, but I think the incident lasted for about 5 days.
- Q. Do you know why such an incident happened?
- A. I received an order in Tokio in July 1942 before I was appointed Commandant of P.O.W. Supervision. This took place in the Ministry of War. I was called into the office and was given an order.
- Q. What sort of meeting was it that took place?
- A. This was a meeting especially for those to be appointed Commandants of P.O.W. Camps, and we were trained, or sort of educated, on how we should run our business, and also we were given guiding principles in the treatment of P.O.Ws.
- Q. What sort of people were at this meeting?
- A. There were prospective Commandants of P.O.W. Supervision for Java, Siam, Philippines, and myself for Malaya and Sumatra, and different Sub Supervision Commanders in the ranks of Majors and above, who assembled there.
- Q. Who was the prospective Commandant of the P.O.W. Supervision for Java?
- A. Major-General Saito.
- Q. What was the nature of the promise or oath that was ordered to be obtained from the P.O.Ws at this meeting?
- A. I do not remember it exactly. The exact wording was filed with the other documents in my office.
- Q. What sort of documents did you receive on this occasion?
- A. There was a sample of the Oath or promise to be taken, on a sheet of paper, and it was suggested that such a form should be used.
- Q. Do you know under what circumstances, or why, such forms were considered necessary?
- A. There was no explanation given at that time.
- Q. What did the witness understand himself at that time that this meant?
- A. I understood it to mean an effort of the Japanese Government that we had to forestall any attempt at escapes on the part of P.O.Ws since it would inevitably bring about undesirable treatment of the person concerned.

(b) Maj.Gen. Saito Masatoshi - Examined by Counsel for Defence.

- Q. Where were you before you arrived in Singapore?
- A. I was in Batavia (Java)
- Q. What were you engaged in there?
- A. I was the commander of the P.O.W. Camp Supervision there.
- Q. Was there any sort of conference or meeting in Tokio in 1942, concerning the matters on the treatment of P.O.Ws?
- A. Yes, there was.
- Q. Why does the Witness know about it?
- A. I was present at the time.

- Q. What sort of people attended the conference?
A. On the part of the people who called the conference together there was the President, Head of the entire system of P.O.W. supervision, who was at the same time Head of the P.O.W. Information Bureau, (His name was Lt-General Uyemura), and several of his Security Officers. Those who were called to the conference were Heads of P.O.W. Camps, and there were also Officers of above Kanor and Below Colonel who had been working with the P.O.W. Camps, and there were a few Lieutenants up to Captains.
- Q. What did you discuss at this conference?
A. The guiding principle to be applied in the work in the P.O.W. camps which were going to be newly reorganized were given to us by Lt-General Uyemura.
- Q. What sort of discussion was it which you described as the guiding principle to be applied for the work with the P.O.W.s?
A. First there was an instructive talk on the treatment of P.O.Ws by the Minister of War at the time, and then Rules and Regulations concerning the treatment of P.O.Ws were explained in detail.
- Q. Could you summarize or give the points of the instructive talk by the Minister of War?
A. I do not remember the details, but I think I can point out three points which were given out in the talk. Firstly: We were told not to treat Prisoners of War too well, but righteously. Secondly: We were instructed to obey the International Laws, Rules, and Regulations and to extend it as best we could. Thirdly: We were instructed to make use of the ability, individual and collective, of P.O.Ws as much as could be done, and not let P.O.Ws spend idle days.
- Q. What sort of Rules and Regulations were they which you pointed out in this Second point?
A. The ones I remember were the statute rules governing the organization of the P.O.W. supervision H.Q. and of the P.O.W. Information Bureau. (2) Regulations of the P.O.W. Camps. (3) Detailed Rules and Regulations, Duties of Officers of the P.O.W. Camps. (4) Rules and Regulations of treatment of P.O.Ws, and I think there some others.
- Q. What was implied by the Minister of War's emphasis on the extending of International Laws?
A. He dealt with the Agreements ratified by Japan concerning the treatment of P.O.Ws.
- Q. What sort of Agreements did that include?
A. I do not remember them clearly now.
- Q. Do you remember the name of the Agreement or Agreements?
A. I remember there were agreements on the Land Warfare, also I vaguely remember that the Extract from the Geneva Convention 1929 were also discussed.
- Q. What else happened at this conference?
A. There was a general instruction on how to run the business side of the P.O.W. management, and I do not remember anything further.
- Q. Do you remember more in detail concerning this instruction on the management of P.O.W. Camps?
A. I think it included (1) To make the Name Cards for each individual P.O.W. as soon as possible after assuming the position as Head of the Camp Supervision, (2) Getting signed a pro-forma, and some others, I do not remember.
- Q. What do you mean by pro-forma? What sort of oath does it imply?
A. I think this Parole included a promise to observe the Rules and Regulations of Camps, and also not to escape out of bounds, and some others, I do not remember.

This is the copy of the extract from the proceedings of the Trial of Lieutenant General Shimpei Fukuei marked Annexure 'B' referred to in the Affidavit of Colonel Frederic Cecil Anthony Kerin hereunto annexed and made before me

this *Fifth* day of June 1946.

A. San Juan Capt Ra