



## Australian Government

---

### Defence Honours and Awards Appeals Tribunal

#### **Billett and the Department of Defence [2016] DHAAT 10 (24 March 2016)**

File Number(s) 2014/031

Re **Mr Paul Billett on behalf of Lieutenant Basil Billett  
(deceased)**  
Applicant

And **Department of Defence**  
Respondent

**Tribunal** Brigadier Mark Bornholt, AM (Retd) (Presiding Member)  
Mr Richard Rowe, PSM  
Ms Naida Isenberg

**Hearing Date** 10 March 2016

#### **DECISION**

On 24 March 2016 the Tribunal decided to recommend to the Assistant Minister for Defence that:

- a. the decision by the Minister for Defence Industry, Science and Personnel to not recommend the award of the Distinguished Conduct Medal to Lieutenant Basil Billett be set aside;
- b. the Minister recommend to the Governor-General that Lieutenant Basil Billett be posthumously awarded the Distinguished Service Cross for distinguished command and leadership in action as the platoon commander of 10 Platoon in the 2/40<sup>th</sup> Battalion in Timor between 19 and 23 February 1942; and
- c. the Minister direct Army to review the eligibility for honours of six of Lieutenant Billett's colleagues; Captain N.P. Maddern, Lieutenant R.G. Williams, Corporal J.H. Armstrong, Lance Corporal H.A. Bailey, Private J.K. Powell and Signaller R.H. Frazer who were also recommended for awards for their conduct in action in the period 19 to 23 August 1942 and that Army utilise the methodology used in this decision to conduct those reviews.

## **CATCHWORDS**

DEFENCE HONOUR – Distinguished Conduct Medal – Distinguished Service Decorations – Gallantry Decorations – World War II – Sparrow Force – Prisoners of War – 2/40<sup>th</sup> Infantry Battalion

## **LEGISLATION**

*Defence Act 1903* – ss 110V(1), 110VA, 110VB(1)

*Defence Force Regulations 1952* – Reg 93B Sch 3

*Commonwealth of Australia Gazette No. S25 – Gallantry and Distinguished Service Regulations* dated 4 February 1991

## REASONS FOR DECISION

### Introduction

1. The applicant, Mr Paul Billett (Mr Billett) seeks review of a decision to not recommend his late father Lieutenant Basil H. Billett (Lieutenant Billett) for the award of the Distinguished Conduct Medal (DCM) for his actions as a platoon commander with the 2/40<sup>th</sup> Battalion in Dutch Timor between 19 February and 23 February 1942. The Battalion surrendered to the Imperial Japanese Army (IJA) on 23 February 1942 and Lieutenant Billett spent the remainder of the war as a Prisoner of War (POW) until he was repatriated to Australia on 23 September 1945.

2. In 1998 Lieutenant Billett made application for the award of the DCM to his local Federal Member who in turn made representation to the Minister for Defence Industry, Science and Personnel on his behalf. On 2 October 1998 the Minister, acting on the advice of the Department of Defence indicated that following the cessation of hostilities, an End of War List had been established and that the Sovereign had subsequently decreed that as the list had been approved, no further re-assessment of recommendations would occur. In his letter to Lieutenant Billett the Minister stated:

*‘the End of War List for World War II was the final opportunity for re-assessment of war service, and due to the Sovereign’s decree, there is no mechanism in place to revisit the recommendation for the award of a DCM to recognise Lieutenant Billett’s actions during World War II’.*<sup>1</sup>

3. It appears that Lieutenant Billett made further enquiries regarding his eligibility for the DCM to the Army History Unit in early 2000 and was referred to the Central Army Records Office in Melbourne who in turn advised him that he ‘was not awarded the DCM during his service with the Australian Army’. Lieutenant Billett passed away on 11 August 2001.

4. On 25 February 2014, Mr Billett, on behalf of his father, made a submission to the Tribunal’s *Inquiry into the Refusal to Issue Entitlements to, Withholding and Forfeiture of Defence Honours and Awards* seeking that his father:

*‘...be awarded the decoration for which he was recommended, namely the Distinguished Conduct Medal in World War II’.*<sup>2</sup>

5. The submission was rejected as it did not comply with the Terms of Reference, however the Chair of the Tribunal invited Mr Billett to make a separate application for a review of his father’s eligibility for the DCM.<sup>3</sup> On 16 April 2014 Mr Billett made application to the Tribunal for a review of his father’s eligibility for the DCM.<sup>4</sup>

---

<sup>1</sup> Minister for Defence Industry, Science and Personnel letter to The Hon Chris Miles, MP dated 2 October 1998

<sup>2</sup> Mr Billett Submission dated 25 February 2014

<sup>3</sup> DHAAT/OUT/2014/503 dated 10 April 2014

<sup>4</sup> Mr Billett Letter dated 16 April 2014

## **Tribunal Jurisdiction**

6. Pursuant to s110VB(1) of the *Defence Act 1903* (the Defence Act) the Tribunal has jurisdiction to review a reviewable decision if an application is properly made to the Tribunal. The term *reviewable decision* is defined in s110V(1) and includes a decision made by a person within the Department of Defence or the Minister to refuse to recommend a person for an honour or award in response to an application. Regulation 93B of the *Defence Force Regulations 1952* defines a defence honour as being those awards set out in Part 1 of Schedule 3. Included in the defence honours set out in Part 1 is the DCM.

7. The Tribunal considered that the Minister for Defence Industry, Science and Personnel letter of 2 October 1998 constituted a refusal to recommend Lieutenant Billett for an honour. Noting that Mr Billett is also the executor of Lieutenant Billett's estate,<sup>5</sup> the application by Mr Billett on behalf of his late father is a satisfactory continuation of the original submissions made by Lieutenant Billett following the refusal.

8. Therefore the Tribunal has jurisdiction to review decisions in relation to this matter. In accordance with s110VB(1) of the Defence Act, as the matter under review concerns a defence honour, the Tribunal does not have the power to affirm or set aside the decision but may make recommendations regarding the decision to the Minister.

## **Conduct of the review**

9. In accordance with its *Procedural Rules 2011*, on 24 April 2014, the Tribunal wrote to the Secretary of the Department of Defence informing him of Mr Billett's application for review and requested a report on the material questions of fact and the reasons for the decision made in relation to Lieutenant Billett's eligibility for the DCM. The Tribunal also requested that the Secretary provide copies of documentation relied upon in reaching the decision and that he provide a copy of the relevant service and health records.

10. On 29 April 2015, the Directorate of Honours and Awards of the Department of Defence (the Directorate) provided a submission prepared by Army which concluded that:

*'... there is sufficient evidence to suggest that the handling of Lieutenant Billett's recommendation and those of the other five recommended with him, may have been subject to a failure in due process that did not allow adequate consideration of the recommendations...'*<sup>6</sup>

11. The submission indicated that Army Headquarters and the Directorate were available to provide further advice and that Army was 'cognisant that findings by the Tribunal in relation to Lieutenant Billett may have flow on affects for the other five nominees and this will be further reviewed by Army once the Tribunal has presented its report'.

---

<sup>5</sup> Mr Billett tabled a copy of the Will during the hearing which confirmed he is the Executor.

<sup>6</sup> Army Submission 2014/11101081/1 dated 29 April 2015 – Paragraph 86

12. The Tribunal met on 11 December 2015 and considered the material provided by Army and Mr Billett. The Tribunal confirmed the scope of the review, the decision under review and jurisdiction. The Tribunal noted that the Report of the *Inquiry into Unresolved Recognition for Past Acts of Naval and Military Gallantry and Valour* (the Valour Inquiry) had addressed the issue of retrospectivity.<sup>7</sup> In so doing, the Valour Inquiry developed guidelines that would be able to be applied in any later reviews.<sup>8</sup>

13. The guidelines suggest that the first step in examining retrospective honours should be the conduct of a process review to determine whether due process had been followed. This step should include ‘an attempt to determine whether there is a case of maladministration and whether new evidence has come to light’. The guidelines suggest that if due process had been followed, there was no maladministration, and if there was no new evidence, the original decision should remain unchanged.

14. The guidelines provide that if there was a case of maladministration or if compelling new evidence had appeared that was not available at the time of the original decision, the next step would be ‘the conduct of a merits review’. In conducting the merits review, the Valour Inquiry recommended that consideration be given to the inability to award retrospective honours in the Imperial system and that awards made in the Australian system should be subject to assessment of the evidence relevant to ‘the standards and regulations of the time’. Notwithstanding this guidance, it should be noted that Section 110VB of the Defence Act requires the Tribunal to undertake a merits review of all reviewable decisions, where an application for review has been properly made.

15. The Tribunal decided to firstly conduct a process review of Mr Billett’s claims and, should a case of maladministration be proven, proceed to a merits review based on the evidence provided.

16. The Tribunal was satisfied that new evidence had been provided since the original decision to refuse to recommend Lieutenant Billett for the DCM was made by the Minister for Defence Industry, Science and Personnel on 2 October 1998. This evidence is the signed Minute dated 26 July 1943 with the original draft citation for the award of the DCM as tendered in the Army submission dated 29 April 2015.<sup>9</sup>

17. The Army submission was forwarded to Mr Billett for comment on 18 May 2015. He acknowledged receipt of the documents on 26 May 2015. In December 2015 Mr Billett was invited to provide oral evidence to the Tribunal and he agreed to do this at a public hearing in Canberra on 10 March 2016 which was also attended by representatives of Army Headquarters.<sup>10</sup>

---

<sup>7</sup> *Inquiry into Unresolved Recognition for Past Acts of Naval and Military Gallantry and Valour* dated 21 January 2013

<sup>8</sup> *Ibid.* 8-48 – *Guidelines for Conducting Reviews*

<sup>9</sup> Letter from Lieutenant Colonel Leggatt to HQ AIF Malaya, POW Camp Changi ‘*Recommendations for Decorations (Sparrow Force AIF)*’, dated 26 July 1943

<sup>10</sup> *Procedural Rule 11(1)* dated 13 May 2011 requires that the hearing of a review in relation to a defence honour be conducted in public.

## Lieutenant Billett's Service Record

18. Lieutenant Billett was born in Burnie, Tasmania on 26 March 1919.<sup>11</sup> He had a period of service with cadets and the militia where he rose to the rank of Sergeant with the 12/50<sup>th</sup> Battalion of the Launceston Regiment/the Tasmanian Rangers. He enlisted into the Second Australian Imperial Force on 4 July 1940 and was posted to the 2/40<sup>th</sup> Battalion. In recognition of his previous militia service he was promoted to Sergeant on 8 July 1940.<sup>12</sup> The Battalion spent the next seventeen months readying for overseas deployment as part of the 23<sup>rd</sup> Brigade of the 8<sup>th</sup> Australian Division. On 7 August 1941 Lieutenant Billett was promoted to Warrant Officer Class Two. From 30 September to 12 December 1941 he attended No. 3 Course at the Infantry Officer Training School at Liverpool.

19. After the Japanese offensives of December 1941, the Battalion was rapidly deployed to Koepang, in Dutch Timor. On arrival on 12 December 1941 the Battalion became the major combat unit of 'Sparrow Force'.<sup>13</sup>

20. Lieutenant Billett's service record states that he was promoted to Lieutenant on 25 February 1942. The record does not indicate when this entry was made. Although his service record indicates that he was a Warrant Officer at the time the Battalion deployed, during the hearing, Mr Billett provided evidence which suggested that he may have been commissioned on 10 January 1942. The Tribunal considered it unlikely that his promotion would have occurred just two days after he was captured but was satisfied that regardless of his rank, there is no doubt that Lieutenant Billett deployed as the appointed commander of 10 Platoon, B Company.

21. The Battalion was engaged in fierce fighting between 20 and 22 February 1942 and on the morning of 23 February the majority of the unit including Lieutenant Billett became POWs after the Commanding Officer surrendered to the IJA at Irekum. Lieutenant Billett remained a POW until he was repatriated to Australia on 23 September 1945. After a period of recuperation his appointment was terminated on 15 February 1946 and he transferred to the Reserve of Officers List.<sup>14</sup>

22. Relying on his record of service, the Tribunal noted that Lieutenant Billett was entitled to the following defence awards and badges:

- 1939-1945 Star
- Pacific Star
- Defence Medal
- War Medal 1939-1945

---

<sup>11</sup> Lieutenant Billett's service records indicate he was born on 27 March 1919 however during the hearing, Mr Billett pointed out that this date was incorrect and he was in fact born the previous day.

<sup>12</sup> Service Record TX3756 B.H. Billett, NAA B883, Barcode 6382635

<sup>13</sup> Lionel Wigmore, *The Japanese Thrust*, Volume IV – Official History of the Australian Army in the Second World War, Halstead Press, Sydney, 1968, Chapter 21

<sup>14</sup> Service Record TX3756 B.H. Billett, NAA B883, Barcode 6382635

- Australia Service Medal 1939-1945
- Australian Service Medal 1945-75 with Clasp 'SW Pacific' and
- Returned from Active Service Badge

23. It is his actions as a platoon commander on 20 and 22 February 1942 in the lead up to the Battalion's capitulation that is the subject of this review.

### **Lieutenant Billett's Actions**

24. **Background.**<sup>15</sup> The 2/40<sup>th</sup> Battalion formed the bulk of Sparrow Force along with the 2/2<sup>nd</sup> Independent Company and various attachments. The Force of approximately 1,993 officers and soldiers was commanded by the 2/40<sup>th</sup> Battalion's Commanding Officer Lieutenant Colonel W. Leggatt, MC, ED until 12 February 1942 when Brigadier W. Veale assumed command.

25. Japanese air attacks on Timor commenced in late January 1942 and increased in intensity over the next month. Their attack on Dutch Timor began on the morning of 20 February 1942 with an amphibious landing south of Koepang and a parachute insertion to the east in the vicinity of Usau (see maps at **Attachment A**). Faced with a strong enemy advance from the south and paratroopers holding the only road running inland to the Allied supply dump at Champlong, the Battalion destroyed the airfield at Penfui and began fighting their way east towards Champlong. The Battalion overcame several Japanese positions including an entrenched position at Usau Ridge. By the morning of 23 February 1942 food, water and ammunition were running out, casualties were increasing and the larger Japanese force from the south was closing on the rear of the Battalion. Considering the position untenable and the possibility of annihilation if they resisted, Lieutenant Colonel Leggatt surrendered on the afternoon of 23 February 1942. Brigadier Veale and the majority of 2/2<sup>nd</sup> Independent Company amalgamated to the east and continued to resist the Japanese until early 1943.

26. **Lieutenant Billett's Actions on 20 February 1942.** Lieutenant Billett's actions as the commander of 10 Platoon on 20 February 1942 are briefly summarised from the draft citation<sup>16</sup>:

*On the afternoon of 20 February 1942 his platoon was ordered into action as a fighting patrol on the left flank of A Company. When A Company was withdrawn, the left flank platoon of that company failed to maintain contact with 10 Platoon who became isolated. Warrant Officer Billett displayed prompt initiative in contacting the main body despite many difficulties and repeated attacks from fighter aircraft. He rejoined his company, leading his men immediately into the attack on Babaoe where he displayed considerable resource in adapting an abandoned armoured car and neutralising enemy positions.*

<sup>15</sup> Wigmore, *The Japanese Thrust*, Chapter 21

<sup>16</sup> A.Form W.3121 Draft Nomination for the DCM for WO2 B.H. Billett and Letter from Lieutenant Colonel Leggatt to HQ AIF Malaya, POW Camp Changi 'Recommendations for Decorations (Sparrow Force AIF)', dated 26 July 1943 (AWM PR 89/099 Part 2)

27. Lieutenant Colonel Leggatt also makes comment regarding this patrol in his Account of Action<sup>17</sup>:

*‘...Both B and A Coys omitted to inform No 10 Pl that they were withdrawing, consequently 10 Pl did not rejoin the Force till the following day...’*

28. Further statements of Lieutenant Billett’s actions are found in the unofficial history of the 2/40<sup>th</sup> Battalion<sup>18</sup>:

*‘...Billett commandeered D Company’s retreating armoured car and went into action. His platoon joined force with a British anti-aircraft gun and its crew ... the British gave Billett’s men their light automatics and Billett’s men setup a perimeter defence around the gun to stop any Japanese advance past Babau, and to respond to enemy attacks from the air...’*

29. **Lieutenant Billett’s Actions on 22 February 1942.** Lieutenant Billett’s actions as the commander of 10 Platoon on 22 February 1942 are also briefly summarised from the draft citation<sup>19</sup>:

*On 22 February 1942 he led his platoon against a strong enemy outpost on the Awabi River and under heavy fire, crossed the river and captured a commanding position which served as an advanced Battalion Headquarters in the attack on Osoae [Usau] Ridge. Although twice wounded he still led his men right through the action and remained on duty until he collapsed at 2300 hours that night.*

30. This action is also described in the Official History of the Second World War<sup>20</sup>:

*‘...many Japanese with a mountain gun were seen digging in on the Asau Ridge over which the road passed. Roff decided to move around the left – the more covered approach – cross the river and attack the ridge. Only the left platoon (Warrant Officer Billett), however, managed to cross the river, and it suffered a number of casualties in doing so...’*

31. A footnote to this text says that in the subsequent attack:

*‘... Billett continued to lead his platoon although twice wounded.’*

32. In his book *Doomed Battalion* Peter Henning also describes the successful attack on Usau Ridge<sup>21</sup>:

---

<sup>17</sup> Sparrow Force (Timor) – Account of Action by Lieutenant Colonel Leggatt dated 4 October 1945, page 15

<sup>18</sup> Peter Henning, *Doomed Battalion*, Allen & Unwin, St Leonards, 1995, Page 95

<sup>19</sup> A.Form W.3121 Draft Nomination for the DCM for WO2 B.H. Billett and Letter from Lieutenant Colonel Leggatt to HQ AIF Malaya, POW Camp Changi ‘Recommendations for Decorations (Sparrow Force AIF)’, dated 26 July 1943

<sup>20</sup> Wigmore, *The Japanese Thrust*, p486

<sup>21</sup> Henning, *Doomed Battalion*, p102



*‘... they then advanced on the right, immediately taking casualties from enemy small arms and mortars but fought their way forward. Basil Billett was wounded twice in this attack. After he was shot the first time – ‘I got hit by one that spun me around like a top’ - he continued to lead his men ...’*

33. Lieutenant Colonel Leggatt in concluding his recommendation for the award of the DCM to Lieutenant Billett states:

*‘This Warrant Officer displayed very high qualities of leadership and his coolness and courage inspired his men with trust in his ability and confidence in their own.’*

34. Whilst not directly related to Lieutenant Billett’s actions in the face of the enemy, Henning also wrote that whilst in Java as a POW, Billett’s personal qualities meant that he was continually in demand to fill positions of responsibility, and was exposed to physical mistreatments.

### **Mr Billett’s Submission and Oral Evidence**

35. Mr Billett’s submission of 25 February 2014 states that ‘the desired outcome is that Lieutenant Basil Hilder Billett (deceased) be awarded the decoration for which he was recommended, namely the Distinguished Conduct Medal in World War II’. He indicates that Lieutenant Billett ‘distinguished himself in several actions and was subsequently recommended for the DCM’. He also says that ‘it should be noted that while referred to as a Warrant Officer, he had been a platoon commander for some time. After he finished top of his officer training school at Liverpool, he was granted his commission but official notification did not arrive prior ... to enable him to put his pips up’.

36. Mr Billett also asserts that his father ‘did not receive his decoration due to the “bizarre” quota system that saw the number of decorations awarded to a unit tied to the time the unit was in action and the strength of the unit etc’. He indicated that the Adjutant of the 2/40<sup>th</sup> Battalion, Captain Maddern had written to his father to explain the system but his father ‘never accepted the reasons’. The letter from Maddern was tendered as part of the submission.<sup>22</sup>

37. Mr Billett concluded his submission by stating that ‘this is the man for whom failure to receive the award for which he had been recommended would play on his mind all his remaining days. He made several unsuccessful attempts through the Department of Defence and through political channels to gain his award. He died a very disappointed man because his country could not see fit to give him the small token of appreciation for the sacrifice and service he so willingly gave it.’

38. During the hearing Mr Billett stated that his father was ‘a man of incredible integrity’. He recounted that his father had been physically ‘severely damaged during the war’ and that he was surprised that he had not been recognised, as many others were, for his leadership as a POW. He noted that his father had taken an active role in

---

<sup>22</sup> Attachment 2 to Billett Submission dated 25 February 2014 - *Private Letter from Captain Maddern, Adjutant 2/40<sup>th</sup> Battalion*

supporting the families of soldiers from the Battalion after the war and this had given him a sense of purpose. He reiterated that his father died not knowing why he had not received the award for which he had been recommended and that he had ‘never received a satisfactory answer to his numerous requests to the Parliament’.

39. Mr Billett asked the Tribunal to consider during its deliberations that the citation for the award had been written seventy years previously and that it was the ‘intent’ of the words that should be considered in the review, not the actual words. He concluded his oral evidence by appealing to the Tribunal that a decision to recognise his father and the other nominees would have a significant positive impact amongst the families of the soldiers who had been incarcerated and were still grieving for their loved ones. He stated that a positive decision would ‘help them (the families) to heal and will be significant for them’.

### **The Process Review – Handling of the Nomination**

40. The Tribunal turned to a process review to determine if there was a case of maladministration in the handling of Lieutenant Billett’s nomination for the DCM. The Tribunal noted that Lieutenant Colonel Leggatt submitted a signed Minute dated 26 July 1943 to HQ AIF Malaya titled ‘Recommendations for Decorations (Sparrow Force AIF)’.<sup>23</sup> This Minute included draft individual citations and recommended the following awards:

- Captain N.P. Maddern Military Cross (MC);
- Lieutenant R.G. Williams MC;
- Corporal J.H. Armstrong DCM;
- Warrant Officer Class II B.H. Billett DCM;
- Signaller R.M. Frazer Military Medal (MM);
- Private J.K. Powell MM; and
- Lance Corporal H.A. Bailey MM.

41. The Tribunal reviewed Lieutenant Colonel Leggatt’s ‘Sparrow Force (Timor) Account of Action’ dated 4 October 1945. In so doing the Tribunal noted that war diaries for Sparrow Force for the period up to 31 January 1942 were completed and forwarded to Army Records. The Account of Action was compiled by Lieutenant Colonel Leggatt immediately following the cessation of hostilities as all records subsequent to 31 January 1942 ‘were destroyed on 23 February 1942 in order that they should not fall into enemy hands’.<sup>24</sup> The Tribunal noted that under the section of the account titled ‘Awards’, Lieutenant Colonel Leggatt stated that ‘recommendations for awards for conduct during action have been made separately’.<sup>25</sup> The Tribunal was satisfied that the recommendations referred to were in all likelihood those mentioned in the Minute dated 26 July 1943.

---

<sup>23</sup> Letter from Lieutenant Colonel Leggatt to HQ AIF Malaya, POW Camp Changi ‘*Recommendations for Decorations (Sparrow Force AIF)*’, dated 26 July 1943 (AWM PR 89/099 Part 2)

<sup>24</sup> Sparrow Force (Timor) – Account of Action by Lieutenant Colonel Leggatt dated 4 October 1945, page 1, AWM54, 571/4/56.

<sup>25</sup> Ibid. Page 26

42. The Tribunal reviewed the Army submission dated 29 April 2015 and noted that Army had advised that command of POWs ‘would remain in the hands of the British and Commonwealth forces of Malaya Command as if the “British Army were still functioning”’.<sup>26</sup> Effectively this meant that 2/40<sup>th</sup> Battalion was under command of the Australian 8<sup>th</sup> Division which by 1943 was under command of Lieutenant Colonel Sir Frederick Galleghan who became the appointed commander of HQ AIF with responsibility for the administration of all Australian troops in Changi.<sup>27</sup> The submission indicated that ‘despite the limitations imposed by incarceration ... administration and personnel management was relatively rigorous and records accurate’.

43. According to a war diary kept by HQ AIF in Changi, in early 1942 recommendations for awards were sought for the ‘the last phase of the operations’ prior to capture, and that completed nominations were not necessary – names only were to be submitted and it was agreed that awards would be dealt with upon release of the POWs.<sup>28</sup> The ultimate recommending authority for these awards would therefore be retained by Lieutenant Colonel Galleghan. The Army submission makes a compelling case of confusion regarding the administration of pre-capture awards as some were sent through the British chain of command and others through the Australian authorities at the end of the War.

44. The Tribunal noted and the Army submission confirmed that the Minute of 26 July 1943 with Sparrow Force decoration nominations<sup>29</sup> was resubmitted after the war to the Military Secretary, Land Headquarters by Lieutenant Colonel Leggatt.<sup>30</sup> In its submission, Army conceded that from Leggatt’s typed note at the top of the Minute ‘it is clear that (he)... was submitting the recommendations ... as a nomination seeking consideration to award the individuals for their actions...’.<sup>31</sup>

45. The Tribunal noted that the Army accepted that there was evidence that on 26 November 1945, Headquarters 8<sup>th</sup> Division sent draft citations on Army Form (AF)W3121 to Lieutenant Colonel Leggatt for his signature at the Hobart Nursing home where he was recuperating.<sup>32</sup> The Minute covering the draft citations was signed by the Assistant Adjutant & Quartermaster General, Headquarters 8<sup>th</sup> Division and included citations for the original seven nominees including Lieutenant Billett. There is no evidence that this Minute was ever received or actioned by Lieutenant Colonel Leggatt.

46. The Tribunal noted that an 8<sup>th</sup> Division Administrative Instruction was issued on 21 December 1945, calling for nominations by commanders for the ‘End of

---

<sup>26</sup> Army Submission dated 29 April 2015, Paragraph 14

<sup>27</sup> Ibid. Paragraph 13-17, Major General C. Callaghan commanded the incarcerated 8<sup>th</sup> Division until all senior officers were removed to the Japanese mainland in August 1942 at which time Lieutenant Colonel Galleghan assumed command.

<sup>28</sup> Ibid. Paragraph 32.

<sup>29</sup> ‘Recommendations for Decorations (Sparrow Force AIF)’ - Minute to HQ AIF Malaya from PW Camp Changi dated 26 July 1943 (AWM PR 89/099 Part 2)

<sup>30</sup> ‘Mil Sec – ‘The following is a copy of recommendations for awards handed to HQ AIF POW Camp Changi for record purposes. These recommendations are now submitted for consideration please.’ Signed Comd 2/40 Bn – 4 October 1945

<sup>31</sup> Army Submission dated 29 April 2015 Paragraph 41

<sup>32</sup> HQ 8<sup>th</sup> Div 19/60/1/2 dated 26 Nov 45 (AWM PR 89/099 Part 2)

Hostilities List'.<sup>33</sup> The instruction required that recommendations needed to be submitted in quadruplicate on 'A' Form W3121 and that nominations:

*'... are in addition to recommendations for operational awards already submitted...'*

47. On 7 January 1946 Lieutenant Colonel Leggatt responded to the Administrative Instruction and submitted a Minute to 8<sup>th</sup> Division titled 'Recommendations for Awards – Sparrow Force'. He nominated five individuals with draft citations for each: Warrant Officer Hay, Sapper Livingstone and Sapper Hickey each for the MM for 'conduct in action in Timor in February 1942' and Staff Sergeant Mercer and Lance Corporal Kay for the Mentioned in Despatches (MID) 'for outstanding conduct whilst POW'.<sup>34</sup> All five were subsequently awarded the decorations for which they had been nominated.<sup>35</sup>

48. On 18 January 1946 a hand written letter from Headquarters 8<sup>th</sup> Division was delivered by a courier to Lieutenant Colonel Leggatt in Hobart seeking his confirmation of all recommendations from Timor including for prisoners.<sup>36</sup> The letter stated that:

*'...it need not be in the form of a letter – merely a list of names with the award which you recommend and the priority...'*

49. On 19 January 1946 Lieutenant Colonel Leggatt submitted two separate lists both with the same date. The first list was titled '*Summary of Previous Recommendations for Awards – Sparrow Force*'.<sup>37</sup> This first list included the original nominees (less Corporal Armstrong who had died) as 'Immediate Decorations for Conduct in Action' and listed the same awards as submitted in the July 1943 recommendations including Lieutenant Billett for the DCM. This first list also included a further nine individuals for the MID for 'conduct in action'. One of the nine (Lieutenant B.H Gordon who was eighth in the priority of nine) was recognised with the MID, the other eight were not.<sup>38</sup> The summary also listed the five individuals that Lieutenant Colonel Leggatt had previously nominated on 7 January 1946 for the 'End of Hostilities List' (Hay, Livingstone, Hickey, Mercer and Kay).

50. The second list was titled '*Additional Recommendations for Awards – Sparrow Force*' and was dated the same day – 19 January 1946. This list included eleven individuals for the MID for their actions as POW. Lieutenant Williams was included on this list as well as the previous list, this time for his actions as a POW. All eleven were subsequently awarded the MID.<sup>39</sup> The list also included Captain Maddern with a notation from Lieutenant Colonel Leggatt that he 'endorsed the

---

<sup>33</sup> HQ 8<sup>th</sup> Div ADM INSTR NO 2/45 dated 21 Dec 45

<sup>34</sup> Draft Letter dated 7 Jan 46 to HQ 8th Div from A/Comd. Sparrow Force

<sup>35</sup> *Commonwealth of Australia Gazette No. 43* dated 6 March 1947

<sup>36</sup> Handwritten Minute dated 18 Jan 46 addressed to 'Colonel Leggatt' and signed by 'Mike'

<sup>37</sup> Letter titled '*Summary of Previous Recommendations for Awards – Sparrow Force*' dated 19 Jan 46 to HQ 8th Div from A/Comd. Sparrow Force

<sup>38</sup> *Commonwealth of Australia Gazette No. 43* dated 6 March 1947

<sup>39</sup> *Ibid.*

recommendation for the MBE'. Captain Maddern was subsequently made a Member of the Order of the British Empire (MBE) for his conduct as a POW.<sup>40</sup>

51. The second list also contained Corporal Armstrong who had been moved to this list from the previous one. Lieutenant Colonel Leggatt had changed his nomination for Armstrong from the original DCM to a MID and had noted that Corporal Armstrong was 'deceased' and was nominated for the MID for 'outstanding conduct in action'. The Tribunal notes that Corporal Armstrong had died in captivity on 16 June 1943 some five weeks before Lieutenant Colonel Leggatt made the original nominations. The Tribunal also noted that the Army submission opined that 'it can be reasonably concluded that ... Armstrong was removed from the original list as ... posthumous awards outside the VC or MID ... required that the individual be nominated prior to death'. The Army submission indicates that Corporal Armstrong was later recommended for the MID – the Tribunal notes that Corporal Armstrong was subsequently never recognised for his actions.

52. The Army submission states that:

*'in submitting the summary and additional recommendations, it can be reasonably concluded that Lieutenant Colonel Leggatt considered the recommendations for the individuals identified on the summary list to have already been submitted for consideration....'*

53. The Army submission concluded that:

*'Army is satisfied that there is sufficient evidence to suggest that the handling of Lieutenant Billett's recommendation and those of the other five (excluding Corporal J.H. Armstrong) recommended with him, may have been the subject to a failure in due process that did not allow adequate consideration of the recommendations.'*

### **Finding in relation to process**

54. The Tribunal concurred with the Army conclusion and determined that the original list of nominations submitted by Lieutenant Colonel Leggatt on 26 July 1943 was not considered by the operational chain of command; that the list was subsequently consolidated and individual nominations drafted for Lieutenant Colonel Leggatt's signature. The Tribunal finds that in all probability, these documents were not received by Lieutenant Colonel Leggatt who thought that his original list would be considered without citations and actioned in the End of War List.

55. The Tribunal finds that the failure to process the nominations for decorations submitted by Lieutenant Colonel Leggatt on 26 July 1943, including that of Lieutenant Billett, was a result of maladministration which resulted in these nominations not being considered by the operational chain of command or in the End of War list. The Tribunal therefore found that the awards process was not followed correctly and that there was sufficient evidence that there was a manifest injustice

---

<sup>40</sup> Ibid.

with regard to the outcome of the nomination of Lieutenant Billett for the DCM and his six co-nominated colleagues including Corporal Armstrong.

56. The Tribunal next proceeded to undertake a merits review of Lieutenant Billett's actions and in doing so, examined the eligibility criteria for the DCM.

### **The Distinguished Conduct Medal and the Australian Honours System**

57. The original recommendation by Lieutenant Colonel Leggatt was that Warrant Officer Class II Billett be awarded the DCM. In accordance with the Royal Warrant for the DCM of 5 February 1931, the DCM could be awarded on the recommendation of a Commander-in-Chief in the field to Warrant Officers Class I and II, non-commissioned officers and men for:

*'distinguished conduct, in action, in the field',<sup>41</sup>*

58. The Tribunal noted that the Army submission stated that the DCM could be awarded for distinguished conduct in action in the field:

*'... or for bravery of a high standard. Where possible a degree of leadership should also be displayed'.*

59. The Tribunal could find no evidence to support the assertion that leadership was a further requirement of the DCM and during the hearing Army conceded that it had sourced this information from various orders, pamphlets and instruction manuals and had made interpretations in the preparation of their submission, but could cite no authority.

60. Australian service personnel received honours and awards including the DCM under the Imperial system until February 1975 when the Government introduced the Australian system. The two systems – the Imperial and the Australian; then operated in parallel until October 1992 when the Government announced that Australia would no longer make recommendations for Imperial awards.<sup>42</sup>

*Her Majesty The Queen has indicated her view that it is appropriate that Australian citizens should be recognised exclusively by the Australian system of honours ... accordingly I have consulted with the Premiers of States and we have agreed that Australian Governments, both State and Commonwealth, will henceforth cease to make recommendations for British honours...*

61. Consequently, notwithstanding the original recommendation for the DCM for Lieutenant Billett, the Tribunal is unable to make any recommendation for that, or any other, Imperial honour.

### **Contemporary Australian Honours for Gallantry**

---

<sup>41</sup> *The London Gazette* No 33700 dated 20 March 1931

<sup>42</sup> Prime Minister of Australia Media Release 111/92 dated 5 October 1992

62. The highest gallantry decoration is the Victoria Cross for Australia, for according recognition to persons who, in the presence of the enemy:

*'perform acts of the most conspicuous gallantry, or daring or per- eminent acts of valour or self-sacrifice or display extreme devotion to duty'*.<sup>43</sup>

63. The Star of Gallantry (SG), the Medal for Gallantry (MG) and the Commendation for Gallantry were established as Gallantry Decorations by Letters Patent on 15 January 1991 for the purpose of:

*'according recognition to members of the Defence Force and certain other persons who perform acts of gallantry in action.'*<sup>44</sup>

64. The honours are governed by Regulations set out in the Schedule:

...

***Conditions for award of the decorations***

3. (1) *The Star of Gallantry shall be awarded only for acts of great heroism or conspicuous gallantry in action in circumstances of great peril.*

(2) *The Medal for Gallantry shall be awarded only for acts of gallantry in action in hazardous circumstances.*

(3) *The Commendation for Gallantry may be awarded for other acts of gallantry in action which are considered worthy of recognition.*

4. *Each decoration may be awarded posthumously.*

...

***Making of awards***

7. *Awards of a decoration shall be made by the Governor-General on the recommendation of the Minister.*

...

**Contemporary Australian Honours for Distinguished Service.**

65. The Distinguished Service Cross (DSC), the Distinguished Service Medal (DSM) and the Commendation for Distinguished Service were established by Letters Patent on 15 January 1991 for the purpose of recognising members of the Defence Force and certain other persons for:

*'distinguished command and leadership in action or distinguished leadership in action or distinguished performance of duties in warlike operations'*<sup>45</sup>

66. Distinguished service awards are governed by Regulations set out in the Schedule:

---

<sup>43</sup> Commonwealth of Australia Gazette No. S25 – Gallantry Decorations Regulations - dated 4 February 1991

<sup>44</sup> Commonwealth of Australia Gazette No. S25 – Victoria Cross Regulations - dated 4 February 1991

<sup>45</sup> Commonwealth of Australia Gazette No. S25 – Distinguished Service Decorations Regulations - dated 4 February 1991

...

***Conditions for award of the decorations***

3. (1) *The Distinguished Service Cross shall be awarded only for distinguished command and leadership in action.*

(2) *The Distinguished Service Medal shall be awarded only for distinguished leadership in action.*

(3) *The Commendation for Distinguished Service shall be awarded only for distinguished performance of duties in warlike operations.*<sup>46</sup>

4. *Each decoration may be awarded posthumously.*

...

***Making of awards***

7. *Awards of a decoration shall be made by the Governor-General on the recommendation of the Minister.*

...

67. The Army submission indicates that in 1996 the Interdepartmental Committee on Honours and Awards established the End of War List Vietnam and in so doing was required to equate Imperial awards to the Australian system as Imperial awards could no longer be awarded to Australians. The Committee determined that the DCM was equivalent to the contemporary SG.

68. Drawing on the guidance provided in the Valour Inquiry<sup>47</sup>, the Tribunal determined that it was unable to recommend retrospective honours in the Imperial system and that awards made in the Australian system should be subject to an assessment of the evidence relevant to ‘the standards and regulations of the time’.

69. The Tribunal did not consider that a merits review could fairly adopt a simple ‘equivalency’ matrix and therefore discarded the advice that the DCM was ‘equivalent to the SG’. The Tribunal decided that in conducting the merits review it would consider the evidence before it, including the citations and history of the actions, judged against the eligibility criteria for contemporary awards.

**Tribunal Consideration – The Merits Review**

70. Having found that a clear case of maladministration occurred in the handling of Lieutenant Billett’s nomination for the DCM and having determined that his actions would now need to be assessed against the eligibility criteria for the contemporary suite of gallantry and/or distinguished service decorations, the Tribunal proceeded to a merits review of Lieutenant Billett’s actions.

71. **The Quota System** The Tribunal noted that the Army submission stated that the quota system in place from 1939 was suggested to be ‘one award per every 250

---

<sup>46</sup> The Tribunal notes that CAG S18 dated 22 February 2012 amended the term ‘in action’ to ‘in warlike operations’.

<sup>47</sup> *Inquiry into Unresolved Recognition for Past Acts of Naval and Military Gallantry and Valour* dated 21 January 2013



personnel serving'.<sup>48</sup> The Military Secretary stated in a Minute dated 20 March 1946 that four honours had been awarded on the Final Periodical Operational List for the Timor area of operations prior to the 23<sup>rd</sup> of February 1942.<sup>49</sup> The Minute suggested that the total force in Timor comprised a strength in February 1942 of 1100. Relying on the Army Submission<sup>50</sup>, the Tribunal was satisfied that the actual strength of the force in Timor at the time of the February actions was more likely to be above 1650 (the End of Hostilities estimate) and could be as many as 1895 (the Account of Action report number). The Tribunal was satisfied that the 1100 figure referred to the number of members of the force who were incarcerated and was therefore likely to be incorrect if applied to a calculation of quota for the pre-incarceration period.

72. The Tribunal was satisfied that scope existed for additional awards due to the miscalculation; however, as the list submitted by Lieutenant Colonel Leggatt in January 1946 was not in an overall priority order (rather an order for each level of award); the Tribunal did not consider it feasible to attempt to place the list into an overall order.

73. The Tribunal noted that Mr Billett had asserted that his father 'did not receive his decoration due to the "bizarre" quota system that saw the number of decorations awarded to a unit tied to the time the unit was in action and the strength of the unit etc'. The Tribunal also noted that Mr Billett tendered a letter from the Adjutant of the 2/40<sup>th</sup> Battalion which appeared to support his assertion regarding quotas. The Tribunal noted that the Army Submission included a review of 'the quota system', and concluded that:

*'a quota existed but it is possible that it was calculated incorrectly. This point is relevant only if the quota was the reason Lieutenant Billett did not receive recognition, and there is no evidence on this either way'.*<sup>51</sup>

74. The Tribunal was unable to find any evidence to support the assertion that Lieutenant Billett's nomination had been effected by the imposition of a quota and accordingly, determined that Mr Billett's claim regarding the imposition of quotas could not be sustained.

**75. Processing of Nominations for Gallantry and Lieutenant Billett's Eligibility for the DCM.** The Tribunal noted that the Army Submission states that the policy for the processing of recommendations for honours and awards which was used for processing Lieutenant Billett's nomination for the DCM was General Routine Order 281/44 dated 31 July 1944.<sup>52</sup> Whilst this policy postdates the original nomination by 12 months, the Tribunal was satisfied that it was the appropriate policy as the actual nomination was not considered until after the war. The instruction, which is repeated in contemporary guidance, requires that the nomination be passed from the unit 'up through brigade, division and higher headquarters to Land

---

<sup>48</sup> Ibid. Paragraph 60 and Office of the High Commission for the United Kingdom 804/A dated 1 November 1939

<sup>49</sup> Department of the Army GP-19-723 dated 20 Mar 46 (AWM 119/170A Part 1)

<sup>50</sup> Army Submission dated 29 April 2015 Paragraphs 68-70

<sup>51</sup> Ibid. Paragraphs 57-71

<sup>52</sup> Allied Land Forces in South West Pacific Area (Land Headquarters) – *General Routine Order MS 281* dated 31 July 1944

Headquarters ... for approval'. Respective commanders of those formations are required to recommend the nomination. The guidance does not point to the Royal Warrant as the authority for the award of the DCM but does state that the 'terms of award' are 'for distinguished conduct in action in the field', and eligibility for the award is restricted to 'Warrant Officers and other ranks'.

76. The Tribunal noted that the original nomination for the DCM was submitted by Lieutenant Billett's Commanding Officer on 26 July 1943 directly to his immediate operational Headquarters – HQ AIF Malaya.<sup>53</sup> Relying on the Army Submission, the Tribunal was satisfied that despite the nomination being raised 17 months after the action, Lieutenant Colonel Leggatt was still Billett's appointed Commanding Officer<sup>54</sup> and could therefore be considered to be the correctly authorised 'Nominating Officer' for the decoration.

77. The Tribunal also noted that the nomination was subsequently resubmitted by Lieutenant Colonel Leggatt after the War and was subsequently transcribed onto Army Form (AF)W3121 by Leggatt's operational Headquarters. The Tribunal noted that the citation was not at any time amended from the original submission and had remained as a nomination for the DCM 'at level' throughout the process. The Tribunal also noted that the letter tendered by Mr Billett from the Adjutant of the 2/40<sup>th</sup> Battalion, Captain Maddern to his father written sometime after the War confirmed that Lieutenant Colonel Leggatt:

*'... did give you a very good citation for your activities in Timor, and put in a recommendation for gallantry, a Distinguished Conduct Medal ...'*<sup>55</sup>

78. Noting that the Royal Warrant for the DCM provided that it could be awarded for 'distinguished conduct, in action, in the field', the Tribunal reviewed Lieutenant Billett's citation and was satisfied that the actions described were undoubtedly 'in the field' and undeniably 'in action'. The Tribunal was also satisfied that his conduct as a platoon commander was 'distinguished' as evidenced by the following statements in the citation:

*'... displayed considerable resource in adapting an abandoned armoured car in neutralising enemy positions...';*

*'...led his platoon against a strong enemy outpost... and captured a commanding position...'; and*

*'...although twice wounded, still lead his men right through the action...'*

79. The Tribunal also noted that in his submission, Lieutenant Colonel Leggatt nominated seven individuals of varying rank for decorations ranging from the Military

---

<sup>53</sup> Letter from Lieutenant Colonel Leggatt to HQ AIF Malaya, POW Camp Changi 'Recommendations for Decorations (Sparrow Force AIF)', dated 26 July 1943

<sup>54</sup> Army Submission dated 29 April 2015, Paragraph 31 - '... Lieutenant Colonel Leggatt retained command of the remnants of Sparrow Force and 2/40th Infantry Battalion in Changi and in recommendations prepared after the war he signs them as such ...'

<sup>55</sup> Attachment 2 to Billett Submission dated 25 February 2014 - *Private Letter from Captain Maddern, Adjutant 2/40<sup>th</sup> Battalion*

Medal to the Military Cross. The Tribunal was therefore satisfied that he had given the matter sufficient consideration and that each of the citations had been crafted to accord with the recommended level of award.

80. **Finding in Relation to Eligibility for the DCM.** The Tribunal, giving significant weight to the eligibility criteria for the DCM and great weight to the citation signed by the appropriately authorised Nominating Officer finds that Lieutenant Billett was eligible for the award of the DCM for distinguished conduct in action in the field as a platoon commander with the 2/40<sup>th</sup> Battalion in Timor between 19 – 23 February 1942.

### **Lieutenant Billett’s Eligibility for Contemporary Awards**

81. Using the same methodology and having found that Lieutenant Billett was eligible for the DCM which is no longer available under present policy, the Tribunal turned to an assessment of Lieutenant Billett’s eligibility for contemporary awards. In so doing, the Tribunal noted that the Army submission suggested that the wording of the recommendation ‘while possibly meeting the criteria for the DCM ... is probably more reflective of the DSM or the Commendation for Distinguished Service’. During the hearing, the Army Headquarters representatives indicated that they had looked at the issue of which award could be appropriate and, despite offering an opinion in their submission, nonetheless wanted the matter to be determined by the Tribunal as part of its merits review.

82. The Tribunal noted that the current suite of gallantry awards provide recognition for individuals ‘who perform acts of gallantry in action’. The Tribunal reviewed the Billett citation and as previously stated, was satisfied that the actions described were undeniably ‘in action’. However, the Tribunal was not satisfied that the citation adequately described his actions as ‘gallant’. The Tribunal accepts that the citation was crafted almost seventy years ago and was written to support the award of the DCM for ‘distinguished’ action. However, with this award not available and with no first-hand accounts other than the wording of the citation, the Tribunal was satisfied that it could only assess the action using the contemporaneous evidence.

83. The Tribunal noted that nowhere in the citation does it refer to Lieutenant Billett’s specific actions being ‘brave’, ‘dashing’, ‘courageous’ or ‘gallant’<sup>56</sup>. The Tribunal did note that in concluding the citation, the Nominating Officer did state that ‘... his coolness and courage inspired his men ...’ but the Tribunal finds that this was in the context of leadership. The Tribunal was not satisfied that there was sufficient evidence of courage in the individual actions which could be relied upon to support a gallantry recommendation. Accordingly, the Tribunal determined that it could not recommend Lieutenant Billett for a contemporary gallantry award.

84. The Tribunal turned to the current suite of distinguished service decorations and noted these decorations accord recognition to individuals for distinguished command and leadership, distinguished leadership or distinguished performance of duties in action. Having previously established that Lieutenant Billett’s actions as a

---

<sup>56</sup> The Concise Oxford Dictionary 7<sup>th</sup> Edition defines gallant as ‘brave’ and gallantry as ‘bravery, dashing courage’.

platoon commander were found to be ‘distinguished’ and ‘in action’, the Tribunal turned to an assessment of the citation against the contemporary eligibility criteria for these awards.

85. **The Distinguished Service Cross.** The DSC shall be awarded only for distinguished command and leadership in action. Lieutenant Billett was the appointed commander of 10 Platoon at the time of the action and, despite being a Warrant Officer, he deployed with the Battalion as the designated commander of that platoon. There is no dispute that he was ‘in action’. His citation supports the criteria that he displayed ‘distinguished leadership’ as evidenced by the statements:

*‘...led his platoon against a strong enemy outpost... and captured a commanding position...’; and*

*‘...although twice wounded, still lead his men right through the action...’*

86. **The Distinguished Service Medal.** The DSM shall be awarded only for distinguished leadership in action. There is no dispute that Lieutenant Billett was ‘in action’. His citation supports the criteria that he displayed ‘distinguished leadership’ as previously stated. This level of award however fails to recognise his command responsibilities as the commander of 10 Platoon.

87. **The Commendation for Distinguished Service.** The Commendation for Distinguished Service shall be awarded only for distinguished performance of duties in warlike operations. The Tribunal considered that ‘in warlike operations’ seriously understates the circumstances that Lieutenant Billett was exposed to. There is however no dispute that his performance of duty was distinguished; also, the Tribunal considers that the term ‘performance of duties’ understates his appointment as a commander and his leadership.

### **Finding in Relation to Lieutenant Billett’s Eligibility for Contemporary Awards.**

88. The Tribunal was satisfied that Lieutenant Billett’s actions met the criteria for the DSC in that the evidence, especially the citation supporting his original honour nomination and particularly the fact that Lieutenant Billett was the appointed commander of his platoon, supported a finding of distinguished command and leadership in action. The Tribunal decided that he should be posthumously recommended for the DSC for distinguished command and leadership in action as the platoon commander of 10 Platoon, 2/40<sup>th</sup> Battalion in Timor between 19 – 23 February 1942.

### **Consideration of the Additional Nominations**

89. The Tribunal was satisfied that its finding that the awards process was not followed correctly and there was a manifest injustice with regard to the outcome of the nomination of Lieutenant Billett for the DCM, also applied to his six colleagues and their individual nominations for awards which were raised on 26 July 1943.

90. The Tribunal was satisfied that Corporal Armstrong had also not been properly considered despite his death occurring prior to the nomination. The Tribunal noted that Lieutenant Colonel Leggatt had adjusted the level of award from DCM to

MID on 19 January 1946 however there is no evidence that this nomination was ever considered.

91. The Tribunal considered that there was insufficient evidence in the submissions provided by Defence to enable a merits review of each of the originally nominated individuals and noted that the Army submission concluded that:

*'Army is cognisant that findings by the Tribunal in relation to Lieutenant Billett may have flow-on affects for the other five nominees and this will be further reviewed by Army once the Tribunal has presented its report'.<sup>57</sup>*

92. Furthermore the Tribunal does not have jurisdiction to make any findings in respect of those nominees.

93. The Tribunal therefore recommends that Army conduct a merits review utilising the same methodology used by the Tribunal for:

- a. **Captain N.P. Maddern.** The Tribunal notes that Captain Maddern was awarded the MBE for his conduct as a POW. This is not related to his actions prior to capture. Captain Maddern was the Adjutant of the Battalion and assumed command of the Reinforcement Company on 22 February 1942 during the attack on Oeseo Ridge. During this attack the Officer Commanding and Second in Command of B Company were killed and the attack stalled. Captain Maddern led the Reinforcement Company into an attack which cleared the enemy off the ridge and overcame resistance on the flank. His citation for the MC for leadership of the company during the clearing attack stated that he 'demonstrated coolness and courage under heavy enemy fire and his prompt action, initiative and leadership contributed greatly to the success of the operation and was a very fine example to the troops'.
- b. **Lieutenant R.G. Williams.** The Tribunal notes that Lieutenant Williams was awarded the MID for his conduct as a POW. This is not related to his actions prior to capture. Lieutenant Williams was the Platoon Commander of 16 Platoon supporting an attack by B Company through Babaoe village on 21 February 1942. During the attack 'the platoons on the right withdrew under heavy fire but in spite of repeated attacks, Lieutenant Williams retained his position and then led his platoon in attacks alternating from one flank to another of the enemy position and finally driving them off and killing 16. He then contacted the Officer Commanding B Company and cooperated in a general attack with his platoon, gaining the centre of the village and finally overcoming enemy resistance'. His citation for the MC for leadership of his platoon stated that he 'displayed courage and initiative in the highest degree and his leadership had a very material effect on the final success of the attack. At all times during the action his bearing and fighting qualities were an inspiration to his troops'.
- c. **Corporal J.H. Armstrong.** Corporal Armstrong, at the time a Private, was a machine gunner with D Company, 2/40<sup>th</sup> Battalion on 21 February 1942.

---

<sup>57</sup> Army Submission dated 29 April 2015 – Paragraph 86

During the attack on the village of Babaoe very heavy resistance was encountered. Corporal Armstrong 'with a Lewis gun moved by himself around the left flank. In the face of heavy enemy fire he entered a building which enfiladed the enemy position and opened fire, killing five of the enemy and driving off the remainder. This enabled a vital position to be secured and materially assisted the eventual capture of the village. This soldier showed an utter disregard of personal safety and a matter of fact coolness and initiative which were an excellent and much needed example to soldiers who had come under fire for the first time'. His citation for the DCM stated that 'at all times during action this soldier displayed the finest qualities of a fighting soldier.' Corporal Armstrong died in captivity on 16 June 1943, the Roll of Honour at the Australian War Memorial states that his cause of death was 'murdered'.<sup>58</sup> He has not been recognised for his actions prior to capture or when a POW.

- d. **Signaller R.H. Frazer.** Signaller Frazer was a member of Sparrow Force Headquarters posted to 2/1st Fortress Signal Squadron. He was a motor cycle dispatch rider during the actions against the enemy on 20, 21 and 22 February 1942. The uncertain nature of the actions against the enemy 'necessitated that practically all communications should be carried out by dispatch riders'. During the attack on Babaoe village on 21 February 1942 when no information was being received of the attack by the headquarters, Signaller Frazer 'volunteered to bring back information and proceeded to do so under heavy enemy fire which covered the road'. His citation for the MM for an act of bravery in the field stated that 'this soldier at all times carried out his duties with the utmost efficiency and coolness in the face of many difficulties and his disregard of personal safety and his devotion to duty were a fine example to all ranks'.
- e. **Private J.K. Powell.** Private Powell was a motor cycle orderly with D Company, 2/40<sup>th</sup> Battalion during the advance on Babaoe village on 21 February 1942. D Company was the advance guard of the battalion and Private Powell's task was to maintain contact between the Company and Battalion headquarters. When the 'portion of D Company were held up and partially surrounded by enemy patrols, Private Powell burst through the patrols and although wounded through the shin, delivered a message to Battalion Headquarters and then requested that he be allowed to continue on duty'. His citation for the MM for an act of bravery in the field stated that 'this soldier's courage and devotion to duty were a fine example and an encouragement to his fellow soldiers'.
- f. **Lance Corporal H.A. Bailey.** Lance Corporal Bailey was a member of Sparrow Force Headquarters posted to 2/1<sup>st</sup> Fortress Signal Squadron. He was an operator on the main switch board in the Headquarters on 19 February 1942. 'His duty on that day ceased at 1159 hours but owing to the illness of the next on duty he continued on duty until the evacuation of the position at 1015 hours on 20 February 1942. The area was shelled and bombed

---

<sup>58</sup> AWM Roll of Honour TX3283 Corporal James Hubert Armstrong, 2/40<sup>th</sup> Battalion

continuously from 0830 hours until 1000 hours and the building housing the switchboard was damaged but Lance Corporal Bailey remained continuously at his post'. His citation for the MM for an act of bravery in the field stated that 'this soldier at all times showed extreme efficiency, courage and devotion to duty which was remarked on by and enhanced the morale of all troops with whom he came in contact'.

## **DECISION**

94. The Tribunal decided to recommend to the Assistant Minister for Defence that:
- a. the decision by the Minister for Defence Industry, Science and Personnel to not recommend the award of the Distinguished Conduct Medal to Lieutenant Basil Billett be set aside;
  - b. the Minister recommend to the Governor-General that Lieutenant Basil Billett be posthumously awarded the Distinguished Service Cross for distinguished command and leadership in action as the platoon commander of 10 Platoon in the 2/40<sup>th</sup> Battalion in Timor between 19 and 23 February 1942; and
  - c. the Minister direct Army to review the eligibility for honours of six of Lieutenant Billett's colleagues; Captain N.P. Maddern, Lieutenant R.G. Williams, Corporal J.H. Armstrong, Lance Corporal H.A. Bailey, Private J.K. Powell and Signaller R.H. Frazer who were also recommended for awards for their conduct in action in the period 19 to 23 August 1942 and that Army utilise the methodology used in this decision to conduct those reviews.

## ATTACHMENT A - MAPS

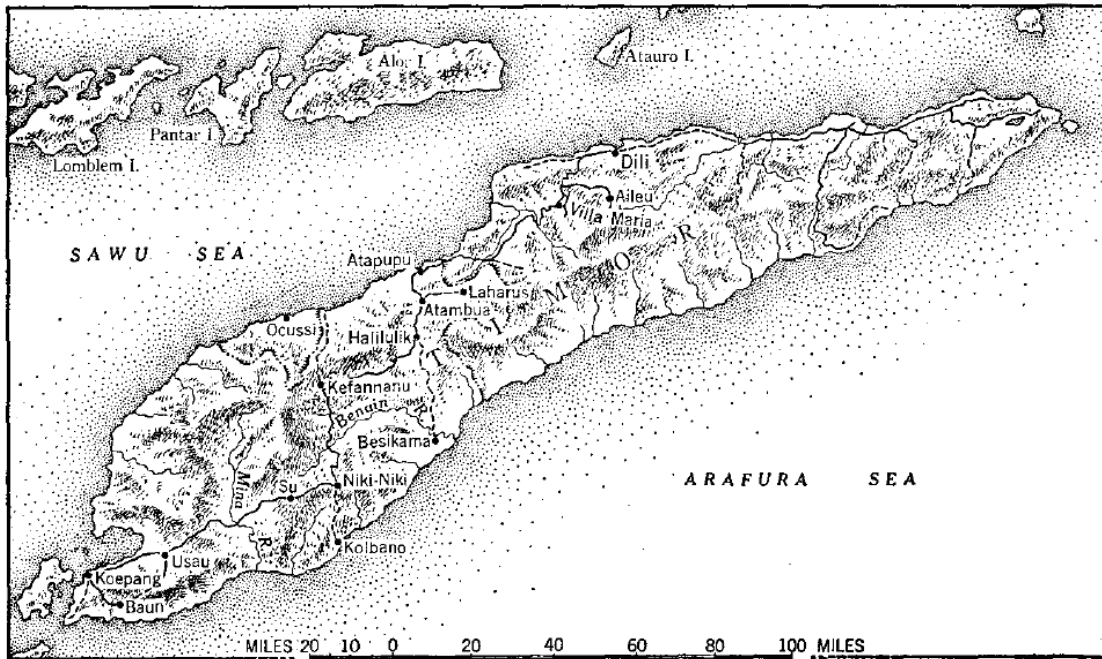


Figure 1 - Timor 1942<sup>59</sup>

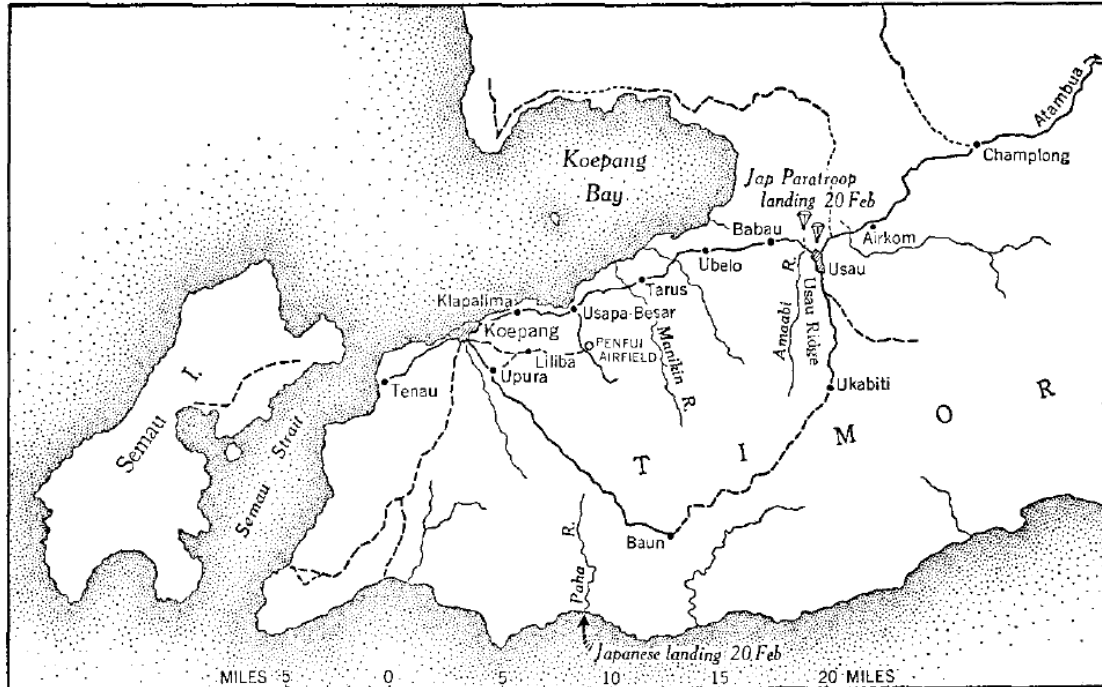


Figure 2 - Japanese assaults near Koepang, February 1942<sup>60</sup>

<sup>59</sup> Wigmore, *The Japanese Thrust*, p467.

<sup>60</sup> *Ibid*, p468.