



**Australian Government**

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Defence Honours and Awards Appeals Tribunal

**REPORT OF THE INQUIRY INTO RECOGNITION FOR FAR EAST  
PRISONERS OF WAR WHO WERE KILLED WHILE ESCAPING OR  
FOLLOWING RECAPTURE**

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## LETTER OF TRANSMISSION

### **Inquiry into Recognition for Far East Prisoners of War who were Killed While Escaping or Following Recapture**

The Hon Dan Tehan MP  
Minister for Defence Personnel  
Parliament House  
CANBERRA ACT 2600

Dear Minister

I am pleased to present the Report of the Defence Honours and Awards Appeals Tribunal on the *Inquiry into recognition for Far East Prisoners of War who were killed while escaping or following recapture*.

The Inquiry was conducted in accordance with the Terms of Reference approved by Government on 4 November 2015.

In accordance with the *Defence Honours and Awards Appeals Tribunal Procedural Rules 2011* (as amended), a copy of this Report will be published on the Tribunal's website 20 working days after this report is provided to you.

I would be grateful for advice on your response to this report, when available.

Yours sincerely



**Mark Sullivan**  
Chair  
Defence Honours and Awards Appeals Tribunal

17 August 2017



## Australian Government

### Defence Honours and Awards Appeals Tribunal

#### **INQUIRY INTO RECOGNITION FOR FAR EAST PRISONERS OF WAR WHO WERE KILLED WHILE ESCAPING OR FOLLOWING RECAPTURE**

##### **Terms of Reference**

The Defence Honours and Awards Appeals Tribunal (the Tribunal) is directed to inquire into and report on the eligibility for recognition of Australian personnel who served during the Second World War, were Far East Prisoners of War, and were killed while escaping or following recapture.

In conducting this Inquiry the Tribunal is to take into account the policy, adopted by Australia in 1944, and outlined in the previous Inquiries conducted by the Tribunal:

- *Inquiry into recognition for Far East Prisoners of War who were killed while escaping, completed by the Tribunal in 2010 and the findings accepted by Government; and*
- *Inquiry into unresolved recognition of past acts of naval and military gallantry and valour, completed by the Tribunal in 2013 and the findings accepted by Government.*

The policy, as adopted, is attached to these Terms of Reference.

The Tribunal is directed to inquire into and report on appropriate recognition for the Australian military personnel listed at **Attachment A**. The Tribunal is to examine relevant evidence, and consider the nature and context of the members' actions in order to arrive at a fair and sustainable response to claims for appropriate recognition.

Further, the Tribunal is also directed to receive submissions supporting the recognition of other Far East Prisoners of War who were killed while escaping or following recapture. Submissions should only be made if they are supported by appropriate evidence, and are in line with the policy outlined in these Terms of Reference.

During the course of the Inquiry, these additional submissions will be forwarded to the Department of Defence for consideration. Should the Department of Defence refuse to recommend those persons for a defence honour, then the Tribunal is to present Government with recommendations as to their eligibility for a defence honour.

Should the Tribunal, during the course of the Inquiry, discover evidence which identifies other Far East Prisoners of War who were killed while escaping or following recapture, the Tribunal is to forward that evidence to the Department of Defence for consideration. Should the Department of Defence refuse to recommend those persons for a defence honour, then the Tribunal is to present Government with recommendations as to their eligibility for a defence honour.

The Tribunal is to determine its own procedures, in accordance with the general principles of procedural fairness, when conducting its inquiry as set out in these Terms of Reference.

The Tribunal is to report, in writing, to the Assistant Minister for Defence on the findings and recommendations that arise from the Inquiry.

In making its findings and formulating its recommendations the Tribunal is required to maintain the integrity of the Australian honours and awards system and identify any consequential impact that any finding or recommendation may have on that system.

Submissions to the Tribunal close on **Friday 18 December 2015**.

## Attachment A

NX72445	Private Edward Ambrose Allen
QX6866	Gunner Francis Douglas Anderson
NX40693	Private Vernon Robert Boston
SX2600	Sergeant Rex Nelson Butler
QX15720	Private Keith Hamilton Costin
NX38584	Gunner Wally Crease
NX44987	Corporal Leigh Kevin Dawson (aka NX78229 - Kenneth Clifton Molde)
NX51899	Corporal Edward Victor Emmett
WX9230	Private Walter Cyril Evans
VX48685	Lance Corporal William Frederick Fairy
VX47892	Private John Scott Fletcher
NX67705	Private Charles Henry Forrester
NX55454	Private Charles Thomas Foster
NX34384	Gunner Eric John Fuller
WX14407	Private Standish O'Grady Haly
VX23670	Private Thomas Ignatius Harrington
NX36469	Private Frank Bartle Ledwidge
NX57952 (also N272492)	Private Gordon Radnedge
VX48478	Driver Herman Reither
NX71902	Private Jeffrey Norman Shelley
VX54067	Corporal Henry John Simpson
NX41647	Private Edward Kenneth Skinner
QX17430	Lance Bombadier Harry Ayrshire Treseder
NX53987	Private Charlie Urquhart
NX29683	Lieutenant Charles Arthur Wagner
NX40901	Private James D'Arcy Waygood
NX53777	Private Sidney Arthur Webber
NX78032	Private Alexander John Wilmott (aka NX32019 - John Allan Willmoth)

The Policy in respect of awards for Prisoners of War killed while attempting to escape

The policy, adopted by Australia in 1944, and outlined in the previous Inquiries conducted by the Tribunal, is described as follows:

In a British Army Order, published on 5 May 1919, the Army Council indicated that awards to prisoners of war:

may be considered appropriate provided that no blame has been attached to the individual in respect of original capture where:

- a. exceptional service had been rendered by officers and soldiers whilst prisoners of war or interned; or
- b. exceptionally gallant conduct and/or determination displayed by officers and soldiers in escaping or attempting to escape from captivity.<sup>1</sup>

In October 1942, a revised policy provided for those servicemen who showed outstanding performance, e.g., by escaping from prisoners of war camps, to be eligible for 'the same gallantry distinctions as are normally reserved for service under fire'. Whether or not an award was made and at what level was to be determined on the basis of post escape interviews with the individual concerned and others who had intimate knowledge of the actions.

Additional grounds for consideration for higher honours were given to those who:

- escaped after previous unsuccessful attempts;
- escaped when wounded;
- escaped alone;
- persisted in the attempt to escape when companions had thrown in their hands;
- acted as the leader of an escape party;
- brought back valuable information, etc.<sup>2</sup>

On 10 November 1943, the Imperial Prisoners of War Committee determined that prisoners of war who were killed while trying to escape should be regarded as eligible for consideration for the award of posthumous Mentions in Despatches. The relevant Defence Honours and Awards Committees in the United Kingdom confirmed this change in policy. To ensure a uniform system was adopted for dealing with such cases across all Imperial Forces it was decided that the following should be the procedures:

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<sup>1</sup> Defence Submission to the Tribunal's FEPOW Inquiry, received under cover of VCDF/OUT/2009/470 dated 23 July 2009, Attachment A to Enclosure 1

<sup>2</sup> Defence Submission to the Tribunal's FEPOW Inquiry, received under cover of VCDF/OUT/2009/470 dated 23 July 2009, Attachment D to Enclosure 1.

- (1) the Directorate of Prisoners of War [UK] to collect information from all sources concerning all prisoners of war killed while attempting to escape.
- (2) this information would be passed on in the case of Dominion, Indian or Colonial personnel to the Dominion representative concerned or to the India or Colonial Office for confirmation or for further information.
- (3) the Directorate of Prisoners of War would then decide in the light of all the evidence available whether the escape should be considered as genuine and if it is considered genuine should submit the facts to the Honours and Awards Branch of the Service concerned or to the Dominions, Colonial or Indian representative for consideration for an award. The decision whether or not a recommendation for an award should be made will be in the sole discretion of the Honours and Awards Branch of the Service concerned or of the Dominions, Colonial or Indian Forces.<sup>3</sup>

This change in Imperial policy was considered by the Australian Defence Committee which on 16 February 1944 noted that 'the same consideration should be given to prisoners of war belonging to the Royal Australian Navy, Australian Military Forces and Royal Australian Air Force who are killed while trying to escape'.<sup>4</sup> The United Kingdom authorities were informed of this decision on 25 March 1944.<sup>5</sup>

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<sup>3</sup> War Office Paper No PWCA/P(43)67, 10 November 1943, attached to letter, R. D. Wheeler, Australia House London, to Secretary, Department of the Army. NAA: A816, 66/301/60.

<sup>4</sup> Defence Committee Minute No. 53/1944, 'Posthumous Awards for Prisoners of War Killed while trying to Escape', 16 February 1944. NAA: A816, 66/301/60.

<sup>5</sup> Cable, Prime Minister's Department to High Commissioner London, 25 March 1944. NAA: A816, 66/301/60.



## EXECUTIVE SUMMARY

1. On 13 November 2015, the Assistant Minister for Defence, the Hon. Darren Chester MP, directed the Tribunal to inquire into and report on *Recognition for Far East Prisoners of War who were killed while escaping or following recapture* (the Inquiry).
2. The Inquiry was undertaken by the following Members of the Tribunal:
  - Naida Isenberg (Chair)
  - Rear Admiral James Goldrick AO CSC RAN (Retd)
  - The Hon Peter Lindsay OAM
  - Air Vice-Marshal John Quaipe AM (Retd)

### The Tribunal's findings

3. Unsurprisingly, the Tribunal found much of the evidence before it to be confronting.
4. Of the 22,000 Australian Prisoners of War captured by the Japanese during the Second World War, over 8,000 died while in captivity. Some of those were killed while escaping or following recapture. The *fate* of those Prisoners of War therefore served to identify who might be considered by this Inquiry. The Tribunal is aware that some successful escapes involved acts which may be considered to have been at least as meritorious as those under consideration by this Inquiry. The Tribunal acknowledges that this may lead to perceived inequities in circumstances where there may have been an act of gallantry other than one associated with an escape.
5. The Tribunal took the view that while there may have been a formal obligation to escape, that official position was almost impossible to sustain in the circumstances of those imprisoned in the Far East. In coming to this view the Tribunal accepted that, in escaping from Japanese captivity, a POW was undertaking a venture over and above his duty.
6. The Tribunal considered whether the *circumstances of the death* of a POW (who had been recaptured after escape) should be an alternate or additional focus for the consideration of a gallantry honour. The Tribunal's inquiries, however, identified that there were many POWs who died what could only be described as a 'gallant' death, but without the element of 'an escape'. For example, those who died stoically after experiencing excessive beatings or from the effects of disease and starvation. The Tribunal took the view that to focus, for the purposes of this Inquiry, on any gallantry associated with the *death* of a recaptured Prisoner of War was to inequitably disregard acts of selflessness and stoicism of those who had not engaged in an escape attempt.
7. Consequently, the Tribunal focussed on the evidence associated with the escape and its aftermath. Most weight was given to contemporaneous accounts of events. Understandably, this presented some significant difficulties to the Tribunal, given that the events in question occurred more than 70 years ago. This was particularly the case in respect of those who may have escaped from Sandakan in Borneo, where, out of approximately 2500 Prisoners of War, there were only 6 survivors, and consequently, very limited contemporaneous evidence.

8. During the course of the Inquiry, the Chief of the Defence Force established the Historical Honours Review Board to review some of the names identified. Through that process 15 names were recommended to the Chief of the Defence Force (through the respective Service Chiefs) for a Commendation for Gallantry, and the Tribunal understands those recommendations are to be made to the Minister. Those cases included some of the original 28 names, some from public submissions, some the Tribunal's research had identified, and some names Defence itself had identified. The Tribunal undertook its own evaluation of those cases at Appendices 10 to 17 and agreed that each case fell within the Terms of Reference of the Inquiry. The Tribunal noted the Chief of the Defence Force's recommendations.

9. Despite a thorough investigative process, in which the Tribunal reviewed the known circumstances of nearly 300 Prisoners of War, only in a limited number of cases could the Tribunal be reasonably satisfied that there was sufficient reliable evidence for it to be able to make a recommendation that the conduct met the eligibility criteria for a gallantry honour. **Recommendation 1** sets out those who are recommended for a Commendation for Gallantry. Individual case summaries of these individuals are attached at Appendices 2 to 9. The Tribunal observes that in respect of each of those persons recommended by the Tribunal for an honour, Defence has already had the opportunity to consider, through its Historical Honours Review Board, or otherwise, the person's circumstances and rejected that person for an honour.

10. The evidentiary difficulty referred to above led the Tribunal to the view that a point has already, or will soon be reached where it is unlikely that further reliable contemporaneous evidence in respect of any veterans of the Second World War will become available; it became increasingly clear to the Tribunal that further medallic recognition for veterans of the Second World War is unlikely to be achieved. The Tribunal notes that the cessation of hostilities<sup>1</sup> was now over 70 years ago and the official end of the Second World War<sup>2</sup> was nearly 70 years ago. The youngest living operational veteran of the Second World War would be aged at least 90. For these reasons the Tribunal decided to recommend that Section 110V(2) of the *Defence Act 1903* be amended to preclude further applications for medallic recognition for veterans of the Second World War. The recommendation is to the effect that a limitation period be introduced for claims for medallic recognition with respect to veterans of the Second World War with effect from 3 September 2020, that is, 75 years after the cessation of hostilities in the Second World War: see **Recommendation 2**.

11. Consistent with the Tribunal's evidentiary concern, and in fairness to veterans of subsequent conflicts, the Tribunal also recommends that consideration be given to adopting an appropriate limitation period with respect to subsequent conflicts: see **Recommendation 3**.

12. The Tribunal acknowledges that a number of its findings and recommendations may be disappointing to family members of deceased POWs and other interested parties. The Tribunal's role in this Inquiry was not one of remembrance of the sacrifice of POWs. Having said that, the Tribunal identified a profound need to ensure that the sacrifice of all POWs, and

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<sup>1</sup> 3 September 1945: s 5B(1)(b) *Veterans' Entitlement Act 1986*.

<sup>2</sup> The Second World War is taken to have ended on 28 April 1952, the date on which the Treaty of Peace with Japan came into force: s 5B(3)(b) *Veterans' Entitlement Act 1986*.

not only those who escaped and were killed while escaping or following recapture, continues to be acknowledged.

13. The Tribunal was immensely impressed with the work of the Australian War Memorial in recounting the stories of individuals, or groups of individuals, through programs such as its Last Post ceremony, and the nightly illumination of names (albeit in relation to veterans of the First World War) on its facade. The Tribunal considered further enhancement of the Australian War Memorial's existing program to increase awareness of the sacrifices of all Prisoners of War is more likely to keep their memory in the public mind and hence be more beneficial than individual medallic recognition: see **Recommendation 4**.

## SUMMARY OF RECOMMENDATIONS

14. The Tribunal makes the following recommendations:

**Recommendation 1:** The following are recommended by the Tribunal for the Commendation for Gallantry:

- NX76266 Lieutenant John Leslie **APPLEBY**
- TX3283 Corporal James Hubert **ARMSTRONG**
- WX7639 Private Phillip Mowbray Frank **BESSELL**
- VX15035 Private John **DOUGLAS** (also known as Samuel Solonsch)
- VX19728 Private John Edward **DURKIN**
- VX66131 Private James Frederick **ELMORE**
- NX51899 Corporal Edward Victor **EMMETT**
- WX7928 Private Jack Victor **JONES**
- WX 4609 Sergeant Howard Thomas **MANNING**
- 441469 Flight Sergeant John Victor **ORGILL**
- WX6574 Corporal Kenneth **STEWART**
- WX4113 Corporal Henry Francis **THOMPSON**
- NX53777 Private Sidney Arthur **WEBBER**
- WX4758 Sergeant Henry **WHITTON**

**Recommendation 2:** Section 110V(2) of the *Defence Act 1903* be amended to preclude further applications for medallic recognition with respect to veterans of the Second World War from 3 September 2020.

**Recommendation 3:** Section 110V(2) of the *Defence Act 1903* be further amended to preclude applications for medallic recognition with respect to post Second World War veterans after an appropriate period to be determined after the end of hostilities.

**Recommendation 4:** The Australian War Memorial be asked to further enhance its existing program so as to increase awareness of the sacrifices of all Prisoners of War.

# CHAPTER 1 - BACKGROUND TO THE INQUIRY

## The Defence Honours and Awards Tribunal and the 2009 Inquiry

1. Prior to the present Tribunal, the Defence Honours and Awards Appeals Tribunal, being established<sup>1</sup> on 5 January 2011, many of the functions of the Tribunal were undertaken by the Defence Honours and Awards Tribunal (the previous Tribunal) which had operated administratively from 2008.

2. On 24 June 2009, the previous Tribunal was directed to undertake an *Inquiry into Recognition for Far East Prisoners of War who were Killed While Escaping* (the 2009 Inquiry).

3. By the Terms of Reference for the 2009 Inquiry the previous Tribunal was tasked to:

- examine the Imperial recognition policy and practices extant during and immediately after the Second World War in respect of Prisoners of War who died while escaping from Japanese detention;
- consider whether this policy and practice was considered by Australian authorities in respect of Far East Prisoners of War and whether that policy and practice was recognised by the Commonwealth; and
- determine whether contemporary Australian recognition should be given to Far East Prisoners of War who died while escaping from the Japanese and the form of that recognition if applicable.

4. Due to the sensitive nature of the subject matter, the previous Tribunal was directed in its Terms of Reference to conduct its Inquiry without a public call for submissions. Consequently, it had limited material before it. Other than Defence, the submitters were South Australian historian, Mr John Bradford, a long-standing advocate in relation to this issue, and the President of the Returned and Services League of Australia, which organisation supported Mr Bradford's submission.

5. The previous Tribunal provided its report in April 2010. It found that there had been a policy whereby Prisoners of War belonging to the British forces who were killed while trying to escape, were to be regarded as eligible for consideration for the award of posthumous Mention in Despatches.<sup>2</sup> The (Australian) Defence Committee met on 16 February 1944 and expressed the opinion that the same consideration should be given to Australian Prisoners of War.<sup>3</sup>

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<sup>1</sup> Under the provisions of Schedule 1 of the *Defence Legislation Amendment Act 2010*.

<sup>2</sup> Imperial Prisoners of War Committee, Paper No. P.W.C.A/P(43)67, *Posthumous Mentions in Despatches for Prisoners of War Killed while Attempting to Escape*, 10 November 1943. NAA: A816, 66/301/30. It should be noted that only a limited number of gallantry awards, including the Mention in Despatches, were available posthumously under the Imperial Honours and Awards system.

<sup>3</sup> Defence Committee Minute No. 53/1944, 'Posthumous Awards for Prisoners of War Killed while trying to Escape', 16 February 1944. NAA: A816, 66/301/30.

6. The previous Tribunal examined the circumstances of 26 Far East Prisoners of War and found that 20 of those were eligible for consideration for posthumous Mentions in Despatches under that policy. As the Commendation for Gallantry, an award in the Australian honours and awards system, was regarded as the equivalent to the Mention in Despatches in the Imperial honours and awards system, recommendations were made for Commendations for Gallantry. The report stated:

The Tribunal considers that it is appropriate that the servicemen identified as having been executed during an escape or following recapture from a Prisoner of War Camp should be awarded retrospectively and posthumously the Commendation for Gallantry.<sup>4</sup>

7. On 6 March 2011, the Parliamentary Secretary for Defence Support announced that Government had accepted the recommendations of the 2009 Inquiry.<sup>5</sup>

### **The Defence Honours and Awards Appeals Tribunal and this Inquiry**

8. As mentioned above, the present Tribunal was established on 5 January 2011 under the *Defence Act 1903* (the Act). Aside from its review function,<sup>6</sup> the Tribunal has an inquiry function. In that capacity, the Tribunal is to inquire and make recommendations on eligibility (and other) issues relating to Defence honours and awards that the Government may refer to the Tribunal: s 110W of the Act. If the Minister directs the Tribunal to hold an inquiry into a specified matter concerning honours or awards the Tribunal must hold an inquiry, and report to the Minister. The Tribunal may make recommendations to the Minister.

9. In April 2011, a Ministerial media statement was released announcing the commencement of the Tribunal's *Inquiry into unresolved recognition for past acts of naval and military gallantry and valour* (the Valour Inquiry), and calling for submissions. Part of the Terms of Reference for the Valour Inquiry included that:

...the Tribunal is also directed to receive submissions supporting the recognition of acts of gallantry or valour performed by other members of the Defence Force. Submissions are only to be received where supported by appropriate documentation. Submissions based on hearsay or anecdotal evidence need not be considered. The Tribunal is to report to the Parliamentary Secretary for Defence on the detail of the additional submissions received in order for the Government to determine whether a proposal for recognition should be referred to the Tribunal for review.<sup>7</sup>

10. In August 2011, Dr Kevin Smith OAM provided a submission to the Valour Inquiry, nominating a number of former Prisoners of War for recognition. Two further submissions from Dr Smith, which included additional names, were received by the Valour Inquiry in May and June 2012.

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<sup>4</sup> Defence Honours and Awards Tribunal, *Report of the Inquiry into Recognition for Far East Prisoners of War who were Killed while Escaping*, 9 April 2010, para. 53 and Appendix 2.

<sup>5</sup> Media Release by Senator the Honourable David Feeney, Parliamentary Secretary for Defence Support, 'Commendation for Gallantry Awards for WWII Prisoners of War', 6 March 2011.

<sup>6</sup> See s 110V of the Act.

<sup>7</sup> Defence Honours and Awards Appeals Tribunal, *Report of the Inquiry into unresolved recognition for past acts of naval and military gallantry and valour*, 2013, p. ix-x.

11. At the conclusion of the Valour Inquiry in February 2013, the Chair of the Tribunal conveyed to the Government copies of all these submissions which sought recognition, together with the Tribunal's preliminary assessment of the appropriateness of supporting documents. This was to fulfil the direction in the Terms of Reference referred to above. In March 2013, the Parliamentary Secretary for Defence chose to refer the majority of submissions, including Dr Smith's three submissions, to the Chief of the Defence Force for consideration.

12. Army was directed by the Chief of the Defence Force to undertake a review of the nominees to determine if due process was followed in accordance with its policy. Service records were reviewed in order to ascertain the causes of death of each individual. No further investigation was undertaken at that time.

13. In August 2014, the Parliamentary Secretary for Defence advised the Chair of the Tribunal that, following advice from the Chief of Army that where the cause of death identified on the service record of the 28 names provided by Dr Smith was 'clearly identified' and was unrelated to the individual attempting to escape or being recaptured, Army 'will not pursue further recognition'. The Parliamentary Secretary accepted the Chief of Army's recommendations that only 17 of the 28 names submitted by Dr Smith for consideration should be referred to the Tribunal and, pursuant to s 110W of the Act, gave the Tribunal the direction in August 2014. In addition to the above, the direction also mentioned that, should additional individuals be identified for consideration, the Tribunal was to make a public call for submissions to assist in identifying all potentially eligible individuals.<sup>8</sup>

14. As the term of five of the Tribunal's ten Members ended and new members were appointed in August 2014, as well as a new Chair in November 2014, consideration of the August 2014 direction did not take place until early 2015. At that time, the Chair of the Tribunal chose to consult with Tribunal Members, who expressed concerns that the direction may circumvent the Tribunal's review jurisdiction as, under the Act, Dr Smith had a right of review of the decision not to review the 11 names not included in the August 2014 direction.

15. After further deliberation and discussion, including how best to call for public submissions, the Tribunal submitted to Government a proposed amendment to the August 2014 direction, which included that the Tribunal conduct an Inquiry in accordance with the policy as attached to the Terms of Reference, into the actions of all 28 personnel identified by Dr Smith.

16. Terms of Reference for this Inquiry were agreed by the Government on 4 November 2015 and are discussed in Chapter 2 below.

17. On 13 November 2015, the Assistant Minister for Defence, the Hon. Darren Chester MP, announced that the Tribunal would conduct an Inquiry into recognition for Australian personnel who served during the Second World War, were Far East Prisoners of War, and were killed while escaping or following recapture.

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<sup>8</sup> Letter from the Hon Darren Chester MP to the Chair, DHAAT, MA14-000674, 8 August 2014.

### **Constitution of the Inquiry panel**

18. The Chair of the Tribunal appointed the following members of the Tribunal to conduct the Inquiry:

- Ms Naida Isenberg (Presiding Member)
- Rear Admiral James Goldrick AO CSC RAN (Retd)
- The Hon Peter Lindsay OAM
- Air Vice-Marshal John Quaife AM (Retd)

19. No conflicts of interest were declared.

## CHAPTER 2 - THE INQUIRY TERMS OF REFERENCE

1. The Terms of Reference directed the Tribunal to inquire into and report on the eligibility for recognition of Australian personnel who served during the Second World War, who were Far East Prisoners of War, and who were killed while escaping or following recapture. In particular, the Tribunal was directed to inquire into and report on appropriate recognition of the 28 Australian personnel who were listed in Attachment A to the Terms of Reference.

2. The Tribunal was to examine relevant evidence and consider the nature and context of these members' actions in order to arrive at a *'fair and sustainable response to claims for appropriate recognition'*. In doing so, the Tribunal was to take into account the policy, enunciated by the Imperial Prisoners of War Committee in 1943 and adopted by Australia in 1944, that Prisoners of War who were killed while trying to escape should be regarded as eligible for consideration for the award of posthumous Mentions in Despatches. This policy, further described in the Terms of Reference, was outlined in the 2009 Inquiry and also in the Valour Inquiry.

3. The Tribunal was also directed to call for submissions supporting the recognition of other Far East Prisoners of War who were killed while escaping or following recapture. Submissions were only to be made where they were supported by appropriate evidence. These additional submissions were to be forwarded to Defence for consideration. Should Defence refuse to recommend those persons for a defence honour, then the Tribunal was directed to present Government with recommendations as to their eligibility for a defence honour.

4. If, during the course of the Inquiry, the Tribunal located evidence which identified other Far East Prisoners of War who were killed while escaping or following recapture, the Tribunal was to forward that evidence to Defence for consideration. In the event that Defence refused to recommend those persons for a defence honour, then the Tribunal was directed to present Government with recommendations as to their eligibility for a defence honour.

5. In conducting the Inquiry, the Tribunal was directed to take into account the policy, adopted by Australia in 1944, and outlined in the 2009 Inquiry by the previous Tribunal into the recognition for Far East Prisoners of War who were killed while escaping, and in the Valour Inquiry. A copy of the policy was attached to the Terms of Reference, and is discussed in detail below.

6. In making its findings and formulating its recommendations the Tribunal was required to maintain the integrity of the Australian honours and awards system and identify any consequential impact that any finding or recommendation may have on that system.



## The scope of the Terms of Reference

7. It was clear from the Terms of Reference that the Tribunal was *only* being asked to consider those Prisoners of War who had been killed while escaping or following recapture. The *fate* of those Prisoners of War therefore served to identify who might be considered by this Inquiry for medallic recognition. Prisoners of War who had *successfully* escaped were therefore excluded from consideration, irrespective of any gallantry that may have been associated with the escape. The Tribunal is aware from its research that some of those successful escapes involved acts which may be considered to have been at least as meritorious as those under consideration by this Inquiry. Similarly, even if the Tribunal could be satisfied as to evidence of an escape, if there was insufficient reliable evidence that they had been killed because of that escape, those prisoners were also excluded from consideration by virtue of the Terms of Reference.

8. Also, the Tribunal accepts that, having regard to the circumstances in some of the camps – such as, severe routine beatings and deprivation of food and medical supplies - the decision *not* to attempt to escape the camp, may have required an element of courage in the face of likely death. Other POWs, faced with imminent death, simply because they were unable to continue, for example, fell from the track,<sup>1</sup> and were killed by their guards, but could not be said to have attempted escape. Further, those who were able to elude capture by skill or cunning or some other means, and thereby did not become POWs, were also excluded by the Terms of Reference from consideration.

9. The Tribunal therefore needed to be reasonably satisfied that there was an escape by a POW before it could proceed further with its deliberations. Only after the Tribunal was satisfied that a person's circumstances fell within the Terms of Reference did it proceed to the second stage of the Inquiry, namely consideration of medallic recognition.

10. The Tribunal considered whether the circumstances of the death of a POW (who had been recaptured after escape) should be an alternate or additional focus for the consideration of gallantry, rather than the circumstances of the escape. The Tribunal's inquiries, however, identified that there were many Prisoners of War who died what could only be described as a 'gallant' death, but without the element of 'an escape'. For example, those who died after experiencing excessive beatings for declining to inform on perceived miscreants or for even for minor transgressions; while still others died stoically, from the effects of disease and starvation. Anecdotally, sometimes remaining POWs were mistreated after the escape of one of their comrades. The Tribunal took the view that to focus, for the purposes of this Inquiry, on any gallantry associated with the manner of *death* of a recaptured Prisoner of War would inequitably disregard acts of gallantry in meeting their death by those who had not engaged in an escape attempt, but who had nonetheless been 'killed'.

11. The Tribunal also considered the extent to which the actions of an escaped Prisoner of War while at large should be taken into account in the consideration of gallantry. Dr Smith submitted that the 'escape' should not be regarded as concluded until the escaped Prisoner of War had successfully rejoined the Australian Military Forces. The Tribunal noted that there were examples<sup>2</sup> of escaped POWs who had been killed in action while serving with an

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<sup>1</sup> E.g. during the Sandakan 'death marches'.

<sup>2</sup> E.g. NX29683 Lieutenant Charles Arthur Wagner and SX2600 Sergeant Rex Nelson Butler.

established guerrilla unit, while at large. The Tribunal decided that those actions, while at large, were more appropriately considered independently of this Inquiry.

12. By contrast, there were examples of other escaped POWs<sup>3</sup> who engaged in subversive activities for example, in support of the Dutch resistance. The Tribunal considered that the actions of those escaped POWs, and their ongoing perseverance and resourcefulness in avoiding detection and recapture whilst engaged in resistance activity for an extended period of time, should be considered for medallic recognition.

13. The Tribunal acknowledges that the narrow scope of the Terms of Reference may lead to perceived inequities in circumstances where there may have been an act of gallantry which is not associated with the escape of a POW. Notwithstanding the omission from consideration by this Inquiry, the sacrifice of those other POWs is in no way denigrated, and the Tribunal specifically acknowledges the sacrifices of all POWs.

### **Interpretation of Terms of Reference**

14. Early in its consideration of the scope of the Inquiry, because of the large number of names brought before it, the Tribunal decided that, for consistency, it would be assisted if it were to apply some definitions to aid its process of determining who might properly be regarded as within the scope of the Terms of Reference. In doing so, the Tribunal sought to ensure that all persons brought to its attention would be considered consistently, irrespective of the manner by which a name came to the Tribunal's attention. As a result, not all the names specifically placed before the Tribunal in the Terms of Reference<sup>4</sup> were found to actually fall within the scope of the Inquiry. For example, with respect to some of those POWs the Tribunal could not be reasonably satisfied that they had actually escaped, or that their death could not be attributed to their escape.

15. For consistency, the Tribunal adopted the following definitions for the purposes of this Inquiry:

**Prisoner of War:**

An Australian serviceman who, during the Second World War, was captured by or on behalf of the Japanese.

**Escape:**

The deliberate act of breaking free or attempting to break free from captivity. No requirement for planning was required, and consequentially, spontaneous escape attempts because of opportunity are included.

**Killed:**

There is a requirement for some action/intervention by captors.

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<sup>3</sup> E.g. NX76266 Lieutenant John Leslie Appleby and VX15035 Private Samuel Solonsch.

<sup>4</sup> Each is discussed individually later in the Report.

**Recapture:**

If an escaped Prisoner of War was located and apprehended, even by chance, he was 'recaptured'. An escaped POW may have been recaptured by locals sympathetic to the Japanese. Recapture excludes the voluntary return to custody.

**Killed ... following recapture:**

The killing of the Prisoner of War must have been as a consequence of escaping, and there must have been some temporal connection between the recapture and being killed. In respect of death by mistreatment, the recaptured Prisoner of War must have been singled out for mistreatment over and above that meted out to other POWs.

## CHAPTER 3 - CONDUCT OF THE INQUIRY

1. The Terms of Reference informed the methodology adopted by the Tribunal, although the Terms of Reference specified that the Tribunal was to determine its own procedures, in accordance with the general principles of procedural fairness.
2. On 14 November 2015 advertisements were placed in major newspapers nationally giving notice of the Inquiry and calling for submissions by 18 December 2015.
3. Through the advertisements, the Tribunal received a further 17 separate written submissions from a number of organisations and individuals. The Tribunal also agreed to accept one late submission. Defence also nominated 11 persons for consideration. In all, through submissions, an additional 43 former Prisoners of War were identified for consideration of recognition. Those who made these submissions and those they nominated are listed at Appendix 55. While the Terms of Reference specified that submissions were only to be 'received' if supported by appropriate evidence, the Tribunal took a broad view and referred all submitted names for research, in order to be satisfied whether each might fall within the scope of the Inquiry.
4. The Tribunal held an initial meeting on 10 December 2015 to scope the task and identify areas about which it required further research. A large number of deliberative meetings were held throughout the course of the Inquiry, the dates of which are set out at Appendix 56. In addition, because of the very complex issues to be considered, the Tribunal held multiple informal exchanges and consultations throughout the course of the Inquiry.
5. The Tribunal decided that, in view of the large numbers of POWs who may fall within the Tribunal's Terms of Reference, it required some additional assistance to supplement its own research. Consequently, Ms Lynette Silver OAM, a researcher and historian with special interest in relation to Far East Prisoners of War, especially the 8th Division AIF, assisted by Ms Di Elliott, was engaged to provide support to the Tribunal's Secretariat. The Tribunal acknowledges, and is grateful for the assistance of both Ms Silver and Ms Elliott.
6. The Terms of Reference specified that, if during the course of the Inquiry the Tribunal identified other Far East Prisoners of War who were killed while escaping or following recapture, those names were to be considered also. The Tribunal Secretariat and Ms Silver's research identified a very large number of other persons. Applying the definitions referred to in Chapter 2 above, the Tribunal found though that, of the names identified through its research, it could only be reasonably satisfied that 23 additional persons fell within the Terms of Reference, and would be considered further.
7. The Tribunal took the view that all persons specifically referred to it by the Terms of Reference (28 individuals), those the subject of submissions (43 individuals), and those identified through its own research (23 individuals) as possibly falling within the Terms of Reference were to be reviewed in detail. In total, the Tribunal reviewed in detail the actions of 94 individuals. Their names, and how they were brought to the Tribunal's attention, are at Appendix 1. Those found not to fall within the Terms of Reference were not further considered for medallic recognition, but were however, continuously reviewed for consistency purposes.

## **Public hearings**

8. The Tribunal decided that it would provide submitters an opportunity to elaborate upon their written submissions. Public hearings were conducted over six separate days. The Tribunal heard oral evidence from 11 submitters as well as oral evidence from various representatives of Defence. Details are set out at Appendix 56.

9. Submitters who attended were invited to speak to their written submissions, and to respond to the Tribunal's questions.

10. Defence was invited to attend each hearing day so as to be better able to assist the Tribunal. Defence was given the opportunity to comment upon both the written and oral submissions of each submitter, as well as being invited to elaborate upon its own written submissions, and to respond to the Tribunal's questions.

## CHAPTER 4 - DEFENCE'S EVOLVING APPROACH

1. Prior to the commencement of the Inquiry, Defence had formed the view that, of the 28 persons identified by Dr Smith, the cause of death of 11 of those individuals was illness and therefore was not related to an escape attempt, and no further action was taken. Of the remaining 17 identified by Dr Smith, the cause of death was considered to be either unknown, or as a result of attempting to escape or being recaptured. These were referred to the Tribunal. The Tribunal took the view with respect to all 28 that there had been a deemed refusal in that all 28 were not to be given medallic recognition.

2. In accordance with the Terms of Reference, the other names which came to the Tribunal's attention through submissions or the Tribunal's own research were referred to Defence for consideration, and, if there was no recommendation for an award, for its comment in respect of those persons. The Tribunal was aware that for the purposes of making its decisions with respect to individuals and its submissions to the Tribunal, Defence adopted similar, but not identical, definitions to those which the Tribunal had formulated. Overall, Defence's definitions were more restrictive.

3. Defence also responded to a number of separate requests throughout the Inquiry. Defence also made a number of submissions,<sup>1</sup> and had several representatives<sup>2</sup> make detailed oral submissions in the course of the public hearings.

4. In the Vice Chief of the Defence Force's submission to the 2009 Inquiry, Defence did not support recognition for Prisoners of War who died or were killed while escaping, beyond the individual awards made at the time with the benefit of contemporary knowledge and standards.<sup>3</sup> It was submitted that the policy made provision for Prisoners of War who had been executed after recapture, in circumstances where they had little or no chain of command through which their actions could be represented. However, the submission argued that not all escapes were appropriate for recognition and 'their actions must be measured against their peers, thus maintaining the quality and integrity of similar awards made to others. Unless there was evidence of 'exceptional circumstances' awards should not be made'.

5. In its first written submission to the present Inquiry,<sup>4</sup> Defence, however, while noting its submission to the 2009 Inquiry, acknowledged '*the reality of the changing nature of the honours and awards landscape and, from the lessons learned through more recent inquiry processes, the requirement to conduct reviews of retrospective honours and awards matters*'. In this context, Defence said that, in response to applications for retrospective consideration of honours, it had adopted the guidelines established by the Valour Inquiry, namely first conducting a process review, only then, if appropriate, a merits review.

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<sup>1</sup> 10 December 2015, 26 February 2016, and 2 December 2016, 23 January 2017, 5 April 2017 and 15 May 2017.

<sup>2</sup> Ms Margot Kropinski-Myers, Air Vice Marshal Greg Evans DSC AM, Brigadier Mark Holmes AM MVO, Air Commodore John Meiers, Colonel Michael Collie, Major Phil Rutherford, Flight Lieutenant Simon Hall, Mr Martin James, Mr Brett Mitchell.

<sup>3</sup> Vice Chief of the Defence Force minute VCDF/OUT/2009/470, *Defence Input to Defence Honours and Awards Tribunal - Recognition for Far East Prisoners of War who were Killed while Escaping*, 23 July 2009.

<sup>4</sup> Chief of the Defence Force minute CDF/OUT/2015/1564, dated 10 December 2015.

6. Defence observed that the policy, as attached to the Terms of Reference, referred to the *'discretionary powers vested in the authorities responsible for recommending awards'*, and concluded that *'provision was made for consideration of recognition for those who died while escaping or were executed after recapture'*; that being on a discretionary basis. Defence submitted that a person's eligibility for a posthumous award under the provisions of the Imperial Prisoners of War Committee policy, was to be considered on a discretionary basis and not seen as an automatic entitlement.

7. Defence observed that the 2009 Inquiry referred to the application of the values of 1945 *'set out in the eligibility criteria for the posthumous Mention in Despatches adopted by the Australian government'*,<sup>5,6</sup> but noted that the 2009 Inquiry pre-dated the Valour Inquiry and for this reason is likely to have applied different considerations to those established by the Valour Inquiry and used in subsequent reviews.

8. Defence was also critical of the 2009 Inquiry, submitting that no evidence was included in its Report that the actions and service of those recommended for a Commendation for Gallantry had been considered against the eligibility criteria for that award.

9. On 27 February 2017, the Tribunal was informed by the Chief of the Defence Force,<sup>7</sup> that, of the cases the Tribunal had referred to Defence for comment, 18 were to be considered by a newly-established Historical Honours Review Board (the Defence Review Board) to *'make a recommendation on the most suitable category of award in each case'*. Those cases included some of the original 28 names from the Terms of Reference, some from public submissions, some ascertained through the Tribunal's research, and some names Defence itself had identified in its submission in response to the Terms of Reference.

10. The Tribunal informed the Chief of the Defence Force that it welcomed the establishment of the Defence Review Board.<sup>8</sup> It was apparent to the Tribunal that, in setting up the Defence Review Board, Defence had adopted a view that it would now consider the merits of a submission, and no longer relied on the need for evidence of maladministration in the medallic recognition process before it would proceed to consider the matter.

11. On 5 April 2017, the Tribunal heard evidence from Air Vice Marshal Greg Evans DSC AM, the Chair of the Defence Review Board about the process it was adopting. By that date, the Tribunal was informed, the Defence Review Board had recently met and was making favourable recommendations to the Chief of the Defence Force, through the Service Chiefs, in respect of a number of those it had considered.

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<sup>5</sup> Defence Honours and Awards Tribunal, *Report of the Inquiry into Recognition for Far East Prisoners of War who were Killed while Escaping* (the 2009 Inquiry), 9 April 2010, para. 49.

<sup>6</sup> Defence Honours and Awards Appeals Tribunal, *Report of the Inquiry into unresolved recognition for past acts of naval and military gallantry and valour*, 2013, para. 11-39.

<sup>7</sup> Letter, Chief of the Defence Force to Chair DHAAT, CDF/OUT/2017/172 27 February 2017.

<sup>8</sup> Letter, Chair DHAAT to the Chief of the Defence Force, DHAAT/OUT/2017/080, 3 March 2017.

12. The outcome of the Defence Review Board's recommendation, the Tribunal was informed, was that 15 personnel were being recommended to the Minister for a Commendation for Gallantry:

- QX20799 – Private Arthur Francis **DAVEY**
- TX3482 – Lieutenant Wilkins **FITZALLEN**
- QX8367 – Private Arthur Edward **FORD**
- NX55454 – Private Charles Thomas **FOSTER**
- NX42478 – Private Raymond Leslie **GERAGHTY**
- NX27912 – Private Edwin Money **GOODRICK**
- NX10420 – Private Robert **GOULDEN**
- NX32767 – Corporal Michael David **GRACE**
- VX50024 – Private George Alfred **IRWIN**
- VX33158 – Private Norman Heather **MCARTNEY**
- NX4334 – Private Edward **MOFFATT**
- NX77958 – Private James **O'DEA** (also known as James Henry Arthur **WHITCOMBE**)
- VX19415 – Private Frederick Norman **SCHAEFER**
- 250641- Squadron Leader Daryl Maxwell **SPROULE**
- TX 3397 – Sergeant Bertram John **WEST**

### **Defence's final position**

13. At the hearings on 5 April 2017 and 15 May 2017 Air Vice Marshal Evans explained the approach taken by the Defence Review Board. He explained that the Defence Review Board assessed each of the persons referred to it against five criteria:

- Was the person a Prisoner of War?
- Had the person escaped?
- Had the person been recaptured?
- Had the person been killed?
- Was the person 'worthy of recognition'?

14. The evidence was that the Defence Review Board had looked for characteristics by an escaping POW of a determination to deny the enemy's objectives, and considered that the act of escaping implies a determination to thwart those objectives. In addition, it looked for evidence of initiative and courage. There needed to be a determined attempt to return to Australia, whether or not that was a realistic goal; there needed to be prospects of getting away, even though those prospects might be grim.<sup>9</sup> Somewhat inconsistently, it was also suggested that those POWs who were 'at the end of their tether' should be considered also.

15. The Defence Review Board had taken the view that an escaped prisoner who was located by chance and was killed, did not amount to recapture.<sup>10</sup> 'Recapture', it was submitted, also required the escaped prisoner to be back 'in Japanese hands'.

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<sup>9</sup> Oral submission, AVM Evans, 15 May 2017.

<sup>10</sup> Oral submissions, AVM Evans and BRIG Holmes, 15 May 2017.



16. When asked to elaborate on what the Defence Review Board had taken into account in its consideration of ‘worthy of recognition’, Air Vice-Marshal Evans’ evidence was that there was to be no evidence of improper conduct, such as treasonous or other ‘disgraceful’ behaviour. The Defence Review Board included surrender in the assessment of ‘unworthiness’. The approach of the Defence Review Board was that if a person met the four other requirements, and in the absence of ‘unworthiness’, it would consider if the person would have been awarded a Mention in Despatches. If so, the person was recommended for a Commendation for Gallantry, as the ‘equivalent’ of the Mention in Despatches. When asked about consideration of higher honours, the Tribunal was informed that, while the Defence Review Board had considered a couple of individuals for higher recognition, in the interest of consistency of approach no recommendation was made for any higher honours.

17. Some Defence submissions expressed the view, to the effect, that while every escape involved an element of gallantry, greater weight should be given to an escape where the POWs were under a structured form of incarceration, and that relative ease of escape should be a factor in the Tribunal’s deliberations.

18. Other Defence submissions focussed on whether the prisoner was likely to have known he would be executed if recaptured, given that the warning notice of penalty for attempted escape was likely to have been widely communicated.<sup>11</sup> Another of Defence’s contentions was to the effect that the members often had experience in the First World War or had heard from others about the prospect of being executed if recaptured, and consequently were well-informed of the likely peril to be faced in attempting to escape.<sup>12</sup> The Defence Review Board did not regard knowledge of likely penalties to be a requirement for consideration.<sup>13</sup>

19. One Defence submission was to the effect that what was required for a person to come within the Terms of Reference was that they had not merely been ‘killed’ on recapture, but had in fact been executed. There was a view that it was necessary that there was some official Japanese decision to execute the person, such as by conducting a trial.<sup>14</sup> Alternatively, there could also be an element of making an example of the prisoner, as a means of maintaining discipline.<sup>15</sup>

20. There was general acknowledgement by Defence that there were significant evidentiary difficulties having regard to the passage of time.

21. Finally, at the hearing on 15 May 2017, Defence expressed that it had concerns for the integrity of the honours system, lest ‘the floodgates’ should open.<sup>16</sup> The Tribunal understands this submission to express a concern that, if the Tribunal were to find that many relevant persons met the eligibility criteria for an honour, then this could lead to a plethora of applications, and the ultimate dilution of honours awarded to date.

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<sup>11</sup> E.g. oral submissions, Ms Kropinski-Myers and MAJ Rutherford, 15 May 2017.

<sup>12</sup> Oral submission, Mr James, 15 May 2017.

<sup>13</sup> Oral submission, AVM Evans, 15 May 2017.

<sup>14</sup> Oral submission, MAJ Rutherford, 15 May 2017.

<sup>15</sup> Oral submission, Ms Kropinski-Myers, 15 May 2017.

<sup>16</sup> Oral submission, AVM Evans, 15 May 2017.

## CHAPTER 5 - TRIBUNAL CONSIDERATION

1. Before undertaking its consideration of the merits of individual cases, the Tribunal reviewed firstly the historical context in relation to POWs in the Far East.
2. Next, the Tribunal considered whether there was a duty to escape, and if so, whether POWs who escaped were doing no more than fulfilling their service obligations.
3. The Tribunal then reviewed the historical policy with respect to medallic recognition for POWs, and what medallic recognition for POWs there has been to date. In the course of doing so, it reviewed Defence's current approach, as articulated in its written and oral submissions. The Tribunal took the historical policy into account throughout its deliberative process. In particular, the policy informed the Tribunal's consideration in respect of higher awards, but as discussed below, the Tribunal's obligation was to apply the gallantry criteria.
4. The Tribunal reviewed the current Australian honours system and the eligibility criteria for gallantry decorations, especially in the POW context.
5. The Tribunal reviewed each of the cases recommended by the Defence Review Board for an honour. In each of those cases, the Tribunal had already formed the view, before the Defence Review Board was established, that those cases would fall for consideration in the course of the Inquiry, as each came within the Terms of Reference. As to the remainder reviewed by the Defence Review Board, that is, those in respect of whom no recommendation for an honour was made, the Tribunal invited Defence to address the Tribunal in relation to those matters and why they may have fallen short of positive consideration by the Defence Review Board. The Tribunal proceeded to consider those matters itself.
6. As to those cases referred to Defence but which had not been forwarded to the Defence Review Board, the Tribunal considered that there had been no recommendation for an award, and, in accordance with the Terms of Reference, it was obliged to consider those names as against the eligibility criteria, subject to falling within the scope of the Inquiry.
7. The Tribunal took the view that with respect to each name brought to its attention, if the circumstances were found to fall within the Terms of Reference, then those circumstances were examined against the eligibility criteria for a gallantry award. In that way, each case was considered on its merits, irrespective of how the matter had come to the Tribunal's attention.
8. In all, a total of 94 Far East Prisoners of War were considered in detail by the Tribunal. Reports with respect to each are attached at Appendices 2 to 53.
9. In all, the Tribunal decided, for reasons discussed in Chapter 11 below and in the individual case summaries that medallic recognition is recommended in relation to 14 of the Far East Prisoners of War it considered. In making its recommendation in respect of each of these persons the Tribunal reviewed the available evidence of their actions against the eligibility criteria for the Australian Gallantry decorations, including the appropriate level of that award.

10. While the Tribunal was able to form a view about whether it had sufficient evidence of an act of gallantry in the cases it found to be within its Terms of Reference, it took the view that, for a higher honour, there would need to be significant reliable contemporaneous evidence of the additional elements in the eligibility criteria.

11. Throughout its deliberative process, the Tribunal was conscious of the necessity of preserving the integrity of the honours system, and has made every effort for consistency in the individual case analyses.

## CHAPTER 6 - HISTORICAL BACKGROUND

1. Altogether approximately 22,000 Australian servicemen were captured and detained in Prisoner of War camps across South East Asia and in Japan after the fall of Malaya, Singapore, the Dutch East Indies and other nearby countries. Of these, more than 15,000 members of the Australian Military Forces were captured when, on 15 February 1942, Singapore fell to the forces of the Imperial Japanese Army.<sup>1</sup> Throughout the War, Changi in Singapore was the main camp from which working parties were sent to other destinations. Australian Prisoners of War were sent from Singapore to:

- Burma - A Force
- Thailand - D, F and H Forces and K and L Forces (both medical forces)
- Japan - C, G and J Forces; Senior Officers' Party
- Borneo - B and E Forces
- Manchuria, Indochina, Formosa and Korea - others

2. Other significant groups<sup>2</sup> of Australian Prisoners of War were those captured in:

- Java - 2,750
- Timor – 1,150,
- Ambon – 1,100, and
- New Britain – 1,050.<sup>3</sup>

3. The vast majority - about 21,000 – were Army personnel, with Royal Australian Navy and Royal Australian Air Force personnel totalling less than 800. Of the 22,000 Australian Prisoners of War captured by the Japanese, over 8,000 died while in captivity. For three years, most of the prisoners were brutally treated. According to the Hon Athol Moffitt CMG, OAM, QC, a prosecutor before the War Crimes Tribunal that considered the atrocities that took place at Sandakan late in the War, *the tragedy, with its savagery and sheer barbarity and the total elimination of so many men in captivity, was unequalled in the Asian and Pacific theatres of war and in the entire experience and history of the Australian people.*<sup>4</sup>

4. Further details are provided at Appendix 54.

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<sup>1</sup> Most were from the 8<sup>th</sup> Division AIF.

<sup>2</sup> Numbers are approximate.

<sup>3</sup> See [https://www.awm.gov.au/articles/encyclopedia/pow/ww2\\_japanese](https://www.awm.gov.au/articles/encyclopedia/pow/ww2_japanese)

<sup>4</sup> Address by the Hon. Athol Moffitt, CMG OAM QC at Sydney Legacy on 9 October 1986.

## CHAPTER 7 - THE RULES FOR THE TREATMENT OF PRISONERS OF WAR AND THE DUTY TO ESCAPE

1. During the Second World War, the contemporary international agreement covering the treatment and management of Prisoners of War was the *Convention Relative to the Treatment of Prisoners of War*, signed at Geneva on 27 July 1929, known as the 1929 Geneva Convention.<sup>1</sup> This Convention reflected the experience of the First World War and was intended to remedy the deficiencies of earlier agreements made in 1899 and 1907.<sup>2</sup>

2. Japan signed the 1929 Convention on its day of issue, but did not ratify it, remaining one of nine 'state signatories' rather than one of the 53 ratifying states. With the exception of the Union of Soviet Socialist Republics, all the other major protagonists of the Second World War,<sup>3</sup> including Australia,<sup>4</sup> had signed and ratified the Convention before 1939.

3. The Convention laid down the conditions under which prisoners of war could be kept and, subject to a number of restrictions, employed as workers. After capture, Prisoners of War remained under military command and subject to military discipline. They were required to wear their military uniforms and badges of rank. Prisoners could give their parole, that is, a promise not to escape.

5. The Convention contained no rules specifically relating to escape, other than an indication that the captor was entitled to treat an escape attempt as equivalent to a disciplinary offence<sup>5</sup> and thus open to the same forms of punishment, including closer confinement<sup>6</sup> of no more than 30 days. Jurists have argued that these rules were developed because a Prisoner of War's duty to attempt escape was inherently recognised by international law and that there was a need 'to forestall the temptation with the enemy to regard the act as similar to desertion and therefore punishable with death'.<sup>7</sup>

6. Escape from confinement thus seems to have been regarded as inherently within the laws of armed conflict, but with certain restrictions. Captors were entitled to use force in preventing an escape, up to and including lethal force.

7. Prisoners effectively resumed their active combatant status on initiating an escape attempt, and consequently remained subject to the rules of warfare. Thus, while it could be legitimate to attack a military person (provided that the attacker did so while wearing military uniform and not a disguise), any harm done to a civilian or, arguably, civilian property, could be considered a criminal act.

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<sup>1</sup> Text available at: <https://www.icrc.org/applic/ihl/ihl.nsf/INTRO/305?OpenDocument>

<sup>2</sup> The Convention itself was replaced by the third Geneva Convention of 1949.

<sup>3</sup> List of Ratifications and Accessions – International Convention Relative to the Treatment of Prisoners of War' Appendix 24, *Australian Edition of Manual of Military Law 1941* Army Headquarters, Melbourne, 31 January 1941, p. 384.

<sup>4</sup> Australia had arguably done so as part of the United Kingdom's ratification on 23 June 1931, this being six months before the passage of the Statute of Westminster, but in fact it ratified the convention in its capacity as a separate member of the League of Nations on the same day.

<sup>5</sup> vide Article 50.

<sup>6</sup> vide Article 48.

<sup>7</sup> J.B. Scott, *Reports to the Hague Conferences of 1899 and 1907* (Carnegie Endowment of International Peace, 1917) cited in Thomas Penberthy Fry, *Legal Aspects of the Departure of Major General Gordon Bennett from Singapore*, Angus & Robertson, Sydney, 1950, p. 14.

8. Escape attempts were expected to be individual acts, rather than collective ones. Cooperative escapes were not barred, but group efforts which resulted in 'riots' or 'rebellions' could be considered criminal and dealt with accordingly. Notably however, attempted escape could not be treated as aggravation of a criminal offence committed during that attempt.<sup>8</sup>

9. There may have been a reasonable expectation in 1941 that, in South East Asia, Japan would hold to the same standards, given its accession to the 1929 Convention and its reasonably good record in the treatment of Russian prisoners in 1904-05 and German captives in 1914-1918. However, this misconception would have been very quickly dispelled. In particular, the risks of any escape attempt to both the individuals concerned and the remainder of the POWs in South East Asia were soon clearly very much greater than those in the European theatre. In addition to atrocities committed during the Malaya campaign, mistreatment and executions were taking place as early as February 1942. The use of force in preventing an escape was effectively unrestrained, as was the use of reprisals, up to and including executions and appalling collective punishments, which were specifically prohibited by the 1929 Convention.

## THE 'DUTY' TO ESCAPE

10. It is fair to state that in the British and Commonwealth services in 1939 an attempt to escape was considered to be within the scope of a prisoner's duty. However, this was understood to be an inherently subjective decision and absolutely dependent upon individual circumstances. Furthermore, this did not mean that there was necessarily a 'duty' laid down in the King's Regulations or Service Instructions for servicemen to escape. The concept of a duty to escape has been labelled by one historian as one of the 'myths' of the Second World War.<sup>9</sup> The truth is more complex and the approach to the matter differed between the Services.<sup>10</sup>

11. The actual requirement for the Australian Army in relation to conduct as a Prisoner of War was covered by s 5 of the British *Army Act*.<sup>11</sup> Its provisions state:

5. Every person subject to military law who on active service commits any of the following offences, that is to say...

(3) Is taken prisoner, by want of due precaution, or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner fails to rejoin His Majesty's service when able to rejoin the same...

shall, on conviction by court-martial, be liable to suffer penal servitude, or such less punishment as is in this Act mentioned.<sup>12</sup>

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<sup>8</sup> Vide Article 51.

<sup>9</sup> Guy Walters 'Five myths of the WW2 Great Escape' *History Extra* (also *BBC History Magazine* July 2012) <http://www.historyextra.com/feature/five-myths-ww2-great-escape>.

<sup>10</sup> Guidance for the Australian Army and the RAAF is set out in the main text. No RAN personnel come within the scope of this inquiry and the RAN does not appear to have itself issued guidance. In the absence of this, Admiralty Fleet Orders would have been considered the authority for the RAN. AFO 707/43 (18 February 1943) states that 'It is the duty of a prisoner of war *during operations* [italics supplied] to escape...'

<sup>11</sup> *as modified and adapted for the Australian Military Forces*.

<sup>12</sup> *Australian Edition of Manual of Military Law 1941* Army Headquarters, Melbourne, 31 January 1941, p. 398.

12. The idea of attempting escape as a duty is implicit to this text. However, the context makes escape an obligation *only* in circumstances where a person had been taken prisoner, though with some specified element of fault. Furthermore, it does not require escape *per se* but refers to escape as a means of rejoining the relevant military service. The Tribunal is satisfied that the Act did not specify a general duty to escape.

13. During the Second World War the Army and Air Force had different policies in relation to escapes for British and Commonwealth personnel. The Air Force approach reflected guidance originally issued by the Royal Air Force in 1936 and repeatedly republished with amendments during the Second World War. This was to better prepare combatant personnel, particularly air crew, for the possibility of capture and evasion or escape, although the emphasis was more on behaviour while a POW, particularly in safeguarding information, than on escape. This remained the case with revisions made as late as 1944, by which time there was an established ‘underground railway’ functioning in Europe for aviators who went down in occupied territory.<sup>13</sup> The only direct reference to escape was ‘if you succeed in escaping’ there was a duty to gather any intelligence which could be brought home. A separate guide was circulated to RAAF units in the Pacific by Headquarters, Allied Air Forces South West Pacific Area. This also focuses on behaviour if captured, particularly in not giving away information to interrogators. Its only references to possible escape are a direction that, ‘In accordance with the custom of the Service, parole should not be given to an enemy.’ and a direction not to discuss the circumstances of a successful escape, most notably to protect the identity of any person who had helped in the effort.<sup>14</sup>

14. The second school of thought in relation to the duty to escape, which the Tribunal considered to be more relevant to this Inquiry, was encapsulated in the Instruction issued by Australian Army Headquarters in Melbourne in October 1941 that was considered to have the authority of the Australian Military Board. It appears to have been circulated widely within the Australian Army, and, as was confirmed during the post-war Royal Commission into the escape of General Bennett after the surrender of Singapore, this included the formations of the Second AIF deployed to Malaya and Singapore in 1941 and 1942. It is unknown though how far down the chain of command it might have been distributed. The Instruction is clear about the duties of a POW and states *inter alia* that the duty:

to ESCAPE (capitalisation in original) ... [is] the most important duty of all, for the following reasons:-

- (1) In order to rejoin your unit and again be of use to your Country.
- (2) In order to bring back information, e.g., the location and lay-out of the camp, your experiences inside and whilst being taken there.<sup>15</sup>

15. The Instruction repeatedly uses examples of British units,<sup>16</sup> rather than Australian ones, and the original was in fact a British Army document. The British War Office had

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<sup>13</sup> Air Publication 1548: *Responsibilities of a Prisoner of War* Original edition March 1936, revised June 1941 & April 1944 (the latter for European Theatre only). [www.ibiblio.org/hyperwar/UN/UK/RAF/POW-RAF/index.html](http://www.ibiblio.org/hyperwar/UN/UK/RAF/POW-RAF/index.html)

<sup>14</sup> Headquarters, Allied Air Forces South West Pacific Area, *What to do if Taken Prisoner of War*, January 1943, p. 8. Special Collections of the ADFA Library. This document is very similar to the US Army national guide issued by Headquarters, United States Army Forces Far East, *What to do if Taken Prisoner of War*, March 1943, p. 8. Copy made available by the Wisconsin Veterans Museum.

<sup>15</sup> Army Headquarters, Melbourne, ‘INSTRUCTION and GUIDE to ALL OFFICERS and MEN of the ARMY regarding the DUTIES to perform and PRECAUTIONS to be taken by PRISONERS OF WAR.’

developed a pamphlet to guide personnel in the event of capture as early as September 1939.<sup>17</sup> It is likely from both the text and the timing of the Australian 1941 'Instruction' that the Australian Army was circulating it with the experience of the fall of France and of the fluid and fast moving conflict in the deserts of North Africa in mind. In both campaigns there had been repeated instances in which personnel had been able to take advantage of confused situations immediately following their capture to make a successful escape and rejoin their own side. The Instruction notes that 'There will be more chances to make an escape in the early stages of captivity than when once inside a permanent camp.'

16. The British Army pamphlet of 1942 issued by authority of the Army Council, however, no longer states outright that there is a duty to escape. In its guidance to captured personnel, the only reference to escape is, '*Don't* be downhearted if captured. Opportunities for escape will present themselves'.<sup>18</sup> The guidance provided thus moved much closer to that of the Air Force.

17. The Australian Army's approach did not change as the War progressed and, arguably, hardened. The Tribunal had available to it a series of General Routine Orders: dated 15 January 1943, 5 March 1943, 31 December 1943 and 15 June 1945. These state, relevantly:

**15 January 1943:**

G.43 ESCAPES OF PRISONERS OF WAR FROM ENEMY HANDS

1. It is the duty of all soldiers if captured by the enemy to effect their escape at the earliest possible moment. (5 March 1943 is phrased similarly)

**31 December 1943:**

G.834 ESCAPES OF PRISONERS OF WAR FROM ENEMY HANDS

1. It is the duty of any soldier if captured by the enemy, to effect his escape at the earliest possible moment.

**15 June 1945:**

Escape

8. It is the duty of every Australian prisoner of war and internee to escape at the first opportunity, regardless of any instructions to the contrary issued by or in any prisoner of war or internment camp or by the detaining power and regardless of any reprisals which might be taken against the remaining prisoners of war and internees.<sup>19</sup>

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<sup>16</sup> Such as '1<sup>st</sup> Rutland Fusiliers'.

<sup>17</sup> Army Council Instruction 602/39 'Conduct of British Personnel in the Event of Capture', dated 13 September 1939.

<sup>18</sup> Army Council Instruction 782/42, 'Precautions to be taken by British Personnel in the Event of Capture, 1942', dated 15 April 1942.

<sup>19</sup> Issued by General Sir Thomas Blamey KCB CMG DSO, Commander, Allied Land Forces in SW Pacific Area, and Commander-in-Chief, AMF.



18. In the course of its research the Tribunal identified a Routine Order for 2/16 Battalion dated 26 July 1945 that adopted this General Routine Order of 15 June 1945.<sup>20</sup>

19. All these Orders accept that it was the duty of all soldiers captured by the enemy to effect their escape at the earliest possible moment. However, subsequent provisions in each of the first two Orders emphasise that the method of escape needed to be kept a close secret, even from family, in order not to hinder further escapes.

20. The third, 1945 order (No. 157), is rather different and is clearly based on the information on the Japanese approach which would have been to hand by that point.<sup>21</sup> The key changes in this Order are a direction not to engage in any radio broadcasts which might be of propaganda value to the enemy. There are two significant modifications of the 'duty to escape'. The first extends the duty to the situation of internment in a neutral country. The second, importantly, covers the matter of reprisals, and is clearly related to what would by then have been known about the Japanese behaviour towards POWs and the dilemmas which this created in the minds of the personnel concerned.

## **Parole**

21. Contrary to the 1929 Convention, at least as early as 1943, the Japanese War Ministry issued a directive that:

As soon as prisoners of war have been imprisoned, they shall be administered an oath forbidding them from making an escape. Prisoners of war who refuse to take the oath mentioned in this paragraph shall be deemed to have intentions of escaping and shall be placed under strict surveillance.<sup>22</sup>

22. This 'strict surveillance' in practice meant solitary confinement on reduced rations or subjection to torture until they took the oath required. In Singapore in August 1942, 16,000 prisoners, who had refused to give the parole demanded, were herded into a barrack square and kept there without food or latrine facilities for four days.

23. The senior POW at Sandakan, who, with his men, refused to give his parole, was immediately seized and beaten. A firing squad paraded. He was saved from death only when his men agreed to sign. Prisoners of War in camps in Batavia and Java were beaten and deprived of food until they signed the parole. At Zentsuji Camp on Shikoku Island, 41 prisoners were kept in confinement from 14 June 1942 until 23 September 1942 for refusing to take oath and were finally threatened with death if they persisted in their refusal.

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<sup>20</sup> Routine Order by Lieutenant Colonel FH Sublet dated 26 July 1945. AWM52: 2<sup>nd</sup> AIF and CMF unit war diaries 1939-45.

<sup>21</sup> E.g. with the assistance of Prisoners of War rescued by US Navy submarines after their transport ship had been sunk.

<sup>22</sup> Document No 101 from the Judgement of the International Tribunal for the Far East *United States and others v Sadao Araki and Others International Military Tribunal for the Far East (IMTFE) held 4-12 Nov 1948*; Naval War College, International Law Studies, Vol. 60, Documents of Prisoners of War, Newport, 1979.

## Penalty for escape

24. The 1929 Geneva Convention provided with respect to punishment of Prisoners of War for offences committed while they were prisoners:

Any corporal punishment, any imprisonment in quarters without daylight, and, in general any form whatever of cruelty is forbidden.

25. Further, collective punishment for individual acts was also forbidden.

26. Another limitation, with respect to escapes and attempts to escape, provided:

Escaped prisoners of war who are retaken before being able to rejoin their own army or to leave the territory occupied by the army which captured them shall be liable only to disciplinary punishment. After an attempt or accomplished escape, the comrades of the person escaping who assisted in the escape may incur only disciplinary punishment on this account. Arrest is the most severe summary punishment which may be imposed on a prisoner of war. The duration of a single punishment may not exceed 30 days.

27. The Japanese Regulations, however, provided:

Persons on parole, who break the parole, shall be subject to either the death penalty, or hard labor, or imprisonment for life or for a minimum of seven years. When the persons mentioned offer armed resistance, they shall be subject to the death penalty.

28. The Tribunal located a translation of an undated<sup>23</sup> proclamation by the Japanese garrison commander at Tennasserim (Burma) which is consistent with the Regulations. It states, relevantly:

Those who escape or plan to escape shall be shot dead.<sup>24</sup>

29. It is unknown the extent to which this style of proclamation had wider distribution.

30. Captain Les O. S. Poidevin, a medical officer at POW Camp No. 4, Batavia, 1943-1944, recorded that, at that camp, the penalty for an escape longer than 7 days was death (summary execution by decapitation or shooting), and for an escape where surrender occurred within 7 days, the penalty was 'heavy incarceration, reduced diet for up to 100 days'.<sup>25</sup>

31. Anecdotally, other Japanese Camp Commanders made it clear to prisoners that if they attempted to escape from captivity they would be executed.

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<sup>23</sup> Proclamation had been located in the effects of a POW who went down with the *Rakuyo Maru* on 12 September 1944. AWM 119, 122.

<sup>24</sup> Attached to June 1945 minute to Military Secretary re: POWs killed for escape attempt. AWM 119, 122.

<sup>25</sup> Prisoners of War of the Japanese 1942-1945, Research by Lieutenant Colonel Peter Winstanley OAM, RFD [www.pows-of-japan.net/articles/51.htm](http://www.pows-of-japan.net/articles/51.htm).

## **What occurred in practice**

32. As to what is likely to have been the practical application of the Instructions and Orders in the light of the likely consequences of escaping, the Tribunal placed considerable weight on the evidence to the Inquiry by Mr Leslie Glover at the Tribunal's public hearing on 14 December 2016. Mr Glover was a junior officer in Sandakan in 1943 but, fortuitously, was transferred to Kuching before the 'death marches' began.

33. He said that, at first when they were captured after the fall of Singapore, it was not so difficult to 'escape' because camp perimeters were not secured; he himself had been 'outside the wire' but noted that, at that time, there was, in fact, no 'wire' *per se*, and there was nowhere to which to escape.

34. He said that as time went on, referring to his time at Sandakan, he had explained to his soldiers that escape had become very much a matter of individual decision because there was in fact 'no chance' of escape. Apart from the geographical isolation (unlike Europe) the camp was surrounded by what the prisoners believed to be 'headhunters', about half of whom were sympathetic to the Japanese; it was an 'impossible' situation. Furthermore, they had been informed by the Japanese that escape was punishable by death.

35. Mr Glover said that he made it clear that attempting to escape was no longer a requirement of military duty, as it clearly had been at least since the issue of the 1941 Instruction, of which he was aware, but was something inherently over and above what was reasonably expected of personnel in Japanese captivity. Consequently, in his view, those who made escape attempts were very brave because there was such a high risk of failure with very little prospect of survival.

36. In his book, *The Boy from Bowen: Diary of a Sandakan POW*, Mr Glover wrote, in respect of those who 'dropped out' (from the 'death marches'):

The Rule laid down by the Jap Guards was: "If you drop out you are trying to escape and the follow up Death Squad will kill you." Many who dropped out died en route, they were too sick and weak to go on, so they were forced to drop out.<sup>26</sup>

## **Tribunal's findings about the 'duty' to escape**

37. The Tribunal formed the view that, while there may have been a formal obligation to escape, that official position was almost impossible to sustain in the environment of the camps in the Far East. In coming to this view the Tribunal accepted that, in escaping from Japanese captivity, a Prisoner of War was undertaking a venture over and above his duty.

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<sup>26</sup> Leslie Bunn Glover, *The Boy from Bowen: Diary of a Sandakan POW*, Kristan Enterprises, Robina, 2011, p.448. The Tribunal noted however, that Mr Glover said in his evidence that he was transferred to Kuching before the death marches commenced.

## CHAPTER 8 - THE POLICY WITH RESPECT TO HONOURS FOR PRISONERS OF WAR

1. The Tribunal was directed by the Terms of Reference to take into account the policy, adopted by Australia in 1944, and outlined in the previous Inquiries conducted by the Tribunal. The Tribunal is satisfied<sup>1</sup> that the summary set out in Attachment B to the Terms of Reference is an accurate reflection of the policy with respect to the award of honours to Prisoners of War who had been killed while attempting to escape. It provides:<sup>2</sup>

### **The Policy in respect of awards for Prisoners of War killed while attempting to escape**

1. The policy, adopted by Australia in 1944, and outlined in the previous Inquiries conducted by the Tribunal, is described as follows:

In a British Army Order, published on 5 May 1919, the Army Council indicated that awards to prisoners of war:

may be considered appropriate provided that no blame has been attached to the individual in respect of original capture where:

- a. exceptional service had been rendered by officers and soldiers whilst prisoners of war or interned; or
- b. exceptionally gallant conduct and/or determination displayed by officers and soldiers in escaping or attempting to escape from captivity.<sup>3</sup>

2. In October 1942, a revised policy provided for those servicemen who showed outstanding performance, e.g., by escaping from prisoners of war camps, to be eligible for 'the same gallantry distinctions as are normally reserved for service under fire'. Whether or not an award was made and at what level was to be determined on the basis of post escape interviews with the individual concerned and others who had intimate knowledge of the actions.

3. Additional grounds for consideration for higher honours were given to those who:

- escaped after previous unsuccessful attempts;
- escaped when wounded;
- escaped alone;
- persisted in the attempt to escape when companions had thrown in their hands;
- acted as the leader of an escape party;
- brought back valuable information, etc.<sup>4</sup>

4. On 10 November 1943, the Imperial Prisoners of War Committee determined that prisoners of war who were killed while trying to escape should be regarded as eligible for consideration for the award of posthumous mentions in Despatches. The relevant Defence Honours and Awards Committees in the United Kingdom confirmed this change in policy. To ensure a uniform system was adopted for dealing with such cases across all Imperial Forces it was decided that the following should be the procedures:

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<sup>1</sup> With one proviso – discussed at paragraph 3 below.

<sup>2</sup> Paragraphed for ease of reference.

<sup>3</sup> Defence Submission to the Tribunal's FEPOW Inquiry, received under cover of VCDF/OUT/2009/470, 23 July 2009.

<sup>4</sup> Defence Submission to the Tribunal's FEPOW Inquiry.

(1) the Directorate of Prisoners of War [UK] to collect information from all sources concerning all prisoners of war killed while attempting to escape.

(2) this information would be passed on in the case of Dominion, Indian or Colonial personnel to the Dominion representative concerned or to the India or Colonial Office for confirmation or for further information.

(3) the Directorate of Prisoners of War would then decide in the light of all the evidence available whether the escape should be considered as genuine and if it is considered genuine should submit the facts to the Honours and Awards Branch of the Service concerned or to the Dominions, Colonial or Indian representative for consideration for an award. The decision whether or not a recommendation for an award should be made will be in the sole discretion of the Honours and Awards Branch of the Service concerned or of the Dominions, Colonial or Indian Forces.<sup>5</sup>

5. This change in Imperial policy was considered by the Australian Defence Committee which on 16 February 1944 noted that 'the same consideration should be given to prisoners of war belonging to the Royal Australian Navy, Australian Military Forces and Royal Australian Air Force who are killed while trying to escape'.<sup>6</sup> The United Kingdom authorities were informed of this decision on 25 March 1944.<sup>7</sup>

## **The Tribunal's observations about the policy**

### ***No reference to those who were killed on or following recapture***

2. The Tribunal acknowledges that the policy only includes reference to potential medallic recognition for those who were killed while escaping, and does not include reference to those who were killed on or following recapture. The Tribunal decided that consideration of those 'killed on or following recapture' is consistent with the policy. A number of cases brought forward for consideration of recognition, discussed in the Appendices to this Report, come within this category.

### ***Requirement for 'blamelessness'***

3. The policy summary did not include a reference to a Cablegram from the Prime Minister's Department dated 20 March 1944 which referred to the approach by the various British services to awards for Prisoners of War. There it was stated that the Royal Air Force approach was that a person would have to be blameless for their capture and show the requisite standards of gallantry. In an early submission,<sup>8</sup> Defence contended that, in addition to determining if the escape was genuine, the policy also required that a person would have to be *blameless* for their capture, as well as showing the requisite standard of gallantry.<sup>9</sup> In oral submissions Defence did not press this contention, but, as discussed in Chapter 4 above, the approach of the Defence Review Board applied a different test of 'worthiness', which is discussed below.

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<sup>5</sup> War Office Paper No PWCA/P(43)67, 10 November 1943, attached to letter, R. D. Wheeler, Australia House London, to Secretary, Department of the Army. NAA: A816, 66/301/60.

<sup>6</sup> Defence Committee Minute, 16 February 1944. NAA: A816, 66/301/60.

<sup>7</sup> Cable, Prime Minister's Department to High Commissioner, London, 25 March 1944. NAA: A816.

<sup>8</sup> Chief of the Defence Force minute CDF/OUT/2015/1564 to Chair DHAAT, 10 December 2015.

<sup>9</sup> Defence Honours and Awards Tribunal, *Report of the Inquiry into Recognition for Far East Prisoners of War who were Killed while Escaping*, 9 April 2010, para. 36.

4. The Tribunal took the view that, while ostensibly the point was well taken, it would place little weight on Defence's initial concern. Firstly, if the Cablegram accurately reflected the British position at the time, the requirement was restricted to Royal Air Force personnel. Secondly, the requirement does not appear in any of the subsequent correspondence, nor in the material by which the British approach was adopted.<sup>10</sup> Thirdly, the Tribunal took the view that, to make such a finding, it would require evidence that a capture was 'blameworthy'. In coming to that view, the Tribunal observes that it would only be in the most exceptional circumstances that a person could be said to have *willingly* become a Prisoner of War. The Tribunal accepts that circumstances – most notably in the fall of Singapore – requiring the laying down of arms were either as a result of an order, or the appropriate response to being overrun. The Tribunal took the view that no blame would be attributed to a person who becomes a Prisoner of War in those circumstances.

***Mention in Despatches only honour available to Prisoners of War killed while escaping***

5. The policy refers only to the award of Mention in Despatches for Prisoners of War killed while escaping. It should be noted that under the Imperial honours system of the time, only a limited number of gallantry awards, including the Mention in Despatches, were available posthumously. The nature of the situation faced by POWs meant that the Victoria Cross was not considered applicable as it was not 'in the face of the enemy'. Acts of the greatest heroism by POWs who had been killed were recognised instead by the award of the George Cross.<sup>11</sup>

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<sup>10</sup> E.g. by cablegram of 25 March 1944 to the High Commissioner's Office from the Department of Defence and copied to the Prime Minister, Defence, Army, Navy and Air Force stated that the same consideration should be given to Australian prisoners as to British prisoners as set out in the Memorandum of 24 November 1943. NAA: A816, 66/301/60.

<sup>11</sup> E.g. Captain L.C. Matthews GC MC RASigs, an AIF member of 'B' Force in Sandakan who had been instrumental in creating and maintaining an intelligence and escape organisation while in captivity. Betrayed to the Japanese, he resisted interrogation, refusing to incriminate any others in his activities, and was eventually condemned to death and shot on 2 March 1944 in Kuching. See: <http://adb.anu.edu.au/biography/matthews-lionel-colin-11087>.

## **CHAPTER 9 - WHAT MEDALLIC RECOGNITION HAS THERE BEEN TO DATE OF FAR EAST PRISONERS OF WAR WHO WERE KILLED WHILE ESCAPING OR FOLLOWING RECAPTURE?**

1. In 1945 and 1946 the deaths of 22 members of the Australian Military Forces who were POWs in the Far East were investigated for medallic recognition. All except one were identified on the nominal roll as having been killed attempting to escape or executed after they were recaptured. While actual numbers are difficult to ascertain from the official records, it was recognised at that time that a number of other members may have escaped from camps and that many of these escapees died in the jungle.

2. Only three members were posthumously awarded a Mention in Despatches.<sup>1</sup> The awards to Major Mull and Sergeant Danaher were promulgated in the London Gazette on 1 August 1946; however, no citations are available stating why the award was made. Corporal Breavington's award for services rendered while a Prisoner of War was promulgated on 6 March 1947. It is inappropriate for the Tribunal to canvass those awards, although it is unclear if all were in relation to escape attempts. The Tribunal observes, however, that Corporal Breavington's file contains an eye witness account of the execution of both Corporal Breavington and a Private Gale, but there is no indication on the file as to why Corporal Breavington, and not Private Gale, was awarded the Mention in Despatches. A possible point of differentiation is that Corporal Breavington pleaded for Private Gale to be spared execution on the grounds that he was junior, younger and had only been obeying Corporal Breavington's orders.

3. On a Minute Paper dated 10 June 1945 recommendations were made by the Military Secretary to the Commander-in-Chief with respect to the nomination of some 18 Prisoners of War who had been killed whilst attempting to escape from captivity or were recaptured and executed. Rather than approving or not approving the recommendation, 'Hold' was written on the Minute Paper, and dated 25 July 1945. The documents do not reveal whether the discretion to award the Mention in Despatches was ever exercised in relation to those members.

4. By contrast, in Europe and the Middle East, where approximately 200 Australian prisoners escaped from camps, and a number were killed escaping or were executed after recapture, at least 95 Australian Prisoners of War were awarded the Mention in Despatches or a higher award. By way of example:

- NX22837 William Douglas Pitt of the 2/13<sup>th</sup> Infantry Battalion, who was shot whilst attempting to escape POW in Italy at Camp 78 by climbing over several wire fences, on 10 December 1942. He was recaptured, wounded and placed in hospital. He subsequently died of an epileptic fit on 26 January 1943. An inquiry was later held which determined "that his death probably resulted from the wounds by shooting received on 10 Dec 42."<sup>2</sup> In May 1944 he was awarded the MID(P) for his attempted escape and subsequent death.<sup>3</sup>

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<sup>1</sup> NX12243 Major A. Mull, VX31946, Sergeant C.E. Danaher and VX63100 Corporal R.E. Breavington

<sup>2</sup> *Verifying Causes of Death of Certain Australian Prisoners of War*. NAA: B3856, 144/1/6.

<sup>3</sup> London Gazette No 36508 dated 11 May 1944.

## **The UK and Canadian approaches to honours for Far East POWs killed whilst escaping or who were killed after recapture**

5. Again, by contrast with the Australian approach to honours for Far East POWs, the UK adopted a more robust strategy in applying the policy with respect to Far East POWs killed whilst escaping or who were killed after recapture<sup>4</sup>. By way of example, three flyers who escaped during April 1942 from the Glodog Camp, Batavia were all awarded MIDs, which were Gazetted in October 1946. They were identified as a RAF Flying Officer Siddell and two Royal Canadian Air Force Warrant Officers Smith and Low. The flyers tried to appropriate a Japanese aircraft and fly it out of Java. They were caught in the act and summarily executed.<sup>5</sup> They were awarded Mentions in Despatches.<sup>6</sup>

6. Similarly, on 26 August 1942, four Canadian soldiers, Sergeant Payne, Lance Corporal Berzinski, Privates Adams and Ellis, were executed by the Japanese after their failed attempt to escape by boat from Hong Kong and subsequent recapture. They were awarded Mentions in Despatches.<sup>7</sup>

7. A group of 10 FEPOWs from F Force, eight British officers, a Corporal F.T. Brown of the Straits Settlement Volunteer Force and a native fisherman escaped on 5 July 1943 from Songkurai Camp on the Thailand-Burma railway. Of the 10, four officers and the corporal subsequently lost their lives in the jungle between late July and early August, but the other four officers were not executed following their re-capture. The four officers who succumbed to the jungle were posthumously recognised with the Mention in Despatches but not Corporal Brown. The four officers who survived their ordeal were awarded the Member of the Most Excellent Order of the British Empire (MBE).<sup>8</sup>

## **More recent approaches - the 2009 Inquiry**

8. As discussed above, the 2009 Inquiry recommended that a further 20 Prisoners of War be posthumously awarded the Commendation for Gallantry:

47. Their escapes were genuine and determined, they probably knew they faced death if they attempted to escape, the recapture of 18 of the servicemen was blameless and they showed exceptional bravery when they were executed. They were all deserving of the honour of being awarded the posthumous MID.

9. The 2009 Inquiry, however, was conducted on a very limited basis.<sup>9</sup>

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<sup>4</sup> As set out in the policy attached to the Terms of Reference.

<sup>5</sup> RAAF – DPS [Directorate of Personnel Services] P6 – Australian War Crimes Investigations SEAC [South East Asia Command] Reports and Enquiries from War Crimes Detachment – Java pp. 15-22. NAA: A705, 166/1/134.

<sup>6</sup> London Gazette No 37744 dated 1 October 1946, pp. 4904-5

<sup>7</sup> London Gazette No 38212 dated 20 February 1948, p. 1175

<sup>8</sup> London Gazette No 38535 dated 11 February 1949, p. 741

<sup>9</sup> There was no call for public submissions and the hearing was conducted *in camera*.



## **The Tribunal's observations about Defence's current approach**

22. For many years<sup>10</sup> Defence took the view, it appeared to the Tribunal, that all men on the nominal roll had been considered for the Mention in Despatches, and the decision had been made to award the Mention in Despatches to only three men. Defence was of the view that the Commander in Chief, Australian Military Forces had made the decision based on the contemporaneous evidence and values.

23. Then, following the Valour Inquiry, Defence adopted guidelines set out in that Inquiry for first conducting a process review, and then, only if there was evidence of maladministration, a merits review in response to applications for retrospective consideration of honours.

24. Most recently, the Chief of the Defence Force has set up the Defence Review Board which the Tribunal understands is an ongoing body, notwithstanding that it was set up initially for the purposes of internal Defence decision-making in relation to persons brought to attention through this Inquiry. As previously discussed, it was apparent to the Tribunal that, in setting up the Defence Review Board, Defence had adopted a view that it now had a preparedness to consider the merits of a submission and no longer relied on the need for evidence of maladministration in the medallic recognition process before it would proceed to consider the matter.

25. However, the Tribunal observes that not all of the cases it had brought to Defence's attention in the course of the Inquiry had been referred to the Defence Review Board. It therefore could not be said that the Defence Review Board had been asked to consider all of the cases before the Tribunal. Decisions to refuse medallic recognition in respect of the other cases had been made by the Directorate of Honours and Awards.

26. The Tribunal also did not understand the Defence Review Board to have considered each of the cases before it against the eligibility criteria for the gallantry suite of honours; rather, it had taken the view that, once it was satisfied that its five criteria were met, then a Commendation for Gallantry was appropriate. The Tribunal's view, however, was that, once it was satisfied that the person's circumstances came within the Inquiry's Terms of Reference, it was obliged then to consider the merits of the relevant conduct vis-à-vis the eligibility criteria for the relevant honour. In that regard, the Tribunal took the view that while it may have been reasonably satisfied that there was bare evidence of an escape, it needed to be reasonably satisfied as to the circumstances of the escape such that it could find an act of gallantry associated with the escape.

27. The Tribunal noted that the Defence Review Board had looked for characteristics of a determination to deny the enemy's objectives, and considered that the act of escaping implies a determination to thwart those objectives. While this may reflect an overall aim, it was not, in the Tribunal's view, a requirement for medallic recognition and it remained that the Tribunal needed to consider individual acts as against the gallantry criteria. The Tribunal agreed that an act of gallantry was likely to include features such as initiative and courage. The Tribunal also generally agreed with Defence's position that an escape required the goal of returning to Australia. However, in view of the evidentiary difficulties encountered by the Tribunal, discussed throughout this report, the Tribunal considered that direct evidence of

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<sup>10</sup> Including as recently as the 2009 Inquiry.

such an intention was unlikely to be available in most cases. Consequently, the Tribunal did not consider the omission of such evidence to be determinative of consideration. The Tribunal did not accept the other Defence submission that POWs ‘at the end of their tether’ could be considered also.

28. As to the Defence Review Board’s requirement for ‘worthiness’, as discussed above, the Tribunal was obliged to consider the merits of the relevant conduct vis-à-vis the eligibility criteria for the relevant honour. A plain reading of the eligibility criteria of the Australian Gallantry Decorations sets out a hierarchy of conduct that might fall for consideration. The Victoria Cross for Australia is awarded for the most conspicuous gallantry, or a daring or pre-eminent act of valour or self-sacrifice, or extreme devotion to duty in the face of the enemy. The Star of Gallantry requires acts of great heroism or conspicuous gallantry in action in circumstances of great peril, and then, the Medal for Gallantry refers to acts of gallantry in action in hazardous circumstances. The Commendation for Gallantry may be awarded for *other* acts of gallantry in action which are considered *worthy of recognition*. The Tribunal does not consider that the use of the phrase “worthy of recognition”, imposes an additional criterion for determination of eligibility for a Commendation for Gallantry. It considers that the phrase is properly read with “other” to distinguish the conduct for the Commendation for Gallantry from that for the two higher honours. Consequently, the Tribunal did not consider ‘worthiness’ to be a concept relevant to the Tribunal’s consideration of the eligibility criteria.

29. While the Defence Review Board considered that locating an escaped prisoner by chance and killing him, did not amount to recapture, the Tribunal did not make this distinction. Further, the ‘recapture’ did not, in the Tribunal’s view necessarily require the escaped prisoner to be back in Japanese hands, and could include being in the hands of Japanese sympathisers.

30. While there was a contention that every escape involved an element of gallantry, it was submitted that the relative ease of escape was a factor in determining gallantry. The Tribunal considered that this contention was unsustainable because it acknowledged that every escape involved *an element* of gallantry. Further, the Tribunal considered that having taken the decision to escape, the evidence would determine if the Tribunal could be reasonably satisfied as to gallantry on a case by case basis.

31. The Defence Review Board did not regard whether the prisoner is likely to have known that they would be executed if recaptured was a requirement. The Tribunal agrees that it was not a specific requirement, but considered that, overall, it is more likely than not that prisoners were aware there would be dire consequences if they were recaptured by the Japanese following an escape.

32. As to the submission that for a person to come within the Terms of Reference they must have not merely been ‘killed’ on recapture, but had been ‘executed’, the Tribunal was of the view that neither the policy nor the Terms of Reference intended this restrictive interpretation.

33. As to Defence’s concerns about the ‘floodgates’, the Tribunal was continually mindful of its responsibilities with regard to integrity of the honours system, but, as discussed, the Tribunal is obliged, in making its Recommendations to the Minister, as it does in any review, to apply the eligibility criteria for the relevant honour in each case.

## CHAPTER 10 - FAR EAST PRISONERS OF WAR AND THE AUSTRALIAN GALLANTRY DECORATIONS

1. In 1975 Australia introduced its own honours and awards system and in 1992, it was decided that no further Imperial awards would be given to Australian service personnel. There was no dispute that it is no longer possible for the Australian Government to recommend retrospective honours, such as the Mention in Despatches within the Imperial system.

### Eligibility criteria for current awards

2. The Victoria Cross for Australia was created by Letters Patent signed by The Queen on 15 January 1991 and is the highest award in the Australian honours system. The Victoria Cross for Australia is '*awarded for the most conspicuous gallantry, or a daring or pre-eminent act of valour or self-sacrifice, or extreme devotion to duty in the face of the enemy.*'<sup>1</sup> Because of the exceptionally high level of gallantry required, only four individuals have received the award since its creation.

3. The *Commonwealth of Australia Gazette* (CAG) No S25 dated 4 February 1991, created the awards of the Star of Gallantry; the Medal for Gallantry; and the Commendation for Gallantry by Letters Patent, which provide recognition for members of the Defence Force and certain other persons who perform acts of gallantry in action. The eligibility criteria for these awards are set out in the *Gallantry Decorations Regulations 1991* (the Regulations). The Regulations were amended in *CAG No. S420*, dated 6 November 1996, to add Regulation 3(3A).

4. The Regulations as amended, set out the following eligibility criteria for the decorations at Regulation 3:

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

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

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

(3A) A decoration referred to in regulation 3 may be awarded for an act of a kind mentioned in relation to the particular decoration, although the act did not occur in action, if it occurred in circumstances similar to armed combat or actual operations and those concerned were deployed under military command.

5. The Tribunal notes that, broadly speaking, the equivalent award to the Mention in Despatches in the Australian honours and awards system is the Commendation for Gallantry, namely as the basic level of the Gallantry suite of honours. The Tribunal observes that while the Imperial system imposed restrictions on what honours could be awarded posthumously, all the Gallantry decorations in the present Australian system are available to be awarded posthumously.

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<sup>1</sup> Website, Victoria Cross for Australia, Defence Honours and Awards, [www.defence.gov.au/medals/Hon-Decs/Gall-Dist/Victoria-Cross.asp](http://www.defence.gov.au/medals/Hon-Decs/Gall-Dist/Victoria-Cross.asp), accessed 26 July 2017.

## **Do the Gallantry decorations apply to Prisoners of War?**

6. The Tribunal sought the views of Defence about the application of Regulation 3A to Prisoners of War.

***Is an ADF member who is killed upon recapture (i.e. has escaped and been recaptured by the enemy), killed ‘in circumstances similar to armed combat or actual operations’?***

7. Defence’s submission<sup>2</sup> referred to the first Inquiry which accepted there was a practice dating back to 1944 that Prisoners of War ‘*would be eligible for the same gallantry distinctions as are normally reserved for service under fire*’.<sup>3</sup>

8. Defence further submitted that it would be obtuse if Prisoners of War from the Second World War ‘*would be eligible for the same gallantry distinctions as are normally reserved for service under fire*’ but are not considered to be ‘in circumstances similar to armed combat’. It submitted that there is little difference between the concepts of ‘service under fire’ and ‘circumstances similar to armed combat’. If there is any difference between the two, Defence submitted, that ‘service under fire’ is a higher standard. Defence submitted, in effect, from a policy perspective, there was no sound argument for differentiating between ‘*eligible for the same gallantry distinctions as are normally reserved for service under fire*’ and ‘in circumstances similar to armed combat’.

9. In relation to international and operations law specifically, Defence submitted that detention is an ordinary and fundamental aspect of armed conflict. The fact that both the Geneva Conventions of 1929 and 1949 devote a Convention to the Treatment of Prisoners of War leaves little doubt, it submitted, that the activities that occur during detention/internment are part of an armed conflict/military operation and, therefore, are regulated by the Law of Armed Conflict.

10. In particular, Defence referred to Articles 47, 49, 50 and 51 of the Geneva Convention of 1929 which specifically refer to attempted/successful escape, again suggesting that this may be an expected activity in the course of an armed conflict/military operation. Further, as prisoner of war status can only be afforded to a member of a State military during an armed conflict, it would logically follow that the activities of a prisoner of war occur in actual operations.

11. The Tribunal accepted that a member of the armed forces who was killed upon recapture was killed in circumstances similar to armed combat or actual operations.

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<sup>2</sup> Dated 26 February 2016.

<sup>3</sup> Paragraph 15 of the Report articulates this as being the October 1942 British War Office Policy, paragraph 35 states that the Australian Defence Committee adopted this policy on 16 February 1944 and paragraph 36 states the Tribunal is satisfied that the Australian Government adopted the policy.

***Is an ADF member who is attempting to escape (or has escaped) from the custody of the enemy properly considered to be undertaking an act ‘in circumstances similar to armed combat or actual operations’?***

12. The Tribunal formed the view that a service member who attempted to escape (or escaped) from the custody of the enemy is properly considered to be undertaking an act ‘in circumstances similar to armed combat or actual operations’.

***Were ADF members who were Prisoners of War during the Second World War ‘deployed under military command’?***

13. Defence referred the Tribunal to the Geneva Convention of 1929 which contain a number of articles relating to matters of military command.<sup>4</sup>

14. Defence submitted that the reference to a breach of discipline in Article 47 which stated ‘*A statement of the facts in cases of acts constituting a breach of discipline, and particularly an attempt to escape, shall be drawn up in writing without delay*’, in particular, is persuasive in concluding that prisoners of war are ‘under military command’.

15. Defence expressed no view about whether Australian Defence Force members were subject to Australian military discipline law and military administrative procedures while a Prisoner of War.

16. The Tribunal formed the view that service members who were Prisoners of War during the Second World War were deployed under military command.

17. The Tribunal noted that Gallantry decorations accord recognition *prima facie* for individuals ‘who perform acts of gallantry in action’. The Tribunal is satisfied that escape attempts by Prisoners of War, while not, ‘in action’, are activities which fall for consideration in the suite of Gallantry awards.<sup>5</sup>

### **What is ‘gallantry’?**

18. Dr Smith, in his oral submissions contended that, while there may be a relatively clear community understanding of the concept of ‘valour’, the same cannot be said for ‘gallantry’. The Regulations do not define ‘gallantry’, nor was the scope of the term discussed in the course of the introduction of the Regulations; neither has the term yet been judicially considered. In the absence of legislative or judicial guidance, the Tribunal sought assistance from various dictionaries and other sources.

19. The Macquarie dictionary defines ‘gallantry’ as:

dashing<sup>6</sup> courage; heroic bravery

and in turn, it defines ‘courage’ as:

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<sup>4</sup> E.g. Articles 4, 5, 18, 21, 31, 45, 46, 47, 54.

<sup>5</sup> Per Regulation 3(3A).

<sup>6</sup> The Tribunal does not consider that ‘dashing’ has a place in the context of defence honours.

braveness, bravery, courageousness, fortitude, game, gameness, gaminess, grit, grittiness, hardihood, intestinal fortitude, moral courage, pluck, pluckiness, prowess, stomach, valiance, valiancy, valiantness, valorousness, valour

and ‘bravery’ as

brave spirit or conduct; courage, valour<sup>7</sup>

20. The Oxford English dictionary defines gallantry as ‘courageous behaviour, especially in battle’.<sup>8</sup>

21. The Tribunal found the dictionary definitions somewhat circuitous and therefore largely unhelpful and turned to consider, in the absence of definition in the Regulations, if a workable definition from another like-jurisdiction might be of assistance.

22. New Zealand differentiates between ‘gallantry’ and ‘bravery’. Four gallantry awards (the Victoria Cross for New Zealand, the New Zealand Gallantry Star, the New Zealand Gallantry Decoration, and the New Zealand Gallantry Medal) recognise military personnel who carry out acts which put their lives at risk while involved in warlike or non-warlike operational service (including peacekeeping operations). The four bravery awards (the New Zealand Cross, the New Zealand Bravery Star, the New Zealand Bravery Decoration, and the New Zealand Bravery Medal) recognise personnel who put their lives at risk while saving or attempting to save the life of another person and may also be awarded to military personnel in operational situations (including peacekeeping) where a gallantry award is not considered appropriate. ‘Gallantry’ is defined there as enduring great danger during warlike or non-warlike operational service, including peacekeeping, usually in the presence of the enemy, in an admirable and commendable manner, whereas ‘bravery’ is defined as saving or attempting to save the life of another person in the course of which they place their own life at risk.<sup>9</sup> It appears that the intent is to differentiate between saving the life of another person, and other acts of ‘gallantry’.

23. The Tribunal considered that all service personnel who do their expected duty in a warlike context are likely to be ‘brave’. As discussed in Chapter 7 above, the Tribunal took the view that the formal obligation to escape was unworkable for the vast majority of Far East Prisoners of War. It did not therefore consider that, by escaping, a Prisoner of War was merely bravely doing his duty.

24. The Tribunal considered that ‘gallantry’, both generally, and in the Prisoner of War context in particular, requires a higher standard than bravery and is likely to include special elements such as courage and determination.

25. The Tribunal considered that what amounts to an ‘act of gallantry’, necessarily, varies according to the individual circumstances of each action; the Tribunal cannot be prescriptive. There may be many relevant factors, including the level of threat, and the risk to the individual or the group. Especially relevant to Far East Prisoners of War is the widespread

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<sup>7</sup> *The Macquarie Dictionary* online.

<sup>8</sup> <https://en.oxforddictionaries.com/definition/gallantry> (accessed 1 August 2017).

<sup>9</sup> <http://medals.nzdf.mil.nz/category/d/> (accessed 1 August 2017).

understanding that the penalty for escape was death,<sup>10</sup> and therefore the reasonably anticipated consequences of the act of escaping. In some circumstances some weight may be given to the limited experience of the member.

26. In summary, what amounts to gallantry will vary according to the circumstances of each case.

27. Detailed consideration of relevant members against the criteria is contained at Appendices 2 to 53.

### **The higher gallantry decorations: Medal for Gallantry Star of Gallantry and The Victoria Cross for Australia**

28. All four honours in the Gallantry suite require an act of gallantry, as discussed above. The Medal for Gallantry requires that the act of gallantry occur in '*hazardous circumstances*' whereas the Star of Gallantry is limited to an act of '*great heroism*' or '*conspicuous gallantry...in circumstances of great peril*', while The Victoria Cross for Australia is '*awarded for the most conspicuous gallantry, or a daring or pre-eminent act of valour or self-sacrifice, or extreme devotion to duty*'. None of these additional terms is defined.

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<sup>10</sup> Notwithstanding the Geneva Convention.

## CHAPTER 11 - CONCLUSIONS

1. Because the consideration of medallic recognition necessarily is an evidence-based process, most weight was afforded to contemporaneous accounts of events. Understandably, this presented considerable difficulties to the Tribunal in a large number of the cases reviewed. Defence historians also expressed concern about the significant evidentiary difficulties they had experienced having regard to the passage of time.<sup>1</sup>

2. In this Inquiry all the potential recipients of medallic recognition, by virtue of the very nature of the Inquiry, are deceased. In some POW camps<sup>2</sup> there were few survivors compared to the numbers who were imprisoned. Those who did not die in the camps suffered ongoing complex health issues which, in many cases, shortened their lives. Now, about 75 years on, there are very few survivors<sup>3</sup>. The Tribunal considered it highly unlikely that any further reliable first-hand accounts would become available.

3. Record-keeping in the camps was haphazard, either because of lack of facilities, or the alleged deliberate obfuscation by the Japanese.

4. Through its investigations, the Tribunal was confident that, at the end of the War, the focus was, properly, primarily on the repatriation of surviving POWs. There were later teams allocated to the search for the location of the burial sites of those who had perished, and the whereabouts of those still unaccounted for. Some reasonably contemporaneous evidence was produced through these latter processes. The available evidence from war crimes trials provided some information about what had happened to some of the POWs who did not survive. These included admissions by those charged, and the Tribunal attributed substantial weight to those admissions, especially given that the accused frequently was facing the death penalty if convicted.

5. Fortunately, over the years, much research has been undertaken, both formally and informally. However, some publications, regrettably, do not attribute sources, and must inevitably be viewed with caution.

6. Despite a thorough and protracted investigative process, only in a limited number of cases could the Tribunal be reasonably satisfied that there was sufficient reliable evidence of an act of gallantry for it to be able to make a recommendation that the conduct met the eligibility criteria for a gallantry honour. **Recommendation 1** sets out those who are recommended for medallic recognition. Individual case summaries are attached at Appendices 2 to 9.

7. While the Tribunal was able to form a view about whether it had sufficient evidence of an act of gallantry in the cases it found to be within its Terms of Reference, it took the view that, for a higher honour, there would need to be significant reliable contemporaneous evidence of the additional elements. Due to the passage of time since the events in question, the Tribunal could not be reasonably satisfied that, on the available evidence, in any case, of those additional elements, particularly in relation to the circumstances of the escape.

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<sup>1</sup> Mr Mitchell, Mr James, Major Rutherford.

<sup>2</sup> At Sandakan for example, there were only 6 survivors of 2500 who undertook the 'death marches'.

<sup>3</sup> *The Australian* dated 22-23 April 2017 suggests there are fewer than 200 Prisoners of War still alive.



8. Had there been more reliable contemporaneous evidence available to the Tribunal, it is likely that more of the cases it reviewed may have been appropriate for medallic recognition, and possibly more for higher honours. Further, additional cases would have been likely to have fallen within the Terms of Reference. There was simply, after so long, very limited reliable evidence.

9. This evidentiary difficulty led the Tribunal to the view that a point has been, or will very soon be reached where it is unlikely that further reliable contemporaneous evidence in respect of any of the veterans of the Second World War will become available. As a result, it became increasingly clear to the Tribunal that little further medallic recognition for veterans of the Second World War is likely to be achieved. The Tribunal notes that the cessation of hostilities<sup>4</sup> was now over 70 years ago and the official end of the Second World War<sup>5</sup> was also nearly 70 years ago. In that regard the Tribunal observed that the youngest living operational veteran of the Second World War - who could personally accept an honour - would be aged at least 90.

10. For these reasons the Tribunal decided to recommend that Section 110V(2) of the *Defence Act 1903* be amended to preclude further applications for medallic recognition for veterans of the Second World War. The recommendation is to the effect that a limitation period for new claims for medallic recognition with respect to veterans of the Second World War be introduced.

11. The Tribunal recognises that to close off applications without appropriate notice would be unreasonable. Consequently, in fairness to prospective claimants, the Tribunal recommends, that a limitation period ending on 3 September 2020 be introduced with respect to new claims for medallic recognition for veterans of the Second World War. That date, although now 75 years after the cessation of hostilities in the Second World War, is, in the Tribunal's view, the shortest reasonable time for the introduction of closure of applications in respect of that conflict: see **Recommendation 2**.

12. Consistent with the Tribunal's evidentiary concern, and in fairness to veterans of subsequent conflicts, the Tribunal also recommends that consideration be given to adopting an appropriate limitation period with respect to subsequent conflicts. Whereas the Tribunal's recommendation with respect to the Second World War recommends 75 years after the cessation of hostilities, this was informed by the need to afford reasonable notice to potential claimants, with respect to later conflicts, the introduction of a shorter reasonable limitation period would not attract similar concerns about notice: see **Recommendation 3**.

13. Dr Smith, in his oral submissions acknowledged that, while there is immense esteem attached to the award of a medal, there are other ways in which the sacrifices of all Prisoners of War can be honoured; it is most important that the stories of the Prisoners of War be 'heard and understood'. The Tribunal agreed that this was an appropriate course.

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<sup>4</sup> 'period of hostilities' is defined in s 5B(1)(b) *Veterans' Entitlement Act 1986*. For the Second World War 'period of hostilities' is from 3 September 1939 to 29 October 1945. The 'period of hostilities' for other conflicts is also defined.

<sup>5</sup> The Second World War is taken to have ended on 28 April 1952, the date on which the Treaty of Peace with Japan came into force: s 5B(3)(b) *Veterans' Entitlement Act 1986*.

14. The Tribunal was directed only to consider for medallic recognition only those who may have been killed while escaping or following recapture. The Tribunal's role in this Inquiry was therefore very limited and was not one of remembrance or commemoration of the sacrifice of POWs. Having said that, the Tribunal identified a profound need to ensure that the sacrifice of *all* POWs, and not just those who fell within the Inquiry's Terms of Reference, continues to be acknowledged.

15. To this end, the Tribunal explored alternative means of remembrance, especially for all POWs in lieu of the increasingly flawed attempts to confer medallic recognition for veterans of long ago conflicts. The Tribunal was immensely impressed with the work of the Australian War Memorial in recounting the stories of individuals, or groups of individuals, through programs such as its Last Post ceremony, and the nightly illumination of names (albeit in relation to veterans of the First World War) on its facade. The Tribunal considered that such methods of acknowledgement might extend to POWs. Other possible forms of tribute to *all* POWs which the Tribunal identified include articles in the Australian War Memorial's *Wartime* magazine, additional exposure in the Second World War gallery, a special exhibition and travelling exhibitions. The Tribunal considered further enhancement of the Australian War Memorial's existing program to increase awareness of the sacrifices of all Prisoners of War is more likely to keep their memory in the public mind and hence be more beneficial than a process of ongoing fragmentary consideration of individual POWs for medallic recognition: see **Recommendation 4**.

# **APPENDIX 1 – LIST OF INDIVIDUALS WHOSE ACTIONS WERE CONSIDERED IN DETAIL BY THE TRIBUNAL**

<b>Surname</b>	<b>First Name</b>	<b>Service Number</b>	<b>Rank</b>	<b>Source</b>	<b>Page</b>
<b>Allen</b>	Edward Ambrose	NX72445	Private	Terms of Reference	121
<b>Anderson</b>	Francis Douglas	QX6866	Gunner	Terms of Reference	124
<b>Anderson</b>	Jack Fallow	253	Squadron Leader	Submissions	208
<b>Appleby</b>	John Leslie	NX76266	Lieutenant	Submissions	54
<b>Armstrong</b>	James Hubert	TX3283	Corporal	Submissions	59
<b>Baker</b>	James	402700	Sergeant	Submissions	208
<b>Benoit MM</b>	Maxwell Alfred William	VX32772	Signalman	Tribunal Research	127
<b>Bessell</b>	Phillip Mowbray Frank	WX7639	Private	Submissions	88
<b>Boston</b>	Vernon Robert	NX40693	Private	Terms of Reference	130
<b>Butler DCM</b>	Rex Nelson	SX2600	Sergeant	Terms of Reference	134
<b>Cootes</b>	Ronald James George	VX39165	Lieutenant	Submissions	138
<b>Costin</b>	Keith Hamilton	QX15720	Private	Terms of Reference	78
<b>Crease (Gardner)</b>	Wally (Walter)	NX28584	Gunner	Terms of Reference	140
<b>Davey</b>	Arthur Francis	QX20799/QX6710	Private	Submissions	94
<b>Dickenson</b>	George	VX27624	Private	Submissions	193
<b>Douglas (Solonsch)</b>	John (Samuel)	VX15035	Private	Tribunal research	64
<b>Durkin</b>	John Edward	VX19728	Private	Tribunal research	69
<b>Elmore</b>	James Frederick	VX66131	Private	Tribunal research	73
<b>Emmett</b>	Edward Victor	NX51899	Corporal	Terms of Reference	78
<b>Evans</b>	Walter Cyril	WX9230	Private	Terms of Reference	144
<b>Evans</b>	Frederick Arthur	37304	Aircraftman Class 1	Submissions	208
<b>Fairy</b>	William Fredrick	VX48685	Lance Corporal	Terms of Reference	146
<b>Fitzallen</b>	Wilkins	TX3482	Lieutenant	Submissions	97
<b>Fletcher</b>	John Scott	VX47892	Private	Terms of Reference	149
<b>Ford</b>	Arthur Edward	QX8367	Private	Submissions	106
<b>Forrester</b>	Charles Henry	NX67705	Private	Terms of Reference	179
<b>Foster</b>	Charles Thomas	NX55454	Private	Terms of Reference	185
<b>Franklin</b>	John Allen	NX69880	Private	Tribunal research	208
<b>Fuller</b>	Eric John	NX34384	Gunner	Terms of Reference	106
<b>Gaskin</b>	Frederick Walter	16645	Corporal	Submissions	170
<b>Geraghty</b>	Raymond Leslie	NX42478	Private	Submissions	106

<b>Golding (Rash)</b>	Josiah Buddy (Joshua Golding)	NX42596	Private	Tribunal research	170
<b>Goodrick</b>	Edwin Money	NX27912	Private	Tribunal research	100
<b>Goulden</b>	Robert	NX10420	Private	Tribunal research	103
<b>Grace</b>	Michael David	NX32767	Corporal	Submissions	106
<b>Haly</b>	Standish O'Grady	WX14380	Private	Terms of Reference	155
<b>Harrington</b>	Thomas Ignatius	VX23670	Private	Terms of Reference	158
<b>Harris</b>	John Allan	24987	Aircraftman Class 1	Submissions	208
<b>Harvey</b>	Harry Desmond	VX37492	Private	Submissions	193
<b>Higgins</b>	Myles	VX47315	Private	Submissions	161
<b>Irwin</b>	George Alfred	VX50024	Private	Submissions	110
<b>James</b>	Ronald Taylor	NX29189	Private	Tribunal research	179
<b>Jones</b>	Jack Victor	WX7928	Private	Submissions	88
<b>Jose</b>	Gilbert Edgar	SX11028	Major	Submissions	164
<b>Landlow</b>	Morris Louis	NX27010	Private	Tribunal research	179
<b>Ledwidge</b>	Frank Bartle	NX36469	Private	Terms of Reference	167
<b>Lovell</b>	Bruce	VX25798	Warrant Officer 2	Tribunal research	170
<b>Maddison</b>	John Walter	NX26468	Lance Corporal	Tribunal research	173
<b>Manning</b>	Howard Thomas	WX4609	Sergeant	Submissions	88
<b>Mawdsley</b>	Malcolm John	NX2732	Private	Tribunal research	179
<b>McArtney</b>	Norman Heather	VX33158	Private	Submissions	114
<b>McGlone</b>	William Owen	VX38383	A/Bombardier	Tribunal research	176
<b>McGregor</b>	Albert George	NX51931	Corporal	Tribunal research	179
<b>Merritt</b>	Robert	TX5341	Private	Submissions	183
<b>Meyer</b>	Francis Norman	290745	Flying Officer	Submissions	208
<b>Miller</b>	Clement George	SX7592	Lance Corporal	Tribunal Research	127
<b>Moffatt</b>	Edward	NX4334	Private	Submissions	106
<b>Molde (Dawson)</b>	Kenneth Clifton (Leigh Kevin)	NX78229	Corporal	Terms of Reference	185
<b>Nicholls</b>	Arthur Clifford	VX23029	Private	Submissions	138
<b>Norris</b>	Percy Charles	TX3629	Private	Submissions	189
<b>Nugent</b>	Raymond Stanley	VX29537	Lance Corporal	Submissions	193
<b>O'Dea (Whitcombe)</b>	James (James Henry)	NX77958	Private	Tribunal research	106
<b>O'Donnell</b>	Ronald James	QX13768	Sergeant	Submissions	196
<b>Orgill</b>	John Victor	441469	Flight Sergeant	Submissions	83
<b>Pattison</b>	Byron	VX26184	Lance Corporal	Submissions	199
<b>Radnedge</b>	Gordon	NX57952	Private	Terms of Reference	202
<b>Read</b>	Isaac Wood	406222	Sergeant	Submissions	208
<b>Riether</b>	Herman	VX48478	Driver	Terms of Reference	205
<b>Schaefer</b>	Frederick Norman	VX19415	Private	Tribunal research	73
<b>Scott AFC</b>	Ernest Dallas	250101	Wing Commander	Submissions	208
<b>Shelley</b>	Jeffrey Norman	NX71902	Private	Terms of Reference	213

<b>Simpson</b>	Henry John	VX54067	Corporal	Terms of Reference	216
<b>Skinner</b>	Edward Kenneth	NX41647	Private	Terms of Reference	78
<b>Sproule</b>	Daryl Maxwell	250641	Squadron Leader	Tribunal research	117
<b>Stewart</b>	Kenneth	WX6574	Corporal	Submissions	88
<b>Stirling</b>	John	TX2125	Captain	Submissions	219
<b>Symons</b>	Eric	SX7220	Signalman	Tribunal Research	127
<b>Terry</b>	Elliott Frederick	TX3597	Private	Submissions	222
<b>Thompson</b>	Henry Francis	WX4113	Corporal	Submissions	88
<b>Treseder MM</b>	Harry Ayrshire	QX17430	Lance Bombardier	Terms of Reference	226
<b>Urquhart</b>	Charlie	NX53987	Private	Terms of Reference	130
<b>Verey</b>	Harold George	261029	Flying Officer	Submissions	208
<b>Waddell</b>	Ivon Edward	WX11700	Craftsman	Tribunal research	170
<b>Wagner</b>	Charles Arthur	NX29683	Lieutenant	Terms of Reference	134
<b>Walker</b>	Laurence Douglas	27521	Leading Air Aircraftman	Submissions	208
<b>Waygood</b>	James D'Arcy	NX40901	Private	Terms of Reference	130
<b>Webber</b>	Sidney Arthur	NX53777	Private	Terms of Reference	78
<b>West</b>	Bertram John	TX3397	Sergeant	Submissions	97
<b>White DFC</b>	William Vyner Duckett	260624	Flight Lieutenant	Submissions	208
<b>Whitton</b>	Henry	WX4758	Sergeant	Submissions	88
<b>Williams</b>	David Jack	NX46568	Gunner	Submissions	229
<b>Wilmott</b>	Alexander John	NX78032	Private	Terms of Reference	232
<b>Wilson</b>	Alexander Francis	SX9861	Driver	Tribunal research	179
<b>Wilson</b>	Charles Mark	NX37563	Private	Tribunal research	179

## NX76266 LIEUTENANT JOHN LESLIE APPLEBY

### **What has led to consideration of Lieutenant Appleby by this Inquiry?**

1. In a submission to the Inquiry, Mr Peter Scott requested recognition for Lieutenant John Leslie Appleby, who was a Prisoner of War and said to have been executed by the Japanese following his recapture outside a POW camp in Java.

2. Mr Scott's submissions were supported by submissions by Colonel Harold Jacobs, Defence Attaché for Australia and New Zealand, Embassy of the Kingdom of the Netherlands, Lieutenant Colonel (Retd) M Edmiston, Representative Colonel Commandant Special Operations Engineer Regiment, Mr R Iddles, President, 'The Purple Diamond', Official Organ of the Seventh Division Engineers Association, Ms M Klein, and Ms K Flynn.

### **Lieutenant Appleby's service, capture and imprisonment**

3. Lieutenant Appleby enlisted on 13 August 1941 and joined the 2/6<sup>th</sup> Field Company, Royal Australian Engineers, 7<sup>th</sup> Australian Division.<sup>1</sup> He served in the Middle East/Syrian campaign later that year. During the return of Australian troops from the Middle East by sea, including Lieutenant Appleby's unit in early 1942, Singapore fell to Japanese forces. Lieutenant Appleby's company was offloaded at the port of Tanjong Priok, Batavia (now Jakarta) in the Dutch East Indies on 19 February 1942.<sup>2</sup>

4. After its arrival in the Dutch East Indies, Lieutenant Appleby's unit became part of 'Blackforce' under the command of Brigadier Arthur Blackburn VC. For operations, Blackforce was directly under the command of the Dutch Commander in Chief, General ter Poorten.<sup>3</sup> After a brief campaign in the face of overwhelming odds, on the morning of 8 March, General ter Poorten broadcast that resistance had ceased and all were to lay down their arms. On the afternoon of the 8<sup>th</sup>, judging further resistance useless, Air Vice Marshal Maltby and General Sitwell issued the Dutch order to all British units.<sup>4</sup>

5. According to Major L.J. Robertson, former Officer Commanding 2/6<sup>th</sup> Field Company, the unit remained in an area southeast of Bandoeng until all prisoners of war were concentrated around the town centre at Leles. Robertson records that Lieutenant Appleby and four others were transferred to the Koen School camp on 26 March 1942.<sup>5</sup>

6. The Tribunal accepts that Lieutenant Appleby was a Prisoner of War.

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<sup>1</sup> Service Record, J.L. Appleby, NAA: B883 NX76266.

<sup>2</sup> Lionel Wigmore, *The Japanese Thrust, The Official History of Australia in the War of 1939-1945*, Series I, Volume IV, Australian War Memorial, Canberra, 1957, p. 457.

<sup>3</sup> Wigmore, *The Japanese Thrust*, p. 457.

<sup>4</sup> Wigmore, *The Japanese Thrust*, pp. 502-503.

<sup>5</sup> L.J. Robertson with A.E. Field and others, *The Gap is Bridged*, monograph, K.D. Murray Productions, Grafton, 1982, p. v.

## **Evidence of escape**

7. Mr Scott claimed that Lieutenant Appleby had been imprisoned by Japanese forces in a POW camp in Batavia (Jakarta) from where he decided to escape, with the view to returning to Australia by sea. While escaping, Lieutenant Appleby was secreted in Dutch resistance homes on Java, but was eventually betrayed by locals and recaptured.

8. Major L.J. Robertson and Sergeant A.E. Field recorded Lieutenant Appleby's escape from the Koan Chinese School in Batavia. Robertson et al recorded<sup>6</sup> that Lieutenant Appleby and a British civilian named Tom Powell planned to escape and masquerade as German planters from West Java, and steal a boat and sail it to Australia. They were able to escape the camp undetected and their absence was not noted as a result of a ruse adopted by Captain Edwards, Brigadier Blackburn's staff officer. It is unclear for how long their absence remained unnoticed.

## **Conclusion as to escape**

9. The Tribunal finds that there is evidence that Lieutenant Appleby escaped from his imprisonment at Koan School in March or April 1942.

## **Evidence of Lieutenant Appleby being killed as a consequence of escaping**

10. Major Robertson related that Tom Powell and his mother had lived at the Box Club in Batavia, while Powell's fiancé, Hanny Hilgers lived in the district of Menteng. On their escape, Lieutenant Appleby and Powell went to the Box Club, but, finding it full of Japanese troops, headed for Menteng where they were concealed at Ms Hilgers' home for many months.

11. During this period they joined the local Dutch underground resistance. The Hilgers' home was subjected to raids by the Japanese but Lieutenant Appleby and Powell managed to escape detection. Eventually Lieutenant Appleby and Powell were betrayed and the local resistance arranged for their relocation to Buitenzorg (Bogor).

12. In Buitenzorg, Lieutenant Appleby and Powell were secreted in a private mental home and cared for by a staff sister. They continued undercover work for the local resistance unit led by a Mr Backhuys.<sup>7</sup>

13. In July 1943, the Japanese administration became increasingly concerned about resistance activities and the possibility of an Allied invasion of Java. In response, special 'courts' were established under *Ki Kosaku* or Yellow Operations, where anyone suspected of espionage or the obstruction of Japanese operations could be executed on interrogation evidence only.

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<sup>6</sup> Robertson, *The Gap is Bridged*. pp. 82-83.

<sup>7</sup> Robertson, *The Gap is Bridged*. pp. 271-273.

14. Despite the capture of resistance leader Backhuys, Lieutenant Appleby and Powell carried on with resistance activities until the Japanese internment of all European staff at the hospital forced their return to Buitenzorg.

15. On 8 August 1943, Hanny Hilgers and her sister, Elizabeth, were arrested and gaoled by the Japanese Military Police (Kempetai). Lieutenant Appleby and Powell were discovered and arrested in a subsequent Kempetai raid. Lieutenant Appleby (and others) were charged with conspiring to harm the Nippon power, spying and resisting arrest. The Ki Kosaku court handed down a guilty verdict and all charged were condemned to death.<sup>8</sup>

16. Lieutenant Appleby was executed by the Japanese at Bateotoelis, near Buitenzorg, Java on 6 September 1943. His remains were recovered and reburied at Antjol War Cemetery, Java on 9 February 1948.<sup>9</sup>

17. At the Tribunal's hearing, Mr Scott provided a comprehensive presentation of the material contained within his submission. In addition to the material previously provided, Mr Scott confirmed that Lieutenant Appleby's incarceration prior to his escape from the Koan School had included a period at the 'Bicycle Camp' in Batavia. Mr Scott considered that Lieutenant Appleby would have become quite aware of the Japanese policy towards escaping POWs at that time. Mr Scott concluded his submission with his conviction that Lieutenant Appleby's actions warranted recognition with the Medal for Gallantry.

18. At the Tribunal's hearing, Colonel Jacobs expressed his support for Mr Scott's submission. Colonel Jacobs described Lieutenant Appleby's actions with the local Dutch Resistance as being well known to the people of the Netherlands. He informed the Tribunal that Lieutenant Appleby had been identified as eligible to receive the Dutch Resistance Memorial Cross. This medal was instituted in December 1980 and is awarded to members of the Dutch resistance during the Second World War. Colonel Jacobs told the Tribunal that Lieutenant Appleby's award has not been claimed.

### **Conclusion as nexus between death and the escape**

19. Robertson et al in *The Gap is Bridged*<sup>10</sup> suggested that men of the 2/6th Field Company were transferred on 28 March 1942 from Leles through numerous stops, including a period of time in Glodok Jail, to the Bicycle Camp and not all men of the unit, including Lieutenant Appleby, were accounted for on arrival on 14 May 1942. Lieutenant Appleby's transfer to the Koan School preceded the transfer of the main party to the Bicycle Camp by two days. The Tribunal considers it unlikely that Lieutenant Appleby spent any time at the Bicycle Camp.

20. Although the precise circumstances of Lieutenant Appleby's incarceration and transfer between prison camps are unclear, the Tribunal is reasonably satisfied that Lieutenant Appleby escaped from imprisonment at Koan School, Batavia in March or April 1942. He remained at large for over a year before he was betrayed and captured.

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<sup>8</sup> Appleby Investigations of Death. NAA: B3856, 140/11/909.

<sup>9</sup> Service Record, J.L. Appleby. NAA: B883 NX76266.

<sup>10</sup> The book is heavily based on Robertson's war diaries.



21. The Tribunal discussed with Mr Scott at the hearing whether Lieutenant Appleby is properly regarded as having continued to be a POW, after he had remained at large, engaging in subversive activities. Mr Scott submitted that Lieutenant Appleby did not lose his POW status as he would have been unable to undertake his subversive activities were he not an escaped POW.

22. In reply to a minute of 1 November 1946 from the Director of Army Legal Services, the Director of Prisoners of War and Internees stated in a minute dated 13 November 1946:

Having escaped and joined a guerrilla organisation and become spies, it would seem that [Appleby and another] had lost their status as prisoners of war and being, therefore, not entitled to the additional benefits of the Prisoner of War Convention, were tried in accordance with the general principles of the Hague Convention.<sup>11</sup>

23. The context of the above advice was whether Lieutenant Appleby had been properly tried before his execution; if so, whether in carrying out the execution, the Japanese accused of his murder were carrying out lawful orders. The Tribunal took the view that the above opinion is properly restricted to the consideration of the lawfulness of Lieutenant Appleby's execution, and that for the purposes of this Inquiry, he remains an escaped POW.

24. The Tribunal is satisfied that Lieutenant Appleby was executed by the Japanese as a consequence of his activities in support of the Dutch resistance and that his escape from the Koan School facilitated this role. Defence, in its written submission in relation to Lieutenant Appleby, conceded that, although Lieutenant Appleby's execution was ostensibly because of his subversive activities, his escape was also likely to have been 'a factor' [in his execution]. The Tribunal also finds that the fact of his being an escaped POW was likely to have been a contributing factor to his execution, although not specifically referenced by the Japanese.

### **Tribunal finding**

25. Although the nexus between his death and his escape is not strong, the Tribunal finds that Lieutenant Appleby is a person who is can be considered for medallic recognition under the Terms of Reference of this Inquiry.

## **CONSIDERATION OF MEDALLIC RECOGNITION**

### **Was there an act of gallantry in Lieutenant Appleby's escape?**

26. Little detail is available regarding the nature of Lieutenant Appleby's escape from the Koan School. The Tribunal is aware from contemporary accounts that the degree of physical constraint imposed by the Japanese increased over time from an initial period of confusion and scant direct control. Notwithstanding the degree of difficulty that may or may not have been experienced by Lieutenant Appleby in effecting his escape, the Tribunal formed the view that his decision to escape captivity demonstrates bravery, determination and initiative.

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<sup>11</sup> Opinion by the Director of Prisoners of War and Internees, 13/11/46. NAA: MP742/1 336/1/973 p. 3.

27. Lieutenant Appleby's actions whilst 'at large' further demonstrate his skill in evading Japanese detection and arrest whilst engaged in resistance activity. Lieutenant Appleby operated in Java for a period of some nineteen months as an escaped POW.

28. Notwithstanding the Tribunal did not find a strong nexus between Lieutenant Appleby's escape and his death, the Tribunal has formed the view that Lieutenant Appleby's escape and subsequent ongoing perseverance and resourcefulness in avoiding detection and recapture should receive medallic recognition.

## **RECOMMENDATION**

29. The Tribunal recommends that Lieutenant John Leslie Appleby be posthumously awarded the Commendation for Gallantry.

## TX3283 CORPORAL JAMES HUBERT ARMSTRONG

### **What has led to consideration of Corporal Armstrong by this Inquiry?**

1. In a submission to the Inquiry, Mr Peter Henning requested recognition for Corporal James Hubert Armstrong, who was a Prisoner of War said to have been executed by the Japanese following his escape and recapture. Corporal Armstrong was also identified in the submission by Mrs Dianne Cowling on behalf of the 2/29<sup>th</sup> Association.
2. At the hearing before the Tribunal on 4 April 2017, Mrs Cowling was unable to provide any information additional to the material provided with her submission to the Tribunal. Mr Henning did not appear, and relied on his written submissions.

### **Corporal Armstrong's service, capture and imprisonment**

3. Corporal Armstrong of 2/40<sup>th</sup> Infantry Battalion, AIF, enlisted 13 June 1940 and was a member of Sparrow Force, dispatched in the defence of Dutch Timor, arriving at Usapa Besar, not far from the capital of Koepang, in December 1941.
4. Following the surrender of the main group of Australian personnel, Corporal Armstrong was captured and imprisoned at Usapa Besar. Corporal Armstrong was reported missing at Koepang on 25 April 1942 and reported as a POW on 9 June 1942.<sup>1</sup>
5. The Tribunal accepts that Corporal Armstrong was a Prisoner of War.

### **Evidence of escape**

6. Lieutenant Colonel W.W. Leggatt, the Commanding Officer of 2/40<sup>th</sup> Battalion, provided an account of Sparrow Force in captivity in Timor between 23 February and 1 September 1942. In that account he described the situation regarding escape as follows:

From the outset all possible assistance was given to personnel wishing to escape. Information, food, cash and advice were freely given. An Intelligence System was organised with the object of:

- (a) obtaining information of Japanese forces in Timor
- (b) obtaining arms to arm escape and reconnaissance parties
- (c) obtaining information of our own troops in the bush
- (d) to find ways and means of transmitting information to Australia, as it was thought possible that the Allies would eventually endeavour to retake Timor.’<sup>2</sup>

7. Corporal Armstrong is identified by Lieutenant Colonel Leggatt as one of three personnel who did most of the reconnaissance work.<sup>3</sup>

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<sup>1</sup> Service Record, J.H. Armstrong, NAA: B883, TX3283.

<sup>2</sup> Sparrow Force POW Camp War Diary 25 Feb 42 – 1 Sep 42. AWM: PR 89/99.

<sup>3</sup> Sparrow Force POW Camp War Diary.

8. Corporal Armstrong is noted by Lieutenant Colonel Leggatt as leaving the camp in July 1942, carrying an intelligence report, to contact the 2nd Independent Company in Portugese Timor, and 'has not been seen since'.<sup>4</sup>

9. Lieutenant Colonel Leggatt's account is broadly consistent with the report of Captain N.P. Maddern, the 2/40<sup>th</sup> Battalion adjutant, to the War Crimes Military Tribunal, Darwin 1946. Captain Maddern states:

Armstrong was a PW off and on until June 42. He was in and out of camp searching for personnel not accounted for, collecting arms and equipment, contacting uncaptured personnel and obtaining information concerning Japanese disposition etc. In June he went out with an intelligence report in an endeavour to get through to the Second Independent Company in Portugese Timor.

10. Captain Maddern continued:

While he was away his absence became known to the Japanese through a check being made of personnel in the camp and when he returned in July he had to leave the camp immediately. He left in company with a British soldier Gunner Martin 79 Light A/A Bty. It was rumoured that he ran into the Japanese at Mina River about the end of July but whether he was killed or escaped is not known.<sup>5</sup>

### **Conclusion as to escape**

11. Defence contended that as Corporal Armstrong had a history of leaving the camp to gather intelligence and forage for food and equipment, had his absence not been noted by the Japanese, it was submitted, he would probably have returned to the camp as before. This submission overlooks the evidence of Lieutenant Colonel Leggatt and Captain Maddern. The Tribunal is reasonably satisfied that Lieutenant Colonel Leggatt and Captain Maddern, while unaware of Corporal Armstrong's fate, both gave a clear account of Corporal Armstrong having escaped the camp. The Tribunal finds that there is evidence that Corporal Armstrong escaped from his imprisonment at Usapa Besar in about July 1942.

### **Evidence of Corporal Armstrong being killed as a consequence of escaping**

12. Evidence given at the War Crimes trial in Darwin in 1946 suggests that Gunner Martin was captured in the Champlong-Soe area of Dutch Timor in April 1943 and that Corporal Armstrong was captured several weeks later, towards the end of May, in the vicinity of Champlong.

13. The circumstances of Corporal Armstrong's capture remain unknown, but details of his torture and death were graphically described by Timorese witnesses at the War Crimes trial of Lieutenant Colonel Yutani and other members of the Koepang Kempeitai. It was

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<sup>4</sup> Sparrow Force POW Camp War Diary.

<sup>5</sup> Report, Captain N.P. Maddern to War Crimes Military Tribunal, Darwin 1946, **p.162**. NAA: A471, 80709.

established that Corporal Armstrong was interrogated and tortured before being summarily executed with Gunner Martin.<sup>6</sup>

14. On the occasion of his first interrogation at Kempeitai headquarters in Koepang, while forced to sit on a stool, Corporal Armstrong was tipped backwards so his head struck the concrete floor heavily. On the second occasion, his beard was set on fire and he was beaten. He was made to squat on the floor and his arms were held above his head with a rope.<sup>7</sup>

15. Corporal Armstrong's execution took place at Aernona village, near Koepang, outside the house of a Timorese<sup>8</sup> who witnessed what occurred while remaining hidden from the Japanese. He described how Corporal Armstrong and Gunner Martin arrived at the execution site blindfolded and with arms bound, and were then forced to face a seven man firing squad. The witness heard a ragged volley, followed by a single shot. He then testified that *'immediately after this shot, one of the prisoners appeared at the corner of his latrine as if running away, but still being blindfolded, struck his head on the corner of it, and fell'*. The prisoner was picked up by two Japanese to face a second volley from the firing squad and a final single shot. The bodies of Corporal Armstrong and Gunner Martin were then buried in shallow graves not far from the site of the murder, according to Timorese accounts.<sup>9</sup>

16. Colonel Yutani was found guilty of the murders of Corporal Armstrong and Gunner Martin and was sentenced to death. He was executed in Rabaul on 1 August 1946.<sup>10</sup>

### **Conclusion as nexus between death and the escape**

17. The Tribunal finds that Corporal Armstrong escaped from Japanese forces at Usapa Besar, Timor in July 1942. Although no evidence has been found of the circumstances of his recapture, the Tribunal also finds that Corporal Armstrong was executed by the Japanese as a consequence of his attempted escape.

18. As a result, the Tribunal finds that Corporal Armstrong is a person who can be considered for medallic recognition under the Terms of Reference of this Inquiry.

### **CONSIDERATION OF MEDALLIC RECOGNITION**

19. Corporal Armstrong had come to the attention of Lieutenant Colonel Leggatt in the period of military action before the surrender, but it was not until mid-1943, when a POW in Changi, that he wrote a citation recommending Corporal Armstrong for a Distinguished Conduct Medal for his conduct in action against the Japanese during the attack on the village of Babaoe, Timor, on 1 February 1942. Lieutenant Colonel Leggatt submitted his original recommendations on 4 October 1945. In response to a call for nominations under an 'End of

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<sup>6</sup> Transcripts of the trial of Colonel Yutani and others of the Koepang Kempetai. NAA: A471, 80709 and NAA: A471 81630.

<sup>7</sup> Precis of evidence against Yutani and others for murder of Armstrong and Martin. NAA: A471, 881630 and MP742/1 336/1/1663.

<sup>8</sup> Willem Latumahina.

<sup>9</sup> Precis of evidence against Yutani and others for murder of Armstrong and Martin. NAA: A471, 881630 and MP742/1 336/1/1663.

<sup>10</sup> Record of Yutani conviction and sentence for murder of Armstrong and Martin, NAA: A471, 80709 and MP742/1 336/1/1663.

Hostilities' list in January 1946, Lieutenant Colonel Leggatt deleted Corporal Armstrong's name from his 'Summary of previous recommendations for awards – Sparrow Force', but included a recommendation for him to be awarded an MID 'for outstanding conduct in action'. In his submission to the Inquiry, Mr Henning concluded from his detailed research<sup>11</sup> that Lieutenant Colonel Leggatt's removal of Corporal Armstrong's name from his original list of nominees was in response to his receiving information that Corporal Armstrong had been killed in Timor. The Tribunal accepts Mr Henning's conclusion regarding Lieutenant Colonel Leggatt's recommendations on behalf of Corporal Armstrong.

20. The Tribunal has been unable to find any information as why Lieutenant Colonel Leggatt's recommendation for Corporal Armstrong to be awarded an MID was not actioned. Mr Henning has provided his detailed analysis of Lieutenant Colonel Leggatt's recommendations including his observation that none of the seven men on the original list prepared in Changi (which included Corporal Armstrong) received an award for which they had been nominated. For the purposes of this Inquiry, the Tribunal can draw no conclusion from this other than to note that Corporal Armstrong was clearly regarded as a courageous soldier by his commanding officer and that some difficulty was experienced in the administration of his nomination for recognition.<sup>12</sup> The Tribunal has previously canvassed the omission of Corporal Armstrong for medallic recognition with respect to his actions during the attack on the village of Babaoe on 21 February 1942.<sup>13</sup>

21. The Tribunal does not propose to otherwise canvass its earlier recommendation with respect to Corporal Armstrong as that matter is presently under consideration by the Minister. In any event, the circumstances in respect of those actions are outside the scope of the present Inquiry.

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<sup>11</sup> Mr Henning's cited reference: NAA Victoria: Censorship of the Press B 3856/0 146/1/16. See also Lynette Silver, *Sandakan: A Conspiracy of Silence*, Sally Milner Publishing, Binda NSW, 2000, pp. 285-6. According to Armstrong's service file (NAA: B883 TX3283) on 16 November 45 information from 2 Echelon was added stating 'previously reported PW, now reported missing believed deceased'. On 4 May 1946 the file was updated to 'Died while PW' and then on 1 June 1946 amended again to read 'Died while PW (executed by Japs)'. On Leggatt's recommendation list for Armstrong of 4 October 1945 there is a handwritten notation beside the citation for Armstrong which states 'Still Missing'. On Leggatt's additional recommendations list for 19 January 1946 Leggatt describes Armstrong as 'Deceased'. It is reasonable to conclude therefore that Leggatt had been told of Armstrong's death in January 1946, even though the information in definitive form had not reached 2 Echelon by the time of the press report of 16 April 1946, and even though Armstrong's mother only heard of her son's death through the press report of 16 April 1946.

<sup>12</sup> The citation for the Distinguished Conduct Medal reads: *'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.'* The citation also states that *'at all times during action this soldier displayed the finest qualities of a fighting soldier.'* AWM, PR89/099 Part 2.

<sup>13</sup> See *Billett and the Department of Defence* [2016] DHAAT 10 (24 March 2016) in which the Tribunal recommended that the Minister direct Army to review the eligibility for honours of six of Lieutenant Billett's colleagues, including Corporal Armstrong, who were also recommended for awards for their conduct in action in the period 19 to 23 August 1942.

## **Other courageous activities of Corporal Armstrong**

22. Corporal Armstrong's activities as a POW extend beyond his ultimate escape, recapture and execution. His commanding officer outlined his role as a key member of the 2/40<sup>th</sup> Battalion's Intelligence System at Usapa Besar. Mr Henning has related oral accounts given to him by other members of 2/40<sup>th</sup> Battalion; Corporal R.L. Rainbow said that he had worked with Corporal Armstrong outside the camp on several occasions and indicated that Corporal Armstrong had found weapons, including .303 rifles and grenades, which he smuggled back into the prison camp. Private E.A. Sweetman, who was in the same hut as Corporal Armstrong, said that Corporal Armstrong kept a .303 rifle hidden in the roof of their hut, which he took with him for self-defence on his excursions beyond the wire. Sergeant D.H. Scanlon was among several veterans who recounted a story of Corporal Armstrong killing a number of Japanese with a grenade and rifle after he accidentally encountered them while outside the wire.

23. Corporal Armstrong was also a key player in an earlier attempt to hijack an aircraft from Penfui airfield in order to get information back to Australia regarding Japanese activity in Timor. The escape is referenced in Lieutenant Colonel Leggatt's general Sparrow Force report<sup>14</sup> and Mr Henning has described the escape attempt as related to him by three of the participants: the pilot, Flight Lieutenant J.L. Macalister OBE DFC; the 2IC of 2/40<sup>th</sup> Battalion, Major R.A. Campbell, and Lieutenant R.G.J. Piggott. In late March 1942, after Flight Lieutenant Macalister was captured and brought to the prison camp, Major Campbell raised the possibility of arranging to escape Timor by air. Corporal Armstrong was delegated to spy on the Japanese at Penfui airfield, to collect information about routines, how aircraft were guarded, when they were refuelled, and to work out the best way to get a group of eight men to the airfield during the night. On 23 April 1942, Corporal Armstrong guided a group of officers to the aircraft that had been earmarked for the escape. Corporal Armstrong and one of the officers were given responsibility for dealing with a Japanese sentry, but they could not find him at his usual position. The group then moved to the selected aircraft and broke in. For the next few hours, Flight Lieutenant Macalister attempted to start the aircraft without success. Corporal Armstrong then guided the officers back to the prison camp, ensuring they arrived before their absence was noted by the Japanese.

## **Was there an act of gallantry in Corporal Armstrong's escape?**

24. Corporal Armstrong's activities whilst a POW illustrate his initiative and courage in frequently ranging outside of the confines of the prison camp at Usapa Besar. The Tribunal accepts that the nature of the prisoners' incarceration in Timor was progressively tightened until the Australian POWs were transferred from Timor to Java in July and September of 1942. Noting the increasing physical control imposed by their Japanese captors, the Tribunal acknowledges that Corporal Armstrong's actions in supporting his commanding officer in operations outside the confines of the Usapa Besar camp reflect his gallantry.

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<sup>14</sup> Sparrow Force Report. AWM: PR 89/99 para 16.

25. While Corporal Armstrong's ultimate bid for freedom appears to have been precipitated by Japanese awareness of his absence, the Tribunal formed the view that this trigger event in no way diminishes the challenge accepted by Corporal Armstrong in undertaking a hazardous attempt to escape Japanese control at the Usapa Besar POW camp and Timor.

## **RECOMMENDATION**

26. The Tribunal recommends that Corporal James Hubert Armstrong be posthumously awarded the Commendation for Gallantry.



**VX15035 PRIVATE JOHN DOUGLAS**  
also known as Samuel **SOLONSCH**

**What has led to the review?**

1. Private John Douglas (also known as Samuel Solonsch) was identified by the Tribunal's research as an individual who may meet the Terms of Reference of this Inquiry.

**Private Douglas' service, capture and imprisonment**

2. Samuel Solonsch was born in London, England on 28 April 1904. He served in the Royal Navy during the First World War as John Douglas. He enlisted in the 2<sup>nd</sup> AIF as John Douglas at Hawthorn, Victoria, in May 1940, and was a member of 105<sup>th</sup> Australian General Transport Company (AGTC).<sup>1</sup> During the return of Australian troops from the Middle East by sea, including Private Douglas' unit in early 1942, Singapore fell to Japanese forces. Private Douglas' company was offloaded at the port of Tanjong Priok, Batavia (now Jakarta) in the Dutch East Indies on 19 February 1942.<sup>2</sup>

3. After its arrival in the Dutch East Indies, Private Douglas' unit became part of 'Blackforce' under the command of Brigadier Arthur Blackburn VC. For operations, Blackforce would be directly under the command of the Dutch Commander in Chief, General ter Poorten.<sup>3</sup> After a brief campaign in the face of overwhelming odds, on the morning of 8 March, General ter Poorten broadcast that resistance had ceased and all were to lay down their arms. That afternoon, judging further resistance useless, the British commanders Air Vice Marshal Maltby and Major General Sitwell issued the Dutch order to all British units,<sup>4</sup> although a formal surrender was not signed until 12 March 1942.<sup>5</sup>

4. A diary written by VX47533 Corporal Tom Fagen, also of AGTC, recorded that on 9 March the Dutch had capitulated and they had been 'sold out'. He wrote of some members 'making a break for the hills' and some trying to reach the beach. On 10 March they had orders from the Japanese to relocate, and were not permitted to leave the grounds without Japanese authority. On 11 March they were visited by Japanese and were required to promise they would not escape.

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<sup>1</sup> Service Record, J. Douglas. NAA: B883, VX15035.

<sup>2</sup> Lionel Wigmore, *The Japanese Thrust, The Official History of Australia in the War of 1939-1945*, Series I, Volume IV, Australian War Memorial, Canberra, 1957, p. 457.

<sup>3</sup> Wigmore, *The Japanese Thrust*, p. 457.

<sup>4</sup> Wigmore, *The Japanese Thrust*. pp. 502-503.

<sup>5</sup> Transcript of Brigadier Blackburn's evidence on 2 October 1945; affidavit of Brigadier Blackburn 10 December 1946. NAA: A471, 81634.

5. At the hearing before the Tribunal on 15 May 2017, Defence contended that there was some doubt that Private Douglas was a Prisoner of War because he and others had been told only to assemble in a designated area. The submission was that the Tribunal should look for some physical restraint in coming to the view that a person was a POW.<sup>6</sup>

6. Corporal Fagen's diary provides persuasive evidence that from 9 March 1942 there was an awareness that members of AGTC were under Japanese control. By the following day they had orders to relocate, and were not permitted by the Japanese to leave the designated area. Some members attempted to evade that closer confinement, but there was no evidence that Private Douglas was one of those persons. In any event, having regard to the circumstances facing Private Douglas and the other members of his unit at the time, the Tribunal did not agree with Defence's view. The Tribunal accepts that Private Douglas was a Prisoner of War.

### **Evidence of escape**

7. In 1946, Army headquarters in Australia informed Mrs Bessie Solonsch (sic) that her husband had escaped from captivity on 10 March 1942, and that he was dead. Shortly after the War, recently released POWs had informed Mrs Solonsch that:

Often after his escape he walked past their camp and tossed them money to buy food. They knew that he was alive at least six months after the fall of Java but contact with him was then lost.<sup>7</sup>

### **Conclusion as to escape**

8. The Tribunal finds that there is evidence that Private Douglas escaped from imprisonment in Java.

### **Evidence of Private Douglas being killed as a consequence of escaping**

9. After his escape, Private Douglas – then known as Captain John Douglas and claiming to be a former policeman – formed and headed an organisation of Australian, Dutch and local guerrillas. They were soon contacted by Mrs Margaretha Wernick-Knuyt who had formed an underground movement with her husband, the assistant manager of a large Batavia export firm. The two groups joined forces under Douglas' command and Mrs Wernick-Knuyt became a key guerrilla.<sup>8</sup>

10. After being at large for eight months, Private Douglas was arrested by the Japanese in November 1942. He was put on trial for treason. The judge at Private Douglas' court martial, Kida Kuranosuke, in a sworn statement at the war crimes trial of Katsumura Yoshio

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<sup>6</sup> Oral submission, Major Phil Rutherford – hearing of 15 May 2017.

<sup>7</sup> *News* [Adelaide], 19 February 1945, p. 1.

<sup>8</sup> Academic Paper, R. van Maaren and H. Eijgelshoven, *Resistance in the Dutch East Indies*, 2015, held by Ms Lynette Silver OAM. See also: *News* 26 November 1945, p. 2 & 19 February 1945, p. 1.

and Others in September 1946, stated that Douglas was ‘*charged with treason in the first degree*’. Another report was to the effect that he was court-martialled for alleged spying.<sup>9</sup>

11. Private Douglas’ service record states that he was executed by the Japanese with a date of death 11 April 1943.<sup>10</sup> He is buried in the Jakarta Netherlands Field of Honour.

### **Tribunal findings**

12. The Tribunal finds that Private Douglas escaped from Japanese imprisonment in March 1942. The Tribunal also finds that, while Private Douglas was *prima facie* executed by the Japanese as a consequence of his activities in support of the Dutch resistance, his escape from captivity had facilitated this role.

13. While the nexus between his escape and execution is not strong, the Tribunal finds that Private Douglas is a person who is eligible for consideration under the Terms of Reference of this Inquiry.

### **CONSIDERATION OF MEDALLIC RECOGNITION**

14. Very little specific detail is available of Private Douglas’ escape. The date of his escape, as reported to have been officially notified to his next of kin, is two days after Allied units were ordered to lay down their arms, by which time the soldiers regarded themselves as under Japanese control.

15. The Tribunal is aware from contemporary accounts that the nature of Australian soldiers’ imprisonment at this time was quite informal when compared with the stricter imprisonment regime subsequently developed by the Japanese. Defence submitted that the apparent ease of the escape detracted from the gallantry associated with the escape.

16. Regardless of the physical constraints that may or may not have been imposed on Private Douglas, the Tribunal considered there was sufficient evidence to conclude that he displayed courage and a high degree of audacity and determination in effecting his escape. The Tribunal also notes his reported ongoing support of remaining POWs over several months after his escape. Private Douglas’ actions whilst ‘at large’ demonstrate his skill and resourcefulness in evading Japanese detection and recapture, while coordinating resistance to the Japanese occupying forces demonstrates his initiative and leadership. Private Douglas operated on Java for a period of some eight months as an escaped POW.

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<sup>9</sup> Affidavit of Sergeant Anamo Takanobu 27 February 1946. NAA: MP742/1, 3336/1/1985 Part 1, *Java – War crimes – General file [Component 1 of 8]*.

<sup>10</sup> Service Record, J. Douglas. NAA: B883, VX15035.

17. Notwithstanding the Tribunal did not find a strong nexus between Private Douglas' escape and his death, the Tribunal has formed the view that his escape and subsequent actions should receive medallic recognition.

## **RECOMMENDATION**

18. The Tribunal recommends that Private John Douglas (also known as Samuel Solonsch) be posthumously awarded the Commendation for Gallantry.

## VX19728 PRIVATE JOHN EDWARD DURKIN

### What has led to the consideration of Private Durkin by this Inquiry?

1. Private John Edward Durkin was identified in the course of the Tribunal's research as a person who may fall within the Inquiry Terms of Reference.

### Private Durkin's service

2. On 30 May 1940, Private Durkin enlisted at Melbourne. He joined 2/2th Pioneer Battalion on 2 June 1940 and undertook unit training. He embarked for the Middle East on 7 April 1941 and arrived in theatre on 21 May.<sup>1</sup> His unit was ordered to return to Australia after war broke out in the Pacific and he embarked in SS *Orcades* on 31 January 1942. The battalion disembarked in Java on 18 February 1942. The day after the Dutch capitulation on 8 March, the battalion surrendered to the Japanese along with the other Australian formations in Java.<sup>2</sup>
3. Private Durkin remained in Java until 7 January 1943. He was then transported by sea to Singapore and thence to Thailand as part of what was designated Dunlop Force. In May 1945, after the completion of the Burma-Thai Railway, Durkin was sent from the Nakhtom Pathon hospital camp as a member of a work party intended to build defence works at Songkurai, near the border with Burma.<sup>3</sup>
4. Private Durkin was initially noted as '*Missing in Action*' with a date not known in an entry dated 30 April 1942. Two associated entries, dated 28 April 1942 noted him as being '*Missing*' to date 7 April 1942 and '*Missing bel[ieved] P.O.W*' with the same date. A further entry dated 28 July 1943 received from AIF Java recorded Private Durkin as '*PRISONER OF WAR Java*', also to date 7 April 1942.
5. The Tribunal accepts that Private Durkin was a Prisoner of War.<sup>4</sup>

### Evidence of escape

6. Private Durkin worked as a labourer on defence tunnels in the Nieke-Pagoda Pass from May 1945. During this time his physical condition, already poor, steadily deteriorated due to the combined effects of malaria, dysentery and malnutrition; he had periods of delirium. Private L.V. Hosier, who was also at Songkurai, wrote in an affidavit<sup>5</sup> that on a morning in the middle of July 1945, Private Durkin found himself unable to continue after

<sup>1</sup> Service Record, J.E. Durkin. NAA: B883, VX19728.

<sup>2</sup> Lionel Wigmore, *The Japanese Thrust, Australia in the War of 1939-1945, Series I – Army*, Vol. IV, Australian War Memorial, Canberra, 1957, p. 457 & pp. 495-506.

<sup>3</sup> O & P Battalion Rolls, Papers of Sir Edward Dunlop. AWM, PR87/154.

<sup>4</sup> Service Record, J.E. Durkin. NAA: B883, VX19728.

<sup>5</sup> Affidavit by Private L.V. Hosier, QX 15778. AWM54 1010/4/74.

experiencing further ill-treatment. As a work-party assembled, Private Durkin told Sergeant Major Duprez, the senior member of the group, that he could not go on. Private Hosier wrote that he had heard Private Durkin tell the Sergeant Major *'that it was useless for the other POWs to try and assist him further, as he knew he could not survive.'*<sup>6</sup> After walking a mile and a half from the POW camp towards the worksite and obviously in considerable pain, Private Durkin dropped back from the column and disappeared into the jungle. His absence was noticed when they reached the work site and a search mounted, involving both other POWs and Japanese troops.

7. Private Durkin remained at large for several days, despite an extensive search being mounted.

### **Conclusion as to escape**

8. The Tribunal finds that there is sufficient evidence for it to find that Private Durkin attempted to escape from Japanese troops in the middle of July 1945. The Tribunal is reasonably satisfied that Private Durkin deliberately absented himself from the POW work party to escape in the belief that his physical condition had reached the point where he had no hope of survival. His stated motivation included his belief that the other POWs should not have to try to help him, given that he had no chance of survival.

### **Evidence of Private Durkin being killed as a consequence of attempting to escape**

9. Private Durkin appears to have remained at large for several days before being recaptured by the Japanese. He was brought back to Songkurai Camp.<sup>7</sup> Private Hosier wrote that Private Durkin was interrogated and was tied to a post outside the guardroom for several days without food.

10. Over the next few weeks, Private Durkin remained tied to a post near the camp's guard room, exposed to the wet season and subject to further ill-treatment, including further periods without food and repeated physical abuse.<sup>8</sup>

11. On 14 August 1945, Private Durkin was led to the rear of the camp by four Japanese guards, equipped with hoes and rifles with bayonets fixed.<sup>9</sup> Private Hosier saw Private Durkin, still bound, standing by a mound of freshly dug earth with three bayonet-wielding Japanese soldiers in front of him.<sup>10</sup> No POW is recorded as actually having witnessed Private Durkin's death, but they did note a freshly made grave in the same location the next day, over which they were permitted to conduct a funeral service.<sup>11</sup> A Japanese soldier, 2<sup>nd</sup> Class Private Okawa Kisaburo later confessed to ordering Durkin's execution by bayonet.<sup>12</sup> He said he had acted on the orders of Captain Hosumi.

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<sup>6</sup> Affidavit by Private L.V. Hosier, QX 15778. AWM54 1010/4/10.

<sup>7</sup> Affidavit by Sergeant Major H.A. Duprez, NX 51308. AWM54 1010/4/46.

<sup>8</sup> Affidavits by Private J.H. Barry, NX 33737. AWM54 1010/4/10, Corporal A. Grundie, NX 2516. AWM54 1010/4/63, Sergeant I.W. Rennie, TX 4877. AWM54 1010/4/121 and Private C.J. Vidler, WX 8585. AWM54 1010/4/148.

<sup>9</sup> Affidavit by Sergeant I.W. Rennie, TX 4877. AWM54 1010/4/121.

<sup>10</sup> Affidavit by Private L.V. Hosier, QX 15778. AWM54 1010/4/10.

<sup>11</sup> Affidavit by Sergeant I.W. Rennie, TX 4877. AWM54 1010/4/121.

<sup>12</sup> Proceedings of the Military Court, Sheet 54. NAA: MP742/1 336/1/1936.

### **Conclusion as to nexus between escape and death**

12. There is substantial evidence that Private Durkin was killed because of an attempt to escape. There were multiple POW witnesses of his maltreatment and of what occurred immediately before and in the aftermath of his death, as well as a confession by the Japanese section commander who ordered Private Durkin's bayoneting. Private Durkin was executed because of the Japanese belief that he had attempted to escape and as punishment for that attempt.

### **Conclusion as nexus between death and the escape**

13. The Tribunal is reasonably satisfied that Private Durkin was recaptured after his escape and, between this time and his death, subjected to continued ill-treatment. He was then executed by bayonet. The Tribunal is satisfied that Private Durkin was killed as a consequence of his attempt to escape.

### **Tribunal finding**

14. For this reason, the Tribunal finds that Private Durkin is eligible for consideration under the Terms of Reference for this Inquiry.

## **CONSIDERATION OF MEDALLIC RECOGNITION**

### **Was there an act of gallantry in Private Durkin's attempt to escape?**

15. The conditions which the POWs at Songkurai experienced in July 1945 were appalling. Private Durkin was in very poor physical condition and believed that he was on the edge of death and could not continue, and this precipitated his decision to escape at that time. Some other POWs had been concerned about Private Durkin's mental state.<sup>13</sup> Nevertheless, before he left the work party and disappeared into the jungle, Private Durkin made it clear that part of his motivation for doing so was that he believed that he was not worth the efforts of other, hard-pressed POWs in trying to help him. The Tribunal considers there was a deliberate act in absenting himself from the work party, as distinct from an inability to continue. That he was able to survive at large for several days prior to being recaptured suggests determination to evade recapture and also some resilience in survival while at large. Further, he was able to survive several weeks of sustained ill-treatment after his recapture.

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<sup>13</sup> Affidavits by Private J.H. Barry, NX 33737. AWM54 1010/4/10, and Corporal A. Grundie, NX 2516. AWM54 1010/4/63.

16. The Tribunal came to the view that there was sufficient evidence before it to conclude that the circumstances of Private Durkin's attempt to escape amounted to an act of gallantry worthy of recognition. Although his escape may have initially been with the intention of going away to die, he wished to avoid being a burden on other POWs who were in little better physical and mental condition than he, and in that, the Tribunal finds, was a deliberate act of selflessness. Further, Private Durkin's resilience and resourcefulness are demonstrated by his ability to remain at large for a number of days while an extensive search was being conducted, despite being in a very poor physical condition.

## **RECOMMENDATION**

17. The Tribunal recommends that Private John Edward Durkin be posthumously awarded the Commendation for Gallantry.



**VX66131 PRIVATE JAMES FREDERICK ELMORE**  
**and**  
**VX19415 PRIVATE FREDERICK NORMAN SCHAEFER<sup>1</sup>**

**What has led to the consideration of Privates Elmore and Schaefer by this Inquiry?**

1. Privates Elmore and Schaefer were identified by the Tribunal as persons who may be eligible for consideration under the Terms of Reference of this Inquiry.

**Private Elmore and Private Schaefer's service**

2. James Frederick Elmore initially enlisted with the Citizens Military Force at Royal Park, Victoria, on 6 November 1940. On 2 December 1941, he enlisted in the AIF and embarked from Darwin for service overseas on 9 January 1942, with reinforcements for the 2/21st Infantry Battalion. He disembarked at Ambon on 12 January 1942 and was reported missing on 2 February 1942, and a Prisoner of War from 17 February 1942. His service record notes his death on 13 September 1945 as '*Died of illness whilst P/W on 23.05.45*'.<sup>2</sup>

3. Frederick Norman Schaefer enlisted on 12 June 1940 at Caulfield, Victoria. Private Schaefer embarked for service overseas, from Darwin, with the 2/21 Infantry Battalion on 13 December 1941. He disembarked at Ambon on 17 December 1941. He was posted as missing 2 February 1942. On 14 September 1945, his service record noted that he was '*killed in action (executed by Japanese) 30 April 1945 at Ambon*'.<sup>3</sup>

**Private Elmore and Private Schaefer's capture and imprisonment**

4. Following the Japanese invasion of Ambon on 30 January 1942, on 3 February 1942, 8 Division's 2/21 Battalion, which formed part of Gull Force, surrendered to the Japanese. The surviving prisoners were incarcerated at Tan Toey Camp.<sup>4</sup>

5. Privates Elmore and Schaefer remained at Tan Toey until the morning of 26 March 1945 when they were found to be missing.<sup>5</sup>

6. The Tribunal accepts that Privates Elmore and Schaefer were Prisoners of War.

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<sup>1</sup> Recommended by Defence for medallic recognition, but escaped with Private Elmore.

<sup>2</sup> Service Record J.F. Elmore. NAA: B883, VX66131.

<sup>3</sup> Service Record, F.N. Schaefer. NAA: B883, VX19415.

<sup>4</sup> Lionel Wigmore, *The Japanese Thrust, the Official History of Australia in the War of 1939-1945, Series I, Volume IV*, Australian War Memorial, Canberra, 1957, p. 604.

<sup>5</sup> War Graves Record Card, SCHAEFER Frederick Norman – VX19415, Notation on side 2. NAA: A8234, 39. See also: Service Record J.F. Elmore. NAA: B883, VX66131; and Courtney Harrison, *Ambon, Island of Mist, 2/21 Battalion AIF (Gull Force) Prisoners of War*, T.W. and C.T. Harrison, North Geelong, pp. 128-129.

## Evidence of escape

7. In his book *Ambon, Island of Mist*, Author Courtney Harrison has recorded:

It was believed that Schaefer and Private L F (*sic*) Elmore had attempted to escape. The matter was later reported to the Japanese. The prisoners learnt on 11 April that Schaefer had been recaptured, and two days later he was brought back to camp under escort. He was interrogated by the Japanese authorities, and made to indicate the route by which he left the camp. He was taken back to gaol at Latteri village and was next seen by prisoners on 30 April, moving under escort through Galala village in the direction of Ambon town.<sup>6</sup>

8. Privates Elmore and Schaefer had stolen food from the Japanese store a few days before they escaped. Their stated intention was to try to reach Australia. Information gathered at the War Crimes trial of Lieutenant Yoshio Miyazaki (and others) confirms that Private Schaefer was recaptured on 10 April 1945 at Halong.<sup>7</sup> When interrogated by the Japanese, Private Schaefer admitted that he had escaped.<sup>8</sup>

9. On 18 February 1946, Sub Lieutenant 1<sup>st</sup> Class Matagi Honji and 2<sup>nd</sup> Class Petty Officer Eizo Kurokawa were found guilty of the murder of Private Schaefer. Evidence from that trial includes a written statement by Naval Lieutenant Yoshio Miyazaki. In that statement, Lieutenant Miyazaki noted that Private Elmore escaped with another Australian prisoner attempting to get to Australia. Lieutenant Miyazaki recorded that Private Elmore was recaptured in the afternoon of May 21<sup>st</sup> at Batogah.<sup>9</sup>

10. Attached to Private Elmore's service record is a Ministerial Inquiry dated 29 July 1975 seeking information of Private Elmore's death. The Inquiry outlined that:

The abovenamed deceased, who had been captured on Ambon while serving with the 2/21 Bn on 17 Feb 42, was held as a POW on Ambon. He escaped from captivity on 26 Mar 45 with another Australian soldier, Schaefer. Schaefer was subsequently captured and executed. A nominal roll of those who were held as POWs on Ambon is held.

11. The roll states '*Reported missing from POW Camp, Galala, Ambonia, on the morning of the 26th March 1945. Believed attempted to escape, in company with Pte Schaefer F.N.*'<sup>10</sup>

## Conclusion as to escape

12. The Tribunal is reasonably satisfied that Private Elmore and Private Schaefer escaped from Japanese forces at Tan Toey Camp in March 1945, with the stated intention of remaining at large and returning to Australia.

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<sup>6</sup> Harrison, *Ambon*, p.128.

<sup>7</sup> Miyazaki statement, NAA: A471, 81644.

<sup>8</sup> Record of Military Court p. 1. NAA: A471 80780.

<sup>9</sup> Miyazaki statement, NAA: A471, 81644.

<sup>10</sup> Service Record, J.F. Elmore, NAA: B883, VX66131.

## **Evidence of Privates Elmore and Schaefer being killed as a consequence of escaping**

### ***Private Elmore***

13. According to Lieutenant Miyazaki, Private Elmore was recaptured in the afternoon of 21 May and died at 2030 hours on 22 May 1945, while under interrogation at Latteri.<sup>11</sup>

14. In Harrison's account, Private Elmore's fate was recorded as having been relayed to the remaining prisoners by the Japanese as follows:

On 29 May [1945], the Japanese said that they had located Elmore in a native hut about a week previously, he was suffering from severe dysentery and had died the next day.

On 28 August [1945] the Japanese HQ advised that Elmore had died from dysentery on the 23 May.<sup>12</sup>

15. Harrison also recorded that the Australians found Private Elmore's grave in the small cemetery at Galala village.

16. At the hearing, Defence told the Tribunal that the Historical Honours Review Board had formed the view that Private Elmore had died of illness (dysentery) and was not deliberately executed as a consequence of his escape. Defence returned Private Elmore's case to the Tribunal for further consideration.

17. Although no evidence was available as to the circumstances of his recapture, the Tribunal accepts, on the basis of Lieutenant Miyazaki's evidence to the War Crimes Tribunal, that Private Elmore was recaptured on 21 May 1945, having been at large since 26 March 1945.

18. Defence submitted that there was no evidence of violence or neglect, and that his case was one of those where, sadly, the prisoner had died of illness. Further, Defence queried the reliability of the available evidence.<sup>13</sup>

19. Defence also submitted, more generally and somewhat at odds with its earlier submission, that for a person to come within the Terms of Reference they must not have merely been killed on recapture, but had in fact been executed. Consequently, it was submitted, that even if Private Elmore had died during an interrogation and his death may have been inadvertent, he was not 'executed', and therefore did not fall within the Inquiry's Terms of Reference.<sup>14</sup>

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<sup>11</sup> Miyazaki statement. NAA: A471, 81644.

<sup>12</sup> Harrison, *Ambon*, p.129.

<sup>13</sup> Oral submission, AVM Evans, 15 May 2017.

<sup>14</sup> Oral submission, MAJ Rutherford, 15 May 2017.

### **Tribunal findings with respect to Private Elmore**

20. The Tribunal considered that, from the Harrison account, it would appear that fellow POWs' knowledge of Private Elmore's fate was restricted to second-hand accounts given by the Japanese. There was anecdotal evidence before the Tribunal that, while dysentery was widespread, it was a practice to describe deaths due to beatings as being due to illness. The Tribunal gave greater weight to the primary source statement of Lieutenant Miyazaki, in particular, having regard to the circumstances under which it was provided. That Private Elmore was subject to interrogation was consistent with Private Schaefer also being interrogated on his recapture (see below).<sup>15</sup> From Lieutenant Miyazaki's statement, the Tribunal is reasonably satisfied that Private Elmore died during interrogation as a consequence of his attempted escape.

21. The Tribunal also considered that, even if Private Elmore were suffering dysentery at the time of the interrogation, undergoing interrogation while so afflicted was treatment over and above that suffered by the other POWs. The Tribunal therefore concluded that Private Elmore was killed as a consequence of his escape.

22. As a result, the Tribunal finds that Private Elmore is a person who is eligible for consideration for medallic recognition under the Terms of Reference of this Inquiry.

### ***Private Schaefer***

23. Australian Lieutenant John Charles van Nooten, 2/21th Battalion, reported in a statement to the War Crimes Tribunal that Private Schaefer was executed by decapitation on 30 April 1945 for attempted escape.<sup>16</sup>

24. At the trial of Sub-Lieutenant 1<sup>st</sup> Class Honji Matagi and 2<sup>nd</sup> Class Petty Officer Kurokawa Eizo, Kurokawa gave evidence of his execution of an Australian POW by decapitation.<sup>17</sup> At the trial, the prosecution identified Private Schaefer as the executed POW.<sup>18</sup>

25. Harrison has recorded that the Japanese informed the Australians that Private Schaefer had been executed. He also recorded the detail of Private Schaefer's execution time and date found after the end of the War.<sup>19</sup> The Australian War Memorial Roll of Honour refers to Private Schaefer's death as 'murdered'.

### **Tribunal findings with respect to Private Schaefer**

26. Although no evidence has been found of the circumstances of his recapture, the Tribunal finds that Private Schaefer escaped from Japanese forces at Tan Toey Camp in March 1945, with the intention of remaining at large and returning to Australia.

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<sup>15</sup> Harrison, *Ambon*, p.128.

<sup>16</sup> Van Nooten statement p.5, NAA: MP742/1, 336/1/2018.

<sup>17</sup> Kurokawa statement, NAA: A471, 80780.

<sup>18</sup> *Precis of Evidence* p.2, NAA: A471, 80780.

<sup>19</sup> Harrison, *Ambon*, pp.128-129.

27. The Tribunal finds that Private Schaefer was executed by the Japanese as a consequence of his attempted escape. As a result, the Tribunal finds that Private Schaefer is a person who can be considered for medallic recognition under the Terms of Reference of this Inquiry.

#### **CONSIDERATION OF MEDALLIC RECOGNITION: PRIVATE SCHAEFER**

28. The Tribunal understands that Private Schaefer was considered by the Defence Historical Honours Review Board and that the Chief of the Defence Force has endorsed a recommendation for Private Schaefer to be awarded the Commendation for Gallantry.

#### **CONSIDERATION OF MEDALLIC RECOGNITION: PRIVATE ELMORE**

29. The Tribunal came to the view that, despite the lack of detailed contemporaneous evidence, there was sufficient material before it to conclude that the circumstances of Private Elmore's escape amounted to an act of gallantry worthy of recognition. The evidence was that with Private Schaefer he escaped from a guarded compound at Tan Toey, in a planned escape. Private Elmore showed determination in evading recapture for a two month period.

#### **RECOMMENDATION**

30. The Tribunal recommends, based on the available evidence, that Private James Frederick Elmore be posthumously awarded the Commendation for Gallantry.

**NX51899 CORPORAL EDWARD VICTOR EMMETT**  
**NX53777 PRIVATE SIDNEY ARTHUR WEBBER**  
**QX15720 PRIVATE KEITH HAMILTON COSTIN**  
**NX414647 PRIVATE EDWARD KENNETH SKINNER<sup>1</sup>**

**What has led to the consideration of Corporal Emmett and Privates Costin, Skinner and Webber by this Inquiry?**

1. In a submission to the Valour Inquiry, Dr Kevin Smith OAM sought recognition for 28 individuals, who were Prisoners of War and were said to have been either killed during escape or following recapture. Corporal Edward Victor Emmett, and Privates Keith Hamilton Costin, Edward Kenneth Skinner and Sidney Arthur Webber are four of those individuals brought forward for consideration.<sup>2</sup>

2. Along with Dr Smith, Ms June Fowler-Smith, a niece of Private Webber, also provided a written submission to the Tribunal's Inquiry and provided an oral submission via telephone on 14 December 2016.

**The Soldiers' service**

3. Corporal Edward Emmett enlisted for service with the AIF on 18 June 1940 at Martin Place, Sydney. After initial training, on 22 October 1940, he was transferred to 2/10<sup>th</sup> Field Ambulance (2/10<sup>th</sup> Fd Amb), as part of the Australian Army Medical Corps (AAMC). On 29 July 1941, Corporal Emmett embarked for overseas service from Sydney and disembarked at Singapore on 15 August 1941.<sup>3</sup>

4. Private Keith Costin (known as Jack) enlisted for service with the AIF on 30 July 1941 at Cairns, Queensland. He undertook training at 113<sup>th</sup> Australian General Hospital (AGH) and was then attached to 2/10<sup>th</sup> Field Ambulance.<sup>4</sup>

5. Private Edward Skinner enlisted at Tenterfield, New South Wales on 17 July 1941. He was posted to the Australian Army Medical Corps. On 10 January 1942, Private Skinner embarked for overseas service from Sydney. He disembarked at Singapore on 24 January 1942 and immediately left for Johore. He returned to Singapore on 12 February 1942.<sup>5</sup>

6. Private Sidney Webber enlisted 22 June 1940 at Paddington, New South Wales. On 30 July 1941, he embarked for overseas service from Melbourne for Singapore, disembarking

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<sup>1</sup> Costin and Skinner not recommended for medallic recognition, but escaped with Corporal Emmett and Private Webber.

<sup>2</sup> Valour Inquiry Submission 243, Dr Kevin Smith OAM.

<sup>3</sup> Service Record, E.V. Emmett. NAA: B883, NX51889.

<sup>4</sup> Service Record, K. Costin. NAA: B883, QX15720.

<sup>5</sup> Service Record, E.K. Skinner. NAA: B883, NX41647.

on 15 August 1941. On 17 January 1942, Private Webber was taken on strength of 2<sup>nd</sup> Company, Australian Army Service Corps.<sup>6</sup>

7. The service records of all four men state that they were Prisoners of War, effective from 15 February 1942, the date of the fall of Singapore. Further, all four men were detached to B Force in July 1942 and subsequently embarked from Singapore for Sandakan on 8 July 1942.<sup>7</sup>

8. The Tribunal accepts that Corporal Emmett and Privates Costin, Skinner and Webber were all Prisoners of War.

### **Evidence of escape, and the fate of the group**

9. On 29 May 1945, Corporal Emmett, and Privates Costin, Skinner and Webber (the group) left Sandakan on the second death march. One of the few survivors of the death marches, Gunner Owen Campbell, who also served with 2/10<sup>th</sup> Field Ambulance, was also on this march. On 21 August 1945, Gunner Campbell signed a statement of interrogation relating to the escape of group and their eventual fate.

10. Gunner Campbell wrote:

At Sandakan on 9<sup>th</sup> May 1945, just after dark, 550 POWs all Australian except for a few English were told to be ready to move. They were all those who could walk. Left with no supplies – not told of destination. Walked all night – rations were issued at midnight near 18 mile peg....

....On the 7<sup>th</sup> three allied planes came over. While the Japs took to the jungle, myself, Ted Emmett, Webber, Jack Austin<sup>8</sup> and Ted Skinner made off through the jungle. We had 12 M and V tins of rice and about half a dozen tins of salmon and some dried fish – which we got out of Jap kits while they were hiding from the planes. We did about 1 mile that day – did some fishing in the creeks. We had lines and a compass which Emmett had hung on to since Singapore. On the 8<sup>th</sup> we did a couple of miles, heading for the coast. I got an attack of Malaria that night so we camped on the 9<sup>th</sup>. We had some quinine and I took a couple of tablets and was okay the next day. Had sold a watch to the Japs for quinine. On the 10<sup>th</sup> we pushed on and Ted Skinner got dysentery and we decided to camp for a couple of days to let him recover. On the 13<sup>th</sup> – so far as I can remember – we split the tucker and I stayed with Skinner and the other three went on to try to get to the coast. I was pretty sick with Beri Beri which I had had for months. I stopped with Skinner for about 3 days. About the 16<sup>th</sup> I went down to get some water and fish and on my return found Skinner had cut his throat. I buried Skinner. At that time, we had been heading N.E. from where we had left the Japanese. About 17<sup>th</sup> I pushed on by myself without any food. I did about 2 miles that day. I got a few fresh water crabs. On 18<sup>th</sup> I came to a river and found Emmett, Webber and Austin sheltering under a blanket. Austin was crook with dysentery and malaria. He was on his own when I arrived. The other two were away fishing. We were about 60 yards from a river. I could place it on a map. The others came back from fishing. We decided to appeal to any Malays we struck for help. We heard Malaysians in a boat on the river. Emmett and Webber went on ahead and hailed him. He started to paddle towards the shore and about 20 yards from the shore a Jap

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<sup>6</sup> Service Record, S. A. Webber. NAA: B883, NX53777.

<sup>7</sup> B Force Roll. NAA: B3856, 144/1/372 Part 4.

<sup>8</sup> Private Costin.

appeared from the bottom of boat and fired four shots in rapid succession. He must have had a repeater. It was so quick they had no chance and fell into the river. One was shot through the head and the other through the chest, as far as I could see. I could do nothing to get them out of the river. That was the evening of the 18<sup>th</sup>. I was so far behind them when the shots were fired I was able to go to ground. The boat with the Jap just pulled away and took no further notice. I went back to Austin and stayed with him for about 3 days. We lived on fish we caught and a fungus that grows on trees in the jungle. Austin was getting very weak at this stage with dysentery and malaria. He died on the third night. I buried as best I could and pushed on the next morning alone.<sup>9</sup>

11. In 1946, Major H.W.S. Jackson was sent to Borneo to contact natives, or their surviving relatives, who had rendered assistance to Australian POWs with a view to making certain rewards or compensation. Major Jackson's report identified those who had assisted and also recorded in detail the story of the POWs in British North Borneo. He produced a comprehensive report (the Jackson Report)<sup>10</sup> beginning with the embarkation of 1500 Australian POWs in Singapore on 8 July 1942 and ending with the execution of the last POW on 15 August 1945.

12. Major Jackson describes three Allied aircraft making a sweep over the 'straggling column' of prisoners undertaking the second Sandakan death march to Ranau on 7 June 1945. As the prisoners and their guards sought cover, Gunner Campbell, Private Skinner, Private Webber, Corporal Emmett and 'Austin' made a break into the jungle. Major Jackson reported that Corporal Emmett and Private Webber were subsequently shot dead by the Japanese and that Private Skinner committed suicide. Major Jackson reports that 'Austin' remained alive but his health was too far gone and he passed away on 21 June 1945. Major Jackson states that Gunner Campbell buried him as best he could in the jungle.<sup>11</sup>

13. Dr Smith's book *Borneo*<sup>12</sup> and Ms Silver's book *Sandakan A Conspiracy of Silence*,<sup>13</sup> both record the fate of the group based on Gunner Campbell's record of interrogation.

14. Ms Silver isolated the name Keith Costin, for whom there was no reliable death information. As he was known as 'Jack' she deduced that Jack Costin had been incorrectly recorded as Jack Austin. Ms Silver concluded that the army stenographer taking down Campbell's deposition transcribed 'Jack Costin' as 'Jack Austin'.<sup>14</sup> Furthermore, Ms Silver's research showed that there was no Australian POW in Sandakan by the name of Austin and that the only British POW by that name died at Paginatan on 17 February 1945 while on the first death march. The Tribunal accepts this explanation.

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<sup>9</sup> Gunner Owen Campbell - *Statement concerning casualty sustained by John Hall, Ted Skinner, Sidney Webber, Ted Emmett and Jack Austin*. NAA: B3856, 144/1/244.

<sup>10</sup> The Borneo Mission 1946/47 - Report by VX48544 Major H.W.S Jackson, Directorate Prisoners of War and Internees, Army Headquarters, Melbourne, concerning Mission to British North Borneo to contact natives of that country who assisted Australian PW and to reward them for that assistance. NAA: MP742/1, 328/1/32.

<sup>11</sup> The Jackson Report, p. 60.

<sup>12</sup> Kevin Smith, *Borneo Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale 1999 pp.117-118 & 253-256.

<sup>13</sup> Lynette Ramsay Silver, *Sandakan, A Conspiracy of Silence*, Sally Milner Publishing, Binda NSW, 2000 pp. 226, 239-240 & 393.

<sup>14</sup> Silver, *Sandakan*, p. 393.



## **Conclusion as to escape**

15. The Tribunal finds that there is evidence that the group escaped from the Japanese while on the second death march.

## **Evidence of being killed as a consequence of escape**

16. The service records of Corporal Emmett, Private Costin and Private Skinner are marked '*deceased whilst POW (cause not stated)*', with varying dates of death.<sup>15</sup>

17. Private Skinner's service record states that he died of dysentery and malnutrition in the Borneo jungle whilst attempting to escape. The date of his death is given as 16 June 1945. It is not clear on what evidence this entry was based.

18. At hearing before the Tribunal on 14 December 2016, Dr Smith provided no additional evidence to his submissions in respect of the group.

19. In reaching its conclusions as to whether members of the group were killed as a consequence of their escape, the Tribunal gave the most weight to the contemporary eyewitness statement provided by Gunner Campbell, and noted its consistency with the Jackson report – itself a near-contemporary document.

## **Tribunal findings**

20. Based on the available evidence, the Tribunal finds that Private Costin died of illness; and Private Skinner due to a self-inflicted wound. Consequently, neither Private Costin nor Private Skinner can be considered for medallic recognition under the Terms of Reference of this Inquiry.

21. The Tribunal finds that Corporal Emmett and Private Webber were both shot and killed by the Japanese on the Muanad River on 18 July 1945, as a consequence of their escape. Consequently, both men are eligible for consideration for medallic recognition under the Terms of Reference of this Inquiry.

## **CONSIDERATION OF MEDALLIC RECOGNITION**

### **Was there an act of gallantry in Corporal Emmett and Private Webber's escape?**

22. The Tribunal came to the view that there was sufficient material before it to conclude that the circumstances of Corporal Emmett and Private Webber's attempt to escape amounted to an act of gallantry worthy of recognition.

23. The evidence indicates that the group took advantage of their Japanese guards hiding in the jungle as Allied planes flew overhead, and raided their abandoned kits for food. The Tribunal finds there was deliberate attempt to escape, which was ultimately successful, albeit

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<sup>15</sup> Service Record, K.H. Costin. NAA: B883, QX15720.

only in the case of Gunner Campbell. Corporal Emmett and Private Webber were shot by Japanese soldiers when they hailed a Malay boat in an attempt to get help.

24. In the manner of attempting to escape, both men demonstrated their initiative and determination to escape Japanese control and successfully remaining at large for a number of days, despite members of the group becoming increasingly ill.

#### **TRIBUNAL RECOMMENDATION**

25. The Tribunal recommends that Corporal Edward Victor Emmett and Private Sidney Arthur Webber be posthumously awarded the Commendation for Gallantry.

## 441469 FLIGHT SERGEANT JOHN VICTOR ORGILL

### What has led to consideration of Flight Sergeant Orgill by this Inquiry?

1. The actions of Flight Sergeant Orgill were brought to the attention of the Tribunal by way of a submission from Dr John Moremon. In that submission, Dr Moremon, stated that, in 1949, the Missing, Research and Enquiry Section at Air Force Headquarters recommended (the Recommendation)<sup>1</sup> Flight Sergeant Orgill for a Posthumous Mention in Despatches, but it apparently was not progressed.

### Flight Sergeant Orgill's service

2. John Victor Orgill was born on 22 January 1923 at Perth, Western Australia. He was an accountant by profession and completed his CMF service of two years at the 22nd Air Artillery Battery in Fremantle, WA. He enlisted with the RAAF on 11 September 1943 as an ACII (Aircraftman 2), Air Crew. He was promoted to Sergeant on 14 September 1944 and, on 14 March 1945, he was promoted to Flight Sergeant with No 21 Squadron, as part of the Photographic Reconnaissance Unit operating in the Northern Celebes.<sup>2</sup>

### Flight Sergeant Orgill's capture and imprisonment

3. On 27 July 1945 Flight Sergeant Orgill was the Wireless Operator and Air Gunner on a Liberator aircraft engaged in photographic reconnaissance in Northern Celebes, when it was shot down near Tomohon.<sup>3</sup> Three members of the crew - Flight Sergeant Orgill, 427712 Pilot Officer George Grey Lindley and 80471 Flight Sergeant Arnold Alexander Lockyer - parachuted safely from the plane but were subsequently captured by the Japanese.<sup>4</sup> Although Flight Sergeant Orgill had landed safely and had the opportunity to elude capture, he reportedly did not do so, apparently until he was assured of the safety of the other crew members who had parachuted from the plane.<sup>5</sup> The three captured members were taken to the gaol at Kakaskasen near Tomohon on 28 July 1945.

4. The Tribunal accepts that Flight Sergeant Orgill was a Prisoner of War.

### Recommendation for Mention in Despatches in 1949

5. In his submission, Dr Moremon referred to the Recommendation dated 1 March 1949 for a posthumous Mention in Despatches for Flight Sergeant Orgill.<sup>6</sup> Attached to the recommendation is a draft letter from Mr A.B. Drakeford, Minister for Air, to the Rt Hon J.B. Chifley, Prime Minister, recommending that Flight Sergeant Orgill's recommendation (and

<sup>1</sup> H&A POW RAAF Meritorious Courage - Conduct of... NAA: A705, 55/1/1222.

<sup>2</sup> John Victor Orgill RAAF Service file. NAA: A9301, 441469.

<sup>3</sup> John Victor Orgill RAAF Service file. NAA: A9301, 441469.

<sup>4</sup> A native named Lasut reportedly saw three men jump from the aircraft. One other was without his parachute and was killed instantly. Presumption of Death of Crew of Liberator A72-92. NAA: A705, 166/1/319.

<sup>5</sup> H&A POW RAAF Meritorious Courage - Conduct of... NAA: A705, 55/1/1222.

<sup>6</sup> H&A POW RAAF Meritorious Courage - Conduct of... NAA: A705, 55/1/1222.

that of another RAAF member), 'be forwarded to His Excellency, the Governor-General for consideration.'<sup>7</sup> No further correspondence relating to the reason for the non-approval of the award to Flight Sergeant Orgill could be located. One explanation is possibly because Australia's last Mention in Despatches of the Second World War had already been gazetted.

6. The Recommendation stated that Flight Sergeant Orgill was being:

taken under armed guard to the Kempei Tai gaol at Kakaskasen. On the way to the gaol Flight-Sergeant Orgill snatched the bayonet from the scabbard of one of his guards and, against overwhelming odds, made a valiant attempt to fight his way free. However, he was ruthlessly overpowered and killed.

7. It further states that:

Flight Sergeant Orgill, knowing that delay meant almost certain capture, displayed outstanding gallantry in refusing to attempt escape without endeavouring to assist his comrades and later in attacking single-handed a vastly superior number of armed Japanese guards. His action in refusing to accept capture by the enemy was in keeping with the highest traditions of the Service.

### Evidence of escape

8. A statement made by Alfred Kawatoe, an Indonesian who was a Japanese-recruited guard, was that when the airmen were brought to the prison '*one of the airmen grabbed my bayonet from the scabbard and started to attack the Japanese*'.<sup>8</sup> He identified the airman as being a tall slim man with a red face and red hair. A statement by Arnold Tampi, another Indonesian, dated 15 October 1945<sup>9</sup> was that he had seen four Japanese guards<sup>10</sup> beat the tall airmen with red hair. The description of the unnamed airman is broadly consistent with the description of Flight Sergeant Orgill, from his service record.<sup>11</sup> The Tribunal is reasonably satisfied that the POW described was Flight Sergeant Orgill.

9. A statement made by 1<sup>st</sup> Class Private Ichikawa Fumiaki dated 31 December 1946 recorded that he saw a plane shot down and subsequently saw an [unidentified] prisoner brought in to the gaol. He recorded nothing about an escape attempt.<sup>12</sup>

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<sup>7</sup> H&A POW RAAF Meritorious Courage - Conduct of... NAA: A705, 55/1/1222.

<sup>8</sup> Statement by Alfred Kawatoe dated 14 October 1945. The statement is part of 'Report of Investigation of Crash A72-92 Liberator compiled by FLTLT EB Scribner for No 11 Group RAAF, stationed at RAAF Morotai.' LOCKYER, Arnold Alexander - (Flight Sergeant); Service Number - 80471; File type - Casualty - Repatriation; Aircraft - Liberator A72-92; Place - Celebes, Netherlands East Indies; Date - 21 August 1945 (the Scribner Report). NAA: A705, 166/25/338.

<sup>9</sup> Statement of Arnold Tampi in the Scribner Report.

<sup>10</sup> Two of whom he named.

<sup>11</sup> Orgill is described as complexion= fair; eyes=blue; hair=brown; height=5' 11"; weight= 134lbs. Comparison with other airmen suggests limited alternative descriptors eg complexion fair/dark, eyes blue/brown, hair blonde/brown.

<sup>12</sup> Extract from statement of 1<sup>st</sup> Class Private Miyasato contained in the Scribner Report. Miyasato was a deserter from the Japanese Army and was imprisoned at Kakaskasen gaol.

## **Conclusion as to escape**

10. The only contemporaneous evidence available to the Tribunal about an escape attempt was the statement made by Kawatoe, that when the airmen were brought to the prison one airman grabbed Kawatoe's bayonet from the scabbard and started to attack the Japanese. The Recommendation for the Mention in Despatches recorded that Flight Sergeant Orgill had endeavoured 'to fight his way free' and that he had 'attacked' the Japanese guards. The incident was said to have occurred 'on the way to the gaol', but it is clear from the evidence of Kawatoe and Fumiaki that Flight Sergeant Orgill was already at the gaol and was being escorted to his cell. It is unknown what evidence had been available in making the Recommendation.

11. The Historical Honours Review Board decided that, in its view, Flight Sergeant Orgill's case was not one that fell within the Terms of Reference of this Inquiry because there was no clear evidence of an escape. Defence submitted that Flight Sergeant Orgill's 'escape' should properly be characterised as an intention to resist apprehension. However, this is contrary to the available evidence. The Tribunal considered that the Recommendation was made in the belief that Flight Sergeant Orgill had resisted capture, whereas he had already been apprehended.

12. The Tribunal is reasonably satisfied that there was a deliberate act of attempting to break free from captivity.

## **Evidence as to circumstances of death**

13. Ichikawa continued that he was in the passage at the gaol when he saw two [named] and possibly a third Kempei Tai and two other guards start beating the prisoner about 2 yards from the cell. They beat him with sticks about 1½ inches in diameter and about 2 or 3 feet long. The prisoner was hit about 20 times – on the head, shins, forearms, back and chest. He was beaten to the ground and, when he got up to his knees, was beaten to the ground again. He saw blood on the prisoner and he was ordered to wash the still-conscious prisoner's face. When he next saw the prisoner the following day he was lying unconscious in his cell, moaning. Later that morning he seemed worse – there was froth coming from his mouth. At 8 or 9 am he was told that the prisoner was dead, which he also observed himself.

14. Kawatoe's statement continued that four named Japanese guards seized the airman and 'beat him with big sticks for half an hour'. He was stripped of his clothing and thrown into prison at 0900 hours. Kawatoe recorded that Johannisis Tambotto, another Indonesian, reported the next day that the airman had died.

15. Tampi wrote that that he had seen four Japanese guards, two of whom he named, beat the tall airman with red hair.

16. A statement by 1<sup>st</sup> Class Private Miyasato was that at the end of July 1945 three airmen entered the gaol. He heard the sound of one of them being beaten for a long time near the entrance. In relation to the 'seriously wounded airman', he wrote that he 'saw that he was dead' when he went to the lavatory at about 4 am the next day.<sup>13</sup>

17. The trial documents relating to the prosecution of individual Japanese for Flight Sergeant Orgill's death could not be located by the Tribunal.

18. Defence submitted in relation to Flight Sergeant Orgill that he was more likely to have been executed because there was a history of downed flight crews being executed as retribution for their bombing raids. This is consistent with the fate of Pilot Officer Lindley and Flight Sergeant Lockyer who were kept at Kakaskasen for about a week and then moved to Kaaten where, on 21 August 1945, they were chloroformed and buried, probably alive.<sup>14</sup>

### **Consideration of nexus between death and escape**

19. The Tribunal accepts that while there may have been a pattern of executing captured flight crews, there was no evidence that this was the reason for Flight Sergeant Orgill being killed, especially given the proximity of the beating that led to his death to his action in attempting to escape. The Tribunal is reasonably satisfied that Flight Sergeant Orgill was killed in direct response to his attempted escape.

20. The Historical Honours Review Board<sup>15</sup> described Flight Sergeant Orgill as:

A gallant and determined man and perhaps careless with his own life. He was captured and killed as a consequence of looking out for his crew.

21. The Tribunal was informed that the Historical Honours Review Board had recommended that Air Force review the circumstances surrounding the proposed Mention in Despatches. Consequently, as there was no indication of a positive outcome of Air Force's review of the earlier Mention in Despatches recommendation, the Tribunal proceeded to consider Flight Sergeant Orgill's actions.

### **Tribunal findings**

22. The Tribunal observes that while Flight Sergeant Orgill's capture may have been precipitated by his delay in evading apprehension, it finds that his death was as a consequence of his attempted escape. Consequently, the Tribunal finds that he is a person who can be considered under the Terms of Reference for this Inquiry.

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<sup>13</sup> Extract from statement of 1<sup>st</sup> Class Private Miyasato contained in the Scribner Report. Miyasato was a deserter from the Japanese Army and was imprisoned at Kakaskasen gaol.

<sup>14</sup> RAAF Presumption of Death Part 3. NAA: A705, 166/1/319.

<sup>15</sup> Annexure 2 to letter CDF to Chair, DHAAT dated 9 May 2017 – CDF/OUT/2017/429.

## **CONSIDERATION OF MEDALLIC RECOGNITION**

### **Was there an act of gallantry in Flight Sergeant Orgill's escape?**

23. In the course of what the Tribunal has found to be an escape attempt, Flight Sergeant Orgill grabbed a guard's bayonet from the scabbard and attacked the Japanese in an effort to fight his way free. While there may have been almost no prospect of a successful escape, the Tribunal finds that his attempt was audacious and selfless.

## **RECOMMENDATION**

24. The Tribunal recommends that Flight Sergeant John Victor Orgill be posthumously awarded the Commendation for Gallantry.

WX47558 Sergeant Henry **WHITTON**  
WX 4609 Sergeant Howard Thomas **MANNING**  
WX6574 Corporal Kenneth **STEWART**  
WX4113 Corporal Henry Francis **THOMPSON**  
WX7639 Private Phillip Mowbray Frank **BESSELL**  
WX7928 Private Jack Victor **JONES**

**What has led to the consideration of these men by this Inquiry?**

1. In a submission to the Inquiry, Mr Ross Manning requested recognition for his late uncle, Sergeant Howard Thomas Manning, together with five other personnel of D company (D Coy), 2/3<sup>rd</sup> Machine Gun Battalion (MGB), AIF. These six men of D company shared a common fate. The six were as follows:

- WX 4609 Sergeant Howard Thomas MANNING
- WX4758 Sergeant Henry WHITTON
- WX6574 Corporal Kenneth STEWART
- WX4113 Corporal Henry Francis THOMPSON
- WX7639 Private Phillip Mowbray Frank BESSELL
- WX7928 Private Jack Victor JONES

2. In a separate submission to the Inquiry, Mr Richard 'John' Whitton, President, 2/3<sup>rd</sup> Machine Gunners and Relatives Association of Western Australia, requested recognition for his father Sergeant Henry Whitton, and the above five other Australian soldiers who, as Prisoners of War, escaped together and are said to have been executed by the Japanese following recapture.

**Service, capture and imprisonment**

3. The six men from D Coy, 2/3<sup>rd</sup> MGB were serving in the Middle East when the unit embarked on 1 February 1942 on board HMT *Orcades*, destined for Australia. The ship arrived in Batavia, Java, on 17 February and the troops of D Coy were disembarked on 19 February 1942.

4. The Japanese invaded the island on 28 February 1942. The Dutch capitulated on 8 March 1942. At that time the machine-gunners were in western Java, to the south of Tjikadjang, when they heard of the Dutch capitulation and received an order to surrender. Three days later, on 11 March 1942, their Battalion moved to a tea plantation and factory at Arinem, where they were ordered by the Japanese to transfer to the town of Leles, further to the north. On 12 March, the senior British, Australian and American officers signed a formal



surrender at Japanese Headquarters at Bandung.<sup>1</sup> On 14 April, there was a further move to the town of Garoet (Garut).<sup>2</sup>

5. In a report to the Australian War Crimes Commission, Commanding Officer D Company, Lieutenant Colonel Edward Lyneham, listed the names of the six Australian soldiers and stated:

Whilst under my command, in March 1942, after the capitulation had been announced, but before we had actually come under the direct physical control of the Japanese, these men attempted to escape from our Area in the hills south of Garoet.<sup>3</sup>

6. By contrast, fellow soldier of the Battalion, Milton Fairclough, provided a statutory declaration in which he describes Lieutenant Colonel Lyneham addressing the men in a group, and asking them to donate money and equipment to assist the group of six Australian soldiers' escape.

7. In an undated letter to Sergeant Manning's father, Captain Jack Hands, the Officer Commanding D Company wrote of Sergeant Manning's escape being '*shortly after we were captured in Java*'.

8. Andrew Faulkner has described the move of the Battalion to Leles on 19 March 1942 as having been ordered by the Japanese.<sup>4</sup> The Official History described this early confinement of most Australian POWs on Java as being quite relaxed, where the soldiers '*for a time were allowed much freedom by Japanese pre-occupied with the task of taking over Java.*'<sup>5</sup> Faulkner also described the Australians as being on an 'island prison'.

9. At the Tribunal's hearing, Mr Whitton stated that his understanding of the situation at Leles was that a huge presence of Japanese soldiers on the island against a comparatively small number of Australian soldiers meant that the group of six Australians were unable to simply walk out, even though the camp itself had not been highly secured. He thought they had left within a week of capture.

10. Defence submitted that the group was never physically captured by the Japanese.

11. Although the nature of their internment at Leles appears to have been quite disorganised, with little direct supervision by the Japanese, the Tribunal accepts that the six Australian soldiers, were Prisoners of War at the time the group left Leles.

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<sup>1</sup> Lionel Wigmore, *The Japanese Thrust, The official history of Australia in the War of 1939-45*, Series 1, Volume IV, Australian War Memorial, Canberra, 1968, p.503.

<sup>2</sup> John Bellair, *From Snow to Jungle, A History of the 2/3<sup>rd</sup> Australian Machine-Gun Battalion*, Allen & Unwin, Sydney, 1987, p.107.

<sup>3</sup> Statement by E.D. Lyneham, War Crimes and Trials – Affidavits and Statements. AWM: 54 1010/4/93.

<sup>4</sup> Andrew Faulkner, *Arthur Blackburn, VC: An Australian Hero, his men and their two World Wars*, Wakefield Press, Kent Town, 2008, pp.350-351.

<sup>5</sup> Wigmore, *The Japanese Thrust*, p.532.

## **Evidence of escape**

12. From the evidence of British POWs it is apparent that some time after leaving the camp, the group of six Australian soldiers attached themselves to a large (2000-3000) contingent of British (RAF) POWs, held at a temporary camp situated on the aerodrome at Tasikmalaja, approximately 113 kilometres to the south east of Bandung.<sup>6</sup>

13. The group had been with the British POWs at Tasikmalaja for about two weeks when a contingent of some 650 RAF prisoners was transferred to Djokdjakarta (Jogjakarta), nearly 300 kilometres further east. The six Australians accompanied this RAF POW contingent in the hope that the move would facilitate their escape from Java.<sup>7</sup>

14. Wing Commander Alan Groom, an Australian serving with the RAF, was second-in-command of the RAF POW contingent transferred to Djokdjakarta. After the War, Wing Commander Groom wrote to the families of Sergeants Manning and Whitton outlining the events leading to the Australian group's capture. In a letter dated 8 June 1946, a copy of which was provided to the Tribunal, Wing Commander Groom described the Australians working with his RAF party for a period of some weeks before deciding that an increasing level of Japanese police activity meant they should depart Djokdjakarta forthwith. Wing Commander Groom described having access to a truck that he was able to use to deliver the Australians and their equipment to a position some five miles out of the town. He left the group in a canefield near a river.

## **Conclusion as to escape**

15. The group's departure from Leles is well documented in the evidence of Lieutenant Colonel Lyneham, Captain Hands and Mr Fairclough. The Tribunal accepts that the group's departure from Leles represented a deliberate attempt to escape Japanese confinement and control. The Tribunal also notes that the timing of the men's escape, during a period of initial confusion, was likely to have been in accordance with their training in exploiting a period when their potential for successful escape was likely to be at its highest.

16. Their period of avoiding recapture by 'hiding within plain sight' within the large body of British personnel and utilising the transfer of some of those prisoners to move on to Jogjakarta was consistent with their on-going attempt to escape from the Japanese forces on Java. The Tribunal accepts the evidence of Wing Commander Groom, who facilitated their departure from the RAF camp in Djokdjakarta and witnessed their return to custody, as being evidence of their on-going escape attempt.

17. The Tribunal finds that there is evidence that the six Australian soldiers escaped from Japanese confinement or control, probably at Leles, some time after 11 March 1942. The Tribunal also formed the view that while the men were not on the nominal roll of RAF prisoners, their escape from the RAF POW camp at Djokdjakarta represented a second escape that included all the elements of danger that would be present had they been legitimate prisoners held by the Japanese at that camp.

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<sup>6</sup> Statement by Flying Officer Herbert 'Bert' F Barclay RAFVR. NAA: B3856 145/4/183.

<sup>7</sup> Statement by Flying Officer Herbert 'Bert' F Barclay RAFVR. NAA: B3856 145/4/183.

## Evidence of being killed as a consequence of escaping

18. Wing Commander Groom recounted the events after he had taken the group from the RAF camp:

They made good progress that night and lay in a cane field next day when one – I don't know who – contracted severe malaria – and they moved off too soon that evening – were seen by the natives, surrounded by police and brought back to Djocjacarta (sic).

The police officer was a decent chap, and although scared of the Japs, brought the lads to us, and told us that he must report their capture to the Jap military police – consequently we must inform our Jap Commandant of their arrival – next day I reported their arrival after arranging with them on interrogation they should say that they had never been in camp, but had been hiding since the end of hostilities in Java.

The Jap officer in charge of our party was decent enough, and tried to keep them with us, but the Kempetai claimed them.

19. Little direct evidence is available as to the fate of the six Australian soldiers after they left the RAF camp at Djokjakarta. Lieutenant Colonel Lyneham wrote that the group was '*captured a few miles from the camp; they were interrogated and later were again taken charge of by the Japanese Authorities and marched away; they were not seen again.*'<sup>8</sup>

20. In a letter to Mr Whitton dated 8 December 2009, the Office of Australian War Graves in the Department of Veterans' Affairs advised that the Graves Registration cards for Sergeant Whitton, Corporal Stewart and Private Bessell recorded the following:

Presumed dead 30.4.1942 arbitrary (sic) date. Taken away by I.J.A. from R.A.F. P.W. Camp at Djoka, Jakarta (sic), April 1942 and not heard of since. Believed executed. Native information to the effect that place of execution was a native village near Tasik Malaya. Place of Death Java. Taken by Japs from Djokakarta (sic) P.W. Camp for interrogation.

21. Wing Commander Groom wrote that he was told by his Japanese Commandant only that the group had been placed in another camp.

22. Appendix B to an Army HQ memorandum regarding missing personnel in the South West Pacific Area referred to information being acquired by the Commanding Officer of the 2/3 Battalion. The Appendix noted '*information acquired ... from natives about a year later was to the effect that "six Australian Sergeants" had been beheaded at a native village near TASIKMALAJA about April 1942.*'<sup>9</sup>

23. In a letter to Mr Manning dated 30 January 1946, Lieutenant Colonel Lyneham justified his conclusion regarding the deaths of the six Australians. While he described the absence of information from '*all avenues of enquiry*', he also stated that:

Unfortunately the Jap policy at that time was death for any attempt at escape or re-capture. This policy was carried out several times to my knowledge.

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<sup>8</sup> Statement of ED Lyneham, War Crimes and Trials – Affidavits and Sworn Statements. AWM54 1010/4/93.

<sup>9</sup> Appendix B to AHQ Memorandum ref Missing Personnel SWPA. NAA: MP742/1 336/1/1875.

## **Conclusion as to nexus between death and the escape**

24. The Tribunal is reasonably satisfied that the group of six Australian soldiers escaped from Japanese forces, probably at Leles, some time after 11 March 1942. The Tribunal is also reasonably satisfied that the group escaped from Japanese control of the RAF POW contingent at Djokjakarta.

25. The Tribunal is reasonably satisfied that the six Australian soldiers were executed by the Japanese; and that this was likely to have been as a consequence of the extant Japanese policy regarding escaped POWs. Although there is an absence of direct evidence relating to the circumstances of the death of the six Australian soldiers, the Tribunal is reasonably satisfied that they were recaptured a few miles from the camp and that, after interrogation were taken away and were not seen again. The Tribunal accepts that the native information that 'six Australian Sergeants' had been beheaded at a native village near Tasik Malaya in about April 1942, is consistent with the available information about the fate of the prisoners.

26. There is no evidence that the group had been placed in another camp, as Wing Commander Groom had been told, but this 'other camp' may have been the site of the interrogation.

27. Further, the Tribunal accepts that the observation of Lieutenant Colonel Lyneham that there was a Japanese policy of death for any attempt at escape or recapture, is consistent with the disappearance of the group.

28. The Tribunal therefore finds there to be a nexus between the escape and death and finds that the six Australian soldiers are persons who fall within the Terms of Reference of the Inquiry.

## **CONSIDERATION OF MEDALLIC RECOGNITION**

29. The Tribunal is satisfied that the six Australian soldiers of D Coy, 2/3<sup>rd</sup> MGB demonstrated determination, initiative and perseverance in their attempt to escape from Japanese control and hence escape from Java.

30. The Tribunal also recognised that the nature of physical control exercised by the Japanese increased during the period between the group's first escape from Leles and their final apprehension outside Djokjakarta. The increasing attention being paid by the Japanese was noted by the Tribunal as contributing to the urgency of the group's final escape bid. That their determined escape attempt included a period hiding within plain sight, demonstrated to the Tribunal an audacious attempt to use the prevailing confusion to advantage.

## **Tribunal Finding**

31. The Tribunal finds, based on the available evidence, that Sergeant Manning, Sergeant Whitton, Corporal Stewart, Corporal Thompson, Private Bessell and Private Jones escaped from the Japanese, probably at Leles, sometime after 11 March 1942. It also finds that these men were executed as a result of this escape attempt.

### **Tribunal Recommendation**

32. The Tribunal recommends that the Commendation for Gallantry be posthumously awarded to Sergeant Howard Thomas Manning, Sergeant Henry Whitton, Corporal Kenneth Stewart, Corporal Henry Francis Thompson, Private Phillip Mowbray Frank Bessell and Private Jack Victor Jones.

## QX20799 PRIVATE ARTHUR FRANCIS DAVEY

### **What has led to the consideration of Private Davey by this Inquiry?**

18. Private Arthur Francis Davey was identified by Defence and Mrs Diane Cowling on behalf of the 2/29<sup>th</sup> Battalion Association as a person who may fall within the Tribunal's Terms of Reference.

### **Private Davey's service**

19. On 3 June 1940, Private Davey enlisted at Kelvin Grove, Queensland. He suffered a fractured elbow and was discharged, but re-enlisted in Brisbane on 1 March 1941 under the name Frank Davies. He later changed this back to Davey. After basic training, he joined 2/29<sup>th</sup> Battalion, afterwards embarking for service overseas, disembarking in Singapore. Private Davey went into captivity with the remainder of 8<sup>th</sup> Division AIF at the fall of Singapore on 15 February 1942. His service record shows that he became a Prisoner of War on that date.<sup>1</sup>

20. The Tribunal accepts that Private Davey was a Prisoner of War.

### **Evidence of escape**

21. Private Davey appears to have been transferred to Burma with A Force,<sup>2</sup> leaving Singapore on 15 May 1942,<sup>3</sup> arriving at Mergui, Burma on 23 May 1942. He was then employed on airfield construction in the sub-divided Ramsay Force, which was under the command of Lieutenant Colonel George Ramsay, Commanding Officer of 2/18<sup>th</sup> Battalion.

22. On the night of 29/30 May 1942, Private Davey and VX50944 Private Joseph (also known as Ernest/Earnest James) Bell made an escape from the POW camp at Mergui. They were apprehended by Burmese police some nine kilometres north of the camp, although they reportedly were only absent for a few hours.<sup>4</sup> A Japanese patrol then brought them back to Mergui.<sup>5</sup> On interrogation they reportedly said that they found life in the camp unbearable, they were hungry and looking for food, and they wanted to return to Australia.

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<sup>1</sup> Service Record, A.F Davey. NAA: B883, QX 20799. (and service record A.D. Davey. NAA: B883, QX6710). 'Changi Copy' Maintained by Changi Camp after capitulation and until 1943. NAA: B883 QX6710.

<sup>2</sup> Service Record, A.F. Davey, NAA: B883, QX 20799.

<sup>3</sup> 'Changi Copy' Maintained by Changi Camp after capitulation and until 1943. Service Record, A.F Davey. NAA: B883, QX 20799.

<sup>4</sup> Precis of evidence War Crimes trial of Hiroshi Itsui and Kenichi Tokoro. NAA: A471, 81954.

<sup>5</sup> Statement of Lieutenant Colonel G. Ramsay. Transcript of War Crimes Trial Hiroshi Itsui and Kenichi Tokoro. NAA: A471, 81954.

### **Private Davey's fate**

23. Records of War Crimes trials conducted after the end of the War reveal that after Private Davey and Private Bell were recaptured, they were confined and interrogated. They appear to have remained under confinement for some days, but do not seem to have been relatively badly treated. The Japanese camp commander, Captain Kenichi Tokoro, sought instructions as to their fate from his battalion commander, but did not initially receive a reply. Although the Japanese attitude at Mergui to men going 'outside the wire' to forage had initially been lax, prior to Privates Davey and Bell's escape attempt this approach had changed following the intervention of higher authority.

24. A warning had been promulgated that POWs caught outside the camp would be executed. All the POWs had been informed of this and a notice posted in both English and Japanese. Captain Tokoro warned Colonel Ramsay that the two men might be killed. Colonel Ramsay protested that this was a violation of international law, and Captain Tokoro again sought guidance from his commander, Major Itsui, as to the men's punishment. Captain Tokoro received instructions that both were to be shot.<sup>6</sup>

25. Captain Tokoro therefore ordered that the two men be executed. This was undertaken by a firing squad under the command of Lieutenant Goto at a rifle range on the western side of the nearby airfield on the morning of 18 June 1942. The two men were buried where they had been shot.<sup>7</sup>

### **Conclusion as to escape**

26. The Tribunal is reasonably satisfied that Private Davey, together with Private Bell, escaped from the POW Camp at Mergui on the night of 29/30 May 1942.

### **Evidence of Private Davey being killed as a consequence of attempting to escape**

27. The evidence that Private Davey died as a result of his escape is based on his being recaptured on 30 May 1942 and being sentenced to death and shot by firing squad on 18 June 1942. This is recorded in the transcripts of the War Crimes Trials of Major Itsui and Captain Tokoro.

### **Tribunal finding**

28. The Tribunal finds that Private Davey died as a result of his attempt to escape following recapture by Japanese forces, and that he can be considered for medallic recognition under the Terms of Reference for this Inquiry. The Tribunal notes that Private Bell was posthumously awarded the Commendation for Gallantry following the 2009 Inquiry by the Defence Honours and Awards Tribunal.

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<sup>6</sup> Precis of evidence of Kenichi Tokoro, Transcript of War Crimes Trial Hiroshi Itsui and Kenichi Tokoro. NAA: A471, 81954.

<sup>7</sup> Statement of Kenichi Tokoro, Transcript of War Crimes Trial Hiroshi Itsui and Kenichi Tokoro. NAA: A471, 81954.

## **CONSIDERATION OF MEDALLIC RECOGNITION**

29. The Tribunal understands that Private Davey was considered by the Defence Historical Honours Review Board and that the Chief of the Defence Force has endorsed a recommendation for him to be posthumously awarded the Commendation for Gallantry.



TX3482 LIEUTENANT WILKINS FITZALLEN  
and  
TX3397 SERGEANT BERTRAM JOHN WEST

**What has led to the consideration of Lieutenant Fitzallen and Sergeant West by this Inquiry?**

1. In a submission to the Inquiry, Mr Peter Henning requested recognition for Lieutenant Wilkins Fitzallen and Sergeant Bertram West, who were Prisoners of War and said to have been executed by the Japanese following recapture outside a POW camp.

2. In a separate submission to the Inquiry, Mrs Dianne Cowling on behalf of the 2/29<sup>th</sup> Battalion Association, also requested recognition for Lieutenant Fitzallen, citing mentions in Mr Henning's book *The Doomed Battalion*.<sup>1</sup>

**Lieutenant Fitzallen and Sergeant West's service, capture and imprisonment**

3. Wilkins Fitzallen enlisted at Launceston, Tasmania on 20 June 1940, and was a member of the 2/40<sup>th</sup> Infantry Battalion, AIF. Bertram West also enlisted at Launceston on 18 June 1940, and was also a member of 2/40<sup>th</sup> Infantry Battalion, AIF.

4. As members of Sparrow Force, they were dispatched in the defence of Dutch Timor, arriving at Usapa Besar, not far from the capital of Koepang in December 1941.

5. Following the surrender of the main group of Australian personnel, Lieutenant Fitzallen and Sergeant West were captured and imprisoned at Usapa Besar. Lieutenant Fitzallen was reported as missing 25 February 1942.<sup>2</sup>

6. According to Sergeant West's personal record he was declared missing on 9 June 1942. On 16 November 1945 a notation states that *previously reported PW now reported 'missing believed deceased'*. A further notation on 8 July 1946 states *'Died whilst PW Timor on or before 23 October 1942 (Executed by Japanese).'*<sup>3</sup>

7. The Tribunal accepts that Lieutenant Fitzallen and Sergeant West were Prisoners of War.

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<sup>1</sup> Peter Henning, *Doomed Battalion: Mateship and Leadership in War and Captivity, The Australian 2/40 Battalion 1940-45*. Allen & Unwin, Sydney, 1995, p. 191.

<sup>2</sup> Service Record, W. Fitzallen. NAA: B883, TX3482.

<sup>3</sup> Service Record, B. J. West. NAA: B883, TX3397.

## **Evidence of escape**

8. Lieutenant Colonel W.W. Leggatt, the commanding officer of 2/40<sup>th</sup> Battalion has provided an account of Sparrow Force in captivity in Timor between 23 February and 1 September 1942. In that account he described the situation regarding escape:

From the outset all possible assistance was given to personnel wishing to escape. Information, food, cash and advice were freely given. An Intelligence System was organised with the object of:

- (a) obtaining information of Japanese forces in Timor
- (b) obtaining arms to arm escape and reconnaissance parties
- (c) obtaining information of our own troops in the bush
- (d) to find ways and means of transmitting information to Australia, as it was thought possible that the Allies would eventually endeavour to retake Timor.<sup>4</sup>

9. Lieutenant Fitzallen and Sergeant West were described by Mr Henning as being amongst a number of soldiers relied upon by Lieutenant Colonel Leggatt to undertake the majority of this reconnaissance work.<sup>5</sup>

10. According to Mr Henning, Lieutenant Fitzallen and Sergeant West escaped from Usapa Besar on 24 March 1942.<sup>6</sup> In his book *Sparrow, a Chronicle of Defiance*, Grant McLachlan described an exchange between Private Alf Williams and Lieutenant Colonel Leggatt where Williams reported that Fitzallen and West had left the camp with the intention of linking up with a Timorese on the south coast who owned a boat.<sup>7</sup>

## **Conclusion as to escape**

11. The Tribunal finds that there is evidence that Lieutenant Fitzallen and Sergeant West escaped from imprisonment at Usapa Besar.

## **Evidence of Lieutenant Fitzallen and Sergeant West being killed as a consequence of escaping**

12. The records indicate that Lieutenant Fitzallen and Sergeant West were at large from March to October 1942. An Australian War Crimes investigation revealed that the men were sheltered by local people. A priest in Polla Sikoemana, E.F. Tokoh, reported that:

On 23 May 1942, at 5pm, his friend named CHATSIAFOEH (sic) came to his house and told him that two Australian soldiers were hiding in the jungle without food or clothes.

The priest and his wife, with others, provided the Australians with food, clothes, bedding and chairs, along with rifles and ammunition. Four days later the escapees, with Tokoh, went to Tano to try to steal an aeroplane, but they could not start the engine. They returned to the village.

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<sup>4</sup> Sparrow Force POW Camp War Diary 25 Feb 42 – 1 Sep 42, AWM: PR 89/99.

<sup>5</sup> Henning, *Doomed Battalion*, p.191.

<sup>6</sup> Henning, *Doomed Battalion*, p.192.

<sup>7</sup> Grant McLachlan, *Sparrow: A Chronicle of Defiance*, Klaut, New Zealand, 2012, p. 235.

13. The priest added:

On 15 Oct 1942 the Australians were captured by the Kempeitai ... they were betrayed by Rufus Takoe'.<sup>8</sup>

14. Ketsia Feoh (referred to above) stated that Lieutenant Fitzallen and Sergeant West were:

captured by the Kempeitai after being betrayed by the spies R. Takoe and A. Karels. ... West and Fitzallen were bound and taken in a car driven by Paulus Nelloe to Koepang... after twelve days in jail West and Fitzallen were given a bath and cigarettes and then bound. At 5 o'clock they were taken by car and (she) heard later that they had been killed at Oesapa-Ketjil.<sup>9</sup>

15. Major Harada Hachiro, commanding officer of the Kempeitai at Koepang, in sworn statements to investigating officers, said that the Australians were charged with being '*escaped prisoners*' and being '*concerned in a conspiracy to do harm against the Japanese*'. Harada subsequently received instruction from his superiors that he was to execute the two detained Australian soldiers by shooting them. The instruction showed the two Australians as being charged with attempting to escape and attempted revolt.

16. Lieutenant Fitzallen and Sergeant West were reported by Harada to have been shot by Sergeant Major Ando and buried at Kapala Lima beach.<sup>10</sup> Sergeant West's personal record notes his death by execution on or before 23 October 1942 in Timor.<sup>11</sup>

### **Conclusion as nexus between death and the escape**

17. The Tribunal finds that Lieutenant Fitzallen and Sergeant West escaped from Japanese forces at Usapa Besar, Timor in March 1942.

18. The Tribunal also finds that Lieutenant Fitzallen and Sergeant West were executed by the Japanese as a consequence of their attempted escape.

19. As a result, the Tribunal finds that Lieutenant Fitzallen and Sergeant West are persons who are eligible for consideration for medallic recognition under the Terms of Reference of this Inquiry.

### **CONSIDERATION OF MEDALLIC RECOGNITION**

20. The Tribunal understands that Lieutenant Fitzallen and Sergeant West were both considered by the Defence Historical Honours Review Board and that the Chief of the Defence Force has endorsed a recommendation that they both be awarded the Commendation for Gallantry.

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<sup>8</sup> Report by Tokoh. NAA: MP742/1 336/1/973.

<sup>9</sup> Statement by Ketsia Feoh. NAA: MP742/1 336/1/973.

<sup>10</sup> Statements by Harada 27/7/1946 pp. 2-4, and 31/10/1946 pp.1-4. NAA: MP742/1 336/1/973.

<sup>11</sup> Service Record, B.J. West. NAA: B883, TX3397.

## NX27912 PRIVATE EDWIN MONEY GOODRICK

### **What has led to the consideration of Private Goodrick by this Inquiry?**

1. Private Edwin Money Goodrick was identified by the Tribunal's research as a person who may fall within the Inquiry Terms of Reference.

### **Private Goodrick's service, capture and imprisonment**

2. On 22 April 1940, Private Goodrick enlisted at Sydney. After basic training, he joined 8<sup>th</sup> Division's Australian Army Service Corps on 5 August 1940 and undertook unit training. He embarked for overseas at Fremantle on 7 August 1941 and arrived in Singapore on 15 August 1941. Nothing further is known about Private Goodrick from the official records until he was reported missing following the fall of Singapore in February 1942.<sup>1</sup>

3. Private Goodrick was last seen in Singapore on 13 February 1942 at Oldham Hall. At some point, he was captured and taken to Muntok, on Banka Island. This suggests that he was amongst the personnel who tried to leave Singapore at the time of, or shortly after the surrender of the Allied forces on the island on 15 February 1942.

4. Private Goodrick's service record states that he was posted '*Missing*' with a date of 16 February 1942. This entry was made from a report from AIF Malaya dated 7 April 1942. Subsequently, Private Goodrick's service record was amended on 27 November 1945 to state '*Now Reported Executed*' with a date of '*End March 1942*'. The authority for this entry was notated '*Cas 2617*'. Under this entry is a final one dated 17 July 1946 which has simply a pencilled date of '*22.3.42*' with no authority given.<sup>2</sup>

5. A number of personnel who had attempted to escape from the fall of Singapore were rounded up by the Japanese in late February 1942 and concentrated in a camp on Bangka Island, which lies SSE of Singapore off the coast of Sumatra near Palembang. Private Goodrick was one of the members of the AIF in this group.<sup>3</sup>

6. The Tribunal accepts that Private Goodrick was a Prisoner of War.

### **Evidence of escape**

7. The second in command of the group in the Bangka Camp, Lieutenant J.W. Bull, was informed by the Japanese that they intended to transfer the POWs to Palembang as they required qualified truck drivers to work in Sumatra. Five of the POWs, including Private Goodrick, volunteered for this task, with the idea of using it to find an opportunity to escape.

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<sup>1</sup> Service Record, E.M. Goodrick. NAA: B883, NX27912.

<sup>2</sup> Service Record, E.M. Goodrick. NAA: B883, NX27912.

<sup>3</sup> Affidavit by Lieutenant J.W. Bull. AWM54, 1010/4/24B.

They were transferred to Sumatra at the end of February and began work in the area of Jambi, NW of Palembang.

8. After the war, Lieutenant Bull reported that nothing further had been known of any of the five men until the two Australian Gunners of 2/15<sup>th</sup> Field Regiment who had been part of the group were brought to the POW camp at Palembang in about August 1943. From these men it was learned that the other three had escaped with the help of a Dutchman with local knowledge, but that their presence was reported to the Japanese by locals. They were recaptured after a few days.<sup>4</sup>

### **Evidence of Private Goodrick's fate**

9. The Gunners who told Lieutenant Bull what had happened to Private Goodrick's party understood that the trio had been taken to Jambi and there executed. An RAF Corporal who was acting as an interpreter for the Japanese in the locality later informed Lieutenant Bull that, although he did not witness the execution, he was convinced that it had been carried out.<sup>5</sup>

10. Post-War investigation by a War Graves recovery team gained evidence from a local who said that, on 22 March 1942, he had seen three beheaded bodies, two with AIF insignia on their uniforms, on a concrete square at the rear of the house of the Japanese commander in Jambi (sic).<sup>6</sup> Despite a search of the locality by the recovery team, however, the bodies were never found.

11. One of the executed men is believed to have been Private Goodrick; the other two were NX66447 Warrant Officer Second Class L.G. Davies and NX45920 Sergeant C.B. Jones.<sup>7</sup> Both the latter were posthumously awarded Commendations for Gallantry as a result of acceptance by the Government of recommendations of the 2009 Inquiry by the Defence Honours and Awards Tribunal.

### **Conclusion as to escape**

12. The Tribunal is reasonably satisfied that Private Goodrick attempted to escape from Japanese troops in March 1942 while serving as a POW truck driver in Sumatra, but was recaptured several days later.

### **Evidence of Private Goodrick being killed as a consequence of attempting to escape**

13. The evidence that Private Goodrick was executed by the Japanese as a result of his attempt to escape is based on near-contemporary evidence from both Allied personnel and a local Sumatran. While the actual execution was not witnessed, the circumstantial evidence that it occurred, including the sighting of three beheaded bodies, is compelling.

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<sup>4</sup> Affidavit by Lieutenant J.W. Bull. AWM54 1010/4/24B.

<sup>5</sup> Affidavit by Lieutenant J.W. Bull. AWM54 1010/4/24B.

<sup>6</sup> Grave Registration Card for E.M. Goodrick, side 2. NAA: A2834, 119.

<sup>7</sup> Department of the Army Minute Ech 391/8/33 dated 20 February 1946 'Posthumous M.I.D. Awards – Deceased PW Escapees'. AWM119, 122.

### **Conclusion as nexus between death and the escape**

14. The Tribunal finds that Private Goodrick was executed as a result of his attempt to escape from Japanese captivity in March 1942.

15. For this reason, the Tribunal finds that Private Goodrick is eligible for consideration for medallic recognition, under the Terms of Reference of this Inquiry.

### **CONSIDERATION OF MEDALLIC RECOGNITION**

16. The Tribunal understands that Private Goodrick was considered by the Defence Historical Honours Review Board and that the Chief of the Defence Force has endorsed a recommendation that he be awarded the Commendation for Gallantry.

## NX 10420 PRIVATE ROBERT STUART GOULDEN

### **What has led to the consideration of Private Goulden by this Inquiry?**

1. Private Robert Goulden was identified by the Tribunal's research as a person who may fall within the Inquiry Terms of Reference.
2. Private Goulden's name has been submitted to the Tribunal on a previous occasion for consideration for an award. At the time, the application was rejected because the circumstances of his recapture appeared to indicate that he had surrendered himself. The new assessment is based on the claim that there is compelling evidence, discussed below, to indicate that his recapture was not voluntary.

### **Private Goulden's service, capture and imprisonment**

3. On 13 May 1941, Private Goulden enlisted at Paddington and entered the Australian Army Medical Corps. After basic training, he embarked for overseas at Sydney on 10 January 1942 and arrived in Singapore on 26 January 1942.<sup>1</sup>
4. Private Goulden was initially taken on strength by 2/9<sup>th</sup> Australian Field Ambulance. He went into captivity with the remainder of 8<sup>th</sup> Division AIF when Singapore surrendered on 15 February 1942. He was transferred to 2/4<sup>th</sup> Australian Machine Gun Battalion on 22 February 1942.<sup>2</sup>
5. The Tribunal accepts that Private Goulden was a Prisoner of War.

### **Evidence of escape**

6. Private Goulden appears to have been transferred to Burma with A Force, leaving Singapore on 15 May 1942,<sup>3</sup> arriving at Victoria Point, Burma on 20 May 1942. He was then employed on airfield construction in the sub-divided Green Force, which was under the command of Major C.E. Green, CO of 2/4<sup>th</sup> Machine Gun Battalion. On 7/8 July 1942, he made an escape from the POW Aerodrome camp near Victoria Point. On the Japanese authorities becoming aware of the escape, an immediate search of the local area was instituted and a Japanese officer informed the commander of the POWs that Private Goulden would, if recaptured, be shot.<sup>4</sup>

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<sup>1</sup> Service Record, R.S. Goulden. NAA: B883, NX10420.

Department of the Army Minute Ech 591/8/33 dated 21 June 1945, 'Posthumous M.I.D. Awards – Deceased PW Escapees'. AWM119, 122.

<sup>2</sup> Changi Copy' Maintained by Changi Camp after capitulation and until 1943. Service Record, R.S. Goulden. NAA: B883, NX10420.

<sup>3</sup> Changi Copy' Maintained by Changi Camp after capitulation and until 1943. Service Record, R.S. Goulden. NAA: B883, NX10420.

<sup>4</sup> Leslie G. Hall, *The Blue Haze: Incorporating the History of "A" Force Groups 3 & 5, Burma-Thai Railway 1942-1943*, Harbord, 1985, p. 23.

## **Conclusion as to escape**

7. The Tribunal is reasonably satisfied that Private Goulden escaped from the Aerodrome POW Camp near Point Victoria on the night of 7/8 July 1942.

## **Private Goulden's recapture**

8. Private Goulden was located in a coconut grove, some 25 kilometres north of the camp on 11 July 1942, his presence having been reported to a search party by locals. Private Goulden did not offer resistance when apprehended, but the evidence of the later war crimes trial associated with the incident does not indicate that he actively gave himself up. According to the evidence of Yasuda Takashi at the war crimes trial, Private Goulden was exhausted when he was located by the armed and uniformed Burmese guide leading a Japanese patrol. It was clear that the guide found him, not he, the guide. Private Goulden did not offer resistance to his arrest.<sup>5</sup>

9. The view that Private Goulden had voluntarily surrendered himself came from the deposition by the POW Commander, Major Green, who interviewed Private Goulden after his recapture. Private Goulden told Major Green that *'soon after he got away he realised it was hopeless and tried to make his way back to camp but had become lost and finally had given himself up to a Burmese policeman'*.<sup>6</sup> However, on assessing all the evidence, the prosecutor at the trial stressed that Private Goulden had not surrendered himself voluntarily and that Major Green's statement had *'no evidential value'*.<sup>7</sup>

10. The Tribunal considered there was clear evidence that Private Goulden's recapture was by armed guards. He 'surrendered' to the patrol only when he had been found, exhausted, in his hiding place. The Tribunal is reasonably satisfied that Private Goulden did not 'give himself up' and the circumstances do not equate to a voluntary surrender.

## **Evidence of Private Goulden being killed as a consequence of attempting to escape**

11. Private Goulden was held overnight by the Japanese before being subjected to a summary trial and sentenced to death on 12 July 1942. Despite the protests of the POW officers, this sentence was carried out the same day. Private Goulden was taken to a site near the camp and shot by a small firing party in the presence of his officers. He was allowed a military burial.<sup>8</sup>

12. The evidence that Private Goulden died as a result of his escape is based on his being recaptured on 11 July 1942 and, after a summary trial, being sentenced to death and shot by firing squad on 12 July 1942.

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<sup>5</sup> See the transcripts of the war crimes trial. NAA: A471 81959.

<sup>6</sup> Statement by Major C.E. Green, p. 1. NAA: A471 81959.

<sup>7</sup> Prosecution closing address, pp. 30-4. Transcript of Trial. NAA: A471 81959.

<sup>8</sup> Testimony of Lieutenant A. Watson WX 9381, pp 1-2. Transcript of Trial. NAA: A471 81959.



### **Tribunal findings**

13. The Tribunal finds that Private Goulden died as a result of his attempt to escape following recapture by Japanese forces.

14. For this reason, he is eligible for consideration under the Terms of Reference for this Inquiry.

### **CONSIDERATION OF MEDALLIC RECOGNITION**

15. The Tribunal understands that Private Goulden was considered by the Defence Historical Honours Review Board and that the Chief of the Defence Force has endorsed a recommendation that he be posthumously awarded the Commendation for Gallantry.

**NX32767 CORPORAL MICHAEL DAVID GRACE**  
**QX8237 PRIVATE ARTHUR EDWARD FORD**  
**NX55454 PRIVATE CHARLES THOMAS FOSTER**  
**NX42478 PRIVATE RAYMOND LESLIE GERAGHTY**  
**NX4334 PRIVATE EDWARD MOFFATT**  
**NX77958 PRIVATE JAMES O'DEA**  
 (also known as James Henry **WHITCOMBE**)

**What has led to the consideration of Corporal Grace, Private Ford, Private Foster, Private Geraghty, Private Moffatt and Private O'Dea by this Inquiry?**

1. In a submission to the Valour Inquiry Dr Kevin Smith OAM requested recognition for 28 individuals who were Prisoners of War and were said to have been either killed during escape or following recapture. Private Charles Thomas Foster is one of the 28 individuals brought forward for consideration. Corporal Michael David Grace, Private Arthur Edward Ford, Private Raymond Leslie Geraghty and Private Edward Moffatt were identified by the Department of Defence as persons who may fall within the Tribunal's Terms of Reference. Private James O'Dea was identified by the Tribunal's research as a person who may fall within the Tribunal's Terms of Reference.

**The Soldiers' service**

2. Corporal Grace enlisted at Paddington, New South Wales, on 18 June 1940. After initial training, he joined 2/20<sup>th</sup> Battalion and embarked in Sydney for overseas service on 3 February 1941. He disembarked in Singapore on 18 February 1941. On 4 April 1941, Corporal Grace was transferred to 10<sup>th</sup> Australian General Hospital (AGH) for medical treatment. He rejoined his unit eight days later, but was again transferred to 10<sup>th</sup> AGH on 3 May 1941, although this appears to have been as a posting on strength. He was attached to 13<sup>th</sup> AGH on 3 January 1942. Corporal Grace was listed as missing to date 16 February 1942 in a report from AIF Malaya dated 7 April 1942. There is a further entry on his service record which states that he 'died whilst PW (shot for attempted escape) with a date of 17 March 1942. This entry was dated 2 October 1945.<sup>1</sup> The Japanese report of his execution reported that Corporal Grace had stated that he had come from 'Hospital, Changi.'<sup>2</sup>

3. Private Ford enlisted at Rockhampton, Queensland, on 5 June 1940. After initial training, he embarked in Sydney for overseas service on 19 May 1941 and arrived in Singapore on 9 June 1941. There, he joined 10<sup>th</sup> AGH. He was attached for a brief period in January 1942 to 13<sup>th</sup> AGH, but returned to 10<sup>th</sup> AGH on 22 January. He was initially listed on his service record as missing to date 15 February 1942 in a report from 10<sup>th</sup> AGH, but this was amended by another 10<sup>th</sup> AGH report, dated 20 February 1942, which listed him as 'reported missing from Changi POW Camp'. A final entry, whose authority was cited as a

<sup>1</sup> Service Record, M.D. Grace. NAA: B883, NX32767.

<sup>2</sup> Minute 04797 'War Crimes – Execution for Attempted Escapes of PW' dated 22 February 1946. NAA: MP742/1 336/1/717 Part 1.

‘Memo 1 JAP Army’ stated that Private Ford was ‘INTERCEPTED whilst attempting to escape and shot’ with a date of casualty of 17 March 1942.<sup>3</sup> The Japanese report of his execution reported that Private Ford had stated that he had come from ‘Hospital, Changi.’

4. On 28 June 1940, Private Foster enlisted at Sydney. After basic training, he joined 2/18<sup>th</sup> Battalion on 26 July 1940 and undertook unit training. He embarked in a transport ship with elements of his battalion on 18 February 1941 and arrived in Singapore on 1 March 1941. Apart from a period of detention for disobeying a lawful order, he remained with 2/18<sup>th</sup> Battalion. Private Foster was listed as missing to date 16 February 1942 in a report from AIF Malaya dated 1 April 1942. There is a further entry on his service record which states that he ‘died whilst PW (shot for attempt escape) with a date of 17 March 1942. This entry was dated 1 October 1945.’<sup>4</sup> The Japanese report of his execution reported that Private Foster had stated that he had come from 2/18<sup>th</sup> Battalion.

5. Private Geraghty enlisted at Paddington, New South Wales, on 11 August 1941. After almost no initial training, he embarked in Sydney for overseas on 17 September 1941 and disembarked in Singapore on 5 October 1941. Private Geraghty does not seem initially to have been posted to an operational unit, presumably to allow completion of basic training. In the following months, he was subject to disciplinary action, culminating in a General Court Martial on 23 November 1941 on charges of leaving his guard without orders and desertion. He was found guilty and sentenced to 180 days’ detention. Private Geraghty’s sentence was suspended on 11 February 1942. He was listed as missing to date 16 February 1942 by a report from AIF Malaya dated 7 April 1942. There is a further entry on his service record which states that he ‘died whilst PW (shot for attempted escape) with a date of 17 March 1942. This entry was dated 2 October 1945.’<sup>5</sup> The Japanese report of his execution reported that Private Geraghty had stated that he had come from 2/19<sup>th</sup> Battalion.

6. Private Moffatt enlisted at Paddington, New South Wales on 13 April 1941. He undertook initial training and was convicted by a District Court Martial for being absent without leave before he embarked in Sydney for overseas service on 17 September 1941. He arrived in Singapore on 5 October 1941 and was assigned to a training unit. He later joined Headquarters 22<sup>nd</sup> Brigade, but was repeatedly hospitalised in November and December 1941, finally rejoining HQ 22<sup>nd</sup> Brigade on 30 December 1941. He was listed as missing to date 16 February 1942 by a report from AIF Malaya dated 9 April 1942. There is a further entry on his service record which states that he ‘died whilst PW (shot for attempt) (escape)’ with a date of 17 March 1942. This entry was dated 5 October 1945.<sup>6</sup> The Japanese report of his execution reported that Private Moffatt had stated that he had come from HQ 22<sup>nd</sup> Brigade.

7. Private James O’Dea’s real name was James Henry Whitcombe. He had, as a professional boxer in civil life, used the alias ‘Jimmy O’Dea’, as well as sometimes going by the name of James O’Dea for other purposes. Recent research has confirmed that Private James O’Dea and James Henry Whitcombe were the same person.<sup>7</sup> Whitcombe enlisted in

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<sup>3</sup> Service Record, A.E. Ford. NAA : B883, QX8367.

<sup>4</sup> Service Record, C.T. Foster. NAA: B883, NX55454.

<sup>5</sup> Service Record, R.L. Geraghty. NAA: B883, NX42478.

<sup>6</sup> Service Record, E. Moffatt. NAA : B883, NX4334.

<sup>7</sup> The aliases and their correlation are listed in South Australian Police Gazette records for 1940, while images of the boxer ‘Jimmy O’Dea’ have been compared with the paybook photograph of Private James O’Dea. The

New South Wales on 11 December 1941 as James O'Dea. He undertook almost no initial training before embarking in Sydney for overseas and disembarked in Singapore on 26 January 1942. His service record records him as missing to date 16 February 1942 based on a report from AIF Malaya dated 10 April 1942. There is a final entry dated 22 May 1946 with a date of effect of 17 March 1942 which states Whitcombe (O'Dea), '*Became missing and for official purposes presumed dead.*'<sup>8</sup> The Japanese report of his execution reported that 'Private J. Whitcombe' had stated that he had come from 2/20 Battalion.

8. The situation in the days following the capitulation of Singapore was extremely confused and the movements of the individuals concerned cannot be known with certainty. The six soldiers nevertheless are believed to have been amongst the 8<sup>th</sup> Division troops who were concentrated in Changi after the surrender.

9. The Tribunal accepts that Corporal Grace, Private Ford, Private Foster, Private Geraghty, Private Moffatt and Private O'Dea were Prisoners of War.

### **The Soldiers' fate**

10. The six soldiers escaped from Changi Camp on or before 14/15 March. They stole a small boat on 16 March 1942 and crossed the Johore Strait, but were arrested by a Japanese patrol on the shore on 17 March. They were taken to Singapore, interrogated and then subjected to a summary trial. The six were sentenced to death and all were shot.<sup>9</sup> The exact date of their death is unknown, but the Japanese Army issued Order no. 62 entitled 'URGENT ACTION IS REQUESTED TO ENFORCE DISCIPLINE' on 24 March 1942. This confirmed that the six men had been arrested on 17 March and that 'the extreme penalty was incurred'.<sup>10</sup> 17 March has been taken as the date of execution in the service records concerned.

### **Conclusion as to escape**

11. The Tribunal finds that there is reasonable evidence that Corporal Grace, Private Ford, Private Foster, Private Geraghty, Private Moffatt and Private O'Dea attempted to escape from Japanese captivity in March 1942. Although the situation of the AIF forces as POWs in Singapore was still confused, the Japanese had already executed POWs for attempted escapes and all personnel in Changi had been 'informed that the penalty was death'.<sup>11</sup> The six soldiers would thus have been likely to be aware of the risks that they ran in making an escape attempt.

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description of James Henry Whitcombe in the police records also fits with the images of O'Dea, while the year of birth also aligns.

<sup>8</sup> Service Record, J. O'Dea. NAA: B883 NX77958.

<sup>9</sup> Captain D.H. James, Report to Judge Advocate General 'Execution of 6 Australian Personnel attempting to cross the Johore Straits' dated 24 April 1946. NAA: MP 742/1 336/1/717 Part 1.

<sup>10</sup> Minute 04797 'War Crimes – Execution for Attempted Escapes of PW' dated 22 February 1946. NAA: MP742/1 336/1/717 Part 1.

<sup>11</sup> Captain D.H. James, Report to Judge Advocate General 'Execution of 6 Australian Personnel attempting to cross the Johore Straits' dated 24 April 1946. NAA: MP 742/1 336/1/717 Part 1.

### **Evidence of being killed as a consequence of attempting to escape**

12. The evidence that the six soldiers were executed by the Japanese as a result of their attempt to escape is based contemporary evidence from both Japanese and Allied official sources. While the exact date of the actual executions is unknown, the circumstantial evidence that they occurred is compelling.

### **Tribunal findings**

13. The Tribunal finds that Corporal Grace, Private Ford, Private Foster, Private Geraghty, Private Moffatt and Private O'Dea were executed as a result of their attempt to escape from Japanese captivity in March 1942. The Tribunal finds that these men can be considered for medallic recognition under the Terms of Reference for this Inquiry.

### **CONSIDERATION OF MEDALLIC RECOGNITION**

14. The Tribunal understands that Corporal Michael David Grace, Private Arthur Edward Ford, Private Charles Thomas Foster, Private Raymond Leslie Geraghty, Private Edward Moffatt and Private James O'Dea were considered by the Defence Historical Honours Review Board and that the Chief of the Defence Force has endorsed a recommendation for these men to be awarded the Commendation for Gallantry.

## VX50024 PRIVATE GEORGE ALFRED IRWIN

### What has led to consideration of Private Irwin by this Inquiry?

1. Private George Alfred Irwin was identified by the Department of Defence as a person who may fall within the Tribunal's Terms of Reference.

### Private Irwin's service, capture and imprisonment

2. George Irwin was born on 22 July 1919 at Prahran, Victoria. He enlisted in the 4th Reserve Motor Transport Company, South Melbourne, on 27 February 1941. Following his initial training, he embarked for overseas service on 10 April 1941. He disembarked at Singapore on 24 April 1941 for service with AIF Malaya.<sup>1</sup>
3. After capture at the fall of Singapore in February 1942, Private Irwin was incarcerated at Selarang Barracks, Changi Camp. In 1943 he was assigned to J Force, bound for Japan, which left Singapore on 16 May 1943 on board *Weills Maru*.<sup>2</sup> The ship arrived at the port of Moji-Ku on the northern coast of Kyushu on 7 June 1943 and the POWs were taken by train to Orio and then on to Fukuoka 6-B at Mizumaki, 40 kilometres north-east of the provincial capital of Fukuoka. The Japanese military were responsible for the security of the camp. The POWs worked in the coal mines near the camp, under the supervision of civilian or Korean guards.
4. The Tribunal is satisfied that Private Irwin was a Prisoner of War.

### Evidence of escape

5. The camp was in a heavily populated region of Japan. Consequently, few escapes were attempted. Private Irwin, however, escaped from the camp on about 19 August 1943. Alex Dandie, a member of J Force, recorded:

About the middle of August 1943, there had been an accident in the mine. Four young Australians in one of the Bunras Butai suffered shock and some minor injuries when the charges, set in a coalface, were fired prematurely...

6. Dandie recorded that the injured had been hospitalised at the camp for some days, and then put on light duties. Then, during a roll call it was noticed that there was a prisoner missing.

Word passed around that there had been an escape. It was correct, there had been an attempt to

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<sup>1</sup> Service Record, G. A. Irwin. NAA: B883, VX50024.

<sup>2</sup> Lionel Wigmore, *The Japanese Thrust, Australia in the War of 1939-1945, Series I – Army*, Vol. IV, Australian War Memorial, Canberra, 1957, p. 614; Copy of *Original Nominal Roll of Personnel of the 8<sup>th</sup> Australian Divisions AIF Malaya POW Changi Singapore 1942- 45 and their Movements on Japanese Work Parties*, per UK Archives; Alexander Dandie, *Story of J Force*, self published, Sydney, 1985, pp. 4 & 230.

escape, and it was said to be one of the young chaps hurt in the accident. ... It was said that he had burrowed under a fence between two guard posts near the 'Camp Hospital'.

7. At the War Crimes trial of Colonel Sugasawa and others, it was recorded that Private Irwin had escaped in August 1943.

### **Evidence of Private Irwin being killed as a consequence of escaping**

8. Private Irwin was at large for nearly 2 days, during which period an extensive search was undertaken in order to recapture him.<sup>3</sup> He was apprehended on 21 August 1943 by the civilian police some 8 to 10 kilometres away, at Yahata-Shi and detained at the police station. From there he was handed over to the Japanese army detachment in charge of security at the camp.

9. Under interrogation post-war, Lieutenant Suematsu said that Private Irwin had resisted arrest. Suematsu stated that when he had questioned Private Irwin on his recapture, Private Irwin said he had escaped because he did not like to work and wanted to live in the mountains alone. According to Suematsu, Irwin had stolen items, including candles, matches and food, from a Japanese home.

10. There are conflicting accounts of what occurred en route to the camp. Colonel Sugasawa told the POWs that Private Irwin again attempted to escape when the vehicle stopped near Orio-shi to provide Private Irwin with a toilet break.<sup>4</sup> He was tackled by Sergeant Hozumi who unsuccessfully attempted to strangle him. Lieutenant Suematsu ordered Sergeant-Major Iwanuma to shoot Private Irwin. He was found to be still alive and he was then stabbed by Sergeant Hozumi on multiple occasions, killing him.<sup>5</sup>

11. The evidence at the War Crimes trial, however was that Colonel Sugasawa was under orders to execute Private Irwin on recapture.<sup>6</sup>

12. Lieutenant Suematsu's account was to the effect that he and Sergeant-Major Iwanuma had tied up Private Irwin and taken him by car into the mountains where he ordered Sergeant Hozumi to render Private Irwin unconscious before being shot in the back by Sergeant-Major Iwanuma. They believed him to be dead, but, when, forty minutes later he was found to be alive, Sergeant Hozumi stabbed him with a sword, because, Sergeant Hozumi claimed, the prisoner 'appeared to be suffering'. Lieutenant Suematsu's version was that Sergeant Hozumi had stabbed Private Irwin 'with a single thrust'.

13. Private Irwin's body was taken to the camp. Dandie also recorded that another prisoner, John McInerney, reported that he had been told:

They are bringing him in - Irwin - they've killed him.

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<sup>3</sup> Headquarters Eighth Army Office of Staff of Judge Advocate – Review of the Staff Judge Advocate of trial of Sugasawa and others <https://www.legal-tools.org/doc/8f59a6>, accessed 25 July 2017.

<sup>4</sup> General Headquarters Supreme Commander for the Allied Powers Legal Section: Investigation Division Fukuoka Branch. 22 March 1946.

<sup>5</sup> Australian Prisoners of War killed or executed by the Japanese. NAA: B3856, 144/1/353.

<sup>6</sup> Headquarters Eighth Army Office of Staff of Judge Advocate – Review of the Staff Judge Advocate of trial of Sugasawa and others <https://www.legal-tools.org/doc/8f59a6>, accessed 25 July 2017.

14. Dandie recorded that Dr Rapport, who was in charge of the sick bay, reported that:

The head and shoulders were mutilated, and there were bullet holes in the lower chest. The mutilation, obviously, *was* caused by swords.

15. Dandie continued:

The body was taken away from the camp, and, as far as was known, no explanation or comment was given by the Japanese for this shocking incident.

After an interval of time, a wooden box, said to contain Irwin's ashes from his cremation, was placed in the room, which had been set aside for ashes of those who had died previously.

Within a week the cooks had been told by their contacts on the camp staff of what had happened:

Irwin, in a distressed state had approached a Japanese woman and indicated by gestures with his hands that he needed food. The woman fled at once and reported his presence.

The Jap party from the camp arrived and Irwin got to his feet. The Japs stood off, and without a word, shot him. Those who had drawn their swords then rushed forward and slashed at the body.<sup>7</sup>

16. That Private Irwin escaped and was shot is also supported by 22 affidavits and statements.<sup>8</sup> The following extract from an affidavit by Private John Turner, is an example:

Pte Irwin had escaped from the camp and was away approximately 3 or 4 days, when he was recaptured and just shot in the bush by the Japanese.

I did not actually see Pte Irwin shot but I saw his body when it was carried in to the camp on a wooden door by the Japanese. The body was riddled with bullets and very badly cut about with a sword.<sup>9</sup>

17. Private Turner also recounted that he, and others, were told by a Japanese NCO<sup>10</sup> that Private Irwin had been put against a tree and had begged for his life. The NCO would give demonstrations of how he had slashed Private Irwin.

18. In a post-war investigation, Major H. S. Williams, Australian Officer attached to the Recovered Personnel Division, recorded:

According to a report dated 21 Aug 43 from Fukuoka Camp, Irwin escaped from No.15 Camp on the night of 19 Aug 43, but was recaptured on 21 Aug. While being taken back to camp he again attempted to escape, and was shot. The body was cremated.<sup>11</sup>

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<sup>7</sup> Dandie, *The Story of J Force*, pp. 239-41 (corrected pagination).

<sup>8</sup> Held in NAA: MP 742/1, 336/1/2024A Part 2 and another three in Part 3.

<sup>9</sup> Turner statement. NAA: MP 742/1 336/1/2024A Part 2.

<sup>10</sup> Referred to by Turner only by his nickname 'The Bull'.

<sup>11</sup> Williams Report, NAA: MP 742/1, 336/1/2024A Part 2.



### **Tribunal finding**

19. The Tribunal finds that Private Irwin was executed as a consequence of his escape or as a direct consequence of his further attempt to escape following his recapture.

### **CONSIDERATION OF MEDALLIC RECOGNITION**

20. The Tribunal understands that Private Irwin was considered by the Defence Historical Honours Review Board, and that the Chief of the Defence Force has endorsed a recommendation for him to be posthumously awarded the Commendation for Gallantry.

## VX33158 PRIVATE NORMAN HEATHER McARTNEY

### What has led to the consideration of Private McArtney by this Inquiry?

1. Private Norman Heather McArtney was identified by the Department of Defence as a person who may fall within the Tribunal's Terms of Reference.

### Private McArtney's service, capture and imprisonment

2. On 12 June 1940, Private McArtney enlisted at Royal Park, Victoria. After basic training, he joined the Australian Army Service Corps and undertook unit training. He joined 8<sup>th</sup> Division Petrol Company on 24 July 1941 and embarked in Fremantle for overseas service on 7 August 1941. He arrived in Singapore on 15 August 1941. Private McArtney was listed as missing to date 16 February 1942 in a report from AIF Malaya dated 6 April 1942. There is a further entry on his service record from AIF Malaya with a date of effect of 14 April 1943 which lists him as *'Missing believed POW'*. Private McArtney is then listed as a Prisoner of War in an entry from AIF Malaya, originated on 14 September 1943 but backdated to 16 February 1942. There is a final entry *'Died of illness while POW, Cause not stated'*. The date of occurrence is given as 12 July 1943, with the entry being dated 12 September 1945.<sup>1</sup>

3. The Tribunal accepts that Private McArtney was a Prisoner of War.

### Private McArtney's fate

4. Private McArtney was a member of D Force, which was transported from Singapore to Thailand between 14 and 23 March 1943. The Force was progressively split up into smaller groups, with Private McArtney being a member of the party under the command of Major A.J. Clough of 2/4<sup>th</sup> Machine Gun Battalion. By late May 1943 the majority of personnel in the party were working at Hindame Camp under appalling conditions, with a steady death toll as a result of malnutrition and overwork. Private McArtney was part of a detachment which had been sent to another camp at Brenkassi.

### Evidence of escape

5. Investigations after the War of the Japanese Prisoner of War Information Bureau records uncovered details of Private McArtney's fate. The subsequent report noted that, *'According to a report for Jul 43 from Thai Camp, McArtney escaped from a work party on 28 June 1943 together with 2 unknown PW. They were all re-captured on 12 Jul 43 and at an examination conducted on the spot they acted aggressively (sic). They were thereupon shot by the guards, whose names are not mentioned. The bodies were buried.'*<sup>2</sup>

<sup>1</sup> Service Record, N.H. McArtney. NAA: B883, VX33158.

<sup>2</sup> Recovered Personnel Division 'Aust PW killed or executed by shooting or other means.' Report No. 2, dated 7 November 1945, p. 40. NAA: MP742/1, 336/1/116.

6. Major Clough gave evidence after the War that, at some time in June 1943, he became aware that Private McArtney had gone missing some 24 hours earlier. He was subsequently informed that Private McArtney had been planning an escape. One day later, the Japanese guards conducted a parade and realised that McArtney was missing. Major Clough tried to persuade the senior Japanese guard that Private McArtney was probably somewhere around the camp and that he was in poor shape mentally, 'just wandering around'. The remaining POWs were immediately ordered to take part in a search for Private McArtney. Some three or four days later, Major Clough was informed by the Japanese that Private McArtney had been found.<sup>3</sup>

### **Conclusion as to escape**

7. The Tribunal is reasonably satisfied that Private McArtney attempted to escape from Japanese captivity in June 1943.

### **Evidence of Private McArtney's fate**

8. Private McArtney was taken to the camp at Brenkassi. Major Clough received permission to visit him. Major Clough met the camp commandant, a lieutenant, and tried to convince him that Private McArtney's fears for his family had made him mentally unwell. The Japanese officer appeared sympathetic and indicated that Private McArtney was unlikely to be shot, but would instead undergo a period of imprisonment. This, however, had to be approved by the Japanese officer's superior. When Major Clough was allowed to see the prisoner, he suggested to Private McArtney that he inform the Japanese that he had concerns at home and that this had affected his mental health.<sup>4</sup>

9. Major Clough returned to Hindame Camp and did not see Private McArtney again. He stated in his post-war report:

I was subsequently told by some of my men that after I had left McARTNEY was put on a platform on a tree about 30 feet above the ground and kept there for about a week. He was fed while he was there...

Later I was told by some of my men at BRENKASSI what happened to McARTNEY. They informed me that when he was taken down from the tree he was kept in the Japanese guard-house for a couple of weeks and then one day he was taken away by four Japanese guards, two of whom were carrying rifles and two of whom were carrying shovels. My men at BRENKASSI told me that they were of the opinion that McARTNEY was being taken back to my Camp at HINDAME. They said that about an hour after the Japanese guards and McARTNEY departed, the Japanese guards returned without McARTNEY.

About a week after McARTNEY departed from BRENKASSI with the four Japanese guards, I received a letter from the Japanese Commander at BRENKASSI. It was typewritten and in English. "MING" (sic) told me it was from the Japanese Commander at BRENKASSI. In the letter the Japanese Commander stated that he was sorry to say that Pte. McARTNEY had been shot. He said that McARTNEY had been sent to my Camp at HINDAME in custody, but that while on the way he attempted to escape again and the Japanese guards had to shoot

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<sup>3</sup> Affidavit by WX3444 Major Alfred John Clough to the War Crimes Commission. AWM54, 1010/4/36.

<sup>4</sup> Affidavit by WX3444 Major Alfred John Clough to the War Crimes Commission. AWM54, 1010/4/36.

him. I never saw McARTNEY alive again, nor, so far as I know, did any members of my Group.<sup>5</sup>

### **Evidence of Private McArtney being killed as a consequence of attempting to escape**

10. The evidence that Private McArtney was executed by the Japanese as a result of his attempt to escape is based on near-contemporary evidence from both his commanding officer and Japanese official records. While the actual execution was not witnessed and the alleged circumstances differ significantly between POW and Japanese accounts, the circumstantial evidence that it occurred is compelling.

### **Tribunal findings**

11. The Tribunal finds that Private McArtney was executed as a result of his attempt to escape from Japanese captivity in June 1943.

12. For this reason the Tribunal finds that Private McArtney is a person who can be considered for medallic recognition under the Terms of Reference of this Inquiry.

### **CONSIDERATION OF MEDALLIC RECOGNITION**

13. The Tribunal understands that Private McArtney was considered by the Defence Historical Honours Review Board and that the Chief of the Defence Force has endorsed a recommendation for him to be posthumously awarded the Commendation for Gallantry.

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<sup>5</sup> Affidavit by WX3444 Major Alfred John Clough to the War Crimes Commission. AWM54, 1010/4/36.

## 250641 SQUADRON LEADER DARYL MAXWELL SPOULE DFC

### **What has led to the consideration of Squadron Leader Sproule by this Inquiry?**

1. Squadron Leader Sproule was identified by the Tribunal's research as a person who may fall within the Inquiry Terms of Reference.

### **Squadron Leader Sproule's service history**

2. Squadron Leader Sproule was born in Hobart, Tasmania on 3 October 1917. He undertook CMF service with the 12th Field Company RAE (Royal Australian Engineers), while an articled law clerk. On 8 January 1940 he enlisted as an Air Cadet with the RAAF. He passed his flying exams and was appointed a Pilot Officer on 4 May 1940. On 13 August 1940 he left Melbourne for service in the Far East with 21 Squadron. He was promoted to Flying Officer on 4 November 1940 and became a Flight Lieutenant on 1 January 1942. He returned to Australia on 10 March 1942 and was posted to 77 Squadron at Pearce, Western Australia. On 8 June 1942 he was posted to 1 PRU (No 1 Photo Reconnaissance Unit) at Darwin and then re-posted on 10 September 1942 to 77 Squadron which had moved to Darwin to enable the squadron to fly directly to New Guinea on bombing missions.

3. On 1 August 1943 Squadron Leader was promoted to the rank of Squadron Leader and placed in command of No 77 Squadron.<sup>1</sup>

### **Award of the Distinguished Flying Cross to Squadron Leader Sproule**

4. Squadron Leader Sproule was awarded the Distinguished Flying Cross (DFC) with effect from 15 August 1943 for '*gallantry and devotion to duty on numerous sorties*'.<sup>2</sup> The Award was Gazetted in the London Gazette on 17 June 1947.<sup>3</sup>

5. Squadron Leader Sproule's citation for his DFC noted he commenced operational flying at the commencement of Japanese operations in Malaya, undertaking many flying engagements in Malaya and Sumatra before being evacuated from Java. According to the citation, he:

Consistently displayed exceptional skill and courage against greatly superior forces and was credited with shooting down one enemy fighter aircraft.

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<sup>1</sup> Service Record, D.M. Sproule. NAA: A9300, Sproule, D.M.

<sup>2</sup> Service Record, D.M. Sproule, NAA: A9300, Sproule, D.M.

<sup>3</sup> London Gazette No 37987 dated 17 June 1947, p. 2715.

6. On his return to Australia, the citation records that in September 1942 he was appointed acting Flight Commander of No 77 Squadron, which he led:

With infinite skill against heavy enemy raiding force and personally destroyed one medium bomber.

7. In all, he participated in 73 sorties, including 17 strikes. The citation concludes:

Throughout his long period of active operations against the enemy, Squadron Leader Sproule's sustained gallantry and devotion to duty have been a most valuable asset to his squadron.

8. The Tribunal observes that the award of the DFC appears unrelated to Squadron Leader Sproule's actions when a Prisoner of War.

### **Squadron Leader Sproule's capture and imprisonment**

9. Squadron Leader Sproule crashed the Kittyhawk he was flying at Lindenhafen on 2 August 1943.<sup>4</sup> He was identified from a photograph shown to the Luluai (headman) of Paronga in west New Britain as having been shot down near the Lulu River, Lindenhafen, New Britain.<sup>5</sup>

10. Wing Commander R.F.M. Dalton, the Commanding Officer of RAAF Station New Guinea, in a report about research on missing persons, wrote in relation to Squadron Leader Sproule:

The identification of this member by Luluai of Paronga, coupled with previous investigations made, together with the recovery of the mandible of this member, now conclusively identified as being that of the late Squadron Leader Sproule, should allay any possible doubt that the member shot down at Lindenhafen, and subsequently executed by the Japanese at Ring Ring, was Squadron Leader D M Sproule.<sup>6</sup>

11. Post-war investigation by a war graves recovery team recorded:

Sqn Ldr Sproule believed to be hit by shrapnel from his own 40lb G P bomb, whilst bombing and strafing enemy boats 800 yards off Lindenhafen. Crashed near beach 7-8 miles east from jetty at Lindenhafen. Pilot was seen to get out of aircraft onto the beach.<sup>7</sup>

12. The war graves investigation team recorded:

According to a statement by a native, Sproule was taken to the home of a Chinaman by two natives and kept there for a day and a night, until one of the natives brought back a number of Japanese who took the pilot prisoner.<sup>8</sup>

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<sup>4</sup> Report on Aircraft Crashes. NAA: A705, 166/38/216.

<sup>5</sup> Research for Missing Personnel, New Britain, D.M. Sproule, NAA: A705 166/38/216.

<sup>6</sup> Research for Missing Personnel, New Britain, D.M. Sproule, NAA: A705 166/38/216.

<sup>7</sup> Sproule Grave Registration Card side 2. NAA: A8234, 34.

<sup>8</sup> Sproule Grave Registration Card side 2. NAA: A8234, 34.

13. In the précis of evidence at the war crimes trial of Lieutenant Fukute Yoshihiko for the murder of Squadron Leader Sproule, the prosecution stated that in August 1943 Squadron Leader Sproule:

...was the sole occupant of a Kittyhawk aircraft which, while engaged in a bombing mission against Japanese watercraft, was shot down by Japanese anti-aircraft fire and crash landed into the sea close to the beach near Lindenhafen, Gasmata area, New Britain. The occupant of the Kittyhawk was seen by crews of the accompanying aircraft to get out of his aircraft and swim ashore apparently uninjured. About the middle of August a Japanese Petty Officer and his six enlisted men who were of the Linden Patrol Unit arrived at Fukute's headquarters with a white soldier whom they had captured at Linden. [Fukute] attempted to interrogate the white soldier and his English was poor he could only find out that the white soldier had come from Australia by plane and landed on the coast near Linden. From this interrogation [Fukute] concluded that the victim was a spy, and he sent a message to his base headquarters giving the particulars of the victim. Fukute left the victim under the guard of his platoon leader and informed him that if the spy attempted to escape he was to be shot.<sup>9</sup>

14. It is unclear if this proposed consequence of attempted escape was conveyed to Squadron Leader Sproule.

15. The Tribunal is reasonably satisfied that Squadron Leader Sproule was captured and imprisoned and, consequently that he was a Prisoner of War.

### **Evidence of escape**

16. In a sworn statement presented at his trial, Lieutenant Fukute stated that Squadron Leader Sproule was brought in between 1800 and 1900 and was interrogated for about an hour. The interrogation had been unsuccessful, from Lieutenant Fukute's point of view, because Squadron Leader Sproule would not provide information. Lieutenant Fukute conceded that the interrogation was impeded by his inability to communicate with Squadron Leader Sproule in English.

17. Further, Lieutenant Fukute wrote:

Just before sunrise on the following morning I was awakened by Warrant Officer Kuwabara with the report that the prisoner had attempted to escape, that he had run some distance and that Warrant Officer Kuwabara had been obliged to fire at him.<sup>10</sup>

18. On the basis of the available evidence, particularly the contemporaneous account by Lieutenant Fukute, the Tribunal finds that Squadron Leader Sproule was detained by the Japanese but escaped from custody early in the morning following his capture.

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<sup>9</sup> Trial of Fukute Yoshihiko, Record of the Military Court pp.1 & 2. NAA: A471, 81658.

<sup>10</sup> Fukute's examination. NAA: A471, 81658.

### **Evidence of Squadron Leader Sproule being killed as a consequence of escaping**

19. Lieutenant Fukute continued to the effect that early the following morning Warrant Officer Kuwabara told him that the prisoner had attempted to escape. Squadron Leader Sproule had run about 40-50 metres. Warrant Officer Kuwabara had fired at him, wounding him in the leg and a grazing his head.

20. In further evidence, Lieutenant Fukute continued:

I went to the spot, I saw the spy who was lying on the ground. ... I helped him up and had him put against the trunk of a tree which was nearby ... Blood was flowing from his thigh, so I presumed he had received a bullet wound there. Also I found that another bullet had entered the back of his skull. His breath was very broken and he had his eyes shut. Even when I asked him he did not say anything. ... The medical officer was confined to bed, in a serious condition, suffering from malaria. There was one medical orderly ... very much weakened by malaria. So together with the Petty Officer I tried to do something for the spy. The wounds were fatal. I thought it would be best to stop him from his miseries by beheading him.<sup>11</sup>

21. The native making the statement to the war graves investigation also reported later learning that the Japanese had killed their prisoner.<sup>12</sup>

### **Tribunal finding**

22. The Tribunal finds that, notwithstanding there is credible evidence that Squadron Leader Sproule was apprehended no more than 50 metres away, his escape attempt was genuine and that he was executed as a consequence of his escape.

### **CONSIDERATION OF MEDALLIC RECOGNITION**

23. The Tribunal understands that Squadron Leader Sproule was considered by the Defence Historical Honours Review Board and that the Chief of the Defence Force has endorsed a recommendation that he be posthumously awarded the Commendation for Gallantry.

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<sup>11</sup> Quote in Simpson's opinion of Fukute's petition for clemency. NAA: A471, 81658.

<sup>12</sup> Sproule Grave Registration Card side 2. NAA: A8234, 34.



## NX72445 PRIVATE EDWARD AMBROSE ALLEN

### **What has led to the consideration of Private Allen by this Inquiry?**

1. In a submission to the Valour Inquiry, Dr Kevin Smith OAM requested recognition for 28 individuals who were Prisoners of War and were said to have been either killed during escape or following recapture. Private Edward Ambrose Allen is one of the 28 individuals brought forward for consideration.

### **Private Allen's service**

2. On 17 March 1941, Private Allen enlisted at Paddington, NSW. After basic training, repeated hospitalisations and a period of detention, he embarked for overseas at Sydney on 10 January 1942 and arrived in Singapore on 26 January 1942.<sup>1</sup>

3. Private Allen joined No. 1 Company, Australian Army Service Corps, on arrival in Singapore. Nothing further is known about Private Allen from the official records until he was reported missing to date 16 February 1942, following the fall of Singapore, by AIF Malaya on 26 March 1942.

4. The official record then shows Private Allen as a Prisoner of War to date 16 February 1942 in an entry sourced from AIF Malaya and dated 4 October 1943. Private Allen appears to have been transferred to Sandakan in British North Borneo with B Force in July 1942.<sup>2</sup>

5. The Tribunal accepts that Private Allen was a Prisoner of War.

### **Evidence of escape**

6. On or about 30 July 1942, Allen and three others (Privates Jacka, Harrington and Shelley), who were all now members of No. 1 Company AASC, made their escape from the POW camp at Sandakan. They remained in the general vicinity for the next few days, seeking local assistance, but their presence was reported to the Japanese and they were recaptured on 8 August 1942.<sup>3</sup>

7. After being returned to the POW camp and confined there for six weeks, the group was taken by sea to Kuching and subjected to continuing close confinement. They were not brought to trial until 25 October 1942, when all four were found guilty and each sentenced to four or five years' solitary confinement, which was to be served in Outram Road Gaol, Singapore.<sup>4</sup>

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<sup>1</sup> Service Record, E.A. Allen. NAA: B883, NX72445.

<sup>2</sup> Entry for Private E.A. Allan, B Force Roll, NAA: B3856 144/1/372 Part 4.

<sup>3</sup> Kevin Smith, *Escapes and Incursions: Sabah 1942-45*, KR & H Smith, Armidale, 2006, pp. 29-30.

<sup>4</sup> 'Extract from Schedule supplied by VX14024 Lieut R.G. Wells 8 Aust Div'. NAA: B3586 144/1/358.

8. The only official document which was made available to the Tribunal which specifically refers to Private Allen and the other members of his group having escaped and been recaptured is a document entitled '*Copy of Information sent by Lieutenant Colonel A.W. Walsh RAA AIF from Kuching Prisoner of War Camp to Chief Liaison Officer Air Prisoner of War Camp Sandakan*'. This specifically mentions Private Allen and his colleagues, together with two other soldiers who separately escaped and were also recaptured in the same period, as '*B Force Prisoners who escaped and were caught by IJA*', their receiving sentences of four or five years' imprisonment, and Harrington's death. The original document was signed by three AIF witnesses, a Major, a Warrant Officer and a Sergeant.<sup>5</sup>

### **Conclusion as to escape**

9. The Tribunal finds that there is evidence that Private Allen attempted, along with three other members of the AIF, to escape from Japanese troops at Sandakan POW Camp on 31 July 1942, their having first been made POWs at Singapore in February 1942, as a result of the surrender of the island, and then transferred to Sandakan as part of 'B Force'.

### **Evidence of Private Allen being killed as a consequence of attempting to escape**

10. Private Allen's service record was amended with a date of 10 July 1943 to state '*Died of Illness whilst P.W. (Pellagroid type Cachexia)*'. The entry has a date of 28 September 1945 and its authority was notated 'CAS 4629.'

11. The evidence that Private Allen died as a result of his escape is based on his being recaptured on 8 August 1942 and, after mistreatment in confinement, being sentenced to four years' imprisonment in Outram Road Gaol. He was sentenced after a court martial in Kuching on 25 October 1942. He and the other survivors were returned to Singapore, where they arrived on 12 January 1943. On 7 July 1943, Private Allen died while still incarcerated in Outram Road Goal, reportedly from Pellagroid type Cachexia (a wasting syndrome caused in this case by vitamin B3 deficiency). A post-war statement by Lieutenant Penrod Dean, another prisoner in Outram Road Goal, stated that '*Pte Allen...died through lack of medical attention under conditions of the utmost filth and degradation.*'<sup>6</sup>

### **Conclusion as nexus between death and the escape**

12. The Tribunal is satisfied that Private Allen died as a result of his extremely poor treatment following recapture by Japanese forces. However, given the general maltreatment of Allied POWs by the Japanese and the associated death toll, as well as the survival of another member of Private Allen's escape group who was similarly imprisoned, the Tribunal is not satisfied that the poor treatment, while in itself appalling, was sufficiently more harsh than that experienced by other POWs, such as to meet the requirements of the Terms of Reference for inclusion.

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<sup>5</sup> The document is held in the papers of Ms Lynette Silver, OAM.

<sup>6</sup> Report 'Full Statement of Atrocity or Crime', Lieutenant Penrod Dean. NAA: MP742/1336/1/2018.

**Tribunal finding**

13. For this reason the Tribunal finds that Private Edward Ambrose Allen cannot be considered for medallic recognition under the Terms of Reference of this Inquiry.

## QX6866 GUNNER FRANCIS DOUGLAS ANDERSON

### **What has led to the consideration of Gunner Anderson by this Inquiry?**

1. In a submission to the Valour Inquiry Dr Kevin Smith OAM requested recognition for 28 individuals, who were Prisoners of War and were said to have been either killed during escape or following recapture. Gunner Francis Anderson is one of those individuals brought forward for consideration.<sup>1</sup>

### **Gunner Anderson's service**

2. Francis Douglas 'Andy' Anderson enlisted in Brisbane on 4 June 1940. After initial training, in December 1940 he transferred to 2/10<sup>th</sup> Field Regiment. On his service record are numerous charges for absences without leave, as well as numerous hospital stays.<sup>1</sup>

3. On 2 February 1941, the 2/10<sup>th</sup> boarded the *Queen Mary*, which was part of a convoy taking troops of the 8<sup>th</sup> Division to Malaya and Singapore. The convoy reached Malaya two and a half weeks later, with the *Queen Mary* disembarking the 2/10<sup>th</sup> at Malacca, in Johore, on 19 February 1941.

4. During the night of 26-27 January 1942, the Regiment provided artillery support for the 22<sup>nd</sup> Brigade's successful ambush in the Nithsdale Estate. After the Nithsdale battle the Brigade withdrew to Singapore Island.

### **Gunner Anderson's capture and imprisonment**

5. After the fall of Singapore on 15 February 1942, all Allied servicemen were marched to Selerang barracks (known as the first Changi prison). Although Gunner Anderson's service record does not have a 'Changi record' included, it is probable that he was marched there with the other members of his unit.

6. The following is recorded on his service record: *'Anderson is reported as a POW from 15 February 1942 in Singapore'*. The next entry dated 29 January 1943 indicates Gunner Anderson *'stole money the property of a person subject to military law'*, for which he received 28 days detention (in Changi Gaol). Gunner Anderson also spent time in the Australian General Hospital (AGH) on Changi from 22 February to 1 March 1943.

7. Gunner Anderson's service record indicates he was embarked with E Force on 28 March 1943 bound for Borneo. This is confirmed in the E Force Roll.<sup>2</sup>

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<sup>1</sup> Service Record, F.D. Anderson. NAA: B883, QX6866.

<sup>2</sup> Entry for Anderson, E Force Roll. NAA: B856, 144/1/372.

8. The Australian War Memorial's Prisoner of War Roll shows that Gunner Anderson was a Prisoner of War in Malaya, and that the information was sourced from the Prisoners of War and Mission Section, of the Army's 2<sup>nd</sup> Echelon, Land Headquarters, Melbourne.<sup>3</sup>

9. The Tribunal accepts that Gunner Anderson was a Prisoner of War.

### **Evidence of escape**

10. Much has been written about the escape of Private Keith Botterill, Private Nelson Short, Lance Bombardier Bill Moxham and Gunner 'Andy' Anderson (the group). All but Gunner Anderson survived, and eventually returned to Australia.

11. In his submission to the Valour Inquiry, Dr Smith stated that Gunner Anderson '*died July 1945 in the Ranau area during an escape from the Ranau No 2 Jungle Camp*'.<sup>4</sup> In his book *Borneo Australia's Proud but Tragic Heritage*, Dr Smith devotes a chapter to the escape of the group. He wrote that they '*slipped away*' from No 2 Jungle Camp on 7 July 1945. All of the men were weak and Gunner Anderson was described as '*becoming delirious*' (only a short time after their escape).<sup>5</sup>

12. In her book *Sandakan, A Conspiracy of Silence*, Ms Silver also provides details of the escape of the group.<sup>6</sup> She wrote, based on interviews with the survivors, that they were given Japanese money to assist them while at large. Their departure from the camp was facilitated by heavy rain, from which the majority of the guards were sheltering. They made for the rice store, which had previously been identified as being 5 kilometres down the track. There they were able to fill their haversacks with sufficient food for a week, before continuing towards Ranau. For a time they hid in a cave before continuing. They then sheltered in a hut.

### **Conclusion as to escape**

13. The Tribunal finds that Gunner Anderson escaped from the Number 2 Jungle Camp in company with Private Keith Botterill, Private Nelson Short, and Lance Bombardier William Moxham on 7 July 1945.

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<sup>3</sup> Australian Military Forces prisoners of war and missing - Far East and South West Pacific Islands, Part 1 - Alphabetical list by Theatres of War known as the 'AWM Prisoner of War Roll' was created by 2nd Echelon, Land Headquarters and was transferred to the Australian War Memorial in 1952. It consists of several volumes listing the names of prisoners of war and missing as at 30 June 1944. AWM 232. See also: AWM Prisoner of War Roll. AWM 232, 1, Part 1 Section A, Malaya.

<sup>4</sup> Submission 243A to the Valour Inquiry – Dr Kevin Smith OAM.

<sup>5</sup> Kevin Smith, *Borneo Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale, NSW, 1999, pp. 261-263.

<sup>6</sup> Lynette Ramsay Silver, *Sandakan, A Conspiracy of Silence*, Sally Milner Publishing, Binda NSW, 2000, pp. 245-248.

### **Evidence of Gunner Anderson being killed as a consequence of escaping**

14. Post-war investigations by 9 Division AIF revealed there was no reliable paperwork for Gunner Anderson, in respect to his date and place of death. The only entry found was in the highly unreliable 'Jap Roll'.<sup>7</sup> According to this Roll, Gunner Anderson died at Sandakan on 1 March 1945 from malaria.

15. According to Ms Silver, survivor Private Keith Botterill reported that fellow escapee Gunner 'Andy' Anderson became increasingly ill with dysentery and died on 28 May 1945 in a jungle hide-out, five miles to the west of Ranau. A sketch map in 8 War Graves Unit diary shows a recovery site of a POW known only as Anderson, about five miles from Ranau on the track leading west to Tuaran.<sup>8</sup>

16. Gunner Anderson's death due to illness is confirmed in a transcript of the Keith Botterill interview with Tim Bowden for the documentary series 'Australia under Nippon', held at the ABC Archives.

17. Dr Smith stated that Gunner Anderson '*passed quietly away*' on 29 July 1945, and was buried by a local farmer who had been assisting the escapees. After the War, Gunner Anderson's remains were exhumed for burial at the Labuan War Cemetery.<sup>9</sup>

### **Conclusion as nexus between death and the escape**

18. The Tribunal is reasonably satisfied that, following his escape from Number 2 Jungle Camp, Gunner Anderson died of illness, most likely on 28 or 29 July 1945.

### **Tribunal Finding**

19. The Tribunal finds that, while it is satisfied as to evidence of an escape, Gunner Anderson was not killed while escaping or on recapture. Consequently, he cannot be considered for medallic recognition under the Terms of Reference of this Inquiry.

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<sup>7</sup> Entry for F D Anderson, 'Jap Roll', POW 1591. NAA: B3856, 144/1/372 part 4. See also: Notation in NAA: B3856, 144/1/372.

<sup>8</sup> Hand drawn map, 8 War Graves Unit Diary. AWM52, 21/2/9.

<sup>9</sup> Kevin Smith, *Escapes and Incursions*, Macpherson Print Group, Maryborough, Vic, 2006, p. 161.

**VX32772 SIGNALMAN MAXWELL ALFRED WILLIAM BENOIT MM**  
**SX7592 LANCE CORPORAL CLEMENT GEORGE MILLER**  
**SX7220 SIGNALMAN ERIC SYMONS**

**What has led to the consideration of Signalman Benoit, Lance Corporal Miller and Signalman Symons by this Inquiry?**

1. Signalman Benoit, Lance Corporal Miller and Signalman Symons were identified by the Tribunal's research as persons who may fall within the Inquiry Terms of Reference.

**The Soldiers' service**

2. Signalman Benoit enlisted in the AIF in Melbourne on 5 June 1940. After initial training, he was posted to 8<sup>th</sup> Division Signals. He embarked for overseas service on 2 February 1941 and arrived in Singapore on 19 February. He became a Prisoner of War after the fall of Singapore.<sup>1</sup> He was awarded the Military Medal for his service supporting defensive actions against the Japanese in January 1942.<sup>2</sup>

3. Lance Corporal Miller enlisted for service in the AIF in Adelaide on 2 July 1940 and, following initial training and assignment to a signals unit, embarked for Singapore on February 1941, arriving there on 19 February.<sup>3</sup>

4. Signalman Symons also enlisted in Adelaide, on 20 June 1940, was posted to a signals unit in 8 Division and was in the same echelon despatched for service overseas as Benoit and Miller.<sup>4</sup> All were captured with the remainder of the division when Singapore fell. They were initially confined at Changi before being assigned to be part of 'F Force', a unit brought together on the instructions of the Japanese to undertake construction work in Thailand.

5. The three soldiers were members of the party embarked in the first train to leave Singapore for Thailand with 600 POWs onboard on 18 April 1943. After a five day trip in very poor conditions, the train arrived in Bampong in Thailand. The POWs spent one night in Bampong before beginning a 300 kilometre march. This march was undertaken in conditions of considerable hardship. The troops finally arrived in the work area in up-country Thailand near the border with Burma on or about 11 May 1943.<sup>5</sup>

6. The Tribunal accepts that Signalman Benoit, Lance Corporal Miller and Signalman Symons were Prisoners of War.

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<sup>1</sup> Service Record, M.A.W. Benoit. NAA: B883, VX32772.

<sup>2</sup> Service Record, M.A.W. Benoit. NAA: B883, VX32772.

<sup>3</sup> Service Record, C.G. Miller. NAA: B883, SX7592.

<sup>4</sup> Service Record, E. Symons. NAA: B883, SX7220.

<sup>5</sup> Lieutenant Colonel C.H. Kappe, Dairy entry headed 'Absence without Leave.' AWM3 DRL/2695.

## Evidence of escape

7. The three soldiers appear to have made an escape attempt around 2 May 1943 from a camp at Tiamonta while still en route to their final camp. Their absence was recorded by Lieutenant Colonel C.H. Kappe, the Australian Commanding Officer of F Force.<sup>6</sup> A survivor of F Force, Private Donald Wall, later compiled a memoir from official records and from diaries kept by other members of the force. He included in his book a copy of a letter written by Signalman Benoit to his mother before the escape. In it, Signalman Benoit explained his situation, the poor conditions under which the troops were labouring, and his intention to escape. Signalman Benoit believed that he had *'at least a fifty-fifty chance of getting through [to India]'* and acknowledged that he was likely to be shot if recaptured, *'as that has been the policy of our hosts to date.'*<sup>7</sup> A memoir written by Major J.W. Jacobs of 8<sup>th</sup> Division Signals shortly after the War confirmed that the three men *'planned to escape, and were not seen again after the group left Bampong.'*<sup>8</sup>

## Conclusion as to escape

8. The Tribunal finds that there is reasonable evidence of Signalman Benoit, Lance Corporal Miller and Signalman Symons having attempted to escape in early May 1943 with the intention of reaching Allied-held territory in India.

## The Soldiers' fate

9. The men were not seen again by Allied personnel; the only indication of their possible fate came from a comment about the fate of ten other Australians and one British officer who had attempted escapes on 31 May and 3 June 1943. In his post-operation report, Lieutenant Colonel Kappe wrote, *'Nothing has been heard of the escapes subsequently except that a general intimation was received from Lieut FUKUDA (sic) that the men had been caught and shot.'*<sup>9</sup>

10. Lieutenant Colonel Kappe's report is the only contemporaneous evidence relating to the recapture and death of the three men. The only other evidence is the existence of 13 graves of unknown individuals of the AIF in the war graves cemetery at Thanbyuzayat. The bodies had originally been interred at the Australian Cemetery at Songkurai, some 23 kilometres from Tiamonta where they were last seen.<sup>10</sup> The post-war recovery teams which transferred their bodies to the permanent cemetery could not identify any individuals, but did identify them as Australians.

11. The location of the original graves was only 23 kilometres from where the three men seem to have made their escape, and in the direction that they intended to take. There were ten other AIF personnel who escaped, whose fate was unknown, but were also believed to

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<sup>6</sup> Lieutenant Colonel C.H. Kappe, Dairy entry headed 'Absence without Leave.' AWM3 DRL/2695.

<sup>7</sup> Signalman M.A.W. Benoit, Letter to his Mother, date not given. Cited. Don Wall (collator) *Heroes of F Force*, D. Wall, Mona Vale, 1993, p. 110.

<sup>8</sup> Major J.W. Jacobs, *The Burma Railway: One Man's Story*, privately published, Oak Park, 2006, p. 92. (From an original text of 1947.)

<sup>9</sup> Lieutenant Colonel C.H. Kappe, 'F Force Report', dated 5 May 1944. NAA: A6238 23.

<sup>10</sup> Grave Registration Card for Thanbyuzyat War Cemetery. NAA: A8234 61/62/63.



have been recaptured and executed. Lieutenant Colonel Kappe noted in his report that there were 13 missing AIF personnel from F Force during its time 'up country'.<sup>11</sup> The alignment of the 13 missing escapees with the 13 unknown Australian graves is thus likely, but unfortunately has not been confirmed. Furthermore, there does not appear to be any evidence in the existing War Diaries of the recovery units as to the manner of death of any of the individuals concerned.<sup>12</sup> A single British officer accompanied one of the other AIF escape parties, but his fate also remains unknown and his body has not been identified. Finally, the body of at least one other AIF member of F Force has never been found.<sup>13</sup>

### **Conclusion as to nexus between death and escape**

12. Given that the only contemporaneous report relating to the fate of Signalman Benoit, Lance Corporal Miller and Signalman Symons was described by Lieutenant Colonel Kappe as 'a general intimation' from Lieutenant Fukuda and that the identity of the 13 previously unidentified AIF graves in the cemetery at Thanbyuzayat is not certain and the manner of their death unknown, the Tribunal finds that there is insufficient evidence of their having been killed as a consequence of their attempt to escape.

### **Tribunal findings**

13. While it is reasonably satisfied that Signalman Benoit, Lance Corporal Miller and Signalman Symons attempted to escape around 2 May 1943, and died following that escape attempt, the Tribunal finds that there is insufficient evidence of their having been killed as a consequence of that escape. For this reason, the Tribunal finds that these men cannot be considered for medallic recognition under the Terms of Reference of this Inquiry.

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<sup>11</sup> Lieutenant Colonel C.H. Kappe, 'F Force Report', dated 5 May 1944, p. 56. NAA: A6238 23.

<sup>12</sup> War Diaries for 26 and 35 Australian War Graves Units still exist; that for 34 Australian War Graves Unit does not. AWM52 21/3/31 and 21/3/30 and 21/3/26 refer.

<sup>13</sup> Lieutenant Harry Wraith Downes WX11159 who wandered away from a camp hospital and probably drowned on or about 5 July 1943. The incident is described in Kappe, 'F Force Report', p. 23. NAA: A6238 23.

NX40693 PRIVATE VERNON ROBERT **BOSTON**  
 NX53987 PRIVATE CHARLIE **URQUHART**  
 NX40901 PRIVATE JAMES D'ARCY **WAYGOOD**

**What has led to the consideration of Private Boston, Private Urquhart and Private Waygood by this Inquiry?**

1. In a submission to the Valour Inquiry Dr Kevin Smith OAM sought recognition for 28 individuals, including Privates Vernon Robert Boston, Charlie Urquhart and James D'Arcy Waygood, who were Prisoners of War and were said to have been either killed during escape or following recapture.<sup>1</sup>

**The Soldiers' service**

2. On 28 June 1940, Private Boston enlisted at Tenterfield, NSW. After basic training, he joined 2/18<sup>th</sup> Battalion on 29 July 1940 and undertook unit training. He embarked with his battalion in HMT *Queen Mary* on 2 February 1941 and arrived in Singapore on 18 February 1941. After numerous hospitalisations for malaria, he rejoined 2/18<sup>th</sup> Battalion on 31 December 1941. Nothing further is known about Private Boston from the official records until he was reported missing following the fall of Singapore in February 1942.<sup>2</sup>

3. On 24 June 1940, Private Urquhart enlisted at Sydney. After basic training, he embarked in HMT *Queen Mary* on 2 February 1941 and arrived in Singapore on 18 February 1941. After service in the Australian Army Service Corps and other units, he joined 2/18<sup>th</sup> Battalion on 31 October 1941. Nothing further is known about Private Urquhart from the official records until he was reported missing following the fall of Singapore in February 1942.<sup>3</sup>

4. On 9 July 1940, Private Waygood enlisted at Tamworth, NSW. After basic training, he joined 2/18<sup>th</sup> Battalion on 29 July 1940 and undertook unit training. He embarked with his battalion in HMT *Queen Mary* on 2 February 1941 and arrived in Singapore on 18 February 1941. Private Waygood's service record states that he was detached for duty to 'V.R.P. 22 Independent Brigade Group Ordnance Workshop' from 3 January 1942. There are no further entries on this record before the fall of Singapore, but a second 'Service and Casualty Form' which is a 'Changi Copy', shows that he rejoined 2/18<sup>th</sup> Battalion on 5 February 1942.<sup>4</sup>

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<sup>1</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>2</sup> Service Record, V.R. Boston. NAA: B883, NX40693.

<sup>3</sup> Service Record, C. Urquhart. NAA: B883, NX53987.

<sup>4</sup> Service Record, J.D. Waygood. NAA: B883, NX40901.

## The Soldiers' fate

5. Privates Boston, Urquhart and Waygood were deployed with their unit, A Company of 2/18<sup>th</sup> Battalion, on the north-west coast of the island of Singapore on the night of 8-9 February 1942.

6. Private Boston's service record states that he was posted '*Missing*' with a date of 16 February 1942. This entry was made by AIF Malaya on 26 March 1942. Subsequently, Private Boston's service record was amended on 11 February 1946 to state '*Killed in Action*' with a date of 9 February 1942. The authority for this entry was notated '*17/48/10366*' and '*Cas 311*'.<sup>5</sup>

7. Private Urquhart's service record states that he was posted '*Missing*' with a date of 16 February 1942. This entry was made by AIF Malaya on 14 April 1942. The '*Changi Copy*' gives a date of 15 February. Subsequently, Private Urquhart's service record was amended on 8 March 1946 to state '*Killed in Action*' with a date of 9 February 1942. The authority for this entry was notated '*N10/46*' and '*Cas 093*'.<sup>6</sup>

8. Private Waygood's service record states that he was posted '*Missing*' with a date of 16 February 1942. This entry was made as the result of a report by AIF Malaya on 14 April 1942. The '*Changi Copy*' gives a date of 15 February. Subsequently, Private Waygood's service record was amended on 8 March 1946 to state '*Killed in Action*' with a date of 10 February 1942. The authority for this entry was notated '*N10/46*' and '*Cas 503*'.<sup>7</sup>

## Evidence of capture

9. On the night of 8-9 February 1942, 2/18<sup>th</sup> Battalion was in a defensive position on the north-west coast of Singapore under the command of 22<sup>nd</sup> Brigade. Japanese landings took place from approximately 2200 onwards. Two main landings occurred on 2/18<sup>th</sup> Battalion's front. These were initially met by 8 Platoon of A Company and 15 Platoon of C Company. Both suffered heavy casualties and were forced to withdraw in the early hours of 9 February. 7 Platoon of A Company was by-passed. It attempted to rejoin the Battalion later the same day, but, according to the Official History, only a few of its men succeeded. In total, only 3 officers and 40 men of A Company and 4 officers and 41 men of C Company reached battalion headquarters.

10. 2/18<sup>th</sup> Battalion's survivors regrouped on 9 February to take up new defensive positions north of Tengah airfield. After daylight, after further engagements with the rapidly increasing Japanese landing forces had pushed the troops out of these areas, the battalion commander was instructed to withdraw to the south of Tengah and reorganise his survivors. By early afternoon a new position had been taken up inside and south of Bulim village as part of a hastily assembled group of units. By this time 2/18<sup>th</sup> Battalion had only 330 officers and men available.<sup>8</sup>

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<sup>5</sup> Service Record, V.R. Boston. NAA: B883, NX40693.

<sup>6</sup> Service Record, C. Urquhart. NAA: B883, NX53987.

<sup>7</sup> Service Record, J.D. Waygood. NAA: B883, NX40901.

<sup>8</sup> L.G. Wigmore, *The Japanese Thrust, Australia in the War of 1939-1945, Series I – Army*, Vol. IV, Australian War Memorial, Canberra, 1957, Chapter 15 'Defence of Western Area' see also pp. 335-338 and 345. See also:

11. There is very limited information available on what happened to Privates Boston, Urquhart or Waygood. Entries were made in the Unit Roll later compiled by A Company's commander, to the effect that each had last been seen on the north-west coast of Singapore early on 9 February 1942. Each had been taken prisoner and shot trying to escape. The authority for these reports is cited as Private Stanley Shearman, who died in Borneo as a POW in 1945.<sup>9</sup>

12. The exact entry for Boston in the Unit Roll made up by Major Johnstone is, '*Last seen n-w coast Feb 9<sup>th</sup>. Taken prisoner and shot trying to escape.*' That for Private Urquhart reads, '*Last seen n-w coast S'Pore. B. taken P/W and shot. Att escape.*' The entry for Private Waygood states, '*Waygood was tied to Urquhart and also shot dead while attempting to escape.*'

13. The Tribunal accepts that Privates Boston, Urquhart and Waygood were Prisoners of War.

### **Conclusion as to escape**

14. The Tribunal finds that there is evidence that Privates Boston, Urquhart and Waygood attempted to escape from Japanese troops shortly after their capture on 9 February 1942.

### **Evidence of Private Boston, Urquhart and Waygood being killed as a consequence of attempting to escape**

15. The evidence that Privates Boston, Urquhart and Waygood were killed because of an attempt to escape after being captured by the Japanese landing forces in 9 February 1942 is confined to the entries on the Unit Roll put together by their company commander, Major Johnstone, as part of his efforts to ascertain and record the fate of the soldiers under his command. The entries in the Unit Roll made by Major Johnstone are based on a report made by Private Stanley Shearman. Unfortunately, Private Shearman himself died as a Prisoner of War in 1945 and therefore was not in a position to assist the post-war inquiries.

### **Tribunal findings**

16. The Tribunal finds that there is evidence that following a defensive action by elements of 2/18<sup>th</sup> Battalion against Japanese forces crossing the Johore Strait to invade Singapore Island on 8/9 February 1942, Privates Boston, Urquhart and Waygood were taken prisoner, and that shortly thereafter, they were shot by Japanese troops.

17. For this reason the Tribunal is reasonably satisfied that Privates Boston, Urquhart and Waygood were killed as a consequence of their attempts to escape.

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Di Elliott & Lynette Silver, *A History of 2/1<sup>st</sup> Battalion AIF*, Pennant Hills, 2006. This is a revised version of James Burfitt, *Against All Odds: The History of 2/18 Battalion AIF*, French's Forest, 1991.

<sup>9</sup> A Company 2/18<sup>th</sup> Battalion, Unit Roll Book. AWM127 10. See also 2 Echelon Records. AWM54 171/11/2.

18. The Tribunal finds that Privates Boston, Urquhart and Waygood are eligible for consideration for medallic recognition under the Terms of Reference for this Inquiry.

## **CONSIDERATION OF MEDALLIC RECOGNITION**

### **Was there an act of gallantry in the attempted escape by Private Boston, Urquhart and Waygood?**

19. After examining the limited available evidence, the Tribunal concluded that there was insufficient material before it to recommend that the circumstances of Privates Boston, Urquhart and Waygood's attempt to escape amounted to an act of gallantry worthy of recognition. There is no reason to suggest that Private Shearman did not provide this information to his senior officers in good faith and on the basis of his own first-hand knowledge, but the information provided in the Unit Roll is the barest possible. The Tribunal has no evidence about the circumstances of the escape attempts, nor about the recapture of the three men. The platoons of A Company of 2/18<sup>th</sup> Battalion provided significant resistance to the Japanese waterborne assault of Singapore Island, despite being in less than ideal dispositions and being subject to sustained artillery fire which had seriously damaged the communications links to their commanders. After the Japanese landings, the history of 2/18<sup>th</sup> Battalion indicates that A Company was involved in intense close action and that it suffered very heavy casualties. This is likely to have been an extremely confusing and increasingly desperate situation.

20. Private Waygood's remains were not found during the efforts made after the War to ensure that all the dead were identified and appropriately buried. Recent research suggests that Private Waygood's body may have been misidentified as that of NX52001 Private Mark Russell Rowe, which was found in a common grave with that of Private Urquhart<sup>10</sup>, but this remains supposition. Apart from this possible corroboration, the Tribunal has no evidence beyond Private Shearman's report that Privates Boston, Urquhart and Waygood had attempted to escape after their initial capture and had been shot in those attempts.

## **RECOMMENDATION**

21. Due to a lack of available evidence, the Tribunal recommends that no action be taken to recognise Private Boston, Private Urquhart and Private Waygood by way of a gallantry award.

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<sup>10</sup> Ms Lynette Silver, Notes of research conducted for the Tribunal, 'Waygood J.D.', p. 2.

**NX29683 LIEUTENANT CHARLES ARTHUR WAGNER DCM**  
**and**  
**SX2600 SERGEANT REX NELSON BUTLER**

**What has led to the consideration of Lieutenant Wagner and Sergeant Butler by this Inquiry?**

1. In a submission to the Valour Inquiry, Dr Kevin Smith OAM sought recognition for 28 individuals, who were Prisoners of War and were said to have been either killed during escape or following recapture. Lieutenant Charles Arthur Wagner and Sergeant Rex Nelson Butler were two of the individuals brought forward for consideration.<sup>1</sup>

**Service history**

2. On 3 June 1940, Charles Arthur Wagner enlisted at Liverpool, NSW. He had previously served with the Citizens Military Forces as a Sergeant with 1 Battalion. On 13 June 1940 he was appointed acting Sergeant and taken on strength with 2/18<sup>th</sup> Battalion. On 2 February 1941 his rank of Sergeant was confirmed with the 2/18<sup>th</sup> Battalion. He embarked in *HMT Queen Mary* bound for Singapore. He was commissioned in the field shortly before the surrender of Singapore.<sup>2</sup>

3. On 30 March 1931, Rex Nelson Butler enlisted with the 3<sup>rd</sup> Light Horse Regiment. On 8 April 1940 he enlisted in the AIF at Mount Gambier, South Australia. Following his basic training he was allocated to 9<sup>th</sup> Division Ammunition Sub Park. On 2 November 1941 he embarked in *HMAT Zealander* and disembarked at Singapore on 20 November 1941. On 6 December 1941 he was taken on strength for Group No 3, 8<sup>th</sup> Division Ammunition Sub Park.<sup>3</sup>

**Lieutenant Wagner's and Sergeant Butler's capture and imprisonment**

4. Lieutenant Wagner's service record noted on 14 April 1942 that he was '*Missing from 16 February 1942 in Malaya*'. On 23 September 1943 his record was stamped '*Prisoner of War*'.<sup>4</sup>

5. Sergeant Butler was reported missing following the Fall of Singapore in February 1942. Sergeant Butler's service record was amended on 2 November 1943 to state '*prev reported POW Malaya*' now '*escaped & killed by natives on or before 25/8/43*'.

6. The Tribunal accepts that both Lieutenant Wagner and Sergeant Butler were Prisoners of War.

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<sup>1</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>2</sup> Service Record, C.A. Wagner. NAA: B883, NX29683.

<sup>3</sup> Service Record, R.N. Butler. NAA: B883, SX2600.

<sup>4</sup> Service Record, C.A. Wagner. NAA: B883, NX29683.

## **Evidence of escape**

7. Lieutenant Wagner and Sergeant Butler arrived at Sandakan in Borneo with E Force on the transport *de Klerk*, which had left Singapore on 23 March 1943. The ship reached Kuching in Sarawak on 1 April, and departed eight days later for Berhala Island, Sandakan, arriving there on 14 April. The POWs were offloaded, and occupied the former Quarantine Station on the island for six weeks.<sup>5</sup>

8. On 7 June 1943, Lieutenant Wagner and Sergeant Butler, together with three other officers, and three other ranks, escaped from Berhala Camp. They became known as 'The Berhala Eight'. The other members were Captain Raymond Steele, Lieutenant Rex Blow, Lieutenant Leslie Gillon, Sapper Jim Kennedy, Private Robert McLaren, and Sergeant Walter Wallace.<sup>6</sup>

9. Having successfully escaped, the eight made their way by canoe to Tarawakan where they were taken by natives to meet Colonel Suarez, commanding the 125<sup>th</sup> Regiment of the US Forces in the Philippines. They were asked to join the guerrillas by Suarez, which they did with the concurrence of the Australian Commander in Chief.<sup>7</sup> In his book, *Escapes and Incursions*, Dr Smith provided a further detailed account of the escape and the aftermath, which is consistent with the above account.<sup>8</sup>

10. Ms Silver in her book *Sandakan: A Conspiracy of Silence*, provided detailed information about the escape. The original plan had been to paddle out to sea at a rendezvous point to meet with an American submarine. Although they arrived well before the appointed time, the submarine was unable to surface because a Japanese motor torpedo boat was in the area. The Australians arrived in Tawi Tawi by paddling their canoe on 14 June 1943. Ms Silver further stated that on 1 July 1943, the entire party of Australians 'was formally inducted into the 125<sup>th</sup> Infantry Regiment of the United States Forces in the Philippines, known as the Filipino Guerrilla Army'.<sup>9</sup>

## **Conclusion as to escape**

11. The Tribunal finds that there is evidence that Lieutenant Wagner and Sergeant Butler escaped from imprisonment while en route to Sandakan camp.

## **Evidence of Lieutenant Wagner and Sergeant Butler being killed as a consequence of escaping**

12. In Dr Smith's book, *Borneo*, he recorded that, having successfully escaped, the Berhala Eight made their way by canoe to Tarawakan where they were met by natives and

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<sup>5</sup> Chronological Record of Events, page 1, compiled by Major Steele, WO Wallace and Sergeant Kennedy. Papers held by Ms Lynette Silver OAM.

<sup>6</sup> Chronological Record of Events, p. 210.

<sup>7</sup> Chronological Record of Events, p. 215.

<sup>8</sup> Kevin Smith, *Escapes and Incursions Sabah 1942-45*, KR & H Smith, Armidale, 2006, pp. 62-104.

<sup>9</sup> Lynette Ramsay Silver, *Sandakan: A Conspiracy of Silence*, Sally Milner Publishing, Binda, NSW 2006, p.116.

taken the Commander 125<sup>th</sup> Infantry Regiment of the US Forces in the Philippines, Colonel Suarez, who asked them to join the Filipino Guerrilla Army.<sup>10</sup>

13. In a report dated 21 December 1943, Lieutenant Blow, one of the Australian officers in the party, signed a Medical Certificate attesting that Lieutenant Wagner was killed by a bullet that *'struck the forehead above the right eye and passed through the brain and death followed about fifteen minutes later.'*<sup>11</sup>

14. Captain Steele reported that Lieutenant Wagner was killed by a Japanese sniper at Lianga area when he was struck by an enemy bullet during a Japanese attack and that he died at 8.00am on 21 December 1943.<sup>12</sup>

15. Lieutenant Blow also reported that Sergeant Butler was killed in action when struck by an enemy bullet while on a fighting patrol at Dungun River area, Tawi Tawi, Sulu (the Philippines).

16. In his later book, *Escapes and Incursions*, Dr Smith provided details about Sergeant Butler's death, notably that on 18 August 1943, Sergeant Butler and others went as a fighting patrol to subdue a band of Moros, who were Japanese supporters, in the Dungun River area north-east of Bato Bato in Malaysia. According to Dr Smith, Sergeant Butler was killed when a bullet entered his right shoulder and passed downward through his body.

17. Dr Smith further stated that *'it was not possible to recover Sergeant Butler's body and it was later decapitated by the Moros.'* According to Dr Smith, Sergeant Butler's head was later sold for 2000 pesos so the Japanese could mount it on a pole as a public warning.<sup>13</sup> This is somewhat at odds with Lieutenant Blow's report that the body was recovered and interred in the Dungun River area, albeit with no grave number.

18. On 16 February 1944, Sergeant Butler's service record noted that he was killed by natives on or about 25 August 1943 in an undisclosed location.<sup>14</sup> There is no mention of his burial or memorial on his service record. According to Sergeant Butler's War Graves Record Card, his body was re-interred at the Sai Wan War Cemetery Hong Kong.<sup>15</sup>

19. The nominal roll for Sergeant Butler states that he was a Prisoner of War who died on 18 August 1943.<sup>16</sup> The Roll of Honour records that Sergeant Butler was killed in action on 18 August 1943 in the Philippine Islands.<sup>17</sup>

### **Conclusion as nexus between death and the escape**

20. In his written submission to the Valour Inquiry, and in his oral submission to the Tribunal of 14 December 2016, Dr Smith claimed that Lieutenant Wagner and Sergeant Butler were killed during the period of their escape from Borneo, and consequently were

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<sup>10</sup> Kevin Smith, *Borneo Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale, NSW, 1999, pp. 215-216.

<sup>11</sup> Medical Certificate of Death, Steele et al, papers held by Ms Lynette Silver OAM.

<sup>12</sup> Medical Certificate of Death, Steele et al.

<sup>13</sup> Smith, *Escapes and Incursions*, p. 86.

<sup>14</sup> Service record, R.N. Butler. NAA: B883, SX2600.

<sup>15</sup> Sergeant Butler Rex Nelson War Graves Record Card. NAA: A8231.

<sup>16</sup> DVA WW2 Nominal Roll: Sergeant Butler R.N.

<sup>17</sup> AWM Roll of Honour: Rex Nelson Butler.



eligible for consideration in the course of this Inquiry. Having been expecting to return to Australia by US submarine, they were recruited by the US Forces in the Philippines with the concurrence of the Australian Commander in Chief. Dr Smith contended that, arguably, Sergeant Butler and Lieutenant Wagner were still en route to re-join the AIF when they were killed, and were therefore continued to be escaped Prisoners of War.

21. The Tribunal is reasonably satisfied that following their escape from Japanese forces en route to Sandakan in June 1943, both Lieutenant Wagner and Sergeant Butler joined the 125<sup>th</sup> Infantry Regiment of the US Forces in the Philippines, known as the Filipino Guerrilla Army, from July 1943.

22. The Tribunal is also reasonably satisfied that while serving in the Filipino Guerrilla Army both were killed in action – Lieutenant Wagner by a Japanese sniper on or about 21 December 1943 and Sergeant Butler by Japanese-sympathetic natives on or about 18 August 1943.

23. Dr Smith's contention was that Lieutenant Wagner and Sergeant Butler were killed en route to re-join the AIF and that, had they not successfully escaped, they would not have been able to serve in any capacity, and that, in that way, there was a nexus between their deaths and the escape.

### **Tribunal findings**

24. The Tribunal does not accept Dr Smith's contention. The evidence is clear: after Lieutenant Wagner and Sergeant Butler's escape in mid-June 1943, in July 1943 they joined the Filipino Guerrilla Army in which they served until their deaths, in action, in August (Butler) and December (Wagner) 1943.

25. The Tribunal finds that, insofar as medallic recognition for the purposes of this Inquiry is concerned, the connection between their escape and their deaths is too remote. While the Tribunal accepts that *but for* their escape they would not have been able to resume a combatant role, the Tribunal does not accept that they were, by the time of their deaths, properly considered to be Prisoners of War. Rather, they had made successful escape attempts and had managed to rejoin an Allied unit and were killed in action.

26. The Tribunal notes that in February 1946, both Lieutenant Wagner and Sergeant Butler were awarded posthumous Mentions in Despatches for '*distinguished service in South-West Pacific Area*'.<sup>18</sup> Both were also awarded the US Silver Star for their service.<sup>19</sup> After the War, Lieutenant Wagner was also awarded the Distinguished Conduct Medal for '*coolness, courage and devotion*' in Malaya on 27 January 1942.<sup>20</sup>

27. The Tribunal finds that Lieutenant Wagner and Sergeant Butler were not persons who could be considered for medallic recognition under the Terms of Reference for this Inquiry, because there was no evidence that they were 'recaptured', or that they were killed as a consequence of their escape.

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<sup>18</sup> Commonwealth of Australia Gazette 34/46 dated 21 February 1946.

<sup>19</sup> <http://www.roll-of-honour.org.Uk/b/html/butler-rex.htm> (accessed 3 August 2017)

<sup>20</sup> Service record, C.A. Wagner. NAA: B883, NX29683.

**VX39165 LIEUTENANT RONALD JAMES GEORGE COOTES  
VX23029 PRIVATE ARTHUR CLIFFORD NICHOLLS**

**What has led to the consideration of Lieutenant Cootes and Private Nicholls by this Inquiry?**

1. Lieutenant Cootes and Private Nicholls are amongst the additional cases brought forward in submissions by Mrs Dianne Cowling for consideration by the Tribunal.

**The Soldiers' service**

2. Lieutenant Cootes enlisted with the Citizens Military Forces on 8 November 1937, serving with 38<sup>th</sup> Battalion, rising to the rank of Lieutenant. On 1 December 1940 he was seconded for service overseas and taken on strength of the 2/29<sup>th</sup> Infantry Battalion. Private Nicholls enlisted at Armadale, Victoria on 23 May 1940. Both later became members of C Company 2/29<sup>th</sup> Infantry Battalion, which was part of 27<sup>th</sup> Infantry Brigade of 8<sup>th</sup> Division. It was deployed in defence of the Johore area in Malaya during the Japanese invasion in December 1941.

3. Lieutenant Cootes and Private Nicholls were amongst the members of 2/29<sup>th</sup> Battalion who became separated from their unit during the fighting and were not able to withdraw with it to Singapore. After the surrender of the Allied forces, these soldiers remained together in the jungle for some weeks. In poor health and short of food, at some point the group agreed to split up. Lieutenant Cootes and Private Nicholls and two others were members of a party apprehended by local Malays and handed over to the Japanese Army on 12 March 1942.

**The Soldiers' fate**

4. In his Army records, Lieutenant Cootes is recorded as '*Missing*' on 22 January 1942. He was later recorded as having been killed in action after capture on 12 March 1942.<sup>1</sup> Private Nicholls was recorded as '*Missing*' on 26 January 1942. This was amended on 23 April 1942 to state that he was now recorded as having been killed in action on 12 March 1942. There is a further undated note on Private Nicholls' record which states, '*Now reported died while POW executed by Japanese*' with an effective date of 12 March 1942.<sup>2</sup>

**Evidence of capture and escape**

5. At the hearing before the Tribunal on 4 April 2017, Ms Cowling provided no additional evidence to support her submission.

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<sup>1</sup> Service Record, R.J.G. Cootes. NAA: B883, VX38165.

<sup>2</sup> Service Record, A.C. Nicholls. NAA: B883, VX23029.

6. Both soldiers were members of C Company of 2/29<sup>th</sup> Battalion in the 27<sup>th</sup> Infantry Brigade who had become separated from their unit during the actions in January 1942. After remaining at large in the jungle for some weeks, they were part of a small party captured by the Japanese on 12 March 1942.<sup>3</sup> The Tribunal identified no evidence that they had been captured earlier than this date or that they had escaped from such captivity.

7. The Tribunal also identified no evidence to suggest that either of the soldiers may have attempted to escape after their initial capture. The evidence of Lance Corporal B.G. Mapleback and Cpl J.E. Manners who were captured at the same time as Lieutenant Cootes and Private Nicholls, was that both were murdered by the Japanese within hours of being taken into custody. Both Lieutenant Cootes and Private Nicholls were physically in poor condition, having open sores on their legs. This, from the evidence, appears to have been the reason why both were taken away from the truck in which the group had been placed, and shot with an automatic weapon by a Japanese guard.<sup>4</sup>

### **Tribunal findings**

8. The Tribunal finds that there is no evidence of Lieutenant Cootes or Private Nicholls having attempted to escape after their capture by the Imperial Japanese Army on 12 March 1942.

9. Based on the available evidence, the Tribunal finds that Lieutenant Cootes and Private Nicholls were shot by Japanese troops shortly after their capture. The Tribunal finds that there is no evidence of Lieutenant Cootes or Private Nicholls having been killed as a consequence of any attempt to escape.

10. For the above reasons, the Tribunal finds that Lieutenant Ronald Cootes and Private Arthur Nicholls are not persons who can be considered for medallic recognition under the Terms of Reference of this Inquiry.

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<sup>3</sup> Statement by VX37271 L/Cpl B.G. Mapleback C Coy 2/29 Battalion, p. 30. NAA: MP742/1 336/1/717 Part 1.

<sup>4</sup> Statement by Mr B.G. Mapleback dated 11 May 1946. NAA: MP742/1 336/1/717 Part 2. See also: Correspondence concerning Lieutenant R.J.G. Cootes, Private A. Nicholls, Corporal J.E. Manners and Lance Corporal B.G. Mapleback. NAA: B3856 144/14/95; and Statement by VX37281 Cpl J.E. Manners and VX37271 L/Cpl B.G. Mapleback of C Coy 2/29 Bn dated 30 April 1942, pp. 30-31. NAA: MP742/1 336/1/717 Part 1.

**NX38584 GUNNER WALLY CREASE**  
also known as QX17914 Walter **GARDNER**

**What has led to the consideration of Gunner Crease by this Inquiry?**

1. In a submission to the Valour Inquiry Dr Kevin Smith OAM sought recognition for 28 individuals, who were Prisoners of War and said to have been either killed during escape or following recapture. Gunner Wally Crease is one of the names brought forward for consideration.<sup>1</sup>

**Gunner Crease's capture and imprisonment**

2. Walter Gardner enlisted on 20 January 1941 in Brisbane, and was posted to 7<sup>th</sup> Training Depot. On 4 July 1941, he was discharged due to being medically unfit.<sup>2</sup>

3. Eight days later, on 12 July 1941, he re-enlisted at Paddington, New South Wales, under the alias Wally Crease. He was eventually posted to 2/15<sup>th</sup> Field Regiment and embarked for overseas service with this unit from Sydney, and arrived in Singapore on 26 January 1942.<sup>3</sup>

4. After the fall of Singapore on 15 February 1942, all Allied servicemen were marched to Selerang barracks (known as the first Changi prison). These barracks soon became a huge base camp, through which thousands of Allied prisoners transited on the way from their place of capture to work sites elsewhere in Singapore and Asia.

5. Gunner Crease was transferred by sea to Sandakan, British North Borneo, with B Force, arriving 18 July 1942.<sup>4</sup> Gunner Crease's service record is stamped 'Prisoner of War – Borneo', with a date of entry of 29 March 1943.<sup>5</sup>

6. The Tribunal accepts that Gunner Wally Crease was a Prisoner of War.

**Evidence of escape**

7. Gunner Crease's service record contains no information about an escape. Details of his death also appear to not have been provided to the Japanese Headquarters in Kuching responsible for Prisoners of War.

8. After Kuching was liberated, the Japanese were ordered to produce a Nominal Roll, known as 'The Jap Roll' (the Roll), listing the names of all POWs who had died, and the date of death.<sup>6</sup> Post-war investigators noted that the Roll was highly unreliable unless

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<sup>1</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>2</sup> Service Record, W. Gardner, NAA: B883, QX17914.

<sup>3</sup> Service Record W. Crease, NAA: B883, NX38584.

<sup>4</sup> B Force Nominal Roll, AWM P02467.371.

<sup>5</sup> Service Record W. Crease, NAA: B883, NX38584.

<sup>6</sup> NAA: B3856 144/1/372.

corroborated by other documentation. If no information had reached Kuching, a date was invented, more often than not a date in 1944, evidently to help ‘spread’ the deaths. The cause of death, generally cited as malaria, and place of death, always stated Sandakan, were also entered on the Roll. According to the Roll, Gunner Crease died on 20 August 1944, from malaria, at Sandakan.<sup>7</sup>

9. In his submission, Dr Smith disputed the information about Gunner Crease’s alleged date and cause of death and submitted that Gunner Crease was ‘*killed March 1945 at Ranau during a second attempt to escape*’.

10. In his book *Borneo: Australia’s Proud but Tragic Heritage*, Dr Smith wrote that ‘*Cleary [Gunner Albert Cleary] and Crease escaped from the original POW compound at Ranau early in March 1945. They were at liberty for only a few days, soon betrayed to their captors by local inhabitants in return for a reward*’. After Gunner Cleary was captured he was subjected to torture by the guards. Gunner Crease was brought in a day or so later and subjected to similar torture. Dr Smith went on to state that, ‘*the following day when they were taken outside, probably for brief exercise, Crease stumbled off up a shallow gully. He was shot as he fled*’.<sup>8</sup>

11. In his book *Escapes and Incursions*, Dr Smith repeated the information from his earlier book, *Borneo*, but included a footnote referencing a transcript of evidence given by two of the few Sandakan survivors, Lance Bombardier Keith Botterill and Private William Moxham in 1946 to a War Crimes Tribunal held in Rabaul.<sup>9</sup>

12. In her book *Sandakan: A Conspiracy of Silence*, Ms Silver provided the following information on the escape of Gunners Crease and Cleary:

[Keith] Botterill returned from his first trip to Paginatan on 4 March to find that ... Wally Crease and his mate Gunner Albert Cleary had escaped the day before.

### **Conclusion as to escape**

13. On the basis of the above accounts the Tribunal is reasonably satisfied that Gunner Crease escaped from captivity at the Ranau POW camp in March 1945 and was recaptured several days later.

### **Evidence of second ‘escape’ and evidence of circumstances of death**

14. Ms Silver went on to state that the torture of both prisoners continued unabated for over 12 hours and that: ‘*Realising that the guards were distracted, Crease, who had just been released from the log<sup>10</sup> to get a drink of water, escaped. By the time they realised he had disappeared, he was well out of sight*’. The guards, were later sent to look for him, but

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<sup>7</sup> NAA: B3856, 144/1/372.

<sup>8</sup> Kevin Smith, *Borneo: Australia’s Proud but Tragic Heritage*, KR & H Smith, Armidale, 1999, pp. 260-261 (see also pp. 159 & 235).

<sup>9</sup> Kevin Smith, *Escapes and Incursions Sabah 1942-45*, KR & H Smith, Armidale, 2006, pp. 145-146.

<sup>10</sup> ‘the log treatment’ was a form of torture whereby the victim was tied, and made to kneel with a log tied behind their knees. The torturers would then jump on either end of the log.

returned empty-handed. Ms Silver also stated that '*they [Rice Party 4 of which Botterill was a part] returned on 18 March to find that Crease had been shot in the jungle to the west of the camp shortly after his escape*'.<sup>11</sup>

15. In a phone conversation with Ms Silver on 11 December 1995, Keith Botterill said, with respect to Crease and Cleary:

[he] .... got back (from 2nd trip) to find that Crease and Cleary had gone [escaped] the day before. Not caught until after the next trip. Day after we returned [from trip 3] Cleary was caught. Put on the log. Next day Crease was caught. Next day Crease escaped again while roll was being taken for the rice party. He ran away, up the gully to the west. Japs shot him on the run. Found that out later. Shot after the rice carrying party had left.<sup>12</sup>

16. In a taped interview between Don Wall and Botterill transcribed by Ms Silver, Botterill said:

Cleary and Crease were together. Crease escaped again. Japs were counting the rice carrying party. Crease got up, stretched, half-ran up the gully. [which is to the west] Shot him later on the run. Shot that afternoon or the next day.<sup>13</sup>

17. In her statement of 29 February 2012, Mrs Maureen Devereaux, a relative of a former POW, provided a different account of Gunner Crease's death. She said that Mr Botterill had told her that Gunner Crease's mates had carried him gently and washed him in the creek and then at last he gained release through death.<sup>14</sup>

18. Not long before his own death, Mr Botterill confessed in 1996 that he had lied under oath to the Rabaul War Crimes Tribunal. His confession was made on more than one occasion to several close friends including Ms Silver, John A Hodges (the commando who had rescued him) and to Mrs Devereaux and Mr Frank Murray, son of Mr Botterill's best friend. Mr Botterill reportedly last spoke to Mrs Devereaux about his perjury on the evening before he died. Mr Botterill reportedly told her how he and Moxham at the War Trials had agreed that Suzuki and the worst guards must pay for their heinous crimes – and they planned 'to stitch them up' and collaborated on their stories to ensure the culprits got their due desserts.<sup>15</sup>

19. Dr Smith said he had personally asked people in the local kampong next to where Gunner Crease was shot if they knew anything about a wartime shooting, but nobody could say that they had seen the shooting.

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<sup>11</sup> Lynette Ramsay Silver, *Sandakan: A Conspiracy of Silence*, Sally Milner Publishing, Binda NSW, 2000, pp. 197-200 (see also pp. 245, 292, 294 & 317).

<sup>12</sup> Notes of Ms Silver's telephone conversation with Keith Botterill, 11 December 1995.

<sup>13</sup> AWM Oral History Recording, NX42191 Keith Botterill as a Private, 2/19<sup>th</sup> Battalion and prisoner of the Japanese, 1941-45, interviewed by Don Wall. AWM S04080, part 6.

<sup>14</sup> Statement by Maureen Devereaux, dated 29 February 2012.

<sup>15</sup> Oral evidence to the Valour Inquiry – Ms Lynette Silver, 14 March 2012.

## **Conclusion as to second ‘escape’ and death**

20. Dr Smith submitted that the ‘eye witness accounts’ of Gunner Crease’s death should be given greater weight. However, the Tribunal noted that all of the direct information about the escape originated from Mr Botterill. When asked by the Tribunal about the reliability of Mr Botterill’s evidence, Dr Smith conceded that Mr Botterill had not always been truthful but said that he believed Mr Botterill had no reason to ‘twist the truth’ with respect to Gunner Crease.

21. While the Tribunal accepts that the Nominal Roll may have been unreliable, the Tribunal was similarly lacking in confidence about the other accounts of Gunner Crease’s escape. All rely on the version of events given by Mr Botterill. At best, his account was not on the basis of his own observation but on the report of others as to what had transpired during his absence with the rice party.

22. Further, some aspects of Mr Botterill’s evidence about events at Sandakan were falsified. At the War Crimes trial, he gave evidence about the mistreatment of both Gunners Cleary and Crease by Japanese guards, one of whom was not even present at the time. He also gave a graphic account of his personal observation of the ill-treatment of Gunner Cleary, which was clearly incorrect, as he was absent on the rice party during that time. He purported to give a first-hand account of seeing Gunners Cleary and Crease tied together on a log and being beaten for an hour and a half prior to Gunner Crease’s escape. When asked in cross-examination about how Gunner Crease had been able to stand up and run away after the sustained beating, he said that Gunner Crease had not run, but had walked. There was a clear inference in his evidence that this was on the basis of personal observation. He also said they were told a month later that Gunner Crease had been shot by Japanese police the day after the escape.

23. The Tribunal had significant reservations about the reliability of Mr Botterill’s account about Gunner Crease’s second escape. While it was prepared to accept his account in relation to the escape with Gunner Cleary, the uncorroborated evidence in relation to a second ‘escape’ and death was so unreliable the Tribunal could not be reasonably satisfied that Gunner Crease was shot and killed by the Japanese as a consequence of an escape.

## **Tribunal finding**

24. The Tribunal finds that Gunner Crease is not eligible for consideration for medallic recognition under the Terms of Reference of this Inquiry.

## WX9230 PRIVATE WALTER CYRIL EVANS

### What has led to the consideration of Private Evans by this Inquiry?

1. In a submission to the Valour Inquiry, Dr Kevin Smith OAM sought recognition for 28 individuals who were Prisoners of War and were said to have been either killed during escape or following recapture. Private Walter Cyril Evans was one of the names brought forward for consideration.<sup>1</sup>

### Private Evans' service, capture and imprisonment

2. Private Evans enlisted on 30 October 1940 at Claremont, Western Australia. Following basic training he transferred to the 2/4<sup>th</sup> Machine Gun Battalion. Private Evans embarked for overseas service from Darwin on 30 December 1941 and arrived in Singapore in January 1942. By this time the Japanese had captured Malaya and were preparing to attack Singapore. Deployed to different units, the 2/4<sup>th</sup>'s companies were quickly in action but by 10 February the Japanese had captured the island's west coast. Five days later the British forces were pushed back to a defensive line protecting the city, and on 15 February Lieutenant-General Percival surrendered Singapore.<sup>2</sup>

3. Following the surrender, the 2/4<sup>th</sup> Battalion was concentrated in Changi. Private Evans' service record states that he was a Prisoner of War from 15 February 1942 in Singapore, and that on 8 July 1942, he embarked with B Force.<sup>3</sup> After a nine day journey in poor conditions, B Force disembarked at Sandakan.<sup>4</sup>

4. The Tribunal accepts that Private Evans was a Prisoner of War.

### Evidence of escape

5. Private Evans's service record discloses nothing about an escape.

6. In his submission to the Valour Inquiry, Dr Smith stated that Private Evans died on 14 June 1945 during an escape from the second march to Ranau.<sup>5</sup> In his book, *Escapes and Incursions*, Dr Smith stated that Private Evans '*was reported to have escaped near the Sungei Kolapis, his death recorded as 14th June.*'<sup>6</sup> At the hearing before the Tribunal on 14 December 2016, Dr Smith was unable to provide any further information as to who had reported the escape.

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<sup>1</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>2</sup> Website, 2/4<sup>th</sup> Machine Gun Battalion, Australian War Memorial, <https://www.awm.gov.au/unit/U56173/>, accessed 29 January 2016.

<sup>3</sup> Service Record, W.C. Evans. NAA: B883, WX9230.

<sup>4</sup> Website: Australian War Memorial, General Information about Australian Prisoners of the Japanese, [www.awm.gov.au/articles/encyclopedia/pow/general\\_info](http://www.awm.gov.au/articles/encyclopedia/pow/general_info), accessed 14 June 2017.

<sup>5</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>6</sup> Kevin Smith, *Escapes and Incursions Sabah 1942-45*, KR & H Smith, Armidale, 2006, p. 121.



7. In her book, *Sandakan: A Conspiracy of Silence*, Ms Lynette Silver only included Private Evans' name on the Nominal Roll at Appendix 3, and indicated that Private Evans escaped from Sandakan No 1 Camp, died at Kolapis on 14 June 1945 and was buried in a known grave.<sup>7</sup>

8. Further detailed research undertaken by Ms Silver at the request of the Tribunal found two pieces of evidence in regard to the place of death of Private Evans which, on the face of it, are irreconcilable. She concluded that there are only two possible explanations for this apparent anomaly – either the body found at Kolapis was misidentified, or Private Evans, having recovered from a bout of malaria, escaped from the Sandakan camp on 14 June 1945, reached Kolapis and died. Ms Silver further observed that even if it is assumed that Private Evans escaped, there is no way of determining what caused his death.

9. The last entry on Private Evans' service record is dated 28 September 1945 and states '*Deceased whilst POW. Cause not stated*'. The date and place of 'casualty' are listed as 14 June 1945 in Sandakan. The War Graves Card states that Private Evans '*Died of Illness*' on 14 June 1945.<sup>8</sup>

10. In view of the conflicting evidence, and that there was no reliable evidence of an escape, the Tribunal finds that there is insufficient evidence to determine whether Private Evans escaped.

### **Nexus between death and escape**

11. Even if the Tribunal could be reasonably satisfied as to an escape, there is no reliable evidence as to the circumstances of Private Evans' death.

### **Tribunal Finding**

12. The Tribunal finds that Private Walter Cyril Evans is not a person who could be considered under for medallic recognition under the Terms of Reference of this Inquiry, because there is no reliable evidence that he had escaped, or was recaptured, or that he was killed as a consequence of an escape.

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<sup>7</sup> Lynette Ramsay Silver, *Sandakan: A Conspiracy of Silence*, Sally Milner Publishing, Binda NSW, 2000, p.341.

<sup>8</sup> War Graves Registration Card, W.C. Evans. NAA: A8231, 11/Evans, Walter Cyril.

## VX48685 LANCE CORPORAL WILLIAM FREDRICK FAIRY

### **What has led to the consideration of Lance Corporal Fairy by this Inquiry?**

1. In a submission to the Valour Inquiry Dr Kevin Smith OAM requested recognition for 28 individuals who were Prisoners of War and were said to have been either killed during escape or following recapture. Lance Corporal William Frederick Fairy is one of the 28 individuals brought forward for consideration.<sup>1</sup>

### **Lance Corporal Fairy's service, capture and imprisonment**

2. On 22 July 1940, Lance Corporal Fairy enlisted at Melbourne. After basic training, he joined 2/23<sup>rd</sup> Battalion but was transferred to 2/29<sup>th</sup> Battalion in November 1940 and undertook unit training. He embarked for overseas with his battalion at Sydney on 30 July 1941 and arrived in Singapore on 18 August 1941.<sup>2</sup>

3. Fairy was promoted Lance Corporal in September 1941 at the same time as 2/29<sup>th</sup> Battalion began to operate from Segament in Malaya.

4. 2/29<sup>th</sup> Battalion saw action against the Japanese at Bakri on 18 January 1942 and suffered substantial losses. After being withdrawn to Singapore and reinforced, it took part in the final defence of the island before the surrender on 15 February 1942.

5. Lance Corporal Fairy's service record shows he was 'Missing' to date 16 February 1942 in an entry sourced from AIF Malaya and dated 31 March 1942. A later entry, made on 15 September 1943 and also sourced to AIF Malaya shows Fairy as a Prisoner of War. The entry seems to also to have a start date of 16 February 1942, but this is uncertain.<sup>3</sup> Lance Corporal Fairy appears to have gone with his unit when the concentration of Allied forces was ordered at Changi in the wake of the surrender. He was one of a group of soldiers transferred to Borneo from Singapore on 8 July 1942 as B Force.

6. The Tribunal accepts that Lance Corporal Fairy was a Prisoner of War.

### **Evidence of escape and recapture**

7. The account of Lance Corporal Fairy's escape is based upon material collected by Dr Smith and Ms Silver. A key source for Dr Smith in one of his works was cited as Private Alan Minty, one of the soldiers with whom Lance Corporal Fairy attempted his escape.<sup>4</sup>

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<sup>1</sup> Valour Inquiry Submission 243, Dr Kevin Smith OAM.

<sup>2</sup> Service Record, W.F Fairy. NAA: B883 VX48685.

<sup>3</sup> Service Record, W.F Fairy. NAA: B883 VX48685.

<sup>4</sup> Kevin Smith, *Escapes and Incursions: Sabah 1942-45*, KR & H Smith, Armidale, 2006, pp. 31-34.

8. Lance Corporal Fairy appears to have been one of five junior soldiers who decided to escape from Sandakan Camp on 31 July 1942. Not having a clear plan of action, they were fortunate to receive assistance from a local Chinese farmer and remained concealed for the remainder of 1942. In January 1943, the group proceeded to the coast and succeeded in stealing a junk with the intention of sailing it to Australia.

9. The junk grounded close to Sandakan Harbour. The soldiers abandoned the boat and swam ashore, where, on 27 January 1943, they were captured by the Kempeitai (Japanese military police) and taken to the Sandakan POW camp.

10. There is no information relating to any escape attempts in Lance Corporal Fairy's service record or any other official documents.

### **Conclusion as to escape**

11. The Tribunal finds that there is reasonable evidence that Lance Corporal Fairy attempted, together with four other members of the AIF, to escape from Japanese troops at Sandakan POW Camp on 31 July 1942.

### **Evidence of Lance Corporal Fairy being killed as a consequence of attempting to escape**

12. The five underwent trial at Kuching on 24 July 1943. Three received sentences of five years' imprisonment.<sup>5</sup> On 23 August 1943, Lance Corporal Fairy and the other recaptured prisoners was transferred to Singapore and imprisoned in Outram Road Goal.<sup>6</sup> There his health deteriorated. On 9 March 1944, he was transferred to Changi Hospital where he died on 6 April 1944. The other four survived the War and were repatriated to Australia at War's end.

13. Lance Corporal Fairy's death was recorded in the Headquarters 8<sup>th</sup> Division war diary of 5 April 1944 which states, 'Death in AGH of VX48085 CPL FAIREY [sic] WF, 2/29 Bn; admitted to AGH on 9 Mar 44 ex special IJA custody in OUTRAM RD GOAL.' The war diary has a further entry on 6 April which states, 'VX48685 Cpl FAIREY [sic] WF 2/29 Bn buried in Plot 125 AIF Cemetery CHANGI. Result of P.M. showed cause of death as i. Deficiency disease (B complex. type), ii. Exhaustion, and was notified to IJA under their orders.'<sup>7</sup>

14. Lance Corporal Fairy's service record was amended on 2 October 1945 with a date of effect of 5 April 1944 to state '*Died of Illness whilst P.W. (Deficiency disease Exhaustion)*'. The authority for this entry, was notated 'CAS 4938'.<sup>8</sup>

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<sup>5</sup> Private Minty received a 6 year sentence and Corporal New, the youngest (although the most senior in rank), four. See: Kevin Smith, *Borneo: Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale, 1999, pp. 235 & 240-241. See also: Lynette Silver, *Sandakan: A Conspiracy of Silence*, Sally Milner Publishing, Binda NSW, 2000, pp. 91 & 96.

<sup>6</sup> Outram Road Gaol records. NAA: B3856, 144/1/358.

<sup>7</sup> Headquarters 8<sup>th</sup> Division AIF & Administrative Headquarters AIF Malaya/Headquarters AIF (Prisoner of War) No. 1 Prisoner of War Camp, Diary entries dated 5 April 1944 & 6 April 1944. AWM52 1/5/19.

<sup>8</sup> Service Record, W.F Fairy. NAA: B883, VX48685.

### **Conclusion as to nexus between death and the escape**

15. Dr Smith submitted that there was a chain of events which connected Lance Corporal Fairy's death with the escape: he was recaptured, sentenced to five years' imprisonment, sent to Singapore and imprisoned in Outram Road Goal and died in the Australian General Hospital at Changi on 5 April 1944.

16. The Tribunal is satisfied that Lance Corporal Fairy died as a result of his 'deficiency disease and exhaustion', likely to have been because of poor treatment following recapture by Japanese forces. However, there was no evidence that he was singled out for particular punishment or maltreatment. Given the general maltreatment of Allied POWs by the Japanese and the associated death toll, as well as the survival of all four of the other members of Lance Corporal Fairy's escape group who were similarly imprisoned, the Tribunal is not satisfied that the poor treatment, while in itself appalling, was sufficiently more harsh than that experienced by other POWs to meet the requirements of the Terms of Reference for inclusion.

### **Tribunal finding**

17. The Tribunal finds that Lance Corporal Fairy is not a person who can be considered for medallic recognition under the Terms of Reference of this Inquiry.

## VX47892 PRIVATE JOHN SCOTT FLETCHER

### What has led to the consideration of Private Fletcher by this Inquiry?

1. In a submission to the Valour Inquiry, Dr Kevin Smith OAM sought recognition for 28 individuals, who were Prisoners of War and were said to have been either killed during escape or following recapture. Private John Scott Fletcher is one of the individuals brought forward for consideration.<sup>1</sup>

### Private Fletcher's service, capture and imprisonment

2. John Scott Fletcher enlisted on 13 July 1940 at Frankston, Victoria (although his enlistment date on his service record is shown as 5 August 1940). After basic training he became a 'Trade Trainee' and was later assigned to the 22<sup>nd</sup> Brigade Group's Ordnance Workshop.

3. On 28 November 1941 Private Fletcher embarked in *SS Chartella* for Malaya. On 26 January 1942, he disembarked at Singapore.<sup>2</sup>

4. After the fall of Singapore on 15 February 1942, all Allied servicemen were marched to Selerang barracks (known as the first Changi prison). These barracks soon became a huge base camp, through which thousands of Allied prisoners transited on the way from their place of capture to work sites elsewhere in Singapore and Asia. Although Private Fletcher's service record does not have a 'Changi record' included, it is probable that he was marched there with the other members of his unit.

5. The 500 Australian and 500 British POWs who made up E Force (including Private Fletcher), left Changi on 28 March 1943, on board the *SS de Klerk* arriving at Berhala Island (adjacent to Sandakan Harbour) on 15 April 1943. The POWs were held there until 5 June, when they were taken by barge to Sandakan. The next day they were transferred to the 8 Mile Camp, which was about half a mile from the B Force compound.<sup>3</sup>

6. Private Fletcher's service record was annotated '*Missing believed POW*' on 2 September 1943. On 2 November 1943, his service record was stamped '*Prisoner of War*'.<sup>4</sup>

7. The Tribunal accepts that Private Fletcher was a Prisoner of War.

<sup>1</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>2</sup> Service Record, J.S. Fletcher. NAA: B883, VX47892.

<sup>3</sup> <https://www.awm.gov.au/collection/C334944?search> (accessed 2 August 2017).

<sup>4</sup> Service Record, J.S. Fletcher. NAA: B883, VX47892.

## Evidence of escape

8. Private Fletcher's service record does not disclose any information relating to an escape.

9. In his submission to the Valour Inquiry, Dr Smith stated that '*Pte John Fletcher VX47892 22 Bde Ordinance Workshop died 10/6/45 during an escape from the second march to Ranau.*'<sup>5</sup> In his book *Escapes and Incursions*, Dr Smith stated that '*on the second death march, Pte John Scott Fletcher of Frankston, Victoria escaped near the Sungei Sapi on 10 June.*'<sup>6</sup> No further information is included in this book. In Dr Smith's earlier book *Borneo: Australia's Proud but Tragic Heritage*, he simply stated that '*Fletcher escaped near the Sg.Sapi on 10<sup>th</sup> June*'.<sup>7</sup>

10. At the hearing before the Tribunal on 14 December 2016, Dr Smith could provide no evidence to support this claim.

## Conclusion as to escape

11. The Tribunal has been unable to locate any primary evidence that Private Fletcher escaped from his imprisonment.

## Private Fletcher's death

12. Private Fletcher's service record states "*Now reported interred Borneo camp*". This entry was dated 13 October 1944. On 12 November 1945 the service record had the following notation added "*Missing believed deceased cause unknown*". On 26 July 1946 the last entry was added to his service record "*Became missing and is for official purposes presumed dead*". The 'date of casualty' was recorded as 10 June 1945.<sup>8</sup>

13. The War Graves Record card states that Private Fletcher's date of death is 10 June 1945. In the space for 'Cemetery' detail it states "*Search Abandoned Area – Borneo*".<sup>9</sup>

14. The Tribunal has been unable to locate any details of the circumstances of Private Fletcher's death. The E Force Roll is completely blank alongside his entry.<sup>10</sup> His date of death is given as 10 June 1945 on the AWM Roll of Honour, the Department of Veteran's Affairs WW2 Roll, and on the Commonwealth War Graves Commission database, presumably drawing on the July 1946 notation on his service record.

15. 10 June 1945 is probably a presumed date of death, possibly based on information from one of the few survivors of the death marches. However, Private Fletcher's name does

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<sup>5</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>6</sup> Kevin Smith, *Escapes and Incursions: Sabah 1942-45*, KR & H Smith, Armidale, 2006, p.121.

<sup>7</sup> Smith, Kevin, *Borneo: Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale, 1999, p.251.

<sup>8</sup> Service Record, J.S. Fletcher. NAA: B883, VX47892.

<sup>9</sup> War Graves Record Card. NAA: A8231, 12/Fletcher John Scott.

<sup>10</sup> Entry for Fletcher, E Force Roll. NAA: B3856 144/1/372 part 4.

not appear on any consolidation list containing information supplied by survivors in relation to other POWs.

16. At the hearing, Dr Smith agreed that the date and location of Private Fletcher's death were unknown.

### **Conclusion as to nexus between death and the escape**

17. The Tribunal could not be reasonably satisfied that Private Fletcher was killed while escaping or executed on recapture.

### **Tribunal finding**

18. The Tribunal finds that, as there is insufficient evidence for it to be reasonably satisfied that Private Fletcher was killed while escaping or following recapture, he cannot be considered for medallic recognition under the Terms of Reference for this Inquiry.

## NX67705 PRIVATE CHARLES HENRY FORRESTER

### What has led to the consideration of Private Forrester by this Inquiry?

1. In a submission to the Valour Inquiry, Dr Kevin Smith OAM sought recognition for 28 individuals, who were Prisoners of War and were said to have been either killed during escape or following recapture. Private Charles Henry Forrester is one of the names brought forward for consideration.<sup>1</sup>

### Private Forrester's service, capture and imprisonment

2. Private Forrester enlisted at Orange, New South Wales on 22 July 1940. On 17 September 1941, he embarked in Sydney for Singapore as a reinforcement to 2/19<sup>th</sup> Battalion, arriving in October 1941. Private Forrester was captured at the fall of Singapore and was sent to Sandakan with B Force.<sup>2</sup>

3. On 1 April 1942, Private Forrester was recorded as '*missing as at 16 February 1942*' (one day after the fall of Singapore). On 29 March 1943, his service record was stamped '*Prisoner of War*' with the handwritten notation '*Borneo*'.<sup>3</sup>

4. The Tribunal accepts that Private Forrester was a Prisoner of War.

### Evidence of escape

5. Private Forrester's service records do not disclose any information about an escape.<sup>4</sup>

6. One of the few survivors of the Sandakan death marches, Warrant Officer William Sticpewich reported that Private Forrester escaped from the second death march on 29 May 1945, when one mile from the camp.<sup>5</sup>

7. In his submission to the Valour Inquiry, Dr Smith stated that '*Pte Charlie Forrester NX67705 2/19 Bn died 15/6/45 following recapture after an escape on 29/5/45 during second march to Ranau*', but did not indicate the source of that information. In his book *Escapes and Incursions*, Dr Smith only briefly mentioned Private Forrester in that he '*escaped from the forced march just a few kilometres from the camp on 29 May 1945 but was recaptured*'. His death was recorded as 15 June 1945.<sup>6</sup> Dr Smith did not provide any further information relating to Private Forrester in his book *Borneo: Australia's Proud but Tragic Heritage*.<sup>7</sup>

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<sup>1</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>2</sup> B Force Roll. NAA: B3856, 144/1/372 Part 4.

<sup>3</sup> Service Record, C.H. Forrester. NAA: B886, NX67705.

<sup>4</sup> Service Record, C.H. Forrester. NAA: B886, NX67705.

<sup>5</sup> B Force Roll. NAA: B3856, 144/1/372 Part 4. See also Report by Sticpewich. NAA: B3856, 144/1/372 Part 3.

<sup>6</sup> Kevin Smith, *Escapes and Incursions Sabah 1942-45*, KR & H Smith, Armidale, 2006, p. 120.

<sup>7</sup> Kevin Smith, *Borneo: Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale, NSW, 1999, p. 250.



8. In his oral submission to the Tribunal, Dr Smith said that he had no further information about an escape by Private Forrester.

9. Ms Lynette Silver's book *Sandakan: A Conspiracy of Silence*, mentioned that Private Forrester escaped on 29 May 1945 while on a march, and was later recaptured.<sup>8</sup>

### **Conclusion as to escape**

10. The Tribunal finds that there is some evidence that Private Forrester may have escaped from his imprisonment while on the second march to Ranau.

### **Evidence in relation to Private Forrester's death**

11. Nothing further is known of what may have happened to Private Forrester after the reported escape. The post-war search for him was eventually abandoned and his remains were never recovered.<sup>9</sup>

12. Private Forrester's death certificate, certified by Yamamoto Koji (who certified all deaths at Sandakan Camp) recorded that Private Forrester became ill with malaria on the 2 June and died on the 15 June. Post-war records, presumably relying on the death certificate, all set his date of death as 15 June 1945 at Sandakan.<sup>10</sup>

### **Consideration as to nexus between death and the 'escape'**

13. The evidence in relation to Private Forrester's escape is very sparse. Even if it is accepted that Private Forrester escaped, and made his way back to the camp and died there, records recovered from the camp show that he died at Sandakan from malaria on 15 June 1945.<sup>11</sup> Those records may be incorrect. Alternatively, that recorded date of death is consistent with his not having left the camp at all and that Warrant Officer Sticpewich was mistaken.

14. If it were accepted that he escaped but did *not* return to camp, and that the records are incorrect, there is no evidence whatever as to the circumstances of his death, other than the camp medical records.

15. In either event, there is no evidence available that Private Forrester was killed while escaping or that he was killed on recapture.

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<sup>8</sup> Lynette Silver, *Sandakan: A Conspiracy of Silence*, Sally Milner Publishing, Binda NSW, 2000, p. 342.

<sup>9</sup> War Graves Record Card. NAA: A8231, 12/Forrester Charles Henry.

<sup>10</sup> On 27 October 1946, Private Forrester's service record was updated to show that he died whilst a POW on 15 June 1945 at Sandakan. No cause of death is stated. His War Graves Record Card states his date of death to be 15 June 1945, and that his body had not been recovered. The DVA WW2 nominal roll for Private Forrester records that he was a POW who died on 15 June 1945. The Roll of Honour records that Forrester died on 15 June 1945 of illness in Borneo and is commemorated on the Labuan Memorial, Labuan, Malaysia.

<sup>11</sup> Camp Record Sandakan. NAA: B3856 144/1/372 part 4.

16. The Tribunal cannot be reasonably satisfied that there was any connection between an escape and Private Forrester's death.

### **Tribunal finding**

17. The Tribunal finds that, while Private Forrester may have escaped from the Japanese, there is no reliable evidence to show that he was killed during an escape attempt or following recapture. As a result, he cannot be considered for medallic recognition under the Terms of Reference for this Inquiry.

## WX14830 PRIVATE STANDISH O'GRADY HALY

### What has led to the consideration of Private Haly by this Inquiry?

1. In a submission to the Valour Inquiry Dr Kevin Smith OAM sought recognition for 28 individuals who were Prisoners of War and were said to have been either killed during escape or following recapture. Private Standish O'Grady Haly was one of the individuals brought forward for consideration.<sup>1</sup>

### Private Haly's service, capture and imprisonment

2. Standish O'Grady Haly enlisted on 21 November 1940 with the Australian Military Force's 13<sup>th</sup> Field Company Western Australia, and then transferred on 27 February 1941 to the Western Australian Army Service Corps. He was discharged on 2 July 1941 to enlist in the Australian Imperial Force the following day. After training in South Australia, Private Haly was graded as a 'Grade III Driver'. On 30 December 1941, Private Haly embarked for service overseas and disembarked at Singapore on 24 January 1942.

3. Private Haly was captured at the fall of Singapore on 15 February 1942. He was declared a Prisoner of War on that date and was placed in Changi POW camp.<sup>2</sup> On 8 July 1942, he was embarked with B Force, bound for Borneo.<sup>34</sup> After a nine day journey in poor conditions, B Force disembarked at Sandakan.

4. The Australian War Memorial Roll of Honour records that Private Haly died on 15 June 1945 of illness in Borneo and is buried in the Labuan War Cemetery in Malaysia.<sup>5</sup> The Department of Veterans' Affairs nominal roll entry for Private Haly states that he was a Prisoner of War who died on 15 June 1945.<sup>6</sup>

5. The Tribunal accepts that Private Haly was a Prisoner of War.

### Evidence of escape

6. In his submission to the Valour Inquiry, Dr Kevin Smith stated that '*Pte Standish Haly (Haly) WX14830 2/4 Machine Gun Bn died June 1945 during an escape from the second (possibly the third) march to Ranau*'.<sup>7</sup>

<sup>1</sup> Valour Inquiry Submission 243, Dr Kevin Smith OAM.

<sup>2</sup> Service record S.O. Haly. NAA B883, WX14830.

<sup>3</sup> Service record S.O. Haly. NAA B883, WX14830.

<sup>4</sup> B Force Roll. NAA: B3856 144/1/372 Part 4.

<sup>5</sup> AWM Roll of Honour: Standish O'Grady Haly.

<sup>6</sup> DVA WW2 Nominal Roll: Haly SO'G.

<sup>7</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

7. In his book *Borneo: Australia's Proud but Tragic Heritage*, Dr Smith stated that '*Pte Standish Haly (2/4 MG Bn) of Perth, WA, escaped in June 1945, either from Sandakan or from the third death march, probably in company with a British RAF prisoner. His body was found on the Sendala Estate and the date of death was recorded as 15 June.*'<sup>8</sup>

8. At the hearing before the Tribunal on 14 December 2016, Dr Smith could only say that he believed that Private Haly had escaped but he had not kept his early records to confirm any details of the escape.

9. Sandakan survivor Bombardier Richard Braithwaite, who was on the second march which departed on 29 May 1945, reported that Private Haly was still alive on that date. By contrast, another Sandakan survivor, Warrant Officer Bill Sticpewich, who also left Sandakan on the second march, reported that Private Haly had already died.<sup>9</sup>

10. Private Haly's remains were recovered after the war from the Sandala Estate, four miles from the Sandakan Camp, where local people had buried him and five others in a group grave. His remains, initially recorded as '*Unidentified Empire Soldier*', were identified on 24 September 1945, the day on which the recoveries were made,<sup>10</sup> which possibly indicates that his name was known to the locals who had buried him. An alternative explanation is that the remains had some identifying features.

11. If the date of death recorded by the Japanese (15 June 1945) is actually the date on which Private Haly disappeared from the camp, it may be that he escaped from the camp on 15 June 1945, that is, after the second march which departed on 29 May 1945.

### **Conclusion as to escape**

12. Private Haly's date of death was recorded by the Japanese as 15 June 1945, reportedly from malaria. Those records however, were notoriously inaccurate. On the other hand, reports from the very few survivors of Sandakan were also not always reliable, and the evidence of Bombardier Braithwaite and Warrant Officer Sticpewich in this instance is irreconcilably contradictory.

13. The Tribunal therefore could not be reasonably satisfied that Private Haly escaped from his captors.

### **Nexus between death and the escape**

14. Even if the Tribunal could be reasonably satisfied that there had been an escape, there is also no available evidence to suggest that Private Haly was killed as a consequence of such an escape.

15. There is no evidence to suggest Private Haly was recaptured nor that he was killed as a consequence of an escape.

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<sup>8</sup> Kevin Smith, *Borneo: Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale, 1999, p. 249.

<sup>9</sup> Statements by WO1 Sticpewich. NAA: B3856, 144/1/372.

<sup>10</sup> Grave Registration Card side 2. NAA: A8234, 49. See also: Entry dated 24/9/45 from 23 War Graves Unit Diary. AWM52 21/2/24.

### **Tribunal finding**

17. The Tribunal finds that because there is no reliable evidence that he had escaped, was recaptured, or that he was killed as a consequence of an escape, Private Standish O'Grady Haly is not a person who can be considered for medallic recognition under the Terms of Reference for this Inquiry.

## VX23670 PRIVATE THOMAS IGNATIUS HARRINGTON

### **What has led to the consideration of Private Harrington by this Inquiry?**

1. In a submission to the Valour Inquiry Dr Kevin Smith OAM requested recognition for 28 individuals who were Prisoners of War and were said to have been either killed during escape or following recapture. Private Thomas Ignatius Harrington is one of the 28 individuals brought forward for consideration.<sup>1</sup>

### **Private Harrington's service**

2. On 12 June 1940, Private Harrington enlisted at Caulfield, Victoria. After basic training, he joined 8<sup>th</sup> Division's Petrol Company on 4 November 1940 and undertook unit training. Private Harrington joined a Brigade ASC Company Petrol Section on 2 February 1941. He embarked for overseas at Sydney on the same day and arrived in Singapore on 19 February 1941.

3. Apart from a brief period of AWL and a short attachment to 2/9<sup>th</sup> Field Ambulance in November 1941, nothing further is known about Private Harrington from the official records until he was reported missing following the fall of Singapore in February 1942.<sup>2</sup>

4. The official record then shows Private Harrington as a Prisoner of War to date 23 August 1942 in an entry sourced from AIF Malaya and dated 15 September 1943. Private Harrington appears to have been transferred to Sandakan in British North Borneo with B Force in July 1942.<sup>34</sup>

5. The Tribunal accepts that Private Harrington was a Prisoner of War.

### **Evidence of escape and recapture**

6. On or about 30 July 1942, Harrington and three others (Private Edward Allen, Private Murray Jacka and Private Jeffrey Shelley), who were all now members of No. 1 Company AASC, made their escape from the POW camp at Sandakan. They remained in the general vicinity for the next few days, seeking local assistance, but their presence was reported to the Japanese and they were recaptured on 8 August 1942.<sup>5</sup>

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<sup>1</sup> Valour Inquiry Submission 243, Dr Kevin Smith OAM.

<sup>2</sup> Service Record, T.I. Harrington. NAA: B883, VX23670.

<sup>3</sup> Entry for Private T.I. Harrington, B Force Roll. NAA: B3856, 144/1/372 Part 4.

<sup>4</sup> Service Record, T.I. Harrington. NAA: B883, VX23670.

<sup>5</sup> Kevin Smith, *Escapes and Incursions: Sabah 1942-45*, KR. & H Smith, Armidale, 2006, pp. 29-30.

## Conclusion as to escape

7. The Tribunal finds that there is reasonable evidence that Private Harrington attempted, together with three other members of the AIF, to escape from Japanese troops at Sandakan POW Camp on 31 July 1942.

## Evidence of Private Harrington being killed as a consequence of attempting to escape

8. After being returned to the POW camp and confined there for six weeks, the group was taken by sea to Kuching and subjected to continuing close confinement. They were not brought to trial until 25 October 1942, when all four were found guilty and each sentenced to four or five years' solitary confinement, which was to be served in Outram Road Gaol, Singapore.

9. The only official document available to the Tribunal which specifically refers to Private Harrington and the other members of his group having escaped and been recaptured is a document entitled '*Copy of Information sent by Lt Col A.W. Walsh RAA AIF from Kuching Prisoner of War Camp to Chief Liaison Officer Air Prisoner of War Camp Sandakan*'. This specifically mentions Private Harrington and his colleagues, together with two other soldiers who separately escaped and were also recaptured in the same period, as '*B" Force Prisoners who escaped and were caught by IJA*', their receiving sentences of four or five years' imprisonment, and Private Harrington's death. It includes a further reference to Private Harrington's death on 15 December 1942 while in Kuching Gaol and his burial with full military honours on the same day at the Catholic Church at Kuching. It notes that the '*Cause of death thought to be Beri-Beri.*' The original document was signed by three AIF witnesses, a Major, a Warrant Officer and a Sergeant.<sup>6</sup>

10. Subsequently, Private Harrington's service record was amended with a date of 27 May 1943 to state '*Now Reported Died of Illness whilst P.W. Buried R.C. Church Kuching (? Beri-Beri)*' with a date of 15 December 1942. The authority for this entry, which was originated from Land Headquarters was notated '*RO 16/44*'.<sup>7</sup>

11. There is also an entry for Private Harrington in the list entitled 'Information Received as to Fate of A.M.F. PoW in Borneo' gives his date of death as 17 October 1942 from both 'C Det Sigs' and the 'Jap Roll'.

12. The evidence that Private Harrington died as a result of his escape is based on his being recaptured on 8 August 1942 and, after mistreatment in confinement, being sentenced to four years' imprisonment in Outram Road Gaol. He was sentenced after a court martial in Kuching on 25 October 1942, but his health does not seem to have permitted his being sent to Singapore. Despite being sentenced to death, he died in Kuching Gaol on 15 December 1942, reportedly from the effects of beri-beri.

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<sup>6</sup> The document is held in the papers of Ms Lynette Silver, OAM.

<sup>7</sup> Service Record, T.I. Harrington. NAA: B883, VX23670.

### **Conclusion as nexus between death and the escape**

13. Dr Smith submitted that there was a chain of events which connected Private Harrington's death with the escape: he was recaptured, sentenced to death, and died in Kuching Gaol on 15 December 1942, before he could be transferred to Outram Road Gaol. Two of the three recaptured prisoners who were sent to Kuching Gaol also died of disease (Allen and Shelley).<sup>8</sup>

14. The Tribunal is satisfied that Private Harrington died as a result of beri-beri, likely to have been because of poor treatment by Japanese forces. There was no evidence that he was singled out for particular punishment or maltreatment. Given the general maltreatment of Allied POWs by the Japanese and the associated death toll, and the survival of another member of Private Harrington's escape group who was similarly imprisoned, the Tribunal is not satisfied that poor treatment, while in itself appalling, was sufficiently more harsh than that experienced by other POWs to meet the requirements of the Terms of Reference for inclusion.

### **Tribunal finding**

15. The Tribunal finds that Private Thomas Ignatius Harrington cannot be considered for medallic recognition under the Terms of Reference for this Inquiry.

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<sup>8</sup> Smith, *Escapes and Incursions*, p. 30.



## VX47315 PRIVATE MYLES HIGGINS

### What has led to consideration of Private Higgins by this Inquiry?

1. Private Higgins was identified by the Department of Defence as an individual who may fall within the Inquiry Terms of Reference.
2. Defence made reference to a National Archives of Australia record containing Routine Orders concerning the fates of Australian Prisoners of War which identified Private Higgins as having been recorded as deceased whilst a Prisoner of War (after escape).<sup>1</sup>

### Private Higgins' service, capture and imprisonment

3. Private Higgins enlisted at the Town Hall in Melbourne on 3 July 1940 and embarked for overseas service on 13 December 1941. He was a member of 2/21st Battalion AIF, was deployed to the Indonesian Island of Ambon with Gull Force.<sup>2</sup> In late January 1942 Ambon was overrun by Japanese forces and on 3 February 1942, the Battalion surrendered to the Japanese. Prisoners were incarcerated at Tan Toey Camp.<sup>3</sup> Treatment in the camp was harsh and became more severe after several prisoners escaped in March 1942.
4. Private Higgins remained on Ambon until 25 October 1942, when he and about 260 other ill prisoners were transferred aboard the *Taiko Maru* to Hainan Island, off the coast of China, arriving on 5 November 1942.<sup>4</sup> They were taken directly to the CH-7 Hai-Kow Prisoner of War camp at Hashio (Basuo) in the Bakli district on the west coast of the island.
5. The camp consisted of 3 single storey huts, each 220 feet by 35 feet, one of which housed the Australians. Conditions were poor and the men were obliged, notwithstanding that they were already sick, to undertake manual labour eight hours per day, often seven days a week. The fittest were selected to fill the quota for work parties outside the camp. Rations were cut in February and again in March 1945.
6. At about that time, the perimeter fence was strengthened with 4 strands of electrified wire, in addition to the existing barbed wire, and the guards were doubled. In February 1945, it was rumoured that an American landing party was imminent, and that, if this eventuated, the Japanese planned a mass execution of the Prisoners of War. It was decided that an escape team should be organised, so that if a landing were to shortly occur, the team could assist the invading forces and endeavour to bring help to the camp before it was too late. Private Higgins was amongst those who expressed a willingness to participate.<sup>5</sup>

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<sup>1</sup> Missing and PW SWPA and Pacific Area, p. 381. NAA B6390.

<sup>2</sup> Service Record, M Higgins. NAA: B883, VX47315.

<sup>3</sup> Lionel Wigmore, *The Japanese Thrust, The Official History of Australia in the War of 1939-1945*, Series I, Volume IV, Australian War Memorial, Canberra, p. 604. See also: Courtney Harrison, *Ambon, Island of Mist 2/21st Battalion AIF Prisoners of War 1941-45*, TW and CT Harrison, North Geelong, 1988, p. 87.

<sup>4</sup> Harrison, *Ambon*, p.186.

<sup>5</sup> Affidavit of LTCOL WJR Scott 28 May 1946 at [45]-[46]. NAA: A471, 81950 Part A p.46.

7. The Tribunal accepts that Private Higgins was a Prisoner of War.

### **Evidence of escape**

8. On 16 April 1945 a party of six, including Private Higgins left the camp about midnight. Courtney Harrison, a member of Private Higgins' battalion, in his book *Ambon, Island of Mist* recorded:

Having crawled under the electric fence around the camp and through clumps of prickly pear, they headed into the darkness towards the hilly centre of the island. They slept under some bushes until Private M Higgins awoke them, quietly informing them that they were only fifty yards from the Japanese fort. Taking off again the following night, [Major IF] Macrae and Pte T Lockwood went in search of water, and returned to find the others surrounded by a group of Chinese in uniform and armed with old, muzzle-loading muskets, and bows and arrows. Fortunately they were Chinese nationalists who took them to a Chinese village surrounded by a double palisade.<sup>6</sup>

### **Conclusion as to escape**

9. The Tribunal finds that there is evidence that Private Higgins escaped from CH-7 Hai-Kow Prisoner of War camp on 16 April 1945.

### **Evidence of Private Higgins being killed as a consequence of escaping**

10. Harrison recorded:

After they had been fed and looked after for about a week, it became obvious to the Australians that the Chinese were under orders to help and protect any escaping prisoners of war. However, because of their declining health from malaria and beriberi, Macrae wished to press on. Eventually the Chinese organized a party to lead them to their HQ, evading patrols of opposing communist factions and Japanese one the way. Here they were fed with buffalo meat, beans and rice with vegetables; but unfortunately Miles [sic] Higgins died with malaria.<sup>7</sup>

11. Roger Maynard, in his book *Ambon*,<sup>8</sup> related the story of the escape and recorded that 'just after reaching safety':

.. Myles [Higgins] collapsed. His endurance was exhausted, his body at the point of meltdown. After achieving the near impossible for a man so ill, Myles departed this life at precisely 8.45pm on 13 June 1945.<sup>9</sup>

12. Dr A.J. von Metzsch, Medical Officer in the Royal Netherlands East India Forces, who was with the Chinese Army at the time, made a statement dated on 12 June 1945 in

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<sup>6</sup> Harrison, *Ambon*, p.234.

<sup>7</sup> Harrison, *Ambon*, p.234.

<sup>8</sup> Roger Maynard, *Ambon: the truth about one of the most brutal POW camps in World War II and the triumph of the Aussie spirit*, Hachette Publishing, Sydney, 2014, p.199.

<sup>9</sup> There is a discrepancy in the records in regard to date of death; the grave registration card records both 12 June and 13 June 1945. NAA: 8234, 96.

which he wrote that at 8.45 pm Private Higgins had died from malaria.<sup>10</sup> The cause of death on the AWM Honour Roll for Private Higgins is 'illness'. His service record states 'deceased after escape'.<sup>11</sup> His grave registration card records the cause of death as 'malaria'.

### **Conclusion as nexus between death and the escape**

13. Dr von Metzsch provided a clear account that Private Higgins died from malaria. While, anecdotally, medical officers in Japanese camps were ordered to record deaths from mistreatment as due to 'malaria' (or some other disease), Dr von Metzsch was not subject to Japanese direction in recording Private Higgins' cause of death. Further, as the other escapees remained with the Chinese Nationalist Forces until the end of the War when they were repatriated by US forces,<sup>12</sup> the Tribunal accepts that they were able to provide first-hand accounts of the circumstances of Private Higgins' death. The Tribunal finds that Private Higgins' cause of death was malaria.

### **Tribunal finding**

14. The Tribunal finds that, while it is satisfied as to evidence of an escape, Private Higgins was not killed while escaping or on recapture. Consequently, he is not eligible to be considered for medallic recognition under the Terms of Reference of this Inquiry.

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<sup>10</sup> The statement is marked as signed at the HO Lam, CHQ of the Chinese Army in Hainan. NAA: B3856, 140/1/14 Hainan Deaths p22.

<sup>11</sup> Service Record M Higgins. NAA: B883, VX47315.

<sup>12</sup> Report by NX CAPT EB Bailey of 3 Australian PW Contact Unit on Australian Prisoners of War Recovered at Hainan Island, China p.165. NAA MP729/8 44/431/101.

**SX11028 MAJOR GILBERT EDGAR JOSE****What has led to the consideration of Major Jose by this Inquiry?**

1. Major Gilbert Edgar Jose is amongst the additional cases brought forward by Mrs Dianne Cowling for consideration by the Tribunal.

**Major Jose's service**

2. Major Jose enlisted on 31 October 1940. A qualified surgeon and Fellow of the Royal Australasian College of Surgeons, he joined the Australian Army Medical Corps. He was assigned to the 10<sup>th</sup> Australian General Hospital (AGH). Major Jose embarked for overseas with his unit at Sydney in the *Queen Mary* on 6 February 1941 and arrived in Singapore on 18 February 1941.<sup>1</sup> Major Jose remained with 10<sup>th</sup> AGH until it was relocated to Singapore on 10 January 1942 and was with it when the island capitulated on 15 February 1942.

3. A notation on Major Jose's service record, dated 8 March 1946 states that he was '*Taken Prisoner of War Singapore 15.2.42 at 10 AGH*'.<sup>2</sup>

4. The Tribunal is satisfied that that Major Jose was a Prisoner of War.

**Evidence of capture and escape**

5. Major Jose appears to have continued with 10<sup>th</sup> AGH during a succession of moves, finally being located at Roberts Barracks in a combined medical organisation. At some point, Major Jose is believed to have contracted dysentery, being admitted as a patient on 21 March 1942. Major Alan Hobbs, Medical Officer in 2/4<sup>th</sup> Casualty Clearing Station who was working at Roberts Barracks, wrote a diary entry dated 27 March 1942 which stated:

Gilbert Jose (MO Major SX11028) died at 0645 after dysentery lasting only a few days. Extreme toxæmia and delirium for about 3 days, then coma for 2. Buried in AIF Cemetery Changi, about 1½ miles from Roberts Barracks on main Singapore Road.<sup>3</sup>

6. Major Hobbs' account is consistent with the entries made in Major Jose's service record in December 1945 and March 1946, although these may have been entered on the basis of Major Hobbs' account.<sup>4</sup> The Tribunal had evidence that dysentery was widespread at the time Major Jose died.<sup>5</sup>

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<sup>1</sup> Service Record, G.E. Jose. NAA: B883, SX11028.

<sup>2</sup> Service Record, G.E. Jose. NAA: B883, SX11028.

<sup>3</sup> Major Alan Hobbs, RAAMC, Diary entry dated 27 March 1942. <http://www.pows-of-japan.net/articles/112%20Hobbs.html>. (accessed 2 August 2017)

<sup>4</sup> Service Record, G.E. Jose. NAA: B883, SX11028.

<sup>5</sup> Sergeant Jack O'Donnell, NX59210, of 10 AGH, Diary entry dated 8 April 1942 (?). Available via <http://anzacportal.dva.gov.au/> (Search 'O'Donnell'). (accessed 2 August 2017).

7. The record for Major Jose has two conflicting elements. The first is the reports of nurses newly returned to Australia which suggested that Major Jose had been killed by Japanese bombing as early as 11 February 1942 (the dates given range from 11-14 to 13 February).<sup>6</sup> Given that the nurses were evacuated at this time, their statements may have been based on hearsay. It is also possible that Major Jose was injured in some way by bombing.

8. The second conflicting account comes from the diary of Private Alexander Drummond in an entry dated 5 December 1942, in which Private Drummond reported that Major Jose had been '*shot by the Japs in March; he went out to get fresh water & coconuts for the sick men & a guard caught him & executed him*'.<sup>7</sup> Private Drummond was, however, in Pudu prison in Kuala Lumpur from early 1942 and his statement cannot be based on first hand evidence. It is possible that Drummond had been told of an incident relating to another prisoner of war.

9. At the hearing before the Tribunal on 4 April 2017, Ms Cowling could offer no further evidence of an escape attempt by Major Jose.

### **Conclusion as to escape**

10. The Tribunal is reasonably satisfied that there is no substantive evidence to suggest that Major Jose made any attempt to escape following his capture as a result of the surrender of Singapore.

### **Evidence of Major Jose being killed as a consequence of attempting to escape**

11. The evidence that Major Jose died from dysentery is based on a contemporaneous diary entry by another medical officer, Major Hobbs, serving in the same unit, which was also running the medical facility in which Major Jose was being treated. The reports of the nurses after their return to Australia are not considered authoritative. Although there is one separate report that Major Jose was shot by a Japanese guard while searching for water and coconuts for sick prisoners, this was not contemporaneous and its author was not in the same locality at the time.

12. The evidence of Major Hobbs is considered by the Tribunal to be credible and compelling, and is preferred to the other accounts of Major Jose's death. Although medical officers were often forced by Japanese authorities to enter false details in official records relating to the death of prisoners of war, there is no evidence that Major Hobbs was under such pressure when compiling his private diary. Further, there was evidence that, at the time of Major Jose's death, dysentery was widespread in the camp.

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<sup>6</sup> Letter dated 16 March 1942 to Officer i/c 2<sup>nd</sup> Echelon. NAA: B3856, 144/1/35.

<sup>7</sup> Private Alexander Hatton Drummond, VX 52775, Diary entry dated 5 December 1942. State Library of Victoria: MS 13716, 'Papers, 1914-2001 [manuscript] Alexander Hatton Drummond 1911-1983'.

### **Conclusion as to nexus between death and the escape**

13. The Tribunal is reasonably satisfied that Major Jose died as a result of dysentery in March 1942.

### **Tribunal finding**

14. The Tribunal finds that Major Gilbert Edgar Jose is not a person that can be considered for medallic recognition under the Terms of Reference for this Inquiry.

## NX36469 PRIVATE FRANK BARTLE LEDWIDGE

### What has led to the consideration of Private Ledwidge by this Inquiry?

1. In a submission to the Valour Inquiry, Dr Kevin Smith OAM sought recognition for 28 individuals, who were Prisoners of War and were said to have been either killed during escape or following recapture. Private Frank Bartle Ledwidge is one of the names brought forward for consideration.<sup>1</sup>

### Private Ledwidge's service, capture and imprisonment

2. On 8 August 1917, Frank Ledwidge enlisted in the First Australian Imperial Force for service in the First World War (when he was only 16 years of age) having increased his age by five years. Private Ledwidge served until 27 August 1919.

3. He next enlisted for service in the Second World War at Wagga Wagga NSW on 17 July 1940. Following training, Private Ledwidge was assigned to the 2/19<sup>th</sup> Infantry Battalion, and embarked in Sydney on 2 February 1941 for Singapore. From 18 February 1941 until the fall of Singapore, Private Ledwidge was on operational service in Malaya and Singapore.<sup>2</sup>

4. On 9 April 1942, Private Ledwidge was reported as missing from 15 February 1942. He was imprisoned at the Changi Camp. On 17 November 1942, his service record was stamped '*Prisoner of War*'. A further entry was made on 23 August 1944 that Private Ledwidge was '*now interned Borneo Camp*'. On 30 October 1945, the service record was stamped '*Deceased whilst POW, 12 March 1945 at Sandakan*'.<sup>3</sup>

5. Private Ledwidge's service record contains the 'Changi Copy' which shows from the last entry on his service record that he was embarked with E Force on 28 March 1943, destined for Borneo.<sup>4</sup>

6. Private Ledwidge's War Graves Record card states that he died of illness on 12 March 1945 and is buried at the Labuan War Cemetery in Borneo.<sup>5</sup>

7. The Tribunal accepts that Private Ledwidge was a Prisoner of War.

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<sup>1</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>2</sup> Service Record, F.B. Ledwidge. NAA B883, NX36369.

<sup>3</sup> Service Record, F.B. Ledwidge. NAA B883, NX36369.

<sup>4</sup> Entry for Ledwidge, E Force Roll. NAA: B3856 144/1/372 part 4.

<sup>5</sup> War Graves Record Card. NAA: A8231, 21/Ledwidge Frank Bartle.

## Evidence of escape

8. Private Ledwidge's service record does not disclose any information relating to an escape.

9. In Dr Smith's book *Borneo: Australia's Proud but Tragic Heritage*, there is only a single mention of Private Ledwidge. Dr Smith stated: *During the First March to Ranau, Pte FB Ledwidge (2/19 Bn) of Merriwagga, NSW, escaped somewhere near the 23-mile. By the time his death was recorded as 12 March 1945, the long column of POWs was far to the west of that locality.*<sup>6</sup>

10. At the hearing before the Tribunal on 14 December 2016, Dr Smith stated that he believed that Private Ledwidge had escaped but he had not kept his early records to confirm any details of the escape. Dr Smith went on to say that it was only a possibility that Private Ledwidge was killed by the Japanese, and he accepted that malaria, the recorded cause of death, was rampant.

11. Private Ledwidge's grave registration card notes that remains identified as his were recovered from Mile 23 on the Sandakan-Ranau track post-War.<sup>7</sup> Side two of the same card, however, contradicts side 1 as it states that Private Ledwidge died of malaria and starvation at Sandakan Camp.<sup>8</sup>

12. The account of one of the few survivors of the Sandakan death marches, Warrant Officer William Sticpewich, reported that Private Ledwidge had died of malaria and starvation in 1944.<sup>9</sup> Japanese camp records show Private Ledwidge's cause of death as malaria.<sup>10</sup> The Japanese death certificate states that Private Ledwidge became ill with malaria.<sup>11</sup>

13. Private Ledwidge's Japanese death certificate, prepared by Yamamoto Koji (who signed all death certificates in Sandakan, and whose records are generally considered to be reliable), states he became ill with malaria on 8 January 1945 and died on 12 March 1945.<sup>12</sup> In Japanese camp records Private Ledwidge's place of death is recorded as Sandakan.<sup>13</sup>

14. Private Ledwidge's service record also records his date of death as 12 March 1945,<sup>14</sup> although this is likely to have been based on other records. Survivor Owen Campbell's brief statement that Private Ledwidge 'died in enemy custody' is equivocal.<sup>15</sup>

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<sup>6</sup> Kevin Smith, *Borneo: Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale, NSW, 1999, p.250.

<sup>7</sup> Grave Registration Card Side 1. NAA: A8234, 50.

<sup>8</sup> Grave Registration Card Side 2. NAA: A8234, 50.

<sup>9</sup> Certified Statement by Warrant Officer 1 William Sticpewich – List of Deaths of AMF Personnel in Borneo E Force. NAA: B3856, 144/1/372 Part 3.

<sup>10</sup> Camp Record Sandakan. NAA: B3856, 144/1/372 part 4.

<sup>11</sup> Japanese Death Certificate for Ledwidge, AWM127, 70. (Translations of Australian POW Death Certificates in Borneo)

<sup>12</sup> Japanese Death Certificate for Ledwidge. AWM127, 70.

<sup>13</sup> Camp Record Sandakan. NAA: B3856, 144/1/372 part 4.

<sup>14</sup> Service Record, F.B. Ledwidge. NAA: B883, NX36469.

<sup>15</sup> Schedule "A" Personnel Known or Believed to have Died While in Enemy Custody – Member Interrogated-QX14380 Gnr Campbell. NAA: 3856, 144/1/244.



### **Consideration as to nexus between escape and death**

15. There were two irreconcilable versions of the circumstances of Private Ledwidge's death. The only evidence that might suggest that Private Ledwidge had escaped was that his grave registration card recorded that his remains were reportedly found near Mile 23 on the Sandakan-Ranau track.

16. On the other hand, the reverse side of the same card, recorded that Private Ledwidge died of malaria and starvation at Sandakan Camp.<sup>16</sup> Further, the account of Warrant Officer Sticpewich was that Private Ledwidge had died of malaria and starvation in 1944. The Japanese camp records also noted his cause of death as malaria, as did the Japanese death certificate.

17. The Tribunal came to the view that it is possible that the remains found near Mile 23 on the Sandakan-Ranau track were incorrectly identified. Ms Silver provided information about another POW<sup>17</sup> on the second march whose remains were located at that site; the field records noted the place, date and time of death. No such field records exist for Private Ledwidge. While not determinative, the Tribunal considered that such a record would likely to have been made with respect to Private Ledwidge had he died at that site while on the march. The Tribunal is reasonably satisfied that, on balance, Private Ledwidge died from illness in the Sandakan camp.

18. Further, the Tribunal observes, even if the remains were correctly identified, there was no evidence that Private Ledwidge escaped and was killed while escaping or on recapture.

### **Tribunal finding**

19. The Tribunal finds that there is no evidence to show that Private Ledwidge escaped from either the Sandakan camp or while on the march. There is also no evidence to suggest that Private Ledwidge was recaptured, or killed while escaping or following recapture. For these reasons, he cannot be considered for medallic recognition under the Terms of Reference of this Inquiry.

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<sup>16</sup> Grave Registration Card Side 2. NAA: A8234, 50.

<sup>17</sup> NX49469 Thomas Raymond Gentle.

**VX25798 WARRANT OFFICER CLASS II BRUCE LOVELL**  
**NX42596 PRIVATE JOSIAH BUDDY GOLDING**  
 (also known as Joshua Golding **RASH**)  
**WX11700 CRAFTSMAN IVON EDWARD WADDELL**

**What has led to the consideration of Warrant Officer Lovell, Private Rash and Craftsman Waddell by this Inquiry?**

1. Warrant Officer Lovell, Private Rash and Craftsman Waddell were identified by the Tribunal's research as persons who may fall within the Inquiry's Terms of Reference.

**The Soldiers' service**

2. Warrant Officer Lovell enlisted in the AIF in Melbourne on 11 June 1940. After technical training, he embarked for overseas service in Sydney on 2 February 1941 and arrived in Singapore on 19 February 1941.<sup>1</sup> Private Rash enlisted in Paddington, New South Wales on 25 June 1941. He deserted shortly afterwards, but enlisted again in Paddington on 12 August 1941 as Josiah Buddy Golding. After training, 'Private Golding' embarked for overseas in Sydney on 17 September 1941 and arrived in Singapore on 5 October 1941.<sup>2</sup> Craftsman Waddell enlisted in Claremont, Western Australia on 10 April 1941. He embarked for overseas in *SS Marella* in Melbourne on 28 November 1941 and arrived in Singapore on 26 January 1942.<sup>3</sup> All were members of 8<sup>th</sup> Division, Warrant Officer Lovell and Craftsman Waddell being part of the 22<sup>nd</sup> Infantry Brigade's Ordnance Workshop and Private Golding a member of 2/30<sup>th</sup> Battalion. They were captured with the remainder of the Division when Singapore fell. The soldiers were initially confined at Changi before being assigned to be part of F Force, a unit brought together on the instructions of the Japanese to undertake construction work in Thailand.

3. The three soldiers were members of the party embarked in the fifth (Private Golding) and sixth (Warrant Officer Lovell and Craftsman Waddell) trains to leave Singapore for Thailand on 22 and 23 April 1943. After a five day trip in very poor conditions, the trains arrived in Bampong in Thailand. The POWs spent one night in Bampong before beginning a 300 kilometre march. This march was undertaken in conditions of considerable hardship. The troops finally arrived in the work area in up-country Thailand near the border with Burma by or on 17 May.

4. The Tribunal accepts that Warrant Officer Lovell, Private Golding and Craftsman Waddell were Prisoners of War.

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<sup>1</sup> Service Record, B. Lovell. NAA: B883, VX25798.

<sup>2</sup> Service Record, J.G. Rash. NAA: B883, NX37812. See also: NAA: B883, NX42596.

<sup>3</sup> Service Record, I.E. Waddell. NAA: B883, WX11700.

## **Evidence of Escape**

5. The three soldiers appear to have made an escape attempt around 3 June 1943 from a camp at Songkurai in the company of a fourth man, Lieutenant D.M. Wheldon of the British Army. Their absence was recorded by Lieutenant Colonel C.H. Kappe, the Australian Commanding Officer of F Force.<sup>4</sup> Another contemporary record of their departure was made by Lieutenant R.W. Eaton of 2/30<sup>th</sup> Battalion, who recorded in his diary on 3 June 1943, '*4 more gone through – 3 AAOC and Pte Golding, J.B.*'<sup>5</sup> Neville Douglas, of 2/19<sup>th</sup> Battalion and another member of F Force recorded in his diary on 3 June 1943, '*Rather than face the conditions here 11 men have gone through in the last few days in small parties, hoping to make the coast & pick up a small boat & head for India. I wish them luck but don't give them a chance in a million (?) of getting through. They have everything against them.*'<sup>6</sup>

6. The only memoir of F Force which refers to the incident, *Railroad to Burma* by James Boyle, confuses the 3 June escape with that of 31 May, misidentifies Lieutenant Wheldon as an Australian soldier and mis-spells his name as 'Weldon'.<sup>7</sup>

## **The Soldiers' fate**

7. The men were not seen again by Allied personnel. The only indication of their possible fate came from a comment about these men and seven other Australians who had attempted to escape on 31 May 1943: in his post-operation report, Lieutenant Colonel Kappe wrote, '*Nothing has been heard of the escapes subsequently except that a general intimation was received from Lieut FUKUDA (sic) that the men had been caught and shot.*'<sup>8</sup>

## **Conclusion as to escape**

8. The Tribunal is reasonably satisfied that there is evidence of Warrant Officer Lovell, Private Golding and Craftsman Waddell having attempted to escape around 3 June 1943.

## **Evidence of the Soldiers being killed as a consequence of attempting to escape**

9. Lieutenant Colonel Kappe's report is the only contemporary evidence relating to the recapture and death of the three men. The only other evidence is the existence of 13 graves of unknown individuals of the AIF in the war graves cemetery at Thanbyuzayat. The bodies had originally been interred at the Australian Cemetery at Songkurai, some 23 kilometres from Tiamonta where they were last seen.<sup>9</sup> The post-War recovery teams which transferred their bodies to the permanent cemetery could not identify any individuals, but did identify them as Australians.

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<sup>4</sup> Lieutenant Colonel C.H. Kappe, Diary Entry headed 'Absence without Leave', date of entry unknown, p. 260. AWM: DRL/2695.

<sup>5</sup> Lieutenant R.W. Eaton, Diary entry dated 3 June 1943. Cited. Don Wall (collator) *Heroes of F Force*, D. Wall, Mona Vale, 1993, p. 37.

<sup>6</sup> Neville Douglas, Diary entry dated 3 June 1943 (written on the pages for 22 and 23 September in a 1942 diary). AWM: PR03559.

<sup>7</sup> James Boyle, *Railroad to Burma*, Allen & Unwin, Sydney, 1990, p. 90.

<sup>8</sup> Lieutenant Colonel C.H. Kappe, 'F Force Report', dated 5 May 1944. NAA: A6238, 23.

<sup>9</sup> Grave Registration Cards for Singapore, Memorial to the Missing. NAA: A8234, 120/121.

10. The location of the original graves was only 23 kilometres from where the three men seem to have made their escape, and in the direction that they intended to take. There were ten other AIF personnel who escaped, whose fate was unknown, but who were also believed to have been recaptured and executed. Lieutenant Colonel Kappe noted in his report that there were 13 missing AIF personnel from F Force during its time 'up country.'<sup>10</sup> The alignment of the 13 missing escapees with the 13 unknown Australian graves is thus likely, but unfortunately has not been confirmed. Furthermore, there does not appear to be any evidence in the existing War Diaries of the recovery units as to the manner of death of any of the individuals concerned.<sup>11</sup> A single British officer accompanied this AIF escape party, but his fate also remains unknown and his body has not been identified. Finally, the body of least one other AIF member of F Force has never been found.<sup>12</sup>

### **Conclusion as to nexus between death and escape**

11. Given that the only contemporary report relating to the fate of Warrant Officer Lovell, Private Golding and Craftsman Waddell was described by Lieutenant Colonel Kappe as 'a general intimation' from Lieutenant Fukuda and that the identity of the 13 previously unidentified AIF graves in the cemetery at Thanbyuzayat is not certain and the manner of their death unknown, the Tribunal finds that there is insufficient evidence of their having been killed as a consequence of their attempt to escape.

### **Tribunal findings**

12. While the Tribunal is reasonably satisfied that Warrant Officer Lovell, Private Golding and Craftsman Waddell attempted to escape around 3 June 1943, and died following that escape attempt, the Tribunal finds that there is insufficient evidence of their having been killed as a consequence of that escape. For this reason, the Tribunal finds that these men cannot be considered for medallic recognition under the Terms of Reference of this Inquiry.

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<sup>10</sup> Lieutenant Colonel C.H. Kappe, 'F Force Report', dated 5 May 1944. p. 56. NAA: A6238, 23.

<sup>11</sup> War Diaries for 26 and 35 Australian War Graves Units still exist; that for 34 Australian War Graves Unit does not. AWM52 21/3/31, 21/3/30 and 21/3/26 refer.

<sup>12</sup> Lieutenant Harry Wraith Downes WX11159 who wandered away from a camp hospital and probably drowned on or about 5 July 1943. The incident is described in Kappe, 'F Force Report', Australian War Crimes Commission, p. 23. NAA: A6238, 23.

## NX26468 LANCE CORPORAL JOHN WALTER MADDISON

### **What has led to the consideration of Lance Corporal Maddison by this Inquiry?**

1. Lance Corporal Maddison was identified by the Tribunal's research as an individual who may fall within the Terms of Reference of this Inquiry.

### **Lance Corporal Maddison's service, capture and imprisonment**

2. John Maddison enlisted at Martin Place on 19 June 1940. On 22 June 1940 he was posted to 6<sup>th</sup> Battalion before transferring to 2/10<sup>th</sup> Field Ambulance on 4 August 1940. Maddison was appointed acting Lance Corporal on 8 June 1941 before embarking for overseas service on 10 August 1941. He disembarked in Singapore on 23 August 1941.<sup>1</sup>

3. Lance Corporal Maddison was captured at the time of the fall of Singapore. The 'Changi copy' of his service record shows his date of capture as 15 February 1942. All captured Allied servicemen were marched to Selerang barracks (known as the first Changi prison). These barracks soon became a huge base camp, through which thousands of Allied prisoners transited on the way from their place of capture to work sites elsewhere in Singapore and Asia.

4. Lance Corporal Maddison was sent to Borneo (Sandakan Camp) with B Force on 18 July 1942.<sup>2</sup>

5. The Tribunal accepts that Lance Corporal Maddison was a Prisoner of War.

### **Evidence of escape**

6. Lance Corporal Maddison's service record contains no information of an escape.

7. Death records for the Sandakan and Ranau Camps were generated by Australian recorders and sent to the Japanese Headquarters responsible for POWs. These records were recovered post War, along with records made by the Japanese accompanying those on the death marches. However, no records were made in the field for POWs who were on marches but had disappeared (escaped).

8. The field records that were made were used to create death certificates and also to complete POW record cards, held by the Japanese at POW Headquarters. At War's end 9<sup>th</sup> Australian Division recovered these documents.

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<sup>1</sup> Service Record, J.W. Maddison. NAA: B883, NX26468.

<sup>2</sup> Japanese POW Card side 1. NAA: A14171, 24 Maddison John Walter.

9. Investigations by 9<sup>th</sup> Division revealed that there was no reliable paperwork for Lance Corporal Maddison, in respect to his date and place of death. The only entry found was the highly unreliable 'Jap Roll' (the Roll).<sup>3</sup> Unlike information obtained from original records recovered, the Roll had been prepared by the Japanese on the orders of HQ 9<sup>th</sup> Division.<sup>4</sup> The Roll was considered the least reliable of the records recovered.<sup>5</sup> Analysis of all death records available shows that if original documentation was available, the entries in the Roll are reliable. If no documentation was available, such as in the case of POWs who left from the marches, dates (various) and places of death (usually Sandakan) were invented in order to fill the Roll entry. According to the Roll, Lance Corporal Maddison died at Sandakan on 7 March 1945 from malaria.<sup>6</sup> However, there is no date or place of death entered for him on his POW Card. The reverse side of the card states the information on the card is incomplete.<sup>7</sup> Consequently there was no death certificate available for Lance Corporal Maddison.

10. One of the few survivors, Warrant Officer William Sticpewich stated that Lance Corporal Maddison went on the second death march which left Sandakan on 29 May 1945.<sup>8</sup>

11. In 2005 the historian Ms Lynette Silver and her colleague in Sabah, Mr Tham Yau Kong retraced the route of the original death march. They independently interviewed five local people who knew the route taken by the POWs. Of particular significance, one interviewee, Domoit Kenitur, of Miruiu village stated he had come across two Japanese guards who had just shot an Australian POW dead. A second POW, also Australian, had fled into the jungle. Domoit, a skilled jungle tracker, said he located the escaped POW and took him to Miruiu village on the Labuk River. The POW was supplied with food until he was well enough to be placed on a raft and taken down river to the village headman at Telupid. The name of the prisoner according to Domoit, who only spoke Dusun dialect, sounded like 'Matt Hewson'.

12. A search of POW records showed no one by the name of Hewson. There was only one POW on the Roll whose name is likely to have been misheard as 'Matt Hewson' - Lance Corporal Maddison, whom Sticpewich stated had gone on the second march.

13. According to local people who spoke to Ms Silver, an Australian hiding near Telupid, on the Labuk River, was betrayed and beheaded. His identity was unknown.

### **Conclusion as to escape**

14. If Warrant Officer Sticpewich's recollection was correct, it would be impossible for Lance Corporal Maddison to have died on 7 March 1945 at Sandakan, a conclusion supported by the fact that Lance Corporal Maddison's name is missing from the Sandakan camp death records.

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<sup>3</sup> Entry for Maddison on B Force Roll, NAA: B3856, 144/1/372.

<sup>4</sup> Statement by officer in charge of Advanced 2 Echelon. NAA: B3856, 144/1/372.

<sup>5</sup> Statement by officer in charge of Advanced 2 Echelon. NAA: B3856, 144/1/372.

<sup>6</sup> Statement by officer in charge of Advanced 2 Echelon. NAA: B3856, 144/1/372.

<sup>7</sup> Japanese POW Card side 2. NAA: A14171.

<sup>8</sup> Sticpewich's list. NAA: B3856 144/1/372.

15. There is, however, no evidence to identify the Australian POW who was allegedly beheaded near Telupid. At the time, at least three other POWs were being sheltered by the Telupid headman and they were afterwards passed to the care of the nearby Kemansi village. All four died of illness. They were buried by the villagers and their bodies were later recovered. There is only one POW reported to have been at large in that area. That POW is the escapee sheltered by villagers at Miruru and then passed to the headman at Telupid.

16. That POW may have been Lance Corporal Maddison, but there is no clear evidence to that effect. The remains of the executed man were not recovered, and no identifiable remains were ever attributed to Lance Corporal Maddison.

17. The Tribunal was unable to be reasonably satisfied, based on the very limited available evidence, that Lance Corporal Maddison escaped.

### **Conclusion as nexus between death and the escape**

18. Even if the Tribunal could be satisfied that Lance Corporal Maddison escaped, there is no reliable evidence about the cause of Lance Corporal Maddison's death.

19. The Tribunal is not reasonably satisfied, based on the available evidence, that Lance Corporal Maddison was killed while escaping or on recapture.

### **Tribunal finding**

20. The Tribunal finds, based on the available evidence, that Lance Corporal Maddison is not a person who can be considered for medallic recognition under the Terms of Reference of this Inquiry.

## VX38383 BOMBARDIER WILLIAM OWEN McGLONE

### What has led to the consideration of Bombardier McGlone by this Inquiry?

1. Bombardier William Owen McGlone was identified by the Tribunal's research as a person who may fall within the Inquiry Terms of Reference.

### Bombardier McGlone's service

2. On 13 July 1940, Bombardier McGlone enlisted at Cohuna, Victoria. After basic training, he joined 4<sup>th</sup> Australian Anti-tank Regiment on 6 December 1940 and undertook unit training. He embarked with his regiment in HMT *Zealandia* on 23 May 1941 and arrived in Singapore on 9 June 1941. After a period of detachment to the Headquarters, Royal Australian Artillery of 8 Division, he rejoined 4<sup>th</sup> Anti-tank Regiment on 14 December 1941. Nothing further is known about Bombardier McGlone from the official records until he was reported missing following the fall of Singapore in February 1942.<sup>1</sup>

### Bombardier McGlone's fate

3. Bombardier McGlone was deployed with his unit, 16 Battery of (now) 2/4<sup>th</sup> Anti-tank Regiment, at Gemas in Malaya on 18 January 1942. He was a member of L Troop. Bombardier McGlone was listed as '*Missing*' with a date of 23 January 1942. This entry was made in the 2 Echelon Records at Changi POW Camp. Subsequently, Bombardier McGlone's entry in the 2 Echelon Records was amended to state '*Rptd P/W during action & executed*'. No date is given.<sup>2</sup> Bombardier McGlone's service record has an entry dated 11 June 1945, stating '*Missing bel. Killed in Action.*' The accompanying '*Date of Casualty*' has '*NDG*' (No Date Given).<sup>3</sup>

### Evidence of capture and escape

4. On 18 January 1942, in Malaya, 16 Battery's L Troop was attached to 1/13<sup>th</sup> Frontier Force Rifles of 11<sup>th</sup> Indian Brigade. In conjunction with the infantry it was supporting, the Troop was situated astride a main road and railway junction. Late in the afternoon, the 1/13<sup>th</sup> was attacked by Japanese forces and over-run. Two guns of the Troop were lost in the forced retreat of the survivors.<sup>4</sup>

5. The only evidence of what happened to Bombardier McGlone derives from a statement made after the war to the War Crimes Commission by Gunner John Benton,

<sup>1</sup> Service Record W.O. McGlone. NAA: B883, VX38383.

<sup>2</sup> 2 Echelon Record, AIF Malaya, *Details of AIF Casualties*. AWM54 171/11/2.

<sup>3</sup> Service Record W.O. McGlone. NAA: B883, VX38383.

<sup>4</sup> Lionel Wigmore, *The Japanese Thrust, Australia in the War of 1939-1945, Series I – Army*, Vol. IV, Australian War Memorial, Canberra, 1957, p. 230 appears to refer to this action.



another member of L Troop. During the initial retreat, after they had abandoned their weapons, Bombardier McGlone and others, including Gunner Benton, were caught by the Japanese after they became entangled in wire. They were rounded up, disarmed, bound and forced into a huddle.

6. The Tribunal is reasonably satisfied that, following apprehension, Bombardier McGlone was a Prisoner of War.

7. According to Gunner Benton, Japanese troops began to mistreat the prisoners by burning them with cigarettes, poking them in the eyes, lashing them, and striking them with bayonet and shovel handles. He and Bombardier McGlone leapt up and attempted to escape, but Bombardier McGlone was bayoneted in the stomach by one soldier and then shot twice in the forehead while he was on the ground. Gunner Benton was more fortunate, being knocked unconscious by a hit on the head with a rifle butt.<sup>5</sup>

### **Conclusion as to escape and nexus with death**

8. The Defence Historical Honours Review Board, the Tribunal was informed, considered that there was insufficient evidence to be satisfied of an escape. In coming to that view, it noted that Bombardier McGlone had been stabbed in the stomach, and considered that, therefore, he was not killed while fleeing. The Tribunal did not accept that Bombardier McGlone being stabbed in the stomach in the course of the melee was determinative of his facing, rather than fleeing, his captors, as had been the view of the Defence Historical Honours Review Board.

### **Tribunal findings**

9. The Tribunal finds, on the basis of Gunner Benton's evidence, that following a defensive action by elements of 2/4<sup>th</sup> Anti-tank Regiment against advancing Japanese forces in the vicinity of Gemas on 19 January 1942, Bombardier McGlone was taken prisoner. Shortly thereafter, he attempted to escape but was bayoneted and shot by Japanese troops, as a consequence of his escape attempt.

10. For this reason the Tribunal finds that Bombardier McGlone is eligible for consideration for medallic recognition under the Terms of Reference of this Inquiry.

## **CONSIDERATION OF MEDALLIC RECOGNITION**

### **Was there an act of gallantry in Bombardier McGlone's attempt to escape?**

11. The anti-tank weapons of 2/4<sup>th</sup> Anti-tank Regiment provided significant resistance to the Japanese advance in the Gemas area until the collapse of the defensive position that they were supporting forced them to abandon their guns and retreat. Events moved very quickly from that point, with many of the survivors rapidly being caught by the Japanese. The

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<sup>5</sup> John Benton, 'Full Statement of Atrocity or Crime'. NAA: MP742/1 336/1/2018.

mistreatment of the prisoners appears to have begun very soon after the Australian and Indian soldiers being captured and tied up.

12. The only available evidence as to the circumstances of Bombardier McGlone's attempted escape was the account by Gunner Benton that he and Bombardier McGlone had leapt up and attempted to escape. The Tribunal observes that Gunner Benton, by his own account, was knocked unconscious, so, in the Tribunal's view was unlikely to be able to provide a more detailed account of what occurred with respect to Bombardier McGlone. Although it is not a requirement, there was no evidence of any planning of an escape and it appeared to have taken place with some spontaneity in response to immediate and intense mistreatment.

13. On the basis of the very limited evidence available, the Tribunal could not be reasonably satisfied that the actions of Bombardier McGlone demonstrated a special element of courage and determination so as to amount to an act of gallantry and prefers the view that his actions were more likely to be as an opportunistic means of avoiding further abuse.

14. The Tribunal came to the view that there was insufficient evidence before it to conclude that the circumstances of Bombardier McGlone's attempt to escape amounted to an act of gallantry worthy of recognition.

NX51931 SERGEANT ALBERT GEORGE **McGREGOR**  
 NX69880 PRIVATE JOHN ALLEN **FRANKLIN**  
 NX29189 PRIVATE RONALD TAYLOR **JAMES**  
 NX27010 PRIVATE MORRIS LOUIS **LANDOW**  
 NX2732 PRIVATE MALCOLM JOHN **MAWDSLEY**  
 SX9861 DRIVER ALEXANDER FRANCIS **WILSON**  
 NX37563 PRIVATE CHARLES MARK **WILSON**

**What has led to the consideration of Sergeant McGregor, Private Franklin, Private James, Private Landow, Private Mawdsley, Driver Wilson and Private Wilson by this Inquiry?**

1. The above individuals were identified by the Tribunal's research as persons who may fall within the Inquiry Terms of Reference.

**The Soldiers' service**

2. Sergeant McGregor enlisted in Paddington on 28 June 1940. He embarked for overseas service on 10 January 1942 and arrived in Singapore on 26 January 1942.<sup>1</sup> Private Franklin, who had previously enlisted in the AIF using the surname 'Laurent' and gone absent without leave, joined the AIF in Paddington on 23 January 1941. He was part of the same echelon sent to Singapore as Sergeant McGregor.<sup>2</sup> Private James enlisted in Lismore on 17 May 1940, embarked for overseas service on 29 July 1941 and arrived in Singapore on 15 August 1941.<sup>3</sup> Private Landow enlisted in Manly on 7 June 1940 and, after training as a cook, embarked for overseas on 29 July 1941 and arrived in Singapore on 15 August 1941.<sup>4</sup> Private Mawdsley enlisted in Sydney on 23 April 1941. After initial training, he was part of the same echelon sent to Singapore as Privates James and Landow.<sup>5</sup> Driver Wilson enlisted for the AIF in Mount Gambier on 13 July 1940, embarked in HMT *Zealandia* on 2 November 1941 and arrived in Singapore on 20 November 1941.<sup>6</sup> Private Wilson enlisted in Paddington on 21 June 1941. He embarked for overseas service on 29 July 1941 and arrived in Singapore on 15 August 1941.<sup>7</sup> All but Driver Wilson were posted to 2/30<sup>th</sup> Battalion of 8<sup>th</sup> Division Second AIF, the latter being a member of the 8<sup>th</sup> Division Ammunition Sub Park. They were captured with the remainder of the Division when Singapore fell. The soldiers were initially confined at Changi before being assigned to be part of F Force, a unit brought together on the instructions of the Japanese to undertake construction work in Thailand.

<sup>1</sup> Service Record, A.G. McGregor. NAA: B883, NX51931.

<sup>2</sup> Service Record, J.A. Franklin. NAA: B883, NX69880, See also: Service Record, J.C Laurent. NAA: B883, QX3831.

<sup>3</sup> Service Record, R.T. James. NAA: B883, NX29189.

<sup>4</sup> Service Record, M.L. Landon. NAA: B883, NX27010.

<sup>5</sup> Service Record, M.J. Maudsley. NAA: B883, NX 2372.

<sup>6</sup> Service Record, A.F. Wilson. NAA: B883, SX 8961.

<sup>7</sup> Service Record, C.M. Wilson. NAA: B883, NX37563.

3. Six of the soldiers were members of the party embarked in the fifth train to leave Singapore for Thailand on 22 April 1943. The seventh, Driver Wilson, was in the sixth train which left Singapore the following day. After a five day trip in very poor conditions, the trains arrived in Bampong in Thailand. The POWs usually spent one night in Bampong before beginning a 300 kilometre march. This march was undertaken in conditions of considerable hardship. The troops finally arrived in the work area in up-country Thailand near the border with Burma on or by 17 May 1943.

4. The Tribunal accepts that the seven soldiers were Prisoners of War.

### Evidence of escape

5. The seven soldiers appear to have made an escape attempt around 31 May 1943 from a camp at Songkurai. Their absence was recorded by Lieutenant Colonel C.H. Kappe, the Australian Commanding Officer of F Force.<sup>8</sup> Another contemporary record of their departure was made by Lieutenant R.W. Eaton of 2/30<sup>th</sup> Battalion, who recorded in his diary on 2 June 1943, *'The escapees (all 2/30Bn) [sic] have not been heard of since leaving last Monday (31<sup>st</sup> May) S/Sgt [sic] McGregor, Ptes. A.J. James, C.M. Wilson, M.L. Landow, J.A. Franklin, M.J. Maudsley.'*<sup>9</sup> An entry on 31 May 1943 in a diary kept by Stan Arneil, another member of 2/30 Battalion and F Force, reads, *'Five men "went through" last night in an attempt to gain freedom. They have 60 miles of rainy jungle to pass through to the coast and the Bay of Bengal to cross.'*<sup>10</sup> Neville Douglas, of 2/19<sup>th</sup> Battalion and another member of F Force recorded in his diary on 3 June 1943, *'Rather than face the conditions here 11 men have gone through in the last few days in small parties, hoping to make the coast & pick up a small boat & head for India. I wish them luck but don't give them a chance in a million (?) of getting through. They have everything against them.'*<sup>11</sup>

6. Private Douglas McLaggan, another member of 2/30<sup>th</sup> Battalion, recorded in his memoir, *The Will to Survive*, that, although he had *'given [Mark Wilson] up for dead a long time ago'* he was given brief hope of Wilson's survival immediately after the Japanese surrender. *'In fact, however, this was not so and Mark had been executed in May 1943, when captured while attempting to escape.'*<sup>12</sup> The only other later memoir of F Force which refers to the incident, *Railroad to Burma* by James Boyle, confuses another escape on 3 June with that of 31 May.<sup>13</sup>

### The Soldiers' fate

7. The men were not seen again by Allied personnel. The only indication of their possible fate came from a comment about the fate of these men, together with that of three other Australians and a British officer who had attempted to escape on 3 June 1943 and a

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<sup>8</sup> Lieutenant Colonel C.H. Kappe, Diary Entry headed 'Absence without Leave', date of entry unknown, p. 260. AWM 3DRL/2695.

<sup>9</sup> Lieutenant R.W. Eaton, Diary entry dated 2 June 1943. Cited. Don Wall (collator) *Heroes of F Force*, D. Wall, Mona Vale, 1993, p. 35.

<sup>10</sup> Stan Arneil, *One Man's War*, Alternative Publishing Cooperative, Sydney, 1980, p. 98.

<sup>11</sup> Neville Douglas, Diary entry dated 3 June 1943 (written on the pages for 22 and 23 September in a 1942 diary). AWM: PR03559.

<sup>12</sup> Douglas McLaggan, *A Will to Survive: a Private's view as a POW*, Kangaroo Press, Kenthurst, 1995, p. 181.

<sup>13</sup> James Boyle, *Railroad to Burma*, Allen & Unwin, Sydney, 1990, p. 90.

third party of three Australians, who had attempted an escape around 2 May 1943. In his post-operation report after the return of the survivors of F Force to Singapore, Lieutenant Colonel Kappe wrote, '*Nothing has been heard of the escapes subsequently except that a general intimation was received from Lieut FUKUDA (sic) that the men had been caught and shot.*'<sup>14</sup>

### **Evidence of capture and escape**

8. Lieutenant Colonel Kappe's report is the only contemporary evidence relating to the recapture and death of these men. The only other evidence is the existence of 13 graves of unknown individuals of the AIF in the war graves cemetery at Thanbyuzayat. The bodies had originally been interred at the Australian Cemetery at Songkurai, some 23 kilometres from Tiamonta where they were last seen.<sup>15</sup> The post-war recovery teams which transferred their bodies to the permanent cemetery could not identify any individuals, but did identify them as Australians.

9. The location of the original graves was only 23 kilometres from where the three men seem to have made their escape, and in the direction that they intended to take. There were six other AIF personnel who escaped, whose fate was unknown, but was also believed to have been recapture and execution. Lieutenant Colonel Kappe noted in his report that there were 13 missing AIF personnel from F Force during its time 'up country.'<sup>16</sup> The alignment of the 13 missing escapees with the 13 unknown Australian graves is thus likely, but unfortunately has not been confirmed. Furthermore, there does not appear to be any evidence in the existing War Diaries of the recovery units as to the manner of death of any of the individuals concerned.<sup>17</sup> A single British officer accompanied one of the other AIF escape parties, but his fate also remains unknown and his body has not been identified. Finally, the body of at least one other AIF member of F Force has never been found.<sup>18</sup>

### **Tribunal findings**

10. The Tribunal finds that there is reasonable evidence of Sergeant McGregor, Private Franklin, Private James, Private Landow, Private Mawdsley, Driver Wilson and Private Wilson having attempted to escape on 31 May 1943.

11. Given that the only contemporary report relating to the fate of Sergeant McGregor, Private Franklin, Private James, Private Landow, Private Mawdsley, Driver Wilson and Private Wilson was described by Lieutenant Colonel Kappe as 'a general intimation' from Lieutenant Fukuda and that the identity of the 13 previously unidentified AIF graves in the cemetery at Thanbyuzayat is not certain and the manner of their death unknown, the Tribunal finds that there is insufficient evidence of their having been killed as a consequence of their attempt to escape.

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<sup>14</sup> Lieutenant Colonel C.H. Kappe, 'F Force Report', dated 5 May 1944. NAA A6238 23.

<sup>15</sup> Registration Cards identified by Ms Lynette Silver. NAA: A8234 61/62/63.

<sup>16</sup> Lieutenant Colonel C.H. Kappe, 'F Force Report', dated 5 May 1944, p. 56. NAA: A6238 23.

<sup>17</sup> War Diaries for 26 and 35 Australian War Graves Units still exist; that for 34 Australian War Graves Unit does not. AWM52 21/3/31 and 21/3/30 and 21/3/26 refer.

<sup>18</sup> Lieutenant Harry Wraith Downes WX11159 who wandered away from a camp hospital and probably drowned on or about 5 July 1943. The incident is described in Kappe, 'F Force Report', p. 23. NAA: A6238, 23.

12. For this reason, the Tribunal finds that Sergeant McGregor, Private Franklin, Private James, Private Landow, Private Mawdsley, Driver Wilson and Private Wilson cannot be considered for medallic recognition under the Terms of Reference for this Inquiry.

**TX5341 PRIVATE ROBERT MERRITT****What has led to consideration of Private Merritt by this Inquiry?**

1. Private Robert Merritt was identified by the Department of Defence as a person who may fall within the Inquiry Terms of Reference.

**Private Merritt's service**

2. On 29 April 1941, Private Merritt enlisted at Launceston, Tasmania. After basic training, he embarked for overseas service on 2 November 1941 and disembarked in the Middle East on 24 November 1941. After the outbreak of hostilities with Japan, he embarked again for passage to the Pacific in HMT *Orcades* on 31 January 1942. With other Australian troops, he was disembarked at Batavia on 18 February 1942 and was taken on the strength of 2/2nd Australian Pioneer Battalion, which was reorganised into a makeshift infantry battalion as part of the intended defence of Java.<sup>1</sup> Private Merritt was taken prisoner when Australian forces surrendered to the Japanese as a consequence of the Dutch capitulation in the island.

3. The Tribunal accepts that Private Merritt was a Prisoner of War.

**Private Merritt's fate**

4. Private Merritt left Java as part of Dunlop Force, intended for work on the Burma-Thai Railway, in January 1943. He initially remained in Singapore when the force disembarked there and moved by rail to its final destination. This was possibly due to illness. In any case, he was moved to Thailand in April 1943. Private Merritt was one of over three thousand Allied POWs who were transferred by train from a camp at Thamarkan (Tamarkan) near Kanchanaburi to the 1-B Main Camp at Ubon. The POWs were immediately put to work building two airstrips, while at the same time they were required to build their own camp. The work was gruelling, the conditions appalling and the treatment of the POWs by their guards extremely harsh.

5. Private Merritt's service record states that he was '*shot by Japanese Imperial Army (B) location not stated*' on 14 March 1945.<sup>2</sup>

**Evidence of escape**

6. There is some divergence as to Private Merritt's alleged escape between information gleaned from Japanese records immediately after the War and eyewitness statements by other POWs, also gathered in the immediate aftermath of the conflict. The report based on the

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<sup>1</sup> Service Record, R. Merritt. NAA: B883 TX5341.

<sup>2</sup> Service Record, R. Merritt. NAA: B883 TX5341.

Japanese material alleged that Private Merritt escaped from No 1 Camp on 14 March 1945 and was subsequently found in the jungle by a Japanese patrol. Because he allegedly resisted arrest, the patrol commander ordered his troops to shoot Private Merritt, who was killed instantly by one of two shots which hit him.<sup>3</sup>

7. Eyewitness accounts by POWs, however, indicate that Private Merritt had indeed left the camp, probably in the evening of 13 March 1945. It is possible that he left the camp to bring in news or find medical supplies. What is clear from the testimony of surviving POWs is that Private Merritt returned to the camp himself the next morning, where he found that his absence had been detected by the Japanese. He then reported himself to the Japanese guard room.

8. Later the same day, Private Merritt was marched out of the camp by a Japanese officer and two guards and then shot and bayoneted to death.<sup>4</sup> There had been no formal inquiry or trial. Consistent with the accounts of surviving POWs, a Japanese officer, Major Sotomatsu Chida, later provided an account which confirmed that Private Merritt had been taken from the camp in February or March 1945 and killed.<sup>5</sup>

9. The Tribunal is satisfied that the POW eyewitness accounts and that of Major Chida of the circumstances of Private Merritt's death are authoritative. The Tribunal formed the view that the original Japanese report was likely to have been produced to justify the murder and that it cannot be considered reliable.

### **Tribunal findings**

10. The Tribunal finds that Private Merritt's departure from the camp was temporary, that he returned to the camp of his own accord and then declared his presence to the Japanese. The Tribunal finds, based on the available evidence, that Private Merritt did not attempt to escape from captivity as a Prisoner of War. Consequently, the Tribunal finds that he is not eligible for consideration for medallic recognition under the Terms of Reference of this Inquiry.

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<sup>3</sup> Major Williams' reports re PWIB Tokyo. NAA: MP742/1 336/1/116.

<sup>4</sup> War Crimes Questionnaire Forms completed by British Personnel in Far East, pp 66, 68, 70, 72-73. See also Statement by Private L.W. Brooks NX 54690. AWM54 1010/4/21.

<sup>5</sup> Statement by Sotomatsu Chida, p.2. UK TNA WO325/693.



**NX78229 CORPORAL KENNETH CLIFTON MOLDE**  
**(also known as NX44987 LEIGH KEVIN DAWSON)**  
**NX34384 GUNNER ERIC JOHN FULLER**

**What has led to the consideration of Corporal Molde and Gunner Fuller by this Inquiry?**

1. In a submission to the Valour Inquiry<sup>1</sup> Dr Kevin Smith OAM sought recognition for 28 individuals, who were Prisoners of War and were said to have been either killed during escape or following recapture. Corporal Kenneth Clifton Molde and Gunner Eric John Fuller were two of the individuals brought forward for consideration.

**Corporal Molde and Gunner Fuller's service, capture and imprisonment**

2. Kenneth Clifton Molde enlisted at Paddington, NSW on 17 September 1941. On 15 October 1941, he went missing and was declared a 'Deserter' on 18 November 1941. Molde next enlisted under the alias Leigh Kevin Dawson on 12 December 1941 at Paddington. Corporal Molde embarked in Sydney bound for Batavia, but disembarked at Singapore on 26 January 1942. Corporal Molde was reported '*missing*' from 16 February 1942 (after the fall of Singapore).<sup>2</sup>

3. On 26 March 1943 Corporal Molde's service record was noted 'now reported POW interned Borneo Camp'. Corporal Molde's service record contains the 'Changi Copy' which shows that his service record was noted on 1 April 1942 and stamped '*missing*', and then on 29 August 1943, his record was stamped '*Prisoner of War Borneo*'. This service record was further annotated on 27 May 1946 by Army Headquarters '*By Stat Dec assumed name of Molde: Kenneth Clifton Auth DWGS 27634 of 27 May 1946.*'

4. The 'Changi Copy' of the service record which is headed 'Dawson LK NX78229' has noted as at 27 April 1942 that Corporal Molde rejoined his unit from Australian General Hospital (AGH) (Comp Frac R/Humorous (sic)).<sup>3</sup> Corporal Molde's service record also shows that on 8 July 1942, he joined B Force from Changi. B Force left Singapore on 8 July 1942 and after a nine day journey in poor conditions disembarked at Sandakan.<sup>4</sup>

5. Eric John Fuller enlisted at West Maitland on 3 June 1940. He was posted to the 2/15<sup>th</sup> Field Regiment. He embarked for overseas service on 29 July 1941 and disembarked in Singapore on 15 August 1941.<sup>5</sup> After a period of training in Singapore, the 2/15<sup>th</sup> saw action in the Malay Campaign after the Japanese invasion of Malaya. The 2/15<sup>th</sup> eventually withdrew to Singapore, where surviving members of the Regiment were captured after the

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<sup>1</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>2</sup> Service Record, K.C. Molde. NAA: B883, NX78229.

<sup>3</sup> Service Record, K.C. Molde. NAA: B883, NX78229.

<sup>4</sup> Website: Australian War Memorial, General Information About Australian Prisoners of the Japanese, [www.awm.gov.au/articles/encyclopedia/pow/general\\_info](http://www.awm.gov.au/articles/encyclopedia/pow/general_info). (accessed 2 August 2017).

<sup>5</sup> Service Record, E.J. Fuller. NAA: B883, NX34384.

fall of Singapore on 15 February 1942. On 29 March 1943, Gunner Fuller's service record was stamped '*Prisoner of War – Borneo*'.<sup>6</sup>

6. The Tribunal accepts that both Corporal Molde and Gunner Fuller were Prisoners of War.

### **Evidence of escape**

7. Neither Corporal Molde, nor Gunner Fuller's service record disclose any information relating to an escape.

8. In his submission to the Valour Inquiry,<sup>7</sup> Dr Smith coupled Corporal Molde and Gunner Fuller and stated that '*these two men died in March or April 1945 in the care of natives at Kampong (Village) Kemansi following their escape from the first march at Ranau*'.

9. In Dr Smith's book *Borneo, Australia's Proud But Tragic Heritage*, he stated that the participants in 'The First March to Ranau' were divided into nine groups. Dr Smith believed that Corporal Molde and Gunner Fuller were part of the seventh group of 55 Australian prisoners led by Warrant Officer Kinder (RAAF). This group included one of the few survivors of the Sandakan Death Marches, Lance Bombardier Bill Moxham. Lieutenant Sugimura Shinichi was in charge with 40-43 guards. This group departed Sandakan on 4 February 1945. Dr Smith wrote:

'Moxham reported after the war that one man of the group took ill at the 23-mile and was sent back to the camp. This group caught up briefly with the sixth group at the Kolapis River but thereafter slowed considerably. When the group reached Bauto two Australians were left behind, Pte LK Dawson (KC Molde) of the 2/30 Bn and Gnr Eric Fuller (2/15 Fd Regt). They met Roberts and Beardshaw [Englishmen] of the previous group and decided to make a break for it. Dawson [Molde] was shot in the left elbow as they fled.'<sup>8</sup>

10. At the hearing on 14 December 2016, Dr Smith told the Tribunal that Corporal Molde and Gunner Fuller were unable to go on and were stood aside at Bauto to be dealt with by the Japanese party who dealt with those who could not keep going. He said that somehow, they regained sufficient strength to escape with two British officers.

11. Ms Lynette Silver's book *Sandakan: A Conspiracy of Silence*, provides very similar information. Ms Silver described the 'marches' as defined by their 'groups' within which the men were contained. The information for this part of Ms Silver's narrative was, she recorded, obtained from Lance Bombardier Moxham. Ms Silver wrote '*The four had left the march on 14 February, having no desire to meet the same fate as ten of their companions, who had dropped out with exhaustion and been murdered*'.<sup>9</sup>

12. Based on this evidence, the Tribunal is reasonably satisfied that Corporal Molde and Gunner Fuller escaped from their Japanese guards.

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<sup>6</sup> Service Record, E.J. Fuller. NAA: B883, NX34384.

<sup>7</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>8</sup> Kevin Smith, *Borneo: Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale, 1999, pp. 127-129.

<sup>9</sup> Lynette Ramsay Silver, *Sandakan: A Conspiracy of Silence*, Sally Milner Publishing, Binda NSW, 2000, p.262.

## **Nexus between escape and death**

13. Dr Smith continued that: '*Close to death the four were found near Telupid by Hussin bin Ulan and taken into the protection of Orang Tua Onchi of Kampong Kemansi.*' Further on, Dr Smith provided more detail relating to Corporal Molde and Gunner Fuller.<sup>10</sup> The story was told by Jamis Hussin, the young son of Hussin bin Ulan, who was present when the men were found by his father on the evening of the 17 February. Dr Smith reported that Jamis Hussin told him that when the men were found they were very thin, very weak, and were starving. The men were moved to a safe spot at the small kampong of Kemansi. The people of Kemansi shared in protecting the four and giving them food. Each of the escapers gradually faded away from dysentery, beri-beri and utter weakness.

14. In his book *Escapes and Incursions* Dr Smith provided the same information relating to Corporal Molde and Gunner Fuller as he included in his earlier book.<sup>11</sup>

15. According to Ms Silver, Jamis Hussin reported that Corporal Molde died in late March or early April, and Gunner Fuller, five days later. They were all laid to rest by the people of Kemansi. Their bodies were later recovered by 1 Australian War Graves Unit and re-buried at Labuan.<sup>12</sup>

16. Ms Silver further stated that '*the villagers did all they could with their limited resources, but Roberts died in early March, Molde at the end of the month, Fuller five days later and Beardshaw in May.*'<sup>13</sup> Ms Silver's assessment is consistent with the information included on Dawson's grave registration card: *Died of illness whilst POW – Physical Exhaustion – Malaria.*<sup>14</sup> Also, Corporal Molde's service record has a hand written notation dated 7 October 1945 '*now died of disease whilst POW Borneo-physical exhaustion*'. The date of death is shown as 14 February 1945.

## **Tribunal consideration as to nexus between death and the escape**

17. The available evidence is to the effect that Corporal Molde, Gunner Fuller, and two others were taken in and cared for by the people of the small Kampong Kemansi. They all gradually succumbed to illness and died there.

18. The Tribunal is reasonably satisfied that, following their escape from Japanese forces on the first march to Ranau in March/April 1945, Corporal Molde and Gunner Fuller passed away due to illness.

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<sup>10</sup> Smith, *Borneo, Australia's Proud but Tragic Heritage*, pp. 252-253.

<sup>11</sup> Kevin Smith, *Escapes and Incursions Sabah 1942-45*, KR & H Smith, Armidale, 2006, pp. 126-7 & p. 151.

<sup>12</sup> Silver, *A Conspiracy of Silence*, p. 262.

<sup>13</sup> Silver, *A Conspiracy of Silence*, pp. 203, 262 & 289.

<sup>14</sup> Grave Registration Card, Molde, Kenneth Clifton. NAA: A8234, 50 Labuan War Cemetery.

### **Tribunal finding**

19. While it is reasonably satisfied that Corporal Molde and Gunner Fuller escaped from the Japanese, and died following that escape, the Tribunal finds that there is insufficient evidence of them having been killed as a consequence of that escape. For this reason, the Tribunal finds that Corporal Molde and Gunner Fuller cannot be considered for medallic recognition under the Terms of Reference of this Inquiry.

## TX3629 PRIVATE PERCY CHARLES NORRIS

### **What has led to the consideration of Private Norris by this Inquiry?**

1. In a submission to the Inquiry, Mrs Dianne Cowling, representing 2/29<sup>th</sup> Battalion Association, requested recognition for Private Percy Charles Norris, who was a Prisoner of War and said to have been executed by the Japanese following his recapture outside of a POW camp.

### **Private Norris' service, capture and imprisonment**

2. Private Norris enlisted on 26 June 1940 and was a member of 2/40<sup>th</sup> Battalion, AIF. As a member of Sparrow Force, he was dispatched to the defence of Dutch Timor, arriving in Usapa Besar, not far from the capital Koepang, in December 1941.

3. The main purpose of Sparrow Force was the protection of the airfield at Penfoei. With overwhelming Japanese air superiority, the RAAF had earlier decided to withdraw their aircraft and ground crews to Darwin, leaving stores and facilities to be destroyed by Australian engineers. This task completed, a fighting withdrawal was conducted towards Tjamplong where the commander of Sparrow Force, Brigadier W.C.D. Veale, had established his headquarters. A full withdrawal from Keopang-Penfoei commenced 19 February 1942.

4. Private Norris was a member of 4 Platoon (Carriers), Headquarters Company. During the fighting withdrawal, this platoon performed a number of tasks associated with the provision of light armoured mobility.

5. At the height of the fighting it became clear that Tjamplong could not be held and a decision was made to move further inland to Soe.<sup>1</sup> In the meantime, a number of Australians remained at Tjamplong along with a number of carriers to provide mobility and conduct reconnaissance.<sup>2</sup> The Tribunal was unable to determine Private Norris' whereabouts during the fighting or the withdrawal. Several members of the carrier platoon withdrew from Tjamplong and either joined 2/2<sup>nd</sup> Independent Company or were captured close to the border with Portuguese Timor. Many others avoided capture and were recorded as missing presumed dead.<sup>3</sup>

6. Father Bot, a Roman Catholic priest, stated that in April 1942, four Australian soldiers arrived at his house at Besikama, near Atemboea, where he was parish priest. He gave them food and shelter and they lived at Besikama, until they learned that the Japanese were coming to the town. Three of the soldiers left and hid in the bush. The fourth, Private Norris, who

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<sup>1</sup> Peter Henning, *Doomed Battalion: Mateship and Leadership in War and Captivity: the Australian 2/40 Battalion 1940-45*, Allen & Unwin, Sydney, 1995, p. 137.

<sup>2</sup> Henning, *Doomed Battalion*, pp. 149-151.

<sup>3</sup> Ian Skennerton, 2/40<sup>th</sup> Infantry Battalion Nominal Roll. <http://www.sparrowforce.com/2-40th%20posting-unit.pdf>. (accessed 2 August 2017).

was too ill to join them, was taken captive. Shortly afterwards his three companions also surrendered to the Japanese at Besikama.<sup>4</sup>

7. The Tribunal accepts that Private Norris became a Prisoner of War when apprehended at Besikama.

### **Evidence of escape**

8. At the hearing, Mrs Cowling was unable to provide any additional information beyond the reference material provided to the Tribunal with her submission.

9. Following his apprehension at Besikama, Private Norris was put into a truck with Father Bot for transfer to the POW camp at Usapa Besar. However, before leaving Besikama, Private Norris was moved to the last truck and Father Bot did not see him again. Shortly after Father Bot arrived at the POW camp, he asked the other three Australians if Private Norris had arrived. However they had not seen him after leaving Besikama.

10. Father Bot later learned from Father Van Der Hogen that Private Norris had been killed by the Japanese at Seon.<sup>5</sup>

11. Post-war, Private Norris' remains were recovered at Seon, 35 kilometres from Atemboea on the Ileolik-Tabaki road. His date of death was recorded as 6 May 1942. The cause of death was listed as illness.<sup>6</sup> The service record for Private Norris confirms the date of death and also states the cause was 'disease'.<sup>7</sup>

12. Private Norris is not mentioned by name in any other archival material located by the Tribunal. However, in war crimes trial documentation relating to Japanese Ensign Miyamoto Ipachi, there is an account of the murder of 'an Australia prisoner of war' in Timor, near Besikama in or about April 1942.

13. Although Private Norris is not named, being described simply as a 'prisoner of war', an analysis of the Case for the Prosecution (a summation of facts) reveals a scenario identical to that described by Father Bot, referred to at the trial as 'a priest of the church'.

14. In summary, the Prosecution, after establishing that a search was being undertaken by the Japanese in the Besikama area, stated that a convoy of five trucks had stopped for the night in a building connected to the Roman Catholic Church. The next morning, when a search was conducted of the area, an Australian soldier was discovered hiding in a native hut. He was dressed in khaki shorts, boots and a shirt with Australian shoulder badges.

15. The priest, who was also detained, was confined to one room and the Australian in another. The soldier, who appeared to have been wandering about for a considerable time, was ill and weak with malaria. When the Japanese set out on their return journey to Koepang, the Australian was placed in the rear truck. The priest was in the first truck. After travelling

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<sup>4</sup> Report of interview with Father Bot. AWM54, 1010/9/62.

<sup>5</sup> Report of interview with Father Bot. AWM54, 1010/9/62.

<sup>6</sup> War Grave Record Card, NORRIS Percy Charles. NAA: A8234, 40 NORRIS PERCY CHARLES.

<sup>7</sup> Service Record, P.C. Norris. NAA: B883, TX3629.

for about an hour, the convoy stopped and an order was given by Miyamoto to kill the Australian prisoner.

16. Two guards escorted the Australian from the truck and marched him about ten yards into the jungle where they blindfolded him. Taking aim from about six feet away, Miyamoto's second in command, Sasaki Takeshi, shot the Australian in the centre of his forehead. The convoy then continued on its way to Koepang.<sup>8</sup>

17. There is no evidence to suggest that Private Norris made any escape attempt during the journey from Besikama to Usapa Besar. It appears that he was simply taken from the truck and killed en route.

### **Conclusion as to escape**

18. The Tribunal finds that there is no evidence that Private Norris escaped from captivity.

### **Evidence of Private Norris being killed as a consequence of escaping**

19. At his war crimes trial, Miyamoto gave further information about the death of the 'Australian prisoner'. Miyamoto argued that he had decided that the prisoner was too sick to travel and that he had radioed his commander for instructions. He stated that he received orders to kill the prisoner and these were carried out by his co-accused.

20. According to author Grant McLachlan, Private Norris died of illness at Haliloelik on 6 April 1942.<sup>9</sup> This is also noted in author Ian Skennerton's Nominal Roll.<sup>10</sup> This town, now known as Halilulik, is located very close to the border with Timor Leste and on one of the routes likely to have been taken by the Japanese on their return to Koepang. The date coincides with all other accounts. Aside from his service record, the only other document that records Private Norris' death as a result of illness is Skennerton's list, and this may have been McLachlan's source.

21. Skennerton's list is believed to have been drawn up by Captain Maddern, the 2/40<sup>th</sup> Adjutant, who would have been responsible for maintaining such records. He is likely to have sourced his information from other POWs and, in the case of Private Norris, presumably from the three Australians captured at Besikama in April by Miyamoto and returned to Usapa Besar. According to Mr Henning, they stated that they did not know what happened to Private Norris who, according to them, was very sick – too sick to be moved when they first learned of the Japanese approach.

22. There is no evidence that suggests Private Norris was killed as a consequence of escaping.

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<sup>8</sup> The Case for the Prosecution [a summation of facts]. NAA: A471, 81963.

<sup>9</sup> Grant McLachlan, *Sparrow: A Chronicle of Defiance*, Klaut, New Zealand, 2012, p. 691.

<sup>10</sup> Skennerton, 2/40 Infantry Battalion Nominal Roll <http://www.sparrowforce.com/2-40th%20posting-unit.pdf>.

### **Conclusion as nexus between death and the ‘escape’**

23. The evidence shows that Private Norris avoided capture when the bulk of Sparrow Force surrendered to the Japanese on 23 February 1942. Unfortunately, he was too ill to avoid capture when he was taken captive by the Japanese in April 1942. From evidence presented at the war crimes trial of Ensign Miyamoto, the Tribunal accepts that Private Norris was probably summarily executed by Japanese en route to Koepang.

### **Tribunal Finding**

24. The Tribunal finds that Private Norris is not a person who can be considered for medallic recognition under the Terms of Reference of the Inquiry.



VX29537 LANCE CORPORAL RAYMOND STANLEY NUGENT  
VX27624 PRIVATE GEORGE DICKENSON  
VX37492 PRIVATE HARRY DESMOND HARVEY

**What has led to the consideration of Lance Corporal Nugent, Private Dickenson and Private Harvey by this Inquiry?**

1. Lance Corporal Nugent and Privates Dickenson and Harvey are amongst the cases brought forward for consideration by Mrs Dianne Cowling on behalf of the 2/29<sup>th</sup> Battalion Association.

**The Soldiers' service**

2. Lance Corporal Nugent enlisted on 24 June 1940 while Private Dickenson did so on 9 June 1940, and Private Harvey, on 15 July 1940.<sup>1</sup> They later became members of 2/22<sup>nd</sup> Infantry Battalion, which was part of 'Lark Force' deployed in defence of Rabaul in New Britain prior to the Japanese invasion in January 1942.

3. The defence of Rabaul was short-lived following the initial Japanese assault in overwhelming strength on 23 January 1942. Elements of 2/22<sup>nd</sup> Battalion withdrew to the north coast of New Britain. Most in these formations were captured in the course of mopping-up operations by the Japanese during February 1942. This appears to have included all three soldiers, who were later taken to the makeshift POW camp at Malaguna Road.

4. In his Army records, Private Dickenson is recorded as '*Missing, Believed POW*' on 25 January 1942. He was later recorded as '*Reported P of War 28/4/42*'. On 19 October 1945 he was recorded as '*Became MSG 1-7-42. For official purposes pres. Dead on board Montevideo Maru*'. Private Harvey and Lance Corporal Nugent's records differ only in minor details, Nugent's entry as to his fate in the *Montevideo Maru* being made on 13 October 1945.<sup>2</sup>

5. The Tribunal accepts that Lance Corporal Nugent, Private Dickenson and Private Harvey were Prisoners of War.

**The Soldiers' fate**

6. All three soldiers appear to have been part of a draft of 849 military prisoners and some 209 civilians who were embarked in the Japanese auxiliary *Montevideo Maru*. This ship sailed from Rabaul on 22 June 1942, bound for Japan. She was intercepted by the American submarine *Sturgeon* off the north coast of Luzon in the Philippines on 30 June

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<sup>1</sup> Service Records : R.S. Nugent. NAA : B883, VX29537 ; G. Dickenson. NAA: B883, VX27624 ; H.D. Harvey, NAA: B883, VX 37492.

<sup>2</sup> Service Records : R.S. Nugent. NAA : B883, VX29537 ; G. Dickenson. NAA: B883, VX27624 ; H.D. Harvey, NAA: B883, VX 37492.

1942. The *Sturgeon* monitored the *Montevideo Maru*'s movements for some hours before, at dawn on 1 July, firing four torpedoes.

7. The ship sank within 11 minutes. There were no Allied survivors and only 20 Japanese survivors.

### **Evidence of capture and escape**

8. All three soldiers were members of 2/22<sup>nd</sup> Battalion. The evidence is that they were captured on the north coast of New Britain during the last two weeks of February 1942. Their inclusion in the party embarked in the *Montevideo Maru* was confirmed in 1945 by research in Japan conducted by Major H.S. Williams. Although the original translation of the Japanese list of those lost with the ship which Major Williams obtained and sent to Australia has been mislaid, sufficient derivative material remains in the Australian Archives to confirm that all three soldiers were onboard and would have been lost with the ship. This assessment has been confirmed by a list released by the Japanese Government in 2012, which also includes the names of Lance Corporal Nugent and Privates Dickenson and Harvey.<sup>3</sup>

9. There is no evidence available to the Tribunal to suggest that any of the three soldiers may have attempted to escape after their initial capture. The evidence which relates to their death indicates that all three soldiers were lost when the *Montevideo Maru* was torpedoed and sunk.

### **Ms Cowling's claims**

10. The submission to this Inquiry which put forward the names of these soldiers identified them as members of a party which escaped from Pudu Gaol in Kuala Lumpur in Malaya in August 1942.<sup>4</sup> All in this group were recaptured and executed in September 1942. The Tribunal examined the evidence relating to this incident and determined that the submission was a case of confusing the identity of individuals.

11. The escape from Pudu Gaol involved eight men, only one of whom was a member of the Australian Imperial Force. The eight were:

- VX34637 SGT Joseph Kenneth Bell, Australian Imperial Force, 4<sup>th</sup> Anti-Tank Regiment.
- 225884 LT Ronald Graham, Federated Malay States Volunteer Force.
- 68285 2LT William Percy Harvey, Federated Malay States Volunteer Force.
- 28000 LT Frank Campbell Vanrenen, Federated Malay States Volunteer Force.
- 178 CAPT Giffard Douglas MacDonald, Kedah Volunteer Force.
- IA/1081 CAPT David Richard Nugent, 2/18th Royal Garhwal Rifles.

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<sup>3</sup> The Australian National Archives has made extensive material available to the public. See: 'The Sinking of the *Montevideo Maru*' – Fact Sheet 266. <http://www.naa.gov.au/collection/fact-sheets/fs266.aspx>; and the NAA website on the sinking: <http://montevideomaru.naa.gov.au/>. (sites accessed 2 August 2017)

<sup>4</sup> Russell Braddon, *The Naked Island*, Doubleday, New York, 1953, pp. 149-154. See also statements by former Prisoners of War in NAA: MP742, 1/336/1/198.

- EC1888 CAPT Bernard Cunningham Hancock, 2nd King Edward VII's Own Gurkha Rifles (The Sirmoor Rifles).
- An unknown Dutch Air Force member, believed to be a Flight Sergeant in rank.

12. All six of the personnel who were members of British or colonial units were awarded posthumous Mentions in Despatches.<sup>5</sup> Sergeant Joseph Kenneth Bell of the AIF was awarded a posthumous Commendation for Gallantry on the recommendation of the 2009 Inquiry by the Tribunal into Far Eastern Prisoners of War.

13. The confusion appears to arise from the coincidence of the names Harvey and Nugent with two of the Australian soldiers who died in the sinking of the *Montevideo Maru*. Both names are mentioned in the diary of Private Alexander Drummond who was also in Pudu Goal, but their nationality and service are not given in the text.<sup>6</sup>

14. The Tribunal is satisfied that there is no connection between Lance Corporal Nugent, Private Dickenson, or Private Harvey with the escapees from Pudu Goal in August 1942.

### **Tribunal findings**

15. The Tribunal finds that there is no evidence of Lance Corporal Nugent, Private Dickenson or Private Harvey having attempted to escape after their capture by the Imperial Japanese Army some time in February 1942.

16. The Tribunal finds that there is no evidence of Lance Corporal Nugent, Private Dickenson or Private Harvey having been killed as a consequence of any attempt to escape.

17. For these reasons the Tribunal finds that Lance Corporal Nugent, Private Dickenson and Private Harvey are not persons that can be considered for medallic recognition under the Terms of Reference for this Inquiry.

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<sup>5</sup> *The London Gazette* No. 37808 dated 5 December 1946.

<sup>6</sup> Private Alexander Hatton Drummond, VX 52775, Diary entries for September 1942. Library of Victoria: MS 13716, 'Papers, 1914-2001 [manuscript] Alexander Hatton Drummond 1911-1983'.

## **QX13768 SERGEANT RONALD JAMES O'DONNELL**

### **What has led to the consideration of Sergeant O'Donnell by this Inquiry?**

1. Sergeant Ronald James O'Donnell was identified by the Department of Defence as a person who may fall within the Inquiry Terms of Reference.

### **Sergeant O'Donnell's service**

2. Ronald James O'Donnell enlisted on 2 July 1940, at Kelvin Grove, Queensland. After basic training, he joined 2/10<sup>th</sup> Field Regiment and undertook unit training. He embarked for overseas with his unit and arrived in Singapore on February 1941.<sup>1</sup>

3. 2/10<sup>th</sup> Field Regiment deployed to the east coast of Malaya at the start of the Japanese invasion. It later saw action against the Japanese around the Mersing-Endua Road. After being withdrawn to Singapore the Field Regiment conducted further operations against the Japanese assault on the island. Its survivors went into captivity after the surrender of Singapore on 15 February 1942 and were concentrated at Seralang Barracks.

4. Sergeant O'Donnell appears to have gone with his unit when the concentration of Allied forces was ordered at Changi in the wake of the surrender. Sergeant O'Donnell was amongst a group of 3000 Australians, largely from 22<sup>nd</sup> Brigade, to which 2/10<sup>th</sup> Field Regiment was attached, transferred to Burma in May 1942 as 'A Force'.<sup>2</sup>

5. The Tribunal accepts that Sergeant O'Donnell was a Prisoner of War.

### **Sergeant O'Donnell's fate**

6. After a period spent repairing airstrips, A Force was employed on building a railway from Burma to Thailand. The work was gruelling, the conditions appalling and the treatment of the POWs by their guards, extremely harsh. By December 1942, Sergeant O'Donnell was amongst those accommodated at a camp at the 18 kilometre point from the start of the railway.

7. His service record shows Sergeant O'Donnell as 'shot by Japanese guard' on 26 December 1942 at 'Thai camp'.<sup>3</sup>

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<sup>1</sup> Service Record, W.F. O'Donnell. NAA: B883, QX13768.

<sup>2</sup> Service Record, W.F. O'Donnell. NAA: B883, QX13768.

<sup>3</sup> Service Record, W.F. O'Donnell. NAA: B883, QX13768.

## **Evidence of escape**

8. There is no information relating to any escape attempt in Sergeant O'Donnell's service record or any other official documents.

9. On or about 26 December 1942, Sergeant O'Donnell was part of a work party in the charge of a single guard who already had a reputation with the prisoners for violence, especially with younger POWs. The testimony, both near-contemporaneous and more recent, is in parts confused, but the weight of evidence is that Sergeant O'Donnell sought permission to move away from the rest of the party to relieve himself, taking his shovel with him. He was wearing only shorts and had no other equipment or food with him, although he had had a small illicit supply of food at the camp. He was followed by the guard. The remainder of the group, without both Sergeant O'Donnell and the guard, soon afterwards returned to the camp having completed their work for the day. A number of shots were then heard and the guard shortly afterwards appeared in the camp 'in a panic'. A search quickly found Sergeant O'Donnell's body. He had been shot three times in the chest and from close range. Given that he was wearing only shorts and had no other equipment or food with him, the POWs and their commander, Lieutenant Colonel Anderson, did not believe that Sergeant O'Donnell could have been attempting to escape. The nature of his wounds, it was considered, only confirmed that the guard had murdered him, since Sergeant O'Donnell could not have been running away when the shots were fired into his chest.<sup>4</sup>

## **Conclusion as to escape**

10. There was no evidence, other than the assertion of the guard, that Sergeant O'Donnell was attempting escape. The more reliable evidence, especially given that that Sergeant O'Donnell sought permission to leave the work party, with his shovel, was that he was going to the latrine. Further, he was poorly clothed and without his cache of food, which suggests he may have contemplated escape at some stage, but did not embark upon that undertaking at the relevant time.

11. The Tribunal cannot be reasonably satisfied that there is sufficient evidence to find that Sergeant O'Donnell attempted to escape from captivity as a prisoner of war.

## **Nexus between death and the escape**

12. The Tribunal is reasonably satisfied that Sergeant O'Donnell died as a result of being shot by a Japanese guard. However, the circumstances of his death suggest that the guard was not attempting to prevent Sergeant O'Donnell's escape but had some other, possibly personal, motivation.

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<sup>4</sup> Statement Concerning Casualties: QX13768 SGT O'Donnell 2/10 Fd Regt, pp. 316-318. NAA: B3586. 144/1/164 Part 2. See also: Denny Neave & Craig Smith, *Aussie Soldier: Prisoners of War*, Big Sky Publishing, Wavell Heights, 2009, pp. 162 & 174.

**Tribunal finding**

13. For this reason, the Tribunal finds that Sergeant Ronald James O'Donnell is not a person who can be considered for medallic recognition under the Terms of Reference for this Inquiry.

## VX3629 LANCE CORPORAL BYRON PATTISON

### What has led to the consideration of Lance Corporal Pattison by this Inquiry?

1. In a submission to the Inquiry, Mrs Dianne Cowling on behalf of the 2/29<sup>th</sup> Battalion Association requested recognition for Lance Corporal Byron Pattison, citing mentions in Mr Peter Henning's book *Doomed Battalion, Mateship and Leadership in War and Captivity, The Australian 2/40 Battalion 1940-45*.

### Lance Corporal Pattison's service, capture and imprisonment

2. Lance Corporal Pattison enlisted on 11 June 1940 and was a member of 8<sup>th</sup> Division Signals attached to Sparrow Force, deployed to defend Dutch Timor. The force arrived at Usapa Besa, near the capital Koepang, in December 1941.<sup>1</sup>

3. Lance Corporal Pattison and two other signallers from Sparrow Force, Private Joe Grant and Private Jim Bock, were dispatched to Semau (Semaue) Island, just south of Koepang Bay, where they established an observation post.<sup>2</sup>

4. On 23 February 1942, the bulk of Sparrow Force surrendered to the Japanese. Lance Corporal Pattison, being on Semau Island, was not among those surrendered. A war crimes investigation established that he had made his way to Roti Island where he was captured by the Japanese.<sup>3</sup>

5. Using war crimes investigation files held in Melbourne archives,<sup>4</sup> Mr Henning reconstructed Lance Corporal Pattison's movements from Semau Island to Roti Island:

After the surrender of Sparrow Force at Aikon and after the Japanese gained control of Dutch Timor, the three Australians on Semau Island, as well as a number of Dutchmen, were sheltered by local people for several months. At some time, probably in April, after a sweep by police loyal to the Japanese, Bock and Grant decided to move to a cave near a village where they had been hiding, while Pattison and five Dutchmen decided to go to Roti Island.<sup>5</sup>

6. Shortly after their arrival on Roti Island, their presence was reported to Japanese officials by locals and a patrol was despatched from Timor to arrest and return them to the mainland. A member of that Japanese patrol, Suzuki Shinnosuke, testified in a sworn statement that he recalled:

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<sup>1</sup> Lionel Wigmore, *The Japanese Thrust, The Official History of Australia in the War of 1939-1945, Series 1, Volume IV*, Australian War Memorial, Canberra, 1957, pp. 466, 468 and 483.

<sup>2</sup> Peter Henning, *Doomed Battalion: Mateship and Leadership in War and Captivity, The Australian 2/40 Battalion 1940-45*. Allen & Unwin, Sydney, 1995, p. 111.

<sup>3</sup> Report by Commander Timor Force, 26/10/45. AWM 54, 1010/9/62.

<sup>4</sup> NAA: MP742/1, 336/1/1724. NAA: B3856, 145/4/328.

<sup>5</sup> Henning, *Doomed Battalion*, p.197.

... six prisoners were apprehended. The governor of the island and his wife, a missionary and his wife, and two Australians....<sup>6</sup>

7. The Tribunal accepts that Lance Corporal Pattison was a Prisoner of War following his apprehension on Roti Island.

### **Evidence of escape**

8. Shinnosuke wrote further:

The governor and his wife and the missionary and his wife were on board the vessel on which I returned to Koepang, but not the two soldiers. I suppose they were on the [other] vessel because I later heard at Koepang that they were executed together with the governor and the missionary.<sup>7</sup>

9. A War Crimes Tribunal at the trial of the adjutant, Hiroshi Ito and 15 others was conducted after the War into the execution of a number of Australians in Timor in 1942. The prosecution established that there were two groups of executions: one of POWs captured at Babao, the other of POWs and civilian personnel from the Koepang area and Roti Island and two airmen.<sup>8</sup> Two Australians, along with the Dutch administrator and the missionary from Roti Island were nominated by the Japanese as being among the group executed in May 1942.<sup>9</sup> The prisoners were driven along the coast to a lonely site near Boak, three to four kilometres east of Koepang jetty, where they were either bayoneted to death or beheaded.<sup>10</sup>

11. At the hearing, Mrs Cowling was unable to provide any additional information beyond the reference material provided to the Tribunal with her submission.

12. The Tribunal found no evidence that Lance Corporal Pattison escaped from captivity, following his apprehension on Roti Island.

### **Conclusion as nexus between death and the ‘escape’**

13. The evidence shows that Lance Corporal Pattison avoided capture when the bulk of Sparrow Force surrendered to the Japanese on 23 February 1942, because of his location manning an observation post on Semaui Island. Unfortunately, following his relocation to Roti Island, Lance Corporal Pattison was captured by a Japanese patrol and taken to Koepang and executed with a group of civilians and Allied personnel. There is no evidence to suggest that after his capture, Lance Corporal Pattison escaped and was, as a result, executed.

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<sup>6</sup> Suzuki statement p.2. NAA: A471, 81958 Part A.

<sup>7</sup> Suzuki statement. NAA: A471, 81958 Part A.

<sup>8</sup> Closing address by the Defence. NAA: A471, 81958 Part B.

<sup>9</sup> Statement by Prosecution, sheet 43. NAA: A471, 81958 Part A.

<sup>10</sup> Okazawa statement, pp.1-2. NAA: A471 81958 Part B.



### **Tribunal findings**

14. As there is no evidence that suggests Lance Corporal Pattison escaped, or was killed as a consequence of escaping, the Tribunal finds that he is not a person who can be considered for medallic recognition under the Terms of Reference of this Inquiry.

## NX57952 PRIVATE GORDON RADNEDGE

### What has led to the consideration of Private Radnedge by this Inquiry?

1. In a submission to the Valour Inquiry, Dr Kevin Smith OAM sought recognition for 28 individuals, who were Prisoners of War and were said to have been either killed during escape or following recapture. Private Gordon Radnedge is one of the names brought forward for consideration.<sup>1</sup>

### Private Radnedge's service, capture and imprisonment

2. Gordon Radnedge enlisted with the Australian Military Forces (AMF) at Paddington NSW on 4 June 1941. On 3 December 1941, he was discharged from the AMF, enlisting in the Australian Imperial Force on the same day. He left Sydney on 10 January 1942, arriving in Singapore via Batavia on 26 January 1942.<sup>2</sup>

3. After the fall of Singapore on 15 February 1942, all Allied servicemen were marched to Selerang barracks (known as the first Changi prison). These barracks soon became a huge base camp, through which thousands of Allied prisoners transited on the way from their place of capture to work sites elsewhere in Singapore and Asia. Although Private Radnedge's service record does not have a 'Changi record' included, it is probable that he was marched there with the other members of his unit.

4. Private Radnedge arrived in Sandakan with B Force.<sup>3</sup> B Force is known to have left Singapore on 8 July 1942 and after a nine day journey in poor conditions disembarked at Sandakan.<sup>4</sup> On 9 April 1943, Private Radnedge's service record was stamped '*Prisoner of War – Borneo*'.<sup>5</sup>

5. The Tribunal accepts that Private Radnedge was a Prisoner of War.

### Evidence of escape

6. Private Radnedge's service record contains no information of an escape.

7. Initially Private Radnedge's date of death was recorded as 19 August 1944 on the basis of the entry on the notorious "Jap Roll".<sup>6</sup> Private Radnedge's Japanese death certificate, prepared by Yamamoto Koji (who signed all death certificates in Sandakan, and whose

<sup>1</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>2</sup> Service Record, G. Radnedge. NAA: B884, NX57952.

<sup>3</sup> Entry for Radnedge, B Force Roll. NAA: B3856 144/1/372 part 4.

<sup>4</sup> Website: Australian War Memorial, General Information about Australian Prisoners of the Japanese, [www.awm.gov.au/articles/encyclopedia/pow/general\\_info](http://www.awm.gov.au/articles/encyclopedia/pow/general_info).

<sup>5</sup> Service Record, G. Radnedge, NAA: B884, NX57952.

<sup>6</sup> After the War the Japanese Kuching POW office prepared the "Jap Roll" to explain the whereabouts of POWs who were left behind in Sandakan, assigning random dates of death.

records are generally considered to be reliable), states that Private Radnedge became ill with malaria on 4 May 1945 and died on 20 June 1945.<sup>7</sup> His service record was amended to reflect this date of death. In Japanese camp records, Private Radnedge's place of death is recorded as Sandakan.<sup>8</sup>

8. In his submission to the Valour Inquiry, Dr Smith stated that Private Radnedge '*died 20/6/45 during an escape from the second (or possibly the third) march to Ranau. In his book *Borneo: Australia's Proud but Tragic Heritage*, Dr Smith stated that Private Radnedge 'was reported dead near the 23-mile on 20<sup>th</sup> June after an escape from Sandakan, or possibly from the third death march*'.<sup>9</sup>

9. At the hearing, Dr Smith said that Private Radnedge could have been on the second or third march. He said that the information that Private Radnedge escaped came from his research of two sources - the Australian War Memorial and the National Archives of Australia.

10. Post-War, remains identified as those of Private Radnedge, were recovered near Mile 23 on the Sandakan-Ranau track.<sup>10</sup> Japanese evidence provided to the war crimes trials was that there were quite a few escape attempts during the second march.<sup>11</sup> In his book, *Escapes and Incursions*, Dr Smith recorded that one of the few survivors of the Sandakan death marches, Warrant Officer William Sticpewich, reported that there were about a dozen escapes during the second march, although Warrant Officer Sticpewich did not specify Private Radnedge as a prisoner who escaped. None of the other three survivors of the second march recorded Private Radnedge as having attempted to escape.

11. Ms Silver provided information about another POW<sup>12</sup> on the second march whose remains were located at that site; the field records noted the place, date and time of death. No such field records exist for Private Radnedge. While not determinative, the Tribunal considered that such a record would likely to have been made with respect to Private Radnedge had he died at that site while on the march.

12. The second march, which left on 29 May 1945 would have reached Mile 23, the Tribunal was informed, within 5 days. If 20 June 1945 is Private Radnedge's correct date of death, he could only have reached Mile 23 if he had escaped from Sandakan and made off in the direction of Mile 23. Another explanation is that Private Radnedge may have been one of the 75 men who departed Sandakan on 9 June 1945 on a final march. Even so, that march would have reached Mile 23 by 14 June 1945, about a week before Private Radnedge's reported death. A further possible explanation may be that his remains were mis-identified.

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<sup>7</sup> Japanese Death Certificate for Radnedge. AWM127, 70 (Translations of Australian POW Death Certificate in Borneo).

<sup>8</sup> Camp Record Sandakan. NAA: B3856 144/1/372 part 4.

<sup>9</sup> Kevin Smith, *Borneo: Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale, NSW, 1999, p. 249

<sup>10</sup> Registration Card Radnedge. NAA A8234, 50 Labuan War Cemetery.

<sup>11</sup> Evidence of Captain Takakuwa and Sergeant Tsuji. NAA: MP 742/1, 336/1/606.

<sup>12</sup> NX 49469 Thomas Raymond Gentle.

### **Conclusion as to escape and death**

13. While there was some evidence that there were a number of escapes on the second march, the Tribunal found no evidence that Private Radnedge escaped while on one of the marches, or from the Sandakan camp. There is no evidence, either from locals or from the recovery team, to suggest that the remains (identified as Private Radnedge) were those of an executed POW, killed while attempting to escape, or having escaped.

14. The Tribunal finds that, on balance, the available evidence suggests that Private Radnedge died of illness at Sandakan camp.

### **Tribunal finding**

15. The Tribunal finds that there is no evidence to show that Private Radnedge escaped from either the Sandakan camp or while on one of the marches. There is also no evidence to suggest that Private Radnedge was recaptured, or killed while escaping or following recapture. For these reasons, he cannot be considered for medallic recognition under the Terms of Reference for this Inquiry.

## VX48478 DRIVER HERMAN REITHER

### What has led to the consideration of Driver Reither by this Inquiry?

1. In a submission to the Valour Inquiry, Dr Kevin Smith OAM requested recognition for 28 individuals, who were Prisoners of War and were said to have been either killed during escape or following recapture. Driver Herman Reither is one of the individuals brought forward for consideration.<sup>1</sup>

### Driver Reither's service

2. Herman Reither enlisted at Geelong on 26 July 1940, having previously served in the Citizens Military Forces for three years. Having served with 19<sup>th</sup> Reserve Motor Transport Company since enlisting, he transferred to 4<sup>th</sup> Reserve Motor Transport Company before departing Sydney with his unit, arriving in Singapore in April 1941.<sup>2</sup>

### Driver Reither's capture and imprisonment

3. After fighting in Malaya, Driver Reither moved with his unit to Singapore Island in January 1942. He was captured at the fall of Singapore on 15 February 1942, whereupon all Allied servicemen were marched to Selerang barracks (known as the first Changi prison). Although Driver Reither's service record does not have a 'Changi record' included, it is probable that he was marched there with the other members of his unit.

4. An extract of the file *AWM232 Australian Military Forces prisoners of war and missing - Far East and South West Pacific Islands, Part 1 - Alphabetical list by Theatres of War Section "A" Malaya*, (also known as the AWM Prisoner of War Rolls), shows that Driver Reither was a prisoner of war in Borneo and that the information was sourced from the International Red Cross.<sup>3</sup> Driver Reither's service record contains a sentence added on 30 August 1945 that states '*Now rep escaped from Jap Borneo, but deceased before recovery*'.<sup>4</sup>

5. The Tribunal accepts that Driver Reither was a Prisoner of War.

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<sup>1</sup> Valour Inquiry Submission 243, Dr Kevin Smith OAM.

<sup>2</sup> Service Record, H. Reither. NAA : B883, VX48478.

<sup>3</sup> *Australian Military Forces prisoners of war and missing - Far East and South West Pacific Islands, Part 1 - Alphabetical list by Theatres of War Section "A" Malaya* - page Reinhard, L.J. to Reynolds, J.L. AWM232. The Official Records series AWM232, *Records of 2nd Echelon, Land Headquarters - Australian Military Forces prisoners of war and missing, Far East and South West Pacific Islands* was created by 2nd Echelon, Land Headquarters and was transferred to the Australian War Memorial in 1952. It consists of several volumes listing the names of prisoners of war and missing as at 30 June 1944.

<sup>4</sup> Service Record, H. Reither. NAA: B883, VX48478.

## **Evidence of escape**

6. Driver Reither was sent to Sandakan in British North Borneo with B Force.<sup>5</sup> B Force left Singapore on 8 July 1942 and after a nine day journey in poor conditions disembarked at Sandakan.<sup>6</sup> Together with Warrant Officer William Sticpewich, one of the few survivors of the death marches, Driver Reither went on the second death march from Sandakan to Ranau on 29 May 1945, and reached 2 Jungle Camp (now known as the Last Camp), five miles south of Ranau village.

7. Warrant Officer Sticpewich provided a post-war statement that at about 2130 on 28 July 1945, he and Reither slipped out of the camp. They remained close to the camp and at about dusk the next day made their way towards Ranau.<sup>7</sup> He wrote that they 'laid low' the next day in the vicinity of the camp. They observed a search party commence looking for them. At dusk they made their way along the road to Ranau. They were taken in and hidden by the village chief.

## **Conclusion as to escape**

11. The Tribunal finds that there is sufficient evidence to be reasonably satisfied that Driver Reither escaped from his captors during the second march to Ranau.

## **Evidence of Driver Reither being killed as a consequence of escaping**

12. An Army signal dated 17 August 1945 stated:

...that QX9538 Sticpewich WH and VX48478 Reither H both escaped custody not in good condition when found by natives. Due to difficult terrain SRD (the Services Reconnaissance Directorate) were not able to establish direct contact for some days and then found Reither had died.<sup>8</sup>

13. In his oral evidence Dr Smith said that Amin Adihil, the son of the village chief, had told him a number of years after the War that he had observed that Driver Reither had recent bayonet wounds. Warrant Officer Sticpewich made no mention of Driver Reither's wounds. Amin Adihil had also told Dr Smith that Warrant Officer Sticpewich was badly bruised from rifle butts and was in poor health.

14. In her book *Sandakan: A Conspiracy of Silence*, Ms Silver provides an account of the escape of Warrant Officer Sticpewich and Driver Reither, adding that at some time after the escape and while they were at one of the native's houses, Driver Reither '*sustained injuries to his stomach, arms and legs*'. Ms Silver goes on to state that '*weakened by dysentery and his injuries, he [Reither] had died that day [8 August]*'.<sup>9</sup>

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<sup>5</sup> Entry for Reither, B Force Roll, NAA: B3856, 144/1/372.

<sup>6</sup> Website: Australian War Memorial, General Information About Australian Prisoners of the Japanese, [www.awm.gov.au/articles/encyclopedia/pow/general\\_info](http://www.awm.gov.au/articles/encyclopedia/pow/general_info). (accessed 2 August 2017)

<sup>7</sup> Statement by Sticpewich. AWM54, 1010/4/174.

<sup>8</sup> Army signal, 17/8/45. NAA: B3856, 144/1/372 part 1.

<sup>9</sup> Lynette Ramsay Silver, *Sandakan: A Conspiracy of Silence*, Sally Milner Publishing, Binda NSW, 2000, pp. 251-2 (see also pp. 128, 268 & 291-2).

15. In post-war articles, translated from the local dialect, the village chief stated that Driver Reither had sustained injuries to his legs – described variously as bayonet/gunshot wounds. The exhumation report of Driver Reither's remains shed no light on the assertion that gunshot or bayonet wounds may have been sustained.

16. In his post-War statement, Warrant Officer Sticpewich stated that Driver Reither died from exhaustion caused by dysentery on the morning of 8 August 1945.<sup>10</sup>

### **Conclusion as nexus between death and the escape**

17. There was no evidence before the Tribunal that Driver Reither was recaptured following his escape. Having placed considerable weight on the contemporaneous evidence provided by Warrant Office Sticpewich, the Tribunal is reasonably satisfied that following his escape from Japanese forces on the second march to Ranau in July 1945, Driver Herman Reither died from exhaustion caused by dysentery on the morning of 8 August 1945.

### **Tribunal finding**

18. The Tribunal finds that, while it is satisfied as to evidence of escape, Driver Reither was not killed while escaping or on recapture. Consequently, he cannot be considered for medallic recognition under the Terms of Reference for this Inquiry.

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<sup>10</sup> Statement by Sticpewich. AWM54, 1010/4/174.

250101 WING COMMANDER ERNEST DALLAS **SCOTT** AFC  
253 SQUADRON LEADER JACK FALLOW **ANDERSON**  
260624 FLIGHT LIEUTENANT WILLIAM VYNER DUCKETT **WHITE** DFC  
290745 FLYING OFFICER FRANCIS NORMAN **MEYER**  
261029 FLYING OFFICER HAROLD GEORGE **VEREY**  
402700 SERGEANT JAMES **BAKER**  
40622 SERGEANT ISAAC WOOD **READ**  
16645 CORPORAL FREDERICK WALTER **GASKIN**  
27521 LEADING AIRCRAFTSMAN LAURENCE DOUGLAS **WALKER**  
37304 AIRCRAFTSMAN 1 FREDERICK ARTHUR **EVANS**  
24987 AIRCRAFTSMAN 1 JOHN ALLAN **HARRIS**

**What has led to the consideration of the above individuals by way of this Inquiry?**

1. In a submission to the Inquiry, Mr Edmund Meyer requested recognition for his brother, the late Flying Officer Francis Norman Meyer, together with ten other RAAF personnel, who were captured by the Japanese, and executed.

2. Wing Commander Ernest Dallas Scott was in charge of a party of RAAF personnel including Flying Officer Meyer, left behind in Ambon following the evacuation of No 13 Squadron to Darwin, and who attempted to reach Ceram in order to be picked up at a pre-arranged point. The personnel comprising the party were as follow:

- Wing Commander Ernest Dallas **SCOTT**, 250101
- Squadron Leader Jack Fallow **ANDERSON**, 253
- Flight Lieutenant William Vyner Duckett **WHITE**, 260624
- Flying Officer Francis Norman **MEYER**, 290745
- Flying Officer Harold George **VEREY**, 261029
- Sergeant James **BAKER**, 402700
- Sergeant Isaac Wood **READ**, 40622
- Corporal Frederick Walter **GASKIN**, 16645
- Leading Aircraftsman Laurence Douglas **WALKER**, 27521
- Aircraftsman 1 Frederick Arthur **EVANS**, 37304
- Aircraftsman 1 John Allan **HARRIS**, 24987

**Details of Service**

3. Wing Commander Scott enlisted on 10 September 1932, and was a member of Station Headquarters, RAAF Darwin. On 7 December 1941, he was appointed as RAAF commander, Area Combined Headquarters, Netherlands East Indies Depot, Halong, Amboina. He was reported to have died as a POW 6 February 1942.<sup>1</sup>

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<sup>1</sup> Service Record, E.D. Scott. NAA: A9300, Scott E.D.



4. Squadron Leader Anderson enlisted at Point Cook, Victoria on 17 January 1938, and was a member of Station Headquarters, RAAF Darwin. He was reported missing, believed Prisoner of War on 4 February 1942.<sup>2</sup>
5. Flight Lieutenant White enlisted at Mascot, New South Wales on 30 January 1940, and was a member of No 2 Squadron. He was reported missing, believed Prisoner of War, on 19 February 1942.<sup>3</sup>
6. Flying Officer Meyer enlisted at Parafield, South Australia, on 5 February 1940, and was a member of No 13 Squadron. His death was presumed by DPS as being on 20 February 1942.<sup>4</sup>
7. Flying Officer Verey enlisted at Richmond, New South Wales on 12 February 1940, and was a member of Station Headquarters RAAF Darwin. His record states that he died 6 February 1942, whilst a Prisoner of War. His body was identified from identity discs recovered from a mass grave at Loha, Ambon.<sup>5,6</sup>
8. Sergeant Baker enlisted at Sydney on 12 October 1940, and was a member of No 2 Squadron. His death was presumed by the Director, RAAF Personnel Services, as being on or before 20 February 1942.<sup>7</sup>
9. Sergeant Read enlisted at Perth on 12 September 1940, and was a member of No 2 Squadron. He was reported missing, believed Prisoner of War, on 4 February 1942.<sup>8</sup>
10. Corporal Gaskin enlisted at Perth on 1 June 1940 and was a member of No 13 Squadron. His death was presumed by DPS on or before 20 February 1942.<sup>9</sup> His body was identified from identity discs recovered from a mass grave at Loha, Ambon.<sup>10</sup>
11. Leading Aircraftsman Walker enlisted at Adelaide on 20 August 1940, and was a member of Station Headquarters, RAAF Darwin. He was reported missing, believed Prisoner of War 4 February 1942 and presumed dead by DPS on or before 20 February 1942.<sup>11</sup>
12. Aircraftsman 1 Evans enlisted at Sydney on 17 June 1941, and was a member of Station Headquarters, RAAF Darwin. He was reported missing, believed Prisoner of War, on 4 February 1942.<sup>12</sup>

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<sup>2</sup> Service Record, J.F. Anderson. NAA: A9300, Anderson J.F.

<sup>3</sup> Service Record, W.V.D. White. NAA: A9300, White W.V.D.

<sup>4</sup> Service Record, F.N. Meyer. NAA: A9300, Meyer F.N.

<sup>5</sup> Service Record, H.G. Verey. NAA: A9300, Verey H.G.

<sup>6</sup> Casualty Repatriation File for Baker, James, Sergeant. NAA: A705, 166/5/778.

<sup>7</sup> Service Record, J. Baker. NAA: A9301, Baker, J.

<sup>8</sup> Service Record, I. W. Read. NAA: A9301, Read I.W.

<sup>9</sup> Casualty Repatriation File for Baker, James, Sergeant. NAA: A705, 166/5/778.

<sup>10</sup> Service Record, F.W. Gaskin. NAA: A9301, 16645.

<sup>11</sup> Service Record, L.D. Walker. NAA: A9301, 27521.

<sup>12</sup> Service Record, F.A. Evans. NAA: A9301, 37304.

13. Aircraftsman 1 Harris enlisted at Brisbane on 28 February 1941, and was a member of Station Headquarters, RAAF Darwin. He was reported missing, believed Prisoner of War, on 4 February 1942 and presumed dead by DPS on or before 20 February 1942.<sup>13</sup>

14. The eleven RAAF personnel from 2 Squadron, 13 Squadron and Station HQ Darwin were all on the island of Ambon at Laha airstrip when the Japanese invaded on 30 January 1942. The Official History describes 28 Australian airmen waiting on the airfield for evacuation to Darwin in two Hudson aircraft.<sup>14</sup> On fuelling the aircraft for departure it was discovered that Flight Lieutenant White's aircraft was disabled by a shattered fuel line. Wing Commander Scott then revised the evacuation plan to send 17 men on the serviceable aircraft leaving 11 men, who attempted to repair the damaged aircraft. A successful repair to the damaged fuel line was not possible with the limited equipment available. Wing Commander Scott contacted an evacuation flying boat which was en route between Halong and Darwin, but this aircraft was unable to return for the stranded party. The Official History notes that a rendezvous had been pre-arranged at Geser Island, off the south east tip of Ceram, a distance of about 12 miles.<sup>15</sup> The flying boat kept that rendezvous on 12 and 15 February without success.

15. At the hearing in Perth on 5 December 2016, Mr Meyer submitted that his brother and the ten other RAAF personnel were not prisoners of the Japanese, but were attempting to avoid capture and make a pre-arranged rendezvous for return to Australia.

16. Mr Meyer also provided further written material to the Tribunal after the hearing.

### **Conclusion as to escape**

17. The eleven RAAF personnel had refused to surrender to the Japanese. Lieutenant McBride AIF, reported being told by the Medical Officer at Laha, Captain White, that Wing Commander Scott and his party had taken food and set out to cross the mountains to the north coast of Ambon. Lieutenant McBride reached the north coast himself on 5 February 1942, and was told by natives that they had seen and identified the eleven Australians. The Scott party had purchased a prau to attempt the crossing from Ambon to Ceram on 4 February 1942, but had been captured by a Japanese naval patrol.<sup>16</sup>

18. The Tribunal finds that Wing Commander Scott and party were not escaped Prisoners of War when attempting to make their way to the pre-arranged evacuation point at Ceram.

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<sup>13</sup> Service Record, J.A. Harris. NAA: A705, 166/17/832.

<sup>14</sup> Douglas Gillison, *Royal Australian Air Force 1939-1942, The Official History of Australia in the War of 1939-1945, Series III, Volume I*, Australian War Memorial, Canberra, 1962, pp. 376-378.

<sup>15</sup> Gillison, *Royal Australian Air Force 1939-1942*, p. 378.

<sup>16</sup> Report by Lt McBride 17 April 1942, NAA: A705, 166/3/311, Casualty repatriation file for Anderson, J.F.

## **Evidence of Wing Commander Scott and party being killed as a consequence of escaping**

19. It was established after the War, when mass graves were uncovered around the Laha airstrip, that at least five groups of Allied military personnel had been massacred after they surrendered. The second massacre, which took place on 6 February 1942, included at least four of the eleven RAAF men. At least two others were believed to have been killed on either 15 or 20 February.<sup>17</sup>

20. The mass graves of the massacre victims were exhumed. Grave number 2, opened on 5 December 1945, contained:

The remains of sixty one (61) bodies alleged to have been executed on 6 February 1942. From this grave were recovered the identity discs of WGCDR Scott, FLGOFF Verey, CPL Gaskin, AC1 Evans and in addition one brass 'sparks' (wireless operator) badge.<sup>18</sup>

21. Grave 3 opened on 6 December 1945, contained remains of 139 persons alleged to have been executed on 15 February 1942. Found in the grave was an RAAF airman's cap badge and a watch on which was scratched 'M M 27371'.<sup>19</sup> This number was issued to Sergeant Maxwell McCormack who was evacuated to Australia from Ambon on 30 January 1942, and who evidently gave the item to a member of the RAAF or AIF who remained at Laha.

22. Grave 4 opened on 8 November 1945, revealed the remains of 61 victims alleged to have been executed on 20 February 1942. In the grave were one blue RAAF cap and a number of RAAF buttons.<sup>20</sup>

23. Although no positive identification of Anderson, White, Meyer, Read, Walker, Harris or Baker was made, it was assumed that, as the remains of Scott, Verey, Evans and Gaskin had been identified, the others met the same fate on the same day.<sup>21</sup> DPS however, deemed that Scott, Verey Evans and Gaskin had died on 6 February 1942, and all others on 20 February 1942.

## **Conclusion as nexus between death and the 'escape'**

24. The evidence is that Wing Commander Scott and his men, were not taken POW with the garrison at Laha when Ambon formally surrendered on 3 February 1942. Instead, they attempted to make their way to the pre-planned rendezvous point off Ceram, but were captured on 4 February 1942. Following their capture by a Japanese naval patrol, they were taken to Laha where, the Tribunal is reasonably satisfied, they were all victims of a massacre of prisoners of war by the Japanese. There is no evidence to suggest that, after their capture, that any member of the party attempted an escape and was, as a result, executed.

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<sup>17</sup> Summary of Laha Massacres. NAA: A705 166/3/311.

<sup>18</sup> Report by FLTLT E.B. Scribner, Officer in Charge of RAAF Casualty Investigation, January 1946. NAA: A705 166/3/311.

<sup>19</sup> Scribner Report. NAA: A705 166/3/311.

<sup>20</sup> Scribner Report. NAA: A705 166/3/311.

<sup>21</sup> Report by Group Captain V.E. Hancock, 25 April 1946. NAA: A705, 166/3/311.

### **Tribunal Finding**

25. The Tribunal finds that, since Wing Commander Scott and his party were not escaped Prisoners of War when they were captured, and later executed, they are not persons who can be considered for medallic recognition under the Terms of Reference of this Inquiry.

## NX71902 DRIVER JEFFREY NORMAN SHELLEY

### What has led to the consideration of Driver Shelley by this Inquiry?

1. In a submission to the Valour Inquiry Dr Kevin Smith OAM sought recognition for 28 individuals who were Prisoners of War and were said to have been either killed during escape or following recapture. Driver Jeffrey Norman Shelley is one of those 28 individuals brought forward for consideration.

### Driver Shelley's service

2. On 25 March 1941, Driver Shelley enlisted at Narrabri, NSW. After basic training, he embarked for overseas service at Sydney on 29 July 1941 and arrived in Singapore on 16 August 1941. Driver Shelley was moved between a number of Australian Army Service Corps (AASC) units between August and December 1941, his final disposition being recorded as No. 1 Company, AASC, on 19 December 1941. Nothing further is known about Driver Shelley from the official records until he was reported missing to date 16 February 1942 following the fall of Singapore.<sup>1</sup>

3. His service record then shows Driver Shelley as a Prisoner of War to date 16 February 1942 in an entry sourced from AIF Malaya and dated 23 November 1943.<sup>2</sup>

4. The Tribunal accepts that Driver Shelley was a Prisoner of War.

### Driver Shelley's fate

5. Driver Shelley's service record was amended with a date of 29 October 1944 to state '*Died of Illness whilst P.W. (Malnutrition, Acute Bacillary Dysentery, Broncho Pneumonia)*'. The entry has a date of 9 October 1945 and its authority was notated 'CAS 5442'.<sup>3</sup> This entry aligns with General Headquarters (Australia) 2nd Echelon Casualty Advice, as well as an extract from a schedule supplied by Lieutenant H.G. Wells to 2nd Echelon Headquarters giving details of Australian POWs who were imprisoned in Outram Road Military Prison.

### Evidence of escape

6. Driver Shelley appears to have been transferred to Sandakan in British North Borneo with B Force in July 1942.<sup>4</sup> On or about 30 July 1942, he and three others, who were all now members of No. 1 Company AASC, made their escape from the POW camp at Sandakan.

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<sup>1</sup> Service Record, J.N. Shelley. NAA: B883 NX71902.

<sup>2</sup> Service Record, J.N. Shelley. NAA: B883 NX71902.

<sup>3</sup> Service Record, J.N. Shelley. NAA: B883 NX71902.

<sup>4</sup> Entry for Driver J.N. Shelley, B Force Roll. NAA: B3856, 144/1/372 Part 4.

They remained in the general vicinity for the next few days, seeking local assistance, but their presence was reported to the Japanese and they were recaptured on 8 August 1942.<sup>5</sup>

7. After being returned to the POW camp and confined there for six weeks, the group was taken by sea to Kuching and subjected to continuing close confinement. They were not brought to trial until 25 October 1942, when all four were found guilty and each sentenced to four or five years' solitary confinement, which was to be served in Outram Road Gaol, Singapore.

8. The only official document which was made available to the Tribunal which specifically refers to Driver Shelley and the other members of his group having escaped and being recaptured is a document entitled '*Copy of Information sent by Lt Col A.W. Walsh RAA AIF from Kuching Prisoner of War Camp to Chief Liaison Officer Air Prisoner of War Camp Sandakan*'. This specifically mentions Driver Shelley and his colleagues, together with two other soldiers who separately escaped and were also recaptured in the same period, as "'B" Force Prisoners who escaped and were caught by IJA', their receiving sentences of four or five years' imprisonment, and the death of Private Thomas Harrington, another member of Driver Shelley's escape party. The original document was signed by three AIF witnesses, a Major, a Warrant Officer and a Sergeant.<sup>6</sup>

### **Conclusion as to escape**

9. The Tribunal finds that there is evidence that Driver Shelley attempted, along with three other members of the AIF, to escape from Japanese troops at Sandakan POW Camp on 31 July 1942.

### **Evidence of Driver Shelley being killed as a consequence of attempting to escape**

10. Driver Shelley was recaptured on 8 August 1942 and, was sentenced at a court martial in Kuching on 25 October 1942 to four years' imprisonment in Outram Road Gaol. He and the other survivors were returned to Singapore, where they arrived on 12 January 1943.

11. On 28 September 1943, over a year after his recapture, and some months after his arrival at Outram Road Gaol, Driver Shelley was transferred to the POW Camp Hospital at Changi for treatment. He was returned to Outram Road Gaol on 15 November 1943. Driver Shelley was again sent to the Changi Camp Hospital on 25 October 1944, but died there, reportedly from the combined effects of Malnutrition, Acute Bacillary Dysentery and Left Broncho-Pneumonia.<sup>7</sup>

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<sup>5</sup> Kevin Smith, *Escapes and Incursions: Sabah 1942-45*, K.R. & H. Smith, Armidale, 2006, pp. 29-30.

<sup>6</sup> The document is held in the papers of Ms Lynette Silver, OAM. In addition to Kevin Smith, *Borneo: Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale, 1999; see: Smith, *Escapes and Incursions: Sabah 1942-45*; Lynette Ramsay Silver, *Sandakan, A Conspiracy of Silence*, Sally Milner Publishing, Binda NSW, 2006.

<sup>7</sup> Medical Return, Shelley. AWM54 481/8/26. See also, 2 Echelon Casualty Advice, Shelley. NAA: B3856, 144/1/372 Part 1; and Shelley's prison record. NAA: B3856 144/1/358.

### **Conclusion as to nexus between death and escape**

12. The Tribunal is reasonably satisfied that Driver Shelley died as a result of pneumonia, dysentery and malnutrition following his poor treatment after recapture by Japanese forces. However, there was general maltreatment of Allied POWs by the Japanese, with an associated death toll. There is no evidence that Driver Shelley was subjected to additional mistreatment; dysentery and malnutrition, and probably pneumonia, were widespread in the POW camps. The Tribunal observes that Driver Shelley's death was over two years after his recapture. Furthermore, another member<sup>8</sup> of Driver Shelley's escape group who was similarly imprisoned, survived.

13. The Tribunal is not reasonably satisfied that the poor treatment, while in itself appalling, was sufficiently more harsh than that experienced by other POWs, especially given the lapse of time from recapture to death. Consequently, the Tribunal cannot be reasonably satisfied that Driver Shelley meets the requirements of the Terms of Reference for inclusion.

### **Tribunal finding**

14. The Tribunal finds that while there is evidence that Driver Shelley attempted, with three other members of the AIF, to escape from Japanese troops at Sandakan POW Camp on 31 July 1942, his death, almost two years later, could not be directly linked to this escape attempt. As a result, the Tribunal finds that he cannot be considered for medallic recognition under the Terms of Reference for this Inquiry.

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<sup>8</sup> SX13760, Driver Murray Edgar Jacka.

## VX54067 CORPORAL HENRY JOHN SIMPSON

### What has led to the consideration of Corporal Simpson by this Inquiry?

1. In a submission to the Valour Inquiry Dr Kevin Smith OAM sought recognition for 28 individuals, who were Prisoners of War and were said to have been either killed during escape or following recapture. Corporal Henry John Simpson is one of the individuals brought forward for consideration.<sup>1</sup>

### Corporal Simpson's service, capture and imprisonment

2. Henry John 'Gunboat' Simpson initially enlisted with the Australian Military Forces (AMF) at Royal Park Victoria. He later discharged from the AMF and enlisted in the AIF on the same day – 22 April 1941. He was appointed acting Lance Corporal in July 1941, and acting Corporal in December 1941. He embarked in Sydney with the 5<sup>th</sup> Reinforcements for 2/29nd Battalion, arriving in Singapore on January 1942.<sup>2</sup>

3. After the fall of Singapore on 15 February 1942, all Allied servicemen were marched to Selerang barracks (known as the first Changi prison). Although his service record does not have a 'Changi copy' included, it is probable that he was marched there with the other members of his unit.

4. An extract of the file *AWM232 Australian Military Forces prisoners of war and missing - Far East and South West Pacific Islands, Part 1 - Alphabetical list by Theatres of War Section "A" Malaya*, (also known as the AWM Prisoner of War Rolls), shows that A/CPL Simpson, H.J. was a POW in Borneo and that the information was sourced from the International Red Cross.<sup>3</sup> Corporal Simpson was among the 1500 POWs sent from Singapore to Sandakan in British North Borneo in July 1942 as part of B Force.<sup>4</sup>

5. No War Graves Record Card has been found for Corporal Simpson. The final entry on Corporal Simpson's service record is dated 27 October 1945 and states '*Deceased whilst POW cause not stated*'. Date of casualty is 2 June 1945 and place of casualty is Borneo. On another page of Corporal Simpson's service record which contains his photograph, there is a stamp with details of his death, in which 'Not Stated' as the 'Nature of death' is crossed out and hand written in its place is 'Malaria'.

6. The Tribunal accepts that Corporal Simpson was a Prisoner of War.

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<sup>1</sup> Valour Inquiry Submission 243, Dr Kevin Smith OAM.

<sup>2</sup> Service Record, H.J. Simpson. NAA: B883, VX54067.

<sup>3</sup> *Australian Military Forces prisoners of war and missing - Far East and South West Pacific Islands, Part 1 - Alphabetical list by Theatres of War Section "A" Malaya* – page Simmons, H.C.L. to Simpson, J.M. AWM232. The Official Records series AWM232 was created by 2nd Echelon, Land Headquarters, and was transferred to the Australian War Memorial in 1952. It consists of several volumes listing the names of prisoners of war and missing as at 30 June 1944.

<sup>4</sup> Entry for Simpson, B Force Roll. NAA: B3856 144/1/372, part 4.



## Evidence of escape

7. Corporal Simpson's service records contain no information about an escape.
8. In his submission to the Valour Inquiry, Dr Smith stated that Corporal Simpson '*died 2/6/45 during an escape from the second march to Ranau*'. In his book *Borneo: Australia's Proud but Tragic Heritage*, Dr Smith referred to Corporal Simpson as '*one of many who had talked in the early days at Sandakan about escaping*'. Dr Smith went on to describe Corporal Simpson's escape – '*On 29<sup>th</sup> May [1945] his group reached the 12-mile at about 2300 hrs and then continued on. Some time after reaching the 15-mile where the road ended he was one of several who sought to abscond into the bush. Most were shot but Simpson got away*'.<sup>5</sup>
9. In his oral evidence, Dr Smith said that he had no idea how Corporal Simpson's death was caused on 2 June 1945.
10. In her book *Sandakan: A Conspiracy of Silence*, Ms Silver stated the following about Corporal Simpson's death:

'On day five [of the march which began on 29 May] the Japanese stepped up the pace, prodding, bashing and bullying anyone who could not keep up. As a result, from 2 June [1945] onwards the number of prisoners unable to join the column each morning increased dramatically... Gunboat Simpson also died that day but not at the hands of the executioners. He walked away from the column and into the jungle near the 20 mile'<sup>6</sup>
11. In this group were survivors Warrant Officer William Sticpewich and Gunner Owen Campbell.
12. Warrant Officer Sticpewich reported that Corporal Simpson had 'dropped out' of the second death march.<sup>7</sup> By that he meant that Corporal Simpson could not go on any longer. All those who 'dropped out' were never seen again; they were subsequently killed by the Japanese killing squad at the rear of the march, or died before the killing squad arrived. Warrant Officer Sticpewich differentiated in his report between those who had dropped out and those who escaped, but Corporal Simpson is not mentioned in his list of POWs who attempted an escape.<sup>8</sup>
13. Gunner Campbell, in his immediate post-war debriefing, did not mention Corporal Simpson in his long list of POWs who had died, or had last been seen alive.<sup>9</sup> Gunner Campbell reportedly asserted, many years later, that Corporal Simpson had 'escaped' or 'wandered away'.<sup>10</sup>

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<sup>5</sup> Kevin Smith, *Borneo: Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale, NSW, 1999, p.250 [see also pp. 62, 65, 139, and 235 for references to Simpson].

<sup>6</sup> Lynette Ramsay Silver, *Sandakan: A Conspiracy of Silence*, Sally Milner Publishing, Binda NSW, 2000, p.224 [see also 80-81, 160, 354 in reference to Simpson].

<sup>7</sup> Sticpewich Report. NAA: B3856, 144/1/372.

<sup>8</sup> Sticpewich Report. NAA: B3856, 144/1/372.

<sup>9</sup> Campbell's information in NAA: B3856, 144/1/244.

<sup>10</sup> Ms Silver's research was that Campbell had told this to Keith (Bill) Young, who was at Sandakan before being transferred to Outram Road Gaol after an escape attempt.

14. Writer Don Wall, in a taped interview with Keith Botterill, stated that survivor Gunner Campbell had told him (Wall) that Corporal Simpson had ‘escaped’ from the march.<sup>11</sup>

15. Corporal Simpson’s date of death given on the Japanese field records entered as each POW died on the marches, shows that he succumbed to malaria on 2 June 1945. This date, also shown on Corporal Simpson’s service record,<sup>12</sup> is in keeping with the movement of the second march.

### **Conclusion as to escape**

16. The Tribunal accepts that Corporal Simpson went on the second death march from Sandakan to Ranau on 29 May 1945.

17. The evidence of Warrant Officer Sticpewich was that Corporal Simpson had ‘dropped out’ of the second death march. Corporal Simpson is not mentioned in Warrant Officer Sticpewich’s list of POWs who attempted an escape. The Tribunal considered the account by Gunner Campbell who reportedly asserted, many years later, that Corporal Simpson had ‘escaped’ or ‘wandered away’ is less reliable. The reference to a report by survivor Keith Botterill, that Gunner Campbell had told him that Corporal Simpson had ‘escaped’ from the march was also not considered to be reliable.

18. The Tribunal understands that field records were not compiled for POWs who had escaped. The fact that Corporal Simpson has a field record may suggest that he did not escape.

19. Because of the conflicting evidence, the Tribunal is unable to be reasonably satisfied that Corporal Simpson attempted to escape from his captors during the second march to Ranau.

### **Nexus between death and the ‘escape’**

20. The Tribunal cannot be reasonably satisfied that Corporal Simpson escaped from the Japanese on the second march to Ranau in July 1945. Further, the circumstances of his death remain unclear. The accounts of Corporal Simpson having escaped do not contain any further reference to him having been re-captured or having died as a consequence of escaping.

### **Tribunal finding**

21. The Tribunal finds that Corporal Simpson was not killed while escaping or on recapture. Consequently, he cannot be considered for medallic recognition under the Terms of Reference of this Inquiry.

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<sup>11</sup> Tape 6, AWM sound recording S04080.

<sup>12</sup> Service Record, H. J. Simpson. NAA: B883, VX54067.

## TX2125 CAPTAIN JOHN STIRLING

### What has led to the consideration of Captain Stirling by this Inquiry?

1. In a submission to the Inquiry, Mr Peter Henning requested recognition for Captain John Stirling of 2/40<sup>th</sup> Battalion who was executed by the Japanese in West (then Dutch) Timor on 15 May 1942.

### Captain Stirling's service, capture and imprisonment

2. On 5 April 1939, John (Jack) Stirling enlisted at Beaconsfield, Tasmania with the Citizens Military Forces. On 25 July 1940 he transferred to the 2<sup>nd</sup> AIF for service overseas and was promoted to Captain on 16 May 1941. During this period he was posted to the Headquarters Company, 2/40<sup>th</sup> Battalion, AIF. The Battalion was the bulk of Sparrow Force, deployed to defend Dutch (West) Timor. The Force arrived at Usapa Besa, about three miles from the capital Koepang, in December 1941.<sup>1</sup>

3. On 23 February 1942, most of Sparrow Force surrendered to the Japanese. Those who refused to capitulate took to the bush at Airkom. Others, who had become detached from their units, remained at large for some time.<sup>2</sup> Lieutenant Colonel William Leggatt, Commanding Officer of 2/40<sup>th</sup> Battalion, reported that '*many troops including several officers dispersed to the hills immediately the decision (to surrender) was made.*' One of these officers was Captain Stirling.<sup>3</sup> In a report to the Department of Prisoners of War and Internees dated 7 June 1949, the Director of Army Records stated '*Captain Stirling is known to have been free and in hiding for about three months after capitulation.*'<sup>4</sup> Consistent with this was a report by Captain Maddern, 2/40<sup>th</sup> Battalion's Adjutant, that that he had been in contact with Captain Stirling until June 1942.<sup>5</sup>

4. A war crimes trial of Lieutenant Hiroshi Ito (and 15 others) was conducted after the War into the execution of a number of Australians in Timor in 1942. In his opening address, the prosecutor named Captain Stirling as being among a group of Australians captured in the mountains, beyond the river Hain. He then stated:

The captain was TX2125 Captain J Stirling, 2/40 Inf Btn. He and the men were brought back to Headquarters. They were interrogated once or twice by the accused Ito and others, and they were housed in barracks near the kitchen of the Paymaster Branch.<sup>6</sup>

5. Suzuki Fusashi, one of the Japanese involved in Captain Stirling's capture stated:

<sup>1</sup> Lionel Wigmore, *The Japanese Thrust, The Official History of Australia in the War on 1939-1945, Series 1, Volume IV, The Australian War Memorial*, Canberra, 1957, pp. 466, 468, and 483.

<sup>2</sup> Peter Henning, *Doomed Battalion: Mateship and Leadership in War and Captivity, The Australian 2/40 Battalion 1940-45*. Allen & Unwin, Sydney, 1995, p.157.

<sup>3</sup> Leggatt Report. AWM: PR89/099.

<sup>4</sup> Director of Army Records, 7 June 1949. NAA: A471, 81958 Part B.

<sup>5</sup> Deaths Timor *handwritten notes concerning prisoners of war*, p. 8. NAA: B3856, 140/1/57.

<sup>6</sup> Opening Address by Prosecution, p.4. NAA: A471, 81958 Part B.

...the Miyamoto Company set out in three or four trucks and then marched on foot into the mountains to search for enemy troops. We came out at the coast and there discovered four or five of the enemy sheltering in a small native hut. We surrounded the position, opened fire, and eventually captured one Australian soldier. About ten minutes later one of the soldiers who had escaped came out and surrendered. That evening another soldier, and [an] Australian officer of the rank of Captain, came out and surrendered. We spent the night in the mountains with the three prisoners. The next day we returned to Koepang.<sup>7</sup>

6. The Tribunal accepts that Captain Stirling became a Prisoner of War when captured in the mountains, beyond the river Hain.

### **Evidence and conclusion as to escape**

7. There is no evidence to suggest that Captain Stirling attempted to escape following his capture by the Japanese in the mountains, beyond the river Hain and his transfer to Koepang the following day. The Tribunal therefore finds that Captain Stirling was not an escaped Prisoner of War.

8. Mr Henning did not appear at the hearing and relied on his written submissions.

### **Evidence of Captain Stirling being killed as a consequence of escaping**

9. In the trial of Ito and 15 others, the prosecution established that there were two groups of executions: one of POWs captured at Babao, the other of POWs and civilian personnel from the Koepang area and Roti Island, and two airmen. Captain Stirling was named as being with the group of Allied personnel from Koepang and Roti Island, who were executed in May 1942.

10. The prisoners were driven along the coast to a lonely site near Boak, three to four kilometres east of Koepang jetty, where they were either bayoneted to death or beheaded.<sup>8</sup>

11. Mass graves, in which a total of 24 victims were buried, were located in October 1945 by 16 Australian War Graves Unit. On 27 December 1945, Captains Thomas, Edmeades and R. Hilmer Smith (senior medical officers) examined the bones to determine if any of the victims had been decapitated. From articles found with the remains, one body was identified as that of Captain Stirling. His remains were reburied in Ambon War Cemetery.

12. There is no evidence that suggests Captain John Stirling was killed as a consequence of escaping.

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<sup>7</sup> Suzuki Fusashi Statement. NAA: A471, 81963.

<sup>8</sup> Okazawa statement, pp.1-2. NAA: A471 81958 Part B.

### **Conclusion as nexus between death and the ‘escape’**

13. The evidence shows that Captain Stirling refused to capitulate when the bulk of Sparrow Force surrendered to the Japanese on 23 February 1942. Unfortunately, following his capture by a Japanese company, he was taken to Koepang and executed with a group of Allied personnel. There is no evidence to suggest that after his capture, Captain Stirling escaped and was, as a result, executed.

### **Tribunal finding**

14. As there is no evidence that suggests that Captain Stirling escaped, or was killed as a consequence of escaping, the Tribunal finds that he is not a person who can be considered for medallic recognition under the Terms of Reference of this Inquiry.

## TX3597 PRIVATE ELLIOTT FREDERICK TERRY

### What has led to the consideration of Private Terry by this Inquiry?

1. In a submission to the Inquiry, Mrs Dianne Cowling, on behalf of the 2/29<sup>th</sup> Battalion Association, requested recognition for Private Elliott Terry, citing mentions in Mr Peter Henning's book *Doomed Battalion, Mateship and Leadership in War and Captivity, The Australian 2/40 Battalion 1940-45*.

### Private Terry's service, capture and imprisonment

2. Private Terry enlisted at Launceston Tasmania on 25 June 1940, and was a member of the 2/40<sup>th</sup> Battalion, AIF, which made up the bulk of Sparrow Force, deployed to defend Dutch (West) Timor. The Force arrived at Usapa Besa, near the capital Koepang, in December 1941.<sup>1</sup>

3. The main body of Sparrow Force, which included Private Terry, was overwhelmed by the Imperial Japanese Army and forced to capitulate on 23 February 1942. The officers and men captured by the Japanese were confined at No 2 Field Prisoner of War camp at Usapa Besar.

4. The Tribunal accepts that Private Terry was a Prisoner of War.

### Evidence of escape

5. Administration of the Usapa Besar camp was managed by the Australians. According to Lieutenant Colonel Leggatt, the Commanding Officer of the Battalion, relations with the Japanese were '*usually quite cordial*'.<sup>2</sup> During their incarceration at Usapa Besar, driver qualified POWs, such as Private Terry, were required to undertake driving tasks around Koepang.

6. Private Terry and another POW, Driver Richard Tolley, also of 2/40<sup>th</sup> Battalion, were detached from the camp to drive lorries at Soe, around 82 kilometres from Koepang. Tolley provided a statement that one day he and Private Terry were assigned separate tasks. He stated that he saw Private Terry driving from headquarters with Sergeant Moromina beside him and that he did not see Private Terry again.<sup>3</sup>

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<sup>1</sup> Service Record, E.F. Terry, NAA: B883, TX3957.

<sup>2</sup> Peter Henning, *Doomed Battalion, Mateship and Leadership in War and Captivity, The Australian 2/40 Battalion 1940-45*. Allen & Unwin, Sydney, 1995, p.184.

<sup>3</sup> Statement by Richard Tolley dated 13 June 1946, pp.1-2. AWM54 1010/4/139.

7. On 16 June 1942, Lieutenant Harada, the Japanese officer in charge of Usapa Besar camp reported:

Some days ago, he (Terry) was driving a lorry which broke down. He left the lorry by the roadside and went back to the barracks for his meals. One of our NCOs noticed him and told him he should have brought the truck back to the garage before lunch and ordered him to go out and get it. The NCO again noticed him and repeated his order but he did not obey and struck the NCO and ran away.<sup>4</sup>

8. Local eyewitness Lie I Tjoeng was on his way to Soe to sell milk when he heard that Private Terry had driven the truck into a canal in front of the gaol. According to Lie, leaving the truck, Terry had gone to report the matter to the Japanese at the transport office. Curious, Lie followed Private Terry. He saw Private Terry make his report, but the Japanese in charge did not understand and instructed Private Terry, in Japanese, to bring the truck back. Private Terry, unable to comprehend, did not obey the instruction and was beaten by the Japanese soldier. He defended himself and bloodied his attacker's nose but this angered the soldier who, unable to hit Private Terry with either a wooden shoe or an iron bar, called for reinforcements. About 18 Japanese arrived with pieces of wood and iron, and stones, and gave him a thorough beating.

9. When they stopped, Lie wrote, Private Terry ran a short distance, but they pursued him and continued the assault. On release, he moved towards a shed. When he saw the Japanese were following him he ran as fast as he was able towards Oebasa (Usapa). Cornered, he again put up a spirited fight, held his attackers off, and fled. The Japanese armed with rifles and lengths of timber, began a search. After about fifteen minutes Lie saw Terry come out of the jungle and surrender.<sup>5</sup>

11. In October 1945, during an investigation into Private Terry's death (who is referred to as 'Perry'), Cornelius Totais, a Dutch POW in Soe who was driving trucks with four Australian prisoners, including Private Terry, was interrogated. The following is a report of that interrogation:

In June 42, date not known, Perry was a driver of a water truck. Whilst backing his truck near the local jail the rear wheels got into a ditch and he could not get the truck out. He reported back to the Jap transport office where he was slapped by Jap Sgt Maj Morimin (Morimina). Perry retaliated – two more Japs attacked him but he knocked them down and ran out onto the road where he was caught. Was beaten but broke free again and ran down the road – was caught about one mile out and brought back. Was then beaten with a stick by Morimin and tied to the post in the sun. Later he was loaded aboard a truck.<sup>6</sup>

12. At the hearing before the Tribunal on 4 April 2017, Mrs Cowling was unable to provide any additional information beyond the reference material provided to the Tribunal with her submission.

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<sup>4</sup> Harada, Report ('B'), 16 June 1942, AWM54, 1010/4/89.

<sup>5</sup> Sworn statement by Lie I Tjoeng, pp.1-2, AWM54, 1010/9/62.

<sup>6</sup> Report by Sergeant Allan, AWM: 54 1010/9/62.

## **Conclusion as to escape**

13. The Tribunal accepts that there was an act of breaking free when Private Terry fled into the jungle following his beating. However, the Tribunal accepts that, while this may have been a spontaneous escape attempt to avoid being beaten further, the Tribunal does not find Private Terry to have had a genuine belief in his ability to obtain freedom. In coming to this view the Tribunal observes that he surrendered after only fifteen minutes.

14. The Tribunal therefore does not accept that Private Terry made a genuine escape attempt.

## **Evidence of Private Terry being killed as a consequence of ‘escaping’**

15. Once subdued, Private Terry was stabbed in the buttocks with a piece of sharp wood, and again in the chest. Taken to the Commanding Officer (Asano), he was ordered to kneel but, not understanding Japanese, remained standing until forced to kneel by pressure exerted on his neck. He was then bound with a length of rope to a telegraph pole in the noonday sun.<sup>7</sup>

16. The following day, Lie learned that Private Terry had been released from the pole, trussed with a rope and a length of timber and thrown onto the back of a truck. He was taken to Noenoemeoe, placed into a hole about 50 centimetres deep and shot.<sup>8</sup>

17. Lieutenant Harada reported that, after Private Terry ran away:

The garrison in Soe commenced a search and found him and acting on instructions from HQ in Soe he was killed. In Japanese forces when a person strikes an officer or NCO of higher rank the penalty is always death. This is the first time that a prisoner of war has committed an act of violence and we hope that it will not occur again.<sup>9</sup>

18. Lieutenant Colonel Leggatt, who became the Commander of Australian forces in the camp, sought an explanation for Private Terry’s death. He wrote that the death penalty for striking an NCO should not have been carried out without a proper trial.<sup>10</sup> It appears that Lieutenant Colonel Leggatt accepted that Private Terry’s execution, albeit without trial, was because of his having struck an NCO, and was unrelated to his ‘escape’.

19. While Private Terry is reported to have broken away from his attackers, the Tribunal does not accept that Private Terry was killed as a consequence of escaping. The evidence clearly is that he was not killed for attempting to escape but for striking a Japanese NCO.

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<sup>7</sup> Sworn statement by Lie I Tjoeng, pp.1-2, AWM54, 1010/9/62.

<sup>8</sup> Sworn statement by Lie I Tjoeng, p. 2, AWM54, 1010/9/62.

<sup>9</sup> Harada, Report (‘B’) 16 June 1942, AWM54, 1010/4/89.

<sup>10</sup> Henning, *Doomed Battalion*, pp.189-190.



### **Conclusion as to nexus between death and the escape**

20. The Tribunal is reasonably satisfied that Private Terry was killed by Japanese soldiers at Soe, around 82 kilometres from Koepang. Even if the Tribunal were to accept that Private Terry attempted to escape when being assaulted by Japanese soldiers, the Tribunal finds that his execution was in retaliation for his striking a Japanese NCO, and was unrelated to any actions that could be considered to be an escape attempt.

### **Tribunal finding**

21. As there is no evidence that suggests he escaped, or was killed as a consequence of escaping, the Tribunal finds that Private Terry is not a person who can be considered for medallic recognition under the Terms of Reference of this Inquiry.

QX17430

**LANCE BOMBARDIER HARRY AYRSHIRE TRESEDER MM****What has led to the consideration of Lance Bombardier Treseder by this Inquiry?**

1. In a submission to the Valour Inquiry Dr Kevin Smith OAM requested recognition for 28 individuals, who were Prisoners of War and were said to have been either killed during escape or following recapture. Lance Bombardier Harry Ayrshire Treseder is one of the names brought forward for consideration.<sup>1</sup>

**Lance Bombardier Treseder's service, capture and imprisonment**

2. Harry Treseder first enlisted on 2 December 1915. On 1 June 1917, Treseder, then a private soldier, proceeded overseas for France as part of the 15<sup>th</sup> Field Ambulance in the 5<sup>th</sup> Australian Division, and served until 3 October 1919.<sup>2</sup> During this service, he was awarded the Military Medal (MM) for service in action on 2 September 1918. The citation read:

*'[he, with two other field ambulance men] carried wounded throughout the whole day through heavy machine gun and shell fire from RAP to Relay Posts. They also voluntarily carried many cases to RAP from Peronne itself under heavy fire. On the night of September 3 /4 they carried continuously under heavy fire. Their work for the whole period was characterised by the greatest self sacrifice and courage'.<sup>3</sup>*

3. He again enlisted for service at Kelvin Grove, Queensland on 29 July 1940 and was assigned to 2/10<sup>th</sup> Field Regiment.

4. Having completed basic training, Lance Bombardier Treseder embarked from Sydney for Singapore arriving on 18 February 1941.<sup>4</sup>

5. Lance Bombardier Treseder was captured at the fall of Singapore. His service record was annotated 'Missing' on 15 April 1942 and stamped 'Prisoner of War' from 15 February 1942'. Lance Bombardier Treseder was detached to B Force and embarked from Singapore for Sandakan on 8 July 1942.<sup>5</sup>

6. The Tribunal accepts that Lance Bombardier Treseder was a Prisoner of War.

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<sup>1</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>2</sup> Service Record, H.A. Treseder. NAA: B2455, 9325.

<sup>3</sup> London Gazette, 17 June 1919.

<sup>4</sup> Service Record, H.A. Treseder. NAA: B2455, 9325.

<sup>5</sup> Entry for Treseder, B Force Roll. NAA: B3856 144/1/372.

## Evidence of escape

7. In his submission to the Valour Inquiry, Dr Smith stated that '*Pte (sic) Harry Treseder QX17430 of 2/10 Field Regiment died 12 May 1945 near Sandakan during an escape from Sandakan.*' In his book *Borneo: Australia's Proud but Tragic Heritage*, Dr Smith stated that '*Bdr Harry Treseder (2/10 Fd Regt) of Highgate Hill, QLD, was reported to have escaped and subsequently died on the Sandala Estate on 12 May 1945.*'<sup>6</sup> In his later book, *Escapes and Incursions*, Dr Smith provided the same account of Lance Bombardier Treseder under the heading '*Escapes about which very little is known.*'<sup>7</sup>

8. One of the few survivors of the Sandakan death marches, Bombardier Richard Braithwaite, who was on the second march which departed on 29 May 1945, reported that Lance Bombardier Treseder was still alive when last seen.<sup>8</sup> By contrast, another Sandakan survivor, Warrant Officer Bill Sticpewich, who also left Sandakan on the second march, reported that Lance Bombardier Treseder had already died.<sup>9</sup>

9. Remains believed to be those of Lance Bombardier Treseder were recovered after the war from the Sandala Estate, four miles from the Sandakan Camp, where local people had buried him and five others in a group grave. His remains, initially recorded as '*Unidentified Empire Soldier*', were identified on 24 September 1945, the day on which the recoveries were made, possibly indicating that his name was known to the locals who had buried him.<sup>10</sup> Another explanation, albeit unsupported by any evidence, is that there were some identifying features to the remains.

## Conclusion as to escape

10. Lance Bombardier Treseder's date of death was recorded by the Japanese at Sandakan as 12 May 1945, and before the second death march, reportedly from malaria. This is consistent with Warrant Officer Sticpewich's account, but inconsistent with that of Bombardier Braithwaite. Records provided after the War by the Japanese Headquarters responsible for POWs, the 'Jap Roll', which recorded his date of death as 10 December 1944, were notoriously inaccurate. On the other hand, reports from survivors were also not always reliable, and the evidence of Bombardier Braithwaite and Warrant Officer Sticpewich is irreconcilably contradictory.

11. On the basis of the evidence before it, the Tribunal could not be reasonably satisfied that Lance Bombardier Treseder escaped from his captors.

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<sup>6</sup> Kevin Smith, *Borneo: Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale, 1999 p. 249.

<sup>7</sup> Kevin Smith, *Escapes and Incursions Sabah 1942-45*, KR & H Smith, Armidale, 2006, p. 119.

<sup>8</sup> Report by Braithwaite, NAA: MP742/1, 336/1/2018.

<sup>9</sup> Report by Sticpewich, NAA: B3856, 144/1/372 Part 3.

<sup>10</sup> Grave Registration Card, NAA: A8234, 49; Entry dated 24/9/45 from 23 War Graves Unit Diary. AWM52, 21/2/24.

### **Nexus between death and the escape**

12. Even if the Tribunal could be reasonably satisfied that there had been an escape, there is no evidence either from locals or from the recovery team to suggest that Lance Bombardier Treseder was killed as a consequence of that escape.

### **Tribunal finding**

13. The Tribunal finds that, even if it could be reasonably satisfied that Lance Bombardier Treseder escaped from his captors, there is no evidence to suggest that Lance Bombardier Treseder was killed while escaping or on recapture. Consequently, he cannot be considered for medallic recognition under the Terms of Reference of this Inquiry.

## NX46568 GUNNER DAVID JACK WILLIAMS

### What has led to the consideration of Gunner Williams by this Inquiry?

1. Gunner David Jack Williams was identified by the Department of Defence as a person who may fall within the Inquiry Terms of Reference.

### Gunner Williams' service

2. Gunner Williams enlisted on 1 June 1940. After basic training, he joined 2/15<sup>th</sup> Field Regiment and undertook unit training. He embarked for overseas service with his unit from Sydney on 29 July 1941 and arrived in Singapore in August 1941.<sup>1</sup>

3. 2/15<sup>th</sup> Field Regiment deployed to Kluang, north west of Johore Bahru at the start of the Japanese invasion. It later saw action against the Japanese around Gemas, Muar and Ayer Hitam. After being withdrawn to Singapore the Field Regiment conducted further operations against the Japanese assault on the island. Its survivors went into captivity after the surrender of Singapore on 15 February 1942 and were concentrated at Seralang Barracks. Gunner Williams appears to have gone with his unit when the concentration of Allied forces was ordered at Changi in the wake of the surrender. Gunner Williams was amongst a group of 3662 Australians transferred to Thailand by train in April 1943 as 'F Force'.

4. The Tribunal accepts that Gunner Williams was a Prisoner of War.

### Gunner Williams' fate

5. Gunner Williams' service record shows '*deceased while PW Thailand (shot by Jap guard for alleged attempted escape) about June 1943*'.<sup>2</sup> A later entry, made on 8 October 1945, states that he was killed accidentally while a POW on 22 April 1943.<sup>3</sup> However, there is also a death certificate signed by the Medical Officer who examined Gunner Williams and reported his injuries. This gives the date of Williams' death as 22 May 1943.<sup>4</sup>

### Evidence of escape

6. There is no information relating to any escape attempts in Gunner Williams' Service Record or any other official documents.

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<sup>1</sup> Service Record, D.J. Williams. NAA: B883, NX46568.

<sup>2</sup> Service Record, D.J. Williams. NAA: B883, NX46568.

<sup>3</sup> Service Record, D.J. Williams. NAA: B883, NX46568.

<sup>4</sup> Death Certificate signed by Captain J.S. Hamilton Gibbs, RAAMC, dated 29 May 1943. Contained in Major H.S. Williams (Australian officer attached to the Recovered Personnel Division) reports re PWIB Tokyo, pp.38-39. NAA: MP742/1 336/1/116.

7. After arrival at Bam Pong in Thailand, F Force was required to march 300 kilometres further north to join the parties already working on the Thai-Burma Railway Line, which was to be the Force's main task. By May 1942, Gunner Williams was amongst those who had arrived at the first halt at Kanburi (Kanchanaburi), 50 kilometres on from Bam Pong.

8. The available contemporary or near-contemporary evidence is in parts confused. On or about 21 May 1943, Gunner Williams was part of an overnight work party in a gravel pit. In a statutory declaration, Captain F.L. Harris, who was in charge of the work party, wrote that, at about midnight, it had commenced to rain and the men were told to take shelter by their guard. At about 0345 he heard four shots, and in the immediate roll call Gunner Williams, and a British POW, Private Sharp were found to be missing.<sup>5</sup> According to Driver F.T. Leahey from the work party, the guard alleged that he, Leahey, and others, were throwing stones at him, which was untrue.<sup>6</sup>

9. In a statement after the War, Gunner F.C. Mills and Gunner J. Browne, who were also in the work party, reported that Gunner Williams had been talking to a group of locals in contravention of Japanese orders.<sup>7</sup>

10. There was a reported explanation by the guard who was found to have killed Gunner Williams, that the prisoner had 'mutinied'.<sup>8</sup>

11. There was a further report that alleged the shooting was in response to a feared retaliation by the locals who had been beaten the previous day by a Japanese soldier. The guard called out a challenge and when a stone was thrown in reply, opened fire.<sup>9</sup> Other witness testimony suggests that Gunner Williams may have run away from where he stood talking to the locals when the challenge was issued.<sup>10</sup>

12. Captain Harris also wrote that the post-mortem examination by Captain Hamilton-Gibbs showed that Gunner Williams had been shot once, but not fatally, and had also been bayoneted.<sup>11</sup>

### **Conclusion as to escape**

13. The weight of evidence is that, around 0300 to 0400, Gunner Williams was taking advantage of a break in the work to talk to some locals, which was forbidden by the Japanese. The Japanese guards may have been on edge as the result of an incident with the native population the previous day. What followed is not clear, although the Japanese claimed in their own report that the guard had heard noises, called out a challenge, and then had a stone thrown at him. In the darkness, he feared that he was under attack and fired, killing Gunner Williams and the British soldier.

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<sup>5</sup> Statement by Captain F.L. Harris. AWM54, 1010/4/66.

<sup>6</sup> Statement by Driver F.T. Leahey. AWM54, 1010/4/88.

<sup>7</sup> Statement Concerning Casualty Sustained'. NAA: B3856 144/14/86.

<sup>8</sup> Report dated 23 October 1945 by Major H.S. Williams. NAA: B3856, 144/1/353.

<sup>9</sup> Report dated 23 October 1945 by Major H.S. Williams. NAA: B3856, 144/1/353.

<sup>10</sup> 'Statement by 6142257 Private W.E. Tabern, 2<sup>nd</sup> East Surrey Regiment', WC Questionnaire Forms completed by British Personnel in Far East, p. 171. NAA: MP742/1 336/1/198. See also: 'Statement Concerning Casualty Sustained', p. 2. NAA: B3856 144/14/86; and 'Aust PW Killed or Executed by Shooting' Report dated 23 October 1945 to DP&I at AHQ, p. 23. NAA: B3856 144/1/353.

<sup>11</sup> Statement by Captain F.L. Harris. AWM54, 1010/4/66.

14. The Tribunal cannot be reasonably satisfied that there is sufficient evidence that Gunner Williams attempted to escape from captivity as a POW.

#### **Nexus between death and ‘escape’**

15. The evidence is that Gunner Williams died as a result of being shot, then bayoneted by a guard on or about 22 May 1943. However, the circumstances of his death suggest that the guard over-reacted to a confusing situation involving disaffected locals. While the guard may possibly have considered that the POWs were either attempting to escape or colluding with the locals in attacking him, there is not sufficient evidence to support a conclusion that Gunner Williams was actually attempting to escape.

#### **Tribunal finding**

16. For this reason the Tribunal finds that Gunner Williams cannot be considered for medallic recognition under the Terms of Reference for this Inquiry.

**NX78032 PRIVATE ALEXANDER JOHN WILMOTT**  
**(also known as NX32019 JOHN ALLAN WILLMOTH)**

**What has led to the consideration of Private Wilmott by this Inquiry?**

1. In a submission to the Valour Inquiry Dr Kevin Smith OAM sought recognition for 28 individuals, who were Prisoners of War and were said to have been either killed during escape or following recapture. Private Alexander John Wilmott is one of the names brought forward for consideration.<sup>1</sup>

**Private Wilmott's service, capture and imprisonment**

2. Alexander John Wilmott enlisted at Newtown, NSW on 23 October 1939. He commenced his initial training with 2/1<sup>st</sup> Field Regiment at Ingleburn NSW on 6 June 1939, but was discharged medically unfit on 6 March 1940.<sup>2</sup> He re-enlisted with the AIF on 13 June 1940 under the name John Allan Willmoth. He was taken on strength with 2/30<sup>th</sup> Battalion at Tamworth on 22 November 1940. Private 'Willmoth' was granted embarkation leave from 1 to 10 August 1941. On 12 August 1941, having not returned from leave and unable to be located, a Court of Inquiry was held on 5 September 1941 at Tamworth, NSW. Private Willmoth was declared to be illegally absent, struck off strength and declared a 'deserter' on 12 September 1941. He was discharged in absentia on 3 July 1946.<sup>3</sup>

3. In the meantime however, he enlisted again, under his correct name, Alexander John Willmott, on 11 December 1941 at Paddington, NSW. After training, on 10 January 1942 he embarked from Sydney for Singapore. On 26 January 1942, he disembarked at Singapore and was taken on strength with 2/30<sup>th</sup> Battalion.<sup>4</sup>

4. Private Wilmott's service record states that he was officially reported missing from 16 February 1942. This entry was made on 14 April 1942. His service record is then stamped '*Prisoner of War*' – *Borneo* (added by hand) on 9 April 1943. Private Wilmott's service record also contains the 'Changi Copy' of his record which has further entries including the final entry: '*marched out and emb "B" Force with 2/10 Fd Regt on 8 July 1942*'<sup>5</sup> This is confirmed in the B Force Roll.<sup>6</sup> B Force departed Singapore on that date for Borneo.

5. Private Wilmott's service record contains the note '*POW reported deceased cause not stated whilst POW Borneo 10 January 1945 – PTE W Mason.*' This entry is dated 22 December 1945. The Service and Casualty Form for Private Wilmott is stamped '*Deceased whilst POW Cause Not Stated*' 10 January 1945, Borneo. This was entered on his record on 23 November 1945.<sup>7</sup>

<sup>1</sup> Valour Inquiry Submission 243A, Dr Kevin Smith OAM.

<sup>2</sup> Service Record, A. J. Wilmott. NAA: B883, NX3499.

<sup>3</sup> Service Record, J.A. Willmoth. NAA: B883, NX32019.

<sup>4</sup> Service Record, A.J. Wilmott. NAA: B883, NX78032.

<sup>5</sup> Service Record, A.J. Wilmott. NAA: B883, NX78032.

<sup>6</sup> Entry for Wilmott, B Force Roll, NAA: B3856, 144/1/372, Part 4.

<sup>7</sup> Entry for Wilmott, B Force Roll, NAA: B3856, 144/1/372, Part 4.



6. The Australian War Memorial Roll of Honour records that Private Wilmott died on 10 June 1945 of illness in Borneo.<sup>8</sup>

7. The Tribunal accepts that Private Wilmott was a Prisoner of War.

### **Evidence of escape**

8. On 29 May 1945, Private Wilmott left Sandakan Camp on the second death march. One of the few survivors of Sandakan, Warrant Officer William Sticpewich was also on this march. Warrant Officer Sticpewich, in his post-war debriefings, stated that Private Wilmott was with '*the second march - escaped en route*'.<sup>9</sup> Warrant Officer Sticpewich did not indicate where Private Wilmott had escaped or the approximate date.

9. The assertion by Warrant Officer Sticpewich that Private Wilmott escaped from the second march is supported by the fact that Private Wilmott's name is missing from any camp or death march records, which contain places and dates where POWs died or were killed along the death march route.

10. In his book *Borneo: Australia's Proud but Tragic Heritage*, Dr Smith wrote '*Pte. J.S. Fletcher...escaped near the Sg. Sapi on 10<sup>th</sup> June, while Pte A.J. Willmott...escaped at about the same time in the same vicinity.*'<sup>10</sup>

11. At the hearing before the Tribunal on 14 December 2016, Dr Smith stated Private Wilmott escaped about 10 June 1945 near Sungei Sapi river. He said the exact date and location of death are unknown to him.

### **Conclusion as to escape**

12. The Tribunal finds that there is some evidence that Private Wilmott escaped from the second death march.

### **Evidence of Private Wilmott being killed as a consequence of escaping**

13. The Tribunal has been unable to determine how Private Wilmott met his death. Private Wilmott's disappearance appears to have been undetected by the Japanese who, in the absence of any field records, may have fabricated a date and place of death for his entry in the highly unreliable 'Jap Roll' as 10 January 1945, of malaria, a date which is well before the death marches commenced.

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<sup>8</sup> AWM Roll of Honour for Alexander John Wilmott.

<sup>9</sup> Sticpewich Report. NAA: B3856 144/1/372, Part 3.

<sup>10</sup> Kevin Smith, *Borneo: Australia's Proud but Tragic Heritage*, KR & H Smith, Armidale, 2000, p. 251.

### **Conclusion as to nexus between death and the escape**

14. While there is some evidence that Private Wilmott escaped from the Japanese, there is no evidence that Private Wilmott was killed while escaping, or that he was ever recaptured. It appears more likely that Private Willmott died in the jungle.

### **Tribunal finding**

15. The Tribunal finds that, while it is reasonably satisfied as to evidence of an escape attempt, the Tribunal could find no evidence to suggest that Private Wilmott was killed while escaping or on recapture. Consequently, he cannot be considered for medallic recognition under the Terms of Reference of this Inquiry.

## APPENDIX 54 - LOCATIONS OF AUSTRALIAN PRISONERS OF WAR

### Ambon (Amboina, Gull Force)

1. In December 1941, an Australian force known as *Gull Force* sailed for Ambon Island in the Netherlands East Indies (present-day Indonesia). The force of 1,090 was made up of the 2/21 Battalion and C Troop 18 Anti-Tank Battery, three sections of the 2/11 Field Company, one section Australian Army Service Corps, 2/12 Field Ambulance Detachment, 23 Special Dental Unit, and 104 Light Aid Detachment. Following the Japanese invasion on 30 January, over 200 Australians were massacred at Laha, Ambon, on 6 February and between 15 and 20 February 1942.

2. By February 1942, *Gull Force* was in captivity at Tantui (on Ambon). In October 1942, the prisoners were divided into two groups. One group was transported to Hainan Island aboard the *Taiko Maru*, disembarking on 5 November 1942 and being imprisoned in Haicho Camp (Colonel W.J.R. Scott's Force). The other group remained on Ambon.

3. Of the 263 POWs sent to Hainan Island, 182 were still alive at the end of the War.

### Borneo (Sandakan, Kuching)

4. The Japanese conquered British and Dutch Borneo early in 1942. *B* and *E Forces* were sent by ship from Changi to Borneo. *B Force* (1,496-strong) included 145 officers and medical staff. Commanded by Lieutenant Colonel A.W. Walsh of the 2/10th Field Regiment, it left Singapore in the *Ubi Maru* on 8 July 1942 and after a nine day journey in poor conditions disembarked at Sandakan. *E Force* embarked on the steamer *de Klerk* on 29 March 1943. It contained 500 British prisoners, who disembarked at Kuching, and 500 Australian prisoners, who were sent to Berhala Island (North Borneo). In early June 1943, *E Force* was moved to Sandakan.

5. Prisoners in *B* and *E Forces* included troops from the 2/18, 2/19, 2/20, 2/26, 2/29, 2/30 Battalions, 2/4 Machine Gun Battalion, and 2/10 Field Ambulance.

6. There were four main camps in Borneo: Sandakan, Kuching, Labuan and Jesselton. Of these, Sandakan contained the majority of Australians. Captain Hoshijima Susumi commanded Sandakan Camp. In early 1945, the first of a series of forced marches to Ranau occurred. Of the 2,500 Australian and British prisoners of war, only six Australians survived these 'death marches'.

### Burma–Thailand Railway

7. In all, 9,500 Australian prisoners of war worked on the construction of the Burma–Thailand Railway, which ran from Bampong, Thailand, to Thanbyuzayat, Burma. Building commenced at each end of the railway. Altogether, 2,646 Australians died working on the railway. Prisoners in Changi were divided into forces to work on the railway in either Burma or Thailand.

## Burma

8. A *Force*, 3,000-strong and commanded by Brigadier A.L. Varley, was the first Australian group to leave Singapore for Burma, on 14 May 1942. It was drawn principally from the 22nd Australian Brigade (Varley was promoted to Brigadier by Gordon Bennett in February 1942 and given command of this brigade), the 2/4 Machine Gun Battalion (under Major C.E. Green), and 2/30 Battalion (under Lieutenant Colonel G.E. Ramsay), with a medical group drawn mostly from the 2/4 Casualty Clearing Station (under Lieutenant Colonel T. Hamilton). A *Force* sailed in the *Celebes Maru* on 15 May 1942, from Singapore to Victoria Point, in Burma, where Green's battalion and some other groups (a total of 1,017) disembarked. *Ramsey's Force* (1,000-strong) traveled to Mergui and the remainder continued to the Burma Peninsula near Tavoy. After constructing airfields, A *Force* moved to Thanbyuzayat.

9. POWs from Java (*Williams Force*, commanded by Lieutenant Colonel JM Williams, and *Black Force*, including 593 Australians commanded by Lieutenant Colonel C.M. Black) travelled via Singapore and thence to Moulmein, arriving in Burma on 29-30 October 1942. *Williams Force* was based at Tanyin and *Black Force* at Beke Taung camp at Kilo 40. In October 1942 survivors from HMAS *Perth* were shipped from Bicycle Camp in Java to the Changi Camp in Singapore, where they spent several weeks, before taking another ship to their ultimate destination in Moulmein, Burma. In October 1942, 385 Australians, commanded by Major L.J. Robertson, left Java on board the *Moji Maru*; they joined up with A *Force* on 17 January 1943. In all, 479 Australian soldiers died on the Burma section of the railway. Following its completion, in October 1943, A *Force* returned to Singapore.

## Thailand

10. The majority of Australian prisoners from Changi and Java were sent to Thailand to assist in the building of the railway. D, F, H *Forces* and K and L *Forces* (Medical) left Changi in 1942-43 for Thailand. POWs were also transported from Java. Hospitals were established at Tanbaya, Tarsau, Kanburi, Nakom Paton and Tamuan.

11. *Dunlop Force*, commanded by Colonel E.E. "Weary" Dunlop, arrived at Konyu, in Thailand, from Java in January 1943. It was divided into two battalions, each 450-strong: O *battalion* (commanded by Major H.G. Grenier) and P *battalion* (commanded by Major F.A. Woods). *Dunlop Force* was the first group of Australians to reach the southern end of the railway. Captain J.L. Hands commanded A *battalion* (337-strong), and the Dutch R *battalion* also came under Dunlop's command. The force eventually moved to Hintok.

12. D *Force* (2,242-strong under Lieutenant Colonel C.A. McEachern) left Changi for Bampton in four groups between 14 and 18 March 1943. Later, D *Force* moved to Hintok (to work on Pack of Cards Bridge), where McEachern took over the command of *Dunlop Force*. D *Force* was also stationed at Kanburi, Tarsau and Konyu, where they worked on Hell Fire Pass.

13. F *Force*, a mixed Allied force including 3,662 Australians under Lieutenant Colonel S.W. Harris (18th British Division) left Changi for Thailand on 16 April 1943. Lieutenant Colonel C.H. Kappe commanded the Australians. Transported by train to Bampton, F *Force* then marched to Nieke, some 180 miles north and thence to Lower Songkurai. At the end of

May, *F Force* was distributed among five main camps. Some 1,438 men of *F Force* did not return.

14. *H Force*, including 600 Australians commanded by Lieutenant Colonel R.F. Oakes, left Changi on 5 May 1943. From Bampton, they marched 140 kilometres north to Tarsau. *H Force* joined *D Force* in cutting Hell Fire Pass; 179 men in *H Force* died.

15. *K* and *L medical forces* left Changi in June and August 1943 for Thailand. These personnel were used as labourers in various hospitals along the railway. Major B.H. Anderson commanded *K Force*, including 5 medical officers and 50 other ranks. Major A.L. Andrews commanded the AIF party of 3 officers and 70 other ranks included in *L Force*.

## **Hainan Island**

16. On 25 October 1942, 263 prisoners of war (under Lieutenant Colonel W.R.J. Scott) were transferred from Ambon to Hainan Island in the *Taiko Maru*. Conditions on Hainan Island were primitive and barbaric, and at the end of the war, only 182 were alive.

## **Japan**

17. The movement of Australian prisoners to Japan, Formosa and Korea began in 1942, continued during 1943, and was intensified in 1944 following the completion of the Burma-Thailand Railway. By early 1945 there were nearly 3,000 Australian POWs in Japan. In June and July 1942 two drafts of the Australians captured on New Britain embarked for Japan. One draft, containing about 60 officers and 19 Australian women (including 6 Army nurses) led by Colonel J.J. Scanlan, reached Japan safely. 45 officers (including Colonel Scanlan), were taken to Nisi Asi-Betu, on Hokkaido to work in the coalmine.

18. The other draft of 1,050 prisoners (including about 200 civilians) sailed in the *Montevideo Maru*, from Rabaul, destined for Japan. The ship was sunk by an American submarine off Luzon in the South China Sea on 1 July 1942. No POWs survived the sinking.

19. *C Force*, including 563 Australians under Lieutenant Colonel AE Robertson left Singapore on 28 November 1942. The force was sub-divided: Captain J. Paterson's group (about 250) was sent to Kobe Kawasaki camp, and Robertson's (about 300) went to Naoetsu camp (No 4 Branch Tokyo Camp).

20. *G Force*, including 200 Australians under Major R. Glasgow, was formed at Changi and sailed from Singapore for Japan on 26 April 1943 on the *Kyokko Maru*. At Moji, the Australians were taken to Taisho sub-camp, one of a group of camps around Osaka and Kobe.

21. *J Force*, including 300 Australians under Lieutenant Colonel L.J.A. Byrne, sailed from Singapore on 16 May 43. At Moji the Australians in *J Force* were divided into two parties, one being sent to Moji, the other to Kobe.

22. In June 1944, 267 Australians from Java and Timor were sent to Japan via Singapore and Takao, Formosa. Their transport ship, the *Tamahoko Maru*, was sunk by an American

submarine on 24 June 1944. Of the 267 Australians, only 73 survived, and they were taken to Nagasaki.

23. On 1 July 1944, a group of 2,250 (including 1,000 Australians) under Major R. Newton left Singapore for Japan. They arrived in September 1944; some 200 were sent to Nagasaki to work on the docks.

24. A *Force* of 2,300 prisoners commanded by Brigadier A.L. Varley left Singapore on 6 September 1944. These men had previously worked on the Burma-Thailand Railway. A group of 649 Australians embarked on the *Rokyo Maru*; the *Kachidiko Maru*, carrying some 1,000 British prisoners of war, was also in the convoy. Off Hainan Island, both vessels were sunk by an American submarine: 503 AIF, 33 RAN and 7 RAAF personnel were lost in the *Rokyo Maru*; 80 survivors were picked up by American submarines. Those picked up by the Japanese were sent to the Kawasaki group of factories, and Moji and Sakata prison camps.

25. In 1945 only one party of Australians reached Japan from Singapore. This party of 600 Australians arrived at Moji on 15 January 1945 and were then sent to separate destinations.

### **Java and Timor**

26. *Black Force*, under Brigadier A.S. Blackburn (7th Division), became prisoners of the Japanese after Java fell on 9 March 1942. Other Australians captured on Timor (primarily from 2/40 Infantry Battalion, commanded by Lieutenant Colonel W.W. Leggatt, which was a component of *Sparrow Force*) were transferred to Java and Singapore, and thence to Thailand, Japan and elsewhere.

27. Australian troops were imprisoned in several camps in Java, the main ones were as follow:

- ***Bandung camp***, under Lieutenant Colonel E.E. “Weary” Dunlop (Dunlop Force). In October 1942, this group and others were moved to Makasura, near Batavia. In January 1943, as part of the 900-strong *Dunlop Force* the prisoners were transported from Java to Konyu, Thailand, via Singapore.
- ***Bicycle Camp***, Batavia. Brigadier A.S. Blackburn was the senior officer there. *Black Force* included more than 300 Australian sailors from HMAS *Perth*. On 4 August 1942, 20 officers and 20 NCOs under Lieutenant Colonel WW Leggatt arrived from Timor. On 11 October 1942, a group of 362 Australians (under Major L.J. Robertson) embarked for an unknown destination (it was A Force in Burma). In November 1942 prisoners from Bicycle Camp moved to Makasura (under Lieutenant Colonel Dunlop). Some six Java parties moved through Changi on their way to join other forces. Lieutenant Colonel Dunlop was commander of the sixth Java party. Other camps were at Serang, Leles and Garut.

### **New Britain (Rabaul) and New Ireland (Kavieng)**

28. 2/22 Battalion (commanded by Lieutenant Colonel H.H. Carr) and attached units were sent to New Britain as *Lark Force* to protect airfields at Lakunai and Vunakanau and seaplane anchorage. In October 1941 Colonel J.J. Scanlan took over the HQ New Guinea area. No. 1 Independent Company commanded by Major J. Edmonds-Wilson was sent to New Ireland and was dispersed along the chain of islands: Tulagi, Vila, Buka, Manus, and Bougainville. New Britain and New Ireland were invaded by the Japanese on 23 January 1942. Some troops escaped, but 1,049 Australians were captured on New Britain. Troops from New Ireland who were taken prisoner were sent to Rabaul.

29. As mentioned above (see Japan section) in June and July 1942 an attempt was made to transfer the Australians to Japan in two drafts. One draft, containing about 60 officers and 19 Australian women (including 6 Army nurses), arrived safely (it left Rabaul on 6 July 1942 under Colonel Scanlan and reached Yokohama on the 15 July).

30. The other draft was made up mainly of troops of 2/22 Battalion and 1 Independent Company (but also containing about 200 civilians) sailed in the *Montevideo Maru*, which was sunk off Luzon in the South China Sea on 1 July 42. There were no survivors among the prisoners. Another 160 were killed in massacres at Tol Plantation, New Britain.

### **Senior Officers' Party, Korea (Chosen, Jinsen), Manchuria, and Taiwan (Formosa)**

31. The Senior Officers' Party, made up of officers, engineers and technicians, left Singapore on 16 August 1942. The party included Major General C.A. Callaghan and 13 Australian senior officers. They were taken to Takao, Karenko, and other prison camps on Formosa, where they stayed until November 1944 when they were taken to Mukden, in Manchuria, via Japan. The engineers and technicians stayed at Takao until November 1942, when they were shipped to Moji and imprisoned at Yokohama.

32. The second group, a working party including 6 Australian officers and 90 men, was taken first to Takao, and then to Fusan and Seoul in Korea. In September 1943 one Australian officer and 50 men were transferred to Konan, also in Korea.

### **Singapore (including Changi)**

33. Changi was the main prisoner-of-war camp in Singapore. Some 14,972 Australians captured at the fall of Singapore were imprisoned there. As drafts were sent away, the numbers at Changi declined, then after the completion of the Burma-Thailand Railway, numbers rose again. From August 1942 Lieutenant Colonel F.G. "Black Jack" Galleghan of the 2/30 Battalion was commander of the AIF in Changi. Many work forces were assembled in Changi before being sent to the Burma-Thailand Railway and other work camps. It was also used as a staging camp for those captured elsewhere.

34. Prisoners were used on heavy labouring works in and around Singapore. Tasks included road-building, freight-moving, mine removal and work in chemical factories. Prisoners of war were sent to the following camps around Singapore: Great World, Adam

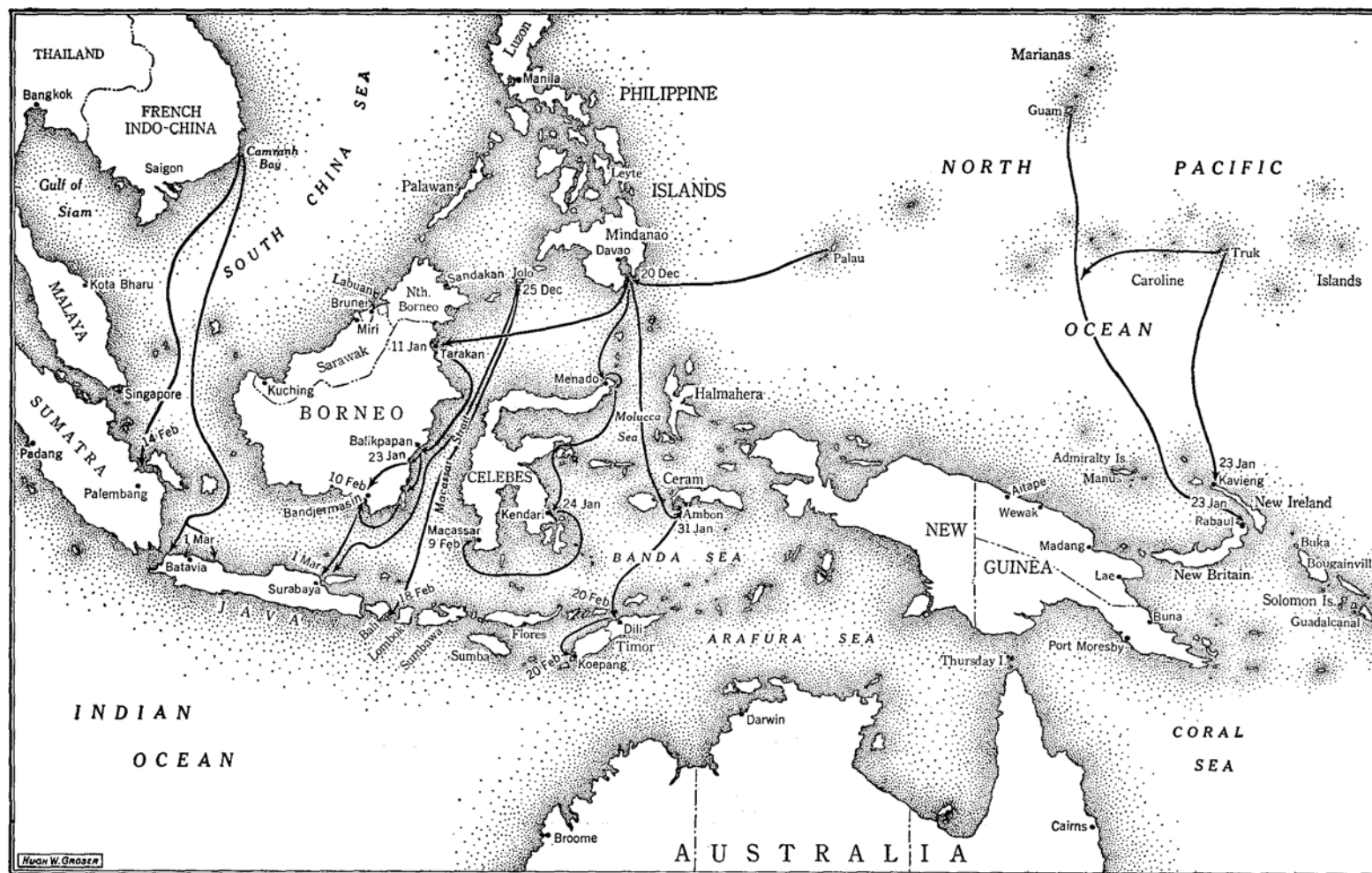
Park No 1, Bukit Timah No 5, Thomson Road No 3, Lornie Road, Serangoon Road, Adam Park No 4, Woodlands, Pasir Pajang, River Valley Road, Havelock Road, and Blakang Mati;

### **Other locations**

35. Prisoners of war (including nurses) were sent to Johore in Malaya; and to Bahru, Mersing, and Endau, in Sumatra. The main POW camp on Sumatra was at Palembang. In 1942 about 60 Australians were imprisoned there, but by the end of the war there were 243.



Map 1 – The Japanese advance through the Netherlands Indies and to Rabaul<sup>652</sup>



<sup>652</sup> Lionel Wigmore, *The Japanese Thrust, The Official History of Australia in the War of 1939-1945*, Series I, Volume IV, Australian War Memorial, Canberra, 1957, p393.

## APPENDIX 55 - INDIVIDUALS AND ORGANISATIONS WHO PROVIDED SUBMISSIONS TO THE INQUIRY

### Name

Dr Kevin Smith

### Names of nominated personnel

Private Edward Allen  
 Gunner Francis Anderson  
 Private Vernon Boston  
 Sergeant Rex Butler  
 Private Keith Costin  
 Gunner Wally Crease  
 Corporal Leigh Dawson (aka Kenneth Molde)  
 Corporal Edward Emmett  
 Private Walter Evans  
 Lance Corporal William Fairy  
 Private John Fletcher  
 Private Charles Forrester  
 Private Charles Foster  
 Gunner Eric Fuller  
 Private Standish Haly  
 Private Thomas Harrington  
 Private Frank Ledwidge  
 Private Gordon Radnedge  
 Driver Herman Reither  
 Private Jeffrey Shelley  
 Corporal Henry Simpson  
 Private Edward Skinner  
 Lance Bombadier Harry Treseder  
 Private Charlie Urquhart  
 Lieutenant Charles Wagner  
 Private James Waygood  
 Private Sidney Webber  
 Private Alexander Wilmott (aka John Willmoth)

In addition to the submissions from Dr Smith, in response to advertisements placed in the media giving notice of the Inquiry and calling for submissions, the Tribunal received a further 17 submissions from the following individuals and organisations.

<b>Name and organisation (as applicable)</b>	<b>Names of nominated personnel</b>
Mrs Dianne Cowling On behalf of the 2/29 Battalion Association	Corporal James Armstrong Lieutenant Ronald Cootes Private Arthur Davey Lieutenant William Fitzallen Private Harry Harvey Private George Dickenson Major Gilbert Jose Private Percy Norris Lance Corporal Nugent Private Arthur Nicholls Lance Corporal Byron Pattison Private Elliott Terry Lance Sergeant Bertram West
Mr Mal Edmiston	Lieutenant John Appleby
Ms Kathryn Flynn	Lieutenant John Appleby
Mrs June Fowler-Smith	Private Sidney Webber
Mr Leslie Glover Patriarch of Sandakan POWs Family & Friends Queensland Inc	Gunner Francis Anderson Private Keith Costin Gunner Wally Crease Corporal Edward Emmett Private John Fletcher Sergeant Rex Nelson Driver Herman Reither Private Edward Skinner Lance Bombardier Harry Treseder Private Sydney Webber Private John Wilmott
Mr Peter Henning	Corporal James Armstrong
Mr Peter Henning	Lieutenant Wilkins Fitzallen Sergeant Bertram West
Mr Peter Henning	Lieutenant John Stirling
Lieutenant Colonel John Hopman (Retd)	Lieutenant John Appleby
Colonel Harold Jacobs	Lieutenant John Appleby
Ms Maree Klein	Lieutenant John Appleby

Mr Ross Manning

Sergeant Howard Manning

Mr Edmond J Meyer

Flying Officer Francis Meyer

Dr John Moremon

Flight Sergeant John Orgill

Mr Peter Scott

Lieutenant John Appleby

Mr John Whitton

Sergeant Henry Whitton

**Name and organisation (as applicable)**

**Names of nominated personnel**

Chief of the Defence Force

Private Arthur Davey

Private Arthur Ford

Private Raymond Geraghty

Corporal Michael Grace

Private Myles Higgins

Private George Irwin

Private Norman McCartney

Private Robert Merritt

Private Edward Moffatt

Sergeant Ronald O'Donald

Gunner David Williams

## **APPENDIX 56 - TRIBUNAL HEARING DATES AND WITNESSES**

### **TRIBUNAL MEMBERS**

Presiding Member: Ms Naida Isenberg  
Members: Rear Admiral James Goldrick AO, CSC, RAN (Retd)  
The Hon Peter Lindsay OAM  
Air Vice-Marshal John Quaife AM (Retd)

### **HEARING DAYS**

#### **Monday 5 December 2016 - Perth**

##### **Submitters**

- Mr John Whitton
- Mr Ross Manning
- Mr Edward Meyer

#### **Wednesday 14 December 2016 – Canberra**

##### **Submitters**

- Defence, represented by:  
Ms Margot Kropinski-Myers - Director Honours and Awards  
Mr Brett Mitchell - Research Officer Directorate Honours and Awards  
Ms Gillian Heard - Staff Officer Ceremonial - Army  
Major Phil Rutherford - Research Officer - Army  
Flight Lieutenant Simon Hall - Staff Officer Honours and Awards - Air Force
- Dr Kevin Smith
- Mrs June Fowler-Smith
- Mr Michael Glover and Mr Leslie Glover

#### **Wednesday 1 March 2017 – Canberra**

##### **Submitter**

- Dr John Moremon

## **Tuesday 4 April 2017 - Melbourne**

### **Submitters**

- Mr Peter Scott
- Colonel Harold Jacobs, Defence Attaché, Australia and New Zealand Embassy of the Kingdom of the Netherlands
- Mrs Dianne Cowling on behalf of the 2/29 Battalion Association

## **Wednesday 5 April 2017 - Canberra**

### **Submitter**

- Defence, represented by:  
Ms Margot Kropinski-Myers  
Air Vice Marshal Gregory Evans DSC, AM  
Air Commodore John Meiers  
Colonel Michael Collie  
Major Phil Rutherford  
Flight Lieutenant Simon Hall  
Flight Lieutenant Julie Dryden  
Mr Martin James  
Mr Brett Mitchell

## **Monday 15 May 2017 - Canberra**

### **Submitter**

- Defence, represented by:  
Ms Margot Kropinski-Myers  
Air Vice Marshal Gregory Evans DSC, AM  
Air Commodore John Meiers  
Brigadier Mark Holmes AM, MVO  
Colonel Michael Collie  
Major Phil Rutherford  
Flight Lieutenant Simon Hall  
Flight Lieutenant Julie Dryden  
Mr Martin James  
Mr Brett Mitchell

## **APPENDIX 57 - SITTING DAYS**

The Tribunal (as constituted) convened on the following days:

- 10 December 2015
- 10 March 2016
- 23 June 2016
- 30 August 2016
- 8 November 2016
- 13 December 2016
- 15 December 2016
- 28 February 2017
- 3 April 2017
- 6-7 April 2017
- 15-17 May 2017
- 1 June 2017