

**AFTER THE SURRENDER: AUSTRALIA
AND THE JAPANESE CLASS B AND C
WAR CRIMINALS, 1945-1958**

Dean Michael Aszkielowicz

**Submitted in total fulfillment of the requirements of the degree of
Doctor of Philosophy**

July 2012

**School of Social Sciences and Humanities
Murdoch University**

I declare that this thesis is my own account of my research and contains as its main content work which has not previously been submitted for a degree at any tertiary education institution.

Dean Aszkielowicz

CONTENTS

Acknowledgments

Abbreviations

Conventions

Timeline of Events

INTRODUCTION	1
The Development of Modern War Crimes Law	12
War Crimes Trials and the Occupation of Japan	17
Scholarly Context	27
Primary Sources	41
CHAPTER ONE - JAPAN AND AUSTRALIA 1945-1946: WAR AND WAR CRIMES	51
A Newly Confident but Frustrated Australian Government Pursuing Japan	53
Public Knowledge and Public Outrage	61
Preparing for the Trials: The Military and Political Process	67
	82
CHAPTER TWO - THE TRIALS: LEGALITIES AND LIMITATIONS	92
Investigating War Crimes	96
The Trials	99
The Process in Practice: Case Studies	125
Fairness: An Assessment	143
CHAPTER THREE - THE FIRST PHASE, 1945-1949: THE TRIALS IN A CHANGING INTERNATIONAL CONTEXT	150
Before the Communist Threat: Foreign and Domestic Policy in the Late 1940s	152
Emerging Perceptions of a Communist Threat to Asia	156
The Initial Progress of the Trials	162
The Slowing of Australia's Trials	174

CHAPTER FOUR - MANUS ISLAND: THE END OF THE TRIALS	184
Planning for Manus	188
Public Views of the Trials, 1949-1950	193
Reaction in Japan	200
The Korean War, the San Francisco Peace Treaty and ANZUS	207
The New Prosecutions	213
The End of the Manus Trials	228
CHAPTER FIVE - THE POSTSCRIPT TO THE TRIALS: REPATRIATION AND RELEASE OF WAR CRIMINALS	236
The Legal Framework for Repatriation	241
The Beginning of Negotiations	250
Pressure from Japan Builds	258
Government Activity and Public Pressure in Australia	269
Deciding on the Future of the War Criminals	277
Parole, Reduction of Sentences and Release	288
CONCLUSION	300
Appendix 1: Example of Record of Military Court and Judge Advocate General's Review	313
Appendix 2: Example of Documents Relating to Parole and Release	317
Bibliography	322

ACKNOWLEDGEMENTS

I would like to thank my wife Karie for her love and patience, my parents for their support and Professor Alan Rix, Dr Beatrice Trefalt, Associate Professor Lenore Layman, Dr Narrelle Morris and Dr James Boyd for their help and direction. I would also like to thank Professor Robert Cribb for his guidance and generosity. I thank Murdoch University for awarding me a scholarship for the PhD.

Above all though, I would like to thank Professor Sandra Wilson. I learnt more during the project about writing and research than I could ever have imagined was possible and benefitted greatly from Sandra's generosity, energy, understanding and compassion. I was extremely fortunate to work with a supervisor who has such a great commitment to mentoring post-graduate students and to instilling in them a sense of rigor and professionalism.

ABBREVIATIONS

ANZUS	Australia, New Zealand, United States Security Treaty
BCOF	British Commonwealth Occupation Force
FEC	Far Eastern Commission (Washington)
IMTFE	International Military Tribunal for the Far East (Tokyo)
JAG	Judge Advocate General
NAA`	National Archives of Australia
NARA	National Archives and Records Administration (US)
NOPAR	National Offenders' Prevention and Rehabilitation Commission (Japan)
POW	Prisoner of war
PRC	People's Republic of China
RSL	Returned and Services League (formerly Returned Sailors', Soldiers' and Airmen's Imperial League of Australia)
SCAP	Supreme Commander for the Allied Powers (Tokyo)
SEAC	South East Asia Command

CONVENTIONS

Japanese personal names are usually given in the text with surname first, in accordance with Japanese custom. The war crimes trial records, however, are erratic in their recording of Japanese names, sometimes putting the surname first and sometimes not. When quoting from the trial records I have given the name in the order in which it appears in those records.

The titles of trial records include the names of all defendants in a case, which produces exceedingly long citations for the larger trials. I have therefore cited these records in an abbreviated format in footnotes and the bibliography, giving the name of the first defendant and the total number of defendants but not listing all names.

TIMELINE OF EVENTS

18 May 1899	First Hague Convention
15 June 1907	Second Hague Convention
23 May 1921	Leipzig Trial
27 August 1928	Kellogg-Briand Pact signed in Paris
27 July 1929	Third Geneva Convention signed
3 September 1939	Outbreak of World War Two
7 December 1941	Japan attacks Pearl Harbor in Hawai'i, beginning the Pacific War
June 1943	Australian investigations into Japanese war crimes begin
30 October 1943	Moscow Declaration issued
26 July 1945	Potsdam Declaration issued
8 August 1945	London Charter of the International Military Tribunal signed
15 August 1945	World War Two ends
2 September 1945	Japan formally surrenders
November 1945	First Class B and C prosecutions of suspected Japanese war criminals begin
29 April 1946	International Military Tribunal for the Far East opens in Tokyo
12 November 1948	International Military Tribunal for the Far East closes
October 1949	Communist victory in China
December 1949	Liberal victory over Labor in the Australian federal election
June 1950	Manus Island prosecutions begin
June 1950	Outbreak of the Korean War
May 1951	Last Australian war crimes trial (and the last by any of the Allies) finishes at Manus

September 1951	San Francisco Peace conference and signing of peace treaty with Japan
September 1951	Australia, New Zealand and United States Security Treaty (ANZUS) signed
28 April 1952	Occupation of Japan ends
July 1953	Convicted Japanese war criminals repatriated from the Philippines
August 1953	Convicted Japanese war criminals repatriated from Manus Island
28 June 1957	Final release of Japanese war criminals in Australian custody, from Sugamo Prison, Tokyo
December 1958	Last surviving Japanese war criminals released unconditionally

ABSTRACT

After the war in the Pacific formally ended in September 1945, the victorious Allies occupied Japan and pursued Japanese militarism through democratisation programs and war crimes tribunals. Australian officials took part in the multinational effort to bring members of Japan's leadership, the 'Class A' war criminals, to account for the war. Between 1945 and 1951 the government and military also ran wholly Australian trials, prosecuting about 800 'Class B and C' suspects for mistreating soldiers and civilians during the conflict. The government needed to be seen to be addressing public outrage over Japanese atrocities, by bringing the perpetrators to justice. In the 1950s, however, as the Cold War escalated and US priorities changed, Australian authorities became conscious that they needed to promote good relations with the US and with Japan. Australia's harsh policies on war criminals proved to be a significant obstacle, and pressure to show clemency to imprisoned war criminals increased. The government eventually released all surviving war criminals in Australian custody by mid-1957. Writing on the early post-war period in Australia generally acknowledges that Japan was a focus of an increasingly independent and energetic foreign policy agenda. Nevertheless, the BC trials have received very little scholarly attention. The trials and their aftermath, however, constitute a twelve-year foreign policy project that illuminates Australia's relations with Japan and the US during an era when Australia sought to establish itself as an independent participant in Asia-Pacific politics. The increasingly political dimension of the BC trials, and their propensity to inflame domestic opinion and to become entwined with high-level policies, means they offer a unique perspective on post-war Australian politics, society and, especially, foreign policy.