

INTERNATIONAL PROSECUTION SECTION

Doc. No. 1635

21 May 1946

ANALYSIS OF DOCUMENTARY EVIDENCE

DESCRIPTION OF ATTACHED DOCUMENT.

Title and Nature: File of Requests by Mediating Nations to Visit and Inspect PW Camps; Records of Acceptance of These Requests.

Date: 1942-45 Original (x) Copy () Language: Japanese

Has it been translated? Yes () No (x)

Has it been photostated? Yes () No (x)

LOCATION OF ORIGINAL (also WITNESS if applicable) as of:

Document Section

SOURCE OF ORIGINAL: Foreign Ministry thru Col. Woolworth

PERSONS IMPLICATED: TOGO; SHIGEMITSU

CRIMES TO WHICH DOCUMENT APPLICABLE: Treatment of PWs

SUMMARY OF RELEVANT POINTS (with page references):

Published by Bureau of Information on PWs (FURYOJOHOKYOKI) and covers requests by neutral agencies to visit allied PWs held in Jap camps in 1942-45. Summaries of some of these requests and their answers follow:

From the Swiss Minister to Foreign Minister TOGO
2 June 1942: Permission is requested for Swiss representatives to visit PW camps in the Philippines, Honkong, occupied areas in China, Malay and the Dutch "SUNDA" Islands. The Foreign Ministry asked the War Ministry which replied: "The present policy is to allow Swiss representatives to visit American PWs and civilian internees in Osaka, ZENTSUJI and SHANGHAI only." (p. 10-11)

26 June 1942, Swiss legation requests Vice-Minister of War permission to visit PW camps containing British Empire captives. Reply: "Japan has decided upon a policy of not admitting representatives of nations useful to the enemy into areas occupied by the Japanese forces or being fought in by them." (p. 13-14)

The Japanese Foreign Ministry relays a Swiss request to visit some American and English PWs in Shanghai to the Vice-Minister of War. Reply: Considering the fact that a PW

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escaped a few days ago the PWs cannot be allowed to have contact with the outside for awhile. (p. 14-15)

The Foreign Ministry suggests to the Bureau of Information on PWs in a letter that it is best that Japan follow Art. 86 of the Geneva Convention. No reply is printed here. (p. 8)

6 Nov 1942, the Swiss Ministry sends a letter to the Foreign Ministry protesting against difficulties in seeing PWs in Thailand, and asking that the attitudes and policies of the War Ministry be made clear. (p. 26-27). This request is repeated (p. 33) 18 Jan 1943, and the reply by the Bureau of Information on PWs to Foreign Minister SHIGEMITSU's inquiry is as follows: Thailand is still too near the theater of operations; only those acceptable are allowed to see PWs; if the PW camp in Thailand refused the relief goods, it might be because the Swiss consul insisted on inspecting the camp. SHIGEMITSU sent a letter to the Swiss consul denying his request. (p. 33-35)

The War Minister grants Nils Ericson (Swede) permission to visit Formosan PW camps 9 Sept 1943. 16 Sept 1943 the head of the PW Administrative Department gives instructions to the C of S Formosan Army to the following effect: The actual place of PWs labor will not be open to inspection. (p. 48-49)

16 March 1944, the Swiss Minister repeats his request that permission be given to visit all PW camps in Japan or Japanese-held territory. The Japanese Foreign Minister answers that some camps cannot be visited because of difficulties incurred. (p. 57-59)

30 Jan 1945, a member of the Swedish Legation was permitted to visit the TOKYO PW camp. The Chief of the PW Administrative Dept. gave the C of S of the Eastern Army instructions to the following effect: The actual place of PWs labor will not be inspected. (p. 94-95)

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The War Minister grants Nils Ericson (Swede) per-
~~mission~~ mission to visit Formosan P.W. camps. 9 Sept. 1943.

~~16 Sept. 1943~~ 16 Sept. 1943 the head of the P.W. Administrative
Department gives instructions to the C of S Formosan Army
to the following effect: The actual place of P.W.'s labor
will not be open to inspection. (P. 48-49).

~~The Japanese Consul in Bangkok requested permission to
visit P.W. Camps of the Thai government which claimed~~

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request that permission be given to visit all
P.W. camps in Japan or Japanese-held territory.
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some camps cannot be visited because of difficulties
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the following effect: The actual place of P.W.'s labor
will not be inspected. (P. 94-95).

End

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The Japanese Foreign Ministry ~~relays~~ relays a Swiss request to visit some American and English P.W.'s in Shanghai to ~~the~~ the Vice-Minister of War. Reply: Considering the fact ^{that} a P.W. ~~was~~ escaped a few days ago the P.W.'s cannot be allowed to have contact with the outside for a while. (P.14-15).

The Foreign Ministry suggests to the Bureau of Information on P.W.'s in a letter that it is best that Japan follow Art. 86 of the Geneva Convention. No reply is printed here. ~~(P.8)~~ (P.8)

6 Nov. 1942, the Swiss Ministry sends a letter to the Foreign Ministry protesting against difficulties in seeing P.W.'s in ~~SAIKOKU~~ ^{Thailand}, and asking that the attitudes and policies of the War Ministry be made clear. ~~SAIKOKU~~ ^{Thailand} here. (P.26-27) This request is repeated (P.33) 18 Jan. 1943, and the reply by the Bureau of Information on P.W.'s ^{to} Foreign Minister SHIGEMITSU ^{is inquiry} is as follows: Thailand is ^{so} ~~is~~ too near the ~~the~~ theatre of operations; only those ~~persons~~ acceptable are allowed to see P.W.'s; if the P.W. camp in Thailand refused the ~~set~~ relief goods, it might be because the Swiss consul insisted on inspecting the camp. SHIGEMITSU sent a letter to the Swiss consul denying his request.

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Checked by Akita

Translated by H. TANISAKI P. 8-9

Treaty 3 Ordinary no 518

For Protection

(條三普通第518号條)

May 12, 1942

To the Chief of P. W. Information

Bureau from the Vice-Minister of

Foreign Affairs
Ministry

"The matter concerning

Dutch Nationals

those two ~~defectors~~ who are in

the P.O.W. Compound in Zen Tsūgi

Concerning the above-mentioned

matter, ~~instantly after~~, we have

Received your letter of reply

by P.W. Inf No. 49/1, dated Oct
(件情發 449 號)

Concerning the above-mentioned matter.

May 5, we ~~have~~ ^{have} informed the

Legation

Swedish Ministry which is the
representative of ^{interests} subjects for

of Holland of ^{an Japanese} ~~Japan~~ of the ~~2~~ (p 3)

matter which you have already

explained. The reply ~~was~~ ^{received}

~~was that~~ because he wished to pay a

visit to the above-mentioned P.O.W

camp ^{and} ~~to get the permission~~ to get permission ~~of the~~

War Ministry. Consequently, I

~~by~~ ~~by~~ ^{by} request you to make ~~to~~ ~~inform~~ for the

an

arrangement of supply of its permit
for ^{the} issuance of a permit by
the War Minister.

#1635
P10

Chd
by [unclear]

Translated by H. TANISAKI P. 10.

The letter from the ^{Swiss} ~~Swedish~~

in TOKYO

Ministry to Foreign Ministry

TOGO, dated 3rd June.

~~TOGO~~, (Translation)

I have the honor to inform

you, concerning ^{my} the ~~repeated~~ ^{repeated} of ~~my~~

letters

~~letters~~ which relate to the treat-

U.S.A.

ment of P.W.'s & civilians who

are interned in Japan and Japanese

occupied areas, that the ^{American} ~~U.S.A~~

government is ^{worried} ~~worrying~~ about the

safety of these Americans in the

Philippine Islands, Hong Kong, the

Malaya and the former Dutch territory, ^{Sumatra islands} occupied zone in China, ~~and~~

The same government has the

that I
the strongest desire to be paid a

the POW's and civilian internees' camps in the above
visit by ~~out in the protection of~~ w.
mentioned areas,

~~the above-mentioned areas~~
~~Camps - and civilian concentrated~~
~~of P.O.W. and civilian internees in~~ ←

Camps, based on

article ^{the} Convention
of article 56, of Geneva Treaty

of July 27, 1929. In case the Japanese

Government will ~~not~~ ^{agree} to ~~with~~ the

request of the American government ^{in this connection}

I will name a person who as my ~~representative~~

^{will} ^{all of} ~~me~~ to visits these respective ~~consent~~

^{Camps} ~~rated~~ ^{consent from} ~~after getting the agreement of~~

Japanese authorities. I am waiting

^{esteemed} for your ~~honorable~~ reply with great

high ^{to} respect of your Excellency, I am,

Yours sincerely. —

Translated by
H. TANISAKI # 1635
10-11

(附 3 号 4 6 2 0 号)

~~Treaty Confidential # 620~~

~~June 12, 1942~~

P. 10 - P. 11
For Production

To the Vice-Ministry of War

~~Ministry~~ from the Vice-Ministry

of Foreign Affairs. 12 June, 1942
Treaty 3 Confidential # 620.

The matter concerning the
Swiss delegates

Visit of American P.O.W. Camps

and civilians who are ^{interned.} ~~interned.~~

Concerning to the above-mentioned

subject, ^{the Swiss Minister has applied to us} ~~and we have been applied~~

~~by the Swiss Ministry in 1870 through~~

^{his} ~~gl. letter,~~ herewith we ~~will~~ ^{send} ~~send~~

its translation to you

~~to you,~~ ~~its translation~~ ~~is~~ ~~enclosed~~

herewith. ^{Incidentally} There is no room to

consider the request of the Swiss

Minister ~~to~~ ~~as~~ ~~so~~ ~~to~~ ~~the~~ ~~Philippines~~

Spain, Iceland, Hong Kong, Malaya

^{the} and ^{the} Dutch ^{Islands} ~~Sunda~~ ~~Java~~ ~~but~~ ~~the~~ are concerned since we have recognized no enemy interest representation in such areas, but as regards the occupied areas in China, we

have recognized ^{Switzerland} ~~Switzerland~~

the interest protecting country

Consejo), we are waiting

your proposed p 4
for your reply about the visit ^{to the POW}

Camps and civilians who are
interned.

~~Military~~ ^{Military} Secret Confidential
(陸 軍 密)

The reply from the ^{Vice} ~~Vice~~ - Mi-

nistr of War to the ^{Vice} ~~Vice~~ - Foreign

Ministry

note that p. 5
Please ~~acknowledge~~ the opinion

of our Ministry, concerning the

matter of the subject of Treaty 3, Conf-
(117.3 44. 9620 5.)

identical ~~no.~~ ^{FF} 620, dated ~~on~~ June 12,

1942 are as follows:

It is ~~its~~ ^{policy} our principle for the time

being, to permit ~~of the~~

~~the~~ Swiss Representative ^{to visit} p. 6
of the American POW's and Civil-

ians ^{who have been} ~~which~~ ~~is~~ ~~in~~ ~~charge~~ ~~of~~ ~~the~~

^{the} Army authorities, ~~nowhere else~~ ~~so long as~~
~~than~~ only in

ZENTSUJI, OSAKA SHANGHAI.
~~Zentsuji~~, ~~Osaka~~ and ~~Shanghai~~.

Military ~~is~~ Confidential # 2211

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S-11-125

Translated by
H. TANISAKI

p. 12
For Production

To Foreign Ministry, ^{TOGO} ~~TOGO~~ from

The Swiss Ministry in TOKYO

(C C 1.2.9 ca-)

Military Area Confidential
#2211 24 June, 1942

I have the honor to inform you,

concerning the visit ^{to the} of P.W.s, of which I

wrote to you repeatedly.
have already reported many times,

especially, relating to the ^{steps in} practice

sing the
Zation of P.O.W. Treaty Article 86, p. 2

item that our
Fessin 2, according to the home

• Government's telegram, Mr. S. Gouss-

that I, ^{the} Swiss minister, will
warrant wishes get a permit to meet
so that I may have a chance ^{for} conversation
in the P.O.W. Camp in Zentsuji

✓ With Colonel ~~MacMillan~~ Vanthant
Max Millan

^{any}
~~any~~ bystander.

Other person. We shall be
They are very glad

to get ^{your} the reply whether the Japanese

Government will ~~accept~~ ^{or will} not agree to p. 3
~~the~~

^{above} ^{request}
~~the~~ mentioned subject transmitting

this application to ^{you} the respective
government offices concerned.

official report ~~and~~ ~~is~~ ~~of~~ The

considers that
U. S. Government will interpret

ⁱⁿ the above is approved,
In case, ~~is~~ application ~~is~~ ~~agreed~~

~~that~~ it would do no harm it would not be harmful
there is ~~no~~ harm, however

if
that my

p. 4.

the representative ~~of~~ me will pay a

visit ^{there.} ~~there~~ instead of me

with great respects.

4637
12
C. P. ...
7. m
Production
Translated by H. TANISAKI p 12 - 13

Treaty 3 ordinary no. 686.
(附. 3 第 4686号)

June 25, 1942.

To the Vic-Ministry of War.

Ministry from the Vic-Ministry of

Foreign Affairs.

The matter relating to the permit

for the interview with Colonel ^{Max Millan} ~~McCormick~~ -

~~the~~ by the Swiss representative

SWISS
of its Ministry.

concerning this ^{subject} matter, ^{allegedly} as the wish

of the United States
of ~~U.S.A~~ Government through the

Swiss Ministry in ^{TOKYO} Tokyo, they ^{the latter has} applied

to us to get ^{a permit} the ~~permit~~ for the inter-
view ^{at} Zan-tou-ji ^{camp} POW Compound.

view with Colonel Macmillan by

a person whom the Swiss Minister may name as
^{his} ~~that~~ representative, directed by

the Swiss Ministry, based on the

article 86. ^{item 2} ~~of the~~

Treaty, relating to the treatment of P.O.W's.

~~Consequently, please acknowledge~~

~~and ^{as to} reply for the opinion of your ministry~~

Consequently, ~~as to~~ regarding

please acknowledge the particulars,

I should like to have you refer to

of the letter of Swiss Minister by

the enclosed

its translation, appending herewith

and would ask you to let me have

your ~~of~~ reply as to the opinion of your ministry.

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Chk by Akita

Translated
by H. TANI SAICI

For Production

Mikoyama's diary No 2360.

(陸軍普通号 2360号)

July 3, 1942

To Vice-Foreign Minister

Vice Minister of War Ministry

Concerning

contained in your note

The subject matter relating to the Treaty
(1913)

3 Confidential No 692 which were sent
(7/4 号 692 号)

as requested, please inform

advise the

in an adequate manner that

to the Vice Minister ^{our Empire} ~~our Empire~~

makes it a policy p. 2
~~with~~ ~~the~~ ~~visit~~ ~~of~~ ~~the~~ ~~representa-~~

tion of the ^{delegated} ~~delegation~~ ~~com~~ ~~pr~~ ~~of~~ ~~enemy~~

interests for ~~the~~ ^{to} POW's or civilians

comprised ~~of~~ ~~those~~ ~~who~~ ~~are~~ ~~interned~~ ~~by~~

^{forces} ~~our~~ ~~forces~~ in ~~the~~ ~~connecting~~ ~~area~~ ~~with~~

theater ^{of operations} ~~of operations~~ ~~or~~ ~~in~~ ~~the~~

occupied ^{area} ~~area~~

#1635
p 13

Chas. G. ...
For Production
p 13

Treaty 3, Confidential no 692.
(11/3 44. 8692 5)

June 26, 1942

To the Vichy Ministry of War

~~Ministry~~ from the Vichy Ministry
of Foreign Affairs.

The matter relating to the

~~the camp of ...~~ to the British POW's
~~and ...~~ who

and civilian

are interned by the Swiss representative

request of P. 2
based on the application from

the British government through the

Swiss Minister in Tokyo; we have

been informed by the Swiss Ministry

as to his desire to visit the camps of P.O.W.s and

for the purpose of visit to the ~~territories~~

British civilian internees; where British P.O.W.s and
the nationals of Britain and her

British Dominions, Indians and the other
natives of other)

British territories colonial P.O.W.s and

are interned

p. 3.

~~Civilians concentrated camps~~

~~of the occupied area or in the Japanese
occupied zones.~~

consequently, I await your opinion

relating to the above-mentioned

matter. Further, I have transmitted

to you a similar request
in the ~~matter of~~ ^{to you} ~~the application of~~ ^{the}

American ~~Government~~ ^{through our previous}
~~note # 620 dated June 12th, to which~~
~~reference is made in the~~

acknowledge and study together with P.P.

I should like you also to give your attention.

1635

chkd by Akita
For Production

Translated by H. TANISAKI p14-p15
95-3-Futen-344. [or # Treaty-3-ordinary-344, dated April 4, 1942.]
To the Vice Ministry of War Ministry

From Vice Ministry of Foreign Affairs,

the matter relating to the visit ^{to} of the

Camps of

British and American P.O.W.'s ~~concentrated~~

by the Swiss Consul-General
~~Camps through the Swiss (General Consul)~~

in Shanghai.

Concerning this subject matter,

We have ^{received} ~~received~~ the application
in letter

from ^{the} Saino Ministry in Tokyo, as

it is described on another paper.

Accordingly, ^{of which} ~~it is~~ ^{are} ~~sent~~ ^{are} ~~sent~~
ing you herewith a duplicate together with
the copy of the above mentioned letter

~~and its translation~~, ~~appending~~

with this letter. Please ^{note} ~~acknowledge~~

it then, and, we await your reply as to

of your opinion, about this matter.

The translation of the letter

from the Swiss Ministry in Tokyo, dated

on March 27.

I have already informed you.

In Shanghai, Switzerland has is

Get the Status, authorized; p. 4
the agreement of the American and

British interests through the consent
of the agreement

the
of Japanese Government and the

the Swiss Consul General
General Consul of the Swiss Legation in Shan-

SHANGHAI get a permission for his visit
the wishes to ~~visit~~ the American and

British P.O.W. Concentrated Camp

The Swiss General Consul, Mr.

has repeatedly
negotiated with Japanese General

Consul in Shanghai, relating to this

matter, in several times, but

request has so far,
This hope was never realized met,

yet, and still remains ~~to be~~ ~~to be~~

a pending matter at present.

I guess after direct negotiation with

Shanghai Military authorities

It appears to me that the Japanese military authorities in Shanghai have no cause to object to our consulate representatives approaching them directly for negotiation, and that P. 6 they will agree to study for the go into how some of the P.O.W.'s desires can be satisfied & ~~let it~~ ^{let it} possible to ~~satisfy~~ in any measure

~~for~~
a ~~last~~ request: According to the Swiss Consul-General has information which ~~we have got~~ ~~the~~ received through the ~~generous~~ ^{kind intermediary} of the ~~medium~~ of the Japanese ^{military police} ~~Gen. Larmer~~

When ~~the~~ Japanese military authorities paid ~~the~~ ^{paid} the visit to the P.O.W. Camps

told them through Colonel Ashurst
of the U.S. Marines that they want
P 7

the POW's ~~application to be desirable~~
some foodstuff such as

fresh fruits, sugar, salt etc, and

~~certain amount of food stuff and~~

some pocket money. I shall be very grateful if
through Colonel Ash-

you will do the
In case, you ~~will~~ ~~do the~~ favor
for me to

transmitting the above-
request of the

Skills General Counsel &
mentioned wishes to the War M-

with the request to study
misty, you ~~are asking~~ whether

there is any
possible to ~~retain~~ the benevolent
for such^a request to get a liberal
treatment. I ~~thank you for~~ ~~the~~
thank you in advance

for your trouble, the
~~to be for consideration and I am~~
and wish to express my high respect
to Excellency.
upon your goodness favour

with the great respect.

Militaria Asia Ordinary No 175
(陸軍普通号175号)

April 27, 1942

from ^{War} the Vice-Minister to

Vice-Minister of Foreign

Affairs.

Concerning the Subject of ~~matter~~ ^{being}
contained in your letter ~~to~~

the letter, Treaty-ordinary No 344
(條約普通号344号)

dated on April 4, 1942,

~~Signature~~
Signature

~~the fact of~~ due to the escape of P.O.W.'s P/O
~~to escape of P.O.W.'s~~ in the view point
for the ^{because} cause of guard and surveillance
of the ~~guarding~~ for the time being

make it a policy
will be ~~applied to do so~~ to permit
P.O.W. no contact with the outside
~~let it~~
to take a contact with outside
world.

We ask your trouble to advise the
informed Suroso Min.

accordingly in an adequate manner
style and such

Feb. 28, 1942

Proj No. 218

Item No. 1 duplicate

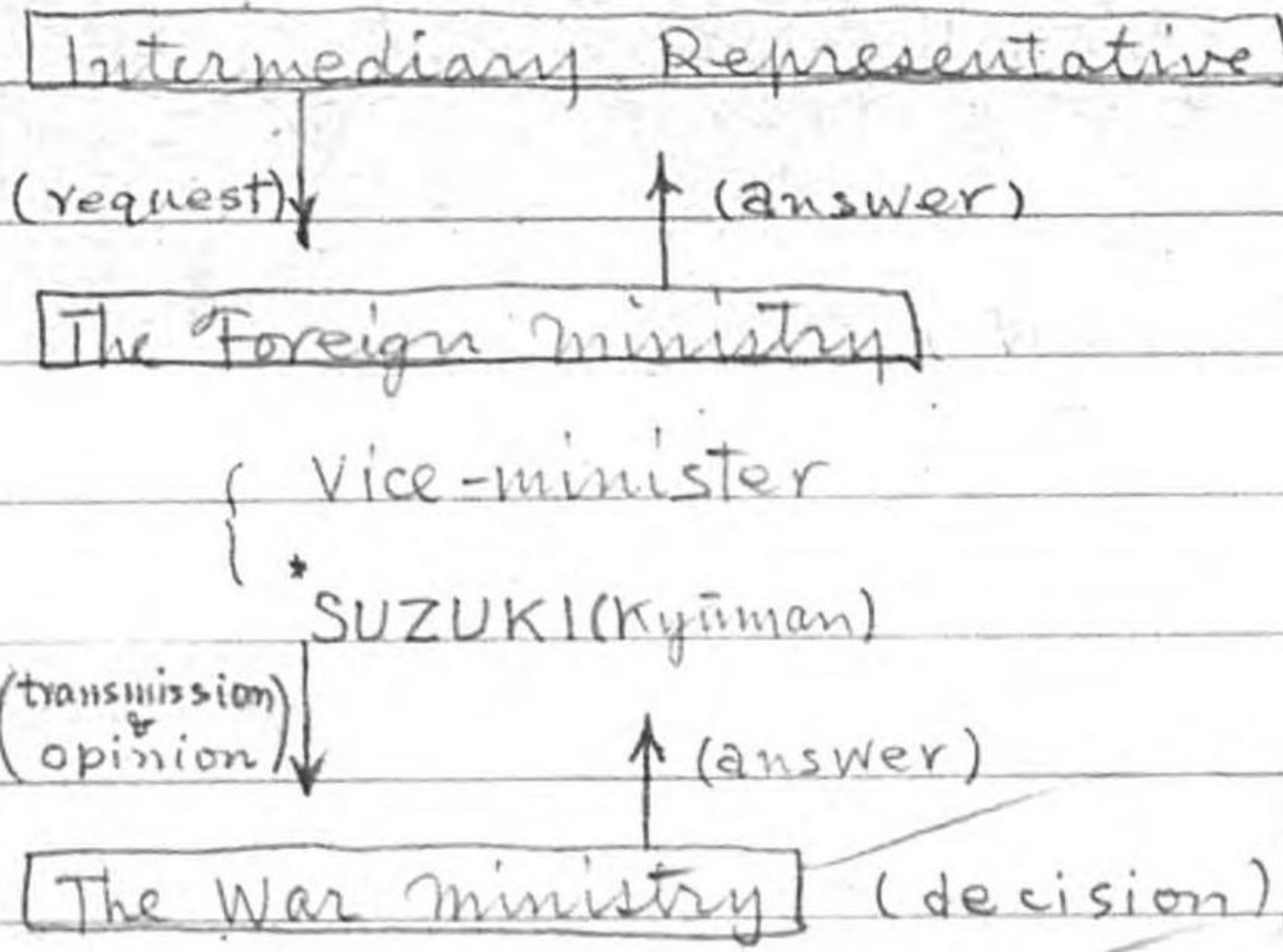
Page references

Analysis

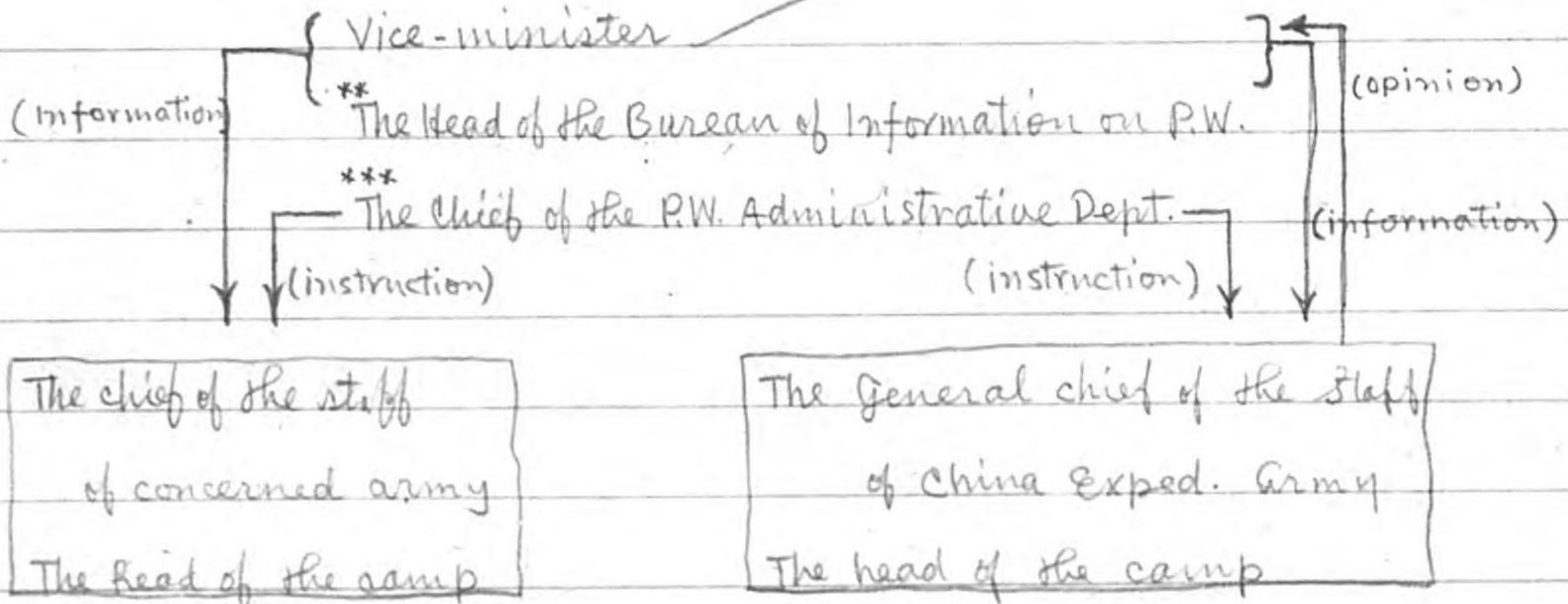
[by ISHII]

From following summaries, are learned:

Analysis



is those who be time
field office



* SUZUKI Kyūman: the Envoy Extraordinary and Minister Plenipotentiary, in service in the ^{****} Office concerning the Residents in the Enemy's Land.

Took the place of Vice-minister in concerning business since march, 43.

** 俘虜情報局長官 *** 俘虜管理部長 (陸軍省)

**** 外務省在敵國局留民關係事務室

Proj. No. 218

Item No. 1 duplicate

SUMMARIES OF ALL LETTERS

1.

Number of requesting times to visit and inspect the P.W.'s camps by intermediary.

Duplicates of the requesting documents. And Records in regard to the acceptance and permission to the requests.

by Bureau of Information on P.W.

1942

①. Robert Hansher ^(the secretary of the Swiss Legation) requests Hideki TOJO, the War-Minister, to be permitted to get August Kengelbach to visit the ZENTSUJI P.W. Camp on Apr. 21.

Mikio KAMIMURA, the Head of the Bureau of Information on P.W. send him a letter. "I inform you that your request was permitted."

The Head of the P.W. Administrative Department send a letter to the chief of the staff of the ZENTSUJI army division, informing that the visit was permitted.

②. [The vice-minister for Foreign Affairs mediates the Swiss Legation's request to visit the Shanghai P.W. Camp to the vice-minister for War, which request is permitted, but at Shanghai the visit is postponed by the order of the General Chief of the staff of the China Expeditionary Army as the camp was in removal.]

③ The Vice-minister for Foreign Affairs asks the Vice-minister for War to permit the visit of a Swedish representative to ZENTSUJI P.W.'s camp, which is admitted and the adjutant informs the permission to the Chief of the staff of the ZENTSUJI army division, the Chief of the head office of the KENPEI headquarters and the Head of the ZENTSUJI P.W.'s Camp.

(The permission seems to be issued from the War-Minister, according to the letter of the Vice-minister for Foreign Affairs.)

④ June 3, the Swiss Minister requests the Vice-minister for Foreign Affairs to permit ^{Foreign Minister Togo} his representatives' visit to P.W.'s Camp in Philippin Islands, Hongkong, occupied regions in China, Malay and Dutch Sunda Islands. The Vice-minister for Foreign Affairs mediates it, with his opinion which is as follows: Japan has not admitted the intermediary in those districts occupied by Japanese forces and so there is no room it comes into question, but only in China Japan admits Swiss as the mediating power and I wish to hear your opinion about it. The Vice-minister for war answers that the intention of the War Ministry is to put it in consideration to give a permission to Swiss representatives when they visit only ZENTSUJI, OSAKA and Shanghai. ||

⑤ The Swiss Minister wishes to talk with Col. McMillan in ZENTSUJI Camp privately. The Vice-minister for Foreign Affairs mediates. It was permitted, but that document is not found.

X
⑥ The Vice-minister for Foreign Affairs mediates the request of the Swiss Legation to make a visit to the P.W. Camps of the British Nations in the regions occupied by the Japanese forces. The Vice-minister for War ^{answers} that ~~the Japanese~~ ^{Japan} has decided ~~to~~ ^{on a policy} ~~not~~ ^{to} admit the visits of the representatives of the countries which stand for our enemy powers, to the captives in the areas occupied by the Japanese forces or fought nearby.

X
⑦ The Vice-minister for Foreign Affairs mediates the proposal of visiting the American and the English P.W.'s camp in Shanghai by the Swiss Consul-general. Those captives are claiming some fruits, sugar, salt and pocket money, the consul-general is informed from the Japanese army ^{authorities} who visited them. The Vice-minister for War give an answer; he will not allow the P.W.s to have a contact with outside for a while considering the fact that a P.W. escaped from the Shanghai camp several days ago.

⑧ The Vice-minister for Foreign Affairs sends a letter to the Head of the Bureau of information ^{on P.W.} to the effect that the Swiss Minister in Tokyo wishes to make visits to camps of the U.S.'s P.W. and interné civile. The Vice-minister for Foreign Affairs

adds that Japan had already informed that Japan would conform the Convention on the P.W. in 1929 and so it has no duty to apply wholly the article* No. 86, which the U.S. Government demands, to the P.W., but since the U.S. admits the visits of the intermediary on behalf of Japan to the Japanese civil interné and P.W.'s camp, it will be advantageous to give an answer that Japan has the policy to repay it, in return. (Feb. 28, 42)

The answer to this is not found.

* L'article 86 de la Convention de Genève sur les prisonniers de guerre.

⑨.⑩.⑪. The Vice-minister for War informs to each Chief of the staff that the visits of the following representatives to the following camps are permitted and requires to manage adequately.

| | | | |
|---|-------------|----------|-------------|
| ⑨ | Hildebrandt | Dec. 14, | Camp: ŌMORI |
| | " | Dec. 15, | YOKOHAMA |
| ⑩ | Angst | Dec. 14, | ZENTSUJI |
| | | Dec. 18, | Korea. |

⑪ Kengelbach on the way to TOKYO Hongkong

⑫ The Vice-minister mediates the request of the Swiss minister to give him the names of camps of the British nationals which he is allowed to visit.

The answer is not found.

⑬ The Vice-minister for Foreign Affairs tells that the Swiss Minister had wished to call on the survivors of the wrecked "LISBON-MARU", which he thought difficult in the then circumstances, but again the Minister requests it and so he informs it to the Vice-minister for War. To it, the Head of the Bureau of information on P.W. answers it shall be permitted at the beginning of March.

⑭ The Swiss Minister requested through the Vice-minister for Foreign Affairs to permit the Chief of Medical Department of Hongkong to call on the P.W. Camp in Hongkong. (Oct. 29, 42) The Head of the P.W. Administrative Department gets the opinion of the Chief of the Staff of the Government of the occupied region of Hongkong, which is as follows: the old Chief of Medical Dept. of Hongkong Governmental Office is now in service in the Sanitary Section of the Government (treated as an employé) and so unfitted to give charge of an international mission. The Chief of the Bureau of information on P.W. tells the Vice-minister for Foreign Affairs he is unfitted and to have the Swiss Minister to choose another adequate person if he think it is necessary to make an inspection to the Hongkong Camp.

⑮ The Swiss Ministry sends a letter to the Foreign Minister. (Nov. 6)

(a) The Japanese forces authority in Bangkok thinks he has no right to issue permission to the Swiss Consul to call on P.W. Camps in Thailand.

(b) He refused, too, to turn over the relief-goods to the P.W.s from the Swiss representative.

X (c) This authority can give a permission to present the relief-goods ^{each time} only, when the Swiss Consul made a special request.

(d) Even the Japanese Embassy in Bangkok is obliged to depend upon the Decision of the Japanese War Ministry which only can settle independently all the matters concerning the P.W.

The Ministry wishes to negotiate directly with the Japanese Government in order to settle the problem of the visiting the U.S. and British P.W. in the sphere of Japanese power. He wants the attitude of the Japanese War Ministry concerning this problem is informed to him.

This letter is transmitted to the Head of the Bureau of Information on P.W.

The answer to it is not found.

⑯ The Swiss Minister's letter is turned through the Vice-minister for Foreign Affairs over the Head of the Bureau of Information on P.W. It is to the effect that -

The Japanese Embassy in Indo-China refused the visiting of the Swiss Consul in Saigon to P.W. Camp, because, they say,

Japan has not joined the Convention at Geneva in 1929 and so Japan can not obey it strictly. Though the Japanese Government agreed to conform the Convention since the War, in such a special case as this temporary camp, they cannot permit the visit. They add the Japanese forces authority told that some P.W. tried to have a communication with the outside and there was even a deserter.

The Japanese Government had answered to the British Empire through the then intermediary, the Argentine Government that it would conform the Convention to all the P.Ws. impartially. The British Government requests through Swiss to give a consideration to this decision again and to give a permission to visit the camp. (Oct. 17, 42)

1943

- ①. The Swedish Minister (the intermediary on behalf of Holland) asks to call on the TOKYO P.W. Camp (Jan. 18) and permitted (Jan. 23).
- ②. The Swiss Minister repeats the request to permit the Swiss Consul in Bangkok to visit the P.W. Camps in Thailand and to turn over relief goods to them. He also points out the irrationality that the Japanese Government admits the shipment of commodities for the P.W. and at the same time refuses the Swiss Consul to hand over the clothes and victuals to them. (Jan. 18)
 - The Head of the Bureau of Information on P.W. replies the Vice-Minister for Foreign Affairs.
 1. The opinion of the Foreign Ministry concerning the possibility that the Swiss delegation in Thailand takes the role of the intermediary on behalf of the enemy powers, is asked.
 2. In any case in 1, to get the P.W. Camp in Thailand inspected by Foreign delegation is thought too early, for the district is near to the theatre of operations.
 3. Everyone is not refused to offer relieving P.W. But examining its propriety each time, those perceived suitable are only permitted.
 4. If the P.W. Camp in Thailand refused the relief offering, it might be because the Swiss Consul insisted to inspect the camp

as an incidental condition or the camp perceived the contents of relief inappropriate. (No date)

◦ Mamoru SHIGEMITSU, the Foreign Minister sends a letter to the Swiss Minister informing his request was refused. (July 24) (Answering the Swiss Minister's request dated July 5) ||

③ The Swedish Minister requests to call and inspect the OSAKA and FUKUOKA P.W. Camp and is permitted in two times.

In regard to the practising of inspection, the instructions of the Chief of the P.W. Administrative Department shall be obeyed.

④ The Swiss Minister wishes to visit the P.W. labourer's camp according to the U.S.'s request.

Kyūman SUZUKI, the Envoy Extraordinary and Minister Plenipotentiary, servicing in the Office Concerning the Residents in the Enemy's Lands, mediates the request to the Head of the Bureau of Information on P.W., ~~with~~ ^{with} ~~his~~ ^{the} opinion he is afraid ~~of~~ the present situation will not allow it at once.

The answer is not found.

⑤ Kengelbach is permitted to call on the OSAKA and FUKUOKA P.W. Camp. The Vice-minister for War informs it to the Vice-minister for Foreign Affairs at the same time to the Chiefs of the Staffs of the concerned Armies. The practising of inspection is instructed by the Chief of the P.W. Administrative Department to every concerned Chief of the Staffs.

⑥. K. SUZUKI mediates the request of the Swiss Minister to visit the Singapore P.W. Camp. He relates it seems difficult to permit it but he informs it for once.

The answer is not found but there is a memorandum written "Disagree."

⑦ SUZUKI mediates the visit to Formosan P.W. Camp.

The answer is not found but there is a memorandum, "it shall be permitted at the beginning of June" (April 7)

⑧ SUZUKI hands over the Swiss Minister's letter addressed to the Foreign Minister to the Head of the Bureau of Military Affairs. In the letter are requested,

1. The Japanese military authorities have decided that the P.W.'s camp in the regions occupied by Japanese forces should not be visited. It's irrational. The last decision which will be taken by the military is wanted to be informed to him.

2. The camps in Japan which are not yet permitted to be visited till to day, are wished to be permitted.

3. The periodical visits to camps will be admitted.

No answer to it is found. (June 2) /

⑨ The Vice-minister for Foreign Affairs mediates the Swiss Minister's request to make a periodical visits to the Shanghai Camp, adding his opinion he thinks it's better not to admit the periodical visits but to decide the permission each time the request is made.

The Vice-minister for War replies in the affirmative. (July 18)

⑩ Only SUZUKI's letter telling the Head of the P.W. Administrative Department the visits to 4 camps are wished by the Swiss Minister.

⑪ ◦ The War Minister permits Nils Ericson (a Swedish) and Maurice Champon to make visits the Formosan camps. (Sep. 9)

◦ The Head of the P.W. Administrative Department gives instructions to the Chief of the Staff of Formosan Army —

①. 2 representatives are permitted to call the camps.

②. They are arriving at TAIHOKU on Sep. 20.

③. It is wanted they make inspection separately only of their own concerns.

[④. The actual place of the P.W.'s labor shall not be inspected]

⑤. The minute plan shall be made in your Army.

⑫ The request of visiting Shanghai P.W. camp is permitted. (Oct. 21)

⑬ The inspection of HAKODATE P.W. Camp is permitted (Oct. 31)

The Chief of the P.W. Administrative Bureau instructs the Chief of the Staff of the North Army — the schedule of the inspection is related; No. 42 of the article 9 of the P.W. Administration Rule shall be conformed. (which is dated July 30)

⑭. SUZUKI mediates the visit to the U.S.'s P.W. who were removed to FUKUOKA Camp.

Memo. — Shall be permitted after his apology of his in-propriety at ŌSAKA.

- ⑮. SUZUKI informs to the Head of the Bureau of information on P.W. - SUZUKI replied in the negative to the request of periodical visits proposed formerly and now new request is made to visit the TOKYO and YOKOHAMA camps. (Aug. 26)
 The request is repeated. (Oct. 25)
 The answers to them are not found.

1944

- ① SUZUKI communicates the request by the Swiss minister to give him the list of the wounded and dead through the falling down of the barracks by storm and to permit him to call on the camp located in NIIGATA. (Feb. 19)
 The Vice-minister for War permits to inspect the OSAKA and TOKYO camps in the beginning of May. (March 2)
- ②③ The Swiss minister asks permission to visit the P.W. Camps in Thailand,
 1. in place of the Dutch Government (Jan. 31) which was asked formerly and refused (June 28, 1943),
 2. in place of the U.S. Government which was requested repeatedly in Nov. 1943. The Swiss Consul in Bangkok requested the permission to the Thailand Government who replied it was under the power of the Japanese officials, which, in their turn, answered they transmitted it to the Japanese military authority.

And till to-day, there is no answer to it.

The answer is not found.

- ④ The Swiss minister requests the answer to his demand to visit camps in Philippine Islands (July 29, 1943), in HAKODATE, HIRAOKA, NIIGATA, and to revisit camps in FUKUOKA, TOKYO and YOKOHAMA (dates: Aug. 23, Sep. 4, Oct. 22, Nov. 17, Dec. 10, 1943, Jan. 25, Feb. 4, 1944).

The vice-minister for war replies the course till to-day shall not be changed, that is, to permit it one by one at individual request if it's not inconvenient.

- ⑤ A Swedish representative is permitted to call on the TOKYO P.W. Camp. (April. 8)

- ⑥ The Swiss minister requests to be permitted to visit those camps which was not yet allowed to visit and the Japanese Government will conform the Geneva Convention, explaining the U.S. attitude to the Japanese civil interné and P.W. (May. 10)

- ⑦ The Swedish minister requests to inspect the FUKUOKA and ZENTSUJI camps (May. 2) and is permitted (June 22)

- ⑧ The Swiss minister requests to have the camps in French Indo-China visited by the Swiss Consul in Saigon (July 26) to which the Head of the Bureau of information on P.W. replies that the inspection ^(it is perceived) is not yet admitted, as the action of the representative ^(as the fundamental principle) on behalf of the enemy against the Japanese forces. (July 29)

⑩ ⑪. The Swiss and Swedish Ministers request to visit HAKODATE and TOKYO P.W. Camps and are permitted.

⑫. SUZUKI advises the Head of the Bureau of information on P.W. that he will turn over the list of the names of all the camps located in Main Land to the Swiss Minister, without which the Swiss minister cannot request the permission of visiting all the camps as instructed by the Japanese Government.

To it the Chief of the P.W. Administrative Department replies that his policy is not to publish the location of the camps, and so, like heretofore, the inspection shall be planned by Japanese side and shall be permitted to the representative one by one.

○ The Swiss Minister repeats to request the permission to visit all the P.W. Camps in the sphere of the Japanese power citing the U.S. opinions concerning the U.S. protest and its reflection in Japan. The Japanese Foreign Ministry answers that some camps are difficult to be visited as was explained in his former letter.

○ The Swiss Minister also asks when he can visit another Camps than KAWASAKI Camp which was visited recently. The Japanese Government answers, it has promised to pay efforts to facilitate the visiting the camps in Main Land and China. The Japanese Government will give permissions one by one at his individual proposal.

⑫ °SUZUKI send a letter to the Head of the Bureau of Information on P.W. relating he has informed the conclusion of the conference on giving permission to visiting camps in southern districts and, at the same time, the ideas of the letter from the Head of the Bureau of Military Affairs, to

① The Head of the International Committee of the Red Cross.

② ③ The Swiss and Swedish Ministers. (Dec. 17.)

② ③ The Japanese Government has decided to permit the visit of the connected to the International Committee of the Red Cross, who is residing in the place, to the camps located in the districts occupied by the Japanese forces. At first the camps in Philippine Islands, Singapore and Thailand will be permitted.

⑬ The TOKYO Camp is requested to be visited and permitted.

⑭ The Indian Camp in Canton is requested to be visited but they had been already released.

⑮ The Swiss Consul-General in Shanghai requested to visit the American P.W. Camp in Shanghai and he was refused as the Japanese forces authority in Shanghai has no right. (They said only the War Ministry in TOKYO has the right.) It was permitted.

⑯ ⑰ The infirmary attached to the OSAKA Camp and other 2 branches are permitted to be called on by the Swiss and Swedish representatives.

- 1
- ⑬ Concerning No. ⑮ (P. 15) the Swiss Consul-General complains the inspection was obliged to be made too hastily even to make its report. The Head of the Bureau of Information on P.W. gives an instruction to the General Chief of the Staff of the China Expeditionary Army and the Heads of the camps to afford as large facilities for the inspector as possible.

1945

- ①. A member of the Swedish legation was permitted to visit the TOKYO Camp. The Chief of the P.W. Administrative Department gives the Chief of the Staff of the Eastern Army instructions as these - to pay attention no military secret to be known:
- [the actual place of the P.W.'s labour shall not be inspected:]
- the date of the visit including the content of their speech shall be reported to this Department. (Jan. 31)
- ② A Swiss Legation's representative is permitted to visit the TOKYO P.W. Camp and its infirmary. The Chief of the P.W. Administrative Department in the War Ministry give an instruction the Chief of the Staff of the Eastern Army as follows:
1. The date,
 2. The inspection shall be managed like former instances, and military secrets shall not be transpired.
 3. An attaché has no proper qualification, and so he shall be observed attentively pre-

paring for future. 4. The state of visiting, including what is talked between them, shall be reported.

3. The Swedish minister requests ^{permission} to visit Dutch P.W. who were removed from Formosa to Mukden. (Jan. 23)

KUWAJIMA, secretary under SUZUKI, transmits the urging by the legation to Lt. Col. HODA in the Bureau of Information on P.W.

(May 3) The Head of the Bureau writes to the chief of the staff of KANTO Army that he wishes to permit it. (Apr. 23)

4. The KAWASAKI No. 2 P.W. Camp is wanted to be visited by a Swiss representative. The answer is not found but was permitted to Bilfinger.

5. The Swiss Minister requests to be permitted to call on camps which, till then, were not visited.

MEMO - Is permitted one by one.

6. The Swiss Minister requests to get a permission to call on the Mukden P.W. Camp in which the higher officers and officials are confined being removed from Formosa, and wishes to be reassured they are treated suitably according to their ages and ranks, and in the climate. (Apr. 6)

The answer from the Head of the Bureau of Information on P.W. is, 1. Full attention is paid to their treatment. 2. The permission of visit is not considered till the ANAMARU incident is settled.

7 The Swiss Minister wishes to call on the P.W. Camps in TOKYO and other four places. He complains that the Japanese Government has not yet answered to his repeated requests to visit those camps which were not visited long or were established newly; and to make a periodical visits at as short intervals as possible. SUZUKI mediates the request to the War Ministry adding his opinion the War Ministry will pay a kindest consideration to it. (Apr. 17)

The Head of the Bureau of Information on P.W. answers it shall not be permitted so long as the ANAMARU incident is not solved. (May. 17)

8. The Swiss Minister repeats his request. He met General TAMURA in the last January when TAMURA said he would give him satisfaction concerning the inspection of camps unvisited long or even once. In this year he has been permitted to call on camps only twice and since the last visit it is about four months. He adds he wishes to know eagerly why the general attitude in regard to the visit of P.W. Camp has been changed since the reorganization of the Bureau of Information on P.W. In spite of his effort to get permission of visit which is quite difficult and is managed patiently only through the stand point of humanity and by which any brighter prospect is expected, it's a great regret, to encounter a new setback. (May 16)

Seven representatives are permitted to make visits to seven camps. (Aug. 23) ||

⑨. The Swiss Minister requests permission to make visit to Shanghai Camp. The General Chief of the Staff of the China Expeditionary Army relates his opinion to the Vice-minister for War that he wishes to postpone it as the camp was removed to Peking on July 13.

⑩. The Swiss Minister asks to be permitted to visit some camps which were not called on even once or for long. (Nov. 16, 1944)
no answer is found.

⑪. TOKYO Camps are permitted to be called on. (Aug. 25, 1945).

INTERNATIONAL PROSECUTION SECTION

Doc. No:

1635

Date

9 May 1946

ANALYSIS OF DOCUMENTARY EVIDENCE

DESCRIPTION OF ATTACHED DOCUMENT.

Mediating Nation

and inspect
to visit

Title and Nature:

~~File of Requests by~~ ~~Mediating Nation~~

P.W. Camps; records of acceptance of these requests.

Date:

~~1942-45~~
1942-45

Original (x) Copy ()

Language:

Japanese

Has it been translated? Yes () No (x)

Yes () No (x)

Yes () No (x)

Has it been photostated? Yes () No (x)

Yes () No (x)

Yes () No (x)

LOCATION OF ORIGINAL (also WITNESS if applicable) as of _____:

Document Section

SOURCE OF ORIGINAL:

~~Col. Woolworth~~

Foreign Ministry thru
Col. Woolworth

PERSONS IMPLICATED:

TOGO; SHIGEMITSU;

CRIMES TO WHICH DOCUMENT APPLICABLE:

Treatment of PWs

SUMMARY OF RELEVANT POINTS (with page references):

~~This document was published by~~
~~the Bureau of Information on P.W.'s (FURYO JOHOKYOKU)~~
~~and covers requests by neutral agencies to~~
visit allied P.W.'s held in ~~Japan~~ Japanese camps in
the years ¹⁹⁴²⁻¹⁹⁴⁵ ~~1942 through 1945~~. Summaries

Analyst

And H. Wilds

(over)

Doc. No.

cuwp

of ~~the~~ some of these requests and their answers 2.
follow:

From the Swiss Minister to Foreign Minister
TOGO 2 June 1942: Permission is requested for Swiss
representatives to visit P.W. camps in the Philippines,
Hongkong, occupied areas in China, Malay and the Dutch
"SONDA" Islands. ~~The request was made from the Vice~~
~~Minister of War~~ The ~~War~~ Foreign Ministry asked
the War Ministry, ^{which} ~~the War Ministry~~ ~~the War Ministry~~
~~the War Ministry~~ replied: "The present
policy ~~of the~~ is to allow Swiss representatives to
visit American P.W.'s and ^{civilians} internees ~~only~~ in
Osaka, ZENTSUJI, and SHANHAIO only." (p. 10-11).

26 June 1942, Swiss legation requests Vice-Minister
of War permission to visit P.W. camps ~~of the~~ ~~of the~~ con-
taining British Empire captives. Reply: ~~the~~ "Japan
has decided upon a policy of not admitting representatives
of nations useful to the enemy into areas occupied
by the Japanese forces or being fought in by them." (p. 13-14).

Translated by K. YAMADA.

①

Old IPS No. 1635

/ p. 81 /

Kyo - Futsu - Go No. 940

December 14, 1944

/ p. 82 /

From Minister SUZUKI,

Office of managing business relative
to Japanese residents in belligerent
countries, Foreign Ministry.

To Director-General of the Prisoner of War
Intelligence Bureau.

Re Permission of Visit of Prisoner of
War Internment Camp in the
Occupied Area.

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MARSHAL OF THE COURT: The Tribunal is now resumed.

THE PRESIDENT: The Tribunal, by a majority, holds that General Cramer, the American representative, is eligible to sit as a Member of this Tribunal, and dismisses the motion. General Cramer took no part in the decision.

Mr. Smith.

MR. SMITH: If your Honor please, in order to save the record, and on behalf of all counsel who did object, I would like to ask your Honor to allow the usual exception.

THE PRESIDENT: The application for the exception is recorded.

Is there any further cross-examination of the witness?

MR. OHTA: I am counsel OHTA for the defendant, DOHIHARA.

CROSS-EXAMINATION (Continued)

BY MR. OHTA:

Q I should like to have the witness reply to a question addressed to him this morning.

A Prior to the recess the defense counsel was asking the question about the statement I made, that is, after the settlement of Chapei Affairs, the

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2 2

As the result of consultation with reference to the permission of visit of prisoner of war internment camps in the Southern Area, attached papers A, B and C have been sent to the Chairman of the Red Cross International Committee, SWISS Minister and SWEDISH Minister in TOKYO respectively in accordance with the purport of said consultation as well as the import of the letter sent by the Director of the Military Affairs dated

1 shall be no substitutions.

2 THE PRESIDENT: We will recess now for
3 fifteen minutes.

4 We may or may not be in a position to give
5 our decision. We understand we have heard all the
6 arguments, and we reserve our decision.

7 (Whereupon, at 1445, a recess was
8 taken until 1515, after which the proceedings
9 were resumed as follows:)

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November 15 and numbered War Ministry,
 Military Affairs, No. 940. Hence, the copies
 of said documents are hereby to be sent
 from which the detail shall be under-
 stood.

This document is also to be sent to
 Ministry of War, Ministry of Navy and
 Prisoner of War Intelligence Bureau.

A is omitted as it was for the Chairman
 of the Red Cross International Committee.

B.

Kyo-Futan No. 379.

1 cause the Articles of War have the specific provi-
2 sion for it. It is also true of the military com-
3 missions trying cases in Yokohama and Manila. The
4 reason it is true is because the order appointing
5 those commissions has a specific provision for sub-
6 stitutions.

7 THE PRESIDENT: This is not incompatible
8 for a fair trial with Americans, but you are submit-
9 ting it is incompatible for a fair trial with Japan-
10 ese.

11 MR. FURNESS: I am arguing, sir, that there
12 is no provision in this Charter and that I believe
13 the omission is intentional.

14 I also wish to point out that, under the
15 Articles of War, if the number of men sitting is
16 reduced below a certain amount, the case must begin
17 again de novo.

18 As to the Nuernberg Charter, I would like
19 to point out that, under that Charter, there is a
20 specific provision for alternates who sit throughout
21 the trial who hear exactly the same evidence as that
22 heard by the Judges sitting; and, if he withdraws
23 or is withdrawn, that they sit as Judge and act on
24 their own knowledge. I believe that there is a
25 specific provision in that Charter, too, that there

December 8, 1944

44 #

Your Excellency Camille GORGE, Envoy Extraordinary
and Minister Plenipotentiary of SWITZERLAND,

I have the honor to write to you.

With reference to the permission of visit of

prisoner of war internment camp and non-

combatant house of detention of both AMERICAN
nationals

and BRITISH, in the occupied area required

by AMERICAN and BRITISH Governments ^{respectively,} with

the letters dated July 1 and September 12,

I replied in outline with my letter Kyo-Futsu

No. 222 dated August 12; but as the result

of special consideration of this matter of the

JAPANESE Government, it has been decided to

/p.83/

1 Such provision, may it please your Honor,
2 is not in accordance with the setting up and action
3 on the part of Members of civil or military courts
4 as I know them in the United States. I don't think
5 it lends toward a fair trial. However, as long as
6 this provision is allowed to remain in the Charter,
7 I don't think any greater evil is accomplished by
8 allowing a new Member to come in and acquaint himself
9 with the proceedings, and I know that General Cramer
10 has that ability and has that sense of fairness that,
11 unless he can fully and completely acquaint himself
12 with the facts in this case, he, himself, would
13 disqualify himself; and I request, if the Tribunal
14 decides in favor of the motion made by the American
15 counsel, that the Tribunal ask of the Supreme Com-
16 mander to amend the Charter to allow the representa-
17 tive of the United States to remain on the Tribunal.

18 THE PRESIDENT: The Court will treat Captain
19 Kleiman's request as a submission.

20 MR. FURNESS: If the Court please, lest there
21 be misunderstanding, I speak in favor of the challenge
22 and in favor of the motion for a mistrial.

23 Colonel Warren has argued that under mili-
24 tary law, procedure substitutions can be made. That
25 is so in court martials. The reason it is so is be-

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give permission as follows. Therefore I
should be much obliged if you would
be good enough to take trouble to transmit
said intention to the Governments concerned
as soon as possible.

JAPANESE Government, after having thoroughly
considered the question of giving permission
of visit of prisoner of war internment camp
as well as non-combatant house of detention

to the nationals of the third country, has
decided to give permission of visit of
said camps and houses located in the

1 he would not have appointed him.

2 There is only one further requisite that
3 I am sure the Member himself is familiar with, being
4 familiar with military law as he is, and that is,
5 if in his own judgment he cannot sit and render a
6 fair and impartial judgment in the case, he would
7 himself disqualify, and I feel certain that he would
8 do so. Having offered himself, I feel that he feels
9 himself qualified.

10 Now, my argument does not necessarily mean
11 that I agree with these principles of law, but they
12 are law as I view them, as made so by the Charter
13 and by military law as I understand it. And, in this
14 particular instance, I would like the Tribunal to
15 consider seriously what I have to say concerning the
16 qualifications of the new Member of the Tribunal.

17 CAPTAIN KLEIMAN: I am sorry to disturb
18 your Honor again. I wish to call the Tribunal's
19 attention to Article 4c of the Charter which reads,
20

21 "Absence. If a member at any time is absent
22 and afterwards is able to be present, he shall take
23 part in all subsequent proceedings; unless he declares
24 in open court that he is disqualified by reason of
25 insufficient familiarity with the proceedings which
took place in his absence."

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places where no important military operation shall be carried out, admitting the requirement of the Red Cross International Committee, meeting wishes of both BRITISH and AMERICAN Governments as well as the governments of their Allied Powers (see your letter cc 11, dated February 12), and authorising those among the persons concerned with the Red Cross International Committee on the spot whom JAPANESE Government thinks proper as the acting representative in JAPAN of the Red Cross International Committee temporarily on their visit. And the present decision.

1 as your witnesses in the passage of time with the
2 witnesses' loss of memory or other documents or other
3 things that it could well be that a culprit might not
4 go punished. It is not unknown.

5 THE PRESIDENT: Suppose six members of this
6 Court were killed in, say, a motor car accident or
7 a plane accident, so that a quorum could not be
8 obtained. Would that terminate the proceedings with-
9 out a verdict?

10 MR. WARREN: Not necessarily. As I view
11 military tribunals, and I think those who are familiar
12 with at least American courts-martial, and Manual for
13 Courts-martial would know that the Tribunal could be
14 increased by appointment by qualification.

15 THE PRESIDENT: Why couldn't this Tribunal
16 be increased by further appointments?
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shall be carried out for those in
PHILIPPINES, SINGAPORE and SIAM at
first and negotiation shall be opened
between the Red Cross International Committee
and our country as soon as the present
note will be sent.

Said permission of visit shall be
given under the reciprocity principle of
both AMERICAN and BRITISH Governments
as well as the governments of their
Allied Powers, therefore under the condition
of giving permission of visit of

1 Yes, your Honor, I cannot agree that this
2 Charter follows the German Charter, the Nuernberg
3 Charter. There are dissimilar things in them. This
4 Charter may be amended and re-amended.

5 A Member of this Tribunal, for instance, may
6 become ill and leave and be gone for a period of time
7 and come back and resume his duties. And if a member
8 is replaced and replaced with another, it is my posi-
9 tion that it is inherent in a military tribunal to do
10 that. Because of the exigencies that arise from time
11 to time in the field, the removal of officers who sit
12 on military courts from one jurisdiction to another--

13 As I stated, the necessity for removal of
14 officers from time to time even from a military court,
15 you must have a replacement. Otherwise many, many
16 culprits would go unpunished.

17 THE PRESIDENT: Did I hear you say that
18 vacancies have to be filled on military courts; other-
19 wise offenses would go unpunished?

20 MR. WARREN: In this respect, your Honor:
21 An American general courts-martial is comprised of
22 not less than five members. It might be that those
23 members would go below five, and if you could not
24 replace a tribunal it might mean the starting of
25 another case and continued operation until such time

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8

prisoner of war internment camps as well as
non-combatant houses of detention ^{of JAPANESE nationals} to the
representative of the Red Cross International

Committee, especially, as far as the UNITED

STATES of AMERICA is concerned under

the condition of giving permission of visit

of ~~JAPANESE~~ prisoner of war internment

camps as well as non-combatant houses

of detention ^{of JAPANESE nationals} in NEW CALEDONIA, SAIPAN,

TENIYAN and GUAM.

hereby

I, reply and report as above.

1 court or courts-martial, as you will, is nothing
2 unusual.

3 THE PRESIDENT: Have you looked at the German
4 Charter, Mr. Warren?

5 MR. WARREN: Sir?

6 THE PRESIDENT: Have you looked at the German
7 Charter?

8 MR. WARREN: Yes, sir, I have; and I have
9 looked at this Charter, also, and I feel that under
10 this Charter he can sit.

11 THE PRESIDENT: I understand that under the
12 German Charter representation of a country is excluded
13 after a certain time. There is no such provision in
14 our Charter.

15 MR. WARREN: That is right, sir.

16 THE PRESIDENT: Our Charter appears to con-
17 template that so many nations will be represented.
18 Would there not be an implied power to maintain that
19 representation in the absence of anything to the con-
20 trary?

21 If my recollection of the German Charter is
22 correct -- and it may not be -- then they saw fit
23 there to preclude the very position which you say
24 arises here without any provision.

25 MR. WARREN: I am sorry, your Honor.

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I beg to avail myself of this opportunity
to submit my highest esteem and courtesy
to Your Excellency.

I remain yours faithfully,

Mamoru SHIGEMITSU,
Foreign Minister.

/p. 84/

C.

Kyo-Futsu No. 95.

December 2 1944.

Widal BAGGE

your Excellency ~~Vital~~ BAKKE, Envoy Extraordinary

and Minister Plenipotentiary of SWEDEN,

I have the honor to write to you.

1 that in the Charter; and due to the fact that it was
2 not included we must assume that it was not intended.

3 On the matter of expediency, it is my
4 thought that it would be much better for this trial
5 to proceed with perhaps ten judges and not have the
6 additional one, rather than have the proceedings
7 clouded with the possibility of the illegality of the
8 entire proceedings. Further on the matter of expe-
9 diency, it is my thought that this is novel and new
10 procedure. Very, very few precedents have ever been
11 established on this proposition, including the matter
12 of military tribunal practice and that this, a case
13 of such importance, is, my thought, no place to begin
14 establishing such precedents.

15 THE PRESIDENT: Mr. Warren.

16 MR. WARREN: If the Tribunal please, I do
17 not like to be placed in the position of objecting to
18 any defense motion, but for the interests of my two
19 clients I do desire the presence of the new Member of
20 this Tribunal.

21 I represent a military man and a naval man;
22 and while we have one military man on the Tribunal, I
23 should like another one who probably understands. In
24 support of my position, I am bound to state that an
25 additional member to a military tribunal or a military

As the result of special consideration of the JAPANESE Government relating to the permission of visit of prisoner of war internment camp as well as non-combatant house of detention in the occupied area required by both AMERICAN and BRITISH Governments as well as their Allied Powers, it has been decided to give permission as follows. Therefore I should be much obliged if you would be good enough to take trouble to transmit said intention to the Governments concerned as

1 I think there could not be more than eleven appoint-
2 ments at one single time. If there is one resignation
3 that resignation could be filled up by a new appoint-
4 ment. It is the belief of the Chinese prosecutor
5 that a new member upon assumption of duties, if he
6 studies the proceedings, can familiarize himself with
7 proceedings hitherto. There is no legal disability
8 for that Member to sit on the court.

9 For reasons stated above, China does not
10 associate itself with the sentiments expressed in the
11 motion.

12 MR. CUNNINGHAM: If the Court please, I only
13 have two observations to make on what has been sug-
14 gested.

15 Concerning the Member of the Tribunal from
16 France, that matter was seriously considered and due
17 to the fact that the second appointment was made
18 before the Tribunal had been duly constituted and
19 began listening to evidence, no objection was made.

20 On the second proposition of the resignation
21 of one of the Members of the Tribunal, it is my
22 thought that there is no provision in the Charter for
23 such procedure. If the Charter or the framers of the
24 Charter had contemplated such a situation, there is
25 nothing which would have prevented them from including

/ / 11

soon as possible.

JAPANESE Government, after having thoroughly considered the question of giving permission of visit of prisoner of war internment camp as well as non-combatant house of detention to the nationals of the third country, has decided to give permission of visit of said camps and houses located in the places where no important military operation shall be carried out, admitting the requirement of the Red Cross International Committee, meeting wishes of both BRITISH and AMERICAN

1 join in the motion of Mr. Cunningham and the motion
2 of Mr. Smith.

3 THE PRESIDENT: Mr. Logan.

4 MR. LOGAN: If it please the Tribunal,
5 Japanese and American counsel for Marquis KIDO have
6 no objection to Major General Cramer sitting in this
7 case.

8 THE PRESIDENT: Does any other counsel desire
9 to be heard?

10 JUDGE HSIANG: Mr. President and Members of
11 the Tribunal: As the Chinese prosecutor I do not
12 speak for the prosecution as a whole. I merely speak
13 for China.

14 China welcomes the full representation of
15 eleven nations represented in this Tribunal. China
16 especially does not like to see the non-representation
17 of the United States of America on the bench.

18 This is an international tribunal. The rules
19 of procedure and the rules relating to the admissi-
20 bility of evidence, for instance, and some other
21 matters are different in some respects from national
22 courts. The grounds presented by the defense counsel
23 for the motion I think in some respects do not apply
24 to this International Tribunal. A reasonable inter-
25 pretation of the Tribunal regarding the appointment,

Governments as well as the governments of their Allied Powers, and authorising those among the persons concerned with the Red Cross International Committee on the spot whom JAPANESE Government thinks proper as the acting representative in JAPAN of the Red Cross International Committee temporarily on their visit. And the present decision shall be carried out for those in PHILIPPINES, SINGAPORE and SIAM at first and negotiation shall be opened

1 is in, why couldn't it be done after six months'
2 testimony is in?

3 Thank you very much.

4 THE PRESIDENT: The question of expediency
5 is a question of fact. And to hold the American
6 representative disqualified we must find as a fact
7 that he cannot give a fair trial to the accused.

8 I am saying these things because I want them
9 met. I cannot speak for the whole Court.

10 MR. WARREN: If the Tribunal please, I am
11 the American counsel for General DOHIHARA and
12 Admiral OKA. I have had no opportunity to personally
13 speak with my clients, but I have talked with my
14 associate Japanese counsel. We do not join in the
15 motion.

16 CAPTAIN KLEIMAN: May it please the Tribunal--

17 THE PRESIDENT: Captain Kleiman.

18 CAPTAIN KLEIMAN: On behalf of the defendant
19 HIRANUMA, I have consulted with my Japanese co-counsel.
20 I know the background of General Cramer, his reputa-
21 tion for fairness, and I welcome him. I welcome the
22 representative of the United States on the Tribunal.

23 THE PRESIDENT: Mr. Furness.

24 MR. FURNESS: May the Tribunal please, as
25 American counsel for the accused SHIGEMITSU I wish to

between the Red Cross International Committee and our country as soon as the present note will be sent.

Said permission of visit shall be given under the reciprocity principle of both AMERICAN and BRITISH Governments as well as the governments of their Allied Powers, therefore under the condition of giving permission of visit of prisoner of war internment camps as well as non-combatant houses of detention of

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1 THE PRESIDENT: On the question of power, I
2 may remind you -- it will not help, of course -- that
3 the French representative is the second appointment
4 to this Court by his country, so that if your conten-
5 tion is correct, there has been a mistrial throughout.

6 MR. SMITH: If your Honor please, I have
7 been here since the testimony began about a month ago
8 and my recollection is that the French Justice has
9 heard all the witnesses who have appeared.

10 Going back to your Honor's question, it is
11 not only expediency but, as I understand it, one of
12 the great cornerstones of the law which cannot be
13 undone is that an accused is entitled in a trial to
14 see and hear the witness who is against him. And it
15 is hardly arguable otherwise.

16 THE PRESIDENT: I repeat there are two
17 questions: The first one, the power to appoint; the
18 second, the expediency of an appointment at this
19 stage.

20 On the question of the power to appoint, I
21 repeat the French Judge is the second appointment by
22 his country.

23 MR. SMITH: I do not care to add anything
24 more, your Honor, other than to observe that if this
25 procedure could be followed after one month's testimony

14

14

JAPANESE nationals to the representative
of the Red Cross International Committee
hereby

I reply and report as above.

I beg to avail myself of this opportunity
to submit my highest esteem and
courtesy to Your Excellency.

I remain yours faithfully,

Mamoru SHIGEMITSU,

Foreign Minister

1 of Mr. HIROTA, I would like to move briefly for a mis-
2 trial because of the substitution and the seating of
3 an American judge. The ground is that where the
4 Court sits as both judge and jury we think that up
5 until this time, without exception, the practice has
6 always been for the accused to be confronted by his
7 judge on the trial of the facts from the start to the
8 finish of the trial. There has been practically a
9 month of testimony in this case. A great deal of it
10 has been very helpful to the defense. Witness after
11 witness has appeared on the stand who did not testify
12 to the facts that the prosecution evidently expected,
13 and the new judge has lost the benefit and the
14 defendant has been deprived of the right of the
15 American judge to see and hear the witnesses and to
16 appraise their credibility.

17 THE PRESIDENT: Two questions arise here,
18 Mr. Smith: First the question of the power
19 to make the appointment, and second, the question of
20 expediency. The first question, the question of the
21 power, is the one which I think was dealt with by
22 Mr. Cunningham. But you are on the second question,
23 that of expediency. Is that so?

24 MR. SMITH: Yes, sir.
25

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M. Furukawa

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KYO - FUTSU No. 150

33

March 15th 1945

Minister SUZUKI,

General Affairs Office

For Residents in Hostile Countries
of the Foreign Ministry

To the Chief of the P.O.W. Intelligence
Bureau

Re Permission for a staff of Swedish

Legation in Tokyo to visit the camps of
P.O.W.s in Fengtien.

The Swedish Legation in Tokyo has
just asked for permission to send a
diplomatic probationer of the Legation

E. B. Gavel

to visit the camps of P.O.W.s in Fengtien

to which captured Dutch officers and

TOKUGAWA

CROSS

1 member of that plot, or was he in a position to stop
2 that plot?

3 A I don't know about that problem very well
4 because I received for the first time the name card
5 from his Excellency KOISO when I was told by him to
6 stop the plan, the plot entertained by Dr. OKAWA.

7 Q One more question. When General KOISO called
8 on you and asked you to have the bombs returned, did
9 he not say that these plans reflect upon the honor
10 of the Army and that, therefore, some method of
11 stopping them must be found?

12 A The most important point among what he said --
13 what General KOISO said to me at that time was, as far
14 as I can remember, how to get those three hundred
15 bombs back to the Army.

16 Q One more question. At that time did you
17 not hear from him what kind of bombs these bombs were?

18 A When I met General KOISO first, I did not know
19 what the nature of those bombs was but later on I
20 learned that those were not real bombs but were mock
21 bombs, that is, bombs that would emit a loud sound but
22 would have no effect on people.

23 CROSS-EXAMINATION (Continued)

24 BY MR. OHARA:

25 Q I am OHARA. In the first part of your

34

non-combatants have been moved from Formosa,
as the attached provisional translation shows.

I entreat you to give an instructions for the
above after a due consideration.

o Provisional translation of ^{the} note from
the Swedish Legation in Tokyo, dated on
January 23, 1945.

The Swedish Legation, which represent
the interest of Holland, has the honour
of referring to the list of P.O.W.s of No. D.M. 11
and No. D.M. 14, presented by the P.O.W.
Intelligence Bureau of the War Ministry,
which reported that some Dutch officers and

TOKUGAWA

CROSS

1 You have used the phrase "the desire of the mili-
2 tary." Whom do you mean by this "military?"

3 A By this "military" I meant I was asked by
4 General KOISO to persuade Dr. OKAWA to abandon this
5 plot. This is what I meant by "the desire of the
6 military."

7 Q There is one other place which I find very
8 difficult to understand. That is in the fourth par-
9 agraph. You say that General KOISO said that "he was
10 in a bad situation at the General Staff." What does
11 that mean? According to this paragraph, according to
12 these words it would seem that General KOISO was a
13 member of the General Staff whereas in the preceding
14 paragraph you have said General KOISO was Chief of the
15 Military Affairs Bureau. Which do you mean?

16 A At that time General KOISO was the Chief of
17 Military Affairs Bureau.

18 Q Then do you mean by this phrase that the
19 General Staff was in a bad situation?

20 A That was what I understood from what General
21 KOISO said to me at that time; but, however, I don't
22 know the fact of the matter.

23 Q At that time what was the position of General
24 KOISO? In other words, in more understandable words,
25 speaking frankly, was General KOISO a conspirator, a

35
non-combatants, who were interned in camps of
Formosa, have been removed to the camp in Fengtien.

We beg your permission for Mr. E. B.
an attaché to the legation, in the near future,
Gavel, to visit their present residence
/T.N. phonetic/

by good offices of the Imperial Ministry of

Foreign Affairs, in view of the fact that

the legation's desire to visit the prisoners

again has not been realized for various

causes when they were in Formosa.

To Lieutenant Colonel HOTA of
The P.O.W. Intelligence Bureau:

As I have informed you through the

telephone Mr. Gavel, an attaché to
/T.N. phonetic/

TOKUGAWA

CROSS

1 Japanese lawyers have received is correct or incor-
2 rect, we do not know how to conduct a correct cross-
3 examination.

4 THE PRESIDENT: Assume that it is correct.

5 MR. SAMMONJI: Then I will put questions
6 according to this affidavit.

7 Q In the middle of the affidavit we find the
8 following words: "The aforesaid Colonel KOMOTO then
9 said that the aforesaid General KOISO had instructed
10 him to call on me and ask me to see the aforesaid Dr.
11 OKAWA, Shumei and persuade him to abandon the execu-
12 tion of the plan," et cetera, -- "to abandon the
13 execution of the plan they had previously agreed on."
14 What do you mean by this "they?"

15 A Are you asking me who I mean by the word
16 "they" here? I couldn't hear you very well now.
17 Did you say "they" and are you asking me whom I mean
18 by the word "they?" By "they" I mean Dr. OKAWA and
19 others.

20 Q I understand. A little bit further you
21 state: "I immediately proceeded to the house of the
22 aforesaid Dr. OKAWA, Shumei, where, after lengthy
23 discussion, the aforesaid Dr. OKAWA, Shumei agreed
24 to abandon the plot in accordance with the desire of
25 the military."

the Swedish Legation, has pressed Mr. FUKU-
 SHIMA, a secretary of his office, for the
 permission to visit the P. O. W. camps in
 Fengtien, on the 18th of April. He revealed
 then, his desire to get permission to visit
 camps in Japan if he would not be per-
 mitted to visit camps in Fengtien. I ask
 your best judgement.

Sincerely yours,

KUNABARA,

General Affairs Office
 For Residents in Hostile Countries
 of the Foreign Ministry

TOKUGAWA

CROSS

1 "military without payment of money." Signed

2 "TOKUGAWA, Yoshichika."

3 You may ask.

4 (Whereupon, SHIMADA, Masakazu replaced
5 MASUTANI, Hideo as interpreter.)

6 MR. SAMMONJI: I am SAMMONJI, Shohei, counsel
7 for the defendant KOISO. I would like to ask a few
8 questions.

9 CROSS-EXAMINATION

10 BY MR. SAMMONJI:

11 Q Mr. Witness, you have just said that you
12 have not read the Japanese text of this affidavit, is
13 that correct?

14 A I can't hear you very well. Please repeat it.

15 Q You have said that you did not read the
16 Japanese text of the affidavit, is that true?

17 A Yes, it is. Yes, it is true. I didn't hear
18 it in Japanese.

19 Q Then you cannot tell whether the translation
20 that we Japanese lawyers have received of this affi-
21 davit is correct or incorrect?

22 A I cannot tell whether it is correct or in-
23 correct because I didn't hear it in Japanese.

24 MR. SAMMONJI: Mr. President, as we have no
25 means of ascertaining whether the translation we

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11053-E

April 23, 1945

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From the Chief of the P.O.W.
Intelligence Bureau

To the chief of the staff of the Kwantung Army.
Re Permission for a staff of ^{the} Swedish
Legation in Tokyo to visit the camps of
P.O.W.s in Fengtien:

I should like to have a staff of
the Swedish Legation visit the Dutch prisoners
as the representative of the interest of Holland.

KYO-FUTSU No. 167
March 19, 1945

Minister SUZUKI, Office
~~of~~ Affairs Office
for ~~Japanese~~ Residents in ~~Hostile~~ Countries,
~~of~~ the Foreign Ministry.

To the chief of the P.O.W. Intelligence Bureau
Information