

EXHIBIT 3135

Def. Doc. # 1818

Translated by
Defense Language Branch

JUDGEMENT

P.W. Captain Lionel Collin MATHEWS,

31 years old.

Place of birth: Stepney, in the suburbs of the City of Adelaide,
Southern Australia, Australia.

Formerly attached to: Signal Corps of 8th Division, Australian Army.

P.W. 1st Lieutenant Roderick Graham WELLS,

24 years old.

Place of birth: Town of Tatura, Victoria, Australia.

Formerly attached to: same as above.

P.W. Sargeant Alfred STEVENS,

30 years old.

Place of birth: City of Perth, Western Australia (otherwise unknown).

Formerly attached to: A company of 4th Machine-gun Corps, same Division
as above.

P.W. Corporal John Alan M. O'MILLAN,

38 years old.

Place of birth: Town of Caura, New South Wales, Australia.

Former attached to: Headquarters of 22nd Infantry Regiment, Division
as above.

P.W. Corporal Walter Geoffrey LOFFY (PHONETIC), 30 years old.

Place of birth: John Street, Town of Bexley, New South Wales,
Australia.

Formerly attached to: 84th Automobile Repair Corps, same division
as above.

With regard to the criminal case of MATTHEWS, accused on the charge of espionage, preparations for the enemy's invasion, violation of the War Prisoners Penal Law and spreading false reports and wild rumors; of WELLS and STEVENS, accused on the charge of spreading false reports and wild rumors, and violation of War Prisoners Penal Law; of MacMILLAN and LOFFY (PHONETIC) accused on the charge of violation of War Prisoners Penal Law, this court-martial has, with the participation of the Prosecutor, Judiciary Captain WATANABE Haruo, completed trials and hereby gives judgment as follows:

Text of the Judgment.

The accused, MATTHEWS shall be punished with death.

The accused Wells, shall be punished with 12 years' imprisonment with hard labor.

The accused STEVENS, shall be punished with 5 years' imprisonment with hard labor.

The accused MacMILLAN, and ^{the} accused LOFFY, shall respectively be punished with 1 year and six months imprisonment with hard labor.

One six-chambered revolver (Exhibit No. 1) which was seized shall be confiscated.

Reasons.

The five defendants, who participated in the Greater East Asian War, respectively attached to the above-mentioned units or corps, were taken prisoners by the Japanese forces at Singapore on the 15th of February in the 17th year of SHOWA (1942). Since July 18th same year

they have been detained in the 1st Branch of the Borneo War Prisoners Internment Camp, located at Sandakan, Eastern Province, Northern Borneo, I. Lionel Collin MATTEWS, whose hostile feeling was so strong even after surrender that he could not reconcile himself to the life of war prisoner was secretly looking for a chance of escaping from the camp.

(1) After his arrival at the camp he was every day engaged in cultivating the camp farm situated outside the camp. About August 1942, availing himself of the comparatively slack surveillance, he approached, and formed friendship with, ABIN (PHONETIC) a Dosunese (PHONETIC) and Chief of the Lubbock Road 8th Mile Branch of the Sandakan Police Station, and a few policemen under the Chief MATSUP (PHONETIC) a Dosunese and keeper of the Ranch attached to the 8th Mile Experimental Farm of Eastern Province, Alexander FAN (PHONETIC), a Chinese farmer, residing at 7th Mile on, the said Lubbock Road, and several other inhabitants of the neighbourhood. Notwithstanding he was well aware of the fact that about October the same year communication and contact with inhabitants outside the camp had been strictly forbidden by the order of Chief of the camp, 1st Lieutenant HOSHIJIMA Susumu, MATTEWS kept in touch with them, and seduced ABIN, and others, saying that these who would give every assistance to himself and other prisoners, would be favorably treated in the future, when the British administration was re-established. Continually holding criminal intent from about the middle of March, 1943 to about July the same year, he chose the neighborhood of the said farm as a rendezvous, where he secretly met ABIN and made the latter relay communications with

the outside, as stated below. MATTHEWS also had frequent meetings there and kept in contact with other inhabitants.

(2) About August in the 17th year of Showa (1942) he asked the said Alexander FLN to draw a map each of British Northern Borneo and the vicinity of Sandakan with a view to using them at the time of escape, when receiving the maps he heard from the said FLN about the rumour that U. S. and Philippine forces of considerable strength were stationed in Sulu Archipelago and there were signs of their shortly making an attack on Sandakan.

Believing in the possibility of its realization, MATTHEWS, entertained a design, in the event of the attack, to pull together all the prisoners and destroy the camp in response.

He asked the said ALEXANDER and obtained a revolver together with six cartridges, which were owned by the Chinese.

Besides, he made ALEXANDER promise to come to the outside of the camp and blow a whistle immediately when the U. S. and Philippine forces should arrive. He also handed the same person a letter addressed to the commanding officer of the U. S. and Philippine forces, in which he drew a topographical map of the camp's vicinity and stated

a request that the prisoners be saved from the camp. He also confided his design to the policeman ABIN, and asked him and obtained his consent to put 5 guns and 150 cartridges, with which the branch station was provided at the prisoners' disposal on the occasion of their uprising. Thus he was secretly making preparations.

In addition, with a view to reporting to U. S. and Philippine forces, when they might invade, he made strenuous efforts to collect general information regarding the Japanese forces. Towards the end of August in the same year, he asked ALEXANDER to draw a map of the Sandakan area showing the details of ^a disposition and strength of the Japanese forces stationed in Sandakan, and about December the same year, he asked MAJINAL (PHONETIC) a Dosunese (PHONETIC) employed as clerk of the Experimental Farm, to draw a map of the vicinities of the said Farm and the Internment Camp and received the map and, at about the end of September the same year, he got the said MATSUP to persuade L.I. Kucifu, a nurse of the Sandakan Citizens Hospital, to draw a map showing quarters and numbers of Japanese occupation forces and residents at Sandakan. Besides receiving these maps, MATHEWS, during his several meetings with ABIN, heard, from the

latter whether there were any movements of Japanese forces as well as the British and American internees, concerning the vessels coming in and out Sandakan harbour, and regarding the demand and supply of daily necessities for the inhabitants.

(Phonetic)

(3) About November 1942, when WILKINSON and RICHARD, prisoners of the said camp, secretly manufactured a radio receiving set and listening to British and American news, circulated it among the prisoners, and as it contained much that was unfavorable to the Japanese, MATTHEWS contemplated transmitting it secretly to the British and American internees and residents under surveillance in the area to stir up hostile feeling among them. In anticipation that such news might be propagated among the general inhabitants of the same region through such Britishers and Americans, he asked WILKINSON and got a copy each of news. Thus he kept with his treacherous designs and through the policeman LEBIN, endeavored the dissemination of news as follows:

(a) From the middle of November 1942 to the latter part of February the following year, he sent news in writing more than ten times to Smith, ex-Governor of British Northorn Borneo, interned in Bahala Island at the entrance of Sandakan Bay and other

British internees, stating, that the Japanese Navy had suffered a heavy loss as a result of a severe Japano-American naval battle in the Solomons, and that the Japanese forces in New Guinea had sustained immense losses from the British and American air raids, and also giving many other reports of the war situation which were unfavorable to the Japanese,

(b) Over twenty times from about December 1942 to about July 1943, he furnished TAILOR, an English doctor, who was then ordered to work at the Sandakan Citizens' Hospital under surveillance, with various reports about the war unfavorable to Japan, including the news that the U. S. Air forces had attacked Japanese transports in the adjacent seas of the Bismarck Archipelago, sinking 22 transport ships and shooting down a large number of Japanese airplanes.

(c) Several times from around May 1943 to the middle of July the same year he also gave HILLIP, an Englishman who then was confined under surveillance in his own house at 5th Mile, Lubbock Road, in the outskirts of the City of Sandakan, some news unfavorable to the Japanese, concerning the war situation the Solomons and New Guinea.

(d) From about May 1943 MATTHEWS attempted, following the example of WAINTON to manufacture a radio-receiver for himself, and listen to the British and American broadcasts. He disclosed his intention to WAINTON and WELLS: and in collusion with them gradually procured necessary parts through the policeman ABIN and with WELLS was secretly engaged in assembling them under WAINTON'S guidance until about July, when they were detected by the watchman and failed to accomplish this purpose.

II. The accused, RODERICK GRAHAM WELLS had also a strong hostile feeling and felt a great repugnance for his lot of being a prisoner.

(1) Notwithstanding he knew very well that the prisoners, as stated above, had been strictly prohibited about October 1942 by order of the Camp chief to correspond or to keep in contact with any inhabitants residing outside the camp, WELLS about May 1943 secretly sent war news to the Englishman MAYVER, who, he heard from the accused, STEVENS, was then resident under surveillance and employed as electrical engineer at the Sandakan Power Plant. Till about July the same year, with the view of stirring up MAYVER'S hostile feeling, WELLS continued to exchange correspondence with MAYVER once a week through the intermediary of STEVENS and CHEN Ping, a worker of the power plant attached to the interment camp, with a code consisting of the Roman alphabet and arabic figures. By this means WELLS sent to MAYVER about ten communications concerning the above mentioned reports, conveyed by WAINTON, that the U. S. Air forces had attacked the Japanese transports and convoy off the Bismarck Archipelago and the greater part of the Japanese warships and transport vessels had been sunk and many Japanese airplanes shot down, and other news unfavorable to the Japanese.

(2) About May 1943 WELLS acceded to the persuasion of MATTHEWS to work together on the manufacture of a radio-receiver as stated above. And, till about July the same year, he was engaged in constructing the radio-receiver in collusion with MATTHEWS under WAINTON'S guidance, eluding the watch of the guards.

(3) At the beginning of June 1943, while WAINTON was confined in the guard-room as punishment for violating the disciplinary regulations, WELLS used the radio-receiver and listened to ^{the} British and American broadcasts for him for a few days.

Thus he continued his treacherous intent and spread among the war prisoners below the rank of officer, either in writing or verbally, the news that the Japanese forces in Rangoon area had sustained serious losses by the bombing of the British and American air forces, and that the Japanese forces in China had also been fighting hard battles against the Chungking troops who put up stiff resistance at different places, and some other news regarding the war situation, which was adverse to the Japanese Army.

III. About the end of October 1942, the defendant ALFRED STEVENS was ordered to operate the machinery of the camp power plant outside the camp premises. Notwithstanding he at that time knew well that contact and correspondence with any inhabitants residing outside the camp had been strictly prohibited by order of the camp chief as already stated, he performed the followings acts.

(1) Several times from about January 1943 to July the same year, he told WU Hokuang (PHONETIC) and Chen Ping, electrical workers in the power plant, as told by WAINTON, that the U.S. air forces had attacked the Japanese transports and convoy in the adjacent seas of the Bismarck Archipelago and had sent Japanese ^{vessels} to the bottom and gave other news of the war unfavourable to the Japanese Army.

(2) From about May 1943 to about July the same year, he acted as intermediary some twenty times between the accused, WELLS and MAYVER, delivering the correspondence exchanged between the two and forwarding the parcels of radio-set parts sent from MAYVER to WELLS, through the defendants MACMILLAN, defendant LOFFY, and said CHEN ping. Further, towards the end of June the same year, he thrice conveyed messages between MATHEWS, the prisoner, and ABIN, the policeman.

IV. The defendant MACMILLAN, from about September 1942 and, the defendant LOFFY from about February 1943, were respectively engaged in gathering firewood in the outskirts of the Internment Camp, and in spite of the camp chief's order forbidding all communication and contact with inhabitants outside the camp, they continued their treacherous intent and availing themselves of the ^{slack} surveillance committed the following offences.

(1) From about the end of May 1943 to about the middle of June the same year, they twice received the letters and parcels of MAYVER, referred to above, from STEVENS and CHEN Ping and handed them to the addressee WELLS, and also they handed WELLS's letters to the said STEVENS and CHEN Ping to be delivered to the addressee, MAYVER.

(2) From about the middle of June 1943 to about the middle of July the same year, LOFFY thrice received from WELLS letters addressed to MAYVER and handed them to STEVENS and CHEN Ping to be delivered to MAYVER. Also, receiving from STEVEN's the letters and parcels of MAYVER addressed to WELLS, he delivered them to WELLS. The above-mentioned facts, excepting that of the continuation of criminal intent, are deemed conclusive judging collectively from the statements which were made respectively by the five defendants at this court; the military judicial

Def. Doc. # 1818

police hearings on the defendant MATTHEWS; the prosecutor's hearings on the ALEXANDER GORDON WAINTON in ^{the} records (Records No. 16, 1943) of the criminal case of WAINTON and four others on the charge of violation of the War Prisoners Penal Laws and of spreading false reports and wild rumors; the prosecutor's hearings on the defendants, ABIN BINANGON (PHONETIC) MATSUP BINGUNGAO (PHONETIC), ALEXANDER FAN, DAI MAGINAL (PHONETIC) LAI Kueifu, WU Hokuang, and CHEN Ping, in the records (Records No. 21, 1943) of the criminal case of ERNEST GAGAN (PHONETIC) and thirty-eight others on the charge of violation of military regulations, obtained from the Military Discipline Council of NADA No. 9801 Unit; the military judicial police hearings on the defendants MAYVER, JAMES TAILOR, and ALFRED PHILLIPS in the records (Record No. 22 1943) of the criminal case of GERARD MAYVER and three others on the charge of violation of military regulations; one six-chambered revolver, one radio receiving-set, 18 radio accessories and one diary (Exhibits No. 1-4) which were seized. And, as regards the continuation of criminal intent, it is hereby judged to be conclusive from the fact that similar offences were repeatedly committed by the defendants in short periods of time. Of the defendant MATTHEWS' acts mentioned above those referred to in I (1) come under Article 5 paragraph 1 of the War Prisoners Penal Law; acts of espionage in I (2), under Article 85, paragraph 1, and Article 60 of the Criminal Code; the preparations for the enemy's invasion mentioned in I (3), under Articles 88 and 86 of the same code; the acts in I (3) under Article 99 of the ^{Criminal Code and} Military Article 100 of

the Naval Criminal Code; those in I (4) under the latter part of Article 11 of the War Prisoners Penal Law.

The two crimes referred to in (1), (2), (3) are a single kind of act but are against several laws; and in addition, they were committed with the continuation of criminal intent. Therefore, the provisions of the first half of Article 54: paragraph 1, and Articles 55 and 10 of the Criminal Code are applicable to the two crimes of (1) and (3), and out of the prescribed penalties death penalty, the severest punishment for the crime of espionage shall be selected and imposed on the accused. And, although this crime and that of the violation of the War Prisoners Penal Law are concurrent offences according to the first half of Article 45 of the Criminal Code, yet, no other penalties shall be inflicted upon the accused according to Article 46, paragraph 1 of the same code, because a death penalty shall be imposed on the accused for the said crime of espionage.

As regards the accused WELLS' acts mentioned above, those in II (1) fall under Article 5, paragraph 1 of the War Prisoners Penal Law, Article 99 of the Military Criminal Code, and Article 100 of the Naval Criminal Code; those in II (2) under the latter part of Article 11 of the War Prisoners Penal Law; and those in II (3) under Article 99 of the Military Criminal Code and Article 100 of the Naval Criminal Code.

However, as the offences in II (1) and (3) are the same act forming several offences, and there was continuation of criminal intent in these two crimes, penal servitude for a term, i.e., the severest penalty

Def. Doc. # 1818

the severest penalty provided for in the War Prisoners Penal Law shall be imposed in accordance with the first part of paragraph 1, Article 54, Article 55, and Article 10 of the Criminal Code; as regards the offence in II (2) penal servitude shall be chosen; and as the above offences form concurrent crimes as provided for in the first part of Article 45 of the Criminal Code, the accused WELLS shall be sentenced to 12 years imprisonment with hard labour within the limit of the term legally aggregated on the severer penalty, by applying Articles 47, 10, 14 of the Criminal Code.

The acts committed by the accused STEVENS, as mentioned in III (1) and (2), come under Article 5, paragraph 1 of the War Prisoners Penal Law; and the act of spreading false reports and wild rumors under Article 99 of the Military Criminal Code and Article 100 of the Naval Criminal Code. However, because the above offences are one and same kind of act and form different crimes, and there was the continuation of Criminal intent, the P. W. Penal Law, in accordance with the first part of paragraph 1, Article 54, Article 55, and Article 10 of the Criminal Code; shall be applied, and selecting penal servitude for a term according to the provision for violation of the War Prisoners Penal Law the accused STEVENS shall be sentenced to 5 years imprisonment with hard labour within the limits of the term prescribed in the Law.

The offences committed by the defendant M. CMILLAN and LOFFY, as referred to in IV above, come under Article 5, paragraph 1 of the War Prisoners Penal Law and Article 55 of the Criminal Code, and selecting

penal servitude for a term according to penal provisions of the laws; MacMILLAN and LOFFY shall be sentenced to one year and six months imprisonment with hard labour within the limits of the term provided for.

One six-chambered revolver (Exhibit No. 1) shall be confiscated in accordance with Article 19 of the Criminal Code on the ground that the said revolver was obtained by the accused MATTHEWS in committing crime of preparations for the enemy's invasion and belongs to no other people than the convict concerned. In accordance with the reasons stated above, we give decision as in the text.

On this 2nd day of March in the 19th year of Showa (1944)

A Provisional Court-Martial

of

NADA No. 9801 Unit.

Chief Judge: (President) Lieut. Colonel EGIMI, Sobei,

Judge: (member) Military Judiciary Major NISHIBARA, Shuji.

Judge: (member) Captain TSUTSUI, Yoichi

Def. Doc. # 1818

Translated by
Defense Language Branch

I hereby certify that the copy of Judgment hereto attached,
is one that was submitted to the War Ministry by the NADA No. 9801
Unit, that is, by the Headquarters of the 37th Army, as a copy of the
original judgement which had been given at a provisional court-martial
by the NADA No. 9801 Unit, and was actually in the custody of the 1st
Demobilization Bureau.

On this 17th day of June, the 22nd, year of Showa (1947)

/S/ CYAMA, Fumio (seal)
Chief of the Judicial Investigation
Section, 1st Demobilization Bureau.

Σ 3170

FILE COPY

443/35

RETURN TO ROOM 361

本添付の判決寫は難第九八〇一部隊臨時軍法會議に於て裁判したる判決原本の寫さして難第九八〇一部隊即ち第三十七軍司令部より陸軍省に報告したもにして現に第一復員局に保存しありたるものなる事を證明す

昭和二十二年六月十七日

第一復員局法務調査部長 大山文雄

判決

出生地 濠洲南「オーストラリア」州「アデレード」市外「ステツプヒール」町
元所屬 濠洲陸軍第八師團 通信隊

俘虜 陸軍大尉 ライオネル、コリン、マテユウス
當 三十一年

出生地 濠洲「ヴィクトリア」州「タチユラ」町
元所屬 同 前

俘虜 陸軍中尉 ロデリツク、グラハム、ウエルス
當 二十四年

出生地 濠洲西「オーストラリア」州「バース」市以下不詳
元所屬 前同師團第四機關銃隊 A 中隊

俘虜 陸軍軍曹 アルフレツド、ステイーヴンス
當 三十年

出生地 濠洲「ニュウサウスウェールズ」州「カウラ」町
元所屬 前同師團歩兵第二十二聯隊本部

俘虜 陸軍伍長 ジョン、アラン、マツクミラン
當 三十八年

出生地 濠洲「ニユウサウスウエールズ」州「ベクスリイ」町「ジヨーン」街
元所屬 前同師團第八十四自動車修理隊

俘虜 陸軍伍長 ウォルター・ジヨフレ、ロフイ

當 三十年

右「マテユウス」ニ對スル間諜、外患豫備、俘虜處罰法違反造言飛語「ウエルス」及「ステイヴンス」ニ對スル各造言飛語、俘虜處罰法違反「マツクミラン」及「ロフイ」ニ對スル俘虜處罰法違反被告事件ニ付當軍法會議ハ檢察官陸軍法務大尉渡邊春雄干與審理ヲ遂ケ判決スルコト左ノ如シ

主 文

被告人「マテユウス」ヲ死刑ニ

同 「ウエルス」ヲ懲役十五年ニ

同 「マツクミラン」及同「ロフイ」ヲ執行モ懲役一年六月

ニ各處ス

押收ニ係ル六連發拳銃一挺（證第一號）ハ之ヲ沒收ス

理 由

被告人等五名ハ夫々肩書部隊ニ屬シテ大東亞戰爭ニ參加シ昭和十七年二月十五日新嘉坡ニ於テ帝國軍ニ俘虜トナリ同年七月十八日ヨリ北「ボルネオ」東海州「サンダカン」所在「ボルネオ」俘虜收容所第一分所ニ收容中ノモノナルトコロ

第一、被告人「ライオネル、コリン、マテユウス」ハ投降後モ抗戰意識強烈ニシテ俘虜生活ヲ屑トセテ密カニ脱出ノ機ヲ窺ヒ居タルカ

「若收容所到着以來連日同所外邊ノ附屬農園ニ於テ農耕作業ニ從事中監視ノ嚴重ナラサルニ乘シ昭和十七年八月頃同所ニ近キ「サンダカン」警察署「ラボツク」路八哩分署長「ドスン」人「アピシ」並其ノ部下タル巡警數名東海州立八哩農事試驗場附屬牧場番人「ドスン」人「マトソツブ」及右「ラボツク」路七哩居住農業支那人「アレキサンダー、フアン」其ノ地帯近ノ現

地住民數名ニ接近シテ知己トナリ同年十月頃同收容所長陸軍中尉星島進ノ命ニ依リ收容所外一般住民トノ通信又ハ連絡ヲ嚴禁セラレタルコトヲ知悉セルニ拘ラス之カ接觸ヲ中止スルコトナク被告人等俘虜ノ行動ヲ援助スルモノハ將來英政府復活ノ後必ス厚遇ヲ受クヘキ旨ヲ示唆シテ右「アピ
ン」等ヲ煽動シ同十八年三月中旬頃ヨリ同年七月頃ニ至ル迄犯意繼續ノ上前記農園附近ヲ連絡地點ト定メ概ネ每週一回宛右「アピン」ト密會シ同人ヲシテ後記ノ如ク外部トノ通信等ヲ仲介セシメタル外爾餘ノ前示住民等トモ屢々會合連絡シ

同十七年八月頃他日逃走ノ用ニ供センカ爲右「アレキサ
ンダーファン」ニ依頼シ舊英領北「ボルネオ」及「サンダ
カン」附近ノ地圖各一葉ヲ作成セシメテ受領シタルカ其ノ
際同人ヨリ「スール」諸島中ニ米比軍多數駐屯シ在リテ

近ク「サンダカン」ニ來襲ノ形勢アル旨ノ風説ヲ聞知スルヤ
其ノ實現可能ナルモノト期待シ右實現ノ曉ハ俘虜全員ヲ結集
シテ收容所ヲ破壊シ、米比軍ニ呼應セシメントノ意圖ヲ抱キ
其ノ頃右「アレキサダー」ニ請ヒテ同人ノ所持セル拳銃一
挺同彈藥六發ヲ貰受ケ且米比軍ノ到來ヲ發見セハ同人ニ於テ
速カニ收容所柵外ニ來リ呼笛ヲ吹鳴シテ之ヲ通報スヘキコト
ヲ約セシメ尙同收容所附近ノ地形竝救出依頼ノ趣旨ヲ記載セ
ル米比軍指揮官宛書信一通ヲ同人ニ交付シテ其ノ傳達方ヲ托
スルト共ニ他方前記巡警「アピン」ニモ其ノ頃同様右企圖ヲ
告ケ俘虜竊起ノ節ハ同分尋備付ノ小銃五挺同彈藥百五十發ヲ
俘虜ニ提供スヘキ旨ヲ要請シテ之ヲ承諾セシムル等密カニ準
備ヲ進メ居タルカ更ニ米比軍來襲ノ際之ニ通報スルノ目的ヲ
以テ帝國軍ニ關スル一般情報ノ探知蒐集ニ努メ同年八月下旬
頃「サンダカン」駐屯ノ帝國軍ノ兵力配備ヲ詳細ニ記入セル
同地方ノ地圖一葉ヲ右「アレキサダー」ニ同年十二月頃前

記農事試驗場竝俘虜收容所附近ノ地圖一葉ヲ當時同試驗場書記トシテ勤務中ノ「ドスン」人「マジナル」ニ夫々依頼シテ作成交付セシメ又同年九月末頃前示「マトソツブ」ニ意ヲ含メ同人ノ勸誘ニ依リ「サンダカン」市民病院看護士頼貴福ヲシテ同地駐屯ノ帝國軍隊及在留邦人ノ宿舍、人員數等ヲ記入セル地圖一葉ヲ作成セシメテ之ヲ受領シタル外、前掲「アピ」ン「ト」連絡ノ折同人ヨリ數回ニ亘リ帝國軍隊及抑留英米人等ノ移動ノ有無「サンダカン」港出入船舶ノ狀況同地住民ノ生活物資需給ノ狀況等ヲ聽取シ

同十七年十一月頃同收容所内ノ俘虜「ウエイントン」及「リカーズ」等カ密カニ「ラヂオ」受信機ヲ製作シテ英米側放送ニ係ル戰況「ニュース」ヲ聽取ノ上之ヲ同所内ノ俘虜等ニ流布スルニ至ルヤ該「ニュース」カ帝國軍ニ不利ナル事項多數ヲ包含シアルヲ幸ヒ同地方ニ抑留又ハ軟禁中ノ英米人等ニ

之ヲ密送シ其ノ抗戰意識ノ昂揚ヲ圖ルヘク且同人等ヲ通シ該「ニ
ユース」カ同地一般住民ノ間ニ傳播セラルルコトアルヘキヲ推知
シナガラ爾來右「ウエイントン」ニ請ヒ各「ニユース」寫一部ノ
交付ヲ受ケ犯意繼續ノ上前示ノ如ク巡警「アピン」等ト連絡ノ際
ヲ利用シ同人等ヲ介シ

(イ) 同十七年十一月中旬ヨリ同十八年二月下旬頃迄ノ間十數回ニ亘
リ當時「サンダカン」灣口「バハラ」島ニ抑留中ノ元英領北「ボ
ルネオ」總督「スミス」其ノ他ノ抑留英人等ニ對シ「ソロモン」
方面ニ於テ日米兩海軍激戰ノ決果日本軍ハ莫大ナル損害ヲ蒙リ「
ニユース」方面ニ於テモ英米側ノ空爆ニ依リ日本軍ノ損失甚
シキ旨其ノ他帝國軍ニ不利ナル戰況「ニユース」多數ヲ
(ロ) 同十七年十二月頃ヨリ同十八年七月頃迄ノ間二十數回ニ亘リ當
時「サンダカン」市民病院ニ勤務ヲ命セラレ軟禁中ノ英人醫師「
テラー」ニ對シ米空軍ハ「ビスマーク」諸島近海ニ於テ日本軍

輸送船四ヲ攻撃シ艦船二十二隻ヲ撃沈飛行機多數ヲ撃墜シタル

旨其ノ他帝國軍ニ不利ナル戦況「ニユース」多數ヲ

ハ同十八年五月頃ヨリ七月中旬マデノ間數回ニ亘リ當時「サン

ダカン」市外「ラボツク」路五哩ノ自宅ニ軟禁中ノ英人「ファイ

リツブス」ニ對シ前記同様「ソロモン」及「ニユーギニア」方

面等ノ戦況ニ關シ帝國軍ニ不利ナル「ニユース」若干ヲ

夫々文書ニ依リ送付通報シ

四同十八年五月頃ヨリ前記「ウエイントン」ニ倣ヒ自ラ「ラヂ

オ」受信機ヲ製作シ英米側放送ヲ聴取センコトヲ企テ同人及被

告人「ウエルス」ニ其ノ意ヲ告ケ共謀結托ノ上前示巡警「アビ

ン」ニ依頼シ所要ノ部分品ヲ逐次蒐集入手シツツ同收容所内ニ

於テ監視者ノ目ヲ盜ミ「ウエイントン」指導ノ下ニ同年七月頃

ニ至ル迄「ウエルス」ト共ニ之ヲ組立ニ從事シタルモ完成スル

ニ至ラスシテ發覺シ

第二、被告人「ロデリツク、グラハム、ウエルス」モ亦敵愾心旺盛ニシテ且自己ノ俘虜タル境遇ヲ深ク嫌忌シ居タルカ

〔前記ノ如ク昭和十七年十月頃收容所長ノ命ニ依リ俘虜一般ニ對シ外部現地住民等トノ通信又ハ連絡ヲ嚴禁セラレタルコトヲ知悉セルニ拘ラス同十八年五月頃被告人「ステイヴンス」ヨリ當時軟禁中ノ英人「メイヴァー」カ「サンダカン」發電所電氣技師トシテ勤務シアル由チ聞知スルヤ英米側放送ニ係ル戰況「ニユース」チ同人ニ密送シ其ノ抗戰意識ノ昂揚ヲ圖ルヘク犯意ヲ繼續シテ爾後同年七月中旬頃ニ至ル間概ネ毎週一回宛被告人「ステイヴンス」及同收容所附屬發電所職工陳平等ニ仲介セシメテ右「メイヴァー」ト連絡シ羅馬字及數字ヲ用フル暗號ヲ協定ノ上該暗號文ニ依ル通信ヲ交換ヲ爲シ且其ノ際約十回ニ亘リ自己ガ收容所内ニ於テ前掲「ウエイントン」等ヨリ襲取セル米空軍ハ「ビスマーク」諸島方面ニ於テ日本軍大輸送船團ヲ攻撃其ノ艦船大部分ヲ擊沈シ且飛行機多數ヲ擊墜シタル旨其ノ他帝國軍ニ不利ナル前示戰況「ニ

ユース一多數ヲ送付通報シ

(四) 同十八年五月頃被告人「マテユウス」ヨリ前記ノ如ク「ラヂオ」受信機製作ニ協力センコトヲ勧誘セラレテ承諾シ爾來同人等ト共謀結托ノ上監視者ノ目ヲ盗ミ前示「ウエイントン」指導ノ下ニ同年七月頃ニ至ル迄「マテユウス」ト共ニ該受信機組立ニ從事シ(五) 同十八年六月初旬頃右「ウエイントン」カ懲罰隊分ニ附セラレ營倉ニ留置中同人ニ代リ其ノ「ラヂオ」受信機ヲ用ヒ數日間英米側放送ヲ聴取シ其ノ都度犯意繼續ノ上「ラングーン」方面ノ日本軍ハ英米空軍ノ爆撃ニ依リ損害大ニシテ在支日本軍モ亦重慶側ノ反撃ヲ受ケ各處ニ於テ苦戰中ナル旨其ノ他戰況ニ關シ帝國軍ニ不利ナル事項若干ヲ同收容所内ノ俘虜將校以下ニ對シ文書又ハ口頭ニ依リ流布シ

第三、被告人「アルフレッド、ステイリヴンス」ハ昭和十七年十月未頃ヨリ同俘虜收容所帯外附屬發電所ニ於ケル機械取扱作業ヲ

命セラレ爾來同所ニ勤務シ居タルカ其ノ頃前記ノ如ク收容所長ノ命ニヨリ壇ニ外部現地住民等ト連絡又ハ通信ヲ爲スコトヲ嚴禁セラレタルヲ知悉セルニ拘ラス犯意繼續ノ上

〔同十八年一月頃ヨリ同年七月頃迄ノ間數回ニ亘リ同收容所内ニ於テ被告人「ウエルス」等ヨリ英米側放送ニ係ル戰況「ニース」トシテ聽取セル米空軍ハ「ビスマーク」諸島近海ニ於テ多數ノ日本軍輸送船四ヲ襲ヒ其ノ艦船ヲ擊沈シタル旨其ノ他帝國軍ニ不利ナル事項多數ヲ右發電所内ニ於テ電氣ニテ支那人吳町光岡隊平等ニ申傳へ

〔同十八年五月頃ヨリ同年七月頃迄ノ間合計約二十回ニ亘リ被告人「ウエルス」ト前記「メーヴァー」トノ間ニ於ケル往復書信竝「メーヴァー」ヨリ「ウエルス」ニ提供セル「ラヂオ」部
分品等在中ノ小包數箇ヲ被告人「マツクミラン」同「ロフイ」及前示陳平等ヲ通シテ各仲介送付シ尙同年六月下旬頃三回ニ亘

リ俘虜「マテユウス」ト巡警「アピン」トノ間ニ於ケル通信連絡ノ

仲介ニ當リ「マツクミラン」ハ昭和十七年九月頃ヨリ同「ロフイ

第四、被告人「マツクミラン」ハ昭和三十七年九月頃ヨリ同「ロフイ

「ハ同十八年二月頃ヨリ夫々收容所外ニ於ケル薪採取作業ニ從事中

前記ノ如ク同所長ノ命ニヨリ外部住民等トノ連絡又ハ通信ヲ嚴禁セ

ラレタルコトヲ知悉セルニ拘ラス監視充分ナラサルヲ奇貨トシ各犯

意繼續ノ上

「マツクミラン」ハ同十八年五月下旬頃ヨリ同年六月中旬頃ニ至

ル間各二回ニ亘リ前示「メイヴァー」ノ差出ニ係ル書信及小包ヲ被

告人「ステイヴァンス」及前記陳平ヨリ受取り「ウエルス」ニ交付

シタル上「ウエルス」差出ノ書信ヲ右「ステイヴァンス」及陳平ニ

交付シテ「メイヴァー」ニ到達セシメ

「ロフイ」ハ同年六月中旬頃ヨリ同年七月中旬頃迄ノ間各三回ニ

亘リ「ウエルス」ヨリ「メイヴァー」宛ノ書信ヲ受取り「ステイ

「メーヴアー」ニ到達セシメタル上
「ウエルス」宛ノ書信及小包ヲ「ステイ
「ウエルス」ニ交付シ

タルモノナリ
右ノ事實中各犯意繼續ノ點ヲ除キ爾餘ノ事實ハ被告人等五名ノ
當公廷ニ於ケル各供述陸軍司法警察官ノ被告人「マテユウス」ニ

ニ對スル聽取書「アレキサンダーゴードンウエントン」外四名
ニ對スル俘虜處罰法違反造言飛語等被告事件記録（昭和十八年

記第十六號）中檢察官ノ右「ウエイントン」ニ對スル聽取書難

第九八〇一部隊軍律會議ヨリ取寄ニ係ル「アーネストラガン」

外三十八名ニ對スル軍律違反被告事件記録（昭和十八年記第二

十一號）中檢察官ノ被告人「アビンビンアマゾン」同「マトソ

ツブピングガオ」同「アレキサンダーファン」同「デイマジ

ナル」同賴貴福同吳可光同陳平ニ對スル各聽取書同「ジエラル

ドメイヴァー」外三名ニ對スル軍律違反被告事件記録（昭和十八年記第二十二號）中陸軍司法警察官ノ被告人「メイヴァー」同「ジエームステーラー」同「アルフレッドアイリツプス」ニ各聽取書押收ニ係ル六連發拳銃一挺「ラデオ」受信機一臺同部分品十八點及日記帳一冊（以上證第一號乃至第四號）ヲ綜合シテ之ヲ認メ各犯意繼續ノ點ハ夫々短期間内ニ同種犯行ノ反覆果行セラレタル事跡ニ徴シ之ヲ認ム

法律ニ照スニ被告人「マテユウス」ノ判示所爲中第一ノ（一）ノ點ハ俘虜處罰法第五條第一項ニ同（二）ノ間諜ノ點ハ刑法第八十五條第一項第六十條ニ外患豫備ノ點ハ同法第八十八條第八十六條ニ同（三）ノ點ハ陸軍刑法第九十九條並海軍刑法第一百條ニ同（四）ノ點ハ俘虜處罰法第十一條後段ニ各該當スルトコロ右（一）及（二）ノ各罪ハ一個ノ行爲ニシテ數個ノ罪名ニ觸レ且（一）及（二）ノ兩罪ハ各犯意繼續ニ係ルヲ以テ刑法第五十四

條第一項前段第五十五條第十條ヲ適用シ最モ重キ間 罪ノ刑ニ從ヒ
 其ノ所定刑中死刑ヲ選擇處斷スヘク尙之ト同(四)ノ俘虜處罰法違反ノ
 罪トハ刑法第四十五條前段ノ併合罪ナホモ前記間 罪ニ付死刑ニ處
 スヘキヲ以テ同法第四十六條第一項ニ從ヒ他ノ刑ヲ科セス被告人「
 ウエルス」ノ判示所爲中第二ノ(一)ノ點ハ俘虜處罰法第五條第一項陸
 軍刑法第九十九條竝海軍刑法第百條ニ同(二)ノ點ハ俘虜處罰法第十
 條後段ニ同(三)ノ點ハ陸軍刑法第九十九條竝海軍刑法第百條ニ各該當
 スルトコロ右(一)及(二)ハ夫々一個ノ行爲ニシテ數個ノ罪ニ觸レ且兩罪
 犯意繼續ニ係ルヲ以テ刑法第五十四條第一項前段第五十五條第十條
 ニ則リ最モ重キ俘虜處罰法違反罪ノ刑ニ從ヒ有期懲役ヲ選擇スヘ
 ク同(一)ノ罪ニ付テハ懲役刑ヲ選擇シ以上ハ刑法第四十五條前段ノ併
 合罪ナルヲ以テ同法第四十七條第十條第十四條ヲ適用シ重キ前者ノ
 刑ニ法定ノ加重ヲ爲シタル刑期範圍内ニ於テ被告人「ウエルス」ヲ
 懲役十二年ニ處シ(被告)人「ステイーンズ」ノ判示第三ノ(一)及(二)

ノ所爲ハ俘虜處罰法第五條第一項ニ同(一)ノ中造言飛語ノ點ハ陸軍刑法第九十九條並海軍刑法第百條ニ各該營スルトコロ以上ハ一個ノ行爲ニシテ數個ノ罪名ニ觸レ且犯意繼續ニ係ルヲ以テ刑法第五十四條第一項前段第五十五條第十條ニ則リ最モ重キ俘虜處罰法違反罪ノ刑ニ從ヒ有期懲役刑ヲ選擇シ其ノ所定期限範圍内ニ於テ被告人「ステイヴンス」ヲ懲役五年ニ處シ被告人「マツクミラン」及「ロワイ」ノ判示第四ノ各所爲ハ執レモ俘虜處罰法第五條第一項刑法第五十五條ニ該當スルヲ以テ夫々所定期限中有期懲役刑ヲ選擇シ其ノ刑期範圍内ニ於テ右被告人兩名ヲ各懲役一年六月ニ處スヘク押收ニ係ル六連發拳銃一挺(證第一號)ハ被告人「マチユウス」カ判示外患豫備ノ犯行ニ因リ得タルモノニシテ犯人以外ノ者ニ屬セサルヲ以テ刑法第十九條ニ從ヒ之ヲ沒收スヘキモノトス

仍テ主文ノ如ク判決ス

昭和十九年三月二日

第九八〇一部隊臨時軍法會議

裁判長 陸軍中佐 江上 惣兵衛

裁判官 陸軍法務少佐 西原 周二

裁判官 陸軍大尉 筒井 與市