

EXHIBIT No. 3354

(12)

DEF. DOC. #2675

Exh. No. 3354

Translated by  
Defense Language Branch

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

- vs -

ARAKI, Sadao, et al

Sworn Department (Translation)

Deponent ; -- OYAMA Ayao

Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in my country I hereby depose as follows.

1. I, OYAMA, Ayao, served as Director of the Bureau of Legal Affairs of the War Ministry from December 1933 to March 1945. My rank at the time of the surrender was Judicial Lieutenant General on the reserve list.
2. In regards to the directive which the Vice Minister issued in compliance with the order he received (Court Exhibit 1992) entitled "The Matter Concerning the Treatment of the Pilots of the Enemy Planes which Carried out Aerial Attacks on Japanese Land" No. 2190, dated 28 July 1942, I learned as follows:

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That the General Chief of Staff directly requested the Minister of War that something similar to the content of the said directive be issued. Whereupon the War Minister expressed his idea as to what the directive should contain, and the departments and sections concerned consulted and arrived at the final draft which after being approved by the Minister of War was issued. The purport of this directive was that the Minister indicated to the Army Commander that those captured among the crews on the raiding planes whose actions did not violate international law were to be treated as ordinary prisoners of war. Those suspected of violating international law were to be subjected to trial by the Counsel of Military Discipline. And if trial proved that the suspects were guilty of a war time major offense, they were to be punished in accordance with the martial law. If the trial found that they were not guilty of any war time major offense or if the trial did not prove that they were guilty of the said offense, they were to be found "not guilty" and acquitted and were to be treated as ordinary prisoners of war; the legal procedure of the special Court Martial as applied to Japanese soldiers in general when put on trial was to be applied.

On this 30th day of September, 1947

At Tokyo

DEPONENT /S/ OYAMA Ayao (seal)

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I, SHIOBARA Tokisaburo, hereby certify that the above statement was sworn by the Deponent, who affixed his signature and seal thereto in the presence of this Witness.

On the same date

At the same place

Witness: /S/ SHIOBARA Tokisaburo(seal)

OATH

In accordance with my conscience I swear to tell the whole truth withholding nothing and adding nothing.

/S/ OYAMA Ayao (seal)

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Exh. No.

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Defense Language Branch

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

-vs-

ARAKI, Sadao, et al

Sworn Deposition(translation)

Deponent: OYAMA, Ayao

Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in our country I hereby depose as follows.

1. I, OYAMA, Ayao, served as Director of the Bureau of Legal Affairs of the War Ministry from December 1933 to March 1945. My rank at the time of the surrender was Judicial Lieutenant General on the reserve list.

2. The law pertaining to the Punishment of Prisoners of War was revised by Law No. 41 on 9 March 1943. There were two reasons for the revision. First, as to the crimes committed by the Prisoners of War in the past, the Imperial Ordinance No. 225 of 25 October 1904 and the Law No. 38 of 28 February 1905 existed at the time of the Russo-Japanese war. Later on,

as the ordinary criminal code was revised in 1908 with the complete reform of the penal system, it was necessary to revise the names of the punishments in the ordinance and the law, pertaining to the punishing of Prisoners of War, so as to conform to those in the criminal code and to make the terms of the criminal code in the former completely in line with those in the latter.

Second, since the outbreak of the Pacific War, the number of POWs taken by the Japanese army gradually increased with the advancement of the war fronts, and it became necessary from the viewpoint of keeping surveillance to take precautionary steps to suppress the possible uprisings of POWs as well as not to cause any hindrance in the proper discharge of duties of those in charge of guarding and superintending the prisoners. And also in view of the up scaling of the penalties for the crimes committed against superiors and the crimes committed by groups in the military in/ the criminal code applicable to the Japanese soldiers and civilians in the military service, etc., it was necessary to raise the penalty/ <sup>to</sup> keep in line with the above mentioned up scaling. These were the two reasons why a revision to the law pertaining to the punishment of POWs became necessary. Whereupon in the fall of, or the winter of 1942, the bill for altering the Prisoner of War law was taken up as one being under the

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jurisdiction of the War Ministry in connection with the preparation and the arrangement of the bills to be presented in the next ordinary session of the Diet as the usual practice of every year. After consultation within the respective departments and the sections of the Ministry of War and further consultations with the Bureau of Legal Affairs, etc., the final draft was drawn up and approved by the Minister, then upon approval by the Cabinet meeting, the bill was presented to the 81st session of the Diet of the Government. After being passed by the Diet, the bill became a law and was promulgated and put in force as Law No. 41 of 1943, The Law Pertaining to the Punishment of POWs (Court Exhibit 1965A).

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OATH .

In accordance with my conscience I swear to tell the  
whole truth withholding nothing and adding nothing.

/S/ OYAMA, Ayao (seal)

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