

Keizo Hyodo, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: Repeat: In accordance with my conscience I swear to tell the truth, hiding nothing and concealing nothing.

A. (Through interpreter) Yes.

PROSECUTION: Do you understand that if you fail to tell the truth as you have just sworn to do, you are liable to punishment by this Commission or any other American court or Commission?

A. Yes.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name and age to the court.

A. Keizo Hyodo, 42.

Q. What is your occupation?

A. Police official.

Q. How long have you been a member of the police force?

A. Eighteen years, one month.

Q. Where are you presently stationed?

A. Shibuya Police Station.

Q. What is your position at Shibuya Police Station?

A. I am police inspector and I am acting police chief.

Q. How long have you held this position?

A. Ten months.

Q. How long have you been at the Shibuya Police Station?

A. Five months.

Q. Prior to your position at the Shibuya Station, where were you located?

A. Personnel Department of the Criminal Investigation Section of the Metropolitan Police Board.

PROSECUTION: There's some difference of opinion on the last answer.

INTERPRETER: I would like to correct that to Personnel Department of the Police Affairs Division of the Metropolitan Police Board.

Q. On the 19th of July what time did you report for duty at the Shibuya Police Station?

A. I was there from the morning. I had night duty the previous night.

Q. What time did you report on the previous night?

A. I was there from the morning. I was at the police station from the night of the 16th.

Q. On the 18th of July did you get any extraordinary reports?

A. Yes.

- Q. What did these reports concern?
A. On the 18th some of our policemen were beaten up and injured by the Fernosans, and that day we sent some of our policemen there to collect information.
- Q. Did you receive any reports concerning the attack, the possible attack on the Shibuya Police Station by a group of people?
A. Yes.
- Q. What particular group of people was that?
A. We received a report that Fernosans would attack and burn down the Shibuya Police Station.
- Q. What time of day did you receive this report?
A. About 6:00 o'clock.
- Q. This was on the 18th of July?
A. Yes.
- Q. That's 6:00 p.m.?
A. Yes.
- Q. What did you do when you received this report?
A. As it is my responsibility to protect the police station in case of an attack, I took the proper measures.
- Q. Did you relay this report to anybody?
A. I reported this to my police chief.
- Q. Do you know whether the chief reported it to anyone?
A. I reported this to the Metropolitan Police Board.
- Q. What did they do?
A. The Metropolitan Police Board knew something like this would happen, so they conferred with my police chief and had arrangements to have fifty men sent as assistants. They arrived at around 7:00 o'clock.
- Q. What did you do when these fifty men arrived?
A. After they arrived I assigned the pistols that were supplied to our police station and gave them the present situation, let them know the present situation and made proper arrangements.
- Q. What arrangements did you make?
A. We divided fifty men into two platoons and each platoon took turns in the guarding.
- Q. How were these platoons deployed?
A. The one platoon which is off duty stayed inside the office in the police station, and the other platoon which is on duty stayed outside the entrance on guard.
- PRESIDENT: There seems to be some question about the last translation. The monitor for the defense is invited to take part in the conference.
- INTERPRETER: 23 were resting inside the police station, while two were on guard at the entrance.

- Q. Were these 23 on the inside of the police station whom you have described as resting, were they alerted?
- A. They were on alert.
- Q. What was the other platoon doing at this time?
- A. They were resting.
- Q. What do you mean by resting?
- A. They were lying down while in uniform ready to go on duty as soon as there was an attack.
- Q. Was there an attack that night?
- A. No.
- Q. What is the next report you heard regarding Formosans attacking the station?
- A. At 8:00 p.m. we received a report from the Metropolitan Police Board which was originally from the MPs.
- Q. 8:00 p.m. what day?
- A. On the 18th.
- Q. What was this report?
- A. We were told to be on the guard because Formosans were coming from the Osaka area.
- Q. When did the station receive the next report?
- A. On the morning of the 19th we received reports that about 1,000 Formosans were maneuvering to attack the Metropolitan Police Board, Shinbashi, Matsuda Gumi, and the Shibuya Police Station, so we were told to be on guard, but at that time we did not know where they were to assemble.
- Q. What time was this?
- A. It was past 8:00.
- Q. Did you at this time receive any orders from Tsuchida, the chief of police?
- A. The police chief told me this and he told me to tell the guards and the police officers at the police boxes to be on watch and to report where all the vehicles were headed for.
- Q. At this time how many men were in each police box?
- A. There were places with two policemen and three policemen, but the police box in front of the station which is close to the place where the Formosans live had six policemen.
- Q. The railroad station or the police station?
- A. That was the railroad station.
- Q. Did you relay these instructions?
- A. Yes.
- Q. What time did you receive the next report?
- A. At a little past 11:00 we received a report that Formosans were together at Kyobashi Showa Primary School, and we received another report at about the same time from the Meguro Police Station saying that about 100 Formosans from that ward were heading for the Showa Primary School.

- Q. Where did you receive this first report? You stated that at 1100 you received word, reports that the Formosans were to gather at Showa School. Where did you receive this report? From where did you receive it?
- A. We received this from the Guard Section of the Metropolitan Police Board.
- Q. What time did you receive the next report?
- A. At about 1:30 we received a report that the Formosans were assembling at the Showa Primary School.
- Q. From where did you receive this report?
- A. We received this from the Guard Section of the Metropolitan Police Board.
- Q. What time did you receive the next report?
- A. At a little past 3:00 we received a report that Formosans from Nakano, about fifty Formosans from Nakano got on one truck and were headed for this Kyobashi Showa Primary School.
- Q. What time was the next report?
- A. At about 4:30 we received a report that about 1,000 Formosans were assembled at the Showa Primary School with fifteen trucks and a number of passenger cars, and at the same time we received a report that they had designs of attacking the Metropolitan Police Board, Shinbashi's Matsuda Gumi, and the Shibuya Police Station, so we were told to be on guard.
- Q. Who received this report?
- A. I received them.
- Q. Did you tell them anything at that time?
- A. I reported this to the police chief and then I gave the guards the gist of this report and told them not to be lax in their duties. At that time we did not have enough guards, so we conferred with the Metropolitan Police Board's Guard Section for more assistance.
- Q. What was their answer to that request?
- A. They too knew that we did not have enough, so they said they would send us some.
- Q. Did they send them?
- A. Yes.
- Q. What time did they arrive?
- A. They were all here by 6:00 o'clock.
- Q. Where were they from?
- A. 34 reinforcements arrived from the Yoyogi Police Station, 21 from Harajuku Police Station, 26 from Meguro Police Station, 29 from Osaki Police Station, and 46 from Takanawa Police Station, and as was the previous night fifty from the Metropolitan Police Board arrived at 7:00.
- Q. Did you receive any from the Azabu Police Station?
- A. Yes, I forgot that one; 32 came.
- Q. When these policemen arrived did you make a note of it?
- A. Yes.
- Q. Do you have these notes with you?
- A. Yes.

Q. The same notes you made at that time?
A. It is not the real ones. It is a duplicate.

Q. Who made the duplicate?
A. I did.

PROSECUTION: I ask the court if during the next phase of the examination of this witness he may refer to those notes?

LAW MEMBER: Any objection?

DEFENSE: No objection.

Q. You may refer to those notes. Now you stated that you received fifty policemen from the Metropolitan Police Board. Were those the fifty that arrived the night before?
A. The policemen are different.

Q. Did you still have those same policemen who arrived from the Metropolitan Police Board at 7:00 o'clock on the night of July the 18th?
A. No. I forgot to mention before, but at 8:00 o'clock that morning we received 31 men as reinforcements, and they were to take the place of the ones that came the previous night.

Q. Then the evening of July the 19th you received fifty more from the Metropolitan Police Board, is that correct?
A. Yes.

Q. Altogether you received reinforcements amounting to 279 additional police?
A. Yes. It was supposed to be 279, but actually there were only 278. Supposed to be Assistant Police Inspector who was supposed to come from Kamata, but he became ill and did not come, so actually there were only 278.

Q. And how many policemen did you have from your Shibuya Station there?
A. There were altogether 107.

Q. Making a grand total of 385 policemen there to protect the station?
A. Yes.

Q. Who was in charge of these policemen?
A. The person who had overall command was my police chief.

Q. Did he delegate any authority to you?
A. At that time he did not delegate any special authority to me, but my position was that of acting police chief, so I had some authority.

Q. When these police arrived at 6:00 o'clock in the evening, what did they do?
A. We assembled them all on the instruction room on the second floor and gave them instructions.

Q. Did Chief Tsuchida give any instructions?
A. The police chief was quite busy, so I in his place gave the instructions.

Q. What instructions did you give?

- A. First we let them have all the information that we received in the morning about the Formosans. Second we assigned a post to these policemen. Third we told all the men that were to be on duty on the road to stop all the vehicles and make an investigation as to their destination, and also check up on their weapons, and we told them that as policemen we had the responsibility of protecting all the people regardless of their nationality, and as we were to protect the people we were not to shoot. However, if they shot first as a last resort we were to shoot, and if they attacked us with clubs and pistols, we were to shoot.
- Q. Did you check to see whether they were armed with pistols?
- A. Yes.
- Q. How many of the police had pistols?
- A. There were altogether a total of 191 pistols.
- Q. Were the rest of them armed?
- A. They were armed with police sticks, but as there weren't enough, some of them had some and some of them didn't.
- Q. You stated that you told the various squads what positions to take, did you not?
- A. Yes.
- Q. Will you tell us how you divided them up?
- A. We put one platoon of our men about forty meters to the left of the main entrance.
- Q. Will you step to the map, Prosecution's Exhibit No. 1, and indicate?
- A. Around here.
- Q. How many men were in that squad?
- A. Sixteen.
- Q. Who was in command of the squad?
- A. Assistant Police Inspector Kinoshita.
- Q. Will you indicate their positions by drawing a line across the map as they were deployed? Adjacent to that line will you put the letter F? That was Kinoshita's squad?
- A. Yes.
- Q. Were these men armed?
- A. They had pistols, but not all.
- Q. Where was the next squad?
- A. Shall I draw a line there?
- Q. Yes.
- A. The Osaki Platoon was stationed here.
- Q. Whose squad was that?
- A. Osaki Platoon, and Assistant Police Inspector Suga was in charge.
- Q. Will you place a G adjacent to that line? How many men were in this squad?
- A. 39, 34 there because five were at the check point.

- Q. And the line you have drawn on the map and placed a U adjacent to it is the position of Inspector Suga's squad of 34 men?
- A. Yes.
- Q. Now you've stated that five of Suga's men were sent elsewhere. Will you describe that? Is that where they were?
- A. Yes.
- Q. Will you point to it again? I'll ask you if it was at the point marked SX on the map?
- A. I believe it was on this side more.
- Q. What side?
- A. There was a mail box nearby, and several telephone poles. I believe it was around here.
- Q. Do you see the mail box on the map?
- A. Right there.
- Q. On which side of the street were they stationed?
- A. They were a check point, so in order to be able to stop the cars they were posted in the middle.
- Q. As near as you can remember where they were stationed, place an X on the map. Will you place a V adjacent to that X? Then the spot on the map where you have placed an X with the V adjacent to it is the spot where the five men from Suga's squad formed a check point, is that correct?
- A. Yes.
- Q. What were the duties of the men at this check point?
- A. To stop all vehicles coming from this direction, that direction, and make a check, as I have mentioned before.
- Q. Coming from the direction of Ebisu Station?
- A. Yes.
- Q. Check for what? What was the purpose of checking them?
- A. The reason we carried out this check was because we received a report that they were to come in vehicles, so if we had this check point too close to the station they might damage the station, and in order to prevent any incident we placed the check point out there.
- Q. How did the men make this check?
- A. It was at night, so in order to prevent any mistakes we supplied the men with Japanese lanterns and they were to swing the Japanese lantern and stop the vehicles and then make their check.
- Q. What vehicles?
- A. We told them to stop all trucks and passenger cars.
- Q. Where was the next squad stationed?
- A. We stationed the Meguro Platoon over here.
- Q. Will you indicate by drawing a line on the map across the road? Who was in charge of this squad?
- A. Assistant Police Inspector Kobayashi.

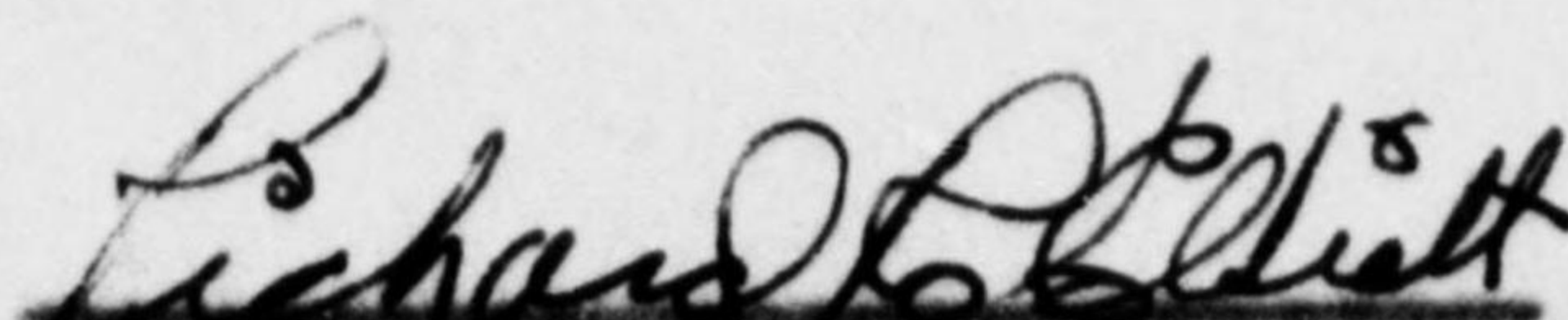
- Q. From what station was he?
A. Meguro Police Station.
- Q. How many men did he have?
A. 26.
- Q. What was his mission?
A. On this map it is quite narrow, but vehicles are able to come from that direction, and in order to prevent them from coming through there we placed the men to stop them.
- Q. By coming from that direction, does he mean coming from the far side of the river from the Shibuya Station?
A. To prevent them from coming from that direction.
- Q. Were these men armed?
A. Yes, I believe about 18 from this platoon had pistols.
- Q. Will you place a W adjacent to the line that you just put on the map indicating Kobayashi's squad? Where was the next squad located?
A. This one here.
- Q. Whose squad was that?
A. It was from our station. Assistant Police Inspector Nishio was in charge.
- Q. That is the spot indicated at the line drawn across the road with an I adjacent thereto?
A. Yes.
- Q. Were there any men beyond that point toward the Shibuya Railroad Station?
A. No, nobody on the other side.
- Q. Did you have any other squads across the street?
A. We had the Takanawa Platoon stationed here.
- Q. Who was in charge of the Takanawa Platoon?
A. Assistant Police Inspector Matsunaga.
- Q. How many men did he have?
A. 46 including the platoon leader.
- Q. Will you indicate the position of the Takanawa Platoon by drawing a line across the road on the map, Prosecution's Exhibit No. 1? Will you place a Y adjacent to that line? Then the line drawn across the street on the map designated as Y is the position of the Takanawa Platoon of 46 men in charge of Matsunaga, is that correct?
A. Yes.
- Q. Were those men armed?
A. They had fifteen pistols.
- Q. What did the rest of them have?
A. Others did not have anything. There were a few that had sticks, though.
- Q. Will you state the purpose and the mission of Nishio's group stationed at the line marked I on the map?

- A. Their duty was to stop the vehicles coming from the direction of the Shibuya Railroad Station.
- Q. And what was the duty of the Takanawa group at the line on the map marked with a Y?
- A. Their duty was to stop the vehicles that went through the line at I.
- Q. And you stated that the mission of the squad at the line marked I and the squad at the line marked Y on the map was to stop the vehicles coming from the direction of the Shibuya Station, is that correct?
- A. Yes.
- Q. What was the mission of the squad at the line marked T on the map, Kihoshita's squad?
- A. Their duty was to stop the vehicles that came through from that direction and which the first check point was not able to stop.
- Q. At the check point marked V on the map?
- A. Yes.
- Q. Stopping vehicles coming from the Ebisu Station?
- A. Yes. The reason we placed them there was because the reports we received at that time were that they would probably come from that direction, so we placed them there.
- Q. What was the mission of the squad indicated by the line marked U on the map?
- A. Their duty was to stop the vehicles that came through T.
- Q. Where was the next squad located?
- A. From here to around there. It was the Yoyogi Platoon.
- Q. As you indicated on the map, directly in front of the police station, is that correct?
- A. Yes.
- Q. How many men were in that squad?
- A. 34.
- Q. Will you draw a line on the map indicating where this squad was located?
- A. Will you place a Z adjacent to that line? Then the line you have drawn on the map and placed adjacent to it a Z indicates the position of Suga's squad of 34 men in front of the police station, is that correct?
- A. Yes.

PROSECUTION: Will the record show that the mark next to that Z looking like an inverted V was placed there by mistake by the witness attempting to make a Z.

PRESIDENT: At this time the court will adjourn to meet tomorrow morning at 0900.

The Commission then, at 1600 on 14 October 1946, adjourned to meet at 0900 on 15 October 1946.


RICHARD N. ELLIOTT
Major, Chief Prosecutor

Metropolitan Police Station
Tokyo, Japan
15 October 1946

The Commission met, pursuant to adjournment, at 0900, all the members of the Commission, prosecution and defense, who were present at the close of the previous session in this case, being present.

The accused, interpreters, and the reporter were also present.

Keiso Hyodo, a witness for the prosecution, resumed the stand and continued his testimony as follows:

PROSECUTION: The witness is reminded that he is still under oath.

Questions by prosecution continued:

- Q. Just before adjournment yesterday you testified that the line on the map, Prosecution's Exhibit No. 1, marked Z was the place where the Yoyogi Platoon was deployed with 34 men, is that correct?
- A. Yes.
- Q. Will you step to the map again, please? Take the blue pencil and on the line marked T will you put the number of policemen who were stationed there? Now on the line marked U which you testified yesterday was Suga's platoon, will you put the number of policemen stationed there? Now at the point marked XB which you stated was the check point, will you put the number of policemen stationed there? Now at the line marked W which you testified yesterday was Kobayashi's platoon from Meguro, will you put the number of policemen stationed there? Now the line Y which was Matsunaga's platoon, will you put the number of men stationed there? Now at the line I which was Nishio's platoon, you testified yesterday was the last cordon of police at the Shibuya Railroad Station. Will you put the number of police stationed there; now at the line marked Z will you place the number of policemen stationed at that point on the night of July 19th. Now then, protecting the station toward the Ebisu Station you had 55 policemen, and toward the Shibuya Station 64 policemen, is that correct?
- A. Yes.
- Q. And protecting the station from the Hashiman Bridge you had 26 men protecting it, is that right?
- A. Yes.
- Q. Would that indicate that you were not expecting the Formosans from any particular direction?
- A. That is correct.
- Q. I believe that accounts for 179 policemen. Where were the rest of them deployed?
- A. They were in a rear court yard and in the police station.
- Q. Will you break that down?
- A. There is a small lake over here. There were 31.
- Q. Who was in charge of that group?
- A. Obori from Ebara Police Station.

- Q. Will you indicate how they were deployed, with the blue pencil on the map? Will you place adjacent to that line indicating the squad of 31 men under Obori a double A? Now will you also place adjacent to that the figure 31, indicating 31 policemen there? How many of these men were armed with pistols?
- A. Ten.
- Q. All right, further break down the remaining policemen.
- A. There is a rear courtyard to the rear of that police station, and the Harajuku Platoon was deployed there.
- Q. How many men did that have?
- A. 21.
- Q. Will you indicate with the blue pencil the deployment of these?
- A. The map is too small. There is an extension to the rear. They were deployed in this manner.
- Q. Will you indicate by putting an arrow on the end of that line? Will you place adjacent to that line a double B? How many men were in this squad?
- A. 21.
- Q. Will you place the figure 21 adjacent to that line indicating the deployment of 21 policemen from Harajuku Station? Will you further break down the deployment of your policemen?
- A. The Azabu Platoon was deployed on the opposite wing of the Harajuku Platoon.
- Q. Will you so indicate by drawing a line with your blue pencil?
- A. It extends down.
- Q. Will you indicate that by putting an arrow on the end of that line? Adjacent to that line for identification will you place a double C? How many men were in this platoon?
- A. 32.
- Q. Will you place the figure 32 to so indicate? Did you have any more policemen?
- A. There were 25 policemen in this area.
- Q. In what area?
- A. In this area.
- Q. You indicated in the courtyard behind the police station, is that correct?
- A. Yes.
- Q. Will you indicate the deployment of those 25 policeman by drawing a blue line? What station were these 25 from?
- A. This platoon was one half of the reinforcements we received from the Metropolitan Police Board at 1900.
- Q. Who was in charge of this group?
- A. Assistant Police Inspector Yamagata from the Setagaya Police Station.
- Q. Will you place a double D adjacent to that line for identification? Will

you place the figure 25 adjacent thereto to indicate the 25 policemen?
Where were the rest of your policemen?

- A. Since the courtyard was filled with policemen, I placed 25 policemen on the second floor.
- Q. Do you mean that you had 25 policemen in the courtyard besides those in the platoon marked DD on the map?
- A. 25 policemen were on the second floor. The rear courtyard was so crowded I placed the 25 men on the second floor.
- Q. What other policemen did you have?
- A. The rest of the policemen were from the Shibuya Police Station, and they were in the building.
- Q. Were they all in the building?
- A. Yes.
- Q. Did you have any policemen at the entrance of the station?
- A. There were some policemen from the Shibuya Police Station at the entrance of the police station.
- Q. Who was in charge of that squad?
- A. Assistant Police Inspector Miyauchi.
- Q. How many policemen did you have inside?
- A. 14.
- Q. You had 14 of Miyauchi's squad?
- A. 14 policemen including Miyauchi.
- Q. Did you have any more inside?
- A. Yes.
- Q. How many?
- A. Including the plain-clothes men and guards in the prison there were 16 policemen.
- Q. I'll ask you if you didn't have a squad under Shiino?
- A. There was.
- Q. How many were in this squad?
- A. There were forty policemen who were on duty as in the office.
- Q. Can you tell me what the mission of squad AA was?
- A. They were waiting an alert, and in case the situation got to the point that the Formosans attacked, they were to participate, reinforce the men over there.
- Q. Do you mean at the lines U and T?
- A. Yes.
- Q. What was the mission of the men at stations BB, CC and DD?
- A. They all waited an alert, and in case they broke through T and U, BB was supposed to reinforce the area to the left front of the police station.
- Q. What was the mission of those men stationed inside the station?

- Q. The Miyuchi platoon had the duty of guarding the entrance of the police station, and in case the Yoyogi Platoon was attacked, Miyuchi platoon was supposed to reinforce Yoyogi Platoon.
- Q. Will you indicate just which is Yoyogi's platoon? You are pointing to the platoon marked Z on the map, is that correct?
- A. Yes.
- Q. You may resume your seat. What time were these men posted?
- A. After 1900.
- Q. After these men were posted, what was the next report you received?
- A. There was a report at about 1830 that Formosans who assembled at the Shows Primary School at Kyobashi had left the place on ten trucks in the direction of Shinbashi and on five trucks in the direction of Shibuya, and we were told to be on the lookout for them.
- Q. What happened next?
- A. I believe it was about twenty minutes afterwards I received a report that the trucks were in the Shinbashi area.
- Q. Then what happened?
- A. I believe this was after 1900. I received a report from the Asabu Police Station that five or six trucks had passed the Asabu area toward Shibuya and proceeding towards Shibuya.
- Q. What happened next?
- A. At about 2000 there was a report from the Guard Section of the Metropolitan Police that about a thousand Formosans were gathered from Hyogo Prefecture, Osaka and the Kanagawa Prefecture, and were planning to attack the Metropolitan Police Station, the Shibuya Police Station, and the Matsuda Gumi at Shinbashi, and we were told to be especially on the lookout.
- Q. And what happened next?
- A. There was no report for a while. Then about 2030 the police chief asked me to assemble the platoon leaders because he wanted to give them instructions, so I gathered the platoon leaders and they were assembled at the police chief's office.
- Q. Did the police chief give any instructions?
- A. Yes.
- Q. What were these instructions?
- A. The police chief said that there was no report for a while and we do not know the movement of the Formosans, but we have to be on guard all the time, and I'll repeat this, but in addition to that he said, "Be careful in the use of weapons and use it only as a last resort."
- Q. Did he say what he meant by "last resort"?
- A. By that he meant that in case the attackers used weapons and our lives were endangered, we were to use our weapons as a final resort.
- Q. Were the weapons to be used in any other event?
- A. He told us that in case they should enter the police station en masse and started using their weapons and acted violently, we were to use our weapons.

- Q. Did anything else happen at that meeting?
- A. While the police chief was still giving instructions, we heard the whistle and a confusion in the front.
- Q. What kind of a confusion did you hear?
- A. After we heard the whistle we heard confusion, a shouting to the left of the police station.
- Q. Did you understand the shouts?
- A. Maybe it was the distance between them and the police station, but I could not make out what they were saying, but I heard a loud shouting by a lot of people. Because I had received reports concerning the Formosans, at that moment I thought that they had attacked. I believe the others also thought the same.
- Q. What did you do?
- A. The police chief and I ordered the men to go to their post, and I ran outside to where the confusion was.
- Q. What did you see as you rushed outside?
- A. I went to the outside and looked toward the left, and I could not see clearly, but I saw a column of cars.
- Q. What did you do then?
- A. And as I approached the vehicles I noticed that the first vehicle was a jeep, the second a sedan, and followed by trucks.
- Q. Do you know how many trucks?
- A. At that time I did not know the number of trucks, but I knew there were several.
- Q. Who ran up to the convey with you?
- A. I believe that I approached the vehicles soon after Police Inspector Kinoshita.
- Q. Where was Chief Tsuchida at this time?
- A. He approached the vehicles soon after I did.
- Q. What did you do when you approached the vehicles?
- A. When I reached there I saw Sergeant Kojima arguing with the occupants of the jeep.
- Q. Did you hear what they were saying?
- A. I could not hear exactly what they were saying, but they were arguing in a loud voice, and from what I could gather it seems as if the occupants of the jeep were saying, "What's the idea of stopping us," and I also heard that the occupants of the other trucks were cursing at us.
- Q. Did you see who the occupants of the jeep were at this time?
- A. At that time I could not tell who the occupants of the jeep were, but I believe that there were about six either Chinese or Formosans in the jeep.
- Q. Did you attempt to talk with the occupants of the jeep?
- A. Then I told Sergeant Kojima to keep quiet and I said quietly, "What's the matter," to the one who seemed to be the leader in the jeep. He was about 34 or 35 and plump.

- Q. Did he reply to you?
A. As the surrounding was so noisy I could not hear what he was saying, and before I could get any answer, the police chief approached the vehicle.
- Q. Who was with the chief?
A. I believe that Sergeant Haga and Assistant Police Inspector Miyuchi were together with the police chief.
- Q. What did you do then?
A. Since the police chief came, I stepped aside and stood at the right of him.
- Q. At this time were you able to distinguish who the occupants of the trucks were?
A. The inside of the trucks were dark, but from their voices I could tell that they were Formosans.
- Q. What were they doing?
A. They were shouting "bakayaro", and "You've got no right to stop us; we'll get you," and some were spitting at us, and there were some that were swinging clubs and pounding the side of the truck.
- Q. Could you tell how many were shouting?
A. There were so many that were shouting and cussing that I cannot say how many.
- Q. Would you say that the majority of them were shouting or yelling?
A. Yes.
- Q. Could all of them have been shouting and yelling?
A. I cannot say whether everyone was shouting, but I could say the majority of them were shouting, by the voices.
- Q. Is it possible that all of them were shouting?
A. I cannot say that the entire group was shouting, but I could say the majority of them were shouting.
- Q. Where were you standing at this time?
A. I was standing to the right front of the jeep and to the right of the police chief.
- Q. How close to the chief were you?
A. About one meter.
- Q. Did you hear what he was saying to the occupants of the jeep?
A. When the police chief approached the vehicle, the one who seemed to be the leader of the jeep said, "Are you the Police Chief Tsuchida?" Then at that time I wondered whether the occupant of the jeep knew Police Chief Tsuchida.
- Q. Did you hear anything more of the conversation?
A. When the police chief answered, "Yes," he said, "What's the idea of stopping us here," and also, "What's the idea of deploying so many policemen in this area?"
- Q. What did the chief answer?

- A. The police chief answered, "These policemen are to protect you and also to protect the police station from violence."
- Q. All right, what followed then?
- A. Then the leader of the jeep answered, "We are on our way home from a meeting which was held at the Chinese Minister's residence," or something like Chinese Mission, "at Azabu, and since we are on our way home, let us through."
- Q. What did the chief answer to this?
- A. Then the police chief answered, "If that's the case you may pass," and the leader of the jeep put out his hand, so the police chief shook his hand. Then he said, "There are some policemen ahead," so in order to avoid misunderstanding he placed Miyauchi on the jeep and told them to proceed.
- Q. What was the conduct of the Formosans on the truck during this conversation?
- A. It was the same as before. They were creating a confusion and cussing and spitting. There was so much confusion that it was difficult to hear what the police chief and the leader of the jeep were saying.
- Q. At whom were they spitting?
- A. At us.
- Q. How many of them were brandishing clubs?
- A. I just saw the first truck, so I saw only about two persons.
- Q. Two persons on the first truck brandishing clubs, is that correct?
- A. Yes.
- Q. Continue.
- A. The trucks were in the line so I could not see toward the rear.
- Q. Did you see any pistols?
- A. I did not see any pistols.
- Q. Will you step to the map and indicate the position of this convoy during the time you have just described?
- A. The jeep was to the right of the center of the road in this area.
- Q. At a point between lines T and U on the map, is that correct?
- A. Yes, but more toward line T.
- PRESIDENT: What is the right of the road?
- Q. What do you mean by "right of the road?"
- A. In this area.
- Q. You are pointing to the river side of the street, are you not?
- A. Yes.
- Q. You may resume your seat. I believe you said you were standing a little to the right of the chief, is that correct?
- A. Yes.
- Q. Where was Haga standing?
- A. On the left of the police chief.

Q. Between you and the chief?

A. No.

Q. How far to the left of the chief was Naga standing?

A. Not more than one meter away, about two feet.

Q. All right, what happened when Miyauchi got on the jeep?

A. After Miyauchi got on the jeep the whole convoy began to move. At that time since the vehicles started right away, I thought that they were ready to start and they kept the engines running.

Q. Did you state that the engines were running while the trucks were stopped?

A. I do not know.

Q. Were the lights on the trucks burning at this time?

A. Yes. Since the headlights were shining on the police and us, and the trucks were dark, we ordered them to put out the headlights, but they did not listen to us.

PRESIDENT: At this time the Commission will take a ten minute recess.

The Commission then took a recess until 1020, at which hour the personnel of the Commission, prosecution and defense, and the accused, interpreters and the reporter resumed their seats.

PROSECUTION: The witness is reminded that he is still under oath.

Q. You stated just before recess that the lights on the truck were burning and that you ordered them turned off but they wouldn't listen to you, is that correct?

A. That is true. Not only myself, but I heard the other policemen order them to turn out the lights.

Q. Can you state whether these trucks were stopped in line or were they staggered?

A. They were stopped in a line one after another, but they weren't exactly in a straight line. One could have been to the left a little more than the other.

Q. When Chief Tsuchida gave orders for the convoy to pass on, what happened?

A. Up till then I was hoping that no incidents would happen and things would go off peacefully, and when the trucks started to move I was greatly relieved. After the jeep, passenger car and the first truck passed me and the second truck was passing, I heard a pistol report, and as soon as I heard this report I hit the ground. I was watching the trucks go by, and then when the second truck was passing and I saw the flash of the pistol and heard the sound, I just hit the ground.

Q. What do you mean by "hit the ground?"

A. I thought there was danger of being shot, so as soon as I heard the shot I lowered myself instantaneously.

Q. Will you demonstrate for the Commission?

A. In this manner.

PROSECUTION: Let the record show that the witness in demonstrating how he hit the ground dropped to his right knee in a crouching position, if there is no objection.

- Q. How many shots did you hear?
A. When I hit the ground I was worried about the police chief, so I looked toward the police chief, and just as I looked toward him I heard two more shots.
- Q. What was the interval between this first shot and the two shots?
A. I cannot tell you the time element, but when I heard the first shot and I got on the ground and looked toward the police chief, I heard a second shot.
- Q. Can you say whether the interval was less than a second or more than a second?
A. I believe there was a little more than a second.
- Q. You say you glanced toward the chief. What did you see?
A. I looked toward the chief and then there was one shot, and as I was looking there was another shot.
- Q. What did you see?
A. As I was looking at the chief I saw Police Sergeant Haga, who was standing behind the chief, stagger and fall.
- Q. How far did he stagger before he fell?
A. It seemed as if he crumpled at that spot, but I think he took about two steps back and fell.
- Q. Did he fall on his face or on his back?
A. He fell on his back. I saw him fall on his back. Then I saw a policeman, I don't know who it was, but I saw this policeman go to Police Sergeant Haga and lift him up.
- Q. Was there any more firing?
A. At the time of the third shot the third truck was already passing us, and at that time there was violent exchange of fire.
- Q. From what truck were these first shots fired?
A. The second truck of the three trucks that were-lined up.
- Q. What did you do then?
A. At that time I thought that the policemen would all get shot, so without caring for myself I stood up, and while chasing the truck I told the policemen to shoot.
- Q. Until this time had any firing been done by the policemen?
A. No.
- Q. How did you give the order to fire?
A. The occupants of the truck were firing as the truck was moving, so I thought that they would attack the police station, so I chased the truck and gave the order.
- Q. The occupants of which truck?
A. The trucks that I noticed at that time were the second and third trucks.
- Q. Was there firing from the second and third trucks aside from this first volley of three shots before you gave the order to fire?
A. The third truck was shooting.

Q. How did you signal the policemen to commence firing?

A. I chased the truck and gave the order, and then at that time I already saw the policemen were all low and close to the ground trying to avoid danger.

Q. Will you demonstrate to the court just how you gave these orders, in the same tone of voice with the same loudness?

A. The truck was going and I was running in the direction in which the truck was going, and as I was running I was shouting, "Shoot, shoot."

PROSECUTION: If there are no objections, let the record show that the witness shouted fire twice in a loud manner.

DEFENSE: No objections.

Q. Did you draw your pistol?

A. Yes.

Q. At what time did you draw your pistol?

A. It was after I shouted shoot. While I was shouting shoot, I had my hands at my hips already.

Q. Did you fire your pistol?

A. Yes.

Q. How many times did you fire?

A. One shot.

Q. At what did you fire?

A. The third truck had already passed me, so I was shooting toward the rear of that truck.

Q. Aside from your orders, your verbal orders to fire, did the policemen previously have orders to fire?

A. He had instructed them previously, and based on these instructions the policemen were supposed to act accordingly.

Q. You testified earlier that the police, if they were fired upon, they were to return fire, is that correct?

A. I had transmitted to the men an order by the police chief that if they started to shoot and if their life was in danger and it became difficult for them to carry out their duty, then they were to shoot.

Q. Then if any policemen who had not heard your orders to fire and started to fire, they would be acting within their orders, would they not?

A. Yes. Even if they had not heard me, according to the orders given previously they could shoot. However, the policemen are scared to use their pistols, and I was afraid that when they heard this violent firing, then they would run away, so in order to prevent this I gave the order.

Q. You stated a while ago that when the firing broke out you ran alongside the second truck, is that correct?

A. I said the third truck.

Q. How long did you run alongside it, and for how far?

- A. I believe I ran after the truck for about ten meters, but as the truck is faster than I am, it left quite a space between us and I was afraid they would attack the police station so I was watching them, but as they passed the main entrance of the police station I thought to myself that they would not raid it because they passed by, so I stopped.
- Q. For how long did this general shooting you described a while ago last?
- A. It lasted until the trucks passed the last of the deployed policemen.
- Q. Can you estimate in time how long?
- A. I don't know for sure, but it might have been about one minute. Anyway, it was until the last of the trucks passed the deployed policemen.
- Q. From how many different positions did you observe police firing?
- A. All the policemen that were stationed outside were shooting.
- Q. Do you know how many policemen fired their pistols that night?
- A. Altogether there were ninety pistols that were fired.
- Q. How many of the policemen had pistols that night?
- A. There were altogether 191 pistols.
- Q. Then less than half of the policemen who had pistols fired them, is that correct?
- A. Yes.
- Q. Do you know how many shots were fired that evening?
- A. After investigation later on we found out that a total of 242 shots were fired. After this shooting there was some more shooting.
- Q. Tell us about that.
- A. After the last truck had passed all of the deployed policemen, I was afraid that more trucks would come, so I ran back to the place where I was at first and from there I saw more trucks coming. The first vehicle that approached was a jeep, and then after the jeep had passed one truck came, and after it passed to my left about ten meters it started shooting, so I heard the policemen shooting back.
- Q. Where were you standing at this time?
- A. I was in the vicinity of where I was first standing.
- Q. Did you observe who the occupant of this last truck was?
- A. I saw Formosans on the truck.
- Q. Can you approximate the number of Formosans on that truck?
- A. I cannot say for sure, but there were more than thirty.
- Q. Do you know who the occupants of the jeep were?
- A. At that time I knew them to be Formosans.
- Q. Did you observe any particular markings on the jeep, any distinctive markings?
- A. It did not come to my attention. However, I knew it to be a jeep.
- Q. As the truck passed you, what were the occupants of the truck doing?
- A. They were facing toward us and shooting.

- Q. They were shooting as they passed you?
A. Yes.
- Q. How far was the truck from you when the occupants opened fire?
A. It was about ten meters to my left before it passed me when they started to shoot.
- Q. At this time on which side of the road were you standing, the police station side or the river side of the street?
A. On the police station side.
- Q. Did you hear any shouting from the truck?
A. I heard the shooting and there were two or three shouting, but I do not know what they were shouting.
- Q. Could you tell how many people on this truck were shooting?
A. I do not know accurately.
- Q. How soon after the firing had ceased from this first general outburst of shooting, did this second shooting start?
A. It was while I was running back, so I believe there was about twenty seconds.
- Q. What did you do as this truck passed you?
A. I was wondering whether this truck would attack this police station, so I watched it pass and then I started to chase this truck toward the police station.
- Q. How far did you chase it?
A. I believe I ran after the truck for about ten meters and then I thought this truck would go straight toward the police station, but then I saw the truck veering off to the left.
- Q. Where did it start bearing to the left?
A. It was before it reached the police station.
- Q. What do you mean by "veered off to the left?"
A. I thought it would follow the street car tracks and go straight, but then it left the street car tracks and went toward the left.
- Q. Did it go off the road?
A. I thought it strange, so I was watching it, and then I saw this truck going into a little garden patch.
- Q. Where were you at the time?
A. I followed the truck and ran toward this little garden, and while I was running I cautioned everybody to stop shooting.
- Q. Why did you caution them to stop shooting?
A. I felt it unnecessary for them to shoot any longer because after the truck went into this garden they stopped shooting and it did not appear as if they would attack the police station any more.
- Q. You mean the Formosans on the truck stopped shooting as it passed the police station?
A. The Formosans stopped the firing and the policemen also ceased firing.

- Q. How far into this garden patch did the truck proceed?
A. It cut across this garden and stopped by a little house.
- Q. Will you step to the map, Prosecution's Exhibit No. 1, and indicate the path of the vehicle as it went into the garden?
A. It went from around here and went through the garden and stopped just around where this mark is.
- Q. What mark are you pointing to?
A. Where this S is.
- Q. The mark SX, is that correct?
A. Yes.
- Q. How do you know that the truck went in this way rather than this way?
For the sake of the record, I have indicated from the side road and from the main road.
A. Because it ran on this side of the telephone pole and not on the other side.
- Q. The telephone pole at the intersection of the side road leading to Washiman Bridge, is that correct?
A. Yes.
- Q. You have indicated the one on the left side of that telephone pole, is that correct?
A. Yes, it went in from this side.
- PROSECUTION: Let the record show that he has indicated on the left side of the telephone pole.
- Q. You may resume your seat. Do you know whether the truck collided with that house you have indicated on the map there?
A. It did not make any noise, so I do not know whether it collided with the house, but as it was blocked by this house, it stopped there.
- Q. When the truck came to a stop, what did you do?
A. After the truck stopped it was pretty quiet over there, and at that time it was dark so I did not want any policemen charging in there wrecklessly, so I told the policemen not to go in. At the same time I instructed them that as they were criminals, they are to be arrested, and in order to prevent their escape I told Meguro Platoon to surround the area so they would not run away.
- Q. What happened then?
A. At that time they were already quiet, so I thought nothing would happen and I knew at that time that Police Sergeant Naga was shot and another policeman from Meguro Police Station was injured, so I had to take the proper measures and report the outbreak of this incident to the Metropolitan Police Station, so I went to the police station.
- Q. Did you make any arrests that evening?
A. I did not do the arresting, but later on I saw the ones that were arrested.
- Q. When did you see the ones that were arrested?
A. Later on.

Q. Do you know their names?

A. I do not know at this time. I just know one.

Q. Who is that?

A. At that time I know the group leader of this Public Charity League named Sai Ryu To.

Q. Did you see him that evening?

A. Yes.

Q. Under what circumstances did you see him?

A. I saw him in the police station.

Q. Was he under arrest at that time?

A. Yes.

Q. Can you point out Sai from the prisoners' box?

A. Yes.

Q. Which one is Sai?

A. In the center of the last row of seats on this side.

PROSECUTION: Will the court order the person pointed out to stand?

PRESIDENT: The prisoner pointed out will stand.

PROSECUTION: I'd like to have the defense identify him.

DEFENSE: If it please the court, that is No. 26 on the court's list. The Chinese name is Chai Lun Tu.

PRESIDENT: The prisoner may sit down.

Q. Did you recognize any others that evening?

A. I know the number but I do not know the individuals.

PROSECUTION: No further questions.

PRESIDENT: Is there cross examination by the defense?

CROSS EXAMINATION

Questions by defense:

Q. With reference to the deployment of the various platoons, were the individual men standing in a fixed position shoulder to shoulder across the road, or were they milling around within a fixed area?

A. I deployed them to fixed positions.

Q. Facing in one direction?

A. Yes.

Q. How many men at position T were armed?

A. Thirteen.

Q. How many men at position U were armed?

A. Seven.

Q. With reference to the 25 men on the second floor of the station, where were they stationed?

A. They were on alert in the instruction room on the second floor.

Q. Were there any men stationed on the porch of the second floor?

A. No.

Q. How many men on the second floor were armed?

A. They were not armed. As it was crowded and they did not have any weapons, they were stationed on the second floor.

Q. How many men at position Z were armed?

A. May I look at my memo?

Q. Certainly.

A. 28.

Q. The witness stated that when he came out of the station upon hearing this whistle, he looked to the left and stated that he could not see clearly, is that correct?

A. Yes. I did see the automobiles lined up, but I did not know what kind of automobiles.

Q. What are the reasons that you couldn't see clearly?

A. It was quite some distance and then my eyes are not so good, so I was not able to see clearly.

Q. Was it dark then?

A. It was dark outside, but they had their headlights on.

Q. Are you sure that the men he had stationed were at the same positions to which they had been assigned?

A. They were at their stations, but as the vehicles came down the center of the road they had to go to the side of the road.

DEFENSE: If the court please, could we ask an adjournment now and continue the cross examination this afternoon? I might call the court's attention to the fact that both Mr. Murphy and I are unfamiliar with all of the facts in this case up to this point. We got the typewritten record of the evidence yesterday for the first time. As far as I myself am concerned I must confess that the whole picture is not clear in my mind yet, and such being the case I don't think that either Mr. Murphy or I should be required to cross examine without some preparation beforehand. I therefore request the court to take an adjournment now until this afternoon.

PROSECUTION: Prosecution has no particular objection. I'd like to point out, though, that both Mr. Murphy and Mr. Faison were present during the whole time this witness was examined, as well as the two previous witnesses.

PRESIDENT: The court will adjourn to meet at 1:30 this afternoon.

The Commission then took a recess until 1:30, at which hour the personnel of the Commission, prosecution and defense, and the accused, interpreters and the reporter resumed their seats. Mr. Robert B. Scott was also present.

PROSECUTION: The witness is reminded that he is still under oath.

Q. You testified that you had a report concerning the meeting of the Formosans at Showa School on the afternoon of the 19th?

A. Yes.

Q. With reference to the information in that report, were you informed that a Mr. Ling of the Chinese Consular Affairs Office addressed that meeting?

A. No.

Q. Were you advised from that report that the Formosans at that meeting, as a result of the meeting decided to disperse and go home?

A. No.

Q. Were you advised in that report that most of the Formosans following that meeting did disperse?

PROSECUTION: If the court please, I object to that question. He is questioning him on what he received at the time he received the report. Now he is asking him questions which happened after the meeting.

DEFENSE: I am trying to inquire as to whether the report included that information. If it didn't, the witness can say so.

LAW MEMBER: Your question is inferring a fact, so the objection is sustained.

DEFENSE: I withdraw the question.

Q. Was any report made to you at any other time that most of the Formosans at that meeting did disperse?

A. No.

Q. Did you have any further report that some of these Formosans later met at the Chinese Mission?

A. I did not receive any report, but I heard this from one of the occupants of the jeep at the check point.

Q. In line with that information were you also informed that it was decided at that meeting by the Formosans to go home?

A. When do you mean?

Q. After they decided to go home from the meeting at the Chinese Mission.

A. Yes, after we stopped the vehicles in front of the police station and the occupants of the jeep told us that they had decided to go home.

Q. When you came out of the police station you testified you could not see clearly, is that correct?

A. I said that I could see the vehicles but I could not recognize the vehicles.

Q. Were there any electric street lights on in the vicinity?

A. No.

Q. Any moonlight that night?

A. No.

Q. Now you testified that you couldn't see clearly, and in addition to that

- you testified that the headlights of the sedan and the truck obscured your vision of what was going on in the trucks, is that correct?
- A. When I first went out of the police station I could not see very clearly, but I could see the trucks after I approached the vehicles.
- Q. You testified that you saw spitting and club waving in the trucks, is that correct?
- A. Yes.
- Q. Now are you certain that you were able to distinguish that as club waving, spitting, in view of the previous testimony?
- A. Yes.
- Q. You testified that the Formosans on the trucks were doing a great deal of shouting. Is it true that the Japanese police were also doing a great deal of shouting?
- A. They were not shouting.
- Q. When you went out to the jeep I believe you testified that at that cross, line T, when you went out to the jeep you testified earlier that the jeep had by that time crossed line T, was somewhere in between line U and line F.
- A. Yes.
- Q. To what positions had the men in T moved to allow the jeep to come in through there? You can come to the map, if you care to.
- A. The majority of the policemen were in the place that I indicated.
- Q. Had any moved to the river side of the road?
- A. A few of them.
- Q. As the convoy moved through line U, where did those men move to?
- A. The majority of them were on the police station side.
- Q. Did any move to the river side?
- A. I believe a few went toward the river side.
- Q. Were the men in line W still in position?
- A. Yes.
- Q. So that there were men alongside the river side of the road from T, from U, and from W?
- A. A few of them were on that side.
- Q. Well, I submit for the witness's consideration that the three shots which he states were the first he heard could have come not from the truck but from a line of Japanese policemen lined up on the river side of the road, is that correct?
- A. No.
- Q. Well, I submit for the witness's consideration that those three shots could have been a signal to open fire given by the Japanese police.
- A. No.
- Q. You can resume your chair. With reference to the fourth truck the witness states hit the building, who was in charge of the police that eventually

arrested the occupants of that truck?

A. As I was not present at that scene, I do not know.

Q. Where was the chief of police at this time?

A. Do you mean at the time of the arrest?

Q. At the time that the truck hit the building.

A. He was in the police station.

Q. At the time that the truck hit the building, you were still on the outside?

PROSECUTION: If the court please, the witness has not testified that the truck hit the building. I object to that question.

DEFENSE: I withdraw it. No further questions.

PRESIDENT: Any redirect examination?

REDIRECT EXAMINATION

Questions by prosecution:

Q. When the first three shots were fired, did you see any of the flashes?

A. Yes.

Q. Where were the flashes coming from?

A. As the trucks were moving I watched the trucks and I saw the flashes from the second truck.

Q. You saw the flashes of those shots from the second truck, is that correct?

A. Yes.

Q. Where was the chief at this time?

A. He was about one meter to the left of me.

Q. Did anyone else besides yourself and the chief of police have authority to order the police to fire?

A. As the policemen had weapons, according to the orders they have received previously they could fire weapons in case their lives were endangered by the attackers, and also in order to fulfill their duties, so it was not necessary for either the police chief or myself to give orders to start firing.

PROSECUTION: That's all.

PRESIDENT: Any recross examination?

DEFENSE: None.

EXAMINATION BY THE COMMISSION

Questions by members:

Q. With reference to your questioning of the occupants of the jeep, can you identify any of the accused as having been in the jeep at that time?

A. I cannot identify them.

Q. Can you identify any one of the accused with any particular detail of the incident that occurred on the 19th of July?

A. Yes.

Q. Will you please relate the details and identify the accused?

A. As I mentioned before lunch, I know the group leader Sai.

Q. In what way is he connected with the incident of July 19th?

A. Sai participated as one of the occupants of the vehicles, and every time there was an incident involving the Formosans, Sai, who was the group leader in my ward, was in command.

Q. How do you know that Sai was an occupant of one of these vehicles?

A. I heard this after I returned to the police station that Sai was riding one of the jeeps.

Q. Is that from an official report, and if so, by whom?

A. I did not mention this before, but I went to the Shibuya Railroad Station, and when I returned to the police station Sai, and I believe his name was Cho, were in the police station, and I overheard Sai saying that he was one of the occupants of the jeep.

Q. Did he state which jeep?

A. The second jeep.

PRESIDENT: Any questions by the prosecution?

PROSECUTION: Nothing further.

PRESIDENT: Any further questions by the defense?

DEFENSE: Nothing further.

PRESIDENT: Questions by the Commission? There appear to be none. The witness is excused.

WITNESS: I would like to say something as a witness.

LAW MEMBER: Do you wish to have this witness reappear?

PRESIDENT: The witness has been excused. He can be recalled, if he wishes to make a statement, at the behest of the prosecution. He may be recalled to the stand.

PROSECUTION: I'll recall him.

Keizo Hyodo, a witness for the prosecution, was recalled and testified as follows:

Questions by prosecution:

Q. What does the witness wish to state further?

A. I regret the fact that such an incident happened. As a policeman I had the duty of carrying on such confiscation of prohibited goods and I tried my best not to carry out these raids because I knew if I did carry out the raid there would be an antagonistic feeling between the Formosans and the

policemen, but we could not get their cooperation, and if they had cooperated such an incident would not have happened.

DEFENSE: Mr. President, may I object to this testimony being received. It is irrelevant, immaterial. This is a self serving statement being made by the witness, has absolutely nothing to do with the issues in this case. I ask that it not be received.

LAW MEMBER: Objection will be sustained.

PROSECUTION: Prosecution has nothing further.

PRESIDENT: Any questions by the defense?

DEFENSE: No.

PRESIDENT: Questions by the Commission? There appear to be none. The witness is excused.

PROSECUTION: If the Commission please, at this time prosecution would like to offer quite a number of witnesses. We'd like to lay a foundation for the purposes of introducing some weapons in evidence. Owing to the fact that so many are involved and it has passed through so many hands, we would like to request the permission of the Commission to permit us to put these witnesses on the stand for the sole purpose of laying the foundation for offering these weapons in evidence, and reserving the right if we should or should not maybe later want to use these witnesses about another incident that may have happened, that we would have the right to do so, and that they will always be available for the defense if the defense wants to call them as a witness.

PRESIDENT: Any objection?

DEFENSE: No objections.

PRESIDENT: Subject to any member of the Commission objecting, the ruling of this Commission is that the introduction of such witnesses may be made.

PROSECUTION: If the Commission please, I'd like to make a further request here. We have discussed many things with all of these witnesses. The ones that are now coming to the stand may want to volunteer some information about the other part of the incident, and I would like for the interpreter to tell them to confine their answers merely to the weapons themselves and don't get out on a tangent. I think it may save us some time.

LAW MEMBER: You inform the interpreter to advise them to relate matters only asked by you.

PROSECUTION: Prosecution calls as its next witness Shigeyuki Nakagawa.

Shigeyuki Nakagawa, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: Repeat: I consciously swear to tell the truth, I will hide nothing, and I will conceal nothing.

A. (Through interpreter) I do.

PROSECUTION: Do you understand that if you do not tell the truth as you have just sworn to do, you are liable to punishment by this Commission or by any other American court or Commission?

A. I do.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the court.

A. Shigeyuki Nakagawa.

Q. Where is your duty station with the Japanese police department?

A. At the Meguro Police station.

Q. Were you on duty at the Shibuya Police Station on the 18th of July, 1948 in the evening?

A. I went as a reinforcement at about 5:00 o'clock.

Q. After the incident at the Shibuya Police Station was over, did you make a search for evidence?

A. Yes.

Q. Where did you search?

A. On the truck which had collided.

Q. Did you find any evidence aboard the truck?

A. Three bullets and a pistol, Model 14.

PRESIDENT: Are you referring to bullets or cartridges?

A. Four rounds, unused rounds.

PRESIDENT: I believe the question should be put to the witness again. The answer doesn't check.

Q. What else did you find besides the pistol you have just referred to?

A. I found four bullets wrapped in paper, and fourteen year model pistol with eight rounds in it.

INTERPRETER: I wish to correct the record to read four rounds instead of bullets.

Q. What did you do with the pistol and the four rounds which you found in the paper?

A. After I found the pistol and the four rounds, I took them immediately to the Shibuya Police Station and handed them over to Sergeant Nunome.

Q. Where in the truck did you find the pistol?

A. I got on the truck from the right side and found the pistol about one foot away from the spare tire.

Q. Describe where the spare tire was in the bed of the truck?

A. There were three spare tires on the truck. One was toward the front a little on the left side, one was on the right center, and another to the rear of the truck.

Q. Under which of those tires did you find this pistol?

DEFENSE: If it please the court, I don't believe the witness has testified that they were under any tire.

LAW MEMBER: Is there an objection?

DEFENSE: Yes, I object to that question.

LAW MEMBER: Objection sustained.

Q. Which of the three spare tires you have just described did you find the weapon about one foot from?

A. On the right side of the spare tire at the right center of the truck.

PROSECUTION: That's all.

PRESIDENT: Cross examination?

CROSS EXAMINATION

Questions by defense:

Q. Who told you to make a search for evidence?

A. Assistant Police Inspector Kobayashi, who was the platoon leader.

Q. What platoon were you in?

A. I was the squad leader of the first squad of the Neguro Platoon.

Q. Was that platoon stationed across the roadway leading to the bridge opposite the police station?

A. I was on the side road in front of the Shibuya Station about one meter in from the main road.

Q. At what time did you make your search for evidence?

A. At 9:50.

Q. 9:50?

A. Yes.

Q. Who was on the truck at that time?

A. About ten policemen besides me, but I do not recall their names.

Q. Were you the first policemen on that truck?

A. Yes.

Q. You testified that you found four rounds in the paper and eight rounds in the pistol, is that correct?

A. Yes.

Q. Were any of those twelve rounds fired?

A. No.

Q. How many rounds fit into a 14 year model pistol?

A. In a 14 year model pistol eight rounds fit into a 14 year model pistol, but the one I found had seven rounds in the magazine and one in the chamber.

Q. Then the 14 year model pistol you found was fully loaded, is that correct?
A. Yes.

Q. But none of the eight rounds were fired, is that correct?
A. That is correct.

Q. Do you recall what time the occupants of that truck were taken off the truck that night?
A. They were taken into custody about 9:30.

Q. Did you find anything else on that truck?
A. When I found the pistol I was going to bring it to the police station. I saw two or three policemen holding clubs, but I am not sure.

DEFENSE: No further questions.

PRESIDENT: Any redirect?

REDIRECT EXAMINATION

Questions by prosecution:

Q. Could the rounds of ammunition which you found in the paper have been used in the Model 14 pistol?

A. It was larger than the rounds that are used in the 14 year model pistol.

Q. If you were to see that pistol again, could you now identify it?

A. Yes.

Q. I'll ask you to step to this table and see if you can pick out that pistol.

A. This is the pistol.

Q. State if you know what this tag is on this pistol.

A. I did not put this tag on the pistol.

PROSECUTION: That's all.

PRESIDENT: Recross?

DEFENSE: No further questions.

PRESIDENT: Questions by the Commission? There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: If the court please, we request a recess at this time to get our witnesses straight.

PRESIDENT: Of what duration?

PROSECUTION: Ten minutes will be sufficient.

PRESIDENT: The court will recess for approximately fifteen minutes.

The Commission then took a recess until 1445, at which hour the personnel of the Commission, prosecution and defense, and the accused, interpreters and the reporter resumed their seats.

PROSECUTION: Prosecution calls as its next witness Shigeru Yamazaki.

Shigeru Yamazaki, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: Repeat: In accordance with my conscience I swear to tell the truth, I will hide nothing, I will conceal nothing.

A. (Through interpreter) I do.

PROSECUTION: Do you understand that if you fail to tell the truth as you have just sworn to do, you are liable to be punished by this Commission or any other American court or Commission?

A. I do.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the Commission.

A. Shigeru Yamazaki.

Q. Are you a police officer?

A. Yes, I am.

Q. What station are you attached to?

A. Shibuya Police Station.

Q. With what department of the Shibuya Police Station are you attached to?

A. Investigation Department.

Q. Were you on duty at the Shibuya Police Station the evening of the 19th of July, 1946?

A. Yes.

Q. Did you make a search for evidence around the Shibuya Police Station after an incident occurred there that evening?

A. Yes.

Q. About what time did you make this search?

A. I believe it was about after 9:30.

Q. Where did you search?

A. On the automobile.

Q. Explain what you mean by "the automobile."

A. It was a truck.

Q. Where was this truck?

A. It was a truck that had collided and it was next to a warehouse, Yasaguchi Warehouse.

Q. What did you find?

A. A pistol and a square stick.

Q. I'll ask you to come to this table and, if you can, pick out the pistol which you found.

A. This is it.

PROSECUTION: I'd like to ask that this be marked for identification only as Prosecution's Exhibit No. 6.

LAW MEMBER: It will be so marked.

Q. Did you make an inspection of what is now marked Prosecution's Exhibit No. 6?

A. Yes, I did.

Q. What did that inspection consist of?

A. I took out the magazine. I cocked the gun and the round fell out and I was cautioned.

PRESIDENT: I question that interpretation "cocked the gun."

Q. What do you mean by "cocking the gun?"

A. I pulled back the slide.

Q. What was contained in the magazine?

A. There were rounds in the magazine.

Q. Was there a round in the chamber?

A. Yes.

Q. How many rounds were in the magazine?

A. Five rounds.

Q. Have you had any previous experience with the handling of firearms?

A. I have not had very much experience with this pistol.

Q. Have you had any experience with any pistols?

A. Yes.

Q. Did you make an effort to determine whether or not this pistol had been recently fired?

A. I smelled it.

Q. From that smell, what conclusion did you reach?

A. I smelled gunpowder, so I believe that it was fired within thirty minutes to an hour.

Q. What did you do with the pistol then?

A. I placed the pistol on the desk of Policeman Sugano.

Q. State if you know what Sugano did with the pistol.

A. He did not do anything. He just wrote my name on a piece of paper.

Q. Examine the paper which is on the pistol in your hand and state whether or not that is the paper that he wrote your name on.

A. It was not this paper. I believe it was a much larger piece of paper.

Q. Will you now put the magazine which was in that weapon at the time you found it back in the pistol?

LAW MEMBER: That's loaded and he is unfamiliar with that type of pistol.

PROSECUTION: If the court please, I'd like the record to show that the witness identified the clip of ammunition here which belongs to that pistol, so that it can be carried under the same exhibit.

Q. What else did you find at the time you were looking for evidence?
A. I found this square stick.

PROSECUTION: I ask that this be marked Prosecution's Exhibit No. 7 for identification purposes only.

LAW MEMBER: It will be so marked.

Q. Where in the truck did you find that stick?
A. In the front part of the truck on the left side as you look from the back.

Q. Where did you find the pistol in the truck?
A. On the front left side by the tire.

Q. What did you do with this stick which is now marked Prosecution's Exhibit No. 7?
A. I brought it to Policeman Sugano.

Q. Did you take that stick and pistol at the same time to Sugano?
A. Yes.

PROSECUTION: You may resume your seat. No further questions.

CROSS EXAMINATION

Questions by defense:

Q. You testified that you made your search approximately at 9:30, is that correct?
A. Yes.

Q. Who else was on the truck at that time?
A. I don't know the names of the person.

Q. How many persons were on the truck at that time?
A. Do you mean the police?

Q. I mean anybody that was on the truck.
A. After they were all arrested and taken off the truck, there were two or three policemen.

Q. What time was that?
A. I cannot tell you the exact time, but it was before 10:00.

Q. About how long before you made your search was that?
A. What?

Q. How long after the men were taken off the truck did you make your search?
A. I went immediately.

Q. And at that time there were two or three other policemen on the truck, is that correct?
A. Yes.

- Q. And at that time was there anybody around the truck?
A. Yes.
- Q. Who were those persons?
A. I do not know.
- Q. Were they policemen?
A. Yes.
- Q. Were there any persons there in addition to the policemen?
A. I do not believe there were.
- Q. Approximately how many persons were around the truck?
A. Twenty to thirty uniformed policemen.
- Q. In addition to the two or three policemen who were on the truck at that time, was there anybody else on the truck?
A. No.
- Q. At that time was it your duty to search for evidence on that truck?
A. Yes.
- Q. Did you make a search for evidence?
A. Yes.
- Q. And you found one pistol and one club, is that correct?
A. Yes.
- Q. Did you look in the front seat of that truck, in the driver's seat?
A. No.
- Q. Did you make any further search of the truck?
A. I did, but at that time there were two or three others searching the truck, so after I got these I went back.
- Q. When you were searching the back of the truck, could you see what was in the front section of the truck?
A. I got on from the front.
- Q. By "the front" do you mean the end of the truck where the driver sits?
A. By "front" I mean the part by the driver's seat. I put my foot on the running board there and climbed onto the truck.
- Q. At that time did you notice anything on the front of the truck or in the driver's seat of the truck?
A. No.
- Q. At the time you began your search, did you see the other policemen on the truck?
A. Yes.
- Q. Where were they at that time?
A. There were a lot of other policemen. Who do you mean?
- Q. I mean the two or three that you said were on the truck. Were they in the front or in the rear?

PROSECUTION: If the court please, by "the front of the truck" does he mean the front of the cab or the front end of the truck?

DEFENSE: I am referring to the front of the truck that the witness described as the part of the truck he climbed on.

LAW MEMBER: Use the term "body".

Q. When you climbed on the truck, did you climb up on the front cab of the truck or did you climb directly onto the body of the truck?

A. I put my foot on the running board and got on the body of the truck.

Q. Did you make any search at all of the cab of the truck?

A. No.

Q. At that time the two or three other policemen that you testified were on the truck, were they on the body of the truck or in the cab of the truck?

A. They were on the body of the truck.

Q. Did you have any reason for not investigating the cab of the truck?

A. No.

Q. You testified that there were rounds in the pistol you found, is that correct?

A. That is correct.

Q. Were they live rounds or had they been fired?

A. They were in the magazine. They were not fired.

Q. Will you describe the type of pistol you found?

PROSECUTION: If the court please, I think that's unnecessary. He has identified it by picking it out. There's no use confusing the witness. I object to that question.

LAW MEMBER: What is the purpose of this question?

DEFENSE: Well, the purpose of the question, if it please the court, was to have the witness state whether or not in the second question if the weapon is a common type weapon or whether it is an odd weapon. The purpose of the description is to have the description in the record.

PROSECUTION: The witness has testified he is not familiar with that type of weapon.

DEFENSE: If it please the court, I believe the witness testified he has not had much experience with that pistol, but he has had experience with weapons. I believe I could properly ask him whether that's a common weapon.

PROSECUTION: As far as the record goes, the weapon is now part of the record.

LAW MEMBER: That's true; objection sustained.

DEFENSE: Is the court's ruling that I shall not ask him to describe the

weapon, or I shall not ask him whether it's a common weapon?

LAW MEMBER: The description.

Q. Based upon your experience with firearms, is the weapon that you found a common type weapon?

PROSECUTION: I ask the Commission to take judicial knowledge of the fact that this U. S. Colt 45 is a United States Army weapon, and as far as the Japanese are concerned it shouldn't be a common weapon to the Japanese. Therefore I think that question is immaterial and I object to it.

DEFENSE: I withdraw the question.

LAW MEMBER: He may ask the question whether it's common or not common, yes or no.

A. This weapon is not common in Japan except for the ones I have seen on the MPs.

DEFENSE: No further questions.

PRESIDENT: Any redirect?

REDIRECT EXAMINATION

Questions by prosecution:

Q. Will you describe the location of any items which you saw in the bed of the truck?

DEFENSE: If it please the court, I believe that's proper questioning for the direct and not for the redirect. He's testified as to what he found. I don't think there's any need to go over what was on the truck. I object to the question on that subject.

LAW MEMBER: Objection is overruled.

A. I climbed on the truck from the left front side of the truck, left as you look in the direction of the front of the truck, and as soon as I climbed on there was a tire there. I climbed onto the truck from the left front, that is, left as you look from the truck, and as soon as I got on, there was a spare tire there, and I found a pistol to the left of the tire, and on the right side of the truck between the spare tire and the cab I found this stick.

Q. Was the stick you just referred to Prosecution's Exhibit No. 7?

A. Yes.

Q. How many spare tires were aboard the truck?

A. Three.

Q. Where were they located in the truck?

A. Two up in front and one in the middle.

Q. What else did you see aboard the bed of the truck?

A. I saw a club, but as there were two or three other policemen on the truck I did not touch it.

Q. What else did you see?

A. I saw a drum.

Q. What size was that drum?

A. It was a forty gallon drum.

PROSECUTION: That's all.

PRESIDENT: Any recross?

DEFENSE: No questions.

PRESIDENT: Any questions by members of the Commission? There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: Prosecution calls as its next witness Shojiro Shibasaki.

Shojiro Shibasaki, a witness for the prosecution, was sworn and testified as follows:

DIRECT EXAMINATION

Questions by prosecution:

Q. Repeat: In accordance with my conscience I swear to tell the truth, concealing nothing and adding nothing.

A. (Through interpreter) I do.

Q. Do you understand that if you do not tell the truth as you have just sworn to do, you are liable to punishment by this Commission or any other American court or commission?

A. I do.

Q. State your name to the court.

A. Shojiro Shibasaki.

Q. Are you a police officer?

A. Yes.

Q. Where are you stationed?

A. Shibuya Police Station.

Q. With what department of the Shibuya Police Station are you attached?

A. I am in charge of Livelihood Section.

Q. Were you on duty with the Shibuya Police Department on the 19th of July, 1946?

A. Yes, I was.

Q. Were you on duty in the evening of the 19th of July, 1946?

A. Yes, I was.

Q. Did you make a search for evidence after an incident had taken place that night at the Shibuya Police Station?

A. Yes, I did.

Q. About what time did you commence this search?

A. I believe it was a little after 10:00.

Q. Where did you search?

A. I searched the truck on which the Formosans came.

Q. What did you find, if anything?

A. Four iron rods and one wooden stick.

Q. Could you identify those, were you to see them again?

A. Yes.

Q. Will you come to this table and pick them out?

A. These are it.

PROSECUTION: I'd like for all of these to be offered for identification purposes as Prosecution's Exhibit No. 8.

LAW MEMBER: They will be so marked.

Q. Where in the truck were these weapons located?

A. I got on from the rear of the truck, and they were scattered about the rear of the truck in the rear center of the truck.

Q. What did you do with these weapons?

A. I gathered them up and brought them to the Chief Criminal Investigator Nomura.

Q. Where was Chief Criminal Investigator Nomura?

A. He was in the Shibuya Police Station. There is a criminal investigation office. That is where he was.

PROSECUTION: No further questions.

CROSS EXAMINATION

Questions by defense:

Q. At the time you made your search, were there any other persons on the truck?

A. I remember there were three or four others on the truck.

Q. Were they policemen?

A. Yes.

Q. Were there any persons around the truck?

A. I remember there were uniformed policemen around the truck.

Q. Were there any other persons around the truck?

A. I do not know.

Q. Approximately how many policemen were near the truck?

A. I believe twenty to thirty.

Q. When you found the rods and stick which you have just identified, were they hidden on the truck or were they plainly visible?

A. It was plainly visible.

Q. Can you describe the type of truck that you searched?

A. What do you mean by "the kind of truck?"

Q. Was it a new truck or an old truck?

A. It was an old truck.

Q. For what general purposes is that type of truck used, as far as you know?

A. Usually it is used for transportation and other things.

DEFENSE: No further questions.

PRESIDENT: Any questions by members of the Commission? There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: Prosecution calls as its next witness Takichi Kurimata.

Takichi Kurimata, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: The witness will come forward and be sworn. In accordance with my conscience I will tell the truth, hiding nothing and concealing nothing.

A. (Through interpreter) I do.

PROSECUTION: Do you understand if you do not tell the truth as you have just sworn to do, you are liable to punishment by this Commission or any other American court or commission?

A. I do.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the Commission.

A. Takichi Kurimata.

Q. Are you a police officer?

A. Yes, I am.

Q. Where are you stationed?

A. Shibuya Police Station.

Q. In what department do you work at the Shibuya Police Station?

A. The Investigation Department.

Q. Were you on duty the late evening of the 19th of July, 1946 at the Shibuya Police Station?

A. Yes, I was.

Q. State whether or not you made a search for evidence after an incident had occurred at the Shibuya Police Station on the night you have just testified about.

A. Yes, I did.

Q. Where did you search?

A. On top of a truck.

Q. Where was this truck located?

A. In a garden in front of the police station.

Q. About what time was this search conducted?

A. I do not remember the exact time, but it was around 10:00.

Q. What did you find aboard the truck?

A. One iron rod and two clubs.

Q. Could you identify those were you to see them again?

A. Yes.

Q. Will you step forward to this table and see if you can pick them out?

PROSECUTION: I'd like to offer these as Prosecution's Exhibit No. 9 for identification purposes.

Q. Where aboard the truck were these instruments found?

A. On the left rear.

Q. What did you do with them when you found them?

A. I brought them to Investigation Chief Nomura.

Q. Where was Nomura at that time?

A. He was in the Investigation Chief's office.

Q. Are there any markings or any characteristics on these instruments you have just identified that assist you in now identifying them as being the ones you picked up at the time?

A. Yes.

Q. What are they?

A. The iron bar is a gas pipe, and there is a valve on it. One of the two clubs has a groove around the end.

PROSECUTION: That's all.

PRESIDENT: Questions by the defense?

DEFENSE: No questions.

PRESIDENT: Any questions by the Commission? There appear to be none. The witness is excused.

WITNESS: On the other club there is some paper on it.

LAW MEMBER: That may be added in answer to the prosecution's question as to the identification of the weapons.

PRESIDENT: There being no further questions, the witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: Prosecution calls as its next witness Kyoshi Egawa.

Kyoshi Egawa, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: Repeat: In accordance with my conscience I will tell the truth, I will hide nothing, I will conceal nothing.

A. (Through interpreter) Yes, I do.

PROSECUTION: Do you understand if you do not tell the truth as you have just sworn to do, you will be liable to punishment by this Commission or any other American court or commission?

A. Yes.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the Commission.

A. Kyoshi Egawa.

Q. Are you a police officer attached to the Shibuya Police Station?

A. Yes.

Q. To what department of the Shibuya Police Department are you attached?

A. I am a secretary of the criminal investigation.

Q. Where were you on the late evening of the 19th of July, 1946?

A. I was guarding the interior of the police station.

Q. Did you make a search for evidence after an incident had occurred on the night of the 19th of July, 1946?

A. Yes.

Q. Where did you search?

A. I searched a truck.

Q. Where was this truck located?

A. It was in a vegetable patch in front of the police station.

Q. State if you know whether or not this truck had been involved in the incident a little earlier.

A. Yes, it was connected with that incident.

Q. What did you find aboard this truck?

A. Two clubs and one jack knife.

Q. Will you come to this table and, if you can, identify the items you have just described?

A. These two clubs and this jack knife.

PROSECUTION: We ask that these be marked Prosecution's Exhibit No. 10 for purposes of identification.

LAW MEMBER: They will be so marked.

- Q. Are there any identifying marks on these sticks which assist you in identifying these as being the ones which you took from the truck?
- A. On the clubs the words "Kyobashi Public School" are branded in. That was my mistake,--"Kyobashi Showa Primary School."
- Q. Just to keep the record clear, I hand you these sticks and ask you to state what is burnt in.
- A. On it it is branded "Kyobashi Showa Primary School."
- Q. What did you do with these three items you have just identified after you found them?
- A. I showed them to the chief of criminal investigation.
- Q. Where was he at that time?
- A. He was in the criminal investigation office.
- Q. Then what did you do with them?
- A. I received an order to confiscate them.
- Q. What did you do with them?
- A. Secretary Sugano wrote the names on a piece of paper.
- Q. What names? Why did Secretary Sugano write names on the paper?
- A. In order to differentiate them from other evidence.
- Q. State if you know what names he wrote on that paper.
- A. On it he wrote, "two clubs" and the approximate time it was found and the name of the person who found them.
- Q. In other words, he wrote your name on the paper which he prepared so he would know the time and who had brought them into the police station?
- A. Yes.
- Q. What did he do with the paper?
- A. I tied the paper to the club.
- Q. What did you do with the clubs then?
- A. I brought them to a room where they were all kept.
- Q. Where aboard the truck did you find these three items you have identified?
- A. I found the clubs in the right center of the truck looking from the rear of the truck.

PROSECUTION: No further questions.

CROSS EXAMINATION

Questions by defense:

- Q. When you found that jack knife on the truck, was the knife open or was it closed?
- A. It was open.

DEFENSE: That's all.

PRESIDENT: Any redirect? Questions by members of the Commission? There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

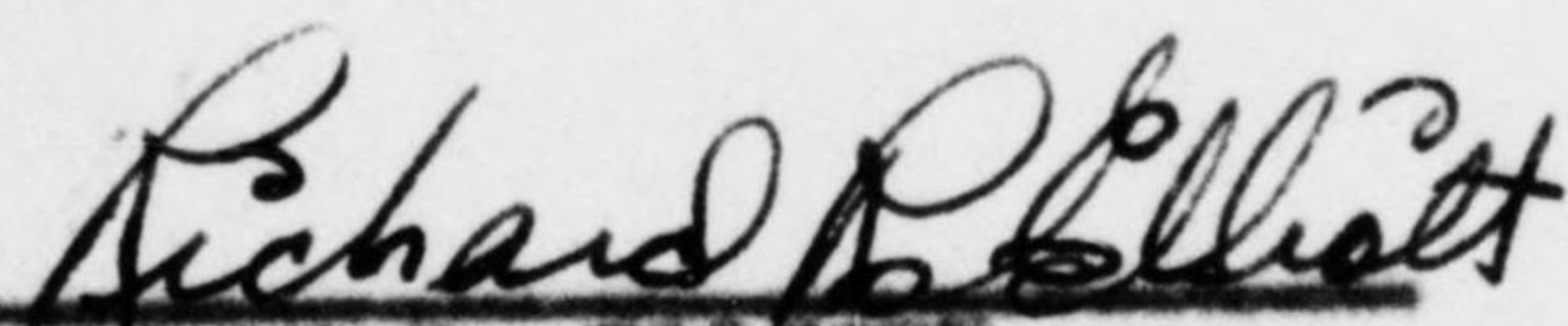
PROSECUTION: If the Commission please, at this time I'd like to request that the Commission ask the accused if they would stipulate that where I neglected to label this weapon which the first witness picked up as Prosecution's Exhibit for identification, it be marked No. 11.

DEFENSE: No objection.

LAW MEMBER: It will be so marked.

PRESIDENT: At this time the Commission will adjourn to meet tomorrow morning at 0900.

The Commission then, at 1600 on 15 October 1946, adjourned to meet on 16 October 1946 at 0900.


RICHARD R. ELLIOTT
Major, Chief Prosecutor

Metropolitan Police Station
Tokyo, Japan
16 October 1946

The Commission met, pursuant to adjournment, at 0915, all the personnel of the Commission, prosecution and defense, who were present at the close of the previous session in this case being present.

The accused, interpreters and the reporter were also present.

PROSECUTION: If the court please, at this time I'd like to make an announcement regarding tomorrow being a large national holiday for the Japanese Empire, being the Feast of Harvest, Thanksgiving. Since all of our witnesses are Japanese and the court housekeeping personnel are all Japanese, I'd like to request that at today's adjournment we adjourn until Friday morning.

PRESIDENT: Is that made in the form of a motion by the prosecution?

PROSECUTION: Yes, sir.

PRESIDENT: The motion is approved, and when the Commission adjourns at noon today it will meet on Friday at 9:00 a.m.

PROSECUTION: The prosecution calls as its first witness Zenichi Hosokawa.

Hosokawa, Zenichi, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: Will the witness come forward and be sworn? In accordance with my conscience I will tell the truth, I will hide nothing, I will conceal nothing.

A. (Through interpreter) I do.

PROSECUTION: You are reminded that if you do not tell the truth as you have just sworn to do, you are liable to punishment by this Commission or any other American court or Commission.

DIRECT EXAMINATION

Questions by prosecution:

Q. Will you state your name to the court?

A. Zenichi Hosokawa.

Q. Are you a Japanese police officer?

A. Yes.

Q. Were you a Japanese police officer on the 19th of July, 1946?

A. Yes, I was at the police station.

Q. Where are you attached?

A. I am attached to the Shibuya Police Station, to the Personnel Section of the Police Affairs Department.

Q. On the 19th of July after an incident had occurred at the Shibuya Police Station, did you make a search for evidence?

A. Yes.

- Q. Where did you make this search?
A. On the truck in front of the police station.
- Q. State if you know whether or not that truck had been involved in the incident on the 19th of July?
A. Yes.
- Q. Did you find any evidence aboard the truck?
A. Somebody else found the evidence on the truck. I found the evidence under the truck.
- Q. What did you find under the truck?
A. Cider bottle containing gasoline.
- Q. What did you do with that bottle?
A. I brought this back to the police station and handed it over to the chief investigator.
- Q. How do you know that the bottle contained gasoline?
A. By the smell.
- Q. Were there any markings on this bottle that would assist you in identifying it at this time?
A. Yes.
- Q. What were those markings?
A. There's a three arrow brand on the bottle.
- Q. What kind of lid or stopper was on this bottle you say was gasoline?
A. A paper stopper.
- Q. Will you step to this table and, if you can, pick the bottle which you found under the truck.
A. This is the bottle.
- Q. Will you indicate how much liquid was in the bottle at the time you found it?
A. About this much.
- PROSECUTION: If the Commission please, I'd like to request that the record show that the witness indicated about one-third of the size of the bottle containing the fluid.
- Q. To whom did you turn the bottle over to in the police station?
A. Assistant Police Inspector Nomura, who is in charge of the Investigation Section.
- PROSECUTION: At this time, if the Commission please, I'd like to offer this bottle to be labeled for purposes of identification as Prosecution's Exhibit No. 12. No further questions.
- LAW MEMBER: It will be so marked.
- DEFENSE: No cross examination.
- PRESIDENT: Any further questions?

PROSECUTION: No, sir.

PRESIDENT: Any questions by the Commission?

EXAMINATION BY COMMISSION

Questions by members:

Q. Was the bottle on its side or standing erect when you found it?
A. It was slanting in the tracks where the tires passed.

PRESIDENT: Any further questions by the Commission? There appear to be none.
The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: Prosecution calls as its next witness Yoshio Yanagimoto.

Yoshio Yanagimoto, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: The witness will be sworn. In accordance with my conscience I swear to tell the truth, hiding nothing and concealing nothing.
A. (Through interpreter) I do.

PROSECUTION: Do you understand that if you do not tell the truth as you have just sworn to do, you are liable to punishment by this Commission or any other American court or commission?
A. I do.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the Commission.
A. My name is Yoshio Yanagimoto.

Q. Were you an officer with the Japanese Police Department on the 19th of July, 1946?
A. Yes.

Q. Were you on duty at the police station the 19th of July, 1946?
A. Yes.

Q. Were you on duty at the Shibuya Police Station the 20th of July, 1946?
A. Yes.

Q. Were you a member of a search party on the 20th of July, 1946 after an incident which had occurred between the Shibuya policemen and some Forasans?
A. Yes.

Q. Did you find anything from your search?
A. Yes.

Q. What did you find?
A. Small pistol.

Q. Will you step to this table and, if you can, identify that pistol?

PROSECUTION: I request the Commission that this weapon be marked for purposes of identification as Prosecution's Exhibit No. 13.

LAW MEMBER: It will be so marked.

Q. What did you do with this pistol?

A. I picked this up and handed it over to Assistant Police Inspector Miyauchi who was the platoon leader.

Q. Where did you find this pistol?

A. About two meters to the rear of the truck in a potato patch.

Q. Describe in detail where it was.

A. To the rear of the vehicle about two meters to the rear there is a sweet potato patch, and I found this in this patch.

Q. Describe its position.

A. The muzzle was facing toward the vehicle and slightly down.

Q. Was the weapon concealed by leaves from the potatoes in the patch?

A. Yes.

Q. Will you step back to the table and, if you can, pick out the magazine for this pistol?

A. I do not know the magazine used in the pistol because I handed it over to Miyauchi as soon as I found it.

Q. At the time you found the weapon, did you make an inspection of it?

A. No.

Q. Where was Miyauchi at the time you turned this weapon over to him?

A. He was in the police station.

Q. What time of the day was it that you found this weapon?

A. At about 0510.

PROSECUTION: No further questions.

PRESIDENT: Questions by the defense?

CROSS EXAMINATION

Questions by defense:

Q. At the time you made your search for evidence on the morning of 20 July, how many persons were around the vehicle?

A. Just two of my friends.

Q. How many persons were near the potato patch you described?

A. Nobody was around.

Q. Were there any persons in the area around the police station at that time?

A. Yes, there were.

Q. About how many persons?

A. I do not remember exactly.

Q. At the time you made your search in the garden, was there any evidence that a number of persons had been in that garden since the previous night?

A. I believe somebody had made a search, but because it was dark and because the weapon was concealed by potato leaves, they could not find the weapon.

DEFENSE: If it please the court, I don't believe that answer was responsive to the question. I'd like that answer stricken and the question repeated to the witness.

LAW MEMBER: Repeat the question.

The reporter read back the last question.

A. Yes.

DEFENSE: No further questions.

PRESIDENT: Any questions by members of the Commission?

EXAMINATION BY COMMISSION

Questions by members:

Q. Was the pistol that you found purposely hidden or been covered up?

A. I do not know.

Q. Was the pistol wrapped up in leaves or was it hidden by the leaves on plants growing in this garden?

A. It was not wrapped in anything.

PRESIDENT: Any further questions by the Commission? Any questions by the prosecution or defense? There appear to be no further questions. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: Prosecution calls as its next witness Yoshio Horinouchi.

Yoshio Horinouchi, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: The witness will be sworn. In accordance with my conscience I swear to tell the truth, hiding nothing and concealing nothing.

A. (Through interpreter) I do.

PROSECUTION: Do you understand if you do not tell the truth as you have just sworn to do, you are liable to punishment by this Commission or any other American court or commission?

A. Yes.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the court.

A. Yoshie Horinouchi.

Q. Are you a Japanese police officer attached to the Shibuya Police Station?

A. Yes.

Q. Were you so serving on the 19th and 20th of July, 1946?

A. Yes.

Q. Were you a member of a searching party looking for evidence after an incident had occurred between the Japanese police and some Formosans on the 19th of July?

A. Yes.

Q. What did you find, if anything?

A. A pistol magazine.

Q. What kind of pistol magazine?

A. I believe it was a magazine for a Browning.

Q. Will you step to this table and, if you can, identify that clip.

A. This is the one.

PROSECUTION: I'd like to offer this as Prosecution's Exhibit No. 14 for purposes of identification.

LAW MEMBER: It will be so marked.

Q. What did you do with this clip after you found it?

A. As soon as I found it I looked around and saw Nishio at the porch of the police station, so I handed it over to Nishio, thinking that that would be one of the evidence.

Q. About what time of the day was it that you found this clip you have identified?

A. About 0520.

Q. Where did you find it?

A. On the side of the truck there was a vegetable garden, and I was searching in there with my hands when I felt this magazine.

PROSECUTION: No further questions.

CROSS EXAMINATION

Questions by defense:

Q. At the time you made your search, was it 0520 in the morning?

A. Yes.

Q. At that time was it light or was it dark?

A. It was light.

Q. When you found the magazine, did you examine to see what was in it?
A. Yes, I held it in my hand and looked at it.

Q. Were there any rounds of ammunition in it?
A. Yes.

Q. How many rounds?
A. Eight.

Q. How many rounds fit into that magazine?
A. I believe about eight.

DEFENSE: No further questions.

PRESIDENT: Questions by the Commission? There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: If the Commission please, at this time I would like to recall the witness we had on the stand yesterday. I neglected to offer one bit of evidence at that time.

Takichi Kurimata, a witness for the prosecution, was recalled and testified as follows:

PROSECUTION: The witness has already been sworn in this case. He is now reminded that he is still under oath.

Questions by prosecution:

Q. Did you not testify yesterday that you made a search for evidence on the night of the 19th of July, 1946?
A. Yes, I did.

Q. Did you make a search on the 20th of July, 1946?
A. Yes.

Q. What did you find on the 20th of July?
A. I found a large magazine.

PROSECUTION: If the Commission please, I'd like to have the monitors get together on that last translation.

A. (Continued) I found a large cartridge case.

Q. State whether or not that cartridge case was live ammunition.
A. It had been used.

Q. Where did you find this cartridge case?
A. I found this cartridge case in front of the Shibuya Police Station toward Ebisu about one foot from the street car tracks.

Q. Do you know what the caliber of that case was?
A. I do not know.

Q. Will you step to this table and, if you can, identify that shell case?
A. This is the one.

PROSECUTION: At this time I request that this shell case be marked Prosecution's Exhibit 15 for identification.

LAW MEMBER: It will be so marked.

Q. What time of the day was it that you found this case you have just identified?
A. About 0700 on the 20th of July.

Q. What did you do with it when you found it?
A. I handed it over to Chief Investigator Nomura.

Q. Where was he at the time you handed it over to him?
A. In his office.

PROSECUTION: No further questions.

Questions by defense:

Q. On the morning of 20 July where did you make your search for evidence?
A. In front of the Shibuya Police Station.

Q. Do you mean along the street in front of the Shibuya Police Station?
A. Yes.

Q. That is the time you found the cartridge case you just identified, is that correct?
A. Yes.

Q. How can you tell that the cartridge case you just identified is the one you found on the morning of 20 July?

PROSECUTION: If the Commission please, I object to that question. We haven't offered the shell case in evidence at this time. We have just laid a foundation for it. It will take up the Commission's time to go into that line of questioning at this time.

DEFENSE: If it please the court, I believe the witness identified that cartridge case as the one he found. I'm asking him how he knows that's the one.

LAW MEMBER: He may answer the question.

A. That cartridge case is larger than the one used by the policemen, so that is how I know the cartridge case.

DEFENSE: No further questions.

PRESIDENT: Any questions by the prosecution or members of the Commission?
There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: Prosecution calls as its next witness Kansuke Nunome.

Kansuke Nunome, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: The witness will be sworn. In accordance with my conscience I swear to tell the truth, hiding nothing and concealing nothing.

A. (Through interpreter:) I do.

PROSECUTION: Does the witness understand if he does not tell the truth as he has just sworn to do, he is liable to punishment by this Commission or any other American court or Commission?

A. Yes.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the Commission.

A. Nunome Kansuke.

Q. You are a Japanese police officer attached to the Shibuya Police Station?

A. Yes.

Q. Were you so serving on the 19th of July and the 20th of July, 1946?

A. Yes.

Q. Are you acquainted with Policeman Nakagawa?

A. Yes.

Q. Was Nakagawa on duty at the Shibuya Police Station the night of the 19th of July?

A. He came as a reinforcement from Meguro and was serving at the station.

Q. Did you have any official business with him on the night of the 19th of July?

A. Yes.

Q. What was that business?

A. Sergeant Nakagawa found a pistol and brought it over to me and asked me to hand it over to the police chief as one of the evidences.

Q. What time of the night was it that he turned the pistol over to you?

A. About 2205.

Q. What kind of pistol was it that he turned over to you?

A. A 14 year model pistol and four rounds wrapped in paper.

Q. Do you know the caliber of ammunition that was wrapped in the paper?

A. I do not know.

Q. Do you know what the caliber of ammunition is which is used by the Japanese police?

A. 3.5 millimeters.

Q. Compared to 3.5 millimeters, will you describe the difference in size of the cartridges given to you by Nakagawa?

A. I do not know exactly, but it was larger.

Q. Will you step to this table and, if you can, identify the pistol which Nakagawa turned over to you.

PROSECUTION: I'd like the record to show, if the Commission please, the witness picked up Prosecution's Exhibit No. 11 and the magazine No. 11, for identification.

Q. Did you make an examination of this pistol at the time Nakagawa turned it over to you?

A. Yes.

Q. State if you know how many rounds of ammunition were in the magazine.

A. Seven rounds in the magazine and one in the chamber.

Q. What did you do with this weapon after Nakagawa turned it over to you?

A. After receiving this pistol from Nakagawa, I made an examination and then handed it over to Chief Inspector Nomura.

Q. How many rounds of ammunition were in the piece of paper which Nakagawa handed you?

A. Four rounds.

Q. Will you step back to the table and, if you can, pick out those four rounds?

PROSECUTION: I request the Commission to make this Prosecution's Exhibit No. 16, for identification purposes.

Q. What did you do with the rounds of ammunition that Nakagawa gave you?

A. I brought this over to Chief Investigator Nomura and I also made a check over there. Then Sugano who was a secretary wrote down something on paper and attached it to the pistol.

Q. State if you know what was written on that paper.

A. He wrote the name of the pistol, the number of rounds, and I do not know the rest of the things he wrote down.

Q. State if you know what he did with the paper.

A. After he wrote this down on the paper he attached it to the pistol and handed it back to Nomura, and then went back to his post at the porch.

PROSECUTION: No further questions.

PRESIDENT: Questions by the defense?

CROSS EXAMINATION

Questions by defense:

Q. You have just identified four rounds, is that correct?

A. Yes.

Q. Those are the four rounds which were given to you by Nakagawa, is that correct?

A. Yes.

Q. Now how can you tell that those are the four rounds that Nakagawa gave you?

A. The shape of the round differs.

- Q. How does the shape of the round differ?
A. It differed from the rounds that were used in the 14 year model pistol, and I noted the differences so I can identify them now.
- Q. When Nakagawa gave you the rounds, were they wrapped in paper?
A. Yes.
- Q. Where is that paper?
A. I handed it over to Nomura wrapped in the paper.
- Q. You testified that Japanese policemen use 3.5 millimeter round, is that correct?
A. Yes.
- Q. Do all Japanese policemen use the same type of weapon?
A. They use Browning and the 14 year model pistol.
- Q. Do they all use the same size round?
A. I believe the same.
- Q. Is it true that some Japanese policemen use other size rounds in their weapons?
A. No.

DEFENSE: No further questions.

PRESIDENT: Any redirect?

REDIRECT EXAMINATION

Questions by prosecution:

- Q. Do any Japanese police use 45 caliber ammunition?
A. I have not seen anyone use such rounds.

PROSECUTION: No further questions.

PRESIDENT: Questions by defense?

DEFENSE: No further questions.

PRESIDENT: Questions by the Commission?

EXAMINATION BY COMMISSION

Questions by members:

- Q. What is the caliber of that M-14 pistol?
A. I do not know exactly.
- Q. Do you know what the diameter of the 3.5 millimeter cartridge is?
A. I do not know.
- Q. Well, is it about the size of a pencil, is it larger, or is it smaller?
A. I do not know because I have not compared them.

PRESIDENT: Questions by the prosecution or the defense? There appear to be no further questions. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PRESIDENT: At this time the Commission will take a ten minute recess.

The Commission then took a recess until 1035, at which hour the personnel of the Commission, prosecution and defense, and the accused, interpreters and the reporter resumed their seats.

PROSECUTION: Prosecution recalls the witness Miyachi. The witness has previously been sworn in this trial and he is now reminded he is still under oath.

DEFENSE: If it please the court, I feel it is my duty to inform the court, I have been advised that the present witness was present in the rear of the courtroom again this morning during the testimony of previous witnesses. I believe this witness was reminded earlier during the trial that he was not permitted to be in the courtroom during the testimony of other witnesses.

PROSECUTION: I am informed by the monitor that he was in the courtroom, and he was told to leave this morning.

PRESIDENT: He was present during what testimony? I want the interpreter to ask the witness how much testimony did he hear in here this morning, and who was on the stand.

WITNESS: I came in here looking for somebody, but I did not hear any testimony.

PRESIDENT: Who was on the stand, was part of the question.

WITNESS: I believe it was Yanagimoto.

PROSECUTION: May I address the court? I am told that our monitor saw him come in and told him to leave immediately.

PRESIDENT: The witness may be placed on the stand, but the Commission will be cognizant of the fact that he was present during the testimony given by Yanagimoto.

PROSECUTION: If the Commission please, we submit that he was not present during the testimony of the witness. If necessary we'll put the interpreter on the stand who saw him come in and told him to leave.

PRESIDENT: Does defense have any answer?

DEFENSE: No further answer except the statement of the witness himself.

PRESIDENT: The Commission has given its opinion. The witness will be placed on the stand and we will proceed.

PROSECUTION: I'd like for the court to hear me further on that. The witness stated that the witness was on the stand but he did not hear any testimony, and we are prepared to put on a witness who saw this present witness enter the courtroom and also leave. The witness stated that he heard no testimony.

DEFENSE: If it please the court, I am advised that the witness was sitting in the back of the courtroom at the time.

PRESIDENT: The Commission has given its opinion in this matter. We will proceed.

PROSECUTION: Note the prosecution's objections to the court's ruling.

Haruo Miyauchi, a witness for the prosecution, was recalled and testified as follows:

Questions by prosecution:

Q. You are the same Miyauchi who has previously testified in this case?

A. Yes.

Q. Approximately how long were you in the courtroom this morning?

A. I believe two seconds.

Q. Did you come into the courtroom and sit down as a spectator?

A. I came in here looking for somebody, but I was cautioned so I came in here looking for somebody and I sat down, but I was cautioned so I went out right away.

Q. Are you acquainted with Police Officer Yanagimoto?

A. Yes. I did not know it was him when he was standing on the witness stand, but later I heard that Yanagimoto was testifying.

Q. Were you on duty--

PRESIDENT: May the Commission inquire the purpose of this line of questioning?

PROSECUTION: Yes, sir. We just wanted to establish what actually happened. We were talking about information different people had, and how we were just going to show by the witness himself how long he was in here. That was the original purpose. That last question, the answer wasn't what I had in mind.

PRESIDENT: Proceed.

Q. Were you on duty at the Shibuya Police Station on the 20th of July?

A. Yes.

Q. Did you see Yanagimoto that day?

A. Yes.

Q. Where were you when you saw him?

A. Yanagimoto is my subordinate, so I have the authority to supervise him in the course of duty, so I always see him.

Q. What time of the day on the 20th of July did you see him?

A. From 0500 I saw him almost all day long.

Q. Did you have a conversation with Yanagimoto relative to a pistol?

A. Yes.

Q. What time did that conversation take place?

A. As soon as it got light on that day I spoke to my subordinates about searching the area where a truck was stopped the previous night, as I had heard that they had found some pistols and sticks, and as it was dark yet that previous night, I gave the order to my subordinates to make a further search.

Q. Did he turn a pistol over to you?

A. He brought a small pistol to me and said that he had found this in the garden.

Q. Will you describe the type pistol that he handed you?

A. This pistol was smaller than the pistol that is used by the police officers and on the handle was written the words, "Simpson" and when he gave the pistol to me it had some mud on it and there was also mud in the bore.

Q. Did you make an examination of this pistol?

A. When Yanagimoto brought this pistol to me, I immediately brought this to Assistant Police Inspector Nomura who was collecting evidence, and that is where I made the examination.

Q. State if you know how many rounds of ammunition were in the pistol.

A. In the magazine of the gun were three rounds, and there was one round in the chamber, making a total of four rounds. As it was dangerous to have a live round in the chamber, I took it out.

Q. Will you step to this table and, if you can, indicate that pistol?

A. This is it.

PROSECUTION: I'd like the record to show, if the Commission please, the witness identified Prosecution's Exhibit No. 13.

Q. Will you now pick up the magazine?

A. This is it.

PROSECUTION: If the Commission please, I'd like at this time for the record to show that the witness picked up the magazine containing three shells, and let that be incorporated as Prosecution's Exhibit No. 13. Does the defense have any objections to that?

DEFENSE: No objections.

LAW MEMBER: It is so ordered.

Q. At what time of the day was it that Yanagimoto gave you this weapon?

A. It was immediately after daybreak, so I believe it was a little after 5:00.

Q. At what time was it that you turned it over to Assistant Inspector Nomura?

A. Immediately after I received it.

PROSECUTION: No further questions.

Questions by defense:

Q. How many of your subordinates did you send out to search for evidence on the morning of 20 July?

A. Not all of my subordinates, but about four or five. It was not only my subordinates but to other members of that police station.

DEFENSE: No other questions.

PRESIDENT: Any redirect?

PROSECUTION: No redirect, sir.

PRESIDENT: Questions by the Commission? There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: If the Commission please, I would like just about one minute to confer with other counsel of the prosecution in reference to new matter we have just discovered. Prosecution calls as its next witness Narumi Nishio.

Narumi Nishio, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: The witness will be sworn. In accordance with your conscience do you swear to tell the truth, hiding nothing and concealing nothing?

A. (Through interpreter) I do.

PROSECUTION: You are reminded that if you do not tell the truth as you have just sworn to do, you are liable to punishment by this Commission or any other American court or Commission.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the Commission.

A. Narumi Nishio.

Q. Are you a policeman attached to the Meguro Police Station?

A. Shibuya Police Station.

Q. Were you on duty the evening of the 19th of July, 1946?

A. Yes.

Q. Were you assigned as a platoon leader?

A. Yes.

Q. Was Horinouchi in your platoon?

A. Yes.

Q. Did you see him on the night of the 19th of July?

A. Yes.

Q. Did he give you anything at that time?

A. On the morning of the 20th about 5:30 a.m. he brought a magazine with several rounds in it to me.

Q. What did you do with the magazine which he gave you?

A. First I asked him where he got this magazine and then I brought this to Assistant Police Inspector, Chief Investigator Nomura.

Q. Will you step to this table and, if you can, identify the magazine which he gave you?

A. This is it.

PROSECUTION: I would like the record to show, if the Commission please, that the witness identified Prosecution's Exhibit No. 14.

Q. At what time of the day did you give what you have identified as Prosecution's Exhibit No. 14 to Inspector Nomura?

A. I believe it was around 5:35 a.m.

Q. State if you know how many rounds were in the magazine.

A. There were eight rounds in it.

PROSECUTION: No further questions.

PRESIDENT: Questions by the defense?

CROSS EXAMINATION

Questions by defense:

Q. At the time Horinouchi gave you the magazine, were you standing on the porch of the police station?

A. Yes.

Q. At that time was it light or was it dark?

A. It was light.

Q. Could you see any persons searching for evidence at that time?

A. Yes.

Q. About how many were searching for evidence?

A. I do not remember for sure, but there were seven or eight in that vicinity.

Q. In what vicinity?

A. In the little garden by the truck that had stopped.

Q. Did you see any other persons searching for evidence?

A. No.

Q. Did you see any persons searching for evidence in any other place?

A. No.

Q. Did you see any persons searching for evidence along the street in front of the police station?

A. No.

Q. Did you see any persons searching for evidence anywhere along the street within your vision?

A. I saw people within my line of vision, but I do not know whether they were searching for evidence or not.

DEFENSE: No other questions.

PRESIDENT: Any redirect?

PROSECUTION: No, sir.

PRESIDENT: Questions by the Commission?

EXAMINATION BY THE COMMISSION

Questions by members:

Q. Do you know if anyone looked in the river near the truck for evidence?
A. I do not know.

PRESIDENT: Any questions by the defense or prosecution? There appear to be no further questions. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: Prosecution calls as its next witness Katsuji Sugano.

PRESIDENT: The Commission will take a five minute recess.

The Commission then took a recess until 1115, at which hour the personnel of the Commission, prosecution and defense, and the accused, interpreters and the reporter resumed their seats.

Katsuji Sugano, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: The witness will be sworn. In accordance with your conscience do you swear to tell the truth, hiding nothing and concealing nothing?
A. (Through interpreter) I do.

PROSECUTION: The witness is reminded that if he does not tell the truth as he has just sworn to do, he is liable to punishment by this Commission or any other American court or commission.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the Commission.
A. Katsuji Sugano.

Q. Are you the secretary to the Criminal Investigation Section of the Shibuya Police Department?
A. Yes.

Q. As such is it your duty to accept evidence which has been collected by the police?
A. Yes.

Q. Do you work under the direction and supervision of Assistant Inspector Nomura?
A. I keep the records of Chief Investigator Nomura.

Q. Were you on duty at the Shibuya Police Station the night of the 19th of July and the morning of the 20th of July?
A. Yes.

Q. In your capacity as secretary, did you receive any evidence on the night of the 19th of July?

A. Yes.

Q. What evidence did you receive?

A. Before I received the evidence, I discovered a pair of pliers.

PROSECUTION: Will the reporter repeat the question?

The reporter read back the last question.

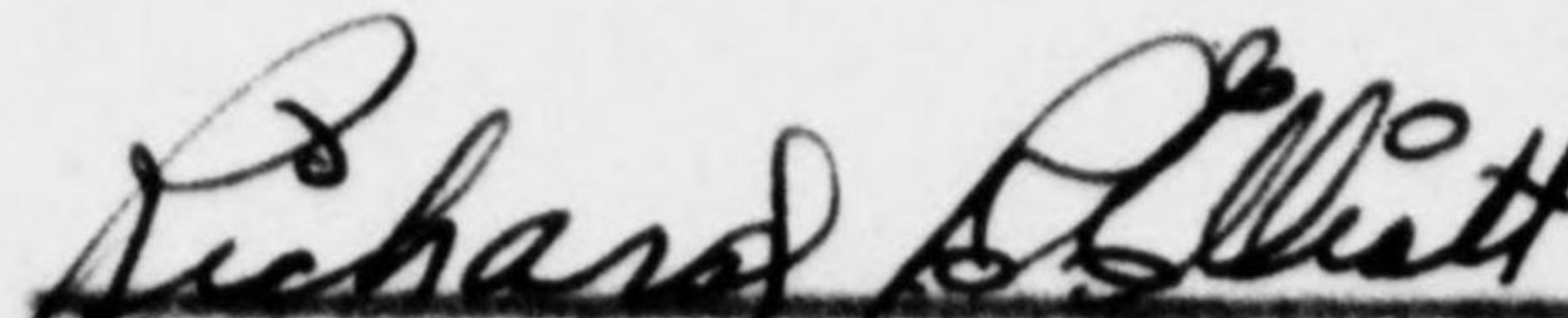
A. I received one 11th year model large pistol and four rounds of ammunition wrapped in paper from Police Sergeant Nunose, and he received these from the finder Nakagawa of the Meguro Police Station. I put these in an envelope and put the name and the place of discovery and the number on a piece of paper and put them on the gun. Policeman Yamazaki brought to me one Colt pistol with six rounds of ammunition. There is a desk in front of me, and when Yamazaki pulled back the slide on this pistol, a round fell out and I cautioned him and took out the magazine. I also numbered this evidence. Policeman Kurimata brought to me two clubs and one iron rod, and in the same way I put the place where it was found, the time it was discovered and the name of the finder on a piece of paper and put it away. I received four iron rods and one club from Policeman Shibasaki and I did the same thing with these. I received two clubs and one jackknife from Policeman Egawa, and I also tagged these items. From Policeman Yamazaki I received one square stick and from Policeman Hosokawa I received one cider bottle with about one inch of gasoline, and I tagged these and put them away too, and I found one pair of pliers outside. While I was inside the police station I heard a shout outside from the direction of the truck, somebody shouting, "I found a pistol." I went out to the truck, and facing the rear of the truck in the left corner I found this pair of pliers, and I thought this had some value as a piece of evidence, so I brought this with the other evidence.

Q. What if anything was turned in to you on the 20th of July?

A. Assistant Police Inspector Miyauchi brought a small Simpson pistol with four rounds, and this was found by Policeman Yanagimoto. I wrote the number, the place where it was found, the time where it was discovered, and the name of the finder on a piece of paper, and took out the four rounds, put them in an envelope, and put them away with the other evidence. From Assistant Inspector Nishio I received one Browning magazine with eight live rounds, and Policeman Morinouchi was the one that found these items. I placed these in an envelope and I put the number, the place of discovery, time and the finder's name, and put them away together with the other evidence. From Policeman Kurimata I received one large cartridge case and I put this in an envelope and also tagged it with the number, place, time and the finder's name. That is all.

PRESIDENT: At this time the Commission will adjourn to meet Friday morning at 0900.

The Commission then, at 1135 on 16 October 1946, adjourned to meet at 0900 on 18 October 1946.


RICHARD R. ELLIOTT
Major, Chief Prosecutor

Metropolitan Police Station
Tokyo, Japan
18 October 1946

The Commission met, pursuant to adjournment, at 0915, all the personnel of the Commission, prosecution and defense, who were present at the close of the previous session in this case being present.

The accused, interpreters, reporter, and Mr. George T. Hagan were also present.

PROSECUTION: The witness is reminded he is still under oath.

Questions by prosecution continued:

Q. You are the same Sugano that testified at the last session of this Commission?

A. Yes.

Q. Did you receive on the 20th any other evidence other than what you have already testified to?

A. Yes.

Q. What else did you receive?

A. There isn't any.

Q. After you had received the various items to which you have previously testified, what did you do with them?

A. I put them in the evidence cabinet and locked it.

Q. State whether or not on the 20th of July, 1946 you assisted in the making of photographs of the weapons you received.

A. Yes.

Q. What part did you take in the making of these photographs?

A. I brought the weapons from my room to the Crime Prevention Office, where they took the pictures.

Q. State if you know who made the pictures.

A. Police Officer Kondo in charge of the crime prevention.

Q. Were you present at the time the photographs were made?

A. Yes.

Q. Was there anything contained in the photographs which we have not identified here as being evidence received by you?

A. I think all the weapons that were photographed had been presented as evidence.

Q. Will you step to the table and identify, if you can, what was turned over to you and by whom?

A. Yamazaki brought this.

PROSECUTION: If the Commission please, I'd like the record to show that the witness picked up Prosecution's Exhibit No. 7.

A. (Continued) Police Officer Kurimata brought this. Shibasaki brought this. Egawa brought this. I do not know who brought this. Sergeant Hosokawa brought this bottle. Police Officer Kurimata brought this. Assistant Police Inspector Hishio brought this. Sergeant Nanome brought this. Police Officer Yamazaki brought this. Assistant Police Inspector Miyauchi brought this. Sergeant Nanome brought this. I brought this. We got this from the drum can. We got this from the fuel can.

PROSECUTION: If the Commission please, at this time I'd like the record to show that the witness identified all of the exhibits which at this point have been marked for purposes of identification.

LAW MEMBER: The record will so show.

PROSECUTION: No further questions.

DEFENSE: No questions.

PRESIDENT: Questions by the Commission? There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: Prosecution calls as its next witness Mitsuru Kondo.

Mitsuru Kondo, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: The witness will be sworn. In accordance with my conscience I swear to tell the truth, hiding nothing and concealing nothing.

A. (Through interpreter) I do.

PROSECUTION: Do you understand if you do not tell the truth as you have just sworn to do, you are liable to punishment by this Commission or any other American court or commission?

A. Yes.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name.

A. Mitsuru Kondo.

Q. You are a Japanese police officer attached to the Shibuya Police Station?

A. Yes.

Q. State whether or not you are the police photographer for the Shibuya Police Department.

A. Yes.

Q. Were you so serving on the 20th of July, 1946?

A. Yes.

Q. Did you make any photographs on the 20th of July, 1946 at the Shibuya Police Station?

A. Yes.

Q. At whose orders were these photographs made?

A. Chief Investigator Nomura.

Q. Was anyone else present at the time the photographs were made?

A. Police Officer Sugano was present.

Q. Were tags attached to the weapons prior to the time that you made the photographs, identification tags?

A. Yes.

Q. State if you know who made out those tags.

A. I do not know, but I believe Police Officer Sugano made these.

Q. At what time of the day were the photographs made?

A. About 1000 on the 20th of July.

Q. How many different photographs did you make at that time?

A. I made three cabinet size photographs, and four quarter size photographs.

Q. How many photographs did you make of the weapons?

A. Four quarter size photographs of pistols, and I also took one quarter size photograph of all the pistols assembled. I also took a photograph of the cartridges on a cabinet size photograph.

Q. Will you ask him the question again, please?

The reporter read back the last question.

A. I took four quarter size photographs of the pistol, one cabinet size of the pistol all assembled, one cabinet size of the sticks, cider bottles and pistols all assembled together, and one picture of the truck.

PROSECUTION: At this time, if the Commission please, I'd like to have these marked for purposes of identification.

DEFENSE: No objection.

Q. I hand you these photographs and ask you to state whether or not you made these pictures.

A. Yes, there is no mistake.

PROSECUTION: I'd like the record to show that Prosecution's Exhibit No. 17 for identification is a photograph of eleven clubs, three pistols, four pistol magazines, one cider bottle, four rounds of 45 ammunition, 6 rounds of 45 ammunition, eight rounds of 32, a pocket knife and a pair of pliers. Prosecution's Exhibit No. 18 is a photograph of three pistols, four magazines--on 17 there is one empty cartridge case, 45 caliber.

PRESIDENT: Isn't it a fact that Exhibit 17 shows the exhibits No. 6 to 16 inclusive? In addition thereto, a pair of pliers.

PROSECUTION: That is correct, sir.

PRESIDENT: Please so state.

PROSECUTION: Yes, sir. Exhibit No. 18 is a photograph of Prosecution's Exhibit No. 11 with eight rounds of ammunition and a magazine and a

photograph of Prosecution's Exhibit No. 13, a magazine and three rounds of ammunition, and Prosecution's Exhibit No. 14 with eight rounds of ammunition, Prosecution's Exhibit No. 6 with magazine and six rounds of ammunition.

PRESIDENT: Exhibit No. 18 shows in addition thereto Exhibit No. 15 and 16, does it not?

PROSECUTION: Yes, sir, it does. Prosecution's Exhibit No. 19 is a photograph of Prosecution's Exhibit No. 11. Prosecution's Exhibit No. 20 is a photograph of Prosecution's Exhibit No. 6. Prosecution's Exhibit No. 21 is a photograph of Prosecution's Exhibit No. 13. Prosecution's Exhibit No. 22 is a photograph of Prosecution's Exhibit No. 14 and No. 16. At this time if the Commission please, I'd like to offer these photographs in evidence.

LAW MEMBER: Any objection?

DEFENSE: No objection.

LAW MEMBER: They will be admitted into evidence and marked Exhibits 17 to 22 inclusive.

PROSECUTION: At this time, if the Commission please, I'd like to offer Prosecution's Exhibits No. 7 through 16 in evidence.

LAW MEMBER: Any objection?

DEFENSE: No objection.

LAW MEMBER: They will be admitted in evidence and so marked.

PROSECUTION: No further questions of this witness.

PRESIDENT: Questions by the defense?

DEFENSE: No questions.

PRESIDENT: Questions by the Commission? There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: Prosecution calls as its next witness Takeichi Suzuki.

Takeichi Suzuki, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: The witness will be sworn. In accordance with my conscience I swear to tell the truth, I will hide nothing, I will conceal nothing.

A. (Through interpreter) I do.

PROSECUTION: Do you understand if you do not tell the truth as you have just sworn to do, you are liable to punishment by this Commission or any other American court or commission?

A. Yes.

DIRECT EXAMINATION

Questions by prosecution:

- Q. State your name to the Commission.
A. Takeichi Suzuki.
- Q. What business are you engaged in?
A. Driving vehicles.
- Q. For what company do you drive vehicles?
A. Nihon Bashi Transportation Company.
- Q. Were you so employed on the 19th of July, 1946?
A. Yes.
- Q. Did you drive one of the Company's vehicles during the incident which took place at the Shibuya Police Station?
A. Yes.
- Q. State whether or not after the incident was over you discovered clubs in your truck.
A. Yes, there were.
- Q. How many clubs were there?
A. Three.
- Q. When did you discover these clubs?
A. On that day.
- Q. How many clubs were there?
A. Three.
- Q. What were you doing between 2:00 and 3:00 in the afternoon of July the 19th, 1946?
A. I was waiting in front of the primary school.
- Q. Had you washed your truck on the afternoon of the 19th of July?
A. Yes.
- Q. Was there anything left in the bed of your truck after the washing?
A. No.
- Q. Did you haul any passengers during that day which carried clubs?
A. Yes.
- Q. I'll ask you to step to this table and, if you can, identify the clubs which you found on the truck.
A. These are the ones.
- PROSECUTION: At this time, if the Commission please, I'd like this to be labeled for purposes of identification as Prosecution's Exhibit No. 23.
- LAW MEMBER: They will be so marked.
- Q. What did you do with these clubs when you found them?
A. Since there were bloodstains on the club, I washed it and stored it.

Q. Did you turn the clubs over to anyone?

A. On the 21st I handed the clubs over to Police Inspector Ueda of the Metropolitan Police.

PROSECUTION: No further questions.

CROSS EXAMINATION

Questions by defense:

Q. When did you discover the clubs which you have just identified?

A. About 2130 on that day after I finished my work.

Q. Did you find anything else on your truck?

A. There was a seriously injured person on the truck.

Q. Which truck were you driving on the night of 19th of July?

A. You want the number? 88315.

Q. Approximately how many trucks were with you when you drove--

PROSECUTION: If the court please, that's a collateral issue, improper on cross examination. I object to it.

DEFENSE: If it please the court, the witness testified that he drove one of the trucks that night and these clubs were found on the truck.

PROSECUTION: That's correct.

DEFENSE: I'm trying to find out which truck it is so that we may know which truck of the group those clubs came from.

LAW MEMBER: Objection is overruled.

PROSECUTION: I ask that the defense be bound by this witness's testimony on collateral issues, since he is making him his own witness.

LAW MEMBER: It is so ordered.

DEFENSE: If the court please, we object to making this witness our own witness on cross examination. We can't be bound by his replies. We don't know what he's going to testify to. We've had no opportunity to discuss this matter with this man.

LAW MEMBER: You may call him as your own witness.

DEFENSE: We don't wish to call him, if the Commission please. We want him on cross examination.

LAW MEMBER: Proceed with the cross examination.

Q. What is your nationality?

PROSECUTION: If the court please, I still maintain that this is a collateral issue. It's not proper cross examination.

DEFENSE: If it please the court, I believe it is proper cross examination.
I'm trying to show the bias and prejudice of this witness.

LAW MEMBER: Objection is overruled.

A. I am a Japanese.

Q. Following the incident on 19th of July, 1946 were you investigated by the Japanese police concerning that incident?

A. Yes.

DEFENSE: No further questions.

PRESIDENT: Any redirect?

PROSECUTION: No redirect, sir.

PRESIDENT: Questions by the Commission?

EXAMINATION BY THE COMMISSION

Questions by members:

Q. How did the person you found in the truck in a serious condition become injured?

A. He was shot with a pistol.

Q. How do you know?

A. There was some shooting in front of the Shibuya Police Station when I was driving the car.

PRESIDENT: Any questions by prosecution?

PROSECUTION: No, sir.

DEFENSE: No questions.

PRESIDENT: Questions by the Commission? There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: The prosecution calls as its next witness Ryozo Ueda.

Ryozo Ueda, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: The witness will be sworn. In accordance with my conscience I swear to tell the truth, hiding nothing and concealing nothing.

A. (Through interpreter) Yes, I do.

PROSECUTION: Do you understand if you do not tell the truth as you have just sworn to do, you are liable to punishment by this Commission or any other American court or commission?

A. Yes.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the court.

A. Ryozo Ueda.

Q. What is your official capacity with the Japanese police department?

A. Police Inspector of the Metropolitan Police.

Q. Are you acquainted with Takeichi Suzuki?

A. Yes, I am.

Q. Did you see him on the 21st of July, 1946?

A. Yes.

Q. What did you see him about?

A. Since I heard that driver Suzuki had some connection with the Shibuya incident, I inquired him about the situation.

Q. Did he turn over anything to you at that time?

A. Yes.

Q. What did he turn over to you?

A. Two octagonal sticks and one round stick, three in all.

Q. I ask you to come to the table here and, if you can, identify the sticks he turned over to you.

A. These are the ones.

PROSECUTION: If the Commission please, at this time I'd like the record to show that the witness identified Prosecution's Exhibit No. 23.

Q. On Prosecution's Exhibit No. 23 there appears to be some writing. Will you consult that paper and tell us what it says?

A. It says, "Evidence: Shibuya incident, two large sticks, one small stick. Finder: Suzuki Takeichi. Date: July 21st, 1946."

Q. State if you know who wrote that paper?

A. Yes. Police Detective Uehara wrote this. He is my subordinate.

Q. State whether or not Prosecution's Exhibit No. 23 has been in your official custody since the 21st of July, 1946.

A. Yes.

PROSECUTION: At this time, if the Commission please, I'd like to offer Prosecution's Exhibit No. 23 into evidence.

LAW MEMBER: Any objection?

DEFENSE: No objection.

LAW MEMBER: It will be admitted and so marked.

Q. I hand you again Prosecution's Exhibit No. 23 and ask you to state whether or not there are any markings on one of these clubs?

A. The word "kijima" is written on there. On the other "Yaesu Boy Scouts" is stamped with a rubber stamp.

PROSECUTION: No further questions.

PRESIDENT: Questions by the defense?

DEFENSE: No questions.

PRESIDENT: Questions by the Commission? There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: If the court please, our next witness will touch on another phase of the case and will be questioned at some length. I move that we take the morning recess at this time before we put him on the stand.

PRESIDENT: The Commission will take a ten minute recess.

The Commission then took a recess until 1025, at which hour the personnel of the Commission, prosecution and defense, and the accused, interpreters and the reporter resumed their seats.

PROSECUTION: The prosecution calls as its next witness Tomoroku Shizuku.

Tomoroku Shizuku, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: The witness will be sworn. In accordance with my conscience I swear I will tell the truth, hiding nothing and concealing nothing.

A. (Through interpreter) I do.

PROSECUTION: Do you understand if you do not tell the truth as you have just sworn to do, you are liable to punishment by this court or any other American court or commission?

A. I do.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the Commission.
A. Tomoroku Shizuku.

Q. What is your official position with the Japanese police department?
A. Assistant Police Inspector.

Q. Are you attached to the Metropolitan Police Board?
A. Yes, the Criminal Investigation Department, Second Detective Section.

Q. Were you so serving on the 20th of July, 1946?
A. Yes.

Q. Did you have an occasion on the 20th of July, 1946 to conduct an interrogation of persons alleged to have been involved in the Shibuya Police Station incident?
A. Yes.

VOLUME II of IV

RECORD OF TRIAL
(4th Original Carbon)

in the case of

UNITED STATES

vs

CHENG SHUNG, ET AL

Case Docket No. 6

MILITARY COMMISSION

Appointed by

Commanding General, Eighth Army

Tried at
Tokyo Japan
30 Sept - 10 Dec 1946

Q. How many men did you talk with?

A. Six at the Metropolitan Police Board and one at the Nakano Eighth Army Stockade.

Q. Can you now state the names of the six men you talked with at the Metropolitan Police Board?

A. Yes.

Q. Will you state those names?

A. At the Metropolitan Police Board I talked with Shu Toka Fu, Han No Gi, Ri So Jyo, Rin Ka Sun, Kyo Hyaku Fuku, Ri Sai To.

Q. About what time of the day was it you had these interviews?

A. It was between July 20th and July 26th.

Q. Did Ri So Jyo make any statements to you?

A. Yes.

Q. Did he state where he was during the incident of the 19th of July at the Shibuya Police Station?

DEFENSE: If it please the court, I object to that type of question. I've never heard one as leading as that question. He's never testified as to where he was and he's just asked him did he make a statement as to where he was. I object to the form of that question.

LAW MEMBER: Objection overruled.

A. Yes.

Q. Where did he say he was?

A. At the Public Charity Association in Showa Primary School.

PROSECUTION: If the Commission please, I'd like for the reporter to reread that. I don't think he understood the question.

LAW MEMBER: Ask the question again.

Q. Where did he state he was during the Shibuya Police Station incident?

A. He was in the truck that had collided with the house.

Q. I ask you now if you can identify him from this group of people in the courtroom?

A. Yes.

Q. Will you pick him out of the group?

A. Second from the left in the third row of seats.

PROSECUTION: If the Commission please, at this time I would like to ask the Commission to instruct him to stand.

PRESIDENT: The accused pointed out will rise.

PROSECUTION: And at this time, if the Commission please, I'd like for the defense to give his Chinese name and his number.

DEFENSE: If it please the court, the defendant just identified is No. 22 on

the court's list, Li Mo Hu. That is the spelling on the charge as it is now.

Q. Did you interrogate Shu Toku Fu?

A. Yes.

Q. Did Shu Toku Fu state where he was during the incident at the Shibuya Police Station?

A. Yes.

Q. Where did he state that he was?

A. He was in the vehicle that had collided with the house opposite the Shibuya Police Station.

Q. Will you now stand and, if you can, identify Shu Toku Fu?

A. The last one in this row of seats.

DEFENSE: If the court please, the defendant just identified is No. 21 on the court's list, Chu To Fu.

Q. Did Shu Toku Fu make any statement to you at that time relative to possessing a weapon?

A. Yes.

Q. What did he state?

DEFENSE: If it please the court, we object at this time to the admission of any statement made by the defendants. There has been no evidence offered as to how the statements were made, whether they were voluntarily made. I object to the statement being introduced at this time without that prior evidence.

PROSECUTION: If the court please, we maintain it is not necessary, admission against interest. I think it is competent.

LAW MEMBER: Objection is sustained. Ascertain that first.

PROSECUTION: If the Commission please, under the SCAP Rules it is not required to be voluntary.

LAW MEMBER: Well, whether it's voluntary or involuntary, there's no harm in the Commission knowing how the statement was obtained.

Q. Will you describe for the Commission what if anything was said to these men prior to the time they were questioned?

A. We said something to the effect that it is regrettable that such an incident had to occur, and please tell us the truth.

Q. Were any threats made to these men if they did not make a statement?

A. No.

Q. Were any promises made to these men to the effect that if a statement was made, leniency would be shown them?

A. No.

Q. Were the statements you have referred to freely and voluntarily made?

A. Yes.

PROSECUTION: Is the court satisfied?

LAW MEMBER: That will be sufficient.

Q. Did Shu Toku Fu make a statement to you relative to possessing a weapon during the Shibuya Police Station incident?

A. Yes.

Q. Did Chu To Fu, known to you as Shu Toku Fu, make a statement relative to possessing a weapon during the Shibuya Police Station incident?

A. Yes.

Q. What did he state?

A. He told me that he had a 1 1/2 year model pistol loaded with eight rounds.

Q. Did Han Hogi, known to you as Han Ho Gi, No. 20, make a statement to you at the Metropolitan Police Board?

A. Yes.

Q. Did he state where he was during the Shibuya Police Station incident?

A. He told me that he too was in the truck that had collided with the house in front of the police station.

Q. Did he make any statement to you relative to weapons?

A. Yes.

Q. What did he state?

A. He told me that there were four or five with pistols at the Showa Primary School.

Q. Did he state to you--

DEFENSE: If it please the court, I object to that answer as being purely hearsay. That is not an admission against the interests of the man making the statement, but purely hearsay statement having very little probative value. I object to it being admitted at this time.

PROSECUTION: If the Commission please, I'd like to be heard on that just for a moment. Prosecution is going on to show that the men who did not have weapons had knowledge that weapons were aboard. Therefore, we feel at this time that the Commission ought to have that information.

LAW MEMBER: The answer was not responsive to the question. Objection sustained.

Q. Did he state to you whether or not he had knowledge of weapons being aboard the truck which ran into the building?

A. Yes.

Q. State if you know who he said had weapons.

DEFENSE: If it please the court, I object again to that question. The answer will be a purely hearsay statement and having very little probative value of the issues in this case. I object to the question being asked at this time.

PROSECUTION: If the Commission please, prosecution's theory of this case, we think it's important that if knowledge was had by members that were present that weapons were there, that the Commission ought to know about it, as well as how many.

DEFENSE: If it please the court, if I may answer that very briefly, defense agrees upon the theory of the prosecution in the fact if there were weapons there, the court should know about it, but we insist that that knowledge should be brought to the attention of the court by proper evidence and not by purely hearsay statements over which we have no chance of cross examining the witness, the person who made the statement.

PROSECUTION: If the court please, the question was, "State if you know."

LAW MEMBER: Objection is overruled. However, fix the time.

PROSECUTION: Strike that last question.

Q. Did he state who had weapons in the truck which he was on board during the Shibuya Police Station incident?

A. Yes.

Q. State who aboard the truck he said had weapons?

DEFENSE: If it please the court, we object to that question again on the same grounds as being a hearsay statement.

LAW MEMBER: Objection is overruled.

A. Who do you mean by "he"?

Q. Ham Hogi, known to you as Han Ho Gi, No. 20.

A. He did not tell me who had the weapons on the truck. He told me who had the weapons at Showa Primary School.

Q. If you can, pick out from this group Ham Hogi, known to you as Han Ho Gi, No. 20.

A. Second from front in this column, the first column.

PRESIDENT: Have the accused stand. What is the name of the defendant picked out by the witness?

DEFENSE: It is correct, Ham Hogi, No. 20.

Q. Who did Ham Hogi, known to you as Han Ho gi, state possessed weapons at the Showa School?

DEFENSE: If it please the court, I don't believe the question of who had weapons at the Showa School is in issue in this case. The only charge is possession of weapons around Shibuya, the 19th of July. We object to that question as being immaterial.

PROSECUTION: If the court please, it is immaterial to the issue at bar. However, we do think it has probative value in determining who had these weapons.

LAW MEMBER: Objection is overruled.

A. He said that it seems as if somebody at the Showa Primary School had weapons.

Q. Did he state the names of the parties who had weapons?

A. He mentioned the names that he thought had weapons.

Q. What were their names?

DEFENSE: If the court please, we object to the witness reading the names from a memorandum. It's been called to our attention that most of his testimony has been given from the paper that he has in his hands.

PROSECUTION: If the Commission please, I'd like to lay a foundation for that. I didn't notice it myself.

LAW MEMBER: Will you withdraw the last question?

PROSECUTION: Yes, sir.

Q. At the time this interrogation was made, was a written statement made?

A. Yes.

Q. Was that statement signed by Ham Hogi, known to you as Han Ho Oi, No. 20?

A. Yes.

Q. Was that statement taken in the regular course of police business?

A. Yes.

Q. I ask you now to refer to that memorandum to refresh your memory and state the names which Ham Hogi stated possessed weapons.

DEFENSE: If the court please, defense asks permission to see the statement that the witness is referring to.

PROSECUTION: We have no objections. If the court please, I believe the defense asked to see the part that he was refreshing his memory from.

DEFENSE: If the court please, if the defendant Ham Hogi made a statement, it would seem to us that the statement itself ought to be introduced and not the witness's interpretation of that statement. We would like to have the whole of the statement that was made at that time under these circumstances that have been related by this witness introduced into the evidence. We don't offer it, probably will object to the admission of it, but we are of the opinion that the prosecution ought to offer the statement rather than offer secondary evidence of it.

PROSECUTION: If the Commission please, the reason the statement was not offered originally, we wanted to save as much time as possible. There are many things contained in it, according to our theory at any rate, are immaterial to the issues involved. It will make the record much more voluminous. I think, as a matter of fact, this witness can testify about anything he's testified from his own memory anyway. Had I known he was using it--

LAW MEMBER: Was he using this statement merely to refresh his memory as to the correct names?

PROSECUTION: Correct names, that's my understanding, sir.

LAW MEMBER: Well, that is permissible. However, caution the witness not to read from the document, but merely to refresh his memory as to the correct names. In view of that, the objection is overruled.

Q. To refresh your memory, will you check your record for the sole purpose of determining the correct names of the parties which Han Ho Gi stated to you had weapons at the Showa School.

DEFENSE: If it please the court, I believe that the witness previously testified that Han Hogi said he thought certain persons had weapons and did not state as a fact that certain persons had weapons at the school.

PROSECUTION: If the Commission please, I admit that that's true. That was my fault. I apologize for framing the question improperly. I'd like to request permission to withdraw that question.

LAW MEMBER: Well, perhaps there was some misunderstanding in language difficulties. Ask that question again, whether he thought or whether he actually knew. As we know, the Japanese will never state a fact as such. They always say they think or they believe, and it may be that that is the trouble in this particular case.

Q. Did Han Hogi, known to you as Han Ho Gi, state whether he thought these parties had weapons, or did he state that he knew they had weapons?
A. According to the conversation, he told me that he thought they had the weapons.

LAW MEMBER: Include that in your last question, the question that was not answered.

Q. Who did Han Hogi, known to you as Han Ho Gi, court's No. 20, state he thought had weapons at the Showa School?

DEFENSE: If the court please, may I interpose another objection at this time? It has appeared to me that according to the testimony of this witness, that a confession was taken from the accused Han Hogi and reduced to writing and signed by that accused. Now I think it is objectionable to receive secondary evidence of that confession when the prosecution has the confession made by this man in writing. That confession in writing speaks for itself and more certainly than any interpretation of it which might be given by the witness on the stand. We therefore object to any further evidence being given by this witness as to any confessions that have been made by the accused, including the one that has just been referred to.

PROSECUTION: If the court please, we submit that if the defense counsel wants to attack the testimony now being given, that he can do so with the defendant himself, representing the defense.

DEFENSE: This is merely a matter, if the court please, of getting the best evidence before the court. The writing is the best evidence of the confession, and secondary evidence should not be evidence so long as the prosecution has the best means of producing the best evidence.

LAW MEMBER: Objection is overruled.

- A. Shu Toku Fu, No. 21 Chu To Fu, Kyo Ko Kai, Ryu something, and Mori something. This Mori is a Japanese name.

PROSECUTION: If the Commission please, at this time I would like to request just for my own information, when I laid the foundation a while ago for the voluntariness of these statements, did I include all of them or did I just confine it to that one?

LAW MEMBER: All of them, as to the method of obtaining the statements. It pertained to all of them.

- Q. At the time you interviewed these other men, did you have an interview with Rin Ka Bun?

A. Yes.

- Q. If you can, identify him from the group of men in this courtroom.

A. Yes, I can.

- Q. Will you do that?

A. Second from the end on the second row of tables, second from the other end.

PRESIDENT: Will the accused please stand, the one pointed out?

PROSECUTION: If the Commission please, I believe that is No. 25 on the court's list.

PRESIDENT: Ask the defense to identify the accused just pointed out.

DEFENSE: That is correct, sir, it is number 25, Lin Ka Bun.

- Q. Did Lin Ka Bun, known to you as Rin Ka Bun, No. 25 on the court's list, make a statement to you relative to where he was on the 19th of July during the Shibuya Police Station incident?

A. Yes.

- Q. Where did he state that he was?

A. He told me that he was in the truck that had collided with the house in front of the Shibuya Police Station.

- Q. Did you at the same time have a conversation with Kyo Shaku Fuku?

DEFENSE: To save the time of the court, I believe the person just referred to is No. 24 on the court's list, Ko Shaku. The Kyo Shaku Fuku is the Japanese pronunciation of his name.

A. Yes.

- Q. Did Ko Shaku, known to you as Kyo Shaku Fuku, make a statement relative to where he was on the night of the 19th of July during the Shibuya Police Station incident?

A. He also told me that he was in the vehicle that had collided with the house in front of the Shibuya Police Station.

- Q. If you can, identify Ko Shaku, known to you as Kyo Shaku Fuku, in the court's list 24, from this group of men.

A. The second one in the third row of desks.

PRESIDENT: Will the defense state whether or not that is the accused.

DEFENSE: That is the person named, Ko Shaku, No. 24.

Q. Did you interview Ri Bai To on the same day at the Metropolitan Police Station?

A. Yes.

Q. Did he make a statement to you relative to where he was during the Shibuya Police Station incident on the 19th of July?

A. Yes.

Q. Where did he state that he was?

A. He told me that he also was in the vehicle that had collided with the house in front of the Shibuya Police Station.

Q. If you can, point out Ri Bai To amongst the men present in this room.

A. The extreme end on the front row.

DEFENSE: The person identified is No. 23, Li Te Tun.

PRESIDENT: At this time the Commission will recess to meet again at 1:30 this afternoon.

The Commission then took a recess until 1:30, at which hour the personnel of the Commission, prosecution and defense, and the accused, interpreters and the reporter resumed their seats.

PROSECUTION: The witness is reminded that he is still under oath. If the court please, one of the official interpreters, Mr. Ochi, asks to be excused starting Monday due to the fact that he has been assigned to another trial.

PRESIDENT: Let the record show that he is relieved at the conclusion of the day's session.

Q. You are the same Shizuku who was testifying before recess?

A. Yes.

Q. Did you somewhere about the middle of September interview some people at the Eighth Army Stockade?

A. Yes.

Q. Did you interview the same six men you have identified here today?

A. Yes.

Q. Will you state who was present at this interview?

A. The one who is questioning me right now, and a Chinese person whose name I do not know.

Q. At that time did these same six people all admit that they were present in the Shibuya Police Station incident?

A. Yes.

Q. Did they all admit they were aboard the truck which struck the building at that time?

A. Yes.

Q. On the same date did you interview anyone else at the Eighth Army Stockade?
A. Yes.

Q. Who else did you interview?
A. Kyo Ko Kai.

Q. I will ask you if you can, to point out that man in the courtroom.
A. The third person in the center row.

DEFENSE: If it please the court, I believe the person identified is No. 33, Chiang Hung Kai.

PRESIDENT: You said you believe it to be.

DEFENSE: Well, that's what I am advised.

PRESIDENT: I want it for a fact.

DEFENSE: It is a fact that he is No. 33.

PROSECUTION: If the Commission please, I would like the defense to let us have his Chinese name.

DEFENSE: The name is Chiang Hung Kai.

Q. Did Chiang Hung Kai, known to you as Kyo Ko Kai, make a statement relative to where he was during the Shibuya Police Station incident on the 19th of July?

A. Yes, he did.

Q. State where he said he was.

A. He was on the truck that collided with the building in front of the Shibuya Police Station.

Q. At the time you talked with him, were any threats made to him if he did not make a statement?

A. I did not.

Q. Was any intimidation or coercion used in order to secure this statement?
A. No.

Q. Did he make a statement to you relative to possession of a weapon on the 19th of July?

A. He did not say anything. He did not say that he had a weapon.

Q. Did he make a statement to you regarding weapons?

A. He did.

Q. What did he say?

A. He said that the treasurer of Branch No. 3 of the Public Charity Association, Ryu Sai To, obtained a pistol about lunchtime on July 19th and handed it over to Shu Toku Fu at about 3:00 p.m.

PROSECUTION: At this time, if the Commission please, I would like to have the record show the Chinese names corresponding to that testimony which we have just put in.

PRESIDENT: The question is a stipulation between the prosecution and defense as to who the individual is he is testifying to.

DEFENSE: If it please the court, the last name, Shu Toku Fu, is No. 21 on the court's list, Cha To Fu. If it please the court, the first named individual, Myu Sai To, is not one of the defendants. We do not know his Chinese name.

PRESIDENT: Will you read that last answer over again, please?

The reporter read back the last answer.

PROSECUTION: No further questions.

PRESIDENT: Any questions by the defense?

CROSS EXAMINATION

Questions by defense:

Q. At the time you had your interview at the Eighth Army Stockade, were there any other Japanese policemen present?

A. There were.

Q. How many were present?

A. Five others besides me.

Q. In what language were the statements taken from the defendants?

A. In Japanese.

Q. Were the statements explained to the persons making the statements?

A. Yes.

Q. Were they written statements or oral statements?

A. Oral.

Q. At the time you interrogated persons at the Metropolitan Police Board in connection with this incident, were the statements written or oral?

A. I recorded the statements they said orally and got their thumb mark and their signature.

Q. Were those statements read to the men before you got their signature or their thumb print?

A. Yes.

Q. Did they make any corrections or changes in those statements before they put on their thumb print?

A. No. In those places where I made some errors in the words, I corrected and put my seal on.

Q. Are those the statements you have in your hand now?

A. Yes.

DEFENSE: No further questions.

PRESIDENT: Any redirect?

REDIRECT EXAMINATION

Questions by prosecution:

- Q. How many Japanese policemen were present in the room when these men made the statements at the Eighth Army Stockade?
A. I was the only one.
- Q. Was there a Chinese man present?
A. Yes.
- Q. State if you know whether or not this Chinese man who was present spoke Japanese.
A. Yes.
- Q. Did he also speak English?
A. He did not speak in English.
- Q. State if you know whether or not he was an official of the Chinese Mission.
A. I believe so.
- Q. Did he make any objections to any of the questions or answers which were presented to these men?
A. No.

PROSECUTION: No further questions.

PRESIDENT: Any recross?

RECROSS EXAMINATION

Questions by defense:

- Q. Who was this Chinese person?
A. I do not remember his face.
- Q. Do you know who he was?
A. I do not know.

DEFENSE: That's all.

PRESIDENT: Any questions by the Commission? There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: If the court please, we offer to stipulate who this person present was when we were out there at the Eighth Army Stockade, if defense is willing to do so. He was an official from the Chinese Mission sent out there by the Secretary of the Chinese Mission.

DEFENSE: If it please the court, the person was--I'm not sure of the spelling of his name--I believe it's Mr. Lu who is the Secretary to the Chief of the Consular Affairs Office of the Chinese Mission, but I don't know what part he took in the proceedings at the stockade. I do know that he went out there. I can ascertain the correct spelling of his name and submit it to the reporter later.

PROSECUTION: I thought we might save time in future witnesses if we would stipulate who it was.

PRESIDENT: Is the defense satisfied that the Chinese individual present would and did protect the interests of the accused at that time?

DEFENSE: No, I am not satisfied of that.

PRESIDENT: Then you'll have the opportunity to introduce that individual when you present your side of the argument.

PROSECUTION: If the Commission please, at this time I'd like to get the rest of the evidence in. This morning the witness was not here who we did not anticipate would not be present, but I understand he is in the courtroom now and we'd like to pick up that one loose end, with the Commission's permission. Prosecution calls as its next witness Hiroshi Minakawa. If the Commission please, for the purpose of the record, what I mean is he is now available for the court, not in the courtroom. If the Commission please, I am just advised that the witness has not arrived at this time, so I would like to have Mr. Bagan here pick up the loose ends of some evidence we have offered for translation, with the Commission's permission.

PRESIDENT: All right.

PROSECUTION: If it please the court, at a previous session I asked defense for permission to withdraw from this case Prosecution's Exhibit No. 3 which was a list in Japanese of the defendants who were arrested at the police station on the 19th of December, 1946. The same has been returned from ATIS, The Allied Translation and Interpreter Service, and at this time I would like to present it to the court, allow the defense time to examine same, make any objections thereto, and if there are none I will then later move to withdraw the original and to substitute therefor the English translation. At this time I present the original exhibit and one translation. I have copies here for each member of the court as well as for the defense. Rather than have any further delay, if they wish additional time we could offer the others, and Monday morning make the formal motion for the substitution.

DEFENSE: Defense would prefer that last method, and let us examine all these papers over the weekend, and admit them all Monday morning.

PROSECUTION: No objection to that, with the exception of the policeman's book, because only a portion thereof is in evidence and I would like that that portion be examined during court hours. For the other exhibit there is no objection whatsoever, but the policeman's book contains all the proceedings of the policemen for a several months period not in evidence, and I don't think I'm at liberty to accede to such a request.

DEFENSE: If it please the court, we can do it I believe during the recess this afternoon, at least as far as the policeman's book is concerned.

PRESIDENT: If you confine the comparison to the statements contained therein.

PROSECUTION: At a former session I was granted permission to withdraw temporarily Prosecution's Exhibit No. 4 which was a portion of Policeman Miyauchi's police book, that portion pertaining to certain wounded defendants. It was

withdrawn, and at this time I have copies from the ATIS, Allied Translator and Interpreter Service, in English. At this time I would like to make a further offer. We also asked the Allied Translator and Interpreter Service if they would translate the charge sheet of the charges, pending in this court giving the characters both the Chinese and Japanese reading in columns which make it much easier to follow the trend of the proceedings, and that is the official translation service. I'd like to have that marked --it's been certified by ATIS--Prosecution's Exhibit No. 24, and this I think will facilitate the proceedings. I have it marked now. I will give copies to the defense and to the court, and make a formal offer of it on Monday. I would like to suggest that if the defense has any changes to make in the spelling of the characters in Chinese or Japanese, that they do so at that time and that then it will give the prosecution and defense a chance to stipulate as to the correctness of the various spellings, and at the same time we can number them so that hereafter it will facilitate all reference to defendants.

Prosecution calls as its next witness Tasaburo Suzuki.

Tasaburo Suzuki, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: The witness will be sworn. In accordance with my conscience I swear to tell the truth, withholding nothing and concealing nothing.
A. (Through interpreter) I do.

PROSECUTION: Do you understand if you do not tell the truth as you have just sworn to do, you are liable to punishment by this Commission or any other American court or commission?
A. Yes.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the Commission.
A. Tasaburo Suzuki.

Q. What is your official title with the Japanese police department?
A. Assistant Police Inspector.

Q. Are you attached to the Metropolitan Police Board?
A. Yes.

Q. Were you so serving on the 19th and 20th of July, 1946?
A. Yes.

Q. Did you have occasion to interrogate some people relative to an incident which had happened at the Shibuya Police Station?
A. Yes.

Q. When did you interrogate these people?
A. From July 20th to the 26th of July.

Q. How many men did you interrogate?
A. Six.

Q. State if you can the names of these six men.

A. Is it all right to refer to my memo?

PROSECUTION: I withdraw the question.

Q. Did you make notes during the course of this interview?

A. Yes.

Q. Were these notes made in the ordinary course of police business?

A. Yes.

Q. To refresh your memory, refer to those notes and advise the Commission the names of the men you questioned.

A. O Sei Sen, Cho Mo, Ryu Sho Ko, Ryo Kin Ei, O Ei Ho, Tei A Hei. The last is Chinese.

Q. At the time you talked with O Sei Sen, did he make a statement to you relative to where he was the 19th of July during the Shibuya Police Station incident?

A. He did.

Q. Where did he say he was?

A. He told me that he was on a truck which collided in front of the Shibuya Police Station.

Q. Did you interview Cho Mo?

A. I did.

Q. Did he make a statement to you relative to where he was on the 19th of July during the Shibuya Police Station incident?

A. He did.

Q. Where did he say he was?

A. He also said that he was on the truck which collided with a civilian home in front of the Shibuya Police Station.

Q. Did you talk with Ryu Sho Ko?

A. I did.

Q. Did he make a statement to you relative to where he was during the Shibuya Police Station incident on the 19th of July?

A. He said that he was on the truck which collided with the civilian home.

Q. Did you interview Ryo Kin Ei?

A. Yes.

Q. Did he make a statement to you relative to where he was on the 19th of July during the Shibuya Police Station incident?

A. He said that he was on the truck which collided with the civilian home.

Q. Did you interview O Ei Ho?

A. I did.

Q. Did he make a statement to you relative to where he was during the Shibuya Police Station incident?

A. He said that he was on the truck which collided with the civilian home in front of the Shibuya Police Station.

Q. Did you interview Tei A Hei?

A. I did.

Q. Did he make a statement relative to where he was during the Shibuya Police Station incident?

A. He did.

Q. Where did he state that he was?

A. He mentioned that he was on the truck as the others.

Q. If you can, identify for the Commission O Sei Sen.

A. He is the one.

DEFENSE: If it please the court, the defendant just identified is No. 14 in the court's list. His Chinese name is Yung Ching Tsui. If it please the court, the Chinese names that I'm giving are the names on the charge sheet. They will be subject to correction.

Q. If you can, identify Cho Mo.

A. I do not remember exactly.

PROSECUTION: If the Commission please, I'd like to request permission to permit this witness to walk down the isles so he can examine a little more closely.

PRESIDENT: If necessary, yes.

A. (Continued) He is the third person on the second row of seats from the rear.

PRESIDENT: Will the individual pointed out please rise?

DEFENSE: If it please the court, the person identified is No. 15, Chang Mo.

Q. If you can, identify for the Commission Ryu Sho Ko.

A. I do not remember him exactly because the interview time was short.

Q. Would it assist you if you walked through the group of men again as you did before you identified the last party?

A. I do not have confidence.

Q. If you can, identify for the Commission Ryo Kin Ei.

A. The one who is sitting left of Cho Mo.

DEFENSE: If it please the court, the person just identified is No. 18, Lieu Jin Yung.

Q. If you can, identify for the Commission O Ei Ho.

A. The one on the extreme right on the second row.

DEFENSE: If it please the court, that person is No. 17, Ong Eng Hong.

Q. If you can, identify for the Commission Tei A Hei.

A. The last one on this row.

DEFENSE: If it please the court, the person just identified is No. 19, Chang Ah Ting.

PROSECUTION: If the Commission please, I would like to request the Commission to ask the counsel for the defense to give the Japanese names for corresponding with the ones that have been just identified, for the purposes of clearing the record with the court.

DEFENSE: If it please the court, the Japanese names were the ones originally listed by the witness. I can read them back.

LAW MEMBER: Give the correct spellings for the record.

DEFENSE: These are the Japanese names of the persons just referred to. I believe I have the same order as used by the prosecution. The first was O S-e-i S-e-n. That first person, O Sei Sen, was No. 14. The second one is C-h-o K-o. That was No. 15 on the court's list. The third person is R-y-u S-h-o K-o. That person was not identified in court. The fourth person is R-y-o K-i-n E-i. He was identified as No. 18 on the court's list. The fifth name was O E-i H-o. He was identified as No. 17. The last name was T-e-i A H-e-i. He was identified as No. 19.

PROSECUTION: No further questions.

PRESIDENT: Questions by the defense?

DEFENSE: There are no questions.

PRESIDENT: Questions by the Commission? There appear to be none. The witness is excused.

PROSECUTION: Prosecution recalls as its next witness Ueda Ryoze.

PRESIDENT: At this time the Commission will take a ten minute recess.

The Commission then took a recess until 1455, at which hour the personnel of the Commission, prosecution and defense, with the exception of Mr. George T. Hagan, excused by the President, and the accused, interpreters and the reporter resumed their seats.

PROSECUTION: If the court please, at this time we would like to call this witness we called earlier in the afternoon who wasn't here, Hiroshi Minakawa.

DEFENSE: If it please the court, before we proceed with the witness, I have the translation of Prosecution's Exhibit No. 4. At the time the original notes were offered in evidence, the witness Miyauchi testified that he went to the hospital and there took the names, age and address from four of the wounded men. He had a total of seven men named. He said he received other information concerning the wounds of the men from the nurse. I believe that the court admitted into evidence only the names, age and address of the four men who gave the information directly to the witness. This translation includes statements as to the wounds of all seven men which I believe the witness from a nurse. I object to the admission of that part of the exhibit as evidence. I believe it has no probative value as to the exact nature of the wounds of those men. I believe that the

hospital records would be the best evidence, and certainly available to indicate the wounds of the men. In other respects the translation is correct.

PROSECUTION: If the Commission please, as I understood it they were not to be offered until Monday, and Mr. Hagan isn't here right now and I would like to ask the Commission to hold it up until Monday or at least until such time as Mr. Hagan can be here to answer that, because he has handled that phase of the case.

LAW MEMBER: You renew your objection Monday.

DEFENSE: I mention it at this time because we returned the book before the close of court today. That was the only reason for making it at this time.

PRESIDENT: Monday we'll take up the argument.

Hiroshi Minakawa, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: In accordance with your conscience do you swear to tell the truth, withholding nothing and concealing nothing?

A. (Through interpreter) I do.

PROSECUTION: You understand that if you do not tell the truth as you have just sworn to do, you are liable to punishment by this Commission or any other American court or commission?

A. Yes.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the court.

A. Hiroshi Minakawa.

Q. Are you a member of the Japanese police force?

A. Yes, I am.

Q. And are you attached to the Shibuya Police Department?

A. Yes.

Q. What section or division of that department are you assigned to?

A. The Investigation Department.

Q. Did you make an investigation on the 20th of July after an incident had occurred at the Shibuya Police Department?

A. Yes.

Q. What investigation did you make?

A. I was told by Assistant Police Inspector Nomura to take charge of the gasoline, as it might be stolen.

Q. What gasoline are you referring to?

A. The gasoline in the drum can and fuel tank.

- Q. You referred to a drum can. Where was the drum can?
A. Behind the cab.
- Q. Behind the cab of what?
A. Behind the cab of a truck.
- Q. Where was the truck?
A. It is next to Yamaguchi at 3 Chome 15 Banchi across from the police station.
- Q. State if you know whether or not the truck you refer to was involved in the Shibuya Police Station incident?
A. I did not witness this, so I do not know for sure.
- Q. What was the date that you made this investigation?
A. About 7:00 a.m. on the 20th.
- Q. The 20th of July, 1946?
A. Yes.
- Q. Tell what you did in connection with that drum you have just referred to.
A. I took the gasoline out of the drum can and put them in two five-gallon cans, and we took the fuel from the car in another can to the garage, and we found that the two fuels were different, so I reported this to Chief Investigator and Assistant Police Inspector Nomura, who told me to examine this.
- Q. Did you make an examination of the fuel of the liquid contained in the drum?
A. Yes.
- Q. What kind of test did you run?
A. We burned some fuel in a 1931 model Ford. We did this two times, and the third time we mixed some gasoline with this, but it would not light with electricity, so we put a match to it and it burst into flame. The flame was very strong.
- Q. State if you know whether or not the fuel contained in the drum would operate an automobile.
A. Yes, I know.
- Q. By that answer do you mean you know whether or not it can be used?
A. It cannot be used to run an automobile. It has not enough power.
- Q. Did you try to run the 1931 Ford you have just referred to with this liquid?
A. Yes.
- Q. Would it start the engine?
A. No.
- Q. What other tests did you make of this fluid?
A. No other tests. We did this four times.
- Q. Did you try this fluid on rags?
A. Yes, and we lit it with a match.

- Q. Did you try to light it on rags with an electric spark?
A. Yes, but it would not light.
- Q. Did you try this fluid on paper?
A. No.
- Q. What did you do with the fluid which was contained in the drum?
A. We tested this in a 1931 model Ford.
- Q. Did you pour any of this fluid that was in the drum into a bottle?
A. Yes.
- Q. What did you do with that bottle?
A. I was told to save some, so I put it in a bottle.
- Q. What did you do with the bottle?
A. I did not do anything with the bottle.
- Q. Did you turn it into the police department?
A. I gave it to Assistant Police Inspector Nomura.
- Q. State if you know what he did with it.
A. I do not know what he did with it.
- Q. Were these bottles tagged for identification in your presence?
A. I do not know.

PROSECUTION: No further questions.

PRESIDENT: Any questions by the defense?

CROSS EXAMINATION

Questions by defense:

- Q. You testified that you removed some gasoline or fuel from a drum on the truck, do you recall that testimony?
A. Yes.
- Q. How large was that drum?
A. It is a regular 200 liter container, or fifty gallons.
- Q. Approximately how much liquid was in that drum?
A. There was about ten gallons in it.
- Q. How did you get that liquid out of the drum?
A. There is an apparatus at the police station which is used to fill the automobile tanks. I used that and took out, filled two five-gallon cans.
- Q. Did you try lifting the drum?
A. When I was emptying it, I lifted it up myself.
- Q. Where was the opening on the drum to get the liquid out?
A. On the top.
- Q. Was the drum light or was it heavy when you picked it up to pour the liquid out?
A. It was not too heavy.

- Q. You testified that you tried that liquid on a 1931 Ford, is that correct?
A. Yes.
- Q. Did you try any other fuel in that 1931 Ford?
A. Yes.
- Q. What other fuel?
A. The fuel in the gas tank.
- Q. Did you try the fuel which came out of the drum on the truck?
A. Yes, we tested it.
- Q. You tested it on the truck or on the Ford?
A. 1931 model Ford.
- Q. Did you try it on the truck from which you took the liquid?
A. No.
- Q. When you made your tests you said you used an electric spark, is that correct?
A. Yes.
- Q. Where did that electric spark come from?
A. From a battery.
- Q. Is that the usual way to light gasoline?
A. Yes.
- Q. Are you familiar with gasoline and fuel oils?
A. I am more or less familiar with it. I have worked with automobiles since 1933.
- Q. Do you know whether gasoline is a rationed item in Japan at the present time?
A. I do not know.
- Q. Do you know whether it is possible to buy gasoline on a black market at the present time?
A. I do not know.
- Q. Do you know whether it frequently happens that gasoline which is purchased in Japan now does not run an automobile or a truck?
A. I do not know for sure.
- Q. You testified that when you mixed the fuel from the drum with the fuel in the tank, it burned, is that correct?
A. I said it did not burn.
- Q. Did you mix the liquid from the drum with liquid from the fuel tank?
A. Yes.
- Q. What happened when you mixed the two?
A. It would not ignite. Because of the fact that there was very little gasoline in the fuel tank, it would not ignite.
- Q. Did you try mixing the fuel from the drum with more gasoline?
A. No.

Q. Do you know whether it is customary at the present time in Japan to mix different types of fuel oil in order to provide fuel for a vehicle?

A. I do not know.

DEFENSE: No further questions.

PRESIDENT: Any redirect?

PROSECUTION: No redirect, sir.

EXAMINATION BY THE COMMISSION

Questions by members:

Q. Do you know who owns the truck from which you removed the fluid for your test?

A. I do not know.

Q. Were there any identification marks on the outside of the truck?

A. I do not know.

PRESIDENT: Any questions by the Commission?

DEFENSE: If it please the court, may I ask the witness one more question?

PRESIDENT: The court will accept it.

Questions by defense:

Q. Where is the drum from which you took the liquid?

A. Right now?

Q. What happened to it after you removed the liquid from it?

A. We placed it in custody in the garage.

DEFENSE: No other questions.

PRESIDENT: Are there questions by the Commission? There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PROSECUTION: Prosecution calls as its next witness Seijiro Nishiyama.

Seijiro Nishiyama, a witness for the prosecution, was sworn and testified as follows:

PROSECUTION: The witness will be sworn. Do you solemnly swear to tell the truth, hiding nothing and concealing nothing?

A. (Through interpreter) I do.

PROSECUTION: Do you understand that if you do not tell the truth as you have just sworn to do, you will be punished by this Commission or any other American court or Commission?

A. Yes.

DIRECT EXAMINATION

Questions by prosecution:

Q. State your name to the court.

A. Seijiro Nishiyama.

Q. Are you a member of the Japanese police department?

A. I am a technician with the Metropolitan Police Board.

Q. Did you run a laboratory test on certain fluid which was furnished you in August, 1946?

A. I tested some oil.

Q. From where did you receive the fluid from which you ran your test?

A. From Police Inspector Ueda of the Second Detective Section.

Q. What did the test which you ran show?

A. There were two kinds of oil, and in the two kinds there is quite some difference. One type was unsuitable as a fuel, and the other one was suitable.

Q. Did you at that time label which was suitable and which was not suitable?

A. At that time I did not label them, but there was marking there saying one was bad fuel and one was good.

Q. I ask you to come to this table and, if you can, identify the good fuel and the bad fuel.

A. This is the bad gasoline. This side is the good gasoline.

Q. How did you determine that?

A. We distilled these gasolines and examined them under violet ray and we gave them a saponifying test, and then we diluted this with ethyl and tested it with sulphuric and formalin acid. That is the way we determined it.

Q. How do you now determine which bottle contains the good gasoline and which bottle contains the bad gasoline?

A. Upon looking at this one now it has a reddish brown color.

Q. Are there any tags on the bottle which you have just picked up which assist you in determining which bottle contains the good gasoline and which one contains the bad gasoline?

A. Yes.

Q. Did you make these tags?

A. No, I did not.

Q. State if you know who did.

A. I do not know.

PROSECUTION: At this time, if the Commission please, I'd like for this to be labeled for purposes of identification, Prosecution's Exhibit 25.

Q. Examine the label on the other bottle. What does that label state?

A. On it it says, "Name: One gallon good quality gasoline taken from a fuel tank. The place of discovery: Taken from a confiscated truck. Date of discovery: July 20th, 7:00 a.m. Name of finder: Shibuya Police Station, Hiroshi Minakawa.

PROSECUTION: If the Commission please, I'd like to have this labeled Prosecution's Exhibit 26 for purposes of identification.

Q. Will you examine what is marked Prosecution's Exhibit No. 26 for purposes of identification, and read what is contained on that label?

DEFENSE: If it please the court, the defense would like to object to that evidence as hearsay.

LAW MEMBER: Objection overruled.

A. "Name: Ten gallons poor quality gasoline. Place of discovery: Drum can on confiscated truck. Time of discovery: 20th of July, 7:00 a.m. Name of finder: Shibuya Police Station, Hiroshi Minakawa."

Q. How long have you been a technician with the police department?

A. Approximately twelve years.

Q. How long have you been engaged in doing laboratory work?

A. The same, twelve years.

Q. Are you a chemist by profession?

A. Yes.

PROSECUTION: No further questions except at this time, if the Commission please, I would like to offer in evidence Prosecution's Exhibits No. 25 and 26.

LAW MEMBER: Any objection?

DEFENSE: If it please the court, may I cross examine the witness before we have that evidence admitted?

LAW MEMBER: Do you wish to withdraw the offer until after cross examination?

PROSECUTION: Yes.

CROSS EXAMINATION

Questions by defense:

Q. You testified that after you made certain tests on liquid which was furnished you, it was your opinion that one liquid was suitable and another liquid was not suitable as fuel, is that correct?

A. Yes.

Q. What do you mean by "suitable or unsuitable as a fuel?"

A. I mean as gasoline it is unsuitable as automobile fuel.

Q. Will you explain what you mean by unsuitable as automobile fuel?

A. When petroleum is distilled, gasoline is distilled off at 150 degrees, and kerosene between 150 and 300 degrees, and anything over that is used as machine oil. Good gasoline is obtained when the petroleum is distilled off at about 150 degrees, and anything above that cannot be used as fuel oil. The bad quality gasoline did not have any liquid that was distilled off below 150 degrees, and the good quality gasoline was distilled off at about 150 degrees.

- Q. Is it true that it is possible to mix various types of fuel, fuels which have been distilled at different temperatures, and obtain a fuel which can be used in a vehicle?
- A. If it can be classified as gasoline, then it can be used.
- Q. Did the liquid which you said was unsuitable have the same color as ordinary gasoline used in vehicles?
- A. It was a different color.
- Q. You based your opinion on that liquid on chemical tests which you performed, is that correct?
- A. Yes.

Mr. George T. Hagan returned to the courtroom.

- Q. In your opinion is it possible that an ordinary person without making those tests could mistake that liquid for gasoline?
- A. If it was of the same degree as the ones I saw, then there would be no mistake. There can be no mistake.
- Q. In your opinion is it possible to operate a vehicle with poorer quality fuel after the vehicle has been warmed up and in motion?
- A. I do not know that much.
- Q. Did you testify that you have had twelve years' experience as a laboratory technician and that you are a chemist by trade?
- A. Yes.
- Q. In your opinion what was the liquid which you described as unsuitable?
- A. It is the one which is labeled poor quality gasoline.
- Q. What is that liquid?
- A. In my opinion it is a mixture of mineral oil and kerosene.
- Q. In your opinion is it possible to operate an engine with kerosene after the engine has been warmed up and revolving?

PROSECUTION: If the Commission please, I object to that. He didn't say anything about kerosene alone. He said kerosene and a mixture of mineral oil.

DEFENSE: If it please the court, I am asking him as an expert witness whether you can operate a vehicle with kerosene. I'll ask him in addition if they can use it with--

PROSECUTION: I say that's immaterial, if the court please. Nothing's been said about kerosene alone.

LAW MEMBER: The witness testified it was a mixture of mineral oil and kerosene. Objection is sustained.

- Q. In your opinion is it possible to operate a motor engine with a mixture of kerosene and mineral oil after the engine has been warmed up and revolving?
- A. Through common sense I believe it cannot be used.
- Q. When you performed your tests on these liquids, how much liquid did you use?
- A. Approximately 200 CC's.

Q. 200 CC of each liquid?

A. Yes.

Q. In what type of container was the liquid when it was given to you for the tests?

A. When I received it it was in a comparatively large bottle like a beer bottle.

Q. Was it in the bottles which have been marked for identification 25 and 26?

A. Yes.

Q. Do you mean that you can take out 200 CC from any one of those bottles and still have that much liquid left in it? I ask you to examine the bottle and the amount of liquid in the bottle at the present time.

A. Yes.

DEFENSE: I ask the court to take judicial notice of the fact that the size of those two bottles I believe a fair estimate is about a quarter size. A quarter size would be approximately--I withdraw that statement. I believe I've made an error in size.

Q. Did you put the tags on those two bottles?

A. I did not.

Q. You testified previously that one of the bottles said poor quality gasoline, is that correct?

A. Yes.

Q. Do you agree with that opinion?

A. Yes.

DEFENSE: No further questions of the witness. I object to the evidence being admitted, for these reasons. I believe the liquid taken from the fuel tank, evidence concerning that is immaterial in this case. As to the liquid taken from the fuel drum, I believe there has been no evidence shown connecting that liquid with the liquid in Prosecution's Exhibit 25 or 26, whichever one has been labeled as unsuitable.

LAW MEMBER: What's your reply to that?

PROSECUTION: If the Commission please, in an effort to save time, we can't lay a foundation except that the tags are here and I think for this Military Commission here we don't have to go through all of the technicalities, I believe. If the Commission would like to hear it, why we'd be glad to present it.

LAW MEMBER: Anything further?

DEFENSE: Nothing further.

LAW MEMBER: Objection is overruled. They will be admitted into evidence as Prosecution's Exhibits 25 and 26.

PRESIDENT: Any further questions by the prosecution?

PROSECUTION: No further questions.

PRESIDENT: Questions by the Commission?

EXAMINATION BY THE COMMISSION

Questions by members:

Q. Can the fluids in question that were tested by you both properly be called gasoline?

A. The bottle that is labeled good quality gasoline can be called gasoline, but the other one labeled poor quality gasoline cannot be called gasoline.

Q. What is the proper name of that fluid?

A. I believe it can be called mineral machine oil.

Q. What would be the utility purpose of such fluid?

PROSECUTION: If the Commission please, there's some question on that last answer.

DEFENSE: Defense believes the translation was correct.

PROSECUTION: We have come to that conclusion too.

PRESIDENT: Read the last question back to the witness, please.

The reporter read back the last question.

A. I believe it is something of the type which is usually used in a factory as machine oil.

Q. For lubrication purposes?

A. I believe that is its use.

Q. Are you qualified to testify as to what fuel will operate any combustion engine?

A. I do not know very much about that sort of thing.

Q. Can this fluid you have referred to as mineral machine oil be doctored or fixed in any way for use in a gasoline motor?

A. I do not know how it would be used or what can be done with it.

Q. With reference to making a test on the quality of gasoline, did you make any other test prior to that, I mean separate from that which you testified to?

A. Yes.

Q. Did you have any occasion to find the quality more or less the same as that you testified to in this case?

A. Yes.

PRESIDENT: Any further questions? There appear to be none. The witness is excused.

There being no further questions, the witness was excused and withdrew.

PRESIDENT: At this time the Commission will adjourn to meet at 0900 Monday.

The Commission then, at 1610 on 18 October 1946, adjourned to meet at 0900 on 21 October 1946.

Richard R. Elliott
RICHARD R. ELLIOTT
Major, Chief Prosecutor