

LS Doc No 102 A

- A. I believe that there was no such high ranking officer that would issue such an order and I cannot believe that such a thing would be carried out.
- Q. Let us suppose that the facts as I have stated them are ~~true~~. Let us suppose that at approximately the same time civilians were herded together in many different parts of the Philippines many hundreds of miles apart and later were killed, now would an order to carry out such a thing necessarily have to come from a man who had command over such a large territory?
- A. I would think that it would be possible if these various areas had faced similar situations almost at the same time. I do not believe that such an order would be put out by the commanding officer of such a great area.
- Q. Was it Iwabuchi's duty to inspect the installations and to see the troops under him as much as possible during the course of the battle of Manila?
- A. Yes, it was. However, with the various areas reporting in their situation to the headquarters, the headquarters might be too busy making plans for battle at all times. I do not know if Iwabuchi had any time to inspect his men.
- Q. If at approximately the same time hundreds of civilians were being gathered together in various places in Manila and then killed, would you say that Iwabuchi planned this or if he did not plan it he should have known about it?
- A. I cannot make a definite answer because I do not know the situation at that time, but if such a thing happened all at once, it would be thought that he might have known. However, I cannot say definitely about this point.
- Q. Could Iwabuchi have done anything to prevent the happening of such incidents?
- A. That depends upon the situation. He probably could have and yet he might not have been able to.
- Q. Depending upon whether he knew about it, is that it?
- A. I am sorry that I am always expressing my opinion, but if it was within my case I believe that it would be natural to stop such a thing.
- Q. If Iwabuchi knew about it, he would have had the power to order it stopped; is that it?
- A. Yes, he would have.
- Q. Now, if the order came from higher headquarters, would Iwabuchi have the power to stop it?
- A. If it was from higher headquarters, he would not have had the power to stop it.
- Q. If Iwabuchi knew that the order was contrary to the rules of land warfare or contrary to humane treatment and he ordered it stopped, would he have been subject to court-martial for countermanding the order of a superior officer?
- A. You could say that he would be court-martialled but I cannot even think that such an order would be issued by the higher-ups.
- Q. Did you say that you lived at the Army and Navy Club and Yamashita lived at the Manila Hotel in Manila?
- A. No, he was living in a hotel along the beach called the Pasay.

The Manual of the Articles of

War of Britain provides as

follows:

" If inhabitants of an occupied

zone furnish ^{the} enemy with

information, they shall be

punished for war treason.

Other crimes such as under-

mentioned committed by private

persons shall be regarded

as war treason; To destroy.

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railroads and telephone
 facilities; To help prisoners of
 war escape; To lay a plot against
 occupation forces; To incite
 troops with malice; To aid
 voluntarily enemy troops;
 To infest water sources;
 To demolish or to alter
 military markers on behalf
 of enemy; To secrete animals,
 vehicles and munitions."

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(3.) The outline of the Japanese Army's regulations for punishment of conduct harmful to the Army during the Russo-Japanese War, is roughly as follows: (ARIGA, Hisao:

"Treatise on International Law with Regard to Russo-Japanese Land Warfare" pp. 636-638.)

(a) To act against military forces, military offices or military personnel.

15 Dec 1941

- Q. Should he have known?
- A. I cannot say that he should have known because everyone was in a position where he was either going to die or live and in a situation like that I could not positively state.
- Q. Did Iwabuchi have Navy officers under him?
- A. Yes.
- Q. Were reports made to him?
- A. I do not know. I presume that he received reports by the officers, but I cannot say.
- Q. In other words, you assume that reports should have been made?
- A. I figure that it would not be natural for anybody to report that he had killed another person and such as that. I believe that it would be natural for a person to try to hide and not report it if such a thing should happen. In Shanghai I have trained my men and have instructed them to be very careful to study whether a person should be killed as an enemy or not. I have told them if they could not determine whether a person should be killed they had weak character.
- Q. In the handling of civilians where it becomes necessary, in the opinion of the commanding officer, to kill hundreds of civilians at one time, would that be a decision such as the commanding officer would make?
- A. If a group of civilians were interned in one place and they had to be killed, then it would be a decision for the commanding officer. But I do not know the situation in Manila. I believe that what happened was done at various points and did not require it.
- Q. Where it would take a whole day to gather hundreds of civilians in one place by a ruse or by force, with the object in view to kill them after they had been gathered together, would that require the order of the commanding officer?
- A. By my common sense, I would say that it would be natural that if the battle was not so severe the commanding general should be conferred with, but I do not know what the situation was at that time and I cannot figure out what it was. Therefore, I cannot say for that certain case if it could have been done or not.
- Q. If I were to tell you that the incident described in the last question was one of many such incidents, would you say it was a part of the overall plan in the handling of the defense of Manila?
- A. I believe that there was no such plan in the defense of Manila. I say that with firm conviction.
- Q. If I were to tell you that the same thing was happening at the same time in many parts of Manila, would you say that it was a part of the over-all plan for the defense of Manila?
- A. I very much believe that there was no such thing as that planned in the defense of Manila.
- Q. Now if I were to tell you that many hundreds of civilians were herded together in one place at the same time in different parts of Manila, would you say that the order to herd these people together and kill them had come from a commanding officer?
- A. If that was done all at once, I should think that it could have been by an order.
- Q. If I were to tell you that at approximately the same time hundreds of civilians were herded together in Manila, in Luzon, in Davao, and in other parts of the Philippines and were killed, would you say that such plans had been made by a man in a position to issue orders to cover such large territory.

(k) To join the enemy forces
and fight against us without wearing
the regular military uniform.

(c.) To serve as a spy or to
shelter a spy.

(d.) To notify the enemy of
movements of the Japanese Army.

(e.) To mislead on purpose
Japanese military forces or
personnel.

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(f) To spread false rumours.

(g) To disturb quietude of

Japanese forces and war-ships

by raising turmoil and

excitation.

(h) To put up notices dis-

advantageous to the Japanese

forces to carry out the war.

(i) To disturb public peace

through meetings and associations

or newspapers, magazines, and

15 Dec 1941

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advertisements, etc.

(j.) To guide enemy forces.

(k.) To shelter enemy military

men.

(l.) To relieve by force, or ~~cause~~

to escape, prisoners of war.

(m.) To destroy or loot arms or

ammunition ~~left~~ left behind on

battle-fields.

(n.) To burn or steal away

military facilities, buildings or

munitions.

15 Dec 1947

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(O.) To damage military transport facilities or to disturb field mail service.

(P.) To damage, displace or steal military markers and notices.

(Q.) To infest drinking water or

to secrete vehicles, ~~cattle~~ ^{animals},

cereals, fuel or fodder in

order to hinder the Japanese

Army from procuring them.

(T.) To give damage and hindrance

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to water supply and electric light facilities.

(S.) To counterfeit ~~for~~ ~~attendance~~

~~the~~ Japanese coins, bank-notes and war-notes.

(t.) To interfere with requisition and levy.

(u.) To prevent people from entering into service for the Japanese Army by fraud or intimidation.

(v.) To enter off-limits areas

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(W.) To delve and level, without permission, grounds and hills.

(X.) To survey, photograph, sketch and record geographical features without permission.

(y.) To strip the injured and dead of their belongings.

V (Z.) To desecrate and maltreat corpses.

(a') To kill and wound military men and civilian employees.

(b') To commit murder in the first

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and second degree; burglary.

(c) To furnish military men,

civilian employees and other ~~camp~~ ^{attached}

~~followers~~ ^{personnel} with ~~tools~~ ^{paraphernalia} or places for

opium-smoking.

(d) To inflict other injury on

the Japanese military forces.

(e) To violate Army orders.

(f) For any conduct harmful

to the Japanese Army besides

the ones enumerated above, the

L.S. Dec 1/0 10 2 11

- Q. Should he have known?
A. I cannot say that he should have known because everyone was in a position where he was either going to die or live and in a situation like that I could not positively state.
- Q. Did Iwabuchi have Navy officers under him?
A. Yes.
- Q. Were reports made to him?
A. I do not know. I presume that he received reports by the officers, but I cannot say.
- Q. In other words, you assume that reports should have been made?
A. I figure that it would not be natural for anybody to report that he had killed another person and such as that. I believe that it would be natural for a person to try to hide and not report it if such a thing should happen. In Shanghai I have trained my men and have instructed them to be very careful to study whether a person should be killed as an enemy or not. I have told them if they could not determine whether a person should be killed they had weak character.
- Q. In the handling of civilians where it becomes necessary, in the opinion of the commanding officer, to kill hundreds of civilians at one time, would that be a decision such as the commanding officer would make?
A. If a group of civilians were interned in one place and they had to be killed, then it would be a decision for the commanding officer. But I do not know the situation in Manila. I believe that what happened was done at various points and did not require it.
- Q. Where it would take a whole day to gather hundreds of civilians in one place by a ruse or by force, with the object in view to kill them after they had been gathered together, would that require the order of the commanding officer?
A. By my common sense, I would say that it would be natural that if the battle was not so severe the commanding general should be conferred with, but I do not know what the situation was at that time and I cannot figure out what it was. Therefore, I cannot say for that certain case if it could have been done or not.
- Q. If I were to tell you that the incident described in the situation was one of many such incidents, would you say it was a part of the overall plan in the handling of the defense of Manila?
A. I believe that there was no such plan in the defense of Manila. I say that with firm conviction.
- Q. If I were to tell you that the same thing was happening at the same time in many parts of Manila, would you say that it was a part of the over-all plan for the defense of Manila?
A. I very much believe that there was no such thing as that planned in the defense of Manila.
- Q. Now if I were to tell you that many hundreds of civilians were herded together in one place at the same time in different parts of Manila, would you say that the order to herd these people together and kill them had come from a commanding officer?
A. If that was done all at once, I should think that it could have been by an order.
- Q. If I were to tell you that at approximately the same time hundreds of civilians were herded together in Manila, in Luzon, in Davao, and in other parts of the Philippines and were killed, would you say that such plans had been made by a man in a position to issue orders to cover such large territory.

men shall be dealt with in

accordance ^{with} ~~to~~ the Japanese

Army and Naval Penal Code or

the ordinary Penal Statute.

(c.) Punishment

(1.) War criminals are punished as a rule with death penalty ^{etc.} ~~and others.~~

War crimes are tried by institutions which each Power designates individually.

Punishment without any trial ^{generally} is prohibited

~~from the customary point of view.~~

L.S. Dec 1942-11

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(2) There is a problem ^{as to} whether or not

a war crime committed in obedience to an order of the superior officer is punishable.

The view of the majority is that any acts committed in obedience to orders are unpunishable.

(Note) During the World War,

an English lady, ^{EDITH CAYEL} ~~EDIS KVAVERU~~

by name, who had long been

the Directress of the BRUSSEL

Nurses' Training School,

L.S. Dec 110 10271

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was executed as a war criminal

on the charge of sheltering

British and French soldiers

in her house, supplying them

with money and commodities,

and assisting them to escape.

A movement ~~took place~~ for her

life ^{arose} ~~came up~~ in various

quarters, and the American

Minister also used his good

offices. But the German

U.S. Doc No 10277

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occupation authorities, holding
that her acts were harmful to
the Army's security, had her
executed after all in defiance
of the clemency movement.

This gave rise to an opinion
that inflicting ~~the~~ capital
punishment on a woman
was rarely preceded and
too brutal, and caused much
aggravation of the world's opinion

upon Germany. (From the

logical point of view, sexual

discrimination in meting out

penalty is groundless.)

(2) Outline of formation of

a military discipline court

/TIN. GUNRITSU HOTEI/ and

its procedure which the Japanese

Army adopted in the Russo-

Japanese War is roughly

as follows: (ARIGA, Hisao;

15 Dec 1941

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"Treatise on International Law
with regard to Russo-Japanese
Land Warfare" pp. 639-640)

(a) There was a sharp distinction

between the court-martial

(T.N. GUMPO KAIGI) and the

military discipline court.

Different from the court-

martial, minute procedures

requiring^a long time were not

necessary in^{the} application of

LS DOC. NO. 320-24

Q Was that when he came back with the water?

A Yes, he was with water also.

/Initialed K.L./

8

RESTRICTED

Q And when was that?

A The same time, same hour. Ten minutes later.

Q And how do you know that the Japanese soldiers shot him?

A Because he shouted for help also; the same way my father shouted.

Q Did you hear any shots?

A Yes, we hear.

Q How many?

A Two shots.

Q Did you see the body of Mirchandani?

A Yes, when we came out we saw the body, dead.

Q Did you see any bullet holes in his body?

A Yes, we saw.

Q And where were these bullet holes?

A Through the heart.

Q How many bullet holes?

A Two.

Q Did you see any bullet holes in the body of your father?

A Yes, we saw.

Q How many?

A Two.

Q And where were they?

A At his stomach.

Q Was the body of Mirchandani buried?

A Yes, it was buried down the stair in the shelter.

Q In that same house?

A Yes, in an air raid shelter. When he was shot we covered his body with mats, because the Japanese, if they came back, might be suspicious; they might kill all people, so we covered his body with mats and the following morning we put him in the shelter.

Q Did you bury him in the shelter?

A Not myself, but my other companion, Hashoo.

Q Did you see the Japanese soldiers that came there?

A Yes, we saw. The following morning they came again, but we were already moved from that place, we were already in Rabini Street, we saw the Japanese passing.

Q Did you see the Japanese soldiers who killed your father?

A No, I didn't see, because I did not see the faces.

Q Did you hear them?

A Yes, we heard them.

~~The~~ military discipline. Special committees were formed of commissioned officers, and officers ranking with commissioned officers, or civil officials, and they dealt with crimes under a more speedy proceedings.

(b.) The military discipline court, although its formalities were simplified, strictly maintained the institution of collegiate

LS DOC. NO. 320-24

Q How did you know they were Japanese soldiers?

A From them talking.

Q Do you know whether they were Japanese marines or not?

A They were marines. Mostly the Japanese in Dakota Street

/Initialed: K.L./

9

RESTRICTED

were all marines.

Q Were there any officers with them?

A Yes, I saw several officers also, with swords. That means they are officers.

Q What were the Japanese officers and soldiers doing there on the following morning, February 10th, 1945?

A They were inspecting everybody's pockets and their baggages, what they had with them.

Q Where were you hiding when your father was shot?

A Down the stairs, in the Filipino house, in the bathroom.

Q Did the Japanese kill anyone else at that time?

A Yes, they came inside the house, same where we were hiding, they put on a searchlight, but there was one woman, a Filipino, with a child, she was near the door, she was hiding with us, so they saw only that woman, they pull her outside and they shot her, and they treated the child very badly, they kicked him very badly, the brains came out. When we came out the child was still alive so we carried him and we brought him with my father.

Q And the mother was dead?

A The mother was dead.

Q When you came out?

A Yes.

Q And you took the child and your father to what place?

A To Mabini Street, to the house that was not yet burned. There was a doctor, the boy was badly kicked, so he died after two hours.

Q Do you know where the baby was buried?

A The same house that we transferred my father and the baby to.

Q And how long did your father live?

A He was shot around 11:00 o'clock in the night, and he died the following day, afternoon, 5:00 o'clock, on the 10th.

Q And where is your father buried?

A In the Ateneo College.

Q Did you see the Japanese kill this Filipino woman?

A The same way we heard they shot my father.

Q You just heard the shots?

A Yes. The same hour.

Q Did you see her body?

A Yes, we saw her body.

judgment, and ^{the} decision of

guilty or not guilty was made

by ^a majority of the committee

formed ~~at~~ at least of three

members.

(c) The accused were given

chances to refute the prosecution.

Unlike ~~was~~ ordinary criminal

proceedings, however, judges

were not obligated to prove

the accused guilty, but the

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accused were forced to establish
their innocence by presenting
disproof, and the accused
who failed to present disproof
were deemed guilty.

(d.) Death penalty was to be meted
out to almost all offenders
against ~~AA~~ military discipline,
while judges were given full
liberty to decrease penalties
or to relinquish entirely

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RESTRICTED

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the execution. Because,

punishment of offenders

was not always considered

necessary ~~for~~ ^{for} attainment

of the objective of the military

discipline which was to

intimidate people into

refraining from conduct

harmful to the Japanese

Army rather than to

prohibit them from acting

Q. Are there any markers on the graves?

A. Yes.

Q. What nationality is Mr. Daland?

A. American.

Q. And Tony?

A. Tony also.

Q. And Mr. Mendez?

A. Spanish.

Q. And Mr. De la Vara?

A. Spanish.

Q. The two servants?

A. Filipino.

~~SECRET~~

RESTRICTED

Q. During your observation of the incident, did you observe any provocation on the part of the refugees which would invoke the acts of cruelty and murder?

A. None whatsoever.

/s/ Manuel Elizalde
MANUEL ELIZALDE

COMMONWEALTH OF THE PHILIPPINES)
City of Manila)SS

* - - - - - *

I, MANUEL ELIZALDE, of lawful age, being duly sworn on oath, state that I have read the foregoing transcription of my interrogation and all answers contained therein are true and correct to the best of my knowledge and belief.

/s/ Manuel Elizalde
MANUEL ELIZALDE

Subscribed and sworn to before me this 24 day of May, 1945.

/s/ John S. McConachy
JOHN S. McCONAGHY
Captain, J.A.G.D.

C E R T I F I C A T E

I, JOHN S. McCONAGHY, Captain, J.A.G.D., certify that on 19 May 1945, personally appeared before me Manuel Elizalde and gave the foregoing answers to the several questions set forth; that after his testimony had been transcribed, the said Manuel Elizalde read the same and affixed his signature thereto in my presence on 24 May 1945.

Manila, Philippine Islands
24 May 1945.

/s/ John S. McConachy
JOHN S. McCONAGHY
Captain, J.A.G.D.

A CERTIFIED TRUE COPY

Steve S. Yamamoto
Steve S. Yamamoto
C-000910
Captain, Inf.

~~SECRET~~

RESTRICTED

against morals and public

benefit welfare.

LS Doc, No, 320-25

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~~S-E-C-R-E-T~~

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C-000910
Captain, Inf.

~~S-E-C-R-E-T~~

R E S T R I C T E D

14.

Translated by Isli

PP 202-204

ok.

(e.) Disposal of persons aboard ships captured. (Excluding ships interned.)

(Ref. Chap. 20 of the Maritime Warfare Regulations.)

(1.) Enemy ships

(a) Ship personnel

(1') Neutral nationals

o Crews shall not be taken prisoners

of war. (Ref. Article 112 of the Maritime

Warfare Regulations.)

o Captain and ship-employees shall not

part of Japanese authorities to live up to their Government's undertakings, and warned the Japanese Government in unequivocal terms that the American Government would hold personally and officially responsible for their acts of depravity and barbarity all officers of the Japanese Government who had participated in their commitment and, with the conclusion of the war, would visit upon such Japanese officers the punishment they deserved for their uncivilized and inhumane acts against American prisoners of war.

These protests, representations and warnings originated in the Prisoners of War Branch, and I personally prepared many of them. They were based upon information obtained from representatives of the Swiss Government in charge of American interests in Japan and in Japanese controlled territory, from the International Red Cross Committee, from repatriates and from recovered military personnel.

On January 27, 1944, the State Department despatched to the Japanese Government, via the Swiss Government, two telegrams which were personally drafted by me, summarizing the protests and representations which had theretofore been submitted to the Japanese Government and demanding amelioration of the treatment being accorded American nationals in Japanese custody. The first of these telegrams listed the principal categories of deprivations of rights, cruelties, wanton neglect and mistreatment and referred to the specific Article of the Geneva Prisoners of War Convention, or other undertaking, violated; the second

be taken prisoners of war subject to

their promising (Form No. 10,

Maritime Warfare Regulations) not to

serve on enemy ships as long as

the war continues. (Ref. Article 114

of the Maritime Warfare Regulations.)

(2) Enemy nationals

o Captain, crew and ship-employees

(ship personnel on board enemy ships

are regarded ^{as} enemy nationals unless

they can present disproof. Ref.

- Q. About how long after that?
- A. After a few minutes I saw the entire group left the paper factory and went through the open field towards Pennsylvania Avenue where they came from. After a few minutes I saw this group come back from Pennsylvania Avenue through the open field to the paper factory.
- Q. Where was this first group when you last saw them?
- A. They were just going in the gate at the paper factory.

s/ LB

152
R E S T R I C T E D

- Q. How long was it before you heard a shot?
- A. In about 5 minutes I heard about 3 shots and then I saw the Japanese going back towards Pennsylvania Avenue without the civilians.
- Q. Did you recognize any of the civilians in the first group that you saw?
- A. No, I did not recognize any of them.
- Q. Did you know what branch of the Japanese military forces the men were in who were in charge of the first group you saw?
- A. They were marines.
- Q. Will you state why you know they were marines?
- A. Because they wore olive green uniform.
- Q. Did you recognize any of the Japanese marines in the first group as being officers?
- A. Yes.
- Q. How was he dressed?
- A. He was in green pants.
- Q. Did you know what unit of the Japanese marines those soldiers were in?
- A. No.
- Q. Did you know or recognize any of the Japanese marines?
- A. No.
- Q. Where were you when you saw the Japanese take this first group to the paper factory?
- A. I was on the porch downstairs of my father's home.
- Q. What time was it that you saw the next group of civilians being taken to the paper factory by the Japanese?
- A. About 6:00 or 6:30 o'clock on the 7th of February.
- Q. How many civilians were in the second group that you saw?
- A. About 8.
- Q. How many Japanese were accompanying the second group?
- A. About 8.
- Q. Were the civilians on the second group tied in any manner?
- A. Yes, they were tied behind their back.
- Q. Where was the second group when you first saw them?
- A. They were traveling the same route as the first group coming from Pennsylvania Avenue across the open field to the paper factory.

Article 117 of the Maritime Warfare

Regulations.) shall not be taken

prisoners of war on the condition that they

swear (Form. No. 10, Maritime

Warfare Regulations) not to enter

services that have something to

do with operational activities

so long as the war continues.

(Ref. Article 114, Maritime Warfare

Regulations.)

o In cases of (1') and (2'),

154. CC.2.1.19.1 (Special file for internees in Kobe).

.....

155. CC.2.1.20. (Internees in Urawa).

.....

Note to Gaimusho	15	January	1945
" " "	15	"	"
" " "	23	"	"
" " "	1	March	"
" " "	15	"	"
" " "	15	"	"
" " "	18	April	"
" " "	18	"	"
Aide-Memoire to Gaimusho	28	"	"
Note from Gaimusho	2	June	"
" to "	4	July	"

156. CC.2.1.21. (Internees in Sumire and Sekiguchi).

.....

Note to Gaimusho	15	March	1945
" " "	30	April	"
" from "	3	May	"
" " "	16	June	"
" to "	20	"	"
" " "	25	"	"
" " "	2	July	"

157. CC.2.1.22. (Internees in Japanese Overseas territories).

.....

those who promised or swore
shall be set at liberty.

In such cases, the Commanding
officer shall immediately
send a list of names of the
liberated to ^{the} Navy Minister
and at the same time shall
endeavor to the utmost to notify
the enemy of the names.

(Ref. Article 115, Maritime
Warfare Regulations.)

part of Japanese authorities to live up to their Government's undertakings, and warned the Japanese Government in unequivocal terms that the American Government would hold personally and officially responsible for their acts of depravity and barbarity all officers of the Japanese Government who had participated in their commitment and, with the conclusion of the war, would visit upon such Japanese officers the punishment they deserved for their uncivilized and inhumane acts against American prisoners of war.

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o If an enemy ship participated
 in ~~the~~ ^{action} belligerent~~y~~, (1') and (2') are
 not applicable to her personnel, and
 the ship-employees shall be
 disposed of for violation of laws
 of war, and the others shall
 be taken prisoners of war.

(Article 116, Maritime Warfare
 Regulations.)

(B') Passengers shall disembark
 at a convenient port except those who

Note from Gaimusho	30	March	1944
" to "	15	May	"
" " "	15	"	"
" " "	26	June	"
" " "	27	"	"
" " "	28	"	"
" " "	28	July	"
" " "	4	August	"
" " "	4	"	"
" " "	4	"	"
" " "	4	"	"
" " "	9	"	"
" " "	22	"	"
" from "	9	September	"

150. CC. 2.1.17.1 (Civilian internees in Macassar).

Note to Gaimusho	27	July	1945
------------------	----	------	------

151. CC. 2.1.18. (Civilian internees in Kenagawa Prefecture)

.....

Note to Gaimusho	27	December	1944
" " "	27	"	"
" " "	15	January	1945
" from "	25	"	"
" to "	26	"	"
" from "	31	"	"
" to "	20	February	"
" " "	1	March	"
Aide-Memoire to Gaimusho	28	April	"
Note from Gaimusho	3	May	"

are enrolled in enemy military forces.

(Ref. Article 119, Maritime Warfare Regulations.)

Should a passenger be needed as a witness, he can be detained. (Ref. Article 119, Clause 2, Maritime Warfare Regulations.)

(C') Enemy nationals in religious, medical, and nursing lines are not taken prisoners of war. (Article 120, Maritime Warfare Regulations.)

Note to Gaimusho	12	June	1944
" " "	13	"	"

152. CC.2.1.18.1 (Relocation Centre at Nanasewa, then Tateai Mura).

.....

Note to Gaimusho	19	May	1945
" " "	11	June	"

153. CC.2.1.19. (Civilian internees in Kobe).

.....

Memorandum to Gaimusho	6	December	1944
Note to Gaimusho	18	"	"
" from "	29	"	"
" to "	15	January	1945
Letter to Foreign Minister	16	February	"
Note from Gaimusho	26	"	"
" to "	28	"	"
" " "	1	March	"
" " "	2	"	"
Aide-memoire to Gaimusho	28	April	"
Note from Gaimusho	3	May	"
" to "	4	"	"
Letter to Foreign Minister	19	"	"
" " " "	8	June	"
Note to Gaimusho	13	"	"
" " "	14	"	"
" " "	24	July	"
" " "	11	August	"
" from "	11	October	"

Those who are under suspicion
can be detained temporarily. (Article
120, Conditional clause, Maritime Warfare
Regulations.)

Note to Gaimusho	12	June	1945
" " "	13	"	"

152. CC.2.1.18.1 (Relocation Centre at Nanasawa, then Tateai Mura).

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Note to Gaimusho	19	May	1945
" " "	11	June	"

153. CC.2.1.19. (Civilian internees in Kobe).

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" to "	28	"	"
" " "	1	March	"
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" " " "	8	June	"
Note to Gaimusho	13	"	"
" " "	14	"	"
" " "	24	July	"
" " "	11	August	"
" from "	11	October	"

14A

Translated by Ishii

P. 206

1.

(g.) Release from capture and internment. (Article 155, Maritime Warfare Regulations.)

(1.) When it is proved that a captured and interned ship should not have been interned, she must be set free at once.

(2.) ~~The~~ said step should not be taken ~~before~~ ^{until} ~~no~~ ~~doubt~~ is left as ~~the~~ result of judgement ^{based on} various materials no doubt remains.

under my cognizance or to my attention in connection with the carrying out of the functions of the Prisoners of War Branch.

Immediately after the Japanese attack on Pearl Harbor, the Department of State took up with Japan the matter of according proper treatment for American nationals in Japanese hands.

Although Japan was not a party to the Geneva Prisoners of War Convention, the Department of State obtained from the Japanese Government a commitment to apply the provisions of that convention to American prisoners of war, and, so far as adaptable, to civilian internees held by Japan.

This commitment was made in a communication by the Japanese Government to the Swiss Minister at Tokyo in Charge of American Interests in Japan. The message was received through the American Legation at Bern in a telegram dated February 4, 1942, and stated that the Japanese Government informed the Swiss Minister that, "although not bound by the Convention relative to prisoners of war, Japan will apply mutatis mutandis provisions of that Convention to American prisoners of war in its power." In a telegram dated February 24, 1942, it was reported that the Ministry of Foreign Affairs declared to the Swiss Minister in Tokyo that Japan would "apply on condition of reciprocity Geneva Convention for treatment of prisoners of war and civilian internees in so far as convention shall be applicable."

Thereafter, the State Department by repeated protests and representations, through the Swiss Government, again and again called to the Japanese Government's attention failures on the

14B

Translated by Osai

No. XIX. Resistance to Boarding

(Chapter 16, Maritime Warfare
Regulations)

(I) Measures to be taken against ships
which resist boarding by force.

(a.) Any ships that resist by force
against lawful exercise of rights of
stopping, visiting, searching, and
capturing ships, shall be captured
irrespective of their nationality.

(Article 95, Maritime Warfare Regulations.)

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Thereafter, the State Department by repeated protests and representations, through the Swiss Government, again and again called to the Japanese Government's attention failures on the

Accordingly, a ship can be captured because of her forcible resistance alone, if it is the case, without any other cause for capture. For instance, to resist by force against an order to lie to, or to refuse by force boarding of visiting officers, or to hinder searching actively by force, will fall under this item.

(b.) It is manifest that escaping can not be called ~~a~~ resistance.

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It ~~does not~~ ^{is not} make a cause for measures stated under this heading.

(C.) Whether a ship is armed or not ~~does~~ makes no difference in measures for disposing of her.

(II) Disposals of the above mentioned ships. (Ref. Article 96, Maritime Warfare Regulations.)

(a) Any ships that resist by force shall be confiscated.

(b.) All the goods aboard the

- - INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST - -

THE UNITED STATES OF AMERICA, THE REPUBLIC OF CHINA, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, THE UNION OF THE SOVIET SOCIALIST REPUBLICS, THE COMMONWEALTH OF AUSTRALIA, CANADA, THE REPUBLIC OF FRANCE, THE KINGDOM OF THE NETHERLANDS, NEW ZEALAND, INDIA, AND THE COMMONWEALTH OF THE PHILIPPINES.

- AGAINST -

ARAKI, Sadao; DOHIHARA, Kenji; HASHIMOTO, Kingoro; HATA, Shunroku; HIRANUMA, Kiichiro; HIROTA, Koki; HOSHINO, Naoki; ITAGAKI, Seishiro; KAYA, Okinori; KIDO, Loichi; KIMURA, Heitaro; KOISO, Kuniaki; MATSUI, Iwane; MATSUOKA, Yosuke; MINAMI, Jiro; MUTO, Akira; NAGANO, Osami; OKA, Takasumi; OKAWA, Shunpei; OSHIMA, Hiroshi; SATO, Kenryo; SHIGEMITSU, Mamoru; SHIMADA, Shigetaro; SHIRATORI, Toshio; SUZUKI, Teiichi; TOGO, Shigenori; TOJO, Hideki; UMEZU, Yoshijiro.
Defendants.

City of Washington,)
District of Columbia,) ss.
United States of America.)

I, E. TOMLIN BAILEY, being duly sworn, on oath depose and say I am Assistant Chief of the Special Projects Division of the Department of State of the United States, in charge of Prisoners of War Branch of that Division, in which branch I have served since November, 1942. Since its organization in 1942 and up to the present time, the Prisoners of War Branch has been charged with the duty of initiating and coordinating State Department policy and action in all matters pertaining to civilian internees and prisoners of war and international conventions relating to their status.

The statements hereinafter made are based upon official records of the Department of State, and in particular of the aforesaid Prisoners of War Branch, and relate to matters coming

above said ships shall be disposed
of as enemy cargo. The goods belonging
to the captain or the ship owner shall
be regarded as enemy property.

A certain party holds that
all cargo of a ship which resists shall
be confiscated excepting the case where
the owner proves himself ignorant of the
true situation. (Opinion of the
British school.) But the Japanese
Maritime Warfare Regulations do

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not adopt his opinion.

(c) There are some instances that ships-employees who resisted were punished for violation of laws of war.

The Japanese Maritime Warfare Regulations do not follow these precedents; only, ~~the~~ neutral ship personnel who resist can be taken prisoners of war according to necessity. (Ref. Article 118, Maritime Warfare Regulations.)

Q. About how long after that?

A. After a few minutes I saw the entire group left the paper factory and went through the open field towards Pennsylvania Avenue where they came from. After a few minutes I saw this group come back from Pennsylvania Avenue through the open field to the paper factory.

Q. Where was this first group when you last saw them?

A. They were just going in the gate at the paper factory.

s/ LB

152

R E S T R I C T E D

Q. How long was it before you heard a shot?

A. In about 5 minutes I heard about 3 shots and then I saw the Japanese going back towards Pennsylvania Avenue without the civilians.

Q. Did you recognize any of the civilians in the first group that you saw?

A. No, I did not recognize any of them.

Q. Did you know what branch of the Japanese military forces the men were in who were in charge of the first group you saw?

A. They were marines.

Q. Will you state why you know they were marines?

A. Because they wore olive green uniform.

Q. Did you recognize any of the Japanese marines in the first group as being officers?

A. Yes.

Q. How was he dressed?

A. He was in green pants.

Q. Did you know what unit of the Japanese marines those soldiers were in?

A. No.

Q. Did you know or recognize any of the Japanese marines?

A. No.

Q. Where were you when you saw the Japanese take this first group to the paper factory?

A. I was on the porch downstairs of my father's home.

Q. What time was it that you saw the next group of civilians being taken to the paper factory by the Japanese?

A. About 6:00 or 6:30 o'clock on the 7th of February.

Q. How many civilians were in the second group that you saw?

A. About 8.

Q. How many Japanese were accompanying the second group?

A. About 8.

Q. Were the civilians on the second group tied in any manner?

A. Yes, they were tied behind their back.

Q. Where was the second group when you first saw them?

A. They were traveling the same route as the first group coming from Pennsylvania Avenue across the open field to the paper factory.

(Note)

(1.) Article 99 of the German

Regulation of Maritime Capture,

of 1914.

In case a ship was captured

in accordance with the Article 16,

Clause 2 (Resistance) or the

Article 55, Clause 1 (Belligerency),

those personnel who, though not enrolled in the

enemy military forces, should

participate in hostile acts

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A. Yes, they were tied behind their back.
- Q. Where was the second group when you first saw them?
A. They were traveling the same route as the first group coming from Pennsylvania Avenue across the open field to the paper factory.

or resist by force, shall

be disposed of in conformity ^{with}

wartime conventions, and the

other personnel shall be

taken prisoners of war.

(2.) Case of Captain "FURAIATO

(T.N. Phonetic)" executed.

In March, 1915, Captain

"FURAIATO" of the "BRUSSEL",

H.M.S., disobeying the order

of a German submarine

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Q. Where was the second group when you first saw them?
A. They were traveling the same route as the first group coming from Pennsylvania Avenue across the open field to the paper factory.

in the English Channel, tried

to destroy the submarine with

her bow, but the Captain

was captured later by the

germans. The Germans

tried him by court-martial

and concluded that he acted

the same way several times

so that he should be convicted

of the war crime, and executed

him.

If the said Captain took the
action from the beginning not

by way of self-defense

but purposely with the

intention of attacking the

submarine, the measure

the Germans took is lawful.

But if he resisted simply

for the purpose of self-defense

(no matter how many times

he did), the measure by the

(Page 1249)

of Manila, is it not?

A Yes, sir.

Q Is a convent connected with the St. Augustine's Church?

A The convent is related to the St. Augustine Church, and the convent is built with the St. Augustine Church.

Q How long ago was the church and the convent built?

A The edification was constructed in the year 1989.

* * * * *

Q (By Major Kerr) I hand you what has been marked for identification as Exhibit No. 221, and ask you what that is?

A It represents the lower part of the convent and the Church of the Augustinians which I have just mentioned.

Q Where on that sketch is the church portion of the compound represented?

A It is the part that is shown along Gral Luna Street.

Q Then it is the large open area at the top of the sketch, is that correct?

A Only the church.

* * * * *

(Page 1250)

Q (By Major Kerr) Father, were you at that church on the 5th of February, 1945?

A Yes, sir.

Q What happened at that time at the church?

A On February 5, 1945, the Japanese put together all the majority of the inhabitants of Intramuros, inside the church.

Germany is against the
conventional custom.

(In case of actions for self-

defense, one can not

necessarily condemn it to

be beyond the limits of self-

defense even if the attacked

party used force first.)

A war ship naturally

is not held responsible

for accidental damages

Note to Gaimusho

5 December 1945

158. CC.2.1.25 (Internees at Sendai).

.....

159. CC.2.1.25.1 (Catholic Sisters in Forced Residence at Sendai).

.....

Note to Gaimusho	15	March	1945
" " "	11	June	"
" from "	14	"	"

160. CC.2.1.27 (Internees in Nagasaki).

.....

Note to Gaimusho	8	January	1945
" from "	23	"	"
" to "	14	March	"
" " "	19	"	"
" " "	20	"	"
" from "	21	April	"
" " "	3	May	"
" to "	30	June	"
" " "	13	August	"
" from "	17	"	"

161. CC.2.1.28. (Internees in Fukushima).

.....

Note to Gaimusho	24	April	1945
" " "	25	"	"
" " "	30	"	"

11
on a ship or to ~~the~~ ship

personnel caused during

her flight or resistance

as a result of measures

taken by the war ship.

by way of checking her

escape or resistance.

- Q. About how long after that?
A. After a few minutes I saw the entire group left the paper factory and went through the open field towards Pennsylvania Avenue where they came from. After a few minutes I saw this group come back from Pennsylvania Avenue through the open field to the paper factory.
- Q. Where was this first group when you last saw them?
A. They were just going in the gate at the paper factory.

s/ LB

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R E S T R I C T E D

- Q. How long was it before you heard a shot?
A. In about 5 minutes I heard about 3 shots and then I saw the Japanese going back towards Pennsylvania Avenue without the civilians.
- Q. Did you recognize any of the civilians in the first group that you saw?
A. No, I did not recognize any of them.
- Q. Did you know what branch of the Japanese military forces the men were in who were in charge of the first group you saw?
A. They were marines.
- Q. Will you state why you know they were marines?
A. Because they wore olive green uniform.
- Q. Did you recognize any of the Japanese marines in the first group as being officers?
A. Yes.
- Q. How was he dressed?
A. He was in green pants.
- Q. Did you know what unit of the Japanese marines those soldiers were in?
A. No.
- Q. Did you know or recognize any of the Japanese marines?
A. No.
- Q. Where were you when you saw the Japanese take this first group to the paper factory?
A. I was on the porch downstairs of my father's home.
- Q. What time was it that you saw the next group of civilians being taken to the paper factory by the Japanese?
A. About 6:00 or 6:30 o'clock on the 7th of February.
- Q. How many civilians were in the second group that you saw?
A. About 8.
- Q. How many Japanese were accompanying the second group?
A. About 8.
- Q. Were the civilians on the second group tied in any manner?
A. Yes, they were tied behind their back.
- Q. Where was the second group when you first saw them?
A. They were traveling the same route as the first group coming from Pennsylvania Avenue across the open field to the paper factory.

(35) The Convention concerning the Commencement
of War

Treaty No. 3 of 13, Jan., '12.

We, upon having obtained the concurrence
of the Privy Council, hereby do ratify the
Convention concerning the Commencement of War,
which was agreed upon by plenipotentiaries
of the Japanese Empire and other
countries ^{that} participated in the Second
International Peace Conference and
was signed by the plenipotentiary of Japan

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 ASN 38 012 401. * Camp, Japan
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 Date : 15 April, 1948.
 In the presence of : Kenneth F. Nickerson, Special Agent, Counter
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on 18, Oct., '07 at ^{the} Hague, the Netherlands,
and order the same to be promulgated.

(Countersigned by the Prime Minister
and the Minister for Foreign Affairs.)

The Convention concerning the Commencement
of War

H. M. the Emperor of Germany and the King
of Prussia, the President of the United States
of America, the President of the Republics of
Argentina, H. M. the Emperor of Austria and
the King of Bohemia and Hungary, H. M.

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 the Republic of Bolivia, the President of the
 United States of Brazil, H. H. the Prince
 of Bulgaria, the President of the Republic of
 Chile, the President of the Republic of
 Columbia, the Governor-General pro tem.
 of the Republic of Cuba, H. M. the King of
 Denmark, the President of the Republic
 of Dominica, the President of the Republic
 of Ecuador, H. M. the King of Spain,
 the President of the Republic of France,

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H.M. the King of the United Kingdom and

the British Overseas Territories and ~~the~~

Emperor of India, H.M. the King of

Greece, the President of the Republic of

Guatemala, the President of the Republic

of Haiti, H.M. the King of Italy, H.M.

the Emperor of Japan, H.H. the Prince

of Luxembourg and the Duke of Nassau,

the President of the United States of Mexico,

H.H. the Prince of Montenegro, H.M. the

King of Norway, the President of the

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Holland, the President of the Republic of
Peru, H.M. the Shah of Persia, H.M.
the King of Portugal and Algarve ~~Spain~~
H.M. the King of Rumania, H.M. the Czar
of ^{all the} ~~whole~~ Russia, the President of the
Republic of Salvador, H.M. the King
of Serbia, H.M. the King of Siam, H.M.
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 of East Uruguay, the President of the
 United States of Venezuela, considering
 that for the purpose of securing peaceful
 relations it is necessary to open no war
 without previous notice and to notify

/p.645/

the existence of the state of war to neutrals
 without delay, desired ~~to~~ to conclude a
 treaty to this effect and ^{have} appointed the
 following plenipotentiaries respectively.

(Names of plenipotentiaries of each

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country are omitted)

Accordingly, the plenipotentiaries after having deposited their letters of credence acknowledged as satisfactory and valid, conferred and agreed upon the below-mentioned articles.

Article 1. Signatories ^{agree} ~~accept~~ that hostilities between them ought not to begin without previous and explicit notice in the form of either a declaration of war stating the ground

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on which it is based or an ultimatum containing a conditional declaration of war.

Article 2. The existence of a state of war must be notified to neutrals without delay, and shall have no binding force over Neutral Powers until the notice is received by them. The notice may be done by telegraph.

However, Neutral Powers cannot plead the absence of express notice in a case

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where it is established beyond doubt
that they were in fact aware of the state
of war.

Article 3. The Article 1 of this convention
shall be applied to the case of hostilities
between two or several signatories.

The Article 2 shall be binding on
relations between a signatory
belligerent and ~~the~~ Neutral Powers
who are also ~~the~~ signatories of this convention.

Article 4. This convention must be

THE WAR CRIMES OFFICE
Judge Advocate General's Department - War Department
United States of America

Perpetuation of the testimony of * In the matter of mistreatment of
JOHN L. JOHNSON, formerly Corporal * Prisoners of War at Hirohata POW
ASN 38 012 401. * Camp, Japan
*

Taken at : Portales, Roosevelt County, New Mexico.
Date : 15 April, 1948.
In the presence of : Kenneth F. Nickerson, Special Agent, Counter
Intelligence Corps, Fourth Army.

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ratified as promptly as possible.

The act of ratification shall be deposited
at ^{two} Hague.

The first deposit shall be authenticated
by a protocol signed by the Dutch
Foreign Minister and delegates of
the nations participating ^{therein} in the deposit.

Thenceforth, deposit shall be made
by a notification addressed to the
Dutch government and accompanied
by the act of ratification. Certified

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