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BEFORE THE
MILITARY COMMISSION
CONVENED BY THE
COMMANDING GENERAL
UNITED STATES ARMY FORCES
CHINA

RESTRICTED

Not Available to Defense

UNITED STATES OF AMERICA

-vs-

SHIGERU SAWADA
YUSEI WAKO
RYUHEI OKADA
SOTOJIRO TATSUTA

PUBLIC TRIAL

VOLUME II

PAGES 111 TO 210

SHANGHAI, CHINA.

DATE 1 MAY 1946

AUTHENTICATION

THIS CERTIFIES that this volume is a part of the Record of the Proceedings of the Military Commission appointed by Paragraph 2, Special Orders 42, Headquarters United States Forces, China Theater, dated 16 February 1946, in the trial of the case of United States of America against Shigeru Sawada, et al.

Dated 1 May 1946.

Edwin R. McReynolds

EDWIN R. McREYNOLDS
Colonel, IGD,
President of Commission

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MORNING SESSION

... Pursuant to adjournment, the Commission reconvened at 0900 hours, 20 March 1946, at which time the members of the Commission, the accused, attorneys for prosecution and defense, the interpreting staff and official reporter were present in the court room...

COLONEL MC REYNOLDS: The Commission is in session.

PROSECUTOR: At the close of the session last evening there was an objection made by the defense counsel to the questions and answers concerning what happened in Nanking. The motion was over-ruled and the court was adjourned. At this time we will continue reading the statement of Lieutenant Barr. (Prosecutor reading from Lt. Barr's statement: "Q Were you mistreated during this period of questioning at Tokyo, Japan?")

DEFENSE: We would like to offer the same objection we did yesterday as to any mistreatment that took place in Tokyo.

PROSECUTOR: If the Commission, please, the defense counsel has been laboring on the same question on cross examination, as to the circumstances surrounding any statement which may have been adduced later at the court-martial held here in Shanghai. The question of any statement which may have been used for the court-martial or simulated court-martial which was held here in Shanghai later, is, I submit, certainly evidence which should be received, and the question is entirely admissible.

COLONEL MC REYNOLDS: Objection over-ruled.

(Whereupon the Prosecutor continued reading the statement of Lt. Barr, to and including: "were you mistreated there?" This question pertained to the imprisonment at Bridge House, Shanghai, China.)

DEFENSE: If the Court, please, we would like to renew our objection to the treatment in Bridge House for the same reasons indicated yesterday. We do not believe that that is applicable to the charges and specifications in this case.

COLONEL MC REYNOLDS: Objection over-ruled.

(Whereupon the Prosecutor completed the reading of Lt. Barr's statement, after which Captain Hahn translated the first portion of the statement into Japanese for the benefit of the accused.)

COLONEL MC REYNOLDS: The Commission will recess for fifteen minutes.

(Whereupon, at 1030 hours, the Commission recessed until 1045 hours at which time all members of the Commission, the accused, attorneys for the prosecution and defense, the interpreting staff and official reporter resumed their seats in the court room.)

COLONEL MC REYNOLDS: The Commission is in session.

(Whereupon the members of the interpreting staff took turns translating the statement of Lt. Barr into Japanese for the benefit of accused).

COLONEL MC REYNOLDS: The Commission will adjourn until 2:00 o'clock.

(Whereupon the Commission at 1200 hours adjourned to reconvene at 1400 hours, 20 March 1946.)

AFTERNOON SESSION

... Pursuant to adjournment, the Commission reconvened at 1400 hours on 20 March 1946 ...

PROSECUTOR: Let the record show the members of the Commission, counsel for the prosecution and defense, accused, interpreters and reporter are present in court after the recess.

LT COL HENDREN: (to Captain Hahn) You may proceed with the translation of Lt. Barr's statement.

(Whereupon Captain Hahn continued with the translation of Lt. Barr's statement.)

MAJOR DWYER: May it please the Commission, with the consent of defense counsel I'd like to make a request of the Commission. The translation is still quite lengthy and we have at hand here a witness who is a teacher in the St. Francis School here in Shanghai and he has a certain schedule to meet. If it would meet with the pleasure of the Commission, with the consent of defense counsel, we would appreciate it very much if we could accommodate this man for his teaching classes if we can put him on at this time, and when his testimony is finished, to continue with the translation.

COLONEL MC REYNOLDS: Is that satisfactory with the defense?

LT COL BODINE: It is satisfactory with the defense.

COLONEL MC REYNOLDS: Any objection by the members of the Commission? There appear to be none.

TATSUO MICHAEL KUMANO

called as a witness on behalf of the prosecution, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

MAJOR DWYER: Mr. Kumano, an interpreter will translate your testimony to the accused. I will ask you the question, you will wait for its translation into Japanese and then you give your answer and I will wait for my next question until that is also translated into Japanese.

Q Mr. Kumano, are you a Christian?

A Yes, sir, I am a Catholic.

(Whereupon the witness was sworn.)

Q State your name and present address.

A My name is Tatsuo Michael Kumano. My present address is 322 Boone Road, Shanghai, China.

Q What is your present occupation?

A I am teaching the Korean boys at the St. Francis Xavier College.

Q What do you teach?

A I teach English.

Q In April 1942 what was your occupation?

A I was serving in the army as a first class private.

Q What army?

A My army belonged to the 18th army and was called the Tsubaki Division.

Q Where were you stationed?

A At that time I was stationed at Nanchang.

Q What were your duties?

A My duties in that division that I was a member of the Army Press Bureau there and we dealt mostly with the relief of the Chinese people.

Q Do you remember an incident concerning some American fliers about 18 April 1942?

A I do.

Q State to the Commission what your recollection of that incident is.

A Well, if I remember correctly, it was on the 18th of April 1942. I was awakened by one of my comrades at about eleven o'clock.

Q At night?

A At night. And I was told then that they had caught one of the American fliers and as they could not understand his language they asked me to report right away to the Nanchang Military Police Headquarters. When I went there I was shown to a room and there I met Sergeant Spatz and an officer of the intelligence department.

Q Mr. Kumano I show you picture No. 10 of Prosecution's Exhibit B for identification and ask you if that is the man you saw?

A That is right, Sergeant Spatz.

Q State to the Commission what happened when you saw Sergeant Spatz?

A I was told to sit down and just to interpret in English what the intelligence officer wanted to ask.

Q State to the Commission what questions were asked Sergeant Spatz and what did he answer.

A The first question that the officer asked was his name and his rank. Next the officer asked him his age and then what squadron he belonged to.

Q What else?

A Well, he went further on to ask him from what state he came from and he asked the names of the other members of the fliers.

Q Did you have occasion to talk with Sergeant Spatz alone?

A Yes, I did.

Q What did you talk about?

A Nothing official. We talked things personal.

Q What personal things did you talk about?

A Well, it is pretty difficult for me to be exact now but we talked generally of his hometown and he asked me where I came from and I told him I came from Osaka and he asked me where I studied my English. I told him I was a graduate of St. Francis Xavier College in Shanghai.

Q Did there come a time that evening when Sergeant Spatz was questioned concerning his flight over Japan?

A Yes, there was.

Q There was the intelligence officer I mentioned, the Chief of the MP Headquarters.

Q Anybody else?

A And if I remember rightly, a corporal of the military police.

Q State to the Commission as near as you can recall the substance of the questions asked, and the answers given by Sergeant Spatz.

A Well, after getting from him the name of his squadron, they proceeded to ask him the course of the flight they took.

Q Did Sergeant Spatz describe the course of the flight?

A Yes, he did.

Q State what he said.

A Well, to sum it up he said that he left, I think it was he said San Diego, and then he left San Diego on a ship; that ship carried him straight up north for about two weeks, then they arrived at a certain island and on the island there was a temporary landing place. The commanding officer immediately asked him to give as approximately as possible the area of the island. To that question Sergeant Spatz couldn't answer it correctly, but if I do remember rightly he said it was the length of that island was somewhere between 100 to 200 meters in length but he couldn't give us the width of the island. Now he went on to say when he landed on that island the planes they were to get on had already been there beforehand, and he still went on to say they stayed on that island for some time checking up on their engines and on the guns.

Q Then what did he say?

A Then on that day when all the preparations were ready, all the men assembled together and they were given their, - I mean, the chief pilot of each plane told them to get together and Sergeant Spatz couldn't tell us what instructions were given to each chief pilot of the plane, but when the chief pilot came back he ordered his men to get on to the plane and to wait for further instructions from him, the chief pilot. Then he mentioned the fact that as they took off from the field he noticed that all the planes took off singly without any set course, so by the time his plane was up in the air he couldn't see any of the planes. Then the officer asked him what direction his plane took. He stated that his plane headed due south and that for some hours. At that time he did state the number of hours but I can't remember it now, and after that the plane turned east at right angles.

Q Just a moment, Mr. Kumano, do you mean east or west?

A Well, I might have been mistaken at that.

Q I show you a paper with a signature on it. Do you recognize it?

A I do.

Q Whose signature is it?

A It is mine.

Q To refresh your recollection, I ask you to look, ---

LT COL BODINE: I object to the form of questioning.

MAJOR DWYER: . It is perfectly proper at any time, if the Commission please, for the examiner of any witness to refresh the witness' recollection by a prior signed statement. I am merely wishing to refresh this witness' recollection as to a direction to which he is obviously in some confusion.

LT COL BODINE: The reason I objected, does the witness' memory have to be refreshed? Isn't it better if the witness gives what he thinks rather than what is in a statement he made?

MAJOR DWYER: . I presume that what is better or not is a matter for the Commission to decide. I merely wish to bring the facts before

the Commission as they should properly be brought. Now if this witness is not clear as to the exact direction and there is something that can be adduced before this Commission that will clear that up I think both prosecution and defense should willingly submit that to the Commission.

Q Mr. Kumano, in which direction do you think that plane went when it went at right angles?

A Well, I think, I must have been a little confused. Instead of the previous statement, instead of saying west I said east.

Q Did Sergeant Spatz say it went west?

A That is if I remember rightly.

Q Did he state anything about flying over Japan?

COLONEL MC REYNOLDS: Will you hold it please? (To defense) The objection is overruled in your case.

Q Did he mention anything about flying over Japan?

A He wasn't asked that question because by that time one of the officers there had a paper taken from one of the fliers on which was written or drawn rather a vague dot and over that dot was written the words "Inubo."

Q Is that in Japan?

A Well, what the officer mentioned, what the officer had said in conversation with another of his assistants, he said that Inubo would most probably mean Inobusaki.

Q Where is that?

A That is the point where the mainland of Japan curves a little.

Q Did Sergeant Spatz describe the course of his flight from Inubo on?

A Well, he was asked over what town he flew, but he said he didn't know.

Q Did he say anything about the release of bombs from his plane?

A Yes.

Q What did he say?

A He said that all the bombs that were on the plane were released at once.

Q Did he state upon what area they were released?

A No, he couldn't give us an exact description.

Q At any time during the questioning did Sergeant Spatz ever state that the bombs had been released upon churches, schools or any non-military objects?

A He did not mention.

Q Did Sergeant Spatz at any time during the investigation state that he had fired a machine gun from the plane in which he was flying?

A I am afraid I don't remember.

Q Would you say that he said that he did fire them?

A I am afraid I am not sure.

Q Do you remember whether the question was asked him?

A I don't think so but I am not sure myself.

Q Did there come a time during the evening of April 18 when you met any other American fliers?

A Yes.

Q Do you remember their names?

A The next brought in was Lt. George Barr.

LT COL HENDREN: I am sorry I have taken so much time; it is a quarter to four. Do you wish a recess?

COLONEL MC REYNOLDS: How long do you expect to interrogate the witness?

LT COL HENDREN: He will take a little longer. We asked for permission to have him testify now so we would not have to call him back tomorrow so as to interfere with his classes.

COLONEL MC REYNOLDS: The Commission will take a ten minute recess.

(Whereupon the Commission took a recess at 1545 hours.)

COLONEL MC REYNOLDS: The Commission is in session. (1555 hours.)

LT COL HENDREN: Let the record show the Commission, counsel for the prosecution and defense, the accused, the interpreters and the reporter are present in the courtroom after the recess, and the witness is reminded he is still under oath.

Q The last question I asked you, Mr, Kumano, was do you remember their names.

A The next that was brought in was Lt. George Barr.

Q Who else?

A The next came Lt. Hite.

Q Who was next?

A The next was Cpl. DeShazer.

Q Anyone else?

A The last one to be brought in was Lt. Farrow, but he was brought in the next morning.

Q Were each of these men questioned?

A Yes, they were.

Q What did Lt. Farrow say?

A Well, since he was the last one to be brought in and it was in the morning, the officer in charge, -- No, I am mistaken, it was the chief of the military headquarters who told Lt. Farrow to state all that he knew, but Lt. Farrow, after giving his name, his rank and I think his age, he said, "I am under oath not to reveal any military secrets."

Q Did he say anything more?

A He wasn't questioned further.

Q State what happened with respect to George Barr.

A If I remember rightly he sat there while he was questioned and just said, "I am not saying anything."

Q Did he give his name, rank and serial number?

A I don't remember.

Q State what happened with respect to Robert L. Hite?

A Well, he also said things similar to Lt. Farrow. He wouldn't answer any questions.

- Q Did he give his name, rank and serial number?
A I think he gave his name and his rank.
- Q Did any of these men at any time they were questioned state that they had bombed, strafed or otherwise attacked non-military objects?
A Besides Sgt. Spatz, none of the others were questioned on that point.
- Q Was Sgt. Spatz questioned on that point?
A Yes.
- Q What did he say?
A He said, "I don't know."
- Q How long were these men held at Nanchang?
A Well, they were brought in on the 18th of April and Lt. Farrow was brought in on the 19th morning. If I remember rightly, it is either the afternoon of the 19th or the morning of the 20th.
- Q When were the fliers sent out from Nanchang?
A Well, as I said, it was either on the afternoon of the 19th or the morning of the 20th.
- Q I show you pictures numbers 1 to 12 of Prosecution's Exhibit B for Identification and ask you if you have ever seen those pictures before?
A Yes, sir, I have seen most of them.
- Q Where did you see them? (Withdraw that question, please.)
A I have seen them at Nanchang.
- Q Are you in one of those pictures?
A Yes, I am.
- Q What number?
A Picture No. 1 and No. 2.
- Q You were on the extreme right looking at the pictures?
A That is right.
- Q Where were these pictures taken, Mr. Kumano?
A They were taken on the grounds at Nanchang Military Police Headquarters.
- Q I show you picture No. 8 and ask you if the men in that picture are the Doolittle fliers?
A Yes, they are.
- Q For the purpose of the record, will you state to the Commission, from left to right, rear row and then front row, the names of the men?
A As I see the picture, on the extreme left I recognize Lt. Farrow, next comes Lt. George Barr, on the right,; left, Hite. The front row I recognize on the left, Cpl. DeShazer, and on the right, Sgt. Spatz.
- Q Mr. Kumano, in connection with your duties in the Army Press Bureau, would you state briefly to the Commission what you actually did?
A My duty there was, because I spoke the Shanghai dialect and the Mandarin dialect, I was given the Nanchang movie theaters and the Nanchang Chinese drama theaters to look after, and besides that, to look after the welfare of the Chinese people.

#6-7 z 3/20 PM

- Q State whether or not you had occasion to make shipment of films, pictures, camera equipment, projectors to various points in China?
- A I was told to go to Shanghai to get, rather to buy a set of movie projectors and bring them back to Nanchang.
- Q I will ask you again, Mr. Kumano. Follow this question, please. State whether or not, as part of your duties, you had occasion to make shipments to various points in China of equipment and material used in the Army Press Bureau?
- A Well, we didn't send them to different places because my work concerned only Nanchang.
- Q Did you ever hear of the Japanese 13th Army?
- A Yes, I have.
- Q Where was its headquarters?
- A At that time it was situated in the former Civic Center of Shanghai.
- Q What area did the Japanese 13th Army include?
- A Well, from what I have gathered, it included the towns of Hankow, Shanghai, Ningpo, Soochow, Wusih, Nanking and all along up till Wuhu.
- Q Do you know who was the commanding general of the Japanese 13th Army at that time?
- A I don't remember.
- Q Did you know at that time in 1942?
- A Yes, I did.
- Q Was it General Sawada?
- A I don't remember.

MAJOR DWYER: Prosecution now wishes to offer in evidence Exhibit B for Identification, Pictures Nos. 1 to 12.

LT COL BODINE: No objections.

COLONEL MC REYNOLDS: It will be received.

(Prosecution's Exhibit "B" for Identification was received in evidence.)

CROSS EXAMINATION

- Q (By Mr. Kumashiro) I would like to ask you the number of the army to which you belonged in Nanchang?
- A The 34th Division of the 11th Army.
- Q I just heard your army's number was 18, was it right? I'd like to know whether it was right.
- A Do you mean I was mistaken when I said April 18.
- Q Under whose command your army was?
- A At that time it was under Lt. General Ohga.
- Q Was Nanchang under jurisdiction of the 13th Army?
- A No, it was under the 11th Army.
- Q Why did you see the fliers so late in the evening on April 19, 1942?
- A Well, I was awakened around eleven o'clock and told to report immediately to headquarters, the MP headquarters.

- Q Was Nanchang generally under the command of the 13th army?
A No, it was partly under the local division headquarters and also under the Kiukiang Gendarmerie Headquarters.
- Q Under whose command the military police headquarters in Nanchang?
A At that time, that is 1942, it was under the command of Captain - I am sorry, I can't recall it now.
- Q When you saw Sgt. Spatz on April 18 at the military police headquarters in Nanchang was he wounded?
A No, I don't think so.
- Q How were the others?
A There was one case, one of them I think had legs scratched, but nothing serious. I don't know who was injured then.
- Q When you saw Spatz before the investigation were you asked to converse with him only as to the personal matters?
A No, I was just told to go in and have a talk with him.
- Q By whose instructions the investigation was done?
A I am not sure, but the questions were mostly put by the intelligence officer and a few corporals and sergeants of the MP.
- Q Did that Intelligence Bureau belong to the gendarmerie or the other military organization?
A That officer came from the division headquarters.
- Q Did Spatz tell you all the names of the Doolittle fliers who raided Tokyo?
A No, it was not necessary because the gendarmerie had paper taken from one of the fliers on which was written the full list with Doolittle heading the list.
- Q How did you identify the names of the persons by that list?
A Well, I wasn't told to interpret that part of the question but it seems that each of them had a tag or something on them.
- Q What kind of a room was it when you had the second investigation with Spatz?
A It was an ordinary room without any decorations and it was a room of about approximately eight by six.
- Q Was it the same room where you investigated all cases?
A You mean when I had the personal talk with Sergeant Spatz?
Q No, the official investigation.
A It was like this: Sergeant Spatz and Lt. George Barr were questioned in the same room but when Lt. George Barr was questioned, Sergeant Spatz wasn't in the room.
- Q Did Spatz not mention anything about the contents of the instructions he got when he left the carrier?
A He said that his instructions were not given to them so only the chief pilot knew of the instructions.
- Q Did the chief pilot not give any contents known to his subordinates?
A I don't know.
- Q Did he not know the name of the town where he dropped the bombs?
A He did not know.
- Q Did he say that all bombs were incendiary bombs?
A If I remember correctly he did say they were all incendiary bombs.

Q Did he not mention that he raided two different places?

A No, he said that the plane dropped all the bombs on one place.

Q Did he say that he dropped the bombs at the same time?

A Yes, I think I remember him mentioning that fact.

Q Did Corporal DeShazer mention that he shot a few rounds from his gun?

A Well, he did say that he shot a few rounds but since the statements couldn't agree the officer left at that; didn't question any further.

Q Did other fliers say to the same effect?

A None of the other fliers mentioned anything of that.

Q Did you know what was the duty of DeShazer at that time?

A Yes, he was bombardier.

Q Did DeShazer mention his duty in that plane?

A I don't remember.

Q Why were you and the MP sure they raided Wakayama and Osaka?

MAJOR DWYER: Just a moment please. I object to the form of that question. There was no testimony on direct examination by this witness that any particular town was raided. The testimony is that Sergeant Spatz said he didn't know where they dropped their bombs. I object to the form of this question as being confusing.

MR. KUMASHIRO: I just want to ask if the members of the gendarmerie and those investigated the places where the raiders raided.

MAJOR DWYER: I suggest the question be rephrased to convey that meaning.

COLONEL MC REYNOLDS: Does the prosecution withdraw the objection?

MAJOR DWYER: Yes, sir, we withdraw the objection if the question is rephrased.

Q Did you and the police believe that the plane raided Osaka and Wakayama?

A Well, you see, some of the MPs came from Wakayama and the news from the Domei Agency in that day gave out that Osaka was also bombed, and there was talk among the MPs that most probably the plane men had bombed Wakayama.

Q Were the fliers sent to Nanking?

A That is what I was told later.

Q Do you remember by whose order were they sent to Nanking?

A Well, a member of the army general staff and a member of a navy general staff came from Nanking to take them away.

Q During the investigations which you attended were all American fliers left quite free?

A I don't know exactly as to that, but according to what I had heard they were each given a separate room to sleep in.

Q I would like to know whether they were free when you investigated?

A Beg your pardon, free, in what way do you mean?

Q Physically free.

A Yes, they were physically free.

Q Was the sheet of paper on which Inube was mentioned, a chart?

A No, it wasn't a chart, it was just written on a small piece of paper.

- Q Were there any other names mentioned on that paper?
A Yes.
- Q What kind of names are they?
A At about an angle of about 45 degrees from that point way up north there was a point marked and the name of that point was not very clear. It started with a "b" but after that we couldn't make out what it was. Now after there was a line drawn from that point to "Ikpo". From "Ikpo" there was another line drawn to a third point and at that point there was written--I am not sure which it was--but it was written, written something like Chuchow or Chushen---something with a c-h-u.
- Q Were these names written by handwriting?
A Yes, by handwriting.
- Q How long did the investigation last?
A Well, I'm afraid I can't remember.
- Q I'd like to know if you have ever seen these pictures now on the table there?
A Yes, I have seen them.
- Q I'd like to know where you have seen them.
A I saw most of the pictures, yes, most of the pictures sometime later at the Nanchang MP headquarters.
- Q Those officers who took the fliers to Nanking belonged to which army?
A I am not sure.
- Q Don't you remember whether the gendarmerie or the army officer took the fliers to Nanking?
A They were all loaded in the truck and onto that truck a lot of MPs went on together and a few officers. After that I went back to my press bureau.
- Q What is the source of your knowledge concerning the territory controlled by the 13th Army?
A Are you asking for the area under which the 13th Army operates?
- Q No. You have just mentioned the areas under the jurisdiction of the 13th Army to the prosecutor. I'd like to know the source of your knowledge concerning to that.
A Well, it was like this: Before April 18, 1942, I had an opportunity to come to Shanghai to buy a set of movie projectors. When I wanted to take that on board with me to go with other articles I had to apply to the shipping department, the army shipping department, and there was told that I had to get permission from the 13th army headquarters. And besides that, it was then I was told by them that all the ports belonged to Wuhu. If you want to ship or take anything, load anything aboard you have to get permission of the 13th army headquarters.
- Q Do you know whether the 13th Army had exclusive jurisdiction over the area you have just mentioned?
A I am afraid I can't tell exactly but in Nanking the jurisdiction was rather confusing.
- Q Do you know that the gendarmerie in Nanking is not under the control of the 13th army?
A First of all, the Nanking gendarmes were under the commander of the Kiukiang MP headquarters, and our 34th division headquarters also, and the 34th division headquarters received their orders from the 11th Army.

- Q Where were the headquarters of the 11th Army at that time?
A At that time it was in Hankow.
- Q Who was the commander?
A I am afraid I don't know.
- Q How long did the fliers stay in Nanchang?
A Well, as I have said before, the first of them was brought in, rather I was called in at eleven o'clock P.M. on 18th of April, and if I can remember, they left on the afternoon of the 19th or the morning of the 20th.

- Q Could you get all the names of those fliers together with the pictures?
A Well, the names of the fliers were given by them individually, and the same time they had sort of a tag on them that was taken from them.

LT COL HENDREN: Does the Commission wish to question this witness?

EXAMINATION BY THE COMMISSION

- Q (By Col Gamber) You said you were a private first class, I believe, in the Japanese army, is that correct?
A Yes, sir.
- Q Just what living conditions did a private first class have in the army in regards to bed and bedding?
A Well, an ordinary private, they have a straw mattress, about three or four blankets and a pillow, but in our case we were not obliged to wear our uniforms. We had Chinese clothes.
- Q Does he have a mattress on the floor or does he have a bed of some sort?
A It all depends, but in the headquarters they had better accommodations, whereas in the regiment, it is different; you might have bedding on the floor.
- Q What would be the normal menu, that is, the food that the ordinary private got for breakfast, lunch and supper?
A Well, in the morning for breakfast, have the usual bowl of rice and soup from the soy bean; in it you have a sprinkle of vegetables, and besides that sometimes you have those Japanese sour plums. For the noon meal and also for dinner they usually have the same thing, the same kind of things, say for instance, a bowl of rice, some vegetables, cooked in Japanese sauce or soup taken from pork or meat and we have some vegetables cooked together.
- Q What would be the normal amount of rice at one meal?
A I wouldn't be able to say exactly but if you take an ordinary drinking glass, have about five or six glasses full.
- Q (By Lt Col Berry) You were asked by defense counsel on cross examination as to whether the Doolittle fliers were physically free at the time you were acting as interpreter for them. In what way did you mean they were physically free?
A Well, I meant they weren't tied, neither their hands or their legs. They could stand up and they could sit down as they like. They could walk across the room to get a glass of water or something to drink. That is what I meant.
- Q Were they under guard?
A During the questioning there weren't any guards in the room. There might have been guards outside. After the questioning was over, well, I don't know.

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Q In one of your answers you spoke about the fliers being placed on a truck. Will you tell us whether they were physically free--and you define it--when they were placed on the truck or what was their condition?

A Well, they were free to get on the truck of their own accord and they had three meals a day so they weren't weak. They had their coats and lumber jackets in their hands and most of their belongings they had that they brought along with them when they went on the truck which means they were free at the time they went on the truck.

Q Were they bound or blindfolded while on the truck?

A When they were on the truck and when they were about to leave the grounds of the MP headquarters, they were blindfolded by black band or cloth.

Q Were they also bound, either their hands or their feet?

A I don't think so, but I am not sure.

COLONEL MC REYNOLDS: There appear to be no more questions. The witness is excused.

(Witness excused.)

COLONEL MC REYNOLDS: The Commission is adjourned until nine o'clock tomorrow morning.

(Whereupon the Commission adjourned at 1705 hours on 20 March 1946 to reconvene at 0900 hours on 21 March 1946.)

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MORNING SESSION

....Fursuant to adjournment, the Commission reconvened at 0900 hours, 21 March 1946, at which time all the members of the Commission, the accused, attorneys for prosecution and defense, the interpreting staff and reporter resumed their seats in the courtroom....

COLONEL MC REYNOLDS: The Commission is in session.

PROSECUTOR: If it please the Commission, we will continue with the translation of the statement of Lt. Barr.

(Whereupon the interpreters again took turns in translating the statement of Lt. Barr for the benefit of the accused. The Japanese translations were completed at 0950 hours.)

PROSECUTOR: We will call as our first witness this morning, Mr. Chung.

TEH LING CHUNG

called as a witness on behalf of the Prosecution, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

(Capt. Hahn translated into Japanese)

Q. (By Major Dwyer): May it please the Commission, we will ask the witness a few preliminary questions to qualify his oath. State your name.

A Teh Ling Chung. Chung is the last name.

Q Do you speak English?

A Yes, I speak English.

Q Do you know the difference between truth and untruth?

A Yes, certainly I know.

Q Do you have any religious belief?

A No, I don't have.

Q In the testimony you will give before this Commission will your heart and conscience bind you to tell the truth?

A Yes, certainly I do.

PROSECUTOR: Are the Commission and defense counsel satisfied that I may affirm this witness now?

DEFENSE: Yes.

COMMISSION: Swear the witness.

(Whereupon the witness was given the oath of affirmation.)

Q Please state your name and present address.

A My full name in Chinese is Chung Teh Ling and my home address is 205 Boisseson,

Q Shanghai?

A Yes.

Q What is your occupation?

A Wireless engineer.

Q Mr. Chung will you speak up as if you were trying to talk to the rear wall of this room. Keep your voice up so we can hear.

A Yes.

Q Is that your present occupation?

A Yes it is.

Q In 1942 were you imprisoned by the Japanese?

A Yes, I was arrested by the police at first and later on the Japanese in the police station sent me to the Gendarmerie, that is the Bridge House, Shanghai.

Q Are you a Chinese citizen?

A Yes, I am.

Q How long have you lived in Shanghai?

A Nearly I spent all my life in Shanghai.

Q Why were you imprisoned in Bridge House?

A I don't see any special reason except I am a wireless engineer and all the work I did is for the English and American people.

Q What cell were you put in, in Bridge House?

A Cell Number 6.

Q When did you first enter Bridge House?

A September 20, 1942.

Q When you entered that cell, state to the Commission whether you saw an American flier there?

A You want me to state the condition?

Q No, just state whether you saw an American flier?

A Yes, I saw an American flier.

Q Did you talk with him?

A Yes, I talked to him later on.

Q What was his name?

A Lieutenant Dean Hallmark.

Q Now, state to the Commission as nearly as you can recall, what you said to him and what he said to you when you first talked?

A In the beginning I asked him what is his name and he told me his name, and then later on I asked him why he was in that Bridge House.

Q What did he say?

A He said that he was sent to bomb Tokyo from an aircraft carrier.

Q What did he say he bombed?

A I think that he bombed a steel mill and a factory.

Q Did he say he bombed anything else?

A No, he didn't tell me.

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Q How many times did you talk with Lt. Hallmark about his flight?
A I asked him once or twice and he didn't like to tell me the details.

Q In any of your conversations with him did he ever say that he had bombed or strafed a school house, church, hospital or any non-military object?

A No, he said they were forbidden to do so.

Q Did he ever tell you that he had been tried by a Japanese court-martial in August 1942?

A No, he didn't tell me.

Q Did he ever say anything about being sentenced to death?

A No, not at all.

Q Did Lt. Hallmark ever talk about getting out of Bridge House?

A Yes, every day he is expecting to get out of that place and into the prison camp.

Q Did he ever demand of any Japanese at Bridge House that he be sent to a prisoner of war camp instead of being in prison?

A He sometimes -- sometimes he asked us to talk to the Japanese guards to do so but they laughed at him.

Q How large was that cell?

A I should say it is about ten feet by eighteen feet, something like that.

Q How many people were in the cell?

A Sometimes more than twenty and sometimes about ten people.

(Interpreter had the witness repeat the answer to be sure of its correctness.)

A. Sometimes more than twenty and sometimes ten people.

Q Was there any heat in the cell?

A No, there was even not sunshine there.

Q Was Lieutenant Hallmark given any medical attention while you were in the cell with him?

A No I didn't see any attention given to him while he was there.

Q Please describe to the Commission, Lt. Hallmark's physical condition as you observed him?

A He was very thin when I saw him. His eyes was very deeply sink in and his cheek bones stick out and he couldn't get up to go to latrine and he suffered dysentery all the time and we had to especially to take him up.

Q State to the Commission whether or not Lieutenant Hallmark had a bathe while you were in the cell there with him?

A No, he didn't.

Q A shave?

A No, sometimes even we didn't have water to wash face.

Q A haircut?

A No.

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- Q Were any of the prisoners in Cell No. 6 slapped around by the Japs?
A Yes, many of them.
- Q Was Hallmark?
A He was struck once or twice by the Japanese guard.
- Q Were you present at that time?
A Yes, I was.
- Q Was Lt. Hallmark given any change of clothing while he was in the cell?
A No, he hadn't got any clothes to be changed.
- Q Any change of underwear?
A No.
- Q You say he had no control over his bowels?
A No, he has no control over his bowels.
- Q What did he -- was he able to get up?
A No, we help him up.
- Q Was he able to get up off the mat you describe?
A No, he was unable.
- Q For the record, I am not sure you described the mat. Let me ask you, what was it Lt. Hallmark was laying on?
A He was lying on the floor with one or two pieces of cotton blankets.
- Q He had no mat to lie on?
A No.
- Q Was there anything between his body and the floor?
A Only the blankets.
- Q How many blankets did he have?
A I think about one or two pieces.
- Q Mr. Chung, please describe to the Commission the entire food ration which would be given Lt. Hallmark each day in Cell No. 6?
A The food ration of the day at the Bridge House was in the morning, both for the Chinese and the foreigners, a cup of punch and rice with water and for tiffin about one piece of bread each, about four ounces.
- Q Any tea?
A We had three or four people has to drink one cup of tea.
- Q Any water?
A Very few people were allowed to wash themselves.
- Q Any water to drink?
A Only this tea after each meal. Three or four people to finish one cup.
- Q Now you have said that the people in the cell numbered anywhere from 10 to 20. What was their condition?
A Their condition also very bad as I described a few minutes ago.
- Q Any of them have any diseases that you know of?

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A I know Mr. Hallmark had dysentery and some other people had also beri beri and dysentery. There were so many people during our stay there so I don't remember the exact people.

Q Where there any rats in the cell?

A Sometimes we can see some rats.

Q Any lice?

A We had them there.

Q During this period did Lt. Hallmark suffer from lice?

A Naturally he suffer from lots of lice in his body because he has no clothes to change.

Q State to the Commission, Mr. Chung, when Lt. Hallmark left Cell #6?

A I remember it was twenty-five days after I entered the Bridge House so I think it must be October 15th.

Q Describe to the Commission his physical condition when he left the cell?

A At that time he was just recovering and just able to get up on his feet.

Q Did anybody have to help him?

A The people in the cell had to help him to get out of there.

Q Did he tell you where he thought he was going?

A He thought he was going to the war prisoners camp but he was very happy about it.

Q Did he say anything to you about he thought he was going to get some more food?

A He said that if he will be transferred to the prisoner camp, in there he will get naturally more food and some companionship and a lot of sunshine because over there we have no sunshine.

Q Did you ever see him again?

A No.

Q As he went down the corridor was he being helped by the Japanese?

A Just out of the cell I cannot see so I do not know.

PROSECUTOR: May it please the Commission, at this point the prosecution has no further questions of this witness. It being 1030, does the Commission desire a recess?

COLONEL MC REYNOLDS: The Commission desires to take a recess at this time. We will recess until 10:45.

(Whereupon at 1030 hours the Commission recessed until 1045 hours at which time all the members of the Commission, the accused, counsel for prosecution and defense, the interpreting staff and the reporter resumed their seats in the court room.)

COLONEL MC REYNOLDS: The Commission is in session.

PROSECUTOR: The witness will resume the stand. The witness is reminded that he is still under oath. Defense may cross examine.

(Sgt Morozumi assumed the interpreting duties at this point.)

CROSS EXAMINATION

- Q (By Capt Fellows) Mr. Chung, you stated -- will you state again who it was that put you under arrest?
- A At first I was arrested by the Police Station and then later on the Japanese in the Police Station sent me to the Bridge House.
- Q Then it was the Japanese Police and not the Japanese Army that arrested you?
- A Yes, the Japanese police arrested me first and then they transferred me to the Japanese Gendarmerie.
- Q Was it the Japanese Police that sent you to the Bridge House?
- A Yes, it was.
- Q What is the Bridge House?
- A The Bridge House is the Gendarmerie Headquarters of the Japanese Gendarmerie.

DEFENSE: No further questions.

PROSECUTOR: Does the Commission wish to ask the witness any questions?

COLONEL MC REYNOLDS: No questions by the Commission.

PROSECUTOR: We have no further questions. May the witness be excused?

COLONEL MC REYNOLDS: The witness is excused.

(Whereupon the witness left the witness stand and resumed a seat in the court room.)

MAJOR DWYER (of Prosecution): Colonel Hendren will take the stand.

Colonel Hendren, you have already been sworn in this proceeding and you will be reminded that you are still under oath.

JOHN H. HENDREN, JR.,

called as a witness on behalf of the Prosecution, being first duly reminded that he was still under oath, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Maj Dwyer) Colonel Hendren --

PROSECUTOR: May I ask the reporter to mark Prosecution's Transcript Exhibit No. 22 for identification, first, please.

(Document so marked.)

- Q. Colonel Hendren, I ask you if you have ever seen this document before?
- A Yes, this is a sworn statement by Captain Robert L. Hite and by Staff Sergeant Jacob B. DeShazer which was taken in Washington and forwarded to me through military channels from the War Crimes Division of the United States Army in Washington.

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PROSECUTOR: I offer into evidence Prosecution's Exhibit No. 22, marked for identification as Prosecution's Transcript Exhibit No. 22.

COLONEL MC REYNOLDS: Are there any objections?

DEFENSE: No objections at this time.

COLONEL BERRY: May I ask one question?

PROSECUTOR: Certainly.

COLONEL BERRY: Is that a single statement signed jointly by Hite and DeShazer?

PROSECUTOR: That is correct.

COLONEL MC REYNOLDS: Prosecution's Exhibit No. 22 is received in evidence.

(Prosecution's Transcript Exhibit No. 22 for Identification received in evidence.)

PROSECUTOR: Will the reporter mark this for identification as Prosecution's Transcript Exhibit No. 23.

(Document so marked.)

Q. Colonel Hendren, I will ask you if you have ever seen this document which has been marked Prosecution's Transcript Exhibit No. 23 for identification. Have you ever seen that before?

A. Yes, this is a transcript of testimony given by Lt. Gen. James Doolittle, in Washington, on 27 December 1945 and it was requested to be taken by me in a letter to War Crimes Branch, Washington, and was received by me through military channels from Washington.

PROSECUTOR: The prosecution offers in evidence Prosecution's Transcript Exhibit No. 23, marked for identification, to be offered as Prosecution's Transcript Exhibit No. 23. Are there any objections?

DEFENSE: No objections.

COLONEL MC REYNOLDS: Prosecution's Transcript Exhibit No. 23 is received as evidence. (Prosecution's Trans. Ex. No. 23 for Identification received in evidence.)

PROSECUTOR: Will the reporter mark this document as Prosecution's Transcript Exhibit No. 24 for identification.

(Document so marked.)

Q. Colonel Hendren, I show you Prosecution's Transcript Exhibit No. 24, for identification, and ask you if you have ever seen that before and if so, state the circumstances.

A. This is a sworn statement by Commander Henry L. Miller, U.S. Navy, taken in Washington by the War Crimes Branch of the Judge Advocate General's Department on December 28th, 1945. I requested the statement be taken in correspondence to the War Department and this document was received through official channels.

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PROSECUTOR: Prosecution offers Prosecution's Transcript Exhibit No. 24 for identification, in evidence as Prosecution's Transcript Exhibit No. 24. Are there any objections?

DEFENSE: No objections.

COLONEL MC REYNOLDS: Prosecution's Exhibit No. 24 will be received in evidence.

(Prosecution's Transcript Exhibit No. 24 for Identification, received in evidence.)

PROSECUTOR: Do you wish to cross-examine?

DEFENSE: No questions.

PROSECUTOR: Are there any questions by the Commission? If not may the witness be excused.

COLONEL MC REYNOLDS: There appear to be no questions. The witness is excused.

PROSECUTOR: Colonel Hendren will now read to the Commission, Prosecution's Exhibit No. 23, being the statement of Lieutenant General James H. Doolittle.

COLONEL HENDREN: The translators have a copy of this statement. After I have read it, the complete statement will be translated to the accused.

(Whereupon the Prosecutor read into evidence Prosecution's Transcript Exhibit No. 23.)

- Q. Would there have been any value at all in bombing non-military targets?
- A. No. We went out with a very limited amount of bombs. They had to be conserved to the utmost in order to assure the accomplishment of our military mission and to assure that the greatest possible military advantage, both material and psychological, should accrue from the use of those bombs. We certainly would not have wasted them. We had only sixteen airplanes, each plane carrying one ton of bombs. It was necessary to conserve to the utmost those bombs if we were to accomplish our mission which was partly material and partly psychological; and how little sixteen tons of bombs really is can best be appreciated when you realize that in a recent B-29 raid--in one single raid-- they dropped six thousand tons of bombs.
- Q. General, from what height did you bomb?
- A. Roughly, from fifteen hundred feet. We considered that it was desirable to stay on the deck until the target was approached. Upon approaching the target we pulled up to 1500 feet which was the lowest altitude from which we could bomb without a chance of some damage occurring to the planes from our own bombs.
- Q. At that height was accuracy fairly well assured?
- A. A very high degree of accuracy was assured. We did not use the Norden bombsights for two reasons: First, because the Norden bombsight is a precision sight for high-altitude bombing and would not be as accurate as a simple sight for that low altitude; second we did not want a Norden bombsight to fall into Japanese hands. So a very simple but extremely accurate bombsight devised by Colonel Greening was employed on all ships, and we had about six weeks of concentrated practice with it in order to assure the proficiency of the bombardier, and the briefing on the targets was meticulous. We went over and over and over again the exact route that a ship should take; what they should see; the points that would identify the approach to the target; what the pilot, the navigator and bombardier would see as they approached the target; the point at which they were to pull up to the proper altitude; the appearance of the targets. The altitude was only 1500 feet. The appearance of the target was studied both from target charts and photographs. Also, Lieutenant Jurika, one of the young naval officers on the boat who had been Assistant Naval Attache in Japan up until shortly before the Pearl Harbor incident, was able not only to assist greatly in briefing from the charts but was able also to explain the changes and deficiencies in the charts as a result of his having been in Japan recently.
- Q. Did you receive any reports official or otherwise as to what actually was bombed and how efficacious the bombing was?
- A. When we came back we all turned in a report on exactly what the result of our individual bombing was. That is a part of the written record of the flight. And there is a report from each crew on exactly what they did. That could be looked into if you want to find out whether they did any non-military strafing, etc. I am quite sure they did not. If there was any strafing it was of military objectives. However, it is quite impossible to bomb a military objective that has civilian residences near it without danger of harming the civilian residences as well. That is a hazard of war.
- Q. In other words, any civilians that were killed or wounded were hurt as an incident to the bombing of military objectives?
- A. Yes. That was incidental to the bombing of military targets.
- Q. General, do you know if the Japanese were prepared for bombing raids? That is to say, did they have air raid shelters?
- A. I do not know. Now the chap that can tell you that is Mr. Grew--Grew was U. S. Ambassador to Japan. I talked to Mr. Grew after he came back. However, I may add that I believe that the raid, or at least the first planes, caught the Japanese by surprise.

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- Q. Then, to the best of your knowledge there was not any wilful strafing or bombing of non-military targets?
- A. To the best of my knowledge nothing was selected for bombing and strafing except strictly military targets and any damage to civilians or civilian property was an unfortunate circumstance incident to the military operations, and not premeditated.

/S/ J.H. Doolittle
J.H. DOOLITTLE
Lt. General, AUS

STATE OF VIRGINIA)
 (SS:
COUNTY OF ARLINGTON)

I, JAMES H. DOOLITTLE, of lawful age, being sworn on oath, state that I have read the foregoing transcription of my interrogation, consisting of three (3) pages, and that all answers contained therein are true to the best of my knowledge and belief.

/S/ J.H. Doolittle
JAMES H. DOOLITTLE
Lt. General, AUS

Subscribed and sworn to before me this 2nd day of January 1946 at Arlington, Virginia.

/S. Carl E Olson
CARL E. OLSON
Captain, JAGD

CERTIFIED TRUE COPY:

Robert T. Ayer
Major J.A.G.D.
Assistant Prosecutor.

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(Upon completion of the reading by the Prosecutor, Sgt. Morozumi translated the Prosecution's Transcript Exhibit No. 23 into Japanese and read it for the benefit of the accused.)

PROSECUTOR: May it please the Commission, the prosecution will call as its next witness, Mr. Hindrava.

ALEXANDER HINDRAVA

called as a witness on behalf of the Prosecution, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

- (Capt. Haima translating)
- Q. (By Maj Dwyer) Mr. Hindrava, I will ask you a question and you will hold your answer until the translator has time to translate the question into Japanese and when you give your answer, I will hold my next question until your answer has been translated, is that clear?
- A Yes.
- Q State your name and present residence.
- A Alexander Hindrava, 147 rue Boisseson.
- Q Shanghai?
- A Shanghai.
- Q What is your nationality?
- A I am Soviet.
- Q How long have you lived in Shanghai?
- A Since February 1938.
- Q What is your occupation?
- A You mean at present?
- Q Right now.
- A I am employed by U.S. Quartermaster office.
- Q What was your occupation in 1942?
- A I was in the broker business.
- Q State to the Commission what happened to you around the month of October 1942?
- A On the 2nd of October, 1942, I was arrested by the Japanese Gendarmerie.
- Q Is the Japanese Gendarmerie, the Japanese Military Police?
- A Well they used to wear them arm signs as MP.
- Q Were you imprisoned?
- A Yes, I was imprisoned on the same day.
- Q In what prison?
- A In the prison of Bridge House, cell No. 6.
- Q When you entered Cell No. 6 on October second, 1942, who did you meet?
- A I met Lieutenant Hallmark.

Q How many persons were in that cell, Mr. Hindrava?

A About nineteen -- twenty.

Q Can you describe them as to their nationality?

A There were only two foreigners, Hallmark and Mr. Sterelny. The rest were all Chinese and one Japanese.

PROSECUTOR: I am not sure the commission heard that answer, will you repeat it please.

(Whereupon the reporter read back the answer just given.)

Q Please describe to the Commission, Lieutenant Hallmark's condition.

A He was lying on the floor with a big growth of beard and very thin and starving.

Q Can you say anything more about him?

A No.

Q Did he have any blankets?

A He had two, one underneath and one over.

Q Can you state to the Commission whether or not Lt. Hallmark was suffering from dysentery?

A Yes. Lt. Hallmark was suffering from dysentery. His bowels would just move themselves.

Q Please state to the Commission the daily food ration that the prisoners in Cell No. 6 received.

A. One cup of punch in the morning. About four ounces cup. One ounce of rice and three ounces water.

Q At noon?

A At noon the foreigners were getting four ounces of bread or rice and a little fish. You had to choose from them.

Q At night?

A The same as at noon.

Q Did Lt. Hallmark receive this ration also?

A Yes, he did.

Q Any more?

A Three times a week he used to get a soup made out of water in which the vegetables were washed.

Q Can you state to the Commission whether or not during this period that you observed him, Lt. Hallmark received any medical attention?

A I didn't see him get any medical attention.

Q Did you ever talk to Lt. Hallmark about why he was in Bridge House?

A Yes, I did.

Q What did you say and what did he say?

A I asked him why he was there and he told me he doesn't know why he is there. He told me he was an American pilot and he bombed military objectives in some Japanese city, I don't know the name of. He said his place was in prisoner of war camp, not in jail.

Q Did he say any more?

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A He said that he bombed only military objectives.

Q Did he say where his flight had originated?

A I remember he said that they went from California on an aircraft carrier and then took off from the carrier.

Q Did Lt. Hallmark ever say anything to you about bombing, strafing or otherwise attacking schools or churches or non-military objectives?

A He told me that he bombed only military objectives.

Q Did he ever say anything to you about being tried by a court-martial?

A No.

Q Did he ever say anything to you about a death sentence?

A No, he didn't.

Q What were the latrine facilities in the cell?

A It was just a wooden bucket back in the corner next to Lt. Hallmark.

Q Did he use it?

A Yes. He had to be helped to put him on and take him off. Mostly he was lying on the floor.

Q Mr. Hindrava, would you be able to tell the court approximately how much Lt. Hallmark weighed at this time?

A That is very hard to say from as much as he lost already. Only as much as his bones weighed.

Q Only as much as his bones weighed?

A He was all skin and bones.

Q Did there come a time when Lt. Hallmark left Bridge House?

A Yes.

Q Can you tell the Commission about what date that was?

A It was about 15 or 16 of December?

Q Of December?

A Of October.

Q Will you please describe Lt. Hallmark's condition when he left the cell.

A His dysentery has passed but he was too weak to walk by himself. He could walk only a few steps but not more.

Q Did anybody help him?

A Yes, we helped him. I helped him out of the cell.

Q Did anybody else help him after you?

A The Japanese corporal which took him out of the Bridge House was holding his hand.

Q Did Lt. Hallmark tell you where he was going?

A He thought he was going to war prisoner camp.

PROSECUTION: You may cross-examine.

CROSS EXAMINATION

Q (By Capt Fellows: Mr. Hindrava, did you ever talk to anyone about this case prior to today?

A I came to Mr. Hilley from AGAS and gave him what I knew about Hallmark.

Q Did you ever talk to anyone else about this case?

A Then he introduced me to Major Dwyer and told me Major Dwyer was in charge of the investigation and I gave him the information.

Q Did you make a statement in the presence of Major Dwyer?

A I did.

Q Have you talked to Major Dwyer about this case since that statement?

A No.

Q Mr. Hindrava, I will hand you a document and ask you to state whether or not that is a copy of your statement to Major Dwyer?

A (after examining document) Yes, it is.

DEFENSE: Please, does the prosecution object to me using a copy instead of the original?

PROSECUTOR: No, we will give you the original if you like.

DEFENSE: I don't think it is necessary.

PROSECUTOR: Does the copy conform to the original? Are there any underlinings which do not appear in the original?

DEFENSE: There are but I do not intend to put it in evidence.

Q Mr. Hindrava, at the time you were questioned by Major Dwyer, were you interrogated concerning any medical treatment that might have been given to Lt. Hallmark?

A I don't quite understand your question.

Q When you were questioned by Major Dwyer, were you questioned concerning any medical treatment that might have been given to Lt. Hallmark?

A Yes.

Q What did you tell Major Dwyer at that time?

A I told Major Dwyer that Lt. Hallmark was called once upstairs and I thought it was to see the doctor.

Q And, Mr. Hindrava, will you explain to the Commission why, when asked that question today you did not give the same answer?

A I am sorry I said I didn't see him getting any medical attention. I didn't say he didn't get any.

Q Why did you not also say that you thought he went upstairs for medical attention?

A I was answering the question.

DEFENSE: I would like to ask the reporter to read the question asked by Major Dwyer today, concerning medical treatment.

REPORTER: The question, "Can you state to the Commission whether or not during this period that you observed him, Lt. Hallmark received any medical attention." And the answer, "I didn't see him get any medical attention."

Q Mr. Hindrava, I call your attention to a question asked you by Major Dwyer in the statement you just identified and I ask you to read that statement.

A "Do you know of any medical attention given to him?"

Q Mr. Hindrava, were you ever told by Major Dwyer that if you were asked that question in this court room not to volunteer the information that he went upstairs for medical treatment?

A He didn't discuss with Major Dwyer.

Q Then why did you answer differently on almost identical questions?

PROSECUTOR: I object to this questioning. The question of whether or not this answer differed or not is a matter for the Commission, the question is highly improper and I object to the form of the question.

DEFENSE: I withdraw the question.

PROSECUTOR: Withdraw the objection.

Q Mr. Hindrava, as I recall, on direct examination you stated that Lt. Hallmark told you that he bombed only military installations, is that right?

A Military objectives.

Q Objectives?

A Yes.

Q Did you ask Lt. Hallmark whether he bombed only military objectives?

A No I didn't. I took his word for granted that he bombed only military objectives.

Q Why should Lt. Hallmark make such a statement to you?

PROSECUTOR: I object to this question as to why should Lt. Hallmark do anything. It is entirely immaterial and has no probative value as to any issue in this case. It calls for a conclusion of the witness.

DEFENSE: If the Commission, please, the witness has come in with too pat answers. I am trying to find out why. I am going back into the background of their talking to the people in Bridge House. This is hearsay testimony which is admissible. It is dangerous testimony.

PROSECUTOR: May it please the Commission, we withdraw the objection. We suggest that the witness answer the question if he can. Will the reporter repeat the question?

REPORTER: (reading) "Why should Lt. Hallmark make such a statement to you?"

PROSECUTOR: We suggest that the witness answer if he knows the answer.

A. Why shouldn't he?

Q Were you speaking to Lt. Hallmark at that time?
A What do you mean? What time?

Q We will start all over. When did Lt. Hallmark make this statement to you?
A On a couple or three times. We couldn't talk there very much. It was a chance when the Jap guard wasn't watching us and we were talking.

Q When was the first time.
A The second or third day when I was in.

Q Did you accuse him of having bombed non-military objectives?
A No, I didn't.

Q Did anyone else in your presence, in that cell, at that time?
A Nobody.

Q When was the second time that he made this comment to you?
A He didn't had any calendar so I can't tell you the dates. Just when we had a chance to talk.

Q On the second time had you or anyone else accused Lt. Hallmark of having bombed non-military objectives?
A We didn't accuse him of anything. We were just asking him about his flight.

Q Did Lt. Hallmark know that he had been tried by court-martial?
A No.

Q Did he seem to know that he was in Bridge House as punishment?
A No, he thought that just because he had dysentery they left him there.

Q Did Lt. Hallmark mention anyone ever accusing him of bombing non-military objectives?
A I don't remember.

Q Mr. Hindrava, what is a military objective?
A Well you see I am a civilian. I am not in Army. I think it is a factory or aerodromes, maybe airfields or oil fields.

Q Did Lt. Hallmark use the words "military objectives"?
A I think so.

Q Did he tell you exactly what he did bomb?
A He does. He told me he bombed the military objectives which he received orders to bomb.

Q Were you tried by a court-martial?
A I was.

Q How long was your sentence?
A Three years.

Q Were copies of the charges served upon you prior to your trial?
A I don't quite understand that.

Q Were you notified, in writing, of what you were accused of prior to the trial?

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A It was written in Japanese language which I don't understand.

Q Did you have a defense counsel?

A No.

Q How long did your trial last?

A About one hour.

Q You stated, I believe, that there was one Japanese prisoner in the same cell as yourself and Lt. Hallmark?

A Yes.

Was he treated any better or any worse than yourself or Lt. Hallmark?

A Yes, he was.

Q Was he treated the same?

A No, he was treated better.

Q In what way?

A They took him out for breakfast, lunch and dinner to the Japanese Gendarmerie and didn't the rest of us.

Q What was he confined for?

A He didn't tell us that.

Q Do you know the term of his sentence?

A I don't.

Q Did he speak any languages that you understood?

A A little English and Chinese.

Q Did he appear to be interested in what Lt. Hallmark had to say?

A Well we tried to talk to Hallmark in the cell when he wasn't there because we thought he was put in by Gendarmerie to listen to what we were talking, as it happens in Bridge House.

DEFENSE: No further questions.

PROSECUTOR: Does the Commission wish to ask this witness any questions?

COLONEL BERRY: Defense counsel had the witness read one question from his statement which he, the witness, had given to Major Dwyer. I should like the answer to that question read into the record.

PROSECUTOR: The defense wish to answer that?

DEFENSE: The question was: "Do you know of any medical attention given to him?" The immediate answer was, "I did not see any medicine given to him. Once he was called to go upstairs." This was followed up by the question "Do you know what that was for?" and the answer, "I think to see the doctor."

COLONEL MURPHY: What were the lighting conditions in the cell?
A We could get a little of daylight from the window in the side and then there were two electric lights going twenty-four hours.

PROSECUTION: Does the Commission have any further questions?

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COLONEL MC REYNOLDS: There appear to be none.

PROSECUTOR: We would like to ask two questions on redirect examination.

REDIRECT EXAMINATION

Q Mr. Hindrava, where did you serve your sentence?

A Ward Road Jail.

Q Were you also confined in the Bridge House part of the time?

A Yes, about three months before the court-martial.

Q Do you know what the charges were against you?

A I do.

Q State to the Commission what they were.

A I was accused of espionage, which was a frame-up.

Q When were you released from Ward Road Jail?

A 21st of May, 1945.

PROSECUTOR: That is all we have.

RECROSS EXAMINATION

Q (By Capt Fellows, were you the only prisoner tried at your trial?

A No, I was not. There were other persons.

Q Will you give us the names of those tried with you?

A Can I refuse to answer the question?

PROSECUTOR: That is a matter for the Commission to determine. The question is immaterial, if it please the court, and has nothing to do with the issues in this case.

DEFENSE: That is all right. We withdraw the question if the witness does not want to answer.

PROSECUTOR: May the witness be excused?

COLONEL MC REYNOLDS: The witness is excused.

(Whereupon the witness left the witness stand and resumed a seat in the court room.)

PROSECUTOR: Since it is now a little after twelve, does the Commission wish to adjourn?

COLONEL MC REYNOLDS: The Commission will adjourn until two o'clock this afternoon.

(Whereupon at 1205 hours, 21 March, 1946, the Commission adjourned to reconvene at 1400 hours, 21 March 1946.)

#8-1 z 3/21 PM

AFTERNOON SESSION

... Pursuant to adjournment the Commission reconvened at 1400 hours on 21 March 1946 ...

COLONEL MC REYNOLDS: The Commission is in session.

LT COL HENDREN: For the purpose of the record, let the record show the Commission, the accused, counsel for the prosecution and defense, the interpreters and reporter returned to the court room after the recess.

If the Commission please, we'd like to read to the Commission Prosecution's Transcript Exhibit No. 24 which was a statement of Commander Henry L. Miller.

(Whereupon the prosecutor read Prosecution's Transcript Exhibit No. 24, attached hereto.)

MAJOR DWYER: The prosecution calls as its next witness, Mr. Sterelny.

ALEXANDER JOHN STERELNY

called as a witness on behalf of the prosecution, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

- Q (By Major Dwyer) Mr. Sterelny, as I ask you questions, please withhold your answer until the interpreter has a chance to translate that into Japanese for the accused, and then I will hold my next question after your answer until your answer has been translated.
- Q Please state your name and present address.
A Alexander John Sterelny, 643 Route Frelupe, Shanghai.
- Q How long have you lived in Shanghai?
A Since 1920.
- Q Of what nation are you a national?
A Presently, Soviet.
- Q How old are you?
A Sixty-six.
- Q What is your occupation?
A Accountant.
- Q With what business firm are you associated?
A Shanghai Dock Yards Limited, ship builders.
- Q Sometime in 1942 can you state to the Commission whether something happened to you with respect to imprisonment?
A I was arrested on the night between Friday and Saturday, 28-29 September by the Japanese gendarmerie and brought to the Bridge House.
- Q What were the charges against you, if you know?
A Supporting my British colleagues with money.
- Q Where were you imprisoned?
A Bridge House, Cell No. 6.
- Q What was the date upon which you entered Cell No. 6, Bridge House?
A Approximately 2:30 A.M. between the 28th and 29th September.

Q When you entered Coll No. 6 please state to the Commission how many persons were in the call.

A I can not remember the exact number of people but there were about 18 or 19.

Q Can you describe these people to the Commission?

A May I ask a question?

Q Certainly.

A In regards to race, nationality?

Q Yes.

A There was one Japanese, one foreigner exclusive of myself, and the others were all Chinese.

Q What was the nationality of this foreigner you speak of?

A In the morning I knew that he was Dean Hallmark, an American.

Q Was he in the military service?

A He told me that he was one of the Doolittle pilots.

Q Did you have a conversation with him then?

A Yes.

Q Please state to the Commission what you said to him and what he said to you.

A Well, I informed Hallmark of the fact that I read in some Swiss papers which passed the Japanese censorship that all of the Doolittle fliers, according to this paper, had a promotion from the late President Roosevelt, and Lt. Hallmark was very glad to hear it.

Q Did he tell you anything about his flight?

A I had an opportunity to ask him and he told me that he was forced down somewhere in the Japanese Sea on account of lack of gasoline.

Q Did he state anything to you about what bombs, if any, were dropped and where?

A I asked him and he said that he bombed the factory.

Q In your conversations with Lt. Hallmark, did he ever state that his plane bombed, strafed or otherwise attacked any schools, churches or non-military objectives?

A Never.

LT COL BODINE: I object to that question; it's leading the witness; giving him the impression in what manner to answer it.

MAJCR DWYER: The prosecution will withdraw the question. The prosecution moves to strike out the answer "never." Is that satisfactory with the Commission?

COLONEL MC REYNOLDS: Proceed.

Q Please state to the Commission what, if anything, Lt. Hallmark told you about what happened in the flight that he took over Japan?

A He didn't tell me anything more about it, as I just mentioned before, because the conversations were rather very difficult under the conditions existing then in the Bridge House.

Q Please state to the Commission the general physical condition of Lt. Hallmark as you observed him?

A Well, he was very ill.

Q Please describe his illness.

A He, as much as we knew, had dysentery.

Q Anything else?

A General debility was very weak.

Q Please state to the Commission what regulations the Japanese had with respect to how the prisoners in Cell No. 6 would conduct themselves in the cell?

A Well, first of all, we were not allowed to speak to each other. We could not sit together.

Q Were you permitted to walk around?

A Yes.

Q Did Lt. Hallmark walk around?

A No, he never walked around, he couldn't.

Q Why couldn't he walk around?

A He was too weak.

Q Were any of the prisoners permitted to take any exercise outside the Cell No. 6?

A No, not permitted.

Q State to the Commission, if you remember, how much of the time Lt. Hallmark spent lying down.

A All the time.

Q Do you want to speak up a little louder?

A He was lying down all the time.

Q What were the latrine facilities in this cell?

A We had a barrel in the same cell.

Q Did Lt. Hallmark use it?

A Yes.

Q Did he need any assistance?

A Sometimes.

Q How many times were the occupants of Cell No. 6 permitted by the Japanese to take a bath?

A None at all.

Q Did this apply to Hallmark?

A No, not during the time that I was there.

Q Do you mean that Hallmark got a bath while you were there?

A When I was there Hallmark never left the cell.

Q A shave?

A No shave.

Q Describe to the Commission what he looked like.

A He was very thin and he had a beard as big as that (indicating), black.

MAJOR DWYER: : For the purpose of the record, the witness in saying "as big as that," places his right hand across the middle of his chest.

Q Can you state to the Commission what was his approximate weight?

A Well, I should judge him to be about 120 pounds.

- Q How tall was Hallmark?
A I saw him straight up only once when he walked out of the cell, but he must be about five ten and a half, maybe five eleven.
- Q Describe, if you remember, the daily food ration that was given to Lt. Hallmark?
A He had a bowl of rice in the morning, hot rice, called conji. At eleven o'clock he got four ounces of bread and at five o'clock in the evening again, but during the mealtime he received some sort of a soup but I know that this soup could not be eaten.
- Q Was this all that he got?
A That is all.
- Q During the time that you were in the cell with Lt. Hallmark, please state to the Commission whether he received any medical attention?
A Not to my knowledge.
- Q When you used the word conji, what do you mean?
A Rice with water, hot.
- Q Is it mostly rice or mostly water?
A It depends; some days it was mostly rice; some days there was a lot of water.
- Q Did they overburden you with rice?
A I lost 35 pounds during my stay there.
- Q How long were you there?
A Three months.
- Q Mr. Starelny, when did you last see Lt. Hallmark?
A This is difficult to reply in regards to date but I should say it was sometimes in the middle of October.
- Q Going back just a bit, Mr. Starelny, before this date, in your conversations with Lt. Hallmark did the question of court martial ever come up in your discussions?

LT COL BODINE: I object to that question. It is also leading the witness to what the prosecutor wants him to answer.

MAJOR DWYER: The question is not leading. The answer may be either yes or no. If he says no, that is the end of it. If he says yes, then he may state the conversation.

COLONEL MC REYNOLDS: Objection overruled, proceed.

- Q You may answer.
A Never appeared that question.
- Q In your conversation did the subject of a sentence of death ever come up?
A No.
- Q Now you say the last time you saw Lt. Hallmark was October 15, 1942, --

LT COL BODINE: I object to that question. The witness did not say that.

MAJOR DWYER: I withdraw the question. I am sorry in anticipating that. My questions are a little bit in advance.

- Q When did you last see Lt. Hallmark?
A Sometimes in, - last time in the middle of October, but I can't remember the date.

- Q What was his condition when you last saw him?
A He was just as weak as he was before; a little improved, maybe.
- Q Was he able to stand alone?
A May I ask a question?
- Q Certainly.
A Is that at the time when he left?
- Q Yes.
A I have to explain that, I know that he could hardly walk. He wouldn't be able to walk from the prisoner of war camp that he was expected to go, he wouldn't be able to.
- Q Do you mean to tell the Commission that he expected he was going to a prisoner of war camp?
A That is what he expected.
- Q State to the Commission, if you remember, what Lt. Hallmark said along that line.
A They were raising a question of food, good food; prisoner of war camps will get parcels from home and everything will be nice.
- Q By his conversation did he cause you to think that he was going to death?
A Nobody thought that.
- Q From his conversation can you state to the Commission whether he thought,--
Withdraw that please.
- Q Did anyone help him out of his cell?
A No, nobody, he walked himself. But he walked like a drunken man.
- Q Do you mean to tell the Commission he was staggering?
A Well, more or less he did.
- Q Did you ever see him again?
A No, I didn't see him again.
- Q During the time that you were in Cell No. 6 with Lt. Hallmark, did he have a change of clothing?
A No, he did not.
- Q At any time was he washed or sponged off with water or anything else?
A We had a bucket of water every morning for everybody---one bucket for the foreigners and one bucket for the Chinese. Well, the foreigners used that one bucket of water for all of us, then we had to wash our faces, our hands, our teeth, and so forth. As much as it lasted, it lasted. That was all.
- Q Was the cell free of vermin and lice, such things?
A Quite a sufficiency of bed bugs and lice. We had to every second day delouse ourselves and that is how we saw each other semi-nude, to see in what conditions we were.
- Q What was Hallmark's condition?
A General condition as everybody. He had just as many lice I suppose as everybody else had.
- Q Can you state to the Commission anything with respect to the intestinal or bowel condition of Lt. Hallmark as you have observed it?
A Well, it was mostly loose; he had a loose stomach.

MAJOR DUYER: You may cross examine.

CROSS EXAMINATION

Q (By Lt Col Bodine) You stated that you told Lt. Hallmark that according to the Swiss newspaper the Doolittle fliers had been promoted, is that true?

A That is true.

Q Did the Swiss newspaper that you read say that the Doolittle fliers were going to be executed?

A No.

Q What was your citizenship in 1942?

A Russian immigrant.

LT COL BODINE: No further questions.

COLONEL MC REYNOLDS: Any questions by the members of the Commission? There appear to be none; the witness is excused.

(Witness excused.)

MAJOR DWYER: May it please the Commission, we would like to read into the record Prosecution's Transcript Exhibit No. 22, and then we have three Japanese witnesses that have been brought to the court room today and with the consent of the Commission and counsel for the defense, we would like to put those witnesses on following the reading of this exhibit and have this exhibit translated later in the afternoon or the first thing tomorrow morning, so that we would not have to bring these Japanese witness back tomorrow morning.

COLONEL MC REYNOLDS: Any objection by the defense?

CAPTAIN FELLOWS: It is agreeable to the defense.

MAJOR DWYER: I will now read Prosecution's Transcript Exhibit No. 22.

(Whereupon Major Dwyer read Prosecution's Transcript No. 22 which is attached hereto.)

Robert L. Hite
Exhibit 22

CITY OF WASHINGTON)
(SS:
DISTRICT OF COLUMBIA)

We, Robert L. Hite, Captain, Air Corps, 0417960, of Earth, Texas, and Jacob D. Deshazer, Staff Sergeant, Air Corps, 6584514, Madras, Oregon, being duly sworn, do depose and say:

We were part of the crew of a B-25 airplane, No. 2268, which took off from the carrier Hornet on 18 April 1942 to bomb Tokyo. Lt. William G. Farrow of Darlington, South Carolina, was the pilot, Hite was the co-pilot, Lt. George Barr of New York was the navigator, Deshazer was the bombardier, and Sgt. Harold Spatz of Leopold, Kansas, was the crew chief. We arrived over Tokyo on 15 April 1942 and dropped our bomb on our appointed target which was an oil refinery. Deshazer was the bombardier. After dropping the bomb we circled and saw our target in the center of which was a large fuel tank painted white to up in flames. We then left the target area and headed towards China. We did not fire our machine guns at or while we were over the land area of Japan, although we did fire the guns both before arriving at Japan and after leaving Japan in order to test them. At a later part in this affidavit the story of our trial appears. In this trial we were charged with machine gunning and bombing innocent school children of Japan. We solemnly swear that at no time did we fire ~~our machine guns at or over Japan~~, and we are positive that our bomb hit the target which was a fuel tank. *aircraft factory - R.L.H.*

Fired at air base and log book. R.L.H.
Our gasoline ran low after we had arrived over China and we were forced to abandon the airplane. Subsequently all five of us were captured and were taken to a town which we believe was Nan Sho, China.

R.L.H.
On 20 April the five of us were flown to Tokyo where we were taken to a prison the name of which we do not know, where we were questioned separately and Hite was struck over the head four times with a kinto stick, a bamboo rod about 39 inches long. The name of the man who struck Hite is not known. During the next few days we were questioned many times by the Japanese. The only two persons whom we might be able to identify are a man named Ohara, a former student at Columbia University, and another Japanese, approximately sixty years old, whom we called "Well Well". He was a Japanese lawyer, small and pot-bellied. He had graduated from Stanford University and informed us that he had lived in the Land Hotel, Sacramento, California, for about thirty-five years. We called him "Well Well" because of his constant use of the word "Well" when he was interrogating us.

A couple of days after we arrived in Tokyo we were joined by Lt. Dean Hallmark, 808 Wayne Avenue, Dallas, Texas, Lt. Chase Jay Nielsen, Hyrum, Utah, and Lt. Robert J. Meder, 1622 Elmwood Avenue, Lakewood, Ohio, the pilot, navigator and co-pilot of B-25 No. 2298 which participated in the Japanese raid with us. They all remained with us until our trial in Kiangwan Prison, Shanghai, in October 1942. Cpl Dieter and Cpl Fizmaurice, bombardier and crew chief of Plane No. 2298 were killed in the landing.

All in all we were kept in Tokyo 56 days. For the first 52 days we were all in solitary confinement and the last four days we were kept two to a cell. At first we were fed two slices of bread and some jam three times daily. At each meal we received some Japanese tea. We remained on this meal schedule for the first two weeks. We were then put on the same rations as the Japanese guards and prisoners received, but this was done only after we had complained bitterly about the lack of food. The regular prison rations consisted of a bowl of rice and a few small fish three times daily.

On 18 June 1942 we were taken by rail to Nagasaki, Japan, where we boarded a ship which took us to Shanghai, China. When we left Tokyo we were handcuffed and also wore leg irons. Besides being handcuffed and legcuffed, we were all tied in pairs, and we remained so bound until we arrived at Shanghai. On the ship we were not beaten or mistreated in any way, except for the fact that we were continually bound. We were allowed to go to the latrine regularly and were fed the same food, as far as we could determine, that the other

passengers received.

On 19 June 1942 we were taken to a cell in what was known as Bridge House in Shanghai. This is a small former apartment house across the street from the New Asia Hotel. Here we were greeted by a Lt. Hirano or Harano. We were placed in a cell along with fourteen Chinese.

We remained in Bridge House for seventy days. The Chinese in our cell were removed a few days after we arrived, and for the rest of the time the eight of us were in the cell together. Here we were particularly troubled by the conditions of our imprisonment. We were bothered by bugs, rats and lice which bit us continuously until finally our faces and our hands swelled all out of proportion from the bites. We slept on the floor with one blanket to each man. Our only sanitary facilities were a small bucket in the corner the cell called a "benjo" which was emptied periodically, usually only after we had complained because the "benjo" was overflowing. We were not allowed to bathe or wash, and for the first 120 days after we were captured none of us was given the opportunity to shave or bathe. We received three meals daily. For breakfast we received about one-half pint of wormy watery rice. For lunch we were generally given some bread which usually amounted to five ounces. For dinner we received about five ounces of bread. We were given one-half cup of water per man per day.

While we were in Bridge House we were not permitted to leave the cell for exercise. Usually we were forced to sit cross-legged and motionless on the floor facing the door of the cell. We were not permitted to talk or ~~to move during the whole day~~. There was a light in the ceiling which was left burning 24 hours a day and made it difficult for us to sleep. At one time while we were in Bridge House a Japanese whom we believed to be a Sergeant but whose name is not known to us hit both Hite and Farrow over the head with his sword which he had not removed from the scabbard. Hite received a wound on his scalp which did not heal for well over a month and he still carries a scar from this wound.

On 28 August 1942 we were removed from Bridge House and taken to the military prison in the Civic Assembly Area at Kiangwan, Shanghai. We believed that this prison was under the command of a Japanese army officer by the name of Tatsuka. Our interpreter was ^{Page 218} one Louis Do's Remedios, half-Japanese, half-Portuguese, whose address was 206 Embankment Building in Shanghai. Remedios should be a useful source of information about the names of the Japanese at Kiangwan. When we arrived at Kiangwan we were taken before a court martial. Seven of us walked in and Lt. Hallmark who was suffering from dysentery and beri beri was carried in on a stretcher. The court consisted of seven or eight Japanese officers. Each of us was asked by the interpreter to give a short summary of his life, which we did in English. This was translated to the court after which some conversation ensued in Japanese. When we realized that the trial which had taken about an hour was over we asked for a translation of what had taken place, but this was refused. We were not told what the charge against us was or what our sentence was. No interpretation was made to us of any part of the proceedings. None of the Japanese who sat on the court martial were made known to us by name. The seven of us were removed to cells in the prison at Kiangwan and from there placed in solitary confinement for twenty days. Our cells were approximately five by nine feet. After twenty days we were permitted to leave the cells for exercise for a few minutes daily. Lt. Hallmark was still in the courtroom when we left, but we understand that he was placed in a cell in the same prison in solitary confinement. Here we were fed a bowl of rice and some soup three times daily. We remained in solitary confinement until 5 December 1942 but after the first twenty days of solitary confinement we were permitted out of the cell for a few minutes daily. All in all, our period of solitary confinement at Kiangwan was about 100 days.

On 15 October 1942 Hite, Barr, Deshazer, Nielsen and Meder were taken back to the court martial for a second trial which lasted three or four minutes. Hallmark, Farrow and Spatz were not with us and we were informed by the ~~guards~~ that these men had been removed from the prison on 14 October. We did not see these men again, although at a later date various articles

of their clothing were distributed to us. At the trial the sentence was read to us in English. We were informed that we had been sentenced to death for bombing and strafing innocent school children, but that through the mercy of His Imperial Majesty, the Emperor, our sentences had been commuted to life imprisonment with special treatment. We again take this opportunity to deny that we were guilty of this charge. We dropped ~~our only~~ bomb on an oil tank which, as we have said before, saw go up in flames. We did not fire our machine guns at all over the land area of Japan or China.

*aircraft
factory
7*

We remained in Kiangwan Prison until 17 April 1943. After 5 December 1942 we were removed from solitary confinement and placed in cells together.

On 18 April 1943 we were removed to a prison in Nanking, China and here we remained until 14 June 1945. This prison seemed to be in charge of a Jap ~~by the name of Mesaka or Mysaka~~. We were all in solitary confinement for our whole stay in this prison. We were permitted out of our cells periodically for exercise but were not permitted to talk to each other. We received three meals a day, usually consisting of soup, dry cooked rice and cold tea. On 1 December 1943 we were informed that Lt. Meder had died. He was taken sick, as far as we could determine, about 18 September 1943, and was given no medical treatment at all until a week before he died, when the Japanese started to give him a few pills. We believe he died from beri beri and dysentery. The Japs left his body in the cell for a couple of days after which they constructed a wooden coffin and placed some flowers on top of it leaving it in the cell. We were each taken in individually and told that Meder had died and that his body was in the coffin. After this we were each led out of the cell and put back in our own individual cells.

After Lt. Meder's death our rations were increased by adding two small buns to our daily diet.

Our cells while in Kiangwan were very small, usually eight by eleven feet. Although we were not mistreated physically the treatment that the Japanese gave us almost drove us mad. We were not permitted to have our shoes. We suffered from the cold and the ravages of malnutrition. We were not permitted to talk to anyone and at no time were we able to communicate with each other. We were not permitted to read books or to have any reading material in the cell with us. We received no Red Cross packages, nor was a Red Cross representative permitted to visit us. We were not permitted to write or to receive mail, nor to communicate with our families to inform them that we were still alive.

*Until after
Meder died
Revised
books - 1945*

On 14 June 1945 we were removed to Peking, China, where we were placed in solitary confinement in the ~~prisoner of war prison there~~. Here we remained until we were liberated in August 1945. We were still kept in solitary confinement in cells eight by eleven feet. We were forced to sit facing the wall, ~~cross-legged~~, at all times except when we were permitted to sleep. Usually once a day we were permitted to exercise within our cells. We were not permitted to communicate with anyone else in prison or with each other. There was no furniture in the cell and we were permitted no reading matter, no mail, no Red Cross packages or anything to pass away the time. We received about the same meals as we received in the other prisons, usually rice, soup, and tea three times daily.

We were released on 20 August 1945. There were only four of the original eight released at this time. Farrow, Hallmark and Spatz had disappeared from Kiangwan before our trial on 15 October 1942. Meder had died in Nanking in December 1943. Hite and Deshazer were released with Nielsen and Barr.

All in all, we would say that the worst part of our imprisonment was the fact that we were in solitary confinement for most of the time between 28 August 1942 and the time of our release, except for a period of about four months when we were in ~~Nanking~~. *See R.L.N.*

RESTRICTED

At the time that we were captured Deshazer weighed 160 pounds and Hite 165 pounds. At the time of our release, Deshazer weighed 128 pounds and Hite about 135 pounds. Our weight had dropped considerably below our weight when we were released, as both of us had managed to put on some weight after we left Bridge House. We were not able to estimate how low our weight had dropped at the lowest point during our imprisonment but it was considerably below that at the time of our release.

Robert L. Hite, Capt AC 0-417960
ROBERT L. HITE, Captain, AC, 0417960

/s/ Jacob D. Deshazer S/Sgt 6584514
JACOB D. DESHAZER, S/SGT, AC, ~~658~~4514

C E R T I F I C A T E

I, Stacy J. Grayson, Captain, JAGD, certify that on // September 1945, personally appeared before me Captain Robert L. Hite and Jacob D. Deshazer, S/ Sgt, and gave the foregoing testimony, that after their testimony had been transcribed, the said Captain Robert L. Hite and Jacob D. Deshazer, S/Sgt, read the same and affixed their signatures thereto in my presence.

/s/ Stacy J. Grayson

Captain, JAGD
Eastern Division
War Crimes Office

CERTIFIED TRUE COPY:

Robert T. Dwyer
Major J.A.G.D.
Assistant Prosecutor

MAJOR DWYER: Prosecution calls as its next witness, Shigeji Mayama.

SHIGEJI MAYAMA

called as a witness on behalf of the prosecution.

MAJOR DWYER: I will ask a few preliminary questions to qualify the affirmation of this witness.

Q Do you know the difference between truth and untruth?

A I do.

Q In speaking before this court, will you be bound in your heart and conscience to tell the truth?

A I do.

Q What is your religion, if any?

A A sect of Japanese Shintoism--a demonination of Buddhism.

(Whereupon the witness was affirmed, and testified as follows (through T/Sgt John Morozumi):

DIRECT EXAMINATION

Q (By Major Dwyer) State your name, rank and present military organization.

A Shigeji Mayama, Warrant Officer, Judge Advocate General's Department, 13th Army Headquarters.

Q Where is the 13th Army headquarters?

A Kiangwan.

Q Japanese army?

A Yes.

Q Were you in the Japanese army in August 1942?

A I was.

Q What was your rank?

A I was a civilian attached to the army.

Q Were you in the Judge Advocate's office then?

A I was working in a branch office of the Shanghai prison.

Q Was that Kiangwan Military Prison?

A The branch of the prison.

Q In August 1942 did you have occasion to meet any of the Doolittle fliers?

A I did meet them.

Q When?

A I do not clearly remember the exact date.

Q How many did you meet?

A I saw eight, one of whom was ill.

Q Do you remember any of their names?

A I do not recall.

Q In August 1942 did you attend a court martial of those Doolittle fliers?

A I was not present.

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Q Did you hear any conversation about it at the prison?

A What kind of a story.

Q You tell me.

A I did not speak to the prisoners.

Q Did you speak to anyone about a court martial of the fliers?

A No.

Q How many times did you see the sick flier?

A I saw him once.

Q Was that in August?

LT COL BODINE: I object to that question in that it is leading the witness to a specific date.

MAJOR DWYER: May it please the Commission, this Commission can operate and does operate under its own rules of procedure insofar as evidence and the law is concerned. However, in the rules of court martial and rules of civil law I think the court could take notice of the fact that where a hostile witness is on the stand the examiner should be entitled to lead the witness and even to cross examine and I think that rule should be applied in this case because obviously this is a hostile witness.

LT COL BODINE: May it please the Commission, the witness is the prosecution's witness. He hasn't proved him hostile yet, and he called him.

MAJOR DWYER: I will withdraw the question.

LT COL BODINE: I will withdraw the objection.

Q Do you know Lt. Hayama?

A I do.

Q Do you see him in the court room?

A He is.

Q Point him out.

MAJOR DWYER: For the record, the witness points to Lt. Hayama, one of the defense counsel.

Q Are you in his office?

A No.

Q Aren't you a member of the same part of the Japanese Army that Lt. Hayama is?

A Can you be a little more clear on part of the army?

Q Withdraw the question. What is the insignia on the right side of your jacket?

LT COL BODINE: I object. Questions asked of the witness should be pertaining to this case. Whether the kind of insignia he wears on the side of his breast is similar to what defense counsel wears on the side of his breast has no bearing on the case whatever.

MAJOR DWYER: I haven't proved that yet, if the court please. I was about to ask that question. If the court please, to shorten this up, and without conceding that this Japanese witness is friendly, I will embark on another line of questioning. Withdraw the question.

LT COL BODINE: I will withdraw the objection.

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Q Were you present at an execution of some American fliers in October 1942?
A I did see it.

Q How many fliers were executed?
A There were three of them.

Q Were these three fliers three of the fliers you first saw in August 1942?
A I am not certain of the date but I did see them prior to the time that they were executed.

Q Were these three fliers Doolittle fliers as you know it?
A I do not remember exactly to that point, however, I do know they were air crewmen.

Q Were they the fliers that raided the Japanese homeland back in April 1942?
A I have heard that they were.

Q What was the date of the execution, if you remember?
A I do not remember.

Q Well, you said it was in October, was it in the beginning, the middle or the end?
A I think that it was around the middle.

Q Where did the execution take place?
A It was conducted at the Shanghai First Cemetery in Kiangwan.

Q When did you first see the three fliers on that day?
A I saw them since morning.

Q Describe to the Commission what happened after you first saw them?
A I saw them in the morning and after which I went out to prepare the execution grounds. I returned at 10 o'clock and returned to the execution grounds with the prisoners. I was with them until the time that they were executed.

Q Was Captain Tatsuta there?
A He was.

Q What was his position at the prison?
A (through Captain Hahn) He was head of the branch station and warden of the jail.

MR. KUMASHIRO: May I interpret that?

MAJOR DWYER: No, we'll take our own interpretation, thank you.

CAPTAIN FELLOWS: If the Commission please, the defense desires to challenge the interpretation. I think we have a right to do that.

COLONEL MC REYNOLDS: Are you challenging the interpretation or willing to help, which was it?

CAPTAIN FELLOWS: We just asked to have it cleared up.

SGT. MOROZUMI: We are not always able to give the correct translation; it is not always possible to get the correct characters.

CAPTAIN FELLOWS: May we request the question be asked again and the answer be repeated?

(Whereupon the last question was read back and was answered again through Captain Hahn as follows: A. He was head of the branch station and civilian attached to the office.)

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Q Isn't it a fact he was the governor of Kiangwan Military Prison?

A He was a branch chief.

Q Was he head of the Kiangwan Military Prison?

A He was the chief of prison branch.

Q Kiangwan prison branch?

A Shanghai branch--Prison Department of the China Expeditionary Force, Penitentiary, not prison.

Q By penitentiary, do you mean Kiangwan Prison?

A The penitentiary, the headquarters is in Nanking and he was the chief of the Shanghai Branch.

Q I show you a paper and ask you if you have ever seen the signature on that?

A I signed it.

Q You have talked to me about this, haven't you?

A I was investigated.

Q By me?

A Yes.

Q When you signed this statement you signed it in front of me, didn't you?

A Yes.

Q Were you asked this question: "Q. Was he in charge of the guards at the execution? A. Captain Tatusta was governor of the Kiangwan Military Prison in Shanghai at that time, so I think he must have been in charge." Did you give that answer?

INTERPRETER: May I have it clear? I do not understand the word "governor." What is meant by governor?

MAJOR DWYER: Head man.

INTERPRETER: The word I am using in Jap to denote governor has been translated into English to mean warden, chief, governor, meaning the same thing all the way through.

MAJOR DWYER: The prosecution is satisfied with that.

A He was branch chief.

Q Is Kiangwan Military Prison a branch of Nanking Military Prison?

A Yes.

Q Was Captain Tatsuta head of the Kiangwan Branch?

A Yes.

Q On the morning of the execution, state to the Commission what you did at the cemetery.

A On the morning of the date of the execution I went out and made preparations such as erecting crosses and cutting the grass in that vicinity.

Q How many crosses did you erect?

A Three.

Q What else did you do?

A After completing preparations I returned, then brought the prisoners in an automobile to the place of execution.

Q Did you erect an altar?

A Before the execution no dias was set up.

Q Was there one set up after the execution?

A A dias was set up--not really set up, but placed there after the execution and a little service was held.

Q Did you prepare any coffins?

A Yes, three were prepared.

Q How many people attended the execution?

A There were about 30 persons, but there were no spectators.

Q Were they all military?

A Yes.

Q Was Captain Tatsuta there?

A He was.

Q Was Captain Wako there?

A I think he was.

Q Was Captain Okada there?

A I did not see his face.

Q Was Colonel Ito there?

A I think he was.

Q Major Hata?

A He was.

Q Was Sgt. Yoneya?

A He was.

Q Yoneda?

A He was.

Q Minezaki?

A He was.

Q Suzuki?

A I think he was.

Q Shimada?

A I do not remember him.

Q When the fliers were brought into the cemetery, describe to the Commission what happened from there on.

A We arrived at the cemetery by automobile and we got off. Captain Tatsuta, the branch section chief, asked the prisoners if they wanted to have a last word. I was not able to understand them clearly because it was interpreted to the prisoners by an interpreter. After that, the three prisoners were each brought to the respective crosses. They were tied to the cross with a brand new white cloth and likewise a brand new white cloth was draped over their head. The firing squad lined up a certain distance away from them. By that time we had retreated to the background of the scene. Then the firing squad fired. After the shots were fired an army medical officer went and examined the bodies to ascertain that they were dead. After he was satisfied the bodies were released from the crosses and placed in three separate coffins. The three coffins were lined up side by side and at that time all those who were present at the execution participated in a very short ceremony or service.

Q Which one of these fliers did you tie to a cross?

A I do not remember his name.

Q I show you Prosecution's Exhibit B, Picture No. 8 and ask you if you recognize the man that you tied in this picture?

A I was shown a similar picture sometime ago but I can not remember the face of the person that I tied.

Q It has been shown in this case that this man (indicating the man on the right in the front row) is Sergeant Spatz. Do you remember this man?

A I do not remember his name.

Q Is this the man you tied to the cross?

A I do not recall his face.

Q Sergeant, I now direct your attention in the same picture to the man who has been identified as Lt. Farrow, rear row left. Was he the man you tied to the cross?

A I do not remember the face of the person that I tied.

Q Was the man that you tied to the cross sick?

A I feel that at that time there were none of them whom I thought to be ill.

Q Was the man you tied to the cross an American flier?

A I have heard that he is.

Q Was he in the American army?

A I do not know whether he was an American army personnel or not but I did know that he was neither a Jap nor a Chinese.

Q Do you remember meeting Captain Nielsen a little while ago?

A I do not.

COLONEL MC REYNOLDS: The Commission will recess for 15 minutes.

(Whereupon the Commission took a recess at 1545 hours.)

COLONEL MC REYNOLDS: The Commission is in session. (1600 hours.)

MAJOR DWYER: Let the record show the members of the Commission, the prosecution and defense counsel, accused, interpreters and reporter are present in the courtroom at the termination of recess and the witness will be reminded that he is still under affirmation.

Q To which one of the three crosses did you tie one of these fliers?

A I recall that it was the one on the extreme left as we face the crosses.

Q Who helped you?

A I do not remember the names of the persons who assisted me but there were about three of them.

Q Was there a mark on this cloth that was tied around the face?

A It was put on.

Q Describe the mark.

A A mark was put on the cloth with black ink in a circle.

Q At what point on the fliers faces did that mark appear?

A On the forehead.

Q Between the eyes?

A No, it was above the eyes in direct line with the nose.

Q And that was the mark on the cloth itself?

A Yes.

Q How many men were used to fire the rifles which caused the death of the fliers?

A Six men were prepared, however, three fired.

Q Were they from the 13th army?

A Yes.

Q Do you know their names?

A I do not know their names.

Q Did you ever see them before?

A I may have seen them before or after, however, I can not recognize them nor can I point out any person and say that that person was the one on the firing squad.

Q How far away from the fliers did the firing squad stand?

A I do not remember clearly but I think that it was around 30 meters.

Q Were the fliers standing or kneeling when they were executed?

A They were kneeling.

Q What was the position of their arms?

A Their arms were tied in two places.

Q Where?

A I think that it was along the upper arm and the forearm.

Q Were their arms tied to the cross bar of the cross?

A They were tied on the cross bars.

Q What did Captain Tatsuta do?

A I don't think he did anything at that time.

Q Did he order you to go out to the cemetery and do what you did?

A He did not order in detail. However, he did order me to go to the cemetery.

Q Wasn't he your superior officer?

A He was.

Q He was your commanding officer, wasn't he?

A Since he was the chief of the branch he was in command.

Q He was in command of the execution detail?

A He was in command of his subordinates there.

Q Do you remember who gave the command to fire?

A I do not remember, however, according to the education that we have received to now, there should be no reason for a civilian official to be in command of military personnel.

Q Who told you that?

A When we enter the army all of us receive that type of education.

Q You said that Captain Tatsuta was in command of the prison, was your commanding officer, is that correct?

A He is the branch chief and he is our commanding officer.

Q As chief of the prison wasn't it his job to handle the execution party?

A Insofar as responsibility is concerned he did have responsibility. However, as a civilian attached to the army I am afraid that he had no

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power to directly order military personnel who consisted the firing squad.

Q Why are you afraid?

(No response from the witness.)

Q Do you know or don't you?

INTERPRETER: May I give the answer that he gave worded in a more clear manner?

MAJOR DWYER: Certainly.

INTERPRETER: (Restating the witness' former answer) Insofar as responsibility is concerned, as the branch chief, he is responsible. However, I think that because of the fact that he is a civilian attached to the army that he did not directly give orders to the firing squad which was composed of military personnel.

Q After the men were executed, what was done with their bodies?

A The bodies were placed in a coffin and after the brief ceremonies were over, they were loaded on trucks and brought to the Shanghai Resident Association's crematorium where they were cremated.

Q Did you have anything to do with that?

A I did go.

Q Was that under Captain Tatsuta's direction?

A Yes.

Q Describe to the Commission what you did with respect to this cremation?

A The bodies were brought from the execution grounds to the Shanghai Residents' Association Crematorium where they were unloaded from the truck, placed into the ovens and locked.

Q Whose body did you load in the truck at the cemetery?

A I do not remember who. Four or five of us helped each other in loading the coffins on the truck, so can't be sure about it.

Q Did you accompany the three bodies to the crematorium?

A Yes.

Q Did you see them put into the ovens?

A I did.

Q What happened to the ashes?

A I went out there the following day, collected the ashes and brought them back.

Q Where did you bring them?

A They were placed in boxes and brought back to the waiting room of the branch office.

Q Kiangwan prison?

A Yes.

Q Then what was done with them?

A They were placed in this waiting room which was not used from that time on. The ashes were placed on a shrine and incense burners were placed in front of them.

Q How long did they stay there?

A I do not clearly remember how many days it was left there.

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Q When were they removed?

A I do not remember the day clearly.

Q Where were they taken when they were removed?

A Although I did not personally handle the ashes after that I heard later that they were sent to the International Funeral Home through the POW Camp.

Q International Funeral Home in Shanghai?

A I do not know its exact location.

Q Did Warrant Officer Koga handle this?

A No, it was when the ashes were turned over to you people that Koga handled them.

Q Going back to the execution, what did Captain Wake do at the execution?

A At that time I was busy making preparations and tying the prisoners that I do not remember what action Captain Wake took.

Q Did you see him read any paper?

A I have never heard that he read any paper.

Q Do you recognize Captain Okada in the courtroom?

A I have heard of him but I have never seen his face.

Q You never saw him until you came into the courtroom?

A I have heard of his name once or twice but I have never met him.

Q What happened at this service you speak of, after the execution?

A It was not service in the strict sense of the word. Those who had attended the execution gathered and paid last respects to their spirit.

Q What did they do?

A All of them assembled and meditated--had a period of meditation.

Q Were you a guard at the prison?

A Yes.

Q Do you know what food rations were given these fliers when they were at Kiangwan?

A I was not in charge of the food detail, so I am not certain. However, they received much the same in general as we soldiers did. The main dish was approximately 450 grams of rice and 150 grams of barley. The side dishes consisted of fish or meat sometimes and greens, vegetables. Much of the vegetables were raised in a plot 1800 feet square and this garden provided the Tatsuta unit with a large proportion of their vegetables. The Tatsuta unit was known for its good treatment of all prisoners under them.

Q Who knew that, about the good treatment?

A From the standpoint of the food ration as set down by the army we felt that it was better than that set down by the army.

Q Did Captain Nielsen feel that way?

A I have never heard from that person whether it was good or bad.

Q Did you hear from any of the fliers whether it was good or bad?

A No, I have not heard from any of the prisoners that the food was good or poor.

Q Describe the cells in which these fliers were confined.

A The building was made of concrete. The cells were 6 feet wide and 12 feet deep, about 12 or 13 feet high with electric lamp in the center of

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the cell, usually about 25 to 30 watts. There was a latrine in the corner of each cell and the floor was wooden floor.

Q Were the prisoners placed in solitary confinement when you first saw them in August?

A Yes, they were. They were in the cell that I described just previously.

Q Solitary confinement?

A Yes, they were in solitary confinement.

Q Why was Hallmark sent back to Bridge House?

A I do not know the reason why, nor do I even remember the name of the person who was sent back.

Q Wasn't it the sick man who was sent back to Bridge House?

A I heard later that he was sick and that he had contracted a contagious disease.

Q Were living conditions at Kiangwan as good as Bridge House?

A I don't know. I have never seen their food supply.

Q Have you ever been in Bridge House?

A I have been there two or three times on official business.

Q Do you know anything about how the prisoners were treated there?

A I have heard nothing concerning prisoners there.

Q Nothing at all?

A No.

Q Nobody ever talked to you about Bridge House?

A No.

Q Didn't you look around when you were there?

A By official business I meant acting as courier for documents and I have never seen the places where the prisoners were confined.

Q Didn't you know what people say about Bridge House?

A I have never heard anything about the airmen.

Q Did Captain Tatsuta say anything to you about why Hallmark was sent away from Kiangwan?

A I have heard that it was because he was sick.

Q How much exercise was given these men every day?

A They were given on the average, that is, to all prisoners confined there, an average of once in the morning and once in the afternoon. The type of exercise was not determined.

Q How much time in the morning and how much in the afternoon?

A Although there is no regulations, it has been over one hour in the morning and more than one hour in the afternoon.

MAJOR DWYER: You may cross examine.

CROSS EXAMINATION

Q (By Mr. Kumashiro) (To Interpreter Kranz) I will speak in Japanese and you translate into English.

Q Were the guards army personnel or civilians?

A The guards were civilians.

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- Q What is the difference between an army personnel and a civilian?
A The army personnel has an insignia of rank while a civilian does not.
- Q Can a civilian command an army personnel?
A The civilian has no authority of giving orders to the army personnel.
- Q Is this noted in the law?
A This must be recorded in the law but I do not recall it.
- Q At the time of the execution what was the rank of Tatsuta?
A He was a civilian attached to the army.
- Q By whose command did you become guard?
A It was the command of the Ministry of War in Japan.
- Q Where was the unit to which you were attached?
A I was attached to the headquarters of the Japanese Expeditionary Forces in China.
- Q Was that in Nanking?
A Yes.
- Q Was the Kiangwan Military Prison under the authority of Nanking Headquarters?
A At that time it was under the command of the Nanking Headquarters.
- Q Was that the army headquarters or the MF headquarters?
A The command was that of the army headquarters in Nanking. I was assigned to the penitentiary department.
- Q Have you seen any official letter in Shanghai Penitentiary Department?
A I haven't seen all but I have seen some.
- Q Who signed these official documents?
A The warden and the detachment chief signed them.
- Q Who was the chief of the guards?
A It was Isakichi.
- Q Was Isakichi the chief of guards in Nanking?
A He was attached to the penitentiary department of Shanghai which was under the command of the army headquarters in China.
- Q Who was the warden of the Nanking Prison?
A It was Ooka Tokijiro.
- Q Who issued the writ of execution?
A I do not know well that which concerns the trial, but I believe it was done by the prosecution counsel.
- Q Do you know to whom this writ of execution is addressed?
A As I have mentioned before this is addressed to Ooka Tokijiro, or his subordinates--

MAJOR DWYER: Now we object to this question, first of all upon the grounds that any writ or document that is being testified to, the document is the best evidence. That should be brought before the Commission and let it speak for itself. This witness can say most anything as to any document if the document isn't brought in. I suggest the defense either bring in the document or explain why it isn't here. We also move to strike from the record all testimony of this witness concerning any supposed or alleged writ or order of execution upon the grounds stated.

MR. KUMASHIRO: I am just taking the writ of execution as an example, but if you object I will withdraw the name of the writ of execution. I will change it to the order of the superior.

MAJOR DWYER: I make the same objection. Obviously counsel is now talking about writs generally or orders generally. Extraordinarily improper. We object.

MR. KUMASHIRO: I'd like to know why the prosecutor objects to a question of that nature. I can see no reason for objecting.

MAJOR DWYER: Prosecution objects because the line of questioning here is not tied down to this particular case. If they have any evidence to produce from this witness that applies to the case here, the orders and writ issued in this case, it is admissible, but unless the evidence does pertain to what happened in this case it is irrelevant and immaterial and has nothing to do with the issues in this case, so we ask counsel to tie his questions down to this particular case here.

COLONEL MC REYNOLDS: Is it the defense counsel's efforts to bring out more or less the channels of official papers, or the person who issued those orders?

MR. KUMASHIRO: I'd like to find out the exact way of the official channels.

MAJOR DWYER: Now may it please the Commission, the record shows that this man was a civilian, on his own testimony, at the time all this took place. I submit now that counsel will have to qualify him as an authority on military channels before he can ask him the questions. He is obviously disqualified because in his own statement he is a civilian.

CAPTAIN FELLOWS: We have one suggestion to offer. If the witness knows, he can certainly state what he knows. If he doesn't know, he is not being asked a hypothetical question, such as you ask an expert or an authority. I think the question was based upon knowledge, not upon his expert position.

COLONEL MC REYNOLDS: Objection overruled. Proceed.

Q Can Ooka Tokojiro or his subordinates object to the writ of execution?
A I believe we can not.

Q Please explain the program of a prisoner's life in Kiangwan Military Prison concerning Japanese prisoners?
A They rise at six o'clock in the morning after which they clean the room, then go to the latrine.

Q Is there any difference between the treatment of the Japanese prisoners and the foreign prisoners?
A There is none.

Q Was there any difference of treatment among the Doolittle fliers?
A I believe there was none.

Q Did you ever hear that the Doolittle fliers received better treatment than the Japanese fliers?
A There was no special treatment for the Doolittle fliers but the treatment was the same to all the prisoners.

Q Who cleaned the latrine of the solitary cells?
A I believe the Japanese in charge of---I believe the Japanese prisoners did it.

#8-19 z 3/21 PM

- Q Who cleaned the latrine of the Doolittle fliers?
A I believe the Japanese Military Prisoners did it.
- Q Were the prisoners in Kiangwan given more greens than was rationed?
A There was no extra rations to the prisoners but the greens that were,-- they received extra vegetables that were raised on their lot.
- Q Were these vegetables given to the prisoners by the command of Tatsuta?
A Yes.
- Q After the execution do you remember any one bringing flowers in the truck?
A I do not remember.
- Q After the execution were the army personnel given orders to meditate or did they meditate upon their own accord?
A That was not done by orders.
- Q Do you know where was Hallmark taken from Kiangwan prison?
A I did not know it at that time but I learned later that he was taken to the Bridge House.
- Q Do you know how many orders were given at the execution?
A I do not recall.
- Q Do you know how many Japanese prisoners were executed since you came to Shanghai?

MAJOR DWYER: I believe that question is irrelevant in this case. It has nothing to do with any of the issues involved in this case. We object to it.

COLONEL MC REYNOLDS: Objection sustained.

LT COL BODINE: May it please the Commission, we have a few more questions to ask which probably will take ten or fifteen minutes. Is it the Commission's desire to recess until tomorrow?

MAJOR DWYER: Prosecution will have a few more questions to ask the witness on re-direct examination. We will need him until tomorrow.

COLONEL MC REYNOLDS: The Commission will adjourn until nine o'clock tomorrow.

(Whereupon the Commission adjourned at 1715 hours on 21 March 1946 to reconvene at 0900 hours on 22 March 1946.)

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MORNING SESSION

... Pursuant to adjournment, the Commission reconvened at 0900 hours, 22 March 1946, at which time all of the Members of the Commission, the accused, attorneys for prosecution and defense, the interpreting staff and the official reporter resumed their seats in the court room...

COLONEL MC REYNOLDS: The Commission is in session.

PROSECUTOR: Sergeant Mayama will take the stand. The interpreter will remind the witness that he is still affirmed.

(Captain Hahn as interpreter).

Sergeant MAYAMA SHIGEO

called as a witness for the Prosecution, resumed the stand and after being reminded he was still affirmed, was examined and testified as follows:

CROSS EXAMINATION

Q (By Mr. Somiya) Do you know that the prosecutor issues the order of execution?

A Yes, I do.

Q In the case of these three fliers, was the procedure the same?

A Yes.

Q To whom was the addressed, the order?

A To Ooka Takijiro.

Q Was he the head of the prison here? Were it not Captain Tatsuta head of the branch?

A Yes.

Q Not Captain, just Tatsuta?

A It is not.

Q The order execution of the fliers addressed to whom? To whom the order for the fliers execution was addressed?

A It is also Ooka Takijiro.

(Sgt Morozumi assumed the interpreting position.)

Q To whom was the writ of execution of the sentences for five prisoners addressed?

DEFENSE (Kuwashiro) That is incorrect - the translation is not writ of execution but of life imprisonment.

Q To whom was the order authorizing the punishment of the five fliers addressed?

INTERPRETER: The question is not quite clear.

COLONEL MC REYNOLDS: Does the prosecution have any objection to the defense helping out on these questions?

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PROSECUTION: No objections.

(Mr. Kumashiro acting as interpreter)

Q To whom was addressed about the punishment of the five fliers?

A (none)

Q To whom the writ of execution of the punishment concerning to the five fliers was addressed?

A That was addressed to Ooka Takijiro.

Q Was Ooka Takijiro the Governor of the Prison?

A He was the governor of the prison.

Q Were the official documents made in the Shanghai, Kiangwan prison in the name of Ooka Takijiro?

A All important documents and the documents such as concerning to the staff matters were always signed by Ooka Takijiro.

Q I would like to ask concerning the execution of the three fliers. I would like to ask the witness, in mind of his statement yesterday that the civil staff attached to the Army could not make any order to the military officers and soldiers, can you say that the actual order of firing at the time of the execution of the three fliers was not issued by Tatsuta?

A Yes, I can.

Q Was there the prosecutor at the spot of the execution?

A Yes, he was there.

Q The reason why -- what was the reason? Was he there in order to take command of the order of execution?

A I think myself that according to the regulations in the military, the prosecutor is asked to be at the spot of the execution to take command.

(Due to some confusion in the translation, Captain Hahn was asked to translate the above answer.)

PROSECUTOR: We object to the question and also move that the answer be stricken from the record on the ground that he thinks that according to military regulations that a certain thing should have taken place. The entire line of questioning is entirely suggestive and entirely improper and we ask that the question and answer be stricken from the record. This is all highly suggestive.

DEFENSE: The witness can think anything he wants and give an answer. If he thinks a certain thing is as it is, he can answer that way and there is no rule of the Commission that says he can't.

PROSECUTOR: What this witness thinks is immaterial. What he knows is material. We suggest that the question be asked, who did the firing or who gave the order for the firing. Let us get to the point instead of what he thinks may have happened according to some regulation.

DEFENSE: I would like to remind the prosecution that he will have an opportunity to cross-examine the witness, and we will ask the questions at this time.

COLONEL MC REYNOLDS: Objection over-ruled. Proceed.

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Q Was there any personnel reshuffle between the Nanking Prison and the Shanghai-Kiangwan Branch Prison?

A The personnel change between those two prisons were used to take place once a year or once or twice -- once in two years.

DEFENSE: (Capt Fellows) Do you mean personal or personnel?

INTERPRETER: Personnel.

Q I would like to know the reason of the personnel reshuffle between those two prisons because of the fact that the Kiangwan Prison is an independent prison.

PROSECUTOR: I object to this question in form. It is obviously an attempt on the part of counsel to testify on facts not in evidence.

DEFENSE: We withdraw the question.

PROSECUTOR: Objection withdrawn.

Q Who was the responsible person for the execution of the three fliers?

A I am not sure of the details but I think myself that the actual responsible person for the execution of the three fliers was Ooka Takijiro.

PROSECUTOR: We move to strike that as not responsive to the question and calling for a conclusion of the witness and has no probative value whatsoever.

DEFENSE: (Capt Fellows) If the Commission, please, I think the answer is responsive to the question. As to the probative value, we leave that to the Commission.

PROSECUTOR: If the Commission, please, we have no objection to the witness testifying as to what he knows but all these surmises and conclusions which he thinks, personally, I think should be stricken from the record.

COLONEL MC REYNOLDS: Objection sustained. The Counsel desires the defense to rephrase the question.

REPORTER: If the Commission, please, sir, you mean the Commission desires the question rephrased. You stated "Counsel desires".

COLONEL MC REYNOLDS: Yes, The Commission desires the defense to rephrase the question in order to bring out more clearly the desires of the defense for a reasonable answer.

Q If the officer responsible for the Kiangwan prison was Ooka Takijiro, was not Ooka the responsible man for the execution of the three fliers?

PROSECUTOR: The question is objected to in form. If so and so was the responsible officer was not so and so responsible for the act. It is purely calling for a conclusion of the witness. Let the witness state the facts as he knows them, as respects to this execution.

DEFENSE: Withdraw the question.

PROSECUTOR: Objection withdrawn.

COLONEL MC REYNOLDS: Proceed.

Q If the writ of execution of the three fliers -- because the writ of execution of the three fliers was addressed to Ooka Takijiro, was not Ooka the responsible man for the execution of the three fliers?

PROSECUTOR: We object to this question on the grounds stated in the previous question. Assuming, if the writ was addressed to Ooka, wasn't he responsible, is purely calling for a conclusion of the witness. This man has not been qualified as an expert on anything. He was a guard. We object to the form of the question.

DEFENSE: (Capt. Fellows) If the Commission, please, I think a lot of the confusion is the result of the Japanese statement. They talk more or less in reverse of the way we speak. I think that is why they appear leading. It is the natural result of the literal translation of the Japanese statement.

PROSECUTOR: (Maj Dwyer) That is no reason why we should violate the rules of evidence before the Commission. That is no reason why he should give evidence based on assumptions or on facts which are given to him by defense counsel in the question. Let the witness state what he knows.

COLONEL MC REYNOLDS: Objection sustained. I again caution the defense to phrase the question in order to get a direct answer, not an assumption or the fact that a witness thinks a thing is to be so.

Q At the time of the execution of the three fliers, was the Kiangwan Prison under the jurisdiction of the 13th Army?

A No, it wasn't.

Q How many fliers were taken into custody of the Kiangwan Prison?

A I am not sure the exact numbers of the fliers but I think now it was seven fliers but the previous day of the execution I think that there were eight fliers.

Q Did the accused, Tatsuta, make any lectures to his subordinates to treat the fliers favorably?

A At the time of the morning ceremony he used to give the lectures in that line.

Q Were the fliers confined in solitary confinement at first?

A Yes, they were.

Q When was the fliers transferred to the -- when the fliers were transferred to live together?

A I am not sure of the day but after the execution about one month, then the remaining five fliers were transfer to live together.

Q What was the size of the cell in which the fliers were then transferred?

A The cell was 15 feet wide, 15 feet deep and 12 feet high. This is not very clear.

Q Were there any windows?

A There were four windows of four partial glasses.

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- Q Tell the size of the window in width?
A I cannot tell exactly the size by foot but one glass of the window is more or less one foot by one foot.
- Q How many blankets were they given?
A I remember during the time of hot season they are given three blankets and when it begins colder they were given five or six blankets.
- Q How about the pillows?
A I don't remember.
- Q What time did the fliers wake up in the morning?
A It differs according to the month of the years but there is no difference between the Japanese prisoners and the fliers.
- Q What time the Japanese prisoners wake up in summer?
A In mid-summer they wake up at six o'clock in the morning.
- Q Were the fliers wake up at the same time as the Japanese prisoners?
A Yes.
- Q What time go the prisoners to bed in the evening?
A It also differs according to the length of the days. In summer the prisoners go to bed at half past eight in the evening.
- Q Do the prison allow the prisoners to wash themselves every morning?
A Yes, they do.
- Q At the time of the washing in the morning, did the prisoners have exercise?
A It is not definitely ruled out but because of the fact that at the time of the washing there are too many prisoners come together, so there are no time to give any exercise to them but sometimes they are given exercise at the same time when they washing.
- Q What kind of exercise were the prisoners given?
A The prisoners can do what they like.
- Q Do you not have the experience to give the exercise in the American style to the prisoners?
A I do not remember that the name of the exercise was disclosed to the prisoners and the staff of the prison but the prisoners did exercises which I do not see previously.
- Q Did the staff of the prison have a baseball match with the fliers?
A I don't remember.

DEFENSE: No further questions.

REDIRECT EXAMINATION

(Sgt Arita interpreting)

- Q (By Maj Dwyer) Was Ooka present at the execution?
A He was not present.
- Q Why wasn't he?
A Such details, having been just a guard, I do not know.
- Q How come you know all about these channels of orders that you testified to, then?

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A In the Japanese Army there is such a thing as superior officer and subordinate and in the Nanking Penitentiary it is the same and that is why I know about it.

Q Ooka was sick in Nanking, wasn't he?

A I do not remember.

Q Tatsuta took his place, didn't he?

A Yes.

Q So Tatsuta carried out this writ of execution, didn't he?

A I believe that he executed the orders of Ooka Takijiro.

Q You were a lance corporal at the time of the execution, weren't you?

A That is wrong, I was a civilian attached to the Army.

Q Do you remember when I took a statement from you through an interpreter at Japanese 13th Army Headquarters?

A I stated at the time of the questioning that at the time I was a civilian attached to the Army as a prison guard and later I was with the 13th Army.

Q I'll ask you the question again. Do you remember giving me a written statement which you signed, through an interpreter?

A I remember having signed the document.

Q Now I show you the document you signed and ask you if that is your signature?

A I wrote that signature.

Q Did the interpreter read that statement back to you before you signed it?

A Yes.

Q Were you asked this question and did you give this answer?

"What was your duty at that time?" Answer "A guard of the prison."

A Yes.

Q And were you asked this question and did you give this answer?

Question "What was your rank?" Answer "Lance corporal (Gunzoku)"

DEFENSE: (Capt Fellows) What does "Gunzoku" mean?

INTERPRETER: Attached to the Army.

A I did say I was a civilian attached to the Army but I did not say I was a lance corporal.

Q Were you asked this question and did you give this answer: Question "Did you hear anybody talk about it?" Answer "I was a guard so I did not go much into the Doolittle Fliers' case."

A Yes.

Q Were you asked this question and did you give this answer: Question "Who was in charge of the execution?" And your answer "I cannot recall the name of the man who was in charge."

A Is that the head of the troops or other personnel?

Q I ask you again, were you asked this question and did you give this answer? You can answer this "yes" or "no". Question, "Who was in charge of the execution?" Answer, "I cannot recall the name of the man who was in charge."

A Yes.

Q Were you asked this question and did you give this answer? Question, "Do you know who the officers were who gave the command to fire the rifles?" Answer, "No."

A Yes.

Q And were you asked this question and did you give this answer? Question, "What did Captain Tatsuta do at the time of the execution?" Answer; "I think Captain Tatsuta spoke to the fliers before they were executed."

A Yes.

Q Were you asked this question? "Was he in charge of the guards at the execution?" And did you give this answer: "Captain Tatsuta was governor of the Kiangwan Military Prison in Shanghai at that time so I think he must have been in charge." Did you give that answer?

A I did not say that he probably did. However, I said I do not remember.

Q I ask you again, were you asked that question and did you give that answer?

A I was asked that question.

Q And did you give that answer?

A For an answer I said I do not remember clearly.

Q Did you make that answer, "Captain Tatsuta was governor of the Kiangwan Military Prison in Shanghai at that time so I think he must have been in charge."?

DEFENSE: If the Commission, please, this is the prosecution's witness. We haven't objected to his trying to impeach his own witness but he is asking the same question over and over. I think the defense will have to object to the prosecution's attempts to impeach his own witness.

PROSECUTOR: In the first place the witness is obviously a hostile witness. There can be no question about that. This man tied one of the fliers to the cross. He is a member of the same outfit. Previously he tied one of these fliers to the cross.

DEFENSE: That hasn't been brought out in evidence.

PROSECUTOR: I mean the Japanese Army, I don't mean the 13th Army. He is a member of the same Army and is definitely a hostile witness here. I think, for the purpose of the record I think it would be well to have a ruling on whether these are hostile witnesses or not. We will have more of them on the stand and I believe it would be well to have a ruling on it.

COLONEL MC REYNOLDS: The defense objection is over-ruled. As to the ruling on the hostility of the witnesses, the counsel will reserve the right to decide that at a later time.

PROSECUTOR: The Commission, you mean?

COLONEL MC REYNOLDS: The Commission, yes.

Q Did you make the following as part of your statement, "The above statement has been read to me in Japanese by Interpreter Caesar Luis dos Remedios, and I understand it fully, and it is a true and correct statement. I affirm the statement." And then your signature?

A I did not have such thing read to me nor did I say such things. However the questions and answers, the previous statements, I did hear.

Q And were those statements the truth when you gave them to me?
A What I answered there is no error in.

Q At the time of the execution was Captain Wako a member of the Japanese 13th Army?

A Yes, he was officer of the 13th Army.

Q Was Captain Okada an officer of the Japanese 13th Army at that time, also?

A I do not know about him at that time.

Q Was General Sawada the Commanding General of the Japanese 13th Army at that time?

A Yes.

Q What names were put on those three urns of ashes about which you told the Commission?

A I did not put the name on the urns, therefore I do not remember.

Q Were they the names of the fliers or were they other names?

A I don't think it was the name of the fliers.

PROSECUTOR: No further questions.

RE-CROSS EXAMINATION

Q (By Lt Col Bodine) Do you know who General Shimomura was?

INTERPRETER: What is his rank, full General?

DEFENSE: Lieutenant General.

A I do not know his face but I do not know whether it was at that time or later or before that but I had heard his name and I am sure I heard about him.

Q Do you know the date General Shimomura took command of the 13th Army?

A I do not remember.

Q Do you remember the date that General Sawada was relieved of command of the 13th Army?

A I do not know.

Q Then how do you know that General Sawada was in command of the 13th Army at this time?

INTERPRETER: Is Sawada a Lieutenant General or full general?

PROSECUTOR: Lieutenant General.

A My memory of the time is not very clear. However, the fact that General Sawada was there is clear in my memory. At the time of the execution.

DEFENSE: I withdraw that question and answer.

PROSECUTOR: May it please the Commission, this answer is not withdrawn. That is on the record and counsel has no authority to withdraw the answer from the record.

DEFENSE: Will you read back the question and answer for me?

REPORTER: "Question, then how do you know that General Sawada was in command of the 13th Army at this time?" And the answer "My memory of the time is not very clear. However, the fact that General Sawada was there is clear in my memory. At the time of the execution."

Q Was General Shimomura in command of the 13th Army at the time of the execution?

A I do not know.

Q Was Caesar Luiz dos Remedios the interpreter for the questions asked you by Major Dwyer?

A Yes.

Q Was he once an inmate in the Kiangwan Prison?

A He was in the Shanghai Branch of the -- he was in the Branch office -- the Shanghai Branch office of the legal division of the penitentiary.

Q Could General Shimomura have been in command of the 13th Army at the time of the trial of the Doolittle fliers?

PROSECUTOR: Objected to as being immaterial. What General Shimomura could have been or could have done is immaterial. If he is asked was he, or was he not, we have no objection.

COLONEL MC REYNOLDS: Objection sustained.

Q Was General Shimomura in command of the 13th Army at the time of the trial?

A I do not know about it at that time.

Q Do you know if General Sawada was in command of the 13th Army at the time of the trial?

A I do not remember.

Q Then do you know who was in command of the 13th Army at the time of the trial?

A Because of the fact that my dates are not clear chronologically, I do not know who the commanding general was.

Q Was General Shimomura ever in command of the 13th Army?

A Yes.

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DEFENSE: No further questions.

PROSECUTOR: Does the Commission have any questions?

QUESTIONS BY THE COURT

COLONEL MURPHY:

Q I have, to clear up the status of Remedios when he was in the Branch office of the penitentiary, otherwise known as the Kiangwan Prison. Was he a prisoner there?

A Yes.

Q Do you know the name, rank and branch of the prosecutor who signed the writs of execution and imprisonment?

INTERPRETER: Imprisonment?

COLONEL MURPHY: Yes, execution and imprisonment.

A I do not know.

COLONEL WISE:

Q Was General Sawada present at the execution?

A I do not remember.

COLONEL BERRY: I would like to ask defense counsel, when you phrased the question to the present witness, something to the effect, Was General Sawada in command of the 13th Army at this time? and the witness answered, "He was in command at this time", my question to you is, what time are you referring to?

DEFENSE: (Lt Col Bodine) From the previous question I was referring to the time of the execution. If it please the Commission, I would like to point out at that time what I had in mind and what the witness had in mind are two different things.

COLONEL BERRY: It seems to me that it should appear on the record whether the witness knows the question and the time you referred to in making his answer.

DEFENSE: It may be that the matter will be cleared up if the reporter goes back and reads the testimony before this particular question.

PROSECUTOR: I might suggest that to clear it up the defense counsel ask the witness a question to tie him down to a particular date.

DEFENSE: He later answered that, I believe. I asked him later and he said no, but to that particular question he specifically stated that General Sawada was Commanding General of the 13th Army at this time. I think it will be unnecessary to pursue the matter any further.

COLONEL GAMBER:

Q While you were on duty as a guard at Kiangwan Branch Prison, did you ever act as a personal guard to any of the fliers?

A No.

Q Was the Bridge House jail under the 13th Army?

A I do not know of the others.

COLONEL GAMBER: What does he mean by that?

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INTERPRETER: I do not know. I interpret only what is asked. I do not add words.

PROSECUTOR: Yes, of course.

DEFENSE: I do not think the question is made clear.

COLONEL GAMBER: I understood yesterday when he was questioned he said he had been there three times.

DEFENSE: The Japanese counsel said the interpreter had interpreted it to him that way.

COLONEL GAMBER: You mean the interpreter used those words?

INTERPRETER: When we translate we cannot add anything to explain the words. We give only a literal translation and we do not change it unless it is a grammatical error and we make it clear but we do not add words.

PROSECUTOR: Was the Honkew Gendarmerie Frison under the jurisdiction of the 13th Army?

A I do not know.

PROSECUTOR: May the witness be excused if there are no further questions?

COLONEL MC REYNOLDS: There being no further questions, the witness is excused.

(Whereupon the witness withdrew from the court room.)

PROSECUTOR: I might suggest at this time that we would like to translate the statement read into the record yesterday as the next order of business, if the Commission would like to recess first. It is nearly ten thirty.

COLONEL MC REYNOLDS: The Commission will recess for fifteen minutes.

(Whereupon the Commission at 1028 hours recessed until 1043 hours, at which time all members of the Commission, the accused, counsel for prosecution and defense, the interpreting staff and official reporter resumed their seats in the court room.)

COLONEL MC REYNOLDS: The Commission is in session.

PROSECUTOR: At this time we would like to have the interpreters translate the statement of Hite and DeShazer to the accused. This was read into the record yesterday, Prosecution's Exhibit No. 22.

(Whereupon the interpreter, Mr. Krantz, translated Prosecution's Exhibit No. 22 for the accused.)

PROSECUTOR: The prosecution will call as its next witness Sgt. Iasmu Yoneda.

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YONEDA ISAMU

called as a witness on behalf of the Prosecution, being first duly affirmed, was examined and testified as follows:

DIRECT EXAMINATION

(Sgt Morozumi, interpreting.)

Q (By Maj Dwyer) The prosecution will ask a couple of qualifying questions as to the witness' affirmation. Do you have a religion?

A I do.

Q What is it?

A Buddhism.

Q Do you know the difference between truth and untruth?

A I do.

Q In speaking before this Commission will you be bound by your conscience and your religion to tell the truth and nothing but the truth?

A I do.

(Whereupon the witness was given the oath of affirmation.)

Q State your name, rank and organization in the Japanese Army.

A Army Legal Section, Sergeant Major, Isamu Yoneda, 13th Army Prison.

Q Is that your present station?

A It is.

Q Was that your station in about September 1942?

A At that time it was the Shanghai Prison, Shanghai Branch of the China Expeditionary Forces Prison

Q When did you first come to Shanghai in 1942?

A Latter part of July.

Q Did there come a time at Kiangnan Military Prison when you met the Doolittle fliers?

A There was.

Q What date?

A It was when I came to Shanghai from Nanking, around the latter part of July 1942. I do not remember the date.

Q Were you present at a court-martial when these fliers were tried by the court?

A No.

Q Were you present at a time when certain of these fliers were executed?

A I was at the execution ground.

Q What date?

A I do not remember the exact date but I think it was in the middle part of October, 1942.

Q How many fliers were executed?

A Three.

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Q Do you remember their names?

A No.

Q Describe to the Commission what happened at the execution grounds.
A The three prisoners were placed in front of crosses and their arms bound. A hood was placed over them and the firing squad took position about thirty meters away from them and fired.

Q Do you know Captain Tatsuta?

A I do.

Q Do you see him in the court room?

A Yes sir.

Q Point him out.

A (Pointing.)

PROSECUTOR: Let the record show the witness points to Captain Tatsuta.

Q Was he at the execution?

A Yes.

Q Was he in command of the execution?

A He was the commanding officer of the execution.

Q Was Captain Tatsuta the governor at the prison?

A He was the Shanghai Branch chief of the China Expeditionary Forces Prison.

Q At Kiangwan?

A Yes.

Q Did Captain Tatsuta give the command to fire at the execution?

A I do not clearly remember but I don't think he did.

Q Was Captain Wako there?

A He was.

Q Captain Okada?

A I do not remember.

Q Did anybody ask the fliers any questions before they were executed?

A Captain Tatsuta was asking and speaking to them.

Q What were the questions?

A I was too far distant away to understand.

Q You saw him talking to the fliers?

A I did.

Q Do you remember seeing me before?

A I think that when I was first investigated that you interrogated me.

Q That was at the Japanese Military Hospital in Kiangwan, wasn't it?

A Yes.

Q I show you a statement -- signed statement, and ask you whose signature that is?

A The signature is mine.

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Q You signed that in front of me, didn't you?

A Yes.

Q There was an interpreter, wasn't there?

A He was.

Q Were you asked this question and did you give this answer through the interpreter: Question "Was he in command of the execution?" Answer "I think it was Captain Tatsuta."

A I stated that I was not sure.

Q I ask you again, were you asked that question and did you give that answer?

A I did.

Q Were you asked this question and did you give this answer: Question "He was governor of the prison?" Answer "Yes."

A I said that he was the branch chief.

Q Were you asked this next question and did you give this answer: Question "Did he give the command to fire?" Answer "I cannot be sure but I think it was him."

A I stated that at that time I was not sure who it was.

Q I ask you again, were you asked the question and did you give that answer when you talked to me?

A I did.

Q And just before you signed the statement did you make this statement: "The above statement has been read to me in Japanese by interpreter Caesar Luiz dos Remedios and I understand it fully and it is a true and correct statement. I affirm the statement" and then your signature?

A I was.

PROSECUTOR: You may cross-examine.

CROSS EXAMINATION

Q (By Mr. Kumashiro) What was your rank at the time of the execution?

A I was Army Prison Guard.

PROSECUTOR: Excuse me, was that "What was your rank?" Mr. Kumashiro could you speak up just a little bit more please.

Q What was the rank of Tatsuta at the time of the execution?

A He was Army Prison Chief.

Q Is it the civilian rank or the military rank?

A Civilian rank.

Q At the time of the execution how many orders were given to the firing squad?

A I think that there was only one order to the firing squad.

Q Do you remember what was that one order?

A I am not sure but I think I heard the order "Fire".

Q I ask you that is the independent order or one of the orders in one series of order?

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INTERPRETER: I do not understand your question clearly.

(Captain Hahm then interpreted the question.)

A It was the single order of a series of orders.

Q Was it the final order of the series, of the order to "shot"?

A Yes.

Q I would like to repeat the -- I would like to ask again whether the order to shoot is the last order of the series of these orders?

A Yes, it was.

Q How far were you at the execution ground from the man who issued the order?

A I was standing about fifteen meters to the left of the person who issued the orders.

Q Could you hear the whole orders in that series of orders?

A I was able to hear all orders in that series of orders.

Q Can you say to this Commission that the -- Can you say to the Commission that each order in this series of orders?

A First it was "Attention", "Face to the target", "Prepare", and "Fire". "From squatting position, fire".

Q Anything more?

A I heard nothing other than that.

Q I would like to ask you the order of "shoot" is the last order?

A The order to fire was the last.

Q I would like to ask you again, after the firing squad shot the fire, were they not given any other orders?

A After the firing squad fired, they were given an order to cease fire.

Q Anything more?

A I don't think that there were any more than that.

Q Do you think all those orders were from the same person?

A The same person issued those orders.

Q Could you hear all those orders distinctly?

A I was -- I heard everything that I have stated to now.

Q How many chief of the guard were there at the time of the execution in the Kiangwan Prison?

A At that time there was one.

Q Was Tatsuta the chief of the guard at the time in the Kiangwan Prison?

A He was.

Q Was he the only chief of the guard at the time of the execution in the Kiangwan Prison?

A There was one other chief of the guards.

Q Who was the Chief of the Prison in Nanking at the time of the execution?

A Ooka Takigiro was the prison chief in Nanking.

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Q Do you remember whether the medical doctor treated the wounds prior to place the corpse of the three fliers in the coffin?

A I do.

Q Don't you remember the flower wreaths was brought to the execution ground?

INTERPRETER: what do you mean, flower leaves?

DEFENSE: Flower wreaths.

A I do.

Q Was it the usual custom at the time of the execution of the Japanese?

A Yes.

Q Do you remember whether the special treatment was given at the time of the execution of the Doolittle fliers?

A I do.

Q What was it?

A We received orders from superior officers to afford these fliers more than to the Japanese prisoners; to permit them to exercise as long as they wished without limiting their period and we granted them more vegetables in their daily diet than we did to the Japanese. These vegetables were raised by the prison itself.

Q Anything more?

A And they were allowed to bathe twice or three times a week. They were also given two or three more blankets than the other prisoners.

Q How many to the Japanese prisoners in winter--in summer?

A In the summer it was three.

Q How many blankets did you give to the Doolittle fliers in summer?

A I remember that it was four or five blankets at that time.

DEFENSE: No more questions.

PROSECUTOR: Does the Commission wish to ask this witness any questions?

QUESTIONS BY THE COURT

COLONEL GAMBER:

Q Were you ever on duty as a guard directly over any of the fliers while they were in prison?

A I served as a general guard rather than guarding the fliers in particular.

COLONEL MC REYNOLDS: No further questions by the Commission.

PROSECUTOR: May the witness be excused.

COLONEL MC REYNOLDS: The witness is excused.

(Whereupon the witness withdrew from the court room.)

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PROSECUTOR: The prosecution will call as its next witness Sgt. Tomoichi Yoneya.

YONEYA TOMOICHI

(Sgt Morozumi interpreting)
called as a witness on behalf of the prosecution, being first duly affirmed, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Major Dwyer) The prosecution will ask the witness a few preliminary questions to qualify his affirmation. Do you have a religion?

A I do.

Q What is it?

A Shinto - Buddhist sect.

Q Do you know the difference between truth and untruth?

A I do.

Q In speaking to the Commission will you be bound by your conscience and your religion to tell the truth and nothing but the truth?

A I do.

(Whereupon the witness was given the oath of affirmation.)

Q State your name, rank and present organization and station.

A Army Judicial Sergeant Major, Tomoichi Yoneya.

Q You are presently stationed in Kiangwan with the 13th Army?

A Yes.

Q And Mayama and Yoneda are there with you, aren't they?

A They are.

Q In 1942 were you stationed at Kiangwan Military Prison, Shanghai?

A There is no Kiangwan Prison in Shanghai.

Q Where were you stationed in August, 1942?

A I was with the 13th Army.

Q Were you at the prison where the Doolittle fliers were brought?

A I was.

Q When did you first see the Doolittle fliers?

A It was some time in 1942. I do not remember the date or the month.

Q Did you remember attending a court-martial of the Doolittle fliers?

A I do not remember.

Q Were you present at First Shanghai Cemetery in October 1942 when three of these fliers were executed?

A I was.

Q What were your duties at the execution?

A I went there on preparatory detail and erected crosses with new lumber.

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- Q Did Captain Tatsuta order you to do that?
A Yes.
- Q When the three fliers arrived at the cemetery were you already there?
A Because I have come there on preparatory detail, I was there.
- Q Was Captain Tatsuta in charge of the execution party?
INTERPRETER: Repeat the question please.
(Whereupon the reporter read the question back to the interpreter.)
- A He was there and he transmitted the orders he received from Ooka.
- Q Did you help tie any fliers to the cross?
A I did.
- Q Was Ooka present?
A He was not.
- Q Who did you tie to the cross.
A I have forgotten his name.
- Q Describe to the Commission the execution of the fliers. What happened?
A I was on preparatory detail and I went and erected crosses made of new timber, after which I brought the prisoners by vehicle. After the prisoners were brought to the cemetery I bowed to the coffin after which the prisoners were tied to the crosses with new cloth. There were two riflemen assigned to each man. One primary rifleman and the other secondary. As to the person giving the order, I do not clearly remember.
- Q Which officer gave the signal to fire the shot?
A The person who gave the order to fire I think was either the officer or the non-com who was in charge of the firing squad.
- Q Did you ever see me before?
A I have.
- Q You gave me a statement at Japanese military hospital, through an interpreter?
A I have.
- Q I show you that statement with a signature at the bottom of it and ask you whose signature that is.
A The top signature is mine.
- Q That is the signature above the two English signatures?
A Yes.
- Q You signed that in front of me?
A Yes.
- Q Now in that statement were you asked this question and did you give this answer: Question "Which officer gave the signal to fire the shot?" Answer "I think it was Captain Tatsuta because he was the Governor of the Shanghai Military Prison, a branch of Nanking."

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A I was mistaken. At that time Captain Tatsuta was a civilian, and a civilian can never issue an order to military personnel.

PROSECUTOR: I ask the answer be stricken from the record. I merely asked the question did I ask that question and did he give that answer. I move that his answer be stricken from the record.

DEFENSE: If it please the court, this witness is merely giving a pretty responsive answer to the question. He can make an answer "yes" or "no" or he can make an explanation. He gave the explanation which implies the answer given at that time was a mistake.

COLONEL MC REYNOLDS: The answer will be stricken from the record.

Q I ask you again, were you asked that question and did you give that answer?

A I did not.

Q Do you know Lieutenant Hayama, defense counsel in this case?

A I do.

Q He is also in the Legal Department, Japanese 13th Army, isn't he?

A Yes.

Q Do you know Captain Shimada of the same department?

A I do.

Q They were present when you gave me this statement weren't they?

A Yes.

Q And they heard the translation of Mr. Remedios read to you, didn't they?

A Yes.

Q Have you talked to Lt. Hayama about this statement since you gave it to me?

A I have not spoken to him concerning the statement.

Q You are in the same office with him, aren't you?

A No.

Q Did you lie to me then, when you gave me the statement?

A I did not say a lie. It could very probably be that I misunderstood or was misunderstood.

Q You didn't object to the translation at the time it was read to you, did you?

A Yes.

Q You objected to the translation when it was read to you?

A No.

DEFENSE: If it please the Commission, there is some misunderstanding on the interpretation there.

PROSECUTOR: I think if there is some question of interpretation, the interpreters can get together and settle it.

(Whereupon the interpreters consulted with each other but before a decision was reached, the prosecution again spoke up.)

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PROSECUTOR: I withdraw the question.

Q Did you object to the translation when it was read to you?

A I did not object at that time.

Q Did Lieutenant Hayama object?

A I do not know.

Q You were there weren't you?

A I was.

PROSECUTOR: May it please the Commission, we shall need this witness after lunch. It is five after twelve. Do you wish to take a recess?

COLONEL MC REYNOLDS: The Commission will adjourn until two o'clock this afternoon.

(Whereupon, the Commission at 1205 hours, adjourned until 1400 hours, 22 March 1946.)

AFTERNOON SESSION

... Pursuant to adjournment, the Commission reconvened at 1400 hours on 22 March 1946 ...

COLONEL MC REYNOLDS: The Commission is in session.

MAJOR DRYER: Let the record show the members of the Commission, prosecution and defense counsel, accused, interpreters and reporter are present in the court after recess and the witness is reminded he is still under oath.

TOMOICHI YONEYA

testifying at the close of the previous session, resumed the stand, was reminded he is still under oath, was examined and testified (through T/Sgt John Morozumi) as follows:

CROSS EXAMINATION

Q (By Mr. Komoshiro) At the time of the execution of the Doolittle fliers were you a guard of the Kiangwan Prison?

A Yes.

Q Did the Kiangwan Prison belong to the 13th Army at the time of the execution of the Doolittle fliers?

A It is not the Shanghai Prison. It is the Shanghai Branch, China Expeditionary Force Prison.

Q Where was the Shanghai Expeditionary Army's prison?

A Kiangwan. It is the Shanghai Branch of the China Expeditionary Force Prison.

Q Where was the main prison?

A Nanking.

Q Do you know who led the firing squad at the time of the execution?

A Either an officer or a non-com. I am not sure of it.

Q How many members were there in this firing squad?

A There were two persons per man making a total of six.

Q Did you hear the orders to fire at the time of the execution?

A I did not hear the order "fire".

Q Where were you at the time of the execution?

A Between the crosses and the firing squad to the side.

Q How far was it between you and the firing squad?

A About 15 meters.

Q Do you think that the order to fire is spoken independently according to the military regulations?

A I didn't hear the order "fire", however, they were given an order to load, to about face, to forward march and halt.

Q I'd like to ask you that the present answer was from what you have seen actually the firing squad had done?

A I saw the actions of the firing squad and stated it.

Q After they fired the shot what kind of action did the firing squad taken?

A I think that the order was about face, forward march, halt and extract cartridge.

Q Don't you remember who had ordered these series of orders at the time of firing?

A I do not remember. Since the orders are important to such a point I don't think anyone other than an army officer or a non-com could have given such orders.

MAJOR DWYER: May it please the Commission, prosecution moves to strike that answer. The witness may be permitted to say what he saw and what he observed but when he says "I don't think it could have happened this way" because of some circumstance, that is not a responsive answer and has no probative value. We suggest the witness describe what he saw. If he didn't see anything let him so state.

CAPTAIN FELLOWS: If the Commission please, there is no doubt but what it does have probative value.

COLONEL MC REYNOLDS: The answer given was not an answer to the question. It will be stricken from the record.

Q Can a civilian order to military officers, military personnel?

A They can not.

Q Please explain to this Commission the treatment of the prisoners in the Kiangwan Prison concerning to the food.

A The food rations are set down by the prison. However, we raised part of our own vegetables. The main dish can not be altered, however, the side dishes could be and was supplemented with greens raised in our own yard.

Q Were the fliers and the Japanese prisoners treated equally in the Kiangwan Prison?

A There is no Kiangwan Prison. It is the Shanghai Branch.

Q I mean the prison where the fliers were.

A I understand.

Q How was it?

A Of course the same.

Q Were they not given any special treatment?

A They were treated similar to the treatment the Japanese prisoners were getting. We did not see them get any better treatment.

Q I'd like to ask you who cleaned the toilets of the Japanese prisoners?

A Japanese inmates.

Q Who would clean the toilets of the fliers?

A That also by Japanese.

Q I would like to know the reason why there was the difference between the cleaning of the Japanese prisoners toilet and the toilet of the fliers?

A There were no difference.

Q I understand that you have just said that all the toilets were cleaned by the Japanese prisoners.

A Yes, Japanese did clean out all of the toilets.

Q Did you not receive any special order from the chief of the guard to give special consideration to the fliers while they were in the confinement there?

A I have.

Q What kind of order did you receive?
A Because our language is different and because they are of a different nationality, to treat them a little easier.

Q What kind of special treatment were actually given to the fliers?
A They were given consideration in that they were given vegetables as side dishes because of the fact that bread alone will not sustain them.

Q Was that order given from Tatsuta?
A Yes, because we are guards.

MR. KEMASHIRO: No further questions.

LT COL HENTREN: Any questions by the Commission?

COLONEL MC REYNOLDS: There appear to be none. The witness is excused.

(Witness excused)

MAJOR DWYER: Prosecution calls as its next witness, Sergeant Minezaki.

YUTAKA MINEZAKI

was called as a witness on behalf of the Prosecution.

MAJOR DWYER: The prosecution will ask two or three preliminary questions to qualify the affirmation of this witness.

Q Do you have a religion?
A Yes.

Q What is it?
A It is Buddhism.

Q Do you know truth from untruth?
A Yes.

Q In speaking before this Commission will you be bound by your conscience and religion to tell the truth and nothing but the truth?
A Yes.

(Whereupon the witness was affirmed, was examined and testified (through S/Sgt Katsuki Arita) as follows:

DIRECT EXAMINATION

Q (By Major Dwyer) State your name, rank and present organization and station.

A Sergeant Major Minezaki, Yutaka of the Japanese Judicial Branch, location of the unit at Kiangwan Headquarters of the 13th Army.

Q Japanese army?
A Yes.

Q Where were you stationed in August 1942?
A Shanghai.

Q Were you stationed at the Shanghai Branch Military Prison at that time?

INTERPRETER: To the previous question, "I was attached to the Supreme Headquarters."

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- Q Were you stationed at Shanghai Branch Military Prison in August 1942?
A That was in September.
- Q Was it September that you first came there?
A Yes.
- Q What was your rank at the time?
A Guard.
- Q Was there a time in September 1942 when you met the Doolittle fliers at that prison?
A Yes.
- Q How many did you meet?
A I remember as having been five of them.
- Q Do you remember their names?
A I do not remember.
- Q Do you remember a time in October 1942 when you attended the execution of three of these Doolittle fliers?
A Yes.
- Q What were your duties at the execution?
A Security.
- Q Did you help tie the men to the crosses?
A I did not.
- Q Who was in charge of the execution party?
A I do not remember.
- Q Was it Captain Tatsuta?
A Yes.
- Q Was he commander of the prison at that time?
A Yes. He was the chief of the Shanghai Branch of the army prison.
- Q Was he present at the execution?
A Yes.
- Q Do you see Captain Tatsuta in the courtroom?
A Yes.
- Q Point him out to the Commission.
- MAJOR DYER: Let the record show the witness points to Captain Tatsuta.
- Q Describe to the Commission what you saw at the cemetery when the execution took place.
A First I got there, Tatsuta was speaking to three persons. Just those that were assigned duties took them over to the cross and began preparations. After the execution, the bodies were all interned in a coffin and were arranged in a row of three.
- Q How were the three fliers executed?
A It was by firing squad.
- Q By firing squad?
A That is right.
- Q Was it the three fliers that Captain Tatsuta was talking to?
A Yes.

Q Do you know what he said or what they said?

A I do not remember.

Q Where were you standing when all this took place?

A Facing the cross on the right hand side at approximately 20 meters.

Q After the men were executed by the firing squad what happened to their bodies?

A I do not remember.

Q They were taken out of the cemetery?

A They went toward the crematorium.

Q You are in the legal office of the Japanese 13th Army now?

A Yes.

MAJOR DYER: You may cross examine.

CROSS EXAMINATION

Q (By Mr. Yamashiro) You have just said that Tatsuta was in command of the execution. What do you mean by "in command"?

A Captain Tatsuta was the chief guard and we being guards we received orders from him and the guards maintained security. We act under the orders of the chief of guards.

Q Does it mean that Tatsuta was in command of those subordinates?

A Just the guards.

Q Don't you know who was the responsible officer in the execution?

A I do not know.

Q How many firing squads were there at the execution grounds?

A One squad.

Q How many members were there?

A Which is that, of the squad?

Q Yes.

A Approximately 15 men.

Q Were these members under the command of Tatsuta?

A No.

Q Do you remember who issued the order to fire?

A I do not remember.

Q Where were you at the time of the execution actually taken place?

A I was facing the crosses to the right 20 meters.

Q Could you hear the voice of the order to shoot?

A Yes.

Q Was it the only voice of the order which you heard?

A Yes.

Q Did you see what the firing squad conducted?

A Yes.

Q What was it?

A In this squad the actual shooters or firers were three, the rest were security members or guards.

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Q Did the fire squad shoot the fire standing?

A From a squatting position, kneeling.

Q Did you not hear the order to shoot?

A Yes.

Q Did you hear any other orders besides to shoot?

A I do not remember.

Q Do you know from whom the order to shoot came?

A I do not remember.

Q What was the rank of Tatsuta at the time of the execution?

A Chief of guards.

Q Was he a professional military man?

A He was a civilian attached to the army.

Q Could a civilian issue an order to a professional military man?

A He can not.

Q Were the fire squad military men?

A Yes.

MR. KUMASHIRO: No further questions.

EXAMINATION BY THE COMMISSION

Q (By Colonel Gamber): To what army did the firing squad belong?

A I do not remember.

Q You stated that Tatsuta was in charge of the execution. Did you so state?

A He was the commander of the guards only.

Q Did you see Captain Tatsuta give any instructions to the commander of the firing squad?

A I do not remember.

COLONEL MC REYNOLDS: There appear to be no more questions; the witness is excused.

(witness excused.)

LT COL HENDREN: At this time we will put Major Dwyer on the stand pertaining to the previous witness.

MAJOR ROBERT T. DWYER

called as a witness on behalf of the prosecution, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Lt Col Hendren) Major Dwyer, did you assist in the investigation and examination of the witnesses in this case?

A I did sir.

Q Major Dwyer, please state your name, grade and organization.

A Major Robert T. Dwyer, Headquarters Army Air Forces, Assistant Air Judge Advocate, Air Forces, China Theater.

Q Major Dwyer, in your investigation of the case, did you take a statement from Sergeant Minezaki?

A I did, sir.

Q On what date was that statement taken?

A That statement was taken on 20 November 1945.

Q Will you state to the Commission the circumstances, under which the statement was taken?

A In the company of Mr. Remedios, an interpreter employed by the U.S. Army, I was taken to the Japanese military internment camp on the outskirts of Shanghai. Lt. Hayama, defense counsel in this case, and a legal officer in the Japanese 13th Army, together with a Captain Shimada of the same office, took me to the camp. I had a shorthand reporter with me. Lt. Hayama went into the camp barracks and brought out Minezaki. I took Minezaki's statement in the presence of both Captain Shimada and Lt. Hayama.

Q Was that statement taken down in shorthand by the reporter?

A Yes, sir. I would ask the question and the interpreter would interpret that into Japanese. He would obtain the answer and give it back in English.

Q Then was that statement typed and presented to Sergeant Minezaki for his signature?

A Yes, sir.

Q Was the statement read back to Minezaki in Japanese when he signed it?

A Yes, sir, and in the presence of Lt. Hayama and Captain Shimada.

Q Do you have with you a signed copy of the statement given by Sergeant Minezaki?

A Yes, sir, I have several executed all in the original and I have one with me.

Q Major Dwyer, I ask you to examine the copy you have and I will ask you if the following questions were asked and the following answers given. Was this question asked, "Do you remember a time in October 1942 when three of those fliers were executed?" and this answer given, "Yes."

A That question was asked and that answer was given.

Q I will ask you if this question was asked and this answer given: "Were you present at the execution? A. Yes."

A That question was asked and that answer was given.

Q I will ask you if this question was asked and this answer given: "Who was in charge of the execution party? A. Captain Tatsuta."

A That question was asked and that answer was given.

Q I will ask you if this question was asked and this answer given: "Q. Was he commander of the prison? A. Yes."

A That question was asked and that answer was given.

Q Now Major Dwyer, I will ask you if you took a similar statement from Sergeant Yoneya.

A I did.

Q Was that statement taken under similar circumstances as that you have related relative to Sergeant Minezaki?

A Yes, sir, this was taken at a Japanese military hospital on the outskirts of Shanghai in the presence of Lt. Hayama and Captain Shimada who took me into the hospital. The same interpreter was present also.

LT COL BODINE: If it please the Commission, I object to the method of questioning the witness. I'd like to know the reason. Are they trying to impeach their own witness? If they have any further questions to ask, the witness are here.

LT COL HENDREN: We are showing to the Commission the inconsistent answers given by the witness on the stand and that given at the time he was interrogated at the first instance. It is a form of impeachment of these Japanese witnesses who appeared today who belong to the same army as these gentlemen here on trial. I think this is proper for the record and it is evidence that has probative value before this Commission.

LT COL BODINE: May it please the Commission, there was no answers given today that were different from the answers the prosecution has been asking the witness.

LT COL HENDREN: I believe there was, if the Commission remembers the testimony. I think the answers were somewhat different.

COLONEL MC REYNOLDS: Objection overruled. Proceed.

- Q Major Dwyer, did Sergeant Yoneya sign his statement after it had been interpreted to him in Japanese?
A He did.
- Q I will ask you if this question was asked and this answer given: "Q. Was Captain Tatsuta in charge of the party? A. Yes."
A That question was asked and that answer was given.
- Q I will ask you if this question was asked and this answer given: "Q. Which officer gave the signal to fire the shot? A. I think it was Captain Tatsuta because he was the governor of the Shanghai Military Prison, a branch of Nanking."
A Yes, sir, that question was asked and that answer was given.
- Q I will ask you, Major Dwyer, if you took a similar statement from Sergeant Yoneda.
A I did, sir.
- Q Was this statement taken under similar circumstances as that taken relative to the statement taken from Sergeant Minezaki?
A Yes, sir, this was also taken on the 20th of November, 1945 at the Japanese military hospital in the presence of the same persons I have already testified to.
- Q Did Sergeant Yoneda sign his statement after it was read to him in Japanese?
A He did.
- Q Do you have a signed copy of his statement before you?
A Yes, sir.
- Q I will ask you, Major Dwyer, if this question was asked and this answer given: "Q. Do you know Captain Tatsuta? A. Yes."
A Yes, sir, that question was asked and that answer was given.
- Q I will ask you if this question was asked and this answer given: "Q. Was he in command of the execution? A. I think it was Captain Tatsuta."
A That question was asked and that answer was given.
- Q I will ask you if this question was asked and this answer was given: "Q. He was governor of the prison? A. Yes."
A Yes, sir, that question was asked and that answer was given.
- Q I will ask you if this question was asked and this answer was given: "Q. Did he give the command to fire? A. I can not be sure, but I think it was him."
A Yes, sir, that question was asked and that answer was given.

LT COL HENDREN: You may cross examine.

CROSS EXAMINATION

- Q (By Captain Fellows) Major Dwyer, who was the interpreter on all these statements?
A Mr. Remedios.
- Q On all of these statements?
A Yes, sir.
- Q In whose office was Mr. Remedios employed?
A I employed him in my office.
- Q Your interrogation was handled through Mr. Remedios?
A That is correct.
- Q Who read the statements to these witnesses?
A Mr. Remedios.
- Q Did you ever have another interpreter present to check Mr. Remedios' statements before these witnesses?
A No, I had no other official interpreter. Lt. Hayama, who understands English, was there, however.
- Q Is Lt. Hayama efficient on the speaking of the English language?
A Oh, he does a fair job speaking. I wouldn't say he was an expert.
- Q Is he sufficiently proficient to be an interpreter?
A No, I wouldn't say he is good enough to be an interpreter.
- Q Then is it not true that all three statements that you have testified to are actually what Mr. Remedios states these witnesses said?
A Yes. I regard them as satisfactory because Lt. Hayama and Captain Shimada used him himself when they had him as a prisoner.

CAPTAIN FELLOWS: If the court please, I move the answer be stricken as not responsive to the question.

LT COL HENDREN: I doubt if the last part of the answer was responsive, if the court please. The first part of the answer was responsive.

COLONEL MC REYNOLDS: Strike that portion out, please.

- Q Major Dwyer, how did you locate these witnesses?
A The names of these witnesses were originally given me from an investigation made by the first American War Crimes team that came in here, so I went to the 13th Army Headquarters out here at Kiangwan and met Lt. Hayama and Captain Shimada and they produced the men themselves.
- Q Major, would you state that Lt. Hayama as being a help to you in investigating this case?
A Yes, I would say he was. If I remember, he gave instructions to each man whom I questioned, told them to tell the truth.

CAPTAIN FELLOWS: No further questions.

LT COL HENDREN: Does the Commission have any questions?

COLONEL MC REYNOLDS: There appear to be no questions by the Commission. The witness may be excused.

(Witness excused.)

LT COL HENDREN: If it please the Commission, the next offer we have is a transcript exhibit, being the statement of a Japanese named Major Hata and it is rather lengthy. Is it the desire of the Commission to recess now and start on this statement after the recess, or does the Commission desire for me to start on the statement?

COLONEL MC REYNOLDS: The Commission will recess for approximately 15 minutes.

(Whereupon the Commission recessed at 1515 hours.)

COLONEL MC REYNOLDS: The Commission is in session.

LT COL HENDREN: Let the record show the members of the Commission, counsel for prosecution and defense, the accused, the interpreters and reporter are present in court at the termination of recess.

LT COL. JOHN H. HENDREN JR.

recalled as a witness on behalf of the prosecution, having been reminded he was still under oath, was examined and testified as follows:

DIRECT EXAMINATION

- Q (By Major Dwyer) Colonel Hendren, in connection with the investigation of this case, did you have occasion to learn of a Major Hata Itsuro?
- A Yes, I did.
- Q What was his connection with the Doolittle case?
- A He was the prosecutor at the court martial held 28 August 1942.
- Q Has your investigation disclosed whether this man is living or dead at this time.
- A I have been advised that Major Hata is dead.
- Q State briefly to the Commission the facts upon which you base that statement.
- A A request had been made sometime last fall, I believe it was in November, to the American Army in Japan to apprehend Major Hata. I was in Japan the latter part of 1945, last part of December, and I was advised by the legal branch of the Supreme Allied Headquarters there that Major Hata was sick in a hospital. I went to the hospital where he was supposed to be and found that he had left a few days before that for his home. I then requested to the American army that he be apprehended at his home and held for transportation to Shanghai in connection with this case. Sometime later in January 1946 I was advised by the American Army in Tokyo that Major Hata had died. I then requested the particulars relative to his death and received a communication dated 6 February 1946 from the General Headquarters, Supreme Commander for the Allied Powers in Tokyo a certificate of Major Hata's death and a copy of the report of the medical officer who examined the body on 23 January 1946 and three photographs of the body. The body was examined by an American medical officer on 21 January 1946 and was identified to him as the body of Major Hata.
- Q Prior to Major Hata's death, can you state to the Commission whether a statement was taken from the major?
- A Quite sometime prior to his death, Major Hata sent a statement written in Japanese to the legal section of the Supreme Allied Headquarters in Tokyo and that statement was translated by the Allied Interpreters Service in Tokyo and the English translation was forwarded to me through military channels here in Shanghai in December of 1945.

#10-11 z 3/22 PM

Q Did an official army translation of that statement accompany the statement itself?

A Yes, it was officially translated, forwarded to the legal section on 28 November 1945.

Q Do you have that translation in your possession?

A Yes, and I also have in my possession the original statement from which it was translated which is written in Japanese, and that statement I picked up in Tokyo in the early part of January 1946.

MAJOR DWYER: Please mark this document as Prosecution's Transcript Exhibit No. 25 for Identification.

(Document so marked.)

MAJOR DWYER: Copies of this translation have been given the defense counsel sometime ago. I now offer Prosecution's Transcript Exhibit No. 25 for Identification in evidence as Prosecution's Transcript Exhibit No. 25.

CAPTAIN FELLOWS: May I ask a few questions of the witness concerning the exhibit?

CROSS EXAMINATION

Q (By Captain Fellows) Colonel Hendren, have you examined the exhibit which has been offered in evidence?

A Yes, I have.

Q Was it sworn to?

A I don't believe it was. It is a voluntary statement made by Major Hata.

Q Was it signed in the presence of any person that you know of?

A I don't know that of my personal knowledge.

CAPTAIN FELLOWS: No further questions.

If the Commission please, we have some statements taken somewhat similarly, for which reason, in order to make a record which to guide ourselves, we'd like to interpose an objection to the admissibility of this statement so it will set this standard.

COLONEL MC REYNOLDS: What is your objection to the admissibility?

CAPTAIN FELLOWS: The objection is to put in the record at this time whether or not a statement taken not under oath and not signed in the presence of any known person is admissible. It is being made for our guidance as we proceed.

MAJOR DWYER: May it please the Commission, we have taken great pains to show the facts and circumstances surrounding the taking of each statement which we have offered in evidence. We have put on the witness stand both Colonel Hendren and myself to show these circumstances. Each exhibit that is offered must stand on its own merits. This particular exhibit is a statement voluntarily written by Major Hata of his own volition and Major Hata is dead. We can not set any standard for all exhibits. These peculiar circumstances are peculiar to this exhibit alone, at least so far as we know, so that whatever the ruling of the court may be on the admissibility of this exhibit, it can not be said to set a standard. Each must stand or fall on its own merits.

LT COL. BERRY: May I inquire as to whether there is anything in the statement which indicates why the major wrote or prepared the statement. I am afraid I am not clear as to what he did with the statement after he wrote it. Did he send it voluntarily to the headquarters in Tokyo of the Allied

#10-12 z 3/22 PM

Powers or just what did he do with the statement.

MAJOR LWYER: Let the witness answer.

THE WITNESS: This statement was mailed from a Japanese hospital in Tokyo by Major Hata to Colonel Carpenter, Chief of the Legal Section of the Supreme Allied Headquarters in Tokyo after Major Hata had been informed that he was to be apprehended in this case. I picked up the original Japanese copy from Colonel Carpenter's office in Tokyo.

COLONEL MURPHY: I may have missed this in the testimony, but did Colonel Carpenter authenticate the signature, did he make any affidavit that he knew this was the signature of Major Hata, or is there any authentication of the signature at all?

A The original statement is written entirely in Japanese. I don't believe Colonel Carpenter can read Japanese, but I believe the exhibit will show its authenticity at the time it is read to the Commission that it did come from the Major because it contains information which he would likely have in his possession.

COLONEL MC REYNOLDS: The objection is overruled. The statement will be read into evidence and the Commission will give the proper weight to the voluntary statement.

(Prosecution's Transcript Exhibit No. 25 for Identification was received in evidence.)

(Witness excused.)

(Whereupon Colonel Hendren read Prosecution's Transcript Exhibit No. 25, which is attached hereto.)

Dec 1870

EMS/BHK

ALLIED TRANSLATOR AND INTERPRETER SECTION
UNITED STATES ARMY FORCES, PACIFIC

NOTE: Translation requested by Legal Section.

PARTICULARS RELATING TO THE PUNISHMENT OF THE AMERICAN
AIRMAN WHO RAIDED THE JAPANESE HOMELAND ON 18 APRIL 1942

by NATA, Itsuro ()

On 28 August 1942, I was ordered to be the prosecutor in the trial in of Second Lieutenant HORUMAKU (TN Presumably HALLMARK) and seven others at the 13 Army Military Tribunal in the compound of the 13 Army Headquarters stationed in SHANGHAI, CHINA. The following is a detailed account of the nature of my duties at the time of the trial, and my version of my part in this affair. I solemnly swear that this account is absolutely true, sl help me God!

In order to understand fully the circumstances of the punishment, it is necessary to present a general outline of the organization and functions of the military tribunal, and its trial procedure.

A. Organization and function of the Military tribunal.

The military tribunal is the army's legal organ for punishing any individual, other than Japanese nationals, within a military zone of operation of the Japanese Army, who commits any act construed to be a wartime offense, or who commits any act inimical to the safety of the Japanese Army, or who commits any act which hinders military operations.

After the outbreak of the CHINA incident, the Japanese Army established military laws affecting all non-Japanese peoples in the various zones of operations, and established a military tribunal in each army headquarters to punish any individual violating these laws. The military law differs from the criminal and army penal laws in that it is not established with the authorization of the Imperial Diet. It is purely an army order imposed by authority of the respective army headquarters for the purpose of insuring the safety of the army, and for securing the activities of military operations.

Since the military law is based essentially on the requirements of military operations, the military tribunal which tries all violators of this law falls into the same category. On this point, the real nature of the military tribunal differs from that of the court martial, which is based on the army court-martial law. However, aside from a few exceptions, the organization and procedure of the military tribunal are, as a rule, patterned after army court-martial law. I will herein explain it by using, as an example, the military regulations and the military trial regulations under the military law of the Japanese Expeditionary Army in China, which was established by authority of the Supreme Headquarters of the Japanese Expeditionary Army in China. Those established in territories other than China differ only slightly.

According to these, the military law of the Expeditionary Army in China applies to people other than Japanese nationals within the zone of military operation of the said Expeditionary Army (art. 1). Any person who engages in conspiracies, or espionage activities against the Japanese Army, or who willfully and knowingly endangers the safety of the Japanese Army, or who commits any act which interferes with military activities is liable to military punishment (art.2). Such punishment is divided into five classes: death, imprisonment, banishment, fine and confiscation (art.5).

The organization and functions of the military tribunal are prescribed in the military trial regulation of the Expeditionary Army in China. They prescribe that the military tribunal is under the jurisdiction of the Expeditionary Army in China, or a subordinate army thereof (Art.2), and stipulate that the presiding officer shall be the supreme commander of the Expeditionary Army or the commanding general of the subordinate army thereof (Art.5).

The general military tribunal consists of the presiding officer, the judges, the law member, the clerk of court, and the sergeant-at-arms. Further, the legal section is established to assist the commanding general who is the presiding officer, and the chief of the legal section directly assists the commanding general. In addition, the chief of staff and his subordinate staff officers assist the commanding general, insofar as requirements of military operations are involved.

A summary military tribunal, on the other hand, is merely an agency appointed to pass judgment on specific cases, and is limited in its jurisdiction. The tribunal in this case is composed of three judges, two of whom are combatant officers, and the third a law member.

When these requirements are fulfilled, the presiding officer takes charge (Art.6). The trial convenes with the judges, the prosecutor and the clerk of court in attendance (Art.7). However, in trying foreigners other than Chinese, the military tribunal must obtain sanction of the supreme commander of the Expeditionary Army in China (Art.8). The ranking officer among the judges is the presiding officer.

As a general rule, the military tribunal tolerates no interference in conducting its trial. However, as has been mentioned previously, inasmuch as the military tribunal is set up by authority of the commanding general of the Army in accordance with the requirements of military operations and placed under his jurisdiction rather than being granted absolute judicial power, it is operated by the virtue of the prerogative of the supreme command. Hence, it is probable that, within the bounds of the requirements of military operations, a certain degree of latitude is permitted in the trial proceedings.

On the other hand, the prosecutor can exercise no initiative in discharging his duties, and is merely a tool discharging the duties of his office in complete compliance with the orders of his superiors.

The foregoing is a general outline of the organization and function of a military tribunal. Perhaps additional data may be presented verbally. For reference purposes, there are attached hereto supplementary inclosures presenting the rules and regulations of military law of the Expeditionary Army in China and the rules and regulations for trial procedure of the said Army. (See inclosures 1 and 2).

D. MILITARY TRIBUNAL PROCEDURE.

As a rule the military police investigate all violations of the military law. When sufficient evidence confirming the violation is assembled, a report of the investigation, together with all documentary and material evidence is transmitted to the presiding officer of the military tribunal. When this report is received, the prosecutor of the military tribunal, upon receipt of orders from the presiding officer, carefully examines all the documents, etc., and if necessary, submits his opinion to the presiding officer as to the advisability of prosecuting the case. This the presiding officer takes under consideration by consulting the chief of the legal section, the chief of staff and his subordinate staff officers; and after arriving at a decision, issues his instructions to the prosecutor.

On the basis of this order, the prosecutor makes appropriate disposition of the case. In a case where the prosecutor draws indictment, a summary tribunal passes judgment. In such a case, the prosecutor is present at the trial, and carries out his duties in compliance with the orders of his superiors.

In this connection, the prosecutor conducts the trial on the basis of the defendant's testimony. If the trial establishes the guilt of the defendant, the term of imprisonment is based on the recommendation of the prosecutor. However, in imposing a death sentence, the order of the presiding officer is required.

9. PARTICULARS RELATIVE TO THE PUNISHMENT METED OUT IN THIS INCIDENT.

1. On or about 18 April 1942, I was on duty with the legal section of the Central Army at OSAKA. Shortly thereafter I was transferred to the legal section of the 13 Army as a staff member, and reported to duty at SHANGHAI, 13 May 1942. Until 1 March 1943, when orders for my transfer to HIROSHIMA () came through, I was on duty for approximately 10 months at Shanghai.

2. At the Tokyo Military Police Headquarters, Lieutenant HORUMAKU and the seven others were examined by First Lieutenant WADA, Kiyoku () Military Police, and others. Toward the end of July 1942, Major OGATA Izumi (), of the Shanghai Military Police Headquarters, came to the 13 Army Hq with the documents of the investigation in his possession. He explained in detail the full particulars of the case to Colonel ITO, Okinobu (), who is the chief of the 13 Army Legal Section and the prosecutor of the military tribunal, and others, and demanded that the airman be tried by the military tribunal.

It was at this point that I first became aware that this case was being investigated by the Military Police, and that Lieutenant HORUMAKU* and his men were in the custody of the Shanghai Military Police Headquarters. Colonel Ito called attention to the fact that the findings of the investigation were limited to the testimonies of the defendants, and did not reveal such information as damages and losses sustained in the bombing and strafing. He gave instructions for the preparation of a document covering all aspects of the case, and for its dispatch to the military tribunal. Accordingly Major OGATA and his colleagues made inquiries at the Tokyo Military Police Headquarters as to the extent of the damages and losses, the findings of which were appended to the investigation report.

The case was referred to the 13 Army Military Tribunal early in August 1942. As prosecutor for the 13 Army Military Tribunal, Colonel Ito carefully examined the papers relating to the case, following which he submitted his recommendations to Lieutenant General SAWADA (), Commanding General of the 13 Army, Major General KARAKAWA (), chief of staff, and others. Upon orders from the commanding general of the 13 Army, approved by the supreme commander of the Expeditionary Army in China, Lieutenant HORUMAKU* and the seven were indicted, and committed to trial by the 13 Army Military Tribunal. To facilitate disposition of the case, in compliance with orders from the Grand Imperial Headquarters and the Ministry of War, the "Military Law concerning Punishment of Enemy Airmen" was established by the supreme commander of the Expeditionary Army in China. Lieutenant General SAWADA, Colonel Ito, et al, committed Lieutenant HORUMAKU* and his men to trial by the military tribunal for violation of this regulation. For reference purposes, this law is appended hereto. (See Supp.3)

3. Lieutenant Colonel NAKAJO, Toyoma (), chief judge, First Lieutenant WAKITSU, Yusui (), and Second Lieutenant OKUDA, Ryuhel (), judges, were designated judges of the trial. On 28 August 1942, before the court convened, Colonel Ito designated me prosecutor of the case, and specifically instructed me to demand the death penalty. For reasons elaborated in the

following paragraphs, it can be seen why I did not care to become involved in this affair; but inasmuch as it was the order of my superior office, Colonel Ito, I could not refuse. So it was, more or less, under duress that I prosecuted the case.

4. The trial was over in about an hour. Lieutenant HORUMAKU and his men were specifically charged with violation of Article 2, Sections 1 and 2, of the Military Law Concerning Punishment of Enemy Airmen, but in one way or another they were all found guilty and sentenced to death under the provisions of Article 3 of the law.

5. Before the trial, the commanding general of the 13 Army had received specific instructions from the Grand Imperial Headquarters, through the Expeditionary Army in China Headquarters, "to relay news of the verdict to the Chief of Staff immediately, in order that the Grand Imperial Headquarters might make official announcement of the punishment meted out to the American airmen". Accordingly, the moment the trial was ended, the commanding general of the 13 Army relayed the verdict to the Grand Imperial Headquarters through the Expeditionary Army in China Headquarters.

As a consequence, on 10 October 1942, 13 Army Headquarters received orders from the Chief of Staff of the Grand Imperial Headquarters, via Headquarters of the Expeditionary Army in China, to the effect that the death sentence of Lieutenant HORUMAKU*, Second Lieutenant FUARO* (T.N. Presumably FARROW), Sergeant Sufatsu* (T.N. Presumably SPATZ) were upheld, and the date of execution set at 15 October 1942; while the sentence of the remaining five were commuted to life imprisonment with the stipulation that since these five had been declared war criminals, they were to be accorded treatment separate from that given the usual prisoners of war.

6. On the basis of the foregoing order, on 15 October, Colonel Ito, upon receipt of an order from Lieutenant General SHINOMURA () who succeeded Lieutenant General Sawada, issued instructions for the execution of Lieutenant HORUMAKU* and the other two. TATSUDA, Gaijiro (), warden of the Expeditionary Army Penitentiary at Shanghai, assumed the role of executioner. At Public Cemetery No. 1, located north of Yen-Chia-Chai (), Chungsi () district, Shanghai, the condemned men were executed by a firing squad, headed by First Lieutenant Tashima (), commanding officer of the 13 Army Headquarters Guards, with one non-commissioned officer and six enlisted men under him. The five who were sentenced to life imprisonment were removed to the Expeditionary Army Penitentiary at Nanking (), under the direction of Colonel Ito.

D. My duties and my version of my participation in this affair.

Insofar as my part in this affair is concerned, I merely attended the trial as the prosecutor under orders from Colonel Ito. I can only venture to guess at the reason which prompted Colonel Ito, who had, as the prosecutor, personally interviewed and cross-examined the defendants, drawn the indictment, and after the trial, supervised the enforcement of the sentence, to order me to attend the trial in the capacity of prosecutor. In all probability, it must have been because I had evaded becoming one of the trial judges. The fact that Lieut WANITSU (), as law member, would be in charge of the trial, in consideration of his (Colonel Ito) rank, did not appeal to Colonel Ito.

At any rate, I did not relish the prospect of being the prosecutor for the following reasons:

1. From the standpoint of International Law on Warfare, I had grave misgivings as to the propriety of the "Military Law Concerning Punishment of Enemy Airmen". At the International Conference for the Revision of the International Law on Warfare

held at HAGUE from December 1922 through March 1923, rules and regulations concerning aerial warfare were prescribed. Under Article 22 and 24, restrictions on bombing are established, but this law is yet to be enforced by the various nations.

2. No other nation has established such a military regulation in the annals of history.

3. Inasmuch as there is a reasonable margin of error in bombing from high altitudes, when objects of no military value, located at varying distances from military targets, are hit, it is extremely difficult to determine whether such "bombing, strafing or other forms of attack were carried out with the object of menacing and killing innocent civilians", or whether the "bombing, strafing, or other forms of attack were carried out with the purpose of destroying and damaging private property having no military value", or whether the "bombing, strafing, or other forms of attack of non-military objects, except in unavoidable circumstances, were purely deliberate", as expressed in the military regulation.

I presume this law was enacted by the Grand Imperial Headquarters and the Ministry of War upon the assurance of the Japanese authorities on International Law that such a law would be within the bounds of International Law. Be that as it may, as far as I was concerned, for the reasons advanced hereinbefore, I never did approve of the law. Furthermore, I repeat, I had no desire to be a party in this affair, definitely not as a judge, nor even as the prosecutor. However, once a military law is established by a state, one obviously cannot refuse the orders of his superiors in its prosecution, since as a civil official, a refusal would be tantamount to acting contrary to orders.

Heretofore, I have never passed judgment on a death sentence. During the time I was on active service on the front in China, there were numerous cases of war crimes punishable by death under the provisions of the military law of the Expeditionary Army in China. However, even under the inexorable machinations of the stern military law and regardless of its necessity from the standpoint of military operations my conscience would never permit me to exact the death penalty; so I constantly endeavoured to avoid such cases.

4. My present stand.

As has been clearly revealed in the foregoing statements, despite the fact that I had no desire to be party to the affair, I had no alternative other than to comply with the orders of my superiors and attend the trial in the role of prosecutor. Furthermore, the situation was such that I attended the trial with practically no opportunity to go through the documents relating to the case. In other words, insofar as my part in the case is concerned, I merely attended the trial as the proxy of Colonel Ito. It was a situation where one's respect for duty permitted no refusal.

I contend that those to be held truly accountable for this affair are those connected with the Grand Imperial Headquarters, the Ministry of War, and the Military Police Headquarters. It was they who instigated the enactment of this law, making it retractive in order to fit it to past offences; and through the medium of a military tribunal mete out punishment. It is my sincere opinion that in this connection, the military tribunal was merely an organ exercising the provisions of the law. It is my understanding that the United States is a nation highly advanced in its conception of jurisprudence.

In the name of justice and from the standpoint of common sense I fail to see how I am to be held accountable for this affair, when my sole connection with this matter was my attendance at the trial as a proxy. I hopefully submit this matter for your sound and just judgment.

Post Script

As of March 1945, I have been afflicted with stomach ulcers, and am still under treatment. I am the sole support of my family consisting of my wife, my aged father, who is 71 years of age, and my infirm mother, age 69, who has been an invalid for more than three years because of rheumatism. If there is any probability of my being taken into custody, I would like to be exonerated of any charges immediately so that I may be able to attend to my personal affairs with peace of mind.

In March 1932 I was graduated from the Law School of the Tokyo Imperial University. I had planned originally to become a judicial officer, but in that same year I was called to active service with the Army. Then and there I decided to become a general court official. At that time, a general court official was a civil official, but in March 1942, by a revision of the system, this position was placed on military status.

The period of my student days at middle and higher schools, and my undergraduate years at the Tokyo Imperial University was the heyday for the teaching of democratic doctrines. I became thoroughly inculcated with democratic concepts. Should it be my good fortune to be released and exonerated of all charges arising from this affair, it is my express intention to become a farmer, and at the same time devote my energy to the furthering of the ideals of democracy.

For your reference and information, I have appended hereto, a summary of the various materials related to this case. (See inclosures 4 to 9)

H.T., Itsuro ()

October 1945.

Inclosure No. 1

Military Law of the Japanese Expeditionary Army in China

Art. 1. This military law shall apply to all persons other than those of Japanese citizenship within the zone of military operation of the Imperial Army.

Art. 2. Any person who commits any or all of the following acts shall be liable to military punishment:

Sec. 1. Any act of conspiracy against the Imperial Army.

Sec. 2. Any espionage activity.

Sec. 3. Any act not covered by Sec. 1 and 2, which shall be construed as jeopardising the safety, or hampering the military activity of the Imperial Army.

Art. 3. Any instigating, abetting, promoting, plotting, or miscarriage of any or all of the acts hereinbefore mentioned in Art. 2, shall be subject to punishment, provided, however, that punishment shall be mitigated or restrained in accordance with the merits of the case.

Art. 4. Any individual who commits any or all of the acts mentioned under Art. 2, and who confesses of his own volition before any discovery of such act or acts is made, shall have his punishment mitigated or shall be spared.

Art. 5. Military punishment shall be in the following classes.

Sec. 1. Death

Sec. 2. Imprisonment

Sec. 3. Banishment

Sec. 4. Fine

Sec. 5. Confiscation

The degree of punishment shall be noted in the order of the preceding paragraphs.

Art. 6. etc. (omitted).

Inclosure No. 2.

Military Trial Regulations under the Military Law of the Japanese Expeditionary Army in China.

Art. 1. Any individual violating the provisions of the military law of the Japanese Expeditionary Army in China shall be tried by the military tribunal.

Art. 2. The military tribunal shall be established by the Expeditionary Army in China or by a subordinate army thereof.

Art. 3. The military tribunal of the Expeditionary Army in China shall be vested with authority of jurisdiction over any affair designated by the supreme commander.

Art. 4. The military tribunal of the various subordinate armies thereof shall be vested with authority of jurisdiction over any affair involving violations of the military law within the spheres of operation of their respective armies, provided, however, that they do not conflict with the provisions of Article 3.

The supreme commander shall be invested with the authority to designate the military tribunal, which shall have jurisdiction over a special case, regardless of the provisions of the preceding paragraphs.

Art. 5. The presiding officer of the military tribunal shall be the supreme commander of the Expeditionary Army, or the commanding general of the subordinate army thereof.

Art. 6. The military tribunal shall be composed of three judges.

The judges shall consist of two officers and one law member, all of whom shall be under the orders of the presiding officer.

Art. 7. The military tribunal shall convene with the judges the prosecutor, and the clerk of court in attendance.

Art. 8. The military tribunal shall first obtain the authorization of the supreme commander before proceeding with the trial of a foreigner other than a Chinese.

Art. 9. The laws and regulations governing the special court martial under the army court martial law shall apply to all other items not covered by this law, as the situation permits.

By-laws

This law shall be effective as of 1 October 1939.

Inclosure No. 3

Expeditionary Army in China Military Order No. 4

Military Law concerning the Punishment of Enemy Airmen.