TWELFTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Wednesday, November 10, 1948.

The commission met at 9:15 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the eleventh day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

The judge advocate withdrew his request made at the close of yesterday's session.

Herbert L. Ogden, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination concerning Exhibits 16, 17, 18, 19, and 20 continued.)

430. Q. Will the witness read from Exhibit 16 (the record of the trial of Suzuki), on page 27 in the interrogation of the accused Suzuki, question and answer number 9?

The witness read from Exhibit 16 as follows:

"Q. 9. To whom did you give the orders?
A. 9. To four company commanders
Lt Sakuma, Wataru
Lt Yamaguchi, Kensho
Lt Miyasaka, Denji and
Lt Sakata, Jiro."

431. Q. Will the witness read question 7 which appears prior to that and the answer thereto?

The witness read from Exhibit 16 as follows:

"Q. 7. Did you give orders for the execution of those natives?
A. 7. Yes I did."

432. Q. Will the witness turn to Exhibit 19 (the record of the Sakuma trial), and from Exhibit B on page 25 of the interrogation of the accused Sakuma, read questions and answers 3, 5, 7, 8, 9, 11, 12, 13, 14, 21, and 22?

The witness read from Exhibit 19 as follows:

"Q 3. Who was your Commanding Officer?
A 3. Lt. Comd. Suzuki Naoomi."

"Q 5. Were you a Company Commander?
A 5. Yes."

"Q 7. Were you present when the order was given?
A 7. Yes I was there.

Q 8. What order did you receive?
A 8. Suzuki told us that in view of the war situation there was nothing for us to do but to fight to the end and also that we were to shoot all the natives.

Q 9. Did you receive a definite order to shoot the natives?
A 9. Yes it was an order."

"Q 11. What action did you take?
A 11. I gave orders to Sub Lt OTOMO Sub Lt SAKAMOTO and Sub Lt YAJIMA EIEIJI to shoot forty natives.

Q 12. Were you present at the execution?
A 12. Yes I was there.

Q 13. Were the forty natives specified or did you tell them to shoot any forty?
A 13. Lt Nara divided the natives up and gave my men forty to execute.

Q 14. Who carried out the execution?
A 14. I gave the orders and my troops carried it out."

"Q 21. Where did the execution take place?
A 21. On TABIA beach.

Q 22. What was done with the bodies?
A 22. The soldiers threw them into the sea."

433. Q. Will the witness turn to Exhibit 20 (the record of the Yamaguchi trial), and from Exhibit B on page 27 of the interrogation of the accused Yamaguchi, read questions and answers 3, 4, 5, 7, 8, 10, and 11?

The witness read from Exhibit 20 as follows:

"Q 3. Was Lt Comd Suzuki Naoomi your Commanding Officer?
A 3. Yes.

Q 4. Were you a Company Commander
A 4. Yes.

Q 5. Do you remember Lt Comd Suzuki giving you orders that the natives on the island were to be shot?
A 5. Yes I remember it."

"Q 7. What action did you take as a result of the order?
A 7. I did not want to do it but it was an order. I gathered my junior officers and passed the order on to them.

Q 8. Who were the junior officers?
A 8. Sub Lt HANAWA Eiji, TSUCHIIKE Masataro, Ensign SUGINO Tsuchinosuke, Sub Lt YOSHIDA Itsuo, Ensign YASUDA, Sub Lt HIRAKI Sakai, that was all. Ensign NISHIMI was not there. He was sick."

"Q 10. How many places of execution were there?
A 10. There were six.

Q 11. How many natives were executed at each place?
A 11. In the place where Sub Lt HANAWA's men were there were about 25 natives, at the place where TSUCHIIKE's men were, about 20 natives, at the place where Sugino's men were about 20 natives. In each of the places where YOSHIDA's, HIRAKI's and YASUDA's men were there were about 10 natives."

434. Q. Will the witness turn to Exhibit 17 (the record of the Miyasaka trial), and from Exhibit B on page 22 of the interrogation of the accused Miyasaka, read questions and answers 3, 4, 5, 8, 9, 10, 11, and 12?

The witness read from Exhibit 17 as follows:

"Q 3. Was Lt Comd Suzuki Naomi your Commanding Officer?
A 3. Yes.

Q 4. Were you a Company Commander?
A 4. I was from May 1945.

Q 5. Do you remember Lt Comd Suzuki giving you an order that the natives were to be executed?
A 5. Yes."

"Q 8. What action did you then take?
A 8. I passed the order on to my junior officers.

Q 9. Who were your junior officers?
A 9. Sub Lt KIYOHARA, Naomi, Sub Lt ISHII Teizo, Ensign EIJIMA Ju.

Q 10. What else did you do?
A 10. I think that Lt NARA divided the natives into parties to be killed. Sub Lt ISHII took the natives down to a place called OMA by the coast. Myself and the three junior officers were on the spot. The three junior officers lined up the soldiers and the natives I was supervising at the beach then the shooting took place.

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Q 11. Who gave the order to fire?
A 11. I gave the orders to KIYOHARA ISHII and EIJIMA and they gave the orders to fire to the soldiers.

Q 12. How many natives were there?
A 12. About 50."

435. Q. Will the witness turn to Exhibit 18 (the record of the SAKATA trial), and from Exhibit C on page 36 of the interrogation of the accused Sakata, read questions and answers 3, 4, 6, 7, 8, 9, 10, and 13?

The witness read from Exhibit 18 as follows:

"Q 3. Was Lt Comd Suzuki Naoomi your Commanding Officer?
A 3. Yes.

Q 4. Do you remember getting orders from Lt Comd Suzuki that all natives were to be shot?
A 4. Yes I remember."

"Q 6. What order did you receive?
A 6. He told each Company that they were to shoot natives down by the sea shore.

Q 7. Were you a Company Commander?
A 7. Yes.

Q 8. What action did you take?
A 8. I did not want to do it but it was an order from my commanding officer so I passed it on to my soldiers.

Q 9. What else did you do?
A 9. I accompanied my soldiers to the sea shore. I gave them the order and in accordance with the order they fired and shot the natives.

Q 10. How many natives were there?
A 10. About 20 or 30 as far as I remember."

"Q 13. What was done with the bodies?
A 13. They were given a water burial."

Cross-examined by the accused concerning Exhibits 16, 17, 18, 19, and 20:

436. Q. Will you read from Exhibit 16 the testimony of Suzuki as a defense witness on page 9, the two lines under the place where Suzuki signed his name and about the middle of the page where the sentence starts "The natives serving with...." until the end of the page?

The witness read from Exhibit 16 as follows:

"I am Lt. Commander SUZUKI NAOMI of 67 Garrison Unit. From Aug 23 43 until the capitulation I was the Commander of that unit."

"The natives serving with the Japanese forces were volunteers. The last Japanese supply ship arrived on Oct 16th 1943.

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Until the annihilation of the Marshals I used to contact Truk. About June 45 I was receiving not transmitting from Truk. There was only a small quantity of fuel to drive generators and there was no sulphuric acid on hand. The transmitter was very old and it was almost unuseable and there was only one spare vacuum tube and there was no important code book, and so I did not do any transmitting. I was listening regularly but the reception was very poor. I remember a broadcast being made by the C in C at Truk. In that broadcast on about Aug 16th he spoke the following words 'That the Japanese government has opened negotiations for capitulation, and that we all should obey the Emperors orders and fight to the finish'. The situation on Ocean Island about this time, on the outside of the island we were expecting an allied attack and inside the Island itself there were activities by natives. The water on the island was life itself and was highly important and therefore I controlled the water myself and so the loss of tank A12 was most important. There was one air raid, a bombing raid, early in August and before the end of July a PBY used to come each day for recoinnasance work. After the end of July the PBY was changed to a B25. These bombers were either one or two and a PBM usually came along with them. Then after entering the month of August B24s also came. Despite the AA the plane came back and forwards several times and therefore I assumed that they were taking photographs. The B25 came around to the point called Oma and despite our heavy AA fire the plane was very stubborn and I assumed that they were looking for a landing location and there was also straffing. Towards the north of the island one day a PBM dropped a smoke bomb. There were 3 bombs and yellow in colour. On the day that I determinded on the execution I believed the situation to be very pressing. The strength of the garrison then amounted to 20 officers and about 470 in all including officers."

437. Q. Will you read the next page up until the cross-examination?

The witness read from Exhibit 16 as follows:

"As to the other islands at that time I do not know the situation. There was a terrific battle in the vicinity of Japan about this time. There was a wireless from the highest commander in regard to the execution of natives that is from the highest commander of Tourawa Island, Rear Admiral Shibazaki. That was I think towards the end of November 43. I remember being interrogated at Faro Island. 'Werent they executed because they witnessed too many crimes including the murder of the Europeans', as appearing the interrogation is wrongly recorded. The question that was asked at the time 'Was not the purpose of killing the natives that two native witnesses saw the killing of the Europeans'. My answer was 'I did not know about the European killing.' The following question that was asked was 'Did you kill the natives because they knew the Japanese defence positions'. That was one of the reasons but that was not the main reason. I heard that the war was over on the 24th. It became known to me from the wireless message despatched by Vice Admiral Hara of Truk Island, I have

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studied international law and I believe that the killing did not fall within that category. Those who commit war treason would be inhabitants of the place. It occurred to me that their attitude had changed considerably. During my two years stay on Ocean Island I assisted the natives as much as I could and if they were not assisted they would have starved. I did not receive any supplies since Nov 43 and I did not know what was actually going in other spheres of operation and it was such that I was continuing a very difficult operation. When I discovered that the natives committed war treason I became very discouraged. I regret to say that the native Kabanare has been giving false evidence."

438. Q. Will you read from page 11, cross-examination of Suzuki, Naoomi, question 9 on to the end of the page?

The witness read from Exhibit 16 as follows:

"Q. Were your superior HQ not at Nauru.
A. Up until the fall of the Marshall Islands it was under the supervision of Nauru Island but after the fall it came under the 4th Fleet.

Q. Was the 67 Naval Garrison Unit on Nauru also.
A. Yes, that is so.

Q. And was the HQ of the 67 Naval Garrison Unit on Nauru.
A. For normal business it was supervised by Nauru HQ.

Q. Then Nauru was the HQ directly over you.
A. Yes.

Q. What communication did you have with Nauru.
A. The communications were Truk were relayed through Nauru.

Q. Were you in frequent touch with Nauru.
A. When communications with Truk were bad I would contact Nauru.

Q. Could you get in contact with Nauru without any trouble.
A. The air waves were very bad and therefore the reception was very poor.

Q. How often were you in touch with Nauru either by wireless or signal.
A. It was only received.

Q. How often was that.
A. As conditions got worse towards the end of the war communications were once in two days.

Q. You had no trouble in receiving the message on August 15th that the Japanese Government had opened negotiations for capitulation.
A. On 15th we got the story in pieces as the reception was poor but on 17th we got the full story.

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Q. What was the message received on 17th.
A. That the Japanese Government has opened negotiations for surrender.

Q. And when did you again receive a wireless message from Nauru.
A. On 22nd or 23rd I think the message was received and the contents of the message were that any offensive combat should cease."

The commission then, at 10:15 a.m., took a recess until 10:40 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Herbert L. Ogden, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Cross-examination concerning Exhibits 16, 17, 18, 19, and 20 continued.)

439. Q. Will the witness read the first three questions on page 12 of Exhibit 16?

The witness read from Exhibit 16 as follows:

"Q. When you received the message on 15th Aug that your Government had opened negotiations for surrender did you take any action?
A. In addition to that message it was stated that we should all fight to the very end and therefore I started to make plans for operations as well as for training.

Q. When did you decide to kill all the natives?
A. I made the decision on the morning of the 19th Aug.

Q. Did you make that decision after consultation with your other officers?
A. It was as a result of a company commander conference."

440. Q. Will the witness read from Exhibit 20 the first line on page 9 which identifies the witness?

The witness read from Exhibit 20 as follows:

"Lt. Yamaguchi being duly sworn is examined by Defending Officer through interpreter Kawasaki Jun."

441. Q. Then on page 10 of the same Exhibit 20 from the testimony of Lt. Yamaguchi, will you read the question and answer thereto to the question that begins "Did you think the order...."?

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The witness read from Exhibit 20 as follows:

"Q. Did you think the order was justified?"

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial and called for an opinion of the witness.

The accused made no reply.

The commission announced that the objection was sustained.

442. Q. Will the witness read from Exhibit 20, Exhibit J thereof on page 51, the first four paragraphs of the statement of Lt. Yamaguchi Nobuaki?

The witness read from Exhibit 20 as follows:

"1. I landed on Ocean Island shortly after I was appointed to be an officer in March, '42.
I had finished a primary school and am forty six years of - age. I was appointed to a section leader officially, but in Ocean Island I was designated to company com. under the command of Lt-Com SUZUKI.
2. Lt-Com. SUZUKI was a young efficient naval officer who graduated from the Naval College and was bold and brave and a typical Japanese sailor.
Consequently, such an officer as I who was promoted from a sailor, have been led by him in all respects regarding military affairs. He was always strict to us on carrying out orders, and it was by this strictness that the military discipline had been well maintained, rations had been secured and no error in naval operations had been committed throughout the life on an isolated island in the Pacific as many as four years.

3. Two days before the incident occurred, namely, on the morning of the 18th, Lt-Com.SUZUKI called all company commanders together and made a speech which meant as follows:-
'As we anticipated already, natives' treachery is evident on this island. Unless we execute them now, we will surely be attacked both in front and rear, when the landing operation of U.S. Forces started. I intend to shoot them to death while they do not turn to be traitors, lest we should have our hands bitten by our own dogs'. And then he asked our opinion of us.

4. Then we, company commanders, held a conference.
We agreed with his judgement of the enemy's condition and his idea to consider some counter-measures to deal with the native. But, we came to the conclusion that we absolutely disapproved the point of shooting them to death because as the affection had already been grown between us and natives during the two years' association, we felt pity for them to shoot.
Then we let Lt. SAKATA inform Lt-Com. SUZUKI of the opinion.

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Explaining my opinion, I did not agree with his opinion to shoot them to death at all. I thought it would be enough to arrest and imprison KART and the other leading natives. Moreover, if I should have known the fact that the war had ceased, I would have held in check by all means. Confronting this objection, Lt-Com. SUZUKI stated that he would think over his idea again."

443. Q. And the first sentence in paragraph 5, will the witness read that?

The witness read from Exhibit 20 as follows:

"5. On the next evening, (19th), the Lt-Com. called company commanders again and ordered us to shoot them without any opposition."

444. Q. According to these five exhibits, wasn't David Murdock a Nauruan interpreter only?
A. The record indicates that he was used for that purpose.

445. Q. Do these five exhibits show that these courts were convened by the Governor General of Australia?

This question was objected to by the judge advocate on the ground that it went beyond the scope of the direct examination, and was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained, but that the accused may ask who convened the military courts.

446. Q. Who convened these five courts?
A. They were convened by Major General Morris.

Reexamined by the judge advocate concerning Exhibits 16, 17, 18, 19, and 20:

447. Q. With relation to the statement read from the Yamaguchi trial concerning the protests that were made to Suzuki, will the witness turn to the record of the Suzuki trial, Exhibit 16, and read on page 35, question and answer 27 from the interrogation of Lt. Nara?

The witness read from Exhibit 16 as follows:

"Q 27. When you protested what did Suzuki say?
A 27. Suzuki told me that when he was in Truk and Tarawa before coming to Ocean Is. the Commander-in-Chief had ordered him that in the event of an emergency he was to get rid of the natives since troops were short."

The accused moved to strike out this answer on the ground that it was hearsay.

The judge advocate replied.

The commission announced that the motion was not sustained.

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448. Q. Will the witness read from Exhibit 16, page 6, the cross-examination of Kabanare by the defense, the 5th question, and on page 7 the 11th question, and the answers thereto?

The witness read from Exhibit 16 as follows:

"Q. Did you ever volunteer for service with the Japanese.
A. No."

"Q. Did you know that the natives had any hand grenades or weapons hid in a secret place.
A. The natives that volunteered had rifles, but no ammunition and no grenades."

The accused moved to strike out Exhibits 13, 14, 15, 16, 17, 18, 19 and 20 and all testimony pertaining to them on the ground that they were irrelevant, immaterial, hearsay, incompetent, and injurious to the substantive rights of the accused.

The judge advocate replied.

The commission announced that the motion was not sustained and that the testimony would remain in the record and would be given its proper weight by the commission.

The witness was duly warned.

The commission then, at 11:15 a.m., adjourned until 9 a.m., Friday, November 12, 1948.

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THIRTEENTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Friday, November 12, 1948.

The commission met at 9:05 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Schilly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the twelfth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Herbert L. Ogden, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

Examined by the judge advocate concerning prosecution document #271:

449. Q. Does the witness have in his possession a certified copy of the translated statement of Tanaka, Masaharu?
A. I have.

450. Q. Does the statement identify this Tanaka, Masaharu as former Captain, Imperial Japanese Navy, Commanding Officer of the Forty-first Naval Guard Unit?
A. It does.

451. Q. Does the statement deal with a report made at a Fourth Base Force Conference on 17 February 1944 concerning the disposal of prisoners of war?
A. It does.

452. Q. Does the witness know the whereabouts of Tanaka, Masaharu?
A. He is deceased.

453. Q. Was the original statement of Tanaka, Masaharu a sworn statement?
A. It was.

454. Q. How do you know this was a sworn statement?
A. It was sworn to before me.

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455. Q. Who translated the oath?
A. Frederick A. Savory, one of our interpreters.

456. Q. In what language was the original statement made?
A. Japanese.

457. Q. Does the witness know where this original Japanese statement is?
A. The original statement was filed as an exhibit in the Kobayashi case and was forwarded to the Judge Advocate General with that original record.

458. Q. Does the witness know where the original English translation of this statement is?
A. It was likewise filed with the original Kobayashi record.

459. Q. Does the witness have in his possession here in court from the official files of Director War Crimes, Pacific Fleet, the official copy of the record of trial of Kobayashi?
A. I have.

460. Q. Does this contain a certified copy of the Japanese and of the translation of the original statement of Tanaka, Masaharu?
A. It does.

461. Q. Was the English translation of this statement of Tanaka, Masaharu admitted in evidence as an exhibit in the case of Kobayashi?
A. It was admitted as Exhibit 12a.

462. Q. Does the witness have in his possession the certified copy of this translation?
A. I have.

463. Q. Who certified this to be a true copy of the translation of that statement?
A. I did.

The certified copy of the English translation of the statement of Tanaka, Masaharu, prosecution document number 271, was submitted to the accused and to the commission and by the judge advocate offered in evidence.

Cross-examined by the accused concerning prosecution document #271:

464. Q. Does the statement which you are going to introduce into evidence refer to incidents which occurred between February 23, 1944 and September 2, 1945?
A. It does not.

465. Q. Among the persons who attended this conference which is stated in this statement, is anyone of them available as a witness who is now here on Guam?
A. Captain Inoue, Commander Higuchi, and Admiral Wakabayashi are presently on Guam.

466. Q. Where is the interpreter Fred Savory now?
A. He is presently on Chichi Jima.

467. Q. Do you understand Japanese?
A. I do not.

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468. Q. Why didn't Savory witness or swear that he had translated the contents of the statement rather than swear that he had translated the oath?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

469. Q. Was Lieutenant Kerrick present at the time this statement was made by Captain Tanaka to the interpreter Mr. Savory and yourself?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

470. Q. Can you truthfully say that this is a true copy of what Captain Tanaka said to you that day through the interpreter Savory?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial to admissibility of the ~~evidence~~ *document*. OK

The accused made no reply.

The commission announced that the objection was sustained.

471. Q. Was this statement offered in the Wakabayashi case?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

472. Q. Was this statement admitted or a translation of it admitted in the Wakabayashi case?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

473. Q. Did Captain Tanaka give you additional information to what he had testified to in his own trial?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

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474. Q. How many days after Captain Tanaka gave you this statement was he hanged?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

475. Q. Did Captain Tanaka testify in his own trial?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused made no reply.

The commission announced that the objection was sustained.

476. Q. Who was present when Captain Tanaka made this statement to you?
A. Captain Tanaka, myself, and Mr. Savory.

477. Q. Isn't it true that you requested Captain Tanaka to make a statement through the interpreter Mr. Savory?
A. After interrogating Captain Tanaka I requested him to make a statement in writing of the information he had given me verbally.

478. Q. How many times did you interrogate Captain Tanaka after his trial?
A. I do not recall.

479. Q. Do you recall when his trial was completed?
A. I do not recall the date.

480. Q. Would you say that you had interrogated him at least ten times after his trial?
A. I did not.

481. Q. Was this statement taken to be used specifically at the trial of Admiral Hara?
A. It was not.

482. Q. Was it taken for the purpose of staying his sentence of execution?
A. It was not.

483. Q. Was his sentence of execution delayed until you were able to get this particular statement from him?
A. It was not.

484. Q. Do you know then why he was not executed immediately after his sentence was approved by the Secretary of the Navy?
A. That is a matter which was determined by the Director of War Crimes.

485. Q. Were you ordered by the Director of War Crimes to get a statement from Captain Tanaka?
A. I do not believe I was specifically ordered to get a statement.

486. Q. The statement which you got from Captain Tanaka on the 22nd day of September 1947, was that immediately shown to the Director of War Crimes?
A. It may have been. I do not recall.

487. Q. You do recall it was shown to him before it was decided to execute Captain Tanaka, don't you?
A. As I recall the date of execution had been determined a considerable time prior to the taking of this statement, the taking of this statement has no bearing.

488. Q. Does this statement you got from Captain Tanaka on 22 September 1947 vary from the evidence he gave as a witness at his own trial?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

The accused objected to the receipt in evidence of prosecution document number 271 on the grounds that the incident and conference occurred prior to Hara's tour of duty; that the document was irrelevant, incompetent, immaterial, and hearsay, violates the Sixth Amendment as to confrontation of witnesses and on the ground that the fact that Tanaka is dead does not warrant exception to this rule. Captain Tanaka was tried by this Military Commission for murder and for neglect of duty in that he unlawfully disregarded and failed to discharge his duty to control the operations of members of his command...permitting them to kill seven American prisoners of war on or about February 17, 1944 and unlawfully disregarded and failed to discharge his duty to protect...seven American prisoners of war. The charge and specifications under which this commission tried and found Captain Tanaka guilty of both murder and neglect of duty was serial 10717 dated August 26, 1946.

The judge advocate interrupted the objection by defense counsel to point out that this commission had not tried Tanaka and to request that counsel refrain from use of the phrase "this commission" in referring to the commission which tried the Tanaka case.

Defense counsel continued his objection, stating:

"It is true that Captain Tanaka testified at his trial but it is also true that Admiral Wakabayashi testified at the trial of Captain Tanaka and denied..."

The judge advocate interrupted defense counsel and objected to the continued reference to evidentiary material which had not been offered in evidence or otherwise properly presented by defense counsel prior to his attempted recital of such matter, during the course of his argument in objection to admissibility of prosecution document.

The commission cautioned the defense counsel to attempt to refrain from reference to evidentiary matters which had not been properly presented.

Defense counsel further objected to the admission of this document in evidence on the grounds that the statement was res inter alias; that Hara had not authorized Tanaka to make this statement; that it was not a memorandum made in the course of Tanaka's duty; that it was not a contemporaneous memorandum; that it was a self-serving declaration; that it was not shown to have been made voluntarily; that the prosecution have not shown it to be the truth.

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The judge advocate replied to the objection by the accused to the receipt in evidence of prosecution document number 271.

The commission was cleared.

The commission was opened and all parties to the trial entered. The commission announced that the objection was not sustained. There being no further objection, the document was so received and is appended marked "Exhibit 21".

Examined by the judge advocate concerning Exhibit 21:

489. Q. Will the witness read Exhibit 21 in its entirety?

(The witness read Exhibit 21 as requested.)

The accused moved that Exhibit 21 be stricken from the record on the ground that it related to incidents which occurred during a time when Admiral Hara was not Commander in Chief of the Fourth Fleet, and while he was not on Truk, and that it was hearsay.

The judge advocate replied.

The commission announced that the motion was not sustained.

Examined by the judge advocate concerning prosecution documnet #256:

490. Q. Does the witness have in his possession a statement by one Ishii, Yujiro?
A. I have.

491. Q. In what language is this statement made?
A. The statement is made in Japanese.

492. Q. Is this a sworn statement?
A. It is.

493. Q. Does the witness have an English translation of this statement?
A. I have.

494. Q. Who translated this statement?
A. Lieutenant Eugene E. Kerrick, official court interpreter.

495. Q. Is he the same Eugene E. Kerrick that has been sworn and is here in court in this case as an interpreter?
A. He is.

496. Q. Does the witness know the whereabouts of Ishii, Yujiro?
A. He is in Japan.

497. Q. Does this statement deal with the disposal of prisoners of war in February 1944?
A. It does.

498. Q. Does this statement deal with the training and morale of the Japanese personnel at the time of treatment of prisoners in the event of an enemy landing?
A. Paragraph 3 of the statement states that Japanese military personnel were told that prisoners would be killed in the event of a landing.

0732

The statement of Ishii, Yujiro, prosecution document number 266, was submitted to the accused and to the commission and by the judge advocate offered in evidence.

Cross-examined by the accused concerning prosecution document #266:

499. Q. Does this statement relate to an incident which occurred during the period from February 23, 1944 to September 2, 1945?
A. It does not.

500. Q. Is this affiant, Ishii, the same Ishii who took the witness stand on the eighteenth day of the Kobayashi trial on June 3, 1948 in this court and testified concerning the February incident?
A. He is.

501. Q. Is this affiant Ishii also the same Ishii who took the witness stand in the Nakabayashi trial on August 14, 1948 and testified concerning the February incident?
A. He testified in both cases. I do not recall the date.

502. Q. Then is it correct that Ishii had been on Guam until the latter part of September of this year?
A. I believe that is correct.

503. Q. Is this Japanese statement, a statement written by Ishii, the original statement?
A. It is.

504. Q. Was this statement admitted in evidence in the trial of Tanaka, et al, in December 1946?
A. I do not think that this statement could have been used in the Tanaka record because the Tanaka trial was concluded long before this statement is dated.

505. Q. Do you know that Ishii was sick during the trial of Tanaka, et al, and that he couldn't attend this court during that trial and that he made that statement?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused made no reply.

The commission announced that the objection was sustained.

506. Q. Was this statement taken after Ishii had been interrogated by the witness?
A. That is correct.

507. Q. Where was Ishii on September 5, 1947 when he made this statement?
A. He was at the 103rd Naval Hospital, Guam.

508. Q. Where was he on September 10, 1947 when he subscribed to this statement?
A. At the 103rd Naval Hospital, Guam.

0733

509. Q. Is this the same Ishii, Yujiro who was referred to throughout the trial of Captain Tanaka?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. It is.

510. Q. When did you first interrogate Ishii and where?

This question was objected to by the judge advocate on the ground that the question as framed was not relevant to admissibility of this statement.

The accused withdrew the question.

511. Q. Was this the first time that you had interviewed Ishii -- September 5, 1947?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused withdrew the question.

512. Q. Is this statement the result of questions and answers put to Ishii on September 5, 1947?
A. That is correct.

513. Q. Who was present at the time this statement was made by Lieutenant Ishii?
A. Frederick A. Savory and myself. I recall no others.

514. Was a record made of the questions that you put to Ishii and the answers that he made thereto?
A. No record was made of the interrogation. At the conclusion of the interrogation, Ishii was asked to make a statement in writing of the statements made during the interrogation.

515. Q. Who was present when he wrote this statement?
A. I do not know.

516. Q. Neither you nor Savory were present when Ishii wrote the statement?
A. That is correct. The statement was made after we left and was picked up on a later date.

517. Q. Isn't it a matter of common knowledge and that you knew that all the time Ishii was present at the hospital that there was a guard present?

This question was objected to by the judge advocate on the ground that the use of the words "common knowledge" ~~were~~ was improper.

The accused made no reply.

The commission announced that the objection was sustained.

0734

518. Q. The next time you went to the hospital to see Ishii, was that on the tenth day of September 1947?
A. That is correct.

519. Q. At that time he was still a patient at the hospital?
A. That is correct.

520. Q. Do you know whether Lieutenant Ishii testified at the trial of Captain Tanaka?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused made no reply.

The commission announced that the objection was not sustained.

A. He did not.

The accused objected to the receipt in evidence of prosecution document number 266 on the ground that Ishii, Yujiro, is available as a witness and was recently transferred to Japan; that the incident related in the document occurred prior to the time Hara was Commander in Chief of the Fourth Fleet; that the document was hearsay, irrelevant and immaterial.

The judge advocate replied.

The commission was cleared.

The commission was opened and all parties to the trial entered. The commission announced that the objection was sustained.

The commission announced that due to shortage of clerical personnel, and to the voluminous nature of the record, the preparation of the record had fallen too far behind the daily proceedings.

The commission announced that, in order to alleviate this problem and facilitate proper completion of the record, proceedings of the commission would be limited to half-day sessions, until such time as the record was more nearly up to date.

The witness was duly warned.

The commission then, at 11:50 a.m., adjourned until 9 a.m., tomorrow, Saturday, November 13, 1948.

0735

FOURTEENTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Saturday, November 13, 1948.

The commission met at 9:20 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the thirteenth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Herbert L. Ogden, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination continued.)

521. Q. Does the witness know where the original record of the trial of Abe, Koso, former rear admiral, IJN, is?
A. It was forwarded to the Judge Advocate General of the Navy.

522. Q. Does the witness have in his possession a certified copy of that original record of proceedings in the trial of Abe, Koso, former rear admiral, IJN?
A. I have.

523. Q. Who certified this to be a true copy of the original record?
A. Lieutenant R. L. Field.

524. Q. Was he the judge advocate in that case?
A. He was.

525. Q. Is this certified copy the official copy of the office of the Director War Crimes, Pacific Fleet?
A. It is.

The judge advocate submitted the record of proceedings of the trial of Abe, Koso to the accused and to the commission and requested that it be marked for identification.

0736

Cross-examined by the accused:

526. Q. What was Abe tried for and when and where?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial to the marking of the document.

The accused replied.

The commission announced that the objection was sustained.

527. Q. Is this copy of the Abe trial an exemplified copy?
A. It is a certified copy and in my opinion it is an exemplified copy.

528. Q. Is this copy signed by the Director War Crimes as being an official copy? A8

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused made no reply.

The commission announced that the objection was sustained.

529. Q. Does this trial of Abe relate to an incident and an offense for which he was tried, an offense occurring on October 16, 1942?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial to the issues of marking this document for identification and that it was frivolous for the accused to continue this line of questioning at this time.

The commission announced that the objection was sustained.

The accused objected to the marking of this document for identification.

The judge advocate replied.

The commission announced that the objection was not sustained.

There being no further objection, the document was so marked for identification.

Examined by the judge advocate concerning the offer in evidence of the testimony of Abe, Koso from the record of the trial of Abe, Koso et al:

530. Q. Does the witness know the whereabouts of Abe, Koso?
A. He is deceased.

531. Q. Was this Abe, Koso you refer to, the accused in the trial of Abe, Koso, the record of which has been marked for identification?
A. He was one of the accused.

532. Q. Have you examined the record of this trial?
A. I have.

0737

533. Q. Does the record show whether Abe, Koso appeared as a witness in that trial?
A. Yes, he did.

534. Q. Does the record show whether he appeared and testified voluntarily?
A. The record shows that he testified at his own request.

535. Q. Does the record show whether he testified under oath?
A. It states that he was duly sworn.

536. Q. On what pages of the record does the testimony of Abe, Koso appear?
A. Pages 54 to 62.

537. Q. Have you examined this testimony?
A. I have.

538. Q. What does this testimony relate to?
A. It relates to the execution of prisoners of war and matters of instruction and policy of the Fourth Fleet and the Naval General Staff regarding the execution of these prisoners of war.

The accused moved to strike out this answer on the ground that it was an opinion of the witness.

The judge advocate replied.

The commission announced that the motion was not sustained.

The proceedings of the trial of Abe, Koso were submitted to the accused and to the commission, and by the judge advocate so much thereof as contains the testimony of Abe, Koso was offered in evidence.

Cross-examined by the accused concerning the offer in evidence of the testimony of Abe, Koso from the record of the trial of Abe, Koso et al:

539. Q. What was the position of Abe, Koso?
A. He was the commandant of the Sixth Base Force.

540. Q. Where was the Sixth Base Force?
A. Kwajalein.

541. Q. What was his tour of duty as commandant of the Sixth Base Force?
A. From February 1942 to November 1943.

542. Q. Who was his direct superior?
A. Captain Inoue and Vice Admiral Samejima.

543. Q. You have just testified that he was tried in relation to an execution of prisoners of war, but when did this execution happen?
A. On or about October 16, 1942.

544. Q. Is there only one charge in his trial?
A. That is correct - one charge and one specification.

545. Q. Was the accused Hara a person connected with the trial of Abe, Koso?
A. He was not.

0738

546. Q. Did Hara attend the trial of Abe, Koso as a person connected with the trial?
A. He did not.

547. Q. Who were the others tried with Abe, Koso?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused made no reply.

The commission announced that the objection was not sustained.

A. Captain Yoshio Obara, IJN and Lieutenant Commander Naiki, Hisakichi, IJN.

548. Q. Is this testimony of Admiral Abe the only testimony that relates to the execution of prisoners of war at Kwajalein, in the record of the proceedings of this trial?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused made no reply.

The commission announced that the objection was sustained.

549. Q. When did the execution of these prisoners for which Admiral Abe was tried take place?
A. On or about October 16, 1942.

550. Q. Does the record show why Admiral Abe was relieved of his command and when?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused made no reply.

The commission announced that the objection was not sustained.

A. It shows when but I do not recall that it shows why.

551. Q. How soon after the execution was Admiral Abe relieved of his command?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused made no reply.

The commission announced that the objection was sustained.

The accused objected to the receipt in evidence of the testimony of Abe, Koso from the record of the trial of Abe, Koso et al on the ground that it was irrelevant and immaterial because it relates to an incident prior to the accused's tour of duty, that the death of the witness renders the testimony inadmissible where no opportunity was presented to the accused to cross-examine the witness, that the issues in the Abe trial were different from those in the instant case, and that the testimony was self-serving.

0739

The judge advocate replied.

The commission was cleared.

The commission was opened and all parties to the trial entered. The commission announced that the objections were not sustained and that the testimony was received in evidence and would be accorded its proper weight.

The witness was duly warned.

The commission then announced that due to the power failure and due to typhoon conditions, it would adjourn.

The commission then, at 10:45 a.m., adjourned until 9 a.m., Monday, November 15, 1948, or as soon thereafter as impending typhoon conditions permit.

FIFTEENTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Tuesday, November 16, 1948.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the fourteenth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Herbert L. Ogden, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

Examined by the judge advocate c ncerning the testimony of Abe, Koso from the record of the trial of Abe, Koso, et al:

552. Q. Refer to the testimony of Abe, Koso and read such portions thereof as relate to the existence and carrying out of the instructions and policy of the Naval General Staff and the Fourth Fleet with regard to the disposal of prisoners of war; starting with page 54 will the witness read questions and answers numbered 2, 4, 10, 12, 13, 14, 16, 23, 24, 25, 27, 28, 30, 32, 34, 35, 36, 39, 40, 41, 45, 46, 47, 48, 49, 58, 59, 60, 61 and 62 and the answers thereto?

The witness read from the testimony of Abe, Koso as follows:

"The accused Koso Abe was, at his own request, duly sworn as a witness in his own behalf."

"2. Q. What is your name?
A. Abe, Koso."

"4. Q. What is your present status?
A. Vice Admiral."

"10.Q. When did you enter the Naval Academy?
A. In 1909."

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"12.Q. When were you promoted rear admiral?
A. In November, 1940.

13.Q. When did you become the Commander of the Sixth Base Unit?
A. In February 1942.

14.Q. From what date to when were you at Kwajalein?
A. From February, 1942 to November, 1943."

"16.Q. What was the immediate superior unit of the Sixth Base Unit?
A. The Fourth Fleet."

"23.Q. When were prisoners taken at Makin Island brought to Kwajalein?
A. In the first part of September, 1942.

24.Q. Did you report to your superior officers concerning the prisoners?
A. When the prisoners were taken, a report was made to the Central Authorities in the Fourth Fleet about this fact.

25.Q. What orders did you receive concerning this?
A. There was a telegram from the Central Authorities to return the prisoners to the homeland as soon as possible. Two or three days later, another telegram came saying that the first telegram had been cancelled."

"27.Q. Did you ever try to send these prisoners back to Japan?
A. There was a destroyer which was going back to the Japanese homeland from Jaluit, and I thought I would send the prisoners back on this destroyer, and I sent a telegram to the Central Authorities asking permission, but this permission was not granted.

28.Q. Was this effort to send these prisoners back made after the telegram came to cancel the first order?
A. It was after the telegram cancelling the first order came."

"30.Q. Did you make any negotiations to send these prisoners back to Japan other than the destroyer?
A. Every time there was a supply vessel that went home from the Marshalls Area to Japan, I tried to send these prisoners back on the ship, and every time I dispatched a telegram to the Central Authorities asking their permission. I remember it was about three times I did this, but each time the Central Authorities gave me no reply."

"32.Q. Is it the same if you were to send these prisoners back by plane?
A. It is the same."

"34.Q. I have heard that a staff officer of the Naval General Staff, Okada, came to Kwajalein. On what errand did he come?
A. He came to instruct in the defense of the Marshalls Area, and he represented the Central Authorities.

35.Q. I have heard that a staff officer of the Fourth Fleet also came with Okada. What was his name?
A. The Fourth Fleet officer, Commander Iida, came representing the Fourth Fleet.

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36.Q. Did staff officer Okada tell you anything concerning the disposal of these prisoners?"

This question was objected to by the accused on the ground that it was leading and hearsay.

The judge advocate replied.

The commission announced that the objection was not sustained.

The witness continued to read from the testimony of Abe, Koso as follows:

"A. I told him that I had previously received a telegram ordering me to send back these prisoners to the Japanese homeland immediately, and after two or three days, I received another telegram cancelling the previous one, and I told them that I was making efforts to send these prisoners back to the Japanese homeland, and I asked him to explain what the second telegram meant. Staff Officer Okada explained about the second telegram as follows. The first telegram ordered the prisoners to go to the homeland for the reason that the Third Department of the Naval General Staff wanted these prisoners as soon as possible to investigate and get valuable information, but the First Department of the Naval General Staff was opposed to this opinion and had the opinion that a prisoner should be disposed of at the front, and after a conference of the Central Authorities, it was decided that the opinion of the First Department of the Naval General Staff would prevail, and staff officer Okada told me that the prisoners are not to be sent back home to Japan but should be disposed of on the spot."

"39.Q. Was there anybody else there at the time you had this talk?
A. The Fourth Fleet staff officer, staff officer Iida was there.

40.Q. At that time what did staff officer Iida say concerning the telegram?
A. Staff officer Iida told me that the Fourth Fleet also agreed to the orders instructed from Central Authorities to dispose of the prisoners on the spot.

41.Q. What were your reactions to the talks of these two staff officers?
A. I firmly believed that this was the instruction of the Central Authorities."

"45.Q. When staff officer Okada came and talked to you concerning the prisoners, did he bring to you any instructions or orders from the Central Authorities?
A. I firmly believed that he did.

46.Q. So you understood that staff officer Okada came representing the Naval General Staff?
A. Yes, he came as a representative of the Naval General Staff.

47.Q. Did the order come through the Fourth Fleet?
A. Because the staff officer of the Fourth Fleet who was there at that time told me that the Fourth Fleet agreed to the orders sent out from the Central Authorities, I understood that the Fourth Fleet had received these orders."

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The accused moved to strike out this answer on the ground that it was an opinion of the witness, and a self-serving declaration.

The judge advocate replied.

The commission announced that the motion was not sustained.

The witness continued to read from the testimony of Abe, Koso as follows:

"48. Q. Do you still believe now that what staff officer Okada told you was orders from the Central Authorities?
A. I firmly believe so.

49. Q. You ordered Captain Obara to execute the prisoners, but at that time did Captain Obara say anything to you or offer his opinions?
A. At that time Captain Obara told me that it was quite unbearable to execute the prisoners, and that he wanted to have them sent home as they did with previous cases; and when I heard this, I understood well the Captain, and I myself sympathized with these prisoners and wanted to send them back to Japan; but as I had received orders from the Central Authorities, there was nothing that I could do except be obedient, and I ordered the execution."

"58. Q. Did you receive any report that the executions were finished?
A. I did receive.

59. Q. From whom?
A. I received the report from Captain Obara.

60. Q. Did you, as commander of the force at Kwajalein, report of this execution to the Fourth Fleet?
A. I did.

61. Q. By what means?
A. I dispatched my staff officer to report to the Fourth Fleet.

62. Q. Were you reprimanded by the Commander in Chief of the Fourth Fleet for this execution?
A. I never was reprimanded."

The accused moved that all evidence from the trial of Vice Admiral Abe, Captain Obara and Lieutenant Commander Naiki, introduced as evidence in the trial be stricken from the record on the grounds: that the testimony of Vice Admiral Abe, as a witness in his own behalf was read from a copy which was not duly authenticated, not being under seal. See CMO 2-1921 Evidence Documentary: Copy must be authenticated by departmental seal before admissible into evidence; further that the testimony of Vice Admiral Abe given at his own trial for murder on Kwajalein occurred October 16, 1942, more than one and one-half years before Vice Admiral Hara, the accused in this case, took office as Commander in Chief, Fourth Fleet, on February 23, 1944 with headquarters at Truk, and therefore does not bear directly on the issues of this trial the neglect of duty of Vice Admiral Hara during the period from February 23, 1944 to September 2, 1945; that the testimony of Vice Admiral Abe

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consists of self-serving statements made at his own trial for murder of nine prisoners of war ordered executed by him and at which execution he was personally present; that it is irrelevant, incompetent, and immaterial; that the testimony of only Abe, Koso is offered from the trial of Vice Admiral Abe, Koso, Captain Obara and Lieutenant Commander Naiki Hisakichi, Rule 5 set forth in Section 200 Naval Courts and Boards is: The document must be offered in full in evidence; that this evidence is hearsay and according to Rule 6 set forth in Section 201 Naval Courts and Boards is inadmissible; and finally that since the conditions set forth in Section 218 Naval Courts and Boards had not been complied with, this evidence is further objectionable and should therefore be stricken from the record.

The judge advocate replied.

The commission announced that the motion was not sustained.

Cross-examined by the accused concerning the testimony of Abe, Koso from the record of the trial of Abe, Koso, et al:

553. Q. From the testimony Of Abe, Koso in the trial of Abe, Koso, et al, will the witness read questions 29, 31, 37, 38, 43, 63, 64, 79, 84, 85, 87, 99, and 100, and the answers thereto?

The witness read from the testimony of Abe, Koso, as follows:

"29. Q. Why did you make efforts to send these prisoners back to the Japanese homeland after the telegram came cancelling the first order?
A. I interpreted the second telegram as meaning it was not necessary to send the prisoners back immediately, but I always held it in mind that I must send these prisoners back to Japan."

"31. Q. Is it necessary that you have permission from your superiors to send these prisoners back to the homeland?
A. It was not possible if I negotiated with the supply vessels directly. I needed permission from the Central Authorities under which these supply vessels were controlled."

"37. Q. Did you hear only that there was a clash of opinions between the First and Third Departments of the Naval General Staff? Did you not hear a definite order to execute these prisoners?
A. Staff officer Okada explained to me about the order and told me that I better not send the prisoners back to Japan but dispose of them here.

38. Q. So was there an order to dispose of them on the spot or was it just a talk?
A. He did not state clearly that it was an order."

"43. Q. You have just stated that staff officer Okada said that prisoners should be disposed of on the spot. By that, did he mean in the general way or did he mean particularly those prisoners on Kwajalein?
A. I took that it meant just the prisoners at Kwajalein."

0745

"63. Q. Did Lieutenant Commander Okada bring any instructions or orders of anything else besides the disposal of the prisoners?
A. There were some instructions and orders on defense.

64. Q. Did you believe that these instructions and orders on defense were orders from higher authorities?
A. I was convinced that it was so."

"79. Q. And Commander Okada was from what department of the Naval General Staff?
A. The First Department."

"84. Q. When Commander Okada told you the decision of the First Department of the General Staff to dispose of prisoners at the front, did he tell you this was Navy policy or was this merely his own personal opinion of what the Navy policy should be?
A. He did not say whether it was either one of those.

85. Q. And you have testified, Admiral, that you believe this policy to dispose of prisoners at the front meant only just the prisoners at Kwajalein. Is this correct?"

This question was objected to by the judge advocate on the ground that the question was taken from the cross-examination of Abe, Koso where the cross-examination was admissible as an attack on credibility, and that the accused should be required to state whether he is seeking to attack the credibility of the witness Abe, Koso; if he does not intend to attack the credibility of Abe, the question should not be permitted.

The accused replied.

The commission announced that the objection was not sustained.

The witness continued to read from the testimony of Abe, Koso, as follows:

"A. That is correct. That is how I interpreted it."

"87. Q. How then do you explain that Navy policy should apply just to the nine prisoners that you executed on Kwajalein?"

This question was objected to by the judge advocate on the ground that it called for an opinion of the witness, and was not admissible unless the accused states that he desired to attack the credibility of the witness and the accused has failed to state that his purpose is to attack the credibility of Abe, Koso.

The accused made no reply.

The commission announced that the objection was not sustained.

0746

The witness continued to read from the testimony of Abe Koso as follows:

"A. I interpreted it so because when he explained to me about the two telegrams that I had received previously, those telegrams had referred only to the nine prisoners I had at Kwajalein."

"99. Q. Admiral Abe, was it your understanding from Okada's message that he brought naval policy or was it a directive from Naval Headquarters?
A. I thought that it was a directive from the Central Authority.

100.Q. And that directive could apply primarily to Kwajalein and have no effect on other parts of the Japanese Navy, is that right?
A. Yes, it is."

Reexamined by the judge advocate concerning the testimony of Abe, Koso from the record of the trial of Abe, Koso et al:

554. Q. Refer to the testimony of Abe and read questions 38, 39, and 40 and the answers thereto?

This question was objected to by the accused on the ground that it was repetitious.

The judge advocate replied.

The commission announced that the objection was not sustained.

The witness read from the testimony of Abe, Koso as follows:

"38. Q. So was there an order to dispose of them on the spot or was it just a talk?
A. He did not state clearly that it was an order.

39. Q. Was there anybody else there, at the time you had this talk?
A. The Fourth Fleet staff officer, staff officer Iida was there.

40. Q. At that time what did staff officer Iida say concerning the telegram?
A. Staff officer Iida told me that the Fourth Fleet also agreed to the orders instructed from Central Authorities to dispose of the prisoners on the spot."

555. Q. Will the witness read questions 78, 79, 86, 93, 94, 95, 96 and 97 and the answers thereto?

The witness read from the testimony of Abe, Koso as follows:

"78. Q. From where had Commander Okada come just prior to his arrival on Kwajalein, if you know?
A. He came from Truk.

79. Q. And Commander Okada was from what department of the Naval General Staff?
A. The First Department."

0747

"86. Q. And you have testified, Admiral, that after the conversation with Okada and Iida, you believed the disposal of the prisoners at the front was Navy policy. Is this correct?
A. It is correct."

"93. Q. Then why did you decide to send Commander Hiyashi instead of telegramming this report?
A. I thought that a verbal report would do as good as a telegram report so I waited until the staff officer went to Truk.

94. Q. And how long did staff officer Hiyashi remain in Truk?
A. I think it was about two days, but I do not remember clearly.

95. Q. Did he return to Kwajalein?
A. He came back.

96. Q. And when he returned did he make a report to you of his mission?
A. He did.

97. Q. And what did he report to you?

A. He told me that he had reported on the execution to the Fourth Fleet."

Recross-examined by the accused concerning the testimony of Abe, Koso from the record of the trial of Abe, Koso, et al:

556. Q. Will the witness read question 98 and the answer thereto?

The witness read from the testimony of Abe, Koso as follows:

"98. Q. And what answer did he get from the Fourth Fleet?
A. He did not tell me anything of the reply."

557. Q. Was Admiral Abe found guilty of the charge preferred against him?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial, unless the accused states the purpose of the question is an attack on the credibility of Abe.

The accused replied that it was his purpose to attack the credibility of Abe, Koso.

The commission announced that the objection was not sustained. AB

A. He was found guilty.

558. Q. As part of the record of the Abe trial, was there introduced as Exhibit 7 the interrogation of Vice Admiral Abe on March 2, 1946? AB

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial unless counsel for the accused intends to introduce this interrogation in evidence for a purpose relevant to the issues, such as credibility of the witness Abe or recent fabrication by the witness Abe of the testimony with regard to instructions or policy of the Naval General Staff or the Fourth Fleet.

0748

The accused replied that it was his intention to introduce this interrogation, and to attack the credibility of the witness Abe, and to present to the commission for their determination the issue of whether this was a recent fabrication or a fabrication.

The commission announced that it would hear the answer to the question subject to a motion to strike it from the record.

A. Exhibit 7, the interrogation of Vice Admiral Abe, in this record of the trial of Abe, Koso et al is dated 2 March 1946.

The accused requested permission from the commission to interrupt the examination by the judge advocate in order to offer in evidence at this time a defense document, Exhibit 7 from the record of the trial of Abe, Koso, because it relates to the testimony of Abe, Koso.

The judge advocate replied that he did not object to this procedure.

The commission announced that permission was granted to the accused to offer this document in evidence at this time.

The interrogation of Abe, Koso, dated March 2, 1946 (Exhibit 7 from the record of the trial of Abe, Koso et al) was submitted to the judge advocate and to the commission, and by the accused offered in evidence. The accused stated that it was the intention of the accused to attack the credibility of this witness Abe, and to seek to establish that the orders or policy of the Naval General Staff and Fourth Fleet, presented in the testimony of Abe, was a recent fabrication or a fabrication by Abe, and that the document was also directly relevant to the issues.

Cross-examined by the judge advocate concerning Exhibit 7 from the record of the trial of Abe, Koso et al:

559. Q. On what date was this statement made?
A. The statement is dated 2 March 1946 and is sworn to on 5 March 1946.

560. Q. Have you examined the statement and do you know what it relates to?
A. It relates to the execution of prisoners of war on Kwajalein.

561. Q. Does it relate to the incidents which are charged in the charge and specifications of the Abe record, to the incidents alleged to have occurred on or about October 16, 1942?
A. It purports to deal with this incident and also to the incident of prisoners of war on Wake Island.

There being no objection the interrogation of Abe, Koso, Exhibit 7 from the record of the trial of Abe, Koso et al was so received, and is appended marked "Exhibit 22".

The commission then, at 10:15 a.m., took a recess until 10:35 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Paul F. Costa, junior, yeoman first class, U. S. Navy, reporter.

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No witnesses not otherwise connected with the trial were present.

Examined by the accused concerning Exhibit 22:

562. Q. Will the witness read the following questions and answers: on page 1 the first five questions and the eighth question.

(The witness read from Exhibit 22 as requested.)

563. Q. On page 2 please read the third question and answer?

This question was objected to by the judge advocate on the ground that the statement showed that the answers had not been sworn to until subsequent to the fourth question and answer on page two.

The accused replied.

The commission announced that the objection was not sustained.

(The witness read from page 2 of Exhibit 22 as requested.)

564. Q. Will you read the fourth question and answer on page 2?

The witness read as follows:

"Q. We have the first hand evidence, that is a witness, to the beheading of nine (9) American flyers in January 1943 on KWAJALEIN?"

This question was objected to by the judge advocate on the ground that it was not a question but a statement of the examining officer and further that the question was irrelevant and immaterial.

The accused replied.

The commission announced that it would hear the answer subject to a motion to strike.

The witness read the following answer:

"A. There was no execution."

The judge advocate moved to strike out the question and answer on the ground that they were irrelevant and immaterial, and the answer was unsworn.

The accused made no reply.

The commission announced that the motion was not sustained.

565. Q. Will the witness read the next portion relating to the swearing of Abe, and read down to and including the ninth question and answer?

The witness read from Exhibit 22 as requested:

".....
.....
"Q. Therefore Admiral, I ask you again, what unit was in charge of the execution of the American flyers on KWAJALEIN, on or about January 1943?"

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial as the date indicates that the question asked, does not relate to any incident with regard to which the witness testified at his trial, with regard to which testimony defense counsel is trying to attack credibility.

The accused replied.

The commission announced that the objection was not sustained.

(The witness continued to read from Exhibit 22 as requested.)

566. Q. Will the witness turn to page 4 and starting with the sixth question read the following questions and answers and continue reading on page 5, down to and including the sixth question and answer on page 5?

(The witness read from Exhibit 22 as requested.)

567. Q. On page six of Exhibit 22 will the witness read the third question and answer?

(The witness read from Exhibit 22 as requested.)

568. Q. Will the witness read the next question and answer on page 6?

The witness read as follows:

"Q. Who did formulate this policy?"

This question was objected to by the judge advocate on the ground that it was outside the scope of the direct examination of this witness in that it related to a policy with regard to execution where invasions are impending, and not to a general policy of the disposal of prisoners of war.

The accused replied.

The commission announced that the objection was not sustained.

(The witness read the answer from Exhibit 22 as requested.)

569. Q. Will the witness read on page 7 the sixth and seventh questions and the answers thereto?

(The witness read from Exhibit 22 as requested.)

570. Q. On page 8 will the witness read the first question and answer?

(The witness read from Exhibit 22 as requested.)

Cross-examined by the judge advocate concerning Exhibit 22:

571. Q. Will the witness turn to page 7 from which you were just reading, and read the next to the last and the last questions and the answers?

(The witness read from Exhibit 22 as requested.)

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572. Q. Will the witness read the questions and answers which follow on pages 8 and 9 through the second question and answer on page 9?

(The witness read from Exhibit 22 as requested.)

573. Q. Will the witness read the questions and answers on page 11?

(The witness read from Exhibit 22 as requested.)

Examined by the judge advocate concerning the offer in evidence of the testimony of Hiyashi, Koichi from the record of the trial of Abe, Koso, et al:

574. Q. Does the witness know the whereabouts of former Captain Hiyashi, Koichi, Imperial Japanese Navy?
A. I believe he is in Japan.

575. Q. Does the record of the trial of Abe, Koso which has already been marked for identification, indicate that Hiyashi was a witness in that trial?
A. It does.

576. Q. Does the record contain the sworn testimony of Hiyashi?
A. It does.

577. Q. Does this sworn testimony relate to the execution of certain prisoners of war at Kwajalein in October 1942?
A. It does.

578. Q. Does this sworn testimony relate to the reporting of the execution to the Fourth Fleet?
A. It does.

579. Q. Does this sworn testimony relate to a conversation between Abe and Hiyashi in October 1942?
A. It does.

580. Q. What did this conversation relate to?

This question was objected to by the accused on the ground that it was hearsay.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. It relates to the policy of the Navy General Staff regarding the execution of prisoners of war.

The record of proceedings of the trial of Abe, Koso, et al, was submitted to the accused and to the commission, and by the judge advocate so much thereof as contains the testimony of Hiyashi, Koichi, former captain, IJN was offered in evidence.

Cross-examined by the accused concerning the offer in evidence of the testimony of Hiyashi, Koichi from the record of the trial of Abe, Koso, et al:

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581. Q. What was the position of Hiyashi at that time on Kwajalein?
A. He was chief of staff.

582. Q. During what period did he serve as chief of staff?
A. From February 16, 1942 to November 19, 1943.

583. Q. Did Admiral Hara in this case, have any connection with this trial of Abe, Koso, as a party thereof?
A. He did not.

584. Q. Does the witness know where Hiyashi, Koichi is?
A. He was returned to Japan at the conclusion of the Abe trial. So far as I know, he is still in Japan.

585. Q. Does the record indicate that the commander in chief of the Fourth Fleet at that time was not Hara, when Hiyashi was chief of staff on Kwajalein?
A. It does so indicate.

The accused objected to the receipt in evidence of the testimony of Hiyashi, Koichi from the record of the trial of Abe on the grounds that the testimony of Hiyashi is irrelevant and immaterial, relating to an incident which occurred prior to the tour of duty of Hara; that the testimony of previous trial is mere hearsay; that the introduction of such testimony where the accused was not present at the prior trial with the right to cross-examination violates the constitutional right to confrontation of witnesses; that the parties and issues of the prior trial were not substantially identical.

The judge advocate replied that in addition to the grounds of material relevance noted in reply to the objection to Abe's testimony, there was the additional basis for receipt in evidence of this testimony to rebut the attack on credibility of the witness Abe, and specifically with regard to the testimony as to the conversation between Abe and Hiyashi concerning the policy and instructions of the Naval General Staff and the Fourth Fleet, to establish prior consistent statements (See Wigmore on Evidence, Third Edition, Sec. 1128 and 1129) in order to rebut the attack by the accused on the credibility of the witness on the ground of recent fabrication and self-serving statements.

The commission announced that the objection was not sustained. There being no further objection, the testimony of Hiyashi, Koichi from the record of the trial of Abe, Koso, et al, was so received in evidence.

The witness was duly warned.

The commission then, at 11:40 a.m., adjourned until 9 a.m., tomorrow, Wednesday, November 17, 1948.

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HARA, CHIICHI (29 OCT 1948) (VOL. II) (167174)

H 5 D 75

Case of

HARA, Chuichi

October 27, 1948

RECORD OF PROCEEDINGS

of a

MILITARY COMMISSION

convened at

United States Pacific Fleet

Commander Naval Forces, Marianas

Guam, Marianas Islands,

by order of

The Commander Naval Forces, Marianas

VOLUME 2

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SIXTEENTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Wednesday, November 17, 1948.

The commission met at 9:15 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members and
Lieutenant David Bolton, U. S. Navy, judge advocate,
Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the fifteenth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Herbert L. Ogden, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

Examined by the judge advocate concerning the testimony of Hiyashi, Koichi from the record of the trial of Abe, Koso, et al:

586. Q. Will the witness refer to the testimony of Hiyashi, Koichi and read such portions thereof as relate to the conversation in October 1942 between Abe and Hiyashi regarding the instructions from the Naval General Staff, and read such portions thereof as relate to the report by Hiyashi to the Fourth Fleet headquarters of the carrying out of these instructions by execution of the prisoners of war. Specifically, will the witness read the preliminary portion relating to swearing of the witness and then read questions numbered 1, 2, 5, 6, 7, 58, 59, 60, 65, 108, 109, 110, 119, 120, 161, 162, 163, 164, 165, 166, 167 and 200 and the answers thereto? AB

The witness read from the testimony of Hiyashi, Koichi as follows:

"A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

"1. Q. State your name.
A. Hiyashi, Koichi.

"2. Q. What is your rank?
A. Right now I am Captain in the Japanese Navy."

"5. Q. When did you go to Kwajalein?
A. February 16, 1942.

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6. Q. When did you leave Kwajalein?
A. November 19, 1943.

7. Q. To what unit were you attached on Kwajalein?
A. Sixth Base Unit."

"58. Q. At this time who was the commanding officer of the Fourth Japanese Fleet?
A. Because there was the change of personnel at that time, I do not remember definitely, but I think he was Vice Admiral Samejima.

59. Q. Captain, did you report personally to this Vice Admiral or to whom did you make this report?
A. I made an oral report to Captain Komma, the senior Staff Officer of the Fourth Fleet.

60. Q. What response, or what answer did he give to the report?
A. I remember he didn't say anything."

"65. Q. Did Admiral Abe tell you, after conversing with Commander Okada that he asked Commander Okada what should be done with the prisoners?
A. Yes."

The accused moved to strike out this answer on the ground that it was hearsay and an opinion of the witness.

The judge advocate replied.

The commission announced that the motion was not sustained.

The witness continued to read from the testimony of Miyashi, Keiehi, as follows:

"108.Q. Was Commander Okada a fully qualified representative of Central Headquarters?
A. He is an official representative as far as the defense is concerned.

109.Q. Wasn't he also known as a liaison officer?
A. Since the Marshall Islands are very far from the Navy Department or the Naval General Staff, he used to do the liaison work.

110.Q. Then Admiral Abe would have been completely justified in believing that any message brought to him by Commander Okada was an official message from the General Staff. Is that correct?"

This question was objected to by the accused on the ground that it called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was sustained.

The witness continued to read from the testimony of Miyashi, Keiehi, as follows:

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"119.Q. Approximately how soon after Admiral Abe and Commander Okada had this meeting did Admiral Abe tell you about the Central Headquarters policy?
A. I do not know how long afterwards it was, but I know that it was on the same day that the meeting was held.

120.Q. Did Admiral Abe say anything to you concerning this Central Headquarters policy?
A. I heard the opinion that it was not necessary to send the prisoners back to Japan, but to deal with them at the place that they were taken."

The accused moved to strike out this answer on the ground that it was evasive and hearsay.

The judge advocate replied.

The commission announced that the motion was not sustained.

The witness continued to read from the testimony of Miyashi, Keiehi, as follows:

"161.Q. With regard to your report to the Fourth Fleet, at Truk, how long after the execution was that report made? How much time lapsed after the execution before the report was made?
A. I am not clear on it, but after the executions were finished it was about one month later. The day I do not remember.

162.Q. Why was this report made to the commanding officer of the Fourth Fleet in Truk?
A. The Sixth Base Unit was directly under the Fourth Fleet. In respect to matters pertaining to the prisoners, all reports had to be made to the Fourth Fleet. Therefore, the report was made.

163.Q. Tell us exactly, as you remember, what you reported to the Fourth Fleet.
A. According to the order issued by the commanding officer, I went to Truk by airplane. After arriving at Truk, I went to the Fourth Fleet Headquarters. At the Fourth Fleet Headquarters, I met Captain Homma, the Senior Staff Officer. I made a report on the executions in Kwajalein to this Captain Homma.

164.Q. What exactly did you say to Captain Homma? Repeat your oral report.
A. I do not remember clearly. I cannot remember the details. I made a report of the reason for the executions in Kwajalein as well as the scene and the circumstances and the aftermath of the execution.

165.Q. What was the comment of Captain Homma?
A. I haven't a clear recollection, but I think that he said nothing.

166.Q. Do you mean to tell us that the chief of staff received the report of the execution of American prisoners without saying anything?
A. Yes.

167.Q. Was there ever any dispatch or comment received from the Fourth Fleet also disapproving or condemning the execution of the prisoners?
A. Nothing was received."

"200.Q. In your talk with Captain Kouma of the Fourth Fleet, you stated that there was a reason for the execution. Please state what that reason was.
A. Lieutenant Commander Okada of the Naval General Staff came to Kwajalein and conferred with the commanding officer. As a result of this, the commanding officer was convinced that it was a Central Headquarters policy. This is the reason."

Cross-examined by the accused concerning the testimony of Hiyashi, Koichi, from the record of the trial of Abe, Koso, et al:

587. Q. Will the witness read questions 27, 28, 54, 55, 56, 61, 63, 84, 85, 87, 88, 96, 107, 111, 112 and the answers thereto?

The witness read from the testimony of Hiyashi, Koichi as follows:

"27. Q. When these prisoners first arrived on Kwajalein, what plans did the Admiral have for their disposal? What did he intend to do with them?
A. As a policy of the Japanese Navy in those days, the prisoners had been slated to be shipped to Japan as soon as possible.

28. Q. Why were these prisoners not shipped to Japan?
A. Admiral Abe sent an inquiry to the Japanese Navy Department through the Fourth Japanese Fleet, asking what to do, as to where and how these prisoners should be sent, but no reply came. Moreover, Admiral Abe looked for proper ships to be used for sending prisoners but he could not find any proper ships."

"54. Q. Captain, what was the reason Admiral Abe ordered these men to be killed?
A. In the early part of October, 1942, the commanding officer of the fortification department and Commander Okada, General Staff Officer from Central Headquarters came to investigate the fortification facilities in the Marshalls. At that time Admiral Abe told Commander Okada the difficulty he was having with regards to sending the prisoners to Japan, and Commander Okada told Admiral Abe that from now on it was not necessary for him to ship prisoners to Japan; instead, he could dispose of prisoners on the island. I was not present at the meeting between Commander Okada and Admiral Abe, but according to what I heard from Admiral Abe after the meeting, that is what was discussed between the two men.

55. Q. Was Lieutenant Commander Okada from the General Staff Office of the Fourth Fleet?
A. No, Lieutenant Commander Okada was a member of the Naval General Staff.

56. Q. Where was Lieutenant Commander Okada's headquarters? Where were they located?
A. In Tokyo."

"61. Q. Did Lieutenant Commander Okada have the authority to tell Admiral Abe that he could kill these prisoners?

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A. I did not witness the meeting between Lieutenant Commander Okada and Admiral Abe, so I cannot say definitely, but I do think, as a General Staff Officer, Lieutenant Commander Okada did not have authority to tell Admiral Abe what to do with the prisoners."

"63. Q. Captain, do you understand then that Japanese Naval policy was to execute prisoners when transportation was not available to send them to Japan?"

This question was objected to by the judge advocate on the ground that it was outside the scope of direct examination which related to what Admiral Abe had been informed was the naval policy; and also that the opinion of this witness as to what he understood the naval policy to be was irrelevant, incompetent and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

The witness continued to read from the testimony of Miyashi, Keiehi as follows:

"A. No, it is not so."

"64. Q. You testified that there were a group of prisoners brought from Makin Island to Kwajalein in September, 1942. Do you recall at that time Admiral Abe sent a dispatch to the Navy Ministry requesting direction on what should be done with these prisoners?
A. As I stated yesterday, there were two telegrams sent to the Central Headquarters via the Fourth Fleet Headquarters.

65. Q. Did you receive a telegram from Central Headquarters saying the prisoners would be sent to Japan?
A. I haven't a clear recollection of the telegram, but from previous times, I knew that the prisoners were to be sent as quickly as possible to Japan."

"67. Q. What is the meaning of Central Headquarters in the Japanese Navy?
A. In general, it is known as the Naval General Staff of the Naval Ministry.

68. Q. Is there any difference between the Navy Department of Central Headquarters and the General Staff of Central Headquarters?
A. The General Staff is an organization concerned with operational tactics, and the Naval Department is concerned with administration."

"96. Q. Is the permission of the Naval Ministry necessary in order to return prisoners to Japan by ship or plane?
A. Yes, the Naval Ministry must know what boat it is and where it is going, and must give permission in these matters."

"107.Q. Captain Miyashi, you testified that in October a Commander Okada, a General Staff Officer from Central Headquarters, came to Kwajalein. What was Commander Okada's duties as a staff officer of the General Staff?
A. The reason he came to Kwajalein was to investigate the defense conditions in the Marshall Areas."

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"111.Q. Wouldn't any expression of opinion by Commander Okada be believed to be a General Staff opinion?
A. In regard to important matters, it could be heard as personal opinions. There are times in regard to trivial matters when Lieutenant Commander Okada's personal opinions could be taken as an order.

112.Q. Do you consider the beheading of nine Americans a trivial matter?"

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial whether the witness considered it a trivial matter.

The accused made no reply.

The commission announced that the objection was not sustained.

The witness read from the testimony of Koichi Hiyashi as follows:

"A. I think it is a great problem."

588. Q. Will the witness read questions 89, 90, 91, 93, 104, 116, 131, 132, 133, 147, 148, 149, 172 and 173 and the answers thereto?

The witness read from the testimony of Hiyashi, Koichi as follows:

"89. Q. How many general sections are in the General Staff?
A. I recollect that there are three.

90. Q. What are they?
A. They are called one, two, and three.

91. Q. Which one of these sections determines the policy with regard to prisoners of war taken by the Navy?
A. The Navy Department handles this matter, but at times if special circumstances warrant, the General Staff and the First Section having a connection may handle it."

"93. Q. And is it true that no reply was received from either place in response to his request for shipping space."

This question was objected to by the judge advocate on the ground that it was vague and meaningless as accused omitted question and answer 92 which explains what is meant by the phrase "either place" used in this question.

The accused replied.

The commission announced that the objection was not sustained.

The witness continued to read from the testimony of Hiyashi, Koichi as follows:

"A. It is true.

94. Q. You testified yesterday that there were five or six war ships at Emajaleia in October, 1942. Were these combat fighting vessels or were they transports?

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A. The large one was a war ship, and I remember that its name was the TOKIWA. The latter five were small ships, and they were sweepers and sub chasers."

"104.Q. To return for a moment to the shipping problem in September and October. During the month of September, was there a destroyer at Kwajalein?
A. I remember a destroyer which came from Yokoshu going to the Gilbert Areas which was protecting troops on another ship."

"116.Q. Was there a Lieutenant Commander Iida present from the Fourth Fleet at any time?
A. I remember that he came up together with the fortification commanding officer. I do not remember that he was present at the meeting of the commanding officer and Lieutenant Commander Okada."

"131.Q. Did you approve of that policy?

This question was objected to by the judge advocate on the ground that it was meaningless, since accused has omitted the prior question and answer which indicate what is meant by the phrase "that policy".

The accused replied.

The commission announced that the objection was not sustained.

The witness continued to read from the testimony of Hiyashi, Koichi as follows:

"A. Yes."

132.Q. You approved of the policy of beheading American prisoners?
A. Why?
A. As I have said yesterday, the transportation was very bad at that time. In regard to the commanding officer's determination, I always regard the serious mindedness of the commanding officer. Therefore, without any doubt I agreed with the commanding officer.

133.Q. Did the prisoners of war ever give you any trouble on Kwajalein?
A. No, they did not."

147.Q. What was Commander Iida's position with the Fourth Fleet?
A. He was the officer in charge of communications.

148.Q. Why did he visit Kwajalein?"

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

The witness continued to read from the testimony of Hiyashi, Koichi as follows:

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"149. Q. As communications officer for the Fourth Fleet, was he on the General Staff there?
A. I do not believe he was."

"172. Q. Captain Hiyashi, before you came to Guam for this trial, did you discuss this trial with the Japanese Naval authorities in Tokyo?"

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

The witness continued to read from the testimony of Hiyashi, Koichi as follows:

"A. Yes.

173. Q. What did they tell you about this trial?
A. The naval authorities told me that because the authorities didn't know the contents of this case, I should tell all of my recollections and tell the truth in all matters."

The commission cautioned the accused against asking unnecessary, and repetitious questions.

The commission then at 10:15 a.m., took a recess until 10:40 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Herbert L. Ogden, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Cross-examination concerning the testimony of Hiyashi, Koichi from the record of the trial of Abe,Koso et al continued.)

589. Q. Will the witness read questions 175, 178, 180, 182, 183, 184, 187, and 190, and the answers thereto?

The witness read from the testimony of Hiyashi, Koichi as follows:

"175. Q. Do you know that at the time Admiral Abe issued the order to execute prisoners, Captain Obara made a recommendation that rather than execute the prisoners they be sent to Japan. Do you know of this or have you heard of this?
A. I have a recollection of this but I don't remember the time or the place."

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"178.Q. After it was decided that the American prisoners of war were to be executed but prior to the actual execution was any notice of this sent to Japan to the Japanese government or to the United States government?
A. There was none."

"180.Q. Would it be the normal procedure for a staff officer from Tokyo to issue orders to the Sixth Base Unit without approval of the Fourth Fleet?
A. Yes, that is right."

"182.Q. Captain, was it the policy of the Japanese Navy to execute prisoners of war when shipping was not available to send them to Japan?
A. No, it is not.

183.Q. What would have happened, Captain, if Admiral Abe had allowed these prisoners to continue to be held on Kwajalein?"

This question was objected to by the judge advocate on the ground that it was speculative and irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

The witness continued to read from the testimony of Hiyashi, Koichi as follows:

"A. When shipping facilities became favorable there should have been an order from the Navy Department or from the Central Headquarters to send them back to Japan."

The judge advocate moved to strike out this answer on the ground that it was speculative.

The commission directed that the answer be stricken out. AB

The witness continued to read from the testimony of Hiyashi, Koichi as follows:

"184.Q. If Admiral Abe had not executed these prisoners, but continued to hold them on Kwajalein, would he have been reprimanded by higher authority?
A. Because I did not hear the talk between Okada and the commanding officer, Abe I do not know. However, generally speaking, he would not be reprimanded."

"187.Q. However, Captain, there were ships visiting Kwajalein during October and November, after these men had been killed?"

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

The witness continued to read from the testimony of Hiyashi, Koichi as follows:

"190.Q. But didn't you just testify that Abe would not be reprimanded if he had not executed the prisoners?"

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This question was objected to by the judge advocate on the ground that it was repetitious and speculative.

The accused replied.

The commission announced that it would withhold its ruling until after hearing the answer to the question.

The witness read the answer as follows:

"A. It was a case where no official order was given."

The judge advocate moved to strike out this answer on the ground that it was not responsive.

The commission directed that the answer be stricken out.

Reexamined by the judge advocate concerning the testimony of Hiyashi, Koichi, from the record of the trial of Abe, Koso et al:

590. Q. Defense counsel has had you read question number 63, will the witness read question number 63 and the answer thereto, and then read the next answered question which appears in the record?

This question was objected to by the accused on the ground that it was repetitious.

The judge advocate replied.

The commission announced that the objection was not sustained.

The witness read from the testimony of Hiyashi, Koichi as follows:

"63. Q. Captain, do you understand then that Japanese naval policy was to execute prisoners when transportation was not available to send them to Japan?
A. No, it is not so."

"65. Q. Did Admiral Abe tell you, after conversing with Commander Okada that he asked Commander Okada what should be done with the prisoners?
A. Yes."

The accused moved to strike out the answer to question 65 on the ground that it was hearsay.

The judge advocate made no reply.

The commission announced that the motion was not sustained.

591. Q. You were requested by defense counsel to read questions 84 and 85 with regard to sending prisoners to Japan. Will the witness read the next question number 86 and the answer thereto? 86

The witness read from the testimony of Hiyashi, Koichi as follows:

"86. Q. Do you recall receiving a telegram from Central Headquarters which cancelled a previous telegram directing that the prisoners should be sent to Japan? This was in September, 1942.
A. I think that they probably both arrived, but at present, I have no recollection of them due to the circumstances at that time which were complicated."

592. Q. You were asked by defense counsel to read question number 93 and the answer thereto which relates to no reply having been received from "either place". Will the witness read the preceeding question and answer, number 92, which identifies what is meant by "either place"?

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The witness read from the testimony of Hiyashi, Koichi as follows:

"92. Q. Were Admiral Abe's inquiries for shipping space for shipping the prisoners to Japan sent directly to Central Headquarters or were they sent to Truk at the Fourth Fleet Headquarters?
A. It was sent to both places."

593. Q. In response to a question by defense counsel the witness read questions 131 and 132 with regard to certain policy, will the witness read question and answer 130 which explains what policy is referred to and then read question and answer 131?

The witness read from the testimony of Hiyashi, Koichi as follows:

"130.Q. Did you ever protest to Admiral Abe about carrying out the Central Headquarters directive?
A. I have not made any protest.

131.Q. And you approve of that policy?
A. Yes."

594. Q. On cross-examination you read questions and answers 180 and 182, will you read question 181 which was omitted?

The witness read from the testimony of Hiyashi, Koichi as follows:

"181. Q. And you have testified that you believed the Fourth Fleet approved the execution of the nine Americans on Kwajalein, is that right?
A. When the report came, as nothing was said, I believed they approved it."

The accused moved to strike out this question and answer on the ground that it was speculative and an opinion of the witness and that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the motion was not sustained.

The accused moved to strike out all the testimony of Hiyashi, Koichi, from the record of the trial of Abe, Koso et al, on the grounds that it was read from a copy of a document; that it was irrelevant and immaterial; that it was the opinion of Hiyashi; that it was incompetent; that it was impressions, conclusions, deductions and interpretations of Hiyashi; that it was hearsay; and that Section 218, Naval Courts and Boards, had not been complied with in the reading of this testimony.

The judge advocate replied.

The commission announced that the motion was not sustained.

Examined by the judge advocate concerning the offer in evidence of the testimony of Obara, Yoshio from the record of the trial of Abe, Koso et al:

595. Q. Does the witness know the whereabouts of one Obara, Yoshio, a former captain of the Imperial Japanese Navy, previously stationed at Kwajalein?
A. He is presently confined at Sugamo Prison in Japan.

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596. Q. Does the record of the trial of Abe, Koso et al which has already been marked for identification indicate that Captain Obara was a witness at that trial?
A. It does.

597. Q. Does that record contain the sworn testimony of Captain Obara?
A. It does.

598. Q. Does this sworn testimony relate to the execution of certain prisoners of war at Kwajalein in October of 1942?
A. It does.

599. Q. Does this sworn testimony relate to the reporting of this execution to the Fourth Fleet?
A. It does.

600. Q. Does this sworn testimony relate to the conversation between Abe and Obara in October 1942 with regard to the execution of these prisoners of war?
A. It does.

601. Q. Specifically, what did this conversation relate to?
A. It relates to the matter of naval policy regarding the matter of execution of prisoners of war and instructions therefor.

The record of proceedings of the trial of Abe, Koso et al was submitted to the accused and to the commission, and by the judge advocate so much thereof as contains the testimony of Obara, Yoshio was offered in evidence.

Cross-examined by the accused concerning the offer in evidence of the testimony of Obara, Yoshio from the record of the trial of Abe, Koso, et al:

602. Q. Isn't it true that Captain Obara is presently confined at Sugamo Prison in Tokyo, Japan?

This question was objected to by the judge advocate on the ground that it was repetitious.

The commission announced that the objection was sustained.

603. Q. Was Admiral Hara a party at any of the sessions of the trial of Vice Admiral Abe and Captain Obara?
A. The record does not indicate that he was present.

604. Q. Do you know from your own personal knowledge that Admiral Hara was being held in confinement at Guam at the War Criminal Stockade during the period of the trial of Admiral Abe and Captain Obara?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The commission announced that the objection was sustained.

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The accused objected to the receipt in evidence of the testimony of Obara, Yoshio from the record of the trial of Abe, Koso et al on the ground that the offense for which the accused was being tried in the instant case was different from that in the Abe case, that it was hearsay, that it was incompetent, irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

There being no further objection, the testimony of Obara, Yoshio from the record of the trial of Abe, Koso et al was so received in evidence.

Examined by the judge advocate concerning the testimony of Obara, Yoshio from the record of the trial of Abe, Koso et al:

605. Q. Refer to the testimony of Obara, Yoshio and read such portions thereof which relate to the conversation in October 1942 between Admiral Abe and Obara regarding the instructions from the Naval General Staff and read such portions that relate to the report to Fourth Fleet Headquarters regarding the carrying out of these instructions by executing the prisoners of war. Specifically, will the witness read the preliminary questions on page 44, questions 1, 4, 11, 18, 21 and with regard to the conversation of Abe and Obara question 32, with regard to reporting the execution to Fourth Fleet Headquarters, read questions and answers 62 and 63?

The witness read from the testimony of Obara, Yoshio as follows:

"1. Q. Are you Obara, Yoshio, an accused in this case?
A. I am."

"4. Q. What is your rank?
A. Formerly captain in the Japanese Navy."

"11. Q. When did you become the commanding officer of the 61st Garrison Unit?
A. It was in October of 1941."

"18. Q. Who was your immediate superior?
A. Abe, Koso, at that time a rear admiral, commanding officer of the Sixth Base Unit."

"21. Q. When did you become the commanding officer of the Sixth Submarine Base Unit?
A. It was on February 1, 1942."

"32. Q. Please explain in detail the circumstances at that time?
A. Our two ships, namely, DAI GO MIKU NI MARU and DAI NI SEIGI MARU were in bad condition so they were on the way to the repair base of the Fourth Fleet at Truk. I went to the headquarters to see Vice Admiral Abe for permission to send a telegram to the Fourth Fleet Repair Base to repair these two ships. When I went to the Headquarters, the commanding officer, Abe, was sitting on a chair on the veranda. I greeted him and then he, Abe, started to talk. He said that he had received an order from the Central

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Headquarters, ordering the prisoners from Makin Island not to be sent back to Tokyo but to be dealt with on the spot. This may not be the exact words of the commanding officer, but this was the gist of his talk. At that time, I was extremely surprised. I had thought, up to that time, that of course they were to be sent back to Tokyo. His answer at that time was 'is that so?' I cannot remember how I expressed it, but I stated that it was a terrible thing and is a thing not only against international law and humanity, but after having kept the prisoners for forty days, it was an unbearable thing, and could it not be reconsidered as it is such a tragic affair. I reported to the commanding officer the conditions of the prisoners at that time. I said that our men are on good terms with these prisoners and our men are giving their candies and cigarettes to them and these prisoners are expecting to see Tokyo as soon as possible and they were talking about Tokyo and Japanese women. Such being the case, I asked the commanding officer that if he could take measures to send these prisoners back to Tokyo as originally planned. The Vice Admiral replied, 'It can't be helped because this is an order from the Central Headquarters, so you carry out this order.'"

The accused moved to strike out this answer on the ground that it was the impression and opinion of the witness and that it was hearsay.

The judge advocate replied.

The commission announced that the motion was not sustained.

The witness continued to read from the testimony of Obara, Yoshio as follows:

"62. Q. Do you know that Admiral Abe reported this execution to the Fourth Fleet?
A. I heard that a senior staff officer made the report to the Fourth Fleet Headquarters."

The accused moved to strike out this answer on the ground that it was an opinion of the witness and hearsay.

The judge advocate replied.

The commission directed that the answer be stricken out.

The witness continued to read from the testimony of Obara, Yoshio as follows:

"63. Q. Was there any reprimand from either the Fourth Fleet or from Central Headquarters concerning this execution? AB
A. Of course not. The Fourth Fleet Headquarters and the Central Headquarters should have known of this execution. I should not have been reprimanded because our commanding officer and the Fourth Fleet Headquarters had the order from the Central Headquarters."

The accused moved to strike out this answer on the ground that it was an opinion and impression of the witness, that it was hearsay, and that it was a self-serving statement of the witness.

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The judge advocate made no reply.

The commission announced that the motion was not sustained.

The accused moved to strike out all the testimony of Obara, Yoshio from the record of the trial of Abe, Koso et al on the ground that it was self-serving declarations made by the witness Obara, that it was the opinions and impressions of the witness Obara; that it was hearsay; and that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the motion was not sustained.

At this point the accused requested an adjournment in order that the accused might more fully examine the testimony of Obara, Yoshio from the record of the trial of Abe, Koso et al.

The commission announced that the request was granted.

The witness was duly warned.

The commission then, at 11:25 a.m., adjourned until 9 a.m., tomorrow, Thursday, November 18, 1948.

SEVENTEENTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Thursday, November 18, 1948.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the sixteenth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Herbert L. Ogden, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

Cross-examined by the accused concerning the testimony of Obara, Yoshio from the record of the trial of Abe, Koso et al:

606.
~~586.~~ Q. Will the witness read from the testimony of Obara, Yoshio questions 23, 28, 74, 75, and 76 and the answers thereto?

The witness read from the testimony of Obara, Yoshio as follows:

"23. Q. What type of order did you receive from Admiral Abe concerning the confinement of prisoners from Makin?"

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that it would hear the answer before making a ruling on the objection.

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The witness continued to read from the testimony of Obara, Yoshio as follows:

"A. The Makin incident was the 17th of August, and the prisoners arrived about the second of September. Between these dates, I was told by Admiral Abe that when these prisoners arrived, they should be sent to Tokyo at the earliest possible time. Until then, they should be detained in a suitable place. He told me he had gotten a directive from Central Headquarters in Tokyo to that effect."

The commission announced that the objection was not sustained.

The witness continued to read from the testimony of Obara, Yoshio as follows:

"28. Q. Did you urge the commanding officer to send the prisoners back to Japn as quickly as possible?"

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

The witness continued to read from the testimony of Obara, Yoshio as follows:

"74. Q. Did Admiral Abe tell you that Lieutenant Commander Iida of the Fourth Fleet approved of the order relayed by Lieutenant Commander Okada?
A. No, I have no recollection of his telling me that. I only know that the order from the Central Headquarters was given by Commander Okada. I do not know the details of it.

75. Q. Did you ever return any prisoners to Japan prior to this execution?
A. I have.

76. Q. Will you tell the commission about that?"

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused announced that he would withdraw from his question the request that the witness read question and answer 76.

Examined by the judge advocate concerning prosecution document #12:

~~589~~ 607. Q. Does the witness have in his possession a Hydrographic Office chart AB which sets out the area of Eten Anchorage and other portions of Truk Atoll, Caroline Islands?
A. I have.

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608. Q. Is that an official chart of the United States Navy?
A. It is U. S. Navy Hydrographic Chart Number 6050.

609. Q. Does this chart show Dublon Island and Truk Atoll?
A. It does.

610. Q. Has the witness prepared photostatic copies of this chart showing the area of Dublon Island?
A. I have.

611. Q. Have you certified a copy of these photostats as a certified photostatic copy of the area of Dublon Island taken from Hydrographic Chart Number 6050?
A. I have.

The judge advocate submitted the certified photostatic copy of Hydrographic Chart Number 6050 (prosecution document #12) to the accused and to the commission and requested that it be marked for identification. The judge advocate announced that this photostatic copy would later be offered in evidence.

The accused objected to this document being marked for identification.

The commission announced that the objection was not sustained.

Cross-examined by the accused concerning prosecution document #12:

612. Q. Is this Hydrographic Chart an original chart, or is it but a copy of an original chart?
A. It would be a copy of an original chart.

613. Q. It shows conditions as of what date?

This question was objected to by the judge advocate on the ground that it was vague and ambiguous.

The accused replied.

The commission announced that the objection was sustained.

614. Q. Is there any date on this chart?
A. The chart is marked First Edition, March 1944.

615. Q. Are there any changes or additions that have been made on this chart?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The commission announced that the objection was sustained.

Neither the judge advocate, the accused, nor the commission desired further to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

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A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. Will the witness state his name?
A. Kobayashi, Masashi.

2. Q. Where are you presently residing?
A. At the War Criminal Stockade, Guam.

3. Q. What was your former rank in the Imperial Japanese Navy?
A. Vice Admiral.

4. Q. Were you ever stationed at Truk during your tour of duty as Vice Admiral?
A. I was stationed on Truk from April 1943 until February 1944 as Commander in Chief of the Fourth Fleet.

5. Q. I show you a document, Exhibit number 1 in this case, and show you a chart of the area of the jurisdiction of the Fourth Fleet, Annex Chart number 3, page 2 of this exhibit, and ask you if this approximates the area of jurisdiction of the Fourth Fleet at the conclusion of your tour of duty on February 23, 1944.
A. Yes, but Wake and Nauru and Ocean Islands which were in the area of jurisdiction are not included in this chart.

6. Q. Who relieved you as Commander in Chief of the Fourth Fleet?
A. Vice Admiral Hara.

7. Q. Is he the accused present in court at this time?
A. Yes.

8. Q. Can you name the major base forces and units which were under your command at the time you were relieved by Vice Admiral Hara?
A. I recall them generally.

9. Q. Will you name those you recall?
A. The Fourth Base Force at Truk which had jurisdiction over the Marshalls, the Carolines, Nauru and Ocean Islands, and the Third Base Force which commanded the islands of the Carolines group in the Palau Area. I believe the designation was the Fifth Base Force, but this base force was at Saipan. It controlled the Marshalls. At Truk there was an air squadron. The main base forces are as I have just named.

10. Q. Was the Sixth Base Force under your command?
A. The Sixth Base Force was no longer in commission after February.

11. Q. Were the guard units stationed at Nauru and Ocean Islands under your command?
A. Yes.

12. Q. Will the witness name the more important units of the Fourth Fleet which were stationed on Truk Atoll itself?
A. The Fourth Base Force.

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13. Q. Was the Fourth Naval Hospital under the command of the Fourth Fleet and located at TRUK?
A. Yes.

14. Q. Was the Forty-first Naval Guard Unit a subordinate unit of the Fourth Base Force and also located on Dublon Island, Truk Atoll?
A. Yes.

15. Q. Does the witness know who Admiral Shibazaki is?
A. Yes.

16. Q. Does the witness know what his duty was in late 1942 and throughout 1943?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not recall the dates clearly, but he was commandant of the Third Base Force during my tour of duty as Commander in Chief of the Fourth Fleet.

17. Q. Were the naval guard units on Ocean and Nauru Islands subordinate to the Third Special Base Force during your tour of duty?

This question was objected to by the accused on the ground that it was vague.

The judge advocate made no reply.

The commission announced that the objection was not sustained.

A. Yes.

18. Q. Do you know whether the guard units located on Nauru and Ocean Islands were under the direct command of the Third Base Force prior to your tour of duty in 1943?
A. As I assumed my post as Commander in Chief, Fourth Fleet in April 1943, I do not know the details, but I believe that they probably were under the command of the Third Base Force.

The accused moved to strike out this answer on the ground that it was an opinion of the witness.

The judge advocate replied.

The commission announced that the motion was not sustained.

19. Q. Does the witness know Vice Admiral Ito? AB
A. Do you mean Vice Admiral Ito, Seishi?

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20. Q. Yes. Do you know Vice Admiral Ito?
A. I do.

21. Q. What was his duty during your tour of duty?
A. Vice chief of Naval General Staff.

22. Q. Was he at Truk during the time of your tour of duty?
A. Yes.

23. Q. When?
A. I do not clearly recall the date, but I believe it was around the end of 1943.

24. Q. Did you discuss prisoners of war matters with him?

This question was objected to by the accused on the ground that it was irrelevant, immaterial, and hearsay.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No. I have a faint recollection of saying this to Commander Currie, the investigating officer, namely that during our conversation the topic of prisoners of war having arisen, Vice Admiral Ito said "that in combat when the presence of prisoners of war actually hindered the operations of the troops, then it could not be helped that the commanding officer ordered the disposal of them, the prisoners of war". AB

The accused moved to strike out this answer on the ground that it was hearsay, and irrelevant and immaterial to the charge preferred against Admiral Hara, the accused in this case.

The judge advocate replied.

The commission announced that the motion was not sustained.

25. Q. Do you know Admiral Abe, Koso?
A. Yes, I do.

26. Q. Was he a subordinate of yours during your tour of duty as Commander in Chief, Fourth Fleet? AB
A. He was the commandant of the Sixth Base Force.

27. Q. Where was Sixth Base Force headquarters located?
A. It was located on Kwajalein of the Marshalls group.

28. Q. Did you inspect Wake Island during your tour of duty?
A. Yes.

29. Q. During your inspection of Wake Island, did Vice Admiral Abe say anything to you with regard to prisoners of war?

This question was objected to by the accused on the ground that it was irrelevant and immaterial, and any answer the witness might give would be hearsay.

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The judge advocate withdrew the question.

30. Q. Did Vice Admiral Abe say anything to you regarding the execution of prisoners of war?

This question was objected to by the accused on the ground that it was leading.

The judge advocate made no reply.

The commission announced that the objection was not sustained.

A. No, Abe did not. During an inspection trip Abe pointed through the window of the automobile in which we were riding and pointed out the spot where the prisoners had been executed.

31. Q. Did you make any comment to your subordinate Abe concerning the execution?
A. I do not recall having said anything.

32. Q. Did you make or order an investigation of the incident of the execution of these prisoners of war?

This question was objected to by the accused on the ground that it was irrelevant and immaterial unless the judge advocate was attempting to impeach his own witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not recall having made any investigation or orders.

The commission then, at 10:15 a.m., took a recess until 10:30 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Kobayashi, Masashi, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination continued.)

33. Q. During the course of your tour of duty, did you ever issue any orders or instructions to any of your subordinates with regard to the treatment of prisoners of war?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

0777

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No.

34. Q. When you assumed command of the Fourth Fleet, were there in existence any standing orders with regard to the protection or safeguarding of prisoners of war?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. There were no regulations which specifically pertained to protection of prisoners of war, but at the commencement of the war the Commander in Chief, Combined Fleet, issued orders and instructions that International Law be observed and I also recall that when I assumed command of the Fourth Fleet I issued instructions to the same effect.

35. Q. Did you ever during your tour of duty receive or issue any instructions with regard to the treatment or safeguarding of prisoners of war?

This question was objected to by the accused on the ground that it was irrelevant, immaterial, and also vague.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I recall having received demands from the central authorities to dispatch prisoners of war back to the Japanese homeland as soon as possible, and I recall having relayed this demand to my subordinates.

The judge advocate moved to strike out this answer on the ground that it was not responsive.

The commission announced that the motion was not sustained.

36. Q. Did you ever during your tour of duty receive any specific instructions with regard to the protecting or safeguarding of prisoners of war?

This question was objected to by the accused on the ground that it was irrelevant, immaterial, and any answer the witness might give would be hearsay.

The judge advocate replied.

The commission announced that the objection was not sustained.

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A. I did not receive any orders specifically relating to the protection of prisoners of war but I believe that observance of International Law covered this ground.

37. Q. Did you ever issue any such specific orders to your subordinates?
A. I did not issue specific orders pertaining to protection of prisoners, but as previously stated, I believe that my instructions that International Law be observed covered this point.

38. Q. When were you relieved by Vice Admiral Hara?
A. 23 February 1944.

39. Q. What was your physical condition at that time?
A. My anal fistula was in bad condition and I was relieved that I may return to the Japanese homeland.

40. Q. For how long a period had you been seriously ill with this condition?
A. I was afflicted with this condition around October 1943. From then until February this condition would worsen or change for the better periodically.

41. Q. During the period from the time of the February air raid, February 17, until the time you were relieved by Hara, were you confined, due to this illness, to bed?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate withdrew the question.

42. Q. Was there an air raid prior to the conclusion of your tour of duty?
A. Yes.

43. Q. On what date did this air raid occur?
A. As I recall, it took place on the 17th and 18th of February 1944.

44. Q. What was your condition at the time of this air raid?
A. At the time it was difficult for me to walk about and my bed was taken to the air raid shelter and from the air raid shelter I commanded operations.

45. Q. Did your condition improve from that time until the time you were relieved by Hara?
A. After the bleeding had stopped, my condition improved somewhat.

46. Q. When you were relieved by Vice Admiral Hara, did you brief him prior to his assuming command as Commander in Chief of the Fourth Fleet?
A. As I recall, this is how I briefed Admiral Hara, and that was I asked him to obtain the details from my chief of staff and my staff officers.

47. Q. During how long a period of time did you speak with Admiral Hara prior to being relieved?
A. Admiral Hara arrived in the afternoon and as the American Task Force was still off Saipan, and he had to cope with that situation, I did not have much time to speak to him and I left on the evening of the same day.

48. Q. During your conversations with Admiral Hara was the question of prisoners of war discussed?
A. No.

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49. Q. You spoke previously of having issued an order that International Law should be observed, was this order issued at the beginning of your tour of duty as Commander in Chief of the Fourth Fleet?
A. Yes.

50. Q. Was any action taken by you to enforce the carrying out of this order that you issued?

This question was objected to by the accused on the ground that it was irrelevant and immaterial to the charges which have been preferred against the accused in this case.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not recall having taken particular measures to ascertain whether this order was enforced.

51. Q. Do you know what the training of Japanese military personnel was with regard to prisoners of war?

This question was objected to by the accused on the ground that it was vague, irrelevant, immaterial, and called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was sustained.

52. Q. Do you know what the training of the naval personnel under the Fourth Fleet was with regard to prisoners of war?

This question was objected to by the accused on the ground that it was broad, and the question does not limit it to any period of time.

The judge advocate replied.

The commission announced that the objection was sustained.

53. Q. Is the witness familiar with the training, discipline, and attitude developed by the Japanese military personnel by the method of training naval personnel concerning the treatment of prisoners of war?

This question was objected to by the accused on the ground that it was vague and called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was sustained.

54. Q. Were military personnel of the Japanese Armed Forces trained with regard to prisoners of war matters?

This question was objected to by the accused on the ground that it was vague and called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not know.

55. Q. During your tour of duty was any training instituted with regard to subordinates of the Fourth Fleet, with regard to prisoners of war matters?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate made no reply.

The commission announced that the objection was not sustained.

A. I do not know whether or not such training was instituted, but each unit subordinate of the Fourth Fleet had Naval Regulations pertaining to the treatment of prisoners of war, and also the treatment regarding prisoners of war, and each unit commander knew of this fact.

The judge advocate moved to strike the words from "but each unit, etc." out of the answer on the ground that they were not responsive.

The commission announced that the motion was not sustained.

56. Q. Did you personally see these books of regulations and treaties at each unit under your command?

This question was objected to by the accused on the ground that the judge advocate was seeking to impeach his witness.

The judge advocate replied.

The commission announced that the objection was sustained.

Cross-examined by the accused:

57. Q. You were shown Exhibit 1 and you testified that during your tour of duty the area of jurisdiction of the Fourth Fleet was as marked in that chart, but during your tour of duty, was the Central Pacific Fleet in existence as shown on the chart?
A. No, it was not in existence then.

58. Q. Then the area of jurisdiction of the Fourth Fleet as of the time when you were relieved by Admiral Hara is not clearly shown in Exhibit 1, is that correct?
A. When I was relieved by Hara there was no Central Pacific Area Fleet and consequently no area of jurisdiction of the Central Pacific Area Fleet. And the area of jurisdiction of the Fourth Fleet, includes that area marked as that of the Central Pacific Area.

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59. Q. You testified in the first place that Nauru and Ocean were in the area of jurisdiction of the Fourth Base Force, and later that it was in the area under the control of the Third Base Force. These two statements are contradictory, which is correct?
A. The reason for this is because of the difference in the time factor.

60. Q. You testified that Rear Admiral Shibazaki, the commandant of the Third Base Force, was under your command. Did he on occasions frequently visit you on official business?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. No, he did not.

61. Q. Did subordinates of his visit you during your tour of duty; to be more specific, did Lieutenant Commander Suzuki visit you at your headquarters?
A. I do not recall.

62. Q. You testified that Vice Admiral Ito, Seishi, chief of the Naval General Staff had a conversation with you concerning prisoners of war, what was the nature of his conversation and by whom was the topic approached?
A. This conversation came up during dinner when in the course of general conversation and it took place five years ago and I merely recall that there was such a conversation. I do not recall the details.

63. Q. Did Ito speak of this subject as meaning the policy of the Naval General Staff?

This question was objected to by the judge advocate on the ground that it was repetitious.

The accused replied.

The commission announced that the objection was not sustained.

A. As I clearly recall, it came up in the general conversation, and was never an exposition of policy, etc.

64. Q. In the Japanese Navy, do matters concerning treatment of prisoners of war fall into the category of administrative matters or operational matters?

This question was objected to by the judge advocate on the ground that it was a misleading double question.

The accused reframed the question.

65. Q. Are matters relative to prisoners of war administrative matters?
A. Yes, they are administrative matters.

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66. Q. Then they are not operational matters?
A. No, they are not.

67. Q. From whom do the commanding officers' orders come relative to administrative matters?
A. From the Navy Minister.

68. Q. And in regard to operational matters, from whom does he receive orders?
A. From the chief of the Naval General Staff.

69. Q. Did you ever during your tour of duty receive orders relative to administrative affairs from the Naval General Staff?
A. No.

The witness was duly warned.

The commission then, at 11:25 a.m., adjourned until 9 a.m., tomorrow, Friday, November 19, 1948.

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EIGHTEENTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Friday, November 19, 1948.

The commission met at 9:05 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the seventeenth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Kobayashi, Masashi, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Cross-examination continued.)

70. Q. You testified yesterday that when you assumed your post as Commander in Chief of the Fourth Fleet there were no standing regulations concerning treatment and protection of prisoners of war. Did you have a predecessor as Commander in Chief of the Fourth Fleet?

This question was objected to by the judge advocate on the ground that it was improper in form, consisting of two unrelated portions.

The accused made no reply.

The commission announced that the objection was not sustained.

A. I did have a predecessor.

71. Q. Who was this man?
A. Vice Admiral Samejima.

72. Q. Were you briefed by your predecessor?
A. Yes, I was.

0784

73. Q. When you were briefed by your predecessor were there any matters pertaining to prisoners of war?
A. No, there were none.

74. Q. When you were briefed by your predecessor were there any matters pertaining to treatment of prisoners of war which your predecessor received from the Central Authorities?

This question was objected to by the judge advocate on the ground that it was repetitious.

The accused withdrew the question.

75. Q. You testified that you had instructions or orders concerning treatment and protection of prisoners of war from the Central Authorities, that they be sent home to the Japanese homeland at the earliest possible moment. Now, in which phase of your tour of duty did you receive this - in the first phase, the second phase, or the third phase?

This question was objected to by the judge advocate on the ground that it was vague and indefinite, as neither the testimony of the witness nor the question established what time was included in each of the so-called "phases".

The accused withdrew the question.

76. Q. In your testimony you testified that you recalled having received instructions from the Central Authorities to dispatch prisoners of war to the Japanese homeland at the earliest possible moment and that you recalled having relayed these instructions to your subordinates. Do you recall at what phase of your tour of duty this occurred?

This question was objected to by the judge advocate on the ground that it was vague and indefinite.

The accused made no reply.

The commission announced that the objection was not sustained.

A. I do not recall the exact date but I would say it was in the middle phase of my tour of duty.

77. Q. Did you receive any instructions from the Central Authorities which were contrary to those instructions you received subsequent to that?
A. No.

78. Q. Do you recall whether matters concerning prisoners of war were among the matters on which you briefed Hara when he relieved you?
A. I clearly recall that matters pertaining to prisoners of war were not included in matters on which I briefed Hara.

79. Q. Did you ever inform your subordinate commands that the policy regarding prisoners of war in your command would be different from that contained in Japanese Naval Regulations, a copy of which you testified all of your subordinate commands had?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial and without foundation.

0785

The accused replied.

The commission announced that the objection was not sustained.

A. No, I did not.

80. Q. You testified that Ocean and Nauru Islands were under your jurisdiction. How did you exercise jurisdiction over these units on Ocean and Nauru Islands when you were Commander in Chief of the Fourth Fleet?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. I commanded and exercised jurisdiction over these two islands indirectly through the Base Force Commandant.

81. Q. At the time that Admiral Hara relieved you was this how you exercised jurisdiction over Ocean and Nauru?

This question was objected to by the judge advocate on the ground that it was repetitious.

The accused withdrew the question.

82. Q. Was there a Base Force Commandant, and where was he stationed, with jurisdiction over Nauru and Ocean Islands at the time Admiral Hara relieved you?
A. As I remember he was the Fourth Base Force Commandant, stationed at Truk.

83. Q. Did you so inform Admiral Hara?
A. This is my recollection that after the Sixth Base Force in the Marshalls was annihilated by the invasion of the Marshall Islands, that area fell under the command of the Fourth Base Force.

84. Q. Who was the Chief of Staff and your staff officers that you told Admiral Hara that he was to be briefed by in order that he might relieve you?
A. The Chief of Staff was Rear Admiral Sumikawa and there were numerous staff officers among whom I recall Captain Inoue and Commander Kawamura.

85. Q. And these officers are the ones that briefed Admiral Hara when he was relieved you?
A. I was not at the actual scene of the briefing. When a Commander in Chief briefs his successor, the staff officers write up documents, each staff officer covering the work assigned to him.

86. Q. Did you see these written briefs?
A. I glanced through them.

87. Q. Who was it that briefed Admiral Hara on prisoners of war and their treatment in your command?

0786

This question was objected to by the judge advocate on the ground that it was repetitious.

The accused made no reply.

The commission announced that the objection was not sustained.

A. From what I saw there was nothing written about prisoners of war.

88. Q. Admiral, briefly state your training and experience with regard to the treatment and protection of prisoners of war.

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. At the Naval Academy we were instructed in international law and in the Navy there were what are known as Naval Regulations which set forth how prisoners of war will be treated during wartime and this all naval officers are aware of and at each naval unit there was the Wartime International Law Manual in which material pertaining to prisoners of war, especially the Hague and Geneva Conferences, were set forth and the general run of the officers were aware of this fact.

89. Q. Admiral, wasn't it your policy to treat prisoners of war in accordance with your training and experience in international law, especially the Hague and Geneva Conventions?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. Yes, that is so, and my instructions that international law be observed the meaning of that was what you have just heard.

Reexamined by the judge advocate:

90. Q. Admiral, you referred to three phases of your command. In what period do you consider this middle phase you discussed receiving orders from the Central Authorities?
A. I do not recall the exact date but it was not soon after I assumed my post nor was it just before I left my post, therefore I term it my middle phase.

91. Q. Was it three months after you assumed your post? Can you fix the approximate date when these orders were received?

This question was objected to by the accused on the ground that it was irrelevant, immaterial, and double.

The judge advocate replied.

0787

The commission announced that the objection was sustained.

92. Q. In what form did these alleged instructions from the Central Authorities with regard to sending prisoners of war back to Japan come to you?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not recall definitely.

93. Q. In what form did you send this alleged order to your subordinates?
A. This type of dispatch issued by the Central Authorities would be so worded that it would be comprehensive to all commanding officers, however, as my command covered a very wide area, as I recall I sent out dispatches that all commanding officers in my wide area of command received this dispatch without fail.

94. Q. Then you now recall that there was a definite dispatch which contained this order?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Yes, I recall.

95. Q. Was this dispatch routed in the normal way through your subordinates and did it receive their signatures in the routing blanks on that dispatch?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was sustained.

96. Q. Did this order become part of the standing orders of the Fourth Fleet with regard to the treatment of prisoners of war?
A. Yes, I understood it to be so.

97. Q. Did you ever punish any of your subordinates for mistreatment of prisoners of war?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained. 96

A. I did not. It was because it was not brought to my attention that there had been any mistreatment of prisoners of war during my tour of duty.

0788

The judge advocate moved to strike out the words "it was because it was not brought to my attention that there had been any mistreatment of prisoners of war during my tour of duty" on the ground that it was self-serving, not responsive, and immaterial.

The commission announced that the motion was not sustained.

Recross-examined by the accused:

98. Q. Isn't it true, Admiral, that during your tour of duty prisoners of war were sent to Japan?
A. Yes.

Reexamined by the judge advocate:

99. Q. Isn't it true, Admiral, that in the area under your command during your tour of duty, prisoners of war were executed and mistreated?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I was made aware of this as a result of my trial.

The accused did not desire to recross-examine this witness.

The commission did not desire to examine this witness.

The witness made the following statement: I left Truk without becoming aware that there had been any mistreatment of prisoners of war on the part of my subordinates. I feel responsible for not having briefed Hara on matters concerning prisoners of war because of my ignorance of this matter that I did not brief Hara on prisoners of war. If I had been a more observant and perfect Commander in Chief, I would have noticed these and if I had taken positive measures to stop this recklessness I would not have caused my successor any trouble and for having caused him this I feel responsible. AB

The witness was duly warned and withdrew.

The commission then, at 10:05 a.m., took a recess until 11:05 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

The accused submitted to the commission for approval interrogatories to be propounded to the Chief of the Second Demobilization Bureau, Japanese Government and Iida, Hideo, and a letter requesting certified copies of the surrender document of Truk and of the separate surrender documents, if any, for Jaluit Atoll, Nauru Island, and Ocean Island. AB

0789

The judge advocate did not desire to add any cross-interrogatories.

The commission announced that it assented to the submission of the interrogatories and directed the judge advocate to forward them to the proper authorities.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. Will you state your name?
A. Inoue, Kenichi.

2. Q. Where are you presently residing?
A. At the Witness Camp.

3. Q. Do you know the accused Hara, Chuichi?
A. I do.

4. Q. When did you arrive at Truk?
A. In August 1943.

5. Q. To what organization were you attached?
A. To the staff of the Fourth Fleet Headquarters.

6. Q. How long did you serve on the staff of the Fourth Fleet Headquarters?
A. Till the end of May 1944.

7. Q. Who was the Commander in Chief of the Fourth Fleet when you first became attached to the staff of the Fourth Fleet?
A. Vice Admiral Kobayashi.

8. Q. Who was the Commander in Chief of the Fourth Fleet when you were relieved of your duty with the Fourth Fleet?
A. Vice Admiral Hara.

9. Q. Who was the Chief of Staff when you served under Vice Admiral Kobayashi?
A. First it was Rear Admiral Nabeshima, and from January 1944, it was Rear Admiral Sumikawa. From the latter part of March 1944, the Chief of Staff was Rear Admiral Arima.

10. Q. During your tour of duty with the Fourth Fleet after Admiral Hara was Commander in Chief, what was the next higher organization to which the Fourth Fleet was attached?
A. Until the latter part of February 1944, it was the Combined Fleet Headquarters and from the beginning of March 1944, it was the Central Pacific Area Fleet.

11. Q. Can you name the base forces and major individual units which were subordinate to the Fourth Fleet from February 23, 1944 to the time you were relieved of your duty with the Fourth Fleet?
A. Until the latter part of February 1944, the base forces were the Fourth Base Force and another base force on Palau which I have forgotten the name of. From March 1944 only the Fourth Base Force, and this Fourth Base Force was done away with around the beginning of May 1944.

0790

12. Q. What happened to the units that were under the Fourth Base Force when the Fourth Base Force was dissolved?
A. They were put under the Fourth Fleet Headquarters.

13. Q. When you say they were put under the Fourth Fleet, you mean they were put directly under the Fourth Fleet with no intermediate base force, is that correct?

This question was objected to by the accused on the ground that it was repetitious.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Yes, they were directly under the Fourth Fleet.

14. Q. Can you name some of the major units on Truk that were subordinate to the Fourth Fleet, particularly the guard units, hospitals, construction corps, et cetera?
A. Only on Truk?

15. Q. Can you name those on Truk?
A. The ones on Truk were the Forty-first Guard Unit, the Fourth Naval Hospital, Supply Depot, Construction Department, Harbor Department, Repair Department, Twenty-second Air Squadron, and Seaplane Base. That is all. NB

16. Q. Were there units of the Fourth Fleet stationed on Wake Island?
A. Yes, there was a guard unit there.

17. Q. Do you know the number of this guard unit?
A. I recall it was the Sixty-fifth Guard Unit, but I'm not sure.

18. Q. Were there units of the Fourth Fleet stationed on Jaluit?
A. There was one guard unit there.

19. Q. Were units of the Fourth Fleet stationed on Nauru and Ocean Islands?
A. On Nauru Island there was one guard unit and on Ocean Island there was a department of this guard unit from Nauru Island.

20. Q. Do you know the names of the commanding officers of the guard unit on Truk in February of 1944?
A. Before the raid of February, it was Tanaka, and after the raid I do not remember the date, but it was Captain Asano.

21. Q. Do you know the name of the commanding officer of the Fourth Naval Hospital at Truk?
A. Surgeon Captain Iwanami.

22. Q. Do you know the name of the commanding officer of the Fourth Naval Construction Corps at Truk?
A. The time - the period?

23. Q. The end of February 1944.
A. Captain Harada.

24. Q. Do you know if this Captain Harada had any additional duties?
A. At that time he was the Chief Engineer attached to the Fourth Fleet.

25. Q. Do you know the name of the commanding officer of the guard unit at Wake Island during your tour of duty?
A. Rear Admiral Sakaibara.

26. Q. Do you know the name of the commanding officer of the Jaluit Guard Unit throughout your tour of duty?
A. Rear Admiral Masuda.

27. Q. Do you know the name of the commanding officer at Nauru during your tour of duty?
A. Captain Soeda.

28. Q. Does the witness know the name of the officer commanding the unit of the Sixty-seventh Naval Guard Unit on Ocean Island?
A. No, I do not know.

29. Q. I show you a chart of Dublon Island which has previously been identified and ask you if this is approximately a correct chart of the area of Dublon Island.
A. I believe it is.

30. Q. Are you able to locate in pencil upon this chart, marking with appropriate letters the location of the major units of the Fourth Fleet which were on Truk at the time the accused Hara took command of the Fourth Fleet?
A. Yes, I can.

The judge advocate requested permission of the commission to have the witness identify by letters on the chart, which had previously been identified, the location of the various units of the Fourth Fleet on Truk and to then offer the chart in evidence.

The commission announced that the request was granted.

31. Q. Will you place a circle around the approximate area where the unit is located and place in the circle a letter and tell us what that letter signifies?
A. I put a circle and the letter "A" on the chart which signifies Fourth Fleet Headquarters, "B" is the Fourth Construction Department, "C" is the Forty-first Guard Unit, "D" is the Submarine Base Unit, "E" is the Repair Department, "F" is the Seaplane Base, "G" is the Air Arsenal, "H" is the Supply Depot, "I" is the Communication Corps, "J" is the Fourth Base Force, and "K" is the Fourth Naval Hospital.

The certified photostatic copy of that part of Hydrographic Office U. S. Navy Chart No. 6050 (Eten Anchorage) which shows Dublon Island and the adjacent areas, prosecution document number 12, previously identified, as marked with the letters "A" through "K" inclusive by this witness, was submitted to the accused and to the commission, and by the judge advocate offered in evidence.

The accused objected to the receipt in evidence of this chart on the ground that it had not been properly introduced into evidence in accordance with Rule 3, Section 198, Naval Courts and Boards, that it was not the original chart, that this witness was not the proper custodian of the chart and anything he might say about it would be hearsay, and there was no showing that it was a true representation of actual conditions on Truk on 23 February 1944 or any other date during the period from February 23, 1944 to September 2, 1945.

0792

The judge advocate replied.

The commission announced that the objection was not sustained.

There being no further objection, the chart was so received and is appended marked "Exhibit 23".

The witness was duly warned.

The commission announced that it was informed that the electrical power would be off tomorrow, Saturday, November 20, 1948 from 7:30 a.m. to 12 noon and that it would therefore be impossible to hold sessions on Saturday, November 20, 1948.

The commission then, at 11:35 a.m., adjourned until 9 a.m., Monday, November 22, 1948.

NINETEENTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Monday, November 22, 1948.

The commission met at 9:15 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the eighteenth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Inoue, Kenichi, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony. AB

(Examination continued.)

32. Q. You testified at the last session concerning Dublon Island. Approximately how long and how wide is Dublon Island, giving the dimensions in yards?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. The distance north and south is about 3,500 yards and the distance east and west is about 5,000 yards.

33. Q. When Admiral Hara assumed command of the Fourth Fleet where were the headquarters of the Fourth Fleet located? AB
A. Next to the Fourth Construction Department which is marked on this chart as "A".

34. Q. Did the headquarters of the Fourth Fleet remain at that location during your tour of duty?
A. Around the latter part of March 1944 it moved near the Communication Corps on the left side of "I" on this chart. Then in May, after the Fourth Base Force was dissolved, it moved into the location where the Fourth Base Force was located. On this chart it is marked "J".

0794

35. Q. After Admiral Nara assumed his duty as Commander in Chief of the Fourth Fleet were the headquarters of any higher naval authority ever located ashore on Truk during your tour of duty?
A. Yes, there was.

36. Q. When, and what authority?
A. This was the Sixth Fleet and it was located at the Submarine Base, but there was no command relationship.

37. Q. Then, is it true that there was no superior organization, ashore at Truk, to the Fourth Fleet?

This question was objected to by the accused on the ground that it was leading.

The judge advocate withdrew the question.

38. Q. To what higher organization was the Fourth Fleet attached?
A. Until the latter part of February 1944 it was under the Combined Fleet. After that it was under the Central Pacific Area Fleet.

39. Q. Were the headquarters of Combined Fleet or the Central Pacific Area Fleet ever ashore at Truk during your tour of duty as a subordinate of Nara?

This question was objected to by the accused on the ground that it was leading and called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No.

40. Q. I show you Exhibit 1, Annex Chart number three, which purports to set forth the area of jurisdiction of the Fourth Fleet from March 1944 to June 1944. Does this chart set forth the area which was under the command of the Fourth Fleet on February 23, 1944?

This question was objected to by the accused on the ground that it violates the rules of documentary evidence, calling for parol evidence concerning a document.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. The area of jurisdiction of the Fourth Fleet as shown on this chart is as of the latter part of March 1944 through the latter part of May 1944. The area under the jurisdiction of the Fourth Fleet as of February 23, 1944 included also the area marked as the Central Pacific Area Fleet.

41. Q. While you were attached to the Fourth Fleet Headquarters, did the Fourth Fleet ever receive any dispatch saying that prisoners of war should be sent back to Japan?
A. No.

42. Q. When did your tour of duty with the Fourth Fleet begin?
A. August 1943.

0795

43. Q. To the best of your knowledge, did the Fourth Fleet ever issue any such order during your tour of duty?
A. I do not recall.

44. Q. When you arrived at Fourth Fleet were you briefed by your predecessor concerning the existing standing orders?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Yes.

45. Q. Were there any existing orders or instructions concerning prisoners of war?
A. No.

46. Q. What was your position on the staff of the Fourth Fleet throughout your tour of duty?
A. I was senior staff officer.

47. Q. During your entire tour of duty, both before and during the time that Admiral Hara was Commander in Chief of the Fourth Fleet, did you ever see or receive any instructions regarding the treatment or safeguarding of prisoners of war?

This question was objected to by the accused on the ground that it was incompetent, irrelevant, and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No.

48. Q. To the best of your knowledge, throughout your tour of duty did the Fourth Fleet ever issue any such orders?
A. No.

49. Q. To the best of your knowledge, were any such orders issued by any subordinate units of the Fourth Fleet during your tour of duty?

This question was objected to by the accused on the ground that it was irrelevant, immaterial, and called for the opinion of the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not know whether such orders were issued or not.

50. Q. Was any investigation ever ordered by the Fourth Fleet concerning any mistreatment or disposal of prisoners of war during your tour of duty?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

0796

The judge advocate replied.

The commission announced that the objection was not sustained.

A. There was no investigation at all. Up until the latter part of March 1944, there was none at all.

51. Q. Do you know of any investigation that occurred after March of 1944?
A. I entered the hospital at the beginning of April and then left for Japan in May, so I don't know whether there was or not.

The accused moved to strike out all previous questions and answers which related to the tour of duty of the accused extending to August 1944, in view of the witness' answer that he entered the hospital beginning April 1944.

The judge advocate replied.

The commission announced that the motion was not sustained.

52. Q. During your tour of duty was any system ever instituted for accounting or reporting the number of prisoners of war captured or confined by units of the Fourth Fleet?
A. There was no specific system.

53. Q. Where were prisoners of war who arrived at Truk confined?
A. I believe it was the Forty-first Naval Guard Unit. I never saw a prisoner of war at the Forty-first Naval Guard Unit but at this time all the prisoners were confined at the Forty-first Naval Guard Unit, so I firmly believe the guard unit on Truk would have taken them.

The accused moved to strike out this answer on the ground that it was an opinion of the witness and hearsay.

The judge advocate replied.

The commission directed that the answer be stricken out.

54. Q. To the best of your knowledge, were any prisoners of war ever confined at any unit other than the Forty-first Naval Guard Unit on Truk?
A. I never heard of any prisoners being confined anywhere else.

The accused moved to strike out this answer on the ground that it was an opinion of the witness.

The judge advocate replied.

The commission directed that the answer be stricken out.

55. Q. Did the Forty-first Naval Guard Unit report the confinement of any prisoners of war to the Fourth Fleet?
A. No. I never received any report.

56. Q. Do you know if any members of the staff of the Fourth Fleet questioned prisoners of war when they arrived at Truk?

This question was objected to by the accused on the ground that it called for an opinion of the witness.

The judge advocate withdrew the question.

0797

57. Q. Do you know if any prisoners of war ever arrived on Truk during your tour of duty?
A. I do not know.

58. Q. Do you know if any prisoners of war were ever executed on Truk during your tour of duty?
A. I know about prisoners being executed at the guard unit on 17 February 1944.

59. Q. Did you refer to one prisoner or more than one prisoner?
A. Several.

The accused moved to strike out the last two answers on the ground that they were irrelevant and immaterial.

The judge advocate replied.

The commission announced that the motion was not sustained.

60. Q. When did you learn of this execution of prisoners of war at the Forty-first Naval Guard Unit?
A. On the day of the execution and the conference held at the Fourth Base Force.

61. Q. Do you know if any member of the staff of the Fourth Fleet questioned prisoners of war when they arrived on Truk?
A. I heard that Air Staff Officer Akai went once to interrogate the prisoner.

62. Q. When did Admiral Hara assume duty as Commander in Chief of the Fourth Fleet?
A. I believe it was around the 22nd or 23rd of February 1944.

63. Q. Did he bring any other personnel with him who became attached to the Fourth Fleet?
A. I recall that Admiral Hara came on the same plane as Commander Akai who was staff officer of the Fourth Fleet who had been a staff officer of the Fourth Fleet before February.

64. Q. Did the commandant of the Fourth Base Force remain the same after Hara took command of the Fourth Fleet?
A. The command of the Fourth Base Force was relieved by Rear Admiral Arima around the 23rd of February 1944.

65. Q. Were any other changes made at that time in the staff of the Fourth Fleet or commanding officers of subordinate units of the Fourth Fleet?
A. By "this time" do you mean the latter part of February?

66. Q. That is correct.
A. Other than the command of the Fourth Base Force being relieved, I do not believe there were any changes in the staff of the Fourth Fleet.

67. Q. Was any change made in the commanding officers of subordinate units at that time?
A. I recall that Captain Tanaka, the Commandant of the Forty-first Naval Guard Unit, was relieved by Rear Admiral Asano.

68. Q. When did that occur?
A. It was in the latter part of February, but I do not recall the exact date.

0798

69. Q. At the time of the arrival of Admiral Nara as Commander in Chief of the Fourth Fleet, did you know of any instances which had occurred within the area of the Fourth Fleet by subordinates of the Fourth Fleet, involving the killing of prisoners of war?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Yes. I knew that of Wake, Kwajalein, and the incident of 17 February 1944 on Truk.

The accused moved to strike out this answer on the ground that it was incompetent, irrelevant, and immaterial.

The judge advocate replied.

The commission announced that the motion was not sustained.

The commission then, at 10:20 a.m., took a recess until 10:40 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Elvin G. Cluba, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Inoue, Kenichi, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination continued.)

70. Q. During your tour of duty with the Fourth Fleet were you ever at Kwajalein?
A. Yes.

71. Q. Do you know if the Commander in Chief of the Fourth Fleet was at Kwajalein at that time?
A. Yes.

72. Q. Who was the Commander in Chief and at what time was this that you made this trip to Kwajalein?
A. Kobayashi was the Commander in Chief of the Fourth Fleet. We went there in the latter part of August 1943, and I'm not exact as to the date.

73. Q. You spoke of an incident that occurred on Kwajalein, did you learn of this incident involving the execution of prisoners of war during your trip to Kwajalein?
A. Yes.

74. Q. From whom did you learn of the killing of these prisoners of war?
A. A staff officer of the Sixth Base Force by the name of Commander Miyashi.

0799

75. Q. Do you know what the function of this staff officer of the Sixth Base Force was?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. He was the senior staff officer.

76. Q. On the Sixth Base Force was there a chief of staff as well as a senior staff officer?
A. No.

77. Q. You spoke of an incident that occurred at Wake Island involving the execution of prisoners of war, how did you learn of this incident?
A. A dispatch was received from the commanding officer on Wake.

78. Q. When was this dispatch received?
A. I do not know the exact date, but it was sometime in October 1943 when Wake was heavily raided.

The accused moved to strike out this answer on the ground that it was irrelevant, immaterial, and hearsay.

The judge advocate replied.

The commission announced that the motion was not sustained.

79. Q. To whom was this dispatch addressed?
A. I believe it was addressed to the Sixth Base Force and the Commander in Chief of the Fourth Fleet.

80. Q. Do you know if Admiral Kobayashi saw this dispatch or knew of its contents?
A. I do not know.

81. Q. Did you see this dispatch and do you remember its contents?
A. I do remember it.

82. Q. Will you state what the contents of this dispatch were?

This question was objected to by the accused on the ground that it called for a hearsay answer and that no groundwork had been laid for it.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. It is "the enemy landing is imminent, all the prisoners of war have been executed".

83. Q. Did you attend a conference in February 1944?

This question was objected to by the accused on the ground that it was vague, irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was sustained.

84. Q. You testified concerning an incident which occurred on February 17, 1944 and which was referred to during a conference, did you attend that conference?
A. I did attend.

85. Q. On what date was this conference held?
A. On 17 February 1944.

86. Q. Did any other incident of importance or unusual occurrence happen on that day?
A. I do not recall.

87. Q. What were the battle conditions on that day?
A. There was a heavy air raid on Truk from the early morning of the seventeenth until about four o'clock in the evening by an American Task Force.

88. Q. Prior to that date had there been any severe attacks on Truk?
A. No.

89. Q. Returning to this conference, who was present at this conference that you attended?
A. Commandant of the Fourth Base Force and his staff officers, commanding officers of organizations on Truk and their major members, Staff Officer Kawamura and myself from the Fourth Fleet.

90. Q. At this conference did you learn anything about any incident involving prisoners of war?
A. I heard from Staff Officer Kawamura that prisoners of war had been executed at the guard unit.

The accused moved to strike out this answer on the ground that it was hearsay, irrelevant and immaterial.

The judge advocate replied.

The commission announced that the motion was not sustained.

91. Q. Did Staff Officer Kawamura indicate whether this had been reported at the conference?
A. No, he did not.

92. Q. Will you state when you arrived at this conference?
A. Around nine o'clock.

93. Q. Had the conference begun prior to that time?
A. Yes.

94. Q. Did Kawamura, a member of your staff of the Fourth Fleet, report to you concerning what had already taken place at the conference?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

0801

A. What I heard that day was about damage sustained by all the units, arms needed to prepare for the defense in the future, and Kawamura added this incident, therefore, I do not know whether all these matters were brought up at the conference or not.

95. Q. Throughout your tour of duty with the Fourth Fleet did the Fourth Fleet ever order any investigation concerning any of the incidents involving the execution of prisoners of war that occurred in the area of the Fourth Fleet by subordinate units of the Fourth Fleet?

This question was objected to by the accused on the ground that it was repetitious.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No.

96. Q. To the best of your knowledge were any subordinates of the Fourth Fleet ever punished for their participation in any incidents of killing of prisoners of war?

This question was objected to by the accused on the ground that it was repetitious, irrelevant, immaterial, called for an opinion of the witness, and called for hearsay testimony from the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not know of any.

Cross-examined by the accused:

97. Q. You testified that from the beginning of March 1944 the Central Pacific Area Fleet was the superior organization to the Fourth Fleet, but where was the headquarters of the Central Pacific Area Fleet? AB
A. Saipan.

98. Q. Was this Central Pacific Area Fleet organized on this date, that is, in the beginning of March 1944, and the Fourth Fleet put under this Central Pacific Area Fleet, or was this Central Pacific Area Fleet organized before this time and the Fourth Fleet was just put under it as of this date?
A. It was newly organized.

99. Q. What was the area of jurisdiction of the Central Pacific Area Fleet?
A. All the area of the former Fourth Fleet.

100. Q. It is not clear, so will you please state, giving the names of the atolls and island groups?
A. The Gilberts, Marshalls, Carolines, Marianas, and Wake, Nauru, and Ocean Islands.

101. Q. I show you Exhibit 1, Annex Chart 3. In this chart the area of jurisdiction of the Central Pacific Area Fleet as shown in this chart is marked off from that of the Fourth Fleet, but actually did the area of jurisdiction of the Central Pacific Area Fleet include the area of jurisdiction of the Fourth Fleet?
A. Yes.

0802

102. Q. Were all the Japanese military forces within the area of jurisdiction of the Fourth Fleet as shown on this Annex Chart number 3, Exhibit 1, all under the command of the Fourth Fleet Headquarters?
A. Only the naval forces were under the Fourth Fleet Headquarters.

103. Q. Then were there army units in the area of jurisdiction of the Fourth Fleet?
A. Yes, there were.

104. Q. Within the area of jurisdiction of the Fourth Fleet as shown on this chart, who was the senior, the accused Hara or the army commanding general?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. The army commanding general was the senior.

105. Q. Where was the headquarters of the most senior army commander located in the area of jurisdiction of the Fourth Fleet?
A. On Truk.

106. Q. Was this army commander also under the command of the Central Pacific Area Fleet?
A. I believe this army commander was under the Commanding General of the Thirty-first Army, and that this Commanding General of the Thirty-first Army was under the Central Pacific Area Fleet.

107. Q. While you were still at the Fourth Fleet and after Vice Admiral Hara became Commander in Chief of the Fourth Fleet, did Vice Admiral Hara go on an inspection tour?
A. No.

108. Q. ~~Whell~~ While you were still at the Fourth Fleet and after Admiral Hara became Commander in Chief of the Fourth Fleet did Vice Admiral Hara inspect or tour the naval installations on Truk?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial and went beyond the scope of the direct examination.

The accused replied.

The commission announced that the objection was not sustained.

A. From the day after he arrived he went around and inspected.

109. Q. After Vice Admiral Hara became the Commander in Chief of the Fourth Fleet were any staff officers of the Fourth Fleet dispatched to Wake, Jaluit, Nauru, or Ocean Islands in regard to matters of command?

This question was objected to by the judge advocate on the ground that it was multiple, irrelevant and immaterial.

The accused reframed the question.

0803

110. Q. After Vice Admiral Hara became Commander in Chief of the Fourth Fleet were any staff officers of the Fourth Fleet sent to Jaluit for purposes of command liaison?
A. No.

111. Q. Were there any staff officers of the Fourth Fleet sent to the Nauru and Ocean area?

This question was objected to by the judge advocate on the ground that it was irrelevent and outside the scope of the direct examination. AB

The accused replied.

The commission announced that the objection was not sustained. The commission cautioned the accused that he was going beyond the realm of cross-examination and in general at this time to confine his examination to the scope of the direct examination.

A. No.

The witness was duly warned.

The commission then, at 11:30 a.m., took a recess until 2 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Inoue, Kenichi, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Cross-examination continued.)

112. Q. Yesterday you testified that Captain Harada was commanding officer of the Fourth Construction Department, and also that he had an additional duty as Chief Engineering Officer of the Fourth Fleet, but isn't it true that Captain Harada was relieved of that duty about March 1944?
A. Yes, that is so, but I do not remember the date.

113. Q. What was the approximate number of navy personnel under the Fourth Fleet on Dublon?
A. It is not exact, but I recall around 30,000.

114. Q. Other than the navy personnel, about how many army and ~~civilian~~ civ personnel were on Dublon? AB

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. There were natives and army personnel on Dublon but I do not recall their number.

0804

115. Q. After Vice Admiral Hara became Commander in Chief of the Fourth Fleet you testified that after that, the Fourth Fleet Headquarters was moved twice in a short time. Do you know the reason for it?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. The reason for the first move was that the air raids became fierce and we were not able to stay in the buildings and were forced to go into the air raid shelters. The reason for the second move was that while I was in the naval hospital I believe because the Fourth Base Force had dissolved.

116. Q. Today you testified that while you were on duty at the Fourth Fleet Headquarters you did not receive any dispatch stating that prisoners of war were to be sent back to Japan as soon as possible. By this did you mean that you are certain that there was no such dispatch?

This question was objected to by the judge advocate on the ground that it was double, misleading and argumentative.

The accused replied.

The commission announced that the objection was not sustained.

A. I do not remember.

The commission directed the witness to give a direct answer to the question.

The question was repeated.

A. I mean that I do not recall such a dispatch.

117. Q. You do not know about this dispatch but isn't it true that a Rear Admiral or a Vice Admiral was sent from the Central Authorities to Truk and there assembled all cognizant commanders and stated that the prisoners should be sent back to Japan as soon as possible?

This question was objected to by the judge advocate on the ground that it was improper in form and without proper foundation.

The accused made no reply.

The commission announced that the objection was sustained.

118. Q. Was information as to sending prisoners of war home to the Japanese homeland relayed to you from the Central Authorities by means other than a dispatch?
A. I do not recall.

119. Q. You testified that when you relieved your predecessor as senior staff officer of the Fourth Fleet that you were not briefed concerning treatment of prisoners of war -- that during your briefing there was no standing orders or regulations with regard to treatment of prisoners of war. By this do you mean that at the time you relieved your predecessor the Japanese Navy did not have naval regulations concerning the treatment of prisoners of war?
A. That is not so. I mean that when I was briefed I did not receive any documents concerning the treatment of prisoners of war.

0805

120. Q. You testified that while on Kwajalein you heard from the senior staff officer of the Sixth Base Force, Commander Hiyashi, concerning the execution of prisoners, but will you please tell us what he said to you as far as you remember?
A. I recall that from the automobile he pointed to the place and stated that that was the place where the prisoners of war were executed.

121. Q. Did he tell you when they were executed?
A. Right now I do not recall.

122. Q. Did he also tell you who executed them?
A. I do not recall.

123. Q. Did you not inquire of Commander Hiyashi as to the reason and time of this execution?
A. No, I did not ask.

124. Q. Have you ever told the accused Hara about the execution of the prisoners which Commander Hiyashi told you at Kwajalein?
A. No.

125. Q. While you were riding in this automobile with Commander Hiyashi was there anyone else with you in the car that was from the Fourth Fleet staff?
A. I recall there were the Engineer Staff Officer and the Air Staff Officer.

126. Q. Was this Engineering Staff Officer and Air Staff Officer also the staff officers under Hara?
A. The Air Staff Officer was a staff officer under Hara, but I believe this Engineering Staff Officer was relieved.

127. Q. Do you know whether this Air Staff Officer told Admiral Hara about the Kwajalein incident after Admiral Hara arrived?
A. I do not know.

128. Q. This dispatch you saw, a dispatch from Wake which you received in October 1943, was it a dispatch mentioning only about execution of prisoners of war? 87
A. I am not sure, but I recall thus is correct.

129. Q. Do you know whether this dispatch was placed where Vice Admiral Hara could see it immediately after he became Commander in Chief, Fourth Fleet?
A. Such dispatches were kept in the code room and one is not able to see this unless a special request is made.

130. Q. After Hara became Commander in Chief, Fourth Fleet did you tell Hara about the execution of prisoners of war on Wake?
A. No.

131. Q. The conference of 17 February 1944 which you testified to, who summoned it?
A. Vice Admiral Wakabayashi, the Commandant of the Fourth Base Force.

132. Q. What was the main topic of the conference?
A. Defense.

133. Q. Do you recall you testified concerning what Kawamura said to you at this conference here on the stand at the trial of Wakabayashi? 88
A. I do recall.

134. Q. Do you recall testifying to the cross-examination question number 109 "Did Kawamura say that Tanaka made this report of the execution of prisoners of war at the conference" and the answer "He did not state that Tanaka made this report openly at this conference, therefore I do not know whether Tanaka told Kawamura about this execution aside because Kawamura was a staff officer of the Fourth Fleet or not"?
A. Yes.

135. Q. Did you report what Kawamura told you to the Commander in Chief, Kobayashi?
A. No, I did not report.

136. Q. Do you know whether Staff Officer Kawamura reported this to the Commander in Chief, Kobayashi?
A. I do not know.

137. Q. Did you tell Vice Admiral Hara about the executions of prisoners of war on 17 February?
A. No.

138. Q. Do you know whether Kawamura reported to Vice Admiral Hara that prisoners of war were executed on 17 February?
A. I do not know.

139. Q. You testified that while you were on duty as the senior staff officer of the Fourth Fleet that you knew of the incident at Kwajalein, Wake, and the February 17 incident, but is it true that you did not mention even one of these incidents to Vice Admiral Hara?
A. Yes.

140. Q. Did you ever suggest to any other member of the staff of the Fourth Fleet that he report on any of these incidents to Admiral Hara?
A. No, I did not.

141. Q. While you were still the senior staff officer of the Fourth Fleet and after February 1944, did Sakaibara, commanding officer on Wake, ever come to the Fourth Fleet Headquarters?
A. No.

142. Q. In the same period did the commanding officer of Jaluit, Admiral Masuda, ever come to Truk?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. He did not come.

143. Q. During the same period did Captain Soeda of Nauru come to Fourth Fleet Headquarters?
A. No.

144. Q. During the same period did the commanding officer of Ocean Island come to Fourth Fleet Headquarters?
A. No.

145. Q. Do you remember who this air officer was who was with you there at Kwajalein?
A. Navy Lieutenant Akai.

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146. Q. Were you present when Admiral Hara relieved Admiral Kobayashi as Commander in Chief of the Fourth Fleet?
A. No.

147. Q. Did you brief Admiral Hara when he relieved Admiral Kobayashi?
A. The next day I was summoned by Vice Admiral Hara and asked questions concerning defensive operations of the whole South Seas area.

148. Q. How long after that date did you remain on duty?
A. About one hundred days. About sixty days of the one hundred I was in the hospital.

149. Q. Were you on duty as a staff officer during the time you were in the hospital?
A. I was the senior staff officer but actually I did not carry on any work.

150. Q. Do you remember when you went to the hospital?
A. I do not recall the exact date but it was some time in the early part of April 1944.

151. Q. So when you testified regarding your tour of duty and such things as orders, you could not possibly have seen all the orders then that were issued during your tour of duty?

This question was objected to by the judge advocate on the ground that it was argumentative.

The accused withdrew the question.

152. Q. Did you see all the orders issued by the Fourth Fleet during your tour of duty, which includes your time spent in the hospital?
A. I saw all except for the time I was in the hospital.

153. Q. What was your rank when you were senior staff officer of the Fourth Fleet?
A. Navy Captain.

154. Q. How many officers on the staff were senior to you in rank?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. Other than the chief of staff there were none.

155. Q. When Admiral Hara relieved Admiral Kobayashi on February 23, 1944 how many sea-going units of the Fourth Fleet did he have on that date?
A. I believe there was only one ship capable of moving under its own steam and this was also under repair in Japan.

156. Q. So that Admiral Hara, when he relieved Admiral Kobayashi had no fleet. Is that correct?

This question was objected to by the judge advocate on the ground that it was outside the scope of the direct examination and argumentative.

The accused withdrew the question.

157. Q. Did Admiral Hara have a fleet when he relieved Admiral Kobayashi?
A. No.

158. Q. You testified about a conference on February 17, at which you arrived about nine o'clock. How long did the conference last after you arrived at nine o'clock?
A. About one hour.

159. Q. Do you remember who was present when you arrived?
A. I recall Vice Admiral Wakabayashi, Staff Officer Higuchi, Staff Officer Kawamura, commanding officer of the Supply Depot and commanding officer of the Guard Unit. I recall these persons, but I do not recall the rest.

Reexamined by the judge advocate:

160. Q. You testified that the area shown in Annex Chart number 3 of Exhibit 1 as being the area of the Fourth Fleet was also indirectly included under the area of the Central Pacific Fleet after its organization. Is that correct? Area
A. Yes.

161. Q. Did the Fourth Fleet exercise command over its subordinate units within the area specifically set forth as Fourth Fleet Area on that chart?

This question was objected to by the accused on the ground that it was vague.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Yes.

162. Q. To the best of your knowledge, did the Central Pacific Area Fleet at any time interfere with the control of the Fourth Fleet over any of its subordinates?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was sustained.

163. Q. During your tour of duty were any orders ever received at the Fourth Fleet Headquarters from the Central Pacific Area Fleet?

This question was objected to by the accused on the ground that it was incompetent.

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The judge advocate replied.

The commission announced that the objection was not sustained.

A. Yes.

164. Q. Were any of these orders ever passed by the Fourth Fleet to any of the subordinate units of the Fourth Fleet?

This question was objected to by the accused on the ground that it was irrelevant and immaterial, and called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. According to the nature of the order, some were relayed and some were not.

165. Q. What orders do you recall having been received from the Central Pacific Area Fleet?

This question was objected to by the accused on the ground that it was beyond the scope of the cross-examination.

The judge advocate made no reply.

The commission announced that the objection was sustained.

166. Q. Were any orders ever received from the Central Pacific Area Fleet with regard to treatment of prisoners of war?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No.

167. Q. You testified that there was an army unit on Truk and that the commanding officer of this unit was superior in rank to Admiral Hara. Were not all army units in that entire area under the command of the Navy? AB
A. I recall that they were under the command of General Mugikura who was on Truk. AB

168. Q. Who was General Mugikura's superior officer?
A. After March 1944 his superior officer was Lieutenant General Obata, commanding general of the 31st Army.

169. Q. Was the 31st Army under the direct command of any Navy organization?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. The commanding general of the 31st Army was under the Commander in Chief, Central Pacific Area Fleet.

170. Q. Was the 31st Army attached to the Central Pacific Area Fleet? AB
A. The 31st Army was under the command of the Central Pacific Area Fleet.

171. Q. On Truk was Admiral Hara under the direct line of command of General AB
Mugikura?
A. No, but in the event of an enemy landing he was under his command.

172. Q. During your tour of duty was there ever such a landing so that the Fourth Fleet became part of the command of Lieutenant General Mugikura?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No.

173. Q. You have testified concerning certain incidents that you knew of which occurred prior to the tour of duty of the accused, Hara. Did Vice Admiral Hara ever request you to give him information concerning the treatment of prisoners of war by subordinate units of the Fourth Fleet?

This question was objected to by the accused on the ground that it was improper in form.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No.

The commission then, at 3:20 p.m., took a recess until 3:40 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Inoue, Kenichi, the witness under examination when the recess was taken, entered. He was duly warned that the oath previously taken was still binding, and continued his testimony.

(Reexamination continued.)

174. Q. Is it true that with the exception of the one ship you testified was in repair in Japan all the subordinate units of the Fourth Fleet under Hara were land based units.
A. There were no sea going units under the Fourth Fleet, but there were small craft under the base force.

0811

175. Q. Were these small craft used for transportation to places outside the Carolines?
A. No.

Recross-examined by the accused:

176. Q. How did the Fourth Fleet then exercise command in the area of jurisdiction from February 23, 1944 not having any fleet?

This question was objected to by the judge advocate on the ground that it was improper in form.

The accused reframed the question.

177. Q. How did the Fourth Fleet exercise command in the area of jurisdiction in February 1944 not having any fleet?

This question was objected to by the judge advocate on the ground that it was misleading.

The accused replied.

The commission announced that the objection was sustained.

178. Q. How did the Fourth Fleet exercise command in the area of jurisdiction from February 23, 1944?
A. Only by radio.

179. Q. For what purpose was Lieutenant General Obata, the Commanding General of the Thirty-first Army, under the Commander in Chief of the Central Pacific Fleet?

This question was objected to by the judge advocate on the ground that it called for an opinion of the witness, and that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

180. Q. Was General Obata, the Commanding General of the Thirty-first Army, under the command of the Central Pacific Fleet for administrative purposes of the army units under his command?
A. In order to command the entire army units in the area of the Central Pacific Area Fleet, this Thirty-first Army Commanding General was under the Commander in Chief of the Central Pacific Area Fleet.

181. Q. Lieutenant General Obata was under the Commander in Chief of the Central Pacific Area Fleet for operational prrposes only, is that correct?
A. Other than supply, I believe he was in command of the Thirty-first Army in regard to all matters.

182. Q. Do you know whether the Commander in Chief of the Fourth Fleet considered an invasion by American forces imminent on February 17, 1944?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial and it called for an opinion of the witness.

0812

The accused replied.

The commission announced that the objection was not sustained.

A. He was not thinking that an enemy would land.

Examined by the commission:

183. Q. You testified that up until late February 1944 the Fourth Fleet was under the command of the Combined Fleet and after that they came under the Central Pacific Area Fleet. Will you please explain to the commission whether or not the Central Pacific Area Fleet supplanted the Combined Fleet or just what happened in that transition period?
A. Up until late February 1944 there was no Central Pacific Area Fleet. In the beginning of March the Central Pacific Area Fleet was organized under the Combined Fleet. Therefore the Fourth Fleet which had been directly under the Combined Fleet came under the Central Pacific Area Fleet.

184. Q. Then the Combined Fleet continued to exist as the next, senior to the Central Pacific Area Fleet, isn't that correct?
A. Yes.

185. Q. Now, when the Central Pacific Area Fleet was organized in March 1944 and after Admiral Hara took command of the Fourth Fleet did Ocean and Nauru Islands continue under the direct jurisdiction of command of the Fourth Fleet?
A. Until the Third Base Force in the Gilberts was dissolved in November 1943, Ocean and Nauru was under the Third Base Force and from then until May 1944 at which time the Fourth Base Force was dissolved, they were under the Fourth Base Force. AB

186. Q. During this period who was the Third and Fourth Base Force under?
A. The Fourth Fleet.

187. Q. Inoue, you spoke in your testimony of certain command relationships between the army and the navy. Will you please explain to the commission in a little more detail the command relationships between the army commander on Truk and the commander of the Fourth Fleet insofar as they relate to the area under the command of the Fourth Fleet?
A. Until the enemy would land, there were no command relationships between General Mugikura and Vice Admiral Hara. General Mugikura would command the army units and Vice Admiral Hara would command the Navy units. If the enemy should land the most senior officer on each island whether they be army or navy would command all the forces on that island - army and navy. AB

188. Q. Do you know whether this was ever put into effect? In other words were there any enemy landings during your tour of duty on any of these islands?
A. Kwajalein and Brown and Eniwitok were invaded and this plan was carried out.

189. Q. Do you know whether it was army or navy who took command locally?
A. On Kwajalein it was the commandant of the Sixth Base Focce, Rear Admiral Akiyama, and on Eniwitok it was the commanding officer of the army brigade, I do not know his name.

190. Q. Inoue, do you know that if an army commander took command locally under the arrangement that you have outlined, would be automatically come under the army commander at Truk, or if a navy commander took command locally, would he come under the navy commander at Truk as his superior? AB
A. This arrangement is only locally, and there is no difference between the command relationship at the island and the headquarters whether the army takes command or the navy takes command.

0813

191. Q. Coming back to the question of the Combined Fleet, after the Central Pacific Ocean Area Fleet came into existence, do you know where the headquarters of the Combined Fleet was, that is, after March 1944?
A. For a little while it was on the battleship MUSASHI, and after that it was on land in Japan.

Neither the judge advocate, the accused, nor the commission desired further to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The commission then, at 4:30 p.m., adjourned until 9 a.m., tomorrow, Tuesday, November 23, 1948.

TWENTIETH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Tuesday, November 23, 1948.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the nineteenth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. Will you state your name?
A. Sumikawa, Michio

2. Q. Where are you presently residing?
A. Yokosuka.

3. Q. If you recognize the accused, state as whom?
A. The former commander in chief of the Fourth Fleet, Vice Admiral Hara, Chuichi.

4. Q. Did you ever serve under the accused?
A. Yes.

5. Q. Will you state your rank and position under the accused?
A. Admiral Hara assumed his post as commander in chief on the 23rd of February 1944. From that date until I was ordered to report for duty as commander of the Twenty-second Air Force on March 28, 1944, I served as chief of staff. At that time my rank was Rear Admiral. Next on August 15 I was ordered to assume the post of chief of staff of the Fourth Fleet concurrently with my other duties. In actual fact, I assumed the duties of chief of staff on the 17th of August, on which day I relieved Rear Admiral Arima. I held the post of commander of the Twenty-second Air Force and chief of staff of the Fourth Fleet concurrently until 15 November of the same year, 1944. On the 15th of November 1944 the Twenty-second Air Force was deactivated and from the 16th of November therefore I held only the post of chief of staff of the Fourth Fleet, and in that capacity I continued in office until the surrender. My rank at the time of surrender was Rear Admiral.

6. Q. When you were relieved of your duty as chief of staff to become the commander of the Twenty-second Air Force, who relieved you at that time?
A. Vice Admiral Arima who was the commandant of the Fourth Base Force at that time assumed this post as chief of staff concurrently with his other command.

7. Q. And is he the same Vice Admiral Arima whom you relieved when you again took up the duty of chief of staff of the Fourth Fleet concurrently with your duty as Commanding officer of the Twenty-second Air Force?
A. Yes.

8. Q. Was the Twenty-second Air Force a subordinate unit of the Fourth Fleet?
A. When I assumed my duties with the Twenty-second Air Force it was the first air fleet which was under the command of the Combined Fleet. It was not under the Fourth Fleet.

9. Q. Did it come directly under the Fourth Fleet?
A. No, it never came under the Fourth Fleet until the time of its deactivation.

10. Q. When did you first arrive on Truk?
A. I arrived on Truk for the first time on Janaury 3, 1944. After I was briefed by my predecessor Rear Admiral Nabeshima I actually took up my duties on January 6, 1944.

11. Q. What was your duty at that time?
A. Chief of staff of the Fourth Fleet.

12. Q. And you served as chief of staff of the Fourth Fleet under Kobayashi until Hara took over as commander in chief of the Fourth Fleet, is that correct?
A. Yes.

13. Q. Are you familiar with the command relationship of the Fourth Fleet and the higher organizations of the Japanese Navy from February 23, 1944 until the date of surrender?
A. When Admiral Hara assumed his command on the 23rd of February 1944, the Fourth Fleet was subordinate to the Combined Fleet and around the 5th of March or the first ten days after March 1944, the Central Pacific Area Fleet was newly established. After the establishment of the Central Pacific Area Fleet, the Fourth Fleet, which until then had been directly subordinate to the Combined Fleet was made directly subordinate to the Central Pacific Area Fleet. In other words, this new command was inserted in the chain of command between the Fourth Fleet and the Combined Fleet.

14. Q. Until what date did the Central Pacific Area Fleet continue in operation?
A. I believe it was annihilated sometime around July 10, 1944, after which date the Fourth Fleet again became directly subordinate to the Combined Fleet. I am not certain about this date, but it was around the 10th of July, 1944.

15. Q. Did the Fourth Fleet continue as directly subordinate to the Combined Fleet up until the time of surrender?
A. Yes.

16. Q. Were there any changes that occurred in the area under the jurisdiction of the Fourth Fleet when the Central Pacific Area Fleet was established?
A. Yes.

17. Q. What were these changes?
A. The Fourth Fleet was the only fleet under the command of the newly organized Central Pacific Area Fleet, and with the exception of the following islands: the Eastern Caroline Group; what remained of the Marshalls; Wake; Nauru; Ocean; and I believe Woleai of the Western Carolines remained under the Fourth Fleet, while all the other islands were placed under the direct command of the Central Pacific Area Fleet.

18. Q. Following the disestablishment of the Central Pacific Area Fleet, under what command did the areas which had been under the Central Pacific Area Fleet, now go.
A. Chichi Jima and Iwo Jima were at one time under the Central Pacific Area Fleet. I do not ever recall under which command these islands were placed. What remained of the Marianas which was Rota Island and Pagan Island were placed under the command of the Fourth Fleet, and Yap and the Palaus of the Western Carolines group were placed under the command of the Southwest Area Fleet.

19. Q. You spoke of the dissolution of the Fourth Base Force, will you tell us when it was dissolved and what happened to the bases subordinate to it?
A. I heard of this after I reassumed my post as chief of staff of the Fourth Fleet, namely that the Fourth Base Force was dissolved on May 1, 1944.

20. Q. Can you name the major base forces that were under the command of the Fourth Fleet from the period that the accused Hara became commander in chief of the Fourth Fleet until the time of the surrender?
A. When Hara assumed his post as commander in chief, the only base force under the Fourth Fleet was the Fourth Base Force and when I became chief of staff for the second time there were no base forces anywhere.

21. Q. What were the subordinate units that were under the base force at the time that Hara took over as commander in chief of the Fourth Fleet, and where were they located?
A. As I stated before, the only islands under the Fourth Base Force were the Eastern Carolines, Nauru and Ocean Island.

22. Q. These were directly under the Fourth Base Force, is that correct?
A. Yes.

23. Q. On February 23, 1944, will you name the major units that were subordinate to the Fourth Fleet including those that were subordinate to the Fourth Base Force?
A. The Fourth Base Force which commanded the Eastern Carolines, Nauru and Ocean Islands as previously stated; what remained of the former Sixth Base Force, the Marshall group and Wake Island; the Marianas area which was under the Fifth Base Force; and the Thirtieth Base Force which commanded the Western Carolines.

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24. Q. Did you say the Fifth Base Force and Thirtieth Base Force "had been" under the command of the Fourth Fleet?
A. My statement will stand as I said because on February 23, 1944 these base forces were still in existence and it was only after March 5 or thereabouts when the Central Pacific Area Fleet was organized these base forces Thirtieth and the Fifth were placed under the Central Pacific Area Fleet.

25. Q. During the period from March 5 to July 10, 1944, what changes occurred in regard to these subordinate units under the command of the Fourth Fleet?
A. Because the Central Pacific Area Fleet was newly organized, the Fifth Base Force commanding the Marianas and the Thirtieth Base Force commanding the Western Carolines were placed under this newly organized command.

The commission then, at 10:15 a.m., took a recess until 10:40 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Sumikawa, Michio, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

(Examination continued.)

26. Q. Were there any other changes in regard to the units under the Fourth Fleet other than this change caused by the creation of the Central Pacific Area Fleet?
A. There were no other changes.

27. Q. When was the Fourth Base Force dissolved?
A. As I testified previously, I learned of this after I became chief of staff for the second time and what I learned was that it was dissolved on May 1, 1944.

28. Q. What happened to the units that were formerly under the Fourth Base Force? Did they now come directly under the command of the Fourth Fleet?
A. On May 1 when the Fourth Base Force was deactivated units under the Fourth Base Force were placed directly under the Fourth Fleet.

29. Q. After the dissolution of the Central Pacific Area Fleet about July 10, 1944 were there any changes in the units under the Fourth Fleet other than the changes you previously stated which occurred as a result of the dissolution of that fleet?
A. As I previously testified, the Central Pacific Area Fleet was organized- - after the annihilation of the Central Pacific Area Fleet, those islands, the Marianas, which were under the command of the Fifth Base Force under the Central Pacific Area Fleet were placed under the Fourth Fleet once again.

30. Q. Were there any other changes with regard to the units that were subordinate to the command of the Fourth Fleet?
A. No.

31. Q. Will you state what the command relationship was of the Forty-first Naval Guard Unit on Truk to the higher echelons of command from February 23 until the surrender?
A. From the time Vice Admiral Hara assumed his command as Commander in Chief of the Fourth Fleet and until the Fourth Base Force was deactivated, the Forty-first Naval Guard Unit was under the command of the Fourth Base Force. From that time on it was directly under the Fourth Fleet.

32. Q. Will you state what the command relationship was in connection with the Fourth Naval Hospital throughout the period of duty of Hara?
A. The Fourth Naval Hospital was under the direct command of the Fourth Fleet throughout the tour of duty of Vice Admiral Hara.

33. Q. Will you state what the command relationship was with the Fourth Construction Department throughout the tour of duty of Hara?
A. It was the same as that of the Fourth Hospital.

34. Q. Will you state what the command relationship was at Jaluit Atoll, Marshall Islands during the tour of duty of Admiral Hara?
A. The remnants of the islands of the Marshall Group were under the command of the accused, Hara, throughout his tour of duty.

35. Q. Will the witness state what the command relationship was of the Guard Unit at Nauru and Ocean Islands throughout the tour of duty of Admiral Hara?
A. Nauru and Ocean Islands were under the direct command of the Fourth Base Force from the time Admiral Hara assumed command of the Fourth Fleet until the deactivation of the Fourth Base Force. From that time onwards it was under the direct command of the Fourth Fleet.

36. Q. Do you know the number designation of the Guard Unit on Truk during your tour of duty?
A. The Naval Guard Unit which was in existence on Truk at the time Admiral Hara assumed command of the Fourth Fleet was known as the Forty-first Naval Guard Unit. Subsequently there were additional naval guard units established at Truk Atoll. As I recall it was in the last ten days of November 1944 that the Forty-third Naval Guard Unit was established on Tol Island and around the middle of January 1945 three more guard units were newly established.

37. Q. Do you know who was the commanding officer of the Forty-first Guard Unit when Admiral Hara took over as Commander in Chief of the Fourth Fleet?
A. I believe it was Rear Admiral Asano.

38. Q. Do you know who was the commanding officer of the Fourth Naval Hospital when Admiral Hara became Commander in Chief of the Fourth Fleet?
A. Surgeon Captain Iwanami.

39. Q. Had he served in that capacity under Admiral Kobayashi, the predecessor of Hara?
A. Yes.

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40. Q. Did he continue to serve in that capacity as commanding officer of the Fourth Naval Hospital throughout the tour of duty of Admiral Hara as Commander in Chief of the Fourth Fleet?
A. Yes.

41. Q. Who was the commanding officer of the Fourth Naval Construction Department when Admiral Hara was Commander in Chief?
A. Captain Harada.

42. Q. Do you recall if he continued in that capacity throughout the tour of duty of the accused?
A. He was Chief of the Naval Construction Department throughout the tour of duty of Vice Admiral Hara.

43. Q. Do you know who the commanding officer of the Guard Unit at Jaluit Atoll, Marshall Islands, was at the time Admiral Hara became Commander in Chief?
A. At that time there was the Sixty-second Naval Guard Unit at Jaluit.

44. Q. Who was commanding officer of that guard unit?
A. As I recall, Rear Admiral Masuda.

45. Q. Did he continue in that capacity throughout the tour of duty of Hara?
A. Yes.

46. Q. Do you know the number designation of the Guard Unit at Nauru and Ocean Islands?
A. As I recall, the Sixty-seventh Naval Guard Unit. There was a detachment of the Guard Unit from Nauru on Ocean Island.

47. Q. Do you know who the commanding officer of that Guard Unit was at the time Hara became Commander in Chief of the Fourth Fleet.
A. I believe Captain Soeda,

48. Q. Did Captain Soeda continue as commanding officer of the Guard Unit at Nauru throughout the tour of duty of the accused, Hara?
A. Yes.

49. Q. Do you know if the commanding officer of the Fourth Naval Hospital Captain Iwanami had collateral duty as the Chief Medical Officer of the Fourth Fleet during the tour of duty of Admiral Hara?
A. I do not recall when Iwanami was made Chief Medical Officer, but when I reassumed my duties as Chief of Staff of the Fourth Fleet he was Chief Medical Officer.

50. Q. Do you know if Captain Harada, the commanding officer of the Fourth Naval Construction Department also had collateral duties as Chief Engineer of the Fourth Fleet during Admiral Hara's tour of duty?
A. No, he did not have such collateral duties.

51. Q. Did he have any collateral duties on the staff of the Fourth Fleet?
A. In the Navy there are three officers of the staff known as the Three Chiefs. They are the Chief Engineer, Chief Medical Officer, and Chief Paymaster and these three posts are always held concurrently with other duties.

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52. Q. Did Captain Harada occupy one of these positions during the tour of duty of Admiral Hara?
A. As I recall, I believe Harada was Chief Engineer prior to the time Vice Admiral Hara became Commander in Chief of the Fourth Fleet, however when Vice Admiral Hara became Commander in Chief, I believe Rear Admiral Morita, the head of the Fourth Naval Repair Department was Chief Engineer.

53. Q. Will you tell us what transportation existed between the Fourth Fleet and its subordinate units from the time Hara took command of the Fourth Fleet until the end of the war?
A. As I recall the transportation which existed from the time Hara assumed command until the surrender were restricted to the three forms which I givr below: 1- Transportation from the Japanese homeland by submarines attached to the Combined Fleet directly to Truk; 2- Transportation by means of flying boats attached to the Fourth Fleet but based at Yokohama for purposes of safety; 3- Transportation by small craft within Truk based at Truk for transportation with very close-lying islands.

54. Q. What was the situation with regard to radio communication?
A. Radio communication from Truk to all units was possible, except for the Marshalls where due to the great distance and the radio installations on these islands and their capability, communication was relayed through Jaluit. Owing to the fall of the Gilberts and Kwajalein and owing to the intense air raids, the important code books had been destroyed on Nauru and Ocean, the Marshalls and Wake Island and only very simple code books remained. In those areas therefore dispatches could not be sent from them as from the other areas because of the danger of the code being broken. In actual fact too, whenever messages were sent to these areas these messages were intercepted and deciphered and measures to counteract what was set forth in the dispatches were taken by the enemy, consequently, the policy was that messages not be sent to this area as far as possible.

55. Q. Does that relate to operational messages?
A. Even for operations dispatches, where to other areas the operational order would be given in great detail, only the outline or gist was sent to these areas.

The witness was duly warned.

The commission then, at 11:25 a.m., took a recess until 2:15 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Sumikawa, Michio, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination continued.)

56. Q. When you arrived at the Fourth Fleet and assumed your duties as chief of staff, did you see any standing orders or learn of any standing orders received by the Fourth Fleet from higher echelons concerning the treatment of prisoners of war?

This question was objected to by the accused on the ground that it was leading, irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. There were no documents issued by the Fourth Fleet pertaining to prisoners of war.

57. Q. During your tour of duty with the Fourth Fleet were any orders or instructions received from any higher echelons with regard to the treatment of prisoners of war.

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Yes, once. This once was in the middle of November 1944. It was a dispatch from the Chief of the Third Department of the Naval General Staff addressed to all chiefs of staff of all the fleets of the Japanese Navy.

58. Q. What was the content of this dispatch?
A. The gist of this dispatch was as follows: That under the prevailing war condition as prisoners of war constitute a very important source of information that in the event any are taken that they be sent whenever opportunities were suitable and transportation arises to the Japanese homeland.

59. Q. To the best of your knowledge had any previous order of this nature been issued by the higher echelons to the Fourth Fleet?

This question was objected to by the accused on the ground that it called for an opinion of the witness and was irrelevant.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. During my tour of duty as chief of staff under Commanders in Chief Kobayashi and Hara, there were no other dispatches of this nature received at Fourth Fleet Headquarters.

60. Q. Did this dispatch which was received in mid-November 1944 refer to any other previous dispatch?
A. This dispatch was complete within itself. It was not referenced to any other dispatch.

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61. Q. Were the contents of this dispatch relayed by the Fourth Fleet to any of the subordinate units of the Fourth Fleet?
A. As I recall it was not relayed.

The witness started to continue his answer.

The judge advocate objected to the witness' continuing on the ground that the answer had been completed and further explanation would not be responsive.

The commission announced that the objection was not sustained, and that it would hear the answer subject to a motion to strike.

(Answer continued.) The reason why this dispatch was not relayed was because under the existing circumstances it was thought that there were no opportunities of taking any prisoners of war and ammunition was low. It was considered the chances of downing American planes was slight. Even at Truk the chances of shooting down any planes was not considered very great.

62. Q. In September 1944 do you recall a conference held on Dublon Island, Truk?
A. Yes, I recall.

63. Q. Do you remember the exact date of this conference?
A. September first.

64. Q. Who was present at this conference and where was it held?
A. It was held at the headquarters of the Fourth Fleet on Dublon Island. Present were the following: From Fourth Fleet Headquarters, Commander in Chief Vice Admiral Hara; Chief of Staff Rear Admiral Sumikawa, namely myself; senior staff officer Captain Imazato; staff officer and concurrently Commanding Officer of the Fourth Submarine Base Captain Higuchi; staff officer and concurrently Commanding Officer of the Fourth Communication Corps Commander Kaneko; staff officers Commander Kawamata and Commander Ago; and the Adjutant Paymaster Lieutenant Morioka. The following cognizant commanding officers were present: Rear Admiral Kojima, head of the Transportation Department; Rear Admiral Asano, Commanding Officer of the Forty-first Naval Guard Unit; Rear Admiral Morita, head of the Fourth Naval Repair department, and concurrently Chief Engineer of the Fourth Fleet; Rear Admiral Miura, head of the Harbor Department; Captain Harada, head of the Fourth Naval Construction Department; Captain Miyazaki, head of the 104th Air Arsenal; Surgeon Captain Iwanami, head of the Fourth Naval Hospital, and concurrently Chief Medical Officer of the Fourth Fleet; Paymaster Captain Kofu, head of the Fourth Munitions Department, head of the Fourth Supplies and Accounts Department, and Chief Paymaster of the Fourth Fleet; Lieutenant Commander Yomabe, Commanding Officer of the 101st Special Landing Force. Besides the above, Captain Tamura, senior staff officer of the Twenty-second Air Force was present as an observer.

65. Q. Will you tell us what occurred at this conference with particularity as to, and circumstances surrounding, anything relating to prisoners of war? 06
A. The major subject of this conference was the progress of the defense of Truk Atoll, and on this subject each cognizant commanding officer arose in the order in which his name was called and stated concerning the present conditions and gave his opinion. The conference was in progress along these lines when the head of the Fourth Naval Construction Department, Captain Harada, presented the following question: "In my department there are numerous gunzokus (T.N. civilian workers for the navy, laborers and skilled laborers, etc.).

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In the event the enemy invades as the gunzokus have no rifles, they will have to fight with spears and as spears are at present being manufactured, the question is what type of spear is best or should be manufactured?" I was expecting an answer to be given by the commanding officer of the Forty-first Naval Guard Unit Asano, or some such person, when suddenly the head of the Fourth Naval Hospital Surgeon Captain Iwanami stood up and gave the following statement, in outline as follows: "We disposed of some prisoners of war by using spears. As a result it was discovered that spears on the thin side are useless and they bend; that bayonets are the best and if spears are to be manufactured, it were best that they were made stouter." That is all. AG

66. Q. When Captain Iwanami stood up at this conference and stated that these prisoners of war had been disposed of with spears, did Admiral Hara say anything?
A. He did not say anything.

67. Q. Did Admiral Hara make any comment to you or to any of the numerous persons that were assembled at that conference? AG
A. No, he did not.

68. Q. Did anyone at that conference at that time say anything to Iwanami or any other member of the conference concerning the killing of prisoners of war after Iwanami spoke?
A. No, there was no one. The conference moved on to the next subject.

69. Q. Did Admiral Hara show any signs of surprise when he heard that prisoners of war had been speared at the Fourth Naval Hospital?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. He was not surprised to the point of asking Iwanami any questions; he was just silent.

70. Q. After this conference was concluded did Admiral Hara ever say anything to you concerning this execution of prisoners of war at the Fourth Naval Hospital by Iwanami?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Admiral Hara did not call myself or Iwanami after the conference.

71. Q. To the best of your knowledge did Admiral Hara ever issue any orders subsequent to this conference that prisoners of war should not be mistreated or killed?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

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The commission announced that the objection was not sustained.

A. No, he did not.

72. Q. At any time subsequent to this conference did Admiral Hara ever order an investigation of the incident of the killing of prisoners of war at the Fourth Naval Hospital?

This question was objected to by the accused on the ground that it was leading.

The judge advocate made no reply.

The commission announced that the objection was not sustained.

A. No, he did not order me to investigate.

73. Q. To the best of your knowledge did he order anyone to investigate this incident?

This question was objected to by the accused on the ground that it was leading and that it called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. That, I do not know.

74. Q. To the best of your knowledge was Iwanami ever punished or disciplined by Hara for the incident which occurred at the Fourth Naval Hospital?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. He was not punished.

The commission then, at 3:10 p.m., took a recess until 3:35 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.

Sumikawa, Michio, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

Cross-examined by the accused:

75. Q. You have frequently used the term "shusen", which can be translated as surrender, or termination of the war. In using that term, what concrete date did you have in mind?
A. By that I meant August 15, 1945 when the Emperor gave the order that the war ceased.

76. Q. You testified that the Twenty-second Air Force was not subordinate to the Fourth Fleet in matters of operational command. Is this also true in matters of operational commands?
A. During my tour of duty as Commandant of the Twenty-second Air Force the Twenty-second Air Force did not receive any orders from the Fourth Fleet even in matters of operational command.

77. Q. Were all the units subordinate to the Central Pacific Area Fleet naval units?
A. There were army units besides the naval units.

78. Q. Do you mean that the army units in the area of jurisdiction of the Central Pacific Area Fleet were subordinate to the Central Pacific Area Fleet?
A. Yes.

79. Q. You testified that the Fourth Base Force was deactivated on the 1st of May 1944. Is it true that you were no longer the chief of staff of the Fourth Fleet at that time?
A. Yes, that is true. I was no longer the chief of staff of the Fourth Fleet at that time as I testified previously. I heard that it was deactivated on that date when I again became chief of staff of the Fourth Fleet.

80. Q. You testified in regard to the state of communication during the period from the time Admiral Hara took command of the Fourth Fleet until the termination of the war; you merely gave three types of transportation. Could you give briefly the state of transportation at that time?
A. First I will explain the state of transportation as regards submarines: Only submarines attached to the Combined Fleet could be used for this purpose. The stress was laid on transportation of munitions and foodstuffs. Attempts were made to transport these things to Wake, Mille, Kusaie, Truk and Woleai. The attempts made by the submarines to reach Wake, Mille and Kusaie failed, and the submarines returned to their bases in Japan. The attempted passage to Truk and Woleai succeeded.

Next I would like to explain as regards the flying boats: They were based at Yokohama. There were two flying boats at that time. During my first tour of duty as chief of staff in terms of the tour of the accused Hara, from 23 February until 29 March 1944, these planes arrived from time to time bringing in personnel for the most part and other things. After I reassumed my post as chief of staff of the Fourth Fleet on August 17, 1944, and up until December 1944, there was no transportation by flying boats. This route was reopened in December of 1944 and continued until, the termination of the war. The flying boats came once a month when the moon was out and this transportation was reopened in December of 1944 after the Marianas occupation had been completed.

The third means of transportation was by small craft based at Truk. These craft were used to supply islands lying close to Truk with food and munitions. The islands thus supplied were Ponape, Mortlock (T.N. Nomoi) and Enderby (T.N.Puluwat). Because of the cruising range of these craft, these were the only islands which could be reached by them.

81. Q. What was the state of transportation between Truk and the distant islands of Nauru and Ocean and Wake?
A. There was no means of transportation.

The judge advocate moved to strike out this answer on the ground that it was an opinion of the witness in view of the prior testimony that the Fourth Fleet had submarines and flying boats available.

The accused made no reply.

The commission announced that the motion was not sustained.

82. Q. You have testified that there were no orders or instructions relative to treatment of prisoners of war issued to the Fourth Fleet by higher echelons when you assumed your post as chief of staff of the Fourth Fleet. Were there not copies of regulations pertaining to the treatment of prisoners of war at the Fourth Fleet Headquarters?
A. There were regulations.

83. Q. Besides these Naval Regulations which embraced regulations pertaining to the treatment of prisoners of war, were there not copies of the Wartime International Law Manual issued by the Secretary of the Navy Ministry?
A. There were.

84. Q. And these naval regulations and the manuals were at the Fourth Fleet Headquarters up until the time of the termination of the war?
A. Yes.

85. Q. You testified that around the middle of November 1944, certain instructions were issued by the Chief of the Third Department of the Naval General staff in regard to prisoners of war. In relation to this, was there an officer sent from the Naval General Staff to Truk around January of 1944?
A. I do not recall having met such an officer.

86. Q. Did not Yano or Ito from the Naval General Staff visit Truk in connection with the matters pertaining to treatment of prisoners of war?
A. I recall having met and talked with Rear Admiral Yano, but this was after March 5 when Rear Admiral Yano came in his capacity as chief of staff of the Central Pacific Area Fleet. I do not recall having discussed the matters of this nature with Yano or with Ito.

87. Q. You testified to the conference held on September 1 after Iwanami had made his statement. Do you not recall Vice Admiral Hara addressing all the personnel present with words to the following effect: "Prisoners of war are protected by International Law. To even talk about them as Iwanami has done must not be done"?
A. I do not recall his having made this statement to all personnel present. I was sitting on the opposite from Iwanami and the commander in chief, and he may have made this statement in a low voice, and I do not remember, nor did I hear. He may have made this statement in a low voice to Iwanami but I do not remember him making such a statement.

The judge advocate moved to strike the words "he may have made this statement in a low voice" out of the answer on the ground that it was speculative and an opinion of the witness.

The accused made no reply.

The commission directed that the words be stricken out.

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88. Q. After the conference and after you returned to the Headquarters of the Twenty-second Air Force, did not Tamura bring up this subject of the statement made by Iwanami and when Tamura brought up this subject, do you not recall having told Tamura that as the commander in chief stated his mind on the subject not to talk about manufacture of spears, etc.?

This question was objected to by the judge advocate on the ground that no groundwork had been laid by the accused for such detailed statements of alleged conversations, and that it was irrelevant and immaterial.

The accused withdrew the question.

89. Q. After the conference and after you returned to the Headquarters of the Twenty-second Air Force, did Tamura bring up any topic of conversation connected with the conference?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. After this meeting of the cognizant commanding officers on the 1st of September I returned to my headquarters because I had another conference on the following day on Moen Island, As Tamura asked me whether he could bring up this matter which Iwanami had spoken about, at the meeting to be held on the following day, I told him that he should not.

90. Q. Do you know for a fact whether a prisoner of war was sent home to the Japanese homeland in January of 1945 after this conference?
A. I do know.

The witness was duly warned.

The commission announced that it would adjourn until Friday, November 26, 1948 to enable several parties to the trial to report for their annual physical examinations.

The commission then, at 4:25 p.m., adjourned until 9 a.m., Friday, November 26, 1948.

TWENTY-FIRST DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Friday, November 26, 1948.

The commission met at 9:15 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the twentieth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Sumikawa, Michio, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

(Cross-examination continued.)

91. Q. You said you knew whether a prisoner of war had been sent to the Japanese homeland in January 1945. What do you know about this?
A. I knew about this prisoner of war because he crashed against one of four Zero fighters which were kept for defense of Truk and landed by parachute. Although no report was made on this prisoner of war I received a report the following day that there was a prisoner of war at the Forty-first Naval Guard Unit, therefore I went and investigated.

92. Q. Did you order him sent to the Japanese homeland?
A. I did.

93. Q. When you say that the Central Area Fleet was annihilated what do you mean by this?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. As I recall we received a dispatch from the Headquarters of the Central Pacific Area Fleet saying that the headquarters had been overwhelmed.

94. Q. In January 1944 when you became Chief of Staff to Admiral Kobayashi, didn't the records show that there had been sent to the Japanese homeland forty-two American prisoners of war, survivors of an American submarine, in November 1943?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. I did not see such a thing and neither did I hear about it.

95. Q. This dispatch that you said was received in November 1944 from the Chief of the Third Department, Naval General Staff, which you testified was addressed to the Chiefs of Staff of all Fleets of the Japanese Navy — why was it addressed to the Chiefs of Staff?

This question was objected to by the judge advocate on the ground that it was irrelevant, immaterial, and called for an opinion of the witness.

The accused replied.

The commission announced that the objection was not sustained.

A. This procedure was followed, namely, that the dispatch was addressed to the Chiefs of Staff in accordance with naval custom. The head of the Third Department sent this dispatch expressing the wishes of the Chief of Naval General Staff and this was sent to the Chiefs of Staff that they report it to their Commanders in Chief.

96. Q. You started to qualify your answer as to why it was not disseminated to the subordinate units of the Fourth Fleet. What was the major reason that it was not disseminated to the units of the Fourth Fleet?

This question was objected to by the judge advocate on the ground that it called for an opinion of the witness.

The accused replied.

The commission announced that the objection was not sustained.

A. The main reason was because there was no transportation available. The dispatch referred to sending prisoners of war home to the Japanese homeland by the first available transportation and there was no transportation available therefore I recall having asked the Central Authorities to make this transportation available to the Fourth Fleet. As I testified previously there was a shortage of ammunition with the consequence that there was hardly any chance of taking any American prisoners of war by shooting down planes and further if this dispatch were sent to the Marshalls, Wake, Nauru, and Ocean Islands, and if it were intercepted and decoded, it would reveal the condition in which the Japanese forces were and would be detrimental to us.

97. Q. Do you remember whether you showed this dispatch to Admiral Hara?
A. The Commander in Chief saw this dispatch.

98. Q. You testified regarding Rota. Who was the Island Commander on Rota?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

99. Q. You testified that there were only remnants of the Marshall Islands left after a certain time. How did Admiral Hara exercise command over Jaluit and the remnants of the Marshall Islands then?
A. There were no other means except through radio.

100. Q. Was that a satisfactory means of communication?

This question was objected to by the judge advocate on the ground that it was irrelevant, immaterial, and called for an opinion of the witness.

The accused replied.

The commission announced that the objection was sustained.

101. Q. What was the state of communications? Was there always a two-way wireless communication between those remnants of the Marshalls and the Fourth Fleet?
A. A two-way communication could not be maintained. Jaluit alone had good receptivity and messages were relayed through Jaluit.

102. Q. At this September 1 conference in 1944 where were you sitting in relation to Captain Iwanami?
A. I was sitting on the immediate right of the Commander in Chief who was sitting at the center of the table, and Iwanami was sitting two seats away from the Commander in Chief on the left of the Commander in Chief and on the same side of the table, with Admiral Morita between the Commander in Chief and himself.

103. Q. I believe you said that you were surprised at what Iwanami said. By that do you mean that you paid particular attention to what he said and kept looking at him while he was speaking?
A. I did not look at him particularly, but I paid attention to what he said.

104. Q. Did he remain seated while he spoke?
A. He was standing.

105. Q. So you could clearly see him when he spoke?
A. He started to speak so I glanced at him then I turned my eyes away from him again.

Reexamined by the judge advocate:

106. Q. Did you continue as Chief of Staff of the Fourth Fleet from the time that you reassumed your duties as Chief of Staff until September 2, 1945?
A. Yes, from August 17 until November 16 I held the post of Chief of Staff concurrently with my command of the Twenty-second Air Force. After the latter date I was solely Chief of Staff of the Fourth Fleet.

107. Q. Did Vice Admiral Hara continue as Commander in Chief of the Fourth Fleet up to and including September 2, 1945?

0831

This question was objected to by the accused on the ground that it was beyond the scope of the cross-examination and called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. As I recall, Vice Admiral Hara assumed his duties on February 23, 1944 and remained in office until the surrender on September 2, 1945.

108. Q. From August 15, 1945 to September 2, 1945 did the Fourth Fleet receive any orders removing the subordinate units of the Fourth Fleet from the jurisdiction of the Fourth Fleet?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No orders were received eliminating units under the command of the Fourth Fleet from its command but fresh units were added to its organization.

109. Q. What was the function of the Third Department of the Naval General Staff?
A. It dealt with matters related to intelligence.

Recross-examined by the accused:

110. Q. From August 16, 1945 until September 2, 1945 was the authority of the Commander in Chief of the Fourth Fleet exactly the same as that existing before August 15?
A. As a result of preliminary preparations for the surrender the authority of the Commander in Chief was slightly changed.

111. Q. Was not the authority of the Commander in Chief of the Fourth Fleet, after August 16, 1945, restricted to transmitting and putting into execution the orders and instructions received from the Allied Forces?
A. The orders received from the Commander Marianas on Guam was that General Mugikura take over as respresentative of the Central Carolines.

112. Q. Then was the authority of Admiral Hara restricted to transmitting and executing orders and instructions from the Allied Forces under the command of General Mugikura?
A. I did not interpret the order in that way. I understood it to mean that Admiral Hara was to transmit the orders and instructions to the other areas, previously under his command.

113. Q. Were matters regarding treatment of prisoners of war matters of administration?
A. As matters relating to treatment of prisoners of war were included in the regulations issued under the category of orders issued by the Navy Minister, this was issued in 1943, I assumed that matters pertaining to treatment of prisoners of war were administrative matters.

AB

0832

114. Q. Who was the highest authority in charge of matters of administration?

This question was objected to by the judge advocate on the ground that it was beyond the scope of the redirect examination.

The accused withdrew the question.

115. Q. Isn't it true that as of August 15, 1945 the operational control of the naval units under Admiral Hara passed to the control of the American commander in this area?
A. On August 15, 1945 the Imperial Order was given for cessation of hostilities, hence there were no operations after that date. The American forces instructed the Japanese forces to make known their will to surrender and stated the place where they were to express their will and after this was done Commander Marianas from Guam issued instructions to be carried out by the Japanese and the radio frequency to maintain this and Commander Marianas at Guam instructed the Japanese as to what wave-length to use to keep in contact with him and issued instructions. AB

The judge advocate did not desire to reexamine this witness.

The commission did not desire to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The commission then, at 10:20 a.m., took a recess until 10:40 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. Will you state your name?
A. Higuchi, Nobuo.

2. Q. Where are you presently residing?
A. At the Stockade.

3. Q. Do you know the accused, if so, state as whom?
A. Hara, Chuichi.

4. Q. When did you arrive on Truk Atoll?
A. February 1943.

5. Q. What was your rank at that time?
A. Navy Commander.

0833

6. Q. What organization were you attached to?
A. Fourth Base Force Headquarters.

7. Q. From what period of time did you serve with the Fourth Base Force Headquarters, and what was your duty at that time?
A. I served at the Fourth Base Force Headquarters from February 1943, and I was a staff officer at the Fourth Base Force Headquarters.

8. Q. Until what time did you serve as a staff officer with the Fourth Base Force Headquarters?
A. Until the thirtieth of April 1944.

9. Q. From February 23, 1944 to April 30, 1944 to what organization was the Fourth Base Force attached?
A. Fourth Fleet.

10. Q. What occurred after April 30, 1944 with regard to the Fourth Base Force?
A. The Fourth Base Force Headquarters was deactivated.

11. Q. What duty did you assume after the deactivation of the Fourth Base Force?
A. Staff officer of the Fourth Fleet.

12. Q. Until what time did you serve as a staff officer of the Fourth Fleet?
A. Until the termination of the war.

13. Q. By that do you mean until September 2, 1945 - the date of surrender?
A. Yes.

14. Q. You have stated that you were a staff officer on the staff of the Fourth Base Force, were you the senior staff officer during the period from February 23, 1944 until the time of dissolution of that base force?
A. Yes.

15. Q. Are you familiar with the organization of the Fourth Base Force and the Fourth Fleet from the period commencing February 23, 1944 to September 2, 1945?
A. I believe I am.

16. Q. Will you state the major base forces and units under command of the Fourth Fleet from February 23, 1944 to September 2, 1945, giving any changes in organization under the Fourth Fleet?
A. The Fourth Fleet was organized as follows: There were the Fourth Base Force, the Fifth Base Force, and the Sixth Base Force under the Fourth Fleet. After the Central Pacific Area Fleet was organized, the Fifth Base Force was detached from the Fourth Fleet, and later after the Central Pacific Area Fleet was overwhelmed on Saipan, the Fifth Base Force again came under the Fourth Fleet.

17. Q. What was the command relationship of the Forty-first Guard Unit to the Fourth Base Force or the Fourth Fleet during the period from February 23, 1944 to September 2, 1945?
A. The Commander in Chief through the Commandant of the Fourth Base Force commanded the Forty-first Guard Unit.

0834

18. Q. What happened when the Fourth Base Force was dissolved?
A. Only the headquarters of the Fourth Base Force was deactivated. The Fourth Base Force was still left and it came under the direct command of the Commander in Chief, Fourth Fleet.

19. Q. Who was the commanding officer of the Forty-first Guard Unit at Truk on February 23, 1944?
A. I believe it was Captain Asano.

20. Q. How long did he continue as commanding officer of the Forty-first Guard Unit?
A. Until the end of the war.

21. Q. Who was the commanding officer of the Fourth Naval Hospital on Truk?
A. Captain Iwanami.

22. Q. Was the Fourth Naval Hospital attached to the Fourth Fleet?
A. Yes.

23. Q. Do you know from what date Iwanami had served as commanding officer of the Fourth Naval Hospital?
A. I do not know the exact time, but I believe it was sometime either in November or December 1943.

24. Q. Did he serve in that capacity to the time of surrender?
A. Yes.

25. Q. Was the Fourth Naval Construction Department on Truk a subordinate unit of the Fourth Fleet?
A. Yes.

26. Q. Did this continue under the Fourth Fleet to the date of surrender?
A. Yes.

27. Q. Do you know the name of the commanding officer of the guard unit at Wake Island?
A. Captain Sakaibara.

28. Q. Do you know the approximate dates of his tour of duty?
A. I do not know when he took office, but I believe he acted in that capacity until the end of the war.

29. Q. Do you know the name of the commanding officer of the naval guard unit at Jaluit?
A. I do.

30. Q. What was his name and will you state his tour of duty, if you know it?
A. His name is Masuda, Nisuke. I do not know when he took office, but he acted in that capacity until the end of the war. AB

31. Q. Do you know the name of the commanding officer of the Sixty-seventh Naval Guard Unit at Nauru and Ocean Islands?
A. I do not recall.

32. Q. Do you know whether the commanding officer of the guard unit at Nauru Island continued until the end of the war in that capacity?
A. I believe he did.

0835

33. Q. Were the guard units at Wake Island, Jaluit Atoll, Nauru and Ocean Islands under the command of the Fourth Fleet from February 23, 1944 to September 2, 1945?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was sustained.

34. Q. To what fleet were the guard units at Wake Island, Jaluit Atoll, Nauru and Ocean Islands attached?
A. The Fourth Fleet.

35. Q. You have referred to the tour of duties of the commanding officers at Wake Island and at Jaluit Atoll and at Nauru and Ocean Islands as extending to the termination of the war, by that do you mean September 2, 1945?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was sustained.

36. Q. You have used the phrase "termination of the war" in connection with the duties of the commanding officers at Wake, Jaluit, Nauru and Ocean, what date did you mean by this term?
A. Until such time as these islands surrendered.

37. Q. You have referred to the Fourth Naval Construction Department on Truk, was this construction department composed of military personnel?
A. Navy personnel and gunzokus.

38. Q. Do you know if the Fourth Naval Construction Department at Truk had a naval civil guard?
A. They did.

39. Q. What was the function of this naval civil guard?
A. Its duty was to maintain discipline within the construction department and to supervise the work of its men.

40. Q. From February 23, 1944 where were the headquarters of the Fourth Fleet located?
A. Dublon Island, Truk.

41. Q. I show you Exhibit 23, which is a chart of Dublon Island, and ask you to tell the commission where on Dublon Island the headquarters of the Fourth Fleet were located at various times from February 23, 1944 to the date of surrender in 1945.
A. From February 23, 1944 at the place marked "A" on this chart. I do not know from when but until the latter part of April 1944, it was located west of "I". From May 1944 to the end of the war at the place marked "J".

42. Q. What units are located at the areas marked "A", "I", and "J" on this chart?
A. "A" was the Fourth Supply and Accounts Department, "I" is the Fourth Communication Corps, "J" was the Fourth Base Force Headquarters.

0836

43. Q. During your tour of duty with the Fourth Base Force did you ever receive or see any orders issued by the Fourth Fleet concerning the treatment or handling of prisoners of war?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not have such a recollection.

44. Q. During your tour of duty as senior staff officer of the Fourth Base Force did the Fourth Base Force ever issue any orders concerning the treatment or protection of prisoners of war?

This question was objected to by the accused on the ground that it called for an opinion of the witness, that it was irrelevant and immaterial, and that it was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not remember any being issued.

45. Q. During your tour of duty on the staff of the Fourth Fleet did the Fourth Fleet ever issue any orders concerning the treatment or protection of prisoners of war?

This question was objected to by the accused on the ground that it was leading and that it called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was sustained.

46. Q. During your tour of duty as a staff officer of the Fourth Fleet, did you ever see any orders issued by the Fourth Fleet concerning the treatment or protection of prisoners of war?
A. I do not recall seeing any.

47. Q. During your tour of duty with the Fourth Base Force or the Fourth Fleet, to the best of your knowledge was any system of accounting or reporting the number of prisoners of war captured or confined by units of the Fourth Fleet ever established?

This question was objected to by the accused on the ground that it was double, that it was leading, that it called for an opinion of the witness, and that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. As far as I remember, there was no such system.

0837

48. Q. During the tour of duty of Vice Admiral Hara, do you know if any prisoners of war arrived on Truk Atoll?
A. I do not know.

49. Q. Do you know where prisoners of war were confined on Truk?
A. At the Forty-first Naval Guard Unit.

50. Q. Was the arrival and confinement of prisoners of war on Dublon Island reported to the Fourth Fleet?

This question was objected to by the accused on the ground that it was leading, and that it called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not recall having received such a report.

51. Q. About July of 1944 did any prisoners of war arrive on Truk?
A. Yes.

The witness was duly warned.

The commission then, at 11:30 a.m., took a recess until 2:10 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Higuchi, Nobuo, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination continued.)

52. Q. This morning you testified about some prisoners of war that arrived at Truk in July 1944. Did you learn of the capture of these prisoners prior to their arrival at Dublon?
A. Yes.

53. Q. How did you learn of their capture?
A. I learned of their capture by dispatch sent by the Naval Commanding Officer on Enderby (T.N.Puluwat) Island.

54. Q. What was your function at that time with the Fourth Fleet?
A. Staff officer of the Fourth Fleet.

55. Q. Were you the assistant to the senior staff officer at that time?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate withdrew the question.

56. Q. What was your function on the staff of the Fourth Fleet?
A. Assistant to the senior staff officer.

57. Q. Did you see this dispatch from the Naval Commanding Officer of Puluwat Island?
A. I recall that I saw it.

58. Q. To what activity was this dispatch addressed?
A. I believe it was addressed to the Forty-first Naval Guard Unit Commanding Officer.

59. Q. Was the dispatch addressed to the Fourth Fleet?

This question was objected to by the accused on the ground that it was leading.

The judge advocate withdrew the question. AB

60. Q. To what other activities was this dispatch addressed?
A. I do not recollect clearly, but I believe the other addressee was either the Chief of Staff of the Fourth Fleet or a staff officer of the Fourth Fleet.

61. Q. What was the contents of this dispatch?
A. I believe it was as follows: That two American prisoners of war were captured by Army units and asked whether it was all right to send these prisoners to Truk on a ship which had been sent from Truk to Puluwat.

62. Q. Do you know if this dispatch request was answered?
A. I do not recall.

63. Q. Do you know if permission was given to send these prisoners to Dublon?
A. I do not recall.

64. Q. Will it refresh your memory as to whether or not a dispatch was sent if I read you part of a former statement of yours?
A. If I heard it, it might refresh my recollection.

65. Q. I read from your statement of 1 May 1948 as follows: "but the Fourth Fleet sent a dispatch in answer stating that transportation was available to transport them to Truk. The POWs later arrived and were confined at the 41st G.U." Does that refresh your recollection as to whether or not a dispatch was sent?

This question was objected to by the accused on the ground that the judge advocate had laid no groundwork to refresh the recollection of this witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. My recollection is refreshed.

66. Q. Will you state whether or not an answer was sent to this dispatch request?
A. I do not know whether the answer was sent by the Fourth Fleet or by the Forty-first Naval Guard Unit, but I am sure that the dispatch concerning the transportation of prisoners was sent.

0839

The accused moved to strike out this answer on the ground that it was hearsay.

The judge advocate replied.

The commission announced that the motion was not sustained.

67. Q. Do you know if prisoners of war confined at the guard unit were interrogated by any staff members of the Fourth Fleet during the tour of duty of the accused Hara?

This question was objected to by the accused on the ground that any answer the witness might give would be hearsay.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I believe the prisoners of war were interrogated.

The accused moved to strike out this answer on the ground that it was hearsay.

The judge advocate replied.

The commission directed that the answer be stricken out.

68. Q. Do you know if the Air Staff Officer Lieutenant Akai questioned prisoners of war at the Forty-first Guard Unit?
A. I did not actually see the interrogation, so I am not sure, but I believe he did interrogate.

The accused moved to strike out this answer on the ground that it was irrelevant, immaterial, and hearsay.

The judge advocate replied.

The commission directed that the answer be stricken out.

69. Q. Did Lieutenant Akai ever report to you that he had interrogated the prisoners of war at the guard unit?
A. No.

70. Q. Did you, while you were assistant senior staff officer of the Fourth Fleet, learn of any incident that occurred on February 17, 1944?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I was not the deputy senior staff officer of the Fourth Fleet on February 17, 1944.

71. Q. That is not the question. When you were assistant senior staff officer which you became on May 1, 1944, did you learn of the incident which occurred on February 17, 1944; did you after May 1, 1944 know of the incident which occurred on February 17, 1944 at the guard unit?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I recall that I heard rumors. I do not know when, nor where I heard this.

The accused moved to strike out this answer on the ground that it was hearsay.

The judge advocate replied that this testimony was relevant not only to establish that the assistant senior staff officer of the Fourth Fleet learned of the alleged incident after the accused became Commander in Chief of the Fourth Fleet, but also to establish the fact that the rumor existed at that time. The fact that a rumor is involved does not render the answer inadmissible as hearsay for the testimony is offered not to prove the truth or falsity of the content of the rumor. The testimony is offered to establish the fact that such a rumor existed and was circulated, and that the assistant senior staff officer of the Fourth Fleet knew of this rumor, and circumstantially to establish that the accused knew or should have known of the rumor concerning the execution of these prisoners of war and should have taken affirmative action to investigate the rumor, to instruct his subordinates, and to protect prisoners of war. AB

The commission announced that the motion was not sustained.

72. Q. What did you learn concerning the incident on February 17, 1944?
A. During the American Task Force raid on Truk, some American prisoners of war were executed at the Guard Unit on February 17, 1944, this is what I heard.

The accused moved to strike out this answer on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the motion was not sustained.

73. Q. Did you attend a conference in September 1944 held by the Fourth Fleet?
A. Yes.

74. Q. Who was present at this conference?
A. Members of the Fourth Fleet Headquarters, chief of staff, staff officers, and cognizant commanding officers of units on Truk. AB

75. Q. Do you recall if Captain Iwanami of the Fourth Naval Hospital was present?

0841

This question was objected to by the accused on the ground that it was leading.

The judge advocate withdrew the question.

76. Q. Will you name some of these other cognizant commanding officers who were present at this conference?
A. Captain Kojima, Captain Miura, Captain Iwanami, Captain Asano, Captain Morita, Captain Hirobu, head of the construction department and Commander Kaneko.

77. Q. At this conference, was anything reported concerning prisoners of war?
A. Yes.

78. Q. Who reported concerning prisoners of war, and what was the nature of this report?
A. The person who made this report was Iwanami, head of the Fourth Naval Hospital. He reported of experimenting with spears on prisoners of war, but they were not practical.

79. Q. Did Vice Admiral Hara make any comment when this report was made?
A. I did not hear him say anything especially.

The accused moved to strike out this answer on the ground that it was vague and an opinion of the witness.

The judge advocate replied.

The commission announced that the motion was not sustained.

80. Q. Did the chief of staff, Sumikawa, make any comment regarding the experimental spearing of these prisoners of war?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I did not hear anything in particular.

81. Q. Did Vice Admiral Hara show any signs of surprise when Iwanami reported the spearing of these prisoners of war?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. As I was not looking at Vice Admiral Hara, I do not know what attitude he took especially.

82. Q. Do you know if at any time subsequent to the conference, if any investigation was ordered by the Fourth Fleet concerning this experimental spearing of prisoners of war?
A. From my recollection, I do not recall any such investigation being made.

0842

83. Q. To the best of your knowledge, at any time subsequent, were any orders issued by the Fourth Fleet to subordinates that they should protect and safeguard prisoners of war?

This question was objected to by the accused on the ground that it called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. As far as I'm concerned, I do not know whether such orders were issued or not.

Cross-examined by the accused:

84. Q. You testified that you did not know when Sakaibara became commanding officer of the guard unit on Wake, but do you know whether it was before February 23, 1944 or after this time?
A. I believe it was before this time.

85. Q. Do you know whether it was before or after February 23, 1944 when Masuda, Nisuki became commanding officer of the Naval Guard Unit on Jaluit?
A. Before.

86. Q. Do you know whether it was before or after February 23, 1944 that the commanding officer of the Sixty-seventh Guard Unit on Nauru Island was appointed commanding officer?
A. I believe it was also before this time.

87. Q. From the time you became staff officer of the Fourth Fleet until the end of the war, do you know whether Sakaibara, Masuda, or the commanding officer of the Sixty-seventh Guard Unit on Nauru Island, whether any one of them came to the Fourth Fleet Headquarters at Truk during this time?
A. No one came.

88. Q. This morning you testified that these persons, the commanding officers of Wake, Jaluit, and Nauru Islands were in command until each island surrendered, but do you know when and to whom these islands surrendered? If you do know, please state.
A. I do not know when, but I believe Wake and Jaluit surrendered to the American Forces, and the others, Nauru and Ocean Islands surrendered to the Australian Forces.

The judge advocate moved to strike out this answer on the ground that it was an opinion of the witness.

The accused replied.

The commission announced that the motion was not sustained.

89. Q. Do you know whether Vice Admiral Hara was able to command the guard unit on Nauru and Ocean Islands until the time they surrendered to the Australian Forces?

0843

This question was objected to by the judge advocate on the ground that it was improper in form, and called for an opinion of the witness.

The accused replied.

The commission announced that the objection was not sustained.

A. I do know.

90. Q. Please state what you know.
A. From the standpoint of the organization, Nauru and Ocean Islands were under the command of the Fourth Fleet, but I believe the actual method of supervision and command was inadequate.

91. Q. You testified that the Fourth Construction Department was composed of Navy personnel and gunzokus, but can you give the approximate number of gunzokus and the Navy personnel in this department?
A. This is a very rough estimate, but there were about 100 military personnel and about 8,000 gunzokus.

92. Q. The Fourth Construction Department at Truk; what was its function?
A. Construction and public works.

93. Q. Then were most of these gunzokus used as laborers?
A. Yes.

94. Q. The naval civil guards of the Fourth Construction Department; were they military personnel or civilian laborers?
A. I do not recall.

The commission then, at 3:15 p.m., took a recess until 3:40 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Higuchi, Nobuo, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Cross-examination continued.)

95. Q. You testified concerning the duties of the naval civil guard of the Fourth Construction Department but wasn't their duty gate watchmen and to go around seeing that buildings and warehouses were safe and checking whether the laborers followed the general regulations or not?
A. I believe these were their duties but I also believe that what I stated before were also their duties.

96. Q. You testified that the naval civil guard supervised the work, but isn't supervising work the duty of technicians and the naval civil guards could not do such work?
A. Of course they were not able to supervise such work, but what I meant was to check on their diligence.

0844

97. Q. Did the naval civil guard of the Fourth Construction Department receive orders from the Commanding Officer of the Fourth Construction Department or did they receive orders directly from the Commander in Chief of the Fourth Fleet in order to carry out their duties?
A. Of course from the Commanding Officer of the Fourth Construction Department.

98. Q. You testified during your tour of duty as staff officer of the Fourth Base Force you do not recall receiving any orders concerning the treatment of prisoners of war from the Fourth Fleet, but did you not receive instructions from the Central Authorities to send prisoners of war to Japan, via the Fourth Fleet?
A. I do recall receiving a dispatch sent by the Central Authorities requesting to send prisoners of war back to Japan as soon as possible.

99. Q. During your tour of duty as staff officer of the Fourth Fleet did you receive such instructions?
A. I might have been told by Vice Admiral Hara about this, but I do not recall it.

The judge advocate moved to strike the words "I might have been told by Vice Admiral Hara about this, but" out of the answer on the ground that they were speculative and opinion.

The commission directed that the words be stricken out.

100. Q. You testified that, to the best of your knowledge, no system of accounting or reporting of prisoners of war was established while you were on duty with the Fourth Base Force and the Fourth Fleet, but wasn't the accounting and reporting of prisoners of war set forth in the Naval Regulations for the Treatment of Prisoners of War?
A. There is such a clause in the Naval Regulations.

101. Q. These Naval Regulations for the Treatment of Prisoners of War were issued by the Navy Ministry, were they not?
A. I believe they were.

102. Q. Was it, or was it not, a custom in the Japanese Navy for a Commander in Chief of a Fleet to issue parallel orders to the regulations issued by the Navy Ministry over and above his regulations?

This question was objected to by the judge advocate on the ground that it was incompetent, irrelevant, and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. It was not the custom for a Fleet Commander to issue again orders which were set forth in the Navy Regulations.

103. Q. You testified that you saw a dispatch which was sent from Puluwat. When did you see this dispatch?
A. I do not know the exact date but I believe it was around the latter part of June or early part of July 1944.

0845

104. Q. What was the designation of the unit on Puluwat Island and to what unit was it attached?
A. I believe the name was Puluwat Navy Unit and it was a unit sent from the Forty-first Naval Guard Unit.

105. Q. You testified that these prisoners of war were captured by the army unit on Puluwat. Was the army commanding officer or the navy commanding officer senior?
A. The army commanding officer was a colonel and the navy commanding officer was a warrant officer.

106. Q. Isn't it true that when these prisoners arrived on Truk that they were turned over to the army?
A. I heard later that when they arrived they were turned over to the army and later these prisoners of war were put under the custody of the Forty-first Naval Guard Unit.

107. Q. Do you know by whose orders these prisoners of war who were captured by the army were confined at the Forty-first Naval Guard Unit?
A. As far as I know there were no orders issued to transfer these prisoners of war from the army to the Forty-first Naval Guard Unit.

108. Q. During the tour of duty of the accused Hara, do you know of any other prisoners of war besides those from Puluwat that arrived on Truk and were confined there?
A. I recall in January 1945 one prisoner of war was confined on Truk.

109. Q. Do you know what happened to this prisoner?
A. He was sent back to Japan.

110. Q. You testified that you knew of the incident which took place on 17 February 1944, but did you ever tell the accused Hara about this?
A. I absolutely never told the accused Hara about this.

111. Q. As assistant senior staff officer of the Fourth Fleet, did you suggest to any other staff officer of the Fourth Fleet that he report this incident to the Commander in Chief, Hara?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused withdrew the question.

112. Q. Do you know whether any other staff officer of the Fourth Fleet reported this incident to Vice Admiral Hara?
A. I do not know.

113. Q. At the conference held at the Fourth Fleet in September 1944 you testified that Iwanami talked about the experiment with the prisoners of war but do you remember whether he stated when this incident took place?
A. I do not recall whether he mentioned dates.

114. Q. When you heard Iwanami relate this did you know when this incident had taken place?
A. No.

0846

115. Q. What seat did you occupy in the conference with relation to the accused Hara?
A. I believe I was the third to the right of Vice Admiral Hara.

116. Q. Do you recall where Captain Iwanami was seated?
A. I believe perhaps he was the second to the left of Vice Admiral Hara.

117. Q. Do you not recall whether or not Vice Admiral Hara gave a caution after Captain Iwanami related this spear experiment on prisoners of war?
A. Admiral Hara may have said something but as I was on the other side of Admiral Hara, I do not know what he said.

The judge advocate moved to strike out this answer on the ground that it was speculative.

The commission directed that the answer be stricken out.

The witness was duly warned.

The commission then, at 4:25 p.m., adjourned until 9 a.m., tomorrow, Saturday, November 27, 1948.

0847

TWENTY-SECOND DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Saturday, November 27, 1948.

The commission met at 9:20 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Kivin G. Gluba, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the twenty-first day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Higuchi, Nobuo, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Cross-examination continued.)

118. Q. Captain Higuchi, you testified that you are residing at the Stockade at Guam. Have you been confined at this Guam Stockade since the surrender?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. No.

119. Q. Isn't it true that the function of these gunsokus as guards and as to their work was determined by the cognizant bureau at Tokyo rather than by the Commander in Chief, Fourth Fleet?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

120. Q. Did you as a staff officer supervise the discipline, morale, education, training and operation of the naval civil guards at the Fourth Construction Corps?

This question was objected to by the judge advocate on the ground that it was multiple.

The accused made no reply.

The commission announced that the objection was sustained.

121. Q. What staff officer if any staff officer of the Fourth Fleet supervised the discipline of these naval civil guards?
A. The responsibility of controlling the discipline and morale was directly under the head of the Fourth Construction Department. Matters pertaining to military discipline were supervised by the senior staff officer ordinarily.

122. Q. Isn't it true that the head of the construction department was responsible to the Bureau at Tokyo for the supervision of these gunzokus?
A. There was the headquarters of the Construction Department in Tokyo and the head of the Fourth Construction Department owed this responsibility toward this headquarters of the Construction Department in Tokyo and also to the Commander in Chief, Fourth Fleet.

123. Q. Isn't it true that the Commander in Chief, Fourth Fleet only exercised authority over the Commanding Officer of the Fourth Fleet Hospital by informing him of the number of wounded and their priority as to patients at the hospitals?
A. I believe the responsibility which the head of the Fourth Naval Hospital owed toward the Commander in Chief, Fourth Fleet was not only what was given in the question.

124. Q. Isn't it true that the supervision of the Fourth Fleet Hospital at Truk was exercised by the Bureau of Medicine at Tokyo?
A. On this point the Naval Hospital had the same responsibility towards the Bureau of Medicine as the Construction Department had responsibility towards the headquarters of the Construction Department in Tokyo.

125. Q. A report as to the number of patients or deaths that may have occurred at the hospital was sent direct to the Bureau of Medicine at Tokyo, isn't that true?

This question was objected to by the judge advocate on the ground that no foundation had been laid to establish competence of the witness with regard to hospital report procedure.

The accused made no reply.

The commission announced that the objection was sustained.

126. Q. Do you know how the hospital reports were forwarded?
A. As I did not have any direct connection with the hospital matter, I am not well acquainted with it.

127. Q. Did you as a staff officer ever see any reports that were sent to Admiral Hara reporting any deaths of prisoners of war at the hospital?
A. No, I haven't seen such reports.

128. Q. When did you learn of the incident of February 17, 1944?
A. As I testified before as I only heard this through rumor, I do not know when, where, or from whom I heard it.

0849

129. Q. You testified regarding the arrival of prisoners of war on Truk. How many prisoners of war did you see arrive on Truk after February 23, 1944?
A. The prisoners of war - the person I saw after February 23, 1944 is one prisoner who was captured on Hotaru Island which is within Truk Atoll.

130. Q. Was that the prisoner of war that was sent to the homeland?
A. Yes.

131. Q. Did the Fourth Base Force ever have prisoners of war in their custody from February 23, 1944 until the Base Force was deactivated?
A. The Fourth Base Force itself never had any prisoners that were under its custody.

132. Q. Did you see the survivors of the American Submarine SCULPIN at the guard unit?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused reframed the question.

133. Q. Did you see the survivors of the American Submarine SCULPIN at the guard unit on or about November 1943?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused made no reply.

The commission announced that the objection was not sustained.

A. I did.

134. Q. Do you also know that about a week after their confinement at the guard unit they were sent to the Japanese homeland? All of them?
A. Yes.

135. Q. Was it because there was no transportation between Truk and Ocean and Nauru after February 23, 1944 that supervision and command over the garrison there was inadequate?

This question was objected to by the judge advocate on the ground that it called for an opinion of the witness.

The accused made no reply.

The commission announced that the objection was not sustained.

A. Yes.

Reexamined by the judge advocate:

136. Q. You spoke of some regulations concerning the treatment of prisoners of war. Are these regulations contained in the book of Naval Regulations of the Japanese Navy?
A. As far as I know they are.

137. Q. You referred to those regulations concerning the treatment of prisoners of war. Were you referring to the regulations of 17 February 1904 as amended prior to the war?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not know the date of enactment of ~~this~~ these regulations, but I know that it is law which is sanctioned by the Imperial Diet. A6

136. Q. Did you examine these regulations during your tour of duty with the Fourth Base Force or the Fourth Fleet?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not recall clearly.

139. Q. What provision of these regulations, if any, do you recall which has to do with reporting the numbers of prisoners of war?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I believe it was in ~~this~~ these Naval Regulations under treatment of prisoners of war during wartime. A6

140. Q. Do you know what this regulation was with regard to reporting of prisoners of war and to whom reports were to be made and when they were to be made and by whom they were to be made?

This question was objected to by the accused on the ground that it was irrelevant and immaterial and that the document itself was the best evidence.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I believe it was that the time to make this report was at the time of confinement of prisoners of war by the commanding officer of the unit which confined the prisoners, such as the commanding officer of the guard unit and to the Navy Minister.

The commission then, at 10:15 a.m., took a recess until 10:35 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.

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No witnesses not otherwise connected with the trial were present.

Higuchi, Nobuo, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Reexamination continued.)

141. Q. Do you know if Article 8 of these regulations for the treatment of prisoners of war that you have testified to, states that the commander in chief of minor stations, or the chief of other naval authorities shall report the number of prisoners of war?
A. From my recollection, I believe it states that commanding officers of the units confining the prisoners should make this report.

142. Q. When you were on the staff of the Fourth Base Force prior to May 1, 1944, do you know if any such reports were made by the guard unit which was a direct subordinate of the Fourth Base Force?
A. I do not recall receiving such report.

143. Q. When you were on the staff of the Fourth Fleet from May 1, 1944 to September 2, 1945, while the Forty-first Guard Unit was a direct subordinate of the Fourth Fleet, do you recall seeing such a report?
A. Similarly, I do not recall receiving such a report.

144. Q. You testified that you heard of the February 17th incident from rumors, do you know if other personnel of the Fourth Fleet also knew of this incident?

This question was objected to by the accused on the ground that it called for an opinion of the witness and hearsay.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not know.

145. Q. You spoke of hearing this rumor but were unable to fix a date. Would you fix an approximate period of time during which you learned of this incident?
A. It is very vague and indefinite, but I believe it was about half a year after the incident.

146. Q. On February 17, 1944, were you with the Fourth Base Force on Truk?

This question was objected to by the accused on the ground that it was leading.

The judge advocate withdrew the question.

147. Q. Do you know what the battle conditions on Truk were on February 17, 1944? AG

This question was objected to by the accused on the ground that it was irrelevant and immaterial and went beyond the scope of the cross-examination.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I believe I do know.

148. Q. Do you know if any order was issued concerning land invasion on that date?
A. I do know.

149. Q. Will you state briefly what you know concerning this order?
A. The time was in the afternoon of 17 February 1944. Contents of the order: prepare for land warfare.

150. Q. Who issued this order?
A. The Commandant of the Fourth Base Force Headquarters.

151. Q. You have testified concerning a dispatch received from Puluwat, where did you see this dispatch?
A. I believe it was at the Fourth Fleet Headquarters.

Recross-examined by the accused:

152. Q. Why do you believe that this dispatch was from the Fourth Fleet and that you saw it at the Fourth Fleet Headquarters?
A. I only have such recollection.

153. Q. Have you a recollection that it was addressed to Admiral Sumikawa, Chief of Staff?
A. It was addressed to the Commanding Officer of the Forty-first Naval Guard Unit, and information addressee I believe, was either to the chief of staff or the staff officer.

The judge advocate did not desire to reexamine this witness.

The commission did not desire to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. Will you state your name and where you are presently residing?
A. Asano, Shimpei. I am confined presently at the stockade.

2. Q. If you recognise the accused, state as whom.
A. Former Vice Admiral Hara, Chuichi.

3. Q. Were you during your service in the Japanese armed forces, stationed on Truk under the command of the accused?
A. Yes.

4. Q. What was your rank at that time, and to what subordinate organization were you attached?
A. Captain. Commanding Officer of the Forty-first Naval Guard Unit.

5. Q. When did you assume this duty?
A. I assumed this post on February 11, 1944.

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6. Q. Until what date did you continue in that duty?
A. I continued that duty until the end of the war.

7. Q. From February 23, 1944 until May 1, 1944, what organization was the direct superior of the Forty-first Naval Guard Unit?
A. The Fourth Base Force.

8. Q. From May 1, 1944 until September 2, 1945, what was the organization directly superior the to Forty-first Guard Unit? AB
A. The Fourth Fleet Headquarters.

9. Q. When you took over as Commanding Officer of the Forty-first Guard Unit, did you examine the standing orders for that duty?
A. I do not understand the meaning of standing orders.

10. Q. When you took over as Commanding Officer of the Forty-first Guard Unit, were you briefed as to your duties?
A. Yes, there was a briefing.

11. Q. Were you briefed as to any orders from the Fourth Fleet, the Fourth Base Force or the Forty-first Guard Unit effective at that time regarding the treatment or safeguarding of prisoners of war?

This question was objected to by the accused on the ground that it was leading, irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I was not briefed regarding such a question.

12. Q. To the best of your knowledge, were there any orders from the Fourth Fleet to the Forty-first Guard Unit regarding the treatment of prisoners of war?

This question was objected to by the accused on the ground that it was vague, called for an opinion of the witness, irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. After I assumed the duty, about four or five days later I received an order from the Fourth Base Force to the following effect: that a search party should be dispatched to look for American flyers who may have been shot down during the February air attack on Truk, and to search the uninhabited islands especially. If any are found to capture them.

13. Q. What happened following this concerning these prisoners of war?
A. On the first day of the search the party did not discover anyone. The second day we changed the direction of the search and as I recall we discovered on an uninhabited island in the atoll, a flyer who came down, and the leader of the search party himself captured him and escorted him to the guard unit where he was confined.

14. Q. At that time, were there other prisoners of war confined at the guard unit?
A. Yes, there were.

0854

15. Q. Did any member of the staff of the Fourth Fleet interrogate any of these prisoners of war?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Yes, someone did.

16. Q. Who?
A. The air staff officer at that time, Lieutenant Akai.

17. Q. On how many occasions did he come to question this prisoner?
A. I remember one occasion definitely, but I do not recall Akai coming afterwards.

18. Q. Were you present at that time when Akai came to the Forty-first Guard Unit?
A. I recall I was there.

19. Q. Did you accompany him to the brig and see him interrogate the prisoner?
A. Yes, I did.

20. Q. Subsequent to this occasion, did any other prisoners of war arrive at the guard unit?
A. When I went with Akai to the brig I saw six prisoners there for the first time. The six prisoners had been sent from Rabaul and confined there temporarily. Since that time in regard to the capture and confinement of prisoners, I would like to state that around the middle of March, part of March, was night bombing by the B-24's and similarly there was a repeated daytime bombing and night bombing by the B-24's. I reconcentrated every effort to meet the enemy but to our mortification, we were unable to shoot down a single plane during the daytime attack within the atoll. I recollect definitely that during the night raids in April there were three occasions when the planes were shot down inside the Truk Atoll and I'm (sure/not) whether they AG were shot down by night fighters which were active at that time or whether they were shot down by ground fire.

The witness was duly warned.

The commission then, at 11:30 a.m., adjourned until 9 a.m., Monday, November 29, 1948.

TWENTY-THIRD DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Monday, November 29, 1948.

The commission met at 9:25 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the twenty-second day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Asano, Shimpei, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

(Examination continued.)

21. Q. In response to the last question in Saturday's session you stated that you recalled definitely that there were three occasions during the night raids in April in which planes were shot down inside Truk Atoll. Were any prisoners captured?
A. Yes, a prisoner was captured. I do not know the details as to how many were taken in each occasion but what I do know is that at the beginning of June when I went to the prisoners I confirmed that there were five prisoners there who were all captured during the April raids.

22. Q. Do you know if these prisoners were interrogated?
A. I definitely remember that on one occasion when Akai came to the Guard Unit to interrogate one prisoner, I was present.

23. Q. Was it reported to you at any other time that Akai or any other member of the staff of the Fourth Fleet came to interrogate these prisoners?
A. Yes.

24. Q. Did the Forty-first Guard Unit inform any higher authority of the confinement or capture of prisoners of war at Truk by the Forty-first Guard Unit?
A. Naturally on each occasion it was reported.

25. Q. To whom was it reported up until May 1, 1944?
A. To the Commandant of the Fourth Base Force.

26. Q. Who was it you reported to after May 1, 1944?
A. To the Commander in Chief of the Fourth Fleet.

The accused moved to strike out this answer on the ground that it was an opinion of the witness.

The judge advocate replied.

The commission announced that the motion was not sustained.

27. Q. Do you recall an incident that occurred in June 1944 concerning prisoners of war?
A. I do.

28. Q. Can you state briefly what you know concerning this incident?
A. There was a daytime attack around the middle of June when the bombing was aimed at the Guard Unit, and we sustained a near hit on the stockade and by this bomb three out of the five prisoners were instantly killed. NB

29. Q. Was a report of their death made to any higher activity?
A. Immediately after I reported it.

30. Q. Do you know what happened to the remaining two prisoners?
A. Regarding the two prisoners who had survived as I recollect I became aware of the fact when Chief Surgeon Ueno told me about ten days after the bombing. I will give a gist of Ueno's report. Regarding the two prisoners Ueno realized by his judgment the need for an operation and he began to operate at the sick bay.

The accused moved to strike out this answer on the ground that it was an opinion of the witness.

The judge advocate consented to the striking out of this answer.

The commission directed that the answer be stricken out.

31. Q. Will you state whether these remaining two prisoners were alive on July 1, 1944?
A. No, they were not alive.

32. Q. Can you state on approximately what date they died?
A. About the lattermost part of June. They died after the operation at the sick bay.

33. Q. Did you report the death of these prisoners to any higher authorities?
A. I did.

34. Q. To whom?
A. Arima, at that time the Chief of staff.

35. Q. During the month of July of 1944 did any prisoners arrive at Truk?
A. They arrived.

0857

36. Q. Approximately when did they arrive?
A. As I recollect around the middle of July.

37. Q. Where did they come from?
A. Puluwat.

38. Q. Where were the prisoners confined when they arrived at Truk?
A. They were confined at the stockade of the Guard Unit.

39. Q. Was any report made to any higher authority concerning the confinement of these prisoners of war at the Guard Unit?
A. Yes.

40. Q. To whom was such report made?
A. To the Commander in Chief.

41. Q. Do you know if any officer from any higher echelon came to the Forty-first Guard Unit and saw these prisoners?
A. I do not recollect this fact at that time, but after the end of the war I am certain that I heard from Captain Imazato that he came to the Guard Unit two or three days after the confinement of the prisoners.

The accused moved to strike out this answer on the ground that it was hearsay.

The judge advocate made no reply.

The commission announced that the motion was not sustained.

42. Q. Who was Captain Imazato at that time?
A. At that time the Senior Staff Officer of the Fourth Fleet.

43. Q. Were any reports made to you by any members of the Forty-first Guard Unit at or near the time of the questioning that anyone had come down to interrogate the prisoners?
A. I have no such recollection.

44. Q. Will you state what you know concerning subsequent events regarding these Puluwat prisoners that were confined at the Guard Unit?
A. I do.

45. Q. State briefly what you know concerning what happened to these prisoners?
A. I ascertained the fact that about the fourth day of the confinement of the prisoners at the Guard Unit, through the request of the Fourth Naval Hospital, these prisoners were taken to the hospital and disposed of.

46. Q. Who reported to you that the Fourth Naval Hospital requested these prisoners of war?
A. At that time the acting Executive Officer, Nakase.

47. Q. What did Nakase report to you concerning this request?

This question was objected to by the accused on the ground that it was irrelevant, immaterial, and hearsay.

The judge advocate replied.

0858

The commission announced that the objection was not sustained.

A. On that day I was not at the Guard Unit and only came back in the evening. At that time Nakase gave the following report. I do not recollect the exact time but there was a telephone call from Iwanami, the head of the Fourth Naval Hospital and he wanted a physical examination and health test of the prisoners. Nakase hesitated to give a direct answer because the commanding officer was not present but Nakase asked Iwanami whether he had obtained approval from the Fourth Fleet headquarters and Iwanami replied that he had and that the transportation would be furnished by the hospital.

The accused moved to strike out this answer on the ground that it was irrelevant, immaterial, hearsay, and an opinion of the witness.

The judge advocate replied.

The commission announced that the motion was not sustained.

48. Q. Did Nakase report concerning whether the prisoners had been sent to the hospital?
A. I do not recollect as to the time but Nakase said that after the telephone call a truck came to take the prisoners, on which truck a petty officer was in command.

49. Q. Were these prisoners of war returned to the Guard Unit?
A. They were not returned.

The accused moved to strike out this answer on the ground that it was an opinion of the witness.

The judge advocate replied.

The commission announced that the motion was not sustained.

50. Q. Did you obtain any further reports or information concerning these prisoners at or near that time?
A. There was none on that date.

51. Q. Were there any on the following day?
A. There was.

52. Q. Will you state what report was made on the following day?
A. I am not definite as to whether I called Nakase or Nakase came on his own to me, but in his report at that time Nakase said the two prisoners who were taken to the hospital were disposed of eventually. To my question "How did you come to know about it" he answered "I heard from a medical officer whose name I do not remember, of the guard unit in the wardroom that the prisoners had been disposed of at the hospital and I was very much astonished."

The accused moved to strike out this answer on the ground that it was irrelevant, immaterial, collateral, hearsay, and an opinion of the witness.

The judge advocate consented to striking out this answer from the words "To my question, 'How did you come to know about it'" to the end of the answer.

The commission directed that the words "To my question, 'How did you come to know about it'" to the end of the answer be stricken out.

The commission then, at 10:20 a.m., took a recess until 10:45 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Asano, Shimpei, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination continued.)

53. Q. Did you at any time verify the report of the disposal of these two prisoners at the Fourth Naval Hospital with any officer of the Fourth Naval Hospital?
A. I verified it with Iwanami.

54. Q. Will you state when and the circumstances under which this incident was verified by the commanding officer of the Fourth Naval Hospital?
A. It was on August first when we assembled at the Fourth Fleet Headquarters for the cognizant officers conference.

55. Q. Will you state what occurred at that time between Iwanami and yourself with regard to this incident?
A. Before and after the incident there was no liaison from Iwanami to myself who was the responsible commanding officer. Accidentally I met Iwanami at the Headquarters and there I accosted him.

56. Q. When you say you accidentally met him, do you refer to this meeting on the first of August?
A. Yes, that is correct.

57. Q. Continue.
A. I asked Iwanami, "What circumstances necessitiated your taking the prisoners to the Naval Hospital without my previous knowledge as I am the responsible officer?" With an embarrassed manner Iwanami said, "I wish you to acknowledge this fact because it was approved by the Fourth Fleet Headquarters." As the problem was a little delicate I accepted his excuse.

The accused moved to strike out this answer on the ground that it was irrelevant, immaterial, incompetent, hearsay, and an opinion of the witness.

The judge advocate replied.

The commission announced that the motion was not sustained.

58. Q. Did you attend a conference of cognizant commanding officers in September 1944?
A. Yes, I did.

59. Q. Will you state who was present at this conference?
A. Those present were Commander in Chief Hara, Chief of Staff Sumikawa, and all the other staff members, and from the side of the cognizant officers at that time, Captains Kojima, Morita, Harada, Iwanami, Tamura, staff officer of the Twenty-second Air Force, and I do not remember the rest.

60. Q. Was anything stated at that conference regarding prisoners of war?
A. Yes, I remember hearing Iwanami speak a little.

61. Q. Will you tell us the circumstances at the conference surrounding Iwanami's statement and then tell us what Iwanami stated concerning prisoners of war at that conference?
A. Iwanami spoke almost at the conclusion of the conference. In my recollection it was just after Captain Harada opined regarding the effectiveness of spears. Spurred on by this question Iwanami as a conclusion said that as a result of the experiment with spears on the prisoners they were found to be ineffective.

62. Q. Did he make any further statement concerning the spears?
A. I remember very faintly him saying as a conclusion that the bayonet was the best and next spears with wooden handles and spears without wooden handles were not effective.

63. Q. Had the question of spears come up at any prior monthly conference?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I think it was three or four months earlier that questions came up regarding the carrying of ordinary weapons for the non-combatants and it was decided that to leave them without anything was inadvisable and some sort of weapon should be carried, and spears would be the best, and the hospital and the construction department personnel should carry the spears, and at the time of the cognizant officers conference on September first, training had already begun.

The accused moved to strike out this answer on the ground that it was irrelevant and immaterial, an opinion of the witness, and hearsay.

The judge advocate replied.

The commission announced that the motion was not sustained.

64. Q. Subsequent to this conference held three or four months prior to this September conference, at any other conference prior to the September conference, was any report made concerning the training of the hospital personnel or the construction battalion personnel?
A. No, there was none.

0861

65. Q. Where were you in relation to Admiral Hara's position at the time Iwanami made his report concerning the disposal of prisoners of war?
A. I cannot recollect clearly.

66. Q. After Iwanami made his report concerning the spearing experiments on prisoners of war, did Admiral Hara make any public statement at the conference? DB

This question was objected to by the accused on the ground that the judge advocate was testifying and that it called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. He did not say anything at all. I have the impression that when Iwanami spoke it was already at the end of the conference and those present were very restless and those who heard Iwanami's statement conscientiously was not even half of those present.

The judge advocate moved to strike the words "I have the impression that when Iwanami spoke it was already at the end of the conference and those present were very restless and those who heard Iwanami's statement conscientiously was not even half of those present" out of the answer on the ground that they were opinion and not responsive. AG

The commission directed that the words be stricken out.

67. Q. At any time subsequent to this conference did the Commander in Chief of the Fourth Fleet ever make any comment to you, the commanding officer of the Forty-first Guard Unit, concerning this experimental spearing of prisoners of war?
A. No.

The accused moved to strike out this answer on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the motion was not sustained.

68. Q. You have testified concerning the fact that the Forty-first Guard Unit reported to the Fourth Base Force during its existence and subsequently to the Fourth Fleet after the dissolution of the Fourth Base Force when prisoners of war were confined at the Forty-first Guard Unit. Will you state whether such reports were always made during your tour of duty when prisoners of war were confined at the Guard Unit?
A. Yes, they were.

69. Q. During your tour of duty did you ever receive any orders from the Fourth Fleet with regard to safeguarding or protecting prisoners of war?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

0862

The commission announced that the objection was not sustained.

A. It is a natural responsibility of the commanding officer of the guard unit whether there is an order or not to protect and safeguard prisoners of war.

The commission directed that this answer be stricken out on the ground that it was not responsive and directed the witness to answer the question.

A. No, there were none.

The witness was duly warned.

The commission then, at 11:25 a.m., took a recess until 2:10 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Asano, Shimpei, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

Cross-examined by the accused:

70. Q. You testified that on the occasion of your appointment there were no orders or directions from the Fourth Base Force and the Fourth Fleet regarding the treatment of prisoners, but did you receive orders or directions from higher authorities other than the Fourth Fleet or the Fourth Base Force regarding the treatment of prisoners?
A. Do you mean after my appointment or are you not interested in the date?

71. Q. During the time you were briefed and after that.
A. After my appointment there was no order or direction.

72. Q. What about during your tour of duty?

This question was objected to by the judge advocate on the ground that it was repetitious.

The accused replied.

The commission announced that the objection was not sustained.

A. There was none.

73. Q. Did you not receive directions or orders regarding the sending of prisoners back to Japan as soon as possible, from central authorities?
A. There were no orders at the time of my appointment and during my tour of duty.

74. Q. As the commanding officer of the Forty-first Guard Unit, on what basis did you handle the prisoners?

This question was objected to by the judge advocate on the ground that it was vague.

The accused withdrew the question.

75. Q. You said that you received no orders or directions from the Fourth Fleet or the Fourth Base Force or the Central authorities during briefing or after that. Then on what did you base your treatment of prisoners?

This question was objected to by the judge advocate on the ground that it was too vague and general.

The accused replied.

The commission announced that the objection was not sustained.

A. During my tour of duty as head of the personnel replacement department, I was aware of the fact that submarine prisoners and many others were confined and sent back, and I was sure that liaison work, measures and policy regarding prisoners were very thorough. I believe it was around the beginning of December 1943 when the chief intelligence officer of the Third Department, General Staff spoke to an assembly of high ranking officers aboard the battleship MUSASHI, that according to the desires and opinion of the general staff, the prisoners should be sent back to Japan as soon as possible.

The judge advocate moved to strike out this answer on the ground that it was opinion, vague, and outside the scope of the direct examination.

The accused replied.

The commission directed that the answer be stricken out as it was rambling, vague, and not responsive to the question asked.

76. Q. After you resumed duties in February you testified that a prisoner was captured, what happened to this prisoner subsequently?
A. In the beginning of March he was sent back to Japan on a flying boat.

77. Q. After that time you testified that six POWs were temporarily on their way back to Japan from Rabaul. What happened to these prisoners?
A. About the time that one prisoner was sent back, they were also sent back.

78. Q. How was the treatment of the one prisoner and the six other prisoners during their confinement?

This question was objected to by the judge advocate on the ground that it was irrelevant, immaterial, too vague and general.

The accused replied.

The commission announced that the objection was not sustained.

0864

A. The brig was very small and uncomfortable, and I was sorry for them, but although I may not have had any intentions to treat them well, at no occasion did I ever intentionally treat them badly, or had I heard or seen any case of their bad treatment.

79. Q. On about two occasions you have testified that Akai came to the Guard Unit to interrogate the prisoners; actually, how many times did Akai come to the guard unit, once or twice?
A. I am not clear whether you are pointing out to the incident when Akai came to interrogate the one prisoner who was captured after the air raid or whether you are referring to prisoners in general. I would like to have that made clear.

80. Q. To prisoners in general.
A. It was about three times that I actually knew about his coming and that was when I was at the headquarters, but I am positive that he came several times during my absence, therefore I do not know how many times he actually came.

81. Q. You testified that when the prisoners were confined at the Forty-first Guard Unit this was reported to the Fourth Fleet Commander in Chief, but did you personally report to the Commander in Chief?
A. On no occasion did I personally report this matter.

82. Q. You testified that regarding the five prisoners that were confined around the middle of June, their deaths were reported to the higher authorities soon after, but what was the content of this report and to whom did you report?

This question was objected to by the judge advocate on the ground that it was not an accurate statement of the witness' testimony and was misleading.

The accused withdrew the question.

83. Q. What sort of report did you make regarding the three prisoners that were killed first?
A. After investigating the damages sustained by the bombing, I had this reported by telephone to the headquarters immediately after the bombing.

84. Q. You testified that around the end of June, two prisoners had died after an operation. How did you learn of this fact?
A. As I have testified earlier, it was by the report made by Chief Surgeon Ueno that I first became aware of this fact.

85. Q. What did Ueno report to you. Please state briefly.
A. In order that the important factors of this report may be clearly understood, I shall make the following statement: As I recollect I am sure that the time was in the morning before the noon meal around 11 o'clock. The report was made not in my room, but just outside the administration building entrance before I was coming up the stairs. "1. Realizing that the operation was necessary for the surviving two prisoners, I performed this. The result was bad and it was a failure." I was very dubious about that statement and I asked him whether they were dead and that if both had died. "In one respect you may say that they died, but I admit that the operation was not proper and it was not a proper measure for the symptoms shown." When I asked him wasn't that your intention from the beginning, he answered "I started the operation with no such intention, but during the course of the treatment, it became complicated and troublesome. I operated with a feeling that I did not care if they died." I told him that it was contrary to what he had previously said and he looked ashamed and said "It was my fault and I deeply apologize" and he went away.

0865

86. Q. You said that you reported the two deaths of the prisoners to Arima who was Chief of Staff at that time, but when and where was this and what was its contents?
A. Time was not that day, but the next day or the day after. The place was the headquarters where I went for a different purpose. It was at the headquarters in the corridor adjacent to the dining room which had chairs and tables placed for accomodating persons awaiting during a session. I am not sure about the place at headquarters where this took place. The gist of the report I made is as follows: regarding the confining of the prisoners of war, two or three days after the bombing they did not eat, had no appetite, and were shivery and I said "that those two had survived the bombing when the other three had died, and this miracle might naturally cause such symptoms." Such being the case although I had a faint hope that they might recover, I reported to Arima the main points of Ueno's report I testified to previously.

87. Q. You testified that in July 1944 prisoners came from Enderby (T.N.- Puluwat) to Truk. How many prisoners were there?
A. Two prisoners.

88. Q. Were the two prisoners captured by the Navy unit or an army unit? Do you know?
A. I know. They were captured by and confined by an army unit in Enderby. I know of this fact from a report and it also said that they were given adequate treatment after which the prisoners had recovered and came to Truk in that condition.

The commission then, at 3:15 p.m., took a recess until 3:40 p.m., at which time it reconvened.

Present; All the members, the judge advocate, the accused, his counsel, and the interpreters.

Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Asano, Shimpei, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Cross-examination continued.)

89. Q. As you said that the prisoners from Puluwat were received from the Army Unit, then would it not mean that you as a custodian of these prisoners were responsible to the Army unit during their confinement?

This question was objected to by the judge advocate on the ground that it was not proper in form and called for an opinion of the witness.

The accused withdrew the question.

90. Q. Was there any difference regarding the treatment of prisoners when they were received from an Army Unit and when they were captured by the Navy units?
A. From the point of view of the responsibility of the commanding officer, there is no difference regarding the treatment of prisoners in any way.

91. Q. Do you recall the procedures taken in receiving those prisoners from the Army unit?

This question was objected to by the judge advocate on the ground that it was a misstatement of prior testimony. AB

The accused withdrew the question.

92. Q. Under what circumstances were these prisoners confined at the Forty-first Guard Unit?
A. We confined the prisoners by orders from the Fleet headquarters and either they might be sent from the Army unit or a Navy unit, it was the same.

93. Q. You testified that you reported to the Fourth Fleet Headquarters when you confined these prisoners at the Guard Unit. Then, what did you report?
A. I reported that the prisoners were safely confined and there was no special circumstances.

94. Q. Other than these two prisoners sent from the Army Unit were there any other prisoners sent by the army unit?
A. At that time I had no such recollection but after the end of the war I heard that a prisoner captured on Truk by an Army unit was sent to the Guard Unit and this was told to me by the Army headquarters.

95. Q. During the period of confinement of the prisoners from Puluwat were there any army personnel who came to the Guard Unit for liaison?
A. Whether the prisoners were captured by the Army or Navy Unit the Army personnel would come to investigate, but I do not remember clearly but they must have come at least once.

96. Q. Is it not a fact that regarding prisoners captured by the Army you were to receive orders from the Army?
A. No.

97. Q. You heard from Nakase that the prisoners who were executed at the hospital did not return. Did you not take positive action to investigate the fact that they did not return? AB
A. It is as you said, I did not take positive action. I had a reason for not taking any action but I do not wish to voluntarily give that reason. I should have taken positive action, but I did not.

98. Q. Regarding the approval of the Fourth Fleet, did you not confirm this fact?

This question was objected to by the judge advocate on the ground that it was vague.

The accused withdrew the question.

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99. Q. Nakase told you that Iwanami had said during his telephone conversation that he had obtained the approval of the Fourth Fleet with regard to the prisoners of war. Did you not ascertain from the Fourth Fleet whether or not this approval had been given?
A. I did not ascertain.

100. Q. When Nakase said that the two prisoners were executed did he tell you that as a formal report or just in conversation?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused withdrew the question.

101. Q. From the time when you heard of the execution of the two prisoners at the hospital and to the time of the August 1 conference how many days elapsed?
A. There should have been five or six days.

102. Q. When was this incident?
A. According to my memory at that time and what I ascertained after the end of the war it was on the twenty-third or the twenty-fourth.

103. Q. As soon as you heard about the execution of the prisoners did you not call up the hospital immediately and ask them the reason?
A. No, I did not.

104. Q. Was there any special reason for not asking?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. I have many reasons.

105. Q. State them briefly.

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained, and it would hear the answer subject to a motion to strike.

A. 1- As a responsible commanding officer I did not know whether I was ignored intentionally or accidentally but this was not a sudden occurrence and Iwanami had the obligation to inform me and Iwanami neglected to do this and I was perturbed to find that he ignored my responsibility. 2- I was angry because he publicly deceived me. What I mean by that is he said at the start was that he wanted to take the prisoners because he wanted to make a physical examination and health test. Despite this fact he had from the beginning the intention to execute them. 3- Therefore, it was only natural that Iwanami should have come to me to apoligize and I waited till he would come.

106. Q. Is it your imagination that you thought Iwanami intended to execute them from the beginning and just gave the excuse to make a physical examination?
A. It is not my imagination. I learned of this fact when Nakase reported to me.

107. Q. Then did Nakase report to you that Iwanami wanted to execute the prisoners from the beginning but gave the excuse that he wanted to make a physical examination?
A. That is not so.

108. Q. You testified that at the September 1 conference Iwanami mentioned about spear experiments. Was that one of the topics on the agenda for the conference?
A. No, that is not so.

109. Q. At the beginning you testified that one of the prisoners was sent back to Japan and about the same time six others were also sent back. After that time were there any prisoners sent back to Japan?
A. There was one.

110. Q. When was that?
A. In January 1945.

The witness was duly warned.

The commission then, at 4:25 p.m., adjourned until 9 a.m., tomorrow, Tuesday, November 30, 1948.

TWENTY-FOURTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Tuesday, November 30, 1948.

The commission met at 9:15 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the twenty-third day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Asano, Shimpei, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Cross-examination continued.)

111. Q. Admiral, before you took over command of the Guard Unit, what was your position and duty?
A. Head of the First Personnel Replacement Department.

112. Q. Are you well qualified in personnel work then?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial and beyond the scope of the direct examination.

The accused replied.

The commission announced that the objection was sustained.

113. Q. Are you well acquainted with the Japanese Navy Regulations?
A. What do you mean by the Naval Regulations, I want to know the scope of them.

114. Q. Are you acquainted with the Japanese Navy Regulations regarding prisoners of war, their treatment and custody?
A. I glanced over them but I do not remember the contents right now.

115. Q. Do you remember if the regulations contain a policy regarding prisoners of war?

0870

The judge advocate objected to the use of the word "policy" in the question.

The accused replied.

The commission announced that the objection was not sustained.

A. I do not recall clearly what the policy was.

116. Q. As the commanding officer of the Guard Unit did you have a definite policy regarding the custody, care, and treatment of prisoners of war?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial and called for an opinion of the witness.

The accused replied.

The commission announced that the objection was not sustained.

A. I always had a belief that prisoners should be treated humanely.

117. Q. Did you do anything to implement your policy regarding prisoners of war while they were in your custody and care and during the time you were responsible for them at the Guard Unit?

This question was objected to by the judge advocate on the ground that the witness had not stated he had a "policy" but merely that he had a belief.

The accused replied.

The commission announced that the objection was not sustained.

A. I firmly believed that it was carried out according to my policy.

118. Q. Did you appoint Lieutenant Commander Nakase as officer in charge of the prisoners of war while you were at the Guard Unit?
A. I did not specifically appoint him. After my appointment I assumed that the responsible men carried out the duties of confinement and protection of prisoners, and on this point I regret that I was not careful enough.

119. Q. Who was the officer that was in charge of the prisoners of war at the Guard Unit?
A. I did not specifically appoint anyone.

120. Q. Were these six prisoners of war that you testified were sent back about the same time this one prisoner was sent to the Japanese homeland, were they sent to the Japanese homeland in accordance with orders or a policy of the Japanese Navy?

This question was objected to by the judge advocate on the ground that it was misleading and that the witness was incompetent to answer this question.

The accused replied.

The commission announced that the objection was not sustained.

0871

A. At the time of my appointment due to the fact that prisoners were confined in a very narrow space and it was not a regular place of confinement, the responsibility of custody of the prisoners which we assumed was of a very temporary nature. As it was a temporary place of confinement in a military establishment it was necessary to send them back as soon as possible, and I definitely remember having heard of this policy at headquarters, and circumstances being such, I personally told Ishii during the time Nakase was sick to send back the prisoners as soon as possible.

The judge advocate moved to strike the words "I definitely remember having heard of this policy at headquarters" out of the answer on the ground that no foundation had been laid as to existence of such a policy and that the witness' testimony was incompetent.

The accused replied.

The commission announced that the motion was not sustained.

121. Q. Now, Admiral, when you were present with Air Officer Akai when he interrogated this one prisoner, was there any mistreatment of this prisoner at that time?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. No, there was none.

122. Q. And was the prisoner fully protected?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial and called for an opinion of the witness.

The accused replied.

The commission announced that the objection was not sustained.

A. I do not understand the question. Do you mean the guard was nearby?

123. Q. Was the prisoner fully protected from any mistreatment?
A. There was no one around who would mistreat the prisoners and therefore I never worried about it.

The judge advocate moved to strike out this answer on the ground that it was an opinion of the witness and that it was clearly contrary to the facts of this case as established by the record.

The accused replied.

The commission directed that the answer be stricken out.

124. Q. Admiral, you testified that while you were away Iwanami got two prisoners from the Guard Unit. For what purpose were you away from the Guard Unit at that time?
A. I was away on another island on official duties.

0872

125. Q. Now, at the time that Doctor Ueno performed this operation which you testified he told you about, were you at the Guard Unit that day or were you absent from the Guard Unit?
A. Because I do not recall ever going to other islands when Ueno made his report, I definitely believe that I was at the Guard Unit.

126. Q. Did you order Doctor Ueno to perform this operation?
A. No, I did not.

127. Q. Were you present when he performed the operation?
A. Of course I did not know.

128. Q. You testified that Doctor Ueno had said that an operation had been performed on the two prisoners of war. Are you sure that he told you that?
A. I am quite certain.

129. Q. Did you ever find out that this was not the way that the prisoners had been disposed of?

This question was objected to by the judge advocate on the ground that it was too vague as to time.

The accused reframed the question.

130. Q. During the time that you were commanding officer of the Guard Unit did you ever find out that these two prisoners had been disposed of in any other way than by operation that Doctor Ueno had told you he performed on them?
A. Nobody told me so I did not know.

131. Q. Are you sure you did not order one of these prisoners to be stabbed by Doctor Ueno, Nakase, Nagashima, and Tanaka?

This question was objected to by the judge advocate on the ground that it was multiple.

The accused replied.

The commission announced that the objection was not sustained.

A. No, I did not order them to do so.

132. Q. Were you present when such an incident took place on June 20, 1944?
A. I did not know.

133. Q. The question is were you present at the scene at the time when such an incident took place?
A. No, I was not present.

134. Q. Did you ever order the beheading of a prisoner of war at the Guard Unit on June 20, 1944?
A. No, I did not.

135. Q. Were you present when such an incident took place?
A. No, I was not present.

136. Q. Now, you testified that after May 1, 1944 some reports were made to the Commander in Chief and some to the chief of staff. Why were some reports made direct to the Commander in Chief and others made to the chief of staff regarding prisoners of war?

0873

A. The procedure may have differed but the reports were all made to the responsible Commander in Chief. That was generally the custom and tradition of the Navy.

137. Q. Were these reports regarding prisoners of war ever made as written reports after May 1, 1944?
A. I do not recall any written report. All the reports were done orally or by telephone.

138. Q. They were all done orally and by telephone by your subordinates and never by you?
A. Actually in most cases the reports were made by the Executive Officer.

139. Q. That was Lieutenant Commander Nakase, was it?
A. Sometimes it was done by Nakase and some by Ishii and it was not necessarily Nakase who made the report. When Lieutenant Commander Akutagawa was the Executive Officer he also reported.

Reexamined by the judge advocate:

140. Q. On cross-examination you have testified that certain prisoners of war were transported back to Japan. Was any request made by the Forty-first Guard Unit from any higher authority for transportation for any of these prisoners?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. In most cases we had communication with headquarters and advised the headquarters to expedite their transportation but I cannot state definitely that the prisoners were sent back to Japan at our request on each occasion.

141. Q. You referred to headquarters. The headquarters of what organization are you referring to?
A. At the time when the Fourth Base Force was existing the Headquarters implies the Fourth Base Force Headquarters, and after the deactivation of the Fourth Base Force, by Headquarters I mean the Fourth Fleet Headquarters.

The accused did not desire to recross-examine this witness.

The commission did not desire to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The commission then, at 10:15 a.m., took a recess until 10:30 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

0874

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. Will you state your name and former rank in the Japanese Navy?
A. Surgeon Commander Ueno, Chisato.

2. Q. If you know the accused, state as whom?
A. Former Vice Admiral Hara.

3. Q. When did you arrive on Truk Atoll?
A. 16 May 1944.

4. Q. To what organization were you attached?
A. Forty-first Naval Guard Unit.

5. Q. Whom did you relieve at the Forty-first Naval Guard Unit?
A. I relieved Chief Surgeon Iino.

6. Q. Were you the senior medical officer at the Guard Unit after you relieved Iino?
A. I was acting chief surgeon.

7. Q. When you relieved Iino, did you discuss any prisoner of war matters with him?
A. I heard about it.

8. Q. What did you hear from Iino?
A. I heard as follows: On that year around January at the sick bay of the Forty-first Naval Guard Unit, some personnel of the Fourth Naval Hospital experimented on prisoners of war.

The accused moved to strike out this answer on the ground that it was irrelevant, immaterial, an opinion of the witness, and hearsay.

The judge advocate replied.

The commission announced that the motion was not sustained.

9. Q. After you assumed your duty as acting chief medical officer at the Guard Unit, did you hear of any incidents which occurred on February 17, 1944?

This question was objected to by the accused on the ground that it called for an opinion of the witness and a hearsay answer.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Is that the incident which took place at the Guard Unit while Captain Tanaka was the commanding officer? AB

10. Q. Yes. Tell us what you knew about this incident and how you knew it.
A. I do not recall the time, but I heard from a person during general conversation at the wardroom that at the time of the American Task Force raid on Truk, and when preparations for land warfare was called, seven or eight prisoners of war were killed at the Guard Unit. Around that time one day while I was talking with the Commanding Officer Asano in his room, I heard from him the circumstances of that incident.

0875

The accused moved to strike out this answer on the ground that it was irrelevant, immaterial, and hearsay.

The judge advocate replied.

The commission announced that the motion was not sustained.

11. Q. Did anything unusual occur involving prisoners of war during the month of June 1944 at the Guard Unit?
A. About 17 June 1944 a raid by American planes was made and a near hit by a bomb on the prisoners of war compound, and at that time five prisoners of war were confined there, and three died from this bomb, and two survived. Concerning the two who survived, about three days later these two prisoners were executed at the Guard Unit.

12. Q. Will you state your recollection of the events leading up to this and surrounding this execution of these two prisoners of war at the Guard Unit?
A. The beginning of the whole thing was that these two prisoners of war who survived were greatly affected by the bombing and they were weak that day. That is when they were wounded by the bomb. I saw them and I could not find any very obvious changes externally, but I thought that internally they might be injured, so I reported to the then Commanding Officer Asano that I had to have the prisoners under observation. For the next two full days every day I went to this prisoners of war compound and observed concerning the condition of these two prisoners of war. I heard at the wardroom that these prisoners before the bombing were very restless and hypersensitive, but their condition as I observed them after the bombing was that they slept very soundly. About a day after the bombing, one of these prisoners showed signs of getting well, and I thought he would be all right, but the other continued to sleep and showed signs of getting weaker. I observed what I have said about, and I thought that according to circumstances I might have to perform an exploratory operation. I think it was around 20 June, it was about three full days after the bombing, after the noon meal while I was returning to my room from the wardroom about 1:30, Executive Officer Nakase, who was standing at the entrance of the commanding officer's room, called to me and he informed me the orders of the commanding officer to dispose of the prisoners of war at the sick bay right away or immediately.

The accused moved to strike out this answer on the grounds that it was irrelevant, immaterial, hearsay, and an opinion of the witness.

The judge advocate replied.

The commission announced that the motion was not sustained.

(The witness continued his answer as follows:)

At that time, without thinking, I asked "has it come even to this?"

The judge advocate moved to strike this continued portion of the witness' answer and requested the commission to direct the witness to confine his answer to a brief statement of what occurred.

The commission announced that the motion was not sustained, and instructed the witness to attempt to confine himself to a more direct narrative of the relevant points of the incident. AB

(The witness continued his answer as follows:)

Therefore, I again asked, what I was thinking as to these patients was that I believed only one required operation "can I operate on him at this time?" To this the Executive Officer Nakase then said "Do as you think fit." I departed and I went to the sick bay thinking along the way. About 1:30, I made sure that there were no other plans and had the prisoner prepared for the operation. At about 1:30 I began the operation under a general anaesthetic. The operation lasted about forty minutes and near the end of this operation it became very noisy outside the sick bay, and at the same time, a general assembly was called. As soon as I heard this, I heard someone from outside call out "we'll take this prisoner," and the other prisoner of war was carried off.

The accused moved to strike out the last portion of the answer on the ground that it was merely an opinion of the witness.

The judge advocate replied.

The commission announced that the motion was not sustained.

(The witness continued his answer as follows:)

When I first was told of the commanding officer's order from the Executive Officer Nakase, I sensed that the matter of the disposal was being handled very secretly. During the operation I felt that it was now coming out in the open. The operation was nearly over and as I heard a voice from the outside say "bring the other prisoner of war." Later, about twenty minutes later I had this prisoner of war taken to the place in back of the sick bay which was designated as a place of assembly.

The accused moved to strike out this portion of the answer which dealt with the witness' feeling that the disposal of the prisoners was being handled secretly and his alleged subsequent feeling that the matter was now coming into the open.

The judge advocate consented to the striking of the words "when I first was told of the commanding officer's order from the Executive Officer Nakase, I sensed that the matter of the disposal was being handled very secretly. During the operation I felt that it was now coming out in the open."

The commission directed that this portion be stricken out.

The commission announced that there were scattered portions of the remaining answer of this answer which were perhaps properly objectionable, but in view of the difficulty of striking such portions from the acceptable portions of the witness' answer, the commission would accept the answer in evidence giving due weight to the portions which are relevant and properly admissible.

The witness was duly warned.

The commission then, at 11:35 a.m., took a recess until 2:10 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.

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No witnesses not otherwise connected with the trial were present.

Ueno, Chisato, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination continued.)

13. Q. You testified this morning concerning an operation which took place on or about the twentieth of June 1944. Will you state what portions of the body of the prisoner of war were operated upon?
A. His stomach, the nail of the right toe, his testicles, his right thigh, and his right chest.

14. Q. You testified that you had this prisoner taken to the back of the sick bay. Was this subsequent to the operation?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the ~~operation~~ objection was not sustained. AB

A. It was after the operation on one prisoner.

15. Q. Prior to the time that you had this prisoner taken to the rear of the sick bay, did you sew up the incisions in the right chest of the prisoner?

This question was objected to by the accused on the ground that it was leading.

The judge advocate made no reply.

The commission announced that the objection was sustained.

16. Q. When you completed your operation on the prisoner, did you sew up those portions of the prisoner on which you had operated?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was sustained.

17. Q. What is the general procedure after an operation with regard to incisions which have been made on the body during an operation?
A. After sewing up the incisions, gauze and disinfectants are applied to the wounds, and bandages are applied.

18. Q. Was this normal procedure followed after this operation on this prisoner of war?
A. A temporary sewing was executed and bandages applied.

19. Q. Was the temporary sewing executed with regard to all incisions?

0878

A. The sewings were done for the stomach and the scretum, but for all the other portions where incisions were made, namely the toenail, the right chest and the right thigh, as these incisions were only 1½ centimeters in length they were not sewn up.

20. Q. You used the term "temporary" suturing. What do you mean by the term "temporary"?
A. Suturings that are executed for the purpose of merely keeping the wound from coming apart are called temporary and when executed for a second time when the wounds are completely closed then they are given another name.

21. Q. At the time you performed this operation you testified that you had previously received orders from Makase to dispose of the prisoners of war at the sick bay right away. What was your purpose in performing this operation?

This question was objected to by the accused on the ground that it was irrelevant, immaterial, and called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. These prisoners had been under my observation for a full two days and to me they were more patients than prisoners and this sudden order to dispose of them should have provoked a stronger opposition to the order than what actually transpired. Of course I did not have the confidence nor the desire to dispose of these men by my own hand. What occurred was that I asked whether I could put into execution certain steps that I had been considering and asked if such steps could be taken. It was because of this very fact that I gave way to my willfulness that I am faced with my present fate and I fully realise today the great mistake that I did make. I am not attempting to evade responsibility for what I did and I am not trying to make up a case for my own self in my testimony here today.

The commission directed the witness to be more responsive in answering the question.

(The witness continued his answer as follows:)

My purpose in conducting this operation was the idea to realise the idea that I had had about this operation from some time past. As I answered in my interrogation I was aware even while I was conducting these operations that I could be affecting some benefit for the subordinates who were assisting me.

22. Q. One of your purposes for conducting this operation was for the instruction of your subordinates, is that correct?
A. No, I was not thinking about that at that time.

23. Q. What do you mean when you say that you were considering the benefits to your subordinates of this operation?
A. If my subordinates were to gain anything by observing what I was performing they would stand to gain.

24. Q. How many subordinates were present at this operation?
A. I believe five or six.

25. Q. What did you observe subsequent to the time that this prisoner of war was taken out in back of the dispensary?

0879

A. After it was reported to me that everything was in readiness I went to the field lazarette and there I saw one prisoner. The other I did not witness.

26. Q. Did you see what happened to this prisoner?
A. He was inside the field lazarette and he was resting on an operation table.

27. Q. Then what happened?
A. I looked over his whole body and I noticed that he was suffering from paronichia of the right toe and I decided that I would start with that and put him under general anaesthetic.

28. Q. I believe you misunderstood the question. The question I asked was what did you observe after the operation with regard to the prisoner back of the sick bay?
A. He was executed.

29. Q. Will you state what you saw?
A. When I went to the scene of the execution there were assembled there subordinates of mine such as Lieutenant (junior grade) Eriguchi, Chief Nurse Kobayashi, Ensign Yoshimura, and other persons. At the scene there were present those who had witnessed the first execution but it did not appear as though an execution were about to take place. In the meantime Eriguchi had approached me and I told him to the effect that it might be better if his pain were alleviated. This prisoner was subsequently decapitated by Eriguchi.

30. Q. Did you observe this decapitation?
A. I did.

31. Q. Which of the two prisoners of war was this one?
A. It was the prisoner who had been operated upon by myself.

32. Q. You spoke of the first execution which had occurred prior to the execution of the prisoner you operated on. Who was executed in that first execution?
A. The other prisoner of war.

33. Q. How was he executed?
A. When I was walking toward the scene of the execution I met some persons coming away from the execution and I heard them talking among themselves that the prisoner had been stabbed.

The accused moved to strike out the two preceding answers on the ground that they were hearsay.

The judge advocate replied.

The commission directed that the two preceding answers be stricken out.

34. Q. Did you make any report concerning your operation on this prisoner of war?
A. I reported that evening to the commanding officer.

35. Q. Did you report anything concerning the disposal of these prisoners of war?
A. I reported on the operation and the execution conducted by Eriguchi after the operation, and I told the commanding officer that the other prisoner had been executed by another group.

36. Q. In July of 1944 did you learn of the arrival of any prisoners of war?
A. I witnessed.

37. Q. Did you have a conversation with anyone concerning these prisoners of war?
A. I heard the executive officer talking about this matter in the wardroom on that day.

38. Q. What was said?
A. It was around the eleventh of July and the time was about noon and at meal time and we were assembled in the wardroom. Executive Officer Nakase came from the commanding officer's room and he seemed to be excited and he was speaking in a raised tone of voice. He was saying that two prisoners were to arrive at the Guard Unit, that he had received telephone communication to that effect from headquarters. He was also saying that after the June bombings there were no adequate quarters for these prisoners, furthermore that they were prisoners of war in the hands of the army and that the reason why the Guard Unit had to take care of them was the warmhearted diplomacy of headquarters and he was cursing roundly. What I heard at that time is what I have given you just now.

The judge advocate moved to strike out this answer on the ground that it was irrelevant and immaterial.

The commission directed that the answer be stricken out.

39. Q. Other than this conversation did you converse with any other person with regard to these prisoners of war who arrived in July 1944?
A. This prisoner of war who arrived in July. Soon after the conversation referred to above I saw the prisoners arrive at the gate of the Guard Unit. On the evening of the same day Executive Officer Nakase came into the room to make a telephone call while I was resting on the veranda outside of the wardroom and he asked me if, as Chief Medical Officer, I would not phone the Fourth Hospital and ask if they required any prisoners of war. I, thereupon, took up the phone and called up the hospital and requested that I be connected with the adjutant and I told the adjutant that I had been requested by the executive officer to inquire whether the head of the Fourth Hospital required any prisoners of war. The adjutant thereupon said that as the telephone to the room of the head of the hospital was out of order that if I, Ueno, would wait for the answer. I told him that the answer should be given to the executive officer and hung up.

The accused moved to strike out this answer on the ground that it was irrelevant, immaterial, and hearsay.

The judge advocate replied.

The commission announced that the motion was not sustained.

40. Q. Subsequent to this time did you have any conversation with the Fourth Hospital with regard to these prisoners of war?
A. No.

41. Q. Prior to this time had you had any conversation with the commanding officer of the Fourth Naval Hospital with regard to any other prisoners of war?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Yes, I had spoken to him about matters concerning prisoners of war.

42. Q. Can you state when this conversation occurred and what you reported to him?
A. As I recollect it was on the first or second of July 1944. The Head of the Fourth Hospital had conducted a sanitation inspection of the Guard Unit, and on his way home he invited me to take a walk with him as far as the Sixth Submarine Base Force, and on our way to the Base we talked about prisoners of war.

43. Q. What did you talk about in connection with prisoners of war?
A. The Head of the Hospital said that he desired to know more about the kidneys of the prisoners of war and that he would like cooperation on the part of the sick bay at the Guard Unit.

The accused moved to strike out this answer on the ground that it was irrelevant, immaterial, and hearsay as to this accused.

The judge advocate replied.

The commission announced that the motion was not sustained.

The commission then, at 3:15 p.m., took a recess until 3:40 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Ueno, Chisato, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination continued.)

44. Q. Did you report to the Chief Medical Officer of the Fourth Fleet the operations of June 1944?
A. I did not.

45. Q. Did you at any subsequent time inform the Chief Medical Officer of the Fourth Fleet that you had performed operations upon these prisoners of war?
A. I told the Chief Medical Officer after my conversations with him that I had conducted some indiscreet operations on prisoners of war at an inopportune moment. MB

The accused moved to strike out this answer on the ground that it was irrelevant, immaterial and hearsay.

The judge advocate replied.

The commission announced that the motion was not sustained.

46. Q. You have testified that a general assembly was held at the Guard Unit at the time of the execution of the prisoners of war in back of the dispensary. How many persons were present at that general assembly?
A. I do not recall the number of persons present.

47. Q. Can you approximate the number of persons present at this general assembly?
A. There were persons assembled along forty or fifty meters of the road and field.

The accused moved to strike out this answer on the ground that it was irrelevant, immaterial, incompetent, and conclusion and conjecture of the witness.

The judge advocate replied.

The commission announced that the motion was not sustained.

48. Q. Can you approximate the number of persons present in these forty or fifty meters of ground that they occupied?
A. There may have been forty or fifty persons.

Cross-examined by the accused:

49. Q. As a doctor what do you specialise in, is it surgery or internal medicine?
A. In general I specialised in surgery.

50. Q. You testified that the two prisoners of war who survived the June 17 bombing did not seem to be suffering externally. Is it then correct that their injuries, if any, were of an internal nature?
A. Even if the evidences are not very obvious externally, it does not follow that the injury or injuries is or are of an internal nature.

51. Q. Did you not at that time consider hospitalising these prisoners at the Fourth Naval Hospital?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused made no reply.

The commission announced that the objection was not sustained.

A. I did consider their hospitalisation.

52. Q. You testified that after you had examined the prisoners subsequent to the air raid, you made a report to Commanding Officer Asano. Did Asano make comments on that report?
A. He did not go beyond acknowledging the report.

53. Q. Did you subsequent to that make any reports to Commanding Officer Asano on the condition of the prisoners of war?
A. I do not have a definite recollection but I believe that I did not report nor talk about their condition after that time.

54. Q. Will you please state as definitely as possible what you recall of the conversation you had with Executive Officer Nakase on 20 June 1944 concerning prisoners of war?

A. He said, "This is from the commanding officer, you are to dispose of these prisoners of war at the sickbay".

55
56. Q. Were you senior in rank to Nakase? AS
A. Soon after I assumed my office I was taken ill and I had just gotten out of bed at that time and I did not ascertain who was senior nor did I have any desire to ascertain who was actually senior.

56. Q. And from what you learned later who was senior, you or Nakase?
A. I was an easy-going man and he was seated closer to the head of the table and it was only after I was appointed commander around the middle of October that I realized that I was senior to him and Executive Officer Nakase realized and recognized my seniority and conceded his place at the table.

57. Q. When you were told by Executive Officer Nakase to dispose of the two prisoners of war did you not at that time think it to be a serious matter?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

58. Q. Were you not directly responsible to the commanding officer of the Naval Guard Unit and not to Executive Officer Nakase insofar as medical care of the prisoners was concerned?
A. With regard to medical care and sanitation of the Naval Guard Unit I was directly appointed by the commanding officer as by the unit order. The executive officer, however, was in charge of all matters as deputy to the commanding officer. There were no instances when the commanding officer and I discussed matters pertaining to medical care and sanitation by ourselves.

59. Q. When you were told of this matter by Executive Officer Nakase did you not go to the commanding officer to ascertain the order?
A. In actual fact I did not ascertain the order. The conversation was held immediately outside the commanding officer's room and I took the order to have come directly from the commanding officer.

60. Q. Could you state in greater detail where you conducted this operation on this one prisoner of war?
A. I conducted this operation at the first battle dressing station which was about fifteen meters removed to the side of the dispensary.

61. Q. How far away from the headquarters of the Forty-first Naval Guard Unit was this battle dressing station?
A. Perhaps about 150 meters.

62. Q. When you were performing your operation did Commanding Officer Asano come to the scene of the operation?
A. I do not have such a recollection.

63. Q. Did Nakase come to the scene of the operation?
A. In the same way I do not recall his presence.

64. Q. You testified that when the general assembly was ordered you sensed that the prisoners were to be executed publicly. Is that statement a true fact?

0884

This question was objected to by the judge advocate on the ground that the testimony of the witness pertaining to this matter had been stricken out.

The accused withdrew the question.

65. Q. Where was this general assembly held?
A. Behind the dispensary about forty meters from the dispensary building in the field.

66. Q. Did the commanding officer attend this general assembly?
A. I do not recall.

67. Q. Was the executive officer present?
A. I do not recall.

68. Q. Who was the senior officer whom you recall was present?
A. Of those present that I recall definitely, I was the senior officer.

69. Q. Is it not the general custom in the Japanese Navy that when a general assembly is called the commanding officer and the executive officer are present at the assembly and that the commanding officer takes command of the assembly?
A. Yes, that is definitely so. I forgot to add certain matters to my testimony and I wish to do so now. At my trial I testified that the assembly order was assembly for all hands who are free.

70. Q. Did you see the other prisoner, meaning the prisoner on whom you did not operate, either dead or alive after you left the dispensary at the conclusion of your operation on the other prisoner of war?
A. I did not see him.

71. Q. Please state the substance of the report that you testified you made to Commanding Officer Asano on the evening of the operation as well as you recall.
A. I reported in substance as follows: That I had conducted the operation, that the prisoner of war on whom I had operated had been executed by Hriguchi, that the other prisoner of war had been disposed of by another group.

72. Q. Despite the fact that you had received an order from the commanding officer to execute the prisoner of war, you had undertaken an operation. Did you mention why you had performed this operation to the commanding officer?
A. At first I had asked the question "Has it come to this" and then followed it up with "Can I perform an operation on one of the prisoners as that may be necessary, an operation I have been considering in my private room?" Several hours later I had performed my operation and as to giving reasons for my operation I do not believe such thoughts would have occurred to me at that time. That is, however, just my recollection.

73. Q. Did Commanding Officer Asano make any comments on your report concerning the prisoners?
A. He said something to the effect of "thank you." He did say several other things, but I do not recall them now.

74. Q. Did you speak to Executive Officer Nakase about the disposal of prisoners of war?
A. I did, yes. When we were facing each other at the dinner table, Executive Officer Nakase said to me "thank you."

0885

75. Q. Did you ever report to any other person concerning this matter other than the Chief Medical Officer of the Fourth Fleet?
A. No.

76. Q. Do you know if Commanding Officer Asano submitted any reports to the Fourth Fleet concerning your report of your operation and the execution of the prisoners of war?
A. At my trial the commanding officer toward the end of the trial made a statement and in that statement he said that two or three days after the incident, I, Ueno, went to the commanding officer and said "It has all been a mistake and I am very sorry for what has taken place" that he, Commanding Officer Asano, learned about the incident for the first time then and thereupon went to the Fourth Fleet to make his report. It has been a long time since these things occurred but I am definite that I never went to the commanding officer to make such a statement to the commanding officer. Therefore, it can only be considered a hallucination that Asano went to make this report to the Fourth Fleet.

The judge advocate moved to strike out this answer on the ground that it was hearsay, an opinion of the witness, and not responsive.

The accused made no reply.

The commission directed that the answer be stricken out.

The witness was duly warned.

The commission then, at 4:30 p.m., adjourned until 9 a.m., tomorrow, Wednesday, December 1, 1948.

TWENTY-FIFTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Wednesday, December 1, 1948.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the twenty-fourth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Ueno, Chisato, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Cross-examination continued.)

77. Q. Chronologically, which took place first, your conversation over the telephone with the Fourth Hospital at the request of Nakase, or your conversation with the head of the Fourth Hospital, Surgeon Captain Iwanami, concerning kidneys?
A. The talk I received from Iwanami concerning kidneys took place about fifteen days prior to my telephone conversation with the Fourth Hospital at the request of Nakase.

78. Q. Do you know what reply was had from the Fourth Hospital after your telephone conversation with the adjutant of the Fourth Hospital?
A. I did not know.

79. Q. You mentioned in your testimony the Chief Medical Officer of the Fourth Fleet, who was the Chief Medical Officer of the Fourth Fleet around June of 1944?
A. Surgeon Captain Iwanami.

80. Q. You testified that you spoke to the Chief Medical Officer of the Fourth Fleet concerning the experiments conducted on prisoners of war in June of 1944. Did Surgeon Captain Iwanami have any comments to make about what you told him?
A. As I recall he had nothing special to say.

0887

81. Q. Do you remember how many persons there were that were attached to the Forty-first Guard Unit on June 1, 1944?
A. The organization to which I was attached was generally referred to as the Forty-first Naval Guard Unit Headquarters, and there were approximately 600 persons attached to that organization. I believe the total personnel of the Forty-first Naval Guard Unit was about 9,700 at that time.

82. Q. At what time did you hear the general assembly called on June 20, 1944?
A. I believe a little past two o'clock in the afternoon.

83. Q. Where were you at the time?
A. I was inside the battle dressing station.

84. Q. Were you operating on the patient?
A. Yes.

85. Q. What did you do when you heard this call for general assembly?
A. For a short while I was clearing up the operation - putting things in order.

86. Q. How long were you attached to the Forty-first Guard Unit?
A. I served for about one year at the Forty-first Naval Guard Unit, after which time I was attached to Fefan Island, where I was head of the hospital on that island, and after the surrender I returned to the Guard Unit for one month. In all I served about thirteen months.

87. Q. How long had you been attached to the Guard Unit before you performed this operation, Doctor?
A. Approximately one month.

88. Q. During that one month had there been general assemblies at the Guard Unit?
A. Yes.

89. Q. What were you required to do when a general assembly was called?
A. I had to go to the place designated for the general assembly.

90. Q. And you did not do that on June twentieth because there wasn't a general assembly on that day, isn't that true?
A. That is not so.

91. Q. Where did you go and to whom did you report that day then?
A. I do not get the meaning of the question.

92. Q. Didn't you testify that you had to go to a certain designated place for general assembly?
A. Yes.

93. Q. What were you supposed to do when you arrived at that designated place?
A. At general assembly we merely assembled and we do nothing else.

94. Q. Who could order a general assembly at the Guard Unit?

This question was objected to by the judge advocate on the ground that it was repetitious.

The accused withdrew the question.

95. Q. Who ordered this assembly on June 20, 1944?
A. That order, referring to order for general assembly, is an order which can be issued only by the cognizant commanding officer.

96. Q. Did the cognizant commanding officer issue an order for general assembly on that day - June 20, 1944?

This question was objected to by the judge advocate on the ground that it called for an opinion of the witness.

The accused replied.

The commission announced that the objection was sustained.

97. Q. When you arrived at the place of assembly, how many men were assembled and who was in charge of them?
A. I recall numerous persons having been present there, but I do not recall who was in command.

98. Q. Do you recall whether there was an officer in charge? AS
A. I have a recollection that there definitely was an officer there, but I do not recall his name nor his rank.

99. Q. Do you recall seeing anybody at this general assembly other than dispensary personnel and patients at the dispensary?
A. ~~They~~ were (T.N. - persons other than dispensary personnel and patients at the dispensary). AS

100. Q. How many other persons other than dispensary personnel or persons that were patients did you see there?
A. As I recall excluding four or five persons, they were all division members, division in the sense of company, the unit above a platoon.

101. Q. What do you mean by "company"?
A. I used this word without thinking, but I will rephrase it and say persons outside of the dispensary unit.

102. Q. How many persons outside of the dispensary unit were there?
A. I believe between forty and fifty persons.

103. Q. Was Petty Officer Nagashima in charge of this group?
A. I do not recall this Petty Officer Nagashima.

104. Q. Do you recall who dismissed this general assembly?
A. No, I do not.

105. Q. How soon after your arrival did you leave this general assembly?
A. I believe about fifteen minutes after my arrival.

106. Q. Did everyone else leave when you left?
A. I left the scene in a dazed state of mind, but I believe that all the persons may have left soon after my departure.

107. Q. Although you state that you were in a dazed state of mind, do you remember whether you stabbed a person that day?
A. No, I did not.

0889

108. Q. Did you order anyone else to do any stabbing that day on a prisoner of war?
A. I did not.

109. Q. Were you present so that you personally saw anyone else do any stabbing that day on a prisoner of war?
A. I did not.

110. Q. Did you behead a prisoner of war that day?
A. No.

111. Q. Did Commanding Officer Asano perform any surgical operation on a prisoner of war when you operated on that day?
A. No.

112. Q. Did he assist you in any way?
A. No.

113. Q. Now, Doctor, prior to this operation you testified to, how many operations had you performed?
A. Are you referring to all the operations that I have conducted in my life?

114. Q. Yes.
A. In my service of over ten odd years in the Japanese Navy, I would say I had performed approximately 1,000 operations including operations for appendicitis.

115. Q. Now, exluding this one operation on June 20, how many of these approximately 1,000 operations were successful operations, Doctor?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

116. Q. Now, was this operation you performed on June 20 on this prisoner of war done with all the skill which you as a surgeon possessed?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial, and called for an opinion of the witness.

The accused replied.

The commission announced that the objection was not sustained.

A. Yes.

117. Q. Didn't you, Doctor, do all that was humanly possible to save this prisoner of war during the time you were operating upon him?

This question was objected to by the judge advocate on the ground that it called for an opinion of the witness.

The accused replied.

0890

The commission announced that the objection was not sustained.

A. For myself I did my utmost.

118. Q. Now, isn't it true that when Nakase told you to do as you think fit that you took this prisoner together with the other prisoner to the dispensary with the idea and the intention of helping the prisoner by conducting an operation such as you thought was necessary?
A. Yes.

119. Q. Was the physical condition of this one prisoner that you operated upon such that you considered an operation necessary?
A. Yes, I was only waiting for the opportune moment to conduct the operation.

120. Q. Isn't it true also that you had no criminal intent to dispose of the prisoner?
A. I did not have the malice nor the intent.

121. Q. Isn't it true also that you hoped to avoid having to personally dispose of the prisoners as you had been ordered to do?
A. Yes.

122. Q. How then, Doctor, did this patient get out of your custody and control?
A. When the general assembly was called I came to realize that the decision arrived at previously would be carried through.

123. Q. Had you fully recovered from your sickness at the time you were performing this operation?
A. I had not recovered my normal health as I had only left my bed on the day before the air raid, the air raid in which the prisoners of war were killed.

124. Q. Did you go to Commanding Officer Asano after the operation and tell him that you were sorry for what had happened?
A. No.

125. Q. Are you sure that you did not tell him it was a mistake that you had made in operating upon the prisoners?

This question was objected to by the judge advocate on the ground that it was repetitious, irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. I am certain.

126. Q. Did you ever hear from Lieutenant Commander Nakase or anyone else that the policy of the Commander in Chief toward prisoners of war was a warmhearted, kindly policy?

This question was objected to by the judge advocate on the ground that it was hearsay, irrelevant and immaterial.

0891

The accused replied.

The commission announced that the objection was not sustained.

A. I did not hear of it in any formal manner, but I believe that would have been the feelings of any human person.

127. Q. Didn't you hear Lieutenant Commander Nakase express an opinion regarding the policy of the Commander in Chief toward prisoners of war when these two prisoners were ordered confined at the Guard Unit, the prisoners that were captured by the Army?

This question was objected to by the judge advocate on the ground that it was repetitious.

The accused replied.

The commission announced that the objection was sustained.

128. Q. Did you have any policy or pattern of conduct or behavior toward prisoners of war as a doctor at the Guard Unit?
A. I did have my firm conviction.

129. Q. What was your firm conviction regarding prisoners of war?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

Reexamined by the judge advocate:

130. Q. You testified concerning the number of persons you saw when you arrived at the scene of execution on the 20th of June. Can you approximate the number of persons who were leaving the scene when you were approaching the scene and prior to the time you reached the scene of execution?
A. I believe I was the last to arrive at the scene of execution and the persons who passed me leaving the scene of the execution were I believe about ten.

131. Q. You have testified concerning the purpose for which you performed the operation on the prisoner of war on the 20th of June. Do you recall making a statement on 28 April 1948 which included reference to this?

This question was objected to by the accused on the ground that the statement had not been offered into evidence.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I recall affixing my signature to a statement made in English, made on that date.

0892

132. Q. Is this statement made in your own handwriting and is this the statement you refer to? (The judge advocate handed a statement to the witness.)
A. I copied an English statement in my own handwriting.

133. Q. Is this statement I have given you in your own handwriting?
A. There were many places in the text which required corrections, but the statement is in my handwriting.

134. Q. Did you in this statement say the following, paragraph: "About three days after the air raid I received instructions from the executive officer Nakase to dispose of the two survivors. Nakase stated that this was the order of the commanding officer. These two P.O.W.s were disposed of at the Guard Unit and the details are correctly stated in my testimony at the trials before the military commission except that the operations performed on one of the P.O.Ws were not performed for the benefit of the P.O.W. as I stated but were demonstration operations for the benefit of the medical personnel who witnessed the operations."?

This question was objected to by the accused on the ground that the judge advocate was attempting to impeach his own witness without laying proper groundwork for such procedure, that the judge advocate was reading from a statement which had not been introduced into evidence, and that the statement was not voluntarily made while the prisoner was waiting final approval of his sentence.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I would like to have the president of the commission listen to what I have to say concerning the process by which I came to affix my signature on this document if only for your reference.

The commission directed that the witness first answer the question, and that the witness should then proceed to explain the circumstances under which he made the statement.

The witness continued his answer as follows: I did write this testimony. After I was interrogated by Lieutenant Bolton I was shown a statement in English which was copied extracts from what I had said at the interrogation. I was told to make a Japanese translation of this English statement, but in the process of translation I came across numerous passages which were contrary to my views. I desired to have these portions changed and attempted to do so. Of course the judge advocate willingly consented to do this, but there was this language barrier, we could not understand each other. I was in a state of self-abandonment and I thought let anything happen to me, it doesn't matter. I later realized that I had been wrong and I attempted to have the corrections made in my statement. I heard this from my interpreter, that this statement would not be used and therefore not to worry about it, and therefore I concluded that my intention or my will had been made known to the judge advocate. It was truly a mistake on my part that I wrote this statement and if it is possible I would like to retract it, but what I have testified to in this trial concerning matters referred to in the statement is true. It is my request that my statement be retracted. This is my request.

0893

135. Q. When you wrote this statement on 28 April 1948, who was present at that time?
A. The statement was handed to me by the interpreter, Mr. Savory.

136. Q. When you made the oral statements which were put down in Mr. Savory's notes which were subsequently handed to you, who was present during that oral interrogation?
A. Commander Ogden, Lieutenant Bolton, and the interpreter, Mr. Savory.

137. Q. On the 30th of April 1948, did you sign and swear to this statement handwritten by you?
A. I did sign.

138. Q. Was an oath administered to you by Commander Ogden on that day?
A. I do not recall. I do not believe there was an oath.

139. Q. Will it refresh your recollection if I show you a copy of the statement including the oath that was given to you at the time?
A. It was during a very short period of time that I was hurriedly copying out this statement and I do not recall an oath having been administered. Yes, it would refresh my recollection.

140. Q. I show you the oath, did you write it? (The witness was shown the last page of the statement.)
A. Yes, I did write it, yes.

141. Q. Was an oath administered to you?
A. I do not recall any formality taken about administration of oath.

The witness was duly warned.

The commission then, at 10:50 a.m., adjourned until 9 a.m., tomorrow, Thursday, December 2, 1948.

0894

TWENTY-SIXTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Thursday, December 2, 1948.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the twenty-fifth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Ueno, Chisato, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

The accused moved to strike out all testimony of this witness pertaining to an English statement made by him on 28 April 1948, and which the witness admitted he signed, in view of the witness' testimony.

The judge advocate replied.

The commission announced that the motion was not sustained, but that the commission would however, accord this testimony its proper weight in the light of the witness' explanation.

The accused did not desire to recross-examine this witness.

The commission did not desire to examine this witness.

The witness made the following statement: I have dwelt in detail on the attitude I took when Surgeon Captain Iwanami spoke to me concerning prisoners of war at the Naval Guard Unit in July, and also the attitude of the Commanding Officer when he received my report concerning the operations. These things I dwelt on in detail at the trial of the personnel of the Fourth Hospital. A few days after my conversation with Iwanami, I heard from Iwanami, at the conference of the cognizant commanding officers that Commanding Officer Asano had heard the substance of the conversation which I had had with Iwanami.

The witness was duly warned and withdrew.

A witness for the prosecution entered and was duly sworn.

0895

Examined by the judge advocate:

1. Q. Will you state your name and former rank in the Japanese Navy at the time you served at Truk?
A. Former Surgeon Captain Iwanami, Hiroshi.

2. Q. If you recognize the accused, state as whom.
A. Former Vice Admiral Hara, Chuichi.

3. Q. When did you arrive at Truk?
A. I arrived on Truk on December 8, 1943.

4. Q. To what duty were you assigned at that time?
A. Head of the Fourth Naval Hospital.

5. Q. Until what date did you serve in that capacity?
A. Until the termination of the war.

6. Q. What date do you have in mind as to the date of the termination of the war?
A. The day on which Japan surrendered, namely August 15, 1945.

7. Q. Did you serve in the capacity as Commanding Officer of the Naval Hospital up to the date of September 2, 1945?
A. I was at that post until that date.

8. Q. During the time that you were on Truk, did you have any other duty in addition to that as Commanding Officer of the Fourth Naval Hospital?
A. Yes, I was chief surgeon of the Fourth Fleet.

9. Q. On what date did you become chief surgeon of the Fourth Fleet?
A. As I recall, in the early part of May 1944.

10. Q. Did you serve in that capacity until the second of September 1945?
A. Yes.

11. Q. Are you familiar with an incident that occurred in July 1944 concerning prisoners of war?
A. Yes.

12. Q. Where did the incident occur?
A. At the Fourth Naval Hospital.

13. Q. On what date did it occur?
A. 23 July 1944.

14. Q. Will you state how the prisoners of war got to the hospital?
A. Yes.

15. Q. Will you state how?
A. It was in the afternoon around 3 o'clock of the 20th of July 1944 or thereabouts that the chief medical officer of the Naval Guard Unit Ueno came to me. He said that he had come to procure some medicine at the hospital. He had a piece of paper in his hand and he was standing as he spoke to me. He said that there were two American flyers at the Naval Guard Unit. That they were confined at the guard unit. That at the Naval Guard unit Executive

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Officer Nakase had said in the wardroom "are there any persons willing to execute the flyers. That if there were no persons willing to execute them, he, Nakase, would send the flyers to some other neighboring units." Ueno, on having stated this left me. Soon thereafter - it was close to dinner time then, and after the meal, I said to Okamura, who was close to me that there were prisoners at the guard unit to be executed. I said to Okamura "how about it?" and he said "I do not have the nerve." I therefore dropped the subject matter. Two days after this on the 22nd in the afternoon the officer of the day came to me and reported that he had received a telephone call from Ueno. That Ueno had said "will the hospital execute the prisoners or not? What will you do about it?" I said to the officer of the day "very well". I interpreted this message to mean that the naval guard unit had given the Fourth Hospital an opportunity to execute these prisoners because of the fact that many persons from the Naval Guard Unit had died at the Fourth Hospital on account of the bombing. Thereupon I told Adjutant Kamikawa to inform Lieutenant Oishi to execute these prisoners through the Self-defense Unit. My hospital had been bombed and I had heard that in Tokyo flyers had been executed for bombing hospitals which were not even marked with the Red Cross, and I had seen in the papers the barbarous conduct of the American forces in the invasion of Saipan. I had heard that Nakase, the responsible officer at the guard unit had been asking who executed these prisoners, and therefore I concluded that all preliminaries for the execution had been disposed of, so I decided to tell Adjutant Kamikawa to inform Lieutenant Oishi to execute the prisoners. Two of the prisoners were executed by Lieutenant Oishi of the Self-defense Unit.

16. Q. Who engaged in preparation at the hospital for disposal of these prisoners of war?
A. As the hospital had been bombed prior to this, everyone at the hospital was aroused, and they willingly undertook this assignment. I can not say which person in particular was engaged in this.

17. Q. Where did the personnel of the hospital assemble for this disposal of the prisoners?
A. As information reached the hospital that POWs were arriving, or had arrived (come), the personnel of the hospital assembled on top of the hill at the back of the hospital.

18. Q. Did these persons assemble before the prisoners arrived?
A. As I was not at this scene, I do not know whether they assembled before or after the prisoners.

19. Q. Where were you at the time of the arrival of the prisoners at the hospital?
A. I was on my veranda in front of my room at the hospital.

20. Q. Was anyone with you on that veranda?
A. Yes.

21. Q. Name the persons who were with you on that veranda at the time the prisoners came?
A. Former Vice Admiral Hara, Chuichi and Former Surgeon Captain Taneda, Yasuo.

22. Q. At approximately what time did these prisoners arrive?
A. I believe around 3 o'clock.

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The accused moved to strike out this answer on the ground that it was an opinion of the witness.

The judge advocate replied.

The commission announced that the motion was not sustained.

23. Q. Can you describe the vehicle in which the prisoners of war arrived?
A. It stopped at about ten meters away from the mango tree in front of the hospital and after making a turn in front below it, and went up a hill with a grade of about twenty degrees.

The accused moved to strike out this answer on the ground that it was incompetent evidence.

The judge advocate replied.

The commission directed that the answer be stricken out on the ground that it was not responsive and directed the witness to give a more direct answer.

A. It was a truck.

24. Q. Can you describe the appearance of this truck?
A. The truck had sides which were about two feet in height and the prisoners were inside this truck. There were two corpsmen seated by them and a third leaning against the cab of the truck.

25. Q. Was the portion of the truck that the prisoners were seated in covered or uncovered?
A. It was not covered.

26. Q. You have stated that the two prisoners were seated in the rear with three guards. Can you state approximately how far away from the prisoners the guards were seated and how they were arranged?
A. The two prisoners were in the middle of the truck. There were two guards on the same side of the truck, one in each corner on the side closest and there was a third guard leaning against the cab of the truck.

The commission then, at 10:20 a.m., took a recess until 10:40 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Iwanami, Hiroshi, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination continued.)

27. Q. At the time the vehicle - the truck - bearing the prisoners of war arrived at the hospital where was Admiral Hara?
A. He was on the veranda.

28. Q. Do you recall where on the veranda he was and what he was doing at the time?
A. He was seated in a chair on the veranda and listening to the animated conversation of Surgeon Captain Taneda.

29. Q. In what position was Taneda at that time?
A. He was opposite to Vice Admiral Hara and sitting adjacent to myself.

30. Q. In what position were you on this veranda?
A. I was sitting with the mango tree behind and Vice Admiral Hara in front of me.

31. Q. Was Taneda seated?
A. Yes.

32. Q. In what position were the three of you seated on the veranda?
A. We were seated in the middle of the narrow veranda around a table.

33. Q. You referred to the vehicle which brought the prisoners to the hospital. Where was the road on which this vehicle drove to the back of the hospital, in relation to this veranda?
A. The distance between the veranda and this road was about ten meters.

34. Q. How did this road run in relation to the veranda on which you were seated?
A. It went around the veranda.

35. Q. You testified that your back was toward the mango tree, in what direction was Hara facing?
A. Vice Admiral Hara was sitting facing the mango tree.

36. Q. You have spoken of the hill up which this vehicle drove with the prisoners, where was the mango tree, was it closer to the top or lower portion of this hill?
A. It was in the clearing in front of the hospital.

37. Q. You have spoken about an incline of road of 20°. Does this incline of road of 20° go upward from the mango tree toward the veranda?
A. Yes.

38. Q. When the vehicle with the prisoners came up this hill did you hear any sound?
A. I heard the sound of the engine of the motorcar.

39. Q. You have testified that this was an incline of 20°. Can you tell us what the engine sound was like?
A. I did not measure the grade of this hill. It was only my estimation when I said this grade was 20°, but when the car came up this hill it made the following sound: "ga-ga-ga-ga".

40. Q. Was this sound loud or low?
A. It was just this sound which I have given and it wasn't particularly a very loud sound nor a very low sound.

0899

41. Q. Were there any other vehicles travelling on this road at that time?
A. No, at that time there was none.

42. Q. During the entire time you were on the veranda with Admiral Hara had any other vehicles passed up this road?

This question was objected to by the accused on the ground that it called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was sustained.

43. Q. During the entire time you were on the veranda with Admiral Hara did you see any other vehicles drive on this road?
A. I did not see any.

44. Q. From the direction that Admiral Hara was seated at the time the vehicle started the drive up from the mango tree past the veranda, would it have been possible for Admiral Hara to have seen this vehicle? A6

This question was objected to by the accused on the ground that it called for an opinion of the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. It was easy to observe.

45. Q. Are you able to draw a sketch of the veranda, the table, and the seats upon which you and Hara and Taneda were seated and the relation of the veranda and table and chairs and the road on which you saw the vehicle arrive bringing the prisoners of war?
A. I can.

The judge advocate submitted to the accused and to the commission a blank sheet of paper which he then submitted to the witness and requested the witness to draw thereon a sketch showing the scene setting forth the veranda, the location of the accused, Hara, Taneda, and the witness, the table, the mango tree and the road along which the prisoners of war were being carried by the truck.

(The witness drew the sketch as requested by the judge advocate.)

46. Q. Will you locate with the letter "H" the position of Hara at this table that you have drawn on this sketch?

(The witness placed the letter "H" on the sketch as requested.)

47. Q. Will you locate with the letter "I" the position in which you were seated and the letter "T" the position in which Taneda was seated around this table?

(The witness placed the letters "I" and "T" on the sketch as requested.)

48. Q. Will you locate the mango tree with the letter "M"?

(The witness placed the letter "M" on the sketch as requested.)

49. Q. You have marked two places with the letter "M", are these both mango trees?
A. Yes.

50. Q. Will you write the word "road" to designate the road on which this vehicle passed?

(The witness wrote the word "road" on the sketch as requested.)

51. Q. Will you indicate with the letter "X" where the sharp incline begins that you have described as being around 20°?

(The witness placed the letter "X" as requested on the sketch.)

52. Q. Will you place an arrow on the road to show the direction in which this vehicle was going?

(The witness placed an arrow on the sketch as requested.)

53. Q. You have described this veranda as being part of the hospital, will you designate which portion of the hospital is the rear of the hospital?

(The witness indicated a position off the left side of the sketch.)

The sketch as drawn by the witness was submitted to the accused and to the commission and by the judge advocate offered in evidence.

There being no objection, it was so received, and is appended marked "Exhibit 24".

54. Q. Was the veranda that you have drawn in the front or the rear of the hospital?
A. It was at the front of the hospital.

55. Q. After these prisoners of war arrived at the hospital where were they taken?
A. They passed over the road marked in my sketch and went around to the top of the hill behind the hospital.

56. Q. You have spoken of this veranda - was this an open veranda or a closed veranda?
A. There was no coverning to this veranda.

57. Q. Were there sides on this veranda?
A. There were just railings around this veranda. There was a roof to the veranda, however.

58. Q. When were these two prisoners of war disposed of at the rear of the hospital?
A. I believe it was around four o'clock.

59. Q. How long after the arrival of the prisoners of war past the veranda did the execution take place?
A. I believe about thirty or forty minutes after.

0901

60. Q. How many persons were present at the time of this disposal of prisoners at the rear of the hospital?
A. I believe about sixty persons.

61. Q. Were there any officers present?
A. Almost all the officers were present.

62. Q. How many were there at the scene?
A. I did not count them but when I went up the hill a little way I saw almost all the officers there.

63. Q. Can you approximate how many officers were there?
A. I think about fourteen or fifteen.

64. Q. Were any enlisted personnel of the hospital at the scene?
A. Yes, there were.

65. Q. Approximately how many of them were there?
A. I believe about sixty.

66. Q. Were any patients present at the scene?
A. I do not believe there were patients at the scene.

67. Q. Do you know when these people who assembled at the scene began to assemble?
A. I do not know.

68. Q. Did any of these persons who were assembling for this execution proceed along the road that you have shown in this sketch?
A. They did.

69. Q. While you were seated on the veranda with Hara did you see any of these persons on the way to the scene pass along this road?
A. I did.

The accused moved to strike out this answer on the ground that it was a conclusion on the part of the witness.

The judge advocate replied.

The commission announced that the motion was not sustained.

70. Q. Did Commander in Chief of the Fourth Fleet Hara attend this execution of the prisoners?
A. Absolutely not.

71. Q. Was he at the hospital at the time of the execution?
A. He was not.

72. Q. Did you go to the scene of the execution?
A. I did.

73. Q. How soon after Admiral Hara left the hospital did you go to the scene of the execution?
A. As I recall about five minutes after.

74. Q. Was there a speech made prior to your arrival at the scene of the execution?
A. As there was an interim of time before my arrival I heard that Oishi made a speech during that time.

0902

The accused moved to strike out this answer on the ground that it was a conclusion on the part of the witness and hearsay.

The judge advocate replied.

The commission announced that it would hear the next question and answer before ruling.

75. Q. Who reported to you that Oishi had made this speech?
A. I heard someone say this in the wardroom after the execution.

The commission directed that the preceding two answers be stricken out.

The witness was duly warned.

The commission then, at 11:35 a.m., took a recess until 2 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Iwanami, Hiroshi, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination continued.)

76. Q. Will you state what you did and what you saw done at the scene of the execution?
A. Immediately after I arrived at the scene of the execution I made a speech. After I had concluded my speech I saw some natives coming up the hill. I was wondering whether the natives would come up the hill and was thinking that it would be embarrassing if they came up the hill. Meanwhile the natives had seen me on the hill and they came to a stop. I was looking in their direction and they turned about and took the road along the foot of the hill and went to the native quarters. When I turned around I saw Chief Petty Officer Yoshizawa with his sword raised in mid-air and as I watched the sword fell on the victim's neck. I thereupon immediately returned to my room.

77. Q. Did you observe the other prisoners of war at the scene?
A. I saw the other prisoner as I climbed up the hill.

78. Q. What was done to that prisoner?
A. I do not know what happened to the other prisoner of war- -whether he was beheaded or not.

79. Q. Did you see anything occur to either of the two prisoners prior to the beheading?
A. After I had made my speech I walked down the hill and was looking at the natives. When I turned around there was a multitude of people about the place and all I saw was this sword raised by Yoshizawa.

0903

80. Q. Did you issue any orders with regard to the method of disposing of the prisoners of war?
A. I did not.

81. Q. Was any report made by the Fourth Hospital to any higher authority concerning the disposal of these prisoners of war?
A. It was a matter within the organization of the Fourth Hospital and no questions about reports arose.

82. Q. Was any request for information or inquiry made by the Forty-first Guard Unit or the Fourth Fleet concerning these prisoners of war?
A. No.

83. Q. Did you attend any conferences at the Fourth Fleet Headquarters?
A. Yes.

84. Q. Did you attend a conference in early September at the Fourth Fleet headquarters?
A. Yes, I did.

85. Q. Who else attended this conference?
A. As I recall, all the cognizant commanding officers of the units and departments on Truk and the personnel of the Fourth headquarters were present.

86. Q. Which high ranking officers of the Fourth Fleet headquarters were present.
A. Former Vice Admiral Hara, Former Rear Admiral Sumikawa, the Senior Staff Officer who was a former captain, the Engineering Staff Officer, the Chief Engineer of the Fleet and the Chief Paymaster of the Fleet.

87. Q. At this conference did you made any statement concerning the prisoners of war disposed of in July at the Fourth Naval Hospital?

This question was objected to by the accused on the ground that it was leading and in improper form.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I did not say anything which can be termed as a statement of a report. It was while I was discoursing on matters of nutrition that Asano urged me to speak about spears as I knew something of this and it was only at the urging of Asano that I spoke about it. I merely touched upon this subject.

88. Q. What did you say about the use of spears?
A. I merely repeated what I had heard from conversations between corpsmen in an air raid shelter which was to the effect that spears were thin and useless, that they bent when pressure was applied through the right hand.

89. Q. Did you not, in what you said at this conference, mention the bending of these spears in connection with the disposal of prisoners of war?

This question was objected to by the accused on the ground that it was leading.

The judge advocate withdrew the question.

0904

90. Q. In connection with your speaking concerning these bending spears, did you say anything about prisoners of war?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. As I recollect, it was after the conference and I was talking to three other officers, Captain Imazato was sitting opposite me and an air officer whose name has slipped my memory and the Chief Paymaster of the Fleet. Including myself there were four in this group and I was explaining to these men about nutrition as about that time there were numerous deaths caused by malnutrition on Truk and I noticed Asano waving his hand and he was saying "Talk about the spears, Iwanami." I was in the middle of my dissertation on nutrition, but as Asano urged me I told these men about the story that I had heard in the air raid shelter, which story was being discussed by corpsmen. I have no recollection whether I told this story as being related to prisoners of war or not.

91. Do you recall what you said at that time?
A. Yes, I recall what I said.

92. Q. Will you give us the gist of what you recall you stated at that time?
A. As I recall, the main points were 1- that the spears are made thin and therefore useless, 2- that if pressure were applied through the right hand they would bend.

93. Q. Did you state that these spears had been used and tried at the hospital?

This question was objected to by the accused on the ground that it was leading.

The judge advocate replied that the witness was being reluctant or recalcitrant.

The commission announced that the objection was not sustained.

A. As I recall, I stated only the facts that I had heard in the air raid shelter as I have just previously testified.

94. Q. Was anything else said at this time concerning the use of spears in connection with disposal of prisoners of war?

This question was objected to by the accused on the ground that it was leading, and called for an opinion of the witness and hearsay.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Do you mean at the conference table?

0905

95. Q. I mean at the time you spoke about the use of the spears?
A. I did not hear.

96. Q. You say that Asano told you to speak about the use of these spears. Where was Asano in relation to your group of four that was discussing nutrition?
A. Our group was seated on the left end of the table and Asano was sitting to the right of the center of the table.

97. Q. Who was sitting at the center of the table at that time?
A. On our side of the table, Admiral Hara was sitting at the center of the table.

98. Q. When you had finished your statement concerning spears did Admiral Hara make any comment concerning what you stated?
A. I do not clearly recall whether the Commander in Chief said anything as after telling the gist of my talk on spears I immediately turned back to my former topic of conversation.

99. Q. Do you recall if Rear Admiral Sumikawa made any comments as to what you said at that time?
A. I have no recollection.

100. Q. At any time subsequent to this conference did you ever receive any instructions or orders from any authority higher than the Fourth Naval Hospital concerning the treatment of prisoners of war?

This question was objected to by the accused on the ground that it was vague.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No.

The commission then, at 2:45 p.m., due to a power failure, took a recess until 3 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the reporter, the accused, his counsel, and the interpreters.

No witnesses not otherwise connected with the trial were present.

Iwanami, Hiroshi, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination continued.)

101. Q. Up until September 2, 1945 do you know if any investigation was made concerning the disposal of these two prisoners of war on July 23, 1944 in back of the Fourth Naval Hospital? AB
A. I do not know whether an investigation was made or not. After the surrender I learned that matters concerning prisoners of war were very important and I immediately went to see the Commander in Chief and, believing Ueno's words, I made a report and at the same time I apologized for what I had done.

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The judge advocate moved to strike out the words "After the surrender I learned that matters concerning prisoners of war were very important and I immediately went to see the Commander in Chief and, believing Ueno's words, I made a report and at the same time I apologized for what I had done," on the ground that they were not responsive.

The commission directed that the words be stricken out.

The accused requested a short recess prior to commencement of cross-examination.

The commission then, at 3:05 p.m., took a recess until 3:15 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Iwanami, Hiroshi, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

Cross-examined by the accused:

102. Q. When you were chief surgeon of the Fourth Fleet, where did you have your office in that capacity?
A. I carried out my duties in that capacity in the room of the Head of the Fourth Hospital.

103. Q. Did you ever take up your duties as chief surgeon of the Fourth Fleet at Fourth Fleet Headquarters?
A. No.

104. Q. Did you ever go to the Fourth Fleet Headquarters in your capacity as head of the Fourth Naval Hospital after February 23, 1944, or while you had your collateral duties as chief surgeon of the Fourth Fleet after May of 1944?

This question was objected to by the judge advocate on the ground that it was vague.

The accused withdrew the question.

105 Q. Did you ever go to the headquarters of the Fourth Fleet in your capacity as chief surgeon of the Fourth Fleet?
A. During what period of time?

106. Q. After the time you became chief surgeon of the Fourth Fleet.
A. Yes.

107. Q. About how many times did you go?
A. I do not remember at present.

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108. Q. What do you mean by "I do not remember"? Do you mean that you do not remember because you went so often to the place, or because you visited the place so rarely?

This question was objected to by the judge advocate on the grounds that it was misleading and argumentative.

The accused replied.

The commission announced that the objection was sustained.

109. Q. In your capacity as chief surgeon, did you frequently visit the Fourth Fleet Headquarters?
A. Not as often that you could term it frequently.

110. Q. You testified that Ueno came to the Fourth Hospital around the 20th of July 1944. For what purpose did he come to the hospital?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial and called for an opinion of the witness.

The accused replied.

The commission announced that it would hear the answer before ruling .

A. He first stated that he had come to the hospital to procure medical supplies and then he touched upon the prisoners of war.

The commission announced that the objection was not sustained.

111. Q. Did he take away any medical supplies with him? AB
A. I do not know.

112. Q. How many prisoners did he say there were?
A. He stated two.

113. Q. Did you verify this matter with the Forty-first Naval Guard Unit, namely Commanding Officer Asano or Executive Officer Nakase?
A. I did not verify it of my own accord, but there was a phone call from the guard unit.

114. Q. You testified that you interpreted it to mean that the Forty-first Naval Guard Unit was giving the hospital an opportunity to execute the prisoners at the hospital because there had been many casualties of personnel of the Forty-first Naval Guard Unit at the hospital due to the bombing of the hospital by American bombing raids, but what you testified there was merely speculation, was it not?
A. Ueno came to me and spoke to me about this matter and later a phone call came through on the same matter and therefore I drew this conclusion.

115. Q. Did you ever phone the Forty-first Naval Guard Unit Headquarters about prisoners of war around the 20th of July 1944 on your own iniatitive? AB
A. What do you mean when you ask if I made a phone call. Do you mean if I asked the guard unit whether there were any prisoners of war, or do you mean if I phoned to request prisoners of war because of the prior phone call made to me?

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116. Q. That was my next question. What I desired to know was whether you had put in a call to the naval guard unit around the date July 20, 1944?
A. I did not phone the Forty-first Naval Guard Unit first.

117. Q. Is it not a fact that around this time you telephoned Executive Officer Nakase requesting prisoners of war for physical examinations and physical tests?
A. There was absolutely no such fact. It was only through the urgent request of Asano that I assumed responsibility for this physical examination.

118. Q. You testified that there was numerous personnel of the Fourth Hospital at the scene of the execution. Was there any personnel from the Forty-first Naval Guard Unit at that scene?
A. Yes, a Lieutenant Asamura from the Naval Guard Unit was present.

119. Q. On July 23, 1944, who was it who ordered the prisoners brought to the Fourth Naval Hospital?
A. That morning I telephoned Nakase, the executive officer, and he assented, and therefore I ordered certain personnel through the adjutant to bring the prisoners to the hospital.

120. Q. Where were the personnel of the hospital of the afternoon of that day? Were they at their usual duty stations?
A. Yes, they were carrying out their duties as usual.

121. Q. Were the buildings in which these persons were carrying out their duties just around the corner close to the veranda to which you testified this morning?
A. These buildings were not around the veranda, but scattered in all directions.

122. Q. Now drawing a line parallel to the veranda, would these buildings be in front of this line or behind this line?
A. All the buildings were behind the veranda.

123. Q. Was there a road leading to the scene of the execution behind the veranda?
A. Yes, there was.

124. Q. You stated that there were sides to the truck on which the prisoners were riding, how high were these sides?
A. As I recall, around two feet.

125. Q. Were the prisoners seated on the truck, or standing, or were they squatting in the truck? AB
A. I believe they were squatting with their legs crossed. I merely saw the tops of their heads. AB

126. Q. On the sketch that you made this morning, I would like to ask where the buildings were in which the hospital personnel were at work.
A. The two parallel lines on the left-hand side of the sketch, represent the corridor. To the left behind the corridor were the offices, the wards, and the barracks were behind the offices in separate buildings.

127. Q. In coming from the Forty-first Naval Guard Unit to the hospital, was there an incline encountered on the way close to the front of the hospital, excluding the incline which leads towards the scene of the execution?
A. It was a gradual incline from the Fourth Fleet Headquarters towards the hospital.

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128. Q. Was the same road traversed when going from the Forty-first Naval Guard Unit to the hospital, and when going to the Fourth Fleet Headquarters to the hospital?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. As I recall I heard the sound of the engine which came from the direction of the Fourth Fleet stop by the mango trees and then proceed up the twenty degree grade hill.

129. Q. That was not my question. My question was whether there was an incline in the road which came from the direction of the Fourth Fleet, other than the twenty degree grade hill which led up to the scene of the execution?

This question was objected to by the judge advocate on the ground that it was repetitious.

The accused reframed the question.

130. Q. Was there any other incline on the road from the Forty-first Naval Guard Unit to the Fourth Hospital other than the incline leading up to the scene of the execution close to the front of the hospital?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused made no reply.

The commission announced that the objection was sustained.

131. Q. When did you hear this harsh noise of the engine which you testified as having heard, where was the truck when you heard this harsh grating sound of the engine to which you testified?
A. As I recall, the truck first came to the gates and then it went up the hill to the mango trees and then it went up the hill.

The judge advocate moved to strike out the answer on the ground that it was not responsive to the question asked.

The accused announced that it had no objection to the striking of the answer.

The commission directed that the answer be stricken out.

132. Q. Please mark the directions, north, east, south and west on the sketch, Exhibit 24.

(The witness marked Exhibit 24 as requested.)

133. Q. Were there no obstacles obstructing the view to the northeast of the veranda on which Admiral Hara, ~~Tanaka~~ Exhibit 24 and you were seated?
A. Whereabouts in the sketch do you mean?

134. Q. Was there no large object which obstructed the view in that direction, if so, please indicate.
A. There was a bamboo bush.

135. Q. Was there not a large tank between the veranda on which you were seated and the road leading to the scene of the execution to the northeast of the veranda?
A. There was a large water tank.

136. Q. How high was this tank?
A. About two and one-half meters. ~~northeast.~~ AB

137. Q. Then would the water tank be an obstruction to the visibility of the roads from the veranda?
A. Which road are you referring to?

138. Q. I refer to the road behind the tank, the road behind the tank in relation to the veranda.
A. Of course the road behind the tank was not visible.

139. Q. Was there any obstacle to visibility between the tank and the road in front of the hospital? AB

This question was objected to by the judge advocate on the ground that there had been no testimony to indicate that the tank was in front of the hospital.

The accused replied.

The commission announced that the objection was sustained. AB

140. Q. Were there any obstacles along the road which obstructed the view of the road from the three of you on the veranda?
A. There were plants from which tapioca protein is derived which I had planted which obstructed the view. They had grown to about my own height. (Witness stands about 5' 4")

141. Q. Close to the entrance of the hospital, was there not a hedge built along the road and on top of this hedge, a fence of live plants built?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused withdrew the question.

142. Q. Where on the sketch is the entrance to the hospital in relation to the road?
A. There were no gates to the hospital as such at the hospital. The two mango trees on the sketch did service for the gate.

143. Q. Was there not a hedge along the road on the lefthand side of the sketch, to the bend at the road and on top of this hedge, was there not a fence made of live plants?
A. There was no hedge as such, but tapioca as were planted along the road and it formed a hedge.

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144. Q. Could a car travelling along the road on both sides of the bend be seen from the veranda?
A. A car could be seen over this hedge. The lower portions of a car could not be observed, but the upper portions could be easily seen.

145. Q. What part of a person squatting on a truck was visible from the veranda?

This question was objected to by the judge advocate on the ground that it was speculative.

The accused withdrew the question.

146. Q. What portions of the prisoners of war squatting in the truck was visible from the veranda?
A. I was talking with the commander in chief and I was sitting in the position that I am now sitting in (the witness has both hands on his knees, palms down), and what I observed was the upper portions of the heads (the witness indicated the scalp and the upper portion of the head including a portion of the forehead).

147. Q. In what type of chair was the Commander in Chief Hara seated at that time?
A. He was seated on a rattan sofa which was reserved for guests.

148. Q. On what business did the Commander in Chief Hara come to the hospital on that day?
A. The commander in chief used to visit at the hospital once a month, and sometimes it would be once in forty-five days. It was immediately after the departure of the hospital ship and he came to see how the conditions were after the ship had left.

149. Q. How long were you in conversation with Vice Admiral Hara on that day. Approximately how many minutes was the conversation on the veranda?
A. As I recall, about twenty minutes.

150. Q. What were the topics of conversation during these twenty minutes?
A. First when he was about to take his seat he asked me why there were still eight hundred patients at the hospital when I, Iwanami, knew that it was the last hospital ship leaving Truk, and turning in the direction of Tandda he said that as all the nurses had left, it must be lonesome and also very busy for you at the hospital. And as I had on the spur of the moment sent these nurses home, Taneda was explaining to the commander in chief all the extra work that had accrued from their departure.

151. Q. Did you in person report or talk to the commander in chief, or did you order anybody to report or talk to the commander in chief or anybody at the Fourth Fleet Headquarters, concerning the execution of prisoners of war prior to their execution?
A. Absolutely not. As I firmly believed in what Ueno said, I did not report nor talk about this matter, nor did I report, nor did I ask.

The witness was duly warned.

The commission then, at 4:25 p.m., adjourned until 9 a.m., tomorrow, Friday, December 3, 1948.

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TWENTY-SEVENTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Friday, December 3, 1948.

The commission met at 9:15 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interperters.

The record of proceedings of the twenty-sixth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Iwanami, Hiroshi, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

(Cross-examination continued.)

152. Q. During your conversations with the accused, Hara, and Taneda on the veranda was the subject of prisoners of war brought up in the conversation prior to the arrival of the prisoners?
A. It absolutely was not.

153. Q. Was this subject of prisoners of war brought up in the conversation during the time the accused, Hara, was at the hospital until the time of his departure from the hospital?

This question was objected to by the judge advocate on the ground that it called for an opinion of the witness.

The accused withdrew the question.

154. Q. During the time you were with Hara from the time the prisoners arrived at the hospital until the accused, Hara, left the hospital, was the subject of prisoners of war brought up by Hara?
A. It absolutely was not.

155. Q. Did you inform Vice Admiral Hara of the arrival of prisoners of war at the hospital?
A. I did not.

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156. Q. Is it a fact that you did your utmost to keep secret the fact that prisoners of war were scheduled to arrive at the hospital?
A. That also is not a fact.

157. Q. You testified that there was a road leading to the scene of the execution from behind the buildings. Was it not the shorter road for the workers at these buildings to go by this road at the back of the hospital rather than to take the road leading from in front of the hospital?
A. The road at the back of the hospital was shorter.

158. Q. You testified that while the three of you were in conversation on the veranda people passed on the road in front leading to the hill. How many persons passed on this road?
A. I saw three or four persons going up this road.

159. Q. Did you know whether these three or four persons were going up the road to the scene of the execution?
A. I did not know.

160. Q. You testified that Admiral Hara was about twenty minutes at the hospital. Did you mean by that that he was in conversation with you on the veranda for about twenty minutes or did you mean that that was the whole period of time that he was at the hospital from his arrival to his departure?
A. I believe the conversation lasted about twenty minutes.

161. Q. Then you mean that these three or four persons passed the road during these twenty minutes?
A. Yes.

162. Q. Who convened the conference on September 1, 1944?
A. I do not know. My adjutant received a phone call to the effect that a conference was to be held and I attended.

163. Q. Where was this phone call from?
A. Fourth Fleet Headquarters.

164. Q. What was the purpose of this conference?
A. It was a regular monthly meeting.

165. Q. When did this conference begin?
A. I believe it was around nine o'clock.

166. Q. In the forenoon or afternoon?
A. In the morning.

167. Q. Were you present from the start of the conference?
A. Yes, I was.

168. Q. When did the conference end?
A. I do not correctly recall when the conference ended. After the reports of the various departments had been made the conference went into free talking.

169. Q. Approximately how many persons were present at the conference?
A. I believe seventeen or eighteen persons.

170. Q. How much time elapsed from the time of the commencement of the conference until the time you went into this free talking course?
A. I believe an hour and a half after the opening of the conference.

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171. Q. When you spoke on the spears was it before or after you entered into this free talking?
A. A considerable time after we entered this free talking period.

172. Q. Approximately how many persons were listening to you talk on spears?

This question was objected to by the judge advocate on the ground that it called for an opinion of the witness.

The accused withdrew the question.

173. Q. While you were giving this talk on spears were all the persons present listening to you?

This question was objected to by the judge advocate on the ground that it called for an opinion of the witness.

The accused made no reply.

The commission announced that the objection was not sustained.

A. I believe there were only three or four persons who were listening to me talk on spears.

174. Q. Among the persons whose names you gave us as having been among the three or four persons who were listening to you, you mentioned a flying officer -- AS

This question was objected to by the judge advocate on the ground that counsel was misquoting testimony of the witness.

The accused withdrew the question.

175. Q. You testified yesterday that after the conference there was a group of four officers including yourself -- an air officer and Chief Paymaster -- and you were discussing nutrition. Do you recall who this air officer was?
A. It was a mistake, it was not an air officer but the head of the Air Depot.

176. Q. Do you recall his name?
A. I have forgotten.

177. Q. What relation existed between your talk on spears on that day and the conference?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused withdrew the question.

178. Q. Did you ever speak to Vice Admiral Hara about prisoners of war after their execution?

This question was objected to by the judge advocate on the ground that it was irrelevant, incompetent and immaterial because no time limitation was made in the form of the question.

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The accused made no reply.

The commission announced that the objection was not sustained.

A. Yes. I apologized to the Commander in Chief for what I had done by overstepping myself, believing too much in what Ueno had said.

179. Q. When did this take place?
A. It was simultaneous with the termination of the war.

180. Q. What do you mean by termination of the war specifically?
A. August 15.

181. Q. That was the first time you spoke to the Commander in Chief about the execution of the prisoners of war at the hospital. Is that correct?
A. Yes.

182. Q. Was your status as commanding officer of the hospital in any way changed after the Emperor's message of August 15, 1945?

This question was objected to by the judge advocate on the ground that it was vague, irrelevant, and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. I was not aware whether my status had changed or not but I continued to fulfill my duties.

183. Q. Going back to the conversation on the veranda. Where was Admiral Hara's car parked when he was on the veranda in company with you and Captain Taneda?
A. I do not recall.

184. Q. How is it, doctor, that you could see the car with these prisoners as it entered by the mango trees if you had your back to the mango trees?

This question was objected to by the judge advocate on the ground that it was misleading, and misquoted the testimony of the ✗ witness.

The accused replied.

The commission announced that the objection was not sustained.

A. Admiral Hara and Captain Taneda were animatedly discussing some matter, and I was waiting an opportunity, watching Admiral Hara's countenance, as I wished whenever they stopped this conversation to state my reason why I had not returned the eight hundred men by the hosptial ship. And while I was watching Admiral Hara's face, I saw the truck pass up behind the Admiral.

185. Q. What did Captain Taneda say to you after Admiral Hara had left?
A. Taneda said, "The prisoners came, didn't they?"

186. Q. What did you say?
A. I replied, "Yes, that is so."

187. Q. Why, when Admiral Hara was there, didn't you tell him about these prisoners?
A. As I firmly believed what Ueno told me, namely that at the Guard Unit Nakase was repeatedly asking who would execute the prisoners, I thought that the matter had all been settled at the Guard Unit and that there was no need to ask the Commander in Chief about this matter.

188. Q. Did you see the Commander in Chief to his car that day when he left?
A. Yes, I did see him to his car when he departed.

189. Q. Where was his car when you saw him off?
A. As I recall it was close to the mango trees.

190. Q. Was the truck with the prisoners near by?
A. I do not recall if there was an empty truck there or not.

191. Q. You testified that Admiral Hara had come there to discuss the evacuation of patients by the last hospital ship. Had Admiral Hara told you to fill the last hospital ship with patients for the homeland?
A. As I recall Admiral Hara expressed the desire that as many of the patients as could be put aboard the hospital ship be put aboard, and so when he came to visit my hospital and when he saw eight hundred patients still there he was surprised and asked why it was that there were these men still in the hospital.

192. Q. Was the business of the hospital a delicate subject between you and Admiral Hara in view of your connection with the Bureau of Medicine in Tokyo?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

193. Q. Isn't it true that reports of the hospital as to the deaths occurring at the hospital were forwarded direct to the Bureau of Medicine in Tokyo?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial unless prisoners of war deaths were specified.

The accused replied.

The commission announced that the objection was sustained.

194. Q. Were the deaths occurring at the hospital of prisoners of war required to be reported in any different manner from any other deaths?

This question was objected to by the judge advocate on the ground that it was vague.

The accused made no reply.

The commission announced that the objection was sustained.

0917

The commission then, at 10:15 a.m., took a recess until 10:40 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.

The judge advocate introduced Lieutenant (junior grade) Eugene F. Clark, U. S. Navy, as an interpreter, and he was duly sworn.

No witnesses not otherwise connected with the trial were present.

Iwanami, Hiroshi, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Cross-examination continued.)

195. Q. Did you, as the commanding officer of the hospital, know that these two prisoners of war died at the hospital?
A. I did.

196. Q. Did you report their deaths to the Bureau of Medicine in Tokyo?
A. I did not. The reason why I did not report was because the hospital had taken the place of the Naval Guard Unit in executing these prisoners.

197. Q. You testified that there were personnel other than hospital personnel at the scene of the execution. Isn't it true that Lieutenant Asamura and his group of men were the personnel that you had reference to?
A. Yes.

198. Q. And wasn't Lieutenant Asamura and his men attached to the hospital as a defense unit to assist and protect the patients in case it became necessary to evacuate the hospital?

This question was objected to by the judge advocate on the ground that it was misleading.

The accused replied.

The commission announced that the objection was not sustained.

A. Yes.

199. Q. Who was this Okamura, this person that you told on July 20th that there were prisoners to be executed at the Guard Unit?
A. I was referring to Surgeon Lieutenant Commander Okamura, a surgeon attached to the hospital.

200. Q. Now, you spoke about the bombing of your hospital. Was your hospital plainly marked?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial and called for an opinion of the witness.

The accused replied.

The commission announced that the objection was sustained.

201. Q. Now, when you left to go to the scene of the execution, did you go with Captain Taneda?
A. Yes, I went with him.

202. Q. On the way to the scene didn't you see any guards that had been posted along the way?
A. I saw two guards.

203. Q. Do you know what the duty of these guards was?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

204. Q. Weren't these guards stationed to keep the gunzokus and the natives from witnessing the execution?
A. Yes, the same applied to patients that they also would not witness the execution.

205. Q. Now, you testified that you made a speech when you were there at the gathering. What did you say in this speech?
A. I stated as follows: "As you know this hospital is far removed from all other units and the red cross is clearly marked on all the roofs of all the buildings. The Americans have repeatedly attacked our hospital and on July 12th they attacked in broad daylight and flying at a low altitude four 250 kilogram bombs were dropped which caused numerous deaths and serious casualties, and as you know from the newspapers, the American forces which landed on Saipan committed barbarous acts against our forces" and I told the men that to preserve the sanctity of the red cross in the name of heaven to right this wrong. I made the above speech.

206. Q. And after the speech you and Captain Taneda left, is that true?
A. I alone left this assembly.

207. Q. On your way down the hill you happened to turn around and saw one of the prisoners being executed, is that right?
A. Yes.

208. Q. After August 15, 1945, did you submit a report to Admiral Asano regarding the disposal of these two prisoners at the hospital?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused reframed the question.

209. Q. After the cessation of hostilities did you for the first time officially report to Admiral Asano the execution of these two prisoners at the hospital?
A. I absolutely did not report.

0919

Reexamined by the judge advocate:

210. Q. What was the meaning of your last answer?
A. I recall having told Commanding Officer Asano at Fourth Fleet Headquarters where I met him about a month after the execution that the prisoners had been disposed of by bayonet and spear. When I told Asano this he laughed and said "Is that so" and immediately after that I went into the staff officers' room at Headquarters.

211. Q. Did this conversation take place at the Fourth Fleet Headquarters?
A. Yes.

212. Q. On this Exhibit 24 which you have previously drawn, write the word "tank" to indicate where the tank was located that you referred to in your testimony.
A. The tank would not appear on this sketch. The tank is here. (The witness pointed to a place about one inch off the sketch behind the veranda, sketched on Exhibit 24.)

213. Q. Now, will you with a jagged line indicate the hedges that you referred to, the tapioca bushes you referred to as being on the road, indicating where they were?

The witness marked Exhibit 24 as requested and answered as follows:

A. The letter "B" which I have inserted stands for bamboo tree and I have placed the letter "T" in two places on the road to indicate where the two trees were located and with several circles in front of the veranda going to the road I have shown the location of the tapioca bushes.

214. Q. Was there anything between the letter "H" standing for the place where Hara was sitting and the letter "X" which would interfere with the vision from that point other than what you have previously shown on the chart?
A. There was a tree in this line which was known as the "bead tree".

215. Q. Will you draw a circle to show the location of that tree and put the letter "T" in that circle?

(The witness drew a circle and placed the letter "T" in the circle as requested.)

216. Q. Was there anything else in that area?
A. All that I recall is this tree, this bead tree.

217. Q. Prior to the September conference had you ever spoken to any of the persons who were present at this conference regarding the use of spears?

This question was objected to by the accused on the ground that it was irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No, I did not.

218. Q. Yet you testify that Asano turned to you and said "Iwanami tell about the spears", is that true?
A. I would like to change that last answer. Except for Asano I spoke with nobody but Asano.

219. Q. You testified that the hospital took the place of the Guard Unit in the execution of these prisoners of war. To what naval organization was the Fourth Naval Hospital directly subordinate?

This question was objected to by the accused on the ground that it was vague.

The judge advocate made no reply.

The commission announced that the objection was not sustained.

A. It was under the command of the Fourth Fleet.

220. Q. Yet you testify that you did not contact the Fourth Fleet with regard to this until more than a year after the occurrence, is that true?
A. Yes.

Examined by the commission:

221. Q. You referred to a Captain Taneda in your testimony, just who was he?
A. He was the senior surgeon at the hospital and his rank was surgeon captain.

Neither the judge advocate, the accused, nor the commission desired further to examine this witness.

The witness made the following statement: It was a little before Christmas 1946 that an investigating officer told me that if there were no superior orders for the execution of the two prisoners of war at the hospital then I, Iwanami, would be in a sorry plight, and the interpreter told me that such an absurd thing as the following could not have been, namely, that when you disposed of the prisoners which were held at the Naval Guard Unit for safekeeping on the pretext of examining their physical condition and you submitted no report to the Guard Unit and the Guard Unit did not make any inquiries about this matter. I thought about telling the true circumstances at that time. However I had been asked by Ueno that I protect his subordinates and by Asano that I assume responsibility and stand by my story that the prisoners had been brought for physical examination and as I had given my word I could not back out as a man. In March or April 1947 I was interrogated by Commander Ogden and Lieutenant Commander Regan. I heard these two gentlemen in conversation after the interrogation. I cannot well understand English spoken, but I concluded that they were saying that the incident occurred after Hara had left and that Hara had condoned the execution, and when I realized that because I had withheld the truth Commander in Chief Hara was being brought into trouble I thereupon spoke up and told the truth, and what I mean by the truth is what I have so far stated in this trial. The understanding reached between Asano and myself was that I state that the prisoners were brought for physical examination. That was as far as our understanding went. When Nakase testified that Fourth Fleet Headquarters knew about the physical examination of the prisoners I never agreed to such an understanding. That is all.

AB

AB

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The witness was duly warned and withdrew.

The prosecution rested.

The accused made a motion for a directed acquittal on the ground that the evidence had not proved the charge against the accused beyond a reasonable doubt.

The judge advocate replied.

The commission announced that the motion was not sustained.

The accused requested an adjournment until Thursday, December 9, 1948 in order to prepare his defense.

The commission announced that it would grant an adjournment until Wednesday, December 8, 1948.

The commission then, at 11:30 ~~p~~.m., adjourned until 9 a.m., Wednesday, December 8, 1948. AB

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TWENTY-EIGHTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Wednesday, December 8, 1948.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Bolton, U. S. Navy, judge advocate.
Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the twenty-seventh day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

The defense began.

Sanagi, Sadamu, a counsel for the accused, read an opening statement for the defense, appended marked "DD".

An interpreter read an English translation of the opening statement for the defense, appended marked "EE".

The accused requested the commission to take judicial notice of the following:

1. Before 23 February 1944 the Allied Forces had occupied the following area within the area of jurisdiction of the 4th Fleet and its neighboring Southern Area:
   a. Within area of jurisdiction of the Fourth Fleet:
      Gilbert Islands - Makin, Tarawa.
      Marshall Islands - Kwajalein, Roi, Namur, Eniwetok.
   b. Neighboring Southern Area:
      Solomon Islands - New Georgia Island, Bougainville Island.

2. Before 23 February 1944 the American Task Force attacked Caroline Islands and the Marianas Islands.
   17-18 February 1944 - Task Force attack on Truk.
   22 February 1944 - Task Force attacks on Saipan and Tinian.

3. After 23 February 1944 the Allied Forces made the following attacks on the Japanese forces in the Central Pacific Area. (The following data was obtained from Admiral King's Report to

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Secretary of the Navy, set forth in "War Report".)

30 March - 1 April 1944 - Carrier Task Force attacks on Western Carolines.
29 April - 1 May 1944 - Carrier Task Force attacks on Central and Eastern Carolines.
23 May 1944 - Carrier Task Force attack on Wake Island.
11 - 14 June 1944 - Preliminary Carrier Task Force attacks on Marianas Islands.
15 June 1944 - Landings on Saipan, Marianas Islands.
19 - 20 June 1944 - Battle of Philippine Sea.
23 - 24 June 1944 - Carrier Task Force attacks on Pagan Island, Marianas Islands.
21 July 1944 - Landing on Guam, Marianas Islands.
24 July 1944 - Landing on Tinian, Marianas Islands.
6 - 14 September 1944 - Preliminary Carrier Task Force attacks on Palau Islands.
7 - 8 September 1944 - Carrier Task Force attacks on Yap.
15 September 1944 - Landings on Peleliu, Palau Islands.
23 September 1944 - Landings on Ulithi.

4. The distance between the following points:

Truk - Jaluit Island - 1,055 nautical miles.
Truk - Ocean Island - 1,180 nautical miles.
Truk - Nauru Island - 1,020 nautical miles.

5. The fact that on 15 August 1945 the Emperor of Japan made a Proclamation to the entire Japanese forces concerning the surrender.

6. The Japanese Mandated Islands.

Japanese Administration - Japan occupied these former German possessions in October 1914, and a military administration, with headquarters at Truk, was set up in December 1915. The islands were then divided into six administrative districts, each governed by a resident garrison commander. A civil administration was created in June 1918. A League of Nations mandate for the administration of these islands was assigned to Japan in 1920. The Nanyo Cho, or South Sea Government, was established in 1922.

The head of the administration is the governor, who is under the authority of the Overseas Ministry. Matters of communication are supervised by the Ministry of Communications and currency, banking, and customs are in charge of the Ministry of Finance. The governor may act on his own discretion in emergency and may call on the commander of the naval station or on the nearest responsible naval commander to take military action.

The government office is composed of the governor's secretariat and the two departments of home affairs and development. The department of home affairs contains the four

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sections of local affairs, finance, taxation, and police, while the department of development contains the five sections of agriculture and forestry, commerce and industry, fisheries, transportation and communication. Branch offices of the government exist in Saipan, Yap, Palau, Truk, Ponape, and Jaluit. (Encyclopaedia Britannica, 1945 American Edition, Vol. 17, p. 8; copyright owned by University of Chicago.)

The judge advocate objected to the request by the accused for judicial notice of the items set forth in paragraphs 1, 2, 3, 5, and 6.

The accused replied.

The commission was cleared.

The commission was opened and all parties to the trial entered.

Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.

The commission announced that it would take judicial notice of the following items from the request for judicial notice:

Item 1 of the request for judicial notice by the accused, reworded as follows:

"Before 23 February 1944 the Allied Forces had occupied the following areas:

Gilbert Islands - Makin, Tarawa.
Marshall Islands - Kwajalein, Roi, Namur, Eniwetok.
Solomon Islands - New Georgia Island, Bougainville Island."

and of Item 2, Item 3, Item 4,
and of paragraph one of Item 6.

Sumikawa, Michio, ~~the~~ a witness for the prosecution, was recalled as a witness for the defense, and was warned that the oath previously taken by him was still binding. AB

Examined by the accused:

1. Q. State your name and former rank in the Japanese Navy.
A. Sumikawa, Michio, former rear admiral.

2. Q. State the period of your tour of duty as Chief of Staff in the Fourth Fleet.
A. Dividing the period into two - first half and second half - the first period was from January 6, 1944 until March 28 of the same year. The second half was from August 17, 1944 until September 2, 1945 at the signing of the surrender.

3. Q. During your tour of duty as Chief of Staff of the Fourth Fleet did you receive any report regarding the capture of American prisoners on Jaluit Island around February 1944?
A. I have no recollection.

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4. Q. Around February 1944 or the earlier part of March 1944 did the Fourth Fleet Headquarters receive any request from the commanding officer of Jaluit Island asking for directions in regard to the disposal of prisoners captured on that island?

This question was objected to by the judge advocate on the ground that it was leading.

The accused replied.

The commission announced that the objection was not sustained.

A. I have no recollection.

5. Q. Do you know if around August 1944 on Truk there was a spy incident involving natives and missionaries?
A. Around August 1944 soon after my appointment, I did receive a report about Truk natives involved in a spy incident but I do not recall that any missionaries were involved.

6. Q. Who did you receive this report from? If you know further details, please state them.
A. Around that time the head of the Fourth Construction Department, Captain Harada, reported to the Commander in Chief, Vice Admiral Hara, and he said as follows: "According to the report of the civilian guards of the Fourth Construction Department at Uman Island, there was a confession by a native employee of that department to the effect that there was suspicion over the Truk natives for communicating to United States submarines from the atoll and this was reported by a civilian guard. This incident is being investigated by the Army Kempei." I got in touch with the army intelligence officer, Lieutenant Colonel Arita, and he confirmed the fact that the investigation of the incident was being carried out by the army. Soon after, about five or six days later, I was notified by Lieutenant Colonel Arita that due to the investigation the suspicion was groundless. AG

7. Q. You testified regarding this incident on Uman Island. Did you receive a report regarding a spy incident on Tarik Island?
A. At that time I never heard that there was such an incident on Tarik Island.

8. Q. Do you know who was the commanding officer on Tarik Island around August 1944?
A. At that time the commanding officer was an army company commander. I do not recall his name.

9. Q. Where are the islands of Uman and Tarik located?
A. Uman Island is quite a large island located south of Dublon Island in Truk Atoll and Tarik Island is located west of Dublon Island and southwest of Param Island in Truk Atoll and it is relatively small.

10. Q. You testified that the army investigated these spy incidents of the natives. Is there any reason for the army investigating?
A. The peace and security in these places were maintained by the army Kempei. There was an order from the Combined Fleet which will confirm this fact, although I do not know whether this order was issued before or after the incident. It is as follows: "The maintenance of peace and security in the inner South Seas shall be assumed by the Army."

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The judge advocate moved to strike out this answer on the ground that it was not responsive, it was speculative, and an opinion of the witness.

The accused replied.

The commission announced that the motion was not sustained.

11. Q. Do you know whether or not there was an incident of a native concerning coconut toddy on Nauru Island around October 1944?
A. I do not recall receiving any such report.

12. Q. Do you know whether there was an incident of a Chinese regarding food supplies on Nauru Island around December 1944?
A. I also do not recall receiving such a report.

13. Q. Were there any orders or regulations issued by the headquarters of the Fourth Fleet in regard to rules of punishment and procedures to be carried out in case natives in the occupied area disturbed the peace and security?
A. There were none issued from the Fourth Fleet but the Combined Fleet issued rules and regulations concerning these matters regarding the punishment of natives in occupied areas in the Military Punishment Order.

14. Q. In the case when natives in the occupied area on Nauru disturbed the peace and security, what did the Combined Fleet order provide as to who shall execute the Military Punishment Order?
A. According to the Military Punishment Order the president of the Conference for Military Punishment will be the Fourth Fleet Commander in Chief, but in remote places such as Nauru Island, the commanding officer will take his place.

15. Q. Did you receive a report from the commanding officer of Jaluit Island regarding a spy incident of natives on Jaluit Island around April 1945?
A. I do not recall receiving such a report.

16. Q. Did you receive any report from the commanding officer of Jaluit Island regarding a spy incident of natives on Jaluit Island around August 1945?
A. I do not recall receiving such a report.

17. Q. During your tour of duty as Chief of Staff of the Fourth Fleet did the Commander in Chief of the Fourth Fleet have administrative and judicial authority over natives on Jaluit Island?
A. The Fourth Fleet Commander in Chief had no administrative authority whatsoever over the natives on Jaluit Island,

18. Q. Did the senior commanding officer of Jaluit Island have administrative and judicial authority of the natives on Jaluit Island?
A. The administrative and judicial authority over the natives in the inner South Seas had been held by the South Seas Government, but when I resumed my duties as Chief of Staff later these powers had been delegated to the commanding officer of each of the islands.

The witness was duly warned.

The commission then, at 11:30 a.m., adjourned until 9 a.m., tomorrow, Thursday, December 9, 1948.

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TWENTY-NINTH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Thursday, December 9, 1948.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Belton, U. S. Navy, judge advocate.
Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the twenty-eighth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Sumikawa, Michio, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination continued.)

19. Q. State when and from whom the Fourth Fleet Headquarters received directions regarding cessation of hostile activities and surrender.
A. On August 15, 1945 the Central Authorities sent a telegram which contained the Imperial Rescript on the termination of war to the Fourth Fleet Headquarters, and next the order for immediate termination of hostile activities, and this was relayed to all the subordinate units.

20. Q. What measures did the Fourth Fleet Headquarters take in accordance with this order on Nauru and Ocean Islands?
A. Simultaneously with the relaying of the above dispatch by the Commander in Chief of the Fourth Fleet Headquarters entitled the instructions on the occasion of the termination of war and the first order is as follows: "With the Emperor's decree the war has come to a close. My emotions are overwhelmed in reflecting the immeasurable hardships endured in the past. On the occasion of the termination of war I express my deepest condolences to those who died in this war and appreciate your hardships and suffering which you endured during this long period. The war is over but I urge you to carry on with spirit and maintain order through the usual line of command." That is all. A directive came from the Central Authorities. It was in regard to the surrender terms, the content of what was determined at Manila by the military courier and was relayed to us by the Central Authorities and we were directed that the units in the inner South Seas should capitulate to the Commander in Chief, United States Pacific Fleet and it was determined that the units in Nauru and Ocean would surrender to the Australian Forces. I relayed it to all the subordinate units and the negotiations for surrender which took place on the destroyer STACK was also relayed. The result being as follows: That the

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inner South Seas units was scheduled to surrender on September second. Due to the fact that various units were contacted by the United States Forces in regard to the surrender, a dispatch was sent which is as follows: If in case the Allies contact the various units in regard to the preparation for capitulation, it was permissible for them to start negotiations. That is all.

21. Q. You mentioned the inner South Seas units. What units do you mean when you say "the inner South Seas units"?
A. According to our and the Central Authorities' interpretation of inner South Seas units, this would mean all the subordinate units under the Fourth Fleet and it would also include the Palau Area which was subordinate to the Southwest Area Fleet until the latter part of the war would also be included.

22. Q. Do you recall when the Fourth Fleet Headquarters relayed the telegram from the Central Authorities on the Emperor's rescript and the termination of hostile activities?
A. It was on August 15th and the communications staff officer reported to me that acknowledgement of the receipt of this telegram was received from all the units.

Cross-examined by the judge advocate:

23. Q. On what date was the order sent out to Nauru and Ocean Islands that they should surrender to the Australian Forces?
A. It was around the 20th of August 1945. It may be a day later or a day earlier.

24. Q. That was after you had conducted your negotiations on the destroyer STACK, is that correct?
A. It is not so. This was a result of what was determined at Manila. As a matter of fact negotiations commenced on board the destroyer STACK by Brigadier General Hermle was regarding those units in the Central Carolines, but I explained the organization of the Fourth Fleet and told him about the directive sent out from the Central Authorities, and that the Fourth Fleet would like to surrender in its entirety to the Commander in Chief of the United States Pacific Fleet, and on the occasion of the signing of the surrender that Vice Admiral Murray should bring with him the letter of authority from the Commander in Chief of the U. S. Pacific Fleet, and it was done as proposed. That is all.

25. Q. On what date did Nauru and Ocean in fact surrender locally to the Australian Forces?
A. From our interpretation this signing of the unconditional surrender on board the PORTLAND by the Fourth Fleet Commander in Chief, which was accepted by Vice Admiral Murray, was the date of the surrender, which was September second.

26. Q. Then Nauru and Ocean as part of his command were surrendered by the accused Hara on September 2, 1945 to Admiral Murray, is that correct?
A. That is correct. The subordinate units of the Fourth Fleet were surrendered to the Allied Forces represented by Vice Admiral Murray.

27. Q. Up until the date of that surrender on September 2, 1945, Nauru and Ocean were still under the command of the Fourth Fleet, is that correct?
A. That is so. It was under its command.

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28. Q. Did the terms of the surrender document signed by the accused Hara on September second specifically state that he surrendered at that time all of the units of the Fourth Fleet under his command?
A. Yes, it was written in that document and it had general terms like "the subordinate units of the Fourth Fleet".

29. Q. Returning to your earlier testimony on direct examination, you referred in your testimony to receiving a report regarding an alleged spy incident on Truk. Do you recall if this alleged incident that you heard about involved any of the following natives: Ruben Foliape, Marie Foliape, Rudolph Harris, Albert Harris or any of the following missionaries: Father Pierre Clivaz, Father Alois Kayser?
A. I absolutely did not hear.

30. Q. Do you recall if this incident involved any of the following Japanese personnel: Shoji, Takashi, civilian employee; Ishiwara, a naval civil guard; Takenouchi, a naval civil guard; Hideo Shoji, a naval civil guard; Anetai, Soji, a naval civil guard; and Sakamoto, Takaharu, a Japanese Military Police sergeant?
A. I do not know the names. When Captain Harada reported, he just mentioned that they were civilian guards of the Fourth Construction Department on Uman Island and that they were unimportant persons and he did not mention their names.

31. Q. Then all you knew was that naval civil guards participated in the investigation of this alleged spy incident, is that correct?
A. I did not say that the civilian guards participated in the investigation. Captain Harada just mentioned that it was connected with the Fourth Construction Department on Uman Island and that is why he reported.

32. Q. Then do you know whether naval civil guards were involved in any way in this spy incident?
A. Hara did not order Captain Harada at all that the Fourth Fleet should allow the civilian guards to involve themselves in this incident.

The judge advocate moved to strike out this answer on the ground that it was not responsive.

The commission directed that the answer be stricken out.

33. Q. You mentioned naval civil guards in connection with this incident. In what way were they connected with this incident to your knowledge?
A. The civilian guard was present when the investigation was conducted by the Army Kempei and he witnessed this statement by the native on Uman Island.

34. Q. Do you know of only one civil guard being involved or more than one?
A. I do not know the number.

35. Q. Were the naval civil guards under the Fourth Naval Construction Department or were they personnel of the Kempei?

This question was objected to by the accused on the ground that it was vague.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. That civilian guard was under the Fourth Construction Department.

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36. Q. And was the Fourth Fleet the direct higher echelon to the Fourth Construction Department?
A. Yes, it was.

37. Q. Was Rear Admiral Masuda in command of the Japanese armed forces of the Jaluit Defense Garrison?
A. Yes, he was.

38. Q. And was Admiral Masuda a subordinate officer under the accused Hara?
A. He was a direct subordinate of Admiral Hara, that is after the Sixth Base Force was deactivated.

Reexamined by the accused.

39. Q. Within the report you received who did it say was in charge of the investigation?
A. The report I received from Harada said that the Army Kempei was investigating the incident on Uman Island. When I ascertained this fact with the Army, Lieutenant Colonel Arita said that they were investigating.

40. Q. You testified that in your opinion the surrender document specified that all subordinate units of the Fourth Fleet were to be surrendered by Admiral Hara to the Americans. Now, isn't it true that Ocean and Nauru Islands were surrendered to the Australians on or about September 15th?
A. Due to the fact that the communication facilities were subject to control by the Allied Forces after the surrender September second, I do not know what happened then, and there were no communications between all the units that I know of.

41. Q. Didn't General Hermle as a representative of Commander Marianas determine whether Ocean and Nauru Islands were to be surrendered and to whom?
A. The earlier proposal made by the Allies was the capitulation of the Central Carolines, but due to the fact that we showed the organization chart of the Fourth Fleet, we requested that all the subordinate units under the Fourth Fleet should be surrendered at the same time the Fourth Fleet surrendered and this was duly accepted by General Hermle.

Recross-examined by the judge advocate:

42. Q. Did you attend this surrender conference on September 2, 1945?
A. Yes, I did.

43. Q. Who signed the surrender document on that date on the PORTLAND?
A. Lieutenant General Mugikura, Vice Admiral Hara, and Aihara, governor of the branch office of the Government of the South Seas.

44. Q. Was this document that was signed by them entitled "Unconditional Surrender of the Japanese Held Islands under the Command of the Senior Japanese Imperial Forces Based at Truk Atoll, Caroline Islands"?
A. It was not entitled as such. I believe it was the same copy as that which was shown to me by General Hermle at the preliminary negotiations.

The commission then, at 10:15 a.m., took a recess until 10:40 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Sumikawa, Michio, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Recross-examination continued.)

45. Q. Did paragraph one of this document of surrender signed September 2, 1945 at Truk contain the following: "We, acting by command of and in behalf of the Emperor of Japan, the Japanese Government and the Japanese Imperial General Headquarters, hereby accept the provisions in the declaration issued by the heads of the governments of the United States, China and Great Britain, 26 July 1945 at Potsdam, and subsequently adhered to by the Union of Soviet Socialist Republics, which four-powers are hereafter referred to as the Allied Powers"?
A. I do not know the details in that document, but it was stated in that document that Japan will accept the Potsdam declaration issued by the Allied Powers.

46. Q. Do you know if a paragraph in that document stated as follows: "We hereby proclaim the unconditional surrender to the Representatives of the Government of the United States of all Japanese Armed Forces and all Armed Forces under Japanese control wherever situated under our command"?
A. Yes, there was.

47. Q. Did this document contain the following: "We hereby command all commanders of units under our command to issue at once orders to their respective forces wherever situated to surrender unconditionally themselves and all forces under their control"?
A. Yes, there was.

The accused did not desire to reexamine this witness.

The commission did not desire to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

Mr. Sanagi, Sadamu, a counsel for the accused, was called as a witness for the defense and was duly sworn.

Examined by the judge advocate:

1. Q. Will you state your name please?
A. Sanagi, Sadamu.

2. Q. Are you defense counsel for the accused, Hara, Chuichi?
A. Yes.

Examined by the accused:

Examined by the accused concerning the offer in evidence of defense document #1:

3. Q. Do you have in your possession a covering letter which states where you obtained the documents which you wish to introduce into evidence?
A. Yes.

4. Q. What is it?
A. It is a certificate which certifies circumstances by which I obtained the Naval Regulations and that this Naval Regulations was used until the termination of the war by the Japanese Navy.

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5. Q. Who certified this certificate?
A. It is certified by the Head of the Second Demobilization Bureau who has the custody of the Naval Regulations.

6. Q. In what language is this certificate written?
A. The original is in Japanese, and there is a certified English translation.

7. Q. The seal stamped on the original, is it the same seal of the person who signed the English of this certificate?
A. It is customary in Japan that Japanese Government offices have a stamp of that office, and not a stamp of that individual, and the stamp on the original is translated in the translation as follows: "Chief of Archives and Document Section, Second Demobilization Bureau Liquidation Division".

8. Q. The name on top of the seal of the original, is this name the same person who signed the translation?
A. Yes.

Defense document #1 produced by the witness was submitted to the judge advocate and to the commission, and by the accused, offered in evidence.

Cross-examined by the judge advocate concerning the offer in evidence of defense document #1:

9. Q. This Japanese original appears to be in the form of a print, is that correct?
A. Yes.

10. Q. And the signature that you referred to on the original, is a printed character on that sheet just above the orange colored seal of the Chief of Archives, is that correct?
A. Yes, it is printed.

There being no objection, the document was so received, and is appended marked "Exhibit 25" (Japanese) and "Exhibit 25 a" (English translation).

Examined by the accused concerning Exhibit 25:

11. Q. Will the witness read Exhibit 25?

(The witness read Exhibit 25 as requested.)

Examined by the accused concerning the offer in evidence of defense document #2:

12. Q. Defense document number 2, Fleet Ordinance; from where was this excerpt taken?
A. It was excerpted from Volume 1, Naval Regulations, which defense counsel has in his possession.

13. Q. In which language is the original written?
A. In Japanese.

14. Q. Is there an English translation?
A. This is a translation of the excerpt.

15. Q. In which volume of the document listed in the certificate (Exhibit 25) was this taken from?
A. Naval Regulations, Volume 1.

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Defense document number 2 produced by the witness was submitted to the judge advocate and to the commission, and by the accused, offered in evidence.

Cross-examined by the judge advocate concerning the offer in evidence of defense document number 2:

16. Q. Is this excerpt of Fleet Ordinances that you wish to introduce, taken from the copy of Volume 1 of the Naval Regulations referred to in Exhibit 25?
A. Yes.

17. Q. This excerpt that you offer contains only a few of the articles of the Fleet Ordinances, is that correct?
A. Yes.

18. Q. What articles were included and what was the substance of the articles omitted?
A. The organization of the fleet and the duty of personnel of the fleet is set forth in this Fleet Ordinance. What I have excerpted is clause number 1 of the organization of the fleet, and the general duties of the Commander in Chief of the Fleet which especially concerns this present instance, and the order of the handling of various work in the Fleet Headquarters. And what was omitted is the duties of other members of the Fleet Headquarters and duties of the Commander in Chief which does not concern this case.

There being no objection, the document was so received, and is appended marked "Exhibit 26" (Japanese) and "Exhibit 26 a" (English translation).

Examined by the accused concerning Exhibit 26:

19. Q. Will the witness read Exhibit 26?

(The witness read Exhibit 26 as requested.)

Cross-examined by the judge advocate concerning Exhibit 26:

20. Q. Do these articles that you have excerpted in Exhibit number 26 set forth the duties and responsibilities of the Commander in Chief of the Fleet?
A. Yes.

21. Q. Were these articles in force and effect with regard to the Fourth Fleet during the tour of duty of the accused, Hara?
A. This Fleet Ordinance was in force throughout the whole Jaapanese Fleet.

22. Q. Will you read Article 12 of Exhibit 26?

(The witness read from Exhibit 26 as requested.)

The commission then, at 11:25 a.m., took a recess until 2 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.

Sanagi, Sadamu, a counsel for the accused, the witness under examination when the recess was taken, resumed the stand. He was warned that the oath previously taken was still binding and continued his testimony.

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Examined by the accused concerning the offer in evidence of defense document #3:

23. Q. Do you have in your possession the regulations for the treatment of prisoners of war of the Japanese Navy?
A. I have in my possession the Japanese Regulations, Volume 4, which states the regulations for treatment of prisoners of war.

24. Q. Do you have an excerpt of this regulation for treatment of prisoners of war?
A. I have in my possession the whole of this regulation for the treatment of prisoners of war.

25. Q. Have you prepared a translation of the regulations for treatment of prisoners of war.
A. I have an English translation.

26. Q. Were these regulations in force during the tour of duty of the accused, Hara?
A. It is shown that it was in force during that time by the Chief of the Personnel Section, Second Demobilization Bureau.

27. Q. When was the English translation of this made? On what date?
A. I do not recall when it was translated.

28. Q. Was it translated after this trial began?
A. It was translated in June of this year.

Defense document #3 produced by the witness was submitted to the judge advocate and to the commission and by the accused offered in evidence. There being no objection the document was so received and is appended marked "Exhibit 27" (Japanese) and "Exhibit 27 a" (English translation).

Examined by the accused concerning Exhibit 27:

29. Q. Will the witness please read from this regulation articles 1, 3, 5-2, 6, 7, 8, 9, 10, and 15?

(The witness read from Exhibit 27 as requested.)

Cross-examined by the judge advocate concerning Exhibit 27:

30. Q. I observe that these regulations are taken from the Japanese Naval Regulations, 14th Edition, Volume 4. In how many volumes is this Japanese Naval Regulations, 14th Edition, compiled?
A. The Navy Regulations consist of 4 volumes.

31. Q. How many pages are there in this Fourth Volume that you have here in court?
A. There are 1196 pages excluding the index.

32. Q. How many pages does the index in this volume consist of?
A. There are 154 pages.

33. Q. Are the other volumes of the Navy Regulations of approximately the same length?
A. Volume 4 is the largest.

0935

Examined by the accused concerning the offer in evidence of defense document #4:

34. Q. Do you have in your possession a War Time International Law Manual?
A. I have.

35. Q. By whom was this War Time International Law Manual edited?
A. It was edited by the Japanese Navy Ministry Secretariat.

36. Q. Was this book widely used by the Navy?

This question was objected to by the judge advocate on the ground that it called for an opinion of the witness.

The accused replied.

The commission announced that the objection was sustained.

37. Q. What was the purpose for editing this book?

This question was objected to by the judge advocate on the ground that it called for an opinion of the witness.

The accused withdrew the question.

38. Q. Does the introduction of this book state what the purpose was for which it was issued?
A. It is written in the beginning of this book.

39. Q. What is the general outline of what is written?
A. Yamamoto, Isaroko, the Vice Minister of the Navy, states in the preface of this book as follows, "This book was edited by Enomoto, Naval Instructor, and Secretary of the Navy." And as I believe this is an adequate material for study by Naval officers in carrying out their duties, so this book will be issued throughout the Navy.

40. Q. What is the date of this introduction?
A. May, 194?

41. Q. Do you know for a fact whether this book was in force when the accused, Hara, was Commander in Chief of the Fourth Fleet?

This question was objected to by the judge advocate on the ground that it called for an opinion of the witness.

The accused made no reply.

The commission announced that the objection was not sustained.

A. This was used by all Japanese Navy units during the war.

42. Q. Have you prepared an excerpt of this?
A. I have.

43. Q. Have you also prepared a translation of this excerpt?
A. Yes, I have in my possession an English translation?

0936

Defense document #4 produced by the witness was submitted to the judge advocate and to the commission and by the accused offered in evidence. There being no objection it was so received and is appended marked "Exhibit 28" (Japanese) and "Exhibit 28 a" (English translation).

Examined by the accused concerning Exhibit 28:

44. Q. Will the witness please read Exhibit 28?

(The witness read Exhibit 28 as requested.)

Cross-examined by the judge advocate concerning Exhibit 28:

45. Q. You testified that this book on Wartime International Law was used by the Japanese Navy throughout the war. Did you mean to imply anything about the actual conduct of the Japanese armed forces during the war?

The commission stated that this question appeared vague.

The judge advocate withdrew the question.

46. Q. You have testified that this book on Wartime International Law was used by all Japanese forces throughout the war. Did you mean that the Japanese armed forces in their actual conduct followed the principles of international law set forth in the International Law Manual?
A. I do not mean that the clauses in this book were actually carried out by the units. What I meant was that this Wartime International Law Manual was issued to all units and when the war broke out all Navy officers were urged to procure copies of this book and I know for a fact that they purchased this book individually.

47. Q. Then this book sets forth the theoretic standards of behaviour that should have been followed by the Japanese armed forces throughout the war. Is that correct?
A. This states what the Japanese armed forces should follow.

48. Q. And the Japanese naval officers and the personnel were to be trained in accordance with this Wartime International Law Manual. Is that correct?
A. As it is stated in the preface that Japanese officers should use this book in reference to their daily duties.

49. Q. In accordance with Article 12 of the Fleet Ordinances it is the Commander in Chief of the Fleet who is to supervise the military discipline, morale, education, and training of the fleet under his command. Is that correct?
A. In Article 12 it states that the Commander in Chief shall supervise.

Examined by the commission concerning Exhibit 28:

50. Q. In reference to your testimony concerning the use of this book does the commission understand correctly that this testimony is based upon the preface of the book about which you have testified?
A. Yes.

Reexamined by the accused concerning Exhibit 28:

51. Q. Were you a Japanese Naval Officer?
A. Yes.

52. Q. What was your rank?
A. Navy Captain.

0937

53. Q. As a Naval officer did you have in your possession this book during the war?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. During the war I did possess a copy of this book.

Examined by the accused concerning the offer in evidence of defense document #5:

54. Q. Do you have in your possession the service regulations for personnel on Naval vessels?
A. I have in my possession naval regulations, Volume IV, which provides for the service regulations for personnel on naval vessels. AB

55. Q. Have you prepared in Japanese an excerpt of this regulation?
A. Yes, I have.

56. Q. Have you in your possession the translation of this excerpt?
A. Yes, I have an English translation.

57. Q. To what does this excerpt refer?
A. These regulations set forth matters to be followed by personnel of naval vessels in execution of their daily duties. By personnel meaning from the Captain of the ship down to the lowest rating. I have excerpted from this regulation the general principles and the duties of captains of Naval vessels which I believe have relation to this case.

Defense document #5 produced by the witness was submitted to the judge advocate and to the commission and by the accused offered in evidence. There being no objection it was so received and is appended marked "Exhibit 29" (Japanese) and "Exhibit 29 a" (English translation).

Examined by the accused concerning Exhibit 29:

58. Q. Will the witness please read Exhibit 29?

(The witness read Exhibit 29 as requested.)

Examined by the accused concerning the offer in evidence of defense document #6:

59. Q. Do you have in your possession the original of the service regulations for personnel of Naval Guard Units?
A. I have in my possession Naval Regulations, Volume I which provides for these regulations.

60. Q. Have you prepared in Japanese an excerpt of this service regulation for personnel of Naval Guard Units?
A. Yes, I have.

61. Q. Have you prepared a translation of this excerpt.
A. I have prepared ~~an~~ an English translation of this excerpt. AB

62. Q. What is the substance of these excerpts?
A. From the service regulations for personnel of Naval Guard Units which is made up of eight articles, I have excerpted two articles. These are the duties of the commanding officer which have a bearing on this case and that personnel of the guard unit shall apply this service regulations for personnel on Naval vessels mutatis mutandis so far as possible.

Defense document #6 produced by the witness was submitted to the judge advocate and to the commission and by the accused offered in evidence. There being no objection the document was so received and is appended marked "Exhibit 30" (Japanese) and "Exhibit 30 a" (English translation).

Examined by the accused concerning Exhibit 30:

63. Q. Will the witness please read Exhibit 30?

(The witness read Exhibit 30 as requested.)

The commission then, at 3:15 p.m., took a recess until 3:35 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel and the interpreters.

Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Mr. Sanagi, Sadamu, a counsel for the accused, the witness under examination when the recess was taken, resumed the stand. He was warned that the oath previously taken by him was still binding, and continued his testimony.

Examined by the accused concerning the offer in evidence of defense document #7:

64. Q. Do you have in your possession the original of the Japanese Naval Criminal Code?
A. I have in my possession Naval Regulations, Volume IV, which includes the Japanese Naval Criminal Code.

65. Q. Have you prepared excerpts of this Japanese Naval Criminal Code?
A. Yes, I have.

66. Q. What is the substance of this excerpt?
A. I have excerpted all of the index, the general provision, and all of the crimes such as the crime of disgrace in office and also the crimes relating to prisoners of war.

67. Q. Have you prepared the translation of this excerpt?
A. I have prepared an English translation of this excerpt.

Defense document #7 produced by the witness was submitted to the judge advocate and to the commission, and by the accused offered in evidence.

There being no objection, it was so received, and is appended marked "Exhibit 31" (Japanese) and "Exhibit 31 a" (English translation).

Examined by the accused concerning Exhibit 31:

68. Q. Will you please read the exhibit excluding Article 46 through Article 54?

(The witness read from Exhibit 31 as requested.)

0939

Cross-examined by the judge advocate concerning Exhibit 31:

69. Q. Does this excerpt that you have prepared from the Japanese Naval Criminal Code contain all of the articles set forth in Chapter 10 of that Japanese Naval Criminal Code?
A. I have excerpted all of Chapter 10.

70, Q. Do any of the articles of Chapter 10 set forth the crime of mistreating or killing prisoners of war or any punishment for the mistreating or killing of prisoners of war?
A. There is no such article.

71. Q. Is there anywhere in the Japanese Naval Criminal Code an article which specifically sets forth the offense of mistreating or killing of prisoners of war?
A. There is no clause which specifically states the crimes mistreatment or killing of prisoners of war.

72. Q. Are all the provisions which relate to crimes of violence, murder, and injury in the Japanese Naval Criminal Code set forth in Chapter 5 which appears in Part 2 of this code?
A. This is all which is provided in the Japanese Naval Criminal Code, and as the Japanese Navy utilizes the Japanese Criminal Code the crimes of murder et cetera, is listed in the Japanese Criminal Code also.

73. Q. Do the articles of this Chapter 5 in the Japanese Criminal Code consist of the articles from Article 58 through Article 70?
A. Yes.

74. Q. Do Articles 58, 59, 60, and 61 consist only of crimes of violence against a superior officer?
A. Yes.

75. Q. And do Articles 62, 63, 64, and 65 consist only of crimes of violence committed against a guard?
A. Yes.

76. Q. And do Articles 66, 67, and 68 relate only to the crimes of violence committed against a naval officer or sailor other than his superior officer or a guard?
A. Articles 66 and 67 specifically state so, but Article 68 does not relate to any special victim.

77. Q. Does Article 68 relate solely to crimes committed in a group?
A. Yes.

78. Q. And does that relate back to the prior offenses?
A. Article 68 does not state so.

79. Q. Does Article 70 relate solely to the crimes set out from Article 58 to Article 68?
A. Yes.

80. Q. And is the maximum penalty set forth in Articles 68 and 69 a penalty of three years?
A. In Article 69 the maximum penalty is three years, but in Article 68 they differ in three different cases.

0940

81. Q. Is Article 68 applicable to murder of prisoners of war?
A. From the text of this article I am not able to determine whether it does or not.

82. Q. Would Article 69 be applicable to the murder of prisoners of war?
A. The victim is not mentioned in this article, but I believe that can be, but I cannot say definitely.

83. Q. Can you definitely state from your knowledge, therefore, that any of the articles in Chapter 5 which deals with crimes of violence, threat, murder, and injury can be applied to Japanese personnel who murder prisoners of war?
A. As Articles 68 and 69 do not mention the victim I believe these two articles can be applied to prisoners of war.

84. Q. What is the maximum penalty in Article 69 which can be applied for murder of a prisoner of war?
A. As Article 69 does not state in it the word "murder", I believe this article does not apply to murder of prisoners of war.

85. Q. Does Article 68 contain the word "murder"?
A. No.

Reexamined by the accused concerning Exhibit 31:

86. Q. When naval personnel commit a crime which is not provided for in the Japanese Naval Criminal Code is there any other law which applies to it?
A. In Article 18 of the Japanese Naval Criminal Code it states that criminal code and other laws can be applied for crimes which are not provided for in the Japanese Naval Criminal Code.

87. Q. Then when the navy personnel or gunzokus killed or mistreated prisoners of war would the Japanese Criminal Code apply to this crime?
A. That is Article 18, the crimes committed by naval personnel and is listed as a crime, but other law can be applied to these navy personnel committing those crimes.

88. Q. What is the maximum penalty for a crime in the Japanese Criminal Code? AB

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was sustained.

Recross-examined by the judge advocate concerning Exhibit 31:

89. Q. Will the witness read Article 18 and then read Article 17 from the Japanese Naval Criminal Code?

(The witness read from Exhibit 31 as requested.)

90. In other words Article 18 provides only that the provisions of Article 17 shall also be applied to actions prescribed as crimes in the Criminal Code or other laws or ordinances, is that true?
A. Yes. In Article 18 I have made a mistake in reading it. I thought it said "all the above articles"; it is "the previous articles". So Article 18 refers back to Article 17. AB

0941

91. Q. Then reexamining Article 18 now, do you wish to change your previous testimony that there was a provision which said that violation of other laws or ordinances should be punished under the Naval Criminal Code?
A. Article 18 refers only back to Article 17. And all of what I have testified concerning Article 18 is a mistake except in reference to Article 17.

92. Q. Then all Article 18 does is to say that acts in violation of the Criminal Code or other laws shall not be punished if they are done in order to quell people who use violence, or to keep discipline in the face of the enemy, et cetera, is that correct?
A. It does apply to that case.

The commission then, at 4:30 p.m., adjourned until 9 a.m., Tuesday, December 14, 1948 in order to await receipt of further interrogatories and complete processing of certain record documents.

0942

THIRTIETH DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Tuesday, December 14, 1948.

The commission met at 9:15 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Belton, U. S. Navy, judge advocate.
Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the twenty-ninth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Sanagi, Sadamu, a counsel for the accused, the witness under examination when the adjournment was taken, resumed the stand. He was warned that the oath previously taken was still binding and continued his testimony.

(Recross-examination concerning Exhibit 31 continued.)

93. Q. At the conclusion of your testimony on Thursday you testified that in your reading of Article 18 an error was committed and that Article 18 should be applied solely to Article 17, is that correct?
A. Yes.

94. Q. It is therefore true that the translation of Exhibit 31, that is Exhibit 31a is incorrect in its wording, is that correct?
A. In Article 18 the word "articles" should be singular.

The judge advocate announced that with the permission of the commission, he would like to ask the witness to correct Exhibit 31a.

The commission announced that permission was granted.

95. Q. Will the witness correct the English translation of Exhibit 31, Exhibit 31a, by striking the letter "s" from the word "articles" in Article 18 and placing your initials in the right hand margin opposite the corrected line?

(The witness corrected Exhibit 31a as requested.)

Reexamined by the accused concerning Exhibit 31:

96. Q. Did ordinary Japanese Criminal Code apply to naval personnel?
A. Ordinary Japanese Criminal Code was applied to naval personnel.

0943

Recross-examined by the judge advocate concerning Exhibit 31:

97. Q. On what article of the Naval Criminal Code do you base this statement?
A. There is nothing mentioned in the Japanese Naval Criminal Code, but it is a general principle that the ordinary law will apply to crimes that are not provided for in the special law.

98. Q. Does this so-called principle apply when the crime is committed on a naval station?
A. It applies anywhere. The place doesn't matter.

99. Q. Is there anything in the Naval Regulations which so provides or sets forth this principle?
A. There is no special law in the Japanese Naval Criminal Code that states this.

100. Q. I said Naval Regulations.
A. No.

Examined by the accused concerning the offer in evidence of defense document #8:

101. Q. Do you have in your possession the original of the Naval Disciplinary Punishment Ordinances?
A. I have in my possession Volume 4 of Naval Regulations which provides for this ordinance.

102. Q. Have you prepared an excerpt of this ordinance?
A. Yes, I have.

103. Q. What is the substance of this ordinance?
A. I have excerpted general provisions, offenses, punishments, and authority to punishment.

104. Q. Have you prepared a translation?
A. I have prepared an English translation.

Defense document number 8 was submitted to the judge advocate and to the commission, and by the accused, offered in evidence.

Cross-examined by the judge advocate concerning the offer in evidence of defense document #8:

105. Q. Was this excerpt prepared from the copy of Volume 4 of Naval Regulations procured from the Second Demobilization Bureau as indicated by Exhibit 25a?
A. Yes.

There being no objection, the document was so received and is appended marked "Exhibit 32" (Japanese) and "Exhibit 32a" (English translation).

Examined by the accused concerning Exhibit 32:

106. Q. Will the witness read all Naval Disciplinary Punishment Ordinance except in Article 9, just read paragraphs 23 and 27 thereof?

(The witness read from Exhibit 32 as requested.)

Cross-examined by the judge advocate concerning Exhibit 32:

0944

107. Q. Is it true that regardless of whether there is any specific provision in the Naval Criminal Code, the Naval Regulations or the Naval Disciplinary Punishment Ordinance, the civil criminal code applies to naval personnel?

This question was objected to by the accused on the ground that it called for a legal opinion of the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. There is no article in this Naval Disciplinary Punishment Ordinance saying that ordinary Japanese Criminal Code may be used.

108. Q. That is true. But did you testify that there is a general principle that naval personnel are subject to the Civil Criminal Law?
A. Yes.

109. Q. Does the witness know whether there are provisions in the Criminal Code of Japan for punishment of neglect of official duty?
A. As I am not very familiar with Japanese Ordinary Criminal Code I do not recall at present as to what sort of special articles there were provided in the Ordinary Japanese Criminal Code.

Reexamined by the accused concerning Exhibit 32:

110. Q. The offenses provided in this ordinance; are they crimes?
A. In Article 4 it so states. Article 4 of this ordinance provides concerning this matter.

Examined by the accused concerning the offer in evidence of defense document #9:

111. Q. Do you have in your possession a document containing an outline of the career of Hara, Chuichi, which you wish to offer in evidence?
A. I have.

112. Q. How did you come into possession of this outline of the career of Hara, Chuichi?
A. The defense counsel requested the Second Demobilization Bureau, which had custody of the original of the outline of the career of Hara, Chuichi for a true copy of this original.

113. Q. Does the outline of the career of Hara, Chuichi, you have in your possession state that it is a true copy of the original?
A. There is a certificate signed by Suekuni, Masao and it states "This is to certify that the above "Outline of Career of HARA, Chuichi, consisting of two (2) pages is a true and correct excerpt from a true and correct copy of the original curriculum vitae kept in custody by SUEKUNI Masao, Chief, Personnel Section, Second Demobilization Bureau, Liquidation Division, Welfare Ministry."

114. Q. Do you have in your possession a translation of this outline of the career of Hara, Chuichi?
A. Do you mean the entire career of Hara, Chuichi?

115. Q. The excerpt.
A. I have in my possession an English translation of the excerpt.

0945

116. Q. Did you ascertain that this translation was a true translation of the excerpt you made?
A. Yes.

Defense document number 9, produced by the witness was submitted to the judge advocate and to the commission, and by the accused offered in evidence. There being no objection, it was so received and is appended marked "Exhibit 33" (Japanese), and "Exhibit 33a" (English translation).

Examined by the accused concerning Exhibit 33:

117. Q. Will the witness please read Exhibit 33 concerning the career of Hara, Chuichi omitting from 14 September 1908 to 1 December 1932, but read the section dated 18 January 1923.

(The witness read from Exhibit 33 as requested.)

The commission then, at 10:15 a.m., took a recess until 10:35 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Sanagi, Sadamu, a counsel for the accused, the witness under examination when the recess was taken, resumed the stand as a witness, and was warned that the oath previously taken was still binding, and continued ~~whi~~ his testimony. AB

Examined by the accused concerning the offer in evidence of defense document #10:

118. Q. Do you have in your possession the original of the rules of Naval Warfare?
A. I have in my possession Volume 4 of Naval Regulations which provide for this rule.

119. Q. Have you prepared an excerpt of these rules?
A. I have.

120. Q. What is the substance of this excerpt?
A. I have excerpted Article 1 of Chapter 1, General Rules, and the titles of Chapter 7. I have excerpted Article 17 which deals with law and customs of war on land.

121. Q. Have you prepared a translation of this excerpt?
A. I have prepared an English translation.

Defense document number 10, produced by the witness, was submitted to the judge advocate and to the commission and by the accused offered in evidence.

Cross-examined by the judge advocate concerning the offer in evidence of defense document #10:

0946

122. Q. Was this excerpt prepared from the copy of Volume 4 of the Naval regulations which is referred to in Exhibit 25?
A. Yes.

There being no objection, the document was so received and is appended marked "Exhibit 34" (Japanese) and "Exhibit 34a" (English translation).

Examined by the accused concerning Exhibit 34:

123. Q. Will the witness please read Exhibit 34?

(The witness read Exhibit 34).

124. Q. In this article 17, this treaty number 4 of 1912, what relation does this treaty have with the Hague Convention of 1907?
A. It is the same treaty.

125. Q. What is your authority for that statement?
A. It is stated in the sub-title, Treaty Number 4 of Volume 4 of Naval Regulations, "We, the Emperor of Japan, through the deliberation of the Privy Council hereby ratify the Convention concerning laws and customs of war on land, which was signed by the plenipotentiary of the Japanese Empire, with the reservation of Article 44, and conferred and agreed by the plenipotentiary of the Japanese Empire with the other plenipotentiaries at the Second International Conference opened at Hague, Holland on the 18th day of October, 1907, and cause it to be promulgated."

Examined by the accused concerning the trial of Sakamoto, Takaharu, et al:

126. Q. Have you ever had any connection with Australian courts held at Rabaul?
A. ~~U~~ I have. MB

127. Q. What was the period that you served there?
A. I served as a defense officer at Australian War Crimes trials held at Rabaul. The period I served there was from the middle part of May 1946 to September 1947.

128. Q. During the time you served as defense officer at this Australian Court did you ever meet the following persons: Sakamoto, Takaharu; Anetai, Seji; Shoji, Hideo; Shoji, Takeshi; Ishiwara; and Takenouchi. MB

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial.

The accused replied.

The commission announced that the objection was not sustained.

A. I met them all.

129. Q. Do you know whether the following persons were tried at Australian courts held at Rabaul: Sakamoto, Takaharu; Shoji, Takeshi; Anetai, Seji; Seji, Hideo; Ishiwara and Takenouchi?
A. I know whether they were tried.

0947

130. Q. Please state how you came to know this fact.
A. I recall that it was in November of 1946 that I met these above persons that three of the six persons mentioned above at that time were not yet tried. I was assigned to defend these persons, so I went to see these six persons to prepare the case. Therefore I know what happened to these persons.

131. Q. Whom did you defend?
A. When I met these persons in November 1946, Seji, Hideo, Ishiwara and Takenouchi were not yet tried and I was assigned to defend them, so I started to prepare the case for these persons, but around May or June of 1947 only Seji, Hideo was charged and tried and Ishiwara and Takenouchi were not charged and were set free and later went back to Japan. AB

The judge advocate moved to strike out the words "and were set free and later went back to Japan" from this answer on the ground that it was incompetent.

The accused replied.

The commission announced that the motion was not sustained.

132. Q. How do you know that Ishiwara and Takenouchi went back to Japan?
A. Either at the end of 1946 or the beginning of 1947 many war criminal suspects were freed. After they were freed Ishiwara and Takenouchi lived in a working party camp which was in the same compound as the defense counsel and I saw them frequently and in March 1947 all the Japanese that were left on Rabaul with the exception of the Defense Counsel were sent back to Japan and at this time I saw with my own eyes that they left for Japan.

The judge advocate moved to strike out this answer on the ground that it was irrelevant and immaterial.

The accused made no reply.

The commission announced that the motion was not sustained.

133. Q. While serving as defense counsel at Rabaul do you know whether Ishiwara and Takenouchi were charged since that time?
A. The war crimes trials which were held at Rabaul came to an end in September and in September I left Rabaul and until that time they were not charged.

134. Q. What was Seji, Hideo charged with?
A. Seji, Hideo was charged for beating Nauru natives and missionaries on Tarik Island at Truk on or about 28 August 1944.

135. Q. Was this concerned with the spy incident?
A. Yes, these Nauru natives and missionaries were under suspicion as spies and when they were investigated this beating took place. Seji, Hideo went with Sakamoto, Takaharu; Shoji, Takeshi; and Anetai, Seji, to investigate.

136. Q. What was the result of the trial?
A. As I recall that Seji, Hideo was sentenced to three and one-half years imprisonment.

137. Q. Do you know what happened to Anetai, Seji after his trial was confirmed?
A. Anetai, Seji was sentenced to five years imprisonment, but the convening authority did not confirm this sentence.

0948

138. Q. Did Anetai, Seji return to Japan?
A. In the latter part of 1946 or the beginning of 1947 when Ishiwara, Takenouchi and others were released from the war criminal stockade, Anetai, Seji, also was released and came to live in the working party compound and later Anetai, Seji worked as an assistant cook for the defense counsel and at the end of the trials at Rabaul he went back to Japan.

139. Q. Do you know to what unit Ishiwara was attached?
A. Yes, I do.

140. Q. Please state?
A. Ishiwara was the recorder for courts martial on Truk, but later this system was changed and he became legal warrant officer.

The judge advocate moved to strike out this answer on the ground that it was not specific as to time, and was hearsay.

The accused replied.

The commission announced that the motion was not sustained.

Cross-examined by the judge advocate concerning the trial of Sakamoto, Takaharu, et al;

141. Q. You have stated that "later" Ishiwara ceased to be recorder for the general court martial and instead became a warrant officer. Will you state when this occurred?
A. When I investigated Ishiwara he stated that at the time of this incident he was a recorder and I believe it was in the spring of 1945. I do not recall clearly, but I believe it was around the spring of 1945 when a part of the Navy system was changed. By this change all persons with the qualifications of civilian officers working with the Navy and who were attached to units, were changed to military ranks and as a result of this, recorders for courts martial were given the rank of legal warrant officers.

142. Q. Then, at the time of the incident Ishiwara was a recorder for naval general courts martial. Is that correct?
A. Yes.

143. Q. To what Naval unit was he attached at that time?
A. The Fourth Fleet.

144. Q. To the best of your knowledge were Ishiwara or Takenouchi ever tried for participation in the incident on March 28, 1944 on Truk Atoll?
A. I had in my possession the total list of trials that were held on Rabaul and Ishiwara and Takenouchi were not listed as being tried. After I became a member of the defense counsel and until the conclusion of the trials they were not tried.

145. Q. Were Seji, Hideo, the defendant who was convicted in the case at Rabaul which you have testified about, and Takenouchi, the person who was not tried, both naval civil guards at the time of the incident?

This question was objected to by the accused on the ground that it called for an opinion of the witness and for hearsay.

The judge advocate made no reply.

The commission announced that the objection was not sustained.

0949

A. I heard from each of these persons that they were civil guards.

146. Q. Were they attached to the Fourth Naval Construction Department at the time of the incident?
A. They were attached to the Fourth Construction Department.

The accused did not desire to reexamine this witness.

The commission did not desire to examine this witness.

The witness said that he had nothing further to state.

The witness resumed his seat as counsel for the accused.

The commission then, at 11:25 a.m., took a recess until 2:05 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

The accused moved to strike out Exhibit 13 and all testimony pertaining to it in view of the testimony of defense witness Sanagi, Sadamu on the ground that the exhibit and all testimony pertaining thereto was incompetent, irrelevant and immaterial.

The judge advocate replied.

The commission announced that the motion was not sustained.

Herbert L. Ogden, a witness for the prosecution, was recalled as a witness for the defense and was warned that the oath previously taken by him was still binding.

Examined by the accused:

Examined by the accused concerning the offer in evidence of defense documents #11 and 12:

1. Q. Does the witness have in his possession CLO document number 7376 from which Exhibit 1 was prepared?
A. Yes, I have that document here in court.

2. Q. This CLO number 7376 contains six annexes in it, but was there any table of organization of the Fourth Fleet in these annexes?
A. Yes, there was.

3. Q. Does the document contain Annex Table 5 and Annex Table 6?
A. It does.

4. Q. Have you prepared a certified copy of these tables?
A. I have.

Defense documents number 11 and 12, produced by the witness, were submitted to the judge advocate and to the commission, and by the accused offered in evidence. There being no objection, they were so received and are appended marked "Exhibit 35" and "Exhibit 36".

Examined by the accused concerning Exhibit 35 and Exhibit 36:

5. Q. Will the witness read these tables?

(The witness read Exhibit 35 and Exhibit 36.)

6. Q. Does the Annex Table 5 indicate that the Central Pacific Area Fleet is under the Combined Fleet and the Fourth Fleet is under the Central Pacific Area Fleet and under the Fourth Fleet there are the Fourth Base Force and the Sixth Base Force; is that right?
A. It does.

7. Q. Does Annex Table 6 indicate that the Fourth Fleet is under the Combined Fleet and the Fourth Base Force, Fifth Base Force, and Sixth Base Force are under the Fourth Fleet?
A. It does.

Examined by the accused concerning the offer in evidence of defense documents #13 and 14:

8. Q. In this CLO document #7376 there are paragraph 3 and paragraph 4 and paragraph 3 says there is Annex 1 and paragraph 4 says there is Annex 2. Have you these two annexes?
A. I have.

9. Q. To what kind of matters do these annexes relate?
A. Annex 1 purports to relate to the files of the Navy Ministry pertaining to prisoners of war. Annex 2 relates to published documents pertaining to prisoners of war and the use of these documents by the various commands.

10. Q. Has the witness prepared a certified copy of these annexes?
A. I have.

Defense documents 13 and 14, produced by the witness, were submitted to the judge advocate and to the commission, and by the accused offered in evidence. There being no objection, they were so received and are appended marked "Exhibit 37" and "Exhibit 38".

Examined by the accused concerning Exhibit 37 and Exhibit 38:

11. Q. Will the witness read these annexes?

(The witness read Exhibit 37 and Exhibit 38.)

12. Q. In what language was the originals of this Annex 1 and Annex 2 written?
A. The letter of transmittal does not state.

13. Q. You testified that you made a certified copy of these annexes, but from the original from which you made this copy, was the original written in English or in Japanese?
A. The original from which I made the certified copy was in English and was as received by us from SCAP.

Examined by the accused concerning the offer in evidence of the testimony of Iwanami, Kenichi from the record of the trial of Masuda, Nisuki, et al:

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14. Q. Does the witness have in his possession the record of the proceedings of the trial of Masuda, Nisuki?
A. I have.

15. Q. Is this record an original or a certified copy?
A. It is a certified copy.

16. Q. Does this record contain the testimony of one Iwanami?
A. It contains the testimony of Kenichi Iwanami.

17. Q. Will the witness read from the testimony of Iwanami questions and answers 1, 2, 4, 5, 36, 37, 38, 44, 45, and 46?

This question was objected to by the judge advocate on the ground that neither the document nor any part of the document had been offered in evidence.

The accused withdrew the question.

18. Q. Does the testimony of Iwanami relate to the killing of three American fliers on March 10, 1944 on Jaluit?
A. It does.

The accused submitted to the judge advocate and to the commission the record of the trial of Masuda, Nisuki, et al, previously identified, and offered in evidence so much thereof as contains the testimony of Iwanami, Kenichi.

Cross-examined by the judge advocate concerning the offer in evidence of the testimony of Iwanami, Kenichi from the record of the trial of Masuda, Nisuki, et al: AS

19. Q. Has any effort been made by the office of the Director War Crimes to ascertain the whereabouts of this Kenichi Iwanami?
A. There has not.

20. Q. Has any request been made of you or of the office of the Director War Crimes to ascertain the whereabouts of this Kenichi Iwanami?
A. No such request has been made.

21. Q. Where is the last place the witness knows this Iwanami was, and at what time?
A. From the record, it indicates that he appeared as a witness in the trial of Admiral Masuda and others at Kwajalein in December of 1945.

22. Q. In the course of submission of the office of the Director War Crimes of various interrogateries to be sent to Japan, was any request ever made that an attempt be made to locate this Kenichi Iwanami or any interrogateries be sent to him?
A. It was not.

The judge advocate stated that in order to avoid any undue delay in the proceedings he would not object to the receipt in evidence of this testimony but that he wished to point out to the commission that he had been informed just prior to the commencement of the afternoon session that the accused intended to use this testimony, and that thereby he was not able to submit interrogateries to this witness in any attempt to attack his credibility or his testimony.

There being no objection, the testimony of Iwanami, Kenichi from the record of the trial of Masuda, Nisuki, et al was so received.

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Examined by the accused concerning the testimony of Iwanami, Kenichi from the record of the trial of Masuda, Nisuki, et al:

23. Q. Will the witness read from the testimony of Iwanami questions and answers 1, 2, 4, 5, 36, 37, 38, 44, 45, and 46?

The witness read from the testimony of Iwanami, Kenichi as follows:

"1. Q. State your name, rank, and your duties.
A. I am Lt. (sg) Kenichi Iwanami, in the Japanese Navy, attached to Headquarters.

2. Q. Were you stationed on Jaluit Atoll in January, February, and March of 1944?
A. Yes."

"4. Q. Where did you know these men?
A. At Jaluit.

5. Q. Early in 1944, did you see three American fliers on Emidj Island?
A. Yes."

"36. Q. At whose direction did you question these fliers?
A. By the Atoll Commander's orders.

37. Q. That was the Admiral?
A. Yes, Rear Admiral.

38. Q. To whom did you report the results of your investigation?
A. I reported it to the Admiral."

"44. Q. You say that you heard these fliers were executed. What is the basis for your knowledge?
A. When I went to take a report to the Admiral, at the end of the report the Admiral made to the 4th Fleet, stationed at Truk, he noted on the report that the American fliers were killed in an air raid.

45. Q. What report were you making to the Admiral at this time?
A. The report I was making was a battle report to the Admiral. Whenever there is an action or battle going, we made a report to the 4th Fleet and the Admiral made this note at the end of the note.

46. Q. Who was making the report, you or the Admiral?
A. The main points were always written by the Admiral on the blackboard and I copied this and entered on the dispatch and sent it on."

Cross-examined by the judge advocate concerning the testimony of Iwanami, Kenichi from the record of the trial of Masuda, Nisuki et al:

24. Q. Will the witness read question 62 and the answer thereto?

The witness read from the testimony of Iwanami, Kenichi as follows:

"62. Q. When the Admiral told you that the American fliers had been executed, tell us the circumstances under which he made that statement?

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A. Every day, when we have action, we sent a battle report to the 4th Fleet at Truk. The report always has the number of men, casualties, food situation, and all the minor details and everything that concerns the battle. Then I consolidate all the details and information, and although I don't remember the actual date, I brought it to the Admiral. At that time, the Admiral said we executed the three fliers and said let us put it on the report and he himself made the note on the report."

25. Q. Will the witness read from the examination of Iwanami, Kenichi by the commission in that case, questions and answers 72, 73, 74, and 75?

The witness read from the testimony of Iwanami, Kenichi as follows:

"72. Q. You stated that the Admiral told you they had executed the fliers?
A. Yes.

73. Q. You also stated that the Admiral told you to make a note on the battle report that the fliers had been killed in the bombing raid?
A. Yes.

74. Q. Why did the Admiral make a false report in this case, if you know?
A. I don't know.

75. Q. Did you make any inquiry of the Admiral at that time about that matter?
A. No, I did not ask any questions."

26. Q. Will the witness read questions and answers 83, 84, 85 and 86?

The witness read from the testimony of Iwanami, Kenichi as follows:

"83. Q. Did you keep a daily log?
A. Yes.

84. Q. What entries were made concerning the American prisoners?
A. I do not remember the exact words, but I remember making a note that they were killed in an air raid.

85. Q. What other entries before that entry about being killed in an air raid?
A. I noted the arrival of the American fliers, and about interrogation, and the interrogation report, and that is about all.

86. Q. Anything about a trial?
A. No."

27. Q. Are questions 83 through 86 also part of the examination by the commission?
A. They are.

The commission then, at 3:20 p.m., took a recess until 3:40 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the accused, his counsel, and the interpreters.

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Paul F. Coste, junior, yeoman first class, U. S. Navy, reporter.

Herbert L. Ogden, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

(Examination continued.)

28. Q. Does the witness have in his possession the record of the trial of Inoue, Fumio?
A. I have.

29. Q. Is it a certified copy?
A. It is the Commander Marianas certified copy.

30. Q. Do you know the whereabouts of Inoue?
A. He is presently confined in Sugamo Prison, Tokyo, Japan.

31. Q. Was the testimony of Inoue, Fumio offered and received in evidence on the sixth day of the present trial during your testimony for the prosecution?
A. Yes, it was.

32. Q. Does the testimony of Inoue contain such testimony as that Admiral Masuda had judicial or administrative authority on Jaluit?
A. It does.

33. Q. Will the witness read from the testimony of Inoue, questions 1, 6, 7, 8, 9, 10, 15, 19, 20, 130, and 131 and the answers thereto?

The witness read from the testimony of Inoue, Fumio as follows:

"1. Q. State your name and rank.
A. Former Captain, Imperial Japanese Army, Inoue, Fumio."

"6. Q. Have you ever had duties with the Japanese forces on Jaluit?
A. I have.

7. Q. What was the period that you were stationed there?
A. The thirtieth of November, 1943, to the eleventh of October, 1945.

8. Q. What unit were you attached to?
A. Headquarters of the First South Seas Detachment.

9. Q. What unit were you attached to on Jaluit?
A. I was attached to the headquarters of the Second Battalion, First South Seas Detachment.

10. Q. Who was the commanding officer of that unit?
A. Major, Imperial Japanese Army, Furuki, Hidesaku."

"15. Q. On Jaluit what duties did you have?
A. In December, 1944, I was attached to the headquarters of the Second Battalion and was in charge of building fortifications. At the time of the incident, I was attached to the battalion headquarters of the army and worked as head of the farm department and the self-supporting committee, of which Lieutenant Commander Shintome of the navy was head. I also acted as head of the special police section which was under Admiral Masuda."

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"19. Q. You mentioned the Jaluit Defense Garrison. Do you know for what reasons and when this organization was set up?
A. I do.

20. Q. Tell us briefly what you know.
A. In February, 1944, after the fall of Kwajalein, the Marshalls area and the other bases were cut off, and all transportation was cut off and by the decision of general headquarters, Admiral Masuda was given the full administrative and judicial authority and from April, 1944, thereafter, Admiral Masuda administered to all judicial and administrative affairs on Jaluit Atoll. From this time, the Jaluit Defense Garrison was organized." A8

"130.Q. In yesterday's testimony, you testified that Admiral Masuda waited for Major Furuki to come back from the outlying islands, and upon his return, called Furuki, Shintome and yourself to his room and stated as follows: 'On my authority, the highest examination and consultation possible on Jaluit will be conducted by the ranking officers. Furuki, Shintome and myself will act as judges,' and that 'Inoue shall act as a judge advocate.' Is that correct?
A. Yes.

131.Q. In testifying to this authority, what did you understand Admiral Masuda's authority to be at this time?
A. By the administrative and judicial authority given the supreme commander, I sincerely understood at this time that he had the authority to judge on criminals and punish them. Under usual circumstances, this would have been sent to Palau District Court, but after April, or thereabout, of 1944, in the Jaluit area, Admiral Masuda exercised judicial and administrative authority."

Cross-examined by the judge advocate concerning the testimony of Inoue, Fumio, from the record of the trial of Inoue, Fumio, et al:

34. Q. Will the witness read questions 142, 144, 145 and 146 and the answers thereto?

The witness read from the testimony of Inoue, Fumio as follows:

"142.Q. Do you know if the executions of the eight Mille natives were made public?
A. I do."

"144.Q. Do you know who signed this document of publication?
A. I do.

145.Q. By whom was it signed?
A. It was put out by the supreme commander of the Jaluit Defense Garrison.

146.Q. When you were ordered to execute the two children, you testified that you requested Admiral Masuda to postpone the execution two or three days. Is that correct?
A. This is correct."

35. Q. Will the witness read questions 360, 426, 433, 435 and 436 and the answers thereto?

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The witness read from the testimony of Inoue, Fumio as follows:

"360.Q. And you wish this commission to believe that in one day with candy in the morning and candy in the afternoon, you were able to gain the confidence of this child so that she confessed that her parents had killed Tanaka.
A. I would like to have the question repeated.
The question was repeated in Japanese.
A. (continued.) Yes." AB

"426.Q. Were the children found guilty of spying but not murder?
A. It is correct that I stated that they were found guilty of spying and not guilty of the other charges." AB

"433.Q. Did you protest that these native children should not be executed?
A. I expressed my opinion that they should be confined to an island which was a continuation of the main island where there were no natives."

"435.Q. Did you ever hear of the execution of children under fourteen in Japan for criminal acts?
A. I have not heard anything about it in particular.

436.Q. You have never heard of any children being executed for crimes. Did you know it was wrong to execute these children?
A. I did not think it was wrong. I sincerely believed that it was right."

36. Q. Will the witness read questions 404, 406 and 411 and the answers thereto?

The witness read from the testimony of Inoue, Fumio as follows:

"404.Q. At that trial did you testify that you were ordered by Masuda to be a judge and Furuki was ordered to be the judge advocate?
A. Yes."

"406.Q. Were you asked the following series of questions and did you give the following answers: '167. Q. During the two years that you were on Jaluit, were there any trials held of Japanese personnel for violating Japanese Army law or Japanese Naval law? A. I was. 168. Q. Were there any trials held? A. Disciplinary crimes were punished by the same procedure as the natives were. 169.Q. You were asked whether or not any trials were held. Did you believe that this disciplinary procedure constituted a trial? A. Yes. 170. Q. Have you always, since November 1943, believed that such procedure constituted a trial? A. No. 171. Q. When did you decide that this procedure constituted a trial? A. From the time I was confined at Jaluit as a suspect. 172. Q. Was this after the war? A. Yes. 173. Q. Was this after the special procedures that were taken on the native cases? A. Yes.'
A. I do not remember it all as read to me, but I remember hearing and answering some questions, but I remember exactly in the middle or the end of this series of questions I stated after it was asked 'Was this after the end of the war?' I remember stating distinctly that at that time I did not think about whether it was a trial or not."

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"411.Q. Did you testify that a regular trial was not held for these natives?
A. I remember saying that a regular trial procedure was not held."

37. Q. Will the witness read question 212 and the answer thereto?

The witness read from the testimony of Inoue, Fumio as follows:

"212.Q. On the sixth, what time did you and Admiral Masuda go to see the natives?
A. We left about three thirty in the afternoon and went to the Aineman Transmitting Station and the Second Ammunition Dump. It was getting dark when we returned and I think it was about five thirty in the afternoon."

Examined by the accused concerning the offer in evidence of the testimony of Furuki, Hidesaku from the record of the trial of Furuki, Hidesaku:

38. Q. Does the witness have in his possession the record of the proceedings of the trial of Furuki, Hidesaku?
A. I have the Commander Marianas certified copy of that record.

39. Q. Was the testimony of Furuki, Hidesaku, from this record of the trial of Furuki, Hidesaku, offered and received in evidence on the seventh day of the present trial during your prior testimony for the prosecution?
A. Yes, it was.

40. Q. Does this testimony of Furuki contain any testimony concerning communications between Jaluit and outside around August 1945?
A. It does include such testimony.

41. Q. Does the testimony contain anything relating to the command relationship between Central Pacific Area Fleet and Jaluit Garrison?
A. It does.

The witness was duly warned.

The commission then, at 4:20 p.m., adjourned until 9 a.m. tomorrow, Wednesday, December 15, 1948.

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THIRTY-FIRST DAY

United States Pacific Fleet,
Commander Naval Forces, Marianas,
Guam, Marianas Islands,
Wednesday, December 15, 1948.

The commission met at 9:45 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Daniel J. Sweeney, U. S. Navy,
Lieutenant Colonel Harry W. McCormick, Quartermaster Corps, United States Army Reserve,
Lieutenant Colonel Newton L. Chamberlain, Signal Corps, United States Army,
Lieutenant Commander Ralph I. Gerber, U. S. Navy,
Captain Kermit H. Shelly, U. S. Marine Corps, members, and
Lieutenant David Belton, U. S. Navy, judge advocate.
Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.
The accused, his counsel, and the interpreters.

The record of proceedings of the thirtieth day of the trial was read and approved.

No witnesses not otherwise connected with the trial were present.

Herbert L. Ogden, the witness under examination when the adjournment was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

(Examination concerning the testimony of Furuki, Hidesaku, from the record of the trial of Furuki, Hidesaku continued.)

42. Q. Will the witness read from the testimony of Furuki, questions and answers 1, 3, 4, 6, 22, 24, and 250?

The witness read from the testimony of Furuki, Hidesaku as follows:

"1. Q. State your name and rank.
A. Major, Imperial Japanese Army, Furuki, Hidesaku."

"3. Q. Have you ever had duties on Jaluit?
A. I have.

4. Q. When did you arrive on Jaluit?
A. The eighteenth of January, 1944."

"6. Q. When did you leave Jaluit?
A. As I remember it was on the eleventh of October, 1945."

"22. Q. What were the transportation conditions?
A. Transportation by plane and warship was impossible. Radio communications as time lapsed due to power difficulties and failure of equipment, by 1945, communications were very difficult."

"24. Q. Then, was Jaluit absolutely isolated by the enemy forces at that time?
A. Yes. It was absolutely and completely isolated."

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"250.Q. Do you know if Admiral Masuda ever communicated with the Fourth Fleet Headquarters with regard to the execution of the natives?
A. I do not know."

Cross-examined by the judge advocate concerning the testimony of Furuki, Hidesaku, from the record of the trial of Furuki, Hidesaku:

43. Q. Will the witness read from this testimony question 249 and the answer therete?

The witness read from the testimony of Furuki, Hidesaku as follows:

"249.Q. During the period from May to August 1945 did the 62nd Naval Garrison maintain radio communication with the Fourth Fleet Headquarters?
A. Yes."

44. Q. Will the witness read questions and answers 58, 240, 243, 244, and 252?

The witness read from the testimony of Furuki, Hidesaku as follows:

"58. Q. Please state it.
A. He had the authority. Around April, 1944, there was a dispatch order to the commanding officer of the Sixty-second Naval Guard Unit from the commanding officer of the Fourth Fleet stating that 'from now on the base supreme commander shall command all military forces, government offices, and civilians, and administer to judicial and administrative affairs.' Again, there was a dispatch from the South Seas Governor to the Head of the Jaluit Branch of the South Seas Government as follows: 'The South Seas Governor and all his authority, judicial and administrative, has come under the command of the commanding officer of the Fourth Fleet. Each government officer or civilian in matters concerning the above authority shall come under the command of the commanding officer of each base.' Admiral Masuda derived his authority by these two dispatches."

"240.Q. When did you last see the dispatch orders to Admiral Masuda giving him command over the military and civilian government?
A. Around April 1944."

"243.Q. What do you remember of its language?
A. The gist of this was that the governor of the South Seas Government hereafter comes under the command of the Commanding Officer of the Fourth Fleet and all of it's judicial and administrative authority therefore on government officials and civilians shall come under the command of each Base Commanding Officer.

"234.Q. Did this dispatch give Admiral Masuda the same administrative and judicial powers that the Branch Governor had over the natives?
A. All authority the head of the Jaluit Branch Office had was vested in Admiral Masuda."

"252.Q. You testified that Admiral Masuda derived certain authority from these dispatches. Was this authority bread enough to authorize violation of International Law?
A. It does not include the violation of International Law."

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45. Q. Will the witness read questions and answers 131, 132, 134, and 135?

The witness read from the testimony of Furuki, Hidesaku as follows:

"131.Q. Do you know from your own personal knowledge, as a matter of fact, if there had been a declaration of martial law prior to the time you arrived on Jaluit?
A. I do.

132.Q. Was there such a declaration of martial law prior to the time you arrived on Jaluit?
A. No."

"134.Q. Do you know from your own personal knowledge if Admiral Masuda declared martial law in effect on Jaluit during the time when you were on Jaluit?
A. I do.

135.Q. Did he?
A. It was not proclaimed, but he stated that actually there was martial law."

Examined by the accused concerning the statement of Furuki, Hidesaku, from the record of the trial of Furuki, Hidesaku:

46. Q. Does the witness know if this record indicates that on the twenty-ninth day of the trial a statement made by Furuki was read in the court?
A. It was.

47. Q. Do you have that statement in your possession now?
A. The statement is appended to the record.

48. Q. Does the witness know if this statement was introduced into evidence?
A. The record shows that the accused, at the conclusion of the evidence, made a statement in his own defense, appended marked AA, English translation appended marked BB.

49. Q. Is this statement signed by Furuki?
A. It is.

50. Q. Is it sworn to by Furuki?
A. It is not a sworn statement.

51. Q. Was this statement introduced in the court?

This question was objected to by the judge advocate on the ground that it was ambiguous.

The accused withdrew the question.

52. Q. Was this statement read on the twenty-ninth day of the trial?
A. The record shows that the statement was read on that date by the accused.

53. Q. Does this statement explain how Commanding Officer Masuda acquired judicial and administrative authority in 1944 and what the relationship between Masuda and the Central Pacific Area Fleet was?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial in view of the fact that the document was incompetent and inadmissible.

The accused made no reply.

The commission announced that the objection was not sustained.

A. The statement does include such matters.

The statement of Furuki, Hidesaku, from the record of the trial of Furuki, Hidesaku, was submitted to the judge advocate and to the commission and by the accused offered in evidence.

The judge advocate objected to the receipt of this document in evidence on the ground that: the statement was incompetent being a statement not under oath and not made as testimony in the prior trial; that it was merely a statement made by Furuki, the accused in that case after the conclusion of the evidence and appended to the record of that trial, and therefore not admissible in evidence under Sec. 419 Naval Courts and Boards which specifically provides that such statement is a personal declaration and cannot legally be acted upon as evidence; that in view of the fact that the sworn testimony of Furuki in that trial specifically dealt with the same subject matter which is now being offered in evidence by means of this unsworn statement by Furuki, the admission of this statement is legally unjustifiable since its contents are unreliable, and the statement is inadmissible in form and legally of no ~~essential~~ evidential value. AB

The accused replied that the witness was unavailable, and that the signed statement should therefore be admissible under SCAP rules.

The commission was cleared.

The commission was opened and all parties to the trial entered.

Elvin G. Gluba, yeoman first class, U. S. Navy, reporter.

The commission announced that the objection was sustained.

Examined by the accused concerning the offer in evidence of the testimony of Morikawa, Shigeru from the record of the trial of Furuki, Hidesaku:

54. Q. Does the record of Furuki contain the testimony of Morikawa, Shigeru?
A. It does.

55. Q. Did Morikawa testify concerning the fact that Admiral Masuda held judicial and administrative authority on Jaluit and the relationship between Commanding Officer Masuda and the Central Pacific Area Fleet?
A. It deals with such material.

56. Q. Does the witness know the whereabouts of Morikawa now?
A. At the conclusion of the Furuki and Inoue trials he was returned to Japan. I believe he is in Japan now.

The accused submitted to the judge advocate and to the commission the record of the trial of Furuki, Hidesaku and offered in evidence so much thereof as contains the testimony of Morikawa, Shigeru.

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There being no objection, it was so received.

Examined by the accused concerning the testimony of Morikawa, Shigeru from the record of the trial of Furuki, Hidesaku:

57. Q. Will the witness read from the testimony of this Morikawa, preliminary questions and answers 1, 4, 5, and 7 and questions and answers 12, 19, and 174?

The witness read from the testimony of Morikawa, Shigeru as follows:

"1. Q. State your name and rank.
A. First Lieutenant Morikawa, Shigeru, Imperial Japanese Army."

"4. Q. Have you ever had duty with the Japanese Armed Forces on Jaluit Atoll?
A. I have had service with the army forces on Jaluit from the 30th of November 1943 to the 11th of October 1945.

5. Q. What was the name of the unit that you were attached to?
A. The Second Battalion, First South Seas Detachment."

"7. Q. When did your unit, the Second Battalion of the First South Seas Detachment, arrive on Jaluit?
A. I recall the date that the Second Battalion arrived on Jaluit. The 19th of January, 1944."

"12. Q. What duties have you had since you arrived on Jaluit?
A. I was originally the officer in charge of communications of the Second Battalion, First South Seas Detachment under Major Furuki and on the first of September, 1944, when the American started the native kidnaping tactics on the Marshalls, I was appointed Intellignece Officer of the Jaluit Garrison and came under direct command of Admiral Masuda. In the middle of April, 1945, I was further given the duties as a member of the Jaluit Defense Section and in this section I was in charge of personnel, records, communications, and sanitation."

"19. Q. Do you know for what reasons and when this Jaluit Defense Garrison was organized?
A. The Jaluit Defense Garrison was organized in March of 1944, due to an order from the commander in chief of the Fourth Fleet. The order came by dispatch as follows: 'The senior commander of the island should take charge of all units and government offices on the island.' At the same time, there was a dispatch from the South Seas Governor to the Civil Officer in Charge of the Jaluit Branch of the South Seas Government saying: 'I have you under my authority and I have come under the command of the Commander in Chief of the Pacific Fleet. All government officials, therefore, shall come under the command of the commanding officer of that place.' Admiral Masuda as the senior officer called all the unit commanding officers and the officers in the Jaluit Civil Government Branch and showed them these dispatches and following this he gave the following order: 'Myself as the commanding officer of the Jaluit Defense Garrison, I have absolute authority over all people and materials on this atoll. By this order the Jaluit Defense Garrison was organized and the civilians and the officers of the South Seas Government who were on Jaluit moved to Enybor where they were given military duty."

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"174.Q. As I understand your description of the relationship between the army and navy at Jaluit, Furuki was junior in rank to Rear Admiral Masuda, and therefore, Admiral Masuda set the ultimate authority for the conduct of military matters in Jaluit. Is that correct?
A. Yes."

Cross-examined by the judge advocate concerning the testimony of Morikawa, Shigeru from the record of the trial of Furuki, Hidesaku:

58. Q. Will the witness read question and answer number 11?

The witness read from the testimony of Morikawa, Shigeru as follows:

"11. Q. What was the relation between the Sixty-Second Naval Guard Unit and the Second Battalion of the First South Seas Detachment that Major Furuki commanded?
A. Upon its arrival on Jaluit, the Second Battalion of the First South Seas Detachment was commanded by Major Furuki. It was attached to the Sixty-second Naval Guard Unit, commanded by Admiral Masuda, and therefore, under the command of Admiral Masuda." AB

Examined by the accused concerning the offer in evidence of the testimony of Tanaka, Masaharu from the record of the trial of Tanaka, Masaharu, et al:

59. Q. Does the witness have in his possession a complete record of the Tanaka, Masaharu et al trial, which was tried by the Military Commission on Guam which trial started November 5, 1946?
A. I have the Commander Marianas certified copy of that record.

60. Q. Does this trial relate to an incident by Tanaka, which happened on Dublon Island, Truk Atoll on February 17, 1944?
A. It does.

61 Q. Did Tanaka, Masaharu testify during the course of this trial?
A. He did.

62. Q. Was he duly sworn and did he testify at his own request?
A. That is correct.

63. Q. Does the witness know whether Tanaka is alive now?
A. He is deceased.

64. Q. Does the testimony contain such matters as that Tanaka asked about the incident by telephone to the senior headquarters, that Tanaka issued an order for that incident, and that Tanaka reported the incident to the senior headquarters?
A. It does.

The accused submitted to the judge advocate and to the commission the record of the trial of Tanaka, Masaharu, et al and offered in evidence so much thereof as contains the testimony of Tanaka, Masaharu. AB

Cross-examined by the judge advocate concerning the offer in evidence of the testimony of Tanaka, Masaharu from the record of the trial of Tanaka, Masaharu, et al:

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65. Q. Is this copy of the record of the trial of Tanaka, Masaharu and others a certified copy and the official record of that trial from the office of the Director War Crimes, Pacific Fleet?
A. It is.

There being no objection, it was so received.

Examined by the accused concerning the testimony of Tanaka, Masaharu from the ~~X~~ record of the trial of Tanaka, Masaharu et al: AC

66. Q. Will the witness read the preliminary questions put to Tanaka, namely, questions and answers 1, 2, 3, 4, and 6?

The witness read from the testimony of Tanaka, Masaharu as follows:

"1. Q. Are you Tanaka, Masaharu, Captain, Imperial Japanese Navy, an accused in this case?
A. Yes.

2. Q. Have you ever had any duties at Truk?
A. I was at Truk from the 27th of December 1943 until the 6th of March, 1944.

3. Q. To what unit were you attached?
A. I was commanding officer of the 41st Guard Unit at Truk from the 27th of December until the 20th of February 1944. From the 21st of February 1944 to the 5th of March 1944 I was attached to the 4th Base Headquarters.

4. Q. What were your duties as commanding officer of the 41st Guard Unit?
A. I was directly under the 4th Base Force and my duties were the defense of Truk, and at that time my direct superior officers were Admiral Wakabayashi of the 4th Base Force and Admiral Kobayashi of the 4th Fleet."

"6. Q. When did you see a prisoner at Truk?
A. In the beginning of January 1944 some prisoners were placed in our custody. They were brought in when I was not there and when they were taken into custody I was not in at that time."

67. Q. Will the witness read questions and answers 8, 12, 16, 22, 23, and 24?

The witness read from the testimony of Tanaka, Masaharu as follows:

"8. Q. What was done with these prisoners?
A. They were placed in a part of the enlisted men's barracks."

"12. Q. What did you do with the prisoners then?
A. During the air raid in the afternoon the prisoners were executed. This I did not see, but I received a report later. I will explain what I knew about this execution before it was done. Around three that afternoon an ensign who was one of my subordinates came to me and said: 'To keep these prisoners at such a time is very dangerous. I would like to have them disposed of.' At that time, as I believed such a thing should not be done, I scolded him saying: 'Would such a thing be done?' Then the ensign left. Later Lieutenant Ishii came and talked to me about this, and I thought at that time there was no other way, but to report this to my superiors

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and wait for their answer. As Lieutenant Ishii said, 'Shall I ask headquarters?', I told him, 'Yes'. Ishii left and I think he asked permission by telephone. Then Ishii came back saying that the commanding officer said to execute the prisoners. I was very surprised and then I asked him once more whether this was true or not and he confirmed this. At the time I did not ask Lieutenant Ishii what sort of a telephone call did he make or who answered. I was very troubled and sat there thinking awhile. I judged at that time that these were absolute orders from operational headquarters and I thought that these were orders coming from headquarters concerning forthcoming operations. Then I said that if these are orders of the headquarters, then it can't be helped. Then Ishii said: 'Will I dispose of them?' and I answered 'Yes'. Ishii left and I think he relayed this to the officer in charge of the prisoners. Ishii again came back to me and said, 'Shall I have Danzaki do this?' and I answered, 'Have Danzaki do it.' Danzaki did this. Danzaki had received orders. Other than this, the rest I did not see and I can not say."

"16. Q. Did you see this execution?
A. As I said before, after I told Ishii to tell Danzaki, I was very busy and I was looking at some maps in the room. I did not see the scene of the execution."

"22. Q. To whom did you report this at headquarters?
A. To the senior staff officer, Commander Higuchi.

23. Q. In what room at headquarters was this?
A. There was a conference room on the veranda and it was at that place.

24. Q. Who else was with Commander Higuchi then?
A. After the conference with Commander Higuchi, the rest of the staff were there and I reported this."

68. Q. Will the witness read questions and answers 37, 38, 40, 41, 46, 47, 48 and 49?

The witness read from the testimony of Tanaka, Masaharu as follows:

"37. Q. Did you report the arrival of these prisoners to the 4th Base Unit?
A. No. I think the orders to take the prisoners into custody came from the 4th Fleet Headquarters through the base headquarters to the 41st Guard Unit.

38. Q. At any time from January 1944 up until the time of the execution of the prisoners, insofar as you know, Captain, were they inspected or observed by any members of the 4th Guard Unit?
A. An officer was appointed in charge of the prisoners and he was to take care of them. All medical care was given by the doctor."

"40. Q. In other words, then, Captain, the custody and supervision and entire handling of these prisoners was within your command?
A. Yes.

41. Q. Now, when these prisoners were turned over to the 41st Guard Unit, were you told how long you could expect to hold them?

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A. As I was told by the executive officer that handling the prisoners would bring about many difficulties, I asked the headquarters if they could not be sent back to Japan where they had facilities to take care of them, by plane or transport."

"46. Q. Captain Tanaka, are you a graduate of the Japanese Naval Academy?
A. Yes.

47. Q. In the Naval Academy did you receive any instruction with regard to treatment of prisoners of war?
A. I remember hearing about international law and I also remember that it was ~~x~~ said at that time that Japan had not signed any treaties. Other than this I do not remember. AB

48. Q. Would you say that you are reasonably familiar with Japanese Naval Regulations?
A. I think I am fairly familiar with them.

49. Q. Do you know whether Japanese Naval Regulations include any sections on the treatment of prisoners of war as taken from International Law?
A. I think there is a section saying the Army would handle the prisoners. I do not think there were some smaller detailed laws concerning this."

69. Q. Will the witness read questions and answers 74, 76, 77, 78, 79, 80, 83, 84, and 103?

The witness read from the testimony of Tanaka, Masaharu as follows:

"74. Q. Captain, insofar as you know, had the 4th Base Headquarters been considering the execution of these prisoners prior to the time Lieutenant Ishii contacted them?
A. I do not think that such a thing was possible."

"76. Q. In other words, the initial idea to execute these prisoners or war was originated at the 41st Guard Unit and passed on to the 4th Base Headquarters for confirmation?
A. Yes, as many officers came to me and said so.

77. Q. You have heard the testimony in this court of Admiral Wakabayashi and his Chief of Staff, Commander Higuchi, and they have both testified that they knew nothing of the prisoners of war being present or that they contemplated the execution of these prisoners, or the execution taking place. How do you explain this testimony in the light of your testimony?
A. I said that I reported this to the Senior Staff Officer, Higuchi. There is no mistake in this.

78. Q. You also said that you had orders from the 4th Base Force. Is there any mistake in that?
A. As Lieutenant Ishii came to me personally and reported this to me, there can be no mistake.

79. Q. Did Lieutenant Ishii tell you to whom he had talked?
A. All he said was he had received orders from headquarters.

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80. Q. Orders from headquarters to do what?
A. Orders to execute the prisoners."

"83. Q. Is it correct then, Captain, you ordered these seven men executed, relying entirely upon the verbal statement of Lieutenant Ishii?
A. Yes.

84. Q. Do you know as a fact whether he actually contacted 4th Base Headquarters?
A. As the place where I was and the telephone were some distance apart, I could not hear him, so I cannot say."

"103.Q. It was your intention, then, to execute any and all prisoners that the 41st Guard Unit had in its custody, is that correct?
A. At that time I did not look into the details. I was very busy at that time and I did not notice the details." AB.

Cross-examined by the judge advocate concerning the testimony of Tanaka, Masaharu from the record of the trial of Tanaka, Masaharu et al:

70. Q. Will the witness read questions and answers number 7, 20, 21, 25, 35, 36, and 50?

The witness read from the testimony of Tanaka, Masaharu as follows:

"7. Q. From whom did you receive the report that you had some prisoners in the custody of the guard Unit?
A. I received a report from the executive officer when I came back to headquarters that they were taken into custody on the orders of the superior officers."

"20. Q. Is it certain that the 4th Base Headquarters put out an order for the execution of the prisoners?
A. Yes, this is certain and I have learned afterwards the way headquarters were thinking at that time was that the enemy landing was imminent and it was necessary to dispose of the prisoners.

21. Q. Did you report this to headquarters?
A. I think it was reported by telephone and that evening when I went to headquarters, I reported this at that time."

"25. Q. Are you sure that you reported this matter concerning the prisoners to Commander Higuchi?
A. This is certain, I reported this to Commander Higuchi while standing very close to him and Commander Higuchi answered, 'Is that so?' That I reported this is very certain."

"35. Q. Now, Captain, who delivered these prisoners into your custody?
A. It seems they were sent on the last ship from the Marshalls and when it came to Truk it was reassigned and they had to discard the prisoners at Truk. They were taken into our custody by the orders of the fleet headquarters.

36. Q. And at the time you received these prisoners, did they issue any instructions to you as to treatment and care of these prisoners?
A. No."

"50. Q. Do you know whether the regulations concerning the Japanese Navy had incorporated into them all or parts of international regulations concerning the treatment of prisoners of war?
A. As Japan has not signed any prisoner of war treaties, I do not think there were any."

The accused moved to strike out this answer on the ground that it was an opinion of the witness.

The judge advocate replied that the answer revealed the state of training and instruction of the witness, a navy captain and commanding officer of a subordinate unit of the 4th Fleet.

The commission announced that the motion was not sustained.

71. Q. Will the witness read questions and answers 68, 69, and 75?

The witness read from the testimony of Tanaka, Masaharu as follows:

"68. Q. Insofar as you know Captain, was there any justification for the murder of these seven Americans?
A. I heard later, but I believed and judged as it was during operations, that my superior officer had judged so and I said yes. I know of no other small details or reasons. It was during operations and my superior officer had judged the battle conditions as such.

69. Q. Is it correct then Captain, you know of no justification for the murder of these seven men?
A. I have no other way of thinking but it was the orders of the superior officer."

"75. Q. If Lieutenant Ishii had not contacted the 4th Base Headquarters, would this execution have ever taken place?
A. As a lot of difficult problems could arise, I thought nothing could be done except wait for the instructions from my superior officer."

72. Q. Will the witness read question and answer number 76?

The witness read from the testimony of Tanaka, Masaharu as follows:

"76. Q. In other words, the initial idea to execute these prisoners of war was originated at the 41st Guard Unit and passed on to the 4th Base Headquarters for confirmation?
A. Yes, as many officers came to me and said so."

73. Q. Will the witness read question and answer number 85?

The witness read from the testimony of Tanaka Masaharu as follows:

"85. Q. Is it possible then that Lieutenant Ishii made up this account he gave you and never contacted the 4th Base Headquarters?
A. As I relied upon Ishii greatly, even now I do not think he would have done such a thing."

74. Q. Will the witness read questions and answers number 92, 93, 94, and 95?

The witness read from the testimony of Tanaka, Masaharu as follows:

"92. Q. Now, how far did you say that the place of execution is from your headquarters?
A. From the west end of the veranda of headquarters it was about 50 to 60 meters.

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93. Q. Now Captain, how did it happen that these seven men were executed right in front of your headquarters?
A. There is no particular reason.

94. Q. Well, they could just as well have been disposed of at any spot, could they not?
A. As it was an order I thought it was a bad thing but I had no feeling that I would like to hide this.

95. Q. Captain, could this execution have taken place at any other spot other than on the sea wall?
A. As I did not feel that it was something that I should hide I had no particular spot."

75. Q. Will the witness read questions and answers number 106 and 108?

The witness read from the testimony of Tanaka, Masaharu as follows:

"106.Q. Now Captain, you have heard the testimony of two Trukese witnesses to the effect that they were there and saw approximately one hundred persons on and around the veranda of your headquarters; can you account for all these persons witnessing this execution?
A. After I had given Lieutenant Ishii the order I stayed in my room for a long time. I felt sorry for them. I thought maybe they were being taken there now. I stayed in the room and did not look outside. As I did not see, I did not know how the execution took place. Some time passed and I went outside. My room is located on the eastern side of the veranda and I went outside of the room and walked down the veranda toward the middle of the headquarters where there is a chair which was facing north. I sat there. After a time I went back to my room. The entrance, or the stairs, leading up to the vernada are located in the middle. In the west end were many people and I could not see further. If I had gone further, I might have been able to see, but as I did not wish to see, I stayed there. Is the question, 'Was I in a position to see?'"

"108.Q. Now, when you saw this large crowd of people on the veranda did you know what they were doing there?
A. I think it was concerning the execution."

76. Q. Will the witness read question and answer number 120?

The witness read from the testimony of Tanaka, Masaharu as follows:

"120.Q. You answered this morning that the entire custody and care of prisoners of war was yours. Did you mean by that you were not accountable to superior officers at 4th Base Headquarters for their safety and custody?
A. Everybody has a responsibility according to their duties. As I was responsible when they were in the custody of the 41st Naval Guard Unit my direct superiors also had responsibility for the supervision of them. The superior officers above him also have a responsibility for their supervision. Everyone had a responsibility according to their duties."

The accused moved to strike out this answer on the ground that it was an opinion of the witness, incompetent, irrelevant, and immaterial.

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The judge advocate replied that the answer to question 120 explained the meaning of the witness' answer to question 40 brought out in direct examination.

The commission announced that the motion was not sustained.

The witness was duly warned.

The commission then, at 11:50 a.m., adjourned until 9 a.m., tomorrow, Thursday, December 16, 1948.

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