

KOBAYASHI, MASASHI

(13 MAY 1948)

(VOL. II)

(165564)

0228

Case of  
Kobayashi, Masashi  
May 13, 1948

RECORD OF PROCEEDINGS  
of a  
MILITARY COMMISSION  
convened at  
United States Pacific Fleet,  
Commander Marianas  
Guam, Marianas Islands,  
by order of  
The Commander Marianas Area

VOLUME II

0229



FOURTEENTH DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands.  
Friday, May 28, 1948.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United  
States Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, 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 thirteenth 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 bind-  
ing and continued his testimony. JK

(Examination continued):

46. Q. You testified yesterday that when prisoners of war arrived at the  
Forty-first Guard Unit, the Fourth Base Force was notified and in turn  
notified the Fourth Fleet. Whose duty was it to notify the Fourth Fleet? JK

This question was objected to by the accused on the ground that the  
judge advocate was misquoting the witness.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I think it was the duty staff officer of that day.

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

The judge advocate replied.

The commission announced that the motion to strike was not sustained.

47. Q. As senior staff officer of the Fourth Base Force, did you take duty as the daily duty staff officer on any occasions?

A. Yes.

48. Q. During any of the occasions when you were the staff duty officer of the day did any prisoners of war arrive?

A. I do not recall.

49. Q. During your testimony you spoke about certain submarine prisoners of war. Will you relate what you know about these American submarine prisoners of war?

A. I came to know about the arrival of the submarine prisoners of war by dispatch from the destroyer Yamagumo which fought with the submarine. The contents of this dispatch which concerned us was that on arriving they would like to have the prisoners confined ashore. The contents of this dispatch were passed on to the Forty-first Guard Unit by the Fourth Base Force. We did not receive from the Forty-first Guard Unit any report as to whether they were confined there or not. The day after the prisoners were confined at the Forty-first Guard Unit I happened to walk on the road which leads from the pier near the shore to the main entrance of the guard unit. At that time I saw the submarine prisoners of war in front of the administration building. These prisoners were being interrogated by the persons of the Sixth Fleet Headquarters. I do not recall clearly who the person was that was interrogating, but I believe it was a staff officer of the Sixth Fleet with the rank of lieutenant commander or commander. JK

50. Q. Yesterday, you spoke of these submarine prisoners and you spoke of the ship, Yamakaze. Did you mean the same ship today when you say Yamagumo?

A. Yes.

51. Q. What was the uniform that was worn by the officer who was interrogating these prisoners?

A. I think it was a summer uniform that was worn by an officer of the Navy.

52. Q. What rank devices does this summer uniform have?

A. It was made so as to put the insignia of the winter uniform of the Japanese navy on the left breast.

53. Q. Does this uniform have shoulder boards or collar devices to indicate rank?

A. I do not recall whether it had shoulder boards or not.

54. Q. Did it have a collar device?

A. A collar device was usually worn.

55. Q. Will you describe the rank insignia that is worn over the left breast?

A. It is a rectangular piece. For instance, if it is a lieutenant commander, he will have two gold stripes across and in the middle there will be one silver colored cherry blossom.

56. Q. And if it is a full commander how many cherry blossoms would there be?

A. Two.

57. Q. And if he was a captain?

A. There would be three.

58. Q. What would be the distinction between this device for a captain and a commodore or rear admiral?

A. In the Japanese navy there is no commodore. On a rear admiral the whole insignia would be a gold stripe and on top of that there would be one silver colored cherry blossom.

59. Q. And for a vice admiral, how many cherry blossoms?

A. Two.

60. Q. Going down the grades to lieutenant, junior grade, how many cherry blossoms would that rank have?

A. A lieutenant, junior grade, would have two cherry blossoms but he would have only one gold stripe.

61. Q. Then is it true that the distinction between the rank devices of a lieutenant, junior grade, a commander, and a vice admiral is the number of gold stripes in the background but that the same number and same shape of cherry blossoms was placed on each of these insignia?

A. Yes.

62. Q. Is that similarly true with regard to the other types of rank devices that may have been worn on this uniform?

A. Yes.

63. Q. Do you recall the seventeenth and eighteenth of February 1944?

A. Yes, I do.

64. Q. Do you recall anything with regard to the question of land invasion on that date?

A. I cannot understand the question very well.

65. Q. Who was the commanding officer of the Fourth Base Force at that time?

A. Vice Admiral Wakabayashi.

66. Q. What occurred on the seventeenth and eighteenth of February 1944?

A. There was an American task force air raid on Truk.

67. Q. During the course of this air raid did you receive any orders from Admiral Wakabayashi?

A. Yes.

68. Q. What orders did you receive from Admiral Wakabayashi?

A. One that is especially in my mind was that when information that American battleships would enter Truk Atoll came from the lookout station an order was issued to the subordinate units to make preparations for land warfare.

69. Q. Who issued this order?

A. Vice Admiral Wakabayashi.

70. Q. To whom did he issue that order?

A. To all subordinate units under the Fourth Base Force.

71. Q. How was this order relayed to these subordinate units?

A. It was a telephone order.

72. Q. Do you know which telephone system this order was relayed over?

A. I do not know.

73. Q. During the course of the air raids were reports received by Fourth Base Force Staff?

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. There were.

74. Q. From whom were these reports received?

A. Mostly from subordinate units.

75. Q. Which subordinate units?

A. These reports or informations I think consisted mostly of the progress of battle. I don't know exactly from which units we received them.

76. Q. Did the Fourth Base Force maintain communications with the Forty-first Guard Unit during these air raids?

A. I think it did.

77. Q. Were any reports received from this unit?

A. Yes, there was a report.

78. Q. When you say there was a report do you mean there was one report or more than one report?

A. I don't recall how many reports.

79. Q. Did the Forty-first Guard Unit have any subsidiary units?

A. Yes.

80. Q. Did any of these subsidiary units have anti-aircraft or coast artillery guns?

A. Yes, they did.

81. Q. Did the Fourth Base Force maintain communication with these subsidiary units of the Forty-first Guard Unit?

A. The Fourth Base Force maintained communication with them through the Forty-first Guard Unit. OK

82. Q. Did the Fourth Base Force attempt to repel the air raid by the American forces?

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.

83. Q. Was it anticipated that American planes would be shot down during the air raid?

A. Yes.

84. Q. Was it anticipated that American personnel would be captured because of shooting these planes down? JK

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. At that time I did not think anything about prisoners of war.

85. Q. Did you issue any instructions with regard to the treatment of prisoners of war at that time?

A. No.

86. Q. Did you receive any instructions with regard to treatment of prisoners of war at that time?

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. JK

A. No.

87. Q. Do you recall the night of the seventeenth of February 1944?

A. Yes, I do.

88. Q. Do you recall anything that occurred on that night?

A. Yes, I do.

89. Q. What occurred on that night?

A. After the air raid of that day and at Vice Admiral Wakabayashi's orders all subordinate unit commanders were ordered to meet at the Fourth Base Force. At this time unit commanders which were directly under the Fourth Fleet Headquarters also gathered here but I think these units were notified by the Fourth Fleet Headquarters. This conference was held for the purpose of gathering information from all the units as to the damage to our own units and battle results and I also believe that we discussed what measures to be taken in the event Americans should land. JK

90. Q. Who attended this conference, specifically by name?

A. Vice Admiral Wakabayashi, myself, Lieutenant Commander Ago, Lieutenant Kondo, Surgeon Commander Iino, Paymaster Lieutenant Commander Tajima.

91. Q. From what unit were these personnel you mentioned?

A. Fourth Base Force Headquarters.

92. Q. Did all of these personnel remain throughout the entire conference?

A. I do not recall clearly. There might have been some persons going in

and out but most of the time they were there.

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.

Stewart R. Smith, 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.)

93. Q. Were any personnel from the Fourth Fleet staff present at this conference?

A. Yes.

94. Q. Can you name them?

A. Yes, I can.

95. Q. Please name them.

A. Captain Inoue, Commander Kawamura, and Commander Kawamata.

96. Q. What was Commander Kawamata's duty with the Fourth Fleet staff?

A. He was engineer staff officer.

97. Q. What was Kawamura's duty?

A. He was gunnery staff officer.

98. Q. What was Captain Inoue's duty?

A. Senior staff officer.

99. Q. Was Captain Inoue present during the entire conference?

A. Yes.

100. Q. Was he there at the beginning of the conference?

A. I believe he wasn't present at the beginning of the conference.

101. Q. Were there any representatives from the Combined Fleet present?

A. No.

102. Q. Where was the Combined Fleet at that time?

A. I do not recall clearly, but I think it was at Palau.

103. Q. Were they at Truk at that time?

A. They were not at Truk.

104. Q. What occurred during the course of this conference?

A. There was a report on the progress of battle from each of the subordinate unit commanders.

105. Q. With regard to the command set up on the various islands, do you know what the command set up was with regard to those units on the various islands within the Fourth Fleet area?

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 sustained.

106. Q. In case both army and navy units were stationed on the same island, who would assume the command of that island?

A. In case of land warfare, the senior officer of the island, whether he be army or navy, would take the command.

107. Q. On Wake Island from April, 1943 through February, 1944, who was the commanding officer of the navy installations?

A. I believe it was Captain Sakaibara.

108. Q. Was he the senior ranking officer on Wake Island?

A. I believe he was.

109. Q. Was he senior to the highest ranking army officer on Wake Island?

A. I believe he was.

110. Q. Who was the senior ranking naval officer on Kwajalein from April, 1943, to February, 1944?

A. At first it was Vice Admiral Abe, and later it was Rear Admiral Akiyama.

111. Q. Was Vice Admiral Abe senior to the highest ranking army officer on Kwajalein during his tour of duty? JK

A. I think he was.

112. Q. Was Rear Admiral Akiyama senior to the highest ranking army officer on Kwajalein during his tour of duty?

A. I believe he was.

113. Q. On Mille Atoll, from the period 1943 through 1944, who was the senior ranking naval officer?

A. Captain Shiga.

114. Q. Was he senior in rank to any army officer that was on Mille Atoll?

A. I think he was.

115. Q. What was the name of the navy unit on Wake Island that Captain Sakaibara was in command of?

A. Sixty-fifth Naval Guard Unit. JK

116. Q. What was the navy organization that Admiral Abe and later Admiral Akiyama was in command of at Kwajalein?

A. The name?

117. Q. Yes.

A. The Sixty-first Naval Guard Unit.

118. Q. Was Rear Admiral Akiyama the commanding officer of the Sixty-first Naval Guard Unit?

A. He commanded the Sixty-first Naval Guard Unit.

119. Q. Was he in command of a base force at Kwajalein?

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

The judge advocate withdrew the question.

120. Q. Was he in command of any major organization at that time?

A. Yes.

121. Q. What was the name of that?

A. As I have stated before, the guard units from the Sixty-first to the Sixty-sixth.

122. Q. What was the name of this organization that encompassed the Sixty-first through the Sixty-sixth Naval Guard Units?

A. Sixth Base Force.

123. Q. Under whose command was the Sixth Base Force?

A. At first it was Vice Admiral Abe and later, Rear Admiral Akiyama.

124. Q. Did this Sixth Base Force come under the command of any fleet?

A. Under the Fourth Fleet.

125. Q. Was the Fourth Fleet, through the chain of command, in control of Wake Island, Kwajalein and Mille Atoll?

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

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Yes.

126. Q. On Truk Atoll, who was the senior ranking officer of the naval installations during the period from April, 1943, through February, 1944?

A. The commander in chief of the Fourth Fleet.

127. Q. Was he senior in rank to the highest ranking army officer on Truk at that time?

A. No.

128. Q. What were their relative ranks?

A. Navy vice admiral and army lieutenant general.

129. Q. What was their relative seniority?

A. What I heard is that they advanced to that rank on the same day, same month, and same year, and that neither one was senior to the other.



130. Q. Did land invasion of Truk take place during your tour of duty at the Fourth Base Force?

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

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No.

131. Q. What was the mission of the Fourth Base Force in regard to land defense?

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

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Land defense itself was its mission.

132. Q. Did the Fourth Base Force at any time come under the command of the army during your period of duty?

A. No.

Cross-examined by the accused:

133. Q. You testified that during your tour of duty as staff officer of the Fourth Base Force and also while a staff officer at the Fourth Fleet Headquarters you did not see any standing regulations or orders regarding the treatment of prisoners issued during your tour of duty. Although there were no codified regulations in the Fourth Fleet regarding the handling of prisoners of war, was there any policy in existence? JK

A. I saw a dispatch from the Naval General Staff concerning the handling of prisoners of war. The contents were: Prisoners of war captured at the front will be sent back to Japan as soon as possible. The addressee of this dispatch was to the navy in general. I think the instructions contained in this dispatch were naturally the policy of the commander in chief of the Fourth Fleet. JK

The judge advocate moved to strike out the words "I think the instructions contained in this dispatch were naturally the policy of the commander in chief of the Fourth Fleet," on the ground that it was the mere opinion of the witness.

The accused replied.

The commission announced that the motion to strike was not sustained.

134. Q. Do you recall when you received this dispatch?

A. I do not recall clearly.

135. Q. When you took office at the Fourth Base Force as second ranking staff officer and later as senior staff officer, did you receive from your predecessor any policy of the Fourth Fleet Headquarters concerning the treatment of prisoners of war?

A. I do not recall having been so briefed.

136. Q. Yesterday, you testified that no orders or regulations concerning the treatment of prisoners were issued by the Fourth Base Force or at Fourth Fleet Headquarters, but was there any reason for the Fourth Base Force not issuing any orders?

This question was objected to by the judge advocate on the ground that it called for an opinion from the witness concerning the reasoning of his superior officers including a higher echelon.

The accused withdrew the question.

137. Q. Do you know the reason why the Fourth Base Force did not issue any orders?

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

The accused replied.

The commission announced that the objection was not sustained.

A. Concerning the treatment of prisoners, there is a clause in the navy regulations. The Fourth Fleet Headquarters issues regulations concerning this, derived from these navy regulations; and in accordance with this, the Fourth Base Force sets up detailed rules to fit the various circumstances on Truk. Because there were no regulations concerning the treatment of prisoners of war issued from the Fourth Fleet Headquarters I thought it was sufficient to apply the navy regulations.

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 advocates, the accused, his counsel, and the interpreters.

Stewart R. Smith, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present. JK

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.)

138. Q. Yesterday, you testified that you knew of the arrival of two prisoners of war from Rabaul, who arrived on Truk in October, 1943; and also you testified that before prisoners of war were sent back to Japan they were usually interrogated concerning operational matters. Do you know if these

two prisoners of war were interrogated?

A. I do not know.

139. Q. Do you know how long these two prisoners stayed at Truk?

A. I do not know.

140. Q. Do you know approximately how long they stayed?

A. I think it was about a fortnight.

141. Q. During this period, in other words, from around October, 1943, through the middle of November, was the Fourth Fleet Headquarters at Truk?

A. I think it was not.

142. Q. The day after the submarine prisoners of war arrived at Truk, you testified that you saw personnel of the Sixth Fleet interrogating them. How did you know that these persons were from the Sixth Fleet?

A. At the time I saw them interrogating I did not know that they were from the Sixth Fleet, but later on I heard that they were from the Sixth Fleet.

143. Q. From whom did you hear this?

A. I do not recall.

144. Q. Did you hear this from a person from the Sixth Fleet Headquarters?

This question was objected to by the judge advocate as repetitious on the ground that the witness has testified that he does not know.

The accused made no reply.

The commission announced that the objection was not sustained.

A. I do not recall from whom I heard this.

145. Q. How many persons were interrogating these prisoners?

A. Only one person was questioning, but I recall there were two or three other persons.

146. Q. Did you actually see the prisoner being questioned standing in front of the interrogator?

A. Yes, I did.

147. Q. Were there any guards at the side of the prisoner being interrogated?

A. I do not recall.

148. Q. On what date were these submarine prisoners of war confined at Truk?

A. I recall that it was in November, 1943, but I do not recall the day.

149. Q. Do you remember when they were sent back to Japan?

A. About this, too, I am not clear, but I think it was about a fortnight after they were confined.

150. Q. During the period these submarine prisoners of war were confined at Truk, was the Fourth Fleet Headquarters at Truk?

A. I think it was not.

151. Q. You testified that there was a report from a lookout post that American battleships would enter the Truk Atoll on the 17th and 18th of February, 1944 - a task force raid on Truk. If you know about this more in detail, please explain?

A. I do not recall anything else.



152. Q. What time did you receive this information?

A. This is not exact, but I think it was in the afternoon of the first day.

153. Q. Do you mean by the first day, as being the 17th of February?

A. Yes.

154. Q. During this air raid, did you not receive any information that an American task force was bombarding some part of Truk Atoll?

A. I think I heard information that the north island, which is situated in the northern part of Truk Atoll, was being bombarded.

155. Q. This information about battleships coming into Truk Atoll - did you receive this information at the Fourth Base Force direct from the lookout post?

This question was objected to by the judge advocate on the ground that it is not clear what lookout post is referred to.

The accused replied.

The commission announced that the objection was not sustained.

A. I do not recall whether the Fourth Base Force received it direct from the lookout post or through the Forty-first Guard Unit.

JK  
JK

156. Q. When did Vice Admiral Wakabayashi issue orders in preparation for land warfare?

A. I think it was right after we received information that American battleships were coming into Truk Atoll.

157. Q. Then it was in the afternoon of 17 February, is that right?

A. Yes.

158. Q. Did the Fourth Fleet Headquarters issue any orders concerning the preparation for land warfare?

A. No.

159. Q. In the event that allied forces invaded Truk, who was to command the land warfare - the commander in chief of the Fourth Fleet or the commanding general of the army?

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

The accused replied.

The commission announced that the objection was not sustained.

A. As there was no difference in seniority in the rank of the commanding officer of the army units and of the commanding officer of the navy units, when the army commanding officer came to Truk I recall that operational agreements were made.

JK

160. Q. In the event that invasion was made on Truk, who was to command land warfare, the commander in chief of the Fourth Fleet or the commanding general of the army, under this operational agreement?

A. Under this operational agreement, the commanding officer of the army was

to command land warfare.

161. Q. During the period from April, 1943, through February, 1944, do you know who the commanding officer of the army was at Wake?

A. I heard that he was a colonel in the army, but I do not remember his name.

162. Q. During the same period, do you know who was the highest commanding officer of the army at Kwajalein?

A. I do not know.

163. Q. Then you do not know whether Vice Admiral Abe was over-all senior to any other officer, army or navy?

A. I do not think that there was an army officer of general rank at Kwajalein.

164. Q. During the same period, do you know who was the senior army officer on Mille?

A. I do not know.

165. Q. Then you do not know whether Captain Shiga was the senior officer, including army and navy, on Mille; is that correct?

A. I heard from Captain Inoue that other than the island of Kusaie, on all the other islands where the army was sent, that is, in the Marshall Area, a navy officer was senior to the army officers.

166. Q. At the conference held on the night of 17 February 1944, did the commanding officer of the Forty-first Guard Unit make any report?

A. I recall that he made a report concerning damages and battle results.

167. Q. Who was the commanding officer of the guard unit at that time?

A. It was Captain Tanaka.

168. Q. Did Captain Tanaka, at this conference, report anything in regard to prisoners of war?

A. No.

169. Q. By what authority would you succeed Vice Admiral Wakabayashi to the command of the Fourth Base Force?

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.

170. Q. As a staff officer to the commandant of the Fourth Base Force, what command authority did you have?

A. Generally speaking, as a staff officer I would not have any command authority.

171. Q. In your examination of the standing orders of the Fourth Base Force and at the Fourth Fleet, you did not see any orders regarding prisoners of war. How, then, did you determine that orders were applicable to prisoners at the Fourth Base Force and at the Forty-first Guard Unit?

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

The accused replied.

The commission announced that the objection was sustained.

172. Q. Did the commander in chief of the Fourth Fleet ever announce a policy that was contrary to that expressed in the dispatch from the Naval General Staff, regarding prisoners of war; which you have testified about? JK

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

The accused replied.

The commission announced that the objection was not sustained.

A. No.

The judge advocate moved to strike out this answer on the ground that it was vague, in view of the broad nature of the question.

The commission announced that the motion to strike was not sustained.

173. Q. Do you know what the policy of the Fourth Base Force was regarding prisoners of war?

A. I think he followed the general idea of the dispatch sent from the Naval General Staff.

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

The commission directed that the answer to stricken.

174. Q. As a staff officer on Admiral Kobayashi's staff, do you know what his policy was regarding prisoners of war?

This question was objected to by the judge advocate on the ground that there was no testimony that the witness had been on the staff of Admiral Kobayashi. JK

The accused withdrew the question.

175. Q. Were you ever on the staff of the commander in chief of the Fourth Fleet?

A. Yes.

176. Q. As a staff officer on Admiral Kobayashi's staff, do you know what his policy was regarding prisoners of war?

This question was objected to by the judge advocate on the ground that this witness has not testified that he was on Admiral Kobayashi's staff.

The accused withdrew the question.

177. Q. Were you on the staff of Admiral Kobayashi?

A. No.

178. Q. Did you have any responsibility as a staff officer of the Commander Fourth Base Force to see that proper orders were issued to the subordinate activities regarding prisoners of war?

A. I absolutely did not have such responsibility.

179. Q. Do you know by whose order or regulation or by what order the Fourth Base Force was notified of the arrival of prisoners of war at Truk?

A. There was no such regulation.

180. Q. Do you know if the Commander in Chief of the Combined Fleet issued an order that the Fourth Base Force must be notified of the arrival of prisoners of war on Truk?

A. Do you mean to the subordinate units in general was such an order issued?

181. Q. To whom was this order issued that they must report to the Fourth Base Force?

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

The accused made no reply.

The commission announced that the objection was sustained.

182. Q. Did the Commander in Chief of the Fourth Fleet ever <sup>9K</sup> issue an order to the effect that the commanding officer of the Fourth Base Force must be notified of the arrival of all prisoners of war on Truk?

A. Issued to whom?

183. Q. To his subordinate commands?

A. I have not seen any such orders.

184. Q. Then how did the commanding officer of the Fourth Base Force ever ascertain when prisoners of war arrived on Truk?

This question was objected to by the judge advocate on the ground that it was improper in form, not being separated from the last question, and was misleading.

The accused made no reply.

The commission announced that the objection was not sustained.

A. Even though there were no regulations that the Fourth Base Force should be so notified, in the navy it is common knowledge that such things should be reported.

185. Q. How many times did the commanding officer of the guard unit notify the commanding officer of the Fourth Base Force that there were prisoners of war at the guard unit?



This question was objected to by the judge advocate on the ground that there was no foundation for the question, since this witness has not testified that the commanding officer of the guard unit ever notified the commanding officer of the Fourth Base Force.

The accused made no reply.

The commission announced that the objection was not sustained.

A. I do not recall clearly, but I think when the submarine prisoners of war arrived, such a report was made. JK

The commission then, at 3:15 p.m., took a recess until 3:30 p.m., at which time it reconvened.

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

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.)

186. Q. Did you see any mistreatment of the prisoners of war during the interrogation that you witnessed?

A. No.

187. Q. Were the prisoners of war that were being interrogated blindfolded?

A. No, they were not blindfolded.

188. Q. You are sure that you didn't see two Japanese enlisted men with clubs in their hands standing behind the prisoner being interrogated?

A. No, I did not have any such recollection.

189. Q. Did you see any prisoners of war that were in need of medical attention?

This question was objected to by the judge advocate on the ground that it called for a medical opinion of the witness.

The accused made no reply.

The commission announced that the objection was not sustained.

A. I did not see such prisoners.

190. Q. Where was Admiral Wakabayashi when he gave these orders to subordinate units to prepare for land warfare?

A. I think he was near the air raid shelter on the side of the administration building.



191. Q. Was this at the battle station?

A. There were no regular command posts, but wherever the commanding officer of the Fourth Base Force was staying that would automatically become a command post.

192. Q. You spoke of telephone communication to separate units of the Fourth Base Force such as the Forty-first Naval Guard Unit. Isn't it true that there were no direct lines from the guard unit to Fourth Fleet Headquarters?

A. I do not recall if there was a direct line or not. JK

193. Q. Were all the naval units on Wake subordinate to Vice Admiral Abe?

A. I think that the air unit was not under Abe.

194. Q. Do you know what units were a part of Abe's command as Sixth Base Force Commander? The names of the units and where they were located.

A. They were Sixty-first Guard Unit, Kwajalein; Sixty-second Naval Guard Unit, Jaluit; Sixty-third Naval Guard Unit, Maloelap; Sixty-fourth Naval Guard Unit, Wotje; Sixty-fifth Naval Guard Unit, Wake, and Sixty-sixth Naval Guard Unit, Mille.

195. Q. Do you know how far it is from Dublon to Wake?

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

The accused made no reply.

The commission announced that the objection was not sustained.

A. I do not know the exact distance.

196. Q. Approximately.

A. Approximately twelve hundred or thirteen hundred miles.

197. Q. Do you know how far it is from Dublon to Kwajalein?

A. About the same.

Reexamined by the judge advocate:

198. Q. In cross-examination you mentioned a navy regulation concerning prisoners of war. What was the context of this navy regulation?

A. I do not know exactly but there were the following clauses, (1) the number, names and rank of the confined prisoners of war shall be reported to the Ministry of the Navy through the chain of command, (2) if there were any changes in regard to the prisoners. I believe there also was some clause pertaining to what measures were to be taken when a prisoner attempted to escape. Other than that I don't remember.

199. Q. Did the Fourth Base Force issue any orders, regulations, or instructions implementing this navy regulation you have spoken of?

A. No.

200. Q. During your tour of duty as senior staff officer of the Fourth Base Force did the Fourth Base Force receive from the Forty-first Guard Unit the names and ranks of the prisoners of war who were confined there?

A. No.

201. Q. Did the Fourth Base Force receive or forward through the chain of command to the Minister of the Navy at any time during your tour of duty the names and ranks of the prisoners of war confined at the guard unit?

A. No.

202. Q. You testified concerning a conference held on the seventeenth of February. Do you remember any details of what Tanaka reported at that conference?

A. I do not know any details.

203. Q. You testified concerning the submarine prisoner<sup>s</sup> of war. For how long a period of time did you observe the interrogation of the submarine prisoners of war? JK

A. As I was passing by the road I just happened to see them and I just saw them for perhaps one minute.

204. Q. Did you stop to look at them?

A. I do not recall clearly.

205. Q. How far from these prisoners of war were you when you saw them being interrogated?

A. I think it was about ten meters.

Recross-examined by the accused:

206. Q. Do you know why the Fourth Base Force did not issue any further instructions implementing the navy regulations regarding prisoners of war?

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. I do not know this reason. I think that the commanding officer thought these navy regulations were sufficient.

The judge advocate moved to strike out the words "I think that the commanding officer thought that these navy regulations were sufficient," on the ground that they were an opinion of the witness.

The accused replied.

The commission directed that the words be stricken.

207. Q. Do you know why the Fourth Base Force did not receive the names of the prisoners of war that were confined at the guard unit?

A. No, I do not.

208. Q. Do you know why the Fourth Base Force did not forward the names of the prisoners of war that were confined at the guard unit?

This question was objected to by the judge advocate on the ground that it was immaterial and repetitious, the witness having testified that the Fourth Base Force did not receive their names and obviously could not forward them.

The accused made no reply.

The commission announced that the objection was sustained.

Examined by the commission:

209. Q. This conference of the seventeenth of February you testified to. Do you remember what time of the day or night it was?

A. It was after sundown and I think it was around seven o'clock in the evening.

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 4:20 p.m., adjourned until 9 a.m., tomorrow, Saturday, May 29, 1948.

FIFTEENTH DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands,  
Saturday, May 29, 1948.

The commission met at 9 a. m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United States  
Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Kocs, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, and  
Lieutenant James P. Kenny, U. S. Navy, judge advocates.  
Stewart R. Smith, 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.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and former rank in the Japanese Armed Forces.  
A. Asano, Shimpei, former rear admiral, IJN, former commanding officer of  
the Forty-first Naval Guard Unit.
2. Q. Are you presently confined at Guam?  
A. Yes.
3. Q. If you recognize the accused, state as whom?  
A. I recognize him. He is former vice admiral, IJN, Kobayashi, Masashi.
4. Q. Were you stationed on Truk in the year 1943?  
A. Yes.
5. Q. What was your official position at that time?  
A. I was the Chief of the First Personnel Replacement Department.
6. Q. What was the physical location of your office on Truk at that time?  
A. I was carrying out my duties in a building which was part of the Forty-  
first Naval Guard Unit and within its compound.



7. Q. During what period of time did you occupy the position of Chief of the First Personnel Replacement Department?

A. I arrived as Chief of the First Personnel Replacement Department on Truk on 20 January, 1943, and continued in that position until 23 January, 1944, when I was appointed to be attached to the Sixth Base Force.

8. Q. What happened after January 23, 1944, in relation to your position?

A. My orders were to assume my duty without waiting for my successor to arrive, but at that time the battle conditions in the Marshalls were very severe and I lost my opportunity for transportation to assume my duty in the Marshalls, as the Americans started to land in that district in the latter part of January. Therefore, I was compelled to stay on at Truk, and after my successor arrived in the early part of February, I went to this South Pacific Trading Clubhouse and I stayed there.

9. Q. What was your next official duty?

A. I was waiting for my orders and on 20 February I received orders to become the commanding officer of the Forty-first Naval Guard Unit.

10. Q. Whom did you relieve?

A. On 21 February I immediately went and assumed my duty at the Forty-first Naval Guard Unit and succeeded Captain Tanaka.

11. Q. How long did you serve as commanding officer of the Forty-first Naval Guard Unit?

A. I served as commanding officer of the Forty-first Naval Guard Unit until 15 August 1945, the time the war ended.

12. Q. During the year 1943, did you see any American prisoners of war at Truk Atoll?

A. I did.

13. Q. Where did you see these prisoners of war?

A. At the Forty-first Naval Guard Unit.

14. Q. Who were these prisoners of war you saw in 1943?

A. They were American submarine crews who were saved by the destroyer YAMAGUMO.

15. Q. How many of these prisoners of war did you see, approximately?

A. I do not remember exactly, but I recall seeing about twenty of them.

16. Q. Where were these prisoners at the Guard Unit when you saw them?

A. I saw them at the exercise grounds on the premises of the Forty-first Naval Guard Unit.

17. Q. Will you describe what you saw?

A. I was on my way out from the Naval Guard Unit and I was in an automobile, since I had some business to attend to. The automobile would have to pass two corners of the exercise grounds in going out, and just when I left this replacement department I felt that some interrogation was being held of these prisoners at the exercise grounds. As this was the first time that I had seen such a thing going on I ordered the driver to slow down and without leaving the car, but from inside while passing, I witnessed what was going on.

I shall now state the main points of the things I saw then. Most of the twenty prisoners were naked, and I recall that three or four guards with white leggings on were guarding these prisoners. Two long tables were set up and on one side five or six officers who were investigators were seated and the prisoners were called forward one by one and I recall that they were being questioned. Among these investigators I recognized one person, whose name was Captain Ichise, the chief engineering officer of the Sixth Fleet, and I knew that these persons who were making the investigation were personnel of the Sixth Fleet. I have no recollection that anybody who did not have any business there was standing by watching. 9K

18. Q. Does that complete what you saw at that time?  
A. That is all.

19. Q. At what time did you see these submarine prisoners of war being questioned?

A. I believe it was around the end of 1943. Captain Minematsu was the commanding officer of the Forty-first Naval Guard Unit then, so I believe it was around November; I do not recall the exact date.

20. Q. What time of day was it when you observed these submarine prisoners of war being questioned?

A. Whether it was in the morning or afternoon I can't recall.

21. Q. Did you see any other prisoners of war at Truk during the year 1943 or during the year 1944, up to the date of 21 February 1944?

A. I did.

22. Q. When and where did you see these prisoners of war?

A. The place where I saw them was from the veranda of my room, which is facing the shore. As I remember the prisoners had already come on to the pier and they were advancing toward the Forty-first Naval Guard Unit.

23. Q. What was the identification of this pier -- did it have a name?

A. It is called Guard Unit Pier. The number of prisoners was three.

24. Q. Approximately when did you see these three prisoners of war on the pier?

A. I am not sure, but I believe it was around January, 1944.

25. Q. Did you, later in the course of your official duties, learn of any other prisoners of war who were on Truk during the period April, 1943, to February 21, 1944?

A. I heard later that the number of submarine prisoners of war who were interrogated was forty-two, and that they were sent back to Japan on two converted aircraft carriers called the UNYO and CHUYO.

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 to strike was not sustained.

26. Q. Did you, later in the course of your official duties, hear of any other prisoners of war, other than the group of submariners and the three that you observed on the pier, being on Truk during the period April, 1943, to February, 1944?

A. No, I did not.

27. Q. During the course of your later official duties did you hear of anything with regard to prisoners of war at the naval hospital?

This question was objected to by the accused on the ground that it called for a hearsay answer.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I do not understand what the judge advocate means by "course of your later official duties."

28. Q. During the course of your later official duties as commanding officer of the guard unit, did you receive any official reports concerning prisoners of war and the Fourth Naval Hospital?

A. There is one fact that I learned after the end of the war.

29. Q. What was that?

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

The judge advocate replied.

The commission announced that the objection was sustained.

30. Q. At the close of the war were you given official duties by Admiral Hara or Rear Admiral Sumikawa concerning reports with regard to prisoners of war incidents?

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

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I received orders with regard to the condition of, and what had happened to, all of the prisoners that were on Truk.

31. Q. Did you make investigations in accordance with this duty?

A. I did.

32. Q. In the course of this investigation, did you receive any information concerning any incidents which occurred between the period from April, 1943, to February 23, 1944?

This question was objected to by the accused on the ground that it called for a hearsay answer.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I received information from my subordinate medical officer with regard to the January incident which occurred at the hospital.

33. Q. What was this information you received, in brief?

This question was objected to by the accused on the ground that it called for a hearsay answer.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. This happened after the first report concerning prisoners was submitted to the commander in chief after having investigated the persons connected with prisoners. Lieutenant Kuno alone came to me and told me that there was still the following incident. The substance of it is as follows: Around the end of January, four prisoners of war were subjected to experiments by injection at the sick bay of the Guard Unit. Furthermore, another group of four prisoners were directly taken to the hospital and were disposed of there. And he further stated that he did not know of the further details with regard to these incidents. Then he stated in closing that Iwanami had asked Iino to lend Iwanami the Guard Unit dispensary in order to conduct his experiments, but Iino had refused it, and Iino said that if Iwanami wanted to use the dispensary he would have to ask the commanding officer directly. I was very much surprised to hear about this and I immediately reported the outline of these incidents to Admiral Hara and Rear Admiral Sumikawa.

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 to strike was not sustained.

34. Q. When you took over as commanding officer of the Forty-first Naval Guard Unit, did you examine the standing orders of the Guard Unit?

A. I did.

35. Q. Were there any standing orders received from the Fourth Fleet or the Fourth Base Force regarding the care or 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, I did not find any.

36. Q. Have you inspected the brig of the Forty-first Naval Guard Unit?

A. I have.

37. Q. When was the first time you inspected this brig at the Forty-first Naval Guard Unit?

A. I do not recall whether it was at the end of February or the beginning of March, but it was immediately after the one American aviator officer was taken prisoner during the air raid in February. Lieutenant Commander Akai came to investigate this prisoner and I happened to be at the guard unit then, so in addition to this interrogation I went to the brig to inspect it.

38. Q. Are you also familiar with the guardhouse which was in front of the brig, between the brig and the Guard Unit road to the pier?

This question was objected to by the accused on the ground that the judge advocate was testifying and that it was a leading question.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I am.

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 advocates, 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.

(Examination continued.)

39. Q. Will the witness draw on this blank sheet of paper, which I have shown to defense counsel, a sketch of the brig at the Forty-first Guard Unit?

The witness drew a sketch of the brig at the Forty-first Naval Guard Unit.

40. Q. This drawing consists of an approximately square area divided into two sections and one of these sections is further divided into three smaller sections. What are each of these three smaller sections?

A. It is a solitary cell.

41. Q. In the corner of each of these solitary cells there is drawn a small square shape. What is that small square?

A. The head.

42. Q. What is this larger section which consists of more than half of this sketch?

A. It is a dirt floor.

43. Q. What was this section here with the dirt floor?

A. I believe this portion with the dirt floor was used for the prisoners to exercise and also to get some sun for those in the brig.

44. Q. I see you have written a word in Japanese. What is this word?

A. It is dirt floor.

45. Q. I see in front of one of these cells another Japanese word written. What is that word?

A. That is door.

46. Q. Was there a door in front of all three cells as indicated?

A. Yes.

47. Q. And I see one which is marked "7M." Does that signify seven meters?

A. Yes.

48. Q. I see there is a word in Japanese. What is that word?

A. Likewise a door.

49. Q. On the opposite side nearer to the right hand corner of the sketch I see a Japanese word. What is that word?

A. That is a wooden fence. It is considerably high.

50. Q. I observe that you have marked inside one of the cells the dimensions 2.2 M. and 2.2 M. Is that the approximate size of these cells?

A. Yes.

51. Q. Would you write in the lower right-hand corner in Japanese "sketch of the Forty-first Guard Unit Brig"?

The witness wrote the words in the place indicated.

The sketch drawn by the witness was submitted to the accused and to the commission, and by the judge advocate offered in evidence.

Cross-examined by the accused concerning the admission of the sketch:

52. Q. You just drew a diagram and put in figures 2.2 M., 6, 7M. Did you actually measure these dimensions?

A. After the end of the war when this investigation was conducted, as there were not any sketches, I had the brig actually measured.

53. Q. When was this?

A. It was after the end of the war. I also am convinced that the measurements are correct, basing it on my impression when I inspected the brig.

54. Q. When did you actually see the brig?

A. I have already testified that it was in the end of February, 1944.

55. Q. As of what date was that diagram drawn?

A. At the time when the prisoners were being held and at the time I inspected the brig.

56. Q. In other words, this diagram is as of the end of February or the beginning of March, 1944?

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

The accused withdrew the question.

57. Q. Prior to inspecting the brig around the end of February or the beginning of March, did you ever have occasion to inspect this brig?

A. Prior to that time I did not look into this brig, but while it was under construction I had occasion to glance at it and it was completed around June of 1943. JK

58. Q. Have you had any particular knowledge or experience in drawing these plans?

A. The diagram of this matter is easy for us to write.

59. Q. Is this the first time that you have drawn this diagram or have you drawn that for the judge advocate before?

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.

60. Q. Were the submarine prisoners confined in this brig?

This question was objected to by the judge advocate on the ground that it was irrelevant to the issue of the admissibility of the document.

The accused replied.

The commission announced that the objection was sustained.

Commander Martin E. Carlson, a counsel for the accused, read a written objection to the receipt of this document in evidence, appended marked "IIII."

The judge advocate made an oral reply to the objection of the accused, a brief of which is appended, marked "JJJJ."

The accused waived the reading of this reply in Japanese in open court.

The commission announced that the objection was not sustained. There being no further objection, the document was so received in evidence, appended marked "Exhibit 19."



Examination by the judge advocate continued:

61. Q. I hand you another blank sheet of paper and ask if you will write on this sheet of paper a sketch of the guardhouse at the Forty-first Naval Guard Unit?

The witness drew a sketch of the guardhouse at the Forty-first Guard Unit.

62. Q. You have drawn this sketch. Will you explain what these various writings are?

A. The part on the lower right looking at the diagram is the entrance, and then there is the corridor and also a storehouse.

63. Q. There is a small room shown in the lower portion of this diagram. What is this room?

A. That is the office for the guard on duty.

64. Q. And what is this Japanese writing here?

A. It stands for office.

65. Q. I see a squared-off portion in the front of that office; what is that?

A. That is a desk.

66. Q. I see a Japanese word written there. What is it?

A. It stands for desk.

67. Q. I see another word written in the upper part of the diagram. What is that?

A. A rest room for the guards.

68. Q. What is this Japanese writing there?

A. It stands for room in which the guards rest. The room in which the guards rested was a little elevated from the ground and it was matted with grass mats.

69. Q. On the outside corner of this room where the guards rested there are two sections marked off. What are those?

A. Those are windows. 9K

70. Q. On the side of this room you have marked a portion with three broken lines. What does that signify?

A. Sliding door.

71. Q. Would you write in Japanese on the right hand side the title of that sketch?

The witness wrote the title of the sketch in the place indicated.

The judge advocate requested that this sketch be marked for identification.

This procedure was objected to by the accused on the ground that it was improper.

The judge advocate replied.

The commission announced that the objection was not sustained.

The sketch was marked "number 12" for identification.

Cross-examined by the accused:

72. Q. Did you actually see this guardhouse?

A. Yes. I looked into the guardhouse once, but I did not investigate it thoroughly as I did with the brig, and I want to state here that it is not as correct as that sketch of the brig.

73. Q. As of what date did you draw this diagram?

A. It was during my tour of duty as the commanding officer. This guardhouse was right beside the big gate and one could easily get a look at it while passing. This guardhouse was destroyed by bombs close to the end of the war and the diagram which I drew is as it was before it was destroyed.

74. Q. I asked you as of what date you drew this diagram?

A. It is as it was before it was destroyed by bombs.

75. Q. Could you specify the date?

A. Ordinarily buildings will stand as they are built and it is pretty hard to say as of what date it was I had seen it.

76. Q. But don't you admit that buildings undergo alterations or repair, thus changing the shape of the buildings?

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 witness was duly warned.

The commission then, at 11:30 a. m., adjourned until 9 a. m., Tuesday, June 1, 1948.

SIXTEENTH DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands,  
Tuesday, June 1, 1948.

The commission met at 9:10 a. m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United States  
Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, and  
Lieutenant James P. Kenny, U. S. Navy, judge advocates.  
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.

Asano, Shimpei, the witness under examination when the commission ad-  
journed, entered. He was warned that the oath previously taken was still  
binding and continued his testimony.

(Cross-examination continued.)

77. Q. To what organization did this First Personnel Replacement Office  
belong? JK

A. It was directly under the Combined Fleet.

78. Q. What was the mission of this department?

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 two major missions. One was to replace personnel of the  
naval forces scattered on the front and various advanced points, and ~~also~~ to JK  
see that the disposition of personnel was carried out. The second was  
matters relating to the transportation of military personnel and gunzokus.

79. Q. These prisoners that you saw at the exercise ground, when did you see them -- what date?

A. I have no exact recollection of the date, but I believe it was in the month of November.

80. Q. What part of November?

A. I do not remember.

81. Q. Was this in 1943 -- in other words, the eighteenth year of Showa?

A. Yes.

82. Q. You said that you saw this scene while you were in an automobile. For how many minutes did you watch this scene?

A. It was a very brief interval. I believe it was about one minute.

83. Q. At that time were the prisoners' hands bound?

A. With regard to such detailed points, I have no recollection.

84. Q. Were they blindfolded?

A. I seem to have a recollection that they were.

85. Q. Do you mean by that that all of them were blindfolded or just part of the prisoners?

A. This recollection that I just spoke of was with relation to those prisoners that were standing close to the investigator waiting to be questioned.

86. Q. How many investigators were there? In other words, was one prisoner being questioned by one investigator, or was there more than one investigator questioning more than one prisoner at one time?

A. There was only one person who was questioning among these investigators. The others were seated beside him on both sides and were just listening in to what was going on there. JK

87. Q. Could you hear what they were saying?

A. No.

88. Q. What kind of uniform did these investigators wear?

A. I do not remember exactly but they were wearing this brief summer uniform which officers wear in the tropics.

89. Q. Were there any rank insignia on their uniforms?

A. The rank insignia were on their collars.

90. Q. Do you remember the rank of the person who was questioning?

A. I was not actually at the spot, so I do not know; and, moreover, I did not actually see it, but the staff officers were wearing the aiguillettes so I could recognize them.

91. Q. Was an interpreter being used at this investigation?

A. I didn't notice that.

92. Q. You testified that there were two or three guards standing by these prisoners. Did you notice them having anything in their hands?

A. I have no recollection of them holding anything in their hands.



93. Q. Did you see any instances where these prisoners were being mistreated?

A. Because the interval of time which I watched it was very short and, moreover, as I just got a glance from the vehicle, I do not remember seeing any mistreatment taking place. It is pretty hard to define exactly what mistreatment consists of. I have no recollection of their being treated harshly or mistreated, but I cannot imagine such a thing happening.

The judge advocate moved to strike out the words, "but I cannot imagine such a thing happening," on the ground that it constituted an opinion of the witness.

The accused replied.

The commission directed that the words be stricken.

94. Q. How did you know that these prisoners were from the submarine?

A. I do not know exactly from whom I heard this, but naturally the question arose in my mind when this group of prisoners came in as to where they came from and I heard that they were rescued by the destroyer YAMAGUMO and brought in.

95. Q. You said that among the officers that were investigating you recognized Ichise of the Sixth Fleet. Do you know that all of these officers were from the Sixth Fleet?

A. With regard to that, there are two points from which I knew they were from the Sixth Fleet. One is that the Chief Engineering Officer, Captain Ichise, was among them and the second is that after coming back to the barracks on that day or the next day, I do not remember exactly, I had a talk with the executive officer, Lieutenant Commander Tokutome, and he stated to me that the staff officers of the Sixth Fleet came down and had conducted the investigation.

96. Q. To what organization did this Sixth Fleet belong?

A. It was a submarine fleet directly under the Combined Fleet.

97. Q. Approximately when were these prisoners sent back to Japan?

A. As I remember it, they were not held at this Naval Guard Unit very long. In fact, they were sent back shortly thereafter on board ~~to~~ converted aircraft carriers as I testified the other day. This fact I was told by one of my subordinate officers, Lieutenant Commander Tamuda, who was in charge of transportation of personnel. He had actually gone to the carriers so I know this to be true. 9K

98. Q. During this brief stay, do you know where they were being held?

A. Naturally they were confined in the brig that I testified to the other day and then after the war the question rose in my mind as to whether all forty-two were confined in such a small place, and I called together and asked all the persons who had had dealings with the prisoners about this. I was told by them that during the night time they divided these prisoners up and had part of them stay in the guardhouse which I testified to the other day. As to how many were sent to that guardhouse I do not know. 9K



99. Q. Do you know of the fact that some of these prisoners were kept at one of the barracks?

A. I do not know or have I heard that a part of the prisoners were kept there, as far as my recollection is concerned

100. Q. Then you are not sure of the fact that these prisoners were held in the brig?

This question was objected to by the judge advocate on the ground that the counsel was misleading the witness.

The accused replied.

The commission announced that the objection was not sustained.

A. I did not ascertain the fact that they were confined there.

101. Q. At that time, were there any increases or decreases in the military personnel on Truk?

A. At that time the military personnel and gunzokus coming in and going out from Truk was very large and because of this the base force and also the naval guards had numerous difficulties in this connection. There were nearly one thousand military personnel always waiting on Truk somewhere assigned duty at the front, but unable to go because they did not have transportation and some had come back from the front and were waiting for transportation to go back to the homeland, and the Forty-first Naval Guard Unit had to take care of them. They had difficulty to find a place for them to stay but the Forty-first Guard Unit had to cooperate, therefore the accommodations on Truk were very difficult.

102. Q. At the time that these submarine prisoners were being held at Truk, do you know of the fact that a great number of new recruits had come into the Forty-first Guard Unit?

A. I do.

103. Q. About how many came in, approximately?

A. There were one hundred untrained reserve recruits sent from Japan each time. These were to be trained at the Guard Unit.

104. Q. During the time that these submarine prisoners were being held at the Naval Guard Unit, to what number did these new recruits amount?

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

The accused replied.

The commission announced that the objection was sustained.

105. Q. Do you know the fact that these new recruits had to sleep in the corridors because they did not have any accommodations for them?

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.

106. Q. When you assumed duty as commanding officer of the Forty-first Guard Unit, were you briefed or indoctrinated in any way in regard to treatment of prisoners of war, by your predecessor?

A. My predecessor, Captain Tanaka, did not indoctrinate me in any way with regard to prisoners.

107. Q. As chief of the Personnel Replacement Department, were you a member of the staff of the Combined Fleet?

A. I was not a member of the staff.

108. Q. At the time when you saw these submarine prisoners of war, were you the commanding officer of the Guard Unit?

A. No, I was the chief of the Personnel Replacement Department.

109. Q. What was your rank at that time?

A. I was a navy captain.

110. Q. How many of these prisoners that you saw did you actually see step forward to be questioned?

A. When I saw it, I remember just seeing one prisoner being questioned.

111. Q. And if you had seen any of the guards beat this one prisoner while he was being questioned, you would have remembered it, would you not?

This question was objected to by the judge advocate on the ground that it was in the form of a hypothetical question and not within the exception to an expert witness.

The accused replied.

The commission announced that the objection was not sustained.

A. If I had actually seen such a thing I would have testified to that effect, but I did not see anything of the sort going on.

112. Q. Who was the commanding officer of the Sixth Fleet at that time?

A. Vice Admiral Takagi, Takeo.

113. Q. He was not under the command of the Commander, Fourth Fleet, was he?

A. He was not.

114. Q. Do you know where Commander Fourth Fleet was at this time?

A. I recall he was around Kwajalein on board his flagship, the KASHIMA. JK

115. Q. And Commander in Chief, Combined Fleet, where was he?

A. He was on board the flagship, MUSASHI, which was at anchor in front of the Forty-first Guard Unit.

116. Q. And this Sixth Fleet, was it a part of the Combined Fleet?

A. Yes.

117. Q. Do you know who sent these submarine prisoners of war to be confined at the Guard Unit?

A. By who sent, do you want to know who was responsible for sending them?

118. Q. Yes.

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. The commission directed that the word "responsible" be removed.

A. I do not understand the question.

119. Q. Who ordered them?

A. As this matter is beyond my official duty I do not have any knowledge of it.

120. Q. Did you hear Captain Ichise, the questioner, put any questions to any of these prisoners?

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

The accused made no reply.

The commission announced that the objection was sustained.

121. Q. Were any of these twenty prisoners that you saw in need of medical attention?

This question was objected to by the judge advocate on the ground that it called for a medical opinion.

The accused replied.

The commission announced that the objection was sustained.

122. Q. Was Captain Minematsu, commanding officer of the Guard Unit, present during the interrogation?

A. I don't remember.

123. Q. Was Lieutenant Commander Nakase?

A. I do not remember.

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 advocates, the accused, his counsel, and the interpreters.

Stewart R. Smith, 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.)

124. Q. Was Lieutenant Commander Takatome present at this interrogation?  
A. I do not know.

125. Q. Did you see any officers from the Combined Fleet there?  
A. I did not.

126. Q. Did you see any officers from the Fourth Fleet there?  
A. I absolutely did not notice.

127. Q. You stated that these twenty prisoners were naked. How close were you to them when you noticed this?  
A. I believe it was about fifty meters away.

128. Q. Did you see if any of them were wounded?  
A. I did not see.

129. Q. Did you ever see any of these twenty prisoners confined in any of the three Naval Guard Unit cells that you sketched?  
A. I did not see any of them being confined.

130. Q. You testified you had no recollection that anybody who did not have any business there was standing by watching these prisoners. Do you mean that the only other persons that were there were the interrogators and the guards?  
A. I did not see any person who was not connected with this investigation standing by and watching.

131. Q. Were the interrogators all from the Sixth Fleet?  
A. I heard from Lieutenant Commander Takatome that they were members of the staff of the Sixth Fleet.

132. Q. Did you also hear from him that the guards were from the Sixth Fleet?  
A. With regard to that point, I absolutely did not hear.

133. Q. These three prisoners of war that you saw on the Guard Unit pier, what were they doing on this pier?  
A. As I testified the other day, they were already on board this pier and were advancing toward the Forty-first Naval Guard Unit. 9K

134. Q. Who was with them?  
A. I haven't the slightest recollection regarding that point.

135. Q. They were under guard, were they not?  
A. I don't remember.



136. Q. Do you remember if there were any officers from the Guard Unit with them at that time?

A. I can't recall.

137. Q. How did you know they were prisoners of war, then?

A. From their physical characteristics, their clothing, and their hair, since they did not have any hats on, from these things at a glance I knew that they were prisoners.

138. Q. What was your duty at the time you saw these three prisoners?

A. I was the Chief of the Replacement Department.

139. Q. From whom did you receive these orders appointing you to be attached to the Sixth Base Force?

A. By dispatch from the Navy Ministry.

140. Q. Did you receive these orders before or after you saw these three prisoners?

A. Before. OK

141. Q. You testified in response to a question from the judge advocate that you received orders to investigate all prisoners of war on Truk. When did you receive these orders?

A. It was right after the end of the war, so I believe it was around 20 August 1945.

142. Q. Was it before Truk was surrendered to the Americans?

A. I recall that the official surrender instrument was signed on the second of September when Vice Admiral Murray came, and it was before this.

143. Q. Did Admiral Sumikawa order you to make this investigation?

A. It is inconceivable that a chief of staff give orders to the commanding officer. The chief of staff relayed the orders of the commander in chief.

144. Q. Were you still commanding officer of the Guard Unit at that time?

A. Yes.

145. Q. Had any of the Americans come ashore at that time?

A. No.

146. Q. None of them came ashore until 2 September?

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. That is how I remember.

147. Q. This Lieutenant Kuno, who was he?

A. He was one of my subordinate medical officers.

148. Q. Was Lieutenant Kuno the subordinate medical officer who reported the hospital incident to you?

A. Yes, that is so.

149. Q. When Lieutenant Kuno reported these incidents to you at this time, this was the first time that you, as the commanding officer, knew about these incidents, isn't that true?

A. Yes.

150. Q. And Lieutenant Kuno told you that these experiments had taken place at the Guard Unit, did he?

A. It is as I testified the other day.

151. Q. When you did not find there were any standing orders as to prisoners of war at the Guard Unit when you took over command, what did you do about that?

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.

152. Q. Do you know what the total surface and the minimum cubic amount of air arrangement is for the Japanese naval personnel, in their barracks, who were stationed on Truk?

A. The condition as I believe it to be was that eight Japanese soldiers had to be accommodated in a mosquito net which was eight mats. One mat being approximately three feet by six feet, therefore one person was allotted about one mat. JK

153. Q. These three cells that you sketched, how many persons were they built to accommodate in each cell? JK

A. I did not estimate this with the person responsible, but as it was a solitary cell I think it was a general rule that one person was to be confined in one cell. JK

154. Q. At the time you were commanding officer, were there ever any times when more than one person was put into one of these cells?

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.

155. Q. When were these cells destroyed?

A. It was considerably destroyed by a near miss on 19 June 1944.

156. Q. Was the guardhouse destroyed at this same time?

A. The guardhouse sustained slight damage at this time.

157. Q. Do you know whether these cells and the guardhouse were built specifically to house American 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. It was absolutely not built for the purpose of housing American prisoners of war. It was built for subordinate military personnel who committed any illegal acts.

158. Q. What did this Lieutenant Kuno tell you about this January, 1944, incident?

A. Do you want me to repeat the same thing I said before?

159. Q. Yes, whatever Lieutenant Kuno told you?

A. Do you want it in detail?

160. Q. Yes.

A. I will tell you all that I heard from him, then. Kuno said to me as follows: There was a big incident in January, 1944. Four prisoners were subjected to experiments by injections at the isolation room of the sick bay at the Guard Unit, and on another day four prisoners of war were disposed of at the hospital. With regard to the contents of the incidents, I do not know. JK

161. Q. Did Lieutenant Kuno say he was present at the Guard Unit dispensary at the time of these incidents?

A. He did not say anything in detail with regard to himself. Neither did I ask him.

162. Q. Then he said that he was not present at the time of these injections. Is that correct?

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

The accused made no reply.

The commission announced that the objection was sustained.

163. Q. Did you not find out from Lieutenant Kuno if he was present at the time of these injections at the Guard Unit dispensary?

A. I did not ask him.

164. Q. So that your investigation was simply founded on rumor?

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

The accused replied.

The commission announced that the objection was not sustained.

A. At that time I was not as skeptical to probe into the matter to the truth to that extent. Since Kuno had on his own come to report to me I had the greatest faith in him.



165. Q. How did Kuno say that he had found out about the hospital incident?

A. With regard to how he came to know, I did not question him.

166. Q. Did you continue your investigation of these incidents after Truk had been surrendered to the Americans?

A. My mission with regard to these investigations was over about the time that these reports were submitted, but I continued to investigate in order to probe into the truth and report it to the Commander in Chief.

167. Q. I believe you said that there were many persons awaiting transportation on Truk. Were these persons all billeted at the Guard Unit?

A. No, they were not.

168. Q. Where were they billeted?

A. I don't know exactly where this establishment was, but it was customary for the Base Force to use this certain establishment whenever the number of transients became very great, and in case this certain establishment could not accommodate all the transients then they were allotted to the Forty-first Naval Guard Unit, the Base Force, and the air force group.

169. Q. And who allotted this excess personnel to the Guard Unit?

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:

170. Q. To the best of your knowledge, where were the submarine prisoners of war confined during the daytime?

A. According to what I investigated after the end of the war, they were confined in the brig.

171. Q. To the best of your knowledge, where were all the submarine prisoners of war confined during the night time?

A. A part of the submarine prisoners was confined at the guardhouse.

172. Q. And where were the remainder confined?

A. Naturally, in the brig.

Recross-examined by the accused:

173. Q. Didn't your investigation also reveal that the reason they were confined in the brig and in the guardhouse was as an emergency measure?

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.



174. Q. Did your investigation reveal why so many prisoners were confined in the brig and in the guardhouse at one time?

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.

175. Q. Did your investigation reveal that the commanding officer of the Guard Unit has protested the housing of so many prisoners in the Guard Unit?  
A. Protested to whom? JK

176. Q. To the Combined Fleet?

A. It is inconceivable that a protest be entered against the Combined Fleet. If a protest were to be entered it would have gone to the Fourth Base Force.

177. Q. So that when Combined Fleet ordered these prisoners confined at the Guard Unit, the Guard Unit had to confine them in accordance with orders from the Combined Fleet?

This question was objected to by the judge advocate on the ground that it went beyond the scope of the redirect examination.

The accused replied.

The commission announced that the objection was sustained.

178. Q. You testified with regard to the confinement of the submarine prisoners during the night time and during the daytime. From whom did you receive this report?

A. My objective of the investigation had to do with Executive Officer Nakase, Executive Officer Hirata, masters-at-arms, and I interrogated these persons almost every day. I do not know which one of these persons, but one of them, reported to me with regard to the matter I just testified to.

179. Q. This person that reported this matter to you, what relationship did he have with the confinement of the prisoners?

This question was objected to by the judge advocate on the ground that the witness just testified he couldn't remember who the person was, therefore he could not possibly remember his specific duties and relationships.

The accused made no reply.

The commission announced that the objection was not sustained.

A. The persons that I just mentioned were persons who were responsible, or should have known anything with regard to the treatment and handling of prisoners.

180. Q. Approximately when was this report made to you?

A. It was around the end of August or the beginning of September, 1945.

Neither the judge advocate nor the accused desired further to 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 11:35 a. m., took a recess until 2 p. m., at which time it reconvened.

Present: All the members, the judge advocates, 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.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and former rank.  
A. Iino, Shizuo, former Surgeon Commander, Imperial Japanese Navy.
2. Q. In what organization?  
A. Attached to Fourth Base Force and simultaneously to the Forty-first Guard Unit.
3. Q. If you recognize the accused, state as whom.  
A. Vice Admiral Kobayashi, Masashi, Imperial Japanese Navy.
4. Q. During what period did you serve with the Imperial Japanese Navy on Truk?  
A. From November 5, 1943 until May 28, 1944.
5. Q. To what unit on Truk were you attached?  
A. I was attached to Fourth Base Force as Chief Surgeon and my collateral duties were with Forty-first Naval Guard Unit as Chief Surgeon.
6. Q. Shortly after you arrived for duty on Truk did you learn of the arrival of some American prisoners of war?  
A. I remember hearing of some arrivals.
7. Q. Do you know where these prisoners came from?  
A. It was a rumor, but it was said that they were submarine prisoners of war. gk

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.

8. Q. About this time, that is, November, 1943, do you recall a telephone conversation with a Lieutenant Hasegawa of the Guard Unit with reference to a prisoner of war?

A. Yes, I remember.

9. Q. Give us the gist of that conversation that took place between Lieutenant Hasegawa and yourself.

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

The judge advocate withdrew the question.

10. Q. Who was Lieutenant Hasegawa?

A. I lived at the Fourth Base Force and Lieutenant Hasegawa was my senior subordinate at the Guard Unit.

11. Q. What was said by Lieutenant Hasegawa in this phone conversation?

A. This telephone call was made towards evening and Lieutenant Hasegawa reported that there was one of the prisoners of war who had a very high fever suffering from gas gangrene of his hand and that he wished to ask my opinion to perform an operation. The symptoms were very serious and an amputation was required, and as at this Forty-first Guard Unit Japanese were not operated upon even when they had appendicitis and the facilities were better at the hospital, and as there was a more skilled surgeon, Okuyama, at the hospital, I answered that the operation should be performed at the hospital. After a time another phone call came through and Hasegawa reported that the operation was successfully performed and that he had brought the patient back from the Fourth Naval Hospital to the Forty-first Guard Unit. The phone call was made from the Forty-first Guard Unit around nine o'clock in the evening. At this time I asked whether Hasegawa had injected the patient as is usual after all operations and Hasegawa said he had not, and I recall ordering him to perform these injections. On the following day I went to see the patient myself. 2K

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.

12. Q. What hospital do you refer to in that last answer?

A. The Fourth Naval Hospital.

13. Q. You say that following this you made a visit to the Guard Unit dispensary. Did you see any prisoners of war there?

A. When I went to the dispensary there were about four prisoners of war present.

14. Q. Did you see there the one who had been operated on?

A. I went especially to see this patient who had been amputated and I did see him. He had his arm which had been amputated in a sling and his pulse was excellent and as there was no one who could speak English at the dispensary I asked Hasegawa how the prisoners were taking to the Japanese food and he said they were getting used to it and taking Japanese rice and Japanese food.



15. Q. At the time of this visit, do you remember if there were any other prisoners of war at the Forty-first Guard Unit?

A. Yes, I asked Hasegawa if there were other prisoners.

16. Q. What did you learn?

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

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Hasegawa replied, "Sure, there are others," and the implication was that there were from twelve to thirteen to about twenty other prisoners.

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

The judge advocate replied.

The commission directed that the words "and the implication was that there were from twelve to thirteen to about twenty other prisoners" be stricken.

17. Q. Did you learn where these other prisoners of war were at the time of your visit?

A. Yes. At the same time Hasegawa told me where these prisoners were.

18. Q. Where were they?

A. He told me that they were behind the guardhouse.

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.

19. Q. What was behind the guardhouse?

A. According to my present memory there was a house of approximately the same dimensions of the guardhouse behind the guardhouse and I thought at the time it was a house where the guards rested.

20. Q. In the month of January, 1944, did you have a conversation with the medical officer of the Forty-first Guard Unit with regard to prisoners of war?

A. I do not remember whether it was January, 1944, but if you refer to Hasegawa then I recall a conversation over the telephone.

21. Q. In the month of January, 1944, did you have a medical officer at the Forty-first Guard Unit by the name of Iwanami, Hiroshi?

A. He was the chief surgeon at the Fourth Naval Hospital.



22. Q. In the month of January, did you have a conversation with Iwanami with regard to prisoners of war?

A. Yes.

23. Q. What was the rank of Iwanami at this time?

A. Captain, Imperial Japanese Navy.

24. Q. Do you recall approximately what time of the month in January, 1944, you had this conversation?

A. Yes, I recall exactly.

25. Q. When was it?

A. It was after the eighth of January. Between the eighth and the tenth or fifteenth.

26. Q. Tell us what was said by Captain Iwanami in this conversation?

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

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Iwanami was daily at the Base Force because Wakabayashi was suffering from stomach ulcers from the eighth of January and he was daily at the Base Force to tend to the patient and I used to meet him daily. On that day, too, Iwanami was at the Base Force and a telephone call reached us after he went back to the hospital and had had his supper. Telephone calls were usually made to my office or to the dining room, but on that day this telephone call was put through to the staff officers' room. When the phone call came through at around seven o'clock I rushed to the phone thinking it had something to do with Wakabayashi's illness, but the voice coming over the phone said, "It is a request that I have to make of you and it is that you let me have some prisoners of war - even one will do. I would like to do some experiments on the human body." I refused this request saying that this was the one thing that was abhorrent to me and I remember Iwanami was very angered at this and that he slammed down the receiver at his end.

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.

27. Q. Did the party on the other end of the phone identify himself?

A. He opened the conversation with a self introduction, saying, "I am Iwanami."

28. Q. At this time who was the commanding officer of the Fourth Base Force?

A. Vice Admiral Wakabayashi, Seisaku.

29. Q. Who was the commanding officer of the Fourth Fleet?

A. Vice Admiral Kobayashi.

30. Q. Did you report this conversation that you had with Captain Iwanami to the commanding officer of the Fourth Base Force, Vice Admiral Wakabayashi?

A. Yes, I did report to him.

31. Q. When did you report to him?

A. I had made it a custom to report to the senior staff officer and when I received this call in the staff officers' room all the staff officers were present and they were all aware from whom that phone call came, and I further explained the substance of the conversation with all present. To the commanding officer of the Base Force I spoke of this matter on the following morning.

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.

32. Q. At what time on the morning of the following day did you report this to Admiral Wakabayashi?

A. It was immediately after breakfast and around the time I went on this tour of inspection; I believe it was around eight or nine. JK

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.

33. Q. Just what did you report to Admiral Wakabayashi?

A. I reported that I had received a telephone call from the hospital and I had refused. My opinion at that time was that Iwanami had been refused by me and would try to contact Wakabayashi direct, bypassing me, and my step in reporting to Wakabayashi was to prevent Iwanami approaching Wakabayashi, because I feared that Wakabayashi might approve Iwanami's request. JK

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

The judge advocate replied.

The commission directed that the words "because I feared that Wakabayashi might approve Iwanami's request" be stricken.

(Answer continued:) I spoke up at this time to contravert any possibility of Wakabayashi approving and I based my argument on these two points. That first it would be embarrassing from the standpoint of humanitarian principles and second that medicine was not so hard pressed that it had to resort to experiments on humans. I spoke to Wakabayashi not so much in his capacity as commandant but more as to a patient and I attempted to drive my point home.

34. Q. In the course of that conversation did you tell Wakabayashi just what Iwanami had said?

A. Yes, I told him all that Iwanami had said.

35. Q. You said you had this conversation with Wakabayashi on the morning following the phone call from Iwanami. Do you know whether Wakabayashi saw Captain Iwanami on the same day you spoke to Wakabayashi?

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 know that they did not meet.

36. Q. Was Admiral Wakabayashi being treated by Captain Iwanami at this time?

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 would like to explain that in detail. I do not believe that unless explained in detail this matter can be understood. Wakabayashi became a victim of stomach ulcers on January eighth and for one week he was put on a starvation diet. He was given nothing to eat. I wished to put him in a hospital but the head of the hospital and Wakabayashi himself did not desire him to enter the hospital, the former because it would be inconvenient to have a vice admiral in his care. It was arranged that he would stay in his private room at the Fourth Base Force. I had a private room adjacent to this private room of Wakabayashi and the agreement between the head of the hospital and myself was that there would always be at the Base Force two nurses from the hospital, that all necessary supplies would be furnished by the hospital, and that all food would be brought in from the hospital, and that the hospital would be responsible for the patient and that Iwanami, as head of the hospital, would come to the patient.

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

The commission announced that the motion was not sustained.

37. Q. On the day that you reported this incident to Wakabayashi, did Iwanami treat Wakabayashi that day?

A. He came to see the patient.

38. Q. Was it after this conversation that you had with Wakabayashi?

A. Yes.



39. Q. Were you present when Iwanami treated or examined Wakabayashi on that day?

A. Yes.

40. Q. Was anything said with reference to this request of Iwanami for some prisoners for experiments by either Iwanami or Wakabayashi?

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. The subject was not brought forth.

41. Q. For how long a time after that day did Wakabayashi continue under the care of Iwanami for these ulcers?

A. Till some time in March. In March he entered the hospital for a few days and until he was sent to Japan Iwanami came to the Base Force to treat Wakabayashi.

The accused moved to strike out this answer on the ground that it was irrelevant, immaterial, and beyond the scope of the charge and specifications.

The judge advocate replied.

The commission announced that the motion was not sustained.

42. Q. How often did Iwanami visit Wakabayashi about the period of mid-January, 1944?

A. During the month of January, Captain Iwanami came to see Wakabayashi almost daily.

43. Q. Were you present at all these times?

A. Yes, I was always present.

44. Q. Following this report of yours to Wakabayashi, did he at any of these times say anything to Iwanami regarding this request which Iwanami made of 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. The subject was never broached when I was present. I do not remember this subject being brought up between these two men.

The commission then, at 3:15 p. m., took a recess until 3:30 p. m., at which time it reconvened.



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

Stewart R. Smith, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Iino, Shizuo, 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.)

45. Q. During the course of your duty as chief medical officer of the Fourth Base Force and the Forty-first Naval Guard Unit, did you ever receive any instructions from the Fourth Base Force or the Fourth Fleet concerning the treatment of prisoners of war?

A. No, I did not.

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 to strike was not sustained.

Cross-examined by the accused:

46. Q. You testified that you were chief surgeon at the Fourth Base Force and collaterally held the post of chief surgeon at the Forty-first Naval Guard Unit. Did you hold these two positions from the time you assumed your post at Truk?

A. I was chief surgeon for both. I had these two positions from when I arrived at Truk. Stress was laid on my position as chief surgeon at the Fourth Base Force.

47. Q. You testified that you were for the main part residing at the Fourth Base Force, but were there times when you stayed at the Forty-first Naval Guard Unit?

A. Yes.

48. Q. Did you ever stay at the Forty-first Naval Guard Unit between the time when you assumed your post at Truk and the end of February, 1944?

A. No, I did not stay at the Forty-first Naval Guard Unit.

49. Q. From the time you assumed your post at Truk and the end of February, 1944, how often did you visit the Forty-first Naval Guard Unit on inspection and other matters?

A. When business pressed I sometimes went to the Guard Unit for three consecutive days, but at other times I did not visit the unit for a period of a week or so. After the fleet left Truk I seldom went there.

50. Q. How often did you visit the Naval Guard Unit between November and the beginning of December, 1943?

A. I was in almost daily contact with the Forty-first Naval Guard Unit, sometimes by telephone, twice or three times daily. The Naval Guard Unit you refer to is the headquarters of the Forty-first Naval Guard Unit, but they had outlying posts and in these places there would be sailors requiring treatment and when I say I was in contact with the Naval Guard Unit I mean not with the headquarters but with these outlying posts. I was in contact through Hasegawa, and when the Combined Fleet was in the harbor we had to pass through this Forty-first Naval Guard Unit and therefore I visited it quite often.

51. Q. You testified that you had a telephone conversation with Hasegawa around November, 1943, concerning prisoners of war. When in November did this take place?

A. I do not recall this very clearly; it may have been the early part of December. I don't know.

52. Q. Was this the first intelligence of prisoners of war at the Forty-first Naval Guard Unit you received -- this information through this telephone conversation with Hasegawa?

A. Yes, that is so.

53. Q. Do you know when this prisoner of war referred to in your conversation with Hasegawa was confined at the Forty-first Naval Guard Unit?

A. He was confined on that day or the day before.

54. Q. By that day, do you mean the day of the telephone conversation?

A. Yes.

55. Q. Do you know until when that prisoner of war was confined at the Naval Guard Unit? gk

A. I do not remember exactly. I could look it up, however. I heard that he was sent home with the prisoners of war who were divided into two groups and sent home on the JUNYO and the CHUYO. I believe they left Truk on the day these ships sailed from Truk.

56. Q. Was it not your duty as chief surgeon of the Fourth Base Force and of the Forty-first Naval Guard Unit to pay attention as to whether the prisoners of war were given medical treatment?

A. I never heard from the commanding officer of the Forty-first Naval Guard Unit that he had prisoners of war in his custody.

57. Q. On the following day after the telephone conversation with Lieutenant Hasegawa, you did go to the dispensary and did see the prisoner of war, is that correct?

A. Yes. I did not visit the Guard Unit daily, but when an officer was taken ill or a sudden increase in the number of persons seriously ill took place, or when extraordinary problems, such as prisoners of war came up, I visited the Naval Guard Unit.

58. Q. You testified that you heard from Lieutenant Hasegawa that there were twelve or thirteen other prisoners of war. Did you, when on the following day you saw the prisoner of war patient, ask whether there were other prisoners of war requiring medical attention?

A. There was one seriously ill patient, the one that had been operated upon, and three others who were not so seriously ill.

59. Q. Please inform us within the scope of your knowledge what medical attention the other three or four patients who were not so seriously ill were receiving?

A. I recall that they were in high spirits and that they seemed to be attending to one particular patient among them. But that is all I remember, that they were in high spirits or good health.

60. Q. Did you report to the commandant, Wakabayashi, concerning the medical treatment the prisoners of war were receiving at the Forty-first Naval Guard Unit dispensary?

A. I definitely reported to the commanding officer of the Forty-first Naval Guard Unit, but I do not think I did report to the commandant of the Fourth Base Force.

61. Q. You testified previously that you had heard from Hasegawa that there were twelve or thirteen other prisoners of war. Did you actually see these twelve or thirteen other prisoners of war?

This question was objected to by the judge advocate on the ground that counsel was misquoting the testimony of this witness.

The accused withdrew the question.

62. Q. Did you personally see the prisoners of war confined behind the guardhouse?

A. No, I never saw them. The windows were so built that nobody could see through them inside the building nor the other way, from the inside to the outside, but I remember asking who was in there and being informed there were prisoners of war confined within.

63. Q. You testified that you had this telephone conversation with Surgeon Captain Iwanami sometime between 8 January and 10 January, or 8 January and 15 January. How did you determine the closing dates for these periods, namely, the tenth of January and the fifteenth of January?

A. The first date, January 8th, is very definite because that is when Wakabayashi went into his starvation diet, and I fixed the date January tenth on the ground that it was during the period of this starvation diet that this event took place. Later, however, I discovered that the senior staff officer of the Fourth Base Force was absent in Tokyo until the thirteenth and that he had not returned to Truk until the thirteenth. I recall having telephoned the senior staff officer and explained the circumstances to him, therefore I thought that this must have taken place after the thirteenth and therefore fixed the other date, namely, the fifteenth.

64. Q. When you received the telephone call from Captain Iwanami, at the staff officers' room, which of the staff officers were present in that room?

A. There were the senior staff officer; the gunnery staff officer, Ago; the engineering staff officer; and engineering lieutenant, reserve, who was assuming the duties of a staff officer -- four officers present.

65. Q. Is it not true that Staff Officer Higuchi was not present at that time?

A. I recall the radiant face that Higuchi turned to me when I told him that I had turned down the request just made by Iwanami and the laugh with which he answered me.



66. Q. Do you remember what Staff Officer Higuchi told you at the time?  
A. He did not answer me. He merely laughed.

67. Q. What did Wakabayashi say when you reported on the next day the telephone conversation you had with Iwanami?  
A. He was staring at the ceiling and just nodding his head at intervals to show that he was listening, but did not express any opinion.

68. Q. What was the physical condition of Wakabayashi at the time you made this report?

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 was in a very weak physical condition, as the starvation diet had begun on the eighth and it was just about a week from that date.

69. Q. Since the telephone conversation you had with Iwanami about the experiments, did you hold any further conversations with him concerning the same matter?  
A. No, I never had such conversation.

The witness was duly warned.

The commission then, at 4:25 p. m., adjourned until 9 a. m., tomorrow, Wednesday, June 2, 1948.



SEVENTEENTH DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands.  
Wednesday, June 2, 1948.

The commission met at 9:15 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United States Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, judge advocate. gk  
Stewart R. Smith, 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.

Iino, Shizuo, 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. Was Hasegawa the only subordinate medical officer of yours at the guard unit?

A. There were other officers at the Forty-first Naval Guard Unit but Hasegawa was the senior officer.

71. Q. How many, and who were the other medical officers?

A. The young medical officers attached to the Fourth Base Force Headquarters, ensigns and lieutenants, junior grade, had their quarters at the Forty-first Naval Guard Unit and therefore there was quite a number of medical officers at the guard unit. Hasegawa was the senior medical officer there, and of the others I remember Surgeon Lieutenant, junior grade, Kuno and Chief Corpsman Kobayashi -- I believe he was at the guard unit from after January. Of the others I do not remember their names because they used to be despatched to the hospital and elsewhere. gk

72. Q. What was Hasegawa's rank at the time of your conversation with him?

A. Lieutenant.

73. Q. What was your rank?

A. Surgeon Commander.

74. Q. How far away from the guard unit were you when Hasegawa telephoned you?

A. I was quartered at the Fourth Base Force and therefore I was about ten cho (two kilometers) away from him - a ten minute automobile ride to the guard unit.

75. Q. When Hasegawa asked you for permission to operate on this prisoner, did you go down and look at the prisoner?

A. I did not go.

76. Q. Did you tell him to go ahead and operate?

A. I told him to conduct the operation at the hospital.

77. Q. Without looking at the patient you told him to go ahead and operate, is that right?

A. Yes, I told him so, but I heard the symptoms of the patient. The patient was suffering from gas gangrene, his temperature was forty degrees centigrade, which is one hundred and four degrees fahrenheit, his pulse was bad, and he had difficulty in conversing. He could not reply to the questions put him properly, and there was no serum available at the hospital to be injected. This serum is for gas gangrene patients. And looking over the symptoms reported to me by Hasegawa, I knew that an operation was imperative and as I had treated many cases of gas gangrene, therefore I told him to go ahead. 8K

78. Q. Without looking at the patient you ordered his hand to be amputated, is that right?

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

The accused made no reply.

The commission announced that the objection was sustained.

79. Q. Did Hasegawa amputate the hand of the prisoner?

A. I believe that Hasegawa conducted the amputation at the operation table and that Okuyama was standing by. Okuyama at the time was the chief surgeon and the head of the surgery department at the hospital.

80. Q. Who told you he was standing by?

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.

81. Q. Did you ever notify Captain Iwanami that you were sending a prisoner to be operated upon at the hospital?

A. No, I did not make a report.

82. Q. Did you ever notify Admiral Wakabayashi that you were sending a prisoner with Hasegawa to the hospital to be operated upon by Hasegawa?

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.

83. Q. Before you ordered Hasegawa to perform the operation at the hospital, did you consult Admiral Wakabayashi?

A. I did not discuss it with Wakabayashi. As the chief surgeon of the Forty-first Naval Guard Unit I would have taken it to the commanding officer of the Forty-first Naval Guard Unit for discussion.

84. Q. Did you take it to the commanding officer of the Forty-first Naval Guard Unit?

A. The usual procedure was for Hasegawa to obtain first the permission of the commanding officer of the Forty-first Naval Guard Unit when operating on officers and enlisted men of that guard unit, and then to ask for my permission. I would then see the results of the operation and report that to the commanding officer of the Forty-first Naval Guard Unit orally. I never gave him that report over the telephone, but went by car to his office and reported it to him verbally. And as I testified yesterday, I did not receive a single word about the prisoners of war from the commanding officer of the Forty-first Naval Guard Unit. Hasegawa was consulted by the commanding officer concerning prisoners of war; and Hasegawa was ordered to make reports on prisoners of war, but when the matter was more than he could cope with as a doctor he asked for my advice. gk

85. Q. Was Captain Minematsu the commanding officer of the Forty-first Naval Guard Unit?

A. I do not know whether Minematsu was commanding officer at that time, but I served under him for about two months when he was commanding officer. gk

86. Q. Then you never reported this particular incident to Captain Minematsu?

A. I seem to remember having reported it to the commanding officer after I had looked at the results of the operation.

87. Q. But you are not sure there were instructions from the commanding officer to you medical officers that before you operated upon a prisoner you had to get the permission of the commanding officer, is that correct?

This question was objected to by the judge advocate on the ground that it was a direct misquotation of the testimony of this witness.

The accused replied.

The commission announced that the objection was sustained.

88. Q. Was it necessary for the medical officers at the guard unit to secure the permission of the commanding officer of the guard unit before anybody operated on prisoners of war? gk

A. Ordinarily the permission of the commanding officer was required for major operations.

89. Q. Who determined what was a major operation or what was a minor operation?



A. The doctor in charge would first determine whether an operation was necessary or not, but it was the surgical specialist who classified operations into major and minor operations, or whether an amputation was necessary or if the operation could be stopped with an incision.

90. Q. So, in this case, the amputation of the hand of this prisoner of war, both you and Hasegawa considered it a minor operation, is that right?

A. No, we considered it a major operation, affecting the life of the patient.

91. Q. Why, then, didn't you report it to the commanding officer before you did the operation?

A. Hasegawa must have been ordered to the dispensary by the commanding officer, who must have told him that there was a serious patient at the dispensary and, therefore, the report was made to the commanding officer. I explained previously that Hasegawa first received permission from the commanding officer and then reported to me. That should cover the present situation.

The judge advocate moved to strike out this answer on the ground that it was based upon an assumption of the witness and not upon fact.

The accused concurred.

The commission directed that the answer be stricken.

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.

Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Iino, Shizuo, 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.)

92. Q. What kind of an injection did you order Hasegawa to give this prisoner?

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. Ordinarily after a major operation, five thousand to six thousand cubic centimeters of lingo-rock solution is injected and a camphor or cocaine or genetoris injection is given to the patient immediately upon his return to his ward from the operating room and I asked Hasegawa whether he had given these injections and the answer was in the negative, so I told him to do that immediately.



93. Q. And this prisoner was evacuated to Japan at the same time the other prisoners were?

A. I received such a report.

94. Q. Do you know whether Hasegawa denied any medical care to any of these prisoners?

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<sup>n</sup> was not sustained. JK

A. I do not know. I believe he gave medical care.

The judge advocate moved to strike out the words "I believe he gave medical care," on the ground that they were irrelevant, immaterial, and not responsive.

The accused replied.

The commission directed that the words be stricken.

95. Q. Was it the duty of Hasegawa to give these prisoners of war medical care?

A. Yes.

96. Q. Did you ever visit these cells in the guard unit where the prisoners were confined?

A. No.

97. Q. Before you ordered Hasegawa to give this prisoner this injection did you consult with Admiral Wakabayashi or the commanding officer of the guard unit?

A. After a major operation these injections are required to increase the blood in the patient and as this is part of the operation I did not make the report to Wakabayashi or the commanding officer. I judged from common sense. JK

98. Q. Was it part of your duty as medical officer to examine the sanitary conditions and facilities of prisoners of war at the guard unit? JK

A. I believe one of my duties was to see to the sanitary facilities. However I never received a report of when and how many prisoners of war came into the guard unit. I did not know there were prisoners of war at the guard unit and as there were no prisoners of war when I assumed my position, I had no means of knowing.

99. Q. Since it was your duty to concern yourself with sanitary conditions, why didn't you inspect these cells?

A. I thought it was one of my duties to do so, but I was not permitted to see the prisoners of war except for some special purpose and therefore I did not go there.

100. Q. Do you mean that someone ordered you not to see the prisoners of war?

A. Hasegawa's report to me was more in the nature of special information given to me in private and less of a report and it was observed in his attitude that this matter of prisoners of war was of a secretive nature and I did not approach him. JK

101. Q. Didn't you testify yesterday that all the information you received from Hasegawa was in line of your official duties?

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

The accused replied.

The commission announced that the objection was not sustained.

A. Yes, it was official. But on the number of prisoners of war, et cetera, Hasegawa never gave me any reports.

102. Q. Did you learn from Hasegawa what the sanitary conditions of the Forty-first Naval Guard Unit cells for prisoners of war were?

A. I received a report from Hasegawa that the cells were unsanitary and small.

103. Q. Did you report this to Admiral Wakabayashi?

A. It was a matter for the commanding officer of the Naval Guard Unit to report to Wakabayashi. I had my office at both the Base Force and the Naval Guard Unit and I could not report all matters to Wakabayashi.

104. Q. Did you report to Captain Minematsu?

A. No, I did not.

105. Q. How did you recognize it was Captain Iwanami on the other end of the phone when you received that telephone call from the hospital? JK

A. First a staff officer received a phone call which was put into the staff officers' room and he sent a sailor to tell me that Captain Iwanami was on the phone. When I picked up the phone I introduced myself as Iino and the other party replied that he was the head of the hospital, Iwanami.

106. Q. Iwanami had never called you on the telephone before, had he?

A. I believe there were one or two occasions he put through calls to me although I do not remember what the business was.

107. Q. But you could recognize that the voice was Iwanami?

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

The accused replied.

The commission announced that the objection was sustained.

108. Q. Why didn't you reply to Captain Iwanami that there were no prisoners of war at the guard unit? JK

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 reply that there were prisoners of war.

109. Q. Did you know that there were prisoners of war at the guard unit at that time?

A. Iwanami said over the phone that he understood there were prisoners of war at the Naval Guard Unit. I thought that there might have been some prisoners at the guard unit. jk

110. Q. You knew that there were prisoners of war at the guard unit, didn't you?

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

The accused replied.

The commission announced that the objection was not sustained.

A. I do not remember very well.

111. Q. Don't you remember that these prisoners were at the dispensary of the guard unit in the care of Hasegawa?

This question was objected to by the judge advocate on the ground that this testimony had concerned the submarine prisoners.

The accused replied.

The commission announced that the objection was sustained.

112. Q. Were there any prisoners at the dispensary at the time of this conversation with Captain Iwanami?

A. There were no prisoners at the dispensary. I received no reports to such an effect.

113. Q. Did Iwanami tell you why he was asking you for a prisoner?

A. No, he gave no reasons. Only that he wished to use him for human experiments. As to the methods or aims of the experiments he gave me no indications.

114. Q. Did you tell him <sup>you</sup> had no authority to transfer a prisoner of war to the hospital? jk

A. No, I did not say such a thing.

115. Q. What did you say to Captain Iwanami?

A. I said I did not like human experiments and I did not desire to be connected with such experiments and I wished to decline to broach such a question to the commandant.

116. Q. Did he ask you to broach the question to the commandant?

A. Yes.

117. Q. Where was Admiral Wakabayashi at the time you broached this subject to him?

A. He was in his private room in bed.

118. Q. Was anyone else present at the time you had this conversation with the admiral?

A. There were two nurses.

119. Q. Did you take any precautions to see that the prisoners of war that were at the guard unit were not subjected to experiments?

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 such authority was vested in me.

120. Q. At the time that Iwanami was treating Wakabayashi you testified that you were always present. Was Admiral Kobayashi ever present at any time when Iwanami was treating Admiral Wakabayashi?

A. Kobayashi never was present.

121. Q. Do you know where Admiral Kobayashi was at this time?

A. I recollect that Kobayashi was at Truk in the latter part of January.

122. Q. Was Wakabayashi the only officer that could authorize the transfer of prisoners of war from the guard unit to the hospital?

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

The accused replied.

The commission announced that the objection was sustained.

123. Q. Did you have any authority to transfer prisoners of war from the guard unit to the hospital?

A. No, I had no authority.

124. Q. During your tour of duty at the Base Force and at the guard unit, did you ever transfer any prisoners of war from the Base Force to the hospital? JK

A. As I testified yesterday I ordered the transfer of one or two prisoners of war to the hospital for purposes of operation. Other than that I did not transfer.

125. Q. Then you did have authority to transfer from the guard unit to the hospital, didn't you?

A. I transferred the above prisoners of war as a doctor for purposes of operation to save perhaps a life but I did not transfer any prisoners without reason.



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

The commission did not desire to examine this witness.

The witness made the following statement:

I would like to explain briefly the procedure followed when patients to be operated on were to be transferred to the hospital. About that time there were many planes which strafed and bombed Japanese ships and wounded persons would arrive at the Naval Guard Unit. As they would have been exposed for some length of time because of the distance between where they were wounded and Truk, they would usually be hospitalized immediately upon arrival. Whether they were prisoners of war or not they would be hospitalized immediately. It was the usual procedure for me to see the patient after the operation.

Reexamined by the judge advocate:

126. Q. Were the forty-two submarine prisoners of war hospitalized immediately when they were brought to Truk?

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

The judge advocate made no reply.

The commission<sup>er</sup> announced that the objection was not sustained.

A. I know of no instance when forty-two prisoners were sent to the hospital. I am speaking of one prisoner of war.

Examined by the commission:

127. Q. That one prisoner of war that you speak of that was sent to the hospital was one coming from the submarine. Is that correct?

A. Yes, I refer to the submarine prisoner of war.

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

The witness was duly warned and withdrew.

The commission then, at 11:40 a.m., adjourned until 9 a.m., tomorrow, Thursday, June 3, 1948.

EIGHTEENTH DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands,  
Thursday, June 3, 1948.

The commission met at 9:20 a. m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United States  
Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, and  
Lieutenant James P. Kenny, U. S. Navy, judge advocates.  
Robert Oldham, yeoman third 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.

Commander Martin E. Carlson, a counsel for the accused, read a written  
motion to subpoena George Estabrook Brown, junior, as a witness, appended  
marked "KKKK."

The accused waived the reading of this motion in Japanese in open court.

The judge advocate read a written reply, appended marked "LLLL."

The accused waived the reading of this reply in Japanese in open court.

The commission announced that the motion was not sustained, since the  
witness in question is not amenable to process by this commission.

Herbert L. Ogden, a witness for the prosecution, was recalled and warned  
that the oath previously taken was still binding.

Examined by the judge advocate:

1. Q. Have you received the action of the Secretary of the Navy in the  
case of Surgeon Captain Hiroshi Iwanami, et al?  
A. I have.
2. Q. Have you prepared a certified copy of that action of the Secretary  
of the Navy?  
A. I have.

3. Q. Is this the certified copy that you have prepared (showing witness document)?

A. It is.

4. Q. Is this a true copy of the original action of the Secretary of the Navy?

A. It is.

The judge advocate submitted the original action of the Secretary of the Navy and a certified copy thereof to the accused and to the commission for inspection and offered in evidence the certified copy.

The judge advocate made the following statement:

In accordance with the directions of the commission, this document is offered in evidence to be appended to Exhibit 7, which consists of certified extracts in the case of Hiroshi Iwanami, et al.

There being no objection, the document was so received, appended to Exhibit 7.

5. Q. Does this action of the Secretary of the Navy confirm the sentence of Hiroshi Iwanami?

A. It does.

Cross-examined by the accused:

6. Q. Does this action confirm the findings of the commission which tried Iwanami?

A. Not expressly.

7. Q. In what way does it not expressly confirm the findings of the commission?

A. It recites the sentence of the commission, the action of the convening authority and the action of the reviewing authority and confirms the sentence.

8. Q. The findings of the commission as to charge two, neglect of duty, were not approved by either the convening authority, reviewing authority, the Commander in Chief of the U. S. Pacific Fleet, or the Secretary of the Navy, is that correct?

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

The accused replied.

The commission announced that the objection was sustained.

9. Q. Was the sentence of the commission which found Iwanami guilty of neglect of duty approved by the Secretary of the Navy?

A. The action of the Secretary of the Navy approved the proceedings, findings of guilty, except for specifications one, four and five of charge two as found by the convening authority.

10. Q. Isn't it true that specification one of charge two in the Iwanami trial was a specification under charge two, violation of the law and customs of war, for failure to discharge his duty as the commanding officer of the Fourth Naval Hospital, to control operations of members of his command on 30 January 1944?

A. That's correct.

11. Q. So that in fact Iwanami was found not guilty of failure to control or discharge his duty as the commanding officer of the Fourth Naval Hospital, or to control operations of members of his command on 30 January 1944. Isn't that true?

A. That is true.

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

The commission did not desire to examine this witness.

The witness stated that he had nothing further to state.

The witness was duly warned and withdrew.

The judge advocate made the following statement:

At this time the judge advocate wishes to announce that he has received depositions in connection with the interrogatories submitted by the defense counsel to Commander George Estabrook Brown, junior, on May 7, 1948 and a deposition in connection with the interrogatories submitted by the defense counsel to Russell Allen Phillips on May 7, 1948. The original of these depositions are submitted to defense counsel at this time. In connection with Russell Allen Phillips, whose affidavit has previously been introduced in evidence by the judge advocate, the judge advocate requests permission of the commission at this time to submit interrogatories to said Russell Allen Phillips in order to clarify one portion of the affidavit. It is requested that the opportunity be afforded the judge advocate to do this at this time in order to expedite the proceedings of the commission.

The commission announced that this procedure was approved.

The accused made the following statement:

The accused would like to call the attention of the commission to the statutes of limitations in Naval Courts and Boards, or rather the statute of limitations of punishments. We, at this time, make a motion that Russell Allen Phillips be summoned as a witness rather than interrogatories be submitted to him.

The commission announced that this motion was not sustained.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and former rank.

A. Ishii, Yujiro, lieutenant, IJN.



2. Q. If you recognize the accused, state as whom?  
A. I do not recognize the accused.
3. Q. In the month of February, 1944, were you stationed with the Japanese forces on Truk Atoll in the Carolines?  
A. Yes.
4. Q. To what unit were you attached?  
A. Forty-first Naval Guard Unit.
5. Q. What were your duties with the Forty-first Naval Guard Unit?  
A. First, when I went there I took the duty as chief engineering officer, but during that period the navy organization changed and I became first lieutenant. JK
6. Q. Were you acting in the capacity of first lieutenant in the month of February, 1944?  
A. Yes.
7. Q. Who was the commanding officer of the Forty-first Guard Unit in that month?  
A. Captain Tanaka.
8. Q. Do you recall a raid by the American forces in the month of February, 1944?  
A. I do.
9. Q. Do you recall in what part of the month the raid took place?  
A. The first raid as I recall was February 17th.
10. Q. Where were you stationed during this raid?  
A. I was at the command post.
11. Q. Was the commanding officer, Tanaka, with you?  
A. Yes.
12. Q. During the course of the raid, were you in communication with the Fourth Base Force?  
A. Yes.
13. Q. What mode of communication was used between the command post and the Fourth Base Force?  
A. By telephone.
14. Q. What particular telephone?  
A. There were ordinary telephones and also command telephones.
15. Q. With what particular section of the Fourth Base Force did the command telephone connect?  
A. Command post of the headquarters of the Fourth Base Force.
16. Q. During the course of this air raid, did you receive any instructions from your commanding officer, Captain Tanaka, with reference to prisoners of war?  
A. Yes.

17. Q. What were those instructions?  
A. I was ordered to ask the headquarters what to do with the prisoners -- shall they be disposed of.
18. Q. Do you know what prisoners were being referred to at that time?  
A. The prisoners of war that were at the Forty-first Guard Unit.
19. Q. Did you carry out those instructions?  
A. Yes.
20. Q. What phone did you use in contacting the Fourth Base Headquarters?  
A. I used the command telephone.
21. Q. Did you convey to the party on the other end the questions of Captain Tanaka?  
A. Yes.
22. Q. What was the reply?  
A. I asked them what to do with the prisoners -- shall they be disposed of and the answer was "Oi."
23. Q. What did that reply mean to you?  
A. The answer "Oi" given by a senior officer in the Japanese navy means either understanding, acceptance, or carry out, or all three of them. 9K
24. Q. Did you report this reply to Captain Tanaka?  
A. Yes.
25. Q. At that time did you hear Captain Tanaka issue any instructions with reference to the prisoners of war?  
A. Yes, I did.
26. Q. What instructions did you hear him issue?  
A. He ordered the disposal of the prisoners of war to Lieutenant Danzaki.
27. Q. Were these instructions carried out?  
A. Yes.
28. Q. Approximately how soon after this telephone conversation were these prisoners executed?  
A. About thirty minutes, as I recall.
29. Q. Did you see the execution?  
A. I saw it from a distance.
30. Q. At what location were they executed?  
A. On the sea wall of the Guard Unit. 9K
31. Q. By what means were they executed?  
A. They were beheaded by Japanese swords.
32. Q. Was there any understanding amongst the Japanese forces on Truk as to what was to be done with the prisoners of war in the event of a landing by the enemy?

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

The judge advocate reframed the question.

33. Q. Was there a rumor on Truk amongst the Japanese forces as to what was to be done with the prisoners of war in the event of a landing by the enemy?

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

The judge advocate made no reply.

The commission announced that the objection was sustained.

34. Q. Was it generally known on Truk amongst the Japanese forces as to what was to be done with the prisoners of war in the event of a landing by the enemy?

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

The judge advocate replied.

The commission announced that the objection was not sustained. JK

A. I do not know whether I heard this on Truk or not, but I heard someone say that in event of enemy landings the prisoners of war will be executed and we will all die also.

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

The commission directed that the answer be stricken.

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

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

Stewart R. Smith, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Ishii, Yujiro, 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:

35. Q. You stated your duty was that of first lieutenant. What was the first lieutenant's duty?

A. At the Guard Unit the chief engineering officer changed his name to first lieutenant and my duty was that of the chief engineering officer.



36. Q. Were you always with Captain Tanaka?

A. Yes.

37. Q. Did your duty have any connection with prisoners of war?

A. No.

38. Q. You stated that the first air raid was 17 February. Is that correct?

A. I recall that the first air raid was the 17th.

39. Q. Did it not start the day before, on the 16th?

A. No, my recollection is that it started on the 17th.

40. Q. You received this instruction concerning the prisoners of war from Commanding Officer Tanaka. When did you receive this instruction?

A. My recollection is that it was around 10:30 a. m.

41. Q. Exactly what words were used in this conversation? You said before that it was said, "Shall the prisoners be disposed of?" Were these the exact words?

A. Yes.

42. Q. When Tanaka instructed you as to the prisoners of war, did this mean that Tanaka had decided upon the execution and was asking approval?

A. Captain Tanaka just said, "Ask whether the prisoners should be disposed of."

43. Q. Do you know the reason for these executions?

A. I only telephoned by the orders of Captain Tanaka.

The commission announced that the reply was not responsive and directed that the question be repeated.

The question was repeated.

A. I think, as it was a major air raid, that Truk was in such a condition that everyone thought the enemy would land right away. I think this was the reason why.

44. Q. Then was Truk in such a critical condition at that time that the enemy might land?

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.

45. Q. How many prisoners were there?

A. I recall that there were three or four.

46. Q. When were these prisoners first confined at the Guard Unit?

A. I do not know.



47. Q. You testified that by orders of Captain Tanaka you communicated with headquarters. About what time did you make this communication?

A. I recall that it was around 10:30 a. m.

48. Q. At this time what words did you use; if you remember, please state them?

A. What do you mean by "what words did you use"?

49. Q. What did you say over the telephone?

A. First I said, "This is the Guard Unit. Is this headquarters?" The answer was, "This is headquarters." Then I said, "What shall we do with the prisoners of war? Shall we dispose of them?" The answer to this was, "Oi."

50. Q. Who was the party at the other end of the line?

A. I do not know who that person was.

51. Q. Did you not ask his name?

A. No, I did not.

52. Q. This answer "Oi" -- did it come immediately or after a period of time had elapsed?

A. From my recollection there was a brief time in between.

53. Q. About how many minutes?

A. It was a very short time and I do not recall the number of minutes.

54. Q. Was this answer given while you still had the receiver to your ear or after you hung up the telephone?

A. Of course it was while I was still holding the receiver to my ear.

55. Q. Before this, had you frequently visited the Fourth Base Force Headquarters on official duty or on private business?

A. I did not visit the Fourth Base Force Headquarters very often.

56. Q. Then you do not know whose voice this was that came over the telephone at all?

A. I do not know.

57. Q. When you first took up the telephone, whom did you call?

A. I asked for headquarters.

58. Q. Did you specify your own name?

A. No, I just said, "Guard Unit."

59. Q. You testified that the word "Oi" means understanding, acceptance, or carry out. In the Japanese navy does this word "Oi" mean these things in peace time and during war time?

A. Yes.

60. Q. As this matter was a very important matter, did the party at the other end of the line ask you to verify what you just said?

A. No.

61. Q. How long after you notified Captain Tanaka of the answer of the Fourth Base Force did Captain Tanaka order Danzaki to execute the prisoners?

A. A while after.

62. Q. How many hours or how many minutes after?  
A. I do not recall the exact number of minutes, but it was only a short while after.
63. Q. During the period you reported to Commanding Officer Tanaka of this telephone call and the time Captain Tanaka ordered Danzaki, did you ever leave this command post?  
A. I recall that I did leave.
64. Q. Then could you not tell us about how long, say fifteen minutes, half an hour, one hour, etc.?  
A. I do not recall how long.
65. Q. By what method did Captain Tanaka give the orders to Danzaki?  
A. Commanding Officer Tanaka said to me to tell Danzaki to execute the prisoners.
66. Q. Did Commanding Officer Tanaka tell you to give this order only to Danzaki alone?  
A. He just mentioned Danzaki.
67. Q. Then what did you do?  
A. Danzaki was not at the command post, but Yoshinuma came to the command post and I told Yoshinuma to relay the order to Danzaki.
68. Q. What is the relationship between Danzaki and Yoshinuma?  
A. There is no relationship whatsoever.
69. Q. How did you relay the order of Tanaka to Danzaki?  
A. Through Yoshinuma.
70. Q. Why did you relay this order to Yoshinuma when you were supposed to relay it to Danzaki?  
A. Danzaki wasn't there so I had Yoshinuma relay that to Danzaki.
71. Q. That is why I am asking you what was the relationship between Danzaki and Yoshinuma, whether they were from the same unit, etc.?  
A. They were members of the same guard unit.
72. Q. How many persons carried out this execution?  
A. I recall there were two.
73. Q. From what distance did you see this execution -- how many meters away?  
A. I do not remember how many meters.
74. Q. Japanese military personnel should be very conversant regarding distance. You being a military person, can you not tell about how many meters away you were?  
A. I cannot give the exact distance in meters.
75. Q. Approximately how many?  
A. Do you want it approximately?
- JK  
JK

76. Q. Yes.

A. Approximately I think it was about fifty meters.

77. Q. What time of day was it that you saw this execution?

A. I recall that it was about 11 o'clock a. m.

78. Q. Did you watch this execution from the beginning to the end?

A. As telephone calls came to me I was always going in and out. OK

79. Q. How long did this execution take from the beginning until it was ended?

A. I do not recall how long it took.

80. Q. You testified that it was about 11 o'clock. Did the execution finish around 11:30 or half an hour after this, or one hour after this time? OK

A. I do not have any recollection as to time.

81. Q. Was it before the noon meal?

A. As it was during battle I recall that no one ate.

82. Q. Did you see this execution because you were ordered by your superior officer to go and confirm the execution or because you just happened to be there?

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 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 advocates, 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.

Ishii, Yujiro, 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.)

83. Q. Were you watching this execution under orders or did you happen to be there and was watching?

A. I said it was the sea wall but it is a part of the garden of the Guard Unit and could be seen.



84. Q. From where were you watching this?

A. Underneath the veranda of the command post.

85. Q. At that time did you have other duties and were you performing them at this place?

A. I reported to the commanding officer of the Guard Unit the orders from headquarters as soon as they arrived. And, also, I relayed the orders of the commanding officer to the subordinate units as soon as I had received them.

86. Q. Then the place where you were -- was this the command post?

A. What we called the command post of the Guard Unit was the main entrance of the administration building of the Guard Unit.

87. Q. What I asked you was if the place where you were watching this execution -- was the command post?

A. The command post was at the main entrance and I was on the ground below the veranda.

88. Q. Then it wasn't the command post, was it?

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

The accused withdrew the question.

89. Q. At the time you saw this execution were you at the command post?

A. We called the command post the area around this administration building. *JK*

90. Q. At this time was Captain Tanaka watching this execution?

A. My recollection is that Captain Tanaka was on the veranda watching the execution.

91. Q. Were you watching this execution until it was completed?

A. No.

92. Q. Then how many prisoners did you see being executed?

A. As my work was very pressing, I was going up the veranda and down and I do not recall this. *JK*

93. Q. This morning you testified that there were two executioners. Were there any other persons at the scene?

A. I do not know.

94. Q. Did you see only these two persons or more than two persons?

A. I do not recall.

95. Q. This morning you testified that there were three or four prisoners. How many prisoners were at the scene?

A. I recall that there were three or four.

96. Q. When the execution was completed did you report to Captain Tanaka that the execution had been completed?

A. I did not.



97. Q. Did the executioners report to you that the execution was completed?  
A. No.

98. Q. What was the condition of the air raid at the time of this execution?  
A. The air raid was unceasingly furious.

99. Q. What about the bombardment from enemy ships?  
A. There was no bombardment from enemy ships.

100. Q. Do you know what was done with the remains?  
A. I do not know.

101. Q. You have testified that you received the orders from Commanding Officer Tanaka and relayed them to the subordinates and also reported to Captain Tanaka what the subordinates reported to you. You were right in between, but wasn't the completion of the execution reported to you?

This question was objected to by the judge advocate on the ground that the question assumed testimony which had not been given.

The accused withdrew the question.

102. Q. Do you know whether the executioners reported the completion of the execution to Commanding Officer Tanaka?  
A. No, I do not.

103. Q. During this time do you know whether the Fourth Fleet commanding officer and his headquarters were at Truk?  
A. I do not recall.

104. Q. When you made this telephone call did the voice on the other end of the line say "Oi" before or after you finished making your inquiry about, "Shall we dispose of the prisoners"?  
A. Of course it was after I finished speaking.

105. Q. At that time was there a period during which the other party conferred or did this "Oi" come as soon as you finished speaking?

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. I recall that there was only a moment elapsed.

106. Q. How many seconds or how many minutes?

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 sustained.

107. Q. You testified that this word "Oi" means understanding, acceptance, and carry out, but in the Japanese navy was this word "Oi" used in this meaning in common practice, not only in telephone conversations?

A. It is used in common practice.

108. Q. Did you yourself use this word?

A. I hardly ever used this word.

109. Q. What is the reason that you did not use this word "Oi," which means understanding, acceptance, and carry out, very often?

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

The accused replied.

The commission announced that the objection was not sustained.

A. I testified that I hardly ever used this word.

110. Q. What is the reason?

A. The reason is this word is arrogantly used by superior officers and officers. This word is used in a very arrogant way and it was usually used by officers talking to their subordinates.

111. Q. My question was what was the reason that the witness did not use it?

A. I do not use such arrogant words to my subordinates.

112. Q. You testified that you telephoned the Fourth Base Force. How did you report this answer you received to Commanding Officer Tanaka?

A. I said, "The disposal of prisoners is consented to."

113. Q. Who was commanding officer of the Fourth Base Force at this time?

A. Vice Admiral Wakabayashi.

114. Q. Wasn't Vice Admiral Wakabayashi sick at this time?

A. I do not know.

115. Q. Was Vice Admiral Wakabayashi at Truk at this time?

A. I do not know.

116. Q. When you reported to Captain Tanaka saying, "Disposal of prisoners consented to," you put your own interpretation on the word "Oi," isn't that true?

A. I did interpret.

117. Q. Is that usual at a command post for a telephone operator to interpret what he hears over a telephone?

This question was objected to by the judge advocate on the ground that there was no testimony that the witness had been a telephone operator. JK

The accused replied.

The commission announced that the objection was sustained.

118. Q. How did you fix the date of this air raid as February 17?  
A. My recollection is the seventeenth.

119. Q. And what is today's date?

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. You said Captain Tanaka was the commanding officer of the Guard Unit in the month of February. Was he commanding officer of the Guard Unit during the entire month of February?

A. During the month of February Captain Asano took the place of Captain Tanaka.

121. Q. On what day did Captain Asano relieve Captain Tanaka?

A. From my recollection I recall that it was one or two days after the air raids.

122. Q. That would make it February 18 or 19. Is that true?

A. No, the air raid lasted from the seventeenth to the eighteenth so it was about one or two days after this.

123. Q. This command post -- was this a bomb-proof shelter?

A. No, it was not.

124. Q. Was this telephone that you talked over a field telephone?

A. No.

125. Q. What kind of a telephone was it?

A. A command telephone.

126. Q. Where was the Fourth Base Force Command Post on February seventeenth?

A. I do not know.

127. Q. Isn't it true that you were never in touch with Fourth Fleet Headquarters that day by telephone or any other way?

A. There was no communication.

128. Q. And there was no telephone connection between the Guard Unit and Fourth Fleet, was there?

A. I do not know.

129. Q. At the time you made this telephone call was everything quiet or was there a great deal of noise and confusion because of the battle conditions?

A. There was no confusion.

130. Q. You made the telephone call inside in the office building. Is that right?

A. It is a telephone room.



131. Q. Who else was in the room at this time?

A. I do not know.

132. Q. Who was in this command post with you at the time you made this telephone call?

A. The commanding officer was also there.

133. Q. You two were the only ones at the command post at this time?

This question was objected to by the judge advocate on the ground that it was vague as to the area concerned.

The accused replied.

The commission announced that the objection was not sustained.

A. There were others there other than Captain Tanaka and me.

134. Q. Did you ask Captain Tanaka for permission or authority to execute the prisoners?

A. No, I did not.

135. Q. Did you hear anybody ask Captain Tanaka for permission to execute the prisoners?

A. I do not know.

136. Q. Then it was Captain Tanaka's idea that the prisoners be executed. Is that correct?

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. That is true.

137. Q. At this time did Captain Tanaka tell you to call Fourth Base Force to get permission?

A. He told me to ask the Fourth Base Force if we could execute or not.

138. Q. At the time he told you this, were the prisoners already on the sea wall or in the garden?

A. No.

139. Q. Do you know where they were?

A. I recall that they were behind the guardhouse.

140. Q. Was Yoshinuma at the command post at this time?

A. No.

141. Q. When you picked up the phone, did you get a switchboard operator or did you get the voice that said "01"?

A. I do not know.



142. Q. Don't you recall whether the command post telephone went direct to the Fourth Base Force or went to a switchboard operator?

A. The command telephone is a telephone which is a direct line to the Fourth Base Force.

143. Q. By what method did this command post telephone operate so that the party at the other end knew what you were calling?

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. It is handled the same way as an ordinary telephone.

144. Q. When you pick up an ordinary telephone you don't get the party that you desire to talk to, you get a switchboard operator. Isn't that true?

A. Yes.

145. Q. How was it possible for you to pick up your command telephone and get the Fourth Base Force Headquarters.

A. I'm not talking about the connection when I say it is the same as an ordinary telephone. I am talking about the telephone itself and not the connection.

146. Q. So that when you picked up the telephone some operator had to connect you with the headquarters, didn't they?

A. The command telephone is a direct line telephone so as I lift up the receiver I could get the Fourth Base Force directly. gk

147. Q. And the only party you could get was the Fourth Base Force?

A. Yes, the Fourth Base Force was the only place.

148. Q. And that is the reason that you knew that you were talking to the Fourth Base Force Headquarters, is that right?

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. We were forbidden to talk with the other places and this was a direct line to the Fourth Base Force Headquarters, so when I took up the telephone I said, "Is this the Fourth Base Force Headquarters?"

149. Q. What other places could you talk to from this command telephone?

A. In the Japanese navy the command telephone is a telephone where the orders of the headquarters are relayed to the subordinates.

150. Q. Did you think that this was Vice Admiral Wakabayashi that answered you on the other end of the telephone?

A. I do not know.

151. Q. By that you mean that you knew it wasn't Admiral Wakabayashi?

This question was objected to by the judge advocate on the ground that counsel was testifying for the witness.

The accused made no reply.

The commission announced that the objection was sustained.

The commission then, at 3:15 p. m., took a recess until 3:30 p. m., at which time it reconvened.

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

Robert Oldham, yeoman third class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Ishii, Yujiro, 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.)

152. Q. These three or four prisoners -- had you ever seen them before?

A. No.

153. Q. Do you know how they got to this garden where they were executed?

A. I do.

154. Q. How did they get there?

A. As Commanding Officer Tanaka said to have them disposed of at the sea wall, a guard or an orderly, I forget which, but this person brought them there to the Guard Unit. 2K

155. Q. Where was Yoshinuma when the prisoners were being brought from the guardhouse to the sea wall?

A. I do not know.

156. Q. Did you see Yoshinuma execute any of these prisoners?

A. I recall that Yoshinuma also beheaded.

157. Q. But you didn't actually see the prisoners while they were being executed, is that correct?

A. I did see.

158. Q. You only saw three or four that were executed?

A. Yes.

Examined by the commission:

159. Q. There has been considerable testimony in regard to a command telephone between the command post and the Fourth Base Force Headquarters. Will the witness please explain for the commission exactly how that command telephone operated? In other words, when you picked up the phone at the command post, did this result in a bell ringing or a light lighting at the other end to attract someone's attention to come to that phone, or was there a talker on duty at all times during battle conditions and who answered it immediately when you picked up that telephone?

A. In the Japanese navy a command telephone is a telephone whereby the headquarters commands its general subordinates. The connection of this telephone is by direct connection. It's connection is a direct one. If a person picks up a phone on this side a bell rings and the lamp lights on the other end and under the navy system a subordinate must not call headquarters by this telephone, but in the small units, as on Truk, during battle or other important cases, a subordinate was permitted to use the telephone. The way of using this telephone is the same as an ordinary telephone only it is a direct connection.

Recross-examined by the accused: JK

160. Q. At this time, how many direct lines were there from the Fourth Base Force to the various places?

A. I do not know.

161. Q. Then in emergency circumstances, such as when there is a battle going on, when one subordinate calls up this headquarters through one line and another subordinate calls up at the same time to the Fourth Base Force through another line, won't there be a cross connection?

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

The accused withdrew the question.

162. Q. Were there more than two lines of this command telephone from the Fourth Base Headquarters?

A. I do not know. What I stated to the question put forward by the commission is the naval system and I do not know about the Fourth Base Force. JK

163. Q. Then if this line were connected direct to the Fourth Base Force it was not necessary for you to ask the other party whether it was the Fourth Base or not, isn't that true?

A. It is a custom and also common sense to ask who the other party is.

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.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate: JK



1. Q. Will you state your name and your former rank in the Japanese navy?  
A. Nakase, Shohichi, lieutenant commander, IJN.
2. Q. If you recognize the accused, will you state as whom?  
A. While on my tour of duty on Truk I did not know him, but after coming to Guam, here at the stockade, I was told that he was the Commander in Chief of the Fourth Base Force, Vice Admiral Kobayashi.
3. Q. When did you arrive at Truk?  
A. I believe it was November 7, 1943.
4. Q. What was your rank at that time?  
A. Lieutenant commander.
5. Q. To what force or unit did you report for duty?  
A. I came and reported to the headquarters of the Fourth Base Force.
6. Q. What were your instructions at the Fourth Base Force?  
A. Immediately after arriving at the Fourth Base Force I was given a verbal order to the effect that I was to be acting executive officer of the Forty-first Guard Unit and I immediately went and assumed my duty.
7. Q. How long did you serve in that capacity as acting executive officer of the Forty-first Guard Unit?  
A. I served in this capacity until the end of the war, but from May 3, 1944 to around the end of July of the same year, Lieutenant Commander Akutagawa took over as the executive officer, so I was, during that period, relieved of my duty.
8. Q. What other duties did you have during this period that you served at the Forty-first Guard Unit?  
A. I was the section chief of land patrol, division leader and ~~also~~ officer in charge of the guards. JK
9. Q. Did these guards have any duties in connection with prisoners?  
A. These guards had duties to guard the vicinity of the confinement where these prisoners were confined and also with regard to handling of these prisoners.
10. Q. To the best of your knowledge, were prisoners of war ever confined on Truk in any other place besides at the Guard Unit?  
A. I do not know of any other place that they were confined.
11. Q. In the period from November 7, 1943 to March 1, 1944, do you remember any prisoners of war arriving at the Forty-first Naval Guard Unit?  
A. I do.
12. Q. What is the first group of prisoners that you know arrived at Truk during that period of time?  
A. I believe it was around November 20, 1943 that the first group came. They were, as I recall, some prisoners from a submarine.
13. Q. How long did these prisoners of war remain at the Guard Unit?  
A. I believe they stayed there for about a week.
14. Q. How many prisoners of war were there in this group?  
A. As I remember it, I believe there were about forty-two.



15. Q. Will you tell what you know about the circumstances of the arrival of these prisoners of war at the Forty-first Guard Unit?

A. I forget the exact day but Fourth Base Force Headquarters issued an order that a destroyer was going to bring in some prisoners and that these prisoners would be confined at the Forty-first Guard Unit. This order was received by the officer of the day who in turn relayed this order to me. I then ordered the officer of the day to dispatch a launch so that they could get the prisoners. The officer of the day and several other persons accompanied this launch.

16. Q. Is this launch a boat attached to the Forty-first Guard Unit?

A. Yes.

17. Q. When the prisoners arrived at the Forty-first Guard Unit, was the Fourth Base Force notified?

A. Naturally it was notified through the officer of the day.

18. Q. Where were these forty-two prisoners of war confined?

A. They were confined in the brig which was built for the personnel of the Forty-first Guard Unit.

19. Q. Could you, very briefly, describe the appearance of this brig?

A. This brig was located to the right of the entrance as you entered. The size of it was as follows: There were three cells which were two meters by two meters each. Right next to these cells was an open space which was fenced in and the fence was so constructed that no one from the outside could look inside. Also, these cells, each of them had locks on them and the door leading to the outside also had a lock on it.

20. Q. I show you Exhibit 19 and ask you if this is an accurate representation of the brig that you have described?

A. Yes, it is approximately that. At each door there was attached a lock. JK

21. Q. Did each of these cells contain the individual toilets that are set forth in this diagram?

A. Yes, each cell had its own head.

22. Q. What did each of these toilets consist of?

A. I do not know the exact size of it, but it was just big enough for one man to enter and relieve himself there. There was a partition made of board. There was an entrance, but there was no door attached to it. It was not one of these water flush toilets. Underneath there was a concrete pit and it was sufficiently covered.

23. Q. What was the sanitation condition in these heads?

A. With regard to the sanitation of these heads in the brig, there were considerable amount of flies and maggots, but compared to the head used by the enlisted men they could not be considered as being inferior. It could be said that these heads in the brig were better.

24. Q. Were these cells and the brig you described the only place where the submarine prisoners of war were confined?

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

The judge advocate withdrew the question.

25. Q. Was this brig as you have described it in the condition that you have described at the time the submarine prisoners of war were confined there?

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 couldn't say for sure, but approximately it was in that condition.

26. Q. Were there any changes in the construction of this brig made during your tour of duty?

A. On the twenty-ninth of June the outer fence of this brig was destroyed by a bomb and repairs had to be made to it.

27. Q. Are you referring to June, 1944?

A. Yes.

The witness was duly warned.

The commission then, at 4:25 p. m., adjourned until 9 a. m., tomorrow, Friday, June 4, 1948.

NINETEENTH DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands,  
Friday, June 4, 1948.

The commission met at 9 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United  
States Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps,  
United States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, and  
Lieutenant James P. Kenny, U. S. Navy, judge advocates.  
Stewart R. Smith, 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.

The judge advocate announced, for the information of the commission,  
that the interrogatories submitted to Louis Silvie Zamperini and the inter-  
rogatories submitted to Fred F. Garrett, both dated 7 May 1948, have been  
received and are herewith submitted to defense counsel. Similarly, the  
interrogatories submitted by counsel for defense on 18 May 1948, to be  
propounded to the Chief of the Liaison Section, Central Liaison Office,  
Japanese Government, have also been received and are herewith submitted to  
defense counsel.

Nakase, Shohichi, 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.)

28. Q. Where were the submarine prisoners of war confined while they were  
on Truk?

A. They were confined in the brig at the Forty-first Naval Guard Unit.

29. Q. Were they all confined in that brig during the daytime?

A. Yes.

30. Q. Were they all confined in that brig during the night time?

A. No.



31. Q. Will you tell us where the prisoners were confined during the night time?

A. As the brig was small and all of the prisoners could not be kept there during the night time, the remainder of the prisoners were kept in the guardhouse which was right in front of the brig.

32. Q. About how many prisoners were kept in this guardhouse in front of the brig?

A. I do not remember the exact number, but I recall that the number was less than half of the total number of prisoners.

33. Q. The other prisoners who were confined in the brig, were they confined in the three cells you identified yesterday?

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. In the night time, that is exactly what happened.

34. Q. I show you a sketch, which has previously been marked for identification number 12, and ask you if this is an approximate sketch of the construction of that guardhouse that you referred to?

A. This portion on the right facing the sketch where it says corridor and storehouse, there was a partition here, but this partition was broken in two or three sections.

35. Q. Approximately what height were these sections, starting where the corridor begins through to the back of the storage sections?

A. As I recall, it was approximately one meter and a half.

36. Q. I observe here a portion that appears to be a room in the upper left of the sketch, facing the drawing. What was this room and will you describe it?

A. This was a room in which the guards would rest.

37. Q. How was this room constructed? Were there solid partitions inside?

A. The wall adjoining this office was partitioned, and it was a solid wall, but it did not reach to the very top of the ceiling, so a person standing in the office room would not be able to see the guards who were resting in this room. The other side, that is the side toward the corridor, was made so as to have partitions, but actually there were none, so a person passing by here would be able to see inside.

38. Q. About how high was this partitioned section on the right near the corridor?

A. It was constructed so that partitions could be put in at any time when necessary, but actually there were no partitions there.

39. Q. Was there any height to this section, cutting the rest room off from the corridor?

A. This corridor here was on the ground, but this room here was elevated about 75 centimeters from the ground and had a board floor.

40. Q. Was there any side wall at all in this room toward the corridor?  
A. No, there was none.

41. Q. How large was this section in which the guards used to rest?  
A. I do not remember the exact dimensions of the room, but I have a feeling that it was about six meters by six meters.

42. Q. How large was the office portion in the guard unit?  
A. The office section was not very big. The width of it was about one meter and a desk was set there.

43. Q. Were there chairs behind the desk?  
A. There were.

44. Q. Was there any space between the chairs and the wall so that you could walk behind the chairs?  
A. Yes, there was space to get to a chair but not enough room to pass freely through that space.

The sketch produced by the judge advocate which had been marked number 12 for identification, was submitted to the accused and to the commission and by the judge advocate offered in evidence.

The accused objected to the introduction of this sketch in evidence on the grounds that it was not prepared by the witness, the testimony of the witness indicated it was not accurate, and it had not been shown as of when the sketch applied.

The judge advocate replied, calling the commission's attention to Section 206, Naval Courts and Boards and to the common, customary practice of admission in evidence of sketches and diagrams of places which can not be conveniently seen by the court.

The commission announced that the objection was not sustained.

There being no further objection, the sketch was so received, appended marked "Exhibit 20."

45. Q. What happened after the arrival of these prisoners of war at the brig?  
A. After these prisoners were confined in the brig I had them live there in the same manner as my own men.

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

The accused made no reply.

The commission announced that the motion to strike was not sustained.

46. Q. When the prisoners of war were brought to the Forty-first Naval Guard Unit, were they interrogated?

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. They were questioned.

47. Q. Will you describe this questioning?

A. As I testified yesterday, after the prisoners arrived at the Forty-first Naval Guard Unit a report was made to the Fourth Base Force Headquarters. The next morning after their arrival the commanding officer of the Forty-first Naval Guard Unit started to question these prisoners, but just at that time an order came by telephone from the Fourth Base Force Headquarters stating that the Guard Unit need not question these prisoners, because personnel connected with such matters would be dispatched to the Naval Guard Unit in order to conduct the interrogation. I received this order through the duty officer and I immediately told Commanding Officer Minematsu about this and he immediately stopped his investigation. Meanwhile, one commander and one lieutenant commander from the Sixth Fleet came over and started questioning these prisoners. JK

48. Q. Did any enlisted men arrive with this commander and lieutenant commander?

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.

49. Q. Where was this questioning conducted after the commander and lieutenant commander arrived?

A. After these two officers had arrived, they designated the spot where the questioning was to be conducted and the questioning was done at two different places on the east side of the assembly ground of the Forty-first Naval Guard Unit. JK

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

The commission announced that the motion to strike was not sustained.

50. Q. Did you see this questioning at any time while it was going on?

A. I had my own duty and I would be going around the Naval Guard Unit, and when I passed by I would see them conducting the questioning.

51. Q. You say that you were passing in the area several times while questioning was going on. Will you describe what you saw during these times that you were going by this place of questioning? JK

A. The first time I saw them was when they had two tables set up in the direct sun and they were questioning the prisoners at two places. After that I saw two tents put up and the interrogation was then being conducted in these tents.



52. Q. Where in the Forty-first Naval Guard Unit area was this place of questioning, with relation to the Guard Unit brig.

A. If you have any diagram that I might use, I could indicate it on that.

53. Q. Describe roughly where it was.

A. When you enter this main entrance of the Forty-first Naval Guard Unit the main road leads right straight to the beach, and on the right-hand side of this road, facing the beach, the brig and the guardhouse were located. Adjacent to these two buildings was a wide open space which was the assembly ground. At the far east side of this assembly ground this questioning was conducted.

54. Q. How large was this tent in which you say the questioning took place?

A. This tent was not very big. The width of it was 3 x 2 meters. It had several poles standing and on top of that was this canvas covering.

55. Q. Where were the officers doing the interrogating sitting?

A. A table was set up in the middle of this tent and the officer and the prisoner that was being investigated faced each other across this table.

56. Q. Did you see any of the prisoners in the tent being questioned when you went by?

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 did.

57. Q. When you saw the persons being interrogated, were they standing or were they sitting?

A. I believe there were some who were standing and there were some who were sitting.

58. Q. You have testified that the first persons who came to question the prisoners of war were a commander and a lieutenant commander. How long was the period of time during which the submarine prisoners of war were questioned? 9/16

A. I recall that they were questioned for approximately two or three days. On the third day the questioning didn't last very long. That is how I recall it.

59. Q. Were there officers present conducting the questioning during each of these three days?

A. The officers who came at the beginning were there throughout the questioning.

60. Q. Do you know if any other officers came and assisted in the questioning of the prisoners?

A. I do not know.

61. Q. During the period that the prisoners of war were confined at the Forty-first Naval Guard Unit, were any instructions other than the ones you had previously testified about, concerning treatment or handling of prisoners of war, received from any higher authority? JK

A. By higher authority, do you mean a direct superior officer or just any officer that was senior to me in rank?

62. Q. Direct superior in the chain of command.

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

The judge advocate reframed the question.

63. Q. Any superior in direct chain of command?

A. I did not receive any instruction.

64. Q. When did the submarine prisoners of war leave the Forty-first Naval Guard Unit?

A. After staying at the Guard Unit for about a week, I believe they were sent back to Japan by order of the Fourth Base Force.

65. Q. Will you tell us about this order received from the Fourth Base Force?

A. The Fourth Base Force Headquarters issued an order to the duty officer of the Naval Guard Unit stating that submarine prisoners would be sent back on two aircraft carriers. I do not recall the exact time, but I ordered the duty officer to prepare two launches and I had warrant and noncommissioned officers get on board these two boats and transport the submarine prisoners to two designated carriers. JK

66. Q. What was the next group of American prisoners of war who were confined at the Forty-first Naval Guard Unit?

A. The next group of prisoners that were confined at the Forty-first Naval Guard Unit were prisoners who came from the Marshalls area, as I remember.

67. Q. When did these prisoners arrive from the Marshalls area?

A. I do not recall the exact date, but around the 5th of January, 1944, there were no prisoners at the Naval Guard Unit. From that time up until the twenty-fourth of that month, of the same year, prisoners came to the Guard Unit in several groups and I myself recall just two occasions when they arrived. One was when three or four arrived and the second was when four or five arrived. As for the rest I do not have any distinct recollection. JK

68. Q. How did these prisoners of war arrive at Truk?

A. I believe they came on ships.

69. Q. What happened when these ships came to Truk carrying prisoners of war?

A. Just before the ship entered the harbor the Fourth Base Force would notify the duty officer that the ships would arrive. Then the forty-first Naval Guard Unit would dispatch boats to these ships to get the prisoners.

70. Q. When the prisoners were brought to the Guard Unit, where were they confined?

A. They were confined at the same place where the submarine prisoners were confined.

71. Q. Was any report made of the arrival of these prisoners of war at the Guard Unit?

A. Yes, when these prisoners would arrive the duty officer would naturally report to the Fourth Base Force.

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

The judge advocate replied.

The commission announced that the motion to strike was not sustained.

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

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

Archib L. Haden, junior, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Nakase, Shohichi, 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.)

72. Q. You testified that a number of groups of prisoners of war arrived and were confined at the Guard Unit during the period from January 5 to January 25. Were these prisoners of war interrogated? JK

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. They were.

73. Q. Was each group of prisoners of war who arrived questioned?

A. Precisely so.

74. Q. Who questioned these prisoners of war?

A. I do not remember exactly who came, but when investigators came the Fourth Base Force notified the duty officer of the day by telephone that investigators would come down to question prisoners and then the duty officer would notify me. When the designated time would come, the investigators would come to the Guard Unit.

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

The judge advocate replied.



The commission announced that the motion was not sustained.

75. Q. Were the persons who came to interrogate the prisoners of war navy personnel?

A. They were young navy officers.

76. Q. Did the same naval officers come to question each group of prisoners?

A. That is how I remember, but on a few instances I recall that there were some officers with army uniforms on who came along with them.

77. Q. At the time these officers came to question the prisoners of war did you know any of their names?

A. I do not know their names.

78. Q. Have you subsequently learned the names of any of the officers who came down to question these prisoners of war?

A. I did.

79. Q. What names did you learn?

A. After the end of the war the chief of staff of the Fourth Fleet, Admiral Sumikawa, came over and talked to us and in this talk he mentioned that the officer who came over to question was Akai, Air Staff Officer.

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.

80. Q. You testified that this man was the Air Staff Officer. Of what organization was he the Air Staff Officer?

A. Chief of Staff Sumikawa did not mention to what organization he was attached.

81. Q. Was there an air staff officer attached to the Fourth Base Force?

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

The judge advocate replied.

The commission announced that the objection was not sustained.

A. There was none.

82. Q. Where were you during the period from January 25, 1944 to the beginning of March, 1944?

A. I was ill and was in the Naval Guard Unit sick bay.

83. Q. Who performed your duties during the period of your illness?

A. The next in rank, Lieutenant Ishii, I believe, performed my duties.

The accused moved to strike out this answer on the ground that it was an opinion of the witness. 9K

The judge advocate replied.

The commission announced that the motion was not sustained.

84. Q. When did you leave this dispensary?

A. 5 March 1944.

85. Q. When you left the dispensary, did you resume your original duties?

A. I did.

86. Q. Did these duties still include the duty as head of the guards at the brig where prisoners were confined?

A. Yes.

87. Q. In conformance with these duties, did you ascertain what had happened in regard to prisoners of war during your illness?

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

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I did not.

88. Q. Did you inquire as to what had happened to the prisoners of war who had been in your charge and in your custody in January 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 did not put that question to anybody.

89. Q. Were you informed what had happened to these prisoners of war?

A. I was not exactly informed, but when I came out of sick bay there were no prisoners left at the Guard Unit and I heard that the medical officers and the hospital had made some arrangement at the end of January and had done something to these prisoners. Also during the first great air raid in February I heard that something was done to the prisoners at the Forty-first Guard Unit. JK

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.

90. Q. Do you know if any personnel under your command at the Guard Unit told you what had happened to the prisoners of war during your confinement at the sick bay?

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 sustained.

91. Q. When you arrived at the Guard Unit, who was the commanding officer?  
A. Captain Minematsu.

92. Q. How long did Captain Minematsu serve in that capacity?  
A. I believe it was prior to 20 December that Captain Minematsu received orders to be relieved by Captain Tanaka and he assumed his duties.

93. Q. How long did Captain Tanaka serve in that office?  
A. Captain Tanaka arrived and assumed his duty on the twenty-fifth or twenty-sixth of December, 1943, and served until around 22 or 23 February, 1944, when he came over to the sick bay and told me he was being relieved. JK

94. Q. Who relieved Captain Tanaka?  
A. Commanding Officer Tanaka was relieved by Captain Asano.

95. Q. When you reported for duty to the Fourth Base Force and later were sent as acting executive officer of the Forty-first Guard Unit, who was the commandant of the Fourth Base Force?  
A. Commandant Wakabayashi.

96. Q. Who relieved Wakabayashi?  
A. Rear Admiral Arima.

97. Q. When was Wakabayashi relieved by Arima?  
A. It was after the first air raid in February and I believe it was around the twentieth of that month.

98. Q. During your illness at the dispensary were you officially relieved as the acting executive officer of the Guard Unit?  
A. I did not see any such notification.

99. Q. Were you officially responsible for the custody of the prisoners confined at the brig during the time you were in sick bay?  
A. If there is no official notification given to me formally, I would have responsibility, but according to the military regulations concerning succession of command the person next in rank to me would actually be responsible.

100. Q. As you had received no official notification of being relieved, did you carry on any of your duties while you were confined at the dispensary? JK

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 in any way carry out any of my duties because I was an isolated patient and was unable to do so.



101. Q. During the February air raid did you remain at the dispensary?

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. At first during the air raid of February 17 and 18 I remained in the sick bay but around eleven o'clock of the seventeenth I put on my uniform and all my equipment in order to assume my duty because I was told that an alert against land warfare had been issued.

102. Q. What duties did you perform on the seventeenth and eighteenth during this air raid?

A. As the commanding officer of the Special Naval Landing Force, I told my subordinates to take their positions, and I myself was at the command post and commanded. 9K

103. Q. Going back to when you took over your duties as acting executive officer of the Forty-first Guard Unit, were you briefed on the standing orders of the Guard Unit by the officer whom you relieved?

A. I was briefed by my predecessor on various things.

104. Q. Did this briefing include the orders issued by the Guard Unit as well as the orders received by the Guard Unit from the Fourth Base Force and Fourth Fleet?

A. I was briefed with regard to these matters but this was not done in a very detailed manner, it was done in a rough manner.

105. Q. Were there any instructions or orders regarding the method of treatment of prisoners of war?

This question was objected to by the accused on the ground that it was irrelevant and immaterial. 9K

The judge advocate replied.

The commission announced that the objection was not sustained.

A. There were no documentary instructions or orders, but I was told by my predecessor that the Fourth Base Force would notify the Forty-first Guard Unit and when the prisoners arrived at the Guard Unit they were to be held there temporarily until they were sent back to Japan.

106. Q. Did you receive any instructions or orders during your tour of duty between the time you assumed it and February 23, 1944, regarding treatment of prisoners of war?

A. Around January of 1944 an admiral came from Tokyo. He came to talk things over prior to the moving in of the army on Truk. On this occasion he assembled all the organizational commanding officers and executive officers and relayed to us the following: all investigations at the front should be brief and that the prisoners should be sent to Japan as soon as possible as an organized agency for examination had been set up in Japan. 9K

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.

Robert Oldham, yeoman third class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Nakase, Shohichi, 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:

107. Q. Yesterday you testified that you, as officer in charge of the guards, were in charge of the guarding and handling of prisoners of war at the Forty-first Guard Unit. Did you receive any orders from the commanding officer of the Forty-first Guard Unit upon assuming your duty at the Guard Unit with regard to the treatment and handling of prisoners?

A. I did not receive any specific instructions.

108. Q. Then in handling these prisoners, upon what regulations or orders did you rely in executing your duties as commander of the guards?

A. I have been in the navy for a long period of time and have experienced many things and I have had opportunities to deal with such matters and I am familiar with the handling and treatment of prisoners. At the front I told my subordinates that in handling prisoners they must keep in mind that as long as they have been captured the distinction between enemy and friend has been removed and they are human beings and should be treated accordingly. I also told the guard that they should treat these prisoners in a friendly manner.

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

The accused replied.

The commission announced that the motion to strike was not sustained.

109. Q. While assuming your duty as the acting executive officer and commander of the Forty-first Guard Unit's guards, what instructions or orders did you follow in performing your duty?

A. I did not receive any orders from my superior officers.

110. Q. Even though you did not receive any orders from your superior officers, were there not any naval regulations upon which you depended?

A. I did not conduct myself according to any naval regulations. I have been in the naval service for a very long time and have received training and I based my conduct upon the training I have received and on the firm conviction that the training was based upon these regulations.

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

The commission announced that the motion to strike was not sustained.

111. Q. When confining the submarine prisoners at the Forty-first Guard Unit did you not receive any notification or instructions from some other source other than the Fourth Base Force?

A. I did not.

112. Q. You testified that you dispatched boats to receive the submarine prisoners, but where did you dispatch these boats?

A. I dispatched them to the destroyer.

113. Q. Do you remember the name of the destroyer?

A. I do not.

114. Q. Wasn't it a common practice that the Forty-first Guard Unit receive dispatches from the ship directly with regard to the arrival of prisoners? JK

A. The Naval Guard Unit of course had wireless equipment, but as the person in charge of this radio did not report to me that he had intercepted any messages, I believe that the Guard Unit did not receive such a message.

115. Q. You testified that the duty officer reported to the Fourth Base Force the arrival of the prisoners, did you order this duty officer to do so?

A. Yes.

116. Q. Did the duty officer personally phone the Fourth Base Force?

A. The duty officer did not directly take up the phone and call up the Fourth Base Force. It was the custom that the duty officer order the communications man on duty to transmit this message to the Fourth Base Force and I believe this was done on this occasion.

117. Q. Whose duty was it to supervise this brig at the Forty-first Guard Unit?

A. When counsel refers to "eiso" that means the building itself, and I can not understand the question.

118. Q. Whom was this brig assigned to at the Naval Guard Unit?

A. Whenever a person is confined in this brig I placed my subordinate guards at this brig and the officer of the day is the person who is directly in charge of these guards.

119. Q. Wasn't it one of the duties of the executive officer to make a routine inspection from time to time of the Guard Unit?

A. That is so.

120. Q. Did you inspect this brig occasionally?

A. Yes, I occasionally made rounds of inspection.

121. Q. Did you inspect this brig while the submarine prisoners were confined there? JK

A. I went there once.

122. Q. On that occasion did you inspect the sanitation of the brig?

A. I did.



123. Q. Was the sanitation condition at that time satisfactory?

A. At that time among the prisoners there were several who had wounds and had bandages around them and as for the most part of them they appeared to be in good spirits. I found a couple of them who greeted me with a smile, so from that I would say that the sanitation of the brig was not unsatisfactory.

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

The accused made no reply.

The commission directed that this answer be stricken.

124. Q. Was the sanitation condition of the brig satisfactory?

This question was objected to by the judge advocate on the ground that it was calling for the opinion of the witness.

The accused reframed the question.

125. Q. When you went to inspect the brig while the submarine prisoners were being confined there, what were the sanitation conditions at the brig?

A. The sanitation facilities inside of the brig and the care for them was extremely satisfactory.

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

The accused made no reply.

The commission directed that this answer be stricken.

126. Q. During the time the submarine prisoners were being held in the brig, were the prisoners, during the daytime, confined to their cells?

A. The locks of the three cells were unlocked. They were opened up and the prisoners were free to move about from their cells to the exercise grounds *JK* right next to the cells, during the daytime.

127. Q. Then there were no instances where these prisoners were confined to the three cells during the daytime and were locked up in them, is that correct?

A. No, there were no such instances. Only the surrounding fence was closed.

128. Q. You just testified that among these submarine prisoners there were several who had wounds. Did you actually see these wounds?

A. As these prisoners were bandaged I gathered that they were wounded and, moreover, as the medical doctor had reported that he had given medical treatment to them, I believe they were wounded.

129. Q. Will you please explain to us the report which the medical doctor gave to you with regard to the medical treatment that he had given these prisoners, as far as you remember?

A. The report of the medical officer was as follows: The light patients were treated in the brig while the patients who had major wounds were taken to the sick bay and treated there. I later found out that among the patients who had major wounds, one of them who had a very serious wound was taken to the hospital and was operated upon. I learned this not at that time, but later on.



130. Q. From whom and when did you hear that this prisoner was taken to the hospital and operated upon?

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

The accused replied.

The commission announced that the objection was not sustained.

A. After the end of the war we were requested to submit reports and reports were submitted with regard to the treatment of prisoners of war in the sick bay. On this occasion the personnel attached to the sick bay informed me that a prisoner was taken to the hospital.

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

The commission announced that the motion to strike was not sustained.

131. Q. With the exception of the report with regard to the prisoner that was taken to the hospital, the other reports that you have mentioned you received this report while the submarine prisoners were being confined at the Forty-first Guard Unit brig, is that correct?

A. Yes.

132. Q. Did you report to the Fourth Base Force Headquarters that submarine prisoners were confined at the brig?

A. Yes.

133. Q. Did you make this report to the Fourth Base Force Headquarters?

A. I had the duty officer report it.

134. Q. What did you tell the duty officer to say to the Fourth Base Force Headquarters?

A. I told him the submarine prisoners had been confined at the brig, so report to the Fourth Base Force Headquarters that the submarine prisoners were being confined in the brig.

135. Q. To whom at the Fourth Base Force Headquarters did the duty officer say he made this report?

A. He didn't tell me of the results.

136. Q. Did Captain Minematsu report to the Fourth Base Force Headquarters that he was going to commence his questioning?

A. He did not.

137. Q. How did you know that the persons who came to question the submarine prisoners were from the Sixth Fleet?

This question was objected to by the judge advocate on the ground that counsel was misquoting the testimony.

The accused replied.

The commission announced that the objection was not sustained.

A. I know of this from the telephone call from the Fourth Base Force.

138. Q. How did you know that these two persons were a commander and a lieutenant commander?

A. Commanding Officer Minematsu, myself, and one other person from the supply department who understood a little English, were about to select a spot where the questioning of the prisoners was going to be conducted, and had just started on questioning one prisoner when suddenly these two appeared. In a very arrogant tone they said to us, "We're going to question these prisoners. Stop this!" I was very much taken aback by this very arrogant attitude of the persons and I looked back and I saw that one of them was a lieutenant commander and the other was a commander. Therefore, I knew one was a lieutenant commander and the other a commander, and I also saw that they wore aiguillettes and knew them to be staff officers. JK

139. Q. You said that the questioning took place at two spots; did this lieutenant commander and commander divide and conduct the questioning separately?

A. Yes, that is so.

140. Q. Were there any other persons present there besides the investigators?

A. I did not see anyone.

141. Q. Through the three days of this interrogation, did you not see anybody else except these two investigators?

A. I did not.

142. Q. Were there guards attending in the vicinity of this place of investigation?

A. There were ~~no~~ special persons assigned as guards. The guard of the brig was the only person. He would lead the prisoner out of the brig and take him before the investigator and after the investigation was over he would take this prisoner back to the brig and then bring another prisoner up to be investigated. JK

143. Q. By one guard attached to the brig, do you mean that there was only one guard for the two places, or do you mean that there was one guard for each place?

A. There was one for both.

The judge advocate moved to strike out this entire line of answers on the ground that they were the opinion of the witness.

The accused replied.

The commission announced that the motion to strike was not sustained.

144. Q. The things that you have stated in regard to the interrogation of the submarine prisoners, are these all that you actually saw?

A. What I have testified to up to now is what I saw with my own eyes.

145. Q. When you saw this guard, how was he armed?

A. The guards who were assigned to the brig were not armed. They only had with them a belt with an ammunition pouch and did not carry a rifle.

146. Q. Did the guard carry a stick?

A. As it was not the custom for guards to carry sticks, this guard did not have any.

The judge advocate moved to strike out the words "As it was not the custom for guards to carry sticks," on the ground that they were irrelevant, immaterial, and not responsive.

The commission directed that these words be stricken.

147. Q. Did this guard carry a stick?

A. He did not have any stick.

148. Q. Who was the person who issued the orders for the submarine prisoners to be sent back to Japan?

A. Fourth Base Headquarters.

149. Q. Do you remember the substance of the order that you received in regard to this matter?

A. I do not remember it clearly.

150. Q. Please tell us as far as you remember?

A. The Fourth Base Force Headquarters, through the duty officer, ordered that the submarine prisoners would be sent back to Japan on two carriers, therefore, make transportation available for them to get to these two carriers. JK

The commission then, at 3:15 p. m., took a recess until 3:40 p. m., at which time it reconvened. JK

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

Stewart R. Smith, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Nakase, Shohichi, 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.)

151. Q. You testified that when the prisoners arrived at the Forty-first Naval Guard Unit around January, 1944, you ordered the duty officer to report the matter to the Fourth Base Force. Did you thereafter order the duty officer to report such arrival to the Fourth Base Force each time prisoners came in? JK

A. Do you mean the prisoners who came in January of 1944?

152. Q. Yes.

A. The prisoners that came in January, 1944, came in several groups and each time I am sure the duty officer reported to me that they had come in, but I do not know whether I did, each time, order the duty officer to report this to the Fourth Base Force, but I am convinced that he did make such report to the Fourth Base Force.

153. Q. Then the duty officer never reported to you to whom at the Fourth Base Force he made his reports?

A. That is correct.

154. Q. You testified that when questioning was to be conducted with regard to these prisoners who came in January that you received notification from the Fourth Base Force to that effect, but did you receive notification from the Fourth Base Force as to who was coming down to question them?

A. Such detailed matter as who was coming down to question was told us by the Fourth Base Force.

155. Q. Did you personally meet the persons who came down to question the prisoners?

A. In January there were several occasions when investigations were conducted, and I did not each time meet the person who came down to question the prisoners, but a few times I met him. 9K

156. Q. Did you recognize the rank of the person whom you met and saw when he came down to question the prisoners?

A. As I recall, he had the insignia of a navy lieutenant.

157. Q. Did this officer have any aiguillettes?

A. No, he did not.

158. Q. When you met this person, did you converse with him?

A. I did not.

159. Q. You testified that after the end of the war, Chief of Staff Sumikawa came to the Forty-first Naval Guard Unit and mentioned that the person who interrogated the prisoners was Staff Officer Akai. Did Chief of Staff Sumikawa tell you personally that this person was Akai? 8K

A. After the end of the war this conversation with Sumikawa was not confined to Akai. I was writing a statement in regard to the interrogation of prisoners held on Truk and in that statement I had written that the officer who interrogated prisoners was a naval air officer. When Sumikawa saw this he said that if the person was an air officer he must have been Akai, so I wrote down Akai. 8K

160. Q. Around January, 1944, was there an air squadron on Truk?

A. I recall that there was.

161. Q. Do you know whether there was an air staff officer at the headquarters of the Combined Fleet?

A. I know that there was one Captain Shimada. I know that he was an air staff officer.

162. Q. You testified that during the air raid of 17 February an alert for a special naval landing force was issued. What was the condition to necessitate such an alert?

A. At that time I was confined at the sick bay and though I knew that an air raid was in progress, I did not know the actual condition of battle at that time.

163. Q. Did you not go to the command post as commander of the special landing force when this alert for the special landing force was issued?

A. No.



164. Q. Did you not testify on direct examination that you had gone to the command post at this time?

A. No, I did not go. The question was whether I had gone to the command post, but I did not go directly to the command post from the sick bay.

165. Q. After the alert for the special landing force was issued, did you go to the command post and assume command?

A. I took command of the special landing force.

166. Q. Since you had assumed command of the special landing force, were you not fully aware of what your duties were and what the conditions were under the circumstances?

A. I will state now what I did after I heard the command for the alert of the special landing force and after I had gone out of the sick bay and until I assumed my command. When I heard about the alert for the special landing force I armed myself and left the sick bay for headquarters. On the way to headquarters I passed the assembly ground of the Forty-first Naval Guard Unit where the members of the special landing force were gradually assembling. Danzaki at that time was taking over the command, but as Danzaki was the surface patrol section leader he was very busy, so I went over to him and said that I would take over command of the special landing force. Then I got on this command platform and organized the special landing force. At the same time I was not aware of the battle conditions so I sent the adjutant of the special landing force to headquarters to inquire about the battle conditions. Then the organization of the special landing force was concluded. Shortly after that the adjutant came over to me and reported to me about the battle conditions. I was told about the following battle conditions: A large task force including aircraft carriers was raiding Truk and that a part of this task force was heading at a great speed toward the north passage. Then I relayed this battle condition report to my subordinates and then ordered them to take their positions, and after that I went over to the command post.

167. Q. You testified that this admiral assembled the cognizant commanders and executive officers, but did you go to this assembly?

A. Yes, I did.

168. Q. You testified that you have been in the navy a long time. When did you first enter the navy, Nakase?

A. In 1910.

169. Q. So that at the time you reported for duty at the Fourth Base Force, how many years of active duty had you had in the Japanese navy?

A. I can't answer right away. I will have to count. I believe it would be about thirty-six years.

170. Q. When did the first prisoners of war arrive at the Guard Unit after you reported for duty there?

A. I recall that it was on 20 November 1943.

171. Q. What orders did you give the persons who were detailed as guards over the prisoners of war at this Naval Guard Unit?

A. I do not understand the question.

172. Q. Did you give these guards any instructions in regard to how they should treat prisoners of war?

A. I had the assistant commander of the guards conduct the training of the guards and I told this assistant commander of the guards how prisoners should be treated.

173. Q. What did you tell this assistant officer of the guards?

A. I told him that as long as the prisoners have been captured they are no longer enemies and that they should be treated in a humane way. And one point that I stressed to this assistant commander of the guards was to have the guards guard so that no other person would come close to the prisoners.

174. Q. Nakase, would you say that your instructions to these guards were carried out?

This question was objected to by the judge advocate on the ground that this witness gave no instructions to the guards; he had merely told his subordinate how he thought prisoners should be treated.

The accused replied.

The commission announced that the objection was not sustained.

A. Of course they were carried out.

The commission announced that the answer was not responsive and directed that the question be repeated.

The question was repeated.

A. Do you mean whether I saw to it that the assistant commander of the guards trained the guards as I expected him to do?

175. Q. What did you do in order to follow up your instructions to this person that you had told about how prisoners were to be treated?

A. This assistant commander of the guards was a very able officer and I had the fullest confidence in him. Never once in the past had he failed to carry out my orders and I observed him assembling the guards and conveying my instructions to the guards after I told him to.

The judge advocate moved to strike out the words "This assistant commander of the guards was a very able officer and I had the fullest confidence in him," on the ground that it was an opinion of the witness.

The accused made no reply.

The commission announced that the motion to strike was not sustained.

176. Q. Did you yourself ever receive any complaints from these prisoners of war who were confined at the Guard Unit as to the treatment given them by the guards?

A. Did I personally receive these complaints directly from the prisoners?

177. Q. Yes.

A. No.

The witness was duly warned.

The commission then, at 4:30 p. m., adjourned until 9 a. m., tomorrow, Saturday, June 5, 1948.

TWENTIETH DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands.  
Saturday, June 5, 1948.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United  
States Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, and  
Lieutenant James P. Kenny, U. S. Navy, judge advocates.  
Archie L. Haden, 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.

Commander Martin E. Carlson, a counsel for the accused, made a motion  
as follows:

We request that Iwanami, Hiroshi be summoned as a witness for the  
defense. We request that the commission take the necessary steps in order  
to insure that Iwanami, Hiroshi be available as a witness for the defense  
during the trial. If Vice Admiral Wakabayashi and Admiral Hara, who are  
both in custody at the War Criminal Stockade, Guam, are to be tried, we  
hereby request that the necessary steps be taken to insure that Iwanami,  
Hiroshi also be available as a witness for the defense at the trials of  
Vice Admiral Wakabayashi and Admiral Hara.

The judge advocate replied, stating that he concurred with defense  
counsel.

The commission announced that the request was granted and directed the  
judge advocate to direct a communication to the convening authority to that  
effect.

Nakase, Shohichi, 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.)

178. Q. Do you remember who the officer of the day was that you sent to get



these submarine prisoners from a destroyer there in the bay at Truk?

A. I do not remember who the duty officer of that particular day was.

179. Q. Did the assistant officer of the guard go with him?

A. No, he did not.

180. Q. Did they get the prisoners of war from the destroyer Yamagumo?

A. I only know that it was from a destroyer. I do not know that it was from the Yamagumo.

181. Q. Was the commander in chief of the Combined Fleet aboard his flagship, the Musashi, at that time?

A. I cannot say for sure but I guess he was on board the Musashi.

182. Q. You know that his flagship was there at Truk at this time, do you not?

A. Yes, I know that.

183. Q. Do you remember when the Combined Fleet sailed from Truk?

A. I cannot say for sure what date it was but I believe it was about one week prior to the first air raid on Truk.

184. Q. Isn't it true that commander in chief Fourth Fleet had sailed in his flagship, the Kashima, prior to this time and was therefore not present at the time these submarine prisoners were turned over to the guard unit?

A. I do not know.

185. Q. Did you order these forty-two prisoners to be confined in the brig?

A. I was briefed by my predecessor that in case prisoners of war arrived at the Forty-first Guard Unit they were to be confined in the brig, so according to this they were confined in the brig.

186. Q. Weren't there some other spaces in which you could confine these prisoners?

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.

187. Q. Is that because the Forty-first Guard Unit was overcrowded with personnel at that time?

A. The Forty-first Guard Unit was overcrowded because there was no transportation available to send men who had come from Japan to the front lines, Rabaul and the Marshalls. Also there were depot personnel who were not connected with the Forty-first Guard Unit but who were billeted at the Forty-first Guard Unit and because of this number of persons being at the guard unit it was overcrowded. I, on one occasion, contacted the headquarters of the Fourth Base Force and requested that as the facilities were not large enough for all these personnel to allot us an additional barracks to accommodate these additional personnel.



188. Q. Did you notify the commanding officer of the guard unit that these forty-two prisoners of war had been confined in the brig?

A. I did.

189. Q. Did he approve of that confinement of the prisoners at the brig?

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

The accused replied.

The commission announced that the objection was not sustained.

A. He didn't exactly say that he approved of it but when I reported to him he didn't say anything so I gathered that he approved.

190. Q. How were these forty-two prisoners dressed when you received them at the guard unit?

A. Roughly, about eleven among these forty-two prisoners just wore pants and the rest of them wore field green clothes and they looked as if they were not military prisoners but workers at some kind of ordnance depot. That is how they were dressed.

191. Q. Did the guard unit furnish them additional clothes before you put them aboard these two carriers?

A. Just before handing them over to the two aircraft carriers these prisoners were issued winter uniforms which the non-commissioned officers of the Japanese navy used.

192. Q. Did the assistant officer of the guards have any other duties to perform during the time these forty-two prisoners were confined at the guard unit?

A. The assistant commander of the guards was a collateral duty. His main duty was that of assistant division officer and also adjutant of the special landing force.

193. Q. Were the orders that you received not to question these prisoners of war written?

A. No, it was not a written order. It was an order which came by telephone.

194. Q. Did it come to you by telephone?

A. Yes.

195. Q. How is it that it came to you and not the commanding officer of the guard unit?

A. As a customary practice matters which directly concern the commanding officer would come direct to him but such matters which I, the executive officer, had direct touch with, the headquarters would call up and ask me to come on the phone and therefore I would come on the phone and receive the order. Before carrying this out I would naturally tell this to the commanding officer, and on such occasions I would directly speak with the fleet staff officer over the phone. JK

196. Q. Was Captain Minematsu with you when the prisoners were turned over to be interrogated by officers of the Sixth Fleet?

A. Yes, Captain Minematsu was present there with me but just before I spoke to the staff officers of the Sixth Fleet, Commanding Officer Minematsu had left the scene. JK

197. Q. When these prisoners were turned over to be interrogated did you impose any conditions on these officers that were interrogating as to how they should be treated?

A. I did not.

198. Q. Did you get any reports from your guards that the officers who interrogated these prisoners had beaten them or mistreated them in any way while interrogating them?

A. No.

199. Q. Were you present at any time while these prisoners were being interrogated?

A. Do you mean right with them?

200. Q. So you could see.

A. If counsel was speaking of a position that I could see from, since this is an open field, I could see them.

201. Q. At any time while they were being interrogated did you see any prisoners being mistreated while they were being interrogated?

A. No, I did not.

202. Q. You didn't see any of the guards strike any of these prisoners with big clubs six feet by two feet by two feet?

A. No.

203. Q. These officers that interrogated them - where did they stay during the time they interrogated these prisoners?

A. I do not know for sure where they stayed.

204. Q. Was the order from the Fourth Base Force that these submarine prisoners were to go aboard the carriers a written order or was that also a telephone order?

A. It was by telephone.

205. Q. How many prisoners of war went aboard each of the carriers?

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. They were divided into half - twenty-one aboard each.

206. Q. Both these carriers were a part of the Combined Fleet, were they not?

A. I do not know of the actual set up.

207. Q. Who was notified when you turned over these prisoners of war to these carriers?

A. The Fourth Base Force was notified.

208. Q. The brig at which these prisoners were kept while at the guard unit - were the toilets and other sanitary facilities up to the Japanese naval standard for prisoners?

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.

209. Q. Could you tell by looking at the sanitary facilities in the brig if they were up to Japanese standard?  
SK

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 sustained.

210. Q. Would you say that the toilet facilities that were at the brig where the prisoners were staying were extremely satisfactory?

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.

Reexamined by the judge advocate:

211. Q. On cross-examination you testified that you saw the subordinate officer assemble the guard to give them the instructions you had given him with regard to treatment of prisoners of war. Did you hear him give these instructions to the guards?

A. According to my orders my subordinate officer immediately started training the guards. I did not see the circumstances of the training but I saw him training the guards so I am of the firm conviction that my orders were carried out.  
SK

The judge advocate moved to strike out the words "I am of the firm conviction that my orders were carried out," on the ground that they were the mere opinion of the witness and not responsive.

The commission directed that the words be stricken.

212. Q. At the time of the confinement of the submarine prisoners of war did you know of any Japanese regulations regarding prisoners of war?

A. I did not see the text.

213. Q. Did you ever learn any specific navy regulations and the text thereof concerning treatment of 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 sustained.

214. Q. Did you ever read any specific regulation in the Japanese navy concerning treatment of prisoners of war?

A. I was not chiefly in charge of the prisoners of war, therefore I did not see any such specific regulations.

215. Q. You testified on cross-examination that you had long experience in the handling of prisoners. Where, prior to the time you came to the Forty-first Guard Unit, did you acquire such experience?

A. I did not make such testimony.

216. Q. Have you had long experience in handling prisoners?

A. No, I did not have any experience in handling prisoners.

217. Q. You testified with regard to the submarine prisoners that in the daytime the doors to the cells were unlocked and they were allowed to go up to the fence. Will you look at Exhibit 19 and tell us if the place you call the fence is there located?

A. This outer surrounding is a board fence.

218. Q. What appears in this sketch as a continuation of the walls - is what you refer to as the fence?

A. Yes.

219. Q. I show you Exhibit 20 which deals with the guard house and ask you in what part of this building were the prisoners confined at night?

A. In the place where it says the room to sleep.

220. Q. You testified concerning the questioning of these submarine prisoners. How many prisoners did you see questioned at the tables you referred to?

A. One prisoner.

221. Q. How many times did you see the guard go to the brig and bring out prisoners and bring them back to the brig?

A. I cannot say how many times. I do not remember.

222. Q. Did you ever see the guard actually go to the brig and bring out a submarine prisoner to be questioned?

A. I saw this done the first time but thereafter I do not know how many times I saw the guard do this but as the guard had the key to the brig he would have to go to the brig to get the prisoners to be questioned.

223. Q. How many guards were on duty at the guardhouse at the time the submarine prisoners were confined?

A. The master-at-arms and his assistant. These two were at the guardhouse.

224. Q. At any time while the officers were interrogating the submarine prisoners did they request the assistance of the guard unit or the enlisted



men of the guard unit in connection with anything they were doing?

A. The interrogation by these officers was first conducted under the direct sun and it was very hot so the officers requested the officer of the day of the guard unit to put up a tent and the officer of the day sent some enlisted men to put this tent up. On another occasion the officers asked for water for the prisoners as the prisoners were thirsty and could hardly talk; so the water was brought. That is all I can remember.

225. Q. When you examined the brig where the prisoners were confined, did you examine the toilets?

A. I did not particularly open the head and look into it.

226. Q. Were there flies or maggots in the vicinity of the toilet?

A. As this was the Japanese type head in the pit I believe there were flies and maggots but I cannot conceive that these flies and maggots were in great number on the cover of the head.

The judge advocate moved to strike out the words "but I cannot conceive that these flies and maggots were in great number on the cover of the head" on the ground that it was an opinion of the witness.

The commission directed that the words be stricken.

227. Q. At the end of the war, when you receive<sup>ed</sup> the report you have testified to about the medical treatment received by the submarine prisoners of war at the hospital, did you also receive a report as to what had happened to the prisoners who went in January? JK

This question was objected to by the accused on the ground that it was beyond the scope of the cross-examination.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No, I did not.

The witness was duly warned.

The commission then, at 10:25 a.m., adjourned until 9 a.m., Monday, June 7, 1948.

TWENTY-FIRST DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands,  
Monday, June 7, 1948.

The commission met at 9 a. m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United States  
Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, and  
Lieutenant James P. Kenny, U. S. Navy, judge advocates.  
Robert Oldham, yeoman third 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.

Nakase, Shohichi, 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.

Recross-examined by the accused:

228. Q. Are you familiar with the existence of the regulations concerning  
the handling of prisoners set forth in the Naval Regulations, volume four?  
A. I have from time to time read volume four of Naval Regulations, but I  
did not read the regulations concerning the treatment of prisoners of war.

229. Q. The day before yesterday when the judge advocate asked you the  
question, "How many submarine prisoners you saw being questioned?" you  
answered, "One." Do you mean by this that you saw one prisoner being  
questioned by the investigators simultaneously or do you mean throughout the  
three days you saw only one prisoner being questioned?

A. I saw at the two tables one prisoner at each table being questioned and  
I saw this several times.

230. Q. How far away was your office from the brig?

A. I had no office. My private room was used as my office. From this  
private room the brig was about sixty meters away.

231. Q. Could you see the brig from this room?

A. No.

232. Q. How far away from your private room was the parade ground where the prisoners of war were being interrogated?

A. I believe it was around fifty meters.

233. Q. Could you see the parade ground from this room?

A. Yes.

234. Q. Isn't it true that all forty-two prisoners were interrogated?

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

The accused replied.

The commission announced that the objection was sustained.

235. Q. Do you know of your own knowledge if all forty-two prisoners were interrogated?

A. I do not know.

236. Q. Did you get a report from the interrogating officers that they had completed the interrogation of all these forty-two prisoners of war?

A. I did not receive any order specifying that they were through questioning all forty-two of the prisoners, but I did receive a report from these officers that they had finished the interrogation.

237. Q. Now when you examined the brig did you find that the toilets were satisfactory?

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

The accused made no reply.

The commission announced that the objection was sustained.

238. Q. Did you see any flies and maggots on the cover of these toilets?

A. No, I did not see any on the covers.

239. Q. Although you did not see the assistant guard officer every minute during the time that he instructed the guards, how do you know that your orders were carried out regarding the humane treatment of prisoners of war?

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

The accused reframed the question.

240. Q. How do you know that your orders to the assistant officer of the guards were carried out?

This question was objected to by the judge advocate on the ground that it was too broad in scope.

The accused made no reply.

The commission announced that the objection was sustained.

241. Q. Were your instructions that prisoners of war be humanely treated?  
A. Yes.

242. Q. Did you treat prisoners of war at the Forty-first Guard Unit humanely?

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

The accused replied.

The commission announced that the objection was sustained.

243. Q. Did your commanding officer, Captain Minematsu, approve of this policy that prisoners of war at the Guard Unit be treated humanely?

This question was objected to by the judge advocate on the ground that it called for the opinion of the witness, was irrelevant and immaterial, and as characterizing what this witness was alleged to have given as instructions, as a policy.

The accused made no reply.

The commission announced that the objection was not sustained.

A. Commanding Officer Minematsu approved of my handling of the prisoners.

244. Q. Did Captain Minematsu ever order you to treat prisoners inhumanely?

A. Absolutely not.

245. Q. Now, you testified that you were ordered to this duty at the Guard Unit by Vice Admiral Wakabayashi, the commanding officer of the Fourth Base Force; did he ever order you to treat prisoners of war at the Guard Unit inhumanely?

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

The accused replied.

The commission announced that the objection was sustained.

246. Q. Did the commanding officer of the Fourth Base Force ever order you to mistreat prisoners of war?

A. No.

247. Q. Did the commander in chief of the Fourth Fleet ever order you to mistreat prisoners of war?

A. No.

248. Q. So that all during your term of office at the Guard Unit, particularly as officer in charge of the prisoners of war, you continued to treat prisoners of war humanely. That was the policy of the commanding officer at the Guard Unit, the commanding officer of the Base Force, and also the commander in chief of the Fourth Fleet -- to treat prisoners of war humanely?

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



The accused made no reply.

The commission announced that the objection was sustained.

249. Q. Now, this treatment of prisoners of war on Truk, can it be characterized in this way: That all prisoners of war were at all times humanely treated and protected, particularly against acts of violence, insults and public curiosity?

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

The accused replied.

The commission announced that the objection was sustained.

250. Q. How would you characterize this treatment of prisoners of war at the Forty-first Guard Unit?

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

The accused made no reply.

The commission announced that the objection was sustained.

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

The commission did not desire to examine this witness.

The witness made the following statement:

The one point I would like to add is regarding the trouble with regard to the food given to the prisoners of war while they were confined. This food, that was provided for the prisoners, was the same food that was taken by all of the enlisted men, from the enlisted men up through the commanding officer of the naval forces at the fronts. The prisoners were not satisfied with this food, but I could not do anything about it at that time. That is all.

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 former rank.
- A. Inoue, Kenichi, former captain, Imperial Japanese Navy.
2. Where are you presently residing?
- A. I am residing at the witness camp.
3. Q. If you recognize the accused, state as whom?
- A. I recognize the accused. He is Vice Admiral Kobayashi.

4. Q. When did you enter the Imperial Japanese Navy?

A. I entered the Naval Academy in 1919.

5. Q. Were you ever stationed at Truk?

A. Yes.

6. Q. What organization were you attached to at Truk?

A. I was attached to the Fourth Fleet Headquarters.

7. Q. When were you attached to the Fourth Fleet Headquarters and what were your duties at that time?

A. I was the senior staff officer of the Fourth Fleet and I was attached to headquarters from August 10, 1943 until the end of May, 1944.

8. Q. Who was the commanding officer of the Fourth Fleet when you assumed your duties as senior staff officer?

A. Vice Admiral Kobayashi.

9. Q. Who relieved him?

A. Vice Admiral Hara.

10. Q. When did he relieve him?

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. It was four or five days after the big air raid on Truk in February, 1944, therefore, it was around the twenty-second or twenty-third of February, 1944. 9K

11. Q. Who was the commanding officer of the Fourth Base Force when you assumed your duty as senior staff officer of the Fourth Fleet?

A. Rear Admiral Wakabayashi.

12. Q. Who relieved him?

A. Rear Admiral Arima.

13. Q. When did he relieve Wakabayashi?

A. I believe the latter part of February, 1944.

14. Q. Who was the commanding officer of the Sixth Base Force when you assumed your duty as senior staff officer of the Fourth Fleet?

A. Rear Admiral Abe.

15. Q. Who relieved him?

A. Rear Admiral Akiyama.

16. Q. When did he relieve him?

A. I believe it was the latter part of November, 1943.

17. Q. I show you Exhibit 2 which consists of Annex Tables numbers 3 and 4 of the organization of the Fourth Fleet as of 1 April 1943 and as of 1 January 1944, with modifications throughout those years. Will you look at this and tell us if this is accurate to your knowledge and to the best of your recollection?

This question was objected to by the accused on the ground that it 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 about the details, but I believe they conform to the organization at that time.

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

The commission directed that this answer be stricken.

18. Q. Will you examine in Annex Table number 3 of this exhibit, the major units set forth including the fleet and the base force and the squadrons directly under the fleets, and testify to your knowledge whether this accurately represents the organization that was under the Fourth Fleet at that time -- the major organization?

A. Annex 3 is correct.

19. Q. Will you examine Annex Table number 4 similarly with regard to the major units?

A. I believe it to be correct.

20. Q. Will you examine Annex Chart number 1 of this exhibit which shows the area of jurisdiction of the Fourth Fleet and tell us whether this accurately represents the geographical jurisdiction of the Fourth Fleet at the time indicated -- from January, 1944, to July, 1944? 9K

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

The judge advocate replied.

The commission announced that the objection was not sustained.

A. In this chart the Gilberts, Wake Island, Nauru Island, and Ocean Island are not marked. They were under the jurisdiction of the Fourth Fleet.

21. Q. Were the locations that are marked in this chart under the jurisdiction of the Fourth Fleet?

A. Yes, they were.

22. Q. Will you examine Annex Chart number 2 of this exhibit which similarly relates to the jurisdiction of the Fourth Fleet and tell us whether that is accurate? It covers the period from August, 1943, to February, 1944.

A. This chart similarly does not include the islands I mentioned, but in other respects it is correct.

23. Q. Where was the Sixth Base Force located?  
A. It was at Kwajalein.

24. Q. Were there any army personnel on Kwajalein during the period from August, 1943, to March, 1944?

A. There were army personnel after November, 1943, but prior to that I do not believe that there were any army personnel there. JK

The accused moved to strike out the words "I do not believe that there were any army personnel there" on the ground that it was hearsay and opinion.

The judge advocate replied.

The commission announced that the motion to strike was not sustained.

25. Q. After the army arrived at Kwajalein, who was the senior officer in rank, the senior army or the senior naval officer on Kwajalein?

A. It was a navy man. Rear Admiral Abe. JK

26. Q. Would the naval officer be in operational command of Kwajalein after the arrival of the army?

A. Except in the case of an enemy landing the army and navy units operated on their own and there was no question as to one commanding the other.

27. Q. In the event of land invasion, who was in operational command of Kwajalein?

A. The commandant of the Sixth Base Force.

28. Q. When you assumed your duty as senior staff officer of the Fourth Fleet in August, 1943, who was the commanding officer of Wake Island?

A. Captain Sakaibara.

29. Q. How long did he serve in this capacity?

A. Up until the end of the war.

30. Q. Were there any army units stationed at Wake Island during the period of August, 1943, to March, 1944?

A. Yes.

31. Q. Who was senior in rank, the senior army officer or the senior naval officer -- Captain Sakaibara?

A. The navy man -- Captain Sakaibara was senior.

32. Q. In the event of land invasion of Wake Island, who was in operational command of Wake?

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. Captain Sakaibara.

33. Q. Who was the commanding officer of Mille when you became senior staff officer of the Fourth Fleet?



A. Captain Shiga.

34. Q. How long did he serve in that capacity?

A. Up until the end of the war.

35. Q. Were there any army units stationed on Mille during the period of August, 1943, to March, 1944?

A. From the latter part of November, 1943, there were army units on Mille.

36. Q. Who was senior in rank -- the senior naval officer, Captain Shiga, or the senior army officer?

A. Captain Shiga was senior.

37. Q. Who was in operational command of Mille in the event of land invasion?

A. Captain Shiga.

38. Q. Who was the senior naval officer present ashore on Truk when you assumed your duty as senior staff officer of the Fourth Fleet?

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. Rear Admiral Wakabayashi.

39. Q. How long did he remain senior naval officer present ashore on Truk?

A. The Fourth Base Force commander was the senior naval officer ashore until the twelfth or thirteenth of November, 1943, when the Fourth Fleet Headquarters was moved ashore.

40. Q. During the period from November 13, 1943, to March, 1944, who was the senior naval officer present ashore? OK

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

The judge advocate reframed the question.

41. Q. During the period from November 13, 1943 to February 23, 1944, who was the senior staff officer present ashore?

A. Vice Admiral Kobayashi, but from around the twentieth of November, 1943, up until the tenth of December, 1943, Fourth Fleet Headquarters was at Kwajalein and Rear Admiral Wakabayashi was the senior naval officer on Truk during that period.

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 advocates, the accused, his counsel, and the interpreters.

Stewart R. Smith, 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.)

42. Q. Were there any army units present on Truk during the period August, 1943, through February 23, 1944?

A. From after the end of December, 1943, or the beginning of January, 1944, there were army units on Truk.

43. Q. Who was senior in rank, the senior navy officer or the senior army officer on Truk?

A. The senior army officer was appointed his rank on the same day and same month as Vice Admiral Kobayashi and there was no distinction of seniority between them.

44. Q. At any time during your tour of duty on Truk, were the navy units ever under the operational control of the army?

A. No.

45. Q. I show you Exhibit 18 which is a chart of Dublon and vicinity and ask you to identify by name the places on this chart which have been marked with the letters "A" to "H."

A. "A" is approximately the position where the Fourth Fleet Headquarters was located; "B" stands for the Naval Guard Unit; "C" the Submarine Base Unit; "D" is the Construction and Repair Unit; "E" the Seaplane Base Unit; "F" the Supply Department; "G" the Headquarters of the Fourth Base Force; "H" the Fourth Naval Hospital. 8K

46. Q. When you arrived at the Fourth Fleet Headquarters, where was the headquarters of the Fourth Fleet located?

A. It was aboard the warship KASHIMA.

47. Q. Where was the warship KASHIMA at that time?

A. It was at Truk.

48. Q. Did the warship KASHIMA, carrying the Fourth Fleet Headquarters, leave Truk at any time during the period from August through February 23?

A. Between the latter part of August, 1943, and 10 November 1943, the KASHIMA was at Kwajalein. On the 14th or 15th of November, 1943, the KASHIMA left for the Japanese homeland, being detached from the Fourth Fleet.

49. Q. On the 14th or 15th of November, 1943, where was the headquarters of the Fourth Fleet located?

A. The headquarters was located at the office of the construction department ashore at Truk.

50. Q. When did the headquarters of the Fourth Fleet move ashore at Truk?

A. It moved ashore around the 12th or 13th of November, 1943.

51. Q. During the period from the 12th or 13th of November, 1943, to February 23, 1944, where was the Fourth Fleet Headquarters located?

A. Except for the period from 20 November 1943 to 10 December 1943, when it was at Kwajalein, it was ashore on Truk.

52. Q. During that period from November 20 to about December 10, 1943, where was the headquarters of the Fourth Fleet?

A. Kwajalein.

53. Q. Was headquarters ashore or afloat at that time?

A. It was ashore.

54. Q. You referred to two trips taken by the Fourth Fleet Headquarters to Kwajalein. During the August trip you referred to, were any inspections made at Kwajalein or in the vicinity of Kwajalein by the Fourth Fleet?

A. Each naval guard unit under the Sixth Base Force was inspected.

55. Q. On what atoll or island was the first inspection made?

A. Kwajalein.

56. Q. What organization was inspected at Kwajalein?

A. The units inspected were the Sixth Base Force, the Naval Guard Unit, the branch office of the supply department, and the branch office of the construction department.

57. Q. Will you briefly describe this inspection trip?

A. It was around the latter part of August or the beginning of September, 1943, when Commander in Chief Kobayashi, with his chief of staff and staff officers, inspected first the Sixth Base Force, next the Naval Guard Unit, and the supply and construction departments, making the tour of the island by car.

58. Q. Did anything occur during this tour of the island?

A. Did you mean by that some accident or some such occurrence?

59. Q. Will you briefly describe what happened during the course of this automobile trip?

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

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Passing the place where the executions of prisoners of war had taken place during this ride in the automobile, I was informed by a staff officer of the Sixth Base Force that this was the place where the executions had taken place.

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 to strike was not sustained.

60. Q. What was the next island or atoll that was inspected during this inspection trip?

A. It was Wake.

61. Q. Will you briefly describe this inspection trip at Wake?

A. On Wake, all the forts and defense installations were inspected. After that a joint army and navy maneuver was held. During the inspection of various units on the island discussions arose as to the defense of these units in the event of enemy landing.

62. Q. Did either Vice Admiral Kobayashi or Captain Sakaibara join in the discussion of these plans?

A. They did.

63. Q. What was the total number of naval personnel on Wake at this time?

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. Approximately 800.

64. Q. How many army personnel were at Wake at that time?

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. Approximately 600.

65. Q. Do you know how many prisoners of war were on Wake at that time?

A. On this tour of inspection I saw eighty to ninety prisoners of war. JK

66. Q. After the inspection of Wake Island, during the remainder of this inspection trip, what other places do you recall were inspected in the area?

A. Kille, Maloelap, Wotje, and Jaluit were inspected.

67. Q. To the best of your knowledge, at any time during the entire period of this inspection tour, from August to November 10, 1943, were instructions or orders issued by Vice Admiral Kobayashi or any members of his staff to Vice Admiral Abe or any members of his staff or to any other units on Kwajalein, concerning prisoners of war?

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

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I have no recollection.

68. Q. Is it that you have no recollection of any such orders or instructions being issued?

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 such orders or instructions were given.



69. Q. To the best of your knowledge, were any orders or instructions issued by Vice Admiral Kobayashi or any members of his staff to Captain Sakai-bara or to any other units on Wake concerning prisoners of war?

A. No orders were issued.

70. Q. After the inspection trip to Wake Island, did you receive any dispatches concerning prisoners of war at Wake Island?

This question was objected to by the accused on the ground that it was vague as to which inspection trip the judge advocate referred, also that it was a leading question, irrelevant and immaterial.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. I recall two dispatches.

71. Q. Approximately when did you receive the first one?

A. The two of them were received almost simultaneously and I believe it was during the time Wake was being subjected to an air raid.

72. Q. From whom was the first dispatch received?

A. I do not know which dispatch was sent first. One was from the Naval Ministry and the other from Captain Sakaibara.

The accused moved to strike out this answer on the ground that it was not the best evidence; the dispatches themselves being the best evidence.

The judge advocate replied.

The commission announced that the motion to strike was not sustained.

73. Q. To whom was the dispatch from the Naval Ministry addressed?

A. It was addressed to the Commander in Chief of the Fourth Fleet and the information addressees were the Sixth Base Force and Commander Wake Island. 9K

74. Q. What was the content of this dispatch?

This question was objected to by the accused on the ground that it called for the opinion of the witness and hearsay evidence, and that the testimony of this witness was not the best evidence as to the contents of the dispatch. 9K

The judge advocate replied.

The commission announced that the objection was not sustained.

A. As I recall, the dispatch from the Naval Ministry requested the names of the prisoners of war held at Wake.

75. Q. Was any answer received by the Fourth Fleet regarding this dispatch advising the names of the prisoners of war?

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

The judge advocate withdrew the question.

76. Q. Was any dispatch received by the Fourth Fleet advising the names of these prisoners of war?

A. No.

77. Q. Did the Fourth Fleet at any subsequent time receive, in any other form, the names 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. No.

78. Q. To whom was the dispatch from Captain Sakaibara addressed?

A. As I recall it was addressed to the Commandant of the Sixth Base Force and information addressees were the Commander in Chief of the Fourth Fleet and the Naval Ministry. 9K

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

The judge advocate replied.

The commission announced that the motion to strike was not sustained.

79. Q. What was the content of this dispatch?

A. As I recall it stated that as enemy landings were imminent the prisoners of war had been disposed of.

The accused moved to strike out this answer on the ground that it was not the best evidence, but was the mere opinion of the witness, irrelevant and immaterial.

The judge advocate replied.

The commission announced that the motion to strike was not sustained.

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 advocates, 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.

(Examination continued.)

80. Q. You testified this morning that the dispatch received from Captain Sakaibara stated that as enemy landings were imminent the prisoners had been disposed of. Are you definite in your recollection of the contents of this dispatch?

This question was objected to by the accused on the ground that it was a misstatement of testimony.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. There is no mistake in the contents. I remember it very accurately.

81. Q. Was there any additional information in this dispatch besides what you have testified to as to the contents?

A. There was nothing further.

82. Q. When the dispatch was received from the Naval Ministry requesting the names of the prisoners of war on Wake Island, was any action taken by the Fourth Fleet?

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. No steps were taken.

83. Q. When the dispatch was received from Captain Sakaibara was any action taken by the Fourth Fleet?

A. No.

84. Q. How were dispatches handled at the Fourth Fleet Headquarters?

This question was objected to by the accused on the ground that it was irrelevant, immaterial, much too broad and general in scope.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. The dispatches were laid out on a desk in the operations room according to each unit. The members of the headquarters would look through all the dispatches and sign to show that they had seen them. When everybody had seen them, it would be about evening and then they would be filed away in separate books.

85. Q. To the best of your knowledge, were these dispatches ever filed before everyone had signed them?

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

The judge advocate replied.

The commission announced that the objection was sustained.

86. Q. You testified in your previous answer that when everyone had seen the dispatches and had initialed them they were filed. Whom do you mean by "everyone"?

A. I mean the Commander in Chief, the chief of staff, and all the staff officers.

87. Q. Were their titles set forth on the form blank used for dispatches?

A. Yes, on each dispatch form there were titles for the commander in chief, chief of staff, senior staff officer, and staff officers, chief surgeon, chief engineering officer, and chief paymaster.

88. Q. When you assumed your duty as senior staff officer of the Fourth Fleet did you see any orders or instructions to subordinate units regarding the reporting of the capture or confinement of prisoners of war? 9K

This question was objected to by the accused on the ground that the witness was not qualified to answer.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Do you mean during my term of office? 9K

89. Q. When you assumed the duty?

A. No.

90. Q. During the period from August, 1943, to February 23, 1944, to the best of your knowledge, were any orders or instructions issued by the Fourth Fleet concerning reporting of capture or confinement of prisoners of war?

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.

91. Q. To the best of your knowledge, was any system or procedure set up by Fourth Fleet to record the capture of prisoners of war?

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

The judge advocate replied.

The commission announced that the objection was not sustained.

A. No, there were none.



92. Q. To the best of your knowledge, was any system or procedure set up by Fourth Fleet to record the number of prisoners of war confined by subordinate units of the Fourth Fleet?  
A. No.

93. Q. What were the duties of the senior staff officer during your tour of duty with Fourth Fleet?  
A. Under orders of the chief of staff, the senior staff officer collected all the work which the Fourth Fleet handled and after putting them in form submitted it to the chief of staff.

94. Q. To the best of your knowledge, was any system or procedure set up by Fourth Fleet to record the disposition of prisoners of war held by subordinate units?  
A. No.

95. Q. To the best of your knowledge were any orders or instructions ever issued by the Fourth Fleet concerning treatment, protection, or safeguarding of prisoners of war?  
A. No.

96. Q. During your tour of duty as senior staff officer of the Fourth Fleet, did any prisoners of war arrive at Truk?  
A. Yes.

97. Q. Who were the first prisoners of war you remember at Truk?  
A. They were the submarine prisoners of war who arrived on Truk 20 November 1943.

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 to strike was not sustained.

98. Q. Did you see these prisoners of war?  
A. Yes, I saw them.

99. Q. Where did you see them?  
A. From a car while traveling from Fourth Fleet Headquarters to the seaplane base unit.

100. Q. Did you report to Admiral Kobayashi the arrival of these prisoners at Truk?  
A. I believe I spoke to him on arrival at the seaplane base unit, but my memory is not definite. JK

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 to strike was not sustained.

101. Q. Did any other prisoners of war arrive at Truk after these submarine prisoners of war?

A. I heard that there was a prisoner taken during the big air raid of February 17 and 18.

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

The commission directed that the answer be stricken.

102. Q. In addition to the prisoners of war you have testified to, were other prisoners of war confined at Truk during your tour of duty?

A. I do not know.

103. Q. Do you know if any prisoners of war were confined at the Forty-first Guard Unit other than the submarine prisoners of war you have testified about?

A. Looking back, I did not know at the time, but I was informed later.

104. Q. Were you informed that prisoners of war were confined at the Forty-first Guard Unit?

A. Yes.

105. Q. Were these prisoners of war interrogated?

A. Are you referring to prisoners of war other than the ones I mentioned?

106. Q. Any ones other than the submarine prisoners of war?

A. I have heard that the one prisoner taken during the air raid of February 17 and 18 was questioned at Fourth Fleet Headquarters, but I have not heard of any other prisoners being interrogated.

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.

107. Q. From whom did you hear that the prisoner was interrogated?

A. From the staff officer of the Fourth Fleet, Akai.

108. Q. Who were you informed by Lieutenant Akai, the staff officer of the Fourth Fleet, had interrogated this prisoner of war?

A. Staff Officer Akai said that he himself conducted the investigation.

109. Q. Do you remember the night of February 17, 1944?

A. Yes, I remember.

110. Q. What occurred on the night of February 17, 1944?

A. A defense conference was convened at Headquarters, Fourth Base Force, and I attended this meeting.

111. Q. What time was this conference held?

A. It began around sundown, about six o'clock in the evening.

112. Q. When did you arrive at this conference?

A. I arrived around nine o'clock.

113. Q. Who was present at this conference?

A. Those present were Rear Admiral Wakabayashi, Commander Higuchi, the chief of the supply department, chief of the construction department, and Staff Officer Kawamura.

114. Q. To whose staff was Kawamura attached?

A. He was attached to Fourth Fleet Headquarters.

115. Q. Were there other officers present at this conference?

A. I remember that all the cognizant commanding officers of units at Truk were present and the senior members of these units, but I don't recall their names. JK

116. Q. Do you recall whether the Guard Unit commanding officer was present?

A. The commanding officer of the Guard Unit was present.

117. Q. What happened when you arrived at the conference?

A. When I arrived at the conference I received a report from Staff Officer Kawamura on the conference up to that point.

118. Q. What was the content of that report?

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

The judge advocate replied.

The commission announced that the objection was not sustained.

A. The report was on the quantity of machine guns, anti-aircraft guns, and other arms necessary for the defense of Truk, and that prisoners of war had been disposed of at the Naval Guard Unit.

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

The judge advocate replied.

The commission was cleared. The commission was opened and all parties to the trial entered.

Robert Oldham, <sup>an</sup>eyoman third class, U. S. Navy, reporter. JK

No witnesses not otherwise connected with the trial were present.

The commission announced that the motion to strike was not sustained.

119. Q. Did Kawamura's report state who had reported the execution of the prisoners of war?

A. That could not be understood. Kawamura merely reported that the prisoners had been executed at the Naval Guard Unit.

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 to strike was not sustained.

120. Q. Do you know if a conference report was made to the commander in chief of the Fourth Fleet concerning this defense conference?

A. I do not know. I myself did not submit a report, but I believe Kawamura made a report as it was customary that he do so.

The accused moved to strike out the words "I believe Kawamura made a report as it was customary that he do so," on the grounds that it was the opinion of the witness.

The commission directed that these words be stricken.

121. Q. What was Kawamura's duty on the Fourth Fleet staff?

A. Defense.

122. Q. Was it his duty to report the defense conference which he attended to the Commander in Chief of the Fourth Fleet?

A. If there were matters to be disposed of as the result of a defense conference, then Kawamura would report, as a matter of course, to the commander in chief. It was not his duty to report. It was more of an obligation than a duty on the part of Kawamura to report such matters.

123. Q. At this conference were defense problems reported on?

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

The judge advocate reframed the question.

124. Q. Do you know whether the result of this conference was reported to the commander in chief of the Fourth Fleet?

A. I do not.

125. Q. What was the purpose of calling this conference at the Fourth Base Force on the night of the first air raid?

This question was objected to by the accused on the ground that it called for hearsay, opinion, and rumor.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. The large scale air raids on the 17th annihilated almost all of the installations on Truk and the objective of this conference was first, the restoration of these installations, and, secondly, how to conduct the defense of Truk. These were the two major problems.

126. Q. Was Kawamura, the senior defense staff officer of the Fourth Fleet, ordered to attend this conference? JK

A. He was not ordered to do so.

127. Q. You testified that when Kawamura reported to you he read from written notes. Is that a customary method of reporting conferences?

This question was objected to by the accused on the ground that the judge advocate was misquoting the witness.



The judge advocate reframed the question.

128. Q. When Kawamura reported to you, when you arrived at the conference, did he report from any written memoranda or notes?

A. He did use written notes.

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 to strike was not sustained.

129. Q. What was the method of reporting to the commander in chief on conferences that were attended by the staff officer?

A. It was the custom for the staff officer -- the cognizant staff officer -- to report to the chief of staff, and if the matter was important then the cognizant staff officer would report to the commander in chief in the presence of the chief of staff, referring to written notes. gk

130. Q. Who was the chief of staff of the Fourth Fleet at the time of this conference?

A. Rear Admiral Sumikawa.

131. Q. Do you know where Rear Admiral Sumikawa was at the time of this conference?

A. He was in Tokyo.

132. Q. At any time subsequent to this conference, did Vice Admiral Kobayashi request any investigation be made concerning 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. No.

133. Q. At any time before or after this conference during your tour of duty, did Admiral Kobayashi issue any orders or instructions regarding the treatment of prisoners of war?

A. No.

134. Q. When you took over from your predecessor as senior staff officer of the Fourth Fleet, did you examine the existing orders and instructions of the Fourth Fleet? gk

A. Yes, I saw them.

135. Q. How long a period were you briefed by your predecessor before taking over your duties?

A. Approximately two weeks.

136. Q. Did you go over all the existing orders and instructions of the Fourth Fleet prior to the departure of your predecessor?

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. Yes.

137. Q. Did you see any standing orders or instructions of the Fourth Fleet regarding prisoners of war?

A. No.

138. Q. During your tour of duty as senior staff officer of the Fourth Fleet did you ever see any orders or instructions from any echelon higher than the Fourth Fleet, with regard to the safeguarding, protection, or treatment of prisoners of war?

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

The judge advocate made no reply.

The commission announced that the objection was not sustained.

A. No.

139. Q. In the area of the Fourth Fleet, who was in control of the transportation of prisoners of war?

This question was objected to by the accused on the ground that it was immaterial, irrelevant, 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 think that there was any specific organization in control of the transportation as prisoners would be transported by air or by sea from naval guard units. The naval guard unit would assign guards to protect the prisoners of war.

140. Q. Did the army have any transportation of its own in the area of the Fourth Fleet?

A. No.

141. Q. Was there a transportation organization attached to the Fourth Fleet?

A. There was a transportation branch unit.

The witness was duly warned.

The commission then, at 4 p. m., adjourned until 9 a. m., tomorrow, Tuesday, June 8, 1948.

TWENTY-SECOND DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands.  
Tuesday, June 8, 1948.

The commission met at 9 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United  
States Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, judge advocate.  
Stewart R. Smith, 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.

Commander Martin E. Carlson, a counsel for the accused, made a motion  
to strike Annex Charts 1 and 2 of Exhibit 2 from the record as follows:

In view of the testimony of the witness Inoue, Kenichi, particularly his  
answer to question twenty, we move that Annex Charts 1 and 2 of Exhibit 2  
be stricken from the record. The witness has testified that the Gilberts,  
Wake Island, Nauru Island and Ocean Islands are not marked on these charts.  
Not even Kwajalein is shown on these charts. The charts are obviously  
incorrect and should be stricken, on the ground that they are misleading. gk

The judge advocate replied.

The commission announced that the motion to strike was not sustained.

Inoue, Kenichi, the witness under examination when the adjournment was  
taken, ~~engaged~~ <sup>engaged</sup>. He was warned that the oath previously taken was still bind- gk  
ing, and continued his testimony.

Cross-examined by the accused:

142. Q. Are both the third and fourth annex tables which were shown to you  
by the prosecution yesterday, tables of the organization according to the  
Imperial General Headquarters Wartime Organization, or according to Assign-  
ment of Forces?

A. I believe it to be according to the Assignment of Forces. I do not  
remember exactly the wartime organization and therefore can not state  
definitely.

143. Q. Are not both annex tables three and four according to wartime organization as determined by the Imperial General Headquarters?

A. As I stated previously, I do not recall the wartime organization as determined by Imperial General Headquarters, so I can not state definitely, but I believe this to be according to the Assignment of Forces.

144. Q. When the Assignment of Forces was in effect, was not the term "the Inner South Seas Force" used?

A. When the Assignment of Forces was in effect, the term "Inner South Seas Force" was used.

145. Q. Then do you notice the term used in both annex tables three and four?

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

The accused withdrew the question.

146. Q. In these charts, do you not notice the omission of certain important organizations which were actually in the Fourth Fleet?

A. As I stated yesterday, I did not recall the details, but merely pointed out the major organizations such as Base Force and Naval Guard Unit. I can not say, therefore, whether minor organizations were omitted or not.

147. Q. Were there important organizations, such as land-based air groups, under the Fourth Fleet?

A. Yes, there was an air group - the 22nd Air Group.

148. Q. Besides that, were there not construction groups?

A. There were construction groups.

149. Q. Is there any difference between "shisetsu tai" and "setsuei tai"? (T.N. Both these words mean "construction" in Japanese. Defense counsel desires the witness to define them.)

The commission directed counsel for the accused to point out the relevance of this line of questioning to the issues of this trial.

The accused withdrew the question.

The judge advocate moved to strike out the answers to the two previous questions on the ground that they were irrelevant.

The commission directed that these answers be stricken.

150. Q. After your assumption of office as senior staff officer of the Fourth Fleet and during the time Kobayashi was in office, was there a military administrative organization within the Fourth Fleet?

A. Yes, there was one, at Guam.

151. Q. Under what designation?

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 do not recall the name of this organization, nor whether it was under the immediate command of the Commander in Chief of the Fourth Fleet, or whether it was under the immediate command of the Sixth Base Force stationed at Saipan.

152. Q. Was not a Fourth Naval Hospital under the command of the Commander in Chief of the Fourth Fleet?

A. There was.

153. Q. What was the distance east to west, and south to north, of the area of jurisdiction of the Fourth Fleet, between the dates August, 1943, and 23 February, 1944?

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 do not remember the distance, but if I refer to the chart I can give an approximation. Approximately, east to west, 1200 miles; north to south, 800 miles. Nautical miles.

154. Q. Who was the immediate superior controlling and supervising the commanding officer of the Sixty-fifth Naval Guard Unit at Wake between the dates August, 1943 and February, 1944?

A. Was it meant by the question, who was the immediate superior of the Sixty-fifth Naval Guard Unit commanding officer?

155. Q. Yes.

A. Commandant of the <sup>5</sup>Sixth Base Force.

156. Q. Who was he?

A. Up until around the end of November, 1943, it was Rear Admiral Abe and after that date it was Rear Admiral Akiyama.

157. Q. During that same period of time, who was the immediate superior of the commanding officer of the Sixty-sixth Naval Guard Unit at Mille, in controlling and supervising him?

A. As I said before, the two admirals - Rear Admiral Abe and Rear Admiral Akiyama.

158. Q. Who had the responsibility of the supervision and control of army units stationed at Mille, except in the case of land operations?

A. Lieutenant General Mugikura, stationed at Truk.

The judge advocate moved to strike out this answer, and the question, on the ground that it was misleading, since it did not establish the local commanding officer at Mille Atoll.

The commission directed that the question and answer be stricken.

159. Q. Who at Mille had the responsibility for the control and supervision of army forces on that island?

A. After November, 1943, it was Colonel Oishi.

160. Q. You testified that the Fourth Fleet with its headquarters moved to Kwajalein on two occasions during 1943. Did you receive any reports of two aviator prisoners of war who were taken and confined at Kwajalein in July or August of 1943?

A. No, I did not.

161. Q. Did you receive any such reports by February 23, 1944?

A. I do not remember.

162. Q. After the Fourth Fleet Headquarters had returned to Truk from its second trip to Kwajalein, and up until February 23, 1944, did you receive reports of seven prisoners of war taken at and confined at Kwajalein around December of 1943?

A. No.

163. Q. Do you know what the battle conditions were in the Marshalls around October of 1943 when the Fourth Fleet Headquarters moved to Kwajalein aboard the ship Kashima?

A. General reconnaissance by enemy planes was being conducted over the whole area of the Marshalls. Wake Island alone suffered two air raids during October. I do not remember the exact dates of the air raids.

164. Q. When was the inspection of Wake conducted?

A. The early part of September, I believe.

165. Q. When defense plans were discussed at Wake by the army and the navy, what results were reached?

This question was objected to by the judge advocate on the ground that no foundation had been laid; the accused must first establish that this witness was present at these conferences between the army and the navy.

The accused replied.

The commission announced that the objection was not sustained.

A. I remember the following: That it was discussed that the navy defenses were not up to those of the army and that it was decided that the navy consolidate their defenses and pattern them on those of the army; that navy gun emplacements and searchlights in the area of army jurisdiction be placed under the command of the army; and as an over-all defense plan to lay stress on the defense of the airdromes and to guard these to the end.

166. Q. Were there no other operational pacts, as they were, concluded between the army and the navy, other than that you have given above?

A. No.

167. Q. Was there a defense pact concluded between the army and navy for the defense of Truk while Kobayashi was in office?

A. While the Commandant of the Fourth Base Force was in charge of the defenses of Truk, no such pact was made by Kobayashi and the supreme commander of the army forces.

168. Q. Does it follow then that the Commandant of the Fourth Base Force was in charge of land, sea and air operations at Truk?

A. The seas outside Truk Atoll and the air defense came under the Commander in Chief of the Fourth Fleet, but there was no need to form a pact about these matters with the supreme commander of the army forces.

169. Q. Was there no army and navy pact concluded for the occasion of an enemy landing on Truk?

A. Outside of orders which came from Tokyo, there were no pacts concluded for the defense of the south seas islands.

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

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.)

170. Q. During the inspection of Wake Island did you receive any reports of the disposal of one prisoner of war confined on that island in July of 1943?

A. I have no recollection.

171. Q. Between the time of the inspection and February 23, 1944 did you receive any reports on this matter?

A. No.

172. Q. Did you receive any reports of a prisoner of war having been executed between October 15, 1943 and February 23, 1944 on Wake?

A. No.

173. Q. When did you see the prisoners of war on Wake Island?

A. It was during my inspection of Wake Island. JK

174. Q. Where did you see the prisoners of war?

A. I believe it was in front of the house where the prisoners of war were confined. JK

175. Q. Did you at that time see the conditions under which the prisoners of war were being treated?

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.

176. Q. During the inspection of Wake do you know whether Vice Admiral Kobayashi gave any instructions to Captain Sakaibara concerning the dispatch of the prisoners of war to Japan?

A. When Vice Admiral Kobayashi saw the house in which the prisoners of war were confined and saw a sign in that house which read "The unhappy house" written in English and when Kobayashi saw this he asked Sakaibara if there were no mistreatment of prisoners of war to which Sakaibara answered "Definitely not." They seemed to have conversed about prisoners of war after that but I could not hear the words. 9K

The judge advocate moved to strike out the words "When Vice Admiral Kobayashi saw the house in which the prisoners of war were confined and saw a sign in that house which read "The unhappy house" written in English and when Kobayashi saw this he asked Sakaibara if there were no mistreatment of prisoners of war to which Sakaibara answered "Definitely not," on the ground that they were not responsive.

The accused replied.

The commission directed that these words be stricken.

177. Q. Do you know whether Vice Admiral Kobayashi gave any instructions to Captain Sakaibara concerning the dispatch of the prisoners of war to the Japanese homeland during the inspection?

A. I believe that happened under the circumstances I explained previously but I did not know the contents.

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 directed that the answer be stricken.

The question was repeated.

A. I do not remember.

178. Q. At that time did Kobayashi inspect the actual conditions in which the prisoners of war were confined?

A. He did see them.

179. Q. Were you present when Kobayashi inspected the 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. I went on this inspection slightly after Vice Admiral Kobayashi.

180. Q. Please describe the actual conditions as you saw them 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. When Vice Admiral Kobayashi entered the house of the prisoners of war he saw a sign "Unhappy house" inside the building and he asked Sakaibara whether or not the prisoners of war were not mistreated and Sakaibara answered that there was absolutely no mistreatment and after that I believe the two discussed prisoners of war but I do not know the contents of their conversation. JK

181. Q. How were the transportation conditions existing at that time between the area under the jurisdiction of the Fourth Fleet and the Japanese mainland? JK

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 conditions were such that a transport would arrive from Japan to the south seas area about once in a month and a half. At Truk there were transports on their way to Rabaul and New Guinea and the frequency was higher there but ships going to the Marshalls were only once every forty-five days or once every two months.

182. Q. When did Fourth Fleet Headquarters receive the dispatch from Wake concerning the disposal of prisoners of war?

A. It was during the period when Wake was being subjected to heavy air raids. It was sometime in October. I do not remember the date.

183. Q. Within your knowledge, do you know whether Kobayashi issued any orders that all prisoners of war be disposed of in event of an enemy landing?

A. No.

184. Q. After your inspection of Mille Island and up until February 23, 1944 did you receive any reports of disposal of five prisoners of war at Mille in February of 1944?

A. No.

185. Q. You previously testified that the commanding officer of the Guard Unit at Mille was Colonel Oishi. Do you know who his immediate superior officer as regards supervision and control was? JK

A. I did not say that Colonel Oishi was the commanding officer of all the forces on Mille but was the supreme commander of the army forces there. His direct superior was Lieutenant General Mugikura at Truk.

186. Q. You testified yesterday as to the handling of dispatches at Fourth Fleet Headquarters. Was this method of handling dispatches customary at Fleet Headquarters ashore or aboard the flagship?

A. It is the same in both occasions. 8K

187. Q. In the period immediately after your assumption of office as senior staff officer was it not the custom for the dispatches to be taken to the commander in chief?

A. No. From the time I assumed my post the dispatches were laid out as previously stated except for important messages which had to be acted on, in which case they were taken to the commander in chief.

188. Q. Where, aboard the flagship, Kashima, was the operations room located?

A. In the fore part of the ship, close to the bridge.

189. Q. Where was the room of the commander in chief?

A. To the aft of the ship.

190. Q. Did you see the commander in chief repeatedly going from his room to the operations room to look over the dispatches?

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 least twice a day he went to the operations room to look at the dispatches.

191. Q. Do you know the reason why Fourth Fleet did not issue any instructions or orders relative to treatment of prisoners of war to lower echelons? 8K

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 stated it would rule after the reply.

A. I do not know but I have my opinions.

The commission announced that the objection was not sustained.

192. Q. Was it not your duty as a staff officer to submit recommendations to the commander in chief? 8K

A. Not directly to the commander in chief but to him through the chief of staff.

193. Q. Staff officers would submit their recommendations to the chief of staff and the chief of staff, accepting them, would submit them to the commander in chief and the commander in chief would in turn, if he did accept them, issue an order. Is that correct?

This question was objected to by the judge advocate on the ground that it was improper in form.

The accused made no reply.

The commission announced that the objection was sustained.

194. Q. Did you at any time submit any recommendations to the chief of staff or the commander in chief of the fleet himself concerning treatment of prisoners of war as you said you had opinions?

A. I did not.

195. Q. In the Japanese navy were there any regulations which one could use as a basis for handling prisoners of war?

This question was objected to by the judge advocate on the ground that it was too general. JK

The accused made no reply.

The commission announced that the objection was not sustained.

A. I do not remember whether the Japanese navy issued any regulations but there were the wartime international regulations.

196. Q. Do you know of the existence of regulations for treatment of prisoners of war of the Japanese navy?

A. I do not know.

197. Q. You stated just now that there was international law in regard to treatment of prisoners of war but was this carried out in the Japanese 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.

198. Q. Was this international law relative to treatment of prisoners of war promulgated in the Japanese navy?

A. I do not recall.

199. Q. Do you know whether this international law relative to treatment of prisoners of war is incorporated in the service regulations of personnel on naval vessels?

A. I do not recall.

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.

Robert Oldham, yeoman third 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.)

200. Q. Do you know if there was any necessity for Fourth Fleet to issue orders or instructions pertaining to the protection and treatment of prisoners of war to its subordinate units?

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

The accused replied.

The commission announced that the objection was sustained.

201. Q. After the opening of the Pacific war, were there any specific instructions pertaining to protection and treatment of prisoners of war issued by the Navy Ministry?

A. I do not recall.

202. Q. Do you know whether any prisoners of war were confined in the area of jurisdiction of the Fourth Fleet during your tour of duty as senior staff officer of the Fourth Fleet?

A. I do.

203. Q. On what was their treatment based?

This question was objected to by the judge advocate on the ground that it was improper in form.

The accused refrained the question.

204. Q. Do you know on the basis of what orders or regulations these prisoners of war were treated?

A. Are you referring just to the treatment or does that include the transportation of prisoners of war, et cetera?

205. Q. Handling, treatment and transportation.

A. As to treatment they were to be treated on the basis of international treaties and as for transportation, as no specific instructions had been issued from Tokyo, the cognizant local commander dispatched the prisoners of war as the occasion arrived.

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

The accused replied.

The commission directed that this answer be stricken.

206. Q. Where were prisoners of war confined in the area of jurisdiction of the Fourth Fleet?



A. At the naval guard units of various islands.

207. Q. What was it that determined that prisoners of war be confined at the naval guard units?

A. I have not seen any regulations on that point. It was so done prior to my assumption of office and I continued in the practice of my predecessor.

208. Q. Can you then state that there were no regulations on that subject?

A. I can not state that there were no regulations. I merely say that I did not see such instructions.

209. Q. Who was the person responsible for the protection and care of prisoners of war when such were confined at the naval guard units?

This question was objected to by the judge advocate on the ground that it was too general, and called for the opinion of the witness.

The accused reframed the question.

210. Q. Do you know who was the responsible officer for the handling and protection of prisoners of war confined at the Naval Guard Unit on Truk?

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

The commission announced that the objection was not sustained.

A. The commanding officer of the Naval Guard Unit.

211. Q. Who was his immediate superior from the point of view of supervision and control?

A. Commandant Fourth Base Force.

212. Q. Who was the commandant of the Fourth Base Force from August 1943 until around February 23, 1944?

A. Rear Admiral Wakabayashi.

213. Q. You testified that there was no procedure or system of recording prisoners of war taken. Do you know the reason why no such system or procedure was established?

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

The accused replied.

The commission announced that the objection was not sustained.

A. In the area of jurisdiction of Fourth Fleet there were no places for confinement of prisoners of war. The prisoners of war were taken to the Naval Guard Unit but they were there only as transients on their way to Tokyo. The duty of the Fourth Fleet was to see that they were given safe passage to Tokyo and there was no need for the Fourth Fleet to establish systems or procedures to record the taking of prisoners of war, et cetera.

The commission directed that the words "and there was no need for the Fourth Fleet to establish systems or procedures to record the taking of prisoners of war, et cetera," be stricken. JK

The judge advocate moved to strike out this entire answer on the ground

that it was the opinion of the witness.

The accused replied.

The commission announced that the motion to strike was not sustained.

214. Q. You testified that there were no systems or procedures for recording the number of prisoners of war confined. But, was it for the same reasons that there were no such systems or procedures?

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

The accused replied.

The commission announced that the objection was sustained.

215. Q. Were reports of the departure and arrivals of prisoners of war received by the Fourth Fleet from the outlying commands on every occasion?

A. I do not recall.

216. Q. Were these reports received from the other commands, as to the arrival and departure of prisoners of war, submitted to the commander in chief each time?

A. Not always would a staff officer directly report it to the commander in chief but if the dispatches were there it is possible that the commander in chief saw them.

217. Q. You testified that you heard from Kawamura at the conference held on the night of the 17th of February, 1944, at Fourth Base Force Headquarters that prisoners of war had been executed at the Forty-first Naval Guard Unit. But did he state who had reported that the execution had taken place?

A. He told me it was the commanding officer of the Forty-first Naval Guard Unit who had made that report. JK

218. Q. Do you know who that commanding officer of the Forty-first Naval Guard Unit was?

A. Captain Tanaka.

219. Q. Do you know whether Kawamura reported to the commander in chief that there was a report made of the execution of the prisoners of war?

A. I was not present when Kawamura made his report nor did I receive a report from Kawamura that he had reported to the commander in chief, so I do not know.

220. Q. Did you report to the commander in chief that there was a report of an execution of prisoners of war?

A. No.

<sup>2</sup>  
221. Q. As senior staff officer did you know that there were prisoners of war confined at the Forty-first Naval Guard Unit prior to the conference on the night of February 17th? JK

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

The accused made no reply.

The commission announced that the objection was not sustained.

A. I do not know.

222. Q. Did any of the subordinate commands of the Fourth Fleet, such as the Fourth Base Force or the Forty-first Naval Guard Unit, request Fourth Fleet that executions be permitted prior to this conference?

This question was objected to by the judge advocate on the ground that it was much too broad.

The accused reframed the question.

223. Q. As senior staff officer of the Fourth Fleet do you know whether either Fourth Base Force or the Forty-first Naval Guard Unit requested permission to dispose of prisoners of war confined at the Forty-first Naval Guard Unit prior to the conference on the night of 17 February 1944?

A. I do not know.

224. Q. In the direct examination you testified that you went to the seaplane base unit. On what business did you go there?

A. Are you referring to my visit on the twentieth of November 1943?

225. Q. The visit you were referring to when you stated you went to the seaplane base?

A. I recall that I made this reference to the seaplane base only once when I answered the question concerning where I had seen submarine prisoners of war.

226. Q. I am referring to that incident when you saw the submarine prisoners of war. I wish to know on what basis you went to that base on that occasion?

A. It was on the occasion when the commander in chief was on his way to the seaplane base to board a plane for Kwajalein to direct the operations in the Gilberts area.

227. Q. Do you know of the battle conditions in the Gilberts around that time?

A. Bombardment commenced from the 19th of November and from the 20th of November landing operations were carried out through the Gilberts. Makin and Tarawa were invaded. The invasion of Makin and Tarawa began around the 20th and by the 25th all of the forces there were annihilated. From the 19th of November until the end of that month we attacked enemy shipping, as I recall by aircraft.

228. Q. Do you know the physical condition of Vice Admiral Kobayashi around the time of the large scale air raid suffered on Truk on the 17th and 18th of February 1944?

A. As I recall from the early part of February he was always visiting the hospital regularly suffering from piles.

229. Q. You testified to his condition around the early part of February,



but could you testify to his condition around the 17th and 18th of the same month?

A. As I recall he was in very bad shape and reclined on the sofa most of the time.

230. Q. Was all business at the headquarters reported to Kobayashi during this period or was the business curtailed to some extent?

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

The accused reframed the question.

231. Q. Was Kobayashi at that time performing his duties to the same extent as when he was in good health?

A. After his illness became acute only operational matters were referred to him, and I believe the chief of staff was handling all the other minor matters.

232. Q. Isn't it true that on February 17th Admiral Kobayashi had already received his orders relieving him of duty as commander in chief of the Fourth Fleet?

A. I do not know.

233. Q. In this Annex Chart number 1 to Exhibit 2, the day was originally June 1941, now that has been stricken out and the abbreviation "J A N" written in, does this mean that this annex chart shows the peace time jurisdiction of this fleet?

This question was objected to by the judge advocate on the ground that it was misleading and this witness could not be expected to testify concerning the correcting of this chart.

The accused made no reply.

The commission announced that the objection was sustained.

234. Q. You testified after looking at this Exhibit 2 that you believe the annex table conformed to the organization at that time. By the words "that time," what time do you mean?

A. By "that time" I meant during my tour of duty.

235. Q. Then you don't know whether that was the organization as shown on the tables of April 1, 1943?

A. There were no changes in the forces before and after I assumed my post.

236. Q. Were you a member of the Fourth Fleet before you assumed your duty as senior staff officer?

A. No.

237. Q. In this table, Annex Table number 3, what do the words "Nagara added" mean?

A. The word "added" means this warship, the Nagara, was added to the Fourth Fleet and the other warship, the Kashima, was removed from the Fourth Fleet.



238. Q. In this Annex Table number 3 - the Fourth Fleet is shown there immediately under the Combined Fleet with a line drawn from the Combined Fleet; does that mean that the Fourth Fleet was subordinate to the Combined Fleet?

A. Yes.

239. Q. And in Annex Table number 4, is it the same way?

A. Yes.

240. Q. Which means that the Fourth Fleet was a part of the Combined Fleet. Does it?

A. That is so.

241. Q. In this Annex Table number 3, just opposite Combined Fleet is shown Fourth Base Force; does that mean then that the Fourth Base Force was a part of or subordinate to the Combined Fleet?

A. That is not so.

242. Q. What is the extent of the area of the jurisdiction of the Fourth Fleet - in other words, how many square miles of territory did it embrace?

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.

243. Q. In this Annex Table number 2, the Philippine Islands and Formosa<sup>gk</sup> are shown there. Were these territories included in the jurisdiction of the Fourth Fleet?

A. No.

244. Q. Do you know how many islands and atolls were included in the jurisdiction of the Fourth Fleet?

A. I do not remember.

245. Q. How did the commander in chief of the Fourth Fleet exercise jurisdiction over this territory?

This question was objected to by the judge advocate on the ground that it was much too general and vague.<sup>gk</sup>

The accused made no reply.

The commission announced that the objection was sustained.

246. Q. Who appointed the base force commanders?

A. The Navy Ministry.

247. Q. Who appointed the island commanders?

A. The Navy Ministry.

248. Q. Who could remove these base force and island commanders then from their duty?

A. Under special circumstances the commander in chief of the Fourth Fleet or the commander in chief of the Combined Fleet could remove these commanding officers, but they would have had to submit a report to the Navy Ministry immediately upon their action.

249. Q. Was Captain Sakaibara the island commander of Wake?

A. Yes, he was the commander. Captain Sakaibara was the commanding officer of the Sixty-fifth Naval Guard Unit and the same Guard Unit was stationed on Wake and therefore he was the commander of Wake but there was no such official designation.

250. Q. Was the commander in chief of the Combined Fleet at Truk when the Kashima left Truk on this trip to Kwajalein?

A. The commander in chief of the Combined Fleet was at Truk until February fourth or seventh, when he went with the fleet to the Japanese homeland. I believe that in the interim he left Truk for Eniwetok for a short period. I do not know the exact day when the fleet went to Eniwetok.

251. Q. During the time that the commander in chief of the Combined Fleet was at Truk wasn't he the senior Japanese officer at Truk?

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

The accused made no reply.

The commission announced that the objection was not sustained.

A. He was the most senior Japanese officer present.

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

The accused made no reply.

The commission announced that the motion to strike was not sustained.

252. Q. Do you know what the jurisdiction of the commander in chief of the Combined Fleet was?

A. I do not know definitely but I believe his sphere of jurisdiction ranged from the Indian Ocean - for the west boundary, and the Gilberts for the eastern boundary.

253. Q. Do you know how far north it extended?

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

The accused replied.

The commission announced that the objection was not sustained.

A. I do not recall exactly the northern boundary but it was to the south of the Japanese mainland and the China coast.

The commission then, at 3:15 p.m., took a recess until 3:30 p.m., at which time it reconvened.

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

Stewart R. Smith, 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.)

254. Q. The dispatch that was sent by the Navy Ministry regarding the names of the prisoners of war on Wake, was that sent for action of Commander in Chief, Fourth Fleet?

A. As I recall the Fourth Fleet was the action addressee.

255. Q. On the dispatch that Captain Sakaibara sent, who was the action addressee on that?

A. As I recall, Commandant Sixth Base Force.

256. Q. Was the Navy Ministry an information addressee?

A. Yes, as I recall.

257. Q. So that when the Navy Ministry received that message from Captain Sakaibara, the answer to their message requesting the names of the prisoners of war on Wake was received by them, is that correct?

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

The accused made no reply.

The commission announced that the objection was sustained.

258. Q. When did you first visit Kwajalein?

A. The latter part of August, 1943.

259. Q. Were there any army personnel on Kwajalein at that time?

A. No, there were none.

260. Q. Who was the commanding officer of the army troupes on Kwajalein after November, 1943?

A. I do not recall his name, but he was a major, Imperial Japanese Army. 81c

261. Q. By what authority would the navy commanding officer at Kwajalein assume command of the army troupes of Kwajalein in case of an enemy landing?

A. He assumed command on the authority of the pact formed in Tokyo between the Army and Navy Imperial General Headquarters, which determined that in the event of an enemy landing the senior officer on each of the islands would assume the commands of these islands.

262. Q. Who was the senior army officer on Wake from August, 1943, to March, 1944?

A. I do not recall his name, but he was a colonel, Imperial Japanese Army.

263. Q. Then he was of the same rank as Captain Sakaibara, wasn't he?

A. They were of equal rank, but Sakaibara was senior.

264. Q. Did this pact say anything about prisoners of war?

A. You mean the supreme pact made in Tokyo?

265. Q. Yes.

A. No.

266. Q. Was Admiral Sumikawa the chief of staff of the Fourth Fleet all during the time you were senior staff officer of the Fourth Fleet?

A. From August, 1943, until the early part of January, 1944, the chief of staff was Rear Admiral Nabeshima. From that time, early January, until the middle of March, 1944, Rear Admiral Sumikawa was chief of staff, and after that date it was Rear Admiral Arima.

267. Q. This conference of 17 February, 1944, were there any army officers present?

A. I believe the division chief of staff was present, but I am not sure on that point.

268. Q. Was the Commander in Chief, Fourth Fleet, present at any time during this conference?

A. No.

269. Q. Was he sick at this time?

A. Yes.

270. Q. These written notes that you said Kawamura had, did you see these written notes?

A. I never saw them.

271. Q. Do you know if he had anything written in those notes regarding prisoners of war?

A. I do not know.

272. Q. Did you suggest to Admiral Sumikawa or to anyone that an investigation be held to investigate prisoners of war, before or after this conference?

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

The accused withdrew the question.

273. Q. Did you suggest an investigation be held to investigate prisoners of war before or after this conference?

A. No.

274. Q. When Admiral Sumikawa was away, to whom did you, as senior staff officer, report?

A. On what matters?



275. Q. On any official matters that you put in form to take up with the chief of staff?

A. They were mainly operational matters, but I brought them direct to the commander in chief.

276. Q. Did you bring this matter of the disposal of the prisoners at the Guard Unit, which you testified that ~~Kagawa~~ <sup>Kagawa</sup> told you about at this conference, to the attention of Vice Admiral Kobayashi? JK

A. I did not report.

277. Q. On Mille, who was the senior army officer during the period from August, 1943 to March, 1944, and what was his rank?

A. After the latter part of November, 1943, it was Colonel Oishi. Prior to that time there were no army units on Mille.

278. Q. Then he was of the same rank as Captain Shiga?

A. They were of equal rank but Shiga was senior.

279. Q. And Shiga assumed operational command of the army troops on Mille in accordance with the pact that was made in Tokyo, is that true?

A. He did not have to. He did not.

280. Q. Who assumed operational command of the army units on Mille in the case of an enemy landing?

A. If the enemy started landing operations, Captain Shiga would have assumed command, but the enemy never landed on Mille.

281. Q. So that on Mille, Captain Shiga never assumed operational control of the army units there, is that correct?

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.

282. Q. To the best of your knowledge, Captain Shiga never assumed operational control of the army units on Mille, is that correct?

A. When I went to Mille in the early part of November, 1943, Shiga had not assumed command of the army forces.

283. Q. To the best of your knowledge, did he ever assume operational control of the army units on Mille?

A. No.

284. Q. Do you know who ordered the flagship Kashima to be sent to Japan?

A. The Navy Ministry.

285. Q. Do you know why?

A. I do not know.

286. Q. Did the Navy Ministry also order that the Fourth Fleet Headquarters be transferred ashore at Truk?

A. No.

287. Q. Who ordered that?

A. The Commander in Chief of the Fourth Fleet decided that.

288. Q. What staff officer of the Sixth Base Force told you the executions had taken place on Kwajalein?

A. Commander Hayashi, the senior staff officer of the Sixth Base Force.

289. Q. Did he tell you the executions were illegal?

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 do not remember. I have no recollection of the details.

290. Q. Who were the 80 or 90 prisoners that you saw at Wake?

A. As I recall, there were many civilians among them.

291. Q. The number 80 or 90 is just an approximate number, is it?

A. Yes.

292. Q. Did you, at any time, hear Vice Admiral Abe request orders or instructions from Kobayashi on how to handle prisoners of war?

A. I have no recollection.

293. Q. This dispatch that Captain Sakaibara sent, relating to prisoners of war, did it say that all prisoners of war had been executed on Wake?

A. As I recall, it stated all the prisoners.

294. Q. Who decided at the Fourth Fleet Headquarters what messages should be taken to the Commander in Chief, Fourth Fleet, of the many messages that were received every day?

This question was objected to by the judge advocate on the ground that counsel was misquoting the testimony of this witness.

The accused withdrew the question.

295. Q. Were all messages received at the Fourth Fleet Headquarters taken to the Commander in Chief, Fourth Fleet?

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

The accused withdrew the question.

296. Q. During October, 1943, were all messages received at the Fourth Fleet Headquarters taken to the Commander in Chief, Fourth Fleet?

This question was objected to by the judge advocate on the ground that there has been no testimony to the effect that any dispatches were taken to the Commander in Chief at that time.

The accused replied.

The commission announced that the objection was not sustained.

A. As each staff officer did not take all the dispatches received by each officer, including myself, Commander in Chief did not see all the dispatches received.

297. Q. Who decided what messages should be taken to the Commander in Chief?

A. Important dispatches were taken to the Commander in Chief by the officer of the day without any specific instructions.

298. Q. By that you mean it was the duty of the officer of the day to determine what messages should be shown to the Commander in Chief?

A. There were at the most only one or two dispatches a day to be taken to the Commander in Chief, and they were operational in nature. The dispatches were filed for the Commander in Chief as I stated previously.

299. Q. Who determined, other than the one or two operational dispatches which you say the duty officer took to the Commander in Chief, Fourth Fleet, what other messages in this so-called folder were to be shown to the Commander in Chief?

This question was objected to by the judge advocate on the ground that it was ambiguous and misleading since this witness has not testified that there were any messages that were not put in the folder.

The accused replied.

The commission announced that the objection was sustained.

300. Q. Who determined the action officer on each dispatch that was received?

A. The chief of staff or the senior staff officer.

301. Q. Who determined the action officer on the dispatch received from Captain Sakaibara regarding the disposition or disposal of the prisoners on Wake?

A. No action was taken.

302. Q. Don't you remember that according to Navy Regulations monthly reports were required to be submitted by all navy activities?

This question was objected to by the judge advocate on the ground that it was too general in scope.

The accused replied.

The commission announced that the objection was sustained.

303. Q. Did any monthly reports that were submitted by the commanding officers of units include reports on prisoners of war?

A. I do not remember.

304. Q. Did you put into form and submit to Admiral Sumikawa the information that Sakaibara had disposed of prisoners of war on Wake?

A. The chief of staff at that time was Rear Admiral Nabeshima, but I did not take any special steps.

305. Q. As senior staff officer what, if any, orders or instructions concerning the treatment, protection, or safeguarding of prisoners of war

did you ever recommend to the chief of staff?

A. I never made any recommendations.

306. Q. You testified that Kawamura told you that it had been reported at this conference that prisoners of war had been executed at the Naval Guard Unit. Did he tell you that he had seen them executed there?

A. No, he did not say so.

307. Q. At the time of your inspection at Wake, did you hear Admiral Kobayashi discuss prisoners of war with Captain Sakaibara?

A. Outside of what I testified to this morning, I did not hear anything else.

308. Q. Did you hear Admiral Kobayashi tell Captain Sakaibara that he was to treat these prisoners humanely?

A. I have no recollection.

309. Q. How did Commander in Chief, Fourth Fleet, decide on what subject to issue his orders and when to issue his orders?

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

The accused replied.

The commission announced that the objection was sustained.

310. Q. How were the Navy Ministry's orders to send prisoners of war to Japan carried out by these commanding officers of navy units on these islands?

This question was objected to by the judge advocate on the ground that counsel was misquoting the testimony.

The accused withdrew the question.

311. Q. Do you know when the first prisoners of war were captured in this area, said to be the area of jurisdiction of the Fourth Fleet?

A. As I recall the first prisoners of war were the submarine prisoners of war taken and brought to Truk on the 20th of November, 1943.

312. Q. When were the prisoners of war who were at Wake captured?

A. I do not know. Probably they were taken when the Japanese forces occupied Wake.

313. Q. And when was that?

A. Around January or February, 1943, but I do not know exactly.

314. Q. Was Wake then outside of the jurisdiction of the Fourth Fleet?

A. I do not know.

The witness was duly warned.

The commission then, at 4:20 p.m., adjourned until 9 a.m., tomorrow, Wednesday, June 9, 1948.



TWENTY-THIRD DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands.  
Wednesday, June 9, 1948.

The commission met at 9:15 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United  
States Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army, DK  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, and  
Lieutenant James P. Kenry, U. S. Navy, judge advocates.  
Robert Oldham, yeoman third 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.

The judge advocate made the following statement:

In conformance with the procedure that was permitted by the commission  
with regard to obtaining an affidavit from Colonel Oishi, Chisato, the  
judge advocate would like the commission's authority to submit an interro-  
gatory to Oishi, Chisato, now confined in Sugamo Prison, Tokyo, Japan, and  
to obtain it directly with the understanding that these interrogatories will  
also be shown to defense counsel so that they may submit at the same time  
cross-interrogatories.

The commission announced that this request was granted.

Commander Martin E. Carlson, a counsel for the accused, made the fol-  
lowing statement:

In connection with the request of the judge advocate, we would like to  
make a request that Colonel Oishi, Chisato be summoned as a witness in order  
that we might have the right of cross-examination of this witness.

We would also like to have summoned as a witness Kawamura, Torao. We  
do not know where he is but we would like to have an effort made by the  
judge advocate to summon him as a witness.

We would like also to have summoned Louis Silvie Zamperini, now residing  
at 2028 Gramercy Avenue, Torrance, California, and Fred F. Garrett, now  
residing at 6566 West 84th Street, Los Angeles, California. DK

The judge advocate replied.

The commission announced that the request of the defense counsel, as to the witnesses residing in the continental limits of the United States were denied in view of the fact that these witnesses were outside the jurisdiction of this commission, and further that any witnesses located in Japan desired by the defense counsel should be requested through the office of the Director of War Crimes, Pacific Fleet.

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.

Reexamined by the judge advocate:

315. Q. How many battleships were under the command of the Fourth Fleet during the period that you were senior staff officer of the Fourth Fleet?  
A. There were none.

316. Q. How many cruisers were under the command of the Fourth Fleet during the period when you were senior staff officer of the Fourth Fleet?

This question was objected to by the accused on the ground that it was irrelevant, immaterial and the answer would be misleading.

The judge advocate replied.

The commission announced that the objection was not sustained.

A. Those cruisers which were assigned to the Fourth Fleet were one cruiser for training purposes and two light cruisers. During the course of operations there were at times assigned to the Fourth Fleet on a temporary basis heavy cruisers and other vessels.

317. Q. During what sort of operations were these assigned to 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. For example, towards the end of November 1943, the army units were being moved to the Marshall Islands - cruisers from the Second Fleet were detached and assigned to the Fourth Fleet.

318. Q. Were cruisers ever detached from the Second Fleet and assigned to the Combined Fleet for anything other than convoy purposes?

A. I have no recollection.

319. Q. You referred to a training cruiser and two light cruisers that were assigned to the Fourth Fleet. What was the name of this training cruiser?  
A. It was the Kashima.

320. Q. Was that the flagship of the Fourth Fleet at that time?  
A. Yes.

321. Q. You referred to two light cruisers. During what period of time were they with part of the Fourth Fleet?

A. As I recollect they were attached to the Fourth Fleet from August 1943 up until 17 February 1944 when they were both sunk during the air raid.

322. Q. How many aircraft carriers were under the Fourth Fleet during the period of your tour of duty?

A. There were no aircraft carriers attached.

323. Q. How many destroyers were under the command of the Fourth Fleet during your tour of duty?

A. Except for that occasion when the Kashima went to Kwajalein when there were two destroyers assigned to escort the Kashima, there were no others.

324. Q. At the time the Combined Fleet was at Truk was its headquarters afloat or ashore during the period of your tour of duty?

A. Its headquarters was afloat.

Recross-examined by the accused:

325. Q. Was not the surface escort unit attached to the Fourth Fleet and were not a number of destroyers attached to that unit?

A. There were destroyers attached to the Second Surface Escort Unit but, however, I do not believe that the Second Surface Escort Unit was attached to the Fourth Fleet, but was attached to the Surface Escort Squadron.

326. Q. Did not Vice Admiral Wakabayashi hold the post of commander of the Second Surface Escort Unit collaterally with his other office?

A. Yes.

327. Q. Then, does that mean that the commandant of the Fourth Base Force, Vice Admiral Wakabayashi, was under the command of the Fourth Fleet in his capacity as commandant of the Fourth Base Force and under the command of Surface Escort Squadron in his capacity of Second Surface Escort Unit Commander?

A. I believe so.

328. Q. Did the duties of the Fourth Fleet Headquarters change when it was ashore and when it was afloat?

A. By duties do you mean fleet duties or base force duties?

329. Q. Fleet duties?

A. There were no changes.

330. Q. And relative to base force duties, were there any changes?

A. There were no changes.

331. Q. Weren't the <sup>2d</sup> units, such as the Personnel Replacement Unit headed by Admiral Asano, of the Combined Fleet with headquarters ashore at Truk? gk

A. There were.

332. Q. While the commander in chief of the Combined Fleet was at Truk wasn't he both the senior officer present afloat and ashore?

A. In rank he was the senior officer, but the responsible officer on Truk was the commander in chief of the Fourth Fleet or the commandant of the Fourth Base Force.



333. Q. And the commander in chief of the Fourth Fleet was a subordinate unit of the commander in chief of the Combined Fleet, wasn't he?

A. That is so.

Examined by the commission:

334. Q. In connection with dispatches you testified to about concerning prisoners of war, were there any other dispatches concerning prisoners of war received other than those you mentioned in your testimony, that you remember?

A. I have no recollection. I retract my statement. I recall dispatches were received that the destroyer Yamagumo attached to the Combined Fleet had taken submarine prisoners of war around the middle of November 1943.

335. Q. During this inspection of Kwajalein when you testified that you were driving in a car and a Sixth Base Force staff officer showed you the location where the prisoners of war were executed, was Admiral Kobayashi present at that time? Was he in the car at that time?

A. No, he was not right in the same car.

336. Q. Did you bring this conversation to his attention?

A. I did not.

337. Q. During the air raids of February 17th and 18th, 1944, when you testified that Sumikawa was in Tokyo, who was acting chief of staff at that time?

A. There was no acting chief of staff.

338. Q. Well, as senior staff officer, during the absence of the chief of staff wouldn't you take over his duties?

A. I naturally assumed the operational business of the chief of staff but the duties of a chief of staff had other aspects and there were many officers at headquarters who were superior to me in rank I could not assume the rest of his duties as chief of staff, and the fact is that the commander in chief did not designate an acting chief of staff. JK

Reexamined by the judge advocate:

339. Q. Where was Admiral Kobayashi's car during this portion of the inspection trip when the scene of the execution was pointed out 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. He was right in the car immediately in front of me.

340. Q. Did your car slow down at the scene of the execution when the staff officer told you that this was the place of execution?

A. Yes.

341. Q. Were any instructions given your driver at that time to slow down at that scene?

A. I have no recollection. JK



342. Q. Did the car carrying Admiral Kobayashi slow down at that place?  
A. I have no clear recollection but as my car slowed down because the car in front slowed down, and therefore I believe that the car in front slowed down at that point.

The accused moved to strike out this answer on the ground that it was irrelevant and immaterial. JK

The judge advocate replied.

The commission announced that the motion to strike was not sustained.

Recross-examined by the accused:

343. Q. You testified that you received a dispatch reporting that submarine prisoners of war had been captured by a destroyer of the Combined Fleet, but on receiving this dispatch did you report it to the commander in chief or show the dispatch to him?

A. I have no recollection whether I took this special dispatch to the commander in chief. The disposal of dispatches was conducted along the lines I stated yesterday. JK

344. Q. This chief of staff of the Fourth Fleet, Sumikawa, when did he leave Truk and when did he return to Truk? I am referring to the occasion you spoke of in your testimony previously.

A. As I recall he left on the 16th of February and returned on the 20th of February.

345. Q. On this automobile trip at Kwajalein you testified to, where were you going?

A. It was after we had inspected the airdrome and had seen the fort at the west end of the island and while proceeding towards the supply depot.

346. Q. How many cars were in this party?

A. As I recall - two cars.

347. Q. When this Sixth Base Force staff officer said that the execution had taken place, here, didn't he say "prisoners" and not "prisoners of war"? JK

A. He said prisoners of war.

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

Present: All the members, the judge advocates, 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.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocates:

1. Q. Will you state your name, occupation, and residence?  
A. Frederick A. Savory, interpreter at the War Criminal Stockade, residing at the stockade.
  2. Q. If you recognize the accused, state as whom?  
A. Vice Admiral Kobayashi.
  3. Q. You have testified that you are an interpreter. What languages do you interpret?  
A. I speak English and Japanese.
  4. Q. Were you at the War Criminal Stockade during the period from March 8, 1948 to March 11, 1948?  
A. Yes.
  5. Q. During that period did you see the accused, Kobayashi?  
A. Yes.
  6. Q. Where did you see Kobayashi?  
A. I saw him in the questioning booth within the stockade compound.
  7. Q. Was anyone else present?  
A. Yes.
  8. Q. Who?  
A. Commander Ogden and Lieutenant Bolton.
  9. Q. What occurred during the period when you saw Kobayashi in the presence of Commander Ogden and Lieutenant Bolton?  
A. Vice Admiral Kobayashi was questioned. 2K
  10. Q. Will you describe the procedure of this questioning?  
A. First Admiral Kobayashi was asked if he wished to make a statement. At that time he was told that he was free to make or not to make any statements. He replied he would. Then he was asked if he preferred to make the statements in English or Japanese. Vice Admiral Kobayashi preferred to make it in English.
- The accused moved to strike out the words "Vice Admiral Kobayashi preferred to make it in English" on the ground that it was an opinion of the witness.
- The judge advocate replied.
- The commission announced that the motion was not sustained.
11. Q. Did Vice Admiral Kobayashi say that he wished to make the statement in English?  
A. Yes.
  12. Q. Were any questions asked of Kobayashi?

A. Yes. Questioning was done by Lieutenant Bolton. After each question or series of questions, Lieutenant Bolton would dictate the answers and I took them down on paper which were submitted to Kobayashi after each question or series of questions for verification. If he objected to any words or passages in these notes they were corrected. At the conclusion of each interview these rough notes were given to Admiral Kobayashi for further study. Admiral Kobayashi, with his full approval in using these notes and making any changes he desired, made a statement.

The accused moved to strike out the words "Admiral Kobayashi, with his full approval in using these notes and making any changes he desired, made a statement" on the ground that they were an opinion of the witness.

The judge advocate replied.

The commission directed that the words "with his full approval in" be stricken.

13. Q. In your previous answer you said that after each question or series of questions Lieutenant Bolton dictated the answers. Did the accused Kobayashi answer the questions when they were put to him?

A. Yes.

14. Q. Were these answers the answers that were dictated by Lieutenant Bolton?

A. Yes.

15. Q. In what language did Kobayashi write his statement at that time?

A. Kobayashi wrote his statement in English. When he wrote each statement a sheet of carbon paper was given to him and he made a carbon copy of each statement for his own reference.

16. Q. What occurred after Kobayashi wrote each of his statements?

A. Admiral Kobayashi would go over the statement of the previous day on the following morning with Commander Ogden and Lieutenant Bolton. Then if he desired to make further changes these changes were made. Then after each change or correction which was written in by Admiral Kobayashi himself he initialed each change or correction. Then he initialed each page.

The accused moved to strike out the words "Then if he desired to make further changes these changes were made" on the ground that they were an opinion of the witness.

The judge advocate replied.

The commission announced that the motion to strike was not sustained.

17. Q. Were these statements then signed?

A. Yes. Each statement was signed in the presence of Lieutenant Bolton and Commander Ogden and sworn to before Commander Ogden.

18. Q. You have testified that these statements were made in English. Did you act, at any time during these interviews, as an interpreter?

A. Yes. Occasionally I helped in my capacity as interpreter.

JK  
JK  
JK

19. Q. Was the accused given copies of the translations of the Japanese of these statements of his?

A. Yes, to the best of my knowledge these translations were made by an interpreter at the legal office and later submitted to Kobayashi.

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.

20. Q. Did you see these translations?

A. Yes.

21. Q. Were these translations shown to Kobayashi?

A. Yes.

22. Q. Did he go over these translations making corrections in them?

A. Yes.

23. Q. At the time prior to the original writing of the statements when Kobayashi used the written notes that you had taken, did he make any changes in those written notes when he wrote his statement at that time?

A. I do not remember.

24. Q. When the statements on the following morning were shown to Commander Ogden and Lieutenant Bolton were they gone over at that time with the accused?

A. Yes.

25. Q. Were any additional changes made at that time?

A. Yes. 2K

26. Q. After the translations were submitted to Kobayashi with regard to each of these statements were any changes made in any of the original English statements?

A. I do not remember.

27. Q. Was a statement made on the eighth of March?

A. Yes.

28. Q. Was a statement made on the ninth of March?

A. Yes.

29. Q. Was a statement made on the tenth of March?

A. Yes.

30. Q. Was a statement made on the eleventh of March?

A. Yes.

31. Q. On the eleventh of March were the prior statements shown to the accused, Kobayashi, together with the statement of the eleventh?

A. As I recall it was either on the eleventh or the twelfth that all statements were shown to Kobayashi. 2K



32. Q. Was this entire group of statements discussed by Kobayashi in the presence of Commander Ogden and Lieutenant Bolton?

A. Yes.

33. Q. At any time during the entire course of these interrogations was any threat or force made to Kobayashi?

A. No.

34. Q. Was any duress or coercion of any kind used in interrogating Kobayashi or in obtaining his statements?

A. No.

35. Q. Were any inducements offered or promised to Kobayashi to get him to answer any questions or make any statements?

A. No.

36. Q. I show you prosecution document number 110 and ask if you recognize this document? *jk*

A. Yes. It is Kobayashi's statement made on 8 March.

Prosecution document number 110 was submitted to the accused and the judge advocate requested that it be marked for identification.

The accused objected to this document being marked for identification unless it is offered in evidence at the present time so that defense counsel may object to it being so offered. The accused further moved that the last answer be stricken on the ground that the witness was testifying to a document which had not been offered in evidence.

The judge advocate replied.

The commission announced that the objection and the motion were not sustained.

There being no further objection, prosecution document number 110 was marked "Number 13" for identification.

37. Q. I show you prosecution document number 111 and ask you if you recognize this document?

A. Yes. This is Admiral Kobayashi's statement of 9 March.

Prosecution document number 111 was submitted to the accused and the judge advocate requested that it be marked for identification.

The accused objected to this document being marked for identification on the same ground given in objection to prosecution document number 110.

The judge advocate replied.

The commission announced that the objection was not sustained.

There being no further objection, prosecution document number 111 was marked "Number 14" for identification.

38. Q. I show you prosecution document number 112 and ask if you recognize it?

A. Yes. This is Kobayashi's statement made on 10 March.

Prosecution document number 112 was submitted to the accused and the judge advocate requested that it be marked for identification.

The accused objected to this document being marked for identification on the same ground given in objection to prosecution document number 110. JK

The judge advocate made no reply.

The commission announced that the objection was not sustained.

There being no further objection, prosecution document number 112 was marked "Number 15" for identification.

39. Q. I show you prosecution document number 113 and ask if you recognize this document?

A. Yes. This is Kobayashi's statement of 11 March.

Prosecution document number 113 was submitted to the accused and the judge advocate requested that it be marked for identification.

The accused objected to this document being marked for identification on the same ground given in objection to prosecution document number 110.

The judge advocate replied.

The commission announced that the objection was not sustained.

There being no further objection, prosecution document number 113 was marked "Number 16" for identification.

Cross-examined by the accused:

40. Q. How many days did this interrogation of Kobayashi take?

A. As I recall Admiral Kobayashi's interrogation required approximately a week.

41. Q. Was this the first time that Admiral Kobayashi had been interrogated - March 8, 1948?

A. No.

42. Q. How many previous times had Kobayashi been interrogated?

This question was objected to by the judge advocate on the ground that it was irrelevant and immaterial unless the question was limited to the interrogation connected with the statements marked for identification.

The accused made no reply.

The commission announced that the objection was sustained.

43. Q. Were you present at any previous interrogation at which Lieutenant Bolton or Commander Ogden interrogated Kobayashi prior to March 8, 1948?

A. As I recall, Admiral Kobayashi was interviewed by Commander Ogden prior to March 8, but I do not remember Lieutenant Bolton ever interviewing Kobayashi prior to that time. JK

44. Q. Do you remember when Admiral Kobayashi came to the War Criminal Stockade on Guam?

A. I do not remember the exact date but as I recall it was sometime in the spring of 1946.

45. Q. And on March 8 and all during the interrogation which you have testified to, Admiral Kobayashi was being held in solitary confinement at the stockade. Is that true?

A. Yes.

46. Q. Did Admiral Kobayashi have the benefit of counsel at these interrogations beginning March 8?

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.

47. Q. Was counsel for Kobayashi present at the time that Admiral Kobayashi was being investigated by Commander Ogden and Lieutenant Bolton starting March 8 until they were completed?

A. No.

48. Q. When was this prosecution document number 110 executed by Admiral Kobayashi?

A. This document was written by Admiral Kobayashi on the eighth and signed on the ninth of March.

49. Q. When was the translation into Japanese made on this document?

A. I do not know.

50. Q. When was the translation into Japanese shown to Kobayashi?

A. To the best of my knowledge the translations were submitted to Kobayashi on the eleventh.

51. Q. When was prosecution document number 111 executed by Kobayashi?

A. This statement was executed by Admiral Kobayashi on the ninth of March and signed on the tenth.

52. Q. When was the translation of it made into Japanese?

A. I do not know.

53. Q. When was the translation shown to Admiral Kobayashi?

A. To the best of my knowledge on the eleventh.

54. Q. When was prosecution document number 112 executed by Admiral Kobayashi?

A. This was executed on March tenth.

55. Q. And signed on what date?

A. On 11 March.

56. Q. When was the translation made?

A. I do not know.

57. Q. When was the translation shown to Admiral Kobayashi?

A. To the best of my knowledge on the eleventh.

58. Q. Then it was shown to him on the same day he signed it?

A. To my knowledge, yes.

59. Q. When was prosecution document number 113 executed by Admiral Kobayashi?

A. This was made on 11 March 1948.

60. Q. And when did Admiral Kobayashi sign it?

A. On 11 March 1948.

61. Q. When was the translation made?

A. To the best of my knowledge on 11 March.

62. Q. And when was the translation shown to Admiral Kobayashi?

A. To the best of my knowledge on the eleventh.

63. Q. Were you present at the time these translations were shown to Admiral Kobayashi?

A. I was in the stockade but I do not remember if I was present all the time when Kobayashi was rereading the translations but I was present when the translations were given to him.

64. Q. Who gave the translations to Admiral Kobayashi?

A. I do not remember.

65. Q. Was Admiral Kobayashi cautioned in any way before he was questioned by Commander Ogden or Lieutenant Bolton?

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

The accused made no reply.

The commission announced that the objection was sustained.

66. Q. At the time of the questionings was Admiral Kobayashi charged with a crime?

A. I do not know.

Reexamined by the judge advocate:

67. Q. Do you know if, prior to the eleventh, the translations of individual statements made by Kobayashi between the eighth and eleventh were submitted to Kobayashi?

A. No, I do not know.

68. Q. Do you know if on the eleventh the translations that you referred to were in the hands of Kobayashi and submitted to him at the time of or prior to his discussion of these original statements with Commander Ogden or Lieutenant Bolton?



A. The translations as I recall were given to Kobayashi after each statement was gone over with Commander Ogden.

69. Q. Do you know if any corrections were made in the English statements after Kobayashi had received the Japanese translations and corrections?

A. I do not remember.

Recross-examined by the accused:

70. Q. At what time did Admiral Kobayashi make these statements? You said he executed one on the eighth of March. At what time on the eighth of March did he execute it?

This question was objected to by the judge advocate on the ground that it was a misstatement of testimony.

The accused replied.

The commission announced that the objection was sustained.

71. Q. Isn't it true that these statements were all made around nine o'clock in the evening of the day before they were signed by Kobayashi?

A. After each day's questioning was over and if there was still time before the evening meal, Kobayashi would start to write his statement. After the evening meal and his shower he was permitted to come out to the guard house and continue to write his statement. Then at nine o'clock, if I am not mistaken, the regulations say it is time for all prisoners to be in bed and he stopped writing his statement. gk

72. Q. Then neither you, Commander Ogden, or Lieutenant Bolton were present at the time Admiral Kobayashi wrote these statements. Is that true?

A. As I recall Commander Ogden and Lieutenant Bolton were not present. But I was with Kobayashi quite often; not all during the period of writing but I would start him off by arranging paper and pencil and so forth and then would come back to pick up the statement around nine o'clock. gk

73. Q. And when on the eleventh were these translations shown to him?

A. I do not remember.

The witness was duly warned.

The commission then, at 11:40 a.m., adjourned until 9 a.m., tomorrow, Thursday, June 10, 1948.

TWENTY-FOURTH DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands,  
Thursday, June 10, 1948.

The commission met at 9:10 a. m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United States  
Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, and  
Lieutenant James P. Kenny, U. S. Navy, judge advocates.  
Stewart R. Smith, 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.

Frederick A. Savory, 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.

(Recross-examination continued.)

74. Q. Have you the paper or the papers on which you took down the answers  
dictated by Lieutenant Bolton?

A. I might have one or two, but I believe I have destroyed most of these  
original notes taken down by me.

75. Q. Were these original papers destroyed on orders of Lieutenant Bolton?

A. No.

76. Q. This document which is purported to have been made on the eleventh  
of March, was that made approximately between the hours of seven and nine  
p. m. that night?

A. I do not remember exactly.

77. Q. Do you remember if the translation of this document was shown to  
Kobayashi the day after he wrote his statement of the eleventh?

A. To the best of my recollection, translations of his statements were  
submitted to Kobayashi on the eleventh.

78. Q. During the interrogation, did Lieutenant Bolton write down the  
answers that Kobayashi gave to the interrogations?

A. As I recall, I took down the dictation of Lieutenant Bolton, but  
occasionally a sentence or two were written down by Lieutenant Bolton.

79. Q. Not all the answers that were given by Admiral Kobayashi were written down, isn't that true?

A. Yes, certain explanations given by Kobayashi were not taken down. On the other hand, Lieutenant Bolton instructed him that it would be to his advantage to make such explanations to his defense counsel.

80. Q. Kobayashi made no notes at all of the answers that he gave during the time he was interrogated, did he?

A. No, I do not recall that he took any notes down.

81. Q. This statement that Kobayashi wrote on March eighth, isn't that only a statement that you brought out from the War Crimes Office here and which you requested him to copy?

A. I do not remember.

82. Q. From what did Kobayashi make his statement on March eighth, then?

A. To the best of my recollection, Kobayashi made this statement on the eighth of March on the questioning of Lieutenant Bolton.

83. Q. Didn't you or Lieutenant Bolton or Commander Ogden give Admiral Kobayashi a written statement which he was asked to copy down in his own handwriting, at or about 7 o'clock in the evening of March eighth?

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. No, the only written matter that was given to Kobayashi were the notes taken down during the interview. The only document that I remember being submitted to Kobayashi which came from the legal office was a biographical report on Kobayashi from SCAP. This was given to him, I believe, on the twelfth of March for verification.

84. Q. Then sometime during the evening Kobayashi was given the notes that were made during the daytime while he was being interrogated and from these notes, then, he made a statement. Is that correct?

This line of questioning was objected to by the judge advocate on the ground that it was beyond the scope of the redirect examination.

The accused made no reply.

The commission announced that the objection was sustained.

85. Q. What happened to the statement after you picked it up from Kobayashi around 9 o'clock every evening during these four days?

A. I took it to my quarters in the stockade and kept it there until Lieutenant Bolton and Commander Ogden came down the following morning.

86. Q. And at that time did Admiral Kobayashi sign it?

A. No, he did not sign any statements until he had gone through the statement or statements with Commander Ogden and Lieutenant Bolton.

87. Q. When he went through the statement with Lieutenant Bolton and Commander Ogden, and during the interrogation when these notes were made, did not Kobayashi request, time and again, that certain things be added to his statement and to the notes?

A. Yes, as I recall, once in a while he desired to explain certain points in his statement, but as I have already said, Lieutenant Bolton informed him that it was to his advantage that he explain them to his defense counsel.

88. Q. Was Kobayashi told he did not have to make a statement?

A. Yes.

Examined by the commission:

89. Q. When Lieutenant Bolton dictated to you Admiral Kobayashi's replies to questions, did Lieutenant Bolton change the wording of these replies in any way?

A. Lieutenant Bolton coordinated answers to a series of questions and he strictly kept to the sense of the answers. I do not recall that he changed any words that had a totally different meaning from the original.

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 10 a. m., took a recess until 10:15 a. m., at which time it reconvened.

Present: All the members, the judge advocates, 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.

Herbert L. Ogden, a witness for the prosecution, was recalled and warned that the oath previously taken by him was still binding.

Examined by the judge advocate:

1. Q. Do you have in your possession a document dated May 12, 1948, signed by one John Paul Rourke?

A. I have.

2. Q. Is this document from the official files of the office of Director of War Crimes, Pacific Fleet?

A. It is.

3. Q. Does this document purport to be sworn and subscribed to by John Paul Rourke?

A. It is.

The document produced by the witness was submitted to the accused and to the commission and by the judge advocate offered in evidence.



The accused read a written objection to the receipt of this document in evidence, appended marked "MMMM."

The accused waived the reading of this objection in Japanese in open court.

The judge advocate read a written reply to the objection of the accused, appended marked "NNNN."

The accused waived the reading of this reply in Japanese in open court.

The commission announced that the objection was not sustained. There being no further objection, the document was so received in evidence, appended marked "Exhibit 21."

4. Q. Will the witness read Exhibit 21?  
A. (The witness read Exhibit 21).

An interpreter read a Japanese translation of Exhibit 21.

The accused read a written motion for the production of the affiant of Exhibit 21, appended marked "OOOO."

The accused waived the reading of this motion in Japanese in open court.

The judge advocate read a written reply to the motion of the accused, appended marked "PPPP."

The accused waived the reading of this reply in Japanese in open court.

The commission was cleared. The commission was opened and all parties to the trial entered. The commission made the following ruling:

Prior to the admission into evidence of prosecution document number 234, the commission was unaware of the availability of the affiant, John Paul Rourke, as a witness. The commission therefore reverses its ruling as to the admission of this document into evidence and sustains the objection of the accused, and directs that that portion of the testimony concerning the subject matter of the affidavit of John Paul Rourke, as read by the witness, be stricken from the record. If either the prosecution or defense desire to summon Gunner's Mate Chief John Paul Rourke, U. S. Navy, as a witness, they should proceed in accordance with the provisions of Section 246, Naval Courts and Boards.

The witness was duly warned.

The commission then, at 11:40 a. m., took a recess until 2 p. m., at which time it reconvened.

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

Robert Oldham, yeoman third 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.

Examined by the judge advocate concerning prosecution documents numbered 110, 111, 112, and 113:

5. Q. Were you at the War Criminal Stockade during the period from March 8, to approximately March 15, 1948?

A. I was.

6. Q. During that period did you see the accused Kobayashi?

A. I did.

7. Q. Where did you see Kobayashi?

A. In the interrogation building at the stockade.

8. Q. Was anyone else present?

A. Lieutenant Bolton and Mr. Savory were also present.

9. Q. What occurred during the period when you saw Kobayashi in the presence of yourself, Lieutenant Bolton, and Mr. Savory?

A. Admiral Kobayashi was interrogated relative to his tour of duty as the Commander in Chief of the Fourth Fleet and statements were taken from him.

10. Q. Will you describe the procedure of that interrogation and the taking of the statements?

A. When we first called Kobayashi in he was told that -- rather he was asked if he would be willing to make a statement or statements covering his entire tour of duty as the Commander in Chief of the Fourth Fleet. He was told that the statements would be used by the prosecution; that he was not compelled to make any statement, but he expressed a willingness to make such statements. Kobayashi was asked whether he preferred to make these statements in Japanese or in English and he stated that he preferred to make them in English. The method of taking the statements was that Lieutenant Bolton would ask Kobayashi the questions. When Kobayashi desired, those questions would be translated into Japanese by Mr. Savory. Kobayashi would answer the questions either in English or in Japanese and after each question and answer or series of questions and answers Mr. Bolton would have Mr. Savory write in English the answers which Kobayashi had given. Part of the time those answers were verbatim as made by Kobayashi and other times those answers were rephrased for clarification by either Lieutenant Bolton or by myself. After each sentence or each paragraph had been written up in rough notes by Mr. Savory, it was again submitted to Kobayashi for his approval and for any changes that he desired to make. At the end of each day's questioning these notes were given to Kobayashi and he was asked to make his statement from these notes. Ordinarily, the following morning Kobayashi would go over the statements which he made the previous day with Mr. Bolton and myself. If he had any questions he desired to ask concerning it and if he desired to make any changes, he was permitted to do so. Then he signed and swore to the statement. After the statements were executed they were translated into Japanese at our office and the Japanese was then submitted to Kobayashi for his approval. If he desired any changes in the Japanese translations he made those changes and each page of the translation was then initialed by Kobayashi. At the conclusion of the taking of the four statements Kobayashi was again

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given both the English and the Japanese of all of these statements and was asked if he desired to make any changes or corrections in either the Japanese or the English. He stated that they were correct.

11. Q. During what periods of the day from the eighth to the twelfth was the interviewing and questioning of Kobayashi conducted in your presence and in the presence of Lieutenant Bolton?

A. The morning questioning was usually from about nine to eleven-thirty or twelve. The afternoon questioning was usually from about two to four-thirty or five.

12. Q. You testified that translations were made of each of these statements and submitted to Kobayashi. Who made these translations from English into Japanese?

A. These translations were made by Mr. Tsuji of the War Crimes Office, assisted in one of them by Mr. Akatani, also of the War Crimes Office.

13. Q. Are the Mr. Tsuji and Mr. Akatani you referred to the official interpreters of this commission?

A. They are.

14. Q. What was done with these translations after they had been submitted to Kobayashi for correction?

A. They were brought back to the War Crimes Office and Mr. Tsuji made stencils from that translation.

15. Q. Were these translations run off on mimeograph paper?

A. They were.

16. Q. Were copies of the Japanese and of the English furnished the accused and defense counsel prior to the commencement of the proceedings of this commission?

A. They were.

17. Q. At that time, during the entire course of these interrogations, were any threats of force made to Kobayashi?

A. It was not.

18. Q. Was any coercion or duress exerted upon him to give answers or to make the accused submit statements?

A. They were not.

19. Q. Were any inducements or promises made to Kobayashi in order to induce him to answer any questions or to make any of the statements?

A. No.

20. Q. Were these statements sworn and subscribed to in your presence?

A. They were.

21. Q. Who administered the oath?

A. I did.

22. Q. I show you prosecution document number 110, which has been marked for identification number thirteen, and ask you if you recognize this document? *JK*

A. I do. That is the statement made by Kobayashi on 8 March 1948.

23. Q. I show you prosecution document number 111, which has been marked for identification number fourteen, and ask you if you recognize this document?

A. I do. That is the statement made by Kobayashi on 9 March 1948.



24. Q. I show you prosecution document number 112, which has been marked for identification number fifteen, and ask you if you recognize this document?  
A. I do. That is the statement made by Kobayashi on 10 March 1948.

25. Q. I show you prosecution document number 113, which has been marked for identification number sixteen, and ask you if you recognize this document?  
A. I do. That is the statement made by Kobayashi on 11 March 1948.

Prosecution documents numbered 110, 111, 112, and 113, which had been marked number 13, number 14, number 15, and number 16 for identification, were submitted to the accused and to the commission and by the judge advocate offered in evidence.

Cross-examined by the accused concerning prosecution documents numbered 110, 111, 112, and 113:

26. Q. In what language was the questioning put to the accused?  
A. The questions were asked in English and when Kobayashi desired the question or parts ~~were~~ translated into Japanese. Ordinarily he understood the English. JK

The accused moved to strike out the words "Ordinarily he understood the English" on the ground that it was the opinion of the witness.

The judge advocate replied.

The commission announced that the motion to strike was not sustained.

27. Q. You testified that Kobayashi answered in Japanese and also in English. What was the proportion of the replies that he made in Japanese and that he made in English?  
A. I would say approximately half the time he answered in English.

28. Q. While Kobayashi was being questioned, did he, himself, take any notes of the answers that he gave?  
A. No.

29. Q. Then he did not take any notes either in English or in Japanese. Is that correct?  
A. I don't recall Kobayashi taking any notes himself, either in Japanese or in English. JK

30. Q. Then the answers that were given by Kobayashi were taken down by the investigating officer. Is that correct?  
A. They were taken down by Mr. Savory.

31. Q. Was everything said by Kobayashi in his answer taken down at this time?  
A. Not always.

32. Q. Then these notes were made up by selecting from the answers of Kobayashi. Is that correct?  
A. Kobayashi was told at the beginning of the questioning that what we desired was a complete statement of facts and that if he had matters in explanation of these facts that it might be desirable to omit such matters from these statements and to take those matters up with his own counsel. He would at times offer matters of explanation. Sometimes these matters of explanation were incorporated in the statements and other times Kobayashi agreed that that might be omitted.



33. Q. Did you ask Kobayashi after the investigation was over to rewrite the contents of the notes made by Mr. Savory?

A. In substance.

34. Q. You testified that Kobayashi expressed preference to write this statement in English. Prior to his expressing this preference was not Kobayashi told that as he understood what the investigating officer wrote in English that it would facilitate clerical matters if he had written the statements in English? Was not this told to him?

A. That was Kobayashi's own choice that he make the statement in English. I don't believe that he was told that it would facilitate matters. In either event the statement had to be translated.

35. Q. When Kobayashi was given this statement prepared on the first day to read over, did not Kobayashi at this time say that from reading over this statement and from its contents that it gave a deep impression that he had executed his work positively and that it gave the impression that he was a very negligent commander in chief? JK

A. I do not recall any such statement.

36. Q. Did Kobayashi have counsel at the time you took these statements and at the time you told him to take it up with his counsel?

A. No counsel is assigned until the accused is served with charges and specifications.

37. Q. So that when you told him if he had any changes to make he should take it up with his counsel, you meant he should wait until he was served with the charges and specifications?

A. Not changes, but matters in explanation.

38. Q. Did Kobayashi request that he be allowed to talk to counsel?

A. He asked when he would be permitted to see his counsel.

39. Q. What did you tell him? JK

A. I told him as soon as the charges and specifications were served.

40. Q. When were the charge and specifications served?

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

The accused replied.

The commission announced that the objection was not sustained.

A. I do not recall the date.

41. Q. When you say that statements were taken, do you mean that you and Lieutenant Bolton requested Kobayashi to make the statements as had been prepared and approved at the office of the Director of War Crimes? Is that right?

A. That is not true. No statements were prepared in advance of this interrogation.

42. Q. Were the questions that you and Lieutenant Bolton put to Kobayashi in the manner of a cross-examination?

A. No.

43. Q. Had the charge and specifications already been prepared against Kobayashi so that you knew what Kobayashi was to be charged with even if the charge and specifications had not been submitted to Admiral Pownall for his signature?

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. Rough charges and specifications had been prepared in our office.

44. Q. What did you mean by the statement in your testimony on direct examination, "After the statements were executed"?

This question was objected to by the judge advocate on the ground that it was too general, as the witness was unable to recognize the testimony referred to in the question.

The accused made no reply.

The commission announced that the objection was not sustained.

A. The statements that have been introduced in evidence.

45. Q. By "After the statements had been executed," do you mean after Kobayashi had written them and signed them in the form that they are now being offered in evidence?

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

The accused made no reply.

The commission announced that the objection was not sustained.

A. I meant ~~xx~~ after the statement had been written by Kobayashi and signed and sworn to by him. 8c

46. Q. In other words, at the conclusion of the making of these statements. Is that correct?

This question was objected to by the judge advocate on the ground that counsel for the defense was trying to rephrase the testimony of the witness.

The accused replied.

The commission announced that the objection was sustained.

47. Q. How much time did Kobayashi have to read the Japanese translation of these four affidavits?

A. He had as much time as he wanted.

48. Q. Do you mean then that he had an opportunity to read the translation before he signed the English statements?

A. No, the Japanese translation was submitted to him after he signed and had sworn to the original statement.

49. Q. How many, if any, changes did Kobayashi make in these statements after he had read the Japanese translation?

A. He made numerous changes in the translation, but I do not recall that he made any changes in the original statements. But he was given that opportunity.

50. Q. Now you testified that during the period from March 8th to the 11th, the time during which these statements were taken from Kobayashi, he was not subjected to any duress or mistreatment. Do you know if he had been subjected to any duress prior to this time? JK

This question was objected to by the judge advocate on the ground that it was improper as no time limit was placed in the question, and it was irrelevant.

The accused reframed the question.

51. Q. During the time that he was held in solitary confinement at the War Criminal Stockade, Guam?

A. I do not know.

Reexamined by the judge advocate concerning prosecution documents numbered 110, 111, 112, and 113: JK

52. Q. When the statement was written by Kobayashi in the evening, with the notes that Mr. Savory took, did Kobayashi make a carbon copy of the statement that he wrote?

A. Kobayashi made a carbon copy of each statement that he made. When he turned the statement in he retained this carbon copy.

53. Q. In the mornings when Kobayashi, in the presence of Lieutenant Bolton and Mr. Savory, subscribed to his statement, did he, prior to that time, go over that statement with Lieutenant Bolton or with yourself before signing and subscribing to it? JK

A. He did so go over each statement, asked questions, and made minor corrections which he initialed.

54. Q. After rereading each of the pages of these statements and making any minor corrections that he had to make, did he initial each of the pages?

A. He initialed each page as corrected.

55. Q. After Kobayashi examined the translation and prior to the cutting of the stencils by the official interpreter, Mr. Tsuji, did Kobayashi initial the page of the corrected Japanese translation?

A. He did initial each page of the corrected translation.

Recross-examined by the accused concerning prosecution documents numbered 110, 111, 112, and 113:

56. Q. At night after the interrogation was over, Kobayashi made a carbon copy of the original, but isn't it true that interpreter Savory took the original and the carbon copy to his quarters when Kobayashi went back to his cell, and that interpreter Savory handed the original and the carbon copy over to Kobayashi the following morning?

A. It may be true that Kobayashi did not retain his carbon copy until the following morning.

Examined by the commission concerning prosecution documents numbered 110, 111, 112, and 113:

57. Q. Were the changes that Kobayashi made in the Japanese translation also changed in the English?

A. No, sir. They were not changed in the English. They were simply changes in the translation of the English.

58. Q. In other words, they were changes in the translation rather than substance of the statement. Is that what the commission is to understand?

A. That is correct. There were corrections in the translation only and no changes in the substance of the statements.

59. Q. We'll put it this way. Did the changes in the Japanese affect the continuity of the English statement?

A. They did not.

The accused requested to take the stand in his own behalf to testify on his voir dire concerning prosecution documents numbered 110, 111, 112, and 113.

The commission announced that this request was granted.

This witness, Herbert L. Ogden, was duly warned and temporarily withdrew.

The commission then, at 3:10 p. m., took a recess until 3:30 p. m., at which time it reconvened.

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

Stewart R. Smith, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

The accused was, at his own request, duly sworn as a witness in his own behalf, and was examined on his voir dire as follows:

Examined by the judge advocate:

1. Q. Are you the accused, Kobayashi, Masashi?

A. Yes.



Examined by the accused:

2. Q. Did you write certain statements on March 8, 9, 10, and 11, which have been offered in evidence by the prosecution?

A. I did.

3. Q. How did you come to write these statements?

A. The investigating officers came to the stockade and told me that statements were going to be made and asked me to write them and submit them.

4. Q. Will you then tell what happened?

A. Commander Ogden, Lieutenant Bolton, and Mr. Savory, the interpreter, came and questioned me. From the answers that I gave, those portions that were deemed necessary were taken down and I was later shown this and asked if there was no mistakes in these notes that I should write it into a statement.

5. Q. What language did these persons use in questioning you?

A. The investigating officers used English. In case I did not completely understand what was being told me, I asked Mr. Savory to translate them into Japanese.

6. Q. When did you write the first statement?

A. As I recall, on the eighth of March.

7. Q. I show you a statement marked for identification number thirteen. Is that the statement that you wrote on March eighth? JK

A. Yes.

8. Q. This statement is written in English. Why did you write it in English?

A. During the course of this investigation the investigating officers became aware that I was able to read English. Then they urged me, as I did not write the statements in English, if I would do so it would facilitate clerical matters, and I complied with their request.

9. Q. When did you sign that statement?

A. As I recall, on the morning of the ninth.

10. Q. At the time when you signed this on the morning of the ninth, did you have an opportunity to read the statement before you signed it?

A. During the time that this statement was being made, that is, when the investigating officer was taking down the notes, I had an opportunity to read each of the words and sentences. After the day was over and the draft was drawn up, I was told to rewrite this on a clean sheet and the time that I would have the statement in my hand was when I was rewriting this statement onto a clean sheet from the notes, and also when I was checking the draft and the clean sheet and when I was to swear to the statement the following day. Although on those occasions I had the statements in my hand and had an opportunity to read them. JK

11. Q. When were you shown a translation of this statement into Japanese?

A. I do not remember exactly, but I believe it was the day after I signed the statement.

12. Q. Did you desire to make any changes in this particular statement and if so, did you request an opportunity to change the statement in any way?

A. During the investigation, when the investigating officers were making this draft, I so requested.

13. Q. Why did you request an opportunity to make changes in it?

A. I will give an example.

The judge advocate moved to strike out the words "I will give an example" on the ground that it was the opinion of the witness.

The accused made no reply.

The commission announced that the objection was not sustained.

(Answer continued:) The reason why I did not give instructions to conduct an investigation of the prisoners at Wake to Sakaibara. And also the reason why I did not make any inquiries when the submarine prisoners arrived at Truk, and in other instances, I asked for an opportunity to add these explanations to my statement. After concluding the making of the statement for the first day, I had a chance to reread it and upon rereading it I found that it gave an impression that I did not fulfill my duties in a positive manner and that I was very negligent and irresponsible, and I told the investigating officer about this.

14. Q. And what were you told by the investigating officer after you had requested an opportunity to make a change in your statement?

This question was objected to by the judge advocate on the ground that it was misleading because it did not relate to any specific incidents in which the witness requested to make a change in his statement.

The accused made no reply.

The commission announced that the objection was sustained.

15. Q. What change did you request to be made in this document, marked for identification number 13, dated March 8, 1948?

A. I requested that the two errors that I just gave be added to the statement; and also the statement as a whole gave a very bad impression, so I requested it to be changed.

16. Q. And what were you told by the investigating officers when you requested that you be allowed to make these changes in this document dated March eighth?

A. I was told by the investigating officer that I would have an opportunity to state these reasons in my defense. And I was also told that the investigating officers were making this statement by writing what was necessary for them from the reply that I had given to them, and my reasons and explanations which I requested to be added were not included.

17. Q. This document dated March ninth, did you request any changes to be made in that document?

A. As I recall, I had some requests to make with regard to the statements of the eighth and ninth, but as I had been told by the investigators, as I previously testified, I did not make any requests after that.

18. Q. Did you request any changes to be made in this document dated March tenth?

A. No, I did not make any request.

19. Q. Did you request any changes be made in this document dated March eleventh?

A. No, I did not make any request.

20. Q. These two documents dated March eighth and March ninth -- did you request that you be given an opportunity to write them as you desired, and that the two statements be returned to you?

A. As I had signed and sworn to them, I did not so do. There were no mistakes in what was written in the statements.

Cross-examined by the judge advocate:

21. Q. You wrote these original statements in English, did you not? These that have been marked for identification number 13, 14, 15, and 16?

A. I did.

22. Q. Do you understand English?

A. I can read to some extent.

23. Q. Is it true that you translated Culbertson's book on bridge from English into Japanese?

A. I had previously translated the convention table of Culbertson.

24. Q. When the rough notes were written up from which you wrote your statements, identified as identification numbers 13 through 16, were you given an opportunity to examine these rough notes after every sentence or every few sentences had been written down by Mr. Savory?

A. I was.

25. Q. Were any changes made in these rough notes, at your request, at that time?

A. In some cases changes were made and in some cases changes were not made.

26. Q. When you wrote your statement in the evening, using these rough notes, were you forbidden to make any changes that you wished to make in writing your statement?

A. I was not forbidden, but as far as I understood it, I was told through Mr. Savory that I was to write it just as it was in the rough notes.

27. Q. When these rough notes were written, or when you wrote your rough statement and changes were made, was there any instance in the making of any of these statements where you were not permitted to make a change in order to change the accuracy of what was written, to make it conform to what you believed was true?

A. There were instances when there were apparent errors in the rough notes that I corrected when I wrote on a clean sheet and I told the investigator the next morning about this and had it corrected. But I was never refused in correcting any of the apparent errors.

28. Q. On the first day of the interview with Commander Ogden and Lieutenant Bolton, was it explained to you that if you made any statements these might be used against you in court?

A. I believe I was told.



29. Q. On the evening, or during the course of the first day of the interviews, were you informed that the primary purpose of the questioning was to establish the facts during your tour of duty, and that matters which were primarily matters of explanation for why you did not do things and why you did things, were things the investigator thought you definitely should keep track of and should make notes of, but that they preferred that your statements consist primarily of the facts with regard to the matters you were questioned on?

A. I do not recall whether the words were exactly the same, but I was told something to that effect.

30. Q. On the morning following the writing of each of these statements, did you read over the statement in the presence of Commander Ogden and Lieutenant Bolton?

A. I read and compared, that is, the statements were in the custody of Mr. Savory and Mr. Savory would bring them down and hand them over to Commander Ogden who in turn handed them over to me, and then I would compare the rough notes with the original statement and with the other three persons present I would make sure it was the correct copy of it.

31. Q. Did you not read that statement that you had made, and made corrections on it yourself, in the presence of Commander Ogden and Lieutenant Bolton?

A. This comparing of the two would be the reading of it.

32. Q. I show you the document marked for identification number 13, which was made on the eighth of March, 1948, and ask you if at the bottom of that page you did not make a correction consisting of the striking out of approximately forty words?

A. I requested the change made of that portion because that was contrary to the truth.

33. Q. Had you written it originally in English and then subsequently expressed the desire to change that?

A. I will explain about that change in detail.

The commission then, at 4:30 p. m., adjourned until 9 a. m., tomorrow, Friday, June 11, 1948.



TWENTY-FIFTH DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands.  
Friday, June 11, 1948.

The commission met at 9:15 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United  
States Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, and  
Lieutenant James P. Kenny, U. S. Navy, judge advocates.  
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-fourth 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, resumed his status as a witness. He was warned that the oath  
previously taken was still binding and continued his testimony.

(Cross-examination continued.)

The judge advocate stated he withdrew the last question.

34. Q. In document, identification number 15, did you make a statement  
concerning matters on Truk, and in the course of this statement explain  
your conduct by explaining at length your physical condition on Truk from  
the twelfth of December on?

A. I did. JK

35. Q. In the same document did you also explain why you did not relieve  
Admiral Wakabayashi from his duties?

A. I did.

Reexamined by the accused:

36. Q. In the statement dated March 8, did you request that the state-  
ments made by Admiral Abe to you as written out by you be corrected and if  
so, how?

A. I did make this request as I found later on what was written there  
was different from what I had said, so I made this request. JK

37. Q. How was it different?

A. Abe merely mentioned to me that this was the place where the prisoners of war were executed.

38. Q. What change did you request to be made specifically on the statement dated March 9?

A. Likewise as I found a place where it differed from what I said, so I requested it be changed.

39. Q. How did it differ from what you said?

A. In the statement which was made on the eighth it was written "the American fliers were prisoners of war" and in the statement written on the ninth it was "American prisoners of war." In the document dated the eighth it was originally written "prisoners of war or aviators" and in another place in the same document it was written "United States aviators."

Recross-examined by the judge advocate:

40. Q. In the portion where it was previously written down "prisoners of war or aviators" were you permitted to strike out the words you wanted and make the change you requested?

A. I was.

41. Q. Similarly in the other place where you stated you wished to make a change, were you not permitted to make that change and did you not make that change?

A. I made that change.

42. Q. So the two changes you wished to change in the statements of March 8 you were permitted to change, is that not correct?

A. I corrected a part of it.

43. Q. Was there any portion of that that you were not permitted to change with regard to the aviators or the prisoners of war?

A. The letters "U.S." and on the statement dated the ninth the word "American."

44. Q. Then it is your recollection that you wanted to strike out the words "U.S." and "American," is that correct?

A. Yes, I wanted to strike those two letters and that word and I recall clearly what I actually said at that time.

45. Q. You testified that there was an explanation that you wished to make in regard to what Admiral Abe told you. Is that true?

A. No, I didn't say that.

46. Q. Your statement of what Admiral Abe told you was made by you in this statement of 8 March. Is that correct?

A. Yes.

47. Q. In your statement of the ninth of March did you begin that statement with an explanation as to what you had said previously with regard to what Admiral Abe told you?

A. Yes.

48. Q. Then the statement of the ninth explained what you had wished to explain with regard to the Abe incident. Is that correct?

A. Yes.

49. Q. Are these statements that you wrote true to the best of your knowledge and belief?

A. Yes.

50. Q. Does that include the written oath that you have put at the bottom of that statement prior to signing it?

A. Yes.

51. Q. In that oath did you say that "this statement is voluntarily made by me without threat of force, promises of reward or other inducements"?

A. I did.

Reexamined by the accused:

52. Q. When you say that the statements are true do you mean that the words that were written down conveyed to you a certain meaning?

This question was objected to by the judge advocate on the ground that it was meaningless and leading.

The accused replied.

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 made the following statement:

This last request that I made was made after I had already signed the document and since I had already signed it I thought that the judge advocate could only make changes for me through asking a favor and I know as long as I had signed the document that I had no right to ask that any changes be made. It was an error on my part that I did not check it carefully before signing the document.

The witness resumed his status as the accused.

Commander Martin E. Carlson, a counsel for the accused, read a written objection to the introduction of these statements in evidence, appended marked "QQQQ."

The accused waived the reading of this objection in Japanese in open court.

The judge advocate read a written reply to the objection of the accused, appended marked "RRRR."

The accused waived the reading of the judge advocate's reply in Japanese in open court.

The commission was cleared.

The commission was opened. All parties to the trial entered.

Robert Oldham, yeoman third class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

The commission announced as follows:

The commission rules that the objections raised by the accused are not sustained. The documents will be received in evidence and will be evaluated and accorded their proper weight in the light of all the testimony. JK

There being no further objection the documents were so received appended marked "Exhibit 22," "Exhibit 23," "Exhibit 24," and "Exhibit 25."

Herbert L. Ogden, a witness for the prosecution, resumed the stand and was warned that the oath previously taken was still binding.

Examined by the judge advocate concerning Exhibit 22, Exhibit 23, Exhibit 24, and Exhibit 25:

60. Q. Will you read Exhibit 22, the statement dated 8 March 1948 and sworn to on the ninth of March 1948?

A. (The witness read Exhibit 22.)

61. Q. Do you know whether former Vice Admiral Koso Abe, the former commander of the Sixth Base Force, Kwajalein, is alive?

A. He is not.

62. Q. I hand you Exhibit 23, consisting of a statement dated 9 March 1948 and ask you to read this exhibit?

A. (The witness read Exhibit 23.)

63. Q. I hand the witness Exhibit 24, which is the statement of the accused dated 10 March 1948, signed on March 11, and ask the witness to read this statement?

A. (The witness read Exhibit 24.) Attached to this statement is a map of Dublon Island with the naval installations mentioned in the statement, located and marked with the letters "A" to "H." JK

64. Q. Has this chart previously been admitted in evidence as Exhibit 18 in the instant case?

A. It has.

65. Q. Does it bear the initials of the accused in the lower right hand corner?

A. It does.

66. Q. Did the accused write in the letters "A" to "H" on this map?

A. He did - in my presence.

67. Q. I hand the witness Exhibit 25, which consists of the statement of the accused dated 11 March 1948 and subscribed and sworn to on that day and ask the witness to read that exhibit?

A. (The witness read Exhibit 25.)



Cross-examined by the accused concerning Exhibit 22, Exhibit 23, Exhibit 24, and Exhibit 25:

68. Q. This chart that you say was attached to one of the statements - was this chart also made up by the accused Kobayashi?

A. This chart was not made up by Kobayashi. It is a hydrographic office chart upon which Kobayashi located the various naval installations on Dublon.

69. Q. Did he ask that this chart be made a part of his statement?

A. He agreed that it should be part of his statement.

70. Q. Whose idea was it that it be made a part of his statement?

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

The accused reframed the question.

71. Q. Whose idea was it that it be attached to Kobayashi's 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 not sustained.

A. I believe Lieutenant Bolton suggested that it might be desirable to attach it to the statement.

Neither the judge advocate nor the accused desired further to 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 judge advocate made the following statement:

At this time the prosecution is ready to rest its case on the condition that they be permitted to introduce at a subsequent time certain affidavits or depositions which have not arrived at this time. Rather than delay the proceedings, the judge advocate would prefer to have the permission of the commission to introduce those statements or affidavits, when they arrive, out of the regular order of procedure.

The commission announced that this request was approved.

The prosecution rested.

Commander Martin E. Carlson, a counsel for the accused, read a written motion for a directed acquittal on behalf of the accused, appended marked "SSSS."

The accused waived the reading of this motion in Japanese in open court.

The judge advocate replied.

The accused waived the reading of the judge advocate's reply in Japanese in open court.

The commission announced that the motion for a directed acquittal was not sustained.

The accused requested an adjournment until Tuesday, June 22, 1948, at 9 a.m., in order to prepare his defense.

The judge advocate made no objection.

The commission announced as follows:

The commission has considered the request of the defense counsel and will grant an adjournment until Monday morning, June 21, 1948.

The commission then, at 11:50 a.m., adjourned until 9 a.m., Monday, June 21, 1948.

TWENTY-SIXTH DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands.  
Monday, June 21, 1948.

The commission met at 9:20 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United  
States Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, and  
Lieutenant James P. Kenny, U. S. Navy, judge advocates.  
Robert Oldham, yeoman third class, U. S. Navy, reporter.  
The accused, his counsel, and the interpreters. JK

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.

The defense began.

Mr. Sanagi, Sadamu, a counsel for the accused, read a written opening statement, in Japanese, appended marked "TTTT."

An interpreter read an English translation of the opening statement of the counsel for the accused, appended marked "UUUU."

The accused requested that the commission take judicial notice of the following matters:

I. That the main operations of the American forces against the Japanese forces in the central and south Pacific during the period April 1943 to February 1944 were as follows:

This is an extraction from the "First Official Report, dated March 1, 1944, to the Secretary of the Navy," by Fleet Admiral E. J. King.

(A) Battles in the Central Pacific Area were as follows:

(a) In the Gilbert, Wake and Marshall Area.

1. On August 17 and 18, 1943, U. S. Marines made a damaging raid on Makin.

2. In August, September and October (American) carrier-based air strikes on Marcus, Tarawa, Apamama, and Wake served to soften Japanese installations and keep the enemy guessing as to where our JK

next (American) full-scale attack would be delivered. The attack on Wake was particularly effective as it included considerable bombardment in addition to air attacks.

3. During October and early November, planes from (American) bases attacked the Japanese in the Gilberts and also the Marshalls.

4. On November 20, 1943, the American forces landed on Tarawa and Makin.

5. (American) carrier task groups attacked Japanese air bases in the Marshalls on December 4, the main attack being directed against the atoll of Kwajalein, where Japanese naval and merchant vessels, aircraft and shore installations were heavily struck with torpedoes and bombs. A light attack was made on the island of Wotje. Another task force attacked the island of Nauru. During the remainder of the year, Army, Navy land-based planes carried repeated attacks on Japanese holdings in the Marshall Islands and at Nauru, inflicting considerable damage on ships and shore installations.

6. On January 30 and 31, 1944 (American) offensive operations on the largest scale yet undertaken were directed against the Marshall Islands (Kwajalein, Roi, Taroa, Wotje, Eniwetok, Mille, Jaluit) and Wake by Task Forces.

7. On February 2, 1944 the American forces landed on Kwajalein, Roi and Namur.

8. On February 17, 1944 the American forces landed on Eniwetok.

(b) In the Carolines and the Marianas Area.

1. On February 17 and 18, 1944 (American) forces under the command of Admiral Spruance delivered an attack on the islands of Truk. The first part of the attack by carrier-based planes was followed up by battle ships, cruisers and destroyers. Heavy damage was inflicted on the Japanese, both in ships sunk and damaged. 8K

2. On February 22, a task force attacked Saipan, Tinian and Guam.

(B) Battles in the South Pacific Area.

(a) Central Solomon Campaign.

1. On June 30, 1943 the American forces landed on Munda, New Georgia.

2. Furious battles were fought until the Japanese forces completed evacuation from Kolombangara and Vella Lavella and the Central Solomon Campaign was over.

(b) Bougainville Campaign.

1. On November 1, 1943 the American forces landed on Empress Augusta Bay.



(c) New Britain and New Ireland Area.

1. On November 5 and 11, 1943 carrier task forces attacked Rabaul.
2. On December 25 and 28, 1943 and January 1 and 4, 1944 task forces attacked Kavieng.

(d) Eastern New Guinea.

1. On June 30, 1943 the American forces landed on Nassau.
2. On September 22, 1943 the American forces landed on Finshhafen.

II. That the distance between important points in the central and south Pacific, and the extent of the area under the jurisdiction of the 4th Fleet is as follows:

(A) The distance between important points in the central and south Pacific. *JK*

1. The distance in nautical miles from Truk to the following points are:

From Truk to Wake Island	1,140 nautical miles
From Truk to Kwajalein	940 nautical miles
From Truk to Maloelap	1,150 nautical miles
From Truk to Mille	1,200 nautical miles
From Truk to Tarawa	1,330 nautical miles
From Truk to Munda	1,020 nautical miles
From Truk to Tarokina	860 nautical miles

2. The distance in nautical miles from Kwajalein, headquarters of 6th Base Force to the following points are:

From Kwajalein to Wake Island	640 nautical miles
From Kwajalein to Maloelap	210 nautical miles
From Kwajalein to Mille	300 nautical miles

(B) The extent of the area under the jurisdiction of the 4th Fleet.

According to "Exhibit No. 2" Annex Chart No. 2, titled "The Area of Jurisdiction of the 4th Fleet (Aug. 1943 - Feb. 1944)" which is alleged to be the jurisdiction of the 4th Fleet, the distance of the said area from the east boundary at 180 degrees to the west boundary, 130 degrees E. longitude, is approximately 2800 nautical miles, and the distance from north, latitude 24 degree N. to south latitude 3 degree S. at the southern tip of the Gilbert Islands, is approximately 1600 nautical miles.

III. That in order to exercise jurisdiction over the vast area there was established by the Naval General Headquarters, Base Force Commanders allocated as follows:

Gilbert Islands (Nauru and Ocean Islands included)	3rd Specially Established Base Force, headquarters located on Tarawa.
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Caroline Islands

4th Base Force, headquarters  
located on Truk.

Marianas Islands.

5th Base Force, headquarters  
located on Saipan.

Marshall Islands  
(Wake Island included)

6th Base Force, headquarters  
located on Kwajalein.

The judge advocate objected to the commission taking judicial notice of items one and three.

The accused made no reply.

The commission announced that it would take judicial notice of all items in the request for judicial notice, with the exception of item number three.

Mr. Sanagi, Sadamu, a counsel for the accused, was called as a witness by the defense and was duly sworn.

Examined by the accused concerning defense document number 1:

1. Q. Are you a defense counsel in the case of Kobayashi, Masashi?  
A. I am.

2. Q. Have you in your possession a certain document which you wish to introduce into evidence at this time?  
A. I have.

3. Q. What document is this?  
A. This is an excerpt of the Fleet Ordinances taken from the Japanese Naval Regulations. 9K

4. Q. In what language is it written?  
A. The original is in Japanese but I have prepared an English translation of it.

5. Q. How did you come to have in your possession this Fleet Ordinance?  
A. This was taken from the Japanese Naval Regulations, Volume One, which Japanese defense counsel has. 9K

6. Q. These Japanese Naval Regulations, Volume One, which you just referred to, is this a reliable copy of the regulations which were effective in the years 1943 and 1944 in the Japanese navy?  
A. I have a document which verifies the fact that it was in effect at that time.

7. Q. What do you mean by this certain document which verifies this fact?  
A. This is a certification issued by the Second Demobilization Bureau.

8. Q. In what language is this certification written?  
A. The original is in Japanese but I have an English translation of it.

9. Q. Have you the English translation with you now?  
A. I have.

The document, produced by the witness, was submitted to the judge advocate and to the commission, and by the accused offered in evidence.

The judge advocate states as follows:

There is no objection to this document being received in evidence, but the judge advocate wishes to point out that the document is sealed with a Japanese han and it is not signed, but just sealed. The judge advocate also wishes to point out that the volumes indicated by the witness are not signed or sealed.

There being no objection, the document was so received, appended marked "Exhibit 26."

Examined by the accused concerning defense document number 2:

10. Q. This fleet ordinance that you mentioned, what does this prescribe?  
A. This Fleet Ordinance sets forth the organization of a fleet; the organization of a headquarters; the organization of the headquarters personnel; and duties of the headquarters personnel.

11. Q. You stated that you have prepared an excerpt from the Fleet Ordinance, will you tell us briefly what portions you excerpted and what portions you left out?

A. I made the following excerpts: The outline of the organization of a fleet; the organization of the headquarters personnel. With regard to the duties of the commander in chief in this Fleet Ordinance there are eighteen articles concerning his duties, but sixteen of them refer to his specific duties and have no bearing on the instant case so I have omitted those and excerpted those articles which pertain to his general duties. With regard to the other matters the duties of the chief of staff and enlisted men have been omitted.

12. Q. The excerpts that you have just mentioned, is this a document which is referred to as defense document number 2?

A. Yes, it is.

13. Q. Did you make sure that this excerpt was a true and correct copy from the Japanese Naval Regulations, Volume One?

A. I did.

The document, produced by the witness, was submitted to the judge advocate and to the commission and by the accused offered in evidence.

The judge advocate read a written comment on the receipt of this document in evidence, appended marked "VVVV."

The accused waived the reading of this comment in Japanese in open court.

The accused replied, stating that he agreed that this document should be received subject to the condition outlined by the judge advocate.

There being no further objection, the document was so received, appended marked "Exhibit 27."



The commission then, at 10:20 a.m., took a recess until 10:50 a.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

Sanagi, Sadamu, 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 by the accused concerning Exhibit 26 and Exhibit 27:

14. Q. Will you please read Exhibit 26?  
A. (The witness read Exhibit 26.)

The judge advocate stated as follows:

The judge advocate requested that Exhibit 26 be corrected to read "sealed" instead of "signed."

The accused concurred.

The commission announced that this request was granted.

15. Q. In executing official documents in Japan, is it always necessary that the originator sign his name to make the document valid?  
A. In executing official documents in Japan, ordinarily the originator does not sign his name to it. Instead of doing so he affixes an official seal of the post that he is holding at that time.

16. Q. Will you please read the excerpts from Fleet Ordinances - Exhibit 27?  
A. (The witness read Exhibit 27.)

Cross-examined by the judge advocate concerning Exhibit 26 and Exhibit 27:

17. Q. Will the witness read Article 14 from Fleet Ordinances?  
A. "Article 14. The commander in chief of a fleet, may, as necessity in view of his duty demands, temporarily change the organization of the fleet under his command. In the above case, the commander in chief of a fleet shall report it to the Navy Minister and the Chief of the Naval General Staff."

18. Q. Will the witness read Article 21?  
A. "Article 21. In the event the commander in chief of a fleet recognizes the necessity of transferring personnel under his command because of illness or other emergency and has no time to obtain the approval of the Navy Minister therefor, he may take action, at his own discretion, with regard to the matter. In this case he shall submit a post facto report to the Navy Minister."



19. Q. Will the witness read Article 22?

A. "Article 22. The commander in chief of a fleet, may, as occasion demands, temporarily transfer personnel under his command among the naval vessels under his command, provided that, with regard to officers, the approval of the Navy Minister is required in advance, excepting in case of unavoidable emergency. In the above case, with regard to officers and cadets it shall be reported to the Navy Minister, and with regard to all other persons, the commandant of the Naval District where the person is registered shall be notified."

20. Q. Will the witness read Article 24?

A. "Article 24. The commander in chief of a fleet shall establish orders and regulations for his fleet, the daily routine and weekly routine of the fleet under his command, and shall submit reports thereof to the Navy Minister."

21. Q. Will the witness read Article 47?

A. "Article 47. The judicial officer attached to the headquarters, shall, by orders of the commander in chief or the commandant, be in charge of matters pertaining to military justice and disciplinary punishment of the fleet."

Neither the judge advocate nor the accused desired further to examine this witness concerning Exhibit 26 and Exhibit 27.

The commission did not desire to examine this witness concerning Exhibit 26 and Exhibit 27.

Examined by the accused concerning defense document number 3:

22. Q. Have you in your possession a document which is marked defense document number 3?

A. I have.

23. Q. How was this document made?

A. This document was made by making excerpts from Japanese Naval Regulations, Volume Four.

24. Q. What is the content of this document?

A. This is an excerpt of the Japanese Naval Criminal Code.

25. Q. Have you in your possession the original of this code?

A. I have a volume of the Japanese Naval Regulations in which is included this code.

26. Q. Is this Japanese Naval Regulations, Volume Four, which you have mentioned a reliable copy which was in effect in 1943 and 1944 in the Japanese Navy?

A. Yes, this is mentioned in defense document number 1 which was introduced in evidence and marked Exhibit 26.

27. Q. Then in item three of Exhibit 26 which mentions Naval Regulations, volume four, fourteenth edition, is this the book that you refer to?

A. Yes.

28. Q. The document which you now wish to introduce in evidence, what portions are excerpted?

A. I made an excerpt of a portion of the general provisions, which is Book I of this code. In Book II - it is divided into several chapters under the heading of "Crimes" and from that I excerpted the crimes dealing with disgrace in office and crimes concerning prisoners of war.

29. Q. Did you make sure that this defense document number 3 was a true and correct excerpt from the Japanese Naval Criminal Code? JK

A. I did.

The document, 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, appended marked "Exhibit 28."

Examined by the accused concerning Exhibit 28:

30. Q. Will you please read this document, which was just admitted in evidence, marked Exhibit 28, omitting Articles 46 through 54?

A. (The witness read Exhibit 28, omitting Articles 46 through 54.)

The witness was duly warned.

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 advocates, the accused, his counsel, and the interpreters.

Archie L. Haden, junior, ~~Army~~ man first class, U. S. Navy, reporter. JK

No witnesses not otherwise connected with the trial were present.

Sanagi, Sadamu, 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 concerning Exhibit 28 continued):

31. Q. In Exhibit 28 concerning Japanese Naval Criminal Code, is there any provision set forth in this code which metes out punishment to the commanding officer for neglecting to control the acts of his subordinates?

A. In Article 45 of this code the commanding officer is charged with the responsibility to supervise and control his subordinates but this is limited when occasion arises where his subordinates in numbers arise in riots. Except for this article there is no other article with regard to punishing the commanding officer for the neglect of supervising his subordinates.

32. Q. Then is it that excepting for the article that you just mentioned there is no provision setting forth that the commanding officer shall be punished for negligence of not supervising and controlling his subordinates; is that correct? JK

A. There is no other article other than the one I just mentioned in the Japanese Naval Criminal Code.

Cross-examined by the judge advocate concerning Exhibit 28:

33. Q. Will the witness read sections 47, 50, 51, and 52?

A. (The witness read sections 47, 50, 51, and 52 of the Japanese Naval Criminal Code.)

34. Q. Will the witness read Article 73?

A. "A person who, without justification for his acts, leaves his duty or does not assume his post shall be punished as follows: 1. In front of the enemy, condemned with death or punished for life imprisonment with hard labor or imprisonment with hard labor or confinement for not less than 5 years. 2. In time of war, when 3 days have elapsed, he shall be punished for confinement with hard labor or confinement for not less than 6 months and not more than 7 years. 3. In all other cases, when 6 days have elapsed, (q) shall be punished by imprisonment with hard labor or confinement for not less than 5 years." JK

35. Q. Do any of the provisions of the Japanese Naval Criminal Code punish an officer for neglect of duty?

A. Article 47 which I have just read metes out punishment for duty officers who neglect their duty.

36. Q. Does not article 73 provide that persons who leave their duty or do not assume their post shall be punished for that?

A. This article 73 which you mentioned comes under desertion which is in chapter seven and it deals with a person who leaves his post because of desertion.

37. Q. Do other laws besides the Japanese Naval Criminal Code apply to Japanese naval personnel?

This question was objected to by the accused on the ground that it was beyond the scope of the direct examination. JK

The judge advocate replied.

The commission announced that the objection was sustained.

38. Q. Do you know whether the Japanese Naval Criminal code contains all the provisions with regard to the criminal prosecutions of Japanese naval officers for neglect of duty? JK

A. 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 know I believe chapter three which concerns disgrace in office contains all the provisions.

39. Q. Does chapter ten contain all the provisions of the Japanese Navy with regard to crimes relating to prisoners of war?

A. Other than chapter ten I have not seen any provisions concerning crimes relating to prisoners of war.



40. Q. Is there any provisions in Chapter X of the Naval Criminal Code which provides any punishment for mistreating prisoners of war?

A. No.

Reexamined by the accused:

41. Q. Articles 47 and 73 which you just read by request of the judge advocate. Do these articles set forth that the superior officers are the ones to be punished in these cases?

A. The two articles that I have just read mete out punishment to who actually neglected such duties.

Examined by the accused concerning defense document number 4:

42. Q. Have you in your possession a certain document which is marked defense document number 4?

A. I have.

43. Q. How was this document prepared?

A. This document was prepared by making excerpts from Japanese Naval Regulations, Volume IV.

44. Q. Have you the original of the Naval Disciplinary Punishment Ordinance?

A. I have Volume IV of the Japanese Naval Regulations in which is contained this ordinance.

45. Q. The document which you wish to introduce in evidence - what portion of that ordinance is excerpted?

A. I made the following excerpts. Part of the general provisions, Chapter II, the commission of crimes, by this is meant which crimes are punishable. I excerpted the entire chapter then the next excerpt is punishments, the entire article under that chapter is excerpted. Next the chapter concerning authority to punish. I made excerpts of part of this chapter which I considered had bearings on this case.

46. Q. Did you make sure that this defense document number 4 was a true and correct excerpt from the Japanese Navy Disciplinary Punishment Ordinance?

A. I did.

Defense document number 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 the document was so received, appended marked "Exhibit 29."

Examined by the accused concerning Exhibit 29:

47. Q. Will you please read Exhibit 29, omitting Article 9 excepting for the heading of that article and items 23 and 27 contained in Article 9?

A. (The witness read the document as requested.)

48. Q. Is there any provision in the Japanese Navy Disciplinary Punishment Ordinance which prescribes that the commanding officer or superior officers are punished because he failed to control the actions of his subordinates?

A. There is.

49. Q. Will you please point out what article that is?

A. They are items 23 and 27 under Article 9.



50. Q. According to the Japanese Navy Disciplinary Punishment Ordinance, who is the officer to mete out punishment to the commanders in chief?

A. According to Article 19, the Navy Minister metes out the punishment.

51. Q. The punishment mentioned in Article 19, what kind of punishment does this article refer to? In other words is this a criminal punishment or an administrative punishment.

A. This is an administrative punishment.

52. Q. The disciplinary punishments which were enforced by the Japanese Navy - was that limited to Article 10?

A. No. Administrative punishment is not limited to Article 10. Besides there were some other administrative punishments.

53. Q. Were they more severe or lighter?

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

The accused replied.

The commission announced that the objection was sustained.

Cross-examined by the judge advocate regarding Exhibit 29:

54. Q. Is there such a term as administrative punishment in use in the Japanese Navy?

A. Yes.

55. Q. Has this the same scope as the term disciplinary punishment?

A. This administrative punishment includes the Naval Disciplinary Punishment Ordinance and also others that are enforced by the Navy Minister.

56. Q. Are these disciplinary punishments under the ordinance, which are included under the term administrative punishments, applied because of the commission of crimes?

A. In Chapter II is listed numbers of crimes and when such crimes set forth in Article 9 are committed this disciplinary punishment is applied.

57. Q. You have read subsections 23 and 27 under Article 9. Are these crimes that a commander in chief may commit in neglect of duty?

A. It is possible that a commander in chief might commit these crimes.

58. Q. Are there other crimes in this article involving neglect of duty which a commander in chief may commit?

A. In the subsections of Article 9 there are some matters that might come very close to the neglect of duty on the part of the commander in chief.

59. Q. Could a commander in chief commit a crime under Article 9 by failing to control his subordinates and thereby cause damage to ships of war?

A. For instance, in case of subdivision 5 of Article 9 when the commander in chief mistakes an order and causes damage to ships it is possible that he is punished for that.

60. Q. Can a commander in chief violate subsection 10 by neglecting his duties and failing to control his subordinates?

gk

A. The circumstances at that time must be considered in connection with Article 10. In case damage is done, a board of inquiry will be held to determine if any damage was done and if there was any done he would be punished.

61. Q. Is the same true of the criminal provisions under subsection 11 of Article 9?

A. Yes.

62. Q. Is it true that the same holds true for numerous other subsections under Article 9 depending on the facts and circumstances?

A. The rest of the code, in my opinion, is applicable to those lower in rank and does not extend to the commander in chief. Those that can extend to the commander in chief are few.

63. Q. Is it accurate to say that the Naval Disciplinary Punishment Ordinance provides for the disciplinary punishment of certain crimes and that depending upon the facts and circumstances this ordinance expresses criminal responsibility which can be applied to a commander in chief for neglect of duty in failure to control his subordinates?

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 is a very difficult problem to decide in case of commission of crimes set forth in subdivisions of Article 9 whether the commission of crimes comes under the Disciplinary Punishment Code and Naval Criminal Code. Especially when it concerns the commander in chief it becomes more difficult and in such case when the commander in chief is involved usually a flag officer senior to the commander in chief will convene a board of inquiry to inquire into the facts and decide if it belongs under the Naval Disciplinary Punishment or under the Disciplinary Code. Until this is decided with regard to the subdivision set forth in Article 9 it is difficult to say whether it comes under the criminal code or not. JK

The commission then, at 3:25 p.m., took a recess until 4:10 p.m., at which time <sup>it</sup> reconvened. JK

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

No witnesses not otherwise connected with the trial were present.

Sanagi, Sadamu, 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. JK

Reexamined by the accused concerning Exhibit 29:

64. Q. What is the title in Japanese of this Japanese Naval Criminal Code?

A. It is "Hanko" (T.N. Hanko means crime or offense).

65. Q. In questioning by the judge advocate you brought up matters concerning damaging of ships. Article 9 of the Disciplinary Punishment Code, subdivision 10, concerns damage to ships of war and in the Japanese Criminal Code there is a chapter with regard to destroying military property. Can both punishment code and the criminal code be applicable to this particular act?

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.

66. Q. Do you know whether both Chapter 8 of the Japanese Naval Criminal Code concerning destruction of military property and Article 9, subdivision 15, of the Japanese Naval Disciplinary Punishment Ordinance can be applied to a single act simultaneously?

A. It can be only one - either Chapter 8 of the Japanese Naval Criminal Code or the Disciplinary Punishment Ordinance. JK

67. Q. Do you know what the distinction between the two was?

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.

The witness was duly warned.

The commission then, at 4:25 p.m., adjourned until 9 a.m., tomorrow, Tuesday, June 22, 1948.

TWENTY-SEVENTH DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands,  
Tuesday, June 22, 1948.

The commission met at 9 a. m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United States  
Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, and  
Lieutenant James P. Kenny, U. S. Navy, judge advocates.  
Stewart R. Smith, yeoman first class, U. S. Navy, reporter.  
The accused, his counsel, and the interpreters.

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.

Sanagi, Sadamu, 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.)

68. Q. Have you ever served in the Japanese navy?

A. I have.

69. Q. Between what periods did you serve in the Japanese navy?

A. I graduated from the Japanese Naval Academy in June, 1922, and ever  
since then, until I was demobilized last year, I served in the Japanese navy.

70. Q. What was your last rank?

A. I was a captain in the Japanese navy.

71. Q. Are you an expert with regard to laws and regulations?

A. I am not.

72. Q. Have you had experience in dealing with naval law and regulations?

A. Yes, I have.

73. Q. Will you please tell us your background with regard to this matter?

A. Besides receiving a general training with regard to naval laws, from  
1935 for seven years I served at the Naval Ministry and also at the Naval  
General Headquarters; and during these seven years I had comparatively more  
of an opportunity to deal with these matters than ordinary officers.



74. Q. Up to the present day, have you had occasion to actually participate in legal affairs?

A. I presided as president of courts martial two or three times and, besides this, from May, 1946, to September, 1947, I saw duty as defense counsel in the Australian trials at Rabaul.

Examination by the accused concerning defense document number 4(a):

75. Q. Relative to Exhibit 29, Japanese Naval Disciplinary Punishment Ordinance, have you any document with which you wish to add to that at this time?

A. I have.

76. Q. What is it?

A. I wish to add to the Japanese Naval Disciplinary Punishment Code the Article 4 of the same ordinance at this time.

The judge advocate requested that the presentation of this additional article be delayed until the official commission interpreters had had an opportunity to check certain words in the English translation of this article, in a legal dictionary, because the English translation, as given to the judge advocate, contains words the meaning of which are doubtful.

The accused replied.

The commission announced that a recess would be taken at this time to allow the official interpreters to check the words in question in a legal dictionary.

The commission then, at 9:35 a. m., took a recess until 10 a. m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

Sanagi, Sadamu, 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.

Lieutenant Eugene E. Kerrick, junior, U. S. Naval Reserve, an interpreter, announced that the words in question had been checked during the recess in a legal dictionary and that the English translation was found to be correct as it appears in defense document number 4(a).

The document 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, appended marked "Exhibit 29(a)."

Examination by the accused concerning Exhibit 29(a):

77. Q. Will you please read Exhibit 29(a)?

A. (The witness read Exhibit 29(a).)

An interpreter read an English translation of Exhibit 29(a).

78. Q. In order to impose punishment under the Disciplinary Punishment Ordinance, is it necessary to go through judicial proceedings?

A. No, that is not so.

79. Q. Then, in order to impose punishment based on the Disciplinary Punishment Ordinance, what is the procedure for it?

A. As in Chapter 4, "Authority to Punish," the division officers of units or vessels have authority, at their own discretion, to impose punishments which are set forth in Chapter 3. And, likewise, cognisant commanders also have the same authority to impose disciplinary punishment, which is set forth in Chapter 3, upon their subordinates.

80. Q. These persons who are authorized to mete out disciplinary punishment, as set forth in Article 15, are these persons empowered to mete punishment according to the Japanese Naval Criminal Code?

This question was objected to by the judge advocate on the ground that it called for the opinion of an expert, and that this witness has testified that he is not an expert.

The accused replied.

The commission announced that the objection was not sustained.

A. Those persons authorized to mete out punishment according to Article 15 of this ordinance are not empowered to mete out punishment set out in the Naval Criminal Code. That matter is dealt with by courts martial.

81. Q. Then do you know that in order to apply the Japanese Naval Criminal Code and mete out punishment, courts martial procedures must be followed?

A. I do. In order to mete out punishment according to Naval Criminal Code the procedure set forth in courts martial procedure law must be observed.

82. Q. The offenses set forth in Chapter 2 of this ordinance, are these crimes?

A. No, they are not crimes.

The judge advocate moved to strike out this answer on the ground that it was an opinion of the witness who is not an expert.

The accused replied.

The commission directed that the answer be stricken.

83. Q. With regard to the offenses set forth in Article 9 is it possible to impose punishment by going through courts martial procedure?

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 offenses set forth in Article 9 of Chapter 2 have no relation with courts martial. The persons authorized in Chapter 4 are the persons who, at their own discretion, are empowered to mete out punishment.

The commission announced that the answer was not responsive and directed that the question be repeated.

The accused reframed the question.

84. Q. With regard to the offenses set forth in Article 9, in order to mete out punishment for these offenses, is it necessary to do it by courts martial?

A. It is not necessary to go through courts martial to administer punishment.

85. Q. Do you know why it is not necessary?

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

The accused reframed the question.

86. Q. Do you or do you not know the reason?

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 do know.

87. Q. Will you please explain that to us?

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. In order to mete out punishment with regard to the crimes set forth in the Naval Criminal Code, the Courts Martial Procedure Code must be followed and this Naval Criminal Code and the Courts Martial Code function together and are inseparable. In order to mete out punishment according to Naval Disciplinary Ordinance the persons who are authorized, such as a division commander or leader, cognizant commander, commanders in chief, can, at their own discretion, without resorting to court martial, mete out punishment.

Cross-examined by the judge advocate concerning Exhibit 29(a):

88. Q. Chapter 2 of Exhibit 29 deals with the commission of crimes. What is subsection 9 under Article 9 of that chapter?

A. It is neglecting one's duty while in a state of intoxication.

89. Q. Can this crime be punished by naval court martial?

A. To this degree, what it says here, it is not punishable by court martial.



90. Q. Beyond this degree set forth in subsection 9, can a Japanese naval officer be punished by court martial for neglecting his duty while in a state of intoxication?

A. According to the Japanese courts martial law, only a duty officer on a ship can be punished when he is intoxicated; and as for other persons, there is no provision set forth in the courts martial law which punishes them. If it is permissible I would like to explain a little further the Japanese meaning of this subsection 9 of Article 9.

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.

(Answer continued) This subsection 9 deals with very little matters. For instance, when a person is intoxicated, when his clothing becomes disheveled, and matters to that extent, such matters having nothing to do with his duties. I just noticed it, but in the English it says duty, but in the Japanese there is no mention of that.

91. Q. Does the Japanese naval court martial possess the power to try naval officers for causing damage to ships of war?

A. Depending upon the degree, it is possible. JK

92. Q. Is the naval court martial empowered to try naval officers for colliding ships of war?

A. Depending upon the degree, such a crime can be punished according to Chapter 8 of the Japanese Criminal Code, which sets forth the crimes concerning destruction of military property.

The commission then, at 10:50 a. m., took a recess until 11:05 a. m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

Sanagi, Sadamu, 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.

Neither the judge advocate nor the accused desired further to examine this witness concerning Exhibit 29(a).

The commission did not desire to examine this witness concerning Exhibit 29(a).

Examined by the accused concerning defense document number 5:

93. Q. Have you a document which is marked "defense document number 5"?

A. I have.

94. Q. How did you prepare this document?

A. I took this from Japanese Naval Regulations, Volume 1.



95. Q. What is the content of this document?

A. It is an excerpt of a service regulation governing personnel of naval vessels.

96. Q. Have you the original of this document?

A. Yes, I have. I took it from the Japanese Naval Regulations, Volume 1.

97. Q. What matters are set forth in this regulation?

A. This regulation sets forth the daily duty to be followed by the captain and all hands below the captain of the crew of a naval vessel. This regulation also shows that chiefly it is applicable to personnel of naval vessels, but it is also applied to all the other naval units.

98. Q. You mentioned that you had made excerpts from this regulation. What portions did you excerpt?

A. This regulation is voluminous, consisting of 687 articles. From these articles I extracted the general provision which is in Chapter 1 and Chapter 2 and the general duties of the captain of a vessel and also his duty to observe international law.

99. Q. Is the document marked "defense document number 5," the document which you excerpted?

A. Yes, it is.

100. Q. Did you make sure that this excerpt was a true and correct excerpt from the Japanese Naval Regulations, Volume 1?

A. I did.

The document 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, appended marked "Exhibit 30."

Examined by the accused concerning Exhibit 30:

101. Q. Will you please read Exhibit 30?

A. (The witness read Exhibit 30.)

X An interpreter read an English translation of Exhibit 30. JK

102. Q. In this Exhibit 30, Article 2, with regard to the commanding officer of a guard unit, what does it say about it?

A. According to this article, it would be that the commanding officer of the guard unit would apply the article set forth for the captain of a vessel as far as possible.

103. Q. In Article 105 it says "Observance of International Law." What means were taken to familiarize naval personnel with international law?

This question was objected to by the judge advocate on the ground that it went beyond the scope of this specific document and called for an opinion of the witness.

The accused replied.

The commission announced that the objection was sustained.

Cross-examined by the judge advocate concerning Exhibit 30:

104. Q. Will the witness read Article 476 and Article 477 of the Japanese Naval Regulations?

A. (The witness read Article 476 and Article 477.)

An interpreter read an English translation of these articles, as follows:

"Article 476. The duty officer having command over the various duty personnel and officer of the deck, shall supervise the present condition of the vessel, both external and internal; and as he is chiefly in charge of the preservation of peace, shall be required to have all hands and equipment prepared to meet emergency calls.

"Article 477. The duty officer shall keep in order all things in the vessel, maintain military discipline and morals, and be in charge of enforcing the established laws and regulations."

105. Q. In Article 503, will the witness read the introductory paragraph and sub-items 1, 2 and 12?

A. (The witness read the introductory paragraph and sub-items 1, 2 and 12 of Article 503 of the Japanese Naval Regulations.)

An interpreter read an English translation of these items, as follows:

"Article 503. The duty officer shall report with regard to the following matters or in the following cases, to the captain of the vessel: with regard to matters pertaining to meteorology in item No. 1, and items No. 3. through No. 8, the chief navigator shall be notified: (1) Signals, radio and telephone communications relative to the vessel. (2) The time, five minutes prior to commencement of inspection and basic training, and ten minutes prior to the time of various ceremonies... (12) Besides the foregoing, unforeseen incidents and other important matters in the nearby waters or ashore." 9K

106. Q. Will the witness read in Article 505 the introductory paragraph and items 2, 3 and 7?

A. (The witness read the introductory paragraph and items 2, 3 and 7 of Article 505 of the Japanese Naval Regulations.)

An interpreter read an English translation of these items, as follows:

"Article 505. The duty officer aboard a flagship, shall in the following cases or with regard to the following matters, report to the staff officers: (2) Signal and radio or telephone communications relative to the flagship or all the vessels. (3) The time five minutes prior to the commencement of important inspections and ten minutes prior to the time of various ceremonies. (7) Besides the foregoing, unforeseen incidents and other important matters in the nearby waters or ashore."

Neither the judge advocate nor the accused desired further to examine this witness concerning Exhibit 30.

The commission did not desire to examine this witness concerning Exhibit 30.

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 advocates, the accused, his counsel, and the interpreters.

Robert Oldham, yeoman third class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Sanagi, Sadamu, 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 accused concerning defense document number 6:

107. Q. Have you a document which is marked "defense document number 6"?  
A. I have.

108. Q. How was this document prepared?  
A. This was taken from the tenth edition of the Administrative Orders Manual.

109. Q. What is the content of this document?  
A. It is an excerpt of the Ordinances Governing Specially Established Naval Forces.

110. Q. What does this ordinance prescribe?  
A. This ordinance sets forth regulations concerning naval forces which are not permanent organizations but established during wartime or emergency. This ordinance consists of the organization of such forces, the duty of such forces, and the service regulations for such forces. These are set forth.

111. Q. This document which you wish to introduce in evidence, what portions of it did you excerpt?  
A. I made an excerpt of the following provisions: A part of the general provisions, the part concerning specially established base forces, and the part concerning specially established guard units.

112. Q. Have you in your possession the Administrative Order Manual, tenth edition, which you have just mentioned?  
A. I have.

113. Q. Can you verify that this Administrative Orders Manual, tenth edition, volume one, was in effect in the Japanese navy until the end of the war?  
A. I can. This matter is contained in Exhibit 26, which was offered in evidence by the defense and received in evidence.

114. Q. Is this defense document number 6 the true excerpt of this ordinance?  
A. It is.

The document 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, appended marked "Exhibit 32."  
JK



Examined by the accused concerning Exhibit 31:

115. Q. Will you please read Exhibit 31, omitting Article 49-5 and Article 49-6?

A. (The witness read Exhibit 31, omitting Article 49-5 and Article 49-6.)

Neither the judge advocate nor the commission desired to examine this witness concerning Exhibit 31.

Examined by the accused concerning defense document number 7:

116. Q. Have you in your possession a document which is marked "defense document number 7"?

A. I have.

117. Q. How was this prepared?

A. This was taken from Volume 1 of the Japanese Naval Regulations.

118. Q. What does this document pertain to?

A. This is the service regulations for personnel in navy guard units.

119. Q. Have you in your possession an original Japanese copy of this regulation?

A. I have a Japanese Naval Regulations, Volume 1, in which this service regulation is found.

120. Q. What portions of the service regulations for personnel of naval guard units did you excerpt in preparing this document?

A. I excerpted two portions. One is regarding the general duties of the commanding officer of the naval guard unit and second is regarding the articles which say that the personnel of the naval guard unit shall follow the service regulations for naval vessels as far as possible.

121. Q. Did you make sure that this excerpt was a true excerpt from the service regulations of the Japanese Naval Regulations?

A. I did.

The document 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, appended marked "Exhibit 32."

Examined by the accused concerning Exhibit 32:

122. Q. Will you please read Exhibit 32 which was just received in evidence?

A. (The witness read Exhibit 32.)

123. Q. Will you please explain the meaning of Article 8 of this regulation?

This question was objected to by the judge advocate on the ground that it called for the opinion of the witness, who was not qualified as an expert.

The accused replied.

The commission announced that the objection was not sustained.



A. This means that all the personnel of a guard unit shall correspond as far as possible to the corresponding posts set forth in the service regulations for persons on naval vessels. For instance, the commanding officer of a guard unit would correspond to the captain of a vessel. The executive officer of a guard unit would also correspond to the executive officer of a vessel, therefore, they would follow the mutatis mutandi - the regulations followed to the letter.

Neither the judge advocate nor the commission desired to examine this witness concerning Exhibit 32.

Examined by the accused concerning defense document number 8:

124. Q. Have you in your possession a document which is marked "defense document number 8"?

A. I have.

125. Q. How was this prepared?

A. This was taken from the Japanese Naval Regulations, Volume 4.

126. Q. What does this document concern?

A. This is the regulations for the treatment of prisoners of war which was adopted by the Japanese navy.

127. Q. Have you the original from which this regulation was taken?

A. I have the Japanese Naval Regulations from which this regulation for the treatment of prisoners of war was taken. OK

128. Q. This regulation concerning the treatment of prisoners of war, what does it prescribe?

A. This contains all matter concerning the treatment of prisoners of war in the Japanese navy.

129. Q. Was this regulation concerning the treatment of prisoners of war in effect in the Japanese navy until the end of the war?

A. It was.

130. Q. Did you make sure that this defense document number 8 was a correct excerpt from the Japanese Naval Regulations, Volume 4?

A. I did.

The document 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, appended marked "Exhibit 33."

Examined by the accused concerning Exhibit 33:

131. Q. Will you please read this document, omitting Articles 1, 2, 4, 5, 5-3, 11, 11-2 through 14-2?

A. (The witness read Exhibit 33 omitting Articles 1, 2, 4, 5, 5-3, 11, 11-2, through 14-2.)

132. Q. You testified that there were no regulation or regulations to mete out punishment to persons who mistreat prisoners of war in the Japanese navy. By that do you mean that there does not exist any law to punish such persons who visit mistreatment upon prisoners of war?

This question was objected to by the judge advocate on the ground that counsel for the accused was misquoting the testimony, the question was leading, and called for the opinion of the witness.

The accused reframed the question.

133. Q. Is there not any provision in the Japanese Naval Criminal Law which is applied to persons who mistreat prisoners of war?

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

The accused reframed the question.

134. Q. Do you know whether there is any article or provision in the Japanese Naval Criminal Law which metes out punishment to persons who visit mistreatment upon prisoners of war?

A. I do know.

135. Q. What provisions are those?

A. There is no specific article which mentions prisoners of war, but Chapter 5, which is titled "Crimes of Violence, Threats, Murder, Injury," -- Article 69 therein is applicable to all persons.

The judge advocate moved to strike out this answer on the ground that it was the opinion of the witness who was not qualified as an expert.

The accused replied.

The commission directed that the answer be stricken.

136. Q. Will you please read Article 69 of the Japanese Naval Criminal Code?

A. "Article 69. Those who commit inhuman acts by abusing their authority shall be punished for not more than three years imprisonment with hard labor and confinement."

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

The commission announced that the motion to strike was not sustained.

The commission then, at 3:15 p. m., took a recess until 3:30 p. m., at which time it reconvened.

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

Archie L. Haden, junior, yeoman first class, U. S. Navy, reporter. JK

No witnesses not otherwise connected with the trial were present.

Sanagi, Sadamu, 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 judge advocate concerning Exhibit 33:

137. Q. Will the witness read Article 5-3 of Exhibit 33?  
A. (The witness read Article 5-3 of Exhibit 33.)

138. Q. In Exhibit 33 is there any regulation which contains any specific provision or instruction that prisoners of war shall not be mistreated?  
A. In this regulation there is no specific article to that effect.

Reexamined by the accused concerning Exhibit 33:

139. Q. You testified in answer to the judge advocate's question that there were no regulations to prevent mistreatment of prisoners of war in this Exhibit 33. Do you know if there is any law or regulation which sets forth that persons who mistreat prisoners of war be punished?

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 on the ground that it was repetitious. JK

140. Q. Do you know whether the Japanese Criminal Code is applicable in case Japanese naval personnel mistreat prisoners of war?

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.

141. Q. Have you a copy of the Japanese Criminal Code?  
A. I have.

142. Q. Is this Japanese Criminal Code included in the volume of the Navy Regulations from which excerpts have been taken previously?  
A. It is in Volume 4 of the Japanese Navy Regulations.

143. Q. Will you read the titles of Chapters 26, 27, 28, 30, 32, and 36 of the Japanese Criminal Code?  
A. Chapter 26, Crimes of Homicide; 27, Crimes of Wounding; 28, Crimes of Wounding by Negligence; 30, Crimes of Abandonment; 32, Crimes of Intimidation; and 36, Crimes of Theft and Robbery.

144. Q. The crimes set forth under the articles you just read, are these applied to Japanese naval personnel?

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. Yes, they were applied. I know that they were applied.

145. Q. Do you know that the Japanese Criminal Code was applied to navy personnel who committed mistreatment against prisoners of war?

A. When there is no specific provision set forth in Japanese Naval Criminal Law and when crimes that are not specifically set forth in the Japanese Naval Criminal Code are committed then this Japanese Criminal Code is applied.

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

The accused replied.

The commission directed that the answer be stricken.

146. Q. Do you know whether, as a matter of fact, the Japanese Criminal Code was applied to navy personnel?

A. It was applied.

The judge advocate 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 resumed his seat as counsel for the accused.

The commission then, at 4:20 p. m., adjourned until 9 a. m., tomorrow, Wednesday, June 23, 1948.



TWENTY-EIGHTH DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands,  
Wednesday, June 23, 1948.

The commission met at 9 a. m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Rescoe, Coast Artillery Corps, United States  
Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army,  
Lieutenant Commander Bradner W. Leep junior, U. S. Naval Reserve, JK  
Lieutenant Commander Edwin M. Koos, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, and  
Lieutenant James P. Kenny, U. S. Navy, judge advocates.  
Stewart R. Smith, 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 <sup>as</sup> ~~was~~ JK  
read and approved.

No witnesses not otherwise connected with the trial were present.

The judge advocate was called as a witness for the defense and was duly  
sworn.

Examined by the judge advocate:

1. Q. Will you state your name, rank, and station?  
A. James P. Kenny, lieutenant, United States Navy, attached to the office  
of the Director of War Crimes, Pacific Fleet; judge advocate of this  
commission.

Examined by the accused:

2. Q. Have you in your possession a certified copy of interrogatories sent  
to the Central Liaison Office, Japanese Government, and its deposition, the  
interrogatories being sent on 17 May 1948?  
A. I have. Here it is.
3. Q. On the interrogatories, do there appear the signatures of the parties  
concerned?  
A. The interrogatories are signed by all the necessary parties.
4. Q. In the case of the deposition, is the signature there?  
A. The deposition is signed by the party who made it.

The document produced by the witness was submitted to the judge advocate  
and to the commission, and by the accused offered in evidence.

The judge advocate announced that he had no objection to the receipt of this document in evidence but reserved the right to make objections and motions to specific portions of the contents of this document after it was admitted in evidence.

The commission was cleared. The commission was opened and all parties to the trial entered. The commission announced as follows:

The commission finds that the judge advocate is correct in his outline of the procedure in connection with this type of document and such procedure is approved by the commission.

There being no objection, the document was so received, appended marked "Exhibit 34."

Examined by the accused concerning Exhibit 34:

5. Q. Will the witness please read Exhibit 34?

The witness read the first interrogatory and answer thereto contained in Exhibit 34.

The judge advocate moved to strike all of the answer to the first interrogatory, except the word "Yes," on the ground it was not responsive.

The accused concurred.

The commission directed that the words following the word "Yes" be stricken.

The witness read the second interrogatory contained in Exhibit 34.

This interrogatory was objected to by the judge advocate on the ground that it was irrelevant and immaterial because it does not relate to the specific tour of duty of the accused Kobayashi, and, also, on the ground that it is too vague and broad in scope for the same reason.

The accused replied.

The commission announced that the objection was not sustained.

The witness read the answer to <sup>the</sup> second interrogatory contained in Exhibit 34. JK  
JK

The witness read the third interrogatory contained in Exhibit 34.

This interrogatory was objected to by the judge advocate on the ground that it was irrelevant and immaterial and further on the ground that it does not relate specifically to any period during the tour of the accused. Further, that it is highly improper in phraseology, because it does not show that it has any relation to the Fourth Fleet during the period of the tour of duty of the accused. JK

The accused replied.

The commission announced that the objection was not sustained.

The witness read the answer to the third interrogatory contained in Exhibit 34.

The witness completed reading Exhibit 34.

Neither the judge advocate nor the commission desired to examine this witness concerning Exhibit 34.

The commission then, at 10:30 a. m., took a recess until 11 a. m., at which time it reconvened.

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

Robert Oldham, yeoman third class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

James P. Kenny, 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.)

6. Q. Do you have in your possession a certified copy of the interrogatories sent to the Central Liaison Officer, Japanese Government, on May 18, 1948 and its deposition?

A. Yes, I have. Here it is.

7. Q. Do these interrogatories and deposition have the signatures of the parties concerned?

A. They do.

The document 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, appended marked "Exhibit 35."

8. Q. Will the witness read Exhibit 35?

A. (The witness read Exhibit 35.)

The accused stated that he had personally read and understood this exhibit and therefore waived the reading of it in Japanese.

The commission then, at 11:20 a. m., adjourned until 9 a. m., tomorrow, Thursday, June 24, 1948.

TWENTY-NINTH DAY

United States Pacific Fleet,  
Commander Marianas,  
Guam, Marianas Islands,  
Thursday, June 24, 1948.

The commission met at 9:10 a. m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,  
Lieutenant Colonel Henry K. Roscoe, Coast Artillery Corps, United States  
Army,  
Lieutenant Colonel Victor J. Garbarino, Coast Artillery Corps, United  
States Army,  
Lieutenant Commander Bradner W. Lee, junior, U. S. Naval Reserve,  
Lieutenant Commander Edwin M. Koss, U. S. Navy,  
Captain Raymond F. Garraty, junior, U. S. Marine Corps, members, and  
Lieutenant David Bolton, U. S. Navy, and  
Lieutenant James P. Kenny, U. S. Navy, judge advocates.  
Robert Oldham, yeoman third 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.

James P. Kenny, 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 accused concerning defense document number 53:

9. Q. Do you have defense document number 53 relating to the interro-  
gatories propounded to Russell Allen Phillips and the deposition thereto?  
A. I have.

10. Q. Is this interrogatory signed by the defense counsel and the judge  
advocate and is the deposition signed by Russell Allen Phillips?  
A. It is.

The document 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, appended marked  
"Exhibit 36."

11. Q. Will you please read the interrogatories and the deposition?  
A. (The witness read Exhibit 36.)

The accused waived the reading in Japanese of Exhibit 36 and stated  
that the accused personally had read and fully understands the interroga-  
ries and the deposition.

Examined by the accused concerning defense document number 101:



12. Q. Do you have defense document number 101, which was taken from the document marked number six for identification, in your possession?

A. I have.

13. Q. Do you have a certified excerpt from that document of the testimony of Sakaibara, Shigematsu?

A. I have. Here it is.

The document 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, appended marked "Exhibit 37."

Examined by the accused concerning Exhibit 37:

14. Q. Will you please read page two with the exception of questions number two and three and the answers thereto?

A. (The witness read from Exhibit 37 as requested.)

15. Q. I would like you to read the whole of page three with the exception of questions twenty, twenty-two, and twenty-four, and the answers thereto.

A. (The witness read from Exhibit 37 as requested.)

16. Q. Will you read all the questions and answers on page four, with the exception of thirty-four, thirty-seven, thirty-eight, forty, and forty-one?

A. (The witness read from Exhibit 37 as requested.)

17. Q. Will you please read all the questions and answers on page five, with the exception of questions forty-two, forty-three, forty-four, forty-five and the answers thereto?

A. (The witness read from Exhibit 37 as requested.)

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 advocates, the accused, his counsel, and the interpreters.

Stewart R. Smith, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

James P. Kenny, 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 concerning Exhibit 37 continued.)

18. Q. Please read questions and answers 55 and 62 on page six.

A. (The witness read from Exhibit 37 as requested.)

19. Q. On page seven, please read questions and answers 72 and 73.

A. (The witness read from Exhibit 37 as requested.)

20. Q. Will you please read the questions and answers on page ten, excluding questions and answers 97, 98, 99, 105 and 109.

A. (The witness read from Exhibit 37 as requested.)

21. Q. On page eleven, will you just read questions and answers 112, 113 and 114.

A. (The witness read from Exhibit 37 as requested.)

22. Q. On page twelve, will you read just question and answer 127.

A. (The witness read from Exhibit 37 as requested.)

23. Q. On page thirteen, will you please read questions and answers 137, 138 and 139.

A. (The witness read from Exhibit 37 as requested.)

Cross-examination by the judge advocate concerning Exhibit 37:

24. Q. Will the witness read questions and answers 20, 34, 37, 40, 41, 42, 61, 70, 75, 79, 80, 81, 92, 94, 95, 96, 97, 98, 105, 115, 116, 117, 118, 119, 123, 125, 126, 128, 140, and 143.

A. (The witness read from Exhibit 37 as requested.)

Reexamination by the accused concerning Exhibit 37:

25. Q. Will the witness read the final statement on page thirteen.

A. (The witness read from Exhibit 37 the final statement of Shigematsu Sakaibara on page thirteen.)

Neither the accused nor the judge advocate desired further to examine this witness concerning Exhibit 37.

The commission did not desire to examine this witness concerning Exhibit 37.

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 advocates, the accused, his counsel, and the interpreters.

Robert Oldham, yeoman third class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

James P. Kenny, 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 by the accused concerning defense document number 102:

26. Q. Do you have in your possession a document which is the testimony of Captain Tanaka, Masaharu, which is excerpted from the document marked number nine for identification?

A. I have.

27. Q. Is it an authentic copy?

A. It is an excerpt from a certified copy of the record in the case of Captain Tanaka, Masaharu, et al.

The document 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, appended marked "Exhibit 38."

Examined by the accused concerning Exhibit 38:

28. Q. Will the witness please read from page two the questions and answers thereto.

A. (The witness read from Exhibit 38 as requested.)

29. Q. Will the witness read all the questions and answers on page three except question 9 and its answer.

A. (The witness read from Exhibit 38 as requested.)

30. Q. Will the witness read all the questions and answers on page four except numbers 13 and 17.

A. (The witness read from Exhibit 38 as requested.)

31. Q. Will the witness read questions 22, 23, and 24 and the answers thereto on page five.

A. (The witness read from Exhibit 38 as requested.)

32. Q. Will the witness read all the questions and answers on page seven except numbers 42, 43, and 44 and 45.

A. (The witness read from Exhibit 38 as requested.)

33. Q. Will the witness read question 49 on page eight and the answer thereto.

A. (The witness read from Exhibit 38 as requested.)

34. Q. Will the witness read questions 61, 64 and 65 on page nine and the answers thereto.

A. (The witness read from Exhibit 38 as requested.)

35. Q. Will the witness read all the questions and answers on page ten except 70, 71, 72 and 75.

A. (The witness read from Exhibit 38 as requested.)

36. Q. Will the witness read questions 80, 83 and 84 and the answers thereto on page eleven.

A. (The witness read from Exhibit 38 as requested.)

37. Q. Will the witness read questions 103 and 106 on page thirteen and the answers thereto.

A. (The witness read from Exhibit 38 as requested.)

38. Q. Will the witness read questions 126 and 127 and the answers thereto on page fifteen.

A. (The witness read from Exhibit 38 as requested.)

Cross-examined by the judge advocate concerning Exhibit 38:



39. Q. Will the witness read from Exhibit 38 questions 5, 13, 20, 25, 26, 35, 36, 37, 50, 54, 67, 68, 69, 70, 71, 75, 82, 85, 93, 94, 95, 96, 108, 119, 120 and the answers thereto.

A. (The witness read from Exhibit 38 as requested.)

Neither the judge advocate nor the accused desired further to examine this witness concerning Exhibit 38.

The commission did not desire to examine this witness concerning Exhibit 38.

Examined by the accused concerning defense document number 103:

40. Q. Has the witness in his possession the excerpt of the entire testimony of Edward F. O'Brien which is an excerpt from the document marked number eight for identification, the record in the case of Oishi, Chisato?

A. I have.

41. Q. Is this excerpt certified?

A. This is a certified extract from the certified copy of the Oishi, et al record.

The document produced by the witness 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 of hearsay as this document is solely concerned with the contents of an alleged suicide note by Captain Shiga and does not fall within the dying declaration or other exception to the hearsay rule, citing section 188 of Naval Courts and Boards.

The accused replied.

The commission announced that the objection was not sustained.

There being no further objection, the document was so received, appended marked "Exhibit 39."

The commission then, at 3:20 p. m., took a recess until 3:45 p. m., at which time it reconvened.

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

Stewart R. Smith, yeoman first class, U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

James P. Kenny, 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 accused concerning Exhibit 39:

42. Q. Will the witness read Exhibit 39?

A. (The witness read Exhibit 39.)



Neither the judge advocate nor the commission desired to examine this witness concerning Exhibit 39.

The witness resumed his<sup>s</sup> seat as judge advocate.

The commission then, at 3:55 p. m., adjourned until 9 a. m., tomorrow, Friday, June 25, 1948.

JK