

Kaname SAKABA

In General. Kaname Sakaba, in April 1944, succeeded Kunji Suzuki as area commander of the Tokyo area PW camps and commander of Omori and continued as such until the cessation of hostilities.

Omori was a compact camp, in the approximate form of a square with sides approximately 400 feet long and contained only twelve buildings (Ex 244). Sakaba had his office and living quarters in the area headquarters building, which was in the camp and directly opposite the guard house and the main gate (Ex 13, 26, 182). From his window, which was about forty feet from the main gate, he could see personnel entering or leaving the guard house and the main gate and, in many instances, punishment was administered just outside the guard house (Ex 182). Sakaba spent a great deal of time in Omori, walking around the camp requiring PW's to bow and salute him, attending the morning or evening roll calls almost daily and could see the living conditions, the physical condition of the PW's and the brutality to which they were subjected (Ex 6, 13, 24, 92, 155, 211). Sakaba was generally aware of the punishment and beatings administered to the PW's (Ex 6, 209) his policy being to encourage and foster brutality (Ex 99). On occasions, Sakaba witnessed PW's being beaten, including beatings administered by Watanabe, and did not interfere (Ex 15, 26, 118).

The senior PW officer sought to protest to Sakaba and could not gain an audience and on one occasion was beaten when he attempted to do so (Ex 50, 182). Watanabe was a disciplinary non-com (Ex 96) and administered beatings on orders from Sakaba's executive (Ex 211). In 1945, Sakaba visited Mitsushima PW Camp and addressed the PW's through an interpreter, stating Watanabe had been sent to this camp to maintain order and discipline. He also stated Watanabe was directly responsible to him for carrying out his orders and if they did not obey, Watanabe would punish them physically on the spot (Ex 186). Fujii, a Japanese medical officer, stated he did not report Watanabe's beating of Lt. Bush because Sakaba knew Watanabe was always beating PW's (R 256).

As to Specification 1: Not guilty, finding.

As to Specification 2: The buildings in Omori during Sakaba's time were filthy and were infested with fleas, flies and rats due to the unsanitary conditions, especially in the latrines (Ex 13, 15, 24, 26, 36, 41, 55, 91, 105, 125) and the authorities did not take steps to improve the conditions (R 732; Ex 36, 211). The Japanese medical officer performed operations without anesthetics, despite an adequate supply (Ex 13, 104). PW's had difficulty in securing medical attention (Ex 110, 125, 245) and medical supplies were not issued although they were available in camp (Ex 30, 43, 247). Despite the fact that glucose and vitamin extracts were sent to camp, the Japanese failed to issue them (Ex 36) and other available Red Cross medical supplies (Ex 99) and took American Red Cross medical supplies for their own use (Ex 121, 162). Sick prisoners were often sent to work over the protests of Allied PW medical officers (Ex 15, 26, 100) and the Japanese OD or non-commissioned officer passed on those who the PW medical officers recommended be excused from work and often sent these sick PW's to work (Ex 24, 193, 203).

As to Specification 3: Not guilty, finding.

As to Specification 4: Between April 1944 and August 1945, Japanese personnel at Omori withheld and destroyed incoming and outgoing mail from American and Allied PW's (Ex 53, 57, 116, 222). In August 1944, PW's were allowed to write postcards home. In December 1944, the same postcards were handed back to the senior PW officer by Watanabe, who instructed this officer to burn them. Watanabe would often destroy the PW's incoming mail in their presence (Ex 247). After Watanabe was transferred and also after the surrender, large quantities of incoming mail that had been withheld for as long as nine months were released (Ex 77, 94, 174, 212).

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As to Specifications 5 and 6: Stricken; defense motion (R 60).

As to Specification 7 and sub-Specifications 7a, 7d, 7g and 7m: B-29 crew members and submarine crew members were called "Special Prisoners" by the Japanese and were separately confined at Omori during the time Sakaba was camp commander (R 602). Sakaba ordered that these "Special Prisoners" be given no medical care. This was overheard by an American medical officer (Ex 100) and Japanese witnesses also testified as to this (Ex 216, 217; R 979).

During at least four air raids in 1945, "Special Prisoners" were kept confined in their barracks, were not allowed to go to the air raid shelters as were Japanese personnel and the regular prisoners. Some of the bombs fell within 500 yards of the "Special Prisoners" barracks (Ex 101, 145, 156, 213). The quarters for "Special Prisoners" were inadequate (Ex 15) and the whole camp and barracks were infested with fleas, flies and vermin (Ex 26, 208; See also evidence in Specification 2, supra). "Special Prisoners" were confined in an area without running water (Ex 36) and were only allowed one bath a month (Ex 31, 173, 195, 240). One PW stated he was confined for three months before he was allowed to wash his clothes (Ex 31) and another stated the ordinary issue of soap to PW's was denied to "Special Prisoners" (Ex 26).

"Special Prisoners" were without adequate clothing (Ex 115) and available Red Cross clothing was not issued to them (Ex 26). Available Red Cross medicines and equipment were not made available for treatment of "Special Prisoners" (Ex 13, 66, 138, 240).

Author Gill, American PW, was suffering from dysentery and yellow jaundice and was unable to eat the food furnished by the Japanese. He was untreated for at least a week and despite Major Boyington's complaint, Gill was not allowed to receive medical care. Finally, when it was apparent that he was about dead, Fujii came in and gave him blood plasma. The PW medical officer was eventually smuggled in but it was too late for him to do anything and Gill died in July 1945 of malnutrition, dysentery and other causes (Ex 66, 100, 112, 137, 152, 173, 208, 213, 238).

As to Specification 8: At or near Omori, between April 1944 and August 1945, officers were compelled, against their will, to do physical labor along with enlisted personnel (Ex 26, 77, 117, 186, 209, 211), wash the clothes of Japanese personnel (Ex 15, 186), sweep and police the area (Ex 15, 186), work in the leather shop (Ex 53, 154, 186, 194), carry coal and food into camp (Ex 118, 186), empty the latrines with a scoop and thereafter carry the human excreta in buckets (Ex 15, 77, 80, 118, 142, 186, 194). Watanabe often imposed the duty of emptying the latrines on officers (Ex 77).

As to Specification 9: Not guilty, finding.

As to Specification 10: Between April 1944 and August 1945, the accused issued orders that all prisoners, including officers, must salute all Japanese personnel, including coolies (Ex 45, 208, 246). PW's who failed to salute and bow were beaten (Ex 26, 55, 100, 112, 224). PW's were required, on entering or leaving their barracks, to face the main office and salute (Ex 85). For failure to salute, Watanabe made PW's salute trees and required PW's to salute the windows of his office (Ex 15).

As to Specification 11: Not guilty, finding.

As to Specification 12: Between September 1944 and March 1945, Captain van Wornor, an American PW, while delivering food to the "Special Prisoners" at Omori, passed the headquarters area and noticed a group of Japanese, stripped

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to the waist, performing calisthenics. On his way back, he was stopped by the leader of the group, who he then recognized as Kaname Sakaba. While van Tormer was standing at attention, Sakaba struck at his jaw with his fist but only hit his chest and when van Tormer fell to the ground, he was not hit again or thereafter punished (Ex 180, 186).

As to Specification 13: Stricken, defense motion (R 69).

As to Specification 14: Unless noted to the contrary, all events related in these sub-specifications occurred at Omori between April 1944 and August 1945, during the time the accused was camp commander.

As to Specification 14a: In March or April 1945, at the Shoodome work site near Omori, when a guard claimed two bottles of wine were missing, a group of British PW's, including William Boyes and one Dawson, were made to kneel down in a line. The guard then struck each man on the head with the butt of his rifle. Six of these men were knocked out and Boyes was badly cut. Dawson was unable to work as a result of this and soon after collapsed (Ex 24, 30).

As to Specification 14b: In the summer of 1945, at the Shoodome work site near Omori, a Japanese civilian guard, nicknamed "The Madman", beat Norman Albertson, an American PW, for stealing powdered milk. Albertson was beaten during a two-hour period with a stick and at the same time, Albertson was required to hold two buckets of water at arms length. Thereafter for seven days, Albertson was forced to stand at attention between 6 p.m. and midnight in front of the camp office (Ex 81, 157).

As to Specification 14c: Norman Albertson, an American PW, stated (Ex 4) that in July 1944, he was beaten by a guard for speaking to a PW who was confined to the stockade. Albertson was thereafter required to stand at attention for three nights and two days without receiving food. Albertson collapsed twice and water was thrown on him and he was kicked until he regained his feet.

As to Specification 14d: In or about July 1945, Steffes, an American civilian PW, was suspected of stealing rice at the Shoodome work site. A guard nicknamed "The Madman" beat Steffes around the back and legs with his rifle. This beating resulted in contusions and the rupturing of Steffes' eardrum (Ex 71, 99).

As to Specifications 14e, 14f and 14g: Not guilty, finding.

As to Specification 14h: Not guilty, motion of defense.

As to Specification 14i: Not guilty, finding.

As to Specification 14j: Not guilty, motion of defense.

As to Specification 14k: In the latter part of 1944, at the Shoodome work site near Omori, Rae, a British PW, was kicked and beaten by Fugijawa for about two minutes. Rae went to the prisoners' hut to report this to the sentry and Fugijawa, accompanied by Anzia, followed Rae into the hut. Rae was again beaten by Fugijawa, who used a crowbar, and by Anzia, who had a stool, pointed bill-hook and another Japanese who used a stick. Rae struck back in self-defense. Rae was thereafter tried and sent to a civilian prison (Ex 23, 26, 55, 221).

As to Specification 14 l: In the early part of 1945, at the Shoodome work site near Omori, Gallagher, a British PW, was beaten with a stick by a Japanese nicknamed the "Fat Man". Gallagher walked to the hut to report it to the sentry. Anzia, a civilian foreman, the "Fat Man" and another Japanese followed Gallagher into the hut and hit him with a crowbar, stick and baling hooks. Gallagher reported it to Lieutenant Kato that evening, who made an inquiry and then told Gallagher he had received just punishment (Ex 176, 221).

Testimony

As to Specification 14m: Robert Roehm (Roehm), an American PW, stated (Ex 164) between September 1944 and December 1944, Tukijima (Koitaro Fukijima, Exs 147, 225) beat him for three hours with a leather shoe and ordered that Roehm was not to receive medical care.

As to Specification 14n: Lieutenant John N. Pourifoy, Jr., an American PW, stated (Ex 117) that in February 1945, Koitaro Fukijima called for PW's to help unload food that arrived in camp. Being an officer, Pourifoy did not think it applied to him and paid no attention. Fukijima forced him to stand at attention and then struck him several hard blows across the face with a heavy leather bayonet belt.

As to Specification 14o: Andante A. S. D'Amore, an American PW, stated (Ex 60) at Omori, in September 1944, he was beaten by Watanabe and Fukijima because they thought that D'Amore did not salute the guard house. They used their fists and sticks, which resulted in D'Amore receiving cuts and bruises about the head.

As to Specification 14p: Between April 1944 and May 1945, Koitaro Fukijima (Ex 225) beat Sergeant Kitsoch, an American PW, and Lewis and Novillo, British PW's, across the face with the buckle of his bayonet belt, causing them to be bruised and cut. This beating was given because these PW's allegedly did not properly cook the food for the Japanese personnel (Ex 209).

As to Specification 14q: Not guilty, finding.

As to Specification 14r: Milford L. Bonnett, an American PW, stated (Ex 22) during July 1944, he was beaten for about 45 minutes by Sugahara, a Japanese soldier, because Bonnett, on entering a building, did not bow low to Sugahara. Sugahara hit him in the face with his fists.

As to Specifications 14s and 14t: In January 1945, R. W. H. Acton saluted Watanabe but brought his hand down before Watanabe did. Watanabe knocked Acton down with his fists three times, cutting and bruising his face and kicking him while he lay on the ground. Watanabe made Acton stand at attention without his overcoat for six hours and in the same evening hit Acton four or five times with his scabbard. The next day, Watanabe lined up about forty Canadian PW's and told them they were too slow and hit every man with a bamboo stick. He knocked out Rifleman Coleman's tooth and knocked Staff Sergeant Barton down (Ex 1, 26, 128, 187).

As to Specification 14u: On or about June 1944, Jerry W. Ahern, an American PW, was beaten by Suzuki, a civilian guard. Ahern was required to stand at attention while Suzuki hit him with his fists at least forty times in the head and chest. The reason for this beating was because Ahern did not return to work promptly after a rest period (Ex 2, Ahern).

As to Specification 14v: In May 1944, when Captain Bruce Martin refused to salute all Japanese, including civilians and military, Watanabe said as a disciplinary matter, Captain Martin must do coolie work with the enlisted personnel. Captain Martin refused because he was being punished without trial and was being forced to perform labor although he was an officer. The next day he was called to Lieutenant Tetsutaro Kato's office and Watanabe and Komura were there. After a discussion, Lieutenant Kato repeated Watanabe's order to do coolie work as punishment and when Martin refused, Kato hit him with his fist and then continued to hit him and kick him in the face, stomach and groin. Although Martin does not remember (Ex 117) being hit by Watanabe, he states he may have been when he was in a semi-conscious condition on the floor. Many other witnesses state that Watanabe also kicked Captain Martin. As a result of this beating, Martin's nose was broken, both eyes were closed and he was sick in quarters for one week (Ex 2, 5, 6, 11, 19, 37, 41, 42, 45, 46, 56, 57, 72, 77, 84, 98, 117, 118, 119, 126, 131, 137, 141, 142, 143, 150, 152, 163, 167, 171, 172, 175, 176, 184, 198, 224, 229, 238, 239, 241, 242).

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As to Specification 14w: Not guilty, finding.

As to Specification 14x: Frank Sterling Arcenaux, an American PW, stated (Ex 9) in the summer of 1944, Watanabe struck him across the bridge of his nose with the back of his sword, which resulted in his nose being broken.

As to Specification 14y: Comdr Mayer (Maher, Ex 211) was frequently beaten by Watanabe on the slightest provocation (Ex 43) and in the summer of 1944, when PW officers failed to report for labor, Watanabe beat Mayer with the buckle-end of a leather belt, then knocked him down and kicked him in the ribs, stomach and groin. Mayer had to be hospitalized as a result of this beating (Ex 9).

As to Specification 14z: Not guilty, motion by defense.

As to Specification 14a1: Not guilty, finding.

As to Specification 14a2: Eugene R. Barnhart, an American PW, stated (Ex 16) in November 1944, he was, on two occasions, beaten across the head and face with a rice paddle by Watanabe.

As to Specification 14a3: Milford L. Bennett, an American PW, stated (Ex 22) in June, July and August 1944, he was frequently beaten by Watanabe, who used his fists and a stick.

As to Specification 14a4: Harold G. Beierstedt, an American PW, was beaten in December 1944 by Watanabe with his fists, belt buckle and scabbard for $1\frac{1}{2}$ hours and thereafter made to stand at attention for $2\frac{1}{2}$ hours. This beating resulted when he denied stealing clothing (Ex 15, 21, 246).

As to Specification 14a5: Not guilty, finding.

As to Specifications 14a6 and 14a7: Between April 1944 and December 1944, Arthur H. Buchanan, an American PW, was caught looking at a picture in a Japanese newspaper by Hiroshi Fujii, a Japanese medical officer, who accused him of being a spy and threatened to kill him with a sword. Fujii could not find his sword but beat Buchanan with his fists, throw things at him, kicked him when he fell down and beat him unconscious with a broom. This beating lasted more than thirty minutes (Ex 39, 242) and when Fujii was exhausted, he released Buchanan and told him to go to the barracks and wash the blood off his face. On Buchanan's reaching his barracks in a dazed condition, Watanabe called him to attention and asked him why Fujii had beaten him. When Buchanan told him, Watanabe hit him in the head with his fists and knocked him unconscious. On another occasion, Watanabe knocked him down and kicked him in the back, stomach and chest and threatened him with the point of his sword (Ex 39).

As to Specification 14a8: Not guilty, finding.

As to Specification 14a9: In November 1944, Nelson A. Busch, an American PW, was in charge of a working party and failed to report a theft of rice by a PW when he returned to camp. Watanabe, upon learning this, made Busch stand at attention for five hours. During this time, Watanabe beat him about the head and body with a bamboo stick, concentrating on Busch's left wrist where Busch had a boil (Ex 43, Busch).

As to Specification 14a10: In November 1944, two American PW's, including PW Arnold, refused to listen to Watanabe's orders concerning their work. Watanabe drew his saber and struck each of them over the head several times and forced them to stand at attention for a period of time in the extreme cold weather (Ex 10, 51).

As to Specification 14a11: Not guilty, finding.

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As to Specification 14a12: Between April 1944 and August 1944, Watanabe beat Lewis William Bush, a British PW, on many occasions (Ex 54, 57, 141, 149). In May or June 1944, he beat Bush and kicked him in the head and ribs while he was on the ground. Watanabe then picked up a fire extinguisher or bucket and was about to hit Bush on the head with it when Fujii, a Japanese officer, stopped him. Fujii testified that his attention to this incident was drawn by screams and, in his opinion, if he had not stopped Watanabe, the fire bucket would have killed Bush (Ex 184; R 253, 254).

As to Specification 14a13: Not guilty, motion by defense.

As to Specification 14a14: In or about October 1944, James, a British PW officer, who was over sixty years of age, was severely beaten by Watanabe for failing to stand at stiff attention. Watanabe beat him with his fists and a kendo stick with the result that James bled from the nose and cuts and lacerations about his face. When James finally fell down, Watanabe kicked him. As a result of this beating, James was confined to his bed for seven days and almost had a nervous breakdown (Ex 24, 26, 46, 77, 148, 152, 175, 184, 186, 222, 224, 238).

As to Specification 14a15: The alleged victim, Fort Hammond Callahan, an American PW, stated (Ex 46) during his confinement he was beaten at least fifteen times by Watanabe and on several of these times Watanabe used a kendo stick and on the other occasions he used his fists and boots. On two of these occasions, the little finger of his right hand was broken when he was trying to protect his head with it. Watanabe also forced him to run around the camp for an hour at a time, shine Watanabe's shoes, clean out the latrine and forced him to stand at attention outside his office in the winter time for hours at a time. As a result of these beatings, Callahan suffered a complete nervous breakdown (Ex 77, 144, 222).

As to Specification 14a16: Not guilty, motion by defense.

As to Specification 14a17: In February 1945, Watanabe forced Gallagher, an Allied PW, to stand at attention outside Watanabe's office between 9 and 12 p.m. for twenty days (Ex 55).

As to Specification 14a18: Not guilty, finding.

As to Specification 14a19: Between September 1944 and December 1944, Watanabe beat Bernard G. LeBeau, an American PW, on two occasions, striking him with his fists about twenty times (Ex 110, LeBeau).

As to Specification 14a20: In October 1944, during retreat, one of the guards discovered a pair of socks in the refuse can. When no one admitted throwing them away, Watanabe was called and he made the group of 125 men stand at attention from 7:30 p.m. until 1:00 a.m. until one prisoner finally confessed. During this time, an armed guard slapped those who did not stand stiffly. Commander Mayer tried to intercede for the PW who finally confessed and Watanabe beat Mayer and kicked him when he was down (Ex 69).

As to Specification 14a21: In November 1944, Watanabe took Lieutenant Colonel H. Pike into his office for failing to salute and beat him across the face with a leather belt. Watanabe then confined Pike to the guard house without clothing for one day (Ex 77, 160, 224-Pike).

As to Specification 14a22: Not guilty, finding.

As to Specification 14a23: Not guilty, motion by defense.

As to Specification 14a24: Not guilty, finding.

As to Specification 14a25: Between September 1944 and December 1944, Watanabe beat Captain Sampson with his fists for failing to yell attention loud enough when Watanabe appeared (Ex 61, 80, 169).

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As to Specification 14a26: Not guilty, finding.

As to Specification 14a27: In May 1944, Captain David A. Hurt was beaten by Watanabe. PW Hurt had, with the guards permission, made a change in the arrangement of the garden but when Watanabe saw it, he started to beat Hurt before any explanation could be made. Watanabe hit him over the head with a bamboo stick and punched him with the end of it in the chest and throat and then threatened to kill him. Watanabe then swung at him with his sword, missing PW Hurt and hitting the wooden support of the porch of the headquarters building (Ex 179, 92-Hurt).

As to Specification 14a28: In November 1944, Watanabe and Kiyoshi Kono beat Henry F. Inman, an American PW, and five other PW's while they stood at attention, using their fists, feet, empty saber scabbards and clubs. This beating lasted about six hours and the jaw of one of the PW's was broken (Ex 94-Inman).

As to Specification 14a29: Not guilty, finding.

As to Specification 14a30: Not guilty, motion by defense.

As to Specification 14a31: Between September and November 1944, Nelson N. Kauffman, American medical officer, was beaten on six different occasions by Watanabe, who used his fists on three occasions and on three other occasions beat him with a bamboo rod, kicked him in the throat, pounded his head against a wooden beam, knocking him unconscious (Ex 25, 26, 242, 103-Kauffman).

As to Specifications 14a32 and 14a33: Not guilty, finding.

As to Specification 14a34: About November 1944, Watanabe beat one Nelms, an American PW, for failing to salute and bow when Watanabe entered the PW barracks. Watanabe hit him about the face and shoulders and back with the butt of his saber. As a result of this beating, Nelms' face was swollen and his eyes blackened (Ex 111).

As to Specification 14a35: Not guilty, motion by defense.

As to Specification 14a36: Between August and December 1944, Francis Macey, an Allied PW, failed to call his labor detail to attention when Watanabe arrived. Watanabe struck him across the mouth with his scabbard, knocking out two teeth. Thereafter when Watanabe saw PW Macey, he would stand him at attention and strike him with his fist. This happened on many occasions, averaging about four days a week (Ex 114-Macey).

As to Specification 14a37: Between September and December 1944, Watanabe beat Captain Sherry, an Allied PW, on three occasions, using his fists, a wooden sword and a rifle butt. He then made Captain Sherry stand at attention for long periods of time (Ex 120).

As to Specification 14a38: In November or December 1944, Lieutenant A. J. Toulon, an American PW, was beaten by Watanabe, who used his fists, knocking Toulon down about three times (Ex 123).

As to Specification 14a39: Between September and December 1944, Watanabe sent Lieutenant Arthur Greenville McIntire to the leather shop to assemble a group of officers. In a few minutes, Watanabe arrived at the leather shop and reprimanded McIntire for taking so long, hitting him in the face and throat with his fists and knocking him down five or six times. He then lined the officers up and hit them with a wide web belt that had a heavy buckle and metal fittings. He thereafter dismissed all officers but McIntire and Lieutenant Nyrada and beat Lieutenant Nyrada in the face with his fists and again struck McIntire, loosening his teeth (Ex 181, 124-McIntire).

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As to Specification 14a40: Not guilty, motion by defense.

As to Specification 14a41: Not guilty, finding.

As to Specification 14a42: Not guilty, motion by defense.

As to Specification 14a43: Not guilty, finding.

As to Specification 14a44: In October 1944, Watanabe called together a group of men who had been leaving their clothing at the work site and also called PW Ernest Frank Paul, who was a non-com in charge of this group. Watanabe beat these men and PW Paul with a kendo stick and then singled out PW Paul for a special beating and practically knocked him unconscious (Ex 222-Paul).

As to Specification 14a45: In December 1944, Watanabe entered the barracks through a window and because PW Ernest Frank Paul was not making the men practice answering roll call as ordered, Watanabe beat PW Paul with a sword scabbard and fists and thereafter made him stand at attention in the cold from 2100 to 0200 hours (Ex 24, 222-Paul).

As to Specifications 14a46 and 14a47: Not guilty, finding.

As to Specification 14a48: In November 1944, Watanabe beat Joe Gutierrez, an Allied PW, with his closed hands, knocking him down three times, for failing to call the detail to attention when Watanabe approached (Ex 155).

As to Specification 14a49: On one occasion between April and December 1944, Captain Gould and Frederick Henry Richardson, Jr., contrary to orders forbidding treatment of Allied and American PW's after 6 p.m., were caught by Watanabe treating several PW's who were sick. Watanabe ordered them outside and made them stand at attention while he beat them with his fists, eventually knocking them both down (Ex 161-Richardson).

As to Specification 14a50: Not guilty, finding.

As to Specification 14a51: In December 1944, Watanabe beat Datti, an American PW, for smoking in the barracks. Watanabe jumped on Datti and beat and kicked him in the neck, stomach and groin until Datti turned black and lost consciousness. Watanabe apparently then became frightened and sent for a PW medical officer (Ex 170).

As to Specification 14a52: On an occasion between June and December 1944, Watanabe called W. F. Toms, a British PW, before him for not saluting a guard while carrying two buckets in each hand. PW Toms tried to explain to Watanabe but Watanabe hit him with his fists and then hit him a swinging blow with a bamboo stick across the side of his head, knocking him unconscious. When PW Toms regained consciousness, he knocked him down again with the same stick (Ex 176-Toms).

As to Specification 14a53: In June 1944, Watanabe, on discovering that Henling T. A. Wade, a British PW, had failed to detail men to shine shoes as ordered, called Wade out at roll call and struck him in the face with his fists. Watanabe then took him to his room and beat him about the head, face and neck with a wooden fencing sword (Ex 184-Wade).

As to Specifications 14a54 and 14a55: Not guilty, finding.

As to Specification 14a56: Not guilty, motion by defense.

As to Specification 14a57: Between April and December 1944, Alfred A. Weinstein, an American PW medical officer, was beaten by Watanabe for no apparent reason or for failing to salute Japanese officers, non-commissioned officers or guards. Watanabe used his fists, clubs, leather belts and a kendo stick. PW Weinstein would be stood at attention and knocked down by one of these instruments and

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would immediately scramble to regain his feet to avoid being kicked. This would be repeated for about twenty minutes and then Watanabe would require him to stand at attention for one to three hours (Ex 6, 26, 77, 120, 134, 242, 186-Weinstein).

As to Specification 14a58: Not guilty, finding.

As to Specifications 14a59 and 14a60: Not guilty, motion by defense.

As to Specification 14a61: Not guilty, finding.

As to Specification 14a62: In May 1944, Robert A. Tusken, an American PW, was beaten by Watanabe for failing to salute. Watanabe beat him about the head, causing his eardrum to burst and then made Tusken enter a tub of cold water and threatened to drown him and thereafter kept him sitting there for thirty minutes (Ex 26, 178-Tusken).

As to Specification 14a63: On divers occasions between April and December 1944, Watanabe abused numerous Allied and American PW's by slapping them, beating them, practicing ju-jitsu upon them, requiring them to stand at attention for long periods of time, forcing sick PW's to work and by humiliating and otherwise abusing them. Watanabe established a reign of fear and terror and one PW estimated that he beat, slapped and kicked about 60% of Omori PW's during this period (Ex 3, 6, 7, 8, 9, 14, 15, 17, 18, 22, 24, 26, 28, 29, 30, 33, 40, 43, 46, 50, 52, 55, 59, 60, 64, 69, 70, 77, 80, 84, 93, 105, 106, 110, 112, 114, 116, 118, 121, 134, 136, 140, 149, 153, 154, 155, 158, 163, 164, 171, 172, 174, 177, 181, 185, 189, 194, 200, 202, 205, 211, 219, 222, 224, 229, 238, 240, 244, 246.)

As to Specification 14a64: In June 1945, a Japanese guard known as "Pretty Boy" pulled out his sword or bayonet and hit Harry C. Liskowsky, an American PW, on the back of his head and knocked him down. This blow resulted in a severe gash on Liskowsky's head that bled freely (Ex 15, 81, 112, 111-Liskowsky).

As to Specification 14a65: In June 1945, Harold Dale Lane and several other Allied PW's were beaten when one of the PW's was discovered with rice. The guard called "The Old Man" beat PW Lane. Each of the PW's were then brought to the guard house, were stripped and beaten with sticks and slapped with bayonets and PW Lane and three other Allied PW's received slight cuts (Ex 206-Lane).

As to Specification 14a66: In August 1945, near Omori, a guard gave Floyd Caverly and Captain Stoddard, Allied PW's, permission to make a stew. A Japanese officer, known as "Shorty", came along and struck PW Caverly and PW Stoddard about six blows across the face and head, knocking them unconscious. He similarly struck Richard H. O'Kane, an American PW, because he was the senior Allied officer present (Ex 12, 138-O'Kane).

As to Specification 14a67: In July 1944, near Omori, Allied PW's McLean, Cutter, Dawson, Cook and Herbert Gould were beaten by several civilian guards, including guards with the following nicknames: "Spooner", "Boris", "Shotgrass" and "Spider". PW's were lined up and beaten with sticks and Dawson, who answered back, was taken inside a hut and when he came back he bore signs of a severe beating (Ex 85-Gould).

As to Specification 14a68: In the latter part of 1944, Sergeant Kruger and Sergeant George Arwood, American PW's, locked one of their "straw bosses" in a cage and called him "monkey". Lieutenant Tetsutaro Kato and Watanabe lined them up and whipped them with their hands and used judo on them and kicked them (Ex 136, 158, 174).

As to Specification 14a69: In August 1945, Pvt Sukuki entered the carpenter shop where Kenneth Stull, an Allied PW, was employed. When Sukuki had trouble with a tool, he beat up PW Stull until Lieutenant Davis intervened (Ex 174-Stull).

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As to Specification 14a70: Tri, a Japanese Pfc, punished Arthur H. Buchanan and one Ladd, Allied PW's, for failing to carry a microscope to the air raid shelter during a B-29 raid. Tri made them stand at attention in the middle of the parade ground and hit each of them in the mouth. He then made them stand out in the open during the air raid (Ex 39-Buchanan).

As to Specification 14a71: Not guilty, motion by defense.

As to Specification 14a72: Not guilty, finding.

As to Specification 14a73: In January 1945, a Japanese guard nicknamed "Hophead" beat Sergeants Charles M. Howard and Charles Kazarian, Allied PW's. This beating lasted about 25 minutes and "Hophead" used his fists, feet and the butt of his rifle. Both PW's received severe bruises in the groin and in the back of their legs. Howard lost consciousness and was again beaten when he recovered (Ex 146).

As to Specification 14a74: In November 1944, Fukoda, a Japanese soldier, beat up Johansen, an American PW (Ex 210).

As to Specification 14a75: Between April 1944 and December 1944, Watanabe, on divers occasions, beat and abused Raymond L. Lucia, an American PW officer. On one occasion, Watanabe accused him of not working in a proper manner and beat him on the head and face with his fists. He repeated this on three other occasions and on another occasion, beat and kicked him (Ex 224, 209-Lucia).

As to Specifications 14a76 and 14a77: Not guilty, finding.

As to Specification 14a78: Kenneth Stull stated (Ex 174) that some time during the first part of 1945, Watanabe entered the PW barracks and beat him for not standing at attention. Watanabe knocked him down ten or fifteen times and stood him at attention for one hour.

As to Specifications 14a79, 14a80, 14a81, 14a82, 14a83, 14a84 and 14a85: Not guilty, motion by defense.

As to Specification 14a86: The alleged victim, Harold T. Hedges, stated (Ex 88) on 15 August 1945, while working in a garden near Omori, Tsugio Nishida found that someone had eaten a carrot. After the prisoners were stood at attention for a period of time, Hedges stated he had eaten it, although actually he had not done so. Nishida hit him in the jaw with his fist, breaking one of his teeth. Nishida then knocked him down again. Thereafter Kimura, a Japanese civilian guard, made him stand at attention and struck him several times on the back of his legs with the butt of his rifle. Each time that Hedges fell to the ground, Kimura hit him across the arms and chest with his rifle. Kimura also ran his hobnailed boots down the front of his legs six or seven times, causing them to bleed and then punched him in the face, causing his nose to bleed. Hedges was hospitalized after his liberation for internal and external injuries, resulting from this beating. The fact of this beating is substantiated by many affidavits (Ex 127, 213) in this record and (Ex 2, 3, 4, 6) in the record of U.S. vs Tsugio Nishida, Case Docket #156, incorporated by reference in this record. One of the exhibits, Exhibit 2, states Kimura beat Hedges on the orders of Nishida, who had departed. Nishida admits hitting Hedges (Record 29 of Case Docket #156), although he states he only ordered Kimura to warn the prisoner.

As to Specification 14a87: In August 1945, a Japanese officer nicknamed "Jumping Jack" (Tsugio Nishida, R 5 of Case Docket #156) discovered the prisoners making a stew while working in a vegetable garden near Omori. When Caverly, an American PW, admitted he had made the stew, Nishida struck him two or three times, knocking him down (R 717, Case Docket #156).

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As to Specification 14a88: Norman A. Albertson was asked by Tsugio Nishida why he was being punished and on his reply Nishida became angry and struck Albertson several times (Ex 13, Case Docket #156).

As to Specification 14a89: Not guilty, finding.

As to Specification 14a90: Towards the end of 1944, Henderson, a British PW, was punished by Kojima, a Japanese civilian guard, for stealing. Kojima made him stand for one hour, sufficiently near a fire so that Henderson was scorched but not burned. When Henderson attempted to move away, Kojima would strike him (Ex 221).

As to Specifications 14a91 and 14a92: Not guilty, motion by defense.

As to Specification 14a93: Between April 1945 and August 1945, one Dawson was beaten at the Shibaura work site near Omori by Chiku, a Japanese soldier. Chiku beat him with his fists and kicked him in the face and back (Ex 223).

As to Specification 14a94: Between April 1945 and August 1945, Chiku beat Cooke for allegedly slacking on his work. Chiku beat Cooke with his fists and kicked him about the face and body (Ex 223).

As to Specification 14a95: Between April 1945 and August 1945, because one of a group of twelve Dutch and Javanese PW's was late at a roll call, Chiku beat each of the twelve with a stick (Ex 223).

As to Specification 14a96: Not guilty, finding.

As to Specification 14a97: On 11 August 1945, Lieutenants Donald A. Carlson, James Edwards and Gilbert Smith, American PW's, were beaten by "Horseface" (Yasushi Kimura) for picking up loose soy beans that were lying in the gutter. Kimura beat the three of them with his rifle butt and fists and made them throw the soy beans away (Ex 3, 11, Case Docket #51, U.S. vs Kimura; incorporated into this record by reference R 438, 439).

As to Specification 14a98: On or about 10 August 1945, while working in a garden near Omori, Ray F. Halloran, an American PW, was slapped by Yasushi Kimura for lying down. Kimura slapped his face about twenty-five times, causing it to be bruised and sore (Ex 3, Case Docket #51).

As to Specification 14a99: About 1 August 1945, Yasushi Kimura took a pair of side cutting pliers and struck Lieutenant Savadkin, an American PW, about the face, cutting him in a dozen places (Ex 138, 208).

As to Specification 14a100: Between 3 April 1945 and 29 August 1945, Lieutenant Irving S. Newman stole a cucumber while working in the garden and was caught by Yasushi Kimura, who proceeded to beat him with his fists about the head and face for 15 to 20 minutes (Ex 19-Newman, Case Docket #51).

As to Specification 14b1: On or about 6 July 1945, Yasushi Kimura beat Sergeant Olinto F. Lodovici, an American PW, with his fists and with the barrel and butt of his rifle for 45 minutes (Ex 20-Lodovici, Case Docket #51).

As to Specification 14b2: In or about the month of July 1945, one White, an American PW, was discovered by a guard near a box car which was loaded with food supplies. When this was reported to Yasushi Kimura, he beat White with a stick about the face and body, causing White's face to become black and blue and to swell to about twice its size. Immediately thereafter, he forced White to stand at attention for about two hours, holding a cast iron pot over his head. Every time White lowered the pot, Kimura hit him with his open hand or fist (Ex 21, Case Docket #51).

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As to Specification 14b3: In January 1945, ten American PW's, including Beck P. Northrup, Nelson A. Bush, Bert McInnis, Carl Ronollo, George Arwood and Kenneth Stull, were accused of having stolen rice balls. They were lined up by Yasushi Kimura and another Japanese and each of them beat the ten PW's with their hands, fists and slippers for about thirty minutes (Ex 136-Northrup).

As to Specification 15: Not guilty, finding.

As to Specification 16: The proof offered in support of the sub-specifications of this specification consisted of military commission orders, showing the conviction of individual Japanese of offenses alleged in the sub-specifications herein, which were committed at Sumidagawa PW Camp, also known as Dispatch Camp #20, located at Tokyo, at a time when this camp was part of the command of the accused herein. All these MCO's were issued as a result of Case Docket #91, U. S. vs Mizukoshi et al'. The commission took judicial notice of this case (R 412). The exhibit number of the MCO admitted into evidence plus a particular specification listed in said MCO's will be listed in support of these specifications.

This reviewer has checked the review and/or record of said Case #91 and finds that the commission therein could reasonably reach its finding, except as to sub-specification k.

The following MCO's were listed into evidence: MCO 117, HQ 8th Army, dated 1 December 1947, Exhibit 320; MCO 118, HQ 8th Army, dated 1 December 1947, Exhibit 321; MCO 119, HQ 8th Army, dated 1 December 1947, Exhibit 322; MCO 120, HQ 8th Army, dated 1 December 1947, Exhibit 323; MCO 121, HQ 8th Army, dated 1 December 1947, Exhibit 324; MCO 122, HQ 8th Army, dated 1 December 1947, Exhibit 347.

As to Specification 16a: Specification 1 of Exhibit 323.

As to Specification 16b: Specification 2 of Exhibit 323.

As to Specification 16d: Specification 4a of Exhibit 323.

As to Specification 16e: Specification 4b of Exhibit 323.

As to Specification 16f: Specification 4c of Exhibit 323.

As to Specification 16g: Stricken, defense motion (R 60).

As to Specification 16h: Stricken (R 10).

As to Specification 16i: Specification 2 of Exhibit 347.

As to Specification 16j: Specification 3 of Exhibit 347.

As to Specification 16k: Specification 4 of Exhibit 347.

As to Specification 16l: Stricken (R 10).

As to Specification 16m: Specification 6a of Exhibit 347.

As to Specification 16n: Specification 6b of Exhibit 347.

As to Specification 16o: Specification 6c of Exhibit 347.

As to Specification 16p: Specification 6d of Exhibit 347.

As to Specification 16q: Specification 6e of Exhibit 347.

As to Specification 16r: Specification 6f of Exhibit 347 and Specification 1 of Exhibit 322.

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As to Specification 16s: Specification 6g of Exhibit 347 and Specification 2 of Exhibit 322.

As to Specification 16t: Specification 6h of Exhibit 347 and Specification 4 of Exhibit 322.

As to Specification 16u: Specification 6j of Exhibit 347 and Specification 4c of Exhibit 323.

As to Specification 16v: Specification 6k of Exhibit 347 and Specification 5 of Exhibit 322.

As to Specification 16w: Specification 6l of Exhibit 347 and Specification 1 of Exhibit 324.

As to Specification 16x: Specification 6m of Exhibit 347 and Specification 4 of Exhibit 324.

As to Specification 16y: Specification 6n of Exhibit 347 and Specification 6 of Exhibit 324.

As to Specification 16z: Specification 6o of Exhibit 347 and Specification 5 of Exhibit 324.

As to Specification 16aa: Specification 6q of Exhibit 347 and Specification 3 of Exhibit 324.

As to Specification 16bb: Specification 6r of Exhibit 347 and Specification 2 of Exhibit 324.

As to Specification 16cc: Specification 6s of Exhibit 347 and Additional Specification of Exhibit 324.

As to Specification 16dd: Specification 6t of Exhibit 347 and Specification 1 of Exhibit 320.

As to Specification 16ee: Specification 6u of Exhibit 347 and Specification 2 of Exhibit 321.

As to Specification 16ff: Additional Specification 1 of Exhibit 347.

As to Specification 16gg: Additional Specification 2 of Exhibit 347.

As to Specification 17: In the same manner as Specification 16, the sub-specifications of this specification are supported by Exhibit 395, which is a copy of MCO 264, headquarters 8th Army, dated 12 August 1948, resulting from Case #188, U.S. vs Munajiri et al, of which the commission took judicial notice (R 412). The reviewer has checked the review and/or record and finds that the exhibits and testimony substantiate the finding of the commission in that case. The evidence in support of the sub-specifications herein will be listed in the same manner as in Specification 16.

As to Specification 17a: Specification 1 of Exhibit 395.

As to Specification 17b: (as amended, R 989) Specification 2 of Exhibit 395.

As to Specification 17c: Specification 3 of Exhibit 395.

As to Specification 17d: Specification 4 of Exhibit 395.

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As to Specification 17e: Specification 7a of Exhibit 395.

As to Specification 17f: Specification 7b of Exhibit 395.

As to Specification 18 and sub-Specifications thereunder: Not guilty, finding.

As to Specifications 19 and 20: On motion of defense, prosecution submitted a Bill of Particulars covering these two specifications. This Bill of Particulars contains 201 items and the main proof offered in support thereof are military commission orders or copies of charges and specifications. Where the exhibits consisted of charges and specifications, this reviewer has made sure that each finding of guilty was confirmed by subsequent military commission orders. For administrative convenience, the evidence will be shown by citing the Bill of Particulars number and the Specification number of the exhibit whereby these military commission orders or charges and specifications are offered into evidence.

Bill of Particulars:

<u>Item</u>	<u>Spec.</u>	<u>Exhibit</u>	<u>Remarks</u>
(1)	4	318	
(2)	5f	318	
(3)	5i	318	
(4)	5t	318	
(5)	5x	318	
(6)	5y	318	
(7)	5z	318	
(8)	5dd	318	
(9)	5ff	318	
(10)	5ll	318	
(11)	5lll	318	
(12)	5mmmm	318	
(13)	5www	318	
(14)	5xxx	318	
(15)	5cccc	318	
(16)	8a	318	
(17)	8b	318	
(18)	9b	318	
(19)	9c	318	
(20)	3	400a	
(21)	8	401	
(22)	9	401	
(23)	7	403	
(24)	8	403	
(25)	9	403	
(26)	3	404	
(27)	5	404	
(28)	6	404	
(29)	7	404	
(30)	8	404	
(31)	9	404	
(32)	10	404	
(33)	5	406	
(34)	6	406	
(35)	7	406	
(36)	13	315	
(37)	15	315	
(38)	16	315	
(39)			Withdrawn (R 989).
(40)	20	315	
(41)	4	346	

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<u>Item</u>	<u>Spec.</u>	<u>Exhibit</u>	<u>Remarks</u>
(42)	3, 4	302	
(43)	5	302	
(44)	7	302	
(45)	9	302	Not guilty.
(46)	10	302	Not guilty.
(47)	8	302	
(48)	3	310	
(49)	1g	305	
(50)	1g	305	
(51)	1h	305	
(52)	1k	305	
(53)	8	305	
(54)	10	305	
(55)	3	306	
	1	309	
(56)	5	306	
(57)	2	307	
(58)	5	307	
(59)	2	309	
(60)	3	310	
(61)	4	310	
(62)	5	310	
(63)	6	310	
(64)	8	310	
(65)	1	311	
(66)	3	311	
(67)	4	311	
(68)	5	311	
(69)	6	311	
(70)	5	307	
	1	312	
(71)	4	307	
	1h	312	
(72)	4a	357	
	4	361	
(73)	4c	357	
(74)	4d	357	
	1	360	
(75)	4h	357	
	1	362	
(76)	4j	357	
	2	361	
(77)	4l	357	
	3	361	
(78)	4m	357	
	1	359	
(79)	4n	357	
(80)	None found.		
(81)			Not guilty.
(82)	1	358	
(83)	2	358	
(84)	1	363	
(85)	5	313	
(86)	6	313	
(87)	5	314	
(88)	1	396	
(89)	2	396	
(90)	4	396	
(91)	3b	390	

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<u>Item</u>	<u>Spec.</u>	<u>Exhibit</u>	<u>Remarks</u>
(146)	3 of Ch 1	365-366	
(147)	3d of Ch 1	365-366	
(148)	1 of Ch 2	365-366	
(149)	1 of Add Ch	365-366	
(150)	3a, Add Ch	365-366	
(151)	3b, Add Ch	365-366	
(152)	3c, Add Ch	365-366	
(153)	4, Add Ch	365-366	
(154)	4, Ch 3	369	
(155)	6, Ch 3	369	
(156)	7, Ch 3	369	
(157)	10, Ch 3	369	
(158)	15, Ch 3	369	
(159)	Add Sp 1, Ch3	369	
(160)	1, Ch 4	369-370	
(161)	2, Ch 4	369	
(162)	4, Ch 4	369-370	
(163)	5, Ch 4	369-370	
(164)	6, Ch 4	369-370	
(165)	7, Ch 4	369-370	
(166)	Add Sp 1, Ch4	369	
(167)	Add Sp 3, Ch4	369-370	
(168)	Add Sp 5, Ch4	369	
(169)	Add Sp 6, Ch4	369	
(170)	Add Sp 9	369	

Additional Bill of Particulars:

(171)	4p	357
(172)		
(173)	3	412, 415
(174)	8	412, 415
(175)	11	412, 415
(176)	18	412, 415
(177)	2	412, 415
(178)	26	412, 415
(179)	1	414, 415
(180)	1	413, 415
(181)	2	300
(182)	7	300
(183)	3	392
(184)	4	392
(185)	4	391
(186)	2	394
(187)	3	394
(188)	1	393

Stricken (R 67).

Second Additional Bill of Particulars:

(189)		
(190)	2	409
(191)	14	349
(192)	7	351
(193)	9	351
(194)	10	353
(195)	11	353
(196)	13	353
(197)	6	352
(198)	16	355
(199)	13	350
(200)	4	354
(201)	5	354

Stricken (R 1137).

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<u>Item</u>	<u>Spec.</u>	<u>Exhibit</u>	<u>Remarks</u>
(92)	4	390	
(93)	6a	390	
(94)	9	390	
(95)	10	390	
(96)	1	338	
(97)	2	338	
(98)			Withdrawn (R 990).
(99)	14	315	Sustains B/P except "by inflicting collective punishment on them for offenses of individuals".
(100)	20	315	
(101)	Spec.	317	
(102)	1	371	
(103)	2	371-372	
(104)	3	371-372	
(105)	5	371-372	
(106)	None found.		
(107)	" "		
(108)	" "		
(109)	" "		
(110)	1	379	
	2	381	
(111)	2	379	
	3	381	
(112)	5	379	
(113)	8	379	
(114)	7	379	
(115)	9	379	
(116)	12	379	
(117)	3	380	
(118)	5	380	
(119)			Not guilty, withdrawn (R 990).
(120)	7	380	
(121)	5	381	
(122)	6	381	
(123)	11	381	
(124)			Withdrawn (R 990).
(125)	14	381	
(126)	16	381	
(127)	18	381	
(128)	19	381	
(129)	20	381	
(130)	22	381	
(131)	23	381	
(132)	7s	383	
(133)	2	382	
(134)	3	382	
(135)	4	382	
(136)			Withdrawn (R 990).
(137)	7	382	Sustains B/P, except the words, "while inadequately clothed," (R 990).
(138)	8	382	Withdrawn (R 990).
(139)	9	382	
(140)	1	331	
(141)	2	331	
(142)	4	331	
(143)	1 of Ch 1	365-366	
(144)	2 of Ch 1	365-366	
(145)	3a of Ch 1	365-366	

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b. For the Defense:

Kunji SUZUKI

In General. PW matters were handled by the PW Management Department of the War Ministry and by the PW Information Bureau which was separate from the War Ministry but was virtually under its control as the key positions in both organizations were held by the same personnel (Ex I-1). The War Ministry made the contracts as to the employment of PW's by various companies without consulting either accused. These detailed contracts covered organization, location, number of PW's, place, type and hours of work and only the War Ministry could cancel such contracts (Ex G-2). Various bureaus of the War Ministry made plans and issued regulations, especially as to employment, punishment and treatment of PW's, without consulting the main camp commander who was without authority to amend these regulations (Ex T-1). The area army commander, in this case the commanding general of the Eastern District Army, hereinafter referred to as the EDA, was the chief administrator of PW camps of his area. The EDA issued detailed orders for the activation and de-activation of branch and dispatch camps, including the appointment of the branch and dispatch branch commanders and their personnel without consulting the main camp commander. The EDA also issued orders covering the place, type and hours of work and assigned individual PW's to specific camps and the main camp commander was without authority to transfer them from one camp to another within his area (Ex G-1, G-2, K-3, P).

The War Ministry, consulting only the EDA and the prospective employer of the PW's, made detailed decisions whereby the employer constructed the facilities and the EDA, without consulting the main camp commander, determined whether the facilities, including the barracks, were suitable. Different bureaus of the War Ministry, without consulting these accused, drafted detailed regulations as to the handling of the PW's, including the Japanese Table of Organization for the camp and disciplinary and medical matters (Ex G-6, I-1, P, P-1). The EDA established many standing orders for the PW camps and the main camp commander could only issue regulations with the approval of the EDA (Ex G-3, Q-6). As testified to by the ex-Minister of War, Tojo, due to the organizational set-up, the main camp commander was limited as to what he could accomplish by his own efforts and could only exercise initiative in minor details but had the responsibility of keeping the higher authorities informed of conditions. Officials of the War Ministry, the PWIB and officers of the EDA, made constant inspections and their exercise of minute control is shown by the detailed regulations and the fact that the EDA tried many PW's, including Mansfield (Specification 4), for theft (Ex O, Q-6, Q-7, S-5). Tojo stated he only received complaints about food as complaints by the Allied Powers concerning the abuse of PW's were sent through the PWIB to the EDA who had the responsibility in these matters (Ex H-1). Tojo further stated that it was his policy to eliminate corporal punishment not only of PW's but in the Japanese Army itself but due to the custom in the family and the Army, it was impossible as the Japanese soldier would rather be beaten than receive courts-martial and also because the quality of the Japanese officers and non-coms steadily deteriorated. Tojo also testified he made a surprise inspection at Omori and found that conditions were similar to those in the Japanese Army and he complimented Suzuki, stating he was satisfied with the way Suzuki was running the camp (Ex O).

Suzuki, verbally and by posters, instructed the camp personnel at Omori and the companies where the PW's worked to refrain from administering corporal punishment (Ex C, S-7, S-26, S-27, S-28, S-29, R-55), and after an incident occurring at a branch camp was reported to him, he sent orders forbidding corporal punishment to all camps under his command (Ex D). Suzuki, while authorizing collective punishment, required all punishments be reported to him (Ex S-11). Kuriyami, a Japanese interpreter at Omori, stated Suzuki was gentle towards PW's and that he never reported to Suzuki the complaints by PW's concerning Watanabe as he was afraid Watanabe would beat him if he did. He further stated that despite Suzuki's orders, he personally beat PW's and only reported complaints about food to

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the Japanese officers at Omori. Dr. Fujii stated Suzuki did not know that he, Fujii, beat PW's (Ex D). Suzuki seldom came into direct contact with PW's (Ex S-29). Father Ronan, who was at Shinagawa for a short period of time, stated Suzuki was strict but fair and although the PW's were treated harshly, there were no brutalities and punishment decreased as Suzuki made a sincere effort to comply with the Geneva Convention (Ex S-32, S-33).

As to Specification 1: Not guilty, finding.

As to Specification 2: The Cabinet Planning Board decided to bring PW's to Japan to alleviate the labor shortage in mining, stevedoring, engineering and construction work (Ex F). The great percentage of PW's were suffering from malaria, dysentery and malnutrition when captured and were confined in horrible conditions in the Philippines and many never received medical care prior to coming to Japan. An Allied PW officer stated that PW officers were allowed to pick the PW's to be shipped to Japan and they picked those in the poorest health and left those in better health in the Philippines (Ex M through M-8). Japanese policy-making authorities desired to ship as many PW's as possible and ordered deck loading, if necessary, be utilized. The PW's were transported under indescribable conditions in so-called "hell ships". These horrible conditions were so prevalent that the vice-Minister of War, on 10 December 1942, stating that many PW's became sick or died enroute, sent instructions to lower echelons to select the PW's to be transported to Japan more carefully and to provide for provisions, medical personnel, medical supplies and adequate facilities for their transportation (Ex N through N-45). PW's arrived in such a debilitated state, only the most modern medicine and medical treatment could have cured them (Ex D-2 and the M series of the exhibits) and such treatment was not available in Japan for even Japanese troops as shown by the U.S. Bombing Survey (Ex E-3). Many PW's, on arrival in Japan, were taken directly from the boat to hospitals, including among others, Howard E. Huffine (Ex N-4), Ralph Weinberg (Ex N-4) and Edo van Spall (Ex N-4), victims mentioned in this specification. Huffine and Weinberg arrived in Japan 11 November 1942 and spent an unknown period of time at a hospital in Osaka and Huffine died on 7 January 1943 at the Tokyo Main Camp. Weinberg thereafter was a patient at the Sagami Hospital from 27 December 1942 to 16 August 1943 and died at Omori on 19 March 1944 (Ex S, N-4). Edo van Spall arrived in Japan on 20 May 1943 and was placed in the Okura Army Hospital for an unknown period of time and died 22 March 1944 at Omori. Exhibit 262-A--death certificate discloses that the transfer of management of PW Huffine occurred on 13 November 1942 but the witness Makuda, who spoke for the custodian of these records, testified transfer of management did not necessarily mean that PW's were actually confined at Omori but only that Omori had administrative custody of these PW's (R 801) and he could not state from the death certificates that PW's were actually confined at Omori (R 809).

There was an overall shortage of food, clothing, medical supplies and medicine in Japan and these items were highly rationed and even the ration amount was often not obtainable. Medical personnel were not efficient by Western standards and even the Japanese suffered from nutritional deficiencies (Ex E through E-4, E-6--U. S. Strategic Bombing Survey, Ex O). Medical supplies for branch camps did not come from Omori but from the nearest Army hospital (ps 95 and 96 of Ex K). The weather in the winters of 1942 and 1943 was extremely adverse, causing the deaths not only of PW's but also of a large number of Japanese soldiers (Ex O). The ration for Japanese soldiers and PW's was fixed by the EDA (Ex D) and high authorities determined that the PW's were not to be given the same food as Japanese soldiers but for ration purposes were classified in the same manner as Japanese civilian laborers (Ex E-4, E-6, Q-7). These authorities also determined that the PW officers were to be given a reduced rations (Ex E-6). Food was in short supply and even the Japanese Army units were instructed to attempt to be self-subsistent by raising their own food in gardens (Ex E-6).

Tojo testified the War Ministry was aware of the percentage of deaths among the PW's and the main camp commanders could only request food, clothing, heating and medical supplies but many of these requests could not be granted. He

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also testified the facilities and barracks at Omori Camp were substantially the same as those supplied to the Japanese soldiers (Ex O, P).

Suzuki made repeated requests for additional food and medical supplies and medical personnel but these requests were in the main fruitless (Ex D, Q, Q-3). Suzuki could not pick his medical personnel or reject those put under his command but while Suzuki sent many men to the Sagamihira Hospital and Tokyo #2 Army Hospital, he could only request they be hospitalized and did not have the authority to order the hospitals to receive them or order doctors in other units to treat PW's. These hospitals were increasingly hostile to the receipt of PW's and for this reason the Shinagawa Attached Sickroom was established (R 1232, 1265; Ex O, Q, Q-3). Lieutenant Bush, Allied PW, stated drugs were in short supply but he does not know of any occasion when Dr. Fujii refused to use available supplies and when he was on sick call, the PW medical officer was allowed a free hand in treating PW's (Ex D-4). Dr. Fujii stated Suzuki did not interfere with the conduct of medical matters and encouraged the medical section in its efforts and aided them in many ways, including the production of yeast for the use of PW's (Ex D-1). Pressure was put on Suzuki by higher authorities to put sick PW's to work as soon as possible (Ex G, K-3) but despite this, Dr. Fujii testified Suzuki never made exorbitant demands to send PW's to work and although in the beginning, on one or two occasions, he questioned the number of sick PW's excused from work, he did not press the issue. Dr. Fujii testified he never overruled the PW medical officer when he excused men from work (Ex D-1, D). In sending medical officers to inspect subordinate camps, Suzuki's object was to take care of the sick and not to get as many men back to work as possible (Ex D). The camp regulations, providing that the duty officer would determine whether or not a PW was to be allowed to go on sick call or required to go to work, were copied from Japanese Army regulations which were similarly applicable in the Japanese Army (Ex C).

Dr. Fujii stated spinal injections of vitamin B-1 for beri-beri were used in a Japanese Naval Hospital in 1926 and he observed a similar use during his internship (Ex D-2). An Allied PW stated Dr. Goad's main objection to this treatment was the use of Japanese ampules (Ex D-4). Another PW testified this type of treatment was used at Sagamihira Hospital (Ex S-21).

The Japanese made no effort to conceal their use of moxibustion and Lieutenant Bush, Allied PW, testified Suzuki was sincere in instituting this treatment which was well-known in Japan and Lieutenant Bush himself had had it administered to him before the war and found it effective as a temporary measure. This treatment was exhibited to the commission by the same civilian who introduced it into Omori under Suzuki's orders and the subject of this experiment testified in regard that it was relatively painless (R 1379-1382). This civilian also stated moxibustion had been used in Japan for many centuries (R 33).

As to Specification 3: The amount of Red Cross supplies received prior to April 1944 was negligible when the number of PW's are considered (Ex 388) and Red Cross supplies for all camps in the Tokyo area were sent to Omori for distribution (Ex C).

As to Specification 4: PW Mansfield was sentenced to three months confinement for breaking and entering to steal food in February 1944. The record of trial (ps 7 and 8 of Ex A-4) reveals Mansfield was given to stealing and on 10 November 1943 was sentenced to ten days solitary confinement for stealing relief goods.

As to Specification 5: See general discussion as to this accused, supra.

As to Specification 6: See general evidence and evidence as to Specification 2, supra.

Nichizawa, a sub-branch commander in this camp from November 1942 to June 1943, testified PW's arrived in extremely bad health and that he reported this

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to Suzuki who delayed the PW's going to work for one week, sent a Japanese medical officer to visit the camp (R 866), sent additional medical supplies and gave the camp priority in sending patients to the hospital. When the company employing the PW's tried to increase the working hours, Suzuki backed Nichizawa up in refusing to increase those hours (R 883-844).

Takeichi Shisuwa, who became camp commander on 21 June 1943, stated (Ex R-13) he was transferred from an infantry company and does not know why he was selected for the job of camp commander. When he took over command, he found the camp was only about 80% complete but facilities were gradually improved. When he assumed command, the EDA was supposed to make inspections and necessary repairs but when the camp was converted into a dispatch camp, the company was responsible for these repairs. On his arrival, Lieutenant Nichizawa told him a number of PW's had died at the camp that previous winter as these PW's had come into Japan from a warm climate and many of them were sick upon arrival and he attributed their deaths to this fact and to the fact that he was unable to obtain adequate medicines and medical supplies from the Army and even though he bought medical supplies on the civilian market. A few days after he assumed command, Suzuki instructed him that corporal punishment was absolutely prohibited and that the prisoners were to be treated fairly. Suzuki also said patients were to be handled in accordance with medical regulations and those excused from heavy labor should be made to do light duty, while those excused from training should be rested. Shisuwa further stated at no time did he ever receive instructions from Suzuki or Sakaba that a certain number of men were to be sent to work nor did he personally fix the percentage of men that had to go to work. The Japanese doctor and PW medical officer picked those who were able to go to work.

In the summer or fall of 1943, rations were reduced and Suzuki instructed him to get the companies employing the PW's to furnish food and to obtain as much supplementary food as possible. He requested such food from the company but was unable to obtain it either from them or the Prefectural Government. When the company employing the PW's failed to cooperate on medical matters, Suzuki ordered Dr. Tokuda to issue medicines from the main camp and also to make an inspection and contact the company as to the situation. After this negotiation, the company furnished additional medicine. Shisuwa stated that he doesn't recall any occasion when he made requests that either Suzuki or Sakaba ever refused to help him.

During the winter of 1943 and 1944, there were no deaths among the PW's and he believes this was caused by the fact that the PW's had become acclimated and facilities had been improved as the facilities, generally speaking, were not inferior to those furnished in newly formed units of the Japanese Army. Suzuki inspected the camp three times and never criticized Shisuwa for not sending enough prisoners out to work. The camp was always cleaned up before Suzuki arrived and Suzuki never spoke to any of the guards or PW's. Suzuki notified him in writing that he should punish Japanese personnel if they inflicted corporal punishment on the PW's; that he, Shisuwa, struck PW's in violation of Suzuki's orders; that he never reported these violations to Suzuki even though Suzuki inquired about it.

As to Specification 7: See defense's general evidence and its evidence as to Specification 2, this accused.

Nakajima, camp commander of the Mitsushima PW Camp, testified as follows (Ex R): Colonel Suzuki stated that the handling of PW's should be strict but humane and fair; that Suzuki told him that the EDA insisted that he receive the PW's even though the camp was ill-equipped at the time of their arrival; that most of the PW's who died in his camp died during the first winter due to the sudden change in climate and the bad conditions under which they were transported to Japan; that a Dutch doctor, a Dr. Van Slutin, was the PW doctor when many of these PW's died and Dr. Whitfield was sent to replace Dr. Van Slutin; that before Suzuki's inspection trips, the camp was always cleaned up and that he received cooperation

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from Suzuki when he tried to get hospitalization and medicines for PW's; that he was authorized to dismiss several civilians employed by the camp whose services were not satisfactory.

Koishi Mori, civilian manager of one of the work sites where PW's from Mitsushima PW Camp worked, testified (Ex R) Suzuki came to his company two or three days prior to the arrival of PW's and after inspecting the facilities, he assembled the village officials, company representatives and branch camp military personnel and instructed them the PW's had surrendered but are not considered criminals and are to be afforded treatment in accordance with the spirit of international law. Corporal punishment was strictly prohibited and if the PW's did anything wrong, it should be reported to the camp commander who will take necessary measures. He also instructed that the PW's were not to be placed on dangerous jobs, that their drinking water was to be boiled; that they were not to be overworked or subject to ridicule.

As to Specification 8: The senior PW officer at Camp 4-B testified (Ex R-3) that he knew the Japanese medical orderly in the camp altered medical records forwarded to higher headquarters and that he had been refused permission to see the camp commander by Katayama. He further stated that he never saw the camp commander strike any PW's in camp nor did he ever witness him observing PW's being mistreated and that in his opinion, the change in climate and the change in diet so weakened the PW's that they were susceptible to pneumonia, beri-beri, dysentery and diarrhea. He further stated that when he was able to complain to the camp commander about beatings, there was always an immediate improvement and that conditions improved after Dr. Fujii visited the camp. When Colonel Suzuki visited the camp, a special issue of equipment was made to the PW's as eyewash and was withdrawn when Suzuki left and he doesn't know whether the complaints made to Shibano were ever reported to the camp commander.

Hiroki Kono, interpreter at Camp 4-B, testified (Ex R-4) Lieutenant Oota, camp commander, issued instructions that PW's were not to be beaten; that he never complained to Lieutenant Oota about the mistreatment of PW Farley and he believes Lieutenant Oota did not have knowledge of all the beatings that took place in camp and when he reported the Burns and McCarthy incident, the camp commander cautioned the civilian guards concerned.

Rokuro Kondo, a Japanese pharmacist at this camp, stated (Ex R-5) he was a pharmacist at the Takada Army Hospital which was supposed to supply drugs and medicine to Camp 4-B; that drugs were rationed and Camp 4-B did not receive the full amount that they were entitled to because of the scarcity of drugs and a number of civilians also died from pneumonia during the winter of 1943-1944.

Tadio Shibano, who was second in command in December 1942 to December 1944, testified (Ex R-6) he never saw camp commander Oota either beat or mistreat a PW or observed such mistreatment; that Oota never ordered him to beat or mistreat PW's and he never reported the beatings in which he took part.

Shigeji Ino, medical officer of the Takada Hospital, testified (Ex R-8) he acted as visiting doctor to Camp 4-B and did not know of any instructions requiring a certain quota of PW's to be sent to work. He also stated that in the beginning he visited the camp once a week but became so busy that he could not go that often thereafter.

Hisakichi Tokuda, senior medical officer of the Tokyo Main Camp, testified (Ex R-9) it was the EDA who decided branch camps would only have a visiting doctor and the War Ministry decided to use PW medics in the same way as Japanese medical officers and that the number of Japanese medical personnel used in PW camps would be as small as possible. He also stated he made visits and inspections of this camp on three different occasions and it was Suzuki's policy to safeguard as much as possible the physical welfare of the PW's and to prevent them from becoming sick.

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Narumi Oota, camp commander at Camp 4-B; stated (Ex R-10) Suzuki never ordered him to send more men out to work but cautioned him to put light duty patients on light duty. He further stated he never made any reports of beatings to Colonel Suzuki.

As to Specification 9: Dr. Fujii testified that he visited Niigata Camp 5-B in December 1943, pursuant to Suzuki's orders, who instructed him to cut down the number of deaths and the number of sick PW's by treating "the causes behind it".

Captain Boone, Allied PW, who was confined at Camp 5-B, Niigata, testified (Ex R-14) PW's often engaged in trading wearing apparel and cigarettes for food and this trading had injurious effects on their health. Major Fellows, senior PW officer, punished PW's within the camp by depriving them of rations upon certain occasions. During the winter of 1943-1944, everything in Japan had become scarce and shoes were a difficult item to procure for the PW's. He also stated after Lieutenant Yoshida was relieved as camp commander, beatings and mistreatment of PW's were reduced to practically zero; whenever inspections were made, the camp and PW's were so prepared and instructed that the inspecting officers did not get a true picture of conditions. 7

Frederick Zaidman, Allied PW, stated (Ex R-15) he and many other PW's experienced difficulties with Major Stewart, Allied PW medical officer, when attempting to be excused from work, as Major Stewart was a weak character who showed favoritism and often allowed his orderlies to conduct sick call and sent sick PW's out to work; it was common knowledge the officers received more rations than the men as the officers' batmen bartered excess food for the officers' mess for cigarettes. Red Cross food parcels were distributed fairly well on two occasions but on the third occasion, the officers received a larger portion than the men; that when he became sick and could not go to work, Major Fellows thought he was faking and threw him down on his back and started to choke him and beat him with his fists in the head, face and body; that the second camp commander, Lieutenant Nemoto, was "the whitest Jap I ever seen" and the third camp commander only slapped men who had violated regulations; that Sergeant Faulkner, who was the mess sergeant, pushed PW's around and traded food for cigarettes.

William H. Gagne, Allied PW, stated (Ex R-16) Major Fellows beat Zaidman for refusing to go to work, even though Zaidman protested he was too sick to work; that some men received preferential treatment from Major Stewart on sick call and the PW officers obtained more food than the PW enlisted personnel. PW Wilfrid J. McDowell was turned over to the Japanese by Major Fellows for stealing food to supplement his diet; that he heard Major Stewart was responsible for the death of Bottie; that Sergeant Faulkner, who was the mess sergeant, traded rations with PW's who were required to turn over to him any future Red Cross parcels they received. He also said he heard that PW's beat Titman and that Major Fellows turned Titman over to the Japanese.

Joseph Wolczuk, Allied PW, stated (Ex R-18) many PW's feigned illness, some because they had mentally given up and others who pretended to be ill if they were placed on the sick list by the PW's medical sergeant. He also stated he received a beating from PW Faulkner.

Francis B. Gallagher, Allied PW, stated (Ex R-19) he received adequate rest from the medical orderly after he was injured at work and was then placed on light duty for approximately a month and a half. He also stated Major Stewart refused to further excuse him from work, stating the Japanese authorities had ordered a certain percentage of prisoners be sent to work each day.

George Francis, Allied PW, was PW officers' orderly and he stated (Ex R-20) that PW officers did not receive any more food than the PW enlisted personnel and that when complaints were received when he distributed the extra food from the officers' mess to other PW's, Major Fellows discontinued giving anyone the extra food and returned it to the kitchen.

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Lt. Colonel Fellows, formerly Major Fellows, American PW, stated (Ex R-23) as follows: On or about 10 January 1944, PW Titman stole some food from a civilian workman. The Japanese commander told him no food would be issued until the culprit would be found. He notified the PW officers and NCO's of the situation. PW NCO's beat Titman and brought him to Fellows who surrendered him to the Japanese officers. Titman was confined and while in confinement escaped and was recaptured. He was released on 26 January 1944 and recommenced his trouble-making and thefts. He was beaten by PW's and stated he intended to escape. Lt. Colonel Fellows reported this to the Japanese, requesting that he be confined and he was confined until his death on 9 February 1944.

A United States Lieutenant from the branch camp brought over PW Mortimer and requested he be confined because he stole food from his fellow PW's (Ex R-24). Lt. Colonel Fellows relayed this Lieutenant's request and Mortimer was confined in the Japanese guard house and died a short time after his release.

Lt. Colonel Fellows, American PW, stated (Ex R-25) as follows: Lieutenant Nemoto, who relieved Yoshida, did much to relieve the working and living conditions within the camp.

A telegram from the International Red Cross (Ex R-26), based on an interview with Lt. Colonel Fellows, reported Lt. Colonel Fellows stated the situation was as good as could be expected for the last two years; that they were improving as the health conditions were considerably improved and there were no serious illnesses; that the prisoners had become acclimated and their weights had increased between five to six kilos, although mail service was poor.

Exhibits R-28 and R-29 are death certificates for PW's Titman and Mortimer. These certificates, which were forwarded to the main camp, showed that these men died as a result of beri-beri and nothing in them indicates that these prisoners had died as a result of mistreatment.

Fujio Nemoto, who succeeded Yoshida and was well-liked by the PW's, stated (Ex R-30) he was told by Suzuki that this camp was in very poor medical circumstances and to take special care to improve its conditions. He was also told to treat the PW's with benevolence and fairness.

As to Specification 10: See Specifications 6, 7, 8 and 9.

As to Specification 11: Michiji Ishige, camp commander of Kawasaki Branch Camp #7, later known as Dispatch Camp #5, stated (Ex R-11, see Bill of Particulars, 88 through 97) that three PW's died immediately after their arrival in Japan and there were only one or two deaths during the first winter. He did not know that McEwen, whose death was attributed to moxibustion, had ever been given this treatment. Suzuki never insisted that a certain quota of prisoners would be sent out to work each day nor did he reprimand him because too many prisoners were in camp. However, Suzuki did request that light duty be given to light duty men. Suzuki expressly prohibited corporal punishment and he, Ishige, never reported to the main camp that any PW was ever mistreated. During the trial he learned there were several cases of mistreatment but this was his and not Suzuki's responsibility and it arose out of the custom in the Japanese family and Army. Moxibustion treatment for beri-beri patients was discontinued after the PW medical officer stated that the prisoners didn't approve of it. He also stated he had a great deal of trouble resulting from stealing by the PW's. It was very difficult for him to hospitalize prisoners in the Japanese Army hospitals and Suzuki's efforts in establishing the Shinagawa Attached Sickroom proved of great benefit to the PW's. After the Shinagawa Hospital was established, he could hospitalize a patient simply by picking up the telephone and telling headquarters he was sending a PW to the hospital.

Shigeru Nemoto, who was the branch director of the company where the PW's from Dispatch Camp #5 were employed, stated (Ex R-12) Suzuki inspected the

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work site soon after the prisoners were assigned and criticized and left orders to improve the following: entertainment facilities for the PW's, improvement of quarters by establishing stoves, improve sanitation in the bath rooms, have the company doctor go to the camp more often and the PW's should not work at night and should not work at a place that would endanger their well-being. As a result of these criticisms and recommendations, improvements as recommended were made.

Shigeru Numajira, camp commander at Ashio PW Camp from November 1943 through April 1944, stated (Ex R-32) before assuming command he went to Omori to see Suzuki, who accompanied him to Ashio. Suzuki told him to maintain the dignity of the Imperial Army, eliminate corporal punishment and improve sanitation. At Ashio, Suzuki called the officials of the companies wherein the PW's were going to work and explained to them that the PW's were to be treated fairly and not improperly worked. He also told them the camp was responsible for the administration and punishment of PW's and the companies should not attempt to punish them in any way but report irregularities in the camp. He also requested the company officials to do as much as they could to procure supplementary food for the PW's. There were about 250 PW's at Ashio during Suzuki's time, 60% of them being Indonesian soldiers. When the PW's arrived, they were not very strong physically and were given ten to fourteen days rest before they were sent to work. The company doctor came to the camp about every other day and when at camp decided who was able to work but only after consulting with the Dutch doctor. The company furnished medicines and vitamin pills. He always received the staple food he requested but despite all his efforts, both through Army and civilian channels, the supplementary food was many times insufficient. During the winter of 1943-1944, there was a pneumonia epidemic at the camp. Those showing any signs of pneumonia were confined to the sick room which was enlarged and the company doctor came to treat the patients every day. When Suzuki heard of this epidemic, he sent Dr. Fujii from the main camp. Dr. Fujii was very helpful and never made any attempt to get any men out to work. Suzuki never reprimanded him for having too many men absent from work. Although twenty PW's died as a result of this epidemic, he believed it was due to the fact that these prisoners came from a warm tropical climate and could not adjust themselves to Japan. Lieutenant Maas, Dutch PW doctor, confirmed this and stated the pure Dutch could resist this climate much better than the Indonesians.

Wing Commander Birchall, who was confined at the Yokohama Ball Park PW Camp, stated (Ex R-36) Suzuki ordered no slapping of PW's. He also stated the food shortage was so bad in Japan, he saw one Japanese officer stealing pieces of meat out of another's lunch box when the other Japanese was not looking; that when PW's complained about the food, one of the PW cooks told them they could give a full ration if the PW's would quit stealing food. He also stated the PW staff at the hospital, such as cooks and doctors, were only out to help themselves and not the other PW's.

Kaichi Kushida, who was director of a company where PW's from the Yokohama PW Camp worked, stated (Ex R-38) Suzuki said unless they abided by PW camp regulations on such matters as food, labor, prohibition of corporal punishment of PW's, he would not supply PW's to the company as laborers. In March 1944, he was present when Suzuki came to the camp to make an inspection. From his conduct during the inspection, he thought Suzuki's treatment of PW's was very humanitarian.

Charles R. Finn, civilian American PW, who was imprisoned at Tokyo PW Camp #3-D, stated (Ex R-50) by comparison PW's received the best treatment at this camp than at any other camp and he had written a letter to Lieutenant Uwamori, the commander, thanking him for his attempts to treat PW's with as much consideration as possible. He also stated in order to supplement the meager medical supplies, Uwamori periodically canvassed drug stores in the area to obtain sulfa drugs and disinfectants. He also stated any beatings that took place in this camp were initiated and administered during the absence of Uwamori.

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Lieutenant Reid, medical P.W. officer, confirmed Lieutenant Finn's statements and also stated (Ex R-51) Uramori allowed prisoners to purchase condiments to flavor their food and also brought such items into the camp himself. He left it up to Lieutenant Reid as to which prisoners would go to work and told him the minimum figure of workmen that they could get away with, despite continual pressure from Army headquarters and from the civilian officials to increase the size of work parties. On one occasion, during an epidemic of influenza, Lieutenant Uramori, on his recommendation, declared a three day holiday for the whole camp. He continually cooperated in the P.W.'s efforts to equip their camp hospital and closed his eyes to the repeated stealing of fuel at the work place for use in the camp hospital stove. On one occasion, when the company was pressing them for an increased labor force, he, Lieutenant Reid, threatened to refuse to act as doctor if he were forced to send these men to work and Lieutenant Uramori acceded to his demands. On another occasion, Uramori told him he did not have to comply with the order of an inspecting colonel to increase the size of the work party. On several occasions, in disciplinary matters, Uramori took the word of P.W.'s over that of Japanese and when the men did get in trouble, allowed them a decent chance to plead their cases. After the Baraskawich beating, Lieutenant Reid wrote a letter to Uramori, saying the punishment given out was an example of sadism and requested no punishment be meted out by Japanese underlings until the case had been heard by Lieutenant Uramori. Lieutenant Uramori censured the perpetrators of the beating and ordered them to apologize to him and also ordered no future beatings until he, Uramori, or his second in command, had heard the case. This resulted in the almost complete abolition of physical punishment within the camp.

Captain Edward V. Dockweiler, U. S. Naval Officer, stated (Ex R-52) he and Ensign Pollak were transferred to Camp 3-D in Yokohama in December 1943 to work as engineers in the Nippon-Kokan Shipyards. When Lieutenant Uramori informed them they were to act in the capacity of naval engineers, both Pollak and himself stated they would not comply with these orders. Higher headquarters directed they would but Uramori allowed them to go through the motions.

He further stated both Uramori and his interpreter Koyagi went out of their way to obtain medicines in the black market with funds supplied by the P.W.'s and they never insisted that a sick man should work. In his opinion, Lieutenant Uramori sincerely did his best to treat them as human beings. When members of his staff treated the P.W.'s cruelly and it was reported to Uramori, he took corrective measures to see that these individuals were curbed. To Captain Dockweiler's knowledge, Lieutenant Uramori never beat or otherwise abused P.W.'s.

Orville Stanford, American P.W., confined at a Yokohama P.W. Camp commanded by Lieutenant Uramori, stated (Ex R-53) he discussed such matters as food, medication, sanitation and working conditions of the men with Lieutenant Uramori, who was cooperative and considerate. Lieutenant Uramori was, without doubt, more humane and considerate than any other Japanese officer in charge of a P.W. camp. Lieutenant Uramori insisted sick prisoners should not work and tried to do everything he could to alleviate conditions of the prisoners. When P.W. Davis was beaten for breaking out of camp and looting food stores, Lieutenant Uramori was in command of Camp 10-D but was not present at the time and Sergeant Tanaka kept the entire matter secret from him. Because this man would be more severely punished if it were reported, the Davis incident was not reported to Lieutenant Uramori.

Lieutenant Masao Uramori, who was concurrently commandant of P.W. Camps 3-D, 10-D and 11-D, stated (Ex R-54) Suzuki instructed him the P.W.'s should be treated fairly in accordance with international law and corporal punishment should not be administered to them under any circumstances.

In 1943, at Lieutenant Hayashi's camp, Sergeant Ushoda beat a P.W. officer and Suzuki severely reprimanded Lieutenant Hayashi and punished Ushoda. He then sent instructions to all branch and dispatch camp commanders forbidding the use of corporal punishment. He ordered them to give the P.W.'s as much additional food and clothing as possible and stated under no circumstances would sick P.W.'s be

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allowed to work. He also ordered the PW's working conditions be alleviated by prolonging their rest hours and putting them on jobs according to their technical skill and physical condition. He secured an extension of the lunch hour at the Tsurumi Shipyard from 30 to 50 minutes. Suzuki stated special attention should be given to medical treatment and hospitalization of PW's and he reprimanded Lieutenant Hayashi for not utilizing a Red Cross hospital when a ptomaine poison incident occurred. Suzuki ordered posters be placed in every room of the Administration Building, stating PW's should not be mistreated and their health should be maintained.

The companies employing the PW's were only interested in their economic value as laborers and refused to supply medicines to such an extent that Uwamori had to obtain them from black market sources with PW funds.

At a meeting of all main camp commanders in Tokyo under the auspices of the Prisoner of War Information Bureau, Colonel Suzuki stated to Major General Yamaji of the EDA and Major General Hamada of the Prisoner of War Information Bureau that the PW's were in bad health because of the bad quality and quantity of food; that in spite of this, higher authorities obstinately urged camp commanders to increase the size of the work parties and improve the efficiency of the PW's. Suzuki stated this was a contradiction and unless additional food was issued, the camp commanders would have no alternative but to alleviate the working conditions in order that the PW's might maintain their physical strength. Immediately after this conference, the ration was increased by order of the EDA.

As official of a company employing PW's from Lieutenant Uwamori's camps, stated (Ex R-55) Suzuki told the chief officials of the company they must supply extra food and clothing for the PW's; that there would be no corporal punishment of PW's; and that they should be assigned to jobs suitable to them and gave other instructions designed to protect the health and welfare of the PW's. In the summer of 1943, due to sickness among the PW's, Suzuki decreased the working time by two hours.

An official of the Tsurumi Shipyards, employing PW's from the same camps, stated (Ex R-56) Suzuki requested that the lunch period for prisoners be prolonged from 30 to 50 minutes and this request was complied with. He also stated when the PW's first arrived, the company was informed that as they were in a weak condition, they could not be put to work immediately.

Kumagi Suda, a member of the staff of Branch Camp #1-B, Kawasaki, stated (Ex R-59) the camp commander was Lieutenant Takeuchi, who was succeeded by Lieutenant Emori. Both of these officers instructed them to treat the prisoners fairly and emphasized no corporal punishment be dealt out to PW's. Colonel Suzuki visited the camp and emphasized all efforts should be made to prevent the PW's from becoming sick.

An official of the Kawasaki Stevedoring Company, employing prisoners from Kawasaki PW Camp #2, stated (Ex R-62) Lieutenant Washima, the branch commandant, instructed them PW's would not be allowed to work on dangerous jobs, would only work in the scheduled hours and would be provided with adequate rest. He also said they should be provided with a rest room and additional food whenever possible and strictly prohibited corporal punishment. He also stated sick PW's were not to be worked and were to be treated in the same manner as Japanese workers.

Kaname SAKABA

In General. The general defense evidence as to Suzuki (supra) is equally applicable to Sakaba, especially that evidence showing the detailed control by higher authorities as to organization, personnel, facilities, limited powers of initiative and pressure from higher authorities. See also Exhibits J, K-1, P, Q-8. It might be noted that Sakaba requested inspection by the EDA so that

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they could observe conditions (Ex U-18), and that the EDA decided how soon after arrival prisoners would be put to work (Ex K-2). All inspections by the Medical Intendence and the Military Affairs Departments of the EDA resulted in favorable reports of PW conditions (Ex Q-8). Sakaba put out training regulations instructing his subordinates to treat the PW's properly and forbidding corporal punishment (Ex S-12) and instructed subordinates and employers of the PW's not to administer corporal punishment and asked the employers to furnish adequate facilities (Ex R-31, R-37, S-13, S-25, S-42, S-43).

Sakaba had no power to transfer personnel who mistreated PW's. His request to have Watanabe sent back to his original unit was refused by the EDA (Ex S-42, U-16). Sakaba's request to transfer a NCO who was rough on prisoners and to dismiss an officer who used camp materials for his own use was acted upon favorably by the EDA (Ex Q-4). Many PW's stated that living conditions were superior and they were treated better in the camps in the Tokyo area than they were in the camps of other areas and that they never saw Sakaba administer or witness mistreatment of PW's (Ex S-34, S-35, S-37, S-38, S-39, S-43, U). An interpreter at Omori stated that treatment there was better than in the Osaka PW camps and that Sakaba told the PW's they could complain to him but they never did (Ex S-26). Dr. Fujii testified that he did not believe Sakaba knew Watanabe was using the latrine detail to punish officers (Ex D-1).

A Swiss Legation member, in February 1945, in his interrogations, disclosed that Commander Mayer, senior PW officer, stated that although there was overcrowding, the administration, in general, was "highly favorable and satisfactory" and "We have no complaints whatsoever. They treated us fair, conditions have improved a lot lately." He also stated that while conditions were not necessarily bad before, the "treatment has become very fair since 2nd Lieutenant Sano and two or three other personnel came here. We are all grateful. We really have no complaints and are pleased with the situation." The Swiss delegate concurred with Sakaba's statement that "I feel fully confident in saying that they (PW's) have been given just treatment." (Ex S-45).

The pressure that Sakaba was subject to was shown by such things as the PW Information Bureau's monthly reports. In October 1944, the report stated that the employers of PW's were protesting the kind treatment of PW's and that he should notify the Bureau if he had taken any measures to cope with the situation. The report of May 1945 stated that concerning the handling of petitions submitted by PW's that "Although the handling of petitions submitted by PsW may vary with the various internment camps, these petitions, from the very beginning, have merely been a declaration of complaints of the PsW or the insignificant argumentative theories of those PsW who were influenced by others. The food situation at the present time is in such a pressing state as to cause difficulties in acquiring merchandise. Not only is it difficult to provide enough supplies to maintain the health of the PsW, but the hostile feeling of the people has become increasingly greater due to the continuous rain of atrocious and indiscriminate bombings by B-29's. The situation is such that it is feared harm will be inflicted upon the PsW if matters are left standing. But in spite of the fact the camp staff exerted every possible effort in giving the PsW fair treatment, the PsW are not grateful but take the liberty of making requests at every opportunity. Their belief that this is only their natural right must be said to be an expression of the extreme individualism and authoritativeness of Europeans and Americans. Furthermore, as their tendencies toward assuming such an attitude is gradually becoming greater, it is necessary that those engaged in the management of PsW be very careful so as not to be taken advantage of in the least by them.

"This bureau believes that the requests of the PsW are, in view of the present circumstances, a form of discontent and protest directed at management and handling, and is of the opinion that none of their requests should be fulfilled. It is particularly desired that such activities as organizing PW representatives for purposes of presenting requests be abolished at this time.

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"In connection with this matter, we wish to remind you once again that we are not obligated to fulfill the treaty governing the treatment of POW." (Ex J).

The Thought Police Report, sent to the Home Minister by the Governor of Toohigi Prefecture (Niigata camps), shows that townspeople and civilian employees resented the fact that the PW's received better food than the civilians, were given priority on receiving TB inoculations and at the general lenient treatment of PW's. The company officials and the civilian workmen protested that the PW's showed contempt for the Korean and Japanese civilian workers and nothing could be done with them as they were forbidden to administer corporal punishment and the PW guards took no action. This report further stated that the PW camp commander's lenient attitude towards PW's is only due to orders from Sakaba (Ex R-31).

As to Specification 1: Not guilty.

As to Specification 2: The general defense evidence summarized under Specification 2 of Suzuki is equally applicable to Sakaba. In addition to the exhibits cited thereunder, see Exhibits J, K, ps 21 to 26, 38 to 41 and p 48 of Ex K-1, K-2, S-6, S-44, U-18).

Sakaba also made various futile requests for additional medicines and medical attendance and guard personnel (Ex K, pg 14 to 23, 26, 54 of K-1, K-2, P, Q-4, U-18). A shortage of medical personnel during Sakaba's time is indicated by the fact that in May 1944, the Morioka Army Hospital informed Sakaba that due to the shortage of personnel, medical officers could only visit branch camps twice a month (Ex K-1).

The shortage of food and other necessities increased during Sakaba's tenure of office as shown by the fact that the Japanese Army, especially the new recruits, had a large incidence of men suffering from TB and severe malnutrition and that as a result of this there was a gradual breakdown of discipline (L series of exhibits). Sakaba made repeated requests for additional food and complained to higher headquarters that the PW camps were not even receiving their allotted ration (Ex Q-4). Sakaba never personally decreased rations (Ex D-1). PW's testified that the food, medical treatment and working and living conditions in the PW camps under Sakaba's control were superior to that received by PW's at other camps (Ex S-36, S-37, S-38, S-39, U, U-24, U-25). Majors Lucia and Frankcom stated that the elderly and convalescent PW's were given sedentary occupations at Omori whereas they were required to do heavy manual labor at other camps (Ex S-35, S-36). Sakaba never caused sick PW's to be sent out to work (Ex D-1). Lieutenant Bush stated that in 1944 medical supplies were so scarce that the Japanese requested the PW's to save the cellophane from their cigarettes to be used as medical dressings. Lieutenant Bush further stated that he knew of no instance where Dr. Fujii refused to use available medical supplies for the treatment of PW's and that when he was on sick call, Dr. Fujii seemed to give Dr. Goad a pretty free hand. He also stated that moxibustion was not used under Sakaba (Ex D-4). The vice War Minister, from August 1944 to July 1945, stated that due to the dire shortage of medical supplies, stock piles of medicines of certain PW camps could not all be used immediately because they could not be replaced (Ex S-44). A Swiss Legation Staff Member visited Omori and Shinagawa in February 1945 and his interrogations (Ex S-45) disclosed:

(1) That Petty Officer Thomas stated that PW's were receiving an adequate amount of food but complained about not getting enough meats and fats.

(2) Major Berry, PW medical officer, stated the prisoners were getting enough calories though meat was quite scarce and although nourishment was not rich, the prisoners did not have to worry about losing weight. He also stated he was grateful that soy beans were included in the PW's menus and as they were getting enough fish, meat was not absolutely essential.

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The Swiss delegate stated he didn't think anything could be done about the meat situation. Major Berry also stated that two PW medical officers worked one-half day each and medical examinations were made every evening and reported to the Japanese medical NCO; that those prisoners requiring hospitalization were sent to Shinagawa and the physical examinations were highly satisfactory, especially of late. Major Berry further stated that the PW's had an adequate supply of general drugs and equipment and everything that could be done for beri-beri patients was being done; that beri-beri cases originated in the South Pacific and this disease could not be cured in a few days no matter what type of medicine was used. Major Berry complained that many medical soldiers were working in other jobs because they had lost their identification papers and he requested the Red Cross to clear up the situation and furnish them with such identification as soon as possible. At Shinagawa, Dr. Gottlieb stated that amoebic dysentery cases had greatly decreased as hardly any cases broke out in Japan and the disease was brought from the Philippines and Hongkong.

As to Specification 3: Not guilty.

As to Specification 4: Lieutenant Sano and Sakaba, in discussing the mail situation in February 1945 with a Swiss Legation staff member, stated the regulations as to mail were complied with and the PW's were permitted to write one or two postcards a month and there was not a PW who had not received mail. Commander Mayer, on this occasion, said they were receiving their mail but the out-going mail did not seem to be going smoothly (Ex S-45).

As to Specifications 5 and 6: Stricken, defense motion (R 60).

As to Specification 7: In answer to the protests of the United States through diplomatic channels, the Japanese Government, beginning in 1942, continually stated that they did not intend to treat aircrew members who engaged in indiscriminate bombing as PW's and did not intend to divulge the names of these crew members when they were captured or the sentences imposed upon them (Ex U-4, S-44). In conformity with this, the "Special Prisoners" at Omori were not considered PW's and were not administratively handled as such. They were not issued identification cards by the PW Information Bureau or reported to the Geneva Red Cross as in the case of ordinary PW's and the customary death certificate was not made out when PW Gill died. Sakaba was instructed not to include the "Special Prisoners" in arriving at the fixed total strength of PW's at Omori (Ex D-1, ps 12 and 13 of P, S-44, U-18). Due to propaganda by the Japanese Government and the enormous number of civilians killed and homes damaged in the bombings of urban areas, the Japanese people had a burning hatred for B-29 fliers (Ex U-1, U-6, U-7). The attitude of higher authorities is shown by the number of fliers executed in the Eastern, Central and the Western District Armies. Most of these fliers were executed without trial, even after the Emperor had announced the surrender. General Okido, Military Police Commandant, with the encouragement of Lt. General Tamura of the PW Information Bureau, instructed the Army commanders to quickly try captured fliers and "If it is impossible to make immediate disposition by courts-martial, perhaps other methods may unavoidably be used." (Ex U-1, U-3, U-8, U-9, U-10, U-11, U-12, U-13, U-14, U-15). Various district Army commanders determined when the fliers were to be executed and the "Special Prisoners" at Omori were lucky to be alive as the fliers in Osaka, Nagoya and Fukuoka were executed. General Tanaka of the EDA did not think these executions were legal and with the assistance of Sakaba prevented the "Special Prisoners" at Omori from being executed by the subterfuge of having them continually questioned by the staff members of the EDA to indicate it was necessary to keep them alive to gain information and to quiet suspicion that the EDA was ignoring orders to execute the B-29 fliers (Ex P, U-19).

Dealings between higher headquarters and Sakaba in relation to "Special Prisoners" were carried out in a secret manner and the Chief of the PW Administration Department of the War Ministry issued private instructions to Sakaba. Dr. Fujii believed that Sakaba, in his actions, reflected the general attitude of higher commands and there was nothing in his manner to indicate that

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Sakaba bore the "Special Prisoners" any special malice (Ex D-1, K-1). Sakaba objected to the confinement of "Special Prisoners" at Omori because keeping them apart from the regular prisoners was difficult and asked the senior officer of the PW Management Department of the War Ministry as to their status and future disposition. Sakaba was told that their status was indefinite as some might be executed as war criminals (Ex P).

The War Ministry ordered that "Special Prisoners" be confined separately and the district armies had the duty of providing rations and food (Ex S-44, U-17, U-18). Dr. Fujii stated that the requisition for medicines made by the Omori Camp was based on the number of regular prisoners and did not reflect the true strength so that no additional medicines were received because of the presence of "Special Prisoners". He also stated that he believed that Red Cross clothing was distributed to "Special Prisoners" (Ex D-1). The Japanese medical sergeant on duty at Omori from January 1944 to August 1945 stated the PW mess officer took charge of distributing food to the "Special Prisoners" and he heard of no order to the effect that "Special Prisoners" were only to receive half rations. He further stated that as he issued the basic foods, he would have known if any such order had been issued (Ex S-28). One PW testified that Japanese medical orderlies came in from time to time and slipped some medicine to the "Special Prisoners" (Ex U). Another "Special Prisoner" stated there was a dispensary at Omori to treat seriously beaten and wounded prisoners (Ex U-30). Numerous PW's stated they received more food and better treatment at Omori than they had at Ofuna or while imprisoned by the Kempēi Tai (Ex U-20, U-22, U-25, U-26, U-30, U-32, U-38, U-41). PW Trupp stated that while at Ofuna "One prisoner, Gill, initials A. H., a corporal in the Army, was a model prisoner and seldom bothered by the guards because he was so small in stature, being only about 5'2". One night after the 1st of May, Nishi and Sugata entered Gill's cell and severely beat him as he lay in his blankets. Gill must have been injured internally for he was never able to digest much food after this beating.... His condition became worse at Omori and he finally died about the second week in June. His death was due to the beating he received at Ofuna by Nishi and Sugata." (Ex U-35). Another PW stated that all the PW's at Ofuna felt that Hada, who was at Ofuna and not Omori, was directly responsible for the death of PW Gill as he starved him to a point where Gill finally died of pneumonia and dysentery (Ex U-36). PW Leibold stated when he first saw PW Gill at Ofuna, Gill was not in bad shape but before being transferred to Omori, Gill was nothing but skin and bones and did not weigh over 85 lbs. He also stated PW Gill told him he had been beaten and showed him the effects of the beating. PW Leibold further stated that unlike Ofuna, at Omori, PW Gill was never badly beaten or generally mistreated, although he was hit by a guard with a rifle butt, which, while not a severe blow, did raise a bump. PW O'Kane stated when he first saw PW Gill at Ofuna, he appeared to be healthy but he became very thin as the days passed. Gill spent most of his time in his cell as he had difficulty with his digestion (Ex U-37).

Saburo Mizukoshi, General Affairs Officer at Omori from December 1944 until the end of the war, stated that in discussions about the war, PW's and "Special Prisoners", he never heard Sakaba say that they need not be given medical attention because it did not matter what happened to them (Ex S-42).

As to Specification 8: In June 1942, the War Ministry sent out a notification to Army units in charge of PW's that stated, "Although the imposition of labour upon prisoner-of-war officers and non-commissioned officers is prohibited under Article 1 of the Prisoners of War Labour Regulations, it is the policy of the Central Authorities, in view of the present condition of this country which does not allow anyone to lie idle and eat freely, and also with a view to maintaining the health of prisoners of war, to make such officers and non-commissioned officers volunteer to work as in accordance with their respective status, intelligence, physical strength, etc. You are therefore desired to take proper steps accordingly." This same notification quoted Tojo's instructions to the commander of the Zentegi Division in May 1942. "To this Division is attached a

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a prisoners of war camp. Prisoners of war must be placed under strict discipline as far as it does not contravene the law of humanity. It is necessary to take care not to be obsessed with the mistaken idea of humanitarianism or swayed by the personal feelings towards those prisoners of war which may grow in the long time of their imprisonment. The present situation of affairs in this country does not permit anyone to lie idle doing nothing but eating freely. With that in view, in dealing with prisoners of war, too, I hope you will see that they may be usefully employed." (Ex G).

Major General Tanaka further stated that in the latter part of 1942 he attended a conference wherein Tojo decided to disregard international laws and treaties and put all PW's, regardless of rank, to work (Ex U-19).

The PW Information Bureau, in its monthly report of January 1945, gave the following instructions: "In the past, you have been instructed to let PW officers work on a voluntary basis through encouragement. However, owing to the pressing labor situation in the mainland, the food situation and the incitement of the general public, such indifferent measures can no longer be exercised. It is therefore desired that all PW officers be put to work in self-supporting work, etc., at this time.

"In this connection, it is desired that plans be made for the promotion of their working spirit by explaining to them that idleness is an immoral act which cannot be permitted. By resorting to all possible measures such as providing those who work with food equivalent to that received by persons engaged in work, promising them an increased distribution of a part of the harvest obtained through self-supporting work, firmly imposing the necessary restrictions upon those who refuse to work"

The Vice Minister of War stated, "Because of the supplementary food situation in 1945, the various units in the Japanese Army on the mainland engaged in local farming in order to increase the amount of vegetables It was customary for convalescing Japanese Army officers to help with farming these local gardens. It was not considered a disgrace for officers to do such work. In Japan at that time, it was necessary for officers and everybody else to go to work on the farms for self-sufficiency. So at the POW camps, if the officers were worked, they were not worked to humiliate them but to make it possible for them to help sustain themselves." (Ex S-44).

Sakaba in reply to a question by the Swiss Legation staff member who visited Omori in February 1945 denied that officers were required to work (Ex S-45).

As to Specification 9: Not guilty.

As to Specification 10: See general evidence, supra.

As to Specification 11: Not guilty, finding.

As to Specification 12: See general evidence, supra.

As to Specification 13: Stricken, defense motion (R 69).

As to Specification 14: See general evidence supra. In addition, in regard to the Rae incident (Spec 14-k), the Labor Section head of the company employing PW's from Omori stated he was told, in the summer of 1944, that "Fujikawa and Rae were arguing over whether work would be done or not. Anzai, the labor supervisor, (sagyo hanchō), then went over to their work site to clarify things. Rae apparently thought that Anzai came over to assist Fujikawa and knocked him down a couple of times. As a result, Anzai lost about four teeth. Sakurai was called to Omori to explain this incident. Sakurai relayed what had taken place at Omori. Sakurai met 2nd Lieutenant Kato, who said that suitable measures would be taken about Rae, but he wanted to know what the company was going to do about

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their men. Sakurai told him that the company would reprimand the workers and begged forgiveness for this incident, and told him that this sort of incident would not take place again; further that he would instruct the company workers on the matter of corporal punishment. Fujikawa and Anzai both received 20 days' reprimand... Later Sakurai told him that the POWs requested Anzai's presence at the work site. Sakurai went to Omori Camp and negotiated with Lieutenant Kato, which resulted in his reprimand being decreased to about 15 days."

Kuto Fukijima (Specs 14m, n, o, p), former Japanese soldier, stated he was on duty as a soldier at Omori and civilian guard at Konose PW Camp. At Omori, Sakaba was a military disciplinarian and instructed him as to saluting and informed him corporal punishment of PW's was forbidden. Despite this, on his own initiative, he beat two PW's at Omori, including Dr. Weinstein and a medical 1st lieutenant but did not report these beatings to Sakaba or any other Japanese personnel. He also stated that although on one occasion, Watanabe beat him for releasing a PW from punishment, he did not report this to Sakaba. He further stated that at Konose he was instructed by Lieutenant Azuma not to beat PW's but, on his own initiative, he administered two beatings and made no report as to these beatings (R 69).

Fujii testified (R 623 of Case Docket #111) that he only slapped PW Buchanan (Spec 14a-6) with his open hand and PW Buchanan was not hurt and continued to work and he did not look for his sword to kill PW Buchanan.

As to Specification 15: Not guilty, finding.

As to Specification 16: Saburo Mizukoshi, camp commander of the Sumidagawa Dispatch Camp from July 1944 to December 1944, stated Sakaba told him since the buildings at Sumidagawa had not been finished he must exert his utmost efforts in that direction and he did this and the buildings were ready for occupancy when the PW's arrived. Sakaba, after an inspection, stated they were suitable for housing prisoners. The negotiations had been carried on by the company and the EDA before he arrived at camp. Although he did not receive any instructions from Sakaba concerning Red Cross parcels, he knew he had to take special precautions in handling them. During the time he was camp commander, he did not know of any beatings that took place and, therefore, never made any report to Sakaba concerning PW's. Sakaba fulfilled all his requisitions and never instructed him to send more men out to work. Sakaba absolutely prohibited corporal punishment of PW's and stressed the observance of military courtesies and the abiding by established rules (Ex S-42).

As to Specification 17: Shigeru Numajiro, former camp commander, stated (Ex R-32) he had a difficult time in securing supplementary food for the PW's and Sakaba made a special visit to his camp to assist in alleviating this food shortage and even threatened to withdraw the PW's from this company if they did not supply food. When he requested that PW's be hospitalized at Shinagawa, Sakaba never refused to do so and the PW's, upon being returned, were in much better health. Sakaba absolutely forbade corporal punishment and the sending of sick PW's to work. Sakaba never reprimanded him for his lenient treatment of PW's when the Governor of Tochigi Prefecture complained to the Home Ministry about the leniency. (See evidence in general, supra). During an inspection of the work site, when Sakaba saw a sign which read, "Annihilate the Americans and British", he had it erased. The greatest problem he had as a commander was the stealing by the PW's. Although he never authorized corporal punishment by the guards, he (Numajiro) punished PW's by confining them and reported this to the main camp. However, Sakaba would not know about PW's being tied up to make them confess because no report concerning this was forwarded to the main camp. Red Cross parcels were treated as belonging to the PW's as per instructions received by the main camp but PW's gave or traded them with Japanese personnel.

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Kichi Katoku, interpreter at Ashio, stated (Ex R-33) when he reached Ashio in November 1944, there were many patients suffering from beri-beri. Dr. Fujii made an inspection trip in December 1944 and sent about thirty patients to Shinagawa. Dr. Fujii made another inspection trip in February 1945 and about twenty PW's were sent to Shinagawa. Sakaba made an inspection in April 1945 and upon discovering that the PW's were lice-infested, he ordered their clothing and bedding be boiled and this was done and the situation was effectively corrected. Sakaba instructed the Japanese personnel to take various sanitary measures. In the December 1944 inspection, Dr. Fujii had the prisoners strip outdoors and mistreated many of them. Dr. Fujii succeeded, however, in having the company furnish more medicine and food.

PW Gallion was caught stealing and when Gallion did not confess, Numajiro beat his cheeks with a leather slipper for five minutes and then had PW Gallion confined to the guardhouse for three days until he confessed and then Numajiro released him without further punishment. PW Hall was suspected of theft and Numajiro slapped him and ordered him to be hung by his handcuffed wrists for five minutes but the only injury resulting was that PW Hall's wrists were scratched. In February 1945, PW Jones reported that PW Durr was a thief and had many Red Cross articles in his room. Durr and the Red Cross articles were brought to Numajiro and Durr accused PW Ikonhorse and both PW's accused each other of the theft. Durr was made to kneel and hold a chair in his outstretched hand and Nishi slapped him if he lowered his arms. Durr was then hung up by his wrists and confessed and was afterwards confined to the guard house. PW's Wecal and Quintana, when they refused to confess to a crime, were hung by their wrists in the guard house. There were also about four others involved in this incident.

The defense introduced Exhibit R-34, which was a letter wherein the PW's in this camp requested that PW Durr be transferred to another camp.

As to Specification 18: Not guilty, finding.

As to Specifications 19 & 20: Sumio Sugimoto, an employee of the company using PW's from Camp #9-B, Ashio, later known as 7-D Dispatch Camp, stated (Ex R-41) Sakaba made an inspection trip in May 1944 and April and May 1945. Sakaba ordered the extermination of insects and Christian burial for dead PW's. Sakaba also emphasized the prevention of injury. The company supplied food and medicine despite the complaints of the Japanese people in the area.

Kanichiro Yoshizawa, camp commander at 9-B, Ashio, from April 1944 until the end of the war, stated (Ex R-42) that around May 1944, Sakaba made an inspection tour of the camp and the work sites. He told him to get the sick cured as soon as possible and to raise the work percentage, if possible. He directed that those patients on light duty should be placed on work appropriate to their sickness; that they should not do any work to injure their health. He instructed him corporal punishment should not be administered to PW's because it would create resentment toward the Japanese and the prisoners would attempt to escape. Sakaba told the company officials the PW's should not come in contact with females, the company should prevent injuries to the PW's and should provide them with rubber-soled tabi at the factory to prevent slipping. He instructed the company that the PW's rest place must be kept in a sanitary condition and adequate air raid shelters and precautions should be taken.

Keitaro Fukijima, gunzoku (civilian employed by Army) at PW Camp 16-D, Konose, stated (Ex R-69) although instructed by the camp commander, Lieutenant Azuma not to beat PW's and to treat them fairly, he, Fukijima, administered two beatings on his own initiative and did not report it to anyone.

Exhibits R-67 and R-68 are letters of clemency in behalf of Fukijima by former PW's. PW Chater asked clemency for Lieutenant Azuma, the camp commander, stated (Ex R-66) that most of the incidents, especially the worst ones,

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were carried out in Azuma's absence without his sanction or knowledge and the Japanese camp personnel were concerned lest the news should reach Azuma's ears. Azuma tried his best to get everything within reason that the PW's requested. He took a personal interest in the PW's, especially the sick and spent much time out of camp procuring medicines, books and recreational equipment. The decision of the PW doctor as to whether or not men should go to work was final. There was only one death, which was probably due to natural causes or a mistaken diagnosis by the PW doctor. Azuma was accessible and upon hearing complaints, took remedial action and protected the PW's from the actions of the company when it tried to exploit them. PW Beament also asked clemency for Azuma and Ishibe stated that Azuma did everything he could for the PW's and his only crime was being camp commander (R 64). PW Janis stated (R 65) that Azuma was liked and respected by all PW's. Azuma, at times, took disciplinary action against men who broke clearly understood regulations. This action was taken against men who violated orders from their own officers as well as the Japanese regulations and would have been in trouble even within their own units. The principal offenders not only stole from the Japanese but from their fellow PW's. PW's Aiken, Gavard, Jones and Martingdale were in this category and their evidence should not be given credibility.

Yoshio Sudo, former camp commander of Dispatch Camp #24, Kawasaki, from December 1944 until July 1945, stated (Ex R-43) that prior to assuming command, he was briefed as to his duties at Omori and Sakaba told him to treat PW's with fairness and it was imperative that the PW's health be maintained. Sakaba never set a percentage of men that had to go to work. He, Sudo, never reported to Sakaba that PW's were complaining of mistreatment. His request to hospitalize PW's was never refused and Sakaba fulfilled all requests in behalf of the PW's. Sakaba instructed that Red Cross packages were strictly for PW's and they were so distributed. In May 1945, General Tamura of the Prisoner of War Information Bureau stated, after seeing the charts as to the weights of the PW's, the PW's were not working hard enough. Sudo never made a report to Sakaba concerning the actions of gunzoku Shioyawa.

PW McGrow, former prisoner at Lieutenant Sudo's camp, stated (Ex R-44) he was slapped by Sudo when he had done something wrong. The food was comparatively excellent and Sudo insisted upon sanitation in the kitchen. Working conditions were better than in other camps and Sudo's attitude was one of fairness.

Yasuji Sawano, an official of the company where PW's in Sudo's camp were employed, stated (Ex R-40) Lieutenant Sudo insisted on regular working hours, improved camp facilities, secured additional medicines and that Sakaba requested air raid shelters be built.

Kumaji Sudo, branch commander of Camp #1, Kawasaki, until July 1945, stated (Ex R-59) he was under Lieutenant Takeuchi, who was succeeded by Lieutenant Emori and both issued orders that PW's be treated fairly, in accordance with regulations. Sakaba visited the camp and gave instructions as to sanitation and said corporal punishment was forbidden. In 1945, Lieutenant Emori instructed camp personnel they must protect PW's with their lives if the Japanese people raided the camp because of their hatred for the PW's. He further stated that Red Cross supplies would be turned over to the PW officers and during Christmas 1944, Lieutenant Commander Newman gave Lieutenant Emori some Red Cross supplies.

An official of the company where PW's from Kawasaki Branch Camp #1 were employed stated (Ex R-61) Sakaba said that PW's should be treated with benevolence and no corporal punishment should be administered to them. Sakaba also gave instructions concerning the protection and welfare of PW's and the company supplied clothing and medicines for the use of the PW's.

An official of another company where PW's from this same camp worked stated (Ex R-70) Sakaba came to the work site once or twice monthly with Lieutenant Emori and told them there would be no corporal punishment administered to

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PW's and everything should be done for their care and welfare. Two company doctors, who lived nearby, were available to treat PW's in case of accidents but none occurred. The company issued extra food, work clothing and eggs to PW's whenever possible and constructed air raid shelters for them.

Michiji Ishige, camp commander of Kawasaki Branch Camp #7 from August 1943 to May 1945, stated (Ex R-11) Sakaba inspected the camp twice and the camp was cleaned up for these inspections. Sakaba instructed them the PW's must be treated fairly and corporal punishment should not be administered.

A company official where PW's from Branch Camp #7 were employed stated (Ex R-12) Sakaba requested additional food and larger and more sanitary rest rooms. He issued orders forbidding corporal punishment and had the company establish air raid shelters for the PW's.

PW Birchall, PW at Yokohama PW Camp, stated (Ex R-37) Sakaba visited the camp and the Asano Dockyard area in May and lectured the dockyard officials regarding work clothing and extra food; stated there was considerable unrest in camp because the PW doctor was favoring certain men over others and these men openly admitted they were not too sick and it was well known they had all lost money to this PW doctor; during an inspection, the Japanese medical orderlies brought a big load of empty medical boxes to impress Sakaba. He also stated PW's were working $1\frac{1}{2}$ hours less in 1945 than in 1944 because of the reduced rations.

Officials from the Tsumi Shipyards employing PW's from Camp 3-D and the Yokohama Ship-building Yard employing PW's from #10 Dispatch Camp stated (Ex R-47, R-48) Sakaba ordered these companies to provide medicines for sick PW's and insisted PW's be treated like the Japanese workers.

PW Finn stated (Ex R-50) Lieutenant Uwamori canvassed the drug stores in order to obtain medicines and only administered mass punishment on one occasion.

Lieutenant Masao Uwamori, who was concurrently commandant of PW Camps 3-D, 10-D and 11-D, stated (Ex R-54) Sakaba summoned him to the main camp and told him the Kempei Tai had reported the personnel of the Tsumori Shipyards were having great difficulty with him because of his attitude towards PW's. Uwamori explained that his policy of treating PW's was in accord with international law and the Tsumori Shipyards' personnel were very reluctant to cooperate. Sakaba just grinned and told him he had been justified in his actions and no further action was taken. Sakaba attempted to gain the withdrawal of the PW's from the Tsumori Shipyards but the War Ministry refused to do so. In September 1944, when sick Dutch, American and Australian PW's arrived at Camps 10-D and 11-D, Sakaba provided medicines and permitted the PW's to rest until their health was restored and during a two month period the PW's gained five kilograms in weight. Because of the uncooperative attitude of the Tsumori Shipyards, Sakaba withdrew 96 PW's from the camp under the guise of hospitalizing them at Shinagawa.

Masao Yamabe, former official of the Tsumori factory where PW's from PW Camp 11-D were employed, stated (Ex R-55) they received many inspections by military men and both the EDA and the Navy. Colonel Sakaba came on one or two occasions and instructed them to build air raid shelters for the PW's, give them additional food and improve the barracks. He also emphatically stated corporal punishment of PW's was strictly forbidden.

Ishichi Tsuzuki, an employee of the Tsumori Shipyards where PW's from the Yokohama camps were employed, stated (Ex R-56) he had met Sakaba on three or four occasions and Sakaba requested the accommodations and food for PW's be improved.

An official of the company where PW's from Branch Camp #3, Yokohama, were employed stated (Ex R-57) Sakaba visited the work site in July 1944 and told

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the assembled company representatives that PW's are not criminals and they must be treated in accordance with the spirit of international law and with benevolence and should not be given any corporal punishment. He also told them the main camp was limited in its budget and the food allotted to the PW's was not sufficient for those doing hard physical labor and the company should assist the branch camps in obtaining additional food for the PW's.

Tsuruichi Takahashi, a member of the company staff at Yokohama Dispatch Camp #19, stated (Ex R-46) Sakaba inspected the camp in June 1944 and April 1945 and on both occasions he instructed them the PW's were to be treated fairly. Colonel Sakaba's policy was that PW's should not be mistreated but despite this, some of them were slapped. When PW's complained, he transmitted their complaints to Lieutenant Kamatsuno or Sergeant Mano. In April 1945, when Sakaba asked 2nd Lieutenants Ford and Hard if they wished to work, the officers volunteered to work and were not forced in any way to do so.

An official of the company employing PW's from Yokohama camps stated (Ex R-48) Sakaba instructed that the prisoners be afforded the same treatment as that accorded to Japanese workers. Major General Yamaguchi of the EDA, after inspecting the work site, praised the company for its handling of PW's, noting that the PW's had increased in weight on an average of five kilograms.

An official of another company employing PW's from Camp #22D, Sakata, stated (Ex R-45) Sakaba visited the work site in the spring of 1945 and criticized Lieutenant Watanabe because the air raid practice was not conducted efficiently. He instructed the company officials PW's must be treated fairly and no corporal punishment should be administered.

The company secured food and medicine for the PW's and complied with the many requests for additional supplies for the use of PW's.

A company official, employing PW's from the Kamaishi PW Camp, stated (Ex R-58) Sakaba inspected the work site quite a few times and instructed them that the PW's should be treated benevolently, in accordance with international law and under no circumstances should corporal punishment be administered. He also instructed them to put PW's on suitable jobs, to comply with working hours, to secure additional medicines for the PW's and to alleviate the PW's hardships as much as possible by securing additional food for them. He also instructed them to enlarge the PW sick room.

4. Opinion:

There are no errors or irregularities which injuriously affected any substantial rights of either of the accused. The commission was legally constituted by proper authority and had jurisdiction over each of the accused and of the offenses charged. There is no evidence that either of the accused was not sane at the time of the commission of the alleged acts or at the time of the trial. The accused were ably defended by competent counsel, cooperated in their own defense, produced witnesses in their own behalf and, after being warned of their rights, elected not to testify. Except as hereinafter stated, the findings of the commission concerning each of these accused are legal and supported by sufficient evidence.

The commission could reasonably find as to each of these accused that they had knowledge of many of the incidents alleged to have occurred at Omori. Those who have had Army experience realize that if beatings occurred with the frequency set forth in the present case, it would be almost impossible to keep them secret from the commander (U.S. v Tanaka, Case Docket #145). The commission could certainly find that these accused were put on notice and should have known that the PW's at Omori were being abused. It is well established that, on

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the basis of this knowledge, each of these accused, in his capacity as PW camp commander, had the duty to take proper measures within his power to prevent his subordinates from subjecting PW's to violence, abuse and cruelty (U.S. v Kaniyama, Case Docket #13; U.S. v Nichizawa et al, Case Docket #46; U.S. v Yajima, Case Docket #66). Except for the mere verbal instructions as to eliminations of corporal punishment, the record does not reveal that either of these accused took appropriate measures within his power to correct the obvious abuses at Omori. It is, therefore, concluded that the commission could, as to each of the accused, reasonably arrive at its finding of guilty of the offenses occurring at Omori.

The evidence does not sustain the commission's findings as to Specifications 6, 7, 8, 9k, 9u, 10 and 11 as to the accused Suzuki and Specifications 16, 17, 19 and 20 as to the accused Sakaba. Prosecution's proof of these specifications consisted of military commission orders or copies of approved charges and specifications revealing the conviction of the accused's alleged subordinates of the alleged incidents alleged in the above mentioned specifications and sub-specifications. The commission, upon being asked to take judicial notice of the trials resulting in the above mentioned military commission orders and approved charges and specifications, did so but stated that the taking of judicial notice was not considered to be accepting them in evidence (R 432). The commission further stated that the prosecution must point out the pages of testimony or specific exhibits that they desired the commission to consider (R 413). Later, when the prosecution attempted to offer into evidence the records of some of the cases of which the commission had taken this limited judicial notice, the commission refused to accept them, stating that it was administratively impossible for the commission to read all the records but stated that the prosecution could make specific reference to these records in the closing argument or in answer to any motion of the defense (R 783). The prosecution failed either to point out or make specific reference to the particular portions of the records bearing on these specifications and thus this reviewer can only consider the evidence that was properly before the commission, namely the above mentioned military commission orders or approved charges and specifications.

It is not necessary to decide the question that might have arisen had the commission taken judicial notice of these records without limiting the scope thereof and no opinion is given expressly or by implication as to this question. If the commission had considered the records of these cases, it cannot be said beyond a reasonable doubt that they might not have arrived at a different conclusion as it is well known that different verdicts may legally be arrived at even though the evidence is substantially the same (Fall v US 49 Fed 2d 506 Certiorari Denied 283 US 867). The prosecution must prove every element of an offense beyond a reasonable doubt so as to exclude any fair and rational hypothesis except that of guilt (par 78 MCM pg 74).

It is not believed that the military commission orders, etc, introduced herein, even established what might (by an analogy to civil cases) be called a prima facie case as there is the additional factor to be proved, namely that the accused, if considered to be on notice, could have reasonably discovered these abuses. Even if these military commission orders, etc. were deemed to present a prima facie case, the defense, by its evidence of instructions by each accused as to the elimination of corporal punishment and unsanitary conditions and the admissions in many instances by subordinates that conditions were kept hidden from both accused, sustained its burden of adducing evidence and thus the prosecution, by not introducing further proof, failed to sustain its ever-present burden of proof.

A different question is presented as to Specification 9 against the accused Suzuki. The commission not only took the limited judicial notice as above but had before it certain pages of the record and certain exhibits extracted from U.S. v Yoshida, Case Docket #69, which were duly incorporated by reference into this record. Except as to sub-specifications 9dd and 9ee, the commission, on the

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basis of the evidence properly before it, could reasonably find that the incidents alleged actually did occur. The only remaining question is whether Suzuki can be held responsible for these acts. The evidence herein establishes that Suzuki should have known PW's were being beaten and otherwise tortured and abused at Omori and thus Suzuki was placed on notice that his subordinates were committing offenses proscribed by the Hague and Geneva Conventions. Suzuki should have known that if his subordinates, directly under his control, were committing those offenses, it was more than likely that similar instances were occurring at branch camps and thus he had the duty of inquiry. A camp commander has the duty to protect prisoners and, by the use of diligence, must determine that they are not being mistreated (Nichizawa et al, Case Docket #46; U.S. v Uchida, Case Docket #76; U.S. v Hashimoto, Case Docket #166). Moreover, in this instance the evidence disclosed that beatings at this camp were so commonplace that even a casual investigation would have disclosed the necessity for taking actions to protect the prisoners. It may be noted that in December 1943, Suzuki sent Fujii to investigate the high death rate and to reduce the number of sick PW's and that Fujii did, by sending sick PW's to work. The commission could reasonably find that this accused did not use the necessary diligence in determining whether the PW's were being mistreated and could, therefore, reasonably arrive at their findings. The evidence in Case Docket #69, supra, sustaining the findings as to Specifications 9dd and 9ee, was not incorporated into the record and thus in view of the above discussion, these findings cannot be sustained.

5. Recommendations:

Kunji SUZUKI. It is recommended that the accused be found not guilty of Specifications 6, 7, 8, 9k, 9u, 9dd, 9ee, 10 and 11.

Letters of clemency from a former Prince, and presently chief priest of the Meiji Shrine, a former Count and vice-president of the House of Peers, a former Minister of State, a president of a college and former Minister of Education, a college professor, Father Ronan, Japanese priests, fellow-townsmen, and the wife and relatives of the accused have been received. These petitions offer no new evidence, except that three of these individuals visited Omori and observed Suzuki's kind treatment of the PW's, his interest in sanitation and revealed that Suzuki admitted that Red Cross articles were missing at Omori despite his best efforts. The clemency file also includes an affidavit from a former PW, who stated that although Suzuki took corrective action on one occasion when a brutality was reported to him, it was apparent he had a lack of interest in the PW's and failed to control his subordinates. This affidavit also revealed that Suzuki was not accessible and that the affiant did not believe that Suzuki's subordinates reported the complaints of the PW's to him.

Despite these petitions and the recommendation that the commission's finding of guilty as to Specifications 6, 7, 8, 9k, 9u, 9dd, 9ee, 10 and 11 be disapproved, it is not thought that the sentence of confinement at hard labor for life is excessive and it is accordingly recommended that the sentence be approved.

Kaname SAKABA. It is recommended that the accused be found not guilty of Specifications 16, 17, 19 and 20.

A letter of clemency, signed by the chief, directors, and over 200 other employees of the Yokohama Branch Yard of the Osaka Dock Yard Company, has been received. Both this petition and an affidavit from a former PW, also included in the petition file, present no additional evidence. Despite the recommendation as to Specifications 16, 17, 19 and 20, it is not felt that the sentence of confinement at hard labor for life is excessive and it is accordingly recommended that the sentence be approved.

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6. Action:

Attached hereto are forms of action designed to carry into effect the above recommendations.

NORMAN CARROLL
Reviewer

I concur generally. The evidence would have supported the extreme penalty as to each accused. However in view of the limitations placed upon the Reviewing Authority with respect to prohibitions of increasing the sentence of the commission, approval is recommended.

The defense motion to sever has been disposed of adversely to defense in many cases heretofor (cf US v Ichinoe, #265, etc.). In this case three American and four Japanese lawyers aided and counselled the two accused so they were adequately supplied with legal protection.

The court set special rules for admission of portions of other records of trial as evidence by requiring that the pages of the record and the affidavits to be offered be designated (R 413, 415, 432, 474, 717, 772, 783, 838). This was a reasonable rule but, in the instances in which disapproval of the findings is recommended, it was not complied with by the prosecution.

Defense comment is noted:

"MR. KAYE: May the defense at this time state that there never has been anytime in any of the defense counsel's mind, and I can speak for the Japanese counsel as well, that this Court wasn't fully conscious of and completely on guard for the rights of the accused in this case."

ALLAN R BROWNE
Lt Col JAGC
Army Judge Advocate
[Signature]