

DECLASSIFIED

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By: NARA NARA Date: 1976

TAKEMUNE KATO et al. (12 Jul 1946)

(152410)

0997

Case of

Colonel KATO, Takemune, Imperial Japanese Army;
Captain YAMASHITA, Masao, Imperial Japanese Army;
Corporal TANIYAMA, Shinosuke, Imperial Japanese Army;
Corporal MORITO, Shoichi, Imperial Japanese Army;
Superior Private OSHIDA, Takekazu, Imperial Japanese Army.

RECEIVED

26 SEP 1946

OFFICE OF JUDGE
ADVOCATE GENERAL
G. C. M. SECTION

RECORD OF PROCEEDINGS

of a

MILITARY COMMISSION

convened at

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands,

by order of

Commander Marianas Area.

Copy furnished.

152410

H. L.

Room 2348

152410

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152410

0998

Case of
Colonel KATO, Taketomo, Imperial Japanese Army;
Captain YAMAGUCHI, Masao, Imperial Japanese Army;
Corporal TANIYAMA, Shinsuke, Imperial Japanese Army;
Corporal MORITO, Shinsuke, Imperial Japanese Army;
Superior Private OKADA, Taketomo, Imperial Japanese Army.

RECEIVED
20 SEP 1945

1-88-1
15/45: 88-1

REPORT OF PROCEEDINGS

of a

MILITARY COMMISSION

convened at

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands,

by order of

Commander Marianas Area.

Copy furnished.

0999

Colonel Takemune Kato, Imperial Japanese Army
Captain Masao Yamashita, Imperial Japanese Army
Corporal Shinosuke Taniyama, Imperial Japanese Army
Corporal Shoichi Morito, Imperial Japanese Army

and

Superior Private Takekasu Oshida, Imperial Japanese Army.

trial by Military Commission

in the

Marianas Islands

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TESTIMONY

Name of witness	Direct and redirect	Cross and recross	Commission
Prosecution			
Kishimoto, Masao, Sergeant, IJA.	8	15	
Hidano, Raidenwaka, Corporal, IJA.	16		
Kosuga, Tadaaki, Captain, IJA.	20	24	
Ikawa, Shigeo, Captain, IJA.	25, 33	32	34
Nakano, Masami, Captain, IJA.	36	40	41
Horie, Yoshitaka, Major, IJA.	41	43	
Okamoto, Moriki, Sergeant, IJA.	44	45	
Fredric T. Suss, Lieutenant, USNR.	47	48	
Sato, Masayasu, Superior Private, IJA.	53	54	

1000

Name of witness	Direct and redirect	Cross and recross	Commission
Defense			
Kato, Takemune, Colonel, IJA.	57	63	
Yamashita, Masao, Captain, IJA.	73	78	81
Morito, Shoichi, Corporal, IJA.	82	86	87
Taniyama, Shinosuke, Corporal, IJA.	88	91	
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Ito, Kikuji, Lieutenant Colonel, IJA.	99	101	
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EXHIBITS

Exhibit	Character of	Admitted in Evidence
1	The interrogation of Superior Private Oshida, Takekazu IJA, before Bonin Island Board of Investigation.	48A
2	The statement of Corporal Taniyama, Shinosuke, IJA, submitted to Bonin Island Board of Investigation.	48A
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AL7-25/FF12/
12/JUN-61

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

Serial: 4943

5 April 1946

From: The Commander Marianas Area.
To: Rear Admiral Arthur G. ROBINSON, U. S. Navy.
Subject: Precept for a Military Commission.

1. Pursuant to the authority vested in me by the Commander-in-Chief, U. S. Pacific Fleet (CinCPac conf. serial 0558, of March 8, 1946), and Pacific Ocean Areas, and Military Governor of the Pacific Ocean Areas, a Military Commission is hereby ordered to convene at the Headquarters, Commander Marianas on Guam, Marianas Islands, at 10 o'clock a.m. on Monday, April 8, 1946, or as soon thereafter as practicable, at the call of the president, for the trial of such persons as may be legally brought before it.

2. The Military Commission is composed of the following members, any five of whom are empowered to act, viz:

Rear Admiral Arthur G. Robinson, U. S. Navy
Colonel James V. Ware, Infantry, Army of the United States
Colonel Pierre B. Denson, Coast Artillery Corps, Army of the United States.
Commander John C. Poshepny, Supply Corps, U. S. Navy
Lieutenant Colonel Adolph Zuber, U. S. Marine Corps
Commander Joseph O. Christian, U. S. Navy
Lieutenant Colonel William A. Rygg, U. S. Marine Corps, and of

Lieutenant William P. MAHONEY, U. S. Naval Reserve and
Lieutenant Edward L. FIELD, U. S. Naval Reserve, as judge advocates, either of whom is authorized to act as such.

Lieutenant Commander Donald H. DICKEY, U. S. Naval Reserve, Lieutenant Commander Koso HIRATA, IJN, and Lieutenant Hisao NAKASATO, IJN, are available and are hereby authorized to act as defense counsel. This authorization does not preclude as defense counsel others who are available and are desired by the accused.

3. The Military Commission shall be competent to try all offenses within the jurisdiction of exceptional military courts. It shall have jurisdiction over all persons in the custody of the convening authority at the time of the trial charged with war crimes committed against United States nationals and any white person whose nationality has not prior to ordering of the trial been established to the satisfaction of the convening authority. Nothing herein limits the jurisdiction of the Military Commission as to persons and offenses which may be otherwise properly established.

4. The military commission upon conviction of an accused is empowered to impose upon such accused any lawful punishment including the death sentence, imprisonment for life or for any less term, fine or such other punishment as the commission shall determine to be proper.

5. The proceedings of the Military Commission will be governed by the provisions of Naval Courts and Boards, except that the commission is permitted to relax the rules for naval courts to meet the necessities of any particular trial, and may use such rules of evidence and procedure, issued and promulgated by the Supreme Commander for the Allied Powers, (Letter General Headquarters, Supreme Command for the Allied Powers, APO 500, 5 December 1945, A.G. 000.5 (5 Dec. 45)AS, Subject: "Regulations Governing the Trials of Accused War Criminals.") as are necessary to obtain justice. The commission may adopt such other rules and forms, not inconsistent herewith, as it considers appropriate.

CERTIFIED TO BE A TRUE COPY

"A(3)"

1002

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

Subject: Precept for a Military Commission.

6. Detachment of an officer from his ship or station does not of itself relieve him from duty as a member or judge advocate of the commission. Specific orders for such relief are necessary.

7. Power of adjournment is granted the commission, and adjourned sessions may be held at such times and at such places as the commission may determine.

/s/ C. A. Pownall
C. A. POWNALL
Rear Admiral, U. S. Navy
The Commander Marianas Area.

Copies to:
Members of Commission
Judge Advocates

Certified to be a true copy.

WILLIAM P. MAHONEY,
Lieutenant, U. S. Naval Reserve,
Judge Advocate.

CERTIFIED TO BE A TRUE COPY

Charles K. Fick

* 1(2)

1003

AL7-25/FF12
13-JDM-ala

25 April 1946.

Serial: 5671

From: The commander Marianas Area.
To : Rear Admiral Arthur G. ROBINSON, U. S. Navy,
President, Military Commission.

Subject: Change in membership of commission.

1. Captain Eric B. Hoag, DC. U. S. Navy, is hereby appointed a member of the military commission of which you are president, convened by my precept of 5 April 1946, vice Lieutenant Colonel William A. Rygg, U. S. Marine Corps, hereby relieved.

Copy to:
Captain Hoag.
Lieut. Col. Rygg.

C.A. POWNALL

AL7-25/FF12
13-JDM-ala

27 April 1946.

Serial: 5744

From: The Commander Marianas Area.
To : Lieutenant William P. MAHONEY, U. S. Naval Reserve,
Judge Advocate, Military Commission.

Subject: Relief as Judge Advocate from Military Commission.

1. You are hereby relieved as Judge Advocate of the Military Commission of which Rear Admiral Arthur G. Robinson is president, convened by my precept of 5 April 1946.

Copy to:
President, Military Commission.

C.A. POWNALL

AL7-25/FF12
13-JDM-ala

1 June 1946

Serial: 7060

From: The Commander Marianas Area.
To : Rear Admiral Arthur G. ROBINSON, U. S. Navy,
President, Military Commission.

Subject: Change in membership of military commission.

1. Commander Martin E. Carlson, U. S. Naval Reserve, is hereby appointed a member of the military commission of which you are president, convened by my precept of 5 April 1946, vice Lieutenant Colonel Adolph Zuber, U. S. Marine Corps, hereby relieved, upon completion of trials already begun, and except in event of revision of cases already tried.

Copy to:
Commander Martin E. Carlson,
Lieutenant Colonel Adolph Zuber.

C.A. POWNALL

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Edward L. Fied

538

1004

AL7-25/FF12
13-JDM-ala

1 June 1946.

Serial:

From: The Commander Marianas Area.
To : Rear Admiral Arthur G. ROBINSON, U. S. Navy,
President, Military Commission.

Subject: Change in Membership of Military Commission.

1. Major Donald B. COOLEY, Jr., U. S. Marine Corps, is hereby appointed a member of the military commission of which you are president, convened by precept of 5 April 1946, vice Commander Joseph O. CHRISTIAN, U. S. Navy, hereby relieved, upon the completion of trials already begun, and except in event of revision of cases already tried.

Copy to:
Major Donald B. Cooley, Jr., USMC.
Commander Joseph O. Christian, USN.

C. A. POWNALL

AL7-25/FF12
13-ELF-ala

1 June 1946

Serial: 7032

From: The Commander Marianas Area.
To : Rear Admiral Arthur G. ROBINSON.

Subject: Appointment of a Judge Advocate to Commission.

1. Lieutenant Daniel FLYNN, United States Naval Reserve, is hereby appointed a Judge Advocate of the Military Commission of which you are president, convened by my precept of 5 April 1946.

Copy to:
Lt. Flynn.

C. A. POWNALL

AL7-25/FF12
13-JDM-ala

10 June 1946

Serial: 7368

From: The Commander Marianas Area.
To : Rear Admiral Arthur G. ROBINSON, U. S. Navy, President,
Military Commission, Guam.

Subject: Appointment of a Judge Advocate to Commission.

1. Lieutenant Fredric T. SUSS, United States Naval Reserve, is hereby appointed a Judge Advocate of the Military Commission of which you are president, convened by my precept of 5 April 1946, and is authorized to act as such in addition to Judge Advocates previously appointed by me.

Copy to:
Lt. Suss.

C. A. POWNALL

"C"

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Edward V. Fudge

1005

Al6-2/FF12/
13-JDM-ala

8 July 1946.

Serial: 8437

From: The Commander Marianas Area.
To : Rear Admiral Arthur G. ROBINSON, U. S. Navy, President,
Military Commission, Guam.

Subject: Commander John C. POSHEPNI, Supply Corps, U. S. Navy -
relief of.

1. Subject officer is hereby relieved as a member of the
Military Commission of which you are president, convened by my precept
of 5 April 1946. upon the completion of the trials already begun and
except in the event of revision of cases already tried.

C. A. POWNALL,
Rear Admiral, U. S. Navy,
The Commander Marianas Area.

Copy to:
Commander John C. POSHEPNI,
Judge Advocate, Military Commission.

"D"

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Edward K. Fied

1006

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

A17-25/FF12
13-JDM-slm

Serial: 8067

26 June 1946

From: The Commander Marianas Area.
To : Lieutenant Daniel FLYNN, USNR, and/or
Lieutenant Edward L. FIELD, USNR, and/or
Lieutenant Fredric T. SUSS, USNR,
Judge Advocates, Military Commission, Commander Marianas.

Subject: Charges and Specifications - in the case of:

Colonel KATO, Takemune, Imperial Japanese Army.
Captain YAMASHITA, Masao, Imperial Japanese Army.
Corporal TANIYAMA, Shinosuke, Imperial Japanese Army.
Corporal MORITO, Sheichi, Imperial Japanese Army.
Superior Private OSHIDA, Takekazu, Imperial Japanese Army.

1. The above named persons will be tried before the Military Commission of which you are Judge Advocate upon the following charges and specifications. You will notify the president of the commission accordingly, inform the accused of the date set for trial, and summon all witnesses, both for the prosecution and for the defense.

CHARGE I

MURDER

SPECIFICATION

In that KATO, Takemune, then a Colonel, IJA, YAMASHITA, Masao, then a First Lieutenant, IJA, TANIYAMA, Shinosuke, then a Leading Private, IJA, MORITO, Sheichi, then a Superior Private, IJA, and OSHIDA, Takekazu, then a Superior Private, IJA, attached to the 307th Independent Infantry Battalion, First Mixed Brigade, and other persons unknown, all attached to the Military Installations of the Imperial Japanese Army, Chichi-Jima, Bonin Islands, did, each and together, on or about 25 February 1945, on Chichi Jima, Bonin Islands, at a time when a state of war existed between the United States of America and the Japanese Empire, wilfully, feloniously, with premeditation and with malice aforethought, without justifiable cause, and without proper trial or other due process, assault, strike and kill, by spearing with bamboo spears and by bayoneting with fixed bayonets, an American Prisoner of War, name to the relator not definitely known, but believed to be Grady Alvan York, Aviation Ordnanceman third class, U. S. Navy, then and there held captive by the armed forces of Japan, this in violation of the laws and customs of war and the moral standards of civilized society.

"E(1)"

1007

8067

CHARGE II

NEGLECT OF DUTY IN VIOLATION OF
THE LAWS AND CUSTOMS OF WAR

SPECIFICATION 1.

In that KATO, Takemune, then a Lieutenant Colonel, IJA, attached to the 307th Independent Infantry Battalion, First Mixed Brigade, Military Installations of the Imperial Japanese Army, Chichi Jima, Bonin Islands, and while so serving as Commanding Officer of the said 307th Independent Infantry Battalion and in command of the Kominato area on Chichi Jima, did, on or about 7 August 1944, on Chichi Jima, Bonin Islands, at a time when a state of war existed between the United States of America and the Japanese Empire, unlawfully disregard, neglect and fail to discharge his duty as Commanding Officer of the said 307th Independent Infantry Battalion and Kominato area, to control and restrain members of his command and other persons, then subject to his control, namely, IKAWA, Shigeo, First Lieutenant, IJA, ITO, Kikuji, Lieutenant Colonel, IJA, SHIMURA, Hisao, Leading Private, IJA, and other persons unknown, as it was his duty to do, in that he permitted and allowed the aforesaid persons and persons unknown to unlawfully kill, and unlawfully cause to be killed, on said date and in said area, with fixed bayonets and beheading with a sword, two American prisoners of war, namely, one Lloyd Richard Woellhof and one whose name is to the relator unknown, said American prisoners of war, then and there held captive by the Armed Forces of Japan in the said Kominato area, this in violation of the laws and customs of war,

SPECIFICATION 2.

In that KATO, Takemune, then a Lieutenant Colonel, IJA, attached to the 307th Independent Infantry Battalion, First Mixed Brigade, Military Installations of the Imperial Japanese Army, Chichi Jima, Bonin Islands, and while so serving as Commanding Officer of the said 307th Independent Infantry Battalion and in command of the Kominato area on Chichi Jima, did, on or about 7 August 1944, on Chichi Jima, Bonin Islands, at a time when a state of war existed between the United States of America and the Japanese Empire, unlawfully disregard, neglect and fail to discharge his duty as Commanding Officer of the said 307th Independent Infantry Battalion and Kominato area, to properly protect American prisoners of war held captive by the Armed Forces of Japan in the said Kominato area, as it was his duty to do, in that he did neglect and fail to take steps to prevent, and to prevent the unlawful killing by members of the Armed Forces of Japan, with bayonets and with a sword, on said date, of two American prisoners of war, namely, Lloyd Richard Woellhof and one whose name is to the relator unknown, then and there held captive by the Armed Forces of Japan in the said Kominato area, which unlawful killing he knew to be taking place on said date in the said Kominato area; and he, the said KATO, through said neglect and failure, did suffer the said American prisoners of war to be unlawfully killed at the time and place aforesaid, in violation of the laws and customs of war.

C. A. Pownall
C. A. POWNALL,
Rear Admiral, U. S. Navy,
Commander Marianas Area.

WFO: JEROME

OF THREE CHARGES WITH SPECIFICATIONS ON 23 JUNE 1948.
RECEIVED & FILED THE COLLECTOR, COM. 10TH IN SUPPLY AND LOGISTICS

"E(2)"

1008

加藤武宗
Kato, Takemune

山下正雄
Yamashita, Masao

谷山信之助

Taniyama, Shinosuke
森田 圭一

Morito, Shoichi

Oshida Tekakom

The above receipt translated to the accused

By: Robert F. Dunder

1. **Ehseign, USNR**, left to discharge
in the Bureau of Naval Personnel and

SPECIALIZATION 5*

[illegible]

THE IVES AND ANGLERS OF THE
HISTORY OF DALL IN ALASKA OF

8093

CHANGE II

1009

昭和二十二年六月二十六日
 宛 米 國 海 軍 大 尉 アニエル フリッシュ
 同 海 軍 大 尉 フォワード・ルネ・フナール
 同 海 軍 大 尉 フレドリック・トマス・サツス 殿

記

大日本帝國陸軍大佐	加藤	武宗
同 陸軍大尉	山下	正雄
同 陸軍伍長	谷山	信之助
同 陸軍伍長	森田	正一
同 陸軍上等兵	押田	武敷

前記 者ハ貴官ガ法務官タル軍法會議
 ニ於テ後記ノ告訴並ニ罪狀項目ニ付キ裁判
 シ、ルベシ。貴官ハ裁判長ニ之ヲ通告シ被
 告ニ裁判ノ日時ヲ通知シ原告並ニ被告兩
 側ヲ全證人ヲ集合セシムベシ。

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 Edward L. Fied

7/7

叙

軍世項目

大日本帝國	陸軍大佐(當時)	加藤	武宗
陸軍中尉(當時)	山下	正雄	
陸軍兵長(當時)	谷山	信之助	
陸軍上書兵(當時)	森戸	正一	
陸軍上書兵(當時)	押田	武敷	

右、者、及び其、他不詳者ハ、本館、原列、爲、又、島、所在、日本帝國陸軍部隊、第二旅團、第三、七、獨立歩兵大隊、二配屬、勤、務、中、夫、々、共、シ、テ、ア、メ、リ、ト、合、衆、國、ト、大、日、本、帝、國、ト、が、戦、争、の、状、態、ニ、在、リ、タ、ル、昭、和、二、十、年、二、月、二、十、五、日、頃、意、思、的、違、法、的、ニ、企、圖、ト、惡、意、ヲ、以、テ、正、當、ナ、理、由、モ、ナ、ク、適、當、ノ、公、判、其、他、然、ル、ベ、キ、手、續、モ、セ、ズ、前、記、大、日、本、帝、國、陸、軍、部、隊、ノ、手、ニ、抑、留、シ、テ、リ、シ、米、俘、虜、ニ、爲、ス、前、ハ、確、實、ニ、分、ラ、セ、ル、モ、米、國、海、軍、航、空、砲、手、三、等、兵、曹、フ、ク、イ、テ、ア、ル、グ、イ、ン、コ、リ、ト、云、フ、者、ト、思、ハ、レ、ア、リ、ヨ、リ、竹、槍、デ、突、キ、着、ク、タ、銃、食、デ、突、キ、刺、シ、他、ノ、方、行、爲、ハ、戦、争、法、規、定、ニ、慣、習、及、ヒ、文、明、社、會、ノ、道、義、ニ、違、反、シ、タ、ル、モ、ナ、リ、

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Edward L. Fried

第三告新

戦争法規及び慣習ニ違反シテ職務怠慢

罪状項目其一

大日本帝國陸軍中佐(當時)加藤武忠
ハ小笠原列島、父島所在、大日本帝國陸
軍、第二旅團ノ第三〇七独立歩兵大隊ニ配
属中同第三〇七独立歩兵大隊ノ大隊長ト
シテ勤務又父島ノ小湊地區ノ指揮中、
アメリカ合衆國ト大日本帝國トが戦争
状態ニ在リケル昭和十九年八月七日頃某、指
揮下乃至ハ其統率下ニ在リシ

大日本帝國陸軍中尉開川繁雄

同

中佐伊藤喜久

同

兵長志村久雄

其、他不詳者ヲ抑留スベキアリソノ所が抑留セ

前記、小湊地區ニテ大日本帝國軍隊ノキニ

抑留シテ米等存庫ニ名(ニ名ハロートリヤド

タルハット云フ者、ニ名ハ不詳者)ヲ前記月日及び

場所ヲ着クタ銃劔ヲ交キ日本刀ヲ斬首スル事

ニ仍リ無法的ニ殺シ又無法的ニ殺シセル事ヲ前

記ノ者ニ許セル無上記、第三〇七大隊反ビ小湊地

區ノ指揮官トシテ、職務ヲ無視シ職務怠慢ノ

罪ヲ犯セリ、右行為ハ戦争法規並ニ慣習ニ

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Chad L. Fure

文明社會ノ道義ニ違反シケルモノトモ

罪狀項目其三

大日本帝國陸軍中佐(當時)加藤武宗
ハ小笠原列島、父島所在ハ大日本帝國陸軍
ノ第二旅團ノ第三〇七獨立歩兵大隊ニ配屬中
同第三〇七獨立歩兵大隊ノ大隊長トシテ勤務中
中又父島、小湊地區、指揮中アリ合衆國
ト大日本帝國トガ戦争状態ニ在リテ昭和十
九年八月七日頃小湊地區ニテ大日本帝國軍隊
ノ手ニ抑留シアリシ米俘虜ヲスベキアツタモ
拘ハラズ適當ニ保護セズ又大日本帝國軍人
ニ上記ノ小湊地區ニテ上記ノ月日ニ大日本帝
國軍隊ノ手ニ抑留シアリシ米俘虜(カハロイ
リチャード・カルフートン)者(カハ不詳者)ヲ銃劔
及び日本刀ニヨリ殺スノヲ防止スル手段ヲ構セズ
又防止セズル爲メ上記第三〇七大隊及び小湊地
區ノ指揮官トシテ職務ヲ無視義務怠慢、
罪ヲ犯セリ又上記ノ小湊地區ニテ上記ノ月日ニ
無法ナル殺人が起ツテ居ル事ヲ豫知シアリタリ
同加藤ハ上記ノ怠慢ニヨリ上記ノ月日及び地
所ニテ無法的ニ米俘虜が殺サレルヲ許セリ右
行為ハ戦争法規並ニ慣習ニ違反シケルモノ
ナリ

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Edward C. Fitch

7/4

FIRST DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Friday, July 12, 1946.

The commission met at 10:05 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Eric B. Hoag, Dental Corps, U. S. Navy,
Colonel James V. Ware, Infantry, Army of the United States,
Colonel Pierre B. Denson, Coast Artillery Corps, Army of the United States,
Commander Martin E. Carlson, U. S. Naval Reserve,
Major Donald B. Cooley, junior, U. S. Marine Corps, members, and
Lieutenant Edward L. Field, U. S. Naval Reserve, and
Lieutenant Fredric T. Suss, U. S. Naval Reserve, judge advocates.

Fred R. Hood, corporal, U. S. Marine Corps, entered with the accused and reported as provost marshal.

The judge advocate introduced Norman H. Tildes, first sergeant, U. S. Marine Corps, as reporter.

Each of the accused requested that Lieutenant Commander Donald H. Dickey, U. S. Naval Reserve, Mr. Shigeatsu Ijichi, and Mr. Shisuo Morikawa act as his counsel. Lieutenant Commander Dickey, Mr. Ijichi, and Mr. Morikawa took seats as counsel for the accused.

The judge advocate read the precept and modifications thereof, copies prefixed marked "A", "B", "C", and "D".

The judge advocate did not object to any member.

The accused objected to Major Donald B. Cooley, junior, U. S. Marine Corps, because he sat as a member of a Military Commission which tried Lieutenant Colonel Ito, Kikuji; Captain Ikawa, Shigeo, and Leading Private Shimura, Hisao, all of the Imperial Japanese Army, on charges growing out of the identical incident on which Charge II and the specifications thereunder are based, and for which the accused, Colonel Kato could properly have been tried in joinder with them.

The judge advocate made the following statement:

Before the challenged member replies, I would like to read two dispatches with the permission of the commission. These dispatches are read for the consideration and guidance of the commission in view of the challenge of the accused.

The president directed the judge advocate to read the dispatches in question.

The judge advocate read a dispatch as follows:

From: Commander Marianas

Action to: SecNav (JAG)

Info to: CinCPac/POA.

Subject is challenge of members Military Commission trying War Crimes.

JAG (WAR CRIMES DIVISION) 062125 March permits Military Commission relax rules for Naval Courts to meet necessities of trial. Interpret this to permit Military Commission when authorized by Convening Authority to relax rule stated in Section 388 (Easy) Naval Courts and Boards. Unless otherwise instructed propose to direct commission to deny challenge of member when challenged member declares in open court that he can truly try without prejudice or partiality the case now depending according to the evidence which shall come before the commission. The rules of evidence prescribed for the trial. The customs of war in like cases and his own conscience. Estimate approximately twenty suspected war criminals from Chichi Jima will be tried in the future for different offenses growing out of similar state of facts. There is personnel available sufficient for only one military commission. If new commission required for each trial war crimes trials will be indefinitely delayed. Acknowledge. Date 4 July 1946. Date Time Group 042355

The judge advocate then read another dispatch as follows:

From: JAG

Action to: ComMarianas.

Info to: CinCPac/POA.

Interpretation and proposed action contained urdis 042355 approved. Consider SCAP rule 3 pertinent. Date 10 July 1946. Date Time Group 101635.

An interpreter read both of these dispatches in Japanese.

The challenged member replied as follows:

In reply to the challenge of the accused, I wish to state that although I admit that I sat as a member of a commission which tried other persons upon charges based on the identical incident concerning which one of the accused is on trial, I feel that I can, in accordance with the oath for a member of this commission, well and truly try without prejudice or partiality the case now depending, according to the evidence which shall come before this commission, according to the customs of war in like cases, and according to my own conscience. I have not formed any definite opinion as to the guilt or innocence of the accused, Colonel Kato. I have not investigated the case, and I have not appeared as a witness in connection with the case. 267

The commission was cleared. The commission was opened and all parties to the trial entered. The commission announced that the objection was not sustained.

The accused objected to Commander Martin E. Carlson, U. S. Naval Reserve, because he sat as a member of a Military Commission which tried Lieutenant Colonel Ito, Kikuji, Captain Ikawa, Shigeo, and Leading Private Shimura, Hisao, all of the Imperial Japanese Army, on charges growing out of the identical incident on which Charge II and the specifications thereunder are based, and for which the accused, Colonel Kato could properly have been tried in joinder with them. C/L

The challenged member replied as follows:

I admit I sat as a member of the War Crimes Commission which tried Lieutenant Colonel Ito, Captain Higashigi, Captain Ikawa, and Leading Private Shimura upon the charge of murder. However, I can truly try without prejudice or partiality the case now depending according to the evidence which comes before the commission, the rules of evidence prescribed for the trial, the customs of war in like cases and according to my own conscience.

The commission was cleared. The commission was opened and all parties to the trial entered. The commission announced that the objection was not sustained.

The accused objected to Colonel Pierre B. Denson, Coast Artillery Corps, Army of the United States, because he sat as a member of a Military Commission which tried Lieutenant Colonel Ito, Kikuji, Captain Ikawa, Shigeo, and Leading Private Shimura, Hisao, all of the Imperial Japanese Army, on charges growing out of the identical incident on which Charge II and the specifications thereunder are based, and for which the accused, Colonel Kato could properly have been tried in joinder with them.

The challenged member replied as follows:

I have sat as a member of a commission which tried another person upon charges based on the same transaction concerning which the accused Colonel Kato is now on trial. However, I feel that I can truly try without prejudice or partiality the case now depending, according to the evidence which shall come before the commission. The rules of evidence prescribed for this trial, the customs of war in like cases, and my own conscience.

The commission was cleared. The commission was opened and all parties to the trial entered. The commission announced that the objection was not sustained. C/L

The accused objected to Colonel James V. Ware, Infantry, Army of the United States, because he sat as a member of a Military Commission which tried Lieutenant Colonel Ito, Kikuji, Captain Ikawa, Shigeo, and Leading Private Shimura, Hisao, all of the Imperial Japanese Army, on charges growing out of the identical incident on which Charge II and the specifications thereunder are based, and for which the accused, Colonel Kato could properly have been tried in joinder with them. C/L

The challenged member replied as follows:

I have participated in the trial of a closely related case. However, I believe I can truly try without prejudice or partiality the case now depending, according to the evidence which shall come before the commission, the rules of evidence prescribed for the trial, the customs of war in like cases, and my own conscience.

The commission was cleared. The commission was opened and all parties to the trial entered. The commission announced that the objection was not sustained.

The accused objected to Captain Eric B. Hoag, Dental Corps, U. S. Navy, because he sat as a member of a Military Commission which tried Lieutenant Colonel Ito, Kikuji, Captain Ikawa, Shigeo, and Leading Private Shimura, Hisao, all of the Imperial Japanese Army, on charges growing out of the identical incident on which Charge II and the specifications thereunder are based, and for which the accused, Colonel Kato could properly have been tried in joinder with them.

The challenged member replied as follows:

I have sat as a member of a commission which tried other persons upon charges based on the same transaction concerning which the accused, Colonel Kato is now on trial. However, I feel that I can truly try without prejudice or partiality the case now depending, according to the evidence which shall come before the commission, the rules of evidence prescribed for this trial, the customs of war in like cases, and my own conscience. C-17

The commission was cleared. The commission was opened and all parties to the trial entered. The commission announced that the objection was not sustained.

The accused objected to Rear Admiral Arthur G. Robinson, U. S. Navy, because he sat as the president of a Military Commission which tried Lieutenant Colonel Ito, Kikuji, Captain Ikawa, Shigeo, and Leading Private Shimura, Hisao, all of the Imperial Japanese Army, on charges growing out of the identical incident on which Charge II and the specifications thereunder are based, and for which the accused, Colonel Kato could properly have been tried in joinder with them.

The challenged member replied as follows:

I would like to state that the statements made by the accused and his counsel are correct. However, I wish to assure all parties of this trial in my belief that I can truly try without prejudice or partiality the case now depending, according to the evidence which shall come before this commission, according to the customs of war in like cases, and according to my own conscience. C-17

The commission was cleared. The commission was opened and all parties to the trial entered. The commission announced that the objection was not sustained.

The challenged member replied as follows:

I have participated in the trial of a closely related case. However, I believe I can truly try without prejudice or partiality the case now depending, according to the evidence which shall come before the commission, the rules of evidence prescribed for the trial, the customs of war in like cases, and my own conscience.

The commission was cleared. The commission was opened and all parties to the trial entered. The commission announced that the objection was not sustained.

The accused objected to Captain Eric B. Hoag, Dental Corps, U. S. Navy, because he sat as a member of a Military Commission which tried Lieutenant Colonel Ito, Kikuji, Captain Ikawa, Shigeo, and Leading Private Shimura, Hisao, all of the Imperial Japanese Army, on charges growing out of the identical incident on which Charge II and the specifications thereunder are based, and for which the accused, Colonel Kato could properly have been tried in joinder with them.

The challenged member replied as follows:

I have sat as a member of a commission which tried other persons upon charges based on the same transaction concerning which the accused, Colonel Kato is now on trial. However, I feel that I can truly try without prejudice or partiality the case now depending, according to the evidence which shall come before the commission, the rules of evidence prescribed for this trial, the customs of war in like cases, and my own conscience. C-13

The commission was cleared. The commission was opened and all parties to the trial entered. The commission announced that the objection was not sustained.

The accused objected to Rear Admiral Arthur G. Robinson, U. S. Navy, because he sat as the president of a Military Commission which tried Lieutenant Colonel Ito, Kikuji, Captain Ikawa, Shigeo, and Leading Private Shimura, Hisao, all of the Imperial Japanese Army, on charges growing out of the identical incident on which Charge II and the specifications thereunder are based, and for which the accused, Colonel Kato could properly have been tried in joinder with them.

The challenged member replied as follows:

I would like to state that the statements made by the accused and his counsel are correct. However, I wish to assure all parties of this trial in my belief that I can truly try without prejudice or partiality the case now depending, according to the evidence which shall come before this commission, according to the customs of war in like cases, and according to my own conscience. C-17

The commission was cleared. The commission was opened and all parties to the trial entered. The commission announced that the objection was not sustained.

The judge advocate, each member and the reporter were duly sworn.

The judge advocate introduced Lieutenant (jg) Martin D. Arvey, U. S. Naval Reserve, Mr. Fred Savory, and Fumio Tamamura, petty officer first class, Imperial Japanese Navy, as interpreters and they were duly sworn.

Each of the accused stated that they had received a copy of the charges and specifications preferred against them, both in English and Japanese, on June 27, 1946.

The judge advocate asked the accused if they had any objection to make to the charges and specifications.

The accused replied in the affirmative, stating that the specification under Charge I is in error in that it alleges that Morito, Shoichi, then a Superior Private on or about 25 February, 1945. At that time the accused, Morito, Shoichi, was a Leading Private. The same is true of Oshida, Takekazu. At the time alleged he was a Leading Private and not a Superior Private. CLT

The judge advocate replied.

The commission was cleared.

The commission was opened and all parties to the trial entered. The commission directed the judge advocate to change the rank of the accused, Morito, Shoichi, and Oshida, Takekazu, from Superior Private to Leading Private both in the original charges and specifications and in the copy in the hands of the accused, and announced that it found the charges and specifications in due form and technically correct. CLT

The commission then, at 11:45 a.m., took a recess until 2:05 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, the interpreters, each of the accused and his counsel.

The judge advocate introduced Robert Oldham, seaman first class (yeoman), U. S. Navy, as reporter.

The reporter was duly sworn.

Each of the accused stated that he was ready for trial.

No witnesses not otherwise connected with the trial were present.

The judge advocate read the letter containing the charges and specifications, original prefixed marked "E", in English; then, an interpreter read a copy in Japanese, prefixed marked "F".

Each of the accused was arraigned as follows by the judge advocate:

Q. Colonel Kato, Takemune, IJA, you have heard the charges and specifications preferred against you; how say you to the specification of the first charge, guilty or not guilty?

A. I plead not guilty.

Q. To the first charge, guilty or not guilty?

A. I plead not guilty to the first charge.

Q. To the first specification of the second charge, guilty or not guilty?

A. I plead not guilty to the first specification of the second charge.

Q. To the second specification of the second charge, guilty or not guilty?

A. I plead not guilty to the second specification of the second charge.

Q. To the second charge, guilty or not guilty?

A. I plead not guilty to the second charge.

Q. Captain Yamashita, Masao, IJA, you have heard the charge and specification preferred against you; how say you to the specification of the charge, guilty or not guilty?

A. I plead not guilty to the specification of the charge.

Q. To the charge, guilty or not guilty?

A. I plead not guilty to the charge.

Q. Corporal Taniyama, Shinosuke, IJA, you have heard the charge and specification preferred against you; how say you to the specification of the charge, guilty or not guilty?

A. I plead not guilty to the specification of the charge.

Q. To the charge, guilty or not guilty?

A. I plead not guilty to the charge.

Q. Corporal Morito, Shoichi, IJA, you have heard the charge and specification preferred against you; how say you to the specification of the charge, guilty or not guilty?

A. I plead not guilty to the specification of the charge.

Q. To the charge, guilty or not guilty?

A. I plead not guilty to the charge.

Q. Superior Private Oshida, Takekazu, IJA, you have heard the charge and specification preferred against you; how say you to the specification of the charge, guilty or not guilty?

A. I plead not guilty to the specification of the charge.

Q. To the charge, guilty or not guilty?

A. I plead not guilty to the charge.

The prosecution began.

The judge advocate made the following statement:

Gentlemen of the Commission:

No part of the opening statement of the prosecution is offered as evidence in the present case. The evidence which we have to present will disclose murders on two distinct and separate occasions. The defendant Colonel Kato will be shown to be connected with both crimes. In one crime it will be shown that Kato directly ordered the unlawful killing and in the other he will be shown to have neglected his duty in failing to prevent the murder committed in a territory commanded by him and participated in by members of his command.

We expect to produce before this commission sufficient evidence to prove the following facts. Between February 18 and 21 of 1945, five American Prisoners of War were captured on Chichi Jima in the Bonin Islands. Two of them were officers and the other three were enlisted men. They were all sent for questioning to the Detached Headquarters of Major Horie. After questioning the three enlisted men, Major Horie sent them to Brigade Headquarters where they were tied to trees. A telephone call was put through from Brigade Headquarters to the 307th Battalion, commanded by Colonel Kato. This call informed the battalion that it had been decided to send them a prisoner of war. A later call between the same commands ordered the 307th Battalion to send a detail of men to escort the prisoner from Brigade Headquarters to the headquarters of the 307th Battalion. This detail of men selected one of the three prisoners who were tied to trees and the prisoner was then delivered to the 307th Battalion.

On or about the 25th of February 1945, Colonel Kato ordered the defendant Yamashita to execute the defenseless prisoner of war. Defendant Yamashita then led a detail of enlisted men and non-commissioned officers with the prisoner, to a place called Nakayama Pass which is in the Kominato Area. There the prisoner's leather jacket and shirt were torn off and he was tied to a telephone post. Bamboo spears and fixed bayonets were used to execute the prisoner. Upon orders given by Lieutenant Yamashita, defendants Morito and Oshida speared the prisoner with the bamboo spears and defendant Taniyama stabbed the prisoner with a fixed bayonet. Other persons either unknown or still at large assisted in the bayoneting. The prisoner was buried in a hole, dug on the spot for that purpose.

Early in August 1944, at the same location, two other American prisoners of war were bayoneted and beheaded. Lieutenant Colonel Ito, Captain Ikawa and Leading Private Shimura assisted in the commission of these murders. One of the victims was Lloyd Richard Woellhof and the name of the other is unknown. Colonel Kato was present during these executions and although he was Commanding Officer of that particular area and was the Senior Officer present he did nothing to interfere and prevent the executions or to protect these defenseless prisoners of war in neglect of his duty as imposed upon him by the law of international conventions and the customs of war.

No trial was given these American prisoners of war and notice of their proposed execution was not sent to the United States Government.

The prosecution requests that the Commission take judicial notice of the following:

1. That from December 8, 1941 to August 14, 1945, a state of war existed between the Imperial Government of Japan, and the Government of the United States.

2. That the island of Chichi Jima is part of the territory under the command of the Commander Marianas Area.

3. The Hague Convention of October 18, 1907 and especially Article 23 (c): "It is especially forbidden to kill or wound an enemy who, having laid down his arms, or having no longer any means of defense, has surrendered at discretion". Japan ratified and signed this Convention.

4. The Geneva Prisoner of War Convention of July 27, 1929; and especially the following three articles:

Article 2. Prisoners of War, are in the power of the hostile power, but not of the individuals or corps who have captured them. They must at all times be humanely treated and protected, particularly against acts of violence, insults, and public curiosity.

Article 61. No prisoner of war may be sentenced without having an opportunity to defend himself.

Article 66. If the death penalty is pronounced against a prisoner of war, a communique setting forth in detail the nature and circumstances of the offense shall be sent as soon as possible to the representative of the protecting power, for transmission to the power in whose armies the prisoner served. The sentence shall not be executed before the expiration period of at least three months after this communique.

5. It is further requested that judicial notice be taken of the Foreword War Department Technical Manual 27-251 in which it states that although Japan has not ratified or formally adhered to the Prisoners of War convention, it has, through the Swiss Government, agreed to apply the provisions thereof to prisoners of war under its control, and also, so far as practicable, to interned civilians.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and rank.

A. Sergeant Kishimoto, Masao, Imperial Japanese Army.

2. Q. Are you now confined on Guam?

A. Yes.

3. Q. If you recognize any of the accused indicate as whom?

A. The man on the extreme left is unit commander Kato.

4. Q. Do you recognize any of the other accused?

A. The next person is First Lieutenant Yamashita.

5. Q. Do you know any of the others?

A. The next man is Corporal Taniyama.

6. Q. And do you recognize the other two?

A. I know the next man.

7. Q. Will you point him out and say his name?

A. Corporal Morito.

8. Q. Do you recognize the last accused?

A. I know him now, but I did not know him at the time when this incident occurred.

9. Q. Were you ever stationed on Chichi Jima with the Japanese Army?

A. Yes.

10. Q. Between what dates were you stationed on Chichi Jima?

A. I arrived at Chichi Jima on the 4th of March 1944, and I think it was the 16th of December 1945 when I left this island, but I am not sure of this date.

11. Q. To what organization were you attached on Chichi Jima?

A. When I first arrived at Chichi Jima I was in the Iizuka Unit.

12. Q. What Military Organization was this unit a part of?

A. It was called, my unit was called the 2110 Unit. It was a battalion.

13. Q. Was this unit a part of a battalion?

A. This is the battalion itself.

14. Q. Were you attached to a particular battalion in February 1945?

A. Part of the Iizuka Unit went to Haha Jima and I was transferred to the Kato Unit.

15. Q. What is the Kato Unit called?

A. It is the 307th Unit.

16. Q. By unit do you mean battalion?

A. Yes.

17. Q. Did you ever see any prisoners of war on Chichi Jima?

A. Yes.

18. Q. When was the first time you saw a prisoner of war?

A. I saw a prisoner for the first time in February 1945.

19. Q. Where did you see this prisoner?

A. I was ordered to escort the prisoner and I saw him at the brigade.

20. Q. What was this prisoner doing when you saw him?

A. He was tied to a pine tree.

21. Q. Were there any other prisoners of war in the vicinity?

A. Yes.

22. Q. How many?

A. There were three prisoners.

23. Q. Were these prisoners of war then untied?

A. They were tied by ropes.

24. Q. Did you or any of the people who accompanied you untie one of the prisoners of war?

A. Yes. One of the men who accompanied me untied a prisoner.

25. Q. What was the name of the man who accompanied you?

A. Corporal Taniyama and an enlisted man from a different company whose name was Kiryu. CCT-
CH.

26. Q. Were ^{any} others with you?

A. I think I saw some others, but as I had not known them before, I could not tell who they were. CCT.

27. Q. What happened after this prisoner was untied?

A. The man who untied the prisoner took him back to the Battalion Headquarters where the prisoner was turned over to Captain Yamashita, to whom a report was made.

28. Q. Describe this prisoner of war?

A. He was not very tall. He had dark hair and dark eyes and was not very much different from myself.

29. Q. What was he wearing?

A. A brown leather jacket.

30. Q. Did you accompany this prisoner from the Brigade Headquarters to the Battalion Headquarters?

A. I accompanied the prisoner from the Brigade Headquarters to the Battalion Headquarters.

31. Q. Did he appear to you to be wounded?

A. He did not seem to be wounded, but he looked exhausted.

32. Q. Was the prisoner wounded?

A. I could not tell.

33. Q. When you arrived at Battalion Headquarters what happened then?

A. We were told to return to our companies and have our lunches, and to take turns guarding the prisoner. I went back to my company for lunch, so I do not know what happened at the Battalion Headquarters.

34. Q. What did you do after taking your lunch?

A. I returned to my company for lunch, and there I decided that I would not become involved with such affairs and I remained at my company for a long time, but Master Sergeant Maida who was the leader of my group told me, since it was orders, I had to go back.

35. Q. And did you go back?

A. Yes.

36. Q. What did you see when you went back?

A. On my way back I met Captain Yamashita who was taking the prisoner along with him.

37. Q. Was Captain Yamashita alone with the prisoner?

A. I do not remember exactly how many men were there, but I thought that there was about seven men following Captain Yamashita.

38. Q. Were any of the men carrying anything?

A. As I only caught a glimpse and did not take a good look so I could not tell.

39. Q. What did you do when you arrived among this group of people?

A. When I met Captain Yamashita he told me, "Why didn't you bring your rifle along with you when you are to be an escort?". Although I did not tell Captain Yamashita of this, I had not brought my rifle along with me because I thought if I did not have my rifle I would not have to do anything.

40. Q. What do you mean by, "not have to do anything"?

A. At that time I was suffering from an acute inflammation of the intestines and was feeling sick. I told Master Sergeant Maida about this, but he told me that there was nobody else and I would have to go. When I went to the battalion I recall I found that the prisoner was not there that we had to go and get him at the Brigade Headquarters and at this time I realized that they were going to kill the prisoner and I did not want to become involved in this and that if I did not have my arms with me I would not have to take part in the execution so I did not bring anything with me when I returned.

41. Q. How did you know that they were going to execute the prisoner?

A. I was not told that they were going to kill the prisoner when I started from the battalion, but when I went to the Brigade and saw the prisoners tied to the pine trees I imagined that they were to be killed.

42. Q. When Captain Yamashita scolded you for not having your rifle, what did you do?

A. He told me to go and get my rifle so I returned to my company to get it.

43. Q. And did you return with your rifle?

A. I returned to the scene of the execution with the rifle. At that time I did not know that the prisoner was going to be killed at Nakayama Pass and I did not escort him from the Battalion Headquarters to the scene of the execution.

44. Q. When you arrived at the scene of the execution, what did you see?

A. When I arrived at the scene, I saw the prisoner being stabbed.

45. Q. Will you describe in what position the prisoner was?

A. He was slumped to the side tied to a telephone post.

46. Q. Was he wearing his leather jacket?

A. No.

47. Q. When you arrived on the scene, who was stabbing the prisoner?

A. An enlisted man named Morito.

48. Q. Do you see the enlisted man in court today?

A. He is the second man from the left.

49. Q. Will you point him out?

The accused Morito stood when pointed out and then resumed his seat.

A. The man in the uniform.

50. Q. And what was Morito using to stab the prisoner?

A. He had a bamboo spear.

51. Q. Will you describe this spear?

A. This bamboo spear was about five feet long. I did not look closely and I did not note the details, but I thought it was about one and a half inches in diameter. P.L.F.

52. Q. Did you see any other spears like that at the scene?

A. I remember that there were other bamboo spears on the scene.

53. Q. And where did you see those?

A. Some men I did not know were carrying them.

54. Q. Did you see any broken spears at the scene?

A. I did not notice any broken spears.

55. Q. When you arrived on the scene, from what you saw, could you tell whether or not the prisoner was wounded before Morito stabbed him?

A. Yes. I did not know who stabbed him before Morito, but the prisoner was already slumped over.

56. Q. Did you hear anyone give orders to Morito to stab the prisoner?

A. When I arrived at the scene, the prisoner was already slumped over and I did not hear any orders.

57. Q. Did you hear anyone at the scene say anything?

A. I do not remember any.

58. Q. What officers were present at the scene?

A. Lieutenant Yamashita was there.

59. Q. Were there any other officers there?

A. There were no other officers.

60. Q. How far away from the prisoner was Corporal Morito standing?

A. Corporal Morito was right close to the prisoner.

61. Q. About how far?

A. I saw him stab the prisoner so he must have been about two feet away.

62. Q. How far away from the prisoner were you standing?

A. I was about four meters away.

63. Q. How far away from Corporal Morito was Captain Yamashita standing?

A. I think it was about a meter.

64. Q. If Captain Yamashita said anything, would you have heard it from where you were standing?

A. I was standing at a spot where I could hear Captain Yamashita if he said anything, but as I had noticed that this prisoner somewhat resembled my smaller brother, I felt very sorry for him and I was feeling very bad at that time so I do not remember anything that Captain Yamashita said.

65. Q. Did Corporal Morito spear the prisoner without anyone telling him to?

A. When I went there Corporal Morito was already stabbing the prisoner, so I could not tell whether somebody had told him what to do, but as he was an enlisted man I don't think that he would have acted without orders.

66. Q. When Corporal Morito stabbed the prisoner with his spear what was the prisoner's reaction?

A. He did not make any outcry.

67. Q. Did you notice whether he moved?

A. When I saw him, I thought he moved a little.

68. Q. After Corporal Morito was through spearing the prisoner what happened next?

A. I thought that an enlisted man, whom I did not know, speared the prisoner with a bamboo spear after Corporal Morito finished.

69. Q. Did you see one soldier spear the prisoner or more than one?

A. More than one.

70. Q. How many people speared the prisoner after Corporal Morito was through?

A. I saw only one man stab the prisoner with a bamboo spear.

71. Q. Do you mean Corporal Morito and this one, make two?

A. Yes. I only saw two.

72. Q. After these two men speared the prisoner, what occurred next?

A. Then I heard Captain Yamashita say to bayonet the prisoner with fixed bayonets.

73. Q. Did anyone comply with this order?

A. I think that Corporal Taniyama bayoneted the prisoner.

74. Q. Do you see Corporal Taniyama in this court, will you point him out?

The accused Taniyama stood when pointed out and then resumed his seat.

A. The man in the dark suit.

75. Q. When Corporal Taniyama bayoneted the prisoner, what was the prisoner's reaction?

A. I did not see any reaction the prisoner made.

76. Q. Did you see anyone else bayonet the prisoner?

A. I was standing away from the scene trying to avoid being ordered to do anything and I did not see who stabbed the prisoner afterwards.

77. Q. From observing Corporal Morito's actions at the scene of the execution what would you say was his attitude?

The accused objected to this question on the ground that it was asking the witness for opinion evidence.

The judge advocate stated that he would reword the question.

78. Q. From observing Corporal Morito's actions at the scene of the execution, can you say, in what manner he participated in the execution? Can you say whether or not he was reluctant or enthusiastic?

The accused objected to this question on the ground that the prosecution was still asking the witness for opinion evidence.

The judge advocate replied.

The commission announced that the objection was sustained.

79. Q. Were you ordered by Captain Yamashita to bayonet the prisoner?

A. When I was standing away from the scene trying to avoid being called upon, Captain Yamashita told me that my attitude was cowardly for a non-commissioned officer but as my family had believed traditionally in Buddhism I found it quite unbearable to even be on the scene. Although I was called upon by Captain Yamashita, I did not take part in the execution.

80. Q. Did you see any Navy men present at the execution?

A. Yes.

81. Q. Did they take part in the execution while you were there?

A. I did not remember them participating in the execution.

82. Q. Do you know the nationality of this prisoner?

A. No.

83. Q. Do you know if a trial was given this prisoner of war?

A. I do not know.

84. Q. Do you know if the prisoner was buried?

A. Yes.

85. Q. Where was he buried?

A. There was a hole about five or six meters below the spot where the prisoner was being executed and he was buried there.

86. Q. Who ordered you to go to the brigade to get the prisoner?

A. I received this order from Lieutenant Yamashita.

87. Q. You have testified that when you saw the prisoners tied to pine trees that you imagined then that they were to be executed. What caused you to imagine this?

A. It was usual to take prisoners from the Battalion Headquarters to the Brigade Headquarters, but when I was ordered to escort the prisoner from the Brigade Headquarters to the Battalion, I thought this was quite unusual and seeing the prisoners tied to pine trees I imagined that they were going to be killed.

88. Q. How many times did you see Corporal Morito stab the prisoner?

A. As he was the first man I saw stabbing the prisoner, I was very much frightened and did not remember how many times he stabbed the prisoner.

89. Q. Do you remember in what manner Corporal Morito stabbed the prisoner?

A. He stabbed the prisoner as if he were using a bayonet.

The commission then, at 3:25 p.m., took a recess until 3:45 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, the interpreters, each *et al.* of the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

Kishimoto, Masao, Sergeant, Imperial Japanese Army, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding, and continued his testimony.

Cross-examined by the accused:

90. Q. You testified that Sergeant Maida ordered you to return to the guarding of the prisoners, did Sergeant Maida originally order you to report to the Battalion Headquarters as an escort?

A. Yes.

91. Q. Did he order anyone else?

A. Corporal Taniyama who is sitting there wearing a dark suit.

92. Q. Did he also order Kiryu to go to the scene?

A. Kiryu came from a different company so I do not know.

93. Q. Do you recall what Kiryu's rate was?

A. I did think that he was a superior private.

94. Q. Then you were the highest non-commissioned officer of the men who were escorts of the prisoner, is that right?

A. Yes, that is right.

95. Q. When you passed Captain Yamashita and the prisoner and the others on the way to Nakayama Pass, did you see any bamboo spears then?

A. I only got a brief glimpse of them when I met them and I did not know who was carrying the spears, but I noticed that they did have some bamboo spears.

96. Q. Who selected the prisoner from among the three whom you said you saw tied to pine trees?

A. Nobody wanted to touch the prisoners. Kiryu selected the prisoner and brought him to the battalion headquarters.

97. Q. You have also testified that you did see some broken spears?

The prosecution objected to this question on the ground that the witness did not say he saw any broken spears.

The accused withdrew the question.

98. Q. You have testified that the prisoner was slumped over when you arrived at the scene, was that correct?

A. Yes.

99. Q. Was he still tied to something?

A. No.

100. Q. You also testified, I believe, that he made no sound when you saw Corporal Morito use the bamboo spear, is that correct?

A. Yes.

101. Q. Then would you say the prisoner was dead when you arrived on the scene?

The prosecution objected to this question on the ground that the accused was asking the witness for opinion evidence.

The accused did not reply.

The commission announced that the objection was sustained.

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

The commission did not desire to examine the witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and rank.

A. Corporal, Imperial Japanese Army, Hidano, Raidenwaka.

2. Q. Are you now confined on Guam?

A. Yes.

3. Q. If you recognize any of the accused in this case will you please point them out and state their names?

A. Colonel Kato.

4. Q. Do you recognize any of the other accused?

A. I do not know the others.

5. Q. Were you ever stationed on Chichi Jima?

A. Yes.

6. Q. When did you arrive on Chichi Jima?

A. On the 9th of July 1944.

7. Q. When did you leave Chichi Jima?

A. I think it was the 12th of March 1946 that I left Chichi Jima. 267

8. Q. What unit were you connected with on Chichi Jima?

A. The Division Headquarters.

9. Q. What were your duties at the Division Headquarters?

A. I was the chief orderly.

10. Q. Did you in 1944, see any prisoners of war?

A. Yes.

11. Q. How many did you see?

A. Two.

12. Q. Will you explain when, or where and under what conditions you saw these two prisoners?

A. It was in August, although I do not remember the exact date. I was then at the Brigade Headquarters and for the purpose of target practice I went to Kominato Area and I saw the prisoners there.

13. Q. What were the prisoners doing when you saw them at Kominato?

A. When I went to Kominato for target practice, I saw the prisoners tied and bound inside the guard house at the entrance of Kominato. The prisoners were in a pavilion just across from the guard house.

14. Q. How long did you continue to observe these prisoners in this pavilion?

A. I just passed by and saw them.

15. Q. What did you do after passing by?

A. We then went to a wide spot at Kominato where the executioners were chosen and then we climbed to Nakayama Pass with these two executioners. It was all conducted by Lieutenant Colonel Ito.

16. Q. At Nakayama Pass what, if anything, took place?

The accused objected to this question on the ground that the prosecution need not re-prove the case. The proceedings of the trial involving the affair in August of 1944 are available and the court under SCAP rules is permitted to take judicial notice of the proceedings, record and findings of military agencies.

The judge advocate replied.

The commission announced that the prosecution may proceed.

A. At Nakayama Pass the two executioners were chosen from the divisions and two other men chosen from other units. One of them was a non-commissioned officer and the other was an enlisted man who stabbed the two prisoners to death.

17. Q. Did you witness the execution of these two prisoners?

A. Yes.

18. Q. Whom, if anyone else, do you recall as being present at the scene?

A. I clearly remember Colonel Kato and Lieutenant Colonel Ito being present at the scene.

19. Q. How far from the actual execution scene was Colonel Kato?

A. He was standing on ground that was a little elevated to the right of the place where the execution was going on and the distance between the two points was about fifteen to twenty meters from what I remember.

20. Q. During this time did you observe Colonel Kato do anything?

A. I can not tell.

21. Q. Did you hear Colonel Kato say anything?

A. No.

22. Q. How many executioners did you see at the scene?

A. I saw four. There was also Lieutenant Colonel Ito.

23. Q. Referring to these four executioners do you know from units they had come?

A. I thought that one man each had come from the 307th and the 306th Battalions. I was sure of the man from the 307th Battalion, but I do not know clearly whether this other man was from the 306th Battalion or not.

24. Q. Do you happen to know the name of the man from the 307th Battalion?

A. I do not know.

25. Q. At the scene of the execution who was the senior officer in rank present?

A. I think it was Colonel Kato. At that time Colonel Kato and Lieutenant Colonel Ito were of the same rank, but Colonel Kato was senior to Lieutenant Colonel Ito.

26. Q. You have testified that this execution took place at the Kominato Area, who was the commanding officer of the Kominato Area?

A. I think it was Colonel Kato.

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

The judge advocate did not desire further to examine this witness.

The commission did not desire to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The commission then, at 4:15 p.m., adjourned until 9:20 a.m., to-morrow, Saturday, July 13, 1946.

SECOND DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Saturday, July 13, 1946.

The commission met at 9:20 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Eric B. Hoag, Dental Corps, U. S. Navy,
Colonel James V. Ware, Infantry, Army of the United States,
Colonel Pierre B. Denson, Coast Artillery Corps, Army of the United States,
Commander Martin E. Carlson, U. S. Naval Reserve,
Major Donald B. Cooley, junior, U. S. Marine Corps, members, and
Lieutenant Edward L. Field, U. S. Naval Reserve, and
Lieutenant Fredric T. Suss, U. S. Naval Reserve, judge advocates.
Robert Oldham, seaman first class (yeoman), U. S. Navy, reporter.
Each of the accused and his counsel, and the interpreters.

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

No witnesses not otherwise connected with the trial were present.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and rank.
A. Captain, Imperial Japanese Army, Kosuga, Tadaaki.

2. Q. Are you presently confined on Guam?
A. Yes.

3. Q. If you recognize the accused state as whom, indicating each?

The accused, Colonel Kato and Captain Yamashita, stood when pointed out and then resumed their seats.

A. Colonel Kato; Captain Yamashita. I do not know the others.

4. Q. Were you ever stationed with the Japanese Army on Chichi Jima?
A. Yes, I was.

5. Q. Between what dates were you stationed on Chichi Jima?
A. From the 30th of June 1944, until the end of the war.

6. Q. What were your duties on Chichi Jima?
A. I was the junior adjutant of the Brigade.

7. Q. Who was the commanding officer of this Brigade?
A. Major General Tachibana.
8. Q. Did you see any prisoners of war on Chichi Jima during the year 1945?
A. Yes.
9. Q. When was the first time you saw prisoners of war during this year?
A. In February.
10. Q. How many prisoners of war did you see at that time?
A. I saw three.
11. Q. Where did you first see these prisoners of war?
A. At the Brigade Headquarters.
12. Q. Did these prisoners of war remain at the Brigade Headquarters all the time they were there on Chichi Jima?
A. No.
13. Q. What became of them?
A. I do not know from which unit they came, but these prisoners arrived at the Brigade Headquarters and were immediately sent to the Detached Headquarters.
14. Q. Did you see any other prisoners of war around this time?
A. I saw only three at that time.
15. Q. How long did these prisoners of war remain at Detached Headquarters?
A. I do not remember.
16. Q. Did you ever see these prisoners of war again?
A. I saw two of them afterwards.
17. Q. How did you happen to see them afterwards?
A. A phone call came through from Major Horie at the Detached Headquarters telling us that he had finished questioning them and to come and get the prisoners so some men were sent out to bring the prisoners back to the Brigade Headquarters. The two prisoners were brought back to the Brigade Headquarters.
18. Q. When you received this phone call from Major Horie to send for the prisoners, did you comply with this on your own initiative or did you report this to your unit commander?
A. It was a phone call telling me to come and get the prisoners so I reported this to the Brigade Commander.
19. Q. As a result of the report to the Brigade Commander what did you do?
A. The Brigade Commander told me to go and get them.
20. Q. When these prisoners arrived at your headquarters, what happened then?
A. When the prisoners were brought to the Brigade Headquarters, I reported to the Brigade Commander that they had returned, then the commander said to give one of the prisoners to Kato's Unit.

21. Q. Why were you instructed to give one of these prisoners to Kato's Unit?

A. I do not know.

22. Q. Do you know if Colonel Kato made periodical reports on conditions in his battalion to his commanding officer?

A. I never did notice any.

23. Q. When these prisoners were brought to Brigade Headquarters what was done with them?

A. They were placed in the guard house.

24. Q. Were these prisoners tied?

A. Yes.

25. Q. How were they tied?

A. Their hands were tied.

26. Q. Were they able to walk about?

A. When the prisoners wanted to go to the toilet, the guards took care of them.

27. Q. Were they tied to anything?

A. They were bound to a pine tree.

28. Q. What did you do to carry out the general's orders as to giving one of the prisoners to Kato's Battalion?

A. As I was told to give one of the prisoners to Kato's Unit, I phoned the 307th Battalion.

29. Q. And what did you tell the 307th Battalion over the telephone?

A. I said I am to give you one prisoner.

30. Q. What else did you say?

A. I do not remember saying anything else.

31. Q. Do you know who answered the phone call at the 307th Battalion?

A. No.

32. Q. After you made this phone call, what happened then?

A. I found that one of the prisoners was gone.

33. Q. Do you know where he went?

A. I think perhaps he may have gone to the 307th Battalion.

The accused objected to this answer on the ground that it was hearsay.

The judge advocate replied.

The commission announced that the objection was not sustained.

34. Q. How do you know that this prisoner went to the 307th Battalion?

A. As I had relayed the Brigade Commander's order that they were to have a prisoner, I thought that they had come to get him.

35. Q. Did you see the men from the 307th Battalion when they came to get him?

A. No, I did not see them.

36. Q. Why was the 307th Battalion of all the units on the island chosen to be given a prisoner?

A. I do not know.

37. Q. Do you remember if there were American bombing raids at this time?

A. Yes, there was.

38. Q. Did the 307th Battalion suffer many casualties as a result of these bombing raids?

A. I do not remember.

39. Q. Were you the senior or junior adjutant to General Tachibana?

A. I am the junior adjutant.

40. Q. When reports were made to the general, did they usually come through you or the senior adjutant?

A. On operational matters they were made, generally, through the senior adjutant.

41. Q. Are you usually present when reports are made to General Tachibana?

A. No.

42. Q. Were you ever present when Colonel Kato made reports to the general?

A. When the Battalion Commanders came to report to the general personally, it was usually over matters of very great importance so I was not present.

43. Q. Do you know the nationality of these prisoners?

A. I do not know.

44. Q. Were these prisoners questioned at the Brigade Headquarters?

A. When the prisoners arrived from the units at Brigade Headquarters, I remember that they were given a short questioning.

45. Q. During this questioning was it determined from what forces these men came?

A. I think that it was to get information in a fast way.

46. Q. What kind of information, about what?

A. I think it was primarily about the task force from which the prisoners had come.

47. Q. Task force of what nation?

A. The American task force.

48. Q. Do you know if this prisoner was given any trial?

A. I think that they were not given any trial.

49. Q. Were any notices concerning these prisoners sent to the United States Government?

A. I do not know.

50. Q. In February 1945, do you remember if a conversation occurred between Colonel Kate and General Tachibana concerning this incident?

A. Though I do not remember clearly, I imagined that the general was telling Colonel Kate that he would give him a prisoner to be killed to bolster the morale.

51. Q. Why was Colonel Kate's Unit, of all the units on the island, chosen to be given a prisoner to boost morale?

A. I do not know.

Cross-examined by the accused:

52. Q. Who was the senior adjutant in February 1945 at the Brigade Headquarters?

A. Major Yeketa.

53. Q. How long had he been senior adjutant at that time?

A. I think he arrived in January 1945.

54. Q. Did you yourself go for the prisoners to the Detached Headquarters?

A. No.

55. Q. But Major General Tachibana put you in control of the prisoners who were to be returned to the Detached Headquarters, is that correct?

A. I was not particularly given duties to take charge of the prisoners.

56. Q. Didn't you testify that the Brigade Commander told you to go and get them?

A. There was a phone call saying that the Detached Headquarters had finished questioning the prisoners and to have them taken back to the Brigade Headquarters. I reported to Major General Tachibana and he told me to have them brought back.

57. Q. Who questioned them when they were brought back?

A. I think perhaps it may be Captain Harashima who was the information officer.

58. Q. How were they questioned?

A. I do not remember how they were questioned.

59. Q. In what manner were the prisoners tied to the tree?

A. Their hands were tied.

60. Q. Were their hands tied behind them to the trees or were their hands tied above their heads to the trees?

A. Their hands were tied in front of them.

61. Q. Were their hands tied to the trees above their heads or at a lower level?

A. Their hands were crossed in front of them about their waist line.

62. Q. How long were the prisoners kept at the Brigade Headquarters before the one prisoner was taken away?

A. One of the prisoners was taken away soon after the prisoners returned.

63. Q. Was the telephone call from the 307th Battalion made on the same day that you received the telephone call from Major Horie?
A. Yes.

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

The commission did not desire to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and rank.

A. Former Captain, Imperial Japanese Army, Ikawa, Shigeo.

2. Q. Are you now confined on Guam?

A. Yes.

3. Q. If you recognize any of the accused in this case will you please point them out and name them?

Each of the accused stood when pointed out and then resumed his seat.

A. The first person on the left is my dear unit commander Colonel Kato. The next person is Captain Yamashita who was in my same battalion. The next person is Corporal Taniyama. I think he was in the third company. The next person is either Leading Private or Corporal Morito of the third company. I know the next person's face, but I do not recall his name or from what company he comes.

4. Q. Were you ever stationed on Chichi Jima?

A. Yes.

5. Q. When did you arrive on Chichi Jima?

A. On the 31st of May 1944.

6. Q. When did you leave Chichi Jima?

A. On the 12th of April 1946.

7. Q. In 1944 did you ever see any prisoners of war on Chichi Jima?

A. When I arrived at Chichi Jima, it was just before Omura town was burned down by the bombing, and I was placed in a temple. When I went to the Detached Headquarters, it was at the sight of the old fortress headquarters, I saw two prisoners. ref.

8. Q. What was the date; the month, if you can recall, when you saw these two prisoners?

A. When I saw them at the Detached Headquarters, it was in June.

9. Q. Did you ever see these prisoners at a later date?

A. No.

10. Q. In August of 1944 did you ever see any prisoners?

A. In August I saw prisoners who were put to death by the Brigade at Kominato in which case I was a defendant.

11. Q. What was the nationality of these prisoners you saw put to death in August 1944?

A. I do not know.

12. Q. Were they white men?

A. When I saw them at Kominato, they were looking downwards and I could not see clearly.

13. Q. When you were at Kominato was anyone else with you?

A. There was nobody with me. Up to the guard house I was with unit commander Kato, but from there Colonel Kato went on alone. I went to the guard house on my way to inspect positions.

14. Q. To what unit were you connected at this time?

A. The headquarters of the Kato unit.

15. Q. How did you happen to accompany Colonel Kato up to the pavilion at this time?

A. I went up to the entrance of the guard house with Colonel Kato not to the pavilion. Our purpose was to see the positions at Kominato. We moved to North Fukurozawa on the 31st of July. There was still no positions at Kominato, we just went to see the site to build the positions.

16. Q. Who was the commanding officer of the Kominato Area?

A. It was Company Commander Enjo.

17. Q. Who was the superior officer of Company Commander Enjo?

A. Commander Kato.

18. Q. As you accompanied Colonel Kato up to the guard house, did you and he engage in any conversation?

A. My unit commander was a man of few words and although I accompanied him on inspecting trips for almost a year, he did not talk much on these trips.

19. Q. On this specific trip, which you accompanied him to the guard house in the Kominato Area, did you and he engage in any conversation that morning?

A. No.

20. Q. When you arrived at the guard house, did you observe anything?

A. As I stated in my written statement when I went to the guard house, I saw a crowd around the pavilion. The pavilion was about 20 or 30 meters away from the guard house and I asked a soldier who was in the vicinity what it was about and he told me that the Brigade was going to execute some prisoners, and that the soldier had been there for some time.

21. Q. Were you with Colonel Kato at this time?

A. At that time Colonel Kato heard this and soon after that Colonel Kato went on alone. Colonel Kato went looking for Lieutenant Colonel Ito.

22. Q. Did Colonel Kato tell you at this time that he was going to look for

Lieutenant Colonel Ito?

A. Colonel Kato did not tell me anything, but I asked the soldier what officers had come from the division and the soldier replied that Lieutenant Colonel Ito had come. Then Colonel Kato asked a soldier, "Where is Lieutenant Colonel Ito?", and then another soldier up the road a short distance said, "Lieutenant Colonel Ito is in here". He then pointed up the road. Colonel Kato went in, and I was standing there alone thinking that Colonel Kato would come back soon.

23. Q. Did Colonel Kato tell you why, or make any comments about why he wanted to see Lieutenant Colonel Ito at this time?

A. He did not tell me the reason.

24. Q. After Colonel Kato departed to see Lieutenant Colonel Ito, what took place at the guard house?

A. When I looked inside the guard house, I saw two prisoners sitting down, looking depressed. I on that particular day had eaten my breakfast hurriedly, I think it was my breakfast, and I had a belly ache and feeling very sorry for these prisoners I went to the toilet. Before I went to the toilet, I asked one of the soldiers there where they were going to execute the prisoners and the soldier told me that it seems likely the prisoners were going to be shot on the beach at Kominato.

25. Q. Were these prisoners shot on the beach at Kominato?

A. No.

26. Q. You have testified that you were told the prisoners were to be executed, do you know whether or not they were executed?

A. Looking for the unit commander I approached the vicinity of the scene. When I came out of the toilet, I tried to look for my unit commander and I saw the crowd that was at the pavilion moving along at the Yatsuse Bridge. I followed thinking that unit commander Kato would be with Lieutenant Colonel Ito, and I also remember at this time that Lieutenant Colonel Ito had come from the brigade to take charge of the execution.

27. Q. As you followed looking for Colonel Kato, did you find him or see him?

A. When I went to the Yatsuse Bridge, I called a couple of times for unit commander Kato, but received no reply. Then a soldier who was up the road shouted that Colonel Kato was up there, and I thought it strange that if Colonel Kato was to inspect the positions at Kominato he should have come up the mountain, but as it was my duty being an adjutant to stay with the unit commander, I went after him.

28. Q. Did you find Colonel Kato?

A. As I started with pains in my stomach, I could walk only slowly up the mountain and it was 15 or 20 minutes later when I saw the unit commander as I walked past the scene.

29. Q. At the scene, what did you observe taking place?

A. As I went up the road, there was a small path leading in toward the left. When I saw this path leading in toward the left, I sensed that the scene of the execution was inside along this small path. I had been educated since I was a child that a person who is living right must refrain from

robbery, killing and rape. Killing people was the worst crime of all. I was determined not to witness the scene of the execution.

30. Q. Did you ever observe the scene?

A. No. I passed through, but I did not see the scene.

31. Q. As you passed through the scene, what did you observe taking place? C.C.T.

A. I was cold and when I entered the scene, I saw two prisoners standing on the path and they had masks on their faces. There were some Japanese soldiers in front and in the rear of them. A total of two or three men.

32. Q. Did you observe any officer at the scene?

A. I am sure that I went to the side of Colonel Kato when I stepped onto the scene and I had heard that Lieutenant Colonel Ito was going to take charge of the execution so I thought that Lieutenant Colonel Ito was there also. I do not remember any other officers on the scene. C.C.T.

33. Q. When you went to the side of Colonel Kato, did he say anything to you or did you say anything to him?

A. He did not say anything to me and I did not talk to him.

34. Q. Was there any conversation concerning what was about to take place?

A. No.

35. Q. Who was the senior officer in rank at the scene?

A. I could not tell who was the senior at that time, but now it is Colonel Kato; this is in regard to their duties, but Colonel Kato was senior in rank.

36. Q. When was the first time that you heard that these prisoners were to be executed?

A. At the front of the guard house at Kominato or rather the pavilion.

37. Q. And prior to this execution did you ever hear a conversation between Colonel Kato and Lieutenant Colonel Ito?

A. I never heard of any conversation between these two persons, but thinking now, that I may have heard something I do not remember anything of what they talked about.

38. Q. In February 1945 did you have occasion to see any prisoners of war?

A. No.

39. Q. Did the 307th Battalion ever have in its possession any prisoners of war?

A. No.

40. Q. Did the Brigade Headquarters ever turn over a prisoner of war to the 307th Battalion?

A. I do not know. I received a phone from the Brigade Headquarters to come and get a prisoner, but I do not know whether the prisoner was received by my unit or not.

41. Q. When was this that you received this phone call from Brigade Headquarters?

A. When I was at Iayosan with my unit commander, I received a phone call.

I think it probably came through the battalion to come and get a prisoner which we have spoken of previously and so I reported this to my unit commander.

42. Q. This first phone call that you received from the Brigade Headquarters, do you know who called you, or to whom you spoke, on the other end of the line?
A. I have been asked this question several times, but I still can not remember. I feel that unless I remember definitely I can not give a responsible answer.

43. Q. Will you inform the commission what you were told over the telephone?
A. The contents of the phone call was as follows: "Soon one prisoner will be turned over to your unit and you are to dispose of him. The men to stab this prisoner will be chosen from the buddies of the men who have died from the bombing raids." The place where I heard this was at the unit commander's place at Nanamagari.

45. Q. What did you understand by disposal of this prisoner?
A. At that time the battle for Iwo Jima was going on and since the beginning of the year, the Brigade Commander had emphasized the boosting of morale. He also distributed printed matter concerning the fighter's morale and the 307th Battalion particularly was scolded by the Brigade Commander. The conditions of positions during practice were unsatisfactory because there was a lack of fighting spirit, and I knew of several occasions when the unit commander was crying because of these reprimands. The Brigade Commander said units were to boost their morale.

46. Q. Did you report this telephone call to your commanding officer?
A. The unit commander was in the adjoining room so I immediately made a report.

47. Q. When you reported to him, did he make any reply or comment?
A. When I went to him and made a report, he told me that this was a very difficult matter and was a secret affair and he said that you know I have always taken care of secret affairs and personnel affairs personally, you as an adjutant will not have to bother yourself about this incident.

48. Q. Do you know whether or not this prisoner was turned over to the 307th Battalion from the Brigade Headquarters?
A. I have not heard of this.

49. Q. Are you absolutely certain?
A. I am certain.

50. Q. Did you ever hear Captain Yamashita comment about prisoners of war?
A. No. I heard Captain Yamashita make a report to Colonel Kato when he returned from Iayazan, and Colonel Kato told Captain Yamashita to come and enter his room. I do not know what they talked about afterwards, but when I heard Captain Yamashita make this report to Colonel Kato, I realized for the first time that Captain Yamashita had carried out the execution.

51. Q. Do you recall any of the exact words that Captain Yamashita used in reporting to Colonel Kato?

A. When I remember of Captain Yamashita's report is that he told Colonel Kato that he received this telephone call quite suddenly and that he had finished this execution before a certain time, which he named and then he went into Colonel Kato's room. 627.

52. Q. Insofar as you know, was any report of this execution given to the Brigade Headquarters?

A. I do not know.

53. Q. Insofar as you know, was any trial ever given this prisoner?

A. I have not heard of any.

54. Q. Do you know what happened to the body of this prisoner after he was executed?

A. I heard that the body was covered with earth after he had been executed.

55. Q. Do you know the location of where the body was buried?

A. Yes, I know the scene.

56. Q. Is the scene of this execution the same as the scene of the execution in August of 1944?

A. Yes. There is only a slight difference.

57. Q. At the end of the war do you know if anything was done to these bodies?

A. After the war ended, instructions came from Major Horie to have these bodies burned and the ashes reburied in a grave. Lieutenant Kona was ordered to take charge of this affair. Colonel Kato said that this affair should be taken care of by those who actually had taken part in the execution. At the time this took place Colonel Kato and Lieutenant Kona said as I had no part in the execution, I would not like to carry out this job. Then I said we would have the Brigade send out a working party. Lieutenant Colonel Ito had already returned to the homeland at that time. Colonel Kato said if he asked the Brigade to send men out on this detail, Tachibana would be very angry so it was quite impossible to make any requests. I told Lieutenant Kona to explain to his men about this and to have them carry this out. Then Lieutenant Kona said why not have Lieutenant Yamashita take care of this affair, but at that time Lieutenant Yamashita was engaged in general repair work as he was in charge of the transportation company and so he could not be expected for this job. ✓

58. Q. Did you carry out this job?

A. I think that Lieutenant Kona worked two days on this job and after that I took over.

59. Q. Do you remember the enlisted men who helped you in this job?

A. At Chichi Jima I explained that although I did not remember the names of the men, I could tell if I saw their faces, but I have not been able to remember any of the men and I do know the number of men sent out by each company. 627.

60. Q. Were any of the accused present in court today in the group that assisted you in this job?

A. As I worked on this job for two or three days, I was sure that I could remember their faces, but I am not sure I saw any of them.

The commission then, at 11:10 a.m., took a recess until 11:35 a.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, each of the accused and his counsel and the interpreters.

No witnesses not otherwise connected with the trial were present.

The commission then, at 11:35 a.m., adjourned until 9:20 a.m., Monday, July 15, 1946.

THIRD DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Monday, July 15, 1946.

The commission met at 9:20 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Eric B. Hoag, Dental Corps, U. S. Navy,
Colonel James V. Ware, Infantry, Army of the United States,
Colonel Pierre B. Denson, Coast Artillery Corps, Army of the
United States,
Commander Martin E. Carlson, U. S. Naval Reserve,
Major Donald B. Cooley, junior, U. S. Marine Corps, members, *et al.*
and
Lieutenant Edward L. Field, U. S. Naval Reserve, and
Lieutenant Fredric T. Suss, U. S. Naval Reserve, judge
advocates.
Norman H. Tildes, first sergeant, U. S. Marine Corps, reporter.
Each of the accused and his counsel and the interpreters.

No witnesses not otherwise connected with the trial were
present.

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

Ikawa, Shigeo, the witness under examination when the
commission adjourned, entered. He was warned that the oath
previously taken was still binding, and continued his testimony.

Cross-examined by the accused:

61. Q. What or where was Yayazan?

A. Yayazan is part of the West District which was under Colonel
Kato, but later Kato told the Brigade Commander that his district
was too large for him to defend, and so the Brigade Commander
decided to have this Yayazan made into a separate district with
a separate commander.

62. Q. But in February, 1945, it was still under the command
of Colonel Kato?

A. Yes.

63. Q. I believe you testified that you received a phone
call there in February, 1945. What were you doing at Yayazan
at that time?

A. I received this phone call right after lunch time and I had
gone to Yayazan on that particular day to inspect the positions
there.

64. Q. What sort of positions were at Yayazan?

A. Yayazan is divided into three parts. One of them is Yayazan itself, and the other two are Kahitsuji-Yama and Meshimori-Yama, and there were about five positions each on these three mountains. These positions were machine gun positions, rapid fire cannon positions and artillery positions.

65. Q. Was Colonel Kato with you at Yayazan?

A. I accompanied Colonel Kato to Yayazan.

66. Q. Do you know why Captain Yamashita carried out the execution?

A. No.

67. Q. Referring now to August, 1944, were the soldiers you talked to at the pavilion from the 307th Battalion?

A. I do not remember.

68. Q. Did you take any active part in the execution in August 1944?

A. I absolutely did not participate in the execution.

69. Q. Did you give any instructions to any of the executioners?

A. I did not.

70. Q. Did you say anything to any of the executioners at the scene?

A. When I was standing at the entrance to the scene of the execution, I was called and stepped inside. At that time I replied to a question asked about some sticks, but I did not know whether this person I talked to was an executioner or not.

71. Q. When you were asked about the sticks, did you do any more than make a reply or did you offer information about the sticks?

A. I said there are some sticks here, and then I heard somebody say as they are going to be stabbed in a sitting position those sticks are too slender. CLT

72. Q. Did you say anything to any of the executioners on the way to the scene?

A. I went up alone. Afterwards, I did not speak to anybody.

73. Q. Did you select or aid in selecting any of the executioners?

A. I absolutely did not take part in this.

74. Q. Did you assist Colonel Ito in any manner?

A. No, I did not. I do not even remember Colonel Ito clearly.

Re-examined by the judge advocate:

75. Q. Was the Enjo Unit a company within the 307th Battalion?

A. In Japan a unit is something larger than a battalion, and the Enjo Unit was in truth the Enjo Company. The Enjo Company was a part of the 307th Battalion.

76. Q. Do you know whether or not the Enjo Unit supplied one or more of the executioners?

A. No. I heard of this for the first time after I came to Guam from Captain Enjo.

Examined by the commission:

77. Q. Was Colonel Kato the only one who had control over the Kominato Area or was there a senior officer who could direct operations in that same area?

A. The Kominato District was under command of Company Commander Enjo, and this Kominato District was included in the West District which was under command of Colonel Kato, and Kato was under the command of General Tachibana.

78. Q. Could Colonel Kato stop the use of the Kominato Area for target practice by the Brigade Headquarters, or stop its use by the Brigade for any other purpose?

A. I do not know whether there was an agreement or not, but from common sense it is a fact that the Brigade Commander must talk to the Unit Commander and give notice before using the district. I have not heard from my unit commander whether he had been talked to by the Brigade Commander. I have not received any oral orders or any phone calls concerning this subject.

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

The witness made the following statement:

I would like to say a few words about Colonel Kato's gentle and lofty character. To give an example; Colonel Kato used to eat the same food that his men ate, and sometimes when his orderly made something special he scolded his orderly. He also told me that we must be obedient to our superiors and be in harmony with our fellow men and also treat kindly our subordinates. The Brigade Commander told Colonel Kato that he was a coward and that he was dumb and that Kato was going to be brought before a court martial, and Colonel Kato did not talk back to this, but after returning to his residence he wept by himself. I also could not restrain myself from tears at this sight. He had a fatherly love for his subordinates and also in the building and the inspection of positions he showed this to his men. The men all were of the same mind and they were ready to die for such a Unit Commander. When this order came to have the prisoners executed, the Unit Commander said he was very much troubled, and I believe that he had to carry this out because he was very much afraid of the Brigade Commander. When I say Colonel Kato was

afraid of the Brigade Commander, it does seem strange, but we had a sense of terror and dread for the Brigade Commander. That is why I think Kato carried out the order although he regretted it very much. When Colonel Kato returned to the homeland, I felt it strange that he should go back alone and leave his old adjutant, myself, and I asked Major Horie and the Brigade Senior Adjutant about this, and they told me that the men who remained were only those with special duties or had captured or executed prisoners and that I should not worry much. They also told me that I was to stay with Major Horie and the others. I assured Colonel Kato that I would not do anything which would make him trouble. When he met Major Horie, he told the Major that ~~I am~~ ^{he was} a weak man and did order the execution, and that he felt fully the responsibility for this. But to summarize, the Colonel was forced into this act because of his fear for the Brigade Commander and he recognized his responsibility for this. On the morning before he returned to Japan he called me and told me about this, and he also said that it is inevitable that evil will out and I am determined never to return to Chichi Jima, and I am only telling this to you. I told him you only ordered the execution of one prisoner and this was not from your own will, so when you are tried before an American court I am sure that your feelings will be fully understood and that you will not be given the utmost penalty so you must not make any hasty decisions. Colonel Kato told me to inform him of any developments and I wrote a letter concerning this incident, but I was notified at Chichi Jima that I could not send any letters mentioning these incidents, so I still have this letter in my trunk down where I am confined. I believe that you will fully understand my Unit Commander's feelings and be lenient in dealing with him. The other four men as far as I know are all eager and also very obedient persons. My Unit Commander is not a person who tells lies but sometimes his memory fails him and he makes mistakes. For example; When he took the witness stand the other day, he mistook the year he came to Chichi Jima and also the month that he left, but I assure you that he had no ill intentions. He also said that in August, 1944, a daily communique was issued concerning this incident, but this is not true, and I think he had mistaken a printed document concerning the boosting of morale which was issued in February of the next year just before or just after the execution. I heard the Brigade Commander tell Colonel Kato that this document was to be distributed to every single soldier when I accompanied Colonel Kato on the inspection of the positions. I pray that you will see the true aspect of this case and that you will be merciful in dealing with the accused.

The witness was duly warned and withdrew.

The commission, then at 10:10 a.m., took a recess until 10:25 a.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, each of the

accused and his counsel, and the interpreters.

No witnesses not otherwise connected with the trial were present.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and rank.

A. Former Captain, Imperial Japanese Army, Nakano, Masami.

2. Q. Are you presently living on Guam?

A. Yes.

3. Q. If you recognize any of the accused, will you point them out and mention as whom?

The accused Colonel Kato, Captain Yamashita, Corporal Taniyama and Private Oshida stood when pointed out and then resumed their seats.

A. The person on the left is Colonel Kato. The next person is Captain Yamashita. The next man is Corporal Taniyama. I do not recognize the next man. The last man is Oshida, I do not know his rank.

4. Q. Were you ever stationed on Chichi Jima with the Japanese Army?

A. Yes.

5. Q. Between what dates were you stationed on Chichi Jima?

A. 31 May 1944 to 3 January 1946, when I boarded a ship to leave Chichi Jima.

6. Q. While you were stationed on Chichi Jima, to what organization were you attached?

A. To the 307th Battalion.

7. Q. What were your duties with this battalion?

A. I was a Company Commander.

8. Q. While you were attached to the 307th Battalion did you ever learn that the 307th Battalion had a prisoner of war in its custody?

A. I have never heard of a prisoner being held in custody by the 307th Battalion.

9. Q. Did you ever receive any orders from the Commanding Officer of the 307th Battalion concerning prisoners of war?

A. Yes.

10. Q. And what were those orders?

A. I do not know the date exactly, perhaps it was in February that I received an order saying that a prisoner or prisoners are going to be received by the Battalion at the Brigade Headquarters, and that you are to send out a man for this task.

11. Q. You have said that this occurred in February. In February of what year?

A. I remember it was in February of 1945. 267

12. Q. And what did you do to carry out this order?

A. I was just going out to inspect positions when I received this telephone call, and so I ordered a man sent out from the Second Platoon which is located near the Battalion Headquarters. Then I went out to the location of my positions.

13. Q. What was the name of this man who was sent to the 307th Battalion?

A. Nakamura, Gyokurin.

14. Q. Did Captain Yamashita tell you anything more about this incident?

A. I once talked with Yamashita concerning this incident.

15. Q. Who is senior in rank, you or Yamashita?

A. Captain Yamashita was then my senior.

16. Q. How did you happen to discuss these things with Captain Yamashita?

A. I believed that this incident would inevitably become known and so I thought it would be better to talk it over with him.

17. Q. And what did you learn from Captain Yamashita in your conversation with him?

A. I heard that there was a phone call from Brigade Headquarters to the 307th Battalion Headquarters to come and receive the prisoner or prisoners. At that time the Unit Commander was out at Yayazan instructing the construction of positions and he was not at home. This phone call was relayed to the Unit Commander. The contents of this phone call was that the Battalion has received a phone call from the Brigade to come and receive a prisoner or prisoners. The Unit Commander replied for men to be sent out from the Nakano Unit and the Ito Unit and have them go and receive the prisoner or prisoners, and so Captain Yamashita telephoned these two units. The messenger I sent out to go to the Second Platoon, arrived at this platoon and found that there was nobody home and so went to the First Platoon to have men sent out, but this took time. This man did not arrive at the headquarters in time to receive the prisoner or prisoners. Arriving at the Brigade the men were told that they were to dispose of this prisoner, and they returned to the Battalion Headquarters. I do not know the exact time, but it seems that soon after this the Unit Commander returned home from Yayazan. Then the order of the Brigade was reported to the Unit Commander, and the Unit Commander said if it is so, then go and dispose of the prisoner or 268

or prisoners. That is what I heard.

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

The judge advocate replied.

The commission was cleared. The commission was opened and all parties to the trial entered. The commission announced that the objection was sustained and directed that the answer be stricken from the record. However, the commission considers that the basis of the question as originally put by the judge advocate is perfectly proper, and desires that the question be re-put in a more direct and definite manner and the witness was instructed to confine his reply to the question as put. C-17

18. Q. Will you please tell this court what Captain Yamashita told you in your conversation with him, and only what Yamashita told you concerning this incident? It is not necessary that you give the exact words of Yamashita so long as you give the substance, of what he said.

A. I heard from Captain Yamashita that in February, 1945, there was a phone call from the Brigade Headquarters made to the battalion headquarters, telling the battalion to send men to receive a prisoner or prisoners. At that time the battalion commander was out instructing the construction of positions at Yayazan and was not at home, and so this phone call was relayed to the Unit Commander at Yayazan. This phone call said that there has been a phone call from the Brigade Headquarters saying that the battalion must come and receive a prisoner or prisoners, so what shall we do. Then the Unit Commander replied that the men to go and receive the prisoner or prisoners should be sent out from the Nakano and Ito Units, and on receiving the prisoner at the brigade the men were told that the prisoner was to be disposed of by the 307th Battalion. So the men brought the prisoner or prisoners back to the Battalion Headquarters. The Unit Commander had come home just before or soon after the prisoner or prisoners arrived at the Battalion Headquarters, and a report was made to him about the 307th Battalion being instructed by the Brigade Headquarters to dispose of the prisoner or prisoners. When this report was made the Unit Commander said, "Yamashita, you go and dispose of the prisoner".

19. Q. When you say Unit Commander, whom do you mean?

A. Colonel Kate.

20. Q. When the word dispose is used, what does it mean?

A. This word to dispose was used by the Brigade and I do not know materially what it means.

21. Q. When Yamashita told you these things, what did you understand him to mean by the word dispose?

A. I took it that he meant in saying to dispose, to execute or

to carry out the execution.

22. Q. And did Yamashita tell you anything more about what happened after that?

A. I did not hear anything further.

23. Q. Did Yamashita tell you that he carried out the order given to him by Colonel Kato?

A. He told me being ordered he disposed of him or them.

24. Q. Did Yamashita tell you in what manner he disposed of him or them?

A. I did not hear of this.

25. Q. Did Yamashita tell you whether he disposed of one prisoner or more than one?

A. I did not hear of this.

26. Q. Did Yamashita tell you where this prisoner was disposed of?

A. No.

27. Q. Did Yamashita tell you what men participated in this disposal?

A. I did not hear of this.

28. Q. Do you know the nationality of the prisoner or prisoners?

A. I do not know their nationality.

29. Q. Do you know if they were white men?

A. I do not know.

30. Q. Do you know if any trial was given this prisoner or prisoners?

A. I do not know.

31. Q. You have testified that you sent out a man by the name of Nakamura to help escort this prisoner. Did Nakamura take part in the execution?

A. Nakamura did not arrive in time to escort the prisoner, but when Captain Yamashita was ordered by the Unit Commander to go and execute the prisoner or prisoners I heard that Nakamura was taken along.

32. Q. When you learned all these things from Yamashita, were you in a position to force him to tell you these things?

A. No.

33. Q. Did you threaten him with any punishment or promise him any reward for telling you these things?

A. No.

The commission then at 11:45 a.m., took a recess until 2:05 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the interpreters, each of the accused and his counsel.

Robert Oldham, seaman first class (yeoman), U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Nakano, Masami, Captain, Imperial Japanese Army, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

Cross-examined by the accused:

34. Q. Were you especially intimate with Captain Yamashita?
A. I was intimate with him.

35. Q. Was Captain Yamashita's reputation in the Army good?
A. He was an earnest person and I had not heard of any unfavorable reputations of him.

36. Q. When Captain Yamashita performed his duties, was he honest and eager in performing his duties?
A. Yes.

37. Q. Did Captain Yamashita take good care of his subordinates?
A. I do not know clearly of his unit, but it seems that he was kind toward his men.

38. Q. Does Captain Yamashita come from your native place?
A. We come from the same prefecture.

39. Q. Do you know of Captain Yamashita's family?
A. I do not know the details of his family, but I do know that he and his wife were adopted by his family and that he has two sons and two daughters.

40. Q. After Captain Yamashita was taken into custody, did you hear anything about his family suffering or living under hard conditions?
A. No.

41. Q. Were you intimate with Colonel Kato?
A. Colonel Kato was my former unit commander and he guided me in my career.

42. Q. What was Colonel Kato's reputation in the Army?
A. I had not heard of Colonel Kato having a bad reputation.

43. Q. Was Colonel Kato a character who performed his duties

when ordered by his superior officers in an honest way?
A. I thought of Colonel Kato as being a person who was extremely honest in carrying out his duties.

Examined by the commission:

44. Q. Do you know by your own knowledge what assignment or job Captain Yamashita had in February of 1945, and in general what his duties were?

A. In February I think that he was an officer attached to the battalion headquarters. I do not know what other duties he had.

45. Q. Do you know that, or do you think it?

A. He was an officer attached to the battalion headquarters.

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

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and rank.

A. Major, Imperial Japanese Army, Horie, Yoshitaka.

2. Q. Are you now confined on Guam?

A. Yes.

3. Q. Major, if you recognize any of the accused in this case will you please indicate them by naming them and pointing them out?

The accused Colonel Kato and Captain Yamashita stood when pointed out and then resumed their seats.

A. Colonel Kato; Captain Yamashita. I do not know the others.

4. Q. Were you ever attached to the Japanese Armed Forces on Chichi Jima?

A. I was not attached to Army Units on Chichi Jima. I was dispatched from Iwo Jima.

5. Q. Between what dates were you stationed on Chichi Jima?

A. From the 29th of June 1944, to the 12th of April 1946.

6. Q. What were your duties, briefly?

A. Until the fall of Iwo Jima I was stationed at Chichi Jima as a staff officer for General Kuribayashi, then the commander of the 109th Division on Iwo Jima, and I was in charge of supplies

and information. After the 109th Division was reassembled at Chichi Jima, I became the staff officer for General Tachibana.

7. Q. Did your duties concerning information involve the interrogation of all captured prisoners on Chichi Jima?

A. Yes.

8. Q. In August of 1944 did you have occasion to see any prisoners of war on Chichi Jima?

A. Yes.

9. Q. Did you interrogate these prisoners?

A. Yes.

10. Q. How many did you interrogate at this time?

A. One prisoner in August.

11. Q. In July 1944 did you have occasion to see any prisoners ?

A. Yes.

12. Q. How many did you see in July of 1944?

A. Two.

13. Q. Did you interrogate these two men?

A. Yes.

14. Q. Major, can you recall the names of either or both of these men?

A. One of them was a Navy Lieutenant (junior grade) Connell and the other was a Navy Radioman "Wolf".

15. Q. What was the nationality of these two men?

A. They were Americans.

16. Q. This man you called Wolf, how long did you retain him in your custody?

A. He was in my custody from either the 4th or 5th of July, until as far as I know, the 6th of August. On this date I left Iwo Jima and was not there when he was taken away.

17. Q. Major Horie, do you ^{of} your knowledge know where this man went when he left your custody?

A. I heard later that this prisoner.....

The accused objected to the furtherance of this answer on the ground that the witness is not answering the question on his own knowledge and the answer given is hearsay.

The judge advocate withdrew the question.

18. Q. In February of 1945 Major, did you have any occasion to see any prisoners of war?

A. Yes.

19. Q. How many prisoners of war did you see in February 1945?

A. I saw five.

20. Q. Did you interrogate all five of these men?

A. Yes.

21. Q. What was the nationality of all five of these men?

A. They were Americans.

22. Q. Major, do you happen to know the names of any or all five of these men?

A. One of them was the Navy Lieutenant (junior grade) Vaughn; the other was a Navy Ensign Hall; while another was a Navy Radioman, he was a petty officer and his name was Dye. I heard the names of the other two, but I do not remember them. 217.

23. Q. Do you recall Major, whether the other two were officers or enlisted men?

A. The other two were both petty officers and they were not officers.

24. Q. Major, I give you the last name "York", and ask you if that sounds familiar to you in any way?

A. When I was told of this name by Major Shaffer, who was head of the board of investigation at Chichi Jima, recalling from the name of the city of New York, I feel that I had heard of such a name.

25. Q. Major, so far as you can recall does this name "York", apply to either of the two men, whom you could not remember, of the group of five men you interrogated in February of 1945?

A. I feel that there was one prisoner named "York", but I could not state definitely.

26. Q. Who was the commanding officer at the Brigade Headquarters?

A. Major General Tachibana, Yoshio.

27. Q. Do you know whether or not he was a graduate of the Military Academy?

A. He graduated from the Military Academy. 217.

28. Q. Do you know whether or not Colonel Kato was a graduate of the Military Academy?

A. He also is a graduate of the Military Academy.

29. Q. Major, do you happen to know whether or not Colonel Kato and General Tachibana were classmates at the Military Academy? ✓

A. I heard that they were classmates.

Cross-examined by the accused:

30. Q. Do you know why Tachibana became a Major General and

Kato only a Colonel?

A. I do not know.

31. Q. Because they were classmates, ^{was} General Tachibana and Colonel Kato very good friends?

A. From my observation I can not say that they were both in accord concerning their duties, but as they were classmates, Tachibana actively issued orders to him and also had meals frequently with him.

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

The commission did not desire to examine this witness.

The witness made the following statement:

As I was a bystander of this incident, I have little to say. From what I had observed, both Colonel Kato and Captain Yamashita did not possess very sturdy characters, and they were not of the type to voluntarily kill American prisoners. This I can state positively. I think that they only carried out their orders faithfully and I think it must be very painful indeed for both Colonel Kato and Captain Yamashita that they and three of their subordinates are tried together as their three subordinates acted according to their orders. I beg that the commission fully understand the meaning of orders of a superior in the Japanese Army and be lenient in dealing with the accused.

The witness was duly warned and withdrew.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and rank.

A. Sergeant, Imperial Japanese Army, Okamoto, Moriki.

2. Q. Are you presently confined on Guam?

A. Yes.

3. Q. If you recognize any of the accused will you indicate as to each and say his name?

A. The person on the extreme right is unit commander Kato.

4. Q. Do you recognize any of the others?

A. I do not know the others.

5. Q. Were you ever stationed on Chichi Jima with the Japanese Army?

A. Yes.

6. Q. Between what dates were you stationed on Chichi Jima?

A. From March 1944 to December 1945.

7. Q. To what organization were you attached on Chichi Jima?
A. To the Kato Unit.

8. Q. What company of the Kato Unit?
A. To the Enjo Unit.

9. Q. Was this the battalion commanded by the defendant Colonel Kato?
A. Yes.

10. Q. Did you ever see any prisoners of war on Chichi Jima?
A. Yes.

11. Q. When did you see any prisoners of war on Chichi Jima?
A. I saw them in August 1944.

12. Q. How many prisoners did you see?
A. I saw two.

13. Q. Will you tell the commission how you happened to see these two prisoners?
A. I saw two prisoners when they were executed in August.

14. Q. Where were these prisoners executed?
A. At Nakayama Pass on Chichi Jima?

15. Q. In what area is Nakayama Pass?
A. It is in the Kominato district.

16. Q. What officers did you see present at this execution?
A. I saw three officers. Colonel Kato, Lieutenant Colonel Ito, and Captain Ikawa.

17. Q. Did you see Colonel Kato do anything at the scene of the execution?
A. No.

18. Q. Did you hear Colonel Kato say anything at the scene of the execution?
A. No.

19. Q. Did you hear anyone give orders at the scene of the execution?
A. Lieutenant Colonel Ito and Captain Ikawa, the two of them. I heard the two of them.

20. Q. Do you know to what unit Captain Ikawa was attached?
A. He was the Battalion Adjutant of the Kato Unit.

Cross-examined by the accused:

21. Q. Exactly what orders did you hear Captain Ikawa give at the scene of the execution?

A. He just told me, "Go ahead and stab anyway!"

22. Q. Did he give any orders to any other executioner?
A. No.

23. Q. Had he given you any orders previously to this time?
A. No.

24. Q. Have you talked with Captain Ikawa since the end of the last trial?
A. No.

25. Q. Are you sure you have not talked to Captain Ikawa since the end of the last trial?
A. I am sure.

Re-examined by the judge advocate:

26. Q. Before you arrived at the scene of the execution, did you receive any orders from anyone?
A. I received orders from Captain Ikawa.

27. Q. What were these orders?
A. At Kominato he said, "Are there any men from the Enjo Unit?"

28. Q. Did he say anything further?
A. I was scolded.

29. Q. You were scolded, by whom?
A. I was scolded by Captain Ikawa.

30. Q. Did you receive any orders from Captain Ikawa?
A. Yes, I received an order.

31. Q. What was the order?
A. I was ordered to climb to Nakayama Pass.

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

The commission did not desire to examine the witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The commission then, at 3:15 p.m., took a recess until 3:35 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, the interpreters, each of the accused and his counsel.

No witnesses not otherwise connected with the trial were

present.

The judge advocate was called as a witness for the prosecution and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and rank.

A. Fredric T. Suss, Lieutenant, USNR.

2. Q. Are you a judge advocate of this military commission?

A. Yes, I am.

3. Q. If you recognize the accused will you state as whom and point them out?

Each of the accused stood when pointed out and then resumed his seat.

A. First on the extreme left is Colonel Kato; the second is Captain Yamashita; the third is defendant Taniyama and the fourth is defendant Morito and the last is defendant Oshida.

4. Q. Are you the legal custodian of the proceedings of the board of investigation convened by the Commanding Officer, Occupation Forces, Bonin Islands?

A. Yes, I am.

5. Q. Was this board of investigation record duly authenticated?

A. Yes, it is. It is signed by the Convening Authority, Colonel P. M. Rixey, and the senior member, Major Robert D. Shaffer.

The accused objected to the authentication of this record on the ground that the record should be authenticated by every member of the board, the recorder, (if any) and be approved by the convening authority.

The judge advocate replied.

6. Q. Please name all the persons who have signed the record of the board of investigation?

A. The record is signed by all members of the board of investigation and the recorder and is approved by the convening authority.

7. Q. Do you desire to introduce certain parts of these proceedings of this record?

A. Yes, I do.

8. Q. What part or parts of the record do you desire to introduce?

A. I wish to introduce so much of the record as refers to the interrogation of the defendant Oshida, Exhibit 13, which is a

statement by the defendant, former Colonel Kato and Exhibit 27, which is a statement of the defendant Taniyama.

9. Q. Were the interrogation of superior private Oshida and the statements submitted by Colonel Kato and Corporal Taniyama given under oath?

A. Yes, they were.

10. Q. Did the precept from the convening authority authorize the board of investigation to administer oaths?

A. Yes, it did.

The proceedings of the board of investigation were submitted to the accused and to the commission, and by the judge advocate so much thereof as contains the interrogation of the defendant, Superior Private Oshida, Exhibit 13, which is a statement submitted by the defendant Colonel Kato and Exhibit 27, which is a statement submitted by the defendant Corporal Taniyama were offered in evidence.

Examined by the accused:

11. Q. Were Superior Private Oshida, Colonel Kato, and Corporal Taniyama accorded the rights and privileges in accordance with Section 734, Naval Courts and Boards?

A. There is a statement on this in the front of the board of investigation record, but I do not recall exactly what it says.

12. Q. Have you reviewed the record of the board of investigation?

A. I have no power or authority to review the board of investigation.

12a. Q. Have you read in the record of the board of investigation, the exhibits, the statements, and the testimony and did you find any place where it stated that the defendants Oshida, Kato or Taniyama or for that matter any defendant had the rights and privileges of counsel accorded them?

A. No statements appeared in the parts which I read.

The accused objected to the admission of the interrogation of the defendant Oshida and the statements of the defendants Kato and Taniyama, as evidence on the ground that the rights and privileges were not accorded the defendants in accordance with Section 734, Naval Courts and Boards and that these documents are therefore not properly admissible in evidence.

The judge advocate replied.

The commission then, at 3:40 p.m., took a recess until 4:00 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, the interpreters, each of the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

The commission announced that the objection of the accused was not sustained.

The interrogation of the defendant Private Oshida, the statement of Corporal Taniyama and the statement of Colonel Kato were received in evidence.

13. Q. I ask the witness to refer to the record of the board of investigation and read the interrogation of the defendant, Private Oshida.

The witness read from the record of the board of investigation the interrogation of the defendant Private Oshida, a certified true copy appended, marked "Exhibit 1".

An interpreter then read this document in Japanese.

14. Q. I ask the witness to refer to the record of the board of investigation and read "Exhibit 27", thereof, which is a statement submitted by the defendant, Corporal Taniyama.

The witness read from the record of the board of investigation the statement of the defendant, Corporal Taniyama, a certified true copy appended, marked "Exhibit 2".

An interpreter then read this document in Japanese.

The commission then, at 4:45 p.m., adjourned until 9:10 a.m., to-morrow, Tuesday, July 16, 1946.

FOURTH DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Tuesday, July 16, 1946.

The commission met at 9:20 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Eric B. Hoag, Dental Corps, U. S. Navy,
Colonel James V. Ware, Infantry, Army of the United States,
Colonel Pierre B. Denson, Coast Artillery Corps, Army of the
United States,
Commander Martin E. Carlson, U. S. Naval Reserve,
Major Donald B. Cooley, junior, U. S. Marine Corps, members,
and
Lieutenant Edward L. Field, U. S. Naval Reserve, and
Lieutenant Fredric T. Suss, U. S. Naval Reserve, judge
advocates.
Norman H. Tildes, first sergeant, U. S. Marine Corps, reporter.
Each of the accused and his counsel and the interpreters.

No witnesses not otherwise connected with the trial were
present.

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

Fredric T. Suss, the witness under examination when the
commission adjourned on Monday, July 15, 1946, entered. He was
warned that the oath previously taken was still binding, and
continued his testimony.

(Examination continued.)

15. Q. I ask you to refer to the original record of the Board
of Investigation and read the statement submitted by Colonel
Kato.

The witness read the statement of Colonel Kato, Takemune,
Imperial Japanese Army, which was given by him to the Board of
Investigation on April 15, 1946, certified true copy, appended,
marked "Exhibit 3".

An interpreter read this statement of Colonel Kato in
Japanese.

16. Q. Do you also have in your possession the original record
of a judicial proceeding conducted at Commander Marianas?
A. Yes, I do.

17. Q. Has that record been signed by the President, all the members, and the judge advocates?

A. It has been signed by the President, all the members of the commission, and the judge advocates.

18. Q. What part of the proceedings do you desire to offer in evidence?

A. So much of the proceedings that relate to the testimony of Colonel Kato.

19. Q. Does the record show that Colonel Kato at that time was under oath?

A. Yes, it does.

20. Q. Does the record further show that Colonel Kato was warned prior to making any statements that he did not have to answer any questions which might implicate or incriminate him?

A. Yes, it does.

The testimony of Colonel Kato given before the Military Commission convened at Commander Marianas on July 19, 1946, was offered in evidence. C17

The accused did not object to this testimony of Colonel Kato.

The commission then, at 9:50 a.m., took a recess until 10:10 a.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, the interpreters, each of the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

The commission announced that there being no objection to the testimony of Colonel Kato, it would be admitted in evidence and the testimony of Colonel Kato was so received.

21. Q. I will ask the witness to read the testimony of Colonel Kato from the original record.

The witness read the original testimony of Colonel Kato, Imperial Japanese Army given before the Military Commission convened at Commander Marianas on July 19, 1946, a certified true copy appended, marked "Exhibit 4". C17

An interpreter read this testimony of Colonel Kato in Japanese.

22. Q. Do you also have in your possession an original dispatch from Commander Marianas to Chief of Naval Operations? C17

A. I have.

23. Q. I show you this document and ask you if you can identify it?

A. Yes, this is the original dispatch sent by Commander Marianas to Chief of Naval Operations.

The dispatch from Commander Marianas to Chief of Naval Operations, No. 261347Z, of June, 1946 was submitted to the accused and to the commission and by the judge advocate offered in evidence.

There being no objection, it was so received.

24. Q. I will ask the witness to read this dispatch.

The witness read the dispatch from Commander Marianas to Chief of Naval Operations No. 261347Z, of June, 1946, a certified true copy appended, marked "Exhibit 5".

An interpreter read this dispatch in Japanese.

25. Q. Do you further have in your possession an original dispatch from Commander Marianas to the Bureau of Naval Personnel (Casualty Section)?

A. Yes, I have.

26. Q. Do you know whether or not a reply has been received to that dispatch?

A. Yes, a reply has been received.

27. Q. Do you have the original of that reply?

A. No, the original of the reply is in the Navy Department in Washington, D. C.

28. Q. Do you have in your possession a certified true copy of the original as received by Commander Marianas?

A. Yes, I do.

29. Q. I show you these two documents and ask you if you can identify them?

A. Yes, these are the two documents of which you speak.

The two dispatches; Commander Marianas dispatch to Bureau of Naval Personnel (Casualty Section) and the Bureau of Naval Personnel (Casualty Section) dispatch to Commander Marianas were submitted to the accused and to the commission and by the judge advocate offered in evidence.

There being no objection they were so received.

30. Q. I ask the witness to read from these dispatches, just the portions that pertain to this trial.

The witness read from the two dispatches, just the portion that pertains to this trial, certified true copies of the dispatches, appended, marked "Exhibit 6" and "Exhibit 7" respectfully. C.L.T.

An interpreter read "Exhibit 6" and "Exhibit 7" respectfully, ⁱⁿ Japanese. C.L.T.

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

The commission did not desire to examine this witness.

The witness resumed his seat as judge advocate.

The commission then, at 11:00 a.m., took a recess until 11:15 a.m., at which time it reconvened. K.T.

Present:

All the members, the judge advocates, the reporter, the interpreters, each of the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and rank.
A. Superior Private, Imperial Japanese Army, Sato, Masayasu.
2. Q. Are you presently confined on Guam?
A. Yes, at Tumon Annex.
3. Q. If you recognize any of the accused will you indicate as whom?
A. The first person on the right is Colonel Kato. I do not know the others.
4. Q. Were you ever stationed on Chichi Jima with the Japanese Army?
A. Yes.
5. Q. Between what dates were you stationed on Chichi Jima?
A. From July 1944 until May of this year. I think it was May that I left Chichi Jima and came to Guam.
6. Q. Did you ever see any prisoners of war on Chichi Jima?
A. Yes.
7. Q. When did you see prisoners of war on Chichi Jima?
A. In August.
8. Q. Of what year?
A. In 1944.

9. Q. How many prisoners of war did you see at that time?

A. I saw two.

10. Q. How did you happen to see these two prisoners of war?

A. I went to Kominato for target practice and I saw them on my way there.

11. Q. What occurred after this target practice?

A. I returned after the target practice.

12. Q. What happened during the target practice?

A. I saw an execution before the target practice.

13. Q. How was this execution performed?

A. They were bayoneted with fixed bayonets.

14. Q. After they were bayoneted with fixed bayonets, was any other method used?

A. Lieutenant Colonel Ito beheaded them with a sword.

15. Q. Did you recognize any of the executioners?

A. I saw Lieutenant Colonel Ito and Colonel Kato.

16. Q. Did Colonel Kato take part in the execution?

A. I was standing at the side so I could not tell.

17. Q. Did you hear Colonel Kato say anything?

A. I have forgotten.

18. Q. Did you recognize any of the executioners?

A. Superior Private Shimura.

Cross-examined by the accused:

19. Q. Were you at the scene of the execution from the time it started until the time it was finished?

A. Yes.

20. Q. Did you see any other officers there besides Colonel Kato and Lieutenant Colonel Ito?

A. I saw officers but I have forgotten who they were.

21. Q. Do you know Captain Ikawa?

A. I know him now.

22. Q. Did you see him there at that time?

A. I could not tell whether he was there.

23. Q. Did you see any officer besides Lieutenant Colonel Ito give any instructions to any of the executioners?

A. I could not tell.

Re-examined by the judge advocate:

24. Q. Sato, you have testified that you arrived on Chichi Jima in July, 1944, and you have further testified that this execution took place in August, 1944. During that time did you know Captain Ikawa?

A. No.

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

The commission did not desire to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The prosecution rested.

The accused requested a delay until 9:00 a.m., to-morrow to complete the preparations of the defense of their case.

The request was granted, and the commission then, at 11:25 a.m., adjourned to meet, Wednesday, July 17, 1946, at 9:10 a.m.

FIFTH DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Wednesday, July 17, 1946.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Eric B. Hoag, Dental Corps, U. S. Navy,
Colonel James V. Ware, Infantry, Army of the United States,
Colonel Pierre B. Denson, Coast Artillery Corps, Army of the
United States,
Commander Martin E. Carlson, U. S. Naval Reserve,
Major Donald B. Cooley, junior, U. S. Marine Corps, members,
and
Lieutenant Edward L. Field, U. S. Naval Reserve, and
Lieutenant Fredric T. Suss, U. S. Naval Reserve, judge
advocates.
Norman H. Tildes, first sergeant, U. S. Marine Corps, reporter.
Each of the accused and his counsel and the interpreters.

No witnesses not otherwise connected with the trial were
present.

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

The accused requested a further delay until to-morrow morning
to complete the preparation of the defense of their case.

This request was granted by the commission, and, the commission
then, at 9:20 a.m., adjourned to meet, Thursday, July 18, 1946,
at 9:30 a.m.

SIXTH DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Thursday, July 18, 1946.

The commission met at 9:30 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Eric B. Hoag, Dental Corps, U. S. Navy,
Colonel James V. Ware, Infantry, Army of the United States,
Colonel Pierre B. Denson, Coast Artillery Corps, Army of the
United States,
Commander Martin E. Carlson, U. S. Naval Reserve,
Major Donald B. Cooley, junior, U. S. Marine Corps, members,
and
Lieutenant Edward L. Field, U. S. Naval Reserve, and
Lieutenant Fredric T. Suss, U. S. Naval Reserve, judge
advocates.
Horman H. Tildes, first sergeant, U. S. Marine Corps, reporter.
Each of the accused and his counsel and the interpreters.

No witnesses not otherwise connected with the trial were
present.

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

The defense began.

The accused, Kato, Takemune, Colonel, Imperial Japanese Army,
was, at his own request, duly sworn as a witness in his own
behalf.

Examined by the judge advocate:

1. Q. Are you Kato, Takemune, one of the accused in this
case?
- A. I am.

Examined by the accused:

2. Q. In what year were you born?
- A. April 9, 1893.
3. Q. What is your address?
- A. Nakano-Ku, Tokyo-To.
4. Q. How many members are there in your family?
- A. Outside of myself there are three.

5. Q. In what year did you graduate from the Military Academy?
A. I graduated from the Military Academy in 1913.
6. Q. Were you in the same graduating class with General Tachibana?
A. Yes, I was in the same class.
7. Q. Were you in the army continuously after that?
A. Yes.
8. Q. Were you ever stationed at Chichi Jima?
A. Yes.
9. Q. What were your duties on Chichi Jima?
A. I was Battalion Commander of the 307th Battalion.
10. Q. What were the duties of the 307th Battalion?
A. The defense of the area allotted to the 307th Battalion.
11. Q. Where was this district?
A. It was the Eastern District at first, but later it became the West District.
12. Q. What were the relations between the 307th Battalion and the Brigade?
A. The 307th Battalion was directly attached to the Brigade Headquarters.
13. Q. Who was the commander of the brigade?
A. At that time it was Major General Tachibana.
14. Q. Where was this 307th Battalion located in August, 1944?
A. In the West District.
15. Q. Where was it located in February, 1945?
A. It did not change after August, 1944.
16. Q. What were your authorities concerning the district under your command?
A. My authority was limited to the completion of the defense fortifications of my district and that was all.
17. Q. Did you see any prisoners in 1944?
A. Yes.
18. Q. When was that?
A. In August.
19. Q. Where did you see them?
A. At Nakayama Pass.
20. Q. On what occasion did you see them?
A. I saw them on the occasion when Lieutenant Colonel Ito executed them by orders from the brigade.

21. Q. Why were you on the scene?

A. I went there to pray for the souls of the departed, and as my subordinates were there I also went to see and to control them.

22. Q. How did you know that there was to be an execution?

A. I understood that there was to be an execution by a brigade order.

23. Q. Was the brigade order given directly to you?

A. It was not given to me directly, but it came as a daily communique.

24. Q. What is a daily communique?

A. A person to receive this daily communique is sent to the brigade from the battalion, and this person receives the order orally and takes it down, and this is brought back to the battalion where it is shown to me.

25. Q. What were the contents of this daily communique?

A. It was an order stating that Lieutenant Colonel Ito was to execute prisoners at Nakayama Pass and that the necessary men must be sent out.

26. Q. Was this Nakayama Pass in your district?

A. Yes.

27. Q. Was there any notice made to you about the brigade using your district?

A. I was given no notice at all.

28. Q. Did you take part in the execution at the scene?

A. I did not do anything. The reason I did not is because I went there for reasons I have just stated before.

29. Q. Why did you not do anything?

A. The execution was to be carried out by Lieutenant Colonel Ito and I had nothing to do with it.

30. Q. As this execution was to be carried out in your district, couldn't you do anything to restrain it?

A. If I had done anything to stop this, I would have violated the Japanese Military Penal Code.

31. Q. On this occasion were the prisoners brought to the 307th Battalion?

A. They were absolutely not brought to the battalion.

32. Q. Then who brought the prisoners to Kominato?

A. The Brigade Headquarters brought them.

33. Q. Who were the prisoners turned over to after they were brought to Kominato?

A. They were turned over directly to Lieutenant Colonel Ito by

members of the brigade.

34. Q. Were you at the scene of the execution?
A. Yes.

35. Q. About what distance were you away from the actual scene of the execution?
A. About twenty to thirty meters away.

36. Q. Did you witness the execution until it was completely finished?
A. I was there until it was completed.

37. Q. Did you hear all that was said on the scene?
A. Yes, I heard all.

38. Did you see Lieutenant Colonel Ito give orders?
A. Yes.

✓ 39. Q. Did you hear Captain Ikawa give any orders?
A. I absolutely did not hear Ikawa give orders.

✓ 40. Q. Did you see Captain Ikawa give any instructions?
A. No.

✓ 41. Q. If Captain Ikawa did give any instructions, could you have seen him?
A. If Captain Ikawa had given any instructions, it was inevitable that I would have seen him.

✓ 42. Q. Okamoto has testified before this court on Captain Ikawa's actions. Did you hear this?
A. Yes.

✓ 43. Q. Is this testimony true?
A. It is entirely false.

44. Q. This is about the incident which occurred in February, 1945. You have heard testimony that the prisoners were delivered to the battalion. Do you remember this?
A. I remember receiving the prisoner or prisoners.

✓ 45. Q. Please explain about this incident.
A. The night before I received the order I had been out in the air field engaged in repair work. This repair work was finished and I came on in the next morning, and when I returned to my residence, I heard from my adjutant, Captain Ikawa, that there had been a phone call from the Brigade Adjutant the previous night. My adjutant reported that the phone call had stated that a prisoner or prisoners is to be handed to the 307th Battalion, so you are to execute him or them. When I received this order, I was at a loss, but I felt that if it was an order I had to carry it out and so I was puzzled in trying to decide who to order to have this carried out. I conferred with Captain Ikawa

and as a conclusion we found that Captain Yamashita was the proper man for this task, and so I made this my order to Captain Yamashita. This order was a simple one stating only that Captain Yamashita is to execute the prisoner or prisoners, and I did not give any date, means, nor the site for the execution. It was impossible for me to set the date for the execution. The reason I did not give the details in my order is because the nature of this order was a very distasteful one for myself, and the other reasons are just as I have stated in my statement. I heard later from Captain Ikawa, when he reported to me, that Captain Yamashita had refused the order when it was delivered to him, but as there was no one else that was appropriate for this job he was forced to accept the order. I think it was four or five days later when I was at Yayazan instructing the construction of positions that I received a phone call from the Brigade Headquarters which was relayed to my own Battalion Headquarters. Captain Ikawa received this phone call and reported to me of the contents which were that a prisoner or prisoners is to be handed over to you today so you are to send out men to come and receive them, and so I ordered the adjutant to make arrangements to have the men sent out. When I returned to my residence from Yayazan, I saw one prisoner who had been brought and placed in front of the Battalion Headquarters. The execution which followed was carried out, I think, by Captain Yamashita, but I did not have any knowledge of the details of this. In the evening Captain Yamashita came to my residence and made a report to me that he had finished the execution. I do not remember the exact words he used to make this report, and I must have made a report of this execution to the brigade later. That is all.

46. Q. What were the conditions at Chichi Jima at that time?

A. Every day and night planes came over from the vicinity of Iwo Jima continuously, and especially my area which includes the air field was subject to bombing most severely. There was no day passed without bombs falling in my area, and amidst all this the construction of positions was hurried. The repair work on the air field was also carried on, and it was so that we had almost no time to sleep or rest.

47. Q. Who was in charge of the repair work on the air field?

A. I was in charge.

48. Q. What were the relations between the brigade commander and yourself at that time?

A. The Brigade Commander frequently told me that you are clumsy not scolding your subordinates. You are too gentle towards them, but I firmly believed that in controlling my subordinates I should not scold them too much, and so I did not take much heed of what the general told me. After the war ended I took my men back to Uraga when we were repatriated, but I remember that there was not one incident during this time. On the other hand it is a fact that when the war ended, at the Brigade Headquarters the men did not follow the Brigade Commander any more and separated, and as we differed so in character I think the Brigade Commander was not satisfied with me. I think that the reason that the incident of August and of February came to have connection with my

unit is because of this difference in character, and that he was in the same graduating class with myself at the Military Academy.

49. Q. What were the relations between orders and obedience to them in the Japanese forces?

A. In the Imperial Rescript to the armed forces of Japan it says the military forces of our country have been commanded by the Emperor from ancient ages. This means that the Emperor himself is the supreme commander of the military forces of Japan, and these words were the basic rule upon which the army was founded and also acted upon while it lasted. It also states in this Rescript that I, which of course, means the Emperor, am your supreme commander. I depend upon you as my faithful followers and you must look up to me as your leader, and this means that the Emperor was not a distant leader, but a direct leader of the armed forces. In the section which explains on the manner or the etiquette in the armed forces it says, those who are subordinates must look up to those who are the superiors. When they are given orders, you must understand what orders the superior gives and they are just the same as if the Emperor personally had given them. I firmly believed that what orders Major General Tachibana gave me were the orders of the Emperor and I carried them out faithfully. This faith, I believe, finds its source in the national structure of Japan and that this national structure has characteristics which cannot be found in any other country in the world. In the Japanese Army Regulations it is especially mentioned that the person receiving orders shall not argue whether the order is right or wrong, nor shall he hesitate in carrying these orders out. It also states in these Japanese Army Regulations that the superior officer should have his subordinates believe that he is their protector. From what I have stated before, I have shown that the person receiving orders carries them out without fear. The superior officer in giving orders was representing the Emperor, and so it is natural that the superior officer take all responsibility for the orders he has given.

50. Q. You have just stated that there was no notice whatever made from the Brigade Headquarters concerning their use of the Nakayama Pass. Do you mean that you allowed them to use the Nakayama Pass without them giving you any notice?

A. The brigade is free to use Nakayama Pass, and if they had informed me that would have been just from courtesy. I understood that this daily communique was in itself a notice that Nakayama Pass was to be used.

51. Q. What was the name of the area where Nakayama Pass was located?

A. Dividing it up small it is the Kominato Area, and in a larger way it is the West District.

52. Q. In what way would you have violated the Japanese Army penal Code by stopping Lieutenant Colonel Ito at the execution?

A. I would have violated the Army Penal Code by interfering with the carrying out of Lieutenant Colonel Ito's official duties, and I would also have violated the code by involving myself in another person's duties. c17

53. Q. You have heard the witness Captain Ikawa and the witness Okamoto in this court. Are they held in the area, c17 which you are presently confined?

A. Yes.

54. Q. Have you at any time the past week or so heard these two witnesses talking together?

A. No.

The commission, then at 10:30 a.m., took a recess until 10:45 a.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, the interpreters, each of the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

Cross-examined by the judge advocate:

55. Q. In August, 1944, what was your rank?

A. Lieutenant Colonel, Imperial Japanese Army.

56. Q. What army officers on Chichi Jima were senior to you in rank in August, 1944?

A. I do not remember.

57. Q. Other than Major General Tachibana were there any officers on Chichi Jima senior to you in rank?

A. I cannot recall anybody now.

58. Q. In August, 1944, were you a senior Lieutenant Colonel to Lieutenant Colonel Ito?

A. Lieutenant Colonel Ito graduated from the Military Academy eight years before I did and I received training from him, and I cannot reply definitely to this until I see the Army officers' roster in which the seniors and juniors are listed.

59. Q. Colonel, you have testified that you are a graduate of the Japanese Military Academy, is that correct?

A. It is correct.

60. Q. While a student at the Japanese Military Academy did you ever receive any instructions in the treatment of prisoners of war?

A. I did not.

61. Q. Do you mean to say that the whole time while you were at the academy you received no instructions whatever regarding the treatment of prisoners of war?

A. There is entirely no such education. It is merely stated in the Japanese Army Operational Code that when a scout or sentinel captures a prisoner, he is not to interrogate the prisoner himself, but immediately report it to his superior officer.

62. Q. Colonel, are there any provisions in the Japanese Army Regulations that deal with captured prisoners of war?

A. Not as far as I know.

63. Q. Colonel, if you received no instructions at the Military Academy and there are no regulations covering prisoners of war in the Army rules, what then determines the policy of the treatment of prisoners of war?

A. In the brigade and divisions there are what you call staff officers. To name a person it is like Major Horie. These persons have graduated from the Military College where international law is taught, and these staff officers assist their commanding officers by giving them knowledge of international law. It is for these commanding officers to determine the policy of the treatment of prisoners.

64. Q. While you were on Chichi Jima did you ever receive any instructions from the brigade concerning the treatment of prisoners of war?

A. Do you mean instructions or training?

65. Q. Either instructions or training.

A. No.

66. Q. Well, if you have received no instructions, how then do you know what to do with prisoners of war?

A. I have stated that I did not know how to treat the prisoners.

67. Q. Is it correct then that you can treat them anyway you please?

A. No. As there is no training concerning prisoners in the Military Academy and there are no instructions given in the field, it is necessary and proper that the superior authority teach or give instructions to his subordinates when the occasion arises.

68. Q. And did you ever receive any instructions or teaching from your superior authority?

A. I have stated that I have not received any instructions or training.

69. Q. Colonel, what then determines just how to handle prisoners of war as regards to their treatment?

A. I did not handle any prisoners, but only executed them by orders. It is not necessary to have a policy concerning prisoners in this case.

70. Q. Colonel, in August, 1944, what was the general state of morale of the troops at Chichi Jima?

A. The morale of the troops was very high.

71. Q. Were any directives or orders dealing with the general morale of troops and methods to improve it or to keep it high received at your brigade?

A. Yes.

72. Q. Will you inform us just what these instructions said or contained?

A. It stated merely that to win the war the men must make the utmost efforts in constructing positions, and that they must keep up their high morale and military spirit. CH.

73. Q. Colonel, did you at any time receive any instructions concerning the use of prisoners of war and their relationship to morale of your troops?

A. No, I absolutely did not receive any such directive. CH.

74. Q. Colonel, you have testified that you witnessed these executions in August, 1944. How long before the actual time that you witnessed these executions did you know that they were going to take place?

A. As I was informed of this execution by the brigade's daily communique, I think it was just immediately before the execution took place.

75. Q. Can you tell us a bit further what you mean by "just immediately before"? Do you mean hours, days, weeks, or months?

A. I think the daily communique concerning the execution was received the day before the execution.

76. Q. From the time you received notice of this execution on the day before until the time that you witnessed it at Kominato, did you do anything to stop or stay or alter the carrying out of this execution?

A. No.

77. Q. Colonel, what was the underlying purpose or motive that prompted these executions in August, 1944?

A. We were not informed of the motive or the purpose behind these executions so I do not know.

78. Q. Colonel, have you always testified that you did not know the motive or purpose behind these executions?

A. I have just testified so.

79. Q. Have you ever testified Colonel, that the boosting of morale prompted these executions?

A. I did testify so, but that was just from my own imagination.

80. Q. Colonel, do you recall the exact date this execution took place in August, 1944? CH.

A. No.

81. Q. Were there one or more persons executed?

A. Two men were executed.

82. Q. Were any of the executioners from your battalion, the 307th?

A. Although I did not notice him being on the scene, one man must have been sent out from my unit by orders.

83. Q. Colonel, you have testified that you went to the scene to see that your subordinates did not perform any cruelties. Is that correct?

A. Yes.

84. Q. Colonel, who were your subordinates that you went to see?

A. I do not remember the names. I can state definitely that it was not Captain Ikawa.

85. Q. Do you know Corporal Okamoto?

A. Yes.

86. Q. Do you know what battalion Okamoto is from?

A. I understand he belongs to my battalion.

87. Q. Colonel, you have testified that orders of the Japanese Army originate with the Emperor, is that correct?

A. In a spiritual sense it is so.

88. Q. However, it is spiritual only, not factual?

A. This spirit is expressed in our actions.

89. Q. Well, do you mean that the orders to execute the two prisoners in August, 1944, came from the Emperor?

A. This order was issued by a superior officer who was acting in behalf of the Emperor.

90. Q. Do you mean to say then that the Emperor is responsible for these two men being executed?

A. I cannot definitely state so.

91. Q. Could a Colonel in the Japanese Army expect a Lieutenant Colonel with the Colonel's area to obey any orders that he might give him?

A. If this Lieutenant Colonel is under his command, he is expected to obey the Colonel's orders, but when he is not under the Colonel's command this cannot be expected. In my case we were both Lieutenant Colonels.

92. Q. Who was the senior?

A. I cannot tell until I check with the Army officer's roster. In such cases we do not use the word senior.

93. Q. In August, 1944, approximately how frequently did you see General Tachibana?

A. I think that I saw him six or seven times.

94. Q. Did you frequently have meals with him?

A. I did not have any opportunity to have meals with the general at this time. This is because at this time I had just moved over to the West District from the East District, and I was out inspecting the sites for positions almost every day. We moved over on the 31st of July. CLF.

95. Q. Insofar as you know, Colonel, had these two prisoners that you saw executed done anything that prompted them to be executed?

A. I do not know.

96. Q. So far as you know, was there any justification in the least bit for executing these two men?

A. I do not know. Lieutenant Colonel Ito had received a clear order that he was to execute the prisoner or prisoners, and that order in itself was enough to justify this execution. CLF.

97. Q. Colonel, just prior to this execution taking place, did you converse with Lieutenant Colonel Ito?

A. I did not talk with him.

98. Q. At any time the morning of this execution did you talk with Lieutenant Colonel Ito?

A. I did not speak even one word with him. CLF.

99. Q. What did you do during the whole time you witnessed these executions?

A. I did not do anything.

100. Q. How far away from the actual victims were you located?

A. About twenty to thirty meters away.

101. Q. During all this time could you plainly see Lieutenant Colonel Ito?

A. Yes.

102. Q. And you, at no time, had any conversation with him?

A. I did not talk with him at all. He was dealing with an actual problem so there was no chance for me to talk with him.

103. Q. When you arrived on the scene, was Lieutenant Colonel Ito already present?

A. Yes.

104. Q. Did he greet you?

A. No.

105. Q. Did you greet him?

A. No.

106. Q. Did Lieutenant Colonel Ito know that you were on the scene?

A. I think he did know.

107. Q. Moving now to the execution in February, 1945. What was the general state of the morale of your troops at this time?

A. It was still high.

108. Q. You have testified that the troops in your area were subject to severe American bombing. Had that done anything to the morale of your troops?

A. No. At that time the air raid shelters were almost completed and there was not much direct damage from the bombing.

109. Q. Colonel, you have testified that your battalion received a phone call from the brigade. Do you recall the contents of this phone call as delivered to you?

A. The first phone call was an order saying one prisoner will be turned over to the 307th Battalion, and so the same battalion will dispose of him.

110. Q. And by dispose, Colonel, what did you understand that to mean?

A. I understood it to mean to kill the prisoner.

111. Q. Colonel, why was a prisoner turned over to your battalion to be killed?

A. I cannot state clearly what the reason is. I imagine that it may have been that since I was in the same graduating class with General Tachibana, he found it easier to give orders to me than anybody else, and another reason that there was a difference in our characters.

112. Q. And Colonel, since you were a classmate of the general and knew him so well, it would have been very easy for you to object to the carrying out of this order? Is that correct?

A. My character cannot be compared with that of General Tachibana, and I found it difficult to find words or reasons to refuse the order.

113. Q. Colonel, since this phone call came to the battalion and was delivered to you by the adjutant, did you verify or confirm this phone call yourself at the brigade?

A. No. I believed that this was a true order.

114. Q. From the time that you received this order until it was carried out, did you do anything in any way to object or protest the carrying out of this order?

A. No.

115. Q. Colonel, had this prisoner done anything in so far as you know, to prompt or to motivate his execution?

A. I do not know.

116. Q. Then, Colonel, you knew that you were executing a man without justification, is that correct?

A. No.

117. Q. If there was justification what was it?

A. It was the Brigade Commander's order.

118. Q. Colonel, you executed this man not knowing whether it was justifiable or not. Is that correct?

A. Yes.

119. Q. And Colonel, did you care whether it was justifiable or not?

A. I merely was obedient to orders.

120. Q. Colonel, you have testified that you received this notice by telephone. Was the prisoner delivered to you at this time?

A. Several days passed since the time I received the first phone call until the time that the prisoner was sent to me.

121. Q. During these several days, knowing that you were going to execute a man, did you make any inquiries as to why he was to be executed or why your unit was going to execute him?

A. I considered offering my opinion to the Brigade Commander, but at that time I was so busy in building fortifications and in considering operational matters I could not take care of other details, and I had also thought that there was still some time before the prisoner would be sent to me. Then I suddenly was notified that the prisoner was to be handed over on that day.

122. Q. Colonel, did you receive any notice or instructions as to what persons should be selected to carry out this execution?

A. No.

123. Q. Were you instructed that the buddies of those men who had been killed by American bombing raids should participate in the execution?

A. I recalled that there had been such a fact afterwards.

124. Q. Colonel, why were the buddies of the men who had been killed in American bombing raids selected to perform this execution?

A. This was an instruction from the brigade, so I do not know.

125. Q. Colonel, you have testified that there were several days between the time of the first telephone call and the time of the second telephone call. During this time did you make any inquiry at the brigade as to why your unit was selected to kill this man?

A. No.

126. Q. During these several days between phone calls did you offer any objection or protest in carrying out this order?

A. I had buried myself in operational work so I forgot about this case.

127. Q. Do you mean, Colonel, that the execution of a prisoner of war was such a minor detail that you could not give it the proper consideration?

A. I did not mean that. I meant that as I was so busily engaged in my work that the day of execution came quite suddenly. *CIT.*

128. Q. Colonel, you have testified that following ^{the} conversation with Captain Ikawa you decided to select Captain Yamashita as the suitable man to carry out the execution. Was that correct?

A. Yes, but I hold the responsibility for this because I decided, and it was I who decided and made the decision and not Captain Ikawa.

129. Q. Well, why did you decide that Captain Yamashita was the suitable man?

A. The officers below Company Commanding Officers were all busily engaged in the construction of fortifications. Captain Yamashita was an officer attached to the Battalion Headquarters and he was instructing the building of fortifications around the Battalion Headquarters, so Captain Yamashita was relatively not as busy as the other officers.

130. Q. And, Colonel, what instructions did you give him?

A. It was a very simple order saying when the prisoner is sent over from the brigade, you execute him.

131. Q. Colonel, did you give Captain Yamashita any instructions as to what men he should select to carry out this execution?

A. No.

132. Q. Did you instruct Captain Yamashita that the buddies of the men killed by American bombing raids should perform this execution?

A. I made the adjutant, Captain Ikawa, transmit the message that was the order. That is because it was Captain Ikawa himself who had actually heard the Brigade order over the phone, and so I thought he would give a more detailed order.

133. Q. Colonel, you have testified that, "I must have made a report to the Brigade later", is that correct?

A. Yes.

134. Q. What did you report to the brigade?

A. I made a report saying I have made Captain Yamashita carry out the execution today.

135. Q. Was there any reply from the brigade?

A. No.

136. Q. Colonel, as Commanding Officer of the 307th Battalion, what was the reason the 307th Battalion was selected to carry out the execution?

A. I have explained that before.

The judge advocate stated as follows:

I would like to have that answer stricken from the record, and have the witness answer the question as given.

The commission directed the witness to answer the question.

The question was repeated.

A. I imagine that it was due to the difference between the Brigade Commander's and my character, and that we were both in the same graduating class at the Military Academy.

137. Q. And, Colonel, why should this difference in character have anything to do with the execution of a prisoner of war by the 307th Battalion?

A. I think that the Brigade Commander was not satisfied with my character.

138. Q. And what did he intend to do with your character by having you execute this prisoner of war?

A. He may have thought that it would make me possess a strong will such as he had.

139. Q. Colonel, do you know that it is illegal to kill defenseless prisoners of war without justification?

A. From common sense, of course it is so, but as it was a Brigade Commander's order that justified this killing.

140. Q. And knowing that this execution is illegal from common sense, do you mean to say that you proceeded to carry it out without ever having consulted the Brigade Commander who was a classmate of yours?

A. The fact that there was an order is the solution for this, and the superior officer who issues this order must give the prisoner the trial, but it was beyond my knowledge whether the Brigade Commander had given the prisoner a trial or not. If it was proper that the prisoner be given a trial, I believe he would have had one.

141. Q. If you received an operational order from the Brigade which you knew was against common sense, would you proceed to carry it out without any inquiry whatever?

A. As long as it is an order which is possible for me to execute, I will, and I will not inquire unless it is an impossible order.

The commission, then at 12:02 p.m., took a recess until 2:05 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the interpreters, each of the accused and his counsel.

Robert Oldham, seaman first class (yeoman), U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

Kato, Takemune, Colonel, Imperial Japanese Army, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

Re-examined by the accused:

142. Q. Colonel Kato, why was one man ordered from your unit to take part in the execution in August 1944?

A. I do not know the reason for this.

143. Q. Why did you order one man from your unit to take part in the execution in August?

A. It was because I was ordered to do so.

144. Q. Is the morale of troops higher or lower during the time of a raid or enemy action?

A. It is much higher.

145. Q. What chiefly occupied your time in February 1945 between the time you received the first phone call from the Brigade Headquarters and the time that the prisoner was at your unit?

A. I was engaged merely in instructing the building of fortifications and the training of the men and training them for battle. Also I was engaged in their education.

146. ^{WFE} Q. Was there air raids during those few days?

A. There were air raids day and night continually.

147. Q. About how many hours a day were you working, just before the prisoner was delivered to your unit?

A. I only had five or six hours sleep. I was working the rest of the time.

148. Q. Do you know whether the men selected for the execution in February 1945 actually were friends of those who had died in air raids?

A. As I did not choose the executioners myself, I do not know whether they were actually friends of the dead.

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

The commission did not desire to examine the witness.

The witness made the following statement:

After receiving the orders to carry out the execution from the

brigade in February, I gave the orders to Captain Yamashita. Captain Yamashita and his subordinates only carried out my orders faithfully. They were in a position from which they could not escape even if they wanted to. They did not in any way carry this out voluntarily. It was all done because of my given orders and so I plead that the commission take into consideration these circumstances when deciding upon these four accused, especially in the case of Captain Yamashita. He once refused my order, but I finally made him carry it out, and so I also ask that the commission also consider this point when deciding upon this accused person. That is all I have to add to my testimony.

The witness resumed his status as an accused.

The accused, Yamashita, Masao, Captain, Imperial Japanese Army, was, at his own request, duly sworn as a witness in his own behalf.

Examined by the judge advocate:

1. Q. Are you Yamashita, Masao, Captain, Imperial Japanese Army, an accused in this case?

A. Yes.

Examined by the accused:

2. Q. What is your age?

A. I am 44 years old.

3. Q. How many members are there in your family?

A. My old mother; my wife and four children. A total of six.

4. Q. Explain to us about your career?

A. In March 1911 I graduated from the Takado Military School, Niigata prefecture and on April the first of the same year I entered the army for one year of active service. On the 31st of March of the following year I finished my year of active service, but I stayed in the army until July 31, of the same year with many of my friends as a student officer. After that, I became an elementary school teacher and continued this until 1937 when in October I was recalled into the army to serve in the China incident. I was put into a reserve battalion and crossed to middle China. In December 1940 I was discharged from the army. It took six months to recuperate from an illness and then I entered a business company. On the 23rd of May 1944 I was mobilized and called into the army again. On the 31st of the same month I landed on Chichi Jima and stayed there until the 23rd of December 1945 when I was demobilized.

5. Q. To what unit were you attached at Chichi Jima?

A. I was attached to the Independent Infantry, 307th Battalion.

6. Q. What were your duties at this battalion?

A. At first, I became a company commander and after the third of

of October 1944, I became an officer attached to the Battalion Headquarters. There my main duties were in the construction of fortifications and education.

7. Q. Who was your commanding officer?
A. It was Colonel Kato.

8. Q. Have you ever seen any prisoners?
A. Yes.

9. Q. How many did you see?
A. I saw one.

10. Q. When and where did you see him?
A. I do not remember the date exactly, but I think that it was two days after the Suzuki air field at Chichi Jima received its second heavy bombardment. I saw him in front of the Battalion Headquarters office.

11. Q. Under what circumstances did you see the prisoner?
A. I made arrangements and had the prisoner brought from the Brigade Headquarters. *et.*

12. Q. How did you happen to have the prisoner brought to the Battalion Headquarters; tell us in detail the circumstances?
A. The air field was being repaired after the second heavy bombardment and this repair work took two days, and I was taking charge during my unit commander's absence, staying in his room. I remember that it was on the morning of the second day about eleven o'clock that I suddenly received a phone call from the Brigade Headquarters. The phone was right next to me as I was sleeping with a slight cold. The phone call said, "Come over and receive one prisoner before one p.m.". I replied at that time, "My unit commander is out now and I do not know what to do." Then the person on the other end of the phone said, "Aren't you an officer? You can make arrangements yourself. Come over and get the prisoner immediately," and the phone was cut. I did not know what to do, and I remember trying to phone Colonel Kato and receive instructions from him, but I could not get my unit commander on the phone. As I did not have much time, I thought the most proper thing was to have men sent out from the units which were nearest and so I phoned the Nakano Unit and the Ito Unit to send out one man each. Although a considerable length of time passed, these men did not show up so I remember making another phone call telling them to hurry. Then the man from the Ito Unit arrived while the man sent out by the Nakano Unit arrived only after a while. I noticed that these two men had arrived and then I told them to go to the Brigade Headquarters and get the prisoner. These men had come without any arms. They did not carry a rifle or a bayonet so I remember telling them that they must be armed. I made them borrow a rifle and bayonet from the office room of the Battalion *et.*

Headquarters. Then they set out for the Brigade Headquarters. After a while I received a report that the prisoner had been brought back to the battalion, but I do not remember who it was that made this report to me. I told the person who made this report to keep watch over the prisoner. I did not go out to see the prisoner myself. As I remember, it was about three or four o'clock in the afternoon when my unit commander Kato and adjutant Ikawa came home, looking very much exhausted. I reported to Colonel Kato that the prisoner had been received, and then I went to my own quarters and I was resting. I heard a loud voice shouting for me to come. I think it was Captain Ikawa's voice so I went to Colonel Kato's room. The unit commander was standing at the window and when I went to him he told me, "You go and execute the prisoner". When I heard this order, I was confused. I could not feel like carrying this order out. I could not bear to kill a person who had lost all power to resist. I myself had been a teacher for seventeen years, and I had taught my children that we must pity harmless things. I was very much at a loss. Then I remembered that I was a Japanese military officer and that obedience to orders was absolute. I had been educated since I was young on this point, and I had also taught my subordinates and required from them absolute obedience. Then a thought flashed through my head, that this order was not an operational order, and that I must refuse such an unpleasant order and so I said, "I can not do such a thing". The unit commander replied, "It is the same as an operational order, you carry it out". As I was a Japanese military officer, I replied, "Yes". I remember asking my unit commander at that time, "Who should I make carry out the execution and in what way?" Then Colonel Kato replied, "As you are an officer you should think of and take care of such things". It was left for me to decide on the way to carry out this execution. First I tried to figure out a way this should be carried out. I believe that the most sure and the best way to execute, to carry out an execution, was to stab the prisoner. I recalled that when Lieutenant Colonel Ito carried out an execution, a daily communique had been issued and in the contents the words of this daily communique were, that tomorrow two American prisoners will be executed at Nakayama Pass. At the end of this text it was also written that bamboo spears are to be used in this execution. I had received a lasting impression from this. The reason is because this was a matter which occurred when I was a Company Commander, and one of my clerks brought me this daily communique written clearly in blue ink. At that time I had thought that this was to preserve ammunition. I also remembered that I had heard frequently that bamboo spears had the same value as real spears. They had been used from the old times and I had also read many books which told about this. I had also heard stories from the old persons, and the use of bamboo spears had become common. That is the reason why this daily communique left a lasting impression on me, and that is why I decided to use bamboo spears. I walked up to the office room of the Battalion Headquarters, and for the first time I saw the prisoner. I remember ordering some men in this office

room to prepare two bamboo spears.

13. Q. What did you do then?

A. Then I tried to decide on the scene for the execution. After thinking it over, I came to the conclusion that Nakayama Pass was best. There were a few by-passers and it was not conspicuous as a scene for an execution. I decided to go to Nakayama Pass and then find an appropriate spot there, and I then thought of the men to take with me. The evening was approaching and I did not have the time to have new men sent out from the companies, so I took along with me the two men I had ordered to watch the prisoner. I had them carry the execution out. I believe we started for Nakayama Pass with the prisoner and with the men from the Nakano Unit and the Ito Unit escorting him.

14. Q. Then what did you do?

A. This was the first time I had ever seen an American. He was about an inch taller than I was and he was of the slender type. He had black hair, it may have been black, yet it may not have been black, but a little lighter, and he had his hair parted. The color, the complexion of his face, was like a Japanese or maybe a little paler than that of the Japanese people. As we walked along the road, I tried to talk to him. I asked him his age and his schooling and about his parents. I remember that he was 19 years old and that his mother was Spanish. That was all I could understand. I remember meeting Taniyama on our way. I also noticed on my way that the two men I was taking along with me had come from the Machine Gun Company and Rapid Fire Gun Company and they were not expert in bayoneting, so when I met Taniyama, I remember telling him, "Won't you come and help me?" I also remember shouting to Taniyama, as we parted, to have him bring a couple of more trusty men and this is what happened afterwards. I did not notice when Taniyama and the others arrived at the scene of the execution. We climbed up the muddy roads to Nakayama Pass silently and we came to a place where it was flat. I looked around and I saw that there was a small path leading in toward the left. Following this path for a while we came to a place where the incline was not as steep as it was in other places, and the earth there was red clay. I chose this spot for the execution. About 30 meters in along this path from the main road I found a slender telephone pole standing. I had come to the conclusion, unless we tied the prisoner to a tree, we would not succeed in stabbing him. I had the prisoner bound with his back to this telephone pole. He was bound to this telephone pole in a standing position.

15. Q. What did you do then?

A. When the prisoner was tied to this telephone pole, I noticed that about 10 meters toward the main road a crowd of about 10 men had gathered and were watching us. When I thought that we were about to stab the prisoner, I felt a chill run down my spine. I thought that this would not do so I remember that I shouted at the two men, "Aim at the heart and stab him". Then the men turned pale and did not move; thinking this would not do, I turned around and with a stick I pointed out each man

and said, "You stab!" As I was flustered at that time, I did not remember to whom I gave these orders. I would like to say at this point that although I remembered the two men in the Ito and Nakano Units and Taniyama being at the scene, I had forgotten about the others until I was questioned after I was taken into custody. Morito and Oshida were at that time familiar, that is, their faces. As my subordinates, I had not known their names. I got to know them by their names only afterwards. This is because even in the same company the platoons are separated and it was quite difficult to know all the men by names. After I came to Guam, I have recalled many facts about what I saw at that time, and I believe that it was Morito who was the first to answer my call. It was Morito who first used the bamboo spear. I found out that the bamboo spears only slipped and were of no use and that the point of the spear bent over and became blunt. I remember shouting, "Bamboo spears are no good, stab him with a bayonet!" I also recollect that the second person was Taniyama who bayoneted the prisoner and then Oshida came out. At the time when Oshida stabbed the prisoner, the prisoner's body had slumped down. After Oshida, the prisoner's body was almost in a sitting position. The two bamboo spears as I remember were both used. One of them was green and they were about an inch and a half in diameter. The point of one of them bent over and became blunt, while the other point of the other bamboo spear split open and they both did not succeed. I do not know who else other than Morito used the bamboo spears. All this took place in a very short time, maybe two or three minutes. I thought that the prisoner was dead and the next thing I remember is that the prisoner's body fell from the telephone pole and rolled over a couple of times on the ground. As this place was inclined, I do not know whether the rope was cut and the body fell off or whether I ordered the body to be unled.

16. Q. What was the prisoner wearing?

A. He had on a furlined leather jacket which was brown colored. I remember that he had a picture of a girl drawn on the back and on the left side of his chest. That is on the jacket. He wore field shoes with rubber soles. These shoes were made of canvas and he had on a long pair of pants and the color was khaki. I also remember that there were some colored letters inscribed on the back of this leather jacket.

17. Q. Did you actually stab the prisoner yourself?

A. I absolutely did not.

18. Q. What did you do after you executed the prisoner?

A. I noticed that not very far away there was a hole dug in the red clay which looked like an old machine gun position, and I had my men dig at this hole enough to place the body in and had them bury the prisoner's body. I would also like to add that this leather jacket was taken off the prisoner just before the execution.

19. Q. Do you know the reasons why the prisoner was executed?
A. I did not know the accurate reason why the prisoner was executed, but as the headquarters ordered this I was sure that they had found an ample reason to have this prisoner executed. At that time I believed that the Brigade Commander had found a reason which justified this execution.

20. Q. You have testified that you received a phone call from the Brigade Headquarters. Who made that phone call to you?
A. I forgot to ask the person's name, but I could tell clearly by the way of his speech that he was an officer.

21. Q. You have also testified that the bamboo spears did not serve their purpose. We in Japan know that the bamboo has a very strong quality and it almost never breaks. Could it be that the quality of the bamboo at Chichi Jima is different from that of the homeland?

A. When I used these bamboo spears, I ^{did} not know that the bamboo at Chichi Jima is not equal in quality to that in Japan because looking at them, they were not different in appearance to those that grow in Japan. I remember from experience that the bamboo which grows in such a warm place as Chichi Jima has no value. After this incident I learned on many occasions that the bamboo grown there did not last long and could not be used in vital places.

The commission then, at 3:55 p.m., took a recess until 4:10 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, the interpreters, each of the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

Yamashita, Masao, Captain, Imperial Japanese Army, the witness under examination when the recess was taken, entered. He was warned that the oath previously taken was still binding and continued his testimony.

Cross-examined by the judge advocate:

22. Q. Captain Yamashita, did you know it was illegal to kill a defenseless prisoner of war?

A. I was not calm enough to think on this point at that time.

23. Q. Did you have to think on this point at that time or did you know it was illegal to kill a defenseless prisoner of war?

A. I did not.

24. Q. Then why did you refuse the order the first time it was given?

A. My feelings did not permit me to accept the order.

25. Q. Were you punished under the Military Penal Code for refusing to obey this order?

A. In the end I did carry out the order.

26. Q. Were you reprimanded or punished for refusal in the first place?

A. When I refused, I pleaded in a soft voice, but when the colonel spoke to me the second time his voice was very stern.

27. Q. You have testified that since this was not an operational order you felt free to refuse to carry it out. What is the difference in the Japanese Army in the policy of absolute obedience to orders between an operational order and an order of this nature?

A. In the case of an operational order the refusal of it would have a grave effect on the battle conditions, but to orders of this nature I thought that it did nothing to the battle conditions.

28. Q. After a conference between Captain Ikawa and Colonel Kato why were you selected as the executioner?

A. I had not known that Captain Ikawa and my unit commander had conferred in deciding upon selecting me. I learned of this for the first time when that phone call came through. I do not know why I was chosen. cct

29. Q. Were you friendly with Captain Ikawa?

A. We were not at all friendly and often our ideas and opinions clashed. I tried to avoid him as much as possible because his character was a rather unusual one and I did not want to become mixed up in any affairs with him. cct

30. Q. You have testified that you talked to this prisoner on the way to the execution; did you learn his name?

A. I had heard his name, but I could not exactly remember the pronunciation.

31. Q. Do you remember if it was anything like, "York"?

A. When I saw the charges I was surprised to find that the person's name had been "York", and I still can not remember. cct

32. Q. You have testified that prior to the execution by Colonel Ito there was a communique issued which stated that the execution would be done with bamboo spears. Do you know if this execution was done with bamboo spears? cct

A. Until I heard at the end of the war of the details of the execution, I believed that Lieutenant Colonel Ito had used bamboo spears. cct

33. Q. You have further testified that two executioners came

from the Nakano and Ito Units. Do you know the names of these others?

A. I heard later that the men sent out from the Ito Unit was a superior private named Kiryu. At that time I also had heard the name of the other man sent out from the Nakano Unit, but his name is hard to remember and I am unable to recall it. I clearly remember hearing from Captain Nakano that this man was formerly a Buddhist priest before he entered the army.

34. Q. You have testified that ^{at} the execution you ordered two men to aim at the prisoner's heart and to stab him, and that those men failed to carry out the order. Do you know the names of these men?

A. Those two men are the men I have just mentioned who came from the Nakano and Ito Units.

35. Q. What punishment was given these men for failing to carry out your order?

A. They were not exactly punished, but I remember scolding them on the spot.

36. Q. You have further testified that Morito was the first to answer your call. What was the call?

A. I do not remember whether I had called him, by name or not, but I do remember that I pointed at him with a stick and called him. The other two were also called in the same way.

37. Q. Who were the other two?

A. I remembered their names later that they were Taniyama and Oshida. I only knew their faces then.

38. Q. Did Oshida use a bayonet or a spear to stab the prisoner?

A. I remember clearly that he used a bayonet, but I am not sure whether he used the bamboo spear or not.

39. Q. You have testified that you decided to use bamboo spears in this execution rather than bayonets and you also testified that on the way to the execution you were concerned about the lack of experienced bayoneteers until you met Taniyama on the way to the scene and ordered him to get his bayonet. How do you reconcile these two statements?

A. I do not think that these two statements conflict with each other. The spears, especially are used in Japan in the same way as bayonets for practice and straw bundles are used for this practice just as in bayonet practice.

40. Q. Were there any navy personnel present at the scene of the execution?

A. I remember that there were two or three navy men wearing dark, cloth suits.

41. Q. Did these navy men take part in the execution?

A. No.

42. Q. Did you order them to take part in the execution?
A. No, they were not authorized to take part in the execution.

43. Q. You have testified that you thought the Brigade Headquarters had ample reason to execute this prisoner. What do you call ample reason?

A. I had firmly believed that the higher authorities of the Japanese Army never issued any wild orders, and that is why I felt that there was an ample reason for this execution.

44. Q. What is an ample reason to execute a prisoner of war?

A. I can not tell, but I did believe that there was an ample reason for the execution.

45. Q. You have testified that there were navy personnel present at the execution. How did they happen to be present?

A. When I first noticed the men standing and watching the scene, I thought they were passers-by.

46. Q. From what unit had they come?

A. I can not tell.

Examined by the commission:

47. Q. Did you notice whether the prisoner had any identification tags or other means of identification?

A. I only remember that there were some words on the back of his jacket and that there was a girl's picture in a half circle on the left side of his jacket. There was a larger picture on his back. I had not noticed anything else that might have been his name. I recently learned from a guard that the words on his back were the name of his position or duty and his name.

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

The witness made the following statement:

I would like to add a little to my testimony. I was very much flustered at that time, and I do not remember clearly much of what happened at that time. I did not recall of Kishimoto being there, but after hearing Kishimoto's testimony a few days ago I felt that Kishimoto may have been on the scene. It was possible that I did reprimand Kishimoto. He may have joined the party during our walk to the scene of the execution. When I returned from the execution, it was in the evening. I went to Colonel Kato's quarters and made a report to him. That is all I have to say.

The witness resumed his status as an accused.

The commission then, at 4:40 p.m., adjourned until 9:10 a.m., Friday, July 19, 1946.

SEVENTH DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Friday, July 19, 1946.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Eric B. Hoag, Dental Corps, U. S. Navy,
Colonel James V. Ware, Infantry, Army of the United States,
Colonel Pierre B. Denson, Coast Artillery Corps, Army of the
United States,
Commander Martin E. Carlson, U. S. Naval Reserve,
Major Donald B. Cooley, junior, U. S. Marine Corps, members,
and
Lieutenant Edward L. Field, U. S. Naval Reserve, and
Lieutenant Fredric T. Suss, U. S. Naval Reserve, judge
advocates.
Norman H. Tildes, first sergeant, U. S. Marine Corps, reporter.
Each of the accused and his counsel and the interpreters.

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

No witnesses not otherwise connected with the trial were
present.

The accused, Morito, Shoichi, Corporal, Imperial Japanese
Army, was at his own request, duly sworn as a witness in his
own behalf.

Examined by the judge advocate:

1. Q. Are you Morito, Shoichi, Corporal, Imperial Japanese
Army, an accused in this case?
- A. Yes.

Examined by the accused:

2. Q. When were you born?
- A. I was born August 5, 1912.
3. Q. Where is your address?
- A. In Tochigi City, Tochigi Prefecture.
4. Q. Who are the members of your family?
- A. My wife, my son Kazuo, and myself.
5. Q. What is the extent of your education?
- A. I did not graduate from any school.

6. Q. Did you not go to elementary school?

A. No.

7. Q. When did you enter the army?

A. On the 30th of December, 1932. I was discharged on 31 December 1934 after serving the necessary period, and I was called in again to serve in the China Incident in September 1937. c67.

8. Q. Have you stayed in the army continuously since then?

A. I was discharged in February, 1940, then I was mobilized again and entered the Kofu Regiment on 10 February 1944.

9. Q. Did you serve since then with the Kofu Regiment?

A. Yes, until I went to Chichi Jima.

10. Q. When did you arrive at Chichi Jima?

A. I arrived at Chichi Jima on 4 March 1944.

11. Q. What unit were you attached to at Chichi Jima?

A. I was put in the Iizuka Unit when I first arrived, and in July or August I was transferred to the Kato Unit and I was in the Asakawa Company of the Kato Unit in the Tsuchida Platoon. This Tsuchida Platoon of the Asakawa Company was a reserve platoon attached to the Battalion Headquarters. c67.

12. Q. Did you ever see a prisoner at Chichi Jima?

A. Yes.

13. Q. When was this?

A. I think it was in February. c67.

14. Q. February of what year?

A. February of 1945.

15. Q. Where did you see the prisoner?

A. I saw him beside a telephone pole in front of Battalion Headquarters. This Battalion Headquarters is the headquarters of the Kato Unit.

16. Q. How many did you see?

A. I saw one.

17. Q. Why did you go to the headquarters of the Kato Unit?

A. As I was short of cigarettes, I went to get some from a friend of mine and saw the prisoner on that occasion.

18. Q. Was there somebody on the spot at that time?

A. I met Captain Yamashita then.

19. Q. Did anything occur at that time?

A. When I was watching the prisoner, I was told by Captain Yamashita, "You get a shovel and go to Nakayama Pass". I started out carrying a shovel, but I didn't know exactly where to go or what to do after I arrived there, so I stood in the road waiting

for the captain to come. He caught up with me and I joined his party and went to Nakayama Pass.

20. Q. Who was in the party when you met them in the road?

A. There was one prisoner, Captain Yamashita, and four or five men on duty.

21. Q. Then what did you do?

A. Then we arrived at the scene at Nakayama Pass together.

22. Q. Then what happened?

A. As I was tired out from climbing the hill, I was resting under the shadows of a tree and smoking. While I was doing so, the prisoner was bound to a telephone post. C.C.T.

23. Q. Who bound the prisoner?

A. I did not see the prisoner being bound.

24. Q. What was the prisoner bound with?

A. I think that he was bound with a coarse rope.

25. Q. Who else other than you was at the scene?

A. Captain Yamashita, four or five army men on duty, four or five navy conscripted workers (Gunzokus), and about three more army men were on the scene. Then Captain Yamashita gave orders to take turns and stab.

26. Q. Did he give orders facing all the men that were present?

A. Yes.

27. Q. Who stabbed first?

A. Two men bayoneted the prisoner at once and then two Navy Gunzokus or conscripted laborers speared the prisoner with bamboo spears, but the prisoner died from the bayonet thrusts of the first two men.

28. Q. Were the first two men that stabbed the prisoner army men?

A. Yes.

29. Q. Do you remember who they were?

A. No.

30. Q. Then what happened?

A. A navy conscripted laborer said his bamboo spear has broken off and he showed it to me, so I took this and told him, you people don't even know how a bayonet is supposed to be handled, I will show you what an expert stance in bayoneting is, and so I turned away from the prisoner and making a battle cry, thrust it forward. At this time Captain Yamashita told me, did you stab the prisoner, and I replied that I had and threw the bamboo spear down the hill. C.C.T.

31. Q. From where did they get this bamboo spear?

A. I don't know.

32. Q. What kind of a thing was this bamboo spear?

A. This bamboo spear was about two meters in length and it was two or three centimeters in diameter. This kind of bamboo is called medake and is a very slender bamboo.

33. Q. Are the bamboos at Chichi Jima suited for bamboo spears?

A. The bamboos at Chichi Jima are different from those in Japan, and are too soft to be used for bamboo spears.

34. Q. You have just testified that you turned away from the prisoner and made a thrust. Did you actually stab the prisoner?

A. This may be hard to understand without explaining, but the Navy Gunzokus or conscripted laborers handed me the bamboo spear and it was broken off at the tip from its second joint and was kind of bent over, and so I told them because you are so clumsy in your bayonet practice that is why this bamboo spear broke off, and then I turned away and showed them an expert's bayonet thrust.

35. Q. How was the prisoner at that time?

A. The prisoner was bound to the telephone post erect at the beginning, but by this time his head had slumped toward the right and his feet were out in front to the left.

36. Q. Then what did you do?

A. There was a hole which had been dug near the place so we buried him there.

37. Q. Was this hole dug for this occasion?

A. It had been dug previously.

38. Q. By saying it was dug previously what do you mean? Do you mean that the hole was there from the beginning?

A. The hole had been there before the execution.

39. Q. How is it that you were at the scene of the execution?

A. I went to Nakayama Pass because I was told by Captain Yamashita to get a shovel and go there.

40. Q. When did you know for the first time that the prisoner was going to be executed?

A. I learned of this for the first time after arriving on the scene.

41. Q. What was the prisoner wearing?

A. The prisoner had on field shoes. He was wearing khaki trousers and had on a leather jacket.

42. Q. You testified before that the prisoner was stabbed by bamboo spears after the first two men had bayoneted him. Did the bamboo spears enter the prisoner's body?

A. It did not enter the prisoner's body by any means. The first

man who tried to spear the prisoner failed in his attempt and fell forward, burying the point of his spear into the ground, while the second person's bamboo spear also slid off the prisoner.

Cross-examined by the judge advocate:

43. Q. You have testified that you first learned that this prisoner was to be executed at the scene of the execution, is that correct?

A. Yes.

44. Q. Are you absolutely certain that this is the first time that you knew anything about the prisoner being executed?

A. Yes.

45. Q. Do you know Private Oshida?

A. Yes, I do.

46. Q. And at any time prior to the execution did you have a conversation with Private Oshida?

A. No.

47. Q. Are you absolutely certain that you didn't have a conversation with Oshida before going to the scene of the execution?

A. I do not particularly remember talking with him.

48. Q. Did Private Oshida accompany you to the scene of the execution?

A. I do not remember clearly.

49. Q. Did you ask Private Oshida to accompany you to the scene of the execution?

A. I have heard Oshida's statement that I went to the galley to ask Oshida to accompany me to go and see the execution, but at that time Oshida was in the same unit with myself and so he could not have been at the galley. There is no reason that I should have gone to the galley to get him when he was not there. I think that this is a mistake of some kind.

50. Q. You have testified that there were navy personnel at the scene of the execution, is that correct?

A. Yes.

51. Q. Did the navy personnel participate in this execution?

A. Yes.

52. Q. Will you explain how the navy personnel happened to participate?

A. I do not know clearly how they did participate.

53. Q. Do you recall hearing Captain Yamashita say anything to these navy personnel?

A. I do not remember.

54. Q. Do you know what unit these navy personnel were from?

A. They were just passers-by and so I do not know from what unit they came.

55. Q. Since Captain Yamashita was in charge of the execution, could these navy personnel have participated without having him authorize them to do so?

A. I do not know.

56. Q. During your years in the army did you receive instructions in the use of the bayonet?

A. Yes.

57. Q. And do you consider that you learned to handle the bayonet very well?

A. As I was not a candidate for superior private, I did not think that I was an expert myself.

58. Q. Did you in the army have a nick name?

A. No.

59. Q. Does the term "Gung Ho" have any meaning to you?

A. No.

Re-examined by the accused:

60. Q. Are the Navy Gunzokus or conscripted laborers the same as navy enlisted men?

A. Although they wear the same uniform, Gunzokus are different from enlisted men, but they are also men who do work for the naval forces. 117

61. Q. Have they received training and instructions in naval discipline?

A. I do not know clearly.

Recross-examined by the judge advocate:

62. Q. If a Gunzoku and an enlisted man wear the same uniform, how do you know that the navy personnel at the scene were Gunzokus?

A. I could tell at a glance by their actions whether they were enlisted men or Gunzokus.

63. Q. Does a Gunzoku normally carry arms? 118

A. No.

Examined by the commission:

64. Q. When you stated that you turned away and made a thrust, did you mean that you turned away from the Gunzokus and made a thrust and stabbed the prisoner, or that you turned away

and stabbed in the air?

A. I meant that I turned away from the prisoner.

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

The witness said that he had nothing further to state.

The witness resumed his ⁵⁷⁴⁷⁶¹ seat as an accused. b6,7

The accused, Taniyama, Shinosuke, Corporal, Imperial Japanese Army, was at his own request, duly sworn as a witness in his own behalf.

Examined by the judge advocate:

1. Q. Are you Taniyama, Shinosuke, Corporal, Imperial Japanese Army, an accused in this case?

A. Yes.

Examined by the accused:

2. Q. How old are you?
I am thirty-six years old.

3. Q. Before you entered the army where did you live, and what was your profession?

A. Before I entered the army I lived in Honjo-Ku of Tokyo and I was making cardboard boxes and paper bags.

4. Q. How many members are there in your family?

A. My parents, my wife and two children, a total of five.

5. Q. What is the extent of your education?

A. Eight years in elementary school.

6. Q. When did you enter the army?

A. I entered the army on 10 January 1932.

7. Q. Tell us about when you were discharged and called into service again?

A. I was discharged on 20 November 1933 and was called in again in October 1937 to be discharged in March 1938. I was again called into the army on 8 February 1944, and I entered the Kofu Regiment, and on 4 March I came to Chichi Jima.

8. Q. What unit were you attached to at Chichi Jima?

A. When I landed, I was in the Asakawa Unit of the Iizuku Unit and in June I was in the Yamashita Company of the Kato Unit, and in December of the same year I was reattached to the Asakawa Company of the Kato Unit.

9. Q. What were your duties at Chichi Jima?

A. After I was attached to the Kato Unit, I was an assistant at Company Headquarters Office. b6,7

10. Q. Did you ever see a prisoner?

A. Yes.

11. Q. When and where did you see him?

A. Although I do not remember it clearly it was in the latter part of February, 1945. I was told by the leader of the command group to go with Corporal Kishimoto to the Battalion Headquarters and receive instructions and to escort prisoners. When I went there, there were two or three men from other companies, and Corporal Kishimoto reported to Captain Yamashita or some other officer in front of the Battalion Headquarters building. Then we went to the Brigade Headquarters and that is where I saw the prisoner.

12. Q. Did you bring your rifle with you?

A. When I left my company, I did not take my rifle along with me to escort the prisoner, but on arriving at the battalion headquarters I was scolded for not bringing a rifle with me, so I borrowed a rifle from the orderlies' room at the Battalion Headquarters and took this along.

13. Q. How many prisoners were there?

A. There were four.

14. Q. Did you receive the prisoners?

A. The men who went with me received him.

15. Q. What were your actions after receiving the prisoner?

A. An enlisted man untied the prisoner from a pine tree and then bound him. Kishimoto brought him back to the Battalion Headquarters and I accompanied him.

16. Q. Did anything occur after you returned to the Battalion Headquarters?

A. On returning to the battalion Kishimoto made a report to either Captain Ikawa or First Lieutenant Yamashita, and then Captain Yamashita told us or rather ordered us, "The prisoner is going to be executed and you are to go with him!"

17. Q. ~~Then what did you do?~~

A. We took turns in going back to our own company to eat our lunches and then First Lieutenant Yamashita took us to Nakayama Pass.

18. Q. ~~What happened at Nakayama Pass?~~

A. Turning left at a point half way up the mountain we found a telephone pole, and to this the prisoner was bound and then we were ordered by Lieutenant Yamashita to fix our bayonets on our rifles. Then we formed a ring around the prisoner about two meters away from him, and then Lieutenant Yamashita either called out our names or pointed to us and gave orders to stab. Four or five men on the opposite side from myself stabbed the prisoner, and then the rope which had bound the prisoner to the pole was cut and the prisoner slumped over to my side. At this time Lieutenant Yamashita said, "Taniyama, you stab him", and so

I stabbed the prisoner in the chest.

19. Q. Were there any officers on the scene other than Yamashita?

A. No.

20. Q. What was the prisoner wearing?

A. He had on a khaki uniform and was wearing a leather jacket.

21. Q. What happened to his leather jacket?

A. It was taken off the prisoner before he was tied to the telephone pole and was torn up.

22. Q. What was it torn up?

A. Because somebody may have wanted it for himself.

23. Q. Was the prisoner wearing something under the jacket?

A. As I have just mentioned, he had a khaki colored uniform on under the jacket. I do not know anything else.

24. Q. What happened to this khaki uniform?

A. The prisoner had it on him all the time.

25. Q. At the time when the prisoner was executed were air raids frequent?

A. Air raids were considerably severe every day.

26. Q. What did you do after the prisoner was executed?

A. There was a hole in the ground about four or five meters in front of the telephone pole. This hole looked as if it was an old position or something, and we all put the prisoner's body in this hole and took turns in burying him.

27. Q. Why did you stab the prisoner?

A. I did stab because I was ordered to do so.

28. Q. Do you know of the laws and customs of war?

A. I learned of these for the first time when I saw the charges against me.

29. Q. Do you think that executing a prisoner is evil?

A. The order for the execution of a prisoner had come down through the proper channels from the brigade and we had to carry this out. In my past military life we have been educated in the absolute obedience to orders. At that time Chichi Jima was undergoing a very severe bombing, and so this obedience to orders was enforced and we were just like puppets being manipulated by orders which could be said to be the strings. We did not have any freedom at all to judge upon the right or wrong of given orders.

30. Q. What time of the day did you go to Nakayama Pass?

A. It was after lunch so I recollect that it was about one o'clock in the afternoon.

31. Q. What weapons were used at Nakayama Pass?

A. I used a bayonet, but I don't remember clearly what the others used.

32. Q. Were all the persons there armed?

A. Those who did go to the brigade to receive the prisoner were armed, but I do not remember about the others.

33. Q. Do you know the witness, Okamoto, who has appeared at this trial?

A. Yes.

34. Q. Do you know the witness, Ikawa, who has appeared at this trial?

A. Yes, I do.

35. Q. Have you at any time in the past two weeks heard Okamoto and Ikawa talking together?

A. It was about a week ago that near the water tank they were both washing themselves, and I overheard them talking to each other after they had both come close to each other.

36. Q. Did you hear the voice of Okamoto talking to Ikawa?

A. As he was not talking in a loud voice, I could only make out the words, "I am sorry", but I cannot say what other things he talked about.

The commission, then at 10:30 a.m., took a recess until 10:55 a.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, each of the accused and his counsel and the interpreters.

No witnesses not otherwise connected with the trial were present.

Cross-examined by the judge advocate:

37. Q. How many men in your unit were killed by the heavy American air raids that you mentioned?

A. At that time I thought that there was only one casualty from the air raids.

38. Q. What do you mean at that time? How long a period does this include?

A. That is up until the time this execution was carried out.

39. Q. Do you mean that all during this time at Chichi Jima up to the time of this execution there was only one man killed by air raids?

A. I do not remember clearly, but I think it was one. When I say my unit, I mean my company.

40. Q. How many men in your battalion were killed by these heavy air raids?

A. I cannot tell.

41. Q. Do you know if it was a great number or a small number?

A. I think there were not as many casualties as in other units.

42. Q. By other units, do you mean other companies or other battalions?

A. I meant other battalions or other forces like the naval forces.

43. Q. What in your opinion is meant by heavy air raids?

A. Day and night air raids, sometimes ten times or over ten times a day.

44. Q. And were these air raids concentrated in the area around the 307th Battalion?

A. It was not always so, but as the air field was included in the area under the control of the 307th Battalion, we did receive heavy bombing.

45. Q. Did these heavy bombings seem to increase the animosity of the troops of the 307th Battalion?

A. I think it did boost the morale.

46. Q. Did you know any of the men who were killed in these air raids?

A. I knew one man previously who had died in an air raid.

47. Q. Was Corporal Morito present when First Lieutenant Yamashita told you that the prisoner was to be executed?

A. I do not remember clearly, but I think that he may have been there.

48. Q. Do you know the defendant, Oshida?

A. I do.

49. Q. What duties did Oshida have in February 1945?

A. He was a rifleman in his unit.

50. Q. What duties did he have at the Battalion Headquarters?

A. This platoon was the reserve platoon of the battalion, so he was a private who was attached to the battalion.

51. Q. What duties were assigned to these reserve platoons?

A. I do not know.

52. Q. Were these reserve platoons given additional duties?

A. I do not know about that also.

53. Q. Did you see Oshida at the scene of the execution?

A. Yes.

54. Q. Did you see Oshida stab the prisoner?

This question was objected to by the accused on the ground that it is not proper and is highly prejudicial to the rights of the accused. C17.

The judge advocate replied.

The commission announced that the objection was not sustained.

The question was repeated.

A. I do not remember clearly.

55. Q. Did you see Morito at the execution?

A. Yes.

56. Q. Did you see Morito stab the prisoner?

A. Yes.

57. Q. How many persons other than yourself stabbed the prisoner?

A. I think it was about five or six, probably six persons.

58. Q. Who were these persons?

A. I do not remember.

59. Q. Who accompanied you with the prisoner to Nakayama Pass?

A. First Lieutenant Yamashita, Corporal Kishimoto, myself, and two other men from other companies who went to the brigade to receive the prisoner and were escorting him. There were a few others whom I do not remember.

60. Q. Did you submit a statement concerning your activities during this execution to the Board of Investigation?

A. Yes.

61. Q. Did you say in that statement that "Kishimoto, Masao; Morito, Shoichi; Superior Private Oshida, Takekazu; and myself, four of us, led the prisoner half way up Nakayama Toge (hill) overlooking the Kominato area"? C17.

A. As I was abruptly called when questioned at that time, I was not quite myself and so what I stated at that time may not be quite the truth.

62. Q. Did you make this statement under oath?

A. Yes.

63. Q. Were you called to testify before the Board of Investigation?

A. When?

64. Q. On May 17, 1946.

A. I think I was.

65. Q. Did you testify as follows: Question - "How many men bayoneted the flyer in February, 1945 besides yourself?" Answer - "There were five (5) executioners besides myself."? A. I think I replied so.

66. Q. Did you further testify as follows: Question - "What were their names?" Answer - "First Lieutenant Yamashita, myself, Corporal Kishimoto, Leading Private Morito, and Superior Private Oshida. I remember that First Lieutenant Yamashita bayoneted the flyer personally. As to the other men I mentioned I do not know and I cannot swear that they bayoneted the flyer."? A. I think I did testify so.

67. Q. At the scene of the execution did you see the hole dug for the burial of the body? A. The hole was already dug.

68. Q. Did you see Morito do any digging at the scene? A. This hole may have been altered a little later.

69. Q. Did you see Morito alter the hole? A. I do not remember clearly.

70. Q. Who covered the body with earth? A. All the men on the scene took turns in doing this.

71. Q. Did you see Morito cover the body with earth? A. I do not remember clearly.

72. Q. At the scene of the execution when the bayoneting was taking place, did you argue with the men about your right to stab the prisoner? A. No.

73. Q. Did you push the other men away so you could have your chance to bayonet the prisoner? A. I do not remember doing anything like that.

74. Q. When you stabbed the prisoner what was his reaction? A. There was no reaction.

75. Q. You mean that you stabbed the prisoner with the bayonet and there was no reaction of the prisoner or of his body? A. I remember so.

76. Q. Isn't it true that when you stabbed the prisoner his body rolled several yards down the incline? CLT.
A. I was told to stab the prisoner after he had slumped forward CLT. and was on the ground, so it is not possible that the prisoner rolled over after I had stabbed him.

77. Q. Who carried the spears to the scene of the execution? A. I do not remember.

78. Q. Who made these spears?
A. I do not know.

79. Q. Did you see these spears used?
A. I do not remember.

80. Q. Do you know the nationality of this prisoner?
A. I heard that he was American.

81. Q. Do you know the date of his execution?
A. I remember nothing else except it was in the latter part of February.

82. Q. Do you mean that you have killed so many defenseless men that the date of this execution does not stand out in your mind?
A. This is the only incident of this kind I have ever been connected with.

83. Q. Do you know the date of this execution?
A. Just as I have stated, I do not remember.

84. Q. Do you know if any trial was given this prisoner of war?
A. I cannot tell.

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

The commission did not desire to examine this witness.

The witness made the following statement:

I have two parents, my wife, and two children to support. I lost all of my earthly possessions in the bombing of May last year. If I do not return home to them they may starve to death. I plead that you give me a fair and just trial.

The witness resumed his ^{status}~~seat~~ as an accused.

The commission then, at 11:25 a.m., took a recess until 2:00 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the interpreters, each of the accused and his counsel.

Robert Oldham, seaman first class (yeoman), U. S. Navy, reporter.

No witnesses not otherwise connected with the trial were present.

A witness for the defense entered and was warned that the oath previously taken was still binding.

Examined by the judge advocate:

1. Q. State your name and rank.
- A. Major, Imperial Japanese Army, Horie, Yoshitaka.

Examined by the accused:

2. Q. Major Horie, how long were you in the Japanese Army? How many years?
- A. I have been in the Japanese Army fourteen years.
3. Q. How long were you stationed on Chichi Jima?
- A. From the 29th of June 1944 to the 12th of April 1946.
4. Q. As an officer in the Japanese Army with your military experience and back-ground do you feel qualified to explain the policy of the Japanese Army with regard to the division of authority?
- A. Yes.
5. Q. As an officer stationed on Chichi Jima do you feel qualified to explain the division of authority on that island?
- A. Yes.
6. Q. It has been shown before this commission that on Chichi Jima there were at least the Brigade Headquarters and the 307th Battalion; what was the division of authority between those two units?
- A. The Brigade Commander at that time was in command of the whole island and also Ani Jima and Muko Jima while the 307th Battalion Commander was at that time in command of the West District. Operationally the Brigade Commander was also in charge of the whole island with the 307th Battalion in charge of the West District, but in personnel affairs and records of merit the limits of their authority was almost the same.
7. Q. Who was the Commanding Officer of the Brigade Headquarters?
- A. Major General Tachibana, Yoshio.
8. Q. Do you know who had command of the Kominato Area?
- A. In August 1944 it was Lieutenant Colonel Kato, Takemune.
9. Q. Was Lieutenant Colonel Kato the only one who had control of the Kominato Area or was there a senior officer who could direct operations in the same area?
- A. No. There was only Lieutenant Colonel Kato.
10. Q. Could Colonel Kato stop the use of the Kominato Area

for target practice by the Brigade Headquarters or stop its use by the Brigade Headquarters for any other purpose?

A. No.

11. Q. Could Lieutenant Colonel Kato interfere with Lieutenant Colonel Ito in the performance of his duties if those duties were under orders of the Brigade Commander?

A. No.

12. Q. Could Lieutenant Colonel Kato interfere with the performance of duties of men under the control of Lieutenant Colonel Ito if Lieutenant Colonel Ito had control of them due to orders from the Brigade Commander?

A. It is usually impossible to interfere in the carrying out of their work.

13. Q. Under the Japanese Army policy would the presence of prisoners in an area automatically make the Commanding Officer of that area responsible for the prisoners?

A. In the Japanese Army field operations regulations it is stated, that minor units when capturing prisoners shall send them to their headquarters. This headquarters would send them to the headquarters of a larger unit, or at least to a place where court martials were located. In the case of a battalion having prisoners it is natural the battalion send them to the brigade. *clt.*

14. Q. If the brigade were to return the prisoner to the battalion area, would that automatically make the Commanding Officer of that area responsible for the prisoner?

A. On such occasions it is a rule that an order be issued from the brigade stating what should be done with the prisoner. If this order is not issued, the Commanding Officer of this unit should inquire at the brigade.

15. Q. Would persons be under the control of the Commanding Officer of the battalion if they were there under the control of another officer with orders from higher authority regarding the prisoners? *clt.*

A. No.

Cross-examined by the judge advocate:

16. Q. Major Horie, if you were in command of a certain area, and one of your subordinates told you that the Brigade Commander had ordered an illegal act to take place in your area, would you permit such an act to take place in your area without getting the Brigade Commander to verify this order?

A. This would be according to the character of the Brigade Commander. If the Brigade Commander was a kind of person who listened to what his subordinates had to say and would take up their opinions, I would certainly have asked him to verify this.

17. Q. Regardless of the character of the Brigade Commander,

if you learned that an illegal act was to take place in your area, would you permit this act to take place without verifying that the order came from the Brigade Commander?

A. I would inquire about this order and there is a statement in the Japanese Army Educational Regulations about a subordinate offering his true opinion from the bottom of his heart to his superior.

18. Q. Further, if such was the case, and you came upon a group of men and officers in your area about to perform an illegal act, would you interfere to prevent the performance of this illegal act in order to verify on what authority it was being carried out?

A. Yes.

Re-examined by the accused:

19. Q. Was General Tachibana such a character that he would receive suggestions from his subordinates?

A. No.

20. Q. You have testified that if you were advised by one of your subordinates of an illegal order from your superior officer, you would inquire of the superior officer as to this order. Would this still be true if you had faith in the accuracy and ability of your subordinate in reporting the order to you?

A. I would not inquire in that case.

Re-cross-examined by the judge advocate:

21. Q. Major Horie, do you mean to stand before this military commission and say that a man of your military experience and background would carry out an illegal order on the faith and the accuracy of your subordinates although the order was patently illegal to you?

A. On the battle field such occasions frequently arise, but up to now they have been almost no cases of truly illegal orders. On the 26th of February 1936 an incident arose in Tokyo which is called the 226 incident and this incident is a typical one which explains the point that you are now asking. Will you want me to explain on this incident?

22. Q. What does this incident concern?

A. At that time many officers, non-commissioned officers and enlisted men were investigated concerning the incident and many of them replied that even if they knew and realized that the order they had received was illegal they could not refuse or protest against it when their superior officer was determined to die to achieve his aim.

23. Q. I am not asking you, if you would carry out an illegal order, I am merely asking you, if you would not verify this order before you carried it out?

A. I would verify the order.

24. Q. Regardless of your faith in your subordinates and their accuracy on previous occasions if the order appeared illegal to you do you mean to say you would still verify it to see if the order was given?

A. If it were I, yes. I would inquire.

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

The commission did not desire to examine the witness.

The witness made the following statement:

I believe that you have heard from many people on the stand of the Brigade Commander's character and also Colonel Kato's character, but I would like to repeat that the Brigade Commander was a very stern character, and when once he gave an order he was sure to have this carried out forcefully. Colonel Kato on the other hand was a gently, affable person and any orders he received he carried them out in a sincere and honest way. I believe that it was quite impossible for him to inquire or refuse an order at this time. That is all I have to add to my testimony.

The witness was duly warned and withdrew.

A witness for the defense entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and rank.
A. Lieutenant Colonel Ito, Kikuji.

2. Q. If you recognize any of the accused in this case will you please name them and point them out?

The accused Colonel Kato, stood when pointed out and resumed his seat.

A. The first person is Colonel Kato. I have forgotten the others.

Examined by the accused:

3. Q. Are you presently living on Guam?
A. Yes.

4. Q. Before that were you stationed with the Japanese Army on Chichi Jima?
A. Yes.

5. Q. To what unit were you attached at Chichi Jima?
A. The Headquarters of the First Brigade at Chichi Jima.

6. Q. Do you recall the execution of two prisoners of war on Chichi Jima in August of 1944?

A. Yes.

7. Q. Do you recall who was in charge of that execution?

A. I was in command of the execution.

8. Q. Where did it take place?

A. About half way up Nakayama Pass.

9. Q. Who was in charge of that area?

A. Then, Lieutenant Colonel Kato was in charge.

10. Q. Why were you in charge of the execution?

A. I was ordered by the Brigade Commander.

11. Q. Do you know whether Colonel Kato received any orders from the Brigade Headquarters with regard to this execution?

A. I do not know of it.

12. Q. Was Colonel Kato higher in rank than you were at that time?

A. He was not higher in rank.

13. Q. Since the execution took place in the area under the command of Lieutenant Colonel Kato could Lieutenant Colonel Kato have interfered with the execution?

A. I think it is absolutely impossible to do such a thing.

14. Q. Why could he not have interfered?

A. As I was in charge of the execution by orders of the Brigade Commander, whoever did come could not interfere with me carrying out my duties. I would not have permitted him to put in one finger as I was in charge.

15. Q. If Colonel Kato had ordered you to carry out the execution at a place outside of his area, would you have obeyed?

A. Just as the interference at the scene was impossible, even if he had told me to move, it would have been utterly impossible.

16. Q. If Colonel Kato had ordered you to stop the execution would you have obeyed?

A. It is the same thing. I would absolutely not stop the execution.

17. Q. What other officers besides you and Colonel Kato were present at the scene of the execution?

A. My memory is very vague and although there were officers and non-commissioned officers and enlisted men on the scene, I can not remember who they were.

18. Q. Who instructed the executioners in their duties and actions?

A. I did.

19. Q. Did you hear any other officers say anything to any of the executioners?

A. This could not have been. This is because it was my rule not to let anybody meddle in my own affairs and so if somebody would have given orders for instructions, I would have immediately reprimanded him.

20. Q. You did not have occasion to reprimand anyone, is that correct?

A. I absolutely did not.

21. Q. Do you know Captain Ikawa now?

A. I know him now.

22. Q. Can you tell the commission whether or not Captain Ikawa took any part in the execution?

A. I was carrying out the execution myself and so that is absolutely impossible. Jrs

23. Q. Were you in anyway subject to the control either at the execution or any other time of Colonel Kato?

A. I was a Lieutenant Colonel attached to the Brigade Headquarters and was in this position until I returned home so that too is impossible.

24. Q. Do you know leading private Shimura?

A. Yes.

25. Q. Was leading private Shimura in anyway subject to the control of Colonel Kato?

A. That is absolutely impossible.

26. Q. Why?

A. Shimura was my orderly at the time so he was attached to the Brigade Headquarters and he absolutely did not go any where else.

Cross-examined by the judge advocate:

27. Q. On the day that this execution took place in August of 1944 when did you first see Colonel Kato?

A. My memory is vague and I do not remember about people.

28. Q. You did see Colonel Kato at the scene, is that correct?

A. I kind of felt that I had seen Kato after I was told that Kato had been there. I really do not remember clearly about the people there. The group was there and I was too absorbed in my work to notice much of what was going on.

29. Q. What would you have done if Colonel Kato came up and told you to halt these proceedings until he checked with General Tachibana at the brigade?

A. As I was carrying out the Brigade Commanders orders no matter who came to me, I would have carried out the order.

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

The commission did not desire to examine this witness.

The witness made the following statement:

Even if a Colonel came or a Major General or a Lieutenant General came, I would not have budged unless the Division Commander who is above the Brigade Commander came and told me to stop. I would not have altered my actions in any way, and I think that Colonel Kato who was in the same rank with myself could not have stopped me. c17.

The witness was duly warned and withdrew.

The commission then, at 2:55 p.m., took a recess until 3:15 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, the interpreters, each of the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

A witness for the defense entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and rank.
A. Private first class, Imperial Japanese Army, Utsugi, Heikichi.
2. Q. If you recognize any of the accused will you indicate as whom?

The accused, Colonel Kato, stood when pointed out and resumed his seat.

- A. I know only Colonel Kato.

Examined by the accused:

3. Q. Are you now living on Guam?
A. Yes.
4. Q. Were you stationed with the Japanese Army on Chichi Jima?
A. Yes.
5. Q. At what date?
A. From the 9th of July 1944 until the end of the war.

6. Q. To what unit were you attached on Chichi Jima?

A. The old Brigade Headquarters Automobile Group.

7. Q. What were your duties with this unit?

A. I was a driver.

8. Q. While you were stationed on Chichi Jima did you ever see any American prisoners of war?

A. Yes.

9. Q. Can you say approximately what date it was?

A. I think that it was approximately the beginning of August 1944.

10. Q. How many prisoners of war did you see?

A. I saw two.

11. Q. Where?

A. I saw them first at Fukiage.

12. Q. Why were you at Fukiage?

A. I went to get the prisoners at the Detached Headquarters, with my car.

13. Q. Did you go there alone?

A. No, I was not alone.

14. Q. Who was with you or how many persons were with you?

A. I think it was three.

15. Q. Who told you to go to the Detached Headquarters to pick up the prisoners?

A. There was one non-commissioned officer and two enlisted men in our party and I received instructions from this non-commissioned officer.

16. Q. Do you know from what unit or what company the others in the car ~~was~~ from?

A. This incident occurred just after I landed on the island so I do not know where they came from. *CA*

17. Q. After you arrived at Fukiage, what happened concerning the prisoners?

A. The car did not go up to the Detached Headquarters so I stopped my car at Fukiage and was waiting. The men in the party who had come to receive the prisoners climbed up the hill and received the two prisoners at the Detached Headquarters. They came down and put them in my car and then I went to the Brigade Headquarters where Lieutenant Colonel Ito got in. Then I proceeded to Fukurozawa where everybody got off. I returned with my car.

18. Q. Where is this place where you let the prisoners and every one else out of the car?

A. It is a short path, a short cut to Kominato.

(104)

(103)

1117

19. Q. Did you receive any orders with regard to the prisoner from Colonel Kato?

A. No.

20. Q. Did any officers other than Lieutenant Colonel Ito give you any instructions with regard to these prisoners?

A. There was nobody else, except Lieutenant Colonel Ito, that gave me orders or instructions.

The judge advocate did not desire to cross-examine this witness.

The accused did not desire to further examine this witness.

The commission did not desire to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

A witness for the defense entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and rank.

A. Former Captain, Imperial Japanese Army, Enjo, Genzo.

2. Q. If you recognize any of the accused in this case will you please point them out and name them?

Each of the accused stood as pointed out by the witness and then resumed his seat.

A. The first person on the right is Colonel Kato. The next person is Captain Yamashita; I know the faces of the other three, but I do not know their names.

Examined by the accused:

3. Q. Captain Enjo, are you now living on Guam?

A. Yes.

4. Q. Where on Guam?

A. I do not know the name of the place where I am living.

5. Q. Are you quartered with the Chichi Jima witnesses?

A. Yes.

6. Q. Were you stationed with the Japanese Army on Chichi Jima?

A. Yes.

7. Q. When?

A. I landed on Chichi Jima on the 26th of March 1944 and after that I served there until the end of the war.

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1118

8. Q. To what unit were you attached on Chichi Jima?

A. The 307th Battalion.

9. Q. What were your duties with the 307th Battalion?

A. I was the Commander of the First Company.

10. Q. Captain Enjo, are you familiar with the method employed by the army at Chichi Jima with regard to the transmittal of orders and information from the Brigade Headquarters to the various units?

A. I do know.

11. Q. Will you tell the commission what means were employed for notifying the various units of orders and information by the Brigade Headquarters?

A. There are many ways of transmitting orders, but the means used most generally was for each unit to send out receivers for the orders. They assembled at the brigade and received the orders orally and took them down and brought them back to their respective units. In emergencies telephones were used and also documents were used as means of transmitting orders.

12. Q. The first method you mentioned where the orders were taken down and brought back to the Unit Headquarters, what happened after they were brought back to the headquarters of their units?

A. At the Unit Headquarters this order which was taken down by the receiver, is attached to the unit order and the daily communique. The men sent out by each company assemble and these men receive these orders and take them back to their units.

13. Q. About what time of the day were these daily communiques issued by the Brigade Headquarters?

A. It changed occasionally, but I think that there were times when it was two o'clock and times when it was three o'clock.

14. Q. Is that two o'clock or three o'clock in the afternoon or in the morning?

A. It is in the afternoon. When there is an emergency, there are exceptional rules.

15. Q. Do you recall reading a daily communique in August of 1944 which related to the execution of prisoners of war?

A. I do not remember directly.

16. Q. Do you remember any other way?

A. I have heard of it.

17. Q. Who was the Commanding Officer of the 307th Battalion?

A. It was Colonel Kato?

18. Q. Who was the Brigade Commander?

A. Then Major General Tachibana.

19. Q. Do you know of the relationship or personal feeling between General Tachibana and Colonel Kato?

A. I do not know the details.

The judge advocate did not desire to cross-examine this witness.

The accused did not desire further to examine this witness.

The commission did not desire to examine this witness.

The witness made the following statement:

I have heard that Colonel Kato and Major General Tachibana were in the same class at the Military Academy. That is all.

The witness was duly warned and withdrew.

A witness for the defense entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name and rank.

A. Surgeon Lieutenant, Imperial Japanese Navy, Sasaki, Mitsuyoshi.

2. Q. If you recognize any of the accused who are present indicate as whom?

The accused Colonel Kato, Captain Yamashita, and Corporal Taniyama, stood when pointed out and resumed their seats.

A. Colonel Kato, Captain Yamashita, and Taniyama, I do not know his rank, are living in the same hut as I am.

Examined by the accused:

3. Q. Where are you living on Guam?

A. In the fifth hut where the war crime suspects are confined.

4. Q. Do you know Ikawa, Shigeo, Captain, in the Japanese Army?

A. I know his face and name.

5. Q. Do you know Okamoto, Moriki?

A. No.

6. Q. The other day were you shown a person by the guard at the stockade and told that he was Okamoto?

A. I know his face.

7. Q. Had you seen that person before?

A. Yes.

8. Q. When was that occasion?

A. Although I do not remember the date exactly, he was in a group

of about five men who came to the adjoining hut.

9. Q. Have you seen Ikawa and Okamoto together recently?
A. I remember meeting them once at the shower.

10. Q. Were Okamoto and Ikawa talking together?
A. I saw them speaking in a low voice.

11. Q. Were you close enough to hear what was said?
A. I was on the other side opposite of the water tank from them and as I had not taken any particular notice, I could not tell what they were talking about.

12. Q. Was there anyone else present at this time that you know the name of besides Okamoto and Ikawa?
A. I know that Taniyama who was in the shower room was there.

13. Q. But you did hear and see Okamoto and Ikawa talking with each other?
A. Yes.

The judge advocate did not desire to cross-examine this witness.

The accused did not desire further to examine this witness.

The commission did not desire to examine this witness.

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

A witness for the defense entered and was warned that the oath previously taken was still binding.

Examined by the judge advocate:

1. Q. State your name and rank.
A. Former Captain, Imperial Japanese Army, Ikawa, Shigeo.

Examined by the accused:

2. Q. Do you know Okamoto a witness in the trial of which you were a defendant?
A. Yes, I know him.

3. Q. Have you talked with him since that trial was finished?
A. At about 2:00 p.m., on the 11th of this month I met Okamoto when I went to take a shower.

4. Q. Did you talk with him then?
A. I did.

5. Q. Was anyone else present?

A. Corporal Taniyama of the fifth hut and a navy officer who is in this next room from Taniyama was there. This person is a tall person with a pale complexion.

6. Q. Will you repeat the conversation you had with Okamoto as well as you can remember it?

A. Trying to get water for my shower I placed a bucket below the water tank and was pouring water into it when I looked up and saw Okamoto taking a shower. Our eyes met and he said, "Adjutant, I am sorry if I caused you much trouble". I told him, "Just because you said a bunch of lies I have been sentenced to twenty-five years". He said, "To tell the truth I was tricked to make my testimony. I just talked from imagination and really have no knowledge if the adjutant was really on the scene or not and I just dreamed it up". And I told him that if that is so, "Why didn't you say that sooner? You are causing me a lot of trouble". He said, "I have already testified now". At this time my bucket was filled with water so I stopped talking with him. 817

7. Q. Could this conversation have been heard by others?

A. Although I was very angry with him, ~~and~~ I was talking a little low. I did not talk in a very loud voice, maybe about with half the strength of a usual conversation. I think it was heard by somebody. 818

Cross-examined by the judge advocate:

8. Q. Do you know the rank of Okamoto?

A. I think perhaps he may have become Sergeant when he was demobilized.

9. Q. What is your rank?

A. I am a captain.

10. Q. Have you ever had any personal contacts or relationship with Okamoto on Chichi Jima?

A. Okamoto was a squad leader and was not connected in any way with my duties. 819

11. Q. Did you ever have any misunderstandings or quarrels with Okamoto?

A. Thinking it over the reason Okamoto made such a testimony...
.....

The judge advocate objected to the furtherance of this answer on the ground that the answer was not responsive to the question and requested that the commission instruct the witness to answer the question as put to him.

The commission announced that the witness should answer the

question as put to him.

The question was repeated.

A. No.

12. Q. Would you say that your relationship with Okamoto was at all times friendly?

A. I never talked directly with Okamoto.

13. Q. Why then should Okamoto tell a lie about you?

A. That is what I can not tell myself, and I feel it is very strange.

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

The commission did not desire to examine this witness.

The witness made the following statement:

I think that the reason Okamoto made such a testimony was because he did see me standing at the pavilion when I went with Colonel Kato on that day. Another reason was that I was the only one in the Kato Unit that did not return to Japan. Some of the men who were recalled from Japan think that it is I who have talked and told upon them. Another reason is because I took charge of the reburial and exhuming of the bones of the prisoners after the war ended and as this task was ordered to be carried out by those who actually participated in the execution he may have thought that I really did play a role in this particular execution. That is all I have to say.

The witness was duly warned and withdrew.

The accused recommended that the commission consider the indictment of the witness Okamoto for perjury. The testimony of the witnesses, Taniyama, Sasaki, and Ikawa, has directly contradicted the twice repeated testimony of Okamoto before this commission that he had not talked with Ikawa since the last trial. If the solemnity of the oath before this commission is to be upheld, then it would appear that such a flagrant violation of the oath merits action by this commission.

The defense rested.

The accused, Kato, Takemune, Colonel, IJA, read a written statement in Japanese in his defense, appended marked "G".

An interpreter then read an English translation of the statement of Colonel Kato, Takemune, IJA, appended marked "H".

The accused, Yamashita, Masao, Captain, IJA, read a written statement in Japanese in his defense, appended marked "I".

An interpreter then read an English translation of the statement of Captain, Yamashita, Masao, IJA, appended marked "J".

The accused, Taniyama, Shinosuke, Corporal, IJA, read a written statement in Japanese in his defense, appended marked "K".

An interpreter then read an English translation of the statement of Corporal, Taniyama, Shinosuke, IJA, appended marked "L".

The accused, Morito, Shoichi, Corporal, IJA, read a written statement in Japanese in his defense, appended marked "M".

An interpreter then read an English translation of the statement of Corporal, Morito, Shoichi, IJA, appended marked "N".

The accused, Oshida, Takekazu, Superior Private, IJA, read a written statement in Japanese in his defense, appended marked "O".

An interpreter then read an English translation of the statement of Superior Private, Oshida, Takekazu, IJA, appended marked "P".

The commission then, at 4:50 p.m., adjourned until 9:10 a.m., Saturday, July 20, 1946.

EIGHTH DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Saturday, July 20, 1946.

The commission met at 9:10 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Eric B. Hoag, Dental Corps, U. S. Navy,
Colonel James V. Ware, Infantry, Army of the United States,
Colonel Pierre B. Denson, Coast Artillery Corps, Army of the
United States,
Commander Martin E. Carlson, U. S. Naval Reserve, *et al.*
Major Donald B. Cooley, junior, U. S. Marine Corps, members,
and
Lieutenant Edward L. Field, U. S. Naval Reserve, and
Lieutenant Fredric T. Suss, U. S. Naval Reserve, judge
advocates.
Robert Oldham, seaman first class (yeoman), U. S. Navy, reporter.
Each of the accused and his counsel and the interpreters.

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

No witnesses not otherwise connected with the trial were
present.

The judge advocate read his written opening argument, appended
marked "R".

Morikawa, Shizuo, a counsel for the accused, read a written
argument in Japanese appended marked "S".

An interpreter then read the counsel for the accused, Morikawa's
argument in English, appended marked "T".

The commission then at 10:10 a.m., took a recess until
10:25 a.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, the
interpreters, each of the accused and his counsel.

No witnesses not otherwise connected with the trial were
present.

Ijichi, Shigeatsu, a counsel for the accused, read a written
argument in Japanese appended marked "U".

An interpreter then read the counsel for the accused, Ijichi's argument in English, appended marked "v".

Donald H. Dickey, Lieutenant Commander, U. S. Naval Reserve, a counsel for the accused, read a written argument, appended marked "w".

The judge advocate read a closing argument, appended marked "x".

The trial was finished.

The commission then, at 11:35 a.m., adjourned until 9:00 a.m., Monday, July 22, 1946.

NINTH DAY

United States Pacific Fleet,
Commander Marianas,
Guam, Marianas Islands.
Monday, July 22, 1946.

The commission met at 9:00 a.m.

Present:

Rear Admiral Arthur G. Robinson, U. S. Navy,
Captain Eric B. Hoag, Dental Corps, U. S. Navy,
Colonel James V. Ware, Infantry, Army of the United States,
Colonel Pierre B. Denson, Coast Artillery Corps, Army of the
United States,
Commander Martin E. Carlson, U. S. Naval Reserve,
Major Donald B. Cooley, junior, U. S. Marine Corps, members,
and
Lieutenant Edward L. Field, U. S. Naval Reserve, and
Lieutenant Fredric T. Suss, U. S. Naval Reserve, judge
advocates.
Robert Oldham, seaman first class (yeoman), U. S. Navy,
reporter.
Each of the accused and his counsel and the interpreters.

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

No witnesses not otherwise connected with the trial were
present.

The commission was cleared.

The judge advocate was recalled and directed to record the
following findings:

As to the accused, KATO, Takemune, the specification of the
first charge proved.

And the accused KATO, Takemune, is of the first charge
guilty.

As to the accused YAMASHITA, Masao, the specification of the
first charge proved.

And the accused YAMASHITA, Masao, is of the first charge
guilty.

As to the accused TANIYAMA, Shinosuke, the specification of
the first charge proved.

And the accused TANIYAMA, Shinosuke, is of the first charge
guilty.

As to the accused MORITO, Shoichi, the specification of the
first charge proved.

And the accused MORITO, Shoichi, is of the first charge
guilty.

As to the accused OSHIDA, Takekazu, the specification of the first charge proved.

And the accused OSHIDA, Takekazu, is of the first charge guilty.

As to the accused KATO, Takemune, the first specification of the second charge not proved; the second specification of the second charge not proved.

And that the accused KATO, Takemune, is of the second charge not guilty.

And the commission does therefore acquit the said KATO, Takemune of the first specification of the second charge and of the second specification of the second charge and of the second charge.

The commission was opened and all parties to the trial entered.

The commission announced its findings.

The commission then, at 11:00 a.m., took a recess until 2:05 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporter, the interpreters, each of the accused and his counsel.

No witnesses not otherwise connected with the trial were present.

The accused stated that there was no evidence in mitigation.

The commission was cleared.

The judge advocates were recalled and directed to record the sentence of the commission as follows:

The commission therefore sentences him, Kato, Takemune, colonel, Imperial Japanese Army, to be confined for the term of his natural life, two thirds of the members concurring.

The commission therefore sentences him, Yamashita, Masao, captain, Imperial Japanese Army, to be confined for the term of his natural life, two thirds of the members concurring.

The commission therefore sentences him, Tanigawa, Shinosuke, corporal, Imperial Japanese Army, to be confined for a period of ten (10) years, two thirds of the members concurring.

The commission therefore sentences him, Morito, Shoichi, corporal, Imperial Japanese Army, to be confined for a period of fifteen (15) years, two thirds of the members concurring.

The commission therefore sentences him, Oshida, Takekazu, superior private, Imperial Japanese Army, to be confined for a period of fifteen (15) years, two thirds of the members concurring.

Arthur G. Robinson

ARTHUR G. ROBINSON,
Rear Admiral, U.S. Navy, President.

Eric B. Hoag

ERIC B. HOAG,
Captain, Dental Corps, U.S. Navy.

James V. Ware

JAMES V. WARE,
Colonel, Infantry, Army of the United States.

Pierre B. Denson

PIERRE B. DENSON,
Colonel, Coast Artillery Corps, Army of the United States.

Martin E. Carlson

MARTIN E. CARLSON,
Commander, U.S. Naval Reserve.

Donald B. Cooley, Jr.

DONALD B. COOLEY, JUNIOR,
Major, U.S. Marine Corps.

Edward L. Field

EDWARD L. FIELD,
Lieutenant, U.S. Naval Reserve, Judge Advocate.

Fredric T. Suess

FREDRIC T. SUSS,
Lieutenant, U.S. Naval Reserve, Judge Advocate.

The commission was opened and all parties to the trial entered.

The commission then read and pronounced the sentence to the accused.

The commission, having no more cases before it, adjourned to await the action of the convening authority.

Arthur G. Robinson

ARTHUR G. ROBINSON,
Rear Admiral, U. S. Navy, President.

Edward L. Field

EDWARD L. FIELD,
Lieutenant, U. S. Naval Reserve, Judge Advocate.

Fredric T. Suss

FREDRIC T. SUSS,
Lieutenant, U. S. Naval Reserve, Judge Advocate.

陳述

陸軍大佐 加藤武宗

第一告新ニ就テ

本事件ハ吾カ上官タル立花中將ノ命令ニ依
リ行ハレタリト雖モ右ノ結果トシテ吾カ部
下中ヨリ山下中尉(當時)以下四名ノ被害ヲ出
セルハ甚タ遺憾トスル所ナルモ彼等ノ行爲ハ
大隊長タル予ノ命シタル所ニシテ部下トシテハ
免レント欲スルモ免レ得サル立場ニ置カレタル
モノナリ而シテ是ハ彼等ノ自主的行爲ニ非
サルコトヲ諒察セラレ度シ

特ニ山下大尉ハ予カ彼ニ任務ヲ與ヘタル
際極力固辭シタルモ強イテ之ヲ受諾セ

"G(1)"

No. 2

ニメタルモノニシテ同情ニ價ス何卒刑ノ輕減
ニ關シ御詮議ヲ給ハリ度シ
命令ニ關スル全日本陸軍ノ見解(通念)左
ノ如シ
命令者タル上官ハ其命令ニ對スル一切ノ責任
ヲ常ニ負フヘキモノトス
受令者ニハ命令ニ依リテ爲シタル行爲ノ責
任ナシ
俘虜所刑ニ關スル可否ノ判斷ハ命令者
タル最高上官カ爲スヘキモノニシテ受令者
ノ判斷スル範圍ニ屬セズ
日本陸軍々隊内勢令ニ從ヘハ受令者カ

(部下同ノ)

"G(2)"

己ニ與ヘラレタル命令ノ當不當ヲ論シ又ハ
實行ヲ躊躇著スルヲ共ニ深ク戒飭シアリ
以上ノ見解ニ導キ據シ自己ノ行爲ヲ正當ナ
リト信ス

第三告訴ニ就テ

私ノ永イ軍隊生活ト陸軍大佐トシテノ私ノ
見解ニヨツテ私ハ常ニ私ノ任務ヲアルト
信シタ行動ヲトツタ然レ乍ラ昭和十九
年八月ノ件ハ旅團長ノ直接ノ指揮
ニヨツテ旅團附將校ノ伊藤中佐ニヨツテ
行ハレタノテ私ハ職責上之ト何等關係
係力無カワタ若シ私カ彼ヲ抑制セハ

"G(3)"

彼ノ公務執行妨害トシテ自公ハ日本陸軍
刑法ニ抵觸ス

軍法會議諸賢ニ御願ニ致シマス軍
人トシテ此ノ事實及此ノ事件ニ於ケ
ル私ノ眞ノ立場ヲ考テ察サレンコトヲ
而シテ私カ職務怠慢ニ付無罪ナル
コトヲ

昭和三年七月 日

加藤武宗

"6 (4)"

STATEMENT OF KATO, TAKEMUNE.
Colonel, IJA:

On the first charge:

Although this incident was carried out on orders of my superior, Lieutenant General Tachibana, I regret that as a result, I have caused the four, including Lieutenant (then) YAMASHITA to be named as the accused. Their actions were ordered by the Battalion Commander, myself, and they were thus placed in a position from which they could not escape even when they wanted to, as they were my subordinates. I plead that you fully understand that their actions were not committed by them of their own free will.

Especially, when I gave the order to Captain Yamashita, he positively declined to carry it out as far as it was possible for him to do, and was forced by me to carry it out and is therefore worthy of sympathy.

I am sure the members of the Commission are familiar with the general policy of the Japanese army forces concerning orders which teaches that the issuer of the orders who is the superior officer, shall, in all cases hold all responsibility for the same order:

The receiver of the order shall have no responsibility whatever for action based on the received order;

The judgement on the right or wrong of the execution of prisoners is not within the authority of the receiver of the orders to decide, but is the responsibility of the highest officer who issues the order to decide on this;

In the Japanese Army Regulations it is deeply admonished that the receiver of orders shall not argue on the appropriateness of the orders or hesitate to carry them out.

I believe that the action I took was proper, based on the above mentioned views.

On the second charge:

In view of my long years in the Imperial Japanese Army and my rank as a Colonel, I should certainly have carried out every action which I considered to be my duty. However, since the events which occurred in August 1944 were under the direct control of the Brigade Commander and his staff officer, Lieutenant Colonel Ito, I could have no duty to neglect. If I restrained Lieutenant Colonel Ito, my action would be contradictory to the Japanese Army Penal Code as interference in the carrying out of official orders. I beg the Commission as military persons to consider the facts and recognize my true position in this affair and find me not guilty of neglect of duty.

KATO, Takemune.

"H" (1)

1135

I certify that the foregoing translation consisting of one page is a true and correct translation of the original statement of KATO, TAKEMUNE, in Japanese to the best of my ability.

M. D. Arvey
M. D. ARVEY,
Lt. (jg) USNR.
Interpreter.

HH (2)

1136

No. 1

陳述

陸軍大尉 山下正雄

本事件ハ自分ニトシテハ、實ニ突發的事件デアリ、全ク止ラ得ズ、不本意ナガラ実施シタモノデ誠ニ自分一個人ノ氣持即チ人間山下ノ心ガ、コレヲ許サナカッタ口惜イ事件デアッタ。

ソコ東京へ収容サレテカラハ、出来ルナラバ本事件カラ逃レタイト思ッタ。ト言フハ^{以上、理由外ニ}自分ノ家族ハ自分ガ居ナレバ、全ク絶対絶命、一家^無收入ノ状態ニ定テ落サレテシマデアル。家族ハ老母(五十九才)妻(三十四才病身)長男(十六才工業校二年生)長女(十四才国民校六年生)次男(十三才国民校四年生)次女(九才国民校二年生)以上六名デ、子供等モ常ニ病氣来勝デアル。此處六七年間即チ長男ガ一人前ニナル迄ハ是非自分が居ラネバ一家ガ身動キモ出来ナイデアル。今迄、收入ハ恩給年額七四八円、會社、俸給手当等一ヶ月約一七〇円約百株、煙草株、配当等デアッタ。所ガ恩給ハ廢止サレ、會社ハ終戦ト米ニ縮小サレ、自分が復員シタ時ハ已ニ解雇サレテタ。株ハ勿論無配当デアル。以上ノ如ク完全ニ無收入ノ状態ニタッタデアル。今後ハ僅カナガラノ家財家屋等ヲ切り賣リセネバ生計ハ出来ナイ。~~少シ有ツタ貯金モ食糧ノタメニ消費~~ソレモ三年トハ保ツマシ。少シ有ツタ貯金モ食糧ノタメニ消費シテシマシ。自分が復員シタ時ハ妻ハ既ニ妻ノ衣類ノ

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半分ヲ賣ツテ米穀ヲ買ツテサタ。ソレハ妻子ハ昭和三十
九月十月頃ハ娯楽費失調カラ黄疽ヲ患ツタデ妻が驚
イテ米ヲ買ツタノダサウデア。親戚トシテハ実兄一人(ハ作農)
妻ノ実家(老父母・実兄)巡査ヲ退職、会社轉職ス子映四ハ
ガ最モ近親デア。ルガ何レモ經濟的ニ困難ニテサ。從兄弟
ノ家が一軒アルガ家族ガ多ク又家計モ有ガナイ。ソノ上ニ
精神ガ良クナ似テ、到底子供ナゾ引受ケテハクレナイト
思フ。親戚トシテハ以上ダケデ、何處ヲ見テモ暗然トセザ
ラ得ヌ状態デア。

以上ノ事情カラシテ私ハ取調べニ對シテ一言モ話サナカッタ。
所ガ本年六月中旬頃、私ヲシテ非常ニ感激セシムル或
機會ガアッタ。私ハ自分等ニ關係シテサル上級幹部、
人々ガ實ニ公明正大デアリ、寛大デアリ、ソノ温カイ情ニ
感泣シタ。私ハソノ高潔ナル人格ニ打タレタデア。私ハ
自分が否定シテ來タ事ガ實ニ悪カッタ。係官ニ迷
惑ヲカケ、ソノ上死者及ビソノ遺族、人々ニ申譯ナイト思ツタ。
私ハ餘リモ個人ノ受メ生活ノミヲ考ヘ過ギテサタ。嚴然
タル自分ノ實施シタ行爲ノ前ニ家族ハ物ノ救デ、無カッタ
デア。ソコデ~~裁判官~~取調官~~裁判官~~謝罪
シ切ヲ明白ニ語り、潔ク裁ヲ受ケル決ビデ、心靜カニ決
立ツ次第デア。願クハ以上ノ事情ヲ御諒察ノ上
寛大ナル判決ヲ念願シマス。

昭和三十一年七月十六日 “H(2)” 山下正雄

STATEMENT OF YAMASHITA, MASAO
Captain, IJA.

This incident was for me an abrupt one, and I carried it out much against my will as I did not have any other alternative. It was a very regretful incident, quite contrary to my humane principles and feelings. Consequently, after I was taken into custody at Tokyo, I tried to evade this matter as much as possible. The reason for this is that without me my family would be thrown into a desperate situation, deprived of all means of income.

There are six members in my family who are my aged mother (69 years old) my wife (34 years and sick). The eldest son (16 years old and in the second year of an industrial school), the eldest daughter (14 years old, 6th year of elementary school), the second son (12 years old, 4th year of elementary school), the second daughter (9 years old, 1st. year of elementary school). The children also have a tendency toward illness. My family will hardly be able to exist if I am not present for the next six or seven years at which time my eldest son will be grown and able to take his place in the world.

What income I have had until now was my yearly pension of 748 yen, my company's salary and bonus, a monthly total of about 170 yen, and the dividends from about a hundred shares of electric power stocks. But the pension was abolished, and my company was reduced in size at the end of the war, and when I was repatriated, I found myself unemployed. And of course, there have been no dividends from the electric power stocks. So as I have explained, our income was completely cut off. In the future in order to continue our bare living we must sell what real estate and furniture we have, and these would not last us two years.

What little savings we had were spent for food and when I was repatriated I found that my wife had sold half of her clothes to buy rice. This was because in about September and October my wife and children had been taken ill and suffered from jaundice caused by malnutrition. My wife was surprised and had bought the rice.

My closest relations are, an elder brother who is a tenant farmer, and my wife's own family (aged mother and father, an elder brother who retired from the police force this spring and entered a company, and four children,) and they all are poor.

There is a cousin's family but it is large and they also are not well to do. They are not kindly inclined towards us, and I am sure they will never take care of my children. The above are all the relations I have and I cannot see any light of hope anywhere.

Due to the above circumstances I did not say a word at my interrogation. But in mid-June of this year, there was an occasion in which I was moved deeply, and realized that the high

officials in charge of myself were truly just and lenient was
was moved to tears by their warm sympathy. I was touch by
their lofty character.

I felt that I had done wrong by denying everything, and had
caused those in charge of me trouble. Furthermore, I felt that
I had no excuse to make to the dead or his family. I had been
thinking too much of my life and the love of my own family.
My family did not matter in front of the cold facts of the act
I committed.

So I apologized to those who investigated me, and decided to
be tried like a man, so I have calmly sat before this court.

I beg that you take the above into consideration and give a
lenient decision.

YAMASHITA, Masao.

I certify this is a true and correct translation of the
original statement of YAMASHITA, MASAO, in Japanese to the
best of my ability.

M. D. Arvey
M. D. ARVEY,
Lt. (jg) USNR.
Interpreter.

"J" (2)

1140

父島ニ於テハ私達ノ兵卒ノ人格ナシト問題トサレマセシテ
私達ニテ度命令ト云フ系ニ操ラシタ操人形ノ様ナモノ
デス 私達デ毎クトモ他ノ兵卒ガ此ノ事件ニ参加
サセラシタトシテモ 其ノ結果ハ私達ト同シ行動ヲ取
リテ居タコトイ信シマススレハ皆個人ノ意志ト自由
ヲ持タナク操人形デアルカラデス
上官ト云ラヌ人形便ヒ、命令ト云フ系デ操ラシタ私
達人形ニ何等ノ非ハ毎イモト固ク信ジマス

終

谷山信之助

陳

述

谷山信之助

本事件に關シテハ私ハ俘虜護送ニ切カラ死刑執行迄ノ
行動ハソレノ上官ノ命令ニ從テ動イタリテアツテ私個人ト
シテ意志的惡意ヲ以テ行ツタテハ絶對ニアリマセン
告訴狀ヲ見マスト戦争法規並ニ慣習及文明社會ノ
道義ニ違反シテアリマスガ私ハ告訴狀ヲ見テ始メテ
之等ノ言葉ヲ知リマンタ私ハ過告ノ軍隊生活ニ之
等ノ教育ヲ一面モ受ケタコトハ有リマセン
過去ノ軍隊生活デハ上官ノ命令道ニ朕ガ命ナリト心得
「長上ノ命令ハ其ノ事、如何ヲ問ハス道ニ之ニ服從セヨ」
ト絶對服從ノ教育ヲ受ケ之ヲ行フコトガ天皇ニ忠節
ヲ盡ス唯一ノ道デアルト教育ナレテ矢張りマシタ

"K"

STATEMENT OF TANIYAMA, SHINOSUKE.
Corporal, IJA.

In this incident, from the escorting of the prisoner to the carrying out of the execution, I moved under orders and there was absolutely not any of my own will or ill intentions exercised therein.

It states in the Charge that I violated the laws and customs of war and the moral standards of civilized society, but I knew of such words for the first time when I saw this charge. During my military life in the past, I never did receive any education on such points.

In my past military life, I have received such education as "All orders, regardless of what they may be, must be taken as if given directly by the Emperor". "Whatever they may be, orders from your superiors must be immediately obeyed", which is absolute obedience to orders. We were educated that to act thus was the one way we could be loyal to the Emperor.

The characters of the men at Chichi Jima were not even taken into consideration. We were just like puppets being operated by strings, which were the orders, and I believe that if it was some other men instead of us that participated in this incident, as a result they would have acted just as we did. That is because they all are puppets who have been deprived of their own will and freedom.

I am firmly convinced that we puppets who were manipulated by strings which were orders, are not guilty.

TANIYAMA, Shinosuke.

"L"

I certify this is a true and correct translation of the original statement of TANIYAMA, SHINOSUKE, in Japanese to the best of my ability.

M. D. Arvey
M. D. ARVEY,
Lt. (Jg) USNR.
Interpreter.

陳述

木村戸正一

私の留守中の事申上ます妻政代と長男
和男七ツになる子供が一人居ります
又妻は目下世帯中ブナ旬頃子供が生れ
る予定で近頃では仕事をしる事も出来
ません本當に私の留守中以食べて
行く事が出来ません困つて居ります
本軍法益証は出来だけ莫大に御願ひ
致します

森戸正一

"M"

STATEMENT OF MORITO, SHOICHI.
Corporal, IJA.

Allow me to speak of my family's condition in my absence. I have one son, Kazuo, who is six years old. My wife is pregnant and is to bear a child in October and has been unable to work recently. Truly it is impossible for them to earn their daily living expenses while I am absent and they are in a desperate situation.

I beg the Commission give me a lenient verdict.

MORITO, Shoichi.

I certify that this is a true and correct translation of the original statement of MORITO, SHOICHI, in Japanese to the best of my ability.

M. D. Arvey
M. D. ARVEY,
Lt. (jg) USNR.
Interpreter

"N"

1145

陳述

私に召集兵で製糸の職工
ごあります

家にち立つと三つの子供があり
私が指図してある一人は何
乃て生花してちつかぬから
事情はあります

何年御寛大に御願
致しめます

柳田武教

“0”

STATEMENT OF OSHIDA, TAKEKAZU
Leading Private, IJA.

I am a reserve private and am a worker in a can factory.
I have two children, their ages three and five respectively,
and without my presence I cannot see how my wife alone could
carry on daily existence.

I humbly beg your lenient decision.

OSHIDA, Takekazu.

I certify this is a true and correct translation of the
original statement of OSHIDA, TAKEKAZU, in Japanese to the best
of my ability.

M. D. Arvey
M. D. ARVEY,
Lt. (jg) USNR.
Interpreter.

"P"

1147

ARGUMENT FOR THE PROSECUTION

DELIVERED BY

LIEUTENANT EDWARD L. FIELD, USNR.

If it please the commission, the prosecution has brought before this commission five (5) defendants, charged with murder, and has in addition charged the defendant KATO, in two (2) specifications with the neglect of duty in violation to the laws and customs of war. Crimes committed by these accused are in direct violation of Article 23C of the Hague Convention of October 18, 1907, which states, "It is specifically forbidden to kill a wounded enemy, who, having laid down his arms, or having no longer means of defense, has surrendered at discretion", and further in direct violation of Article two (2) of the Geneva Convention of July 7, 1929, which states, "Prisoners of war are in the power of the hostile power, but not of the individual or the corps that captured them. They must at all times, be humanely treated and protected, specifically against acts of violence, insults, and public curiosities".

This commission has the solemn responsibility of carefully considering the evidence submitted and to determine the culpability of each of the accused. This responsibility must be considered in the line of the solemn obligations that our government has assumed by specifically warning the Japanese government, on numerous occasions, that the time would surely come when such malefactors would be brought before a court of justice, and would be held strictly accountable for their misdeeds. Such a momentous obligation requires the most careful and deliberate consideration of all parties of this trial. Mr. Justice Jackson, Chief Counsel for the United States in the prosecution of Axis war criminals, sums up the gravity of this responsibility when he stated in a report to President Truman on June 7, 1945, "The American case is being prepared on the assumption that an inescapable responsibility rests upon this country to conduct an inquiry, preferably in the association with others, but alone if necessary, into the culpability of those whom there is probable consideration to accuse of atrocities or other crimes."

Such a long and exhaustive inquiry has been made, and as a result of the untiring efforts of the investigators, these five accused now stand before you. The day of reckoning is at hand! Let us examine the evidence as presented to determine the part played by each of the defendants. First, I shall consider charge number one, and the specification thereof. Murder is defined by Section 53 of the Naval Courts and Boards as, "The unlawful killing of a human being with malice aforethought". The defendant Kato is the commanding officer of the 307th Independent Infantry Battalion. He has admitted before this commission that he was informed by a telephone call from the Brigade Headquarters that his battalion would receive a prisoner of war for execution. The witness Ikawa has corroborated this evidence, stating that he received this call and that the contents of this call were to the effect that the prisoner would be executed by the buddies of those Japanese soldiers who had died as a result of the American bombing raids. It is to be noted that this call was received some several days prior to the actual delivery of the prisoner and the defendant Kato made not the slightest move in protest or objection to the carrying out of this execution. Instead, we have seen that he actively participated in the carrying out of this execution as shown by the

"R (1)"

1148

witness Ikawa by telling Ikawa that he, Kato, would personally handle the matter. The testimony of Captain Yamashita confirms the contention that Kato was an active participant in this crime when he states that Kato directed him to carry out the execution. Although Kato did not and was not present at the scene of the crime, his conduct was such that by aiding, and abetting, the commission of this crime he is a principal therein and he is properly charged with the murder of the defenseless American prisoner of war in February 1945. There has been not a single bit of evidence to show that Kato did not fully assent and agree with the commission of this heinous crime. The prosecution desires to explicitly point out from the interrogation of Colonel Kato that he stated that the said executions were carried out in order to boost the morale and animosity of the Japanese forces. Knowing such an over all policy, his conduct emphatically shows that he was in full accord with the same. As is the case with most cornered culprits, he now attempts to shift the responsibility for his actions to someone else. The defendant Kato is not a youthful war zealot who can claim justification for his actions on the basis of any temporary militaristic fanaticism, but he represents the so-called "old line" senior officer whose careful scheming, conniving, and planning lead to the embarkation of Japan on a plan of conquest. At a time when he thought any means justified the end when he further never contemplated that he would ever be held accountable for these misdeeds, he was fully in accord with the execution of this prisoner and the general plan that it represented. It is to be noted that Kato knowing this execution was illegal and without justification, did not even bother to verify the order at the brigade. ccf

Next let us observe the part played by the defendant Captain Yamashita. It was he who actually directed the execution by selecting the site, the executioners, the means of execution, and by ordering the actual foul deed to be committed by the individual participants. The commission has heard the witness Kishimoto testify that it was Yamashita that assembled the executioners, lead the defenseless victim to the scene of the crime, directed and the digging of the burial pit in front of the eyes of the victim and ordered the executioners to spear and bayonet the victim. This testimony is corroborated by Yamashita's own testimony before this commission as well as that of Colonel Kato. It is further sustained by the witness Ikawa who stated he overheard Yamashita report to Colonel Kato that he had carried out the execution. As the immediate supervisor of this atrocity, who at his own discretion selected the executioners and the method of execution, the defendant Yamashita is clearly a principal as charged and must be held accountable for his deeds. It is he who is immediately responsible for the agonizing death of this American while tied to a telephone pole. ccf

The defendant Corporal Taniyama, was an actual participant in this crime as one of the selected bayoneters. The commission has heard the eye witness Kishimoto testify that he saw Corporal Taniyama bayonet the prisoner and this is confirmed by the complete admission of Taniyama himself in his testimony before this commission.

There cannot be the least doubt that Corporal Taniyama surely knew that an execution was to take place from the moment the victim was returned from the Brigade Headquarters to the 307th Battalion. The commission has heard the witness Sergeant Kishimoto state that Corporal Taniyama was one of those who accompanied him to the Brigade Headquarters to get the prisoner and that he,

Kishimoto, realized then what was to take place. It is only logical to conclude that Taniyama was fully aware that this prisoner, who was taken from his pine tree tied position at the Brigade Headquarters back to the 307th Battalion, was so taken, but for one specific purpose and intent.

The defendant Morito has been identified by the eye witness of the crime, Kishimoto, as being one of the men who speared the prisoner with a bamboo spear and this is corroborated by the testimony of Captain Yamashita and Corporal Taniyama. Morito was one of those who went to return the prisoner from Brigade Headquarters to the Headquarters of the 307th Battalion and there is every reason to believe that he also knew for what purpose the prisoner was being returned and yet he participated in the entire incident without protest.

The evidence concerning the defendant Oshida is based primarily on his own confession. This is sustained by the testimony of Captain Yamashita and Private Morito. Oshida confesses that he and Morito proceeded to the scene of execution with the prisoner knowing that other prisoners had been executed at this same site, and in this instance, knowing that this prisoner was also to be executed. He then stabbed the victim with a bamboo spear. There can be not the slightest doubt as to the part played by the defendant Oshida in the consummation of this atrocity.

Specification one under charge one, alleges that this crime was carried out by the defendants "willfully, feloniously, with premeditation and malice aforethought". The question then evolves, does the evidence presented sustain this allegation of the specification? Willfully is defined by Bouvier's Law Dictionary as meaning intentionally. Were the acts of each of the accused intentional? Intent must always be judged by the overt acts as committed by the accused. There is not the slightest evidence other than the self-serving testimony of the defendants, that they did other than they clearly meant to do. This victim was killed not by accident, but because the five defendants now brought before the commission, intended that he should be so killed.

The term feloniously is a technical term which is essential to the indictment of a felony. Its application and use in this specification is both proper and correct and applies equally to each of the accused. Malice is defined in the U. S. vs. Reed, 86 Federal Reports as follows: "By malice it is not necessarily meant in the law a malignant spirit, a malignant intention to produce a particular evil. If a man intentionally does a wrongful act which he knows is liable to injure another, regardless of the consequences. That is malice, although the man may not have a specific intention to hurt a particular individual". In Naval Digest of 1916, Page 394, it is stated, "An act is, in contemplation of law, done maliciously, where it is wrongful and done intentionally". Is there any contention that the conduct of each of the defendants was not wrongful? All evidence supports the claim that this felonious and diabolical crime was wrongful in every aspect from its conception! These defendants did just what they wilfully intended to do.

The specification further alleges that this crime was carried out, "without justification". As stated by Colonel Kato, the underlying purpose for such a killing was to boost the morale of the Japanese troops, and to increase their animosity against the Americans. This then is the motivating

force that prompts this execution! Any attempt to justify such acts is but to make a travesty of right and wrong! All of the evidence further supports the allegation that the victim was executed without any trial or other due process. This victim was but a human guinea pig, in the atrocious morale building conception of the defendants! 773

The execution is clearly established to have taken place on Chichi Jima and was carried out by the 307th Independent Infantry Battalion as it is alleged. The same is true that the victim was killed by spearing with bamboo spears and by bayoneting with fixed bayonets. It is likewise clear that the victim was an American prisoner of war. The name of Grady Alvan York is based upon rather meager circumstantial evidence. Major Horie testified that he believed the name "York" was the name of one of two prisoners of war whom he had interrogated in February 1945, but whose name he could not remember. The Bureau of Naval Personnel lists "York" as missing over Chichi Jima on 16 February 1945. The proof of this allegation is not material in any respect and it is a question of fact which the commission must consider as whether or not proved. The allegation, "each and together", is clearly proved since this term is employed in Navy Court Martial procedure in charging defendants who have acted together in the commission of a crime. The final allegation concerns the date of the crime as alleged, in the specification. The commission has heard the testimony of Major Horie, Sergeant Kishimoto, Captain Nakano, all of whom placed the crime as occurring the latter part of February 1945. Major Horie has stated that the three prisoners he questioned at the Detached Headquarters were returned to the Brigade Headquarters on or about 20 February 1945. Captain Kosuga confirms that they were kept just a short time at Brigade Headquarters before being returned to the 307th Battalion, and Kishimoto states that the flyer was executed the day he arrived at the 307th Battalion. From this it is obviously evident that the allegation "on or about 25 February, 1945" is proved. It is the contention of the prosecution that every allegation of the specification under the charge of murder is proved beyond all reasonable doubt and that each of the accused guilt is clearly established. 674

Charge two specification one and two, there under, deal with the defendant Colonel Kato. The prosecution's witness Hidano has clearly established that the murder has taken place as alleged and that Colonel Kato was present at the scene. Kato himself, has fully testified before this commission concerning his presence at the scene of the execution. The witness Hidano has testified that this execution took place in the Kominato area, within the territory under Colonel Kato's command. Colonel Kato has attempted to give the impression that he was not senior to Lieutenant Colonel Ito at the time of the executions in August 1944. I wish to specifically point out to the commission that in reply to the question as to whom other than the Brigade Commander was senior to him on Chichi Jima, Kato named not a single person, but replied, "I do not know". Surely there is nothing to indicate that rank is of so little importance to him that he does not know who was his senior on so small an island as Chichi Jima! The witness Ikawa has established Kato knew well in advance that these executions were to take place in August 1944. The passive acquiescence of Colonel Kato to the commission of this crime is evident by his own testimony that he made not the slightest move to oppose, delay or alter the carrying out of this crime which he knew was unjustified, and that he was at the scene of the crime to supervise his subordinates. 675

As the senior officer present, will anyone believe that he could not at least temporarily stay or prevent this execution had he so desired, irrespective of the self-serving testimony of Colonel Ito. His failure to restrain officers junior in rank to himself from participating in and carrying out this crime when they were in his presence and when they were in the area of his command, constitutes a flagrant violation of his duty to protect the American prisoner of war. For such tacit assent on his part and for his open failure to do his duty and protect these helpless, innocent prisoners of war, he is beyond all reasonable doubt guilty of neglect of duty and must be so punished. -75

Edward L. Field
EDWARD L. FIELD,
Lieutenant, USNR.

"R (5)"

1152

森川 郁雄

日本、於キミナ、一丸ニル、シエネーグ條約、批准サレテ
居リマス。

從テ今度、戦争中停戦取扱ニ就テ

軍独自、主場ニ於テ処理シテ居テ様デアルマス。

明治三十七、十八年戦役及明治三十八、十九年戦役ニ於

テハ、有賀長文博士、高橋作衛博士等、國際法、權威、軍長高橋同トシテ現地ニ出

海軍

張リテ居ミナ、右両戦役中列國タリ非難ナ

リキ事、靜ニアルヲ、デアリマス

然レ、今度、戦争ニ於キミナ、日本降伏ト同時ニ各

地、於テ糧ヲトシテ所謂戦争犯罪人トシテ起訴セ

ラル者多数ヲ集ム、デアリマス

此コソ日本軍最高部、於テ確カニ方針ナリ現地

司令官、裁量、任カセテ証デアルト云フアリ

リマス 故、社、司、店、店、以、外、一、將、校、ヲ、將、隊、ニ、附、ス
余、令、ハ、適、法、ナ、リ、ヤ、否、ヤ、ヲ、新、新、ニ、得、サ、シ、ニ、適、然、ナ、リ、
コ、ス、^非下、士、信、者、一、如、キ、ハ、余、令、ニ、違、フ、信、者、ヲ、殺、シ、テ、
カ、~~裁~~、市、法、規、ヲ、慣、習、ニ、改、メ、ト、シ、テ、名、辭、セ、リ、テ、何、
一、コ、ト、ハ、知、ラ、ズ、イ、テ、ア、リ、マス 況、ニ、ヤ、文、明、社、會、ニ、道、義
ニ、失、ス、ト、セ、リ、テ、一、ニ、至、テ、ハ、恰、モ、此、人、形、ヲ、難、解、ノ、理、論
ヲ、吹、テ、蘇、ラ、セ、リ、テ、如、キ、ニ、テ、石、ヲ、傳、テ、裁、キ、ス、ト、同、様

海 軍

テ、ニ、サ、イ、カ、ト、サ、一、感、ス、ニ、テ、ア、リ、マス
下、士、信、者、一、証、人、ヲ、當、法、廷、ニ、於、テ、傳、教、信、者、デ、ア、ル、カ、ラ
非、人、道、的、ノ、余、令、ニ、違、フ、ナ、リ、ヲ、ツ、ト、セ、リ、テ、意、味、ヲ、陳、述
ヲ、シ、テ、得、ニ、ト、シ、テ、名、辭、ヲ、ス、カ 孰、モ、日、本、人、カ、ラ、見、エ、ス、ト、此、
ノ、如、余、罪、ト、シ、テ、大、罰、セ、リ、テ、可、キ、ニ、テ、ハ、ニ、モ、十、ノ、事、ヲ、白、
シ、テ、述、ベ、テ、名、ニ、卑、劣、者、ヲ、ト、ス、テ、感、付、カ、ル、ニ、テ、ア、リ、

私、戦争犯罪人、希護ヲ欲シマス時、何時ニ處ニ
テアラスガ日本軍隊、於テ一番正直ト一番眞面目ト者
ガ一番損ヲシテ金ト使割ヲ減シテ居、一ツト思フデ
アラス。日本國由、ホアミシテ元敵敵ノ事スルイ者ト
要服、ヨイ者、何時ニ罪ヲ免シテ居、一ツアラス
我々、今迄一番ヨイ事トシテ考、一ツ要行シテ居、事
ニ限、持テ邪ナルニ至フテ、アアラス

海 軍

本件、被告人等が主張ト人格、持電アリ、命令、
前、ツ事、如、従順、忠實、従、ハカリ、金ト
地位、置、レ、居、一ツ見、シテ日本、考、一ツ居、道
徳、既、世界、ニ通用、シ、ハ、カ、ト、サ、感、不、水、度、ア
ラス 日本以外、諸國、於、ミ、シ、テ軍隊、由、放、
上、旨、命令、ニ、其、服従、ヲ要求、セ、一ツ居、一ツ

即犯余罪、規定、最トシテ存スルイデアリマス

此等、國デ、適法ナル命令、トアルニシテ其命令が不
適法、場合ニ、依令命令、罪延セストモ犯余罪、或主
ニタイハアリマス。然シ独、日本軍隊、於テコソ、適法

ナルト云フ條件、附イテ居タイイデアリマス 即上層、命令
ニ、不適法ナル命令、タイ亭、如何ナル場合デモ命令トシ
テ受セラレタ以上適法トイデアリマス 故、其正邪、一新

海 軍

新、要ニタイイデアリマス

此真、戦争犯罪の裁キル、場合イフクモ考慮セラレタ
ケルベナクモ兵ト深、信スルイデアリマス

Scap rule、上層又、政府、命令、従ヒタル有、犯兵
ヲ構成スルニ、ニアラズ、ト、規定アリマス

此規定、戦争指導者其が命令ヲト云フ、目已、責
任ヲ免ル、事、許サズ、ト云フ一應、大綱ガ是、

ラレタアルイデアヲ此レタム。大庭カウ下一兵卒ニ至
ルコデ一律ニ適用スル意味ト解ニテ、ナラヌト信ス
ルイデアヲ又其故、コソ但書トシテ捕、水、例、是、
権限ハ委員會。許サレテ居ル。ニアルト和ハ解釈
スルイデアヲ又

ホ、被告、外有ハ直ニ無罪ナト論スルニ、デア、
マモシサナトモ不件、被告ニ右條項但書、通

海 軍

州、コソ時、御願致シ度イデアヲ又

本件、殺人罪トシテ告訴セラル。居ル。イデア、
コソ

抑、犯罪ニ犯意ハ必要デアニト申ス迄ニアラ

マモシ

本件被告等、果シテ犯意ハアツタデアヲコソ

作爲、殺ストモヲ認識ニアラコト、否是致ニモ

カ其ハ戦争法規ヲ慣習、女ハ文明社會、道

義・又スト、意識ヲ果シテアツテアヘンコウカ

被害人家：寧ニ其ノ日本、道義、通フスト信ジテ

ニト私ニモアヘンコウカ

何トナルニ日本軍人トシテ軍規ヲ忠實ニ守リコソ

アリコソ 軍人トシテ命令・違反ニ有コソ被害人家トシ

テ：道義・又スト市トナルカラテアリマス

日本軍隊トシテ意識ヲ離レテモト高イ所ナリ

海 軍

即應々ニ示ホ、意解ニ於テ本件ヲ見ルナリト告解

ル：現解出来ルニテアヘンコウカ日本軍隊トシテ旅人

軍人トシテ何ナリ命令・違反ニ有コソ意イ、ナ

リトシテ疑同ヲ持テ得ルニテアリマス

故ニ死刑執行人カ死刑日、命令ニヨリテ殺ス、ト

同ジテアリナリ、此、殺人罪トシテ起解ニ、一、意：

何處、國ニモ、イハレテアリマス

之ヲ罰せしむ。法律制と云ふに違ひ性々欠けり
アツマス

本件、昭和三十年二月下旬、起り事件ニアリ
脱走島下、脱走中ニアリ、脱走中ニアリ、
。離るる島下、父島下、カ管大尉ニ云ひ、空襲
連日、如、脱走中ニアリ、脱走中ニアリ、
何時ニ陸上開始せうと云ふ、又、空襲、空襲、

海 軍

期ニアリ、正、敵前、アツマス

本國、海軍中隊、且、此、脱走中、脱走中
敵前ニアリ、場合、時、命令、脱走、強、要求せう
店、探、脱走中ニアリ、脱走中ニアリ

上陸せうと云ふ、且、脱走中、脱走中、脱走中
時、起り事件、脱走中、脱走中、脱走中
此等被害者、要求せうと云ふ、脱走中、脱走中

思ッザアッマニ 命令ッ出リ司令官コト同同、此
先正當ナト新部ニテ其命令ッ出リマストト信ス
ハ、ザアッマニ

此兵ニ而、是是ニ元令考慮セムベキト考ヘ、
ザアッマニ

加藤退告人、第二告部、付一言申上マニ

私ニ告部、状ヲ見マシ、海ニ告部自体ヲ不足議ニ出

海 軍

ヲ信ッザアッマニ

命令ヨリ上級、旅團ニ於テ作爲、必行スルコトヲ決定
シ之ヲ實行スル以上加藤、指揮下ニル地ニ於テ
置テ、之ヲ加藤ニ之ヲ抑制スル何事、海軍

ニハ、ザアッマニ

又伊藤、旅團長カ、命令ッ受テ其指揮下ニ加藤
ノ部隊、者、使用シテ時ニ加藤カ何處ニ先任

アツタモ原令権ニナインデアツタモ

假フ。副官デアル井川カ考加シテモットニアモ一旦採

團原令トシテ伊東一指揮下。入ヲ以ニ加藤ニ

何等、権限モナインデアツタモ 來團原令、存續中

ニ地ニ人共ニ加藤一指揮下ニナインデアツタモ職務

ニ何等、権限モナインデアツタモ

権限ナクモ、査任ノ同ノ事ニ成。然得ルモナインデアツタモ

海 軍

アツタモ

我、加藤、対ニ其ニ告訴、果シテ理目其ニ及ニ其ニ其、

無罪ナラントハ、論ヲ伏ツタモナインデアツタモ

本件、竹槍、付申述ツタモ

又島、竹ニ日本内地、竹トモ、果シテ竹槍トシテ、全、

用ヲナサヌニアツタモ

抑、日本、亦ナラントモ、右ノ竹槍、使ハナラナラ

致し、委員諸卿、御考慮、御願致し

名被岩人、指此、付述、見度、ト云

先、加藤山下、付ラ申エ

加藤：旅團司令部、作属一本、必利、原合

サレ、山下、原合致し、ト、所、ア、

高所、所、述、ト、云、日、本、戦、況、不、利、次、

不、利、空、襲、日、逐、ラ、激、シ、父、島、上、陸、甚、母、同、

海 軍

同、致、ア、

孫、加藤、飛、行、場、整、備、車、地、機、械、多、比、

性、ラ、長、疏、荒、島、ト、海、ノ、間、ラ、兵、ヲ、合、

前、線、ア、

原、合、拒、絶、ス、地、全、然、十、カ、ア、

加藤、サ、レ、ト、教、官、者、ア、子、其、信、者、ア、

人、間、ト、シ、サ、レ、困、ラ、事、ト、察、セ、シ、

前線に於て軍服を着て加勢、最早一人へ、

アッセン

前線に於て部隊長トシ、責任のアッセン、涙ヲ

流シテ山下、余舎にアッセン、甚くカフタコト、考ヘテ

山下モ我同に立場デアッセン、一度、推絶致シテ

居リヨル余舎トハビロウ付又事デアッセン

従弟部下、仲シテ父刑致シテ居リヨ

海軍

加勢山下、其日余舎に於て有、思ハズモ此機

に十二部ト三名ヲモ以て延、同に裁キテ受ル事

身命トテアッセン、サレバ新海、思ハ致

ル事ト思ヒヨ、月日日本入アツテ、其に備フ

事、其時一戦ハ軍將の致スガアッセン

山下、一度、加勢、對シ拒テ居、其トモツ兵

、是北野、御座談の場、一度ハ分アッセン

次、太山、泰山、却目、三石、指此、竹、木、草、
 太山、自、中、道、長、如、金、一、端、人、形、ア、ア、ア、
 流、ハ、ク、シ、ヲ、直、に、使、者、ア、ア、ア、人、種、ニ、果、
 同、人、因、ア、ア、ア、血、ア、ア、流、ア、ア、ア、
 何、ア、来、キ、度、イ、事、ア、ア、ア、
 何、線、ア、ア、ア、人、ア、ア、ア、如何、教、育、ア、
 イ、ト、人、ア、教、育、ア、ア、人、種、ア、ア、

海 軍

人、教、育、ア、ア、ア、知、ア、ア、
 彼、等、の、原、金、ア、ア、ア、世、原、金、ア、ア、ア、
 ア、ア、ア、人、種、を、信、念、ア、持、ア、ア、
 彼、等、の、家、持、ヲ、誤、解、ア、ア、却、取、取、
 ア、ア、
 彼、等、人、等、の、家、持、一、部、ヲ、取、ア、ア、
 ア、市、場、ヲ、抑、シ、陰、ニ、其、他、ト、ア、ア、

一、何、鐵炮トナツテ居ルハアリマス

實、情、ハ、平、岡、鐵、炮、者、ア、リ、マ、ス

時、御、同、情、ヲ、賜、フ、度、イ、ハ、ス、マ、ス

私、一、日、本、人、ト、致、ス、ル、ヲ、身、ハ、恥、ト、ナ、リ、テ、思、フ、

作、爲、ニ、對、シ、波、告、人、等、ト、モ、ハ、カ、ラ、異、情、ヲ、祈、

テ、止、マ、ス、イ、エ、マ、ス、マ、ス

海軍新聞

CONFIDENTIAL

1167

ARGUMENT FOR THE DEFENSE

DELIVERED BY

SHIZUO MORIKAWA

The Geneva Treaty of 1929 was not ratified by the Japanese government, and it would appear that in this war, the military forces of Japan dealt with prisoners from their own original standpoint.

In the Sino-Japanese War of 1894-5 and in the Russo-Japanese War of 1904-5, Dr. Ariza Chobun and Dr. Takahashi Sakue, authorities on International Law in their time, were personally engaged at the front as high advisors to the Japanese forces, thus making it ~~rate~~ that Japan was criticized by any foreign nation.

But simultaneously with the end of this war, a great number of persons have been arraigned as so-called war criminals throughout the war area. I can say that this is proof of the fact that the Japanese Supreme Military Authorities did not promulgate any definite policy concerning prisoners, and left this to the free decision of the local commanders. So I believe that it was impossible for any other officer other than the commander himself to decide whether the order was legitimate or not, and thus cannot understand why the enlisted men and non-commissioned officers are being charged for violating the laws and customs of war by killing prisoners; furthermore, when it is said that they acted "against the moral standards of civilized society", it is as if submitting a difficult argument to a clay doll, and I feel that it is the same as binding a lifeless rock and negotiating with it.

One of the non-commissioned officer witnesses for the prosecution has testified in this court, in an unashamed manner, to the effect that since he was a believer in Buddhism, he did not carry out inhumane orders. But as we Japanese see it, he is the one that should be punished for disobedience to orders and we suspect that he is a coward telling a down and out lie.

In defending war crime suspects, I always feel that in the Japanese forces the most honest and straightforward persons have been the losers because of this integrity. It is the same in Japan itself since the war ended; the crafty and the clever always elude punishment, and we have started to doubt what we have heretofore believed was right, and in accordance with which we acted. The defendants in this case are all of respectable character, and simply because they carried out their orders with childlike faithfulness, they find themselves now in a grave position, and I have come to think that what were considered moral values in Japan are no longer accepted by this world.

In other countries too, obedience to orders from superiors is required in their respective military forces. The regulations on

"T (1)"

punishment for disobedience to orders are sternly set forth, but in many countries, it is the obedience to legitimate orders that is called for, and when a given order is illegitimate, disobedience to this does not constitute an offense. But in the Japanese Armed Forces alone, the term "legitimate order" does not exist. It is considered that there cannot be such a thing as an illegitimate order from superior authorities. Always, and in every case, once issued as an order, it cannot be illegitimate, so there is no need to judge whether it is right or wrong.

I am firmly convinced that this is one point that must be taken into consideration when trying war crimes cases.

There is a regulation in the SCAP rules that "action pursuant to order of the accused's superior, or of his government, shall not constitute a defense".

This regulation was set down so that the war leaders would not be able to wriggle out of their responsibilities under the excuse that they had only carried out orders. I believe that it is improper that this be taken in such a way as to be applied indiscriminately from high officials to a lowly enlisted man. That, indeed, is why, in the proviso to this regulation, the authority to take any extenuating circumstances into consideration is given the Commission, as I interpret it.

I am not immediately arguing that the defendants in this case are not guilty of their action, but I plead that they are especially worthy of having this proviso applied to them.

The defendants in this case are being charged with murder. It is not necessary for me to mention that criminal intent is necessary in a crime. If that be the case, could the defendants be said to have possessed criminal intent. I do not deny that they had cognizance of killing the prisoner, but did they actually recognize that by this act they were violating the laws and customs of war and the moral standards of civilized society.

It was because they were faithful to their military discipline as Japanese armed forces personnel. And as military men, to go against orders was indeed to violate their moral standards.

The charge can be understood if one looks upon this case from the higher and broader standpoint, having separated himself from the point of view of the Japanese forces, but within the narrow limits of the Japanese forces themselves, it is possible to have doubts concerning this charge as "How could one commit evil by being obedient to orders?"

It is similar to an executioner killing a condemned convict by order of the court and there is no nation that would commit the folly of charging him with murder. The reason the executioner

"T (2)"

is not indicted is in legal terms, because his act lacks illegality.

This is a case which occurred in the latter part of February 1945, when a terrible battle was being waged at Iwo Jima, only thirty minutes away by plane and as Captain Kosuga has testified, Chichi Jima was subject to air raids day and night, with the airfield there being knocked out frequently. It was a truly acute situation, with the enemy landing expected at any time. Certainly, the Japanese Forces on Chichi Jima were facing the enemy at this time.

I understand that in the regulations on the punishment for disobedience to orders which I think are set down in Section 4 of the Naval Courts and Boards, the obedience to orders is most rigidly required when facing the enemy.

I think that it is unreasonable to require of these defendants that they judge for themselves the right or wrong of the order, since this incident occurred in a perilous time when fate hung in the balance as an enemy landing meant sure death for all.

I believe that the highest officer in command issued the orders, judging them to be just, considering the circumstances surrounding them. I think that this point should be considered fully in deciding the sentences in this case.

I would now like to speak on the second charge against defendant Kato.

Looking at the charges, I think the charge in itself is strange. As the decision and the carrying out of the execution of the prisoners was done by the Brigade, which was superior to Kato, Kato had no authority whatever to restrain this even though it was carried out in his area of command.

When Lieutenant Colonel Ito received orders from the Brigade Commander and used men from Kato's unit under his command. Kato did not have the authority to issue these orders, in spite of the fact he might be Ito's senior in rank.

Supposing that Captain Ikawa who was Kato's adjutant did participate, once he was put under Ito's command by a Brigade order. Kato loses all authority over him, and as long as the Brigade order is effective, the district and personnel together are not under Kato's control and thus Kato had no authority at all officially.

To hold one responsible for a matter in which he had no authority is something we find hard to understand. I believe it is not necessary for me to explain why Kato's is not guilty to the specifications one and two of the second charge, as the case is just as I have shown.

"T (3)"

1170

I would like to speak on the bamboo spears in this case.

The bamboos growing at Chichi Jima are quite different from those in Japan, and are completely ineffective when used as bamboo spears.

In Japan, bamboo spears have been used since ancient times. In the Kobuki, or the Japanese classical drama there is a scene familiar to all Japanese called the battle of Yamazaki, in which General Akechi Mitsuhide is speared with a bamboo spear and then beheaded.

I had previously heard frequently that bamboo spears were being prepared with which to combat the enemy on the occasion of their landing on Japanese shores. We cannot think in any way that by using bamboo spears, the degree of brutality was increased. It has been said traditionally of the bamboo spear that it causes less suffering than real spears and reduces the possibility of erring in one's stab.

But in this case, although they were used, they were of no value at all, and I beg that you take notice of the fact that they actually were ineffective in this murder case.

So Morito and Oshida, who are said to have used bamboo spears in this case, actually failed in their purpose in this murder case, and especially Morito has emphasized that he only showed the stance for bayoneting. I beg that the Commission take this fact into consideration.

I would like to speak on the circumstances of each of the defendants. First on Kato and Yamashita. It is apparent that Kato was ordered to execute one prisoner by the Brigade and gave this order to Yamashita. The circumstances at that time were just as I have stated before, the war becoming unfavorable for Japan, and the bombing more severe each day and the enemy landing on Chichi Jima was considered only a matter of time. Especially, Kato was busily engaged in repairing the airfield and constructing positions as Chichi Jima was indeed the front line, separated from Iwo by only a narrow span of water. There was absolutely no room to refuse the order.

Colonel Kato is a Christian, and so is his child, and therefore this incident must have been doubly hard for Kato as a human.

Kato at the front with his military uniform is no longer his own personal self; he has his responsibility as a unit commander, and I think it was quite unbearable for him to give the orders to Yamashita, brushing away his tears.

And Yamashita too, was in the same position. Although he did refuse once, he had no other alternative as it was an order. So he took along his subordinates and executed the order.

"T (4)"

Since Kato and Yamashita, under duress issued these orders their three poor subordinates have come to be tried before this same court, and I believe that their hearts bleed with pain to think of this. I who, am a Japanese feel that it is quite unbearable to think of their feelings I beg that you understand their feelings fully in this case.

I ask the honorable members of the Commission that they take into their special consideration the fact that Yamashita once did refuse the order.

Next allow me to speak on the circumstances of Taniyama, Morito and Oshida.

Just as Taniyama himself stated before this court, they were truly puppets manipulated by orders.

Though their race may be different, they are the same human beings, and have their joys and sorrows. How could they have willingly stabbed the prisoner?

If it was not for the fact that they were at the front, if it were not for the fact that they are military personnel. However, little education they may have received, it is the natural human feeling not to want to kill people. They understand well that it is evil to kill a person.

They did this act because of orders, and only because of orders. They did not commit any evil; this is their strong belief. I beg that you understand their feelings in dealing with them.

The families of the accused are by no means well-off, but they are concealing the facts about the strained conditions at their homes before the stern fact of defeat and there are the sacrificing of this war. They indeed, are the pitiful sacrifices of the military clique. I beg you bestow on them your exceptional sympathy.

As a Japanese, I with the defendants sincerely pray for the repose of the souls of the one time prisoners.

SHIZUO MORIKAWA.

I certify this is a true and correct translation of the original argument of SHIZUO MORIKAWA, in Japanese to the best of my ability.

M. D. Arvey
M. D. ARVEY,
Lt. (jg) USNR.
Interpreter.

"T (5)"

1172

辯論

伊地知重厚

今日我共の日本人に對し、二種の戦争犯罪の裁判が開始せられて居ます。一つは東京で開始せられて居る大連で、一つは此「アーク」島の法廷と云ふ内地の演壇。外地の上で、マニラ、シンガポール等に開始せられて居る裁判であります。東京に開始せられて居る戦争犯罪の裁判については、國府はこの方針について、大の関心を持つて居ます。と申しますのは、軍閥、指導者等が我々日本の國府を何と知らん下には、多量の夫、父、子と此の戦場に追ひ込み、國內に在る家は焼かれ、多量の孤獨者と生ぜしめ、挙句の果には、今日の重厚と飢饉を招来致し、我

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争をやつに計劃し、如何に進展せしめたいか、又その間に役等が如何に暗躍したかが裁判の進展に伴ひてにせられて、あるからであります。この裁判には被戦争に對し如何なる判決が下されべきかと夫には大した問題ではありません。之に及し、一校兵と云ふ「アーク」島一行は、これで行はれて居ます。我々の裁判に對しては、國府全般がその結果に、大なる同情、大なる憂慮を以て之を看守つて居るのがあります。

漸く戦争が終つた。假令敗戦。慶喜日は見えず、この「アーク」の夫が歸る、父が歸る、子が歸る、と来る。又し振りに一家にドット、飲音が上つた

のであります。然もこの金縛にこの父、この子、この父
が戦争犯罪の容疑者として裁判に附せられる。一交款
を上げた父に之等の家族は尚一層の悲歎にくれ
たのであります。殊にこの判決が重いと聞くとは
深慟に突き動かされて、極に絶望を感じて居る
のであります。

此等之等の被害者は何れも好んで進んで被害
の虐待や殺害を行つてゐるものではありません。一つに上
官の指揮命令に従つて行動してゐたのであらうであ
ります。とり此の故に正に判決を受け極と致し
て居ます。被害者も証人の証言によつて明かにな
りしむるに全く上官の命令によるものである

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し何等被害の意思的に違ひに、企圖と悪意を以
て行つてゐるのではないのであります。

何れの國の軍隊に於てもさうであつて、日本
陸軍に於ても、これは上官の命令は非常に嚴格とし
ておられ居るのであります。日本軍隊の創設は
今から約七十五、六年前の明治の初年であり
ました。日本の男子は満二十歳に達しますと兵
隊に服する義務が金じました。明治の軍新があ
つて、幾年を経つて居るまでも、當時の大多數の
國々は強と無智の状態に在つてゐるものであります。が
之を兵として教育して、訓練し、率數し、すには上官の
命令は絶対至上にして之に違反すべからずとする

英三三三三(大・新・新)

ことが最も敢要であつてあります。明治十五
年々から六十五年前でありますに陸海軍人に賜
つた勅諭にも此は特に強調されて居ます。「
上官の命を承ふこと實は正に朕の命を承ふ義あり
といふよ」と申へるべく居ます。日本陸軍では
之を敷衍して受命者は命令の當不當を論じたり
又はその實行と躊躇するからと帝に教へて來
たのであります。且大命令を受け之を實施
する者は、この統率について責任を負ふ事なく、命
令と發した最高の指揮者が、全責任を負ふとの
立場を採つたのであります。之は加藤少佐の
証表した通りであります。之が懐疑性という

3.

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法學士

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これは本陸軍の傳統と云つたものであります。上官の
命令とあれば爆薬を懷いて戦車の下敷にしる
軍隊が出來たのであります。

ずく処に居ますと本國の軍律には直轄の命令
と言ふ言葉があるものであります。然し命令には
直轄せらるる命令があるやに考へるのではありません。
日本軍隊には直轄せらるる命令は之をや想す
ることはあつたのであります。畢竟せに止しきま
ぬに命令による行動の責任は之と下した命令
者に在つて之を遂行した下級の者には全然無い
例に命令を受けし下級の者は之と之を尊信
したのであります。所司知の事と考へますが、陸

(東京三五一七(大・表四第))

軍の青年将校が中心となり、多額の兵と引率し、多額の武器を持ち出し、時の総理大臣以下と激しく、多額の国家重臣と暗殺し、官城の肉、総理大臣官邸、陸軍省、内務省等とに接し、た所謂二、三の事件に就き、これは、打撃く「ア」みはに、おし、之、然、陸軍省、内務省、利を我と、これに、軍法会議、結果は、主、其の、将校に、対し、之と、死刑に、処し、て、あります、が、其の、他の、者、及、下士、及、下兵に、対し、は、命令に、従く、り、する、理由と、して、起訴、する、もので、あります。

4.

本件の、り、は、れ、す、一、九、四、五、年、二、月、の、下、旬、は、硫

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黄島。我は、吾方、は、ら、に、玉、粹、に、い、ん、ん、父、島、に、は、れ、と、毎、日、の、形、に、空、襲、が、あ、り、時、に、艦、砲、射、撃、の、あ、り、あ、り、將、兵、に、い、ん、の、敵、の、上、陸、は、け、の、父、島、に、あ、る、この、憤、恨、と、固、め、さ、し、た、状、況、下、に、存、存、の、処、刑、は、命、せ、ら、れ、る、と、あ、り、ます。

戦、り、場、の、將、領、も、他、で、多、く、と、極、め、こ、ん、ん、大、佐、は、之、が、父、室、に、困、惑、し、か、は、大、佐、に、命、せ、ら、れ、山、下、大、尉、は、一、死、は、之、と、拒、絶、し、る、と、あ、り、ます、が、再、次、の、命、令、の、前、に、は、止、り、な、く、之、を、遂、行、し、て、あ、り、ます。右、山、下、大、尉、は、下、の、兵、は、何、と、孤、獨、に、お、し、ま、せ、う。命、令、の、ま、に、死刑、に、あ、つ、た、と、あ、り、ます。この、命、令、に、従、く、り、動、と、父、室、に、あ、つ、た、と、

東京三五二七(新・大内閣)

“ウ”

言ふのでありやう。是れは日本の陸軍の支那から中へ
 へば強き者なる旅團長こそ之が責任を負ふべ
 きものである。この旅團長は下の兵士は之が責任
 と負ふべき者ではない。殊に右山は中
 しに兵士も上以上の命令には忠実に服従す
 べしと常に教育された。自ら等は士兵と言ふ
 人刑使の命令とまづ共に操るれた操る人刑に
 過ぎない。何等の魂のない人刑に過ぎないとな
 となつて居ります。右山のまゝ居りますと
 此被る者の五人の兵士は操る人刑である
 ります。何等のいふ罪ありと此にせよと
 せよとせよは彼等にとつて全く解し難き事

5

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であると言ひます。
 軍狀項目に居りますと、何等の父は右陸
 軍に違ひしに於て文成社会の者に違ひすると
 するところがある。はた陸軍に於ては上なる
 の命令に服従する者日本の者に違ひする
 である。である。右道新を捉へて上
 命令に従ふものである。である。

次にこの旅團長に關する事は右に於いて極く
 學に申上げます。兵士の行はれしといふ言は成
 る程の旅團長の支配下に在りし。この旅團長
 の上なる旅團長は更に一層強力なる支配力と
 持つて居ります。旅團に於て之を使用する

... "U5"

この又陛下に在つかはたは何等之に抗議する
事は出来ません。

之を實施して伊勢中たは花岡長の命
令による公務を執りしものとあります。彼は之
と抑制する事は出来ません。もし彼が伊勢中たを
抑制致ししなら彼は伊勢中たの公務の執り方
案の面に於てとして軍法會議に附せらるゝとい
ります。彼等は花岡から直轄伊勢中たに引
度こられしに之を保護しやうにも保護が出来な
かつたのであります。

彼は又井の大敵に必死の決心をたし又何等の
其の義理をせよといふのに何故に所動せられ

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か不思議に思つてゐるであります。

之に申述へしあなたに於て是れを全く無
罪であります。

戦争犯罪文書の目的が明白になつてゐるは存
しませんが將來を以て再び戦争を戦ひ侵
略戦争を繰り返さぬものであるとすれば、戦争
は本は一兵卒たりとも死なねばならぬ。一戦闘
機さへ所存する事があるまい。この侵襲戦争の
結果としてこれに到達せし積極的起しは
ありません。又はせやうに彼等の不法行為に對
する目録同定には此の最嚴な懲罰を以て
あらば、それでは済まないと存じます。上

及の余は可憐子の美態を述べず之が趣を傳へんとて吾人の故郷の上に回し、これに彼等と強制した指撝及に父罰を以てしなると。

私共は信じます。お隣に及し文の此等の道義に盡きしむる故として「お金持」に対し峻厳なる父罰が加へらるるや、余等とて、強制せられた一箇の操り人形、ぬきぬき人には、これは全く峻厳なるものではな。全く冷酷なるものではな、と信じてゐるであります。

7 何れに彼等等に罪ありと断せられ、これ「スサノハ」に上はの命令を蒙りしむる

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は何事玩弄とはならぬ。吾等がもし此の心我に直つたとせば、それは刑罰の強威に於て懲せらるる事と爲りて定められよう。何卒此等には、深き憂ひを感ぜしめんと存します。

12-1

伊地知重厚

ARGUMENT FOR THE DEFENSE

DELIVERED BY

MR. SHIGEATSU IJICHI

Today, two different kinds of courts are trying our Japanese war criminals. One of them is the one being held in Tokyo and the other held on this island of Guam, at Yokohama, at Shanghai, Manila, Singapore, etc. The people of Japan are probably most interested in the progress of the war crime trials being held at Tokyo. By this I mean that they are more interested due to the fact that the Japanese war leaders, without informing their own people, did plan and develop and secretly maneuver a war which threw so many beloved husbands, fathers and sons into the jaws of death, while in the homeland houses were leveled and innumerable casualties resulted. That this war finally brought about humiliation, disgrace, and starvation is becoming clearer as the trials progress. In this trial it is not such a grave matter to the Japanese people how severe a sentence be given these war criminals. But on the other hand, the whole nation is watching for the results of the trials like those now being held at Yokohama and Guam with deep sympathy and anxiety.

Even though the war terminated in bitter defeat for the Japanese, their beloved husbands have once more come home; fathers and sons have returned. Voices filled with joy ring out for the first time in a long while. The next instant these husbands, fathers and sons are placed before a court to be tried for war crimes. Their homes once so brightened with joy are now dark with sorrow. Especially since the sentences are so heavy, they feel hopeless as if thrown into the pits of darkness.

Furthermore, I want to say that none of the accused did in the least, voluntarily or spontaneously maltreat or kill the prisoners; they merely moved in accord with the commands and orders of their superiors.

These defendants, who are about to receive their verdict, acted solely on orders from their superiors, as shown clearly in the testimony of the witnesses, and in no way did they act with premeditation or malice aforethought, nor did they act wilfully and unlawfully.

As it is in any military force, in the Japanese Army orders from a superior were rigidly observed. Absolute obedience to orders from one's superior is required. The Japanese Army was established in the first years of Emperor Meiji, about 75 or 76 years ago, and when a Japanese male reached the age of 20, it was his duty to serve a period in the armed force. Although there was the reform of Meiji, this system did not change. At that time the majority of the Japanese people were in an illiterate condition, and to train these military personnel and control them, it was most vital that an order of a superior be considered absolute and

"V (1)"

1180

supreme.

In the fifteenth year of Meiji, which is about 65 years ago, that the Imperial Rescript to Army and Navy Personnel was granted, and in this Rescript it is emphasized that "On receiving orders from your superior, understand that it is to be taken in the same way as if I had issued the order myself". The Japanese Forces, elaborating on this point have since been educating its personnel that the receiver of orders is not to argue on its properness nor hesitate in the execution of the order. The Army holds the position that the person who received the order and executed the same is not to be held responsible for the results and the highest in command who was the source of the orders assumes full responsibility. This became the customs and tradition of the Japanese Army. Thus, it was that an Army came into being whose men would jump to their deaths under oncoming tanks with packs of powder to blast the tanks out of existence.

I have heard that in the American Military Code there are the words "lawful order", which shows that it is considered possible that an unlawful order be issued, but in the Japanese Army, it was not even imagined that there could be any such thing as an unlawful order.

Since the responsibility for action pursuant to an order was placed entirely on the issuer and not the receiver, as I have mentioned, the subordinates executed orders with a sense of security.

I believe that the Commission has knowledge of this, but in dealing with the 226 terror incident which occurred in Tokyo when a group of young Army officers led a number of soldiers and after procuring a great amount of arms attacked the then Prime Minister and other high government officials, assassinating many of them, occupying the environs of the Imperial Palace, the Prime Minister's official residence and the Home Ministry, the Army authorities took a severe attitude in punishing the perpetrators, and as a result of a court martial, all of the chief plotters among the officers were given the death sentence, but due to the fact that the enlisted men were acting pursuant to orders, they were not even indicted.

In the latter part of February 1945 when this particular case took place our forces on Iwo Jima were about to be wiped out, and Chichi Jima itself was subject to air raids almost every day, and even shelling from vessels at times, and the officers and men were resolved as of one mind that the next enemy landing would be staged on Chichi Jima. Under these critical circumstances, the order to execute the prisoner was issued.

Colonel Kato, who was the Battalion Commander, was at a loss as to what to do when given the order, and Captain Yamashita, who was given the order by Colonel Kato refused this once, but as

the order was repeated, could do nothing but carry it out. What chance was there for Taniyama and the other men to waver or hesitate? They only carried out their orders by taking part in the execution.

If the men are to be punished for merely following orders, it would differ from the standpoint of their Army education, which would indeed, name the Brigade Commander as the person who should assume the full responsibility, and not Colonel Kato and his subordinates. Especially as Taniyama stated, they had been indoctrined that their only course was immediate obedience to orders. They were puppets who were moved by strings which were orders and these strings were manipulated by the officers. They were puppets without souls. Borrowing Taniyama's own words, these fine defendants were only puppets. I know that it must be quite hard for the five defendants to understand why they are sitting before this court with charges against them.

According to the specifications, the action of the defendants violated the laws and customs of war and at the same time acted against the moral standards of civilized society. In the Japanese Army, it was morality itself to be obedient to orders from superiors; it was moral to follow absolute orders - orders which were above all morality.

I would next like to say a few words on the second charge against Colonel Kato. Although the Kominato district in which the execution was carried out actually was under the control of Colonel Kato, his superior, the Brigade Commander had more powerful authority of control. When the district was used by the Brigade, it was impossible for Colonel Kato, who was under the command of the Brigade, to make any protests against this.

Lieutenant Colonel Ito who carried this out acting under the Brigade Commander's orders, and so was performing an official duty, Kato could not restrain this. If he did do so, he would have been court martialed for interfering with Lieutenant Colonel Ito's in carrying out official duties. As the prisoners were handed over to Lieutenant Colonel Ito directly, there was no way for Colonel Kato to protect them, no matter how he had tried to do so. He feels it strange that Captain Ikawa who did not participate in this was punished.

Colonel Kato is absolutely not guilty of the second charge. I do not exactly know for what purpose these war crimes are being prosecuted, but if it is to prevent Japan from repeating its imperialistic aggressive war then the fact that now Japan is not allowed to maintain even one soldier, nor one fighter plane today. Japan's objectives are far from waging another war and it is impossible that such plans could be actively carried out. If it must be on a principle of retaliation, an eye for an eye, and a tooth for a tooth for the unlawful acts that Japan committed, I beg that you do not persecute these five defendants who did nothing but to carry out the orders of their superior officers, be it right or wrong, but punish the commander who forced them into committing such an act.

"V (3)"

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We believe that if, because of committing acts violating international law and contrary to the moral standards of civilized society, a severe punishment is to be meted out to the whole nation, this policy should not be applied in the same way to individuals who acted under orders like puppets. I believe that it should not be so severe towards these individuals.

Even if the defendants are found guilty in this case because it is stated in SCAP rules that action pursuant to the accused's superior or of his government shall not constitute a defense, it is added that the circumstances may be considered in mitigation of punishment if the commission determines that justice so requires.

I beg your deep consideration on this point.

IJICHI, SHIGEATSU.

I certify this is a true and correct translation of the original argument of IJICHI, SHIGEATSU, in Japanese to the best of my ability.

M. D. Arvey
M. D. ARVEY,
Lt. (jg) USNR.
Interpreter.

"V (4)"

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ARGUMENT FOR THE DEFENSE

DELIVERED BY

DONALD H. DICKEY

LIEUTENANT COMMANDER, USNR.

I can add but little to the able arguments of the other defense counsels in presenting to the commission the reasons why the defendants are not guilty from their point of view of the crimes charged here. I think it is obvious from the evidence presented before this court that not one of the defendants moved against the prisoner except under orders. Nothing has been shown which would give any indication that any of these persons acted voluntarily and of their own free will to subject the prisoner to execution. The prosecution has shown that the order came from the junior adjutant of the Brigade Headquarters to Colonel Kato's Battalion to carry out the execution. And Colonel Kato freely admits and assumes responsibility for selecting Captain Yamashita to carry out Major General Tachibana's order. The enlisted personnel, either before or at the scene of the crime, received their orders from Captain Yamashita. All acted under direct orders. As Americans we now sit back in the security of having won the war and say to the conquered peoples - "You should not have followed orders". "You should not have acted in accordance with the teachings of the Majji Rescript and the basic instructions of your own military training. You should have adopted the western point of view long before the war. Your ideas of military discipline are all wrong and therefore you have violated our ideas of what should be done."

From our lofty American pinnacle of righteousness - for obviously "might does make right" we say that every person in the Japanese military forces should have been completely aware of all the provisions of the various conventions and the finer aspects of international law, and have carried out those provisions under any and all circumstances. The actual fact that Japan never actually ratified the Geneva Convention with regard to prisoners of war, and that their agreement to abide by its chapters did not come until after the beginning of hostilities is of no moment to us. We followed these acts - theoretically - so they should. So now, in these war crimes trials, we insist that leading privates should have argued with major generals that it was "illegal" to kill a prisoner - and since they failed to do so, find them guilty of murder.

The prosecution finds itself shocked that there was so little attention paid to the execution of a prisoner, and that all those concerned could not remember all the details of what went on. And yet the testimony has shown that at the time of the commission of this event, the area was subjected to

"W (1)"

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repeated and continuous bombing attacks by the Allied forces. All hands were working night and day on their defense positions and the repair of the damaged airfields. I believe that as a practical matter it can be recognized that actual combat and preparations for the immediate repelling of American forces might take greater importance in the minds of all than the execution of one prisoner. For at that time the battle for Iwo Jima was in progress - and of course, the forces on Chichi Jima could not know that the attack was to center on Iwo only and not be continued on to Chichi Jima. In fact, apparently the Japanese strategists expected the conquest of Chichi as more logical than Iwo and had made even greater preparations at that point for repelling the enemy than they did at Iwo. So Colonel Kato, who was spending day and night, literally, in the perfecting of defenses and supervision of the repairs wrought by bombings, paid little heed to the order from the Brigade Headquarters to carry out the execution of a prisoner which would be turned over to them later. He assigned the job to his subordinate and continued with the more essential work.

Captain Yamashita, after protesting to Colonel Kato that the assignment was unpleasant, and being directed by Kato to carry it out nevertheless, went ahead with the preparations - and in doing so ensnared the enlisted men before this court into the commission of an act which brings them up on a charge of murder. And yet, not one of these men feels that he has committed a murder. War involves killing, and that killing is carried out under the orders of superior officers. From the Japanese point of view, those orders are just as effective whether they involve an armed foe or a disarmed foe. The fanatical way in which the Japanese fought to the death - which has been reported time and again thru the press and other sources during the war, is proof that they expected no quarter if they surrendered - and consequently, they gave no quarter to those they captured, conventions and treaties not to the contrary. And thru-out this entire picture runs the thread of "absolute obedience to orders" which is ingrained in every Japanese soldier and which is their reason for their actions in this case. Please note too that there is no evidence of actual malice in this case - no sadistic torture of the prisoner prior to the actual execution, no mistreatment - merely an execution carried out under orders of the commanding officer of the island. And the use of bamboo spears was not in itself an aggravation of the crime - from the Japanese point of view. Japanese bamboo has long been used as a combat weapon, and found as effective as bayonets for the same purpose. The bamboo on Chichi, being of a different variety, did not have the effectiveness of the Japanese spears.

With reference to the evidence offered under the first charge in this trial, may I point out that the prosecution itself offered no evidence against the defendant Oshida other than his own confession which was obtained under conditions which we still insist should have made it inadmissible in evidence. May I further point out that under both general court martial

"W (2)"

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practice and civil practice, an accused may not be convicted on his extrajudicial confession alone. It must be corroborated by independent evidence. Furthermore, the acts and statements of a conspirator made after the common design is accomplished or abandoned are not admissible against the others, except acts or statements in furtherance of an escape. There was no evidence placed before this commission involving Oshida other than his own statement and some conflicting statements on the part of co-conspirator. It will be interesting to notice whether these fundamental concepts of law are applicable before military commissions trying war crimes.

With reference to the second charge, it is indeed hard to know how to argue effectively. We believe that we have proved beyond all doubt that Ikawa was not an active participant in the execution which took place in August 1944. Only one person who was there saw or heard him give any instructions to the executioners. This is the testimony - but emphatically - of Lieutenant Colonel Ito, who stated he would not have allowed anyone else to take over his place as instructor at the scene. It is confirmed by Hidano, by Kato - by everyone except Okamoto. Only Okamoto's testimony alone places Ikawa in an active position in the crime - and we have surely shown that Okamoto is a liar on the first water. He has confessed to Ikawa that he doesn't even know whether Ikawa was present or not - but his testimony of the stand was quite otherwise. His story before the board of investigation compared with his testimony before this commission shows a great many vivid contrasts in facts. Okamoto, by his lies, involved Ikawa for reasons known only to himself. Yet we cannot expect the commission to believe our contention that Ikawa is innocent - since they have already sentenced him to twenty-five years imprisonment for his part in the crime.

We contend that Kato had no duty in connection with the execution of August 1944 and therefore no neglect of duty. Naval Courts and Boards says "A duty may be imposed by a law, regulation, order or customs of the service in force at the time of the commission of the act". But what law, regulation, order or duty is to be the criterion of duty in this case? The charge is laid under international law, and it is incumbent upon the prosecution to set forth with particularity the duty which devolved upon Kato under these circumstances. The defense has shown that, in spite of the fact that the action took place within his area of command, that his control of that area and the people therein, so far as the execution was concerned, was superceded by orders from the Brigade Commander, who had delegated his authority in this matter to Lieutenant Colonel Ito. The prisoners were never under the control of Colonel Kato. The driver who picked them up at the Detached Headquarters and took them to the site of the execution had Lieutenant Colonel Ito with him - and the control of the prisoners themselves never passed from Ito to Kato. The prosecution has emphasized that Colonel Kato made no attempt to verify that there was an order from the Brigade Headquarters. The fact of the matter remains that there was such an order and it had full force and effect, whether Colonel Kato checked it himself or simply believed his adjutants. Major Horie has also assured the commission that under the circumstances which occurred in August 1944, Colonel Kato had no power to interfere in any way with the events, had no duty to protect the prisoners which

were brought into his area. Since Kato had no duty with regard to Lieutenant Colonel Ito and Leading Private Shimura, and could not have prevented their actions, and since he had no control or duty toward the prisoners which were brought to his area under the orders of General Tachibana, there is no neglect of duty there. The only remaining question is - whether he neglected his duty in not restraining Ikawa from taking part in the execution. We have tried to prove that Ikawa had no part in this affair - but since this commission has previously decided otherwise, we cannot press this contention successfully for Ikawa was under Kato's orders and control.

We should also like to point out that the proof that the victim of this execution was Alvin Grady York, as presented by the prosecution, is of the flimsiest fabric. True, it is that York was lost in the Bonin Islands about this time- but so were a great many other persons, the names of whom the judge advocate on the witness stand did not bother to read from the dispatch. Major Horie's testimony in this regard is so vague and unsatisfactory that the commission would be fully justified in finding the name of the prisoner "not proved".

The testimony thru out this trial, both by the prosecution and by the defense witnesses, is so conflicting and at odds that it is extremely confusing. Since it the province of the commission to weigh the evidence and decide where the preponderance of proof lies, we will make no attempt to diagnose the facts. We would point out however, the grave discrepancies in regard to time, who was present, the relative position of the various enlisted men in the execution, the manner in which the victim was dressed, the choice of weapons used, the condition of the prisoner and various other details set out from the witness stand before this court. You will note that the stories of the defendants as told from the witness stand differ radically one from the other- and each insists that his is the true story, both under oath and to their counsel. It is for the commission to decide wherein the true story lies.

We commend to the commission these five victims of an overbearing war lord who ordered them to carry out repugnant and unnecessary tasks answer the guise of military expedience or merely from an unholy and sadistic desire to mistreat a captured enemy. The truly guilty person in these crimes is the Brigade Commander, Major General Tachibana - any lesser persons, who carried out his orders, and in no way volunteered or in any manner acted of their own volition are worthy of the utmost consideration from the standpoint of leniency and mitigation.

Donald H. Dickey
DONALD H. DICKEY,
Lieutenant Commander, USNR.

"W (4)"

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ARGUMENT FOR THE PROSECUTION

DELIVERED BY

FREDRIC T. SUSS

LIEUTENANT, USNR.

Gentlemen of the Commission:

To the people of a civilized nation, it is a shocking thing to realize that in the year 1946 we should be called upon to reassert and proclaim before the world, the dignity of man and the sacredness of the individual. Many centuries ago this doctrine was proclaimed by the great Preacher of the Sermon on the Mount. It is the very core of Christianity and history has taught that it is the only solid foundation upon which to build the government of nations.

It has been our sad lot to see those nations rise to power, whose philosophy entailed the suppression of the rights of individuals and the degradation of man to a small and insignificant sacrifice to the machine of state. For in the Axis countries and especially in Japan, the rights of the individual and even the rights of other countries were so trampled upon that the concept of the words became lost to the people of these outlaw governments. Once again history has taught its object lesson, that government exists for man and not man for government. Witness Germany and Japan lying desolate in their dust and disgrace.

However the account is not closed. These evil governments have pampered the lawless and encouraged them to disregard the law, and now it has been decreed that these criminals must answer for their crimes. Punishment is not meted out summarily but on the contrary, to these suspected War Criminals we have extended the protection of our laws. We do not repeat the mistakes of the fallen enemy. We do not punish the innocent. Each suspected War criminal is given ample opportunity to refute the charges brought against him and indeed when such charges have been refuted, the accused have been acquitted.

Whoever reads the record of this trial or has witnessed its proceedings cannot say that the accused were not given a fair trial. On the contrary the court and counsel have been most diligent in asserting the rights of these accused. Rights do not stand alone but they always entail corresponding responsibilities. If nations are to live together in harmony, the people of those nations must learn to respect the laws which give them their rights and must answer for their responsibilities.

Defense Counsel has quoted from Naval Courts and Boards to show that the legality of orders must not be questioned in the face of

"X (1)"

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the enemy. We do not deny that the accused were facing the enemy. They were facing an enemy. A disarmed, defenseless enemy tied to a telephone pole.

Much has been said by Defense Counsel to show that the use of bamboo spears was not a sadistic method of execution. We have not argued that the use of bamboo spears was sadistic. Can it be that Defense Counsel realizes that this was a cruel and sadistic means of execution? There has also been much said about the poor quality of the bamboo spears. Are we to excuse the defendants because their means of torture was clumsy and aggravated the suffering of the victim?

It has been argued that there was no criminal intent or premeditation in this crime. We read from Bouvier's Law Dictionary:

WILFULLY is defined as intentionally. In an indictment charging a wilful killing, it means intentionally and not by accident. It is synonymous with intentionally, designedly, without lawful excuse, and, therefore, not accidentally. . . . A wilful act is one that is done knowingly and purposely, with the direct object in view of injuring another.

MALICE. In Criminal Law. The doing a wrongful act intentionally without just cause or excuse. A wicked and mischievous purpose which characterizes the perpetration of an injurious act without lawful excuse....In a legal sense malice is never understood to denote general malevolence or unkindness of heart, or enmity towards a particular individual, but it signifies rather the intent from which flows any unlawful and injurious act committed without legal justification. Malice is implied in every case of intentional homicide.

MALICE AFORETHOUGHT. In the description of murder the words do not imply deliberation, or the lapse of considerable time between the malicious intent to take life and the actual execution of that intent, but rather denote purpose and design in contradistinction to accident and mischance; and the intent necessary to constitute malice aforethought need not have existed for any particular time before the act of killing, but it may spring up at the instant and may be inferred from the fact of killing.....

PREMEDITATION. A design formed to commit a crime or to do some other thing before it is done. Intent before the act, but not necessarily existing any extended time before. Premeditation differs essentially from will, which constitutes the crime; because it supposes, besides an actual will, a deliberation and a continued persistence which indicates more perversity. The preparation of arms or other instruments required for the execution of the crime are indications of premeditation but are not absolute proof of it; as these preparations may have been intended for other purposes, and then suddenly changed to the performance of the criminal act.

We regret that we are forced to mention the highly irregular charge of Defense Counsel relating to perjury. However, we feel it necessary to say a few words on this subject. In fairness to Defense Counsel we shall consider this as an attempt to impeach a witness.

In Underhill's Criminal Evidence, Section 421 we find: A witness may be impeached only on matters which are material, competent, specific, and relevant. A witness may not be impeached on matters which are immaterial, and only collateral to the real issue. 775

In Underhill under Perjury, Section 736 we find: The materiality of the testimony which is alleged to be false must be established satisfactorily. Where there is no dispute as to what the accused testified, whether the testimony was material is for the court.

This highly irregular plea, prompted by the desperate accused reaching for straws of defense, is a mockery before this bar of Justice. You are asked to take the word of a convicted murderer who is permitted to tell a story before this court full of self serving statements in a strange attempt to vindicate himself during the trial of others. 775

The issue raised cannot be said to be material because it raises the question of Ikawa's guilt and this has been irrevocably established by his conviction, not by Okamoto's testimony alone but on his own statement and other evidence as well.

Now as to the admissibility of the confessions of defendants as evidence against the co-defendants, there is some doubt when the law applicable under normal circumstances is applied. According to the references available to the Judge Advocate the confession of a co-defendant is not admissible as evidence against the defendant. In Wharton's Criminal Evidence, Section 722 the following is stated: "The confessions or admissions made by a co-conspirator or co-defendant after the termination of the conspiracy and in the absence of the defendant, are not admissible against the defendant as substantive evidence to prove his guilt. His confession, therefore, subsequently made, even though by the plea of guilty, is not admissible in evidence, as such, against any but himself..."

This was upheld in the Court Martial Orders. However, under the Regulations Governing the Trials of Accused War Criminals promulgated by the Supreme Commander for the Allied Powers under Paragraph 5 (d) Section (1) The commission shall admit such evidence as in its opinion would be of assistance in proving or disproving the charge, or such as in the commissions' opinion would have probative value in the mind of a reasonable man. 775

"X (3)"

This leaves the admission of such evidence to the discretion of the commission. Therefore the commission must decide not only whether or not these statements of the defendants can be used as evidence against themselves but also against their co-defendants, if this evidence is needed.

We have been accused by Defense Counsel, and by we I mean the people of the United States, of charging the Japanese with a Western point of view which they had not recognized until after the war had started. This was not solely a Western point of view but was a view adopted by the government of Japan in 1907 at the Hague Convention. This was 34 years before the past war started. Are we to take the word of the Japanese government or are we to throw that out and take the word of Defense Counsel? 7TS

The charge of Neglect of Duty against Colonel Kato is a most serious one because from this wanton failure to carry out a positive duty two murders have resulted.

In Wharton's Criminal Law Page 219, Sir J. F. Stephens is quoted as follows: "Everyone upon whom the law imposes any duty, or who has by contract, or by any wrongful act, taken upon himself any duty tending to the preservation of life, and who neglects to perform that duty, and thereby causes the death of (or bodily injury to) any person, commits the same offense as if he has caused the same effect by an act done in the state of mind, as to intent or otherwise, which accompanied the neglect of duty.....An intentional omission to discharge legal duty always constitutes culpable negligence...".

We have charged Colonel Kato with an intentional omission to discharge his legal duty. Let us look to the law and see from whence this legal duty comes. This duty was not directly imposed upon him by the much flaunted Japanese Military Code. We are not concerned with this code. This duty was imposed upon Kato as an Officer of the Japanese Army by international laws which Japan either subscribed to or agreed to apply. 7TS

The Hague Convention of October 18, 1907, article 23(c) states: "It is especially forbidden to kill or wound an enemy who, having laid down his arms, or having no longer any means of defense, has surrendered at discretion." Japan ratified and signed this convention.

The Geneva Prisoners of War Convention of July 27, 1929 provides in article 2 "Prisoners of War, are in the power of the hostile power, but not of the individuals or corps who have captured them. They must at all times be humanely treated and protected, particularly against acts of violence, insults, and public curiosity." Japan agreed to apply the provisions of this convention to prisoners of war under its control.

"X (4)"

There is not therefore a shadow of a doubt that the government of Japan has placed upon the Defendant Kato a positive and unmistakable legal duty to prevent the killing of defenseless prisoners of war and the further duty to protect them from acts of violence. His culpable negligence in failing to discharge this duty is shown by abundant evidence including his own admissions.

Now let us look at this defense to the charge of neglect of duty. We do not contend that impossibility of performance is not a valid defense to a charge of neglect of duty, for in CMO No. 5-1932 it was said: The exact situation here presented, in which a court has refused to recognize impossibility of performance of a duty as a defense to a criminal prosecution of non-performance, is very unusual, and consequently authority exactly in point is lacking. On principle however, it is not unreasonable to assume that the law does not subject a person to punishment for his failure to do the impossible. In that case it was shown to be physically impossible.

Now let us look to the evidence to learn just how impossible it was for Kato to discharge his legal duty. What positive action did Colonel Kato take to discharge this duty? In the first place when he learned that this murder was to take place in his area, he took no steps whatever to verify upon whose order such a flagrant violation of the law was to be carried out.

When he learned that men from his own battalion were to participate in this murder he took no steps whatever to verify such an illegal order. You have heard the testimony of Major Horie who was called by the defense to establish this defense of impossibility. Major Horie testified that normally in the Japanese Army a commander would not permit such an illegal act to occur in his area without at least verifying that the order was given by his superior in command. Kato did absolutely nothing, either before or during the execution which he witnessed; this is the crux of his crime. He merely guessed from the circumstances that it was ordered by the General. How can he defend that it was impossible to discharge his duty when he never made even the semblance of an attempt to discharge it? Whether or not the execution would have taken place if he did discharge his bounden duty cannot excuse his culpable neglect of duty. The fact remains that the duty was imposed upon him by law and he failed and neglected to discharge that duty.

Chief Justice Stone of the United States Supreme Court stated in the recent case "In re Yamashita", The law of war presupposes that its violation is to be avoided through the control of the operations of war by commanders who are to some extent responsible for their subordinates. 40

Colonel Kato's defense of impossibility is based on the contention that the wrongful execution was ordered by his commanding general. He has not shown that it was physically impossible for him to discharge his duty. Therefore, this so-called defense proves to be nothing more than the old alibi.

of superior orders in disguise.

This defense of superior orders is advanced by all of the accused. Each of the accused except Morito has confessed to his part in the crime and there is abundant evidence of Morito's guilt. All of the accused hope to justify their crime on the ground of superior orders.

We do not deny that these superior orders may excuse a Japanese soldier in carrying out an illegal order which affects only the Japanese. But we do content that the responsibility for such crimes cannot be evaded when the Japanese soldiers come in contact with the personnel of another nation and commit crimes against them.

Such a defense can in no way excuse culpability for the crime. This was so held in the famous American case of United States vs Jones, 3 Wash. C.C. 209 where the court said, "We do not mean to go further than to say that the participation of the inferior officer in an act which he knows, or ought to know, to be illegal, will not be excused by the order of his superior."

This was upheld in CMO4 of 1929 where the court said, "In reference to the contention of the accused that he was acting in the performance of duty, it is deemed pertinent to refer briefly to the law pertaining to homicide committed by persons in the military service. It is a general rule that a soldier (or sailor) is bound to obey all lawful orders, and all he may do in obeying such lawful orders constitutes no offense as to him. But an order illegal in itself and not justified by the rules and usages of war, or in its substance clearly illegal, so that a man of ordinary sense and understanding would know as soon as he heard the order read or given that it was illegal, will afford no protection for a homicide, provided that act with which he may be charged has all the ingredients in it which may be necessary to constitute the same a crime in law".

In CMO 121 of 1919 it was said, "A soldier is bound to obey only the lawful orders of his superiors. If he receives an order to do an unlawful act, he is bound neither by his duty, nor his oath to do it. So far from such order being a justification, it makes the party giving the order an accomplice in the crime".

Under international law it has also been held that an act in obedience to a military order of a superior is not justifiable when the act is known, or under the circumstances should have been known, to be illegal under the laws and customs of warfare. This doctrine in international law is clearly demonstrated in the celebrated Llandovery Castle Case. This was not a case in our courts but is a German case. The Russians have used this case in war crimes trials to condemn the very Germans out of their own mouths. In this case, the German Supreme Court trying German defendants for the machine-gunning of open life-boats declared, "Military subordinates are under no obligation to

"X (6)"

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question the order of their superior officers, and they can count upon its legality. But no such confidence can be held to exist if such an order is universally known to everybody, including also the accused, to be without any doubt whatever against the law...They should, therefore have refused to obey. As they did not do so, they must be punished".

In the Mexican War Case of Mitchell v Harmony, Chief Justice Taney of the United States Supreme Court wrote: "It can never be maintained that a military officer can justify himself for doing an unlawful act by producing the order of his superior. The order may palliate, but it can justify".

Let us consider for a moment the picture that these defendants have painted for this court. They are all harmless, sensitive men who would not think of harming a defenseless prisoner of war. The only villain is someone in higher authority, an evil man, in fact the only evil man on the island who forces these helpless puppets to perform a distasteful task. It is only because of the order of this wicked man that the accused ever consented to take part in the execution.

Now let us go back to those dark days on Chichi Jima and look at the real facts as shown by the evidence. The murder here charged occurred during the bloody offensive for Iwo Jima. The success of the American forces and the constant bombing raids over Chichi Jima were demoralizing the troops on that island. Casualties were heavy. Bitter hatred and the consuming desire for revenge swept the island. Captured prisoners were turned over to the troops for execution to boost the morale of the men. These very men who sit before this court. True, they are enlisted men but is this an excuse for their crime when they clamored for the life of the prisoner to boost their morale, to take revenge for the loss of their comrades?

Much has been solemnly said in this court about the doctrine of absolute obedience in the Japanese Army. Who is impressed by such dramatic abstraction? Certainly not the accused themselves. We have all heard the testimony of the accused Yamashita, that the first two men he ordered to stab the prisoner refused and failed to carry out this order. We also heard his testimony that these men were not exactly punished but were scolded. Thus we have had a concrete example out of the mouth of the accused of the application of this rigid military doctrine of absolute obedience. And what do we find! That the Japanese soldier has the difficult and terrible choice between illegally, viciously murdering a helpless prisoner of war and being scolded. What a frightful alternative! To be scolded. Gentlemen this defense of superior orders is an insult to this court. 775

Where is the evidence that Morito and Oshida were ordered to the scene of the execution? They went of their own choosing and to satisfy their own emotions. This evidence is found in the statement of Oshida himself. You have heard Morito testify how he 775

"X (7)"

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boasted and bragged at the execution, and demonstrated for the men the proper way to spear a prisoner. Did the picture he painted of himself for you portray a humble private trembling under the stern orders of his superior and reluctant to carry out the execution? No, he is a bad actor in more than one sense. He has proven for us that he is a braggart and a bully and has displayed with what vigor and enthusiasm he played his part in this murder. 70

Consider next the actions of Captain Yamashita who was in charge of the execution. The evidence clearly shows that the method of the execution was not prescribed in the order but was left completely to his discretion. What manner of man or beast is this Yamashita, who contrives such a primitive and tortuous method of mutilating a living body with bamboo spears and bayonets. Where can such a fiend seek sympathy? There is no mercy for the merciless.

Colonel Kato has freely confessed to his part in the murder of York in February 1945. He has testified that his character is so much better than that of the general that this execution was most distasteful to him and it saddened him greatly to have a part in it. However, he does not prove such humane inclinations in his testimony. He permitted the execution to be carried out in a cruel and barbaric fashion. He did nothing to prescribe that the method of execution be humane but turned over the prisoner to the vengeful frenzy of his subordinates. It is indeed strange how such people become sensitive and well meaning when their own lives are hung in the balance.

The accused Taniyama has testified that he bayoneted the prisoner and neither he nor any of the other enlisted defendants can claim coercion by superior orders for they were given an example at the execution which showed them that nothing more happens to an enlisted man who fails to carry out such an order than a little scolding. A threat of a scolding cannot be said to be sufficient coercion to excuse the crime of murder.

There has been abundant evidence placed before this court to convict each of the accused beyond a reasonable doubt. We are confident that the commission will weigh the evidence in all fairness to the accused and at the same time keeping in mind its duty to the government and to humanity.

No nation can be so depraved that its people cannot recognize the flagrant wrong of murdering the defenseless. No amount of training, peculiar culture, obtuse philosophy or arrogant orders can erase from the human soul the terrible feeling of guilt. which curses a murderer for the life he has taken. Before laws were made, this was even so. 75

Fredric T. Suess
FREDRIC T. SUSS,
Lieutenant, USNR.

"X (8)"

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A witness called by the recorder entered, was informed of the subject matter of the investigation, was duly sworn, and declared as follows:

Examined by the recorder:

1. Q. State your full name, former rank, and organization.
A. Oshida, Takekasu; superior private. I arrived on Chichi Jima on March 4th, 1944. I was attached to the Asakawa Company of the infantry. When this unit was absorbed into the 307th Battalion, I became one (1) of the personnel of the 307th Battalion. I served as cook for ten (10) months and then I returned to the rifle company.
2. Q. Tell us about the American flyer, which you bayoneted to death in the Kominato area in February, 1945.
A. Sometime in February, 1945, Leading Private Morito came to the galley where I was working and said to me, "If you are not too busy, let us go see a prisoner of war at the headquarters". I followed Leading Private Morito to the place where the prisoner was. The flyer had his hands tied behind his back. I saw six (6) Navy men standing around the flyer. Then I returned to the galley. About thirty (30) minutes later I saw Captain Yamashita and four (4) other Army men, together with six (6) Navy men, leading the prisoner toward Nakayama Toge. Leading Private Morito asked me to go with him to witness the execution, and therefore I followed the procession to Nakayama Toge. After I reached Nakayama Toge, the flyer was tied to a telephone pole. Two (2) bamboo spears and three (3) bayonets were used in the execution of the flyer. Captain Yamashita picked Leading Private Morito and ordered him to spear the prisoner, and Morito was the first one (1) to spear the flyer with a bamboo spear. The flyer was wearing a leather jacket and I do not know if my thrust pierced the jacket or not. After using the spear, I stepped down the hill and stood on the path about eight (8) yards away. Then the next ones to bayonet the flyer were the Navy men. I was sick and I did not take particular notice who they were. They were all mixed up bayonetting the flyer. I personally believe the Navy men did more of the bayonetting than the Army men.
3. Q. Did the four (4) Army men bayonet the prisoner?
A. I only saw two (2) men bayonet the flyer, Kishimoto and Kiryru.
4. Q. Where did the six (6) Navy men come from?
A. I do not know. They may have followed the prisoner from the Ryodan Shireibu to the 307th Battalion headquarters, or joined the procession on the way.
5. Q. When did you first learn that this prisoner was to be executed?
A. Nobody told me of the execution when I first saw the prisoner. After I returned to the galley, Morito came and told me that they were taking the prisoner to Nakayama Toge. As I had heard of the previous executions at that place, I knew that this flyer too would be executed.
6. Q. Was Leading Private Morito selected to help in the execution?
A. Yes.
7. Q. To whom did Leading Private Morito report, when he went to the 307th Battalion headquarters the first time?
A. He did not report to anyone. Morito and myself were picked at the scene of the execution. We had nothing to do with it beforehand and it was our curiosity that got us into trouble.

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" EXHIBIT (1) " (1)

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Edward L. Fied

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8. Q. State all of the names of the people present at the scene of the execution.

A. Yamashita, Morito, Kiryru, Nakamura. There was another man, but I do not recall his name because he belonged to another unit.

9. Q. What order did Captain Yamashita give you and Morito to use bamboo spears?

A. Captain Yamashita just said, "Hurry up and spear him." He said it time and time again. He said it to Morito and Morito pierced the flyer, and then he turned and said the same to me.

10. Q. Prior to Captain Yamashita giving you and Morito the order, what arrangements were made regarding the use of bamboo spears?

A. As far as I recall, it was agreed that the flyer should be killed with bamboo spears before he was brought to Nakayama Toge, and therefore I did not hear of the arrangements.

11. Q. Why did you and Morito use the bamboo spears?

A. Captain Yamashita ordered us to use bamboo spears.

12. Q. What did Captain Yamashita tell you?

A. "Spear him with bamboo spears."

13. Q. Did you carry the bamboo spears with you?

A. No, the guards carried rifles with bayonets attached, and the bamboo spears.

14. Q. Who made the arrangements to use the spears?

A. I do not know who arranged for the flyer to be pierced with the bamboo spears.

15. Q. What were Captain Yamashita's orders to the three (3) other soldiers, regarding the bayonetting?

A. Captain Yamashita wanted all the men to ^{avo} bayonet the flyer. It was a Navy man who bayoneted the flyer after me. He was the third man.

16. Q. Did all of the men present at the execution bayonet the flyer?

A. I did not see the details, because they were all mixed up.

17. Q. Did Captain Yamashita use a spear or bayonet on the flyer?

I did not see Captain Yamashita bayonet the flyer.

18. Q. As far as you know, Morito was the first?

A. Yes.

19. Q. What happened to the body after the bayonetting?

A. The body of the flyer was buried in a machine gun emplacement joining the road.

20. Q. Do you know the flyer's name?

A. I do not know.

21. Q. Did you hear Captain Yamashita say, who ordered him to have the flyer executed?

A. No.

22. Q. Was any other officer present at the scene?

A. No.

23. Q. Was there a naval unit in that area?

A. There was a naval wireless station on top of the hill, and there was a naval antiaircraft battery near there.

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" EXHIBIT (1) " (2)

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24. Q. Did you actually see the Navy man bayonet the flyer?

A. Yes. He was the third man. As far as I recall, the Navy men did more bayonetting than the Army men did.

25. Q. Did you actually see Kiryu, Masao, bayonet the flyer?

A. I do not remember, but I believe Kiryu bayoneted the flyer.

26. Q. Did you see Nakamura, Gyokurin, bayonet the flyer?

A. I did not.

27. Q. Did you see Kishimoto, Masao, bayonet the flyer?

A. I did not. After I pierced the flyer, I stepped down the hill. There was a group of men around the flyer, so I cannot say who actually bayoneted him. The group was mixed up.

28. Q. Did you witness the execution, performed at the same location, in August, 1944?

A. No, I did not witness the execution, although I have heard of it.

29. Q. Were any other flyers executed by the 307th Battalion?

A. Sometime after the end of the war, the Asakawa unit was called out and each soldier was personally asked if he was responsible for the execution of an American prisoner. Two (2) men besides myself, stepped forward. Their names were Morito and Sergeant Takano. These two (2) men and also Nakamura, Gyokurin, and myself went to the 307th Battalion headquarters. We went in the night. Captain Ikawa was still sleeping when we arrived, and we had to wait for fifteen (15) minutes. Then Captain Ikawa ordered us to go to Nakayama Toge, where the flyers were executed, and to wait there. When Captain Ikawa arrived, he ordered the five (5) of us to dig up the remains of the flyers buried there. I thought all the time that there was only one (1) flyer buried there; but when we got through, there were four (4) bodies.

30. Q. Did you see the four (4) skulls, belonging to the bodies?

A. Yes. It took us about one (1) week to cremate everything in the hole. We poured oil on and burned them. Then the ashes were taken to Ogiura, and buried in the cemetery in a trench.

31. Q. Did you ask any questions about the bodies?

A. No. I did not ask any questions. We were given definite orders and I did my best to carry out these orders.

32. Q. Did you see four (4) bodies in the grave?

A. Yes, I saw the remains of four (4) men.

33. Q. Were these the remains of four (4) Americans?

A. I cannot swear to it, because the remains of three (3) bodies were old and could not be recognized. The top one (1) was the one (1) we executed, and was rather new. The other three (3) were rotted.

34. Q. How many bodies were decapitated?

A. Only one (1) was completely decapitated.

35. Q. How many had their necks severed?

A. The other two (2) old bodies, but I cannot really tell because the bodies were old. As far as I remember, the other one (1) was intact.

36. Q. Are you sure about four (4) skulls?

A. Nakamura, Morito, myself, Kiryu and Takano were there and know about it also.

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" EXHIBIT (1) " (3)

1198

37. Q. From where did you hear these four (4) bodies came?
A. One (1) of the flyers was executed by my unit, and the other three (3) came from the Ryodan Shiraibu.
38. Q. Did you hear about the executions performed by Lieutenant Colonel Ito?
A. Yes.
39. Q. What other executions did you hear about by rumors?
A. I heard no other rumors of executions.
40. Q. Did you ask Takano if he had participated in the execution of an American flyer?
A. No, I did not ask him.
41. Q. Were three (3) bodies buried together?
A. No, four (4) bodies were buried together. They were in a machine gun emplacement.
42. Q. Were all of the three (3) bodies in the same state of decay?
A. They were not piled on top of each other. They were scattered. The one (1) we executed was on top, and was not completely decayed. The other three (3) were in the same state of decay.
43. Q. Was one (1) of the bottom three (3) an officer?
A. I do not know.
44. Q. Did they have any marks or insignia of rank?
A. No, they had nothing.
45. Q. Were any planes shot down in this vicinity of the island?
A. I do not know. I only know of one (1) enemy plane being shot down.
46. Q. Where did it crash?
A. It crashed on the cliffs above Mulberry Bay.
47. Q. Were the ashes from these four (4) bodies buried?
A. They were all dumped into one (1) big straw bag, and placed in a grave in the Ogiura cemetery.
48. Q. Do you have anything else to add to your testimony?
A. No.

None of the parties to the investigation desired further to examine this witness.

" EXHIBIT (1) " (4)

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Edward L. Fuld

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STATEMENT OF TANIYAMA, SHINOSUKE
(Former Corporal, IJA)

25 March, 1946

My present address:

Tokyo-to, Katsushika-ku, Okudo, Shinmachi #732.

Formerly attached to:

Independent Infantry, 307th Battalion, Asakawa Company.

Company Commander:

Asakawa Akeichi, Captain.

My duties at the company:

I assisted in the personnel and administration department. I was at this time leading private in the IJA. At present I am a corporal, Taniyama, Shinosuke.

Sometime in February or March, 1945, I received an order from an officer (as there were several officers present, I cannot recall who it actually was). I went with Sergeant Kishimoto, Masao, to the 307th Battalion Headquarters to get a captured American flyer.

At the 307th Battalion Headquarters, Captain Ikawa led us two (2) men plus four (4) others to the Ryodan Shireibu. Here I saw four (4) American flyers tied to trees. We took one prisoner out of this number and brought him back to the 307th Battalion Headquarters. This flyer had black hair, height 1.7 meters, age 20-22, years, and he was wearing a leather furled jacket. We tied this prisoner to a telephone pole in front of the headquarters. We took turns in guarding him until noon.

Around two (2) o'clock in the afternoon, First Lieutenant Yamashita came and ordered us to accompany him as the prisoner was going to be executed. Sergeant Kishimoto, Masao, Leading Private Morito, Shoichi, Superior Private Oshida, Takakazu, and myself (four of us(4)) led the prisoner half way up Nakayama Toge (hill) overlooking the Kominato area.

On the way, about ten (10) more soldiers joined us. However, I do not know their names or ranks. We arrived at the designated place about twenty (20) minutes after leaving the 307th Battalion Headquarters. We thereupon immediately prepared for the execution. We tore off the coat and shirt of the prisoner, tied him to a telephone post and shoveled out a hole in the ground in front of him.

In the end, at the command of First Lieutenant Yamashita, we four (4) soldiers together with First Lieutenant Yamashita took turns in bayonetting the prisoner in the chest. We completed the execution in two (2) or three (3) minutes.

" EXHIBIT (2) " (1) INVESTIGATIONS EXHIBIT 27

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Edward A. Fries

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The bayoneted prisoner was buried in the hole we had dug for him. His body was amply covered with earth and, our duties completed, we were ordered to return.

The above is what I remember in regard to this incident. From the very first time of leaving the headquarters, all acts were committed under orders. From the beginning to the end nothing was done voluntarily or willingly. This is the absolute truth.

I wrote the above freely, believing it to be the truth.

TANIYAMA, SHINOSUKE

I, TANIYAMA, Shinosuke, being duly sworn on oath, state that I have had read to me and understood the translation of the foregoing transcription of my statement consisting of two (2) pages, and it is the truth to the best of my knowledge and belief.

TANIYAMA, SHINOSUKE

Subscribed and sworn to before me this 17th day of May, 1946.

ROBERT D. SHAFFER, Major,
06652, U.S.M.C.,
Senior Member.

" EXHIBIT (2) " (2) INVESTIGATIONS EXHIBIT 27

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Edward L. Fied

1201

COMMANDER OCCUPATION FORCES }
CHICHI JIMA, BONIN ISLANDS } ss

I, Frederick Arthur Savory, civilian, interpreter, being duly sworn on oath state that I truly translated the statement and answers given from Japanese to English and from English to Japanese respectively, and that after being transcribed, I truly translated the foregoing statement containing two (2) pages to the witness; that the witness, thereupon in my presence affixed his signature (name or mark) thereto.

/ss/ FREDERICK ARTHUR SAVORY
FREDERICK ARTHUR SAVORY

Subscribed and sworn to before me this 17th day of May, 1946.

ROBERT D. SHAFFER, Major,
06652, U.S.M.C.,
Senior Member.

COMMANDER OCCUPATION FORCES }
CHICHI JIMA, BONIN ISLANDS } ss

I, Robert D. Shaffer, Major, 06652, U. S. Marine Corps, certify that on the 17th day of May, 1946, personally appeared before me TANIYAMA, Shinosuke, and according to Frederick Arthur Savory, civilian, gave the foregoing statement set forth therein; that after his testimony had been transcribed, the said TANIYAMA, Shinosuke had read to him by the said interpreter the same and affixed his signature (name or mark) thereto in my presence.

ROBERT D. SHAFFER, Major,
06652, U.S.M.C.,
Senior Member.

GUAM, MARIANAS ISLANDS
APRIL 1946

" EXHIBIT (2) " (3) INVESTIGATIONS EXHIBIT 27

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Edward L. Fier

1202

Guam, Marianas Islands,
17 May, 1946.

The foregoing statement consisting of three (3) pages, made by me, was not obtained under duress, nor prompted by promises, threats, or inducements of any kind. I wrote the foregoing statement freely and willingly.

Taniyama, Shinosuke;
Former corporal
Imperial Japanese Army.

CERTIFIED TO BE A TRUE COPY

Edmund L. Field

" EXHIBIT (2) " (4) INVESTIGATIONS EXHIBIT 27

1203

A witness called by the recorder entered, was informed of the subject matter of the investigation, was duly sworn, and declared as follows:

Examined by the recorder:

1. Q. State your full name, former rank, and organization.
A. Kato, Takemune; colonel. I arrived on Chichi Jima on July 27th, 1944. I was the commander of the eastern defense area. I was in charge of the eastern area defenses, commanding the 307th Battalion. After the end of August, 1944, I became commander of the western area. I was in command of the 307th Battalion, and I remained there until the end of the war.
2. Q. What orders did you receive from General Tachibana, regarding the execution of an American prisoner of war, by the 307th Battalion, in March, 1945?
A. I received no orders.
3. Q. Was a flyer executed?
A. No.
4. Q. Do you know Taniyama, Shinosuke; Kishimoto, Masao; Oshida, Takemasa; and Morito, Shoichi?
A. Yes.
5. Q. These four (4) men bayoneted the flyer under the supervision of Captain Yamashita. They have admitted it in sworn statements. Do you understand?
A. I understand.
6. Q. What were these orders?
A. Captain Ikawa received these orders from the Maken Shireibu or the Ryodan Shireibu. I do not know from which command he received the orders. 775
7. Q. Is it not true, that you had gone to the Ryodan Shireibu to report to General Tachibana the loss of personnel from American bombing raids; that after making your report to the general, he informed you that he would send a flyer to the 307th Battalion for execution to boost morale; that you were to choose the executioners from the units having lost the most men in the American bombings?
A. No, this is not the correct statement.
8. Q. What arrangements were made for the execution of the flyer?
A. I never received a direct order from General Tachibana to execute a prisoner of war.
9. Q. Did you receive indirect orders from him?
A. I received the order through my adjutant, Captain Ikawa.
10. Q. Did you ever discuss the execution with General Tachibana prior to its happening?
A. No.
11. Q. What did Captain Ikawa tell you when he received the telephone call?
A. Captain Ikawa told me or reported to me that an American flyer was going to be sent to my battalion for execution.
12. Q. Did he tell you that the call was originated from the Ryodan Shireibu?
A. No, from the divisional headquarters; that is, the Shidan Shireibu.

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Edward L. Fink

" EXHIBIT (3) " (1)

1204

- ✓ 13. Q. Was this General Tachibana's headquarters?
A. Yes.
- ✓ 14. Q. What were your orders, after receiving the telephone call?
A. I conferred with my adjutant, Captain Ikawa, and I decided to have Captain Yamashita supervise the execution. And, I ordered Captain Yamashita to supervise the execution.
15. Q. What is Yamashita's full name?
A. Masao Yamashita.
16. Q. Was he a first lieutenant at the time?
A. Yes.
- ✓ 17. Q. Did Captain Ikawa tell you that he received orders from the Shidan Shireibu, that the flyer be executed?
A. Yes, Captain Ikawa received definite orders to execute this flyer.
18. Q. Was he instructed as to the method of execution?
A. No.
19. Q. Then the method of execution was of your own choosing?
A. I did not order the method of the execution. It was left to the executioner.
20. Q. What were the exact orders which you gave to Captain Yamashita?
A. As far as I recall, I ordered Captain Yamashita in the following way, "Go ahead and execute the flyer", or "Have it done".
21. Q. To the best of your recollection, what was the exact date of the execution?
A. The execution took place sometime in February or March, 1945. I cannot recall which month. However, I remember that it was in the morning, following a heavy night air raid. I was at the airfield supervising the repair work, when I received the order from my adjutant, Captain Ikawa.
22. Q. Did Captain Ikawa say who, at the Shidan Shireibu, had called?
A. No.
- ✓ 23. Q. How were the executioners chosen, and by whom?
A. I believe the executioners were chosen by Captain Ikawa. However, I do not know.
24. Q. Where was the prisoner obtained?
A. To the best of my knowledge, the prisoner was brought from the division headquarters, the Shidan Shireibu.
25. Q. Was he brought to the 307th Battalion headquarters?
A. I remember seeing a prisoner of war at my headquarters or near my headquarters, but I do not know if this prisoner was the one (1) that my unit executed.
26. Q. Where was the flyer executed?
A. As far as I recall, the prisoner was executed at Nakayama Toge.
27. Q. How was he executed?
A. I do not know.
28. Q. Did Yamashita report to you, after the execution had been accomplished?
A. Yes, I remember that Captain Yamashita reported to me after the completion of the execution.

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Edward L. Fink " EXHIBIT (3) " (2)

1205

29. Q. What did he report?
A. He said that, "I have completed the execution."
30. Q. Had the 307th Battalion previously captured an American prisoner of war?
A. Yes.
31. Q. Was it the policy, to return captured flyers for execution to the units which captured them?
A. I do not know of such a policy existing on the island.
32. Q. Was the flyer captured by your unit, or the flyer executed by your unit, beaten or mistreated while in custody of the 307th Battalion?
A. Definitely not.
33. Q. Did you report to General Tachibana or anyone else that the execution had been accomplished?
A. No. As far as I know, I did not report the execution to anyone. However, it is possible that my adjutant reported it.
34. Q. Did he inform you that he made a report of the execution?
A. I do not remember or know what happened. I was awake all night and most of the day, so I had gone to bed.
35. Q. Did you attend a conference or a meeting of all unit commanders in February, 1945, when General Tachibana stated that all prisoners of war must be executed, and that, if necessary, the flesh of these prisoners would be eaten as well as the flesh of the Japanese dead, if the food supplies began to diminish?
A. I attended every conference; however, I did not hear of such orders spoken by the general.
36. Q. Were you a particularly good friend of General Tachibana?
A. I was not a good friend or a bad friend.
37. Q. After the end of the war, was the body of this flyer exhumed, cremated, and then reburied at another location?
A. Yes.
38. Q. On whose order was this done?
A. No one ordered me to have the remains exhumed, cremated, and then reburied at another location. I did this of my own free will.
39. Q. Do you deny, that at approximately the same time of the execution of this flyer, that you made a report to General Tachibana, regarding the loss of personnel in an American bombing raid?
A. I always reported the loss of personnel to General Tachibana. Sometimes I telephoned him the message, and sometimes I reported it personally. However, I cannot recall the dates or the time I reported these matters.
40. Q. Did General Tachibana issue orders that all captured American flyers were to be executed?
A. No.
41. Q. Did you witness the execution of two (2) American flyers in August, 1944, which was supervised by Lieutenant Colonel Ito?
A. Yes, I witnessed the execution.

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" EXHIBIT (3) " (3)

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Edward A. Field

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42. Q. What was the date of this execution?
A. I do not know the date.
43. Q. Were the two (2) flyers bayonnetted?
A. Yes.
44. Q. Were they still alive when Lieutenant Colonel Ito beheaded them?
A. No, they were dead.
45. Q. Did Lieutenant Colonel Ito issue orders that they were to be bayonnetted, and that the heart was to be pierced last?
A. I do not know. I witnessed the execution from quite a distance.
46. Q. Do you know the name of the American flyer, executed by the 307th Battalion?
A. No.
47. Q. Was this the only prisoner of war executed by the 307th Battalion?
A. Yes. Only one (1).
- ✓ 48. Q. Did you eat any of the human flesh which was served at the party at the 307th Battalion headquarters, attended by Major Matoba, General Tachibana, Captain Kosuga, Captain Ikawa, and yourself in February, 1945?
A. No, I did not eat any human flesh.
- ✓ 49. Q. Was human flesh served at the party?
A. No.
- ✓ 50. Q. Major Matoba has already confessed to the eating of human flesh at the party, and we have a complete story from him, Captain Kosuga, and Captain Ikawa. Do you understand?
A. I do not know. I did not eat any of the flesh.
- ✓ 51. Q. Was any human flesh served?
A. Yes, this is true.
- ✓ 52. Q. Did Major Matoba order that the flesh be brought from his own battalion, the 308th Battalion?
A. I do not know if Major Matoba telephoned for the flesh or not, but I recall that somebody brought flesh from the 308th Battalion.
- ✓ 53. Q. Did General Tachibana ask Major Matoba to get the human flesh?
A. I do not know. I never heard the general ask him.
- ✓ 54. Q. How did you know that it was human flesh?
A. There were no meat supplies on the island at the time, that is the first reason. Secondly, the flesh did not look like ordinary meat. So for these two (2) reasons I came to the conclusion that it was human flesh.
- ✓ 55. Q. Did Major Matoba say that it was human flesh?
A. No.
- ✓ 56. Q. Did Captain Ikawa prepare the human flesh?
A. Yes.
- ✓ 57. Q. Who was present at the Party?
A. They were the same men as you previously mentioned.
- ✓ 58. Q. Did Captain Ikawa eat the flesh?
A. No.

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Edward L. Field " EXHIBIT (3) " (4)

1207

✓ 59. Q. Did Captain Kosuga eat the flesh?

A. No.

✓ 60. Q. In other words, the only people who ate the flesh were General Tachibana and Major Matoba. Is this correct?

A. I am not certain because I did not see these two (2) men eat human flesh. About the time the flesh was cooked, I left the party. However, I heard later that these two (2) men ate the flesh.

61. Q. Is it true, that the body of the flyer executed by the 307th Battalion was exhumed the day following the execution, and human flesh was removed and eaten by the 307th Battalion?

A. Definitely not.

62. Q. Did you hear Captain Ikawa brag about eating human flesh; that it made a person strong and capable of defeating the enemy?

A. No.

63. Q. Is this the only time that you saw human flesh?

A. Yes.

64. Q. Do you know of any executions on Chichi Jima, other than those we have mentioned?

A. No, I know of none, other than those you have mentioned.

65. Q. Is it true, that there were two (2) factions on Chichi Jima regarding the treatment of prisoners of war; one (1) faction believing that all prisoners should be executed, and the other faction believing that they should be treated as prisoners of war, under the rules of the Geneva Convention?

A. Everything regarding prisoners of war was handled by the division headquarters, and I do not know.

66. Q. That is, General Tachibana's headquarters?

A. Yes.

67. Q. Did Lieutenant Colonel Ito talk to you about the execution?

A. No.

68. Q. Do you have anything else to add to your testimony?

A. I have nothing further to add to my testimony.

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Edward L. Fied

" EXHIBIT (3) " (5)

1208

None of the parties to the investigation desired further to examine this witness.

The board informed the witness that he was privileged to make any further statement covering anything relating to the subject matter of the investigation which he thought should be a matter of record in connection therewith, which had not been fully brought out by the previous questioning.

The witness submitted a written statement.

The statement was translated by Mister Frederick Arthur Savory, interpreter, and was submitted to the board and by the recorder offered in evidence. There being no objection, it was so received and marked "Exhibit 27".

The witness verified his testimony, was duly warned, and withdrew.

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Edward L. Fink

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" EXHIBIT (3) " (6)

1209

Prior to the next witness testifying before this commission I should like the commission to inform him that he is not required to answer any question which may incriminate or implicate him either in the present proceedings or in future proceedings.

The commission informed the witness in accordance with the judge advocate's request.

Examined by the judge advocate:

1. Q. State your name and rank.
A. Kato, Takemune, Colonel, Imperial Japanese Army.
2. Q. And where are you presently confined?
A. In the fifth hut.
3. Q. The fifth hut? Explain that a little bit more?
A. Next to the air field.
4. Q. Are you at present confined on Guam?
A. Yes.
5. Q. Colonel, if you recognize any of the accused in this case will you please indicate them by pointing them out or naming them?
A. Lieutenant Colonel Ito.
6. Q. Do you recognize any of the other accused?
A. No.
7. Q. Were you ever stationed on Chichi Jima?
A. Yes.
8. Q. And when did you arrive on Chichi Jima?
A. July 1944.
9. Q. And when did you leave Chichi Jima?
A. I left Chichi Jima on 15 November 1945.
10. Q. While on Chichi Jima, to what unit were you connected?
A. I was the commanding officer of the 307th Battalion.
11. Q. Do you know of the execution of the two prisoners of war on Chichi Jima?
A. I saw it at the spot of the execution.
12. Q. And when did this take place?
A. In August 1944.
13. Q. Do you recall the exact day in August, Colonel?
A. I have forgotten the exact date.
14. Q. And how did you happen to know or to learn that this execution which you have seen was to take place?
A. I got my knowledge of this from a Brigade Order or a Daily Army Order.

(36)

CERTIFIED TO BE A TRUE COPY EXHIBIT (4) " (1)

Edward L. Fried

12 10

15. Q. And what did this Brigade Order or the Daily Army Order state?
A. It said that as Lieutenant Colonel Ito was to carry out the execution, the unit had to send out its necessary amount of men.

16. Q. And did your unit send out the necessary amount of men?
A. It must have been sent out.

17. Q. Do you know Colonel, how many men were sent out in compliance with this order?
A. I think it was one person. 775

18. Q. And Colonel, what was your understanding this one person was to do?
A. As the order said to send out a person from my unit for the execution, I thought that he was to carry out the execution.

19. Q. Colonel, did you select the man who was sent out in accord with the order? 775
A. I did not select him myself.

20. Q. Do you know who did select this man?
A. I think it was the Adjutant or somebody below him.

21. Q. And who was the Adjutant?
A. The Adjutant was Captain Ikawa.

22. Q. And if you see Captain Ikawa in court today will you please indicate him?
The witness indicated by pointing out Captain Ikawa.

23. Q. Colonel, where were you when you first learned of this order from the Brigade Headquarters?
A. I do not remember clearly but I think I was at my residence.

24. Q. And how was this order delivered to you?
A. The Adjutant received all orders so I think it came to me through my Adjutant, but I do not remember clearly.

25. Q. And did the Adjutant tell you how he had received the order?
A. I have forgotten.

26. Q. Colonel, you have testified that this order came from the Brigade Headquarters. Who was the Commanding Officer of Brigade Headquarters?
A. General Tachibana.

27. Q. This one man who was selected from the 307th Battalion, what outfit within the 307th Battalion was he from?
A. He came from the Enjo unit.

28. Q. And who was in charge of the Enjo unit?
A. Captain Enjo.

29. Q. How close were you to the actual site of the execution when you saw it?
A. I was about ²⁵twenty to thirty meters away. 775

(37)

CERTIFIED TO BE A TRUE COPY
Edward L. Felt EXHIBIT (4) (2)

1211

30. Q. Will you explain to the commission what you observed at the scene of the execution?

A. At the actual scene there was an air raid shelter which had been dug previously, and here the two prisoners were placed and executed. They were both blindfolded and their arms were tied behind them. They were also bound to a stake which had been driven into the ground, and they were executed by bayonets.

31. Q. Colonel, what persons do you recall seeing at the scene of the execution?

A. Among the officers I remember Lieutenant Colonel Ito being there most distinctly, but I do not remember the others very well.

32. Q. And while you observed this execution did you see Colonel Ito do anything or did you hear him say anything?

A. Ito gave the orders to stab. He also explained to the men how the prisoners were to be stabbed, and later gave the actual orders to stab the prisoners.

33. Q. Can you recall just what he explained to the men as to how the prisoners should be stabbed?

A. He gave the order that by orders from the Emperor I execute these prisoners.

34. Q. And Colonel, what did you understand Colonel Ito to mean when he said by orders from the Emperor I execute these prisoners?

A. I think Ito was meaning that he had received orders from his superior authorities to execute the prisoners.

35. Q. And if Colonel Ito had received such an order who would this superior authority be?

A. I think it is directly the Brigade Commander, but if at that time there was a Division Headquarters I cannot tell definitely from which headquarters would be his superior.

36. Q. And after these prisoners had been bayoneted, did you observe anything else take place?

A. I saw Colonel Ito behead them with a military sword.

37. Q. Colonel, what was the nationality of these two prisoners?

A. I think they were Americans.

38. Q. And so far as you know, was any trial given to these prisoners?

A. I do not know.

39. Q. Colonel, you have testified that you think these men were executed on orders from the Brigade Headquarters. Why do you think such orders were issued?

A. I do not know the reason why the Brigade issued such orders.

40. Q. When you first learned that these two men were to be executed, what was your personal impression or reaction to that?

A. I felt sorry for them and sympathized with them.

(38)

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Edward L. Fink

12 12

41. Q. Were you surprised to learn that they were being executed?
A. I did not feel very well on hearing this, and I did not like this because I found that this execution would have some connection with my unit.
42. Q. Within what area did these executions take place?
A. The West District of the 307th Battalion Area, which is my own defense area.
43. Q. Colonel, how did you happen to be at the scene of the execution?
A. I went there so that I could pray for the souls of the dead, and also to see that my own subordinates did not do anything that was very inhuman.
44. Q. Colonel, were you senior in rank to Lieutenant Colonel Ito?
A. Yes, I was above him.
45. Q. Can you recall by name any of your subordinates at the scene of the execution?
A. No, I cannot recall any of my subordinates.
46. Q. Do you remember the name of the one man who was selected from your unit?
A. I think it was Corporal Okamoto.
47. Q. And did you see him at the scene of the execution?
A. I did not notice Okamoto at the actual spot of the execution.
48. Q. Do you know the names of any of the other executioners there from your unit?
A. No.
49. Q. In your opinion, Colonel, were these executions justified?
A. Do you mean that the execution itself was justified?
50. Q. Yes.
A. As there had been an order issued previously, I think it was just natural that Lieutenant Colonel Ito carry out the order. The right and wrong of executing the prisoners is beyond my or Colonel Ito's judgment.
51. Q. So far as you know, had these prisoners done anything that justified them being executed?
A. I do not know what these prisoners did.
52. Q. In your opinion then Colonel, what was the purpose of executing these men?
A. In my opinion, I think that the purpose for these executions was to boost our spirits and animosity.
53. Q. And Colonel, did you know that these executions were in violation of international law?
A. I did not know this clearly but felt that there was no use to execute a few prisoners.
54. Q. Colonel, did the execution of these prisoners boost the morale of the troops who witnessed it?
A. I do not know.

(39)

" EXHIBIT (4) " (4)

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Edward L. Fierl

12 13

55. Q. Colonel, did you do anything to stop or prevent these executions?
A. I did not do anything particularly to stop or prevent the executions. The reason is because that I was not directly connected with this.

Cross-examined by the accused:

56. Q. Colonel Kato, you testified I believe, that you were advised of the execution by means of an Army Daily Order. Was this Daily Order written or oral?

A. I cannot state clearly on that point. The papers were burned previously and there was no proof that I can show.

57. Q. I am referring to the Brigade Daily Orders that you received. Were these written orders that came down from Brigade Headquarters each day?

A. They were in written form.

58. Q. Who signs these daily orders?

A. Orders coming from the Brigade are signed by the Brigade Adjutant, and if this is received by my adjutant the adjutant stamps it. It is the same if a non-commissioned officer receives this.

59. Q. Can you explain that further?

A. If it is a printed order issued by the Brigade, the Brigade sends the order to me with the stamp of the Brigade Adjutant on it. In the case of an Army Daily Order, this order is given orally. The person who is sent to receive this order takes it down and signs his name to it to show that there are no mistakes made in this taking down of the order.

60. Q. And aren't all of these orders shown to you?

A. Yes.

61. Q. Do you recall how long before the time of the execution you received this daily order? #5

A. I do not remember clearly on this point, but I think there was not such a long time between the announcement and the execution.

62. Q. Then it was probably the same day?

A. I imagine that it was the next day after the announcement that the execution took place, but this too is not clear.

63. Q. Why was your area selected as the site of the execution?

A. I cannot imagine myself what the reason is and I do not know.

64. Q. Was that information also contained in the daily order?

A. There was no explanation of this in the daily order.

65. Q. Do you know why Colonel Ito was selected to be in charge of the execution?

A. I absolutely do not know.

66. Q. Did you know Colonel Ito during the time that you were on Chichi Jima?

A. I knew him well. We had been together in the same regiment for over ten years since we were cadets.

(40)

CERTIFIED TO BE A TRUE COPY " EXHIBIT (4) " (5)

Edward L. Field

12 14

67. Q. Do you know of the relationship between Colonel Ito and General Tachibana?

A. I would like to know what you mean by relationship?

68. Q. Were Colonel Ito and General Tachibana friends or were they unfriendly?

A. From what I imagine I think that they were not on very good terms.

69. Q. Did Colonel Ito or others tell you of an occasion shortly after Colonel Ito arrived at Chichi Jima on which General Tachibana reprimanded him severely in front of other officers?

A. I heard a rumor like that.

70. Q. Did Colonel Ito ever tell you of his difficulties with General Tachibana.

A. Yes.

71. Q. Do you recall what he told you?

A. Once there was a time when Colonel Ito came to me and said that he and General Tachibana had an argument, and asked me to be a go-between and patch up the trouble they had. 775

72. Q. Did you do as he asked?

A. Every time I saw General Tachibana I explained little by little Ito's character.

73. Q. And what was Colonel Ito's character?

A. Ito was extremely honest and a straight-forward person, and is not the kind of a man to tell a lie.

74. Q. Was Colonel Ito a strong minded man or a rather weak willed person?

A. I think he has a strong will.

75. Q. How far were you from the actual scene of the execution?

A. I have stated previously I was twenty to thirty meters from the actual spot.

76. Q. Could you see the scene clearly?

A. Yes.

77. Q. How many executioners were there?

A. Two.

78. Q. Were both of those from your unit?

A. One is clear to me but I do not remember the other at present.

Re-examined by the judge advocate:

79. Q. Colonel, you have testified that printed orders from the Brigade Headquarters would be stamped and signed by the Senior Brigade Adjutant. Who was this Senior Brigade Adjutant?

A. I did not say Senior Adjutant. I just said Adjutant.

80. Q. Will you explain then who this adjutant would be or what his name

(41)

EXHIBIT (4) (6)

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Edward L. Friel

12 15

was, if you know it?

A. I think that it may have been Captain Higashigi at that time.

81. Q. Do you see Captain Higashigi in court today?

A. Yes.

82. Q. Would you please indicate him to the commission?

A. He is standing now.

Recross-examined by the accused:

83. Q. Would Captain Higashigi have originated these orders without the approval of General Tachibana?

A. I cannot imagine such a thing.

Examined by the commission:

84. Q. What was Lieutenant Colonel Ito's official assignment in the organization?

A. He was attached to the Brigade Headquarters.

85. Q. By that do you mean that he was on the staff, and if so, what were his duties if you know?

A. His duties were to assist the Brigade Commander, and I think that his duties changed from time to time.

86. Q. Did the order prescribe the method of execution?

A. The method was not described.

87. Q. Did the order which came from Brigade Headquarters or from Division Headquarters prescribe the method of execution?

A. I think it was not described in the order.

88. Q. Who was Executive Officer of the brigade?

A. The Senior Adjutant was Captain Higashigi.

89. Q. What position on the staff did Lieutenant Colonel Ito hold?

A. Colonel Ito was not the senior member of the staff, but rather he was the newest person to enter the staff between the ranks of major and colonel.

90. Q. In this order that has been referred to in the testimony, did it state the nationality of the prisoners?

A. I think the nationality was not stated.

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

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The commission, then at 11:30 a.m., took a recess until 2:15 p.m., at which time it reconvened.

(42)

" EXHIBIT (4) " (7)

CERTIFIED TO BE A TRUE COPY

Edward L. Fink

12 16

FROM: COM MARIANAS

INFO TO:

ACTION TO: CNO

CINCPAC/POA
JAG (WAR CRIMES DIVISION)
NATIONAL WAR CRIMES OFFICE
WASHINGTON
SECNAV (PUB INFO)

AS DIRECTED BY CINCPAC IN HIS SERIAL 0558 OF 8 MAR 46 NOT TO ALL IT IS REQUESTED THAT THE FOLLOWING BE FURNISHED THE JAPANESE GOVERNMENT FOR

INFORMATION X QUOTE X PARA (1) UNITED STATES MILITARY COMMISSION CONVENED BY COM MARIANAS WILL ON 3 JULY 1946 OR SOON THEREAFTER ON THE ISLAND OF

GUAM BEGIN TRIALS OF 5 JAPANESE NATIONALS ACCUSED OF WAR CRIMES X NAMELY X (1) KATO, TAKEMUNE, COLONEL, IJA, (2) YAMASHITA, MASAO, CAPTAIN, IJA X

(3) TANIYAMA, SHINOSUKE, CORPORAL, IJA, X (4) MORITO, SHOICHI, CORPORAL, IJA, X (5) OSHIDA, TAKEKAZU, SUPERIOR PRIVATE, IJA, X PARA (2) ACCUSED

ARE PRESENTLY CONFINED AT GUAM X PARA (3) EACH ACCUSED WILL BE TRIED FOR OFFENSES AGAINST THE LAWS OF WAR X CHARGES AGAINST EACH ACCUSED WILL BE

MURDER X THE SPECIFICATION UNDER THE MURDER CHARGE WILL ALLEGE THE UNLAWFUL KILLING IN FEBRUARY 1945 WITH PREMEDITATION AND MALICE AFORETHOUGHT AND

WITHOUT JUSTIFIABLE CAUSE ONE US NATIONAL HELD BY THE ACCUSED AS PRISONER OF WAR ON CHICHI JIMA, BONIN ISLANDS X ONE ADDITIONAL CHARGE AGAINST COL

KATO WILL BE NEGLECT OF DUTY IN VIOLATION OF THE LAWS AND CUSTOMS OF WAR X TWO SPECIFICATIONS UNDER ADDITIONAL CHARGE WILL ALLEGE FAILURE TO RESTRAIN

PERSONS UNDER HIS CONTROL AND FAILURE TO PREVENT UNLAWFUL KILLING TWO AMERICAN PRISONERS OF WAR X MAXIMUM PENALTY FOR SUCH OFFENSES IS DEATH X

PARA (4) ABLE COUNSEL CONSISTING OF AT LEAST ONE US NEVAL OFFICER AND TWO JAPANESE CIVILIAN LAWYERS FURNISHED BY JAPANESE GOVERNMENT WILL BE ASSIGNED ACCUSED BY CONVENING AUTHORITY X UNQUOTE X

DATE 26 JUNE 1946 DTG 261347

" EXHIBIT (5) "

CERTIFIED TO BE A TRUE COPY

Edward L. Fied

12 17

FROM: COMMARIANAS
TO: BUPERS CASUALTY DIV
INFO: JAG WAR CRIMES DIVISION
SUBJECT WAR CRIMES X INFO HERE INDICATED FOLLOWING NAMED
ENLISTED KILLED ON CHICHI JIMA BONIN ISLANDS X VERB RADIOMAN
4 AUG 44 X FELD OR FELLOW 12 AUG 44 X MARCHAND OR MARSHON
18 FEB 45 X TODD 18 FEB 45 X YORK 18 FEB 45 X GLEN J FRAZIER
20 FEB 45 X REQ CONFIRMATION AND IDENTIFICATION X

15 MAY 46
PLAIN

DTG 142347
ROUTINE

" EXHIBIT (6) "

CERTIFIED TO BE A TRUE COPY

Edward L. Fink

12 18

FROM: BuPers

COMMARIANAS

PLAIN WU CWO
LC JC

INFO: JAG WASHINGTON D C

PRIORITY PRIORITY

TTY

RE UR 142347Z X JAMES WESLEY DYE ARM 3C 245 22 93 AND GRADY
ALVAN YORK AOM 3C 556 82 32 OF VT 82 MAIL8 FEB 1945 WHEN THEY
PARACHUTED OVER WATER NEAR CHICHI JIMA BONINS X PRESUMED DEAD
19 FEB 1946 X PARA TWO X ENSIGN HALL 364023 GLENN JUNIOR
FRAZIER AOM 3C 629 81 32 MARVIE WILLIAM MERSHON ARM 3C
565 40 88 AND ENSIGN RUDOLF FRE ROLFING 363587 CARROLL CURTIS
HALL ARM 2C 454 50 19 JOSEPH EDWARD NONTONY IN PLANES OF VT
12 MINA 19 FEB 1945 SEEN IN WATER IN FUTAMI BAY CHICHI JIMA
ALL PRESUMED DEAD 19 FEB 1945 X PARA THREE X STATEMENTS
RELEASED POW INDICATE ENSIGN HALL AND DYE PICKED UP 18 FEB
AND HELD WITH TWO OTHERS ON CHICHI JIMA AND THAT THESE FOUR
KILLED AIR RAID ON 15 MARCH 1945 CREMATED AND BURIED IN
MILITARY CEMETERY ABOVE OMURE TOWN X PARA FOUR X UNABLE TO
IDENTIFY VERB FELD OR FELLOW AND TODD XX XX XX XX

REF: (142347Z/PLAIN/A-3130 SUBJECT WAR CRIMES X INFO HERE
INDICATES NAMED ENLISTED KILLED
ON CHICHI JIMA, ETC...

TOR: 0630/31

31 MAY 46

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DTG 292025

A
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JC 7526

CRN A-4219

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42

" EXHIBIT (7) "

CERTIFIED TO BE A TRUE COPY

Edward L. Fink

12 19

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE GENERAL

NAVY DEPARTMENT

AND REFER TO

OFFICE OF THE JUDGE ADVOCATE GENERAL

Mil. Com-Kato, Takemune/A17-20

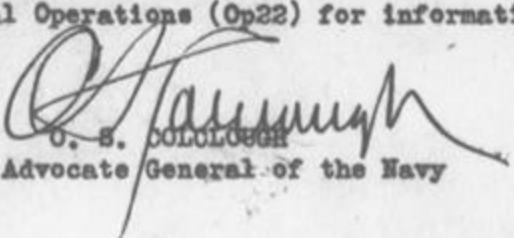
WASHINGTON 25, D. C.

I (11-26-46) MMS:gmj

2 JAN 1947

The proceedings, findings, and sentences in the foregoing military commission case of Takemune Kato, Colonel, I.J.A., Masao Yamashita, Captain, I.J.A., Shinosuke Taniyama, Corporal, I.J.A., Shoichi Mirito, Corporal, I.J.A., and Takekazu Oshida, Superior Private, I.J.A., tried in joinder, and the action of the convening and reviewing authorities thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (Op22) for information.


O. S. COLCLOUGH
Judge Advocate General of the Navy

1220

In reply refer to Initials
and No.
Op22D-FLF
Serial No. 10P22

NAVY DEPARTMENT
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON 25, D. C.



17 JAN 1947

End-1
On Office of JAG Record of Proceedings, Mil. Com-Kato,
Takemune/A17-20 I (11-26-46) MMS:gmj.

From: Chief of Naval Operations,
To: Judge Advocate General.
Subject: Record of Proceedings of Military Commission
at Guam in the cases of Takemune Kato, Masao
Yamashita, Shinosuke Taniyama, Shoichi Morito,
and Takekazu Oshida.
1. Returned, contents noted.

P. D. Gross
P. D. Gross,
By direction.



Finished File *Smith*
67M.4u Lt. 2/1/47

1221

KATO
YAMASHITA
TANIYAMA
MORIKO
OSHIDA
(Last Name)

AKEMUNE
MASAO
SHINSUKE
SHOICHI
TAKEKAZU
(First Name)

(Middle Initial)

Col.
Capt.
Corp.
Sgt.
(Rating)

IJA
IJA
IJA
IJA
IJA
(Classification)

Docket Number

152410

1. Are the precept and any modifications thereof certified as true copies by the judge advocate? ☒
2. Does the record show place and time the court convened? ☒
3. Were there five members or more present at every meeting? ☒
4. Were the members and judge advocate shown to be present named in the precept or its modifications? ☒
5. Was the accused asked whether he desired counsel? ☒
6. Was the accused extended the right of challenge as to members? ☒
7. Were the judge advocate, the members, and the reporter sworn? ☒
8. Did the accused acknowledge receipt of a copy of charges and specifications? ☒
9. Was the accused asked if he had any objection to the charges and specifications? ☒
10. Was the accused asked if he was ready for trial? ☒
11. Does the record show that no witnesses not otherwise connected with the trial were present? ☒
12. Was the accused properly arraigned? ☒
13. Was the accused warned as to the effect of his plea of guilty? ☐
14. Was the accused's response, if any, recorded? ☐
15. Was the accused afforded opportunity to make a statement? ☒
16. Was the accused afforded opportunity to make an argument? ☒
17. Were the witnesses, if any, sworn? ☒
18. Was the sentence authenticated by the signatures of all members of the court and of the judge advocate? ☒
19. Was the record authenticated by the signature of the president of the court and of the judge advocate? ☒
20. Was the accused's receipt for a copy of the proceedings appended to the record? ☒
21. Was the action of the convening authority dated and signed? ☒

Pleaded N.G.

Auditor's initials and date

1222

	Yes	No	Remarks
22. Was the court convened by proper authority?	<input checked="" type="checkbox"/>		
23. Did the court have jurisdiction of the person and offense?	<input checked="" type="checkbox"/>		
24. Was the accused's statement consistent with his pleas?	<input checked="" type="checkbox"/>		
25. Are the findings properly recorded?	<input checked="" type="checkbox"/>		
26. Is the evidence, if any, of previous convictions admissible?			<i>Not appropriate here</i>
27. Is the sentence legal and in proper form?	<input checked="" type="checkbox"/>		
28. Does the action of the convening authority:			
(a) Expressly approve the proceedings, findings and sentence?	<input checked="" type="checkbox"/>		<i>Disapproved F and</i>
(b) Is the action otherwise legal?	<input checked="" type="checkbox"/>		<i>Adopted on Chg Stand</i>

10/4/46
Date.

ms
Initials of reviewing officer

1223

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE GENERAL

NAVY DEPARTMENT

OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON 25, D. C.

AND REFER TO
Mil. Com-Kato, Takemura/A17-20
I (11-26-46) HNS:gnj

The proceedings, findings, and sentences in the foregoing military commission case of Takemura Kato, Colonel, I.J.A., Masao Yamashita, Captain, I.J.A., Shinsuke Taniyama, Corporal, I.J.A., Shoichi Hirito, Corporal, I.J.A., and Takaharu Oshida, Superior Private, I.J.A., tried in joinder, and the action of the convening and reviewing authorities thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (Op32) for information.

O. S. COLCLOUGH
Judge Advocate General of the Navy

1224

Case No. 152410

BRIEF IN THE MILITARY COMMISSION CASE OF
TAKEMUNE KATO, COLONEL, IMPERIAL JAPANESE ARMY
MASAO YAMASHITA, CAPTAIN, " " "
SHINOSUKE TANIYAMA, CORPORAL, " " "
SHOICHI MORITO, CORPORAL " " "
TAKAKAZU OSHIDA, PRIVATE (SUPERIOR) " " "
TRIED 12-22 JULY 1946.

RECEIVED
DEC 18 1946
JAG

CHARGE	PLEA	FINDING	CA ACTION
CHARGE I - MURDER	NG	G	Approved
Spec - Unlawfully killed American prisoner of War.	NG	Proved	"
CHARGE II - NEGLIGENCE OF DUTY IN VIOLATION OF THE LAWS AND CUSTOMS OF WAR (against Col. Kato only)	NG	Acquitted	—
Spec. 1 - As commanding officer failed in his duty in that he allowed persons under his command or control to kill unlawfully two American prisoners of war.	NG	Not proved	—
Spec 2 - As commanding officer failed in his duty to prevent the unlawful killing of two American prisoners of war.	NG	Not proved	—

SENTENCE: Col. Takemune Kato to be conf for the term of his natural life.
Capt. Masao Yamashita to be conf for the term of his natural life.
Corp. Shinosuke Taniyama to be conf for ten years.
Corp Shoichi Morito to be conf for fifteen years.
Superior Private Takakazu Oshida to be conf for fifteen years.

ACTION OF THE CONVENING AUTHORITY: Approved the proceedings, findings and sentences on Charge I and the specification thereunder. Did not concur in the findings and acquittal on Charge II and the specifications thereunder.

ACTION OF REVIEWING AUTHORITY: Approved the proceedings, findings, and sentences on Charge I and the specification thereunder. Approved the action of the convening authority and likewise did not concur in the findings and acquittal on Charge II and the specifications thereunder.

FACTS: In August 1944, and also in February 1945, a Major General Yoshio Tachibana of the Imperial Japanese Army was commander of the First Brigade, which held an area in the Bonin Islands, which included Chichi Jima and other islands nearby with headquarters on Chichi Jima. The accused, Col. Kato, then a Lt. Col., was commanding officer of the 307th Battalion occupying a district which included the Kominato area on Chichi, Jima. The accused, Capt. Yamashita, then a first lieutenant, Corp. Taniyama, then a Leading Private, Corporal Morito, then a Leading Private, and Superior Private Oshida, then a Leading Private, were attached to the 307th Battalion and under the command of Col. Kato.

In August 1944, a Lt. Col. Ito was ordered by the Brigade Commander to execute two American prisoners of war, one identified as Lloyd R. Woellhof, and one unidentified, and carried out the execution at a place in the area commanded by Col. Kato, by means of bayonets and beheading with a sword. There was no evidence that these prisoners had been granted a trial or that there was any just cause for the execution. Col. Kato had been apprised of the execution and was present when it was carried out, but did not do anything to try to prevent it nor did he inquire as to the reasons.

therefore, however, it was carried out by an officer, senior to him at the time, who was attached to the headquarters of the brigade and under orders from the brigade commander.

In February 1945, pursuant to orders from the brigade headquarters, the 307th Battalion received a prisoner of war believed to have been Grady A. York, aviation Ordnanceman third class, U.S. Navy, for execution. Col. Kato ordered the accused, Capt. Yamashita, to carry out the execution. Capt. Yamashita refused once to do so but when the order was repeated, proceeded to order men to assist him. Among those ordered to participate in the execution were the accused, Corporal Taniyama, Corporal Morito, and Superior Private Oshida. The execution was carried out by means of bamboo spears and fixed bayonets. There was no evidence indicating that the prisoner had been given a trial, or that there was any just cause for the execution.

EFFECT OF PREPARED ACTION: The proceedings, findings and sentences in the foregoing military commission case are valid.

1226

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
Headquarters of the Commander in Chief.

Cincpac File
A17-25

c/o Fleet Post Office,
San Francisco, California.


Serial 9912

20 SEP 1946

The proceedings, findings on Charge I and specification thereunder, and the sentences in the attached case of Colonel KATO, Takemune, IJA; Captain YAMASHITA, Masao, IJA; Corporal TANIYAMA, Shinosuke, IJA; Corporal MORITO, Shoichi, IJA; and Superior Private OSHIDA, Takekazu, IJA, are approved.

The action of the convening authority is approved. This reviewing authority does not concur in the findings of the commission as to Charge II and the specifications thereunder for the reasons stated in the convening authority's action.

The record is, in conformity with section D-14, Naval Courts and Boards, of the Chief of Naval Operations serial #01P22 of 28 November 1945, transmitted to the Judge Advocate General of the Navy to be revised and recorded.


J. H. TOWERS
Admiral, U.S. Navy,
Commander in Chief,
United States Pacific Fleet
and Pacific Ocean Areas,
and Military Governor of
the Pacific Ocean Areas.

To: Judge Advocate General.
Re: Colonel Takemune Kato, IJA, Captain Masao Yamashita, IJA, Corporal Shinosuke Taniyama, IJA, Corporal Shoichi Morito, IJA, and Superior Private Takekazu Oshida, IJA, trial by Military Commission in the Marianas Islands.

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War Crimes Officer, POA, (GUAM)
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A17-10/FF12/
13-JDM-gmr

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

10 SEP 1946

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The military commission, composed of Army, Navy, and Marine Corps officers, in the foregoing case, was convened 5 April 1946 by the Commander Marianas Area pursuant to his inherent authority as a Military Commander and the specific authorization of the Commander in Chief, United States Pacific Fleet (CinCPac conf. serial 0558 of March 8, 1946) and Pacific Ocean Areas, and Military Governor of the Pacific Ocean Areas. The order for trial (charges and specifications) was issued 26 June 1946 and served on the accused on 27 June 1946. The trial was held under authority of Naval Courts and Boards, except that the commission was authorized by the precept to relax the rules of Naval Courts to meet the necessities of the trial and to use the rules of evidence and procedure promulgated by the Supreme Commander for the Allied Powers in his Regulations Governing the Trials of Accused War Criminals dated 5 December 1945, as necessary to obtain justice.

Referring to Charge I and the specification thereunder, the evidence clearly shows that the defendant Colonel Takemune Kato, IJA, while Commanding Officer of the 307th Battalion and Commanding Officer of the Kominato Area, Chichi Jima, Bonin Islands, in accordance with orders of higher authority directed, in February 1945, the illegal execution of the American prisoner of war referred to in the specification. It further shows that in compliance with Kato's directive, Captain Masao Yamashita, Corporal Shinosuke Taniyama, Corporal Shoichi Morito and Superior Private Takekazu Oshida executed the American prisoner of war in February 1945 on Chichi Jima. The command of a superior neither excuses nor justifies an unlawful act. (Clark and Marshall, The Laws of Crime, 4th Ed., sec. 71, n. 310; CMO 212, 1919, 5; CMO 4, 1929, 19; para. 345.1 FM 27-10, 1 Oct. 1940.)

Referring to Charge II and the specifications thereunder, it is noted that the accused Kato was found not guilty of the offenses alleged. With these findings of the commission the convening authority does not concur for the reason that there is a total insufficiency of proper evidence to sustain such findings, in view of the prima facie case established against him.

The accused, Kato, was as alleged in the specifications the Commanding Officer of the 307th Battalion and Commanding Officer of the Kominato Area. At the time and place alleged he permitted the unlawful execution of two American prisoners of war who were held captive by the Japanese armed forces. He further permitted members of his command to take part in such executions, and was present at the scene of the executions for the reason as he stated, "I went there to pray for the souls of the departed, and as my subordinates were there, I also went to see and to control them", (R.p.59). He took no steps to safeguard the prisoners that, he knew in advance, were to be executed in his area and with the aid of his personnel. He did not so much as make representations to his Commanding Officer, the Brigade Commander, concerning the proposed executions which he knew, or should have known, if carried out, would be unlawful, and ask that the execution order be vacated or other instructions issued.

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Kato confirmed by his own statements and testimony the above stated facts and every material allegation in the specifications. He offered no factual evidence in rebuttal of the prima facie case established by the prosecution other than to urge that he was estopped to take action to safeguard the American prisoners of war, because their execution had been ordered by his superior. To concur in the commission's acquittal of Kato under such circumstances would in effect be an approval by the convening authority of the fallacious theory that unlawful orders of a superior relieve subordinates of any responsibility imposed upon them by the laws and customs of war, to protect prisoners of war.

Subject to the above remarks, the proceedings in the foregoing case of Colonel Takemune Kato, IJA, Captain Masao Yamashita, IJA, Corporal Shinosuke Taniyama, IJA, Corporal Shoichi Morito, IJA, and Superior Private Takekazu Oshida, IJA, are approved. The findings on Charge I and the specification thereunder and the sentence with reference to KATO, Takemune, Colonel, IJA, are approved. The findings on Charge I and the specification thereunder and the sentence with reference to YAMASHITA, Masao, Captain, IJA, are approved. The findings on Charge I and the specification thereunder and the sentence with reference to TANIYAMA, Shinosuke, Corporal, IJA, are approved. The findings on Charge I and the specification thereunder and the sentence with reference to MORITO, Shoichi, Corporal, IJA, are approved. The findings on Charge I and the specification thereunder and the sentence with reference to OSHIDA, Takekazu, Superior Private, IJA, are approved.

Colonel Kato, Captain Yamashita, Corporal Taniyama, Corporal Morito, and Superior Private Oshida will be retained in confinement at the Island Command Stockade, Guam, until approval of their sentences by the Commander-in-Chief, U. S. Pacific Fleet and Pacific Ocean Areas, and pending completion of arrangement for their transfer to Japan in accordance with the United States policy expressed in the War Department communication to Commander-in-Chief, Army Forces, Pacific.

C. A. Pownall
C. A. POWNALL,
Rear Admiral, U. S. Navy,
The Commander Marianas Area.

To: Commander-in-Chief United States Pacific Fleet and Pacific Ocean Areas:
Re: Record of Proceedings of Military Commission - case of
Colonel KATO, Takemune, IJA, et al.

Copy to:
Island Commander, Guam.

**UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
Headquarters of the Commander in Chief.**

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A17-25

c/o Fleet Post Office,
San Francisco, California.

Serial 9912

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The proceedings, findings on Charge I and specification thereunder, and the sentences in the attached case of Colonel Kato, Takemune, IJA; Captain YAMASHITA, Masao, IJA; Corporal TANIYAMA, Shinosuke, IJA; Corporal MORITO, Shoichi, IJA; and Superior Private OSHIDA, Takekazu, IJA, are approved.

The action of the convening authority is approved. This reviewing authority does not concur in the findings of the commission as to Charge II and the specifications thereunder for the reasons stated in the convening authority's action.

The record is, in conformity with section D-14, Naval Courts and Boards, and the Chief of Naval Operations serial #01P22 of 28 November 1945, transmitted to the Judge Advocate General of the Navy to be revised and recorded.

**J. H. TOWERS
Admiral, U.S. Navy,
Commander in Chief,
United States Pacific Fleet
and Pacific Ocean Areas,
and Military Governor of
the Pacific Ocean Areas.**

To: Judge Advocate General.

Re: Colonel Takemune Kato, IJA, Captain Masao Yamashita, IJA, Corporal Shinosuke Taniyama, IJA, Corporal Shoichi Morito, IJA, and Superior Private Takekazu Oshida, IJA, trial by Military Commission in the Marianas Islands.

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