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By: NARA NARA Date: 1976

CHISATO OISHI et al. (21 NOV 1945)

(146719)

0163

FIRST DAY

RESTRICTED

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

21 November 1945.

The commission met at 9:00 a.m.

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champion, Jr., USN
Captain H. B. Herty, USN,
Captain J. R. Weisser, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant Commander Edward F. O'Brien, USNR, and
Lieutenant William P. Mahoney, USNR, as Judge Advocates.

1st Lieutenant Stanley T. TITCOMB, USMCR, 1st Lt. Morris B. Wood, USMCR, 1st Lieutenant Robert B. Wyland, USMCR, and Chief Warrant Officer George T. Fearnehough, USMC, entered with the accused and reported as provost marshals.

The judge advocate introduced Edwin A. Boles, 1lc, U. S. Naval Reserve, as reporter.

Pursuant to verbal orders from the convening authority, at the request of the accused, the following took seat as counsel for the accused:

Lieutenant W. M. Gannon, USNR
Lieutenant (junior grade) F. J. Madrigan, USNR
Lieutenant (junior grade) I. D. Milenski, USNR

The accused requested that Lieutenant Commander Kozo Hirata, Imperial Japanese Navy, act in conjunction with the aforementioned counsel as additional counsel for the accused. Lieutenant Commander Kozo Hirata, took seat as counsel for the accused.

The judge advocate read the precept, copy prefixed marked "A".

The accused stated that prior to interposing a challenge to the members of the commission he desired to know whether or not any members of the commission were lawyers. Lieutenant Colonel Basil P. Cooper, FA, stated that he was a lawyer. The accused stated that they did not object to any member of the commission.

The judge advocates, each member of the commission, and the reporter were duly sworn.

The following interpreters were duly sworn:

Don S. Okubo, T/3, AUS
Larry Kaguo Watanabe, T/3, AUS
Satoru Tony Sunamoto, T/3, AUS

Each of the accused stated that he had received a copy of the charges and specifications in English and in Japanese on November 13, 1945.

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

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UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
COMMANDER MARSHALLS GILBERTS AREA

Area/01
F13

Serial: 8384

10 NOV 1945

From: Commander Marshalls Gilberts Area.
To : Lieutenant Commander E. F. O'Brien or Lieutenant W. P. Mahoney,
Judge Advocates, Military Commission, Marshalls Gilberts Area.

Subject: Charges and Specifications in the case of:

Colonel Chiseto OISHI, Imperial Japanese Army, *sub*
Major Otokiti NAKAO, Imperial Japanese Army,
Major Chojiro TAKARADA, Imperial Japanese Army,
Lieutenant Kyoshi FUETA, Imperial Japanese Navy, *sub*
Captain Masamaki ABE, Imperial Japanese Army, *sub*
First Lieutenant Yasuyoshi KADOTA, Imperial Japanese Army,
First Lieutenant Yashuo MDORI, Imperial Japanese Army,
Ensign Harushi MOTOMURA, Imperial Japanese Navy,
Ensign Yutaka TANAKA, Imperial Japanese Navy, and
Warrant Officer Tatsuichi MANAKO, Imperial Japanese Navy.

1. The above named men 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 their trial, and summon all witnesses, both for the prosecution and for the defense.

CHARGE I

MURDER

SPECIFICATION

In that, Chiseto OISHI, Colonel, Imperial Japanese Army, Otokiti NAKAO, Major, Imperial Japanese Army, Chojiro TAKARADA, Major, Imperial Japanese Army, Kyoshi FUETA, Lieutenant, Imperial Japanese Navy, Masamaki ABE, Captain, Imperial Japanese Army, Yasuyoshi KADOTA, First Lieutenant, Imperial Japanese Army, Yashuo MDORI, First Lieutenant, Imperial Japanese Army, Harushi MOTOMURA, Ensign, Imperial Japanese Navy, Yutaka TANAKA, Ensign, Imperial Japanese Navy, and Tatsuichi MANAKO, Warrant Officer, Imperial Japanese Navy, did, on or about February 2, 1944, at or near Mille Atoll, Marshalls Islands, at a time when a state of war existed between the United States of America and the Japanese Empire, wilfully, feloniously and with malice aforethought, without justifiable cause, without trial or other due process, and with intent unlawfully to injure and kill five (5) American crew members of a medium bomber of the United States Army Air Corps, name and further description unknown, assault and kill, by beheading said American crew members, who were then and there captured and unarmed prisoners of *sub*

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米 太平洋艦隊

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太平洋方面

司令官

マーシャルギルバット方面

マーシャルギルバット方面司令官

マーシャルギルバット方面調査係法務官 一 五ノ...

ダブルディアホニ大尉宛

左の者に対する告發と調査書

陸軍大佐 大石千里

陸軍少佐 中尾乙吉

陸軍少佐 宝田長次郎

海軍大尉 智田清

陸軍大尉 阿部政成

陸軍中尉 角田安義

陸軍中尉 毛利安雄

海軍少尉 本村晴

海軍少尉 田中寛

海軍兵曹長 眞名子辰一

一 右の者は貴官が法務官となつてゐる調査係の前にて
左の件で公判に附する、貴官は調査係長に右の事
を通知し被告に公判の日を知らせ告發及び被告の
證人等を皆集めること。

告發 一

殺害

調査書

大石千里陸軍大佐、中尾乙吉陸軍少佐、宝田長次郎
陸軍少佐、智田清海軍大尉、阿部政成陸軍大尉、角田
安義陸軍中尉、毛利安雄陸軍中尉、本村晴海軍
少尉、田中寛海軍少尉、眞名子辰一海軍兵曹長、
は一九四四年の二月三日又はその頃、北米合衆國と日
本帝國との交戦中、マーシャル群島ミッド島にて詭譎に

色

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重罪的に謀謀悪意を以て、言譯の立つ理由もなく又公判も訟訴手續もなく米國陸軍飛行隊の中爆撃機の乗員米國人を五名(姓名人相未知)この米國乗員は其の頃被告者に留置されてゐた武器を奪取して被告者は彼等を斬罪し北米合衆國の國位、英皇の尊嚴の制式又文明國の道義を違犯した。

告發 二

謀殺を行ふ

調査書

大石千里陸軍大佐、中尾乙吉陸軍少佐、宝田長次郎陸軍少佐、笛田清海軍大尉、阿部政成陸軍大尉、角田安義陸軍中尉、毛利安雄陸軍中尉、本村清海軍少尉、田中寛海軍少尉、眞名子辰一海軍兵曹長は一千九百四十四年の三月二日又はその頃北米合衆國と日本帝國とが交戦中、マニラ群島ミト島にて詭譎に不法に言譯の立つ理由もなく公判も訟訴手續もなく米國陸軍飛行隊の中爆撃機の米國乗員を五名(姓名人相未知)その頃は被告者に留置されてゐた武器を奪取して被告者は彼等を斬罪し北米合衆國の國位、英皇の尊嚴の制式又文明國の道義を違犯した。

W. HARRILL

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Case of

Colonel Chisato Oishi, IJA;
Major Otokiti Nakao, IJA;
Major Chojiro Takarada, IJA;
Lieutenant Kiyoshi Fueta, IJN;
Captain Masaaki Abe, IJA;
First Lieutenant Kasuyoshi Kadota, IJA;
First Lieutenant Yasuo Noori, IJA;
Ensign Harushi Motomura, IJN;
Ensign Yutaka Tanaka, IJN;
Warrant Officer Tatsuzichi Manako, IJN.

RECORD OF PROCEEDINGS

of a

MILITARY COMMISSION

convened on board

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands,

by order of

Commander Marshalls Gilberts Area

Copy furnished



146719

Filed Feb 15 Apr 1946

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Colonel Chisato Oishi, Imperial Japanese Army,

et al

Trial by Military Commission

on board the

U. S. Naval Air Base,

Kwajalein Atoll,

Marshall Islands.

November 21, 1945.

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TESTIMONY

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EXHIBITS

Exhibit	Character of	Admitted in evidence
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Area/J-1
A17-10

Serial: 8078

3 November 1945

From: Commander Marshalls Gilberts Area.
To: Commodore Ben H. Wyatt, USN, U. S. Naval Air Base, Kwajalein.
Subject: Precept for a Military Commission.

1. Pursuant to authority vested in me by Commander in Chief, U. S. Pacific Fleet and Pacific Ocean Areas restricted dispatch 092305 October, a Military Commission is hereby ordered to convene on board the U. S. Naval Air Base, Kwajalein Island, Kwajalein Atoll at 10 o'clock a.m. on Monday 12 November 1945, or as soon thereafter as practicable, for the trial of such war crime cases as may properly be brought before it.

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

Commodore B. H. Wyatt, USN
Captain C. G. Champion, Jr., USN
Captain H. B. Herty, USN
Captain J. R. Weisser, USN
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN
Lieutenant Colonel Basil P. Cooper, FA
Lieutenant Commander Edward F. O'Brien, USNR and
Lieutenant William P. Mahoney, USNR as Judge Advocate,
either of whom is authorized to act as such.

3. 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 Military Commission. Specific orders for such relief are necessary.

4. Power of adjournment is inherent in the Commission, and adjourned session may be held at such times and such places as the Commission may determine.

W. K. HARRILL

A true copy. Attest:

Edward F. O'Brien
Lieutenant Commander, U. S. Naval Reserve,
Judge Advocate

"A"

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UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
COMMANDER MARSHALLS GILBERTS AREA

Area/01
P13

Serial: 8384

10 NOV 1945

Subject: Charges and Specifications in the case of subject named men.

war in the custody of the accused, in violation of the dignity of the United States of America, the international rules of warfare and the moral standards of civilized society.

CHARGE II

CONSPIRACY TO COMMIT MURDER

SPECIFICATION

In that, Chiseto OISHI, Colonel, Imperial Japanese Army, Otokiti NAKAO, Major, Imperial Japanese Army, Chojiro TAKARADA, Major, Imperial Japanese Army, Kyoshi FUETA, Lieutenant, Imperial Japanese Navy, Masawaki ABE, Captain, Imperial Japanese Army, Yasuyoshi KADOTA, First Lieutenant, Imperial Japanese Army, Yashuo MOORI, First Lieutenant, Imperial Japanese Navy, Harushi MOTOMURA, Ensign, Imperial Japanese Navy, Yutaka TANAKA, Ensign, Imperial Japanese Navy, and Tatsuichi MANAKO, Warrant Officer, Imperial Japanese Navy, did, on or about February 2, 1944, at or near Mille Atoll, Marshalls Islands, at a time of the state of war between the United States of America and the Government of Japan, wilfully, wrongfully and without justifiable cause, and without trial or other due process, conspire and enter into a conspiracy, each and together, to execute and cause to be executed without trial, by beheading five (5) American Flyers, crew of a medium bomber of the United States Army Air Corps, names and further description unknown, who were then and there captured and unarmed prisoners of war in the custody of the accused, and they, the said Chiseto OISHI, Colonel, Imperial Japanese Army, Otokiti NAKAO, Major, Imperial Japanese Army, Chojiro TAKARADA, Major, Imperial Japanese Army, Kyoshi FUETA, Lieutenant, Imperial Japanese Navy, Masawaki ABE, Captain, Imperial Japanese Army, Yasuyoshi KADOTA, First Lieutenant, Imperial Japanese Army, Yashuo MOORI, First Lieutenant, Imperial Japanese Navy, Harushi MOTOMURA, Ensign, Imperial Japanese Navy, Yutaka TANAKA, Ensign, Imperial Japanese Navy, and Tatsuichi MANAKO, Warrant Officer, Imperial Japanese Navy, did, each and together, then and there, in pursuance of said common design, execute the said five (5) American Flyers, by beheading them, all in violation of the dignity of the United States of America, the rules of international warfare, and the moral standards of civilized society.

W. K. Harrill
W. K. HARRILL

"B(2)"

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The accused replied in the affirmative, stating that in the charges and specifications the first name of OISHI is listed as "Chisoto", whereas the correct spelling should be "Chisato", and this he is willing to verify; that the first name of FUETA is listed as "Kyoshi", whereas the correct spelling should be "Kiyoshi", and this he is ready to verify; that the first name of ABE is listed as "Masanaki", whereas the correct spelling should be "Masaaki", and this he is willing to verify.

The court requested a verification. Each of the aforementioned accused verified the discrepancies and corrections.

The commission was cleared.

The commission was opened and all parties to the trial entered. The commission directed the judge advocate to correct the manifest clerical errors in spelling of the Christian name pointed out by each of the mentioned accused in the original charges and specifications and in the copy in the hands of each of the accused.

The judge advocate asked each of the accused if he had further objection to the charges and specifications as corrected.

Each of the accused replied in the affirmative stating that all elements of Charge II were contained in Charge I and, therefore, is a duplication, and any evidence that may be offered in support of Charge I must necessarily include all evidence in support of Charge II; that both charges are in substance an allegation of concerted action and are in effect a duplication of charges.

The judge advocate replied.

The commission was cleared.

The commission was opened. All parties to the trial entered and the court announced that the objection was overruled and that it found the charges and specifications in due form and technically correct.

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

The judge advocate stated that two of the three interpreters, viz., Okabo and Sunamoto, would be used by the prosecution at various stages throughout the trial as witnesses for the identification of documents but not for the establishment of any material facts in the case and that they be allowed to remain during the trial as interpreters. There being no objection they were allowed to remain.

Other than the above, no witnesses not otherwise connected with the trial were present.

Each of the accused made a plea to the jurisdiction of this commission and challenged its right to try the accused. In support of the plea it was stated as follows:

"(1) Article 1 Section 8, clause 14 of the Constitution of U. S. gives Congress the power 'to make rules for the government and regulation of the land and naval forces'; clause 10 of the same section states that Congress has the power 'to define and punish piracies and felonies committed on the high seas and offenses against the law of nations', and clause 18 of the same section and article provides the Congress shall have the power 'to make all laws which shall be necessary and proper for the carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof'.

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- " This power is reserved to Congress and cannot and has not been delegated to any branch of the armed forces or to any other agency or branch of the government. Our armed forces are created by Congress under the power vested by the constitution and it is that power which will control both the size and activity of the armed forces. Congress has not set up or provided for an agency or instrumentality to try enemy nationals of war crimes and atrocities.
- "(2) The present tribunal has been created by the authority of Commanding General. We question the power of Military Government to legislate beyond the necessities of the case. The procedure set forth for the trial of those accused of war crimes is legislative in character and it deals with crimes committed when an active state of war existed. The hostilities have ceased and the trial of war criminals under authority of the military government only does not strengthen our forces and weaken the enemy as the crimes were not committed while Mille Atoll was occupied by our forces. We submit that sufficient legal foundation does not presently exist for a trial of this nature.
- "(3) The accused are nationals of a foreign country and are or were members of its Army or Navy. They are not members of our forces so as to come within the jurisdiction as to such prisoners of war conferred by Section 333, Naval Courts and Boards is retroactive and did not exist at the time of the alleged crimes.
- "(4) Customs and usages of nations either in war or peace does not include trials of this nature.
- "(5) The rules of land warfare do not provide for a trial of enemy nationals by a tribunal of this nature."

The judge advocate replied as follows: Before answering the objection I would like to introduce two certified dispatches, namely 080436 of October from Commander Marshalls Gilberts Area to Commander-in-Chief, U. S. Pacific Fleet, and 092305 of October from Commander-in-Chief, U. S. Pacific Fleet to Commander Marshalls Gilberts Area.

There being no objection, the dispatches were so received and marked exhibits "1" and "2".

The judge advocate requested the commission to take judicial notice of Proclamation #4, issued by Commander-in-Chief, U. S. Pacific Fleet, as Military Governor of the Marshall Islands.

Each of the accused objected to this commission taking judicial notice of the proclamation on the ground that Section 309, Naval Courts and Boards provides that "it must be further shown that the law or regulation was in force at the time when the alleged act in violation thereof took place". If the proclamation was effective when the territory was occupied by the United States, it obviously was not in effect at the time the alleged crimes were committed.

The judge advocate replied, calling the attention of the commission to section 309, Naval Courts and Boards and that portion read by the accused. The portion of section 309 read by the accused applied to foreign law, but that the second preceding paragraph of that section allows the taking of judicial notice of "general orders of the command in which the commission is sitting, etc."

The commission was cleared.

The commission was opened and all parties to the trial entered.

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The commission announced that the objection was overruled and that it would take judicial notice of Proclamation #4 of the Military Governor of the Marshall Islands.

The judge advocate submitted the following argument in support of the jurisdiction of this commission:

Jurisdiction over the enemy for acts in contravention of the laws of war and in violation of the rules of civilized society and dictates of humanity flow from the President of the United States as Commander-in-Chief of the victorious occupants of enemy territory and conquerors of enemy forces. It should be borne in mind that the burden rests upon each of the accused to affirmatively establish that this commission is outside of its jurisdiction. I would like to quote from Appendix D-4 of Naval Courts and Boards:

"D-4. Military government is military power exercised by a belligerent, by virtue of his occupation of an enemy's territory, over such territory and its inhabitants. This applies not only to the occupied territory of a foreign enemy in war but likewise to the territory of the United States in cases of insurrection and rebellion of such magnitude that the rebels are treated as belligerents. Quoting from Davis, page 300- it (military government) applies to territory over which the Constitution and laws of the United States have no operation and in which the guarantees which are contained in that instrument are entirely inoperative. Its exercise is sanctioned because all powers of sovereignty have passed into the hands of the commanding general of the occupying forces and the local authority is unable to maintain order and protect life and property in the immediate theater of military operations and the duty of such protection passes with the permanent or temporary transfer of sovereign power and authority to the occupying belligerent. In this case the mere fact of hostile occupation of the territory of the enemy constitutes notice to the inhabitants of the existence of the government by military occupation."

And from Appendix D-7 of Naval Courts and Boards:

"Congress having, under its constitutional powers, declared or otherwise initiated the state of war, and made proper provision for its carrying on, the efficient prosecution of hostilities is devolved upon the President as Commander-in-Chief. In this capacity, unless Congress shall specially otherwise provide, it will become his right and duty to exercise military government over such portion of the country of the enemy as may pass into the possession of his army by the right of conquest. In such government the President represents the sovereignty of the nation, but as he can not administer all the details, he delegates, expressly or impliedly, to the commanders of armies under him the requisite authority for the purpose. Thus authorized, these commanders may legally do whatever the President might himself do if personally present, and in their proceedings and orders are presumed to act by the President's direction or sanction.' As to the extent of the power thus conferred (quoting farther): 'The power of military government thus vested in the President or his military subordinates is a large and extraordinary one, being subject only to such conditions and restrictions as the law of war, in defining the particulars to which it may extend, imposes upon the scope of its exercise. As it is expressed by the Supreme Court, the governing authority 'may do anything necessary to strengthen itself and weaken the enemy. There is no limit to the powers that may be exerted in such cases save those which are found in the laws and usages of war'."

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Then, too, section 333 of Naval Courts and Boards provides as follows: "Under the laws of war and the provisions of the Geneva (Prisoners of War) Convention of 1929, prisoners of war are subject to the jurisdiction of a naval court martial". And in Appendix D-13 of Naval Courts and Boards, it is there said:

"These exceptional military courts, unlike the court martial, derive their sanction from the laws of war and not from the enactments of Congress. ***The offense, which may be either a civil crime or violation of the laws of war ***."

The commission was cleared.

The commission was opened, and all parties to the trial entered. The commission announced that the plea of each of the accused to the jurisdiction of the commission was overruled.

The judge advocate asked each of the accused if he had any further plea to offer.

Each of the accused replied in the affirmative, stating that the rules of procedure governing the trial of war crimes as adopted by the Supreme Commander Allied Powers, provide that "Persons whose offenses have a particular geographical location outside of Japan may be returned to the scene of their crimes for trial by competent military or civil tribunals of local jurisdiction***." The places of trial are, therefore, enumerated and such enumeration excludes other locations. The word "may" is used in connection with "location outside of Japan". There appears to be no authority for holding this trial at Kwajalein.

The judge advocate replied that since the convening authority has the power to prefer the accused for trial he can designate the place in his area where the trial should be held.

The commission was cleared.

The commission was opened and all parties to the trial entered. The commission announced that the objection of the accused was overruled.

The judge advocate asked each of the accused if he had any further plea to offer.

Each of the accused replied in the negative.

The judge advocate requested that the commission adopt so much of the Supreme Commander Allied Powers rules of procedure for trial of war crimes as pertains to rules of evidence. There being no objection so much of the rules as pertains to rules of evidence were adopted.

The judge advocate read the letter containing the charges and specifications, original prefixed marked "B(1)" and "B(2)".

One of the interpreters read the charges and specifications to each of the accused in Japanese.

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

Q. Chisato OISHI, Colonel, Imperial Japanese Army, 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. Not guilty.

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

A. Not guilty.

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

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

Q. Otokiti NAKAO, Major, Imperial Japanese Army, 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. Not guilty.

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

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

A. Not guilty.

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

Q. Chojiro TAKARADA, Major, Imperial Japanese Army, 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. Not guilty.

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

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

A. Not guilty.

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

Q. Kiyoshi FUETA, Lieutenant, Imperial Japanese Navy, 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. Not guilty.

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

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

A. Not guilty.

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

Q. Masaaki ABE, Captain, Imperial Japanese Army, you have heard the charges and specifications against you; how say you to the specification of the first charge, guilty or not guilty?

A. Not guilty.

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

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

A. Not guilty.

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

Q. Yasuyoshi KADOTA, First Lieutenant, Imperial Japanese Army,

RESTRICTED

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. Not guilty.

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

A. Not guilty.

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

A. Not guilty?

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

A. Not guilty.

Q. Yashuo MDORI, First Lieutenant, Imperial Japanese Army, 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. Not guilty.

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

A. Not guilty.

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

A. Not guilty.

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

A. Not guilty.

Q. Harushi MOTOMURA, Ensign, Imperial Japanese Navy, 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. Not guilty.

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

A. Not guilty.

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

A. Not guilty.

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

A. Not guilty.

Q. Yutaka TANAKA, Ensign, Imperial Japanese Navy, 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. Not guilty.

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

A. Not guilty.

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

A. Not guilty.

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

A. Not guilty.

Q. Tatsuichi MANAKO, Warrant Officer, Imperial Japanese Navy, 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. Not guilty.

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

A. Not guilty.

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

A. Not guilty.

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

A. Not guilty.

Each of the accused admitted that he was one and the same person as mentioned in the charges and specifications.

Each of the accused stated that this admission was made by his authority.

The prosecution began.

The judge advocate requested the commission to take judicial notice of the existence of a state of war between the United States of America and the Empire of Japan during the year 1944.

There being no objection the commission stated that it would take judicial notice of this fact.

The judge advocate requested the commission to take judicial notice of the Prisoner of War section of the Geneva Convention as embodied in the United States Army Field Manuals 27-10 and 27-15 as well as the foreword to the Manual 27-15 showing the Japanese relationship to the Prisoner of War section.

Each of the accused objected to the commission taking judicial notice of this section on the ground no showing has been made that the Japanese Government was a signatory or agreed to be bound by this section.

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 overruled and that it would take judicial notice of the Prisoners of War section of the Geneva Convention as outlined in United States Army Manuals 27-10 and 27-15 as well as the foreword to the Manual 27-15.

The judge advocate made the following opening statement:

If the court please, the purpose of an opening statement is to picture to the court and jury in a preliminary fashion the case about to be tried. The opening statement is in no sense to be considered as evidence or taken as such. The prosecution will show you what it hopes to prove and any statements made at this time not borne out by later testimony and competent evidence should be disregarded.

The prosecution expects to show that in January, February and March 1944, Mille Atoll was in the occupation of Japanese Navy and Army forces. Captain Shiga was at that time the Atoll Commander in charge of all units which included Headquarters, North, West and South Sector Naval Units and the 1st, 3rd and Mountain Artillery Units; that Colonel Oishi headed the Army units on Mille - the commanding officers of these units being Major Nakao, Major Takarada and Captain Ishii. The commanding officers of the naval units were Lieutenant Kiyoshi Fueta, of the northern sector, and Lieutenant Takakochi of the southern sector. During the month of January 1944, a group of Army B-25's bombed Mille Atoll. One of the planes was shot down in the Mille lagoon. Five occupants escaped in a rubber life raft and were captured by the Japanese on Mille. This occurred on January 19th. The fliers were retained on Mille until the invasion of Kwajalein in the fore part of February. To properly prepare for the defense of Mille against an anticipated invasion a hurried meeting

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was called by Captain Shiga, Colonel Oishi and Lieutenant Otani. It will be the contention of the prosecution that the disposition of the five American fliers was determined at this meeting; that one flier was portioned to each army and navy unit; that each unit executed an American by decapitation at or about the time of the invasion of Kwajalein.

The commission directed that the statement and all subsequent proceedings be translated into Japanese to the accused.

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

Examined by the judge advocate:

1. Q. State your name, rank and present station.
A. Edward F. O'Brien, Lieutenant Commander, U. S. Naval Reserve, Judge Advocate of this commission.
2. Q. Are you the legal custodian of an investigation to inquire into events of Mille Atoll in January, February and March 1944?
A. I am.
3. Q. Who convened the Board of Investigation?
A. Commander Marshalls Gilberts Area, Rear Admiral W. K. Harrill.
4. Q. By whose authority was this investigation established?
A. By Commander-in-Chief, Pacific Fleet and Pacific Ocean Areas.
5. Q. What was the purpose of the investigation?
A. To inquire into alleged war crimes and atrocities on Mille Atoll, Marshall Islands.
6. Q. Who was the investigating officer?
A. Lieutenant E. E. Cook, Jr., USNR, and First Lieutenant Jack Vickrey, USMCR.
7. Q. Was the investigation signed by them?
A. It was.

The proceedings of the investigation were submitted to each of the accused and to the commission, and by the judge advocate so much thereof as contains exhibits "2", "3" and "4" was offered in evidence.

Each of the accused objected to the introduction of the entire record in evidence but did not object to the introduction of the three exhibits.

The judge advocate replied that the investigation was offered only and for the sole purpose of introducing the three exhibits.

There being no further objection, exhibits "2", "3" and "4" were received in evidence, originals appended marked "Exhibit 3", "Exhibit 4", and "Exhibit 5".

Neither the judge advocate, the accused, nor the commission desired further to examine this witness; the witness resumed his seat as judge advocate.

The commission then at 12:00 noon recessed until 1:30 p.m., at which time it reconvened.

Present: All the members, the judge advocate, the reporter, the interpreters, each of the accused and their counsel.

No witnesses not otherwise connected with the trial were present.

A witness for the prosecution entered and was duly sworn. The nature of the oath was carefully explained by the President of the

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Commission through an interpreter.

The judge advocate stated that the purpose of this witness' testimony was to establish the chain of Japanese command on Mille Atoll, and that he would like to have the associate judge advocate outline the chain of command as the witness testified.

There being no objection, permission was granted.

1. Q. State your name and rank.
A. TOMITA, Ryoji, Lieutenant (senior grade), Imperial Japanese Navy.
2. Q. During the year 1944, where were you located?
A. I was at Mille Atoll.
3. Q. In what capacity?
A. I was in charge of shore defenses there.
4. Q. And who was Atoll Commander of Mille Atoll at this time?
A. Captain Shiga, of the Navy, was Atoll Commander at that time.
5. Q. When did Captain Shiga assume command at Mille?
A. July 1943.
6. Q. Who was Atoll Commander prior to Captain Shiga?
A. I was.
7. Q. In January, February and March 1944, who was Executive Officer under Captain Shiga?
A. Lieutenant Commander Tokuno was Executive Officer, Japanese Navy.
8. Q. And who was the Naval Police Commissioner during these months?
A. Lieutenant, senior grade, Otani, of the Imperial Navy.
9. Q. Was an Army liaison officer located at Navy Staff Headquarters during this period?
A. Yes, sir, there was an Army liaison officer at Headquarters.
10. Q. And who was this officer during January, February and March 1944?
A. Second Lieutenant Hiraoka, of Imperial Japanese Army.
11. Q. During these months who was the Commanding Officer of all the Army units on Mille?
A. Colonel Oishi was the commander of the whole Army unit there.
12. Q. During these months, how many Army units were located on Mille?
A. Five Army units.
13. Q. What were the Army units?
A. Regimental Headquarters; 1st Infantry Battalion; 3rd Infantry Battalion; Mountain Artillery Battalion; one Engineer Unit.
14. Q. During these months who was the commanding officer of the Mountain Artillery Unit?
A. Major Nakao was the commander of the Mountain Artillery Unit.
15. Q. Who was the commanding officer of the 1st Infantry Battalion at this time?
A. Captain Ishii.
16. Q. What happened to Captain Ishii, if you know?
A. He was killed in bombing.
17. Q. Who was the commanding officer of the 3rd Infantry Battalion during these months?
A. Major Takarada was commander of the 3rd Infantry Battalion.

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18. Q. How many Naval units were there on Mille Atoll during these three months?

A. There was a Headquarters Unit, a North Sector Unit and South Sector Unit.

19. Q. Did the Atoll Commander have charge of the Headquarters Unit - I mean the immediate supervision?

A. He was direct commander of the Headquarters Unit.

20. Q. Who was commanding the North Sector Unit during these three months?

A. Lieutenant, senior grade, Fueta was the commander of the North Sector Unit during this time - Imperial Japanese Navy.

21. Q. Who was commander of the South Sector Unit during these three months?

A. Lieutenant, senior grade, Takahashi.

22. Q. And what happened to Lieut. Takahashi, if you know?

A. He was killed in bombing.

23. Q. Who was commander of the West Sector Unit during these three months?

A. Lieutenant, senior grade, Suzuki.

24. Q. And what happened to Lieut. Suzuki, if you know?

A. He was still living.

25. Q. Now what happened to Lieutenant Hiracka, if you know?

A. He died on one of the outlying islands.

26. Q. And what happened to Captain Shiga, if you know?

A. He committed suicide at Majuro.

27. Q. Do you know the approximate time that Captain Shiga committed suicide?

A. You want to know the date?

28. Q. The approximate date?

A. The latter part of September.

29. Q. Of what year?

A. 1945.

30. Q. And was that after the occupation of Mille Atoll by the American Forces?

A. Yes, it was after the Americans had occupied Mille Atoll.

31. Q. What happened to Lieutenant Otani, if you know?

A. He was killed in a bombing.

Cross-examined by the accused:

32. Q. Was Captain Shiga the man in complete charge of the atoll?

A. He was the complete atoll commander in charge of the whole atoll.

33. Q. Over all the Navy and Army and all the forces upon it?

A. Over both Army and Navy.

Examined by the Commission:

34. Q. The witness has stated that Colonel Oishi was in charge of the Army group on Mille Atoll. Can he identify Colonel Oishi.

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35. Q. If so, will he please point out Col. Oishi now, and will Col. Oishi rise?

A. Witness stands up and points to Col. Oishi, who stood up.

36. Q. You definitely identify this man as Col. Oishi, the one you speak of?

A. Yes.

37. Q. Also, can the witness identify Major Nakao?

A. Witness points to Major Nakao, who stood up.

38. Q. You definitely identify this man as Major Nakao?

A. Yes, sir.

39. Q. Also I would like him to identify, if he can, Major Takarada; also, Lt. Fusta.

A. These men were pointed out and identified by witness, both Major Takarada and Lieutenant Fusta standing.

Re-cross-examined by the accused:

40. Q. Do you know if all the officers in the chain of command which you put forth have been promoted since that time?

A. Ensign Motomura has been promoted.

41. Q. Was Major Nakao a Major at that time?

A. I don't know.

42. Q. Was Major Takarada a Major at the time?

A. I don't remember very clearly but I think both of them were Captains at that time.

43. Q. Was Lieutenant Fusta at that time a Lieutenant junior grade?

A. I think he was a Lieutenant, senior grade, at that time.

44. Q. Who was the ranking officer on the atoll at the time we have mentioned?

A. Captain Shiga.

The judge advocate stated that he would like to have the drawing on the blackboard reduced to a paper, approved by the accused, and offer it in evidence.

There being no objection permission was granted; the drawing is appended marked "Exhibit 8".

Neither the judge advocate, the accused nor the court 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. The oath was carefully explained to him by the President through an interpreter.

Examined by the Judge Advocate:

1. Q. State your name and nationality.

A. I am Japanese and my name is MOMMA, Nabotsune. I am a civilian attached to the Navy.

2. Q. During the year 1944, where were you located?

A. I was stationed at Mille Island.

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3. Q. In what capacity?
A. I was a civilian attached to the Navy concerned with mechanical work or taking charge of automobiles.
4. Q. When did you arrive at Mille?
A. I arrived on Mille April 2, 1943.
5. Q. When did you leave Mille?
A. I left Mille on March 11, 1945.
6. Q. While you were on Mille, did you see any American planes shot down?
A. Yes, I did.
7. Q. What type plane?
A. It was a North American.
8. Q. When was this plane shot down?
A. I do not remember clearly but believe it was at the end of February or at the beginning of March 1944.
9. Q. Was this plane shot down during a bombing raid?
A. Yes.
10. Q. Approximately how many planes were in this raid?
A. I believe it was about 11 planes.
11. Q. Where did this plane crash?
A. The plane crashed in the lagoon about 3,000 meters East of the main island of Mille.
12. Q. How long before or after the invasion of Kwajalein by the Americans was this plane shot down?
A. I believe it was after the invasion of Kwajalein by the Americans.
13. Q. Did you notice any people coming out of the plane that landed in Mille lagoon?
A. I did not see the fliers come out of the plane but I saw a rubber raft and some men clinging to it; but I heard it was five.
14. Q. How close to the time after the plane crashed did you see the men in the rubber raft; that is, was it soon after the plane crashed?
A. Immediately after. I was at the air raid shelter along the beach and saw it immediately.

By the commission:

15. Q. I want to go back to the question before this. Did you say how many got out?
A. Five.

Examination continued by Judge Advocate:

16. Q. Did you ascertain the nationality of the people in the rubber life raft?
A. I believe it was Americans.
17. Q. Could you tell approximately how many were in the raft?
A. I could not see how many men were on the raft but when they came to the pier I heard it was five.
18. Q. What did you see prior to the raft coming to the pier?
A. First I went into the air raid shelter and was sleeping.

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19. Q. Did you see the raft arrive at the pier?

A. A Japanese craft went out to meet the rubber boat to bring the Americans to the pier and I went to the pier to see but at that time the Americans were aboard a vehicle and had gone away.

20. Q. How many Americans did you see aboard the vehicle?

A. The vehicle was surrounded by troops and I did not see clearly but I heard five.

21. Q. What did you do after the truck left with the fliers?

A. During the day we did not have any work so we just played and worked in our gardens.

22. Q. Did you have occasion to see any of the people in the raft at any time after they were taken away on the truck?

A. No, I did not.

23. Q. Did you see the fliers at any time after this particular day?

A. No, I did not.

24. Q. Was the plane on fire when it crashed?

A. No, it was not burning.

25. Q. Were the occupants of the raft and the truck fully dressed?

A. I don't remember clearly but I believe I could see part of the body of one flier.

26. Q. Did he appear to be injured or wounded?

A. Later I heard that the doctor at the Naval Garrison Forces was giving first aid.

Each of the accused objected to the testimony on the ground of hearsay.

The judge advocate replied.

The commission was cleared.

The commission was opened and all parties to the trial entered. The commission announced that it would not consider the testimony of this witness as to establishment of number of persons seen getting out of the plane since it does not appear to be the best evidence available. However, in the future the commission will admit such evidence and give it such weight as the board deems appropriate, considering all the circumstances involved.

The accused stated that they did not desire to cross examine this witness.

Examined by the commission:

27. Q. At any time during your stay on the Island of Mille did you see any Americans or white people?

A. In 1942, I saw two missionaries, but do not recall what date.

28. Q. Do you know what became of those missionaries?

A. They probably were killed.

Each of the accused moved that the last question and answer be stricken from the record.

There being no objection, the court directed that the question and answer be stricken.

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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 the oath was carefully explained by the President through an interpreter.

Examined by the judge advocate:

1. Q. What is your name?
A. Kazuya AOYAGI.
2. Q. What is your rank?
A. I am a Chief Petty Officer in the Imperial Japanese Navy, 66th Garrison Unit, an engineer.
3. Q. What is your nationality?
A. Japanese.
4. Q. During the year 1944, where were you located?
A. On the main island, Mille Atoll.
5. Q. When did you arrive on Mille?
A. March 23, 1943.
6. Q. While on Mille, and during the year 1944, did you see any American planes shot down?
A. Yes.
7. Q. Can you tell the time of year you saw them shot down?
A. I don't remember very clearly, but I think it was the latter part of March, or early part of April, of last year.
8. Q. Was this plane one of a group of planes on a bombing mission run at that time?
A. I think so.
9. Q. What type of plane, if you know?
A. I was in an air raid shelter, so I don't know. I did not see the type of plane.
10. Q. Explain, where in the air raid shelter, you were located?
A. I was in the Headquarters Area shelter which is facing toward the runway.
11. Q. From your position, could you see the air raid?
A. I could not see the air raid, but I could tell by the bombing and strafing.
12. Q. Did you see a plane fall into the lagoon?
A. I saw the American plane after it had crashed in the lagoon. I did not see the American plane crash.
13. Q. But you did see it in the lagoon?
A. The people were talking about the American plane crashing and I went out from the air raid shelter and saw it.
14. Q. What type plane was it, if you know?
A. I did not know.

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15. Q. Did you see any people get out of the plane?
A. When I saw the American plane, I saw people on a rubber boat.
16. Q. How many people did you see in the rubber boat?
A. I did not see how many people were on the rubber raft. At that time, I saw the Americans on the rubber raft, but I saw 5 Americans after they were brought to shore.
17. Q. Who brought the boat to shore?
A. The naval personnel brought it to shore.
18. Q. About what time of the day did you see this?
A. I did not know whether it was before or after noon, but I think it was about noon.
19. Q. Did you have occasion to see the fliers when they arrived at the pier?
A. I saw the American fliers upon a truck.
20. Q. How many fliers did you see?
A. I saw five American fliers.
21. Q. How far away were you standing from the fliers?
A. About 200 meters away from the truck.
22. Q. Can you describe any of the fliers?
A. I remember they were American fliers.
23. Q. How were the American fliers dressed?
A. I think that the American fliers had on khaki color, but it was a little darker than khaki, but regular air corps uniform.
24. Q. What happened to the fliers at the time they first arrived at the pier?
A. American fliers were brought up to headquarters on the truck.
25. Q. Were the American fliers blind folded at the time they arrived at the pier?
A. I saw the American fliers blind folded.
26. Q. Were they then loaded into a truck?
A. Yes.
27. Q. Where were they taken?
A. They were taken to Naval Headquarters, 66th Garrison.
28. Q. Did you again see the fliers this same day?
A. Yes.
29. Q. Explain the circumstances surrounding the next time you saw them?
A. When I came to Headquarters, I saw the Jap Medical Officer giving American fliers medical treatment.
30. Q. How far away, were you, from the American fliers?
A. About 50 yards.
31. Q. Did the fliers appear to be injured?
A. I saw two Americans had a burn.
32. Q. Did the burns appear to be serious?
A. I can not describe clearly, because I was quite a ways away from them, but I noticed the uniform was burned on the side of his body and all smeared with blood.

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33. Q. Were the fliers standing at the time?
A. Some of them were standing, some sitting down, and some of them were on the ground.
34. Q. Were they still blind folded?
A. No.
35. Q. Did you hear any of the conversation that transpired between the fliers and doctors?
A. I think they were talking to each other.
36. Q. Did you hear any of the conversation?
A. I could not hear because I was too far away.
37. Q. After the treatment of the fliers, what happened?
A. While Japanese medical men were giving the American fliers treatment, I had a duty to accomplish, so I went back.
38. Q. Could you describe any of the fliers?
A. I remember some because I saw them at the headquarters on the following day.
39. Q. Did it appear that the fliers were being questioned on the first day at the second time you saw them?
A. I do not know because I do not know whether they were giving medical treatment or interrogating them because I was far away.
40. Q. When was the next time you saw them?
A. I think the following day.
41. Q. How far away from the American fliers were you the following day?
A. About 20 or 30 yards.
42. Q. State in detail the circumstances surrounding the next meeting with the American fliers?
A. I went to our Headquarters because I had a duty to accomplish, and saw an American flier in the rear of the Command Post and I think they were interrogated by Japanese. Then I went to the place where American prisoners were interrogated, and they told me to stay away quite a distance, so I went about 20 or 30 yards from there, and was looking from there, and I think there were Japanese Army and Naval officers interrogating them.
43. Q. Who was doing the interrogating?
A. The Navy officer was Lt. (jg) OTANI. I do not know the Army officer.
44. Q. Were all five fliers present during the questioning?
A. I saw two American fliers being interrogated by Japanese officers and I think two American fliers were lying on the grass in the vicinity.
45. Q. Did the fliers lying down appear to be injured?
A. I don't know whether he was injured or not but I think they were American fliers.
46. Q. Was Captain Shiga present during the questioning?
A. No.
47. Q. Was he in the vicinity of the questioning?
A. I did not see Captain Shiga that day, but I saw him the following day.
48. Q. How long did the questioning on this particular day we are talking about continue?
A. I saw them interrogated about 30 minutes, but I went back before they had finished.

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49. Q. Did you hear any of the conversation that took place during the questioning?

A. I don't know. They were talking in English, so I did not know what they were talking about, but I heard something from the interpreter.

50. Q. What did you hear?

A. I heard that they were interrogating where he was from and his orders.

51. Q. Did you hear his address given?

A. The flier was average size American. The flier said he was a school instructor before he entered the Army.

52. Q. What other conversation did you hear?

A. I did not hear anything else.

53. Q. Did you hear the word "Chicago" mentioned?

A. Yes.

54. Q. Did you hear any other names similar to Chicago mentioned?

A. That is all he said.

55. Q. Was there a table set up for the questioning of the fliers?

A. I don't think there was a table.

56. Q. Did you see any I.D. tags, watches, or rings?

A. No.

57. Q. Did you, at any time after this day, see the American fliers?

A. No.

58. Q. Did you know what happened to the American fliers?

A. No.

59. Q. With reference to the invasion of Kwajalein, and proposed invasion of Mille, when did you see the American fliers?

60. Q. Do you know about the invasion of Kwajalein?

A. Yes.

61. Q. With reference to that time, when did you see the American fliers?

A. I saw the American fliers about one or two months after the invasion of Kwajalein.

62. Q. Do you recognize any of the accused?

A. Yes, if I look at their faces, I can recognize them, but I have forgotten some of their names.

Ask the witness to stand and face the accused. Each of the accused were asked, in turn, to stand and face the witness.

63. Q. Do you recognize this man (Lt. Fu^usta standing)?

A. Yes, that is Lt. Fu^usta.

64. Q. Do you recognize this man (Ens. Motomura standing)?

A. I saw him at Headquarters.

65. Q. Do you recognize this man (Ens. Tanaka standing)?

A. I saw him, but have forgotten his name.

66. Q. Do you recognize this man (Warrant Officer Manako standing)?

A. I do not know him and cannot tell definitely whether I saw him.

67. Q. Do you recognize this man (Col. Oishi standing)?

A. I do not know his name, but I saw him on Mille.

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68. Q. Where on Mille?

A. I saw him on about the middle of the island, south from the pier.

The witness could not identify any of the remaining accused.

The accused requested a change in interpreters on the ground that the previous interpreter was having difficulty and that he was cutting short his answers.

The judge advocate replied stating that since the accused were represented by a lawyer-interpreter it was his duty to interpose objection at the time such fact became known and not upon completion of the examination so as to discredit the testimony of the prosecution.

The court granted a change of interpreters.

Cross-examined by the accused:

69. Q. Are you a Chief Petty Officer in the Imperial Japanese Navy?

A. Yes.

70. Q. What were your duties while you were stationed on the island of Mille?

A. I was concerned with automobiles and more or less a mechanic.

71. Q. Did your duties bring you near or about Headquarters area?

A. Occasionally, when conversation was difficult by telephone.

72. Q. On the dates about which you have been examined, did you have any business that brought you down around Headquarters or the boat area?

A. I had business there, but before that, I had occasion to go to Headquarters.

73. Q. How close were you to the scene of the interrogation of the prisoners?

A. When I saw them at the back of the Command Post, I believe it was about 20 or 30 meters.

74. Q. Did you know that these prisoners were Americans?

A. At the time, I believe they were Americans.

75. Q. Do you know?

A. Yes, I definitely think they were Americans.

76. Q. Do you believe, or do you know?

A. I believe.

77. Q. You have stated that you were 25 or 30 meters from Headquarters when they were being interrogated. Could you hear any of the conversation that was taking place?

A. As I stated previously, occasionally I could catch phrases.

78. Q. How long were you there?

A. Approximately 30 minutes.

79. Q. Had the interrogation ceased?

A. No.

80. Q. While they were being questioned, were they given Japanese beer?

A. I believe it was beer.

81. Q. What was their condition, physically?

A. I was not near enough to touch them, but I was near enough to see a tall flier and a middle sized flier squirming on the ground as if they were in pain.

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82. Q. Did the interrogation appear to be one that was open to anybody or the public?

A. I do not know. We were told not to go near it, but I was 20 or 30 meters away.

83. Q. In spite of the fact that you were 20 or 30 meters away, you state that you heard part of the conversation?

A. I was told not to go too near them, but I was curious and tried to go nearer.

84. Q. Did you desert from the Jap Navy?

A. I deserted on June 23, 1945.

Reexamined by the judge advocate:

85. Q. Did you surrender to the American forces?

A. Yes.

86. Q. That is the desertion you have reference to?

A. From the standpoint of the Japanese Army, I might be called a deserter, but from my own, I prefer to think I was rescued by the Americans.

Examined by the commission:

87. Q. What caused the injury or pain while the fliers were squirming on the ground?

A. I saw them on the previous day and saw they were burned, so I assumed that to be the cause.

88. Q. You saw the burn on the day they crashed?

A. Yes.

89. Q. Where were the burns?

A. One of them on the right hand side from the hip joint to the thigh. I do not remember which side, but another on the shoulder.

90. Q. The first day, you saw two injured?

A. Yes.

91. Q. Were the people squirming on the ground apparently the same two you saw the day before?

A. On the first day, I saw the burned uniform of them, and on the following day, I remembered their faces.

92. Q. Were they the same two?

A. Yes.

93. Q. On the second day, how many did you see lying on the ground?

A. Five.

94. Q. You said you saw some lying on the ground, lying in pain. How many lay squirming, as if in pain?

A. Two.

95. Q. Were they beaten and threatened, or otherwise mistreated during the interrogation?

A. I did not see anything like that.

96. Q. Did you ever see any of the prisoners again, ever?

A. I saw them three times.

97. Q. Three times after the second day's interrogation?

A. After the second day of questioning, I saw them another time.

RESTRICTED

98. Q. Describe the time and place of that third sighting and what occurred?

A. I do not know whether they were questioned, but there was a large gathering of soldiers. At that time, my duties were completed, so I joined them. At that time, the officer of the Day said you cannot come close to them, so we all withdrew. Even if the Officer of the Day said to withdraw, the soldiers down by the Officer of the Day said the senior man from each platoon could come near and see what was happening. As the senior member of the mechanics, I remained there. I was about 5 or 6 kin (about 5 ft.) away. I saw an officer talking to them on the third day after the crash.

99. Q. Was this the day after the interrogation when they were lying on the ground?

A. Yes.

100. Q. Where were the prisoners at that time?

A. They were in front of the air raid shelter, one third of the distance to the boat pier.

101. Q. Was that the last time you ever saw any of them?

A. Yes.

102. Q. How many were present at that last time?

A. Five.

103. Q. When did you leave Mille?

A. The end of November 1944.

104. Q. How?

A. At that time, the food on Mille was scarce, so we were scattered to the different islands.

105. Q. Where?

A. Ale Island.

106. Q. How were you taken there?

A. By Japanese, in a small power boat.

107. Q. Under what conditions did you join up with the American forces to which you said you surrendered?

A. There is an island by the name of Picare in the Mille Atoll. At that time, I had about 34 natives under me. Myself and my men waved the white flag and sought aid from the Americans who went in on invasion units to take them off the reefs.

Recross-examined by the accused:

108. Q. Were these captured fliers treated by the medical officers on the first day?

A. Yes.

Reexamined by the commission:

109. Q. Has the witness anything further he feels that the court should be told?

A. No.

110. Q. Did you ever witness an execution, either of the Americans, or anybody?

A. No.

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

The witness said that he had nothing further to state.

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RESTRICTED

The witness was duly warned and withdrew.

The commission then, at 5:00 p.m., adjourned until 9 a.m.,
Friday, November 23, 1945.

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SECOND DAY

RESTRICTED

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

Friday, November 23, 1945.

The commission met at 9:00 a.m.

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champion, Jr., USN,
Captain H. B. Herty, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant Commander Edward F. O'Brien, USNR, and
Lieutenant William P. Mahoney, USNR, as Judge Advocates.
Edwin A. Boles, Ylc, U. S. Naval Reserve, reporter.
Each of the accused and their counsel.

Robert W. Barrett, SKVlc, was sworn in as additional reporter.

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.

By the courts:

Q. Do you speak English?
A. I do.

The court directed the interpreter to translate the English questions and answers in Japanese to the accused.

Examined by the judge advocates:

1. Q. State your name.
A. My name is John Iaman.
2. Q. What is your Nationality?
A. I am Gilbertese from the Gilbert Islands, of the Marakei Atoll.
3. Q. What is your present station?
A. Majuro.
4. Q. What are your duties at Majuro?
A. I am an interpreter for the Navy.
5. Q. Were you ever on Mille Atoll?
A. Yes.
6. Q. When did you arrive on Mille?
A. September 19, 1942.
7. Q. Do you recognize any of the accused, and if so, state as to whom?
8. Q. Do you recognize this man? (Lieut. Fusta standing)
A. I do not know his name, but I remember him, as I saw him at Mille.

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9. Q. Do you recognize this man? (Ens. Motomura standing)
A. No, I do not.
10. Q. Do you recognize this man? (Ens. Tanaka standing)
A. No, I do not.
11. Q. Do you recognize this man? (Warrant Officer Manako standing)
A. No, I do not.
12. Q. Do you recognize this man? (First Lt. Kadota standing)
A. No, I do not.
13. Q. Do you recognize this man? (Capt. Abe standing)
A. No, I do not.
14. Q. Do you recognize this man? (Major Takarada standing)
A. Yes, I have seen him.
15. Q. Where did you see him?
A. At Mille.
16. Q. What is his name?
A. I do not know his name.
17. Q. Do you recognize this man? (Major Nakao standing)
A. No, I do not.
18. Q. Do you recognize this man? (First Lt. Moorri standing)
A. Yes, I do.
19. Q. Where did you see him?
A. At Mille.
20. Q. What is his name?
A. I do not know his name.
21. Q. Do you recognize this man? (Col. Oishi standing)
A. No.
22. Q. How did you come to Mille Atoll?
A. We came ashore at Mille by outrigger canoe.
23. Q. How long were you on Mille?
A. I was on Mille about three years.
24. Q. Were you there during the year 1944?
A. Yes, I was there until the middle of 1944.
25. Q. What month did you leave Mille?
A. June, 1944.
26. Q. Did you see an American plane shot down at Mille, at any time?
A. Yes.
27. Q. How many planes did you see shot down during your time on Mille?
A. I saw three planes shot down on Mille.
28. Q. Were these American planes?
A. Yes.
29. Q. Did you see survivors from any of these planes?
A. Yes.
30. Q. How many of these planes had survivors?
A. One of the three planes had survivors.

RESTRICTED

31. Q. Did you actually see the plane crash? With survivors?
A. No.
32. Q. Where did you first see the survivors from this crashed American plane?
A. I first saw them on the raft in the water.
33. Q. How many fliers were on the raft?
A. Five.
34. Q. What happened after the fliers reached shore?
A. They were put on the truck and driven down to Headquarters.
35. Q. When did you next see the fliers?
A. I saw them in the Headquarters.
36. Q. Was that the same day as they came ashore?
A. Yes.
37. Q. Describe what you saw at Headquarters that day.
A. I saw the Japanese treating the wounds of the American fliers.
38. Q. How many fliers were present at Headquarters at that time?
A. Five.
39. Q. Where were you standing with relationship to the fliers?
A. I was standing about five yards from the pilots.
40. Q. Were there any Japanese Officers present at this treatment?
A. Yes.
41. Q. Could you tell us who they were?
A. Yes, one of them was the Atoll Commander.
42. Q. Do you remember his name?
A. Yes, his name was Shiga.
43. Q. What was Shiga doing at the time?
A. He was sitting around the place.
44. Q. Were any other Japanese Officers present?
A. Yes, there were some more besides the Atoll Commander.
45. Q. Did you recognize, or could you name, any of the other Officers present at that time?
A. No, I do not know their names.
46. Q. As far as you can recall, were any of the Defendants present here this morning, present at that scene?
A. I do not remember.
47. Q. Can you describe the wounds which were being treated at that time?
A. One of the pilots had wounds on the back, and burns on the back. One had a wound on his leg, and that is all I could remember.
48. Q. Did any of the pilots appear to be severely wounded?
A. Yes, the one who was burned on his back was severely wounded.
49. Q. In your opinion, was he so severely wounded that he would have died from the wounds?

Each of the accused objected to this question on the ground it was calling for the opinion of the witness.

The question was withdrawn.

RESTRICTED

50. Q. How long were you present during this treatment at Headquarters?
A. About 30 minutes.
51. Q. Were the fliers being questioned during that time?
A. No, they were not questioned.
52. Q. Were the fliers able to walk during the treatment?
A. All of them could walk, except one who was supported by two Japanese.
53. Q. Describe, if you can, the injury of the flier who could not walk.
A. He had a wound on his foot.
54. Q. Did you leave during the time of the treatment, or were the fliers taken away while you were there?
A. I left during the treatment.
55. Q. Did you see the fliers again during that day?
A. No, I did not.
56. Q. When was the next time you saw the American fliers?
A. I saw them the following day.
57. Q. Where did you see them?
A. They were around Japanese Officers' bomb shelter.
58. Q. Is that the area called Headquarters?
A. Yes.
59. Q. What was going on when you saw the fliers on this occasion?
A. They were questioning them.
60. Q. Who was doing the questioning?
A. The Japanese interpreter.
61. Q. Was he Army or Navy?
A. He was an Army soldier.
62. Q. Do you remember his name?
A. No.
63. Q. Were there Japanese Officers present at this questioning?
A. Yes, there were about ten of them.
64. Q. Do you recall any of their names?
A. I only recall the name of the Atoll Commander.
65. Q. What was his name?
A. Shiga.
66. Q. Were any of the Defendants in court this morning present at that questioning?
A. I do not remember.
67. Q. How many fliers were present at the questioning?
A. Two were present.
68. Q. How far were you away from the questioning?
A. I was about two yards from the questioning party.
69. Q. Did you hear any of the questions being asked?
A. Yes.
70. Q. What were they?
A. They asked where they came from.

RETRACTED

71. Q. Did the American answer this question?
A. Yes, they came from Canton Island.
72. Q. What else was asked the American fliers by the Japanese?
A. They asked what kind of bombs they dropped on Mille.
73. Q. And what did they answer?
A. I did not hear the answer.
74. Q. Did you hear any other questions asked the American fliers?
A. That is all I heard.
75. Q. Did you talk to any of the American fliers at that questioning?
A. Yes, I talked to one of them.
76. Q. Were you directed by the Japanese to question this flier?
A. Yes, I was.
77. Q. And why were you asked to question him?
A. Because I was made to ask them the questions by the Japanese.
78. Q. Do you mean you were forced?
A. Yes.
79. Q. What did you ask the flier?
A. The name of the flier was supposed to be David.
80. Q. Did David tell you anything about himself or the rest of the fliers?
A. Yes, he told me about himself but not about the others.
81. Q. What did he say about himself?
A. He told me that he was a Captain.
82. Q. What else did he say?
A. Also, he told me that he was the only son, and the only one to his family.
83. Q. Did he say anything else about himself?
A. Yes, he told me he has a wife and kid, little boy, back in New York.
84. Q. Did David ask you any questions?
A. Yes.
85. Q. What did he ask you?
A. He asked me whether they were going to be executed.
86. Q. What did you answer?
A. I said that I did not know.
87. Q. Did he appear to be frightened?
A. Yes, he was a little frightened.
88. Q. During the questioning, did you see any mistreatment of the American fliers?
A. Yes, I saw some.
89. Q. Describe it.
A. They made the American pilot drink a kind of liquid which I did not know to make them talk.
90. Q. Who was giving them the liquid?
A. The interpreter.

RESTRICTED

91. Q. How many fliers were treated in this manner?
A. I only saw one treated in this manner.
92. Q. How many other fliers were present during this treatment?
A. There were only two at the questioning but they were apart from each other.
93. Q. Were the fliers in good health at this questioning?
A. The pilot being questioned looked suffering.
94. Q. What was the condition of David, the one to whom you talked?
A. He was suffering from his back which was burned.
95. Q. Was this liquid poured into the mouth or into the nostrils?
A. The liquid was poured into the mouth.
96. Q. Was anything taken from the American fliers at this questioning?
A. Yes, there was something taken from the pilots.
97. Q. What was it? Do you remember?
A. I saw the chains and dog tags taken away from the pilots.
98. Q. Was anything else taken from the pilots?
A. That is all I saw.
99. Q. How were the pilots dressed?
A. They were dressed by a long garment all the way down to their feet.
100. Q. Was a doctor present at this questioning?
A. I do not remember.
101. Q. Did you learn the names of any of the other fliers?
A. Yes, I learned the name of one more besides the one I talked to. His name was Peter.
102. Q. And who did you learn Peter was?
A. He was Captain of the bomber.
103. Q. How long were you present at this questioning?
A. I was present for about two hours.
104. Q. Were the fliers taken away while you were still there?
A. No, I went back during the questioning.
105. Q. Did you see the fliers again after the interrogation?
A. Yes, I saw them again after the questioning.
106. Q. When did you see them?
A. It was about three or four days after the questioning day.
107. Q. Where did you see the fliers again on this occasion?
A. I saw three of them marching over to the beach.
108. Q. Did you see what they did at the beach?
A. No, I did not see what they did on the beach.
109. Q. When was the next time you saw them?
A. It was about five days from the day they were lead to the beach.
110. Q. How many fliers did you see on this occasion?
A. I saw only one at that time.
111. Q. Where did you see him?
A. I saw him on the air strip.

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RECORDED

112. Q. What was he doing?
A. He was marching across the air strip by one of the Japanese guards.
113. Q. Did you ever see the flier again?
A. No, I did not.
114. Q. About what date would you place the presence of the fliers on Mille?
A. I do not know the exact date, but I believe it was at the beginning of the year 1944.
115. Q. Had you seen Americans before you came to Mille?
A. Yes, I have.
116. Q. Where?
A. I saw Americans in the Gilberts.
117. Q. Did you think these fliers were American fliers that you saw on Mille?
A. Yes, I think they were Americans.

The court questioned the relevancy of this line of questioning.

The judge advocate replied stating that the theory of the case for the prosecution was that five American fliers landed on Mille; that they were barbarously treated and that they disappeared; that every fact relating to these events is a necessary and material part of this case.

The court directed the questioning be continued.

118. Q. Were you present during the investigation of Mille, during September 1945, when a search was made for the bodies or remains of the Americans?
A. Yes, I was.
119. Q. Did they find any remains of the American fliers?
A. Yes, they found some bones in a bomb crater.
120. Q. Were there sufficient remains found to identify them?
A. They found an army belt, together with the bones.
121. Q. Was it an American belt?
A. According to the Marines, they said it was.
122. Q. Was anything else found?
A. No, that was all.

Examined by the commission:

123. Q. You testified at the interrogation of the pilots that the interpreter gave the pilot something to drink. Why did the interpreter give the pilot something to drink?
A. The reason I would say, sir, was to make them talk. Whenever they didn't talk they make them drink that liquid. Every time they pour that liquid into the pilot's mouth, they did not like to drink it.
124. Q. Was the pilot forced to drink?
A. Yes.
125. Q. In what means?
A. He held his mouth and poured the liquid.
126. Q. What type of vessel, glass or cup was the liquid in?
A. The liquid was in a bottle, beer bottle.

RESTRICTED

127. Q. Do you know by the color or smell what the liquid was?
A. No, I could not tell what liquid it was even by the odor.
128. Q. Was the liquid forced into the pilot's mouth? Was it poured into his mouth or did he voluntarily drink it?
A. He was forced to drink it.
129. Q. How many persons were involved in forcing him to drink it?
A. There was only one that I saw.
130. Q. The interpreter?
A. Yes, the interpreter.
131. Q. Each time the pilot spit it out?
A. Yes, he did.
132. Q. Did it appear to have a bad taste or disagreeable taste?
A. Yes, it seems to have had a bad taste.
133. Q. Did somebody else order or command or force the interpreter to give him the liquid?
A. No, he did that himself.
134. Q. Where did the interpreter get the bottle of liquid?
A. I do not know, sir, it was there before I came.
135. Q. Referring to the time later when the pilot was conducted across the air strip by the guard, what happened to the pilot, the flier, after he crossed the air strip?
A. The pilot and guard disappeared on the other side of the air strip.
136. Q. Do you know what happened to the flier after that?
A. No, I did not know what happened after that.
137. Q. Can you identify that particular flier that crossed the air strip?
A. No, I do not think I could because I saw him from his back.
138. Q. In what sector of the island was that? (The witness was asked if he was familiar with the sectors as laid out on the blackboard, and he indicated that he was familiar with it)
A. He was led to the north sector.
139. Q. Who was the sector commander?
A. I do not know his name.
140. Q. Can you point out among the accused who the commander of the north sector was?
A. Yes. (The witness pointed to Lieut. FUETA as the commander of the north sector. Lieut. FUETA stood up when pointed out and was recognized by the court.)
141. Q. When you saw the Americans marched to the beach and across the air strip were they wearing their own clothing?
A. Yes they were.
142. Q. Do you know which sector the beach towards which the three fliers were being led was in? What was the name of the sector that the beach was located in that the three fliers were led to?
A. It was in Headquarters Sector.

Cross-Examined by the accused:

143. Q. Did an Army or Navy man march the fliers across the air strip?
A. It was an Army soldier.

RECORDED

144. Q. Do you know if there were Army or Navy Units, or both, across the air strip in the direction in which the fliers were being marched?
A. Yes, there were both Navy and Army.

145. Q. Was Captain SHIGA present at all questioning of these prisoners?
A. He was.

Reexamined by the judge advocate:

146. Q. What time of the day was the flier marched across the air strip?
A. It was sometime after noon.

147. Q. Would you say it was late afternoon?
A. I would say it was not very late in the afternoon.

Reexamined by the commissions:

148. Q. Did you ever, at any time while you were in Japanese held territory, witness any executions?
A. I never saw the execution.

149. Q. Did you see any indications which would lead you to believe that any individual had been executed?
A. Yes, it was, it was, it was the story told by one of the Japanese Army soldiers, and was told to one of my friends that he killed the pilot himself. He cut his head off.

150. Q. What was the name of the Army officer mentioned?
A. I did not know the name of the Army officers.

151. Q. Where is the friend who told you that?
A. He is at Majuro at the present time.

152. Q. Did that friend tell you the exact words you have told us, that the Army soldier told him that he had executed the fliers.
A. Yes, sir, he did.

153. Q. Can he be had at the present time, that is, can we get him here?
A. No, it is impossible, sir. He is at Majuro at the present time.

154. Q. But he is there, you know that to be a fact? What is his name?
A. His name is NOEL.

155. Q. Did you witness the digging up of the bones of the persons indicated in your testimony?
A. Yes, I did.

The President asked the Judge Advocate if the belt was available. The judge advocate replied that he was unable to locate the belt mentioned.

Reexamined by the court:

156. Q. Were there any indications when the bones were dug up that the fliers had been beheaded? That the person had been beheaded?
A. I could not tell by the bones.

157. Q. Was there a skull recovered?
A. I did not see the skull.

158. Q. You saw the bones of the body but you did not see the skull?
A. This is right.

REEXAMINED

159. Q. Was the area thoroughly searched for the skull?
A. Although they searched the area, but there was much water in the hole they dug - I believe they didn't find all the bones.
160. Q. The bones of approximately how many persons were recovered?
A. I did not count the bones, sir, I did not know how many persons.
161. Q. When the flier was being given the liquid to drink, was the flier free to move about at will? That is, was his hands tied or his feet?
A. His hands were tied behind him.
162. Q. When he attempted to move as the liquid was given him what action did the interpreter take to force the liquid on him?
A. When he shook his head the interpreter held his head and poured liquid into his mouth. Even put the neck of the bottle into his mouth.
163. Q. Were any of the accused here present at that time?
A. I do not remember their faces.
164. Q. You said you remembered the names of Peter and David. Do you remember the names of any other of the fliers?
A. I have never heard the names of the others.
165. Q. Was the interpreter an officer?
A. No, he was not an officer.
166. Q. What was his rank?
A. I did not know his rank.
167. Q. Army or Navy?
A. Army.
168. Q. You testified earlier that you arrived in Mille September 19, 1942, and were there through June 1944. You later testified you were present in September this year - 1945. Where were you between June 1944, and September 1945?
A. I was at Majuro between those two times.
169. Q. Then you were not on Mille for three years as you testified earlier. You were there just less than two years?
A. I said about three years, I did not know exactly that it was three years.
170. Q. It was from September 1942, to June 1944. It was less than two years?
A. I just remembered the time I left Mille and came here.
171. Q. During the time the interpreter was giving the witness the water through the mouth, did he strike or punch the flier?
A. I did not see him strike the American.
- Reexamined by the judge advocate:
172. Q. Was Mille Atoll heavily bombed during the time you were on it?
A. Yes, it was.
173. Q. Were there considerable signs of bombing at the time this investigation was conducted in September 1945?
A. The only sign I knew were bomb craters; there were a lot of bomb craters on the island.

RESTRICTED

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., adjourned until 9:00 a.m. Saturday, November 24, 1945.

0204

THIRD DAY

RESTRICTED

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

Saturday, November 24, 1945.

The commission met at 9:00 a.m.

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champion, Jr., USN,
Captain H. B. Herty, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant Commander Edward F. O'Brien, USNR, and
Lieutenant William P. Mahoney, USNR, as Judge Advocates.
Edwin A. Boles, Ylc, U. S. Naval Reserve, and
Robert W. Barrett, SKVlc, U. S. Naval Reserve, reporters.
Each of the accused and their counsel.

The record of proceedings of the second 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. The oath was carefully explained to the witness by the President through an interpreter.

Examined by the judge advocate:

1. Q. State your name and nationality.
A. My name is Anycku Kanegewa. I am a Korean.
2. Q. Do you recognize any of the accused?
A. I remember those at Mille Island.
3. Q. Do you recognize this man? (indicating Lt. Fusta)
A. Yes, I remember him.
4. Q. What is his name?
A. I just know his face but not his name.
5. Q. Where did you last see him?
A. I saw him in the North Sector on Mille Island.
6. Q. Do you recognize this man? (indicating Ens. Motomura)
A. I do not know him.
7. Q. Have you seen him before?
A. No.
8. Q. Do you recognize this man? (indicating Ens. Tanaka)
A. I did not see him before.
9. Q. Do you recognize this man? (indicating Warrant Officer Manako)
A. I did not see him before.
10. Q. Do you recognize this man? (indicating 1st Lt. Kadota)
A. I did not remember him.
11. Q. Do you recognize this man? (indicating Capt. Abe)
A. I know him, but I do not know his name.

0205

RESTRICTED

12. Q. Where did you last see him?
A. Enigeto Island.
13. Q. On what atoll is that island located?
A. On Mille Atoll.
14. Q. Do you recognize him as being in the Army or Navy?
A. He is in the Army.
15. Q. Do you recognize this man? (indicating Maj. Takarada)
A. Yes, I remember him.
16. Q. What is his name?
A. I do not remember clearly, but I think it was Takarada.
17. Q. When last did you see him?
A. In the North Sector of Mille.
18. Q. Do you recognize this man? (indicating Maj. Nakao)
A. Yes, I remember him.
19. Q. What is his name?
A. I do not know his name.
20. Q. Where last did you see him?
A. In the North Sector of Mille.
21. Q. In what capacity, if you know?
A. He is the Commander of the Mountain Artillery Battalion.
22. Q. Do you recognize this man? (indicating 1st. Lt. Moorl)
A. I did not see him before.
23. Q. Do you recognize this man? (indicating Col. Oishi)
A. Yes, I remember him.
24. Q. What is his name?
A. I do not know his name.
25. Q. Where last did you see him?
A. I saw him at the Army Headquarters near the Naval Garrison Forces.
26. Q. Where?
A. On the main island of Mille.
27. Q. During the year 1944, where were you located?
A. I was on the outlying islands.
28. Q. What outlying island?
A. Lukunor Island in Mille Atoll.
29. Q. What was your position or job?
A. I was in the Construction Battalion.
30. Q. Were you attached to the Japanese Army or Naval forces during your stay on Mille.
A. I was attached to the Navy.
31. Q. During the year 1944, did you see any American fliers shot down?
A. I saw a plane fall down.
32. Q. Explain what you saw.
A. One day, I went to the Headquarters Area for a working party and at the entrance of the bomb shelter were some guards and I asked if there were any American prisoners there and I was able to see the American prisoners. About the time of the execution, I saw the prisoners at the North Sector of the island.

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The interpreter stated that he was having difficulty understanding the witness. One of the other interpreters took over.

33. Q. During the year 1944, did you see any American planes shot down?
A. Yes.
34. Q. Tell us exactly what you saw.
A. I did not actually see the planes crash.
35. Q. What did you see?
A. I saw the American fliers were kept in an air raid shelter in Headquarters area.
36. Q. Did you see any people in a life raft in the lagoon?
A. Yes, I saw people on a rubber raft.
37. Q. How many people did you see on the raft?
A. Five.
38. Q. What nationality were these people?
A. They were American fliers.
39. Q. About what time of the year did you see this incident?
A. I do not remember clearly, but it was about February or March.
40. Q. Do you remember the invasion of Kwajalein by the Americans?
A. I do not remember clearly.
41. Q. Did you see the Americans come ashore?
A. I did not see the American fliers come ashore.
42. Q. Did you see the American fliers at any time during this day?
A. I did not see the American fliers on this day.
43. Q. When next did you see the fliers?
A. The second time I saw them was in the air raid shelter in the Headquarters Area.
44. Q. How many did you see at this time?
A. Five.
45. Q. Explain exactly what you saw.
A. The air raid shelter was dark and I could not see very clearly whether the fliers were wounded or not.
46. Q. Was anyone questioning the fliers at this time?
A. No.
47. Q. What time of the day was this?
A. Just about noon when I saw them the second time.
48. Q. When next did you see the American fliers?
A. The third time I saw them was in the Mountain Artillery Area when the American fliers were being executed.
49. Q. How many fliers did you see in the Mountain Artillery Section?
A. I saw two.
50. Q. What was the occasion of this meeting?
A. The occasion was the American fliers were going to be executed on that day. I was in my quarters when my friend came over to call me. My friend's name was Kanemitsu. When I came out, I saw the two American fliers by the vehicle.
51. Q. About what time of the day did this event transpire?
A. It was about sunset.
52. Q. Where did you go after Kanemitsu called you?
A. When Kanemitsu came to call me, I went by the car.

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53. Q. Where was the car located?
A. It was located near the air raid shelter in the Mountain Artillery Area.
54. Q. How many people were gathered around at this time?
A. I do not remember clearly but I think it was about 15 or 16 men.
55. Q. Did you see the two American fliers in the car?
A. Yes, I did.
56. Q. Were the fliers taken from the car?
A. I did not see the American fliers taken from the car.
57. Q. What next did you see?
A. The second time I saw was when someone swung the sword.
58. Q. What distance were you from where the sword was swung?
A. The distance was about 36 to 37 meters.
59. Q. Did you see an American flier?
A. Yes.
60. Q. What position was the American flier in?
A. I saw the American fliers blind folded and sitting on something, but could not tell what it was.
61. Q. How was the flier dressed at this time?
A. The American fliers wore the aviator's suit.
62. Q. Were the fliers' hands tied?
A. Yes.
63. Q. Was anyone standing in front of the flier?
A. Three men were standing in front of the flier.
64. Q. Were these men armed?
A. They all had rifles with fixed bayonets.
65. Q. Who was standing behind the flier?
A. The Commander of the Mountain Artillery Battalion was standing in the rear.
66. Q. Who was the Commander at the Mountain Artillery Battalion at that time?
A. Yes, I know the Commander is present here.
67. Q. Was the Battalion Commander present at the time of the incident you are talking about?
A. Yes.
68. Q. Is the Commander who was present on this particular night present here today?
A. Yes.
69. Q. Identify him.
A. The witness stood and indicated Major Nakao.
70. Q. Explain the relative positions of other people attending this meeting.
A. 1st Lt. Nakajima and another Lt. was standing on both sides of the American flier. There was another 1st Lt. on the left side of the American flier.
71. Q. Were these officers holding swords?
A. Yes, they had swords.

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72. Q. Then what did you see?
A. The next thing I saw the American fliers were being buried.
73. Q. Was this an American flier or fliers?
A. I do not know whether it was flier or fliers.
74. Q. Did you see an execution at this time?
A. Yes, I did.
75. Q. Explain what you saw.
A. When someone swung the sword, the American flier fell, and I positively saw the American flier buried in a hole which was right in front of him.
76. Q. Who swung the sword, if you know?
A. I do not know who swung the sword exactly, because they were surrounded by the men.
77. Q. Who issued the order for the carrying out of this execution?
A. The Commander of the Mountain Artillery Battalion.
78. Q. Is that the same man that you pointed out in court this morning?
A. Yes, he is the same man.
79. Q. Describe the order issued.
A. I heard the Commander issue the command on the third count, but I did not hear the first and second count very clearly. He gave a command of one, two, and three.
80. Q. At the third count, what did you see?
A. I saw the person swing the sword on the third count.
81. Q. Was this the only swing of the sword that you saw?
A. Yes.
82. Q. Was the head of the flier severed with this one swing?
A. I could not see whether the head was separated or not.
83. Q. What, if anything, did the three people in front of the flier with fixed bayonets do?
A. I do not know what the three men standing in front did.
84. Q. Did they use the bayonets on the flier at any time either before or after the execution?
A. I positively saw one of the three men bayonett the American flier when he was put in the hole.
85. Q. Was this before or after the execution?
A. It was after the beheading.
86. Q. Did you see the American flier after the execution?
A. No, I have not seen any of them since then.
87. Q. That is, after the execution, did you see the flier in the hole?
A. No.
88. Q. Do you know the name of the person who carried out the execution, who actually swung the sword?
A. I do not know the name of the executioner.
89. Q. Did this execution appear to be a secret affair?
A. Yes, it appeared to be very secret.
90. Q. Why were you allowed to be present?
A. I was ill and in my quarters and I did not have to go out to work, so when my friend came over to call me, I ran and was watching the execution.

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91. Q. Were you allowed to see the execution?
A. No, I was not allowed to watch the execution, therefore I hid myself and was watching the execution.
92. Q. Do you know what happened to the other fliers?
A. I do not know what happened to the other fliers.
93. Q. Did anyone other than himself view the execution?
A. I do not know exactly who saw the execution besides me, but I think Kanemitsu might have seen it too.
94. Q. Who is Kanemitsu?
A. He is one of my men.
95. Q. Was he a Korean laborer?
A. Yes.
96. Q. Approximately how long after the appearance of the Americans of Mille did the execution take place?
A. I do not exactly remember how many days after the American fliers arrived at Mille, but I heard it was about the time Kwajalein and Roi were being invaded by the American forces.
97. Q. Can you describe the American flier who was executed on that particular night?
A. He was the tallest among the group.
98. Q. Other than that, can you describe the flier?
A. No.
99. Q. During the investigation that was conducted on Mille, in September of this year, did you point out the approximate spot where the flier was buried?
A. Yes.
100. Q. What, if anything, was found?
A. Yes, we found the American flier's bones.
101. Q. Was this position that you pointed out well-bombed?
A. The vicinity where I have spotted was not bombed very severely.
102. Q. Was anything else found other than the bones?
A. Yes, a belt of the American flier appeared.
- Examined by the commission:
103. Q. After the execution, how many bodies did the witness see, one or two?
A. I only saw one.
104. Q. How much time elapsed between the execution and the burial?
A. I do not remember how much time elapsed between those times.
105. Q. Where was the place of burial in regard to the place of execution?
A. The place of burial was the same place where the execution was carried out.
106. Q. Was the grave dug and prepared before the sword was swung?
A. Yes, the grave was all prepared.
107. Q. Did you know of any other executions that took place?
A. No.
108. Q. Did you see any other burial grounds?
A. Yes, sometime ago, when dead American fliers drifted ashore, I buried the American fliers myself.

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109. Q. Was the body you buried decapitated, or how did death occur?
A. The body of the American flier was dead and just drifted to shore.

110. Q. What killed him?
A. I do not know what killed him, but he was the pilot of one of the fighter planes.

111. Q. Was the head attached to the body?
A. Yes.

112. Q. How do you know that the belt found in the grave was the American flier's belt?
A. American soldiers told me it was an American flier's belt.

113. Q. Where did you see the American soldiers?
A. I saw him in the same area, same place.

114. Q. When?
A. When we dug up the bones.

115. Q. Describe the belt.
A. The width of the belt was about three or four inches and it was curved and was rotten, so if you lifted it up, it would fall into pieces, so I do not know the length of the belt.

116. Q. Was it leather or cloth?
A. It was cloth.

Cross-examined by the accused:

117. Q. You said there were two fliers in the car. Do you know what happened to the other one?
A. No.

118. Q. How near were you to the fliers in the car?
A. About twenty meters.

119. Q. Did you actually see the bayonet go into the body?
A. Yes.

120. Q. How far were you from the crowd around the flier?
A. As I have stated, before, about 36 or 37 meters.

121. Q. Were guards placed near the location of the execution to keep others away?
A. No, the guard was not placed around but the soldiers were standing around to keep others away.

Reexamined by the commission:

122. Q. Tell us again all that you saw from the time that you arrived at the place of execution, beginning with the arrival of the fliers and yourself at that scene.

A. I saw about two officers standing on both sides of the American flier. The flier was blind folded and his hands tied and the next I saw when he was being executed, when the sword was swung and his body fell into the hole and he was bayoneted by one of the three men who were standing in front of the American flier. The last I saw, he was being buried at the spot. That is all I have to say and nothing to add.

123. Q. Who was doing the burying?
A. I do not know.

124. Q. But did it occur immediately after the execution?
A. Yes, it occurred immediately after the execution.

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125. Q. Did you know if the head of the flier was buried with the body in the same spot?

A. That I do not know.

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

The witness made the following statement:

Sometime ago, when I went with you (OKUBO-interpreter) to Mille to investigate on this case, the Mountain Artillery Commander and I, KANEGAWA, slept on the same ship one night. At that time the Battalion Commander came to me directly and told me that he had hit the American flier with a sword. This he told to KANEMITSU and I. That is all.

Examined by the commission:

126. Q. Explain what you mean by the statement of the officer to the effect that he hit an American flier with a sword.

A. I can not tell you exactly what the statement means because the person actually told me what I have told you.

127. Q. Who was that officer?

A. The Mountain Artillery Commander.

128. Q. Is that person present in court and if so will you point him out?

A. The witness indicated Major NAKAO.

129. Q. Did you ever see any notice or any order issued by the Japanese authorities which mentioned the execution?

A. No, I have not.

130. Q. Who was the senior officer present at the execution?

A. The Battalion Commander of the Mountain Artillery Command.

131. Q. Was Captain Shiga present?

A. Captain Shiga was not present.

Recross-examined by the accused:

132. Q. Did you know Captain Shiga?

A. Yes, I could recognize him.

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. The oath was carefully explained through an interpreter.

Examined by the judge advocate:

1. Q. State your name and nationality?

A. My name is Aeigoku KANEMITSU. I am a Korean.

2. Q. Were you ever on Mille Atoll?

A. Yes, I was on Mille.

3. Q. When did you arrive on Mille Atoll?

The interpreter was having difficulty making the witness understand Japanese and explained that the Korean witness knew little Japanese. The judge advocate requested that the previous witness, KANEGAWA, be used as an intermediary between the Japanese interpreter and the Korean witness

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so that the questions could be put to the witness in Korean. This was agreed to by the defense counsel and by the commission after the judge advocate advised that KANEGAWA would not be called again as a witness. KANEGAWA was sworn in as an interpreter by the President, through the interpreter, and was warned not to carry on any conversation with the witness other than asking him the questions put to him, and to reply with only the answers given by the witness.

The following questions were asked the witness through OKUBO, Interpreter, who relayed them to KANEGAWA in Japanese, who then relayed them to the witness in Korean. Answers were given in reverse order.

4. Q. When did you arrive on Mille?
A. I arrived at Mille 6 April 1942.
5. Q. When did you leave Mille?
A. I was dispatched to the outlying island on July 1944.
6. Q. What was your work on Mille Atoll?
A. My work was construction.
7. Q. If you recognize any of the accused, state as whom.
A. Yes, I could recognize the accused.
8. Q. Do you recognize this man? (Lieut. FUETA standing)
A. Yes, I recognize him.
9. Q. Who is he?
A. He is the commander of the North Sector.
10. Q. What is his name?
A. I don't know his name.
11. Q. Is he in the Army or Navy?
A. He is in the Navy.
12. Q. Do you recognize this man? (Ensign MOTOMURA standing)
A. I do not know this person.
13. Q. Do you recognize this person? (Ensign TANAKA standing)
A. I do not know.
14. Q. Do you recognize this person? (Warrant Officer MANAKO standing)
A. I do not know this person.
15. Q. Do you recognize this person? (1st Lieut. KADOTA standing)
A. I do not know him.
16. Q. Do you recognize this person? (Captain ABE standing)
A. I do not know him.
17. Q. Do you recognize this person? (Major TAKARADA standing)
A. Yes, I know him.
18. Q. What is his name?
A. TAKARADA, Captain, Commander.
19. Q. What unit does he command?
A. He is the commander of the TAKARADA unit.
20. Q. Is he Army or Navy?
A. He is Army.
21. Q. Where did you see this man?
A. I saw him on Mille Island.
22. Q. Do you recognize this man? (Major NAKAO standing)
A. Yes, I recognize him.

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23. Q. Who is he?
A. He is the commander of the Mountain Artillery Battalion.
24. Q. What is his name?
A. I do not know his name.
25. Q. Is he in the Army or Navy?
A. He is in the Army.
26. Q. And where did you see him?
A. I saw him on Mille.
27. Q. Do you recognize this man? (1st Lieut. MOORI standing)
A. I do not know whether I saw him on Mille or not. I cannot recognize him.
28. Q. Do you recognize this man? (Colonel OISHI standing)
A. Yes, I can recognize him.
29. Q. Who is he?
A. He is the commander of the Army.
30. Q. Where did you see him before?
A. I saw him on Mille.
31. Q. Was he the Commander of the Army on Mille?
A. Yes, he was the commander of the Army on Mille.
32. Q. What is his name?
A. I do not know his name.
33. Q. Did you see any American planes crash in the vicinity of Mille?
A. Yes, I saw.
34. Q. What kind of a plane was it?
A. It was a North American.
35. Q. Approximately when, if you remember, did this plane crash?
A. I do not know very clearly but I think it was about February.
36. Q. What year?
A. 1943.
37. Q. Are you sure of that year?
A. It is not 1943, it is 1944.
38. Q. Did you see any survivors from this plane?
A. Yes, I saw the survivors.
39. Q. How many were there?
A. Five of them.
40. Q. Where did you first see these survivors?
A. I saw when the Japanese ship brought the American fliers to shore.
41. Q. Where were you standing when the fliers came to shore?
A. I saw him right at the place.
42. Q. What place?
A. At the place where the American fliers were brought ashore.
43. Q. What happened to the American fliers after they were brought ashore?
A. At that time the American fliers were blindfolded and put aboard a truck and taken over to the headquarters area.

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44. Q. Did you notice if any of the fliers were wounded or injured?
A. Yes, I noticed the American fliers were wounded.
45. Q. How many of them were wounded?
A. One fellow was severely wounded. Some of the others - two had burns on their legs and arms.
46. Q. Then what happened?
A. When the American fliers were taken over to headquarters all the wounded ones were treated and they were kept at the headquarters.
47. Q. Were the fliers questioned during the time they were being treated at headquarters?
A. During the treatment I saw the Medical Officer of the Garrison Unit speak to the American fliers two or three times.
48. Q. How many fliers were present at the treatment?
A. I saw him, one American flier was standing out from the air raid shelter and was receiving treatment.
49. Q. When was the next time you saw the fliers?
A. I saw on the following day.
50. Q. Where did you see the fliers on the following day?
A. I saw them at the Headquarters of the Garrison Unit.
51. Q. What was going on on that occasion?
A. The following day they were being interrogated.
52. Q. Were there any Japanese officers present at the interrogation?
A. Yes, some Japanese officer was present.
53. Q. Did you recognize any of them?
A. The officers present at the interrogation were Captain SHIGA and his Executive Officer, Lieut. Comdr. TOKUNO, the Regimental Commander, Lieutenant, Senior Grade, TOMITA.
54. Q. Who was doing the questioning?
A. The four officers whom I have mentioned previously were interrogating the American fliers through an Army Interpreter. He was a Superior Private.
55. Q. Did you hear any of the questions that were asked the fliers?
A. That I do not know.
56. Q. Were the fliers answering the questions without difficulty?
A. No, they did not answer at all.
57. Q. Were the Japanese using any methods to force the answers?

The accused objected to this line of questioning until it is established who was present. The ones mentioned so far, none of whom are defendants in this case, and we therefore feel that the evidence is not applicable to these men.

The judge advocate replied.

The commission overruled the objection.

A. Yes, they were.

58. Q. Describe what they were doing?
A. I saw them put in a liquid container pepper into the fliers' nostrils.

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59. Q. How do you know there was pepper in that liquid?
A. I saw them actually put in the pepper in the water - the liquid.
60. Q. Are you sure it was pepper?
A. Yes, I am sure of it.
61. Q. Did you hear anybody order to place pepper in the water, or liquid?
A. No, I did not hear.
62. Q. Did you see them mistreat the prisoners in any other way?
A. No, sir.
63. Q. How many fliers were present during this treatment?
A. One - one American flier.
64. Q. Were his hands tied during the time the liquid was being forced down his nostrils?
A. Yes, his hands were tied.
65. Q. Who actually gave him the liquid?
A. The interpreter actually put the liquid in his nostrils.
66. Q. Was anyone helping the interpreter put the liquid into his nostrils?
A. No, no one was helping the interpreter.
67. Q. Was the flier making any motion during the time the liquid was being given to him?
A. Yes, the American flier was making motions.
68. Q. Describe the motion.
A. American flier was moving his body and trying to lay down and avoid the interpreter from putting the liquid into his nostrils.
69. Q. Was the liquid put in his nostrils?
A. Yes, the interpreter put the liquid in his nostrils.
70. Q. Is the Army Regimental Commander who was present at the interrogation present in court today?
A. Yes, he is present here today.
71. Q. Can you point him out?
A. Yes, I can.
72. Q. Will you rise and point him out please?
A. Colonel OISHI was pointed out by the witness; Col. OISHI stood up.
73. Q. Is that the person you refer to as being present at the interrogation?
A. Yes.
74. Q. You saw him at the interrogation?
A. Yes, I did.
75. Q. What was he doing at the interrogation?
A. He was sitting down quietly there.
76. Q. Was he asking any questions?
A. He did not ask any questions. Just was present there.
77. Q. Did he give any orders?
A. No, he did not give any orders.

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78. Q. How far away from him were you standing at the interrogation?
A. I was standing from a distance of where the car is parked there from here, where this Regimental Commander is.
The distance indicated by the witness was estimated at 50 yards by the court and the President indicated that the record should show this distance.
79. Q. How far would that be in his measurement?
A. I think about 50 meters.
80. Q. How long were you present at the interrogation?
A. Just on that day I was there to do some construction work at the headquarters so I was watching the interrogation for about half a day.
81. Q. After the interrogation, did you see the fliers again on Mille?
A. I did not see the American fliers after they had been interrogated.
82. Q. You mean by that you did not see them again that day?
A. Yes, I meant I did not see them again on that day after the interrogation.
83. Q. When was the next time you saw the fliers?
A. Next time I saw was when American flier was being executed.
84. Q. About how many days was that after the interrogation?
A. I do not remember how many days had elapsed from the time the American flier was interrogated and the time when execution was being held.
85. Q. Where on Mille Island did the execution you witnessed take place?
A. In the Northern Sector of Mille.
86. Q. What unit carried out the execution?
A. Executions were carried out by the Mountain Artillery Battalion.
87. Q. What time of the day was the execution carried out?
A. Just about sunset.
88. Q. Where were you standing in relation to the execution?
A. I was standing toward the South of place of execution.
89. Q. How far away from the place of execution was this place?
A. About 20 or 25 meters away.
90. Q. Just where were you standing, what was around you?
A. There was a breadfruit tree.
91. Q. Were you on a level with the execution, slightly higher than the execution or lower than the execution?
A. A little higher than the place of execution.
92. Q. Where did you first see the fliers at the scene of the execution?
A. First I saw them being brought to the place on a truck.
93. Q. How many fliers were on the truck?
A. I saw 2 (two).
94. Q. Describe exactly what happened after the fliers were brought up on the truck?
A. I saw a man of the Mountain Artillery Unit get the American flier from the truck. I don't know whether it was both of them or one of them and I saw the American flier being set at the place of execution.
95. Q. Was the American flier blindfolded?
A. Yes, the American flier was blindfolded.
96. Q. Were his hands tied behind his back?
A. Yes, his hands were tied.

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97. Q. Was he fully dressed?
A. Yes, he was in uniform.
98. Q. What was the flier's position just before he was put to death?
A. He was sitting on something, that is all I saw.
99. Q. Were there Japanese military personnel standing in front of him?
A. Yes, they were standing in front of the American flier.
100. Q. Were they armed?
A. Yes, they were armed.
101. Q. How many of them were there and how were they armed?
A. Three (3) of the men were standing in front of the American flier with arms.
102. Q. Describe the arms?
A. Three of them had rifles with fixed bayonets.
103. Q. Were there persons standing on each side of the American Flier?
A. Yes.
104. Q. Who were they and how were they equipped?
A. I don't know rank or rate of the men. I saw them with swords.
105. Q. Who gave the orders to carry out the execution?
A. The Commander of the Mountain Artillery Battalion issued an order.
106. Q. Is he present in court today?
A. Yes, he is present here today.
107. Q. Can you point him out?
A. Yes, I can.
108. Q. Will you point him out to the court?
A. The witness pointed to Major NAKAO, who stood up before the commission.
109. Q. Is this the man who gave the order for execution?
A. Yes, he is.
110. Q. What is his name?
A. I do not know his name.
111. Q. What was his position on Mille?
A. I don't know his position at Mille.
112. Q. What is his military job at Mille?
A. He is the commander of the Mountain Artillery Battalion.
113. Q. Where was he standing with relation to the flier? Where was the commander of the Mountain Artillery Battalion?
A. He was standing behind the American flier - about five feet.
114. Q. Did you hear him give the order?
A. Yes, I did.
115. Q. Would you describe what the Commanding Officer ordered?
A. He said "one, two, three".
116. Q. What happened when he said "three"?

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At this point the defense requested that the questioning be done directly of the witness by the commission interpreter. This was agreeable to the Judge Advocate, but the commission interpreter did not believe the witness could understand and speak Japanese well enough to get along in this manner. The President directed that the questioning continue as before, but warned the Korean interpreter, KANEGAWA, to repeat nothing but the words spoken by the witness and not to prompt him in any way.

A. At the third count the American flier was beheaded.

117. Q. What happened after the blow was struck?

A. After the blow was struck the body of the American flier was put in the hole and someone had bayoneted him.

118. Q. Who bayoneted him?

A. A Warrant Officer had bayoneted him.

119. Q. Do you know his name?

A. I do not know his name.

120. Q. Is he present in court this morning?

A. He is not here.

121. Q. How far away from the place where the flier was sitting in execution was the hole in which he was buried?

A. Right by the place of execution.

122. Q. Was he buried immediately or was the body left in the open hole?

A. American flier was buried immediately.

123. Q. Was anything thrown over the body?

A. No, sir.

124. Q. How many blows were required to kill the flier? How many blows did you see struck at the flier's head?

A. He swung twice.

125. Q. Was the head completely severed?

A. When American flier was beheaded the head just fell right in front of him.

126. Q. Was the execution open to everyone on the island or was it secret?

A. It was carried out very secretly.

127. Q. Did you ever see officers of the Mountain Battalion before the execution?

A. Yes, I saw him before the execution.

128. Q. What was the occasion for a Korean to see the officers of the Mountain Artillery Battalion?

A. I know him because my quarters were near to the Commander's quarters and I always used to see him.

129. Q. Was the flier you saw executed one of the five fliers you saw brought ashore after the plane crashed?

A. Yes, he was one of the five.

The court then, at 12:20 p.m., took a recess until 1:45 p.m., at which time it reconvened.

Cross-examined by the accused:

130. Q. How close were you to the fliers that were in the car, or vehicle?

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131. Q. That would be about 35 feet?
A. Yes.
132. Q. How did you know there was pepper in the water?
A. I saw a man put a pepper in the water.
133. Q. Would you tell me what you mean by a pepper?
A. He states that a pepper was grounded pepper.
134. Q. What color was the pepper?
A. It was a red color.
135. Q. Did you see it ground?
A. Yes, I did.
136. Q. How big was the pepper before it was ground?
A. It was the ground pepper from the beginning.
137. Q. Do you know John IAMAN, the Gilbertese?
A. I don't know him.
138. Q. Do you know whether or not anybody other than Japanese Officers and interpreters were present at the interrogation of the fliers?
A. There was a guard near by besides the officers and interpreters.
139. Q. You said you watched the first interrogations for about half a day. Now what were your duties during that half day that permitted you to watch the interrogations?
A. I was working near by.
140. Q. What type of work were you doing?
A. I was digging a hole.
141. Q. Why were you digging a hole? Do you know why the hole was being dug?
A. I was digging a hole to construct a building in the hole for the purpose of an air raid protection.
142. Q. How many fliers did you see executed? Was it one?
A. I saw only one.
143. Q. Do you know what happened to the one that was on the vehicle or in the car?
A. I don't know.
144. Q. Do you know whether or not this gentleman here saw that same execution (indicating Korean interpreter KANEGAWA)?
A. I don't know whether KANEGAWA was watching the same execution or not.
145. Q. How many officers and men were around the flier that was executed? I mean the total number who witnessed it, approximately?
A. I do not know exactly how many officers were present at this execution.
146. Q. Well, about how many people?
A. About 30 or 35 men altogether.

Examined by the commission:

147. Q. Did you, at any time other than the one indicated by you, ever witness any executions of any people other than that which you have told us about?
A. No, sir, I did not witness any other execution.

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148. Q. Do you know of anything that this commission should be told about and which you have not been questioned about?
A. Yes, I have.

149. Q. Tell him to tell us about it. Permit him to speak to the interpreter a certain length of time and at the pause, you interpret for us, but do not permit him and let him speak voluntarily.

A. What he was telling me now is about the Koreans being executed on Mille and I told him that what we want to know is directly concerning this trial, if he has anything to say.

150. Q. Let him speak about such executions as he has witnessed and that he knows positively of himself and not of what he has heard.

A. Sir, he did not witness these executions of Koreans but one of them escaped from that island and he heard--

151. Q. Unless he himself personally witnessed these we will not accept it into this court.

A. He has nothing to say in regard to this trial here.

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 judge advocate was called as a witness for the prosecution and warned that the oath previously taken was still binding.

Examined by the judge advocate:

1. Q. State your name, rank and present station?

A. Edward F. O'BRIEN, Lieutenant Commander, USNR: Judge Advocate of this commission.

2. Q. If you recognize any of the accused, state as whom?

A. I recognize Colonel OISHI, Major NAKAO, Major TAKARADA, Lieut. FUETA, 1st Lieut. MOCRI and Ensign MOTOMURA. I recognize the others as defendants in this case but not their names.

3. Q. Are you the legal custodian of a record of investigation into certain alleged war crimes and atrocities occurring on Mille Atoll in 1944?

A. I am.

4. Q. Will you state, if you know, where Lieut. Comdr. Hiroshi TOKUNO, Imperial Japanese Navy, is now located?

A. My investigation reveals that he has been returned to Japan.

5. Q. This is the same record of proceedings you previously identified?

A. It is.

6. Q. Do you have an address where Lieut. Comdr. Hiroshi TOKUNO can be located in Japan?

A. I do not have his address and investigation does not reveal his address.

The proceedings of the investigation were submitted to the accused and to the commission, and by the judge advocate so much thereof as contains the testimony of the afore-named witness was offered in evidence.

The accused objected on the ground that the testimony is hearsay; that the testimony is not under oath; that the testimony is replete

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with hearsay; that no proper foundation has been laid; that there has been no showing of the inability or impossibility of securing the best evidence such as is usually admissible before courts, boards and tribunals under the American system of jurisprudence.

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 overruled.

The witness read from the testimony of Lieutenant Commander Hiroshi TOKUNO an extract copy appended, marked "Exhibit 6".

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

Neither the judge advocate, the accused, nor the commission desired further to examine this witness; the witness resumed his seat as judge advocate.

One of the interpreters was called as a witness for the prosecution and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, rank, and present station.
A. My name is Tony SUNAMOTO, I am a T-3 in the U. S. Army, stationed on the island of Ebeye.
2. Q. If you recognize any of the accused, state as to whom.
A. Yes, I can recognize some of them.
3. Q. Will you now identify the accused when^{you} you know.
A. Yes.
4. Q. Do you recognize this man? (indicating Lieut. FUETA)
A. Yes, he is Lieut. FUETA, of the Imperial Japanese Navy.
5. Q. Do you recognize this man? (indicating Ens. MOTOMURA)
A. Yes, he is Ensign MOTOMURA, of the Imperial Japanese Navy.
6. Q. Do you recognize this man? (indicating Ens. TANAKA)
A. I saw him, but I do not know his name.
7. Q. Do you recognize this man? (indicating Warrant Officer MANAKO)
A. I saw him, but I do not know his name.
8. Q. Do you recognize this man? (indicating 1st Lieut. KADOTA)
A. I did not interrogate him so I do not know him.
9. Q. Do you recognize this man? (indicating Capt. ABE)
A. I think I saw him, but I did not interrogate him.
10. Q. Do you recognize this man? (indicating Major TAKARADA)
A. He is an Imperial Japanese Army Officer. His name is Major TAKARADA.
11. Q. Do you recognize this man? (indicating Major NAKAO)
A. He is an Imperial Japanese Army Officer. His name is Major NAKAO.
12. Q. Do you recognize this man? (indicating 1st Lieut. MOORI)
A. He is an Imperial Japanese Army Officer. His rank I don't remember, but I think he is a 1st Lieut. MOORI.

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13. Q. Do you recognize this man? (indicating Col. OISHI)
A. He is an Imperial Japanese Army Officer. He is Colonel OISHI, and is a commanding Japanese Officer on the station at Mille Atoll.
14. Q. Other than your duties as interpreter and other than your position as witness what are your duties?
A. My duty is serving for the country of the United States.
15. Q. Are you an official Japanese interpreter, assigned by JICPOA?
A. Yes.
16. Q. I hand you this piece of paper and ask you what it purports to be.
A. This is a testimony obtained by Lieut. Comdr. E. F. O'BRIEN, at Majuro.
17. Q. Whose signature is appended to this paper?
A. This is signed by Colonel Chisoto OISHI, and signed by myself as a witness.
18. Q. Was the signing of that paper by Col. OISHI done in your presence?
A. Yes.
19. Q. Did you sign as a witness after OISHI signed that paper?
A. Yes, I signed my name after Col. OISHI signed his name.
20. Q. Will you state in detail how that statement was procured?
A. This was obtained by Lieut. Comdr. O'BRIEN from each individual of the accused and Lieut. Comdr. O'BRIEN took it down in long hand during the course of investigation and we got this testimony all typed out and I carefully read, word by word, in Japanese, to each individual. Then I had each of the accused to sign his name to his testimony after he had sworn that this testimony contains nothing but the true evidence, and nothing but the truth. Then I signed my name as a witness.
21. Q. Was the information contained in this statement given to you by Col. OISHI in Japanese, reduced by you to English, and copied by me? (Lieut. Comdr. O'BRIEN in hand)
A. Col. OISHI did not write out this testimony, but it was taken down by Lieut. Comdr. O'BRIEN in long hand.
22. Q. Did you, after the statement was typewritten, read each individual sentence back to Col. OISHI and wait for his approval before continuing further?
A. Yes.
23. Q. Was it freely given by Col. OISHI, the information contained in the statement?
A. Yes, he voluntarily gave us that information.
24. Q. Did the Colonel freely sign that statement?
A. Yes, he signed it right away after I had read everything in Japanese.

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

The accused objected to the introduction into evidence of English statements purported to be signed or signed by any accused for the following reasons:

All of the defendants speak, read and write Japanese. The statements in English as signed by the accused are not his or their statement. The understanding of each of the accused as to his statement is based on a translation--which translation the accused might not have understood.

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The chance of error is great. The only statement which could be a statement of any accused here would be a statement in a language he understood. The best evidence has been entirely disregarded.

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 overruled.

The statement is appended marked "Exhibit 7".

The judge advocate then read Colonel OISHI's statement to the commission. The interpreter read it to the accused in Japanese.

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

The commission did not desire to examine the witness.

The judge advocate stated that he intended to continue with this witness at the next meeting.

The witness was duly warned.

The commission then, at 4:00 p.m., adjourned until 9:00 a.m., Monday, November 26, 1945.

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FOURTH DAY

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U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

Monday, November 26, 1945.

The commission met at 9:00 a.m.

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champion, Jr., USN,
Captain H. B. Herty, USN,
Captain J. R. Weisser, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant Commander Edward F. O'Brien, USNR, and
Lieutenant William P. Mahoney, USNR, as Judge Advocates.
Edwin A. Boles, Ylc, U. S. Naval Reserve, and
Robert W. Barrett, SKVlc, U. S. Naval Reserve, reporters.
Each of the accused and their counsel.

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

No witnesses not otherwise connected with the trial were present.

Tony SUNAMOTO, T/3, AUS, was recalled to the stand by the prosecution and warned that the oath previously taken by him was still binding.

Examined by the judge advocate:

1. Q. I hand you this paper and ask you what it purports to be?
A. We got this testimony from Colonel OISHI and Lieut. Comdr. O'BRIEN obtained the testimony from Col. OISHI and took it down in long hand. Then after this testimony was typewritten, I carefully read to Col. OISHI, sentence by sentence, in Japanese, and Col. OISHI signed this testimony.
2. Q. Is Colonel OISHI's signature appended to that statement?
A. Yes.
3. Q. Did Col. OISHI sign in your presence?
A. Yes.
4. Q. After the signing by Col. OISHI, did you append your signature as a witness?
A. Yes.
5. Q. Was the information contained therein given freely and voluntarily by Col. OISHI?
A. Yes.
6. Q. Was this statement secured prior to the statement that was introduced in evidence day before yesterday?
A. Yes.
7. Q. Which information was secured first?
A. This statement of testimony, we got first.

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

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The accused said let the record show that we are objecting to this on the grounds that we objected to the previous statement.

The commission announced that the objection was overruled.

The statement is appended marked "Exhibit 8".

The judge advocate read the statement to the court. The interpreter read it to the accused in Japanese.

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

The commission did not desire to examine the witness.

The judge advocate stated he would continue with this witness.

Examined by the judge advocate:

1. Q. I hand you this piece of paper and ask you what it purports to be?
A. This is a testimony we got from Imperial Japanese Army Major TAKARADA.
2. Q. Who signed that paper?
A. Major Chojiro TAKARADA.
3. Q. The signature in English or Japanese?
A. He said that he could not write in English, so I told him to sign in Japanese.
4. Q. Did Major TAKARADA sign in your presence?
A. Yes.
5. Q. What other signatures are appended to that paper?
A. I signed my name as a witness after Major TAKARADA signed his name.
6. Q. Will you explain how that statement was procured from Major TAKARADA?
A. Lieut. Comdr. O'BRIEN obtained this testimony from Major TAKARADA and he wrote it down in long hand. I acted as interpreter at that time and this testimony was typewritten by some other people.
7. Q. What happened after the statement was typewritten?
A. I carefully read this testimony to TAKARADA and had him to sign this after I had him to swear that this testimony contained nothing but the truth.
8. Q. Are there any corrections in that statement?
A. Yes, there are a couple of places we made a correction before he signed his name.
9. Q. And at whose request were the corrections made?
A. It was requested by Major TAKARADA.
10. Q. Were these corrections initialed or signed by Major TAKARADA?
A. Yes, after we made the correction, he signed his name in Japanese.
11. Q. Did he sign his name at the point where the correction was made.
A. Yes, he signed just above the point where we made the correction.
12. Q. Was the information given freely and voluntarily?
A. Yes, he voluntarily and freely gave this information.

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13. Q. Was the signature by Major TAKARADA a free and voluntary act?
A. Yes.

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

Before interposing objection the accused desired to examine the witness.

Permission was granted.

Examined by the accused:

14. Q. Do you know who was present, that is, can you name everybody that was present when this statement was signed?
A. Yes, 1st Lieut. BISHOP and the accused, besides myself.

15. Q. Who else?
A. The guard.

16. Q. Who else?
A. I believe that is all.

17. Q. Was any persuasion used?
A. No, he signed it. I asked him if the testimony contained nothing but the truth and all true evidence. I told him to sign his name and he freely and voluntarily signed his name.

18. Q. Were there any threats or any other pressure brought to bear upon him to sign the statement?
A. No.

19. Q. Was he advised that this statement would be used in trial against him?
A. No, I did not tell him anything about it.

The accused objected to the introduction of this statement upon the same grounds that we objected to Colonel OISHI's 1st statement.

The commission announced that the objection was overruled.

The statement is appended marked "Exhibit 9".

The judge advocate read the statement to the court. The interpreter read the statement to the accused in Japanese.

The accused did not desire to further examine the witness.

The judge advocate stated he would continue with this witness.

Examined by the judge advocate:

1. Q. I hand you this paper and ask you what it purports to be?
A. It is written by Japanese Imperial Army Major TAKARADA.

2. Q. Is the paper written in English or Japanese?
A. It is written in Japanese.

3. Q. By whom was the note written?
A. This is written by Major TAKARADA.

4. Q. Was the writing and signature made in your presence?
A. Yes.

5. Q. Was it freely and voluntarily made by Major TAKARADA at your request?

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- A. Yes, Major TAKARADA voluntarily wrote this note.
6. Q. Who was present at the time the note was written?
A. Lieut. Comdr. O'BRIEN and myself, Major TAKARADA, and the guard. That is all. I do not know whether Lt. BISHOP was there or not, I don't remember.

The statement was submitted to the accused and to the court, and by the judge advocate offered in evidence.

Before interposing objection the accused desired to examine the witness.

Permission was granted.

Examined by the accused:

7. Q. Where was this statement taken?
A. Majuro.
8. Q. Were any threats used?
A. No, he voluntarily wrote it in Japanese.
9. Q. Was there any persuasion used?
A. No.
10. Q. Were there any promises made to him?
A. No.

The accused made no objection to the introduction of the statement.

The interpreter read the statement in English as follows:

"About a month later, when American fliers were executed, I met Colonel OISHI. At that time, I had made a report in regard to the American fliers to him. At that time, Colonel OISHI did not scold me and just answered 'Is that so'.

Signed: Major Chojiro TAKARADA."

The statement was then read to the accused in Japanese.

The statement is appended marked "Exhibit 10".

Examined by the commission:

11. Q. When was this exhibit written?
A. I don't know when, but it was written by Major TAKARADA before he signed his testimony.
12. Q. When you say testimony, do you have reference to the statement marked "Exhibit 9"?
A. Yes.

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

The judge advocate stated he would continue with this witness.

1. Q. I show you this piece of paper and ask you what it purports to be?
A. This testimony was obtained from Major NAKAO.
2. Q. Would you explain to the court how this testimony was taken?

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A. It was interpreted for Lieut. Comdr. O'BRIEN and he obtained this testimony from Major NAKAO at Majuro. Lieut. Comdr. O'BRIEN took it down in long hand during the course of the investigation. After this testimony was typewritten, I carefully read this testimony to Major NAKAO in Japanese and had him sign his name after he swore this testimony contained all true evidence and I, myself, signed after he signed his name.

3. Q. Was the statement voluntarily made by Major NAKAO?
A. Yes, he voluntarily gave this information to us.
4. Q. Was the statement signed by Major NAKAO in your presence?
A. Yes.
5. Q. Did you sign as witness?
A. Yes, I signed as witness after Major NAKAO signed in Japanese.

The statement was submitted to the accused and to the commission and by the judge advocate offered in evidence.

The accused objected to this statement on the same grounds as to the previous statements of the accused.

The commission announced that the objection was overruled.

The statement is appended marked "Exhibit 11".

The judge advocate read the statement. The interpreter read it to the accused in Japanese.

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

The commission did not desire to examine this witness.

The judge advocate stated he would continue with this witness.

Examined by the judge advocate:

1. Q. I show you this document and ask you what it purports to be?
A. This is a note and diagram written by Major NAKAO. He also drew the sketch of the actual place where they executed the American flier.
2. Q. Where was this drawing made?
A. This was made at Majuro.
3. Q. Was the drawing made in your presence?
A. Yes.
4. Q. Is that document which you are holding the actual document upon which Major NAKAO made the drawing?
A. Yes, this was written by NAKAO himself.
5. Q. Is that drawing and explanation in Japanese?
A. Yes, this is written in Japanese by Major NAKAO.
6. Q. Is there a certification next to the drawing that is a statement that it is a true scene?
A. Yes, this is a true real production of the sketch of the scene.
7. Q. Is there a statement to that effect on the page?
A. Yes.
8. Q. Who made the statement?
A. This is written by Major NAKAO.
9. Q. Is it signed by Major NAKAO?
A. Yes.

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10. Q. When was this statement made?
A. This statement was made some time before he signed his testimony.
11. Q. Was it freely and voluntarily made?
A. Yes.

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

There being no objection, it was so received and is appended marked "Exhibit 12".

The interpreter explained the sketch to the accused.

The judge advocate requested permission to have the sketch reproduced in English on the blackboard. Permission was granted.

The judge advocate offered a photograph of the blackboard in evidence.

There being no objection it was so received and is appended marked "Exhibit 13".

Examined by the judge advocate:

12. Q. I will show Exhibit No. 12 to the witness and ask him to explain it.
A. This is a diagram signed by Major NAKAO, of the Imperial Japanese Army, and it indicates the position of the guard, the position of the hole, the position of the flier, the position of Warrant Officer OKAMOTO, the position of 1st Lieut. NAKAJIMA, and the position of Major NAKAO. At the lower right hand corner it says:

"the guard is approximately 5 feet.
OKAMOTO is approximately 3 feet.
NAKAJIMA is approximately 7 or 8 feet.
NAKAO is approximately 20 feet."

There is also a statement by Major NAKAO in the lower left hand corner which says:

"As I remember, the distance between the men and the execution held at the Mountain Artillery Area is given on the right."

Signed: Imperial Japanese Army Major NAKAO.

The accused did not desire to examine this witness.

Neither the judge advocate the accused, nor the commission desired further to examine this witness; the witness resumed his spot as interpreter. *rb*

The judge advocate was called as a witness for the prosecution and warned that the oath previously taken by him was still binding.

Examined by the judge advocate:

1. Q. State your name, rank and present station.
A. Lieut. Comdr. Edward F. O'BRIEN, USNR, Judge Advocate of this commission.
2. Q. I show you this document and ask you what it purports to be?
A. This document is written in Japanese and was written by Major NAKAO and signed by Major NAKAO, and purports to be an approximate report that he sent to Colonel OISHI after the execution.

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3. Q. Was this statement made in your presence?
A. Yes.
4. Q. Was it signed by Major NAKAO in your presence?
A. It was the note itself, was written by Major NAKAO and his signature is appended to a certificate attached to it.
5. Q. Is that certification and signature on the same page of the statement?
A. Yes.
6. Q. Were the statement and certification freely made?
A. Yes.
7. Q. At what time was this statement made and where?
A. This statement was made at Majuro at my request, through an Army interpreter, Tony SUNAMOTO.
8. Q. When was the statement taken?
A. Around the middle of October 1945.

The judge advocate submitted the statement to the accused and to the commission, and by the judge advocate offered in evidence.

Before interposing objection, the accused desired to examine the witness.

Permission was granted.

Examined by the accused:

9. Q. Do you actually know of your own knowledge what that is?
A. The way I know is by a hand written note appended on the reverse side of the paper.
10. Q. Who made the hand written note?
A. I did.
11. Q. Was anybody else present when this was taken?
A. 1st Lieut. BISHIP, USMC, and Tony SUNAMOTO, acting as interpreter, at that time.
12. Q. In other words, you are testifying what SUNAMOTO told you about this, is that right?
A. Yes, and what was actually written by Major NAKAO.
13. Q. But you do not know what was actually written yourself?
A. Not except through an interpreter.

There being no objection, it was so received and is appended marked "Exhibit 14".

The interpreter read the statement in English. It is as follows:

"This is a report on the disposition of prisoners.
X year X month X day
Mountain Artillery Battalion to Detachment Headquarters.
On X day X month X year.
We disposed of the prisoners received from the Navy.

As much as you remember that after the day the American flier was executed, you had your senior officer write this and send it to Detachment Headquarters by runner."

Signed: Army Major NAKAO, Otokiti

Witnessed by: Lieut. Comdr. Edward F. O'BRIEN, USNR.

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The interpreter read the statement to the accused in Japanese.

Neither the judge advocate, the accused, nor the commission desired further to examine this witness; the witness resumed his seat as judge advocate.

Tony SUNAMOTO, was recalled as a witness for the prosecution and warned that the oath previously taken by him was still binding.

Examined by the judge advocate:

1. Q. State your name, rank, and duties.
A. Satoru SUNAMOTO, T-3, AUS. My present duties are as interpreter and witness in this commission. rob
2. Q. I show you this document and ask you what it purports to be?
A. This testimony was taken from Lieut. Kyoshi FUETA.
3. Q. Would you state the circumstances under which it was taken?
A. I acted as interpreter for Lieut. Comdr. O'BRIEN and we obtained this testimony from Lt.(sg) FUETA, at Majuro. Lieut. Comdr. O'BRIEN took it down in long hand during the course of the investigation.
4. Q. Then what was done with the statement?
A. Then it was typewritten by some other people. Then after this testimony was typewritten, I carefully read this testimony to Lieut. FUETA in Japanese. Then Lieut. FUETA signed this testimony in English, after he saw that this testimony contained all true evidence and nothing but the truth. Then after he signed his name, I signed my name as a witness.
5. Q. Did Lieut. FUETA sign in your presence?
A. Yes.

The judge advocate submitted the statement to the accused and to the commission, and by the judge advocate offered in evidence.

The accused objected to the introduction of the statement on the same grounds as heretofore raised to the previous statements of the accused.

The commission announced that the objection was overruled.

The statement is appended marked "Exhibit 15".

The statement was read to the commission and by the interpreter to the accused in Japanese.

The accused did not desire to examine this witness.

The commission did not desire to examine this witness.

The judge advocate stated he would continue with the witness.

Examined by the judge advocate:

1. Q. I show you this paper and ask you what it purports to be?
A. This testimony taken from Imperial Japanese Navy Officer Ensign MOTOMURA.
2. Q. Was the same procedure followed in taking this statement as from Lieut. FUETA?
A. Yes.
3. Q. It was freely made?
A. Yes.
4. Q. Did you witness the signature by Ensign MOTOMURA?
A. Yes.

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The judge advocate submitted the statement to the accused and to the commission, and by the judge advocate offered in evidence.

The accused objected to the introduction of the statement on the same ground as heretofore raised to the previous statements of the accused.

The commission announced that the objection was overruled.

The statement is appended marked "Exhibit 16".

The statement was read to the commission and by the interpreter to the accused in Japanese.

Neither the judge advocate, the accused, nor the commission desired further to examine this witness; the witness resumed his seat as interpreter.

The commission then, at 11:30 a.m., took a recess until 1 p.m., at which time it reconvened.

Present: All the members, the judge advocates, the reporters, each of the accused and their counsel.

No witnesses not otherwise connected with the trial were present.

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

A. My name is Don S. OKUBO, T-3, AUS. My present duty is acting as interpreter and at present acting as a witness.

2. Q. If you recognize each of the accused, state as whom.

A. First one (indicating Lt. Fueta) is Lieut. Sr. Grade FUETA. Second one is, (indicating Ens. Motomura) I can't recall his name but I recognize him.

Third fellow (indicating TANAKA) is TANAKA. I forgot his rank, he is Imperial Navy.

Fourth is (indicating MANAKO) is MANAKO, I forgot his rank. Second row, first is (indicating Major NAKAO) is Major NAKAO, Mountain Artillery Battalion Commander.

Second in second row (indicating Major TAKARADA) is Major TAKARADA, Commander of the Third Infantry Battalion.

Third fellow, second row (indicating Captain ABE) is Captain ABE. I think with the First Infantry Battalion.

Fourth is (indicating 1st Lieut. KADOTA) is KADOTA. I forgot his rank.

First person in last row is MOORI (indicating MOORI). Next to MOORI (indicating Col. OISHI) is Colonel OISHI.

3. Q. I call your attention to page 63 of the record of an investigation into certain events that transpired at Mille Atoll and ask you if you can identify the signatures appended thereto?

A. Yes, this is signed by Captain Masaaki ABE and witnessed by the investigator, Lieut. E. E. COOK, Jr., and is also signed by myself.

4. Q. Did you witness the signature of Captain ABE?

A. Yes, I did.

5. Q. And will you state how the record of testimony was read back to Captain ABE?

A. This testimony was read back to him in Japanese by me.

6. Q. Is Captain ABE present in court today?

A. Yes.

7. Q. And can you identify him?

A. Yes.

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8. Q. Indicate Captain ABE?
A. That is he. (Pointing to Captain ABE, who stood up before the court)
9. Q. I call your attention to page 66 of the investigation and ask you, can you identify the signatures appended thereto?
A. This is signed in Japanese by KADOTA, 1st Lieut. and also signed by investigator Lieutenant E. E. COOK, Jr., and interpreter, myself, as a witness.
10. Q. Were you present when KADOTA signed it?
A. Yes.
11. Q. And was the same procedure followed with the testimony as with the prior witness?
A. Yes.
12. Q. I call your attention to Page 69 of the Record of Proceedings and ask you to identify these signatures appended thereto?
A. By 1st Lieut. MOORI in Japanese and also in English and witness by Lieutenant E. E. COOK, Jr., investigator and interpreter myself.
13. Q. Is 1st Lieut. MOORI present in court today?
A. Yes.
14. Q. Will you identify him?
A. Interpreter points to MOORI, who stands up.
15. Q. Is KADOTA in court today?
A. Yes. (points to KADOTA, who stands up)
16. Q. I call your attention to page 74 of the record and ask you if you can identify the signatures appended thereto?
A. This is signed in Japanese by Ensign TANAKA and also signed as a witness by investigator Lieutenant E. E. COOK, Jr., and by interpreter myself.
17. And was that signature appended in your presence?
A. Yes.
18. Q. Is TANAKA present in the courtroom today?
A. Yes.
19. Q. Will you identify him?
A. (Points to TANAKA) That is he.
20. Q. I call your attention to page 75 of record of proceedings and ask you to identify signatures appended thereto?
A. This is signed in Japanese by MANAKO and is signed by Lt. E. E. COOK, Jr., and myself as witness.
21. Q. Did you witness the signature of MANAKO?
A. Yes, I did.
22. Q. And was the procedure of the testimony the same as you testified for the others before?
A. Yes.
23. Q. And is MANAKO present in court today and will you identify him?
A. Yes. (Points to MANAKO, who stood up before the court)

The judge advocate submitted the record of proceedings of the investigation to the accused and to the Court, and by the judge advocate so much thereof as contains the testimony of the before-mentioned witnesses was offered in evidence.

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The accused objected on the ground that these statements contain declarations against the best interests of the other defendants; the men making these statements were not cross-examined, there was no opportunity for them to be cross-examined and consequently any information about the other defendants is prejudicial to them. Also, this is secondary evidence and no proper foundation has been laid for it at this time.

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 overruled.

The accused did not desire to examine the witness.

Neither the judge advocate, the accused, nor the court desired further to examine the witness; the witness resumed his seat as interpreter.

The judge advocate took the witness stand and was warned that the oath previously taken by him was still binding.

Examined by the judge advocate:

1. Q. Referring to the investigation, read so much as contains the testimony of Captain Masaaki ABE.

The witness read the testimony of Captain Masaaki ABE an extract copy appended, marked "Exhibit 17".

2. Q. Referring to the investigation, read so much as contains the testimony of First Lieutenant KADOTA.

The witness read the testimony of First Lieutenant KADOTA an extract copy appended, marked "Exhibit 18".

3. Q. Referring to the investigation, read so much as contains the testimony of First Lieutenant MOORI.

The witness read the testimony of First Lieutenant MOORI an extract copy appended, marked "Exhibit 19".

4. Q. Referring to the investigation, read so much as contains the testimony of Ensign TANAKA.

The witness read the testimony of Ensign TANAKA an extract copy appended, marked "Exhibit 20".

5. Q. Referring to the investigation read so much as contains the testimony of Warrant Officer MANAKO.

The witness read the testimony of Warrant Officer MANAKO an extract copy appended, marked "Exhibit 21".

The accused did not desire to examine this witness.

Neither the judge advocate, the accused, nor the court desired to further examine this witness; the witness resumed his seat as judge advocate.

Lieutenant Ryoji TOMITA, Imperial Japanese Navy was recalled as a witness for the prosecution and warned that the oath previously taken by him was still binding.

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Examined by the judge advocates:

1. Q. State your name and rank?
A. My name is TOMITA, Ryoji, Navy Lieutenant, Senior Grade.
2. Q. Where were you taken after the surrender of Mille Atoll?
A. I went to Majuro.
3. Q. While you were on Majuro did you make a statement concerning certain conditions on Mille?
A. Yes, I did.
4. Q. In that statement, did you state that the presence of the American fliers on Mille Atoll was about the time of the Kwajalein invasion?
A. Yes.
5. Q. Did you further state that prior to the invasion of Kwajalein the Americans had occupied Tarawa and Makin?
A. Yes, I did.
6. Q. Did you further testify that the Americans had dropped leaflets on Mille, saying that Mille was the next to be invaded?
A. Yes, I did.
7. Q. And what did you state was the attitude of the Japanese on Mille toward Americans at this time?
A. They had a strong feeling of hostility toward Americans.
8. Q. And why did you say the five American fliers were distributed to the different units on Mille for execution?
A. I don't know the actual truth, but....

The accused objected on the ground that he either knows or doesn't know.

The commission ruled that the witness be allowed to answer the question.

The judge advocate withdrew the question.

9. Q. Were you at one time Atoll Commander at Mille?
A. Yes, I was.
10. Q. Have you any belief as to the reason the five American fliers were distributed to the different units on the island for execution?
A. - - -

The accused objected to the question and it was withdrawn by the judge advocate.

11. Q. Do you know, have you reason to know, why the five American fliers were distributed to the different units on Mille for execution?
A. I do not know the reason.
12. Q. Do you know of any reason why this distribution was made?
A. No, I do not.
13. Q. Did you not state in your statement that the fliers were distributed to the Japanese to satisfy their revenge?
A. At that time Mille was being constantly bombed and we were afraid of being invaded by Americans and fliers were distributed to various units.
14. Q. I show you this statement and ask you if this is not your own signature appended at the bottom of the page?
A. Yes, it is.

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15. Q. I further ask you, was the statement in question read to you in Japanese before you signed it?

A. Yes, it was.

16. Q. Did you understand you were signing such a statement in English?

A. Yes, I did.

17. Q. I ask you again: Did you say following in this statement:

"The Japanese on Mille therefore were very angry with American fliers as well as all Americans and I think that is one reason why one American flier was distributed to each unit on the island, to satisfy their revenge?"

A. Yes, I did.

18. Q. Did you know of a meeting between Captain Shiga and Col. Oishi at about the time Kwajalein was invaded?

A. I do not know.

19. Q. Did you make the following statement in this same statement:

"I think that Captain Shiga and Col. Oishi had a meeting at the time Kwajalein was invaded. This meeting was primarily for the defense of Mille Atoll but I think it was to determine what to do with the American fliers".

The accused objected on the ground the statement is asking this man to think and he should be made to testify on what he knows.

The commission announced the objection was overruled.

20. Q. Did the witness make the following statement in this same statement:

"I think that Captain Shiga and Col. Oishi had a meeting at the time Kwajalein was invaded. This meeting was primarily for the defense of Mille Atoll but I think it was to determine what to do with the American fliers"?

A. Yes, I said this.

Examined by the commission:

21. Q. Was it a matter of common knowledge on Mille that the American fliers were to be executed?

A. I do not know whether it was common knowledge or not.

22. Q. Have you been threatened or warned or even requested not to testify to certain matters?

A. No, I have not.

23. Q. Are you afraid or unwilling to tell freely all that you know?

A. No, I am not afraid.

24. Q. How did you know there was a meeting between Captain SHIGA and Colonel OISHI?

A. I believe that since Captain SHIGA and Colonel OISHI were both Commanders respectively, Captain SHIGA Navy and Colonel OISHI Army, there was a fear of invasion of Mille, they must have had some preparations for the defense of Mille Atoll.

25. Q. Did you know positively of any meeting between Captain SHIGA and Colonel OISHI that discussed the fliers?

A. I am not positive but that is my belief.

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Cross-examined by the accused:

26. Q. You have stated that you had opinions or beliefs in the statement read to the court. Were they your individual statements or were they general? I will rephrase the question. You have made several statements expressing opinion and belief in a statement signed by you, read to the court by the judge advocate, and the question is were they your own beliefs or were they beliefs in general of the personnel on the island?

A. That is my personal belief.

The accused objected to that part of the statement which pertains to the witness' personal belief and move it be stricken, because in his testimony he has testified to the general attitude of the Japanese military on the island. In one place he testified that the attitude of the people on the island was hostile to the Americans and in this particular statement he says, "I think Captain SHIGA and Colonel OISHI had a meeting".

The judge advocate replied.

Examined by the commission:

27. Q. Is your belief relative to a possible meeting of the Navy Commander and the Army Commander based on your experience as a prior or previous Atoll Commander that this procedure would be standard or usual; in other words would it be standard operating procedure, this meeting between Captain SHIGA and Colonel OISHI.

A. I believe that is standard or usual.

The commission announced that the objection was overruled.

Cross-examination continued by the accused:

28. Q. Did you ever hear any of the defendants express a hostile attitude towards the Americans?

A. No, I have not.

29. Q. Did you ever hear any of these defendants' superior officers express such a belief or opinion?

A. No, I have not.

Re-examined by the judge advocate:

30. Q. Do you know what happened to Captain SHIGA?

A. Yes, he committed suicide.

31. Q. When did he commit suicide?

A. He committed suicide at ending of September of this year.

32. Q. Was that at about the time this investigation was being conducted?

A. Yes, it was.

33. Q. What happened to Lieut. OTANI?

A. He died in battle.

34. Q. And about when?

A. In the ending of May 1944.

35. Q. Did you know Captain ISHII?

A. Yes, I know him.

36. Q. What happened to Captain ISHII?

A. He died in an air raid.

37. Q. And about when?

A. I do not remember clearly.

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38. Q. Do you know what happened to Lt. HIROAKA?
A. He died on the outlying island.

39. Q. And about when?
A. I do not know.

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 judge advocate requested the commission to take judicial notice of the invasion of Kwajalein Atoll by the American forces on January 31, 1944, February 1, 1944 and February 2, 1944.

There being no objection, the commission announced that it would take judicial notice of such fact.

The prosecution rested.

The commission then, at 2:30 p.m., adjourned until 9 a.m., tomorrow, Tuesday, November 27, 1945.

FIFTH DAY

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U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.
Tuesday, November 27, 1945.

The commission met at 9:00 a.m.

Present:

Commodore E. H. Wyatt, USN,
Captain C. C. Champion, Jr., USN,
Captain H. B. Herby, USN,
Captain J. R. Weisser, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant Commander Edward F. O'Brien, USNR, and
Lieutenant William P. Mahoney, USNR, as Judge advocates.
Edwin A. Boles, Ylc, U. S. Naval Reserve, and
Robert W. Barrett, SKVlc, U. S. Naval Reserve, reporters.
Each of the accused and their counsel.

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

No witnesses not otherwise connected with the trial were present.

The defense began.

The accused made the following opening statement:

The normal purpose of an opening statement by the Defense is for the purpose of clarifying the issues that exist as to the facts of the case. That American fliers were executed at Mille Atoll, is not denied. However, it is the contention of the defendants and each of them, that their participation in the executions was in accordance with and under the orders of superior officers, and that malice, intent, the element of wilfulness, and all other elements necessary to commit the crime of murder are lacking. The evidence will show that not all the defendants participated in the execution of the American fliers, or took any part in anything connected with the executions. It is the contention of the defendants that the executions of American fliers were ordered by Capt. SHIGA, Atoll Commander of Mille, now deceased; that no conferences were held or discussions had concerning the disposition of the fliers by these defendants nor did these defendants participate in any discussions or conferences. There was no conspiracy.

In view of the seriousness of the charge against the defendants, and because of language difficulties encountered in talking to the defendants by the defense counsel, we will not attempt at this time to enumerate the parts that any of the defendants took in the executions. The facts will be as fairly presented as known and understood by counsel and defendants. I believe that each of the defendants will take the witness stand and will tell his story of the actions of the Japanese Army and Navy toward the American fliers, and upon these facts, the court will be able to draw intelligent decisions as to the guilt or innocence of the accused, and each of them.

The statement was then read to the accused in Japanese.

The defense calls Warrant Officer Tatsuichi MANAKO to the witness stand.

By the President: Tell the witness that under this procedure, he does not have to testify unless he so desires. He was so advised.

Examined by the commission:

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1. Q. Do you wish to give your testimony under oath?
A. Yes.

2. Q. Understanding all of the statements made by the counsel for defense, do you still desire to testify of your own volition?
A. I would like to answer any questions you have.

The President then warned the witness that having taken the stand that he must answer all questions, both by the prosecution and by the defense, truthfully and under penalty of such punishment as the court shall provide.

The witness was duly sworn in.

Examined by the judge advocate:

3. Q. Are you Warrant Officer Tatsuichi MANAKO, the accused in this case?
A. Yes.

Examined by the accused:

4. Q. State your name, age, rank, and the military organization of which you are a member?
A. My name is MANAKO, Tatsuichi, Warrant Officer, age 31 years old, and I am attached to the 66th Naval Garrison Unit of the Japanese Navy.
5. Q. How long were you stationed at Mille Atoll? Give the dates.
A. I arrived at Mille on the 12th of December, 1943, and was stationed on Mille until the end of the war.
6. Q. Did you see an American flier shot down over Mille?
A. Does it make any particular difference the plane that I saw?
7. Q. It is the plane that has been discussed here in this court.
A. I did not see the plane crash.
8. Q. Do you know whether or not any American fliers were taken or received or found their way to Mille Atoll and became prisoners of war of the Japanese?
A. The day the plane crashed, I did not know, but the following day, I found out from somebody's story.
9. Q. Do you know what became of the fliers?
A. I do not know.
10. Q. Do you know what happened to any of the fliers?
A. I do not know.
11. Q. Do you know whether or not any of the fliers were executed?
A. Yes, I know. That I know because I did it myself.
12. Q. How many fliers did you execute?
A. One American flier.
13. Q. Do you know what became of the other four fliers?
A. I do not know. You ask me if I know at that time what happened to the four American fliers?
14. Q. I am asking at that time or any other time.
A. At that time, I did not know, but when I came here and then I found out that the other fliers were executed by some other units.

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15. Q. Why did you execute the one flier?
A. I received an order from the company commander.
16. Q. Who was the company commander?
A. At present, he is Lt.(sg) Kyoshi FUETA, at that time, he was a Lt.(jg).
17. Q. When did you receive the order from Lt. FUETA?
A. Just before I executed the flier.
18. Q. What was your rank at that time?
A. I was a first class petty officer.
19. Q. Did you know what disposition was to be made of any of the fliers before you received the order from Lt. FUETA?
A. No.
20. Q. Were you ever present when any officer senior to him held any discussion concerning the disposition of the fliers?
A. I was not present.
21. Q. Do you know of any conferences or discussions by anyone concerning the disposition of these fliers?
A. I do not know.
22. Q. How many were present at the execution?
A. I don't remember clearly, but I think there were about 12 or 13.
23. Q. Were any of the defendants here in this court room, besides you, present? If so, will you name them?
A. Yes, there was one defendant besides me present at the execution.
24. Q. Who was it?
A. At that time he was a Warrant Officer. His name is Yutaka TANAKA.
25. Q. Do you know the name of the flier that you executed?
A. I do not know.
26. Q. Was the grave dug before the flier was brought to the scene of the execution?
A. Yes.
27. Q. Do you know when the grave was dug?
A. I do not know. When I went there, the grave was already dug.
28. Q. Describe in your own words what took place during the execution?
A. When I arrived at the scene of the execution, the American flier was just about to take a chair. When I arrived at the scene the body who was in charge of digging the hole was all lined up about three meters in back of the American flier and Ensign TANAKA was standing one step in front of his body. Now, you want a complete story of this place where he was executed? I want to tell you the reason why I was delayed for a few minutes. To pay respects to the American flier who was going to be executed, I had to change to my clean clothes because my clothes were very dirty, so I went back and changed into a clean uniform. Also, I brought my sword along with me. When I arrived there, TANAKA asked me if this be all right. I went to the American flier and had him button and straighten up his uniform. After the American flier had straightened his uniform, I took 7 steps back and drew out my sword and held it in my right hand and I bowed to the American flier. I poured water on the sword. The reason why I poured the water on the sword is to purify the sword. I stepped

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back near the back of the American flier and meditated for a little while until everything quieted down and executed the American flier. AsB

29. Q. How many times did you swing the sword?
A. Once.
30. Q. I believe it has been stated here in this court that you were considered an expert at Kendo. Is that right?
A. Yes.
31. Q. Explain what Kendo is?
A. Kendo is not for the purpose of killing people.
32. Q. Explain what Kendo is?
A. First it is to defend myself.
33. Q. Is it something like fencing?
A. Similar to fencing but Americans only use one hand where the Japanese use two hands and different methods.
34. Q. It is a type of sport?
A. Different from sports. It is brought down from the Japanese warriors in ancient days.
35. Q. The participants in Kendo do not kill each other, do they?
A. No.
36. Q. Where did you get your training in Kendo?
A. I learned from my father.
37. Q. At the scene of the execution, did anyone give you an order to proceed with the execution?
A. I did not receive orders at the scene of the execution, however, I have received orders from the company commander to carry out the execution if it was ready.
38. Q. Did you object to the order to execute the flier?
A. At first, it was not an order. The company commander suggested to me that I carry out the execution. However, I refused because I had no heart in killing people and I asked him to appoint somebody else and then the company commander gave me orders, You, MANAKO, carry out the execution.
39. Q. How long have you been in the Japanese Navy?
A. Seven years active service. When I was conscripted this time, it was four years.
40. Q. Did you feel that you could object or question the order of the company commander and refuse to carry out the execution?
A. I cannot refuse an order from the company commander.
41. Q. Why could you not refuse the order?
A. Superior Officer's orders you have to carry out. Besides, whatever my company commander tells me is the same as the Atoll Commander's order. That, I have learned through my eleven years training in the Japanese Navy.
42. Q. Was the flier blind folded?
A. He was not.
43. Q. Were his hands tied?
A. No.
44. Q. Was he seated?
A. The witness demonstrated to the court a kneeling position.

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45. Q. Was the flier questioned at the scene of the execution?
A. No.

46. Q. Was he tortured?
A. No.

47. Q. What was the situation on Mille at that time as to the bombing activity by the Americans? Had there been considerable raids?

A. Yes, Mille was under constant bombing by American fliers, especially in Headquarters Area.

48. Q. What was the situation as to food? Did you have plenty?

A. The food situation was pretty grave. I don't know in detail about the food situation because I was not in charge of that, but I know we were running short of food.

49. Q. Do you know whether or not an invasion of Mille was anticipated?

A. Yes, I anticipated an invasion.

50. Q. Following the execution, did you report to anyone concerning the fact that the execution had been accomplished?

A. Yes, I did.

51. Q. State to whom you reported.

A. Immediately after the American flier was executed, I made a report to TANAKA and TANAKA immediately ordered to bury. Then American flier was buried and everybody paid the last respects to the American flier and we were ordered to disband. Then TANAKA and I made a report to the company commander.

52. Q. Who was the company commander?

A. At that time he was Lt.(jg) FUETA, of the Imperial Japanese Navy.

53. Q. Do you have anything else that you would like to state at this time to this court that you have not been asked about?

A. I have nothing more to say.

The judge advocate stated that he would like to place the names of the participants on the blackboard under their respective units as the testimony unfolds.

There being no objection, permission was granted.

Cross-examined by the judge advocate:

54. Q. What was your sector?

A. I was in the northern sector.

55. Q. What time of day did the execution take place?

A. Just before sun down.

56. Q. Can you describe the flier? The one you executed?

A. Yes.

57. Q. Describe him.

A. The height of the American flier was about 6 ft. He was wearing the aviation uniform, a little darker than the Khaki. He did not have a hat on. He was wearing his shoes. He had a beard of about $\frac{1}{2}$ inch. That is about all.

58. Q. Was he tin or heavy?

A. Just normal.

59. Q. Was he an officer or an enlisted man?

A. I don't know. I heard that he was an officer from the company commander. He was very calm.

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60. Q. I will hand the witness exhibit No. 5 and ask him if he can identify the American he executed from these pictures.
A. I cannot recognize the American flier because Americans are very tall.
61. Q. But you are sure that the flier you executed was an American?
A. Yes.
62. Q. Did you know whether or not a trial was held?
A. I don't know.
63. Q. Did you make any effort to find out whether a trial had been held?
A. I don't know.
64. Q. Did you have any reason for knowing why the flier was executed?
A. I did not know.
65. Q. Was the American in an injured condition? Prior to the execution?
A. He was not injured.
66. Q. Who was the senior officer present at the execution?
A. Warrant Officer TANAKA.
67. Q. Was an order for execution read by anyone prior to the execution?
A. No one read this.
68. Q. Was the execution a secret affair?
A. By secret, do you mean what? By secret, there are two reasons I have, one is taking the wrong meaning of secret. Another thing is to keep the secret away from the rest of the men on the island.
69. Q. Were you told to keep people away from the execution?
A. I wasn't told, but however that might have been told to TANAKA. That is one reason he was present.
70. Q. What method was used for the preventing of the escape of the flier prior to the execution?
A. No measures were taken because we trusted the American. This was at the scene of the execution.
71. Q. Were guards placed in front of the American and in front of the grave to prevent his running away?
A. There were no guards there.
72. Q. Were guards stationed to the right or left of the flier?
A. No.
73. Q. You did perform one decapitation prior to the one we are talking about?
A. Yes.
74. Q. Explain the decapitation you have just mentioned.
A. That was done in China.
75. Q. What was the purpose of that decapitation?
A. I did not kill the prisoner. At a time during battle, I have done the killing.
76. Q. Was this a formal execution?
A. This was not a formal execution. It was at a time of hand to hand combat.

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77. Q. Did you feel at the time that you executed the American, that the order for his execution was unusual or out of the ordinary?
A. There is no difference in orders.

78. Q. In other words, you did not question the order one bit?
A. I did not question the order.

79. Q. Do you remember the invasion of Kwajalein? By the Americans?
A. Yes.

80. Q. With reference to the invasion of Kwajalein by the Americans, can you fix the time of this execution of the American?
A. I don't remember clearly. When I was questioned at Majuro, I have stated that it was either the latter part of January or the early part of February.

81. Q. How long prior to the execution had the Americans been on Mille?
A. I think about eight days.

Examined by the commission

82. Q. Was the order to execute received by the witness verbally or in writing?
A. It was a verbal order.

83. Q. How long before the actual execution was the order given?
A. I think about 30 minutes prior to the execution.

84. Q. Who at the time of the execution was your immediate superior officer?
A. It was the company commander, Lt. FUETA.

85. Q. What was TANAKA?
A. Warrant Officer TANAKA was also my immediate superior officer.

86. Q. Did you get any order from TANAKA?
A. No.

87. Q. Isn't it unusual that you would receive the order directly from your superior officer rather than from the next in command?
A. Concerning the orders, I do not know whether it was unusual or not. It all depends on the situation at the time and of the superior officer, so I ask you to question the superior officer. He might know.

88. Q. You received no orders from TANAKA concerning the execution?
A. No.

89. Q. Did you report to TANAKA for the execution?
A. I did when I executed the American flier, I have reported to TANAKA that I have done it.

90. Q. TANAKA was there in charge of the execution?
A. Yes.

91. Q. Did you protest to TANAKA?
A. No.

92. Q. Did you receive any commendation or special recognition for your part in the execution?
A. I did not receive any.

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93. Q. Can you describe the color of the hair, color of the eyes, the whiskers, of the flier you executed?

A. The beard was a reddish color, the hair was the same color, the color of the eyes, I don't remember.

94. Q. I would like again to ask what ^f any protest did you make when you received the order to execute the flier?

A. I did not make any protest against the order.

95. Q. How did you receive the order from Lt. FUETA, where did you receive the order to execute the flier?

A. I received an order from him in front of the O.O.D. office.

96. Q. Tell us what occurred and about the conversation you had with Lt. FUETA at that time.

A. I was at the barracks and I was called by the company commander FUETA. He said the reason why he called me here is that he wanted me to execute the American flier. I did not have the heart to kill, therefore I have told him to please select somebody else. There is no others to choose, and you, MANAKO, will execute the flier. That is the orders he said.

97. Q. Did you sharpen or especially prepare the sword for the execution before the event?

A. I have not made any such preparations. That is not a cheap sword. You Americans may laugh, but that sword is the spirit of God. The only person who can understand that is a person who does Kendo.

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

The witness made the following statement:

The only thing I have to say is that what I have done is right and that is all.

The witness resumed his status as accused.

Ensign Yutaka TANAKA was called to the witness stand.

Examined by the accused:

1. Q. Do you wish to take the stand, Yutaka TANAKA?

A. I do.

2. Q. Do you wish to testify under oath?

A. I do.

3. Q. Do you wish to testify freely and voluntarily?

A. Yes.

The President warned him that in so doing as a defendant he makes himself liable to cross questioning and he must answer truthfully all questions which the defense and the prosecution may put to him.

He was duly sworn.

Examined by the judge advocate:

4. Q. Are you Yutaka TANAKA, an accused in this case?

A. I am.

Examined by the accused:

5. Q. Were you on Mille Atoll in January and February 1944?

A. Yes, I was.

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6. Q. You have heard the testimony of Warrant Officer MANAKO?
A. Yes.

7. Q. Will you tell the court if you have anything further to add to the testimony of Warrant Officer MANAKO? That is, concerning the execution?

A. The reason why I was present at the execution was that I was ordered by FUETA to take charge of the execution and to actually witness the execution done by MANAKO.

8. Q. Under what circumstances were you ordered by Lieut. FUETA to witness this execution of which you speak?

A. I was ordered to be present at the execution to be sure that MANAKO would make no mistake and execute American flier and be sure American flier did not escape and other reason was that — to show that other than those concerned with the execution would not come around and watch this execution.

9. Q. Was this verbal or was it written?

A. It was a verbal order.

10. Q. What was the reason for excluding spectators other than those ordered at the execution?

A. The reason why the others were excluded was to have many others witness the execution is being disrespectful to the fellow who is going to be executed.

11. Q. Were you present from the beginning to the end of the execution?

A. Yes, I was.

12. Q. After the execution, did you make any reports on the execution to any superior officer?

A. Yes, I did.

13. Q. To whom?

A. FUETA — at that time a Lieut. junior grade.

14. Q. Was it verbal or written?

A. It was a verbal report.

15. Q. Is it customary to receive and carry out verbal orders?

A. Yes, it is customary.

16. Q. Do you think that a verbal order was unusual under these circumstances?

A. No, sir.

17. Q. Tell the court in your own words anything further that you may have to add concerning the execution and your part therein.

A. I have nothing further to say.

Examined by the judge advocate:

18. Q. Repeat to the court the circumstances of the conversation that went on between your Unit Commander and yourself immediately prior to the execution?

A. The Company Commander told me that he had designated the party in charge of digging the hole and the place where it was supposed to be dug. He had also told me that the person who is going to do the beheading he had designated MANAKO.

19. Q. What did he tell you to do?

A. I was told to be at the scene of execution and supervise the execution and to be sure that MANAKO will execute properly.

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20. Q. In other words, you were directed to take charge of the execution?

A. Yes, I was.

21. Q. Did you issue the order to MANAKO to wield the sword?

A. I did not order him.

22. Q. Did you gesture with a bow of the head or in any other manner indicate to go ahead with the execution?

A. I have notified or let him know that preparations have been completed.

23. Q. You mean you notified MANAKO?

A. Yes.

24. Q. Why, if you know, was the execution ordered?

A. That I do not know.

25. Q. Did MANAKO have the power to carry out the execution in your absence?

A. Yes, he had the power to carry out execution.

26. Q. Was it an American flier that was executed?

A. Yes, it was American flier.

27. Q. Was a trial held?

A. That I do not know.

28. Q. What unit were you attached to on Mille, and where was that unit located?

A. I was attached to the 66th Garrison Unit, in the Northern Sector.

29. Q. What is your age?

A. 34 years old.

30. Q. How far were you standing from the flier in the execution?

A. About four steps behind the American flier.

31. Q. Could you describe him?

A. I cannot make a detailed explanation.

32. Q. Well, make a general explanation to the best of your ability.

A. The height is about six feet or 6' 1", I think.

33. Q. Was he an officer or enlisted man, do you know?

A. That I do not know.

34. Q. What, if you know, was his occupation in the airplane?

A. I have not questioned him in regard to those things, so I do not know.

35. Q. I show you this photograph, exhibit #5 and ask you if you recognize any of these fliers?

A. I cannot find out exactly who he was.

36. Q. Can you point out the one whom you think was executed by your unit?

A. I don't recognize his face; I cannot point out exactly who he was.

Examined by the commission:

37. Q. You heard the testimony of MANAKO? Do you deny any of the statements made by him?

A. I cannot deny.

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38. Q. When you were called to Lt. FUETA's office and was told to execute the fliers, tell us exactly what the conversation was as best you remember?

A. In accordance with the order, we will execute one American flier and those in charge of digging the hole I have designated. The person who will execute the flier I have ordered MANAKO. I have received order to be present at the execution and take charge of the execution and also witness whether MANAKO actually or properly carried out the execution.

39. Q. What reply or remarks did you make to FUETA when you received those orders?

A. All right.

40. Q. Did you make any protest?

A. I did not make any protest.

41. Q. Who actually ordered MANAKO to wield the sword at the execution?

A. At that time he was Lieut. (jg) FUETA.

42. Q. I am speaking of the actual scene of the execution. Was anyone there present who actually at that time gave the order of execution?

A. No one have issued order. MANAKO had received the orders from the Company Commander and no other fellow gave him any further orders.

43. Q. You actually did supervise the actual execution, however, did you not?

A. Yes, I was in charge of the execution.

44. Q. What conversation took place at the scene of the execution? What talking went on? What was said?

A. No conversation went on at the scene of execution.

45. Q. Who was the last person to converse with the American before he died?

A. That I do not know.

46. Q. If you were in charge of the execution, how did MANAKO know that you were ready to proceed with the beheading?

A. That I have told MANAKO that preparation have been completed.

47. Q. Then you gave MANAKO the "go-ahead" signal?

A. I have not given any signal to go ahead.

48. Q. Were you present at any gathering or conference at any time that discussed the execution of the American fliers or other persons prior to the execution?

A. No, I was not present at any conference, sir.

49. Q. Does the witness wish to make any statement at this time in his own behalf?

A. I have nothing further to say.

50. Q. You know of no other matters about which you think the court should be told?

A. I have nothing else to add.

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

The witness said he had nothing further to state.

The witness resumed his status as accused.

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Ensign Harushi MOTOMURA was called to the witness stand by the defense. He stated that he wished to testify under oath; that by so doing he realized that he was liable for cross-examination by the prosecution and that he must answer truthfully any and all questions asked by the defense, prosecution or members of the court.

He was duly sworn.

Examined by the judge advocate:

1. Q. Are you Harushi MOTOMURA, an accused in this case?
A. Yes, I am.

Examined by the accused:

2. Q. How long have you been a member of the Imperial Japanese Navy?
How many years?
A. 18½ years.
3. Q. What was your rank or rate at the time of this incident on Mille?
A. I was Warrant Officer in the Imperial Japanese Navy.
4. Q. What is your age?
A. 38 years old.
5. Q. How long were you stationed on Mille Atoll?
A. Two years.
6. Q. From when to what time?
A. I arrived at Mille Atoll first of December 1943, and I was there to the end of the war.
7. Q. Did you see five American fliers shot down in a plane?
A. I did not see.
8. Q. When was the first time you saw any American fliers on Mille?
A. First time I saw American flier on Mille was latter part of January or early part of February 1944. I do not remember clearly.
9. Q. What occasion was it that you happened to see the American fliers?
A. I have received an order from the North Sector Commander, FUETA, to go over to Navy Headquarters and get American flier and at that time I saw American flier.
10. Q. Who ordered you to go to Navy Headquarters to get the American flier?
A. I received an order from Lieut. (jg) FUETA.
11. Q. State in your own words what happened on that occasion after Lieut. FUETA gave the order?
A. After I received an order I took one enlisted man with me and went to the Officer-of-the-Day's office on a truck and I have reported to the OD that I have come from North Sector Unit to receive an American flier. The OD told me that I am not in charge of the prisoner so I don't know about it, go over to Lieut. OTANI and make a report. So I went over to Lieut. OTANI and I told him that I had come from North Sector Unit to receive an American flier. OTANI replied "Is that so", and he had given me a piece of paper which had flier's name on it. OTANI told me to take this slip of paper to the guard and receive the American flier. I do not know English and cannot read or write English so I do not know what was written on the paper. Lieut. OTANI told me to take this prisoner back and to execute the prisoner and after we have executed the prisoner make report to me too. I have told him that

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I will make a report to my Company Commander that this American flier will be executed today. Was told by Lieut. OTANI to make a report to him in regard to the execution. Then I went over to the air raid shelter where the American flier was kept and handed over to the guard there a piece of paper and told him I came to receive American flier. The guard took the piece of paper in the air raid shelter and brought out one American flier. Then I received the prisoner from the guard and went back to the North Sector Unit area on a truck. I have returned to the North Sector area and took the prisoner to Lieut. FUETA. Then I have reported to Company Commander that Lieut. OTANI had said to execute this prisoner today and make a report to him. Then I left there and went to take a bath.

12. Q. Were you present at the execution?

A. I was not.

13. Q. Did you know before you spoke to OTANI what you were going after the prisoner for?

A. No, I did not.

14. Q. Did you deliver the prisoner to the place of execution?

A. I did not.

15. Q. Who did you turn the prisoner over to?

A. I have turned over the prisoner to Lieut. (jg) FUETA.

16. Q. Where?

A. In the North Sector in front of the OD's office.

17. Q. What did you do immediately after that?

A. I went to take a bath.

18. Q. Did you ever see this prisoner again after that time?

A. I did not see the prisoner any more.

19. Q. Was the witness ever present at any conference or discussion as to the disposition of the American fliers?

A. I was not.

20. Q. Is that the only time you ever saw the American flier on Mille-
the time you went after the prisoner at Navy Headquarters?

A. Yes, that was the only time.

Cross-examined by the judge advocate:

21. Q. Describe the flier to the best of your ability?

A. The height I think was about six feet; he had brown aviation uniform on. He was not wounded. I don't remember anything else.

22. Q. Did you hear his name?

A. I did not.

23. Q. Were you told whether he was an officer or enlisted man?

A. No, no one told me.

24. Q. Are you sure he was an American flier?

A. I think he was an American flier.

25. Q. I show you exhibit five (5) which are pictures of the fliers and ask you if you can indicate the flier who was in your custody?

A. I cannot recognize.

26. Q. Does the face of any of these six fliers appear to be familiar to you?

A. I don't remember their faces so cannot tell.

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Examined by the commission:

27. Q. Have you any further information which you feel the court should know and about which you have not been questioned?
A. I have only carried out the orders against my will.
28. Q. You have heard the testimony of the two previous witnesses. Do you deny any of the statements made by those witnesses?
A. I have nothing to deny.
29. Q. Have you any further statement to make in your own behalf?
A. I have no further statement.

Recross-examined by the judge advocate:

30. Q. You stated that you carried out the order against your will? Does that mean that you understood the order to carry out the execution of the American flier was wrong?
A. I think what I did is right, it is just carrying out the orders I was given.
31. Q. Did you appreciate at the time that you were participating in a wrongful act?
A. I did not appreciate.
32. Q. Then why did you state you carried out the order against your will?
A. In the Japanese Navy we are trained to obey the Superior Officer's orders; that is one reason why I carried out the order.

Reexamined by the commission:

33. Q. Why were you reluctant to carry out the order?
A. I was not reluctant, I just carried out the order.
34. Q. What did you mean when you stated previously that you carried out the order against your will?
A. This was done not that I wanted to but I have carried out because it was an order and you have to carry out according to order.
35. Q. Why didn't you want to carry out the order?
A. He said he was not reluctant after he received the order. I personally participated in this case just according to the orders I received.
36. Q. Did you feel that the procedure surrounding the execution was just and right?
A. That I do not know whether it was right or just

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 status as accused.

The commission then, at 12:15 p.m., recessed until 1:30 p.m., at which time it reconvened.

Present:

All the members, the judge advocates, the reporters, each of the accused and their counsel.

No witnesses not otherwise connected with the trial were present.

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Lieut. FUETA was called as a witness.

Examined by the accused:

1. Q. Do you understand that you don't have to testify in your own behalf unless you so desire?
A. Yes, I know.
2. Q. Knowing that, do you still desire to testify in this case in which you know you are a defendant?
A. Yes, I want to testify.
3. Q. And if you take the stand you must answer questions asked by defense, prosecution and the court?
A. Yes.
4. Q. You were also told that you do not have to testify under oath?
A. Yes, I know.
5. Q. Knowing that, you still desire to be sworn in as a witness?
A. Yes.

The President then warned the witness that he will therefore, taking the stand voluntarily and in his own behalf, be required to answer all questions by defense, prosecution and the court truthfully and fully.

The witness was duly sworn.

Examined by the judge advocate:

6. Q. Are you Kiyoshi FUETA, the accused in this case?
A. Yes, I am.

Examined by the accused:

7. Q. State your name, your age, your rank and the military organization of which you are a member?
A. My name is FUETA, Kiyoshi, Lieut. Sr. Grade, attached to the 66th Garrison Unit, the Commander of the North Sector Unit.
8. Q. At Mille, in the Japanese Navy?
A. Yes.
9. Q. Your age?
A. My age is 45 years old.
10. Q. How long were you stationed at Mille?
A. I was on Mille from September 1943, to September 1945.
11. Q. Were you present in court this morning and heard Warrant Officer MANAKO describe an execution of an American flier that took place at Mille?
A. Yes.
12. Q. Did you know, or did you see, that American flier?
A. I knew him when he was brought to my place and I saw him then.
13. Q. Had you seen him before he was brought to your place?
A. The flier who was brought to my place I did not see him before.
14. Q. Did you see any American fliers at or about the time the execution took place? I mean had you seen any within ten days?
A. Yes, I have. I saw one American flier.

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15. Q. Where did you see him?
A. I saw him near the air raid shelter by the headquarters.
16. Q. And was that before or after the execution that Warrant Officer MANAKO described?
A. Yes, it was before.
17. Q. Did you talk to any of the fliers?
A. I have not.
18. Q. You saw just two fliers, is that right?
A. Yes, that is right.
19. Q. Can you describe the fliers you saw?
A. Yes, I can.
20. Q. Describe them.
A. The first flier I saw him about two days after they crashed. Two days later I went to the headquarters on the damages done by American bombing.
21. Q. No, I want you to describe the height, color of hair, etc.
A. The first American flier I saw, his height was about 5' 5", his beard was just normal; he had bondage on his head; it was the back view so I don't know his face. *bb*
22. Q. Describe the other one?
A. The other fellow, his height was about six feet, his face was oblong and had beard; the color of his hair was red and he wore a regulation uniform with service shoes on. That is about all I remember.
23. Q. I hand you prosecution exhibit #5 and ask you if from these pictures you can identify any of those fliers?
A. I don't remember very clear but I think this is the fellow. (The name of the man indicated on the picture was marked David W. KIMBEY).
24. Q. Is that the one that was executed in the North Sector?
A. Yes.
25. Q. Are you positive that the one you indicated there is the one the North Sector executed?
A. I cannot say positive but I think he is the fellow.
26. Q. Do you know whether or not the one executed by the North Sector was an officer or enlisted man?
A. I do not know.
27. Q. Were you present at any time that any of the fliers were questioned or interrogated?
A. I was not present.
28. Q. Were you present at any conference or meeting wherein the disposition of the American fliers was discussed?
A. I was not present.
29. Q. Did you see the execution which took place in the North Sector?
A. I did not.
30. Q. Did you order Warrant Officer MANAKO to execute an American flier?
A. Yes, I did.
31. Q. And when did you give that order to him?
A. About 20 or 25 minutes later when MOTOMURA brought the flier.

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32. Q. Do you recall the month, the day and the year?
A. I don't remember exactly the date but I think it was the latter part of January.
33. Q. What year?
A. 1944.
34. Q. Was the order you gave Warrant Officer MANAKO in writing or verbal?
A. It was a verbal order.
35. Q. Did you issue any other orders to any officers under you in connection with the execution?
A. Yes, I did.
36. Q. Describe to whom you issued the order and what the order was?
A. I have issued an order to W.O. TANAKA: "You, TANAKA, will go out to the scene of the execution and take charge of the execution" I ordered TANAKA to supervise and see that MANAKO would properly execute the American flier and see that American flier does not escape.
37. Q. Now, at that time was TANAKA a Warrant Officer and MANAKO a Chief Petty Officer?
A. At that time TANAKA was a Warrant Officer and MANAKO was a first class Petty Officer.
38. Q. Upon what did you base your orders to instruct MANAKO to carry out this execution?
A. I based upon the orders received from the Atoll Commander.
39. Q. Did you receive those orders in writing or were they verbal?
A. Yes, it was verbal orders through the telephone.
40. Q. And can you name the person who gave you those orders?
A. The orders I received through phone was to come over and get prisoner but the orders for the execution Warrant Officer MOTOMURA had brought it back.
41. Q. Was that a verbal or written order which MOTOMURA brought back?
A. Yes, it was a verbal order.
42. Q. Now, when you issued the order to MANAKO, did you expect him to carry the order out without question?
A. First, before I issue an order to MANAKO, I suggested to MANAKO that I would like him to carry out the execution. However, MANAKO refused and asked me if there was someone else but I told him there was no one else who could do it, so I gave him an order "You, MANAKO, will carry out the execution".
43. Q. Did MANAKO report to you that the execution had been carried out?
A. Yes, I received report from MANAKO and TANAKA.
44. Q. Was it one report from each?
A. There was a separate report from each one? The same reports came at the same time but they were in separate reports.
45. Q. Now to whom did you report the execution had been carried out?
A. Through the Officer of the Day, I mad reports to the Atoll Commander.

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46. Q. Do you know whether or not the Atoll Commander received the report?

A. When I telephoned to the Officer of the Day TANAKA was by me and later received an answer they had understood my report.

47. Q. Did you ever discuss the execution, either before or after it took place, with any superior officer of yourself on Mille?

A. I have not discussed any matters concerning the execution.

48. Q. Who was your superior officer?

A. My superior officer will be Lieut. Comdr. TOKUNO.

49. Q. Did you question the order which OTANI passed to you to execute the flier?

A. I have not questioned the order because the orders which came from OTANI is also from Atoll Commander.

50. Q. Do you know what happened to any of the fliers other than the one which you ordered MANAKO to execute?

A. I knew one of the fellows in the Southern Sector saying they had executed one American flier. The others I don't know exactly where they were executed. I thought they were also executed by the Navy Unit.

51. Q. Do you know whether or not any conference or meeting had been held by any of the ranking officers of Mille Atoll wherein it was decided to execute the American flier?

A. I do not know.

52. Q. Do you feel that you are more responsible for the carrying out of the execution than both MANAKO and TANAKA?

A. Yes, I do.

53. Q. Have you anything you would like to say to the court at this time about which I have not inquired?

A. I have nothing to say.

54. Q. How many years have you been on active duty with the Japanese Navy?

A. 26 years.

55. Q. Is that active duty?

A. Yes, sir.

Cross-examined by the judge advocate:

56. Q. Was this flier one of a group of five American fliers that arrived on Mille Atoll?

A. I am positive it was one of them.

57. Q. And with reference to the execution, when did you first see the American flier?

A. About five days before.

58. Q. And you originally planned on executing the flier yourself?

A. I have not planned and I was ordered by the headquarters.

59. Q. You planned on conducting the execution yourself, did you not?

A. Yes, I had planned to carry out in accordance with order.

60. Q. And on the afternoon of the execution did you put on your full uniform and proceed to the place of execution?

A. I have given an order to MANAKO and TANAKA to carry out this execution and I was very much dissatisfied and felt very displeased that we had to carry out this execution and I was worrying about this execution so I was about to leave for the execution, then they came back.

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61. Q. And they advised you at that time that the execution had been carried out?

A. Yes, at that time.

62. Q. Why was this flier executed?

A. That I do not know.

63. Q. Did you make any effort to find out?

A. At first I did not think that American flier was going to be executed at that time I received an order to come over and get the American flier. My area received very little of bombing, therefore, I thought that American flier was going to be kept in the Northern Sector.

64. Q. Why did you not proceed to headquarters to pick up the flier yourself and ascertain the order instead of sending a junior officer?

A. At that time I was very busy with constructing the positions and the orders were not directed to me to come over personally and get it. Therefore, I have sent MOTOMURA. In the Japanese Navy, if the headquarters wanted the Commander to come over and get anybody they will specify in the order, but when they just ordered to come over and get prisoner, why the Commander of that particular unit will not go out and get him.

65. Q. Did you not feel that an order for the execution of a prisoner of war was a most unusual order?

A. Yes, I found that out when MOTOMURA came back.

66. Q. Why did you not hold up the execution until you could further verify the order or protest?

A. This order was given by the Atoll Commander, the order was made directly by him, so I did not protest or question the order.

67. Q. Was a trial ever had?

A. That I do not know.

68. Q. Was this flier guilty of any offense?

A. That I do not know.

Examined by the commission:

69. Q. You have heard the testimony given by your colleagues, the accused here. Do you deny any of the statements which they have made?

A. I have nothing to deny.

70. Q. You have testified to the court that a flier was executed by your unit without you ever having received a direct order for that execution. The manner in which you carried out that order clearly indicates to the court that you had previous knowledge that an execution was to be conducted. Where did that knowledge come from?

A. I did not have any knowledge previous because I did not have a chance to go to headquarters, and when MOTOMURA brought back the prisoner I was surprised.

71. Q. If you were surprised, why then did you permit the execution of this flier when you had received the instructions for the execution through subordinate channels?

A. My man have received order to carry out execution that day, so I couldn't do anything. If they had made any suggestions to me or had talked to me about it before I could have expressed my opinion.

72. Q. But that order came to you through the OOD and through OTANI and through MOTOMURA. The question is, why did you carry out an order when transmitted through those subordinates?

A. Orders have no difference whether they come through the subordinate officer or directly from the headquarters Commander.

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73. Q. You positively deny that you ever received any direct orders from the headquarters Commander or other higher authority than those we have just mentioned?

A. Yes, I deny.

74. Q. What kind of a log or running account of daily events is kept in your units?

A. I have kept a log but it was destroyed by the bombing. That log may have been at the headquarters.

75. Q. The log that you kept: Were all events of interest each day entered in it?

A. Yes.

76. Q. Was the execution of the American flier entered in the log?

A. Yes, it was entered in the log and also at the headquarters.

77. Q. How did the headquarters get the information for entering in their log?

A. The headquarters receive information through phone to enter in their log.

78. Q. Was the Northern Sector log destroyed before or after the execution?

A. It was long after the execution was held.

79. Q. Are you familiar with the rules of land warfare as set forth by the Geneva Convention, insofar as it pertains to prisoners of war?

A. I am not familiar.

80. Q. Is it the custom of the Japanese Services, Army and Navy, to violate the law of humanity, particularly with regard to acts of violence against prisoners of war?

A. That I do not know whether it is customary or not.

81. Q. Did you consider this execution an act of violence?

A. I found out at present now that from the standpoint of law what we did was wrong and was violence.

82. Q. Did you at that time consider the execution as an act of violence?

A. At that time I did not know anything about those things, what the superior officers were thinking.

83. Q. What did you think - that the execution of a prisoner of war was contrary to the law of humanity? Did you consider it as wrong at the time of the execution?

A. At that time I did not know that to execute was actually wrong. I personally thought that to kill a prisoner of war was not the right thing to do. That is, from the standpoint of humanity that I have expressed.

84. Q. Are you familiar with the regulations of the Japanese Navy dealing with the handling of prisoners of war?

A. I did not know anything about it.

85. Q. Do you mean you do not know anything of the rules of the Japanese concerning the rules to be observed in the treatment of prisoners of war?

A. Yes, I did not know any law in regard to the prisoners of war.

86. Q. In 26 years in the Japanese Navy you had no instructions on how to deal with captured Navy and Army personnel?

A. I did not know. I have stated before that I have not gone through the Naval Academy so those things I do not know.

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87. Q. Did you personally make the entry about the execution in the log or running account in the sector under your command?

A. Yes, I did.

88. Q. To the best of your knowledge and recollection, repeat it?

A. I have entered the day and written "one prisoner excuted".

89. Q. Is that the total entry?

A. Yes.

Recross-examined by the judge advocate?

90. Q. Are you acquainted with Lt. TAKAHASHI of the Southern Sector?

A. At that time I did not know him so well. I only know his face, never talked to him.

91. Q. Do you know what happened to Lt. TAKAHASHI?

A. I heard that he was killed in bombing.

92. Q. Do you know any subordinate officers of that unit?

A. I do not know. The Southern Sector only one third left and the rest of them died.

93. Q. With reference to the Navy on Mille, who was the Officer of the Day under?

A. He was under Atoll Commander.

94. Q. And that would be under the Executive Officer, Lieut. Comdr. TOKUNO?

A. That is how it is supposed to be according to duties.

95. Q. Do you know who was the Officer of the Day at this time?

A. I do not know the name of the Officer of the Day.

96. Q. Do you know whether or not they had a permanent Officer of the Day during the day time?

A. Every day there was some different officer.

97. Q. In making the entry in the log regarding the execution, did you enter the nationality of the man executed?

A. I do not know his name and I did not enter the name and nationality.

Reexamined by the commission:

98. Q. Will you please ask the witness if he has any information about which he feels the court should know about which he has not been questioned?

A. Yes, I have.

99. Q. Will you make whatever statement you wish to make on your own behalf?

A. As I was questioned by Judges and Prosecutors, I feel as though you think I have participated in the discussion regarding the disposition of the American prisoner of war. In other words, I feel that you have the suspicion that I have participated in any conference or discussion in regard to this disposition of this prisoner of war. I am not in a position to be at the conferences in the first place, and I did not have any chance or opportunity to go to Headquarters. And another thing is about the chain of command at Mille and also at Majuro, the Atoll Commander had spoke about it. The Atoll Commander had questioned me "What were you asked?" At that time I told the Atoll Commander that I have told that I have carried out the execution by orders from you. At that time he scolded me, the Atoll Commander

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scolded me, and I told him that even though you scold me, through the regulations of the Navy this order must have come from you and that is how it is according to the regulation of the Navy. And then he said "I can't help if everything turns out that I have issued an order". The Atoll Commander must have worried very deeply and questioned me several times after that but I closed my ear to avoid hearing and he must have been insane and he was saying something very unusual. That is about all I have to say.

100. Q. Who was the Atoll Commander you were referring to?
A. Captain SHIGA

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 status as accused.

The commission, then at 3:00 p.m., adjourned until 9:00 a.m. Wednesday, November 28, 1945.

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SIXTH DAY

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

Wednesday, November 28, 1945.

The commission met at 9:00 a.m.

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champion, Jr., USN,
Captain H. B. Herty, USN,
Captain J. R. Weisser, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant Commander Edward F. O'Brien, USNR, and
Lieutenant William P. Mahoney, USNR, as Judge Advocates.

Edwin A. Boles, Y1/c, USNR, and Robert W.
Barrett, SKV1/c, USNR, reporters.

Each of the accused and their counsel.

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

No witnesses not otherwise connected with the trial were present.

First Lieutenant Yashuo Moori was called as a witness for the
accused.

Examined by the accused:

1. Q. Moori, you have the right to take the stand and testify under
oath. However, you are not required to take the stand unless you desire
to. Do you wish to take the stand and testify under oath?
A. Yes, sir.

Examined by the commission:

2. Q. Will you ask the witness if he takes the stand voluntarily, of
his own accord and freely. Warn him that when he takes the stand he will
be subject to examination both by the prosecution and the defense and
the court and that he must answer all questions fully and truthfully.

The witness indicated that he desired to testify under oath.

The witness was duly sworn.

Examined by the judge advocate:

3. Q. Are you Yashuo Moori, an accused in this case?
A. Yes, I am.

Examined by the accused:

4. Q. State your name, age, rank and nationality?
A. First Lieutenant Moori, Yashuo, Japanese Army; 25 years old;
1st Battalion of the First South Seas Detachment.

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5. Q. Were you stationed on Mille Atoll January through March 1944, inclusive?
A. Yes, I was.
6. Q. What was your rank at that time?
A. I was a second lieutenant.
7. Q. What were your duties there?
A. I was with First Machine Gun Company, Platoon Commander.
8. Q. Who were your superior officers?
A. Captain Hirata, Toshiya.
9. Q. What were his duties?
A. He is the Company Commander and the Battalion Commander is Captain Ishii, Ioshisaburo.
10. Q. Who was the Executive Officer?
A. At that time, second lieutenant Kadota, at present he is first lieutenant.
11. Q. Did you see, or do you know, if an American plane crashed into the lagoon 19 January 1944?
A. I did not see the plane crash but I heard about it.
12. Q. Do you know what happened to the occupants?
A. I heard that occupants were taken off and brought over to the Navy Headquarters.
13. Q. Did you subsequently have occasion to come into contact with any of them.

A. No, sir, I did not. You were referring to before they executed the American flier?
14. Q. No, any time?
A. Yes, I have executed one flier.
15. Q. Can you describe the flier?
A. I have receive orders from the Battalion Commander to execute the American flier and when I left the office of the Battalion Commander, I saw the American flier, that was the first time I saw the flier.
16. Q. Well, answer the question?
A. Just about that time when I saw the American flier, it was about sundown and was partly dark so I could not recognize the face but I remember that he was a little too short for being the size of an American. American flier was carried on enlisted man's back.
17. Q. Can you describe the flier or not?
A. I think the American flier had one of his legs injured.
18. Q. Is that the only description you can offer of this man?
A. That is all I remember.
19. Q. We would like to show the witness exhibit #5 and have him identify the people in the picture. Can you recognize any of the men shown on these photographs?
A. I cannot recognize any of them.
20. Q. You have stated that you were ordered to execute this flier. Is that correct?
A. Yes.

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21. Q. Will you tell the court under what circumstances and how you received that order and from whom?

A. The day I don't remember very clearly but I think it was the early part of February. From the headquarters received a telephone call saying that "Moori report to Battalion Headquarters". So I wore a uniform and went to Battalion Headquarters. And I was called in front of the Battalion Commander. At that time there were other officers besides me. We - the officers - received the orders in front of the Battalion Commander. Before he gave us the order he stated that the reason why we called you is that we are going to execute the flier in accordance with order. That was the time I heard that American flier was going to be executed.

22. Q. What did you say when you were ordered to execute this flier?

A. I just said "yes".

23. Q. When was the execution held?

A. It was the day I received the order.

24. Q. Do you know if there was any trial of the fliers held?

A. I do not know.

25. Q. Was your order verbal or written?

A. It was a verbal order.

26. Q. Did you think that an order from your Executive Officer should be questioned?

A. Order did not come from the Executive Officer, it came from the Battalion Commander.

27. Q. Well, do you think an order from your Battalion Commander should be questioned?

A. I do not question his orders.

28. Q. Where was the execution held?

A. In the Battalion area about - I can't say exactly the distance but was about 100 meters away from the Battalion Command Post.

29. Q. What time of day was it held?

A. After sundown.

30. Q. Who was present at the execution?

A. The person I remember very clearly is Captain Abe. At that time he was a first lieutenant.

31. Q. How many people, altogether, were there present?

A. About two or three other officers and there is the guard. I do not remember the number of the guard. I do not remember besides that.

32. Q. Describe the execution.

A. When I arrived at the scene of execution the hole was already dug. First lieutenant Abe had ordered an enlisted man to have the flier sit by the hole. In the back of the flier about - I don't remember the distance very clearly, but think three or four meters, the guards standing in column with rifle and fixed bayonet. First Lieutenant Abe have dismissed those who have no relation - who have nothing to do any more. Then I have asked First Lieutenant Abe if the preparation have been completed. After I find out that the preparation have been completed I stepped forward to about one step back of the American flier. At that time the American flier sat there very calmly and I draw the sword very calmly; and, holding the sword in the right hand, I bowed to the flier; and I moved a little further to the left. I held the sword in both hands and brought the sword up on the right side; and I close my eyes and wait for my spirit to calm down for about a minute and I, after one minute, I open my eyes. Then, when I gave a cry "Yai!!", then I swung the sword. At the moment the body of the flier fell backward and the head was completely off.

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33. Q. What did you do then?
A. I wipe the sword with the paper and I put it back in my scabbard.
34. Q. After the execution did you make any reports and, if so, to whom?
A. This is not a report but I have notified to First Lieutenant Abe who was present at the execution that I have executed the flier. And after that First Lieutenant Abe and myself went to the Battalion Commander and have reported the execution having been completed. Before we went over to make a report to the Battalion Commander, First Lieutenant Abe and myself have wrapped the body of the flier with cloth and bury it. We covered the hole with dirt; every officer who were present at the execution covered one shovel of dirt over the American flier's body. And later the enlisted man took over and completed the burial and made a grave there for the flier.
35. Q. What were you told about the reason for the execution when you were ordered to execute this flier?
A. I was not told why the flier was going to be executed. Only the Battalion Commander said that we would execute the flier according with the orders.
36. Q. Have you anything to say on your own behalf or in explanation of your acts in this execution?
A. I have nothing to say about the execution. I only know that we fight in accordance with orders from the Superior Officer. For instance, the company commander had ordered to attack a certain position, I, in accordance with the order would do in the time of combat, has nothing in regard to this case here but explains just what I had to do in the Army.
37. Q. Have you anything further to say in your own behalf in regard to this case and the execution and the circumstances surrounding it, and that alone?
A. I have nothing else to say.
38. Cross-examined by the judge advocate:
38. Q. Recall the scene at Battalion Headquarters where you received the orders to carry out the execution? You mentioned that several officers were there. Would you name them please?
A. Besides myself, 2nd Lieutenant Hino, 2nd Lieutenant Ino and another fellow that I recall, 2nd Lieutenant Yoshinaga.
39. Q. Was Lieutenant Kadota there?
A. I think he was there.
40. Q. Was Lieutenant Abe there?
A. I think he was there.
41. Q. Did Lieutenant Kadota issue you any orders at that scene?
A. He did not issue an order to me.
42. Q. Did you hear any orders given to Lieutenant Kadota?
A. I do not.
43. Q. What happened to Lieutenant Hino?
A. He died in battle.
44. Q. Do you know what happened to Lieutenant Ino?
A. He is alive, he is living at present.
45. Q. Where is he, if you know?
A. I think he has returned to Japan.

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46. Q. And what happened to Lieutenant Yoshinaga?
A. He was killed in battle.
47. Q. Who told you at that time that you were to be the executioner?
A. First Battalion Commander, Captain Ishii, Ioshisaburo.
48. Q. Did he tell you Kadota's duties at the execution?
A. He did not tell me.
49. Q. Did you hear orders given to Lieutenant Abe at this hearing?
A. Yes, I heard.
50. Q. What did he tell Lieutenant Abe?
A. The Battalion Commander told Abe "You take charge at the scene of execution", and that is all.
51. Q. You stated that you did not question the orders given you?
A. I did.
52. Q. Did the order appear to be reasonable?
A. Yes.
53. Q. To your knowledge, were the fliers given a trial?
A. I do not know.
54. Q. Yet you did not question the orders?
A. Orders I have to carry out.
55. Q. Who actually gave you the order at the scene of execution to drop, or swing, the sword?
A. Nobody gave me the order.
56. Q. Did Abe gesture to go ahead with the execution?
A. When I inquired to Abe if the preparations had been completed Lieutenant Abe have said preparations have been completed, and that is not an order.
57. Q. Were there guards in front of the flier with fixed bayonets?
A. Guards were not standing in front of the flier.
58. Q. Was the flier bayoneted after execution?
A. He was not bayoneted.
59. Q. Was the execution conducted in secrecy?
A. This secrecy has two meanings: Something you have done wrong and then you try to do it very secretly. And another reason is to avoid the public from seeing. That is two reasons for secrecy and which meaning do you mean by secret?
60. Q. Was the execution in secret because there might have been an unlawful aspect about it?
A. I do not know.
61. Q. What was unlawful about it, it was not in the public?
A. I think this way. To have lot of people gather and just like an exhibit is very disrespectful to the flier. Therefore, I think that those people who have nothing to do have no business to be there, for that reason.
62. Q. You stated that you waited a minute for your spirit to calm down before you swung the sword?
A. Yes, I did.

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63. Q. Did you not hesitate because you thought this was a wrongful act?

A. I did not hesitate because of that.

Examined by the commission:

64. Q. Are you a regular officer and a graduate of the Academy?

A. I am a regular officer and graduated from preliminary Academy school.

65. Q. Did you receive any instructions concerning the treatment of prisoners of war either at the academy or within the service after you joined?

A. I was not told in regard to the handling of prisoners of war.

66. Q. What instructions did you receive concerning your rights as a prisoners of war, were you captured?

A. I was not instructed.

67. Q. You received your orders for the execution at the First Battalion Headquarters. Was that the Army Headquarters?

A. It is the Army First Battalion Headquarters.

68. Q. And you received your instructions directly from Captain Ishii, did you not?

A. Yes, I did.

69. Q. Do you have any knowledge of where Captain Ishii got his instructions from?

A. Ordinarily would be received from the Regimental Commander, so I think the order Lieutenant Ishii must have received an order from Regimental Commander.

70. Q. Who would that be?

A. Colonel Oishi, Chisato; Japanese Army.

71. Q. Was the prisoner's head completely severed on the first stroke of the sword?

A. Yes.

72. Q. You stated that all officers present put one shovel of dirt on the body of the flier after he was executed by you?

A. Yes, I did.

73. Q. Did Lieutenant Abe put a shovel of dirt on the body?

A. Yes, he was the first one.

74. Q. Did Kadota put a shovel of dirt on the body?

A. Kadota was not present at the execution.

75. Q. Do you have any further information which you feel the court ought to know about which you have not been questioned?

A. I have told you all that I know.

76. Q. Do you wish to make a statement in your own behalf at this time?

A. I have nothing to say.

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 status as accused.

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First Lieutenant Yasuyoshi Kadota was called as a witness.

Examined by the commission:

1. Q. Do you desire to testify in this case?
A. Yes, I do.
2. Q. Do you desire to testify under oath?
A. Yes.
3. Q. Do you take the witness stand of your own free will and accord and knowing that when you take the stand you will have to answer all questions put to you by the court, the defense and the prosecution?
A. Yes, I will.

The witness was duly sworn.

Examined by the judge advocate:

4. Q. Are you the accused, Yasuyoshi Kadota, in this case?
A. Yes, I am.

Examined by the accused:

5. Q. State your name, rank, age and member of what armed service?
A. My name is Kadota, Yasuyoshi, First Lieutenant, Japanese Army; 35 years old; attached to Headquarters, 1st Battalion, 1st South Seas Detachment.
6. Q. Were you present at the execution described by Lieutenant Moor?
A. I was not present at the execution described by Lieutenant Moor.
7. Q. Were you present at the execution of any other American flier executed on Mille?
A. No, I was not present at any execution.
8. Q. What was your official assignment in your company at that time?
A. I was the Battalion Executive Officer.
9. Q. Were you ever present at any meeting or discussion concerning the disposition of the American fliers?
A. No, I was not.
10. Q. Did you ever talk to anyone concerning the disposition of the American fliers?
A. No, I did not.
11. Q. Did anyone ever give you any orders to participate in the execution of an American flier?
A. I received an order from the Battalion Commander to contact the Company Commanders and call the officers. The order was to call three young officers who were good in kendo and to have them report to the Battalion Headquarters.
12. Q. When did you receive this order?
A. I received this order the day before the execution, about evening.
13. Q. Where did you receive this order?
A. I received the orders from the Battalion Commander's Command Post.
14. Q. Who was present at that time?
A. I believe Captain Abe, who was then lieutenant was also present.

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15. Q. Did you carry out this order?
A. Yes, I did.

16. Q. How?
A. Through the telephone I called for 2nd Lt. Hino, 2nd Lt. Ino, 2nd Lt. Yoshinaga, 2nd Lt. Moorri.

17. Q. Did you have no further part in the execution?
A. No, I have no further connection.

Cross-examined by the judge advocate:

18. Q. Did you see the American flier at any time?
A. I saw the American flier on the day he was executed.

19. Q. Can you describe the flier you saw?
A. I was not present at that place long enough, so I do not remember clearly.

20. Q. I show you exhibit #5 and ask you if you can identify any of the fliers from the pictures?
A. I do not remember.

21. Q. You were originally advised by Captain Ishii that an American flier was to be executed?
A. Yes, I heard about it.

22. Q. What was the conversation between Captain Ishii and you at that time?
A. I was told to call the four officers which I have mentioned just now, through a telephone, with the various companies. Next, I told Captain Ishii since I was Executive Officer, what was going to happen to them. At the beginning Captain Ishii asked me to call the four officers and since I was Executive Officer I asked Captain Ishii what was going to happen to these four officers.

23. Q. Did Captain Ishii tell you what was going to happen to those officers?
A. Yes, he said I have received the following orders from the Regimental Commander.

24. Q. Repeat the orders he received.
A. The text of the orders which Captain Ishii received from the Regimental Commander was that one flier was to be brought to the First Battalion to be decapitated and the flier was held at the Navy Garrison Headquarters.

25. Q. Did you ask why this flier was to be decapitated?
A. No, I did not.

26. Q. And you knew when you selected four officers that one of them was to act as executioner?
A. No, I did not know.

27. Q. Well, what was the reason for getting the four officers?
A. When I called the four officers I did not know the reason.

28. Q. When the officers came to Captain Ishii's office, did you find out the reason?
A. I knew what the four officers were supposed to do after I called them.

29. Q. When did you learn that one of the four officers was to be executioner?
A. I knew that when I received the orders which Captain Ishii read to me.

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30. Q. And you made the selection of the four officers, did you not?
A. Yes, I called the four men.

31. Q. Now, where did Captain Ishii receive his order to execute a flier, if you know?
A. Regimental Commander, Colonel Oishi, Chisato, Japanese Army.

32. Q. And on the completion of the execution of the American flier, do you know whether or not Captain Ishii reported that fact to Colonel Oishi?
A. I do not know.

Examined by the commission:

33. Q. How do you know that Captain Ishii received his orders from Colonel Oishi?
A. I knew that because after I called the four officers to report to Battalion Headquarters Captain Ishii told me about it.

34. Q. If one flier was to be executed, why did you select four swordsmen?
A. The Battalion Commander told me to get three officers who are good swordsmen, so I got four.

35. Q. Did Captain Ishii show you or read to you from the order he received to execute?
A. He verbally told me about it.

36. Q. Did he have a piece of paper that might have been a written order to conduct the execution?
A. He had not.

37. Q. You, Kadota, personally selected the swordsman because of their prowess as kendo experts?
A. Yes, I did.

38. Q. Then you knew in advance of the execution what the purpose of the selection of the four kendo men was?
A. When I called them I do not know the reason, but later I knew the reason.

39. Q. Did Hino execute a flier?
A. I do not know.

40. Q. Did Ino execute a flier?
A. No, he did not.

41. Q. Did Yoshinaga execute a flier?
A. No.

42. Q. Who executed the flier that you saw?
A. Second Lieutenant Moori.

43. Q. How long have you been in the Japanese Army?
A. Fifteen years.

44. Q. Have you ever received any instruction regarding the treatment of prisoners of war?
A. No.

45. Q. Were there any orders or regulations in the Battalion Headquarters of which you were the Executive Officer, dealing with the treatment of prisoners of war?
A. No.

46. Q. You have heard the testimony of the various accused in the court. Have any statements been made which you deny the truth of?
A. No.

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47. Q. Do you know of any information about which you have not been questioned that you feel the court should know?

A. No. I do not have anything.

48. Q. Do you desire, as an accused, at this time to make a statement in your behalf?

A. No, I have nothing further.

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 status as accused.

Captain Masaaki Abe was called as a witness.

Examined by the accused:

1. Q. You do not have to testify before this court unless you desire. If you desire to testify voluntarily and/or under oath, you can. If you take the stand, you will have to answer all questions that the defense, the prosecution, and the court may put to you. Do you still wish to testify?

A. Yes.

Examined by the commission:

2. Q. Having been warned to this effect, you still desire to take the stand?

A. Yes.

3. Q. And do you take the stand willingly?

A. Yes.

The witness was duly sworn.

Examined by the judge advocate:

4. Q. Are you Captain Masaaki Abe, the accused in this case?

A. Yes.

Examined by the accused:

5. Q. State your name, rank, age, and to what military organization you are a member.

A. My name is Captain Abe, Masaaki, the Imperial Japanese Army. I am 28 years of age; I am attached to the First Battalion, First South Seas Detachment.

6. Q. How long have you been in the Army?

A. Five and one-half years.

7. Q. Were you present at the execution described by Lieutenant Moorri as having taken place on Mille Atoll?

A. Yes.

8. Q. By what authority were you there?

A. I was ordered to take charge of the execution by the Battalion Commander.

9. Q. Where did you receive such an order?

A. Right by the doorway of the command post of Battalion Headquarters.

10. Q. How long before the execution did you receive the order?

A. I don't remember clearly, but I think it was about an hour before the execution.

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11. Q. Did you hear all the statements which Lieutenant Moori made concerning the execution here in this court?

A. Yes.

12. Q. Do you want to deny or dispute any statement which Lieutenant Moori made on the witness stand?

A. I have nothing to deny.

13. Q. Do you have anything to add to what Lieutenant Moori stated took place at the scene of the execution?

A. There is nothing more.

14. Q. Were you present at any meeting or discussion wherein the disposition of the American fliers was talked over or mentioned?

A. I was not present.

15. Q. Did you ever talk to anyone concerning the disposition of the American fliers?

A. I have not.

16. Q. Did you give any orders at the scene of the execution?

A. I did not.

17. Q. Did you ever make any statement to anyone concerning what you thought should be done to the fliers?

A. I have not.

18. Q. Did you make any report of the execution?

A. Yes.

19. Q. To whom and where?

A. I made a report to the Battalion Commander where I received my orders, that is, right by the doorway of the command post. Battalion Commander was Captain Ishii.

20. Q. How many of the fliers did you see at Mille?

A. One.

21. Q. Where did you see the one?

A. I saw the flier on the way to the scene of execution at the place of execution.

22. Q. Did you question the flier?

A. No.

Cross-examined by the judge advocate:

23. Q. Describe the American flier that was executed.

A. What I remember, he was not a very tall fellow. I think the hair was brown; I don't remember whether it was his right or left leg, but he had a bandage on it. Besides that, I don't remember.

24. Q. I hand you exhibit #5 and ask you if you can identify the flier from those pictures?

A. I don't remember.

25. Q. Does anyone in these pictures closely resemble the flier that you saw?

A. I don't remember.

26. Q. When you were called to the office of Captain Ishii, what job was given you for the execution of the flier?

A. I was told to supervise the execution.

27. Q. You were also told to select the spot for the execution, is that not right?

A. Yes.

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28. Q. At that time, you were advised that an American flier was to be executed?
A. Yes.
29. Q. Did you ask the reason why?
A. I did not.
30. Q. Who else was present at the time in Captain Ishii's office?
A. The Executive Officer was there.
31. Q. Who was the executive officer?
A. First Lieutenant Kadota.
32. Q. At that time, was Lieutenant Kadota told to select three swordsmen?
A. That I do not know.
33. Q. Do you know whether the three people selected showed up while you were there?
A. Yes, I remember whether the three came or not. Yes.
34. Q. Did Lieutenant Kadota leave during the conversation between yourself and Captain Ishii?
A. Lieutenant Kadota was there.
35. Q. Did he leave while you were there?
A. He was there.
36. Q. Did you leave and go out after the swordsmen while Kadota and Captain Ishii were talking?
A. Lieutenant Kadota did not leave.
37. Q. Were you the senior officer present at the execution?
A. Yes, I was.
38. Q. The flier who was executed was injured, is that right?
A. Yes.
39. Q. Do you know what type of injury?
A. I did not see the wound, so I do not know what kind of injury, I only saw the bandage.
40. Q. Did it appear as though he had a fractured leg?
A. Yes, I think, because he could not walk.
41. Q. The flier had to be carried to the scene of execution?
A. Yes.
42. Q. Was the flier blindfolded?
A. I think he was.
43. Q. Did he have his hands tied behind his back?
A. No.
44. Q. From whom did Captain Ishii receive the order for execution, if you know?
A. I do not know.
45. Q. What do you think?
A. In the Japanese Army it is normal that ordinarily orders come from the Regimental Commander.
46. Q. Who would that be?
A. Colonel Oishi.
47. Q. Wasn't it common knowledge at this time that Captain Shiga and Colonel Oishi had a meeting?
A. I do not know.

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Examined by the commission:

48. Q. Did you give any orders on the scene of the execution?
A. I did not.
49. Q. Did you not state that you had nothing to deny from the testimony of any of the other defendants?
A. Yes.
50. Q. In the testimony of Lieutenant Moorsⁱ he made the statement that you, Captain Abe, ordered one of the enlisted men to have the flier sit by the hole?
A. Yes, I did.
51. Q. By that order, did you not infer that everything was in readiness to go ahead with the execution?
A. Yes.
52. Q. You actually did inform Lieutenant Moorⁱ that all preparations were made and everything was ready, did you not?
A. Yes.
53. Q. You have heard the evidence given by your colleagues, the accused, here in court. Have you anything to deny in connection with any statement which they have made?
A. I cannot deny because I don't know about each individual.
54. Q. You have heard all the statements given by those witnesses?
A. Yes.
55. Q. Are you in agreement with all of those statements?
A. I have nothing to say.
56. Q. Have you anything to deny in connection with those statements?
A. No.
57. Q. Have you any statement to make in connection with the matter before the court which you have not been asked and which you feel the court should know?
A. I have nothing to state further.
58. Q. Have you any statement to make in your own behalf?
A. I have nothing to state.

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 status as accused.

Major Otokiti Nakao was called as a witness.

Examined by the accused:

1. Q. If you so desire you have the right of taking the stand and taking the stand under oath, subject to answering all questions by the court, the prosecution, and the defense, do you know that?
A. Yes.
2. Q. Knowing that, do you want to take the stand and testify before this court?
A. Yes.

Examined by the commission:

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3. Q. You are warned that in taking the stand you will be required to answer all questions which the court, the prosecution, and defense may put to you and that you will have to answer all questions truthfully although that may be injurious to your interests.

A. Yes.

4. Q. Do you take the stand voluntarily and of your own free will?

A. Yes.

The witness was duly sworn.

Examined by the judge advocate:

5. Q. Are you Major Otokiti Nakao, the accused in this case?

A. Yes.

Examined by the accused:

6. Q. State your name, age, rank, and military organization to which you belong.

A. My name is Major Nakao, Otokiti, of the Japanese Army, age 49 years; I am attached to the Artillery Unit, First South Seas Detachment.

7. Q. Were you stationed at Mille Atoll?

A. Yes.

8. Q. State when?

A. From the second of December 1943, to 23 September 1945.

9. Q. What unit did you belong to and what was your status?

A. I was the commander of the Mountain Artillery Battalion. At that time I was a captain.

10. Q. Who was your superior officer?

A. Colonel Oishi, Chisato, of the Japanese Army.

11. Q. Did your unit execute an American flier?

A. Yes, one American flier.

12. Q. When?

A. I don't remember the exact, but I think it was the early part of March or the latter part of February, 1944.

13. Q. Was this execution your own voluntary act?

A. I did it according to the order.

14. Q. Who performed the execution?

A. You mean the fellow who actually did the executing?

15. Q. Yes.

A. Warrant Officer Okamoto.

16. Q. Where is he?

A. He was killed by an incendiary bomb on the first of January, this year, 1945.

17. Q. Name the time and place of the execution.

A. The place of execution is in the vicinity of where I stayed and it is by the graveyard of the officers.

18. Q. After the execution was carried out, did you make any reports concerning the execution?

A. Yes.

19. Q. Was it verbal or written, and to whom?

A. It was a written order and a report to the Regimental Commander.

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20. Q. Who was he?
A. Colonel Oishi, Chisato.
21. Q. Did you participate in any conferences about this flier prior to receiving the order of execution?
A. I did not.
22. Q. Did you feel that this was a legal order?
A. Yes, I thought it was a legal order.
23. Q. Do you have anything to say on behalf or in explanation of your actions concerning this execution?
A. I have nothing to say in regard to the execution, but I have one thing to say in behalf of myself. On the 24th of November 1945, the Korean witness, Kanegawa, has stated that I have told him that I have hit the flier with a sword. That I deny and that I don't know.
24. Q. Do you have anything else to say at this time?
A. No.
- Cross-examined by the judge advocate:
25. Q. Did you state that you were present at the execution?
A. Yes.
26. Q. Could you describe the flier to the best of your ability?
A. Yes, it was just about sundown, so I cannot describe clearly, but I remember the height of the flier was just about my height.
27. Q. Do you know whether he was an officer or an enlisted man?
A. No.
28. Q. Did you hear his name?
A. No.
29. Q. I show you the prosecution's exhibit #5, and ask you if you can identify from these pictures the flier that was executed by your battalion?
A. I do not know.
30. Q. I show you the prosecution's exhibit #11, which is a sketch of the scene of the execution at the Mountain Artillery Battalion and ask you if this is a reasonably accurate reproduction of the scene?
A. Yes.
31. Q. Does your signature appear there?
A. Yes.
32. Q. Did you draw this scene?
A. Yes.
33. Q. Did you know of a conference held regarding the disposal of the American fliers by execution?
A. I do not know.
34. Q. Is it your opinion that there was such a conference between the Atoll Commander, Colonel Oishi and Captain Shiga concerning the disposition of the fliers?
A. I do not know exactly the definite thing, but I think there was a conference.
35. Q. Did you consult Captain Shiga or Colonel Oishi prior to the execution regarding the flier?
A. I did not.
36. Q. Are you acquainted with the rules of international law regarding the treatment to be accorded prisoners of war?
A. I do not know.

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37. Q. How long have you been in the Japanese Army?
A. Twenty years, since I became an officer.
38. Q. Did you find that it would be an objectionable procedure to execute a prisoner of war without trial?
A. That whether it is objectionable or not, because I do not know the law.
39. Q. Was a trial given these fliers?
A. I do not know.
40. Q. What was the manner of execution?
A. Do you want me to describe the execution by the Mountain Artillery Battalion?
41. Q. Yes, very briefly.
A. I received the flier just about sundown. First Lieutenant Nakajima has reported to me to come over and get the flier. At that time Lieutenant Nakajima had directly heard the battalion order through the telephone. I have received the orders from the 1st Lieutenant Nakajima and I have told Nakajima to carry out in accordance with the orders. Nakajima had selected Sgt. Major Okamoto as the expert in kendo and I have ordered him. At that time I have said to select a place where the headquarters officers are buried to pay respect to the flier. Nakajima had sent Okamoto with two enlisted men to go over and get the flier. Nakajima and I went to the place and selected the spot. Going away, we met Okamoto with the flier. The flier was taken over to the headquarters from the place I have met the truck. At that time about 40 or 50 meters away from headquarters there were some enlisted men. Before we carried out the execution, I have ordered them to disband. The supervision of the execution was ordered Nakajima. I have supervised the whole thing. After preparation had been made, the flier was taken by the hole and was seated there. Then Okamoto went behind the flier and drew the sword. For some time Okamoto was standing behind the flier. This, I think, is when you do a kendo, it was in order to calm his spirit. In kendo one cannot wield a sword in accordance with some other's command. Then he drew out the sword and with an exclamation "Yai!!", he swung the sword. The flier's head did not completely come off but fell in a hole. Then Okamoto and I went to the hole and prayed to the hole, and verified that he was dead and, according to the Japanese custom, we have put the dirt over the body. At that time I heard it was very dark. Then the guards and everybody prayed to the grave and went back. On the following day I made report to the Regimental Headquarters.
42. Q. What was the form of that report? I show you exhibit #12 and ask you if it was the substance of the report you made?
A. Yes.
43. Q. Does your signature appear thereon?
A. Yes.
44. Q. Was this form delivered personally by you to the Regimental Commander?
A. I sent a messenger.
45. Q. Did you hear any reply to the report?
A. No.
46. Q. Who was the Regimental Commander you reported to?
A. Colonel Oishi.
47. Q. What happened to Nakajima?
A. On the fourth of February 1945, he was shot by machine gunners.
48. Q. What happened to Okamoto?
A. He was killed by an incendiary bomb, in June, 1945.

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49. Q. Recalling the execution scene, were there not soldiers standing in front of the grave with fixed bayonets?

A. I had one guard in front of him.

50. Q. Did that guard bayonet the beheaded flier?

A. He did not.

51. Q. Why was the guard stationed there?

A. To guard the place of execution and also to keep away the others.

52. Q. In order to fix the time of execution, do you recall the invasion of Kwajalein?

A. I heard about the invasion of Kwajalein.

53. Q. To your knowledge, did this execution take place about the time Kwajalein was invaded?

A. I think it was after the invasion of Kwajalein.

54. Q. About how long after?

A. I don't remember exactly.

55. Q. What is your idea of the date of the invasion of Kwajalein?

A. I have only read the news and I don't remember exactly.

Examined by the commission:

56. Q. You stated you received the orders of the execution from the Regimental Commander. Did you receive it personally from the Regimental Commander?

A. No.

57. Q. How did you receive it?

A. First Lieutenant Nakajima, the officer-in-charge of communications, have received the order through the telephone.

58. Q. Did you have any previous knowledge of an execution to take place?

A. I did not.

59. Q. Why didn't you take steps to check the authenticity of this order?

A. Because I have not suspected the order and you have to carry out according to orders and orders from the Regimental Commander is orders from the highest ranking officer.

60. Q. As an officer with 20 years' service in the Army, did you accept an order from a subordinate officer to execute a prisoner of war without checking personally with the Regimental Commander?

A. The orders in the Japanese Army, you have to carry out and there are no false orders.

61. Q. What regulation have you in the Japanese Army concerning the treatment of prisoners of war?

A. That, we are not instructed, so we do not know.

62. Q. Then you, as a Major with 20 years of service in the Army, admit here in court that you accept the orders of a subordinate officer under your command for the execution of a prisoner of war without further reference to your Regimental Commander who is in the immediate area?

A. Yes, I have done according to the order.

63. Q. Even taking into consideration that that order came by telephone?

A. Yes.

64. Q. Would you expect one of your subordinate officers in your command to execute a Japanese Officer under similar circumstances without reference to you?

A. Yes, I accept the order.

RESTRICTED

65. Q. If the order had been to execute Warrant Officer Okamoto, of the Japanese Army, would you have checked with the Regimental Commander?

A. I would not verify the orders. I would always carry them out.

66. Q. Did the infantry battalion under your command keep a log of daily events in writing?

A. Yes.

67. Q. Did you enter in that the account of the execution?

A. Yes.

68. Q. Repeat, as nearly as you can remember, the entry.

A. I do not remember the date. In accordance with the order from the Regimental Commander, I executed one flier.

69. Q. Is that all? No nationality or name of the flier entered?

A. That I do not know, so I did not write it.

70. Q. Was it customary to enter the name of the person executed?

A. If clearly understood and if known, it is customary to write it.

71. Q. Did they make any attempt to find out from Captain Shiga?

A. I did not.

72. Q. Where is the log now?

A. That I have completely burned at the time of surrender.

73. Q. Has the witness any further testimony which he feels this court should have, about which he has not been questioned?

A. I have nothing to say.

74. Q. Do you have anything to say in your own behalf?

A. I have nothing to say that I have said about the witness before.

75. Q. You have heard the testimony of all of the accused here in this courtroom. Do you deny any statements of fact made by them?

A. I have nothing to deny.

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

The witness said that he had nothing further to state.

The witness resumed his status as accused.

The commission then, at 12:30 p.m., adjourned until 9:00 a.m., tomorrow, Thursday, November 29, 1945.

SEVENTH DAY

RESTRICTED

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands,

Thursday, November 29, 1945.

The commission met at 9 a.m.:

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champion, Jr., USN,
Captain H. B. Herty, USN,
Captain J. R. Weisser, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant Commander Edward F. O'Brien, USNR, and
Lieutenant William P. Mahoney, USNR, as Judge Advocates.
Edwin A. Boles, Y1/c, U. S. Naval Reserve, and
Robert W. Barrett, SKV1/c, U. S. Naval Reserve, reporters.
Each of the accused and their counsel.

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.

Major Chojiro Takarada was called as a witness.

Examined by the accused:

1. Q. Do you desire to take the stand, and if so, do you wish to testify under oath?

A. Yes, I will testify under oath.

By the President:

You are warned that you will be required to answer all questions put to you, truthfully, by the Prosecution, the Defense, and the Court, although answering the questions may prejudice your cause.

2. Q. Do you take the stand of your own free will and accord?

A. Yes.

The witness was duly sworn.

Examined by the Judge Advocate:

3. Q. Are you Major Chojiro Takarada, the accused in this case?

A. Yes.

Examined by the accused:

4. Q. State your age, rank, and military organization of which you are a member?

A. My rank is Major, age 45 years, of the 107th Artillery Regiment. At that time, I was attached to the First South Seas Detachment.

5. Q. Is that a part of the Third Infantry Battalion?

A. Yes.

6. Q. How long have you been on active duty in the Army?

A. 27 years.

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7. Q. When were you first stationed on Mille?
A. On 1 December 1943.
8. Q. Until when?
A. To 24 September 1945.
9. Q. Did you see a B-25 plane shot down at Mille around the first of February?
A. I did not.
10. Q. When did you first find out that there were some American fliers held as prisoners of war on Mille?
A. I don't remember exactly the date, but I heard the latter part of January.
11. Q. When did you first see the flyers?
A. I did not see any.
12. Q. Was one of the fliers executed by the 3rd Infantry Battalion?
A. Yes.
13. Q. State the events leading up to this execution?
A. I don't remember the dates exactly, but I think it was the early part of February. The telephone orderly at Naval Headquarters called me and informed me to come over and get the flier. My Executive officer received the call.
14. Q. Who was told to come after the flier?
A. They requested my Battalion, that is me, to come over and get the flier.
15. Q. Who actually went after the flier?
A. My executive officer.
16. Q. Did the executive officer tell him where he was going relative to the order to him?
A. He did not.
17. Q. After your executive officer picked up the flier, did he report back to you with the flier?
A. The executive officer was not with the American flier, when he made a report to me, when he came back from headquarters.
18. Q. Who had the custody of the fliers at that time?
A. At that time, the executive officer made report to me, I think a guard was guarding the flier, because the guard was kept outside.
19. Q. What orders did you give at that time?
A. Execute in accordance with the regimental order. The place will be the Battalion grave yard. After the execution, have formal ceremony. *rob*
20. Q. Explain what you mean by regimental order.
A. The regimental order is today we will send the flier to you, so within today, execute the flier and make a report of execution. That was the order from the regimental commander. *l*
21. Q. Did you ever see the flier that was executed by your Battalion?
A. I did not.
22. Q. Were you ever at a meeting or conference in which the disposition of the flier was discussed?
A. I was not present.
23. Q. You were not present at the execution then either?
A. I was not present.

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24. Q. What would you have done if anyone under you would have disobeyed your order?

A. That all depends upon the situation at that time.

25. Q. I mean the situation as it was on Mille at that time.

A. Within my authority, I would have punished him, but beyond that the higher authorities would punish the man.

26. Q. Who was your immediate superior in command at that time?

A. Colonel Oishi Chisato.

27. Q. At the time of the execution, what was your rank?

A. I was a Captain in the Army.

28. Q. Did anyone make a report to you after the execution?

A. The executive officer made a report.

29. Q. Who was the executive officer?

A. 1st Lt. Matsuda Hiroshi.

30. Q. Is the executive officer living now?

A. He is dead.

31. Q. When was he killed?

A. I think it was 7 March 1945.

32. Q. Did you ever make a report to anyone about the execution?

A. I made report to the regimental commander.

33. Q. Who was that?

A. Colonel Oishi Chisato.

Cross-examined by the judge advocate:

34. Q. You stated your unit received the regimental order by telephone, is that right?

A. The executive officer received the order.

35. Q. By telephone?

A. Yes.

36. Q. You had heard however, prior to that time, there was a plan afoot to execute the American flier?

A. I did NOT HEAR.

37. Q. Where did the regimental order originate?

A. I think that at that time, the orders originated at the Atoll Command.

38. Q. To your knowledge as a Battalion Commander, would you say that Col. Oishi was consulted by Capt. Shiga in forming this order?

The accused objected to that question because the witness has testified that he has attended no conference.

The judge advocate replied.

A. I do not know.

39. Q. Would it be in the matter of regular military business for Captain Shiga to consult with Col. Oishi before issuing such an order?

A. You mean when they formed the orders in regard to the fliers?

40. Q. Yes, that is the order I am referring to?

A. I think that in regard to this execution, the atoll commander does not have to consult with the Colonel.

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41. Q. Would it be your opinion that the Colonel probably was consulted by the Captain in issuing this order?

A. I do not know about this.

42. Q. Was a trial accorded these fliers?

A. I do not know.

43. Q. Were these fliers accorded the legal treatment due war prisoners under international law?

A. - - -

The accused objected on ground the witness has testified that he never even saw the American fliers.

The judge advocate replied.

The commission announced that the objection was overruled.

A. I do not know.

44. Q. Would you not agree as a military man of some 27 years experience, that the execution of war prisoners without a trial is a violation of law?

A. That I cannot answer because I do not know whether there was a trial for the flier or not.

45. Q. Assuming there was no trial, how would you answer?

A. That, I think, is not right. Of course, it depends on the situation.

46. Q. You still think that under the facts I have stated, it is not right?

A. I cannot say whether it was a violation or not because it depends on the situation at that time the command was given.

47. Q. Did you plan on attending the execution of the flier his unit put to death?

A. Yes, I was planning to.

48. Q. Were you planning to be there merely in the capacity of a witness?

A. I was thinking of supervising it myself.

49. Q. Did you not make the following statement in writing and signed by you, "I had planned on executing the flier myself after verifying the order"?

A. Yes.

Examined by the commission:

50. Q. You stated that the first information you had that the flier was to be executed was when your unit received a telephone call from the Navy Headquarters, is that not right?

A. Yes.

51. Q. You did not receive any other instructions from any other source prior to that time?

A. I did not.

52. Q. When it was reported to you that the flier was without your office, you then issued the order to execute him in accordance with regimental orders, did you not?

A. Yes.

53. Q. Your regimental orders originated with Col. Oishi, do they not?

A. Yes.

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54. Q. You testified that you have no knowledge or instructions from any source before you received the orders from headquarters through your executive officer from the Navy headquarters that you should send for a flier?

A. Yes.

55. Q. You further testified that you had given the order to execute the flier in accordance with orders you had received from Col. Oishi. How do you explain that discrepancy?

A. I do not understand about the orders what you are trying to get at, about the orders he received from Col. Oishi, I got through the executive officer.

56. Q. Yes, it is obvious you don't understand. We will leave it at that. It is further obvious that you had received either verbal or written instructions from your company commander, what were they?

A. It is a regimental order that the regiment will send a flier over to your battalion, so today you have killed the prisoner.

57. Q. You received that from your regimental commander?

A. Yes.

58. Q. You did not testify that in the first instance. Why did you not speak the truth in the beginning?

A. I said I did not because my memory was not too clear.

59. Q. How do you normally receive regimental orders from your regimental commander?

A. I knew that was a regimental order because the executive officer had come to me and told me it is a regimental order.

60. Q. That was not the question. What we want to know is, what is the normal method of issuing regimental orders? By what means? Do you get a written order sent down daily covering all orders, or what is the system?

A. This case, when a person would go to wherever the order is issued and he will receive the order verbally and then the person will write the orders there. In this case, the orders were issued through phones. Other times, they will send a message. There are times when they give a written order. That is all. Sometimes the commander will directly go there and personally receive the orders.

61. Q. By what method did you receive the regimental order that a flier was to be sent over and that he was to be executed that day?

A. First, the executive officer have received through phone and then the executive officer went over to the regimental, wherever the telephone was called from and received the order again from there.

62. Q. Do you insist on telling the court that you, an officer of 23 years' service in the Japanese Army, executed a prisoner of war without seeing that flier, without knowing he had been given a trial, and without personally discussing it with your regimental commander?

A. Yes.

63. Q. Do you, like the other officers here, who have testified heretofore, previously, to have no knowledge of the international rules of warfare concerning treatment of prisoners of war?

A. I do not know.

64. Q. In other words, you profess to have no knowledge of those rules?

A. Yes.

65. Q. Did you not designate the place or site of the execution?

A. Yes, I designated the place.

66. Q. Did you not order that a ceremony be conducted for the deceased flier after the beheading?

A. Yes.

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67. Q. Then you did know before the execution that an execution was to be carried out?

A. Yes, I knew, when the orders came through.

68. Q. Did you intend to personally supervise the execution?

A. Yes, I intended to.

69. Q. The execution had been performed before you were ready, is that correct?

A. It is not that. When we received the telephone call, at that time, I was intending to take charge of the execution myself, but when the prisoner was brought back to my battalion, I had some other business to do, so I could not do it.

70. Q. Did you direct the executive officer to carry out the execution in your absence?

A. Yes.

71. Q. Did the Battalion, Commanded by you, keep a daily log?

A. Yes.

72. Q. Was the fact of the execution entered in that log?

A. Yes.

73. Q. Did you enter it personally, or did you read it?

A. That was entered by the executive officer.

74. Q. To the best of your memory, what was the wording of the entry?

A. I think the contents of the orders received from the regimental commander was written in the log. Then, I think there was an entry made in regard to the prisoner of war had been executed in accordance with the regimental order.

75. Q. Was the name and nationality of the prisoner entered?

A. It was not.

76. Q. Why not?

A. Because we did not know.

77. Q. You could find out over the telephone, why did you not find out?

A. The prisoner of war was a prisoner of war, that was clearly understood in the order, but the name, I did not find out.

78. Q. The order to pick up the flier, where did it originate?

A. Navy Command Post.

79. Q. You have said that the order for execution came from regimental headquarters. Which order did you get first, and how much time between those two orders?

A. The order which was received first was to come over and get the flier. At that time, the executive officer had received the order that the prisoner will be executed, therefore, come over and get the prisoner. 203

80. Q. That is the message from Navy Headquarters?

A. The place where it originated from is at Navy Command Post, but the fellow who transmitted the message was a different fellow.

81. Q. How much time between those two messages?

A. I don't remember very clearly, but I think about 30 or 34 minutes.

82. Q. Why did you not verify the order to execute the American flier?

A. In orders, you are not supposed to ask the reason or question them.

Recross-examined by the judge advocate:

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83. Q. Do they behead people in Japan without a trial?

A. Is this the military or civilian generally, in Japan?

84. Q. Just general?

A. I think there will not be an execution or beheading without a trial. In case of military, maybe there is some like that.

85. Q. But there would be a justifiable cause for a beheading, even in a military execution?

A. Yes, in time of war, if the condition is in time of war, it is justifiable and it happens sometimes.

86. Q. But there must be a reason for the execution?

A. Yes, there is a reason.

87. Q. And there is some sort of hearing held before this execution even in military life?

A. Ordinarily, yes, but here it is out.

Reexamined by the commission:

88. Q. What was the justification for this execution you carried out?

A. That, I do not know.

89. Q. You have heard the testimony of your colleagues, the accused, here present. Do you have anything to deny to the statements of fact, as given by them?

A. I have nothing to deny.

90. Q. Have you any further information about which you feel the court should know about which you have not been questioned?

A. I have, for reference, something to say. I am going to describe the situation at the time when the execution was carried out. The general situation of Mille. It was about three months before the execution when all of our supply lines were cut. It was just about the time Kwajalein was being invaded and we on Mille were very busy constructing trenches and defenses. We would be bombed every day about 16 times a day continuously and our communications, even among ourselves, were sometimes cut off. There were many times that communication lines were cut off because of bombing. My battalion did not have any bicycle or automobile. Just about that time, we were short of food. That is all.

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

The witness said he had nothing further to state.

The witness resumed his status as accused.

Colonel Chisato Oishi was called as a witness.

Examined by the accused:

1. Q. Colonel Oishi, do you wish to testify on your own behalf in this case?

A. Yes, I do.

Examined by the President:

2. Q. Will you instruct the witness that when he takes the stand he will be called upon to answer all the questions put to him by the court, by the prosecution and the defense. Although those answers may be prejudicial to his cause, he must answer them fully and truthfully?

A. Yes.

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3. Q. Ask him if he takes the stand voluntarily?
A. Yes.

4. Q. And does he wish to be sworn?
A. Yes.

The witness was duly sworn.

Examined by the Judge Advocate:

5. Q. Are you the accused, Chisato Oishi, in this case?
A. Yes, I am.

Examined by the accused:

6. Q. State your name, rank, military organization and length of service?

A. My name is Oishi, Chisato; I am a Colonel in the Japanese Army; I am attached to the 1st South Seas Detachment; I have been in the Army approximately 30 years.

7. Q. What is your age?
A. 54.

8. Q. Were you stationed on Mille Atoll?
A. Yes, I was.

9. Q. Will you tell the court the dates between which you were on Mille Atoll?
A. I landed on Mille December 1, 1943; I left Mille on September 23, 1945.

10. Q. While stationed on Mille Atoll, were you the superior or ranking Army Officer there?
A. Yes.

11. Q. Did you have any superior officers over you there?
A. Yes.

12. Q. Who was he?
A. It was Atoll Commander of Mille, Captain Shiga.

13. Q. What organization did he belong to?
A. He was the Commanding Officer of the 66th Navy Garrison Force.

14. Q. Do you know about the crash of five American fliers in the latter part of January in an American medium bomber?
A. I knew they crashed but I do not know where they crashed.

15. Q. Did these five fliers become prisoners of war of the Japanese?
A. I heard they became prisoners.

16. Q. Were they in the custody of the Army or Navy?
A. The Navy had custody of the fliers.

17. Q. Do you recall the American landing on Kwajalein?
A. I do not recall very clearly but I think it was about February 5 or 6.

18. Q. Do you recall any meetings at the Atoll Commander's Command Post concerning the defense of Mille Atoll?
A. Yes, I recall.

19. Q. When was this meeting held?
A. I think it was about February 12 or 13, 1944.

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20. Q. And where was this meeting held?
A. It was in the Navy Command Post.
21. Q. Who called this meeting?
A. I went there.
22. Q. Did anybody order you to go there?
A. I went there to report on the Army distribution.
23. Q. Who was present at the meeting?
A. Captain Shiga only.
24. Q. What was the purpose of the meeting?
A. It was to report on the Army defense measures.
25. Q. Was any talk had concerning the captured American fliers at that meeting?
A. With me, no.
26. Q. You have made two statements which have been previously identified by yourself, and submitted by the prosecution in evidence? Is that correct?
A. Yes, I remember.
27. Q. In that statement you said, and I quote from the statement, "They had planned on sending the American fliers to Kwajalein but since it was taken, it was decided to let the American prisoners remain at Mille for the time being". You made that statement?
A. That statement was made by the Commanding Officer to Lieut. Otani.
28. Q. In another statement in one of the other two statements submitted by the prosecution, you have stated as follows: "At approximately 1400 or 1500 I received a call from Lieutenant Hiraoka, the Army Liaison Officer stationed at Navy Headquarters. Lieut. Hiraoka said 'Captain Shiga has ordered that three American prisoners of war be turned over to the Army to be executed, may I have permission to assign the three Americans to the three Army units'". Do you recall that statement?
A. Yes, I recall this.
29. Q. Was there any reason for you to doubt the legality of that order?
A. No.
30. Q. And did you give him permission?
A. Yes, I gave permission to Hiraoka.
31. Q. What instructions have you received during your Army career concerning treatment of prisoners of war?
A. He gave two sources: One was Regulations in the Japanese Military Book, Sakusen Yomurei; another source was, I studied International Law on my own volition but I do not recall what I studied right now.
32. Q. What are the Army rules and regulations concerning the treatment of prisoners of war?
A. I heard that there is a regulation concerning the taking care of prisoners of war but I did not study that, and I just taught my units all the details given in Sakusen Yomurei.
33. Q. What are the details in that publication you mentioned?
A. When you capture a prisoner of war in battle, after interrogating him for necessary information, report this fact immediately to a superior officer and that is all.
34. Q. What further disposition is made of captured prisoners?
A. That is about all.
35. Q. Would you then say that it is up to the local commander to decide the disposition of that prisoner?
A. Yes.

RESTRICTED

36. Q. Did your Army units carry out the order of execution as issued by the Atoll Commander?

A. Yes.

37. Q. Did you think at that time that that order was legal or not?

A. I believe it was legal.

38. Q. Did you believe at that time?

A. Yes, when I received the order.

39. Q. Tell the court the conditions on Mille Atoll at that time concerning communications and transportation?

A. At that time the conditions on Mille were - just about the time Kwajalein was invaded, from the Commanding Officer to the lowest enlisted man were actively and frantically engaged in the defense of Mille Atoll. On the other hand we received furious bombing from the American forces for many days and practically everybody was in the air raid shelter; and communications between various units was not carried out as usual because the lines were cut frequently by bombs. As a result, when messengers were sent to deliver messages they were many occasions when they were killed by enemy fire and could not deliver the message. Regarding communications with the rear echelons, from the middle of January, no communication was made with aircraft or shipping. The only means of rear echelon communication was through the communications of the Naval Garrison Force; and furthermore, because of the lack of food supplies, all men were forced to make their own living, and that is all.

40. Q. From your knowledge of Japanese Army regulations, would you say that it is a practice in the Japanese Army to permit the local commands to prescribe the treatment of prisoners of war?

A. Yes, I do.

41. Q. Were you ever instructed from any superior officer as to treatment of prisoners of war?

A. Do you mean at Mille?

42. Q. Ever?

A. No.

43. Q. Has your government ever issued to field commands any regulations as to treatment of prisoners of war, if you know?

A. That I do not know.

44. Q. Have you or any of your superior officers instructed your men and officers as to treatment they may expect if taken prisoner?

The judge advocate objected on the ground the question was incompetent, irrelevant, and immaterial and had no bearing upon the issues in this case.

The objection was overruled.

A. No, we did not tell our subordinates anything of that sort.

45. Q. Under all the circumstances existing at the time of the execution, as brought out by the evidence, could the various junior officers concerned, under the Japanese Army system, question the military order of the Atoll Commander, as transmitted under the Army Chain of Command?

A. They cannot.

46. Q. Under the conditions existing at Mille Atoll at the time of which we spoke, if anyone had amended such an order or had refused to carry out such an order, what would have been the penalty?

A. If I was the Commanding Officer, I would have them executed.

RESTRICTED

47. Q. Were you ever present at any interrogation of any of these five American fliers?

A. Yes, I was.

48. Q. How many of these fliers did you see being interrogated?

A. Two.

49. Q. Can you describe them?

A. Right now I do not remember.

50. Q. Did you participate in the interrogation?

A. I did not.

51. Q. Who was conducting the interrogation?

A. Lieutenant Otani.

52. Q. And Lieutenant Otani was a Naval Officer, is that correct?

A. Yes.

53. Q. Did you see any acts which might be construed as torture being inflicted upon these fliers?

A. I did not see.

54. Q. If any torture had been inflicted upon these fliers at the questioning would you have been able to see it?

A. If they were doing such things I would have been able to see it.

55. Q. Did you ever have any conference with Captain Shiga concerning disposal of the prisoners of war?

A. No, I have not.

56. Q. Did you ever have any conference with any of your officers under you?

A. No, I have not.

57. Q. Did you ever hear anybody voice an opinion as to the torture of these men?

A. No, I did not hear.

58. Q. Did you ever hear anybody voice an opinion regarding the disposition of these fliers?

A. No, I have not.

Cross-examined by the judge advocate:

59. Q. Where were you educated? Were you educated in the Japanese Army Academy?

A. Yes, in the Japanese Military Academy.

60. Q. With reference to the meeting that you attended with Captain Shiga on the defense of Mille Atoll, the question of the disposition of the American fliers was brought up in your presence?

A. Yes, Captain Shiga and Lt. Otani was talking about it in my presence.

61. Q. And Captain Shiga asked the question "What shall we do about the American fliers"?

A. Yes, he did.

62. Q. And Otani said "Let us leave the American fliers where they are for a while"?

A. Yes, that is true.

63. Q. And Captain Shiga replied "allright"?

A. Yes.

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64. Q. And the question of the disposition of the fliers was further gone into by Captain Shiga and you, was it not?

A. At that time I returned.

65. Q. In one statement that you made didn't you state that Captain Shiga told you that the fliers died of illness?

A. Yes.

66. Q. When in truth and in fact, when he made that statement he knew that the fliers had been executed?

A. "He" meaning who?

67. Q. "He" meaning Colonel Oishi?

A. Yes.

68. Q. And why did you withhold this information?

A. Captain Chiga said they had died, so I asked him.

69. Q. And when did you ask Captain Shiga?

A. It was about ten days after the order to execute the prisoners was received when I met Captain Shiga.

70. Q. And Captain Shiga told you what?

A. One of the prisoners who was sick died.

71. Q. Did you later question Captain Shiga on this statement?

A. Yes, I did.

72. Q. Well, did you also in your statement say that "It was out of consideration for Captain Shiga that I have up until now concealed the true story of the Americans"?

A. Yes, I did.

73. Q. And you knew on the day of the executions of the American fliers that they were executed?

A. Yes, I did.

74. Q. And what was the conversation you had with Lieut. Hiraoka?

A. 2nd Lt. Hiraoka just relayed the message he received from the Island Commander to me.

75. Q. And what was that message?

The accused objected on the ground the question was already asked and answered.

The objection was overruled.

A. Just now I received from Captain Shiga: "We will send three American fliers to the Army so to execute them. Is it all right to send one flier to each of the three battalions"?

76. Q. Did you ask the reason for this request?

A. No, I did not ask the reason.

77. Q. Did you try to ascertain why the fliers were to be executed?

A. No, I did not.

78. Q. Isn't it true that the reason you didn't inquire is because you had fore-knowledge of the execution?

A. No, it is not so.

79. Q. Did you make any inquiry of Captain Shiga as to why the fliers were to be executed?

A. No, I did not.

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80. Q. Then it is true that you received this order from a junior officer instead of a senior officer?

A. I will explain this. I would like to explain the communication between the Army and Navy; liaison officer is the officer between the Army and Navy to facilitate communication between the two forces. As a result, when the Island Commander gives a command to me the text of the command is given to the liaison officer and the liaison officer will relay the command to me. Also, when the Army reports to the Island Commander, I will give the text of the message to the liaison officer and the liaison officer will relay the message to the Island Commander. The liaison officer is always stationed at the Naval Garrison Force Headquarters. The Headquarters of the Navy and the Army, there is a telephone communication between the headquarters of the Army and Navy. As a result, my orders to my various battalion commanders, there are many cases when they will go to the liaison officer. That is all.

81. Q. And this applies for even such an important subject as the execution of prisoners of war?

A. Yes, it is.

82. Q. And the three Battalion Commanders reported the fact of the execution to you?

A. Yes, they did.

83. Q. Well, since the directions were issued apparently by Lt. Hiraoka, why did not the Battalion Commanders report to him instead of to you, Colonel Oishi?

A. The three Battalion Commanders reported to Lt. Hiraoka and Hiraoka reported to my Executive officer and my Executive officer reported it to me.

84. Q. Do you know that of your own knowledge, that they reported it to Lieut. Hiraoka?

A. I heard that from my Executive Officer.

85. Q. Did you determine the manner of execution of the American fliers?

A. No, I did not.

86. Q. Did you find out whether or not the American fliers were tortured?

A. I did not.

87. Q. Did you make any effort to find out?

A. No, I did not.

88. Q. Did you issue any instructions that the fliers were not to be tortured?

A. I told them to treat them politely.

89. Q. And when did you tell them that?

A. After I had issued the orders?

90. Q. After you had issued what orders?

A. The execution orders.

91. Q. Did you issue orders directly to the Battalion Commanders?

A. I gave my orders through the liaison officer.

92. Q. And you knew they were American prisoners of war?

A. Yes, I knew.

93. Q. And while you were at the interrogation prior to the execution you learned that those prisoners were in an injured state?

A. One was bandaged about the chest.

94. Q. Did you make any effort to determine the names of the fliers who were executed?

A. No, I did not.

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95. Q. What information was procured at the time of the questioning?
A. What I heard was: where did they come from; what unit were you attached to; where are you going to attack next. That is about all I recall.

96. Q. Do you recall any of the answers?
A. Yes, I recall some. They said they came from Tarawa; they did not know where they were going to attack next. That's about all I remember.

97. Q. Did you find out the unit they were attached to?
A. They were questioning him but I do not know the answer.

98. Q. Were they Army or Navy?
A. That I do not know.

99. Q. They were drinking a liquid during the interrogation were they not?
A. That I did not see.

100. Q. And dog tags and all forms of identification, including watches and bracelets were taken from the fliers?
A. That I do not know.

101. Q. Were the American fliers executed by your battalions, given a trial prior to execution?
A. I do not know if they had any trials or not.

102. Q. Is it customary for members of either the Japanese military or civilian to execute people without a trial?
A. Ordinarily they will have a trial before execution.

Examined by the commission:

103. Q. In your statement, you emphasize the fact that communications with headquarters was very poor, that you were often cut off, and that the messengers were sometimes killed? That is true, is it not?
A. Yes, I did.

104. Q. Then, by that you infer that it was difficult to get accurate information to and from the Naval Headquarters, the Atoll Commander.
A. I just described the conditions at Mille at that time and how we were frequently bombed and the lines were often cut but I did not mean to say that communication was so bad as that.

105. Q. But you did say that he had issued an order to execute three fliers - American fliers - on the authority of a telephone message which your Executive Officer received from a Lieutenant on the Staff of the Island Commander, is that not so?
A. Yes, that is true.

106. Q. With the communications difficulties, why did you not then attempt to communicate with Captain Shiga, knowing that there was difficulty in communications and that the message might have been misunderstood?
A. It is not allowable in the Japanese Army to question or to check up on an order.

107. Q. Do you consider the verification of an order, merely by its repetition from the original source, as questioning the order? I will reframe the question. Do you expect the court to believe that you would infer that by asking for a repetition of an order given by a junior to you as questioning an order?
A. There will never be an order coming from a subordinate officer.

108. Q. You said that in the Japanese Army you cannot question an order?
A. Yes.

109. Q. Do you consider the repetition, the request for a repetition of an order from the higher command, to be questioning the order?
A. When you ask for repetition, it is not questioning the command.

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110. Q. Then why did you not request a repetition of the command from Captain Shiga in this case?

A. I believed it was a true order so I did not.

111. Q. Then you must have known about some pre-arranged plan of execution if you knew that was an order emanating from higher authority?

A. It is not so; orders are always accurate.

112. Q. You stated that you would execute an officer who questioned one of your orders. Do you, as a Regimental Commander, possess the right to pronounce the death sentence over your soldiers?

A. I will do it voluntarily.

113. Q. Do you, an officer of 30 years service in the Japanese Army, 54 years old, insist on testifying before this court that you have no knowledge of the rules of warfare and of the position which Japan has taken in connection with the Geneva Convention dealing with prisoners of war?

A. I do not know all of it.

114. Q. You testified to the court that you didn't know any of it other than those put out by this book Sakusen Yomurei, which does not deal with it.

A. I knew that one portion of the international law dealing with prisoners.

115. Q. Why didn't you abide by those laws?

A. That was the doings of the Island Commander, so I had nothing to do with it.

116. Q. Do you insist on that testimony, knowing that about the prisoners of war, you still took the orders of a Lieutenant to execute this flier?

A. I received a relay of the message from Captain Shiga through the liaison officer.

117. Q. Without verifying that order - without verifying it, and with that information, he issued the execution orders for those officers?

A. Yes.

118. Q. Are Japanese Officers or enlisted men ever held at fault or punished for cruelty to prisoners of war?

A. When they do it involuntarily?

119. Q. When they do it on their own?

A. They will receive punishment.

120. Q. Describe to the court one instance of punishment given to a Japanese for cruelty to or killing of a prisoner of war?

A. I do not know any examples.

121. Q. Do you know of any instances of torture or mistreatment of prisoners of war when they were not killed?

A. I do not know of any case.

122. Q. Why were the five fliers executed in five separate executions instead of one?

A. That I do not know.

123. Q. The Navy assigned three fliers to the Army to be executed as a group?

A. I separated the fliers but the Navy did not tell us to kill the fliers in one group or any other way but I separated the fliers on my own will.

124. Q. You made the decision to separate them?

A. I had them delivered to each of the three battalions and had them executed.

125. Q. Why did you order them executed in three separate executions and not at one execution?

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A. There are two reasons: One reason is that the handling of the prisoners will not be too rough; they want to be more respectful. Second one is that expert swordsmen were in the various battalions and we did not want to cause too much trouble for one swordsman - for him to work too hard, in other words.

126. Q. Did you enter the record of the executions in the Regimental log?

A. The Officer in Charge wrote it down.

127. Q. Did that contain the nationality or names of the fliers?

A. No, it was not written.

128. Q. Where were the prisoners kept, and by whom, between landing and execution?

A. The Navy was in charge of the handling.

129. Q. You searched them for personal effects?

A. That I do not know.

130. Q. What became of their personal effects?

A. I do not know.

131. Q. Were any received by the Army when the prisoners were delivered by the Navy to the Army?

A. No, we did not receive any.

132. Q. Were you surprised when you learned for the first time that they were to be executed?

A. Yes, I was.

133. Q. What comments did you make?

A. I did not make any comment.

134. Q. Have you ever served overseas before this war? Before you left Japan on the trip that you wound up at Mille?

A. Yes, I was.

135. Q. Have you ever had any prisoners of war in your custody before these American fliers?

A. No, I have no occasion to handle prisoners.

136. Q. Were the prisoners in this case executed to get rid of them as a hindrance or to save food, or both?

A. I do not know.

137. Q. Is it not a custom in the Japanese Army, for the superiors to accept responsibility for breaches of discipline in their juniors?

A. There are two cases when a subordinate officer or man commits a breach in discipline on his voluntary will the commanding officer will take responsibility. In the other case, when the subordinate or enlisted man makes a breach in discipline according to orders the superior officer will not take responsibility.

138. Q. Is it not true that if a private in your organization committed a breach of discipline, such as stealing of food, that you, as Regimental Commander, would punish the private, the private's platoon leader, squad leader, company commander and battalion commander as well?

A. When did stealing food come under penal code?

139. Q. How far up would his punishment go as Regimental Commander?

A. According to what the court martial may direct the punishment is meted out so he is not definite on what the punishment might be.

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140. Q. If it were a breach of discipline not serious enough for a general court martial, would you not give summary punishment - that is, lenient punishment - to the senior officers because of the lack of discipline in their enlisted personnel for whom they are responsible?

A. Yes, they are responsible for the men - for the supervision of their men, so I will give out punishment to the officers in that case - that is, when the defendant commits this breach voluntarily.

141. Q. Then you accept full responsibility for the acts of Lieut. Moori and the other officers in the execution of this command?

A. That responsibility should be taken up by the person who originated the order. My responsibility is to relay the orders and to see that the orders were carried out.

142. Q. You made a statement that you were present at the interrogation of two fliers?

A. Yes, I did.

143. Q. Why were you present at this interrogation?

A. I had business with Captain Shiga at that time.

144. Q. Was it at this time that Captain Shiga told you about the execution of the fliers?

A. At that time there was no talk concerning the American fliers.

145. Q. If the responsibility for the action of juniors rested upon the shoulders of the company and battalion commanders, why then did not the responsibility for the action of juniors also not rest on your shoulders?

A. What do you mean by the breach of discipline in that case?

146. Q. In this case, a breach of the laws of humanity?

A. Is that a voluntary breach of discipline or a breach in carrying out orders?

147. Q. It is an involuntary breach in the case of Lt. Moori. He was ordered to do it?

A. Moori and I do not have any responsibility because I am not the originator of the order.

148. Q. After you know of the execution of the three fliers by your regiment you talked with Captain Shiga and Capt. Shiga told you the fliers had died? Is that correct?

A. Yes, that is right?

149. Q. At that time, had you grounds to show that Captain Shiga believed the fliers had died?

A. I questioned him.

150. Q. What reason did Captain Shiga give you for stating the fliers had died?

A. One of the prisoners who was sick died without being executed.

151. Q. Did Captain Shiga say that all of the fliers had died?

A. No.

152. Q. Did the fact that Capt. Shiga told you about one flier had died lead you to think that possible Capt. Shiga had not issued the order for the execution of the other fliers, or give you cause to reflect on why you should not have checked the order?

A. I did not have any thoughts of that sort.

153. Q. Do you know from conversations with others if all five fliers were executed?

A. No, I do not.

RESTRICTED

154. Q. Under the rules and customs of the Japanese Army, if a complete platoon of Japanese troops had custody of a large group of prisoners of war and tortured them to obtain information for any purpose, who would be responsible?

A. Is that the voluntarily performed?

155. Q. Say they all took part in it voluntarily?

A. Would there be a commanding officer, entire platoon, commanding officer is the one responsible for the action of all they do.

156. Q. Suppose they all took part without any specific order?

A. The ones who did this is responsible.

157. Q. You have heard the testimony of your colleagues, the accused here in court. Have you anything to deny concerning their statements of fact?

A. No, I have nothing to dispute.

158. Q. Have you anything more to tell the court about which you have not been questioned?

A. Yes, I have something I would like to say.

159. Q. Say anything you may have to say in your own behalf at the same time?

A. I believe that there are certain portions in the note which Captain Shiga left behind him which are incorrect. Among them he said that Captain Shiga said he did not issue an order but Colonel Oishi says that he issued an order. He said that before Captain Shiga committed suicide at Majuro his actions were very nervous and he always seemed to be worried about something. And he said he like to question whether Captain Shiga had all his faculties at the time Captain Shiga wrote this note. He doubted whether he had all his mental capacity at that time. That is all.

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

The witness said that he had nothing further to state.

The witness resumed his status as accused.

The commission then, at 12:15 p.m., recessed, until 1:45 p.m., at which time it reconvened.

Present: All the members, the judge advocates, the reporters, each of the accused and their counsel.

A witness for the defense entered and was duly sworn.

Examined by the Judge Advocate:

1. Q. State your name, rank, and present station?

A. My name is Nakazato Hisao, I am a Lt. (s.g.), Paymaster, attached to the 65th Japanese Naval Garrison Force.

Examined by the accused:

2. Q. How long have you been in the Navy?

A. Three and one-half years.

3. Q. Did you ever study law?

A. Yes.

4. Q. Where and how long?

A. Three years at the Tokyo University.

5. Q. Did you study international law and penal code?

A. Yes.

RESTRICTED

6. Q. Do you know the Navy regulations?
A. I believe I know them.

7. Q. In the Japanese military, when a superior officer orders his subordinates to commit any crime, and if the subordinates follow his orders and commit a crime, will the subordinates receive punishment?

A. There are a lot of circumstances, but the basic principle is that they will not be punished.

8. Q. And in the same instance, will the officer who issued the order be punished?

A. Yes.

9. Q. In a Japanese military, when a man commits a crime on his own volition, will he be punished?

A. Yes.

10. Q. Will the officer who is directly in command of this person be punished?

A. Yes.

11. Q. Will the officer directly above him be punished or will all the superiors be punished?

A. All officers responsible for the man will be punished, and that man's only one officer will be punished.

12. Q. In a case when a superior officer orders his subordinate, through the liaison officer, to commit any crime, will the liaison officer be held responsible?

A. The person who relays the order will not have any responsibility. *Rob*

13. Q. Did you state that when an enlisted man voluntarily commits a crime, he and his superior officer will be held responsible?

A. Yes, they will be held responsible.

14. Q. Is the nature of the responsibility between the defendant and his superior officer the same?

A. It is different. *Rob*

15. Q. Please explain the difference?

A. The responsibility of the defendant is: he is responsible for the action he committed, while the superior officer is responsible for the conduct of his men. *Rob*

16. Q. Ordinarily, in the Japanese military, can they punish a man who committed a crime without legal procedure?

A. Ordinarily, they cannot do that.

17. Q. Is there any difference when the person to be punished is a prisoner of war or is just a regular army personnel?

A. I believe there is no difference.

18. Q. In a critical stage in warfare, is it possible for a superior officer to punish his subordinates and not be punished himself?

A. I actually saw subordinates being punished without any legal procedure during the war.

19. Q. In the regulations of the Japanese Army or Navy, to maintain discipline, under battle conditions, in cases when a superior officer kills a subordinate is there a regulation which says that a superior officer cannot be punished?

A. Yes.

20. Q. In similar cases, when a Japanese commanding officer, without bringing to trial, a prisoner whom he is in charge of, will be possible for a condition to arise in which the superior officer kills his prisoner?

A. It is possible to consider such conditions.

RESTRICTED

21. Q. In the Japanese Army or Navy, is there a set regulation governing prisoners of war?

A. Yes.

22. Q. Is there a regulation in the international law which governs prisoners of war?

A. Yes.

23. Q. Do you know the regulation in the Geneva Convention?

A. Yes.

24. Q. Does this apply to Japan?

A. Legally speaking, it does not apply to Japan, because Japan did not sign it.

25. Q. Is there a great difference in the Japanese Army and Navy regulations concerning the treatment of prisoners of war and the ones in the international law?

A. I believe there is not much difference.

26. Q. When the defendants in this case stood before the court in behalf of themselves, they said they did not know much about the rules governing prisoners of war. Is it normal in the Japanese Army and Navy that they do not put much emphasis on the regulations concerning treatment of prisoners of war?

A. It is usual.

Cross-examined by the Judge Advocate:

27. Q. The opinions you expressed as to the penal law were on the penal law of Japan were they not?

A. Yes.

28. Q. As a lawyer, would you say this case is being prosecuted under Japanese or international penal law?

A. - - -

The accused objected on the grounds that this witness took the stand to testify on the Japanese law and the question does not bear on this.

The question was withdrawn.

29. Q. You stated that you were acquainted as a lawyer and an expert on this subject with the prisoners of war provision of the Geneva Convention?

A. Yes.

30. Q. Are you acquainted with the provisions of Article 4, Chapter 2, of the prisoner of war section of the Geneva Convention?

A. If you will read it to me, I will recognize it right away.

31. Q. I will now read this section to you: (this passage was read by the judge advocate) Do you recognize that passage?

A. Yes, I know this.

32. Q. Would you still say that Japanese rules as to the treatment of prisoners of war are substantially similar to this provision?

A. Yes, it is the same in Japanese.

33. Q. Would you say then that the execution of prisoners of war without trial would be a violation of the Geneva Convention?

A. We have to consider all the circumstances, basically, it is against the Geneva Convention.

34. Q. And would it be against Japanese penal law?

A. Basically speaking, it goes against the Japanese penal code.

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Examined by the commission:

35. Q. You stated the terms of the Geneva Convention did not apply to Japan. In what way was Japan connected with those articles for the government of prisoners of war as drawn up by that convention?

A. I believe that Japan agrees that the international law is correct. That is my opinion.

36. Q. As a student at the Law School, at the University of Tokyo, were you taught that Japan agreed to apply the provisions of that convention to the prisoners of war under her control?

A. Yes, I heard about it.

37. Q. Do your regulations of the Japanese Army and Navy permit the execution of prisoners of war without a trial?

A. Fundamentally, it does not allow, but it must be taken into consideration all the circumstances.

38. Q. Under what circumstances or conditions does Japanese law and military and Naval instructions sanction the execution of prisoners of war without trial?

A. Circumstances are when an island is isolated and they cannot send a prisoner to rear echelons, and when the situation is critical and when there is danger of invasion by American forces, and when there is danger that prisoner might transmit any information which is dangerous to own troops, prisoner might be executed as emergency measure.

39. Q. Are such instructions to be found in any printed code?

A. There is no article which approves that killing of prisoners of war, but when you consider it from the basic theory, it could be carried out.

40. Q. Did you just invent the conditions you set forth in answering the preceding question?

A. Yes, that is my own opinion.

41. Q. Under battle conditions, when punishment is meted out by Japanese officers to Japanese personnel by executing them without trial, is that always done for some offense?

A. Yes.

42. Q. Are prisoners of war considered offenders simply by virtue of the fact that they are prisoners of war?

A. Merely being prisoners of war, the prisoner has not committed a criminal offense.

43. Q. Could an American flier, with a fractured leg, be construed as a threat to the Japanese troops and therefore be eligible for execution under the Japanese code?

A. If the prisoner is able to signal to the American forces any vital information regarding vital information, the Japanese have authority to execute him.

44. Q. Does the witness have any further information which he feels the court should be told about other than that about which he has been questioned?

A. I have. At this point, after quite a bit of meditating, the witness seemed to have difficulty in transmitting his information through the interpreters. After several attempts, in which the court tried to converse with the witness in French and Spanish and German, the witness was asked to retire and prepare a statement to be given to the Defense Counsel for consideration of its merit, and if desirable, to be admitted later.

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.

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The witness was duly warned and withdrew.

The defense rested.

The judge advocate stated that he would like to have the organization chart on the blackboard as well as the seating arrangement of the accused reduced to paper and introduced in evidence.

There being no objection, the judge advocate was so directed, the chart being appended, marked "Exhibit 22".

The commission then, at 3 p.m., adjourned until 9 a.m., tomorrow, Friday, November 30, 1945.

EIGHTH DAY

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U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

Friday, November 30, 1945.

The commission met at 9:00 a.m.

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champion, Jr., USN,
Captain H. B. Herty, USN,
Captain J. R. Weisser, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant Commander Edward F. O'Brien, USNR, and
Lieutenant William P. Mahoney, USNR, as Judge Advocates.
Edwin A. Boles, Y1/c, U. S. Naval Reserve, and
Robert W. Barrett, SKV1/c, U. S. Naval Reserve, reporters.
Each of the accused and their counsel.

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 statement of the preceding witness for the accused is as follows:

"According to my opinion, a simple transmitter of order (of senior officer) and of its executor, are innocent if they do not regard it as unlawful.

"Even if they think it is unlawful, they are obliged to be obeyed. Otherwise, they strictly punished even to death.

"There are due to the essence to the military order system".

The rebuttal began.

The judge advocate was called as a witness for the prosecution in rebuttal and warned that the oath previously taken was still binding.

1. Q. State your name, rank, and present station?
A. Edward F. O'Brien, Lt. Comdr., Judge Advocate in this court.
2. Q. Do you have the original suicide note left by Captain SHIGA in your possession?
A. I have not.
3. Q. Where is the note?
A. The note is attached to the record of the Board of Investigation which was convened by the Atoll Commander of Majuro, to investigate the circumstances surrounding Captain SHIGA's death, and forwarded through official channels to higher authorities.
4. Q. Do you have any copies of the note?
A. I have not, and my investigation reveals that none are available.
5. Q. Is a statement of the contents of the note contained in the forward to the investigation into the Mille Atoll events?
A. It is.

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6. Q. Is that forward signed by the investigating officer?
A. It is.

The proceedings of the investigation were submitted to the accused and to the commission, and by the judge advocate so much of the forward thereto as contains the contents of Captain SHIGA's suicide note was offered in evidence.

The accused objected to the contents of the note for the reason that the original Japanese copy is not here to compare the translation, and we also believe that on evidence of this character that too great an emphasis might be placed upon it for the reason that the Judge Advocate did not believe it even necessary to present the note, and we would like to have a more accurate copy of the interpretation involved in an investigation.

The judge advocate replied.

The commission overruled the objection.

The judge advocate read as follows:

"Captain Masanari SHIGA, Imperial Japanese Navy, late Atoll Commander of Mille Atoll, Marshall Islands, left a suicide note in Japanese and translated into English reads as follows:

'Although I have not issued an order I realize that there is a responsibility as of Commander and therefore I voluntarily commit suicide,' signed Captain SHIGA.

"The original note is attached to a Board of Investigation convened by the "Atoll Commander, Majuro, and Senior Officer Present", to investigate the circumstances surrounding Captain SHIGA's death".

Signed by: Emmett E. Cook, Jr.
Lieut. USNR
Investigator.

Jack Vickrey
1st Lt., USMCR
Assistant Investigator.

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

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

The witness resumed his seat as judge advocate.

The rebuttal ended.

Each of the accused stated that he did not desire to make a statement.

The judge advocate made the following opening argument:

The Case for the prosecution is that at the time of the invasion of Kwajalein by the American forces in the latter part of January and fore part of February, 1944, a hurried meeting was called on Mille, between Capt. SHIGA and Col. OISHI to prepare Mille Atoll against an anticipated invasion by the enemy. During this discussion or at the conclusion of the discussion, it was decided to dispose of the five American fliers held captive because they were in the way and would necessitate the use of men as guards; that the plan of execution was formulated; that the details for the executions were either discussed

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at this meeting or left completely to Lieutenant OTANI and Lieutenant HIRAOKA, both deceased. Therein lies the common plan and design upon which is based the allegation of murder of the five American fliers and the allegation of conspiracy to commit murder.

The prosecution has established that a B-25 North American bomber was shot down in Mille lagoon at the time listed in the battle casualty list; that the five Americans emerged from this plane; that they were captured by the Japanese on Mille; that they were identified as the same group by John IAMAN by his learning that two of the Americans were named Peter and David which was later corroborated by Lieutenant FUETA's identification of the picture of David KIMMEY; that they were tortured during questioning while they were in an injured condition which was substantiated not only by the two Korean witnesses, but by the Gilbertese, John IAMAN. The Korean witnesses, by seeing the execution of an American flier established a prima facie case which was later unequivocally established by the accused themselves.

That five American fliers were executed by five different Navy and Army units on Mille is unquestioned. The manner of execution is unquestioned. That it was done by each unit wilfully and intentionally is unquestioned. That the executions were carried out with malice aforethought is borne out by Lieutenant TOMITA's forced testimony that the reason for distribution of the fliers to five different units was to satisfy the thirst for revenge entertained by all of the Japanese on Mille toward Americans because of the incessant bombings as well as leaflets dropped by fliers after the taking of Tarawa and Makin, threatening an impending invasion.

Murder is defined as the unlawful killing of a human being with malice aforethought Section 53, Naval Courts and Boards.

Section 41, Naval Courts and Boards states that accessories before the fact of a crime are not chargeable as such, but are guilty as principals. The SCAP rules of procedure used as a guide in this type of trial state as follows with reference to jurisdiction over crimes in section 5:

**** Murder, torture or ill-treatment of prisoners of war or persons on the seas; *** participation in a common plan or conspiracy to accomplish any of the foregoing. Leaders, organizers, instigators, accessories and accomplices participating in the formulation or execution of any such common plan or conspiracy will be held responsible for all acts performed in execution of that plan or conspiracy."

In effect the above section means that each and every leader, organizer, instigator, accessory or accomplice who participates in a common plan is a principal in the crime.

Section 112, Naval Courts and Boards, states that a conspiracy is a corrupt or unlawful agreeing together of two or more persons to do, by concerted action, something unlawful, either as a means or as an end.

In determining whether or not each of the accused committed actually or contributed to the murder of the five American fliers we must first determine whether or not the killing was unlawful and whether or not it was done with malice aforethought. That the killings were unlawful and unsanctioned by any rule of civilized society should be obvious and undisputed. Were the killings done with malice aforethought? What is malice? As stated in United States V. Reed, Federal Reports 312:

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"By 'malice' 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, an act which he knows is likely to injure another, that in law is malice; it is the wilful purpose, the wilful doing of an act which he knows is liable to injure another, regardless of the consequences. That is malice, although the man may not have had a specific intention to hurt a particular individual."

And in Davis V. Pacific Telephone Co. (cal.). 57 Pac., 764,765, cited in Naval Digest, 1916, page 347:

"An act is, in contemplation of law, done maliciously where it is wrongful and is done intentionally."

Can it be said that the acts under our consideration were not wrongful and were not done intentionally? Certainly not. It probably will be said that the killings were not considered wrongful to the Japanese mind because they were ordered to do it. The answer is we are not considering these crimes in the light of the Japanese mind but rather in the light of the mind of civilized society as we know and understand it. The acts of Moori and Manako, the executioners, were unlawful and malicious acts per se, that is in and of itself. But you ask what of ABE, senior officer present at the execution who supervised the 1st Infantry Battalion execution, Warrant Officer TANAKA, who supervised the execution at the Northern Sector, Major NAKAO, Commanding Officer of the Mountain Artillery Unit who supervised that execution, all of whom did not actually execute. In 36 Corpus Juris 796 it is said: 2b

"Every person who is present at the time and place of the commission of a felony is guilty as a principal therein, if he was there for the purpose of participating in the crime."

Can it be said truthfully that they as senior officers were not participants. They, themselves, admitted on the stand that they were supervisors of the executions. They were there for the precise purpose of making sure that the executions were carried out. But what of Colonel OISHI, Major TAKARADA, Lieutenant FUETA, Lieutenant KADOTA and Ensign MOTOMURA, who were not present but who in varying degrees either ordered or abetted the executions or who, in a position of absolute authority over his units authorized the distribution and assented to the executions, such as, Colonel OISHI. Referring to Clark's Criminal Law, page 109, it is there said:

"An accessory before the fact is one who is absent when the act was committed, but who procured, counseled, commanded, or abetted the principal or actual doer of the act to commit it."

As stated in 18 US Code 550:

"Whoever directly commits any act constituting an offense defined in any law of the United States, or aids, abets, counsels, commands, induces, or procures its commission, is a principal."

Colonel OISHI by allowing the distribution of three of the fliers to his three battalions aided in the executions, abetted the executions as well as procured the commission of the executions. Major TAKARADA commanded the execution as well as Major NAKAO. Lieutenant KADOTA by procuring the swordsmen, certainly with knowledge that an execution of an American flier was to be performed, aided and abetted the execution. Ensign MOTOMURA in procuring a flier from Navy Headquarters with free knowledge that the flier was to be executed aided and abetted the commission of the crime. I agree he was not present but bear in mind that presence is not an ingredient to render a man liable as a principal. Lieutenant FUETA commanded and procured the commission of the crime of murder. 2b

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What makes these crimes more heinous is that they were committed without trial or any process and for no apparent reason except that the fliers would be in the way and further that the fliers were in an injured condition when they were wantonly executed. This aside from the water treatment or water and pepper treatment prior to execution and the bayonetting of the body after execution. How can it be said that in view of these facts, the executions were not done with evil and malicious intent. Then too, the orders were received from junior officers without question. As stated in the very beginning the over-all plan as established was to distribute five American fliers to five different units for execution. The execution participants in each unit by executing the flier assigned to it aided and abetted in the over-all plan and each and every participant in the entire plan is guilty of the unwarranted murder of five American fliers. 208

The prosecution has pleaded a conspiracy to commit murder. As said in Pettibone V. United States, 148 US 202:

"The confederacy to commit the offense is the gist of the criminality under (a conspiracy charge), although to complete it some act to effect the object of the conspiracy is needed *** The overt act in effectuating that purpose must appear charged in the indictment."

That there was a confederacy between Captain SHIGA, Colonel OISHI and Lieutenant OTANI and possibly Lieutenant Hiraoka should be apparent from Colonel OISHI'S statements and testimony. All of the others are dead. In Colonel OISHI'S statement (exhibit 6) he admitted that he had concealed from the original investigation the true story out of respect for Captain SHIGA'S memory. He did admit however, that the question of the disposition of the fliers was brought up during a conference on preparations for the defense of Mille after the fall of Kwajalein. From the testimony we have gathered that it was common knowledge that such a meeting was held and that the question of the disposition of the fliers must have been brought up at that meeting that plan was formulated. Again calling attention to section 5 of the SCAP rules we read:

"Leaders, organizers, instigators, accessories and accomplices participating in the formulation or execution of any such common plan or conspiracy will be held responsible for all acts performed by any person in execution of that plan or conspiracy."

Each and every one of the accused was a participant in the common scheme and plan and are guilty of conspiracy to commit murder. Each of the accused is guilty of violation of every known rule of international law as pertains to prisoners of war. The United States Government was not notified; the prisoners were tortured even while in an injured condition; they were brutally executed without trial or other due process; their identification was not recorded; the fact of their atrocity and crime was concealed. The Japanese Government did not formally subscribe the Prisoners of War section of the Geneva Convention but due to the insistence of the United States Government they agreed to abide by it. The agreement was a wilful and wanton subterfuge, and the accused come in court and excuse themselves because they were operating under orders. Section 16 f. of the SCAP rules reads as follows:

F. *** Action pursuant to order of the accused's superior, or of his Government shall not constitute a defense, but may be considered in mitigation of punishment if the commission determines that justice so requires." And these orders were passed on by juniors to seniors and unquestioned.

In conclusion I would like to read an excerpt from an article entitled Japanese Atrocities Published on February 5, 1944 and appearing in the International Law Documents of 1943 as published by the Naval War College:

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"The American people are familiar with the protest addressed to Japan following the Japanese Government's barbarous action in executing our aviators who fell into Japanese hands after General Doolittle's raid over Tokyo. In that protest the Department again called upon the Japanese Government to carry out its agreement to observe the provisions of the convention and warned the Japanese Government in no uncertain terms that the American Government will hold personally and officially responsible for their acts of depravity and barbarity all officers of the Japanese Government who have participated in their commitment and, with the inexorable and inevitable conclusion of the war, will visit upon such Japanese officers the punishment they deserve for their uncivilized and inhuman acts against American Prisoners of War."

The accused made the following argument:

It was the middle of November 1943, when from each of the Japanese bases in the Marshalls, assault planes carrying deadly bombs and torpedoes rose day after day and flew southwards for reason that some essential most eastern outposts of the Japanese defense line in the Central Pacific, the islands of Tarawa and Makin were just being invaded by powerful American Task Forces. Messages were continually coming in describing vividly the fierce resistance which the well defended Japanese forces on these isolated islands accomplished. Here we came into contact for the first time with the plan of the American Admiral Nimitz to regain the initiative in the Pacific. Each day, disregarding the many honorable sacrifices of lives our planes flew out in full strength to attempt to destroy this powerful American Task Force. But in spite of this frantic resistance from land and air, American forces with unimaginable quantity of supplies and armament captured both the islands of Tarawa and Makin, in a relatively short time and thus penetrated into Japan's outer perimeter of defense. Taking advantages of this penetration, one unit of an American Task Force immediately started to carry out a large scale attack against Kwajalein. Also large formations of heavy and medium bombers were attacking, the various Japanese bases in the Marshalls continually. Thus, by looking around them the Japanese forces confined on these bases realized, that now they had become objectives for invasions by formidable American forces. The Japanese forces on Mille Atoll, too, were confronted with this grave situation, and from the end of 1943, plans were busily carried out day and night in order to strengthen their fighting power and rebuild their damaged defenses.

If the court please, I hope you will fully realize that the facts which the Judge Advocate cited in this court the other day all arose under such conditions as I have stated up till now and upon which I will further elaborate.

During the later part of January 1944, after making investigations concerning the disposition of the 5 American fliers in his custody, the Japanese command on Mille Atoll decided to send these fliers to the 6th Navy Base Unit on Kwajalein, to which the forces on Mille were also attached. Thus the Japanese were waiting for transportation to send the fliers till the end of January, when, as had been expected, large powerful American Task Forces attacked the entire Marshall Islands. On Mille Island as well as others resistance against air and sea attacks were vehemently continued day and night, and it was in the midst of this fierce action that a message was received in the morning of February 1st, saying that the Americans had finally commenced landing operations on Kwajalein. Thus the Japanese forces on Mille realized more than ever that the critical point, had, at last arrived. An attack against Mille by the powerful American Task Force was expected as early as that same night. On this occasion, every Japanese soldier defending Mille firmly resolved to sacrifice his life, to forget his beloved ones and friends and die for his country. They further resolved to fight with their best to the last one soldier so as not to feel disgrace before comrades who fought to the last on "Attu" and "Tarawa". How pathetically as well as heroically we did feel ourselves at that time, I can recall vividly even in these days.

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If the court please, in Japan, there is a saying like this, "when a man faces death, he utters only truth". This means, when men are about to die, even if they were wrong before, they can't help becoming sincere, that is, owners of pure conscience. Much more, when men are about to offer their lives for their country their consciences are clear and pure, and nothing can discolor them. Yes, there are not a bit of room in their feelings at all for such ill feeling as to be punished by law.

If the court please, I believe the court, as the judges are all high ranking excellent officers, will acknowledge well enough the mental state of soldiers who are confronted with such anti-climax of grave situation as at Mille. Under such circumstances, all the eyes of the subordinates turn simultaneously toward their commanding officers, and gaze them so intensely as never miss flakes of their wills. The subordinates rely upon their commanders utterly and absolutely, they cannot spare to harbor any private intention contrary to their commanders'. Commanders can communicate their intentions to their subordinates so easily, promptly and accurately as if they were electric current. In other words, just under such conditions, commanding officers practice to the maximum their sublime and almighty authority which originated in the Emperor's prerogative of supreme command. Now it becomes extremely difficult for the subordinates to voice their opinions in front of the commanders' firm intentions, and both the former and the latter feel the circumstances have to their hearts under which if the former refuse, the orders of the latter, the latter can readily be condemned to death penalty. In this was, the discipline can be rigid and unity under it can be extremely strong. hcb

When such was the conditions on Mille, Captain Shiga, commanding officer of all Japanese forces on the island, after viewing the general situations at that time, issued an order that the 5 American fliers who were P.O.W.'s be killed. So this order was relayed to the subordinates simply accurately and rapidly, and the subordinates, realizing that the killing of the said prisoners was an unavoidable part of the hostilities, and that each had to carry out that order blindly and absolutely.

This fact may be quite easily and reasonably recognized. It is therefore unimaginable, and there is no reason to believe that the defendants killed the prisoners voluntarily and with malice. Further the fact that after the critical period had passed, not a single one of the defendants was blamed by Captain Shiga in any way, I believe, testifies more than enough that this case was executed strictly following to the complete orders of Captain Shiga. Furthermore, that Captain Shiga committed suicide last September must remain on enigma, if you presume otherwise than above mentioned fact.

In short, we can see that the killing of the American aviators was ordered by Captain Shiga, and the defendants in this courtroom only carried out honestly his order as a categorical imperative, and nothing more.

If the court please, in Japanese penal code, there is an article saying "punishment cannot be meted if there is no criminal intent". I believe this proposition is a common principle in criminal laws of all countries. This being the fact, it must be said since it is previously noted that all defendants in this case harbored no criminal intent, it is absolutely clear that they committed no crime and are not guilty. Therefore, it is natural that in the Japanese Armed Forces there are several famous cases in which a man following his commanding officer's order killed a man and his action was not censored.

If the court please, in conclusion, we would like to ask the board to give fair, righteous and impartial consideration to the acts and circumstances as presented in this trial giving due regard to the authority of law and justice.

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The accused made the following argument:

Ten members of the military organization of a defeated enemy now stand before this court upon trial for murder and conspiracy. Like the new weapons and ideas of war, this war has produced a new legal view and development - the trial of those accused of war crimes. Since it is a trial, the defendants are therefore to secure that same fair and impartial trial under the law that an accused would be entitled to in any court.

The defense of a case of this nature is difficult for the reason the accuseds' system of education, military training and government apparently has emphasized an obligation to follow to the letter all orders. They show a blind obedience to alleged or exerted authority that undoubtedly is without parallel in any system of military organization in the world. Their understanding of authority, law, justice, war, society and civilization is far different than that observed under our government. Their background cannot be considered as similar or even resembling the desired background common to American officers. Their customs, mores, religion, education, law, sports, family life and all other ingredients that have a place in the development of individual personalities are so foreign to our way of life that we cannot understand them. red

In arriving at a decision as to each of the defendants, we submit that they cannot be judged in the light of anything other than a fair and reasonable standard for conduct of the Japanese people and we are not trying the Japanese people, we are trying ten defendants. We believe that before any defendant should be found guilty, that his participation in a crime against the rules of warfare and civilized society must have been a more active participation than that of an ordinary member or officer of the Japanese armed forces. The participation also should be accompanied by deliberation, malice, and a willful disregard of fair and reasonable standards of conduct for the Japanese. In other words, the man that made the sword used in the execution could have had a criminal intent accompanied with malice and a willful disregard of all known standards of conduct to any race or nation and those standing trial, in the blind obedience to authority entertained no such essential criminal elements.

We believe that rank in the Japanese forces has its privileges and responsibilities, and that this is known and recognized by the Japanese. Most of these defendants are junior officers with little if any authority, and certainly without authority as to the disposition of P.O.W.'s of an opposing force.

It isn't the rules of court or the technical and mechanical procedure that concerns us - it is the substantive law and the facts. The facts so far as known, we believe have been fairly and impartially presented to the Court and there is little dispute about any of the primary facts except the criminal mind, intent, and willful disregard of standards fair and reasonable for the Japanese.

At approximately the time of the executions the occupying forces at Mille were having a difficult time. Food was short, they were being incessantly bombed, communications with their area commanders were difficult and even local communication and transportation facilities were badly confused and disrupted. They were doing what they believed necessary for the defense of the atoll and they had every reason to believe that opposing forces would invade almost momentarily.

In the face of those difficulties what is the responsibilities and duties of those primarily concerned with defense? By what standards are we to judge those duties and responsibilities? What authority existed with any junior officer to question, amend or disregard orders from superior authority under such circumstances? By what standards shall we judge his conduct? Did every officer present under such conditions have grounds to assume that his orders would be implicitly followed to the letter? By what standards are we to judge his right to assume or not assume that his orders would be followed?

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What would any officers of any nation, order, do, or cause to be done under such circumstances and by what standard may we judge their conduct?

From the evidence it may be concluded that any person involved in any of the chain of circumstances could have been punished by death for his failure to obey? Let us therefore not be too idealistic in our judgment - we should be somewhat practical.

No military system or organization appears soft. Power concentrated in the hands of Military officers controlling both the life and death of those under them in degree approaching the system of the Japanese as produced by the evidence is no credit to a government or to society. Yet it appears to be the fact.

Under no system of military organization can we assume that all orders are questioned. Shall we say that all members of a firing squad must in self protection question and be advised of all facts before he undertakes to carry out his orders.

Have these defendants conspired to execute American fliers? To find that they did, and each of them, must something be inferred or otherwise considered that is not present in the evidence?

Can or should any defendant here in court be adjudged guilty until it is established that the elements of the crime have been proven from the evidence? To find intent, malice and wilfulness, can we do so positively and not by inference?

We feel that this court has been advised fairly and fully as to the material facts and circumstances upon which the defendants and each of them shall be judged. To attempt to review the evidence at this time would serve no purpose and would not affect the decision of this court.

In this argument, we have raised some questions, the answers to which will be apparent when the court renders its decision. It is the Court's responsibility and it will be the Court's decision, that will provide precedent for action as to war crimes in years to come. It is your decision that will affect not only nations, and governments but will also effect the individual members of an armed force. If orders are to be questioned, or if an act performed under orders is to be deemed nevertheless as the act of the individual, let us pass the word.

We believe the fate of the defendants is in good hands.

The Judge Advocate made the following closing argument:

Defense Counsel are making the most of the only argument they can raise to the question of absolute guilt as charged in the specifications: the fact that the defendants were all, from Colonel Oishi down, acting under orders of a military superior. This dogmatic assumption is contrary not only to the common sense justice of the situation, but to the law as laid down in a Federal court of the United States and by the Judge Advocate General of the United States Navy. Were the rule otherwise, detestable crimes such as that committed here would not only go unpunished but would be positively sanctioned by the mere fact they are committed by a soldier or sailor. Fortunately, high judicial authority on this point has not taken such a primitive stand.

Since there are no international courts of criminal law that have laid down the law on the question of orders of a superior as a defense in homicide, we must go to sound authority in this pioneer case. The Judge Advocate General, in Court Martial Orders 212--1919, has this to say: "There is no doubt as to the guilt of the accused as to the second charge, the accused taking the stand in his own behalf and admitting the allegations of the specification of the charge, endeavoring to excuse and justify his actions by the serious conditions existing at the station, and that his actions were acquiesced in and in accordance with the orders of his superior officer.

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THIS HOWEVER DOES NOT CONSTITUTE A DEFENSE. The Judge Advocate quotes, as his authority, from US vs Carr, 25 Federal Cases 307, as follows: "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 AN ORDER BEING A JUSTIFICATION IT MAKES THE PARTY GIVING THE ORDER AN ACCOMPLICE IN THE CRIME."

In another case directly in point, involving a claim of acting under orders of a superior as a defense to homicide, the Judge Advocate was called on to state the law in a case involving the wrongful killing of a citizen of Nicaragua by a member of the United States forces. The precise defense claimed by the defendants in this case was raised in the Nicaraguan incident and met with the following uncompromising statement: "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 the act with which he may be charged has all the ingredients in it which may be necessary to constitute the same crime in law." (CMO-4-1929)

The case needs hardly more argument on this point of law. Civilized authorities have drawn the line at a practical point, considerably short of the blind militaristic concept put forth by the defendants in justification of their admitted homicides. The rule could not be otherwise and still leave a semblance of international rules of land warfare. The defense has not cited one single authority for their stand on the question of orders of a superior as an excuse. We cite the considered judgement of a high court of the United States, directly in point, as the rule to be followed in the case at bar.

If further statement of the law on this point will help, the SCAP rules issued by General Headquarters of the United States Army Forces, Pacific, which have been adopted by this commission, have a provision applicable, quoting sub-paragraph (f) of paragraph 16: "The official position of the accused shall not absolve him from responsibility, nor be considered in mitigation of punishment. Further, action pursuant to order of the accused's superior, or of his government, shall not constitute a defense but may be considered in mitigation of punishment if the commission determines that justice so requires."

Another major point of law which has been ignored by the defense is the international law on the subject of treatment of prisoners of war. After all, that is the law fundamentally violated in deed and in spirit by the defendants. The closest thing to statutory law on this subject are the rules of land warfare as laid down in the Geneva Convention. The law is simply stated in Article 4 of Chapter II of the Convention as follows: "Prisoners of War are in the power of the hostile Government, but not of the individuals or corps who capture them. They must be humanely treated---" It is necessary to demonstrate that the killing, without trial or for justifiable cause, of the five American fliers, prisoners of war of the Japanese government at Mille, was clearly a violation of the Convention. It may be argued that the Japanese government was not a formal signatory power of the Convention. As explained in the introduction to the Convention, however, this contention is completely without foundation:

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"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."

Thus Japan is a de facto subscriber to that part of the Geneva Convention applicable to this case. These Japanese defendants, like the military personnel of other nations agreeing to abide by provisions of the Convention, were bound to observe the Prisoners of War rules of fair play. Their unjustified and beastly killing of the American fliers was a plain violation of the law, and they must pay the price for their crime.

The Japanese as having violated the Convention, further they have breached the laws of humanity. There is nothing more to say of the fundamental law involved in this case. Since this is an international question the law on the subject is meager. But it is also plain and applicable to all nations.

One more thing must be said. The defense has indulged in a fanciful discussion of the psychology of the Japanese and of conditions on Mille Atoll at the time of the execution. It is implied that these factors excuse or condone the shocking crimes committed by the defendants. Such a contention may be dismissed with the reminder that the question of criminality is an objective matter: nothing short of insanity would excuse these defendants in the eyes of the law. To uphold a claim that peculiar traits in the Japanese character and in his dangerous position on Mille render his harmless would throw the administration of international justice into a hopeless muddle. Plain rules of civilized warfare have been violated, wilfully and maliciously, by the ten defendants. The requirements of justice, now and for the future, demand that they be punished as the Commission sees fit.

The Commission then, at 10:15 a.m., adjourned to await the call of the President.

NINTH DAY

RESTRICTED

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

Monday, December 3, 1945.

The commission met at 3:00 p.m.

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champion, Jr., USN,
Captain H. B. Herty, USN,
Captain J. R. Weisser, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Coeper, FA,
Lieutenant Commander Edward F. O'Brien, USNR, and
Lieutenant William P. Mahoney, USNR, as Judge Advocates.

Edwin A. Boles, Y1/c, USNR, and Robert W.
Barrett, SKV1/c, USNR, reporters.

Each of the accused and their counsel.

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

The commission was cleared.

The judge advocate was recalled and directed to record the following
findings:

The specification of the first charge proved and that each of the
accused, Chisato OISHI, Colonel, Imperial Japanese Army, Otokiti NAKAO,
Major, Imperial Japanese Army, Chojiro TAKARADA, Major, Imperial Japanese
Army, Kiyoshi FUETA, Lieutenant, Imperial Japanese Navy, Masaaki ABE,
Captain, Imperial Japanese Army, Yasuyoshi KADOTA, First Lieutenant,
Imperial Japanese Army, Yashuo MOORI, First lieutenant, Imperial Japanese
Army, Harushi MOTOMURA, Ensign, Imperial Japanese Navy, Yutaka TANAKA,
Ensign, Imperial Japanese Navy, Tatsuichi MANAKO, Warrant Officer,
Imperial Japanese Navy, is of the first charge guilty.

The specification of the second charge proved as to Chisato OISHI,
Colonel, Imperial Japanese Army, and not proved as to each of the
remaining accused.

And that the accused, Chisato OISHI, Colonel, Imperial Japanese
Army, is of the second charge, guilty.

And that each of the accused, Otokiti NAKAO, Major, Imperial
Japanese Army, Chojiro TAKARADA, Major, Imperial Japanese Army, Kiyoshi
FUETA, Lieutenant, Imperial Japanese Navy, Masaaki ABE, Captain, Imperial
Japanese Army, Yasuyoshi KADOTA, First Lieutenant, Imperial Japanese
Army, Yashuo MOORI, First Lieutenant, Imperial Japanese Army, Harushi
MOTOMURA, Ensign, Imperial Japanese Navy, Yutaka TANAKA, Ensign, Imperial
Japanese Navy, Tatsuichi MANAKO, Warrant Officer, Imperial Japanese Navy,
is of the second charge, not guilty; and the commission does therefore
acquit the said Otokiti NAKAO, Major, Imperial Japanese Army, Chojiro
TAKARADA, Major, Imperial Japanese Army, Kiyoshi FUETA, Lieutenant,
Imperial Japanese Navy, Masaaki ABE, Captain, Imperial Japanese Army,
Yasuyoshi KADOTA, First Lieutenant, Imperial Japanese Army, Yashuo MOORI,
First Lieutenant, Imperial Japanese Army, Harushi MOTOMURA, Ensign,
Imperial Japanese Navy, Yutaka TANAKA, Ensign, Imperial Japanese Navy,
Tatsuichi MANAKO, Warrant Officer, Imperial Japanese Navy of the second
charge.

RESTRICTED

The commission then, at 3:30 p.m. adjourned to await the call of the President for the announcement of findings and sentences.

03 14

RESTRICTED

The judge advocate was recalled, and directed to record the sentence of the commission as follows:

The commission, therefore, sentences him, Chuato Oishi, Colonel, Imperial Japanese Army, to be hanged by the neck until dead, two-thirds of the members concurring.

B. H. Wyatt

B. H. WYATT,
Commodore, U. S. Navy, President.

C. C. Champion, Jr.

C. C. CHAMPION, Jr.,
Captain, U. S. Navy, Member.

H. B. Herty

H. B. HERTY,
Captain, U. S. Navy, Member.

J. R. Weisser

J. R. WEISSER,
Captain, U. S. Navy, Member.

Thomas F. Joyce

THOMAS F. JOYCE,
Captain, U. S. Navy, Member.

William W. White

WILLIAM W. WHITE,
Commander, U. S. Navy, Member.

Basil P. Cooper

BASIL P. COOPER,
Lieutenant Colonel, U. S. Army, Member.

Edward F. O'Brien

EDWARD F. O'BRIEN,
Lieutenant Commander, U. S. Naval Reserve, Judge Advocate.

W. P. Mahoney

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

RESTRICTED

The judge advocate was recalled, and directed to record the sentence of the commission as follows:

The court, therefore, sentences him, Otokiti Nakao, Major, Imperial Japanese Army, to be hanged by the neck until dead, two-thirds of the members concurring.

B. H. Wyatt

B. H. WYATT,
Commodore, U. S. Navy, President.

C. O. Champion, Jr.

C. O. CHAMPION, JR.,
Captain, U. S. Navy, Member.

H. B. Herty

H. B. HERTY,
Captain, U. S. Navy, Member.

J. R. Weisser

J. R. WEISSER,
Captain, U. S. Navy, Member.

Thomas F. Joyce

THOMAS F. JOYCE,
Colonel, U. S. Army, Member.

William W. White

WILLIAM W. WHITE,
Commander, U. S. Navy, Member.

Basil P. Cooper

BASIL P. COOPER,
Lieutenant Colonel, U. S. Army, Member.

Edward F. O'Brien

EDWARD F. O'BRIEN,
Lieutenant Commander, U. S. Naval Reserve, Judge Advocate.

William P. Mahoney

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

RESTRICTED

The judge advocate was recalled, and directed to record the sentence of the commission as follows:

The commission, therefore, sentences him, Chojiro Takarada, Major, Japanese Imperial Army, to be hanged by the neck until dead, two-thirds of the members concurring.

B. H. Wyatt

B. H. WYATT,
Commodore, U. S. Navy, President.

C. C. Champion, Jr.

C. C. CHAMPION, Jr.,
Captain, U. S. Navy, Member.

H. B. Herty

H. B. HERTY,
Captain, U. S. Navy, Member.

J. R. Weisser

J. R. WEISSER,
Captain, U. S. Navy, Member.

Thomas F. Joyce

THOMAS F. JOYCE,
Colonel, U. S. Army, Member.

William W. White

WILLIAM W. WHITE,
Commander, U. S. Navy, Member.

Basil P. Cooper

BASIL P. COOPER,
Lieutenant Colonel, U. S. Army, Member.

Edward F. O'Brien

EDWARD F. O'BRIEN,
Lieutenant Commander, U. S. Naval Reserve, Judge Advocate.

William P. Mahoney

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

RESTRICTED

The judge advocate was recalled, and directed to record the sentence of the commission as follows:

The court, therefore, sentences him, Kiyoshi Fureta, Lieutenant, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring.

B. H. Wyatt

B. H. WYATT,
Commodore, U. S. Navy, President.

C. C. Champion, Jr.

C. C. CHAMPION, JR.,
Captain, U. S. Navy, Member.

H. D. Herty

H. D. HERTY,
Captain, U. S. Navy, Member.

J. R. Weisser

J. R. WEISSER,
Captain, U. S. Navy, Member.

Thomas F. Joyce

THOMAS F. JOYCE,
Colonel, U. S. Army, Member.

William W. White

WILLIAM W. WHITE,
Commander, U. S. Navy, Member.

Basil P. Cooper

BASIL P. COOPER,
Lieutenant Colonel, U. S. Army, Member.

Edward F. O'Brien

EDWARD F. O'BRIEN,
Lieutenant Commander, U. S. Naval Reserve, Judge Advocate.

William P. Mahoney

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

RESTRICTED

The judge advocate was recalled, and directed to record the sentence of the commission as follows:

The court, therefore, sentences him, Masaki Abe, Captain, Imperial Japanese Army, to imprisonment for the remainder of his natural life, two-thirds of the members concurring.

B. H. Wyatt

B. H. WYATT,
Commodore, U. S. Navy, President.

C. C. Champion, Jr.

C. C. CHAMPION, Jr.,
Captain, U. S. Navy, Member.

H. B. Herty

H. B. HERTY,
Captain, U. S. Navy, Member.

J. R. Weisser

J. R. WEISSER,
Captain, U. S. Navy, Member.

Thomas F. Joyce

THOMAS F. JOYCE,
Colonel, U. S. Army, Member.

William W. White

WILLIAM W. WHITE,
Commander, U. S. Navy, Member.

Basil P. Cooper

BASIL P. COOPER,
Lieutenant Colonel, U. S. Army, Member.

Edward F. O'Brien

EDWARD F. O'BRIEN,
Lieutenant Commander, U. S. Naval Reserve, Judge Advocate.

William P. Mahoney

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

RESTRICTED

The judge advocate was recalled, and directed to record the sentence or the commission as follows:

The court, therefore, sentences him, Yasuyoshi Kabota, First Lieutenant, Imperial Japanese Army, to imprisonment for a period of twenty (20) years, two-thirds of the members concurring.

B. H. Wyatt

B. H. WYATT,
Commodore, U. S. Navy, President.

C. C. Champion, Jr.

C. C. CHAMPION, Jr.,
Captain, U. S. Navy, Member.

H. B. Hertz

H. B. HERTZ,
Captain, U. S. Navy, Member.

J. R. Weissner

J. R. WEISSNER,
Captain, U. S. Navy, Member.

Thomas F. Joyce

THOMAS F. JOYCE,
Colonel, U. S. Army, Member.

William W. White

WILLIAM W. WHITE,
Commander, U. S. Navy, Member.

Basil P. Cooper

BASIL P. COOPER,
Lieutenant Colonel, U. S. Army, Member.

Edward F. O'Brien

EDWARD F. O'BRIEN,
Lieutenant Commander, U. S. Naval Reserve, Judge Advocate.

William P. Mahoney

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

RESTRICTED

The judge advocate was recalled, and directed to record the sentence of the commission as follows:

The commission, therefore, sentences him, Yasuo Mouri, First Lieutenant, Imperial Japanese Army, to be hanged by the neck until dead, two-thirds of the members concurring.

B. H. Wyatt

B. H. WYATT,
Commodore, U. S. Navy, President.

C. C. Champion, Jr.

C. C. CHAMPION, Jr.,
Captain, U. S. Navy, Member.

H. B. Kerty

H. B. KERTY,
Captain, U. S. Navy, Member.

J. R. Weisser

J. R. WEISSER,
Captain, U. S. Navy, Member.

Thomas F. Joyce

THOMAS F. JOYCE,
Colonel, U. S. Army, Member.

William W. White

WILLIAM W. WHITE,
Commander, U. S. Navy, Member.

Basil P. Cooper

BASIL P. COOPER,
Lieutenant Colonel, U. S. Army, Member.

Edward F. O'Brien

EDWARD F. O'BRIEN,
Lieutenant Commander, U. S. Naval Reserve, Judge Advocate.

William P. Mahoney

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

RESTRICTED

The judge advocate was recalled, and directed to record the sentence of the commission as follows:

The commission, therefore, sentences him, Harushi Motomura, Ensign, Imperial Japanese Navy, to imprisonment for a period of twenty (20) years, two thirds of the members concurring;

B. H. Wyatt

B. H. WYATT,
Commodore, U. S. Navy, President.

C. C. Champion Jr.

C. C. CHAMPION, Jr.,
Captain, U. S. Navy, Member.

H. B. Herty

H. B. HERTY,
Captain, U. S. Navy, Member.

J. R. Weisser

J. R. WEISSER,
Captain, U. S. Navy, Member.

Thomas F. Joyce

THOMAS F. JOYCE,
Colonel, U. S. Army, Member.

William W. White

WILLIAM W. WHITE,
Commander, U. S. Navy, Member.

Basil P. Cooper

BASIL P. COOPER,
Lieutenant Colonel, U. S. Army, Member.

Edward F. O'Brien

EDWARD F. O'BRIEN,
Lieutenant Commander, U. S. Naval Reserve, Judge Advocate.

William P. Mahoney

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

RESTRICTED

The judge advocate was recalled, and directed to record the sentence of the commission as follows:

The court, *Responde*, sentences him, *Yutaka Tanaka*, Ensign, Imperial Japanese Navy, to imprisonment for the remainder of his natural life, two-thirds of the members concurring.

B. H. Wyatt

B. H. WYATT,
Commodore, U. S. Navy, President.

C. C. Champion, Jr.

C. C. CHAMPION, Jr.,
Captain, U. S. Navy, Member.

H. B. Merty

H. B. MERTY,
Captain, U. S. Navy, Member.

J. R. Weisser

J. R. WEISSER,
Captain, U. S. Navy, Member.

Thomas F. Joyce

THOMAS F. JOYCE,
Colonel, U. S. Army, Member.

William W. White

WILLIAM W. WHITE,
Commander, U. S. Navy, Member.

Basil P. Cooper

BASIL P. COOPER,
Lieutenant Colonel, U. S. Army, Member.

Edward F. O'Brien

EDWARD F. O'BRIEN,
Lieutenant Commander, U. S. Naval Reserve, Judge Advocate.

William P. Mahoney

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

RESTRICTED

The judge advocate was recalled, and directed to record the sentence of the commission as follows:

The commission, therefore, sentences him, Tatemichi Manako, Warrant Officer, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring.

B. H. Wyatt

B. H. WYATT,
Commodore, U. S. Navy, President.

C. C. Champion Jr.

C. C. CHAMPION, Jr.,
Captain, U. S. Navy, Member.

H. B. Herty

H. B. HERTY,
Captain, U. S. Navy, Member.

J. R. Weisser

J. R. WEISSER,
Captain, U. S. Navy, Member.

Thomas F. Joyce

THOMAS F. JOYCE,
Colonel, U. S. Army, Member.

William W. White

WILLIAM W. WHITE,
Commander, U. S. Navy, Member.

Basil P. Cooper

BASIL P. COOPER,
Lieutenant Colonel, U. S. Army, Member.

Edward F. O'Brien

EDWARD F. O'BRIEN,
Lieutenant Commander, U. S. Naval Reserve, Judge Advocate.

William P. Mahoney

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

RESTRICTED

TENTH DAY

U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

Tuesday, December 11, 1945.

The commission met at 9:00 a.m.

Present:

Commodore B. H. Wyatt, USN,
Captain C. C. Champion, Jr., USN,
Captain H. B. Herty, USN,
Captain J. R. Weisser, USN,
Colonel Thomas F. Joyce, Inf.,
Commander William W. White, USN,
Lieutenant Colonel Basil P. Cooper, FA,
Lieutenant Commander Edward F. O'Brien, USNR, and
Lieutenant William P. Mahoney, USNR, as Judge Advocates.
Edwin A. Boles, Ylc, USNR, reporter.
Each of the accused and their counsel.

The President of the commission read the findings of the commission to each of the accused and pronounced sentence against each of the accused.

The commission, then, at 9:30 a.m., recessed to continue with a pending case.

B. H. Wyatt

B. H. Wyatt,
Commodore, U. S. Navy, President.

Edward F. O'Brien

Edward F. O'Brien,
Lieutenant Commander, U. S. Naval Reserve,
Judge Advocate.

RESTRICTED

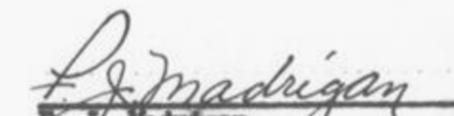
U. S. Naval Air Base,
Kwajalein Island,
Kwajalein Atoll,
Marshall Islands.

December 29, 1945.

I hereby acknowledge receipt of one (1) copy of the record of proceedings of the trial of:

Colonel Chisato Oishi, IJA;
Major Otokiti Nakao, IJA;
Major Chejro Takarada, IJA;
Lieutenant Kiyoshi Fusta, IJN;
Captain Masaaki Abe, IJA;
First Lieutenant Kasuyoshi Kadota, IJA;
First Lieutenant Yashuo Moori, IJA;
Ensign Harushi Motomura, IJN;
Ensign Yutaka Tanaka, IJN;
Warrant Officer Tatsuichi Manako, IJN;

by a Military Commission held November 21 to December 11, 1945.


F. J. Madrigan,
Lieutenant (jg) USNR,
Counsel for Accused.

0326

RESTRICTED

COM. MAR-GILS AREA

HEADING

10 OCTOBER 1945

FROM:

CINCPAC-POA PEARL

Channel

To:
(For action)

COMMARGILSAREA

Method
RTTY

To:
(For information)

COMMARIANASAREA/JUDGE ADVOCATE GENERAL

Circuit

REST
RW

092305 OCTOBER

ROUTINE

REUR 080436 X YOU ARE HEREBY AUTHORIZED TO CONVENE IN COMMARGILSAREA
SUCH MILITARY COMMISSIONS AS MAY BE NECESSARY FOR THE TRIAL OF SUCH
WAR CRIMES CASES AS MAY PROPERLY BE BROUGHT BEFORE THEM X

REF: 080436..REQUEST AUTHORITY CONVENE MILITARY COMMISSION FOR
TRIAL PERSONS ACCUSED WAR CRIMES COMMITTED IN THIS AREA ETC....

A TRUE COPY. ATTEST:

R.H. Michael
Commander, USN,
Communications Officer

Exhibit 2

TOR TOD 0405 RBM TT No. 46 V JC DTG 092305 Date 10 OCT 1945 CWO/Yeo.HBF/OR

Adm.	C. of S.	Oper.	Air Int.	Supply	Fl. Sec.	Flag Lt.	Medical	Constr.	ML Govt.	Comm.	Av. Mat.	Av. Supp.	Pers.
					-A-								

"A" for action "I" for information "O" for originator

2400-M.I.N.Y. 2-20-45-60M

0328

~~RESTRICTED~~

27 July 1944.

EXTRACTS from Mission Report No. 60, dated 21 January 1944:
(From the Seventh Army Air Force, A-2)

DATE: 19 January 1944 (West Longitude Date).

TARGET ATTACKED: No shipping sighted. Secondary target ground installations MILLE Island, MILLE Atoll attacked by 17 B-25s of 396th Squadron, 41st Bombardment Group (M). Over target 192022Z to 192023Z.

* * * * *

OUR LOSSES: A/P 613 hit over target, bounced to left up over tail of another B-25 and landed in water near shore line in lagoon. It was seen to coast on out into water and stop alongside sunken hulk in lagoon. No personnel seen to get out of our A/P. No enemy fire was directed at this plane.

* * * * *

EXTRACT from Battle Casualty List on Mission No. 60, 19 January 1944:

<u>NAME & RANK</u>	<u>ASN</u>	<u>ORGANIZATION</u>	<u>PLACE</u>	<u>TYPEZ</u>	<u>DATE</u>
F/O JOHN A. JOHNSTON	T-328	396th B. Sq (M)	MILLE Atoll	ETHER	1-19-44
1st Lt. PETER (NMI) DUVAL	0728261	" " "	"	"	"
2nd Lt. DAVID W. KIMMEY	0747818	" " "	"	"	"
S Sgt James L. Quinn	32373700	" " "	"	"	"
S Sgt James A. Wages, Jr	20826151	" " "	"	"	"
S Sgt James G. Walker	35429070	" " "	"	"	"

* * * * *

A true copy. A test:
Emmett E. Cook
Emmett E. Cook, Investigator.

EXHIBIT NO. 2

9

Exhibit 3

0329

RESTRICTED

HEADQUARTERS 41st BOMBARDMENT GROUP (M)
APO 459

EUB/EHH/sf

382.6

21 August 1944

SUBJECT: Transmittal of Pictures.

TO: : Commanding General, Seventh Air Force, APO 953.

Transmitted herewith identification pictures requested in your radiogram 192351Z.

For the Commanding Officer:

EDWIN U. BURKE,
Major, Air Corps,
Adjutant.

- 3 Incls -
Incl 1 - Picture of Lt. Duval. (2 cys)
Incl 2 - Picture of Lts. Kimney, Castillo, F/O Johnston. (2 cys)
Incl 3 - Picture of Sgts. Quinn, Walker, Wages. (2 cys)

A true Copy: Attest:

Emmett E. Cook, Jr.
Emmett E. Cook, Junior,
Lieutenant, U. S. Naval Reserve, Investigator.

EXHIBIT NO. 3

10

Exhibit 4

0330

PETER DUVAL



Incl #1 (dup)

DAVID W. KIMMEY FRANK CASTILLO JOHN A. JOHNSTON



Incl #2 (dup)

JAMES L. QUINN

JAMES G. WALKER

JAMES WAGES, JR.



Incl #3 (dup)

EXHIBIT NO. 7

Exhibit 5



RESTRICTED

Mille Atoll,
Marshall Islands,
Tuesday, September 25, 1945.

TESTIMONY of Hiroshi TOKUNO

A witness called by the investigator entered, was informed of the subject matter of the investigation and declared as follows:

1. Q. State your name, rank, and present station.
A. Hiroshi TOKUNO, Lieutenant Commander, Imperial Japanese Navy, 66 Garrison Unit, Mille Atoll.
2. Q. Were you able to find out anything since last night?
A. The three pilots still missing which were executed were executed by the following units: One by the Northern Sector. One by the Southern Sector. One by the First Army Battalion. The Commander of the Navy Unit in the North was Lieutenant FUETA and the person who actually swung the sword was Warrant Officer Tatsuichi MANAKO. Both of these men are living at present. The Commander of the Southern Sector of the Navy was Lieutenant TAKAHASHI. The one who actually swung the sword is Chief Petty Officer KITASAKA. If you inquire from Lieutenant NAMBU you might be able to find out which enlisted men actually saw the execution. Captain Yoshisaburo ISHII was commander of the First Infantry Bn. but is now dead. Second Lieutenant MOORI actually swung the sword.
3. Q. Was one killed by the Mountain Artillery Bn?
A. Yes.
4. Q. Was one killed by the Third Infantry Bn?
A. Yes.
5. Q. By the First Infantry Bn?
A. Yes.
6. Q. And, two by the Navy, one by the Northern Sector and one by the Southern Sector?
A. Yes. I believe Ensign TANAKA was present at the execution by the Northern Sector.
7. Q. Have you any record of the names of the flyers?
A. We have no records.
8. Q. What did you do with the dog tags and identification of the American flyers?
A. I think Lieutenant OTANI might have taken them away from the men.
9. Q. Were there any written records made to Headquarters?
A. No written records. This was carried out secretly and no records were written.
10. Q. Who carried out the execution in the First Infantry Battalion?
A. Second Lieutenant MOORI actually swung the sword and he is still alive.
11. Q. Who was the Commander of the First Infantry Bn at that time?
A. Captain ISHII.

A true copy. Attest:

Edward F. O'Brien
Lieutenant Commander, USMC
Judge Advocate

-1-

EXHIBIT NO. 27

"Exhibit 6(1)"

0332

RESTRICTED

12. Q. Who gave the order that these executions take place?

A. The First Battalion gathered all units together and they think the Army Commander gave the order. Colonel OISHI heard from First Lieutenant KARDOTA that the Battalion Commander received the word from the Navy Headquarters to come over and get one of the American flyers. The officer present at the execution was First Lieutenant ABE. Three men went to the Battalion Commander and he was to pick out one to do the executing. He selected Lieutenant MOORI.

13. Q. Do you know who the other men were who were not selected?

A. The other men are dead.

14. Q. Just what happened to the flyers from the time they crashed in the lagoon until the execution?

A. Everyone has agreed that it happened about the time Kwajalein was invaded, but no one seems to know the exact date.

15. Q. How many days were the flyers kept before they were executed?

A. I think it was about five days.

16. Q. Were they all executed on the same day?

A. The pilots were sent to the various units on the same day, but the South Sector received their pilot late and probably didn't execute him until the following day.

17. Q. Didn't the Navy keep them in custody until the day they were executed?

A. Yes.

18. Q. Were they all killed by the sword?

A. The three units that I found out about all killed with the sword.

19. Q. Do you know where they were buried?

A. I don't know but each unit should know.

20. Q. Were they buried in the same place or in different places?

A. All in different places.

21. Q. Do you know the reason why they were killed by several different units?

A. I don't know.

22. Q. Did they have any kind of trial before they were executed?

A. They were interrogated but no official trial.

23. Q. Why did they decide to kill these flyers? Why weren't they kept as prisoners?

A. At this time we were being constantly bombed and in case the American forces made a landing, the prisoners would be in the way. To keep the prisoners would have been too much trouble in such a way.

24. Q. How did these units receive their prisoners?

A. Ensign M. HARUSHI went to the Northern Sector to get the flyer. FUETA received a message to come to Navy Headquarters. MOTOMURA went over to the

A true copy. Attest:

-2-

EXHIBIT NO. 27.

Edward F. O'Brien
Lieutenant Commander, USNR

"Exhibit 6(2)"

Judge Advocate

0333

RESTRICTED

Navy Headquarters to the O.D. and the O.D. sent him to OTANI and there he got a written slip and gave him permission to receive one prisoner and he went to the air raid shelter and from there he went back to the Norther Sector. At The Southern Sector, they don't know exactly how they received their prisoner, In the Southern Sector there are machine guns and anti-aircraft and coastal gun unit. NAMBU thinks the coastal gun unit carried out the order since the other two activities were busy.

25. Q. Have you talked with any of these officers--MOTONOBU?
A. Yes, last night.
26. Q. Monoco?
A. No.
27. Q. TANAKA?
A. No. All information concerning the Norther Sector came from Lieutenant FUJITA.
28. Q. Were the men tortured?
A. I heard that they were.
29. Q. In what manner?
A. They were made to drink one glass after the other of water.
30. Q. Did they beat the flyers?
A. I didn't hear about that.
31. Q. Who was in charge of doing the torturing?
A. The fellow in charge of the interrogation, OTANI.
32. Q. Did the flyers furnish you with any information of value?
A. I heard nothing about any information being furnished.
33. Q. Who do you think was responsible for giving these orders that they be executed?
A. Lieutenant OTANI is responsible for it, at the same time I think Captain SHIGA would be responsible.
34. Q. Do you think OTANI would have given an order to execute these flyers without consulting Captain SHIGA?
A. I think he would issue such an order. If he consulted Captain SHIGA, I'm sure Captain SHIGA would not allow such a thing.
35. Q. What about the Army men - who issued the orders to the Army units?
A. The Army units think Captain SHIGA gave the order.
36. Q. Couldn't the order have been issued by Captain SHIGA for OTANI to get all the information he could and then dispose of the flyers?
A. He might have issued such an order but I think from judging his personal nature, he's not that type of person.
37. Q. What did the Captain do when he found out that these prisoners had been executed?
A. He found out that the prisoners had been executed just recently and had believed the report OTANI had given to him about the pilots having died.

A true copy. Attest:

-3-

EXHIBIT NO. 27

Edward F. Stier
Lieutenant Commander, USNR

"Exhibit 6(3)"

Judge Advocate

0334

RESTRICTED

38. Q. We know that Major NAKAO informed Captain SHIGA that he had executed one flyer immediately after the execution.
A. I think perhaps the report never reached the Captain.
39. Q. They said the message was delivered personally to the Captain.
A. I think in that case the Captain must have received the order.
40. Q. What was your job at the time?
A. Executive Officer.
41. Q. Would you have received messages?
A. Ordinarily, the message would have gone to the Officer of the Day, then to me and I would have taken it to the Captain and the messenger would not see the Captain personally.
42. Q. When did it first come to your attention that the flyers were killed?
A. About four or five days after they were killed?
43. Q. Why didn't you report it to Captain SHIGA?
A. At that, the situation was sever and we were thinking only about your forces making a landing and besides this was only a rumor and I didn't think it necessary to tell the Captain.
44. Q. You knew the flyers were gone - so you must have known they were killed.
A. Before I heard this rumor, OTANI had informed us that five flyers were dead. I knew they were no longer living.
45. Q. Didn't you see the flyers when they were being questioned at Headquarters?
A. I was there two or three times when the pilots were being questioned.
46. Q. What was the general condition of the flyers?
A. The condition of them was - one fellow seemed to have a broken leg and all of them seemed to be burned.
47. Q. Did they look like they were going to die?
A. One or two were severely burned and looked as if they might die. I thought that if the others received proper care they would recover.
48. Q. Weren't you surprised when OTANI told you that all five had died within so few days?
A. I was very surprised.
49. Q. Did you suspect at that time that they had been killed?
A. I had a little suspicion.
50. Q. Do you think that Captain SHIGA is a smart man?
A. I consider the Captain a smart man but not unual when compared with the other men of his same rank.
51. Q. Didn't Captain SHIGA think their death a bit unusual?
A. I think he might have suspected and as Commander of this Atoll, he wanted to find out about those things, but didn't take the trouble to investigate because of the conditions at that time. The situation at that time

A true copy. Attest:

Edward F. Quinn
Lieutenant Commander, USN

Judge Advocate

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EXHIBIT NO. 27

"Exhibit 6(4)"

0335

RESTRICTED

was really a severe one so it was a great problem about handling prisoners and because of the conditions at that time, Captain SHIGA might have appointed OTANI to take over a lot of extra duties concerning prisoners.

52. Q. What do you know of the Colonel's knowledge of this affair?
A. I think the Colonel is a lenient man.
53. Q. Do you think the battalion commanders would have given orders for the execution without authority from the Colonel?
A. I don't think they would. The Colonel thought the order came from the Navy.
54. Q. Don't orders usually come through the chain of command?
A. Ordinarily they do. To the Colonel first and then to the battalion commander. The Navy Commander will give orders for the Army to the Colonel first.
55. Q. From the information we have, it seems that three representatives, one from each of the three Army units, came to Navy Headquarters and they could not have done that without an order from the Army Headquarters.
A. I think that ordinarily there should be orders directly to the Army Colonel to be given to the units, but there might be a case when the battalion commanders received orders from the Navy.
56. Q. Does Captain SHIGA have the authority to tell the Colonel to carry out an order?
A. The Captain has the authority.

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EXHIBIT NO. 27

A true copy. Attest:

"Exhibit 6(5)"

Edward F. O'Brien
Lieutenant Commander, USN
Judge Advocate

0336

RESTRICTED

Majuro Atoll,
Marshall Islands,

Wednesday, October 24, 1945.

I, CHISATO OISHI, Colonel, Imperial Japanese Army, senior Army officer stationed at Mille Atoll, make the following free and voluntary statement:

After the meeting that I had with Captain SHIGA, at Navy Headquarters at about 1300, American time, for the purpose of determining our defense plans for Mille Atoll I returned to my own headquarters at about 1400, American time.

At approximately 1400 or 1500 I received a call from Lieutenant HIRAOKA, the Army liaison officer, stationed at Navy Headquarters. Lieutenant HIRAOKA said, "Captain SHIGA has ordered that three American prisoners of war be turned over to the Army to be executed, may I have permission to assign the three Americans to the three Army Units".

I gave him my permission and this terminated the call.

About one month later Major NAKAO reported to me verbally that the Atoll Commander's orders concerning the execution of the American prisoners of war had been carried out. Next, about forty days after the execution, Major TAKARADA also reported that his unit had executed an American as had been ordered. About two or three days after receiving this report Captain ISHII reported to me that his unit had, as ordered, executed the American flyer that had been assigned to him.

It was out of consideration for Captain SHIGA that I have, up until now, concealed the above true story of the executions of the American prisoners of war on Mille.

The above statement was read to me in Japanese by an interpreter who signed opposite my name as a witness. The above statement is a true statement of the facts and events set forth, and is voluntarily made by me.

[Signature]
Witness

T/3 AUS

Chisato Oishi

CHISATO OISHI
Colonel, Imperial Japanese Army.

Exhibit 7

EXHIBIT 37

0337

RESTRICTED

Majuro Atoll,
Marshall Islands,

Wednesday, October 24, 1945.

I, Chishato Oishi, Colonel, Imperial Japanese Army, senior Army officer stationed at Mille Atoll, make the following free and voluntary statement:

At the time of the landing by the Americans on Kwajalein, a special meeting was called at Captain Shiga's command post. The purpose of the meeting was preparation of the defense of Mille Atoll against landings by the Americans. We discussed deploying troops to the various islands in the Atoll. During our talk Lieutenant Otani came in and brought up the question of disposition of the American flyers. They had planned on sending the American flyers to Kwajalein but since it was taken it was decided to leave the prisoners at Mille for the time being. Captain Shiga said all right to leave them stay for the time being. This meeting was about one o'clock in the afternoon that Kwajalein was invaded. The substance of the conversation between Captain Shiga and Otani was as follows:

Captain Shiga to Otani:

"What shall we do about the American flyers?"

Otani to Captain Shiga:

"Let us leave the American flyers where they are for awhile."

Captain Shiga to Otani:

"All right."

I then left and Otani remained in the command post. About thirteen days later Captain Shiga told me that the American flyers died from illness. My only reply was "Is that so".

The above statement was read to me in Japanese by a Japanese interpreter who signed opposite my name as a witness. The above statement is a true statement of the facts and events set forth and is voluntarily made by me.

Arthur L. Sumner
Witness

T/S AUS

Chisato Oishi

Chisato Oishi,
Colonel, Imperial Japanese Army.

"Exhibit 8"

EXHIBIT 8

0338

RESTRICTED

Majuro Atoll,
Marshall Islands,

Wednesday, October 24, 1945.

I, Chojiro Takarada, Major, Imperial Japanese Army, Third Battalion, Mille Atoll, make the following free and voluntary statement: 宝田長次郎

When I received a telephone call from the Navy ^{Headquarters} ~~Officer of the Day~~ to come and get one of the American flyers, I thought that the flyer was to be executed by us. I knew that that the flyers could not be sent to Japan because we did not have communication with Japan for three months. They could not be sent to Kwajalein because the Americans had invaded Kwajalein. I do not know whether Oishi and Shiga spoke about the disposition of the flyers or not. I did not report to Colonel Oishi when I received the flyer. At that particular time I was reporting once every ten days to Colonel Oishi on disposition of troops, casualties, and so forth, by telephone. Other than theses times I made special reports to Colonel Oishi of men dying by accident or surrendering to the Americans or other unusual incidents. I myself told Colonel Oishi in a conversation about one month after we had executed our flyer that our unit had executed an American flyer. Colonel Oishi's reaction to this advice was "Is that so". He did not scold me at all or show that it was out of the ordinary.

宝田長次郎
My executive officer picked up the flyer in response to a call from the Navy ~~Officer of the Day~~. The orderly reported to me at about 1830 (your time) that a call came through at about 1800 to get a flyer; that my adjutant left in about 15 minutes to get the flyer or 1815 (your time); that the adjutant returned with the flyer at about 1915 (your time) and that my adjutant executed the flyer 15 minutes after his return. My adjutant reported to me the fact of the execution at between 1945 and 2000. I had planned on executing the flyer myself after verifying the order. My adjutant, Lieutenant Matsuda, is dead.

The above statement was read to me in Japanese by a Japanese interpreter who signed opposite my name as a witness. The above statement is a true statement of the facts set forth and is voluntarily made by me.

Robert L. Lunsford
Witness
T/3 AUS

陸軍少佐 宝田長次郎
Chojiro Takarada,
Major, Imperial Japanese Army,

"Exhibit 9"

EXHIBIT #9

0339

RESTRICTED

米國飛行士之處分約首後大石
大佐會同陸軍省飛行士處
分團之報告書
其際大石大佐、並打力、上塔分
儿、三、三、怒、力、力、力

陸軍少佐 宮田長次郎

"Exhibit 10"

EXHIBIT # 10

-2-

0340

RESTRICTED

Majuro Atoll,
Marshall Islands,

Wednesday, October 24, 1945.

I, Otokiti Nakao, Major, Imperial Japanese Army, stationed at Mille Atoll, voluntarily make the following statement of events:

While stationed at Mille I was commanding Officer of the Mountain Artillery Battalion. Certain of the naval personnel brought an American flyer to my unit. Nakajima and Okamoto took charge of the execution. A spot was selected. When I arrived a group of enlisted men were gathered around and I ordered them to return to their quarters. The flyer was seated. Okamoto, the swordsman, stood to the left of the flyer at about three feet. A Jap soldier with fixed bayonet stood on the right of the flyer at about five feet with his bayonet pointed toward the flyer to insure against his escape. Nakajima stood about seven or eight feet behind the flyer. I stood about twenty feet behind the flyer and to the flyers right. I told Nakajima to carry out the orders. Nakajima ordered Okomoto to execute. The first blow did not completely sever the head. The head is never completely severed in an execution. I do not remember whether Nakajima had his sword or not. The flyer fell forward into the grave which had previously been dug. The flyer was neither blindfolded nor had his hands tied behind his back. I did not see any of my subordinates use bayonets on the flyer. The execution took place about sundown, therefore, I cannot describe the flyer.

I do not know whether a trial was had or not. I think that Captain Shiga and Colonel Oishi had a meeting at the time Kwajalein was invaded at which meeting it was decided to execute the flyers. I never heard about the meeting but since Colonel Oishi was the highest ranking Army officer he must have assisted or known of the arrangements. Immediately after the execution I sent a written memorandum to Colonel Oishi that the execution was carried out. About two weeks after the execution I met Colonel Oishi and told him about the execution. Colonel Oishi must have received the report because he never said anything about it at that time. The Navy policy on Mille was never to order a small Army unit to carry anything important out without advising or consulting with the Colonel first.

The above statement was read to me in Japanese by the Japanese interpreter who signed opposite my name as a witness. The above statement is a true and voluntary statement of the facts therein set forth.

Satoru Tsurumoto
Witness

T/3 AUS

陸軍少佐 中尾乙吉

Otokiti Nakao,
Major, Imperial Japanese Army.

"Exhibit 11"

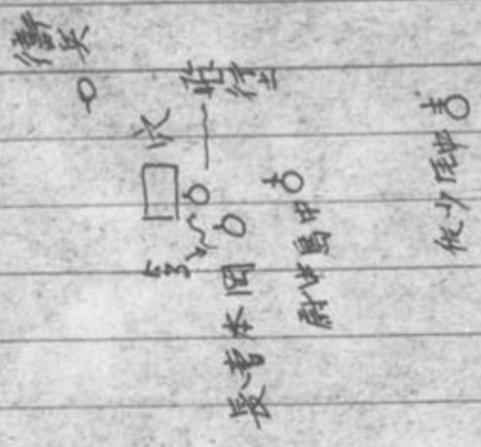
EXHIBIT 11

0341

EX. 12

RESTRICTED

衛兵、五尺位
岡本、三尺位
中島、中尺位
中尾、二尺位



小官の記憶に於ては、此の現場に於ける距離は右に記載し、その通りと見做す
陸軍少佐 中尾乙吉

"Exhibit 12"

EXHIBIT # 12 (with address)

4

0342

→ guard

← Hole

flyer

3 ft.



WO OKAMOTO

LT. NAKAJIMA - ♂

Major NAKAO - ♂

Guard - Appr. 5 ft.

Okamoto - " 3 "

NAKAJIMA - " 7 or 8 "

NAKAO - " 20 "

RESTRICTED

(Seal)

捕虜参遺一件

昭和四年〇月〇日

山砲兵大隊

友隊本部御中

何日何日海軍司令部、新命、如捕虜、

参遺人

小食の記憶。所 米子飛舟七加死列共此在
中を翌日友隊將校が書か北へ信命書して
支隊本部宛て報至す。

陸軍少佐 中尾久吉

Witness:

Edward F. O'Brien, Lieut. Col. USNR.

"Exhibit 14"

7- 44185 1/4

0344

The memorandum on the reverse side was sent
by Major Otokiti NAKAO to Colonel OISHI advising
him that the flyer held by his unit was executed.

RESTRICTED

Majuro Atoll,
Marshall Islands,

Wednesday, October 24, 1945.

I, Kiyoshi Fueta, Lieutenant, Imperial Japanese Navy, stationed at the North Sector Naval Unit, Mille Atoll, make the following free and voluntary statement:

On January 23 or 24, 1944, while I was in charge of the North Sector Unit and especially the coastal guns on Mille Atoll, I saw through binoculars the plane shot down. Two days after the plane was shot down and out of curiosity to see the flyers I went to the headquarters area. In the air raid shelter I saw one of the flyers. The best description I can give of this flyer is as follows:

About 5 feet 5 inches or 5 feet 6 inches in height, red hair, head was bandaged, do not know whether he was wearing a ring, bracelet or dog tag, was wearing a flying suit.
This was just a short visit.

Just before the Americans made a landing on Kwajalein, either the latter part of January or fore part of February, I received a call from the Navy Officer of the Day who told me to come over and get the American flyers. I ordered Warrant Officer Motomura and another fellow whose name I do not recall to go to Navy Headquarters to get the fliers. They returned at about 1700 with one flyer. I was surprised because I thought all five fliers were being sent to the Northern Sector because the headquarters area was being constantly bombed. Motomura reported that when he went to the Navy O O D office he was instructed by the O O D to see Lieutenant Otani. Lieutenant Otani gave Motomura a written order that his flyer was to be executed by our unit. I do not know why the execution was ordered nor did I talk to anyone about the execution. I do not know whether there was a trial or not. The best description I can give of the flyer we received is as follows:

Oblong face, curly brown hair, heavy brown mustache and beard, tall, about 5 feet 10 inches or 5 feet 11 inches, hazel eyes, flying suit, brown shoes, no facial scars.

I selected the northern part of my area for the execution grounds. It was about 600 yards north of my quarters. I ordered Warrant Officer Yutaka Tanaka to carry out the execution and ordered 1st class petty officer Manako (now a Warrant Officer) to do the actual cutting because he was my best man at Kendo. I originally thought of shooting the flyer but thought that if a mistake were made he would suffer. I put on my full uniform and was on my way to the place of execution when I met Manako returning. I had instructed Manako not to torture the flyer in any way but to give him the regular Japanese Military execution. Other than Tanaka, Motomura and Manako, I instructed the man at the radar station to go as a guard. At the most there were only twelve persons present. We were instructed that the execution was to be carried out quietly.

It was common knowledge that all the American flyers were killed but it was not known what units killed them. I was under the impression that all of the flyers were killed by the Navy.

The above statement was read to me in Japanese by a Japanese interpreter who signed opposite my name as a witness. The above statement is a true statement of the facts set forth as is voluntarily made by me.

Witness
Witness *T3 AUS*

Kiyoshi Fueta
Kiyoshi Fueta,
Lieutenant, Imperial Japanese Navy.
"Exhibit 15"

EXH. 15

0346

RESTRICTED

Majuro Atoll,
Marshall Islands,

Wednesday, October 24, 1945.

I Harushi Motomura, Ensign, Imperial Japanese Navy, stationed at the North Sector Naval Unit, Mille Atoll, make the following free and voluntary statement:

It was about the time that the Americans landed at Kwajalein that I was ordered by Lieutenant Fueta to go to the Navy Officer of the Day to pick up a flyer. When I arrived there the Officer of the Day, who I didn't know, told me he was not in charge of the prisoners of war and he told me to report to Lieutenant Otani. Two other Naval Officers were with Otani at the time, I do not know their names or rank. I announced to Otani that I was from the northern sector and came to pick up the flyer. Otani gave me a slip of paper with the flyer's name on it in English and told me to go to the headquarters air raid shelter to get the flyer. Since I cannot read or write English I do not know what the name was on the piece of paper. Otani told me "to dispose of this American flyer and after this was done to report to him". Nothing further was said. I did not ask the reason why the flyer should be executed. I got the flyer and returned to Lieutenant Fueta's quarters. I turned the flyer over to Lieutenant Fueta. I went to my quarters to clean up. I did not see the execution. / About three weeks after the execution I heard talk and rumor that all of the American flyers were executed. I heard that some of the flyers were executed by the Army but do not know the units. I think Colonel Oishi issued the order for execution since he was the highest ranking Army officer. I do not think the Army would execute except by Colonel Oishi's order because an Army subordinate would not act on Navy orders.

The above statement was read to me in Japanese by a Japanese interpreter who signed opposite my name as a witness. The above statement is a true statement of the facts set forth and is voluntarily made by me.

Witness
Witness

T/3 AUS

海軍少尉本村晴

Harushi Motomura,
Ensign, Imperial Japanese Navy.

"Exhibit 16"

EXHIBIT # 16

0347

RESTRICTED

Majuro Atoll
Marshall Islands
Thursday, September 27, 1945.

TESTIMONY of Masaaki ABE.

A witness called by the investigator entered, was informed of the subject matter of the investigation and declared as follows:

1. Q. State your name, rank, and present station.
A. Masaaki ABE, Captain, Imperial Japanese Army, First Infantry Battalion, Hq. Mille Atoll.
2. Q. What is your serial number?
A. When I left Japan I just got a dog tag with no number on it, so I don't know my serial number. The dog tag issued from military headquarters usually has a number on it but if a unit issues it it has no number on it.
3. Q. Do you understand any English?
A. I understand a little.
4. Q. Lieutenant Commander TOKUN has given me information received from you. Tell us what you know about the execution of those fliers.
A. The First Infantry Battalion headquarters were near the Navy garrison headquarters because they were about the first ones to make a landing on Mille and there were separate air raid shelters, one for the battalion commander and one for me. It was about the time Kwajalein was being invaded by the Americans and Mille was constantly being bombed so I was taking cover in the air raid shelter late in the afternoon. The battalion commander summoned me and told me to select a suitable place to carry out this execution, a place where nobody would be stepping over or nobody would be around so much and I was told that the youngest American flier that was captured would be brought there soon. I saw that the American flier was carried on the back of a Japanese soldier, because he wasn't able to walk. He had a compound fracture. I don't remember which leg was fractured.
5. Q. What was the name of the soldier who carried the man on his back?
A. I think he was a non-commissioned officer, I can't remember his name or recognize him.
6. Q. Continue with your story.
A. I went out to select the spot (the witness pointed the spot out on a map of Mille atoll).
7. Q. Did they question the flier to find out his name, rank, and serial number?
A. I don't know. I had selected the spot. I think I was one of the youngest officers in the battalion so the battalion commander appointed me to carry out the execution.
8. Q. What is the Battalion Commander's name?
A. Captain ISHII: Yoshisaburo is his first name. I was ordered by the First Battalion Commander, ISHII, to carry out this execution. There were three or four young officers besides me who were present. One of them was First Lieutenant Yasuo MOORI. One of them is dead now, he was First Lieutenant and YOSHINAGA, I don't know his first name; and the other one I remember is HINO, Second Lieutenant. He died accidentally by fishing with dynamite. I don't remember anyone else. Besides those officers, I think there was one non-com who carried the flier on his back to headquarters but I can not identify him.

- 1 -

EXHIBIT NO. 29.

A true copy. Attest:

Edward F. O'Brien
Lieutenant Commander, USNR,
Judge Advocate

"Exhibit 17(1)"

0348

RESTRICTED

9. Q. Was the American tied or blindfolded?

A. I think he was blindfolded, but I don't think his hands were tied. I had some enlisted men dig the hole first then sent them away. The flier was brought to the edge of the hole and was sitting down by the edge of it. This officer, First Lieutenant MOORI went up forward and he did the actual swinging of the sword. All the officers were in rows, ABE was first in line, then MOORE, etc. With only one swing this flier was killed.

10. Q. Was he struck on the neck?

A. Yes, on the neck, and then I called the enlisted men and had them bury the flier in the hole and put some flowers on the grave.

11. Q. Was he bayoneted?

A. No, he just had his head chopped off.

12. Q. Did the flier have his clothes on him when he was buried?

A. He had his clothes on and bandages too.

13. Q. Did he have any identification on him?

A. I don't think the flier had anything on him.

14. Q. Did he have any shoes on?

A. I don't remember.

15. Q. Did you consider it an honor to be one of those selected to do the executing?

A. I didn't feel honored at all, but I couldn't help it because the higher officers ordered me to.

16. Q. Who selected MOORI to do the executing?

A. I think the Battalion commander appointed MOORI.

17. Q. Who was the highest ranking officer present?

A. I was the highest ranking officer present.

18. Q. Did you give MOORI instructions when to kill the flier?

A. I didn't give any instructions to MOORI; he just carried out what I think the battalion commander ordered him to do.

19. Q. What did ISHII tell you when he gave you your orders? Did ISHII tell you where he got his orders?

A. ISHII is dead now. I didn't hear from whom the battalion commander received the orders.

20. Q. Who went to the Navy to obtain the prisoner?

A. I don't know who was the one who went over to get the flier but I think the NCO who carried him back was the one who went after him.

21. Q. From whom did you receive the orders to get the fliers?

A. I don't know who was the one who notified us to come over and get the flier. I don't actually know whether the Battalion commander or the executive officer received the order to get the flier.

A true copy. Attest:

Edward J. O'Brien
Lieutenant Commander, USN,
Judge Advocate

"Exhibit 17(2)"

0349

RESTRICTED

22. Q. Who do you think was the highest man who ordered the execution?
A. I think and all the rest of the subordinate officers thought that the ATCOM had ordered the commanding officer and the commanding officer had ordered the Battalion commanders to perform the executions.

23. Q. Do you know whether the Battalion commander reported to Colonel OISHI about the execution?

A. I don't know, but I presume he made the report. In the Japanese Army a report is always made to the commanding officer.

24. Q. To your knowledge, did Colonel OISHI ever have anything to say to the Battalion commander about the execution?

A. I think that it is a military regulation, Colonel OISHI must have told the Battalion commander about it.

25. Q. Was your battalion commander ever disciplined for the execution?

A. It is unbelievable if this was kept secret without Colonel OISHI knowing it.

26. Q. Who was Colonel OISHI responsible to?

A. I think it is common sense that Colonel OISHI received his orders from the atoll commander.

27. Q. Who was the atoll commander responsible to?

A. I think he is responsible to the commander of the 66th Garrison Unit who was at Kwajalein at that time.

28. Q. What kind of communication did you have with Kwajalein at that time?

A. I don't know how they communicated, but I think by radio.

29. Q. When was this execution carried out?

A. I think it was before Kwajalein fell into American hands.

30. Q. The written orders received by Major ISHII directing this execution, were they signed by Captain SHIGA or Colonel OISHI?

A. I didn't see the original orders because the original orders only referred to the Battalion commander.

31. Q. Did the Battalion commander have that order in his hands then?

A. He didn't have anything in his hands at that time.

32. Q. Did MOORI report to Captain ISHII in writing that he had carried out the execution?

A. I think it was a verbal report because ordinarily they make a verbal report.

33. Q. What did the Battalion commander say at the time of the execution?

A. He said alright, that's all.

34. Q. Did the Battalion commander immediately call Colonel OISHII?

A. When I made a report I returned to my quarters so I don't know what the Battalion commander did.

/s/ Cap. Masaaki Abe.

Witness
E. E. Cook, Jr.,
Investigator

- 3 -

EXHIBIT NO. 29

D. S. Okubo
Interpreter

A true copy. Attest:

Edward F. O'Brien
Lieutenant Commander, USNR,

"Exhibit 17(3)"

0350

RESTRICTED

Majuro Atoll,
Marshall Islands,
Thursday, September 27, 1945.

TESTIMONY of Yasuyoshi KADOTA.

A witness called by the investigator entered, was informed of the subject matter of the investigation, and declared as follows:

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

A. Yasuyoshi KADOTA, first lieutenant, Imperial Japanese Army, 1st South Seas Detachment, Butai (Unit), 2nd Company, 9 (his number), Mille Atoll.

2. Q. Did you see the order from the Navy directing you to come over there and get the flier?

A. No, I was told to send a man to get the flier. However Battalion Commanding Officer told me he had sent a man to get the flier.

3. Q. Our information is different!

A. At that time I was a second lieutenant but I was the executive officer I was told by the battalion commander to get three capable young officers who were good swordsmen. I notified three companies to select the men, I called by phone.

4. Q. Which men were selected?

A. The three men who were sent from the various companies, two were from the machine gun company, one was MOORI, one was Chizuo INO, he is living at present and is a first lieutenant, at that time he was a second lieutenant. The other one is HINO but he is dead. He was from a rifle company. When these three men were brought to me I made a report to the battalion commander. At that time second lieutenant ABE was present and the battalion commander gave an order to ABE to carry out the execution where nobody would be watching and where it wouldn't be too noticeable. MOORI, if I remember correctly, received the order directly from the battalion commander to do the executing. That is all I had to do with the execution.

5. Q. Were you present when ISHII got his order for the execution?

A. There was an officer who was in charge of communication with the Army and Navy, his name was HIRAKA, a second lieutenant. He is the one who telephoned the battalion commander to come over and get the flier. From the Naval Commanders Quarters he would telephone the battalion commanders. Unfortunately HIRAKA is dead now, he was machine gunned by the American planes.

6. Q. From whom did HIRAKA receive his orders?

A. He was the officer in charge of the messengers so I think all these orders came up from the higher officers but I don't know exactly which higher officer it was.

7. Q. Did ISHII get his orders from Colonel OISHI or Captain SHIGA?

A. I think the only logical way of reasoning this thing, everybody thought that these two commanders, SHIGA and OISHI has consulted each other and agreed and the order came down to second lieutenant HIRAKA and he received his orders on how to get and where.

8. Q. What kind of report was made after the flier was executed?

A. It was a verbal report by ABE and no written forms were made.

9. Q. Did ISHII make a report to Colonel OISHI?

A. I think the battalion commander had reported to Colonel OISHI because it was the customary thing to do, but I wasn't present when he made the report.

-1-

EXHIBIT NO 30

A true copy. Attest:

Edward F. O'Brien
Lieutenant Commander, USNR, Judge Advocate.

"Exhibit 18(1)"

0350

RESTRICTED

10. Q. Did you ever hear Colonel OISHI say anything about this execution?
A. I didn't hear anything about it because this comes directly and very secretly from above so that they don't talk about the execution at battalion headquarters.
11. Q. Were you present at the execution?
A. No, I wasn't present.
12. Q. Do you know who executed the other four fliers?
A. At that time every unit in the Army received one of the fliers so I think the Mountain Artillery Battalion and the Third Infantry Battalion got one and then the other two were executed by the Navy.
13. Q. Do you know of any other Americans that were executed on Mille besides these five?
A. No.
14. Q. Did you ever hear about the two Catholic priests that were executed?
A. I never heard about the priests.
15. Q. Were you present at any time when the pilots were being interrogated?
A. No, the first time I saw any of the fliers was when one of them was carried back to the Battalion.
16. Q. Do you know the name of the flier that was executed?
A. The only thing we did was execute him. We did not ask his name and all those things because we thought the Navy had done all those things. The only thing I remember is that he was very weak. One side of his leg had a big bandage on it. I had a little left of my supper and offered him some, but the flier refused to eat.
17. Q. Was the flier executed on the day Kwajalein was invaded?
A. I think it was at the time the American forces were invading Kwajalein.
18. Q. Do you know who OTANI is?
A. I have not associated with Lieutenant OTANI, but I have heard about him because the men were talking about him because this OTANI usually did things without informing Captain SHIGA.
19. Q. Did OTANI have anything to do with these fliers?
A. I don't know whether he did or not. I heard later that Lieutenant OTANI had questioned the American fliers.
20. Q. What was Lieutenant OTANI's official position on the island at this time?
A. I don't know exactly about the Navy so I don't know what his position was at that time.
21. Q. Was he in naval headquarters?
A. I think he was at the headquarters.
22. Q. Was his office near Captain SHIGA's?
A. That I don't know.
23. Q. Do you know Lieutenant NAKAJIMA?
A. No.

A true copy. Attest:

"Exhibit 18(2)"

Edward J. O'Brien
Lieutenant Commander, USN, Judge Advocate.

0352

RESTRICTED

24. Q. Did you know the executive officers of all the battalions?
A. No. I heard that First Lieutenant YAMADA was the executive officer of the Artillery Battalion.

25. Q. Was that NAKAJIMA's unit?
A. I don't know because I don't even know Lieutenant YAMADA.

26. Q. What was YAMADA's first name?
A. I don't know.

27. Q. What was he, a lieutenant or Captain?
A. A first lieutenant. We only had one staff meeting and that was about whether to deploy the men to ease the food situation and even then we didn't talk much because it was official business.

28. Q. Who was the executive officer of the Artillery Battalion at the time of the execution?
A. I don't know who is. It was Lieutenant MATSUDA instead of YAMADA, I think it was MATSUDA.

29. Q. Was he in Third Infantry or Artillery Battalion?
A. I only heard once so I don't remember exactly.

30. Q. Do you know what officer killed the flier that was assigned to the Artillery Unit for execution?
A. I don't know.

31. Q. There are a lot of things that you don't know and we are not satisfied with your answers!
A. I don't know.

32. Q. Think hard!
A. No, I didn't hear what the other units did, it was their business and not ours.

33. Q. How long did you hold that flier before you executed him?
A. The flier was executed immediately. The flier was brought to the headquarters in the late evening.

34. Q. Did you ever confirm the execution of these fliers by a written communication to Colonel OISHI?
A. I think this was reported to HIRAOKA by telephone and from him to Colonel OISHI because HIRAOKA was the liaison officer.

Witness

E. E. Cook, Jr.,
Investigator

D. S. Okubo
Interpreter

陸軍中尉
門田安由

-3-

EXHIBIT NO 30

"Exhibit 18(3)"

A true copy. Attest:

Edward F. Obrien
Lieutenant Commander, USN, Judge Advocate.

0353

RESTRICTED

Majuro Atoll,
Marshall Islands,
Thursday, September 27, 1945.

TESTIMONY OF Yashuo MOORI.

A witness called by the investigator entered, was informed of the subject matter of the investigation, and declared as follows:

1. Q. State your name, rank, and present station.
A. Yashuo MOORI, first lieutenant, Imperial Japanese Army, Mills Atoll.
2. Q. By whose orders did you execute the American flier?
A. By the Battalion commander's orders.
3. Q. Who gave the Battalion commander orders?
A. I don't know from whom, but we all figured that they must have come from the Navy headquarters where the atoll commander stayed.
4. Q. Why were you chosen to swing the sword?
A. The Battalion commander knew I was pretty good at KENDO.
5. Q. Did you have any previous experience in decapitation?
A. This was the first time.
6. Q. Did you cut the head off with one swing?
A. With one swing it came right off.
7. Q. When you received the orders to execute this American, did you question the orders at all?
A. I did not question the Battalion commander's orders, because we always do what the Battalion commander orders. There is only one answer, "yes sir"; so I didn't question the orders.
8. Q. Do you know what day it was that you executed this American flier?
A. I don't remember clearly but it was about the early part of February.
9. Q. Do you know who swung the sword at the execution of the other four Americans?
A. I don't know about the other fellows affairs.
10. Q. Who was Battalion commander at the time of the execution?
A. Captain Yoshisaburo ISHII.
11. Q. Who was the executive officer?
A. First Lieutenant KADOTA.
12. Q. Was the flier bayoneted after he was executed?
A. No.
13. Q. In what ways was the flier tortured before he was executed?
A. He wasn't tortured before he was executed.
14. Q. Was he blindfolded and were his hands tied?
A. He wasn't blindfolded nor were his hands tied.
15. Q. Where were you standing when you killed him?
A. From the rear.
16. Q. Was the flier seated or standing?
A. He was sitting.

A true copy. Attest:

Edward T. O'Brien
Lieutenant Commander, USNR, Judge Advocate.

-1-

EXHIBIT NO 31

"Exhibit 19(1)"

0354

RESTRICTED

17. Q. Were you told why the fliers were being executed?

A. The only reason I think was that the Americans were invading Kwajalein, and it was believed eminent that Mille was going to be invaded in the very near future; and if the Americans should land on Mille, the prisoners would be in the way. We had no facilities to ship prisoners to Japan.

18. Q. After the execution, who did you make a report to?

A. I made my report to First Lieutenant ABE who eventually made the report to the Battalion commander.

19. Q. Wasn't Lieutenant ABE present at the execution?

A. Yes, he was present, but I still make my report to ABE.

20. Q. Who else was present at the execution?

A. It was pretty dark and I don't remember who the other officers were.

21. Q. About how many others were present?

A. All together four officers were present. First Lieutenant ABE, Myself, Second Lieutenant INO, and Second Lieutenant HINO, INO is still living but HINO is dead.

22. Q. INO and HINO were selected to go with you to the Battalion commander when they selected the three to go to the execution?

A. That's right.

23. Q. Did you go with Lieutenant ABE to report the execution to the Battalion commander?

A. I went along with Lieutenant ABE who made his report to the Battalion commander.

24. Q. Who did the Battalion commander call and report the execution to, which higher officer?

A. I don't know because while we were there the Battalion commander did not make any further reports.

25. Q. What officers were present when you and Lieutenant ABE reported to the Battalion commander?

A. No other officers besides myself and ABE.

26. Q. Just exactly what did Captain ISHII tell you and HINO and INO when he selected you for the execution?

A. He didn't say very much besides what I have told you that because of the grave situation now, we are going to execute these fliers, and I was appointed at that time to swing the sword.

27. Q. Why did they have three of you report to the Battalion commander?

A. The reason why the other three were called is because the other two also had a little bit of training in KENDO and the Battalion commander knew that I was better at KENDO than the other two. They had three come to be sure that they would have one man who was capable. My company received a call from Battalion headquarters to send me over.

28. Q. Did you draw lots?

A. No.

29. Q. Did they ask for volunteers?

A. No.

30. Q. Do you know Lieutenant NAKAJIMA of the Mountain Artillery Unit?

A. No.

Witness
E. E. Cook, Jr.
Investigator

D. S. Okubo
Interpreter

陸軍中尉 毛利彌壽雄
/s/ 1st. Lt. Yasuo Moorl

-2-

EXHIBIT NO 31

"Exhibit 19(2)"

A true copy. Attest:

Edward F. O'Brien
Lieutenant Commander, USNR, Judge Advocate.

0355

RESTRICTED

Majoro Atoll,
Marshall Islands,
Thursday, September 27, 1945.

TESTIMONY of Yutaka TANAKA.

A witness called by the investigator entered, was informed of the subject matter of the investigation and declared as follows:

1. Q. State your name, rank, and present station.
A. Yutaka TANAKA, Ensign, Imperial Japanese Navy, 66 Garrison Unit, Mille Atoll.
2. Q. Were you present at the execution?
A. Yes.
3. Q. Who else was present?
A. I was the only officer present at the execution and the other men were enlisted besides MANAKO.
4. Q. Who selected MANAKO to do the executing?
A. The north sector unit commander selected MANAKO.
5. Q. What did the ten enlisted men do at the execution?
A. Four of them escorted them and six did the digging.
6. Q. When was the hole dug, before or after the execution?
A. The hole was dug before the flier was killed.
7. Q. Was the hole dug before the flier got there or after?
A. It was dug before he got there.
8. Q. Was the flier blindfolded or his hands tied?
A. The flier wasn't blindfolded or his hands tied.
9. Q. By what higher authorities orders did your execution take place?
A. I received the order from my north sector unit commander. But the north unit sector commander must have received the orders from the OD and OD from the atoll commander.
10. Q. When did you come to Mille Island?
A. November 1, 1943.

Witness

E. E. Cook, Jr.
Investigator

D. S. Okubo
Interpreter

海軍少尉 田中 豊

-1-

EXHIBIT No. 34.

"Exhibit 20"

A true copy. Attest:

Edward F. O'Brien
Lieutenant Commander, USN, Judge Advocate.

0356

RESTRICTED

Majuro Atoll,
Marshall Islands,
Thursday, September 27, 1945.

TESTIMONY OF Tatsuichi MANAKO

A witness called by the investigator entered, was informed of the subject matter of the investigation and declared as follows:

1. Q. State your name, rank, and present station.
A. Tatsuichi MANAKO, Warrant Officer, Imperial Japanese Navy, Mille Atoll.
2. Q. By whose orders did you decapitate the American flier?
A. I received the orders from Lieutenant (jg) FUETA.
3. Q. How many swings did it take to cut the fliers head off?
A. One swing.
4. Q. Why do you think you were selected to do the decapitating?
A. Because I was good at KENDO.
5. Q. How many other decapitations have you performed?
A. One in China for self defense.
6. Q. Was he a Chinese?
A. Yes, it was during the Japanese Chinese Incident.
7. Q. Do you know the name of the American flier you decapitated?
A. No.
8. Q. Did you object to the order that you execute the flier?
A. Once I have refused to do it and I begged the Lieutenant to have some other selected but he said it would be an honor to the fellow that was being killed because I was a good swordman.
9. Q. From whom did Lieutenant FUETA get his orders to carry out this execution?
A. I don't know from whom the orders came.
10. Q. Was the grave already dug when you arrived at the scene of the execution?
A. The hole was already dug. Before going over there I had dirty clothes on so I changed to clean clothes because it would be an honor to the one who was being killed.
11. Q. When did you come to Mille Atoll?
A. December 12, 1943.
12. Q. Do you know the exact date the execution was carried out?
A. I don't know the exact date.

Witness

梅原兵曹長 真名子辰市

E. E. Cook, Jr.
Investigator

-1-

EXHIBIT NO 35.

D. S. Okubo
Interpreter

A true copy. Attest:

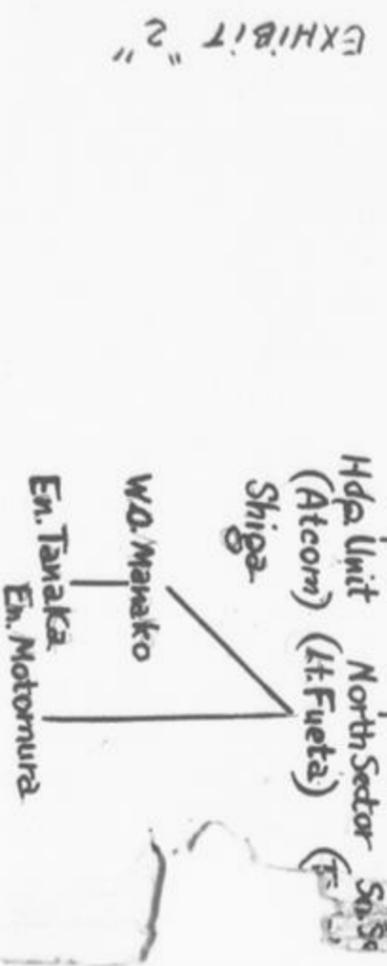
Edward F. O'Brien
Lieutenant Commander, USNR, Judge Advocate.

"Exhibit 21"

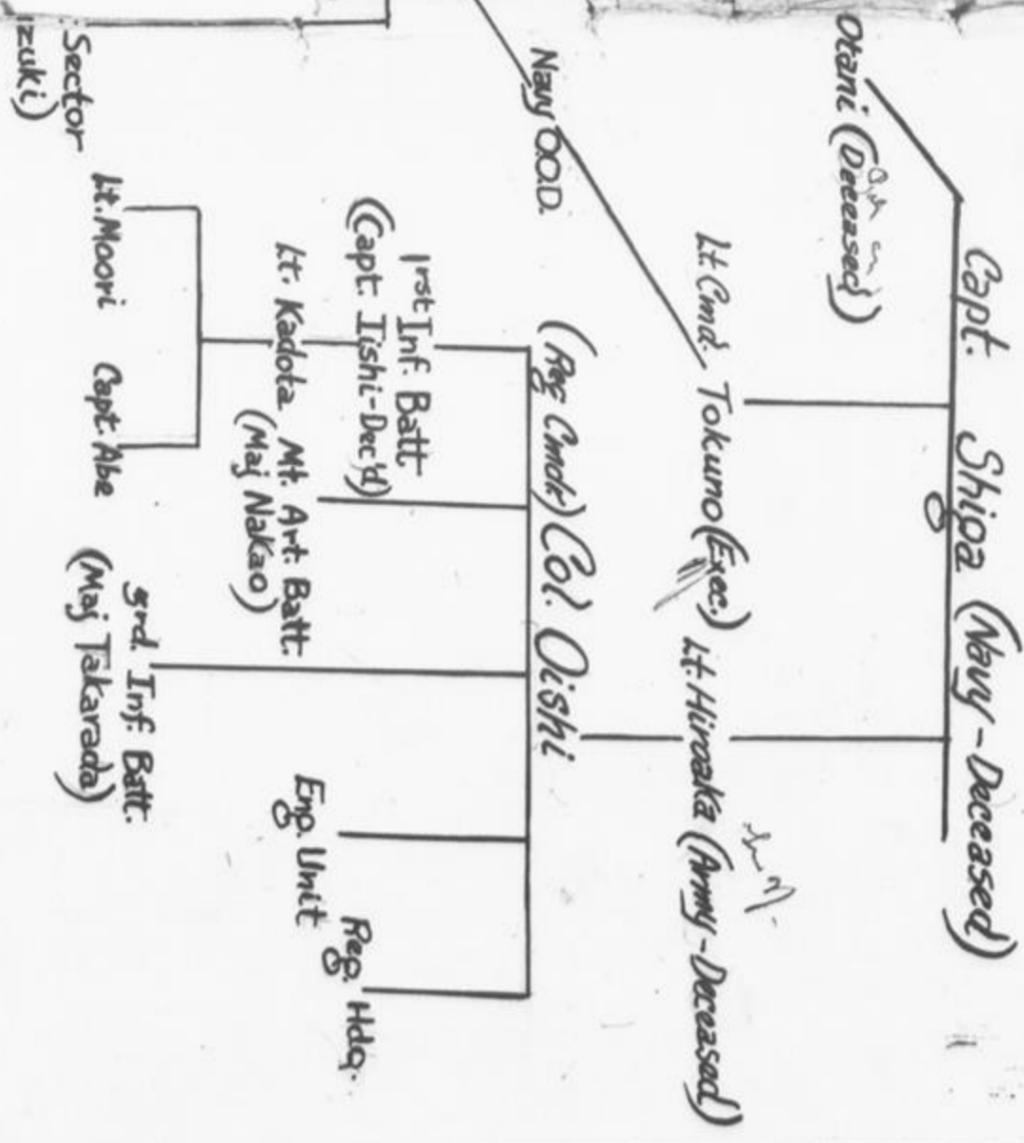
0357

← AISLE ←

MANAKO	TANAKA	MOTOMURA	FUETA
KADOTA	ABE	TAKARADA	NAKAO
	OISHI	MOORI	



Mille Command - January - February - March 1944



8580

JAG:I:EJM:fld
A17-10/OQ (4/2/47)
146719

15 Apr. 1947

From: The Secretary of the Navy.
To: Commander in Chief, United States Pacific Fleet.
Subject: Military Commission case of Colonel Chisato Oishi, I.J.A., Major Otokiti Nakao, I.J.A., Major Chojiro Takarada, I.J.A., and Lieutenant Kyoshi Fueta, I. J.N., tried in joinder with Captain Masaaki Abe, I. J.A., First Lieutenant Yasuyoshi Kadota, I.J.A., First Lieutenant Yashuo Moori, I.J.A., Ensign Harushi Motomura, I.J.N., Ensign Yutaka Tanaka, I. J.N., and Warrant Officer Tatsuichi Manako, I.J.N., by order of Commander Marshalls Gilberts Area, on 21 November 1945.

1. The Military Commission before which Colonel Chisato Oishi, I.J.A., Major Otokiti Nakao, I.J.A., Major Chojiro Takarada, I.J.A., and Lieutenant Kyoshi Fueta, I.J.N., were tried in joinder with Captain Masaaki Abe, I.J.A., First Lieutenant Yasuyoshi Kadota, I.J.A., First Lieutenant Yashuo Moori, I.J.A., Ensign Harushi Motomura, I.J.N., Ensign Yutaka Tanaka, I.J.N., and Warrant Officer Tatsuichi Manako, I.J.N., found Major Otokiti Nakao, I.J.A., Major Chojiro Takarada, I.J.A., and Lieutenant Kyoshi Fueta, I.J.N., not guilty of Charge II, Conspiracy to Commit Murder, and acquitted them thereof, and found Oishi guilty of Charge II, Conspiracy to Commit Murder, and each guilty of Charge I, Murder, and adjudged the following sentences:

"The commission, therefore, sentences him, Chisato Oishi, Colonel, Imperial Japanese Army, to be hanged by the neck until dead, two-thirds of the members concurring."

"The court, therefore, sentences him, Otokiti Nakao, Major, Imperial Japanese Army, to be hanged by the neck until dead, two-thirds of the members concurring."

"The commission, therefore, sentences him, Chojiro Takarada, Major, Japanese Imperial Army, to be hanged by the neck until dead, two-thirds of the members concurring."

"The court, therefore, sentences him, Kyoshi Fueta, Lieutenant, Imperial Japanese Navy, to be hanged by the neck until dead, two-thirds of the members concurring."

extra
REG. NO. 3227293

Finished File 15 Apr. 1947 *Snd*

0359

JAG:I:EJM:fld
A17-10/OQ (4/2/47) fld
146719

2. The Commander, Marshalls Gilberts Area, the convening authority, on 2 January 1946, subject to remarks, approved the proceedings, findings and sentences in this case.

3. The Commander in Chief, United States Pacific Fleet, the reviewing authority, on 9 March 1946, subject to remarks, disapproved the findings on Charge II and the specification thereunder in the case of Colonel Chisato Oishi, I.J.A., and approved the proceedings, findings and sentences in the case of each of the accused, and the action of the convening authority thereon, in this case, except as herebefore stated.

4. IN accordance with the provisions of Section D-14, Naval Courts and Boards, 1937, the Acting Secretary of the Navy, on 9 January 1947, commuted the sentence of death in the case of Oishi, Nakao, Takarada and Fueta, to imprisonment at hard labor for the term of their natural lives.

James Forrestal
Secretary of the Navy.

CC: CNO
Commander Marianas Area.

ADDRESS REPLY TO

NAVY DEPARTMENT
WASHINGTON 25, D. C.

AND REFER TO

JAC:ISHDC:jms
MIL. Com. - Manila, Tetsuichi/
A17-40 (2-4-47) 146739

1 0 MAR 1947

From: The Secretary of the Navy,
To: Commander in Chief, United States Pacific Fleet.

Subj: Military Commission case of warrant officer Tetsuichi
Hanako, I.J.N., and First Lieutenant Yasuo Koori, I.J.A.,
tried in joinder with Colonel Chizato Nishi, I.J.A., Major
Tokitoki Nakao, I.J.A., Major Chojiro Takarada, I.J.A.,
Lieutenant Kyoshi Pueta, I.J.N., Captain Masaki Ibe, I.J.A.,
First Lieutenant Yasuyoshi Kadota, I.J.A., Ensign Haruchi
Kotomura, I.J.N., and Ensign Tataka Tanaka, I.J.N., tried
by order of Commander Marshall's Gilberts Area on 21
November 1945.

1. The Military Commission before which warrant officer Tetsuichi
Hanako, I.J.N., and First Lieutenant Yasuo Koori, I.J.A., were tried
in joinder with Colonel Chizato Nishi, I.J.A., Major Tokitoki Nakao, I.J.A.,
Major Chojiro Takarada, I.J.A., Lieutenant Kyoshi Pueta, I.J.N., Captain
Masaki Ibe, I.J.A., First Lieutenant Yasuyoshi Kadota, I.J.A., Ensign
Haruchi Kotomura, I.J.N., and Ensign Tataka Tanaka, I.J.N., at the U.S.
Naval Air Base, Makajalin Island, Makajalin Atoll, Marshall Islands,
under date of 21 November 1945, found them not guilty of Charge II,
Conspiracy to Commit Murder, and acquitted them thereof; and guilty of
Charge I, Murder, and adjudged the following sentences:

"The commission, therefore, sentences him,
Tetsuichi Hanako, warrant officer, Imperial Japa-
nese Navy, to be hanged by the neck until dead,
two-thirds of the members concurring."

"The commission, therefore, sentences him,
Yasuo Koori, First Lieutenant, Imperial Japanese
Navy, to be hanged by the neck until dead, two-
thirds of the members concurring."

2. The Commander Marshall's Gilberts Area, the convening authority,
on 2 January 1946, subject to remarks, approved the proceedings, findings
and sentences in this case.

3. The Commander in Chief, United States Pacific Fleet, the re-
viewing authority, on 9 March 1946, subject to remarks, approved the pro-
ceedings, findings and sentences, in this case, and the action of the
convening authority thereon.

extra

0368

BEST COPY AVAILABLE

JAG:KINDSVILL
Mil. Com. - MANAKO, Tatsuzichi/
ALT-20 (1-28-47) 146719

4. In accordance with the provision of Section 2-14, Naval Courts and Boards, 1957, the Acting Secretary of the Navy, on 9 January 1947, commuted the sentences of death in the case of Manako and Haruki to imprisonment at hard labor for the term of their natural lives.

JOHN L. SULLIVAN
Acting Secretary of the Navy.

CC: CNO

0362

ADDRESS REPLY TO

AND REFER TO
JAG:I:EJM:fld
A17-10/OQ (4/2/47)
146719

NAVY DEPARTMENT
WASHINGTON 25, D. C.

9 JAN 1947

In the foregoing trial by Military Commission of Chisato Oishi, Colonel, I.J.A., Otokiti Nakao, Major, I.J.A., Chojiro Takarada, Major, I.J.A., Kyoshi Fueta, Lieutenant, I.J.N., Yashuo Moori, First Lieutenant, I.J.A., Tatsuichi Manako, Warrant Officer, I.J.N., Masaaki Abe, Captain, I.J.A., Yasuyoshi Kadota, First Lieutenant, I.J.A., Harushi Motomura, Ensign, I.J.N., and Yutaka Tanaka, Ensign, I.J.N., tried in joinder, the sentences of death to be executed by hanging by the neck until dead in the cases of Chisato Oishi, Colonel, I.J.A., Otokiti Nakao, Major, I.J.A., Chojiro Takarada, Major, I.J.A., Yashuo Moori, First Lieutenant, I.J.A., Kyoshi Fueta, Lieutenant, I.J.N., and Tatsuichi Manako, Warrant Officer, I.J.N., are commuted to imprisonment at hard labor for the term of their natural lives.

James Forrestal

Secretary of the Navy.

0363

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE GENERAL

AND REFER TO

JAG:I:HJM:mgm

NAVY DEPARTMENT
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON 25, D. C.

17 February 1947

MEMORANDUM FOR THE UNDER SECRETARY OF THE NAVY:

Subject: Confirmation of the death sentence in the case of Kyoshi Fusta, Lieutenant, Imperial Japanese Navy.

1. On 19 January 1944, five American fliers were forced down over Mille Atoll, Marshall Islands, and taken prisoners by the Japanese. On or about 2 February 1944 these five fliers were assigned to five different units (three Army and two Navy) for execution.

2. The accused (Fusta) was the commanding officer of one of the naval units. Fusta directed one Manaka, a petty officer, to perform the execution; the latter demurred and asked that someone else be selected; Fusta then ordered him to carry out the execution. Manaka's sentence of death was mitigated to imprisonment at hard labor for life by the Acting Secretary of the Navy on 9 January 1947.

3. Fusta, as commanding officer of the naval unit, gave direct orders that the American fliers be executed and detailed the necessary personnel. For your information, the commanding officers of two other units (two Army only available) were tried in joinder with Fusta. They were also given a death sentence which was confirmed on 9 January 1947.

G. S. COLCLOUGH
Judge Advocate General

*Und Sec has seen
2/22/47*

0364

2/22/49
Wm. J. ...

Capt Martin

Judge Advocate General
U. S. DEPARTMENT OF THE NAVY

1. The commanding officer of the Navy unit ...
2. The commanding officer of the Navy unit ...
3. The commanding officer of the Navy unit ...

4. The commanding officer of the Navy unit ...
5. The commanding officer of the Navy unit ...

6. The commanding officer of the Navy unit ...
7. The commanding officer of the Navy unit ...

8. The commanding officer of the Navy unit ...
9. The commanding officer of the Navy unit ...

10. The commanding officer of the Navy unit ...

11. The commanding officer of the Navy unit ...

WASHINGTON 25, D. C.
OFFICE OF THE JUDGE ADVOCATE GENERAL
NAVY DEPARTMENT

0365

In reply refer to Initials
and No.

Op22D-TGS
Serial No. 728P22

NAVY DEPARTMENT
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON 25, D. C.



FIRST ENDORSEMENT on
Office of JAG Record of
Proceedings,
OO-OISHI, Chisato et
al./A17-20 I (5-29-46) cab
dated 4 June 1946.

2348
7 JUN 1946



From: Chief of Naval Operations
To: Judge Advocate General.
Subject: Record of Proceedings of Military Commission
at Kwajalein Atoll, Marshall Islands in the
case of Chisato Oishi et al.
1. Returned.

W. F. Jennings
W. F. Jennings
By direction.

0367

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE GENERAL

AND REFER TO

OO-OISHI, Chisato et al/A17-20
I (5-29-46) cab

NAVY DEPARTMENT

OFFICE OF THE JUDGE ADVOCATE GENERAL

WASHINGTON 25, D. C.

4 JUN 1946

The proceedings, findings, and sentences in the foregoing military commission case of Chisato Oishi, Colonel, I.J.A.; Otokiti Nakao, Major, I.J.A.; Chojiro Takarada, Major, I.J.A.; Kyoshi Fueta, Lieutenant, I.J.N.; Masaaki Abe, Captain, I.J.A.; Yasuyoshi Kadota, First Lieutenant, I.J.A.; Yashuo Moori, First Lieutenant, I.J.A.; Harushi Motomura, Ensign, I.J.N.; Yutaka Tanaka, Ensign, I.J.N.; and Tatsuichi Manako, Warrant Officer, I.J.N., tried in joinder, and the action of the convening authority, subject to the action of the reviewing authority, thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (Op-22) for information.

O. S. Colclough

O.S. COLCLOUGH,
Judge Advocate General of the Navy.

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RECEIVED
NAVY DEPARTMENT
EXDS-Posting Section

5 JUN 1946

0368

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE GENERAL

NAVY DEPARTMENT

AND REFER TO
00-OISHI, Chisato et al/AI-20
I (5-29-46) cab

OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON 25, D. C.

The proceedings, findings, and sentences in the foregoing military commission case of Chisato Oishi, Colonel, I.J.A.; Otokiti Nakao, Major, I.J.A.; Chojiro Takarada, Major, I.J.A.; Kyoshi Fueta, Lieutenant, I.J.N.; Masaaki Abe, Captain, I.J.A.; Yasuyoshi Kadota, First Lieutenant, I.J.A.; Yashuo Noori, First Lieutenant, I.J.A.; Harushi Motomura, Ensign, I.J.N.; Futaka Tanaka, Ensign, I.J.N.; and Tatsuzichi Manako, Warrant Officer, I.J.N., tried in joinder, and the action of the convening authority, subject to the action of the reviewing authority, thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (Op-22) for information.

O.S. COLCLOUGH,
Judge Advocate General of the Navy.

0369

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE GEN.

NAVY DEPARTMENT

00-01881, ~~Chisato et al/1946~~ ¹⁹⁴⁶ OFFICE OF THE JUDGE ADVOCATE GENERAL
I (5-29-46) cab WASHINGTON 25, D. C.

The proceedings, findings, and sentences in the foregoing military commission case of Chisato Oishi, Colonel, I.J.A.; Otokiti Nakno, Major, I.J.A.; Chojiro Takarada, Major, I.J.A.; Kyoshi Fusta, Lieutenant, I.J.N.; Masaki Abe, Captain, I.J.A.; Yasuyoshi Kadota, First Lieutenant, I.J.A.; Yasuo Noori, First Lieutenant, I.J.A.; Harushi Motomura, Ensign, I.J.N.; Yutaka Tanaka, Ensign, I.J.N.; and Tatsuichi Manako, Warrant Officer, I.J.N., tried in joinder, and the action of the convening authority, subject to the action of the reviewing authority, thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (Op-22) for information.

O.S. COLCLOUGH,
Judge Advocate General of the Navy.

0370

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE GENERAL

NAVY DEPARTMENT

AND REFER TO
OO-OISHI, Chisato et al/A17-20
I (5-29-46) cab

OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON 25, D. C.

The proceedings, findings, and sentences in the foregoing military commission case of Chisato Oishi, Colonel, I.J.A.; Otokiti Nakao, Major, I.J.A.; Chojiro Takarada, Major, I.J.A.; Kyoshi Fusta, Lieutenant, I.J.N.; Masaaki Abe, Captain, I.J.A.; Yasuyoshi Kadota, First Lieutenant, I.J.A.; Yasuo Noori, First Lieutenant, I.J.A.; Harushi Motomura, Ensign, I.J.N.; Yutaka Tanaka, Ensign, I.J.N.; and Tatsuichi Manako, Warrant Officer, I.J.N., tried in joinder, and the action of the convening authority, subject to the action of the reviewing authority, thereon, in the opinion of the Judge Advocate General, are valid.

Referred to the Chief of Naval Operations (Op-22) for information.

O.S. COLCLOUGH,
Judge Advocate General of the Navy.

0371

Cincpacflt File

P13

Serial 2324

THE PACIFIC COMMAND
AND UNITED STATES PACIFIC FLEET
HEADQUARTERS OF THE COMMANDER IN CHIEF

FIRST ENDORSEMENT on
ComMARIANAS ltr. FF12/
P8-5 13-EEF-arh serial
10723 dated 7 April 1947.

12 APR 1947

#146719

From: Commander in Chief Pacific and U. S. Pacific Fleet.
To: Judge Advocate General.
Subject: Masaki ABE, Captain, Imperial Japanese Army, convicted war
criminal - petition in behalf of.
Reference: (a) Cincpacflt serial 2944 dated 9 March 1946.
1. Forwarded.
2. Reference (a) forwarded to JAG the record of proceedings
of the Military Commission in the case of Colonel Chisato OISHI, IJA, et.
al., wherein ABE was one of the accused.
3. No further action is contemplated by Cincpacflt.

Copy to: (1st end. only)
ComMARIANAS

V. D. Long

V. D. LONG
Assistant Chief of Staff
for Administration

RECEIVED
APR 16 1947
OFFICE OF JUDGE
ADVOCATE GENERAL
G.C.M. SECTION

0372

FF12/P8-5
13-SEP-ark

Serial: 10723

UNITED STATES PACIFIC FLEET
COMMANDER MARIANAS

7 APR 1947

From: Commander Marianas.
To : The Secretary of the Navy (Judge Advocate General, Navy)
Via : Commander in Chief U. S. Pacific Fleet.

Subj: Masaaki ABE, Captain, Imperial Japanese Army, convicted war
criminal - petition in behalf of.

Encl: (A) Original petition in Japanese.
(B) Original English translation of Enclosure (A).

1. Enclosures (A) and (B) were received by Commander Marianas, 1 April 1947 from the Legal Section, GHQ, Supreme Commander Allied Powers, Tokyo, Japan, via Commander Marianas Liaison Officer, (War Crimes), Tokyo, Japan, and are forwarded for such action as the Secretary of the Navy may consider appropriate.

2. Subject war criminal was tried and convicted before a military commission convened by the Commander Marshalls Gilberts Area, at Kwajalein, Marshall Islands, November 21, 1945. He was sentenced to life imprisonment and is now confined at Sugamo Prison, Tokyo, Japan, having been transferred to the Commanding General, U. S. Eighth Army, 6 October 1946 in accordance with authority contained in current directives.

3. The proceedings, finding, and sentence in Abe's case were approved by the convening authority, Commander Marshalls Gilberts Area, 2 January 1946, and by the Commander in Chief, United States Pacific Fleet and Pacific Ocean Areas, 9 March 1946. The record of the proceedings (Record of Proceedings of Military Commission -- case of Colonel Chisato OISHI, IJA, et al) was forwarded to the Secretary of the Navy for confirmation of the death sentences therein indicated.

4. Records in this office indicate that the accused, including subject war criminal, were represented by three American counsel, duly appointed by the convening authority, and in addition one Japanese counsel requested by the accused.

5. The writer of the enclosures has not been advised of this reference nor has this office acknowledged to her receipt thereof. No further action is contemplated by Commander Marianas.

C. A. Pownall

C. A. POWNALL

APR 10 9 34 AM 1947

0 X.D. 3063

0373

園將校^ニ集合^ス命^セ之^ル初^ニ又^テ之^ヲ
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0376

62 Hibusama Cho, Meguro-ku,
TOKYO.
March 5th 1947.

To His Excellency General Douglas MacArthur,
The Supreme Commander for the Allied Powers,
Tokyo, Japan.

Your Excellency General MacArthur,
Masaki Abe's career.

Masaki Abe is my second son born in 1919. My eldest son is very weak physically. I am 73 years old and have been engaged in educational work. Masaki joined the army in December 1939. He was sent to the Phillipine theatre in October 1941 and then to Mire Island in Marshal Islands in August 1943. In August 1944 he was wounded in an air raid by the U. S. Army.

Gist of the Facts.

There were many air raids by the U. S. Army on Mire Island. In the middle of January 1944 a U. S. aeroplane which was shot and damaged came down on the water nearby. Five American operators of the aeroplane were captured as war prisoners. On the other hand the U. S. Army started attacks on Quesselin Island near Mire Island and landed on the island on February 8th after a severe battle and after annihilating all the Japanese soldiers on the island. During this battle on Quesselin Island a death sentence was delivered to these five air-men. The order to execute the sentences was given by Colonel Masamari Shiga, Navy Commander of Mire Island. The order was delivered to Colonel Seuri Oishi who gave the order to five companies of the Army to execute one each of these five air-men.

Masaki knows nothing about the trial of the air-men and the judgment delivered to them. Neither does he know if the sentence was delivered after a regular trial or the sentence was a fair sentence.

Masaki was the chief of war-planning education department. When the order to execute one of the air-men was given to the company to which Masaki belonged, Lt. Yasuo Mori who was an expert of Kendo (Japanese fencing) was told to cut off the head and Masaki was ordered to witness the execution. Masaki did not like it and refused but he was told that it was an order from the higher officer and so he had to obey without further argument. He was told that the cutting off of the head was carried out according to the Japanese classical style which was used at the HARAKIRI

"ENCLOSURE B"

0377

ceremony covering the eyes of the prisoner. This is to give honour to the warrior. The corpse was buried with the head courteously. Masaaki was very sorry about the dead man and could not stop shivering because he could not refuse to witness the act which was his duty. He does not know even the name and rank of the man executed.

How the Fact was discovered.

The army on Mire Island was first to repatriate among the islands in the Pacific area. This was on September 29th 1945 by Hikawa Maru. The reason was that the sanitary condition on the island was the worst and there were so many sick people.

A little before the repatriation started (September 27th) the fact of the execution of the above air-men was discovered. Colonel Shiga above stated was arrested by the U. S. Army as the party who issued the order for the execution and an instruction was given by the U. S. Army to the parties who had any connection with the execution to make report as far as they knew. Masaaki and others discussed the matter and offered to remain on the island to give report, so that the plan for repatriation on September 29th could be carried out without delay. Masaaki offered to do so because he was a witness of the case and he never thought that he would be held responsible for the execution.

Process of the Trial.

The trial for the eleven Japanese including Masaaki was started in November 1945 on Quesselin Island and concluded in two weeks. On December 11th the sentence was delivered and Abe was sentenced to imprisonment for life. Col. Shiga committed suicide just before the delivery of the sentence. Col. Oishi and Lt. Mori were sentenced to death and all the others received very heavy sentences.

This trial was the first trial held on the Pacific islands and so the defence counsel, interpreters, etc., were not at all satisfactory. There were only two American and one Japanese counsel for the eleven defendants. The Japanese counsel was Major Fumio Hirata (about 30 years old). He studied law at a college but had no experience as a judge, procurator or lawyer. Masaaki and other defendants were told repeatedly by the American counsel that the one who issued order was responsible but these who were told to carry out the order were not responsible.

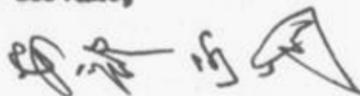
Conclusion.

All the men who were convicted, except those who received the death sentence, were brought back to Sugamo Prison, Tokyo from Quesselin Island on October 10th 1946. As I have stated already the above trial on Quesselin Island was the first trial held on the Pacific Islands, and so the defence was very unsatisfactory.

Moreover as the time was seen after the Japanese surrender and the feelings of the prosecution and the judge were very strong against the Japanese. Thus the sentences given were unreasonably heavy and severe, compared to the sentences given later at other trials. The death sentence to the issuer of the order for execution and to the man actually executed the order cannot be argued. But imprisonment of twenty years for the man who simply carried the airmen to the place of execution, ten years imprisonment to the man who simply telephoned from the headquarters to the Kende expert for the execution and life imprisonment to Masaaki who was nothing but a witness to the execution seem to be unreasonably heavy and severe and not fair.

I humbly appeal to you that you will investigate the trial and the sentences and mitigate the sentence.

Yours obedient servant,



Masato Abe

Cinopacflt File

713

Serial

THE PACIFIC COMMAND
AND UNITED STATES PACIFIC FLEET
HEADQUARTERS OF THE COMMANDER IN CHIEF

FIRST ENDORSEMENT on
ComMARIANAS ltr. FF12/
PG-5 13-NEF-ash serial
10723 dated 7 April 1947.

From: Commander in Chief Pacific and U. S. Pacific Fleet.
To: Judge Advocate General.

Subject: Masaki ABE, Captain, Imperial Japanese Army, convicted war
criminal - petition in behalf of.

Reference: (a) Cinopacflt serial 2944 dated 9 March 1946.

1. Forwarded.
2. Reference (a) forwarded to JAG the record of proceedings
of the Military Commission in the case of Colonel Hisato OISHI, IJA, et.
al., wherein ABE was one of the accused.
3. No further action is contemplated by Cinopacflt.

Copy to: (1st end. only)
ComMARIANAS

V. D. LONG
Assistant Chief of Staff
for Administration

0380

FR12/78-5
13-222-22h

10723

7 APR 1947

From: Commander Marianas.
To: The Secretary of the Navy (Judge Advocate General, Navy)
Via: Commander in Chief U. S. Pacific Fleet.
Subj: Kaseaki ABE, Captain, Imperial Japanese Army, convicted war
criminal - petition in behalf of.
Encl: (A) Original petition in Japanese.
(B) Original English translation of Enclosure (A).

1. Enclosures (A) and (B) were received by Commander Marianas, 1 April 1947 from the Legal Section, GHQ, Supreme Commander Allied Powers, Tokyo, Japan, via Commander Marianas Liaison Officer, (War Crimes), Tokyo, Japan, and are forwarded for such action as the Secretary of the Navy may consider appropriate.

2. Subject war criminal was tried and convicted before a military commission convened by the Commander Marshalls Gilberts Area, at Kwajalein, Marshall Islands, November 21, 1945. He was sentenced to life imprisonment and is now confined at Sugamo Prison, Tokyo, Japan, having been transferred to the Commanding General, U. S. Eighth Army, 6 October 1946 in accordance with authority contained in current directives.

3. The proceedings, finding, and sentence in Abe's case were approved by the convening authority, Commander Marshalls Gilberts Area, 2 January 1946, and by the Commander in Chief, United States Pacific Fleet and Pacific Ocean Areas, 9 March 1946. The record of the proceedings (Record of Proceedings of Military Commission -- case of Colonel Chiato OISHI, IJA, et al) was forwarded to the Secretary of the Navy for confirmation of the death sentences therein indicated.

4. Records in this office indicate that the accused, including subject war criminal, were represented by three American counsel, duly appointed by the convening authority, and in addition one Japanese counsel requested by the accused.

5. The writer of the enclosures has not been advised of this reference nor has this office acknowledged to her receipt thereof. No further action is contemplated by Commander Marianas.

C. A. POWNALL

0381

62 Hibusuma Cho, Meguro-ku
TOKYO.
March 5th 1947.

To His Excellency General Douglas MacArthur,
The Supreme Commander for the Allied Powers,
Tokyo, Japan.

Your Excellency General MacArthur,
Masaki Abe's career.

Masaki Abe is my second son born in 1919. My eldest son is very weak physically. I am 73 years old and have been engaged in educational work. Masaki joined the army in December 1939. He was sent to the Phillipine theatre in October 1941 and then to Mire Island in Marshal Islands in August 1943. In August 1944 he was wounded in an air raid by the U. S. Army.

Gist of the Facts.

There were many air raids by the U. S. Army on Mire Island. In the middle of January 1944 a U. S. aeroplane which was shot and damaged came down on the water nearby. Five American operators of the aeroplane were captured as war prisoners. On the other hand the U. S. Army started attacks on Queslin Island near Mire Island and landed on the island on February 6th after a severe battle and after annihilating all the Japanese soldiers on the island. During this battle on Queslin Island a death sentence was delivered to these five air-men. The order to execute the sentences was given by Colonel Masanari Shiga, Navy Commander of Mire Island. The order was delivered to Colonel Senri Oishi who gave the order to five companies of the Army to execute one each of these five air-men.

Masaki knows nothing about the trial of the air-men and the judgement delivered to them. Neither does he know if the sentence was delivered after a regular trial or the sentence was a fair sentence.

Masaki was the chief of war-planning education department. When the order to execute one of the air-men was given to the company to which Masaki belonged, Lt. Yasuo Kori who was an expert of Kendo (Japanese fencing) was told to cut off the head and Masaki was ordered to witness the execution. Masaki did not like it and refused but he was told that it was an order from the higher officer and so he had to obey without further argument. He was told that the cutting off of the head was carried out according to the Japanese classical style which was used at the HARAKIRI

0382

ceremony covering the eyes of the prisoner. This is to give honour to the warrior. The corpse was buried with the head courteously. Masaaki was very sorry about the dead man and could not stop shivering because he could not refuse to witness the act which was his duty. He does not know even the name and rank of the man executed.

How the fact was discovered.

The army on Mire Island was first to repatriate among the islands in the Pacific area. This was on September 29th 1945 by Hikawa Maru. The reason was that the sanitary condition on the island was the worst and there were so many sick people.

A little before the repatriation started (September 27th) the fact of the execution of the above air-men was discovered. Colonel Shiga above stated was arrested by the U. S. Army as the party who issued the order for the execution and an instruction was given by the U. S. Army to the parties who had any connection with the execution to make report as far as they know. Masaaki and others discussed the matter and offered to remain on the island to give report, so that the plan for repatriation on September 29th could be carried out without delay. Masaaki offered to do so because he was a witness of the case and he never thought that he would be held responsible for the execution.

Process of the trial.

The trial for the eleven Japanese including Masaaki was started in November 1945 on Quesselin Island and concluded in two weeks. On December 11th the sentence was delivered and Abe was sentenced to imprisonment for life. Col. Shiga committed suicide just before the delivery of the sentence. Co. OISHI and Lt. Mori were sentenced to death and all the others received very heavy sentences.

This trial was the first trial held on the Pacific islands and so the defence counsel, interpreters, etc., were not at all satisfactory. There were only two American and one Japanese counsel for the eleven defendants. The Japanese counsel was Major Fumio Hirata (about 30 years old). He studied law at a college but had no experience as a judge, procurator or lawyer. Masaaki and other defendants were told repeatedly by the American counsel that the one who issued order was responsible but those who were told to carry out the order were not responsible.

Conclusion.

All the men who were convicted, except those who received the death sentence, were brought back to Sugamo Prison, Tokyo from Quesselin Island on October 10th 1946. As I have stated already the above trial on Quesselin Island was the first trial held on the Pacific Islands, and so the defence was very unsatisfactory.

0383

Moreover as the time was soon after the Japanese surrender and the feelings of the prosecution and the judge were very strong against the Japanese. Thus the sentences given were unreasonably heavy and severe, compared to the sentences given later at other trials. The death sentence to the issuer of the order for execution and to the man actually executed the order cannot be argued. But imprisonment of twenty years for the man who simply carried the airmen to the place of execution, ten years imprisonment to the man who simply telephoned from the headquarters to the Kendo expert for the execution and life imprisonment to Masaaki who was nothing but a witness to the execution seem to be unreasonably heavy and severe and not fair.

I humbly appeal to you that you will investigate the trial and the sentences and mitigate the sentence.

Yours obedient servant,

0384

Cinopacft File

F13

Serial 2324

THE PACIFIC COMMAND
AND UNITED STATES PACIFIC FLEET
HEADQUARTERS OF THE COMMANDER IN CHIEF

12 APR 1947

FIRST ENDORSEMENT on
ComMARIANAS ltr. FF12/
PB-5 13-IMP-erh serial
10723 dated 7 April 1947.

From: Commander in Chief Pacific and U. S. Pacific Fleet.
To: Judge Advocate General.

Subject: Masaki ABE, Captain, Imperial Japanese Army, convicted war
criminal - petition in behalf of.

Reference: (a) Cinopacft serial 2944 dated 9 March 1946.

1. Forwarded.
2. Reference (a) forwarded to JAG the record of proceedings
of the Military Commission in the case of Colonel Chisato OISHI, IJA, et.
al., wherein ABE was one of the accused.
3. No further action is contemplated by Cinopacft.

Copy to: (1st end. only)
ComMARIANAS

V. D. LONG
Assistant Chief of Staff
for Administration

0385

7712/78-5
13-SEP-47

7 APR 1947

10723

From: Commander Marianas.
To : The Secretary of the Navy (Judge Advocate General, Navy)
Via : Commander in Chief U. S. Pacific Fleet.
Subj: Haseaki ABE, Captain, Imperial Japanese Army, convicted war
criminal - petition in behalf of.
Encl: (A) Original petition in Japanese.
(B) Original English translation of Enclosure (A).

1. Enclosures (A) and (B) were received by Commander Marianas, 1 April 1947 from the Legal Section, GHQ, Supreme Commander Allied Powers, Tokyo, Japan, via Commander Marianas Liaison Officer, (War Crimes), Tokyo, Japan, and are forwarded for such action as the Secretary of the Navy may consider appropriate.

2. Subject war criminal was tried and convicted before a military commission convened by the Commander Marshalls Gilberts Area, at Kwajalein, Marshall Islands, November 21, 1945. He was sentenced to life imprisonment and is now confined at Sugamo Prison, Tokyo, Japan, having been transferred to the Commanding General, U. S. Eighth Army, 6 October 1946 in accordance with authority contained in current directives.

3. The proceedings, finding, and sentence in Abe's case were approved by the convening authority, Commander Marshalls Gilberts Area, 2 January 1946, and by the Commander in Chief, United States Pacific Fleet and Pacific Ocean Areas, 9 March 1946. The record of the proceedings (Record of Proceedings of Military Commission -- case of Colonel Chisato OISHI, IJA, et al) was forwarded to the Secretary of the Navy for confirmation of the death sentences therein indicated.

4. Records in this office indicate that the accused, including subject war criminal, were represented by three American counsel, duly appointed by the convening authority, and in addition one Japanese counsel requested by the accused.

5. The writer of the enclosures has not been advised of this reference nor has this office acknowledged to her receipt thereof. No further action is contemplated by Commander Marianas.

C. A. POWNALL

0386

62 Hibusuma Cho, Meguro-ku,
TOKYO.
March 5th 1947.

To His Excellency General Douglas MacArthur,
The Supreme Commander for the Allied Powers,
Tokyo, Japan.

Your Excellency General MacArthur,
Masaaki Abe's career.

Masaaki Abe is my second son born in 1919. My eldest son is very weak physically. I am 73 years old and have been engaged in educational work. Masaaki joined the army in December 1939. He was sent to the Phillipine theatre in October 1941 and then to Mire Island in Marshal Islands in August 1943. In August 1944 he was wounded in an air raid by the U. S. Army.

Gist of the Facts.

These were many air raids by the U. S. Army on Mire Island. In the middle of January 1944 a U. S. aeroplane which was shot and damaged came down on the water nearby. Five American operators of the aeroplane were captured as war prisoners. On the other hand the U. S. Army started attacks on Queslin Island near Mire Island and landed on the island on February 6th after a severe battle and after annihilating all the Japanese soldiers on the island. During this battle on Queslin Island a death sentence was delivered to these five air-men. The order to execute the sentences was given by Colonel Masanari Shiga, Navy Commander of Mire Island. The order was delivered to Colonel Senri Oishi who gave the order to five companies of the Army to execute one each of these five air-men.

Masaaki knows nothing about the trial of the air-men and the judgement delivered to them. Neither does he know if the sentence was delivered after a regular trial or the sentence was a fair sentence.

Masaaki was the chief of war-planning education department. When the order to execute one of the air-men was given to the company to which Masaaki belonged, Lt. Yasuo Mori who was an expert of Kendo (Japanese fencing) was told to cut off the head and Masaaki was ordered to witness the execution. Masaaki did not like it and refused but he was told that it was an order from the higher officer and so he had to obey without further argument. He was told that the cutting off of the head was carried out according to the Japanese classical style which was used at the HARAKIRI

0387

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How the fact was discovered.

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A little before the repatriation started (September 27th) the fact of the execution of the above air-men was discovered. Colonel Shiga above stated was arrested by the U. S. Army as the party who issued the order for the execution and an instruction was given by the U. S. Army to the parties who had any connection with the execution to make report as far as they know. Masaaki and others discussed the matter and offered to remain on the island to give report, so that the plan for repatriation on September 29th could be carried out without delay. Masaaki offered to do so because he was a witness of the case and he never thought that he would be held responsible for the execution.

Process of the trial.

The trial for the eleven Japanese including Masaaki was started in November 1945 on Queselin Island and concluded in two weeks. On December 11th the sentence was delivered and Abe was sentenced to imprisonment for life. Col. Shiga committed suicide just before the delivery of the sentence. Co. OISHI and Lt. Mori were sentenced to death and all the others received very heavy sentences.

This trial was the first trial held on the Pacific islands and so the defence counsel, interpreters, etc., were not at all satisfactory. There were only two American and one Japanese counsel for the eleven defendants. The Japanese counsel was Major Fumio Hirata (about 30 years old). He studied law at a college but had no experience as a judge, procurator or lawyer. Masaaki and other defendants were told repeatedly by the American counsel that the one who issued order was responsible but those who were told to carry out the order were not responsible.

Conclusion.

All the men who were convicted, except those who received the death sentence, were brought back to Sugamo Prison, Tokyo from Queselin Island on October 10th 1946. As I have stated already the above trial on Queselin Island was the first trial held on the Pacific Islands, and so the defence was very unsatisfactory.

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Moreover as the time was soon after the Japanese surrender and the feelings of the prosecution and the judge were very strong against the Japanese. Thus the sentences given were unreasonably heavy and severe, compared to the sentences given later at other trials. The death sentence to the issuer of the order for execution and to the man actually executed the order cannot be argued. But imprisonment of twenty years for the man who simply carried the airmen to the place of execution, ten years imprisonment to the man who simply telephoned from the headquarters to the Kendo expert for the execution and life imprisonment to Masaaki who was nothing but a witness to the execution seem to be unreasonably heavy and severe and not fair.

I humbly appeal to you that you will investigate the trial and the sentences and mitigate the sentence.

Yours obedient servant,

0389

Cinopacft File

F13

Serial 2324

**THE PACIFIC COMMAND
AND UNITED STATES PACIFIC FLEET
HEADQUARTERS OF THE COMMANDER IN CHIEF**

12 APR 1947

**FIRST ENDORSEMENT on
COMBARIANAS ltr. FF12/
PB-5 13-ESP-ash serial
10723 dated 7 April 1947.**

**From: Commander in Chief Pacific and U. S. Pacific Fleet.
To: Judge Advocate General.**

**Subject: Haseki ABE, Captain, Imperial Japanese Army, convicted war
criminal - petition in behalf of.**

Reference: (a) Cinopacft serial 2944 dated 9 March 1946.

- 1. Forwarded.**
- 2. Reference (a) forwarded to JAG the record of proceedings
of the Military Commission in the case of Colonel Chiato OISHI, IJA, et.
al., wherein ABE was one of the accused.**
- 3. No further action is contemplated by Cinopacft.**

**Copy to: (1st end. only)
COMBARIANAS**

**V. D. LONG
Assistant Chief of Staff
for Administration**

0390

FF12/P8-5
13-EEF-arr

10723

7 APR 1947

From: Commander Marianas.
To : The Secretary of the Navy (Judge Advocate General, Navy)
Via : Commander in Chief U. S. Pacific Fleet.
Subj: Masaki ABE, Captain, Imperial Japanese Army, convicted war criminal - petition in behalf of.
Encl: (A) Original petition in Japanese.
(B) Original English translation of Enclosure (A).

1. Enclosures (A) and (B) were received by Commander Marianas, 1 April 1947 from the Legal Section, GHQ, Supreme Commander Allied Powers, Tokyo, Japan, via Commander Marianas Liaison Officer, (War Crimes), Tokyo, Japan, and are forwarded for such action as the Secretary of the Navy may consider appropriate.

2. Subject war criminal was tried and convicted before a military commission convened by the Commander Marshall's Gilberts Area, at Kwajalein, Marshall Islands, November 21, 1945. He was sentenced to life imprisonment and is now confined at Sugamo Prison, Tokyo, Japan, having been transferred to the Commanding General, U. S. Eighth Army, 6 October 1946 in accordance with authority contained in current directives.

3. The proceedings, finding, and sentence in Abe's case were approved by the convening authority, Commander Marshall's Gilberts Area, 2 January 1946, and by the Commander in Chief, United States Pacific Fleet and Pacific Ocean Areas, 9 March 1946. The record of the proceedings (Record of Proceedings of Military Commission -- case of Colonel Chisato OISHI, IJA, et al) was forwarded to the Secretary of the Navy for confirmation of the death sentences therein indicated.

4. Records in this office indicate that the accused, including subject war criminal, were represented by three American counsel, duly appointed by the convening authority, and in addition one Japanese counsel requested by the accused.

5. The writer of the enclosures has not been advised of this reference nor has this office acknowledged to her receipt thereof. No further action is contemplated by Commander Marianas.

C. A. POWNALL

0391

62 Hibusuma Cho, Meguro-ku
TOKYO,
March 5th 1947.

To His Excellency General Douglas MacArthur,
The Supreme Commander for the Allied Powers,
Tokyo, Japan.

Your Excellency General MacArthur,
Masasaki Abe's career.

Masasaki Abe is my second son born in 1919. My eldest son is very weak physically. I am 73 years old and have been engaged in educational work. Masasaki joined the army in December 1939. He was sent to the Philippine theatre in October 1941 and then to Mire Island in Marshal Islands in August 1943. In August 1944 he was wounded in an air raid by the U. S. Army.

Gist of the Facts.

These were many air raids by the U. S. Army on Mire Island. In the middle of January 1944 a U. S. aeroplane which was shot and damaged came down on the water nearby. Five American operators of the aeroplane were captured as war prisoners. On the other hand the U. S. Army started attacks on Quelin Island near Mire Island and landed on the island on February 6th after a severe battle and after annihilating all the Japanese soldiers on the island. During this battle on Quelin Island a death sentence was delivered to these five air-men. The order to execute the sentences was given by Colonel Masanari Shige, Navy Commander of Mire Island. The order was delivered to Colonel Senri Oishi who gave the order to five companies of the Army to execute one each of these five air-men.

Masasaki knows nothing about the trial of the air-men and the judgement delivered to them. Neither does he know if the sentence was delivered after a regular trial or the sentence was a fair sentence.

Masasaki was the chief of war-planning education department. When the order to execute one of the air-men was given to the company to which Masasaki belonged, Lt. Yasuo Mori who was an expert of Kendo (Japanese fencing) was told to cut off the head and Masasaki was ordered to witness the execution. Masasaki did not like it and refused but he was told that it was an order from the higher officer and so he had to obey without further argument. He was told that the cutting off of the head was carried out according to the Japanese classical style which was used at the HARAKIRI

0392

ceremony covering the eyes of the prisoner. This is to give honour to the warrior. The corpse was buried with the head courteously. Masaaki was very sorry about the dead man and could not stop shivering because he could not refuse to witness the act which was his duty. He does not know even the name and rank of the man executed.

How the fact was discovered.

The army on Mire Island was first to repatriate among the islands in the Pacific area. This was on September 29th 1945 by Hikawa Maru. The reason was that the sanitary condition on the island was the worst and there were so many sick people.

A little before the repatriation started (September 27th) the fact of the execution of the above air-men was discovered. Colonel Shiga above stated was arrested by the U. S. Army as the party who issued the order for the execution and an instruction was given by the U. S. Army to the parties who had any connection with the execution to make report as far as they know. Masaaki and others discussed the matter and offered to remain on the island to give report, so that the plan for repatriation on September 29th could be carried out without delay. Masaaki offered to do so because he was a witness of the case and he never thought that he would be held responsible for the execution.

Process of the trial.

The trial for the eleven Japanese including Masaaki was started in November 1945 on Quesselin Island and concluded in two weeks. On December 11th the sentence was delivered and Abe was sentenced to imprisonment for life. Col. Shiga committed suicide just before the delivery of the sentence. Co. OISHI and Lt. Mori were sentenced to death and all the others received very heavy sentences.

This trial was the first trial held on the Pacific islands and so the defence counsel, interpreters, etc., were not at all satisfactory. There were only two American and one Japanese counsel for the eleven defendants. The Japanese counsel was Major Fumio Hirata (about 30 years old). He studied law at a college but had no experience as a judge, procurator or lawyer. Masaaki and other defendants were told repeatedly by the American counsel that the one who issued order was responsible but those who were told to carry out the order were not responsible.

Conclusion.

All the men who were convicted, except those who received the death sentence, were brought back to Sugamo Prison, Tokyo from Quesselin Island on October 10th 1946. As I have stated already the above trial on Quesselin Island was the first trial held on the Pacific Islands, and so the defence was very unsatisfactory.

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Moreover as the time was soon after the Japanese surrender and the feelings of the prosecution and the judge were very strong against the Japanese. Thus the sentences given were unreasonably heavy and severe, compared to the sentences given later at other trials. The death sentence to the issuer of the order for execution and to the man actually executed the order cannot be argued. But imprisonment of twenty years for the man who simply carried the airmen to the place of execution, ten years imprisonment to the man who simply telephoned from the headquarters to the Kendo expert for the execution and life imprisonment to Masaki who was nothing but a witness to the execution seem to be unreasonably heavy and severe and not fair.

I humbly appeal to you that you will investigate the trial and the sentences and mitigate the sentence.

Yours obedient servant,

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ADDRESS REPLY TO

AND REFER TO

JAG:I:JCD:ch

NAVY DEPARTMENT
WASHINGTON 25, D. C.

7 JAN 1946

Honorable Earl R. Lewis
House of Representatives

Dear Mr. Lewis:

Receipt is acknowledged of your letter of 14 December 1945 enclosing a newspaper clipping from the Pittsburgh Post Gazette of 12 December 1945, in regard to the trial by U. S. Military Commission of a number of Japanese officers who were charged with decapitating five American airmen on Mill Island in February, 1944.

The record of proceedings of this military commission has not been received in the Navy Department to date. When the record is received and reviewed, I shall gladly furnish you the information requested regarding the sentences adjudged.

Sincerely yours,

J. L. SULLIVAN

Acting

0397

BEST COPY AVAILABLE

FROM: THE SECRETARY

THE UNDER SECRETARY	
THE ASSISTANT SECRETARY OF THE NAVY	
THE ASSISTANT SECRETARY OF THE NAVY FOR AIR CNO	
BATCHELDER, R.F., COMMO.	Surplus Property
CARTER, W.J., RADM.	ChBuS&A
CHINNOCK, R.J., CAPT.	Asst Officer
COCHRANE, E.L., VADM.	ChBuShips
COLCLOUGH, O.S., RADM.	JAG
CORREA, M., MAJ.	SpAstSecNav
CRISP, F.G., RADM.	DIR
DENFELD, L.E., VADM.	ChBuPers
DUFFIELD, E.	SpAstSecNav
DUVAL, C.L., LT.	
EDWARDS, R.S., ADM	VCNO
GEILFUSS, J.C.	SWNCC
HORNE, F.J., ADM.	SpAstCNO
HUSSEY, G.F., JR., RADM.	ChBuOrd
McINTIRE, R.T., VADM(MC)	ChBuMed
McNEIL, W.J.	Fiscal Director
MILLER, H.B., RADM.	DrPubRel
MORELL, B., VADM.	ChBuY&D
MURPHY, A.J., CAPT.	DrRealEstate
NEALE, H.J.	GenCounsel
PAGET, R.M., CDR.	Management Eng.
PATRICK, H.G., CAPT.	RecorderBdD&M
ROBINSON, S.M., ADM.	AssttoASN
SALLADA, H.B., RADM.	ChBuAer
SNYDER, C.P., ADM.	NIG
STRAUSS, L., RADM.	SpAstSecNav
TAYLOR, E.B., CAPT.	Aide SecNav
VANDEGRIFT, A.A., GEN.	ComdtUSMC
WAESCHE, R.R., ADM.	ComdtUSCG

REMARKS:

19, 088

- FOR ACKNOWLEDGMENT
- FOR INFORMATION
- FOR COMMENT OR RECOMMENDATION
- FOR PREPARATION OF REPLY FOR SECRETARY'S SIGNATURE
- FOR APPROPRIATE ACTION**
- PLEASE SEND ME DATA FOR REPLY
- PLEASE SEE ME IN REGARD TO THIS
- PLEASE RETURN
- PLEASE BRIEF FOR ME
- PLEASE PREPARE ENDORSEMENT

* Congressional and Cabinet Member mail referred to a Bureau or Office for preparation of reply for Secretary's Signature shall be answered within 24 hours. If impossible to comply an acknowledgment shall be prepared.

** All mail requiring an answer addressed to the Secretary and referred for appropriate action shall be answered or acknowledged using the introductory phrase: "The Secretary of the Navy has referred to me for reply your letter of _____"



pay his hand in his coat pocket to simulate a gun, held up two patrons Robert Manning, 3438 7th street, and Douglas MacA... 418 Freeland street, obtained from Manning. He then used same tactics to force Daniel Martorella, a co-owner of the restaurant, to give him about \$100 from the cash register.

Jap Officers Found Guilty

Beheaded Five Yanks On Island of Mili

Kwajalein, Marshall Islands, Dec. 11—(AP)—A United States military commission today found six Japanese officers guilty of the decapitation of five American airmen on the Island of Mili in February, 1944, and sentenced them to be hanged. Two defendants were sentenced to life imprisonment for their part in the atrocity and two others given sentences of 20 years each in prison. The Japanese showed no emotion as Commodore Ben H. Wyatt, commander of Kwajalein and president of the commission, read the verdict.

This guy should be sent back to the States.

0399



0400

EARL R. LEWIS
18th District, Ohio

HOME ADDRESS
ST. CLAIRSVILLE, OHIO

COMMITTEE ON THE
JUDICIARY

RECEIVED

Dec 17 3 19 PM '45

Congress of the United States
House of Representatives
Washington, D. C.

OFFICE OF THE
SECRETARY OF THE NAVY

December 14, 1945

The Secretary
Navy Department
Washington, D. C.

My dear Secretary:

I am enclosing a newspaper clipping from the "Pittsburgh Post Gazette" of December 12, 1945, which has been submitted to me by a constituent who lives at Steubenville, Ohio. My constituent complains about the leniency of the sentences which have been given certain of the officers who were found guilty of the decapitation of five American airmen of the Island of Mill in February, 1944.

Will you kindly explain to me exactly what this sentence was. Were six officers hanged and, in addition, were two more sentenced to life imprisonment and two others to twenty years each in prison? I should like to know also why the sentences for four of these men, if the newspaper clipping is correct, were lighter than for the other six.

Very truly yours,

Earl R. Lewis
Earl R. Lewis, M. C.

ERL:AA

19-088

0401

NAVAL MESSAGE

NAVY DEPARTMENT

ADDRESSEES

PRECEDENCE

FROM COM MARIANAS AREA

DATE 6 APRIL 46

TOR CODE ROOM 1113

DECODED BY GODDARD

TYPED BY BAIP

CHECKED BY *Camron*

ROUTED BY J THOMPSON

FOR ACTION

JAG

INFORMATION

CINCPAC/POA PEARL

PRIORITY

ROUTINE

DEFERRED

PRIORITY

ROUTINE

ROUTINE

DEFERRED

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060445

NCR 1880

REUR 021540*REENCYIPHERED AS 031826.

LIEUTENANT MAHONEY JUDGE ADVOCATE OISHI TRIAL STATES

"CAPTAIN J R WEISSER WAS IN FACT PRESENT DURING PROCEEDINGS

SECOND AND THIRD DAYS. ABSENCE HIS NAME PAGES 23 AND 34

OF RECORD TYPOGRAPHICAL OMISSION"

JAG...ACT

ADM TOWERS...23...S05...

Lt Col. Jones
D

3:25 pm
RECEIVED
8 APR 1946
OFFICE OF JUDGE
ADVOCATE GENERAL
G. C. M. SECTION

RESTRICTED

MAY BE HANDLED AS CORRESPONDENCE OF THE SAME CLASSIFICATION
OPNAV 19-26 (7-45)

060445

0402

NAVAL COMMUNICATION SYSTEM

DRAFTED BY	FILE NR.	ROOM NR.	EXT. NR.
Capt. J.C. Dolpino, USN(Act)	MR. Oishi et al/		
Commander J. Smedley, U.S.N.C.	021045	DATE	2342 2019
	021045		2 April 1945

Please leave this space clear

FROM: **SECNAV (JAG) WASH DC** (Priority Group) (GCT)
 TO: **COMMANDER MARSHALLS GILBERTS AREA**
 INFO: **CINCPAC**

PRECEDENCE

PRIORITY

ROUTINE

DEFERRED

NIGHT LETTER

UNLESS CLASSIFIED
RESTRICTED
 WILL BE CLASSIFIED
PLAIN

Unless otherwise indicated, this dispatch will be transmitted with Deferred Precedence.

TEXT: **RESTRICTED**

**RECORD IN CASE OF OISHI ET AL FAILS TO SHOW
 CAPT J R WEISSER USN PRESENT DURING PROCEEDINGS
 OF SECOND AND THIRD DAYS X IF HE WAS IN FACT
 ABSENT BOTH DAYS WAS ALL EVIDENCE ADDUCED DURING
 SECOND AND THIRD DAYS READ TO OR BY HIM PRIOR TO
 COMMISSION'S ARRIVING AT FINDINGS QUESTION**



BEST COPY AVAILABLE

RESTRICTED

0404

RESTRICTED

Cinopac File
A17

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
Headquarters of the Commander in Chief

Serial 2944

c/o Fleet Post Office
San Francisco, California.
9 MAR 1946

it shows that the defendant, Colonel Oishi, is guilty of the murder of three American flyers, and that defendants Major Nakao, Major Takarada, Lieutenant Fusta, Captain Abe, First Lieutenant Mouri, Ensign Motomura, Ensign Tanaka and Warrant Officer Manako, each is guilty of the murder of one American flyer. A variation between the terms of a specification and the evidence is fatal only where the accused could have been misled thereby. The accused could not have been misled in this case. Accordingly, the variance of the evidence with the Commission's finding in the above respect is not fatal error even though the Commission could have more properly found the specification referred to proved in part so as to have the findings conform to the evidence relative to the respective accused.

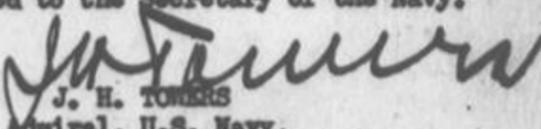
Subject to the foregoing remarks, the proceedings, findings, sentences, and action of the convening authority thereon, except as hereafter indicated, are approved. The finding as to Charge I and the specification thereunder in the case of First Lieutenant Yasuyoshi Kadota, IJA, and the sentence in his case are set aside. The finding as to Charge II and the specification thereunder in the case of Colonel Chisato Oishi, IJA, is set aside.

By copy of this action it is directed that First Lieutenant Yasuyoshi Kadota, IJA, be released from arrest as a common prisoner and restored to his former status as a disarmed military person.

The Island Command Stockade, Guam, is designated as the place for the execution of so much of the sentences as relate to confinement.

In view of the nature of Exhibits 1 and 2, the foregoing proceedings are hereby classified as "RESTRICTED", and Exhibit 3 is downgraded to "RESTRICTED".

Prior to the execution of the death sentences adjudged in this case the record is, in conformity with section D-14, Naval Courts and Boards, respectfully referred to the Secretary of the Navy.


J. H. TOWERS
Admiral, U.S. Navy,
Commander in Chief,
United States Pacific Fleet and
Pacific Ocean Areas,
and the Military Governor
of the Pacific Ocean Areas.

To: Judge Advocate General.

Re: Record of proceedings of Military Commission - case of
Colonel Chisato Oishi, IJA, et al.

Copy to:

Com MARIANAS
Atcom KWAJALEIN
Iscom GUAM

0405

RESTRICTED

Cincpac File
A17

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
Headquarters of the Commander in Chief

Serial 2944

c/o Fleet Post Office
San Francisco, California.

9 MAR 1946

imprisonment. The proceedings, findings and sentences were approved by the convening authority on 2 January 1946.

It appears that the only act committed by the defendant, First Lieutenant Yasuyoshi Kadota, IJA, which connected him with the alleged murder of American flyers was his calling by telephone to the respective company commands of the battalion of which he was executive officer and directing that four officers who were kendo experts report to the battalion headquarters. There is insufficient evidence to establish that Kadota knew at the time he made the telephone calls that the swordsmen were to be used to execute American flyers. Accordingly, it is the opinion of the reviewing authority that there is insufficient evidence to support the Commission's finding as to him with reference to Charge I and the specification thereunder.

Charge II and the specification thereunder was properly alleged as the law permits as many charges to be preferred as may be necessary to provide for every possible contingency in the evidence (sec. 19, N.C. & B., 1937). However, it appears that the allegations of conspiracy contained in the specification under Charge II referred to the substantive offense alleged in the specification of Charge I, namely, murder of five American flyers. Therefore, the conviction under the conspiracy charge of the accused, Colonel Chisato Oishi, IJA, who was also tried and convicted of the substantive offense of murder, was improper (CMO 1, 1945, 47; CMO 1, 1944, 77 and 80). Further, the defendant Oishi was the only one found guilty on the charge of conspiracy. The specification under the conspiracy charge alleges that the accused conspired with each other for the murder of the five Americans. There is no allegation that any of the accused conspired with any other person not named as accused in this case. All of the accused, except one, having been found not guilty of conspiracy, it is considered that the Commission committed error in finding that only one accused conspired. A conspiracy must be made by two or more persons. It may be that the commission considered that Colonel Oishi conspired with Captain Shiga and for that reason was guilty under the charge. If the conviction of conspiracy was based upon that consideration, it was error for two reasons: first, Colonel Oishi was not charged with conspiring with Captain Shiga, and second, there was not sufficient competent evidence to prove any conspiracy between those two persons.

The evidence does not sufficiently support the Commission's findings as to the specification of Charge I to the effect that each of the accused named is guilty of the murder of five (5) American flyers. The evidence is sufficient to support the Commission's finding under Charge I as to each of the accused, except First Lieutenant Kadota, as

0406

RESTRICTED

Cincpac File
A17

UNITED STATES PACIFIC FLEET
AND PACIFIC OCEAN AREAS
Headquarters of the Commander in Chief

Serial 2944

c/o Fleet Post Office,
San Francisco, California.

9 MAR 1946

During January, February and March, 1944, and prior thereto, Japanese forces, both Army and Naval, were occupying Mille atoll in the Marshalls Gilberts Area. In the latter part of January or the first part of February, 1944, during a bombing raid, an American bomber was shot down and crashed in the lagoon near Mille atoll. Five American flyers, names not definitely known, were then captured by the Japanese from a rubber raft and became prisoners of war. They were taken to the Naval Headquarters of the 66th Garrison Forces commanded by Captain Shiga of the Japanese Imperial Navy who was the Mille atoll commander for both Army and Navy. Their wounds were dressed, they were interrogated, and they were also mistreated by being forced to drink peppered water. About a week later three of them were delivered to Army units and two to Navy units. In accordance with orders issued by responsible authorities, each American was executed by a separate unit by being beheaded with a sword without trial. Only four of the Americans were executed by the accused. The fifth one was executed by a Navy unit. The persons attached to that unit and taking part in the fifth execution were not named as accused in this case.

Ten Japanese military were named as accused in the specifications in this case. They were tried in joinder by Military Commission at the U. S. Naval Air Base, Kwajalein, Kwajalein Atoll, Marshall Islands, upon, first, the charge of murder, with one specification, alleging the murder of five American flyers, and second, upon a charge of conspiracy to commit murder, with one specification, alleging conspiracy to murder the same five American flyers. Commander Marshalls Gilberts Area convened the Military Commission by precept dated 3 November 1945. Among others, two U. S. Army officers were appointed as members of the Commission in accordance with authority of the theater commander. It is considered this is permitted where, as in this case, the exigencies of the service require it, in accordance with the provisions of section D-14, Naval Courts and Boards. (See also OPNAV 50E-3 and FM27-5, para. 40, pp. 51-2). The charges and specifications were dated 10 November 1945, copies of which, in both English and Japanese, were delivered to each of the accused on 13 November 1945. The trial began 21 November 1945. The accused were represented by both American and Japanese counsel. Each of the accused was found guilty of murder as alleged in the specification of Charge I. Only one of the accused, Colonel Chisato Oishi, was found guilty of conspiracy to commit murder and each of the other nine accused was found not guilty and acquitted of the conspiracy alleged in the specification of Charge II. Six of the accused were each sentenced to be hanged; two were each sentenced to life imprisonment; and two were each sentenced to twenty years

0407

RESTRICTED

Commander Marshalls Gilberts Area,
2 January 1946.

In the foregoing proceedings, all of the accused in one manner or another acted either as principals or as accessories before the fact in the unlawful killing of five (5) American fliers on Mille Atoll on or about February 2, 1944. The American fliers were Prisoners of War in the hands of the Japanese armed forces. They were decapitated without benefit of trial or other due process.

The accused, enemy aliens, were brought to trial before a Military Commission. Beginning in February 1944, when the American forces first occupied territory in the Marshall Islands, there has been but one law - the military law, functioning by virtue of military rule. Objection was made by the accused that the Military Commission was without jurisdiction, and that a Military Commission is without authority except in time of active warfare. It is considered that these objections are without merit. A state of war continues to exist between the United States of America and the Japanese Imperial Empire and will only terminate by act of the congress of the United States. The Military Commission was authorized to convene for trial of persons accused of War Crimes committed in the Marshalls Islands prior to U. S. Occupation in accordance with CinCPac - CinCPOA dispatch 092305 October 1945. The Commander in Chief, U. S. Pacific Fleet and Pacific Ocean Areas is the Military Governor of the Marshalls Islands.

Subject to the above remarks, the proceedings, findings and sentences in the foregoing case of Colonel Chisato Oishi, IJA, Major Otokiti Nakao, IJA, Major Chojiro Takarada, IJA, Lieutenant Kiyoshi Fueta, IJN, Captain Masaaki Abe, IJA, First Lieutenant Kasuyoshi Kadota, IJA, First Lieutenant Yashuo Moori, IJA, Ensign Harushi Motomura, IJN, Ensign Yutaka Tanaka, IJN, Warrant Officer Tatsuichi Manako, IJE, are approved.

W. K. Harrill

William K. Harrill,
Rear Admiral, U. S. Navy,
Commander Marshalls Gilberts Area.

0408