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SHOGORO TAKATA

(4 FEB 1947)

(157246)

0530

Case of
Shogoro Takata

RECORD OF PROCEEDINGS
of a
MILITARY COMMISSION
convened at
HEADQUARTERS, COMMANDER FLEET ACTIVITIES,
Yokosuka, Japan,
by order of
COMMANDER NAVAL ACTIVITIES JAPAN.

RECEIVED
18 MAY 1947
OFFICE OF JUDGE
ADVOCATE GENERAL
S.C.M. SECTION

Finished-File-Dold 20 JUL 1947

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0531

Shogero Takata

Trial by Military Commission at U.S. Fleet Activities, Yokosuka, Japan.

February 4, 1947.

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TESTIMONY

Name of Witness	Direct and Redirect	Cross and Recross	Commission
Voir dire			
Wallace L. Higgins, cdr., U.S.N.R.	2	-	-
Prosecution			
Kimie Homma, civilian - - - - -	7, 61	17, 26, 62	27
Patrick L. Kelly, pfc., U.S.M.C.	27	29	-
John W. Howard, lt.(jg), U.S.N.R.	39	31	-
John P. McDermott, lt.(jg), U.S.N.R.	33	35	-
Frederick J. Kahn, civilian - - -	35	39	-
Tatujji Mori, civilian - - - - -	40	41	-
Marco M. Campanile, 2nd lt., U.S.M.C.	42, 66	43, 67	-
Theodore B. Van Itallie, lt.(jg), U.S.N.R. - - - - -	44, 58, 68	58	-
Shizuko Mochizuki, civilian - - -	53	-	-
Hiroshi Ishii, civilian - - - - -	54, 62	54, 65	-
John L. Hopkins, judge advocate -	60, 68	60, 68	60
Hiroshi Sugiyama, civilian - - - -	69	-	-
Armel R. Sarver, ch. pharm., U.S.N.	84	85	-
John Q. Owsley, capt., U.S.N. - - -	86	87	-
Defense			
Hidetaro Hashimoto, civilian - - - -	69	71	-
Kimie Homma, civilian - - - - -	73	-	-
John W. Howard, lt.(jg), U.S.N.R. -	74	75	-
Masuzo Yoshida, civilian - - - - -	76	77	-
Yuji Saito, civilian - - - - -	79	80	-
Nisaburo Miyazaki, civilian - - - -	80	81	-
Tatjui Mori, civilian - - - - -	90	-	-

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Publication

Yokosuka News

20th April

(第...号) (昭和...年...月...日) 新聞新報 (第...号) (昭和...年...月...日) (2)

米海軍 特別軍事裁判

昨年九月多量にメチル
キリを米海軍船員に
買持し、同船員三名を
過失致死に致し、また
市内沙入町十四飲食
店高田庄五郎(四一)
米海軍第五艦隊基通
特別軍事裁判に附き
れ十四日判決があつた
高田庄五郎は昨年九月
一日に同人の二階に

入りをしてゐた水筒
み(三割)に規定より
百二十五倍から三百二
十五倍の多量にメチル
キリが含有されてゐたク
キメキリ三本を買い渡
し、同日本同きみの所
に遊びに来た米海軍船
員アロイド・ダアゲレン
艦隊失致のメチル
アランク・アラス、
米海軍船カアラン

艦員ゴールドマン
とオットレ・アライ
及マイケル・ロビン
エドアーズの三名が本
回きみと共に飲用し
た所、前記アラスは
同日午前五時、アライ
スは午前十二時、メ
アンスは午後九時五十
二分頃何れも死亡した
米海軍では翌二日販
買人である高田を被告
事件を重大視し、本年
二月四日と四月二十
五日迄の審判期特別軍
事裁判に際し、重要証

した結果
一、日本法律に對する
違反
二、過失殺人
の罪を以て昭和九年
の判決を覆した。判決
期は被告の日より三
十日尙本庭まゝ先昨
年十月三十一日は六十
日間の執行猶豫を宣告
された。該事件はその
判例に四月四日日本水
陸海軍司令長官米海軍
軍アロイド・アラン
オン中將が署名關知し
たものである。

0534

COMMANDER NAVAL FORCES FAR EAST

Tokyo, Japan
April 1, 1947

The proceedings, findings, and sentence in the foregoing case of Shogoro
TAKATA are approved.

R. H. GRIFFIN,
Vice Admiral, U.S. Navy,
Commander Naval Forces Far East, and
Commander Naval Activities Japan.

0536

COMMANDER NAVAL ACTIVITIES JAPAN
Tokyo, Japan

December 26, 1946.

From: Commander Naval Activities Japan.
To : Captain William G. MICHELET, U.S. Navy,
Fleet Activities Yokosuka, Japan.

Subject: Convening Military Commission.

1. Pursuant to the authority vested in me by General Headquarters, Supreme Commander for the Allied Powers, letter order AG 015 (dated 19 February 1946) L.S. and Letter order AG 015 (25 March 1946) L.S. General Headquarters, Supreme Commander for the Allied Powers, a Military Commission is hereby ordered to convene at Fleet Activities Yokosuka, Yokosuka, Japan, on Saturday January 4, 1947, at 9:00 a.m., or as soon thereafter as practicable, for the trial of such persons as may legally be brought before it.

2. The commission is composed of the following members, any five of whom are empowered to act.

Captain William G. MICHELET, U.S. Navy, President;
Captain John Q. OWSLEY, MC, U.S. Navy, Member;
Commander Robert A. PATON, U.S. Navy, Member;
Commander Wallace L. HIGGINS, U.S. Naval Reserve, Member;
Commander Frederick T. EBERSOLE, CEC, U.S. Navy, Member; and
Major John L. HOPKINS, USMC, as Judge Advocate.

3. No other officers can be detailed without injury to the service.

4. Detachment of an officer from his station does not of itself relieve him from duty as a member or Judge Advocate of the Commission. Specific orders for relief are necessary.

5. The Commission is authorized to adjourn over any holidays prescribed by article 361 of U.S. Navy Regulations 1920.

R. M. GRIFFIN,
Vice Admiral, U.S. Navy,
Commander Naval Activities Japan.

A true copy. Attest:

John L. Hopkins

JOHN L. HOPKINS,
Major, U.S. Marine Corps,
Judge Advocate.

"A"

0537

COMMANDER NAVAL ACTIVITIES JAPAN

Fleet Activities Yokosuka,
Yokosuka, Japan,
4 February 1947.

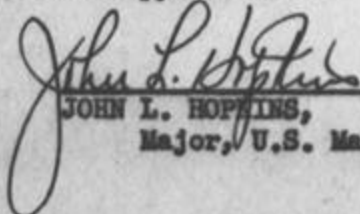
From: Major John L. Hopkins, U.S. Marine Corps, Judge Advocate,
Military Commission, Fleet Activities Yokosuka, Yokosuka,
Japan.
To: Commander Naval Activities Japan.
Subject: Adjournment of trial of Military Commission due to lack of
legal quorum.
Reference: (a) Naval Courts and Boards, section 393.

1. In accordance with reference (a), a legal quorum of the
Military Commission convened by your precept dated December 26, 1946, is
not available for the trial of Shogoro Takata, due to the challenge of a
member, Commander Wallace L. Higgins, U.S. Naval Reserve, who has been
excused from sitting in the case now before the commission.

2. It is requested that a new member be appointed to replace
the challenged member.

John L. Hopkins.

A true copy. Attest:


JOHN L. HOPKINS,
Major, U.S. Marine Corps,
Judge Advocate.

0538

COMMANDER NAVAL ACTIVITIES JAPAN

Tokyo, Japan
February 4, 1947.

From: Commander Naval Activities Japan.
To : Captain William G. MICHELET, U.S. Navy,
President, Military Commission, Fleet Activities,
Yokosuka, Japan.

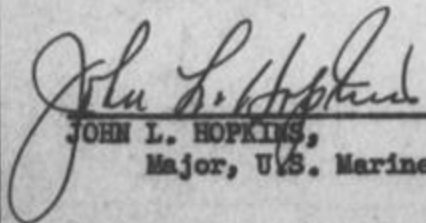
Subject: Change in Membership of Military Commission.

1. Lieutenant Colonel Bruno A. HOCHMUTH, U.S. Marine Corps, is hereby appointed a member of the Military Commission of which you are president, convened by my precept of December 26, 1946, vice Commander Wallace L. HIGGINS, U.S. Naval Reserve, hereby relieved.

2. Commander Harold G. GREEN, (DC), U.S. Navy, is hereby appointed a member of the Military Commission of which you are president, convened by my precept of December 26, 1946.

R. M. GRIFFIN,
Vice Admiral, U.S. Navy,
Commander Naval Activities Japan.

A true copy. Attest:


JOHN L. HOPKINS,
Major, U.S. Marine Corps,
Judge Advocate.

0539

Extract from the Establishment of Military Occupation Courts as follows:

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

AG 015 (19 Feb 46) IS

AFD 500
19 February 1946

SUBJECT: Establishment of Military Occupation Courts.

TO : Commanding General, Eighth Army, APO 343
Commander, Fifth Fleet, FPO

1. ESTABLISHMENT. The Commanders of the above identified units are hereby given exclusive authority to establish within their respective commands military commissions and provost courts for all occupation forces, in accordance with paragraph 1 of JCS directive (VX 89117, 19 Dec 1945); and paragraphs 38-47, inclusive, section VII, United States Army and Navy Manual of Military Government and Civil Affairs (War Dept. FM 27-5; Navy Dept. OpNav 50E-3), 22 December 1943, for the trial of offenses other than war crimes. ✓

2. APPOINTMENT AND CONTROL.

a. The appointment and control of military commissions are vested solely in the Commanders of the units named. ✓

b. The appointment and control of provost courts are vested in the Commanders of the units named, and may be delegated to such subordinate commanders as they may designate.

3. JURISDICTION.

a. Cases Properly Referred. Military Occupation Courts shall have power to try only such cases or classes of cases as are properly referred to them by the appointing authority.

b. Jurisdiction Over Persons. Criminal jurisdiction over persons will be exercised as follows:

- (1) In the case of military and naval personnel and persons attached to or accompanying an occupying force, by the appropriate military court of the force of which they are a part;
- (2) In the case of a national of one of the occupying forces, by a court of his nationality;
- (3) In the case of other United Nations Nationals, by the court having jurisdiction in the place where the offense is committed;

"D (1)"

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BASIC: Ltr GHQ, SCAP, dtd 19 Feb 46, file 015 (19 Feb 46) LS, subject:
Establishment of Military Occupation Courts, to CG Eighth Army,
and Commander, Fifth Fleet.

- (4) In the case of all other persons who commit any of the offenses listed in paragraph 3c, by the court to which the case is referred. ✓

c. Jurisdiction Over Crimes. Military Occupation Courts shall have exclusive jurisdiction over the following offenses committed within the occupied territory regardless of when the offense was committed:

- (1) Crimes committed by United Nations Nationals; (with respect to pending cases, the following communication has been forwarded to the Imperial Japanese Government: "All pending criminal proceedings in which Nationals of the United Nations are defendants will be reported to this headquarters; further action by Japanese Courts with respect to such defendants will be stayed; and the defendants will be held subject to directions from authorized representatives of the Supreme Commander for the Allied Powers.")
- (2) Acts prejudicial to the security of the Occupation Forces or any member thereof, or any person attached to or accompanying such forces; ✓
- (3) Killing or assaulting any member of the Occupation Forces, or any person attached to or accompanying such forces; ✓
- (4) Unauthorized possession, taking, receipt or disposal of property of the Occupation Forces or any member thereof, or of any person attached to or accompanying such forces;
- (5) Interfering with or hindering the arrest of any person sought, or assisting in or furthering the escape of any person detained by the Occupation Forces or by others pursuant to the direction of the Supreme Commander for the Allied Powers or his authorized subordinates;
- (6) Interfering with, refusing information required by, making any false or misleading statement orally or in writing to, or defrauding, in any manner, any member of the Occupation Forces or person attached to or accompanying such forces in a matter of official concern;
- (7) Acts on behalf of or in support of any organization dissolved or declared illegal by the Supreme Commander for the Allied Powers or dissolved or declared illegal at the order of the Supreme Commander for the Allied powers;

BASIC: Ltr HQ, SCAP, dtd 19 Feb 46, file AG 015 (19 Feb 46) 23, subject: Establishment of Military Occupation Courts, to CG Eighth Army, and Commander, Fifth Fleet.

- (8) Acts prejudicial to the objectives of the occupation which the Commanders of the above identified units or their authorized subordinates see fit to remove from the jurisdiction of the Japanese courts;
- (9) Conspiracies to commit, or acts which aid or abet the commission of, any of the offenses listed in paragraph 3c above.

4. PROCEDURE.

a. Charges. Charges shall be signed (under oath) by a person subject to military or naval law having either personal knowledge thereof or knowledge based upon information and belief.

b. Oaths. The members of military occupation courts and court personnel will be sworn as prescribed by the appointing authorities.

c. Challenges. No peremptory challenge will be accorded. Challenge for cause shall be permitted and when exercised the challenged member may be examined under oath as to his qualifications. The challenged member need not withdraw, and the president shall rule upon the challenge unless he be the challenged member, in which case the designated law member will rule thereon. The rulings of the president or the law member in each case shall be final and conclusive.

d. Conduct of Proceedings. The Military Occupation Courts shall be guided generally by the applicable rules of procedure prescribed by the Manual for Courts-Martial, 1928, as amended; but, the commanders of the above designated units shall have power to prescribe changes in such rules or make additional rules of procedure as they may deem necessary. Unless superior authority directs otherwise, a military commission shall have power to and shall as the occasion arises make such rules for the conduct of its proceedings as it shall deem necessary for a full and fair trial of the matters before it consistent with this order, and with the customs and usages of war in like cases. Such evidence shall be admitted as would have probative value to a reasonable man, or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. All questions as to the admissibility of evidence shall be decided by the law member and in his absence by the president of the commission.

e. Conviction. The concurrence of two-thirds of the members of the commission present shall be necessary for both conviction and sentence. The acquittal or conviction and the sentence, if any, will be announced in open session unless otherwise directed by the convening authority.

f. Common trial. Common trial of two or more accused is authorized.

BASIC: Ltr GRC, SCAP, dtd 19 Feb 46, file AG 015 (19 Feb 46) LS, subject: Establishment of Military Occupation Courts, to CG Eighth Army, and Commander, Fifth Fleet.

5. RIGHTS OF AN ACCUSED. The following rights will be accorded to an accused:

- a. To have a copy of the charges before trial;
- b. To consult his counsel before the trial and to be represented by him before the Military Occupation Court;
- c. To be present at the trial, to present available witnesses in his own behalf, and testify in his own behalf if he so desires;
- d. To cross-examine witnesses;
- e. To have present with him and his counsel a qualified interpreter in case the accused does not understand the language of the court.

6. SENTENCE.

a. Military commissions are authorized to impose sentences which may include: fines; imprisonment at hard labor; or both; or specified alternative imprisonment in lieu of payment of fine; expulsion; confiscation, padlocking, and forfeiture of estates; and death.

b. Provost courts are authorized to impose sentences including: fines not to exceed seventy-five thousand (75,000) yen; imprisonment at hard labor not to exceed five years; or both; or specified alternative confinement in lieu of payment of fine; expulsion; confiscation and padlocking respecting properties not exceeding seventy-five thousand (75,000) yen in value.

7. RECORDS.

a. Military commissions will make a record of their proceedings conforming as nearly as practicable with that prescribed for a general court-martial.

b. Provost courts will generally keep records of their proceedings similar to that prescribed for a summary court-martial, unless directed to make a record conforming generally to that prescribed for a special court-martial.

8. REVIEW AND EXECUTION.

a. All records of trial by military occupation courts will be examined and acted upon by the appointing authority. The appointing authority shall have the power to entertain and consider any appeal or petition by or on behalf of the accused; to stay execution of the sentence; to disapprove the findings or set aside any finding of guilty, to disapprove, suspend,

BASIC: Ltr GHQ, SCAP, dtd 19 Feb 46, file AG 015 (19 Feb 46) LS, subject: Establishment of Military Occupation Courts, to CG Eighth Army, and Commander, Fifth Fleet.

mitigate, or remit the sentence in whole or in part; or to order a new trial; and, in addition, shall have the power to commute death sentences, but in no way to increase the sentence of the court.

b. No death sentence will be carried into execution without confirmation by the Supreme Commander for the Allied Powers.

9. OFFICES OF RECORD. The records of all military commissions not involving the death sentence will be filed in the Office of The Staff Judge Advocate of the appointing authority. The records of military commissions involving the death sentence, after confirmatory action by the Supreme Commander, will be filed in the Office of The Staff Judge Advocate of the appointing authority. The records of all provost courts will be filed in the Office of The Staff Judge Advocate of the lowest command echelon exercising general court-martial jurisdiction within the command from which such provost court was appointed.

10. MILITARY COMMISSION ORDERS. Military commission orders similar in form to general court-martial orders will be promulgated by the appointing authority.

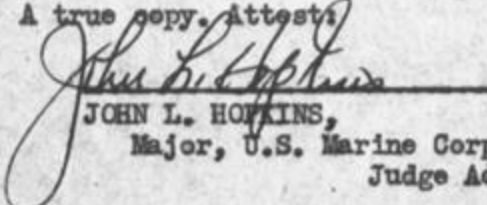
By command of General MacARTHUR:

/Signed/ H W Allen
/Typed/ H. W. ALLEN.
Colonel, AGD,
Asst. Adjutant General.

(Reproduced at Headquarters Eighth Army, 6 March 1946)

5

A true copy. Attest:


JOHN L. HOPKINS,
Major, U.S. Marine Corps,
Judge Advocate.

"D (5)"

0544

Extract showing the Establishment of Military Occupation Courts, from
General Headquarters, Supreme Commander for the Allied Forces, as follows:

GENERAL HEADQUARTERS

SUPREME COMMANDER FOR THE ALLIED FORCES

APO 500

25 March 1946

AG 015 (26 Mar 46) IS

SUBJECT: Establishment of Military Occupation Courts.
TO : Commander Fifth Fleet, FPO, San Francisco.
Commander Naval Activities Japan, FPO.

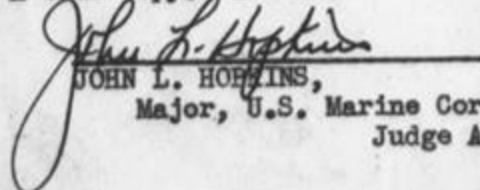
1. Authority granted Commander, Fifth Fleet, by Supreme Commander for the Allied Powers Letter Order dated 19 February 1946, AG 015 (19 Feb 46) IS, subject: "Establishment of Military Occupation Courts", is hereby rescinded.
2. The authority granted to Commander, Fifth Fleet, pursuant to the letter order referred to in paragraph 1 above, is hereby granted to Commander Naval Activities Japan.
3. Nothing contained herein shall be construed to invalidate any action heretofore taken by Commander, Fifth Fleet.
4. Commander Naval Activities Japan is authorized to take action necessary to complete cases pending on this date.

FOR THE SUPREME COMMANDER:

2 Incls:
Incl 1 - LO, Comdr Fifth Fleet (19 Feb 46)
Incl 2 - Memo to LJG

cc: GG. Eighth Army

A true copy. Attest:


JOHN L. HOPKINS,
Major, U.S. Marine Corps,
Judge Advocate.

"2"

0545

COMMANDER NAVAL ACTIVITIES JAPAN

Tokyo, Japan
December 26, 1946.

From: Commander Naval Activities Japan.
To: Major John L. HOPKINS, U.S. Marine Corps, Judge Advocate,
Military Commission, Fleet Activities Yokosuka, Yokosuka, Japan.
Subject: Charges and specifications in the case of SHOGORO TAKATA.

1. The above-named person 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 his trial, and summon all witnesses, both for the prosecution and the defense.

CHARGE I

VIOLATION OF JAPANESE LAW

SPECIFICATION

In that SHOGORO TAKATA did, on or about August 30, 1946, in the city of Yokosuka, Kanagawa Prefecture, Japan, in violation of a Japanese law duly published by the Imperial Japanese Government which states in part as follows:

- "(1) It is prohibited to sell, give, manufacture or possess liquids containing methanol or methyl in quantities greater than 1.0 mg. per cc,
- (2) It is prohibited to sell, give, manufacture, or possess methanol or methyl for the purpose of making liquor",

wilfully, knowingly and carelessly, sell or give to one KIMIE HOMMA a bottled alcoholic beverage containing in excess of 1.0 mg per cc of methanol or methyl alcohol, (without due caution and circumspection of the content thereof.)

CHARGE II

INVOLUNTARY MANSLAUGHTER

SPECIFICATION

In that SHOGORO TAKATA, on or about August 30, 1946 (and September 1, 1946, in the city of Yokosuka, Kanagawa Prefecture, Japan, without due caution and circumspection, did, feloniously and negligently sell or give to one KIMIE HOMMA a bottled alcoholic beverage, said beverage being procured by the said KIMIE HOMMA for consumption by James Frank FERRIS, 228174, boatswain, U.S. Maritime Service, attached to and while so serving

"P (1)"

0546

on board the S. S. Fort Dearborn, Gordon Knowlton PRICE, 22434902, U. S. Maritime Service, and Michael John EVANS, 2107380, utility steward, U. S. Maritime Service, both attached to and while so serving on board the S. S. CASA GRANDE, all accompanying the occupation forces in Japan, and that as a result of drinking said beverage, the said FERRIS was found dead at 5:00 a.m., September 1, 1946, the said PRICE died about 12:00 a.m., September 1, 1946, and the said EVANS died at about 9:52 p.m., September 1, 1946.

R. M. Griffin
R. M. GRIFFIN,
Vice Admiral, U.S. Navy,
Commander Naval Activities Japan.

shel
✓

"F (2)"

0547

FIRST DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Tuesday, February 4, 1947.

The commission met at 10 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Wallace L. Higgins, U.S. Naval Reserve, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.

Coxswain Frederick D. Hamilton, U.S. Navy, and Delavan S. Lachman, private first class, U.S. Marine Corps, entered with the accused and reported as provost marshals.

The judge advocate introduced Frank N. Aurillo, yeoman second class, U.S. Navy, and Bruno (n) Reyna, yeoman second class, U.S. Navy, as reporters.

The judge advocate introduced Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, as interpreters.

The accused requested that Commander Orvil L. Driver, U.S. Naval Reserve, and Mr. Shoichi Yamamoto, act as his counsels. Commander Driver and Mr. Yamamoto took seat as counsels for the accused.

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

The president announced that the rules of procedure to be followed by this Military Commission will be Naval Courts and Boards, 1937, as far as practicable, subject, however, to the modifications set forth by Prodecure for Military Government Courts OpNav 13-23, and General Headquarters, Supreme Commander for the Allied Powers, letter order AG 015 (dated 19 February 1946) L.S., and letter order AG 015 (dated 25 March 1946).

The accused objected to Commander Wallace L. Higgins, U.S. Naval Reserve, on the grounds that Commander Higgins sat as judge of the provost court which tried one Kimie Homma, and that he had predetermined knowledge of the case now on trial before this commission.

The challenged member replied as follows:

I believe the principle witness in this case did appear before the provost court, and she was charged with being unintentionally or without criminal intent involved in the case before this commission. She was given a suspended sentence and was held as a witness to appear before this commission when it convened. Certain evidence was necessarily produced at the time of her trial in order to arrive at a just sentence. I have not formed any definite opinion, but necessarily do have prior knowledge of this case.

The accused respectfully invited the commission's attention to section 388, par. (e), of Naval Courts and Boards, 1937.

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The judge advocate requested a ten minute recess.

The commission granted the request.

The commission then, at 10:15 a.m., took a recess until 10:25 a.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

Upon the request of the judge advocate, the challenged member took the stand, was duly sworn, and was examined on his voir dire as follows:

Examined by the judge advocate:

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

A. Wallace L. Higgins, commander, U.S. Naval Reserve, U.S. Fleet Activities, Yokosuka, Japan.

The judge advocate produced the record of proceedings in the case of Kimie Homma, provost court, case number 96, dated October 31, 1946, and it was submitted to the accused, the commission, and offered in evidence for the purpose of reading into the record an extract therefrom.

There being no objection, it was so received.

The judge advocate read an extract from the said record, copy appended marked "Exhibit 1."

2. Q. Do you recognize this record of proceedings, and if so, is this your signature?

A. Yes, it is.

3. Q. What testimony was brought forth in the trial of Kimie Homma?

A. No testimony, except a written statement by her which was attached to the specifications and certain verbal evidence of the provost marshal who had more knowledge of the case than I had.

4. Q. Was the accused, Shogoro Takata, mentioned in any of the testimony, or in the written statement?

A. I believe the name appeared in the statement and his name is in the files.

5. Q. Your recollection gives you the opinion that Mr. Takata's name was mentioned in the testimony during the trial of Kimie Homma; is that correct?

A. The name did appear.

The commission was cleared. The challenged member withdrawing.

The commission was opened. All parties to the trial entered; the commission announced that the objection of the accused was sustained and that Commander Higgins was excused from sitting as a member in this case.

Commander Higgins withdrew from his seat as a member.

A legal quorum not being present, the commission ordered the judge advocate to communicate that fact to the convening authority.

The commission then, at 11 a.m., adjourned until 1:30 p.m., tomorrow, Wednesday, February 5, 1947.

SECOND DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Wednesday, February 5, 1947.

The commission met at 1:45 p.m..

Present:

Captain William G. Michellet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy, members,
and
Major John L. Hopkins, U.S. Marine Corps, judge advocate,
Frank M. Aurillo, yeoman second class, U.S. Navy, and Bruno (n) Reyna,
yeoman second class, U.S. Navy, reporters.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, inter-
preters.
The accused and his counsels.

The record of proceedings of the first day of the trial was read and approved. The translation of the proceedings of the first day of the trial was accepted and approved by the counsels for the accused.

The judge advocate read a letter addressed to the convening authority, copy prefixed marked "B", announcing the adjournment of the commission due to lack of a legal quorum.

The judge advocate read a letter from the convening authority, copy prefixed marked "C", appointing Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps, as a member of the commission, vice Commander Wallace L. Higgins, U.S. Naval Reserve, hereby relieved. Commander Harold G. Green, DC, U.S. Navy, is hereby appointed a member of the commission.

The accused did not object to any other member.

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

The judge advocate submitted for incorporation into the record of these proceedings the following documents: General Headquarters, Supreme Commander for the Allied Powers, letter order AG 015 (dated 19 February 1946) L.S. and letter order AG 015 (25 March 1946) L.S. There being no objection on the part of the accused and the commission they were so received and incorporated into the record of proceedings, copies prefixed marked "D(1)", "D(2)", "D(3)", "D(4)", "D(5)", and "E".

The accused stated that he had received a copy of the charges and specifications preferred against him on January 16, 1947.

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

The accused objected to the specification of the second charge, ⁱⁿ that the word "sole" should be inserted between "as a" and "result of" and read "as a sole result of" in the specification. The intention of the specification in the mind of the accused being that the three American seamen as a sole result of drinking this alcohol died. just

The judge advocate stated that if the charges and specifications taken in their entirety are considered over any reasonable interpretation to sufficiently inform the accused of what he is charged with, then they are not subject to technical objections.

The counsel for the accused requested a twenty minute recess.

The commission granted the request.

The commission then, at 2:35 p.m., took a recess until 2:55 p.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

The counsel for the accused stated that the judge advocate's answer to the objection was reasonable, but that the accused is of the opinion that it was a vital error in this case. However, the particular bearing is understandable. The accused feels that this was an error in substance in this case and should be modified as requested. As long as a record has been made of the objection, the accused at this time has no further objection to the charges and specifications. ✓

The judge advocate stated that the change is a matter of evidence.

The accused stated that the judge advocate's reply states a basic fact and has a bearing, but in order not to delay the commission any further, the accused was willing to proceed. Later, after sufficient evidence has been introduced, the reason for the objection by the accused will be made clear.

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

The judge advocate asked the accused if he had any further objections to make to the charges and specifications.

The accused replied in the negative.

The commission was cleared.

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

The accused stated that he was ready for trial.

No witnesses not otherwise connected with the trial were present.

The judge advocate read the letter containing the charges and specifications, original prefixed marked "F(1)", and "F(2)", and arraigned the accused as follows:

Q. Shogoro Takata, 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. Guilty.

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

A. 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.

The accused was duly warned as to the effect of his plea.

The accused persisted in his plea.

The commission then, at 3:20 p.m., took a recess until 4 p.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

The counsel for the accused stated that the accused admitted that he was Shogoro Takata, and that he was on the 30th of August 1946, residing at Shiodome 44, Yokosuka, Kanagawa Prefecture, Japan.

The accused stated that this admission was made by his authority.

The commission then, at 4:05 p.m., adjourned until 9 a.m., tomorrow, Thursday, February 6, 1947.

THIRD DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Thursday, February 6, 1947.

The commission met at 9:15 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman second class, U.S. Navy, reporter.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, inter-
preters.

The accused and his counsels.

Commander Harold G. Green, Dental Corps, U.S. Navy, was absent by request
of the convening authority.

The commission then, at 9:16 a.m., adjourned until 9 a.m., tomorrow,
Friday, February 7, 1947.

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FOURTH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Friday, February 7, 1947.

The commission met at 9 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy,
members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman second class, U.S. Navy, and Bruno (n) Reyna,
yeoman second class, U.S. Navy, reporters.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya,
interpreters.
The accused and his counsels.

The record of proceedings of the second and third days of the trial was read and approved. The translation of the proceedings of the second and third days of the trial was accepted and approved by the counsels for the accused.

The prosecution began.

A witness for the prosecution entered and was duly sworn according to the oath prevalent in the criminal courts of Japan.

Examined by the judge advocate:

1. Q. State your name, residence, and occupation.
A. Kimie Homma, Kotsubo, Zushi-Machi, Yokosuka City, unemployed.
2. Q. If you recognize the accused, state as whom.
A. I recognize the accused as Shogoro Takata.
3. Q. What is your age?
A. My age is 34, as computed in the Japanese fashion.
4. Q. Did you entertain three merchant marine seamen in your house about the 31st of August 1946?
A. Yes, I did.
5. Q. Can you identify by name these three men?
A. Yes, I do not know of one, but I'm able to identify the other two.
6. Q. Will you please do so?
A. The person who died at my house was called Frank, the person I was with was called Red and I do not know the third person.
7. Q. At what time was it these men came to your house?
A. The first time they came to my house was on the 29th.
8. Q. The 29th of what month?
A. It was August 29.

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9. Q. At what time of the day on the 29th of August did they arrive at your house?

A. It was approximately 12, that is to say, 12 noon.

10. Q. Did all three men come on that day?

A. One person, the one they call Red, came about 7 o'clock in the evening and the other two came at an earlier hour.

11. Q. How long did they stay?

A. They came and went after about an hour in all, I believe that they went out about twice.

12. Q. At what time did this take place?

A. I do not exactly remember the time.

13. Q. After these people arrived at 7 p.m., was there occasion for all three to leave together?

A. Yes, there was.

14. Q. Do you recall about what time this was?

A. I think they all left together during the mid-day period of the 30th.

15. Q. Did all three men spend the night of the 29th at your house?

A. Yes, the three spent the night at my house.

16. Q. When they left the mid-day of the 30th for how long was their absence?

A. When they left in the daytime and returned after night had fallen, the man whose name I do not recall had bought a dozen night-gowns which he brought back with him.

17. Q. Do you recall about what time all three men were present in your house on the night of the 30th?

A. They were at my house from about 7:30 p.m. on, during which time two friends dropped in.

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

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

No witnesses not otherwise connected with the trial were present.

18. Q. Did any of the three men leave your house after this time?

A. The man, whose name I do not know, did leave the house.

19. Q. At what time did he leave?

A. Close to 8 o'clock.

20. Q. Did he return?

A. He did return.

21. Q. At what time did he return?

A. He returned about 11 o'clock.

22. Q. Did the other two leave at all?
A. They were going in and out, in and out, but during the night they remained there.
23. Q. Did any of the three men leave your house after 11 p.m., on the 30th?
A. No, they did not.
24. Q. Did the three men stay in your house on the night of the 30th?
A. They did stay at my house.
25. Q. Did they leave your house at any time on the 31st of August?
A. This Frank and the fellow whose name I do not know left the house about 9:30 in the morning.
26. Q. Who was the man who stayed behind with you?
A. It was Red.
27. Q. Were you well acquainted with Red?
A. Yes.
28. Q. How well did you know him?
A. When the ship first came in on the 15th of June there was a festival going on. That evening when I was walking along Red wanted to become friends with me. His ship stayed in for about twenty-five days when she came in on the 15th of June. He had been seeing me ever since.
29. Q. Did Red spend a great deal of time with you?
A. Yes.
30. Q. Did Red at any time leave your house on the 31st of August?
A. Red left the house about 7:30 p.m., by himself.
31. Q. At what time did he return?
A. He came back after an hour.
32. Q. At what time did the other two men return to your house on the 31st?
A. The two men first returned about 12:30 p.m., after which time they were going in and out and they finally became settled down when evening came.
33. Q. Did you at any time serve intoxicating liquor in your home to these three men?
A. Yes.
34. Q. How much intoxicating liquor did you serve?
A. Two bottles.
35. Q. Did you make that liquor yourself or did you buy it from someone?
A. I bought it.
36. Q. From whom did you buy it?
A. I bought it from Shogoro Takata.
37. Q. Is he present in this room?
A. Yes, he is.

38. Q. Please point him out to the commission.
A. He is the man over there (indicating the accused).
39. Q. Did you purchase liquor from him more than once?
A. Yes.
40. Q. How much did you purchase?
A. Since I am fond of whiskey myself, I have been receiving it from him regularly.
41. Q. Did you buy intoxicating liquor from him on the 30th of August?
A. Yes, on August 30, I bought one bottle from him.
42. Q. Did you buy intoxicating liquor from him more than once on this day?
A. On the 30th I made one purchase.
43. Q. Did you buy more than one bottle of intoxicating liquor on the 31st of August from the accused?
A. Yes, I went down twice and purchased one bottle each time.
44. Q. You purchased a total of two bottles of intoxicating liquor on the 31st of August; is that correct?
A. Yes.
45. Q. Did the bottles have the Japanese license label on them?
A. No, they did not.
46. Q. Did they have any means of identification on the bottles at all?
A. There were no special labels or papers on the bottles.
47. Q. Did the bottles have a label showing in cubic centimeters the percentage of methyl alcohol contained therein?
A. No.
48. Q. Did you know what you were purchasing?
A. I simply drank thinking it was tasty whiskey.
49. Q. Did you serve any of this liquor that you bought from Shogoro Takata to anyone else?
A. Yes, people from Frank's ship drank a little of it.
50. Q. Can you identify these two men?
A. I do not know who these two men were but I know they were from Frank's ship.
51. Q. Did you serve any of this liquor that you purchased from Shogoro Takata to anyone else, other than these two men?
A. No, I did not serve it to anyone other than these two men. However, I had been drinking it myself. At the time a Japanese man had drunk some of it.
52. Q. Did you serve any of this alcoholic liquor that you purchased from Shogoro Takata to Red?
A. Yes, I served it to Red and he apparently had given it to the other two men as a treat.

53. Q. How much did you serve to Red?

A. I gave Red four bottles on the 29th, one on the 30th, and two on the 31st. I purchased a total of seven bottles. I wish to make a slight correction regarding an error I made in a previous statement. The two men who dropped in had dropped in on the 29th and not the 30th.

54. Q. How much of this liquor, that you purchased on the 31st did you serve to Red?

A. That whiskey was divided among us equally. The bottles were simply left on the table and we drank it as we went along. The men were going in and out and they were drinking from time to time, so the liquor was gone between the four of us by shots.

55. Q. Will you please identify the four people who drank this whiskey?

A. Frank, Red, the unknown friend, and myself.

56. Q. Did you serve all the contents of the two bottles of whiskey that you purchased on the night of the 31st of August?

A. Yes, the four of us drank almost all of it. The last bit, about this much, (indicating about two inches from the bottle), which was left after the others had retired, I finished myself.

57. Q. How much of this liquor did you drink on the night of the 31st?

A. I and the man whose name I do not know drank the most. While I cannot recall exactly how much I drank, I drank a great deal of it.

The judge advocate requested a ten minute recess.

The commission granted the request.

The commission then, at 11:10 a.m., took a recess until 11:20 a.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

The judge advocate introduced four bottles marked numbers 1, 2, 3, and 4, and offered them in evidence.

There being no objection, they were so received, and are marked "Exhibit 2."

58. Q. I show you a bottle; is it similar in nature to the one that you purchased from the accused?

A. I do not have a very good recollection of the bottle.

59. Q. To the best of your recollection, can you tell us what type of a bottle it was that you purchased?

A. I recall that there were no bottles like this but they were white bottles.

60. Q. I show you these four bottles; were they like any of these?

A. I do not recall that there was any bottles like these; they were white bottles.

61. Q. Will you tell the commission in your own language and words, what took place while you consumed, and after consuming the two quarts of liquor you purchased on the 31st of August?

A. About 9 p.m., Frank and the man whose name I do not know retired in a second story room where they were present. Red and I retired in the room where we had been drinking. After that, since they were all intoxicated, I fell asleep. However, it was about 2:30 a.m., when the man whose name I do not know woke us up. I alone got up since Frank seemed to be suffering a great deal. Although his breathing was normal he was conspicuously foaming at the mouth. So, I took a towel and wiped his face. Since it was summer, and the well water would be cool, I went down to the well and brought up some water. I thought in case of any illness it would be comforting to have a wet cloth on one's head. I applied wet cloths to his brow and comforted him. At that time I thought that he was stricken with some illness. Thinking that it would be bad if his feet became cold I put some towels on his feet to warm them. Since he continued to be in a great deal of distress, I finally went below and contacted the Takata's. Takata and his wife each went to get a Japanese doctor. At that time they were unable to get a Japanese doctor. They went again, along with a policeman, to secure a Japanese doctor. However, they were unable to secure a Japanese doctor. As Frank's breathing and pulse seemed normal we were somewhat relieved and merely continued applying wet compresses. I sat beside him. That continued until the dawn began to break which was about 4 o'clock. It was still summer, at which time the man whose name I do not know, stated that it would be best to notify the M.P.'s in order to avoid any misunderstanding. We awoke Red and discussed the matter of calling the M.P.'s. When we again went to see Frank, we found his breathing and his pulse very weak, but while feeling his pulse, it again became stronger. They discussed again the matter of going out to get the M.P. His breath and pulse diminished. At about 4:30 a.m. with us sitting by him he expired. The man whose name I do not know went out immediately to notify the M.P.'s, and Shogoro Takata went out to inform the police. However, since the M.P.'s did not come for sometime, I went out to notify the M.P.'s. When the M.P.'s finally arrived at my house it was approximately 5:30 a.m.. When I returned to my house, Frank was no longer there, Red was just getting in a jeep with the man whose name I do not know, and the two went off in the jeep. I got in another jeep and went to the police station. When I got in the jeep, and was taken to the police station, it was nearly 6 o'clock or after 5:30 a.m. When I finally reached the police station it was about 6 a.m. after which I was continuously questioned by Japanese detectives. While I was being questioned on the first and second of September, I maintained that I had bought this whiskey in Yokohama. The questioning continued steadily for two or three days. At that time, I did not desire under any circumstances to say that I had bought this whiskey from Shogoro Takata. Both Shogoro Takata and his wife were very kind to me, therefore, I wanted to take any of the blame upon myself alone. Finally, on the third day of the questioning, a session was held with the M.P.'s. At this point since I knew a little English, I heard a great deal of things from two second lieutenants who were sitting beside me; there was no interpreter at hand. At that time, which was about 2 p.m. on 2 September, these two M.P. second lieutenants told me that they were extremely fond of whiskey. Since I had stated I bought the whiskey in Yokohama, they intended to take me with them to Yokohama to look for some whiskey, if necessary spending the whole day in the process. They brought me back to my house in a jeep in order that I could change my clothes. When I returned to my house, I was under the impression that it was for the purpose of changing my clothes, but these two officers merely searched all around for empty bottles, after this, with myself not knowing what it was all about, I was taken to the Japanese police station.

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At that time, when the questioning by the Japanese detectives began, I found out for the first time that Shogoro Takata was also here. From there on, without any further questions being asked of me, I was held in custody at the police station. From time to time, there were hearings at the provost marshal's office, and I was taken there in a jeep, and was examined. My examination was all over in about ten days. After that, I was held in custody at the police station for sixty full days, and on the sixty-first day, I was brought up for trial, and was given a sixty day probation period. That is all.

The witness was duly warned.

The commission then, at 12:10 p.m., took a recess until 1:30 p.m., at which time it reconvened.

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

No witness not otherwise connected with the trial were present.

Kimie Homma, the witness under examination when the recess was taken, entered. She was warned that the oath previously taken was still binding, and continued her testimony.

62. Q. Will you describe the features of the man who died in your house on the morning of one September?

A. He was a very gentle, quiet person. He was very large in build, and from his clothing which was quite rough, I was of the opinion that he was a laborer.

63. Q. Was he as tall as I am? (The judge advocate being six feet tall).

A. The witness stated that the man in question was approximately the size of a member on the commission, whose height was about six feet two inches, of average build, weighing approximately 190 lbs.

64. Then you would be of the opinion that he was six feet tall; is that correct?

A. Yes, he was a full six feet tall.

65. Q. How much would you say he weighed?

A. I do not know, but he was an extremely big man.

66. Q. Would you say he weighed two hundred pounds?

A. Yes, I think he weighed approximately twenty-five kan. (One kan being equivalent to eight and one quarter pounds)

67. Q. What color was his hair?

A. I do not clearly recall.

68. Q. Do you recall whether he had any hair?

A. He was not bald and his hair had no particular color. I do not remember the color of his hair.

69. Q. Do you recall the color of his eyes?

A. I do not recall.

70. Q. Do you recall the color of his skin?

A. Yes, he was extremely sunburned and was very red. His hands were burnt to a dark shade.

71. Q. To what degree of a dark shade?

A. His face and arms were strongly sunburned and were very strongly red.

72. Q. How old would you say this man was?

A. His age was said to be forty-five in conversation.

73. Q. Is that the Japanese way of counting age?

A. That matter was brought up in a conversation, at which time he stated, that he was forty-five years old.

74. Q. What name did you know this man by that died at your house on the morning of one September?

A. Frank.

75. Q. Will you describe the person known to you as "Red".

A. In his previous voyage he was about the same build as Frank. However, while in Colombo, he contracted some kind of illness and became very thin. He was a very cheerful man and wore gold rim glasses. His teeth were all false teeth and he normally did not wear the lower plate. He had a luxurious growth of hair which was of beautiful ginger color. His eyes were of the color of clear water. His skin did not have any particular color, but his arms and his neck were burnt bright red.

76. Q. How old was he?

A. Forty-two.

77. Q. Will you repeat what color his hair was.

A. His hair was very luxurious and was of fine ginger color.

78. Q. What color is ginger?

A. A shade of red color which you see very rarely and is extremely dark.

79. Q. Did you notice any scars or deformities on Red?

A. Yes, he suffered from a defect of his right elbow. When the arm was straightened it was impossible to rotate. And he very often complained of the use of his arm.

80. Q. Will you describe the characteristics of the other person in this party that you did not know by name.

A. This man's age was not known to me but he was the eldest of the three. He was in height and build a little taller than the reporter. (The reporter weighing one hundred and twenty-five pounds). He was apparently extremely fond of drinking. He was extremely cheerful and of humorous nature and entertained the gathering with his humorous stories and antics. I do not recall any details concerning his hair nor his eyes. His skin was not particularly sunburned but was pale bluish white color.

81. Q. Were any of these men taken from your house to the hospital?

A. Yes, I believe so. After the second man left the house in the morning in the MP jeep, I had no idea of what happened to them until I was brought up for trial.

82. Q. When did you learn of the men you refer to as "Red" and his companion whom you do not know by name died?

A. I first learned of their death at my last examination by the MP's, at which time, I was most interested in their whereabouts. I asked through an interpreter for information and the commander of the MP's, informed me clearly, through the interpreter, that all three men had died.

83. Q. Did you see any of the three men after they left your house on the morning of the first of September?

A. No, I did not personally see any of the men after they left the house. However, I had in my possession a laundry ticket for a suit that the man whose name was unknown to me had sent to the laundry. When he went to pick it up at the laundry, they stated that he had come around on the evening of the first and was informed that he could not take his suit, unless he had the ticket. However, he left, taking the suit with him. And that was the last I heard about him.

84. Q. At what time on the 30th of August did you begin drinking?

A. On the 30th we drank very little and that was in the evening.

85. Q. At what time on the 30th did you purchase the one bottle of whiskey from Mr. Takata?

A. I do not recall.

86. Q. Did you consume that bottle of whiskey that night?

A. Yes.

87. Q. Did you consume more than that one bottle that night?

A. That was all we drank.

88. Q. Do you know whether the man you refer to as Frank, Red and the man whose name you do not know, drank any intoxicants at any place other than your own on the 30th and the 31st?

A. Since they were continuously going out and coming back in I was not sure where they had been going, but they were always looking for something to drink. They were always under some degree of alcohol and they seem to say that they were going to the club and going to Yokohama and so on. But although they all drank heavily they were never at a state that they did not have control of their person. They formed an extremely cheerful, happy group, always skylarking and drinking.

The judge advocate requested a ten minute recess.

The commission granted the request.

The commission then, at 2:30 p.m., took a recess until 2:40 p.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

89. Q. How much time elapsed from your final assembly on the 31st of August to the time of Frank's death on the first of September?

A. During the daytime they were going in and out and so I do not recall the time. However, from 9 p.m. on I recall clearly. None left after this time.

90. Q. When was the last time that Frank left your house on the 31st of August?

A. I think it was about six p.m.. Frank and the man whose name I do not recall always went around together.

91. Q. Did they have any thing to eat at your house?

A. Yes, they did.

92. Q. Will you state what it was.

A. They all ate tomatoes, cucumbers and eggs.

93. Q. When did they have this to eat?

A. We ate together only once which I recall was on the afternoon on the 30th. On the evening on the 30th they apparently ate somewhere else for they did not desire any food. Frank and this other fellow had apparently on the 31st had breakfast somewhere else and they said that they were full. In the evening they also stated that they were not interested in eating although I was quite worried about their not eating. They claimed that they did not want any food so I did not prepare any.

94. Q. Did you serve them any other type of food other than what you have mentioned?

A. Other than what I have already mentioned they did not eat any thing at my house.

The witness duly warned and withdrew.

The commission then at 4 p.m., adjourned until 9 a.m., tomorrow, Saturday, February 8, 1947.

FIFTH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Saturday, February 8, 1947.

The commission met at 9 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy.
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate,
Frank N. Aurillo, yeoman second class, U.S. Navy, and Bruno (n) Reyna,
yeoman second class, U.S. Navy, reporters.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, inter-
preters.

The accused and his counsels.

The record of proceedings of the fourth day of the trial was read and approved. The translation of the proceedings of the seventh day of the trial was accepted and approved by the counsels for the accused,

The accused requested a ten minute recess.

The commission granted the request.

The commission then, at 9:45 a.m., took a recess until 9:55 a.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

Kimie Homma, a witness under examination when the adjournment was taken, entered. She was warned that the oath previously taken was still binding, and continued her testimony.

Cross-examined by the accused.

95. Q. Since when have you been living at Shogoro Takata's residence?
A. From November of the year before last.

96. Q. Have you been living there ever since?
A. Yes.

97. Q. How many stories has the residence of Shogoro Takata, two or three stories?
A. Two stories.

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98. Q. The rooms that you are renting, are they on the first floor, or are they on the second floor?

A. They are on the second floor.

99. Q. What are the sizes of these rooms?

A. In the Japanese fashion, they are two-six mat rooms. (One mat is approximately three feet by six feet)

100. Q. Are there any ~~other~~ rooms on the second floor of Mr. Takata's residence other than the two you have mentioned?

A. Computing in the Japanese fashion there is a storage room of approximately three mats.

101. Q. Are you the only renter of space on the second deck of Mr. Takata's house?

A. I am the only one.

102. Q. Is the entrance to the second deck the same entrance as used for gaining access to Mr. Takata's residence, or is it separate?

The judge advocate objected to the line of questioning on the ground that it went beyond the scope of the direct examination.

The accused made no reply.

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

The question was repeated.

A. It is different.

103. Q. From Takata's residence, is it possible to see who goes in and out of the second deck?

A. No, they cannot be seen.

104. Q. Do you like liquor?

A. Yes.

105. Q. At what age did you start drinking?

The judge advocate objected to the question on the grounds that it was irrelevant and that it went beyond the scope of the direct examination.

The accused replied.

The commission was cleared. The commission was opened and all parties to the trial entered. The commission announced that the objection was not sustained. The president of the commission warned the judge advocate that his objections to the last two previous objections, were taking advantage of the language barrier, the unfamiliarity of this commission's system, and that he confine himself to valid objections.

The question was repeated.

A. I began drinking when I was about twenty-four.

106. Q. Around August of last year were you drinking daily?

A. I drank from time to time.

107. Q. Around August of last year how much did you drink.

A. I do not recall clearly.

108. Q. Around August of last year was there any effect on your health if you did not drink alcoholic beverages?

A. There was no special effect.

109. Q. Which do you like more, Japanese sake, or whiskey?

A. Whiskey.

110. Q. Around August of last year from whom were you purchasing the whiskey that you drank?

A. I occasionally purchased it from Shogoro Takata.

111. Q. Did you purchase considerable amounts from Takata at one time or just how much did you purchase?

A. When I purchased it from him I always received one bottle.

112. Q. Did you have friends who were foreigners?

A. From seven years ago, for a period of four years, I was with an European friend.

113. Q. Around August of last year did you have any foreigners who were friends of yours?

A. At that time I did not have many friends who were foreigners.

114. Q. Did foreigner friends of yours come to your house on the 29th of August?

A. Yes, they did come.

115. Q. At about noon how many people came to your house?

A. Three came to my house.

116. Q. Did you know whether or not those three were Americans or Englishmen?

A. I am not positive whether they were Americans or not; all I knew was that they were Caucasians.

117. Q. On that day, did any other foreigners other than those three, come to your house?

A. In the evening two other friends dropped in for a little while.

118. Q. On that day, did all five of those foreigners and you, drink alcoholic beverages?

A. Yes, we did.

119. Q. Was there a different taste about the alcoholic beverages that you consumed at that time?

A. We drank it considering it to be extremely delicious and enjoyable.

120. Q. Did the foreigners bring along that alcoholic beverage?
A. It was not brought along by the foreigners.

121. Q. What did you do with the empty bottles that were left after drinking?
A. The empty bottles were returned to Shogoro Takata after the contents were consumed.

122. Q. Did three foreigners stay at your house on the night of the 30th?
A. Yes.

123. Q. About what time did they turn in?
A. I believe it was shortly after 11 p.m..

124. Q. Did you turn in about the same time?
A. Yes.

125. Q. Were the three foreigners in good spirits when they turned in?
A. They were in very high spirits.

126. Q. What was the state of your health when you turned in?
A. I was also in very high spirits.

127. Q. Was there any change in the three foreigners from the time that they turned in until they arose the next morning?
A. There was nothing that struck my mind as being different.

128. Q. About what time in the morning of the 30th did the three foreigners get up?
A. I do not recall very clearly but I believe it was about 8:30.

129. Q. Were the three foreigners in good spirits when they got up?
A. They were in good spirits.

130. Q. Did those three foreigners go out somewhere from your house?
A. Yes, they did go out.

131. Q. The two foreigners who dropped in about 7:30 p.m. on the 29th did they include or exclude the man known as Red?
A. Those two did not include Red.

The witness was duly warned.

The commission then, at 11:40 a.m., took a recess until 1:30 p.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

Kimie Homma, the witness under examination when the recess was taken, entered. She was warned that the oath previously taken was still binding, and continued her testimony.

132. Q. At approximately 4 a.m., on the first of September, last year, what was the condition of this man Frank?

A. His breathing was apparently extremely labored.

133. Q. At that time did you tell the man whose name was unknown to you that it would be best to notify the MP's?

A. We got together with Shogero Takata and after a discussion we asked him to go and call the MP's. ✓

134. Q. In regard to the matter of informing the MP's for what reason did you decide to inform the MP's?

A. Frank was conspicuously foaming at the mouth and I had thought it might be a case of epilepsy so I comforted him accordingly.

135. Q. Why did it become necessary to call the MP's?

A. I felt that the MP's should be informed as soon as possible, although when Frank was foaming at the mouth, I was under the impression that it was an attack of epilepsy, in which case he would recover in due time. But, as his pulse and breathing seemed difficult, I wanted the MP's informed as soon as possible in case there was a mistake as to his trouble.

136. Q. When the body of Frank was being carried out was Red and this other fellow whose name you do not know in good health?

A. At that time this man whose name I do not know had gone to inform the MP's. However, there was no sign of them for some time. I went out myself to try to contact the MP's. I saw a jeep coming in my direction and I attempted to flag it down. However, it passed by without noticing me. I continued on my way and then I saw near the entrance of the yard an ambulance and two jeeps going out with bells ringing. I surmised that they were heading for my house and followed them back to my house. At that time, there was no sign of Frank or Red, and the other fellow was just getting into the ambulance. I went in another jeep and went direct to the police station without entering my house.

137. Q. At what time did Red appear to be in good health, or did he appear to have something wrong with him?

A. Before the MP's were informed, Red talked with me and informed me to say absolutely nothing of the fact that I had given them this whiskey. ✓

The commission then, at 1:50 p.m., took a recess until 2 p.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

138. Q. You stated that this man whose name you do not know had sent some clothes to the laundry, do you know the name of this laundry?

A. Since he gave me a ticket to pick up the laundry when it was finished, I remember the laundry quite well.

139. Q. Do you know of anyone who talked to this man whose name is unknown to you when he went to pick up his laundry on the first of September?

A. That I do not know.

140. Q. Do you have somewhere in your possessions the laundry ticket you received from this man whose name you do not know?

A. I had that card put in my desk drawer somewhere since I believed it would be needed. But although I have looked for it I can not find it.

141. Q. When Frank's body was being removed, did this man whose name is not known to you, appear to be in good health or did he appear weak?

A. I did not notice anything especially different, although he was usually a very gay cheerful person, I noticed that he appeared subdued.

142. Q. At that time did this man whose name is unknown to you speak to you at all?

A. After I was awakened at 2:30 a.m., in connection with Frank, we talked rather steadily about Frank.

143. Q. When Frank's body was being removed did this man say anything?

A. I did not see anything of the removal of Frank nor did I get to speak to this man at the M.P. station.

144. Q. When the body of Frank was being taken out did Red appear to be in good health?

A. Although nothing appeared to be the matter with Red he was extremely worried, flustered and appeared rather nervous.

145. Q. At that time did you speak with Red?

A. At that time, Red repeatedly told me that I was not to tell under any circumstances to the military police that we had whiskey to drink. That "they", indicating Red and the unknown person, would take any responsibility for this matter.

146. Q. Did these three men, that is to say, Frank, Red and the man whose name is unknown to you, ever buy whiskey direct from Takata Shogoro?

A. Never.

The witness was duly warned and withdrew.

The commission then, at 2:45 p.m., adjourned until 9 a.m., Monday, February 10, 1947.

SIXTH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Monday, February 10, 1947.

The commission met at 9:15 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman second class, U.S. Navy, and Bruno (n) Reyna,
yeoman second class, U.S. Navy, reporters.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, inter-
preters.
The accused and his counsels.

The record of proceedings of the fifth day of the trial was read and approved. The translation of the proceedings of the fifth day of the trial was accepted and approved by the counsels for the accused.

Kimie Homma, a witness under examination when the adjournment was taken, entered. She was warned that the oath previously taken was still binding, and continued her testimony.

Cross-examination by the accused continued:

146. Q. When you were drinking with the four mentioned foreigners, did all four of you drink about the same amount, or did anyone drink an especially large amount?

A. Most of the time we filled four shot glasses equally and drank them.

147. Q. By that, do you mean all of you drank about the same amount on the 29th, 30th, and the 31st of August?

A. I'm not too clear on that matter, however, when the others had gone out, I in cleaning up the glasses finished up what was remaining in them.

148. Q. When you were pouring the drinks were all the drinks for the four people about the same amount?

A. When we were pouring the drinks we usually poured for the four of us at the same time and drank them up. However, the man whose name is not known to me and I filled and emptied our drinks more frequently.

149. Q. Were the glasses used, the same size, for all four people?

A. Yes, they were the same size.

150. Q. About what time on the 31st of August, did this man Frank and the man whose name is not known to you, finally return to your house?

A. I recall it was about 6:30 p.m..

151. Q. At what time of night on the 31st of August did these three foreigners turn in?

A. We turned in at 9 p.m..

152. Q. Did you and the three foreigners drink alcoholic beverages before turning in?

A. We did not drink anymore before we turned in.

153. Q. I shall ask you again, just about what time in the evening of the 31st of August, did Frank and the man whose name you do not know, finally return to your house?

A. I believe it was about 6:30 p.m..

154. Q. Would you recognize Red's last name if you heard it?

A. No, I do not know it all all, since I always called him "papa", and he was called "Red" only by his friends. I never called him Red.

Reexamined by the judge advocate:

155. Q. Did you finish the liquor that was drunk on the 29th of August?

A. Yes.

156. Q. Did you make this whiskey?

A. They were all those that I had received from Shogoro Takata one bottle at a time.

157. Q. How many bottles did you purchase on the 29th of August?

A. I purchased four bottles.

158. Q. And did you purchase all four bottles from Shogoro Takata?

A. Yes.

159. Q. Did you serve all these four bottles of whiskey on this day?

A. Yes, they and I drank it all up.

160. Q. You refer to "they" who were they?

A. The three foreigners and I drank up four bottles of whiskey that night.

161. Q. Did any others participate in the drinking on the 29th of August, other than the four of you?

A. Yes, two friends dropped in and had a little of the whiskey to drink.

162. Q. Were they your friends?

A. I'm not certain regarding them but I recall they were Frank's friends.

163. Q. Were they Caucasians or Japanese friends?

A. They were foreigners.

164. Q. Were they male or female foreigners?

A. They were men.

165. Q. How long did they stay?

A. They were there for a very short time, I believe about fifteen minutes.

166. Q. How many drink did they have while at your house on the 29th?

A. They each had one drink.

167. Q. What amount do you consider a drink?

A. A glass about this size, (indicating the diameter of about three-quarters of an inch, the height of about two inches), and it is just about one swallow.

168. Q. Can you identify these two men who were friends of Frank?

A. No, I cannot.

169. Q. Do you know where they worked?

A. I simply know of them as Frank's friends. I cannot give any further details since I had met them only for the first time and a very short time at that.

170. Q. Can you identify the people, other than the two you have just mentioned, who drank with you on the 29th?

A. Yes, they were Frank, Red, this man whose name I do not know, and myself.

171. Q. Did any other people, besides the six you have mentioned, drink any of this alcoholic beverage on the 29th with you?

A. No.

The judge advocate requested a ten minute recess.

The commission granted the request.

The commission then, at 10:20 a.m., took a recess until 10:30 a.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

172. Q. In your previous testimony, you have stated that a Japanese man had drunk some of the whiskey that you purchased from Takata, can you identify this man?

A. Yes, I know this man.

173. Q. What is his name?

A. I don't recall his name very clearly.

174. Q. Could you identify him if you saw him again?

A. Yes, I could.

175. Q. When did this person drink this liquor that you purchased from Takata?

A. In regard to that matter, I only saw him securing some whiskey from Shogoro Takata and that he was drinking it; this happened on another day.

176. Q. Was this prior to the 29th that you knew of his drinking this whiskey he had purchased from Shogoro Takata?

A. Yes, it was prior to the 29th of August.

177. Q. Do you recall exactly when?

A. I do not recall clearly but I think it was from a week to ten days prior to the 29th of August.

178. Q. What was the last time that Red left your house on the 31st of August?

A. The last time that Red left the house was, approximately, 7 p.m..

179. Q. When Red left your house at 7:30 p.m. on the 31st of August how long was it before he returned?

A. When Red returned it was about 8:30 p.m..

180. Q. Did he leave your house again after this time on the 31st of August?

A. No, he did not leave.

181. Q. At what time did he leave your house on the first of September?
A. When I had returned after going for the M.P.'s Red was no longer to be seen. I do not know the exact time. In connection with this matter, since it occurred while I was still away from the house, I do not know how or when Frank's body and Red had left the house. When I returned this man whose name I do not know was just climbing aboard the ambulance.

182. Q. At what time did you return to your house on the first of September?
A. I do not know exactly when I returned to the house after notifying the M.P.'s, but I believe it was about 5:30 a.m..

183. Q. Where was Red when you returned?
A. When I returned, they were just bringing Frank's body from the house on a stretcher, and they were putting Frank's body in the ambulance. This man whose name I do not know was there and was about to enter another vehicle, but there was no sign of Red.

184. Q. Did you serve Red any whiskey after he returned at 8:30 p.m. on the 31st of August?

A. After he had returned at that time he did not drink anymore.

185. Q. Did you serve any whiskey to Frank and your unknown friend between 6:30 p.m. and the time they retired on the 31st of August?

A. In the evening, since they did not ask for whiskey, and as they were all rather intoxicated, I do not think that any whiskey was consumed.

186. Q. Do you recall at what time that you had your last drink of whiskey in your house on the 31st of August?

A. On the afternoon of the 31st, Frank and his friends upon returning to the house would drink standing up, and I, too drank while they were out, so I do not clearly recall.

187. Q. Did Red become sick on the evening of the 31st of August or on the morning of the first of September?

A. No, Red did not.

The commission then, at 11:05 a.m., took a recess until 11:15 a.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

Recross-examined by the accused:

The witness was presented with two glasses, one glass containing 55 cubic centimeters or slightly ^{two} ~~one~~ ounces and, one glass containing 16 cubic centimeters or approximately one-half ounce.

188. Q. Which of these glasses do you consider to hold the amount of liquor that you called a "shot"?

A. The larger glass, (indicating the two ounce glass of liquid)

189. Q. Will you take a glass of water and pour into a measuring glass the amount that you considered in your testimony a "shot"?

A. Yes, I will.

The witness poured an amount into the glass which approximated the amount that she had testified to be a shot. This amount of liquid was measured in an American manufactured beaker graduated in cubic centimeters. The amount measured 37 cubic centimeters of liquid. The witness attempted to allow for the difference in the construction of the glass into which she was pouring and the one to which she referred to in her testimony.

190. Q. During the period from about 4 a.m., to 5 a.m., on one September, were you very intoxicated?

A. Since Frank had died, I was through sympathy very bewildered, but I was not very intoxicated.

191. Q. At that time, what was the condition of your mind, that is to say, how well do you recollect the happenings at that time?

A. Due to the fact that Frank had died, and that I was quite flustered, I do not recall the happenings very clearly.

Examined by the commission:

192. Q. You stated that Frank was sick after the party; was your health affected?

A. I was not affected.

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

The witness said that she had nothing further to state.

The witness was duly warned and withdrew.

The commission then at 12 a.m., took a recess until 1:30 p.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

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

A. Patrick L. Kelly, private first class, U.S. Marine Corps, Marine Detachment, U.S. Fleet Activities, Yokosuka, Japan.

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

A. I do not recognize him.

3. Q. Are you attached to the military police company, marine detachment, fleet activities?

A. Yes, I am.

4. Q. Were you on duty the first of September 1946?

A. I can not remember the date, but if it was the morning of the incident of the three merchant seamen, I was.

5. What were your duties at this time?

A. Driver for the officer-of-the-day Lieutenant Kahn.

6. Q. Did you have occasion to investigate certain circumstances surrounding three merchant seamen alleged to have drunk methyl alcohol on this date?

A. Yes, I did.

7. Q. Will you tell the commission the circumstances that took place from the time you arrived to the time you left?

A. I received a call from the south military police station for Lieutenant Kahn to pick up a merchant seaman at the shore patrol office fleet landing. This man stated that two of his buddies were sick. Lieutenant Kahn told me to go and pick the man up. I went down to the shore patrol office at the fleet landing. A short guy with red hair was walking around and he stated that two of his buddies were pretty sick. I told him to get in to the jeep and to show me the house. At the house, I went to a room and there I saw two guys, one of them was stretched out on the floor and the other guy was mumbling. I felt of the guy that was on the floor there was no pulse and from all indications he was dead. About this time the shore patrol came in. I told them to go to the hospital and get an ambulance. I tried to help the guy that was mumbling. Lieutenant Kahn arrived about the same time the ambulance did. We put them in the ambulance and they were taken to the hospital. This woman, I believe her name is Kimie Homma, was taken to the military police station where she was questioned by Lieutenant Kahn about what had happened. She told him that the merchant seamen and her had been drinking at her place.

8. Q. At what time did you go to this house with this merchant marine?

A. Close to five o'clock in the morning.

9. Q. Can you describe the features of the man that you picked up at the shore patrol station?

A. Short, thin build, and I can almost surely say that he had red hair.

10. Q. Can you describe, or can you give the features, of the one that was dead?

A. Yes I can. He was about six foot one inch tall, weighing two hundred pounds in build and partially bald in front.

11. Q. Did you supervise the carrying out of this man that you have just identified to the ambulance?

A. Yes sir. I helped carry him down the steps on a stretcher and put him into the ambulance.

12. Q. Can you describe the characteristics of the man that you testified that was mumbling?

A. He was tall and thin, that is all I can remember.

13. Q. Did you see him enter the ambulance?

A. Yes sir, I did.

14. Q. Do you know what happen^{ed} to this man that you picked up at the shore patrol landing and carried out to this house?

A. Yes sir, I do. He was put into the ambulance with the other two. just

15. Q. Do you know where this ambulance went after it left the house with the three persons you have just described?

A. They were all taken to the hospital.

16. Q. Do you know what hospital?

A. Yes sir, the naval dispensary on the base here.

17. Q. Did you find any bottles lying around this house that you went to on the first of September?

A. There were two bottles picked up but I did not pick them up myself. There were some bottles picked up at the house.

18. Q. Did you yourself find any bottles?

A. No sir.

19. Q. Do you recall any of the conversation that you might have had with any of these three men?

A. No sir.

20. Q. Did any of them make any kind of statement to you as to what they had been doing?

A. No sir.

Cross-examined by the accused:

21. Q. You stated, that Lieutenant Kahn took a woman to the south military police station between five and six o'clock on the first of September, what was her appearance?

A. She had on an orange kimono. I can not describe her face.

22. Q. Did she appear intoxicated?

A. No.

23. Q. Did she appear excited?

A. Yes.

24. Q. What was the general appearance of the room in which you found the dead man when you first entered.

A. All had been sleeping, because both men, the dead man and the man that was mumbling were under cover.

25. Q. Was there any evidence of vomiting in the room?

A. No sir.

The judge advocate did not desire to reexamine this witness.

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

The witness made the following statement:

When the call came through I got in to a jeep and proceeded to the fleet landing. But, before I got there, just about the enlisted men's club, it was then that I first saw this woman. She was coming up the middle of the street. I never bothered to stop although she was almost in front of my jeep. That is all.

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

The witness said that he had nothing further state.

The witness was duly warned and withdrew.

A witness for the prosecution entered and was duly sworn.

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

A. John W. Howard, lieutenant (junior grade), Medical Corps, U.S. Naval Reserve, U.S. Naval Dispensary, U.S. Fleet Activities, Yokosuka, Japan.

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

A. I do not recognize him.

3. Q. Were you the medical officer-of-the-day on the first of September 1946?

A. Yes, sir, I was.

4. Q. Do you recall admitting any merchant seamen on this day?

A. Yes, I do.

5. Q. Can you state them by name?

The witness requested permission from the commission, to refresh his memory from a memorandum made at the time. The commission granted the request.

A. Three men were brought in, one man by the name of Ferris was pronounced dead by me on arrival at the hospital, the other two Price and Evans were admitted to the hospital. Price's diagnosis was methyl alcohol poisoning and Evans' was admitted for medical observation.

6. Q. At what time did this take place?

A. At approximately 0600.

7. Q. Can you give a description of the three men that you admitted?

A. Ferris was a large man, I would say approximately six feet tall, weighing about two hundred pounds. He was dressed in pajamas when he was admitted to the hospital. He had grey hair which was receded at the temples. Evans was a small man, approximately five feet five inches tall, weighing about one hundred and twenty pounds, eyes, grey-green and white hair. Price was a slender man, approximately five feet eleven inches tall, weighing approximately one hundred and fifty-five pounds. That is the best description I can give of these men.

8. Q. Do you recall the time you pronounced James Frank Ferris dead?

A. I pronounced Ferris dead when he was brought into the dispensary at 0600.

9. Q. Did either Gordon Knowlton Price or Michael John Evans die while undergoing treatment from you?

A. No they did not.

10. Q. At what time were you relieved as medical-officer-of-the-day on the first of September 1946?

A. At 1000 I was relieved by John P. McDermott, Medical Corps, U.S. Naval Reserve.

The judge advocate requested a fifteen minute recess.

The commission granted the request.

The commission then, at 2:35 p.m., took a recess until 2:50 p.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

The accused introduced Miyomatsu Aoki, as assistant counsel for the accused.

Cross-examined by the accused:

11. Q. What symptoms did Price exhibit to establish the diagnosis of methyl alcohol?

A. Price had a strong odor of alcohol on his breath of which I thought to be methyl alcohol rather than ethyl alcohol. He also exhibited a staggering gait and a coarse tremor of his hands. His subjective complaints were those of intense headache, blurred vision, ringing in his ears and nausea.

12. Q. Did you examine his eyes?

A. I made a superficial examination of his eyes as to extra ocular movements, state of injection and pupillary reaction to light and accommodations.

13. Q. Is there a great deal of difference in the odor of methyl and ethyl alcohol?

A. No, sir, there is not a great deal of difference.

14. Q. Is there any marked difference in the symptoms occurring in the eyes of a suspected ethyl alcohol poisoning than that of methyl poisoning?

A. To my knowledge the greatest difference lies in the patient's subjective complaints with blurring vision more to occur in a case of methyl alcohol poisoning.

15. Q. What was the condition or rate of his pulse?

A. As I remember it was approximately between 50 to 60.

16. Q. That is per minute?

A. Yes, sir.

17. Q. What was the condition of his skin?

A. It was dry and cold.

18. Q. Was the diagnosis of the man, known as Evans, different from that of Price?

A. Yes, it was.

19. Q. In what respects did the diagnosis differ?

A. Both diagnoses were in accordance with navy nomenclature; that of Price's being methyl alcohol poisoning, acute. Evans was admitted with a diagnosis of DU medical observation, The DU being the abbreviation for diagnosis undetermined. Just

20. Q. Were the symptoms exhibited by Evans of a lesser degree than that of Price?

A. Yes, they were.

21. Q. In which way did they differ?

A. Evans did not exhibit any objective symptoms. His only complaint was a mild headache and a slight nausea.

22. Q. In your professional opinion how long was Ferris dead when you first saw him?

A. I would say that Ferris had been dead approximately one to three hours.

The judge advocate did not desire to reexamine this witness.

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 3:15 p.m., adjourned until 9 a.m., tomorrow, Tuesday, February 11, 1947.

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SEVENTH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Tuesday, February 11, 1947.

The commission met at 9:15 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman second class, U.S. Navy, reporter.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, inter-
preters.

The accused and his counsels.

The record of proceedings of the sixth day of the trial was read and approved. The translation of the proceedings of the sixth day of the trial was accepted and approved by the counsels for the accused.

The commission then, at 9:35 a.m., took a recess until 9:40 a.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

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

A. John P. McDermott, lieutenant (junior grade), medical corps, U.S. Fleet Activities, Yokosuka, Japan.

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

A. No, I do not recognize the accused.

3. Q. Were you the medical officer-of-the-day on one September 1946?

A. Yes, I was.

4. Q. Whom did you relieve?

A. Lieutenant (junior grade) John W. Howard at 1000 on the first of September.

5. Q. When you took the duty over do you recall having two merchant seamen as patients?

A. Yes, there were two merchant seamen, one named Price and the other named Evans.

6. Q. Did you have occasion to treat either of these men?
A. I treated both of them.

7. Q. What did you treat them for?
A. They were both treated for methyl alcohol poisoning.

8. Q. Will you tell what you know of the circumstances surrounding their treatment and disposition while you were the medical officer of the day?

A. The first patient that I shall mention is named Gordon Knowlton Price. I saw them at approximately 1100 that morning, at which time he was examined by me and further orders were left as far as his treatment was concerned. Further orders were that he was to receive further intravenous fluids. At the time I saw him his blood pressure was 112 over 74, his pulse 76, and his respiration was 40. He was not rational and could not answer questions. He responded to painful stimuli, and throughout the examination, he was continuously rubbing his eyes while he stared at the ceiling as if he couldn't see. At 12:30 that afternoon I was called to see Gordon Knowlton Price again. I arrived approximately at 12:33 to see him, at which time the patient showed no respiration and there was no heart beat. I pronounced him dead at that time, 12:33, from methyl alcohol poisoning. The second patient was named Michael John Evans. He complained of symptoms such as follows: weakness, pain in the chest for five hours and once blurring of vision. He stated that he had been out drinking the evening before with two buddies, and that he had had as he called it, two swigs of Japanese whiskey. He had limited the rest of his drinking to beer. He stated that he had felt weak that afternoon and on one occasion, his knees almost buckled under him, and that his vision blurred on him once. Physical examination revealed a blood pressure of 110 over 80, respiration was labored, and was at a rate of 30 times per minute. His pulse was of small volume and the rate was 100 beats a minute. His pupils were dilated and reacted sluggishly to the light. His heart tones were distant. The diagnosis was listed as methyl alcohol poisoning and the following measures of treatment were instituted: He was given 60 grains of sodium bicarbonate and was to receive 30 grains every hour thereafter. Intravenous fluids were ordered as were fluids by mouth and one ounce of magnesium sulfate. Further orders such as, oxygen, caffeine sodium benzoate grains $7\frac{1}{2}$, were ordered. I was called to see this patient again at 2120, at which time his respiration was 10 to 12 per minute, and his radial pulse rate was so feeble, that it could not be accurately counted. His heart rate by auscultation was 50 to 60 beats per minute. The patient was comatose and did not respond to painful stimulus. At 2130 he had a generalized convulsion. His heart tones could no longer be heard, but his respiration continued but was very feeble, so that artificial respiration was given until respiration stopped. At 2150 the patient was pronounced dead and the opinion was that of methyl alcohol poisoning.

9. Q. Will you please describe the features of Gordon Knowlton Price?

A. Price was a man of about six feet tall, his weight approximately 165 pounds, he had red hair, a rather florid color on his face and he was light skinned.

10. Q. How old of a man did you say Price was?

A. About 44.

11. Q. Will you describe the features of Michael John Evans?

A. Michael John Evans was a rather small man, about five feet six or seven inches in height, his weight was 120 to 130 pounds, his hair was grey, and his eyes blue. He had a rather markedly pointed nose, and his age I would judge to be about fifty years old.

12. Q. Have you seen men die from the effect of drinking methyl alcohol?

A. The two that I have seen were the two in this case.

13. Q. Did you perform or assist in the performance of an autopsy on either Price or Evans?

A. No, I did not.

Cross-examined by the accused:

14. Q. Did Evans state what type of Japanese whiskey he had drunk?

A. No.

15. Q. Did Evans mention what type of beer he had drunk?

A. It was Japanese beer but nothing as far as the brand was concerned.

16. Q. At what time, on the first of September, did Evans make the statement that he had had two swigs of Japanese whiskey the evening before?

A. I think it was between 1000 and 1100 that day.

17. Q. Did Evans, between 1000 and 1100 on the first of September, exhibit any objective evidence that he was dying?

A. No.

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 a ten minute recess.

The commission granted the request.

The commission then, at 10:55 a.m., took a recess until 11:05 a.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, residence, and occupation.

A. Frederick J. Kahn, Mitsubishi Billet, Yokohama, Japan, investigator.

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

A. I recognize the accused as Shogoro Takata.

3. Q. Were you in the armed services of the United States on August 31st and 1 September 1946?

A. I was on active duty in the U.S. Marine Corps Reserve on the above-mentioned dates.

4. Q. Where was your station of duty on these dates?

A. I was stationed at U.S. Fleet Activities, Marine Detachment, Yokosuka, Japan.

5. Q. Were you serving with the military police company at this time?

A. I was serving with the military police company at this time.

6. Q. Do you recall if you were the officer-of-the-day?

A. I was the officer-of-the-day on the 31st of August and on the 1st of September.

7. Q. At what time were you relieved as officer-of-the-day on the first of September?

A. I was relieved as officer-of-the-day at 0800 on the first of September.

8. Q. Do you recall the circumstances surrounding three merchant seamen alleged to have been drinking methyl alcohol on the 31st of August to the 1st of September?

A. Yes, I do.

9. Q. Will you please relate all that you know surrounding the incident involving these three merchant seamen.

A. At approximately 0500, on the first of September 1946, I was on duty at the military police station in the city of Yokosuka. One of the military policemen on duty informed me that a report had been received from a merchant seaman, that two of his buddies were sick at 44 Shiodome Street. I immediately went to the address and went upstairs. In the room were three merchant seamen and a Japanese girl. One of the seamen whose name was Evans seemed to be in perfect condition. Two other seamen, by the names of Price and Ferris, were lying on the floor. Ferris was dead. The dispensary had been notified and at the time the ambulance had arrived, the corpsmen were examining Price. Price was removed to the ambulance and rushed to the naval dispensary. Ferris was then removed to the naval dispensary. During this time, the Japanese girl, Kinie Homma was in the room and was in a hysterical condition. After removing the men to the hospital I proceeded to the hospital with Evans and he told me the story of the happenings in the room. He stated that Price and Ferris had been drinking quite heavily of Japanese liquor which Kinie Homma had served them. He said that he had about one drink, and that the Japanese girl also had a drink or two. He said about three o'clock in the morning Ferris started breathing quite heavily. He became alarmed because Ferris was such a big man and it didn't seem natural for a big man to be breathing that way.

He asked some Japanese to go for a doctor, but when none appeared, he went to the shore patrol station for assistance. The girl seemed to be particularly interested in the sailor called Price. She kept referring to him as Red. She said she knew him quite well. We asked the girl if there was anymore liquor in the house. She said there wasn't. We went down to the lower floor of the house, into the shop of Shogoro Takata, and made a hasty search. There were a great many bottles present and we did not know the ingredients of them. Shogoro Takata was asked if there were anymore filled liquor bottles in the store and he said there wasn't. There were two items in the room that I neglected to mention. They were the two bottles that Evans said they had been drinking from. The bottles were empty except for a few drops in the bottles. These bottles were turned over to the main dispensary for examination. The next day, or the day after, Lieutenant Campanile informed me that the Japanese police had discovered four more bottles of alcohol in Shogoro Takata's store. I took these bottles to the medical laboratory in Yokohama to be analyzed. I went back for the report on the alcohol and I was informed that it was "Deadly Poison". I then took some tape, placed it on the bottles, and marked in English, the words "Deadly Poison". I then had a Japanese write the same words on the tape in Japanese characters. I brought these bottles back to Yokosuka and turned them over to the military police company.

10. Q. I show you four bottles, "Exhibit 2"; do you recognize them?

A. I recognize these bottles as the ones I had analyzed in Yokohama. I recognize my tape and my lettering on the tape. I recognize the tape that Lieutenant Campanile put on the bottles and labeled. I recognize the paper sticker that the medical laboratory put on the bottles.

11. Q. Are these the four bottles that were turned over to you by the Japanese police?

A. These are the four bottles that Lieutenant Campanile turned over to me. He told me that the Japanese police had received them from Shogoro Takata.

12. Q. On what date did this take place?

A. I am not positive of the exact day but it was in the early part of September.

13. Q. Did the analysis report that you received from the laboratory in Yokohama, indicate these bottles contained methyl alcohol?

A. Yes, it did.

14. Q. Do you know whether it was under the legal limit?

A. The paper I received on each individual bottle was marked with the bottle number; bottles 189, 190, 191 and 192, had more than the allotted amount of methyl alcohol in them. This was so marked on paper.

15. Q. Can you describe the features of this man Price?

A. The main thing that I remember about Price was his red hair.

16. Q. Can you describe the features of this man named Evans?

A. As I remember Evans he was a small man.

17. Q. Can you describe the features of the dead man Ferris?
A. Ferris was a very large man, that is, in height and in weight.

18. Q. What disposition was made of these three men when you arrived at this house?

A. Price was taken to the naval dispensary in an ambulance. Evans was taken to the naval dispensary in a jeep. Ferris was removed to the morgue.

19. Q. Did you have occasion to talk to the accused at any time on the first of September or during your course of investigation?

A. The one time I distinctly remember talking to the accused was after the four bottles of alcohol were discovered.

20. Q. Do you recall the conversation?

A. I was trying to determine where Shogoro Takata procured his alcohol. He told me at first from a Korean. I asked him if he knew where this Korean lived. He stated that he definitely did not know. Upon further questioning he stated it was possible that we could find the Korean. He stated that his wife might know the Korean's name and the place where the Korean lived. We took Shogoro Takata to his home, to find from his wife, where the Korean could be located. We were given a district in Oppama where the Korean League has its headquarters and records of Koreans residing in the area are kept. The records of this Korean headquarters, however, did not help us in our search.

21. Q. Do you recall whether Shogoro Takata stated that he had manufactured this whiskey?

A. Yes, Shogoro Takata stated that he had used some Japanese sauce which was used for coloring and some wood alcohol to make his liquor. He stated he had half water, half alcohol and added the coloring matter.

22. Q. Did he say how much he had made?

A. I do not recall him saying how many bottles he made.

23. Q. Did the accused state to you that he had manufactured the contents contained in these four bottles?

A. The accused told me he had made the whiskey, but did not know anything was wrong with it.

24. Q. What was the general appearance of the rooms at the house of 44 Shiodome Street in which you found these merchant seamen?

A. The general appearance of the room occupied by Kimie Homma, in which I found the three merchant seaman, was one of slight disorder. There were clothes laying around the room and the room did not seem too clean. The store down-stairs had an appearance of a general disorder.

25. Q. Did you notice any evidence of material that had been vomitted?

A. No, I did not.

26. Q. Did Kimie Homma state how much whiskey she had drunk?

A. Kimie Homma stated that she too had partaken of the whiskey. She did not say how much.

The witness was warned and withdrew.

The commission then, at 12:20 p.m., adjourned until 9 a.m., tomorrow, Wednesday, February 12, 1947.

EIGHTH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Wednesday, February 12, 1947.

The commission met at 9 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman second class, U.S. Navy, reporter.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, inter-
preters.

The accused and his counsels.

The record of proceedings of the seventh day of the trial was read and approved. The translation of the proceedings of the seventh day of the trial was accepted and approved by the counsels for the accused.

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

Cross-examined by the accused:

27. Q. Do you know, other than by the second party testimony, that the two empty bottles found in Takata's house were the ones from which the three deceased seamen had been drinking?

A. Yes, Evans personally told me at the scene, that he, the other two men, and Kimie Homma, had been drinking from the bottles.

28. Q. Do you know, other than by the information given to you by the seaman named Evans, that the two empty bottles found in Takata's house were the three bottles from which the three seamen had been drinking?

A. Yes, Kimie Homma told me that she also had whiskey from the two bottles that the seamen had drunk from.

29. Q. Do you know, other than the information given to you by Kimie Homma, that the empty bottles found in Takata's house were the two bottles from which the three seamen had been drinking?

A. No, I don't.

30. Q. Who turned over to the dispensary, the two empty bottles, the contents of which was alleged to have been drunk by the deceased seamen?

A. I did.

31. Q. Who received these bottles at the dispensary?

A. Doctor Howard.

32. Q. Did you receive any information from Doctor Howard concerning these bottles?

A. Doctor Howard told me that there was not enough alcohol left in the bottles to have an analysis made.

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33. Q. Do you have the laboratory report on the contents of the four bottles which you sent to Yokohama for analysis.

A. I received the report from the laboratory in Yokohama and put them in the military police files.

34. Q. This report then, is available for introduction; is that correct?

A. Yes.

35. Q. In your previous testimony, you described the inspection of the lower floor belonging to Shogoro Takata and that there were many bottles present; were these bottles of various sizes?

A. Yes, they were of Japanese beer bottle sizes and of the large sake bottle sizes.

36. Q. Were there any other types of bottles present other than these two types you have just mentioned?

A. I do not remember at the present, but there may have been others, however, they do not stand out in my memory.

37. Q. About how much liquid was left in these two bottles?

A. Just enough that if you tipped it on its side you could get a thimble full or less.

The judge advocate did not desire to reexamine this witness.

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 according to the oath prevalent in the criminal courts of Japan.

Examined by the judge advocate:

1. Q. State your name, residence, and occupation.

A. Tatuji Mori, 1272 Hemi, Yokosuka City, Kanagawa Prefecture, policeman.

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

A. I recognize him, but I only remember that his name is Takata.

3. Q. I show you four bottles; do you recognize them?

A. The accused, Shogoro Takata, informed me that he had purchased alcohol from a Korean and manufactured the contents of them.

4. Q. Do you recognize these four bottles?

A. Yes, I'm sure that they are the bottles I brought from number one Shioiri.

The judge advocate requested a ten minute recess.

The commission granted the request.

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

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

No witnesses not otherwise connected with the trial were present.

The accused objected to that portion of the judge advocate's questioning, and testimony of Mr. Kahn, which related to the four bottles already placed in evidence on the grounds of irrelevancy, and that the information sought can be obtained as direct evidence elsewhere.

The judge advocate made no reply.

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

5. Q. Will you relate all that you know surrounding the circumstances of obtaining these four bottles?

A. I do not recall the exact date, but I believe it was about the 4th of September of last year. The chief of detectives at that time was Mr. Ishii. He told me that they were at number one Minato Machi the residence of Kiyoshi Mochizuki.

6. Q. From whom did you obtain these bottles?

A. Since Mochizuki was not at home, and his wife and a child of about twelve were in the house, and since I already knew that these four bottles were in a box, I told them to get it for me and they brought it out.

7. Q. To whom did you give these bottles to?

A. I turned the bottles over to the chief of detectives.

Cross-examined by the accused:

8. Q. The bottles which you see before you; did they have the stickers and labels on them, as they have now, when you first saw them?

A. They were not on the bottles.

9. Q. These bottles being marked, and being of a standard type Japanese beer bottle; how can you recognize these bottles which you see before you with any certainty?

A. I only know that it is clear in my mind that these bottles were the bottles I turned over to the chief of detectives. However, there is no positive proof.

10. Q. Were there any particular markings, or other features of the bottles which you believe to be the ones in evidence, which would give a reasonable basis for identification?

A. I recall that there were three dark bottles, and one brown bottle, and as the ordinary beer bottles are of a light color I recall them as such.

11. Q. If all of the labels and stickers now on the bottles in evidence were removed and identifying marks put on the bottom, and these bottles were mixed with three dark and one of a light color; do you feel that you could choose or segregate the four bottles now in evidence?

A. No, I shall not be able to segregate them.

The judge advocate did not desire to reexamine this witness.

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

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

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

A. Marco M. Campanile, second lieutenant, U.S. Marine Corps, Marine Detachment, U.S. Fleet Activities, Yokosuka, Japan.

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

A. I recognize the accused as Shogoro Takata.

3. Q. What were your duties on the first of September 1946?

A. I was an officer in the office of the provost marshal, U.S. Fleet Activities, Yokosuka, Japan.

4. Q. On the first of September, certain irregularities took place, in which three merchant seamen died as a result of methyl alcohol; will you please state all that you know surrounding the circumstances of that incident.

A. In the early part of September, I received from the Japanese police at the Japanese police station, four bottles similar to the standard one-half liter beer bottle. I labeled these bottles, source one and numbered the bottles one to four consecutively. I took these bottles to the United States naval dispensary to have them examined for content. I was lead to understand that these bottles were related to the case just mentioned by the judge advocate. I remember seeing these bottles again, shortly thereafter, when they were brought into the office of the provost marshal with an added label on them, lettered in red on a piece of adhesive tape, "deadly poison". Accompanying these bottles was an analytical report of the content of each, with regard to the weight density of methyl alcohol present per volumetric unit. These bottles were locked up in a locker in the provost marshal's office. I saw these bottles again, approximately two months ago, when they were taken from one locker, placed into another, and again locked up. The next time I saw these bottles was, approximately two weeks ago, when they were removed from the last mentioned locker and turned over to Major Hopkins.

5. Q. I show you four bottles; do you recognize them, if so, by what means?

A. I recognize them as being apparently the four bottles that I have mentioned in my previous testimony. I recognize them from the label I put on them namely, source one to four, consecutively, the numbering of the bottles. I recognize the bottles as being the type that I heretofore have mentioned. I recognize the label "deadly poison" as being the same as the one I have previously mentioned. I recognize the numbers placed on these bottles before they came back from the place of analysis as being 189 through 192. I also remember that the analytical reports on the bottles so

numbered, indicated more than two milligrams of methyl alcohol per cubic centimeter of solution. I also recognize the corks in the bottles as being the same, or similar to the ones that I previously saw on them.

Cross-examined by the accused:

6. Q. What means of adhesion retains the stickers or labels, which you have stated you placed on the bottles?

A. I placed the adhesive tape labels on the bottles that I marked source one and so forth.

7. Q. Do you know who attached the gum label sticker?

A. I do not know by first hand evidence.

8. Q. Were the bottles which you testified etched, or physically disfigured in order to irrevocably identify them?

A. I know of no such etching or disfiguring.

9. Q. Did you cut, disfigure, or indelibly mark the corks of the bottles of which you testified?

A. No, sir, I did not.

10. Q. Is the report which gave you the information on the contents of the bottles, available as evidence?

A. I do not know where these reports are at the present.

11. Q. What is the volumetric unit which you referred to in your testimony?

A. It was either stated as cubic centimeters, or its equivalent milliliters.

The judge advocate did not desire to reexamine this witness.

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 12 a.m., adjourned until 9 a.m., tomorrow, Thursday, February 13, 1947.

NINTH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Thursday, February 13, 1947.

The commission met at 9:15 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman second class, U.S. Navy, reporter.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, inter-
preters.

The accused and his counsels.

The record of proceedings of the eighth day of the trial was read and approved. The translation of the proceedings of the eighth day of the trial was accepted and approved by the counsels for the accused.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, rank, and present station.
A. Theodore B. Van Itallie, lieutenant (junior grade), Medical Corps,
U.S. Naval Reserve, U.S. Fleet Activities, Yokosuka.
2. Q. If you recognize the accused, state as whom.
A. I do not recognize him.
3. Q. Are you a doctor?
A. I'm a doctor of medicine.
4. Q. What medical college did you graduate from?
A. The College of Physicians and Surgeons of Columbia University.
5. Q. Did you intern, if so, how long?
A. I took my internship at St. Luke's Hospital in New York City, for a
period of nine months.
6. Q. Have you been practicing medicine constantly since your internship?
A. Yes.
7. Q. Do you recall of having performed an autopsy on one James Frank
Ferris, boatswain, U.S. Maritime Service?
A. Yes.
8. Q. Do you recall on what date you performed this autopsy?
A. Approximately the first of September.
9. Q. Did you make an autopsy report of your findings?
A. Yes, I did.

The judge advocate introduced an autopsy report on one James Frank Ferris, and submitted the report to the accused, the commission, and offered the report in evidence.

There being no objection, it was so received and marked "Exhibit 3".

10. Q. I show you an autopsy report for James Frank Ferris; do you recognize such a report?

A. Yes, it is my report that I made.

11. Q. Is that your signature?

A. Yes, it is.

12. Q. Do you recall on what date you made this report?

A. I believe it was the first of September of 1946; the same day the body was admitted to the dispensary.

13. Q. Will you please explain on what grounds and foundation that the findings were compatible with the clinical diagnosis of acute methanol poisoning?

A. The findings described in the anatomical diagnosis of hypermia of the kidneys, and of punctate hemorrhages of the gastric mucosa, are nonspecific. However, similar findings have frequently been encountered on other autopsies performed on persons known to have died of methyl alcohol poisoning. In this particular autopsy, there were no findings which were inconsistent with the clinical diagnosis, and the positive findings, while not diagnostic, were similar to the other autopsy findings as I have previously mentioned.

14. Q. Doctor, when you performed the autopsy, did you take a urine specimen of James Frank Ferris?

A. Yes, I did. I placed the urine specimen in a bottle, and marked on it his name. The specimen was then sent to the 406th Medical General Laboratory for analysis, in order to determine the methyl alcohol content, if any.

15. Q. Doctor, it is not a medical fact that methyl alcohol can be found in the urine of one suffering from the effects of drinking methyl alcohol?

A. It is true that a large portion of methyl alcohol taken into the system is excreted in the urine.

The judge advocate introduced as analysis report of the urine specimen on one James Frank Ferris, and submitted the report to the accused, the commission, and offered the report in evidence.

There being no objection, it was so received and marked "Exhibit 4."

16. Q. Doctor, I show you a slip of paper that contains an analysis report of James Frank Ferris, for an analysis of the urine that contained methyl alcohol; do you recognize it?

A. Yes, I do.

17. Q. Is this the report received by you, as to the amount of methyl alcohol content in the urine of James Frank Ferris?

A. Yes, it is.

18. Q. In the report it states that methyl alcohol content equals 12. mg/ml; can you elaborate to the commission what that means?

A. This report is a quantitative determination of the amount of methyl alcohol found in a specific quantity of urine. In this instance, the result

of the finding is of 12 milligrams per milliliter, or cubic centimeter in terms of percentages by weight that would be about 1.2 per cent concentration.

19. Q. What percentage of methyl alcohol in the urine, indicates as to the amount of liquor taken into the body?

A. The concentration of methyl alcohol found in this specimen of urine suggests that James Frank Ferris had consumed a rather large quantity, in terms of what is usually thought to be a large quantity of methyl alcohol, before his death.

20. Q. By that do you mean a high concentration of methyl alcohol, or a large amount of liquid?

A. I mean an appreciable amount of methyl alcohol.

The accused requested a ten minute recess.

The commission granted the request.

The commission then, at 10:15 a.m., took a recess until 10:25 a.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

21. Q. Do you recall of performing an autopsy on Gordon Knowlton Price, chief steward, U.S. Maritime Service?

A. Yes, I do.

22. Q. Do you recall when?

A. It was approximately the second of September 1946.

The judge advocate introduced an autopsy report on one Gordon Knowlton Price, and submitted the report to the accused, the commission, and offered the report in evidence.

There being no objection, it was so received and marked "Exhibit 5."

23. Q. Did you make an autopsy report of your findings?

A. Yes, I did.

24. Q. I show you an autopsy report; do you recognize it?

A. That is the one I made at the time.

25. Q. Is that your signature?

A. Yes, it is.

26. Q. Will you explain on what basis the findings were compatible with the clinical diagnosis of acute methanol poisoning?

A. What I said about Ferris is entirely applicable to that about Price.

27. Q. When you performed the autopsy did you take a urine specimen of Price?

A. Yes, I did.

28. Q. What did you do with it?

A. I placed it in a marked bottle, and sent it to the 406th Medical General Laboratory, for analysis for methyl alcohol content.

The judge advocate introduced an analysis report of the urine on one Gordon Knowlton Price, and submitted the report to the accused, the commission, and offered the report in evidence.

There being no objection, it was so received and marked "Exhibit 6."

29. Q. I show you a slip of paper which is marked 406th Medical Laboratory, upon which appears the name G.K. Price, analysis for urine from an autopsy; do you recognize this slip of paper?

A. Yes, I do.

30. Q. Will you state what the report indicates?

A. The report indicates that the methyl alcohol content equals 12 milligrams per milliliter. This means that the methyl alcohol concentration in the urine was found to be 1.2 per cent approximately, by weight.

31. Q. Would you say that the same applied to Price, that applied to the testimony on Ferris, regarding the percentage of methyl alcohol found in a person's body?

A. Yes.

32. Q. Do you recall performing an autopsy on Michael John Evans, utility steward, U.S. Maritime Service?

A. Yes, I do.

33. Q. Do you recall when?

A. Approximately the second of September 1946.

34. Q. Did you make an autopsy report on your findings?

A. Yes, I did.

The judge advocate introduced an autopsy report on one Michael John Evans, and submitted the report to the accused, the commission, and offered the report in evidence.

There being no objection, it was so received and marked "Exhibit 7."

35. Q. Will you explain on what basis the findings were compatible with the clinical diagnosis of acute methanol poisoning?

A. On the same basis as was used in the case of James Frank Ferris.

36. Q. Did you take a urine specimen of Evans?

A. No, I did not, because the bladder at autopsy was found to be empty.

37. Q. Doctor, from your autopsies performed on these three men, what would you say that each died from?

A. The autopsies were not diagnostic and are not usually in such cases of any specific cause of death. However, there was no finding to disturb the clinical impression of methanol poisoning.

If the result of analysis of the urine specimen can be taken as part of the autopsy, it would confirm beyond a reasonable doubt, the clinical impression.

38. Q. Do you know what amount of methyl alcohol one can consume before resulting in death?

A. On the basis of the articles which I have read, and my individual experience, I should say that no specific amount of methyl alcohol can be said to cause death, owing to the wide range of individual susceptibility of the human being to this chemical. It is known that as little as 10 or 15 cubic centimeters may cause death, whereas, in other individuals 250 cubic centimeters may be necessary to produce the same result.

39. Q. Do you know what the minimum dose of methyl alcohol that has been considered a toxic dose?

A. There has been a case reported in which four cubic centimeters had toxic effects.

40. Q. Does this necessarily mean that death could result from this amount?

A. Death does not invariably follow the ingestion of this amount, but usually larger doses are required.

41. Q. Can you tell the difference between the effect of methyl alcohol on the body than that of ethyl alcohol?

A. The effect of methyl alcohol per se is similar to that of ethyl alcohol. However, methyl alcohol, after a period of time, is broken down in the body to form formic acid and formaldehyde both of which are strongly toxic. After a lapse of nine to thirty-six hours the patient may develop symptoms of impairment of vision and acidosis. These differ from the findings of acute ethyl alcohol poisoning in which the symptoms are not delayed. In ethyl alcoholism, blindness and acidosis do not ordinarily occur.

The judge advocate requested a ten minute recess.

The commission granted the request.

The commission then, at 11:05 a.m., took a recess until 11:15 a.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

42. Q. How does one make a diagnosis of methyl alcohol poisoning after death?

A. The postmortem findings, as I said, are not diagnostic. The diagnosis of methyl alcohol poisoning must ultimately be made on the basis of toxicology studies made of the urine or tissues. If the findings on postmortem are not inconsistent with the diagnosis of methanol poisoning, and the toxicology studies discloses methyl alcohol, or its products in the urine, or in the tissues, the diagnosis of methyl alcohol poisoning may be established.

43. Q. Doctor, how did you establish the identity of Ferris, Price, and Evans?

A. In the case of Ferris, his identity was established by his two, at the time, friends Price and Evans. Price and Evans identified themselves as I recall. They had on their persons wallets and other forms of identification to substantiate this.

44. Q. I show you four bottles, "Exhibit 2"; do you recognize them?

A. Yes, I do. These are the four bottles which were given to me to take to the 406th Medical General Laboratory for analysis for methyl alcohol content by Major Hopkins.

The counsel for the accused objected to the line of questioning by the judge advocate, on the grounds that it was irrelevant, and could lead only to the establishment to a fact to which the accused has already plead guilty.

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 not sustained.

45. Q. Do you have a report as to the analysis of these four bottles?
A. Yes, I do, here it is.

The witness produced the analysis report of the four bottles, and it was submitted to the judge advocate, the accused, and the commission offered in evidence.

There being no objection, it was so received and marked "Exhibit 8."

46. Q. Will you please interpret the meaning of this report?

A. The report refers to the quantitative analysis for content methyl alcohol in each bottle. According to this report, bottle 189 contains 275 milligrams per milliliter, or approximately 27.5 per cent methyl alcohol by weight, bottle 190 contains the same amount, bottle 191 contains 350 milligrams per milliliter, and bottle 192 contains 120 milligrams per milliliter. The percentages estimated are not entirely exact, owing to the differences between the specific gravity of methyl alcohol, and the fluid. However, the variation is very small.

47. Q. In your opinion is the content of each of these bottles sufficient to cause a normal person drinking the content death?

A. If the quantity ingested amounted to 10 cubic centimeters of methyl alcohol, or above, it could cause death.

48. Q. In your opinion is the amount of methyl alcohol contained in each of these bottles excessive?

A. In view of the fact, that the amount in these bottles is more than a thousand times the concentration allowed by 8th Army regulations, I should say it was.

49. Q. Can you explain the variation that exists in milligrams over milliliters of bottles labeled 191 or 192?

A. If they came from the same batch originally, the variation might be accounted for by the volatility, that is the tendency of methyl alcohol to evaporate very readily, and the possible interaction with methyl alcohol and other constituents in the bottle. It should be pointed out, that the bottles had been standing for a period of five months, before quantitative analysis was made. These factors, I believe, account for such variation.

50. Q. How do you recognize the four bottles that have just been shown to you?

A. I recognize them by the labels which says "deadly poison" in red crayon and the numbers 189 through 192, which correspond to the numbers which I recall were on the bottles.

The witness was duly warned and withdrew.

The commission then, at 12 a.m., adjourned until 9 a.m., tomorrow, Friday, February 14, 1947.

0597

TENTH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Friday, February 14, 1947.

The commission met at 9:15 a.m..

Present:

Captain John G. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman second class, U.S. Navy, reporter.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, inter-
preters.

The accused and his counsels.

Captain William G. Michelet, U.S. Navy, was absent due to illness.

The commission then, at 9:16 a.m., adjourned until 9 a.m., tomorrow, Saturday, February 15, 1947.

0598

ELEVENTH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Saturday, February 15, 1947.

The commission met at 9:45 a.m..

Present:

Captain John Q. Cwsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman second class, U.S. Navy, reporter.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, inter-
preters.

The accused and his counsels.

Captain William G. Michelet, U.S. Navy, was absent due to illness.

The commission then, at 9:46 a.m., adjourned until 9 a.m., Monday,
February 17, 1947.

0599

TWELVETH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Monday, February 17, 1947.

The commission met at 9:30 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman first class, U.S. Navy, reporter.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, inter-
preters.

The accused and his counsels.

The record of proceedings of the ninth, tenth, and the eleventh days of the trial was read and approved. The translation of the proceedings of the ninth, tenth, and the eleventh days of the trial was accepted and approved by the counsels for the accused.

The judge advocate informed the commission that Lieutenant (junior grade), Theodore B. Van Itallie, Medical Corps, U.S. Naval Reserve, was not available at this time for cross-examination by the accused, due to illness.

The judge advocate requested that the trial continue with the examination of a new witness.

The counsels for the accused had no objection to make.

The commission granted the request.

A witness for the prosecution entered and was duly sworn according to the oath prevalent in the criminal courts of Japan.

Examined by the judge advocate:

1. Q. State your name, age, occupation, and residence.

A. Shizuko Mochizuki, 14, student, number one Minato-Cho, Yokosuka, Japan.

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

A. Yes, Mr. Takata.

3. Q. On or about the second of September 1946 did Mr. Takata come to your house?

A. Yes, he did.

4. Q. Did you see him?

A. Yes, I did.

5. Q. Did he have anything with him?

A. Yes, he brought a box.

6. Q. Do you know what was in that box?

A. I did not know.

7. Q. What did he do with this box?

A. He took the box to the bathroom and left it there.

8. Q. Was that box removed at all?
A. No, it was not removed.

9. Q. When is the last time you saw that box?
A. I don't recall exactly, but I think it was five or six days later.

10. Q. What was the occasion for you seeing this box?
A. It was when a detective came to get the box.

11. Q. What did he do?
A. He opened up the box and looked at the contents.

12. Q. Did you see what the contents were then?
A. Yes, I did.

13. Q. Will you tell us what you saw?
A. I saw bottles.

14. Q. Do you recall how many bottles?
A. I didn't get too good a look at the bottles, but I believe there were four of them.

15. Q. If I show you four bottles do you believe that you might recognize them as being similar to the ones you saw?
A. I think so.

The judge advocate showed the four bottles, "Exhibit 2", to the witness for identification purposes.

16. Q. Do these four bottles resemble the four bottles which you saw in that box?
A. Yes.

17. Q. What did the detective do with this box that contained these four bottles?
A. He put the box and the bottles on a bicycle and went off.

18. Q. What did Mr. Takata say to you when he brought this box to your house?
A. When I asked him, "What is that?" he said, "It isn't anything," and he left the box at my house.

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 said that she had nothing further to state.

The witness was duly warned and withdrew.

A witness for the prosecution entered and was duly sworn according to the oath prevalent in the criminal courts of Japan.

Examined by the judge advocate:

1. Q. State your name, residence and occupation.
A. My name is Hiroshi Ishii, 752 Higashi Kanaya-Machi, Yokosuka, Japan, police sergeant in charge of detectives.

2. Q. If you recognize the accused, state as whom.
A. I recognize him as Shogoro Takata.

3. Q. Will you please relate to the commission, the circumstances by which you became acquainted with the accused.

A. On the first of September of last year, there was an incident of American merchant seamen getting methanol poisoning at Shogoro Takata's house. From the second of September, by order of the chief of the military police, we examined Shogoro Takata as to where he had procured the whiskey.

4. Q. Will you please tell all you know in regard to the examination that you conducted.

A. From the second of September, I examined Shogoro Takata, by order of the chief of the military police, in order to ascertain to where he had procured the whiskey. Shogoro Takata stated that, he had purchased five bottles of whiskey that he had sold to Kimie Homma from one Saito who lived in Hemi, and from one Arai living in Oppama. We called on both Saito and Arai and examined them concerning where they had received the aforesaid whiskey. Since Saito stated that his source of supply was in Tokyo, a detective was sent to check his source of supply. Arai's source was a whiskey that was very common in the city and was being sold at bars; we considered it to be safe. Since it was deemed that these five bottles of whiskey were safe, we continued the questioning of Shogoro Takata and Kimie Homma. In addition we checked on people who frequented Shogoro Takata's house. Finally, it was revealed that there were not just five bottles sold to Kimie Homma, but actually there were seven. It was also ascertained that the two bottles of whiskey came from a batch of six bottles that Shogoro Takata had made from alcohol in his possession. Since this incident occurred after he had sold two bottles to Kimie Homma, he was afraid that these may have caused the poisoning, and figuring that it would be bad if the bottles were found in his house; he had taken the bottles to Mochizuki's house at number one Minato-Cho and left them there. This revelation occurred on the sixth as I recall. I instructed detective Mori to proceed to Mochizuki's house, and to look for this box containing the bottles, which according to Shogoro Takata's statement, was apparently in the bathroom. Detective Mori found the box and brought it back. When detective Mori brought the box back, there were four bottles in a cardboard box consisting of green bottles and one brown bottle with corks. When Shogoro Takata was asked, he stated that there was no mistake, these were the bottles. A report was drawn up and submitted to the military police.

5. Q. What did Shogoro Takata state concerning the contents of these bottles?

A. On the seventh of September, Shogoro Takata stated, that he had bought from a Korean in August, one "sho" (about two and one-half quarts) of alcohol for six hundred yen and had manufactured six bottles from the alcohol. Following that statement by Shogoro Takata, we used detectives to check on the Korean, but we were unable to locate him. We ceased our search after about a week.

6. Q. I show you four bottles, "Exhibit 2"; are they similar to the four bottles which Shogoro Takata identified as being the bottles that belonged to him?

A. The shapes of the bottles, the colors of the bottles, and the corks are in my mind the same. If these are the bottles turned over to the military police, and brought here by them, there is no mistake they are the bottles.

7. Q. Did Shogoro Takata state to you that he had manufactured the contents of these four bottles?

A. Yes, he did.

8. Q. Did he state anything else to you regarding the manufacturing of the contents of these bottles?

A. He told me that the proof of this alcohol seemed rather low, since he was able to manufacture only six bottles from this one sho of alcohol, and that he had added coloring and water to manufacture the contents.

9. Q. Of these six bottles that he manufactured, did he state to you how many he sold?

A. He stated that he had kept these six bottles put away, but since Kimie Homma wanted more whiskey, he finally sold her two of the six bottles.

10. Q. Do you know of any other means of identification of the four bottles of which Shogoro Takata identified as the four bottles that he had taken to the house of Mochizuki?

A. I know of no other special features, other than that the shapes and colors of the bottles are same, and the corks appear the same as the corks on the bottles that I saw.

11. Q. What disposition did you make of the four bottles that you received?

A. As I stated previously, when the bottles were brought in and identified by Shogoro Takata, they were taken to the military police station accompanied by a written report.

The judge advocate requested a ten minute recess.

The commission granted the recess.

The commission then, at 10:50 a.m., took a recess until 11:05 a.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

Cross-examined by the accused:

12. Q. In regards to the whiskey obtained by Saito and Arai, you stated that they were of a well known or common type of Japanese whiskey; do you know the brand name?

A. The whiskey procured from Saito had no name, but it was the same whiskey as served daily to hundreds of people at a bar in the basement of a building near the Nihonbashi ward police station, operated primarily for laborers. The whiskey bought from Arai was whiskey of the brand name "Manjo". Although "Manjo" is not a very good whiskey, Shogoro Takata had purchased it previously on two or three occasions, totalling over twenty bottles, and no incident had occurred from the consumption of these.

13. Q. You stated that the corks in the bottles in evidence appeared to be the same as the bottles turned over to the military police, by what significant feature enables you to distinguish these corks from ordinary corks in bottles?

A. I'm not certain, but those corks were not new clean corks, but were old rather dirty corks, just like the corks in these bottles here. (Indicating "Exhibit 2")

14. Q. When you received those bottles from a detective, did you put a seal on the corks of the bottles?

A. No, I did not.

15. Q. You stated that you could distinguish those bottles chiefly by their corks, what would happen if those corks were placed in other bottles?

A. Since not only corks, but the bottles, consisting of three green and one brown bottle are similar, and as I turned those bottles over to the military police without doing anything to the bottles. If each of the bottles that were brought into this trial are the bottles received from the military police, I'm 99 percent sure that they are the same bottles.

16. Q. When you received the bottles from a detective were the contents of the bottles about the same as the contents of these bottles?

A. The contents were quite different. Those bottles were about full, but I believe some was used for testing.

17. Q. In your previous testimony, you have stated that some of the bottles were green; is the bottle you now see before you the same color?

A. Yes.

The judge advocate did not desire to reexamine this witness.

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 11:45 a.m., adjourned until 9 a.m., tomorrow, Tuesday, February 18, 1947.

THIRTEENTH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Tuesday, February 18, 1947.

The commission met at 9:15 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman first class, U.S. Navy, reporter.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, interpreters.

The accused and his counsels.

The record of proceedings of the twelfth day of the trial was read and approved. The translation of the proceedings of the twelfth day of the trial was accepted and approved by the counsels for the accused.

Theodore B. Van Itallie, lieutenant (junior grade), Medical Corps, U.S. Naval Reserve, a witness for the prosecution was recalled, and warned that the oath previously taken by him was still binding.

Cross-examined by the accused:

1. Q. Was there any evidence of ethyl alcohol in the body fluids of the three bodies upon which you testified you performed autopsies?

A. There was no gross evidence of any ethyl alcohol at the time of the three autopsies. No special attempt was made to recover ethyl alcohol from the tissue fluids by analytical methods.

2. Q. How many cubic centimeters of urine did you use as a sample for a laboratory analysis of the bladder contents of the three bodies upon which you performed autopsies?

A. The urine specimens were taken from two bodies only. The volume of these specimens was small; I would say in the neighborhood of 50 cubic centimeters.

3. Q. There was then, in one case, no laboratory corroboration of the original diagnosis of methyl alcohol poisoning; is that correct?

A. That is right.

4. Q. What was the specific gravities of urine samples you removed from the bodies upon which you performed the autopsies?

A. The specific gravities of the urine specimen were not recorded.

5. Q. You stated, that the laboratory report indicated 12 milligrams of methyl alcohol per cubic centimeters of urine which equalled a percentage by volume of 1.2 per cent; how do you arrive at the figure 1.2 per cent?

A. I believe, I have originally stated the percentage was in terms of weight, that is, an estimate based on the specific gravity that one cubic centimeter of water weighs one gram, therefore, twelve milligrams would represent 1.2 per cent by weight to make the figure accurate in the case of methyl alcohol content; the differences in the specific gravities would have to be taken into account. However, I think that is a fair approximation.

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6. Q. You have testified what you, as a doctor, consider to be a large quantity of methanol. This presumes, does it not, that you mean if ingested by a human being?

A. Yes.

7. Q. Was a sample analysis of the brain tissues taken of any of the three bodies upon which you performed autopsies?

A. No analysis of the brain tissues were made.

8. Q. When you mentioned a certain number of cubic centimeters of methanol in your testimony; what is its degree of purity and of its weight?

A. Speaking of methanol, unless otherwise specified, I refer to pure methanol. Its weight depends on its specific volume unless you are referring to the specific gravities which is constant. *jar*

9. Q. On what date did you receive the four bottles which you believe are the ones now in evidence?

A. I don't recall the exact date, but I judge it to be around the first of January. In any case it was several days before the date on the quantitative analysis report of the 406th laboratory.

10. Q. You have stated that a wide range of susceptibility of methanol may be found in human beings; is there any medical information which would lead one to believe that by habitual use of methanol, a degree of tolerance may be developed?

A. I do not know of any experimental evidence based on experiments made on human beings in regard to tolerance to methyl alcohol. However, there are recorded instances of persons who habitually drank what is ordinarily toxic doses without suffering ill effects. This suggests the possibility of a tolerance being built up, but it is by no means proof.

12. Q. When medical literature states a case has been known where in a human being has died after ingesting as little as four cubic centimeters of methanol, or when a human being has ingested 250 cubic centimeters of methanol and has lived, do not these cases by their uniqueness represent very very unusual human beings?

A. In view of the relatively small percentage of the population which has ingested methyl alcohol, it is difficult to say whether a person suffering toxic effects, or not, from the doses you described, is statistically unusual. As I recall it, a person who took four cubic centimeters suffered toxic effects. It was not specified in the article I read whether this dose was lethal. There are many variables which may alter an individual's physiological response to methyl alcohol in any particular case. For these reasons, I believe, it is impossible to come to any valid conclusions about these cases without the benefit of control studies. *yes*

The judge advocate did not desire to reexamine this witness.

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 was duly sworn.

Examined by the judge advocate:

1. Q. State your name, rank, and present station.
A. John L. Hopkins, major, U.S. Marine Corps, judge advocate of this commission.

2. Q. If you recognize the accused, state as whom.
A. I recognize the accused as Shogoro Takata.

3. Q. Are you the legal custodian of the four bottles of whiskey which are marked "Exhibit 2"?
A. Yes, I am.

4. Q. From whom did you receive these four bottles of whiskey?
A. I received them from the military police, Marine Detachment, U.S. Fleet Activities, Yokosuka, Japan.

5. Q. Do you recall, approximately, on what date you received them?
A. It was the first part of January 1947.

6. Q. What did you do with them?
A. I turned them over to Doctor Theodore B. Van Itallie, to be taken to Tokyo, to have an analysis made of their contents.

7. Q. When you received these bottles from the military police were the bottles full?
A. Yes, they were. When I turned them over to Doctor Van Itallie the four bottles were filled up to the base of the neck. Upon being returned to me, portions had been used to make the analysis. As the bottles now stand in the exhibit, they are in the condition in which I received them upon being returned from the analysis.

Cross-examined by the accused:

9. Q. To your knowledge, have these bottles been uncorked while in your possession?
A. Only when the corks were taken out of the bottles to be shown to the members of the commission for examination of the bottles.

Examined by the commission:

10. Q. The four bottles, known as "Exhibit 2", are numbered 189, 190, 191, and 192; which of the four numbered bottles, is the brown bottle?
A. Number 189.

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

The accused requested that his plea of guilty be withdrawn, and a plea of not guilty entered as to the first charge and specification.

The commission granted the request.

The judge advocate rearraigned the accused as follows:

Q. Shogoro Takata, you have heard the specification of the first charge preferred against you; how say you to the specification, guilty or not guilty?
A. Not guilty.

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

The counsels for the accused stated that the accused admitted that he was Shogoro Takata, and that he was living in Yokosuka, Japan, on the 30th of August 1946.

The accused stated that this admission was made by his authority.

The judge advocate requested a recess in order to obtain material witnesses.

The commission granted the request.

The commission then, at 10:10 a.m., took a recess until 2:30 p.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

The prosecution began.

The judge advocate announced that the evidence which he was about to present was in support of proving the specification of the first charge, that all the evidence previously presented, still stood as proving the specification of the second charge. *gless*

Kimie Homma, a witness for the prosecution, was recalled and warned that the oath previously taken by her was still binding.

Examined by the judge advocate:

1. Q. Did you have occasion to serve intoxicating liquor in your home on or about the 31st of August?

A. Yes.

2. Q. Did you make this liquor yourself or did you buy it from someone?

A. I purchased it from someone else.

3. Q. From whom did you purchase it?

A. I purchased it from Shogoro Takata.

4. Q. Is he present in this room?

A. Yes.

5. Q. Will you please identify him.

A. That is the man over there, indicating the accused, Shogoro Takata.

6. Q. How much did you purchase from Shogoro Takata on the 31st of August?

A. I purchased two bottles on that day.

7. Q. Did you drink these two bottles in your house?

A. Yes.

8. Q. Did you drink all of them?

A. Yes, four of us, including myself, drank them all up.

9. Q. Did the bottles have a Japanese license label on them?

A. No.

10. Q. Were there any means of identification on the bottles at all?

A. There were none.

Cross-examined by the accused:

11. Q. Are you acquainted with the usual commercial brands of Japanese whiskey?

A. I only know of the whiskey, "Manjo".

12. Q. Did you receive from the accused, on or about 31 of August, any Japanese whiskey of the brand named "Manjo"?

A. I recall the name "Manjo", but I could not say for sure that the whiskey was "Manjo".

The judge advocate did not desire to reexamine this witness.

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

The witness said that she had nothing further to state.

The witness was duly warned and withdrew.

Hiroshi Ishii, a witness for the prosecution, was recalled and warned that the oath previously taken by him was still binding.

Examined by the judge advocate:

1. Q. Are you acquainted with a woman by the name of Kimie Homma?

A. Yes.

2. Q. When did you become acquainted with her?

A. I believe it was on the second of September of last year.

3. Q. What brought about the occasion?

A. Kimie Homma was brought to the police station by the military police. We examined her, by order of the military police, to try and ascertain where she had procured the whiskey.

4. Q. Where did you find out this whiskey was procured?

A. Kimie Homma stated that she had bought five bottles of whiskey from Shogoro Takata, and as the result of questioning, it appeared that she had talked previously with Shogoro Takata, and had agreed to say that she had only bought five bottles, and would take whatever blame there might be.

5. Q. Did you have occasion to examine Shogoro Takata in order to ascertain where he had procured the whiskey?

A. We checked carefully on all the whiskey that Shogoro Takata sold to Kimie Homma.

6. Q. Will you tell what you know in regard to the examination you made on the whiskey that Shogoro Takata sold.

A. As I stated yesterday, Shogoro Takata and Kimie Homma had apparently gotten together and agreed to state that he had sold only five bottles to her. But once again, as I have stated, as a result of further questioning it turned out that Shogoro Takata had gotten alcohol in August, and had made six bottles of whiskey. From out of this he had sold two bottles to Kimie Homma at 300 yen a piece in response to her urging. As this incident of methanol poisoning occurred on one September, after he had sold two bottles of this whiskey to Kimie Homma, he was worried that there might have been something wrong with the whiskey. He figured that it would be detrimental if the whiskey was found in his home. So he had taken it over to number one Minatocho, the residence of a friend, Mochizuki.

When I found out about this other whiskey, I sent detective Mori to Mochizuki's house, and ordered him to bring back the box with the bottles, which according to Shogoro Takata's statement, were in the corner of the bathroom there. Detective Mori found the bottles which were in a United States cardboard box and brought them back. Shogoro Takata was shown the bottles and stated that they were the bottles that he had mentioned. A report was drawn up, and submitted to the military police, along with the box.

7. Q. What did this cardboard box contain that detective Mori brought back to you?

A. The four bottles of whiskey that Shogoro Takata had manufactured.

8. Q. Would you be able to recognize the four bottles similar to the four bottles that you saw in the box?

A. I recall the shapes and the colors of the bottles, as well as the corks. Although, there are many bottles like them, the age of the corks, and their shapes, were such, that I believe I could identify them.

The judge advocate requested a five minute recess.

The commission granted the request.

The commission then, at 3:50 p.m., took a recess until 3:55 p.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

9. Q. I show you four bottles; are they similar to the four bottles that you saw in the cardboard box, that detective Mori brought back to you?

A. They appear to me as being similar on all points.

The judge advocate re-introduced four bottles of whiskey numbers 1, 2, 3, and 4, and submitted them to the accused, the commission, and offered them in evidence, remarked "Exhibit 2."

There being no objection they were so received.

10. Q. Are the shapes, colors, and the corks, the same as those that were in the box, that detective Mori brought back to you?

A. I think they are the same.

11. Q. Did you show these four bottles to Shogoro Takata?

A. Yes.

12. Q. Did he identify them?

A. He stated that they were definitely the bottles that he had put in Mochizuki's house for safekeeping.

13. Q. What did Shogoro Takata state to you regarding the manufacture of the contents of these bottles?

A. He stated that the six bottles of whiskey were manufactured by him from one "sho" (about 2½ quarts) of alcohol, that he purchased in August from an unidentified Korean for 600 yen. He said that the proof of this alcohol seemed somewhat low, since he was able to manufacture only six bottles from it. He added a coloring matter and water to make six bottles of whiskey, two of which he sold to Kimie Homma.

14. Q. Did Shogoro Takata state to you when he sold the two bottles of this batch of six to Kimie Homma?

A. As I recall, since the drinking continued for three days, and the incident occurred on the first of September, I do not recall when he actually sold the bottles.

15. Q. What disposition did you make of the four bottles that you received from detective Mori?

A. As I have previously stated, the bottles were shown to Shogoro Takata, and then without being touched, they were handed over to the military police, along with a report.

The witness was duly warned and withdrew.

The commission then, at 4:15 p.m., adjourned until 9 a.m., tomorrow, Wednesday, February 19, 1947.

FOURTEENTH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Wednesday, February 19, 1947.

The commission met at 9 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman first class, U.S. Navy, reporter.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, inter-
preters.

The accused and his counsels.

The record of proceedings of the thirteenth day of the trial was read and approved. The translation of the proceedings of the thirteenth day of the trial was accepted and approved by the counsels for the accused.

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

Cross-examined by the accused:

16. Q. Do you know by what means the accused was able to determine the proof of the alcohol allegedly procured from a Korean?

A. It was stated that in usual cases one "sho" of alcohol would be sufficient to manufacture about eight bottles. However, since only six bottles could be made from this one "sho" of alcohol, it was thought by Shogoro Takata that the proof of alcohol was rather low.

17. Q. Did the accused state how he was able to determine the proof of this alcohol?

A. Shogoro Takata had in his possession a device to test the alcohol, and as a result of testing the proof, he realized that the proof was somewhat low. He had been able to manufacture only about six bottles instead of eight bottles which could usually be manufactured from one "sho" of alcohol. That testing device was found in his house, but as it was also used by other people, it was not turned over to the military police for evidence.

18. Q. Have you seen this device?

A. Yes, I have.

19. Q. What do you understand by the word whiskey?

The judge advocate objected to the question on the ground that it went beyond the scope of the direct examination.

The accused replied.

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

The question was repeated.

A. What I understand as "whiskey", are products that are produced and sold as "whiskey".

20. Q. About how many days elapsed from the time Shogoro Takata left the four bottles at Mochizuki's house, until you gained possession of them?

A. I recall that Shogoro Takata left the bottles on the morning of 2 September, and his admission concerning these bottles, came about the sixth of September.

21. Q. When you received the bottles was there a seal over the mouths of these bottles?

A. There were none.

22. Q. When you received the bottles did you examine the contents?

A. I merely removed the cork from one of the bottles and smelled the contents.

23. Q. Did you show the contents of the bottles to Shogoro Takata and ask if it was the same as the contents that he had left in safekeeping?

A. In regard to the contents, I merely showed the bottles in the box to Shogoro Takata.

The judge advocate did not desire to reexamine this witness.

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

The witness made the following statement:

It appears to me that there is considerable question as to whether the bottles handed to me by detective Meri are the same bottles that appear here as an exhibit. As far as I'm concerned, these bottles match in every respect, the bottles that I received and turned over to the military police. In addition, as the bottles were probably brought here by the military police for use as an exhibit, I do not think there is any question regarding their identity.

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.

Marce M. Campanile, second lieutenant, U.S. Marine Corps, a witness for the prosecution, was recalled and warned that the oath previously taken by him was still binding.

Examined by the judge advocate:

1. Q. I show you four bottles; do you recognize them, if so, by what means?

A. I do recognize them by the following means: They appear to be the four bottles that I received from the Japanese police in the early part of September of 1946. The bottles that I see here are the same type beer bottles that I received then. The corks are of the same type. I see on each bottles, adhesive tape labeled, which are marked, source one of four bottles. The labels on each consecutive bottle being lettered "A" through "D" inclusive. I placed these labels on these bottles. I recognize also the adhesive papers on the four bottles marked "Deadly Poison" which I saw on the bottles in the early part of September. I also recognize the paper labels numbered 189 through 192, inclusive, which I also placed on the bottles in the early part of September.

2. Q. Were these bottles placed in safekeeping?

A. Yes, they were. They were locked up in the office of the Provost Marshal, U.S. Fleet Activities, Yokosuka, Japan.

3. Q. When did you see these bottles last?

A. I last saw these bottles outside of court, when I turned them over to Major Hopkins, approximately two and one-half weeks ago.

Cross-examined by the accused:

4. Q. What means of adhesion retains the stickers or labels which you have stated you placed on the bottles?

A. Two of these labels are of adhesive tape, and the third label, the paper one, appears to be glued on.

5. Q. Were the bottles which you testified etched or physically disfigured in order to irrevocably identify them?

A. I did not etch or disfigure these bottles.

6. Q. Did you cut, disfigure, or indelibly mark the corks of the bottles of which you testified?

A. No, sir, I did not.

The judge advocate did not desire to reexamine this witness.

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

Examined by the judge advocate:

1. Q. Are you the legal custodian of the four bottles of whiskey remarked "Exhibit 2"?

A. Yes, I am. I received these four bottles from the military police in the first part of January. I turned them over to Lieutenant (junior grade), Theodore B. Van Itallie, U.S. Naval Reserve, naval dispensary, fleet activities to be taken to Tokyo, to have an analysis made as to the methyl alcohol content contained in each bottle.

2. Q. How do you recognize these bottles?

A. I recognize these bottles by the adhesive tape marked "Deadly Poison" on each bottle, and by the paper stickers that appear on each bottle, numbers 189, 190, 191, and 192.

Cross-examined by the accused:

3. Q. Have you had occasion since being legal custodian of these bottles to send any of the contents to a laboratory for analysis?

A. The bottles were sent by Doctor Van Itallie to a laboratory in Tokyo to be analyzed as to the methyl alcohol contained in each one.

4. Q. Was this before or after you became the legal custodian of these bottles?

A. This was after I became legal custodian of the bottles.

The judge advocate did not desire to reexamine 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.

Theodore B. Van Itallie, lieutenant (junior grade), U.S. Naval Reserve, a witness for the prosecution, was recalled and warned that the oath previously taken by him was still binding.

Examined by the judge advocate:

1. Q. Doctor, I show you four bottles, do you recognize them, if so, by what means?

A. I recognize them as the four bottles given to me by Major Hopkins in the first week of January of this year, in order that I might take them to the 406th Medical General Laboratory, for analysis of their contents. I recognize these bottles by the numbers on them, 189 through 192, and the labels on which are marked the words "Deadly Poison" in red crayon.

2. Q. Did you receive a report as to the analysis of the contents of each of these four bottles?

A. Yes, I did. Here is the report. Yes

The witness produced the analysis report of the four bottles, having been previously marked "Exhibit 9", and it was submitted to the judge advocate, the accused, the commission, and offered in evidence, remarked "Exhibit 9."

There being no objection, it was so received.

3. Q. Will you please interpret the meaning of this report.

A. In this report, there are listed the sample numbers 313A through 313D. These are the numbers given by the 406th Medical General Laboratory to the bottles which had previously been labeled 189 through 192. The report mentions the specific gravity of the contents of each of the four bottles, and also, the methyl alcohol content in terms of milligrams per milliliter. In the case of bottle number 313A or bottle 189, the methyl alcohol content is reported as being 275 milligrams per milliliter. This is the amount present in methyl alcohol described in weight per unit volume. In terms of percentage concentration the percentage is approximately 27.5 per cent of methyl alcohol. The contents of the other bottles have been analyzed and reported in a similar manner.

4. Q. In your interpretation of this analysis report, does each of these bottles contain in excess of 1.0 milligram per cubic centimeter of methanol, or methyl alcohol?

A. According to this analysis, the contents of each of these bottles has a quantity of methyl alcohol in its concentration, and is far in excess of one milligram per milliliter.

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 said that he had nothing further to state.

The witness was duly warned and withdrew.

The judge advocate requested a ten minute recess.

The commission granted the request.

The commission then, at 10:35 a.m., took a recess until 10:45 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the reporter, the accused and his counsels.

No witnesses not otherwise connected with the trial were present.

A witness for the prosecution entered and was duly sworn according to the oath prevalent in the criminal courts of Japan.

Examined by the judge advocate:

1. Q. State your name, residence, and occupation.

A. Hiroshi Sugiyama, 67 Sanno-Cho, Yokosuka, Japan, in care of Yokosuka Tax Administration Office, Yokosuka Branch, finance ministry, administrator.

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

A. I do not recognize him.

3. Q. Are you the legal custodian of the Imperial Japanese Ordinance, number 52 and modifications thereof?

A. Yes, I am.

4. Q. Will you read such portions of the Ordinance and its modifications, that pertains to persons selling, giving, manufacturing, or possessing poisonous liquids.

A. "29 January, Showa 21 (1946), Imperial Ordinance Number 52, for the control of poisonous beverages. Article one, it is prohibited to sell, manufacture, give, or possess beverages containing methanol, or tetra-ethyl lead. It is prohibited to possess, manufacture, give, or sell, methanol with the object of consumption as a beverage." The modifications of the above was published on 17 June, Showa 21 (1946). "Imperial Ordinance Number 325. The following amendment is hereby made to a portion of the Ordinance for the control of poisonous beverages: In article one, paragraph one, following the word beverages add 'excluding that which contains less than one milligram of methanol per cubic centimeter.'" That is all.

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 said that he had nothing further to state.

The witness was duly warned and withdrew.

The prosecution rested.

The defense began.

A witness for the defense entered and was duly sworn according to the oath prevalent in the criminal courts of Japan.

Examined by the judge advocate:

1. Q. State your name, residence, and occupation.

A. Hidetaro Hashimoto, number one Shioiri, Yokosuka, Japan, fishermen's cooperative association.

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

A. Yes, I recognize him as Shogoro Takata.

Examined by the accused:

3. Q. Are you a friend of Shogoro Takata?

A. Well, not exactly what would be called a friend.

4. Q. How long have you been acquainted with Shogoro Takata?

A. I'm not certain, but I think I have known him for five or six years.

5. Q. Did you at any time during last August have occasion to receive alcoholic beverage from Shogoro Takata?

A. Yes.

6. Q. Can you recall about what time in August?
A. I think it might have been around the middle of August.
7. Q. Did you receive more than one bottle?
A. No.
8. Q. What was the appearance of the bottle in which you received from Shogoro Takata?
A. As I recall it was not a bottle but a glass.
9. Q. How large was the glass?
A. As I recall it was a glass that held about one go. (Approximately, one-half pint)
10. Q. Was this the only bottle of liquor that you received from Shogoro Takata?
A. What I received in the glass was all I received from Shogoro Takata.
11. Q. Did you during last August visit Shogoro Takata for the purpose of drinking of alcoholic beverages with him?
A. Yes.
12. Q. At the time did you drink liquor at the home of Shogoro Takata?
A. Yes.
13. Q. Was the liquor served from a bottle?
A. Since I received the liquor in a glass, I do not recall clearly concerning any bottles.
14. Q. I show you four bottles, "Exhibit 2"; did you at any time while at the home of Shogoro Takata see any bottles resembling these?
A. No, I do not recall seeing them.
15. Q. Are you acquainted with a Japanese by the name of Kimie Homma?
A. Yes, I am.
16. Q. Was she present while you were drinking liquor at Shogoro Takata's home?
A. No, she wasn't.
17. Q. Are you acquainted with Mr. Arai of Oppama?
A. No.
18. Q. Are you acquainted with a man named Saito of Hemi?
A. No.
19. Q. Do you recall if there was any untoward effects upon you after drinking the afore-mentioned liquor?
A. No, I did not notice anything.
20. Q. Did you drink any sort of antidote for poisoning?
A. I have no knowledge of any antidotes.

Cross-examined by the judge advocate:

21. Q. Have you ever seen all the whiskey that Shogoro Takata owns?
A. I recall some whiskey with the label "Manjo" on the bottles.

22. Q. Did you see every bottle of whiskey that Shogoro Takata owns?
A. I do not remember.

23. Q. Do you know how much whiskey Shogoro Takata owns?
A. No.

24. Q. How long have you been drinking whiskey?
A. I think it was from about July or August.

25. Q. For how many years has it been that you have consumed alcoholic beverages.

A. I am now forty-seven, and I recall I have been drinking since when I was about twenty-five.

Reexamined by the accused:

26. Q. Would you know Manjo whiskey if you tasted it?
A. No, I don't think so.

27. Q. Did the liquor served you at the home of Shogoro Takata taste peculiar in anyway?
A. No.

The judge advocate did not desire to recross-examine this witness.

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

The witness made the following statement:

In regard to this whiskey from Shogoro Takata's house, I recall that there were several other people who have consumed the whiskey, and I recall that there were no ill effects on those people.

Examination continued by the accused:

29. Q. Can you name any of the people to which you just referred?
A. Yes, there are some which names I do recall, and there are some which names I do not.

30. Q. Will you name which names you do recall?
A. One name which I recall is a barber in Shiodome, by the name of Masuzo Yoshida. I cannot recall clearly any other names but I do remember their occupation.

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.

Kinie Homma, a witness for the prosecution, was recalled as a witness for the defense, and was duly warned that the oath previously taken by her was still binding.

Examined by the accused:

1. Q. Have you consumed alcoholic beverages at Shogoro Takata's house with the deceased merchant seamen?

A. Yes.

2. Q. At any time did you drink any sort of medication which was designed to counteract methanol?

A. No.

3. Q. Or did you have any treatment from a doctor with the same purpose in view?

A. No, I did not have any treatment by a doctor.

4. Q. After you drank the whiskey mentioned in this case with the deceased persons, did you feel any ill effects physically?

A. I felt no ill effects whatsoever.

5. Q. Are you acquainted with a Mr. Arai of Oppama?

A. No.

6. Q. Are you acquainted with a Mr. Saito of Hemi?

A. No.

7. Q. Did you have occasion, between the middle of and on the 29th of August of last year, to receive liquor from any persons other than Shogoro Takata?

A. No.

8. Q. Between the 15th and the 29th of August, did you perceive at any place in the home of Shogoro Takata, a Japanese whiskey known as "Manjo"?

A. I know of the name but I do not recall of seeing any.

The judge advocate did not desire to examine this witness.

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

The witness said that she had nothing further to state.

The witness was duly warned and withdrew.

The commission then, at 11:55 a.m., adjourned until 9 a.m., tomorrow, Thursday, February 20, 1947.

FIFTEENTH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Thursday, February 20, 1947.

The commission met at 9 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman first class, U.S. Navy, reporter.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, interpreters.

The accused and his counsels.

The record of proceedings of the fourteenth day of the trial was read and approved. The translation of the proceedings of the fourteenth day of the trial was accepted and approved by the counsels for the accused.

John W. Howard, lieutenant (junior grade), Medical Corps, U.S. Naval Reserve, a witness for the prosecution was recalled as a witness for the defense and was duly warned that the oath previously taken by him was still binding.

Examined by the accused:

1. Q. Did you, while on duty on one September as medical officer-of-the-day, receive from the military police two Japanese bottles?

A. Yes, I did.

2. Q. Would you describe these bottles?

A. Lieutenant Kahn of the military police brought two Japanese whiskey bottles to the dispensary; one was completely empty, and the other contained, approximately, one-half cubic centimeter of liquid.

3. Q. What was the laboratory report?

A. I do not know.

4. Q. Did you ever receive the laboratory report?

A. No, sir, I did not.

5. Q. Was it possible at that time, with the equipment at the dispensary, to analyze accurately a specimen of only one-half cubic centimeter?

A. At that time we were sending our alcoholic specimens to Yokohama. I do not know what type of apparatus they were using to determine the alcoholic content.

6. Q. Was this specimen tested at the U.S. Fleet Activities Dispensary?

A. No, it was not.

7. Q. As regards to the bottles, what was the color of the bottles?

A. As I remember, it was a dark brown color.

8. Q. Do you recall the approximate volumetric size of the bottles?
A. They were approximately one liter.

9. Q. What became of these bottles?
A. That I do not know.

The counsel for the accused asked the witness to measure the volume of water contained in a bottle equal in volume to those of "Exhibit 2". A standard measuring beaker graduated in cubic centimeters, of American manufacture, was used to measure the contents.

10. Q. How many cubic centimeters would you say the bottle contained?
A. About 625 cubic centimeters.

11. Q. Is there any appreciable difference between a specific volume of water and that of a specific volume of whiskey?
A. Before I could answer that question correctly, I would have to know the percentage of alcohol in the whiskey, and the type of alcohol used in other constituents of the whiskey.

Cross-examined by the judge advocate:

12. Q. Doctor, how many cubic centimeters do you consider to be in one liter bottle?
A. One thousand.

13. Q. Were these bottles, that were brought to you by Lieutenant Kahn, one thousand cubic centimeter bottles?
A. As well as I can remember, the bottles brought to me on the first of September 1946, did not have any marks of volume on them, but they were approximately one liter bottles.

14. Q. What would you say the capacity of one of the bottles in "Exhibit 2" is?
A. Approximately one liter.

15. Q. The bottles brought to you on the first of September were they similar to the ones which you see in "Exhibit 2"?
A. Yes, they were.

16. Q. Is one-half cubic centimeter of liquid a sufficient amount to be properly tested for the methyl alcohol content?
A. I do not feel that I can qualify as a professional chemist. However, I do believe, that amount of liquid could be tested for methyl alcohol content using a spectroscope.

17. Q. Doctor, will you please indicate the amount of liquid that was contained in one of the bottles that was turned over to you on the first of September by Mr. Kahn.
A. As I said before, it is approximately one-half cubic centimeter in one bottle. (The witness then indicated in a glass the amount that he considered left in one of the bottles.)

18. Q. Doctor, did these bottles have corks in them?
A. They did not.

19. Q. Can that amount of methyl alcohol evaporate over a period of time?
A. That depends upon the temperature at the time.

20. Q. What would you consider the normal length of time for that amount of liquid to evaporate?

A. At room temperature that amount of methyl alcohol would evaporate in less than one-half hour.

21. Q. If that amount was water, what length of time at room temperature, would you consider it to take in order to evaporate?

A. To answer your question correctly, I would have to know the specific gravity and surface tension, both to water and alcohol. However, I would venture to say, it would take the water from two to three times as long as alcohol to evaporate.

22. Q. Were these bottles turned over to your laboratory on the same day you received them?

A. When I received the bottles, I instructed the enlisted man on duty in the officer-of-the-day's office to take them to the laboratory. That is the last I know of them.

The counsel for the accused requested that the commission take judicial notice that the witness stated that he was not professionally qualified as a chemist.

Reexamined by the accused:

23. Q. Which administrative officer at the dispensary ordinarily receives the analysis reports from laboratories in Yokohama and Tokyo?

A. That I do not know.

24. Q. Was this one-half cubic centimeter specimen analyzed at our own dispensary?

A. That I do not know.

The judge advocate did not desire to recross-examine this witness.

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

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The commission then, at 10:25 a.m., took a recess until 1:30 p.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

A witness for the defense entered and was duly sworn according to the oath prevalent in the criminal courts of Japan.

Examined by the judge advocate:

1. Q. State your name, residence, and occupation.

A. Masuzo Yoshida, 41 Shiodome, Yokosuka, Japan, barber.

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

A. Yes, Shogoro Takata.

Examined by the accused:

3. Q. Did you, at any time, during last August visit the home of Shogoro Takata?

A. Yes.

4. Q. While there did you drink any alcoholic beverage?

A. We are quite fond of sake, and since sake is hardly procurable in Japan since the end of the war, and other alcoholic beverages are available from time to time, I went to Shogoro Takata's house and bought and drank from time to time.

6. Q. How much did you drink?

A. Well, I think that I drank about five drinks at one time.

7. Q. Did you experience any ill effects?

A. No, it always made me feel good.

8. Q. Have you ever purchased sake or whiskey elsewhere?

A. No.

9. Q. Did you ever hear where Shogoro Takata had procured the alcohol for the whiskey that you drank at his house?

A. The only thing I heard in regard to that, was much later, when I heard that he had purchased some alcohol from a Korean.

10. Q. Did he say what amount he had purchased?

A. I do not recall the price mentioned.

11. Q. By amount I mean quantity.

A. I heard he had purchased one sho.

12. Q. In that case did you purchase and drink some of that alcohol that Shogoro Takata had purchased from this Korean?

A. Yes.

13. Q. In regard to that alcohol, did you drink it straight, or was it mixed with water?

A. In regard to that, I received some which Shogoro Takata had mixed very nicely and had it at his house.

Cross-examined by the judge advocate:

14. Q. For how many years have you been drinking intoxicating beverages?

A. For about thirty years.

15. Q. Do you recall on what day in August you had occasion to drink with Shogoro Takata?

A. I never drank with Shogoro Takata himself since Shogoro Takata is a wine seller. But we had been buying from Shogoro Takata and drinking since long before August.

16. Q. What was the last time that you purchased any whiskey from Shogoro Takata?

A. Since it's been a long time ago I do not remember for certain. But I believe that it was about the 27th or 28th of August.

17. Q. How much did you buy at that time?

A. At that time I bought about five glasses full. (Indicating a glass, which would hold approximately two ounces)

18. Q. Did you drink all five glasses yourself?

A. Yes.

19. Q. Did Shogoro Takata tell you what type of whiskey this was?

A. No.

20. Q. Then, how do you know that it was alcohol that Shogoro Takata had purchased from a Korean?

A. That knowledge came to me later after an incident had occurred. At the time of my drinking, he did not state where he had procured the alcohol in it.

21. Q. Then, how do you know that the whiskey you drank is the same that Shogoro Takata had purchased from a Korean?

A. That is because later on I heard that the alcohol was purchased from a Korean, and then, I knew that the whiskey I purchased was from that alcohol.

22. Q. How did you learn that this alcohol Shogoro Takata had purchased was bought from a Korean?

A. I learned of that from Shogoro Takata's wife.

23. Q. On what day did you learn from the accused's wife, that Shogoro Takata had purchased alcohol from a Korean?

A. I do not recall the exact day but it was after this incident arose.

24. Q. What incident do you refer to?

A. By that, I mean the business of Americans drinking liquor at Shogoro Takata's house.

25. Q. Are you aware of what happened to these Americans that drank this whiskey at Shogoro Takata's house?

A. Yes, I am.

26. Q. What was that?

A. I heard rumors that one American had died from methyl, but I do not know the truth about the matter, only on rumors that I had heard.

27. Q. Did Mrs. Takata state to you, the whiskey you had purchased from Shogoro Takata was the alcohol bought from a Korean?

A. Yes.

Reexamined by the accused:

28. Q. You stated that the sake was difficult to get since the end of the war; is any of the sake which is available unlabeled?

A. Since sake, as such, is almost impossible to get, what sake we do get, as opposed beer which I dislike, are not bottles but they are usually drawn straight from the barrel. Of course, they are not labeled.

The judge advocate did not desire to recross-examine this witness.

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 2 p.m., adjourned until 9 a.m., tomorrow, Friday, February 21, 1947.

SIXTEENTH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Friday, February 21, 1947.

The commission met at 9:30 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank H. Aurillo, yeoman first class, U.S. Navy, reporter.
Lieutenant David S. Huggins, U.S. Navy, interpreter.
The accused and his counsels.

The record of proceedings of the fifteenth day of the trial was read and approved. The translation of the proceedings of the fifteenth day of the trial was accepted and approved by the counsels for the accused.

A witness for the defense entered and was duly sworn according to the oath prevalent in the criminal courts of Japan.

Examined by the judge advocate:

1. Q. State your name, residence, and occupation.
A. Yuji Saito, Hemi 5 of 4, restaurant keeper.
2. Q. If you recognize the accused, state as whom.
A. I recognize him as Shogoro Takata.

Examined by the accused:

3. Q. Did you at any time during last August sell or give to Shogoro Takata an alcoholic beverage?
A. About 25 August of last year I provided Shogoro Takata with three bottles bottled in beer bottles.
4. Q. What type of liquor was it?
A. I purchased four bottles of whiskey, being sold by one Matsutaro Yoshida, Peoples Liquor Shop, Kabuto-Cho, Nihonbashi Ward, Tokyo, of which I drank one bottle and sold the other three to Shogoro Takata.
5. Q. Were these bottles labeled?
A. Since I received the contents out of an earthenware jar, containing one "to" (about four point seven six gallons), and I had these empty bottles filled from it; there were no labels on the bottles.
6. Q. What color were the bottles?
A. They were ordinary beer bottles.
7. Q. I show you four bottles, "Exhibit 2"; considering that these bottles were not labeled as they actually are, would you say the bottles which you gave to Shogoro Takata resemble these?
A. No, since these are empties of Ebisu beer, while the bottles that I use were Kirin bottles which taper directly from the top to the base without a step as in these.

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8. Q. During last August did you have occasion to drink alcoholic beverages at the home of Shogoro Takata?

A. No.

10. Q. You stated that you drank some of the whiskey from the same lot as you sold to Shogoro Takata; did you experience any ill effects as a result of drinking it?

A. None at all.

Cross-examined by the judge advocate:

11. Q. For how many years have you been drinking whiskey?

A. I have been drinking whiskey since three or four years ago, but this is the first time I have drunk this particular whiskey.

12. Q. Do you recall the make of this whiskey?

A. I do not know the name.

The accused did not desire to reexamine this witness.

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 counsel for the accused requested a ten minute recess.

The commission granted the recess.

The commission then, at 10:10 a.m., took a recess until 10:20 a.m., at which time it reconvened.

Present: All the members, the judge advocate, the reporter, the interpreter, the accused and his counsels.

No witnesses not otherwise connected with the trial were present.

A witness for the defense entered and was duly sworn according to the oath prevalent in the criminal courts of Japan.

1. Q. State your name, residence, and occupation.

A. Nisaburo Miyazaki, 13 of 1 Edobashi, Nihonbashi Ward, Tokyo, Japan, proprietor of Peoples Liquor Shop.

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

A. I do not know him.

Examined by the accused:

3. Q. How many years have you been connected with the liquor business in Japan?

A. About five years.

4. Q. Do you own the shop where you work?

A. I am not the owner but the responsible man is Yoshida who is my partner.

5. Q. From your position as proprietor of a liquor store, do you feel you know the general buying habits of Japanese purchasing liquor?

A. Yes, at present we get our supply from the Central Control Association and we sell that.

6. Q. From your experience is it unusual for Japanese to buy liquor in unlabelled or unsealed bottles?

A. Currently, that practice is not engaged in by most merchants, since it is no longer officially permitted, but the practice of selling unlabelled bottles was the common practice prior to the end of the war. When a practice known as "Masu-uri", consisting of buying in measured lots from a supplier, was the most common way of buying alcoholic beverages. However, that practice is still quite common among individuals who split what liquor they are able to get.

7. Q. Do you know a man by the name of Yuji Saito?

A. Yes.

8. Q. Did you have occasion to sell him some of the whiskey which you have at the Peoples Liquor Shop?

A. Yes.

9. Q. About when was that?

A. I believe it was around the latter part of August or the first part of September of last year. However, I recall the 20th of August last year through an incident happening, and I believe it was sometime after that. At any rate it was probably sometime in August.

10. Q. About how many did you sell him?

A. I recall that it was four beer bottles.

11. Q. What was the name of that whiskey?

A. It was called "Ideal".

12. Q. Was that whiskey, the brand whose manufacturers sold to you, permitted by the Japanese government?

A. It was a brand that we received as a ration allotted from the Central Control Association.

13. Q. Were there any occasions of whom people died, or whose health was impaired as a result of this drinking whiskey?

A. No, there wasn't.

Cross-examined by the judge advocate:

14. Q. What practical measures are taken to keep methanol from being sold as whiskey?

A. I know of no such measures, since no thought was given to that matter, as we received the whiskey as a rationed allotment.

15. Q. Do you know the amount of methanol allowed in whiskey provided for by the Japanese law?

A. I don't recall.

16. Q. If you are a dealer in whiskeys, shouldn't you know what the law states concerning the amount of methanol in whiskey?

A. There is no need to know the amount since our supply stated how much the contents were. Therefore, it would not matter if we forget what the law said.

17. Q. Are you cognizant of the Japanese law concerning authorized Japanese liquor?

A. No, I am not, since the material allotted to us must be approved by the government. Therefore, there is no need for dealers to be aware of the exact laws.

18. Q. Are you a manufacturer of alcohol?

A. No, I am a dealer.

The judge advocate read a portion of the Japanese law to the witness as follows: "It is prohibited to sell, give, manufacture or possess liquids containing methanol or methyl in quantities greater than 1.0 mg. per c.c.

The counsel for the accused objected to the judge advocate's line of questioning on the ground that it was irrelevant.

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 not sustained.

19. Q. As a wine dealer are you aware of such a law?

A. Yes.

20. Q. How do you indicate on the liquids you sell that the contents are less than 1.0 milligram of cubic centimeter of methanol or methyl?

A. Since I do not handle any liquor outside of the rationing channels, and as the rationed liquors all have a sticker on them in blue letters, indicating the content of methanol, and as we are told not to sell liquor that have no such labels on them, we do not worry about indicating the methanol content ourselves.

21. Q. I read to you another portion of the Japanese law as follow: "No liquids will be used or sold commercially without the tax stamp and the proper labels"; does the liquor you sell conform to the principles as set forth in this law?

A. Yes, we cannot sell other than that which conforms to it.

22. Q. You have stated that you sold four bottles to a man by the name of Saito; was this whiskey in conformity to the law of which I have just read to you?

A. That whiskey which Saito received was poured into bottles from this one "to" jar. Since the contents in bottles vary due to different sizes, that measure was employed in order to accurately gauge the amount sold. Therefore, what was sold to Mr. Saito did not have the labels on them but originally the proper labels were on them.

The counsel for the accused asked the commission, to take judicial notice, that the whiskey labels on American bottles do not bear the minimum percentage of methanol or methyl alcohol on them.

The judge advocate objected on the grounds that this subject was not a matter of which the commission could take judicial notice, that it was irrelevant and immaterial, and that it had no bearing on the issues of this case.

The commission announced that it would take judicial notice of that fact.

The accused did not desire to reexamine this witness.

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 defense rested.

The counsel for the accused requested an adjournment until 9 a.m., Monday, February 24, 1947, to further prepare for his argument.

The commission granted the request.

The commission then, at 11:30 a.m., adjourned until 9 a.m., Monday, February 24, 1947.

0630

SEVENTEETH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Monday, February 24, 1947.

The commission met at 9:15 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman first class, U.S. Navy, reporter.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, inter-
preters.

The accused and his counsels.

The record of proceedings of the sixteenth day of the trial was read and approved. The translation of the proceedings of the sixteenth day of the trial was accepted and approved by the counsels for the accused.

The judge advocate requested permission to call a new witness in order to introduce new evidence having a bearing on the case in support of the allegation set forth in the specification of the second charge. The judge advocate invited attention to paragraph 266 of Naval Courts and Boards.

The commission granted the request.

The prosecution was reopened.

A witness for the prosecution entered and was duly sworn.

Examined by the judge advocate:

1. Q. State your name, rank, and present station.
A. Arnel R. Sarver, chief pharmacist, U.S. Naval Dispensary, U.S. Fleet Activities, Yokosuka, Japan.

2. Q. If you recognize the accused, state as whom.
A. I do not recognize the accused.

3. Q. Are you the legal custodian of all records of the U.S. Naval Dispensary, U.S. Fleet Activities, Yokosuka, Japan?
A. Yes, I am.

4. Q. Do you have in your possession, the records which show the branch of service, service numbers, rates, and ship or station attached to of the following named men: James Frank Ferris, Gordon Knowlton Price, and Michael John Evans?
A. Yes, I have, here it is.

The witness produced the three burial reports of the three merchant seamen, and it was submitted to the judge advocate, the accused, and to the commission offered in evidence.

There being no objection, it was so received and marked "Exhibits 9, 10, and 11."

5. Q. Will you please read to the commission what these records state.

The counsel for the accused objected to the introduction of this report in evidence on the grounds that it was merely a burial report of three merchant seamen, and that it did not qualify as evidence properly to ever identify the merchant seamen to ship or station.

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 not sustained.

The question was repeated.

A. I have here the burial record of Price, Gorden Knowlton, file number Z22434902, chief steward, U.S. Maritime Service. He was attached to the S.S. Casa Grande at the time of death. His body was identified by the master of the S.S. Casa Grande. I have the burial report of Evans, Michael John, file number Z107380, utility steward, of the U.S. Maritime Service. He was attached to the S.S. Casa Grande. His body was identified by the master of the S.S. Casa Grande. I have here the burial report of Ferris, James Frank, file number Z28174, boatswain, U.S. Maritime Service. He was attached to the S.S. Fort Dearborn. His body was identified by the master of the S.S. Fort Dearborn.

Cross-examined by the accused:

6. Q. On the burial reports do the names of the masters of the S.S. Casa Grande and of the S.S. Fort Dearborn, appear?

A. No, they do not.

7. Q. Do you possess any written documents by the captain, or masters of these two ships, in support of the entry on the burial reports which were identified by the masters of the S.S. Casa Grande, and of the S.S. Fort Dearborn, respectfully?

A. No, not that I know of.

8. Q. Were you present when the masters of the S.S. Casa Grande, and of the S.S. Fort Dearborn, made their identification?

The judge advocate objected to the line of questioning by the counsel for the accused on the grounds it was established that this witness is the legal custodian of the burial reports, and that the line of questioning is irrelevant.

The accused replied.

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

The question was repeated.

A. No, sir.

9. Q. The officer making the burial report appears to be one Chief Pharmist Clyde A. Bramble, U.S. Navy; is he available as a witness?

A. No.

Reexamined by the judge advocate:

10. Q. What officer has verified the report of Mr. Bramble?

A. Captain John Q. Owsley, U.S. Navy, Medical Corps, U.S. Naval Dispensary, U.S. Fleet Activities, Yokosuka, Japan.

11. Q. In what capacity?

A. As a medical officer in charge of the naval dispensary.

12. Q. Is Captain Owsley available as a witness?

A. Yes.

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

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

The witness made the following statement:

I have only one statement to make. This is a true copy of the original report that was forwarded to the Bureau of Medicine and Surgery, Washington, D.C., and therefore, it must be absolutely accurate.

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 a fifteen minute recess.

The commission granted the request.

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

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

No witnesses not otherwise connected with the trial were present.

A member 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. John Q. Owsley, captain, Medical Corps, U.S. Navy, attached to and serving at U.S. Fleet Activities, Yokosuka, Japan, as the senior medical officer.

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

A. I know him now, but not before this trial.

3. Q. Captain, do you sign all documents, such as, certificates of death reports of burials for forwarding to the Bureau of Medicine and Surgery, at the U.S. Naval Dispensary, U.S. Fleet Activities, Yokosuka, Japan?

A. In most cases.

4. Q. I show you three burial reports, "Exhibits 9, 10, and 11", namely, James Frank Ferris, Gordon Knowlton Price, and Michael John Evans, which has at the bottom of the report, "verified and forwarded by Captain John Q. Owsley, Medical Corps, U.S. Navy, Medical Officer"; did you sign the originals of these reports?

A. Yes.

5. Q. The reports state on Gordon Knowlton Price, and on Michael James Evans, that they were each identified by the master of the S.S. Casa Grande; did the master of this ship identify the bodies of these two men, as serving on his ship, and state whom they were to you?

A. Yes.

6. Q. The report on James Frank Ferris, states that the body was identified by the master of the S.S. Fort Dearborn; did the master of this ship state to you the body was James Frank Ferris, and so serving on his ship?

A. Yes.

7. Q. Do you recall the master's name of the S.S. Casa Grande?

A. Yes, K. Lofgren.

8. Q. Do you recall the master's name of the S.S. Fort Dearborn?

A. Yes, Healy.

Cross-examined by the accused:

9. Q. How did the masters of these merchant ships identify themselves?

A. In the case of Edward K. Lofgren, he told me what his name was, and that he was the master of the S.S. Casa Grande. Later, I received a letter from him, on letter-head paper of the S.S. Casa Grande, dated September 5, and mailed at Yokohama, Japan. This letter was to thank me on behalf of himself and his ship, for all that was done in the cases of the two deceased members of his crew. In the case of George S. Healy, he identified himself, by telling me his name when we were introduced, and stated that he was from the S.S. Fort Dearborn.

10. Q. Do you have the letter mentioned from the master of the S.S. Casa Grande?

A. Yes, I do, here it is.

The witness produced the letter of gratitude from the master of the S.S. Casa Grande, and it was submitted to the judge advocate and to the commission, and by the accused offered in evidence.

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

11. Q. Did either of these masters show you their identification cards?

A. No.

12. Q. Did either of these masters identify themselves in any other way as you have just testified?

A. No.

13. Q. Have you, as senior medical officer, ever received an official letter from the U.S. Maritime Service, concerning the three deceased merchant seamen?

A. No, not to my knowledge.

The accused expressly requested that the member of the commission be not so considered challenged.

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

The prosecution rested.

The defense offered no evidence.

The accused did not desire to make a statement.

The judge advocate read his written opening argument, appended marked "G(1)", "G(2)", "G(3)", "G(4)", and "G(5)".

The counsel for the accused requested a recess until 2:30 p.m., to prepare his argument.

The commission granted the request.

The commission then, at 11:30 a.m., took a recess until 2:30 p.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

The accused read his written argument, appended marked "H(1)", "H(2)", "H(3)", "H(4)", "H(5)", and "H(6)".

The judge advocate requested a recess until 3:15 p.m., to prepare his closing argument.

The commission granted the request.

The commission then, at 2:50 p.m., took a recess until 3:15 p.m., at which time it reconvened.

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

No witnesses not otherwise connected with the trial were present.

The judge advocate read his written closing argument, appended marked "I(1)", and "I(2)".

The trial was finished.

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 the accused, Shogore Takata, is of the first charge guilty.

The specification of the second charge proved.

And that the accused, Shogore Takata, is of the second charge guilty.

The commission was opened and all parties to the trial entered. The president of the commission announced the verdict of the commission to the accused.

The counsel for the accused requested an adjournment until 9 a.m., tomorrow, February 25, 1947, as to matters in extenuation and mitigation.

The commission granted the request.

The commission then, at 4 p.m., adjourned until 9 a.m., tomorrow, Tuesday, February 25, 1947.

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EIGHTEENTH DAY

U.S. Fleet Activities,
Yokosuka, Japan,
Tuesday, February 25, 1947.

The commission met at 9 a.m..

Present:

Captain William G. Michelet, U.S. Navy,
Captain John Q. Owsley, Medical Corps, U.S. Navy,
Lieutenant Colonel Bruno A. Hochmuth, U.S. Marine Corps,
Commander Robert A. Paton, U.S. Navy,
Commander Frederick T. Ebersole, Civil Engineer Corps, U.S. Navy,
Commander Harold G. Green, Dental Corps, U.S. Navy, members, and
Major John L. Hopkins, U.S. Marine Corps, judge advocate.
Frank N. Aurillo, yeoman first class, U.S. Navy, reporter.
Lieutenant David S. Huggins, U.S. Navy, and Mr. Teiji Takemiya, interpreters.

The accused and his counsels.

The record of proceedings of the seventeenth day of the trial was read and approved. The translation of the proceedings of the seventeenth day of the trial was accepted and approved by the counsels for the accused.

Tatsuji Mori, a witness for the defense, was recalled as to matters in mitigation, and was warned that the oath previously taken by him was still binding.

Examined by the accused:

1. Q. If you are the legal custodian of the civil police record of the accused, Shogoro Takata, produce it.

A. Yes, I am, here it is.

2. Q. Will you read any pertinent facts concerning the accused, Shogoro Takata.

A. Name, Shogoro Takata, birth, 22 December Meiji 39 (1906), legal address, 21 Shiodome, Yokosuka, City. Statistics concerning dependents: Wife, Tsunako, eldest daughter, Masako, second son, Yukio, third son, Kazo, second daughter, Miyoko. Previous police record, none. Above information certified correct: 25 February Showa 22 (1947), Yokosuka City Hall, (Seal) To Yokosuka, Police Station, Kanagawa Prefecture.

The judge advocate did not desire to cross-examine this witness.

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

The witness said that he had nothing further to state.

The witness was duly warned and withdrew.

The judge advocate stated that the accused, Shogoro Takata, had no record of previous conviction, and gave as his date of birth December 22, 1906.

The court was cleared.

The judge advocate was recalled, and directed to record the sentence of the commission as follows:

The commission, therefore, sentences him, Shogoro Takata to be imprisoned at hard labor in such prison or penitentiary as the convening authority may designate for a period of nine (9) years, commencing September 2, 1946. The commission directs that the sentence shall not be put into execution until approved by the convening authority in accordance with paragraph 13 sub paragraph c of section III of OPNAV 13-23.

William G. Michelet
WILLIAM G. MICHELET,
Captain, U.S. Navy, President.

John Q. Owsley
JOHN Q. OWSLEY,
Captain, Medical Corps, U.S. Navy, Member.

Bruno A. Hochmuth
BRUNO A. HOCHMUTH,
Lieutenant Colonel, U.S. Marine Corps, Member.

Robert A. Paton
ROBERT A. PATON,
Commander, U.S. Navy, Member.

Frederick T. Ebersole
FREDERICK T. EBERSOLE,
Commander, Civil Engineer Corps, U.S. Navy, Member.

Harold G. Green
HAROLD G. GREEN,
Commander, Dental Corps, U.S. Navy, Member.

John L. Hopkins
JOHN L. HOPKINS,
Major, U.S. Marine Corps, Judge Advocate.

The commission, having no more cases before it, adjourned to await the action of the convening authority.

William G. Michelet
WILLIAM G. MICHELET,
Captain, U.S. Navy, President.

John L. Hopkins
JOHN L. HOPKINS,
Major, U.S. Marine Corps, Judge Advocate.

0639

Written opening argument by the judge advocate:

The accused, Shogoro Takata, is before this commission charged with the violation of the Japanese law, prohibiting the sale of alcoholic beverages exceeding one milligram per cubic centimeter, and with involuntary manslaughter. The first charge arose by virtue of the fact that the accused made and sold alcoholic beverages containing methanol alcohol greatly in excess of the amount allowed by the Japanese law. The second charge is based on the fact that as a result of the sale by the accused of this poisonous beverage, and its ultimate consumption by three merchant seamen, they died.

The specification of the first charge of violation of a Japanese law, namely:

"It is prohibited to sell, give, manufacture, or possess liquids containing methanol or methyl in quantities greater than one milligram per cubic centimeter."

The evidence shows without contradiction the following are established facts:

1. That Kimie Homma purchased two unlabelled bottles which she purchased as whiskey from the accused on or about the 31st of August. (she so testified)
2. That the accused admitted to the police, (as detective Ishii has so testified) that he, the accused, made a batch of six quarts of whiskey from one "sho" of alcohol he had purchased from a Korean. That he added water and coloring to the batch of whiskey he had so manufactured. That he sold two bottles of this batch of six he had made to Kimie Homma. That he thought the whiskey was safe but was not positive. When three men became ill from drinking this whiskey, he removed the remaining four bottles of whiskey from his house to that of a friend, in fear of having them found on his premises. When detective Ishii confronted the accused with four bottles, the accused identified the four bottles as the ones he had manufactured the contents of, and that they were the remaining four bottles of the batch of six bottles he had originally made from one "sho" of alcohol purchased from a Korean. The police department then delivered the four bottles to the military police. (Testimony of detective Ishii)
3. That the four bottles now in evidence were identified by detective Ishii as the ones which Shogoro Takata had stated to him he had manufactured the contents of, and were the ones which he, detective Ishii, had turned over to the military police.
4. That Doctor Van Itallie, a duly qualified doctor, testified that he took the four bottles of liquid, now in evidence, to the laboratory to be analyzed, that thereafter, he received the report of the analysis which report is now in evidence as "Exhibit 8", and the report shows the contents of the bottles ranged from 120 to 350 milligrams per milliliter of methanol alcohol, which amount is far in excess of that allowed for by the Japanese law.

"G (1)"

0640

5. That the Japanese Imperial Ordinance published on the 29th of January 1946, provides that "It is prohibited to sell, give, manufacture or possess beverages containing methanol or tetra-ethyl lead. It is prohibited to possess, manufacture, give, or sell methanol with the object of consumption as a beverage." Modifications of this law were published on June 17, 1946, which states, "In article one, paragraph one, following the words beverages 'and excluding that which contains less than one milligram of methanol per cubic centimeter'", and that the above is the Japanese law and has been duly proven by the prosecution.

6. That the accused never at any time, nor in any manner, put labels on the bottles stating their contents, nor did he exercise any care or caution to ascertain the methanol alcoholic content of the liquid he placed in the bottles in question, which bottles he offered for sale and in fact did sell two of them to Kimie Homma. The evidence shows without question that the accused did, knowingly and wilfully concoct the contents of the six bottles and did sell two of them to Kimie Homma. He made the liquid and filled the six bottles. He made no effort to ascertain if they were safe for human consumption. This fact shows he was negligent, careless, and indifferent to possible harmful results to persons who might consume the same. These actions conform to all definitions of carelessness as laid down by the courts in their decisions. It is the prosecution's contention that the proof shows the accused did the acts as charged in Charge One and of the specification.

7. The above facts establish that the accused violated that law with which he has been so charged. Therefore, the commission is bound by the evidence so presented, to find the accused, Shogoro Takata, guilty on the first charge, and that he be sentenced to the maximum as provided for by the law to seventeen years imprisonment.

The second charge and specification charges that the accused committed involuntary manslaughter.

The Federal Code as quoted in section 119 of Naval Courts and Boards defines involuntary manslaughter as follows:

"In the Commission of an unlawful act not amounting to a felony or in the commission of a lawful act which might produce death, in an unlawful manner, or without due caution and circumspection."

The specification of Charge Two charges that the accused without due caution and circumspection, did feloniously and negligently sell or give to one Kimie Homma, a bottle of alcoholic beverage.

Before analysing the evidence to sustain this specification, the meanings and definitions of the following words are quoted from Winston's Dictionary:

"Caution: Heedfulness, care in avoiding risk, misfortune or peril, a word gesture or art which suggest a warning.

CIRCUMSPECTION: meaning caution; prudence, watchfulness, full attention to all the circumstances of a case."

"G (2)"

0641

Feloniously: "The word feloniously has no special inherent meaning; it is a mere technical word used to designate offenses which were declared a felony at common law, or offenses of considerable gravity which are declared felonies by statute. It is descriptive of the offense, and if the facts proved establish a felony, then the crime was committed feloniously."

The accused admitted to the police that he concocted the mixture that he put into six bottles, that he made and bottled this liquid with the intent and purpose of its being used for human consumption and that he sold two of the six bottles to Kimie Homma.

The evidence presented for the support of the second charge shows without controversy as follows:

1. That Kimie Homma purchased two bottles of unlabelled whiskey from the accused, Shogoro Takata, on the 31st of August, and that the contents of the two bottles contained poisonous whiskey, of which she was not aware of, but that she did serve the contents thereof to three merchant seamen and herself in her home on the same day.
2. That as a result of drinking the said poisonous liquor that Kimie Homma had served to these three merchant seamen, they died.
3. That the seaman whom Kimie Homma knew as Frank expired in her home, that he was later identified by competent witnesses to be Frank Ferris, namely, testimony of Lieutenant Kahn, military police investigating officer, the medical officer-of-the-day, the doctor performing the autopsies, and the identification by the master of his ship as noted on the burial report. The medical officer-of-the-day, on 1 September 1946, pronounced him dead at 0600, but stated that he had been dead from about one to three hours. Lieutenant Kahn testified that Ferris was dead upon his arrival at Kimie Homma's house. just
4. That Michael J. Evans and Gordon K. Price, both while in the dispensary, received diagnosis of methyl alcohol poisoning from the medical officer-of-the-day then on duty on 1 September 1946. Subsequent to the diagnosis of methyl alcoholic poisoning, Gordon K. Price died about 1233 and was pronounced dead at that time by Doctor Mc Dermott, then medical officer-of-the-day. That Michael J. Evans died about 9:50 p.m., and was pronounced dead at the time by Doctor Mc Dermott, all on 1 September 1946. I quote from Underhill's Criminal Evidence, paragraph 546: "The physician, who was in attendance upon the victim of the homicide during his mortal illness, may properly repeat on the witness stand the declarations of the deceased as to his feelings and sufferings, the locality and character of his pain, and as to his physical condition generally. A physician, who is called to give an opinion as to the cause of death, may state that from his experience and learning as a practicing physician, he is competent to give an opinion as to the cause of death." Therefore, all three merchant seamen, Frank J. Ferris, Gordon K. Price, and Michael J. Evans, died of methyl alcoholic poisoning, as evidenced by the testimony of the doctor. I quote paragraph 547 of the same book on the result of the autopsy as follows: "The testimony of a competent surgeon or medical practitioner, who conducted the autopsy, is admissible though some minor statutory details were not observed and though the accused was not notified to be present, or, being present was without counsel."

"G (3)"

0642

The physician may describe what tests are necessary to ascertain the cause of death, and, after relating the facts revealed by the autopsy, may give his opinion, based thereon, as to the cause and mode of death."

5. That the autopsy findings were compatible with the clinical diagnosis of methanol poisoning on Price, Ferris and Evans as Doctor Van Itallie, the doctor performing the autopsies, has so testified.

The analysis of a urine specimen from two of the deceased, namely, Ferris and Price, shows that they had consumed liquor containing a high percentage of methanol alcohol are in general support that the cause of the deaths of the three men was the result of drinking poisonous liquor.

6. The fact established that Ferris, Price, and Evans died of poisonous whiskey, and that they did this drinking prior to death at the home of Kimie Homma, and that the liquor Kimie Homma served was liquor she had purchased from the accused. The accused admitted to the police department, namely, the chief of detectives one Ishii, that he had made six bottles of whiskey from one "sho" of alcohol that he had bought from a Korean, and that out of the batch of six bottles he had made he sold two of the six bottles to Kimie Homma. Kimie Homma served the contents of these bottles to the deceased.

7. The accused identified the four bottles as being the ones he had manufactured the contents of, when confronted with them by the police, as he admitted to detective Ishii. The four bottles in evidence have been identified by detective Ishii, of the police department, as being the identical bottles that Shogoro Takata had stated were the four bottles of the six he had manufactured.

8. The four bottles in evidence has been tested as to their contents being poisonous and the analysis shows beyond a reasonable doubt, that the contents are deadly poisonous.

9. Therefore, there cannot be the slightest doubt, that the liquor the three deceased, James F. Ferris, George K. Price, and Michael P. Evans drank, was poisonous whiskey evidenced by their deaths from methyl alcoholic poisoning, as being the liquor that the accused had made up in his original batch of six bottles.

The evidence establishes as a fact, that the accused did not use due caution and circumspection in the making and selling of the whiskey in question. He made no effort to ascertain whether or not the alcohol he used was safe for human consumption. He bought it from an unknown Korean and made whiskey out of it. Such an act is not that of a reasonable or prudent man. He did not have the alcohol analyzed nor did he do any act to learn if it was or was not safe for humans to drink. In this particular, he was careless and negligent, and failed to use due care and caution or circumspection, for the protection of any person who might drink the whiskey he had concocted. Such action shows not only a lack of due caution and circumspection, but it is positive evidence of a total indifference and disregard for possible harmful results from the drinking of the whiskey he made and sold.

"G (4)"

0643

The evidence in this case established beyond any reasonable doubt, that the accused is guilty of involuntary manslaughter, as charged, therefore, I ask that the commission render a finding that the accused is guilty as charged, and that the maximum sentence allowed by law be imposed. For the information of the commission, the maximum penalty for involuntary manslaughter, as provided in the U.S. Federal Code, is three years.

The prosecution urges that it has established beyond any reasonable doubt, that the accused is guilty of both charges and specifications, and therefore, asks the commission to so find, and thereafter, to impose the maximum sentence allowed by the law, which maximums have heretofore been pointed out to the commission.

"G (5)"

0644

Written argument by the accused:

Gentlemen, the accused, Shogoro Takata, has been charged with the commission of a grave offense. The specifications of the charges allege that the accused:

- (A) Sold or gave to Kimie Homma, knowingly and wilfully, an alcoholic beverage containing in excess of 1.0 mg/cc of methanol or methyl alcohol.
- (B) That Kimie Homma gave the beverage to three American merchant seamen, and as a result, they all died.

The prosecution employed every possible effort to present the evidence to prove the facts of the charges by men, things, and documents. The accused did not protest at all, knowing that the Commission would exercise careful judgment, to establish the evidentiary value of all such evidence. Looking at the charges in general, it is easy to see, without clear legal discernment, that the accused appears guilty. However, from the legal standpoint, considering the laws of evidence, the conclusion should appear quite different.

The defense will admit it was proved that:

- (A) The accused sold to Kimie Homma, on August 29, 1946, four bottles of alcoholic beverages, on the 30th, one bottle, and on the 31st, two bottles.
- (B) Kimie Homma drank this liquor, together with three Caucasian merchant seamen, on the days she bought them.
- (C) After that, these three seamen died.
- (D) That the cause of their deaths was probably methyl alcohol poisoning.
- (E) As a result of examining four bottles of liquid, supposed to be the same beverage the accused sold to Kimie Homma, that they did in fact, contain in excess of 1.0 mg/cc of methanol.

From the above five facts, hasty consideration might easily conclude that the accused is guilty as charged. Such, however, is not the case when judged by the laws of legal proof.

Please consider these thoughts:

- (A) Due to superior strength and physical equipment, the Caucasians have a greater tolerance against methanol, than have the Japanese.
- (B) Mr. Miyazaki, a proprietor of a liquor store, served at his shop large number of Japanese the same beverage he sold to Mr. Saito of Oppama, who in turn sold some to the accused, but not one person was affected by it.
- (C) Yuji Saito, a Japanese, also drank some of this liquor, but suffered no ill effects.
- (D) Hidetaro Hashimoto, Masukichi Yoshida, the barber, and a number of other Japanese drank some of the whiskey said to have come from the accused via an itinerant Korean, but nothing happened to them.

"H(1)"

0645

- (E) Kimie Homma, a Japanese woman, drank alcoholic beverage which she bought from the accused; four bottles on August 29, one on 30 August, and two on 31 August, all contained in clear Japanese beer bottles, together with the three Caucasian seamen, at the same place, the same time, and the same quantity, but no harm came to her.

These facts were established by direct testimony admissible as conclusive evidence in any court.

These facts, however, lead to several conclusions as follows:

- (A) If the alcoholic beverage sold to Kimie Homma by the accused was a poisonous drink, which could lead to methyl alcohol poisoning, those who drank it should have experienced varying toxic symptoms. But, as stated previously, there was no such variation of symptoms. The seamen evidenced symptoms and died, but Kimie Homma did not, neither did Hashimoto, neither did Yoshida, neither did Saito. This fact is basic, that the Japanese who drank liquor given by the accused lived, the three seamen did not.

The conclusion is inescapable; they must have received the lethal liquor elsewhere, than at the house of the accused. Reference to the record will show that all three seamen were going in and out of the house of the accused for various periods throughout the three days of 29, 30, and 31 of August. Also, Kimie Homma has testified that they were almost always, more or less, under the influence of liquor. Ample opportunity, therefore, was had by the deceased seamen to procure liquor elsewhere. Where they got this other liquor, which would be the real evidence for proving the case against the accused, is unknown, and the prosecution at no time proved the other sources available to these seamen. Neither has the prosecution proved where the deceased seamen were, when away from the house of the accused, or what they were doing.

The specification of the first charge is an alleged violation of Japanese laws.

The clear facts regarding this are:

- (A) The alcoholic beverage which the accused sold to Kimie Homma, was contained in Japanese beer bottles, totalling seven in number, of clear glass construction.
- (B) The bottles offered in evidence by the prosecution were four in number of amber and green construction.
- (C) On repeated questioning by the prosecution, the witness, Kimie Homma, positively stated that these bottles did not resemble those which she had received from the accused.
- (D) There is no law in Japan at present, against holding, buying, or selling alcoholic beverages of ethyl alcohol content.

The prosecution has offered in evidence the analysis reports of the contents of the four bottles in evidence, to prove that the alcohol allegedly bought by the accused from a Korean, contained in excess of 1.0 mg/cc of methanol, and that this alcohol was subsequently given to the three seamen by Kimie Homma.

"H(2)"

0646

The prosecution's evidence in this regard is nullified for the following reasons:

- (A) Witness Kelly, the jeep driver for Lieutenant Kahn, stated he did not find a single bottle in the house of the accused.
- (B) Witness Kahn stated, "The next day, or the day after, Lieutenant Campanile informed me that the Japanese police had discovered four more bottles of alcohol in Shogoro Takata's store. I took these bottles to the medical laboratory in Yokohama to be analyzed."
- (C) Witness Campanile stated, "In the early part of September, I received from the Japanese police station, four bottles similar to the standard liter and one-half beer bottle. I took these bottles to the U.S. Naval Dispensary, at Yokosuka to have them examined for content."

The source of these four bottles is very obscure, and besides, by the statements of witnesses Campanile and Kahn. There evidently existed two sets of four bottles, one set going to Yokohama for analysis, and one to Yokosuka.

Moreover, the most direct witness obtainable, Kimie Homma, stated she did not recognize the four bottles placed in evidence.

The prosecution has not given any acceptable proof as to the validity of the four bottles in evidence, much less the four additional ones mentioned by Mr. Campanile.

Even if these four bottles in evidence existed in reality, their validity of proof would be nullified for the following reasons:

- (A) There was an elapsed time of five or six days from the time the accused allegedly entrusted the bottles to Mr. Mochizuki, to the time detective Mori handed them over to detective sergeant Ishii.
- (B) During this time, these bottles were located in the bathroom of the home of Mochizuki.
- (C) During this period, the four bottles were not sealed, and it was free for anyone to put anything in it, or to have the entire contents changed.

Articles thus irresponsibly left about, have lost their entire validity as evidence.

That portion of the specifications, which are common to both charges, will be treated jointly in the argument.

It is of interest to note here that the prosecution has asked for the accused to be imprisoned for seventeen years, because he claims he has proved the specification of the first charge. Considering the impersonality of the law, and the fact that the prosecution has shown no exceptions whatsoever in the Japanese law, concerning possession of a beverage containing more than the legal minimum of methanol, it would be more consistent to ask instead that Mochizuki, detective Mori, and detective Ishii, be imprisoned for law violation. They testified they possessed liquor, later, proven to contain an illegal amount of methanol. Kimie Homma has never so testified, and the prosecution has not proved that the accused possessed illegal alcohol.

"H(3)"

0647

The second charge is a grave suspicion that the accused sold or gave a poisonous bottled alcoholic beverage to Kimie Homma wilfully, knowingly, carelessly, and without due caution, between August 29 and September 1, 1946, or thereafter, and Kimie Homma gave it to three American merchant seamen, attached to the Allied Forces, and that they died one after another, as a result of drinking it.

In the specification, under charge two, the word "wilfully" appears. As you know, a wilful act is one which is done knowingly and purposely, with the direct object in view of injuring another.

Moreover, the word "feloniously" appears. This means with planned intent to carry out an illegal or nefarious plan, scheme or idea. However, could it be possible that the accused had such an nefarious intent?

Considering the following points, I believe the answer appears very evident:

- (A) The accused and his wife were friends of Kimie Homma.
- (B) It was as a favor that the accused sold alcoholic beverage to Kimie Homma.

It cannot be possible to "sell his friend anything as a favor" knowing it poisonous.

Considering that results arising from selling poisonous and dangerous liquor, apart from friendship, would gravely involve him with the police, and he must take the responsibility for them, no one but a mad man would sell it.

And it cannot be thought that Kimie Homma sold it to three American merchant seamen knowing it poisonous, due to the facts:

- (A) That she was a friend of the three seamen.
- (B) That she was in close contact with Red, whom she so called, that she wept in court.
- (C) That she drank it with them.

In short, no one but a mad man, or one who intends to suicide, could be thought to sell poisonous beverages to one's friend or herself to drink it.

In the specification, is found the portion which states, "carelessly and without due caution", and for which no adequate proof has been advanced by the prosecution.

The defense prefers two thoughts for consideration as follows:

First, it is of general knowledge, that in Japan, a great deal of merchandise is sold without benefit of label, identification, or guaranteeing description. This was brought out by both witnesses, Mr. Saito and Mr. Miyasaki. This leads to a thought prevailing all over the world, but particularly true in the Orient, the doctrine of Caveat Emptor, or buyer beware.

"H(4)"

0648

In English and American law, it is a settled doctrine, that the purchaser is required to notice such quality of the goods purchased as are reasonably supposed to be within the reach of his observation and judgement.

The accused is alleged to have purchased some liquor from a Korean, which later, supposedly, was found to be poisonous. As already mentioned, the Oriental people are accustomed to buying a great many things with no more than the vendor's word as to quality.

The accused merely acted as an average Japanese, according to the general and long standing customs of his country, and it is difficult to understand that the accused is particularly supposed to have acted carelessly.

Second, as to the manner in which the accused sold to Homma.

- (A) Before selling to Kimie Homma, the accused gave the same beverage to Hidetaro Hashimoto, and he drank it, but it was not harmful to him.
- (B) Masukichi Yoshida, and a few other Japanese, drank some of Shogoro Takata's liquor, but they were all well.

At least, by these facts, it is considered too severe to blame as carelessness, the manner in which the accused is supposed to have sold to Kimie Homma, believing it to be of no harm absolutely.

Taking as evidence, the four bottles and the reports of having analyzed the liquid of the contents, the prosecution has attempted to prove the fact, that they contained more methyl alcohol, than legal, and that they were the bottles that the accused sold to Kimie Homma. As already mentioned, concerning the proof of evidence about the four bottles, there are two evident facts concerning the four bottles as follows:

- (A) That Kimie Homma never recognized them.
- (B) That no one drank liquid of them at all, that is, the seamen who died, and for whom we feel very sorry, never drank any drops from the bottles. The prosecution has never introduced the bottles of whiskey which Kimie Homma gave to them, the seamen.

If true, without the evidence of the bottles, it is impossible to prove legally, the fact that, the liquor was poisonous when Kimie Homma gave it to the seamen.

The prosecution has not proved the identity of the seamen described in the specification, and the evidence that they were attached to the occupation forces.

The evidence offered was that usually found in a wallet. It is not known, at all, of what this sort of evidence consists. If it infers an identification card, it was never so stated. If it was an identification card, no mention of a picture being on it was brought in evidence. As to the ships to which the seamen were allegedly attached, no mention was made. Here again, if identification card means was used, and it was certainly not brought out that it was, it could easily be in error, for the greater part of World War II, I personally carried an identification card issued to me at Mare Island in 1941.

"H(5)"

0649

I left Mare Island in 1942. Thereafter, if I had been in an accident, someone might infer I was attached to Mare Island, which I was not. Cases such as this, are by no means rare. The prosecution has never introduced an original document or acceptable dispatch from the Captains of the "S.S. Casa Grande", and the "S.S. Fort Dearborn", stating they were missing any men whatsoever, much less the ones attributed to be members of their crews. It is not known whether the U.S. Maritime Service executes a special report for men absent without leave, or absent on liberty on departure from a port, but somewhere in their system, such a report must exist. A report of this nature might prove the identification of the seamen who died, but evidence from a wallet is not felt to be at all conclusive.

If the identity of the seamen is unproved, then whether or not they were accompanying the Occupation Forces in Japan for the same reason, is also unproved.

Later, the prosecution offered in evidence navy burial reports of three seamen. The identification was made, according to these reports, by the masters of the "S.S. Casa Grande" and the "S.S. Fort Dearborn", but the master's names were not mentioned. This is clearly not adequate legal proof of identity.

The senior medical officer was then called as a witness, and he was able to identify the masters of these two ships by names, but admitted he had not seen their identification cards, nor any other legal proof of their positions as masters. He further admitted that he had received no official letter from the U.S. Maritime Service, concerning the deceased seamen. This, although, stronger in plausibility than that offered by the prosecution in the earlier part of this trial, is still not legal proof of the identity of the seamen in question. Consequently, it is felt that the prosecution has not proved that portion of the specification of the second charge, relative to the identity of these seamen.

Considering the great deal of circumstantial hearsay, and unsubstantiated evidence, as regards all specifications to both charges, it is felt that it is unwarranted in the face of unproven facts, to arrive at a finding in this case of that other than not guilty. Crime does not exist without evidence, there has been no adequate evidence, therefore, the findings of the commission is clearly indicated, "not guilty" to either charge.

"H(6)"

0650

Written closing argument by the judge advocate:

The counsel for the accused has stated in his argument that the following facts so exist: The prosecution will outline these facts with the rebuttal of the evidence as it so exists in the record. It is contended by the defense, that the tolerance of Caucasians is greater than that of an oriental. By what means of proof do they establish that fact? The testimony of a competent qualified medical officer, Doctor Van Itallie, has stated, "I do not know of any experimental evidence based on experiments made on human beings in regard to tolerance to methyl alcohol. However, there are recorded instances of persons who habitually drank what is ordinarily toxic doses without suffering ill effects. This suggests the possibility of a tolerance being built up but is by no means proof. There are many variables which may alter an individual's physiological response to methyl alcohol in any particular case. For these reasons, I believe, that it is impossible to come to any valid conclusions without benefit of controlled studies."

The defense has established that Kimie Homma drank a great deal. The testimony on the part of Lieutenant Kahn, states, "That Evans told me that Price and Ferris had been drinking quite heavily of Japanese liquor which Kimie Homma had served them. He stated that he had about one drink and also the Japanese girl had a drink or two." Lieutenant Kahn testified that he was in the house of Kimie Homma, and that she was in a hysterical condition. Private First Class Kelly stated that she appeared excited, and that she did not appear intoxicated, by his testimony. *Just get*

The defense has raised the question in regard to the number of bottles being found in the house. Referring to the testimony of Lieutenant Kahn, "We went down to the lower floor of the house, and to the shop of Shogoro Takata, and made a hasty search. There were a great many bottles present and we did not know the ingredients of them. Shogoro Takata was asked if there were any more filled liquor bottles in the store, and he said there wasn't. There is two items in the room that I neglected to mention. They are the two bottles that Evans said they had been drinking from, the bottles were empty except for a few drops left in one of the bottles."

The bottles left in the home of a friend, Mochizuki, were subject to tampering. The girl, Mochizuki, testified that the box was placed in a corner of the bathroom and was not removed at all until a detective Mori came to her house, and at that time the box was opened and the contents examined.

The counsel for the accused, has inferred that possession has not been proved. The accused is not charged with possession of methyl alcohol, but that of selling or giving methyl alcohol with due caution and circumspection. The counsel for the accused has admitted in his argument that he sold to Kimie Homma, four bottles on the 29th, one bottle on the 30th, and two bottles on the 31st of August. The accused on admission to the police, stated that the four bottles recovered by them, were the four bottles of a batch of six, which he manufactured the contents of, and that of the six, two had been sold to Kimie Homma. The evidence establishes as a fact that the accused did not use due caution and circumspection in the making and selling of the whiskey in question. He made no effort to ascertain whether or not the alcohol used, was safe for human consumption. He bought it from an unknown Korean, and made whiskey out of it. Such an act is not that of a reasonable man. He did not have the alcohol analyzed, nor did he do any act to learn if it was or if it was not safe for humans to drink.

In this particular, Shogoro Takata was careless and negligent and failed to use due care.

As to the failure to establish the identification of the three deceased, the prosecution invites attention to first, the report of the autopsy in evidence, second, the admission by two of the deceased, Price and Evans, to the medical officer-of-the-day, as to their identity, third, the statement by Evans to Lieutenant Kahn, as to whom his other two shipmates were, fourth, the report of the burials, and the testimony of Captain Owsley that the masters of each ship identified Ferris, Evans, and Price, as the men serving aboard their respective ships. The defense has contested that Captain Owsley, a prudent man, failed to ask the masters of the ships, for their identification papers upon meeting them. Is this a common practice for a person when being introduced to another person to ask him for his identification card or papers as to proof that he is such a man?

The prosecution contends that the accused has conducted a practice, which was with violation of a law published to prohibit such a practice, so that innocent people would not suffer at the expense of individuals making bootleg whiskey. The prosecution contends that the allegations as set forth in the specification of the first and second charges have been firmly established and proven. *plus*

0652

Extract showing the proceedings of the Provost Court, Yokosuka, Japan, case number 96, in the case of Kimie Homma:

COMMANDER FLEET ACTIVITIES,
YOKOSUKA, JAPAN,
NAVY NO. 3923,
F.P.O. SAN FRANCISCO, CALIF.

RECORD OF PROCEEDINGS

Yokosuka, Japan,
October 31, 1946.

Case no. 96.

The proceedings of Provost Court held for the city of Yokosuka, Japan, by the authority of Captain Benton W. Decker, Commander Fleet Activities, Yokosuka, Japan, under date of July 6, 1946.

The court met at 1515.

KIMIE HOMMA (female) was arraigned on the charge of

Partial responsibility for the deaths of three merchant marines, under circumstances involving no criminality, and ~~subsequent to the deaths~~ pleaded as follows:

Guilty.

Witnesses for prosecution:

None.

Witnesses for defense:

None.

Findings:

Guilty.

Sentence: ~~Subsequent to the deaths~~ The court places you on probation for a period of sixty (60) days, and orders you to appear as a witness in the case which is coming up against Mr. Takata. You will be available at all times to appear as a witness until that case is settled, and you will report to the Japanese Police Station once a week.

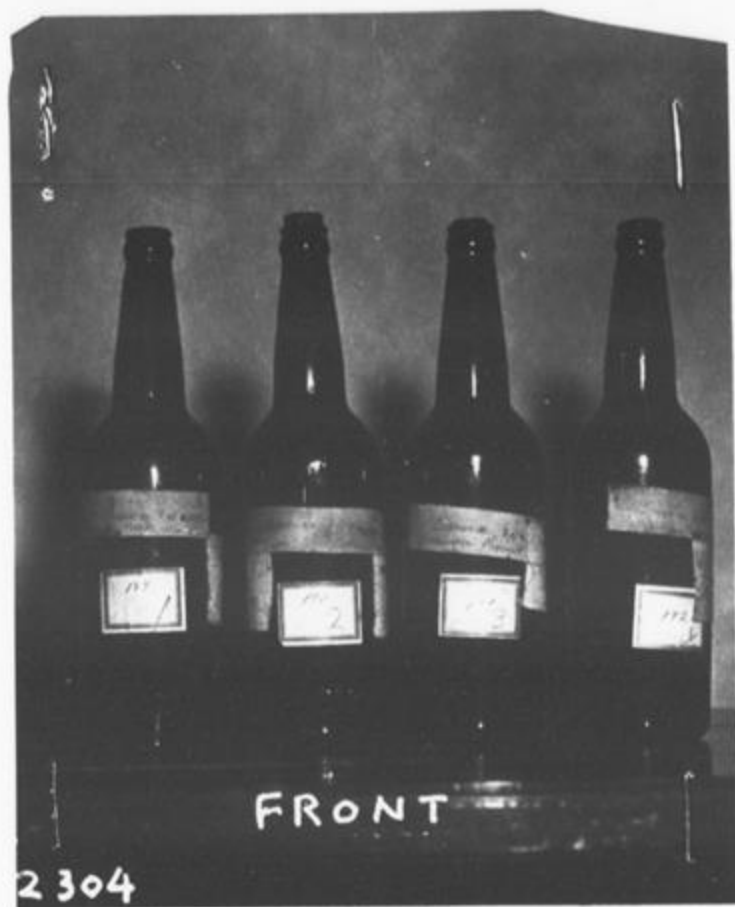
/s/ Wallace L. Higgins,
Wallace L. Higgins,
Commander, U.S. Naval Reserve,
Provost Court.

A true copy. Attest:

John L. Hopkins
JOHN L. HOPKINS
Major, U.S. Marine Corps,
Judge Advocate.

"Exhibit 1."

0653



Front of four photographic bottles, numbers 1, 2, 3, and 4, in evidence, in the case of Shogoro Taketa:

.. true photograph. artist:

John B. Apple
 John B. Apple,
 Major, U.S. Marine Corps,
 Judge Advocate.

"Exhibit 2."



Extract showing the autopsy report in the case of FERRIS, James Frank,
228174, boatswain, U.S. Maritime Service:

COMMANDER FLEET ACTIVITIES
YOKOSUKA, JAPAN
NAVY NO. 3923
F.P.O. SAN FRANCISCO, CALIF.

AUTOPSY REPORT

FERRIS, James Frank 228174 Boatswain USMS

The body is that of a well nourished white male said to be 44 years of age. The body is cold and rigor mortis is present. The hair is grey and the eyes brown, and the teeth are in poor condition, the lower incisors being absent. There are no external signs of trauma other than an old ecchymosis of the right shin. There are no obvious scars or deformities present. The body is 6 feet in length and the estimated weight is 190 lbs.

The mediastinum is opened in the routing manner. Both lungs are well aerated and normal on gross section. The pleural spaces contain no fluid and the larger bronchi as well as the pulmonary arteries and veins are free from obstruction.

The pericardium is free of adhesions and the pericardial space contains a normal amount of fluid. The heart is normal externally and on section.

The liver is normal in appearance externally and on gross section.

The spleen is similarly normal.

The left kidney is normal in size, but on section appears uniformly hyperemic. The capsule strips readily, and the exposed surface is smooth. The pelvis and ureters show no abnormality. The right kidney and its related structures are similar to the left in every respect.

The bladder is distended with fluid. A sample is taken for analysis.

The stomach appears normal externally, on its mucosal surface are found numerous punctate hemorrhages. The gastro-intestinal tract is otherwise unremarkable.

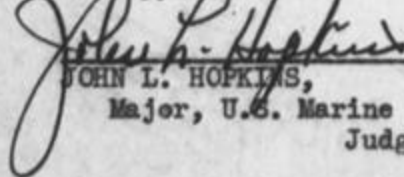
The brain and adjacent structures are not examined.

ANATOMICAL DIAGNOSIS: Hyperemia of kidneys, bilateral.
Punctate hemorrhages of gastric mucosa.

Findings are compatible with the clinical diagnosis of Acute Methanol Poisoning.

/s/ T. VAN TALLIE,
T. VAN TALLIE
Lt. (jg) (MC) USNR

A true copy. Attest:


JOHN L. HOPKINS,
Major, U.S. Marine Corps,
Judge Advocate.

"Exhibit 3."

0655

Extract showing the analysis report of the urine specimen on FERRIS,
James Frank, Z28174, boatswain, U.S. Maritime Service:

Name Ferris, J.F. Serial No. _____ U.S. Maritime Service Rank _____
Station U.S. Naval Disp., Yokosuka Ward _____
Examination requested by Van Itallie M.C.
Specimen Urine from Autopsy Source Autopsy
Type of examination Methyl Alcohol

Report:
Methyl Alcohol Content equals 12. mg/ml.

(Duplicate report, 4 Feb 1947)

Lab. 406th Med Gen Lab
APO 500

W.D., A.G.O. Form 8-81
8 August 1944
(Old W.D., M.D. Form 55L-15,
9 June 1942, which may be
used until existing stocks (MISCELLANEOUS)
are exhausted.)

/s/ E. H. Kaufman,
E. H. Kaufman, 1st Lt.

Date 5 Sept. 1946
16-16971-3 GPO

A true copy. Attest:

John L. Hopkins
JOHN L. HOPKINS
Major, U.S. Marine Corps,
Judge Advocate.

"Exhibit 4."

0656

Extract showing the autopsy report in the case of PRICE, Gordon Knowlton, 2243492, chief steward, U.S. Maritime Service:

COMMANDER FLEET ACTIVITIES
YOKOSUKA, JAPAN
NAVY NO. 3923
F.P.O. SAN FRANCISCO, CALIF.

AUTOPSY REPORT

PRICE, Gordon Knowlton 2243492 Chief Steward, USMS

The body is that of a fairly well nourished white male said to be 44 years of age. The body is 6 feet in length and the estimated weight is 160 lbs. The body is cold and rigor mortis is present. The hair is red and the eyes blue. The teeth are in poor condition. There are no external signs of trauma, and no scars or gross deformities are noted.

The mediastinum is opened in the routine manner. Both lungs are well aerated and normal on gross section. There is a fibrous adhesion from the right middle lobe to the anterior parietal pleura. Both pleural spaces are free of fluid, and the larger bronchi as well as the pulmonary arteries and veins are free from obstruction.

The pericardium is free of adhesions and the pericardial space contains a normal amount of fluid. The heart is normal externally and on section except for the presence of atheromatous changes in a branch of the anterior descending coronary artery.

The liver is normal in appearance and on gross section.

The spleen is similarly normal.

The left kidney is normal in size, but on section shows hyperemic change in its medullary portion. The capsule strips readily and the exposed surface is normal. The pelvis and ureters are not remarkable. The right kidney is similar to the left in every respect.

The bladder contains a moderate amount of fluid, and a sample is taken for analysis.

The stomach appears normal externally. On its mucosal surface are found numerous, punctate hemorrhages. The gastric-intestinal tract is otherwise unremarkable.

The brain and adjacent structures are not examined.

ANATOMICAL DIAGNOSIS: Hyperemia of renal medulla, bilateral.
Punctate hemorrhages of gastric mucosa.

Findings are compatible with the clinical diagnosis of Acute Methanol Poisoning.

/s/ T. VAN ITALLIE,
T. VAN ITALLIE
Lt. (jg) (MC) USNR

A true copy. Attest:

John L. Hopkins
JOHN L. HOPKINS,
Major, U.S. Marine Corps,
Judge Advocate.

"Exhibit 5."

0657

Extract showing the analysis report of the urine specimen on PRICE,
George Knowlton, Z243492, chief steward, U.S. Maritime Service:

U.S. Maritime Service

Name Price, G.K. Serial No. _____ Rank _____

Station U.S. Naval Disp., Yokosuka Ward _____

Examination requested by Van Itallie M.C. _____

Specimen Urine from Autopsy Source Autopsy

Type of examination Methyl Alcohol

Report:

Methyl Alcohol Content equals 12. mg/ml

(Duplicate report, 4 Feb 1947)

Lab. 406th Med Gen Lab
APO 500

W.D., A.G.O. Form 8-81
8 August 1944
(Old W.D., M.D. Form 55L-15,
9 June 1942, which may be MISCELLANEOUS
used until existing stocks ()
are exhausted.)

/s/ E. H. Kaufman,
E. H. Kaufman, 1st Lt.

Date 5 Sept. 1946

16-16971-3 GPO

A true copy. Attest:

John L. Hopkins
JOHN L. HOPKINS,
Major, U.S. Marine Corps,
Judge Advocate.

"Exhibit 6."

0658

Extract showing the autopsy report in the case of EVANS, Michael John, 2107380, utility steward, U.S. Maritime Service:

COMMANDER FLEET ACTIVITIES
YOKOSUKA, JAPAN
NAVY NO. 3923
F.P.O. SAN FRANCISCO, CALIF.

AUTOPSY REPORT

EVANS, Michael John 2107380 Utility Steward, USMS

The body is that of a fairly well nourished white male said to be 50 years of age. The body is cold and rigor mortis is present. The body is 68 inches in length and the estimated weight is 140 lbs. The teeth are in poor condition and the upper incisors and canines are absent. The hair is grey and the eyes blue. There are no external signs of trauma, and no scars or gross deformities are noted.

The mediastinum is opened in the routine manner. The left lung is attached to the parietal pleura by numerous fibrous adhesions. Both pleural spaces are free of fluid. The right lung shows no adhesions. However, both lungs exude a considerable amount of hemorrhagic frothy fluid from their cut surfaces. They are otherwise unremarkable. The larger bronchi as well as the pulmonary arteries and veins are free from obstruction.

The pericardium is free of adhesions and the pericardial space contains a normal amount of fluid. The heart is normal externally and on section.

The liver is normal in appearance and on gross section.

The spleen is similarly normal.

The left kidney is normal externally and on gross section, however, its capsule strips with difficulty, and the exposed surface shows areas of pallor suggestive of scar tissue formation in these regions. The pelvis and ureter are normal. The right kidney and its pelvis and ureter are similar in every respect to the left.

The bladder is empty.

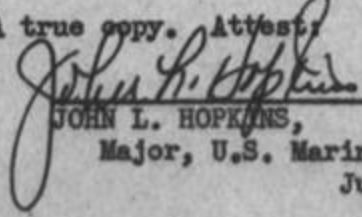
The stomach appears normal externally. On its mucosal surface in the fundal region are found numerous punctate, hemorrhages, possibly the result of postmortem autolysis. The small intestine contains the adult form of *Ascaris lumbricoides*. The gastro-intestinal tract is otherwise unremarkable.

The brain and adjacent structures are not examined.

ANATOMICAL DIAGNOSIS: Fibrous pleurisy, left lung.
Punctate hemorrhages of mucosa, gastric fundus, (possibly of postmortem origin)
Ascariasis

Findings are compatible with the clinical diagnosis of Acute Methanol Poisoning.

A true copy. Attest:


JOHN L. HOPKINS,
Major, U.S. Marine Corps,
Judge Advocate.

/s/ T. VAN ITALLIE,
T. VAN ITALLIE,
Lt. (jg) (MC) USNR

"Exhibit 7."

0659

Extract showing the analysis report of the four bottles in evidence as follows:

HEADQUARTERS
406 th Medical General Laboratory
A P O 500 US Army

To: Lt. T Van Itallie, MC, USNR
Flt Act Dispensary, Yokosuka,
c/o Com.Nav. Jap. Guard Mail.
(Yokohama Specie Bank)

Sample: Four Japanese Beer Bottles, labeled "Deadly Poison", containing whiskey.

Date Received: 15 Jan. 1947.

Sample No.:

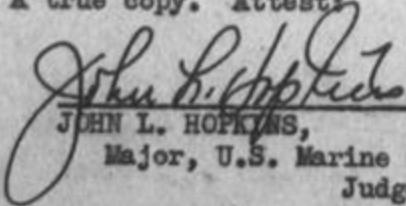
313-A (Labeled No. 189) 313-C (Labeled No. 191)
313-B (Labeled No. 190) 313-D (Labeled No. 192)

Report of Analysis

	Specific Gravity	MeOH
313-A	0.952	275 mg/ml
313-B	0.952	275 mg/ml
313-C	0.952	350 mg/ml
313-D	0.953	125 mg/ml

/s/ E. H. Kaufman,
E. H. Kaufman,
1st. Lt. MC.

A true copy. Attest:


JOHN L. HOPKINS,
Major, U.S. Marine Corps,
Judge Advocate.

"Exhibit 8."

0660

REPORT OF BURIAL
NAVMED-801 (3-45)

Showing burial report on **FERRIS, James Frank** Boatswain, USMS;

INSTRUCTIONS.—Forward original and two copies for U. S. dead (additional copy for allied and enemy dead) to BuMed on all burials or reburials beyond the continental United States, including Alaska, or at sea. In the field, armed guard crews, etc., forward through headquarters or activity carrying records, for checking with casualty reports. If any of the required facts are unknown, so state. List only personal effects found on the body. In burial at sea, give areas as—Hawaiian, Alaskan, etc. Assign consecutive numbers with a prefix "X" to all unidentified remains. This "X" number shall be used in all correspondence regarding burial.

SHIP OR STATION ATTACHED-AT TIME OF DEATH **SS FORT DEARBORN** DATE REPORT FILLED OUT **Sept. 3, 1946.**

COPY OF IDENTIFICATION TAG	NAME (Last) (First) (Middle)		
	FERRIS, James Frank		
	FILE OR SERVICE NO. Z28174	RANK OR RATE Boatswain	BRANCH OF SERVICE U.S. Maritime Service
CORPS OR RESERVE CLASSIFICATION		RACE White -- U.S.	

CAUSE OF DEATH POISONING, ACUTE, METHYL ALCOHOL	PLACE OF DEATH Yokosuka, Japan
---	--

NAME OF NEXT OF KIN (If known) Anna Van Iderstine (mother)	ADDRESS OF NEXT OF KIN (If known) 4353 1/2 Avalon Blvd. Los Angeles, Calif.
--	---

DATE OF DEATH Sept. 1, 1946	DATE OF BURIAL Sept. 3, 1946.
---------------------------------------	---

NAME OF CEMETERY U.S.A.F. Cemetery #1.	LOCATION OF CEMETERY Yokohama, Japan.
--	---

GRAVE MARKER TYPE Regulation Cross	PLOT NO. ---	ROW NO. 32	GRAVE NO. 1531
--	------------------------	----------------------	--------------------------

BURIED AT SEA (Date)	AREA
---	---

TYPE OF RELIGIOUS CEREMONY Catholic	RELIGION OF DECEASED Catholic
---	---

IDENTIFICATION TAGS FOUND ON BODY <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> NONE	IF NO IDENTIFICATION TAGS, OTHER MEANS USED TO IDENTIFY BODY (Identification cards, letters, etc.) Identified by the Master of the S.S. FORT DEARBORN.
COMPLETE DENTAL CHART ON REVERSE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
COMPLETE FINGERPRINT CHART OF BOTH HANDS ON REVERSE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

LIST OF PERSONAL EFFECTS FOUND ON BODY AND DISPOSITION OF SAME

IDENTIFICATION TAG BURIED WITH BODY <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IDENTIFICATION TAG ATTACHED TO MARKER Embossing <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--	---

IF IDENTIFICATION TAGS NOT PRESENT, WHAT OTHER IDENTIFICATION DATA BURIED WITH BODY AND IN WHAT KIND OF CONTAINER

IF BURIAL OTHER THAN ESTABLISHED CEMETERY, FURNISH SKETCH AND MAP REFERENCES ON REVERSE

Bodies Buried on Either Side			
BODY ON LEFT, NAME (Last, first, middle)	RANK OR RATE	FILE OR SERVICE NO.	GRAVE NO.
EVANS, Michael John	Utility Steward	Z107380	1532
BODY ON RIGHT, NAME (Last, first, middle)	RANK OR RATE	FILE OR SERVICE NO.	GRAVE NO.
UNKNOWN	---	---	1530

PERSON REPORTING BURIAL (Name) (Rank or rate) Clyde A. Bramble, ChPharm. USN	PERSON CONDUCTING BURIAL RITES Richard A. Malloy, Capt.(ChC), U.S.Army.
--	---

IN REBURIAL, GIVE LOCATION OF PREVIOUS BURIAL A true copy. Attest:	VERIFIED AND FORWARDED
John L. Hopkins	J. Q. OWSLEY,
JOHN L. HOPKINS,	J. Q. OWSLEY, Capt. MC, USN. Med. Officer.
Major, U.S. Marine Corps,	(Name) (Rank) (Title)
Judge Advocate.	

"Exhibit 9." 10-4000-1

0661

INSTRUCTIONS FOR BURIAL

1. IDENTIFICATION, PREPARATION OF BODY, BURIAL AND MARKINGS OF GRAVES OF ISOLATED BURIALS. Have body examined to establish IDENTITY. If body is unidentified, take four (4) sets of fingerprints of all available fingers. Complete the following:

ESTIMATED HEIGHT	ESTIMATED WEIGHT	COLOR OF EYES	COLOR OF HAIR
BIRTHMARKS, SCARS, OR TATTOOS			
LAUNDRY MARKS		WEAPON AND SERIAL No.	

(If actual weight and height are used, delete estimated)

Wrap and tie body securely in a blanket, pad covering, canvas or other suitable substance. Dig grave to five feet or in hasty burials, to sufficient depth to prevent destruction of body or loss of identity. Place only one body in grave. Securely fasten one identification tag to body. Remove other identification tag and attach to grave marker (when body is disinterred or properly recorded, remove and forward to BuPers, Marine Corps, or Coast Guard, as indicated). If no tag is present, make a notation with pencil of identifying data on form in duplicate, place in bottle, canteen, spent shell or other available container which can be made watertight, bury one with remains and the other, one (1) foot below grave marker. If no tag is available, write identifying data on marker. When pegs are not available, use other suitable means to identify grave as a military grave.

2. LOCATION OF GRAVE: Report burials in established cemeteries by plot, row, and grave number. For all other burials, prepare sketch in space provided below; and give location by means of map references, or by reference to prominent, permanent landmarks. Information must be specific, accurate, complete. Stand at foot of grave facing head to determine bodies buried to the left and right.

If the body is otherwise unidentified or fingerprints unobtainable, chart the dental conditions in conformity with Instructions in MMD (1942, 1938-43 Ed. para. 2318 (b) (1) & (2)) (1945 Ed. para. 2234.1 & 2). This must be accurate.

CHARTING EXAMPLE: (Chart Cavities in BLACK; otherwise use RED) Tooth No. 1, missing; No. 2, gold inlay and two silver fillings; No. 3, full gold crown; No. 4, cavity; No. 5, two porcelain or temporary fillings; Nos. 6, 7, 8, gold fixed bridge supplying missing tooth No. 7; No. 9, porcelain crown (outlined).



Missing teeth Nos. _____

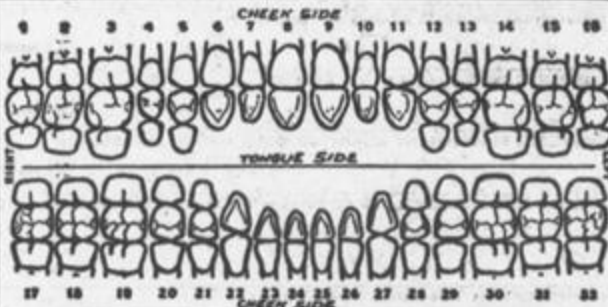
Occlusion (Type of) _____

Malposed teeth (Describe) _____

Removable appliances _____

Other defects _____

Remarks _____



COMPARISON WITH DECEASED NAVMED-H-4 (DENTAL RECORD) REVEALS:

POSITIVE IDENTITY SOME RESEMBLANCE NO RESEMBLANCE

(Signature of dental examiner) (Rank or rate)



When unidentified, take rolled impression of fingerprints. Obtain sharp, clear contrast of inked ridges and intervening space. Do not overink. Roll finger to include crease of first joint through 180° on inked surface. Record impression of same motion.

L. THUMB

L. INDEX

L. MIDDLE

L. RING

L. LITTLE

R. THUMB

R. INDEX

R. MIDDLE

R. RING

R. LITTLE



REPORT OF BURIAL
NAVMED-801 (3-45)

ac showing burial report on **PRICE** ^{Gordon} Knowlton of steward, USMS.

INSTRUCTIONS.—Forward original and two copies for U. S. dead (additional copy for allied and enemy dead) to BuMed on all burials or reburials beyond the continental United States, including Alaska, or at sea. In the field, armed guard crews, etc., forward through headquarters or activity carrying records, for checking with casualty reports. If any of the required facts are unknown, so state. List only personal effects found on the body. In burial at sea, give areas as—Hawaii, Alaskan, etc. Assign consecutive numbers with a prefix "X" to all unidentified remains. This "X" number shall be used in all correspondence regarding burial.

SHIP OR STATION ATTACHED AT TIME OF DEATH **SS CASA GRANDE** DATE REPORT FILLED OUT **Sept. 3, 1946.**

COPY OF IDENTIFICATION TAG	NAME (Last) (First) (Middle)	PRICE, Gordon Knowlton	
	FILE OR SERVICE NO.	RANK OR RATE	BRANCH OF SERVICE
	2243492	Chief Steward	U. S. MARITIME SERVICE
	CORPS OR RESERVE CLASSIFICATION	RACE	
		White - U.S.	

CAUSE OF DEATH	PLACE OF DEATH
POISONING, ACUTE, METHYL ALCOHOL	COMMANDER FLEET ACTIVITIES, YOKOSUKA, JAPAN, NAVY 3923, F.P.O. SAN FRANCISCO, CALIF.

NAME OF NEXT OF KIN (If known)	ADDRESS OF NEXT OF KIN (If known)
BEATRICE PRICE, (WIFE)	2526 East 14th St., Long Beach, Calif.

DATE OF DEATH	DATE OF BURIAL
September 1, 1946	September 3, 1946.

NAME OF CEMETERY	LOCATION OF CEMETERY
U.S.A.P. Cemetery	Yokohama, Japan

GRAVE MARKER TYPE	PLOT NO.	ROW NO.	GRAVE NO.
Regulation Cross		32	1533

BURIED AT SEA (Date)	AREA

TYPE OF RELIGIOUS CEREMONY	RELIGION OF DECEASED
Catholic	Catholic

IDENTIFICATION TAGS FOUND ON BODY	IF NO IDENTIFICATION TAGS, OTHER MEANS USED TO IDENTIFY BODY (Identification cards, letters, etc.)
<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> NONE	
COMPLETE DENTAL CHART ON REVERSE	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Identified by Master of the S.S. Casa Grande
COMPLETE FINGERPRINT CHART OF BOTH HANDS ON REVERSE	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

LIST OF PERSONAL EFFECTS FOUND ON BODY AND DISPOSITION OF SAME
 Bulova wrist watch (1) Wedding Ring (1) Effects turned over to the Master of the S.S. CASA GRANDE.

IDENTIFICATION TAG BURIED WITH BODY	IDENTIFICATION TAG ATTACHED TO MARKER
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Embossing tag. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

IF IDENTIFICATION TAGS NOT PRESENT, WHAT OTHER IDENTIFICATION DATA BURIED WITH BODY AND IN WHAT KIND OF CONTAINER

IF BURIAL OTHER THAN ESTABLISHED CEMETERY, FURNISH SKETCH AND MAP REFERENCES ON REVERSE

Bodies Buried on Either Side

BODY ON LEFT. NAME (Last, first, middle)	RANK OR RATE	FILE OR SERVICE NO.	GRAVE NO.
None			
BODY ON RIGHT. NAME (Last, first, middle)	RANK OR RATE	FILE OR SERVICE NO.	GRAVE NO.
EVANS, Michael John	Utility Steward	Z107380	1532

PERSON REPORTING BURIAL (Name) (Rank or rate)	PERSON CONDUCTING BURIAL RITES
Clyde A. Bramble, ChPharm, USN	Richard A. Malloy, Capt.(ChC), U.S.Army

IN REBURIAL, GIVE LOCATION OF PREVIOUS BURIAL	VERIFIED AND FORWARDED
A true copy, Attest:	/s/ J. Q. OWSLEY,
<i>John L. Hopkins</i>	J. Q. OWSLEY, Capt. MC, USN. Med. Officer.
JOHN L. HOPKINS,	(Name) (Rank) (Title)

Major, U.S. Marine Corps, Judge Advocate.

"Exhibit 10."



INSTRUCTIONS FOR BU

1. IDENTIFICATION, PREPARATION OF BODY, BURIAL AND MARKINGS OF GRAVES OF ISOLATED BURIALS. Have body examined to establish IDENTITY. If body is unidentified, take four (4) sets of fingerprints of all available fingers. Complete the following:

ESTIMATED HEIGHT	ESTIMATED WEIGHT	COLOR OF EYES	COLOR OF HAIR
------------------	------------------	---------------	---------------

BIRTHMARKS, SCARS, OR TATTOOS

LAUNDRY MARKS	WEAPON AND SERIAL NO.
---------------	-----------------------

(If actual weight and height are used, delete estimated)

Wrap and tie body securely in a blanket, pad covering, canvas or other suitable substance. Dig grave to five feet or in hasty burials, to sufficient depth to prevent destruction of body or loss of identity. Place only one body in grave. Securely fasten one identification tag to body. Remove other identification tag and attach to grave marker (when body is disinterred or properly recorded, remove and forward to BuPers, Marine Corps, or Coast Guard, as indicated). If no tag is present, make a notation with pencil of identifying data on form in duplicate, place in bottle, canteen, spent shell or other available container which can be made watertight, bury one with remains and the other, one (1) foot below grave marker. If no tag is available, write identifying data on marker. When pegs are not available, use other suitable means to identify grave as a military grave.

2. LOCATION OF GRAVE: Report burials in established cemeteries by plot, row, and grave number. For all other burials, prepare sketch in space provided below; and give location by means of map references, or by reference to prominent, permanent landmarks. Information must be specific, accurate, complete. Stand at foot of grave facing head to determine bodies buried to the left and right.

If the body is otherwise unidentified or fingerprints unobtainable, chart the dental conditions in conformity with instructions in MMD (1942, 1938-43 Ed. para. 2318 (b) (1) & (2)) (1945 Ed. para. 2234.1 & .2). This must be accurate.

CHARTING EXAMPLE: (Chart Cavities in BLACK; otherwise use RED)
Tooth No. 1, missing; No. 2, gold inlay and two silver fillings; No. 3, full gold crown; No. 4, cavity; No. 5, two porcelain or temporary fillings; Nos. 6, 7, 8, gold fixed bridge supplying missing tooth No. 7; No. 9, porcelain crown (outlined).



Missing teeth Nos. _____

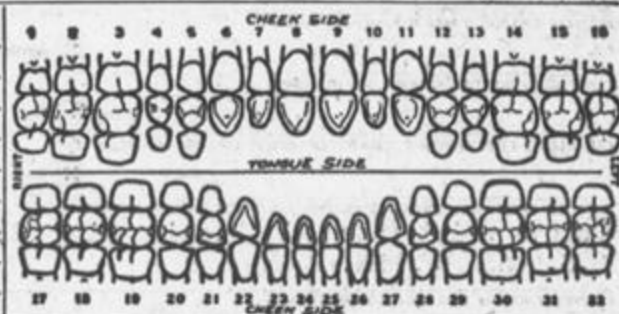
Occlusion (Type of) _____

Malposed teeth (Describe) _____

Removable appliances _____

Other defects _____

Remarks _____



COMPARISON WITH DECEASED NAVMED-H-4 (DENTAL RECORD) REVEALS:

POSITIVE IDENTITY SOME RESEMBLANCE NO RESEMBLANCE

(Signature of dental examiner) _____ (Rank or rate) _____



When unidentified, take rolled impression of fingerprints. Clearer fingers of all foreign matter. Roll finger to include crease of first joint through 180° on inked surface. Record impression of same motion without smudging. Obtain sharp, clear contrast of inked ridges and intervening spaces. Do not overink.

L THUMB

L INDEX

L MIDDLE

L RING

L LITTLE

R THUMB

R INDEX

R MIDDLE

R RING

R LITTLE



REPORT OF BURIAL
NAVFORM-801 (3-48)

Report showing burial report on **EVANS, Michael John** Utility steward, USMS.

INSTRUCTIONS.—Forward original and two copies for U. S. dead (additional copy for allied and enemy dead) to BuMed on all burials or reburials beyond the continental United States, including Alaska, or at sea. In the field, armed guard crews, etc., forward through headquarters or activity carrying records, for checking with casualty reports. If any of the required facts are unknown, so state. List only personal effects found on the body. In burial at sea, give areas as—Hawaiian, Alaskan, etc. Assign consecutive numbers with a prefix "X" to all unidentified remains. This "X" number shall be used in all correspondence regarding burial.

SHIP OR STATION ATTACHED AT TIME OF DEATH **S.S. CASA GRANDE** DATE REPORT FILLED OUT **Sept. 3, 1946.**

COPY OF IDENTIFICATION TAG	NAME (Last) (First) (Middle)		
	EVANS, Michael John		
	FILE OR SERVICE NO. Z107380	RANK OR RATE Utility Steward	BRANCH OF SERVICE U.S. Maritime Service
CORPS OR RESERVE CLASSIFICATION			RACE White -- U.S.

CAUSE OF DEATH POISONING, ACUTE, METHYL ALCOHOL	PLACE OF DEATH Commander Fleet Activities, Yokosuka
---	--

NAME OF NEXT OF KIN (If known) Mrs. Delia Evans	ADDRESS OF NEXT OF KIN (If known) 4310 Emerald Ave., Chicago, Ill.
---	---

DATE OF DEATH Sept. 1, 1946	DATE OF BURIAL Sept. 3, 1946.
---------------------------------------	---

NAME OF CEMETERY U. S. A. F. Cemetery, #1.	LOCATION OF CEMETERY Yokohama, Japan
--	---

GRAVE MARKER TYPE Regulation Cross	PLOT NO.	ROW NO. 32	GRAVE NO. 1532
--	----------	----------------------	--------------------------

BURIED AT SEA (Date)	AREA
----------------------	------

TYPE OF RELIGIOUS CEREMONY Catholic	RELIGION OF DECEASED Catholic
---	---

IDENTIFICATION TAGS FOUND ON BODY <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> NONE	IF NO IDENTIFICATION TAGS, OTHER MEANS USED TO IDENTIFY BODY (Identification cards, letters, etc.) Identified by the Master of the S.S. CASA GRANDE.
COMPLETE DENTAL CHART ON REVERSE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
COMPLETE FINGERPRINT CHART OF BOTH HANDS ON REVERSE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

LIST OF PERSONAL EFFECTS FOUND ON BODY AND DISPOSITION OF SAME
\$30.00 U.S. Currency, 15 Japanese Yen. 6 Yen Military currency Type A. PX ration card. Effects turned over to the Master of the S.S. CASA GRANDE.

IDENTIFICATION TAG BURIED WITH BODY <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IDENTIFICATION TAG ATTACHED TO MARKER Embossing tag <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--	---

IF IDENTIFICATION TAGS NOT PRESENT, WHAT OTHER IDENTIFICATION DATA BURIED WITH BODY AND IN WHAT KIND OF CONTAINER

IF BURIAL OTHER THAN ESTABLISHED CEMETERY, FURNISH SKETCH AND MAP REFERENCES ON REVERSE

Bodies Buried on Either Side			
BODY ON LEFT, NAME (Last, first, middle)	RANK OR RATE	FILE OR SERVICE NO.	GRAVE NO.
PRICE, Gordon Knowlton	ChSteward	Z243492	1533
BODY ON RIGHT, NAME (Last, first, middle)	RANK OR RATE	FILE OR SERVICE NO.	GRAVE NO.
FERRIS, James Frank	Boatswain	Z28174	1531
PERSON REPORTING BURIAL (Name) (Rank or rate)	PERSON CONDUCTING BURIAL RITES		
Clyde A. Bramble, ChPharm, USN	Richard A. Malloy, Capt. (ChC), U.S. Army		
IN REBURIAL, GIVE LOCATION OF PREVIOUS BURIAL	VERIFIED AND FORWARDED		
A true copy. Attest: <i>John L. Hopkins</i> JOHN L. HOPKINS, Major, U.S. Marine Corps, Judge Advocate.	J.Q. OWSLEY, J.Q. OWSLEY, Capt. MC, USN. Med. Officer, (Name) (Rank) (Title)		

"Exhibit 11." 16-42003-1

0665

L. THUMB
L. INDEX
L. MIDDLE
L. RING
L. LITTLE
R. THUMB
R. INDEX
R. MIDDLE
R. RING
R. LITTLE

When unidentified, take rolled impression of fingerprints without smudging. Obtain sharp, clear contrast of inked ridges and intervening spaces. Do not overink. Cleanse fingers of all foreign matter. Roll finger to include crease of first joint through 180° on inked surface. Record impression of same motion.

1. IDENTIFICATION, PREPARATION OF BODY, BURIAL AND MARKINGS OF GRAVES OF ISOLATED BURIALS. Have body examined to establish IDENTITY. If body is unidentified, take four (4) sets of fingerprints of all available fingers. Complete the following:

ESTIMATED HEIGHT	ESTIMATED WEIGHT	COLOR OF EYES	COLOR OF HAIR
------------------	------------------	---------------	---------------

BIRTHMARKS, SCARS, OR TATTOOS

LAUNDRY MARKS	WEAPON AND SERIAL NO.
---------------	-----------------------

(If actual weight and height are used, delete estimated)

Wrap and tie body securely in a blanket, pad covering, canvas or other suitable substance. Dig grave to five feet or in hasty burials, to sufficient depth to prevent destruction of body or loss of identity. Place only one body in grave. Securely fasten one identification tag to body. Remove other identification tag and attach to grave marker (when body is disinterred or properly recorded, remove and forward to BuPers, Marine Corps, or Coast Guard, as indicated). If no tag is present, make a notation with pencil of identifying data on form in duplicate, place in bottle, canteen, spent shell or other available container which can be made watertight, bury one with remains and the other, one (1) foot below grave marker. If no tag is available, write identifying data on marker. When pegs are not available, use other suitable means to identify grave as a military grave.

2. LOCATION OF GRAVE: Report burials in established cemeteries by plot, row, and grave number. For all other burials, prepare sketch in space provided below; and give location by means of map references, or by reference to prominent, permanent landmarks. Information must be specific, accurate, complete. Stand at foot of grave facing head to determine bodies buried to the left and right.

If the body is otherwise unidentified or fingerprints unobtainable, chart the dental conditions in conformity with Instructions in MMD (1942, 1938-43 Ed. para. 2316 (b) (1) & (2)) (1945 Ed. para. 2234.1 & .2). This must be accurate.

CHARTING EXAMPLE: (Chart Cavities in BLACK; otherwise use RED)
Tooth No. 1, missing; No. 2, gold inlay and two silver fillings; No. 3, full gold crown; No. 4, cavity; No. 5, two porcelain or temporary fillings; Nos. 6, 7, 8, gold fixed bridge supplying missing tooth No. 7; No. 9, porcelain crown (outlined).



Missing teeth Nos: _____

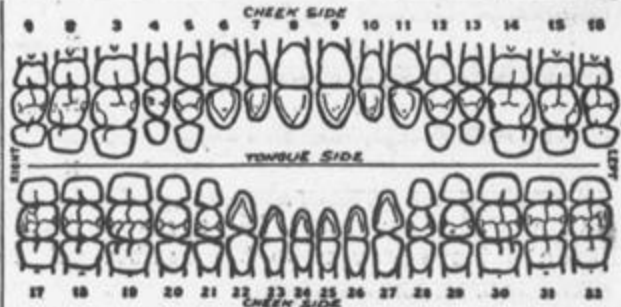
Occlusion (Type of) _____

Malposed teeth (Describe) _____

Removable appliances _____

Other defects _____

Remarks _____



COMPARISON WITH DECEASED NAVMED-H-4 (DENTAL RECORD) REVEALS:

POSITIVE IDENTITY SOME RESEMBLANCE NO RESEMBLANCE

(Signature of dental examiner) _____ (Rank or rate) _____



0666

Extract showing a letter of gratitude from the master of the S.S. CASA GRANDE as follows:

PACIFIC TANKERS INC.

433 California Street - San Francisco - 4 - California

S.S. CASA GRANDE
Yokohama, Japan,
September 5, 1946.

Captain J. Q. Owsley, M.C., U.S.N.,
Yokosuka, Japan.

Dear Sir:

In behalf of myself and the ship's company
I wish to express our deepest gratitude, to you and
to your command, for all that was done for our two
deceased crew members in the way of medical treatment
and the smoothly worked out funeral arrangements
as of September 3, 1946.

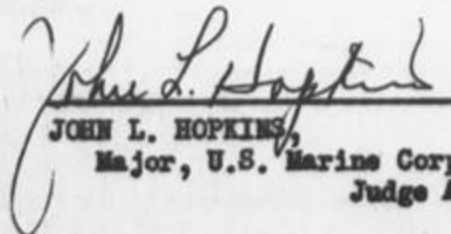
It speaks well of the Navy.

Respectfully,

/s/ Edw. K. Lofgren,
Edw. K. Lofgren,
Master, S.S. CASAGRANDE.

EKL:CG

A true copy. Attest:


JOHN L. HOPKINS,
Major, U.S. Marine Corps,
Judge Advocate.

"Exhibit 12."

0667

In reply refer to Initials
and No.

Op22D-FLF
Serial No. 825P22

NAVY DEPARTMENT
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
WASHINGTON 25, D. C.



RECEIVED
25 JUL 1947
OFFICE OF THE CHIEF OF NAVAL OPERATIONS

48

157246

24 JUL 1947

End-1

On Office of JAG Record of Proceedings, A17-10/QQ (7/22/47) 157246
TAKATA, Shogoro (Civilian) dtd 23 July 1947.

From: Chief of Naval Operations.
To: Judge Advocate General. *W.F.*
Subject: Record of Proceedings of Military Commission at Guam
in the case of Shogoro Takata.
1. Returned, contents noted.

W.F. Jennings
W. F. Jennings,
By direction.

RECEIVED
25 JUL
OFFICE
ADVOC
G. C. J.

Finished-File-Dold

20 JUL 1947

0668

ADDRESS REPLY TO
OFFICE OF THE JUDGE ADVOCATE GEN

NAVY DEPARTMENT

OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON 25, D. C.

AND REFER TO:

JAG:I:RAS:fld
A17-10/QQ (7/22/47)
157246
TAKATA, Shogoro (Civilian)

8 8 JUL 1947

Referred to the Chief of Naval Operations (Op22) for information and return.

O.S. COLCLOUGH
Judge Advocate General of the Navy



H.J. MARTIN
Captain, U.S.N.
By direction

Finished-File-Dold

0669

100
200
P. 220

TAKATA, SHOGORO/A17-20
I (6-13-47) HJH/rmas 15724
(MilCom. Case)

Military Commission
~~GENERAL COURT-MARTIAL~~ CASE OF
SHOGORO TAKATA, JAPANESE CIVIL-
IAN, TRIED 4 FEBRUARY 1947.

	<u>PLEA</u>	<u>FINDING</u>	<u>C/A ACTION</u>
<u>CHARGE I VIOLATION OF JAPANESE LAW</u>			
Spec. Did, on or about August 30, 1946, in the city of Yokosuka, Japan, in violation of a law published by the Imperial Japanese Government, sell or give to one Kimie Homma a bottled beverage containing more than the allowed amount of methanol or methyl alcohol.	NG NG	G Proved	Approved "
<u>CHARGE II INVOLUNTARY MANSLAUGHTER</u>			
Spec. On or about August 30, 1946 and September 1, 1946, without due care and circumspection, did, feloniously and negligently sell or give to one Kimie Homma a bottled beverage, procured by Kimie Homma for consumption by three merchant seaman, attached to ships of the U.S. Maritime Service, all accompanying the occupation forces in Japan, and as a result of drinking said beverage, the three merchant seaman died.	NG NG	G Proved	" "

SENTENCE: To be imprisoned at hard labor in such prison or penitentiary as the convening authority may designate for a period of nine (9) years, commencing September 2, 1946.

ACTION OF CONVENING AUTHORITY: Proceedings, findings and sentence approved.

FACTS: Three American merchant seamen attached to ships of the U.S. Maritime Service accompanying the occupation forces in Japan were ashore for several days in the city of Yokosuka, Japan. While there these seamen stayed with a Japanese woman. This woman provided them with some food and drink commencing about 29 August 1946. These seamen made frequent visits to other parts of the city and the woman testified that they came and went to and from her house numerous times during the three days. She had been purchasing the liquor she provided for the seamen from the accused, who operated some type of liquor store on the first floor of the building in which she had her living quarters. Over the three days she purchased or received from the accused about seven bottles of liquor being approximately fifths in content. Her testimony also revealed that, during the entire period, the men were coming and going, they were drinking considerably, and were almost constantly under the influence of intoxicants.

On the evening of the 31st of August they all, including the woman, participated of the liquor and all went to bed about 10 p.m. or 11 p.m. One of the seamen who was occupying the room with the woman became violently ill and she and one of the other seamen went for a doctor or M.P. The M.P.'s came and found the sick man had died in the meantime. All were taken into custody and the men remaining alive were treated at the naval dispensary. They died within a few hours. The woman suffered no ill effects from what she drank.

The investigation which followed revealed that a search was made of the woman's quarters and empty bottles were found. She directed them to the accused as her source and found that the two bottles which she last received were part of a batch which he had manufactured from alcohol received from an unknown Korean. The balance was confiscated, analysed and found to be deadly poison. The accused admitted that he was not sure of his source and had not determined its contents for purity. It was testified to that autopsies were held and it was determined that the victims died as the result of methyl alcoholic poisoning.

Finished-File-Doid 29 JUL 1947

0670

REMARKS: Review of the case, which was forwarded to Washington by the Commander Naval Fleet Activities, Japan, revealed that, if the commission had jurisdiction over the accused and the offenses alleged, there was sufficient evidence to warrant the court arriving at its findings.

The questions raised by the reviewer were:

- (A) Did the Military Commission have jurisdiction over a Japanese civilian?
- (B) Did the Commission have a legal right to try the accused for violation of Japanese law?
- (C) Was the sentence rendered by the commission in proper form?
- (D) Should the case have come to Washington before being reviewed by the Supreme Commander For The Allied Forces?
- (E) Should the case be reviewed by the Judge Advocate General, and, if so, what disposition should be made thereafter?

It was learned that the Legal Officer for Commander Naval Fleet Activities, Japan, (Capt. Robinson) was in Washington and the case and surrounding circumstances were discussed with said officer. The result of the conference was that he had reviewed the record for the convening authority and had raised these same questions. The background was revealed that the particular area around Yokosuka had experienced considerable trouble with Japanese civilians and had found that poisonous liquor was prevalent in the area. The Commander at Yokosuka had asked the Fleet Activities Commander for instructions and the latter had conferred with General MacArthur, the Supreme Commander. The Supreme Commander said he would delegate the Fleet Activities Commander to convene military commissions and what ever steps he desired to take to clear up the situation would meet with the approval of the supreme commander. It was specifically discussed that they would have to prosecute for violation of Japanese law and approval was given. The authority giving the convening authority the right to convene military commissions covers the type of offense in communication "Establishment of Military Occupation Courts" dated 19 February 1946, paragraph 3 c (3). Accordingly, the prosecution took place.

The sentence was questioned and found to be in accordance with instructions under 13b(4) of OpNav 13-23 dated 15 November 1944 under which the commission was operating at the time of the trial.

The reviewing legal officer, upon instructions from the Fleet Activities Commander called on the legal staff of the Supreme Commander and this section advised the legal officer that they did not desire to review the case. That as far as they were concerned, the review by the convening authority was the end of the line. Although this seems to be in slight conflict with App. D-18, Naval Courts and Beards, it is allowed by paragraph 47a of FM 27-5 and OpNav 50E-3 dated 22 December 1943, which is one of the authorities used by the Supreme Commander for the Allied Forces in his Establishment of Military Occupation Courts. Based upon this decision the convening authority reviewed and approved the case and proceeded to put the sentence into execution.

It was then decided by the convening authority to send the record of proceedings to Washington for "information and filing" or such other action as the Secretary of the Navy desired to take thereon.

EFFECT OF PREPARED ACTION: The case is considered "straight legal" in view of the broad powers of the Military Commission.

Finished-File-Dold

20 JUL 1947

0671

(1 March 1947-35)

GENERAL COURT MARTIAL DATA SHEET

TAKATA SHOGORO JAPANESE CIVILIAN
(Last Name) (First Name) (Middle Name) (Rating) (Classification)

Docket No 157247

	Yes	No	Remarks
1. Was the court convened by proper authority?	✓		
2. Are the precept and any modifications thereof in letter form certified as true copies by the judge advocate?	✓		
3. If there have been modifications by despatch and no confirming letters attached to the record, are the despatches signed by the convening authority (not the judge advocate)?			
4. Does the record show place and date the court met?	✓		
5. Did the court have jurisdiction of the <u>person</u> of the accused?	✓		
6. Did the court have jurisdiction of the <u>offenses</u> charged?	✓		
7. Were the members and judge advocate shown to be present named in the precept or its modification?	✓		
8. Were there five members or more present at every meeting?	✓		
9. Were any "members" present who were not legally assigned?		✓	
10. Were any members legally assigned <u>not</u> present or accounted for?		✓	
11. Was the accused asked whether he desired counsel?	✓		
12. Was the accused extended the right of challenge as to members?	✓		
13. Were the judge advocate, the members, the reporter and the interpreter sworn?	✓		
14. Did the accused acknowledge receipt of a copy of the charges and specifications?	✓		
15. Was the accused asked if he had any objection to the charges and specifications?	✓		
16. Did the accused object to the charges and specifications on any of them?	✓		overruled
17. Does each specification state an offense?	✓		
18. Does each specification support the charge under which laid?	✓		
19. Did the court have jurisdiction of the time (Statute of limitations) of offense?	✓		
20. Was the accused asked if he was ready for trial?	✓		
21. Does the record show that no witnesses not otherwise connected with the trial were present?	✓		

Harris

0672

	Yes	No	Remarks
22. Was the accused properly arraigned?	<input checked="" type="checkbox"/>		
23. Was the accused warned as to the effect of his pleas of guilty?		<input checked="" type="checkbox"/>	MG
24. Was the accused's response, if any, recorded?	<input checked="" type="checkbox"/>		
25. Were the witnesses, if any, sworn?	<input checked="" type="checkbox"/>		
26. Was the accused afforded opportunity to make a statement?	<input checked="" type="checkbox"/>		
27. Was the accused's statement consistent with his pleas?	<input checked="" type="checkbox"/>		
28. Was the accused afforded opportunity to make an argument?	<input checked="" type="checkbox"/>		
29. Are the findings properly recorded?	<input checked="" type="checkbox"/>		
30. Are the findings in the form prescribed by Naval Courts and Boards?	<input checked="" type="checkbox"/>		
31. If the finding includes exceptions and substitutions, does the specification as amended support original or lesser included offense?	<input checked="" type="checkbox"/>		
32. Is the evidence, if any, of previous convictions admissible?	<input checked="" type="checkbox"/>		
33. Is the sentence legal and in proper form?	<input checked="" type="checkbox"/>		
34. Is the sentence within the limitations prescribed by Naval Courts and Boards, section 457?	<input checked="" type="checkbox"/>		
35. Was the sentence authenticated by the signatures of all members of the court and of the judge advocate?	<input checked="" type="checkbox"/>		
36. Was the record authenticated by the signature of the president of the court and of the judge advocate?	<input checked="" type="checkbox"/>		
37. Was the accused's receipt for a copy of the proceedings appended to the record?	<input checked="" type="checkbox"/>		
38. Was the action of the convening authority dated and signed?	<input checked="" type="checkbox"/>		
39. Was the action of the convening authority legal in all respects?	<input checked="" type="checkbox"/>		
40. Is there any error in law in the action of the convening authority?	<input checked="" type="checkbox"/>		
41. Does the action of the convening authority:			
(a) Expressly approve the proceedings, findings and sentence?	<input checked="" type="checkbox"/>		
(b) Is the action otherwise legal?	<input checked="" type="checkbox"/>		
42. Was there loss to the Government?	<input checked="" type="checkbox"/>		
43. Is the general court martial card properly made out?	<input checked="" type="checkbox"/>		
44. REMARKS:			

NGP 5/23/47

DATE

Signature of Reviewing Officer



COMMANDER NAVAL FORCES FAR EAST

Tokyo, Japan
April 1, 1947

The proceedings, findings, and sentence in the foregoing case of Shogoro
TAKATA are approved.



R. M. GRIFFIN,
Vice Admiral, U.S. Navy,
Commander Naval Forces Far East, and
Commander Naval Activities Japan.

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