

Opening statement on behalf of the Government
by Tom DeWolfe, Special Assistant to the
Attorney General of the United States, in criminal
case 31712, "U.S. v. Iva Ikuko Toguri D'Aquino"

1 OPENING STATEMENT ON BEHALF OF THE GOVERNMENT

2 MR. DE WOLF: May it please your Honor, ladies and gentle-
3 men of the jury: My name is Tom de Wolf. I am a special
4 assistant to the attorney general of the United States from
5 Washington, D. C. and as such have been sent here by the
6 Attorney General to work on this case in conjunction with Frank
7 J. Hennessy, this gentleman here, who interrogated some of you
8 ladies and gentlemen yesterday, who is now and has been for
9 many years the duly appointed and acting United States District
10 Attorney for your federal judicial district, which is the
11 Northern Federal Judicial District of California. He is sta-
12 tioned here locally at San Francisco and has offices at Sacra-
13 mento likewise and has jurisdiction over the Northern District
14 of California.

15 Although I am traveling out of Washington, D. C. I might say
16 that I am a western, Pacific northwesterner, and not an eastern-
17 er. That is of no interest now to you.

18 ** As you know, I think you have been jurors, the venire
19 men and the venire ladies here before, his Honor presiding is
20 Chief Federal Judge of the Northern District of California, his
21 Honor, Michael J. Roche.

22 Now with me in this case is John B. Hogan, my colleague
23 from Washington, who is likewise a special assistant to the
24 Attorney General of the United States. Will you stand up?

25 Mr. James Knapp arrived here yesterday. Will you stand up?

1 He is likewise from the Department of Justice. I doubt whether
2 he will interrogate witnesses, but in any event he will act as
3 a consultant and as a legal research man for us. A case of this
4 type entails and necessitates that type of assistance.

5 And you have here the defendant, Mrs. Iva Toguri D'Aquino,
6 who before she was married in April 1945 was named Iva Ikuko
7 Toguri. She married Mr. Philip D'Aquino, a part Portuguese and
8 part Japanese, in April 1945, and that instead of being Miss
9 Iva Ikuko Toguri, her name now is Mrs. Iva Toguri D'Aquino,
10 D-'-A-q-u-i-n-o.

11 Now Mr. Wayne Collins is chief defense counsel, this gentle-
12 man here. You will hear a lot from him. I suppose he is chief
13 defense counsel. I have known him for some period of time.

14 And his colleague here will likewise participate, a San
15 Francisco counsellor, Mr. Theodore Tamba.

16 And with this gentleman is Mr. George Olshausen, the
17 second barrister there behind Mr. Collins. Mr. Olshausen,
18 O-l-s-h-a-u-s-e-n.

19 Now I want to speak about certain preliminaries. It won't
20 be necessary for me to indulge in them except briefly, because,
21 as is unusual in a case of this type, we have to a certain ex-
22 tent among you ladies and gentlemen at least partially some
23 experienced petit veniemen. You are called petit jurors because
24 you try cases in the trial courts as contradistinguished to
25 grand jurors who hear evidence to determine whether or not an

1 indictment shall be returned against certain individuals.

2 The Court's function in this case is to instruct you as
3 to all matters of law. You must of necessity take your law
4 from the Court and from the Court only. Any colloquies between
5 opposing counsel, and there will be some that you will hear, on
6 legal matters should in their entirety be disregarded by you.
7 I repeat, it is your sworn duty, your duty under your oath, to
8 take your law from the Court and from the Court alone. That
9 is the Court's function. Your function is to pass upon the
10 facts. You ladies and gentlemen are the sole arbiters of the
11 facts. That is your function, to listen to the evidence, find
12 the facts and determine wherein the truth lies. You and each of
13 you are the sole judge of the credibility of each and every
14 witness. You and you alone determine where the truth lies.

15 You don't take the facts from the counsel, you take them
16 from the evidence as induced here from the lips of witnesses,
17 from the defendant and the government, and from the documentary
18 evidence that is introduced by both parties, and you find where
19 the truth lies, what the facts are. You are the sole judges of
20 that.

21 The function of counsel in the case is to present to you
22 the facts on behalf of their clients, the respective parties
23 litigant to this proceeding.

24 The United States of America, of course, is the plaintiff
25 in this case, and the defendant is Mrs. D'Aquino. So the

1 lawyers properly present the facts to you, and I might say
2 in this case there probably will be a conflict in the evidence,
3 and you resolve that conflict, you determine who is telling
4 the truth, wherein the truth lies.

5 The Court will from time to time and at the termination of
6 the case give you instructions of law which you will apply to
7 those facts in aiding you, after hearing these legal principles
8 from the Court, to determine whether or not the facts and the
9 charge are proven as laid.

82 10 Now the purpose of an opening statement, which I am now
11 making, is merely this: It serves one function, one purpose
12 only. I am not supposed to argue to you now. Defense counsel
13 is not supposed to argue to you in his opening statement. What
14 we are supposed to do, if we see fit to exercise our option to
15 do it, is to summarize the proof which the government will see
16 fit to attempt to introduce in this case before you in order to
17 substantiate the material allegations of the indictment.
18 Briefly, then, to put it another way, the purpose of an open-
19 ing statement is to summarize before you what the government
20 expects to prove. The defendant has the same opportunity through
21 her counsel, at this or a later date, to do that.

22 Now the Grand Jury for the Federal Northern Judicial Dis-
23 trict of California last September, after hearing certain
24 evidence, found probable cause to believe that the defendant in
25 this case had committed the crime of treason, and as a

1 consequence of that finding a true bill of indictment was re-
2 turned against the defendant by said grand jurors charging her
3 with a violation of an Act of Congress making it a crime to
4 commit treason.

5 Now that indictment which is on file in this court is
6 not evidence. It is a mere paper charge, and I think the Court
7 will instruct you to that effect at the appropriate time sub-
8 sequently.

9 I am not going to take the time now to read to you this
10 somewhat lengthy and verbose indictment, but I will briefly at
11 this juncture attempt for your edification, if it is at all
12 illuminating to you -- it might not be -- to briefly skeleton-
13 ize and summarize the material allegations of the same.

14 The indictment alleges in substance that the defendant
15 was an American citizen, native born, in the town of Los
16 Angeles, Los Angeles County, California, on July 4, 1916. The
17 indictment likewise alleges that during the period in contro-
18 versy, as pleaded by the grand jurors for this district in
19 this indictment, the defendant was and is now by virtue of her
20 citizenship a person who owed allegiance to the United States
21 of America. That, of course, is a very, very material allega-
22 tion in the indictment.

23 The indictment alleges that although the defendant is an
24 American citizen and one who owed her allegiance to her native
25 land, the United States, that she through certain acts adhered

1 to and gave aid and comfort to the imperial government of Japan
2 during the late war while our government, the United States of
3 America, was at war with our enemy, the imperial government of
4 Japan, and that while she adhered to the imperial Japanese
5 government she gave it aid and comfort.

6 The indictment further alleges that this adherence, that
7 this alleged aid and comfort of the enemy consisted in acts of
8 the defendant while employed in the Broadcasting Corporation of
9 Japan as a radio speaker, as a commentator, as a script writer
10 and as an announcer of recorded music and propaganda trans-
11 mitted to American troops on the battlefields, during the late
12 war between the United States and the imperial government of
13 Japan.

14 The indictment further alleges that the Broadcasting
15 Corporation of Japan, by whom the defendant was employed for
16 this work, was during all times in question and during the times
17 mentioned and pleaded by the grand jurors in this indictment,
18 a corporation that was under the exclusive and sole control of
19 the imperial Japanese government.

20 The indictment returned by the grand jurors alleged that
21 these acts of giving aid and comfort to the enemy, these acts
22 allegedly -- and bear in mind still that this is nothing but a
23 charge, ladies and gentlemen -- these acts allegedly on her part
24 as a broadcaster and announcer of adhering to the Japanese
25 government, through this Broadcasting Corporation of Japan,

1 were committed by her and by the Japanese government for the
2 purpose of undermining the morale of the American troops on the
3 battlefield, for the purpose of creating nostalgia among the
4 American fighting men, for the purpose, the indictment alleges,
5 of creating homesickness among the American soldiers, and for
6 the last and consequent purpose of impeding and impairing the
7 United States of America in its sovereign capacity to wage war
8 against Japan and its then Axis enemies.

9 The indictment in the case, and I think I am covering it
10 more rapidly and I hope a little more thoroughly than I would
11 by reading it to you, then alleges, and this is important, you
12 will hear a lot about it later, that in order to and for the
13 purpose of, ladies and gentlemen, executing this unlawful
14 alleged treasonous plan, certain overt acts were committed by
15 the defendant in this case. There are eight overt acts
16 pleaded by the grand jurors in the indictment, which overt acts,
17 it is alleged in the indictment, were committed by the defen-
18 dant for the purpose of executing this treasonous plan of hers.

19 Overt act 1 in the indictment deals with the discussion
20 by the defendant concerning her participation in this radio
21 program.

22 Overt act 2 deals with a discussion by the defendant with
23 the employees of the Broadcasting Corporation of Japan concern-
24 ing the quality of a specific broadcast.

25 Overt act 3 deals with her speaking into the microphone in

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 Radio Tokyo concerning the broadcast from a sound track film of
2 a certain motion picture involving aspects of the war.

3 Overt act 4 deals with broadcasting by her or speaking by
4 her into a microphone concerning a certain specific broadcast.

5 Overt act 5 concerns the preparation by the defendant of
6 scripts concerning loss of ships.

7 Overt act 6 concerns the speaking by the defendant into
8 the microphone of a certain broadcast involving loss of American
9 ships in a battle between American naval forces and Japanese
10 naval forces.

11 Overt act 7 deals with the preparation by the defendant of
12 a specific script, radio broadcasting script for broadcasting
13 purposes.

14 Overt act 8 in the indictment deals with the broadcasting
15 by the defendant into the microphone of a certain entertainment
16 dialogue for the purpose of having the same transmitted over the
17 air to the troops.

18 Those are the eight overt acts in the indictment which you
19 will have to deal with.

20 The indictment then goes on to allege that each and every
21 one of these treasonous acts were committed by the defendant
22 pursuant to the treasonous plan heretofore mentioned for the
23 purpose of executing the same, and in addition the indictment
24 says with the intent in her, the defendant, Mrs. D'Aquino, then
25 and there to aid and comfort the enemy, with the intent in her
then and there to adhere to the imperial Japanese government and

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEINER
JOSEPH J. SWENNEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 for the purpose of aiding the Japanese government, and with
2 the intent in her then and there to betray her native land, the
3 United States of America.

4 The indictment then goes on to allege that the Federal
5 Northern Judicial District of California was the Federal Judi-
6 cial District into which this defendant was first brought.

7 Now before I go on to another phase of the case, and I
8 think it will probably be of some interest to you, most lawyers
9 do not about it and I did not know anything about it until a
10 couple of years ago, you wonder, naturally, all people wonder,
11 most lawyers wonder, if those acts were committed in the Orient
12 as the indictment alleges -- the indictment does not allege
13 the commission of any treasonous acts in the United States, it
14 alleges that she committed treason by adhering to the imperial
15 Japanese government not in the United States but while she was
16 abroad acting as a broadcaster for the Japanese. Everybody
17 asks, of course, "How come she is tried in San Francisco?" Well,
18 we will introduce evidence on that point. This is the answer:
19 A congressional enactment provides that when a crime, a federal
20 statutory crime is committed by a person without the juris-
21 diction of any state or any federal judicial district, the
22 particular United States District Court -- and his Honor, Chief
23 Federal Judge Michael J. Roche is presiding here and this is
24 the United States District Court for the Northern District of
25 California -- if the federal statutory crime is committed, it

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 says, out of the jurisdiction of the United States or any
2 federal judicial district, the particular federal judicial
3 district into which the defendant was first brought has juris-
4 diction, and the proof as I will later outline it, will show
5 that the Northern District of California was the first judicial
6 district into which the defendant, Mrs. D'Aquino, was first
7 brought shortly prior to the return of the indictment in this
8 case.

9 That is explanatory only, interesting only from a lawyer's
10 point of view and from a layman's point of view, in order to
11 satisfy our curiosity as to how we happened to be proceeding in
12 this particular jurisdiction here rather than in New York,
13 Seattle, Portland, or Los Angeles.

14 Now before I go into the facts, I want to say a few other
15 things. The burden of proof, as the Court will tell you in
16 this case, and as you know undoubtedly from your experience and
17 therefore it will not be necessary for me to dwell on it but
18 for a moment, the burden of proof is upon the United States of
19 America to prove to your satisfaction beyond a reasonable doubt
20 the truth and verity of each and every material allegation and
21 averment in this indictment. Not only that, ladies and gentle-
22 men of the jury, but in a federal criminal proceeding, like most
23 state proceedings, the defendant, no matter what the race, creed
24 or color, whether male or female, no matter who they are, the
25 defendant is always clothed with the presumption of innocence,
as is Mrs. D'Aquino in this case.

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1

1-37
Mack-see

1 That presumption of innocence follows her throughout the trial
2 proceedings in this case, until all the evidence is in, until
3 you receive your instructions from the Court, until you retire
4 for purposes of deliberation to your jury room. Throughout
5 that period of time you must keep an open mind. She is clothed
6 with the presumption of innocence, and that presumption of
7 innocence does not fall until all the evidence is in, until
8 you have retired to deliberate, until you have heard the argu-
9 ments of counsel, until the Court has instructed you, and until
10 you arrive at that point where you are satisfied that the
11 United States of America has proved to your satisfaction and to
12 the satisfaction of each and every one of you that the material
13 averments in this indictment laid by the Grand Jurors for your
14 district has been proven to your satisfaction beyond a reason-
15 able doubt.

16 Now, the defendant is charged with violating a congres-
17 sional enactment, an act of Congress, the treason statute,
18 ladies and gentlemen. That treason statute says in substance,
19 "Whoever, owing allegiance to the United States of America,
20 adheres to the enemy, giving them aid and comfort, is guilty of
21 treason."

22 Now, Article III, Section 3, of the Constitution of the
23 United States provides in substance, "No one shall be convicted
24 of treason unless on the testimony of two witnesses to the same
25 overt act." If my recollection serves me properly, from a

KENNETH G. GAGAN
EXECUTIVE REPORTEREDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.OFFICIAL REPORTERS
United States District Court
Northern District of California

2

1 legalistic standpoint, I will tell you ladies and gentlemen
2 of the jury that treason is the only crime that the founding
3 fathers saw fit to define, or any portion thereof, in the
4 Constitution. It is a heinous crime; it is a serious crime,
5 it's an odious offense, and history has it, according to the
6 writers, that the founding fathers saw fit to include this
7 stringent requirement of two-witness proof to each overt act
8 in a treason charge in the Constitution because of apprehen-
9 sions that they had of unwarranted and unjust treason prose-
10 cutions brought by the Mother country against American colonists
11 prior to the Revolutionary War; and in addition to the Con-
12 stitutional requirement that before a person can be convicted
13 of treason there must be two witnesses produced by the United
14 States to the same overt act, I will state to you, and I
15 believe quite correctly -- however, always remembering that
16 if any lawyer for the government or for the defense makes any
17 statement of law to you, you are not to adopt that as final,
18 only explanatory, you take your law from the Court, not from
19 me, not from my colleagues, not from defense counsel -- the
20 courts have held, and I believe Judge Roche will tell you the
21 same thing at a subsequent time or an appropriate time, that
22 the proof to sustain these overt acts must be direct, as contra-
23 distinguished from circumstantial evidence.

24 The United States Courts have adopted or engrafted that
25 judicial interpretation on this constitutional provision,

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

3

1 requiring two-witness proof to each and every overt act laid
2 in the indictment.

3 So much for the preliminary issues, or preliminary ex-
4 planatory matters. The defendant is represented here by
5 counsel. She has entered a plea of not guilty to this indict-
6 ment, and that simply means that she denies the truthfulness
7 of each and every material allegation in this indictment, that
8 the material averments of the indictment are in issue. The
9 government must prove the truthfulness of those material al-
10 legations to your satisfaction beyond a reasonable doubt before
11 you can convict.

12 Now, after a lapse of some time, I will get down to the
13 proof, and the opening statement to you, ladies and gentlemen,
14 as I have said before, merely serves the purpose and function,
15 or should, of explaining to you the issues and the substance
16 of the proof which each party litigant expect to adduce from
17 the witness stand or by documentary evidence, for the purpose
18 of enabling you and each and every one of you to determine
19 whether or not the charge has been proved.

20 The evidence in this case will show that the defendant
21 was born in the United States, that she is an American citizen,
22 that she was born in Los Angeles, Los Angeles County, July 4,
23 1916.

24 The evidence will show that she is the person who during
25 the late war owed allegiance to her sovereign, her native

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

4

1 sovereign, the United States of America.

2 She went to high schools, according to the evidence, in
3 Southern California. She entered the University of California,
4 Los Angeles branch, and graduated therefrom, I believe in the
5 year 1941, with the degree of Bachelor of Science.

6 In the summer of 1941, I think around the 4th of July,
7 her birthday, she went to Japan. Her mother and father were
8 Japanese citizens. They were not born in the United States.
9 She went to Japan, according to some of the proof, to see a
10 sick aunt. According to statements made by the defendant to
11 various people, her aunt was then suffering from diabetes,
12 and the defendant's mother wanted her, the defendant, to go to
13 Tokyo to see the sister of the mother of the defendant. That,
14 according to the proof will be the defendant's version of it.
15 There will be government proof.

16 There will be other evidence to the effect that the de-
17 fendant wanted to go to Japan to further her university train-
18 ing and to study medicine at a Japanese medical school, she
19 having already received a degree as a Bachelor of Science in
20 the University of California, Los Angeles branch, at Los
21 Angeles.

22 In any event, she goes over to Japan in the summer of
23 1941, and there will be some evidence that after Pearl Harbor
24 occurred she made some attempt to repatriate herself to the
25 United States, but finally abandoned her attempt to repatriate

5

1 herself to the United States, abandoned her attempts to
2 evacuate herself, and Voluntarily stayed on in Japan, which
3 the evidence will show was the land of her ancestors.

4 In 1942, according to the proof, Mrs. D'Aquino, may, I
5 suppose that is what you say, I have forgotten -- then Miss
6 Iva Toguri, went to a school called the Japanese Culture and
7 Language School. She lived with her aunt and uncle in Tokyo
8 for awhile in 1942 while the war was going on, and according
9 to the proof, in the summer of 1942 obtained a position as a
10 typist, typing monitored English and American-foreign radio
11 broadcasts in the employ of Domei, D-o-m-e-i, a Japanese
12 governmental news agency.

13 In the summer of 1943, according to the proof which the
14 government expects to introduce, of her own volition, and at
15 her own request, and through her own initiative, she obtained
16 a position at Radio Tokyo, first as a typist, in approximately
17 August 1942, and in November 1943 she went on the air for the
18 enemy and stayed on the air for the enemy for compensation from
19 November 1943 until shortly after the termination of hostilities
20 between the Imperial Japanese Government and the representa-
21 tive of the United States, General MacArthur, the latter part
22 of August or first part of September 1945; I have forgotten
23 the exact date. As I recall it, I was on the east coast at
24 that time, and I think they called V-J day around August 15,
25 1945. I think the actual surrender was September 1945. In

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WRIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 any event, she was on the radio for the Japanese as an an-
2 nouncer and script writer, from November 1943 until August
3 1945, approximately.

3-40 4 The evidence which the United States will introduce will
5 show and disclose that she was under no duress or under no
6 compulsion when she engaged in this work. The defendant may
7 have testimony to the contrary. There may be a conflict of
8 testimony on that. If so, I have just explained to you, and
9 the explanation was not necessary -- you probably already knew
10 what your duties were -- that's where you all come in, to find
11 wherein the truth lies. If there is a conflict, if there is
12 a dispute in the facts, that is your function. In any event,
13 the evidence will show that Radio Tokyo, which was the popular
14 appellation or cognomen or name given the Japanese radio sta-
15 tion in Tokyo, is more accurately called the Broadcasting
16 Corporation of Japan.

17 The defendant was employed in the capacity I have just
18 related by the Broadcasting Corporation of Japan. The evi-
19 dence on behalf of the United States will show that the Broad-
20 casting Corporation of Japan was not a separate entity un-
21 controlled by the government, such as we find corporations
22 here in the United States, but that in all major aspects it was
23 not a private corporation, it was a public corporation controlled
24 by the Imperial Japanese Government at all times during the time
25 the defendant was employed there, and therefore the evidence

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEINER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 will consequently show that the defendant was giving aid and
2 comfort and adhering to the enemy, not only to the Broadcast-
3 ing Corporation of Japan, but to the declared enemy of the
4 United States, the Imperial Japanese Government.

5 Now, the Broadcasting Corporation of Japan, the proof
6 will show, was divided into a number of bureaus. It will not
7 be necessary for me to tell you about all those bureaus now.
8 I will have a witness here -- we will have a witness here --
9 that will give you the governmental structure of the radio.
10 Sufficed to say for present purposes, the evidence in this
11 case will deal with the overseas bureau of the Broadcasting
12 Corporation of Japan; and the overseas bureau, according to
13 the proof, of the Broadcasting Corporation of Japan was that
14 bureau which was charged with the responsibility of trans-
15 mitting broadcasts overseas to foreign lands.

16 The bureaus were divided into a number of departments,
17 among them the American continents department. The American
18 continents department was broken down, I believe the evidence
19 will show, into a number of sections, and one of these sec-
20 tions, according to the evidence, that acted under the Ameri-
21 can continents department was what they called the frontlines
22 section of the Broadcasting Corporation of Japan, which was
23 charged with the responsibility and entrusted with the duties
24 of broadcasting from Radio Tokyo propaganda to American and
25 Allied troops, according to the evidence, then fighting for

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 the Allied cause in the South Pacific Ocean area.

2 Now, the evidence will show that the defendant worked
3 on what they called the Zero Hour program in connection with
4 her work for the frontlines section of the Broadcasting Cor-
5 poration of Japan.

6 They had a big building there in Japan, this Broadcasting
7 Corporation of Japan, large mechanical apparatus, extensive
8 apparatus. I will go into that briefly in a minute. In any
9 event, the proof will show the defendant broadcast for and
10 wrote scripts in connection with broadcasts beamed to American
11 troops in the South Pacific Ocean area on the Zero Hour program
12 for the Broadcasting Corporation of Japan.

13 The name "Zero Hour" according to the evidence, was con-
14 cocted or hatched up, or devised, I think would be a better
15 word, to connote Zero Hour as meaning the hour, the Zero Hour,
16 when you launch into battle. It also had some indirect refer-
17 ence to the Zero type of plane used by the Japanese flyers.
18 It also, according to the evidence, had some indirect refer-
19 ence to and in connection with some Zero symbol in the Japa-
20 nese flag or national emblem, with which I am personally not
21 familiar.

22 That program was first organized, according to the proof,
23 and promulgated in approximately the Spring of 1943. It was
24 then utilized as a 15-minute program. In 1944 it was en-
25 larged to an hour program. Of course, the defendant did not

4-41
KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHEERY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 go to work broadcasting for the Zero Hour until November 1943.
2 When the program took an hour, her part in the Zero Hour
3 program was 15 minutes. She introduced musical recordings,
4 Glen Miller recordings, played "Star Dust," a number of other
5 tunes that I can't recall, talked chit-chat to the troops,
6 but that's not all. She broadcast propaganda to them too, and
7 in a moment I will tell you about the nature of the remarks
8 which she made to the troops, according to the evidence which
9 the United States will offer for your listening, for your
10 analysis, from the lips of former veterans of World War II,
11 American soldiers and sailors.

12 Now, the evidence will show that the purpose of this Zero
13 Hour program on which the defendant worked was to create
14 nostalgia among the American and Allied fighting men in the
15 South Pacific, to creat homesickness among them, to make them
16 war weary, and to impair the capacity of the United States of
17 America to wage war against Japan and the Axis allies. It
18 was for the specific purpose, according to the proof, of lower-
19 ing the morale of the American troops.

20 So far, so good. The evidence will show likewise, ladies
21 and gentlemen of the jury, that these nefarious propagandistic
22 purposes of the Zero Hour program sponsored by the Broadcast-
23 ing Corporation of Japan were fully, thoroughly, clearly, and
24 completely explained to this defendant, Mrs. D'Aquino, prior
25 to the time that she went on the air, and during the course of

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 her operations, and that she made known to the parties who
 2 instructed her concerning the purposes of this program that
 3 she was aware of those purposes, that she fully understood
 4 the program, the purpose of this program, and the evidence
 5 will show that after these purposes and functions of this
 6 program were explained to her she voluntarily went ahead with
 7 her work and wholeheartedly participated in the propagandis-
 8 tic efforts and nature of the Japanese government propaganda
 9 machine over Radio Tokyo.

10 She was first used, according to the proof, to attract
 11 the American soldiers, to make them listen to the program.
 12 I suppose in the language of the street you could say that she
 13 was first used, as I have heard some people say it, as listener
 14 bait, for the purpose of attracting attention, so that the
 15 soldiers would not become bored with the Zero Hour program,
 16 and would then subsequently not cut the program off, but would
 17 subsequently listen to the program and listen to the subse-
 18 quent propaganda voiced by her and other broadcasters with her
 19 on that particular program.

20 Now, we will introduce evidence here before you ladies
 21 and gentlemen of the jury which will be to the effect that
 22 among other things, this defendant while broadcasting for the
 23 Imperial Japanese Government said over the air to the troops
 24 on one occasion, after the Battle of Leyte Gulf in 1944 --
 25 a Japanese broadcaster went on the air on Radio Tokyo in a

KENNETH G. GAGAN
 EXECUTIVE REPORTER

EDWARD W. LEHNER
 JOSEPH J. SWEENEY
 CLARENCE F. WIGHT
 FRED J. SHERKY, JR.

OFFICIAL REPORTERS
 United States District Court
 Northern District of California

1 studio in the presence of this defendant and told the American
2 troops that they had suffered great casualties in the way of
3 loss of ships in the Battle of Leyte Gulf in the fall of 1944.
4 The defendant was in the broadcasting studio when this news
5 broadcast was made by this news announcer at that time, tell-
6 ing the American troops that the Navy had suffered a great
7 loss of ships at the Battle of Leyte Gulf. She went on the
8 air and said, "Now, you boys,"--in substance -- "Now, you
9 boys have really lost all your ships. You really are orphans
10 now. How do you think you will ever get home now?"

5- 42 11 On other occasions, the proof will show that she told the
12 troops that their sweethearts at home in the United States
13 were unfaithful to them, that they lacked fidelity, that their
14 wives and sweethearts were running around with 4-P's and with
15 shipyard workers, all of whom had plenty of money in their
16 pockets to give the wives of the soldiers a good time, and
17 she told the boys over the air to lay down their arms, stop
18 fighting, that it was futile to go on, that the Japanese would
19 never give up, that the Japanese had a will to win, and that
20 there was no reason in the world why the American soldiers
21 should stay out there and wage a futile battle, risk their
22 lives, and probably get killed.

23 She would pick out in her broadcasts a spot familiar in
24 the United States, on some occasions, to the citizenry of
25 California. I don't know Los Angeles as well as I know San

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 Francisco, but I have heard a little bit about it, been there
2 a few times. She would say, "Now how would you like to be
3 tonight back in Los Angeles at the Coconut Grove dancing with
4 your best girl?"

5 I don't know where that is, I suppose the Ambassador
6 Hotel, I don't know -- it is one of those hotels down there
7 and is a place some of you have heard about and I have heard
8 about.

9 "How would you like to be parked in Griffith Park" --
10 which is a park in Los Angeles -- "with your girl friend in
11 the car listening to the radio?"

12 She talked about the mosquitoes in the jungle, and on
13 one occasion when the troops were in the Southwest Pacific
14 and didn't have much to eat -- I think they were subsisting on
15 Australian mutton -- the proof will disclose that the defendant
16 made capital for the Japanese out of that situation by re-
17 ferring to the nice steaks and french-fried potatoes that the
18 boys would have when they were home, when they were out there
19 without proper nutrients, and on another occasion, the evi-
20 dence will show that mention was made to the defendant through
21 official channels on Radio Tokyo that a certain contingent of
22 American troops on a South Pacific Island were without water,
23 and she was asked if she would allude in her broadcasts to
24 that incident. She voluntarily agreed and did allude to it,
25 and according to the evidence she said something like this on

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 that occasion, after the facts which I have just related were
2 made known to her:

3 "Hello, Sarge; have you got any beer down there?
4 Forget about the beer. Wouldn't you like some cold
5 water?"

6 The evidence will show it was made known to the defendant
7 that the American troops were without water. She went on to
8 say, "Cold water sure tastes good."

9 She made frequent references, according to the proof,
10 about matters at home, pleasant little matters that would
11 make the boys homesick. She asked them about the corner drug-
12 store, the juke box in the corner store. "How would you like
13 to be home," you would say in her broadcast, "sipping a
14 chocolate soda at your favorite corner drugstore, or partaking
15 of a bananasplit?"

16 She would go on the air most of the time using the name
17 or pseudonym of Orphan Ann or Orphan Annie. Sometimes she
18 would say, "This is your favorite playmate and enemy, Orphan
19 Ann."

20 She would usually call American troops boneheads, bone-
21 heads of the Pacific, was her favorite terminology applied
22 to the American fighting men in the Pacific. Sometimes she
23 would call them suckers.

24 Now, the evidence on behalf of the United States, ladies
25 and gentlemen, will show that this work was done by her

6-43
KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 voluntarily in a position which she sought voluntarily and
2 accepted, and a position for which she was compensated, a
3 position for which at least on one occasion, according to
4 the proof the United States will introduce, she sought and
5 received additional, extra, increased emoluments for her
6 work; and the evidence will show that she liked this work,
7 that it was a glamorous job to her, according to the proof,
8 that this work interested her and she was glad to do this
9 work because of the better pay, the newer faces she would see,
10 the interesting type of the work, and the excellent contacts
11 she was able to make by virtue of her position as a glamorous
12 broadcaster on the Zero Hour program promulgated by the
13 Broadcasting Corporation of Japan, which in turn was under the
14 control of the Imperial Japanese Government.

15 Now, toward the end of the war, 1945, I think it's April
16 1945, she marries a Philip D'Aquino. She had never been mar-
17 ried before. I think he is about three-quarters Japanese and
18 one-quarter Portuguese, I am not sure. In any event, they
19 are married in April 1945, which is four months before what
20 we ordinarily know as V-J day. Well, by that time the war
21 was going bad for Japan. When she was first broadcasting, the
22 war was going good for Japan. The war wasn't going so well
23 with the Imperial Japanese government in the spring of 1945,
24 and the evidence will show that she became a little bit ap-
25 prehensive, her broadcasts became a little more innocent, they

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 became a little more innocuous.

2 She talked to her husband about it after they were
3 married, the evidence will show, and he said in response to
4 a question put him by her as to what would happen to her in
5 the event the United States was victorious, would any trea-
6 son charge be brought against her and pressed by the United
7 States government, he says, "Well, quit now."

8 Well, she said, "You can't just quit."

9 Now, you probably wonder what all this apparatus here was
10 for. I will explain that very briefly to you, and my explana-
11 tion to you will merely be what the evidence of the United
12 States will show. The evidence will show that these Zero Hour
13 programs in which the defendant participated were beamed
14 by the Broadcasting Corporation of Japan to American troops
15 and Allied troops in the Southwest Pacific or South Pacific
16 Ocean area. They were not intended to be beamed to the United
17 States citizenry as such in the United States of America on
18 the American continent.

19 I think only about ten of her programs, according to the
20 proof, were ever actually recorded by the Japanese. That is
21 to say, her voice went out over the microphone as a live
22 voice. She didn't have a recording made and the recording was
23 not played over the air. She spoke right into the microphone,
24 and only ten recordings of her program were made. I don't even
25 know if ten recordings of her voice were made. Some scripts

1 were written by her. All those recordings, and I am advised
2 there are not more than ten, and all her scripts were destroyed
3 on the order of her superior officials working for the Imperial
4 Japanese government, excepting a few relatively innocuous and
5 innocent ones which she kept out for her own purposes and later
6 showed to American conquering troops who entered Tokyo after
7 the termination of hostilities.

8 Now, Japan is about ten thousand miles from San Francisco.
9 No recordings made in the Orient of her broadcasts are avail-
10 able. Any made, and there were only a few, were destroyed by
11 orders of her superiors working for the Broadcasting Company.
12 The scripts were destroyed.

13 Some of her broadcasts were monitored in the United
14 States by the Federal Communications Commission. We have a
15 few of those records here, about four. They are not very
16 audible for two reasons: One, the broadcasts were never
17 beamed to the United States; two, Japan is ten thousand miles
18 away from Portland, Oregon, where these records were monitored.
19 In any event, the expert testimony will be that these records
20 are not clearly audible without the use of earphones, and we
21 have a radio engineer who will testify and explain this ap-
22 paratus. If allowed, he will explain it to you, ladies and
23 gentlemen, and to the Court. You don't have to use the
24 switch if you are allowed to hear these records. The switch
25 is disconnected. All you use is the volume, and you ladies

7-45

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWENNEY
CLARENCE F. WIGHT
FRID J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 and gentlemen in the back seats will find it behind you.
2 If they are subsequently utilized they will be thoroughly
3 explained to you by an expert later. I don't know very much
4 about radio, only what they teach me; so you don't have to use
5 that switch, only the volume control. That is the reason for
6 the apparatus here, and this loudspeaker and reproducing
7 equipment.

8 We have some radio engineers from Japan who are familiar
9 with the setup from the mechanical and scientific and engineer-
10 ing standpoint of Radio Tokyo. These men I think are pretty
11 good engineers, electrical radio engineers. Some if not all
12 are college trained. Some of them work for the radio now.
13 They will briefly explain to you the mechanical and scientific
14 setup of Radio Tokyo as it existed during the period of time
15 that the defendant worked there, as alleged in the indictment.
16 They will show pictures of the broadcasting studios and broad-
17 casting equipment of the Broadcasting Corporation of Japan
18 building in Tokyo as it was during the period of time that the
19 defendant worked there.

20 The broadcasts were transmitted through a cable from
21 Tokyo to the transmitter stations at Yamata, Y-a-m-a-t-a,
22 Nazaki, N-a-z-a-k-i, and Kawachi, K-a-w-a-c-h-i, and were
23 actually transmitted to the troops from these three trans-
24 mitting stations at Yamata, Nazaki, and Kawachi. They had
25 huge radio towers there, and with the aid of directional and

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWENNEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 antenna directly beamed the broadcasts of the Zero Hour to
2 the American troops and their allies in the South Pacific
3 during the period in question.

4 The evidence will show that the programs were properly,
5 accurately, faithfully, and from a scientific standpoint
6 properly sent out through the cable from the station to the
7 transmitter stations and beamed to the American troops, with
8 all proper and due regard to scientific and mechanical
9 principles of radio engineering.

10 Now, the evidence will show that the Zero Hour program
11 was utilized by the Imperial Japanese Government, ladies and
12 gentlemen, as an instrumentality of psychological warfare, for
13 the distinct purpose of impairing the capacity of the United
14 States to wage war, and for the purpose of lowering the morale
15 of the American troops.

16 The evidence will show that the defendant on trial, Mrs.
17 D'Aquino, was distinctly and clearly told and advised that this
18 Zero Hour program on which she participated was to be used and
19 was intended and devised to be used, and that her work was
20 part of the same and was intended to be used as an element in,
21 as an integral part of, the Imperial Japanese Government's
22 program of psychological warfare against the United States,
23 and that this defendant on trial, according to the proof,
24 fully understood that fact.

25 The evidence will show that the defendant was apprehended

1 in the latter part of August 1948 in Tokyo, by the Department
2 of the Army, at the request and behest of the United States
3 Department of Justice, and in the first part of September, in
4 custody of the Army, in protective custody at least, she was
5 transported to the United States on the Army Transport
6 GENERAL H. P. HODGES. The evidence will show, if my memory
7 serves me accurately, that the H. P. HODGES left Yokohama
8 with the defendant on board, and military male and WAC female
9 protective enlisted and officer personnel custody on three
10 September, 1948, and that she arrived at the Port of San
11 Francisco, which is in the Northern Federal Judicial District
12 of California, on September 25, 1948. Throughout this voyage,
13 the proof will show, the vessel on which she was transported
14 from the Orient to the United States stopped at no American
15 ports, Hawaii, Alaska, or otherwise. The only ports on this
16 voyage on which the defendant was transported to the United
17 States at which the transport stopped were Naha, N-a-h-a,
18 Okinawa, O-k-i-n-a-w-a, Jinsen, J-i-n-s-e-n, Korea.

19 That evidence is material only in attempting substantia-
20 tion and proof of the particular allegation in the indictment
21 that I have heretofore spoken to you ladies and gentlemen about
22 concerning venue, wherein it is alleged in the indictment that
23 the Northern Federal Judicial District of California was the
24 district into which, in the words of the congressional enact-
25 ment, the defendant was first brought.

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWENEY
CLARENCE F. WIGHT
FRID J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

8-46

1 Now I am going to conclude my opening statement, ladies
2 and gentlemen of the jury, and I now state to you that the
3 United States of America believes that after you have con-
4 sidered all of the evidence introduced on behalf of both
5 parties herein, the government and the defendant, the United
6 States believes that you will come to no other conclusion than
7 that the material allegations, the material averments of this
8 indictment in issue before you, have been proven to your sat-
9 isfaction beyond a reasonable doubt.

10 MR. TAMBA: If the Court please, may the defense reserve
11 its opening statement at this time?

12 THE COURT: Very well. It is near twelve o'clock. The
13 jurors may be excused until two o'clock this afternoon. Keep
14 in mind the admonition of the Court heretofore given you. Now,
15 the most convenient way to step out is through this door, and
16 take the back alley. It will be more convenient. You may be
17 excused until two o'clock. We will take a recess until two
18 o'clock.

19 (Thereupon at 11:50 A.M. an adjournment was taken until
20 2:00 o'clock P. M.)
21
22
23
24
25

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRANK J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

Motion to acquit made at end of trial by George Olshausen,
member of the defense team, in criminal case 31712,
"U.S. v. Iva Ikuko Toguri D'Aquino"

1 safeguard. Previously we had only made an objection. Now we
2 make a motion to dismiss.

3 THE COURT: The motion to dismiss will be denied.

4 MR. COLLINS: Page 5771 of the reporter's transcript of
5 the proceedings had on September 16, 1949, at line 5, I propound-
6 ed a question to Mr. Tillman as to when he had first seen
7 Major Tsuneishi in Japan:

8 "Q. When did you first interview him?

9 "MR. DeWOLFE: I object to that as not proper cross examina-
10 tion.

11 "MR. COLLINS: It is cross examination with reference to
12 this very document which mentions the man's name.

13 "THE COURT: If there is any question about it, I will
14 allow it.

15 "A. I interviewed him in April 1945 in Tokyo and again in
16 San Francisco some time after September 25th, 1948."

17 It is obvious the date is not 1945. The date that should have
18 been given by Mr. Tillman was 1946, and it is obviously an
19 error, and we ask that that particular date be amended to show
20 1946.

21 THE COURT: By consent?

22 MR. COLLINS: Yes. "I interviewed him in April 1946."

23 THE COURT: By consent of both sides?

24 MR. DeWOLFE: Yes.

25 MR. OLSHAUSEN: We rest. At this time the defendant renews

1 the motion to acquit made at the close of the prosecution's
2 evidence under Rule 29(B) on all the grounds that were set forth
3 at the close of the prosecution's evidence, and on the addi-
4 tional ground that the evidence of the imprisonment in Japan,
5 which is now before the court, shows that the matter was either
6 res judicata or that the defendant has^{been} denied a speedy trial.
7 If the imprisonment and the release in Japan constituted a
8 charge and a decision on any kind of a charge, the matter is
9 res judicata, or she has been once in jeopardy. If it is not a
10 decision, then the imprisonment, particularly coupled with the
11 evidence that she was held incommunicado part of the time and
12 was held incommunicado except for the right to see her husband
13 the rest of the time, that that denied her the right of a
14 speedy trial, particularly when it is covered with the addi-
15 tional testimony that there has been a loss of evidence since,
16 the point being this, that by imprisoning her without filing
17 charges and keeping her incommunicado first entirely, and second-
18 ly from everybody except her husband, the prosecution, that is,
19 the government by its own acts, interfered with the defendant's
20 opportunity to gather evidence or preserve evidence for her
21 defense, and as I say, the government's own evidence shows
22 some of the scripts have become lost.

23 THE COURT: The defense of what?

24 MR. OLSHAUSEN: The defense of the pending charge.

25 THE COURT: The pending charge? Is there a charge pending?

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 MR. OLSHAUSEN: If you assume she was not charged, she was
2 arrested for something and she was held arrested.

3 THE COURT: How could she prepare a defense?

4 MR. OLSHAUSEN: If she were free, she would have been able
5 to gather evidence for a future charge which they might bring
6 against her, and as they have actually brought. In other words,
7 by imprisoning her they say it is without a charge and there-
8 fore not res judicata, but they say they can imprison her for
9 a year and have no legal consequences arise from it. The point
10 is either that there was already a charge, in which case, as I
11 say, it was res judicata, or it was not a charge, in which case
12 it interferes with her opportunity to gather evidence for any
13 charge that they may bring in the future. They can not hold
14 her a year incommunicado, either in part or in whole, for a year,
15 and not have any legal consequences flow from it.

16 MR. DeWOLFE: Of course, I want that at this juncture to
17 say this: I won't go into the evidence of both parties which
18 motivates the government at this time to say it is a factual
19 question for the jury. We argued that at considerable length
20 one Saturday and the government contended at that time that it
21 had made out a prima facie case. Now, any weakness that exist-
22 ed in the government's case at that time has been supplanted,
23 or the government's case has been made stronger as a matter of
24 law as to be sufficient at this juncture to withstand a motion
25 for an instructed verdict, in that the defendant has admitted

1 that these were her recordings. She has admitted that this
2 was her script. She has admitted certain of her activities.

3 Certain defense witnesses have testified on cross examination
4 as to certain broadcasts that the defendant made and as to the
5 context of them, and all of those witnesses' testimony make it
6 more doubly certain that now it is not a question for the Court,
7 but a factual question for the jury. True, the defendant
8 denied making these broadcasts, but her own witnesses say she
9 did, witnesses for whom she personally vouches as a matter of
10 law, and so it is a fact question for the jury.

11 The plea of double jeopardy, the special plea in bar, or
12 whatever you may call it here, has been before the Court before
13 in what they call their special defenses. It is a very novel
14 contention. They are without any legal authority to sustain
15 that position, and a plea of autrefois to convict or acquit or
16 a plea in bar such as this, in order to be in any wise success-
17 ful, must show that there was a prior proceeding pending, a
18 charge against the defendant by the same party, that is, the
19 United States of America, and that there was a disposition of
20 that proceeding before or against the defendant, and a plea in
21 bar or a plea of double jeopardy or autrefois to acquit or
22 convict, the burden is not upon the United States but upon the
23 movant, the defendant, and there is no evidence, not a scin-
24 tilla of evidence, to any prior proceedings against this defend-
25 ant. The record is totally devoid of any evidence whatsoever

KENNETH G. GAGAN
EXECUTIVE REPORTER

EDWARD W. LEHNER
JOSEPH J. SWEENEY
CLARENCE F. WIGHT
FRED J. SHERRY, JR.

OFFICIAL REPORTERS
United States District Court
Northern District of California

1 as to her having been placed previously in jeopardy from a
2 legal standpoint or as to any other legal proceedings ever
3 having been pending which constitute a bar to the prosecution
4 of this case.

5 The motion should be denied.

6 THE COURT: Submitted? The motion will be denied. Both
7 sides submit their case?

8 MR. DeWOLFE: The United States rests.

9 MR. COLLINS: The defendant has rested already.

10 THE COURT: In the absence of the jury, if you can agree
11 upon time for argument, you may do so, if you wish. What time
12 do you wish for the defense, Mr. Collins?

13 MR. COLLINS: That would largely depend upon the time de-
14 manded by the prosecution. We understood Mr. DeWolfe was going
15 to request some six hours of time for argument. It is our
16 opinion that six hours would be a day and a half, two hours in
17 the morning and two hours in the afternoon. It seems to me
18 that is somewhat prolonged.

19 THE COURT: I am interested in the time you wish.

20 MR. COLLINS: We wish only that period of time that will
21 be allotted to the government. We have not discussed that
22 among ourselves.

23 THE COURT: I do not want to select a time.

24 MR. COLLINS: May I ask Mr. DeWolfe this question: Am I
25 correct, Mr. DeWolfe, that you wanted six hours of argument

Special findings by the jury in criminal case 31712,
"U.S. v. Iva Ikuko Toguri D'Aquino"

170
FILED

SEP 29 1949

at 6:03 P.M.

C. W. CALBREATH, CLERK

By J. W. Walsh
Deputy Clerk

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

IVA IKUKO TOGURI D'AQUINO,

Defendant.

No. 31712-R

TREASON (Title 18 U.S.C.
Sec. 1.)

SPECIAL FINDINGS BY THE JURY

In accordance with the instruction already given by
the Court, the jury makes the following findings:

I.

Did the jury find overt act 1., as it is laid in
the indictment, a treasonable act committed by the
defendant D'Aquino with an intent to betray the
United States? (Answer, in writing, yes or no).

10 No

II.

Did the jury find overt act 2., as it is laid in the indictment, a treasonable act committed by the defendant D'Aquino with an intent to betray the United States? (Answer, in writing, yes or no).

-----¹⁰ No -----

III.

Did the jury find overt act 3., as it is laid in the indictment, a treasonable act committed by the defendant D'Aquino with an intent to betray the United States? (Answer, in writing, yes or no).

----- No -----

IV.

Did the jury find overt act 4., as it is laid in the indictment, a treasonable act committed by the defendant D'Aquino with an intent to betray the United States? (Answer, in writing, yes or no).

----- No -----

V.

Did the jury find overt act 5., as it is laid in the indictment, a treasonable act committed by the defendant D'Aquino with an intent to betray the United States? (Answer, in writing, yes or no).

----- No -----

VI.

Did the jury find overt act 6., as it is laid in the indictment, a treasonable act committed by the defendant D'Aquino with an intent to betray the United States? (Answer, in writing, yes or no).

Yes

VII.

Did the jury find overt act 7., as it is laid in the indictment, a treasonable act committed by the defendant D'Aquino with an intent to betray the United States? (Answer, in writing, yes or no).

No

VIII.

Did the jury find overt act 8., as it is laid in the indictment, a treasonable act committed by the defendant D'Aquino with an intent to betray the United States? (Answer, in writing, yes or no).

No

San Francisco, California
Sept 29, 1949.

John Marn
Foreman

Judgment and commitment in criminal case 31712, "U.S. v.
Iva Ikuko Toguri D'Aquino"

District Court of the United States

FOR THE

NORTHERN

DISTRICT OF CALIFORNIA

SOUTHERN

DIVISION

NOV 30 1949

RECEIVED

O'Clock M

OCT 11 1949

United States of America

v.

IVA IKUKO TOGURI D'AQUINO

C. W. CALBREATH, CLERK

No.

31712 R

U. S. Marshal's Office
San Francisco, Calif.58506
Cont. Page 497
Docket 122

On this 6th day of OCTOBER, 1949, came the attorney for the government and the defendant appeared in person and with counsel;

It IS ADJUDGED that the defendant has been convicted upon her plea of ^{not guilty and a} verdict of guilty of the offense of TREASON (Title 18 U.S.C. Section 1)

Attorney General with a certified copy of the within judgment and commitment of the institution designated by the as charged in the indictment and the court having asked the defendant whether she has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TEN (10) YEARS

and pay a fine to the United States of America in the sum of TEN THOUSAND DOLLARS (\$10,000.00)

Defendant delivered on October 24th 1949 to San Francisco County Jail

I have executed the within judgment and commitment as follows:

BELOW

IT IS ADJUDGED THAT

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

Examined by:

Tom De Wolfe

Special Asst. to the U. S.
Attorney General

MICHAEL J. ROCHE

United States District Judge.

The Court recommends commitment to:

Filed and entered this 6th day of
October, 1949, C. W. CALBREATH, Clerk

J.P. Welsh

Deputy

Clerk.

A True Copy. Certified this 6th day of October, 1949.
(Signed) C. W. CALBREATH, (By) J. E. Van Buren
Clerk Deputy Clerk.

(Signed) _____ Clerk (BA) _____ Deputy Clerk
V. The Court Certified this _____ day of _____
October, 1949

October, 1949 C. M. CARBREAUX, CLERK
Witness and certified this day of

The Court recommends commitment to:

United States Marshal
subject was to the U. S.

JOHN DE MOTTE

United States Marshal

States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

It is ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United

IT IS ADJUDGED THAT

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on October 6th, 1949 to San Francisco County Jail

Defendant noted appeal on

Defendant released on

Defendant elected, on

not to commence service of the sentence.

It is ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or

Defendant's appeal determined on

pronounced and no sufficient cause to the contrary being shown or appearing to the Court

and the Court has asked the defendant whether he was willing to go to the Federal Reformatory for Women

Defendant delivered on November 10th, 1949

to the Federal Reformatory for Women

at Alderson, West Virginia

, the institution designated by the

Attorney General, with a certified copy of the within Judgment and Commitment.

Assistant of United States Marshal

of the offense of

JOHN A. ROSEEN

United States Marshal

It is ADJUDGED that the defendant has been convicted by

By

Herbert R. Cole

Deputy

ment and the defendant appeared in person and

On this _____ day of _____

to _____ the attorney for the Government

UNITED STATES OF AMERICA

A.

United States of America

No.

C. M. CARBREAUX, CLERK

OCT 30 1949
DIVISION

DISTRICT OF

FOR THE

District Court of the United States

Judgment and Commitment

C. M. CARBREAUX, CLERK

Letter from Frank J. Hennessy, U.S. Attorney for the
Northern District of California, to Harry M. Kimball,
Special Agent in Charge, Federal Bureau of Investigation,
San Francisco

TdeW Pr

Mrs S

December 2, 1948.

Harry M. Kimball, Esq.,
Special Agent in Charge,
Federal Bureau of Investigation,
Federal Office Building,
San Francisco, California.

My dear Mr. Kimball:

Re: United States v Iva Toguri D'Aquino

Reference is made to the above entitled treason prosecution presently pending in this jurisdiction.

The Department of Justice at Washington has informed me that Special Agent Tillman of the Los Angeles office of the Bureau is shortly to proceed to the Orient to investigate certain matters herein. Your office is the office of origin in this case. In this letter I will attempt to outline the matters which Agent Tillman should delve into when he proceeds to the Orient.

A search should be conducted in the Orient in an endeavor to locate any scripts of subject's radio broadcasts and any available evidence by means of which said scripts can be identified for use in court. A similar search should be made for any recordings of defendant's broadcasts which are available in the Orient, and also for evidence identifying same for trial purposes. To prove treasonable intent it would be beneficial for us to obtain, if possible, appropriate evidence from any third party as to the nature and context of defendant's broadcasts.

It is desirable to locate some Japanese individual who is in a position to testify that the Broadcasting Corporation of Japan was under governmental control and was supervised and controlled by the Japanese Army and the Imperial Japanese Government. Information is desired as to the chain of command in connection with dissemination of propaganda by the Japanese government over the radio. It is believed that directives with reference to the dissemination of propagandistic material over the radio first came from the Japanese Army to an individual named Sawada in Radio Tokyo, and then down from Sawada to one George Nakamoto and his subordinates direct to the defendant.

It is desirable to have a Japanese radio, electrical, and/or mechanical engineer who is in a position to testify as to the scientific and mechanical set-up of Radio Tokyo. The type of person to be located should be able to testify as to the manner in which defendant's broadcasts were beamed from Tokyo to troops in the Southwest Pacific, the nature and extent of the power used, the accuracy of the equipment used, the exact manner in which the propaganda was

December 2, 1948.

beamed from a scientific standpoint, the nature and description of the transmitting apparatus and similar and kindred matters.

Any and all documents, records and papers which can in any way be linked or hooked up to defendant showing an alleged treasonous or traitorous intent should likewise be obtained. If the originals of said documents are available, they would best serve the purposes of the government. If copies only are obtainable and the same are Japanese governmental records, they should be certified in accordance with the manner hereinafter described and set forth. The records at Domei News Agency where defendant was employed, including their personnel records, and the records at Radio Tokyo, including their personnel records, should be searched and scrutinized with a view to obtaining documents of this type.

In the fall of 1945, an agent or agents from the Counter-Intelligence Corps, United States Army, obtained allegedly from defendant's husband certain copies of radio scripts of defendant's broadcasts. The particular manner in which said documents were obtained and the name of the party or parties obtaining them should be ascertained. An effort to obtain information concerning all of the surrounding facts and circumstances concerning obtainment of said scripts should be made by Agent Tillman, together with information as to whether or not the documents in question were voluntarily turned over to the Counter-Intelligence Corps agent or agents in question. The authority for a search of defendant's home, if any, by means of which said scripts were located and/or seized should be looked into. If such a search was made, all available participants therein should be located and interviewed, whether in the Orient or in the United States.

The defendant, through her local counsel, now contends that she has previously been tried by some tribunal in the Orient, military or otherwise, and that she presently is in double jeopardy, since she has been once tried for the offense concerning which she is now indicted. It is known that she was incarcerated in United States Army prisons during different periods of time in Japan during 1945 and 1946. She was incarcerated in Sugamo Prison during the period just mentioned. It would be valuable for this office to have information concerning the dates of her imprisonment, the authority therefor, and whether any charges of any kind were ever filed, or whether any trial was ever conducted against defendant by officials of the Office of Military Government of the United States, or any Japanese courts, on a charge of treason, or any similar offense whatsoever.

In 1942 defendant worked at the Domei Agency in Japan. Later on she was employed part time at the Danish Legation. The manager, officers and fellow employees of defendant at Radio Domei should be interviewed with a view to obtaining possible prospective evidence concerning treasonous and disloyal utterances which might or may have been uttered by defendant during her period of employment as before mentioned, together with any evidence bearing on the charges included in the indictment presently pending against defendant in the United States Court for this district. A similar interview with officials of and employees at the Danish Legation might provide some evidence that would ultimately prove distinctly

beneficial to the interests of the United States at the trial of this case on its merits.

Subject in 1942, shortly after her arrival in Japan, left the home of her uncle and aunt and boarded out. Her landladies and landlords at her different places of residence should be located and interviewed with reference to any expressions of treasonous intent voiced by defendant, and should be likewise interviewed generally pertaining to defendant's activities, what she talked about, and how she generally conducted herself, with reference specifically to the allegations of treasonous broadcasting laid against her in the indictment by the grand jurors for this district.

In the spring of 1942, defendant applied at the Swiss Consulate in Tokyo for repatriation to the United States, and later on filed a document withdrawing her application for repatriation. The Swiss Consul at Tokyo and his subordinates should be closely interrogated with reference to any oral statements made by defendant at the time of the occurrence of said events, and certified photostatic copies of the appropriate documents pertaining to this matter should be obtained by Agent Tillman. The documents if certified should be certified and authenticated in accordance with the applicable provisions of Title 28 U.S.C. Revised Sec. 1741, which provides as follows:

"A copy of any foreign document of record or on file in a public office of a foreign country or political subdivision thereof, certified by the lawful custodian thereof, shall be admissible in evidence when authenticated by a certificate of a consular officer of the United States resident in such foreign country, under the seal of his office, that the copy has been certified by the lawful custodian."

Agent Tillman will be furnished with appropriate forms of attestation and certification for use in connection with documents thought to be at the Swiss Consulate and other records, and said forms will not be included in this report. Said forms of attestation and certification in compliance with Title 28 U.S.C. Revised Sec. 1741 will be prepared by this office.

In 1942 defendant attended a Japanese language school. Officials and employees of the same should be contacted with the view of obtaining information as to utterances and expressions emanating from defendant, and the records of the same should be scrutinized with the view of obtaining any pertinent documents that may bear upon the alleged treasonous intent harbored by defendant. If any said documents are located in said language school, copies of the same should be

obtained and properly certified in accordance with the method hereinbefore set forth relating to the certification of records on hand in the Swiss Consulate at Tokyo. It is possible that any pertinent records on hand in the Japanese language school will be willingly parted with by the officials thereof. If so, the original records, of course, if signed by defendant, would be much more beneficial and useful to us than certified copies of the same. The same theory obtains to any and all records which may have been signed by defendant. It is much more desirable for the government to be in possession of the originals of said records, rather than certified copies thereof. If the government obtains possession of any original pertinent documents signed by the defendant, the necessity of bringing over additional Orientals for the purpose of identifying the same, and the technical necessity of complying with certain technical rules of evidence and the appropriate certification rules and statutes and the expenditure of much time in regard thereto, may consequently be obviated.

Officials of the Broadcasting Corporation of Japan and officers connected with the Overseas Broadcasting Committee of the Japanese Army General Staff should be contacted to show the chain of command in connection with the dissemination of propaganda, and the actual transmittal of military directives or policy directives concerning the same right down to the defendant personally, so as to hook her up with the same, and render them admissible before the trial court and petit jury at the trial on the merits herein. Said officials and officers should likewise be interviewed in addition to their appropriate subordinates and appropriate Radio Tokyo personnel, with reference to the sources, aims and purposes of the material and propaganda that was broadcast to the United States by defendant during the period pleaded and mentioned by the grand jurors in the indictment presently pending in this judicial district. An effort should be made to develop evidence to the effect that if the actual contents of defendant's broadcasts were innocuous, that the propagandistic purpose of the same as being of entertainment value for the purpose of introducing subsequent vitriolic propaganda over Radio Tokyo was explained to and understood by the defendant.

A former official of the Japanese radio should be located who will be available at the appropriate time to testify concerning the use made by the Imperial Japanese Government at the time in question of radio broadcast propaganda as an element and instrument of psychological warfare.

An examination of the family census records of defendant's family, i.e., the Toguri family, her uncle and aunt's family, i.e., the Hattori family, and her husband's family, i.e., the D'Aquino family, should be made for appropriate

December 2, 1948.

information and documentary evidence concerning the citizenship of defendant and her claim that her marriage to Felipe J. D'Aquino on 19 April, 1945, at Tokyo, expatriated her and constituted a renouncement of her status as an American citizen.

Examination should be made of the Tokyo Police records to determine whether or not defendant registered as an American citizen during the period of her residence in Tokyo during the late war. A record of defendant's marriage, if any, to Felipe D'Aquino at Sofia Chapel, Tokyo, on 19 April, 1945, should be obtained.

The records of the Portuguese Consulate at Tokyo should be scrutinized, if possible, with the view of determining what the same disclose with reference to Felipe D'Aquino's citizenship, defendant's citizenship, and matters incident thereto. We have been informally advised that at one time the Portuguese Consul at Tokyo advised defendant that she retained her American nationality subsequent to her marriage to Felipe D'Aquino. The details of said conversation and any and all conversations had by defendant with the Portuguese Consul, or any of his subordinates, at Tokyo during her residence there should be developed. Any pertinent official records obtained from the Consul General of Portugal at Tokyo should be certified in accordance with the applicable provisions of Title 28 U.S.C. Revised Sec. 1741.

Special Agent Tillman should make an effort to develop the substance of any and all oral conversations had by defendant with the American Consul at Tokyo when the American Consulate was open there, and should obtain from that official the original or photostatic certified copies of any documents pertinent to defendant's attempted repatriation to this country, and her final abandonment of same. Any certified copies of documents obtained from the American Consulate at Tokyo should be certified in accordance with the applicable provisions of Title 28 U.S.C. Revised Sec. 1740, which provides as follows:

"Copies of all official documents and papers in the office of any consul or vice consul of the United States, and of all official entries in the books or records of any such office, authenticated by the consul or vice consul, shall be admissible equally with the originals."

Agent Tillman has been or will be furnished with an appropriate form of attestation and certification prepared by this office, for his use in obtaining a proper certificate on copies of documents to be obtained from the American Consulate General at Tokyo.

Certain Counter-Intelligence Corps reports of the Army in our possession and a defense motion recently interposed by counsel for the defendant

December 2, 1948.

mentioned certain radio scripts allegedly taken by Colonel Robert Hardy, Counter-Intelligence Corps, United States Army, from defendant and/or her husband at Yokohama on October 17, 1945. Every effort should be made to locate the radio scripts of defendant's broadcasts just mentioned.

In motions for discovery and inspection and for a bill of particulars interposed by counsel for the defense in the criminal proceedings now pending here, mention is made of certain scripts of defendant's radio broadcasts obtained by one Lieut. Kadeson on or about October 1, 1945. Said defense motions, which are supported by an affidavit, mention that said scripts may have been obtained by one Lieut. Vaughn Paul at a time a certain sound track film was made during October, 1945, after the war, depicting defendant's activities as a radio broadcaster for Japan during the late war.

In cooperation with officers of the Department of the Army, it is suggested that it would be well for Special Agent Tillman to make a search of the records, reports, documents and files of the Counter-Intelligence Corps, particularly at Yokohama and Tokyo, in an endeavor to locate copies of scripts and recordings of defendant's radio broadcasts. If any additional scripts of defendant's broadcasts are located in the Orient, every effort should be made to identify them by some individual or party as having been written or voiced by defendant, so that the same will be admissible in evidence at the trial on the merits.

Certain statements during 1945 and 1946 were obtained from defendant by officers and enlisted men and Special Agents of the Counter-Intelligence Corps, United States Army. During some of these times, defendant was in custody, and at other times she was not in custody. All pertinent information with reference to the circumstances under which said statements were obtained, together with the identity of the parties obtaining the same, should be developed, and it should likewise be ascertained whether or not any scripts voiced, prepared or broadcast by defendant over the radio were exhibited to her or identified by and admitted by her to be her product in any manner at such times. If such an investigational lead becomes fruitful, it should be ascertained whether or not the admissions obtained from defendant in that regard were made when defendant was at large or in custody of the Army.

It may be that defendant will subsequently interpose a motion to suppress on the ground that the copies of certain of her radio broadcast scripts which are presently within the possession of the Department of Justice were obtained from her home in Tokyo in the fall of 1945 without her consent, and if in her absence, without her husband's consent, and allegedly in violation of her constitutional rights as an United States citizen under the Fourth and Fifth Amendments to the Constitution of the United States. To combat such a motion, it will be necessary for the Department of Justice to have available either in affidavit form or by way of personal testimony, the evidence of the witnesses who

December 2, 1948.

participated in the obtainment of said documents by search and seizure, and the evidence concerning the surrounding facts and circumstances incident thereto. In connection therewith, it would be invaluable if Special Agent Tillman were able to locate an attorney in SCAP of field grade who was familiar with the law, procedure and practice concerning the rules of arrest, search and seizure, and who was familiar generally with the legal features, practices and principles of military law governing the rights of the United States as an occupying belligerent over Japanese occupied territory in the fall of 1945. An army attorney of such caliber was located and utilized to great advantage as an expert witness for and on behalf of the United States on identical questions of military law involving search, seizure, arrest and the law of military government in occupied territory in a treason prosecution recently successfully concluded in the United States District Court for the District of Massachusetts. (United States v. Robert H. Best.)

An effort should be made to determine whether the legal section of SCAP has any information or documents in connection with the subject matter of this request for investigation in substance that is not in the possession of the Counter-Intelligence Corps, Department of the Army. It should be determined whether the Criminal Investigation Division, Provost Marshal General's Office, Department of the Army, in the Orient has any information or documents on file concerning the subject matter and information contained generally in this request for investigation, and more particularly whether the Criminal Investigation Division, Provost Marshal General's Office, has any information bearing on the search and seizure problems hereinbefore mentioned, either evidentiary or otherwise, or the results of said search and/or seizure, if any.

It is suggested that it would be well for Special Agent Tillman to consider an interview with the following officials and employees of the Broadcasting Corporation of Japan, with the view of obtaining information on defendant, and also with the idea of obtaining pertinent evidence and information with regard to the operation of Radio Tokyo insofar as material and pertinent to the activities of defendant as a broadcaster, as complained of by the grand jurors in the indictment herein:

H. Shinomura
Isamu Yamazaki
Shinichi Oshidari
Yoneho "Toots" Matsumaga
Hodge Watanabe
Jan Mitsu - Domei News
Ed Kuroishi
Dave Huga
Kazumasa Uno

Yoshio Mito
Shinnojo Sawada
Hisashi Moriyama
Charles Yoshii
Count Ikeda
"Jin" Nakabayashi
Joe T. Hirakawa
Roy Ozaki

December 2, 1948.

Should Agent Tillman's investigation in the Orient develop the identity of any other individuals in a category similar to those above listed, it would appear well for said agent to likewise explore the possibility of obtaining additional evidentiary material in an interview with said unnamed persons, with a view toward negating defendant's contention that she was acting under duress and coercion, and with the additional idea in mind of developing evidence of defendant's alleged treasonous intent and the facts and circumstances surrounding the broadcasting activities of defendant.

It is distinctly understood that the above request for investigation should not be considered in any manner as limiting Special Agent Tillman in the scope of his investigational activity on his prospective trip to the Orient on this case. It is desirable to have Agent Tillman conduct such other and additional investigation in this matter as becomes apparent and necessary to him from time to time on the basis of any, all and additional information secured by him during the course of his official investigational activity in connection with Bureau compliance with this request.

Please rest assured that the Bureau's cooperation in connection with all past and prospective investigational work in connection with this case is greatly appreciated.

Respectfully,

FRANK J. HENNESSY
United States Attorney

Letter from Frank J. Hennessy, U.S. Attorney for the
Northern District of California, to Harry M. Kimball,
Special Agent in Charge, Federal Bureau of Investigation,
San Francisco

January 18, 1949.

Harry M. Kimball, Esq.,
Special Agent in Charge,
Federal Bureau of Investigation,
Federal Office Building,
San Francisco, California.

Re: United States v. Iva Toguri D'Aquino.

My dear Mr. Kimball:

Reference is made to the above entitled treason prosecution presently pending in this jurisdiction.

All preliminary pre-trial motions interposed by defendant have been denied, a plea of not guilty has been entered by defendant, and the trial of this cause on its merits before Chief Federal Judge Roche and a petit jury is scheduled to commence 16 May, 1949. Special Agent Tillman of the Los Angeles Field Division is presently in the Orient in connection with the prospective development of certain facts in this and companion litigation. The Bureau has to date done considerable work in this and prospective sequel Federal criminal capital litigation which has been of invaluable assistance to the government. The investigative activity of Special Agents John Eldon Dunn of the San Francisco Field Division, and Frederick Tillman of the Los Angeles Field Division of the Bureau, has proved of invaluable assistance to this office and the Department in connection with the development of the case. Some investigational leads remain to be followed up by the Bureau in this case, and the same will be hereinafter listed.

Title 18 U.S.C. Revised Sec. 2432 provides that the government shall furnish to the defendant three days prior to trial, among other things, a list of the witnesses to be produced at the trial, with the place of abode of each witness. The place of abode mentioned in the statute above referred to means the home or residence of the witness in question. When the witnesses hereinafter mentioned are interviewed by the Bureau, it is requested that information as to their last place of abode be obtained, so that statutory compliance with the above quoted congressional enactment may be had.

The following named persons are for the most part ex-servicemen presently resident in the United States, but a few of the persons whose names are listed in this paragraph were employees of government contractors who were employed in the Southwest Pacific during the time that defendant's broadcasts were made. Defendant was broadcasting to American troops in the Southwest Pacific for the Japanese "Zero Hour" program over Radio Tokyo from November, 1943, until August, 1945. The persons whose names are listed in

January 18, 1949.

this paragraph allegedly heard her broadcasts, and may be able to recognize her voice. They are all referred to in Bureau reports written in different Field Divisions, and the date of the report on which the witness was interviewed, together with the name of the agent who interviewed the prospective witness, and the name of the town in which the agent wrote his report, are hereinafter given opposite the name of the prospective witness who is listed. The prospective witnesses listed in this paragraph should be interviewed or re-interviewed by the Bureau for the purpose of determining whether or no they are able to recognize the defendant's voice. A recording of one of defendant's broadcasts should be played back to the persons who are named in this paragraph for the purpose of determining whether or not said person is positive in his or her identification of defendant's voice. If said person is able to positively effect identification of defendant's voice, then the interviewing agent should interrogate the prospective witness with reference to that witness' best recollection as to the substance of what defendant said on the various broadcasts of defendant which were heard by said prospective witness. The suggested procedure just outlined will enable the government trial attorneys to select and call the witnesses whose personal attendance is desired on behalf of the United States at the trial on the merits. The names of the parties mentioned in this paragraph are hereby listed as follows:

<u>Witness</u>	<u>Date of Report</u>	<u>Agent</u>	<u>Town</u>
Richard Kinsella	8-31-48; p. 4	McShane	New York
Jules I. Sutter, Jr.	6-12-48; p. 11 9-1-48 p. 2	Orton Hottel	Los Angeles Washington, D. C.
William Halbert Thompson	8-6-48	Joe Rice	San Diego
Grover Quentin Waldrop	7-28-48	Cassidy	Los Angeles
Gilbert Valasquez	6-12-48	Orton	Los Angeles
Sgt. Charles H. Hall	6-12-48	Orton	Los Angeles
Beach Keller	3-20-48	Mackenzie	Charlotte, N. C.
Earl McDevitt	3-20-48	Mackenzie	Charlotte, N. C.
John O. Haren	3-20-48	Mackenzie	Charlotte, N. C.
Howard Allen Sines	3-20-48	Letter S.A.C. Seattle to Director.	
Myron E. Whiting	3-12-48	Attebery	Denver.
Henry Wagner	3-20-48	McGeary	Denver

January 18, 1949.

<u>Witness</u>	<u>Date of Report</u>	<u>Agent</u>	<u>Town</u>
Eugene Haas	2-3-48; p. 12	Genco	New York
Leo Reed	2-3-48; p. 12	Genco	New York
Warren J. Kelley	2-3-48; p. 14	Genco	New York
Scott Polk	1-22-48	Letter to A.A.G. Quinn from Director.	
David I. Gilmore (Special Employee, FBI, Honolulu)	1-9-48	Memo Director Hoover to A.A.G. Quinn.	
Charles Boyer (Kenmore, New York)	1-9-48	Letter Director Hoover to A.A.G. Quinn.	
George A. Kent (Charleston, W. Va.)	1-9-48	Memo Director Hoover to A.A.G. Quinn	
Walter E. Clements (Washington, D. C.)	1-5-48	Memo Director Hoover to A.A.G. Quinn	
John Robert Brown (Kansas City)	1-5-48	Memo Director Hoover to A.A.G. Quinn	
John Gillen Lyon (Ravenna, Ohio)	1-5-48	Memo Director Hoover to A.A.G. Quinn	
Ronald F. Hawthorne	12-15-47	O'Neill	Pittsburgh
Felix Chavez (Albuquerque, N.M.)	12-24-47	Memo Director Hoover to A.A.G. Quinn	
Robert Wallace Cramlet (232 So. Greenwood, Palatine, Ill.)	12-24-47 p. 3.	Memo Director Hoover to A.A.G. Quinn	
Paul Bauman (Arlington, Va.)	12-24-47	Memo Director Hoover to A.A.G. Quinn	
Harry Gillingham (Los Angeles)	12-11-47. p. 2.	Letter S.A.C. Los Angeles to Director Hoover.	

<u>Witness</u>	<u>Date of Report</u>	<u>Agent</u>	<u>Town</u>
Sam Cavnar (Los Angeles)	12-11-47	Letter S.A.C. Los Angeles to Director Hoover	
Marshall Hout (Los Angeles)	12-11-47	Letter S.A.C. Los Angeles to Director Hoover	
Capt. R. B. Nickerson (Merchant Mariner)	7-22-46	Farrin	San Francisco
Col. John T. Seldon	1-23-46	Wilson	San Diego
Al Dopkin	1-30-46	Dannevik	Kansas City
Ted Sherdeman	2-1-46	Roberts	Los Angeles
Yates McDaniel	1-12-46	Bright	San Francisco
Robert F. Hartman	12-29-45	Roberts	Los Angeles

WILLIAM PORTER mentioned in Agent Genco's report written at New York under date of 7-30-48, heard defendant's broadcasts when in the Southwest Pacific. When re-interviewed, it should be definitely ascertained whether or not Porter is able to identify defendant's voice. A recording of one of defendant's known broadcasts should be played back to Porter for the purpose mentioned. Prospective witness Porter apparently made entries of certain of defendant's remarks in a diary. It would be well for the Bureau to obtain the diary mentioned after Porter is interviewed. If Porter is selected as a trial witness, the diary can be used by the prosecution to good advantage for the purpose of refreshing Porter's recollection, if any. The contents of the diary when obtained should be noted and the diary forwarded to the San Francisco Field Division of the Bureau.

RICHARD L. HENSCHER is referred to in the report of Special Agent Genco at New York under date of 3-24-48. Apparently Henschel was an army photographer who saw defendant after the war when she was interviewed by the army and representatives of the press. On Henschel's re-interview, it should be ascertained whether or not defendant was in custody at the time she was interviewed when witness was present. Henschel's best recollection in substance of the statements made by

January 18, 1949

defendant at the time in question should be developed. It appears from the Bureau reports concerning interviews with this witness that defendant probably gave said witness copies of scripts of her radio broadcasts. An effort should be made to locate same, and after Henschel has been interrogated with reference to how said scripts may be identified from an evidentiary standpoint as the product of the defendant, the same should be forwarded to the San Francisco Field Division of the Bureau. Henschel also heard defendant broadcast. A recording of one of defendant's known broadcasts should be played back to Henschel for the purpose of determining whether or not he is capable of positively effecting a voice identification. He should also be questioned with reference to his best recollection as to the substance and context of the broadcasts which he heard voiced by defendant. It is believed that it would be well for the Bureau to obtain a signed statement from this prospective witness.

WILLIAM JUNIOR PERRY is mentioned in the report of Agent Hunt written at St. Louis under date of 3-12-48, and likewise in the report of Special Agent McGarry written at Denver under date of 12-16-47. This witness was an American citizen who was a prisoner of war of the Japanese, and apparently saw defendant broadcast. He should be re-interviewed with reference to his best recollection as to the substance and context of what defendant said when he saw her before the microphone. He is able to identify a picture of the defendant. It has been previously reported by the Bureau that defendant sought to have this witness speak over the microphone over Radio Tokyo and say that American prisoners of war were treated kindly. It is requested that this witness be thoroughly re-interviewed, and it is believed that it would be well if a signed statement were obtained from him concerning the facts and circumstances discussed in this paragraph. It may well be that he will prove to be a material witness for and on behalf of the United States at the trial on the merits herein before the United States Court and a petit jury here.

PAUL HORGAN is mentioned in the report of Special Agent Parker written at Knoxville under date of 2-21-48. Horgan was a former agent of the army's Counter-Intelligence Corps. He apparently was present when defendant was interviewed after the fall of Japan and when she re-enacted one of her broadcasts. He should be re-interviewed and interrogated with reference to the substance and context of the radio broadcast script which defendant voiced after the war in his presence. He should likewise be interrogated as to what defendant said in substance, according to his best recollection, in his presence when she was being interviewed by Horgan or others. It is believed that Horgan is presently a Special Agent with the Bureau on duty at some field division office.

CHARLES HETRICK is mentioned in the report of Special Agent Parker of Knoxville written under date of 2-21-48. Hetrick is a former agent of the Counter-Intelligence Corps of the army. In that capacity he interviewed defendant at least twenty times. His home address is reported as Elm Creek, Nebraska. He

January 18, 1949

should be located by the Bureau and his last known place of abode should be furnished the San Francisco Field Division. Hetrick will undoubtedly be required as a government witness at the trial on the merits, but it is not necessary at this juncture for the interviewing agent to notify Hetrick of that fact.

AMERICAN VICE CONSUL MANN is mentioned at page 6 of the summary report written by Special Agent Orton at Los Angeles on 1-23-48. It appears that Consul Mann was told by defendant in 1941 that she was an American and not a dual national. Inasmuch as defendant's allegiance to the United States will be one of the contested points in this Federal criminal capital litigation, it is requested that Vice Consul Mann be located and interrogated with reference to the substance of the conversation which transpired between himself and defendant in 1941 concerning her nationality status.

JAMES J. KEENEY mentioned on page 57 of the summary report of Special Agent Orton at Los Angeles under date of 1-23-48, was a former representative of the American army magazine "YANK". Along with one Dale Kramer, subject was present when defendant was interviewed after the fall of Japan. He should be closely interrogated and re-interviewed with reference to the exact admissions in substance which defendant made in his presence when she was interviewed by witness and Kramer in the fall of 1945. It would be well if a signed statement were obtained from Keeney. It is believed that he will be an important government witness at the trial on the merits.

DALE KRAMER, mentioned on page 57 of the summary report of Special Agent Orton at Los Angeles under date of 1-23-48, was a former army representative of the American military service magazine "YANK". With one James J. Keeney, witness interviewed defendant after the fall of Japan in 1945. Kramer should be re-interrogated and information developed as to whether or not defendant was in custody, protective or otherwise, at the time of the interview. The substance of the interview in detail, according to the best recollection of witness, should be developed. It is believed that witness Kramer has in his possession some notes concerning his interview with defendant which he made at the time of the same. A signed statement should be obtained from this prospective witness, as he may undoubtedly be called as a trial government witness at the time of the trial on the merits herein. Any notes in his possession should, if possible, be obtained and forwarded to the San Francisco Field Division so that they will be preserved.

Lieut. VAUGHN PAUL is mentioned in the summary report of Special Agent Orton written at Los Angeles under date of 1-23-48. Paul was a naval officer and commentator in charge of a sound program when defendant re-enacted some of her broadcasts for American authorities subsequent to the fall of the Japanese Empire. He should be re-interviewed as to the surrounding facts and circumstances concerning defendant's re-enactment of her broadcasting activities at the time under investigational scrutiny. The names of the persons present

January 18, 1949.

should be developed and information obtained as to whether or no defendant, at the time, was in custody, either military or protective, or otherwise. It is alleged that at the time of said interview, when defendant resumed her previous broadcasting program, that certain admissions were made by her. The substance of said admissions should be elicited from Paul in accordance with his best recollection of the same. It appears that working under Paul at the time was a naval sound crew which worked from the U.S.S. MITCHELL, which was designated in naval parlance as "Sound Crew No. 26 U.S.S. Mitchell". The naval enlisted personnel comprising said sound crew were as follows: (1) Cameramen Thomas; (2) Sound man Cragney; (3) Microphone man Hunter. If the sound film made under the direction of Lieut. Paul is available in the Bureau, it becomes obvious that Lieut. Paul and the personnel of his sound crew as above listed should be located, and their present places of abode made known, so that they may be subpoenaed as witnesses on behalf of the government at the trial on the merits, if it is decided to offer the sound film in question in evidence. The naval personnel mentioned in this paragraph, including Lieut. Paul, should be interviewed with reference to their best recollection as to the substance of the remarks made by defendant at the time under investigational scrutiny. It likewise appears from the report of Special Agent Roberts written at Los Angeles under date of 2-1-46, that Lieut. Vaughn Paul heard defendant's broadcasts in the Southwest Pacific and is able to identify her voice. It would appear that it would be distinctly advantageous to the government if a known recording of defendant's broadcasts were played back to Lieut. Paul for the purpose of determining whether or not he is able to effect a positive voice identification.

J. T. REITZ was a Captain in the Army 308th Counter-Intelligence Corps Detachment. In 1945 he was instrumental in obtaining from defendant's husband copies of certain scripts of her radio broadcasts. Reitz should be immediately located and interviewed concerning the facts and circumstances surrounding the obtainment of the scripts in question. It is probable that a motion will be interposed by defendant to suppress the scripts aforementioned on the ground that the same were obtained by an illegal search and seizure in violation of defendant's rights under the Fourth and Fifth Amendments to the Constitution of the United States. It, therefore, appears necessary that witness Reitz be interviewed with reference to the facts and circumstances concerning his obtainment of said scripts, and particularly with reference to whether or not the same were voluntarily turned over to him by defendant's husband; where said scripts were obtained and at what time; how the same were identified to witness Reitz as being the product of defendant; under what authority he seized the same if said scripts were not voluntarily turned over to him; and whether defendant was in custody, protective or otherwise, at the time witness Reitz obtained said scripts. Information should likewise be developed as to whether or no any process, military or legal, was used by Captain Reitz at the time he came into possession of copies of the scripts just discussed. It is believed that it would be advantageous to have a signed statement executed by this witness.

January 18, 1949.

BEN F. CHATFIELD is mentioned in the report of Special Agent Hereford written at Atlanta under date of 1-27-48. It appears that Chatfield heard some of defendant's broadcasts. He should be re-interviewed and a known recording of defendant's voice should be re-played to him for the purpose of determining whether or no Chatfield is able to effect a positive voice identification. He should likewise be interrogated with reference to his best recollection as to the substance of the remarks which he heard defendant make on the various broadcasts of defendant which he heard. It appears likewise that Chatfield was present when witness Dale Kramer of "Yank" magazine, which witness is heretofore mentioned in this letter, interviewed defendant subsequent to the fall of Japan. Witness Chatfield should be interrogated with reference to his best recollection as to what defendant said at the time she was interrogated by Kramer. Inasmuch as this witness is of considerable importance, it is believed that it would be well for the Bureau to obtain a signed statement from him on his re-interview. Information should likewise be developed from Chatfield as to whether or not defendant was in custody, protective or otherwise, at the time of the occurrence of the interview which he witnessed.

CHARLES W. DOWNS is mentioned in a memorandum from Director Hoover to Assistant Attorney General Quinn under date of 1-15-48. It appears that Downs interviewed defendant as an army representative after the fall of Japan. It appears likewise that Downs has stated that he may be in a position to furnish additional scripts of defendant's broadcasts which were given to him by her. An effort should be made to obtain the original scripts referred to, although it is believed that some photostats of the same are presently in the possession of the Bureau. It will be necessary for the government to have possession of the original scripts so that they can, as a matter of law, be said to be properly identified and legally admissible as evidence at the trial. Witness Downs should likewise be interrogated with reference to his best recollection as to the subject of defendant's statements at the time she was interviewed in his presence. It is believed that it would be well to have this witness execute a signed statement. The interviewing agent should likewise interrogate witness Downs as to whether or not defendant was in custody at the time of the interview of defendant in Downs' presence, and if the answer is in the affirmative, information should be obtained as to the type of custody referred to.

One JOHN RICHARD EISENHART is mentioned in the report of Special Agent Harkins written at Buffalo, New York, under date of 12-20-47. Eisenhart was an army guard in one of the prisons in Japan in which defendant was held in custody after the war. For a period of time he apparently stood guard over defendant. She gave him a yen note which was personally autographed by her in her own handwriting and added thereto defendant wrote the appellation "Tokyo Rose". The last known place of abode of Eisenhart should be obtained. He will undoubtedly be called as a government witness at the trial on the merits for the purpose of identifying defendant's signature. It is believed that it would be well when Eisenhart is re-interviewed, for the interviewing agent to obtain

January 18, 1949

from him a signed statement concerning the facts and circumstances surrounding the obtainment of the autographed yen note. It is believed that the original yen note should be forwarded to the San Francisco Field Division of the Bureau.

WILLIAM E. FENIMORE, Special Employee of the Bureau at St. Louis, is mentioned in a memorandum from Director Hoover to Assistant Attorney General Quinn under date of 1-2-48. It appears that Fenimore was a former agent of the army's Counter-Intelligence Corps, and as such interviewed defendant subsequent to the termination of actual hostilities in the Orient between United States and Japan. On re-interview, Special Employee Fenimore should be questioned with reference to the circumstances under which he interviewed defendant, and whether or not she was in custody at the time. A signed statement should be obtained from Fenimore recalling, according to the best of his recollection, what statements defendant made in substance at the time of the interview under investigational scrutiny.

CAPTAIN EDWIN KALBFLEISCH, Washington, D. C., is mentioned in a memorandum from Director Hoover to former Assistant Attorney General Quinn under date of 12-24-47. In said memorandum, Captain Kalbfleisch makes reference to a film shown to American prisoners of war in Japan, in which film defendant appeared. It is believed that an effort should be made by the Bureau to obtain the film in question, and if it develops that the same is unobtainable, it may be that Captain Kalbfleisch can testify as to his best recollection concerning the substance of the remarks made by defendant at the time her sound film was shown to American prisoners of war as aforesaid. In any event, it is believed that some distinct advantage would accrue to the government if a further interview with Captain Kalbfleisch were pursued looking toward the end of obtaining from him his best recollection as to what defendant said at the time the sound film in question was voiced to American prisoners of war.

The Service Unit files of the Criminal Division, Department of Justice, Washington, reflect that one MRS. THOMAS R. LEE, 1155 Winston Avenue, San Marino, California, wrote to the Department and stated that she had heard defendant broadcast nightly during the war. It is believed that it would be well if Mrs. Lee were interviewed, and a known recording of defendant's voice played back to her for the purpose of determining whether or not she is capable of effecting a positive voice identification. If Mrs. Lee is able to identify defendant's voice, she should be interrogated with reference to her best recollection as to the context and substance of what defendant said over the air during the period under investigation.

M/Sgt. ELWIN BISHOP is mentioned in the memorandum from Director Hoover to former Assistant Attorney General Quinn under date of 12-13-47. It

January 18, 1949

appears that at one time Sgt. Bishop, as an amateur, made three recordings of defendant's broadcasts. It is suggested that it would be well if investigative information were developed by the Bureau as to whether or not Sgt. Bishop is still in possession of the records in question, and if so, whether or not they are recordings of defendant's broadcasts. A known recording of defendant's voice should be played back to the sergeant for the purpose of ascertaining whether or not he is able to identify the voice therein as the same he heard when on duty in the Southwest Pacific. If the sergeant is able to recall defendant's broadcasts, he should be interviewed with reference to his best recollection as to the context and substance of what she said over the air.

JOHN L. HARRIS, with the Federal Communications Commission at Honolulu, is mentioned in the memorandum of Director Hoover to former Assistant Attorney General Quinn dated 12-13-47. It appears that Harris may have monitored some of defendant's broadcasts when he was stationed at Honolulu. He should be interviewed with reference to his ability to effect a positive voice identification of defendant's broadcasts, and in this particular it would appear well if one of defendant's known recordings were played back to Harris. He likewise should be interviewed with reference to his best recollection as to the context and substance of what defendant said in her broadcasts which he heard, if any.

LOWELL WAYNE HOUK of 432 Bowen Street, Longmont, Colorado, is mentioned in the report of Special Agent Roberts of Los Angeles, dated 7-1-46. It appears that witness Houk heard one of defendant's broadcasts concerning the loss of American ships. It will be noted that the broadcasts in question are the subject matter of overt acts 5 and 6 in the indictment which deal with the loss of American ships in the battle of the Leyte Gulf. A known recording of defendant's voice should be played back to witness Houk for the purpose of enabling him to effect a positive voice identification of defendant. If witness Houk is able to effect a positive voice identification, he should be interrogated with reference to his best recollection as to the substance of what defendant said in the broadcasts voiced by her which he heard, if any. Should it develop that said witness is capable of effecting a positive voice identification, it is believed that it would be well to obtain a signed statement from him.

NORRIS FLOYD REMMERD is mentioned in the report of Special Agent Roberts written at Los Angeles under date of 7-1-46. Remmerd is presently resident at Petersburg, Nebraska. Information obtained by the Bureau discloses that this witness may have heard broadcasts voiced by defendant concerning the loss of American ships in the Battle of Leyte Gulf. It will be recalled that said battle and the alleged resultant loss of American ships are the subject matter of overt acts 5 and 6 laid in the indictment. Oriental witnesses George

January 18, 1949.

Mitsushio and Kenkichi Oki are expected to testify at the trial on the merits as to the commission of the overt acts in question. Prospective witness Remmeroid should listen to a known recording of defendant's voice for the purpose of determining whether or not he is capable of effecting a positive voice identification. If he positively identifies defendant's voice on the recording played back to him, he should be closely interrogated with reference to his best recollection as to the substance of the statements he heard defendant make on various broadcasts over the air, if any. If it appears that this witness is capable of identifying defendant's voice, it is believed that it would be well for the interviewing agent to obtain a signed statement from said witness.

DONALD M. WENNER is mentioned in the report of Special Agent Roberts at Los Angeles under date of 7-1-46. Wenner resides at Alhambra, California. It appears that he may have heard defendant broadcast concerning the alleged loss of American ships in the battle of Leyte Gulf in October, 1944. Overt acts 5 and 6 laid in the indictment concern defendant's broadcasts involving the alleged loss of American ships in the battle of Leyte Gulf. Oriental witnesses George Mitsushio and Kenkichi Oki are expected to testify as to the commission of said overt acts. A known recording of defendant's voice should be played back to witness Wenner for the purpose of determining whether or not he is capable of effecting a positive voice identification. If it develops that Wenner is able to identify defendant's voice, he should be closely interrogated with reference to his best recollection as to the substance of any remarks he heard defendant voice over the air during the period mentioned in the indictment. If it develops that subject is capable of positively identifying defendant's voice as the one he heard over the air, it is believed that it would be well if the interviewing agent would obtain a signed statement from him.

One Yuri Sugimura is mentioned in the report of Special Agent Roberts at Los Angeles under date of 7-1-46. Sugimura is a former F.B.I.S. employee who is supposed to have monitored defendant's broadcasts in the Pacific Ocean area during the late war. He should be located by the Bureau, and when interviewed information should be developed from him as to whether or not he is capable of effecting a positive identification of defendant's voice. For the purpose aforementioned, it is believed that it would be well if a known recording of defendant's voice were played back to Sugimura. He should likewise be questioned with reference to his best recollection as to the substance of any remarks which he heard defendant broadcast over the air.

FRANK E. HAHN is mentioned in the report of Special Agent Genco at New York dated 9-27-48. It appears that this witness, as a prisoner of war, made an original waxed recording with defendant. An effort should be made to determine the present location of said original waxed recording, and if the same is located, it should be forwarded to the San Francisco Field Division. Hahn should be closely interviewed concerning the facts and circumstances surrounding the making of said

January 18, 1949

recording, and information should be elicited from him as to the substance of the statements, according to his best recollection, which defendant made at the time, including defendant's statements made on said waxed recording and otherwise. It is believed that it would be distinctly advantageous to the government if a signed statement were to be obtained by the interviewing agent from this witness.

WILLIAM E. HOCKEY is mentioned in the report of Special Agent Seaton at San Francisco under date of 4-1-46. It appears that this witness may have some recordings which he made when he monitored defendant's broadcasts. It would be well if this investigational lead were run down as soon as possible. A known recording of defendant's voice should be played back to witness Hockey, and he should be interrogated as to whether or not he is able to effect a positive identification of defendant's voice. If Hockey is able to identify defendant's voice as one of the broadcasts which he heard during the war, he should be closely interrogated as to his best recollection as to the substance and context of the remarks made by defendant over the air during the period of time he heard her.

BETTY HASHII is mentioned in the report of Special Agent Johnstone at Denver under date of 2-6-46. Prior to embarkation for Japan in 1941, defendant is supposed to have told this witness that she, defendant, was going to Japan for the purpose of studying medicine, and that her uncles were in medical circles in Japan and would furnish impetus to her prospective medical career there. This witness should be interrogated and a signed statement obtained from her containing, to the best of her recollection, the substance of her talks with defendant about this matter.

DOROTHY WEBLEY, a former college associate of defendant, is mentioned in the report of Special Agent Roberts at Los Angeles under date of 11-23-45. It appears that this witness has stated that defendant was an isolationist and evinced considerable antagonism toward our late President Franklin D. Roosevelt. This witness should be questioned with regard to any statements which defendant made concerning the involvement of the United States in a war with Japan, the possible causes thereof, and the responsibility therefor. It is believed that it would be well to obtain a signed statement from this witness.

DR. CLAIR STAGGALL, a former associate and/or one of defendant's professors at the University of California, Los Angeles Branch, is mentioned in the report of Special Agent Roberts at Los Angeles, dated 11-23-45. Defendant, prior to leaving for Japan in 1941, is supposed to have told Dr. Staggall that her sole purpose for proceeding to Japan was to matriculate at a medical school there. Dr. Staggall should be thoroughly re-interviewed concerning his conversation with defendant on this matter, and, if possible, a signed statement should be obtained from him. To date, when interviewed by representatives of the Bureau and the army's Counter-Intelligence Corps, defendant has steadfastly maintained that she proceeded to Japan in July of 1941 for a temporary visit

January 18, 1949

only and for the sole purpose of visiting her aunt who allegedly was then seriously indisposed.

MRS. MOLLIE V. MAUK, a former Los Angeles neighbor of defendant, is mentioned in the report of Special Agent Roberts at Los Angeles, dated 11-23-45. Mrs. Mauk has stated that defendant told her in 1941 that she, defendant, was going to Japan for the sole purpose of studying medicine there. The substance of said conversation between Mrs. Mauk and defendant, insofar as witness Mauk is able to recall the same, should be developed. It would be well if the Bureau were able to obtain a signed statement from Mrs. Mauk.

The necessity and importance of obtaining information as to the place of abode of each of the prospective witnesses referred to in this letter within the purview of Title 18 U.S.C. Revised Section 3432 is again stressed.

Please rest assured that the Bureau's cooperation in this case is greatly appreciated.

Respectfully,

FRANK J. HENNESSY
United States Attorney.

Letter from Wayne Collins, attorney for the defense, to Tom
DeWolfe, Special Assistant to the Attorney General.

February 16, 1949

Tom DeWolfe, Esq.
Special Assistant to the Attorney General
Department of Justice Building
Washington 25, D. C.

Dear Mr. DeWolfe:

In re: U.S. vs. d'Aquino
No. 31712-R

I have applied to the Joint Chiefs of Staff, U.S.A., Pentagon Building, Washington, D. C., and to SCAP at Tokyo, for military permits for Theodore Tamba, Esq., attorney, associated with me, and Tetsujiro Nakamura, investigator and interpreter from my office, to visit Japan for me for the purpose of locating witnesses and obtaining statements from them, and also for the purpose of obtaining the depositions of witnesses in the event the Court denies a motion to be made by me for the production of alien witnesses in Japan and citizen witnesses in Japan at Government expense on the ground that Mrs. Iva T. d'Aquino has insufficient funds to produce such witnesses.

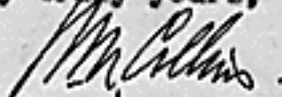
I am not entirely positive that relatives and friends of Mrs. d'Aquino will be able to raise the necessary funds for the purpose of such a trip but, laboring under the apprehension that such funds may be raised, it is my hope that Mr. Tamba and Mr. Nakamura will be permitted to go to Japan via Pan-American Airways on or about March 11, 1949. If so, shortly thereafter they should have ascertained the whereabouts of a number of witnesses and be ready to take their depositions as above mentioned. Inasmuch as the names of these witnesses are at the present time unknown to me, I would like to ascertain from you if you will agree to the taking of depositions of witnesses and by stipulation in order to save time in applying to the Court for various orders for so doing. I should also like to ascertain if you or one of your assistants could arrange to represent the Government at the taking

of such depositions to commence shortly after the middle of March.

Mr. Tamba and Mr. Nakamura have also applied to the Passport Division, Department of State, Washington, D. C., to the attention of Mrs. Shipley, Chief, Passport Division, through the San Francisco Office of the Secretary of State, for passports to be issued to them for said purpose. I am enclosing copies of my letters to SCAP and the Joint Chiefs of Staff and also copies of my letters to the Passport Division.

If there is anything that you can do to expedite the issuance of the passports and the obtaining of the military permits, I shall be grateful to you.

Very truly yours,



Duplicate original to:
Frank J. Hennessy, U.S. Attorney

Letter from Alexander M. Campbell, Assistant Attorney
General, to Frank J. Hennessy, U.S. Attorney for the
Northern District of California

146-28-1941

April 4, 1949

Frank J. Hennessy, Esquire
United States Attorney
San Francisco, California

Dear Mr. Hennessy:

Re: United States v. Iva Toguri D'Aquino -
Treason

Reference is made to the above entitled treason prosecution presently pending in your jurisdiction. The Department acknowledges receipt of and thanks you for yours of March 21, 1949 addressed to Tom DeWolfe of the Criminal Division. The subject matter of your letter refers to a routine investigation of the petit jury panel from which prospective talesmen will be selected to decide the factual issues at the trial on the merits in the case at bar.

It has been the invariable policy of the Department in treason cases of this type in the past to request the Federal Bureau of Investigation to conduct a routine investigation of the panel of prospective talesmen from which the trial jurors will be selected. The Department's experience in this type of litigation has led it to believe that some advantageous results may accrue to the Government as a result of such an investigation. It is therefore believed that it will be to the best interests of the Government at the appropriate time for this Division to request the Bureau to make an investigation of the jury panel from which petit veniremen will be selected to sit in this cause.

Please keep the Department advised as to all material developments that ensue herein.

Respectfully,

For the Attorney General

ALEXANDER M. CAMPBELL
Assistant Attorney General

Letter from Alexander M. Campbell, Assistant Attorney
General, to the Secretary of the Army, Washington, DC

AMC:TED:msv

146-28-1941

May 18, 1949

The Secretary of the Army
Department of the Army
Washington, D.C.

Sir:

Attention: Lieutenant Colonel Reginald C. Miller, JAGO

Re: United States v. Iva Toguri D'Aquino - Treason

Reference is made to the above entitled treason prosecution presently pending in the Federal Northern Judicial District of California. The trial of this cause on its merits will commence before Chief Federal Judge Michael Roche and a petit jury at San Francisco, California on July 5, 1949.

The personal attendance in San Francisco as Government witnesses of certain Japanese nationals and one Philippine national, presently resident in Japan and Manila, Philippine Islands, is vitally necessary to the proper presentation of the Government's case against defendant before the trial court and jurors as aforesaid. The prospective testimony of the Japanese nationals and the Philippine national aforesaid being material and absolutely necessary in order to insure a thorough presentation of this case to the trial court and jurors, it becomes necessary to request the personal attendance of said Japanese nationals and Philippine national in San Francisco two weeks prior to the actual commencement of the trial for purposes of proper preparation for the trial proceedings.

This Department is furnishing your Department with the last known addresses of the witnesses below listed. Where street addresses are not available, this Department has endeavored to identify the witnesses as fully as possible, in order to facilitate their location. Undoubtedly, Army Intelligence G2, General Headquarters, Tokyo, will readily be able to locate the witnesses below mentioned, whose specific addresses are presently unknown to this Department. The witnesses whose location is desired with their last known addresses, insofar as known to this Department, are listed as follows:

cc: Mr. Franke
Mr. Andretta
Mr. Hennessy ✓

KENKICHI OKI

Home: No. 140- 2 - Chome Nozawa-Cho,
Setagaya-Ku, Tokyo
Office: No. 1-2-Chome Nishi Ginza Chuo-Ku, Tokyo
c/o West Ginza Building, Tokyo

SHIGETSUGU TSUNEISHI

Home: No. 28, Kyomachi, Kochi, Japan

GEORGE MITSUSHIO (NAKAMOTO)

Home: 218 Jiyugaoka, Meguro-Ku, Tokyo Phone: 08-4201
Office: 2-2-Chome, Ote-machi, Chiyoda, - Ku
c/o Tokyo Mutual Life Insurance Co.
Phone: 23-3333

KENNETH ISHII

Office: Reuters - AAP, GHQ, PIO, APO 500
c/o Postmaster, San Francisco
California, USA
Home: 580, 2-Chome, Nakameguro, Meguroku,
Tokyo, Japan

SEIZO (DAVE) HUGA

2281, 1-Chome, Sanno Omori-Ku
Tokyo, Japan

SHINJIRO IGARASHI

478 Takinogawa-machi
Takinogawa, Tokyo, Japan

KAN MINO

c/o Tsubaki
936 Kami-Kurata
Totsuka-ku, Yokohama, Japan

KIWAMU MOMOTSUKA

28 Okada-machi, Kumamoto-shi
Tokyo, Japan

MOTOMU NII

260 Wakabayashi
Setagaya-ku
Tokyo, Japan

YUKIO IKEDA

Office: Broadcasting Corporation of Japan
No. 2-2 Chome Uchisaiwai-Cho Chiyoda-Ku, Tokyo
Home: No. 241-1 Chome Asanuma Suginami-Ku, Tokyo

SHIGERU OKAMOTO

Telecommunications Bureau
Ministry of Communications
2- Nagato-cho, Chuo-ku, Tokyo, Japan

YOSHITOSHI TANABE

817 Daita 2, Setagaya, Tokyo, Japan

BENJAMIN OBIAS

Manila Times, Manila, Philippine Islands

EDWARD YOSHIO KUROISHI

Radio Tokyo

SUGIYAMA HARRIS

316, Ofuna, Kanagawa-ken, Japan

HISASHI MORIYAMA

c/o New Pacific Band
Tokyo, Japan

SATOSHI NAKAMURA

2690 Kotake-Cho, Nerima-ku
Tokyo, Japan

SHINICHI OSHIDARI

864 4 Chome
Shimo-meguro, Meguro-ku
Tokyo, Japan

ISAMU YAMAZAKI

383, 2 Chome, Koenji, Suginami-ku
Tokyo, Japan

HIROSHI NIINO

585 Kamikurada-cho
Tosuka-ku
Yokohama, Japan

It would be appreciated if proper orders would be issued by your Department through appropriate channels looking toward the end that the prospective Government witnesses abovementioned be immediately contacted by military personnel in Japan, and Manila, and alerted at once for their ensuing trip to San Francisco. Arrangements for the transportation of said witnesses from Japan and Manila to San Francisco should be made by the Department of the Army, and as abovementioned, it is suggested that when the orders, with reference to the subject

matter of this letter are cut, that the same take into consideration the desired arrival in the United States of said witnesses not later than June 21, 1949, at San Francisco, California.

When arrangements are effected by the Department of the Army for the transportation of said witnesses to San Francisco, it is requested that you advise this Department of the expected time and place of arrival of said witnesses in this country so that representatives of this Department will in the near future be able to formulate plans for the arrival and housing of said witnesses, during their sojourn in this country. The Department of Justice will provide for the welfare of the witnesses abovementioned on their arrival in the United States. The Department of Justice will reimburse the Department of the Army for the expenses incident to the transportation of the abovementioned witnesses from the Orient to San Francisco.

Please rest assured that your cooperation herein is greatly appreciated by this Department.

Respectfully,

For the Attorney General

ALEXANDER M. CAMPBELL
Assistant Attorney General

Letter from Wayne Collins, attorney for the defense, to
Tom DeWolfe, Special Assistant to the Attorney General,
et al.

WAYNE M. COLLINS
Attorney at Law
Mills Tower, 220 Bush Street
San Francisco 4, California

June 23, 1949

Hon. Tom De Wolfe, Special Assistant to the Attorney General,
San Francisco, California,
Hon. Tom C. Clark, Attorney General, Washington, D. C.
Hon. Frank J. Hennessy, U. S. Attorney, San Francisco, Calif.

Gentlemen:

In re: U. S. v. Iva T. d'Aquino -- No. 31712-R
U.S.D.C. San Francisco

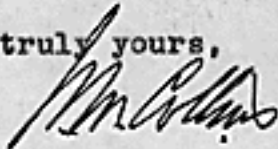
I am informed that the Department of Justice ordered some nineteen witnesses for the prosecution brought from Japan to testify at Mrs. Iva T. d'Aquino's trial. It is my understanding that, as a matter of official courtesy, they were ordered paroled without bond upon their arrival here by plane and that they are to have the freedom of the country until the trial is concluded. A majority, if not all of those prosecution witnesses, are alien enemies of the United States.

Several former Allied soldiers have volunteered to come from Australia to testify for the defense. Advice reaches me that it has been decided not to extend them a like courtesy and that bonds must be posted to enable them to gain admission to this country to testify for the defendant.

No objection is raised to the admission of the prosecution's alien enemy Japanese witnesses without bond. I do protest, however, that to deny former Australian soldiers who are our Allies the right to enter this country to testify for the defendant unless bonds be posted for them is a flagrant discourtesy to them and is an arbitrary discrimination against Mrs. d'Aquino who is penniless.

In consequence, I demand that the defense witnesses coming from abroad to testify at Mrs. d'Aquino's trial be authorized to enter the United States for that purpose without posting bonds to guarantee their admission and departure and without being annoyed by government agents and without being surrounded by government red tape.

Very truly yours,



Duplicate Original to:
Commissioner of Immigration,
Washington, D. C.
District Director, USI&NS,
San Francisco, Calif.

Letter from Frank J. Hennessy, U.S. Attorney for the
Northern District of California, to Alexander M.
Campbell, Assistant Attorney General

TED:GL

June 24, 1949.

*see Hennessy
copy*

AIR MAIL

Alexander M. Campbell, Esq.,
Assistant Attorney General,
Department of Justice,
Washington, D. C.

Sir: Re: United States vs. Iva Toguri D'Aquino,
 Your reference 146-28-1941.

Reference is made to the above entitled treason prosecution presently pending in this jurisdiction. This week several motions and subpoenas duces tecum were served upon Tom DeWolfe and myself. The motions were for production and inspection of State, War and Justice Department official records and were interposed pursuant to the applicable provisions of F.R. Crim. P. 16, 17. The motions were of an exploratory nature and were extremely broad and general.

The above motions were resisted by Mr. DeWolfe and myself and we moved to quash the subpoenas duces tecum referred to above.

After argument on the above mentioned motions on 20 and 22 June, 1949, Chief Federal Judge Roche denied defendant's motions for production and inspection of Government documents and granted the motions of Mr. DeWolfe and myself to quash the subpoenas duces tecum aforesaid. Much of the contents of the above mentioned documents, whose production was sought, was confidential and privileged.

The trial of this cause on its merits is scheduled to commence on 5 July, 1949, and it is expected that the same will go forward as scheduled.

The Department will be kept advised as to all material developments that ensue herein.

Respectfully,

Frank J. Hennessy,
United States Attorney.

Letter from Frank J. Hennessy, U.S. Attorney for the
Northern District of California, to Alexander M.
Campbell, Assistant Attorney General

AIR MAIL

15 July 1949

Alexander M. Campbell, Esq.,
Assistant Attorney General,
Criminal Division,
Department of Justice,
Washington - 25, D. C.

Dear Mr. Campbell:

Re: United States v. Iva Toguri D'Aquino - Treason
Your Reference No. 146-28-1941

Reference is made to the above entitled treason prosecution presently pending in this jurisdiction. We are just concluding the second week of the trial proceedings in this Federal criminal capital litigation. The trial is going rather slowly and, unless the tempo of the same is stepped up, it is feared that the entire proceedings might not be concluded until September.

The reason for the lengthy trial proceedings is the protracted cross-examination to which Government witnesses are being subjected by the defense. Numerous objections to the defendant's cross-examination of Government witnesses have been interposed to date on various legal grounds. For the most part, said objections have been sustained. We interpose these objections with some reluctance, due to the fact that we do not wish to give the jury the impression that the Government is consistently objecting and consequently has something to hide. On the other hand, the Court is handling the case in a very judicial and fair manner and is giving the United States all reasonable latitude in connection with the introduction of its proof.

Messrs. Hogan and Knapp are actively participating in the trial of this case. Mr. Hogan is examining some Government witnesses in open court in the Government's case in chief. It is planned to have Mr. Knapp cross-examine some of the defendant's witnesses, probably Major Cousens and Norman Reyes. It is expected that Wallace Ince, Norman Reyes, Charles Cousens, Mark Streeter, and other former prisoners of war will testify for and on behalf of the defendant.

The defense in its cross-examination to date has sought to dwell on the alleged brutal conditions under which American prisoners of war were forced to exist during the period of time covered in the indictment and in issue in this case. The Government has consistently objected to this line of testimony as being immaterial and as constituting not proper cross-examination. To a certain extent our objections against this line of testimony have been sustained. We must await, however, a later date to accurately determine what the Court's ruling will be with reference to this matter. It is obvious that the defense is seeking to shift the spotlight from defendant to conditions at the prisoner of war camps and to divert attention from the defendant. All appropriate, reasonable, and proper efforts are being made by the United States to block this strategy of the defendant. Every attempt, likewise, is being made to expedite the trial of this cause.

Mr. Hogan will be one of the Government witnesses and is shortly to take the stand. Under the ground rules in this jurisdiction any counsel for either party litigant who testifies is precluded from arguing. Consequently, if the trial becomes protracted, as is presently anticipated, it may become necessary to utilize the services of Mr. Knapp in making one of the final arguments to the jury. He is, as above stated, actually participating in the trial and likewise handling matters involving necessary legal research. Because of the facts above stated, his participation in the trial of this case will give him first-hand knowledge concerning the surrounding facts and circumstances on the assignment on which he has been sent here by the Department. His participation in the trial of this case will be of material advantage and assistance to him in connection with the specific assignment on which he was dispatched here by the Department.

Please rest assured that the Department will be kept advised as to all material developments that ensue herein.

Respectfully,

Frank J. Hennessy
United States Attorney

TED:hs

July 22, 1949

Miss Salomon

Alexander M. Campbell, Esq.
Assistant Attorney General
Department of Justice
Washington, D. C.

Re: United States v. Iva Toguri D'Aquino
Your Ref.: 146-28-1941

Dear Mr. Campbell:

Reference is made to the above entitled treason prosecution presently pending in this district. We are now concluding the third week of the trial proceedings. The case promises to be an extended and protracted one and may not culminate until September. This past week the two main witnesses for and on behalf of the United States were on the witness stand in an endeavor to prove the overt acts laid in the indictment. The trial court has allowed several days cross examination on each of said witnesses over the objection of the United States. However, as heretofore stated, the Federal Judge presiding is allowing the United States every reasonable latitude in connection with the introduction of its proof to substantiate the material allegations in the indictment. Every effort will be made by the Government to expedite the trial of this case looking toward the end that no unreasonable delays in the trial proceedings ensue.

James W. Knapp from the Department is actively participating in the trial proceedings and is rendering invaluable assistance concerning matters involving required and necessary legal research.

It is thought that at this juncture that the United States has made out a prima facie case sufficient to withstand a motion for judgment of acquittal. Of course, what the result of this protracted federal criminal capital litigation will be cannot be foretold.

The Department will be kept advised as to all material developments that ensue herein.

Respectfully,

Frank J. Hennessy
United States Attorney

TED:aab

AIR MAIL

12 August 1949

Alexander M. Campbell, Esq.,
Assistant Attorney General,
Department of Justice,
Washington 25, D.C.

Dear Mr. Campbell:

Re: United States v. Iva Toguri D'Aquino
Your Reference No. 146-28-1941

Reference is made to the above-entitled treason prosecution presently pending in this jurisdiction.

The Government will rest its case in chief this afternoon or next Monday, 15 August. As previously stated, the Government's case took a long time because of the extended nature of cross-examination allowed defendant by the Court. This cross-examination involved facts and circumstances concerning American prisoners of war who broadcast over Radio Tokyo during the late war. In some measure, this cross-examination was related to the defendant's activities in issue herein. Insofar as the same was not related to the issues on trial, the Government was reasonably successful in obtaining rulings from the Court limiting the protracted cross-examination of each Government witness pursued by defense counsel.

Every effort is being and has been made to expedite the trial of this federal criminal capital litigation. It is believed that a prima facie case has been made out for the jury. The Department will be kept advised as to all material developments that ensue herein.

Respectfully,

Frank J. Hennessy
United States Attorney

TED:aab

AIR MAIL

August 20, 1949

Alexander M. Campbell, Esq.,
Assistant Attorney General,
Department of Justice,
Washington, D. C.

Dear Mr. Campbell:

Re: United States v. Iva Toguri D'Aquino
Your Reference No. 146-28-1941

Reference is made to the above-entitled treason prosecution presently pending in this jurisdiction. Yesterday concluded the seventh trial week of these proceedings. The defense is now on. Every effort is being made by the Court and the Government to expedite the trial proceedings, looking toward the end that the case and issues herein involved are submitted to the petit jury as soon as possible and practicable.

Former Australian Army Major Cousens and American Army Officer Wallace Ince were on the witness stand this past week. They testified to numerous Japanese atrocities of war, which evidence was vigorously objected to by the Government, but was admitted by the Court after the defense was able to show that knowledge of the same was brought home to the defendant by said allied ex-prisoners of war during her broadcasting activities. This evidence was admitted by the Court on the theory that it would have some probative value on the question of whether or no defendant was under duress. The testimony referred to was not favorable to the Government, and conceivably may have some deleterious effect against the Government when weighed by the jury. However, damaging admissions were elicited on cross-examination by the United States from the witnesses aforementioned and their credibility was to some extent successfully attacked by the United States. The witnesses above-mentioned were cross-examined by James W. Knapp from the Department in a most able and competent fashion.

Norman Reyes, a former Army officer with the Philippine Army and a prisoner of war working at Radio Tokyo, has testified to the same effect as a defense witness and is now under cross-examination. It is believed that the Government will be reasonably successful in attacking his credibility.

Summarizing, it is believed that a fact issue has been developed and that the conflict in the evidence which presently exists will in its final analysis be resolved by the jury as a fact question. It becomes apparent now that all legal obstacles have been overcome by the United States and that the case will go to the jury. The final outcome of this extended and protracted federal criminal capital litigation is, of course, wholly speculative, problematical, and conjectural.

It is believed that the case will go to the jury by 15 September, and maybe prior to that time. Insofar as possible, we shall endeavor to submit to you a weekly report showing the progress effected in this proceeding. Please rest assured that the Department will be kept advised as to all material developments that ensue herein.

Respectfully,

Frank J. Hennessy
United States Attorney

Synopsis of the criminal trial of Iva Ikuko Toguri D'Aquino
(aka "Tokyo Rose") by J. Eldon Dunn, Federal Bureau
of Investigation

NOV 28 1949

REFERRED TO Hennessey

FEDERAL BUREAU OF INVESTIGATION

Form No. 1

THIS CASE ORIGINATED AT

SAN FRANCISCO

FILE NO. 61-590

REPORT MADE AT SAN FRANCISCO	DATE WHEN MADE 11-22-49	PERIOD FOR WHICH MADE 6/20-10/10, 18; 11/21/49	REPORT MADE BY J. ELTON DUNN mah
TITLE IVA IKUKO TOGURI D'AQUINO, WAS			CHARACTER OF CASE TREASON

SYNOPSIS OF FACTS:

Trial of subject began 7-5-49 in Federal District Court for Southern Division of Northern District of California at San Francisco. Names of witnesses who testified together with brief summary of testimony set forth. On 9-29-49 jury returned verdict of guilty and in Special Findings found subject guilty only on overt act number six as alleged in indictment. On 10-6-49 Federal Judge MICHAEL J. ROCHE sentenced subject to ten years in custody of Attorney General and to pay a fine of \$10,000. Parole report and disposition sheet submitted.

- C -

REFERENCE:

Bureau File No. 61-11,000.
Report of Special Agent J. ELTON DUNN dated June 21, 1949, at San Francisco.

DETAILS:

AT SAN FRANCISCO, CALIFORNIA

The trial of the subject began on July 5, 1949 in the Federal District Court for the Southern Division of the Northern District of California at San Francisco. There are being set forth hereunder names of the witnesses who testified for the government and for the defense together with a short summary of their testimony.

APPROVED AND FORWARDED:	SPECIAL AGENT IN CHARGE	DO NOT WRITE IN THESE SPACES			
COPIES OF THIS REPORT 5 - Bureau ① - USA, San Francisco 2 - San Francisco					

GOVERNMENT WITNESSES

J. RICHARD EISENHART
117 Farnington Road
Rochester, New York

EISENHART testified that he was a member of the U. S. Army and assigned to the Guard at the Yokohama Prison at the time subject was incarcerated there in October, 1945. He said that subject autographed a Japanese yen note with the name IVA TOGURI "TOKYO ROSE." This was introduced by the Government in evidence.

FREDERICK G. TILLMAN
Special Agent
Federal Bureau of Investigation

Special Agent TILLMAN testified that he had observed subject write her name and that he was familiar with the appearance of subject's signature. Through him the Government introduced into evidence various documents relating to subject's citizenship which subject had signed. Special Agent TILLMAN also testified during the trial that he had obtained a signed statement from the subject while she was incarcerated in Japan on the orders of the U. S. Army which signed statement was introduced in evidence and read to the jury.

On rebuttal Special Agent TILLMAN testified that he was present on October 2 and 5, 1948 when signed statements were obtained from defense witness NORMAN REYES and that REYES signed these statements voluntarily and stated that they were the truth.

JOHN VAN EYCKEN, Captain of
Army Transport GENERAL H. F. HODGES

Captain VAN EYCKEN testified that as Captain of the USAT GENERAL H. F. HODGES his ship transported subject from Japan to the United States, first arriving in the United States at San Francisco, California. Captain VAN EYCKEN said that subject was taken aboard at Yokohama, Japan on September 3, 1948 and arrived at the Port of San Francisco on September 25, 1948.

JOHN P. PROSNAK, Captain
Corps of Military Police
U. S. Army

Captain PROSNAK testified that he was assigned to guard the

subject from Japan to the United States and that he took subject into custody at the Sugamo Prison, Yokohama, Japan and brought her to San Francisco, California, where subject was delivered to Special Agents of the Federal Bureau of Investigation.

KATHERINE STULL, Major
U. S. Army

Major STULL testified that she was the female guard assigned to conduct the subject from Sugamo Prison, Tokyo, Japan to the Port of San Francisco where subject was delivered to Agents of the FBI.

YUKIO IKEDA
Tokyo, Japan

IKEDA testified that he is at present and was during 1944 and 1945 an official of Radio Tokyo in Tokyo, Japan and that he was head of the Personnel Section. Government introduced in evidence the official personal history card of subject which was maintained at Radio Tokyo at Tokyo, Japan during the period that she broadcast there through IKEDA.

MARY HIGUCHI
Yokohama, Japan

Miss HIGUCHI testified that she was an employee of Radio Tokyo and was acquainted with subject during the time that subject broadcast from Tokyo, Japan. Miss HIGUCHI stated that she had typed some of the radio scripts used by the subject and testified that subject had broadcast statements tending to make American troops homesick and that subject broadcast other than entertainment to the U. S. troops.

SHIGETSUGU TSUNEISHI
Tokyo, Japan

TSUNEISHI testified that during the war he was a career officer of the Japanese Army and as such was assigned to the Army Propaganda Section as a Major. He stated that propaganda from Radio Tokyo was broadcast at the instance of the Japanese Army as a part of their psychological warfare against the United States troops. He testified that the "Zero Hour" program was part of the Japanese Army plan of psychological warfare and that subject broadcast propaganda on the "Zero Hour" to the United States troops. He further testified

that subject was not compelled to broadcast nor was she under any coercion emanating from the Japanese Army.

It is to be noted in lengthy cross-examination defense counsel attempted to show through this witness that all civilian personnel at Radio Tokyo were under coercion and duress to broadcast, but defense counsel was unable to accomplish this purpose.

DAVID W. SWIFT
2452 Central Avenue
Alameda, California

Mr. SWIFT is employed as a Customs Agent and was qualified by the Government as an interpreter in the trial of subject and was used by the Government to interpret for all Japanese testifying who could not speak English.

CLARK LEE
Monterey Peninsula Country Club
Del Monte, California

Mr. LEE testified that as a newspaper reporter he first interviewed subject on September 1, 1945 at the Imperial Hotel in Tokyo, Japan. At that time CLARK LEE and HARRY BRUNDIDGE interviewed subject, subject having first identified herself as the one and only Tokyo Rose and CLARK LEE typed notes during the course of the interview as to what subject said. Instant notes were introduced by the Government in evidence and disclosed subject was broadcasting from Japan voluntarily and that she had stated to CLARK LEE that she had broadcast concerning the loss of American ships during one of the naval battles. It is to be noted that this statement probably referred to the Battle of Leyte Gulf which was the basis of the sixth overt act read in the indictment which was the only overt act on which the jury returned a verdict of guilty.

JOHN B. HOGAN
Attorney, Criminal Division
U. S. Department of Justice

Mr. HOGAN testified that he went to Tokyo, Japan on orders from the Department of Justice and on March 26, 1948, interviewed subject at the Dai Ichi building in Tokyo, Japan at which time he showed subject a photostatic copy of the notes taken by CLARK LEE at the time he interviewed subject. Mr. HOGAN testified that subject read the photostatic copy of the notes, initialing

each page and signing her name at the end and stated that the notes were true and correct as to her interview with CLARK LEE. Mr. HOGAN stated that HARRY T. BRUNDIDGE was present when he interviewed subject.

KENKICHI OKI
Tokyo, Japan

OKI testified he was an official of Radio Tokyo in Tokyo, Japan during the time subject was employed there broadcasting propaganda to the U. S. troops. OKI testified that the purpose of the "Zero Hour", the program in which subject appeared, was to induce a feeling of homesickness among American troops and that subject broadcast in furtherance of that purpose. OKI testified to all of the overt acts alleged in the indictment against the subject.

GEORGE HIDEO MITSUSHIO
Tokyo, Japan

MITUSHIO testified that he was an official of Radio Tokyo during the time subject broadcast from Tokyo, Japan and that he was head of the "Zero Hour" program. He testified that subject voluntarily broadcast propaganda to the American troops on this program and the purpose of the program was to induce a feeling of homesickness in American troops impairing their will to fight the Japanese.

MITUSHIO testified to the truth of all overt acts in the indictment against the subject except the seventh overt act.

DALE KRAMER
250 West 91st Street
New York City, N.Y.

KRAMER testified that as a Sergeant in the U. S. Army he was assigned to the Yank Magazine during the war with Japan. He testified that in September of 1945 he interviewed subject a number of times in Tokyo, Japan, and that subject gave him a copy of one of her radio broadcasts autographed IVA TOGURI "TOKYO ROSE." He testified that subject told him that she first went to Japan to study medicine, that it was too much bother for subject to take out Japanese citizenship and that her husband often told her she might get in trouble with the United States after the war because of her broadcasts. KRAMER also testified that subject claimed that she was "Tokyo Rose" and that in her broadcasts she called herself "Orphan Ann."

JAMES B. KEENEY
Philadelphia, Pennsylvania

KEENEY testified that he was in the U. S. Army assigned to the Yank Magazine and that he was present during the interviews between DALE KRAMER and the subject.

JAMES THOMAS REITZ, Major
United States Army

Major REITZ testified that he was attached to the CIC in Yokohama, Japan and that subject's husband brought to the CIC a number of radio scripts purported to be those broadcast by subject during the war, which scripts he turned over to Major REITZ of CIC. Through Major REITZ these scripts were introduced by the Government into evidence.

MERRITT GILLESPIE PAGE
446 Sulgrave Road
Pittsburgh, Pennsylvania

PAGE testified he was assigned to the 308th CIC Detachment and that in such capacity interviewed subject. He testified subject told him that Major COUSINS chose her to be an announcer on the propaganda broadcast and that she used the name of "Orphan Ann" on the broadcasts of the "Zero Hour" and that she took the job because she thought it would be good experience and she wanted to supplement her income. PAGE also testified that the purported scripts of subject's broadcasts given to Major REITZ were afterwards given to him for inclusion in subject's investigative file.

WILLIAM E. FENIMORE
Special Agent
Federal Bureau of Investigation

Special Agent FENIMORE testified that in September, 1945 he was a member of the U. S. Army attached to the Counter Intelligence Corps and that he was with MERRITT PAGE during those interviews with the subject.

AMORY F. PENNIBELL
Reseda, California

Mr. PENNIBELL, an employee of the Foreign Broadcast Intelligence

Service, was qualified as an expert radio engineer and testified that in 1944 he was head monitor at the FBIS listening station in Portland, Oregon and as such monitored certain of subject's broadcasts from Radio Tokyo and that records were cut of these broadcasts. Through Mr. PENNELL Government introduced into evidence recordings of two of the broadcasts made by the subject from Tokyo, Japan.

SAMUEL VERNON RAY
Houston, Texas

Mr. RAY was qualified as an expert radio engineer and testified that he was a radio engineer employed by FBIS at Portland, Oregon during the time that the records were cut of subject's broadcasts from Radio Tokyo and that he assisted in securing the records which were introduced by the Government into evidence.

WILLIAM A. SODARO
Charleston, West Virginia

Mr. SODARO was qualified as an expert radio engineer and testified that in 1944 he was employed by the FBIS at Silverhill, Maryland, and that he monitored and recorded a program broadcast by the subject which recording was introduced by the Government in evidence.

GWENDOLYN BAPTIST
Mount Rainier, Maryland

Miss BAPTIST was qualified by the Government as an expert monitor of shortwave radio broadcasts and testified that she had prepared a transcript of the programs recorded by FBIS emanating from Radio Tokyo in which subject broadcast. The transcripts were introduced by the government into evidence and used by the court when listening to the records of subject's broadcasts to enable the court to follow the words more closely.

KENNETH ISHII
Tokyo, Japan

ISHII testified that he was employed at Radio Tokyo as a radio announcer and that he listened to subject's statements broadcast over the air from Radio Tokyo which statements were propaganda in favor of the Japanese. ISHII also testified regarding overt act number seven as stated in the indictment.

GILBERT V. VELASQUEZ
Los Angeles, California

VELASQUEZ testified that he resided in the same neighborhood as the subject in Los Angeles, California in the 1930's and that he listened to the "Zero Hour" programs from Radio Tokyo during the war when he was a member of the U. S. Navy. VELASQUEZ testified that he recognized subject's voice which he heard on the "Zero Hour" broadcast and that he remembered statements made by the subject which statements he repeated in substance. These statements contrasted living conditions of troops in the South Pacific with the easy living at home in the United States.

FRANCIS X. GREEN
Washington, D.C.

Mr. GREEN was qualified by the Government as an expert radio engineer and testified that as a former official of the FBIS the recordings of subject's broadcasts were made under his direction.

TED SHERDEMAN
Hollywood, California

Mr. SHERDEMAN testified that as a Lieutenant Colonel in charge of the Armed Forces Radio Service he listened to subject's broadcasts on the "Zero Hour" from Radio Tokyo and testified to statements which he recalled hearing her make over the radio.

JULES I. SUTTER, JR.
Burbank, California

Mr. SUTTER testified that as a former member of the Army Signal Corps he listened to broadcasts of the "Zero Hour" from Radio Tokyo and testified to propaganda statements subject had made over that broadcast during the war.

MARSHALL HOOT
Alhambra, California

HOOT testified that as a member of the U. S. Navy he listened to subject's broadcasts from Radio Tokyo during the war and testified to the propaganda statements subject had made over the radio.

SAM CAVNAR
Van Nuys, California

CAVNAR testified that as a former member of the U. S. Navy he heard subject broadcast from Tokyo, Japan over the "Zero Hour" during the war with Japan and testified to certain propaganda statements which he recalled subject made in her radio broadcasts.

WILLIAM HALBERT THOMPSON
Riverside, California

THOMPSON testified as a former member of the U. S. Marine Corps he recalled hearing the subject broadcast from Radio Tokyo on the "Zero Hour" and testified to certain propaganda statements which he recalled subject made over the radio.

EDWARD KUROISHI
Tokyo, Japan

KUROISHI testified that he was acquainted with subject in Tokyo, Japan, and that it was at his suggestion that she first obtained employment at Radio Tokyo as a typist. KUROISHI testified that she was not forced to work for Radio Tokyo.

SATOSHI NAKAMURA
Tokyo, Japan

NAKAMURA testified that he was employed as Master of Ceremonies on the "Zero Hour" at Radio Tokyo from August, 1944 until February of 1945 and that he observed subject broadcast on the "Zero Hour" radio program. He testified that she called herself "Orphan Ann" and also recalled propaganda statements which subject had made on the radio broadcasts. NAKAMURA testified concerning overt act number six as alleged in the indictment.

Dr. CLAIR T. STEGGALL
Los Angeles, California

Dr. STEGGALL testified that he was acquainted with subject prior to 1941 when the subject journeyed to Japan and that subject told him she was going to Japan to study medicine as she had a number of relatives in the medical profession there.

SF #61-590

YOSHITOSHI TANABE
Tokyo, Japan

TANABE was qualified by the Government as a radio engineer having been employed at Radio Tokyo for a number of years prior and during the war. As such TANABE testified that the facilities of Radio Tokyo were capable of broadcasting to the South Pacific and the United States and the broadcast had sufficient power to be heard through shortwave receiving sets.

SHIGURE OKAMOTO
Tokyo, Japan

OKAMOTO was qualified by the Government as a radio engineer having been employed for a number of years at Radio Tokyo. OKAMOTO testified to the technical setup at Radio Tokyo.

KIWAMU MOMOTSUKA
Tokyo, Japan

MOMOTSUKA was qualified as an expert radio engineer having been employed at Radio Tokyo for a number of years. MOMOTSUKA also testified concerning the technical capacity of Radio Tokyo.

DAVID I. GILMORE
Special Employee
Federal Bureau of Investigation

GILMORE testified that he served with the U. S. Marine Corps during the war and that he listened to broadcasts from Radio Tokyo made by the subject and recalled various propaganda statements subject had made in the course of those broadcasts.

F. HARRIS SUGIYAMA
Tokyo, Japan

SUGIYAMA testified that he was a staff announcer at Radio Tokyo during the war. As such he was acquainted with subject and that she was not under duress on the part of the Japanese to make broadcasts. Further testified as to propaganda statements made by subject on her radio program.

SF #61-590

HISHASHI MORIYAMA
Tokyo, Japan

MORIYAMA testified that he was a regular staff member of the "Zero Hour" program and was well acquainted with the subject and her broadcasts from Radio Tokyo during the war. MORIYAMA testified concerning overt acts two, three, four and eight as alleged in the indictment against the subject.

SHINJIRO IGARASHI
Tokyo, Japan

IGARASHI testified that he was employed at Radio Tokyo from November, 1943 until August of 1945 as a radio announcer and as such was well acquainted with the subject during the time she broadcast from Radio Tokyo. He testified as to propaganda statements subject made over the air during the course of her broadcasts.

MOTOMU NII
Tokyo, Japan

NII testified he was employed at the Radio Broadcasting Corporation of Japan during the war and had observed subject broadcast from November, 1943 to August, 1945. NII testified subject broadcast voluntarily and testified as to propaganda statements he heard subject make in the course of her radio broadcasts.

ISAMU YAMAZAKI
Tokyo, Japan

YAMAZAKI testified that he was Vice-Chief of the American Continental Section of Radio Tokyo during the war and was in charge of the administration of the section which employed the subject at Radio Tokyo. He testified that he had heard her broadcast and testified as to certain propaganda remarks he heard subject make during the course of her broadcasts.

ROBERT COWAN
Los Angeles, California

COWAN testified that as a Sergeant in the U. S. Army he interviewed subject in Tokyo, Japan after the war in which subject reenacted a broadcast typical of ones subject made from Radio Tokyo during the war. COWAN also

SF #61-590

testified that he heard subject's broadcasts from Radio Tokyo and testified as to propaganda statements subject made.

MARIANO S. VILIARIN
Manila, P.I.

VILIARIN testified that as a member of the U. S. Army he had been captured on Corregidor and thereafter as a Philippine national was taken to Tokyo, Japan. VILIARIN testified that he had observed subject broadcasting from Radio Tokyo and recalled propaganda statements subject made during the course of her broadcasts.

CHARLES F. HALL
Sergeant U. S. Air Force

HALL testified that he listened to subject's broadcasts from Radio Tokyo during the war and recalled propaganda statements made by subject during the course of her broadcasts.

RICHARD HENSCHALL
New York City, N.Y.

HENSCHALL testified that he was a member of the U. S. Army Signal Corps, Photographic Service, and that in that capacity interviewed subject in Yokohama, Japan in September of 1945. He related what subject had said during this interview concerning her broadcasts from Radio Tokyo during the war. He also testified that he had heard subject broadcast from Radio Tokyo during the war and testified as to propaganda statements subject had made in the course of her broadcasts.

DEFENSE WITNESSES

CHARLES HUGHES COUSENS
Sidney, Australia

COUSENS testified that as a member of the Australian Army he was captured by the Japanese at Singapore in 1942 and thereafter taken to Radio Tokyo where, by threats of death, he was forced to broadcast propaganda from Radio Tokyo.

He testified that subject broadcast on the "Zero Hour" and that he had previously advised subject of all of the horrible circumstances attending his capture and the brutality on the part of the Japanese which he had witnessed which put him in fear of his life and which induced him to acquiesce to Japanese broadcast demands. COUSENS also testified that subject during their association at Radio Tokyo brought him food, medicine and clothing. He testified that subject was anti-Japanese and pro-American and that he had placed her under his orders as an allied officer, telling her that she should broadcast as the Japanese wished, but that she should do all in her power to nullify the force and effect of the broadcasts.

On cross-examination COUSENS admitted broadcasting propaganda against the allied policy of unconditional surrender, stating he did not believe in unconditional surrender. COUSENS also admitted having lived very well at various hotels in Tokyo during the time of his broadcasts and making certain visits with Japanese nationals to geisha houses.

WALLACE ELLWELL INCE
Major, U. S. Army
San Francisco, California

INCE testified for subject in part substantiating the testimony of COUSENS, however, his testimony was somewhat limited since a statement had been obtained from him by Special Agents of the FBI. In this statement, which INCE admitted was true, he stated he did not trust subject and that she broadcast from Radio Tokyo voluntarily during the war.

NORMANDO ILDEFONSO REYES, AKA
Norman Reyes
Nashville, Tennessee

REYES testified that he was captured on Corregidor and together with INCE taken to Tokyo where they were forced to broadcast propaganda for the Japanese. On direct examination REYES substantiated the testimony of COUSENS and INCE. On cross-examination, however, Government introduced in evidence two signed statements obtained by Special Agents from REYES to the effect that he and INCE were not threatened or forced to broadcast and were treated very well by the Japanese in payment for the broadcasts. Signed statements from REYES also disclosed that subject was broadcasting propaganda voluntarily from Radio Tokyo. These signed statements, in a large measure, nullified the testimony of COUSENS and INCE as to coercion and duress on the part of the Japanese towards subject.

SF #61-590

GEORGE HERBERT HENSHAW
Los Angeles, California

HENSHAW testified as to the brutalities of the Japanese in forcing American prisoners of war to broadcast from Radio Tokyo. A signed statement obtained from HENSHAW by Special Agents disclosed that he was not acquainted with the subject and such information was brought out on cross-examination.

KENNETH GEORGE PARKYNS
Liverpool, Australia

PARKYNS testified that he was a member of the Australian Air Force captured and brought to Radio Tokyo by the Japanese to broadcast propaganda. He testified that he was forced, under threat of death, to broadcast from Radio Tokyo. However, PARKYNS was not acquainted with subject and could give no direct testimony concerning her.

WILLISTON COX
Louisville, Tennessee

COX testified that as a member of the U. S. Army he was captured by the Japanese during the war and thereafter taken to Tokyo where he was forced to broadcast for the Japanese. COX, however, was not acquainted with subject and could offer no direct testimony concerning her.

EDWIN KALBFLEISH, JR.
Captain, U. S. Army

KALBFLEISH testified as a member of the U. S. Army he was captured by the Japanese during the war, taken to Tokyo where he was forced to broadcast Japanese propaganda, but that he was not acquainted with subject at that time.

JAMES FRANK WHITTEN
Torrence, California

WHITTEN testified that as a member of the U. S. Navy he listened to broadcasts from Radio Tokyo during the war, but did not hear any of the statements alleged to have been made by the subject and as testified to by the Government's witnesses.

SF #61-590

ADAM WELKER
San Francisco, California

WELKER testified that he listened to radio broadcasts from Japan during the war, but did not hear subject make any statements of a propaganda nature.

MAE E. HAGERDOM
Everett, Washington

Mrs. HAGERDOM testified she listened to shortwave broadcasts from Tokyo during the war, but did not hear subject make any statements of a propaganda nature.

SAM STANLEY
Berkeley, California

STANLEY testified that he served in the Seabees during the war and listened to Radio Tokyo, but did not hear subject broadcast propaganda.

GUSTAVE C. GALLAGHER
San Francisco, California

GALLAGHER testified that he also listened to shortwave broadcasted programs from Japan during the war, but did not hear subject make statements of a propaganda nature.

ROBERT SPEED
Berkeley, California

SPEED testified as a member of the U. S. Navy he listened to broadcasts from Tokyo, Japan but did not hear subject broadcast propaganda.

MALINI KANT GUPTA
San Francisco, California

GUPTA testified that as a member of the U. S. Army he heard broadcasts from Japan during the war, but did not hear subject make any statements of a propaganda nature.

YONEKO KANZAKI
New York City, N.Y.

Mrs. KANZAKI, a Nisei, testified that she broadcast from Radio Tokyo during the war on the "German Hour" and was forced to broadcast and assumed that subject also was forced to broadcast.

WILLIAM G. PAUL
Redwood City, California

PAUL testified that as a member of the U. S. Navy he listened to radio broadcasts from Tokyo, Japan during the war but did not hear subject broadcast propaganda.

DUANE FRANKLIN MOSIER
Albany, California

MOSIER testified as a member of the U. S. Marine Corps he listened to radio broadcasts from Radio Tokyo during the war, but did not hear subject broadcast propaganda.

CHARLES SEXTON, JR.
San Francisco, California

SEXTON testified that as a member of the U. S. Army he listened to broadcasts from Radio Tokyo during the war, but did not hear subject broadcast propaganda.

CHIYOKO ITO
Los Angeles, California

ITO testified that she accompanied subject to Japan in 1941 and was well acquainted with her during the time subject broadcast from Radio Tokyo and testified that subject was forced to so broadcast. A signed statement from ITO had been previously obtained by Special Agents of the FBI which was introduced in evidence. The signed statement disclosed that subject broadcast voluntarily and that she was happy and satisfied with her job broadcasting from Radio Tokyo.

SF #61-590

MARTIN PRAY
Salinas, California

PRAY testified that after the war subject was incarcerated and denied the right to have visits from people other than her husband and denied the right to confer with an attorney.

FELIPE JURAI D'AQUINO
Tokyo, Japan

D'AQUINO, husband of subject, testified in her behalf that she was forced to broadcast and substantiated testimony of COUSENS and other prisoners of war.

IWA IKUKO TOGURI D'AQUINO

Subject testified in her own defense denying overt acts alleged in the indictment and also testimony of Government witnesses as to propaganda she broadcast over the air.

Defense counsel also read in open court depositions obtained in Japan from persons who had some knowledge of the activities of the subject. However, the depositions were not written into the record and did not in any major part refute allegations in the indictment that subject broadcast propaganda from Radio Tokyo during the period of hostilities between the United States and Japan.

On September 29, 1949, the jury returned a verdict of guilty against the subject and in their Special Findings acquitted subject of all alleged overt acts in the indictment except overt act number six on which they found the subject guilty. Overt act number six, as alleged in the indictment is quoted as follows:

"That on a day during October, 1944, the exact date being to the Grand Jurors unknown, said defendant, at Tokyo, Japan, in a broadcasting studio of the Broadcasting Corporation of Japan, did speak into a microphone concerning the loss of ships."

SF #61-590

On October 6, 1949, Federal Judge MICHAEL J. ROCHE sentenced subject to ten years in the custody of the Attorney General and to pay a fine of \$10,000.

ENCLOSURE: TO THE BUREAU

Three copies of parole report
One disposition sheet

- C L O S E D -

Photographs of Iva Toguri, consisting of two "mug shots"
taken at Sugamo Prison on March 7, 1946.

Captions on the reverse of both photographs state:

"Captain Denton took me to Iva Toguri's house and made her
wear the light tan coat and had her put on her rimless glasses.
I recognized her as the same girl who broadcast on the Zero
Hour program (signed) Emi Matsuda"



TOGURI,
IVA
NO.1

SUGAMO PRISON
7 MARCH 46



TOGURI,
IVA
NO. 1

SUGAMO PRISON
7 MARCH 46

Photographs of Iva Toguri, consisting of five images of her wearing a coat and eye glasses. Captions on the reverse of all images state:

"March 17, 1948
Name: Iva Toguri/
Date: December 5, 1944
Place: Radio Tokyo
(Signed) Martha Suzuki."











