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Jan 13

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8036	2035		Affidavit of Robert Hugh Lancaster		14968
8478	2036		Record of proceedings of a Military Commission convened at U. S. Naval Air Base, Kwajalein Island, Kwajalein Atoll, Marshal Islands, by order of Commander Marshalls-Gilbert area on 21 December 1945 re SAKIBARA, TACHIBANA and ITO	14972	
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8482	2037		Affidavit of Lt. Col. Rudisill, Chief of the Investigation Division of Legal Section GHQ, SCAP and affidavit of Captain John Hamas, U. S. Marine Corps		14983
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8433	2039		Letter from the Swiss Minister to the Defendant TOGO dated 26 May 1942 at Tokyo		15001 15001
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8445	2041		Letter from the Swiss Minister to Foreign Minister TANI dated 21 September 1942		15001 15003
8427	2042		Letter from the Swiss Minister to the Japanese Minister of Foreign Affairs dated 7 Octo- ber 1942		15001 15007
8436	2043		Letter from the Swiss Legation to the Japanese Foreign Minis- try dated 8 April 1943		15001 15008
8437	2044		Note Verbale from the Japanese Foreign Office to the Swiss Legation dated 19 April 1943		15001 15008
8438	2045		Letter from the Swiss Legation to the Japanese Foreign Minis- try dated 21 August 1943		15001 15009

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8428	2046		Letter from the Swiss Legation to the Japanese Foreign Ministry dated Tokyo, 8 October 1943		15001 15010
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8429	2048		Note from the Swiss Legation to the Japanese Foreign Ministry dated 14 February 1944		15001 15012
8424	2049		Note from the Swiss Legation to the Japanese Foreign Ministry dated 25 September 1944		15001 15012
8423	2050		Note from the Swiss Legation to the Japanese Foreign Ministry dated Tokyo, 1 November 1944		15001 15013
8426	2051		Note from the Swiss Legation to the Japanese Foreign Ministry dated 9 March 1945, Tokyo		15001 15013
8425	2052		Note from the Swiss Legation to the Japanese Foreign Ministry dated 15 May 1945		15001 15014
8422	2053		Note from the Swiss Legation to the Japanese Foreign Ministry dated 27 July 1945		15001 15016
8483	2054		Certificate of Authenticity re letters and notes from the Swiss Legation to the Japanese Ministry of Foreign Affairs		15001

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8467	2055		Record of Proceedings of a Military Commission convened at United States Pacific Fleet, Commander Marianas, Guam, Marianas Islands by order of Commander Marianas Area on 15 May 1945 re ABE, OBARA and WAIKI	15018	
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8448	2055-E		Excerpts therefrom (exhibit 2055)		15018
8466	2056		Record of Proceedings of a Military Commission convened at United States Pacific Fleet, Commander Marianas, Guam, Marianas Islands, by order of Commander, Marianas Area on 15 August 1946 re TACHIBANA, MORI, YOSHII, MATOBA and others	15032	
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8405	2057		Report of Captain John L. Murphy, USN, Director of War Crimes, Pacific Areas		15042
8435	2058		Protest from the United States Government by way of the Swiss Legation to the Japanese Foreign Minister, dated Tokyo 29 January 1945		15048
8398	2059		Note from the Swiss Legation to the Japanese Foreign Ministry dated Tokyo, 23 April 1945		15051
8399	2060		Memorandum from the Foreign Office, Tokyo, to the Swiss Legation, dated 12 May 1945		15052
8421	2061		Protest from the Swiss Legation to the Japanese Foreign Ministry, dated 23 May 1945		15053
8470	2062		Letter from the Commander-in-Chief, the United States Pacific Fleet, Admiral C. W. Nimitz to Commander- in-Chief, the United States Fleet, dated 19 May 1945		15055
8469	2063		Report of the attack on the USS Comfort, dated 2 May 1945		15059
8434	2064		Protest from the Swiss Legation to the Japanese Foreign Minister, dated 23 June 1945		15062
8471	2065		Report re the Adventures of the Netherlands Military Hospital Ship "OP ten NOORT"		15065
8471F	2066		Certification of the above		15066

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8471B	2067		Letter from the Captain of the "OP ten NOORT" to the Japanese Navy Minister, dated 22 February 1942		15070
8471C	2068		Letter from the Captain of the "OP ten NOORT" to the Japanese Prime Minister		15073
8471D	2069		Speech by the Prefect at Hiroshima to the personnel of the "OP ten "NOORT"		15075
8471E	2070		Letter from the Chief Medical Officer of the "OP ten NOORT" to the Japanese Prime Minister, dated 29 June 1944		15077
8475	2071		Protest addressed to Accused TOGO dated 28 May 1942		15081
8473	2072		Letter from the Japanese Minister of Foreign Affairs to the Swedish Minister, dated 9 June 1942		15081
8474	2073		Note Verbale from the Swedish Legation to the Japanese Foreign Ministry, dated 28 September 1942		15081
8477	2074		Note Verbale from the Swedish Legation to the Japanese Foreign Ministry dated 10 September 1945		15081

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<u>Doc.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
8476	2075		Letter from the Swedish Ministry to the Netherlands Minister of Foreign Affairs, dated 30 October 1945		15081
8401	2076		Protest transmitted by the Swiss Legation from the United States Government to Foreign Minister SHIGEMITSU, dated 19 June 1944		15088
8396	2077		Note from the Swiss Minister to the Japanese Foreign Minister, dated 15 September 1944		15091
8415	2078		Letter from the Accused SHIGEMITSU to the Swiss Minister dated 28 November 1944		15092
8412	2079		Letter from the Swiss Minister to Foreign Minister SHIGEMITSU, dated 21 February 1945		15093
8402	2080		Protest transmitted by the Swiss Legation from the United States Government to the Japanese Government, dated 29 December 1944		15095
8403	2081		Note by the Swiss Minister to the Japanese Foreign Minister, dated 28 December 1944		15100
8404	2082		Acknowledgement by the Japanese Foreign Ministry of the receipt of the preceding document or protest		15101

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EXHIBITS

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<u>Doc. No.</u>	<u>Pros. No.</u>	<u>Def. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
8409	2083		Letter from the Swiss Legation to the Japanese Foreign Ministry, dated 19 April 1945		15102
8411	2084		Memorandum by the Swiss Legation to the Japanese Foreign Minister, dated 28 April 1945		15103
8413	2085		Letter from the Swiss Legation to the Japanese Foreign Minister dated 20 February 1945 (offered as a supplement to the preceding document)		15104
8414	2086		Note Verbale from the Japanese Foreign Minister to the Swiss Legation, dated 15 May 1945		15105

Monday, 13 January 1947

- - -

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

- - -

Appearances:

For the Tribunal, same as before with
the exception of: HONORABLE JUSTICE JU-AO MEI,
Member from the Republic of China.

For the Prosecution Section, same as
before.

For the Defense Section, same as before.

- - -

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The Military Tribunal
2 is now in session.

3 THE PRESIDENT: All the accused are present
4 except OKAWA, ARAKI, HOSHINO, MATSUI, MUTO and TOGO,
5 who are represented by their counsel. We have a cer-
6 tificate from the prison surgeon at Sugamo, stating
7 that ARAKI, HOSHINO, MATSUI, MUTO and TOGO are ill
8 and unable to attend the trial today. The certificate
9 will be recorded and filed.

10 Major Moore.

11 MAJOR MOORE: Mr. President. With the Tri-
12 bunal's permission, we present the following language
13 corrections:

14 Exhibit 686-A, record page 8,906, line 14, sub-
15 stitute "open hostilities" for "declare war."

16 Line 16, substitute "cause" for "make," and
17 "enmity" for "hostilities."

18 Record Page 14,289, line 7, substitute "inten-
19 dence" for "security."

20 Record page 14,290, line 19, substitute "the
21 Minister" for "War Minister TOJO."

22 Record page 14,619, line 8, substitute "maintains"
23 for "means."

24 Line 10, after "concerned" insert "there can be."

25 Line 11, delete "was made."

1 Line 15, delete from "was that" to the end of the
2 sentence and substitute "is that there can be no in-
3 terference saying do this or do that in passing
4 judgment?"

5 The above four corrections answers Dr. Kiyose's
6 objections found on record page 14,619 following.

7 Exhibit 1992, record page 14,666, line 16, sub-
8 stitute "by order you are notified" for "I request
9 you."

10 Line 24, substitute "having committed major war
11 crimes" for "war-time capital criminals."

12 Mr. Howard's objection found on record page
13 14,671 concerned a document which was not presented
14 to the Tribunal and not to exhibit 1993.

15 THE PRESIDENT: Mr. Logan.

16 MR. LOGAN: If the Tribunal please, there
17 have been four language questions submitted with
18 respect to entries of KIDO's diary. They have been in
19 the hands of the prosecution since approximately
20 December first. I have been trying to get the pro-
21 secution to make these corrections and three of them,
22 I understand, are now ready, and I ask that they be
23 made at this time.
24

25 THE PRESIDENT: Mr. Comyns Carr.

 MR. COMYNS CARR: If the Tribunal please, we

1 are ready; we are prepared to make the three cor-
2 rections my friend desires if the Tribunal desires
3 that they should be interposed at this stage, in the
4 middle of another phase. It was our intention to
5 make them when we present further KIDO diary entries
6 at the conclusion of the case.

7 THE PRESIDENT: That, in your judgment, is
8 a more appropriate place?

9 MR. COMYNS CARR: In our view, yes.

10 THE PRESIDENT: The Tribunal will leave it
11 to you Mr. Comnys Carr.

12 Mr. Logan.

13 MR. LOGAN: May I be heard on that, if your
14 Honor please?

15 THE PRESIDENT: This can't be a vital matter,
16 Mr. Logan.

17 MR. LOGAN: It isn't necessarily a vital
18 matter, but it means something in processing our
19 documents with respect to motions to dismiss. In
20 other words, we want -- I would like to have this in
21 the record at this time, so that we can use these
22 references on our motion. If we leave it to the last
23 few days we will be unable to have it processed
24 properly, and as far as bringing in in the middle of
25 proceedings, Major Moore has done that right along;

1 he even done it this morning, with respect to making
2 corrections. What is more important to me is that I
3 can't understand why the prosecution has been holding
4 this up for a month and a half.

5 THE PRESIDENT: Major Moore comes to the
6 lectern without any contention as to the time he should
7 come. Here there is a contention as to when these
8 corrections should be received. You will know what
9 the corrections are when you come to move your motion
10 before the Court and you can process your documents on
11 that clear assumption.

12 MR. COMYNS CAH: The documents are in the
13 hands of the defense, have been for some time.

14 THE PRESIDENT: Mr. Levin.

15 MR. LEVIN: Mr. President, at the close of
16 the session on Friday you inquired, after objection
17 was made, as to what was the purpose of the question
18 and "what work were you assigned after you arrived?"

19 THE PRESIDENT: That means before the war?

20 MR. LEVIN: Yes. He arrived on December 1,
21 1941, as I understand, although he did not testify
22 directly on that subject. It seems to me that in
23 cross-examination it is perfectly proper to inquire as
24 to the nature of the work that he did, in view of what
25 took place subsequently. In other words, if he was

1 doing some work in preparation, either for defense or
2 for war, it would be a very important factor in con-
3 nection with the plans for defense.

4 THE PRESIDENT: How can it be relevant to
5 the treatment of him and others by the Japanese?

6 MR. LEVIN: I must agree with the Court
7 that it isn't directly relevant on that subject, but
8 it does seem to me that cross-examination is not al-
9 ways limited to a categorical inquiry as to the -- a
10 categorical inquiry in relation to the testimony that
11 the individual gave.

12 THE PRESIDENT: But cross-examination, like
13 examination in chief and re-examination, must always
14 be relevant and material. This isn't even relevant.

15 MR. LEVIN: All right, Mr. President, I shall
16 not pursue the matter further.
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25

STEWART

CROSS

1 J E S S E L. S T E W A R T, called as a witness
2 on behalf of the prosecution, resumed the
3 stand and testified as follows:

4 CROSS-EXAMINATION (Continued)

5 BY MR. LEVIN:

6 Q Did anything occur immediately before
7 Dr. Shank was slapped to cause the interpreter
8 KATSUMI to slap him?

9 A Only that Dr. Shank had refused to let
10 Dr. KITAJIMA amputate my leg.

11 Q And immediately thereafter, without
12 assigning any reason, he just slapped him, is that
13 it?

14 A As soon as Dr. KITAJIMA left the hospital
15 he accused Dr. Shank of being insolent and slapped him.

16 Q Did KATSUMI merely act as an interpreter
17 or was he also a guard?

18 A As far as I know, KATSUMI was nothing but
19 an interpreter.

20 Q Did he carry arms?

21 A He did.

22 Q Did you see slappings of other civilians
23 or military personnel?

24 A I had very little opportunity to see other
25 slappings or punishments due to the fact that I was

STEWART

CROSS

1 confined to the hospital.

2 Q Then I take it your answer is no?

3 A That is correct.

4 Q When Dr. MIYAZAKI came to Wake Island in
5 February, 1942, was Dr. KITAJIMA still there?

6 A He was.

7 Q Did they work together?

8 A I cannot say as to that. Dr. MIYAZAKI
9 was an aviation doctor. Dr. KITAJIMA belonged to
10 the troops that were on Wake Island.

11 Q Do you know what brought about the differ-
12 ence in treatment of American personnel by Dr.
13 MIYAZAKI as against the treatment by Dr. KITAJIMA?

14 A No, sir.

15 MR. LEVIN: That will be all.

16 THE PRESIDENT: Mr. Blewett.

17 MR. BLEWETT: If the Court please:

18 CROSS-EXAMINATION (Continued)

19 BY MR. BLEWETT:

20 Q Sergeant, were there any Marine or Navy
21 doctors with your outfit on the island?

22 A Yes, sir. Dr. Kahn was there.

23 Q How was it that you were treated by a
24 civilian doctor?

25 A When the American hospital was bombed out on

STEWART

CROSS

1 8 December 1941, they moved the patients into two
2 magazine hospitals. Dr. Shank had one of these.
3 Dr. Kahn had the other. It happened that I was
4 placed in Dr. Shank's hospital.

5 Q Well, now, did Dr. Shank have the use of
6 the appliances and the equipment that was contained
7 in the underground hospital?

8 A During the time before the fall of the
9 island, he did.

10 Q How long had Dr. Shank been on the island
11 before the surrender, if you know?

12 A I do not know.

13 Q How long had the 1200 civilians been on
14 Wake before the surrender?

15 A I do not know that. Some of them had been
16 there since the beginning of fortification of the
17 island. Others had come at recent dates.

18 Q Now, were these civilians engaged in the
19 Pacific naval air base by the Pacific Naval Air Base
20 Contractors?

21 A Most of them were. There were a few
22 Pan-Air men there.

23 Q Well, now, the work that the Japanese had
24 these men doing after the surrender, was it the same
25 type of work that they had been doing previously?

STEWART

CROSS

1 A The airport work was the same. Prior to
2 the war the civilians had not been required to build
3 fortifications.

4 Q Was there a hospital maintained for the
5 employees of the Pacific Naval Air Base Contractors?

6 A There was only one hospital there. It was
7 used both by civilians and service personnel. We
8 had a small sick bay at the camp where the servicemen
9 were, but no hospital facilities.

10 Q Was this hospital taken over by the Japanese,
11 or was that the hospital to which you were confined?

12 A That is the hospital which I was in on
13 8 December, but it was bombed out on that date.

14 Q Well, you said something about the equipment
15 in the underground places being removed to the
16 Japanese hospital. Do you mean that there were two
17 hospitals on the island?

18 A During the time between 8 December and
19 23 December two magazines had been improvised as
20 hospitals. These were equipped with the instruments
21 and medicine which had been taken from the bombed-out
22 hospital. It was the equipment from these two
23 hospitals which was later moved to the Japanese
24 hospital.

25

STEWART

CROSS

1 Q What type of hospital were you confined in?
2 I don't think I got that quite clear?

3 A Do you mean during the time I was in the
4 hands of the Japanese on Wake?

5 Q Subsequent to December 25th.

6 A On the 7th of November when I was first
7 wounded I was placed in the contractor's hospital.
8 On the 8th of December this hospital was bombed out.
9 I was then placed in the improvised hospital in the
10 magazine. I stayed in this hospital until the 23rd
11 day of December, 1941, when the Japanese took over
12 the island. On the 23rd I was moved to a coral
13 strip alongside the airport and held there until the
14 evening of the 25th of December. We were then
15 moved to the contractor's camp. On the morning of
16 the 26th all patients were in the hospital in a
17 contractor's barracks which was used as a hospital
18 thereafter.

19 Q Are you correct, Sergeant, that you were
20 wounded on November 7, or was it December?

21 A If I said November I was wrong. It was
22 December.

23 Q Was this Dr. Kahn, was it, a marine doctor?

24 A Dr. Kahn was a lieutenant (jg) in the Navy
25 Medical Corps.

STEWART

CROSS

1 Q Do you know whether or not he is now on
2 Iwo Jima?

3 A I do not know.

4 Q Did the Marines have barracks on the island
5 prior to the surrender?

6 A No, sir, they were billeted in tents.

7 Q Now, was Dr. Shank under guard and confined?

8 A Dr. Shank was confined in the same buildings
9 and compound as the rest of the prisoners.

10 Q When did Lieutenant Kahn leave the island?

11 A Dr. Kahn left on January 12, 1942.

12 Q Now, these two civilian nurses, I assume they
13 were in the employ of the contractors, were they not?

14 A That is correct.

15 Q Now, where were the 40 U.S. Marines that were
16 wounded and sick confined?

17 A There were only twenty servicemen that were
18 wounded and sick. I stated forty hospital patients;
19 about half of them were servicemen. We were confined
20 in the same barracks and in the same compound as the
21 other prisoners.

22 Q Were there not on Marcy 11, 1942, some
23 wounded and ill prisoners of war on Wake?

24 A What was that date again, please?

25 Q March 11.

STEWART

CROSS

1 A Yes, there were.

2 Q Now, you yourself, of course, had not been
3 fully restored to health, had you?

4 A No, sir. At the time I left the island on
5 May 12 I will required crutches.

6 Q Well, therefore, was not Foreign Minister
7 TOGO correct in his statement of April 20, 1942, which
8 was brought to your attention?

9 A At that time none of us were still so bad that
10 we could not move under our own power.

11 Q But you were receiving some treatment,
12 weren't you?

13 A Yes, we were receiving dressings.

14 Q Now, do you know personally whether or not
15 the list of prisoners of war was ever forwarded to
16 Tokyo?

17 A I do not know. A list was prepared for
18 that purpose.

19 Q From whom did you secure the information
20 that the prisoners of war were asked to get out of
21 the shelters and work during the shelling by the
22 U.S. Cruisers?

23 A I was in the same shelter and I heard KATSUMI
24 order them out.

25 Q Well, that was before the 25th of December

STEWART

CROSS

1 apparently then, was it not?

2 A That was the 24th day of February, 1942.

3 Q You are referring to other shelters other
4 than the place where the medical equipment was kept?

5 A That is correct. This shelter was a dugout
6 which had been built in the compound where we were
7 held prisoners.

8 Q Do you know how many prisoners of war left
9 Wake on January 12, 1942?

10 A 1235.

11 Q Now, how many left when you departed in May?

12 A Twenty.

13 Q Twenty?

14 A Yes, sir.

15 Q Who was it that questioned you on Wake con-
16 cerning radio locators and radar?

17 A I do not know the name of the Japanese
18 officer. KATSUMI acted as interpreter.

19 Q Were you physically harmed in any way during
20 that questioning?

21 A I was not.

22 Q Who was it that questioned you on these
23 matters on the ship at Yokohama?

24 A It was a naval officer. I do not know his
25 name.

STEWART

CROSS

1 THE PRESIDENT: What rank?

2 THE WITNESS: I do not know the rank, your
3 Honor.

4 Q Were you physically harmed at any time at
5 that interrogation?

6 A I was not physically harmed at any interroga-
7 tion.

8 MR. BLEWETT: That is all, Sergeant. Thank
9 you. Apparently that is all the cross-examination.

10 THE PRESIDENT: Captain Robinson.

11 REDIRECT EXAMINATION

12 BY CAPTAIN ROBINSON:

13 Q Were you interrogated at Zentsuji?

14 A Yes, sir.

15 Q What was done to you there, if anything,
16 with regard to physical interference?

17 MR. LOGAN: If the Tribunal please, that
18 isn't proper redirect.

19 THE PRESIDENT: We can give him permission.
20 It isn't, really, because it relates to an entirely
21 different episode. It doesn't explain anything, but
22 we can give him permission and we do so.

23 CAPTAIN ROBINSON: It is intended to follow,
24 sir --

25 THE PRESIDENT: This is a new matter and you

STEWART

REDIRECT

1 must not lead. You are leading now.

2 CAPTAIN ROBINSON: If the Court please, I
3 am merely trying to follow the last question of cross-
4 examining counsel to ask whether physical violence
5 had been visited upon this witness at any time during
6 questioning.

7 THE PRESIDENT: He had two questionings, if
8 I remember rightly. But you have permission to ask
9 about this but you must not lead. It is new matter.

10 Q Will you state what, if anything, the Japanese
11 authorities did to you in connection with the question-
12 ing at Zentsuji Camp?

13 A At the Zentsuji Camp I was questioned why
14 I had refused to sign an escape oath. For refusing
15 to sign this oath I was confined. There were about
16 thirty officers and eleven enlisted men confined at
17 the same time I was for the same reason. We were
18 held in confinement from about 14 June until
19 23 September 1942, at which time we were called before
20 the camp commandant and threatened with death if we
21 did not sign this oath.

22 Q Referring to the execution of Hoffmeister,
23 did you learn whether the Japanese government at
24 Tokyo either authorized or was informed of the exe-
25 cution?

STEWART

REDIRECT

1 MR. LOGAN: Object to that, your Honor, on
2 the grounds it is improper redirect and leading.

3 THE PRESIDENT: I don't regard it as lead-
4 ing. It is new matter and it should have been brought
5 out on the examination in chief, but we will give you
6 permission. We are not bound by strict technical
7 rules of procedure. Of course, you may have heard
8 it only today or since the examination in chief. I
9 don't know. Answer the question, Witness.

10 A In regard to Hoffmeister's beheading, he
11 was apprehended about 1 May 1942 and held in jail
12 until 10 May, at which time he was executed.
13 Mr. Russell came to Dr. Shank in the hospital and
14 told him it was impossible to have Hoffmeister re-
15 leased until word was received from Tokyo. Dr. Shank
16 had examined Hoffmeister and requested that he be
17 released due to physical condition.

18 Q Do you have any further information on that
19 subject?

20 A Nothing at present, sir.

21 Q With regard to the death certificate of
22 Hoffmeister, do you have any information on that?

23 MR. LOGAN: If the Tribunal please, this
24 man's death was gone into on direct examination. If
25 this is just an oversight I submit it is improper

STEWART

REDIRECT

1 re-examination.

2 THE PRESIDENT: We permit it. We have a
3 discretion to do so even in a national court and we
4 certainly have the discretion here. The defense may
5 further cross-examine.

6 A In regards to that, at the time I left Wake
7 Island it was known by us that we had never been
8 reported to our government. I had with me a list of
9 names and addresses of 362 civilians who were on Wake.
10 Mr. Cormier and Dr. Shank had helped me make this list
11 up. I had added the address of Hoffmeister to this
12 list. It was my intention to include these names and
13 addresses in letters to my wife which I might be allowed
14 to write after I arrived in Japan. We were worried
15 for fear the Japanese may not allow me to include an
16 execution in this information. As I got on the truck
17 about noon May 12, 1942, in front of the Japanese
18 office, Mr. Cromier came out to the truck and said,
19 "Don't worry. Don't worry about Hoffmeister; I have
20 made his death certificate. It is going to Tokyo."

21 Q A final question, Sergeant. You mentioned
22 word to your wife. On what date did the Japanese
23 deliver to you the first word you had received from
24 your wife?

25 A On or about 11 November 1944.

STEWART

REDIRECT

1 Q In that word did you receive word of special
2 interest in regard to your family?

3 THE PRESIDENT: You should explain why it
4 was ---

5 CAPTAIN ROBINSON: That concludes the redirect,
6 sir.

7 MR. LOGAN: I would like to ask a few ques-
8 tions on recross.

9 RECCROSS-EXAMINATION
10 BY MR. LOGAN:

11 Q Do you know what was included in that death
12 certificate that was sent to Tokyo?

13 A No, sir.

14 MR. LOGAN: That is all.

15 CAPTAIN ROBINSON: That concludes the ques-
16 tioning of this witness and, if the Court please, we
17 would like to ask permission of the Court that he
18 be excused on the usual conditions.

19 MR. LEVIN: No further cross-examination,
20 Your Honor.

21 THE PRESIDENT: He is excused on the usual
22 terms.

23 (Whereupon, the witness was
24 excused)

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1 CAPTAIN ROBINSON: May it please the Court,
2 prosecution document No. 8036 is now offered in
3 evidence. It is the affidavit of Robert Hugh Lancaster,
4 sworn to on 18 October 1945.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution document
7 No. 8036 will receive exhibit No. 2035.

8 (Whereupon, the document above
9 referred to was marked prosecution's ex-
10 hibit No. 2035 and received in evidence.)

11 CAPTAIN ROBINSON: In this statement at page
12 1, answers 2 and 3, the affiant states:

13 "2. What is your occupation, by whom have
14 you been employed, and where?

15 "A. I am an excavating foreman by occupation,
16 and on 4 June 1941 I was employed by Pacific Naval
17 Air Base Contractors to work at Wake Island. I
18 arrived at Wake Island on 2 August 1941.

19 "3. Were you ever held as a prisoner of
20 war by the Imperial Japanese Government?

21 "A. Yes. I was held in custody as a prisoner
22 of war by the Imperial Japanese Government from 23
23 December 1941 to 14 September 1945. I was taken
24 prisoner when the Japanese Marines invaded Wake
25 Island."

1 At page 2, reading from answer 7:

2 "A. At Wake Island, in about April or May
3 1942, an American civilian employee of Pacific Naval
4 Air Base Contractors was beheaded by a Japanese Officer
5 using a two-handed sword. I do not know the victim's
6 full name, but I can locate it when I get my personal
7 effects, which were shipped back with me by plane.
8 I recall his first name was 'Babe', that he was
9 employed as a roofer, and his home was in San Francisco,
10 California. 'Babe' had been apprehended stealing
11 cigarettes and other commodities from the warehouses
12 at Wake Island and, aside from this, had been very
13 belligerent and uncooperative with the Japanese guards,
14 who seemed to have a particular dislike for him. I
15 do not know that he had any sort of a trial. He was
16 held a prisoner in the contractor's main office for
17 about a week, where the guards made him walk back and
18 forth continuously until he was totally exhausted.
19 When exhausted, they would beat him and make him
20 continue walking. After he had been held for about
21 a week, we understood that the Commanding Officer
22 received orders or permission from Tokyo to execute
23 him. A grave was dug and a board placed across it.
24 'Babe' was led out blindfolded and tied and made to
25 assume a kneeling position on the board over the grave.

1 The Japanese Commanding Officer, his entire staff,
2 and a great number of Japanese Marines and soldiers
3 were present to witness the execution. Several other
4 prisoners who had also been supervisors and foremen
5 were required to witness the execution. I was standing
6 in the front row about eight or nine feet from 'Babe'
7 when he was executed. I recall that just before the
8 execution, the Japanese officer in charge read a long
9 indictment in Japanese, and the interpreter repeated
10 the substance of most of it. I do not recall exactly
11 what was said, but in substance it was to the effect
12 that the Japanese are honorable people, that they do
13 not believe it is necessary to keep locks on warehouses,
14 and that 'Babe' had been found guilty of breaking
15 into an unlocked warehouse and stealing material."

16 At page 3, reading from question 10:

17 "10. What type of work were you required to
18 do while you were held as a prisoner at Wake Island?

19 "A. There were 350 civilian American citizens
20 held for nine months at Wake Island, and they were
21 required to finish the runway at the airport, digging
22 a ditch wide enough to drive an automobile through
23 completely around the island, where machine guns
24 were mounted, and also to build pillboxes.

25 "11. Do you recall that any other American

1 citizens were tortured or beaten at Wake Island?

2 "A. Yes. All of the prisoners were slapped
3 or beaten practically every day. I recall that 'Swede'
4 Holson, a rigger superintendent, was beaten severely
5 with a crowbar until the ligaments in his legs were
6 torn, and he has been unable to walk without a cane
7 or crutches since that time. I understand he is
8 enroute back to the United States at this time. I
9 also recall that Chisholm, first name unknown, from
10 Boise, Idaho, was so severely beaten with clubs that
11 he was unable to walk for four or five days."

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1 Prosecution document No. 8478 is offered
2 for identification. This document is the record of
3 proceedings of a military commission convened at
4 United States Naval Air Base, Kwajalein Island,
5 Kwajalein Atoll, Marshall Islands, by order of
6 Commander Marshalls-Gilbert area on 21 December 1945
7 in the case of Rear Admiral SAKIBARA, Lieutenant
8 Commander TACHIBANA and Lieutenant ITO. Three ex-
9 cerpts from this document are offered in evidence.
10 The excerpts are statements made by the accused
11 SAKIBARA, TACHIBANA and ITO. These statements were
12 introduced at their trial before the military com-
13 mission for offenses on Wake Island. The excerpts,
14 prosecution documents No. 8439, No. 8440 and No. 8441
15 are now offered in evidence.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 8478 will receive exhibit No. 2036 for identifica-
19 tion only and the excerpts therefrom bearing document
20 No. 8439 will receive exhibit No. 2036-A, document
21 No. 8440 will receive exhibit No. 2036-B, document
22 No. 8441 will receive exhibit No. 2036-C.

23 (Whereupon, prosecution's document
24 No. 8478 was marked prosecution's exhibit
25 No. 2036 for identification only; the excerpts

1 therefrom, documents Nos. 8439, 8440 and 8441
2 were marked prosecution's exhibits Nos. 2036-A,
3 2036-B and 2036-C, respectively, and received in
4 evidence.)

5 CAPTAIN ROBINSON: Prosecution's document
6 No. 8439, exhibit No. 2036-A, statement by Admiral
7 SAKIBARA, reads as follows:

8 "(1) October 7, 1943.

9 "I gave the following order to Lt. (SG)
10 TACHIBANA (at present a Lieutenant Commander) who was
11 the Commanding Officer of the headquarters company
12 as well as my acting executive officer: 'Using the
13 men of the headquarters company appropriately and at
14 a place which will not interfere with our positions,
15 execute by firing squad all prisoners of war.' I
16 remember it was about one hour after sunset (not
17 definite). Although my recollection of the hour of
18 execution is not definite, I remember that there was
19 a report made by Ensign NAKAMURA, command platoon
20 leader under Lt. (SG) ITO, more than an hour and a
21 half after my issuance of the order. Ninety-six (96)
22 prisoners were executed and one escaped.

23 "(2) (a) Around July 1943--

24 THE PRESIDENT: That is dated October 7, 1943.

25 CAPTAIN ROBINSON: Shall I proceed, sir?

(Reading continued): "(2) (a) Around

1 July 1943 an unknown person frequently broke into the
2 headquarters company's food stores and this person
3 was captured in the food stores. His name is Jack.
4 Previously a warning was given that since the food
5 meant life and death on the island any person stealing
6 food will be severely punished. In order to maintain
7 military discipline it was necessary that the man
8 be executed, so Lt. (jg) NONAKA (transferred to Japan
9 in October, 1943, at present a Lt. (SG) executed the
10 said person on Hajima (Peale Island) by decapitation.
11 Before the execution was carried out, I wrote a
12 statement giving the reason for the execution and had
13 this translated, and it was read to the person to be
14 executed by Lt. (SG) NOMOTO (injured on October 7 and
15 later sent back to Japan).
16

17 "(b) I believe it was about October 15, 1943.

18 "The prisoner who escaped on October 7 when
19 the executions were held was discovered and captured
20 near the vicinity of the food stores, located near the
21 shrine, where he obtained his food. At that time, we
22 frequently received situation reports and orders
23 from the fleet (6th based). One of them being that,
24 'A new and powerful task force was organized and has
25 departed from Hawaii, therefore the Marshalls Area will

1 go into their first defensive positions. Wake Island
2 will prepare for an attack force.' Thus we were in
3 the midst of an alerted condition. In order to
4 suppress any danger arising from him, I was forced
5 to execute the said person on Hajima (Peale Island)
6 about thirty minutes after sunset on the same day.
7 (execution by decapitation). The officer in charge
8 of prisoners, Ensign NAKAMURA, and several other
9 enlisted men were also present at the scene.

10 "(3) According to the news broadcast from
11 San Francisco regarding the war criminal trials of
12 Germans by the Allied nations, it was said that the
13 issuer of the orders as well as the executors of
14 the orders will be persecuted. In case the various
15 actions which were carried out to my orders because
16 the source of any trouble, it will mean that my sub-
17 ordinates too will be involved. There is no greater
18 grief for the commanding officer whose subordinates
19 had to suffer because they had to carry out his abso-
20 lute orders. Therefore in all cases I would like to
21 shoulder the responsibility for my subordinates.

22 "(4) I voluntarily and without consulting
23 any other officer called all company commanders involved
24 and department heads to a meeting in the conference
25 room, and ordered that a false story be made, saying,

1 'I have an idea so just do as I say.' I had made up
2 this false story beforehand and then I issued the
3 order. Note: at the second meeting I cannot recol-
4 lect if Petty Officer MIYAKI and the others were
5 present,

6 "(5) After the end of the war, it was
7 impossible for me to obtain the contents of the
8 Potsdam proclamation, and thereafter I began to
9 realize that Japan was about to surrender uncondition-
10 ally. I then realized that we had to obey United
11 States orders. And in considering that in the
12 Imperial rescript it said, 'Not to lose faith in
13 the Allied nations,' I reconsidered and decided to
14 confess the truth without hesitation.

15 "(6) I appreciate the good treatment I am
16 receiving.

17 "The above statement is true to the best
18 of my knowledge and recollection. I have given it
19 freely and voluntarily and without being threatened
20 and forced to do so.

21 "SAKIBARA, Shigematsu."

22 THE PRESIDENT: We will recess for fifteen
23 minutes.

24 (Whereupon, at 1045, a recess was
25 taken until 1100, after which the proceedings
were resumed as follows:)

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1 MARSHAL OF THE COURT: The Tribunal is
2 now resumed.

3 THE PRESIDENT: Captain Robinson.

4 CAPTAIN ROBINSON: Prosecution document
5 No. 8440, exhibit No. 2036B, a statement by Lieutenant
6 Commander TACHIBANA, Shoichi, Imperial Japanese Navy,
7 reading from the fourth paragraph, beginning ten lines
8 from the bottom of that paragraph:

9 "On the 7th, just after sundown, (I don't
10 know the time), the Commanding Officer and I were
11 at the command post. Then, all of a sudden, he
12 ordered, 'The headquarters company leader is to use
13 his men and shoot to death the prisoners of war on
14 the northern shore.' It was so sudden that I was
15 startled but I knew that the Commanding Officer was
16 a careful man and I knew he wouldn't come to a con-
17 clusion unless he gave it plenty of consideration.
18 (When I was a cadet at the Naval Academy he was my
19 instructor). I didn't have a bit of doubt and
20 thought it was justifiable to execute the prisoners
21 of war according to the situation that night."

22 Reading from the next paragraph, the last
23 sentence:
24

25 "About an hour after Lieutenant ITO took
over the command of the headquarters company, a

1 soldier came and reported that he heard volleys
2 on the northern shore so I went out to investigate.
3 On the way to the northern shore I met the execu-
4 tion party returning so I returned to the command
5 post. Later a report came to the Commander from
6 headquarters company that the execution was
7 carried out. Later on I heard that the headquarters
8 company leader had a headache from dengue fever so
9 he did not go to the Commander personally to report
10 the carrying out of the execution."

11 I omit the rest of the paragraph and the
12 first two sentences of the next paragraph:

13 "At about the 20th a report came in about
14 someone seeing a caucasian in blue clothing near
15 the woods by the shrine. An order was given to
16 search the area but he couldn't be found so we
17 gave it up. The next day he was found in the
18 First Lieutenants Department warehouse and was
19 taken to headquarters. We found out that he was
20 hiding in the supplies storeroom.

21
22 "On the same day just before sundown the
23 Commander ordered him to be executed. He said he
24 would do the execution personally by cutting his
25 head off. After sundown the Commander executed him
personally with his sword on the eastern end of

1 Peale Island and the body was buried on the spot.
2 When I went there the execution was over and they
3 were almost through burying the body. There were
4 five or six men but it was dark and no moon was out
5 so I wasn't able to recognize anyone. To make sure
6 there wasn't anymore American prisoners we checked
7 up the remains of the prisoners of war that were
8 buried.

9 "On the night of August 15, 1945 we heard
10 of the surrender from a radio newscast but we did
11 not get any dispatch from Naval General Staff in
12 Tokyo so we did not believe it. On the 16th an
13 Imperial Rescript was received and we found out the
14 truth.

15 "It was on the 18th or 19th at about 8:00
16 p. m. The Commander ordered all officers above
17 chiefs of sections near the headquarters area to
18 muster at his quarters. He said, 'I just heard over
19 the radio from Melbourne that all criminals of war
20 whether they were ordered or were the officers who
21 gave the orders will be punished.' After he said
22 this he just stared at the floor and said nothing
23 else. He seemed to be excited. About ten minutes
24 later the meeting was dispersed. We wondered why
25 the Commander ordered us to muster. Lieutenant

1 Commander TACHIBANA, Lieutenant Commander MIYAZAKI,
2 Lieutenant TOKUDA, and Lieutenant OGAWA were present."

3 Omitting the next two lines:

4 "On the 20th or 21st of August all
5 company leaders were ordered to muster. The Com-
6 mander said, 'The case concerning the prisoners
7 of war will be like this. I have thought up a good
8 idea so we are going to make it this way: Half of
9 the prisoners of war died in the bombardment on the
10 6th of October 1943. The rest of the prisoners of
11 war escaped on the night of the 7th of October and
12 resisted with gunfire so a fight ensued and they
13 all died.' He put in a lot more details and said
14 to be prepared according to his fabricated story."

15 I omit the names and begin with the next
16 paragraph:

17 "On the 22nd or 23rd of August 1945, the
18 remains of the prisoners of war were moved to the
19 eastern shore. The headquarters company took
20 charge of the excavating and Ensign HIRATA took
21 charge of the burying party. It took us two days
22 to dig out the remains.

23 "On the 25th or 26th of August (maybe it
24 was before), an inquiry came from the Bureau of
25 Military Affairs concerning the prisoners of war on

1 Wake. On the same day all officers above the
2 chiefs of sections, including the Executive Officer
3 and all men who took part in the invasion were or-
4 dered to muster to give the Bureau of Military
5 Affairs their information. The number shipped to
6 Japan, day's schedule, the kind of work they did,
7 living quarters, food, etc., and also the events
8 that took place on Wake were sent to the Bureau of
9 Military Affairs. It took about two hours. Those
10 present were:

11 "TACHIBANA," already mentioned, and I will
12 omit the nrest of the names.

13 "ARIYASU stayed only for awhile. On the
14 night of September 8th all officers above company
15 leader and men involved in the case were ordered to
16 muster. More detail was given concerning the fabri-
17 cated story and ordered that all his subordinates to
18 be thoroughly familiar with the fabricated story.
19 During the conference, MIYAKI, BANGUCHI, KIDO and
20 SHIBATA were called and the details were told to
21 them. The details are the same as the testimony from
22 MIYAKI and the other three. This conference lasted
23 about 8 hours."

24 I will omit the nrest of the statement.

25 Prosecution document No. 8441, exhibit

1 No. 2036C, reads as follows:

2 "STATEMENT OF ITO TORAJI

3 "On the 7th of October 1943 at about 5:30
4 p. m., I arrived from Kwajalein by plane and was
5 assigned as Commanding Officer of headquarters company.
6 Then Lieutenant TACHIBANA passed me an order saying
7 that the headquarters company was ordered to shoot
8 the prisoners of war to death."

9 Omitting the next paragraph:

10 "When I arrived at the northern beach I saw
11 the prisoners of war sitting side by side in a single
12 file facing the beach, with their hands tied and
13 blindfolded. About five or six meters behind each
14 of them stood the riflemen. There were about one
15 hundred but I couldn't see the men in the right flank
16 distinctly. A platoon leader came up to me and said
17 that everything was all set. So I said, 'Go ahead as
18 ordered.'

19
20 "A platoon leader came over to me and said,
21 'It is over,' so I ordered him to report to Head-
22 quarters and then to go back to his post immediately.
23 I went back to the command post (it was about 7 p. m.).

24 Omitting the next paragraph:

25 "All that I stated on Wake Island is false.

"(a) I think it was the day of surrender that

1 we were ordered to give the false statement.

2 "(b) All officers above Company Commander
3 were ordered to muster at the Commanding Officer's
4 quarters in the evening.

5 "(c) After the muster, the Commanding
6 Officer said, 'Half of the prisoners of war died in
7 the bombardment and the rest were executed because
8 there were signs of a riot.' He further stated
9 that he had sent a dispatch to the homeland, and
10 ordered us to testify within this scope.

11 "December, 1945. Lt. ITO, Toraji."

12 Offenses against prisoners of war and
13 civilians taken from Wake Island on the NITTA MARU on
14 12 January 1942, are described in the two following
15 affidavits. Prosecution document No. 8482 is the
16 affidavit of Lieutenant Colonel Rudisill, Chief of
17 the Investigation Division of Legal Section, GHQ,
18 SCAP. This statement, sworn to on 2 January 1947,
19 is offered in evidence.
20

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: Prosecution document
23 No. 8482 will receive exhibit No. 2037.

24 (Whereupon, the document above re-
25 ferred to was marked prosecution's exhibit
No. 2037 and received in evidence.)

1 CAPTAIN ROBINSON: This affidavit presents
2 a report by Captain John Hamas, United States Marine
3 Corps, beginning at the paragraph marked "1" in
4 parantheses as follows:

5 "(1) SUBJECT: Improper transportation on
6 high seas, clubbings, stealing of valuable personal
7 property --

8 THE MONITOR: Where are you reading from,
9 Captain Robinson?

10 CAPTAIN ROBINSON: Document 8482, exhibit
11 No. 2037.

12 THE MONITOR: We know the document, but
13 you are not reading from the marked place. We cannot
14 cooperate with you unless you give us time to find the
15 place. Your original marking is that you were starting
16 from the very beginning, and we started to read from
17 the beginning, but we do not find it the same place.

18 CAPTAIN ROBINSON: You may omit the first
19 four paragraphs, and I will start with the parentheses
20 marked "1."

21 THE MONITOR: What page?

22 CAPTAIN ROBINSON: I will read the whole thing,
23 if that will make it easier.

24 THE MONITOR: That is much better.

25 CAPTAIN ROBINSON: (Reading)

1 "I, Richard E. Rudisill, Lt. Colonel, QMC,
2 upon oath, make the following statement:

3 "1. I am on duty as Chief of the Investi-
4 gation Division, Legal Section, General Headquarters,
5 Supreme Commander for the Allied Powers,
6 Room 823, Meiji Building, Tokyo, Japan.

7 "2. My official duties include the direction
8 of investigating officers engaged in the investiga-
9 tion of the treatment of prisoners of war and other
10 Allied nationals during the course of the war.

11 "3. Captain John Hamas, United States
12 Marine Corps, has been serving as investigating officer
13 under my direction in the Investigation Division. On
14 1 October 1946, Captain Hamas filed a report based
15 upon investigation made by him and also upon his
16 personal experiences as a prisoner of war. This
17 report presents the following statements of fact on
18 the subject indicated:

19 "(1) SUBJECT: Improper transportation on
20 high seas, clubbings, stealing of valuable personal
21 property, starving of about eleven hundred (1100)
22 prisoners of war, from Wake Island to Woosung (Shanghai)
23 China aboard the NITTA MARU from 12 January to 24 Jan-
24 uary 1942.

25 "(2) Upon embarkation on NITTA MARU I was

1 brutally clubbed across my back with a heavy club,
2 slapped in the face by the Jap Guards who searched my
3 small bag, containing, one book, one undershirt, and
4 some toilet gear.

5 "(3) The guards clubbed and slapped Colonel
6 J. P. S. Davereux, Commanding Officer, Wake Island
7 Detachment, U. S. Marines, too.

8 "(4) Marines, Navy and Army Enlisted Men,
9 Civilian Defense Workers, were forced to run through
10 a gauntlet, they were barbarically clubbed, with
11 baseball bats, kicked, slapped, by Captain SAITO's
12 guards and NITTA MARU Captain OGAWA Kiyoshi's ships
13 crew until many of the men were badly hurt and fell
14 ill.

15 "(5) They were herded like cattle to holds,
16 so crowded, that there was not enough room to stretch
17 or lie down. Existing in dark, damp holds for two (2)
18 weeks; humiliated, clubbed, starved, thirsty, forced
19 to live dirty during the whole trip.

20 "(6) PFC Trefansky, USMC, who was seriously
21 wounded in combat, was clubbed until the stitches on
22 his back ripped and the poor man fell unconscious.

23 "(7) PFC Phillip Burford, Pvt. Todd, PFC
24 Eugene Richter, Sgt. 'Peepsight' Hassig, Seaman Doke,
25 USN, Joe O'Neill, John Pollock, Harry L. McDonal,

1 Red Topham, civilians, and countless others clubbed
2 terribly.

3 "(8) As the result of this horrible night-
4 marish mistreatment many of our young and husky
5 Marines contracted tuberculosis, and other serious
6 ailments. Amongst them was John Gutrio, Sgt. Bertel,
7 and others, who all passed away during our internment
8 in KIANGWAN Camp.

9 "(9) I also have information concerning two
10 very sick men aboard NITTA MARU (Name not remembered)
11 who were seen removed from one of the holds by the
12 Japs, to the 'sick-bay' but never returned.

13 "(10) Aviation Machinist Mate, 3rd Class
14 Franklin, U. S. Navy, and two other young American
15 servicemen, who were detailed to help the officers
16 never disembarked with us at Woosung, Shanghai. They
17 disappeared too. It is very obvious that three (3)
18 of the five (5), (perhaps all five) U. S. servicemen
19 were beheaded, and their bodies thrown overboard.

20 "(11) Beheadings, clubbings, stripping the
21 prisoners of all belongings such as watches, rings,
22 money, pens, pencils, toilet gear, clothing, even
23 personal papers, letters and photographs.

24 "(12) Colonel DEVEREUX, after a repeated
25 request, was denied the possession of his old 'family

1 papers.' Perhaps some of these articles could be
2 recovered yet.

3 "(13) Wounded and sick aboard were absolutely
4 refused medical care by the Jap doctor. I personally
5 requested treatment for Captain Freuler who was suf-
6 fering from infected shoulder wound and was refused.
7 We tore up a towel and bandaged him up the best we
8 could.

9 "(14) There was also a big, well-built,
10 loud-talking Nip Petty Officer, who clubbed Captain
11 Wesley Platt, until he collapsed from possible internal
12 injury. I witnessed the clubbing.

13 "(15) Great many others, service personnel
14 and civilians alike were clubbed to insensibility.

15 "(16) During the voyage, Captain SAITO and
16 his staff interrogated officers and men concerning
17 military installations on Midway, Palmyra, Johnson
18 Islands and, in many cases, they threatened prisoners
19 with beheading, unless the questions properly answered.

20 "(17) On or about 18 January 1942 the NITTA
21 MARU anchored in Yokohama Harbor. The weather was
22 freezing, none of us had warm clothing. The looting
23 of our clothing and valuables caused our very
24 destitute appearance, and not having adequate protec-
25 tion against the inclemencies of weather, great many
of us fell sick from exposure.

1 *(18) All the prisoners were robbed of all
2 their personal possessions. They imposed capital and
3 corporal punishments, kept prisoners in cold, damp
4 holds without light. They imposed unhealthy starva-
5 tion. They failed to allow prisoners to stay in the
6 open air, or exercise.

7 *(19) In addition to all the above, the
8 doctor failed to give medical aid to our wounded and
9 ailing. And to all this: 'The Commander of the
10 Prisoner Escort NAVY OF THE GREAT JAPANESE EMPIRE'
11 published the following: 'Regulations for Prisoners.'

12 "(20) '1. The prisoners disobeying the
13 following orders will be punished with immediate death.

14 "'a. Those disobeying orders and instructions.

15 "'b. Those showing a motion of antagonism
16 and raising a sign of opposition.

17 "'c. Those disordering the regulations by
18 individualism, egoism, thinking only about yourself,
19 rushing for your own goals.

20 "'d. Those talking without permission and
21 raising loud voices.

22 "'e. Those walking and moving without order.

23 "'f. Those carrying unnecessary baggage in
24 embarking.

25 "'g. Those resisting mutually.

1 "h. Those touching the boat's materials,
2 wires, electric lights, tools, switches, etc.

3 "i. Those climbing ladder without order.

4 "j. Those showing action of running away
5 from the room or boat.

6 "k. Those trying to take more meal than
7 given to them.

8 "l. Those using more than two blankets."

9

10 Paragraph 21 of these regulations, still
11 quoting:

12 "(21) 6. Navy of the Great Japanese Empire
13 will not try to punish you all with death. Those obey-
14 ing all the rules and regulations, and believing the
15 action and purpose of the Japanese Navy, cooperating
16 with Japan in constructing the 'New Order of the Great
17 Asia' which lead to the world's peace will be well
18 treated.

19 "The End

20 "/s/ J. A. Jr.'

21 "(22) Correspondence, food, clothing,
22 packages were stolen.

23 "(23) My wife did send me some twenty-four
24 (24) packages. Each was worth about fifty (50) dollars.
25 I never received a single one. Most of the letters were

1 held back in Japan, much destroyed. During three
2 (3) years and nine (9) months in the hands of Japs
3 I received one (1) letter, one (1) Christmas card and
4 two (2) short radio messages at the end of the war
5 from my wife, who wrote to me faithfully every
6 chance she had. Many of her letters and postal
7 cards were written in 1942-43-44-45 and just been
8 returned as 'undelivered' from somewhere.

9 "(24) During the early part of 1945, just
10 before our departure from China (Kiangwan Camp) a
11 tall, slender, 60 year old Jap Prince of the royal
12 blood inspected us. He was the General Chairman of
13 the Jap Red Cross from Tokyo. He did not bother to
14 talk to our senior Marine officer, Colonel W. W.
15 Ashurst, who could tell him plenty. The Jap Colonel
16 OTERA just rushed him through the camp, he looked us
17 over and departed.

18 "(25) I still have a good size lump in my
19 back, and a small hole in my skull. My head, left
20 ear and leg is still aching at nights from the
21 clubbings. Both of my legs are still sore and swell-
22 ling from malnutrition, beri-beri, pelagra and other
23 unpleasant complications forced upon me by the Japs,
24 even after a year of good American living."
25

Prosecution document No. 8480, the affidavit

1 of Yasuo KOHARA, sworn to on 19 November 1946, is
2 offered in evidence.

3 THE PRESIDENT: Admitted on the usual terms.

4 CLERK OF THE COURT: Prosecution document
5 No. 8480 will receive exhibit No. 2038.

6 (Whereupon, the document above re-
7 ferred to was marked prosecution's exhibit
8 No. 2038 and received in evidence.)

9 CAPTAIN ROBINSON: On page 1 of this docu-
10 ment, the fourth and fifth paragraphs read as follows:

11 "I joined the Imperial Japanese Navy in
12 June 1929. At the outbreak of the Pacific War, I
13 held the rank of Chief Petty Officer and was stationed
14 at the Kure Naval Training Station.

15 "From 25 December 1941 until the end of
16 January 1942, I was assigned as a prisoner of war
17 guard aboard the liner NITTA MARU. The NITTA MARU
18 called at Wake Island on 13 January 1942 and took
19 aboard some 1200 American prisoners of war who had
20 been captured at the time Wake Island surrendered to
21 Japanese military forces in December 1941. From Wake
22 Island the NITTA MARU went to Yokohama, Japan, and
23 put ashore some fourteen American prisoners of war.
24 From Yokohama the NITTA MARU sailed to Shanghai,
25 China, arriving there about 22 January 1942. All the

1 prisoners of war remaining on the NITTA MARU were put
2 ashore at that time. Then the NITTA MARU went to
3 Kure, Japan, and I went ashore and took up my regular
4 duties at the Kure Naval Training Station."

5 Omitting the next paragraph and continuing
6 at the bottom paragraph, same page:

7 "In the afternoon of the second day after
8 the NITTA MARU had departed from Yokohama, Japan,
9 for Shanghai, China, with about 1200 American
10 prisoners of war from Wake Island on board, Captain
11 SAITO called me into his cabin aboard the NITTA MARU.
12 At this time he showed me a piece of paper which was
13 an execution order for executing five American
14 prisoners of war aboard the ship. After I had read
15 this order over, Captain SAITO told me that he was
16 ordering me to kill one of these American prisoners
17 of war. I was astonished that he would order such
18 a thing, and I flatly refused to carry out his order.
19 When I refused, Captain SAITO told me that since I
20 was the senior 'GOCHO' of the guard I had to carry
21 out his order. I refused again. But Captain SAITO
22 explained to me that he was giving me a direct order
23 and to use my Japanese sword. I was confused. I
24 didn't know what to say. However, I reasoned to
25 myself that the order from my Commanding Officer,

1 Captain SAITO, was also an order from the Emperor of
2 Japan. I must obey it. I also realized that if I
3 refused this order I would be the one who would be
4 executed. Therefore, I could do nothing but carry
5 out the order of Captain SAITO to execute by my own
6 hand an American prisoner of war. After receiving
7 this order I returned to my cabin as I was feeling
8 ill.

9 "Sometime later, someone came to my cabin,
10 called me, and told me that the execution was ready to
11 take place. I left my cabin and went up on deck.
12 When I reached the quarterdeck, I saw five American
13 prisoners of war lined up on the port-side portion
14 of the deck. Many of the prisoner of war guards and
15 the crew of the NITTA MARU were standing around the
16 American prisoners of war and on the decks above the
17 deck on which the prisoners of war were standing.
18 I noticed that it was late afternoon. Very soon
19 Captain SAITO got up on a small platform near the
20 American prisoners of war and started to read the
21 execution order. I cannot remember exactly how the
22 execution order went, but it sounded something like
23 this:
24

25 "(First the names of the five American
prisoners of war to be executed were read off.)

1 "Then Captain SAITO read:

2 "'Since you have committed -- a crime,
3 it will do no good to the world to let you people
4 live. I hope you will find happiness in the next
5 world. When you are born again, I hope you will
6 become peace-loving citizens.'"

7 "After reading this execution order, Captain
8 SAITO left his platform and proceeded to have the
9 executions carried out. Captain SAITO ordered
10 Warrant Officer YOSHIMURA to carry out the first
11 execution.

12 "The first American prisoner of war was
13 blindfolded and his hands were tied behind his back.
14 He was made to kneel down on a small straw mat on the
15 deck. Warrant Officer YOSHIMURA stepped out by the
16 American prisoner of war, raised his sword, and
17 struck the American prisoner of war heavily across
18 the side of the neck. The head was not severed.
19 Therefore, Warrant Officer YOSHIMURA struck the
20 American prisoner of war again with his sword. I
21 cannot remember where this second blow landed, but I
22 do know that the head still was not severed from the
23 body, and the American prisoner of war did not die
24 immediately.

25 Next, Captain SAITO ordered P. S. 3/c

1 Tokuichi TAKAMURA to execute an American prisoner
2 of war. P. O. 3/c TAKAMURA stepped up to the second
3 American prisoner of war who was kneeling on the
4 deck. I was so sick from the sight of the execution
5 of the first American prisoner of war that I closed
6 my eyes. When I opened my eyes, P. O. 3/c TAKAMURA
7 was standing, sword lowered, over the sprawled out,
8 headless body of the American prisoner of war.

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1 opened my eyes the American prisoner of war was
2 lying dead on the deck, and CPO ASAKAWA was standing
3 over him and shaking with excitement.

4 "Next Captain SAITO called out CPO TAKEZOE.
5 When CPO TAKEZOE was called out I left the deck and
6 returned to my cabin. I felt so badly that I could
7 not bear to witness any further executions. I did
8 hear later, however, that CPO TAKEZOE had executed
9 this fifth American prisoner of war.

10 "After the executions were finished I heard
11 that the bodies of the five executed American
12 prisoners of war were thrown over the side of the
13 NITTA MARU. I never heard of these five bodies
14 being mutilated by the guards of the Prisoner of
15 War Guard Detachment.

16 "The morning after the execution, the
17 NITTA MARU reached Shanghai, and the American
18 prisoners of war were put ashore. My duties as a
19 prisoner of war guard were over.

20 "While the NITTA MARU was en route from
21 Shanghai to Kure, Captain SAITO called all the
22 prisoner of war guards into his cabin and presented
23 each of them several rings and watches which had
24 been gotten somehow from the American prisoners of
25 war. I got a wrist watch and a gold ring. I lost

1 this ring when my home in Kure was burned down dur-
2 ing the American air raids on Japan during the war.
3 I left the watch with my wife when I left home to
4 come into Sugamo Prison.

5 "When I got ashore at Kure, I discovered
6 that the original execution order that Captain SAITO
7 had read aboard the NITTA MARU was in the pocket
8 of my coat. Along with this execution order was
9 a picture of an American civilian by the name of
10 'Tepas' or 'Teter' who had been aboard the NITTA
11 MARU and who was called 'governor' by all the
12 Japanese. I took this order home and kept it in my
13 home until it was burned in the air raids. Captain
14 SAITO never asked me for this order. Therefore, I
15 am sure that Captain SAITO did not report the exe-
16 cution of the five American prisoners of war aboard
17 the NITTA MARU in January 1942 to his superiors at
18 the Kure Naval Training Station. If Captain SAITO
19 had reported the execution, he would have needed
20 the execution order to substantiate the charge and
21 sentence in this execution.

22
23 "I have nothing further to add at this
24 time." Signed YASUO KOHARA.

25 The efforts of the United States government
to obtain from the Japanese government officials

1 information and thereby protection for the American
2 civilians and the American prisoners of war on Wake
3 Island are shown by the documents now to be intro-
4 duced.

5 These documents are copies of the communi-
6 cations by which the Swiss Minister brought the
7 requests of the United States government to the
8 personal and official attention of the defendant
9 TOGO and of other defendants. A document on this
10 subject, bearing date of 20 April 1942, has already
11 been introduced as prosecution document No. 8431,
12 exhibit No. 2034. These documents are duly certified
13 by prosecution document No. 8483 with respect to
14 source and authenticity. They are offered in evidence
15 as prosecution documents bearing the following
16 numbers:

17 8433	8436	8430	8426
18 8432-A	8437	8429	8425
19 8445	8438	8424	8422
20 8427	8428	9423	8483

21 THE PRESIDENT: Admitted on the usual terms.

22 CLERK OF THE COURT: The respective prose-
23 cution documents will be given the following exhibit
24 numbers:
25

No. 8433, exhibit No. 2039;

1 No. 8432-A, exhibit No. 2040;
2 No. 8445, exhibit No. 2041;
3 No. 8427, exhibit No. 2042;
4 No. 8436, exhibit No. 2043;
5 No. 8437, exhibit No. 2044;
6 No. 8438, exhibit No. 2045;
7 No. 8428, exhibit No. 2046
8 No. 8430, exhibit No. 2047;
9 No. 8429, exhibit No. 2048;
10 No. 8424, exhibit No. 2049;
11 No. 8423, exhibit No. 2050;
12 No. 8426, exhibit No. 2051;
13 No. 8425, exhibit No. 2052;
14 No. 8422, exhibit No. 2053;
15 No. 8483, exhibit No. 2054.

16
17 (Whereupon, the documents above
18 referred to were marked as indicated by
19 the clerk of the court and received in
20 evidence.)

21 CAPTAIN COLEMAN: Prosecution document No.
22 8433, exhibit No. 2039, a letter from the Swiss
23 Minister to the defendant TOGO, dated 26 May 1942,
24 at Tokyo, reads as follows:

25 "Mr. Minister,

"As I had the honor of informing Your

1 Excellency by my letter of 21 April, I did not fail
2 to transmit to my government, for the attention of
3 the government of the United States of America,
4 the contents of the letter, No. 144/T3, dated 20
5 April last, concerning the situation with respect
6 to the American nationals on the island of Wake.

7 "According to a telegram which I have just
8 received, the government of the United States would
9 appreciate knowing the name /sic/ of the prisoners
10 of war and civilian internees that the Japanese
11 military authorities may have removed from the
12 island as well as the place where they are interned.
13 It would also like to have information on the fate
14 of the American nationals, prisoners or otherwise,
15 remaining on the island."

16 Prosecution document No. 8432-A, exhibit
17 No. 2040, a letter from the defendant TOGO to the
18 Swiss Minister, dated 10 August 1942, reads as
19 follows:

20 "Envoy Extraordinary and Minister Plenipotentiary
21 from Switzerland

22 "His Excellency,

23 "Camille Gorge,

24 "I have the honor to acknowledge the receipt
25 of Your Excellency's letter, (No. CC.1.2.1./EE 4.6.

1 9.7.--ce-) dated 26 May, which, at the request of
2 the American government, inquires about names of
3 the prisoners of war and civilian internees trans-
4 ferred from Wake Island to other places and their
5 camps; and about the Americans remaining on the
6 island.

7 "Regarding the prisoners of war, the
8 Imperial government has sent to Your Excellency a
9 list of their names, through the International Red
10 Cross Committee, and thereby please be informed as
11 to the conditions of those Americans taken prisoners
12 of war on Wake Island.

13 "Regarding the American civilian internees,
14 we are ready to reply to every individual inquiry
15 after the fullest possible investigations; therefore
16 please arrange to convey our intention to the Govern-
17 ment of America as you see fit.

18 "I avail myself of this opportunity to
19 renew to Your Excellency the assurances of my high-
20 est consideration.

21 "Minister of Foreign Affairs

22 "Shigenori TOGO (Seal)"

23 Prosecution document No. 8445, exhibit No.
24 2041, a letter from the Swiss Minister to Foreign
25 Minister TANI, dated 21 September 1942, fourth and

fifth paragraphs read as follows:

"The American government is unable to accept as a satisfactory reply the statement of the Japanese Foreign Office that lists of civilian internees and prisoners of war are communicated as in the past as prepared to the International Committee of the Red Cross and urges both the Swiss government and the International Red Cross Committee to impress upon the Japanese authorities the great importance that the American government attaches to prompt fulfilment by the Japanese government of the obligations it has assumed under article 77 of the prisoners of war Convention and 4 of the Red Cross Convention. It desires that the Swiss government and the International Red Cross Committee call on the attention of the Japanese government that the American Information Bureau transmits to the Central Red Cross Information Bureau weekly lists of all Japanese nationals interned, released, paroled, detained, taken prisoner of war, transferred from one camp to another, etc. that are based on official information regularly and promptly furnished to the bureau by the government agencies concerned and point out that the American government has a right under the Geneva Conventions to expect Japanese

1 agencies concerned to furnish the Japanese Informa-
2 tion Bureau promptly with like information for
3 transmission through the Central Information Bureau
4 to the United States. In this connection it desires
5 that the Japanese government be reminded of its
6 agreement that such lists shall be transmitted by
7 cable to the Central Information Bureau at the
8 expense of the state of origin of the prisoners of
9 war or internees.

10 "The American government would like to
11 know at the earliest possible moment whether American
12 prisoners of war held by the Japanese have been
13 allowed to prepare and post the capture cards which
14 paragraph 2 of article 36 of the Prisoners of War
15 Convention specifies may be written by each prisoner
16 of war "within a period of not more than a week
17 after his arrival at the camp" and which "shall be
18 forwarded as rapidly as possible and may not be
19 delayed in any manner." If American have been
20 permitted to prepare and post such cards the
21 American government would like to know urgently how
22 the cards are being forwarded to the United States.
23 If they have not already been forwarded by some
24 other route it is urgently suggested that they, as
25 well as complete lists of prisoners and internees

1 containing information supplementary to that fur-
2 nished by telegraph be forwarded on future trips
3 of the exchange vessels.'"
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1 Prosecution document No. 8427, exhibit
2 No. 2042, a letter from the Swiss Minister to the
3 Japanese Minister of Foreign Affairs, dated 7 October
4 1942, reads as follows:

5 The date stamped is October 7, 1942. Above
6 that, the date 6 October 1942.

7 "My dear Minister,

8 "I have the honor to inform Your Excellency
9 that in reply to letter number 366/T3, of the 10th of
10 August last, on the subject of the American prisoners
11 of war and civilian internees from Wake Island, the
12 Government of the United States of America has asked me
13 to notify the Imperial Government as follows:

14 "'United States Government is still without
15 report on approximately 400 American civilians from Wake
16 Island. While United States Government welcomes offer
17 Japanese Government to report on welfare of individuals
18 upon request it expects Japanese Government to report
19 all names promptly in accordance with Article 77 of the
20 Geneva Prisoners of War Convention through International
21 Red Cross Information Bureau or protecting power.'

22 "I must add that contrary to what His Excellency
23 Mr. TOGO thought in the aforementioned letter, I have
24 not received any individual slips on American citizens
25 captured at Wake Island by the Japanese forces."

Prosecution document No. 8436, exhibit
1 No. 2043, a letter from the Swiss Legation to the
2 Japanese Foreign Ministry, dated 8 April 1943, third
3 paragraph reads as follows -- I will begin with the
4 second paragraph. Well, the second paragraph is
5 virtually a repetition of what I just read, so I will
6 proceed to the third paragraph.
7

8 "The Government of the United States of
9 America insists therefore on receiving immediately
10 notification of these 400 names. In addition it would
11 attach importance to knowing the reasons for the delay
12 accorded this notification."

13 Prosecution document No. 8437, exhibit
14 No. 2044, a note verbale from the Japanese Foreign
15 Office to the Swiss Legation, dated 19 April 1943,
16 paragraphs numbered one and two read as follows:

17 "1. As regards the Americans on the Island of
18 Wake, all the information to be furnished have been
19 already communicated to the Legation by the Note
20 Verbale No. 366/T.3 of August 10, 1942 and by the Note
21 Verbale No. 36/C.R. of February 25, 1943.

22 "2. As regards the approximately 400 American
23 civilians whose names are allegedly not included in
24 the list attached to the above-mentioned communication,
25 the Ministry begs to be informed of the names,

1 addresses, occupations, etc., thereof, as such infor-
2 mation is necessary for investigation."

3 Prosecution document No. 8438, exhibit
4 No. 2045, a letter from the Swiss Legation to the
5 Japanese Foreign Ministry, dated 21 August 1943,
6 paragraphs one and two read as follows:

7 "Referring to your note No. 106/C.R.
8 dated 19 April last, the Swiss Legation has the honor
9 to forward herewith to the Imperial Ministry for Foreign
10 Affairs the list of 432 American civilians who ought,
11 according to the latest information received by the
12 Government of the United States of America, to have been
13 on Wake Island at the moment of the Japanese occupation,
14 but whose names, however, are not found on the lists
15 sent by the Imperial Government to the International
16 Red Cross Committee.

17 "The Government of the United States of
18 America attaches the greatest importance to knowing as
19 soon as possible what happened to these persons and
20 where they actually are now. It believes that inves-
21 tigation undertaken in this regard would be facili-
22 tated if a delegate of the Swiss Minister were to be
23 authorized to talk to Mr. William Fairey who is
24 believed, according to a message of the International
25 Red Cross Committee at Washington, held as a prisoner

1 of war in the Far East. In the opinion of the State
2 Department, Mr. Fairey, whose name appears on the list
3 attached, might be able to furnish indications regard-
4 ing Mr. Leonard Ward and the other persons mentioned
5 in this list."

6 Prosecution document No. 8428, which is
7 exhibit No. 2046, a letter--

8 THE PRESIDENT: It is sufficient to read the
9 exhibit number.

10 CAPTAIN ROBINSON: Beg pardon, sir?

11 THE PRESIDENT: At this stage it is sufficient
12 to state the exhibit number.

13 CAPTAIN ROBINSON: Sufficient -- yes, sir.

14 It is a letter from the Swiss Legation to the
15 Japanese Foreign Ministry, dated Tokyo, 8 October
16 1943. The first and second paragraphs read as follows:

17 "To the Imperial Ministry for Foreign Affairs,
18 Tokyo.

19 "By note of 21 August the Swiss Legation had
20 the honor of submitting to the Imperial Ministry a
21 list of 432 American civilians and of informing it
22 that the United States Government attaches the greatest
23 importance to obtaining information on their present
24 situation. According to the last news received at
25 Washington, they are supposed to have been on Wake

1 Island at the time of the Japanese occupation; however,
2 their names did not figure on the lists sent by the
3 Imperial authorities to the International Red Cross
4 Committee.

5 "Lacking a reply to this day, the Legation
6 takes the liberty of recalling this matter to the kind
7 attention of the Ministry: the Government of the
8 United States is indeed earnestly desirous of receiving
9 this information as soon as possible."

10 THE PRESIDENT: You may mention the prosecu-
11 tion's document number if that is necessary for the
12 guidance of the translators.

13 CAPTAIN ROBINSON: Thank you, sir.

14 The date of this last message, 8 October
15 1943, is to be considered in connection with its
16 nearness to the date of 7 October 1943, which already
17 has appeared in evidence.

18 Prosecution document No. 8430, exhibit
19 No. 2047, a note from the Swiss Legation to the
20 Japanese Foreign Ministry, dated 10 December 1943,
21 reads as follows. The second paragraph:

22 "Meanwhile, the Legation has received from
23 the Prisoner of War 'Information Bureau' a list
24 No. F.M. 27 of 205 Americans from Wake who are at the
25 present moment prisoners of war in the Fukuoka camp.

1 About 15 names found on the Prisoners of War Bureau
2 list are not found on the list transmitted to the
3 Ministry by the above-mentioned note, hence the Lega-
4 tion now knows the situation of about 190 of the 432
5 Americans from Wake as to whose fate the Washington
6 Government has asked to be informed. It /the Legation/
7 is very desirous of receiving as soon as possible de-
8 tailed information as to the whereabouts of the other
9 Americans mentioned in the list of 21 August."

10 Prosecution document No. 8429, exhibit
11 No. 2048, a note from the Swiss Legation to the Japanese
12 Foreign Ministry, dated Tokyo, 14 February 1944, the
13 third paragraph reads as follows:

14 "Lacking a reply up to this day, the Legation
15 takes the liberty of again calling this matter to the
16 kind attention of the Imperial Ministry and takes this
17 opportunity to renew assurances of its high regard."

18 Prosecution document No. 8424, exhibit
19 No. 2049, a note from the Swiss Legation to the
20 Japanese Foreign Ministry, dated 25 September 1944,
21 is substantially repetition of the preceding document
22 dated seven months earlier.

23 Prosecution document No. 8423, exhibit
24 No. 2050, a note from the Swiss Legation to the
25 Japanese Foreign Ministry, dated Tokyo, 1 November 1944,

1 reads as follows. The first two paragraphs:

2 "Referring to its notes of 10 December,
3 14 February and 25 September last on the subject of
4 the Americans from the Island of Wake under the control
5 of Japan, the Swiss Legation has the honor of informing
6 the Imperial Ministry of Foreign Affairs that the
7 Government of the United States of America has trans-
8 mitted to the Swiss Government the list of its
9 nationals from Wake who have not yet been the subject
10 of any official communication from the Imperial
11 Authorities. The Ministry will find a copy of this
12 list attached herewith.

13 "The Washington Government is very desirous
14 of obtaining a report of the actual residence and the
15 condition of these individuals as soon as possible in
16 order to be able to reassure their families."

17 Prosecution document No. 8426, exhibit No.
18 2051, a note from the Swiss Legation to the Japanese
19 Foreign Ministry, dated 19 March 1945, Tokyo, reads as
20 follows:

21 "To the Imperial Ministry for Foreign Affairs,
22 Tokyo.

23 "By the note of November 1st, the Legation
24 had the honor of informing the Imperial Ministry of
25 Foreign Affairs that the Government of the United States

1 of America would like to get news of her nationals
2 on Wake under the control of Japan who have never been
3 the subject of any official communication of the
4 Imperial Authorities. A list of the interested was
5 attached to the said note.

6 "No answer being made to this day, the Legation
7 takes the liberty of calling this matter to the kind
8 attention of the Ministry."

9 Prosecution document No. 8425, exhibit No.
10 2052, a note from the Swiss Legation to the Japanese
11 Foreign Ministry, dated 15 May 1945, reads as follows.

12 THE PRESIDENT: You can read it after the
13 adjournment. We will adjourn until half-past one.

14 (Whereupon, at 1200, a recess was
15 taken.)

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AFTERNOON SESSION

The Tribunal met, pursuant to adjournment,
at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Captain Robinson.

CAPTAIN ROBINSON: Mr. President and Members
of the Tribunal.

Prosecution Document No. 8425, a note from
the Swiss Legation to the Japanese Foreign Ministry,
dated 15 May 1945, reads as follows:

"By the notes of 1 November and 19 March last,
the Swiss Legation had the honor of informing the
Imperial Ministry for Foreign Affairs that the Govern-
ment of the United States of America had expressed
its desire of receiving news of its nationals from
Wake who have not been the subject of a single offi-
cial communication from the Imperial authorities
since they have been under the control of Japan. A
list of the persons concerned containing 173 names
was annexed to the above cited note of 1 November.

"No answer having been received to this day,
the Legation takes the liberty of calling this matter
to the kind attention of the Imperial Ministry.

1 "The Government of the United States of America
2 has in effect asked the Federal Authorities to press
3 the Imperial Government in order that information
4 concerning the actual residence and the conditions of
5 these Americans may be sent to it /the Government of
6 the United States/ as soon as possible. Strongly
7 desirous of being able to put the families of these
8 concerned at rest, the /Government of the United
9 States of America/ remarks moreover that the Im-
10 perial Government has had 3 years now to compile the
11 report requested and that consequently nothing ought
12 to prevent its immediate transmission.

13 "While asking the Ministry to be kind enough to
14 communicate, for the sake of the Washington Govern-
15 ment, the reply of the Imperial Government on this
16 subject, the Legation takes this opportunity to renew
17 the assurances of its high consideration. KARUIZAWA
18 15 May 1945."

19 Prosecution document No. 8422, exhibit No.
20 2053, a note from the Swiss Legation to the Japanese
21 Foreign Ministry, dated 27 July 1945, is substantially
22 a repetition of the preceding document dated two
23 months earlier. It will be observed that the date
24 of this protest is nearly two years after the exe-
25 cution of the American civilans by the Japanese on

1 Wake Island.

2 This concludes the evidence on the atrocities
3 on Wake Island. Offenses connected with Kwajalein
4 will next be considered.

5 May it please the Court, prosecution document
6 No. 8467 is offered for identification. This is the
7 record of proceedings of a military commission con-
8 vened at United States Pacific Fleet, Commander
9 Marianas, Guam, Marianas Islands, by order of Com-
10 mander Marianas Area on 15 May 1946 in the case of
11 Vice Admiral ABE, Captain OBARA, and Lieutenant
12 Commander WAIKI. Four excerpts from this record are
13 offered in evidence. The excerpts are statements
14 made by the accused, Captain OBARA, and Admiral ABE
15 at their trial before the Military Commission for
16 offenses at Kwajalein. These statements were made a
17 part of the official transcript of the trial. The
18 excerpts are prosecution documents No. 8447, 8446,
19 8449, and 8444. Also, prosecution document No. 8448
20 is offered as an affidavit of source and authenticity.
21 Those excerpts are now offered.

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Prosecution document
24 No. 8467 will receive exhibit No. 2055 for identifi-
25 cation only. Excerpts therefrom, prosecution's

1 document 8447 will receive exhibit No. 2055-A;
2 document No. 8446 will receive exhibit No. 2055-B;
3 document 8449, exhibit No. 2055-C; document No. 8448,
4 the affidavit of authenticity, will receive exhibit
5 No. 2055-C.

6 (Whereupon, prosecution's document No.
7 8467 was marked exhibit No. 2055 for identifica-
8 tion, excerpts therefrom, prosecution's document
9 No. 8447, was marked exhibit No. 2055-A; document
10 No. 8446 was marked exhibit No. 2055-B; document
11 No. 8449 was marked exhibit No. 2055-C; document
12 No. 8444 was marked exhibit No. 2055-D, and
13 document No. 8448 was marked exhibit No. 2055-E
14 and received in evidence.)

15 CAPTAIN ROBINSON: Document No. 8447, exhibit
16 No. 2055-A, statement of OBARA, reads as follows,
17 at page 1, under the heading "Facts," paragraphs 1
18 and 3:

19 "1. 2 September 1942 - nine (9) prisoners of
20 war arrived at Kwajalein from Makin. Before this I
21 had received a directive from the 6th Base Unit Com-
22 manding Officer to the effect that the prisoners
23 were to be sent to TOKYO by first available trans-
24 portation. Upon their arrival, I was ordered to
25 arrange for their temporary incarceration."

1 I propose to read, omitting next paragraphs,
2 down to page 3, paragraph 2 in parenthesis:

3 "Around 10 October I was ordered by the Com-
4 manding Officer to execute the nine (9) prisoners
5 (this order was known to the Senior Staff Officer.)
6 I expressed my opinion.

7 "The Commanding Officer said: 'In accordance
8 with a directive received from Central Headquarters,
9 it has been decided to execute the Makin prisoners
10 here and not send them back to Japan. You will take
11 charge of carrying out this /execution/.'

12 "I said: 'What! Now more than ever, executing
13 /them/ is a terrible thing, don't you think?' 'Not to
14 mention international law, the fact that they have
15 been our guests for forty (40) or fifty (50) days
16 makes it even more distasteful to execute them.
17 Isn't there something that can be done about it?'

18 "The Commanding Officer; 'It's the intent of
19 Central Headquarters, and there's nothing we can do
20 about it.'

21 "I accepted the execution order, there being no
22 help for it.

23 "(2) Means of execution. Principal means -
24 Swords. Auxiliary means - Pistols.
25

1 "(Explanation:) In a forward area execution
2 where the emphasis is placed on proper form, it is a
3 custom of the Japanese Armed Forces to behead /the
4 victim/ with a Japanese sword, so as to render death
5 instantaneous and minimize pain. Hanging was not
6 employed because it is not in general use by the
7 Japanese; death before a firing squad involves wastage
8 of ammunition, and the supply difficulties at that
9 particular time also argues against the use of that
10 method. Nevertheless, in the /unlikely event of a
11 failure/ of the sword method/ preparations were made to/
12 use pistols also."

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1 Next, reading on page 7, continuing with
2 the reading of the paragraph numbered 3, at the top
3 of page 7:

4 "At the time in question, when forty (40)
5 days had already passed since the prisoners' incar-
6 ceration, our social intercourse had reached a high
7 degree of intimacy, and they were looking forward
8 with eager impatience to sightseeing in TOKYO, over-
9 coming language difficulties by means of signs and
10 gestures. They evinced a deep interest in the
11 appearance of TOKYO, Japanese customs, and particu-
12 larly in the likes and dislikes of Japanese women.
13 This, and the question-and-answer sessions which
14 were held on all subjects, show the perfect accord
15 which existed. Frequently the men in my unit would
16 give their own cigarettes, candy, and hardtack to
17 the prisoners."

18 Dropping to the third paragraph below that:

19 "Under these circumstances, it is not to
20 be wondered at that I was surprised when the
21 Commanding Officer (Translator's Note: ABE) ordered
22 me to carry out the execution. Aside from the
23 question of the infraction of international law,
24 then more than ever I could not find it in my heart
25 to kill the prisoners, and expressed my opinion to

1 that effect. My opinion, however, was not accepted,
2 since the policy of Central Headquarters was con-
3 sidered inviolable.

4 "There were no grounds upon which to alter
5 the inflexible decision of the Commanding Officer
6 (Translator's Note: ABE) and I was forced to obey
7 his command. I am sure /the reader/ will not fail
8 to understand my dilemma in accepting this order.

9 "4. My opinions; the Commanding Officer's
10 attitude towards them.

11 "Whether the basis for the Commanding
12 Officer's decision to execute /the prisoners of war/
13 was a directive from the Central Office brought down
14 by Lieutenant Commander OKADA, General Staff Officer,
15 whether it was the then policy of Central Headquarters,
16 or whether it was the personal view of OKADA, I
17 cannot say: at that time I received the impression
18 that it was a statement of policy -- not Lieutenant
19 Commander OKADA's private opinion.

20 "This is why I did not repeat my opinions.
21 If the order had been based on the Commanding Officer's
22 own idea I ought to have stated my objections again
23 and again. About some things the Commanding Officer's
24 resolve was unshakable. It was only natural that I
25 should have been unable to make my opinion heard,

1 in view of the attitude of the Commanding Officer.
2 He seemed determined to comply with (or more than
3 comply with) Central Headquarters policy by executing
4 the prisoners of war. He was particularly inclined
5 to adhere to the wishes of his superiors. For me,
6 understanding as I did the character of the Com-
7 manding Officer, to have persisted in the expression
8 of my opinions would have been tantamount to rejecting
9 his orders, and I would have been guilty of insub-
10 ordination in time of war. Thus there was no way
11 out but to accept the execution order."

12 Turning to document 8446, exhibit No. 2005-B,
13 2055-B, beg your pardon, sir, 2055-B. This statement
14 of Captain OBARA reads as follows, page 1 to the
15 bottom of the page:

16 "STATEMENT OF CAPTAIN OBARA

17 "When I held the nine American prisoners in
18 my unit on September, 1942, I thought that they were
19 respectable and honorable soldiers who had fulfilled
20 their duty, and since they had been captured by us,
21 were no longer but persons who did not differ from
22 our neighbors and fellow countrymen, and they were
23 truly merely unhappy fellows with the status of
24 prisoners.
25

Dropping to the second paragraph following:

1 "But you could hardly imagine my surprise
2 when all of a sudden, I was ordered by the Commanding
3 Officer ABE, who used to be always very prudent,
4 to kill the prisoners in the middle of October. Even
5 when taking into consideration that it was issued
6 so peremptorily and its nature was such that from
7 the standpoint of my private feelings, I could not
8 bear it. Moreover, from the standpoint of common
9 sense, it could not be easily comprehended, since
10 it ran utterly counter to my belief of the justice
11 and humanity which I had firmly believed in all my
12 life.

13 "But now, the order was issued, and its
14 solemnity could not be offended, because it was
15 based on the directive from the Central Headquarters,
16 having the reasons behind it which we were not in a
17 position to know. I as a military man know well that
18 orders must be obeyed absolutely."

19 Omitting the next paragraph:

20 "So I made up my mind, and expressed my
21 opinions to the Commanding Officer ABE, to reconsider
22 the matter, and make necessary arrangements to send
23 them back to Japan, as had been decided by us, but
24 because of the order from Central Headquarters, this
25 also was not accepted. Thus the path that I would

1 follow was absolutely decided. Now I could do nothing
2 but to execute the order merely as his tool."

3 Prosecution's document 8449, exhibit No.
4 2055-C, the interrogation of ABE, Koso, former
5 Vice Admiral, reads as follows on page 3, the top
6 paragraph:

7 "Q In what form did you give the order to
8 Admiral SAKAIBARA at WAKE to execute the ninety-six
9 (96) American prisoners there in 1943?

10 "A I didn't issue any such order.

11 "Q Was Admiral SAKAIBARA under you?

12 "A Yes.

13 "Q Did Admiral SAKABARA report the deaths
14 of these people to you about this time?

15 "A Yes, I received a report."

16 I believe that the translators have certain
17 other places marked here, if the Court please, and
18 I would like to read those other parts also. Is
19 that correct?

20 THE MONITOR: That is right, sir.

21 CAPTAIN ROBINSON: Starting then on page 1:

22 "Q What is your full name?

23 "A ABE, Koso.

24 "Q Were you ever stationed on KWAJALEIN?

25 "A Yes.

1 "Q What date did you arrive on KWAJALEIN?

2 "A On the 8th of February 1942.

3 "Q When did you leave KWAJALEIN?

4 "A Around the end of November 1943.

5 "Q What was your position on KWAJALEIN?

6 "A I was the commanding officer of the
7 6th Base Unit.

8 "Q Who were the officers immediately
9 inferior to you by office?

10 "A There was a Captain OBARA who was com-
11 manding officer of the guard unit."

12 Then turning to the next page at the middle
13 of page 2:

14 "Q Who was in charge of the execution of
15 the American flyers on or about January 1943 on
16 KWAJALEIN?

17 "A There was no execution.

18 "Q We have the first hand evidence, that
19 is a witness, to the beheading of nine (9) American
20 flyers in January 1943 on KWAJALEIN.

21 "A There was no execution.

22 "Prisoner took oath at this time.

23 "Q Do you know the seriousness and the legal
24 effect of answering questions under oath?

25 "A Yes, I understand.

1 Then the excerpt which I read first comes
2 in at page 3, and then, turning to page 4, tenth
3 to twelfth line from the bottom of that page:

4 "Q You are reminded that you are under
5 oath and if you are caught telling a lie while under
6 oath, it is a crime of International Law and you
7 can be charged with perjury. Do you understand that?

8 "A Yes.

9 "Q Were any American prisoners of war
10 brought from other islands in the MARSHALLS to
11 KWAJALEIN?

12 "A Yes.

13 "Q What was done with American prisoners
14 of war that were brought to KWAJALEIN?

15 "A They were returned to JAPAN."

16 Turning then to page 8, a little above the
17 middle of the page:

18 "Q Have you heard of any executions in the
19 MARSHALLS or TRUK, outside of WAKE?

20 "A I don't remember of hearing of any.

21 "Q We have witnesses that a Navy Unit on
22 KWAJALEIN beheaded nine (9) American flyers early
23 in 1943 or about that time. If you persist in telling,
24 what to us is apparently a lie, we will have to charge
25 you with perjury. It is not common sense that nine

1 (9) prisoners of war could be executed on an island
2 so small as KWAJALEIN without the knowledge of the
3 Commanding Officer. Now either tell us the truth,
4 or commit the crime of perjury.

5 "A I know what you are talking about.
6 I don't think they were flyers.

7 "Q Tell us the circumstances of what you
8 know about the executions.

9 "A They were prisoners taken in the MAKIN
10 battle.

11 "Q American prisoners?

12 "A I believe they were.

13 "Q Continue with the story.

14 "A These prisoners were sent up to KWAJALEIN
15 from MAKIN and originally I intended to ship them
16 back to JAPAN. I intended to put them on a ship
17 and send them back to JAPAN but the Navy Ministry
18 informed me that they could not divert a ship to
19 KWAJALEIN. The ship was a destroyer. I was in-
20 tending to ship them back to JAPAN and a while passed
21 and then a staff officer from the General Staff in
22 TOKYO came down to KWAJALEIN and said I was not to
23 ship the prisoners back to Japan, but to dispose
24 of them on the spot. This being the case, in
25 accordance with Navy policy, I disposed of the

1 prisoners there.

2 "Q In accordance with the Navy policy
3 brought down by the Navy staff officer -- is that
4 what you mean by policy?

5 "A The staff member did not bring back
6 orders and he did not order me to carry out the
7 execution on the spot, but he expressed the opinion
8 which I took to be the Navy policy that that would
9 be the thing to do and I agreed.

10 "Q Who was this staff officer?

11 "A Lieutenant Commander OKADA, Sadatomo.
12 From my present viewpoint, I cannot definitely say
13 whether the personal opinion expressed by Lieutenant
14 Commander OKADA was the policy of the Navy, but at
15 the time I believed that it was the policy of the
16 Navy and that is why I did it.

17 "Q Give us the general details of the
18 execution -- where they were killed and how many.

19 "A As for the actual killing, I issued
20 orders for that to the Guard Unit Commander.

21 "Q Who was he?

22 "A Captain OBARA."

23 Prosecution's document 8444, which is
24 exhibit No. 2055-D, reads as follows:
25

THE PRESIDENT: That evidence was obtained

1 by a threat, of course, but what the attitude of
2 the members of the Tribunal will be to evidence
3 obtained by threat, of course, is a matter for them
4 entirely.

5 CAPTAIN ROBINSON: "STATEMENT OF ABE, Koso.

6 "Because the Japanese Military Forces are
7 directed to be in strict order, by the rigorous
8 command which originates in the supreme prerogative
9 of command of His Majesty the Emperor and penetrates
10 from the Emperor on the top down to a private at
11 the bottom, the primary and supreme duty of a mili-
12 tary man is absolute submission to an order.

13 "It is natural enough that throughout my
14 long naval career, 'not to disobey an order' has
15 been my primary commandment, and I have never tried
16 to deviate from this obligation for a moment.

17 "As for the nine American prisoners concerned
18 in this case, as I've already stated, I tried in
19 every way to send them to Japan as soon as possible.
20 However, a directive was issued to me from the Highest
21 Naval Central Headquarters to dispose of them on my
22 island, and I had nothing to do but obey it without
23 question. Up to that moment never had an idea flashed
24 through my heart and mind to dispose of them. Yet,
25 now that a directive came to me which had been pondered

1 and discussed prudently by the Highest Naval Central
2 Headquarters, what path was left for me but to
3 observe the directive subserviently?

4 "Among hundreds and thousands of Japanese
5 military men, since the Japanese forces were estab-
6 lished, has there been or is there even one person
7 who thinks he can be charged with his own acts,
8 which he does pursuant to an order that he is merely
9 following? It is above the understanding of the
10 Japanese that such things must be penalized.

11 "From the Japanese point of view, for
12 instance in this case there is absolutely no doubt
13 I am completely responsible for the acts which
14 Captain OBARA and Lieutenant Commander NAIKI did
15 pursuant to my order and Captain OBARA and Lieutenant
16 Commander NAIKI are free from any responsibility.
17 By the same token, the Highest Naval Central Head-
18 quarters is completely responsible for the acts
19 which I and the other two did pursuant to its di-
20 rective, and I and the other two are free from any
21 responsibility."

22 This concludes the consideration of offences
23 on KWAJALEIN Island.

24 I now proceed to offences connected with
25 Chichi Jima which will now be considered.

1 Prosecution document No. 8466 is offered
2 for identification. This document is a record of
3 proceedings of a military commission convened at
4 United States Pacific Fleet, Commander Marianas,
5 Guam, Marianas Islands, by order of Commander,
6 Marianas Area, on 15 August 1946 in the case of
7 Lieutenant General TACHIBANA, Vice Admiral MORI,
8 **Captain** YOSHII, Major MATOBA, and others. Excerpts
9 from this document are prosecution's document 8463,
10 Record of the Proceedings of the 18th day and the
11 19th day and the prosecution's document No. 8462,
12 Order regarding execution of American prisoners of
13 war. These two excerpts are now offered in evidence.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Prosecution's document
16 No. 8466 will receive exhibit No. 2056 for identi-
17 fication only, and the excerpts therefrom, to wit,
18 prosecution's document No. 8463 will receive exhibit
19 No. 2056-A, and document No. 8462 will receive exhibit
20 No. 2056-B.

21 (Whereupon, the documents above re-
22 ferred to were respectively marked prosecution's
23 exhibit No. 2056 for identification; and the
24 excerpt therefrom were marked prosecution's
25 exhibits Nos. 2056-A and 2056-B respectively,
and received in evidence.)

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1 CAPTAIN ROBINSON: Prosecution document
2 No. 8463, exhibit 2056A, reads as follows, page 4
3 middle to middle of page 5 -- a little below the
4 middle of page 4:

5 "Major Sueo MATOBA, a witness recalled by
6 the recorder, entered. He was warned that the oath
7 previously taken was still binding, and declared as
8 follows:

9 "1 Q Relate the circumstances of the first case
10 of cannibalism on the island.

11 "A The first case of cannibalism occurred between
12 the 23rd of February, and the 25th of February, 1945.
13 On that day I went to the Divisional Headquarters,
14 and I personally reported to General TACHIBANA that
15 the flyer would be executed at the Suyeyoshi Tai. At
16 the general's headquarters, sake was served and the
17 conversation turned to the Japanese forces stationed
18 on Bougainville and on New Guinea, and it was mentioned
19 that the troops that lacked provisions and supplies
20 had to eat human flesh. While I was still at the
21 Divisional Headquarters, a telephone call came through
22 from the 207th Battalion Headquarters, and it was said
23 that we should come to a party which Colonel KATO pre-
24 pared for General TACHIBANA and myself. We walked to
25 Colonel KATO's quarters, and when we arrived, we found

1 that Colonel KATO did not have enough drinks and things
2 to go with the drinks. On account of this fact, the
3 general was not satisfied and the question came up
4 where to get something to eat in line of meat and more
5 sake. The general asked me about the execution and
6 about getting some meat. Therefore, I telephoned
7 personally to my headquarters that meat and ten sho
8 of sugar cane rum be delivered to the 307th Battalion
9 Headquarters. I do not recall now if the sugar cane
10 rum was delivered or not, but I know that the meat
11 was. The meat was cooked in Colonel KATO's room,
12 and everyone present had a taste of it. Of course,
13 nobody relished the taste.

14 "2 Q They all knew that it was human flesh?

15 "A Yes."

16 Page 8:

17 "20 Q Did General TACHIBANA say that this
18 should happen to all of the prisoners of war, follow-
19 ing their executions?

20 "A Yes, at a conference at the division head-
21 quarters in February, 1945, General TACHIBANA said
22 that supplies would diminish and ammunition would run
23 short, and in the end men would have to fight even
24 with rocks, and they would be forced even to eat their
25 own comrades killed in combat, and the flesh of the

1 enemy should be eaten.

2 "21 Q You personally heard this?

3 "A Yes.

4 "22 Q Who do you remember was present, who also
5 heard this?

6 "A Every battalion commander. Not only once
7 or twice, but several times the general said this."

8 Dropping down to the 26th question:

9 "26 Q Did General TACHIBANA, at this confer-
10 ence, mention the fact that all prisoners of war would
11 be executed?

12 "A Yes, and that the flesh would be eaten."

13 Turning to page 11:

14 "A I do not remember the exact words, but the
15 outline of the general's policy, which he told every-
16 body at the conference, is what I previously told you.
17 The general said the invasion of this island is
18 imminent and probably that this would be the last
19 battle prior to the invasion of Japan, and we must
20 fight even though we had no supplies and no food, and
21 that we should fight and live on the flesh of our
22 comrades and that of the enemy. He said 'kichiku',
23 meaning beastly, and that was used in regard to the
24 Americans. It was also said that the enemy is a beast.
25 In all orders and all decrees from the Imperial

1 headquarters this word was always used, and all of
2 the military heads in Japan used the word in speeches,
3 and so General TACHIBANA used it.

4 "42 Q Did you see it in any orders from the
5 Imperial Headquarters, or hear it in any speeches
6 made?

7 "A Yes, Prime Minister SUZUKI used it in his
8 speeches over the radio. It was a byword in any
9 orders or any speeches. This came from the higher
10 command and for all of the personnel it was sort of a
11 byword, and was used in speeches by anyone and every-
12 one. This includes Prime Ministers SUZUKI and TOJO.
13 I do not know about the Navy. Admiral MORI and
14 General TACHIBANA agreed that all flyers would be
15 executed as soon as Major HORIE was through with them,
16 and as Major HORIE was in the higher command, he must
17 have approved of the plan. Therefore, when Major
18 HORIE was through, he turned the flyers over and then
19 they were executed."

20 I next read from page 14:

21 "63 Q When Admiral MORI thanked you for giving
22 the flyer to the Suyeyoshi Tai, did he mention any-
23 thing about the liver?

24 "A No. After the party at the 307th Battalion
25 where human flesh was served and eaten, on my way

1 back I talked to Admiral MORI, and told Admiral MORI
2 of the party. It was then that he told me to bring
3 down a little human liver from the body of the next
4 flyer to be executed by the 308th Battalion.

5 "64 Q Who was present, when you held this
6 conversation with the admiral?

7 "A The staff officers were present."

8 I read next from page 16:

9 "72 Q How many executions were there at the
10 Yoake wireless station?

11 "A I do not know, either one or two. The
12 execution was performed by an officer who was present
13 with his sword. I also heard that human flesh from
14 this flyer was served in soup. This was in the soup
15 for both the officers and the enlisted men. I only
16 heard this, so I am not sure. Staff Officer MIYAZAKI
17 was present."

18 Then the 73rd question:

19 "73 Q Did you hear that he was present, or do
20 you know that he was present?

21 "A I do not know if Staff Officer MIYAZAKI
22 actually witnessed the execution or not. However, I
23 am definitely sure that MIYAZAKI was present at the
24 party that night at which time human liver was eaten
25 in the officers' mess. I also heard that MIYAZAKI

1 returned to the naval headquarters with a portion of
2 the liver. I am absolutely positive about this."

3 I next read from page 26:

4 "128 Q By whose order was Doctor TERAOKI to
5 cut out the liver and deliver it to you?

6 "A By my order.

7 "129 Q If you did not order the execution, why
8 did you order Doctor TERAOKI to be there?

9 "A Sergeant Major WADA or Captain SATO came
10 and reported the execution to me. I then ordered
11 Doctor TERAOKI to go and cut out the liver of the
12 flyer. I gave the order after I received the report
13 that the flyer was executed. That is, the order for
14 the removal of the liver."

15 I turn next to page 27:

16 "131 Q Do you know Sergeant FURUSHIKA?

17 "A Yes.

18 "132 Q Why was it that Sergeant FURUSHIKA was
19 scheduled to perform the execution?

20 "A Out of the personnel there were some who
21 volunteered and wanted to perform the execution, and
22 FURUSHIKA must have been one of them. Sergeant
23 FURUSHIKA was sharpening his sword and polished it up
24 and was expecting to execute Hall, when he was returned
25 to the 308th Battalion. It was not the custom of the

1 Japanese to order an execution. Therefore, only
2 volunteers could do the job. The responsibility lies
3 with me, and I am willing to take full responsibility
4 for what happened. If evidence points to the fact
5 that I ordered the removal of the liver previous to
6 the execution, or if the evidence points to the fact
7 that it was after, I will take full responsibility."

8 I turn to the next page, bottom:

9 "143 Q Exactly what instructions did you give
10 to Doctor TERAKI, regarding the disposition of the
11 flyer's body?

12 "A I ordered Surgeon TERAKI to hurry up and
13 remove the liver because I wanted to take it to the
14 naval headquarters.

15 "144 Q Who brought the liver to you? --

16 "A Doctor TERAKI reported to me that the liver
17 was brought and left in my orderly's room. As I could
18 not go to the naval headquarters due to air raids, I
19 had it sliced and dried.

20 "145 Q Wasn't there a party at your headquarters,
21 the night of Hall's execution?

22 "A It wasn't exactly a party, but they ate the
23 liver at the 308th Battalion headquarters that night.
24 It was Hall's liver."

25 I turn to page 31:

1 "159 Q Then, did you see the men you named,
2 actually eat the liver?

3 "A Yes, definitely they ate it. While we were
4 eating the human liver, Admiral MORI mentioned the
5 fact that during the Chinese-Japanese war human
6 flesh and liver was eaten as a medicine by the
7 Japanese troops. The medicine made from the liver
8 was named Seirogan.

9 At the bottom of that page:

10 "165 Q What did Admiral MORI, Lieutenant
11 Commander SHINODA, and the rest of the officers
12 think of the idea of eating the flesh of prisoners
13 of war?

14 "A They were all saying that liver was good
15 medicine for the stomach.

16 "166 Q In what other cases of cannibalism did
17 you participate?

18 "A These are the three times that I ate human
19 flesh; at the 307th Battalion, 308th Battalion head-
20 quarters, and at the Navy base. Other than these,
21 I ate a small pill made from human liver in Singapore."

22 I Will not read any more from this record.
23
24
25

1 I have another document here, No. 8462. What
2 is the number of that document, Mr. Clerk?

3 CLERK OF THE COURT: 2056-B.

4 CAPTAIN ROBINSON: Exhibit No. 2056-B, at page
5 3, reads as follows:

6 "ORLER REGARLING EATING OF FLESH OF AMERICAN
7 FLYERS

8 "I 'The Battalion wants to eat the flesh
9 of the American Aviator, Lieutenant (junior grade) Hall.'

10 "II First Lieutenant KANMURI see to the
11 rationing of this flesh.

12 "III Gadet SAKABE (medical corps) attend the
13 execution and have the liver and gall-blader removed.

14 "Battalion Commander: Major MATOBA, Suso

15 "Date: March 9th, 1945

16 "Time: 9 a.m.

17 "Place: Mikazuki Hill Headquarters.

18 "METHOD OF ISSUING ORLERS:, Called to my
19 presence First Lieutenant KANMURI and Cadet SAKABE and
20 gave verbal order.

21 "PLACE TO REPORT AFTER COMPLETION OF ORLER:

22 "Brigade Commander: Major General TACHIBANA

23 "Also informed: Detached Divisional
24 headquarters: Major HORIE.

25 "The 308th Independent Infantry Battalion.

1 "I wrote the above freely, believing it to be
2 the truth.

3 "MATOBA Suso, Major, IJA 16 April, 1946."

4 Prosecution document No. 8405 is the report
5 of Captain John D. Murphy, USN, Director of War Crimes,
6 Pacific Ocean Areas. Captain Murphy reports the results
7 of his official activities in charge of investigation
8 and prosecution of war crimes cases in Pacific Islands.
9 This document is offered in evidence.

10 THE PRESIDENT: Admitted on the usual terms.

11 CLERK OF THE COURT: Prosecution document No.
12 8405 will receive exhibit No. 2057.

13 (Whereupon, the document above re-
14 ferred to was marked prosecution's exhibit
15 No. 2057, and was received in evidence.)

16 CAPTAIN ROBINSON: Exhibit 2057. This document
17 reads as follows at pages 1 and 2:

18 "Affidavit of Captain John D. Murphy, U. S.
19 Navy, Director War Crimes, Pacific Ocean Areas.

20 "This is to certify that the undersigned, is-
21 and has been since 2 October 1945 the Director of War
22 Crimes, Pacific Ocean Areas. In this capacity he has
23 been the direct representative of the Commander-in-Chief,
24 U. S. Pacific Fleet and Pacific Ocean Areas, and the
25 Military Governor of the Pacific Ocean Areas, in all

1 matters pertaining to the investigation and prosecution
2 of war crimes in the Pacific Ocean Areas.

3 "In carrying out the above indicated duties
4 the undersigned has caused investigations to be con-
5 ducted in the following atolls and islands: Marianas
6 Islands, Marshall Gilberts Area, Truk Atoll, Peleliu
7 Island, Koror Island, Babelthup Island, Anguar Island,
8 Wake Island, Bonin Islands, Yap Island.

9 "As a result of the above investigations war
10 crimes were discovered to have been committed at: Koror
11 Island, Palau Islands; Wake Island, Kwajalein Atoll,
12 Mili Atoll, Aineman Island, Jaluit Atoll; Guam, Marianas
13 Islands; Dublon Island, Truk Atoll; Chichi Jima Island,
14 Bonin Islands; Maloelap Atoll, Marshall Islands.

15 "The nature of the established crimes were
16 (a) Mistreatment of Prisoners of War, native inhabi-
17 tants, and civilian non-Japanese nationals of various
18 countries in violation of the Laws and Customs of
19 War, and included murder, assault and battery, and
20 cannibalism (b) Neglect of duty in violation of the
21 Laws and Customs of War (unlawfully failing to protect
22 prisoners of war and failing to control members of the
23 Japanese Armed Forces) and (c) Violation of the Laws
24 and Customs of War (unlawfully preventing the honorable
25 burial of American prisoners of war.)

1 "In so far as my investigations are concerned
2 it is established that a large number of American mili-
3 tary personnel, the exact number unknown, were captured
4 alive by the Japanese in the Pacific Ocean Areas. There
5 is attached to and hereby made a part of this affidavit
6 lists, in part, of six hundred ninety-eight (698) per-
7 sons that are known to have been lost in the areas. Of
8 course many of the persons listed were undoubtedly
9 killed in battle, but on the other hand many were cap-
10 tured by the Japanese. It is significant that not one
11 of the persons listed or any other American or Allied
12 prisoners of war were found alive in any of the islands
13 or atolls of the Pacific Ocean Areas at the time of the
14 Japanese surrender and subsequent thereto. How many
15 were transported to Japan prior to the surrender has not
16 been determined but from the results of attempts to es-
17 tablish this number it appears that only a relatively
18 few and insignificant number ever reached Japan or were
19 subsequently repatriated to the United States and Allied
20 Powers. Investigations show that one hundred forty-nine
21 (149) Americans were illegally executed by the Japanese
22 military authorities while being held as prisoners of
23 war in the Pacific Ocean Areas.

24 "All records concerning prisoners of war cap-
25 tured by the Japanese in the Pacific Ocean Areas were

1 destroyed by the Japanese authorities and in every
2 instance investigators have been confronted with false
3 information by the Japanese Commanding Officers as well
4 as the deliberate intention on the part of the Japanese
5 to conceal any and all information concerning persons
6 who were known to have been captured alive. Accordingly
7 it has been impossible to determine the specific dis-
8 position of each individual concerned. In cases where
9 it has been possible to determine the disposition of
10 specific individuals it has been found that they were
11 unlawfully killed by Japanese authorities.

12 "The following is a brief of war crimes cases
13 which were tried by orders of (a) Commander Marshall
14 Gilberts Area and (b) Commander of Marianas Area. This
15 brief shows the names of the principle accused, offenses,
16 place and date of offenses, place and date of trial,
17 evidence for prosecution, basis of defense, and reports
18 made by various persons concerning the disposal of
19 prisoners of war in various places throughout the Pacific
20 Ocean Areas."

21 Without reading further I turn to page 22, the
22 copy of a memorandum from Admiral Manning, Chief of the
23 Bureau of Yards and Locks, Navy Department, reads as
24 follows, paragraphs 1, 2 and 3:

25 "The attached list of Pacific Naval Air Base

1 contractors' employees with their home addresses and
2 occupations is certified to be a true copy of the
3 records available in this Bureau. This list represents
4 the names of those employees who are unaccounted for at
5 the expiration of hostilities with the Japanese.

6 "2. As a result of an investigation conducted
7 by a representative of this Bureau, the Commander Mar-
8 shalls Gilberts Area in a letter dated 19 December
9 1945 (Confidential), Serial 02641, stated in part,
10 '(a) Ninety-eight (98) American prisoners of war re-
11 maining on Wake Island were deliberately executed on
12 the order of the Japanese Commander Rear Admiral
13 SAKAIBARA, ninety-six (96) of whom with hands tied and
14 blindfolded were shot the night of 7 October 1943 on
15 order of Rear Admiral SAKAIBARA. Previous to that date
16 one was decapitated on order of Rear Admiral SAKAIBARA.
17 On or about 15 October 1943 he personally decapitated
18 the last remaining American on Wake.'

19 "3. As a result of the above, this Bureau
20 notified the next of kin, the U.S. Employees' Compensa-
21 tion Commission and other interested parties that in
22 view of the fact that all other Pacific Naval Air Base
23 contractors' employees have been accounted for with
24 the exception of ninety-eight, it must be presumed that
25 the ninety-eight employees executed on Wake Island were

those that were unaccounted for."

1
2 In the list of American civilians killed on
3 Wake Island, as listed at pages 23 to 28, the right-
4 hand column, with the heading "Occupation," shows
5 that these civilians were principally carpenters,
6 about 27 in number, and operators of machinery, such
7 as tractors, cranes, shovels and tugs, and other skilled
8 and unskilled workers for construction work. Attention
9 is directed also to the absence of any occupations of a
10 military nature, and to the presence, at page 27, line
11 75, of the name of the physician, Dr. Lawton E. Shank.

12 This concludes the evidence to be offered on
13 the offenses committed on Pacific Islands.

14 It is now proposed, if the Court please, to
15 show violations of the treaty provisions for hospital
16 ships. First, the attack on the USS COMFORT will be
17 considered.

18 Prosecution document No. 8435, a protest from
19 the United States Government by way of the Swiss Lega-
20 tion to the Japanese Foreign Minister, dated Tokyo
21 29 January 1945, is offered in evidence.

22 THE PRESIDENT: Admitted on the usual terms.

23 CLERK OF THE COURT: Prosecution's document
24 No. 8435 will receive exhibit No. 2058.

25 (Whereupon, the document above referred to

1 was marked prosecution's exhibit No. 2058,
2 and was received in evidence.)
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1 CAPTAIN ROBINSON: This document reads as
2 follows:

3 "The Swiss Legation has the honor of in-
4 forming the Imperial Ministry of Foreign Affairs
5 that the Government of the United States of America
6 has requested that the following notification be
7 addressed to the Japanese Government:

8 "The Japanese Government acknowledged
9 receipt of notification that the U.S.S. "Comfort"
10 was designated as United States hospital ship (see
11 note No. 188/T2 from the Ministry to the Legation
12 dated 6 July). On the 24th October 1944 at 02.00
13 local time in the vicinity of latitude 0850 north
14 longitude 12850 east, the "Comfort" was attacked by
15 a Japanese aircraft. The vessel was conventionally
16 painted as hospital ship and fully lighted with two
17 illuminated crosses on deck and four on the stack.
18 During this attack upon the "Comfort", three bombs
19 were dropped, two of which landed close aboard.

20 "On the 14th July 1944 (see note No. 200/T2
21 from the Ministry to the Legation dated 14 July),
22 the Japanese Government acknowledged receipt of the
23 notification that the U.S.S. "Hope" was designated
24 United States hospital ship. On the 3rd December 1944,
25 at 16.00 local time, at latitude 0936 north longitude

1 12821 east, the "Hope" was attacked by a Japanese
2 torpedo plane. This attack was made in daylight on
3 a conspicuously marked hospital ship. Following
4 this deliberate attack, the attacking Japanese air-
5 craft retired to Mindanao.

6 "The United States Government emphatically
7 protests against above described attacks upon the
8 hospital ships "Comfort" and "Hope" such attacks
9 representing flagrant violation of the tenth Hague
10 Convention of 1907 as well as those principles,
11 customs and usages of international law attached to
12 hospital ships. The United States Government insists
13 that the Japanese Government give its assurances
14 that attacks by Japanese armed forces upon hospital
15 ships will not be repeated in future and that those
16 persons responsible for the above-mentioned attacks
17 on the "Comfort" and "Hope" have been punished.'

18 "In begging the Ministry kindly to acknow-
19 ledge receipt of the present notification and to
20 communicate to it /the Legation/ the reply of the
21 Imperial Government to the American protest, the
22 Legation takes this occasion to renew to it the assur-
23 ances of its high consideration.

24 "Tokyo, 29 January 1945

25 "To the Imperial Ministry of Foreign Affairs, Tokyo."

1 Prosecution document 8398, a note from the
2 Swiss Legation to the Japanese Foreign Ministry,
3 dated Tokyo, 23 April 1945, is offered in evidence.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 8398 will receive exhibit No. 2059.

7 (Whereupon, the document above
8 referred to was marked prosecution's exhibit
9 No. 2059 and received in evidence.)

10 CAPTAIN ROBINSON: This document reads as
11 follows:

12 "By its note of 29 January the Swiss
13 Legation had the honor of transmitting to the Imperial
14 Ministry of Foreign Affairs a protest from the Govern-
15 ment of the United States of America on the subject
16 of attacks carried out by Japanese planes against
17 the hospital ships 'Comfort' and 'Hope'.

18 "The Washington Government has requested
19 assurances from the Japanese Government that those
20 responsible have been punished and that such attacks
21 will not be repeated in the future.

22 "No reply having been received to this day
23 the Legation ventures to bring this matter again
24 to the kind attention of the Ministry.

25 "It takes this occasion to renew to the

1 Ministry the assurances of its high consideration.

2 "Tokyo, 23 April" 1945

3 "To the Imperial Ministry for Foreign Affairs, Tokyo."

4 Prosecution document No. 8399, a memorandum
5 from the Foreign Office, Tokyo, to the Swiss Legation,
6 dated 12 May 1945, is offered in evidence.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 8399 will receive exhibit No. 2060.

10 (Whereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 2060 and received in evidence.)

13 CAPTAIN ROBINSON: (Reading)

14 "The Foreign Office, Tokyo, No. 113/T2

15 "Memorandum

16 "The Imperial Minister for Foreign Affairs
17 has the honor to acknowledge receipt of Note No. CC.
18 3.1.43-FGc./ CC.3.1.46, dated 29th January last from
19 the Swiss Legation by which the Legation was good
20 enough to transmit to the Minister a protest from the
21 Government of the United States of America against
22 attacks which might have been made by Japanese planes
23 on the American hospital ships 'Comfort' and 'Hope'.
24 "The Minister hastens to inform the Legation
25 that the competent authorities are now actually enquiring

into the matter."

1 Prosecution document No. 8421, a protest from
2 the Swiss Legation to the Japanese Foreign Ministry,
3 dated 23 May 1945, is offered in evidence.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 8421 will receive exhibit No. 2061.

7 (Whereupon, the document above
8 referred to was marked prosecution's exhibit
9 No. 2061 and received in evidence.)

10 CAPTAIN ROBINSON: This protest reads as
11 follows:

12 "By Note No. 113/T2 of 12 May last the
13 Imperial Ministry for Foreign Affairs was pleased to
14 inform the Swiss Legation that the Japanese authorities
15 had commenced an investigation of the matter of attacks
16 carried out by Japanese planes against the American
17 hospital ships 'Comfort' and 'Hope'.

18 "The Legation has the honor to inform the
19 Ministry that in the meantime the Government of the
20 United States of America has called upon the Federal
21 Government to address to the Imperial Government the
22 following notification relative to a second Japanese
23 air attack against the 'Comfort':
24

25 "'On the afternoon of 28th April 1945, the

1 U.S.S. "Comfort", a United States hospital ship, left
2 Okinawa at about 20.50 local time. On the same day,
3 at latitude 25/30 north, longitude 127/30 east, when
4 observing full hospital ship procedure, the "Comfort"
5 was attacked and seriously damaged by an aircraft
6 positively identified as Japanese. As a result of
7 this unlawful attack on the hospital ship, 39 persons
8 including nurses were killed and 33 persons were ser-
9 iously injured.

10 "The notification from the United States
11 Government that the "Comfort" had been designated as
12 a United States hospital ship was acknowledged by the
13 Japanese Government on 6th July 1944.

14 "The United States Government emphatically
15 protests against this deliberate attack on the "Comfort"
16 a flagrant violation of the tenth Hague Convention of
17 1903 -- it should be "seven," I take it -- as well as
18 those principles, customs and usages of international
19 law relating to hospital ships.

20 "The United States Government insists that
21 the Japanese Government take positive measures to
22 punish those responsible for this attack and to pre-
23 vent the recurrence of attacks by Japanese forces upon
24 United States hospital ships."
25

1 Prosecution document No. 8479, a letter from
2 the Commander-in-Chief, the United States Pacific
3 Fleet, Admiral C.W. Nimitz, to Commander-in-Chief,
4 the United States Fleet, dated 19 May 1945 is offered
5 in evidence.

6 THE PRESIDENT: Admitted on the usual terms.

7 CAPTAIN ROBINSON: It is a recommendation
8 of a protest to the Japanese Government based on
9 a second attack on the USS Comfort.

10 It reads as follows:

11 "From: Commander-in-Chief --

12 CLERK OF THE COURT: Prosecution document
13 No. 8470 will receive exhibit No. 2062.

14 (Whereupon, the document above
15 referred to was marked prosecution's ex-
16 hibit No. 2062 and received in evidence.)

17 CAPTAIN ROBINSON: Exhibit No. 2062 reads
18 as follows:

19 "From: Commander-in-Chief, U.S. Pacific
20 Fleet.

21 "To: Commander-in-Chief, United States
22 Fleet.

23 "Subject: U.S.S. COMFORT, Attacked by enemy
24 aircraft.

25 "Reference: (a) CO USS COMFORT serial

1 AH 6/A16-3/C-68 of 1 May 194" -- It is omitted here
2 from this copy. I suppose "1945."

3 "(b) CO USS COMFORT serial AH 6/A16-3/70
4 of 7 May 1945.

5 "Enclosure: (A) Copy of reference (b).

6 (B) Translation of Japanese
7 document taken from body of suicide plane pilot.

8 "1. It is noted that reference (a) was submitted
9 direct to the Chief of Naval Operations without the
10 prescribed routing through intermediate commands.
11 This report is being submitted therefore in lieu of
12 the usual endorsement.

13 "2. Attention is particularly invited to
14 the fact that on the night of the attack, the weather
15 was clear, visibility unlimited, the Comfort was fully
16 illuminated and was carrying out full hospital procedure.
17 It will also be noted that the attacking plane flew
18 over the ship in 3 successive passes, once at masthead
19 height and twice at 500 feet; there can be no doubt
20 therefore as to recognition by the pilot of the character
21 of the hospital ship.

22 "3. The ship carried no passengers and was
23 complying in every respect with the provisions of the
24 Geneva Convention.

25 "4. There were no other naval vessels nearer

1 to the Comfort than 20 miles at the time of the
2 contact, thus there can be no question as to her
3 being escorted or in company with combatant ships.

4 "5. Enclosure (A) is submitted as an
5 indication that attacks of this nature may be premeditated
6 by the Japanese Government and not simply the irrational
7 act of a single pilot. Enclosure (B) is translation
8 of a document taken from the body of the pilot of the
9 suicide plane, from which it is evident that the
10 pilot had been briefed on the presence of U.S.
11 vessels off Okinawa, among which were two hospital
12 ships.

13 "6. It is recommended that the strongest
14 possible protest be addressed to the Japanese
15 Government for this deliberate attack on a ship
16 load of defenseless battle casualties in violation
17 of existing treaties.

18 Signed "C.W. Nimitz"

19 Page 3 of the exhibit:

20 "U.S.S. COMFORT (AH-6)

21 "c/o Fleet Post Office

22 "San Francisco, California

23 "7 May 1945

24 "From: Commanding Officer.

25 "To: Commander-in-Chief, U.S. Pacific Fleet.

1 "Subject: Tokyo Broadcast re: Bombing
2 Hospital Ships - Reporting of.

3 "Reference: (a) CO USS Comfort's conversation
4 of 6 May 1945 with Vice Admiral McMorris.

5 "1. In compliance with your order, reference
6 (a), I wish to report that on 9 April 1945 at approximate
7 1500 Item, I heard Tokyo broadcast as follows:

8 "Quote, We are justified in bombing hospital
9 ships as they are being used for repair ships for
10 returning wounded men back to the fighting front,
11 unquote.

12 "The broadcast also stated at length the
13 fact that their own 'Mercy Ship' was long overdue.

14 "2. This broadcast is reported from memory
15 and may not be quoted verbatim. However, its meaning
16 was unequivocal.

17 "3. The subject broadcast was heard by
18 several members of the crew of this vessel.

19 Signed "A. Tooker"
20

21 "(ENCLOSURE (B) - Translation of Japanese
22 document taken from body of the suicide plane pilot
23 which crashed into the USS Comfort.)
24

25 "Flight Intelligence Despatch #2

"1. Shipping situation at 1700 on the 27th.

1 "Off Kadena: 2 battleships, 3 cruisers,
2 15 destroyers, about 40 transports, 2 hospital ships,
3 about 80 small craft. Landing continues off Itoman:
4 one battleship, 1 cruiser, 1 destroyer, 5 transports,
5 1 small craft, 7 assault craft.

6 "Off Kiyabu: 2 cruisers, 23 destroyers,
7 2 unidentified, 4 small craft, 7 assault craft.

8 "_____ (TN; illegible) - 3 cruisers,
9 3 battleships, 20 small craft. Unclear because of
10 fog at present.

11 "2. On the 28th at 0200 at Makagusuku Bay:
12 One battleship, 5 cruisers, 7 destroyers, 27 small
13 craft."

14 Prosecution document No. 8469, a report of
15 the attack on the Comfort is offered in evidence.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution document
18 No. 8469 will receive exhibit No. 2063.

19 (Whereupon, the document above
20 referred to was marked prosecution's ex-
21 hibit No. 2063 and received in evidence.)

22 CAPTAIN ROBINSON: This report reads as
23 follows: --

24 THE PRESIDENT: Are you going to read much
25 of it, Captain?

1 CAPTAIN ROBINSON: No, sir, just the first
2 2 paragraphs and about ten words from page 4. (Reading):

3 "Army Service Forces

4 "205th Hospital Ship Complement

5 "U.S.S. Comfort AH-6

6 "Fleet Post Office, San Francisco, Calif.

7 "2 May 1945

8 "Subject: Report of Dead and Wounded
9 Personnel.

10 "To: Adjutant General, United States Army,
11 Washington 25, D.C.

12 "1. The Hospital Ship U.S.S. Comfort
13 was proceeding on its way to Guam with a load of
14 patients from Okinawa, Ryuku Islands, on the 28th
15 April 1945 when at 2042 that evening the ship was
16 bombed by a suicide Japanese airplane. The position
17 of the ship was about seventy (70) miles from Okinawa
18 at latitude 25°- 28 ' N and longitude 127°-39 ' E.
19 The plane dove into the ship hitting into the outboard
20 bulkhead on the starboard side of the superstructure
21 deck. When the explosion occurred all normal activities
22 of the hospital were being carried on.

24 "2. The following is a summary of all personnel
25 killed and wounded, with type and extent of wounds
received.

1 "A. The personnel named on the attached
2 list as killed in action were so badly burned and
3 mutilated that it is impossible to determine just
4 what killed them. The direct cause of death as far
5 as can be determined was due to the explosion."

6 And finally, turning to page 4 of this
7 report, I call attention simply to the fact that in
8 the second and third column, under the "Killed in
9 Action," at the top of the page is to be observed
10 that there were 4 doctors and 6 army nurses among
11 those killed in action under the circumstances just
12 described.

13 THE PRESIDENT: We will recess for fifteen
14 minutes.

15 (Whereupon, at 1446, a recess was
16 taken until 1500, after which the proceedings
17 were resumed as follows:)
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1 MARSHAL OF THE COURT: The Tribunal is now
2 resumed.

3 THE PRESIDENT: Captain Robinson.

4 CAPTAIN ROBINSON: Mr. President:

5 Prosecution document No. 8434, a protest
6 transmitted by the Swiss Legation to the Japanese
7 Foreign Minister, dated 23 June 1945, is offered in
8 evidence.

9 THE PRESIDENT: Admitted on the usual terms.

10 CLERK OF THE COURT: Prosecution document
11 No. 8434 will be given exhibit No. 2064.

12 (Whereupon, the document above re-
13 ferred to was marked prosecution's exhibit
14 No. 2064 and received in evidence.)

15 CAPTAIN ROBINSON: This document reads as
16 follows:

17 "Pursuant to its note of 23 May relating
18 to the Japan's second air attack upon the American
19 hospital ship 'Comfort,' the Swiss Legation has the
20 honor to make known to the Imperial Ministry for
21 Foreign Affairs that the Government of the United
22 States of America has requested the Swiss Government
23 to present to the Japanese Government the following
24 notification:

25 "In regard to attack by a Japanese aircraft

1 upon United States hospital ship 'Comfort' on evening
2 of 29th April, 1945, following supplemental informa-
3 tion is set forth for attention of the Japanese Govern-
4 ment:

5 "On the night of this attack, weather was
6 clear and visibility was unlimited. There were no
7 other naval vessels within twenty miles. The attack-
8 ing aircraft flew over the 'Comfort' on three successive
9 occasions one at masthead height and twice at an
10 altitude of . . . feet. There can be no doubt there-
11 fore of the ability of the pilot to recognize hospital
12 ship character of the 'Comfort' before he crashed
13 his plane on board the vessel.

14 "There was found in the wreckage of the
15 crashed aircraft a flight intelligence document
16 which listed two hospital ships among other ships
17 present off Okinawa on afternoon preceding attack
18 upon the 'Comfort.' The fact that two hospital
19 ships were included in a list of combatant ships in
20 that area indicates that no effort was made to impress
21 attacking Japanese pilots with immunity of hospital
22 ships.

23 "On 9th April, 1945, at approximately 15.00
24 local time, a Tokyo broadcast announced that Japanese
25 are justified in bombing hospital ships inasmuch as

1 they are being used to repair ships and for purpose
2 of returning wounded men to fighting fronts. The
3 United States Government states emphatically that
4 its hospital ships are not being used for repair or
5 any other purposes not permitted by strict interpre-
6 tation of terms of Geneva Convention relative to use
7 of hospital ships.

8 "The United States Government reiterates its
9 insistence that the Japanese Government take positive
10 measures to punish those responsible for attack on
11 the 'Comfort' and other hospital ships and to prevent
12 further attacks.'

13 "The Ministry will confirm that this note
14 lacks one word in the sixteenth line of the first
15 page," and so forth.

16 "While requesting the Ministry to be good
17 enough to receive this notification and to inform it
18 of the response of the Imperial Government, the Legation
19 takes this opportunity to renew the assurances of its
20 high consideration."

21 Dated, "Karuizawa, 23 June 1945."

22 In further consideration of violations of
23 treaty provisions with respect to hospital ships,
24 evidence will now be presented on the case of the
25 Netherlands hospital ship, OP ten NOOHT.

1 Prosecution document No. 8471A, a certified
2 official report on the Op ten NOORT, with document
3 No. 8471F, the certification, are offered in evidence.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution document
6 No. 8471A will receive exhibit No. 2065, and document
7 No. 8471F will receive exhibit No. 2066.

8 (Whereupon, document No. 8471A was
9 marked prosecution's exhibit No. 2065, and
10 document No. 8471F was marked prosecution's
11 exhibit No. 2066, and were received in evidence.)

12 CAPTAIN ROBINSON: This report reads in part
13 as follows:

14 Page 1, first four paragraphs:

15 "REPORT REGARDING THE ADVENTURES OF THE
16 NETHERLANDS MILITARY HOSPITAL SHIP 'OP ten NOORT.'

17 "Above-mentioned Hospital Ship went to sea
18 on February 12, 1942, Captain: 'G. TUIZINGA.'
19 Head Medical Staff: M. O. 1st Cl. 'A. M. MELLEMA,'
20 P. M. N.

21 "The ship was provided with the appropriate
22 markings of a hospital ship, as arranged at the
23 Geneva Convention of 1906.

24 "According to a verbal communication of the
25 then Naval Commander, Rear Admiral 'van Staveren,'

1 to me on February 25, 1942, a message had been
2 received that said ship had been acknowledged as a
3 hospital ship by the Japanese Government, just as
4 the N. E. I. Government had acknowledged 3 Japanese
5 hospital ships, viz: the 'HIKAWA MARU,' the ASAKI
6 MARU' and the 'TAKASAGO MARU.'

7 "Notwithstanding this acknowledgment the
8 ship was attacked in the 'Westervaarwater' near
9 SOERABAJA on February 21, 1942, by Jap planes drop-
10 ping explosive bombs from a height of about 3000
11 metres. By three near-misses 3 persons were killed
12 (M. O. 2nd Cl. 'to Velde' and the Sisters 'Strik' and
13 Brasser.') Moreover about 20 persons were more or
14 less seriously wounded and the ship incurred severe
15 material damage."

16 Page 5, beginning with the second paragraph
17 and continuing to the middle of the following page:

18 "Suddenly on October 16th, all patients had
19 to leave the ship together, with the native medical
20 orderlies and the greater part of the ship's crew.
21 A Japanese captain and other members of a crew em-
22 barked, whereon the following statement was read to us
23 as answer to a protest handed in by the captain,
24 copy of which I am unable to enclose.

25 "1. The ship had not been 'captured,' but

1 'occupied' by the Jap authorities and had been directed
2 to Japan.

3 "2. This official detainment was to be
4 continued.

5 "3. Directing the ship to Japan was ordered
6 by the Japanese Navy and was to be carried out to
7 explain some affairs that could not be solved at
8 MAKASSAR.

9 "4. The ship's crew and staff were not to
10 to be interned or made P. W.'s, neither was it the
11 intention of the Japanese Government to do so in the
12 future.

13 "5. Japan will always fulfil the obligations
14 forthcoming from International treaties.

15 "6. For safety's sake it is necessary to
16 place a Japanese crew on board the ship and to sail
17 under the Jap flag.

18 "7. A guard detachment, armed with rifles
19 and machine-guns, is placed on board during the trip,
20 in order to protect the ship against illegal attacks
21 of American submarines.

22 "8. Sabotage or opposition will be most
23 severely punished.

24 "I never saw a written confirmation of this
25 statement. When the statement had been read to us,

1 the captain answered with a short protest.

2 "November 22nd the ship left for Japan with
3 an 'occupation-force' of about 100 armed marines.
4 Escape was out of the question although the course
5 took us East of the Philippines.

6 "December 5th we reached Yokohama. We
7 suffered greatly from the cold on the totally un-
8 heated vessel. Many of us had only tropical clothes
9 and much had been given to the first group of P. W.'s,
10 many of whom had embarked almost without any clothes.

11 "On December 17th and 18th the captain
12 addressed some letters to authorities at Yokohama, con-
13 tents of which are unknown to me.

14 "On December 19th the whole personnel had
15 to disembark; we had to unload our heavy luggage our-
16 selves in bitterly cold weather. It was strictly
17 forbidden for the native servants to assist us.

18 "After a railway journey of about 24 hours,
19 we arrived at a camp at Myoshi (75 Kilometres N. W.
20 of Hiroshima), where the Dutch team consisting of
21 44 persons, was detained until the surrender.

22 "Several protests were sent from this camp,
23 viz:

24 "On February 22, 1943 (Encl. 3).

25 "On October 27, 1943 (Encl. 4).

1 "On February 23, 1943 (Encl. 5).

2 "On February 23," 1944, I take it that
3 should be. Mistake. It is '43. "(Encl. 6) to the
4 Swiss Ambassador at Tokyo.

5 "August 21, 1943 (Encl. 7), whereas several
6 times we tried to improve our conditions by personal
7 talks with Mr. 'KAMAY," who would visit our camp
8 irregularly as representative of the prefect of
9 Hiroshima.

10 "This man's behavior was always very correct.
11 In my opinion, he did his utmost to improve our con-
12 ditions. Unfortunately his attempts had not much
13 success, probably owing to opposition to higher authori-
14 ties.

15 "On the occasion of one of these visits the
16 captain directed a letter to the Superintendent of
17 Police at Mijoshi on June 18, 1943 (Encl. 8).

18 "We never received a written answer to these
19 protests and letters."

20 Signed at "Soerabaja, May 3, 1946.

21 "The M. O. 2nd Cl. R. M. N., Head Naval
22 Hospital. A. W. MELLEMA."

23 Prosecution document No. 8471B, a letter
24 from the Captain of the CP ten NOORT to the Japanese
25 Navy Minister at Tokyo, is offered in evidence.

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Prosecution document
3 No. 8471B will receive exhibit No. 2067.

4 (Whereupon, the document above re-
5 ferred to was marked prosecution's exhibit No.
6 2067 and received in evidence.)

7 CAPTAIN ROBINSON: This letter reads as
8 follows:

9 "Enclosure 3.

10 "Mijoshi, February 22, 1942," which apparently
11 should be "3," as the context shows.

12 "Excellency,

13 "1. I have the honour to submit the following
14 to Your Excellency's kind attention:

15 "2. On December 19, 1942 the entire personnel
16 of the Netherlands Hospital Ship, 'Op ten Noort,'
17 were forced to disembark at Yokohama. The etat-Major,
18 N. C. O.'s, together with the whole medical staff,
19 were interned in a house at Nijoshi, where conditions
20 left much to be desired, whilst the Indonesian crew
21 was taken to a place unknown to me.

22 "3. Referring to my letter, directed to
23 Your Excellency on December 17th and 18th, I take the
24 liberty to make the following remarks:

25 "c. That the Netherlands Hospital Ship,

1 'Op ten Noort,' was officially acknowledged by the
2 Imperial Japanese Government according to the Treaty
3 for the Application on the War at sea of the principles
4 of the Geneva Convention of July 6, 1906;

5 "b. That when directing the ship to Japan
6 the Imperial Japanese Navy guaranteed that the ship
7 was not to be seized and the personnel was not to be
8 interned or made P. W.

9 "4. Therefore, I strongly protest against
10 the measures mentioned in para. 2.

11 "5. I kindly request Your Excellency to
12 inform me:

13 "a. Whether the Imperial Japanese Government
14 adheres to its acknowledgment of the S. S. 'Op ten
15 Noort' as a hospital ship.

16 "b. What the reason is of the actual intern-
17 ment of Mijoshi.

18 "c. How long the present conditions are to
19 be maintained.

20 "6. Further I kindly request Your Excellency
21 to take all possible measures to permit the personnel
22 to reembark as soon as possible, so that the ship can
23 carry out its task to the benefit of our fellowmen.

24 "7. Expressing my thanks for your Excellency's
25 willingness.

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"I remain

"Respectfully yours,

"G. TUIZINGA," Captain.

"To: His Excellency, the Minister of the
Imperial Japanese Navy in Tokyo."

1 Prosecution document No. 8471C, a letter
2 from the Captain of the "Op ten Noort" to the
3 Japanese Prime Minister, is offered in evidence.

4 THE PRESIDENT: Admitted on the usual
5 terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 8471C will receive exhibit No. 2068.

8 (Whereupon, the document above re-
9 ferred to was marked prosecution's exhibit
10 No. 2068 and received in evidence.)

11 CAPTAIN ROBINSON: This letter, paragraphs
12 one, two, three and seven, reads as follows:

13 "ENCLOSURE 5.

14 "Excellency "Mijoshi, February 23rd 1944.
15 "1. On October 27th of the previous year a protest
16 was handed in by me in my function of Captain of
17 the Netherlands Military Hospital Ship 'Op ten
18 Noort,' against the prolonged detention of this ship
19 and the internment of the ship's crew and further
20 personnel. As such a detention and internment are
21 entirely contrary to the Geneva Convention of 1906
22 for the Application of the War at Sea, I am con-
23 vinced, that Your Excellency is not acquainted with
24 this internment and detention, nor with the incidents
25 leading to these circumstances.

1 "2. To my increasing astonishment I have neither
2 received any answer to this letter of protest nor
3 to my earlier protests, directed to lower authori-
4 ties.

5 "3. It surely cannot be the intention of the Imper-
6 ial Japanese Government to waive the rules of the
7 Geneva Convention, because Japanese Military Hospi-
8 tal Ships are still sailing under protection of
9 International markings, as prescribed by said
10 Treaty, as observed by me at Makassar (Celebes).
11 Moreover, cancelling the Treaty would be contrary
12 to the definite assurances and promises given by
13 responsible Japanese Naval authorities at Makassar
14 and Yokohama and mentioned in my protest.

15 "7. At the same time I beg to request Your Excellency
16 to order a neutral instance to investigate the de-
17 plorable internment conditions of the ship's crew
18 and medical staff.

19 "Meanwhile I remain,

20 "Respectfully Yours,

21 "The Captain of the
22 "Netherlands Hospital Ship,
23 'Op ten Noort'.

24 "w.s. 'G. TUIZINGA.'

25 "Encl.: 1

"His Excellency the Prime Minister of His Imperial
Highness, the Emperor of Japan."

1 Prosecution document No. 8471D, a speech
2 by the Prefect of Hiroshima to the personnel of the
3 "Op ten Noort," is offered in evidence.

4 THE PRESIDENT: Admitted on the usual terms.

5 CLERK OF THE COURT: Prosecution's document
6 No. 8471D will receive exhibit No. 2069.

7 (Whereupon, the document above re-
8 ferred to was marked prosecution's exhibit
9 No. 2069 and received in evidence.)

10 CAPTAIN ROBINSON: This document, page 1,
11 first paragraph, heading, reads as follows:

12 "SPEECH DELIVERED AT MAJOSHI by the
13 PREFECT OF HIROSHIMA;

14 "Today you are not going to hear any par-
15 ticular news from me. As Superintendent of this
16 camp I regularly visit this place in order to keep
17 myself informed of your conditions. I am the repre-
18 sentative of the Japanese Government."

19 Page 2, second paragraph. No. Top of
20 page 2, the first three paragraphs:

21 "You pretend to have treated the Japanese
22 internees decently, but you know fully well that this
23 is a lie. The Japanese are filled with indignation
24 at this treatment. You always refer to International
25 Law, but it was America, as leader of the Allies, who

1 violated this Law.

2 "Under what 'gentleman treatment' we might
3 be if we should be in your circumstances!! --

4 "It is no use comparing your present condi-
5 tions with your former glorious way of living. We
6 are convinced of doing our utmost under the present
7 circumstances.

8 "Hostile feelings are so bad here, that it
9 is disapproved that Japanese food is withdrawn for
10 your nourishment."

11 Omitting the rest of that page to the next
12 to the bottom paragraph on that same page which
13 reads as follows:

14 "Attempts to escape will be severely punished.
15 We do not want such a thing to happen. Such an at-
16 tempt will be strictly punished. I informed the
17 Government of your interests regarding correspondence
18 with your country and your relatives. I stated that
19 correspondence about your good health and well being
20 will be sent to your relatives."

21 The next page, page 3, last paragraph,
22 reads as follows:

23 "My personal opinion is that your intern-
24 ment here will not be of long duration because
25 hostilities will soon be over.

1 "I repeat that every attempt to escape will
2 be strictly punished."

3 Prosecution document No. 8471E, a letter
4 from the Chief Medical Officer of the "Op ten Noort"
5 to the Japanese Prime Minister is offered in evi-
6 dence.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution document
9 8471E will receive exhibit No. 2070.

10 (Whereupon, the document above re-
11 ferred to was marked prosecution's exhibit
12 No. 2070 and received in evidence.)

13 CAPTAIN ROBINSON: This letter reads as
14 follows:

15 "MIJOSHI, June 29th 1944.

16
17 "I have the honour to submit the following
18 to Your Excellency:

19 "On October 27th of the previous year the
20 Captain of the Netherlands Military Hospital Ship
21 'Op ten Noort' submitted a protest against the de-
22 tention of this ship. In this protest he gave a com-
23 plete survey of all incidents which had occurred on
24 board the ship and what was done to her crew and staff.
25 He finally applied to Your Excellency expecting You
to be able to stop the injustice inflicted upon us.

1 "To my great disappointment neither this
2 protest nor the repeated protest of February 23rd
3 1944 had any success and were not even answered.

4 "It is obvious now that Naval and Civil
5 authorities acted by orders of the Japanese Govern-
6 ment and consequently we hold this Government respon-
7 sible for our treatment. Notwithstanding the fact
8 that Japan signed the Geneva Convention of 1906, the
9 Japanese Navy detained our Hospital Ship, occupied
10 her with armed forces and used the ship for her own
11 benefit. As her own organization fell short in this
12 respect I cannot but qualify this act as a serious
13 proof of unreliability of the Japanese Government,
14 the more conspicuous through the fact that the
15 hospital ship 'Op ten Noort' was acknowledged by the
16 Japanese Government less than three months prior to
17 the outbreak of the war. From her side the Japanese
18 Government gave evidence of relying on the loyalty
19 of her enemies with regard to above-mentioned Treaty.
20 We could perceive -- be it said to the shame of the
21 Japanese Government -- that our ship sailing under
22 the markings (among others, being illuminated at
23 night), protecting Hospital Ships against intentional
24 attacks of the enemy, with a cargo of contraband,
25 among others, mines, with armed military on board,

1 safely reached Japan. It was declared by Naval
2 authorities by name of the Japanese Government that
3 our ship had not been seized, only detained.

4 "Even after the ship had arrived in Japan
5 in the dishonourable manner described in this re-
6 port, sailing under the Jap flag, under the command
7 of a Japanese captain, and after the crew and staff
8 had been interned in a remote corner of Japan, the
9 Japanese Government persisted in her untruthful
10 declarations.

11 "I accuse the Japanese Government of dis-
12 loyalty on the following grounds:

13 "a. Having instructed high-ranking authorities
14 to make misleading statements.

15 "b. Not having properly answered any protest.

16 "c. Not having permitted the captain of the
17 ship to contact the International Red Cross.

18 "d. Not having permitted the captain to
19 guard the interests of the hospital ship, not even
20 through the intermediary of a non-belligerent nation,
21 representing the interests of the Netherlands sub-
22 jects in Japan.

23 "I may finally add here that -- where all
24 over the world Red Cross work in wartime is watched
25 with interest and respect -- the Japanese Government

1 paralyzed the performance of our hospital ship with
2 one blow, without any reason, without any urgency of
3 war, without any official procedure."

4 Signed "The Chief Medical Officer
5 of the Hospital Ship 'Op ten
6 Noort!'"

7 "To: The Prime Minister of Japan."

8 Diplomatic protests by the Netherlands
9 Government transmitted by the Swedish Legation to
10 the Japanese Government were numerous and emphatic.
11 Among those protests and related examinations are
12 the following documents, of which only the last two
13 will be read, although I wish to offer them all in
14 evidence.

15 Prosecution document No. 8475, a protest
16 addressed to the accused TOGO, dated 28 May 1942;

17 Prosecution Document No. 8473, a letter from
18 the Japanese Minister of Foreign Affairs to the
19 Swedish Minister, dated 9 June 1942;

20 Prosecution document No. 8474, a Note
21 Verbale from the Swedish Minister to the Japanese
22 Foreign Minister, dated 28 September 1942;

23 Prosecution document No. 8477, a Note
24 Verbale from the Swedish Legation to the Japanese
25 Foreign Ministry, dated 10 September 1945; and

1 Prosecution document No. 8476, a letter
2 from the Swedish Minister to the Netherlands
3 Minister of Foreign Affairs, dated 30 October 1945
4 are now offered in evidence.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 8475 will receive exhibit No. 2071; document
8 8473 exhibit No. 2072; document No. 8474, exhibit
9 No. 2073; document No. 8477, exhibit No. 2074; and
10 document No. 8476, exhibit No. 2075.

11 (Whereupon, the documents above re-
12 ferred to were marked prosecution's exhibits
13 Nos. 2071 to 2075, inclusive, as indicated
14 and received in evidence.)

15 CAPTAIN ROBINSON: I have marked some
16 extracts from these documents, reading only two in
17 full. Exhibit 2071 reads as follows:

18 "Tokyo, May 28th, 1942.

19 "Monsieur le Ministre:

20 "With reference to previous communications
21 regarding the bombing and seizure by the Japanese
22 Armed Forces of the Netherlands Hospital Ship 'Op
23 ten Noort,' which I have had the honour to address
24 to Your Excellency in my capacity as entrusted with
25 the protection of the Netherlands interests in Japan,

1 I now beg to bring to Your Excellency a knowledge
2 the following additional details in this matter, based
3 on reports received from the Royal Netherlands Govern-
4 ment.

5 "According to these informations the 'Op
6 ten Noort' on February 21st, last, was navigating
7 near Sembilangan when it was bombed by Japanese air-
8 planes, and received damages which necessitated
9 repairs. These repairs completed, the hospital ship
10 sailed out again on the first of March with the
11 purpose of searching for survivors of a naval
12 battle. On this occasion a Netherlands' reconnai-
13 sance plane reported that the vessel was captured by
14 Japanese torpedo boats. Since then no further infor-
15 mation has been received by the Netherlands' Govern-
16 ment regarding the ship which, at both the above
17 mentioned occasions, was clearly marked in accordance
18 with the prescriptions of international law.

19 "In this connection it may be mentioned that
20 the Royal Netherlands Government has recognized the
21 Japanese vessels 'Hikaen Maru' and 'Takasago Maru' as
22 being hospital ships.

23 "As to the incident of the bombing of the
24 'Op ten Noort,' which was brought to Your Excellency's
25 attention with my note of March 2nd, I should much

1 appreciate to be informed of the result of the
2 investigation which was to be carried out.

3 "Furthermore, I have the honour again to
4 request the Imperial Government to release the ship
5 according to the stipulations of the Convention of
6 the 18th of October 1907 which Convention has been
7 signed and ratified by the Japanese Government. On
8 behalf of the Netherlands Government, I beg to ask
9 for the favour of a reply as to the intentions of
10 the Imperial Government in this respect.

11 "I avail myself of this opportunity,
12 Monsieur le Ministre, to renew to Your Excellency
13 the assurance of my highest consideration.

14 "W. BAGGE

15 "His Excellency
16 Monsieur Shigenori TOGO, Minister for Foreign
17 Affairs," et cetera.
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1 Exhibit 2072, I read extracts from. Date
2 9 June 1942.

3 "My dear Minister

4 "I have the honor to acknowledge receipt to
5 Your Excellency of your three letters dated 2 March,
6 13 April, and 28 May, last, relative to the bombard-
7 ment and detention of the Netherlands hospital ship
8 'Op Ten Noort'."

9 Dropping down to the third following para-
10 graph:

11 "The fact that this ship was used for
12 a military purpose and that it attempted to escape
13 when it was bound to follow the order of the bel-
14 ligerents constitutes an express violation of
15 Article 4 of the Convention of 18 October 1907 for
16 the application of the principles of the Geneva
17 Convention to maritime warfare."

18 Turning to the next page, the top paragraph:
19

20 "As to the bombardment of the 'Op Ten Noort'
21 which was supposed to have been carried out on 21
22 February by Japanese planes, investigations by the
23 competent authorities have revealed that absolutely
24 no such bombardment was directed against this ship
25 by Japanese planes. Moreover, the Japanese Army and
 Navy having received formal orders not to attack

1 hospital ships, the Imperial Government underlines
2 that such a thing could never take place."

3 Signed: "Minister for Foreign Affairs."

4 Exhibit No. 2073, transmitted to the Imperial
5 Ministry for Foreign Affairs, Tokyo, by the Swedish
6 Legation, the second paragraph reads as follows:

7 "The Dutch government to which the Lega-
8 tion has transmitted the contents of the above-
9 mentioned note, points out that it maintains the
10 exactness of the information on the movement of
11 the ship--communicated by the Legation in its note
12 of May 28 last--and that the supposition that the
13 'Op Ten Noort' would be employed for reconnoitering
14 of the Japanese fleet's movement is without any
15 foundation."

16 Exhibit No. 2074, document No. 8477, reads
17 as follows:

18 "Note Verbale

19 "The Royal Swedish Legation, in charge of
20 Netherlands interests, have the honour to request
21 information concerning the present whereabouts of
22 the Netherlands Hospital Ship 'Op ten Noort' which
23 has been detained by the Imperial Navy since 19th
24 December 1942. It is also requested that immediate
25 arrangements be made for the return of the ship to

the Netherlands authorities.

"Tokyo, September 10th, 1945

"The Imperial Ministry of Foreign Affairs,
"Tokyo."

And I read finally exhibit No. 2075, which
is document No. 8476:

"Tokyo, October 30th, 1945..."

"To His Excellency the Minister of Foreign Affairs.

"With reference to above cites cable and to
a number of subsequent cables concerning the Netherlands Military Hospital-ship 'Op ten Noort' I have the honour to state that the Captain, his officers, the medical staff and the Indonesian crew had been interned in Japan since December 1942 without the Legation receiving any information to that effect. After the surrender of Japan a member of the Legation visited the camp at Miuoshi, Hiroshima-ken, where the officers and the medical personnel were interned and obtained from Captain TUIZINGA a written report on the capture of the 'Op ten Noort' and on the conditions in the internment camp. A copy of this report is annexed hereto and it should be mentioned that another copy has already been forwarded by the Legation to the Netherlands East Indies Government.

"As informed by cable early in October, the

1 'Op ten Noort' is reported as sunk. The Legation
2 was informed hereof by a memorandum from the
3 Imperial Ministry of Foreign Affairs, dated September
4 27th, and reading as follows:

5 "The Imperial Ministry for Foreign Affairs
6 has the honour to acknowledge receipt of a Note
7 Verbale, dated September 10th, 1945, request-
8 ing information concerning the present where-
9 abouts of the Netherlands Hospital Ship "Op
10 ten Noort" and in reply wish to state the
11 following:

12 "'1. Nothing has been heard from the s.s.

13 'Op ten Noort' since she sailed from
14 the Maizuru port on September 10th.

15 We believe that she was sunk by a mine.

16 "'2. The ship in question being under
17 detention, the Japanese Government
18 agree to replace the ship by a similar
19 vessel.'

20 "I should appreciate if Your Excellency
21 could kindly cause the above information, as well
22 as Captain TUIZINGA's report, to be communicated to
23 the Netherlands Government.

24 "Erik von Sydow"

25 the Swedish Minister.

1 This document, if the Court please, con-
2 cludes the evidence presented on hospital ships.

3 Evidence will now be presented on atrocities
4 at sea committed by Japanese submarine crews against
5 survivors of torpedoed Allied merchant ships. This
6 evidence will include testimony on the witness stand
7 by a survivor, affidavits by American, British and
8 Dutch merchant seamen who survived such attacks, and
9 protests made to the accused SHIGEMITSU and other
10 Japanese government officials by the American govern-
11 ment and by the government of the United Kingdom.

12 Prosecution document No. 8401, a protest
13 transmitted by the Swiss Legation from the United
14 States government to Foreign Minister SHIGEMITSU,
15 dated 19 June 1944, is offered in evidence.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's docu-
18 ment No. 8401 will receive exhibit No. 2076

19 (Whereupon, the document above
20 referred to was marked prosecution's ex-
21 hibit No. 2076 and received in evidence.)

22 CAPTAIN COLEMAN: This protest reads as
23 follows:
24

25 "June 20, 1944 /stamp/

 "Tokyo, June 19, 1944."

1 And beginning with the second paragraph:

2 "The United States steamship 'Richard Hovey'
3 carrying cargo and one passenger was at 11.20 G.C.T.
4 on 29 March 194__"-- There should be a "four" there,
5 apparently -- 1944. "...torpedoed by a Japanese
6 submarine in latitude 16 degrees 40 minutes north
7 and longitude 64 degrees 30 minutes east. After
8 torpedoing the 'Richard Hovey,' the submarine
9 attacked the personnel who escaped from the ship.

10 "Reports from the survivors, including the
11 chief officer, disclose that subsequent to releasing
12 three torpedoes and obtaining two hits, the submarine
13 surfaced, opening fire on the ship itself and then
14 proceeded in the direction of the lifeboats, opening
15 fire on them from about one thousand feet with her
16 forward gun and continuing to fire as she circled
17 around the lifeboats. The survivors in the lifeboats
18 took to the water, keeping the boats between them
19 and the submarine. The submarine approached the
20 number 2 lifeboat and proceeding slowly rammed and
21 capsized it. She cruised slowly among the other
22 boats taking pictures and firing with rifles, machine
23 guns and other small arms. The submarine then made
24 another circle around to the starboard side of the
25 number 4 lifeboat at which she fired her big gun,

1 soling (?) the boat on the starboard side above the
2 water line, smashing thwarts, puncturing the engine
3 casing, the fuel tanks and one water tank so
4 seriously that half of its contents were lost. The
5 submarine finally approached the master boat, took
6 on board the master and three others and took the
7 boat in tow.

8 "The United States government protests most
9 emphatically against this inhuman form of warfare
10 practiced by Japanese forces in brutally attacking
11 helpless survivors of a torpedoed vessel and demands
12 effective assurances from the Japanese government
13 that such criminal acts, which are contrary to all
14 standards of civilized conduct will not be repeated
15 in the future. It is expected that the Japanese
16 government will at the same time punish those persons
17 who with premeditation and full knowledge of their
18 actions have so flagrantly violated the primary
19 humanitarian concept of maritime warfare."

20 Signed by the Swiss Minister, directed to
21 His Excellency, Mr. Mamoru SHIGEMITSU, Foreign
22 Minister, Tokyo.

23 Prosecution Document No. 8396, a note from
24 the Swiss Minister to the Japanese Foreign Minister,
25 dated 15 September 1944, is offered in evidence.

1 THE PRESIDENT: Admitted on the usual
2 terms.

3 CLERK OF THE COURT: Prosecution's docu-
4 ment No. 8396 will receive exhibit No. 2077.

5 (Whereupon, the above document
6 was marked prosecution's exhibit No. 2077
7 and received in evidence.)

8 CAPTAIN COLEMAN: This document reads as
9 follows:

10 "September 16 1944..."

11 "By letters of 19 and 30 June, the Swiss
12 Minister had the honor of transmitting to His
13 Excellency Mr. Mamoru SHIGEMITSU a protest of the
14 government of the United States of America on the
15 subject of the attack on the survivors of the
16 American ship 'Richard Hovey' by a Japanese sub-
17 marine.

18
19 "The Swiss Legation will be obliged to the
20 Foreign Office if the Foreign Office will communicate
21 the answer of the Imperial Government to the said
22 protest.

23 "The Legation avails itself of this oppor-
24 tunity..." and so forth. Dated Tokyo, September
25 15, 1944. To the Imperial Foreign Ministry, Tokyo.

Prosecution document No. 8415, a letter from

1 the accused SHIGEMITSU to the Swiss Minister, dated
2 28 November 1944, is offered in evidence.

3 THE PRESIDENT: Admitted on the usual
4 terms.

5 CLERK OF THE COURT: Prosecution's docu-
6 ment No. 8415 will receive exhibit No. 2078.

7 (Whereupon, the document above
8 referred to was marked prosecution's ex-
9 hibit No. 2078 and received in evidence.)

10 CAPTAIN COLEMAN: This document reads as
11 follows:

12 "I have the honor to acknowledge the receipt
13 of Your Excellency's letters NO GG.1.1.3-EGf, dated
14 June 19th, and"-- another letter -- "dated June 30th,
15 by which you transmitted to me the protest of the
16 United States government regarding the attacks on
17 the survivors of the U.S.S. 'Richard Hovey' by a
18 Japanese submarine.

19 "In connection with the above matter, I
20 have the honor of requesting Your Excellency to
21 transmit to the United States government that the
22 result of strict investigations carried out by the
23 authorities concerned shows clearly that there are
24 no facts that correspond to such attacks.
25

"I hereby again avail myself to renew to

1 Your Excellency to transmit to the United States
2 government that the result of strict investigations
3 carried out by the authorities concerned shows
4 clearly that there are no facts that correspond to
5 such attacks.

6 "I hereby again avail myself to renew to
7 Your Excellency the assurance of my high considera-
8 tion.

9 "Nov. 28th, 1944.

10 "Mamoru SHIGEMITSU

11 "Foreign Minister

12 /SEAL/"

13
14 Prosecution document No. 8412, a letter from
15 the Swiss Minister to Foreign Minister SHIGEMITSU,
16 dated 21 February 1945, is offered in evidence.

17 THE PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Prosecution's document
19 No. 8412 will receive exhibit No. 2079.

20 (Whereupon, the document above
21 referred to was marked prosecution's ex-
22 hibit No. 2079 and received in evidence.)

23 CAPTAIN COLEMAN: This document reads as
24 follows:
25

I read the middle three paragraphs, beginning

1 with the second.

2 "The government of Washington has just
3 asked the federal authorities to transmit to the
4 Imperial Government the following communication /
5 quoted from original English/:

6 "'Concerning United States protest regard-
7 ing the Japanese attacks upon survivors of torpedoed
8 "Richard Hovey." the United States government notes
9 that the Japanese government, after a reported
10 thorough examination of the facts involved, states
11 that no action has been revealed corresponding to
12 that set forth in the protest under reference.

13 "'The evidence stated in the protest of the
14 United States government was specific. Statements
15 of the survivors who witnessed the attack are of
16 unchallenged validity. The United States government
17 therefore reserves all rights in the matter.'"

18 Signed by the Swiss Minister. Directed to
19 His Excellency Mr. Mamoru SHIGEMITSU, Foreign Minister,
20 Tokyo.
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1 Prosecution document No. 8402, a protest
2 transmitted by the Swiss Legation from the United
3 States Government to the Japanese Government, dated
4 29 December 1944, is offered in evidence.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Prosecution's document
7 No. 8402 will receive exhibit No. 2080.

8 (Whereupon, the document above
9 referred to was marked prosecution's exhibit
10 No. 2080 and received in evidence.)

11 CAPTAIN ROBINSON: Reading the first page of
12 this document:

13 "Swiss Legation in Japan. Division of
14 Foreign Affairs.

15 "Declaration.

16 "The note CC.1.8.0.-EAC, dated December 29th
17 1944, herewith enclosed, containing the protest of
18 the United States Government as communicated to the
19 Legation of Switzerland in Tokyo by the Division for
20 Foreign Interests in Berne with their cable No. 1053,
21 pertaining to the torpedoing of the American merchant
22 ship S/S 'Jean Nicolet', was handed over on Friday,
23 December 29th 1944, at 3 P.M., at the Ministry for
24 Foreign Affairs in Tokyo, to the Minister Tadakazu
25 SUZUKI, head of the section for the administration

1 of enemy interests in Japan and for the protection of
2 Japanese nationals in enemy countries.

3 "This note was handed over by Mr. Blaile,
4 attache of the Legation, together with a personal
5 letter to the Ministry SUZUKI, dated December 28th,
6 1944, in which the Minister of Switzerland laid stress
7 on the particular importance given to this protest by
8 the United States Government.

9 "Tokyo, December 30th 1944."

10 Reading page 2:

11 "By the order of its Government, the Swiss
12 Legation has the honor of sending to the Imperial
13 Foreign Office the following notification emanating
14 from the Government of the United States and addressed
15 to the Japanese Government:

16 "On July 2nd 1944 at approximately 14.07
17 hours at position 3 degrees:"--there is an omission of
18 three words there, it will later be noticed--"30 minutes
19 east, the United States merchant vessel "Jean Nicolet"
20 was torpedoed by a Japanese submarine. The vessel
21 sank at approximately 02.20 hours, July 3rd. Seventy-
22 five survivors of the "Jean Nicolet" were murdered when
23 after leaving the sinking vessel between 95 and 100
24 persons from the torpedoed vessel were subjected by
25 the commander and crew of the Japanese submarine to

1 treatment which was in contravention of the laws and
2 customs of war and all humanitarian standards. The
3 United States Government most emphatically protests
4 against the criminal and inhuman treatment accorded
5 these individuals. The United States Government
6 protests that:

7 "(1) The lifeboats and life rafts were
8 machine-gunned evidently to render them unusable by
9 any of the survivors of the "Jean Nicolet"; survivors
10 of the "Jean Nicolet" who were swimming were also
11 machine-gunned.

12 "(2) The survivors upon boarding the sub-
13 marine were robbed of all life belts, papers and other
14 valuables.

15 "(3) The survivors of the "Jean Nicolet"
16 after boarding the submarine were bound either with
17 rope or wire and compelled to sit or kneel with heads
18 down in rows athwartship from bow to stern facing for-
19 ward on the forward deck.

20 "(4) Approximately half of the survivors of
21 the "Jean Nicolet" were led separately to the afterdeck
22 of the submarine and compelled to run between parallel
23 rows of Japanese sailors armed with a variety of instru-
24 ments including gun butts and bayonets. While running
25 this gauntlet, the men were subjected to severe beating

and still bound were forced off the submarine into
1 the water while the vessel was under way with the evi-
2 dent likelihood that they would be caught in the turning
3 propeller.

4 "(5) The submarine suddenly and with no
5 warning to the survivors of the "Jean Nicolet" submerged,
6 leaving a large number of them still on the deck of
7 the vessel with the result that they were thrown into
8 the water without means of self-preservation. D. M.
9 Nilsson and Clem Carlin, master and chief mate respec-
10 tively of the "Jean Nicolet," were made prisoners and
11 taken within the submarine, such treatment being simi-
12 lar to that accorded the master and three other survi-
13 vors of the United States vessel "Richard Hovey" the
14 Japanese attack on which was the subject of the United
15 States Government protest delivered to the Japanese
16 Government on 19th June 1944. The United States
17 Government demands to be urgently informed regarding
18 the present welfare and whereabouts of Captain Nilsson
19 and Chief Mate Carlin. The United States Government
20 most emphatically protests regarding the treatment
21 accorded the survivors of the torpedoed vessel, such
22 treatment being in violation of all humanitarian and
23 legal principles. The Government of the United States
24 demands a full and thorough investigation from the
25

1 Japanese Government and that the persons responsible
2 for the incredibly cruel and terrible conduct against
3 the defenseless survivors of the torpedoed vessel
4 promptly be fully punished and that it be informed of
5 the action taken. The Government of the United States
6 demands specific assurances from the Japanese Govern-
7 ment that such criminal action will not be repeated in
8 the future.'

9 "Owing to the special importance which the
10 United States Government attaches to this matter, the
11 Legation will be thankful to the Ministry if the
12 Ministry will acknowledge the receipt of the present
13 note and it gives thanks in advance for the reply which
14 the Foreign Office will have the kindness to send when
15 the investigation has been finished.

16 "The Legation avails itself of this opportu-
17 nity... and so forth.

18 "Tokyo, 29 December 1944."

19 It has been called to my attention, if the
20 Court please, that the SUZUKI mentioned in this dis-
21 patch is not the SUZUKI who is one of the accused.

22 Prosecution document No. 8403, a note by the
23 Swiss Minister to the Japanese Foreign Ministry, dated
24 28 December 1944, is offered in evidence.

25 THE PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Prosecution's document
1 No. 8403 will receive exhibit No. 2081.

2 (Whereupon, the document above
3 referred to was marked prosecution's exhibit
4 No. 2081 and received in evidence.)

5 CAPTAIN ROBINSON: This document reads as
6 follows:

7 "Karuizawa, 28 December 1944.

8 "My dear Minister,

9 "My Government has just sent me a notifica-
10 tion from the United States Government to be delivered
11 to the Imperial Government on the subject of the tor-
12 pedoing of the ship 'Jean Nicolet' by the Japanese Navy.

13 "Owing to the importance which the United
14 States Government attaches to this affair, the United
15 States Government would have hoped that I might be
16 able myself to hand the notification to the Foreign
17 Ministry."
18

19 Omitting down to the next to the last paragraph:

20 "The Department of State asks me to inform
21 myself personally about the fate of the rescued Nilsson
22 and Carlin, members of the crew who were taken pri-
23 soners, and I should be very glad if you could tell me
24 where they are, before the closing of the investigation.

25 "To His Excellency, Minister Tadakazu SUZUKI,

1 Imperial Ministry of Foreign Affairs, Tokyo."

2 Again, not the accused SUZUKI.

3 Prosecution document No. 8404 is the acknow-
4 ledgment by the Japanese Foreign Ministry of the
5 receipt of the preceding document or protest. It is
6 offered in evidence.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 8404 will receive exhibit No. 2082.

10 (Whereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 2082 and received in evidence.)

13 CAPTAIN ROBINSON: Reading only the heading
14 and the concluding paragraph:

15 "The Gaimusho, Tokyo. Translation. No. 23/T2."

16 And the last paragraph:

17 "The Ministry hastens to inform the Legation
18 that the Ministry has transmitted the contents to the
19 competent authorities.

20 "January 19, 1945."

21 Prosecution document No. 8409, a letter from
22 the Swiss Legation to the Japanese Foreign Ministry,
23 dated 19 April 1945, is offered in evidence.

24 THE PRESIDENT: Admitted on the usual terms.

25 CLERK OF THE COURT: Prosecution's document

1 No. 8409 will receive exhibit No. 2083.

2 (Whereupon, the document above
3 referred to was marked prosecution's exhibit
4 No. 2083 and received in evidence.)

5 CAPTAIN ROBINSON: This note from the Swiss
6 Legation to the Japanese Foreign Ministry, dated
7 Tokyo, April 19, 1945, reads as follows:

8 "By the note of December 29, the Swiss
9 Legation had the honor of sending to the Imperial
10 Foreign Office a protest of the Government of the
11 United States of America against the treatment alleged
12 to have been inflicted on the survivors of the American
13 merchant vessel 'Jean Nicolet' torpedoed by a
14 Japanese submarine on July 2, 1944. The Washington
15 Government asked that a rapid and complete investiga-
16 tion be made in this respect and that the guilty be
17 severely punished. It further expressed the desire
18 to receive formal assurances from the Japanese Govern-
19 ment that acts of this sort will not be repeated.
20 Finally, it /the Washington Government/ urgently
21 wished news of two members of the crew of the 'Jean
22 Nicolet,' D. M. Nilsson and Clem Carlin, who were
23 taken prisoner by the submarine.

24 "Under date of January 19, the Ministry ack-
25 nowledged receipt of the above-mentioned note.

1 "The Legation would be thankful to the Ministry
2 if it informed it whether the investigation concerning
3 the matter is now finished and if such should be the
4 case, to inform it /the Legation/ of the result. The
5 Washington Government really insists on obtaining a
6 prompt reply from the Japanese Government on the sub-
7 ject of this grave affair."

8 Prosecution document No. 8411, a memorandum
9 by the Swiss Legation to the Japanese Foreign Minister,
10 dated 28 April 1945, is offered in evidence.

11 THE PRESIDENT: Admitted on the usual terms.

12 CLERK OF THE COURT: Prosecution's document
13 No. 8411 will receive exhibit No. 2084.

14 (Whereupon, the document above
15 referred to was marked prosecution's exhibit
16 No. 2084 and received in evidence.)

17 CAPTAIN ROBINSON: This document reads as
18 follows:

19 "Memorandum. By the notes of December 29,
20 February 20 and April 19 the Swiss Legation informed
21 the Imperial Foreign Ministry that the Government of
22 the United States of America protested very keenly
23 against the treatment alleged to have been inflicted
24 on the survivors of the merchant vessel 'Jean Nicolet'
25 torpedoed by a Japanese submarine on the 2nd July, 1944.

1 The Washington Government further wished urgently to
2 receive news about two members of the crew of 'Jean
3 Nicolet,' Mr. D. M. Nilsson and Mr. Clem Carlin who
4 were taken prisoners by the submarine.

5 "The Legation would attach considerable value
6 to knowing the answer of the Imperial Government on
7 the subject of this grave affair.

8 "Karuizawa, April 28, 1945."

9 Handed to Minister SUZUKI, as stated before,
10 by Monsieur le Ministre, the Swiss Minister, on
11 April 28, 1945, afternoon.

12 Prosecution document No. 8413, a letter from
13 the Swiss Legation to the Japanese Foreign Minister,
14 dated 20 February 1945, is offered in evidence as a
15 supplement to the preceding document.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Prosecution's document
18 No. 8413 will receive exhibit No. 2085.

19 (Whereupon, the document above
20 referred to was marked prosecution's exhibit
21 No. 2085 and received in evidence.)

22 CAPTAIN ROBINSON: Prosecution document
23 No. 8414, a note verbale from the Japanese Foreign
24 Minister to the Swiss Legation, dated 15 May 1945, is
25 offered in evidence.

THE PRESIDENT: Admitted on the usual terms.

CAPTAIN ROBINSON: This document reads as follows.

CLERK OF THE COURT: Prosecution's document No. 8414 will receive exhibit No. 2086.

(Whereupon, the document above referred to was marked prosecution's exhibit No. 2086 and received in evidence.)

CAPTAIN ROBINSON: This document reads as follows:

"The Gaimusho, Tokyo. Translation. No. 118/T2.

"Note Verbale.

"The Imperial Foreign Minister has the honor to acknowledge to the Swiss Legation the receipt of its Note No. CC 180-EAC, dated 29 last December by which it /the Legation/ transmitted to him a protest by the Government of the United States of America on the subject of the attacks which were alleged to have been directed against the survivors of the American Ship 'Jean Nicolet' by a Japanese submarine.

"The Foreign Minister asks the Legation to transmit to the American Government the following answer of the Imperial Government on this subject.

"The earnest investigations made by the competent authorities have not found any fact which

1 corresponds to such an accident. The Imperial Govern-
2 ment, informing the American Government of the fore-
3 going facts, avails itself of this opportunity to
4 affirm again that all Japanese warships, ships and boats
5 rigorously observe the laws of war."

6 Dated May 15, 1945.

7 THE PRESIDENT: Captain Robinson, don't
8 start to read your documents before the Judges have
9 copies, please.

10 We will adjourn until half-past nine tomorrow
11 morning.

12 (Whereupon, at 1600, an adjournment
13 was taken until Tuesday, 14 January 1947,
14 at 0930.)

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