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Proceedings In Chambers

3/11/47

Tuesday, 11 March 1947

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

PROCEEDINGS IN CHAMBERS

On

Paper No. 756 - Application of the Accused
TOJO, Hideki, for the production of witnesses under
the Charter.

Paper No. 759 - Petition of Prosecution for
Order amending previous Orders in re: Receipts for
withdrawal of Court Exhibits.

In re: Procedure for examination of Defense
Witnesses.

Before:

HON. SIR WILLIAM WEBB,
President of the Tribunal
and Member from the Common-
wealth of Australia.

Reported by

Jack Greenberg
Chief Court Reporter
IMTFE

Appearances:

For the Prosecution Section:

MR. FRANK S. TAVENNER, JR.;
MR. A. S. COLYNS CARR, Associate
Counsel acting on behalf of the United
Kingdom of Great Britain and Northern
Ireland; and
MR. SOLIS HORWITZ.

For the Defense Section:

MR. G. F. BLEWETT, Counsel for the
Accused TOJO, Hideki;
MR. WM. LOGAN, JR., Counsel for the
Accused KIDO, Koichi; and
MR. G. A. FURNESS, Counsel for the
Accused SHIGEMITSU, Mamoru.

For the Secretariat:

MR. E. W. DELANEY, Deputy Clerk of
the Court.

The proceedings were begun at 0900.

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THE PRESIDENT: This is Paper No. 756, application for the production of witnesses by the accused TOJO.

MR. FURNESS: I'll call Mr. Blewett.

MR. HORWITZ: Mr. President, while waiting for Mr. Blewett, both the prosecution and the defense would like to bring to the attention of the President the agreement that they have reached about the order of witnesses.

THE PRESIDENT: You have reached an agreement?

MR. HORWITZ: Yes. Shall I read it into the record, sir? Here is a copy of it.

THE PRESIDENT: The Court may have something to say about it.

MR. HORWITZ: I will just read what we have asked the Court to approve.

THE PRESIDENT: Read it out for my benefit.

MR. HORWITZ: "For the purpose of expediting the proceedings, the following agreement is entered into as supplementary to the general rules of the Tribunal with respect to the examination of witnesses.

"1. During the presentation of the general

phases of the Defense case, without the special permission of the Tribunal, not more than one counsel for the accused shall examine a witness in chief on the matters then being presented. Upon the completion of this examination, counsel for the individual accused may examine the witness on matters which specifically and particularly concern his client to the extent only that they have not been covered in the preceding examination. Such counsel shall state at the beginning of his examination that the examination is direct.

"2. Upon completion of all direct examination, if the witness has given evidence against the interest of any accused, counsel for such accused may cross-examine the witness. If, in the course of a cross-examination by counsel for the accused, adverse testimony against any of the accused is adduced, counsel for such accused shall, prior to the cross-examination by the prosecution, cross-examine or further cross-examine the witness. A defense counsel cross-examining a witness shall announce his intention so to do at the beginning of his examination.

"3. After all cross-examination by counsel for the accused shall have been completed, counsel for the prosecution shall cross-examine. Without the special permission of the Tribunal not more than

one prosecuting counsel shall cross-examine.

"4. Upon completion of cross-examination by the prosecution, counsel for any accused regarding whom new testimony has been given in the course of the prosecution cross-examination may further cross-examine the witness.

"5. Upon the completion of all cross-examination, without the special permission of the Tribunal, redirect examination shall be conducted by the counsel who conducted the general direct examination. Other counsel for individual accused may examine a witness on redirect examination only on matters specifically relating to his client and not covered by the general redirect examination."

THE PRESIDENT: When do you propose to ask the Court to approve of that, today?

MR. HORWITZ: Today.

THE PRESIDENT: The sooner the better.

MR. HORWITZ: Shall we present that at nine-thirty?

THE PRESIDENT: I think so. It is just as well to get that out of the way. Well, I must congratulate you on reaching an agreement even to that extent. I know how difficult it is.

Mr. Blewett.

We are dealing now with Paper 756, the application by the accused TOJO for witnesses. He is asking for four witnesses: YOSHINO, OKADA, OWADA, and ONO. Have these witnesses been interrogated?

MR. BLEWETT: They have all been interrogated, sir, and their affidavits reduced to writing.

THE PRESIDENT: Are you going to examine them by affidavit?

MR. BLEWETT: I am quite sure, sir.

THE PRESIDENT: The application is granted.

The next Paper is 759. It is an application by the prosecution for withdrawal of exhibits.

Mr. Horwitz, do you appear?

MR. HORWITZ: I am appearing on this application, sir. This is in connection with the right to borrow materials from the Clerk's office. We wish to add two more names to our list of people.

THE PRESIDENT: Order as prayed.

(Whereupon, at 0908, the proceedings were concluded.)

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