

(1645)

BEFORE THE
MILITARY COMMISSION
convened by the
COMMANDING GENERAL
United States Army Forces
Western Pacific

UNITED STATES OF AMERICA

-vs-

HIKOTARO TAJIMA
TETSU KAMEMOTO
AKIRA NAKASHIMA (NAKAJIMA)
KIYONOBU NAKABAYASHI
MASUMI SAKASEGAWA
YOSHISUKE SUZUKI
YOSHIHARU HIRANO
SHIGEKAZU HUJIYAMA (FUJIYAMA)
KIYOSHI NAGATA
BANGARO GOTO
MASAKI KAWACHI
OSAMU WAKITA
FUSAKICHI OTANI
HIKOJIRO INOUE

PUBLIC TRIAL

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PUBLIC TRIAL

Court 2A
High Commissioner's Residence
Manila, P. I.
3 January 1946

Met, pursuant to adjournment, at 0945 hours.

MEMBERS OF MILITARY COMMISSION:

BRIGADIER GENERAL DENNIS E. McCUNIFF, USA, President
BRIGADIER GENERAL HORACE HARDING, USA
COLONEL VOLNEY W. WORTMAN, CAC
COLONEL RICHARD C. STICKNEY, INF
COLONEL HENRY W. HOLT, FA

APPEARANCES:

FOR THE PROSECUTION:

CAPTAIN CARL N. STOKES, Inf., Chief Prosecutor
1st LIEUTENANT RALPH R. BLOODWORTH, Inf.,
Assistant Prosecutor

FOR THE DEFENSE:

CAPTAIN GEORGE A FURNESS, AC
1st LIEUTENANT ALAN H. STEINMETZ, Inf.
1st LIEUTENANT WILLIAM P. WESTON, FA
CAPTAIN JAMES D. MURTAUGH, QMC

INTERPRETERS FOR THE COMMISSION:

STAFF SERGEANT YOSHIAKI OGITA
T/4 SUSUMU HONDA
T/4 YOSHI YORIOKA

3 Jan 45

I N D E X

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P R O C E E D I N G S

(Pursuant to adjournment, the Commission convened at 0945 hours, 3 January 1946, at Court No. 2A, High Commissioner's Residence, Manila, P.I.)

GENERAL McCUNNIFF: The Commission will come to order and proceed with the case in hearing.

CAPTAIN STOKES: Sir, all the members of the Commission are present, with the exception of Colonel Henry W. Holt, together with the Prosecution Staff, the Accused and their Counsel.

We will recall our first witness, Mariano Bayaras to the stand.

MARIANO BAYARAS

called as a witness for the prosecution, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

CAPTAIN STOKES: Remember not to answer until my questions have been translated and be sure and talk loudly enough so that the Commission can hear you and be sure to face the Commission when you speak.

THE WITNESS: Yes, sir.

Q State your name.

A Mariano Bayaras.

Q Are you the same Mariano Bayaras who testified earlier in this trial?

A Yes, sir.

Q Do you know a Japanese soldier by the name of Korada?

A Yes, sir.

Q Were you shown a proclamation which was issued by the Japanese?

A Yes, sir.

Q Were you the Mayor of Basco at that time?

A Yes, sir.

Q What was the gist of this proclamation?

A The gist runs like this: "According to the authority invested in me as Commander in Chief of the Japanese Army in Batan Island, I do hereby proclaim that the Filipinos found to be pro-Americans, I hereby punish accordingly."

Q Did it list the number of Filipinos who had been punished by death?

A Yes, sir.

Q Can you approximate the number of names that were listed as having been killed?

A Yes, sir.

Q About how many?

A About 74.

Q Were any of the names listed?

A Yes, sir.

Q About how many?

A Aside from the 74, there were 12 more.

Q What punishment did they receive if you recall?

A They were given prison terms.

Q Was this proclamation signed by anyone?

A Yes, sir.

Q By whom?

A By Lieutenant General Tajima.

Q Were you present when it was read?

A Yes, sir.

Q How many Filipinos were present to hear it read?

A I did not count them, but in my estimation, almost all the people of Basco gathered to hear that proclamation.

Q About when was it read?

A About the latter part of July, 1945.

Q Where was it read?

A It was read in back of the convent.

Q Who read it to the Filipinos?

A It was read by interpreter Kawachi in English.

Q Who read it to them in the Filipino language?

A I, myself.

Q Were any Japanese officers present at the time of the reading of this proclamation?

A Yes, sir.

Q Do you remember any of the names that were listed as being killed?

A Yes, sir.

Q Will you name as many as you can for the Commission?

A Yes, sir.

CAPTAIN STOKES: Give them slowly so that the Reporter can get them.

A They are: Juan Agudo, Ernesto Agudo, Jose Agudo, Januario Valones, Salvador Valones, Juenio Valones, Pio Ruiz, Pastor Balles, Telesforo Cabal, Antonio Cabal, Jose Reyes, Esteban Reyes, Lorenzo Gamo, Emilia Domine, Francisco Cultura, Inoncencio Castillo,

Gregorio Edel, Jose Gavilan, Aureliano Hontoria, Avelino Diente, Claro Gordo, Felix Cabitac, Louis Aceron, Ruben Gabilo; that is all I remember just now.

CAPTAIN STOKES: May it please the Commission, this witness was shown the proclamation and heard it read and we request permission to read some of these names in order to refresh his memory and ask him to state for the Commission whether or not he recalls or remembers those names appearing on this list or this proclamation.

LIEUTENANT WESTON: There is no objection by the Defense.

CAPTAIN FURNESS: It is leading, but he could get it in a different way, but too much --

GENERAL McCUNIFF: Proceed with the question.

CAPTAIN STOKES: Do you recall if Pablo Fugaban was listed as having been killed?

A Yes, sir.

Q Do you recall if Alejo Homol was listed?

A Yes, sir. I recall now two Filipinos, Mariano Elep and Fufino Elizondo.

Q Do you recall if Domingo Castelleon was on that list?

A Yes, sir, and Bonifacio Castelleon was also.

Q Do you recall if Antonio Cielo was on that list?

A Yes, sir.

Q Do you recall if Tomas Galita was on that list?

A Yes, sir.

Q Do you know these Filipinos -- these that you have mentioned?

A Yes, sir.

Q Since the reading of that proclamation have you seen them to this day?

A No, sir, I have not seen them any more.

Q Do you have any knowledge of a trial or trials for these Filipinos?

A No, sir.

CAPTAIN STOKES: You may cross examine.

CROSS EXAMINATION BY CAPTAIN MURTAUGH

Q Do you know Jose Lizardo?

A Yes, sir.

Q Did you ever report to Japanese officials that Jose Lizardo was stealing the property of civilians in Basco?

LIEUTENANT BLOODWORTH: If the Commission please, I would like to ask the Defense to state the reason for this question and the questions to follow?

CAPTAIN MURTAUGH: On cross examination of Lizardo he admitted that he stole from the inhabitants of Basco when they left their homes to go out into the fields during air raids.

CAPTAIN STOKES: We deny that he admitted stealing.

CAPTAIN MURTAUGH: He admitted that he had taken them and he made an assumption that Japanese Formosan laborers had the authority to give him the permission to take this property off civilians in Basco.

LIEUTENANT BLOODWORTH: I think that matter was fully covered then. I see no point in going back into it. It is a collateral issue in this case.

CAPTAIN MURTAUGH: The question just asked is to clear up that matter and to establish that Jose Lizardo actually stole that property; he didn't ask anybody's permission to take it.

LIEUTENANT BLOODWORTH: We object to it, Sir, it is irrelevant.

GENERAL McCUNIFF: No objection by the Commission. The question will be asked and answered.

A I don't know of the stealing of Japanese property by Lizardo.

Q Do you know of the taking of Japanese or Filipino property by Jose Lizardo?

A No, sir, I do not know.

CROSS EXAMINATION BY LIEUTENANT WESTON

Q At the reading of this proclamation, why did you make a statement following it?

A I was asked by interpreter Kawachi to interpret in Tagalog.

Q Upon the completion of your interpretation of the proclamation, why did you plead with the Filipinos present to cooperate with the Japanese and to live in peace with them?

A I never plead with the Filipinos to cooperate with the Japanese Army.

Q What did you tell them?

A I only interpreted the proclamation of General

Tajima.

Q Was the proclamation already written out in Tagalog?

A It was prepared in English by Mr. Kawachi.

Q Then you read from the English translation; is that correct?

A The local dialect -- Batan, I read.

Q Was this translation signed by the General?

A No, sir.

Q Can you read Japanese?

A No, sir.

Q Did you read the Japanese translation of the proclamation?

A No, sir.

Q How do you know this proclamation was signed by General Tajima?

A Because the signature was found below the English proclamation.

Q Did you say, "below the English translation?"

A Yes, sir.

Q Why did you just state General Tajima did not sign this proclamation?

LIEUTENANT BLOODWORTH: If it please the Commission, he said he did not sign the "Tagalog" dialect.

LIEUTENANT WESTON: As I understand it, the witness made the translation from the English document and his was the translation made into the dialect.

LIEUTENANT BLOODWORTH: Would you like to have the Reporter read the report?

LIEUTENANT WESTON: I would.

(Whereupon, the question and answer were read back by the Reporter.)

Q (By Lieutenant Weston) The proclamation that you read from, was it written out in your local dialect, or was it written in English?

A It was written in English.

Q And you read from it and orally translated; is that correct?

A From that English proclamation I translated to local dialect.

Q Was this English translation that you read from signed by General Tajima?

A It is not the English translation -- Batan translation that I declared to the public.

GENERAL McCUNIFF: May I suggest a question? Ask the witness if either of the documents were signed by General Tajima and, if so, which one?

CAPTAIN FURNESS: I think there was only one.

LIEUTENANT WESTON: As I understand it, there is only one document that he saw.

CAPTAIN FURNESS: If I could speak Tagalog, I could take this Bill of Particulars (indicating) in English and read it to you in Tagalog.

GENERAL McCUNIFF: I would like to have it straightened out.

LIEUTENANT WESTON: I will have it straightened out.

Q (By Lieutenant Weston) The proclamation that you took in your hands and read from, was it written in English or

in your local dialect?

A It was written in English.

Q That was the paper from which you read?

A From which I translated.

Q Did you see a proclamation written in Japanese?

A No, sir.

Q Then, there was only one paper involved and that was written in English?

A Yes, sir.

Q Was that paper written in English, that you call a proclamation, signed by General Tajima?

A Yes, sir.

Q Do you know whether General Tajima can read English or not?

A I do not know.

Q Have you ever seen General Tajima's signature?

A I saw his signature, but I could not read because it was written in Nippongo, but the document, a letter there written in English form, and above that English signature there was a signature in Nippon writing which I could not read.

Q Then you are not sure that General Tajima signed that because you could not read it?

A Well, I was sure, because the letter there written in English was written by General Tajima, Lieutenant General Tajima.

Q Were you present at Ivana when this proclamation was read?

A No, sir.

Q Was Rafael Barsana present in Basco when this proclamation was read there?

A I don't know.

Q You were very definite and clear on the contents of the proclamation; in fact, you have stated that "pursuant to the authority vested in me as Commander of the Japanese Army, I hereby proclaim, et cetera"; do you recall exactly everything that proclamation said?

A No, sir.

Q You can recall that nice, flowery sentence. Was that in it word for word?

A What I have said is the gist.

Q Why did you tell the Commission that the proclamation stated that these people were killed because of their participation in the Sabtang incident?

A I don't remember that.

Q Do you remember the proclamation saying that a certain number of these Filipinos were members of the Bisumi Fighters who participated in the Sabtang uprising?

A I don't remember such a statement in the proclamation.

Q Have you ever heard of the Sabtang uprising?

A I did not hear of any Sabtang uprising.

Q Did you ever hear of the Sabtang incident?

A Yes, sir.

Q What did you hear about it?

A I heard that some Japanese soldiers were killed in Sabtang.

Q Did you hear that Filipino guerillas completely took

control of Sabtang Island?

A I never heard of guerillas in Batanes.

Q Did you ever hear of Captain Valones?

A I don't know Captain Valones.

Q That is not the question I am asking you.

Did you ever hear of Captain Valones?

A I never heard of Captain Valones.

Q Did he not live in Basco?

A No, sir.

Q Did you ever hear of Lieutenant Cabal?

A I never heard of Lieutenant Cabal.

Q Were you Mayor of Basco?

A Yes, sir.

Q You never heard of either of these two?

A I never heard about Lieutenant Cabal or Captain Valones.

Q Where did you hear about the Sabtang incident?

A I heard that in Basco.

Q Whereabouts in Basco?

A In the town.

Q Whom did you hear it from?

A I heard it from the Japanese soldiers.

Q Was that at the reading of the proclamation?

A Not in the proclamation.

Q At the reading of this proclamation did Kawachi make a speech?

A He just read the English proclamation.

Q After he had read the proclamation, did he make a speech at all?

A It was Lieutenant Suzuki who delivered a speech and translated by Mr. Kawachi.

Q What did Lieutenant Suzuki say?

A He said the gist, as I did -- not memorized his speech. According to the gist, he said that the Filipinos, particularly the Batan people, must cooperate with the Japanese Army.

Q Did he not state that these Filipinos were executed because of their participation in the Sabtang incident?

A I don't remember such.

Q You say you don't remember? Then Lieutenant Suzuki might have said such, but you don't remember; is that correct?

A Yes, I do not know.

Q Do you deny making any kind of speech whatsoever during the ceremony of the reading of the proclamation?

A I do deny.

Q You say most of the people of Basco were at this meeting; can you give me the names of two people that were there?

A Two people, you mean? Victor de Padra, Seriaco Abad.

Q Do they live in Basco?

A Yes, sir.

Q Are they there now?

A They were there when I left; I don't know if they are there now.

CROSS EXAMINATION BY CAPTAIN MURTAUGH

Q Did Kawachi read the same proclamation in English

that you read in Filipino?

A He read the English proclamation.

Q The proclamation that Kawachi read was the same as the proclamation that you read?

A No, sir.

Q What was the difference?

A The difference is that he read the English proclamation and I read my own interpretation of the proclamation.

Q Was your interpretation the same as Kawachi's.

A No, sir.

Q In what respects did they differ?

A They differed in that in the proclamation read by Kawachi it was in English and the proclamation I read was in the local dialect.

Q I don't mean -- forget about the difference in English and Tagalog. In contents was there any difference?

A So far as I know there was no difference because I took care of translating the proclamation.

Q Did you hear Kawachi read the proclamation?

A Yes, sir.

Q Did you understand all that Kawachi read?

A I don't claim to remember all that he read.

Q Do you remember most of what he read?

A I remember the thought, the gist of what he read.

Q Was the gist of what he read the same as what you read in Tagalog to the Filipino citizens?

A No, sir, I never read Tagalog translation.

Q Was it just the same as you read in your own local dialect?

A The thought was the same.

CROSS EXAMINATION BY CAPTAIN FURNESS

Q What it comes to is, did the words you read in Batan mean the same things as the words he read in English, didn't they?

A No, sir.

Q What was the difference?

A I am not English to understand very well.

Q But you both read from the same paper, didn't you?

A At first he read his own paper and I read my own paper.

Q Were there two papers, then?

A Yes, sir.

Q They were both the English translation of the same thing?

A Yes.

Q Do you know if there are any copies of this proclamation?

A I don't know; I was not given a copy of the proclamation.

Q You gave the copy that you read back?

A As soon as I had translated the English proclamation, it was taken again by Mr. Kawachi.

Q Do you know of any copies that anyone else has?

A I don't know of any copies.

Q Were any copies posted?

A No, sir.

Q None of them were displayed at the municipal building?

A None, sir.

Q Do you remember only the gist of that proclamation; is that correct?

A Yes, sir.

Q Might it have stated that the men listed as being killed were killed because of their participation in the Sabtang incident -- and you do not remember that?

A I do not remember that.

Q It might have said that, but you don't remember?

A It might have been; might not.

Q Might it also have stated that they were killed because they were members of an organization known as the Bisumi Fighters?

A I don't remember that in the proclamation.

Q It might have said that, but you don't remember?

A I don't remember.

Q You stated that you never heard of Captain Valones or Lieutenant Cabal; is that correct?

A Yes, sir.

LIEUTENANT BLOODWORTH: If the Commission please, how many of the Defense Counsel are going into this one point?

CAPTAIN FURNESS: I am almost through and I have a reason for asking it.

Q (By Captain Furness) You gave us a list I think of 26 names of people listed on that proclamation as being killed. You stated that you knew them all. Is

that correct?

A That is wrong.

Q You didn't know them all?

A Those are only the names I remember.

Q The names that you gave were names of people you knew, weren't they?

A Only the names of those killed I remember.

Q There are others that you didn't remember, but those that you listed you knew as people --

A Only those names I remember.

GENERAL McCUNNIFF: Ask the question, Captain, "Were these men friends of yours?"

Q Were these men that you listed friends of yours?

A Some of them are my friends and some of them are not.

Q They are acquaintances, though -- if you saw them come down the street, you would know who they were?

A Yes.

Q But you never even heard of Captain Valones or Lieutenant Cabal?

A I wish to rectify that -- I never heard of Captain Valones or Lieutenant Cabal, but I heard of Jeronimo Cabal and Theophilo Valones; not that they were Captain or Lieutenant, and I heard their names long after the proclamation.

Q You never heard their names before the proclamation?

A No, sir.

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Q Do you know if Salvador Valones or Januarío Valones had a brother?

A I don't know their relation, sir.

Q Did Salvador Valones have any brothers?

A I don't know.

Q Did Januarío Valones have a brother?

A I don't know.

Q Were Salvador and Januarío Valones brothers?

A I don't know if they were brothers.

Q Tell me this; as far as you ever heard, there was no guerilla activity whatever on Batanes Island?

A I didn't hear of that, sir.

Q Did you ever hear of any guerilla activity anywhere in the Philippine Islands?

A Yes, sir.

Q But not on the Batanes Island?

A I only know about guerillas while I am now in Manila.

CAPTAIN FURNESS: That is all.

LIEUTENANT BLOODWORTH: Does the Commission desire to question the witness?

EXAMINATION BY THE COMMISSION

Q (By General Harding) How was the word gotten out that there was to be this reading of this proclamation?

A I was asked by Mr. Kawachi to gather the people to hear this proclamation.

Q (By Colonel Stickney) When Kawachi read the proclamation, did he read the signature of General Tajima at the end?

A Yes, sir.

Q Was Jeronimo Cabal an ex-soldier?

A I don't know that, sir.

Q Had he been a cadet at the military academy?

A I do not know that.

Q Had any of the Valones you mentioned been ex-soldiers or cadets at the military academy?

A I don't know their military background.

Q (By Colonel Wortman) When was the proclamation read?

A It was read the latter part of July, 1945.

GENERAL McCUNNIFF: Witness excused.

(Witness excused)

GENERAL McCUNNIFF: The Commission will take a ten-minute recess.

(Short recess)

GENERAL McCUNNIFF: The Commission will come to order.

LIEUTENANT SHELDON A. KEY

called as a witness on behalf of the Prosecution, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Captain Stokes) Please state your name, age, rank, organization and nationality.

A My name is Sheldon A. Key, 1st Lieutenant, Judge Advocate General's Department, U. S. Army, Army of the United States. I am 38 years old and I am a United States' citizen.

Q What is your official position now?

A I am assigned to War Crimes Branch GHQ, AFPAC, APO 500.

Q Were you detailed by the investigation section of the War Crimes Investigating Detachment to make an investigation of the case now being tried?

A I was.

Q During that investigation did you take a statement from Captain Samuel E. Reiter?

A Yes, sir.

Q I hand you what has been marked Prosecution Exhibit Number Four, and ask you to state what it is.

CAPTAIN FURNESS: I shall make my objection now as it isn't yet introduced into evidence. We object to the introduction of this document into evidence on the ground that it is an Affidavit, as I understand, and that such Affidavits are inadmissible in capital cases under Article 25 of the Articles of War. It is a different type of objection from the objection which we made to the introduction of hearsay evidence and, therefore, is not under the standing objection. I will be very happy to go into extended argument if the Commission cares to hear me on that point. On this document here, we are unable to cross examine -- we can cross examine this man who puts it on, but we can't cross-examine the man who is making the statement. It is fundamental that we should have that right in a capital case which is universally recognized throughout all courts under the common law. We contend that the Article of War does

apply and, therefore, this Affidavit and future Affidavits which are to be introduced later in the case are inadmissible.

LIEUTENANT BLOODWORTH: If the Commission please, the Defense Counsel is making its motion a little premature because we haven't finished identifying the document yet to our witness. However, we expect, after the identification is finished, to introduce this document under two different sections of the regulations governing this trial.

Section sixteen of the regulations governing this trial, entitled, "Evidence." Sub-section "a", and under that, Section (2), states, "Any report which appears to the commission to have been signed or issued by the International Red Cross or a member thereof, or by a medical doctor or any medical service personnel, or by an investigator or intelligence officer, or by any other person whom the commission finds to have been acting in the course of his duty when making the report." Sub-section (3), "Affidavits, depositions, or other statements taken by an officer detailed for that purpose by military authority." This Key is detailed to do. We have issued a summons for Doctor Reiter. We have not found Doctor Reiter and we have to use -- or we ought to use this statement and to introduce it into evidence.

CAPTAIN FURNESS: Lieutenant Steinmetz is going to argue this but previously I want to say that we do not admit the authority of the Commander in Chief,

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AFWESPAC, to make rules of evidence according to the specific statements of Articles of War which specifically refer to military commissions.

LIEUTENANT WESTON: The Defense know of the rules of evidence laid down by the Commission by the letter from General MacArthur where it is stated that Affidavits are admissible. However, our argument is that Article of War 25, does apply to proceedings before the Commission and, if that is so, any logical consequence of such application also is in effect. Article of War 25 specifically states that depositions are not admissible. Hence, if depositions are not admissible here, then the only possible solution is, that affidavits are not admissible. Any rules laid down by a lower authority than the Congress of the United States are not withstanding. The Defense contends that on the basis that a deposition is not admissible in a capital case before a military commission, so, also, the even less perfect evidence of an affidavit is not admissible.

LIEUTENANT BLOODWORTH: If the Commission please, we have argued at length before the question of whether the Articles of War apply to this trial. We hold that they do not and, under the regulations governing this trial, this evidence is clearly admissible.

CAPTAIN FURNESS: We request a ruling, Sir.

GENERAL McCUNIFF: Subject to objection by members of the Commission, the objection of the Defense is overruled.

CAPTAIN FURNESS: May we, then, have a standing objection to this type of evidence to appear in the record?

LIEUTENANT BLOODWORTH: It wouldn't be in order because this is the only statement we plan to introduce of this type.

CAPTAIN FURNESS: We object to that.

LIEUTENANT BLOODWORTH: If you object to this, then, the objection would be in order.

GENERAL McCUNIFF: Proceed.

Q (By Captain Stokes) Did you state what that was?

A No, sir, not yet.

Q Will you please tell if you know?

A This is a sworn statement made by Captain Samuel A. Reiter of the Medical Corps, Luzon Area Command, in my presence on the 19th day of October, 1945, at the Surgeon's office at Luzon Area Command. I asked the questions and he gave the answers. They were taken down by my reporter, transcribed, and it was re-read and he read the statement himself and translated it.

CAPTAIN FURNESS: To save time, at that time no one representing the Defense was there to ask you questions in cross examination; is that correct?

THE WITNESS: That is right.

Q (By Captain Stokes) Did he initial each page and sign this statement in your presence?

A He did.

Q Why did you take this statement from Captain Reiter?

A I had been informed by the G-2 Section, Luzon Area

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Command, that a party had been sent to Batan Island to exhume the bodies of three United States aviators and that Captain Reiter had been the medical officer who was detailed by the Commanding Officer, Luzon Area Command, to go to Batan Island in that regard.

CAPTAIN STOKES: Sir, I now offer this statement into evidence and ask that it be marked as Prosecution Exhibit No. 4.

CAPTAIN FURNESS: Our objection is noted and overruled, I understand.

LIEUTENANT WESTON: If it please the Commission, before the Commission allows this to be entered as an Exhibit, I have several objections to make to it and the motion to strike several questions of the Affidavit.

GENERAL McCUNNIFF: On what grounds do you wish to make the objections?

LIEUTENANT WESTON: If it please the Commission, it has been called to my attention that my motion to strike would not be proper until it has been admitted, so I will make my motion then.

GENERAL McCUNNIFF: Continue.

CAPTAIN STOKES: I offer it into evidence and ask that it be marked Prosecution's Exhibit No. 4.

GENERAL McCUNNIFF: It will be entered in the record.

CAPTAIN STOKES: I ask, then, permission of the Commission to read the statement into evidence.

GENERAL McCUNNIFF: If there are no objections by members of the Commission, it will be read.

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CAPTAIN STOKES: I also request permission from the Commission to withdraw the original copy from the record and substitute a certified true copy into the record.

CAPTAIN FURNESS: No objection.

GENERAL McCUNNIFF: It is granted.

CAPTAIN STOKES: (To Defense Counsel) Are you ready for me to proceed?

CAPTAIN FURNESS: Yes.

(Prosecution Exhibit No. 4 for identification was received in evidence and was read into the record as follows;)

R E S T R I C T E D

SAMUEL E. REITER, after having been duly sworn, testified at the Luzon Area Command, San Jose, Nueva Ecija, P. I., on 19 October 1945, as follows:

Q What is your name, age, rank, organization, serial number and nationality?

A Samuel E. REITER, 36 years of age, captain, Medical Corps, o-420207, 686 Clearing Company, and American and U. S. citizen.

Q What is your present address?

A APO 198, c/o Postmaster, San Francisco. I am here on detached service, LAC (Luzon Area Command), Surgeon's Office.

Q Do you expect to remain at APO 198?

A So far as I know I am going to stay here for sometime.

Q What is your permanent address in the United States?

A 977 Simpson Street, New York City.

Q What was your occupation in civilian life?

A I was a physician, general practice.

Q Where did you get your medical education?

A At Creighton University Medical School, Omaha, Nebraska, and I graduated there June, 1934 and practiced medicine for seven years. I have been connected with the Surgeon General Department in the U. S. Army since February 12, 1944. Before I started the practice of medicine I interned for one year at the Harlem Hospital, New York City, and I had eighteen months' residency at the Riverside Hospital, New York City.

Q What experience have you had in determining the cause and time of death of individuals during your practice?

A - During my schooling, internship, and practice I had experienced all that time with bodies of persons who had been dead for sometime. Through this I became familiar with the nature of the decomposition of bodies after they were dead.

Q Did you visit Batan Island?

A Yes, I did.

Q What were your duties when you visited there?

A My duties were to make a medical examination of the bodies found in the graves there and to submit a report thereon. The bodies are supposed to be those of three U. S. aviators who had been killed by the Japanese at Basco, Batan Island, Batanes, P. I.

Q Who went with you to Batan Island?

A There were two other officers with me. The leader of the party was Captain Carter P. Hamilton, formerly

with the 251st FA and now with the 136th FA Battalion, 37th Division. There was also 2nd Lieutenant Frederick A. Gaboury, G-2 Section, Headquarters, 37th Infantry Division.

Q When did you visit Batan Island?

A On the 8th and 9th of October, 1945.

Q Tell in your own words what you did while on Batan Island.

A I went along with two men from the Grave Registration Office and was led by Filipino guides to the three graves. One guide led us to one grave, another to the second grave, and another to the third grave. I was present when the graves were opened up and the remains of the bodies were placed in shelter halves and brought forth to Basco, Batan Island, then placed in an LCI and brought to Luzon, P. I. The bodies were left with the 108 Grave Registration unit at San Jose for burial.

Q What was the location of the first grave you visited on Batan Island?

A The first grave, in distance, was approximately one and a half kilometers from the central part of Basco. I do not remember the direction. As I recall it was in a place called Babat, in an open field.

Q Describe what you saw there?

A The grave was located without difficulty by our guide, and in the first place, we started to dig. After digging for about a depth of two feet bones were uncovered. They were the bones of a human being, and upon examination, they did not reveal any evidence of fracture or bullet wound. Also present in the grave were pieces of rope found among the bones, and as I recall they were not tied around the bones but were found close to the bones of wrist. There was a complete absence of fleshy parts so we could not determine any evidence of bayonetting. There was also no clothing present.

Q Did you measure this body?

A The only measurement we took was the length of the femur bone from the greater tuberosity to the intercondylar space which was 16 7/8 inches.

Q Will it be possible to determine the height of this body?

A I could not do that myself off hand, but I believe that it would be possible to take the measurement of the femur and by reference to a Table showing the relationship between the length of the bone and the length of the individual's body, his height could be determined. I do not have such data available to me at this time.

Q What else did you see near this grave, if anything?

A I saw a tree about twenty paces from the grave near which was found pieces of rope that corresponded to those found in the grave. Our Filipino guide, whose name I

do not remember, pointed out this tree as the one to which the individual whose remains were found in the grave had been tied at the time of his execution.

Q Were you able to identify this body in any other way?

A No. I remember that the natives who were there at the time the body was removed, refer to the remains as being those of a U. S. aviator, a captain, although actually I learned he probably was a lieutenant, senior grade, of the U. S. Navy.

Q Do you know his name?

A No, I don't. But there were two Filipinos, whose names I do not remember, who were witnesses to the execution of this aviator at Babat. These Filipinos said that this aviator had his hands tied to a tree and that they saw this aviator bayoneted two or three times and then dragged to the grave nearby, and at this time, the Filipinos further said, the American was still alive, as he was groaning.

Q Could you tell from the condition of the remains of his body approximately how long it had been buried?

A I would say it was buried at least ten or eleven months, because there was a complete absence of fleshy parts, and the bones did not contain any pieces of flesh.

Q Where did you locate the second body?

A I suppose it was not more than four kilometers from Basco, and I believe they call it the eastern part of the island, about 200 yards from the seashore. It was in an open field.

Q Tell what you saw at the scene of this second grave.

A The Filipino guide, whose name I do not remember, said, "This is it." We started to dig and after digging for about two feet below the surface of the earth, we uncovered human bones. So far as I know, the execution of the person whose remains we found in this place was not witnessed by any of the civilian population of Batan Island. The guide located the grave by means of a stake which he had placed at the side of the grave. He stated that he placed the stake there after a Japanese soldier, whose name I do not know, in a mood of boastfulness, had bragged about killing the U. S. aviator at that spot and thus revealed the location of this grave to this Filipino.

Q Did you see this stake?

A Yes, I did. It was at the side of the grave and I saw the guide pull it out after we arrived.

Q Do you know when this stake was placed there?

A No, I don't, except that it must have been shortly after the aviator was killed. All I know is that after this guide had acquired this information from the Japanese soldier, he placed the stake there so that the grave could be located later.

Q Did you examine the remains of the body found in this grave?

A Yes, I did.

Q What did your examination reveal?

A Only bones of a human being were found in this grave. Examination of these bones revealed that a bullet hole through the left occiput, about one and a half inches to the left of the midline, was present. There was a fracture of the second left rib at the sternal end. There was also a piece of rope found in this place close to the hands.

Q Did you take any measurement of this body?

A Yes, I did. I took a measurement of the femur and the length was, from the greater tuberosity to the intercondylar space, 16-3/8 inches. There was also a complete absence of any fleshy parts.

Q Do you know the name of the place where this body was recovered?

A I believe it was at Balugan, Batan Island.

Q From your examination of the remains, could you estimate how long this body had been buried?

A I would say approximately ten or eleven months on the fact that all the bones showed no evidence of any fleshy parts. In this place a piece of cloth, about one foot long and four inches wide, was found and this appeared to be a part of the uniform or clothing worn by the individual buried there. It must have been a long time he was buried there, so long that the clothing had rotted.

Q Were you able to identify this body?

A No, I wasn't.

Q Do you know the name of the person buried in this grave?

A No, I don't.

Q Did you see a third body while at Batan Island?

A Yes, I did.

Q Where did you locate this body?

A I remember this body was located in a grave about nine or ten kilometers north of Basco. It was on the side of a hill. The ground there would gradually slope down to the sea, about 300 or 400 yards away. This place was twice as far from the sea as the second grave I have mentioned.

Q Tell what you saw when you arrived in this grave.

A This is the one spot where the grave was not located actually where the guide said it was. We dug down four or five feet, but we could not locate anything. Then we moved about three feet away from the first spot and dug for about four feet and located the remains of the body of a human being.

Q Do you know the name of this guide?

A No, I don't.

Q Did you examine the remains of this body?

A Yes, I did.

Q Tell what this examination disclosed.

A This body was somewhat better preserved than the others previously mentioned by me, due to the fact that it was buried deeper. It was located at a depth of four or five feet below the surface of the earth and revealed some fleshy parts present in the grave and attached to the bones. This body had clothes around it and looked like a portion of the uniform or clothing of the individual buried there. It still had one of its breast pockets and appeared to be a part of a coverall. We cleaned the area about the breast pocket to see whether it has any identifying marks on it, but there was nothing that we found there. In addition, this body had its eyes completely covered by a cloth--the cloth was around the eyes--apparently he had been blindfolded. An examination of the remains of the body revealed the presence of a hole on the left frontal bone about three-quarters of an inch above the left orbital ridge running parallel to the outer half of the orbital ridge. The hole was one and a half inches long and three-quarters of an inch wide. There was also a small perforation or hole in the center of the left orbital ridge, 1/16 of an inch in diameter, with a fracture running medially from it, about three-quarters of an inch. There were pieces of rope found in this grave. Pieces of rope, probably one and a half inches in length and one half inch in diameter were found near the hands.

Q Could you determine from your examination what had caused these holes in this body?

A It is my opinion that the holes were caused by saber strokes. They were not definitely bullet holes, because the outline of the holes was irregular and appeared to have been caused by a sharp instrument. Some portion of the bones was completely missing so that it must have been caused by some cutting instrument.

Q From the nature of these holes in the left frontal bone of the head and in the center of the left orbital ridge as you have described, would you say that the instrument which made these holes had penetrated sufficiently to cause the death of this individual?

A I think it could have caused death. Presumably after the cutting instrument had pierced the frontal bone it must have continued into the brain.

Q Could you tell from the examination of the remains of this body how long it had been buried?

A Although this body was better preserved in comparison to the others I have mentioned before because it was

located at a greater distance beneath the surface of the earth, I would say that the body had been there for approximately ten or eleven months.

Q Were you able to identify this body in any other way?
A No, I wasn't.

Q Do you know the name of the person whose body you found in this grave?

A No, I don't. All I know is that natives on Batan Island, whose names I do not remember, told me that all of these bodies were the remains of three U. S. aviators who had been killed by the Japanese on Batan Island sometime on the latter part of November, 1944. Mrs. Leonarda CABAL, Filipino resident of Batan Island, gave us the name of one of these aviators as either Samuel Morris Martin or Philip Morris Martin, I do not remember which. I recall asking her how she was certain of the name of this particular aviator and she informed me that she secured this information from her brother-in-law, a Filipino guerrilla leader whose name I do not remember. He had contacted a Filipino who had been lodged in the same cell where Martin was imprisoned at Basco, Batan Island. This particular Filipino obtained his name while he was in the cell with this U. S. aviator Martin.

Q Could you tell the sex of these three bodies from your examinations?

A Yes. The width of the pelvic cavity was such that I am led to believe that these bodies were those of males. It was narrower than females'.

Q Is there anything else you know regarding this matter?

A Only what I remember the natives told me while I was there to the effect that these three U. S. aviators had been captured by the Japanese at Basco on or about October 20, 1944 and then imprisoned at Basco and later killed on three different times about a week interval in between each execution. I do not remember the names of the natives who told me this.

/s/ Samuel F. Reiter
/t/ SAMUEL E. REITER, Capt., MC

COMMONWEALTH OF THE PHILIPPINES)
)
PROVINCE OF NUFVA ECIJA)
)
TOWN OF SAN JOSE)

I, SAMUEL E. REITER, of lawful age, being duly sworn on oath, state that I have read and understood the foregoing transcription of my interrogation and all answers contained therein, consisting of five (5) pages, are true to the best of my knowledge and belief.

/s/ Samuel E. Reiter
/t/ SAMUEL E. REITER, Capt, MC

Subscribed and sworn to before me this 20 day of
October, 1945.

/s/ Sheldon A. Key, 1st Lt. JAGD
/t/ SHELDON A. KEY, 1st Lt. JAGD

C E R T I F I C A T E

We, SHELDON A. KEY, 1st Lt., O-2052463, JAGD, and JOHN B. HART, 2nd Lt., O-42912, USMC, certify that on 19 day of October, 1945 personally appeared before us, SAMUEL E. REITER, and gave the foregoing answers to the several questions set forth; that after his testimony had been transcribed, the said SAMUEL E. REITER read the same and affixed his signature thereto in our presence.

/s/ Sheldon A. Key, 1st Lt. JAGD
/t/ SHELDON A. KEY, 1st Lt. JAGD

Luzon Area Command,
San Jose, Nueva Ecija, P. I.

20 October 1945

JOHN B. HART, 2nd Lt., USMC

CERTIFIED TRUE COPY:

/s/ Ralph R. Bloodworth, 1st Lt., Inf.
/t/ RALPH R. BLOODWORTH, 1st Lt., Inf.

R E S T R I C T E D

CAPTAIN STOKES: The document contains the signature of Lieutenant Key, but does not contain the signature of Lieutenant Hart, who had left, I understand, when this was prepared.

CAPTAIN FURNESS: Sir, shall we make our motion to strike after the noon recess?

GENERAL McCUNNIFF: I don't think I understand.

CAPTAIN FURNESS: I thought it would be better if we made our motion to strike after recess. We will have a chance to look this over.

LIEUTENANT BLOODWORTH: That is all right because the interpreters would like to look over the Japanese translation.

GENERAL McCUNNIFF: We will recess until 2 o'clock.

(Whereupon, at 1135 hours, a recess was taken until 1400 hours, 3 January 1946.)

A F T E R N O O N S E S S I O N

(The trial resumed pursuant to recess, at 1400 hours, 3 January 1946.)

GENERAL McCUNNIFF: The Commission will please come to order.

CAPTAIN STOKES: Sir, all members of the Commission with the exception of Henry W. Holt are present, together with the Prosecution staff, the Accused and their counsel.

LIEUTENANT WESTON: If it please the Commission, the Defense would now like to move to strike out all portions of the Affidavit which has just been submitted, with the exception of those portions which pertain directly to the location of the graves, the digging of the bodies and the condition thereof. This Affidavit which has been introduced to the Commission is a beautiful example and it emphasizes all of the fallacies of any argument in support of the introduction of such affidavits. For instance, I would like to point out some of the particular faults that we object to. On Page 2, the fifth question. The answer to this question states, "A Filipino guard whose name I do not remember pointed out this tree as the one to which the individual whose remains were found in the grave had been tied at the time of his execution." And the question directly below that one; the answer to that, "I remember that the natives who were there at the time the body was removed referred to the remains as being those of a United States aviator. -- " and goes on.

The next question and the answer thereto, "There were two Filipinos whose names I do not remember who were witnesses to the execution -- " it goes to great length there. There are, specifically, six answers in this Affidavit that we object to and request that the Commission strike them. They are purely hearsay; some of them go beyond, that reach the stage of a rumor, the source of which is not shown in this Affidavit.

In one place it sets out that he heard it; it does not say from whom he heard it. Now, the Defense, although they object to it severely, understand that the letter which this Commission is following in governing its rules of evidence authorizes them to admit hearsay evidence. It authorizes them to admit affidavits. The Defense does not think that General MacArthur had the authority to grant that, but he did grant it. But a careful reading of this letter will show that he did not authorize the admissibility and admission of hearsay evidence by way of affidavits. Now, the Defense in this case cannot hope to bring in witnesses to disprove hearsay when it is admitted by way of affidavits. We cannot put a witness on the stand and cross examine him to obtain the source of hearsay of the rumor and there is no way at all that we can exact that.

I will now read all of the different passages to which we object. All of them are hearsay; some of them go beyond that and are mere rumors; this should never have been incorporated in this Affidavit in the first place. The purpose of this Affidavit, as I under-

stand it, was to show that the bodies were recovered, give a description of the bodies and their condition and the location of the graves. Why all this hearsay evidence was incorporated, I do not know, but, to emphasize my point on that, any civilian in the City of Manila here, could pick up a newspaper and read that a witness in this case has said that General Tajima ordered this execution; that citizen of Manila could turn right around and make an affidavit stating, "I heard that General Tajima ordered the execution." That affidavit would be just as admissible as this.

The Defense in this case requests that the Commission seriously consider this and strike those passages in the Affidavit which are hearsay and rumor.

LIEUTENANT BLOODWORTH: If the Commission please, the motion of the Defense is clearly not in order. This statement of Doctor Reiter was admitted into the evidence as it should have been under the regulations governing this trial. Now, neither the Prosecution nor the Defense can ask this Commission to strike any portion of that statement. Neither can we ask you what weight you are going to give to any portion of it. We don't know under the regulations here what weight you are going to give to any portion of that statement or all of it. We don't know whether you are going to consider parts of it, all of it, or any of it. That is, under the regulations, a matter peculiarly within this own Commission's knowledge in the final ruling. The regulations say, Paragraph 16, sub-section "a"

entitled "Evidence: The commission shall admit such evidence as in its opinion would be of assistance in proving or disproving the charge, or such as in the commission's opinion would have probative value in the mind of a reasonable man." Now, neither the Prosecution nor the Defense can come into the Court and participate in the Commission's decision on this. We don't know whether the Commission is going to give this statement any weight. Under the regulations governing this trial it is clearly stated that the Commission itself decides what weight to give. We don't participate in that decision.

CAPTAIN FURNESS: I would like to say one word, and that is that I think if Captain Reiter had been on the stand to testify and we had objected, that the Commission would not have allowed him to testify to a great deal of rumor that he did. The mere fact that it comes in on affidavit, doesn't mean that that testimony on affidavit would be admitted which would not be admitted if the man were here on the stand to testify.

Now, the other thing is that we can't tell what is objectionable until the affidavit is introduced. This is certainly nothing that violates legal procedure to move to strike out testimony or to move to strike out part of the Affidavit that is submitted; there is nothing improper about that. The Commission can rule to strike out such testimony. One Commission that sat here struck out pages and pages of such testimony on

a motion that was made on the last day of the trial. It was perfectly proper to do so. We move that these parts that deal with rumor, hearsay, "I heard this," and "I got the impression that," be struck out. We will, if the Commission tells us there is any hope of its being allowed -- we will actually specify what questions, what answers we do want struck out. We have made the general motion that this medical witness's whole testimony, except his testimony with regard to the grave, in regard to the bodies, the condition of the bodies, be stricken, because we feel that is all he is qualified to testify to.

LIEUTENANT BLOODWORTH: If the Commission please, I don't know whether the Defense Counsel understands the point fully or not; I think he does. But we merely say that we can't participate in that decision by striking it out and deciding what weight it should be given; the Commission itself decides that, Sir.

CAPTAIN FURNESS: One last word. I will be very brief. The rules here do say that the evidence shall be admitted which has probative value to the mind of a reasonable man. We feel that much of this evidence has no probative value; we feel it should not be in the record; we feel the reviewing authority will feel the same way.

CAPTAIN MURTAUGH: If it please the Commission, I have one point to bring up on this argument. If Lieutenant Bloodworth is sustained, there is absolutely no use for anybody to show the Defense Counsel any affidavit or any statements, or any confession that the Prosecution wishes to bring before the Commission. According to

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Lieutenant Bloodworth, there is nothing we can do about any statements, affidavits or confessions that the Prosecution wishes to admit into evidence.

LIEUTENANT BLOODWORTH: If the Commission please, again I say that we don't know the weight that this Commission is going to give this testimony. Those factors, we know, are going to be taken into consideration by this Commission. But we say that clearly, under the regulations governing this Commission, this statement is admitted as a whole into evidence and we can't participate in the decision as to what weight it shall be given by this Commission.

CAPTAIN MURTAUGH: May I ask one question, Sir? Before a statement is admitted, has the Defense Counsel a right to see and read that statement and make his objections then?

LIEUTENANT BLOODWORTH: Well, we showed this statement to you before it was admitted.

CAPTAIN MURTAUGH: I am asking you, has the Defense Counsel the right to make objections before the statement goes into evidence?

LIEUTENANT BLOODWORTH: Under the regulations governing this trial, the Commission receives it for what probative value it has.

CAPTAIN FURNESS: That is not the answer to the question.

CAPTAIN MURTAUGH: Can the Defense Counsel object to any portion of that statement before it is shown to the Commission?

LIEUTENANT BLOODWORTH: That is up to the Commission.

CAPTAIN MURTAUGH: Well, the Commission doesn't know what is in the statement until it is shown to them.

LIEUTENANT BLOODWORTH: I do not care to argue the matter any further. I ask for a decision.

CAPTAIN FURNESS: I ask for a decision, too. We respectfully say we have the right that after this is received into evidence to move to strike it out; that is all we are doing.

GENERAL McCUNIFF: Subject to objection by any member of the Commission, the motion of the Defense is denied.

I want to assure both the Prosecution and Defense that this Commission is composed of reasonable men. We also have some idea of evaluating the evidence and you will receive a fair and honest trial as submitted by evidence evaluated by us.

CAPTAIN MURTAUGH: We have no doubt as to the reasonability of the Commission, but we do feel these rules of evidence and so forth do not give us a legal, fair trial, but we submit in all sincerity on the other hand, as far as personalities are concerned.

GENERAL McCUNIFF: That is your privilege.

LIEUTENANT SHELDON A. KEY
called as a witness on behalf of the Prosecution, having been duly sworn, was examined and resumes as follows:

DIRECT EXAMINATION (CONTINUED)

CAPTAIN STOKES: You are reminded that you are still under oath.

THE WITNESS: Yes, sir.

CAPTAIN STOKES: Sir, I request that this document be marked as Prosecution's Exhibit No. 5 for purpose of identification.

Q (By Captain Stokes) I hand you Prosecution's Exhibit No. 5 and ask you to state to the Commission what it is, if you know.

A This is a confession made by Hikojiro Inoue.

CAPTAIN MURTAUGH: Sir, this brings up the point that I was arguing with Lieutenant Bloodworth about.

CAPTAIN STOKES: Let us finish identifying first, please.

CAPTAIN MURTAUGH: All right.

Q (By Captain Stokes) Go ahead.

A On the 19th day of November, 1945 at the Luzon Prison Camp No. 1, this confession was made in my presence. I asked the questions and Inoue gave the answers in English and that was transcribed and afterwards given to him and he read it before signing it.

Q Is that the same statement that was made by him at that time?

A Yes, sir. It contains the initials of Inoue on the first three pages thereof, his signature two times on the last page thereof, and the initials and those two signatures were made in my presence on the 24th day of November, 1945 at the Luzon Prison Camp No. 11.

Q Did you inform him that he did not have to make this statement; that it could be used against him?

A Yes, sir. After swearing him I informed him that he need not make any statement that would involve himself or incriminate himself in any way and that in the event he did make a statement, it must be voluntarily made upon his part, and that if he made a statement, that anything he might say or any emanations against his own interest might be used against him in a trial later on. After informing him as to his rights in that regard, he said that he would answer if he knew and did proceed to answer the questions.

Q Did you make any promises, or were there any threats or duress?

A I made no promises whatsoever and there were no threats or any duress in obtaining this confession.

CAPTAIN FURNESS: Could that be changed to statement rather than confession?

CAPTAIN STOKES: I think that would be a matter for the Commission to decide. I now offer Prosecution's Exhibit No. 5 into evidence, which we consider a confession of the Accused, Hikojiro Inoue.

CAPTAIN FURNESS: I object, Sir, on two grounds. First; that a confession is admissible as against the confessor, but if it contains the names or incriminates any of the other co-defendants, it is not admissible: Second; if it is given to a superior officer under circumstances that might tend to show that it was obtained voluntarily, it is not admissible, and I also wish to

remind the Court that, if the confession is admitted, it is only to be admitted as corroborative evidence and is not to be considered as new evidence under any circumstances.

LIEUTENANT BLOODWORTH: If the Commission please, with the Commission's indulgence, first, I would like to point out the difference between the statement that we introduced of Doctor Reiter's and these confessions. That statement is hearsay; we frankly admit it. It is admissible under the regulations governing this trial, but we don't expect this Commission to give it the weight that would be given a confession. Now, in the Courts of the United States, a confession, when corroborated by the other evidence, is one of the strongest forms of proof known to law. The Manual for Courts-Martial, 1928, corrected to April 20 1943, Paragraph 114, page 114, states:

"Where, however, a confession is explicit and deliberate as well as voluntary, and, if oral, is proved by a witness or witnesses by whom it has not been misunderstood and is not misrepresented, it is indeed one of the strongest forms of proof known to the law."

We merely cite the Manual of Courts Martial and show how a confession is generally regarded. The Manual is not a precedent binding on this Commission. We admit that by the weight of American authority that the confessions of one co-conspirator or co-defendant are not admissible in evidence against another co-defendant who denies the confession. However, it has been said in a State of Washington Supreme Court case, State vs Ashe, 182 Washington, 598, that a confession by one of

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two persons jointly charged with the commission of a crime, is admissible against the other even though the other co-defendant denies the facts stated.

We do not quote this case as a precedent to this Commission. We state that this Commission is not bound by the technical rules of evidence applied to cases between citizens of the United States. We merely cite this case to show the Commission that even in a United States Court at least one jurisdiction says that the confession of a co-defendant is good against another, even though the other co-defendant denies the confession. In all United States jurisdictions this confession would be admissible as against the defendant who made it. In this case the confession has been substantiated by eye witnesses and we say that clearly under the rules and regulations governing this Commission it is admissible as against all the defendants in this case.

CAPTAIN FURNESS: We do not regard the objection as technical; secondly, we do want to point out between the time that the letter setting forth regulations of this trial, dated the 24th of September, 1945 and in December, 1945 it was apparently found necessary to amend a specific provision with regard to confessions. We are trying it under those first regulations and we think the man to whom the law applies, but in order not to have more discussion, we request a ruling.

GENERAL McCUNIFF: Subject to objection by the members of the Commission, the objection of the Defense is overruled.

CAPTAIN STOKES: I offer at this time this confession to be introduced into the evidence and ask that we be allowed to withdraw the original and substitute a certified true copy.

CAPTAIN FURNESS: No objection.

GENERAL McCUNIFF: No objection. The document will be admitted into evidence.

(Prosecution Exhibit No. 5 for identification was received in evidence and read into the record as follows:)

R E S T R I C T E D

Hikojiro INOUE, after having been duly sworn, testified at Luzon Prison Camp No. 1, Cabuyao, Laguna, 19 November 1945, as follows:

- Q What is your name, age, and nationality?
A Hikojiro INOUE, 37 years old, Japanese nationality.
- Q Were you a member of the Japanese Army?
A Yes.
- Q What is your grade?
A Superior Private.
- Q What is your home address?
A Choei Girl's High School, Tainan, Formosa.
- Q Are you married?
A Yes, sir.
- Q What is your wife's name?
A Umeko INOUE.
- Q Does she live at your home address in Formosa now?
A Yes.
- Q How long have you been in the Japanese Army?
A Three years and five months.
- Q Where were you stationed in 1944 and 1945?
A I came to Batanes April 1944 and remained on Batan Island until my surrender September 3, 1945.
- Q Were you stationed in Basco, and Ivana, Batan Island?
A Yes, I was stationed in Basco. While there I went to Ivana, a small town 15 kilometers from the town of Basco.
- Q What unit do you belong to?
A 61st Independent Mixed Brigade, Imperial Japanese Army.
- Q What battalion do you belong to?
A A member of battalion commanded by Captain Masumi SAKASEGAWA.
- Q Did you act as interpreter on Batan Island?
A I was only a private and could speak a little English. That was why I acted as interpreter sometimes.
- Q Who was in command of the forces on Batan Island?
A Lt. Gen. Hikotaro TAJIMA.
- Q Do you recall whether any U.S. prisoners were captured by the Japanese forces on Batan Island?

A Yes, sir.

Q What do you know about these prisoners?

A The U. S. aviators were captured on Batan Island about the end of October 1944.

Q Do you know the names of these aviators?

A I don't know.

Q Do you know what happened to them?

A They were captured and imprisoned in Basco. After that I heard they were killed.

Q Who killed these three aviators?

A Members of the forces under the command of Lt. Gen. TAJIMA. I don't remember the date. Probably latter part of November 1944.

Q Do you know the names of the officers who took charge of the killing of these three aviators?

A I don't know the names of the officers. These three prisoners were assigned in three battalions and each battalion took care of them.

Q Were you present in Basco when these aviators were killed?

A If it occurred in November, I was there at Basco.

Q Were you present when the killing of these prisoners took place?

A No. I cannot speak English so well and have better interpreters than I.

Q Do you know who ordered these three aviators killed?

A Lt. Gen. TAJIMA. Because it cannot be done without the order of the highest commander.

Q Did you ever hear the names of the officers who took part in the killing of these three aviators?

A Yes, sir. I heard the soldiers talked among themselves and they said the guard of Lt. Gen. TAJIMA took charge of the killing of these aviators.

Q Do you know the name of this guard?

A 1st Lt. GOTO. I don't remember the first name. One more I can remember is 2d Lt. TAIRA, who belonged to the battalion under the command of Captain SAKASEGAWA.

Q What is the number of Captain SAKASEGAWA's battalion?

A His number is 1760 mixed Infantry Battalion.

Q Do you recall anything concerning the arrest of Filipino civilians on Batan Island?

A Some of the Filipinos were arrested by the Japanese soldiers.

Q When did this take place?
A April and May 1945.

Q Do you know if any of these Filipinos were killed by members of Lt. Gen. TAJIMA?
A Yes, sir. About eighty were executed.

Q When were these Filipinos killed?
A End of May or beginning of June 1945.

Q Were they killed at the same time?
A Not at the same time.

Q Do you know who killed them?
A I don't know the names of those who killed them.

Q Do you know who ordered them killed?
A Lt. Gen. TAJIMA.

Q How do you know this?
A Because such a thing is always ordered by the highest commander.

Q Do you know the names of these Filipinos who were killed?
A Juan AGUOD; two brothers whose names were REYES, I don't know their first names; Telesforo CABAL: the mayor of Ivana; two or three Ivana people besides them, whose names I did not remember.

Q Did you ever act as an interpreter in questioning any of these Filipinos?
A Yes, I acted as interpreter.

Q Do you remember the names of these Filipinos you questioned?
A The mayor of Ivana; Antonio Cabal; Reyes brothers, and some others I don't know the names.

Q Did you interrogate any of these Filipinos at Basco?
A Sometimes I did. I went to investigation and helped other interpreters investigate.

Q Who were the other interpreters?
A Masaki KAWACHI; Fusakichi OTANI; Sgt. Osamu WAKITA, and Private Satoshi HORI.

Q Who was in charge of interrogating these eighty Filipinos?
A 1st Lt. Yoshisuke SUZUKI.

Q What method of interrogation did you use?
A If some of them did not tell the truth, Lt. SUZUKI ordered to deal them severely. Dealing severely was ordered by Lt. Gen. TAJIMA.

Q Before going any further with this statement, I wish to inform you that anything you may say which would in any way involve you might be used against you later on.

Do you understand this?
A Yes.

Q Do you still desire to make a statement? I wish to inform you that you need not make a statement regarding the method of interrogation of these Filipinos or anything else that may involve or incriminate you unless you desire to do so voluntarily.

A Yes. What I have said, I stated voluntarily. What we did was ordered by Lt. SUZUKI and Lt. Gen. TAJIMA.

Q Now do you desire to state anything further regarding this?

A I will answer if I know.

Q What method of severe treatment did you use on the Filipinos?

A Beating sometimes by hand and sometimes by stick. Not only that but sometimes hanged them up with their hands tied behind their backs.

Q Was there any other method used?

A That is all.

Q Do you remember the names of any others who were given this kind of treatment?

A The REYES brothers; Eugenio VALONES; Jose AGUDO, and some others whose names I cannot remember.

Q Now is this all you know concerning this treatment?

A As I am a private to Lt. SUZUKI and Lt. Gen. TAJIMA, who ordered us to do this, we could not but obey. To end the investigation as soon as possible, we were ordered to use severe methods.

Q Who ordered you to end this investigation by severe methods?

A Lt. Gen. TAJIMA thru Lt. SUZUKI.

Q When this statement has been typed by the Reporter, will you be willing to sign it?

A Yes, sir.

/s/ Hikojiro Inoue
/t/ HIKOJIRO INOUE

COMMONWEALTH OF THE PHILIPPINES)
PROVINCE OF LAGUNA) SS
TOWN OF CABUYAO)

I, HIKOJIRO INOUE, being duly sworn on oath, state that I have read and understood the foregoing transcription of my interrogation and all answers contained therein, consisting of 4 pages, are true to the best of my knowledge and belief.

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/s/ Hikojiro Inoue
/t/ HIKOJIRO INOUE

Subscribed and sworn to before me this 24 day of November,
1945.

/s/ Sheldon A. Key, 1st Lt.
JAGD
/t/ SHELDON A. KEY, 1st Lt.
JAGD

C E R T I F I C A T E

I, SHELDON A. KEY, 1st Lt., O-2052463, JAGD, certify that on 19 day of November, 1945, personally appeared before me HIKOJIRO INOUE, and gave the foregoing answers to the several questions set forth; that after his testimony had been transcribed, the said HIKOJIRO INOUE read the same and affixed his signature thereto in my presence.

Luzon Prison Camp #1
Cabuyao, Laguna, P. I.

/s/ Sheldon A. Key, 1st Lt.
JAGD
/t/ SHELDON A. KEY, 1st Lt.
JAGD

24 November, 1945.

CERTIFIED TRUE COPY:

/s/ Ralph R. Bloodworth
/t/ RALPH R. BLOODWORTH

R E S T R I C T E D

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CAPTAIN FURNESS: It is my understanding that the Commission will not rule favorably on any motion to strike part of this. Could that be stated in the record?

GENERAL McCUNNIFF: Yes, that may be stated. I see no reason, Captain, why you cannot object to the part that you would like to strike from the record so it will be made a matter of the official record.

LIEUTENANT BLOODWORTH: If the Commission please, may I be heard on this -- striking from a confession?

GENERAL McCUNNIFF: After he has made the motion.

CAPTAIN FURNESS: As Counsel for General Tajima, I move that the following be stricken from Exhibit No. 5: Second page, "Q. Who killed these three aviators? A. Members of the forces under the command of Lieutenant General Tajima. I don't remember the date. Probably the latter part of November '44. Q. Do you know who ordered these three aviators killed? A. Lieutenant General Tajima. Because it cannot be done without the order of the highest commander." Immediately following, "Q. Did you ever hear the names of the officers who took part in the killing of these three aviators? A. Yes, sir. I heard the soldiers talked among themselves and they said the guard of Lieutenant General Tajima took charge of the killing of these aviators." The fourth from the bottom of that same page, "Q. Do you know if any of these Filipinos were killed by members of Lieutenant General Tajima? A. Yes, sir. About 80 were executed." And another one at the bottom of that

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page, "Q. Do you know who ordered them killed? A. Lieutenant General Tajima." The next question is at the top of the third page, "Q. How do you know this? A. Because such a thing is always ordered by the highest commander." Halfway down on the third page, "Q. What method of interrogation did you use? A. If some of them did not tell the truth, Lieutenant Suzuki ordered to deal with them severely. Dealing severely was ordered by Lieutenant General Tajima. Q. Do you still desire to make a statement? I wish to inform you that you need not make -- "

LIEUTENANT BLOODWORTH: If the Commission please --

CAPTAIN FURNESS: Let me finish.

"Q. Do you still desire to make a statement? I wish to inform you that you need not make a statement regarding the method of interrogation of these Filipinos or anything else that may involve or incriminate you unless you desire to do so voluntarily. A. Yes. What I have said, I stated voluntarily. What we did was ordered by Lieutenant Suzuki and Lieutenant General Tajima." I request all those be stricken.

LIEUTENANT BLOODWORTH: If the Commission please, we renew our same argument in regard to striking out. We claim that a motion to strike out here as to a confession is not in order.

CAPTAIN FURNESS: There is one question and answer which I would like also to have stricken, "Q. Who ordered you to end this investigation by severe methods? A. Lieutenant General Tajima through Lieutenant Suzuki."

I will call attention to one other thing in the Manual for Courts Martial, page 117, "The acts and statements of a conspirator, however, done or made after the common design is accomplished or abandoned, are not admissible against the others, except acts and statements in furtherance of an escape.

CAPTAIN FURNESS: ... I will make no further arguments, but request a ruling.

CAPTAIN MURTAUGH: If it please the Commission, the man, the Accused, who made this statement, I represent. I have no objection to that statement going in against that Accused, but I do think it is unfair, unreasonable and unjust that any of the other Accused should suffer from a confession by my man. To me it makes common sense, nothing else but common sense.

LIEUTENANT BLOODWORTH: If the Commission please, I would like to point out one point with the Commission's indulgence. The Defense Counsel is relying on a technical rule of evidence. It is perfectly clear that this Defendant was not a Defendant in this case. If he so desired he could come up here and testify against the other Accused. It was done by Kawachi in the Yamashita trial and we can produce a record before this Court to show that. They are relying on a technical rule for which I can show you a rule whereby that would not so hold. It is a technical rule of evidence which has no application in this trial, Sir, because any of these Accused, if he so desired, could come on the stand and testify against the other Accused.

CAPTAIN MURTAUGH: If it please the Commission, those four men, Kawachi, Otani, Wakita and Inoue, they will get on the stand and testify before the Commission. The Prosecution will have full range to examine them as they see fit and then there would be no objection to bringing out information that you have by way of impeachment, but to do it this way is against all rules of evidence I have ever heard or practiced.

LIEUTENANT BLOODWORTH: I don't care to go any further into argument. I have been a Prosecutor and I have used confessions lots of times in my civil practice, and I take exception to what the Defense Counsel says.

GENERAL McCUNNIFF: Do I understand this, when the Accused takes the stand, he will have an opportunity to refuse any question that was asked him in this confession?

CAPTAIN STOKES: I think that is clear, Sir.

GENERAL McCUNNIFF: Subject to objection by members of the Commission, the motion of the Defense is denied.

CAPTAIN STOKES: Sir, I have here an instrument given by Fusakichi Otani, Accused, and I wish it be marked Prosecution's Exhibit No. 6.

CAPTAIN FURNESS: May we have a standing objection to the introduction of these so-called confessions, Sir, so as not to take up any time?

GENERAL McCUNNIFF: I will note the objection and the arguments. Same decision by the Commission.

CAPTAIN STOKES: (To the witness) I hand you what has been marked Prosecution's Exhibit No. 6 for the purpose of identification and ask you to tell the Commission what it is, if you can.

THE WITNESS: Exhibit No. 6 is a confession given by Fusakichi Otani, the Defendant in this case. It was given at Luzon Prisoner of War Camp No. 1; at the time he made this statement he was under oath and I asked the questions and he gave the answers thereto. Later it was transcribed into a typed document and he read it and affixed his signature thereto on the 12th day of November, 1945, in my presence.

Q (By Captain Stokes) Is that the same paper that was signed by him in your presence?

A It is the same, original paper. I know that because it contains my signature twice on the last page thereof, the signature of Otani twice on the last page thereof, which signatures were made in my presence. It has the initial "FO", being the initials of Otani, made in my presence, on the other pages. There are certain corrections incorporated on the pages of the statement, which corrections were made before the statement was signed by Otani, and those corrections all contain his initials, signifying that they were made at his suggestion and insistence.

Q Did you inform him that he did not have to make this statement?

A Yes, sir, I informed him, as I recall, on three or four different times during the course of the statement being made and particularly before he signed the

statement, that he need not make a statement at all; that he might remain quiet; that he need not incriminate himself or involve himself in any way by making a statement. If he did so, it might be used in a trial against him. He told me that he understood what I meant by that and that he wanted to tell the truth.

Q Did you use any promises or any threats in order to obtain this confession?

A I did not make any promises nor use any threats or duress in taking this confession.

CAPTAIN STOKES: I now wish to offer this confession into evidence and ask that we be allowed to substitute a certified, true copy of the original into the record.

GENERAL McCUNIFF: There being no objection, the document will be admitted into evidence.

(Prosecution Exhibit No. 6 for identification was received in evidence and read into the record as follows:)

R E S T R I C T E D

FUSAKICHI OTANI, after having been duly sworn, testified at Luzon Prisoner of War Camp No. 1, Cabuyao, Laguna, on 8 November 1945 as follows:

Q What is your name?

A Fusakichi OTANI.

Q What is your age and nationality?

A I am 26 years old the Japanese way and 25 years the Philippines way. Nationality, Japanese.

Q Are you a member of the Japanese Army?

A Well, I suppose we are because I was living in the Philippines and later on the Army ordered me to come over to join the Army as interpreter, but while in Batan Island, the officers there did not know how to treat me. They gave me the rank of Superior Private, but they didn't give any training how to hold gun. I just worked as interpreter with headquarters at Basco.

Q Where were you born?

A Ueno, Sojamachi, Gumagun, Guma Prefecture, Japan.

Q Did you live in the Philippines prior to the war?

A I came down to the Philippines in 1937, beginning May, and since then I lived in Manila.

Q Do you have a home address in Manila?

A We were renting a house in Manila. I was living with my uncle.

Q What is your uncle's name?

A Kiyoshi Osawa.

Q What is his address?

A His address was 12 S. Guzman, San Juan, Rizal Province, P. I.

Q When were you taken into the Japanese Army?

A I received draft on or about September 5, 1944. Then I left Manila September 15, 1944 on small vessel. By way of Aparri I went to Batan Island, arriving there about November 20, 1944. I don't remember quite well that date.

Q Where were you stationed in Batan Island?

A Basco.

Q Who was your commanding officer there?

A Maj.-Gen. Hikotaro Tajima.

Q What unit did you belong to there?

A Sixty-First Independent Mixed Brigade.

Q Do you recall whether the Japanese troops under Lt.

Gen. Tajima took any members of the United States forces as prisoners?

A When I arrived there, we had three American aviators as prisoners.

Q Do you know when they were captured?

A I do not know, sir, when they arrived there. I saw they were already held as prisoners.

Q Was one of these prisoners an officer?

A Yes, one of them was Captain or Lieutenant.

Q Did you see these prisoners?

A Yes, I have seen, sir, the next day after my arrival,

Q Where did you see them at that time?

A I believe it was in the afternoon when our officer brought another interpreter who went with me from Manila.

Q Who was that?

A Masaki Kawachi. We went together from Manila. I and he were brought by one of the officers. I don't remember his name. He brought two of us to the prisoner's place, in different places we went around. At that time the one who guided us was holding papers. He tested us how much English we understand. So, he raised questions which we translated together with the prisoners' answers, and we were tested how we could understand English.

Q Do you remember what words you asked these prisoners at that time?

A It was "When were you shot down? What place? You belong to which fleet? How were you shot down." "What kind of ship they got in and in what fleet?" Somewhat like those were the questions asked.

Q Do you know what those U. S. aviators told you at that time?

A I forgot already, but they answered immediately in a simple way. As I remember, they said they were from airplane carrier. I don't remember its name.

Q Where are these three United States prisoners now?

A I know that after a few days, we went to see around. They were killed by the Japanese Army, our unit, but I don't remember the date. After a few days we went around and my companion told me at night after we went to bed that he went together with a Japanese officer and some Japanese soldiers to kill the American officer. They went somewhere and killed him. My companion said to me, "I was very much scared," both of us whispered a long time that night as we were living together.

Q Who was your companion who told you this?

A Masaki Kawachi, another interpreter.

Q What else did he tell you at that time?

- A He said, "This is an American officer they are taking to kill, putting cover to his eyes. This American officer said, "Don't put cover to my eyes, I do not care to die, I do not care to escape." Kawachi said he died bravely.
- Q Did Kawachi tell you the name of the officer who was in charge of killing of this American officer?
- A Lt. Goto. I don't know his first name.
- Q What unit did Lt. Goto belong to at that time?
- A He was a member of Lt. Gen. Tajima's headquarters.
- Q What did he do at that headquarters?
- A He was the chief guard or head guard for Lt. Gen. Tajima. That is what I believe. I am not sure.
- Q Do you know who killed these other two aviators?
- A I do not know, sir. Both of them, as far as I know, the other two were killed on that day. I am not sure, I heard the three of them were killed.
- Q Do you know what date these aviators were killed?
- A A few days after we arrived in November, on or about November 25 to 27, 1944.
- Q Do you know the names of any other Japanese officers or enlisted men who took part in the killing of these aviators?
- A I do not know, sir. I do not remember anything. I didn't hear the names of these people.
- Q Do you know why these aviators were killed?
- A I do not know, sir.
- Q Do you know who had these aviators killed?
- A I do not know, sir, but such important things must be decided by the highest commander.
- Q Did you ever have anything to do with investigating Filipinos at Basco in Batan Island?
- A Yes.
- Q What Filipinos did you investigate?
- A Many, sir. There was one incident in Sabtan Island.
- Q What day was that?
- A April 23, 1945. Japanese soldiers were in this island. Thirteen of them were killed by Filipino islanders. A big number of islanders killed the Japanese in that Island.
- Q What did you do regarding this?
- A I acted as interpreter, questioning some of the Filipinos regarding this.
- Q Were these Filipinos placed under arrest?

- A Yes, sir. We found out more or less, on May 4, 1944, that certain soldiers were killed. We were not sure what happened there. So, we began to investigate in Batan Island. To the town of Ivana we went there and we arrested many people.
- Q How many?
- A Quite a big number, about 80 or 90 people, gathering the information. Then we found out that such things were committed in Sabtan Island.
- Q Who did you question?
- A I forgot the names. Most of them interpreters, the ones who could speak English, we gathered the information.
- Q Who were these other interpreters?
- A The one in charge of this investigation was Lt. Yoshisuke Suzuki. At that time he was second lieutenant. Now first lieutenant. He acted as in charge of this investigation. The other interpreter, my companion, Masaki Kawachi, first class private, and others Hikojiro Inoue, superior private, Superior Private Hori whose first name I don't know, and Sergeant Osamu Wakita.
- Q What methods did you use in questioning these Filipinos?
- A We ask questions. If they don't answer, we were in a hurry and we even give whips. We always find out if this man knows it. We find it out from other persons. If they don't tell us we hit them, slapping them with our hands. Sometimes we use stick, any kind of stick.
- Q How big was the stick you generally use?
- A Like this, about an inch in diameter and about a meter in length. We investigate during day and night time continuously.
- Q Do you mean you questioned them for long hours?
- A It took sometimes three or four hours. If they answer the question immediately, it is very simple. Some of them were very hard to answer. We found already that if he knows the information, it takes five hours. I don't remember how long. We get tired.
- Q Do you know when these Filipinos were arrested?
- A When we arrived at Ivana on May 4 or 5, many had been arrested. The rest were arrested from May 4 up to 10 or 12 of May, 1945.
- Q How long were these persons held in custody?
- A We went to Sabtan Island to make arrest on May 17, 1945, but we began to arrest people there on May 18th for about a week.
- Q Were any of these Filipinos killed?
- A Some of these Filipinos were killed on June or first of July, 1945. I don't remember the exact date

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because I was at Sabtan Island at that time and these Filipinos were killed on Batan Island.

Q Do you know anything concerning the killing of these Filipinos?

A I don't know, sir, I was not there.

Q Do you know the names of any of these Filipinos who were killed?

A Esteban Calma, Esteban Reyes, Juan Agudo, two Cabal brothers, whose first names I don't know. I don't remember others.

Q Do you know the names of any of these Filipinos who were beaten?

A Esteban Reyes and some other that I don't remember well. It was fast investigation. When the final investigation was made, after the arrest of certain other people, I did not see these investigations.

Q Who did you beat?

A I remember Esteban Reyes and some others I don't know.

Q What other methods of investigation did you use?

A Sometimes we tied their hands behind them and hanged them to rafters with their feet down and head up. At first, their feet were on the floor, and if they did not answer we may pull the rope tighter so that it might be more painful and they are raised up. We seldom raise them up the floor, but I think Esteban Reyes was raised up a little.

Q How long did you leave them hanging?

A I don't remember, sir.

Q About how long?

A Some like Esteban Reyes, about 30 minutes. Others not so long.

Q Where was the rope, which held them, tied on their bodies?

A This rope was tied to their hands which had been tied behind their backs.

Q Who told you to do this?

A The one in charge of this investigation, Lt. Suzuki. Maybe he was given instruction by higher officer, that is, if they did not answer questions, they must be given something painful. We thought American troops were coming to the Islands and we were in a hurry. We wanted to find out what was going on. They say "hurry and hurry".

Q Did you ever use any fire in your investigations?

A I remember that Esteban Reyes did not answer when

we pulled him up. And somebody took one of the small lamps like torch to his toe. This was the lamp made of coconut shell and coconut oil with a cloth wick.

Q Do you know who put this to his feet?

A I do not know who made this idea. That thing we made in a short time. Everybody said, "Stop." And it was stopped. I do not know who began this, but I know we decided this had better stop.

Q How long did they hold it on his feet?

A I don't remember now. It was a short time. I don't know how long, but when his foot became black, somebody told, "Stop it."

Q I wish to advise you that what you have told me regarding the method used in questioning these Filipinos might be used against you. Knowing that, would you be willing to sign this statement?

A Yes. That is the truth and I want to tell the truth. I don't want to tell a lie. We were ordered to do it by higher officer at Basco. I do not know who gave the order to Lt. Suzuki, but he must know that.

Q Did you go to school in Manila?

A Yes, Far Eastern University in Manila, taking commerce course.

Q What is your present address in Japan?

A The same as my birth place.

Q Do you wish to say anything else?

A Only that I want to tell the truth whatever happens. What happened in the past is past. I have done things. I must tell the truth. As that was the order of the higher commander, we must obey. If the commander order me to go in front of the bullet, I must go also, and probably I went if they ordered.

s/ Fusakichi Otani
t/ FUSAKICHI OTANI

COMMONWEALTH OF THE PHILIPPINES)
PROVINCE OF LAGUNA) SS
TOWN OF CABUYAO)

I, FUSAKICHI OTANI, being duly sworn on oath, state that I have read and understood the foregoing transcription of my interrogation and all answers contained therein, consisting of six pages, are true to the best of my knowledge and belief.

s/ Fusakichi Otani
t/ FUSAKICHI OTANI

Subscribed and sworn to before me this 12th day of November, 1945.

s/ Sheldon A. Key, 1st Lt., JAGD
t/ SHELDON A. KEY, 1st Lt., JAGD

C E R T I F I C A T E

I SHFLDON A. KEY, 1st Lt., O-2052463, JAGD, certify that on 12th day of November, 1945, personally appeared before me FUSAKICHI OTANI, and gave the foregoing answers to the several questions set forth; that after his testimony had been transcribed, the said FUSAKICHI OTANI read the same and affixed his signature thereto in my presence.

s/ Sheldon A. Key, 1st Lt., JAGD
t/ SHELDON A. KEY, 1st Lt., JAGD

R E S T R I C T E D

A Certified True Copy:

/s/ Ralph R. Bloodworth, 1st Lt., INF.

GENERAL McCUNNIFF: We will take a ten-minute recess.

(Short recess)

GENERAL McCUNNIFF: The Commission will please come to order.

CAPTAIN FURNESS: The Defense makes a motion to strike out one question and answer in that last Exhibit, which appears on page 3, the middle of the page, "Q. Do you know who had these aviators killed? A. I do not know, Sir, but such important things must be decided by the highest commander." I make the motion to strike that out.

GENERAL McCUNNIFF: Is that not an opinion of the witness?

CAPTAIN FURNESS: That makes it additionally objectionable.

GENERAL McCUNNIFF: Subject to objection by any member of the Commission, the motion of the Defense is overruled.

CAPTAIN STOKES: I have another document; I ask that it be marked, for the purpose of identification, as Prosecution Exhibit 7.

(To the witness) I hand you Prosecution Exhibit No. 7, and ask you to tell the Court what it is, if you know.

A Prosecution Exhibit No. 7 is a sworn statement made by Wakita on the 28th day of October, 1945, at POW Camp No. 1, Luzon, P.I.

Q Is that the same document?

A This is the statement and the original statement which was made by Wakita on that date and at that place and I know that because it is, in the questions and answers contained therein, in my own handwriting; each page thereof, excepting the last two pages, contains the initials of Wakita which were put on those pages in my presence and the next to the last page contains the signature of Wakita, which was made in my presence; the last page contains the signature of Wakita, which was made in my presence. It also contains my signature on that page.

Q Did you inform him that he did not have to make a statement -- that it could be used against him later on?

A I do not exactly recall what I told Wakita in that regard, excepting that I do remember that at the time this statement was taken I did not expect to take a statement in writing from him and have a statement signed by him when I first began to talk to him. I remember distinctly that he began telling me a story of what had happened on Batan Island and that I told him that I wanted him to tell

me nothing except the truth regarding that. He was then put under oath and voluntarily made this statement telling me that, "I desire to tell the truth."

Q Did you make any promises or any threats?

A I made no promises nor any threats nor used duress in any way and this statement was entirely voluntary on the part of Wakita.

CAPTAIN STOKES: Sir, I now ask that this be incorporated into the evidence and that we be allowed to substitute a certified, true copy for the original.

CAPTAIN MURTAUGH: The Defense Counsel for Wakita objects upon the following grounds: First, this has been a confession; second, this is not an admission against the interests of the Defendant who made this statement and, third, it does not involve him in any way, it simply is a statement made against the other Defendants and would not even be admitted as a confession.

LIEUTENANT BLOODWORTH: If the Commission please, we do admit that this confession of Wakita gives less than his actual participation than the others. However, under the regulations governing this trial, we say it is clearly admissible.

CAPTAIN MURTAUGH: If the Commission would read that statement, I think they will see that it in no way refers to the confessor.

GENERAL McCUNIFF: I don't believe, Captain, that the Commission can read the statement before it is admitted into evidence.

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GENERAL McCUNIFF: Subject to objection by
any member of the Commission, the motion of the
Defense is overruled. The document will be admitted
into evidence.

(Prosecution Exhibit No 7
for identification was
received in evidence and
read into the record as
follows:)

R E S T R I C T E D

OSAMU WAKITA, after having been duly sworn, testified at P.O.W. Camp #1 Luzon, P.I., on 28 October 1945, as follows:

Q What is your name, age, nationality, grade and home address?

A Osamu WAKITA, 31 years of age, Sergeant, Japanese, born in Formosa, and my wife now lives at #25 Sobun, Zenka, Province of Tainan, Formosa.

Q What dates were you a member of the Japanese Army?

A May 21, 1938 to present, except I was discharged October 3, 1941 until I was recalled May 26, 1944.

Q Where did you serve after May 26, 1944?

A I was recalled in Formosa and went to Batan Island, arrived there June 5 or 6, 1944 with Lt. Col. Hikoma (Hikozane) YOKOYAMA, commanding officer, Independent Infantry Bn #302.

Q Were you on Batan Island from then until your surrender?

A I was at Basco, Batan Island until June 11, 1944; then I was sent to Itbayat Island, where I remained until September 28, 1944. Then I returned to Basco and remained there until my surrender on September 23, 1945.

Q Who was your commanding officer?

A I belonged to Machine Troop Company, under 1st Lt. Kiichi KANEKO, Bn #302.

Q Who was commander of your battalion?

A Lt. Col YOKOYAMA until he left July 1, 1945. At that time Captain Masumi SAKASEGAWA succeeded him as our battalion commander.

Q Who was our adjutant for your battalion?

A Shigeichi FUJUYAMA, 1st Lt.

Q Who was the highest officer on Batan Island in October 1944?

A Lt. General Hikotaro TAJIMA. He was in command of Japanese forces in Batanes Islands from about middle of September, 1944 until the surrender on September 23, 1945.

Q Were you stationed in Basco during October, November, and December, 1944?

A Yes, I was.

Q During that period did your unit have any American prisoners at Basco?

A Yes. There were three U.S. aviators from torpedo bomber, I understand.

Q When were they captured?

A During the month of October, 1944. I saw two of these aviators; one was tall and stout, and the other was also tall but somewhat lean.

Q Where were they when you saw them?
A One was in the guardhouse, near the head office of the 61st Infantry Mixed Brigade; and the other--the lean one--was walking in the street at Basco, about 300 meters away from where the stouter one was kept in the guardhouse.

Q Who was with the lean American when you saw him?
A Two Japanese soldiers who were guarding him. I do not know their names.

Q What date did you see them?
A Sometime during the month of October, 1944, I think. I was with Lt. Col. YOKOYAMA and Interpreter INOUE at the time I saw the tallest aviator, who was a Lt. At this time Lt. Co. YOKOYAMA asked this aviator about the war situation in Southern Pacific. I and INOUE did the interpreting. Col. YOKOYAMA asked this aviator, through me, "Where were you shot down?" The aviator drew a picture of Luzon Island. He drew and wrote with his left hand and he said: "About 250 miles east of Aparri. My plane found the Japanese fleet and begun to attack one of them, but immediately we were shot down by the antiaircraft gun."

Q Do you know the names of these three aviators?
A No, I do not know.

Q Do you know to what unit these three U.S. aviators belonged?
A Only I know the officer we questioned said he was from the carrier Langley or Langer, I don't know exactly which.

Q Do you know what happened to these three U. S. aviators?
A They were separated and each kept by separate units of the Japanese forces at Basco. The lean one was kept by Battalion #405 under command of Major Kiyonobu NAKABAYASHI, I think at the company guardhouse. The aviator who was an officer, a lieutenant, was kept by the guard at the headquarters of Lt. Gen. TAJIMA which was in the Provincial Government building at Basco. I don't know about the third one but later on I heard he was kept by Battalion #302, my own battalion, under command of Lt. Col. YOKOYAMA. I didn't see him at our battalion.

Q Do you know where these three aviators are at this time?
A I heard they were killed by members of the unit near Basco.

Q What unit do you mean?
A The aviators--each was killed by the units or battalions by whom they were kept prisoners.

Q Do you know what officers killed these aviators?
A The one kept by Battalion #302 was killed by some officers of this battalion. The names of them I do not know. I heard the one kept by battalion #405 was killed by that unit, but I don't know whether he was killed by the officers or the soldiers.

Qq Do you know who killed the U.S. aviator who was a Lieutenant?

A I know he was killed but I don't know by whom he was killed.

Q When was this U.S. Lieutenant killed?

A About the month of November or December, 1944. I don't know the day.

Q Did you know of any officers or men who took part in the killings of these three U. S. aviators?

A Only I know is this, the one kept by Battalion #302 was killed by the officers of this unit, near Nakamaya, about four or five kilometers from Basco, northward.

Q What were the names of these officers?

A I heard 1st Lt. Kiichi KANEKO and 2nd Lt. TAIRA or TANIRA, who first name I do not know. I also heard Lt. Col. YOKOYAMA went to the place when this aviator was killed with an interpreter, whose name I do not know; but the only interpreter in our battalion at that time was INOUE.

Q Was Lt. Gen. TAJIMA in Basco when these three aviators were taken prisoners?

A Yes. He was in command and he must have investigated them.

Q Who ordered that these three aviators be killed?

A I believe and I heard that Lt. Gen. TAJIMA ordered these three aviators to be killed because without any order from the chief commander, Japanese soldiers and officers cannot do such things.

Q Can you tell us anything else concerning these killings?

A Once I heard the civilians of Basco knew about the killing of these aviators. One day, before they were killed, the three aviators were seen by many civilians when they were taking physical exercise. Major KAMEMOTO, chief of staff to Lt. Gen. TAJIMA, and Captain Masumi SAKASEGAWA were the investigators of these Americans through the interpretation of Masaki KAWACHI and OTANI, who were called as interpreters from Manila. I forgot to mention these aviators reached Batan Island somewhere near Balugan or Valugan (I don't know which is correct). These aviators were in a rubber lifeboat when they arrived at Batan Island. Then they were found in the forest or mountains near Basco by Japanese soldiers. I have tried to tell you about all what I know these aviators because I do not believe that such things are right. There is one more thing I want to add, After the armistice was announced, one U. S. transport plane landed at Basco. At that time one of the U. S. officers asked either Major KAMEMOTO or Lt. Gen. TAJIMA if there were American prisoners there in Basco. But the one questioned about this matter answered "no".

/s/ Osamu Wakita
/t/ OSAMU WAKITA

COMMONWEALTH OF THE PHILIPPINES)
)
PROVINCE OF LAGUNA) SS
)
MUNICIPALITY OF CABUYAO)

I, OSAMU WAKITA, of lawful age, being duly sworn on oath, state that I have read and understood the foregoing transcription of my interrogation and all answers contained therein, consisting of three (3) pages, are true to the best of my knowledge and belief.

/s/ Osamu Wakita
/t/ OSAMU WAKITA

Subscribed and sworn to before me this 28th day of October, 1945.

/s/ Sheldon A. Key
/t/ SHELDON A. KEY, 1st Lt,
JAGD

C E R T I F I C A T E

I, SHELDON A. KEY, 1st Lt., O-2052463, JAGD, certify that on the 28th day of October, 1945, personally appeared before me, OSAMU WAKITA, and gave the foregoing answers to the several questions set forth; that after his testimony had been transcribed, the said OSAMU WAKITA read the same and affixed his signature thereto in my presence.

/s/ Sheldon A. Key
/t/ SHELDON A. KEY, 1st Lt.,
JAGD

Cabuyao, Laguna, P. I.

28th October 1945

CERTIFIED A TRUE COPY:

/s/
Ralph R. Bloodworth, 1st Lt., INF

R E S T R I C T E D

CAPTAIN MURTUUGH: If it please the Commission, I would like to ask the Prosecution under what rule of evidence that statement was admitted?

CAPTAIN STOKES: This is an admission against interests. If you study even your Manual that you have before you (indicating), it would tell you if a man admits being present at a certain time, that it is an admission against interests. Such a statement is there. At the scene of any crime being investigated it is in the Manual if you care to look.

LIEUTENANT BLOODWORTH: If the Commission please, I don't care to go into greater detail. Clearly, under the regulations governing this trial --

CAPTAIN FURNESS: I don't see myself what crime it was at the present. It was on Batan Island. I do want to make a motion that certain questions and answers be stricken. "Q. Was Lieutenant Tajima in Basco when these three aviators were taken prisoners? A. He was in command and must have been investigated." I withdraw my request that that be stricken. The question I wish next should be stricken, "Q. Who ordered that these three aviators should be killed? A. I believe that I heard that Lieutenant Tajima ordered these three aviators should be killed, without any orders from the chief commander. Japanese soldiers and officers cannot do such things."

GENERAL McCUNNIFF: That is also a matter of opinion.

CAPTAIN FURNESS: Yes, sir.

GENERAL McCUNNIFF: Subject to objection by the Commission, the motion of the Defense is overruled.

CAPTAIN STOKES: Sir, I have here a confession by Masaki Kawachi and I ask that it be marked Prosecution's Exhibit No. 8.

(To the witness) I hand you Prosecution's Exhibit No. 8 for the purpose of identification and ask you to tell the Commission what it is, if you can.

A This is the confession of Masaki Kawachi. This statement was sworn to in my presence and was given by Masaki Kawachi on the 9th day of October, 1945, at the Luzon Prisoner of War Camp No. 1. It contains the signature of Masaki Kawachi on the last two pages thereof and he signed these pages in my presence. It also contains my signature in two places on the last page thereof and the other pages are initialed on the lower left hand corner by Masaki Kawachi and he made these initials in my presence. It has a few corrections written in ink on part of the pages thereof and these corrections are in the handwriting of Masaki Kawachi and he put his initials to these corrections in my presence. I desire to point out that there are a few statements, answers to questions, in this particular document, which, although made by Masaki Kawachi on the 9th day of October, 1945, at a later date he told me that he desired to have those answers changed, particularly I refer to --

CAPTAIN MURTAUGH: Sir, might I make a suggestion that that be pointed out as the Captain reads?

A I will point out those pages as the Captain reads it for the reason that we took an additional statement from Kawachi and we told him that he could make his corrections on that statement, and I think those questions are also referred to in that later statement.

LIEUTENANT BLOODWORTH: In that regard, we plan on introducing all three statements taken -- all three confessions of Masaki Kawachi. I think that will clear it up for the Commission, Sir.

A In justice to Mr. Kawachi, I wish to point out that he did not sign this statement without requesting that the corrections be made on this, but since they had already been typed, I advised him that we would make the corrections in the additional statement.

Q Do you recall if you told him at that time that he did not have to make any statement to you?

A I advised Masaki Kawachi that he need not make any statement which would incriminate himself in any way and that, if he did make a statement, that any admissions he made therein might be used against him. He informed me that he understood this and he did make this statement voluntarily.

Q Did you offer any promises or make any threats in obtaining this statement?

A I made no promises nor were any threats or duress used in the taking of this statement.

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CAPTAIN STOKES: I now ask that we be allowed to introduce this into evidence as Prosecution Exhibit 8.

GENERAL McCUNIFF: It will be accepted.

(Prosecution Exhibit No. 8 for identification was received in evidence and read into the record as follows)

RESTRICTED

MASAKI KAWACHI, after having been duly sworn, testified at Prisoner of War Camp #1, Luzon, P. I., on 9 October 1945, as follows:

Q State your full name, grade, organization and nationality?
A MASAKI KAWACHI, (Christian name GEORGE), superior private, 61st Independent Mixed Brigade, Imperial Japanese Army, and my nationality, Japanese. I am 32 years of age.

M.K. I was not in reality superior private but a civilian treated as a superior private. I was taken as civilian interpreter.

Q What is your home address?

A Province of HIROSHIMA-KEN, Division of TOYOTA-GUN, Town of NISHIIKUCHIMURA, and Barrio of AZA-TARUMI, Japan.

Q Where did you live before the war?

A I was living at San Jacinto Street, Pasig, Rizal, P.I.

Q Are you married?

A Yes, sir.

Q What is your wife's name?

A Adela Raymundo KAWACHI.

Q What is her age and present address?

A She is 35 years old and residing at San Jacinto Street, Pasig, Rizal, P.I.

Q Do you have any children?

A Yes. Reynaldo KAWACHI, 8 years old; Junior KAWACHI, 6 years; Akibo KAWACHI, 4 years; and Sumiko KAWACHI, 2 years old.

Q How can we get in touch with your wife?

A See the Mayor of Pasig, Rizal, P.I., Mr. Cipriano RAYMUNDO. My wife is his niece.

Q Where were you educated?

A When I left Japan, Grade II, I was then 8 years old, and came to Manila, P. I. in 1915, and I resided in Manila until 1944. On September 16, 1944 was drafted into the Japanese Army.

M.K. I was not drafted to the Army as soldier but merely as an interpreter.

Q Did you graduate from any school in Manila, P.I.?

A I finished the Pre-Law at Ateneo de Manila, P.I.

Q What was your occupation at that time?

A I had a small garment factory in Pasig, Rizal, P.I.

Q Who were your closest friends in Manila outside of your

family?

A I had my uncle Ramon VICTORIO, who is living on Solis Street, Tondo, Manila, P. I. and who was the former Director of Prisons.

M.K. Above address should be: St. Saler, Sta. Cruz, Manila, P.I. My uncle owns pawnshop at first address.

Q Where was your unit located when it surrendered?

A Basco, Batanes, P.I. This was headquarters of the 61st Independent Mixed Brigade under Lt. Gen. HIKOTARO TAJIMA, Imperial Japanese Army.

Q Did you surrender to a part of the 37th Division, U. S. Army, led by Lt. Col. COOPER?

A Lt. Col. COOPER was in charge when we were taken off the Batan Island and we were taken to Aparri, Cagayan, Luzon, P.I. I went with Lt. Col. COOPER to Fuga Island where Major TANAKA, first name I don't remember, surrendered the Fuga Island garrison of the 61st Independent Mixed Brigade, Imperial Japanese Army.

Q Under what command was Lt. Gen. HIKOTARO TAJIMA and his 61st Independent Mixed Brigade during the time he was at Basco, Batan Island, P. I.?

A He had been under the command of the 14th Japanese Army in the Philippines which was under TOMUYOKI YAMASHITA, but due to the breakdown of communication about one month before we surrender, some of the higher officers under Lt. Gen. TAJIMA and his Brigade had been transferred to Formosa. On 15 September 1945, we got from Formosa that the war ended but Formosa directed that Lt. Gen. TAJIMA got his order of surrender from General TOMUYOKI YAMASHITA.

Q What type of unit was the 61st Independent Mixed Brigade?

A It was composite of infantry, communication, Formosan Labors and 901st Navy Air Forces were connected with it. Lt. Gen. TAJIMA commanded all of the 61st Independent Mixed Brigade and was stationed at Basco, Batan Island, P.I., for his forces were scattered all over the Batan Islands and the Babuyan Island Group, north of the north coast of Luzon, P. I.

Q When did you arrive at Batan Island, P.I.?

A It was on November 17 or 18, 1944. I left Manila, P. I., Sept. 16, 1944.

Q How long had Lt. Gen. HIKOTARO TAJIMA been in Basco, Batan Island, P. I.?

A According to what I heard he went there during the month of September 1944 and came direct from Japan, and came prior the time there was a battalion from the Formosan Forces. I do not know the name of the unit. The first commander of the Batan Island who came there, I believe, was Captain Masumi SAKASEGAWA. He commanded one company and arrived there in June 1944, and then

it was enlarged into a battalion, the commander of which was Lt. Col. YOKOYAMA, whose first name I do not know. YOKOYAMA went back to Formosa in July or August 1945.

Q Over what islands was Lt. Gen. HIKOTARO TAJIMA in command?

A He was in command of all the islands of Batan and Babuyan groups.

Q Do you know the names of the Japanese officers on Lt. Gen. TAJIMA's staff?

A Major TETUO KAMEMOTO, Chief of Staff; Major KAZUO NIWA, Chief of Medical Staff; Major NAKAJIMA or Major AKIRA NAKASHIMA, Chief Adjutant to the General; Major KIYONOBU NAKABAYASHI, Battalion Commander on Basco, Batan Island, P. I. and directly in charge of the Japanese garrison at Basco, Batan, P. I.; Major MOTOMURA, Chief of Veterinary Department; and Major MASAO SUZUKI, Chief of Commissary Supply.

Q You mentioned Major TANAKA as commander of the forces of Fuga Island, do you know how long he had been in command of that island?

A He stayed there one year prior to the 22 or 23 September 1945.

Q Do you know the names of any other Japanese officers under the command of Lt. Gen. TAJIMA?

A Captain MASUMI SAKASEGAWA was battalion commander on Batan Island, after Colonel YOKOYAMA left. There were two battalion officers in Basco, Batan Island, Captain HIDEO SUZUKI was in the office of the Chief of Staff, Major TETUO KAMEMOTO. Captain TAKEO MIZUTANI, he was in charge of transportation; Lt. NISHIDA, whose first name I do not remember, was under Major MASAO SUZUKI; 1st Lt. TORAZO SUZUKI served as Liaison Officer between the civilians and the Japanese Army.

Q Who was in charge of discipline?

A Major AKIRA NAKASHIMA, Adjutant to Lt. Gen. HIKOTARO TAJIMA.

Q Who was in charge of the civilian government on Batan Island, P. I.?

A Victor de PADUA, Filipino puppet governor of Batan Island.

Q Do you know the first names of the Japanese officers whose first names you failed to mention?

A I do not know.

Q Do you know whether Lt. Gen. HIKOTARO TAJIMA ever took as prisoners any members of the U. S. Forces when he was in command at Batan Island?

A I have heard three American aviators were caught there,

two NCOs and one officer whom I believe was a captain.

Q Do you know their names?

A I believe one of the NCOs was MARTIN and I think the first name was SAMUEL and the captain was WILLIAM, whose last name I do not know for I just heard this from the Filipino civilians.

Q Do you know where we can find these three U. S. aviators now?

A From what I heard they were killed there by the Lt. Gen. TAJIMA garrison. I was told this members of the Lt. Gen. TAJIMA's unit whose names I do not know, who were at Basco when they were killed. It was known among the Japanese soldiers and the Filipino civilians at Basco, Batan Island, P. I. It was no secret.

Q Do you know when these three U. S. aviators were killed?

A It was in the month of November 1944 but it must be prior to that when I arrived there about 17 or 18 November 1944.

Q Do you know when these three U. S. aviators were taken prisoners?

A I have heard they were taken prisoners one month prior to the time they were killed, that those three aviators were members to a group of U. S. aviators who were moving around northern Luzon. According to the civilians, their plane was shot and they arrived there by a rubber boat.

Q Do you know how these three U. S. aviators were killed?

A I think they were bayoneted to death.

Q Do you know where their bodies were buried?

A I heard they were buried in different places. The captain was buried about 200 yards back of Basco between Mount Ilaya and Basco, I think north east of Basco. The other two I do not know.

Q Who was in command of the Batan Island when these three U. S. aviators were killed?

A Lt. Gen. HIKOTARO TAJIMA was in command.

Q Were all the officers you mentioned under the command of Lt. Gen. TAJIMA continuously after he arrived there in September 1944?

A Yes, sir.

Q Do you know why these aviators were killed?

A According to what I heard after they were confined separately in three different houses and I heard that one of them tried to escape and that is why they were killed.

Q Do you know the names of any of these fellow Japanese soldiers who told you about this?

- A I do not remember the names who told me for I was newly arrived there.
- Q Do you know who killed these three U. S. aviators?
- A I was told that a Japanese officer and Japanese soldiers did it. I have heard that that Japanese officer was dead by the second bombing of Basco, Batan Island, P. I.
- Q Do you know what battalions these Japanese officers and soldiers who killed these three U.S. aviators belonged to?
- A Under Major KIYONOBU NAKABAYASHI. This battalion was at Basco at that time and the battalion was north of Basco in a small barrio called Diptan.
- M.K. I said under Maj. NAKABAYASHI because he was in charge of Basco district but they might be some officers of other battalion.
- Q Do you know to what command of unit these three U. S. aviators belonged to?
- A No, sir.
- Q Do you know whether Lt. Gen. HIKOTARO TAJIMA and Major TETUO KAMEMOTO had anything to do with the killing of these three U. S. aviators?
- A I think so because all orders must have come from the superior commander at Basco, Batan Island, P. I.
- Q Do you know whether any other U. S. aviators were taken prisoners at Fuga Island, P. I.?
- A I do not know anything about that.
- Q You mentioned that you believed that these three U. S. aviators were killed on orders of high command, on what do you base your statement?
- A I think the orders came from Lt. Gen. TAJIMA, because the orders came from the superior officers although it is of slightest degree and things must be so ordered in the Japanese army. There is very strict discipline in the Japanese Army regarding subordinates taking initiative in any orders. The 61st under the command of Lt. Gen. TAJIMA, a well disciplined unit, it is not likely there would be any disobedience of any kind.
- Q Do you know of any other persons being killed by Lt. Gen. TAJIMA's unit?
- A Yes, in April or May, 1945, 79 to 80 Filipino civilians who were residents of Batan Island and Sabtang Island were executed on order of Lt. Gen. HIKOTARO TAJIMA. I know about this because I acted as interpreter during the investigation to their deaths as they were suspected they murdered 13 Japanese soldiers on Sabtang Island. Lt. TORAZO SUZUKI, whom I mentioned, was in charge of this investigation and all the accused were from Batan Island and Sabtang Island. There were 150 men arrested and we did not conduct trial of this but we call on them

and question them. We took records of all these 150 men and some of them admitted were and so far as I know the only ones who admitted were the ones executed, but I looked at the papers after the investigation, and all the 80 men were directly with the killing of the 13 Japanese soldiers.

Q Do you know the names of these Filipino civilians who were executed?

A Former Governor Juan AGUDO; Mayor Jose CASTANO of Ivana, Batan Island, P. I. 1st Lt. Teofilo VALONES who was formerly a member of the USAFFE of General MACARTHUR and who partook in the Bataan Peninsula fight in 1942, escaped and we did not take him in the custody. Telesforo CABAL, a 2d Lt., also escaped. These Filipino officers came from Bataan after the fall of Manila. These two officers secretly organized a secret organization with the knowledge of the Governor.

Q On what date were these Filipino civilians killed?
A The Japanese were supposedly killed April 25, 1945 and the investigation began about in May 1945 and it took two months in 1945. The men were executed on different dates during July and August 1945.

Q Was Lt. Gen. HIKOTARO TAJIMA under the command of General TOMUYOKI YAMASHITA when these three U. S. aviators were killed?

A Yes sir.

Q Was Lt. Gen. HIKOTARO TAJIMA under the command of General TOMUYOKI YAMASHITA when these Filipino civilians were killed?

A I am not sure because we had transferred to Formosa due to the breakdown of communication about a month before surrender on September 22, 1945.

/s/ Masaki Kawachi
/t/ MASAKI KAWACHI

COMMONWEALTH OF THE PHILIPPINES)
)
PROVINCE OF LAGUNA) SS
)
MUNICIPALITY OF CABUYAO)

I, MASAKI KAWACHI, of lawful age, being duly sworn on oath, state that I have read and understood the foregoing transcription of my interrogation and all answers contained therein, consisting of five (5) pages, are true to the best of knowledge and belief.

/s/ Masaki Kawachi
/t/ MASAKI KAWACHI

Subscribed and sworn to before me this 24 day of October, 1945.

/s/ Sheldon A. Key, 1st Lt., JAGD
/t/ SHELDON A. KEY, 1st Lt., JAGD

C E R T I F I C A T E

We, SHELDON A. KEY, 1st Lt., 02052463, JAGD, and JOHN B. HART, 2d Lt., 042912, USMC, certify that on 9th day of October, 1945, personally appeared before us MASAKI KAWACHI, and gave the foregoing answers to the several questions set forth; that after his testimony had been transcribed, the said MASAKI KAWACHI read the same and affixed his signature thereto in our presence.

Cabuyao, Laguna
Philippine Islands

/s/ Sheldon A. Key, 1st Lt., JAGD
/t/ SHELDON A. KEY, 1st Lt., JAGD

24 October 1945

/s/ John B. Hart, 2d Lt., USMC.
/t/ JOHN B. HART, 2d Lt., USMC.
Investigating Officer, War
Crimes Investigating Detachment

CERTIFIED TRUE COPY:

/s/ Ralph R. Bloodworth
1st Lt Inf.

CAPTAIN STOKES: (To the witness) For the record you may state the parts that were corrected.

THE WITNESS: In this statement which was just read, the same being the statement of Kawachi dated October 9th, 1945, which was signed by him in my presence on the 24th day of October, 1945, I wish to point out that those parts, particularly those referring to the execution of the three United States aviators on Batan, were corrected in a later statement made by Kawachi. This correction was made by him voluntarily.

CAPTAIN FURNESS: You have, of course, no personal knowledge of which was correct and which was not correct?

THE WITNESS: I have no personal knowledge except the statements speak for themselves and excepting that Masaki Kawachi told me that he had not told the whole truth in this statement of 9 October, 1945, and that he desired that these corrections be made in the additional statement.

CAPTAIN FURNESS: Just so the record may be clear, did he add the parts which were initialed after 9 October 1945, but before he signed it on the 24th of October 1945?

THE WITNESS: He did.

GENERAL McCUNIFF: The Commission will recess until 8:30 tomorrow morning.

(Whereupon at 1615 hours, 3 January 1946, the trial was adjourned until 0830 hours, 4 January 1946.)