

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST

TRANSCRIPT OF PROCEEDINGS

JULY 29, 1946

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901772

DAVID NELSON SUTTON

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No. 37
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1 Monday, 29 July, 1946

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4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment, at
10 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before.

14 For the Prosecution Section, same as before.

15 For the Defense Section, same as before.

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19 (English to Japanese, Japanese to
20 English, English to Chinese, and Chinese to
21 English interpretation was made by the
22 Language Section, IMTFE.)
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MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now in session and ready to hear any matter brought before it.

THE PRESIDENT: Until I announce otherwise, it is to be taken that at the commencement of each session all the accused are present except OKAWA, and that OKAWA is represented by counsel.

Does any counsel desire to mention any matter?

MR. UZAWA: Mr. President, if the Court please, Dr. TAKAYANAGI, chief defense counsel for the defendant SHIGEMITSU, Mamoru, has resigned, and Mr. YANAI, Tsuneo has taken his place.

The chief defense counsel for the defendant SUZUKI, Teichi, counsel HASEGAWA, has resigned and his associate, Dr. TAKAYANAGI has taken his place.

MR. SUTTON: May it please the Tribunal, the prosecution desires to call as its next witness Hsu, G. J., a citizen of the Republic of China, who has some knowledge of the English language but desires to testify in his native language, Chinese.

THE PRESIDENT: Mr. Levin.

MR. LEVIN: Mr. President, would'nt it be wise, and I suggest the advisability of first examining the witness in English and see if he can testify satisfactorily in the English language. If he cannot, then he

1 might proceed in Chinese.

2 THE PRESIDENT: We think that he should be
3 examined in his own language if he wishes.

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HSU

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1 G. J. H S U, called as a witness on behalf of the
2 prosecution, being first duly sworn, testified
3 as follows:

4 DIRECT EXAMINATION

5 MR. SUTTON: May it please the Tribunal, we
6 desire to offer International Prosecution document 2118,
7 and ask that it be marked as an exhibit in this case.

8 DEPUTY CLERK OF THE COURT: Prosecution docu-
9 ment No. ~~2118~~ will receive exhibit No. 209.

10 (Whereupon, the document above
11 referred to was marked prosecution's exhibit
12 No. 209 for identification.)

13 BY MR. SUTTON:

14 Q What is your name?

15 A My name is Hsu Chieh-chun.

16 Q Where do you live?

17 A I am living at No. 473 Kiangse Road, Shanghai.

18 Q You have before you exhibit No. 209. Will
19 you please state whether or not you signed that paper?

20 A Yes.

21 THE PRESIDENT: Well, he did not have it
22 before him, did he? Better ask him again.

23 (Whereupon, a document was handed to
24 the witness.)

25 Q You have before you exhibit No. 209. Will you

HSU

DIRECT

1 please state whether or not you signed that paper?

2 A Yes, they were signed by me.

3 Q Are the facts stated therein true and correct?

4 A They were all true.

5 MR. SUTTON: I desire to read the paper into
6 the record.

7 THE PRESIDENT: Better tender it first. It
8 is only for identification so far.

9 MR. SUTTON: We offer in evidence exhibit
10 No. 209 and ask to be allowed to read it into the
11 record.

12 THE PRESIDENT: Admitted.

13 (Whereupon, prosecution's exhibit
14 No. 209 was received in evidence.)

15 MR. SUTTON: (Reading)

16 "I, G. J. Hsu, a citizen of the Republic of
17 China now residing at Shanghai, China, make the follow-
18 ing statement:

19 "I am thirty-three years old and I am General
20 Manager of the Oriental Development Corporation. The
21 principal office of this corporation was formerly at
22 Kunming in Yunnan Province. I have been connected with
23 this company, which deals with textiles, since 1938. I
24 was in Yunnan Province from 1939 until February, 1946,
25 except for a portion of this time that I was in Burma.

HSU

DIRECT

1 "In May, 1942, I was traveling on the Burma-
2 Yunnan highway when a bridge was bombed, stopping
3 traffic. Over 300 vehicles, trucks and cars, most of
4 them filled with Chinese refugees from Burma, could
5 not get across the Salween River. This group dis-
6 persed and tried to cross at other points. I was with
7 a group of about seventy, all civilians. The Japanese
8 troops seized this group, and had them sit down in
9 rows and took from each of us our watches, pens and
10 money. They took from me my fountain pen and over
11 20,000 rupees.

12 "The Japanese officers divided us into two
13 groups, about half, something over thirty, in each
14 group. One group was marched off into the mountains.
15 The remainder of us were required to remain seated
16 beside the river. We were seated almost in a circle.
17 A Japanese officer ordered a machine gun to be placed
18 at the opening in the circle, and open fire on our
19 group. I bent forward on the ground just as the
20 firing started and remained motionless. The men on
21 either side of me were killed and their bodies fell
22 on me. Their blood was on my clothes. I remained
23 among their bodies from around noon until about six
24 o'clock in the evening. Some Chinese civilians who
25

HSU

DIRECT

1 had been previously captured by the Japanese and made
2 to carry loads came through and I joined these laborers.
3 About thirty civilians of our group were killed. There
4 were two other survivors beside myself who joined the
5 same group of laborers, and began working with them
6 carrying lumber and taking it to the river bank and
7 doing other work during that night, and the next day
8 I saw over 1,000 bodies, mostly civilians, along the
9 road. I carried water from the river up to the
10 officers quarters the next day. The Chinese soldiers'
11 bodies appeared to have been stabbed with bayonets.
12 The bodies of the civilians were usually in rows or
13 groups. They had been shot.

14 "In the afternoon of that day I saw four
15 Japanese soldiers take two women into the hills and
16 when the women came back they were both crying. They
17 told me that they had been raped.

18 "On the third day I managed to escape
19 along with some local men who knew the roads in that
20 vicinity.

21 "In witness whereof I have herewith set my
22 hand and seal this 18th day of June 1946."

23
24 (Signed) "G. J. Hsu."
25

1 MR. SUTTON: Defense may cross-examine the
2 witness.

3 MR. BROOKS: No cross-examination, if the
4 Court please.

5 (Whereupon, the witness was excused.)

6 MR. SUTTON: The prosecution desires to call
7 as its next witness, Dr. M. S. Bates.

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BATES

DIRECT

1 M I N E R S E A R L E B A T E S, called as a wit-
2 ness on behalf of the prosecution, being first
3 duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. SUTTON:

6 Q Dr. Bates, will you please state your full
7 name?

8 A Miner Searle Bates.

9 Q When and where were you born?

10 A At Newark, Ohio; May 28, 1897.

11 Q Where did you receive your education?

12 A At Hiram College, Hiram, Ohio; at Oxford Uni-
13 versity in England; and in later years graduate work
14 in history at Yale and Harvard universities.

15 Q Where is your residence?

16 A At Nanking, China.

17 Q How long have you been a resident of China?

18 A Since 1920.

19 Q What is your business in China?

20 A Professor of history in the University of
21 Nanking.

22 Q Were you connected with any of the committees
23 which were organized in the late fall of 1937 at Nanking?

24 A Yes. I was a member, a founding member, of
25 the International Committee for Safety Zone in Nanking.

BATES

DIRECT

1 Q Will you please tell when this committee was
2 formed, and its function?

3 A This committee was set up in the last days
4 of November, 1937, anticipating the attack of the
5 Japanese Army upon Nanking.

6 Following the example of the international
7 committee organized by Father Jacquinot, a French
8 priest in Shanghai, which was of considerable help to
9 a large body of Chinese civilians there, we attempted
10 in Nanking to do something similar in our very different
11 conditions.

12 This committee was organized at first with a
13 Danish chairman, with German, British, and American
14 members. But because foreign governments withdrew
15 almost all of their nationals from the city, there were
16 at the time of the Japanese attack only Germans and
17 Americans remaining upon it.

18 The chairman was a distinguished German mer-
19 chant, Mr. John Raabe. This committee was assisted to
20 get into touch with the Chinese and Japanese commanding
21 officers through the communications and good officers of
22 the American, German, and British embassies. The
23 purpose was to provide a refuge in a small, non-
24 combatant zone where civilians might escape the dangers
25 of the fighting and actual attack.

BATES

DIRECT

1 Q Who was the secretary of this committee?

2 A Professor Lewis Smythe, professor of sociology
3 in the University of Nanking.

4 Q Did this committee make reports from time to
5 time?

6 A The committee expected that its chief duties
7 would be to provide housing and if necessary some food
8 during a period of a few days or possibly of a few
9 weeks when the city was under siege and when Chinese
10 civilian authority might have disappeared but Japanese
11 military authority would not yet have been established.

12 The actual event was very different, because
13 the Japanese attack and seizure of the city was swift.
14 But then the troubles began. The treatment of civi-
15 lians was so bad that the chairman and secretary of the
16 committee went regularly to any Japanese officials who
17 could be reached and soon began to prepare daily re-
18 ports of the serious injuries to civilians that occurred
19 within the safety zone. Over a period of several weeks
20 a total of several hundred cases, many of them compound
21 cases, involving groups and large numbers of individuals,
22 were thus reported in writing and orally to Japanese
23 officials. They were later published under the editor-
24 ship of Professor Shu-hsi Hsu, of Nanking University,
25 by the British firm of Kelly and Walsh, in Shanghai, in

BATES

DIRECT

1 the year 1939 or 1940.

2 Q By whom were most of these reports in writing
3 that were made -- change the question. Just disregard
4 the question. I will change it, please.

5 Whose signature appeared to most of these
6 reports that were made in writing by the International
7 Committee for the Nanking Safety Zone to the Japanese
8 authorities?

9 A Most of them were signed by Professor Smythe,
10 as Secretary, though part of them were also signed by
11 Mr. Raabe, as Chairman.

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1 Q Was there any resistance on the part of the
2 Chinese troops or any resistance on the part of the
3 Chinese people against the Japanese forces in the city
4 of Nanking after December 13, 1937?

5 A Greatly to the disappointment of the Chinese
6 population, and to the surprise of the small group of
7 foreign residents, there was no resistance of any
8 kind within the city. In the many conferences which
9 Mr. Raabe, Professor Smythe, and I had with Japanese
10 officials on the matter of atrocities, we found that
11 the Japanese officials never in any way alleged that
12 there was resistance or gave any such excuse for the
13 attacks upon civilians. One case only, about ten
14 days after the entrance in the city, involved a single
15 sailor on the river.

16 Q Did you conclude your answer?

17 A The answer to that question?

18 MR. McMANUS: Mr. President, Members of the
19 Tribunal, may I point out at this time that, in lieu
20 of an objection to this testimony, that -- to call
21 the Court's attention that no conspiracy has been
22 established as yet. Not one of these accused has been
23 tied in in any way to a conspiracy charge so far. So,
24 in view of that, if your Honor pleases, how do these
25 atrocity stories affect the accused? I ask your

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DIRECT

1 Honors, and I think that such testimony as this
2 should not be permitted until the time that one of
3 these men -- or at least a semblance of a prima-
4 facie case is established,

5 THE PRESIDENT: We are all of the opinion
6 that the link can be established at any stage of the
7 trial. Of course, if it isn't established, why,
8 there is no case in conspiracy. But the order of
9 evidence isn't that you must give evidence of a con-
10 spiracy first.

11 We have already given a decision on this
12 point, if my recollection serves me rightly.

13 MR. McMANUS: Thank you, your Honor.

14 THE PRESIDENT: The objection is overruled.

15 Q What was the conduct of the Japanese soldiers
16 toward the civilians after the Japanese were in con-
17 trol of the city of Nanking?

18 A The question is so big, I don't know where
19 to begin. I can only say that I, myself, observed a
20 whole series of shootings of individual civilians
21 without any provocation or apparent reason whatso-
22 ever; that one Chinese was taken from my own house
23 and killed. From my next door neighbor's house two
24 men, who rose up in anxiety when soldiers seized and
25 raped their wives, were taken, shot at the edge of

BATES

DIRECT

1 the pond by my house, and thrown into it. The bodies
2 of civilians lay on the streets and alleys in the vi-
3 cinity of my own house for many days after the Japan-
4 ese entry. The total spread of this killing was so
5 extensive that no one can give a complete picture of
6 it. We can only say that we did our best to find out,
7 in checking up carefully upon the safety zone and
8 adjoining areas.

9 Professor Smythe and I concluded, as a
10 result of our investigations and observations and
11 checking of burials, that twelve thousand civilians,
12 men, women and children, were killed inside the walls
13 within our own sure knowledge. There were many
14 others killed within the city outside our knowledge
15 whose numbers we have no way of checking, and also
16 there were large numbers killed immediately outside
17 the city, of civilians. This is quite apart from the
18 killing of tens of thousands of men who were Chinese
19 soldiers or had been Chinese soldiers.

20 Q What were the circumstances under which the
21 former soldiers or alleged soldiers were killed?

22 A Large parties of Chinese soldiers laid down
23 their arms, surrendered, immediately outside the
24 walls of the city and there, within the first seventy-
25 two hours, were cut down by machine gun fire, mostly

BATES

DIRECT

upon the bank of the Yangtze River.

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2 We of the International Committee hired
3 laborers to carry out the burials of more than
4 thirty thousand of these soldiers. That was done as
5 a work relief project inspected and directed by us.
6 The number of bodies carried away in the river, and
7 the number of bodies buried in other ways, we can-
8 not count.

9 Within the safety zone a very serious prob-
10 lem was caused by the fact that the Japanese officers
11 expected to find within the city a very large number
12 of Chinese soldiers. When they did not discover the
13 soldiers, they insisted that they were in hiding with-
14 in the zone and that we were responsible for conceal-
15 ing them. On that theory, Japanese military officers
16 and non-commissioned officers were sent among the
17 refugees in the safety zone day after day for about
18 three weeks attempting to discover and seize former
19 soldiers. It was their common practice to require
20 all able-bodied men in a certain section of the zone,
21 or in a certain refugee camp, to line up for inspec-
22 tion and then to be seized if they had callouses upon
23 their hands or the marks of wearing a hat showing on
24 the skin of the forehead.

25 I was present throughout several of these

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DIRECT

1 inspections and watched the whole process. It was
2 undoubtedly true that there were some soldiers --
3 former soldiers among these refugees, men who had
4 thrown away their arms and uniforms and secured
5 civilian clothes. It was also clearly true that the
6 majority of the men so accused or seized -- and
7 seized were ordinary carriers and laborers who had
8 plenty of good reasons for callouses on their hands.
9 The men so accused of having been soldiers were
10 seized, taken away, and, in most cases, shot immed-
11 ately in large groups at the edges of the city.

12 In some cases a peculiar form of treachery
13 was practiced to persuade men to admit that they had
14 been soldiers. Using the proclamation issued by
15 General MATSUI before the Japanese Army took Nanking,
16 and distributed widely by airplane, the proclamation
17 which declared that the Japanese Army had only good
18 will for peaceful citizens of China and would do no
19 harm to those who did not resist the Imperial Army,
20 Japanese officers tried to persuade many Chinese to
21 come forward as voluntary workers for military labor
22 corps. In some cases these Japanese officers urged
23 Chinese men to come forward, saying, "If you have
24 previously been a Chinese soldier, or if you have
25 ever worked as a carrier or laborer in the Chinese

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DIRECT

1 Army, that will all now be forgotten and forgiven if
2 you will join this labor corps." In that way, in
3 one afternoon, two hundred men were secured from the
4 premises of the University of Nanking and were
5 promptly marched away and executed that evening
6 along with other bodies of men secured from other
7 parts of the safety zone.

8 Q What was the conduct of the Japanese sold-
9 iers toward the women in the city of Nanking?

10 A That was one of the roughest and saddest
11 parts of the whole picture. Again, in the homes of
12 my three nearest neighbors, women were raped, includ-
13 ing wives of University teachers. On five different
14 occasions, which I can detail for you if desired, I,
15 myself, came upon soldiers in the act of rape and
16 pulled them away from the women.

17 The safety zone case reports, to which we
18 have previously referred, and my own records of what
19 occurred among the thirty thousand refugees on the
20 various grounds and in the building of the University
21 of Nanking, hold a total of many hundreds of cases of
22 rape about which exact details were furnished to the
23 Japanese authorities at the time. One month after
24 the occupation, Mr. Raabe, the Chairman of the Inter-
25 national Committee, reported to the German authorities

BATES

DIRECT

1 that he and his colleagues believed that not less
2 than twenty thousand cases of rape had occurred. A
3 little earlier I estimated, very much more cautious-
4 ly and on the basis of the safety zone reports alone,
5 some eight thousand cases.

6 Every day and every night there were large
7 numbers of different gangs of soldiers, usually
8 fifteen or twenty in a group, who went about through
9 the city, chiefly in the safety zone because that's
10 where almost all the people were, and went into the
11 houses seeking women. In two cases, which I remember
12 all too clearly because I nearly lost my life in each
13 of them, officers participated in this seizing and
14 raping of women on the University property. The
15 raping was frequent daytime as well as night and
16 occurred along the roadside in many cases.

17 On the grounds of the Nanking Theological
18 Seminary, under the eyes of one of my own friends, a
19 Chinese woman was raped in rapid succession by seven-
20 teen Japanese soldiers. I do not care to repeat the
21 occasional cases of sadistic and abnormal behavior
22 in connection with the raping, but I do want to men-
23 tion that on the grounds of the University alone a
24 little girl of nine and a grandmother of seventy-six
25 were raped.

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1 Q What was the conduct of the Japanese soldiers
2 with regard to the personal property of Chinese civilians
3 in the City of Nanking?

4 A From the very hour of entry, the soldiers took
5 anything, at any time, from any place.

6 THE PRESIDENT: The witness must not hold back
7 anything because he thinks it is too horrible to tell
8 us.

9 THE WITNESS: I hardly know how to respond to
10 that invitation; but, unless I am questioned, I believe I
11 will let it go because my own personal knowledge does not
12 include any great number of the sadistic cases.

13 In the first days of the occupation the sold-
14 iers, whom we roughly guessed to be about fifty thousand
15 in number, took a great deal of bedding, cooking
16 utensils and food from the refugees. Practically every
17 building in the city was entered many, many times by
18 these roving gangs of soldiers throughout the first six
19 or seven weeks of the occupation. In some cases the
20 looting was well organized and systematic, using fleets
21 of army trucks under the direction of officers. The
22 vaults in the banks, including the personal safe deposit
23 boxes of German officials and residents, were cut open
24 with acetylene torches. On one occasion I observed a
25 supply column, two-thirds of a mile long, loaded with

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1 high-grade redwood and blackwood furniture.

2 After some months a few foreign residents
3 were given the opportunity to recover pianos taken
4 from their own houses, and they were led to a place
5 where more than two hundred pianos were in one storage
6 hall.

7 The foreign embassies were broken into and
8 suffered robbery, including the German Embassy and the
9 personal property of the Ambassador. Practically all
10 commercial property of any noticeable value was taken.

11 Q What was the conduct of the Japanese soldiers
12 toward the real estate, the buildings in the City of
13 Nanking after they were in complete control of that
14 city?

15 A On the very night of the entry the Japanese
16 forces placed adequate and effective guards upon the
17 Sun Yat-Sen tomb and upon the government and party
18 buildings. With the exception of one or two minor
19 fires, apparently started by drunken soldiers, there
20 was no burning until the Japanese troops had been in
21 the city five or six days. Beginning, I believe, on
22 the 19th or 20th of December, burning was carried on
23 regularly for six weeks. In some cases the burning
24 followed the looting of a line of stores, but in most
25 instances we could not see any reason or pattern in it.

BATES

DIRECT

1 At no time was there a general conflagration, but the
2 definite firing of certain groups of buildings each
3 day. Sometimes gasoline was used, but more commonly
4 chemical strips, of which I secured samples. *Root*

5 The other major problem in regard to real
6 property was the seizure of private property in order
7 to supply incoming Japanese residents. I leave aside
8 the taking of buildings for military purposes and
9 offices, and refer only to the fact that during 1938
10 and part of 1939 any Japanese merchant coming to
11 Nanking would receive a commercial and a residential
12 property taken from the Chinese by the gendarmerie or
13 the special service. I have again and again seen in
14 the streets outside their house a Chinese family put
15 out on twelve hours' notice. These included some dozens
16 of my own friends of many years.

17 Q Were the buildings of the Russian Embassy
18 burned by Japanese soldiers?

19 A Yes, ^{4 y} they were burned at the beginning of
20 1938. Also, ^(The Russian Embassy building) just to illustrate the range of burning,
21 the Y. M. C. A. building, two important church build- *R note*
22 ings, the two chief German commercial properties with
23 the Swastika flying upon them, were among those burned.

24 Q Did you personally make to the Japanese *and*
25 authorities reports as to the conduct of the soldiers

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DIRECT

1 in the City of Nanking?

2 A Yes. On four or five occasions I accompanied
3 Mr. Raabe and Dr. Smythe in their interviews with the
4 officials in the Japanese Embassy, who were sent there by
5 the Gaimusho in an effort to provide cushions between
6 this little group of foreign residents and the Japanese
7 military. Furthermore, because the University of
8 Nanking was immediately adjoining the Japanese Embassy,
9 and because it was a very large and important test case
10 of American property with the American flag, and this
11 large number of refugees, it was agreed between Mr.
12 Raabe and myself that I should make supplementary
13 reports on behalf of the University. Almost daily
14 for the first three weeks I went to the Embassy with a
15 typed report or letter covering the preceding day, and
16 frequently had also a conversation with the officials
17 regarding it. These officials were Mr. T. FUKUI, who
18 had the rank of consul, a certain Mr. TANAKA, vice-
19 consul, Mr. Toyoyasu FUKUDA. The latter is now secre-
20 tary to the Premier YOSHIDA. These men were honestly
21 trying to do what little they could in a very bad situa-
22 tion, but they themselves were terrified by the military
23 and they could do nothing except forward these communi-
24 cations through Shanghai to Tokyo.

25 THE PRESIDENT: We recess now for fifteen minutes.

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(Whereupon, at 1045, a recess was taken until 1112, after which the proceedings were resumed as follows:)

MARSHAL OF THE COURT: The Tribunal is now resumed.

THE PRESIDENT: Mr. Sutton.

BY MR. SUTTON (Continued):

Q I believe you had not completed your answer to the last question.

A I should like to read a few sentences from these daily typewritten reports given to the officers in the Japanese Embassy. I will do this from my own notes made last month from the carbon copies of the originals. These copies are on file in the American Embassy at Nanking. The originals are in my own baggage which I believe to be on board ship between the United States and China at this time.

MR. MCMANUS: Mr. President, I think the witness is capable of testifying himself without offering any notes, particularly copies. He said he has the originals, are not here, and he is very capable of testifying himself. I don't see why any notes should be offered to the Court.

THE PRESIDENT: Well, if the strict rules of evidence applied, he would have to refresh his memory

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1 if he needed to do so, from notes made at the time.
2 But they don't apply, and substantially your position
3 is not affected. There is no reason why, if he needs
4 to refresh his memory, he should not use these copied
5 notes that he made from the original. The objection
6 is overruled.

7 MR. McMANUS: Mr. President, if the witness
8 uses these notes, may we examine them?

9 THE PRESIDENT: The Tribunal will allow you
10 to peruse the notes if you have any doubt about them.

11 THE WITNESS: If the Court pleases, my purpose
12 is only to state with a little more accuracy exactly
13 what I reported to the Japanese officers in the Japanese
14 Embassy.

15 A (Continuing): In the letter of December 16th
16 I complained of many cases of abduction of women from
17 the University's properties and of the rape of thirty
18 women in one University building the previous night.

19 In the letter of December 17th, besides detailing
20 the specific cases by rote, the reign of terror and
21 brutality continues in the plain view of your buildings
22 and among your own neighbors.

23 In the letter of December 18th I reported that
24 on the previous night rape had occurred in six different
25 buildings of the University of Nanking. For three days

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1 and three nights many of the thousands of women on
2 our property had not been able to sleep and, in the
3 hysterical fear that was developing, violent incidents
4 might occur. I reported the saying common among the
5 Chinese that where the Japanese Army is, no house
6 or person is safe.

7 In a letter of December 21st, I complained that
8 many hundreds of refugees had been taken away for
9 forced labor. My own house had just been looted for
10 the fourth time by Japanese soldiers and, indeed,
11 every University house was being regularly entered.
12 I also reported that for the second time the American
13 flag had been torn down from the American school and
14 trampled by Japanese soldiers who issued a threat of
15 death to anyone who would put up the flag again.

16 I may say in passing, this was not in this par-
17 ticular letter, that the American flag was torn down
18 six times from the University of Nanking and six times
19 we put it up again.

20 THE PRESIDENT: That is not evidence of any
21 war crime.

22 A (Continuing): On Christmas Day I reported
23 that in one building of the University about ten
24 cases per day of rape and abduction were continually
25 occurring.

1 On the 27th of December, after a long list
2 of individual cases, I wrote: "Shameful disorder
3 continues and we see no serious efforts to stop it.
4 The soldiers every day injure hundreds of persons most
5 seriously. Does not the Japanese Army care for its
6 reputation."

7 THE PRESIDENT: He is not refreshing his
8 memory from his notes. He is just reading them.

9 THE WITNESS: These are sufficient to show
10 the nature of the reports and the way in which they
11 were clearly or even strongly stated.

12 THE PRESIDENT: This sort of thing is only
13 provoking the defense which I am saving time by
14 anticipating it.

15 Q How long did the conduct on the part of the
16 Japanese soldiers which you have detailed continue
17 following the fall of the City of Nanking on December
18 13th, 1937?

19 A The terror was intense for two and one-half
20 to three weeks. It was serious to a total of six to
21 seven weeks.

22 Q What measures did the Japanese military
23 authorities take to control the troops?

24 A We were assured by the civil officials in
25 the Embassy that on several occasions strong orders

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were sent from Tokyo to restore order in Nanking.

1 We saw no significant results of such orders until the
2 coming of some kind of high military deputation about
3 the fifth or sixth of February. At that time, as
4 slightly indicated in the newspapers and more fully
5 by foreign diplomats and by a Japanese friend who
6 accompanied the deputation, I learned that a high
7 military officer called together a large body of
8 lower officers and non-commissioned officers, telling
9 them very severely that they must better their conduct
10 for the sake of the name of the Army.
11

12 Prior to that time we saw and heard of no
13 instance of effective discipline or penalty inflicted
14 upon soldiers who were seen by high officers in the
15 very act of murder and rape. On three or four occasions,
16 Mr. Raabe and other members of the committee were
17 in the presence of high officers when they saw the
18 shooting or bayoneting of a civilian or an act of
19 rape. In each case the soldier was required to give
20 an extra salute to the officer and an oral reprimand
21 was administered but the name of the soldier was not
22 taken nor was there any other indication of discipline.
23 It was impossible for us neutral observers to report
24 the names of individual criminals because there was
25 no name or number worn upon the outside of the uniform

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1 and, during the first weeks of the occupation, there
2 was not even an indication of the unit to which a
3 soldier belonged.

4 The several officers in the Embassy declared
5 that one great reason for difficulty was the small
6 number of military police or gendarmes available which,
7 at the moment of occupation, they declared to be
8 seventeen in number. After, three days after the
9 entry, the civil officials secured from high officers
10 of the gendarmerie certain small posters or proclama-
11 tions to be put up at the entrance to foreign property
12 ordering all soldiers to keep away. Not only did the
13 soldiers daily disregard these proclamations from the
14 gendarmerie headquarters but they also frequently
15 tore them down. I took several of these torn pro-
16 clamations to the Japanese Embassy for transmission
17 to the gendarmerie. After February sixth or seventh
18 there was a noticeable improvement in the situation
19 and, although many serious cases occurred between then
20 and summer, they were no longer of a mass and whole-
21 sale character.

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Q Who was the commanding general of the Japanese forces at the time of the capture of the City of Nanking during the remainder of December, 1937, and January, 1938?

A We were not aware of any one local commander at Nanking, since each detachment or butai seemed to be independent. However, the official proclamations and the general statements of the newspapers, including the Japanese newspapers, indicated that General Iwane MATSUI was in command for the Shanghai-Nanking region.

Q Were the Chinese allowed to conduct private business following the occupation of the City of Nanking by the Japanese soldiers?

A There was no general prohibition of Chinese private business, although as a matter of fact so many of the business men lost their commercial property by looting and burning and lost their store buildings by confiscation for the use of Japanese merchants that there were dealt very heavy blows at the beginning. Then monopolies and exclusive controls were set up which reserved transportation, banking, the wholesale trade in rice, cotton, metals, and building materials for Japanese concerns.

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1 MR. McMANUS: Mr. President, may I enter
2 an objection at this time as to the relevancy of this
3 particular type of testimony, and also an objection
4 on the ground that the testimony now is becoming
5 repetitious, and I am requesting the Court to per-
6 mit me to make that objection.

7 THE PRESIDENT: I take the evidence to be
8 directed to the provisions of The Hague Convention,
9 requiring belligerents to respect property rights.
10 It rests with the prosecution, of course, to es-
11 tablish the connection between the accused and this
12 conduct which is testified to. I fail to notice any
13 repetitious evidence here. The objections are
14 overruled.

15 THE WITNESS: A further difficulty was
16 caused by the pressure put upon many Chinese
17 business men to accept Japanese partners. In
18 many cases this was done by the direct instruction
19 of the gendarmerie or the special service. In other
20 cases it was done by the threat that the Chinese
21 business man could not receive permits, or carry
22 on his business freely unless there was a Japanese
23 whose name could be used to secure such permission.
24 Among my friends were many such business men
25 who were required to admit Japanese partners, men

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1 who invested no capital but were given influence of
2 control and a share of the profits in return for that
3 power to get permits from the controlling military
4 authorities. The controls were employed in a way
5 desperately injurious, not only to Chinese business
6 men but also to producers and consumers as well.
7 For example, on behalf of the International Relief
8 Committee, I tried during a period of three months
9 to purchase rice outside of the City of Nanking for
10 the use of that committee. At that time the price
11 of rice within the city was held by the monopoly
12 at 18 to 22 dollars per picul. In producing areas
13 40 miles west on the Yangtze River the price was
14 held by the monopoly to 8 and 9 dollars per picul.
15 At the same time the monopoly was transferring rice
16 to Shanghai to be sold at 35 dollars per picul and
17 to Chinan in Shangteng to be sold at 45 dollars
18 per picul. Our committee applied to the food con-
19 trol office of the municipal government for per-
20 mission to make these purchases in the producing
21 area and so save half the cost of rice to be dis-
22 tributed in relief work. We met with the standard
23 reply of those years, "this matter can be done
24 only through the colonel of the special service,"
25 and then we tried to approach him through the

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1 Japanese Embassy. The civil authorities approved
2 our efforts and tried to assist this relief enter-
3 prise, but they could not persuade the military
4 monopoly to give up its profits even for that pur-
5 pose. I have given this case merely because it
6 shows from my own experience the typical situation
7 of the working of the controls.

8 Q Did you have occasion to report these
9 facts to the Japanese authorities?

10 A I reported them in full in the course of
11 three months of conversations and letters over this
12 effort to secure permits to buy rice outside the
13 city. The other more general facts regarding the
14 monopolies in the list of commodities and enter-
15 prises which I previously named were reported in an
16 economic survey that I undertook on behalf of the
17 International Relief Committee. I sent that report
18 to the Japanese Consul General and later published
19 it within the occupied areas.

20 Q Have you had occasion, Dr. Bates, to make
21 special studies in connection with the opium and
22 narcotic problem in the occupied area?

23 A Yes. My attention was drawn to the
24 startling developments in the use of opium and
25 **Heroin** while carrying on relief work in the **Summer**

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1 and Autumn of 1938. We found that many poor refugees
2 were being approached by peddlers who urged the use
3 of opium, saying, "if you take this your stomach
4 won't hurt you any more." Slightly later but similarly
5 Heroin was peddled with the statement, "if you take
6 a little of this you won't be so tired and you will
7 feel as if you could jump over mountains." In a
8 short time the rapidly expanding trade in narcotics
9 became a public enterprise, set up outwardly by the
10 puppet government. When public stores, that is,
11 government stores, were opened and when advertisements
12 of opium dens began to appear in the one newspaper
13 of Nanking, the official newspaper, I then decided
14 the matter must be investigated.

15 Q Were your investigations made on your own
16 behalf or on behalf of the United States Government?

17 A The United States Government had no connec-
18 tion with them in any way and did not know about them
19 until after the reports were published.

20 Q What was the situation in Nanking with
21 regard to the sale of opium and narcotics prior to
22 the Japanese occupation in December, 1937?

23 A There was no open and notorious sale or
24 use of opium for some ten years before the Incident
25 of 1937. Opium was used in back rooms, chiefly by

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1 older men of the gentry and merchant types, but there
2 was no open parading of it before young people, and
3 indeed, in my residence there from 1920 to 1937 I
4 never saw opium or learned to recognize its odor
5 or appearance.

6 THE PRESIDENT: We will adjourn now until
7 half past one.

8 (Whereupon, at 1200, a recess was
9 taken.)

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AFTERNOON SESSION

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

4 M I N E R S E A R L E B A T E S, called as a wit-
5 ness on behalf of the prosecution, resumed the
6 stand and testified as follows:

DIRECT EXAMINATION (Continued)

7
8 THE PRESIDENT: Captain Brooks.

9 MR. BROOKS: If the Tribunal please, I believe
10 that this questioning he is developing on the opium is
11 only -- the evidence that the witness is giving is only
12 cumulative and could be objected to on that ground. And
13 I think that it would be quite possible to eliminate a
14 lot of this matter on the opium situation if, and I feel
15 that the Tribunal could take judicial notice that opium
16 is an old and great evil in China, and that the Chinese
17 people are inclined to fall into the habit of using it
18 more than any other important group.

19 THE PRESIDENT: Well, you do not suggest that
20 we could take judicial notice that the Japanese have
21 greatly increased the sale of opium and have sold opium
22 quite openly? I am not saying that is the fact but it
23 is the evidence.

24 MR. BROOKS: I believe that the Court could go
25 further and say that the potential demand there is

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1 enormous for the sale of opium, and in the past hundreds
2 of years various private and official elements, Chinese
3 and foreign, have at times supplied and developed the
4 narcotic trade. If the Tribunal can take such notice,
5 and since previous witnesses have testified along these
6 lines, I think that any further testimony is objection-
7 able as only being cumulative.

8 THE PRESIDENT: The evidence only becomes cumu-
9 lative in that sense when quite a number of witnesses
10 will necessarily testify to the same thing. The objection
11 is overruled.

12 BY MR. SUTTON:

13 Q Dr. Bates, you may continue your answer.

14 A Investigation of the narcotic business was not
15 easy because it was done -- although it was done by open
16 sale yet the information as to their management and
17 finances were kept well behind the scenes, and naturally
18 there were no clear or honest official reports.

19 In the Autumn of 1938, in November of 1938, I,
20 with the help of several old friends under my direction,
21 visited several of the opium stores and a considerable
22 number of the opium dens. We also secured copies of the
23 regulations which the official monopoly made for the use
24 of dealers under it, and tax slips and tax reports which
25 they made to the monopoly. At that time the regular

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1 system provided for 175 licensed smoking dens and for
2 30 stores which distributed to and through those dens. :
3 The official sales were set at 6,000 ounces per day,
4 which figure the dealers reported to be exceeded because
5 the demand from the country districts outside Nanking
6 was so great. The sales price was eleven Chinese dollars
7 per ounce which worked out then, in the 6,000 ounces per
8 day, at almost exactly two million dollars per month.

9 A Chinese agent in the Special Service reported
10 to us that the sales of Heroin under the direction of
11 the Special Service reached three million dollars per
12 month at that same period. Although the figures of the
13 narcotic section of the municipal police were much higher,
14 my investigation concluded conservatively that fifty
15 thousand persons were using Heroin, one-eighth of the
16 population at that time. The increase of robbery by
17 hundreds upon hundreds of Heroin addicts became a serious
18 matter for everyone, including the University of Nanking.

19 The officials connected with the opium monopoly
20 attempted to pull the Heroin users to the use of opium
21 by arresting and prosecuting them in the courts.

22 I transmitted the completed report to the Japan-
23 ese Consul General, asking for any comments or correc-
24 tions in matters of fact; and then some ten days later
25 published it in Shanghai without any objection or

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1 protest from the authorities then or at a later time.

2 By the following Autumn the system had become
3 well developed and established. We inquired again.
4 This time we were able to see for a brief time, brief
5 period, the book of the chief inspector of the 175
6 licensed dens, and we were also able to get the statement
7 of the girl who sliced in portions the 3,000 ounces per
8 day sold at that time within the city walls of Nanking.
9 The figures of the consumption and revenue secured in
10 this way agreed very closely with the figures in a report
11 of the Ministry of Finance of the puppet government then
12 called the Reformed Government. The unpublished mimeo-
13 graphed financial statement of that government showed in
14 the Autumn of 1939 a monthly income of three million dol-
15 lars, made up of a so-called tax of three dollars on each
16 of one million ounces of opium. The financial officers
17 complained continually that there were many sales outside
18 the official system. These one million ounces were used
19 in the portions of three provinces which were controlled
20 by the Reformed Government. at that time.

21 In the Summer of '39, 1939, I visited Tokyo and
22 was taken by friends to talk with the opium expert of the
23 Gaimusho. This man, Mr. Haga, had just returned from a
24 two months' inspection tour in Central China. He told
25 me that he was greatly distressed at the terrible

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1 addiction that he saw in Hankow and other cities of
2 the Yangtze Valley. When I asked him if there was any
3 hope for improvement, he shook his head sadly and said,
4 "No, the generals told me that so long as the war con-
5 tinues, there is no hope of anything better because no
6 other good source of revenue has been found for the
7 puppet governments."

8 In the report made to the Japanese officials
9 and subsequently published I wrote, "The revenue of
10 three million dollars from opium is the main support of
11 the Reformed Government and is declared by Japanese and
12 Chinese officials to be indispensable for the mainte-
13 nance of any government in this area under present super-
14 vision and circumstances." The retail price at that time
15 for opium was twenty-two dollars per ounce, which cov-
16 ered eight dollars paid for the basic supply at Dairen,
17 two dollars to other Japanese interests for transporta-
18 tion, the so-called three-dollar tax, and left nine dol-
19 lars' margin for profit, in which the Special Service
20 and the gendarmerie shared.

21 The gendarmerie complained of this accusation
22 and tried to get me to withdraw it, and at the same time
23 to give the names of those from whom I got the informa-
24 tion. When I replied that I would gladly make and pub-
25 lish any demonstrated correction of fact but could not

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1 make any other changes, they dropped the matter.

2 Over a period of many decades missionaries
3 in China had been active in educational and even when
4 necessary in political work against opium. In the ten
5 years preceding the Japanese War these efforts had become
6 much less necessary and less important. But in the sum-
7 mer of 1940 the great deterioration of the situation
8 caused the editors of the China Christian Yearbook,
9 which is the publication of the National Christian Coun-
10 cil of China, to ask me to prepare a report on the nar-
11 cotic problem in China as a whole. I sent to some forty
12 friends in various parts of China copies of the reports
13 that I prepared in Nanking and a set of questions which
14 I hoped they would attempt to answer by investigations
15 in their own localities regarding narcotics. Despite
16 the censorship and accompanying anxieties more than half
17 of these persons replied with considerable care.

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1 For example, Professor Sailer, head of the
2 Sociology Department of Yenshing University, reported
3 that in Peking there were, in the Spring of 1940,
4 more than 600 licensed opium shops and that there
5 were even more people using Heroin than opium.
6 Bishop Gilman of Hankow found in that city that there
7 were 340 licensed dens and 120 hotels licensed to
8 supply opium for a population of only 400,000.

9 MR. BROOKS: I want to object on the basis
10 that the witness is reading testimony -- been sitting
11 there continuously looking down, reading this testi-
12 mony. He is not refreshing his mind; he is just read-
13 ing into the record phrases. We don't know whether
14 it was prepared for him or how he got it. But, if
15 he wants to testify in answer to the question, he
16 should answer the question directly; and, if he has
17 to refresh his memory, he should refresh his memory
18 and then testify.

19 THE PRESIDENT: There is no objection to him
20 reading from his notes to a limited extent so far as
21 his notes contain statements of fact. This morning
22 he was reading things which were not statements of
23 fact, such things as questions to himself.

24 The objection is overruled.

25 A (Continuing) To make the facts clear, I'd

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1 simply like to say that I am not reading from any
2 prepared text, that I have notes of these figures
3 which I will gladly show to the Court in demonstra-
4 tion. If that is objectionable, I, of course, accept
5 the Court's ruling.

6 Bishop Gilman very strongly emphasized the
7 terrible contrast between the pre-war days of severe
8 suppression of opium sales and consumption with the
9 wide-open, well-advertised, well published trade of
10 1940. I will not trouble you with similar figures
11 from several provincial capitals and other important
12 cities but will mention simply Canton where in the
13 city proper, which at that time had only 500,000
14 people, there were 852 registered dens beside some
15 300, unregistered as found by Dr. Thompson, Superin-
16 tendent of the Canton Hospital.

17 The situation throughout the occupied areas
18 was one of open sale of opium in government shops or
19 licensed shops and the aggressive peddling of Heroin.
20 In some cases there was attractive advertising of
21 opium. In some cases Japanese soldiers used opium
22 as payment for prostitutes and for labor engaged on
23 military supply dumps. The general testimony of
24 dealers and of officials was that the opium came al-
25 most entirely from Dairen although in the year 1939

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1 there were some large shipments brought from Iran.

2 Heroin dealers reported that their supplies
3 came largely from Tientsin and secondarily from
4 Dairen. Throughout the occupied areas there was no
5 real effort at suppression. The only apparent re-
6 striction or control was the effort to force irregu-
7 lar buying into the channels that would produce
8 revenue.

9 This 1940 general report was published in
10 the China Christian Yearbook, 1938-39. It was also
11 reprinted in the monthly magazine, the Chinese
12 Recorder, published in Shanghai.

13 Q When did you leave China following the
14 occupation of Nanking by the Japanese troops?

15 A I left in May, 1941.

16 Q And when did you return to China?

17 A I returned to Nanking in October, 1945,
18 after going earlier to Chengte in West China where
19 the University of Nanking was carrying on.

20 MR. SUTTON: The defense may cross-examine
21 the witness.

22 CROSS-EXAMINATION

23 BY MR. LOGAN:

24 Q Mr. Bates, you testified this morning in
25 substance that you submitted reports and complaints

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to three officers of the Japanese Consul at Nanking, but they were terrified, and they were not able to do anything about them except to send them to Tokyo. Now, will you state, in answer to this question, yes or no, if possible: Do you know of your own knowledge that they were sent to Tokyo by the Japanese Consulate's office?

A Yes.

Q Who in the Japanese Consulate's office in Nanking sent these messages?

A I do not know which one of these three men I named took the actual responsibility for sending messages. Mr. FUKUI was the Consul in charge.

Q Did you see the messages?

A I did not see the messages. If you want to know my reasons --

Q No, I don't.

A All right.

MR. SUTTON: If it please the Court, I respectfully submit that the witness has a right to complete his answer. And the fact that counsel for the defense does not wish to hear it does not deny that right.

MR. LOGAN: I am sure, if the Tribunal please, if anything is left unanswered, it can be

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1 drawn out in redirect by the prosecution if they see
2 fit.

3 THE PRESIDENT: We agree with you, Mr. Logan.
4 Proceed.

5 Q So, Mr. Bates, not having seen the mes-
6 sages, I assume you do not know of your own knowledge
7 to whom they were sent in Tokyo, is that right?

8 A I have seen telegrams sent by Mr. Grew,
9 the Ambassador in Tokyo, to the American Embassy in
10 Nanking, which referred to these reports in great
11 detail and referred to conversations in which they
12 had been discussed between Mr. Grew and officials of
13 the Gaimusho, including Mr. HIROTA. *[the one of the defense party]*

14 MR. LOGAN: I ask that the answer be
15 stricken and that the reporter be directed to read
16 my question.

17 THE WITNESS: I should be glad to give you
18 some more evidence from Japanese sources on that.

19 MR. LOGAN: If your Honor please, I ask
20 this witness be directed not to give -- to volunteer
21 statements.

22 THE PRESIDENT: His answer will stand. He
23 must, of course, confine his answer to the question.
24 But he may add any explanation.

25 MR. LOGAN: I ask that the previous question

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1 be answered. I don't think he has answered it, your
2 Honor. He has given another explanation to it.

3 THE PRESIDENT: We will get it to save time.

4 (Whereupon, the last question was
5 read by the official court reporter as
6 follows:)

7 "Q So, Mr. Bates, not having seen the mes-
8 sages, I assume you do not know of your own knowl-
9 edge to whom they were sent in Tokyo, is that right?"

10 A I know they were sent to the Gaimusho in
11 Tokyo; I do not know to what individual other than
12 the statement I gave you from Mr. Grew. I have other
13 evidence that they were sent to the Gaimusho.

14 Q Let me see if I understand you, Mr. Bates.
15 Not having seen these messages, the testimony that
16 you have with regard to them is hearsay, comes from
17 somebody else, isn't that so?

18 A Yes.

19 MR. LOGAN: That is all.

20 CROSS-EXAMINATION (Continued)

21 BY CAPTAIN KLEIMAN:

22 Q Doctor, on these reports that you say you
23 saw, wherein you refer to Mr. Grew, was the Privy
24 Council ever mentioned?

25 A The messages I saw, which were strictly

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1 limited to the question of what was happening in
2 Nanking in January and February of 1938, referred to
3 the conversations of Mr. Grew with Mr. HIROTA and, I
4 believe, Mr. YOSHIZAWA at the Gaimusho. I do not
5 recall that other persons were mentioned.

6 Q Doctor, did you hear my question?

7 A I thought so.

8 THE PRESIDENT: How would he know whether
9 the Privy Council was consulted?

10 Q How long have you been in China, Doctor?

11 A How long have I been in China? With the
12 exception of furloughs -- normal furloughs in the
13 United States;, I was there from 1920 to 1941 and
14 from 1945 until a few weeks ago.

15 Q And at the University in China, did you
16 teach history?

17 A I did.

18 Q And are you acquainted with political divi-
19 sions of Japanese Government, Doctor?

20 THE PRESIDENT: You must confine your
21 cross-examination to matters arising in chief. The
22 mere statement that he was a historian doesn't intro-
23 duce any matter of the kind to which you refer.

24 CAPTAIN KLEIMAN: If it please the Tribunal,
25 I am asking preliminary questions to show the unwill-

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1 ingness of this witness to present the entire truth.
2 We want all those facts out. Whether it hurts or
3 not, we want all the facts out.

4 THE PRESIDENT: Do not argue with me that
5 way. I said that he has not testified really as to
6 any Japanese political divisions. He is a professor
7 of history. I called him a historian. Perhaps
8 that's a wrong term. But the questions you ask
9 don't arise out of the examination in chief.

10 CAPTAIN KLEIMAN: Mr. President, I wonder
11 if it's possible to take up that question again with
12 respect to confining ourselves to testimony in chief.
13 This witness, I understand, has been here for a time
14 awaiting time to testify. Now, he may have some
15 information which might be of aid to the defense.
16 In order for me to secure this witness, I would have
17 to go to China, bring him here at great expense, and
18 then --

19 THE PRESIDENT: You interpret that. Trans-
20 late that, please.

21 I told you what the Tribunal's decision was,
22 and I showed how you are infringing it, and you have
23 not shown that you did not infringe it in your ques-
24 tion.

25 You must accept the Tribunal's decision.

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1 We are not going to alter that to meet this partic-
2 ular case.

3 CAPTAIN KLEIMAN: We will abide by the
4 Tribunal's decision. The only request I made was,
5 your Honor, so that we can save time when the defense
6 is to put in its testimony. Two questions now may
7 lead to two answers which may save us two or three
8 days when the defense puts in its testimony.

9 THE PRESIDENT: I have told you what the
10 decision is. I have told you that it excludes
11 those questions, and why. You have given me no
12 answer that suggested the Tribunal is wrong in ex-
13 cluding the questions. You must obey the Tribunal's
14 decision.

15 CAPTAIN KLEIMAN: Is it the Tribunal's de-
16 cision that we may not ask questions, aside from
17 what was brought out by examination in chief, for
18 the purpose of attacking credibility of the witness?
19 I'm not saying that I attempted to do that with
20 this witness; I just want to know the ruling so that
21 we can abide by that ruling in the future, may it
22 please the Court.

23 THE PRESIDENT: You appear to be the only
24 counsel who misunderstands the Tribunal's decision.
25 That decision does prevent you from examining outside

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the scope of the examination in chief in order to test credibility.

CAPTAIN KLEIMAN: I'm sorry, your Honor. This practice is so different from the practice that we have in the United States, I've had difficulty in understanding the ruling. I'm sorry, sir.

1 THE PRESIDENT: It so happens that it is the
2 practice of the United States and the practice of its
3 highest courts.

4 CAPTAIN KLEIMAN: If it please the Tribunal,
5 we are, in the States, permitted to ask a witness
6 questions not brought out on direct examination, but
7 we are bound by his answers; he becomes our witness.
8 We cannot impeach him. This is what I wanted to do
9 with this witness.

10 THE PRESIDENT: There is a limit to this
11 Tribunal's patience, Captain Kleiman.

12 CAPTAIN KLEIMAN: All right. No further
13 questions.

14 MR. SAMMONJI: I am Shohei SAMMONJI, counsel
15 for the defendant, KOISO. With your kind permission,
16 I wish to put a few questions.

17 CROSS-EXAMINATION (Continued)

18 BY MR. SAMMONJI:

19 Q The witness seems to be greatly familiar
20 with the economic situation in China. Do you know
21 the -- how prices were during the period 1930 to 1939?

22 A I am sorry I didn't get that word. Do I know
23 what?

24 Q This is my question: Which was higher, prices
25 in Nanking before December, 1937, or prices in Nanking

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1 after 1937, during the years 1938 and 1939?

2 A I would not know how to answer that. I do
3 not claim to be an economic expert. I reported the
4 conditions which I found affecting the life of the
5 people, as I was doing the work of the International
6 Relief Committee in Nanking from 1937 to '41.

7 Q If you have been investigating the standard
8 of living -- living conditions of the general public --
9 I should think you ought to have a great deal of in-
10 terest in the question of prices.

11 A What is the question?

12 THE PRESIDENT: There is no question; there is
13 a statement.

14 Q You seem to be an expert on opium. Have you
15 ever investigated the areas where opium is produced
16 in the world?

17 A I am sorry I haven't had such wide privileges
18 of travel. I have done some general reading on the
19 subject.

20 THE PRESIDENT: That question is beyond the
21 scope of the examination in chief.

22 Q Have you ever investigated which was greater:
23 the consumption of opium and Heroin before December,
24 1937, and that in Nanking, and after December, 1937?

25 A Before 1937 there was no consumption that

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1 could readily be measured or investigated. There was
2 very little, and as I said, confined to back rooms
3 without open, public sale.

4 Q Then, have you ever investigated the complete
5 -- the total of opium and Heroin smoked by Chinese in
6 all parts of China before -- for the whole of China --
7 before December, 1937, and the prices thereof?

8 A No, I have not; because there was no local
9 problem which loomed up as conspicuous; my attention
10 was not brought to opium in any grievous manner until
11 the Spring and Summer of 1938.

12 Q But in your testimony you have stated that
13 opium was imported from Dairen and from Tientsin, and
14 that before December, 1937, opium was secretly smoked;
15 so that you seem to have carried on your investiga-
16 tions quite extensively. Then do you know -- if you
17 know where this opium came from -- do you not know
18 also where it was produced?

19 A That question is not clear to me.

20 THE PRESIDENT: He said where it came from.

21 THE WITNESS: Before 1937 or after 1937?

22 Q What I want to ask is that in 1937 and after
23 1937 where did this opium come from, and where was it
24 produced?

25 A As for after 1937, I have already given that

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1 in direct testimony; that my investigation -- the
2 reports from dealers -- regularly brought the state-
3 ment that the opium came from Dairen with the excep-
4 tion of fairly important shipments which came in 1939
5 from Iran. Before 1937 I do not have such detailed
6 knowledge, because I did not go into investigation.
7 I only know what were the general statements at that
8 time -- that there was opium imported from various
9 sources, that there was also opium produced in China,
10 particularly in the far western provinces near the
11 Tibetan frontier. From missionary friends in various
12 parts of East China I learned that areas formerly
13 producing opium had ceased to do so. It should be
14 added that under the Japanese occupation in various
15 provinces, such as northern Anhui, Honan, and Shanghai
16 provinces, that opium growing was begun locally once
17 more where it had been stamped out over a period of
18 many years. This locally grown opium was usually
19 sold outside the official system.

20 Q Are you aware that China is the country
21 where opium -- with the greatest consumption of opium
22 and Heroin in the world?

23 A I think probably that is true, but I should
24 like to see it specified with dates, and I myself do
25 not have such comparative knowledge.

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1 Q Since the Opium War to the present day.

2 A From the Opium War to the present day?

3 Q Yes.

4 A. Yes, I think that is probably true.

5 Q Well, there is much opium -- as you have
6 said, there is much opium consumed in all China. Do
7 you know -- there is much opium growing in China, but
8 as to opium that comes from foreign sources, do you
9 know from what country was the greatest source of --
10 what country is the greatest source of opium, from
11 what country opium is imported, what country produces
12 opium, and what country imported opium the most?

13 A At what time?

14 Q Since the Opium War to the present date?

15 A That would have to be broken up into several
16 different periods, and would be a subject only for a
17 great expert. I can give general statements, but
18 they are not of specific knowledge.

19 THE PRESIDENT: We will recess now for fifteen
20 minutes.

21 (Whereupon, at 1445, a recess was taken
22 until 1506, after which the proceedings were re-
23 sumed as follows:)
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MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

Q Mr. Witness, in regard to the last question, I request that you would answer even in general terms,

THE WITNESS: Mr. President, I wonder just where this gets us. I have not testified in regard to conditions in varying countries around the world nor on conditions since the Opium War. I am willing to start on what little I know on this, but I have in no way posed as an historian of opium on a world-wide scale.

THE PRESIDENT: The witness merely testified as to conditions in and about Nanking. That does not authorize cross-examination as to conditions in other parts of the world relating to opium nor do I think it justifies questions dealing with the opium trade right back to the Opium War.

MR. SAMMONJI: Then I will go into another question.

Q Mr. Witness, you said earlier that after the Japanese Army entered Nanking in 1937 the Japanese sold opium officially. Was not this selling of opium officially to supervise the illicit trade in opium and also to treat opium patients?

THE MONITOR: Correction: ~~Instead of~~

1 "Japanese sold opium," it should read: "Opium was
2 sold in open market." "Japanese" should be deleted.

3 A There was no remedial action of any kind
4 in hospitals or treatment of addicts which I ever
5 saw on the part of the public system in Nanking after
6 the entry of the Japanese. Not only in the general
7 situation of the few years before 1937, but in the
8 first few weeks and months after the Japanese came in,
9 there was no apparent trade and no widespread con-
10 sumption of opium. Then within a period of a few
11 months the large system of public supply and sales,
12 which I described, was built up.

13 Q Mr. Witness, as far as the illicit buying
14 of opium is concerned and also the selling of opium
15 on open market, do you not think that the selling,
16 buying of opium illicitly proves far more fascinating
17 to these opium addicts?

18 A I don't know how to answer that question.
19 I think it was very largely a matter of price and
20 that if opium could be secured illicitly below the
21 price of the official system, people, addicts were
22 very glad to get it that way. So far as I can inter-
23 pret the situation, so far as I saw the situation,
24 the public sale was greater than the illicit sale,
25 but illicit sale never disappeared. The enormous

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1 scale of the official trade as reported did not leave
2 room for a very big illicit trade.

3 Q Do you not know that in all Chinese families
4 above the middle class they have medical dispensary
5 for opium drinking? Do you not know that in all
6 Chinese families above the middle class they have a
7 room which is suitable for drinking opium -- smoking
8 opium?

9 THE MONITOR: "Provided for smoking opium."

10 A I do not know that. It is quite contrary to
11 my experience and acquaintance of twenty-five years
12 in Nanking.

13 Q Then I shall ask another question. Do you
14 not know that when a person first smokes opium, he
15 does not become an immediate addict and it takes some
16 time before he becomes an addict to the opium, for a
17 time, say, around one year? At first when a person
18 first smokes opium, he encounters physiological dis-
19 comfort.

20 A Well, that is an interesting observation.
21 What is the question?

22 THE PRESIDENT: That type of cross-examination
23 is useless.

24 MR. BROOKS: No further questioning.

25 THE PRESIDENT: That will do, Professor.

Unless you wish to re-examine, do you, Mr. Sutton?

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MR. SUTTON: No further examination.

(Whereupon, the witness was excused.)

MR. SUTTON: The prosecution has asked to call as its next witness, Mr. Peter J. Lawless.

MARSHAL OF THE COURT: Mr. President, the witness is in court and will now be sworn.

- - -

1 P E T E R J. L A W L E S S, called as a witness on
2 behalf of the prosecution, being first duly sworn,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MR. SUTTON:

6 Q What is your full name?

7 A Peter J. Lawless.

8 Q And where do you live?

9 A In Peking, China.

10 Q Of what country are you a citizen?

11 A England.

12 Q How long have you lived in China?

13 A Nearly thirty-six years.

14 Q Where have you lived in China during that
15 period and what, if any, official positions have you
16 held?

17 A I have been an inspector of police in the
18 Tientsin British Municipal Council since October,
19 1912; and from July, 1938 to the time I was arrested
20 at the beginning -- at the end of 1941, I was Chief of
21 Police and Secretary to the Diplomatic Mission of the
22 Diplomatic Quarter in Peking.

23 Q What was the population of the British
24 Concession in Tientsin around 1930?

25 A About forty-five to fifty thousand.

1 Q Did you have occasion in your official capacity
2 to make raids on opium dens in the British Concession
3 at Tientsin?

4 A Yes.

5 Q Whom did you arrest on these raids and what
6 disposition was made of the persons arrested?

7 A Both Chinese and Koreans and after a rest
8 they were questioned in the Municipal Police Court
9 and then handed over to their own nationals which
10 would be the Consular Police in the Japanese Concession.

11 Q If Chinese nationals were apprehended, by
12 whom were they tried?

13 A If Chinese nationals were arrested, they
14 were sent to their own Court in the Tientsin City.

15 Q Did you have occasion to arrest Japanese
16 nationals and what disposition was made of those
17 cases?

18 A On very few occasions were Japanese, the
19 actual Japanese national arrested. If he was, he was
20 handed over to his Consular Court.

21 Q What disposition was made of the Koreans
22 that were arrested?

23 A They were treated as Japanese subjects and
24 handed over to the Consular Court as well.

25 Q Did you ascertain in your official capacity

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where the opium and narcotics were being secured which you found in these raids in the British Concession?

A Yes. After arrest the men were questioned, documentary statements taken, and they always said: "We bought it in the Japanese Concession."

LAWLESS

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1 Q Did you make report to the Japanese officials
2 giving them this information which had come to you
3 in your official capacity?

4 A Yes. All documentary evidence was sent, a
5 copy being sent to the British Consulate and a copy
6 being sent at the same time as the prisoner was sent
7 to the court.

8 Q What action, if any, was taken by the Japanese
9 authorities with regard to the Koreans and Japanese
10 nationals which you arrested and turned over to them?

11 A Officially we were never informed and on no
12 occasion were we called as witnesses.

13 Q Did you have occasion to arrest the same
14 violators for the same offense at subsequent times?

15 A Yes, on various occasions.

16 Q Was there any change in the situation about
17 1935 and, if so, what?

18 A Yes, there was a big change by the influx
19 of Koreans and Japanese coming into the British
20 Concession to live. Before that time there were not
21 too many living in the Concession.

22 Q In what business were these Koreans and
23 Japanese engaged who came into the British Concession?

24 A The Koreans as itinerant tradesmen. The
25 Japanese, though, came in as small merchants.

LAWLESS

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1 Q What was the situation with regard to opium
2 and narcotics following 1935 in the British Concession
3 in Tientsin?

4 A There was a great increase in the trade, and
5 very noticeable because we had to make two and three
6 raids a day. May I correct that last statement? I
7 said by day; it should have been by night.

8 Q How was this opium and narcotics trade con-
9 ducted?

10 A I can hardly follow that question. I don't
11 know what you mean.

12 Q Who were the persons whom your investigation
13 disclosed dealt in opium and narcotics in the British
14 Concession in Tientsin following 1935?

15 A Chinese and Koreans.

16 Q Where did they sell the opium and narcotics
17 and in what manner?

18 A The opium was sold in dens in the different
19 streets, the poorer class of streets. There would be
20 so many pipes in a house and the man who was an
21 addict would go to this house to have his smoke.
22 The narcotics, such as morphia and Heroin, was mostly
23 dealt with on the Bund. May I explain, the Bund means
24 walk where all the shipping of Tientsin comes into.

25 Q In what form were the narcotics distributed

LAWLESS

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1 to the customers?

2 A Taking narcotics to mean morphia and Heroin
3 the Koreans invariably -- the Koreans of the poorer
4 class used to go about among the poorer class of
5 Chinese on the Bund or on the walks and give them
6 an injection from hypodermic needles.

7 Q Were these needles sterilized?

8 A No, on no occasion.

9 Q Did you arrest the violators from time to
10 time?

11 A Yes.

12 Q Was the punishment, if any, administered by
13 the Japanese authorities to whom you delivered them,
14 such as to prevent them from returning to the same
15 business?

16 MR. McMANUS: If your Honor please, I would
17 like to object to the form of the question. Also on
18 the ground it is leading, and further on the ground
19 of the materiality of this particular phase. I would
20 like to know what this has to do with the war crime
21 here.

22 THE PRESIDENT : Well, I think the question
23 is a bit clumsy. I think he might have asked were
24 they punished, what is the effect of the punishment,
25 but there is nothing in it really. The materiality

LAWLESS

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1 has already been considered. It is alleged that this
2 is a type of warfare, really, or preparation for it
3 by making the Chinese drug addicts. The objection is
4 overruled.

5 A No. They invariably returned. The punish-
6 ment didn't fit the crime, in our experience.

7 Q Did you have occasion to make raids on any
8 narcotic factories in the British Concession?

9 A Yes.

10 Q By whom were they being operated?

11 A Chinese and Koreans.

12 Q What was the production rate of these factories?

13 A Some of the largest factories would turn out
14 as much as fifty or sixty pounds of morphia per week,
15 and perhaps two or three pounds of Heroin.

16 Q Did you ascertain from the operators of these
17 factories where they secured the opium?

18 A Yes, and the answer was invariably from the
19 Japanese Concession.

20 Q Did you report from time to time to the
21 Japanese authorities the situation with regard to
22 their nationals dealing in opium and narcotics in the
23 British Concession?

24 A Yes.

25 Q What response did you get from them?

LAWLESS

DIRECT

1 A We were told that the man would be punished
2 and the serious cases would be deported.

3 Q What type of punishment, if any, was meted out
4 by the Japanese authorities?

5 A That we never knew.

6 Q Did they deport the persons whom you reported
7 to them as being engaged in the opium and narcotic
8 business in the British Concession?

9 A They may have done on some occasions, but
10 others invariably got back into the Concessions and
11 continued their trade.

12 Q When did the Japanese occupy Tientsin?

13 A In 1937.

14 Q What was the situation with regard to opium
15 and narcotics in Tientsin after that city was occupied
16 by the Japanese Army in 1937?

17 A There was a noticeable increase, a great
18 increase, but we police officers had more to do with
19 the protection of the Concession than we did with the
20 actual arresting of narcotic dealers.

21 Q When did you take over the duties of chief
22 of police in the diplomatic quarter in Peiping?

23 A In July, 1938.

24 Q What was the situation with regard to opium
25 and narcotics in Peiping at that time?

LAWLESS

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1 A From my observations in Peking, other than
2 the diplomatic quarter it was very bad.

3 Q What was the situation thereafter in the
4 diplomatic quarter?

5 A At times it was bad but we were strong
6 enough to hold it down. May I qualify that state-
7 ment by saying what I mean by saying we were strong
8 enough, we didn't let them get too far ahead with
9 their narcotic factories.

10 Q Were attempts made to operate narcotic
11 factories in the diplomatic section in Peiping?

12 A Yes.

13 Q By whom were these factories operated?

14 A Mostly Koreans.

15 Q Did you have occasion to raid these factories
16 from time to time?

17 A Yes.

18 Q What did you do with the persons arrested if
19 they were Koreans?

20 A Handed them over to the consular police in
21 the diplomatic quarter with statements of their crime.

22 Q And what authorities handled the case after
23 you handed them over to the consular police?

24 A The Japanese consular authorities, consular
25 police authorities.

LAWLESS

DIRECT

1 Q Did you learn the disposition of these cases?

2 A That will take rather a long answer because
3 as Secretary of the Diplomatic Commission and as
4 Chief of Police I had to report to all the embassies
5 and legations what was occurring from a police point
6 of view in the Legation quarter. Also at the meetings
7 of the Diplomatic Commission, which consisted of
8 three embassy officials, one being British, one being
9 American, and one being Japanese, two civilian
10 members -- the committee consisting of five men -- and
11 at these meetings these cases were invariably reported
12 very strongly to the Japanese member who promised
13 that he would inquire into the case and, if possible,
14 report at the next meeting of the Commission. At
15 the next meeting of the Commission, if the case had
16 not been reported back the question was again asked
17 and we never got very satisfactory results from any
18 of the answers to our questions from our Japanese
19 member.

20 Q Did you report to the Japanese authorities
21 specific cases that had come to your attention?

22 A Yes. When we made an arrest, the man or
23 men were handed over to the consular police of the
24 Japanese Embassy and a circular letter from me, as
25 Secretary, to all embassies and legations which

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1 would reach the member in the Japanese Embassy in
2 the Commission.

3 THE PRESIDENT: We will adjourn now until
4 half past nine tomorrow morning.

5 (Whereupon, at 1600, an adjourn-
6 ment was taken until Tuesday, 30 July 1946,
7 at 0930.)

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