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YEAR 1945

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Yamashita, Tomoyuki, 1885-1946, defendant

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

UNITED STATES OF AMERICA)

-vs-)

TOMOYUKI YAMASHITA)

ARRAIGNMENT

High Commissioner's Residence
Manila, P. I.
8 October 1945

Met, pursuant to notice, at 1400 hours.

MEMBERS OF MILITARY COMMISSION:

MAJOR GENERAL RUSSEL B. REYNOLDS, Presiding Officer
MAJOR GENERAL CLARENCE L. STURDEVANT, Law Member
MAJOR GENERAL JAMES A. LESTER
BRIGADIER GENERAL WILLIAM G. WALKER
BRIGADIER GENERAL EGBERT F. BULLENE

APPEARANCES:

FOR THE PROSECUTION:

MAJOR ROBERT M. KERR, INFANTRY, Prosecutor
MAJOR GLICERIO OPINION, JAGS, Philippine Army,
Special Assistant Prosecutor
CAPTAIN M. D. WEBSTER, JAGD, Assistant Prosecutor
CAPTAIN WILLIAM N. CALYER, JAGD, Assistant
Prosecutor
CAPTAIN D. C. HILL, JAGD, Assistant Prosecutor
CAPTAIN JACK M. PACE, INFANTRY, Assistant
Prosecutor.
LIEUTENANT GEORGE E. MOUNTZ, USNR, Trial
Assistant
LIEUTENANT WILLIAM S. YARD, JAGD, Trial
Assistant

200 11 July 1968

(3)

FOR THE DEFENSE:

COLONEL HARRY E. CLARKE, JAGD
LIEUTENANT COLONEL WALTER C. HENDRIX, JAGD
LIEUTENANT COLONEL JAMES G. FELDHAUS, JAGD
MAJOR GEORGE F. GUY, CAVALRY
CAPTAIN ADOLF F. REEL, JAGD
CAPTAIN MILTON SANDBERG, JAGD

INTERPRETERS FOR THE COMMISSION:

MAJOR HARRY D. PRATT, USMC
MAJOR EUGENE P. BOARDMAN, USMCR

OFFICIAL REPORTERS FOR THE COMMISSION:

WARRANT OFFICER ELMER SHAMBERG, AUS
SERGEANT MADOLIN CERVANTES-AYALA
CORPORAL MACK MICHAEL RACKLIN

REPORTED BY:

WARRANT OFFICER ELMER SHAMBERG, AUS
CORPORAL MACK MICHAEL RACKLIN

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P R O C E E D I N G S

GENERAL REYNOLDS: This Military Commission has been appointed by Lieutenant General W. D. Styer, Commanding General, United States Army Forces in the Western Pacific, by direction of General Douglas MacArthur, Commander-in-Chief, to conduct the trial of General Tomoyuki Yamashita, Imperial Japanese Army. Its duties are to hear the evidence of the Prosecution and the Defense, to arrive at a finding as to the guilt or innocence of the Accused, and if he is found guilty, to determine an appropriate sentence.

The proceedings will be conducted in a fair and impartial manner, which is traditional American justice. Sessions of the Commission shall be public except when otherwise directed by the Commission. The Commission will convene and hear any matters to be brought before it.

(Translated by Interpreter Pratt to the Accused.)

MAJOR KERR: If the Commission please, inasmuch as these proceedings will involve a Japanese it is respectfully requested that the proceedings be translated from English to Japanese.

GENERAL REYNOLDS: The proceedings will be so translated.

(Translated by Interpreter Pratt to the Accused.)

MAJOR KERR: Sir, there has been referred to this Commission for trial the case of the United States of America against Tomoyuki Yamashita, General of the Japanese Imperial Army. All of the members of the Commission are present. The Prosecutor and all assistant prosecutors

appointed by the convening authority are present. The Accused, together with the duly appointed Defense counsel, are present. The reporters and the interpreters are present. The Prosecution, sir, is ready to proceed.

GENERAL REYNOLDS: You may proceed.

INTERPRETER PRATT: Do you wish that translated?

GENERAL REYNOLDS: Yes.

(Translated by Interpreter Pratt to the Accused.)

COLONEL CLARKE: If the Court please, General Yamashita cannot understand the Interpreter. With the permission of the Court we'll have Mr. Hammamoto re-translate to General Yamashita.

MAJOR KERR: There is no objection, sir, provided it is a purely personal translation. The Interpreter provided by the Accused is not a competent interpreter for the Commission, if the Commission please. We have no objection.

GENERAL REYNOLDS: Subject to objection by any member of the Commission, the request of counsel for the Defense is agreed to.

(Translated by Interpreter Pratt to the Accused.)

THE ACCUSED (Through Interpreter Pratt): I agree to the translation by my interpreter.

MAJOR KERR: Sir, the Prosecution submits for introduction and incorporation into the record at this proceeding, the following orders which establish the basis for the Commission and for this proceeding.

(Translated by Interpreter Pratt to the Accused.)

MAJOR KERR: Letter, File AG 000.5 (24 Sep 45) JA,

General Headquarters, United States Army Forces, Pacific,
dated 24 September 1945. Subject: Regulations Governing
the Trial of War Criminals.

Letter Order, File AG 000.5 (24 Sep 45) DC S

General Headquarters, United States Army Forces, Pacific,
dated 24 September 1945. Subject: Trial of War Criminals.

Paragraph 24 of Special Order 112, Headquarters
United States Army Forces Western Pacific, dated 1
October 1945, entitled: "Appointment of a Military
Commission."

Paragraphs 22 and 23, Special Orders No. 117,
Headquarters United States Army Forces Western Pacific,
dated 6 October 1945, whereby Major Opinion is appointed
by the convening authority as one of the assistant
prosecutors in this proceeding.

(Translated by Interpreter Pratt to the Accused.)

GENERAL REYNOLDS: There being no objection the
orders are received in evidence.

"R E S T R I C T E D

GENERAL HEADQUARTERS
UNITED STATES ARMY FORCES, PACIFIC

AG 000.5 (24 Sep 45) JA

APD 500
24 September 1945

SUBJECT: Regulations Governing the Trial of War Criminals.

TO : Commanding General, AFWESPAC
Commanding General, Sixth Army
Commanding General, Eighth Army

The following rules and regulations will govern the trials of persons, units, and organizations accused as War Criminals in this theater:

ESTABLISHMENT OF MILITARY COMMISSIONS

1. GENERAL. Trial of persons, units, and organizations accused as war criminals will be by military commissions to be convened by or under the authority of the Commander-in-Chief, United States Army Forces, Pacific.

2. NUMBER AND TYPES. The number and types of commissions to be established will depend upon the number and nature of the offenses involved and of the offenders to be tried. Such commissions may include, among others, international military commissions consisting of representatives of several nations or of each nation concerned, appointed to try cases involving offenses against two (2) or more nations, or any other offenses; and commissions consisting of members of any one branch or of several branches of the armed services of one or more nations, to try cases involving offenses against any one or more of such service branches, or any other offenses.

" JURISDICTION

3. OVER TERRITORY. The military commissions established hereunder shall have jurisdiction over all of Japan and other areas occupied by the armed forces commanded by the Commander-in-Chief, United States Army Forces, Pacific.

4. OVER PERSONS. - a. The military commissions established hereunder shall have jurisdiction over all persons, units or organizations within Japan and other areas occupied by the armed forces, commanded by the Commander-in-Chief, United States Army Forces, Pacific.

b. Any military or naval unit or any official or unofficial group or organization, whether or not still in existence, may be charged with criminal acts or complicity therein and tried by a military commission.

c. The convening authority may specify particular offenders to be tried before any commission appointed by him.

5. OVER OFFENSES. - a. The military commissions established hereunder shall have jurisdiction over the following offenses: murder, torture or ill-treatment of prisoners of war or persons on the seas; killing or ill-treatment of hostages; murder, torture or ill-treatment, or deportation to slave labor or for any other illegal purpose, of civilians of, or in, occupied territory; plunder of public or private property; wanton destruction of cities, towns or villages; devastation, destruction or damage of public or private property not justified by military necessity; planning, prepara-

"tion, initiation or waging of a war of aggression, or an invasion or war in violation of international law, treaties, agreements or assurances; murder, extermination, enslavement, deportation or other inhumane acts committed against any civilian population, or persecution on political, racial, national or religious grounds, in execution of or connection with any offense within the jurisdiction of the commission, whether or not in violation of the domestic law of the country where perpetrated; and all other offenses against the laws or customs of war; participation in a common plan or conspiracy to accomplish any of the foregoing. Leaders, organizers, instigators, accessories and accomplices participating in the formulation or execution of any such common plan or conspiracy will be held responsible for all acts performed by any person in execution of that plan or conspiracy.

b. Persons whose offenses have a particular geographical location outside Japan may be returned to the scene of their crimes for trial by competent military or civil tribunals of local jurisdiction. In the event a person is requested for trial in two (2) or more countries, the Commander-in-Chief, United States Army Forces, Pacific, will determine the place of trial on the basis of the relative gravity of the respective charges and other relevant circumstances.

MEMBERSHIP OF COMMISSION

6. APPOINTMENT. The members of each military Commission will be appointed by the Commander-in-Chief,

"United States Army Forces, Pacific, or under authority delegated by him. The appointment may be made in the order convening the commission or in a separate order. Alternates may be appointed by the convening authority. Such alternates shall attend all sessions of the commission and in case of illness or other incapacity of any principal member an alternate shall take the place of that member. Any vacancy among the members or alternates occurring after a trial has begun may be filled by the convening authority, but the substance of all proceedings had and evidence taken in that case shall be made known to that new member or alternate in open court before the trial proceeds.

7. NUMBER OF MEMBERS. Each commission shall consist of not less than three (3) members.

8. QUALIFICATIONS. The convening authority shall appoint to the commission persons whom he determines to be competent to perform the duties involved and not disqualified by personal interest or prejudice; provided, that no person shall be appointed to hear a case which he personally investigated, nor if he is required as a witness in that case. A commission may consist of Army, Navy and other service personnel, or of both service personnel and civilians. If feasible, one or more members of a commission should have had legal training.

9. QUORUM AND VOTING. A quorum shall consist of two-thirds (2/3) of the members of the commission, or alternates (if any) acting as members, but in no

"United States Army Forces, Pacific, or under authority delegated by him. The appointment may be made in the order convening the commission or in a separate order. Alternates may be appointed by the convening authority. Such alternates shall attend all sessions of the commission and in case of illness or other incapacity of any principal member an alternate shall take the place of that member. Any vacancy among the members or alternates occurring after a trial has begun may be filled by the convening authority, but the substance of all proceedings had and evidence taken in that case shall be made known to that new member or alternate in open court before the trial proceeds.

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9. QUORUM AND VOTING. A quorum shall consist of two-thirds (2/3) of the members of the commission, or alternates (if any) acting as members, but in no

"event less than three (3) members. All decisions of the commission shall be by majority vote of the members present when the vote is taken, which shall be a quorum, except that conviction and sentence shall be by the affirmative votes of not less than two-thirds (2/3) of the members of the quorum. In case of a tie vote, the vote of the presiding member will determine.

10. PRESIDING MEMBERS. In the event the convening authority does not name one of the members as the presiding member, the senior officer among the members of the commission present shall preside, or such other member as the senior officer may designate.

PROSECUTORS

11. APPOINTMENT. The convening authority shall designate one or more persons to conduct the prosecution before each commission. In prosecutions for offenses involving more than one nation, each nation concerned may be represented among the prosecutors.

12. DUTIES. The duties of the prosecutors are:

a. To determine the offenses and the offenders to be tried before the commission in addition to those specifically ordered by the convening authority.

b. To prepare and present to the commission charges and specifications.

c. To prepare cases for trial and to conduct the prosecution of each case before the commission.

"

POWERS AND PROCEDURE OF COMMISSIONS

13. CONDUCT OF THE TRIAL. A Commission shall:

a. Confine each trial strictly to a fair, expeditious hearing on the issues raised by the charges, excluding irrelevant issues or evidence and preventing any unnecessary delay or interference.

b. Deal summarily with any contumacy or contempt, imposing any appropriate punishment therefor.

c. Sessions of a commission shall be public except when otherwise directed by the commission.

d. A commission shall hold each session at such time and place as it shall determine or as may be directed by the convening authority.

14. RIGHTS OF THE ACCUSED. The accused shall be entitled:

a. To have in advance of trial a copy of the charges and specifications, so worded as clearly to apprise the accused of each offense charged.

b. To be represented prior to and during trial by counsel of his own choice, or to conduct his own defense. If the accused fails to designate his counsel, the commission shall appoint competent counsel to represent or advise the accused.

c. To have his counsel present relevant evidence at the trial in support of his defense, and cross-examine each adverse witness who personally appears before the commission.

d. To have the charges and specifications,

"the proceedings and any documentary evidence translated when he is unable otherwise to understand them.

15. WITNESSES. The commission shall have power:

a. To summon witnesses and require their attendance and testimony under penalty; to administer oaths or affirmations to witnesses and other persons, and to question witnesses.

b. To require the production of documents and other evidentiary material.

c. To have evidence taken by a special commissioner appointed by the commission.

16. EVIDENCE. - a. 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. In particular, and without limiting in any way the scope of the foregoing general rules, the following evidence may be admitted:

- (1) Any document which appears to the commission to have been signed or issued officially by any officer, department, agency, or member of the armed forces of any government, without proof of the signature or of the issuance of the document.
- (2) 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.

- (3) Affidavits, depositions, or other statements taken by an officer detailed for that purpose by military authority.
- (4) Any diary, letter or other document appearing to the commission to contain information relating to the charge.
- (5) A copy of any document or other secondary evidence of its contents, if the commission believes that the original is not available or cannot be produced without undue delay.

b. The Commission shall take judicial notice of facts of common knowledge, official government documents of any nation, and the proceedings, records and findings of military or other agencies of any of the United Nations.

c. A commission may require the prosecution and the defense to make a preliminary offer of proof, whereupon the commission may rule in advance on the

"admissibility of such evidence.

d. If the accused is charged with an offense involving concerted criminal action upon the part of a military or naval unit, or any group or organization, evidence which has been given previously at a trial of any other member of that unit, group or organization, relative to that concerted offense, may be received as prima facie evidence that the accused likewise is guilty of that offense.

e. The findings and judgment of a commission in any trial of a unit, group or organization with respect to the criminal character, purpose or activities thereof shall be given full faith and credit in any subsequent trial by that or any other commission of an individual person charged with criminal responsibility through membership in that unit, group or organization. Upon proof of membership in such unit, group or organization convicted by a commission, the burden of proof shall shift to the accused to establish any mitigating circumstances relating to his membership or participation therein.

f. The official position of the accused shall not absolve him from responsibility, nor be considered in mitigation of punishment. Further, action pursuant to order of the accused's superior, or of his government, shall not constitute a defense, but may be considered in mitigation of punishment if the commission determines that justice so requires.

17. TRIAL PROCEDURE. The proceedings at each

"trial will be conducted substantially as follows, unless modified by the commission to suit the particular circumstances ;

a. Each charge and specification will be read, or its substance stated, in open court.

b. The presiding member shall ask each accused whether he pleads 'Guilty' or 'Not Guilty.'

c. The prosecution shall make its opening statement.

d. The presiding member may, at this or any other time, require the prosecutor to state what evidence he proposes to submit to the commission, and the commission thereupon may rule upon the admissibility of such evidence.

e. The witnesses and other evidence for the prosecution shall be heard or presented. At the close of the case for the prosecution, the commission may, on motion of the defense for a finding of not guilty, consider and rule whether the evidence before the commission supports the charges against the accused. The commission may defer action on any such motion and permit or require the prosecution to reopen its case and produce any further available evidence.

f. The defense may make an opening statement prior to presenting its case. The presiding member may, at this or any other time, require the defense to state what evidence they propose to submit to the commission, whereupon the commission may rule upon the admissibility of such evidence.

" g. The witnesses and other evidence for the defense shall be heard or presented. Thereafter, the prosecution and defense may introduce such evidence in rebuttal as the commission may rule admissible.

h. The defense, and thereafter the prosecution, shall address the commission.

i. The commission shall consider the case in closed session and thereafter in open court deliver its judgment, and in the event of a conviction shall pronounce sentence.

18. RECORD OF PROCEEDINGS. Each commission shall make a separate record of its proceedings in the trial of each case brought before it. The record shall be prepared by the prosecutor under the direction of the commission and submitted to the defense counsel. The commission shall be responsible for its accuracy. Such record, certified by the presiding member of the commission or his successor, shall be delivered to the convening authority as soon as possible after the trial.

JUDGMENT AND SENTENCE

19. JUDGMENT. The judgment of a commission as to guilt or acquittal shall be delivered in open court. It may state the reasons on which based.

20. SENTENCE. The commission may sentence an accused, upon conviction, to death by hanging or shooting, imprisonment for life or for any less term, fine, or such other punishment as the commission shall de-

"termine to be proper. The commission may also order confiscation of any property of a convicted accused, deprive that accused of any stolen property, or order its delivery to the Commander-in-Chief, United States Army Forces, Pacific, for disposition as he shall find to be proper, or may order restitution with appropriate penalty in cases of default.

21. APPROVAL OF SENTENCE. No sentence of a military commission shall be carried into effect until approved by the officer who convened the commission, or his successor. Such officer shall have authority to approve, mitigate, remit, commute, suspend, reduce or otherwise alter the sentence imposed, or (without prejudice to accused) remand the case for rehearing before a new military commission; but he shall not have authority to increase the severity of the sentence. No sentence of death shall be carried into effect until confirmed by the Commander-in-Chief, United States Army Forces, Pacific. Except as herein provided, the judgment and sentence of a commission shall be final and not subject to review.

RULE MAKING POWER

22. SUPPLEMENTARY RULES AND FORMS. Each commission shall adopt rules and forms to govern its procedure, not inconsistent with the provisions hereof or such rules and forms as may be prescribed by the convening authority or by the Commander-in-Chief, United States Army Forces, Pacific.

By command of General MacARTHUR:

" /s/ B. M. Fitch
/t/ B. M. FITCH
Brigadier General, U. S. Army,
Adjutant General.

DISTRIBUTION:

Chief of Staff

Deputy Chief of Staff

AG

JA Section, War Crimes Branch"

"CONFIDENTIAL"

GENERAL HEADQUARTERS
UNITED STATES ARMY FORCES, PACIFIC

AG 000.5 (24 Sep 45) DC S

APO 500
24 September 1945

SUBJECT: Trial of War Criminals.

TO : Commanding General, United States Army
Forces, Western Pacific.

1. By virtue of the authority vested in the Commander-in-Chief, United States Army Forces, Pacific, and in accordance with the provisions of radio WX 62612, Joint Chiefs of Staff, 12 September 1945, the Commanding General, United States Army Forces, Western Pacific, is hereby empowered to appoint military commissions for the trial of such persons accused of war crimes as may hereafter be designated by this headquarters.

2. All records of trial including judgment or sentence and the action of the appointing authority will be forwarded to this headquarters. Unless otherwise directed, the execution of judgment or sentence in all cases will be withheld pending the action of the Commander-in-Chief.

By command of General MacARTHUR:

/s/ B. M. Fitch
/t/ B. M. FITCH,
Brigadier General, U. S. Army,
Adjutant General.

CERTIFIED TRUE COPY:

/s/ Kenneth C. Schwartz
KENNETH C. SCHWARTZ, Lt Col, JAGD
Actg Ex O, War Crimes Branch

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"CONFIDENTIAL

HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC

Special Orders) APO 707
No..... 112) 1 October 1945
Extract

24. Appointment of a military commission. Pursuant to authority contained in Letter, General Headquarters, United States Army Forces, Pacific, File AG 000.5 (24 Sep 45) DCS, 24 September 1945, subject: Trial of General Tomoyuki Yamashita, the following officers are hereby appointed as a Military Commission for the trial of General Tomoyuki Yamashita:

Major General Russel B. Reynolds, President
Major General Clarence L. Sturdevant,
Law Member
Major General James A. Lester
Brigadier General William G. Walker
Brigadier General Egbert F. Bullene

The prosecution shall be conducted by Major Robert M. Kerr, Inf, as Prosecutor, and Captain M. D. Webster, JAGD, Captain William N. Calyer, JAGD, Captain D. C. Hill, JAGD, Captain Jack M. Pace, Inf, as Assistant Prosecutors. The defense counsel shall be Colonel Harry E. Clarke, JAGD, Lieutenant Colonel Leigh M. Clark, JAGD, Lieutenant Colonel Walter C. Hendrix, JAGD, Lieutenant Colonel James G. Feldhaus, JAGD, Major George F. Guy, Cav, and Captain Adolf F. Reel, JAGD.

The commission shall meet in the city of Manila, Philippine Islands, at the call of the President thereof.

The commission is authorized to employ

"or appoint such interpreters, stenographic reporters, and other assistants, as it shall deem advisable.

The commission shall follow the provisions of Letter, General Headquarters, United States Army Forces, Pacific, File AG 000.5 (24 Sep 45) DCS, 24 September 1945, subject: Trial of General Tomoyuki Yamashita, and have power to and shall, as occasion requires, make such rules for the conduct of the proceedings as it shall deem necessary for a full and fair trial of the person before it. Such evidence shall be admitted as would, in the opinion of the President of the Commission, have probative value to a reasonable man and is relevant and material to the charges before the Commission. The concurrence of at least two-thirds of the members of the Commission present shall be necessary for a conviction or sentence. The record of trial, including any judgment or sentence, shall be transmitted directly to this headquarters for action by the appointing authority.

BY COMMAND OF LIEUTENANT GENERAL STYER:

EDMOND H LEAVEY
Major General, USA
Deputy Commander, and
Chief of Staff

OFFICIAL:

Benito Morales
BENITO MORALES
Col, A.G.D.
Asst Adj Gen.

CONFIDENTIAL"

"CONFIDENTIAL

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HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC

Special Orders) APO 707
6 October 1945
Number117) Extract

22. Pursuant to authority contained in Letter, General Headquarters, United States Army Forces, Pacific, File AG 000.5 (24 Sept 45) DCS, 1 Oct 45 Subject: Trial of General Tomoyuki Yamashita, Major Glicerio Opinion, JAGS, Philippine Army, is detailed as assistant prosecutor of the military commission appointed by par. 24, SO 112, this hq, 1 Oct 45.

23. Capt Milton Sandberg, JAGD, is detailed defense counsel of the military commission appointed by par 24, SO 112, this hq, 1 Oct 45, vice Lt Col Leigh M Clark, JAGD, relieved.

BY COMMAND OF LIEUTENANT GENERAL STYER:

EDMOND H LEAVEY
Major General, USA
Deputy Commander,
and Chief of Staff.

OFFICIAL:

Benito Morales
BENITO MORALES
Col., A.G.D.
Asst Adj Gen.

CONFIDENTIAL"

MAJOR KERR: The Prosecution is now ready to proceed with the arraignment, sir.

GENERAL REYNOLDS: The reporters will be sworn.

(Whereupon Reporters Elmer Shamberg, Mack M. Racklin and Madolin Cervantes-Ayala were sworn.)

GENERAL REYNOLDS: The Interpreters will be sworn.

(Whereupon Major Harry D. Pratt and Major Eugene P. Boardman were sworn as interpreters.)

GENERAL REYNOLDS: The Commission will be sworn.

(Whereupon the Commission was sworn.)

GENERAL REYNOLDS: The Prosecution will be sworn.

(Whereupon the Prosecutor and Assistant Prosecutors were sworn.)

MAJOR KERR: A certified copy of the charge in this proceeding was served upon the Accused by Captain D. C. Hill, Judge Advocate General's Department, on 2 October 1945, at New Bilibid Prison, Muntinlupa, Rizal Province, Philippines.

GENERAL REYNOLDS: The rights of the Accused as set forth in paragraph 14 of letter dated 24 September 1945, General Headquarters, United States Forces, Pacific, entitled "Regulations Governing the Trial of War Criminals" heretofore introduced into the record will be read and explained.

INTERPRETER PRATT: Sir, may we stop here and translate that?

GENERAL REYNOLDS: Yes.

(Translated by Interpreter Pratt to the Accused.)

GENERAL REYNOLDS: The Accused, Defense counsel,

and the Prosecutor will rise and face the Commission.

"14. Right of the Accused. The Accused shall be entitled:

"a. To have in advance of trial a copy of the charges and specifications, so worded as clearly to apprise the Accused of each offense charged.

"b. To be represented prior to and during trial by counsel of his own choice, or to conduct his own defense. If the Accused fails to designate his counsel, the Commission shall appoint competent counsel to represent or advise the Accused.

"c. To have his counsel present relevant evidence at the trial in support of his defense, and cross-examine each adverse witness who personally appears before the Commission.

"d. To have the charges and specifications, the proceedings and any documentary evidence translated when he is unable otherwise to understand them."

(Translated by Interpreter Boardman to the Accused.)

GENERAL REYNOLDS: The provisions of subsection "a" have been complied with, it appearing that a certified copy of the Charge and specifications, together with a true and complete translation thereof, were served upon the Accused 2 October 1945.

(Translated by Interpreter Boardman to the Accused.)

THE ACCUSED (through Interpreter Boardman): I have not received a copy of the specifications or a translation.

MAJOR KERR: If the Commission please, the Charge which was served upon the Accused included both what is

ordinarily known as a Charge and also specifications. Customarily in court-martial procedure, which this is not, by the way, the so-called Charge Sheet which contains the charge includes the charge proper; for instance, violation of the 86th Article of War. Under that, in a separate or sub-paragraph would be what is known as a specification, in that the Accused, on a certain time, at a certain place, did certain things. If the Commission will examine the Charge which has been served upon the Accused in this proceeding it will note that it does include both of those elements of a court-martial Charge and, therefore, since court-martial procedure is much more strict and not as liberal with respect to pleadings or procedure as a Military Commission's procedure, certainly this Charge does include the elements of both the Charge and specifications as those terms are used in the applicable order.

(Translated by Interpreter Boardman to the Accused.)

THE ACCUSED: (Through Interpreter Boardman) There is no specification; there is only a charge.

MAJOR KERR: If the Commission please, I ask the Commission to rule that the Charge and specifications have been served upon the Accused within the meaning of those terms used in this order.

COLONEL CLARKE: We are agreeable, sir.

GENERAL REYNOLDS: On that basis the Commission rules that the Charge and specifications have been properly served upon the Accused.

MAJOR KERR: If the Commission please, if I

understand correctly, the Accused stated he had not received a translation of the Charge and specifications. If by that he means to say he did not receive the translation from English into Japanese, the body of the Charge as set forth in the document known as the Charge, if that is his position, then it will be necessary and we will desire to put on the stand the officer who served the translation upon the Accused, under oath.

INTERPRETER BOARDMAN: The General said that he received the translated copy of the Charge, as he understood it to mean the Charge, but he had not received a translated copy of the specifications as he understood it. Since the Court has ruled that the two are in the same document, therefore he has received a translation.

GENERAL REYNOLDS: That is agreeable to the Defense?

COLONEL CLARKE: Yes, sir.

GENERAL REYNOLDS: We will proceed. Whom does the Accused desire to introduce as Defense counsel?

(Translated by Interpreter Boardman to the Accused.)

THE ACCUSED (through Interpreter Boardman): I am happy to accept the choice of the Commission as to my counsel. I am highly honored to have been given such distinguished persons to represent me.

GENERAL REYNOLDS: Such being the will of the Accused, the Commission will accept counsel as appointed and the case will proceed.

THE ACCUSED (through Interpreter Boardman): I have this additional request to make. I should like to have my Chief-of-Staff, Lieutenant General Muto, and my Assistant

Chief or Deputy Chief-of-Staff, Major General Utsunomiya as additional counsel. There are a number of records and facts with which they alone are conversant. I need their advice and assistance.

MAJOR KERR: If the Commission please, may I inquire of Defense counsel whether or not he proposes to call either one of the men named as a Defense witness?

COLONEL CLARKE: We do.

MAJOR KERR: You do?

COLONEL CLARKE: Yes.

MAJOR KERR: If the Commission please, that rules them out definitely. In a criminal proceeding it would be entirely irregular if a witness for the Defense should also represent the Accused as counsel; even in professional circles it would be most irregular. Even if the intent is not to serve as counsel, it is just as bad to have the witnesses for a person accused as a criminal to sit through the proceedings. If and when counsel proposes to call them as witnesses, then they may properly enter the courtroom and not before.

COLONEL CLARKE: If the Court please, these officers have information which the General does not have and which we will need in order to conduct this trial and properly cross-examine certain witnesses. They will not be in the courtroom except during the prosecution of the case. They will leave the courtroom prior to the Defense. If the Commission please, we believe it is only fair and just that General Yamashita should be given the privilege of having those men present, who have an

intimate knowledge of certain things that he in his position has not knowledge of.

MAJOR KERR: If the Commission please, the damage is done when the witnesses are in the courtroom during the Prosecution's case and not during the Defense. I assume, sir, that the Commission wants the witnesses to state personal facts and not forensic arguments based upon their study and analysis and hearing of the opposing side.

GENERAL REYNOLDS: The Accused has stated his belief that he needs Lieutenant General Muto, his Chief-of-Staff, and Major General Utsunomiya, Assistant Chief-of-Staff, in his Defense. He has asked that they be appointed associate Defense counsel. It is the desire of this Commission to conduct a fair trial; accordingly, subject to objection by any member of the Commission, the request of the Defense is granted.

(Translated by Interpreter Boardman to the Accused.)

THE ACCUSED (through Interpreter Boardman): Thank you.

MAJOR KERR: If the Commission please, without in any way attempting to argue the point, I believe it is my duty to inform the Commission that it is the present intention of General MacArthur's War Crimes Officer to prefer charges as war criminals against the two men named by the Accused to be present during the prosecution of General Yamashita. Furthermore, the Prosecution, for the benefit of the record, does not and will not recognize the men named as Chief-of-Staff or as Deputy or

Assistant Chief of Staff. We maintain, sir, that the day when Yamashita had his Chief-of-Staff or Assistant Chief-of-Staff is over.

GENERAL REYNOLDS: Proceed.

(Translated by Interpreter Boardman to the Accused.)

COLONEL CLARKE: General Yamashita did not understand that and neither did Hammamoto. I think we can clear it up if I give him the gist of it here.

(Translated by Interpreter Boardman to the Accused.)

THE ACCUSED (Through Interpreter Boardman): The officers mentioned, Lieutenant General Muto and Major General Utsunomiya, were my staff officers, but now they are no more. I understand the point that the Prosecution made, and those officers are no longer my Chief-of-Staff and Assistant Chief-of-Staff. I have not available myself certain records and information and these records can be recalled or remembered by my Chief-of-Staff and his assistant. Therefore, they are absolutely necessary as assistant counsel to me.

GENERAL REYNOLDS: The Commission has accepted the officers named as associate Defense counsel. The objection of the Prosecution was ruled upon in the negative. The matter will be considered as closed and the case will proceed.

(Translated by Interpreter Boardman to the Accused.)

INTERPRETER BOARDMAN: He thanks the Court for the admittance of the aforementioned generals.

GENERAL REYNOLDS: Does the Accused wish to have the Charge and specifications, the proceedings, and documentary

evidence translated to him?

(Translated by Interpreter Boardman to the Accused.)

THE ACCUSED (through Interpreter Boardman): If it is not necessary, English will be all right. In cases where it is not necessary, English would be all right.

COLONEL CLARKE: He said it was not necessary, sir. It will not be necessary; he can have somebody translate them for him. We do not desire the reading of them.

GENERAL REYNOLDS: The Commission does not clearly understand what is meant by the Accused.

COLONEL CLARKE: The Defense does not desire a reading of the Charge; that is what he means.

GENERAL REYNOLDS: The Commission directs the Prosecutor to have one of the Commission interpreters to translate to the Accused and to allow time after each remark by the Commission or the Prosecutor or before the receipt into evidence of any document, to have the same translated to the Accused provided it is so desired by counsel for the Defense.

(Translated by Interpreter Boardman to the Accused.)

INTERPRETER BOARDMAN: In order to save time, the General will have his interpreter translate to him as we go along.

GENERAL REYNOLDS: The Commission is unable to hear you.

THE ACCUSED (through Interpreter Boardman): In order to save time, my interpreter will translate for me as we go along.

GENERAL REYNOLDS: The Charge will be read to the Accused.

UNITED STATES ARMY FORCES, PACIFIC

Before the)	
MILITARY COMMISSION)	UNITED STATES OF AMERICA
convened by the)	
COMMANDING GENERAL,)	vs
United States Army Forces)	
Western Pacific,)	TOMOYUKI YAMASHITA
1 October 1945.)	

CHARGE

Tomoyuki YAMASHITA, General Imperial Japanese Army, between 9 October 1944 and 2 September 1945, at Manila and at other places in the Philippine Islands, while commander of armed forces of Japan at war with the United States of America and its allies, unlawfully disregarded and failed to discharge his duty as commander to control the operations of the members of his command, permitting them to commit brutal atrocities and other high crimes against people of the United States and of its allies and dependencies, particularly the Philippines; and he, General Tomoyuki YAMASHITA, thereby violated the laws of war.

Dated 25 September 1945

/s/ Alva C. Carpenter
 ALVA C. CARPENTER
 Colonel, JAGD
 United States Army

AFFIDAVIT

Before me personally appeared the above-named accuser this 25 day of September, 1945, and made oath that he is a person subject to military law and that he personally signed the foregoing charge, and further that he has investigated the matters set forth in the charge, and that it is true in fact, to the best of his knowledge and

"belief.

/s/ Kenneth C. Schwartz
KENNETH C. SCHWARTZ

Lt. Colonel, JAGD
Rank and Branch

GENERAL HEADQUARTERS, UNITED STATES' ARMY FORCES, WESTERN
PACIFIC, APO 707

2 October 1945

Referred for trial to Major Robert M. Kerr, Infantry,
Chief Prosecutor of the Military Commission appointed by
paragraph 24, Special Orders No. 112 this Headquarters, 2
October 1945.

By command of Lieutenant General STYER:

/s/ C. H. Danielson
C. H. DANIELSON
Major General, USA
Adjutant General

I hereby certify that I have served a copy hereof,
together with a true and complete translation thereof into
Japanese, on the above-named accused this 2 day of October,
1945.

/s/ D. C. Hill
D. C. HILL

Capt., JAGD
Rank and Branch "

(Translated by Interpreter Boardman to the Accused.)

GENERAL REYNOLDS: There being no objection, the Charge is accepted by the Commission. Is the Accused now ready to enter his plea?

COLONEL CLARKE: Prior to a plea of the general issue, sir, we have a motion to make. The Accused respectfully moves that the Charge now in hearing be stricken on the ground that it fails to state a violation, in so far as General Yamashita is concerned, of the laws of war.

MAJOR KERR: If the Commission please, aside from the question of law which perhaps the Defense counsel is attempting to raise at this time, the fact remains that this Commission has been ordered to try General Yamashita. If the Defense seeks to raise the point which I believe he refers to, the appropriate time, I submit, is at the conclusion of the Prosecution's case, at which time he may move for a judgment of acquittal. But there is no provision in the Commission's procedure for a motion such as Defense counsel now interposes.

COLONEL CLARKE: If the Commission please, we are not now making a motion based on the evidence or the insufficiency of evidence to sustain the charge. Our motion is that the Charge and specifications alleged therein do not state an offense under the laws of war as to General Yamashita.

GENERAL REYNOLDS: Subject to objection by any member of the Commission, the objection of counsel for the Defense is not sustained.

COLONEL CLARKE: I have a further motion to make,

sir. The language in which the charge and specifications have been alleged is uncertain and indefinite and it does not fairly apprise the Accused of that with which he stands charged. We therefore move the Court that the Charge and cause now in hearing be made more definite and certain by particularizing as to the time, place and dates wherein the Accused disregarded and failed to discharge his duty as Commander to control the operations of the members of his command as alleged. And by particularizing, as to the times and places and dates, the persons who were permitted to commit brutal atrocities and other high crimes against the People of the United States and its allies and dependencies, as alleged. And particularizing as to time, place, dates and details of the alleged atrocities and other high crimes.

GENERAL REYNOLDS: Does the Prosecution oppose this motion?

MAJOR KERR: Very definitely, sir. There is no provision in the regulations governing this Commission, for a motion such as the Defense now interposes. Such a motion would be appropriate in a court of law, perhaps, but certainly not in this proceeding.

Now, if the Accused desires a Bill of Particulars, the Prosecution has no objection to supplying such a bill; but we certainly do object to an attempt to apply in the proceedings of this Commission, the technical objections and rules of evidence, pleadings and procedure which might apply in a court of law.

COLONEL CLARKE: If the Commission please, we

~~understand that this Commission is not bound by the rules~~
of a court of law, but the Defense does believe that the
Commission, in all justice and fairness to the Accused,
should make a ruling that he should be fairly apprised of
that with which he is charged.

GENERAL REYNOLDS: Does counsel for Defense wish to
move for a Bill of Particulars?

COLONEL CLARKE: That is included in the motion,
sir. Does the Prosecution stand prepared to furnish a
Bill of Particulars?

MAJOR KERR: Sir, the Prosecution does have a formal
Bill of Particulars which has been shown to Defense
counsel. We should like the indulgence of the Commission
and counsel so we may formally serve it and file it with
the Commission tomorrow rather than today. But we are
prepared, in fact, we are glad to supply Defense counsel
with such a Bill of Particulars.

COLONEL CLARKE: Until we receive the Bill of
Particulars, we do not know that with which we are charged
and cannot in fairness plead to the general issue.

MAJOR KERR: May I ask Defense counsel, if I
present to Defense counsel at this time the Bill of
Particulars which will be served and on file tomorrow,
will the Accused be now ready, willing and able to enter
his plea?

COLONEL CLARKE: If we are given recess for a
sufficient length of time to look it over.

MAJOR KERR: What would be that period of time?

COLONEL CLARKE: About fifteen minutes.

MAJOR KERR: Sir, it is satisfactory to the Prosecution, provided and on one condition, that the Prosecution at a later date has the privilege of serving and filing a supplemental Bill of Particulars.

We have certain documentary evidence which has not been received as yet from the States. We have certain new information just recently received which we have not had an opportunity so far to incorporate in the Bill of Particulars. If we may have assurance that later we may file a supplemental Bill of Particulars, we are willing to proceed on the basis which I have suggested; otherwise not.

GENERAL REYNOLDS: Is the Commission to understand that the counsel for the Defense has made a motion for a Bill of Particulars?

COLONEL CLARKE: Yes, sir.

GENERAL REYNOLDS: The motion for a Bill of Particulars is granted; the bill to be served and filed immediately. A supplemental Bill of Particulars may be filed later subject to such conditions as the Commission may then specify.

COLONEL CLARKE: May it please the Commission, we ask for an exception to that ruling where the supplemental Bill of Particulars may be filed.

MAJOR KERR: If the Commission please, in order that we may not unduly extend the record, I desire to point out that there is no provision in the proceedings, or rather, the regulations governing the proceedings of this Commission, for exceptions. So far as the

Prosecution is concerned, the Commission, if it so desires, may apply a rule which many courts follow, namely, for whatever it may be worth, an exception is noted automatically and without the request of counsel in the event a motion is overruled.

GENERAL REYNOLDS: The objection of Defense counsel is not sustained. However, the Commission will decide each of these additional charges on their merits when the Prosecution presents them.

COLONEL CLARKE: Sir, may we have a fifteen-minute recess?

GENERAL REYNOLDS: Does the Prosecution wish formally to introduce the Bill of Particulars into the record at this time?

MAJOR KERR: Sir, the Prosecution has served upon Defense counsel, at this time, a duly certified copy of a Bill of Particulars, and the Prosecution at this time files the original of that Bill of Particulars with the Commission.

GENERAL REYNOLDS: The Bill of Particulars is received into evidence.

"civilian internees there confined, with consequent starvation and malnutrition, and death, of such internees; brutal mistreatment, beating, and torture of H. F. Wilkins and other civilian internees; torture, beating and summary execution of more than six (6) internees for minor infractions of rules; cruel mistreatment, torture and brutal execution, without cause or trial, during the period from 23 December 1944 to 2 February 1945, of Carol C. Grinnell, Alfred F. Duggleby, Clifford Larson and B. B. Johnson, all civilian internees.

3. During the months of October, November and December 1944, brutally mistreating and torturing numerous unarmed noncombatant civilians at the Japanese Military Police Headquarters located at Cortabitarte and Mabini Streets, Manila.

4. On about 30 October 1944, at Carigara, Leyte, cruelly mistreating, torturing, mutilating and subsequently executing and, without cause or trial, killing Private Wade E. Gensemer, a member of the Armed Forces of the United States of America, then in captivity of the Armed Forces of Japan as a prisoner of war.

5. During November 1944, in northern Cebu Province, massacre, without cause or trial, of more than 1000 unarmed noncombatant civilians.

6. During November and December 1944, at Cabanatuan, Nueva Vizcaya Province, brutal mistreatment, torture, maiming, execution and killing, without cause or trial, of members of the Armed Forces of the United States of America, then held captive as prisoners of war by Armed

"Forces of Japan; wilfull failure and refusal to provide for such prisoners of war adequate food, living quarters and facilities, clothing, medical treatment or supplies, and other necessities; looting and stealing the contents of, and wilfully failing to deliver or make available Red Cross packages and supplies intended for such prisoners of war.

7. On about 20 October 1944, at Batan Island, Batanes Province, the brutal mistreatment, torture, execution and killing, without cause or trial, of Captain William Burgh, Phillip Maurice Martin, and one other person whose name is unknown, all members of the Armed Forces of the United States of America and then in captivity of Armed Forces of Japan as prisoners of war.

8. During the month of November, 1944, in the Town of Lipa, Batangas Province, brutally mistreating, torturing, and killing, without cause or trial, eleven (11) members of the Armed Forces of the United States of America, then held captive as prisoners of war by Armed Forces of Japan.

9. On about 14 December 1944, at or near Puerta Princesa, Palawan Island, brutally mistreating, assassinating and killing, by burning, bayoneting or shooting, without cause or trial, T/Sgt Jewett F. Adams, Corporal Robert A. Adkins, 1st Lieutenant Carl C. Mango, and 138 other members of the Armed Forces of the United States of America, then prisoners of war held in captivity by Armed Forces of Japan, and brutally mistreating, wounding and attempting to kill, without cause or trial, Corporal

"William J. Balchus, Pfc Ernest J. Koblos, and seven (7) other members of the Armed Forces of the United States of America, all then prisoners of war held in captivity by Armed Forces of Japan.

10. During the period from 18 December 1944 to 31 December 1944, both dates inclusive, in Manila, brutally mistreating, torturing and killing, without cause or trial, Dr. Jose Enriquez, J. Allen Enriquez, and Julia Seibert Enriquez, all unarmed noncombatant civilians.

11. On about 29 December 1944, at the Barrio of Dapdap, Ponson Island, Camotes Islands, brutally mistreating and then killing, without cause or trial, more than 300 unarmed noncombatant civilians, and brutally mistreating, wounding, maiming and attempting to kill, without cause or trial, more than 50 unarmed noncombatant civilians, being the entire population of that Barrio.

12. During the period from 1 January 1945 to 17 February 1945, both dates inclusive, fortification of and installation of military objectives on the premises of the Philippine General Hospital, Ermita, Manila, then in use as a civilian hospital, with consequent killing of patients and civilian refugees by shellfire.

13. On about 28 January 1945, at Los Banos Internment Camp, Laguna Province, brutally mistreating and then summarily executing, and, without cause or trial, killing George James Louis, an unarmed noncombatant civilian subject of the United States of America, then interned and held captive by Armed Forces of Japan.

14. On about 10 February 1945, at the Nurses Home

"of the Philippine General Hospital, Ermita, Manila, rape of civilian women.

15. During the period from 1 January 1945 to 1 March 1945, both dates inclusive, deliberately, wantonly and without justification or military necessity, devastating, destroying, and pillaging and looting of large areas of the City of Manila, including public, private and religious buildings and other property, and committing widespread theft of money, valuables, food and other private property in that city.

16. On about 4 February 1945, at the Dy-Pac Lumber Yard in Manila, brutally mistreating and killing two unarmed noncombatant male civilians.

17. During the period from 7 February 1945 to 14 February 1945, both dates inclusive, at and in the vicinity of De La Salle College, 1501 Taft Avenue, Manila, brutally killing, without cause or trial, Judge Jose R. Carlos and Brother Xavier, Rector of that College, both of whom were unarmed noncombatant civilians; brutally killing, without cause or trial, Antonio Carlos, Ricardo Bartolome, Dr. Antonio Cojuangco, and 38 other men, women and children, all unarmed noncombatant civilians; brutally mistreating, wounding, maiming and attempting to kill, without cause or trial, Father Francis J. Cosgrave, Dionisia Carlos, Servillano Aquino, and fourteen (14) other unarmed noncombatant civilians; rape of two female civilians; attempted rape of one female civilian; and attempt to have carnal intercourse with the body of one dead female civilian.

" 18. On about 7 February 1945, at Malate, Manila, killing, without cause or trial, Arsenio Escudero, Jr., and Jose Herman, Jr., and brutally mistreating and attempting to kill, without cause or trial, Jose Herman, Sr., all unarmed noncombatant civilians.

19. During the period from about 6 February 1945 to about 8 February 1945, both dates inclusive, at and in the vicinity of the National Psychopathic Hospital, Mandaluyong, Rizal Province, brutally mistreating and then killing, without cause or trial, Tomas Aguinaldo, Tomas Corpus, Father Lafarrier, Isidro Laguelles, and 17 other persons, all unarmed noncombatant civilians; and the rape and subsequent brutal killing, without cause or trial, of one (1) civilian female doctor.

20. On about 10 February 1945, at Malate, Manila, killing, without cause or trial, Angel Gajo; and brutally mistreating, wounding and attempting to kill, without cause or trial, Eutiquio Antipolo, Dimas Antipolo and Feliciano Lamactud, all unarmed noncombatant civilians.

21. On about 11 February 1945, at Pasay, Rizal Province, brutally mistreating and thereafter killing, without cause or trial, Henry Daland and Tony Daland, citizens of the United States of America, Caferino Alayso and Romula Daro, Filipinos, and Jacinto de la Vara and Gregorio Mendez, citizens of Spain, all unarmed noncombatant civilians; and wantonly and deliberately and without military necessity burning and destroying private property, the houses and homes of civilians.

22. On about 11 February 1945, near Singalong

"Church, Manila, brutally killing, without cause or trial, Lazar Braun, an Austrian citizen, Robert Markus, a German citizen, and Alexander Farmakowski, a Russian, all unarmed and noncombatant civilians.

23. On about 7 February 1945, at Singalong, Manila, brutally mistreating and torturing and thereafter executing and killing, without cause or trial, Lt. Col. Alejo Valdes and Lt. Col. Jose Guido, disarmed and demobilized former members of the Philippine Army, and Raymond Valdes, Ernesto Mirillo, Justo Guido, Jose Guido, Jr., Raymond Guido, and thirteen (13) other persons whose names are unknown, all unarmed and noncombatant civilians.

24. On about 7 February 1945, at Paco, Manila, brutally mistreating and thereafter killing, without cause or trial, Bartolome Pons, Rosario Garcia Pons, Eva V. Pons, Edward King, Pacita King, Delfin Marquez, and two (2) other persons whose names are unknown, all unarmed and noncombatant civilians.

25. During the period from 1 January 1945 to 1 March 1945, deliberately planning and undertaking, without cause or trial, the extermination, massacre and wanton, indiscriminate killing of large numbers of unarmed non-combatant civilian men, women and children, inhabitants of the City of Manila and its environs, brutally mistreating, wounding, mutilating, killing and attempting to kill, without cause or trial, large numbers of such inhabitants, and raping or attempting to rape large numbers of civilian women and female children in that city.

26. On about 12 February 1945, at 914 Indiana

"Street, Malate, Manila, brutally mistreating and killing, without cause or trial, Alexander Bachrach, Antonio Irlanda, Vanancio Quintero, Eduardo de los Reyes, Jose Valle, and five other persons whose names are unknown, all unarmed noncombatant civilians.

27. On about 9 and 10 February 1945, in and in the vicinity of the San Marcelino Church and the Saint Vincent de Paul House, Ermita, Manila, brutally mistreating and killing, without cause or trial, Father Jose Aguirreche, Father Luis Egeda, Father Jose Fernandez, Father Julio Ruiz, Father Adolfo Soto, Father Jose Tejada, all Spanish Vincentian Catholic priests, and 21 other persons, all unarmed noncombatant civilians; and brutally mistreating, wounding and maiming and attempting to kill, without cause or trial, Co Ching, an unarmed noncombatant Chinese civilian.

28. On about 10 February 1945, at the corner of Taft Avenue and Padre Faura Street, Ermita, Manila, killing, without cause or trial, Supreme Court Justice Anacleto Diaz and his two sons, Felino Angeles, Jose Angeles, Roman Ardena, and 33 other persons, and wounding and attempting to kill Juanito De Los Reyes, Delfin De Los Paz, Antonio De Mayo, and six (6) other persons, and attacking and attempting to kill, Paul J. Akot, Ah See Chua, and 11 other persons, all unarmed noncombatant civilians, and all without cause or trial.

29. On about 10 February 1945, at Paco, Manila, massacring and killing 12 unarmed noncombatant civilians and wounding, maiming and attempting to kill 3 unarmed

"noncombatant civilians, all without cause, or trial; and unnecessarily and wantonly burning and destroying private property, the houses and homes of civilians.

30. On about 10 February 1945, at and in the vicinity of the Philippine Red Cross Building, Isaac Peral and General Luna Streets, Manila, massacring and killing, without cause or trial, more than 53 men, women, and children, and wounding, maiming and attempting to kill four persons, all unarmed and noncombatant civilians; and unnecessarily and wantonly burning and destroying the said building and its furniture, fixtures and contents.

31. On about 7 February 1945 at and in the vicinity of 1462 Taft Avenue in Pasay, Rizal Province, cruelly and brutally mistreating and thereafter massacring and killing more than 100 Filipino and French civilians, without cause or trial, all being unarmed noncombatant civilians; wounding, maiming and attempting to kill, without cause or trial, seventeen unarmed noncombatant Filipino civilians; raping and thereafter killing unarmed noncombatant civilian women; unnecessarily and wantonly burning and destroying private property of civilians, the house and home of Mrs. Dona Conception Soblador Campos; and seizing, confiscating and stealing money, jewels, watches and other private property of civilians.

32. On about 9 February 1945, at and in the vicinity of St. Paul's College, Malate, Manila, cruelly and brutally mistreating Marcelino Punzalon, Meneleo Carlos Sr., Estelita Benito, and approximately 600 other persons, including men, women and children, all unarmed

noncombatant civilians; brutally massacring and killing without cause or trial, Bruno Acuna, Celia Aguas, Jose Aquino, and 370 additional persons, including men, women and children, all unarmed noncombatant civilians; wounding, maiming and attempting to kill, without cause or trial, Celestina Antipolo, Zeila Antipolo, Cornelia Ayson, and 24 other persons including men, women and children, all unarmed noncombatant civilians; unnecessarily, deliberately and wantonly burning and destroying buildings, together with fixtures, furniture and other contents thereof, and dedicated to religion, art and science and not used for military purposes, of the aforesaid St. Paul's College; and seizing, confiscating and stealing money, jewels and other private property of civilians.

33. On about 9 February 1945, in the vicinity of Dana Perfume Factory, Pasay, Rizal Province, cruelly beating, torturing and thereafter killing, without cause or trial, Eugene Andrewitz Kremleff, Russian, Julian Jawai and Alfredo Gana, Filipino, all unarmed noncombatant civilians.

34. During the period from 9 February 1945 to 17 February 1945, both dates inclusive, at and in the vicinity of Bay View Hotel, Alhambra Apartment Hotel, Miramar Apartment Hotel and Manila Hotel, all in Ermita, Manila, cruelly mistreating and abusing approximately 400 women, all unarmed and noncombatant civilians; cruelly mistreating, abusing and repeatedly raping more than 40 women and female children, and cruelly mistreating, abusing and attempting to rape more than 36 other women and female

"children; unnecessarily and wantonly burning, damaging or destroying the said buildings, private property, their furniture, fixtures and contents.

35. On about 8 and 9 February 1945, in Malate, Manila, killing, without cause or trial, Africa Canillas, Amparo Canillas, Charles Canillas, Elvira Canillas, and five (5) other members of the Felipe Canillas family, and Zoilo Llave, all unarmed noncombatant civilians; pillaging and unnecessarily and wantonly burning and destroying private property, the house and home of Felipe Canillas.

36. On about 13 February 1945, in the vicinity of No. 1609 Taft Avenue, Malate, Manila, cruelly mistreating and subsequently killing, without cause or trial, Albert P. Delfino, Venezuelan Consul in Manila, then known by the perpetrators to be such, Francis A. Delfino, Maria Dolores Delfino, and John Doe Ching, all unarmed noncombatant civilians; cruelly mistreating, wounding, and attempting to kill, without cause or trial, Igmidio Ramos, and a woman whose name is unknown; unnecessarily and wantonly burning and destroying private property, including the house at 1609 Taft Avenue and numerous other buildings in that area, together with the furniture, fixtures and contents thereof.

37. On about 11 February 1945, at 1580 Taft Avenue, Malate, Manila, killing, without cause or trial, Vassanmal Popardes and three (3) other British Indians, and Emilio Tubayano and three (3) other Filipinos, all unarmed noncombatants; unnecessarily and wantonly burning and destroying private property, the house and home of Hashmatrai

"Hatchand, together with the furniture, fixtures and contents thereof.

38. On about 7 February 1945, near the Syquia Apartments in Malate, Manila, killing, without cause or trial, Father Peter Fallon, Father John Hehaghan, Father Patrick Kelly and Father Joseph Monaghan, Priests of the Malate Catholic Church and Convent, and Jose Chico, Gerardo Rictra, Jack Sullivan, Conrado Vallenias, Victor Velasco, Bertito Zamora, Marcial Zamora, and Cristi Malaban, all unarmed noncombatant civilians.

39. On about 9 February 1945, at 515 Dakota Street, Malate, Manila, killing, without cause or trial, Kishinchand Mirchandani, Devjimal Changomal Lalivani, Thelma Parrish and Carl Parrish, Jr. (infant child), all unarmed noncombatant civilians.

40. On about 20 February 1945, in the Iloguis District approximately 2½ kilometers east of Pasig, Rizal Province, brutally mistreating and robbing, and subsequent killing, without cause or trial, of Candido Jabson, and the brutal mistreatment, robbery, wounding and attempt to kill, of Raymunda Jabson and Defina Jabson, all unarmed noncombatant civilians; attempt to rape Raymunda Jabson; robbery, seizing, confiscating and stealing watches, clothes and other private personal property; and pillage of private property.

41. On about 12 February 1945 at 150 Vito Cruz Street, Singalong, Manila, brutal mistreatment, torture, burning alive or otherwise killing Carlos Perez Rubio, Sr., Lopita Perez Rubio, Javier Perez Rubio, Herbert Fox, Mrs.

"Herbert Fox, Marina Padua, Alphonso Pahodpod, and more than twenty-two other persons including men, women and children, and brutally mistreating, attempting to burn alive and wounding Jose Balboa, Ignacio Bustamante and other persons; all unarmed and noncombatant civilians; unnecessarily, deliberately and wantonly burning and destroying private property, the house and home of Carlos Perez Rubio, Sr.

42. On about 28 February 1945, at the Town of Bauan, Batangas Province, brutally mistreating and subsequently massacring and killing without cause or trial, Enrique Martinez, Maximino Brual, and more than 400 other persons, including men, women and children, all unarmed noncombatant civilians; brutally mistreating, wounding and attempting to kill, Dr. Francisco Manigbas, Gemiliano M. Brual, and more than 100 other persons, all unarmed noncombatant civilians; and pillaging, unnecessarily and wantonly devastating and destroying public, religious and private property.

43. During the period from 16 February 1945 to 18 February 1945, both dates inclusive, at the Town of Taal, Batangas Province, brutally mistreating, massacring and killing, without cause or trial, Benjamin Moreno, an infant 1 year of age, Andres Briones, Alberto Martel, Pablo Marasigon, Dalmacio Luna, Concordia Barrion, Alicia Barrion, together with more than 2000 other men, women and children, all unarmed noncombatant civilians; in the Barrios of San Nicolas and Sinturisan, pillaging and unnecessarily, deliberately and wantonly devastating, burning

"and destroying all houses and other buildings.

44. On about 19 February 1945, in the Town of Cuenca, Batangas Province, brutally mistreating, massacring and killing Jose M. Laguo, Esteban Magsomdol, Jose Lunbo, Felisa Apuntar, Elfidio Lunar, Victoriona Remo, and 978 other persons, all unarmed noncombatant civilians; pillaging and unnecessarily, deliberately and wantonly devastating, burning and destroying large areas of that town.

45. On about 20 February 1945, at the Town of San Jose, Batangas Province, brutally mistreating, massacring and killing, without cause or trial, Vinancia Remo, Vincente Frank, Jose Talog, Roman Umali, and more than 500 other persons, all unarmed noncombatant civilians; pillaging and unnecessarily, deliberately and wantonly devastating, burning and destroying large areas of that town.

46. On about 19 February 1945, at the Town of Mataonakahoy, Batangas Province, brutally mistreating, massacring and killing approximately 200 men, women and children, the names of whom are not yet determined, all being unarmed noncombatant civilians; pillaging and unnecessarily, deliberately and wantonly devastating, burning and destroying large areas of that town.

47. During the period from 16 February 1945 to 19 March 1945, both dates inclusive, at the Town of Santo Tomas, Batangas Province, brutally mistreating, massacring and killing Paz Austria, Adeleida Castro, Caladia Cabrera, Rodolfo Talad, and more than 1,500 other men, women and

"children, all unarmed and noncombatant civilians; pillaging and unnecessarily, deliberately and wantonly burning, damaging and destroying all public buildings and private homes.

48. On about 10 February 1945, in the Paco District of Manila, brutally mistreating, torturing, mutilating and killing, without cause or trial, Regina Alcid, Bonifacio Bogamesbod, Ricardo Baja, Eugeni Balleta, and more than 300 other persons; brutally mistreating, torturing, mutilating, wounding and attempting to kill without cause or trial, Vicente Alcid, Eustaquio Batoctoy, Eugene Boyot and more than 100 other persons; all unarmed noncombatant civilians; deliberately and wantonly burning and destroying, without military necessity, private property, a house at 1195 Singalong Street, Manila.

49. During the period from 16 February 1945 to 19 March 1945, both dates inclusive, in the Town of Lipa, Batangas Province, brutally mistreating, wounding and killing, without cause or trial, Ricardo Caringal, Francisco La Torre, Pedro La Torre, Severo Lubrica, Santiago Limatok, and more than 12,000 other men, women and children, all unarmed noncombatant civilians; and pillaging, deliberately, and wantonly and without military necessity devastating, burning, damaging and destroying public and private buildings and property, including property devoted to religious purposes.

50. On about 8 February 1945, at Santa Rosa College, Intramuros, Manila, the abduction and subsequent brutal mistreatment and killing of Aida Aplin, Leo Gump, Kenneth

"Huebch, Edgar Christiansen, Father Cornelius Van Russell, William Mitchell, Valeriano Cueva, and other persons, all unarmed noncombatant civilians.

51. On about 10 February 1945, at or near the Santa Rosa College, and at Manila Armory, Manila, the abduction and subsequent brutal mistreatment and killing, without cause or trial, of Bartolome Pinilio, Evencio Piquero, Adriano Ramos, Leon Ulit, Anastacio Montano, Juanito Tabal, Armanda Ebanes, and 54 other men, women and children, all unarmed noncombatant civilians; brutal mistreatment, wounding and attempt to kill, without cause or trial, of Conrado Tauro, Mama Moro, and Wong Ling, all unarmed noncombatant civilians.

52. During the period from 10 February 1945 to 23 February 1945, at Fort Santiago, Intramuros, Manila, brutal mistreatment, starvation, torture, wounding, maiming, burning alive, massacre and killing, without cause or trial, of more than 4000 unarmed noncombatant civilians.

53. On about 17 February 1945, at Santo Domingo Church, Intramuros, Manila, brutally mistreating and killing, without cause or trial, Dr. Cecilio Noriega, Dr. Manuel Lahoz, Conrado Pili, Lazero Cordero, Dado Pili, and other persons, all unarmed noncombatant civilians.

54. On about 10 February 1945, in the town of Tanauan, Batangas Province, brutally mistreating and killing, without cause or trial, 500 unarmed noncombatant civilians, and deliberately and wantonly and without military necessity devastating and destroying public and

"private property.

55. On about 12 February 1945, at Calamba, Laguna Province, massacre, without cause or trial, of more than 7000 unarmed noncombatant civilians, and rape of 37 civilian women.

56. On about 9 April 1945, at the Town of Pingus, Laguna Province, massacre, without cause or trial, of 41 unarmed noncombatant civilians.

57. On about 13 March 1945, at the Town of Rosario, Batangas Province, massacre and killing, without cause or trial, of Lorenzo Masilungan, Sakeo Tolentino, Marcela Tolentina, Ilias Garcia, Saturnina Barcelos, and more than 45 other persons, including men, women and children, all unarmed noncombatant civilians; and pillaging and unnecessarily and wantonly devastating and destroying public, religious and private property.

58. On about 6 March 1945, at Los Banos, Laguna Province, massacring and killing, without cause or trial, Ang Kai, and 26 other Chinese, and brutally mistreating, wounding, maiming and attempting to kill, without cause or trial, Elisa Ang and Kim Ling Ang, unarmed and non-combatant civilians; and brutally mistreating and attempting to kill, without cause or trial, all of the unarmed and noncombatant Chinese civilians of that town.

59. On about 12 February 1945, at Pax Court, Pasay, Rizal Province, Brutally mistreating, torturing and killing, without cause or trial, Antonio Villa-Real, a retired Justice of the Philippine Supreme Court, Melchora Caliwán, Maria Doronila, and twelve (12) other persons,

"and brutally mistreating, torturing, wounding and attempting to kill, without cause or trial, Dr. Walter K. Frankel, Hans Albrecht Luhrse, Alice Stahl, and other persons, and deliberately, wantonly and without military necessity burning and destroying private property, the house at 168-B Balagtas Street, Manila, and the furniture, fixtures and contents thereof.

60. On about the night of 19-20 February 1945, at and in air raid shelters near Plaza McKinley, Intramuros, Manila, brutally mistreating and killing, without cause or trial, Gaudencio Castrillo, Victor Gonzales, Benigno Cano, and more than 100 other Catholic priests, citizens of Spain, and other persons, and brutally mistreating, wounding and attempting to kill, without cause or trial, Laurentino de Pablo, Jose Manajabacas, Jose M. Barrulo, Father Belarmino de Celis, Julio Rocamura, and other persons, all unarmed noncombatant civilians.

61. During the period from 6 February 1945 to 22 February 1945, both dates inclusive, brutally mistreating, and imprisoning in St. Augustine Church, Intramuros, Manila, without food, medical supplies or other necessities, and unnecessarily and deliberately exposing to shell fire in and in the vicinity of that Church, approximately 6000 men, women and children, all unarmed noncombatant civilians, by reason whereof a large number of such civilians died of starvation, disease and mistreatment.

62. During the period from 6 February 1945 to 22 February 1945, both dates inclusive, at the St. Augustine Church in Intramuros, Manila, brutally mistreating and

"killing, without cause or trial, Sister Felisa Anza and more than 50 other persons, all unarmed noncombatant civilians.

63. On about 23 February 1945, in the vicinity of St. Augustine Church, Intramuros, Manila, killing, without cause or trial, Dr. Seguenza and other persons, and wounding and attempting to kill, without cause or trial, Ester Aenelle, and other persons, all unarmed noncombatant civilians.

64. During the period from 6 February 1945 to 23 February 1945, both dates inclusive, in and in the vicinity of St. Augustine Church and Convent, Intramuros, Manila, brutally abusing, raping and attempting to rape numerous women and female children; wounding, killing and attempting to kill, without cause or trial, unarmed noncombatant civilians; pilfering, stealing and looting personal property of civilians confined therein, including watches, money, clothing, food, medical supplies, jewelry, and other personal belongings; installing, maintaining and operating, in and on the premises of the Church and Convent, military weapons and other military objectives, despite the exclusively religious purpose and nonmilitary use of those buildings; and deliberately and wantonly, without military necessity, devastating, burning and destroying the Convent and damaging the Church, together with the furniture, fixtures, religious library and other properties therein.

8 October 1945

Respectfully submitted,

/s/ Robert M. Kerr
ROBERT M. KERR
Major, Infantry
PROSECUTOR

"Receipt is acknowledged of a certified copy of the
foregoing Bill of Particulars.

/s/ Harry E. Clarke
HARRY E. CLARKE
Colonel, JAGD
CHIEF, DEFENSE COUNSEL "

GENERAL REYNOLDS: Is there any other matter to come before the Commission before the Accused enters his plea?

(Translated by Interpreter Boardman to the Accused.)

COLONEL CLARKE: Except, sir, we would like to discuss this Bill of Particulars and see if there is any other motion we have to make.

GENERAL REYNOLDS: For how long would you wish to recess?

(No response.)

GENERAL REYNOLDS: For how long?

COLONEL CLARKE: For fifteen minutes.

GENERAL REYNOLDS: The Commission will recess for fifteen minutes and reconvene at 1525 hours.

(Whereupon, at 1510 hours, a recess was taken until 1525 hours.)

GENERAL REYNOLDS: The Commission will come to order.

COLONEL CLARKE: If the Court please, the Accused is ready to plead to the general issue.

(Translated by Interpreter Boardman to the Accused.)

GENERAL REYNOLDS: General Tomoyuki Yamashita, at this time the Commission will hear your plea to the Charge and specifications which have been read to you. You may plead either guilty or not guilty.

(Translated by Interpreter Boardman to the Accused.)

THE ACCUSED (through Interpreter Boardman): My plea is not guilty.

GENERAL REYNOLDS: Does the Prosecution have any recommendation to make as to the time for trial?

MAJOR KERR: Sir, the Prosecution defers to the desires of Defense counsel in that particular. We are agreeable to the Defense having a reasonable time in which to prepare their case.

COLONEL CLARKE: Sir, we believe that two weeks will be sufficient time.

MAJOR KERR: How long?

COLONEL CLARKE: Two weeks.

MAJOR KERR: If the Commission please, I would like to suggest three weeks. We do have some witnesses coming in from the States and I am not sure that we can be ready in two weeks. Frankly, I am surprised that the Defense believes they can properly prepare a defense in this case in two weeks. The prosecution would request three weeks.

COLONEL CLARKE: Sir, we are satisfied.

GENERAL REYNOLDS: Are there any additional matters to be brought before the Commission at this time?

MAJOR KERR: Sir, the Prosecution has none.

COLONEL CLARKE: The Defense has none, sir.

GENERAL REYNOLDS: There being none, the Commission will now recess and will be reconvened on 29 October 1945, at 0800 hours at the High Commissioner's Residence, Dewey Boulevard, Manila, or on such other date or at such other place as the Presiding Officer may hereafter determine for the purpose of proceeding with the trial of General Tomoyuki Yamashita.

(Whereupon, at 1630 hours, 8 October 1945, the trial was adjourned until 0800 hours, 29 October 1945.)

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

UNITED STATES OF AMERICA)

-vs-)

TOMOYUKI YAMASHITA)
-----)

PUBLIC TRIAL

High Commissioner's Residence,
Manila, P. I.
29 October 1945

Met, pursuant to adjournment, at 0800 hours.

MEMBERS OF MILITARY COMMISSION:

MAJOR GENERAL RUSSELL B. REYNOLDS, Presiding Officer
and Law Member

MAJOR GENERAL LEO DONOVAN

MAJOR GENERAL JAMES A. LESTER

BRIGADIER GENERAL MORRIS C. HANDWERK

BRIGADIER GENERAL EGBERT F. BULLENE

APPEARANCES:

FOR THE PROSECUTION:

MAJOR ROBERT M. KERR, INFANTRY, Prosecutor

MAJOR GLICERIO OPINION, JAGS, Philippine Army,
Special Assistant Prosecutor

CAPTAIN M. D. WEBSTER, JAGD, Assistant Prosecutor

CAPTAIN WILLIAM N. CALYER, JAGD, Assistant
Prosecutor

CAPTAIN D. C. HILL, JAGD, Assistant Prosecutor

CAPTAIN JACK M. PACE, INFANTRY, Assistant
Prosecutor

LIEUTENANT GEORGE E. MOUNTZ, USNR, Trial
Assistant

LIEUTENANT WILLIAM S. YARD, JAGD, Trial
Assistant

FOR THE DEFENSE:

COLONEL HARRY E. CLARKE, JAGD

LIEUTENANT COLONEL WALTER C. HENDRIX, JAGD

LIEUTENANT COLONEL JAMES G. FELDHAUS, JAGD

MAJOR GEORGE F. GUY, CAVALRY

CAPTAIN ADOLF F. REEL, JAGD

CAPTAIN MILTON SANDBERG, JAGD

LIEUTENANT GENERAL MUTO

MAJOR GENERAL UTSUNOMIYA

INTERPRETERS FOR THE COMMISSION:

Major Harry D. Pratt, USMC
Major Eugene P. Boardman, USMCR

OFFICIAL REPORTERS FOR THE COMMISSION:

E. D. Conklin
Lorenz H. Winter

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Captain Norman James Sparman	106	127		
Patrocin Abad	132	142		
Gliceria Andaya	144	153		
Florita Loveriza	155	160		
John K. Lewy	161			
Juan P. Juan	168	183		
Flora Reyes Mabagós	189			
Ricardo Mendoza	193	195		

EXHIBITS

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
1	107	110
2		111
3	112	117
4	117	118
5	119	119
6	120	122
7	122	127
8	136	137
9	138	139
10	139	140
11	140	140
12 (omitted in numbering)		
13	148	149
14	164	165
15	180	180

I N D E X (Continued)

EXHIBITS

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
16	181	181
17	181	182

PROCEEDINGS

GENERAL REYNOLDS: The Commission will now reconvene pursuant to direction of the Presiding Officer given on 8 October 1945 and will proceed with the trial of the United States v. General Tomoyuki Yamashita.

MAJOR KERR: If the Commission please, the Prosecution submits for incorporation into the record of the proceedings the following:

"CONFIDENTIAL

**"HEADQUARTERS
UNITED STATES ARMY FORCES WESTERN PACIFIC**

**"APO 707
26 October 1945**

**"Special Orders)
No.....134)**

"EXTRACT

"22. MAJOR GENERAL LEO DONOVAN, GSC, and BRIGADIER GENERAL MORRIS C. HANDWERK, USA, are detailed members of the military commission appointed by par. 24, Special Orders 112, this headquarters, 1 October 1945, vice MAJOR GENERAL CLARENCE L. STURDEVANT, USA, and BRIGADIER GENERAL WILLIAM C. WALKER, GSC, relieved.

"23. MAJOR GENERAL RUSSEL B. REYNOLDS, GSC, is designated law member of the military commission appointed by par. 24, Special Orders 112, this headquarters, 1 October 1945, vice MAJOR GENERAL CLARENCE L. STURDEVANT, USA, relieved.

"BY COMMAND OF LIEUTENANT GENERAL STYER:

**"EDMOND H LEAVEY
Major General, USA,
Deputy Commander and
Chief of Staff**

"OFFICIAL:

**/s/ BENITO MORALES
BENITO MORALES
Colonel, AGD,
Asst Adjutant General "**

GENERAL REYNOLDS: There being no objection, the extract of Special Orders No. 134 is incorporated into the record.

MAJOR KERR: If the Commission please, I also desire that there be incorporated into the record of this proceeding the following letter, which reads:

"CONFIDENTIAL

"GENERAL HEADQUARTERS
UNITED STATES ARMY FORCES, PACIFIC

"APO 500
24 September 1945

"AG 000.5 (24 Sep 45) DC s

"SUBJECT: Trial of General Tomoyuki Yamashita.

"TO: Commanding General, United States Army Forces,
Western Pacific.

"1. It is desired that you proceed immediately with the trial of General Tomoyuki Yamashita, now in your custody, for the crimes indicated in the attached charge.

"2. The following named officers, assigned to the War Crimes Investigating Detachment, this headquarters, are made available to your command for service as prosecution personnel on the Military Commission to be convened by you for this purpose:

Major Robert W. Kerr, Inf
Captain M. D. Webster, JAGD
Captain William N. Calyer, JAGD
Captain D. C. Hill, JAGD
Captain Jack M. Pace, Inf

"By command of General MacARTHUR:

"(signed) B. M. FITCH,
Brigadier General,
U. S. Army,
Adjutant General.

1 Incl:
Charge, as indicated.

A TRUE COPY:
Richard Dahl (signed)
RICHARD DAHL
WOJG, U.S.A. "

Attached to that letter, sir, is a copy of the Charge, which is now a part of the record of this proceeding.

I desire that these documents likewise be incorporated in the record.

GENERAL REYNOLDS: There being no objection the documents are incorporated into the record.

The Reporters who were not present at the arraignment will be sworn.

(Whereupon Reporters E. D. Conklin and Lorenz H. Winter were sworn.)

GENERAL REYNOLDS: The Interpreters who were not present at the arraignment will be sworn.

(Whereupon Interpreters Sgt. Joshi Yorioka, Sgt. Goro Oishi, Sgt. Tad Yajima, Sgt. Suco Ito, Miss UY, Mr. Zamora, Mr. Gojunco, Miss Reyes, Miss Rodas, Mr. Lavengco were sworn.)

GENERAL REYNOLDS: The new members of the Commission will be sworn.

(Whereupon Major General Leo Donovan, GSC, and Brigadier General Morris C. Handwerk, USA, were sworn.)

GENERAL REYNOLDS: For the benefit of the new members of the Commission the substance of the transcript of the proceedings of 8 October 1945 will be read.

MAJOR KERR: If the Commission please, the regulations governing the procedure of this Commission require that in the event any member is relieved during the course of proceedings the substance of the proceedings up to that time shall be read to the new member or members.

This Military Commission convened on 8 October 1945 at the High Commissioner's Residence at Manila for the purpose

of trying the Accused in this case, Tomoyuki Yamashita. All of the present members of the Commission except for the two new members and the two members whom they are relieving were then present, together with all the members of the Prosecution staff and the members of the Defense staff. The Accused was also present.

There were incorporated into the record of the proceeding at that time five documents, being a letter prescribing the regulations governing Military Commissions for the Trial of War Criminals in this theater; a Letter Order authorizing the Commanding General, Army Forces, Western Pacific, to appoint a military commission for the purpose of trying Tomoyuki Yamashita; a Letter Order appointing this Commission, together with Prosecution and Defense counsel; an Order amending the original Order establishing the Commission; the Charge which is now before the Commission in this proceeding, and a Bill of Particulars dated 8 October 1945.

At the time the Bill of Particulars was offered for the record Defense counsel objected thereto and an exception to the Commission's ruling against the objection was noted.

Defense counsel interposed a motion to dismiss the charge on the ground that it did not state facts sufficient to constitute a violation of the laws of war. After argument of counsel the Commission denied that motion. Defense counsel thereupon presented what amounted to a motion to make more definite and certain, contending that the charge as filed was not sufficiently specific to acquaint the Accused with the nature of the charges against him. Thereupon a Bill of Particulars was served upon Defense counsel

and incorporated in the record of this proceeding. Thereafter the Accused was arraigned and entered a plea of not guilty.

It was agreed by counsel for the Defense and the Prosecution and approved by the Commission that only such portions of the proceedings before the Commission would be interpreted to the Accused as the Accused through his Defense Counsel from time to time might request, and that in the absence of such a request it would be assumed that the Accused would be served adequately by his own personal Interpreter.

The Accused requested that he be represented by counsel in addition to the regular Defense Counsel whom he accepted, namely, two officers, Lieutenant General Muto and Major General Utsunomiya. That request was granted, it being specified by the Commission that their services would be made available to the Accused in the Commission room as Associate Defense Counsel.

Thereafter the Commission recessed and the Presiding Member designated this time, this date and this place as the time, place and date for the reconvening of the Commission for the purpose of proceeding with the trial.

GENERAL REYNOLDS: Are you finished with the gist of what transpired?

MAJOR KERR: Yes, sir.

GENERAL REYNOLDS: Does counsel for the Defense accept the gist of the proceedings as presented?

COLONEL CLARKE: Yes, sir.

MAJOR KERR: At this time, sir, I offer and request that there be incorporated in the record of this proceeding

the Prosecution's Supplemental Bill of Particulars which shows receipt of service of a certified copy thereof upon Defense Counsel on the 26th day of October, 1945.

GENERAL REYNOLDS: Prior to considering that point the Commission desires that the record show that the Accused and his Counsel were present at the opening of this session of the Commission.

Defense may proceed.

CAPTAIN REEL: Sir, the Defense wishes to object to the filing of the Supplemental Bill of Particulars which has just been placed before the Court. We have two grounds for our objection. We should like to state them, if we may.

GENERAL REYNOLDS: You may proceed.

CAPTAIN REEL: In the first place, let me begin simply by reminding the Commission of a bit of the history of the arraignment as read by the Prosecution.

On the 8th day of October at the time of the arraignment we made a motion to make more definite and certain the charges filed against the Accused on the ground that they did not properly apprise him of his rights. At that time, apparently, the Commission agreed and ordered the filing of the original Bill of Particulars. At that time the Prosecution stated that they wished the right to file a Supplementary Bill of Particulars. The Defense objected and the Defense objection was overruled.

Our objection was based, sir, on the grounds that it is unprecedented and against ordinary principles of law and justice to allow the prosecution after a case has begun to continue to file additional specifications. However, as I

say, the objection was overruled.

We assume, sir, and we submit that any normal, intelligent person would assume that when the Prosecution, after filing sixty-four separate specifications, stated that they wished to file a Supplemental Bill of Particulars, that Supplemental Bill would probably contain one, two, three, four or perhaps even half a dozen additional particulars. But as late as last Friday at 4:00 P. M. we were served with a copy of the so-called Supplemental Bill of Particulars, which contains fifty-nine new, separate and distinct alleged offenses. These fifty-nine offenses are new in so far as the persons involved are concerned, in so far as the times are concerned, and for the most part in so far as the places are concerned. It is all new and it is new in addition to that, sir, in presenting an entirely different theory of the prosecution of this case. As I say, on Friday at 4:00 P. M. the Defense was served with a copy of this so-called Supplemental Bill of Particulars.

Our first objection, sir, is based upon the fact that we believe that it is unconscionable in a case of this type to practically double in the last minute the list of offenses charged. There is no end to this sort of thing. We do not even have an assurance, sir, that there will not be further particulars filed again and again and again as this trial progresses. We on the defense side, as I say, are unanimous in the belief that it is an unconscionable proceeding.

The second ground goes to the Bill itself. It is not a bill of particulars. It is called that, but it is entirely different from the original bill that was filed.

The original bill did particularize.

May I call your attention to the language of the two Bills. They are both preceded by a blanket sentence that covers all the specific allegations in each Bill. The original Bill filed 8 October 1945 says as follows:

"Between 9 October 1944 and 2 September 1945, at Manila and other places in the Philippine Islands, members of Armed Forces of Japan under the command of the Accused committed the following: . . ."

Then it proceeds to list sixty-four acts which were committed allegedly by members of the armed forces under the command of the Accused.

The new Bill is quite different. The new Bill begins with a different sentence. It says that ". . . members of the Armed Forces of Japan, under the command of the Accused, were permitted to commit" certain acts which then follow and numbering fifty-nine.

I think the Commission sees the difference. In one case there is the allegation of the "commission" of certain acts. It is true that in the original Bill those acts were particularized.

We do not agree with that theory, as we pointed out in our motion to dismiss, but nevertheless it was a bill of particulars. But this new Bill alleges "permission" of 59 acts and in no single case does it allege any details, any particulars as to that "permission". We do not know who permitted any one of the 59 acts; we do not know to whom the permission was given; we do not know when it was given; we do not know where it was given; we do not know the circum-

stances; we do not know how. And it goes, sir, to the very essence of this case.

. The new theory, the different theory is not that acts were "committed" by members of the command, but that somebody -- we do not know who and somebody presumably connected with the Accused or the Accused himself -- permitted these acts. As I say, sir, there is no particularization of any of that "permission".

For those two reasons we strenuously object to the filing of this Supplemental Bill of Particulars.

MAJOR KERR: If the Commission please, I call the Commission's attention to the proceedings at the time of the arraignment with relation to the offer and filing of the original Bill of Particulars. At that time, as I said before, Defense Counsel moved that the charge be made more definite and certain. The Prosecutor then offered to submit a so-called Bill of Particulars and the Presiding Officer stated that the motion for a Bill of Particulars would be granted.

The Bill of Particulars was thereupon served and filed.

I now read from page 37 of the record:

"Prosecutor: Sir, it is satisfactory to the Prosecution, provided and on one condition, that the Prosecution at a later date has the privilege of serving and filing a supplemental bill of particulars.

"We have certain documentary evidence which has not been received as yet from the States. We have certain new information just recently received which we have not had an opportunity so far to incorporate in the Bill of Particulars.

If we may have assurance that later we may file a supplemental bill of particulars, we are willing to proceed on the basis which I have suggested; otherwise not.

"Presiding Officer: Is the Commission to understand that the counsel for the defense has made a motion for a Bill of Particulars?

"Defense Counsel: Yes, sir.

"Presiding Officer: The motion for a Bill of Particulars is granted; the Bill to be served and filed immediately. A Supplemental Bill of Particulars may be filed later subject to such conditions as the Commission may then specify.

"Defense Counsel: May it please the Commission, we ask for an exception to that ruling where the Supplemental Bill of Particulars may be filed."

I therefore submit, sir, that the Prosecution does have the permission of the Commission to file a Supplemental Bill of Particulars.

So far as the point made by Defense Counsel as to the difference in wording of the prefatory portion of the Supplemental Bill of Particulars and that portion of the original Bill of Particulars, that really has no significance one way or the other. The purpose of this so-called Bill of Particulars is simply to specify the instances which are generally referred to in the Charge, and whether the Bill of Particulars says "permitted" or that these acts were "committed" by members of the command of the Accused is immaterial. Naturally the Bill of Particulars is construed and is to be read in the light of and in connection with the Charge.

Incidentally, there is no provision in the regulations

governing the procedure of this Commission and such commissions as are prescribed by General MacArthur for a bill of particulars or for a motion to make more definite and certain. It is purely a matter of discretion with the Commission as to whether or not it will require a specification of that type: a Bill of Particulars. Although we have termed it a "Bill of Particulars" for lack of any more appropriate term, it is not in fact a bill of particulars as that term is used in the courts of law at home or in the States. It is not intended as such. Its sole purpose is to specify the instances where the members of the command of the Accused were permitted to do acts contrary to the laws of war. In other words, it refers back to and must be construed in connection with the charge itself.

I therefore submit, sir, that the contention of Defense Counsel with respect to the wording of the Bill of Particulars is not well taken.

I can assure the Commission that, so far as I know now, we shall have no occasion to file any further supplemental bills of particulars.

GENERAL REYNOLDS: Does the Defense have anything further?

CAPTAIN REEL: Yes, sir.

First, in so far as the statement made by the Prosecution relative to their position taken on 8 October at the time of the arraignment, as I stated in my statement to the Court we agree that the Prosecution did say at that time that they wished to file a bill of particulars only on one condition, namely, that they could file a supplemental bill. I believe

it was clearly understood by the Defense and, I think, as I said before, by other persons and the most natural understanding is that when you have filed 64 particulars and you talk about a "supplement", you are not going to double that number, which is practically what happened here: an additional 59; a total of 123.

It is to be recognized, sir, that although the Prosecution set up its conditions and said "On one condition we will file this" -- by what authority I do not know -- nevertheless, this Commission was careful to state in allowing the Bill of Particulars to be filed that it may be filed later "subject to such conditions as the Commission may then specify". And all that we ask in our objection here is that the normal, natural condition that you would specify in the filing of any supplemental bill of particulars is that it stay within the bounds and grounds of reason and that this sort of thing at the last minute is unconscionable and, as I said before, there is no assurance that this is even the end. This can go on and on.

As to the proposition that there seems to be no difference between the meaning of the first sentence of these Bills of Particulars, I beg to differ with counsel. The first sentence is to be read apparently intentionally as though it appeared in every single one of the particulars. If it is not in itself a charge, I do not know what is a charge. The words again read that "members of the Armed Forces of Japan, under the command of the Accused, were permitted to commit", and so forth. In each one of these cases there is a brand new allegation, namely, the "commission".

When my brother says there is absolutely no difference between somebody "committing" an act and that act being "permitted" by superior authority, it seems to me that he is going beyond the bound of reason. The very essence of this case, as will develop during the course of the hearing and as already has been shown by the motion to dismiss, is whether or not an offense against the laws of war is stated (1) simply by saying that somebody did an act who was under the command of a certain General or (2) -- and now we take another step -- whether somebody permitted those acts. Then we can go further steps and say (3) whether somebody authorized those acts or (4) whether somebody ordered them. But those are fundamental distinctions here.

Of course the thing is to be read in light of the charge. The charge was not sufficiently definite and so this Commission requested and allowed the filing of an original Bill of Particulars correctly. But there is certainly all the difference in the world. There is an entirely new case being presented in this new Bill of Particulars.

GENERAL REYNOLDS: Subject to objection by any member of the Commission, the motion of Counsel for the Defense is not sustained.

CAPTAIN REEL: May we have an exception to that ruling, sir. At this time I wish, then, to file two motions. I shall take them up one at a time.

This first motion, sir, I shall not spend time in arguing because we have already covered the point, but we are in a rather paradoxical situation.

Inasmuch as the Supplemental Bill of Particulars has been allowed to be filed over our objection, we now wish to have that bill amplified. In other words, inasmuch as there is now before this Commission for purpose of hearing evidence a Supplemental Bill of Particulars containing 59 new offenses, we wish to have amplified the meaning of the Bill of Particulars in so far as those 59 new offenses are concerned. In other words, we are asking for particulars on each case as to who granted the alleged permission to commit the alleged offenses, to whom such permission was granted, the form of expression of the permission, and the times, places and dates of the permission.

MAJOR KERR: If the Commission please, the charge answers the first point. It was the Accused who permitted these acts to be committed. The charge so states. We are not required, or would not be required even under the technical procedure of a court of law in the United States to disclose our evidence through the medium of a bill of particulars. I cite the legal case of Commonwealth v. Jordan, 27 Massachusetts Reports 259.

"The office of a bill of particulars is not to compel the Commonwealth to disclose its evidence, to give the defendant such general information in addition to that contained in the complaint or indictment regarding the crime charged, as law and justice require that he should have in order to safeguard his constitu-

tional rights and to enable him to fully understand the crime and prepare his defense."

In the first place, sir, the Accused has no rights under the Constitution of the United States. He is an enemy alien. The Constitution does not apply to him. So that so far as this decision refers to the Constitution of the United States it is not applicable to this particular proceeding. But even under the Constitution an accused in a court of law in a criminal proceeding is not entitled to a revelation of the details of evidence upon which the prosecution bases its case.

Now, sir, if the Prosecution were to be required to specify all of the items suggested by Defense Counsel, and if he is sound in that contention then he may go further and demand that we also specify who were killed, who were wounded, who were raped, who were mistreated and so on. And that would be beyond all bounds of reasonableness. We would have a bill of particulars running into thousands of pages. We have the names of thousands of people who were killed, other thousands who were wounded, hundreds who were raped, and it would serve no good purpose to set forth in a so-called bill of particulars all of that matter of evidence.

I submit, sir, that for the purpose of acquainting the Accused with the nature of the offenses committed by his troops which he is charged with having permitted, the original and supplemental Bills of Particulars meet all of the requirements of justice and fair trial.

CAPTAIN REEL: Sir, we are not asking for any particulars as to the names of the alleged victims and that sort of thing. That is already in this bill sufficiently to satisfy us. We do not ask for that. We say that the gravamen of this charge is that

there was a permission, now we find out, on the part of the Accused. That is the gravamen of the charge. That is what is really important. And all we ask is that the details of that permission be given in the form of a bill of particulars.

My brother has stated at one time that this Commission was not bound by known or prescribed rules. He then refers to the case of Commonwealth v. Jordan. As a member of the Bar of Massachusetts, I am flattered by the fact that he picked that particular State, but I cannot see the consistency in telling this Commission that the rules of the court in Massachusetts apply and not the Federal rules of a Federal District Court, and, to top it off, not the Constitution of the United States. The Fifth Amendment of the Constitution of the United States says "Any person", not "any citizen". And my brother knows that.

However, this whole matter would not have come up and there would be no question of particulars had this charge been drawn in the form that any normal charge before any military commission should be drawn, namely, a charge, a specification, another specification; a charge, a specification in the normal and usual way. That was not done here. It is not the Defense's fault. That was not done. My brother did file a Bill of Particulars. He says he does not have to. Well, what is it worth, what is it for? Why was it filed at all? It is filed because this Commission ruled that that inartistic charge that was filed was not sufficiently definite and certain. Now we get 59 new instances. We are not asking for further particulars as to the secondary details. What we want only are the particulars as to the primary proposition: When was this permission given?

It says the Accused gave permission to do these things? When? To whom? That we cannot find out unless we have the meaning of the Bill of Particulars in so far as the 59 items are concerned.

GENERAL REYNOLDS: Subject to the objection of the members of the Commission, the motion of counsel for the Defense is not sustained.

CAPTAIN REEL: We have one further motion, if the Court please.

GENERAL REYNOLDS: Subject to objection by any member of the Commission, the motion of counsel for Defense is not sustained.

CAPTAIN REEL: We have one further motion, if the Commission please, sir, which is a motion for a continuance. We regret the necessity of making this motion, but we are asking for two weeks in which to prepare our case based on this last-minute change in these 59 new alleged offenses. We are not asking for delay. We do not want to ask for delay in the sense of delay as such. I think our good faith in that respect was shown to this Commission on the day of the arraignment. At that time we stated that all we want in the way of time to prepare our case on which the four specifications which were then given us was two weeks. The Prosecutor said at page 60 of the transcript of record:

"If the Commission please, I would like to suggest three weeks. We do have some witnesses coming in from the States, and I am not sure that we can be ready in two weeks. Frankly," said the Prosecutor, "I am surprised that the Defense believes that they can properly prepare a defense in this case in two weeks. The Prosecution would request three weeks."

Well now, if the Prosecution was surprised that we could

prepare a defense on 64 specifications in two weeks, I do not think that they can now object to two weeks to prepare a defense for a similar number of specifications based on new facts, new places, new names and a new theory of the case.

We are not, as I said, attempting to delay. I want to point out, too, the letter of the Commander-in-Chief of Army Forces of the Pacific that is the basis for this Commission's authority is in the record. It is the letter of 24 September 1945. Paragraph 14 is repeated on page 12 of the record. Paragraph 14 details the rights of the Accused. It reads:

"The Accused shall be entitled . . . to have in advance of trial a copy of the charges and specifications, so worded as clearly to apprise the Accused of each offense charged."

This Commission has ruled that in order to so word this original charge as to apprise the Accused of each offense charged there would be not one now, but two Bills of Particulars. We are entitled to have that "in advance of trial".

A copy of this bill which has just been filed was given to Defense at 4 o'clock in the afternoon of Friday, 26 October 1945. It was the first intimation that there would be anything like 59 new specifications. We assumed there might be one or two or three, as I said before, but 59 new ones about entirely different persons and times were put on our desks last Friday. We have worked earnestly seven days a week in order to prepare the defense on 64 specifications. And when I say "prepare the defense", sir, I do not mean merely an affirmative defense, but to acquaint ourselves with the facts so that we could properly cross examine the Prosecution's witnesses.

"In advance of trial", I suppose technically could mean 30 seconds in advance of trial, but that is not what is intended. This phrase obviously means sufficiently in advance of trial to allow the Defense to prepare itself. That is what "in advance, of

trial means": Sufficient time to allow the Defense a chance to prepare its defense.

We earnestly state that we must have this time in order to adequately prepare a defense. I might add, sir, we think that this is important to the Accused, but far more important than any rights of this Accused, we believe, is the proposition that this Commission should not deviate from a fundamental American concept of fairness, decency and justice, which dictate that an accused has a right to defend himself. And that means a right to have time in which to prepare himself.

GENERAL REYNOLDS: Does the Prosecution have anything further to submit?

MAJOR KERR: If the Commission please, of course Defense Counsel is much better prepared to judge the difficulties of preparing the defense than am I. I can only say that the Prosecution is ready and anxious to go to trial.

With respect to counsel's reference to specifications, I must remind counsel again that the specifications are incorporated in the charge. We discussed that at the time of the arraignment when the Accused insisted that he had not been served with specifications.

GENERAL REYNOLDS: The Commission interrupts the Prosecution to say that this point has been adequately discussed.

MAJOR KERR: Thank you.

GENERAL REYNOLDS: The Commission will withdraw to its chambers for deliberation.

(Whereupon the members of the Commission withdrew in executive session.)

GENERAL REYNOLDS: The motion of Defense Counsel for a continuance is not sustained.

If, however, at the end of the presentation by the Prosecution of evidence concerning the Bill of Particulars, dated 1 October 1945, as presented during the arraignment, the Commission will consider such a motion.

The case will proceed.

CAPTAIN REEL: May I simply say, sir, that although we don't wish to commit ourselves now as to procedure at the end of the Prosecution's case, that in so far as the requested time is concerned, that time is requested as much, if not more, for the purpose of being able to meet the Prosecution's case; in other words, to cross-examine the witnesses, to understand what is going on as the Prosecution's case goes in.

GENERAL REYNOLDS: The case will proceed.

MAJOR KERR: If the Commission please, there is now pending before the Commission a motion to dismiss.

GENERAL REYNOLDS: The Defense will now be heard in regard to this motion.

COLONEL CLARKE: If the Commission please, on October 8, 1945, the Defense moved to dismiss the charge in the cause presently before the Commission, for the reason that it failed to state a violation of the Laws of War by the Accused. The motion was denied. Thereafter a Bill of Particulars was filed, amplifying the allegations of the charge.

This morning the Court admitted a Supplemental Bill of Particulars. The present motion is addressed to the charge as supplemented by the original Bill of Particulars and the

Supplemental Bill of Particulars, on the grounds that it fails to set forth a violation of the Laws of War by the Accused and that the Commission does not have jurisdiction to try this cause.

It is the contention of Defense that the Bill of Particulars does not cure the defects of the charge. On the contrary, it narrows the gravamen of the charge and supports further reasons for the allowance of the motion.

The Bill of Particulars details sixty-four instances in which members of the Accused's command are alleged to have committed war crimes. In no instance is it alleged that the Accused committed or aided in the Commission of a crime or crimes. In no instance is it alleged that the Accused issued an order, expressly or impliedly, for the commission of the crime or crimes. Nor is it alleged that the Accused authorized the crimes prior to their commission or condoned them thereafter.

The charge alleges that the Accused failed in his duty to control his troops, permitting them to commit certain alleged crimes. The Bill of Particulars, however, sets forth no instance of neglect of duty by the Accused. Nor does it set forth any acts of commission or omission by the Accused as amounting to a "permitting" of the crimes in question.

What, then, is the substance of the charge against the Accused? It is submitted that on the three documents now before the Commission, the charge and the two Bills of Particulars, the Accused is not charged with having done something or having failed to do something, but solely with having been something. For the gravamen of the charge that the Accused

was the commander of the Japanese forces, and, by virtue of that fact alone, is guilty of every crime committed by every soldier assigned to his command.

American jurisprudence recognizes no such principle so far as its own military personnel is concerned. The Articles of War denounce and punish improper conduct by military personnel, but they do not hold a commanding officer responsible for the crimes committed by his subordinates. No one would even suggest that the Commanding General of an American occupational force becomes a criminal every time an American soldier violates the law. It is respectfully submitted that neither the laws of War nor the conscience of the world upon which they are founded will countenance the support of any such charge. It is the basic premise of all civilized criminal justice that it punishes not according to status but according to fault, and that one man is not held to answer for the crime of another.

It is an incontrovertible fact that the branding of military personnel as war criminals is not predicated upon the mere fact of command of any troops, but rather of the improper exercise of that command. This point is recognized officially by the War Department in its publication "The Rules of Land Warfare," (FM 27-10, Section 345.1) which provides as follows: "Liability of Offending Individuals.- Individuals and organizations who violate the accepted laws and customs of war may be punished therefor. However, the fact that the acts complained of were done pursuant to order of a superior or government sanction may be taken into consideration in determining culpability, either by way of defense or in mitigation of punish-

ment. The person giving such orders may also be punished".

There is nothing said about the Commanding General of a force being responsible, under the Laws of War, for any offenses committed by members of his command which were committed without his sanction. Under this Section, liability for war crimes is imposed on the persons who commit the crimes and on the officers who order the commission thereof. The war crime of a subordinate, committed without the order, authority, or knowledge, of his superior, is not the war crime of the superior. The pleadings now before the Commission do not allege that the Accused ordered, authorized, or had knowledge of the commission of any of the alleged atrocities or war crimes. Without such allegation, it is respectfully submitted that the cause must be dismissed as not stating an offense under the Laws of War.

Inasmuch as our contention is that they do not state an offense, the Court therefore has no jurisdiction. If a violation of the Laws of War is not alleged, the Military Commission has no jurisdiction to hear the cause.

In *Exparte Quirin*, decided in 1942, in the case of the saboteurs "Congress . . . has exercised its authority to define and punish offenses against the law of nations by sanctioning, within constitutional limitations, the jurisdiction of military commissions to try persons and offenses which, according to the rules and precepts of the law of nations, and more particularly the Law of War, are cognizable by such tribunals".

They further stated that "We are concerned only with the question of whether it is within the constitutional power of the national government to place petitioners on trial before

a military commission for the offenses with which they are charged. We must therefore first inquire whether any of the acts charged is an offense against the Law of War cognizable before a military tribunal, and if so, whether the Constitution prohibits the trial".

The court found that the allegations contained in the charges against Quirin and his associates were offenses within the Laws of War. Had they found those offenses not to be -- or those allegations not to be an offense against the Laws of War, the court would have ruled that the military commission had no jurisdiction.

In addition to the reasons stated in the Memorandum in support of motion to dismiss, dated 19 October 1945, there are two other independent grounds for the proposition that the Commission has no jurisdiction to try this cause. This Commission was appointed by the Commanding General of Army Forces, Western Pacific, pursuant to authority delegated to him by the Commander-in-Chief, Army Forces, Pacific. The record does not show any grant of authority from the President of the United States to the Commander-in-Chief, Army Forces, Pacific. Neither the Commander-in-Chief, Army Forces, Pacific, nor the Commanding General, Army Forces, Western Pacific, have authority to take the above described action. In the absence of express statutory authority, a military commander has power to appoint a military commission only, and to exercise a martial law, exercise a military government in occupied territory or at an instant of military operations during a period of hostilities. This principle is stated in Winthrop, on page 936.

There is neither martial law nor military government in the Philippines. Hostilities ceased on or about 2 September 1945. There is today no justification in law for the exercise of the Commander-in-Chief of the Army Forces, Pacific, of this extraordinary power. This fundamental principle was apparently within the contemplation of the Commander-in-Chief, Army Forces, Pacific, when he issued the letter of 24 September 1945, upon which this Commission bases its authority.

It will be noted that paragraph 3 of this letter reads as follows: "The Military Commissions established hereunder shall have jurisdiction over all Japan and all other areas occupied by the armed forces commanded by the Commander-in-Chief, Army Forces, Pacific."

The Philippine Islands are not areas occupied by the armed forces. The above letter, consequently, does not grant authority to set up military commissions in the Philippine Islands; and Special Orders No. 112, Headquarters, United States Army Forces, Western Pacific, dated 1 October 1945, is therefore without authority.

Paragraph 271, War Department Basic Field Manual, "Rules of Land Warfare", defines "occupied territory" in its reprint, Article 42 of the Annex of the Hague Convention, October 18, 1907: "A territory is considered occupied when it is actually placed under the authority of the hostile army". The United States is not and never has been a hostile army with respect to the Philippine Islands. The re-entry into the Philippine Islands in 1944 and 1945 constituted a recovery of territory, rather than an occupation. From the date of re-entry on Philippine soil, General MacArthur consistently affirmed and

recognized the full governmental responsibility of the Philippine Commonwealth. This is evidenced by publications in the Official Gazette, April 1945, page 86; May 1945, pages 145 to 148; in September 1945, page 494.

On 22 August 1945, General MacArthur issued the following proclamation: "Effective on September 1, 1945, United States Army Forces in the Pacific shall cease from further participation in the self-administration of the Philippines, as such is no longer necessary".

This motion goes to the root of the entire question before the Commission. If the projected trial should result in the conviction and sentence of the Accused, the Defense believes that such action will be subject to reversal. As officers of the United States Army, and as lawyers appointed to defend the Accused, Defense counsel are charged with a duty to the Accused, to the Army, and to the people of the United States to pursue all proper legal remedies open to the Defense, including, if warranted, recourse to the Federal courts, and more particularly, the Supreme Court of the United States -- citing again the Quirin case.

The motion is made at this time, rather than after completion of the Prosecution's case, so that the Commission may decide this question now and thus prevent what may be a needless and embarrassing expenditure of time, personnel and money.

It is accordingly urged, for the foregoing reasons, in addition to those stated in the Memorandum, that this cause be dismissed on the grounds that the Commission is without jurisdiction.

GENERAL REYNOLDS: The Prosecution will now be heard

with regard to the motion to dismiss.

MAJOR KERR: If the Commission please, the same motion of Defense Counsel was presented to the Commission at the time of the arraignment; that is to say, a motion to dismiss. After due consideration of argument of counsel on that question, the Commission denied the motion. There is no reason, sir, why that decision of the Commission at that time should be changed now. The mere fact that a Bill of Particulars and a Supplemental Bill of Particulars have been presented to the Commission has no bearing whatever upon the issue.

The whole question is, "Does the charge allege a violation of the Laws of War?" That is the question raised by the Defense motion and that question was ruled upon by the Commission at its previous session. That should settle it.

However, beyond any question this Commission has no authority at this time to dismiss this proceeding. It is under direct orders of the Commanding General, Army Forces, Western Pacific, to proceed with the trial of Tomoyuki Yamashita. I refer in the first place to the Letter Order of General MacArthur, as Commander-in-Chief of the United States Army Forces, Pacific, which is now a part of the record of this proceeding. Quoting from that letter, dated 24 September 1945, and addressed to the Commanding General, United States Army Forces, Western Pacific: "It is desired that you proceed immediately with the trial of General Tomoyuki Yamashita, now in your custody, for the crimes indicated in the attached charge." And that attached charge is precisely the same charge which is now before the Commission in this Proceeding. So much for the directive, the order of the Commander-in-Chief, Army Forces

of the Pacific, to the Commanding General, Army Forces, Western Pacific.

Now let us see what the orders to this Commission are with respect to that subject, and I now quote from Special Orders No. 112, dated 1 October 1945, being the Order of the Commanding General, Army Forces, Western Pacific, establishing this Military Commission and directing its proceedings, and I now quote:

"The Commission shall follow the provisions of Letter, General Headquarters, United States Army Forces, Pacific, File AG 00.5, 24 September 1945, Deputy Chief-of-Staff, Subject 'Trial of General Tomoyuki Yamashita'." And what is that letter? It is the letter I previously referred to, wherein the Commanding General, Army Forces, Pacific, specified that Yamashita shall be tried upon this charge. The contentions of Defense Counsel might more appropriately be addressed to the Commanding General, Army Forces, Pacific; not this Commission.

I submit that this Commission has no authority to dismiss the case at this stage. It must try Tomoyuki Yamashita, and in order to accomplish that it must hear the Prosecution's case.

Now, if it desires further argument on the law, we are amply prepared to do so. We do submit, sir, that the question is decided with finality by the points which I made.

GENERAL REYNOLDS: Does the Defense have anything further to offer in rebuttal?

COLONEL CLARKE: If the Court please, there may be a direction to the Prosecution to try Tomoyuki Yamashita at this session, but if the officer who gave the direction had no jurisdiction to appoint a commission, he had no jurisdiction

to order the trial of General Yamashita. Our contention is that General MacArthur, by virtue of being the Commanding General of Forces in the field, after cessation of hostilities, in the absence of martial law, in the absence of hostile occupation, does not have the authority to appoint a Military Commission. The courts of the Commonwealth are open for any crimes which were committed by any member of the Japanese forces while they were in occupation of the Philippine Islands.

Insofar as the motion originally made was concerned, we made the motion on the charge and specifications as stated by the Prosecution, as presented; not upon the Bill of Particulars. It was our understanding that the Bill of Particulars may cure the defects in the charge, but the Bill of Particulars doesn't cure any defect in the charge. Therefore, this present motion is not based on the charge alone; it is based on the Bill of Particulars, Supplemental Bill of Particulars, which do not state an offense against the Laws of War.

Therefore, it is respectfully submitted to the Commission that this Commission has not been appointed under any legal authority, with no jurisdiction for the Commission to exist or try a case, and we ask that the charges be dismissed.

GENERAL REYNOLDS: The Commission will consider the motion in chambers.

(Whereupon the members of the Commission retired for executive session.)

GENERAL REYNOLDS: The motion to dismiss, submitted by Counsel for the Defense, is not sustained.

COLONEL CLARKE: May we have an exception noted, sir?

GENERAL REYNOLDS: The Prosecution will make its opening

statement.

COLONEL HENDRIX: Sir, at this time the Defense requests that the Prosecution states for the record what notice, if any, was given to the protecting power of the Japanese government, concerning the trial, in accordance with Article 60 of The Geneva Convention, and Paragraph 133 of Field Manual 27-10.

MAJOR KERR: If the Commission pleases, Counsel is basing his inquiry on the assumption that the Accused is a prisoner of war, to whom would apply the International Convention referred to. Now, clearly, sir, Tomoyuki Yashimata is not before this Commission as a prisoner of war. He is charged as a war criminal, which is an entirely different matter. As a matter of fact, he is a declared common criminal; he is so held, he is being so tried. Therefore, the provision adverted to by Counsel has absolutely no application.

COLONEL HENDRIX: If it please the Commission, we are shocked at the remarks of the Prosecution that the Accused is a "declared common criminal." This Accused is not declared a criminal until this Commission has decided on the evidence, has made a decision whether the Accused is guilty or not guilty. Up until that point the Accused is not guilty.

We take this position: That the accused is a prisoner of War, that the United States has, throughout this war, followed the Geneva Convention. In the Geneva Convention this notice must be given.

Furthermore, the Accused is not guilty until this Commission has so weighed the evidence and made its final decision.

GENERAL REYNOLDS: The Commission is at a loss to understand whether or not the counsel for Defense has introduced a motion.

LT. COL. HENDRIX: I now, at this time, move the Court, sir, that the Prosecution state for the record whether or not any notice has been given to the protecting power of the Japanese Government concerning the trial of this case now before the Commission, in accordance with Article 60 of the Geneva Convention and paragraph 133 of Field Manual 27-10.

GENERAL REYNOLDS: Has the Prosecution anything further to state?

MAJOR KERR: I have no objection, sir, to stating, for the benefit of the record, that so far as I know, the United States of America has not given any notification, official notification, to the Government of Japan, that Tomoyuki Yamashita is being tried as a prisoner of war, for the simple reason that he is not being so tried; he is being tried as a war criminal. And for the further reason that the Geneva Convention referred to by Defense counsel has absolutely no application in that particular.

LT. COL. HENDRIX: Sir, we understand that the protecting power of Japan is Spain. We would like for the prosecution to so state for the record if such notice was given to the Government of Spain.

MAJOR KERR: As far as I know, sir, such notice of the trial of Tomoyuki Yamashita as a prisoner of war has not been given to the Government of Spain, for the same reasons

I have stated heretofore.

GENERAL REYNOLDS: Subject to objection by any member of the Commission, it is the ruling of the Commission that the request of the Defense counsel has been adequately discussed by the Prosecution, within the limits of the information which they would ordinarily have available. In view of the direction of the Commander in Chief, Army Forces, Pacific, to proceed with this trial, the Prosecution will make its opening statement.

OPENING STATEMENT OF THE PROSECUTION

MAJOR KERR: If the Commission please, it is with a high degree of solemnity that I address the Commission at this time. Unquestionably, this is a most important proceeding. I daresay that history will be written, one way or another, by this Commission. We, the Prosecution, accept our burden with full realization of responsibility which we bear. We recognize our duty as officers of the Commission, to do all that we may to accomplish for the Accused a fair and a just trial.

We intend to support the charge and the specifications therein included with a clear, a convincing, and an adequate proof.

I am frank to say, sir, that this case will not be a pleasant one to hear, nor a pleasant one to try. We Americans are a Christian nation; we are reared in the tradition of fair play and decency; we are even a sentimental nation. It certainly shocks each one of us to confront the truly horrible acts of beings in the form and shape of man that we must

present to the Commission in this proceeding.

Our problem is one of elimination and selection. We make no effort, we do not presume to present to the Commission in this proceeding all, or even a substantial part of the evidence on the general subject of atrocities in the Philippine Islands, nor do we select the instances on the basis that they are the most horrible, the most nauseatingly horrible that might be presented to the Commission. If we bring before the Commission a witness in a stretcher, permanently mutilated, physically ruined for life, it is not because we are endeavoring to impress the Commission through the use of shocking evidence; it is simply because that witness on the stretcher has a story of factual information which the Commission should hear, and because that witness before the Commission is a competent and a desirable exhibit of the ruthlessness of those who conquered the Philippines. We will present what we consider the difficult cases of various types, located in various areas of the Philippine Islands. If the Commission finds the evidence unpleasant, as I am sure it will in many instances, it is simply because those are the facts. That is the type of case we are trying, gentlemen; it is not a pleasant proceeding.

Let us consider the charge. The charge, as it is set forth on page 32 of the Transcript of Record of the Previous Proceedings of this Commission, states that the Accused, during a certain period of time while he was Commander of Armed Forces of Japan, then at war with the United States of America and its Allies, unlawfully disregarded and failed to discharge his duty as such Commander -- unlawfully disregarded

and failed to discharge his duty as Commander to control the operations of the members of his command, permitting them to commit brutal atrocities and other high crimes against people in the United States and its Allies and dependencies, particularly the Philippines; and thereby violated the laws of war. That is the charge, that is the case: Disregarded his duty to control the members of his command, and permitting them to commit violations of the laws of war. That is the charge.

I believe the Commission will find that the charge is amply supported by the time the Prosecution has completed its case.

We will open our case with proof that the Accused, Yamashita, was Commander of the Army Forces in the Philippines during the period stated in the charge -- that is to say, from 9 October 1944 to the time of surrender, September, 1945; that in addition he commanded, as a part of those forces, or attached thereto, the so-called "Kimpai Tai," or military police. We will show also that he had overall command of the prisoner of war camps and civilian internment camps, labor camps, and other installations containing prisoners of war and other internees in all the Philippine Islands.

We will show that his area or territory of command included all of the Philippine Islands, the entire area so known. We will show that at times he also commanded Navy forces and air forces, particularly when engaged as ground troops.

We will then show that various elements, individuals, units, organizations, officers, being a part of those forces under the command of the Accused, did commit a wide pattern

of widespread, notorious, repeated, constant atrocities of the most violent character; that those atrocities were spread from the northern portion of the Philippine Islands to the southern portion; that they continued, as I say, repeatedly throughout the period of Yamashita's command; that they were so notorious and so flagrant and so enormous, both as to the scope of their operation and as to the inhumanity, the bestiality involved, that they must have been known to the Accused if he were making any effort whatever to meet the responsibilities of his command or his position; and that if he did not know of those acts, notorious, widespread, repeated, constant as they were, it was simply because he took affirmative action not to know. That is our case.

With respect to the Commission itself, I should like to say that there is no question whatever of the basis of the law, or the power and authority of the commanding officer, Commander in Chief, to appoint, constitute, and cause to function, this Commission. I refer to that only in passing, because there is no point to arguing that matter now. The Commission is governed by the rules of procedure which are set forth in the Letter Order, General MacArthur, dated 24 September 1945, subject, "Regulation covering the trial of war criminals." Those regulations govern the proceedings and the procedure of this Commission.

The Commission, no doubt, is aware of the fact that these regulations establish extremely broad discretionary powers of the Commission, as to the receipt of evidence, as to the form of the evidence which it will admit, and generally as to its procedural policies.

With respect to the evidence, the general rule specified in this Letter Order is that 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, that is the general rule. It simply means this: that if the Commission believes that a particular item of evidence, of whatever form or type -- hearsay or otherwise -- would be of value to the Commission in determining the issues of this case, the Commission will admit it; and presumably, the Commission will refuse to receive only evidence which it is sure under no circumstance could have any value to it in ruling upon the issues. That is a very broad scope.

Furthermore, sir, the Articles of War do not apply to this Commission in any particular. It is so ruled by the Judge Advocate General, and if the Commission or Defense so desires I will be glad to supply a copy of that recent ruling. The Articles of War are not binding upon, do not apply to this Commission.

This Commission, sir, is not a judicial body; it is an executive tribunal set up by the Commander in Chief -- more specifically, the Commanding General, AFWESPAC -- for the purpose of hearing the evidence on this charge, and of advising him, along with the Commander in Chief of the Army Forces of the Pacific, as to the punishment, in the event that the Commission finds the charge to be sustained. It is an executive body, and not a judicial body.

With respect to oral evidence, we will present, first, incidents which occurred within the City of Manila. Thereafter

we will take up instances of violations of the laws of war, or so-called atrocities, which were committed outside the City of Manila, in various provinces, at various locations, at various times. One of the assistant prosecutors will present the case with respect to each of the several incidents or atrocities. As the case comes before the Commission, the Prosecutor will note, for the Commission's convenience, the number of the bill of particulars, or supplemental bill of particulars, which applies to this particular incident, so that the Commission may advert to that for whatever it may deem proper.

Now, it would serve no particular purpose for me at this time to attempt to outline the evidence which we will present with respect to each of these several hundred incidents. Some of those incidents, to reassure the Commission, will be handled purely from documentary evidence, and it will not be necessary with respect to them to call oral witnesses. As to other incidents, however, we will call oral witnesses, in order that the Commission may get a clear, a complete, and an adequate understanding of the facts involved.

Therefore, the prosecutor, in opening each one of what might be called separate cases -- because, after all, this proceeding involves a large number of separate cases, you might say -- in opening each of these separate cases he will, with the Commission's indulgence, make a short opening statement, explaining that the case which we will now take up, for instance, the Red Cross case, referred to in Item So-and-So of the bill of particulars, and "It will be noted from the bill of particulars that this case involves" so-and-so. In

that way the Commission will have before it at once a short review of the nature of that particular case.

We would like, sir, in connection with the presentation of our evidence, to use some sketches and maps, whereon we may point out to the Commission and mark, designate, the particular locality or site of the atrocities that we are considering. That is not a matter of evidence; that is purely a matter of convenience for the Commission, because with so large a number of atrocities involved I am very much afraid the Commission would have difficulty in following the pattern which we will establish. If there is no objection by the Commission, we will follow that procedure: First, with respect to the City of Manila, and thereafter, with respect to the Philippine Islands, it being understood that when our assistant pegs a certain portion of the map, that that is not intended as a ruling by the Commission that that particular atrocity has been established. It is merely the location upon the sketch or the map of the site of that particular alleged atrocity.

We are cognizant of the Commission's desire that this proceeding be expedited as much as possible. That, likewise, is our desire. Military justice, we realize, is expeditious; it brooks of no unreasonable delays. It does not tolerate the tortuous technicalities which characterize criminal procedure in the law courts of the States. We are proceeding upon that basis. I assure the Commission that we will make every effort to complete our case as quickly as possible. But we do have a burden to bear: We must support the charge, and we intend to support that with adequate, clear, convincing

proof.

If the Commission at any time, sir, is of the opinion that it has heard enough evidence from the Prosecution with respect to a particular matter, we will very much appreciate if the Commission will so indicate. We will be glad at that time to proceed, then, to another aspect of the case. Or, on the other hand, if the Commission, as is its right and its duty, believes that the Prosecution has not presented sufficient evidence upon a particular matter, the Commission will so indicate. We will simply draw upon the vast wealth of information and evidence which is available and proceed to meet the Commission's request.

As I have said before, we seek to establish as quickly as possible, with as many uses of labor or time-saving procedures as possible, the establishment of a clear and a convincing and a complete case.

We are ready to call our first witness.

GENERAL REYNOLDS: Does the Defense desire to make an opening statement at this time?

COLONEL CLARK: The Defense does not, sir, except to state that we do not agree with certain statements made by the learned Prosecution's counsel, and we will develop those at the proper time throughout the trial.

GENERAL REYNOLDS: The Prosecution may proceed.

MAJOR KERR: At this time, sir, the Prosecution presents for incorporation into the record of this proceeding the following stipulation, and I read:

"GENERAL HEADQUARTERS
UNITED STATES ARMY FORCES, PACIFIC

"Before the MILITARY COMMISSION convened by the COMMANDING GENERAL, United States Army Forces, Western Pacific 1 October 1945.)))))))	"UNITED STATES OF AMERICA vs TOMOYUKI YAMASHITA
--	---------------------------------	---

"STIPULATION

"It is stipulated by the UNITED STATES OF AMERICA and Tomoyuki Yamashita, during the period from 9 October 1944 to 3 September 1945, both inclusive, was Commanding General of the Japanese 14th Army Group.

"2. During that time, the Kempei Tai, or Military Police, in the Philippine Islands were elements of the accused's command.

"29 October 1945

UNITED STATES OF AMERICA
BY _____

ROBERT M. KERR
Major, Infantry
Prosecutor

TOMOYUKI YAMASHITA
Accused

HARRY E. CLARKE
Colonel, JAGD
Chief Defense Counsel

"I certify that before the accused signed the above stipulation it was translated to him in Japanese.

HARRY E. CLARKE
Colonel, JAGD
Chief Defense Counsel "

I ask, sir, that this be incorporated in the record.

GENERAL REYNOLDS: Any objection on the part of the Defense to the acceptance of this document?

COLONEL CLARKE: We agree, sir, to the entering of the stipulation into the record.

GENERAL REYNOLDS: The document will be accepted into evidence and marked appropriately for identification as a Prosecution exhibit.

MAJOR KERR: At this time, sir, I call as the first Prosecution witness Captain Norman James Sparman.

CAPTAIN NORMAN JAMES SPARMAN

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

DIRECT EXAMINATION

Q (By Major Kerr) Will you state your name, your rank, and your organization?

A My name is Norman James Sparman; Captain; my organization is the Allied Translator Interpreter Section.

Q What is your address?

A ATIS, GHQ, AFPAC, APO 500.

Q What do you mean by "ATIS"?

A "ATIS" is the GHQ G-2 organization set up to handle the translation and interrogation of Japanese prisoners of war.

Q What relationship does it bear to Army Forces of the Pacific?

A It is the official language organization for the Army forces of the Pacific.

Q And translations are made by it, are they, for AFPAC; is that correct?

A Yes, sir.

Q How long have you been with that organization?

A Since September, 1942.

Q And in what capacity or capacities?

A I have been chief of the translating subsection and OIC of the translation section.

MAJOR KERR: Can the General hear the witness?

GENERAL HANDWERK: Yes.

Q (By Major Kerr) Generally what have been your duties in those capacities?

A The translation of captured Japanese documents from Japanese into English and the supervising of such translations.

Q Are you familiar with the publications of the Allied Translator and Interpreter Section?

A Yes, sir.

MAJOR KERR: I ask that this document be marked for identification as Exhibit No. 1.

(The document referred to was marked Prosecution Exhibit No. 1 for identification.)

Q (By Major Kerr) I hand you what has been marked for identification as Exhibit No. 1 and ask you to state whether or not you know what that is.

A Yes. It is an official publication of the translation from Japanese into English of captured Japanese documents.

Q And that is an official publication of the Allied Translator and Interpreter Section?

A Yes, sir.

Q I call your attention to that portion of the document

referred to for identification as Exhibit No. 1 which bears the notation 605437, dated 13 June 45, being page 1 of that portion of this document, and ask you whether or not you know what that is.

A Yes, sir. It is a full translation of a bound mimeographed booklet entitled "Officer Roster of 14 Area Army Headquarters", published 1 November 44, corrected to 30 December 44. Captured east of Irian, Mountain Province, Luzon, 27 April 45.

Q Is that an official translation by the agency which you have described?

A It is, sir.

Q I ask you whether or not this document referred to for identification as Exhibit No. 1 is a part of the official publications taken from the official records of ATIS.

A Yes, sir.

MAJOR KERR: If the Commission please, I offer in evidence the document referred to for identification as Exhibit No. 1 and ask that it be admitted in evidence as Exhibit No. 1.

GENERAL REYNOLDS: Is there objection?

CAPTAIN SANDBERG: The Defense asks whether it is the intention of the Prosecution to introduce the entire document.

MAJOR KERR: We shall ask that in due course only that portion of the document referred to by the witness as a translation of a specific document be retained in evidence and that we be permitted later to substitute for this entire document such an excerpt certified to as a true excerpt by

this witness, merely for the purpose of cutting down the record.

CAPTAIN SANDBERG: The Defense first saw this document five minutes ago when it was handed to it by the Prosecution, although it was our understanding that the Prosecution would supply to the Defense in advance of trial all documents which it intended to introduce so that the Defense might study them for the purpose of determining whether or not in its opinion the documents were objectionable. The Defense has had no opportunity to examine this document and to ascertain whether it is in its opinion properly admissible and for that reason objects to the admission of the document at this time.

MAJOR KERR: If the Commission please, it was the hope and expectation of the Prosecution that the Defense and the Prosecution would be able to stipulate on a number of matters which we are now required to prove in this matter. That hope and expectation did not bear fruit and therefore it was found only as late as yesterday that we would be required to proceed in this manner. It is true that we have endeavored so far as possible to supply the Defense in advance with the documents which we intend to offer in evidence as documentary exhibits, together with a proper translation thereof from English into Japanese. It has not been possible for us to do so in this case. If the Defense so desires, we will be glad as soon as it is possible to provide the Defense with a translation into Japanese of this portion of this document. We cannot do so now.

CAPTAIN SANDBERG: Sir, it was the understanding

between the Defense and the Prosecution that the Prosecution would furnish to the Defense documents in English so that they might be examined by the Defense Counsel, who have a knowledge of English. It was also understood that at some subsequent time, when feasible, the prosecution would submit to the Defense translations so that such documents might be examined by the Accused. But the important and essential point was that the documents should be submitted so that counsel might examine them and so that objections of this sort would not be necessary.

CAPTAIN SANDBERG: We might add also, sir, that this document is mimeographed and undoubtedly available in many copies and could very easily have been submitted to the Defense.

MAJOR KERR: Sir, the Defense is unduly optimistic as to the facility with which documents, even mimeographed documents, of this character may be obtained.

GENERAL REYNOLDS: Subject to objection by any member of the Commission, the document is accepted in evidence. If after studying the document counsel for the Defense wishes to reopen the matter, the Commission will listen to it.

CAPTAIN SANDBERG: That is agreeable, sir.

(Prosecution Exhibit No. 1 for identification was received in evidence.)

MAJOR KERR: I call the Commission's attention to the specific portion of this document which was identified by the witness, being page 1 following the first three sections; that is to say, relating to Document No. 605437.

The Commission will note that that is a translation of

a captured Japanese document which sets forth the roster of the headquarters of the 14th Area Army and shows Tomoyuki Yamashita as the commanding general of the 14th Area Army as of 24 September 1944.

Q (By Major Kerr) Captain, I hand to you what has been marked for identification as Exhibit No. 2 and ask that you state what that is.

A An extract from ATIS Bulletin No. 132, dated 8 January 1945, pages 1 and 3, "Bound carbon-copy and mimeographed file containing SHO Group (SHUDAN), SHOBU and 1 WATARI Operation Orders, issued 22 July - 3 October 44. Classified: 'Military Ultra Secret'."

Q State whether or not to the best of your knowledge and belief that is a correct translation.

A Yes, sir.

MAJOR KERR: If the Commission please, I offer in evidence the document identified by this witness and marked for identification as Exhibit No. 2 and ask that it be admitted in evidence as Exhibit No. 2.

GENERAL REYNOLDS: There being no objection, the document is accepted into evidence.

(Extract from ATIS Bulletin No. 132, dated 8 January 1945, pages 1 and 3, was received in evidence and marked Prosecution Exhibit No. 2.)

MAJOR KERR: The Commission will note, sir, that that is a translation of a Japanese document which constitutes an order signed by Tomoyuki Yamashita as Commanding General, 14th Area Army.

Q (By Major Kerr) Captain, I hand to you a document which

is marked for identification as Exhibit No. 3 and ask you to state what that document is.

A This, sir, is an official publication of a translation from Japanese into English of captured Japanese documents.

(Copy of Allied Translator and Interpreter Section, Bulletin No. 1680, was marked Prosecution Exhibit No. 3 for identification.)

Q (By Major Kerr) I refer you particularly to Item 8, Document 16811, which appears on page 5 of the document and ask you to state what that represents.

A A file of mimeographed intelligence reports classified "Military-Most Secret". Cover period 11 January 44 - 15 February 44. Issued by WATARI Group (SHUDAN) (Translator's note 14 Army) Headquarters. Unit keeping file not stated.

Q I call your attention to Item 7 of Document 16810 of the same page, which also appears on page 4, and ask you what that represents.

A A file of mimeographed miscellaneous notices partially classified "Military - Most Secret". Dated 3 January 44 - 27 September 44, issuing authorities various, kept by KODAMA Unit.

Q I ask you whether or not the translations to which you have referred are official translations by ATIS.

A They are official translations.

MAJOR KERR: If the Commission please, I ask that the document marked for identification as Exhibit 3 now be admitted in evidence as Exhibit 3.

GENERAL REYNOLDS: The Prosecution referred to a certain part of this document by number. What was that number?

MAJOR KERR: Numbers items 7 and 8 which appear on page 5.

GENERAL REYNOLDS: Item 7 and Item 8 as shown in the margin?

MAJOR KERR: Yes, sir. The Item 7 begins on page 4 and Item 8 begins on page 5. The significance of this exhibit will be brought out in a moment.

I might say, sir, that Item 7 simply shows the code name of the 14th Area Army and the code name of the 14th Area Army Headquarters, which is important in connection with the translation of other documents which we will offer in evidence.

CAPTAIN SANDBERG: Where is that in Item 7?

MAJOR KERR: That is the portion of Item 7 which appears on page 5 under the XVIII.

CAPTAIN SANDBERG: If the Commission please, the Defense objects to the introduction of this document in evidence on the ground that it is not the best evidence of the Japanese documents in question. The Japanese documents are available and should be submitted as the best evidence so that they may be translated openly in court. There is a well-known and established rule that where the primary evidence is available secondary evidence is not admissible. In this case there is no reason either in law or in practicality for introducing secondary evidence.

MAJOR KERR: If the Commission please, the regulations governing the procedure of this Commission specify that the Commission may receive in evidence and in the form of exhibit that which it believes to be of probative value. It specifically and without in any way limited that general rule and

provides, quoting now from Clause 5, sub-paragraph (a) of Paragraph 16 of the regulation, that "A copy of any document or other secondary evidence of its contents, if the Commission believes that the original is not available or cannot be produced without undue delay".

If the Defense Counsel can point out to me any way whereby this particular Japanese document in the original may be made immediately available I should appreciate it very much. I assure the Commission that we have made an earnest effort to obtain this particular document and, in fact, the original of each of the documents which we are offering in evidence. They are not immediately available. They have been shipped to Washington by boat. In fact, they were so shipped among tens of thousands of other such documents to the Documents Center in Washington, D. C. before the end of the war for the most part. They are not immediately available.

GENERAL REYNOLDS: The Commission is mindful of the instructions of the convening authority which state in part as follows:

"Confine each trial strictly to a fair, expeditious hearing and on the issues raised by the charges, excluding irrelevant issues or evidence, preventing any unnecessary delay or interference."

The motion of the Defense Counsel is not sustained.

CAPTAIN SANDBERG: The Defense wishes to take an exception, sir, and to point out at this time that throughout this trial the question of translation of Japanese into English is going to be one of the most vital concerns of the Commission.

In fact, the Commission itself has evidenced great concern as to that situation by careful attention to the problem of interpretation. In view of the fact that Japanese does not have a literal translation but is susceptible of varying modes and methods of interpretation, the Defense feels that it is vital for the protection of the rights of the Accused that the documents be presented in their original Japanese form.

MAJOR KERR: If the Commission please, the Prosecution now has very busy at work some forty of the most qualified translators for the purpose of providing the translations which Defense Counsel requests. We are getting those out as rapidly as possible. The supply of competent translators from English into Japanese and vice versa is not unlimited in this theater. We are doing the best we can in that particular. I see no reason or possible way in which the substantive rights or the procedural privileges of the Defense could be interfered with or prejudiced in any way by some delay in supplying these particular translations. After all, the Accused has been granted by the Commission a rather extraordinary privilege of having his own thoroughly competent translator and interpreter at his side. But we shall continue to the utmost of our ability to supply translations of our proposed exhibits to the defense as far in advance of the introduction of them as we can or as soon thereafter as possible.

CAPTAIN SANDBERG: The Defense would like to point to one specific example or illustration of what it has in mind when it states that the question of translation is of vital

importance.

In this document submitted by the Prosecution the army of which General Yamashita was commander is referred to as the "14th Area Army". Yet the Prosecution itself in stipulation and by voluntary agreement has conceded that the name of the army was the "14th Army Group".

Whether that particular point is of essentiality in this particular case we do not know as yet. Nevertheless, it illustrates that questions of translation are important; that there are many variations and deviations in the types of translations, and that it is essential for the Defense to have a copy of the original.

The Defense also wishes to point out that it would have been just as easy for the prosecution to have gotten the original documents when they got this mimeographed translation, because presumably they came from the same source: Allied Translator and Interpreter Section.

MAJOR KEER: Counsel speaks from a wealth of lack of knowledge on this subject. The originals are not available where the mimeographed copies and the translations are available. Furthermore, we conceded nothing of the sort with respect to the command by Tomoyuki Yamashita of the 14th Army Group. We stipulate that he commanded the 14th Army Group, whatever that was. We are also introducing evidence that he commanded the 14th Area Army. Whether they are the same or separate organizations may or may not appear later. Furthermore the Accused has his day in court when his own affirmative defense may be offered. That is the time to question the documents in this particular as to the facts, not now.

GENERAL REYNOLDS: The Commission understands that the Prosecution introduced a certain document in evidence. It was objected to by the Defense and the objection was not sustained. The case will proceed.

(Prosecution's Exhibit No. 3 for Identification was received in evidence.)

MAJOR KERR: I ask that this document be marked for identification as Exhibit 4.

(Copy of Allied Translator and Interpreter Section No. 152 was marked Prosecution's Exhibit No. 4 for Identification.)

Q (By Major Kerr) I hand you, Captain, what has been marked for identification as Exhibit No. 4, and ask you to state what that is?

A This is an official publication of a translation from Japanese into English of captured Japanese documents.

Q I call your attention particularly to page 1 of that document and ask you to state what that represents.

A Full translation of bound mimeographed pamphlet titled "Philippines Operation Plan Summary", issued 11 October 1944 by SHOBU Group Headquarters. IPIL Area - 2 January 1945.

Q I ask you whether or not that is an official translation by ATIS?

A It is an official translation by ATIS.

MAJOR KERR: I offer in evidence the document marked for identification as Exhibit 4 and ask that it be received in evidence as Exhibit No. 4. At a later time the Prosecution would like to substitute for this entire document now referred to as Exhibit 4 that portion thereof which comes under the heading of Document 601285, appearing on pages 1, 2, 3, 4 and 5.

CAPTAIN SANDBERG: The Defense objects to the introduction of this document for the reasons already stated.

GENERAL REYNOLDS: Subject to objection by any member of the Commission, the motion of Counsel for the Defense is not sustained. The document is accepted in evidence.

(Prosecution's Exhibit No. 4 for Identification was received in evidence.)

MAJOR KERR: I call the Commission's attention particularly to Paragraph II under the heading "GUIDE".

Reading in part: "All of the Philippines will be divided into three sectors, namely (and then a diagram of two squares) Sector, OO Sector, and (diagram triangle) Sector. Instructions are as follows: ..."

Then follow instructions relative to each of those sectors. I also call the Commission's attention to the fact that the heading of that translation states: "Issued 11 October 44 by SHOBU Group" - "SHOBU Group". That ties in with the code

designation indicated by a previous exhibit.

I ask that this document be admitted for identification as Exhibit No. 5.

(Extract from ATIF Bulletin No. 1841, dated 7 March 1945 was marked Prosecution's Exhibit No. 5 for Identification.)

Q MAJOR Kerr) I hand you, Captain, what has been marked for identification Exhibit 5 and ask you to state what that is.

A Extract from ATIS Bulletin No. 1841, dated 7 March 1945. "Bound, handwritten and carbon-copied File of Organization Reports pertaining to organization of Prov Fld Arty Btrys and Anti-Tank Companies, dated 6-20 December 44. Kept by Miyoshi Unit. 21 pages. (Partly translated in XIVCAE Translation 0034, Batch 299, Item 6)."

Q I ask you whether or not that is a copy of a portion of the official records of ATIS.

A It is, sir.

MAJOR KERR: I offer in evidence, sir, the document which has been marked for identification as Exhibit 5 and ask that the same be admitted in evidence as Exhibit 5.

CAPTAIN SANDBERG: The defense objects to the admission of this document for the reasons stated previously.

GENERAL REYNOLDS: Subject to objection by any member of the Commission, the objection of Counsel for the Defense is not sustained. The document will be accepted into evidence.

(Prosecution's Exhibit No. 5 for Identification was received in evidence.)

MAJOR KERR: I call the Commission's attention to that portion of this exhibit which immediately follows the word

"extracts" on the first page and which reads as follows:

"SHOBU Staff Movement Order No. 22.

"SHOBU Group (SHUDAN) Order.

6 Dec 44
SAKURA Barracks

- "1. The organization of the Prov Fld Arty Btry and AT Co is as shown in the annex.
- "2. In accordance with regulations as shown in the annex, the KAWASHIMA Group (HEIDAN) and MANILA Defense CO will organize the Prov Fld Arty and AT Cos and hereafter will command them.

Commanding General of SHOBU Group
YAMASHITA, Tomoyuki."

In other words, General, there is an order signed by Yamashita directed to the commanding officer of the Manila Defense.

I ask that this document be marked for Identification as Exhibit No. 6.

(Extract of Headquarters Sixth Army, Sixth Army ATIS Advance Echelon, dated 15 March 45, was marked Prosecution's Exhibit No. 6 for Identification.)

Q (By Major Kerr) Captain, I hand you a document which has been marked for identification as Exhibit No. 6 and ask you to state what it is.

A It is a Sixth Army ATIS Advance Echelon translation, "Loose mimeographed instructions by Yamashita, Tomoyuki, Commanding General of SHOBU Army Group. Dated 15 February 45. Classified 'Top Secret'."

Q Is that a copy of an official translation?

A Yes, sir.

MAJOR KERR: I ask that this document which has been marked for identification as Exhibit No. 6 now be received in evidence as Exhibit No. 6.

CAPTAIN SANDBERG: The Defense objects to the introduction of this document on the grounds stated and suggests in the interest of facilitating the proceedings that the record show that the Defense will maintain a running line of objection to this type of document where a translation into English is introduced in evidence and the Japanese original is available.

MAJOR KERR: I do not know, sir, what counsel means by "this type of document". As far as we are concerned the record may note an objection by Defense to everything that the prosecution puts in, if that will suit the Defense.

CAPTAIN SANDBERG: Our point, sir, was simply this: that so long as the rights of the Accused to object are noted in the record, the proceedings would be better facilitated if the record simply showed a general objection, thus making it unnecessary for the Defense to object individually on each introduction of a document. That is a matter for the Commission to decide.

GENERAL REYNOLDS: The Commission feels that the acceptance of a general objection may involve the case and lead to confusion as to the extent to which the Defense objected in the introduction of documentary evidence. Therefore it advises the Counsel for the Defense that it is at liberty to offer objections to each document as it is presented.

CAPTAIN SANDBERG: Thank you.

GENERAL REYNOLDS: The objection of Defense Counsel to the introduction of Exhibit No. 6 which is now before the Commission is not sustained. It will be accepted into evidence.

(Prosecution Exhibit No. 6 for Identification was received in evidence.)

MAJOR KERR: I call the Commission's attention to that portion of the exhibit being the second paragraph under the Paragraph No. 1 which follows the word "Orders", and I quote:

"The Army expects to induce and annihilate the enemy on the plains of Central LUZON and in MANILA. The operation is proceeding satisfactorily."

"It is further noted that the date of this document in the original is 15 February 45.

If the Commission please, I will ask that there will be marked for identification this document as Exhibit No. 7.

CAPTAIN SANDBERG: Objection.

MAJOR KERR: Merely marked for identification, Counsel.

CAPTAIN SANDBERG: I am sorry.

(Copy of signed statement of Naokata Utsunomiya was marked Prosecution's Exhibit No. 7 for identification.)

MAJOR KERR: I ask that this document which has been marked for identification as No. 7 be received in evidence. This is a signed statement, sir, under oath, by Naokata Utsunomiya and is admissible under the express provision of the regulations governing the procedure of this Commission for the admission of affidavits and statements. This is a sworn statement.

GENERAL REYNOLDS: Does the Prosecution intend to read this document?

MAJOR KERR: No, sir. Unless the Commission so desires, it should not be necessary to read it into the record. I shall

advert to a certain short portion of it, however, which I will read into the record. It would constitute a part of the record as an exhibit.

GENERAL REYNOLDS: Is there objection on the part of Defense to the introduction of this statement?

CAPTAIN SANDBERG: There is, sir.

The Defense objects to the introduction of this statement on the ground that it is specifically barred by act of Congress of the United States. Article 25 of the Articles of War prohibit the introduction of depositions by the Prosecution in a capital case. The Article specifically sets forth that this prohibition applies not only in court-martial proceedings but also in proceedings before a military commission.

This is one of the few instances, incidentally, in which the Articles of War by their very terms refer to "military commissions," and it is in no wise extraordinary that it does so, for it is one of the most firmly founded principles of American justice that the Accused in a capital case, whatever his nationality, should have the opportunity to openly confront the witnesses against him and to cross-examine them on their testimony.

This proceeding is before a military commission. It is for an offense alleged to be capital. It is clear and uncontrovertible, therefore, that the admission of testimony by deposition would be in violation of the laws and statutes of the United States.

The prosecutor referred in his opening statement to an opinion of the Judge Advocate General, holding that military

commissions are not bound by the Articles of War. We have never seen this opinion, but we venture the guess that this opinion refers only to those Articles of War which do not mention military commissions specifically by name. However, since it is impossible to discuss an opinion which we have not seen, we should like to point this out: that whatever the Judge Advocate General has ruled, the United States Supreme Court has definitely and unequivocally ruled in the case of the seven saboteurs that military commissions do owe their existence to the Articles of War and that they are bound by such provisions in the Articles of War which do refer to that.

MAJOR KERR: Sir, I challenge that last statement. There is no ruling by the United States Supreme Court in the Quirin case that the Articles of War apply. In that particular case, which is not pertinent to this proceeding on that point, the President in his order or proclamation appointing the so-called saboteur Quirin Commission, specifically provides that certain provisions of the Articles of War would apply.

The Defense Counsel contended that the Articles of War generally apply, such as the requirement that there shall be an investigation before proceedings are commenced, before the trial is held, or that the death penalty can be invoked only by three-fourths' vote of the members of the commission. The Supreme Court expressly denied that position.

I hand to the Defense Counsel at this time a copy of the memorandum opinion of the Judge Advocate General to which I referred. This is a recent opinion, sir. It is signed by Major General Kramer, Judge Advocate General. It is in the

form of a memorandum to Brigadier General Weir, Assistant Judge Advocate General, War Crime Office. I read from the last portion thereof:

"6. For the reasons given, I am of the opinion that Congress did not intend the Articles of War to apply to military commissions to try enemy belligerents or civilians for war crimes."

Now, I submit, sir, that that opinion is conclusive on this question. The Commission will find that the opinion is well reasoned. It discusses various authorities bearing upon the point. It is a well-considered opinion which should be given great weight by this Commission.

If the Commission is not satisfied I am prepared to argue the point further, because I have ample authority for the proposition that the Articles of War do not apply to this Commission, were never intended to apply to a commission of this character.

GENERAL REYNOLDS: The Defense may proceed.

CAPTAIN SANDBERG: The Defense does not contend, as the Prosecution states, that the provisions of the Articles of War with respect to the vote required for a death sentence apply to military commissions. It does not contend, as the Prosecution states, that all the Articles of War apply to the provisions of the military commission. It does contend, however, that where the Articles of War specifically refer to military commissions there cannot be the scintilla of doubt but that the provision applies to the military commissions.

By its very term the provision of the Articles of War

with reference to the death sentence refers to court-martial. By its very terms the provision of the Article of War with respect to investigation before trial refers to court-martial. But by its very terms the provisions of the Article of War with respect to depositions apply to military commissions.

I read to the Commission: "A duly authenticated deposition taken upon reasonable notice to the opposite party may be read in evidence before any military court or commission in any case not capital."

And it is submitted that neither the Judge Advocate General of the United States, nor the Prosecution, nor this Commission can repeal an act of Congress.

MAJOR KERR: I believe, sir, that particular point is mentioned in the Judge Advocate General's opinion and ruled upon contrary to the Defense position.

There is further argument available on the point if the Commission desires to hear it.

GENERAL REYNOLDS: The Commission will retire to its chambers for deliberation.

(Whereupon the members of the Commission retired in executive session.)

GENERAL REYNOLDS: The motion of counsel for the defense is not sustained. The document will be accepted in evidence.

(Prosecution Exhibit No. 7 for identification was received in evidence.)

CAPTAIN SANDBERG: The Defense requests instructions from the Commission as to whether or not Articles of War 25 is deemed inapplicable to this entire proceeding.

GENERAL REYNOLDS: The answer to that is as follows: The Commission considered all matters that were presented, and other matters, and refuses to elaborate upon the reasons for its conclusions.

MAJOR KERR: You may cross examine this witness.

CROSS EXAMINATION

Q (By Captain Sandberg) Referring to Prosecution's Exhibit No. 2, will you state whether, in your knowledge, the translations of the Army Translator and Interpreter Service are considered to be literal translations?

A Yes, they are literal translations, grammatical translations.

Q And would you vouch for their accuracy in every respect?

A I would, sir.

Q Now, I show you Prosecution's Exhibit No. 2, referring to its Shobu Operations Order No. A-76, and ask what is the date on which the translation states that that order was issued?

A Operation orders issued the 22nd of July to the 3rd of October, 1944, meaning that orders were issued during that period.

Q Now, is the order signed by -- Who is the order signed

by?

A Yamashita, Tomoyuki; CG of 14th Army.

Q Now, would it change your opinion of the accuracy of that translation if I were to tell you that General Yamashita did not come to the Philippines before the 7th of October, two weeks after the date of that order?

A No. It states that the document is a bound carbon copy, a mimeographed file. If the order, this particular order, is mimeographed, then the name "Yamashita, Tomoyuki," would appear mimeographed; not a hand signature.

Q And therefore, what is the date on which that order was issued?

A Issued the 27th of September, 1944.

Q And it was issued by General Yamashita?

A Yes.

Q And he was not in the Philippines at that time?

MAJOR KERR: Just a moment. You are reaching a conclusion there.

CAPTAIN SANDBERG: We will withdraw the question.

Q (By Captain Sandberg) In other words, then, you will stand upon the accuracy of this translation?

A Yes, sir.

Q Issued on the 27th of September, 1944?

A That order was issued on the 27th of September, 1944.

Q That is correct. And signed by General Yamashita?

A Yes, sir.

Q Now, are you the officer who asked the questions of General Utsunomya, referred to in this deposition?

A No, sir.

Q Do you know who was?

A No, sir.

Q Do you know anything about this deposition?

A No, sir.

MAJOR KERR: This witness offered no testimony whatever with respect to that particular exhibit.

CAPTAIN SANDBERG: May I ask why he identified this?

MAJOR KERR: He did not identify it. It requires no identification. It bears the signature of an officer, stating he was detailed for the purpose of making that record, according to the regulations on that type of information; that type of certificate is satisfactory.

CAPTAIN SANDBERG: May I inquire as to the name of the officer asking questions covered in this deposition?

MAJOR KERR: The statement speaks for itself.

CAPTAIN SANDBERG: The defense requests at this time that Captain Jerome Richard, whose name is signed to this deposition, be produced in court by the Prosecution for the purpose of examination with respect to this deposition.

MAJOR KERR: If the Commission please, that exhibit has been introduced and accepted as an exhibit. There is absolutely no ground for Defense's request. We are not required in any way to produce the testimony of the officer who questioned the witness. That exhibit is complete in and of itself.

CAPTAIN SANDBERG: The defense has never identified this document by the statements of a witness under oath by this Commission. So far as we are concerned, this is simply a document which may have any origin at all, and the Defense consequently renews that request.

MAJOR KERR: Is the Defense reopening the question, sir, of the admissibility of this exhibit? It seems to me that it was ruled upon by the Commission.

I suggest we proceed with the trial.

CAPTAIN SANDBERG: The Defense wishes the record to show at this time that the Defense was afforded no opportunity to cross examine the witness questioned under the deposition; that the deposition was taken without notice to the Defense; that the Defense was given no opportunity to submit cross interrogatories. It wishes the record to show also that the Defense was never given the opportunity to cross examine the officer who conducted the interrogations for the Prosecution.

MAJOR KERR: Are you finished with the cross examination of this witness?

CAPTAIN SANDBERG: No further examination.

MAJOR KERR: The witness is excused.

Thank you very much, Captain.

(Witness excused.)

MAJOR KERR: Sir, Captain Hill will now take over for the purpose of trial of the Red Cross Building atrocity.

CAPTAIN HILL: May it please the Commission, before presenting the evidence as to the first atrocity in this case, with the Court's permission I would like to make a brief statement as to what the evidence will be.

First, this case is under the Bill of Particular No. 30, and is commonly referred to as "The Red Cross Case." The evidence on behalf of the Prosecution will show that on 10 February, 1945, and for several days prior thereto, the Red Cross Headquarters, the Philippine Red Cross Headquarters in

the City of Manila, was being used as a refuge and as an emergency hospital for non-combatant civilians in that locality.

The evidence will further show that on that day, somewhere between 50 and 100 non-combatant civilians, had gathered in that building. Included in that group were a doctor, a volunteer Red Cross doctor, two Red Cross nurses, and others aiding in the operation of the emergency hospital and caring for the refugees.

The evidence will show that late in the afternoon, between five and six o'clock of that day, four members of the Japanese Imperial Forces approached the building. As they approached they shot through the door, at that time killed a small child, then forced the door open, entered, and commenced to bayonet and shoot everyone within their sight.

The evidence will show that there were two people in the room who could speak Japanese; that these two persons explained to the Japanese that this was a Red Cross place. They pointed out the doctor. They had ample opportunity to see the Red Cross insignia on the arm of the nurse, and on all four sides of the building was the conventional Red Cross sign, but in spite of that, and without cause or reason, these Japanese killed, by bayonet or shot, at least 50, and possibly more, people in that building.

The evidence will further show that after the killing, after the expiration of several days, the building was burned. It is our contention that the Japanese burned the building in order to cover up the evidence of the murders.

The first witness will be Patrocínio Abad.

PATROCINIO ABAD

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

DIRECT EXAMINATION

Q (By Captain Hill) State your name to the Commission, please.

A My name is Patrocinio Abad. My screen name is Corazon Noble.

Q Where do you reside, Miss Abad?

A 133 Blumentritt Street, San Juan.

GENERAL REYNOLDS: Just to interrupt for a moment --

Will you fix the loud speaker? The Commission is unable to hear the witness.

Q (By Captain Hill) How old are you, Miss Abad?

A Twenty-six years old.

Q What is your nationality?

A Filipino.

Q Are you married or single?

A I am single, but I had a baby daughter. My husband was killed by a trench mortar.

GENERAL REYNOLDS: The Commission interrupts again to say that we cannot hear the witness, and asks that the public address system be adjusted.

Q (By Captain Hill) During the first part of February, 1945, where were you residing?

A I was residing in Makati.

Q Did you have occasion, during the first part of February, 1945, more particularly on 10 February, to go to the headquarters building of the Philippine Red Cross?

A Yes, sir.

Q On what date was that?

A February 10, 1945.

Q At what time of the day did you go there?

A 10:00 in the morning.

Q Did anyone accompany you there?

A Yes, sir.

Q Who?

A The Juan family: my two brothers, my cousins, and others who were staying there.

Q Did you have your baby with you?

A Yes, sir.

Q How old was your baby?

A Ten months old.

Q Was it a boy or girl?

A Girl.

Q And what was its name?

A Maria Lourdes Vera.

Q When you arrived at the Red Cross Headquarters Building, what did you find there?

A I found that it was an emergency hospital.

Q Was any other use made of the building at that time?

A It was also used as a refugee center.

Q Were there refugees in the building on that day?

A Yes, sir.

Q Do you have an estimate of how many refugees had gathered there on that occasion?

A Only to around 100.

Q Do you know the names of the doctor and the nurses that

were operating the emergency hospital there?

A Yes, sir, some of them.

Q Can you give them?

A Doctor Venecia, Miss Andaya -- and the others, I couldn't tell you the names.

Q Do you know how many patients were confined there in the emergency hospital that day?

A I think there were around several patients.

Q Were there any other help around there, assisting the doctor and the nurses, besides those you have named?

A Yes, those who volunteered.

Q Are you able to give their names?

A No, sir.

Q On that day did you see any members of the Japanese armed forces come to that building?

A Yes, sir, there were four Japanese soldiers.

Q Do you know what branch of the Japanese Army or Navy that they belong to?

A I think that they were all Navy, but I don't know to what branch they belong.

Q Did you observe the uniforms they wore, or the insignia on their uniforms?

A Yes, sir.

Q Will you tell the Court what color their uniforms were?

A Their uniform was green color. Their caps were also green, with insignia of an anchor on it.

Q Were you familiar with the Japanese uniform?

A Yes, sir.

Q And you are positive that those uniforms were Japanese

uniforms?

A Yes, sir.

Q What time of the day did these four Japanese come there?

A They were there when I came to the building, but --

Q (Interrupting) What time was that?

A 10:00 in the morning, but then they left after lunch time, and then when they returned it was --

Q (Interrupting) Just a minute. While these four Japanese were in the building in the morning, what did they do, if you know?

A They started to give candies and cookies to the children in the building.

Q Did they do anything else?

A No, sir.

Q Did you see them question any of the people?

A Yes, I saw them question eight Germans who were in the building.

Q Do you know what they said to these Germans?

A No, sir.

Q Did any other Japanese come into the building, the Filipino Red Cross Headquarters, that day?

A No, sir.

Q That evening?

A That evening, yes.

Q About what time?

A Around 5:00 or 6:00 in the afternoon.

Q How many came on that occasion?

A Four.

Q And were they dressed in the same manner as the four

that you had seen in the morning?

A They were the same, I think.

Q You think they were the same four Japanese?

A Yes, sir.

Q What first attracted your attention to these four Japanese when they came in the evening?

A We heard shots. We thought it was the beginning of a street fight.

Q Where did you hear the shots come from?

A From the outside of the building.

Q All right, go ahead.

A Then I saw the little girl who was right in front of the door, she fell, and another older woman was hit; she started to go back to the doctor for aid, and then all of a sudden I saw the four Japanese officers --

Q (Interrupting) Just a minute. Let me interrupt you.

Where were you in the building at that time?

A At the corridor, in the entrance of the corridor.

Q Were you near the door where the Japanese entered?

A Yes, sir.

(Whereupon a document was handed to the reporter, which was marked Prosecution's Exhibit No. 8 for Identification.)

Q (By Captain Hill) I will hand you Prosecution's Exhibit No. 8 for Identification and ask you to state what it is, if you know?

A That is a sketch of the Philippine Red Cross Headquarters.

Q A floor plan of the headquarters?

A Yes, sir.

Q And I will ask you to indicate to the Commission -- I

think you had better stand up here so the Commission can see -- where you were standing?

A The four Japs came in by the door that faces there (indicating)..

Q And where were you standing at that time, with reference to that entrance?

A I was standing right here (indicating), in the entrance of the corridor.

CAPTAIN HILL: We will offer in evidence Prosecution's Exhibit No. 8, sir.

GENERAL REYNOLDS: Does the Defense object to the introduction of this exhibit?

CAPTAIN REEL: No objection.

(Whereupon the sketch above referred to was received in evidence and marked Prosecution's Exhibit No. 8.)

Q (By Captain Hill) Go ahead, Miss Abad, and tell us what happened after you saw the Japanese enter the building.

A After I saw the Japanese in the building I saw them aiming at me, so I hid behind a cabinet where they keep the medicines, but the cabinet was not enough to cover me, so that my elbow, my right arm was out, and the Japanese shot me through my right elbow.

Q Did you have your baby with you at that time?

A Yes, sir.

Q When you were hit by the bullet what did you do?

A I started to lie down -- I laid --

Q (Interrupting) On the floor?

A Yes, sir; and a Japanese came near me and stabbed me with his bayonet.

Q How many times did he stab you with his bayonet?

A Nine times.

Q And will you indicate in what parts of the body? Tell the Court what parts of the body you were bayoneted in.

A I was bayoneted right here (indicating), by the bust; here (indicating); here (indicating), in the ribs; and here (indicating), in the abdomen; and here, again (indicating), in the abdomen; and the leg (indicating); and the back (indicating).

Q Did you remain conscious after you were shot and bayoneted by the Japanese?

A Yes, sir.

Q Can you tell the members of the Commission what happened to your infant child at that time?

A I had her under me, and when these Japanese stabbed me I felt a pain in my arm, it was hurting me, so I didn't see how he bayoneted my baby, only I know that he was bayoneted through and through three times.

Q Three times?

A Yes, sir.

Q As a result of that bayoneting, what happened to your infant child?

A She died.

Q Did she die immediately?

A No, sir.

Q How long did she live?

A Four hours.

(Whereupon a photograph was handed to the reporter by Captain Hill and marked Prosecution's Exhibit No. 9 for

Identification.)

Q (By Captain Hill) I will hand you Prosecution's Exhibit No. 9 for Identification and ask you to state what it is, if you know?

A It is the picture of my right arm with a scar of the shattered --

Q (Interrupting) Do you recall about when that was taken?

A This one was taken around May.

CAPTAIN HILL: We offer in evidence Prosecution's Exhibit No. 9, sir.

GENERAL REYNOLDS: Is there any objection on the part of Defense?

COLONEL CLARKE: No objection, sir.

GENERAL REYNOLDS: The document is accepted in evidence.

(Whereupon the photograph referred to was received in evidence and marked Prosecution's Exhibit No. 9.)

CAPTAIN HILL: I would like to have this marked for identification.

(Whereupon the photograph referred to was marked Prosecution's Exhibit No. 10 for Identification.)

Q (By Captain Hill) I will hand you Prosecution's Exhibit No. 10 and ask you to state what it is, if you know?

A It is the picture of the bayonet stabs that I received here (indicating).

Q At the hands of the Japanese?

A Yes, sir.

COLONEL CLARKE: What was that?

CAPTAIN HILL: I asked, "At the hands of the Japanese?" And she said "Yes." She said this was a picture of the scars

of the bayonet wounds that she received.

We offer this in evidence, sir.

GENERAL REYNOLDS: Is there any objection on the part of the Defense to the introduction of this evidence?

COLONEL CLARKE: None, sir.

GENERAL REYNOLDS: It will be received.

(Whereupon the photograph referred to was received in evidence and marked Prosecution's Exhibit No. 10.)

CAPTAIN HILL: May I have this marked for identification?

(The photograph referred to was marked Prosecution's Exhibit No. 11 for Identification.)

Q (By Captain Hill) I hand you Prosecution's Exhibit No. 11 and ask you to state what it is, if you know?

A This is a picture of mine before I got the bayonet stabs.

CAPTAIN HILL: We offer in evidence the Prosecution's Exhibit No. 11.

Q (By Captain Hill) Can you tell whether any one of these four Japanese that you saw in the Red Cross Building that day -- or that evening, rather, were officers or enlisted men?

A No, sir, they were not officers.

Q Will you tell the Commission how they were armed?

A They were armed with their rifles and bayonets.

Q Did all four of them --

A (Interrupting) Yes, sir.

Q (Continuing) -- have the same arms?

A Yes, sir.

Q Did you see these Japanese shoot or bayonet any of the other people in the building at that time?

A Yes, sir. I saw one of the Japanese bayonet a Miss

Andaya.

Q Who was Miss Andaya?

A She was a Red Cross nurse.

Q Was she employed there at the Red Cross?

A Yes, sir.

Q Did you see them shoot or bayonet anyone else?

A Yes, sir.

Q Will you tell the Court about it?

A I saw them shoot Miss Marcelo -- she was a nurse, also -- and Mrs. Juan, who was with us, who was a refugee also, of the place, and some others, and the doctor.

Q Were they shot or bayoneted by the Japanese?

A They were shot and bayoneted.

Q Did you see any others shot or bayoneted there?

A Yes, sir.

Q Do you know their names?

A No, sir.

Q In the corridor and hall where you were located, can you tell the Commission about how many people were shot or bayoneted?

A In the corridor there were around 25 to 30 dead persons.

Q Were they men, women, or children?

A Mostly women and children.

Q How long did the Japanese remain there in the building at that time?

A Approximately an hour.

Q And while they were in the building and after you had been shot and bayoneted, what did you do?

A I waited for them to leave. When they left I started

to sit up, with the others who were only wounded, and then we decided to leave, because we were afraid the building might be blasted, because they had started to spread powders.

I don't know what sort of powders they were.

Q Did you leave the building?

A Yes, sir.

Q About what time that evening did you leave the building?

A It was around 7:00 or 7:30.

Q Before you left the building did you go to any of the other rooms in the building?

A No, sir, but my cousin did.

Q When you left the building was your baby still alive?

A Yes, sir.

Q Did you take the baby with you?

A Yes, sir.

Q Where did you take the baby?

A We bust the back door and we cross the wall. When I was on the other side of the wall I met my brother. I gave him the baby and told him to take her to a doctor who was residing very near that place, and I asked them to leave me because -- (pause) -- I couldn't stand it any more. I was feeling very weak. When they returned, I don't know; I was unconscious.

Q Did you see your baby alive again?

A No, sir.

Q Did you see its dead body?

A No, sir.

CAPTAIN HILL: Cross examine.

CROSS EXAMINATION

Q (By Colonel Clarke) Miss Abad, do I understand you to

say that there were four Japanese who came in in the morning?

A Yes, sir.

Q And four who came in in the evening?

A Yes, sir.

Q They were the same four?

A I think they were the same four, because I recognized the face of one of them. I don't know about the others.

Q I understand they were members of the Japanese Navy?

A Yes, sir.

COLONEL CLARKE: That is all.

CAPTAIN HILL: That is all.

(Witness excused.)

GENERAL REYNOLDS: At this time the Commission will recess until 1:30 this afternoon.

(Whereupon a recess was taken until 1330 o'clock, 29 October 1945.)

AFTERNOON SESSION

(The trial was resumed, pursuant to recess, at 1330 hours.)

GENERAL REYNOLDS: The Commission will come to order and resume the session.

MAJOR KERR: If the Commission please, I should like to swear at this time five additional interpreters who have not previously been sworn.

GENERAL REYNOLDS: Very well. I should like to have the record show that the Accused and his counsel are present.

MAJOR KERR: If the Commission please, the Commission members are present together with the Prosecution staff, the Accused and his counsel.

(Whereupon Interpreters Commander Bartlett, Hiroshi Ohira, Masao Ochi, Roy Tanonye, and Hiroshi Ito were sworn.)

CAPTAIN HILL: If the Commission please, the next witness will be Miss Glicera Andaya.

GLICERA ANDAYA

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you please state your name to the Commission?

A Glicera Andaya.

Q Where do you reside, Miss Andaya?

A I reside in Emergency No. 1.

Q How old are you?

A I am 32 years old.

Q What is your nationality?

A Filipino.

Q Are you married or single?

A I am single.

Q During the first ten days of February, 1945, where were you employed?

A During the first ten days I wasn't employed. I was a private nurse.

Q Will you speak into that microphone, please? What is your profession?

A Registered nurse.

Q And were you during those days employed as a nurse?

A On February 10th I was employed as a nurse in the Red Cross.

Q And were you on that date serving as a Filipino Red Cross nurse?

A Yes.

Q And at what place were you serving?

A We were serving at the Red Cross Building at the corner of General Luna and Isaac Peral.

Q Was that the headquarters of the Filipino Red Cross?

A That was.

Q And besides yourself what persons constituted the staff there at the hospital?

A We had Mr. Farolan, Acting Head of the Red Cross then. Then we had another nurse, Miss Loveriza, and then we had a boy by the name of Marcelino. I don't know his family name. Then there was another girl from the YWCA, and we had an emergency doctor.

Q Will you speak into that microphone, please? For what

purposes was this building used on the 10th of February, 1945?

A It was put up as a refugee home for refugees and emergency hospital.

Q Were there refugees in the building on that date?

A There were many refugees.

Q Will you tell the Commission how many refugees you think were in the building at that time?

A Before the time the Japanese came there we registered about 50 refugees.

Q What time of the day was that?

A It was before the afternoon.

Q Did any other refugees come during the afternoon to the building?

A They kept on coming in the afternoon and we did not keep track of them any more.

Q Besides the refugees how many patients were there in the building, if you know?

A There were about 7 patients in the building.

Q And in addition to the refugees and patients were the staff hospital names you have given us; is that correct?

A That is right.

Q On the 10th of February or at any time prior thereto was this building, the Philippine Red Cross Headquarters, used for military purposes?

A No.

Q And on February 10th were any of the refugees, patients, or the Red Cross personnel there in the building armed in any manner?

A Nobody, the refugees or any of the personnel or any of the patients, was armed.

Q On February 10th did you see any Japanese come to that headquarters building?

A Yes.

Q At what time?

A They came in the morning.

Q How many?

A About four of them.

Q Did you know to what branch of the Japanese service they belonged?

A I don't know exactly what branch, but they had an insignia on their caps.

Q What kind of an insignia?

A An "Anchor" insignia.

Q Did other Japanese come to the building during that day?

A Between 6 and 6:30 four Japanese came into the building.

Q Were they the same Japanese that had been there in the morning?

A I am not sure.

Q Tell the Commission just what happened and what first attracted your attention when these four Japanese came there about 6 o'clock in the evening.

A About between the time of 6 and 6:30 in the evening I heard a shot just outside the building, a gunshot, and then simultaneously a woman screamed and came in running with a dead child in her arms. She told us that the child was shot by the Japanese who were right behind her. The doctor told me

to get the instruments ready and we were going to see the wound of the child.

I was getting the instruments ready and then I asked one of the girls who knew how to speak Japanese to go and find out what the Japanese wanted, and I went behind her. After that, while the people were coming in rushing through the corridors, I told them to lie down flat and keep quiet until I found out what the Japanese wanted.

The girl was trying to talk with the Japanese - to the Japanese, I should say - and, well, the Japanese just shoved the point of a gun at her and then they faced me. I told the Japanese that was nearest to me that that was a Red Cross building and that I was a nurse and that nobody was inside except refugees. This Japanese who had a fixed bayonet and gun turned to his officer behind him, and before I knew it he turned back to me and stabbed me with the bayonet.

Q Where did he stab you with the bayonet?

A He stabbed me on the left chest above the heart region.

CAPTAIN HILL: I ask that this photograph be marked for identification, if the Commission please.

(Photograph of stab wound was marked Prosecution Exhibit No. 13 for identification.)

Q (By Captain Hill) I will hand you Prosecution's Exhibit 13 and ask you to state what it is, if you know.

A This is a picture of my stab wound taken sometime during the month of May.

Q Of this year?

A Yes. 1945.

CAPTAIN HILL: We offer in evidence Prosecution's Exhibit No. 13.

GENERAL REYNOLDS: Is there any objection by the Defense?

COLONEL CLARKE: None.

GENERAL REYNOLDS: It may be accepted in evidence.

(Prosecution Exhibit No. 13 for identification was received in evidence.)

Q (By Captain Hill) After you were bayoneted by this Japanese what did you do?

A I fell down and I must have - After a short time I heard the Japanese go into the other part of the building and then I heard shots.

Q What other part of the building?

A That was the dispensary part of the building near Isaac Peral.

Q What else did you hear, if anything?

A I heard one, it must be the voice of the doctor, who shouted "Aruy!", an expression of pain.

Q Did you see the Japanese shoot or bayonet any other persons in the hallway where you were?

A In the hallway I saw the Japanese shoot at a child who was trying to sit up, and the Japanese just shot the child three times in the mouth until the child fell dead.

Q How old was the child?

A About three years old.

Q Can you tell the Commission whether these four Japanese whom you saw in the building there were officers or enlisted men?

A Well, I cannot exactly tell whether they were officers, but one of them, the one nearest to me with whom I spoke and the man who stabbed me had a kind of handkerchief at the back of his neck; a khaki handkerchief.

Q Were they all four armed in the same manner?

A No.

Q Did any of them carry sabers?

A The second one, the one behind him, carried the saber and the revolver.

Q Did you retain your consciousness after you were bayoneted?

A For a short while.

Q How long?

A It must be about 20 to 30 minutes.

Q Have you told the Commission all that you remember seeing or hearing of what transpired there in the building immediately after you were bayoneted?

A After they came from the dispensary I then went to the other side of the building where the Jews were hiding and then I heard a Japanese say something to the Jews. They were saying "Americans! Americans!" And then I think - I don't remember what the Jews answered and all I heard was shots and the women were screaming and then no more.

Q How long did these Japanese stay in the building on that occasion?

A From the time they started shooting and bayoneting I think they must have stayed for about 20 minutes.

Q Did you see them leave the building?

A I heard them.

Q What did you do after they left the building, if anything?

A I didn't do anything. I was too weak to do anything.

Q How long did you remain in the building after you were bayoneted?

A I remained in the building for four nights and four days.

Q Did you receive any medical attention while you were there?

A No.

Q When did you leave the building then?

A I left the building on the morning of the fourth day.

Q Why did you leave the building?

A I suddenly woke up and I found out that the building was on fire. So I just took the pillow that was put under my head by a little girl, pressed it to my chest and went out the gate.

Q Where did you go from there?

A From there I climbed the high wall out of the building and went over to the other side where the rest of the people from the Red Cross were hiding.

Q Can you tell the Commission approximately how many people were killed by the Japanese in the Red Cross Headquarters Building on 10 February 1945?

A Approximately 40 people were killed in the building on February 10, 1945.

Q When you left the building on the fourth day after your

injury did you count the bodies or did you have occasion to observe the bodies throughout the building?

A No. I was in a hurry to leave the building.

Q Did you see dead bodies there in the building at that time?

A I saw the four dead bodies that were nearest to me for four days and four nights, and then the building was in such topsy-turvy condition that I couldn't - I had no time to look back.

Q At the time the Japanese first entered the building and as you approached them did you have any Red Cross insignia on your clothes?

A I was in a nurse's uniform with a Red Cross badge on my left arm and the Red Cross cap.

Q Do you know whether there were any Red Cross markings on the buildings on the outside or not?

A In all the windows of the building there was a Red Cross flag flying.

Q And how many windows were there in the building?

A Approximately 14.

CAPTAIN HILL: Cross-examine.

CROSS EXAMINATION

Q (By Captain Reel) Had this building been a Red Cross building for some long period of time?

A It has been a Red Cross building for quite a period of time.

Q And during the Japanese occupation it was a Red Cross building?

A It was still a Red Cross building.

Q And prior to the 10th of February, 1945, so far as you know, there had not been any shooting or killing inside that building?

A There was no shooting or killing inside the building before February 10th, 1945.

Q I think you told us that there were 40 persons killed on the 10th of February.

A Approximately 40.

Q How did you know that?

A Because in the corridors where we were there were about 20 who were shot and bayoneted before they bayoneted me.

Q And you saw this take place?

A Pardon?

Q Did you see this take place?

A Yes.

Q You saw the 20?

A Yes; approximately.

Q I think you told us that in the building four Japanese came in who had "anchors" on their caps; is that right?

A That's right.

Q And then four more came in the afternoon, and you are not sure whether they were the same four who were there this morning?

A That's right.

Q Did the four who came in the afternoon have "anchors" on their caps?

A The one nearest to me had an "anchor" on his cap.

Q Did you notice whether the others had "anchors" on their caps?

A No.

Q I think you said one of them carried a saber?

A Yes.

Q Was he the one nearest to you?

A No. He was the second.

Q Did you notice whether he had an "anchor" on his cap?

A I didn't notice.

Q But you noticed he carried a saber?

A I noticed he carried a saber and a gun.

Q Will you describe what he wore?

A Pardon?

Q Will you describe what he wore as near as you remember?

A The things I noticed was that he had a pair of leggings, a saber and a gun, and he was dressed in khaki like the rest of them.

Q And that is the only distinction that you noticed: his leggings, a saber and a gun?

A Yes.

CAPTAIN REEL: That's all.

CAPTAIN HILL: That's all.

(Witness excused)

CAPTAIN HILL: Miss Florita Loveriza.

GENERAL REYNOLDS: The Commission will recess briefly.

The people are invited to take the forward seats, saving the first row only on the left side of the building.

(Short recess.)

GENERAL REYNOLDS: The Commission will come to order.
The Prosecution may proceed.

FLORITA LOVERIZA

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you talk just as closely to the microphone as you can, please. Please state your name.

A Floritz Loveriza.

Q How old are you?

A 32 years old.

Q Where do you reside?

A At present I am residing at the National Psychiatric Hospital, Lambuanao, Iloilo.

Q What is your nationality?

A Filipino.

Q What is your business or profession?

A Red Cross nurse.

Q How long have you been a nurse?

A Since 1932.

Q During the first part of February, 1945, where were you employed?

A Philippine Red Cross.

Q And were you present at the Philippine Red Cross headquarters building on the 10th of February, 1945, when the Japanese soldiers came there?

A Yes, sir.

Q Will you describe to the Commission in your own words just what happened there on that occasion?

A On the afternoon of February 10th, when we were about to have our supper, we heard shooting outside. Miss Andaya, one of our Red Cross women, went out to investigate and brought in a child and a woman who had been shot. We brought the two cases into the dispensary for care.

GENERAL REYNOLDS: Will you ask the witness to speak more slowly, please. Will you repeat the answer to that question.

Q (By Captain Hill) Just start at the beginning again so that the Commission can hear. They could not understand.

A On the afternoon of February 10th around 6 o'clock, when we were about to start our supper, we heard shooting outside. Miss Andaya, one of our nurses, went out to find out what was going on. A woman and a child was taken in who had been shot by the Japanese. We brought the girl, the child and the woman in the dispensary for treatment. Miss Andaya went out then to investigate what was going on. Dr. De Venecia, our physician, and myself prepared to treat with oxygen. When we were about to start we heard some more shooting, howling and crying of children and women. Dr. De Venecia told me to stop, because we were suspecting that something was going on in the next room of the building. I covered the patient and then went out of the dispensary. When we were at the door more shooting and howling of children was heard. I then proceeded to the place where the noise was coming from, but Dr. De Venecia and myself went next door to the office, and Dr. De Venecia hid behind the

steel cabinet and I hid behind the table.

When we were in our hiding place two Japanese came in. I don't recognize whether they were officers or soldiers, but they came in the place where we were in. I saw the Japanese look at Dr. De Venecia and then the girl, Erlinda, who was kneeling beside Dr. De Venecia, told the Japanese that he was a doctor. The Japanese was ready to shoot the girl, but she pleaded that she was a nurse. The Japanese looked back to the companion that he had, and after talking he asked who was the man besides her. He said he was a doctor, a Red Cross doctor. The Japanese stood and shot Dr. De Venecia twice, and then the gun was no longer loaded. They loaded the gun, and while they were loading the girl, Erlinda, hid under the cot, and the Japanese bayoneted the girl. After that the Japanese proceeded around the other room. I heard that they were killing some of the patients and some people in there, because we heard howling of people as they passed.

COLONEL HENDRIX: We would like for the witness to repeat what she said when she stated "I heard" something.

GENERAL REYNOLDS: Will you repeat that, please.

A (Continuing) After bayoneting the girl who hid under the cot they proceeded around the room, and then I heard -- I could not see them, but I heard women and children moaning. So I presumed that they must be killing and bayoneting the rest of the people in that room.

COLONEL HENDRIX: If it please the Commission, I have an objection to make at this time as to the statement made by the witness with respect to what she presumes and what she heard as

to statements of other people. If she heard some sounds, of course she can testify about those sounds, but I believe the witness stated something about a presumption, and I do not believe that under the rules of evidence this witness should be allowed to testify as to a presumption on her part.

GENERAL REYNOLDS: Will you repeat that?

THE WITNESS: I heard shooting.

Q (By Captain Hill) What else did you hear besides the shooting?

A Moaning and crying.

Q Did you see the Japanese shoot or bayonet any of the other people in the room besides those you have told us about?

A I did not see, but I heard shooting and moaning only.

Q Can you tell the Commission approximately how many people in the office and dispensary part of the building where you were bayoneted or shot by the Japanese?

A The only ones I saw were Dr. De Venecia and then the girl under the cot.

Q Do you know whether there were others in the room shot or bayoneted?

CAPTAIN SANDBERG: Will the witness repeat the answer to the last question, please?

GENERAL REYNOLDS: Since we were interrupted, I would like to ask if the Defense withdraws the objection to the testimony in view of her subsequent statement?

COLONEL HENDRIX: For the present, sir, yes; we withdraw the objection.

Q (By Captain Hill) Do you know how many people were killed, either bayoneted or shot, in the room which you used as

the office and the dispensary?

A Around ten.

Q How long did the Japanese remain in that room?

A Around five minutes.

Q Do you know where they went from there?

A I heard footsteps upstairs. They must have gone probably up the building.

Q After they left that room did you hear any other noises in the building?

A After ten minutes --

Q Did you hear any other noises in the building after they left that room?

A After they left we heard two Japanese people speaking outside the building on the street.

Q How long did the Japanese remain in the building?

A After they counted the dead I think they left, because I did not hear any more until they went outside.

Q At the time the Japanese came into your room were any of the civilians in that room armed in any way?

A I don't think any was armed.

Q Do you know whether the civilians in that building or anyone else had on that day or at any time previously used that building for military purposes?

A No, sir.

Q How long did you remain in the building after the Japanese left?

A The next morning. We were in our hiding place until the next morning, but we removed the dead the next day. We stayed there until the next morning.

Q And then left the building?

A And left the building Monday morning. We went across the street because the building was burning.

Q As you left the building did you have occasion as you went through the corridor and hall to observe dead bodies there

A Yes. I went out from my hiding place. Passing the corridor I saw Miss Andaya. She asked me to give her a stimulant. So I went to the dispensary to get the medicine. I saw three people in the dispensary dead, and in the room where I was there were three or four more people dead. And passing the girls' toilet there were some, I don't know, around eight German Jews. I think they were also dead.

Q Where were these German Jews located? In what part of the building were they?

A They were hiding in the ladies' room.

Q From what you saw in the building while you were administering to Miss Andaya and leaving the building can you tell the Commission approximately how many dead bodies you saw there in the building?

A More than 20.

CAPTAIN HILL: Cross examine.

CROSS EXAMINATION

Q (By Colonel Hendrix) Did you observe the type of uniform the Japanese were wearing?

A The color was greenish.

Q Did you notice the type of insignia on any of the uniform

A No, sir.

Q Could you tell whether there were any "anchors" on the caps?

A I didn't notice those.

COLONEL HENDRIX: That is all.

CAPTAIN HILL: That is all, unless the Court has some questions.

GENERAL REYNOLDS: No questions.

(Witness excused)

CAPTAIN HILL: Mr. Lewy.

JOHN K. LEWY

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

DIRECT EXAMINATION

Q (By Captain Hill) State your name, please.

A My name is John K. Lewy.

Q Where do you reside, Mr. Lewy?

A At 1312 General Liena.

Q How old are you?

A 28 years old.

Q What is your nationality?

A I am a German refugee.

Q How long have you resided in the Philippine Islands?

A Since October 6th, 1939.

Q On February 10th, 1945, did you have occasion to go to the Philippine Red Cross Headquarters Building in Manila?

A Yes, sir.

Q What time of the day did you go there?

A I left around lunch time, or, I would say, around lunch time.

Q Did anyone accompany you there?

A Yes. There was a group of German refugees with me.

Q Can You give the Commission the names of those persons who accompanied you to the headquarters building?

A Yes, sir. There was Mr. and Mrs. Kohnke and their daughter Irene. That was my fiancée. There was Mr. and Mrs. Boss. There was Mr. and Mrs. Graetz, Mrs. Karger, and the house girl of Mrs. Graetz.

Q Don't talk quite so fast, please.

A All right, sir.

Q Is that all?

A Yes, sir.

Q And how many?

A There were nine refugees and one housegirl. That makes ten in all.

Q When you got to the Red Cross Building what did you do?

A Well, we knocked at the door and, you see, our intention was to go down to Pasay.

Q Just tell us what you did when you got to the building.

A All right, sir. We knocked at the door and the nurses let us in and said "We will be safe here."

Q Why did you go to the Red Cross Building?

A We tried actually to go to Pasay, because Mr. Graetz had some friends down there, but the Japanese sentries on 10th Avenue didn't let us cross the street. One of the officers even drew his pistol. Well, I don't know if he wanted to shoot, but anyway he didn't let us cross the road, and he pointed with his finger over to the Red Cross Building. That is how it happened that we went over there.

Q Were you there in the building on the evening of that day when four Japanese came to the building?

A Yes, sir.

Q About what time was that?

A Well, it was on the 10th of February. It was about 5:30 in the afternoon.

Q And in what part of the building were you when these four Japanese came to the building?

A My friends and I were in the ladies' toilet. That was our living quarters.

Q Tell the Commission just what took place after the Japanese came to the building.

A The Japanese started shooting and bayoneting the people. That is what I saw.

Q How many Japanese came into the room where you were?

A Three of them.

Q Were they officers or enlisted men?

A There was one officer and two soldiers.

Q How could you tell that the one was an officer?

A He had an insignia on his left chest; he carried the pistol and the saber, and I think he was an officer.

Q In the room where you were how many people were there?

A There was a group of German Jewish refugees. That makes ten. And there was one small Filipino girl. I don't know how she came in there.

Q Tell the Commission what happened when these three Japanese came into your particular room.

A Yes, sir. I saw them coming in as I ran downstairs to the ladies' toilet to warn my friends to hide, but they were right after me, and as soon as I was inside the toilet they started shooting. They got first Mr. and Mrs. Kohnke, and as

Mr. Kohnke fell down I lay next to him. They shot at me, too, but they missed me. They got then Mrs. Graetz in the right forearm, and I think they shot Mr. Graetz in the right abdomen. He tried to get up again, but he was bayoneted. Mr. and Mrs. Boss were in the first toilet compartment, and they asked for mercy, but they were bayoneted. I went there in the second toilet compartment to hide myself. I put my chest and head between the toilet and the wall and I lay with my back and legs on the toilet and on the wooden cover. I saw a Japanese soldier coming in with a fixed bayonet, and he stabbed me once below my right hip and he got it out and stabbed me again, and it must have gone right through the skin and it hit the board that I was laying on, and he apparently couldn't get it out again, and he started moving on the left and right, and then he got it out, and he left and I fainted. That was all I saw.

CAPTAIN HILL: I ask that this be marked Prosecution's Exhibit No. 14.

(Photograph of bayonet wounds was marked Prosecution Exhibit No. 14 for identification.)

Q (By Captain Hill) I hand you Prosecution's Exhibit No. 14, and ask you to tell the Commission what it is, if you know.

A These are the bayonet wounds that I received at the hands of the Japanese sergeant that day at the Red Cross Building.

Q Do you know when that picture was taken of you? About when?

A That was about three months ago.

Q To refresh your recollection, was it taken on May 15th, 1945?

A It might have been May 15th, 1945. Yes, sir.

CAPTAIN HILL: We offer in evidence Prosecution's Exhibit No. 14.

GENERAL REYNOLDS: Is there objection by the Defense?

COLONEL CLARKE: No, sir.

GENERAL REYNOLDS: There being no objection, it will be received in evidence.

(Prosecution Exhibit No. 14 for Identification was received in evidence and so marked.)

Q (By Captain Hill) Could you tell which branch of the Japanese Imperial Forces the three Japanese that you saw belonged to?

A I believe that they did belong to the army because they had a brown steel helmet, brownish uniform and brownish legging and the officer, he had an insignia on his left chest, some silver; I don't know exactly. I was too excited to see distinctly.

Q How long did these three Japanese remain in this ladies' toilet room?

A Well, I don't think that the whole murder lasted longer than ten minutes. I was very excited. I couldn't tell exactly.

Q After they left the toilet room did you hear them leave the building?

A I did not hear them leave the building, no.

Q How long did you remain in the building after you were bayoneted?

A I stayed in that building that night. The next morning I left through a small door. It was an annex, a small warehouse. That was the 11th.

Q And how long did you remain there in that annex?

A I stayed in that annex another day and another night. That makes the 13th. I went out of there on the 13th in the morning because the building next to me was on fire.

Q Of the persons that you have told the Commission that you saw shot or bayoneted in that room, how many died as the result

A Well, all of them but me -- and the girl, of course.

Q When you left the main building to go to the bodega or warehouse, did you observe any dead bodies in the corridor or other parts of the building?

A When I left the building just behind that door was Mrs. Karger laying. She was shot.

Q I mean other than those in the room there about which you have already told us.

A But I did not see them when I left. I saw them in the night when they were sleeping there, and there were some kids laying there on the chairs who were dead.

Q You saw them that night?

A Yes, sir.

Q Can you give the Commission an estimate of about how many dead bodies you saw there in the building altogether, including those in the room where you were?

A I saw about 13 dead people in all.

Q 13 in all?

A Yes. I saw them.

Q Can you give the Commission an estimate of how many people you think were killed in the Red Cross Headquarters Building on the 10th of February, 1945, by the Japanese?

A Well, I think it must have been about 80 people, because that night when I was sleeping there nobody could have gotten

out, and there was a deadly silence in that building. There was no noise whatsoever.

Q How many did you say?

A About 80.

Q "80" or "18"?

A I said about 80.

Q 80?

A Yes, sir.

CAPTAIN HILL: Cross examine.

CAPTAIN REEL: No questions.

CAPTAIN HILL: That is all, Mr. Lewy.

(Witness excused)

CAPTAIN HILL: Mr. Juan.

JUAN P. JUAN

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

DIRECT EXAMINATION

Q (By Captain Hill) Please state your name.

A My name is Juan P. Juan.

Q Where do you reside, Mr. Juan?

A I reside at 1312 General Luna Street.

Q Where is that with reference to the former Philippine Red Cross Headquarters Building?

A It is just next door, back of the former Philippine Red Cross Building.

Q The building that was used for that purpose on 10 February 1945?

A (No response.)

Q You are next door to the building that was used as the Philippine Red Cross Headquarters in early February of this year?

A Yes, sir.

Q How old are you?

A I am 47 years old.

Q What is your business or profession?

A I am not in any profession, but I have been engaged in business, in the Educational Alliance, since 1935.

Q On 10 February, 1945, did you have occasion to go to the Red Cross Building adjacent to your home?

A Yes. I was practically there the whole day on February 10th.

Q Tell the Commission the occasion for your going to that building that day.

A As my house was just beside the Red Cross Building, and the other house of mine was just 50 meters away from the place, on February 9th, in the evening, we had no other place to go than the house that belongs to me at the back of the Philippine Red Cross. So we slept there on the night of February 9th. On February 10th intense shelling was going on. Shells were dropping around my yard and my building was already hit. So we were in commotion, and my wife and I decided to go to the Philippine Red Cross Building, especially when we accepted an invitation from Mr. Farolan, then in charge of the Philippine Red Cross. So after breakfast on February 10th I brought my whole family inside the Philippine Red Cross, because it was being used as an emergency hospital. My daughter then needed the doctor's assistance, so I took the opportunity to bring the family inside the Red Cross Building, especially when my daughter had just delivered and needed doctor's assistance because she was weak due to hemorrhage and exhaustion while running away from the other building that I have which was burned the night before.

Q Now, just a minute. Let me interrupt you. Tell the Commission how many members of your family went to the Red Cross Building that day.

A Fifteen altogether.

Q Fifteen?

A Yes.

Q And did all of the 15 remain in the building throughout the day and evening?

A A few of us happened to step outside late in the evening of that day, when it was almost dinner time, before dark, because our food was prepared outside of the Red Cross, inside my yard.

Q And how many members of your family remained in the building when the few of you went back to your yard?

A Ten of them remained inside the Red Cross Building.

Q Give the Commission the names of those ten members of your family that remained there in the building.

A There were my wife, Lucia Santos de Juan; my daughter, Paulina Juan Zabala, who had the baby; my older daughter, Juanita Juan Marcelo, with four children; and my daughter-in-law, Nenita Recio de Santos, with two children.

Q After you returned to your yard to prepare the food did you hear any noise or anything unusual from the direction of the Red Cross Building?

A Yes. About almost less than an hour after I left the Red Cross Building I was standing at the back yard supervising the cooking. Suddenly I heard shots from inside the Red Cross and simultaneously with the screaming of women. Then more shots followed and more screaming was heard.

My reaction was that the Japanese were killing the German refugees -- German-Jew refugees -- whom I saw inside the building when I left. My reaction was that the German-Jews were being killed, because I remember a statement of one of the Japanese officers that the Orient should be for the Orientals, and that there should be no mixed blood.

Q Now, just a minute. Did you know the name of that Japanese who made that statement to you?

A The second name is Captain Watasaki.

Q And when did he make that statement to you?

A That was more or less two or three months before the massacre.

Q Did you know this Japanese captain personally?

A I happened to know him several months before that when he was introduced to me by a certain friend of mine in Paranaque.

Q Just what were the circumstances under which you had the conversation with this Japanese captain?

A As he used to visit me in the house time and again, we happened to mention about the last war, the war that was going on then, and in the course of our conversation he said that eventually the war will soon end; that the Japanese --

COLONEL HENDRIX: If it please the Commission, at this time we would like to interpose an objection to this particular answer, and any line of questioning, on the ground of hearsay, as to what this particular witness heard another witness state; and further, that it is violative, and not in accordance with Article of War 38 in the Manual for Courts Martial and the rules of evidence in criminal cases in the District Courts of the United States. This witness is attempting to state what a captain in the Japanese Army has told him. That is hearsay. The captain should be here before this commission to testify as to whatever he did say.

MAJOR KERR: If the Commission please, this is a very important question. During the course of this trial the Commission will receive, or at least we will offer to the Commission, a considerable quantity of hearsay evidence. I

advert once again to the regulations which provide that this Commission shall receive such evidence as it believes to have probative value.

The Commission is not a jury to be insulated mentally against every possible suggestion. You gentlemen are certainly in a position to evaluate hearsay, or any other type of evidence that may be of value to you. The closest analogy on this question to an executive body such as this, a military commission, is afforded by an administrative tribunal. I believe counsel will grant that under American practice the administrative tribunals have been held by our courts to have a very broad leeway as to the receipt of evidence of this sort, and that they may receive hearsay evidence if they believe it will help them in the determination of the issues before them.

If that is true as to an American administrative tribunal under the statutes applicable to those tribunals, certainly it is true as to this Commission. And I most earnestly submit, sir, that the Commission will deny itself some extremely illuminating, trustworthy, and helpful evidence, which certainly would have probative value, I am sure, in the mind of any reasonable man.

I certainly object to any effort by counsel to prevent the introduction of so-called hearsay evidence in this proceeding. Furthermore, there are about 57 different varieties of exceptions to the so-called hearsay rule, and if the Commission has to get into that maze of legal technicalities as to what is and what is not admissible as hearsay, we will be here for months.

COLONEL HENDRIX: If it please the Commission, it is not

the purpose of the Defense to delay the case or to drag it out, but we do want the case to be tried along the rules of evidence as have been approved by the District Courts of the United States. We base that on this:

Article of War 38 states: "The President may, by regulations which he may modify from time to time, prescribe the procedure, concluding modes of proof, in cases before courts martial, courts of inquiry, military commissions and other military tribunals, which regulation shall, in so far as he shall deem practicable, apply the rules of evidence generally recognized in the trial of criminal cases in the District Courts of the United States, provided that nothing contrary to or inconsistent with these Articles shall be so prescribed; provided, further, that all rules made in pursuance of this Article, shall be laid before the Congress annually."

I do not concur with the Prosecution as to his contentions of administrative practice and procedure in the United States. In one breath the Prosecutor states, "We do not have any rules and regulations." Then in another breath he attempts to write in the Massachusetts law, and certain rules and regulations of administrative procedure.

We take this position: Congress, by virtue of the Constitution of the United States, passed certain laws called the Articles of War. Article 38 is one of the statutes that is a part of the Articles of War. That particular Article of War gave the President of the United States the power to do two things: One was to describe rules of procedure and make rules of evidence for courts martial, and the other for

military commissions.

This Manual pertains largely to courts martial. The President of the United States has so acted, so far as courts martial are concerned, but from the record in this case, from what has been brought before this Military Commission, there is nothing on this subject as to the actions of the President of the United States for prescribing rules and regulations as to evidence.

In the absence of action from the President of the United States it surely was the intent of Congress that if the President did not do anything about prescribing such rules, the rules of evidence generally recognized in the trial of criminal cases in the District Courts of the United States must apply. Let us assume that the President did act on this subject. If he had, he would have to go by the rules in the Federal Court, so far as possible.

There has been presented to this Commission a letter that the Prosecution has mentioned on numerous instances and no doubt will, throughout this trial, which letter is dated the 24th of September, 1945, concerning the regulations governing the trial of war criminals, and so forth. We contend that this particular letter setting out the procedure such as evidence, bringing in hearsay, bringing in affidavits, bringing in what witnesses heard from other people, is absolutely null and void; that this entire letter is null and void; that General MacArthur, in preparing this letter, did not have authority from Congress to make any rules or procedures of a military commission. The only man in the world that has such power from Congress is the President, and he has not done

anything about prescribing any rules, as far as the record in this case shows.

We insist that any hearsay as to this witness, or any other witnesses, must be ruled out and should not be allowed in evidence. Furthermore, we contend that as far as the rules are concerned, they should not go by this letter issued by General MacArthur, but by the rules of procedure of the Congress of the United States.

It comes down to this: Congress has made Article 38. Apparently the Commission will have to decide whether we are going to decide the evidence on what Congress has passed, or whether we will go by a letter that has been prepared by General MacArthur and which has directed General Styer to carry on this trial. We contend that the hearsay should be stricken and not allowed.

GENERAL REYNOLDS: Subject to objection by any member of the Commission, the objection of counsel for the Defense is not sustained.

COLONEL HENDRIX: We except to that, sir.

GENERAL REYNOLDS: As to the stating of exceptions, the proceedings of this Commission, unlike that of civil courts, is automatically subject to review. All rulings and decisions and findings are subject to review of the appointing authority. Accordingly, the statement of exceptions from counsel is not in order and will not be recognized by this Commission.

COLONEL CLARKE: If the Court please, that is new to me. If that is the contention of the Prosecution, if he can show us the authority, we are willing to abide thereby.

GENERAL REYNOLDS: The Prosecution will continue.

Q (By Captain Hill) Mr. Juan, I believe my last question was that I asked you to tell the Commission the circumstances under which you had the conversation with the Japanese captain which you related to the Commission.

A On several occasions the Japanese captain which I mentioned used to visit my family. I don't remember exactly what particular visit was that when he mentioned to me that the Orient should be for the Orientals, and that there should be no mixed blood. But we happened to talk about what would be the outcome of the war, and he said that it is not far when the war will end and people in the Orient will live in peace without being disturbed.

Q And what position, if you know, did this Japanese captain hold in your particular neighborhood with the Japanese Imperial Army?

A The last time that I know of his outpost was in Santa Mesa, and I think he was connected with the construction of railroads.

Q Did he say anything to you about where he had gotten his authority for the making of such a statement?

A He didn't say anything about it.

Q Continue with your story of what happened there at the Red Cross Building and in your yard after you heard the shots and screams about which you have testified.

A As I heard more shots and more screaming of people I told the rest of my children who were outside the building with me to get inside the building and not to come out. A few of us men outside posted ourselves around the building so we could see whether the Japanese were coming or not. One by the name of Romano Abad, who is a brother to Patrocinio Abad, one

of the victims in the Red Cross, he stayed near the Red Cross Building, and when he saw a certain Japanese with fixed bayonet climb up the fence he ran to us and told us what he saw.

Q Did this Japanese come on over into your yard over the wall?

A He did not continue to get into my yard because he didn't see anything there. We were all hiding.

Q When did you first learn what had actually happened over in the Red Cross Building?

A At about dark time that evening one of our maids, Leticia by name, came into the air raid shelter, and she was pale and looked very much afraid and could hardly talk. And so we ask her, "What happen?"

Q Just let me interrupt you. Where had she come to the shelter from?

A From inside the Red Cross Building.

Q Go ahead.

A And then she burst, cried, and could hardly get her words, and told us that the Japanese killed everybody inside the Red Cross Building, including my wife and all my grandchildren. That was the first time I learned about the tragedy that happened to my family.

Q Did you go to the Red Cross Building later?

A I attempted to go that evening, February 10th, about midnight, but the rest of my children who were with me inside the air raid shelter prevented me from getting out of the air raid shelter, especially when one of the survivors told us that there were still Japanese soldiers in front of the Red

Cross Building. So I did not go any more and waited the following day.

Q Did you go there the following day?

A On the following day the shelling was very intense. We could hardly get out of the air raid shelter, and besides, the buildings all around us were on fire.

Q Did you go to the building later?

A On the following day, on the evening of the 12th, I, with my son-in-law, Jose Zabala, whose wife was killed, went inside the Red Cross Building then, after two days, after the massacre.

Q Was it light or dark when you went to the building?

A It was not exactly dark yet. There was still plenty of light. But it was getting dark.

Q When you went into the building did you see any dead bodies there?

A I saw plenty of dead bodies on the corridor as I proceeded to the room where I thought my wife and children were.

Q Can you give the Commission an estimate of how many dead bodies you think you saw in the corridor and in the room where you thought your wife's body would be?

A My approximate estimate is about 20 bodies.

Q In those two places?

A Yes.

Q Were you able to identify and recover the body of your wife or any other members of your family?

A On that evening of February 10th I only saw the bodies of my daughter, Paulina. I tried to look in the same room where my daughter was for the rest of my family, but I could not find them.

Q Were you able to recover any bodies there and take them out of the building?

A We were able to recover the 10-day baby of my daughter.

Q Any other bodies?

A I could not recover any more excepting the bones of the rest of the family.

Q Do you know whether any other bodies were identified and recovered from the building?

A The daughter, the 10-month daughter of Gracio Noble was also recovered and brought into my yard.

Q Mr. Juan, how long did you remain at your home adjacent to the Red Cross Building after the 10th?

A Four days, as we left the premises on the 14th -- February 14th.

Q Were you present in your home when the Red Cross Building was destroyed?

A Yes, I was.

Q Will you tell the Commission how that building was destroyed?

A On the early morning of February 14th, or when I was at the back yard of my building, I saw flickering lights inside the room where the manager, or Mr. Faralon, was, as I was actually in that room there. I had been observing what was going on, whether there was somebody inside the building, but I didn't notice anybody. And for several minutes, approximately less than half an hour, I noticed that very suddenly the flickering light burst into flames, and that part of the building where my daughter was was then enveloping in flames.

Q Were any members of the Japanese forces in your

neighborhood at the time the building burned?

A I did not notice any, but I noticed several soldiers on that street in front of the Red Cross Building.

Q On that day?

A On that day.

Q Do you know whether or not the Red Cross Building was hit by any shells prior to the time that you saw it burn?

A I didn't notice any.

CAPTAIN HILL: I will ask that this be marked Prosecution's Exhibit No. 15 for Identification.

(The photograph of the Philippine Red Cross Building was marked Prosecution's Exhibit No. 15 for Identification.)

Q (By Captain Hill) I will hand you Prosecution's Exhibit 15 and ask you to state to the Commission what it is, if you know?

A This is the former Philippine Red Cross Building as it stands now, after it had been burned.

CAPTAIN HILL: We offer Exhibit 15 in Evidence.

GENERAL REYNOLDS: Is there objection by the Defense?

COLONEL CLARKE: None, sir.

GENERAL REYNOLDS: There being no objection, it is accepted as evidence.

(Prosecution's Exhibit No. 15 for Identification was received in evidence and so marked.)

Q (By Captain Hill) On the 14th, the day that you saw the building burned, were those persons that you saw in front of the headquarters building Japanese soldiers?

A They were Japanese soldiers, because they had the uniform

of the Japanese, and no other civilians could roam around that building there.

Q They wore the uniform of a Japanese soldier?

A Soldier.

CAPTAIN HILL: I ask that this be marked Prosecution's Exhibit No. 16.

(The photograph of ruins inside Philippine Red Cross Building was marked Prosecution's Exhibit No. 16 for Identification.)

Q (By Captain Hill) I will hand you Prosecution's Exhibit No. 16 and ask you to state what it is, if you know?

A This is part of the ruins of the Philippine Red Cross inside the building. I think this must be a portion of the toilet.

CAPTAIN HILL: We offer in evidence Prosecution's Exhibit No. 16, sir.

GENERAL REYNOLDS: Is there objection by the Defense?

COLONEL CLARKE: None, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 16 for Identification was received in evidence and so marked.)

CAPTAIN HILL: I ask that this be marked Prosecution Exhibit No. 17 for Identification.

(The photograph of grave of 10-day baby was marked Prosecution's Exhibit No. 17 for Identification.)

Q (By Captain Hill) I hand you Prosecution's Exhibit No. 17 for Identification and ask you to state what it is, if you know, Mr. Juan?

A This is the photograph of the grave of the 10-day baby of my daughter, including the 10-month baby of Corazon Noble, inside my yard at the back of my house.

CAPTAIN HILL: We offer in evidence, Prosecution's Exhibit No. 17, sir.

GENERAL REYNOLDS: Is there objection by the Defense?

COLONEL CLARKE: If the Court please, on these various exhibits, unless we state an objection, if the Court is satisfied, it will be admitted without any objection.

GENERAL REYNOLDS: I didn't clearly understand.

COLONEL CLARKE: On these exhibits that are now read, unless we state an objection, will the Court understand that we have no objection, without having to go through it each time?

GENERAL REYNOLDS: Very well.

(Prosecution's Exhibit No. 17 for Identification was received in evidence and so marked.)

Q (By Captain Hill) Mr. Juan, you were in your home adjacent to the Philippine Red Cross Headquarters Building from the time the fighting in Manila between the Americans and the Japanese began, until February 14th, is that correct?

A Yes, sir.

Q And during that time, and up until the 10th of February, the night of 10 February 1945, was the Red Cross Headquarters Building used for any military purpose by the the Filipinos or by the Americans?

A It was not used for military purpose because it was then used as an emergency hospital.

Q Did you observe, on the 10th of February, whether or not

the Red Cross insignia or conventional sign appeared upon the outside of the Red Cross Building there?

A Yes. I noticed that even at the back of the building there was the Red Cross sign.

Q Did that sign appear on other sides of the building?

A Yes, that appeared.

Q When you went into the Red Cross Building on the 10th were any of the people in the building that you saw armed in any way?

A No. There was no arm whatsoever.

Q Were all of the people in the building non-combatant civilians?

A Yes. They were all non-combatant; mostly children, refugees, and patients, who were then being treated by nurses and doctors.

Q From your knowledge and observation, after the murders had taken place, can you give the Commission an estimate of how many persons lost their lives there in the Red Cross Building at the hands of the Japanese on the 10th of February, 1945?

A I cannot exactly tell the number, because I didn't get inside the other rooms.

Q Can you make an estimate?

A I figure it to be approximately around 30 to 40.

CAPTAIN HILL: Cross examine.

CROSS EXAMINATION

Q (By Captain Reel) When did the fighting in Manila begin?

A Only in our place I can state when, because we couldn't go outside of our yard.

Q Well, you told us a moment ago that you were at home from the beginning of the fighting until the 14th of February. All I want to know is what you mean by "beginning of fighting." When did it begin?

A I only learned that the American forces were already on the north side of the River on the 3rd.

Q Yes. Did you see any American soldiers between February 3rd and February 10th?

A The first time I saw the American soldier was on February 13th, when they came around my yard.

Q Were there any Filipino soldiers in your neighborhood at that time?

A I didn't see any Filipino soldiers.

Q Was there aerial bombardment going on after the 3rd of February?

A I didn't notice. Mostly artillery shells.

Q Artillery shells. And when you say you went to the air raid shelter, that was for protection against artillery shells?

A Yes.

Q And when did this artillery shelling begin, approximately?

A In our neighborhood the shelling began on February 9th, in the morning.

Q In other words, the day before this incident at the Red Cross Building the shelling began?

A Yes.

Q And your home building, I believe you said, was hit by a shell that day?

A No. The first building where I used to live before was burned by the Japanese on that same night.

Q That was the 9th of February?

A That was the 9th of February.

Q Didn't you say that the building was hit by shells?

A The other building at the back of the Red Cross was hit by shells on February 10th.

Q February 10th. I see. At the time you saw the flames in the Red Cross Building -- I think you said a "flicker" -- did you see any persons in that room where the light was flickering?

A I didn't see any.

Q Did you see anyone in the Red Cross Building at all after the flames started coming out of it?

A I didn't see any.

Q You told us that you saw some Japanese soldiers in front of the building. Just when, with relation to the fire, did you see them in front of the building?

A I saw the Japanese soldiers before the fire took place.

Q How long before the fire took place?

A On February 12th, when I went inside the building, I looked at some soldiers in front of the building.

Q And what day did the fire occur?

A The fire occurred in the early morning of February 14th.

Q So that it was two days before the fire that you saw the Japanese soldiers in front of the building?

A Yes. But we notice continuous movement of Japanese soldiers on the street just in front of the building continuously after the fire.

Q Did you see Japanese soldiers in front of the building after the 12th of February?

A Not exactly in front of the building.

Q You mean they were active in the City?

A Yes.

Q They were active in the area?

A Yes.

Q All right. Will you describe for us the Japanese soldier's uniform?

A I only noticed that the soldiers were dressed in olive green.

Q Any insignia that you remember?

A I didn't notice any more.

Q Will you describe for us the uniform of the Japanese sailor?

A Japanese?

Q Sailor. One who is on a boat; a sailor.

A I didn't see any Japanese sailor.

Q Let me ask you this: Do you know what the uniform of a Japanese sailor looks like?

A I am not familiar with the uniform of the Japanese sailor.

Q If I told you that the Japanese sailors wore the same colored green as the Japanese soldiers, would you then express some doubt as to whether or not those persons you saw were soldiers or sailors?

A I could only identify they are sailors when they show their cap with the anchor sign on it.

Q Ah, fine! So that you do know that a Japanese sailor has an anchor on his cap?

A That is my identification.

Q And what does a Japanese soldier have on his cap?

A Star.

Q And did you see the caps of these men who were in front of the Red Cross Building on the 12th of February?

A I didn't notice any more the caps.

CAPTAIN REEL: That's all.

CAPTAIN HILL: That's all.

(Witness excused.)

CAPTAIN HILL: That is the last witness on this case.

GENERAL REYNOLDS: The Commission will recess for five minutes.

(Whereupon a short recess was taken.)

GENERAL REYNOLDS: The Commission will come to order.

The Prosecution will proceed.

CAPTAIN WEBSTER: Sir, the next case is commonly called the Dy-Pac Lumber Company case, the reason for which is that that is the place or location of the killings which we are to establish. This case covers paragraph 16 in the Bill of Particulars, paragraph 93 in the Supplemental Bill of Particulars, and paragraph 25 in the Bill of Particulars.

The evidence will show that on the 13th day of January of this year, the Japanese who were stationed in the navy billet of the Dy-Pac Lumber Company gathered civilians, took them to the lumber yard and executed them; that thereafter on the 2nd --

GENERAL REYNOLDS: (Interposing) I will interrupt the Prosecutor and say that the Court will not listen to testimony or discussion of Bill of Particulars number 93, which appears in the supplementary paper, at this time.

MAJOR KERR: Sir, does that mean that the Commission will not take up at this time any of the cases listed in the Supplementary Bill of Particulars?

GENERAL REYNOLDS: That was the ruling made this morning, to permit the Defense to have time to prepare itself on the supplementary bill of particulars.

MAJOR KERR: Well, sir, it will be necessary, then, to recall the same witnesses to testify to the balance of this particular incident.

GENERAL REYNOLDS: So be it.

MAJOR KERR: And I submit, sir, that the Defense, sir, has had full notice on that particular case, at least, because it was named in the original Bill of Particulars.

GENERAL REYNOLDS: The Commission has ruled. We will not hear evidence or statements on number 93 until the Defense has had time to prepare its case.

MAJOR KERR: How long will that be, sir? Because we have to make arrangements, if the Commission please, so that we may rearrange the presentation, or the order of the presentation of our cases; and if I may know how long that "armistice" is to apply, I may then arrange accordingly.

GENERAL REYNOLDS: Has the Defense any comment to make?

CAPTAIN REEL: If the Court please, we understood this morning that after the Prosecution's case was in on the 64 Particulars, that then we would be given some time to prepare on that.

GENERAL REYNOLDS: That is correct.

CAPTAIN REEL: Then I believe, based on our experience with the first 64 Particulars, that we will require two weeks to prepare ourselves on the 59 new ones.

GENERAL REYNOLDS: There is nothing further to say.

CAPTAIN WEBSTER: Call the first witness, Mrs. Mabagos.

FLORA RENES MABAGOS

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

DIRECT EXAMINATION

Q (By Captain Webster) Will you state your name, please?

A Flora Mabagos.

Q And your age?

A 22.

Q Where do you live?

A 1247 Juan Luna Street, Manila.

Q Where did you reside on or about the 13th of January, 1945?

A 970 Juan Luna.

Q How far is your home from the property known as the Dy-Pac Lumber Company?

A About eight blocks.

Q Are you a married woman?

A Yes.

Q Is your husband now living?

A My husband was killed in the Dy-Pac area.

Q When was the last time you saw your husband alive?

A Last January 13th.

Q And where was he when you saw him?

A He told me that he will buy something; that is about 10 A. M.

Q Is that 10 A. M. on the morning of January 13th?

A Yes.

Q And where was he when you saw him at that time?

A He was crossing the street.

Q Where did you next see him?

A When he was at the Dy-Pac Lumber Yard.

Q How did you happen to see him at the Dy-Pac Lumber Yard?

A A neighbor told me that my husband has been tied up by the sentry, he was put in the Dy-Pac Lumber Yard, and when I went there I saw him.

Q How many other people were tied with your husband at the time you saw him there?

A Then I saw about ten persons.

Q In what manner were they tied?

A They were tied, their hands were tied behind them.

CAPTAIN SANDBERG: Sir, the Defense has not been able to hear the last several answers of the witness.

GENERAL REYNOLDS: I will ask the Prosecutor to exchange microphones with the witness, and see if that will help.

CAPTAIN WEBSTER: Would you speak into that, please?

(Handing microphone to witness.)

Will you read the last answer?

(Thereupon the question and answer referred to were read by the reporter.)

CAPTAIN SANDBERG: And what was the question and answer before that?

(The question and answer referred to read by the reporter as follows:)

"Q How many other people were tied with your husband at the time you saw him there?

"A Then I saw about ten persons."

Q (By Captain Webster:) Were all those persons tied?

A Yes, they were all tied.

Q Did you see any Japanese in and around the Dy-Pac Lumber Yard at that time?

A The Japanese sentry.

Q How many Japanese did you see?

A About two of them.

Q Can you state in what branch of the Japanese armed forces they were in? Were they army or navy?

A They were navy.

Q What led you to believe that they were in the navy?

A Because the person living across the Dy-Pac Lumber Yard told me that they were in the navy.

Q Did you notice or see any insignia of any kind on their uniforms?

A No, I did not notice.

Q When did you next see your husband?

A When he was at the Quiogue Funeral Parlor.

Q How did you know he was at the funeral parlor?

A Because my father found him in the river and brought him in to the funeral parlor.

Q Do you know where your husband's body was found?

A Ancarrage Street.

Q What was the condition of your husband's body when you saw it at the funeral parlor?

A There had been wounds, bayonet wounds, and he was shot at the heart.

Q Can you describe the wounds and where they were?

A The wounds in the arm had been shown, he had big bayonet wounds, and the lips had been slashed, also the throat (indicating) had been bayoneted.

Q Did you positively identify that body as being the body of your husband?

A Yes.

Q And when was it that you saw the body at the funeral parlor

A 15th of January.

CAPTAIN WEBSTER: Cross examine.

CAPTAIN SANDBERG: No examination.

CAPTAIN WEBSTER: Call the next witness.

(Witness excused)

CAPTAIN WEBSTER: Ricardo Mendoza.

Do you speak only Tagalog?

MR. RICARDO MENDOZA: Yes.

RICARDO MENDOZA

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

DIRECT EXAMINATION

Q (By Captain Webster:) Please state your name.

A (Through the Interpreter) Ricardo Mendoza.

Q Your age?

A 18.

Q Where do you live?

A Misericordia.

Q Where did you live on and about the 3rd and 4th of February of this year?

A Zaragoza.

Q How far was your residence from the property of the Dy-Pac Lumber Company?

A I can't approximate.

Q Was it in the same neighborhood?

A Yes.

Q Were you taken to the Dy-Pac Lumber Company by the Japanese on or about February 3rd of this year, and remained there all night?

A Yes.

Q What did you see there the next morning?

A Bodies.

Q Did you observe any Japanese in or around the lumber yard at that time?

A Yes.

Q What branch of the Japanese armed forces did they belong to?

A Navy.

Q How do you know they belonged to the navy?

A Because they wore Marine uniforms.

Q Did you see any insignia of any kind on their clothing?

A Yes.

Q What insignia did you see?

A Anchor.

Q Well, at the time you saw those Japanese members of the armed forces at the Dy-Pac Lumber Company, did you see any civilians there?

A Yes.

Q How many civilians did you see?

A Only two.

Q What was their nationality?

A Filipino.

Q What were those two Filipino civilians doing?

A They were piling up the dead bodies.

Q Where were the Japanese at the time the two Filipino civilians were piling up the dead bodies?

A They were with them.

Q After the two Filipino civilians got through piling up the dead bodies, what happened?

A The two civilians were shot.

Q Who shot them?

A The Japanese.

Q Now, were those the Japanese you had previously described as belonging to the Japanese navy?

A Yes.

Q Will you state what date it was you saw those Japanese kill the two Filipino civilians?

A It was Sunday.

Q Do you know what date? In February?

THE INTERPRETER: He says, was Saturday night the 3rd of the month?

CAPTAIN WEBSTER: (After referring to calendar) Saturday was the 3rd.

A (Through the Interpreter) Then on the 4th.

CAPTAIN WEBSTER: Cross examine

CROSS EXAMINATION

Q (By Captain Sandberg) Now, what was the day on which this incident occurred?

A (Through the Interpreter) On the morning of Friday.

Q Of what month?

A February 2nd.

Q Now, were any artillery shells falling in that area at that time?

A None.

Q Had there been any air raids in that vicinity?

A There was.

Q Now, you didn't see this group of Filipinos who were being tied up; you didn't actually see them killed, did you?

A I saw only two, but the others I did not see.

Q You don't know how those others were killed, do you?

A I did not see because it was dark.

CAPTAIN SANDBERG: If the Commission please, we would like to ask the Prosecution whether the evidence of this witness and the previous witness are relative to the same

incident. Our notes of the testimony indicate that this witness testifies that the incident occurred on the 2nd of February and the previous witness testified that the incident occurred on the 13th of January.

CAPTAIN WEBSTER: They are not the same incident. The first incident was that which is contained, I believe -- that is the 13th of January, and was introduced under paragraph 25 of the Bill of Particulars, in order to show a plan for the extermination of the people in Manila, and it so happened that it occurred at the Dy-Pac Lumber Company.

The second incident was introduced under paragraph 16 of the Bill of Particulars, which is the killing of the two Filipinos which this witness has described.

CAPTAIN SANDBERG: If it please the Court, the Defense would like to state that it had no notice whatsoever of the incident testified to by the witness now on the stand; that paragraph 25 of the Bill of Particulars is a general allegation, simply referring to the period from the 1st of January, 1945, to the 1st of March, 1945, does not refer to the Dy-Pac Lumber Company, does not refer to any specific individuals. On the other hand, paragraph 16 of the very same Bill of Particulars does refer specifically to the Dy-Pac Lumber Yard, does refer specifically to the date of 4th of February, 1945, and it is submitted that under this Bill of Particulars, in view of the particularization of the incident on the date of 4th of February and the place of Dy-Pac Lumber Company, the Prosecution may not introduce evidence of any other incidents not covered by the Bill of Particulars.

CAPTAIN WEBSTER: Sir, this witness testified as to the

incident of the 4th of February. The previous witness testified as to the incident of the 13th of January, which the Prosecution maintained is covered by paragraph 25 of the Bill of Particulars.

CAPTAIN SANDBERG: To put it in the form of a motion, sir, the Defense moves that the testimony of the previous witness be stricken from the record; not of this witness.

MAJOR KERR: If the Commission please, we will have evidence from time to time which will, we believe, show to the Commission a deliberately formed and purposeful plan by the Japanese forces in this city to exterminate the civilians, and the Dy-Pac Lumber case, in so far as the witnesses that we will call this afternoon, will relate to that plan; it will show time and time again, at that particular place, that they brought them there, civilians, and massacred those civilians without any possible purpose except simply to exterminate them; and, as Captain Webster has stated, we would like to bring that in now under 25.

However, of course, we will be glad to abide by whatever the decision of the Commission may be.

CAPTAIN SANDBERG: Sir, in the 93 specification of the Supplemental Bill of Particulars, a specific and direct reference is made to an incident on the 3rd of February, 1945, in the vicinity of the Dy-Pac Lumber Yard, Juan Luna Street, Tondo, Manila. Apparently the Prosecution is attempting to evade the ruling of the Court that no evidence should be submitted on specifications contained in the Supplemental Bill of Particulars until the Defense has had an opportunity to prepare its case thereon.

MAJOR KERR: I am sure the Prosecution, at this time or in

the future, has no intent nor will make any effort to avoid or circumvent the rulings of the Commission, and that certainly is not our purpose or desire at this time.

GENERAL REYNOLDS: The Commission will recess for deliberation.

(Whereupon the members of the Commission retired in executive session.)

GENERAL REYNOLDS: The Commission directs the Prosecutor to discontinue the presentation of the sequence of events contained in items 16, 25 and 93 of the Bill of Particulars until the evidence can be presented in its full entirety.

CAPTAIN WEBSTER: Yes, sir.

MAJOR KERR: Then, sir, we must ask for a recess until tomorrow morning, because that so rearranges our schedule of arrangement of presentation of cases that the witnesses for the next case to come up are not here now. We will have to have them here tomorrow morning.

GENERAL REYNOLDS: In that case, the Commission will stand adjourned until 8:30 A. M. tomorrow morning in this building.

The Commission stands adjourned.

(Whereupon, at 1535 hours, 29 October 1945, the trial was adjourned until 0830 hours, 30 October 1945.)

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

UNITED STATES OF AMERICA)

-vs-)

TOMOYUKI YAMASHITA)

PUBLIC TRIAL

High Commissioner's Residence,
Manila, P. I.
30 October 1945

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

MAJOR GENERAL RUSSELL B. REYNOLDS, Presiding Officer
and Law Member

MAJOR GENERAL LEO DONOVAN

MAJOR GENERAL JAMES A. LESTER

BRIGADIER GENERAL MORRIS C. HANDWERK

BRIGADIER GENERAL EGBERT F. BULLENE

APPEARANCES:

(Same as heretofore noted.)

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Justo Guido	202	207	211	213
Juan Gonzales	214	218		
Angela Lopez Valdes	222	232	239	239
Maj. Gen. Basilio J. Valdes	240			
Antonio J. Beltran	253	258		
Father Francis J. Cosgrave	263			
Anton Heitmann	286			
Martin C. Hain	290			
Rosario Carlos	298			
Servillano Aquino	308			
Delfin De La Paz, Jr.	331			
Dr. Moses Z. Dias	334			

E X H I B I T S

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
18	207	207
19	242	248
20	247	247
21	248	
22	248	
23	251	252
24	259	261
25	261	261
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27	262	262
28	266	
29	268	269
30	270	271
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39	280	281
40	281	282
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42	287	288
43	288	290
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45	295	296
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EXHIBITS (Cont'd)

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
47	302	303
48	303	304
49	304	304
50	304	305
51		305
52	305	306
53	306	306
54	307	307
55	313	313
56	323	323
57	337	339
58	340	
60	340	
61	340	
62	340	
63	340	
64	340	
65	340	
66	340	
67	340	
68	340	

P R O C E E D I N G S

GENERAL REYNOLDS: The Commission is in session.

Proceed with the case.

MAJOR KERR: Sir, all of the members of the Commission are present. The Accused and his counsel are present.

The Prosecution is ready to proceed.

MAJOR OPINION: Sirs, this case is called "Valdes-Guido," or Guido Valdes murders. It is cited in Paragraph 23 of the Bill of Particulars. It is a result of the merger of two cases: the Valdes case and the Guido case.

To avoid confusion, the Prosecution wishes to make of record that one of these two cases relates to the murder of Jose Guido and his three sons, and the other case relates to the murder of Alejo Valdes, his son, and his brother-in-law. Both cases include, also, the murder of 20 other civilians.

By way of remarks, sirs, it might be stated that in the course of the investigation of these two cases, the Prosecution has collected and perpetuated the testimony of 63 witnesses. However, in furtherance of a speedy trial and in the interest of a prompt administration of justice, the Prosecution has decided to call to the witness stand only five witnesses, in addition to the statements of witnesses who will not be called to testify. The testimony of these witnesses and the statements to be introduced in evidence will prove the following facts briefly stated:

On 6 February 1945, about 16 or 18 Japanese marines searched the house of Jose Guido, who was then and there a Lieutenant Colonel and Chief of the Intelligence Division of

the Philippine Army. The Japanese found, during the search, several uniforms of Colonel Guido. They burned them in front of the house. During the search they, the Japanese, ordered Mrs. Guido, the wife of Colonel Guido, to open the safe; and once opened, they took away therefrom 5,000 pesos in Commonwealth currency, and several jewels and other things. They they tied Colonel Guido and his sons - Jose, Justo, and Raymond - took them out from the house and led them down to an open field in front of a Japanese paper factory.

On the other hand, on the same day, 6 February 1945, about 20 or 30 Japanese marines or Navy searched the house of Alejo Valdes, who was then a lieutenant colonel, retired, from the Army, but then and there he was acting as chief of the Manila Harbor Police. They found in the search uniforms of Colonel Valdes. They burned the uniforms, and after burning them they left the premises, but on the following morning they came by and searched again the house, and in the search they found in the library room of Colonel Valdes a radio set, which was a sort of toy. They seized it, and believing that this radio set was a means of communication with American forces -- they seized and grabbed the radio set and threw it at the face of Colonel Valdes. Then they tied him and his son Ramon, and his brother-in-law, Ernesto Morillo, and led them out from the house and taking the direction toward the open field in front of the cigarette factory.

Both of these cases will also prove that more than 20 civilians were all buried in the same pit.

The first witness of mine, sir, will be --

GENERAL REYNOLDS (interposing): The Commission has

been given to understand that some other item of the Bill of Particulars is included with No. 23.

MAJOR KERR: No, sir; that is all one particular, sir. You will note that the names of both the Guido family and the Valdes family are included in that specification.

GENERAL REYNOLDS: With a view to saving time, labor and expense, it is the desire of the Commission that in appropriate cases stipulations will be agreed to between the Prosecution and the Defense, particularly as to unimportant or uncontested matters.

Are you prepared to shorten the interrogation in this case?

MAJOR KERR: No, sir; we have no stipulations for today, sir. Hereafter, we hope to be able to stipulate on matters that can be agreed upon. We have had no opportunity for today's cases, to reach any such agreement.

GENERAL REYNOLDS: Very well. Proceed.

MAJOR OPINION: Mrs. Guido.

JUSTA GUIDO

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

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name, age, and other personal circumstances. Your name, please?

A Justa Guido.

Q Your age?

A 48 years old.

Q Where do you reside at the present time?

A 1185 Singalong Street.

Q What is your business or occupation?

A Well, I am a - I live with my property, I don't have any business. I am a widow.

Q You say that you are a widow; a widow of whom?

A I am the widow of Jose Guido.

Q Where is your husband now?

A Well, he is dead, and my three sons.

Q Was Colonel Guido holding a position in the Philippine Commonwealth Government prior to the war?

A He was the Chief of Intelligence Division, Philippine Constabulary.

Q Had Colonel Guido then been holding any position in the Japanese administration or under --

* (Interrupting) No.

Q (Continuing) -- the Philippine Commission or puppet Philippine Army?

A No, sir! He did not work with the Japanese!

Q Was Colonel Guido engaged in any kind of underground activities during the period of Japanese regime?

A Yes, he was underground in connection with Father Hurley, Major Cushing.

Q Where were you living on or about 6 February 1945?

A In my house, 1185 Singalong Street.

Q At any particular time of the day on 6 February 1945, had anything unusual happened in your house?

A Yes, sir.

Q Will you please state to the Commission what happened that day?

A Well, on the 6th of February at 8 o'clock in the morning

the Japanese Navy officer and four soldiers, they got my two sons, Justo Guido and Jose Guido, Jr.; they push me in the room because I was crying and telling that my sons weren't doing anything, they are quiet. Then they return me at 5 o'clock in the afternoon; on the 6th of February at 11 o'clock, I was in the kitchen of my house, we are preparing our dinner, and 13 soldiers surrounded our house. These soldiers are navy, I think they were - but then they knocked the door in front of our house, three officers with a Filipino spy, I think. And then we saw them with the army, I think, because the navy is with that anchor, but these officers with the stars, they are army, I think. They come in the house, and when we opened the door, well, the first thing that they said is, "All right, you Colonel Guido, waiting for the Americans." Well, we did not answer anything, and they hold my husband and they search all the house to the ceiling to under the house. They open all our doors. They took all our uniforms of my husband, they bring down; then one of the officers took one soldier and make me go up in the house and open the safe. Well, I opened it and they took all our jewels that I inherited from my grandfather; they are very antiques. And they took my money, 5000 pesos; everything valuable they had taken. The only valuable left in our family was this ring (indicating), I had turned only like that (indicating); that was why it was safe.

Q After they had taken away the money and jewels from the safe, what did the Japanese do?

A Well, they tied my husband, with my oldest son who was sick with a 39 degree fever --

Q (Interrupting) What was his name?

A Justo Guido. He was in his room with a very high fever. They took him and tied him with his father, and then he faint because he was scared. Even we cannot go to help the sick one, because they are with the bayonet, like that (demonstrating); they seem to like to kill everybody.

Q Who else --

A (Interrupting) Then they tied my Junior and my little son.

Q What was the name of that Junior?

A Jose Guido, Jr., and then this Raymond - I was telling that it was 12 years, but they don't know how to tell a lie, and he told me, "Mama, you are mistaken. 14." And they got the one 14 and tie also with the other one.

Q After tying your husband and your three sons, what did the Japanese do with them?

A Well, they went in my dining room, they take whiskey, they drink, they eat all the food; they took everything that we are going to eat. And when they finished eating, all that thing, they go down and bring my husband and my three sons. I did not see what they did then, because I fainted at that time.

Q How were your husband and sons tied, when you saw them tied by the Japanese?

A Well, they were tied like that (indicating) in the back.

Q Behind them?

A The arms behind. They tie like that, seem to like doing it.

Q You say that they had taken them out from your house?

A Yes, sir.

Q Do you know where they were taken?

A Well, my neighbor told me.

Q What place?

A My neighbor told me that they passed in the back - some of those people told me that they were bring in that factory.

Q Now, did the Japanese army or navy officers or soldiers come back to your house after that date?

A No, only the sentry. The sentry went in my house.

Q How about the machine-gunning of your house?

A Oh, yes, that is two days - maybe it is the 8th.

Q The 8th?

A Yes, sir. Well, the - I don't know if they are soldiers, or what, and I don't know if they are machine guns, because we are afraid; with my two daughters, with my small boy 8 years, we went down under our porch, because we have there our shelter, and we were like rats, because we are very afraid. They come and machine-gun the house, thinking that we are inside, to kill us, maybe.

Q What part of the house was machine-gunned?

A Well, all the glasses are broken, and some chairs. You can see, it is there in my house yet.

Q How do you know that your house was machine-gunned?

A Well, because we hear the shoots.

Q Where were you when the house was machine-gunned?

A Under my porch, in the shelter.

Q Was anybody hurt?

A No, because it is cement, and I think they did not machine-gun down (indicating); they did not think that we are under the house.

Q Did you recover the bodies of your husband and sons?

A Yes, sir, when the Americans liberated Singalong.

Q Do you remember the date, more or less, when you recovered them?

A I think it was between the 28th or 27th of February.

Q Who recovered them?

A My grandson, Juan Gonzales.

MAJOR OPINION: May I have this marked for identification?

(The photograph above referred to was marked Prosecution Exhibit 18 for identification.)

Q (By Major Opinion) Will you please state to the Commission if you know this?

A Yes, this is my poor late husband.

MAJOR OPINION: That is all. Your witness.

I offer Prosecution's Exhibit 18 as part of my evidence.

GENERAL REYNOLDS: Subject to objection, the photograph is accepted in evidence.

(Thereupon the photograph referred to was received in evidence and marked Prosecution Exhibit 18.)

CAPTAIN SANDBERG: What exhibit number is that, sir?

THE REPORTER: 18, sir.

CROSS-EXAMINATION

Q (By Captain Reel) Miss Guido - is that it?

A Yes.

Q Can you tell us what date this machine-gunning occurred? This machine-gunning?

A In my house, sir?

Q What day was that?

A Well, I could not tell you very well whether it was two

or three days, because we are in so panic. Those days are terrible.

Q It would be around the 10th of February, is that about right?

A Maybe; maybe in those days.

Q And at that time, there was some fighting going on in Manila?

A Well, we did not know that there was a fight, because --

Q (Interrupting) No, just answer the question: Was there, on the 10th of February, some fighting going on in Manila, so far as you know?

A Well, we did not know.

Q You don't know it?

A No.

Q I see. Had you heard any shooting at all before the machine-gunning?

A Oh, yes, sir; many shooting and burning houses.

Q Yes, and that shooting in apartment houses had been going on for a number of days, had it; two or three days?

A I beg pardon?

Q The shooting that you heard in the apartment houses had been going on for a number of days?

A Oh, yes, sir.

Q Now, you didn't see who did this machine-gunning; you just heard the machine-gunning?

A We saw it. They were Japanese.

Q Didn't you say you were under the porch?

A Yes, sir, but my house in front is with cement, but in the back is some wood, like this (demonstrating) with holes, and we can see in those holes who are coming in the yard.

Q Didn't you tell Major Opinion just now that you couldn't see the machine-gunning, but you just heard it?

A Yes, sir, we did not see the machine gun. The guns we did not see.

Q You didn't see that at all?

A But the feet of the Japanese, we saw.

Q You saw some Japanese soldiers, but you didn't see the machine gun?

A But we heard the shooting.

Q Just answer the question: But you did not see the soldiers using the machine guns, is that correct?

A Well, we supposed that they were the ones who were machine-gunning us.

Q You suppose; thank you. Now, as I understand it, Mrs. Guido, you said your husband was not a collaborator with the Japanese?

A Yes, sir; he did not collaborate.

Q He didn't help the Japanese at all?

A I beg pardon?

Q He didn't help the Japanese at all?

A No, sir.

Q And I think you said something about his going "underground"; is that your expression?

A Yes, sir.

Q Just what did you mean by that?

A Well, because he was supporting American officers in the mountains.

Q When you say "supported", what do you mean? Did he go to the mountains?

A No, sir. He has his contacts.

Q He what?

A He has his contacts made.

Q Do you know what these contact men did?

A Bring him food, medicine, clothing, for the American officers are hiding.

Q And did you see, during the course of the Japanese occupation, your husband meeting with these contact men?

A In my house there.

Q In your house?

A Yes, sir.

Q Was your husband connected with the Philippine Constabulary?

A Yes, sir, in the USAFFE.

Q Was he connected with the Philippine Constabulary during the period of the Japanese occupation?

A I beg pardon?

Q Was your husband connected with or a member of the Philippine Constabulary during the Japanese occupation?

A No, sir, he was offer to operate with this constabulary, but he refused. He told the general he preferred to plant bananas, than to co-operate with the Japanese!

Q Now, these uniforms that you spoke of; what kind of uniforms were they?

A These uniforms during the Commonwealth he was using.

Q And during this period, when he was making contact with the guerillas, did your husband wear a uniform?

A No, sir, he was civilian.

Q In civilian clothes?

A Yes, sir. He did not use any more uniform.

Q Did he wear any kind of a mark on his arm, an armband?

A No, sir.

Q No mark distinguishing that he was working with the guerillas?

A No, sir. He opened his law office, because he was a lawyer.

CAPTAIN REEL: I think that is all.

MAJOR OPINION: Sirs, I would like to request that I be allowed to propound some other questions, additional questions, on facts brought out in the cross-examination.

REDIRECT EXAMINATION

Q (By Major Opinion) You said you saw the Japanese, but you did not see the machine gun?

A Yes, sir, we did not see it.

Q How far were the Japanese from your house at the time you saw them?

A Well, they entered in the hall, because they put holes in my wall, in the inside; where they pass there we can see where they come inside, even we are under the house.

Q Did you say that the Japanese you saw were inside your premises?

A Come inside my yard, yes, sir; I saw them coming in.

Q What was that hole you are talking about?

A The hole that they put in, three of them, in my wall.

Q What kind of hole was that?

A My wall - my fence is a stone wall, and they put three holes in it. It is yet there.

Q Was it a broken (demonstrating) hole?

A Yes, sir, very big (demonstrating), so that one person can pass; even a machine gun can pass.

Q Before opening that hole, did they secure any permission from you?

A No, sir, they did not.

Q Did you see them --

A (Interrupting) I told them that all those "dorobo" can come inside the yard, then I tell them I do not speak Japanese, only I told them all the "dorobo" come in when they put in the holes.

Q Mrs. Guido, will you please tell the Commission if your husband was ever investigated by the Japanese military police, or in connection with his underground activities?

A Yes, sir.

Q Was he investigated by the Japanese?

A Yes, sir, since they come in January, they were always investigating and searching my house every two or three days.

Q Did they find any evidence?

A No, sir, because we used to burn any evidence, all the receipts, notes, and even the letters from the mountains; we used to burn them.

Q Had he been brought to trial for such activities by Japanese military government?

A Yes, sir, he was brought in July --

Q (Interrupting) Was there any trial, legal trial that he was given, where he was given a chance to defend himself, please?

A No, sir, they --

CAPTAIN REEL: (Interrupting) We object to this

question. I don't suppose this witness, of her personal knowledge can possibly testify to these things. The question has to do with what occurred, what was in the minds of other people; I don't think it is competent for this witness to so testify.

MAJOR OPINION: The question is very clear. The question relates to whether her husband has ever been brought to trial by the Japanese Government.

CAPTAIN REEL: The answer to that, we don't object to.

If the Reporter will read the last question --

(The question referred to above was read by the Reporter).

THE WITNESS: No, sir, the Japanese didn't give --

CAPTAIN REEL: (Interrupting) The question was improper and insofar as the answer was "no" it was proper, but we ask that anything else be stricken, so that this witness cannot give her impression of somebody else's ideas. We ask that that be stricken.

GENERAL REYNOLDS: Not sustained.

A No, he did not get any trial.

MAJOR OPINION: That's all.

RE-CROSS EXAMINATION

Q (By Captain Reel) Mrs. Guido, after your husband -- did you say your husband was-~~tried~~ or wasn't tried?

A No, he was not tried.

Q Did I understand you to say that your husband was in contact with a man named Cushing?

A Yes, sir, he was.

Q Then there was another man whose name I didn't get. Will you give us that other name?

A Father Hurley, Superior of the Jesuits.

Q H-u-r-l-e-y?

A Hurley.

Q Now, was Mr. Cushing down in Cebu?

A No, he wasn't, I think -- no, he was north, I think.
Major Cushing.

Q Did you, Mrs. Guido, understand that far from helping the Japanese, your husband was actually engaged in opposing the Japanese? Would you say that your husband was engaged in opposing the Japanese while they were here, being against them?

A Yes, sir, he was against the Japanese.

Q And would you say that he was, in your opinion, really taking part in the war against the Japanese?

A Yes, sir.

CAPTAIN REEL: Thank you.

MAJOR OPINION: Thank you very much.

(Witness excused.)

JUAN GONZALES

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

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name.

A Juan Gonzales.

Q Your age?

A 39.

Q Residence?

A 122 Interior, Loreto Street.

Q Your occupation?

A Laborer.

Q Do you know Mrs. Justa Guido, the witness who has just

left the witness stand?

A Yes, sir.

Q Did you receive any instructions from her sometime on the 31st of January, 1945?

(The question above recorded was propounded to the witness by Interpreter Pacifico S. Gojunco.)

A (Through the Interpreter) No.

Q Do you know Jose Guido?

A Yes, sir.

Q Do you know his three sons, named Justo, Jose, and Raymond?

A Yes, sir.

Q When was the last time you saw them?

A January 31.

Q What year?

A 1945.

Q Where did you see them?

A In the dining room.

Q Whose dining room? Whose house was that?

A The Guido family, sir.

CAPTAIN SANDBERG: What month was that, please?

MAJOR OPINION: 31st of January, 1945.

CAPTAIN SANDBERG: The 1st of January?

(No response.)

Q (By Major Opinion) Did you see them after that date?

A No, sir.

Q On 2 March, 1945, did you uncover any hole or sort of pit?

A Yes, sir.

Q Where was that hole or pit which you uncovered?

A It was in the backyard of the Japanese paper factory.

Q Where was that Japanese paper factory situated?

A Between the streets of Singalong and Pennsylvania.

Q Under whose instructions did you uncover that hole or pit?

A Mrs. Guido.

Q Under whose instructions? Who ordered you?

A Mrs. Guido.

GENERAL REYNOLDS: The Commission will interrupt the proceedings.

Move the witness closer to the center of the room. We can't hear. And instruct the witness to speak more directly into the microphone.

CAPTAIN SANDBERG: May we request that the last four questions and answers be read by the Reporter?

(Thereupon the record was read by the Reporter as above recorded.)

GENERAL REYNOLDS: There was a question of date that was not clear to the Commission, whether that date was the 1st or the 31st of January. Defense raised the point. I would like to verify that date.

Q (By Major Opinion) When did you unearth or uncover that hole? When?

A About March 2, sir.

Q What year?

A 1945.

Q Who ordered you to uncover that pit?

A It was pointed to us by the son of --

GENERAL REYNOLDS: (Interposing) It is pointless to continue unless you can instruct the witness to answer clearly and talk into the microphone.

Q (By Major Opinion) My question is, who ordered you to uncover that hole? Who ordered you?

A Mrs. Guido, sir.

Q When did she order you to uncover the hole? When?

A About March 1, sir.

Q When Mrs. Guido instructed you, on or about 2 March 1945, to uncover the hole, for what purpose did she tell you to uncover it?

GENERAL REYNOLDS: The Commission directs the Prosecution to arrange the amplifying equipment and instruct the witness to speak so that we can hear what is being said.

MAJOR KERR: Will the Interpreter speak up and give the answers in English? Just speak loudly in giving the answer.

GENERAL REYNOLDS: Repeat the last several questions, if the Reporter is able to read them; that will suffice. Otherwise, repeat the whole proceeding.

(Whereupon the record was read by the Reporter as above recorded.)

(The answers following were given by the witness through Interpreter Pacifico S. Gojunco.)

A Uncovered the remains of the Guidos to be buried in the cemetery.

Q (By Major Opinion) Did she mention to you the names of the Guidos whose bones were to be taken out from the hole?

A It is not necessary, because I know them all.

Q Now, proceed. Did you uncover the hole?

A Yes.

Q What did you find after uncovering it?

A While digging I found first about 20 remains; then I found the remains of the Guidos.

Q What was the condition of the bodies of the Guidos?

A When I found Jose Guido's body I saw the pants, the blue pants still intact -- khaki pants, blue polo shirt, and still with matches not decomposed. Justo Guido's remains still had the dress pajamas, and some hair and a scar. Raymond's body still has the pajamas, but judging from his size I can still recognize the body.

Q What did you do with the bodies that you had taken away for the witness?

A I took them with a spade, put them in a box.

Q What was the dimensions of that hole from which you extracted the bodies of the Guidos?

A It is about 8 meters long, 8 meters wide.

Q What was the depth of that hole?

A I could not estimate, because there are more dead bodies under.

Q Was there any cardboard covering the hole at the time you uncovered it? Was there any cardboard covering the hole?

A There are some burned cardboards covering the hole.

Q Now, after recovering the remains of the Guidos and placing them in a box, what did you do with the box?

A The following morning I brought the box to Gonzales.

MAJOR OPINION: That is all, sir; your witness.

CROSS-EXAMINATION

Q (By Captain Sandberg) Now, am I correct in saying that

the last time you saw these people was on the 5th of January 1945?

A No.

Q What was the date on which you last saw them alive?

A January 31, 1945.

Q And the date on which this hole was uncovered was the 1st of March; is that correct?

A When I saw the hole it was March 1.

Q Now, you have no idea what these people did or what was done to them during the month of February, 1945, do you?

A No.

Q How many bodies were there in the pit?

A After 20 bodies I have unearthed, if I can dig I will have more.

Q There were more than 20 bodies?

A If I will dig.

Q Do you know whether all of the bodies were those of Filipinos?

A Yes.

Q There were no American soldiers in the pit?

A I didn't see any American soldiers. I saw bodies with pajamas of civilians.

Q Did you see the bodies of any Japanese soldiers in the pit?

A No.

Q Now, is it true that there was a lot of fighting going on in the City of Manila during the month of February, 1945?

A When I arrived in Manila, shots I heard only from Intramuras.

Q Well, during what period were you in Manila?

A When I arrived in Manila, it was the 26th or 28th of February.

Q Do you know whether there was any heavy artillery fire in Manila during the month of February, 1945?

A Yes, I heard.

Q When you arrived in Manila the 26th of January - February, I am sorry - did you see a lot of dead bodies in the streets?

A Many.

Q So that you didn't only see them in this pit, but you saw them all over the city?

A What?

Q So you saw them not only in this pit, but all over the city?

A Yes.

Q Have you any knowledge as to how these dead persons met their death, those that were in the streets?

A According to the news I got from the passers-by, they were killed by the Japanese.

Q Were there any Japanese soldiers in the streets?

A No.

Q Any dead Japanese soldiers?

A I saw some dead Japanese at the paper factory.

Q Dead Japanese?

A Yes.

Q Now, did you know that Mr. Del Rosario of the Quiogue Undertaking Establishment, City Undertaker for the City of Manila, was given a contract by the United States Army to bury dead Japanese soldiers and dead civilians killed during the

street fighting in Manila?

MAJOR OPINION: If the Commission please, I would like to object to that question on two grounds: First, it is highly improper; second, the witness is incompetent to testify about the contract.

GENERAL REYNOLDS: Objection sustained.

MAJOR OPINION: Is that all?

Q (By Captain Sandberg) Do you know whether a city undertaker buried Japanese soldiers and Filipino civilians killed during the street fighting in Manila?

MAJOR OPINION: Same objections, same grounds, sirs.

CAPTAIN SANDBERG: If it please the Commission, this question is directly relevant as an explanation of the pit which the witness saw. Whether the witness has any knowledge of that fact, we won't know until he answers the question. At the same time, however, the circumstance that there was an organized burial of casualties during the street fighting in Manila is directly pertinent to the witness's testimony.

GENERAL REYNOLDS: The witness may answer the question.

A I didn't see anybody picking up bodies.

CAPTAIN SANDBERG: What was that answer?

(Whereupon the answer referred to was read by the Reporter.)

Q (By Captain Sandberg) Do you know whether there was, in the City of Manila, a procedure for burial of dead civilians and Japanese soldiers?

MAJOR OPINION: We object, sirs, to that question, because it is immaterial, incompetent.

GENERAL REYNOLDS: Objection sustained.

CAPTAIN SANDBERG: That is all.

(Witness excused.)

GENERAL REYNOLDS: The Commission will recess for five minutes. At the conclusion of the period the audience may fill up the seats in the front of the room, saving ten seats along the left front part of the public space.

(Short recess.)

GENERAL REYNOLDS: Proceed.

ANGELA LOPEZ VALDES

called as a witness on behalf of the Prosecution, having been first duly sworn, was examined and testified through Interpreter Zamora as follows:

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name.

A Angela Lopez Valdes.

Q Your civil status? Are you married, single or widow?

A Widow.

Q Of whom?

A Of Colonel Valdes.

Q What is his first name?

A Alejo Valdes.

Q Where do you live at the present time?

A In Paris Street.

Q What is your present occupation?

A Housekeeper.

Q On or about 7 February, 1945, and prior thereto, where were you residing?

A In Paris.

Q With whom were you residing in Paris?

A I live there with my husband, with the family and others.

Q Do you have any son by the name of Ramon Valdes?

A Yes, sir.

Q Where was he living during that period of time?

A In the Paris Street.

Q On 7 February 1945, did anything unusual take place in your residence in Paris Street?

A On the 7th of February we had been guarded outside incommunicado.

Q Who guarded you that day?

A At 4 o'clock they search the house; at least 40 among officers and soldiers searching the entire house.

Q Just a minute, Mrs. Valdes. You said that your house was guarded. By whom was it guarded?

A By the Japanese.

Q What Japanese were they? Were they soldiers or marines or members of the navy unit?

A The officers, it seemed to me that they were navy.

Q I am still referring to the guarding of your house. How many Japanese were guarding your house?

A Those who were guarding were guards.

Q You said that the Japanese searched your house. How many Japanese were there?

A There were about 40 or 50 among officers and soldiers.

Q What time of the day was it when these Japanese searched your house?

A On the 7th day.

Q Of what month?

A Of February?

Q What year?

A 1945.

Q What hour?

A At 4 o'clock in the afternoon.

Q How many Japanese searched your house that afternoon?

A About 40 or 50 among officers and soldiers.

Q What part of the house did the Japanese search that afternoon?

A The entire house.

Q How many Japanese searched the whole house?

A All except those few officers who were detailed to investigate.

Q Were they carrying with them arms or any deadly weapons?

A They were using revolvers, bayonets, guns and appearing that they were all criminals, pointing us with the arms.

Q Did they find anything in the search of your house?

A They had been searching, and then at the wardrobe of my husband they found uniforms.

Q What did they do with the uniforms of your husband?

A When they searched the wardrobe they found the uniforms and then they asked, "What are those uniforms?" My husband answered that "I was a constabulary, but I was working in the Customs House."

Q Proceed.

A They found with the uniforms of my husband two holsters without revolvers.

Q Please proceed.

A And then the officer asked, "Where have you the revolvers?"

"I delivered the revolvers to the military police.
In fact I have the receipts."

Then the officers said that, "You are not pertaining to the constabulary," they are going to burn all the uniforms.

Q Then your husband answered to that remark?

A "All right, you burn them."

Q Please proceed.

A The sword that he has there he asked the officer to retain as a souvenir. Then the officer who has been investigating considered and he say he can have it. But another officer took the sword and broke it into two and threw it to the fire.

Q After throwing at the fire the sword of your husband what did the Japanese do?

A After the search they went away.

Q Did the Japanese come back on the following morning or any subsequent day?

A Yes. About 8 o'clock in the morning the officer who investigated appeared and said that on the following day we have to --

Q Just a moment. Just a moment. Please repeat what you said so the interpreter may understand and interpret it correctly.

A On the following day the officer came home to tell us, because before that they told us that we have to evacuate, that we do not have to evacuate any more and we have to shut all the windows because the Americans were already in.

COLONEL CLARKE: If the Court please, the inter-

preter has been sworn to interpret correctly. We object to the Prosecution's counsel interpreting for the Court.

GENERAL REYNOLDS: Objection sustained.

MAJOR OPINION: Sirs, I am not interpreting, please.

GENERAL REYNOLDS: Objection is sustained.

MAJOR OPINION: I should like to ask the Commission to instruct the interpreter not to omit any word or expression given by the witness, because in many instances the interpreter forgot to interpret whole sentences.

GENERAL REYNOLDS: Proceed with the question of the witness.

MAJOR OPINION: Yes.

Q. By Major Opinion) After the Japanese told you not to evacuate because the Americans were already in, what did he do?

(Translated by Interpreter Zamora to the witness.)

MAJOR OPINION: Just a minute. If the Commission please, that interpretation is entirely wrong and contrary to the spirit of my question.

COLONEL CLARKE: If the Court please, if the Prosecution is not satisfied with the interpreter we suggest that another interpreter be there.

MAJOR OPINION: I would prefer, sir, if I may be allowed to select one interpreter.

GENERAL REYNOLDS: Very well. Another interpreter is available.

MAJOR KERR: We will get another interpreter, sir.

GENERAL REYNOLDS: How long will it require, Major Kerr?

MAJOR KERR: I beg your pardon?

GENERAL REYNOLDS: How long will it require?

MAJOR KERR: Just a moment. The other interpreter is in the room in the front of the building.

GENERAL REYNOLDS: Cause the record to show that this interpreter has previously been sworn.

MAJOR KERR: This is one of the official interpreters of the Commission, sir, and she has been sworn previously as interpreter.

(Whereupon Interpreter Zamora was replaced by Interpreter Rodas.)

Q (By Major Opinion) What did the Japanese do after he had left your house when in the morning he told you not to evacuate any more?

A It was only one official who told me from the street side. It was not many Japanese. It was only one official who told me from the street side.

Q After the Japanese officer had told you that what did he do?

A Nothing. I said, "All right."

Q Had any Japanese officer or soldier come back to your house on the morning of that day?

A Yes.

Q Who was that Japanese?

A The same official came back, and he brought the family census of the Valdes family.

Q Proceed, please.

A After this 4 o'clock on February 8th they came back to search our house again.

Q How many Japanese were there then?

A They were 40 or 50, just like the previous day. They all came with bayonets ready in their hands, and one of them was Escobar, who came with dark glasses.

Q What is the name of that Escobar and what is his nationality?

A I do not know. They told me it was Escobar, but he is a Filipino.

Q How do you know he was Escobar?

A When we went to take refuge in a church, after they told me there that he was Escobar and that he lives in Singalong.

Q What did the Japanese find, if they found anything, in the second search of your house?

A When they went over into the study room of my husband they found in one of the drawers two small, plain radio sets which he used only for sort of play, experiments.

MAJOR OPINION: Sirs, may I just request the interpreter to ask whether it was one set or two sets of radio as interpreted by her.

CAPTAIN SANDBERG: I suggest that any such question be put to the witness through the interpreter.

MAJOR OPINION: All right. I accept.

Q (By Major Opinion) How many radios did you say were found in the study room of your husband?

A Two radio sets, which were very small and which the Japanese took for radio transmitters.

Q After they had found the radios what did they do?

A They took the two radio sets and they threw it against

my husband.

Q After that what happened?

A After that they searched the house and they tied first my husband at the back, his two hands at the back, and then my son Ramon, and thirdly my brother-in-law, Ernesto Murillo,

Q After your husband, your son and your brother-in-law were tied, what did they do with them?

A Nothing. They brought the three away.

Q Where did they take them?

A I do not know. My head was all in confusion. Maybe they brought them elsewhere in places they only know.

COLONEL CLARKE: May we have the Interpreter speak into the microphone so we can hear over here?

Q (By Major Opinion) What was the dress of your husband, son and brother-in-law at the time they were taken out of the house by the Japanese?

A My husband went with pants and shirt which were little yellowish, and my son went with short pants, khaki and white shirt. My brother-in-law went in his pajamas because he came from the bathroom. They did not allow him to dress.

Q Did you notice the disappearance of any vital thing in your house during the search made by the Japanese?

A Yes.

Q Please tell us what it was.

A Everything that they found in the house which they took a liking to they pick up and place in their pockets.

Q How about the meal that you had prepared for that noon?

A After a while there was a knock at the door and there were two guards who came and they were asking a question,

because we have all our things packed up. When we packed up our things they found no canned goods, and they asked me, "Where are the canned goods here?"

What I did, or what we did was to point to them where the canned goods were, and they took most of it.

Q What was done with the food you had for that noon?

A I think that they have taken it with them for them to eat. I do not know. I cannot remember well.

Q After the Japanese had taken your husband, son and brother-in-law, did you see them back in your house on the following morning on the second day?

A The next day, the 9th, 10 o'clock, one Japanese appeared with a revolver in his hand pointed at us and separate my family. My family came to live with us because they took their house in Pasay and they have to live with me. This Japanese was asking for my father and my mother, but he knows my father already because he came the day before. And then he asked for the three. "Where are they?" And I told them that they have been brought away by the Japanese. And then he asked for my daughter. "How old is she?" And I answered, "She is 15 years."

Q What was the name of your daughter aged 15 years?

A Filomena.

Q After that what happened?

A And then the Japanese told us, "Leave the door open. Don't close it." And we left it that way. And about 11 o'clock he came back, and with the revolver pointed at us he shouted, "Kura!" "Kura!" and told us to go upstairs, and my daughter be left downstairs.

I did not like to leave them my daughter. All the rest of my family went up, but with his revolver pointed at us he told me to go up. And I was about in the middle of the stairs and I saw the Japanese dragging my daughter towards the study room of my husband, and my daughter was shouting. And there he wanted to do something to her.

Q After you had heard the shouts of your daughter what did you do while you were in the middle of the stairs?

A I went down right away because this beast has his sexual organ out, and my daughter was afraid. She was crying.

Q Did your daughter run towards you?

A Yes.

Q And you, yourself, did you run towards her?

A Yes.

Q And what happened?

A I went towards my daughter, grabbed her hand, put her at my back, and then faced the Japanese and told him, "Go on and kill me! Kill us!"

I was already desperate. And I told him in Spanish, in Tagalog and mixed language that, "If you have daughters would you like this thing happen to you?"

Q Proceed, please.

A And one of the Japanese saw that I was very angry. He became nervous, and with his revolver in hand trembling he just left in a huff or in a hurry.

Q Could you identify the Japanese that came to search your house for the first time?

A If I see him, yes, I can remember, recognize him.

Q To what unit did they belong, the first Japanese that

came to search your house for the first time?

A The official belongs to the navy, I think.

Q What about the others? Were they soldiers?

A They were navy.

Q How about the Japanese that searched your house the second time? To what unit did they belong?

A They belong to the army. They brought with them their flag.

Q Could you identify the officers of the first and second groups that searched your house?

A There were many; about 40 or 50.

Q My question is whether you could identify the Japanese officers of those first and second groups.

A The first time that my house was searched the officer, if I see him, I can point him; but the second time, no.

MAJOR OPINION: That's all, sirs. Your witness.

CROSS EXAMINATION

Q (By Captain Reel) I didn't quite understand the last answer. Could you identify the second group of Japanese as army or navy?

A The first group I know more or less they belong to the navy because their uniforms were dark green.

Q I asked about the second group. Will you ask that about the second group?

A The second time I think it was the army.

Q And why do you think it was the army the second time?

A Because of the color of their uniforms and because they brought with them the flag of the army.

CAPTAIN REEL: The what of the army?

INTERPRETER RODAS: The flag of the army.

CAPTAIN REEL: The flag of the army.

Q (By Captain Reel) Did this second group come carrying a flag?

A Yes.

Q Was it on a large staff? Were they carrying it on a large staff?

A They had it on their hands.

Q Will the witness please describe what she calls a "Japanese army flag"?

A The flag of the army is one that carries a red spot in the middle.

Q And has the witness ever seen a flag of the Japanese navy?

A Yes. It is different from the first one.

Q And how is it different from the first one? In what way?

A The navy comes with lines.

Q With lines? Where are these lines?

A I do not remember, but the lines are across. I do not remember well.

Q Just ask the witness when she saw what she calls a "Japanese navy flag".

A Well, before here and there.

Q All right. The witness said she believed that this second group of men that came were army men because they carried a flag. Does she have any other means of identifying those men as army men rather than navy men?

A All that I know is that the army wears a lighter uniform

than the navy.

Q A lighter uniform?

A Yes.

Q The same color?

A No.

Q What is the difference in color?

A The navy has a darker color.

Q Are they both green?

A Yes.

Q This one Japanese soldier --

MAJOR KERR: Just a moment, please. Let the answer of the witness be interpreted.

CAPTAIN REEL: I thought she said, "Yes." I am sorry. Will you interpret the answer?

INTERPRETER RODAS: "Yes."

Q (By Captain Reel) All right. This one Japanese soldier that came to the house alone and threatened your daughter, was he an army or a navy soldier?

A Army. He has a uniform like this (indicating court reporter).

Q Like the court reporter?

A Yes.

Q And the court reporter has a uniform that is similar to that of the United States Army; is that correct? That is just for the record.

A Khaki; lighter khaki.

Q Did that soldier come carrying a flag?

A No.

Q Will you ask the witness how old her son Ramon was?

A 24 years when they got him.

Q How old was her brother-in-law, Ernesto Murillo?

A I am not sure, but maybe he is 54 or 55 years old.

Q Did any of the three persons, either her husband, her 24 year old son or her brother-in-law collaborate with the Japanese when they were occupying the Philippines?

A No, not one.

Q Had all of them been members of the Philippine Constabulary?

A No.

Q Which were?

A My husband was the only constabulary man, and my son belongs to -- he is a flying cadet.

Q Flying cadet?

A Yes.

Q Of the Philippine Army?

A Si.

CAPTAIN REEL: "Si" is "yes", I take it?

INTERPRETER RODAS: Yes.

Q (By Captain Reel) Will the witness tell us whether her husband was opposed to the Japanese?

A Yes, sir, he is very much against them, and to prove it he never worked for them.

Q Did he ever work against them?

A This is one thing I cannot tell. He never told me anything about it.

Q He never told you anything about what?

MAJOR OPINION: Sir, I would like the question to be repeated, please.

CAPTAIN REEL: The question repeated?

MAJOR OPINION: Your question be repeated, please, so that the Interpreter may understand it.

CAPTAIN REEL: The witness said her husband never told her anything about "it". Now, I am asking what was it she refers to when she says her husband never told her anything about "it".

(Translated by interpreter to the witness).

THE WITNESS: I do not know. He has not told me anything whether he has worked against the Japanese or not.

Q (By Captain Reel) Did you know that he was working with the guerrillas?

A I don't know. He has not told me anything.

Q Did you ever suspect that he was working with the guerrillas?

GENERAL REYNOLDS: The Commission interrupts to ask the Defense of the purpose of this line of questioning.

CAPTAIN REEL: The purpose of this line of questioning, if the Commission please, is this:

We are trying to present here a picture as nearly as we can of what went on during these days in Manila when these occurrences took place. It is not by way, sir, of condoning atrocities or crimes, but it is by way of explanation of what are otherwise inexplicable deeds on the part of an individual.

It is apparent here, as it was in the previous case that we have heard, that there was an aid to the guerrilla forces; that the persons who aided them in this armed warfare did not wear uniforms or distinguishing marks, and that this

situation formed the background for the occurrences.

As a matter of law there is this situation:

The Philippine Islands were completely surrendered by General Wainwright --

MAJOR KERR: If the Commission please, is this gentleman under oath? Is he testifying?

CAPTAIN REEL: I am merely answering the question.

GENERAL REYNOLDS: Counsel will proceed.

CAPTAIN REEL: And there is a question of law as to the status after the surrender of armed activity and persons who gave aid. Here again this is a matter of law, and international lawyers argue about these things, but it seems to me that it is pretty well established under such a situation people who take part in guerrilla activities are war criminals. Naturally they are never held or tried as such unless they are on the losing side. If they win, it is a fait d'accompli. That being so, we do not say that there is any right on the part of any Japanese to execute such a person without a trial, but there has been no testimony here except hearsay as to whether or not such trials were had. These persons cannot possibly know. The previous witness testified that as far as she knew there was no trial. This witness has not so testified.

That is the purpose. I just want to present to the Commission a full picture of what is at this time very difficult to understand.

GENERAL REYNOLDS: The Commission is willing to hear any witness or any testimony which is truly relevant to the issues involved, but it seems to the Commission that some of

the questions asked are not relevant.

Counsel may proceed.

CAPTAIN REEL: Thank you, sir.

Will the Reporter read back the last question?

(Pending question read)

MAJOR OPINION: Sir, I object to that question as being irrelevant, immaterial.

GENERAL REYNOLDS: Objection sustained.

Q (By Captain Reel) Do you know whether your brother-in-law, Murillo, worked with the guerrillas?

A No.

Q Did your son Ramon ever tell you anything about his working for the guerrillas?

A No. I don't know anything.

Q And did I understand you to say that both of these small radio sets that were discovered were both receiving sets?

A No. The Japanese thought they were transmitters.

CAPTAIN REEL: Well, I don't suppose this witness can testify as to what somebody thought. My question was not what somebody thought, but what was the fact.

Q (By Captain Reel) Were they both receiving sets?

A No. They were only those small toy sets in the study room that cannot even be touched.

CAPTAIN REEL: What was that last answer? I did not get that.

(Answer read)

Q (By Captain Reel) Did your husband tell you that you were never to touch those two radio sets?

A No, he didn't say so. It is one of those things that were in the house a long time.

CAPTAIN REEL: That's all.

MAJOR OPINION: One question more, sir.

REDIRECT EXAMINATION

Q (By Major Opinion) Was your husband arraigned, prosecuted and tried before a Japanese military court or any other court under the Japanese regime?

A No.

MAJOR OPINION: No.

RECROSS EXAMINATION

Q (By Captain Reel) How do you know he wasn't tried?

A He has not told me anything about this.

CAPTAIN REEL: That's all.

REDIRECT EXAMINATION

Q (By Major Opinion) If he did not tell you would you have been told by other means?

A No.

CAPTAIN REEL: That's all.

May I have the question read back and the answer?

I didn't get it.

(Question and answer read.)

MAJOR OPINION: That's all.

(Witness excused)

MAJOR GENERAL BASILIO J. VALDES

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

DIRECT EXAMINATION

Q (By Major Opinion) Sir, state your name, age, and other personal circumstances.

A Basilio J. Valdez, 53 years old, married, major general and chief of staff, Philippine Army, residing in Manila, at 165 San Rafael.

Q Sir, where were you during the years 1942, 1943, 1944, and a part of 1945?

A Part of 1942 I was in Corregidor in Bataan, later in Negros, later in Mindanao, later in Australia; then from May, 1942, I was in the United States. In 1943 I was in the United States. In 1944 I was in the United States until September -- I don't quite remember exactly the date when I left for Australia.

Then General MacArthur sent me back to the United States on a mission, and then I returned to New Guinea on October, 1944, to join the convoy which attacked Leyte. I arrived in Leyte with the forces of liberation on the 20th of October, 1944, remained in Leyte until the 4th of February of this year, the date on which we left. By "we," I mean the President and the Members of his Cabinet. We left by plane for Luzon. Then we were at GHQ San Manuel Tarlac and I arrived in Manila for the first time since I left it in 1941, on February 6, 1945.

Q Sir, when you left for the United States, were you holding any position in the Commonwealth Government?

A Will you repeat that?

Q Were you holding a position in the Commonwealth Government when you left for the United States in March of 1942?

A I was secretary of national defense of the War Cabinet of President Quezon.

Q On what particular date did you arrive in the United States, when you left in May, 1942?

A We arrived in the United States on the 13th of May, 1942. We landed in San Francisco and proceeded by special train to Washington.

Q And you say that you arrived at Manila on February, 1945? What date was that?

A February 6th; on the morning of February 6th.

Q Do you know Colonel Alejo Valdes?

A Yes, sir. He is my older brother. He was a retired officer of the old Philippine Constabulary. He was a retired lieutenant colonel, and recalled to active duty -- I believe it was around 1936 -- and was later promoted to the rank of full colonel and was made commanding officer of the Harbor Police. It was in that capacity that he was found when the Japanese entered Manila in January of 1942.

Q Where was Colonel Valdes residing at the time you left for the United States?

A He was residing in Paris Street, which is a small street perpendicular to Pennsylvania Street.

MAJOR OPINION: May I have this marked for identification?

(The diagram referred to was marked Prosecution's Exhibit No. 19 for identification.)

Q — (By Major Opinion) Will you please indicate, on this Exhibit 19, the place where Colonel Valdes was residing then?

A It is in Paris Street, almost at the end of the street (indicating).

Q Is any number designated, please, and the place where --

A (Interrupting) No. 4, which can be found because it is just right at the end of the street. It was a blind street.

Q When you came to Manila on 6 February 1945 did you meet or see your brother, Colonel Valdes, or any member of his family?

A No, I did not see Colonel Valdes or any member of his family. They were residing on the south side of the Pasig River. At that time fighting was going on in the south side, and I had no means of communicating with him.

Q Do you know if your brother, Colonel Valdes, was engaged in any kind of underground activities during the Japanese time?

A When I arrived here on February 6th I immediately set out to inquire the whereabouts of my family, and in my investigations I discovered that Colonel Alejo Valdes had been consistently loyal to his oath as an officer and a gentleman, and had not served in any capacity, form, or manner, either with the Japanese or with the puppet government. When the Japanese came in, I was informed he was arrested and blamed for the burning of the United States Army warehouses in the port area, and blamed also for the looting that consistently -- I mean, that took place after

the United States Army officers left the port area, before the arrival of the Japanese. He was thrown into jail, which at that time I had been informed was in the Elks Club, and there was kept for several days, subjected to inhuman tortures, and bodily harm, during which period they tried to obtain from him information as to the strength of the Philippine Army, position of troops, and what-not. He was unable --

CAPTAIN SANDBERG (Interrupting): The Defense at this time asks that the witness' statements be stricken from the record, on the ground that it is incompetent, irrelevant; it is not within the witness' knowledge; that it is pure hearsay; and that it is prejudicial; and it has nothing to do with the Accused in this case.

MAJOR OPINION: Sirs, we are trying to establish the probable motive of the killing of Colonel Valdes. This portion of the testimony that is objected to is entirely in accord with the special procedure, under which any evidence that might be of probative value in the minds of the Commission may be admitted by the Commission. This is very important, sir, because this evidence will give you the whole picture of the situation under the Japanese regime, especially as to these persons who had the misfortune of staying in the Philippines during that time, and have served in the Philippine Army, or Government, or any other American military organization. This is also very material because he will just lay a foundation as to the other facts that would come up, in the testimony of General Valdes.

We submit, sir, that this portion of the testimony

to remain in the record.

GENERAL REYNOLDS: The Commission will withdraw to its chambers for deliberation.

(The Commission retired for executive session.)

GENERAL REYNOLDS: The reporter will read back the testimony of General Valdes, starting with the last question by the Prosecutor.

(Record read by the reporter.)

GENERAL REYNOLDS: Now, starting back, read the first sentence and stop.

(Record read by the reporter as follows:

"When I arrived here on February 6th I immediately set out to inquire the whereabouts of my family, and in my investigations I discovered that Colonel Alejo Valdes had been consistently loyal to his oath as an officer and a gentleman, and had not served in any capacity, form, or manner, either with the Japanese or with the puppet government.")

GENERAL REYNOLDS: That sentence will be allowed to remain in the record. All subsequent sentences will be stricken from the record.

The Prosecution will proceed.

Q (By Major Opinion) When you came to Manila did you inquire as to the whereabouts of your brother, Colonel Alejo Valdes?

A I did.

Q What inquiries did you make?

A I was told by the other members of my family that

Colonel Valdes was on the north side of Manila, on Friday, on February 2nd. That was the last time the other members of my family had seen him, as he had gone back to his home in the south side of the Pasig River.

Q Did you know about his death?

A On February -- on the morning of February 9, a note was brought over to the place where my wife was then residing. I opened the note -- it was written in French, by a certain Doctor Zollosi, a foreigner practicing medicine in Manila. In this note he informed that my brother, Colonel Alejo Valdes, my nephew, 24-year-old son of my brother, Alejo, by the name of Ramon, had been executed by the Japanese in an empty courtyard on Pennsylvania Street, and that he would be willing to show me the exact spot so that I could recover the bodies.

Consequently, I made arrangements immediately, and I obtained a weapons carrier and some canvas, and on the morning of February 10th I proceeded to the spot, met this doctor, who showed me the exact place where my brother had been executed. They had seen the execution from their home, which was not far from the place of execution. The place was full of debris, was next to a burned building, which I understand was the Japanese paper factory.

We started to dig, and we found many bodies there. We had to remove several bodies until we found the bodies of my brother and my nephew. Their skulls were practically destroyed, cremated. Apparently the heat of the fire of the building was so intense that it cremated a part of the bodies which were more near to the ground, which apparently at that time were the heads. The body, the legs, were still

intact.

I recognized both my brother and my nephew by their hands. They had their hands tied behind. My brother was dressed with a white cotton pant, trousers, and a cream-colored shirt, long pants, long trousers. My nephew had short khaki trousers and a white shirt.

My other nephew, the other son of Colonel Valdes, who is a lieutenant in the Philippine Army and at present in the provost marshal school in the United States, recognized them immediately, not only because of their clothing, but because of their belts and their belt buckles.

We removed the bodies -- part of the bones were already destroyed -- and we wrapped them up in this piece of canvas and transferred the remains to the north cemetery, where I gave them a Christian burial.

We tried to find the bodies of the brother-in-law, Mr. Murillo, who, according to the persons who showed me the place of the execution, was dressed in striped pajamas. I failed to find the body.

The odor emanating from that excavation was so disagreeable that I could not continue to impose on those persons working with me, so I gave up the search for the body of the brother-in-law of my brother.

Q Sir, will you be able to designate in this Exhibit 19 the place of the building which you said was burned, as well as the place where you recovered the bodies of your brother and his son, by stating the numbers?

A I came in through this small street here, which apparently has no name, and No. 14 (indicating) is the paper

factory, and No. 15, as marked here (indicating), is the place of execution.

MAJOR OPINION: I offer in evidence, sir, Exhibit 19.

May I have this marked for identification?

(The photograph referred to was marked Prosecution's Exhibit No. 20 for identification.)

Q (By Major Opinion) Showing you this Exhibit 20, will you please tell to the Commission in what part of said Exhibit 20 you found the bodies of Colonel Valdes and his son?

A In this area in front of this remaining wall (indicating), among this debris here (indicating), this raised debris here.

MAJOR OPINION: I offer it, sir, as a part of my evidence.

GENERAL REYNOLDS: Subject to objection, the exhibit is accepted as evidence.

(The photograph referred to was received in evidence and marked Prosecution's Exhibit No. 20.)

MAJOR OPINION: Sir, please, I would like a ruling on Exhibit 19.

GENERAL REYNOLDS: I do not understand.

MAJOR OPINION: I will ask you for a ruling on my Exhibit 19.

GENERAL REYNOLDS: You mean you wish to discuss the exhibit further?

MAJOR OPINION: No, sir; I am just asking a ruling, because no ruling has been made.

GENERAL REYNOLDS: The ruling was that, subject to

objection, the exhibit would be accepted. There is no objection; hence it may be included in the record.

(The photograph formerly marked Prosecution's Exhibit No. 19 for Identification was received in Evidence and so marked.)

MAJOR OPINION: May I have this marked for identification?

(The photostat referred to was marked Prosecution's Exhibit No. 21 for Identification.)

Q (By Major Opinion) Showing you Exhibit No. 21, please state, sir, if you have come across the original of that photostatic copy?

A Yes, sir, I have the original of this in my possession.

Q How did you obtain the original?

A A few days after I had recovered the bodies of my brother and my nephew I received information that certain guerrillas in the City of Manila had been able to apprehend the Filipino spies who were responsible for the arrest and execution of my brother, my nephew, my brother's brother-in-law, of Colonel Guido and his three sons. I directed these guerrillas to obtain signed statements from all these spies for future consideration. These are the statements made by those Filipino spies.

MAJOR OPINION: I offer, sir, as part of Prosecution's evidence, this Exhibit 21.

May I have this marked for Identification?

(The photostat referred to was marked Prosecution's Exhibit No. 22 for Identification.)

CAPTAIN SANDBERG: The defense objects to the introduction of this deposition, on the ground that the

introduction of depositions into evidence in a capital case is expressly prohibited by Act of Congress as to proceedings before a military commission, and the Defense states that this Commission has no authority to act in contravention of an Act of Congress.

MAJOR KERR: Sir, that question was ruled upon by the Commission yesterday, adverse to the position of the Defense.

GENERAL REYNOLDS: Is Santiago Escobar available for production as a witness?

MAJOR OPINION: No, sir.

GENERAL REYNOLDS: Why?

MAJOR OPINION: We could not find him now. He is supposed to be dead.

GENERAL REYNOLDS: What about the witness' signature that appears on the document?

MAJOR OPINION: The one who has taken this affidavit, sir, is very ill, and in lieu of his presence in court we have his statement taken by the investigating officer, and this statement is a part of our evidence.

CAPTAIN SANDBERG: Sir, the Defense would like to point out further that, unlike the statements received in evidence yesterday, this statement is not signed by an officer of the United States Army. There is a statement at the bottom, "Statement of Santiago Escobar, Taken on March 1, 1945, by Major Alberto de Joya, of the Philippine Guerrillas," unit unidentified.

I further point out that it is not signed by Major de Joya, and Major de Joya is not an officer of the United States Army.

MAJOR OPINION: Sir, for the information of the Commission, we would like to say that Major Alberto de Joya, who is responsible for the taking of these affidavits, is now in the United States. He is expected to return here in the last part of November.

GENERAL REYNOLDS: Will you repeat your answer to the question about the availability of the three individuals who have signed as witnesses?

MAJOR OPINION: All these three -- we have five other affidavits, five other depositions taken by Major de Joya, and none of these six persons is available at the present time. We have tried to locate the whereabouts, and we could not find them, simply because they have been Japanese spies, and our information was that they had been killed by the guerrillas.

MAJOR KERR: If the Commission please, may I refer to the regulations again, Clause 3 of Paragraph 16, on page 14 of the mimeographed copy. It provides that affidavits may be admitted in evidence. Counsel referred to a requirement that the statement must have been taken by an officer detailed for that purpose by military authority. The full reading is as follows:

"Affidavits, depositions, or other statements taken by an officer detailed for that purpose by military authority."

We construe that to mean that an affidavit may be received in evidence by the Commission, irrespective of who took it; and a deposition, likewise, may be received in evidence. But any other kind of statement, other than an

affidavit or deposition, has to be taken by an officer detailed for that purpose.

Furthermore, the major has stated that the officer who did take this was an officer -- I believe a USAFFE officer.

GENERAL REYNOLDS: Subject to objection by any member of this Commission, the exhibit is excluded from the record of trial at this time. Should the Prosecution be able to establish the authenticity of the circumstances surrounding the taking of the document to a greater extent, the Commission will consider the matter further at that time.

The case will proceed.

MAJOR KERR: Sir, for our guidance, may I inquire whether or not that means that in the future we may not offer an affidavit without testimony as to the circumstances under which it was taken? Because we have to be guided on that in view of our preparations.

GENERAL REYNOLDS: The Commission will rule on each case as it is presented, depending upon the circumstances.

MAJOR OPINION: May I have this marked for identification?

(Whereupon the photograph referred to was marked Prosecution's Exhibit No. 23 for Identification.)

Q (By Major Opinion) Would you please state if you know that Exhibit 23?

A Yes, sir. This is a photograph taken by myself during the excavation to remove the bodies of my brother, my nephew and possibly of Mr. Morillo. This photograph was taken by myself in that lot.

MAJOR OPINION: I offer this, sir, as part of the evidence of the Prosecution.

GENERAL REYNOLDS: There being no objection, the exhibit is accepted in evidence.

(Prosecution Exhibit No. 23 was received in evidence.)

MAJOR OPINION: That is all, sir.

Your witness.

CAPTAIN SANDBERG: No cross examination.

(Witness excused)

GENERAL REYNOLDS: The Commission will recess until 1:30 this afternoon.

(Whereupon, at 1125 hours a recess was taken until 1330 hours.)

AFTERNOON SESSION

(The trial was resumed, pursuant to recess, at 1330 hours.)

GENERAL REYNOLDS: The trial is in session. The case will proceed.

MAJOR KERR: Sir, all the members of the Commission are present; the Accused and Defense Counsel are present, and the Prosecution is ready to proceed.

ANTONIO J. BELTRAN

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

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name, age and other personal circumstances.

A Antonio J. Beltran; age 41.

Q Civil status, Mr. Beltran?

A Employee.

Q Married or single?

A Married.

Q What is your present address?

A 1456 Pasage Singalong.

Q Do you know the Guido family?

A I know Mrs. Guido, and I used to know Colonel Guido.

Q How about the members of the family?

A I didn't know any of the members of the family.

Q Do you know Alejo Valdes and his family?

A I do.

Q On February 7, 1945, in the afternoon, where were you?

A I was at my home. I was then residing at 1328 D

Pennsylvania.

Q Showing you this Exhibit 19, will you please state for the Commission by indicating with number the place of your residence then?

A Number 18.

Q At about 2 o'clock in the afternoon of that day did you see Colonel Guido and other members of his family?

A I saw Colonel Guido about 2 P. M. on the afternoon of February 7th, and three others, whom I later found out were three children, being led by five or six Japanese through the open field, marked in this place as number 16, in the direction of my house, when they were suddenly stopped in front of the house marked with number 19 and lined up. Immediately thereafter a Japanese officer coming out from the house marked number 17 talked to the officer in charge of the party, and soon thereafter the Japanese with Colonel Guido and his three sons were taken inside the paper factory.

Q Number, please?

A Number 14 in this sketch.

Q After they were taken inside of the building identified as number 14 of Exhibit 19, what was done with them?

A I could not see from my house. I can only say that about five minutes after they had been taken inside the paper factory I heard a scream, and soon after I heard shots. Then there was silence.

Q Were you able to identify whose scream was that?

A I was not able to identify the scream, although it seemed to me that it was from the youngest of the party, which turned out to be the youngest son of Colonel Guido. But I can't

state definitely whether it was the kid or not.

Q Where did Colonel Guido and three sons come from when you saw them?

A They came from the direction of Paris Street right through the open field until they stopped, as I said, in front of the house marked number 19.

Q Were they tied at the time you saw them pass in front of you?

A Colonel Guido was tied with his hands to his back, and so were the three others who composed the party tied. Colonel Guido was at the head of the party, and his three sons were following him.

Q How many Japanese were there?

A There were about four or five soldiers and one officer leading the party.

Q How do you know that he was an officer?

A He had leather boots on, which made me presume he was an officer.

Q What was their formation at the time they passed in front of your house?

A As I said, Colonel Guido was in front, his three sons were behind, and the Japanese were around them, while the one leading the whole party was the officer.

Q In the afternoon, the same afternoon, about 6 o'clock, did you hear anything unusual in or around the premises?

A About 6 o'clock on the same day, February 7th, I saw the same party of Japanese, the same officer leading them, bring eight persons. Amongst them I recognized Alejo Valdes and his son. I did not know the others who composed the

party.

Q What was the name of the son?

A His name was Ramon.

Q Were they tied as they passed in front of you?

A It seemed to me the three out of the eight persons that were leading the party, which was Alejo Valdes, his son and the other individual, were tied individually one from the other, while the rest of the party were tied together.

Q Where was the group of five with reference to Alejo Valdes and his son and the other individual?

A Excuse me. I didn't understand the question.

Q Were they behind Valdes or in front of Valdes?

A They were behind Valdes.

Q How many Japanese guards were there?

A There were four or five soldiers and the same officer.

Q The same officer?

A Yes, sir.

Q Where were they coming from at the time you saw them?

A From the same direction that I saw Colonel Guido coming from, from Paris through Pennsylvania Street, and they again stopped in front of number 19, and this Jap officer came out of the house marked 17 and again spoke to the leader of the Japanese, after which Colonel Valdes, his son and other members were taken inside of the paper factory.

I lost sight of them, but five minutes after I saw the same party coming out, heading in the direction of Pennsylvania and turning right, at which time I lost sight of the whole party. About 10 minutes or 15 after, I saw this very same party coming back, and they were headed by the Japanese

officer directly inside the paper factory.

Q Will you please indicate the number of the paper factory?

A Number 14. And soon after they were taken on the southwest side of the paper factory, which faced my house.

Q Is that indicated in Exhibit 19?

A It is indicated number 15, I believe it is.

Q 15. What did you see after they were taken to the place indicated by number 15?

A I saw Alejo Valdes, his son and the other gentleman were lined up facing the wall with their backs to the house. Immediately after that they had been lined up, I saw Alejo Valdes kneel down, bow his head and immediately stood up. Soon after I heard the shots, and the three who were lined up fell down. Immediately then the five other Filipinos who were tied together were lined up right beside the place where Alejo Valdes, his son and the other gentleman had been shot, and these five were also shot.

Q By whom?

A By the Japanese who were accompanying them. There were no others in the party except those Japanese.

Q After Alejo Valdes and his son and the other gentleman and the other five Filipinos were shot, what did the Japanese do?

A After they had been shot and were laying on the ground I saw one of the Japanese grab hold of a machine gun and started shooting two times over the bodies that were on the ground. See, when the party went inside the paper factory one Japanese was carrying a machine gun. After they had shot these eight persons with the machine gun they started

dumping some earth on the bodies.

Q You said that your house was indicated as number 18 on Exhibit 19, and the place of the execution indicated as number 15.

A Yes.

Q How were you able to see the shooting and the machine gunning of these eight persons?

A I was in the upstairs of my house, and through the crack in the window I witnessed the whole shooting.

Q Was there anything between your house and the place of execution which obstructed the view?

A There was absolutely nothing to obstruct my view.

Q You declared before that you saw Colonel Valdes kneel down. What was his purpose in kneeling down, if you know?

A Well, I couldn't say correctly what his purpose, but it seemed to me he knelt down, bowed his head and said a prayer. It took him only about a minute, and immediately he stood up, and very soon after it was when they were shot.

Q What was their position when they were shot by the Japanese?

A They were with their hands tied to their back and with their backs to the firing squad.

MAJOR OPINION: That is all, sirs.

Your witness.

CROSS EXAMINATION

Q (By Captain Sandberg) Would you state whether the military personnel was of the army or of the navy?

A I believe they were Marine Corps unit.

Q Marine Corps?

A. Yes, sir.

CAPTAIN SANDBERG: Thank you.

(Witness excused)

MAJOR OPINION: I rest my oral evidence, sirs, and I am just going to introduce now in evidence statements of witnesses who were not called to the stand.

I ask that this be marked Exhibit No. 24 for identification.

(Copy of affidavit of Gloria Ilillo was marked Prosecution Exhibit No. 24 for identification.)

MAJOR OPINION: I am offering, sir, in evidence this Exhibit No. 24 for identification. That exhibit is of one Gloria Ilillo. The purpose of presenting this evidence is to establish the fact that there were three groups of Filipino civilians taken to the open field in front of the Japanese paper factory; that these civilians were blindfolded and shot by the Japanese.

GENERAL REYNOLDS: Is this witness available to appear before the Commission?

MAJOR OPINION: Yes, sir.

CAPTAIN SANDBERG: The Defense objects to the introduction of this deposition in evidence on the same ground as stated this morning: that depositions may not be used against the Accused in a capital case in any proceeding before a military commission, and on the further ground that the deponent is available and may be brought before this proceeding.

MAJOR KERR: If the Commission please, the first point raised by counsel was ruled upon definitely, and, I assume,

finally by the Commission yesterday when it followed the opinion of the Judge Advocate General that the Articles of War do not apply to a proceeding of this nature.

As for the second point, as I pointed out this morning, the regulations governing the procedure of this Commission specifically authorize this Commission to receive in evidence affidavits. Now, sir, if we are to be required in each case where we propose to offer into evidence sworn statements to produce the oral testimony of that witness in lieu of the sworn statement, it merely means that we will unduly extend the period of the trial. The purpose of the provision of the regulations authorizing the acceptance of a statement of this sort certainly is to avoid that necessity. I see no reason why the Commission should hesitate to accept these sworn statements.

GENERAL REYNOLDS: Is this testimony material to the presentation of the Prosecution's case?

MAJOR KERR: Yes, sir, it is.

GENERAL REYNOLDS: The witnesses are available?

MAJOR KERR: I presume they are, sir.

I would like to point further that this is a part of an official report covering an investigation by War Crimes Branch Personnel. Therefore, it comes under a second classification of the regulations authorizing the Commission to receive such evidence.

CAPTAIN SANDBERG: Sir, whether it is part of an official report or not, it is nevertheless deposition. The Defense urges again that Congress has specifically prohibited the use of depositions against the accused in a

capital case.

GENERAL REYNOLDS: Subject to objection by any member of the Commission, the document will be accepted in evidence.

(Prosecution Exhibit No. 24 for identification was received in evidence and so marked.)

MAJOR OPINION: I ask that this be marked Exhibit No. 25 for identification.

(Copy of affidavit of Pedro Awad was marked Prosecution Exhibit No. 25 for identification.)

MAJOR OPINION: Exhibit 25, sirs, is a sworn statement of Pedro Awad. This testimony will prove that he had seen two groups, the first composed of four civilians whose hands were tied behind. He saw the beheading of two civilians and the shooting of another two. The second group was composed of 12 civilians, among whom was Colonel Valdes.

I offer this Exhibit 25 as a part of the evidence for the Prosecution.

CAPTAIN SANDBERG: We have the same objection, sirs.

GENERAL REYNOLDS: Subject to objection by any member of the Commission, the document is accepted in evidence.

(Prosecution Exhibit No. 25 for identification was received in evidence and so marked.)

MAJOR OPINION: I ask that this be marked Exhibit No. 26 for identification.

(Copy of affidavit of Baldwin Policarpio was marked Prosecution Exhibit No. 26 for identification.)

MAJOR OPINION: Exhibit 26, sirs, is a statement of Baldwin Policarpio. This statement will prove that he saw two groups of civilians, Filipinos, and one Bombay or Indian,

and a small boy coming out from Paris Street, and four civilians were blindfolded and a small boy beheaded. The three civilians of the second group were beheaded, too.

I offer this, sirs, as evidence for the Prosecution.

CAPTAIN SANDBERG: The Defense has the same objection.

GENERAL REYNOLDS: Subject to objection by any member of the Commission, the objection of the Defense is not sustained. The document will be accepted in evidence.

(Prosecution Exhibit No. 26 for identification was received in evidence and so marked.)

MAJOR OPINION: Sirs, Exhibit 27 is the statement of Etienne Szollosi. I ask that this be marked for identification.

(Affidavit of Etienne Szollosi was marked Prosecution Exhibit No. 27 for identification.)

MAJOR OPINION: Sir, this statement will prove that Etienne Szollosi had seen four groups of civilians being taken toward the Japanese paper factory. The first one, composed of four civilians, had been ordered to dig a hole while the Japanese were guarding them.

I offer Exhibit 27 as evidence for the Prosecution.

CAPTAIN SANDBERG: The Defense objects on the same grounds previously stated.

GENERAL REYNOLDS: Subject to objection by any member of the Commission, the objection of counsel is not sustained. The document will be accepted in evidence.

(Prosecution Exhibit No. 27 for identification was received in evidence and so marked.)

MAJOR OPINION: The Prosecution, sirs, rests its case.

MAJOR KERR: That remark, sir, applied only to the particular case then under consideration.

CAPTAIN CALYER: If the Commission please, the next incident to be taken up by the Prosecution is covered in Item No. 17 of the Bill of Particulars, and is referred to for convenience as the De LaSalle College case. I shall not take the time of the Commission to make a preliminary statement of the proof, but rather, call as my first witness, Father Cosgrave.

GENERAL REYNOLDS: We will pause briefly. The people who wish to do so may move forward in the room, saving the front row seats.

FATHER FRANCIS J. COSGRAVE

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name and address, please?

A Francis Joseph Cosgrave, Redemptorist Monastery, between Dewey Boulevard and Taft Avenue extension.

Q Your age, Father?

A Forty-eight years of age.

Q And you are a Catholic priest?

A A Catholic priest, yes.

Q In the early part of February of this year where were you living?

A I was living in the LaSalle College on Taft Avenue, Manila.

Q What other persons were living there at that time?

A There were 17 brothers at the De LaSalle College, and about 15 other people, families of -- Filipino and Spanish

families who had been given hospitality there because the Japanese had occupied their homes. In addition --

Q And do you know -- I beg your pardon, sir.

A In addition to that, there were the servants of the college and the servants of the families. About 70 altogether.

Q Do you know the family names of these various Filipino and Spanish families?

A There was the family of Judge Carlos, and the family of Doctor Cojuangco, and the family of Vasques-Prada, and another doctor, Uychico.

Q On or about the 7th of February, 1945, did anything unusual happen at De LaSalle College?

A At about 10:30 in the morning a Japanese officer, accompanied by a number of soldiers, some of them armed, some with spears, came to the college and lined all the people up, the brothers and the people, on the veranda at the rear of the college, and we were all searched. And Brother Xavier, the director of the college, and Judge Carlos, were taken off from the college. I understand they were taken to the Nippon Club next door.

Q Did you see them taken there?

A No. I only saw them taken to the Bremmer Hall at the end of the corridor.

Q Father, you mentioned these Japanese and described them as "soldiers." How did you reach that conclusion?

A Well, when I was living in the college, especially those last two or three weeks, the Marines were there, and these soldiers that came in were different from those. They

were Army soldiers.

Q Of that you are certain?

A Yes.

Q Was there anything else that happened on the 7th of February?

A On the 7th of February we were forbidden to go to the garden, and we depended on the well for our water supply. Only two girls, as far as I know, were permitted to go to draw water. We were forbidden to appear on the verandas or in the windows. As a matter of fact, from then on we were virtual prisoners.

Q Have you seen either Brother Xavier or Judge Carlos since that day?

A No, I have not.

Q Was there fighting in the vicinity of De La Salle College at that time?

A Yes, there was quite a lot of fighting going on. We could hear these shells exploding against the building, and we could hear the machine gun bullets from about Thursday or Friday, as far as my memory serves me. That would be from about the 8th of February. The fighting seemed to be coming closer and closer, and this state of affairs continued until Sunday, the 11th, the fighting seemed very close then, and on Monday, the 12th, we were all in the college gathered together at the foot of the stairs, and we were there reading for protection, because of the fighting going on outside. We deemed that the safest place in the building -- in our part of the building.

Q When you say "at the foot of the stairs," Father, do you

mean on the first floor of the college property?

A On the ground floor of the southern wing of the college.

CAPTAIN CALYER: Yes.

I ask that this be marked for identification as
Prosecution's Exhibit No. 28.

(The Photograph of the ground
floor at foot of staircase was
marked Prosecution's Exhibit
No. 28 for Identification.)

Q (By Captain Calyer) I hand you a document marked for
identification Prosecution's Exhibit 28, and ask you if you
know what that is?

A Yes. This represents the ground floor at the foot of
the staircase leading up towards the chapel in the southern
wing.

Q Will you indicate on that diagram the position in
which the people were gathered on the 12th, as you just
related?

A Many of the people were gathered inside of the wine
cellar. Many of us were just in this part here (indicating),
between the wine cellar and the landing of the stairs.

Q That is the section marked "Improvised Shelter"?

A Improvised shelter. We had mattresses on the ground
there, because we slept there the night before and we were
resting there during the day when there was a lull in the
fighting.

Q Now, Father, I ask you to tell the Commission the
position of that wine cellar with reference to the stairway.

A The wine cellar, as you come in the door from near
the dining room in LaSalle College, you enter the -- the
dining room is here (indicating). You come along through

here (indicating), and you enter turning to the right. The wine cellar is on your right, and then passing that you have the improvised shelter, and on the opposite side to the wine cellar is the staircase leading to the first and second floor.

Q Let me ask you again about the wine cellar. Where does that extend?

A The wine cellar goes back from the entrance from the dining room. It goes back about 12 feet, I would imagine, and then it swings back underneath the staircase, and it made an ideal air raid shelter.

Q In other words, it extends under the landing, and then to the left under the stairs?

A Yes.

CAPTAIN CALYER: If the Commission please, I offer this sketch in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 28
for identification was received
in evidence and so marked.)

Q (By Captain Calyer) Now, Father, will you tell the Commission what occurred in LaSalle College on the 12th of February?

A We had just taken our mid-day meal a little before 12:00, perhaps, and suddenly the door leading in from the dining room into that passage in front of the air raid shelter, or the cellar, a Japanese Marine officer with a number of Marines, entered, and the --

Q Let me interrupt you there a minute, Father. How do you distinguish these Japanese Marines from those that you

had seen on the 7th?

A Well, I was accustomed to see the Japanese officers during the time of the occupation, and I could distinguish at the time the difference between the Marine officer and the Army officer. The Marine officers were in the building at the time. The Marines were there, and I was accustomed to their uniform and the uniform of the Army, and I was able to distinguish at the time.

Q Was there any particular marking on the uniform of these men whom you saw on the 12th, that would designate them as Marines?

A No, except the color of the uniform. It was different from the color of the Army uniform.

Q Were there also Japanese stationed at the Nippon Club?

A Yes. There were Japanese in the Nippon Club.

Q Where is the Nippon Club with relation to the LaSalle College?

A It is immediately adjoining the south side of the La Salle College.

CAPTAIN CALYER: I ask that this be marked for identification as Prosecution's Exhibit No. 29.

(The photograph of the site of the Nippon Club was marked Prosecution's Exhibit No. 29 for Identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit No. 29 and ask you if you can tell what that shows?

A That represents the site where the Nippon Club was before it was burned down.

Q Where, on that photograph, does the Nippon Club appear?

A The club is destroyed.

Q Yes. The remains of the club.

A The remains are here (indicating). Obviously, you can see in the picture.

Q Where, in that picture, sir?

A This, just here (indicating).

Q Would you describe it for the record?

A Yes. In the front of the picture, before those trees.

Q The lower left-hand corner?

A The lower left-hand corner, yes.

CAPTAIN CALYER: If the Commission please, I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 29
for Identification was received
in evidence and so marked.)

Q (By Captain Calyer) Do you know what branch of service the troops at the Nippon Club belonged to?

A No. I am not certain of that. I understand, though -- I understand since that they belong to the Marines, but I am not sure.

Q Will you tell us about the Japanese who came on the 12th of February to LaSalle College?

A Well, just as we finished lunch, as I remarked, this officer with, as far as I remember, about 20 men, Marines, entered, and they spoke in Nippongo. The officer spoke in Nippongo and seemed quite excited.

I learned afterwards, from one of the brothers,

Brother Maximin, who was killed, that the officer asked if there were snipers or guerrillas there, and he was assured that there were not, which was the truth. But he took off two of the boys, two of the servant boys. They were outside for a few minutes and we heard a shot, and a few moments later they were brought back again. I saw one of them brought back again wounded, and immediately the officer gave a command, and at once the soldiers, with their bayonets, began to attack us.

Q Where were you at this time?

A I was sitting with an old Irish brother at the entrance to the wine cellar.

Q And that brother's name, sir?

A The brother's name was Brother Leo.

CAPTAIN CALYER: I ask that this photograph be marked for identification Prosecution's Exhibit No. 30.

(The photograph of the entrance to the wine cellar was marked Prosecution's Exhibit No. 30 for Identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit No. 30 and ask you if you can state what that represents?

A That represents the entrance to the wine cellar.

Q Will you indicate to the Court the position in which you were sitting?

A I was sitting just near where those, they seem to be, water tanks, right at the entrance there to the wine cellar.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is

accepted in evidence.

(Prosecution's Exhibit No. 30
for Identification was received
in evidence and so marked.)

Q (By Captain Calyer) What happened, Father, when you and Brother Leo were sitting at the entrance to the wine cellar?

A The Japanese soldiers were bayoneting all around us, and Brother Leo looked up at me and said, "They are going to bayonet us," and he asked me to give him an absolution. And I raised my hand to give him an absolution and the bayonet of the Jap passed under my arm into his heart or his chest, and he immediately slumped down dead on my legs, on my knees. Before I could move I received two thrusts from the bayonet.

Q Where were you struck?

A One wound here, and the other one here (indicating on chest).

CAPTAIN CALYER: I ask that this be marked Prosecution's Exhibit No. 31 for Identification.

(The photograph of the upper part
of the body of the witness was
marked Prosecution's Exhibit No.
31 for Identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit No. 31 and ask you if you can tell what that represents?

A That represents the upper part of my body showing the two wounds that I received on the 12th of February.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is

accepted in evidence.

(Prosecution's Exhibit No. 31
for Identification was received
in evidence and so marked.)

Q (By Captain Calyer) At whose hands did you receive those wounds, Father?

A From a bayonet of a Japanese Marine.

Q What happened to you after that?

A Immediately after that the Japanese continued bayoneting, the officer slashing with his sword. One poor woman there tried to defend her little child. Her husband was already killed, her two big boys were dead, and a boy about ten. She tried to defend the little boy. She was slashed across the shoulder, across the arm, and a big piece was taken out of her leg. She lived for two days -- she lived until the following day, as far as I remember, suffering intensely.

Q Do you know the name of that woman?

A The name of that woman was Mrs. Vasques-Prada.

The Japanese then followed some of the brothers and some of the people up the staircase. Some were able to run up. Shots were fired and others were bayoneted on the staircase. Others reached the top of the stairs to the entrance to the chapel and they were bayoneted or shot there. Those of us who remained at the bottom of the staircase were told by the Japanese if we were able to do so, to lie down on the floor. Those who were not able to do so were thrown down on the floor. We were thrown onto those mattresses that were there that we had been sleeping on the night before. And there I remained on those

mattresses from about, I suppose, a little after twelve, until eleven o'clock that evening. There were a couple of dead men lying over my feet and a dead woman on my head. I was unable to move because of loss of blood and because of the people around me.

Q Do you know the names of any of those persons whom you saw lying there dead?

A Yes. Brother Lucien; Brother Baptist; Brother Arcadius; the three elder sons of Mrs. Vasques-Prada; and there were others, but I cannot remember their names at present.

Q Were there others lying there who were only wounded?

A Yes. There was Miss Dionisia Carlos, and Miss Lourdes Cojuangco, and the wife of Doctor Uychico, and there were one or two children there still living, including that little son of Mrs. Vasques-Prada.

Q Do you know whether any of those people later went to the second floor?

A Yes. About eleven o'clock that night there was -- . As a Catholic priest I felt that I was not doing enough for the people, so I tried to make my way upstairs and to administer the last rites of religion to those who were still alive but dying. And I extricated myself and managed to administer the last sacraments to many of them, and I went upstairs, and I saw lying halfway up the stairs some dead bodies. When I reached the entrance to the chapel there were other bodies there, dead bodies, and a number of people who were wounded. And I made my way creeping into the chapel and there I saw inside the chapel some brothers lying in the passageway. I went up towards the

altar and there was one brother lying before the communion rails, dead. In the corner were two other brothers with a little boy, the second youngest son of Judge Carlos, lying with them, dead.

I was pretty exhausted when I reached near the altar, and I entered the sacristy there, and as far as I remember I must have collapsed, because when I awoke the sun was streaming in.

CAPTAIN CALYER: Let me interrupt you at that point.

I ask that this be marked Prosecution's Exhibit No. 32 for identification.

(Photograph of ground floor in front of wine cellar of De LaSalle College was marked Prosecution's Exhibit No. 32 for Identification.)

Q (By Captain Calyer) I show you this photograph marked for Identification Prosecution's Exhibit No. 32 and ask you if you can state what that is?

A This represents the ground floor in front of the wine cellar and in front of the entrance to the staircase, the south wing of the college.

Q Is that the spot that you have mentioned where the bodies were placed on the first floor?

A Yes. On the floor there against that wall the mattresses were, and we were thrown on top of those mattresses.

Q Can you tell me who the two men are pictured there?

A The picture of myself and a picture of Brother Anthony, and I think I am standing in about the place where I was lying for those eleven hours.

CAPTAIN CALYER: I offer that photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 32 for Identification was received in evidence and so marked.)

Q (By Captain Calyer) I show you a photograph marked for identification Prosecution's Exhibit No. 33 and ask you what that represents?

A This represents the staircase leading from the ground floor to the chapel of LaSalle College, and the picture shows here, do you call it? -- the intermezzo step, halfway between the two staircases. At the top of those stairs there I saw the dead body of a Filipino. As far as I remember now, it was the body of the wife of Ramon Cojuangco. A little further up was the body of the wife of Judge Carlos. Both of these were dead.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 33 for Identification was received in evidence and so marked.)

CAPTAIN CALYER: I ask that this be marked for identification as Prosecution's Exhibit No. 34.

(Photograph of entrance to chapel of De LaSalle College was marked Prosecution's Exhibit No. 34 for Identification.)

Q (By Captain Calyer) I show you this photograph marked for identification as Prosecution's Exhibit 34, and ask you to tell what that represents?

A This represents the entrance to the chapel of De LaSalle College.

Q On what floor of the building is this?

A This is on the second floor.

Q Can you tell me the names of the persons shown in this picture?

A There is myself, Brother Anthony, and this was an officer that came with us. I do not remember his name.

Q Is there anything particularly significant about the positions in which those persons are standing?

A Yes. Brother Anthony is standing approximately in the place where the wife of Mr. Aquino, Jr., died. I am standing in the place where I saw the body of the son of Dr. Cojuangco. This poor boy was recovering from typhoid, and he was sleeping in that room just behind my back, and I saw his dead body lying just where I am standing. Where the officer is standing I saw the dead body of Dr. Cojuangco, and also the body of one of the Carlos girls. I think her name was Asela.

CAPTAIN CALYER: I offer this picture in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 34 for identification was received in evidence and so marked.)

CAPTAIN CALYER: I ask that this be marked Prosecution's Exhibit No. 35 for identification.

(Diagram of chapel in De LaSalle College was marked Prosecution's Exhibit No. 35 for identification.)

Q (By Captain Calyer) I show you a diagram marked for identification as Prosecution's Exhibit No. 35, and I ask you if you can tell what that represents?

A This is a plan of the chapel in De LaSalle College.

Q That is the second floor?

A The second floor, yes.

CAPTAIN CALYER: I offer this in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 35 for Identification was received in evidence and so marked.)

Q (By Captain Calyer) Father, will you point out on that diagram the place where you saw the bodies in the chapel itself?

A Just inside the door about six or seven feet, a little to the left side of the main passageway, I saw the bodies of two brothers. Inside the -- . Between about the second and the last pew on the right side I saw the dead body of another brother. Right up in front of the pews before the communion rail, before those steps, a little to the left side, was the dead body of Brother Maximin, and on the right side -- I am taking right entering the church --

Q Yes.

A (Continuing) -- on the right side, in the corner over here (indicating), I saw the bodies of two brothers and the body of the second son, a small boy of nine, of Judge Carlos.

CAPTAIN CALYER: I ask that this photograph be marked as Prosecution's Exhibit No. 36.

(Photograph of portion of chapel of De LaSalle College was marked Prosecution's Exhibit No. 36 for Identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit No. 36 and ask you what that represents?

A That represents the place where I saw the dead body of that brother, between the last two pews.

Q On which side of the chapel is that, sir?

A That is on the right side on entering.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 36 for Identification was received in evidence and so marked.)

CAPTAIN CALYER: I ask that this be marked Prosecution's Exhibit No. 37 for Identification.

(Photograph of top corner near sanctuary of De LaSalle Chapel was marked Prosecution's Exhibit No. 37 for Identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit No. 37, and ask you what that represents?

A This represents the corner, the top corner near the sanctuary on the right side of the De LaSalle College, and that was the place where I saw the bodies of the two brothers and the body of young Carlos. There are marks on

the wall that show the blood that was spilt there.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 37 for identification was received in evidence and so marked.)

CAPTAIN CALYER: I ask that this be marked Prosecution's Exhibit No. 38 for identification.

(Photograph of passageway at rear of altar in De LaSalle College was marked Prosecution's Exhibit No. 38 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit No. 38 and ask you to state what that represents.

A This represents the passageway at the back of the altar in the De LaSalle College, and this was the place where we hid during the intervening days after the massacre, until the rescue.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 38 for identification was received in evidence and so marked.)

Q (By Captain Calyer) Father, what do you mean when you say "we" remained there during the intervening days?

A On the Tuesday following the massacre, the day after the massacre, I was able to go down to the bottom of the stairs again, and I found there a number of survivors. Now,

some of these accompanied me to the chapel and some of them remained behind the altar with me. Others went up to the top room above the sacristy behind the altar, and most of the time we remained behind that altar, those few that were with me.

Q Calling your attention to the last exhibit which I showed you, does there appear in that picture a stairway?

A Yes.

Q Where does that lead?

A That stairway leads to the bottom of the chapel, above the sacristy. On the opposite side there is also a staircase leading to another room above that sacristy.

Q Are those the rooms to which these people went?

A The people went to the room on the left side.

Q What happened on succeeding days while you were still in LaSalle College?

A During those days the fighting was still going on around and it was either Tuesday or Wednesday, I am not quite sure which day, I saw two Japanese enter the chapel above the choir loft, and there spread gasoline and set fire to what was in the gallery. In the gallery there was much furniture and my library consisting of about 3,000 books. These were all burnt by that fire.

CAPTAIN CALYER: I ask that this photograph be marked Prosecution's Exhibit No. 39 for Identification.

(Photograph of organ gallery in De LaSalle College was marked Prosecution's Exhibit No. 39 for Identification.)

Q (By Captain Calyer) I show you a photograph marked

for identification Prosecution's Exhibit No. 39 and ask you to state what that represents?

A This represents the organ gallery in the De LaSalle College, and the discoloration on the wall marks the place where the fire actually occurred. All along that wall were books, pieces of furniture, and other things like that. These were all destroyed.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 39 for Identification was received in evidence and so marked.)

CAPTAIN CALYER: I ask that this photograph be marked Prosecution's Exhibit No. 40 for Identification.

(Photograph of passageway leading into gallery at back of church of De LaSalle College was marked Prosecution's Exhibit No. 40 for Identification.)

Q (By Captain Calyer) I show you a photograph marked for Identification Prosecution's Exhibit No. 40 and ask you if you can state what that represents?

A As far as I know this represents the passageway leading into the gallery at the back of the church, to the organ gallery on the top floor.

Q That would be the third floor?

A The third floor.

Q And what do the marks shown in that picture represent?

A The marks show the places where the fire had occurred.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 40 for Identification was received in evidence and so marked.)

Q (By Captain Calyer) What, if anything, happened subsequent to the fire?

A Well, I remained practically all the time behind the altar. I only went down once or twice to see if there was anyone still living and needing help, but for the most part I remained behind the altar.

Q Until what time?

A Until about 4:30 on the afternoon of Thursday, the 15th of February.

Q And what happened on that day?

A About a little before that time I thought that I heard American voices in the grounds of the college, but I wasn't quite sure and I did not like to tell those with me what I had heard. But about 4:30 I was quite certain of it, and those with me heard the voices. Then we looked around behind the altar and we saw three American soldiers in the organ gallery. I called out to them, but evidently I was weak, for I had to call three or four times before I could attract their attention. They asked me to stand up. I stood up. My sataan, a white sataan, was practically brown with blood. They asked me if I could come down to them and I managed to creep down through the church and told them what had happened and told them about my companions behind the altar and in the sacristy.

They took me at once to a piece of ground at the side of Santo Scholastica College, and there they treated my wounds and gave me a shot of whiskey and put me on the ambulance, assuring me that within a few minutes they would have rescued all my companions, which they did. I was taken first to a clinic in Santa Ana, and after that to the convent in Santa Ana. The next day I was taken to the military hospital in Santo Tomas University, and there I remained for about two weeks until my wounds were well enough to permit me to leave.

Q Going back, Father, to the time of the killing and wounding of persons in LaSalle College, will you tell the Commission the names of the persons whom you saw dead on the first floor of that building?

A I saw Brother Baptist dead; Brother Lucien; Brother Arcadius; the three sons of Vasques-Prada; Mrs. Vasques-Prada.

Q Were there others on the stairs?

A On the stairs, the body of Mrs. Cojuangco, Jr., and the body of Mrs. Carlos, the wife of Judge Carlos.

Q Any others on the stairs?

A I cannot remember the names of any others on the stairs at present.

Q And the names, please, of those whom you saw on the second floor?

A On the second floor I saw the body of Asela Carlos, the body of Antonio Cojuangco, the body of the wife of Aquino, Jr. That is as far as the entrance to the chapel is concerned. Inside the chapel I saw the dead bodies of

Brother Lambert, Brother Paul, Brother Maximin, Brother William, and there was some other brother whose name I cannot remember at present, and the body of the second son, the elder son of Judge Carlos.

Q From your observations of those bodies, Father, can you tell the manner in which they met their death?

A Certainly Mrs. Vasques-Prada's death was caused by the blows from a saber, and some of the others from bayonet wounds. I can't remember exactly anyone dead from a revolver shot. Some were wounded. I can't offhand place anyone dead from that.

Q Do you know the names of any of the persons present who survived this incident?

A Yes. Brother Anthony, Rosario Carlos, Dionisia Carlos, and the youngest son of Judge Carlos -- I don't know his first name -- and Lourdes Cojuangco, Ramon Cojuangco, Aquino -- I do not know his first name.

Q Were those persons wounded?

A All of them were wounded except Ramon Cojuangco. He escaped wounding. And -- I am sorry -- I just remember the little boy, the youngest son of Judge Carlos. I do not think he was wounded.

Q You mentioned Brother Anthony as a survivor. Do you know what happened to the other brothers?

A The bodies of the other brothers?

Q No. Do you know what happened to the other brothers?

A All the other brothers were killed, without exception.

CAPTAIN CALYER: Your witness.

CAPTAIN SANDBERG: No questions.

CAPTAIN CALYER: Thank you, Father. You may go.

(Witness excused.)

GENERAL REYNOLDS: The Commission will recess for
five minutes.

(Whereupon a short recess was taken.)

CAPTAIN CALYER: Brother Anthony.

ANTON HEITMANN

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A My name is Brother Anthony.

Q What is your civil name?

A Anton Heitmann.

Q What is your nationality?

A German citizen.

Q Where do you live at the present time, Brother Anton?

A At the present time in the hospital, Santiago Hospital.

Q Is that the one commonly known as the "Spanish" Hospital?

A Yes.

Q Why are you hospitalized at the present time?

A Because I am still suffering from the wounds I received.

Q What wounds are those to which you refer?

A I received 8 bayonet wounds.

Q When and where?

A I received those bayonet wounds on the 12th of February.

One is in my chest, two in my abdomen, and five in my arm.

Q And at what place were those wounds inflicted?

A At De LaSalle College.

Q By whom were they inflicted?

A By Japanese, marines.

CAPTAIN CALYER: May we have this marked for identification?

(A photograph was marked Prosecution Exhibit No. 41 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit 41, and ask you to state what that represents.

A Those represent my wounds in the arm, and one in the abdomen -- two in the abdomen, one in front and one in back.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 41 for identification was received in evidence and so marked.)

Q (By Captain Calyer) Will you describe for the Commission the particular place in LaSalle College where you received these wounds?

A I received the wounds in the chapel, on the left side.

Q In the front or the rear of the chapel?

A In front of the chapel.

Q I show you a diagram of the chapel which has been previously identified as an exhibit in this case, and ask you to point out the specific spots where you were wounded.

A I was here (indicating) in the left-hand side.

Q Will you show it to the Commission, so that they may see?

A This corner here (indicating).

CAPTAIN CALYER: Indicating a point at the extreme left of the photograph, immediately in front of the section marked "Pews".

(A photograph was marked Prosecution Exhibit No. 42 for identification.)

Q (By Captain Calyer) I show you a photograph marked Prosecution's Exhibit No. 42 for identification, and ask you to tell what that represents.

A That is the exact place where I was standing when I received the bayonet wounds.

Q Who is the person shown in that picture?

A That is myself.

CAPTAIN CALYER: I offer that photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 42 for identification was received in evidence and so marked.)

Q (By Captain Calyer) Where did you go after you were wounded?

A After I was wounded I went in the passage between there and the dormitory, and I had my bed there and slept the first night. The next day I went up to the third floor, in a little room up the staircase, and slept in a bed there.

Q And how long did you stay in that room?

A I stayed there until the liberation.

(A photograph was marked Prosecution Exhibit No. 43 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit 43, and ask you to state what that represents.

A This is a group photograph of the Brothers stationed in De LaSalle.

Q Do you know when this photo was taken?

A It was taken at the beginning of 1940.

Q Were all of the persons shown in this photograph still at LaSalle College on February 12, 1945?

A No. Some were interned in Los Banos, and one was in Hong Kong at that time.

Q Will you tell the Commission, by referring to the numbers which appear on the photograph, the names of the Brothers who were there on February 12, and what happened to each of them?

A No. 6 was there and he was killed. No. 7 also killed --

Q (Interrupting) Will you state their names?

A No. 6 was Brother Adolph, he was killed. No. 7, Brother Paul, was killed; No. 8, Brother Victor, killed; No. 9, Brother Hubert, killed; No. 10, Brother Lucien, killed; No. 12, Brother Leo, killed; No. 13, Brother Baptist, killed; No. 15, Brother Berthwin, killed; No. 17, Brother John, killed; No. 18, Brother Romuald, killed; No. 19, Brother Gerfried, killed; No. 22, Brother Maximin, killed; No. 24, Brother Arcadius, killed; No. 26, Brother Lambert, killed; No. 28, Brother William, killed.

Q I call your attention to the person identified by the No. 21, and ask you who that is.

A That is my own person.

Q I call your attention to the person indicated by the No. 3.

A Beg pardon?

Q No. 3.

A Brother Xavier. He had been taken before that and had been brought over to the Nippon Club, and we don't know what happened to him.

Q When was he taken?

A He was taken 4 or 5 days ahead, on February 7th.

Q You say he was taken to the Nippon Club?

A Yes.

Q Did you see that?

A Yes, we saw him and Judge Carlos being taken to the Nippon Club, having their hands tied behind their backs.

Q Did you ever see them after that?

A No.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is received in evidence.

(The photograph above referred to was received in evidence and marked Prosecution Exhibit No. 43.)

CAPTAIN CALYER: You may examine.

CAPTAIN REEL: No questions.

CAPTAIN CALYER: Thank you, Brother Anton. That is all.

(Witness excused.)

CAPTAIN CALYER: Mr. Hain.

MARTIN C. HAIN

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A Martin Hain.

Q Where do you live, Mr. Hain?

A Right now I am residing at De LaSalle College.

Q On the 7th of February, 1945, where were you living?

A I was living at De LaSalle College.

Q Were you employed there?

A Yes, sir.

Q In what capacity?

A As secretary.

Q In that capacity, were you familiar with the names of the Brothers of the La Salle College?

A Yes, sir.

Q Will you tell the Commission the names, both the religious names and the civil names of those Brothers, insofar as you can remember, their ages and nationalities?

A The first one, the director, was Irish, was about 50. His name was William Kelly. Then there was Brother Paul, he must have been about 35. He was German.

Q Do you remember his name?

A No, I don't. Then there was Brother Lambert, he was German, about 28. His name was Ernest Hammerling. And there was Brother William, otherwise -- he was about 34. Then there was Brother Leo; he was Irish. His name was Corcoran; that was his last name. He must have been close to 60. Then there was Brother Hubert -- I don't remember his family name.

Q What was his nationality?

A He was German. There was Brother Lucien. Then there was Brother --

Q (Interrupting) Do you remember his name?

A No, I don't. Then there was Brother Baptist; he was American. Then there was Brother Maximin; he was German, he was about 29.

Q Do you remember his name?

A No. I don't. Then there was Brother Antonios.

Q Who?

A Brother Antonios.

Q Was he there on the 7th of February?

A Yes. Then Brother Arcadius; he was German. And Brother Paul; he was German.

Q Perhaps I can help you. Do you remember Brother Victor?

A Oh, yes; Brother Victor, and Brother Adolph.

Q Can you tell me Brother Victor's nationality?

A Brother Victor was a German.

Q Can you remember his name?

A No, I don't.

Q Do you remember Brother Romuald?

A Yes, Brother Romuald.

Q And his nationality?

A German.

Q Do you remember his name?

A No. It is pretty hard to remember these German names.

Q Do you remember Brother Gerfried?

A Yes, Brother Gerfried; he was German.

Q Do you remember his name?

A No.

Q Do you remember Brother Adolph?

A Yes. He was German.

Q Brother Berthwin?

A Yes, Brother Berthwin was German.

Q Brother John?

A Brother John was German.

Q Do you know what happened to those Brothers whom you

have mentioned?

A Yes, sir.

Q Will you tell the Commission?

A I beg pardon?

Q Will you tell the Commission?

A About (pause) --

Q What happened to those Brothers?

A Well, when I came to LaSalle -- that was in February 15 -- I was so shocked to see all the dead bodies there, and they were stinking, the smell, and the bodies were all swollen, and the dead bodies was all over the place, the first floor and the second floor and the stairs and the chapel. I saw one girl, her hand cut off, the left arm; part of her dress was off. And I saw another lady on the stairs, her head was shot. Another Brother was upstairs with several bayonet wounds.

Q Let me interrupt you at this point. Do you know the name of the girl whom you saw with an arm wound, the wound that you described?

A Yes, sir. Her name was Asela Carlos.

Q Will you tell the Commission the position of her body when you saw it?

A Her legs were wide open, her dress was up. That was very near the top of the second floor.

Q Was she alive?

A No, she was dead.

Q Did you see the bodies of any other persons whom you recognized?

A Yes. I saw the bodies of Brother Maximin, Brother Leo,

Brother Arcadius, Brother Lucien, Brother Victor, and Mrs. Vasques-Prada.

Q Going back for a moment to the 7th of February, were you at De LaSalle College on that day?

A Yes, sir, I was at De LaSalle College.

Q Will you tell the Commission what you saw on that day, with reference to Judge Carlos and Brother Xavior?

A On that day the Japanese came -- about 7 Japanese -- came there and they started to search the place and they searched the place. Then they asked for the director, and we brought the director, Brother Xavior, and they tied him up, and Judge Carlos was taken, too, was tied. They took them to the Japanese Club, together with two Filipino civilians at the same time. It was about 11 o'clock.

Q Did you see those persons actually taken to the Japanese Club?

A Yes, sir, I did.

CAPTAIN CALYER: You may examine.

CAPTAIN SANDBERG: No questions.

(A photograph was marked
Prosecution Exhibit No. 44
for identification.)

CAPTAIN CALYER: If the Court please, I should have introduced these exhibits before I gave the Defense an opportunity to cross-examine, but if I may reopen my direct long enough to introduce these --

GENERAL REYNOLDS: You may do so.

Q (By Captain Calyer) I show you this photograph marked for identification as Prosecution's Exhibit No. 44, and ask you if you can tell what that is?

A That is the boy who used to be our cook at De LaSalle College.

Q Do you recall his name?

A Yes. Teofilio.

Q Do you recall his last name?

A No, I don't.

Q I show you this paper and ask you if that will refresh your recollection as to his last name?

A Yes.

Q What is it?

A Teofilio Candari.

Q Did you see him at De LaSalle College at any time subsequent to the 7th of February?

A Yes, I did.

Q Did you see him after he had been wounded?

A Yes, sir. When they took him to the hospital.

Q Can you state whether this photograph truly represents the wounds which he received?

A That is the actual wounds he got.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 44 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 45 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit 45, and ask you to state what that represents?

A That is the same fellow, Teofilio Candari, the cook at the LaSalle College.

Q A view taken from the other side of his person?

A Yes, sir.

Q Does that also truly represent the wounds which he received on February 12?

A It does.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 45
for identification was
received in evidence.)

Q (By Captain Calyer) Do you know how many wounds he received?

A Yes. He is shot in the chest.

CAPTAIN CALYER: You may examine.

CAPTAIN REEL: No questions.

CAPTAIN CALYER: Thank you. The witness is excused.

GENERAL REYNOLDS: A question by the Commission.

GENERAL DONOVAN: What were the Japanese that you saw around there on the 7th? Soldiers, sailors, or marines, or what?

THE WITNESS: I think they were marines, sir.

GENERAL DONOVAN: Did you see any soldiers?

THE WITNESS: No, I don't recall any soldiers.

CAPTAIN CALYER: Thank you. The witness is excused.

(Witness excused.)

CAPTAIN CALYER: If the Commission please, at this time I wish to offer in evidence a sworn statement of Teofilio Candari. This statement is a part of the official investigation of this case.

CAPTAIN SANDBERG: The Defense objects to the introduction of this statement, on the same grounds as have been previously noted.

The Defense also wishes to point out that the Prosecution has had ample opportunity to bring forth the facts; that in the interests of an expeditious and orderly record, that this likewise be excluded.

GENERAL REYNOLDS: The objection is not sustained. The document will be accepted in evidence.

(The statement above referred to was received in evidence and marked Prosecution Exhibit No. 46.)

CAPTAIN CALYER: This statement is offered with particular reference to certain portions. I wish to call the attention of the Commission to the questions and answers at the bottom of the first page of this statement, in which the witness testifies that he saw Judge Carlos and Brother Xavier taken from the Nippon Club at about 5 o'clock in the afternoon of February 7 to the Rizal Memorial Stadium; from that point he later heard shots, and that those men have never been seen again.

I also call the Commission's attention to the witness's statement with reference to the death of certain named individuals whose bodies he saw and identified; and, finally, to his testimony wherein he relates the story of his own bayoneting at the hands of the Japanese, the description of the wounds that he received, and his statement that he had 33 wounds all over his body.

Rosario Carlos.

ROSARIO CARLOS

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A Rosario Carlos.

Q Your age?

A 21.

Q Where do you live, Miss Carlos?

A Right now I am living with my uncle, at 1109 La Torre Street.

Q Keep your voice up, please, so that the Commission might hear.

A I am living with my uncle, at 1109 La Torre Street.

Q In February of 1945, where were you staying?

A At De LaSalle College.

Q Who else was there with you at that time?

A My family. Shall I name them, one by one?

Q Will you name the members of your family, please?

A My father, Judge Carlos; my mother, Mrs. Juanita Carlos; myself; my sisters, Asela, Gloria, Dionisia, Cecilia; my brothers, Antonio, and Jose, Junior; and the servants, Isabel, Francisco, and Tamayo. Aside from our family --

Q Just a moment, please. Of those members of your family and the servants whom you have just named, how many are now alive?

A There are four of us in the family and two servants living.

Q Which are those in the family?

A My sisters, Gloria, Dionisia; my brother, Jose, Junior; and myself.

Q Which are the servants?

A Isabel and Francisco.

Q Was there also a Cojuangco family?

A The Cojuangco family were also staying with us at the De LaSalle College.

Q Who were the members of that group?

A My uncle, Doctor Cojuangco; my aunt, Mrs. Cojuangco; my cousins, Ramon and his wife; Natividad Cojuangco; Trinidad Cojuangco and her husband -- she is now Mrs. Aquino; Mr. Aquino; Antonio Cojuangco, Jr., Lourdes Cojuangco; and an adopted boy by the name of Ricardo; and the servants, Apolinario, Fortunata, Juana, Felisa, and a male nurse by the name of Filomeno, Rita, and Carlos.

Q How many of that group is still alive?

A Of the Cojuangco family there are two persons living; of the servants, there are four.

Q Do you know the names of the family who are alive?

A Ramon and Lourdes.

Q And the servants?

A The servants are Juana, Felisa, Filomeno, the nurse, and Rita.

Q Was there another family by the name of Uychico?

A Yes, sir.

Q Who were the members of that group?

A Doctor Uychico, Mrs. Uychico, Soledad, Ramon, Pacita, and the two servants, Clarita and Helena.

Q Are there any of that group now alive?

A Yes.

Q Which ones, please?

A Beg pardon?

Q Which ones?

A They are Mrs. Uychico, Soledad, Pacita, and two servants, Clarita and Helena.

Q Was there a family named Vasques-Prada?

A Yes, sir.

Q Who were the members of that group?

A Mr. Vasques-Prada, Mrs. Vasques-Prada, Enrique, Herman, Alphonso, Fernando; and the servants, Antonio and Armenia.

Q How many of that group are now alive?

A Only one son alive; and I don't know about the servants, if they live or not.

Q Which son?

A Fernando.

Q What is his age?

A Five.

Q Were there also some servants or employees of the College staying there at that time?

A There were six boys at the College, staying at that time.

Q Do you know their names?

A I know Anselmo, Ceferino, Julian, Pamfilo, Teofilio, Vicc.

Q Do you know if any of those persons are still alive?

A I know Vicente is living; I don't know about the others.

Q Do you know how many Brothers there were at the College on that date?

A There were 17 Brothers; including Father Cosgrave there

were 18.

Q How many of that group are now alive?

A One Brother and Father Cosgrave.

Q Do you know the name of that Brother?

A Brother Anthony.

Q Of the persons whom you have named as still alive, do you know any of them who were wounded?

A In my family, my sisters Gloria and Dionisia and myself were wounded.

Q Will you describe your own wound?

A I was shot in the left chest.

Q Yes? The bullet entered the chest?

A It entered the chest and went out the back.

Q Did you receive more than one wound?

A I was wounded later by a shell, a shrapnel hit me.

Q That was the only wound you received on the 12th?

A Yes, sir.

Q By whom was that wound inflicted?

A By a Japanese soldier.

Q How close was he to you when you were shot?

A I was standing face to face. He was right in front of me.

Q What happened to you after you were shot?

A I found myself falling, so I let go and I found myself under a chair.

Q And where were you at that time?

A I was on the second floor of LaSalle College, near the entrance of the chapel.

Q At a later time, was there something else that happened

to you at that place?

A Later on, why I heard that there were no more footsteps around the place, I decided to change my place because I was afraid of the shrapnels, they might hit me, because there was continued shelling; so I tried to move from my position. I was able to move about two feet from my place, and I found out that I couldn't go inside the chapel as there was a raised platform, and I couldn't raise myself. So I stayed there. Then I heard footsteps; some persons must have seen me moving, because I felt some persons come near me.

Q Do you know who those persons were?

A No, I didn't see.

Q Do you know whether they were Japanese?

A I think they were Japanese because they were talking in Japanese.

Q What happened?

A Well, I heard them talk and laugh. I felt my hands changed from the place where they were, and my legs parted. I felt them tearing the lower part of my underclothing, but I didn't move.

Q What happened after that?

A After that, all of a sudden I heard a voice and I felt my dress pulled down, and a little while later I felt somebody step on my stomach. After awhile the talk stopped and there was silence again.

Q On what day was that?

A On the 12th of February.

(A photograph was marked Prosecution Exhibit No. 47 for identification.)

Q I show you a photograph marked for identification as Prosecution's Exhibit 47, and ask you to state what that is.

A It is a picture of my cousin, Lourdes Cojuangco.

Q Does that show the wound received by her at the hands of the Japanese?

A Yes, it shows one of her wounds.

Q Well, did she have another?

A She received only one bayonet thrust, but was wounded three times.

CAPTAIN CALYER: I offer this picture in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 47 for identification was received in evidence and so marked.)

(A photograph was marked Prosecution Exhibit No. 48 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Exhibit 48, and ask you to tell what that represents.

A This is also a picture of Lourdes Cojuangco, with another bayonet wound.

Q Does that also show the one seen in the previous picture?

A No, sir.

(Captain Calyer indicated on Prosecution's Exhibit No. 48 for identification.)

THE WITNESS: The one in the previous picture was the wound in the upper part; this is in the lower part of the body.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 48 for identification was received in evidence and so marked.)

(A photograph was marked Prosecution Exhibit No. 49 for identification.)

Q (By Captain Calyer) I show you a picture marked for identification as Prosecution's Exhibit 49 and ask you what that represents.

A It is a picture of my sister, with her wounds.

Q Which sister?

A Dionisia.

Q How and when did she receive that wound?

A She received it on February 12, by a bayonet.

Q Who had the bayonet?

A The Japanese.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 49 for identification was received in evidence and so marked.)

(A photograph was marked Prosecution Exhibit No. 50 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit 50, and ask you to state what that is.

A It is also my sister Dionisia, showing two of her bayonet wounds inflicted by a Japanese soldier.

Q At the same time?

A Yes, sir.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 50 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 51 for identification.)

Q (By Captain Calyer) I show you a photograph marked Prosecution's Exhibit No. 51 for identification, and ask you to state what it is.

A It is a bayonet wound on the leg of my aunt, Mrs. Uychico.

Q When did she receive that wound?

A She received it by Japanese soldier, who wounded her in the leg on February 12.

CAPTAIN CALYER: I offer that photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 51 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 52 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's No. 52, and ask you to state what that represents.

A It is a picture of my sister Gloria with her one bayonet wound in the back, on February 12, 1945.

Q By the Japanese?

A Yes, sir.

CAPTAIN CALYER: I offer that.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 52 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 53 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution Exhibit 53 and ask you to state what that represents.

A This is a picture of myself, showing the bullet wounds that I received from the Japanese on February 12, 1945.

Q Does that picture show the point of entrance or exit?

A Exit.

Q Will you point to the position of your body where the bullet entered?

A Here (indicating chest.)

CAPTAIN CALYER: I offer that photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 53 for identification was received in evidence.)

Q (By Captain Calyer) At any time while you were at LaSalle College, subsequent to your wounding, did you have occasion to see Juanita Tamayo?

A Juanita Tamayo?

Q Yes.

A Yes. After my wounding, she was the one who gave me

water.

Q Had she been wounded?

A She was wounded in the hand. One of her fingers was taken off.

(A photograph was marked as Prosecution Exhibit No. 54 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit No. 54 and ask you to state what that represents?

A It is a picture of the hand of Juanita Tamayo, with one of the fingers taken off because of her bullet wound inflicted by the Japanese, also on February 12.

CAPTAIN CALYER: I offer that photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 54 for identification was received in evidence.)

Q (By Captain Calyer) Subsequent to your wounding did you also see Filomeno Inolin at De LaSalle College?

A I beg your pardon?

Q Filomeno Inolin; did you ever see him at LaSalle College? The nurse?

A No, sir, but I would hear his voice.

Q Do you know whether he was wounded?

A He was wounded, because he told us that he couldn't walk, his legs were paralyzed because of a wound he received in the back.

Q Do you know where he is now?

A I think he is in the Psychopathic Hospital. I don't know.

Q Do you know why he is confined there?

A Because of his wounds that he received on February 12.

CAPTAIN CALYER: You may examine.

CAPTAIN REEL: No questions.

CAPTAIN CALYER: Thank you, Miss Carlos. That is all.

(Witness excused.)

CAPTAIN CALYER: Servillano Aquino.

SERVILLANO AQUINO

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A Servillano Aquino.

Q Speak loudly, please, so the Commission will hear.

A My name is Servillano Aquino.

Q Your age?

A 25.

Q Where do you live?

A At 192 San Rafael.

Q In February 1945, where were you staying?

A We were at LaSalle College.

Q Calling your attention to the 7th of February, 1945, will you tell the Commission what happened?

A On the 7th of February, 1945, we were gathered, all the civilians were gathered together on the second floor of the LaSalle College, where we were lined up and searched.

Q Will you describe for the Commission the method of that search?

A In the search we were put in one single file, and the

men were searched for firearms and the females were searched maliciously.

Q What do you mean by that?

A They were being searched in their breast pockets. I don't think you could hide a gun in the pocket where a dime couldn't be hidden.

Q What else happened at that time?

A After the search they asked for the head of our group, which happened to be Judge Carlos, and the head of the Brothers, Brother Xavier.

Q Were they taken away?

A Yes, they were.

Q Have you ever seen them since?

A No.

Q Were there other persons taken from the building on the 7th?

A Not that I know of.

Q Where were you on that date?

A In the morning of the 7th we were on the ground floor. After the search we stayed most of the time on the second floor until we had to take our belongings back again to the ground floor and make our shelters on the stairs.

Q Now, after the 7th, did anything unusual happen between that time and the 12th of February of this year?

A Nothing much, except we were told not to go out of the school; we were not even allowed to get water from the well, until the 12th.

Q Was there fighting in the vicinity?

A I didn't see anybody. We heard a lot of shelling.

Q Were the shells falling near the College?

A Not until the 12th.

Q On the 12th were they?

A On the 12th there were a few shells that dropped by. I remember them.

Q Now, will you tell the Commission what you observed on the 12th of February, 1945?

A On February 12, 1945, after we had our breakfast, and then made preparations, then shortly after that we had our lunch. Right after lunch the massacre took place.

Q Did you see any Japanese at that time?

A Yes.

Q About how many?

A There were four Japanese that I saw on the second floor. If there were more I didn't see them.

Q Do you know to what branch of service those Japanese belonged?

A From what I know and what I saw, the officer was wearing a cap with an anchor insignia in front. But I couldn't tell very well the distinction between the uniforms.

Q Did you remain on the second floor throughout the incident of the 12th?

A Yes, I did.

Q Will you tell the Commission what you saw?

A Right after lunch we were in the room of Antonio Cojuangco, Junior, my brother-in-law, who was sick of typhoid.

Q Where was that room located?

A That room is located on the north side of the entrance to the chapel. Together in the room was my father-in-law,

the nurse, the sick boy, and my wife. All of a sudden we heard shots downstairs. We decided to see what was going on. However, on my way downstairs, I was motioned to go up again by one of the people down there, who motioned me to go back to the room.

Q What did you do?

A I went back to the room and waited there and told my father-in-law that I was asked to go back -- rather, summoned to go back.

Q Did you later see some Japanese on the second floor?

A I beg pardon?

Q Did you later see some Japanese on the second floor?

A Yes, I did. After that shot we waited in the room for awhile, then we heard another shot which was very close and I presume took place on the second floor, then another, and we heard the screaming of the girl Asela.

Q Her last name, please?

A Asela Carlos.

Q What happened after that?

A After that we heard a Japanese voice asking us to come out, sort of like that the demand was.

Q Did you leave the room?

A Well, we didn't want to go out immediately, but we had no choice.

Q Who went out first?

A The first one was the nurse, Filomeno is his first name. I don't remember his last name.

Q Filomeno Inolin?

A Yes. I know he has been at the Psychopathic Hospital.

That might be him.

Q Who followed him?

A He was followed by my father-in-law.

Q Yes?

A Then I was next.

Q Now, when you got out of the room, what did you observe?

A Right after coming out of the room, I saw, across to the center of the pathway to the chapel, Asela Carlos.

Q What was her condition at that time?

A She was sitting down and bleeding. Her arm was shot and it was dangling, hardly connected to her body, and the blood was all over her.

Q Did you see any other person there?

A I saw other persons; I don't know who, but I saw the persons there.

Q Who were the other persons whom you recognized?

A Well, there was Filomeno, who was already stabbed -- that is the nurse. I saw my little maid.

Q What is her name?

A Fortunata Salonga. We call her "Ponting".

Q Is her name Salonga, her last name?

A Salonga, that is right.

Q What was her condition?

A I couldn't say. She was laying down. But I knew she was alive, eventually, but right then I thought she was dead.

Q Had she been wounded?

A Yes, sir.

Q Did you observe the wounds?

A No. I saw the blood on the floor.

Q All right. Now, will you describe the wounding of the nurse, Filomeno?

A I was just coming out when they started on him. They summoned him to turn back in this manner (indicating), and as soon as he was facing backwards they stabbed him in the back.

Q How many times?

A I saw one good stabbing. He fell after that.

(A photograph was marked
Prosecution Exhibit No. 55
for identification.)

Q I show you a photograph marked for identification as Prosecution's Exhibit 55 and ask you to state what that is?

A I think this man is Filomeno. The wound is very close to what he pointed out to us. I think it affected his spinal column, because he was paralyzed for quite some time.

Q Do you know where he is now?

A The last time I saw him he was at the Psychopathic Hospital.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 55
for identification was
received in evidence.)

Q (By Captain Calyer) After Filomeno was wounded, what else did you see?

A My father-in-law was next in the line.

Q Who is that?

A That was Dr. Antonio Cojuangco.

Q What happened to him?

A He tried to run inside the chapel. However, they overtook him there, and what we heard was only a howl, "Ow!"

Q What happened as far as you were concerned?

A At that moment I was being summoned to turn back, too. After seeing that it does really hurt a lot to be stabbed, I decided I would like to get killed faster, so I decided I might as well fight one of them. I tried to lunge at him, tried to hit him. I missed him and he stabbed me.

Q Where?

A Right in the left side, below my nipple here (indicating) and came out through my back. After that stab, he jerked me loose, and at the same time pulling me down. I fell on my side, on my left side, and he stabbed me again right here (indicating).

Q Indicating on the right side of the body?

A The right side, the middle part. After that side, I was crouching towards him, trying to get hold of his legs, and again he stabbed me at the base of my neck, right here (indicating), where the bayonet didn't go quite full inside. It went in, I would say, about 7 inches. However, after that first stab he decided to push me just like a broom from the wall towards the other end of the corridor, and that is when it really hurt, because that bayonet went in with all its slack. Now, my wife, she was seeing all of these things.

Q Where was she at that time?

A She was behind me. She tried to run towards me. However, they shot her in the back. She lost her balance and

fell close to the gate of the chapel. The Japanese followed her there and stabbed her again and again in the back. I couldn't help but stare at the guy. After stabbing her he came back to me. I suppose he was sore because I was looking at him. He stabbed me twice in the right side, then after that they left me for dead.

Q Did you see what happened to Antonio Cojuangco?

A Yes, Antonio was dragged out of bed, because he could hardly walk; he was sick. As a matter of fact, he couldn't even walk. They drug him until he was about close to the center of the corridor and stabbed him twice.

Q What happened to him after that?

A After the stabbing, they kept shooting around, and then went into the room where Antonio Cojuangco was and opened up what little canned foods we had left. That we could hear; I couldn't see that. I just heard them opening cans and tearing up papers.

Q What happened after that, that you saw?

A After she -- (pause)

Q After the stabbing?

A Well, after the stabbing she didn't have any chance. She died.

Q What happened to you after that?

A I was just right there listening to what they were doing.

Q Was there anything taken from you?

A Yes, that was the following day.

Q What was taken?

A The following day one of the Japanese soldiers who was

passing by saw me with my watch and ring, shoes, and deprived me of my watch, my ring, and my shoes.

Q Will you speak into the microphone?

A I think the wire is dead.

MAJOR KERR: You will have to speak louder.

Q (By Captain Calyer) You say he deprived you of your watch, your ring, and your shoes?

A That is right.

Q Now, going back to the 12th, what persons did you see alive in front of the chapel that night?

A That night Asela asked for water, and she managed to get up. However, after drinking water, she died. I know that for a fact. After that my little maid, who was also asking for water, and after drinking she died, too.

Q Is that the person known as Fortunata Salonga?

A Yes.

Q You called her what?

A Ponting.

Q When did she die?

A She died very close to the middle of the corridor.

Q When?

A Oh. Right after drinking -- I would say not more than 30 minutes after drinking the water, she died.

Q Was that on the night of the 12th?

A Yes.

Q Do you know approximately what time?

A It was dark; that is all I know.

Q Were there several other people who died there, also that night?

A No, but I knew for a fact that my father-in-law was alive there and Rosario Carlos, and the nurse.

Q Those people were around where you were?

A Yes.

Q And were still alive?

A They were alive.

Q Now, the next day, the 13th, what did you observe outside of the chapel at the LaSalle College?

A On the day of the 13th, that morning, there were two Japanese soldiers or marines -- I couldn't tell from the uniform. At any rate, two soldiers.

Q Did they have the same sort of uniforms as those you had seen on the preceding day?

A They had the same uniforms as the one who bayoneted me. Not the officer, though.

Q Now, what did these two do, that you saw on the 13th?

A They were passing by, looking around. They saw this little girl, Ponting --

Q That is Fortunata Salonga?

A Yes. She died rather in an exposed way. Her dress was raised up.

Q Was she dead at this time?

A Yes, she is very much dead. She died on the evening of the 12th.

Q And this was when?

A This was on the 13th.

Q At about what time?

A It was in the morning.

Q Now, will you continue to tell the Commission what

happened?

A One of them tore her panties out. At the same time, he was rather trying to rape her, only the poor kid had been dead for quite some time; she was pretty stiff. When they couldn't part her legs open, they decided to leave her.

Q What did they do after that?

A After leaving her, I don't know. All I knew was that I wished Ponting was out of the place.

Q Did you see anything with reference to Rosario Carlos?

A Yes, I did.

Q Will you tell the Commission what you saw?

A I wouldn't be sure if they are the same people, because there was a lapse of time between the two incidents, but Rosario Carlos was laying farther north than Ponting. Another two Japanese came and tried to open -- I think they tried to take off her panties. At that moment they heard the voice of one of their officers, I think, and they immediately stood up, and sure enough, the sergeant was coming and called them, and before leaving, one of them even stepped on the stomach of Rosario Carlos.

Q Was there anything else of particular interest that happened on the 13th?

A Well, the shelling was continued. That is all there was to it.

Q And other people died on that day?

A There were a lot of people died, ever since we were stabbed. Some of the Brothers. The Brothers were inside the chapel, and we couldn't see all of them, but we could hear them say, "Brother so-and-so just died. Let us pray for him."

That kept on going on the following day.

Q Did there come a time when you moved from your position outside the chapel?

A. Yes. That was on the dawn of the 14th. My brother-in-law had me move from the place where I was. That was at the entrance of the chapel. He had me placed behind the altar. He was afraid that if the Japanese came back the following morning and saw us still there, they would be suspicious and find out we were alive, because we were supposed to be dead, and the place was burned.

Q Did you see it burned?

A I saw the toilet burned.

Q When was that?

A That was on the night of the 14th.

Q By whom was it burned?

A The Japanese soldiers.

Q Was there anything else in connection with that fire that you recall?

A Yes. The first time they attempted to start the fire, they were successful, and left immediately after the fire had started. There was a Brother who was close to us who --

Q Do you remember his name?

A Yes. Brother Hubert.

Q What did he do?

A He tried to get up. We thought it was impossible for him to get up, because he was weaker than any one of us; we thought he was the next one to die. However, he managed to get up, looked for the two bottles of carbon tetrachloride, which he had hidden. He found this bottle and put out the fire, then came back to us and laid down. However, shortly after that the Japanese came back and saw that the fire was extinguished, so they started it over again. For the second

time, Brother Hubert got up, put the fire out. During his second attempt at putting it out, he was caught when the Japanese returned.

Q And what happened?

A All we heard was him saying "Ugh!", just like that -- twice.

Q Did you see him after that?

A No.

Q Did you remain behind the altar until the Americans arrived?

A Yes, I did.

Q When did they come?

A They came on the 15th, about 5:30, I would say.

Q At that time were you and the other persons still alive rescued?

A Father Cosgrave was close to me --

CAPTAIN CALYER: Just a moment. I don't think you understood the question.

Will you read the question, please?

(The question referred to was read by the reporter as above recorded.)

A Those that were rescued were alive, naturally.

Q (By Captain Calyer) I think you still have it a little bit reversed. Those who were alive were rescued, is that correct?

A Yes.

Q Now, subsequent to your leaving the LaSalle College did you at a later time have occasion to look for bodies of members of your family?

THE WITNESS: I beg your pardon?

CAPTAIN CALYER: Will you read the question?

(The question referred to was read by the reporter as above recorded.)

A After leaving De LaSalle, I was back on my feet, we tried to identify the bodies where they were buried.

Q And where was that?

A That was in the district of Pazo, close to the factory there.

Q Were you able to identify any bodies at that place?

A Yes, we were able to identify my father-in-law.

Q Dr. Cojuangco?

A Yes, Dr. Antonio Cojuangco. And Asela Carlos, Mrs. Antonio Cojuangco, Dr. Uychico, my wife, Antonio Cojuangco, Jr., and the body of Mrs. Ramon Cojuangco. They were all at the same time.

Q What was done with those bodies?

A We covered them up and put them in caskets, lowered them down again and buried them where they were to start with.

Q And are they still there?

A They are still there, and we have a monument there for them.

CAPTAIN CALYER: You may examine.

CAPTAIN REEL: No questions.

(Witness excused)

CAPTAIN CALYER: If you please, that completes the testimony in this incident.

CAPTAIN PACE: If the Commission please, this is case

number 28. The first witness is Alfred Lagmay.

ALFRED V. LAGMAY

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

DIRECT EXAMINATION

Q (By Captain Pace) Give your name and address.

A 412 Espana Street, Sampaloc, Manila.

Q What is your name?

A Alfred Lagmay.

Q What do you do?

A I am at present not working, but I used to be a student.

(A photostat was marked
Prosecution Exhibit No. 56
for identification.)

Q Will you look at Prosecution Exhibit No. 56, and say whether or not that is an accurate description of the area bounded by Taft Avenue, Oregon Street, San Marcelino Street and Padre Faura Street?

A Yes, it is an accurate description of the place.

CAPTAIN PACE: I offer it in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 56
for identification was
received in evidence.)

Q (By Captain Pace) Now, on the evening of February 10th, will you tell us where you were?

A About between 7 o'clock and 7:30, we were at the vacant lot. We were supposed to be fleeing from a burning home.

Q By a "vacant lot", you mean the area marked "Vacant lot" on Colorado Street in Exhibit 56?

A Yes.

Q What were you doing there?

A We were supposed to be taking refuge from our burning homes there, since there was no other place to go, since all around us were Japanese; we had to stay there.

Q You will have to speak louder.

A We were supposed to be taking refuge from our burning homes, and since the whole area was surrounded by Japanese and there was no other place to go to, we had to stay in that vacant lot there.

Q All right. And what happened there?

A We stayed there for about between 15 minutes and a half hour. Then we had some Japanese beckon to us to go toward Padre Faura.

Q Padre Faura Street?

A Yes.

Q What time was that?

A That was about quarter to eight.

Q Quarter to eight in the evening?

A Yes.

Q How many people were in this area that you speak of as a "vacant lot"?

A I figure there must have between 50 and 70 people.

Q What did you do after the Japanese instructed you to go toward Padre Faura Street?

A We immediately got a few of our belongings and we started coming toward Padre Faura Street, and in Padre Faura

Street there was a line of soldiers and officers there, all with rifles and fixed bayonets, sir, and they were leading us to the corner of Padre Faura Street and Taft Avenue.

Q You say you went to the corner of Padre Faura and Taft Avenue?

A Yes, sir.

Q And what happened there?

A The Japanese separated the women and the children from the men and the older boys, sir, and in the meantime they were unloading a trucks of Japanese soldiers there.

Q What did the women do?

A They were led towards the Philippine General Hospital.

Q What did the men do?

A They had to stay behind, because the Japanese forced them to stay in that spot there.

Q By "that spot", you mean the corner of Taft Avenue and Padre Faura Street?

A Yes, in front of the Corona Restaurant.

Q Will you look at Prosecution Exhibit No. 56 and indicate where you mean?

A Here (indicating). This place marked "J".

Q Can you describe, a little more accurately -- is that in the middle of the street?

A It is in this area covered by a white rotunda, on the corner of Padre Faura and Taft Avenue, right in front of that (indicating).

Q In front of the building marked 9?

A Yes.

Q And that building marked 9; what is that?

A That was the Corona Restaurant.

Q What did the men do there?

A For a while, the Japanese started shoving us towards the front of the restaurant, and for a moment we thought that we were being told to proceed and go ahead, but apparently they were trying to put us in a more orderly line. There were about a little over a hundred people there I figure.

Q A hundred men and boys?

A A hundred men and boys.

Q In front of the Corona store?

A Yes, sir.

Q Will you describe how they were lined up?

A It wasn't exactly an orderly line. It was rather -- more or less confused and disorderly, but I think it must have been about a little over 20 men long, most probably 25, and four or five men deep.

Q You mean the line was 20 men long and about 5 men deep, is that right?

A Yes.

Q All right. What happened then?

A The Japanese asked us whether we had any arms or pistols, sir, and we told them we never had any.

Q Did they find any arms or pistols in the group?

A No, they didn't even search us, sir. They just simply asked us whether we had any arms, sir.

Q Yes?

A Then the soldiers were forming a semi-circle around the group, and then before we knew it a machine gun, which

was placed right at the very center of that semi-circle broke loose -- rather, fired --

Q Excuse me. Where was the semi-circle of soldiers? On Taft Avenue?

A Yes.

Q And the machine gun was set up on Taft Avenue?

A Yes, sir. As a matter of fact, there were two semi-circles: An inner and an outer one, the inner composed of about 10 to 15 soldiers, and the outer one composed of about the same number.

Q You say the machine guns started firing, is that right?

A Yes, sir.

Q Go on from there.

A Then everybody fell, those who were hit by the machine gun and those who were not, both, so as not to expose themselves to the fire. Then there was moaning, screaming and crying; then the soldiers closed in with their bayonets, including the officers, who drew their broad swords, and then the officers hacked right and left, up and down the line.

Q They did what?

A They struck with their sabers, sir, and the soldiers joined in with their bayonets and with their iron pointed poles, sir; kept on thrusting up and down the line.

Q Had you been wounded up to this time?

A I wasn't hit by the machine gun, but an officer -- I was at the end of the line, and an officer came along and tried to hit me with his sword. I rose astride on my knees, sir, and then when the broad sword went down I was

able to swerve to the left, and it missed me. I grabbed the sword and tried to push him away, but he drew it. When I released the broad sword, simultaneously an officer took his gun and shot me point blank. He was about three meters away from me only. Then I fell backwardss.

Q What kind of a gun?

A A pistol.

Q Where did that hit you?

A Right here (demonstrating).

Q Will you stand up and face the other way, so the Commission can see that?

A It is a compound fracture (indicating arm).

CAPTAIN PACE: Is it stipulated that the witness is indicating a scar on his left elbow, for the sake of the record?

CAPTAIN SANDBERG: Yes.

Q (By Captain Pace.) All right. What happened then?

A Then I fell backwards. Then when I was falling backwards the officer again struck me with the broad sword, and it hit me right here in the leg (indicating). For a moment I wasn't conscious, only for a few seconds, sir. Then when I tried to open my eyes a little, so I could see what was going on around me, the officers and the soldiers kept on. The officers were striking with their broad swords up and down, and the soldiers with their bayonets and iron pointed poles, sir.

Q Now, you testified that you were lined up at about 8 o'clock in the evening of February 10th, is that right?

A Yes, sir.

Q How long did the machine gun fire into the group?

A For a brief moment only, but the officers and the soldiers kept on striking with their broad swords and thrusting with their bayonets for about 10 minutes or so.

Q Then what happened?

A Then the officers stopped striking with their sabers and wiped them on the backs of the dead and then put them in their -- put their sabers back in their sheaths, sir.

Q You mean they wiped the blood off of them on the backs of the dead?

A Yes, sir. Then after about five minutes after the officers finished striking with the sabers, the soldiers probably got tired already and they were satisfied that everybody was dead, and stopped. Somebody was apparently calling them from the direction of Padre Faura --

Q I beg pardon?

A Somebody was calling them from the direction of Padre Faura. Then the soldiers moved over -- I mean went away, leaving about two or three soldiers behind them, and those who were still alive and could get up fled for their lives, sir.

Q Were you one of the group who fled?

A Yes, sir.

Q Out of the 100 people that you approximate were there, will you give the names of any that you know to have been killed?

A Mr. Jose Lazaro, age 27, my closest companion.

Q Yes?

A Professor Delfin De La Paz, Sr., professor at the

University of the Philippine Islands. Justice Anacleto Diaz.

Q Supreme Court Justice Diaz?

A Yes. And Luis Samanillo.

Q Yes?

A That is all.

Q Do you remember James Woo, Sr.?

A Oh, yes.

Q A Chinese?

A Yes, James Woo, Sr.

Q Did you see Justice Diaz before he was killed?

A Yes, sir.

Q Under what circumstances?

A He was being brought over to that corner, carried over by some others, and he was laid down on the sidewalk. I presumed then that he was sort of an invalid.

Q He was unable to walk himself, is that right?

A Yes.

CAPTAIN PACE: You may inquire.

CROSS EXAMINATION

Q (By Captain Sandberg) You have referred to these Japanese a number of times as "soldiers." Can you state definitely whether they were members of the Japanese Army or of the Japanese Navy?

A You mean these people who took part in the massacre?

Q That is right.

Q I cannot say definitely whether they were of the army or navy.

CAPTAIN PACE: Thank you very much. You are excused.

(Witness excused.)

CAPTAIN PACE: Delfin De La Paz, Jr.

DELFIN DE LA PAZ, JR

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

DIRECT EXAMINATION

MAJOR KERR: Be sure to speak loudly.

Q (By Captain Pace) Will you give your name and address, please?

A Delfin De La Paz, Jr., 849 Don Quijote Street, Sampaloc.

Q How old are you, Delfin?

A 15.

Q Do you remember February 10th, 1945?

A Yes, sir.

Q What happened to you on that date?

A About 7 o'clock in the night, when the neighborhood was burning, we went to a vacant lot, where the Japanese took us and told us to go to the hospital, Philippine General Hospital.

Q I show you Prosecution Exhibit No. 56, and ask you if the vacant lot you refer to is the same one marked on there?

A Yes, sir.

Q What happened after you were taken to the lot?

A The Japanese told us to go to the Philippine General Hospital, and when we were in the corner of Padre and Taft Avenue they separated the men from the women, and they told the women to proceed to the hospital, and we were lined up in the corner in front of the Corona Res-

taurant.

Q The Corona store?

A Yes, restaurant.

Q At the corner of Taft and Padre Faura?

A Yes, sir.

Q Who was with you then?

A My father.

Q What was his name?

A Delfin De La Paz, Sr.

Q Did you see anybody else being taken there?

A Yes, sir.

Q Who was that?

A Justice Anacleto Diaz.

Q How was Justice Diaz being taken from Padre Faura?

A He was being carried by his two sons.

Q Do you remember the names of the sons?

A No, sir.

Q Was he able to walk at all?

A No, sir.

Q Do you know what was wrong with him?

A No, sir.

Q You saw him carried by his two sons to the Corona store, is that right?

A Yes, sir.

Q What happened after you were all gathered at the store there?

A The Japanese lined us up and they asked us if we wanted to die. Then they started talking to each other, and they began to shoot.

Q What were they shooting with?

A Machine guns.

Q Yes?

A And they also had rifles.

Q Yes?

A And when the people were starting to fall down, they stopped shooting and went near us and started bayoneting. Then after 10 minutes they went out, and I tried to escape, but the Japanese saw me and shot me.

Q Where did they shoot you?

A In the feet.

Q Whereabouts?

(The witness indicated.)

CAPTAIN PACE: The record will show that the witness is indicating his left ankle.

Q (By Captain Pace) And what happened then?

A I tried to escape, and they did not touch me. I went to the house of a doctor, where he treated my wounded, and that house was then burned. We went to Padre Faura again, where the next morning the Americans got us there.

Q The Americans what?

A The Americans liberated us.

Q What happened to your father?

A He was killed.

Q Could you give me the names of anybody else that you know who was killed on that corner?

A Eustacio Jimenez.

Q Eustacio Jimenez?

A Yes. Felino Angeles, James Woo, Sr., and James Woo,

Jr.

Q How about Justice Diaz and his two boys?

A Yes, they were there.

Q Anybody else?

A And Jose Lazaro.

Q How many people do you estimate were killed there that you don't know the names of?

A About 50.

Q 50?

A 50 men.

CAPTAIN PACE: You may inquire.

CAPTAIN REEL: No questions.

(Witness excused)

CAPTAIN PACE: Dr. Diaz.

DR. MOSES Z. DIAZ

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

DIRECT EXAMINATION

Q (By Captain Pace) Give your name and address, please.

A 649A Galicia Street.

Q What is your name?

A Moses Diaz.

Q What is your profession?

A Physician.

Q You will have to speak louder.

A I am a physician.

Q Who is your father?

A My father was Associate Justice Anacleto Diaz.

Q And about February 10th, will you describe what the physical condition of your father was?

A I did not see my father on that date.

Q I mean, in that general period of time, prior to February 10th, 1945.

A On that particular day I did not see my father, sir, because I was living on the other side of the river near the university, Tomas.

Q What was his physical condition during the early part of February?

A He was developing paralysis about a month and a half or two months before the Americans arrived.

Q Was he able to walk by himself?

A No. He couldn't move both legs, especially his right leg.

Q Now, you didn't see your father on February 10th, did you?

A I did not, sir.

Q When did you see your father for the first time after February 10th?

A I saw him when I went to the intersections of Taft Avenue and Padre Faura Street, because my mother told me that she left my father for the last time in that place. I went there with two servants and a caretaker, and we picked the dead bodies off my two brothers and my father.

Q I show you Prosecution Exhibit No. 56, and ask you to indicate where you found your father's and two brothers' bodies.

A This place (indicating).

Q You are indicating building number 9?

A It must have been that place.

Q Is that where you are pointing?

A Yes.

Q What are your two brothers' names?

A One is Teodoro, and the other one is Carlos Diaz.

Q And you identified your father and those two brothers, is that right?

A I was able to identify those two brothers because they were whole and intact, but my father was -- I just found his charred body.

Q Did you see any other bodies there?

A I saw also the bodies of 16 persons, and I took all these bodies and buried them.

Q What was the condition of the sidewalk in front of the building there at that time?

A The sidewalk close to the wall of the house, the restaurant, is cemented, but part of it is not.

Q What?

A It is cemented, I say, but part of it, the part close to the street -- part of it is not cemented.

Q Yes?

A And in this place I picked up one body, a Chinese by the name of James Woo.

Q Was there any debris on the sidewalk?

A There was none that I remember.

Q How about the roof of the building?

A Well, the roof of the building covered part of the sidewalk, had fallen.

Q You didn't look under there to see if anybody --

A I tried my best to see if any other bodies were inside of the roof, but I couldn't see under.

Q You couldn't?

A I couldn't see under.

Q You don't know whether there were any bodies under there?

A I left one, just one body that I wasn't able to recover, because he was so under several little pieces of wood and iron; I thought it would take me one whole day to remove the body, so I didn't take any more.

Q On February 16th, did you find anything unusual?

A February 16th? I don't remember.

Q That is two days after you found your father's body. Did you see anybody else's body in that neighborhood?

A I went -- after I buried the bodies of my father and two brothers and the rest of the people there, I went to Colorado to recover some bodies they left there, and as we were digging and removing the debris one of the servants told us that a person by the name of Papa, they found him dead on the other side, the back yard in the lot behind the house.

Q You found the body of James Papa, is that right?

A Yes.

Q He is an American citizen?

A I do not know about that.

(A statement was marked as
Prosecution's Exhibit No.
57 for identification.)

CAPTAIN PACE: At this time I would like to offer in

evidence Prosecution Exhibit No. 57 for identification, which is the sworn statement of Tina Jensen Camboa, to offer further evidence as to the death of James Papa whom the witness just stated he found. I can further state that this witness, to the best of my knowledge, is in the United States at this time.

GENERAL REYNOLDS: It will be accepted in evidence --

CAPTAIN SANDBERG: We expect to object, sir; we are still studying it.

CAPTAIN PACE: May I read the last two questions on this statement?

CAPTAIN SANDBERG: It hasn't been received in evidence.

CAPTAIN PACE: I beg your pardon.

CAPTAIN REEL: If the Commission please, we object to the admission of this offered exhibits for the reasons that have already been given in connection with all of the other depositions and statements in this hearing. I might add that this exhibit probably shows as well as anything the sense and the reason and the intelligence behind the rule that does not permit this sort of thing in any ordinary hearing. If the Commission will notice, the questions and answers are quite naturally so phrased as to be of benefit to the Prosecution. The Defense has had no opportunity to file similar questions or different questions, and we have had no opportunity to find out what questions and answers that the Prosecution didn't like were removed.

But more than that, I want to call the Commission's

attention to the last question and answer, which is not only double hearsay, but double hearsay based on a conjecture, of which the witness could not possibly have any knowledge; which, I think you can see at a glance, is extremely prejudicial, that it is put in for prejudicial purposes.

We strongly object to this statement.

GENERAL REYNOLDS: The final question and its answer will be stricken from the record and from this document. With that exception, it is accepted as evidence.

(Prosecution Exhibit No. 57
for identification was
received in evidence.)

CAPTAIN PACE: May I read the last two questions and answers on the bottom of the first page, sir? That is page 2 of four pages.

"Q During the time that the Japanese occupied Manila did you witness any atrocities inflicted by the Japanese upon civilian or military personnel?

"A I witnessed the execution of James Papa, who lived in the YMCA located at the corner of Oregon and Pennsylvania Streets.

"Q Will you please describe what you saw?

"A The Japanese had set fire to the YMCA building, and James Papa was shot while fleeing from the burning building. He was shot directly in front of my home."

No further questions.

CAPTAIN REEL: No questions.

(Witness excused)

CAPTAIN PACE: May I have these documents marked for identification?

(Prosecution Exhibits Nos. 58, 59, 60, 61, 62, 63, 64, 65, 66, 67 and 68 marked for identification.)

CAPTAIN PACE: If it please the Commission, at this time I would like to offer Prosecution Exhibit Nos. 58, 59, 60, 61, 62, 63, 64, 65, 66, 67 and 68, which are statements of witnesses which were taken by the investigators in this case, which are offered for the purpose of identifying the bodies of the 39 victims that it is alleged were killed in this case.

CAPTAIN SANDBERG: The Defense will have to examine these documents and requests time for that purpose.

GENERAL REYNOLDS: The Commission will recess until 8:30 A. M. tomorrow morning.

(At 1635 hours, 30 October 1945, the trial was adjourned to 0830 hours, 31 October 1945.)

Yamashita, Tomoyuki, 1885-1946, defendant.

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

UNITED STATES OF AMERICA)

-vs-)

TOMOYUKI YAMASHITA)

PUBLIC TRIAL

High Commissioner's Residence,
Manila, P. I.
31 October 1945

Met, pursuant to adjournment, at 0845 hours.

MEMBERS OF MILITARY COMMISSION:

MAJOR GENERAL RUSSELL B. REYNOLDS, Presiding Officer
and Law Member

MAJOR GENERAL LEO DONOVAN

MAJOR GENERAL JAMES A. LESTER

BRIGADIER GENERAL MORRIS C. HANDWERK

BRIGADIER GENERAL EGBERT F. BULLENE

APPEARANCES:

(Same as heretofore noted.)

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Lucio Mariano	343	354		
Dr. Toribio Josen	355			
Maximina de Castro	359	362		
Alfredo Savellano	364			
Maria Campos Lopez	367	372		
Mrs. Rosario Yolo	375			
Mariano Del Rosario	383			
Lucrecia Figueroa	395	401	401	
Co Ching	405	413		
Father Manuel A. Gracia	414	422	425	
Basilio Umagap	428			
Luis A. Flores, Jr.	433	437	439	
Bhagwani Hernandos	439			
Sister Anna De Jesus	442	449		
Luisa Barahona	450	457		
Camilo Diego	462	469	472	
Dr. Luis Vasquez	472			
Winifred Colma	479			
Angeles Barahona	481	485		
Dr. Herminio Velarde, Jr.	487	493		

EXHIBITS

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
58		342
59		342
60		342
61		342
62		342
63		342
64		342

EXHIBITS

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
65		342
66		342
67		342
68		342
69 (omitted in numbering)		
70	350	350
71	351	351
72	351	352
73	352	352
74	352	353
75	353	354
76		358
77	367	386
78	389	390
79	390	390
80		391
81		392
82		392
83		393
84		401
85		413
86		421
87	421	
88	443	443
89	444	444
90	446	447
91	447	447

EXHIBITS

PROSECUTION EXHIBIT NO.

FOR IDENTIFICATION

IN EVIDENCE

92

447

448

93

448

448

94

448

449

95

495

495

PROCEEDINGS

GENERAL REYNOLDS: The Commission is in session. The Prosecution will proceed.

MAJOR KERR: Sir, all of the members of the Commission are present, the Accused and Defense counsel are present, and the Prosecution is ready to proceed.

MAJOR OPINION: If the Commission please, this case is called National Psychopathic Hospital.

GENERAL REYNOLDS: The Commission interrupts to say that a matter was pending when we recessed yesterday that should be handled before we proceed.

MAJOR KERR: Does the Commission refer to the statements which were offered in evidence yesterday?

GENERAL REYNOLDS: At which time the Defense requested time to study them.

CAPTAIN SANDBERG: The Defense objects to the introduction of these statements on the same grounds as have previously been noted. The Defense requests also that this objection be noted for any future depositions of this sort and requests the Commission that such objection be noted without having been stated as a running objection unless otherwise expressed by counsel.

GENERAL REYNOLDS: The Commission accepts that statement.

Subject to objection by any member of the Commission the documents in question are accepted in evidence.

(Prosecution's Exhibits Nos. 58 through 68, inclusive, were received in evidence and so marked.)

GENERAL REYNOLDS: Counsel will proceed.

MAJOR OPINION: Sirs, this case is described in Paragraph 19 of our Bill of Particulars.

CAPTAIN REEL: Pardon me, sir. I would like to ask a question as to whether the Prosecution is through with the case that they were putting in yesterday afternoon in connection with which these particular exhibits were offered.

MAJOR KERR: We are.

CAPTAIN REEL: Then I should like to ask the Prosecution about the statement of Liese Lotte Stamer de Perez. The Prosecution gave the Defense a group of statements having to do with this case that was discussed yesterday afternoon, and they have seen fit to put in all except this one. I should like to know if they intend to put in this statement of Liese Lotte Stamer de Perez later, and, if not, whether it should not go in now as part of this case.

MAJOR KERR: No. That is purely corroborative, sir, and we shall not offer that. It is not being offered in evidence.

CAPTAIN REEL: You do not intend to offer this in evidence?

MAJOR KERR: That is correct.

CAPTAIN REEL: Thank you.

LUCIO MARIANO

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

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name.

A Lucio Mariano.

Q Age?

A Fifty-one.

Q Address?

A National Psychopathic Hospital, Mandaluyong, Rizal.

Q Civil status?

A Married.

Q Are you working in a governmental institution?

A I am the administrative officer of the National Psychopathic Hospital.

Q Will you please state, where is that National Psychopathic Hospital?

A It is in the municipality of Mandaluyong, Province of Rizal, about nine kilometers from the heart of the City of Manila.

Q Showing you this Exhibit 68 of the Prosecution, please tell the Commission, if you know, what it represents, or what it purports to represent.

A This is the map showing the location of the buildings.

Q Of what?

A Of the National Psychopathic Hospital. In short, this is the compound of the National Psychopathic Hospital.

Q Will you please show the wards written on each of them?

A Here are shown, as marked, Pavilion No. 1, Pavilion

No. 2, Pavilion No. 3, Pavilion No. 4, Pavilion No. 5, the kitchen, the storeroom, the administration building, and several other small cottages.

Q Does this Exhibit 69 truly represent the situation and the location of each of the buildings or offices mentioned by you?

A Yes, sir.

Q Where were you on early noon of 8 February 1945?

A I was at the administration building in one of its rooms.

Q What were you doing at the time in that building?

A I was in my room, in my temporary room, rather, at that time, resting for to start the afternoon work on that day.

Q Did anything unusual transpire that morning while you were in your room?

A That afternoon; yes, sir.

Q Will you please tell the Commission what it was?

A About 12:30 or 1:00 o'clock that afternoon a group of Japanese officers and men entered the compound of the Psychopathic Hospital.

Q How many were they?

A I cannot tell the exact number, but there were many.

Q How were they dressed?

A They were dressed in their uniform as military men of the Japanese forces.

Q Could you identify their unit?

A Yes, sir.

Q Were they Marines or Army soldiers?

A I think they were Marines. This could be visibly seen because of their caps, and then some signs on their uniform.

Q Were there any officers with them?

A Yes, sir; several.

Q Several. More or less, would you be able to state how many?

A At least about five or six of them I recognized as officers.

Q How did they come? Walking or rushing?

A They entered the compound rushing, and they spread in the different buildings and places of the hospital with rifles, drawn-out pistols, drawn-out sabers, and some of them carrying spears, long spears.

Q How about machine guns?

A There were also two machine guns with them.

Q What did they do after awhile?

A They spread in the different places of the hospital shooting, apparently terrifying the people of the compound. They then entered the different buildings and ordered all the people in to get out, and we were directed to head to Pavilion 1 and 2 on this map, all with raised hands.

Q Who told you to raise your hands?

A The officers and soldiers who went to each room.

Q Please proceed.

A When we were -- then we were directed to --. In my case, I was directed to Pavilion No. 2 as shown here. Some were directed to Pavilion No. 1, still with raised hands. We were gathered in the lobby of Pavilion 2, and

before allowing us to sit down, still with our hands raised, we were searched.

Q By whom?

A By some of the Japanese guarding that building.

Q What else happened?

A Then while we were gathered in that lobby people from the different places were still coming in, led by some Japanese with fixed bayonets. In the turmoil in the place where I was, one female patient, an insane, who happened to be in that group, or brought into that group, got excited and apparently very confused. So she started to cry and shout. One of the Japanese officers approached her and gave her a blow, this way (illustrating).

Q Whereabouts?

A On the face. The patient fell down on the cement floor. Then the same officer grabbed her up, grabbed her back to put her up, but she would not because she was so confused. Then the officer gave her another blow.

Q On what part of her body?

A And the patient fell, apparently, on the cement floor. Then he kicked her, and apparently she was unconscious, and the Japanese officer called for one of our physicians there and directed him to fix her up.

Q What was the name of that physician?

A Doctor Clarin; Jose Clarin.

Q Please proceed.

A At the same time some more people were coming in. I saw one of our patients by the name of Pedro Morro being led by another Japanese into our group. The patient, when

entering the lobby where I was, was judoed by the sentry guarding the door of the lobby. He fell on his back flat on the cement floor, hitting his head on the pavement. Suddenly I saw him flat on his back, and blood started to gush out of his nose and mouth. I thought he was dying. Then another officer came and tried to hold his face and find out what was wrong, but blood continued gushing out of the patient's nose and mouth. When he was apparently dead the same officer who judoed him down came and kicked him on the face. I don't know which side, but he was kicked on the face, taking him for dead. The same man held him by the arm and dragged him out. Maybe he was taken for dead. He was dragged out on the lawn in front of that building.

Q Please proceed. What happened after awhile?

A While we were gathered there about four or five from among our group were picked up by Japanese officers, one after the other. After they had been picked up they were tied on their back with rope and taken out of our group or out of the building.

We stayed in that building until eight o'clock, and by nine o'clock we were transferred to Pavilion No. 1, where we were released about nine o'clock.

Q You say four or five of your group were taken out. Did you know where they were taken to?

A The following morning, because we were instructed by the Japanese before letting us out of the pavilion to return to our respective rooms and cottages; not to get out of our room, our places, during the night, -- the following morning I saw the cadaver of about 17 or 18 of

our people below the cliff.

Q What do you mean by "our people"?

A I mean people in the compound, living with us, within the hospital compound.

Q Do you mean the employees, or patients?

A Patients and employees.

Q You say that you found about 17 bodies. Were you able to identify any or all of them?

A I was able to identify a few of them; maybe about four or five.

Q Can you mention their names?

A Yes, sir. They were Tomas Aguinaldo, our electrician; Tomas Corpus; Laguelles -- I don't know his name now; Ernesto Palad.

Q Do you know a man by the name of Honorato Natividad?

A Yes, sir. He was one of our policemen in the hospital. He was one also found among the bodies piled below the cliffs.

Q Do you know the name "Surrell"?

A Yes, sir.

Q What is his first name, please, if you remember?

A We have so many employees that we mostly know them by surname. We mostly call them by surname.

Q Did you see him, also?

A I saw him, also. He was buried -- he was partly buried.

Q Where?

A In front of the storeroom just below the cliff.

Q Can you identify that officer who ordered you to

go out and gather yourselves in Pavilion No. 1?

A If I would see him I surely will be able to identify him.

Q Will you please describe his appearance?

A Well, he's about five one or two high. He looks more like Chinese, or between Chinese and Japanese. He has plenty of white pimples on his face. I remember his hair is parted, I think, on the left.

Q How about his rank? Would you be able to mention his rank?

A I know he is an officer, because he carried a pistol and a saber.

MAJOR OPINION: I ask that this be marked Prosecution's Exhibit No. 70.

(Photograph of cliff behind storeroom was marked Prosecution's Exhibit No. 70 for Identification.)

Q (By Major Opinion) Showing you this Exhibit 70, will you please tell the Commission what it represents?

A This is the cliff behind the storeroom of the Psychopathic Hospital where I saw the cadavers of the persons mentioned previously.

MAJOR OPINION: I offer this as part of my evidence.

GENERAL REYNOLDS: There being no objection, the document is accepted in evidence.

(Prosecution's Exhibit No. 70 for Identification was received in evidence and so marked.)

MAJOR OPINION: I ask that this be marked Prosecution's Exhibit No. 71 for Identification.

(Photograph of place where
cadavers were burned was
marked Prosecution's Exhibit
No. 71 for Identification.)

Q (By Major Opinion) Showing you this exhibit 71,
please state, if you know, what it purports to represent:

A It looks to me that this is the very place where
those cadavers were burned later, because I, myself,
ordered the burning of those cadavers, and these are some
of the bones of the unfortunates.

MAJOR OPINION: Sirs, I offer this as part of our
evidence.

GENERAL REYNOLDS: There being no objection, the
document is accepted in evidence.

(Prosecution's Exhibit No. 71
for Identification was re-
ceived in evidence and so
marked.)

MAJOR OPINION: I ask that this be marked Exhibit
No. 72 for Identification.

(Photograph of kitchen of
National Psychopathic
Hospital was marked Prose-
cution's Exhibit No. 72 for
Identification.)

Q (By Major Opinion) Showing you this Exhibit 72, will
you please tell, if you know, the view taken in that photo-
graph?

A This is the kitchen of the National Psychopathic
Hospital.

MAJOR OPINION: I offer this in evidence as part of
our evidence.

GENERAL REYNOLDS: There being no objection, the
document is accepted in evidence.

(Prosecution's Exhibit No. 72
for Identification was re-
ceived in Evidence and so
marked.)

MAJOR OPINION: I ask that this be marked Exhibit
No. 73 for Identification.

(Photograph of place where
cadavers were burned taken
from different angle was
marked Prosecution's Exhibit
No. 73 for Identification.)

Q (By Major Opinion) Showing you this Exhibit 73,
please tell the Commission what it represents.

A This is the very same place below the cliffs, ap-
parently taken from another angle.

MAJOR OPINION: Sirs, I offer this as part of our
Prosecution evidence.

GENERAL REYNOLDS: Subject to objection, and there
being no objection, the document is accepted in evidence.

(Prosecution's Exhibit No. 73
for Identification was re-
ceived in Evidence and so
marked.)

MAJOR OPINION: I ask that this be marked Exhibit 74
for Identification.

(Photograph of entrance to
storeroom was marked Prose-
cution's Exhibit No. 74 for
Identification.)

Q (By Major Opinion) Please state what this Exhibit
74 represents.

A This is the entrance to the storeroom of the National
Psychopathic Hospital, and there is shown here the excava-
tion where Policeman Surrell was buried by the Japanese,
apparently alive, because, when found, he did not show any

signs of physical injuries. Besides, when I saw the cadaver, it was partly buried; part of the extremities were still visible.

Q What part of the extremities were visible at the time you saw the cadaver?

A I saw the hand.

Q What was the position of the hands?

A Well, it was apparently not straight, but a little bit inclined.

MAJOR OPINION: I offer this, sirs, as part of our evidence.

GENERAL REYNOLDS: There being no objection, the document is accepted in evidence.

(Prosecution's Exhibit No. 74 for Identification was received in Evidence and so marked.)

MAJOR OPINION: I ask that this be marked Exhibit No. 75 for Identification.

(Photograph of "Electric Post" was marked Prosecution's Exhibit No. 75 for Identification.)

Q (By Major Opinion) Please state, if you know, what this Exhibit No. 75 purports to represent.

A This is an electric post with shrubs at the foot of the post just across the main entrance of the storeroom.

Q From Exhibit No. 75 is the storeroom visible?

A Yes, sir. It is very plenty visible, especially the entrance.

Q Where is it situated in that photograph, Exhibit 75?

A You mean the storeroom?

Q Yes.

A Well, that is the background; a little bit of the background.

Q Do you mean this portion here (indicating)?

A Yes, sir.

MAJOR OPINION: I offer this, sirs, as part of our evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 75 for Identification was received in Evidence and so marked.)

MAJOR OPINION: That is all, sirs.

Your witness.

CROSS EXAMINATION

Q (By Captain Sandberg) Was there any shelling in the vicinity of the hospital at this time?

A Shelling, you mean, sir?

Q Were any shells falling in the vicinity of the hospital?

A Very, very little.

Q Was there any shelling?

A Some shells fell.

Q Was there any bombing in the vicinity of the hospital?

A There was no bombing.

Q Outside of the one man whom you saw and the one woman whom you saw, did you see how these other people met their death?

A I did not see, sir.

CAPTAIN SANDBERG: That is all.

(Witness excused).

DR. TORIBIO JOSON

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

DIRECT EXAMINATION

Q (By Major Opinion) What is your position at the National Psychopathic Hospital?

A At the present I am the chief psychiatrist of the male department at the hospital.

Q On or about 8 or 9, and thereafter, February, 1945, what was your position, if any, in that hospital?

A I was the medical officer in charge of the hospital.

Q The medical officer in charge of the hospital?

A Yes, sir.

THE REPORTER: Will you please ask the witness his name, Major?

MAJOR OPINION: Pardon me.

Q (By Major Opinion) Please state your name.

A Toribio Joson.

Q Age?

A Fifty years old.

Q Address?

A National Psychopathic Hospital.

Q What was your position, you said?

A I was the medical officer in charge of the hospital.

Q On the 9th of February, 1945, where were you?

A I was in the hospital premises.

Q Did you have the knowledge about the arrest and killing of persons and patients in the hospital on the day previous, or that day?

A Yes, sir.

Q Will you please tell the Commission what steps you took, if any?

A After the Americans had arrived I tried to check the employees and patients of the hospital who were killed, and I found that there were four employees who were burned and seven patients who were burned, below the cliff, near the storeroom of the hospital. On the cliff there was also an employee who was buried.

Q What was the name of that employee buried?

A Marcial Surrell.

Q What was the name of those persons whom you said were killed?

A The four persons who were burned below the cliff were Tomas Corpus, Tomas Aguinaldo, Isidro Laguelles, and Honorato Natividad.

Q How about the persons whom you said were missing?

A Patients? The patients were Ernesto Palad, Miguel Villanueva, Justo Magdale, Federico Cava, Justo Magdale, Ong Sing Lim, Juan Abella, Enrique Gallardo, Tomas Balonda, Maximo de la Cruz, Pelagio Urbano.

Q How about Ang Chiong?

A Ang Chiong was found dead outside the hospital premises.

Q Showing you this Exhibit 76, will you please tell if you know what that exhibit is?

A Yes, sir.

Q What is that exhibit? Who issued that exhibit?

A Mr. Lucio Mariano.

Q Under whose direction was it issued?

A I do not know.

Q Under whose direction was it issued?

A I only think that this was issued by Mr. Mariano at the direction of the officers who investigated.

Q You said that you have verified the missing persons. Who furnished Mr. Mariano about the missing persons?

A I remember I prepared the list of the missing persons myself.

Q To whom did you furnish that?

A To the Director of Health.

Q Will you please state now the names of the persons listed there, if these names coincide with the persons you have just mentioned as missing and killed?

A Yes, sir. All of these names here are the names of the persons I submitted to the Director of Health.

MAJOR OPINION: We submit, if your Honors please, this, as part of our evidence.

That is all, sirs.

Your witness.

CAPTAIN SANDBERG: Has Prosecution's Exhibit No. 76 been offered in evidence?

THE REPORTER: It has been offered but not received.

GENERAL REYNOLDS: There being no objection, the document is accepted in evidence.

CAPTAIN SANDBERG: The Defense objects to this

certificate on the ground that it purports to refer to the killing of persons by Japanese Marines, as to which there has as yet been no evidence submitted by a person who has knowledge to that effect. The certificate is made by Lucio Mariano, administrative officer of the National Psychopathic Hospital, who apparently was not a witness to this occurrence, and who has no competency to testify as to how the persons met their death. This witness has not testified that these persons were killed by Japanese Marines. He simply testified that they were found dead.

GENERAL REYNOLDS: The following words are stricken from the certificate: "as having been killed or missing as a result of the massacre at this institution on 6th to 8th of February, 1945, by the Japanese Marines," and substituting therefor, "the following patients and employees as having been killed or missing on 6th to 8th February, 1945."

Is there objection by the Defense to that phraseology?

CAPTAIN SANDBERG: No, sir, there is not.

GENERAL REYNOLDS: Subject to any objection by a member of the Commission, the certificate as amended by the Commission is accepted into evidence.

(Certificate of Lucio Mariano, as amended, was received in evidence and marked Prosecution's Exhibit No. 76.)

CAPTAIN SANDBERG: No questions.

(Witness excused.)

GENERAL REYNOLDS: The Commission will be recessed

for five minutes, at which time the public may move forward if they choose to do so, saving the unoccupied seats on the left.

(Short recess)

GENERAL REYNOLDS: The Commission is in session. The Prosecution will proceed.

MAXIMINA de CASTRO

called as a witness by and on behalf of the Prosecution, having been first duly sworn, was examined and testified through Interpreter Zamora as follows:

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name.

A Maximina de Castro.

Q Address?

A Psychopathic Hospital.

Q Age?

A 34 years.

Q Occupation?

A Ward attendant.

Q On the afternoon of February 8, 1945, where were you?

A I was there in the shop of Palo Maria. We were living there.

Q Where is the shop of Palo Maria with relation to the hospital?

A That shop is for working purposes of the hospital.

Q Was it situated in the front or in the rear part of the hospital?

A Inside the hospital.

Q In front or behind the hospital?

A Behind the hospital.

Q Do you know where was the kitchen of the hospital?

A Yes.

Q Was that shop behind, or by the side, or in front of the kitchen?

A It is on the side of the kitchen.

Q Showing you this Exhibit 72, will you please state if you know it?

A Yes.

Q What is it?

A This is the kitchen of the Psychopathic Hospital.

Q Have you ever been, on the afternoon of that day, in this Exhibit 72?

A No, I was not there. I was inside of the shop.

Q Do you know what happened which was unusual, if anything happened, that afternoon?

A Yes, I know.

Q What happened?

A After our meal, about one o'clock, I heard shots. After these shots I saw many Japanese arresting many persons. After arresting the persons they were taken to a place that I don't know where. Afterwards I saw that in the kitchen there was nobody left but Mrs. Abelardo. Afterwards I looked all around where I was. I saw many Japanese sitting around our shop. Then I was frightened. Afterwards I peered out from a small window about four o'clock in the afternoon. I saw many people coming from my right side in front of me toward the storeroom. There were persons tied up together and hardly could walk. Those persons were guarded by many Japanese with spears. Afterwards these persons were brought in front of the

storeroom. Then afterwards I saw a Japanese approach Mrs. Abelardo in the kitchen and ordered Mrs. Abelardo to go out. Then I saw another Japanese who went to the kitchen and got a bottle of boiled soft rice. Afterwards they brought it to the storeroom. Then I saw all persons were ordered to get inside of the storeroom. Afterwards there were two persons led out with a piece of cloth-covered the eyes, and taken to a place, a hilly place, a cliff near the storeroom. Then afterwards I saw the Japanese who brought the soft-boiled rice feed the two persons, and I don't quite know whether they ate it or not. Then I saw two Japanese bend backward and then shoot, and another two Japanese with a spear, meeting the dead body with the spear.

Q Do you mean stab with a spear?

A Stabbing the body.

CAPTAIN SANDBERG: May we have the last answer read?

(Answer read by the reporter.)

Q (By Major Opinion) Please proceed. After you saw the two Japanese stab the body of the two civilians, what else did the Japanese do?

A After the two persons fell down they were kicked and the bodies fell down the dugout.

Q By whom were they kicked?

A The two Japanese.

Q Can you state in what part of Exhibit 73 were those two persons kicked?

A On this part (indicating); on the upper part.

Q What is this upper part? Is it a cliff?

A It's a hilly place; sort of a cliff.

Q What did you do after you saw the two Japanese kick and push the two bodies over the cliff?

A After I saw that I was a'frightened, and then I invited my mother to pray.

Q And did you see the Japanese leave the premises?

A When I peer again from the window I saw that there were no more Japanese, but I saw smoke coming from the hilly place, and afterwards I smelled a thing that looks like a body.

Q Did you see the Japanese leave the wards that afternoon?

A At about six o'clock I saw lots of papers which I presume they used for cleaning the weapons.

MAJOR OPINION: That's all.

Your witness.

CROSS EXAMINATION

Q (By Captain Reel) I want to show you Exhibit 72 and ask you whether that is a picture taken from the room in which you were at the time this happened.

A Yes. It is a picture where I was.

Q In other words, a picture of where you were. Do you mean that it was taken from the place where you were, through the window?

A This is not the picture of where I was, but I saw this picture in front of me.

Q Well, let's get this straight. Then you were not in the room from which this picture was apparently taken through a window?

A I was in front of the kitchen.

Q Does the kitchen appear in that picture?

A Yes. The kitchen appears there.

Q All right. Will you point to me which of these buildings is the kitchen?

A This is the kitchen and this is the storeroom (indicating).

Q This is the kitchen here (indicating).

A Yes.

Q And this is the storeroom back here (indicating)?

A This big one (indicating).

CAPTAIN SANDBERG: This big one is the storeroom (indicating). May the record show that the witness pointed on Exhibit 72 to the small open building in the middle of the framing and described it as the kitchen, and the building on the right as the storeroom?

Q (By Captain Sandberg) And were you in the kitchen yourself at the time this occurred?

MAJOR OPINION: I will request, if your Honor please, that the interpreter be directed to understand thoroughly the question.

INTERPRETER ZAMORA: Please repeat.

CAPTAIN SANDBERG: I am sure that the interpreter does understand.

Will you read the question?

(Question read)

A I was not in the kitchen. I was in the shop of Palo Maria.

Q Does the shop of Palo Maria show in this Exhibit 72?

A It's not here.

Q Is Exhibit 72 taken from inside the shop of Palo Maria?

MAJOR OPINION: Objection, sirs, because that question has already been answered by the witness repeatedly.

GENERAL REYNOLDS: Objection not sustained.

CAPTAIN SANDBERG: Will you repeat the question, please?

(Question repeated by Interpreter Zamora).

A Yes. This is taken from the shop of Palo Maria.

Q (By Captain Sandberg) And from the shop of Palo Maria do you now say that you can see into the storeroom?

A Yes. Everything I can see, but you cannot recognize the person.

CAPTAIN SANDBERG: That is all.

GENERAL REYNOLDS: Will you repeat the last statement of the interpreter?

(Answer read)

CAPTAIN REEL: No further questions.

MAJOR OPINION: That is all.

(Witness excused)

ALFREDO SAVELLANO

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

DIRECT EXAMINATION

Q (By Major Opinion) Will you state your name?

A My name is Alfredo Savellano.

Q Age?

A Age 29.

MAJOR KERR: Speak up, please.

THE WITNESS: My name is Alfredo Savellano, 29 years old.

Q (By Major Opinion) Address?

A National Psychopathic Hospital.

Q Occupation?

A Nurse, male department.

Q Where were you at about 5:30 p.m. 8 February 1945?

A I was at the nurses' home, together with Nurse Pias and Mrs. Ablay and Miss Bertran.

Q At that hour were there Japanese?

A There were Japanese around.

Q Do you know Dr. Feliciano Ebuena Lanusa?

A Yes, I do.

Q Did you see her that afternoon?

A I saw her when we went to the room.

Q What room was it?

A We went to the room of Miss Pias to get the keys to the operating room, and then when we went to go in the operating room we saw her lying close to the door.

Q Who were your companions, did you say?

A My companions were Teresa Pias and Miss Bertram.

Q You say that you saw Dra. Ebuena Lanusa lying. What part of the room was she lying in?

A She was in the west wing of the nurses' home in the first room.

Q Was it at the door of the room, or outside the door of the room, or inside the room?

A She was lying outside, in front of the door.

Q What was her position when you and your two companions saw her?

A She was lying down with a blanket cover, and then when I pulled off the blanket her legs were widespread, wide open, with her dress half drawn, to the waist, and her arms in an upward position, with her hair disheveled and blood all over her face.

MAJOR OPINION: That is all.

CAPTAIN REEL: No questions.

(Witness excused.)

GENERAL REYNOLDS: Is the Prosecution ready to proceed?

MAJOR KERR: Yes, we will proceed.

MAJOR OPINION: Exhibit 77, sirs, is --

MAJOR KERR: If the Commission please, I should like permission at a later time in the proceedings to introduce certain statements relating to the incident that we have just discussed. It is somewhat out of order, but apparently they are not ready for introduction at this time. We will proceed with the next instance, with the understanding that later we shall offer in evidence certain statements relating to the National Psychopathic Hospital case.

CAPTAIN SANDBERG: Has this last statement been offered in evidence?

MAJOR KERR: It has not been offered in evidence yet.

Major, do you desire --

MAJOR OPINION: No.

MAJOR KERR: No. We shall not offer it at this

time.

(Statement above referred to was marked Prosecution's Exhibit No. 77 for Identification.)

CAPTAIN WEBSTER: Sirs, the next incident is Paragraph 31 of the Bill of Particulars. I shall call the first witness.

MARIA CAMPOS LOPEZ

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

DIRECT EXAMINATION

Q (By Captain Webster) Please state your name.

A My name is Maria Campos Lopez.

Q Your age?

A Forty-three.

Q Your nationality?

A Filipino.

Q Mrs. Lopez, where were you living during the first part of February of this year?

A The first part of February, in my house that was in Pennsylvania, 4035.

Q And did you thereafter go from your home to another place?

A Yes.

Q To where?

A It was on the 10th I move in my brother's house.

Q What was the name of your brother's house?

A Pedro Campos.

Q Was Pedro Campos living at that time?

A No; he was dead already. My sister-in-law, Mrs. Concepcion Campos.

Q How many people were living at the Campos home during that period?

A At the time I changed the house and moved there were around 120 persons, refugees, friends.

Q Why did they go to the Campos home?

A Because they have their houses burned; they have no houses, so they come there to have shelter in my sister's house.

Q Referring to the time that the Japanese came to the Campos home, will you state what occurred on that day, beginning the first of the morning?

A That was on February 13th?

Q Yes, ma'am.

A It was around eight o'clock in the morning when my niece came to me and called me. "Aunty," she says, "the Japs are outside waiting, and they are knocking. What expectation may there be?"

I just tell her, "You go ahead and I will go later. I will get all my dishes fixed up," because I was cooking my breakfast this morning. And they went on together, and the Japanese struck. They opened the door. Everybody was in line and outside.

Q Just a moment, please. Will you speak a little slower?

A I am excited.

Q And will you state, please, what door the Japanese

came in?

A In the front door.

Q Of the Campos home?

A Yes.

Q What did the Japanese do after they entered the front door of the home?

A They just knocked at the door, and they came out, my sister-in-law and my niece, because the door was locked and they were not able to open it right away. They take time and they open it, and the Japanese told them to come out, and just shot them.

Q Did any Japanese come into the home at that time?

A Pardon me?

Q Did any Japanese come into the home at that time?

A No. The first time they didn't go in the house; they were just outside in the yard at the door, waiting for everybody to go out.

Q How many people went out of the house the first time?

A Well, I don't know very well the number of people that came out, because I was in the kitchen.

Q I see. What did you hear after the people went out of the house?

A Yelling, shouting, and crying, and shooting. I was hearing all those, and I was scared.

Q What occurred after the first group of people went out of the house?

A Well, after that I went inside the living room, and some of the people left there -- we were around 30 or 40 -- and they came with me, and we sat down there just quiet,

listening to the shooting and crying. And one of the Japs came upstairs and saw us. He didn't say anything; just watching us. We were all quiet. After that he took a match and lit all the mattresses. We were lying there on the cushions, and everything, and he tried to burn the house.

Q In what manner did the Japanese try to burn the house?

A They throw alcohol around the house.

Q What is that?

A Alcohol.

Q What else did they do?

A That's the only thing I saw.

Q Did they set it on fire?

A Yes, on fire.

Q Did you at any time that day see any of the Japanese shooting or killing people in the Campos yard?

A I didn't see shooting. I was just listening. I was inside the house.

Q Did you at any time that day see any of the bodies in the Campos yard?

A During that day, no, because I escape myself, with my two children and my cousin.

Q What day did you escape?

A The same day, the same morning. It was around an hour and a half. It was around 9:30.

Q As you were escaping did you see any bodies in the Campos yard?

A No. I didn't see any body.

Q That day?

A Not that day, but the next day, when the American soldiers rescued the place, then we come back and I saw all the dead bodies there.

Q How many dead bodies did you see around that time?

A Well, there were around 90, I believe; there were many.

Q Did you recognize any of those bodies?

A Yes. I recognize my sister-in-law, Judge Aresenio Locsin, and Mrs. Remedies Locsin.

Q What was the name of your sister-in-law?

A Concepcion P. Campos is her name. And I saw the body of my niece, Pilar.

Q "Pilar," did you say?

A Pilar is my niece. My sister-in-law is Concepcion.

Q Did you see the body of your niece?

A Yes.

Q Where was her body?

A Her body was in the kitchen near the stairs.

Q At the time that this happened was the Campos home being used in any way by military forces?

A The Japanese, you mean? No.

Q No. By military forces.

A No, no.

Q Were any of the people in the house armed?

A No.

Q Were any of them engaged in any military activities?

A No.

Q How many of the people who were in the Campos home

would you say were men?

A Men?

Q Yes.

A Well, there were around 30 persons -- 30 men.

Q How many persons were women and children?

A Around 50; children around 35.

Q How many people would you say survived the killing of the Campos home?

A Around 30 persons.

Q Survivors?

A Yes.

Q Did you see the Japanese that day around the home?

A Well, I saw them around the house when I was inside.

Q Would you say those Japanese were armed?

A Well, I cannot testify very well, because we were so frightened. I thought they were just the same as we were seeing them every day.

Q How were those Japanese armed?

A Rifles, pistols.

CAPTAIN WEBSTER: You may cross examine.

CROSS EXAMINATION

Q (By Captain Sandberg) Were you a guerrilla sympathizer?

A Pardon me?

Q Were you a guerrilla sympathizer? A sympathizer with the guerrillas?

A Yes, sir.

Q Were the other people in the Campos house sympathizers with the guerrillas?

A Yes, sir.

Q Did you ever give any assistance to the guerrillas?

A Well, we didn't have any guerrillas in our place.

Q Did you ever give any assistance to the guerrillas?

A Well, my niece, Miss Campos, I believe so; not me.

Q What kind of assistance did she give?

A Well, she was helping the American people.

Q Did she give the Americans information as to the Japanese forces?

A Well, I don't know very well regarding that, what she was doing, but she has a brother who was a war missionary with the Cabanatuan.

Q Were any of the other people in the house carrying on activities against the Japanese?

A Oh, I don't know about that, sir, because there were different people in the house, friends of my sister-in-law.

Q Did you know a Colonel Martinez?

A Colonel?

Q Martinez.

A Martinez-Cantaro? We have a Martinez-Cantaro in the house.

Q In the house?

A Yes.

Q Do you know whether he was a noted guerrilla leader?

A I didn't know that, sir.

Q The next day, when the American soldiers rescued you, you say that you saw a lot of dead bodies?

A Yes, sir.

Q Did you see any dead Japanese soldiers the next day?

A I don't think so. I don't remember about that.

Q Was there any shooting?

A The next day?

Q The next day.

A No, but the soldiers told me to hurry up, to go up to the Mayflower Building to hide ourselves, because there was still fighting in the LaSalle College. There was a pillbox there.

Q Was there a lot of fighting there?

A Yes, the whole day. On February 14th there was a lot of fighting.

Q A lot of shooting?

A A lot of shooting over our heads.

Q Shooting back and forth between the Japanese and the Americans?

A I don't know whether they were Americans. I was hearing the shooting, the bombing, and everything, but I wasn't able to see anything.

Q Well, you knew the Japanese were shooting?

A Of course. We were just back of the sentries, hiding over there.

Q And you knew that there was shooting back and forth between the Americans and the Japanese?

A Yes, sir.

CAPTAIN SANDBERG: That's all.

MAJOR OPINION: I believe that's all.

CAPTAIN WEBSTER: I believe that is all.

(Witness excused.)

MRS. ROSARIO YULO

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

DIRECT EXAMINATION

Q (By Captain Webster) Please state your name?

A Mrs. Rosario Yulo.

Q Your age?

A 34 years old.

Q Your nationality?

A I beg your pardon, sir?

Q Your nationality?

A Filipino.

MAJOR KERR: Will you speak louder, please.

A Yes, sir.

Q (By Captain Webster) Were you living at the Campos home on Taft Avenue at the time that the Japanese came there and shot some people?

A Yes, sir.

Q What members of your family were there also?

A My husband --

Q Name, please?

A My husband, Jose Yulo; my son, Jose, Jr.; my daughter -- (sobbing and talking in native tongue) -- and my sister.

Q Would you rather wait a few minutes before you continue testifying?

A Beg pardon, sir?

Q Would you like to wait a few minutes before you continue?

A No, sir. I think I can take it.

Q Will you give the age of your son?

A My son was 10 years old, a little over 10 years at the time, and my daughter was just a little bit over 9 years old.

Q Will you state the approximate time of the day that the Japanese came to the Campos home?

A It was on the date of the massacre -- it was hardly about perhaps between 7 and 8 o'clock in the morning.

Q How many Japanese came to the home?

A I calculate to be around 30 of them.

Q Do you know whether they were in the army or navy?

A I don't know exactly what; just the Japanese dressed in the ordinary suits that I see every day. I cannot distinguish what they were.

Q What did the Japanese do when they came to the home?

A Immediately I heard, "Kora! Kora!", and the first thing we noticed they were inside the yard, and then I heard a knockings on the door -- "Kora! Kora!", and Miss Pilar Campos called her mother, saying, "Mommie! Mommie!", and then she opened the door, and immediately the Japanese rushed into the house and they all lined up and said, "Kora! Kora! Kora!" All hurried up. Some people were still lying down on the floor, some in their pajamas, and some in their house coats, so what we did was to hurry up and look for the members of the family, and I was looking for my baby, "Where are you?" And then immediately I took hold of my boy, and then I had a glimpse of my daughter with the father, and they step out, and I followed.

I hadn't seen my sister then.

And then my next move was to go over into the next place that was separating the Campos house and my home. It was all surrounded by Japanese, so we had no chance, so I told my boy Junior, "Let's lie down immediately," and so we lie down. As we lie down I heard shots all over, and then there was a Japanese. We laid down against a marble bench where there was a bed. I told my boy to hold his head on top, get immediately on top of the iron railings of the bed, and so I am perfectly -- it was a good thing for us to have that, because immediately the Japanese kept on shooting over our heads. I think they wanted to shoot our heads, but they did not hit us because of the iron railings of the bed, so we were unhurt by that time.

But still other Japanese, all over, continued their shooting and I got hurt on my foot. It did not mean so much to me; I had all my consciousness. And then I would hear, "Mommie! Mommie! What are they doing to us, these Japanese?" And then they were crying, then the baby would stop and another baby would say, "Oh, my mommie is dead! Daddy, what happened? Mommie is dead." And then the father would die, and then the baby would say, "Oh, God, what shall I do?", she would say. After a while I would hear another shot, and the baby was also die. Then other moaning would come in; after a while I would hear shots, and there was simply subsided. Every moan that I hear I would hear a succeeding shot.

Q What happened to your son?

A Well, we weren't scratched except the scratch on my

foot until about between, I think, 4 o'clock or 5 o'clock in the morning. All the way through there were Japanese checking up the dead. They would kick; I could hear their kickings and laugh, "Ha, ha, ha"; all that I could hear was their sarcastic voices, glad that the people were dead!

There was another man, just a little beyond my foot, who was struggling between life and death, and I heard a Japanese get out his sword and, "Ugh! Ugh! Ugh! Ugh!" (making hacking motions with hands); I heard all the cuttings from his little sword, because I was lying on my right side, I was there and I could oversee the men lying there, and the Japanese striking him like that (demonstrating) -- cut, cut, and so I heard him say, "Ugh! Ugh!", and he was dead. It was about between 4 o'clock and 5 o'clock in the afternoon.

Q Pardon me a moment. Did you stay in that yard from the morning?

A Yes, sir.

Q Up until that time?

A Yes, sir, while they were killing; the others were burning the houses. That is why I got all these burns on my body (indicating). After I came from the massacre yard it was all blisters over my body.

Q Well, continue now with what happened after 4 or 5 in the afternoon.

A It was, I think, between 3 and 4 o'clock, from 8 o'clock in the morning until about 4 o'clock in the afternoon that I had been lying on my right arm, on my right

side all the way through; I was feeling unconscious because I was feeling numb all over, and blisters all over my body, and I saw my Junior lying down here (indicating); I could see him because I was lying on my right side and my Junior there (indicating). His position was not so good; that was his handicap, because he lie down this way (demonstrating), and then he said -- because of the heat of the burning houses, he would keep moving like this (demonstrating), and I said, "Say, Junior, don't move, because the Japanese will see you," I said, and so he stopped moving. But just the same, a mother's heart, you know, I kept watching him. Of course, I know nothing where my other daughter was and my sister and my husband.

Then about 4 o'clock in the afternoon there were still several moaning, asking for water, asking for help, asking to be moved away from the place because it was so hot; but, of course, nobody dared, if there was at all anybody living. And then after a while I would hear a shot, so I knew it was not safe. In fact, I was thinking myself how I would escape with my boy; I was wishing that our house would be burned so that perhaps the -- that that would allow the Japanese to get out of the place. But I heard a Japanese when they went to our house -- I heard a Japanese say, "Mati! Mati!"

Q Do you know what that means?

A Yes, sir, I know. It means "wait!" Maybe the other Japanese said, "Let us burn all these houses now," maybe they said, but the other Japanese said, "Mati! Mati!"

So I said, "Well, no chance to escape yet," I was saying to myself. Then later the governess of our neighbor, a lady I knew, kept moaning, and she said, "Will you give me water? Please give me water. Will you bring me out of this place? It is so hot now. I can't take it any longer." But I kept quiet, as she kept on talking, and she kept on talking for 30 minutes, and so I said -- I did not hear any shots at this time, and she was the only one moaning, so I said, "Perhaps there is no more Japanese around, perhaps it is safe," and so I told my boy who was -- I tried to feel him like this (demonstrating), and really, his whole body was so hot, because he was in short pants; so I said, "Junior," I said, "move under the bench," I said, because we were lying beside a marble bench just over there beside our house, and he did. I helped him move that way, and then I heard a shot, and then I knew it was my boy.

After a while I heard another shot. I knew it was me that was shot, and after a few minutes I felt I was becoming unconscious. I felt -- I was in this position (crouching) and like that (demonstrating). I became -- (assuming erect position) -- without any effort I was straight like that, and half of my body was over a dead body.

And then after a while a Japanese came in to check up, and he kick and kick the body I was on, so what I did was to stay open my mouth and pretend I was dead. And then he laughed; he laughed sarcastically, he was so happy that perhaps we were dead. And then that was all.

At about 5 o'clock in the morning I heard Mr. Pablo say, "Mr. Yulo, Mrs. Yulo -- where are you? This is Pablo." Nobody would answer him, because we were still afraid. Then he said, "Mr. Yulo, Mrs. Yulo; no more Japanese. Take my word; there are no more in the garden," he said. Then Mr. Yulo said, "Pablo -- are you Pablo? What happened to you? Are you hurt?"

"Thank Heaven," he said, "I am unscratched," he said. Then he said, "Mrs. Yulo; where is she?"

"I don't know. Baby is with me, and she is dead," he said.

"And what about Mrs. Yulo?"

I do not talk, because my place was so conspicuous I was afraid, and there might still be Japanese. And so later, after 10 minutes, they were talking of how to escape, and I answered. "Daddy," I said, "I am so glad you are alive."

"Thank Heaven I am still alive," he said.

"But I am hurt. What about you? Are you hurt?" I said.

And he said, "Yes, I am," he said.

"What about Junior?" he said.

"I don't know," I said.

Then, "All right; forget about everything. What we have to do now is to escape, and we have to make our plans." Then we made our plans. Some said we should cross the Campos yard to the northern part of Manila, but I said, "No, it is too far, and if you cross the Campos yard, if there are Japanese at the De LaSalle

College, they might see some people walking here," so I think the best way would be to go back to our house; that would be nearest where we were.

And this is when Pablo said, "Get ready. Let us get started."

"Oh, no, Pablo; we cannot get up. We are hurt, burned; we simply cannot move."

So Pablo said, "Get ready, Mr. Yulo, I am coming for you first," and he did go to Mr. Yulo. And then Pablo said, "Mrs. Yulo, where are you?"

"I am here."

Then he came up to bring me up. I was all -- this part of my body on my right side was benumbed, and this part (indicating) was hurt because I had a wound here (indicating) and in my neck (indicating), and I hardly could even stand up, but just the same I had to exert all my efforts, and we went back to the house, under the house, and we stayed there, I think, until 6 or 7 o'clock in the evening. Then we heard Japanese in the other side of our house, just very close to our house. They were catching pigs, and after catching the pigs they started burning, because we heard the fire and the stuff falling.

So we said we had to run away, and so Pablo went out to look over the place, if there were still Japanese, if it was safe to go out, and he said, "No Japanese."

So immediately -- so we went back to the Campos yard, and we went to the other house which was still burning, and we stayed there up until about 4 o'clock the next day, all the way through. Every time the house --

our houses were burning, and something would drop (demonstrating), and we would step (demonstrating); and then the stuff would drop, and there was no time for us to fix the debris where we hid ourselves.

Q Do you know what happened to your daughter?

A My husband knows that she was dead. She was hit here (indicating), according to my husband, otherwise it would have hit my husband if my daughter was not beside him.

Q Was she shot at the Campos home?

A Yes.

Q Will you state what happened at the Campos home? Was it burned?

A Yes, sir, it was burned.

Q What day was it?

A It was on the 13th, the same morning that they came in. Some were engaged in shooting the people and others were engaged in burning the houses, pouring gasoline.

Q When you say "others," do you mean Japanese soldiers?

A Japanese soldiers, yes.

CAPTAIN WEBSTER: You may cross examine.

CAPTAIN REEL: No questions.

(Witness excused)

MARIANO DEL ROSARIO

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

DIRECT EXAMINATION

Q (By Captain Webster) Will you state your name, please?

A Mariano del Rosario.

Q Your age?

A 38 years old.

Q Nationality?

A Filipino.

Q What is your occupation?

A I am the city undertaker for the City of Manila.

Q Were you so acting on the first part of February and during February of this year?

A Yes, sir, I was.

Q Did you have occasion to go to the home known as the Campos home, on Taft Avenue?

A Yes, sir.

Q When did you go there?

A After the fighting was diminished to a certain extent around that area, Major David Binkley, Division Sanitary Inspector, of the 37th Division, and myself went to the Campos residence to remove the dead bodies in that locality.

Q Do you recall the date, sir?

A I could not definitely say the date, sir.

Q Can you give the month?

A It was in February, sir.

Q How many dead bodies did you find within the Campos yard?

A Approximately about a hundred, sir.

Q Can you state the condition of those bodies?

A As we entered the driveway to the Campos residence, we found a stack of dead bodies sprawled on the concrete

driveway. As we went farther on, we found in some sort of a garden inside the Campos residence, dead bodies all around the compound, sir.

Q Were those bodies civilians?

A They were all civilians, because they were all dressed in civilian clothes, sir.

Q Can you state how many of them were women and children?

A There were many women and children, and I could not positively exactly say the number, sir, but there were about 100, sir.

Q Did you have occasion to observe the wounds, if any, on any of the dead bodies?

A Yes, sir. More particularly so in that crowd or in that pile that we found on the driveway. We noticed most particularly a lady whose breast had been completely chopped off, and also we found a lady whose genital organs had apparently been ripped off with a bayonet.

Q Did you observe any wounds on the bodies of any of the others?

A They were all bayonet wounds and shots, revolver shots, sir. They were all machine gunned, I presume, the way they were piled one on top of the other. Major Binkley and myself were inclined to believe they were just over there and they were just mowed down.

CAPTAIN REEL: If your Honor please, may that go out?

GENERAL REYNOLDS: That remark will be stricken from the record.

CAPTAIN WEBSTER: I hand you what has been marked for identification as Prosecution Exhibit 77, and ask you if you can identify that.

A Yes, sir.

Q What is it?

A This is a picture of a lady who was found in the Campos residence, and several bodies are sprawled on the ground, sir.

Q Is that the woman whom you referred to as having her genital organs injured with a bayonet?

A Yes, sir.

CAPTAIN WEBSTER: At this time I would like to offer in evidence Exhibit 77, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No.
77 for identification
was received in evidence.)

CAPTAIN WEBSTER: You may cross examine.

CROSS EXAMINATION

Q (By Captain Reel) Mr. del Rosario, did you keep records of the number of people that you saw dead at various places?

A Of various places? No, sir.

Q So you have no record, no written record, anywhere, of the number of dead that you saw in the Campos yard?

A Well, if I may say so, sir, the only record that we have in connection with our work was the number of bodies we removed for burial on a certain day.

Q I see. And I think you said you were engaged by

officers of the 37th Division to remove dead bodies, is that right?

A Yes, sir.

Q And that covered the whole City of Manila, didn't it?

A Yes, sir.

Q And you did hire some persons and engage in burying dead bodies in the City of Manila, is that right?

A Yes, sir.

Q And over what dates did you bury these bodies? Over what period of time?

A I was engaged as city undertaker to remove enemy troops and civilian dead during the combat of Manila, from the 3rd of February until the 31st of March, 1945, sir.

Q And all in all, all told, how many bodies did you bury?

A Around in the neighborhood of 8000 dead bodies, sir.

Q And that was about evenly divided, was it, between Japanese soldiers and Filipino civilians?

A More so on the civilian side, sir.

Q How many more civilians than soldiers?

A About one-third more, sir.

Q And in the burial of these bodies, isn't it true that large pits were dug with army bulldozers and the bodies put into the pits?

A There were only three big pits that were dug with army bulldozers, sir.

Q And there were some smaller pits that were dug, is that right?

A They were not dug; they were just big shell holes

that were produced from shell fire.

Q I see. So that they were either pits that were dug or shell holes into which the bodies were put, is that correct?

A Yes, sir.

Q Now, there was some understanding that you were going to be paid for this work, is that right?

MAJOR KERR: If the Commission please, if counsel for the Defense is going to be technical I, too, can be technical, and I object to this question as being wholly incompetent, irrelevant and immaterial.

GENERAL REYNOLDS: The objection is not sustained. The Defense may proceed.

CAPTAIN REEL: Will you read the question?

(Question read.)

A Shall I answer, sir? Yes, sir.

Q (By Captain Reel) And you were to be paid by the body, so that the more bodies you could show you buried, the more money you would get from the Government, is that right?

A I should like to reply, sir, that before any bodies were removed for burial Major David Binkley, who was representing the United States Army made a personal account of each and every dead body removed by our burial squad, sir.

CAPTAIN REEL: Will you just answer my question, please?

Will you please read the question, and see if we can get an answer that is responsive?

(Question read.)

A I suppose so, sir. I was only paid by the number of dead bodies.

Q (Captain Reel) That is right; you know that is correct. It isn't a question of "supposing"; it is correct, isn't it?

A Yes, sir.

Q And you have made a claim against the United States Government, is that correct?

A Yes, sir.

Q In the amount of how much?

A Over 120,000 pesos, sir, -- which I have not yet been paid, sir.

CAPTAIN REEL: That is all, Mr. del Rosario.

CAPTAIN WEBSTER: That is all. Thank you.

(Witness excused)

(A statement was marked
Prosecution Exhibit No.
78 for identification.)

CAPTAIN WEBSTER: At this time, sir, I wish to offer in evidence a statement of Carmen Locsin, taken during the investigation of this atrocity by the officers of the War Crimes Board.

GENERAL REYNOLDS: There being no objection, the document --

COLONEL HENDRIX: Sir, this morning we made an blanket objection to all of the statements. May I suggest that you state that over our objection it is allowed in evidence?

MAJOR KERR: Sir, that should not be necessary, since

it has already been noted in the record.

GENERAL REYNOLDS: Senior Defense Counsel stated that they would have an objection, without being stated in each case, throughout the taking of this trial, and the Commission granted that statement; hence the general statement, "There being no objection," should mean that there is no further objection.

CAPTAIN REEL: Yes.

(Prosecution Exhibit No. 78 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 79 for identification.)

CAPTAIN WEBSTER: Sir, the statement of Carman Locsin identifies as Exhibit "E" a photograph of the wounds received by her. We have had that marked for identification as Prosecution Exhibit No. 79, and we now offer it in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 79 for identification was received in evidence.)

CAPTAIN WEBSTER: That completes the case, sir.

GENERAL REYNOLDS: There will be a 5 minute recess.

(Short recess.)

GENERAL REYNOLDS: The Commission will resume the hearing.

The Prosecution will proceed.

MAJOR OPINION: I offer, sir, as part of the evidence of the Prosecution, the sworn statement of Canuto

Daque, taken by the investigating officer of the War Crimes office. That exhibit, sir, is in connection with the National Psychopathic case.

We would like to call particular attention of the Commission to the fact that such exhibit will tend to prove the shooting of one, the blindfolding and bayoneting of another, and dropping both from the cliff, and the moaning of the victims.

GENERAL REYNOLDS: There being no additional objection by Defense, the document will be accepted in evidence.

(Prosecution Exhibit No. 80
for identification was
received in evidence.)

MAJOR OPINION: The Prosecution, sirs, offers as part of its evidence Exhibit 81, a sworn statement of Demeterio Lacuna, particular attention being invited to the fact that this declarant, accompanied by 1st Cavalry officers, their names being given in the exhibit, discovered and identified Kuboyashi, Captain Nagahama and Sakamoto as officers of the party that raided the National Psychopathic Hospital.

CAPTAIN SANDBERG: The Defense requests that the --
(pause)

GENERAL REYNOLDS: Is there a statement or objection by the Defense?

CAPTAIN SANDBERG: The Defense requests that the last question and the last answer on page 22 be stricken. The answer is not based on matters within the knowledge or information of the deponent.

GENERAL REYNOLDS: Is that on the first sheet?

CAPTAIN SANDBERG: That is on the first sheet, sir.

GENERAL REYNOLDS: Will you read the question which you consider objectionable?

CAPTAIN SANDBERG: "Q Whose bodies are you referring to?

"A The bodies of our employees and patients who were massacred by the Japanese on February 8th."

The deponent does not purport to have seen or witnessed any such massacre, and has no knowledge that there was any such massacre.

GENERAL REYNOLDS: The Commission accepts the statement, subject to the withdrawal of the question and the answer which are objected to by the Defense.

(Prosecution Exhibit No. 81 was received in evidence.)

MAJOR OPINION: Sirs, I offer as part of the evidence Exhibit No. 82, which is a statement given by Guia Mariano, for the purpose of proving that she perceived shouts in Tagalog of one Filipino, beating of Filipinos, dropping of a metal bar on cement floor, screaming, Japanese asking for some pieces of rope, opening and taking away from the storeroom by Japanese of a can of petroleum.

GENERAL REYNOLDS: There being no additional objection, the document is accepted by the Commission.

(Prosecution Exhibit No. 82 was received in evidence.)

MAJOR OPINION: Exhibit 83, sirs, is a sworn statement of Aurelio Ruiz, and is introduced mainly to prove the acquaintance and identification of Kuboyashi,

Kubokawa, Sakamoto, Saygosa, Okasaki, and Ando.

GENERAL REYNOLDS: There being no additional objection, the document is accepted.

(Prosecution Exhibit No.
83 was received in evidence.)

CAPTAIN REEL: Sir, relative to the statement of Aurelio Ruiz, we should like to ask a question.

The statement on the second page twice uses the word "zona", and I believe on the third page. I wonder if we could have an explanation of that, of what that means. We are, frankly, in the dark.

MAJOR OPINION: It has been, sir, the policy of the Japanese armed forces to declare a particular place or community, including in many cases the whole barrio, in the provinces, in the city, about two or three blocks or more than that; and these barrios or blocks are guarded heavily and the people ordered to remain in their respective homes. And then the Japanese would come up and enter all the houses and order the males to gather in a particular place, or tie them up, and maltreat them. That is the "zona."

CAPTAIN REEL: Sir, I ask that that speech be stricken. All I wanted to know was the meaning of a word. I gather it means a geographical location. I don't think that Major Opinion, not having been sworn under oath, can testify as to things that he may have heard about.

GENERAL REYNOLDS: The statement will be stricken from the record, and the word "zona" in question is accepted as meaning a geographical locality.

CAPTAIN REEL: Thank you, sir. That is all we want to know on that point.

The only other question I had is this: We do not know to what Particular of the Bills of Particular, of the 123, this refers, or its relevancy to the case.

MAJOR OPINION: If I am permitted, sirs, there is no equivalent word in English of "zona." It is an idiomatic word, used by the Filipinos themselves. That is the reason why I was forced to give an explanation about the word "zona."

GENERAL REYNOLDS: And as to the answer to the current question of the Defense?

MAJOR OPINION: The National Psychopathic Hospital has been declared as a sort of "zona."

GENERAL REYNOLDS: I believe the Defense inquired as to which of the items in the Bill of Particulars this particular exhibit pertains.

Is that right?

CAPTAIN REEL: Yes, sir.

MAJOR OPINION: It is entirely connected with that event on February 8th, of the National Psychopathic Hospital, where the witnesses declared that they were surrounded and gathered --

GENERAL REYNOLDS: And, therefore, it pertains to item number 19?

MAJOR OPINION: Yes, sir.

GENERAL REYNOLDS: Of the Bill of Particulars?

MAJOR OPINION: Yes, sir.

CAPTAIN REEL: Thank you.

CAPTAIN HILL: May it please the Commission, the next incident which I would like to present is Bill of Particular item number 29.

The first witness is Lucrecia Figueroa.

LUCRECIA FIGUEROA

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you please state your name to the Commission?

A Lucrecia Figueroa.

Q Can you speak a little louder?

A Lucrecia Figueroa.

Q How old are you?

A I am 20 years old.

Q What is your nationality?

A I am a Filipina.

Q Where do you reside?

A 1424 P. Leoncio, Sampaloc.

Q During the first part of February, 1945, where did you reside?

A I resided in the Viena Bakery.

Q And what is the street and number of that place?

A 31 Marques de Comillas.

Q Did you have occasion during the first part of February, 1945, to go to the residence located at 612 and 614 Kansas Street, City of Manila?

A Yes, sir.

Q Will you please relate to the Commission the occa-

sion of going to that house on that date?

A The soldiers were beginning to burn the houses.

Q Which soldiers?

A The Japanese soldiers.

Q Go ahead.

A They were beginning to burn the houses, and when they began burning the houses we used to flee for our lives and go to the places which were not burned; that is why we went to 612 Kansas Street.

Q And how many persons accompanied you to 612 Kansas Street on that day?

A We were about 14 or 15 in that house.

Q What time of the day did you go there?

A It was about noon.

Q Do you know who owned that home and resided there?

A I knew the girl, sir, but the one who owned the house was the uncle and the aunt of that girl.

Q Do you know their names?

A No, only the girl, Maria Morey.

Q After you arrived at this house on that date, did any members of the Japanese Imperial Armed Forces come to those premises?

A That was in the afternoon.

Q What time in the afternoon?

A About six in the afternoon.

Q And how many Japanese came there at that time?

A There were about seven or more.

Q Did you know to which branch of the Imperial Japanese Armed Forces they belonged?

A I think they belonged to the navy.

Q How could you tell that they belonged to the navy?

A Because it was said that the army left the city and the navy was left.

Q Can you describe the uniforms that these men wore?

A They were green uniforms.

Q Did you notice any insignia upon their caps or upon their clothing?

A I didn't notice, sir.

Q Where were you when these five Japanese arrived at the place?

A I was with a group, in the yard of the house.

Q And tell the Commission just what transpired after these five Japanese arrived there.

A As soon as they entered they motioned to us to be in files, and they began shooting and bayoneting the people there inside.

Q Could you tell whether these five Japanese were all privates, or were there some officers among them?

A I think there were one or two officers.

Q Why did you think there were one or two officers?

A Because they seemed to be giving instructions to the privates, and they had swords.

Q Were all of these five Japanese armed?

A Yes, sir.

Q Tell the Commission how they were armed?

A They had bayonets and rifles.

Q Any other arms?

A No more, sir.

Q Did any of them carry sabers or pistols?

A Just pistols.

GENERAL REYNOLDS: What was the answer?

CAPTAIN HILL: She said, "Yes, pistols."

Q (By Captain Hill) Did you notice any of them with sabers, swords?

A Yes, sir.

Q How many of them?

A One or two. That was the officers, I think.

Q Now, just tell the Commission what happened after they started shooting and bayoneting the people there.

A When they began shooting and bayoneting the people, we all fell down, and it happened that one of my friends fell on my back, and she was bayoneted. The point of that bayonet was the one that pierced my right side -- my left side, I mean.

Q How many people did you see the Japanese shoot or bayonet there at that time?

A I didn't notice, sir, but I think all of us were being bayoneted.

Q How many people had gathered there at that time?

A 14.

Q In your group?

A 14.

Q And were these 14 all noncombatant civilians?

A Yes, sir.

Q Were any of them armed in any way?

A No, sir.

Q Did any of them offer any resistance to the Japanese?

A No, sir.

Q Had these premises been used on that day, or any time prior, for military purposes, that you know of?

A No, sir.

Q Were there any people killed there that day by the Japanese?

A We heard that they were killing people in some places.

Q No, I mean there at that place.

A No, sir.

Q Weren't there some people killed there at 612 Kansas Avenue by the Japanese?

A Yes, sir.

Q How many?

A 11.

Q Do you know the names of any of those 11?

A Yes, sir.

Q Will you tell the Commission their names?

A Eulalia Casadejust, Mrs. Pura Malarky, Edward Malarky, Mrs. Brugger, Mr. Brugger, Rosario Malarky, Remedios Jose, and Sylvia Brugger, the baby.

Q That is 8. Were there any more than 8 killed?

A The uncle and aunt of Maria Morey, and an old woman of about 60 and her daughter.

Q And were any persons wounded by the Japanese there that day, other than those you have told us who were murdered?

A Only two. Marietta --

Q And how was Marietta wounded?

A She was, I think, wounded in the left shoulder by a

bayonet.

Q How long did the Japanese remain there on the premises after they had shot and bayoneted the people?

A I don't remember, sir, how long.

Q Do you know what the Japanese did after they shot and bayoneted the people?

A I think they poured gasoline --

Q Wait. Do you know? Tell the Commission if you know.

A No, sir.

Q Did you see any fire there on the premises that day?

A Yes, sir.

Q Tell the Commission about that.

A As soon as all of us were hurt, I think I must have lost consciousness, for when I revived I saw fire and I saw a form of liquid burning near us.

Q What did you do then?

A Then we tried to go to the other side, the garden, the three of us -- there was Carmen, Edward and I, and the baby also got there, but I don't know how it got there.

Q Were there any Japanese around the premises at that time?

A I didn't see any, sir. I didn't notice.

(A diagram was marked Prosecution Exhibit 84 for identification.)

Q I will hand you Prosecution Exhibit No. 84, and ask you to state what it is, if you know?

A It is a sketch of the place where the massacre took place.

Q At 612 and 614 Kansas Avenue?

A Yes, sir.

Q In the City of Manila?

A Yes, sir.

CAPTAIN HILL: Prosecution offers Exhibit No. 84 in evidence, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence by the Commission.

(Prosecution Exhibit No.
84 for identification
was received in evidence.)

CAPTAIN HILL: That is all, sir.

CROSS EXAMINATION

Q (By Captain Sandberg) Now, you have stated that you are sure that these Japanese were members of the navy, is that correct?

A Yes, sir.

Q And you have stated that you are sure because the army left the city?

A Yes, sir.

Q Do you know when the army left the City of Manila?

A I think it was in the first week of January.

Q In the first week of January, 1945, the army left the City of Manila?

A Yes, sir.

CAPTAIN SANDBERG: That is all, sir.

REDIRECT EXAMINATION

Q (By Captain Hill) Do you know of your own knowledge anything about the Japanese Imperial Forces leaving the city?

A No, sir.

Q Then your answer to the question of Defense Counsel is not based upon any personal knowledge that you have about it, is that correct?

A You mean, sir, when the army left --

Q You don't know when the army, the Japanese army, left the City of Manila, do you?

A It was in the first week of January that they left.

Q I say, of your own knowledge you don't know, do you?

A No, sir.

CAPTAIN HILL: That is all.

(Witness excused)

MAJOR KERR: Sir, the Prosecution tomorrow morning desires to take up the Bayview Hotel case, which is number 34 of the Bill of Particulars; and also, by agreement with Defense counsel, to take up in connection with that case the Manila Hotel case, which is described in number 88 of the Supplemental Bill of Particulars.

These cases involve rape and other mistreatment of a large number of women, and in view of the nature of the testimony, which we must of necessity put before the Commission at that time, I believe it would not be in the public interest that the evidence be received in a public session, and in fairness to the young women who will then testify I submit that the Commission should receive that evidence in closed session.

The Prosecution therefore requests that tomorrow morning's session of the Commission be closed to the public. Our evidence on these two cases will be completed during the morning.

GENERAL REYNOLDS: The Commission would like to know if the Defense is willing to proceed on number 88 in the Supplemental Bill of Particulars.

COLONEL CLARKE: I understand you refer to 88 as the Manila Hotel --

MAJOR KERR: That is the wrong number. Number 91, sir, is the correct number.

GENERAL REYNOLDS: The Commission is unable to see anything in item 91 which would involve the advisability of a closed session.

MAJOR KERR: Well, sir, the testimony in the two cases is intermingled. That is to say, there are some individuals in the Manila Hotel who were also involved in the Bayview Hotel case.

COLONEL CLARKE: Do we understand there is to be some testimony as to rape in 91?

MAJOR KERR: Well, some testimony as to mistreatment.

COLONEL CLARKE: Not rape?

MAJOR KERR: Well, in any event, sir, the Bill of Particulars No. 34 does relate to the cruel mistreatment and abusing of women in the Manila Hotel; so that, if the Defense counsel desires, we will confine our testimony tomorrow morning to Bill of Particulars 34.

COLONEL CLARKE: We haven't had an opportunity on 91 as yet, but, with the understanding that at the conclusion of the trial if we still desire to make a motion for a continuance, sir, in order that we may prepare a defense, we are willing to go ahead with this thing tomorrow, with the understanding that we do not waive our right to make

that motion.

MAJOR KERR: Sir, in view of the attitude of Defense Counsel, I am going to withdraw all proposals that deal with the Manila Hotel case tomorrow, except in relation to Bill of Particulars 34; we will confine it to No. 34.

GENERAL REYNOLDS: Therefore, the session starting tomorrow morning will be in closed session, and will not be open to the public or the press.

The Commission will recess and reassemble at 1:30

(Whereupon, at 1240 hours, a recess was taken until 1330 hours.)

AFTERNOON SESSION

(The trial was resumed, pursuant to recess, at 1330 hours.)

GENERAL REYNOLDS: The Commission is in session. The Prosecution will proceed.

MAJOR KERR: Sir, all members of the Commission are present, the Accused and Defense Counsel are present, and the Prosecution is ready to proceed.

MAJOR OPINION: If the Commission please, this case is called the San Marcelino Church Massacre, Bill of Particulars No. 27.

CO CHING

called as a witness on behalf of the Prosecution, having been first duly sworn, was examined and testified as follows through Interpreter Lavengco:

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name, address and nationality.

A Co Ching; I live in Sampaloc, Manila. No number.

Q How old are you?

A 34 years.

Q What is your nationality?

A Chinese.

Q On or about and during the first days of February and prior thereto, 1945, where were you living?

A I live in the garden at San Marcelino.

Q Whose garden was that?

A The owner was a Chinese, named Jun Pac, J-u-n P-a-c.

Q Where was that garden with reference to the San

Marcelino Church?

A The garden is between Jai Alai and Marcelino Church.

Q Within what ground or compound was that garden situated?

A The garden is faced between Jai Alai and San Marcelino Church.

Q How many of you were working that garden?

A 7.

Q Repeat, please, your answer.

A About 17, with some Filipinos.

Q How many Filipinos were there?

A 2 Filipinos.

Q On February 9, 1945, where were you?

A I was in the garden at Jai Alai.

Q Was there an air raid shelter near the garden where you were working?

A Yes.

Q Where was that air raid shelter?

A At the middle of the garden.

Q The middle of the garden. Did you get into the shelter that day?

A Yes.

Q Were you alone or accompanied?

A With me there were about 9 more, and Filipinos, too.

Q How many Chinamen entered the air raid shelter, including yourself?

A 7.

Q Do you know their names?

A Yes.

Q Can you name them?

A Yes.

Q Please give the names.

A Lee Ao, You Kun, Tan Huan, Tan Su, Chai Sen.

Q How about Lee Ao, where was he?

A Yes.

Q Was he with you when you entered the air raid shelter?

A Yes.

Q What were the names of the 2 Filipinos who entered with you in the air raid shelter?

A Simo; Ilong.

Q Is that "Simo" the nickname for Maximo?

A I don't know about the names of Filipinos, but we call him "Simo".

Q What time did you enter the shelter?

A About 6 o'clock in the afternoon.

Q Did anything unusual take place in or around the air raid shelter during the time that you were inside it?

A A Chinaman named Ching Co entered and warned us that there is killing going on around.

Q Just a minute. While you were inside the air raid shelter did any Japanese call on you?

A Yes.

Q At what time?

A 7 o'clock in the morning.

Q 10 February 1945?

A Yes.

Q How many Japanese called on you that morning?

A Through the hall of the shelter I saw two Japanese.

Q What did these Japanese do?

A The Japanese shouted "Kora! Kora!"

Q What did you do?

A Well, we didn't do anything. None of us talked.

Q Did you answer to the call of the Japanese?

A Nobody answered the Japanese.

Q What did the Japanese do then?

A The Japanese shot -- fired shots and threw something. I don't know what it's about.

Q Who were those people who were shot by the Japanese?

A I do not know them, but I know that they are Japanese soldiers.

Q Against whom did the Japanese shoot?

A The Japanese fired at the holes through the shelter.

Q Was anybody of your group injured?

A Many were wounded and some died.

Q Who of your companions you have mentioned before died?

A Lee Ao, Tan Su, Tan Huan, Chai Sen, You Kun, Tan Huan.

Q Of the Chinese group that were in the shelter who survived?

A I am the only one who survived and Co Ching.

Q Who is Co Ching?

A I.

Q Who is that one who survived?

A Tan Chiu.

Q Of the two Filipinos who were inside the shelter has anyone survived?

A Ilong survived; Simo died.

Q You say that they threw something. Where did they

throw? Inside or outside the air raid shelter?

A Inside.

Q Did it explode?

A Yes, sir, it exploded.

Q What did explode?

A It exploded inside near the entrance of the shelter.

Q What was the result, if any, among your group on account of that explosion?

A Everybody in the shelter died except three of us, including one Filipino.

Q Were you wounded?

A Yes. I received two bullet shots.

Q What part of your body was wounded?

A One of my left hind parts.

Q Showing you this Exhibit 85, please state to the Commission if you know what that is.

A Yes.

Q Whose photograph is that?

A This is my portrait.

Q You say that you were wounded on the left hip. Would you please indicate that wound?

A I received wounds on the part I point to.

Q Do you know what caused these two wounds as shown on your left leg on Exhibit 85?

A Yes.

Q What did you do with the dead bodies that were found inside the shelter?

A My two companions, Tan Chiu and Iliang, get them out.

Q Where did they put them?

A They piled them near the shelter.

Q What time did you pile them?

A It was during the night; very dark.

Q Why did you have to take out those dead bodies at nighttime?

A They have to because they can't do it during the day, because they would be shot dead.

Q By whom?

INTERPRETER LAVENGCO: By the Japanese.

Q (By Major Opinion) And in the evening of that day, 10 February 1945, has any Chinaman --

GENERAL REYNOLDS: The Commission will interrupt to ask the Interpreter to verify the reply to the question asked by the Prosecutor as to who would shoot them if they left during the day. You gave the reply to the question asked by the Prosecutor. Ask the witness to answer the question.

MAJOR OPINION: Will you read the question, please?

(The question referred to by General Reynolds was read by the Reporter.)

MAJOR OPINION: No, the last question.

(The pending question was read by the Reporter as above recorded.)

Q (By Major Opinion) -- visited your air raid shelter?

INTERPRETER LAVENGCO: I beg your pardon?

Q (By Major Opinion) Has any Chinaman visited the air raid shelter?

A Yes.

Q Who was he?

A Ching Co.

Q At what time did he come to the shelter?

A At about 10 o'clock in the evening.

GENERAL REYNOLDS: The Commission again interrupts. The Interpreter in giving the one answer of the witness stated that they would be killed if they left to bury the bodies during the day. The Prosecutor asked who would do the shooting and the Interpreter, without querying the witness, stated "The Japanese". The Commission desires that the question be asked of the witness which will bring out the same or a different answer from the witness himself as to this very important matter.

MAJOR OPINION: Yes.

Q (By Major Opinion) Who would have shot them if they would have gone out of the shelter at daytime? Who would have, please?

A Because if they would come out of the air raid shelter during the day the Japanese will see them and they will be shot at.

Q By whom would they have been shot?

A The Japanese.

Q You said that Ching Co came inside the shelter. How did he come? Was he wounded or could he walk? How did he come?

A When Ching Co approached us we saw he has at this time a bullet shot on the neck. He told us that killings were being done outside, that he is very weak, and that he may not live long. About half-hour he fell dead.

Q Before he died did Ching Co tell you how he was wounded?

A Yes. He told us he was bayoneted by the Japanese.

Q Did he tell you where he was bayoneted?

A Yes. He was bayoneted with the rest of the people, including Filipinos and priests, lined up near the San Marcelino Convent.

Q Did he tell you that there were Chinamen who were bayoneted at the time he was bayoneted by the Japanese?

A Yes.

Q Did he tell you how many Chinamen were bayoneted with him?

A Yes. About 10 Chinese, all tied up behind the backs.

Q How about the other people? Did Ching Co mention anything to you about their being bayoneted?

A Yes.

Q Did he tell you who were bayoneted?

A He told me the Japanese ordered everybody out, bound their hands behind their backs.

Q Did Ching Co tell you in what part of the San Marcelino Compound were the priests bayoneted?

A Yes.

Q Please tell where.

A Near the river; near the house.

Q Did Ching Co tell you how he was able to see the people tied up and the priests bayoneted?

A Yes. He said he was one among those.

MAJOR OPINION: I offer, sirs, as part of the evidence for the Prosecution Exhibit 85.

GENERAL REYNOLDS: There being no objection, the exhibit is accepted in evidence.

CAPTAIN REEL: We haven't seen it, sir.

(Prosecution Exhibit No. 85
for identification was
received in evidence.)

GENERAL REYNOLDS: Before you proceed with the cross-examination, is there any member of the Commission who would like to have the Interpreter read over the questions and answers thereto or would the Defense like to have the Interpreter read the questions and answers?

CAPTAIN REEL: No, sir.

GENERAL REYNOLDS: Proceed, then, with the cross-examination.

CROSS-EXAMINATION

Q (By Captain Reel) At the time that you have been describing there were air raids going on; is that right?

A I heard only shelling going on.

Q And it was because of the shelling, then, that you went into the air raid shelter? Is that right? Was it because of the shelling that you went into the air raid shelter?

A Yes.

Q And also while you were in there there was shooting going on in the street, wasn't there?

A Yes, while in the shelter I could hear shots without knowing what was going on around.

Q Yes. And you didn't actually go out during the day to find out what would happen to you if you did, did you?

A I could not go out because I was wounded.

Q Yes. These Japanese soldiers that you saw, were they army or were they navy?

A What I know only is that they come from the ship and come to the land.

Q They came from the ship and came to the land. And how do you know that they came from the ship and to the land?

A I noticed they have "anchor" on their caps (Interpreter illustrating.)

CAPTAIN REEL: What was all this about, these motions that you just made (illustrating)? Will you just tell the Court what the question was and what he answered? Just tell the Court what you asked and what he answered.

(Question about to be translated by Interpreter Lavengco.)

CAPTAIN REEL: No, no, you don't understand. Tell the Court.

INTERPRETER LAVENGCO: I asked the witness how he could tell what the soldiers were, whether army or navy; how he could distinguish. He told me that he noticed on their caps was an "anchor" sign, which he knows; they being used to anchor in the water. They put their anchor in the water.

CAPTAIN REEL: Okay. That is all.

(Witness excused.)

GENERAL REYNOLDS: The Commission will recess briefly to enable those in the room to move forward if they wish to do so.

(Short recess.)

GENERAL REYNOLDS: The Commission will come to order.

FATHER MANUEL A. GRACIA

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

DIRECT EXAMINATION

Q (By Major Opinion) Father, please state your name.

A My name? My name is Manuel Antonio Gracia.

Q Address?

A My present address is Hospicio de San Jose.

Q Nationality?

A I am a Spaniard.

Q Where were you living during the first days of February 1945?

A I was living in Concordia College.

Q Do you know the Saint Vincente de Paul House or Convent?

A Yes. It is my mother house.

Q Do you know who of the priests were living on or about 9 or 10 February 1945 in that house?

A Yes.

Q Can you name them?

A Yes. Father Jose Tejada; Father Fernandez; Father Jose Aguirreche; Father Adolfo Soto; Father Julio Ruiz; Father Luis Egeda. And the lay brothers were Brother Antolin Marcos; Gregorio Indurain; Valentin Santidrian; Alejandro Garcia.

Q Were these the only Fathers and Brothers which you have just mentioned who were living then in those days at Saint Vincente de Paul House?

A Well, the lay brothers and the Fathers, but with the Fathers and Brothers there were living two altar boys, one cook, and three servants.

Q How many in all were there persons living there?

A Well, 6 Fathers, 4 lay brothers, 2 altar boys, the cook. Around 13 or 14.

Q How do you know that they were living in those days in that house, Saint Vicente de Paul?

A Well, I know Jose Tejada, our Provincial Father, was to remain there. I know that personally because I heard from him many, many times. He stated that it was his duty to remain in the parish house. And I also heard from Brother Antolin, who was the parish priest, that it was his duty to stay in the parish. I know, too, that Father Luis Egeda displayed to the Fathers a list of those who remained in San Marcelino.

Q When was the last time that you saw these Fathers alive?

A The 1st of February.

Q Did you see every one of these priests and Brothers you have mentioned on that day?

A I cannot assure you if they were all and every one of them, but I went to the mother house on that day.

Q On 26 February 1945 did you go to the San Marcelino place?

A Yes, I went there.

Q What did you do?

A I intend to look for the Fathers, in the first place; in the second place, for our Provincial Archives; and, in the third place, for the library. I went around the house and looked in all the places, in the rooms of the house. I was looking for the Fathers, but I was not able to find anything.

Q What was the condition of the house when you went that day?

A The condition of the house? It was burned almost two-

thirds of the house. Then I found everything was in disorder and was very dirty, and also I found that the house was filled with those kind of ammunitions. Hand grenades and other kinds of ammunition.

Q Do you happen to know whose hand grenades or ammunitions were those that you found?

A Oh, I don't know. But everything that I remembered about the ammunitions was that they were hand grenades of white color and one of the servants told me that they were very dangerous because they were of nitrate oxide, I think.

Q Were the liberation forces already in the City when you went to San Marcelino?

A Yes. They were in our mother house, some soldiers.

Q Who were the soldiers?

A Oh, I don't know. The only thing that I know --

Q Were they Japanese or Americans?

A They were American soldiers, but what regiment I don't know. I don't know their names.

Q You stated that you did not find the priests or Brothers?

A Yes.

Q Did you come back to the place?

A Yes.

MAJOR KERR: Speak up, please, Father.

A (Continuing) Now, the first day I did not find any of the Fathers or lay brothers, or any of the persons we were looking for. The next day we intend also to return to San Marcelino and we were not able to approach that place because the fire was between Marquis de Comillas and the

Jai Alai.

Q Please speak louder, Father.

A The next day I intend to return to San Marcelino, but we were not allowed by the soldiers, by the military police, because the fire was between Marques de Comillas and the Jai Alai. One of the soldiers told me that if it were not his duty to stay there, he surely would not be there as it was very dangerous. I told him that we have been away from San Marcelino from the 1st of February until February 26th. The military police answered me that where in those days that place was ours, but not today, and he said "We think it will take us this afternoon to clean the place of the Japanese."

Q At last did you reach San Marcelino?

A Yes.

Q When was that?

A I returned to look for the Fathers because I received a notice from Father Wenceslao Yonson, one of our companions, that they had found the bodies of our Fathers in the river. We went over there. If I am not mistaken, the date was on the 4th of March.

Q Who were these military police you just mentioned who told you that it was very dangerous?

A Who was?

Q Yes. Who were the military police?

A I don't know. The only sign I know is the "MP."

Q "MP" of what? American Army?

A Yes, American Army.

Q Did you at last find the priests and the persons and

others mentioned by you?

A Yes.

Q Where?

A In the river.

Q In the river of what? What river was that?

A The river which is near our house.

Q Very near from the Convent?

A Yes, not very far; about two meters.

Q How many meters?

A Two meters. I think the distance between the river and the house is only two meters, more or less.

Q Whose bodies did you find?

A I recognized very well the body of Father Aguirreche, the body of Father Fernandez, the body of Father Julio Ruiz, and the body of Brother Marcos and Brother Santidrian and Brother Garcia. I recognized those bodies.

Q Did you find other identified bodies?

A What?

Q Did you find other identified bodies?

A I was not able to identify the bodies.

Q How many bodies in all did you find in that place?

A We found 10 all told and one small body. I think it was personally one of the altar boys.

Q Where were those bodies, in the river?

A Yes.

Q On the water or on the river bank?

A No, in the water.

Q In the water. What did you do after finding and identifying the bodies of the priests?

A We intended to bury them, but we were not able to because we had no means for burial. Then I returned to see Father Ferdinand Evans, an American Army Chaplain, to ask his help to bury the bodies of the others. I went with Father Evans on the 5th of February to San Marcelino.

Q What date was that?

A On the 5th?

Q On the 5th of what?

A February. No, excuse me. March. With Father Evans I went there and then we returned to the post of Father Evans, and the next day we were to bury the Brothers and the Fathers: Father Evans, myself, 6 of the district Fathers, Mr. Marino Olondriz and his son. We went to San Marcelino to bury the corpses.

Q Please proceed. Did you bury them?

A Yes.

Q Where did you bury the bodies?

A We buried the bodies of the Fathers between the house and the church.

MAJOR OPINION: I ask that this be marked Exhibit No. 86 for identification.

(Photograph of front of building was marked Prosecution Exhibit No. 86 for identification.)

Q (By Major Opinion) Showing you this photograph marked Exhibit 86 for the Prosecution, will you please point out where is the place where the bodies were found?

A This part of the building here (indicating).

Q That is in the very front part of the building?

A From this part to this part here (indicating).

MAJOR OPINION: I offer this as part of the evidence of the Prosecution, if the Commission please.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 86 for identification was received in evidence.)

MAJOR OPINION: I ask that this be marked Prosecution's Exhibit No. 87 for identification.

(Photograph of north portion of "Mother House" was marked Prosecution Exhibit No. 87 for identification.)

Q (By Major Opinion) Please state if you know this place, Photograph Exhibit 87.

A This part is the north part of the front place of our Mother House near the river.

Q Do you know whether that place served as the place of execution of anybody?

A I heard from the Chinese that this is the place where these 10 Chinese were machine-gunned by the Japanese.

MAJOR OPINION: I offer this, sirs, as part of our evidence.

CAPTAIN SANDBERG: I ask that the witness's last answer be stricken out as purely hearsay and not within his own knowledge.

GENERAL REYNOLDS: Would you read the last question and answer?

(Question and answer read.)

GENERAL REYNOLDS: The answer will be stricken from the record.

MAJOR KERR: May I inquire of the Commission? I thought the Commission previously ruled that hearsay evidence will be admitted. Is it to be the ruling of the Commission that hearsay will not be admitted?

GENERAL REYNOLDS: In this particular instance.

MAJOR KERR: I see.

GENERAL REYNOLDS: The answer will be stricken from the record.

MAJOR OPINION: That's all.

CROSS-EXAMINATION

Q (By Captain Sandberg) Do I understand that you were not at the Saint Vincente de Paul House between the 1st of February and the 26th of February?

A I was not at San Marcelino from the 1st of February until the 26th of February.

Q That's right. When you returned there you found the house burned?

A Yes.

Q Was there anything about the appearance of the house to indicate what had caused it to burn?

A I don't know.

Q You referred to ammunition which you saw around the house? Was that exploded ammunition?

A Well, some parts of the ammunition were exploded already, but plenty of them weren't exploded.

Q Some were used and some were unused. Do you know whether any of it was Japanese ammunition?

A The only thing that I know is that the American soldier told me that this kind of grenades of the Japanese is white

grenades. That is the only thing I know.

Q How about the ammunition? Do I understand that you also saw bullets?

A What?

Q Did you see any bullets? Any cartridges?

A Pardon me. I cannot understand you.

Q Were grenades the only type of ammunition you saw?

A The grenades? No. Bullets; rifle bullets; machine gun bullets.

Q You saw machine gun bullets?

A Yes.

Q Do you know whether the machine gun bullets were American machine gun bullets or Japanese?

A I cannot distinguish. It is out of my line.

Q And no one told you that. Do you know whether any guerrillas stored ammunition in that building at any time?

A What?

Q Do you know, Father, whether any guerrillas at any time used that building for storage of ammunition?

A Yes, I know. In the month of February the Japanese had plenty of ammunition in our house.

Q The Japanese?

A Yes.

MAJOR OPINION: Sirs, please, I would like the question to be repeated to the Father so that the answer may be given.

GENERAL REYNOLDS: Will the Interpreter repeat the last question and the last answer?

(Question and answer read.)

THE WITNESS: I think there is a mistake. The thing

I know is that in the month of August I was transferred to San Marcelino and I see that the Japanese have stored many kinds of ammunition in our Mother House in the month of August, but not the month of February.

Q (By Captain Sendberg) As far as the month of February is concerned, you don't know anything?

A What?

Q So far as the month of February is concerned you have no knowledge?

A Well, pertaining to the month of February, the only thing I know is February of 1945, but 1944, I don't know anything of this month of February.

Q When you saw the bodies of the Fathers and the lay Brothers and the boys, was there anything to indicate as to how they met their death and what was the cause of the death?

A Yes. They found the bodies tied. Their hands were tied at the back and they were lying down, face down in the water; all the bodies.

Q Were there any bullet holes in the bodies?

A I don't know, because the corpses were completely destroyed by the action of the elements. They were killed on the 9th of February and you can count the days between the 9th of February and the 26th and the 6th of March, the date they were buried. They were decomposed.

Q Well, was it your conclusion that they met their death from drowning?

A What?

Q Was it your conclusion that they met their death

through drowning?

A No.

Q What conclusion did you reach as to the cause of death?

A Why, therefore, their hands were tied at the back of their bodies? And I know the lesson made to me by the Chinese. I found them in the month of March. I made some inquiries to know the fate of our Fathers and they told me the story they knew.

Q Do I understand, Father, that there were no bullet holes in the bodies?

A I answered that. I don't know. The bodies were decomposed, destroyed.

Q One further question, Father. Did you see in the house any shell fragments?

A Holes made by shells?

Q Yes.

A Yes; plenty; plenty of them.

Q Many holes made by artillery shells?

A Yes.

Q Did you see many fragments of shells in and around the house?

A Fragment of shells?

Q Yes.

A I cannot say that I have seen it.

CAPTAIN SANDBERG: That is all.

MAJOR OPINION: Just a few questions.

REDIRECT EXAMINATION

Q (By Major Opinion) Has any member of the guerrillas

ever occupied any of the buildings of the Convent of San Marcelino?

A I have seen two gentlemen who told me that they were guerrillas.

Q When was that, then?

A I cannot precisely tell. The dates I don't know.

Q After the American liberation forces have come?

A Yes.

Q Before 9 or 10 of February, 1945, do you know, Father, if any of these guerrillas have ever occupied any convent of the church?

A Between the 9th --

Q Before the 9th.

A Before the 9th I don't know. I don't know.

Q Who were occupying the San Marcelino Church and the San Marcelino Convent?

A In those days they were occupying our Mother House, those soldiers that have been known as navy men.

Q You mean the Japanese navy?

A Yes, Japanese.

Q Do you know, Father, since when did they begin occupying the premises?

A As far as I know, in the month of August there were navy cadets in our house. Then these cadets were removed and the house was occupied by -- I don't know who the department of the Imperial Japanese Forces, but it was kind of a place of buying and selling those things for officers, and so on. And afterwards, around the month of November, it was occupied by those marines. I don't know the people. They

were very tall men, strong men, and they had this navy cap with the insignia on the front.

Q Prior to the occupation by the navy of the San Marcelino Church to what was that church devoted?

A Before the occupation of the Japanese it was our Mother House.

Q It was what?

A It was our Mother House and it was occupied only by the priests and the lay Brothers.

Q Father, I am not referring to the house, I am referring to the San Marcelino Church. To what was it devoted before the occupation thereof by the Japanese navy?

A I say the parish church was devoted to religious worship.

Q Was that church open then at that time?

A What?

Q Was that church open prior to the occupation?

A Yes. And after the occupation by the Japanese.

Q Since the church was occupied by the Japanese navy was it open to the public for religious worship or no more?

A Yes, it was open to religious services.

MAJOR OPINION: That is all.

(Witness excused)

GENERAL REYNOLDS: The Commission will recess for five minutes.

(Short recess)

GENERAL REYNOLDS: The Commission is in session. The Prosecution will proceed.

CAPTAIN WEBSTER: Sir, this case is contained in Paragraph 24 of the Bill of Particulars.

The first witness, please.

BASILIO UMAGAP

called as a witness by and on behalf of the Prosecution, having been first duly sworn, was examined and testified as follows, through Interpreter Lavengco:

DIRECT EXAMINATION

Q (By Captain Webster) Please state your name.

A (Through Interpreter Lavengco) Basilio Umagap.

Q Your age?

A Eighteen years old.

Q Your nationality?

A Filipino.

Q Where were you working on or about the 7th day of February, 1945?

A I was working at the home of Mr. Pons.

Q What was Mr. Pons' first name?

A Bartolome Pons.

Q And where did he live?

A Corner of San Antonio and Figueroa.

Q In Manila?

A Yes.

Q In what capacity?

A Houseboy.

Q How long had you been working as houseboy?

A Six months.

Q State whether you were present in the home of Bartolome Pons on the 7th day of February this year when that home was

visited by Japanese.

A Yes.

Q How many Japanese came to that home at that time?

A From 10 to 15.

Q Can you state what branch of the Japanese military forces they were in?

A Navy.

Q What did those Japanese naval men do when they came to the Pons' home at that time?

A When they came they had with them ropes. They ordered us out into the garden and tied us all.

Q Whom did they tie?

A Mr. Pons, Mrs. Pons, Eva, Edward King, Delfin, Virginia, and I. The woman named Pacita, with the child, was not tied.

Q How old was Pacita?

A I cannot tell how old she was.

Q Will you state whether she was a young woman or an old woman?

A Young.

Q How old was the baby she was carrying?

A (Without aid of Interpreter) About 11 months.

CAPTAIN WEBSTER: Pardon me. Do you understand English?

THE WITNESS: I understand, but I don't talk.

Q (By Captain Webster) Was Pacita the daughter of Mrs. Pons?

A (Through Interpreter) She simply called her "Mama." She was just like her child.

Q Was Pacita at that time pregnant?

A Yes.

Q How did the Japanese tie the people up?

A They tied our hands behind us.

Q Were the people tied together in any way?

A Together, connected to each other.

Q Where were the people standing when they were so tied?

A Outside the garden.

Q By "garden," do you mean the yard surrounding the house?

A Yes.

Q After the people were tied what did the Japanese do with them?

A They took us under the house.

Q By "under the house," do you mean the first floor of the Pons home?

A Yes, sir.

Q What did the Japanese do with you there?

A The Japanese had us clean the tables and then lined us up.

Q Continue, please.

A When we were lined up we saw the Japanese aim the gun, and shot first Mr. Pons, and we all shouted. After Mr. Pons, next Isaac, and then Mrs. Pons. At that time I was trying to unloose myself. I was able to take one of my hands out, and when Mrs. Pons and Isaac fell I was with them. I was endeavoring to free myself, both hands.

Q Did you fall down at that time?

A Yes, sir.

Q Did you see any other people shot there besides Mr. Pons, Mrs. Pons, and Isaac, a person you have named?

A They were all shot. While they were being shot I was able to crawl.

Q Was the baby shot?

A The Japanese was about to go out, but the baby cried. When he heard the baby he came back and shot the baby twice.

CAPTAIN WEBSTER: You may cross examine.

CROSS EXAMINATION

Q (By Captain Sandberg) When the Japanese came into the house did they say anything?

A They didn't say anything, but just ordered us out.

Q Did they accuse anyone in the house of being a guerrilla?

A No.

Q After you went out of the house you were tied up, is that right?

A Yes, we were tied.

Q And you were then taken under the house, is that right?

A Yes.

Q Were you all tied together when you were under the house?

A We were all tied together except Pacita, who has a child.

Q Did all of the Japanese go under the house with you?

A Two went with us under the house. One was holding the light while the one with the saber was doing the shooting.

Q The one with the saber was doing the shooting?

A The one with the saber was doing the shooting.

Q Did the Japanese say anything to you when you were under the house?

A Nothing. He just right away shot us.

Q Am I correct in understanding that from the time the 15 Japanese came to the house to the time that the incident occurred under the house no one of the 15 Japanese spoke a word, either in Japanese or in any other language?

A No.

Q Do you know whether Mr. Pons sympathized with the guerrillas?

A About that matter I don't know anything.

Q Do you know whether any of the other people in the house sympathized with the guerrillas?

A I don't know.

Q Did you sympathize with the guerrillas?

A I am not a guerrilla.

Q Did you ever hear of Colonel Martinez?

A No.

CAPTAIN SANDBERG: That's all.

CAPTAIN WEBSTER: May I ask one other question, please?

REDIRECT EXAMINATION

Q (By Captain Webster) If no word were spoken by the Japanese how did you people know how to go out of the house into the yard?

INTERPRETER LAVENGCO: Repeat that, please.

CAPTAIN WEBSTER: Will you read the question?

(Question read by the reporter.)

A When they came they told us to go out. I told Delfin to talk to them. Delfin was trying to talk to them, and they did not answer.

Q By "Delfin," do you mean Delfin Marquez?

A I only know him by the word "Delfin."

CAPTAIN WEBSTER: That is all.

Recross examination?

CAPTAIN SANDBERG: No questions.

(Witness excused.)

CAPTAIN WEBSTER: Next witness, please.

LUIS A. FLORES, JR.

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

DIRECT EXAMINATION

Q (By Captain Webster) Please state your name.

A Louis A. Flores, Jr.

Q Your age?

A Thirty-three.

Q Nationality?

A Filipino.

Q Where did you live on the 7th of February of this year?

A At 518 San Antonio Street.

Q Where was your home with reference to the home of Bartolome Pons?

A Just across, my home.

Q Across the street, do you mean?

A Across the street.

Q How long had you known Bartolome Pons and his family?

A Since 1930.

Q Where were you when the Japanese came to the home of Bartolome Pons on the 7th of February, 1945?

A I was at the balcony of my house.

Q Did you see the Japanese going to the Pons' home?

A Yes, I did.

Q Where did they go?

A To the front door.

Q What else did you see?

A I saw some of the Japanese take hold of the old man, Mr. Pons, and tie him up.

Q Did they tie the other members of the family up, also?

A Not at once, because the two girls were running to and fro.

Q Were there any members of the family that were not tied up by the Japanese at that time?

A I saw the Japanese trying to force their way on the stairs on the second floor of the house.

Q Where did the Japanese take these people?

A After being tied on that ground floor they were brought inside a hole, that is, on the ground floor of the house.

Q Are you acquainted with the ground floor of the Pons' home?

A Yes, I do.

Q How many rooms are on the ground floor?

A There is no room, or any partition, but it is used as a hall.

Q Just one large room?

A Just one large room.

Q After the Japanese took those people in to the first floor of the Pons' home what did you then see?

A I saw a Japanese with a rifle below his waist, standing with the rifle pointing inside the room.

Q Could you see the people who were on the inside of the room?

A I could not see anyone.

Q What did you see that Japanese do?

A The only thing I saw from the Japanese was the spot where the orange-color flame come out of his rifle.

Q Did you hear the report?

A I did.

Q How many times did that Japanese shoot?

A I heard the first shot, and then I took my mother out of the balcony.

Q How many shots did you hear?

A About seven shots.

Q Did you, at a later time, go to the Pons' home?

A After the Americans came.

Q When was that?

A About three days later.

Q What did you then see on the first floor of the Pons' home?

A The first thing I saw was the whole family all tied up and all facing upwards.

Q Were they living or dead?

A Dead.

Q Did you at that time observe any wounds on the bodies of the Pons' family?

A All the bodies were beyond recognition and swollen. There was blood all over their breasts.

Q With reference to the Japanese who came to the Pons' home on that day, will you please state whether they were Army or Navy?

A I believe they belonged to the Imperial Marines.

Q And why do you say that?

A The color of the uniform was somewhat greenish.

Q Had you seen those Japanese in and around that neighborhood at a previous time?

A Every day. They had their headquarters just about the other corner from my house.

Q And how many stayed at that headquarters?

A That is one thing that I never did like to know!

Q Well, after you saw the Japanese shooting on the inside of that house did you thereafter see where those Japanese went?

A Yes, I did.

Q Where did they go?

A They passed the front of the house and from the corner of the house they crossed the other street. That is on my street. And they had with them a lot of boxes.

Q Are you able to say what was in those boxes?

A Foodstuffs, I believe.

Q Could you see inside the boxes?

A I saw them in the refrigerator eating from the second floor.

Q Did they have those boxes previous to the time they went into the Pons home?

A No.

CAPTAIN WEBSTER: You may cross examine.

CROSS EXAMINATION

Q (By Captain Reel) How did you know that these men belonged to the Imperial Marines?

A I see them every day there just in front of my house.

Q Yes, I know. I will ask again, How did you know that they belonged to the Imperial Marines?

A They carried an anchor on their hats.

Q Did anyone ever tell you that soldiers with an anchor belonged to the Imperial Marines?

A Yes.

Q Who told you that?

A An officer.

Q A Japanese officer?

A A Japanese officer.

Q Are you sure of that?

A Yes.

Q Do you know who was that officer?

A Yes.

Q What is his name?

A I don't quite remember now, but I got it at home.

Q When did he tell you this?

A He used to visit us.

Q Are you friendly with the Japanese soldiers?

A He became friendly with me when an air raid -- when there was an air raid sometime around December.

Q Do you know whether the Pons family was helping the guerrillas?

A No.

Q Do you know anything about it?

A No.

Q There was quite a bit of guerrilla activity in that neighborhood, wasn't there?

A I don't know anything.

Q You don't know anything about that. Why are you smiling? Do you know anything about it?

A I don't know anything.

Q All right. Why do you suppose, Mr. Flores, that the Japanese went to the Pons house and didn't come to your house?

A They did come to my house two days before.

Q Did they shoot anyone at your house?

A They didn't. They throw everything.

Q Just answer my question, please. Did they shoot anyone at your house?

A No.

Q Why do you suppose that they didn't shoot anyone at your house, but shot people in the Pons house?

A That I do not know.

CAPTAIN REEL: That's all.

CAPTAIN WEBSTER: A few other questions.

REDIRECT EXAMINATION

Q (By Captain Webster) What did the Japanese do at your house?

A The Japanese started throwing everything in my house; open all the drawers; threw everything and ransacked my refrigerator. My mother came over to slap one of the Japanese, but my sister told my mother to "calm down" because we have 6 children to defend. They started taking all the food there.

CAPTAIN WEBSTER: You may examine.

CAPTAIN REEL: No questions.

CAPTAIN WEBSTER: That is all.

(Witness excused)

CAPTAIN WEBSTER: Next witness.

BHAGWANI HERNANDOS

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

DIRECT EXAMINATION

Q (By Captain Webster) What is your name?

A Bhagwani Hernandos.

Q Your age?

A 33.

Q Your nationality?

A Indian.

Q Where did you live on the 7th of February of this year?

A 517 San Antonio Street.

Q Where is your home with reference to the home of Bartolome Pons?

A Next door to Mr. Pons.

Q Who else was living in your home?

A Delfin Marquez.

Q With reference to immediately prior to the time that Delfin left your home did you have any visitors?

A Yes.

Q Who were they?

A Miss MacMahon.

Q Did you have any other visitors?

A On February 7th?

Q Yes.

A There were some Japanese in the morning who came in search of the house, but there were no other visitors.

Q How many Japanese searched your home?

A There were three Japanese.

Q Were they army or navy?

A That I couldn't tell, but I think they might be of the navy.

Q Did anything occur in the afternoon of February 7th?

A Yes. That was late afternoon, rather in the evening. We heard some commotion in the next house, Mr. Pons', and they were calling for help and Delfin went over there. After a while I heard my name called. "Come! I'm tied!" I tried to go to the back door because the front, it was locked; but I saw some Japanese sentries there and I didn't go out.

Q Whose voice was it that you heard say "I'm tied"?

A Delfin Marquez.

Q Why had he left your home?

A Because someone called him from Pons' house.

Q Didn't Delfin understand the Japanese language?

A He does not.

Q Did he act as interpreter at any time?

A No.

Q After you heard Delfin's voice saying that he was tied, did you hear anything else?

A I heard somebody talking some Japanese words, but I couldn't understand.

Q Did you hear anything after that?

A I heard some shots.

Q How many shots?

A I couldn't determine exactly how many, but I believe there were between 7 and 8.

Q Did you thereafter go to the Pons home to see the body of Delfin Marquez?

A No, I did not go on that day.

Q At any later time?

A Yes, I did go on the 12th of February.

Q What wounds were on the body of Delfin Marquez?

A He had a bullet hole in his chest.

Q Where was that body?

A The body was tied on the floor of Pons' house.

Q How old was Delfin?

A He was 25 years.

CAPTAIN WEBSTER: You may cross-examine.

CAPTAIN SANDBERG: No questions.

CAPTAIN WEBSTER: That's all.

(Witness excused)

CAPTAIN WEBSTER: Sirs, that completes the evidence on the paragraph mentioned of the Bill of Particulars.

CAPTAIN PACE: The next case is Bill of Particular
No. 32, St. Paul's College.

SISTER ANNA DE JESUS

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

DIRECT EXAMINATION

Q (By Captain Pace) Will you give your name, please?

A I am Sister Anna de Jesus.

Q Where do you live?

A I live in St. Paul's College.

Q How long have you been at St. Paul's College?

A For 21 years.

Q In what way have you been associated with St. Paul's?

A I have been teaching there for 21 years.

Q Were you there during the Japanese occupation?

A We have been there until the 12th of September.

Q What day was that?

A On Tuesday, I think.

Q What day of the month?

A The 12th of September.

Q What year?

A 1945.

Q I mean, while the Japanese were there, when the
Japanese occupied Manila, did you have occasion to leave the
college?

A We were obliged to leave the place.

Q When was that?

A We got notice in the month of August.

Q Yes?

A And we tried to stay in the college, but we were obliged to leave the place, the whole place.

Q When was that?

A Well, it began in August about the 8th, I think, to the 12th of September; about a month. I can't exactly remember.

Q What year?

A 1945-- 1944, excuse me. September, '44, I guess.

Q And did all the Sisters and everyone connected with the college leave in September of 1944?

A Yes, we all left in 1944, September.

Q And the Japanese occupied the college on that date?

A Yes, the 12th of September.

Q Did they occupy all the buildings in the compound, including the chapel?

A Yes, everything.

Q Were you allowed to go into the college?

A Never was I allowed to go back to the college.

(A diagram was marked Prosecution Exhibit No. 88 for identification.)

Q I show you Prosecution's Exhibit No. 88 and ask you if that is an accurate representation of the area in which St. Paul's College is located?

A Yes, it is.

CAPTAIN PACE: I offer it in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted.

(Prosecution Exhibit No. 88 for identification was received in evidence.)

(A diagram was marked Prosecution Exhibit No. 89 for identification.)

Q (By Captain Pace) I show you Prosecution's Exhibit No. 89 for identification, and ask you if that is an accurate description of St. Paul's College and the neighborhood, as it was on February 9, 1945?

A This is a correct copy.

Q I beg your pardon?

A This is a correct copy.

Q It is correct?

A Yes.

CAPTAIN PACE: I offer it in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 89 for identification was received in evidence.)

Q (By Captain Pace) After you left the college in September, 1944, where did you go?

A We went to Santa Teresa College.

Q Where were you on February 9, 1945?

A In the Assumption Grounds, because on the 7th of February we were sent out from the Santa Teresa College and we went to the Assumption for refuge there.

Q You were at the Assumption Convent?

A Yes, sir.

Q On February 9?

A Yes.

Q Where is that with relation to St. Paul's?

A Just in front of St. Paul's College.

Q Across the street?

A Across the street, yes.

Q What street?

A Herran Street.

Q In the afternoon and evening of February 9, did you see anything unusual take place in the yard of St. Paul's?

A Well, we were in the Assumption Convent, and suddenly we heard a terrific explosion, and we looked up, and it just came from our building. The roof was taken off, a terrific noise. The roof was taken off about three blocks farther.

Q You say the roof of one of the buildings was blown three blocks?

A Yes.

Q And you saw that?

A Yes.

Q And you heard a terrific explosion?

A Yes.

Q And after you saw that, what did you see at St. Paul's College?

A After that it was burned; the college was burning, all in flames in all directions.

Q Did all the buildings and all the church property that was located in St. Paul's -- was it destroyed at that time?

A Everything, I suppose, yes; nothing but ruins.

Q There is now nothing but ruins?

A Nothing left but ruins.

Q When did you next go to St. Paul's?

A On the 23rd of February.

Q What did you find when you got there then?

A It was in terrible condition. We found about 40 burned bodies.

Q You say 40 burned bodies?

A Yes, about 40 burned bodies all along the corridor, along the dining room.

Q Yes? Did you look inside the dining room?

A I did.

Q Were you able to see whether there were any bodies in there?

A Well, I do not know. My mind is so much terrified by this sight that I really can't tell now whether I saw something else or not. I saw the debris, but --

Q You saw a great pile of debris in there?

A A great pile of debris.

Q Were you able to tell whether or not there were bodies in that room?

A I think there are still bodies in there, that must have been left behind, because we found some bones afterwards.

Q You since found bones there?

A Yes, sir.

Q But you weren't able to tell at that time how many bodies were in there, is that right?

A No, inside, no; I could not.

Q What was done with the 40 bodies that were outside?

A It was buried in the yard on our grounds there; 30 bodies were buried there.

(A photograph was marked . . .
Prosecution Exhibit No. 90
for identification.)

Q I show you Prosecution's Exhibit No. 90 for identifica-

tion and ask you if you can tell me what that is.

A Yes, that is the dining room.

Q That is the dining room of St. Paul's --

A College, yes.

Q Is that the way it looked when you went back on February 23?

A Yes, exactly the same.

CAPTAIN PACE: I offer it in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 90 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 91 for identification.)

Q (By Captain Pace) I show you Prosecution's Exhibit No. 91 for identification, and ask you if you can identify it?

A That is the dining room.

Q That is the way it looked when you went back in February of this year?

A Yes.

CAPTAIN PACE: I offer this picture in evidence.

GENERAL REYNOLDS: There being no objection, it will be accepted in evidence.

(Prosecution Exhibit No. 91 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 92 for identification.)

Q (By Captain Pace) I show you Prosecution's Exhibit

No. 92 for identification and ask you if you can identify it?

A Yes. The same dining room in another position.

Q That is the way the dining room looked when you returned?

A Yes.

CAPTAIN PACE: I offer this in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 92 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 93 for identification.)

Q (By Captain Pace) I show you Prosecution's Exhibit No. 93 and ask you if you can identify this?

A Yes, this is a correct one; that is from the street, Florida.

Q That is St. Paul's?

A St. Paul's College, yes, seen from the street Florida.

Q As seen from Florida Street?

A Yes.

CAPTAIN PACE: I offer this in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 93 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 94 for identification.)

Q (By Captain Pace) Will you look at Prosecution's Exhibit No. 94 for identification, and see if you can identify

it.

A Yes, that is the grave of the persons who have been burned to death.

Q What is that? A common grave?

A A common grave, yes; 32 persons.

Q And when this marker was put up, how many people were in that grave?

A The first time they put 32, and some have been added afterwards.

Q And you testified that there were about 40 here now?

A Yes.

CAPTAIN PACE: I offer this in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 94
for identification was
received in evidence.)

CAPTAIN PACE: You may inquire.

CROSS- EXAMINATION

Q (By Captain Reel) On the day of this explosion that you describe, was there some shelling going on in Manila?

A Yes, there was shelling going on.

Q And were there any airplane bombs being dropped?

A Well, I cannot say that exactly, because we heard -- we saw the airplanes, we heard shelling; some bombing, maybe, but I didn't pay attention very much. We were inside the house.

Q And what you saw was one great big explosion?

A Yes.

Q That blew the roof about three blocks?

A Yes.

Q Did you see or hear any other explosions?

A No, because we were disturbed at that time afterwards, because some of the Japanese came to the building.

CAPTAIN REEL: I see. That is all.

CAPTAIN PACE: Thank you very much.

(Witness excused)

LUISA BARAHONA

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

DIRECT EXAMINATION

Q (By Captain Pace) Will you give your name, please?

A Luisa Barahona.

Q Where do you live?

A 1312 Tuberias Street.

Q How old are you?

A 30 years old.

Q What is your nationality?

A Spanish.

Q Where did you live on the 9th of February, 1945?

A I was living in Vermont Street.

Q Is that near St. Paul's College?

A Yes.

Q Did anything unusual happen on that day?

A Yes. At 11:30, at noon, three Japs came around with fixed bayonets and brought us to St. Paul's Institution.

Q Who was taken to St. Paul's with you?

A My whole family; my mother, my father, my sister, and our cook.

Q Were other people in the neighborhood of St. Paul's taken there at that time?

A Yes, the whole neighborhood. The whole Wright Street.

Q Can you describe what was going on?

A On that day, you mean?

Q Yes, the taking of people to St. Paul's.

A Yes. Everybody, all the people, most of them were brought the same as we were, by Japanese with fixed bayonets, and we were brought up to the garden of St. Paul's.

Q Where were you taken when you first got to St. Paul's?

A To the garden.

Q About how many people were there?

A I can't estimate exactly, but around 800 to 1000.

Q People from the neighborhood?

A Yes, from the neighborhood.

Q How long were you kept in the garden at St. Paul's?

A From noon to around 3 o'clock in the afternoon.

Q What happened then?

A Then it started to rain, and all the people were herded up and put in a small room inside St. Paul's.

Q Will you look at Prosecution's Exhibit No. 89 and see if you can tell which building of St. Paul's you were taken to first?

A That was the main entrance, then the corridor, turning to the right -- to the left I mean.

Q Well, you came in on Herran Street, did you?

A Yes, Herran Street here (indicating), and then we were placed in the garden room right here (indicating), and we came in the front door of the building and turned the first

corridor to the left, a small room (indicating).

Q And you are indicating the room where it says "2-story concrete building", is that right?

A Yes.

Q A room in that building?

A A small room in that building.

Q All right. Was everybody put in that room?

A Everybody.

Q How long did you stay there?

A Not very long, because we were crowded.

Q How crowded?

A Very crowded. We could hardly breathe.

Q What happened then?

A After a long while, I can't figure out how long it was, we were brought to another -- to the kitchen, St. Paul's. I figure it was the kitchen because they told me it was the Home Economics Room.

Q Is that the room marked "Kitchen" on Prosecution's Exhibit 89?

A That is right, over here (indicating).

Q How long were you there?

A Oh, about three-quarters of an hour.

Q Still 800 or 1000 people there?

A Yes, sir, and there were some more coming.

Q What happened then?

A Then we were transferred to the big dining room.

Q Is that the room marked "Dining Room" on Prosecution's Exhibit 89?

A Dining room, right here (indicating).

Q About what time did you go to the dining room?

A Around 4, 4:30; I am not very sure.

Q Describe what happened there?

A Well, at that time the Japanese closed all the doors, and around 4:30 or quarter to 5 a Japanese came in with a big box of candies, and everybody was hungry, didn't have any time to have our lunch, so everybody crowded around and picked the candies; while they were picking the candies -- well, I know that there were lamps inside, and the lights were covered up with black cloth --

Q Describe the lights that you say were covered with black cloth?

A On the ceiling there were hanging 5 lights covered over with black cloth, with strings leading to the corridors.

Q The strings led to the corridor on the inside --

A On the inside of the building.

Q Five lights; and how many strings were there?

A I beg pardon?

Q You say there were five lights. How many strings were there?

A Each light had a string attached.

Q So there were five strings leading from the room into the corridor?

A Yes.

Q And what happened after the Japanese put the candy in the room?

A Well, when all the people were crowded in the middle of the room, they pulled the first string.

Q Did you see the string being pulled?

A Yes, I saw it moving before they pulled it. My maid called my attention, she told me, "Miss, the lights are moving," and I looked up. It was exactly the time everything blasted.

Q Say that again, please.

A I mean, when the people were eating the candies, I saw one of the lights moving, and the maid called my attention, and I looked up and saw one of the lights moving. That was just the time when I heard the blast.

Q Where did the blast come from?

A The lights.

Q How many blasts did you hear?

A Five.

Q What happened then?

A Well, what happened was everybody started running. There were many wounded.

Q What did you do?

A I couldn't move. In the first place, my mother fainted on my left side and my sister on my right side, so I had to wait until everything was over. I saw everybody was jumping out the windows.

Q Yes?

A And the Japanese were machine-gunning everybody who jumped out the windows.

Q Where was the machine gun?

A Outside, on Florida Street.

Q On Florida Street?

A Outside the building.

Q What happened inside the room then?

A The Japanese started chasing everybody that was still alive there, and I saw one of the girls who was stabbed by a bayonet in the back.

Q Who was stabbed by the bayonet?

A One of the girls; I can't tell you -- a young girl.

Q What did you do then?

A Well, I took them -- my mother fainted, and my sister, so when I heard no more machine guns around I picked them up and took them down to Florida Street, to Doctor Gloria's house, the garage.

Q How did you get out of the dining room of St. Paul's?

A Had to jump out of the window.

Q Was there a hole blown in the wall there?

A Yes.

Q Is that where the arrow indicates on Prosecution's Exhibit No. 89 (indicating)?

A Yes.

Q And will you look here and see if you can point out Gloria's house where you ran to?

A Where is that street -- it was right in front, here (indicating); this is the house.

Q You are indicating the square marked "Gloria family"; is that right?

A "Gloria Family", that is right.

Q Did you see anything as you were crossing the street?

A Yes.

Q What did you see?

A The Japanese were chasing all the women and firing.

Q What happened after you got over to Gloria's?

A Well, we were hiding in Gloria's garage when the Japanese found out our hiding place, and we were placed against the wall, before a machine gun. All of a sudden a hand grenade exploded in the door of the garage and they told us to wait because they wanted to investigate what happened, but we didn't wait; we just passed through the garden and we hid in the stable.

Q You went and hid in Gloria's stable after the Japs had left, you say?

A Yes.

Q Will you show where that is on Prosecution's Exhibit No. 89?

A Gloria's family here (indicating); we passed to this stable.

Q You are indicating the square marked "Stable"; is that right?

A Yes.

Q What did you see after you got to the stable?

A There were many people hiding in the same place.

Q Survivors of St. Paul's?

A Survivors of St. Paul's.

Q Yes?

A And in the garden I saw around 8 dead people, in the garden.

Q Did you see how they had been killed?

A No.

Q All right. What happened then? Did you stay there until morning?

A Huh?

Q Did you stay there until morning?

A Yes, sir. We went to Gloria's house that night and stayed there the whole night, and in the morning a fire started in one corner of the house and we got scared, so we ran out in a different direction.

Q Were you able to estimate -- were you able to see how many people were killed in St. Paul's?

A An exact estimate, I cannot, but around 800, maybe.

Q You say 800?

A Yes.

CAPTAIN PACE: You may inquire.

CROSS-EXAMINATION

Q (By Captain Reel) What time of day was it when you were first taken into St. Paul's?

A 11:30, at noon.

Q And that day was there some shelling going on?

A Yes, there was shelling of the public buildings already.

Q And were there some bombs dropping from airplanes?

A American airplanes, you mean?

Q I don't know. Were there bombs dropping from any airplanes?

A That same day I can't recall, but I heard buildings were being dynamited by the Japanese, all of our public buildings.

CAPTAIN REEL: I will ask that that last be stricken as not responsive to the question.

CAPTAIN PACE: If it please the Commission, she said she couldn't tell, because the Japanese were blasting the buildings.

CAPTAIN REEL: I think her answer speaks for itself. I will ask the reporter to read it back and I will ask that it be stricken as not responsive.

GENERAL REYNOLDS: Will the recorder read the last question and the answer thereto?

(Question and answer read)

GENERAL REYNOLDS: The objection of counsel is not sustained.

Q (By Captain Reel) Were there any public buildings around St. Paul's?

A I beg pardon?

CAPTAIN REEL: Will you read the question?

(Question read)

A Yes. In one street, the College of Medicine and the Bureau of Science, very near St. Paul's; in fact, the medicine is right in front of St. Paul's Institution.

Q And when you were in St. Paul's, could you see those public buildings?

A You mean in the garden?

Q That is right.

A Yes, I could see them.

Q While you were in there, in the garden, did you see any of those public buildings blow up?

A The Bureau of Science, yes.

Q You saw the Bureau of Science blow up?

A Yes.

Q And at the same time, I think you told us there was shelling going on?

A Shelling?

Q Shelling, yes; shelling.

A I don't know. I can't specify what shelling is, but I know that the public buildings -- it was a big noise.

Q That is right; you saw an explosion and you heard noise, and the public buildings blew up; is that correct?

A Yes.

Q And you don't know how that building blew up, do you?

A Well, no.

Q All right. Now, you came into the St. Paul's courtyard at about 11:30 in the morning; how long did you stay there?

A In the garden?

Q The garden; pardon me.

A At about 3 o'clock.

Q Until 3 o'clock. And during that period, from 11:30 until 3 o'clock, did the Japanese machine-gun or kill anybody there?

A Not yet.

Q And then where did you go after 3 o'clock?

A Well, we were brought inside the building, because it started to rain.

Q And what room in the building did you go to?

A I thought it was in the front door, the corridor to the left side, the first room.

Q And how long did you stay there?

A About an hour.

Q And was anybody shot by the Japanese while you were in that room?

A No.

Q Now, let's see. You had been there from 11:30 until

Q 4 in the afternoon. Where did you go, then, at 4 o'clock?

A Then we were brought up to the kitchen; from the kitchen we were transferred to the dining room.

Q All right. How long did you stay in the kitchen?

A I cannot remember exactly how long it was.

Q Approximately?

A Approximately, maybe half an hour, three-quarters; I can't tell.

Q And was anybody shot or machine-gunned while you were in the kitchen?

A No.

Q So now we have got it up to about 5 o'clock. Is that right?

A 4:30.

Q 11:30 to 4:30. And at 4:30 where did you go?

A To the dining room.

Q Into the dining room. And is that the room where they put the candies in the room?

A Yes.

Q And all this time, on this particular day, there were explosions outside, weren't there?

A Yes.

Q And while you were in this room, after having been in St. Paul's since 11:30 in the morning, we have now got it to around 5 o'clock in the afternoon and you are in the dining room. While you are there there is suddenly an explosion that destroys the whole place; is that correct?

A You mean the dining room? Oh, no --

Q Just a moment. I will rephrase that question. Suddenly

there was an explosion that destroys the dining room. Is that correct?

A No, I told you that the explosion came from the lights.

Q No; not where it came from, please. Did the explosion destroy the dining room?

A Yes.

Q And did it destroy the entire building?

A Yes.

Q And you have seen these pictures that the Prosecution has just put in, haven't you?

A Yes --

CAPTAIN PACE: I object, if the Commission please. I don't believe the witness has seen any of the pictures.

CAPTAIN REEL: I will show them to you here now.

Q (By Captain Reel) I will show you Prosecution's Exhibits 90, 91, 92, 93, and 94. Will you look at those?

CAPTAIN REEL: I will withdraw 94; it is not a picture of the building.

Q (By Captain Reel) I will ask you whether those pictures properly show the damage that was caused by that explosion that occurred when you were in the dining room.

A There were five explosions.

Q And those pictures properly show the damage caused by the explosion, then?

A No, not yet. When I left the building, of course it was damaged, but the roof was still up there, with many dead people on the floor.

Q Did you see any more explosions in that building?

A After those five, no.

REDIRECT EXAMINATION

Q (By Captain Pace) Did you see a fire at that building after you left?

A No.

Q You don't know whether the building burned after you left, or not?

A No.

CAPTAIN PACE: That is all I have.

(Witness excused)

CAMILO DIEGO

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

DIRECT EXAMINATION

Q (By Captain Pace) Will you give your name, please?

A Camilo Diego.

Q Where do you live?

A 708 Nebraska.

Q Where did you live on February 9, 1945?

A 708 Nebraska.

Q Is that in the vicinity of St. Paul's College?

A Yes, sir, one block from St. Paul's College.

Q Beg pardon?

A One block.

Q Tell what happened on February 9.

A On February 9, two Japanese and an officer went to our house and told us to evacuate the house.

Q Did they tell you why you should evacuate it?

A They told us it would be safer.

Q What time was that they told you to evacuate your house?

A About 2 o'clock.

Q What time?

A 2 o'clock.

Q All right. What happened?

A Then they put us in a small room, then another small room, then a bigger room; then when we entered the room --

Q Just a minute. You say "we"; who was with you at that time?

A My family. My wife, one son, and three daughters.

Q Now, how many other people were there besides your wife and your son and your three daughters?

A Inside St. Paul's --

Q How many people were taken to St. Paul's?

A I would say around 500 people.

Q About what time did you get to the large room to which you were taken?

A Around 4 o'clock in the afternoon.

Q What happened after you got there?

A When we got there they put us in a small room, then another small room, and then a bigger room.

Q Will you look at Prosecution's Exhibit 89 and point out, if you can, the room which is the third room to which you were taken?

A It was in this room (indicating).

Q You are indicating a room which says "Dining Room", are you?

A Dining room, sir.

Q What happened after you got to the dining room?

A When we entered the dining room, I saw two hooded things

like electric lamps, hanging like electric lamps from the ceiling, with ropes going connected outside the corridor.

Q Did the ropes from the two hooded things go towards the corridor inside the courtyard, or towards Florida Street?

A Toward the courtyard.

Q What happened then?

A Then Japanese came in carrying candies and drinks.

Q Yes?

A And they put it on the floor. After a while they rushed outside, and the bombs fell inside the room.

Q Beg pardon?

A The bombs fell inside the room.

CAPTAIN PACE: Will you read the last two answers, please?

(Questions and answers read)

Q (By Captain Pace) You say bombs? Will you describe what you call "bombs"?

A The bombs were -- I noticed that, this bomb, because when it fell to the floor we were all unconscious.

Q You mean there was an explosion?

A Yes, sir.

Q What direction did that explosion come from?

A From the ceiling, sir.

Q Where you saw these hooded lights?

A Yes, sir.

Q You testified earlier that you saw a cord leading from the corridor to the lights. Did you see anything happen to that cord before the explosion?

A Yes, sir, because when the Japanese rushed outside they

were shouting, and afterwards I noticed there was an explosion inside the room.

Q Did you see anything happen to the cord which led to the lights before the explosion?

A I didn't notice, sir.

Q Now, what happened after the explosion? Was there more than one?

A Two explosions inside.

Q All right. What happened then?

A Then I was thrown outside to the corridor with my small child and the eldest child.

Q By the explosion?

A By the explosion.

Q That is the corridor to the inside of the courtyard, is that right?

A Yes, sir. And my wife and my son. The other one was inside the room.

Q What did you see then?

A Then the Japanese began rushing out the two doors they were with machine guns, shooting all the people that were standing still alive.

Q Where did the Japanese rush to?

A Through the doors.

Q Through the doors?

A Two doors.

Q In the room where you had been?

A Yes, sir.

Q Did you see what they did in there?

A Yes, sir.

Q What did they do?

A They bayonet those people standing and the children; and shoot them while they were still alive.

Q How many Japanese went inside the room after the explosion?

A About five Japanese.

Q What did the Japanese do then, after they had bayoneted and shot the people who were standing?

A They chased the people who escaped from the back of the room.

Q That went out into Florida Street, you mean?

A Yes, sir.

Q What happened then?

A Then afterwards they throw hand grenades, kill people inside the room still alive.

Q Where were they throwing the hand grenades from?

A Outside.

Q Where you were?

A No, sir. Very far from us.

Q Were they inside the yard at St. Paul's?

A Yes, sir; probably in the chapel, around the chapel.

Q You say they were standing by the chapel; do you mean the building marked "Chapel" in Exhibit 89 (exhibiting document to witness)?

A Yes (indicating).

Q You are indicating the west side of the building marked "Chapel"; is that right?

A This building (indicating), Chapel, sir.

Q This building is the chapel, is that right?

A Yes, sir.

Q Where they were standing?

A Around this fence (indicating), sir, of the chapel.

Q You are indicating the corner where it says "Well"?

A Yes, sir.

Q How many Japanese were standing there?

A I didn't notice, sir, because I was bombshot.

Q Can you estimate how many grenades they threw into the dining room there?

A Around 7 or 8, sir.

Q That was after the Japanese had gone in with the bayonets?

A Yes, sir, after they chased the people who escaped from the back room.

Q What were you doing all of this time?

A After the bomb fell I was thrown outside the corridor, and then I played dead with my small child besides me, and the other one was one meter from me.

Q What happened after the Japs threw the hand grenades in there?

A They threw hand grenades, then the Japanese came in with a pail of gasoline.

Q Yes?

A Then they threw it to the dead bodies inside the room.

Q Threw the pail of gasoline?

A Yes, sir, and then after a while I noticed the building was on fire.

Q You were lying right there, still?

A Lying in the corridor, sir.

Q After the fire started on the bodies, did you notice what happened to the fire after that?

A There was a terrific fire, and afterwards I carried my small child with me to the chapel, and then at 12 o'clock she died, and I wrapped her in a mantle, put her on the altar.

Q You put her on the altar?

A Yes, sir.

Q Did you leave then?

A Yes, sir. Afterwards we left the building and went to Gloria's house.

Q When you left St. Paul's, did you notice how much the fire had burned?

A All the buildings, sir, around the chapel.

Q Had the chapel caught on fire?

A Not yet, sir.

Q How about all the other buildings shown on Exhibit No. 89; were they all burned?

A On Georgia Street there were still houses.

Q How about Florida Street?

A All burned.

Q How about Tennessee Street?

A Still there; not too burned.

Q Is the fire still burning?

A Yes, sir, some of it still burns.

Q How many of your family were killed?

A Five.

Q Your whole family?

A Yes, sir.

Q Will you give the names and the ages of members of your

family who were killed?

A My wife, Concha, 32; Alicia Diego, 14; Romeo Diego, 12; Rosalinda, 8; and Lydia, 4.

CAPTAIN PACE: You may inquire.

CROSS-EXAMINATION

Q (By Captain Reel) How many explosions did you hear?

A I heard two explosions.

Q Two explosions?

A Yes.

Q And as a result of those explosions, was the entire building destroyed?

A No, sir, only the room.

Q Did the roof blow off?

A I didn't notice, sir.

Q You didn't notice the roof blow off?

A No, sir.

Q The explosion came from the lights, where the lights were in the ceiling?

A Yes, sir.

Q And how long were you at St. Paul's before the explosions?

A I was there around from 2 o'clock until 4 o'clock.

Q As I understand it, you told us that the Japanese first came to your house and told you to go to St. Paul's because it would be safer there?

A Yes, sir.

Q And were there shells falling around the city at that time?

A Only on the front of St. Paul's Street, sir.

Q There were some shells?

A Yes, sir.

Q And were there any bombs, any air bombs?

A No, sir.

Q Was there any shooting and firing?

A No, sir.

Q Just the shelling?

A Yes, sir.

Q Now, this candy and this whiskey that was in the room; did you have any of it?

A I had some candy, sir.

Q And did it make you sick at all?

A No, sir, because the Japanese partook of eating the candy, sir.

Q It wasn't poisoned then, as far as you know?

A No, sir.

Q Did you drink any of the whiskey?

A No, sir.

Q These soldiers who came to your house told you it would be safer at St. Paul's -- do you know if they were army or navy?

A They were navy, sir.

Q How do you know that?

A Because of the uniform.

Q And what on their uniform did you recognize as distinctive?

A Some of that color, sir, green.

Q A green color?

A Like fatigue.

Q You described seeing something on the lights, a black hanging substance, is that right? Black cloth, was it?

A Yes, sir.

Q Is that similar to the black cloth that was used to prevent light getting out?

A Yes, sir.

Q For black-out purposes?

A Yes, sir.

Q You had seen that before on lights, had you?

A Yes, sir, I had seen it.

Q And all that you saw on that chandelier, on that light, that was unusual was this black cloth; is that right?

A Yes, sir, with the ropes outside.

Q With a rope?

A Yes, sir.

Q And you don't know whether that rope was used to pull the lights on or not, do you?

A No, sir, a big rope.

Q A big rope?

A Yes, sir.

CAPTAIN REEL: That is all.

CAPTAIN PACE: May I ask one more question?

REDIRECT EXAMINATION

Q (By Captain Pace) Can you estimate how many bodies you saw inside of St. Paul's after the Japs left?

A Around 250.

Q Will you repeat that?

A Around 250 bodies.

Q And when the Japs brought you candy, where did they put it?

A They put it beneath the bomb.

Q Did they put it on the floor?

A Yes, sir.

Q What did the people do when they put it on the floor?

A They got at the candy, sir.

Q Did the people congregate in the center of the room?

A Beg pardon, sir?

Q Did the people gather in the center of the room then?

A Yes, sir.

Q Is that when you heard the explosion?

A Yes, sir.

CAPTAIN PACE: That is all I have.

(Witness excused)

DR. LUIS VASQUEZ

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

DIRECT EXAMINATION

Q (By Captain Pace) Will you give your name, please?

A Luis Vasquez.

Q Where do you live?

A Philippine General Hospital.

Q What is your profession?

A Doctor of medicine.

Q Where did you live on February 9th, 1945?

A 815 Wright Street.

Q Is that near St. Paul's College?

A It is about two blocks away from St. Paul's.

Q Will you describe what happened on that day?

A That day, after lunch, my brother and I went to the Philippine General Hospital. We were in our white uniforms; we had Red Cross armbands, and I was carrying my stethoscope. When we got to Herran Street, the College of Medicine, the Japanese sentry there stopped us and ordered us to go into St. Paul's. We were kept in the garden for some time --

Q Excuse me. Did you say anything to the Japanese sentry about where you were going or what you were doing?

A Yes. I tried to convey to him that we had to go to the Philippine General Hospital because there were some patients I had to see there. When we got into St. Paul's, they put us into the garden, and they kept us there for some time. Then it started to rain, so they brought us into the main building; they put us in a small room.

Q Will you look at Prosecution Exhibit No. 89 and point out where this room was located?

A This room was located in this corner here (indicating).

Q You are pointing to the northeast corner of the building marked "Two Story Building," is that right?

A Yes, sir.

Q Go ahead, Doctor.

A We were brought there, and everybody was pushed into the room, but inasmuch as we couldn't all fit in there we were brought to a second room. During the process of going to the second room, some of the Japanese started to take the baggage, the watches and the jewelry, whatever possessions the people had. We were put in the second room and kept there for some time, then we were put into the third room.

Q Yes.

A In the third room they ordered us to close all the windows, and then gave us some candies. After they put the candies there --

Q Where did they put them?

A Somewhere near the northern part of the room.

Q All right.

A After they brought in the candies they closed the doors. Everybody crowded in on the stuff, and then there were several explosions.

Q Did you see where the explosions came from?

A It seems to me something came flying over the transom into the room.

Q What happened then?

A As soon as I heard the explosion, I fell flat on my face and I felt several people falling on top of me. When I was able to look around, the window at my left had been blown open, the doors had been blown open, and the stone wall outside the window had been blown open.

Q I show you an exhibit offered by the Prosecution as No. 91; can you point out the window?

A This seems to be the window here (indicating).

Q You indicated the right side of the photograph, did you?

A Yes, sir.

Q All right. You saw the hole blown in the window. What happened then?

A I looked around for my brother, but I couldn't find him, so I jumped out of the window into Florida Street. When I got to Florida Street I found my brother was ahead of me; he was already running. As I got into Florida Street there were several shots behind us, and they sounded like machine gun shots.

Q Could you tell where they were coming from?

A Well, as far as I could determine they came from behind me. Then when we got to Florida Street, we found the street -- well, there were several things that looked like mines there -- I had been told they were mines, I don't know exactly -- but I had been told they were mines. So we ran across Florida Street, then we got to the corner of Florida and Tennessee, and the corner was barricaded with vehicles, overturned cars and barbed wires strung across the street. My brother and I managed to crawl through that, and we were able to run home.

Q During this entire time at St. Paul's College, did you have your white uniform on?

A I did.

Q Did you have your Red Cross armband on?

A I did, and also my stethoscope.

Q You had your stethoscope with you?

A Yes, sir.

Q Was your brother dressed the same way as you were?

A Yes, sir.

CAPTAIN PACE: That is all I have.

CROSS EXAMINATION

Q (By Captain Sandberg) Now, when you were on the grounds around St. Paul, did you hear any explosions?

A Yes, sir, there were several explosions.

Q That is, before you went into the building?

A Before I went into the building.

Q Do you know what those explosions were?

A I have no idea.

Q Was there a considerable amount of American artillery fire in that area at that time?

A I don't know, sir.

Q Now, after you went into the building and you were in the dining room, did some of the people in there start to open the windows?

A Yes, sir. I was one of those who opened the window beside me.

Q Did the Japanese tell you not to open the windows?

A Yes, sir, they ordered us to close the windows.

Q Why did they order you to close the windows?

A They told us to close the windows because the Americans were all around, and they were starting to shoot at us, and they were putting us in that dining room and ordering the windows closed so as to protect us from

the Americans who were firing at us.

Q Now, subsequently later in the afternoon, about 5:30, I believe you stated; the Japanese came in and brought candy?

A I don't know exactly what time they came in, but they brought in the candy.

Q Did they bring in any biscuits?

A I don't know, but I have seen bottles of rum; I saw them bring in bottles of rum.

Q Did you see them bring in anything else?

A Nothing else, sir.

Q Did you have any of the rum?

A No, sir.

Q Now, did you notice anything unusual about the lights in the room?

A No, sir, I did not.

Q Did you notice any black coverings around the lights?

A No, sir.

Q Did you notice any cords from the lights leading to the outside corridors?

A There were some ropes or cords.

Q But you didn't regard that as particularly unusual?

A No, sir, I didn't pay any attention to them.

Q Now, how do you describe the explosion that occurred? What kind of a noise was it?

A I don't know how to describe the noise. It just sounded like a big noise.

Q Very loud?

A Very loud.

Q Was there a big blinding flash?

A Yes, there was a flash.

Q Was there only one explosion?

A I did not count them, but I think there were several.

Q Can you state how many you heard?

A No, sir.

Q Now, did the explosion lift the room off the dining room?

A I did not notice.

Q Did the explosion destroy the entire building?

A I don't know, sir.

Q Did the explosion blow the windows out?

A Well, I couldn't swear, but the window beside me was intact before the explosion, and after the explosion I heard, it was open; so I gather it must have been blown open by the explosion.

Q You didn't see any hand grenades up around the ceiling, did you?

A I didn't see any around the ceiling, but I saw one flying in through the transom.

CAPTAIN SANDBERG: That is all.

GENERAL DONOVAN: I would like to ask a question: Previously, during the Japanese occupation, do you recall that they ever assembled large groups of people and passed out candy and whiskey before?

THE WITNESS: No, sir; I don't recall any such occasion.

(Witness excused)

WINIFRED COLMA

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

DIRECT EXAMINATION

Q (By Captain Pace) Will you give your name, please?

A Winifred Colma, sir.

Q How old are you?

A 13, sir.

Q You will have to speak louder. We can't hear you. Where do you live?

A 416 Herran Street.

Q Do you remember going to St. Paul's College on February 9th of this year?

A Yes, sir.

Q Who went with you there?

A My mother and my two sister and my two brother and I.

Q What happened after you got there?

A The Japanese told us to go inside St. Paul's College, and all of my family go there. Then the Japanese put us in the garden. About one hour it rains, they put us in the little room, and then the Japanese told us to go in big room. Then the Japanese give us candy and wine, water, and after that they close the door, and then they threw hand grenades out of the lights, then I go to the door with my mother, and then they throw hand grenades. I saw the window was being destroyed, and then I saw my mother die, and my two sister and one brother.

Q They were killed by this one hand grenade?

A Yes, sir.

Q You saw them killed right there, is that right?

A Yes, sir.

Q Go ahead, Winifred.

A Then my one brother was over by the dead man, and then I see him escape, and then me, too -- jump out the window. I see the Japanese machine gun; others was die on the ground, and then I went to Dr. Velarde's house with my brother. I saw the Japanese killing the small children and the ladies.

Q Where was that, Winifred?

A Dr. Velarde's house. And then the others -- one Chinese they got there, and then I am afraid to see, and then I run out. My brother was separated. And then I did not see the Japanese, he was shooting at me, and I was hit in my back. I talked to my friend, "There is the Japanese at my back," I run out, and then I go to our house.

Q How many of your family were killed there, Winifred?

A My mother and two sisters, one brother.

Q How old was your mother?

A 32, sir.

Q What was her name?

A Concepcion Colma.

Q Give your sisters' names and how old they were.

A My sister Illuminada, 15 years old, sir; my younger sister, 10 years old.

Q What was her name?

A Violeta. And Camilo, 14 years old, sir.

Q That was your brother?

A Yes, sir.

Q What happened to your brother Orlando?

A My brother Orlando was being hit by shelling.

CAPTAIN PACE: You may inquire.

CAPTAIN REEL: No questions.

(Witness excused)

ANGELES BARAHONA

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

DIRECT EXAMINATION

Q (By Captain Pace) Will you give your name, please?

A Angeles Barahona.

Q Where do you live?

A 1312 Tuberias.

Q How old are you?

A 28.

Q Where did you live on February 9th, 1945?

A 704 Wright Street.

Q Did the Japs come over to your house that day?

A Yes, they did at about 11:30.

Q What did they say and what did they do?

A They said that they wanted us out of our house, because they would blow the Bureau of Science Building.

Q Where was the Bureau of Science located?

A On Herran Street, very near our house.

Q What else did they say?

A We tried to convince them that we did not want to leave our house, but they said that we had to, because they were afraid that the concussion would damage our own house, and they wanted to protect us.

Q Did they say when they were going to blow the Bureau of Science up?

A Yes, they did. They didn't manage to convince us in the way they would do it, by signs.

Q Did you go to St. Paul's College?

A There was no alternative.

Q Did you go to the dining room there?

A Not right away.

Q I mean, did you ultimately get to the dining room, all the people?

A Yes.

Q What happened after you got to the dining room?

A After we got to the dining room I started to look up around and I noticed five what I thought were black-out lamps.

Q How many of them?

A Five. I counted them.

Q Did you see anything else?

A Nothing else. The only thing unusual was that each lamp had a string attached to it.

Q Where did the string go?

A Way outside to the corridor.

Q If you had wanted to turn the lamp on, could you reach up and pull the string?

A Oh, no; they were quite high.

Q You couldn't have turned the lamps on with those strings inside the room, then?

A No, sir.

Q All right. What happened then?

A Well, one of the Japanese came in and said that we were being led into the building for one reason, and that was to protect us from American brutalities.

Q American what?

THE REPORTER: "Brutalities."

THE WITNESS: Brutalities.

Q (By Captain Pace) I see. What happened then?

A And I started to be afraid, because I saw the lamps moving, and I felt that something unusual was happening. One of them exploded, and then I believe I fainted, because when I came to I heard two more explosions, and then I saw one of the doors being opened by the explosion, and I saw about eight Japanese laughing like fools!

Q Looking inside the room, were they?

A Looking inside the room at the people that were either dead or badly wounded.

Q What else did you see?

A I tried to lift my mother, and to convince my sister that the best way was to leave the building right away, and before we left I saw a baby of about a week being carried and then thrown up into the ceiling.

Q Who threw the baby up into the ceiling?

A A Japanese soldier.

Q How did he throw it?

A He grabbed him by the arm (demonstrating) and he just threw him as one throws a ball.

Q What happened then?

A And another Japanese with a fixed bayonet came in and just stuck the bayonet right in the middle of his stomach (de-

monstrating).

Q While the baby was flying through the air?

A Well, the first Japanese threw the baby up, and the second one came running and just thrust his bayonet (demonstrating). I saw the baby dangling with the bayonet still in his stomach.

Q All right. What happened then?

A Then we finally got my mother out of the window, and we started running, and went into the first building we thought was safe for us to go in.

Q Did you see any more Japs come into the room at St. Paul's other than the two you spoke of?

A I saw the eight that were lined up laughing at everything that happened, and then I saw three more coming in with hand grenades, and two more after the three first ones with bayonets on.

Q What did they do, other than the instance that you described?

A They started thrusting the bayonets on the people that were wounded or dead.

Q Were you injured?

A Yes, sir, I was.

Q What happened to you?

A I was injured on the forehead, in the head, and on the hand.

Q By what?

A By what I suppose are shrapnel wounds.

Q What caused them?

A The things that were dangling from the roof, I

believe.

Q You mean by "shrapnel" fragments of metal?

A Yes, sir, they were, because I myself took the metal out.

CAPTAIN PACE: Your witness.

CROSS EXAMINATION

Q (By Captain Reel) Do you know whether these Japanese soldiers who came to your house and told you they were going to blow up the Bureau of Science building were army or navy?

A I can't exactly say, but I believe they were navy.

Q Did you know what they were using the Bureau of Science building for?

A No, sir, because we were not allowed to leave the house the week previous to the massacre.

Q I see. Now, you had been in Manila all through the Japanese occupation?

A Yes, sir, I was.

Q And at any other time before this, in Manila, had you been told to go into a particular place as you were this date?

A Never.

Q That was the first time that anything like that had happened?

A Yes, sir.

Q And so far as you know, it was the first time during the Japanese occupation that there had been occasion to get a large number of people into one place, is that right?

A Yes, sir. We heard about the things being --

Q No, not what you have heard about, please; just what you know. That was the first time, so far as you know, that there was occasion to get people into one place?

A Yes, sir.

CAPTAIN PACE: If the Commission please, I object to the question unless she is allowed to tell what she heard, because counsel asks if she knows of people being taken into places.

CAPTAIN REEL: My question, I believe, was fairly clear, and has to do with what this witness knows.

MAJOR KERR: At this time, for the benefit of the record, I would like to protest the type of examination that counsel for the Accused indulges in in cross examination. It is obvious, sir, that he desires the record to show only such portions of the answer that might be in his favor, and is extremely anxious to avoid such part of the truth as may be adverse to his client. I suggest, sir, that the record should be permitted to develop naturally and fully, and not have responsive answers stricken.

CAPTAIN REEL: I don't believe we asked anything to be stricken from the record, and if these remarks are directed at me, I personally resent them and consider them untrue.

GENERAL REYNOLDS: The Defense and Prosecution will cease this unseemly bickering.

The Prosecution may, if they wish to do so, continue to examine the witness.

CAPTAIN PACE. That is all

(Witness excused)

DR. HERMINIO VELARDE, JR.

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

DIRECT EXAMINATION

Q (By Captain Pace) Will you give your name, please, Doctor?

A Dr. Velarde, Jr.

Q What is your first name?

A Herminio Velarde, Jr., sir.

Q Where do you live?

A Philippine General Hospital.

Q What is your profession?

A M. D., sir.

Q Where were you on the afternoon and evening of February 9th, 1945?

A I was at home, sir.

Q Where is your home?

A Tennessee Street, 495.

Q Can you point your home out on Prosecution Exhibit No. 89?

A Yes, sir. This is it, sir (indicating).

Q You are pointing to the place marked "Velarde Family," is that right?

A That is right, sir.

Q About 5 o'clock in the evening of that day, where were you at your home?

A I was on the back porch, the second story of our house.

Q By "the back porch," do you refer to the north end of your home?

A That is right, sir.

Q What did you see unusual, if anything?

A About 5 or 5:30 there was a big commotion coming from the direction of St. Paul's Institution, and I saw a group of people trying to get in from that direction and from the street, to our wire fence, so I met them downstairs, and I saw the Americans were coming. So the first thing I asked them was, "Why all the big commotion?" They said the Japanese were running after them. So I met them, and -- well, they were all horrified and trying to look for an exit, to get out and evade the Japanese soldiers, so the first thing I did was to look for my father to get the key of the gate to our house.

Q Your yard, which they were in, had a fence around it all the way?

A Yes, sir.

Q How high was the fence?

A Somewhere around 5 feet, sir.

Q Go ahead.

A So then I tried to look for my father, I couldn't find my father, so I went to the next house, Marasigan's house -- by the way, our house and this house was connected with a little opening through the wall.

Q You refer to the Marasigan house?

A That is right, sir.

Q Is that the one that is marked "Marasigan Family" on Exhibit 89?

A That is right, sir. There is a break through the wall which separates Marasigan's house from our house.

Q Is that the one labeled "Break in wall" on the same exhibit (indicating)?

A That is right, sir. So I went through the other yard to the Marasigan house to try to look for my father, because my family was already sheltered in the concrete house, in the Marasigan house. I couldn't find my father, so I tried to look for the keys for the Marasigan gate, to open up the gates to exit the horrified people, but I couldn't find it, so I joined my family in the next house, that house of Marasigan. In about five minutes our yard and the yard of Marasigan was crowded with people.

Q Civilians?

A Civilians; men, women and children. I tried to look for my family, to join them in the Marasigan house.

Q Did the Japanese come?

A Then I went to the second story of the house, and we were peeping through to the street, and in about 7 or 10 minutes there was a group of Japanese soldiers who came, who tried to get through our gate and couldn't, so they made fires, long range firing, and tried to get the civilians in our yard.

Q What did they fire with?

A Rifles.

Q What happened then?

A And then, seeing that they were ineffective with their shots, they went over our gate, went inside the yard, our yard and Marasigan's yard, and started to kill

people.

Q Describe what you saw.

A I was peeping through the window of the second story of the Marasigan house and I saw several killings. The killing which impresses me most was that of a young girl about 15 or 16 years old, who was hiding herself in one of the banana trees. That was in the back of Marasigan's yard.

Q Is that where it says "Banana palms" on Exhibit 89?

A That is right, sir.

Q You say this girl was hiding in the banana palms?

A That is right. So were the other people, civilians.

Q What did you see happen?

A Then one of the Japanese soldiers with a sword, saw her and called her. At first she hesitated to move, and then finally she tried to move on bended knees. She went straight to this Japanese soldier, who had his sword drawn, and beside him were about two or three Japanese soldiers with rifles and fixed bayonets, and then -- well, the girl came close to this Japanese soldier with the sword, and was pleading for mercy, and this Japanese soldier lifted up the girl with her long hair (demonstrating) and was going to try to decapitate her head, and for a moment she talked, and they halted, and he talked with his comrades, then he had a little laugh, a giggle, and finally he completed the act.

Q What did he do?

A He tried to decapitate the head.

Q How did he do it?

A Well, by the hair (demonstrating), holding the hair with the left hand, he ~~lifted~~ the girl and went through with the act with the sword. She was hit in the back of the neck. It really didn't decapitate the head, but he tried to.

Q Did it kill her?

A Yes.

Q What else did you see?

A I saw several other killings, and most of these killings were done by bayonets.

Q Describe any that you remember.

A Describe which?

Q Any killings that you remember.

A There was a hole in the yard of Marasigan, which was supposed to be a dugout, which was made in the Marasigan's residence, but really very small, a dugout about four or five feet. There was seen hiding there a man, and one of the soldiers with fixed bayonet just thrust his bayonet in the back of this man. That is what I saw then.

Another killing which I remember, in the back of the Marasigan's residence there is an air raid shelter constructed for the former occupants -- by the way, the residence was formerly occupied by Japanese. I really don't know if they are civilians.

Q What happened at the air raid shelter?

A Well, I saw Japanese there, about two or three, and I saw one of them throw a hand grenade in the shelter after verifying that there were people in there.

Q You say there were people in it when he threw the hand grenade in?

A Yes, sir.

Q Did you go out into your yard the following day, or several days?

A Yes, sir, I did.

Q Did you find any bodies out there?

A Many bodies.

Q About how many?

A There were bodies in our yard, the yard of Marasigan, and under our house, dead people.

Q Under the house?

A Under our house, sir.

Q About how many?

A Well, about two or three, sir.

Q How many bodies were out in the yard altogether?

A Well, we buried all these people, and we accounted for 30 people.

Q You buried 30 people?

A That is right, sir.

Q Those people that you found inside your yard and Marasigan's yard?

A That is including our yard, Marasigan's, and the banana place.

Q The place where it is marked "Banana trees"?

A That is right, sir.

Q On Exhibit 89?

A Yes, sir.

Q Those were survivors of St. Paul's?

A Yes, sir.

CAPTAIN PACE: Your witness.

CROSS EXAMINATION

Q (By Captain Sandberg) Was there a large scale looting of Japanese stores at St. Paul's that day by Filipinos?

A Yes, sir, there was looting in the morning about 9 o'clock, sir.

Q Filipinos stole stores from the Japanese?

A Stole what?

Q Stole stores?

A Yes, sir.

Q Do you have any knowledge as to what they stole?

A Well, they got biscuits.

Q Biscuits?

A Biscuits, toilet papers, a sack of rice.

Q Rice?

A And electric fans; almost anything they can get hold of.

Q How do you know about this?

A Well, you see, sir, the looting took place in the street of Tennessee. St. Paul's Institution covers a whole block, and the looting took place on Tennessee. That is where we lived, and because of the commotion all of the neighborhood were alarmed by it, and everybody was in the street trying to look for what was going on.

GENERAL REYNOLDS: The Commission will inquire the purpose of this questioning.

CAPTAIN SANDBERG: If it please the Commission, we feel that this circumstance explains the subsequent

events of that day that the witness has testified to, or a possible explanation; namely, that in view of the shortage of food, the Japanese were looking for the Filipino thieves who stole the biscuits and other foods from the stores.

MAJOR KERR: The Prosecution feels that that line of questioning may be out of order at this place in the proceedings; it was not presented in direct examination, in so far as I recall.

CAPTAIN SANDBERG: If it please the Commission, the witness has just testified that this occurred on the very same day as the circumstances he has just described.

MAJOR KERR: That, sir, was brought out only on counsel's own questioning in cross examination. There was no looting brought out on direct examination; therefore, it is certainly beyond the scope of direct examination, if the Commission wants to follow strict legalistic principles.

However, aside from that, I don't see what possible connection looting would have with the bayoneting of children or the massacre.

GENERAL REYNOLDS: We will give the Defense a chance to explore the case. You may proceed.

Q (By Captain Sandberg) So that you saw Filipinos walking along the street carrying Japanese biscuits, rice and other commodities?

A That is right, sir.

Q And it was on the morning of the 9th of February?

A Yes, sir.

CAPTAIN SANDBERG: That is all.

CAPTAIN PACE. Thank you very much.

(Witness excused)

(An affidavit was marked
Prosecution Exhibit No.
95 for identification.)

CAPTAIN PACE: At this time I offer Prosecution Exhibit No. 95 for identification in evidence.

GENERAL REYNOLDS: Is there additional objection by counsel to this affidavit?

(No response.)

GENERAL REYNOLDS: There being none, it is accepted into the record.

(Prosecution Exhibit No.
95 for identification
was received in evidence)

CAPTAIN PACE: If it please the Commission, this exhibit is offered particularly for the information contained on page 145 through 148, and the top of page 149, in which the witness describes 60 people being lined up and shot and bayoneted. There is also an instance there where the testimony is that a Japanese soldier threw a very small baby up and caught it on the point of his bayonet.

As the last thing in this case, the Prosecution offers the statements of 10 witnesses, to prove the identification of some 72 bodies in this case.

CAPTAIN SANDBERG: Before we come to that, the Defense would like to call specifically the attention of the Court to the question and answer on page 149:

"Q. What branch did they belong to?"

"A. I know they were navy, because that time there were no more army."

GENERAL REYNOLDS: You are merely inviting the attention of the Commission to that statement?

CAPTAIN SANDBERG: Yes.

GENERAL REYNOLDS: Very well.

Does the Defense desire additional time to study these?

CAPTAIN SANDBERG: Yes, sir.

GENERAL REYNOLDS: Upon resuming the trial after the closed session, the Prosecution may again refer to the documents in question. In the meantime, the Defense will have a chance to study them.

Will you make your announcement?

MAJOR KERR: If it please the Commission, I understand that the Commission's ruling is that the session tomorrow morning will be a closed session and will not be open to the public. That was upon motion of the Prosecution, for the reason that our first case tomorrow morning will be the Bayview Hotel case, which involves the raping and the mistreatment of a number of women. Some of the testimony will be oral testimony, and it is not in the public interest, nor would it be fair to the young women who testify, that that be a public session.

GENERAL REYNOLDS: For that reason, the session starting tomorrow morning at 8:30 will be closed to the press and to the public.

How long does the Prosecution estimate that that case will require?

MAJOR KERR: So far as I can tell now, sir, approximately two hours.

GENERAL REYNOLDS: Then not earlier than 10:30 in the morning the public hearings will be resumed. It may be later than 10:30, but in the event the closed session is finished before that hour the Commission will recess until 10:30.

The Commission will stand in recess until 8:30 tomorrow morning.

(Whereupon, at 1705 hours, 31 October 1945, the trial was adjourned until 0830 hours, 1 November 1945.)

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Esther Garcia Moras	500	514	515	
Priscilla Garcia	516			
Evangeline Garcia	524			
Virginia Velasco	530	537		
Maria Luisa Sotelo	538	542		
Josefina Ramos	543			
Uliran Pedro	548			
Eloisa Chicote	552	557		

EXHIBITS

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
108	559	560
109	560	
110	560	
111	560	
112	560	
113	560	
114	560	
115	560	
116	560	

P R O C E E D I N G S

GENERAL REYNOLDS: The Commission is in session and will proceed with the business. In this closed session there should be no one in this room who is not regularly in advance of that rail. Except such military police as are necessary to insure the security of the closed session, no others will be present.

The Prosecution may proceed.

MAJOR KERR: Sirs, the members of the Commission are here, the Accused and Defense Counsel are here, and the Prosecution is ready to proceed.

I suggest, sir, that while we are waiting for the first witness to take the stand that we take care of the matter of the exhibits which were offered yesterday.

GENERAL REYNOLDS: I would rather do that in open session.

MAJOR KERR: All right, sir.

Sir, Captain Hill informs me that none of the witnesses called for this morning has arrived as yet, so I shall have to ask for a recess until they do arrive.

GENERAL REYNOLDS: Why is that?

CAPTAIN HILL: The Major in charge of getting the witnesses stated that they left at 6:00 o'clock this morning to pick the witnesses up.

GENERAL REYNOLDS: The person in charge of getting the witnesses before the Commission is the Prosecution. The Commission looks to the people provided to assist you to have witnesses present. This is an unfortunate delay. We informed the public that we would open on or shortly after 10:30 and this delay

is not well received.

The Commission will recess until such time as the witnesses can be made available.

(Whereupon at 0835 hours a recess was taken until 0845 hours.)

GENERAL REYNOLDS: The Commission is in session. The Prosecution will proceed.

Will you again cause the record to show the presence of all essential persons?

MAJOR KERR: Yes, sir. All of the members of the Commission are present together with the Accused and his Defense Counsel, and the Prosecution is ready to proceed.

ESTHER GARCIA MORAS

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

DIRECT EXAMINATION

GENERAL REYNOLDS: We won't want the microphone unless it is necessary for the witness to be heard by everybody in the room.

CAPTAIN HILL: Sir, the incident that I shall present now is Bill of Particulars No. 34.

Q (By Captain Hill) Will you state your name to the Commission, please?

A Esther Garcia Moras.

Q Where do you live?

A Right now?

Q Where do you live right now?

A 721 Calero Street.

GENERAL REYNOLDS: We can't hear.

THE WITNESS: 721 Calero Street.

Q (By Captain Hill) How old are you?

A 24.

Q What is your nationality?

A Filipino.

Q Are you married or single?

A Married.

Q How long have you been married?

A Six years.

GENERAL REYNOLDS: Is the Defense able to hear?

COLONEL CLARKE: No, sir.

GENERAL REYNOLDS: Place the witness out in the center of the room.

COLONEL CLARKE: May we have the name of the witness?

CAPTAIN HILL: Esther Garcia Moras.

GENERAL REYNOLDS: Off the record.

(Remarks outside the record)

Q (By Captain Hill) Where did you reside during the first part of February of this year?

A 220 Alhambra.

Q And with whom did you reside there?

A With my father, mother, brothers and sisters.

Q During the first part of February were you and the other members of the household forced to leave your home?

A Yes. We were forced to leave at night.

Q And why were you forced to leave your home?

A Well, the houses surrounding it were burning.

Q Was your house on fire at that time?

A Not yet, but the fire was coming towards our house.

Q At what time of the day on the 9th was that that you left?

A At 8:00 o'clock at night.

Q And where did you go then?

A They took us to the Plaza Fergusson.

Q And can you tell the Commission where Plaza Fergusson is?

GENERAL REYNOLDS: A little louder.

CAPTAIN HILL: Sir?

GENERAL REYNOLDS: A little louder. Perhaps if we have the witness move farther to the rear and faced a little more this way. Do talk a little louder, please.

Q (By Captain Hill) Will you tell the Commission where Plaza Fergusson is located in the City of Manila?

A It's just about 50 meters from my house.

Q Well, near what streets?

A Isaac Peral, Alhambra and M. H. del Pilar.

Q And where is it from Dewey Boulevard?

A It's just about 10 meters.

Q Which way from Dewey Boulevard?

A Dewey Boulevard is here and it's here (indicating).

Q And is Plaza Fergusson east of Dewey Boulevard?

A Yes, east.

Q Did you see any Japanese members of the Imperial Japanese forces after you were forced to leave your home on the 9th?

A They were all around the streets.

Q And did any of these Japanese accost the members of your family?

A No.

Q Did any of them approach the members of your family?

A They just told us where to go.

Q Where did they tell you to go?

A To line up in Plaza Fergusson.

Q Did you do that?

A Yes.

Q And were there other people in the Plaza Fergusson at that time?

A There were a lot of people there.

Q How many people would you say were in the Plaza Fergusson at that time?

A I should say about a thousand to a thousand five hundred.

Q Were they men, women or children?

A Men, women and children all together.

Q And about what time in the evening of the 9th did they gather this group at Plaza Fergusson?

A 8:00 o'clock.

Q After the group was gathered there by the Japanese what did the Japanese do with the people?

A They put men on one side and women and children on another side.

Q And what did they do?

A And then from the men -- No, from the ladies' and children's group, why, they separated girls.

Q And do you have any idea how many girls were separated?

A I can tell only in my group. There were about 25 girls.

Q And can you give the Commission the ages, that is,

approximate ages, of these girls?

A I should say from 15 to 32.

Q And you were in this group of about five that was separated from the large group of women; is that correct?

A Yes.

Q After the Japanese separated the group of 25 that you were in what did they do with the group?

A In our group they marched us into the Coffee Pot.

Q How many Japanese accompanied you to the Coffee Cup?

A Three or four.

Q And were they armed?

A Yes. They had bayonets and rifles with the bayonets on.

Q Were there any officers in the group of Japanese?

A I couldn't tell.

Q Did they tell you there on Plaza Fergusson what they intended to do with you?

A No, sir.

Q And can you tell the Commission where the Coffee Cup Cafe was with reference to Dewey Boulevard?

A It's just behind Bay View Hotel.

Q And when you arrived at this Cafe what did the Japanese do there, if anything?

A Oh, they just told us to sit down and relax and not to be afraid of anything.

Q Were there any chairs or other furniture in the Cafe?

A No. Just a couple of camouflage nets and some mattresses.

Q Were there any other Japanese in the Cafe besides those that had taken you there?

A There was an officer seated on the left side at a chair and a table.

Q Did any other Japanese come into the Cafe while you were there?

A Yes. They just came in back and forth all the time we stayed there.

Q How many Japanese would you say came into the Cafe while this group was there?

A Oh, I should say about ten or fifteen.

Q And tell the Commission just what the Japanese did there during the time you were in the Cafe.

A Well, they told us to stay there and not to be afraid of anything. And they started bringing bottles of whisky and cigarettes and throwing candies at us, and then they sat down in front of us with their flashlights and pointed at our faces and laughed and grinned, and we were all so scared we just didn't know what to do. We started smoking and my sister, well, she was so nervous. They gave us some drinks and she took some drinks. She poured half of it on her dress because the Jap was forcing her so much, that she was so scared that she took a sip of the whisky.

Q How long did the Japanese keep this group of girls in the Cafe there?

A They kept us about an hour to an hour and a half.

Q And then what did they do with the group?

A They marched us over to the Bay View Hotel.

Q Did you go to the Bay View Hotel under guard?

A Yes. One in front and one at the back.

Q And were these guards armed?

A Yes. They had each a 45-gun.

Q Where did they take you in the Bay View Hotel?

A They took us to the second floor and the fourth room in the left wing facing the boulevard.

Q Can you tell the Commission how large a room this was?

A It wasn't very large. I guess it must be 7 x -- I couldn't know.

Q It was a small room?

A It was a small room.

Q Was it furnished?

A There was nothing except mattresses and mosquito bars.

Q Were there any lights in the hotel at that time?

A No lights whatsoever.

Q Was there water available to you folks there in this room?

A No, no water.

Q At what time of the evening did you arrive there at the Bay View?

A I guess it must have been about 9:30; 9:30 or a quarter to 10:00.

Q Did the Japanese lock you in this room?

A They just closed the door but they didn't lock it.

Q Did any Japanese remain near the room to guard the door?

A No.

Q Then after the Japanese put you in the room did they leave you?

A Yes. They left us for about ten minutes and then they came back again.

Q How many came back?

A Four or five.

Q And did you recognize whether they were officers or privates?

A They were just soldiers; common soldiers.

Q Could you tell to which branch of the Japanese forces they belonged?

A Marines. That's what the girls told me.

Q Did you notice their uniforms?

A They had an "anchor".

Q An "anchor" on their cap?

A Yes. They didn't have caps. They had an "anchor" somewhere here (indicating).

Q You noticed the "anchor"?

A Yes, I did.

Q When these four came back tell the Commission what they did.

A Well, when they came back they had lighted the candles in their hands and some flashlights and they started looking at our faces. We didn't know what they wanted to do, so we just crowded one on top of each other and tried to hide our face. And they kept moving our hairs this way (illustrating) and started looking at our faces and then they went out again.

Q Did those Japanese or any others return later on that evening?

A They kept coming in and going out. I couldn't tell if they were the same. They all looked alike.

Q When this group of four came in that you have testified about did they harm or molest any of the girls in the room?

A No. They just wanted to see our faces.

Q Later in the evening did any Japanese come to the room and take girls out of the room?

A Oh yes. They took them out.

Q About how long after this first few came was a girl taken out?

A Oh, I should say about 15 minutes afterwards.

Q Just tell the Commission about the occasion of the first girls being taken out of the room.

A Well, they came back and they grabbed my two sisters. They were in back of me. And we didn't know what they were going to do. So my two sisters started fighting them, but they couldn't do anything. So they grabbed my two sisters by the arm and took them out of the room. And we waited and waited and waited, and finally my youngest sister came back and she was crying. And I asked her, "Where is Pris? Where is Pris?" And she said "Oh! They are doing things to her, Esther! They are doing things to her, Esther!"

So everybody in the room knew what was going to happen to us. They didn't touch my youngest sister because she was menstruating.

Q How long before your sister Priscilla came back?

A It seemed to me about a half an hour, but she says it was only about 20 minutes or 15 minutes.

Q Can you tell the Commission her appearance when she came back?

A She was perspiring; her hair was all messed up; her dress was turned around, and she was bleeding all over. And she said "Esther, they did something to me! I want to die! I want to die!"

Q After they took your two sisters out of the room, can you tell the Commission how long before any other girls were taken out of the room?

A Before my sister Priscilla came back they came back and got my younger sister again.

Q What is your younger sister's name?

A Evangeline.

Q How old is Evangeline?

A She is 14.

Q And how old is Priscilla?

A She is 15.

Q Tell the Commission about them taking Evangeline out.

A They took Evangeline out, and this Jap didn't believe that she was menstruating. So he stuck his finger inside with a piece of cotton to see if she was really menstruating. But I didn't see my sister Evangeline any more. She went to find my mother. And during the time she was gone was when my sister Priscilla came back.

Q Go ahead and tell the Commission now about the next time that any of the girls were taken out of the room.

A Well, afterwards when my sister Priscilla came back, why, there were three Japanese who came inside the room and they dragged me out of the room. I tried to resist, but I couldn't do anything about it. They were just dragging me out. And they took me to a room and all three of them were there and they started slapping me when I tried to resist. I couldn't do anything. They tore my pants off and they pushed me down on the floor, and I laid there while one of them stood guard. One of them had a bayonet fixed in his rifle and the other two had just a bayonet here (indicating).

When the first one was doing things to me two of them were just looking and laughing all the time. It took him about ten minutes to have his intercourse with me, and after he finished the other one just jumped on top of me, and after the other finished the other jumped on top of me. I was so exhausted I didn't know just what to do. They had slapped me so much I was in a daze. And then they sent me back to the room and all the whole night they kept coming back and forth, coming back and forth.

Q Do you have any idea how many times you were taken out of the room there that night by the Japanese?

A Well, my friends told me they got me out from 12 to 15 times.

Q How long did you stay in this particular room in the Bay View Hotel?

A You mean with the Japanese?

Q No. I mean where they took your group.

A With the girls?

Q Yes, with the girls.

A We stayed until 6:00 o'clock in the morning.

Q And then what did you do?

A Then, why, we opened the door and we started looking for our people. I found my mother with Evangeline and my two kid sisters.

Q And where were they?

A They had been on the fourth floor. The Japanese had taken them to the fourth floor of the Bay View.

Q And during the day of the 10th where did you stay in the hotel?

A We stayed in the basement. Somebody complained to the Captain that was in charge there of the soldiers and they ordered us to stay in the basement where the Red Cross girls were working and they would protect us.

Q And did you go to the basement?

A Yes, we did. We all went there.

Q And how many women were gathered there in the basement?

A Between 600 to 800. There were a lot of people.

Q But most of the women who were taken to the hotel eventually went to their room?

A Yes.

Q And you remained there from the 10th to what day?

A To the 12th at 4:00 o'clock in the afternoon when the building caught fire. And they didn't want us to leave the building, but we started screaming. Everybody was shouting. So finally the Japanese said "All right. Let them go". And we started running in the street.

Q After the first night which you have told the Commission about, were you harmed or molested by the Japanese?

A No. We weren't bothered any more.

Q Did you see any other girls or women taken or harmed by the Japanese after that night?

A We used to hear screams, but we didn't know what it was.

Q Did you recognize any of the Japanese that were in the Bay View Hotel during that period of time?

A No. They all look alike to me.

Q Can you tell the Commission about how many Japanese you saw in the hotel during the time you were imprisoned there?

A I guess there were about 200 soldiers.

Q And were they occupying any particular part of the hotel?

A No. They just came walking in all day. From the boulevard they would come up and get some food, I guess, and then go out again; stayed there with their machine guns.

Q Did you see officers or privates?

A I have seen officers and I have seen soldiers, and the Captain that was in charge there.

Q Among the Japanese that took you out of your room on the first night were any of them officers?

A No.

Q They were all privates?

A All soldiers.

Q During the time you were imprisoned in the hotel did the Japanese give you any food or water?

A They give us crackers and salty water.

Q And how many times did they give you crackers?

A Sometimes twice a day; sometimes three times a day.

Q And do you know where the water came from that they gave you?

A The first water they gave us came from the sea.

Q Do you know where any of the other water came from?

A The last day that we stayed there they went up to the fifth, sixth, seventh and eighth floors and got water from the latrines.

Q Out of the latrines?

A Yes. And they sent some little kids to get water out of the swimming pool over there: the Army and Navy Club.

Q And you were able to escape from the hotel on the 12th?

Is that what you testified to?

A Yes, the afternoon.

Q And tell the Commission exactly the circumstances of your escape.

A Well, the building caught fire and we started screaming and the Japs didn't let us go out and, you know, when it is all women, we started pushing the Japs around and finally they decided -- The Captain gave an order to let us go out into the street. We went in the street and everybody started running, and there were all machine guns around us and the Japs were just laughing at us all the time.

Q Did you see any persons killed in the locality there of the Bay View when you escaped?

A No.

Q Did you see any other women harmed or molested in any way?

A No.

Q You have stated that your friends in the room in the Bay View on the first night told you that you were taken out of the room twelve or fifteen times?

A Yes.

Q Were you raped on each of these occasions?

A Every time.

Q You were forced to have intercourse with a Japanese against your will?

A I fought all I could, but I couldn't. After they beat me the first time, why, I lost all strength. I was -- I don't know. I was dizzy. I couldn't even think any more. They just came to the room and lighted me with their candles

and they just dragged me out of the room. They kept doing that the whole night. I couldn't even resist. I would stay in the room for two minutes, and here they come again and drag me out the whole night that way.

CAPTAIN HILL: You may cross examine.

CROSS EXAMINATION

Q (By Col. Clarke) Mrs. Moras, you stated that the Japanese who took you to the hotel wore an "anchor"; is that correct?

A I beg your pardon?

Q You stated that the Japanese who took you to the hotel wore an "anchor" on their uniform.

A Yes.

Q That they were members of the Japanese Navy or Marines?

A That is what my girl friend told me. She stated that they were from the Marines.

Q And you stated that there were 200 soldiers that were there?

A Yes.

Q Were they all dressed the same way?

A Yes.

Q They all wore the "anchor" on their uniform?

A Yes.

Q Do you know the difference between a Japanese and a Formosan?

A I couldn't tell.

Q You don't know whether these particular ones were Japanese or whether they were Formosans?

A No, I couldn't tell.

GENERAL REYNOLDS: What was your question?

COLONEL CLARKE: Whether she knew the difference between the Japanese and the Formosan.

Q (By Col. Clarke) Do you know the date that the machine guns were turned on the Manila Hotel?

CAPTAIN HILL: I object to that as not proper cross examination, sir.

GENERAL REYNOLDS: What is the purpose of the question?

COLONEL CLARKE: We believe, sir, that we can show that at the time this Bay View Hotel incident occurred there was fighting all around the vicinities.

GENERAL REYNOLDS: The objection is sustained.

COLONEL CLARKE: That is all.

REDIRECT EXAMINATION

CAPTAIN HILL: Just one more question.

Q (By Captain Hill) All of the Japanese that you saw in the Bay View Hotel, can you state to the Commission whether or not they were members of the Japanese armed forces?

A Well, I don't know. I guess so.

Q Did they wear the uniform of the Japanese armed forces?

A Yes; all of them.

CAPTAIN HILL: That's all.

GENERAL REYNOLDS: Is there further cross examination?

CAPTAIN REEL: No questions.

You have no further questions?

COLONEL CLARK: No.

CAPTAIN REEL: No further questions.

(Witness excused)

PRISCILLA GARCIA

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you state your name, please?

A Priscilla Garcia.

Q Can you speak out loudly so the Commission can hear?

A Priscilla Garcia.

CAPTAIN HILL: Did you hear it, sir?

GENERAL REYNOLDS: Just barely. A little louder, please.

CAPTAIN HILL: Do you want the speaker on?

GENERAL REYNOLDS: Let's try it without it.

Q (By Captain Hill) How old are you?

A 16. I was 15 when it all happened.

Q And where do you reside now?

A On 721 Calero Street.

Q With whom?

A With my father and mother.

Q Are you a sister of Esther Garcia Moras that testified here?

A Yes.

Q And were you among the group of girls that was taken from the Plaza Fergusson on the night of 9 February 1945 to the Coffee Cup Cafe?

A Yes.

Q And from the Coffee Cup Cafe where were you taken to?

A To the Bay View Hotel.

Q Can you speak up just a little louder?

A To the Bay View Hotel.

Q To which floor of the Bay View Hotel were you taken?

A The second floor.

Q About how many were in the room where you were taken?

A About 25 or 30.

CAPTAIN HILL: Can you hear, Colonel?

CAPTAIN REEL: No.

THE WITNESS: About 25 or 30 girls.

Q (By Captain Hill) Can you give the Commission an idea of the ages of these girls in that room?

A Well, I can; but some girls I don't know.

Q Well, were they 15, 16 or 25 or about what ages?

A One was 13, some were 15, 16, 17; some were 20, 25, 30.

Q At what time in the evening did you arrive at this room in the Bay View Hotel?

A About 9:30. 9:30 in the evening.

Q Were you under guard from the Coffee Cup Cafe to the hotel?

A Two Japs brought us there.

Q And did they have rifles or some other arms with them?

A They had guns.

Q And when they put you in this room in the hotel tell the Commission what they did.

A They brought us to the room and started talking for a little while and then left. After a half an hour they came back and started raping us.

Q How many came back?

A Two came back.

Q And did you recognize them as the same two that had brought your group there to the hotel?

A No. I recognized one whom I saw in the Coffee Pot.

Q And when these two came back what did they do there in the room?

A They pointed to me and my sister Evangeline, and he took us --

Q Tell the Commission just what he did to you there.

A He took me by the arm and pulled me and told me to come to him. At first I didn't want to go, but he started pulling me and slapping me. And what else could I do but go? He had a gun. So he dragged me to the door and after there he took me to the fifth floor, I believe it was, to a room facing Alhambra Street.

Q Speak up a little louder, please.

A He took me to a room facing Alhambra Street. And when we got to the room he took me to the window and pointed me to the other side of the river and told me that there were Americans on the other side of the river, but me and him wouldn't see them; we would all be dead.

GENERAL REYNOLDS: Will you repeat the last part of that statement, please?

Q (By Captain Hill) Will you please repeat the last part of that answer?

A He brought me to the window and told me that there were lots of Americans on the other side of the river, but he said that me and him wouldn't see it for we would all be dead; we would all die.

Q Was anyone else in this room where he took you to?

A No.

Q And was it furnished in any way?

A No. It had nothing but pillows on the floor and mattresses and, I don't know, hay.

Q Were there any lights in the room?

A No, there was nothing.

Q Now tell the Commission just what he did to you there in that room.

A He -- After that he told me to take off my clothes. Of course I didn't want to take them off. And he grabbed me by the arm and told me to take them off and not be silly. I didn't take my clothes off, so he took a hold of my blouse and tore it open and took it off. Then he shook me by the skirt and told me to take it off. I didn't want to. He took it off. And then I had my slip and my panties on and I still didn't want to take them off. And he took them off. After that I was in my panties and I didn't want to take them off, but he took them off.

He told me to lie down on the floor, and when we were there he took off all his clothes and he laid the bayonet on one side and the gun on the other side of me. And he wanted to -- Oh my God! He -- Then he started to try to do something to me, but he couldn't do anything. So he took his knife, cut me open, and then he finally succeeded. He had -- He had sexual intercourse. And he stayed about 20 or 30 minutes and he took me back to the room.

Q When you got back to the room can you tell the Commission your physical condition?

A I was bleeding very badly and I was feeling -- Oh, I was feeling bad. He took me by the arm and pushed me to the floor, and I fell down. And after that, I don't know; I

guess I fainted, or -- I don't know.

Q After that did any other Japanese come to the room and take you out?

A Yes. About 30 minutes later another Jap came. He was very, very young. And he took me by the arm and told me to "get up". He told me to get up and go with him. And I shouted and screamed and told him I had finished already. And he said -- He slapped me and kicked me, too, and he drug me out of the room. He took me in a room on the same floor facing Alhambra Street. In that room there was a bed. He didn't tell me to take off all my clothes. He just took my panties off and threw me on the bed. He was drunk -- completely drunk. He was so drunk that he tried to, but he couldn't do anything to me.

Q Did he make any threats towards you? Did he threaten to kill you or anything?

A No, he didn't. After getting on top of me -- After he finished he gave me some water and took me back to my home.

Q And after you got back to the room the second time did any other Japanese take you out of the room?

A Yes.

Q About how long afterwards?

A 30 minutes or 20 minutes afterwards another Jap came.

Q Can you speak up a little louder, please?

A About 30 minutes afterwards another Jap came and took hold of me and pointed me with his flashlight. And this time I started shouting and crying and I said I didn't want any more. He took his gun, pointed at the back of my back, told me to come. There was nothing else to do, so I went.

MAJOR KERR: Hold it up a minute.

CAPTAIN HILL: Wait until that plane gets over.

Q (By Captain Hill) Go ahead.

A After he took me to a room on the same floor facing to the boulevard, and there was nothing in that room except hay. And he told me to take off -- He took off my pants and he unbuttoned the front part and he started having sexual intercourse with me. And after that he took me back -- He took me back to a room thinking that it was our room, but when we opened the door there was a girl and another Japanese there. They were both dressed and they weren't doing anything. I know the girl and --

Q What was her name?

A Pilar Miranda.

Q Did you finally get back to the room where you had come from?

A Yes. He took me back to my room. It was the next room. You see, we got mixed up. He was drunk, too.

Q After this third occasion did any of the Japanese harm or molest you that night?

A Yes. The second one came in again and took me, and I started shouting but he took me just the same. He brought me to the same room, and this time I guess he was sober and he had --

GENERAL REYNOLDS: A little louder. A little louder.

A (continuing) He took me to the same room where he had taken me before. He pulled me to the bed and he -- He had sexual emission this time, and after that he let me go to the room by myself.

Q Was that the last time you were harmed by the Japanese that night?

A Yes.

Q And can you tell the Commission to what branch of the Japanese armed forces these three Japanese belonged?

A I think they were Marines and the third one had a band on his head with the Rising Sun on it.

Q Did you notice any insignia on the clothes of any of these Japanese?

A I was too nervous and excited to notice that.

Q Did you notice the manner in which any of them were dressed?

A They were, I guess, Marines or -- I don't know. I think they were Marines.

Q But you are certain that all of them were members of the Japanese armed forces?

A Yes, they were.

Q And after the first night at the Bay View Hotel what did you do?

A On the morning of the 10th I met my mother and we were with her all the time.

Q And were you harmed or molested any more after that first night?

A They tried to every night, but my mother covered me up with blankets and --

GENERAL REYNOLDS: I can't hear that.

Q (By Captain Hill) Speak up a little louder, please. Repeat that.

A They tried to every night, but they couldn't do anything

because my mother covered me with blankets and they couldn't do anything.

Q And you were able to remain with your mother throughout the rest of the time that you were held in the Bay View Hotel?

A Yes.

Q And on what day were you able to escape from the Bay View Hotel?

A On the 12th of February at about 4:00 o'clock in the afternoon.

Q And relate to the Commission how you were able to escape from the hotel.

A We were in the dining room and a --

Q Let me withdraw that question. I covered that. Did you leave the hotel at the same time your sister Esther left?

A Yes.

CAPTAIN HILL: That is all right. You may cross examine.

COLONEL CLARKE: None, sir.

CAPTAIN HILL: That's all.

Wait just a moment. I want to recall that witness for one question.

Q (By Captain Hill) After the fighting was all over did you have occasion to go to a doctor for an examination?

A Yes. I went to a doctor and he examined me.

Q And will you tell the Commission whether or not you had an infection as a result of your experience at the Bay View Hotel?

A Yes. I did have a small infection; slight, but that's all.

CAPTAIN HILL: That's all.

(Witness excused)

EVANGELINE GARCIA

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you state your name?

A Evangeline Garcia.

Q Can you speak up a little louder, please?

A Evangeline Garcia.

Q Are you a sister of Esther and Priscilla?

A Yes.

Q And you live with your parents here in Manila?

A Yes.

Q And in the early part of February of this year you were living with your parents out in the Ermita district?

A Yes.

Q Were you in the group of girls that were taken from the Plaza Fergusson to the Coffee Cup Cafe on the night of 9 February 1945 by the Japanese?

A Yes.

Q And then to the Bay View Hotel?

A Yes.

Q What time did you arrive at the Bay View Hotel?

A I can't remember.

Q About what time? Was it late in the evening?

A About 10:00 o'clock.

Q And after you arrived at the Bay View Hotel you were placed in a room there; is that right?

A Yes.

Q And did any Japanese come into that room after you were put in there?

A And then after about half an hour.

Q And how many Japanese came in at that time?

A Four or five.

Q And were they members of the Japanese armed forces?

A I don't know. All I know is that they were Marines.

Q They were Marines, you think. How do you know they were Marines?

A They told us.

Q They told you?

A Yes.

Q And can you tell the Commission how they were dressed?

A The color of the suit was olive green.

Q Did you see any insignia on their clothes?

A No.

Q Did any of these Japanese take you out of the room there that night?

A Yes.

Q About what time was that?

A About 10:30.

Q About a half hour after you had gotten there?

A Yes.

Q And how many took you out of the room?

A One.

Q Will you tell the Court now just what happened when this Japanese came into the room and took you out?

A He tried to pull me in. I tried to tell him not to take

me, but he just pulled me, grabbed me by the arm and brought me to a room on the fifth floor.

Q Was he armed in any way?

A He had a pistol and a bayonet.

Q And when you got to this room on the fifth floor was there anyone else there?

A My sister Priscilla.

Q She was with you?

A She was taken the same time.

Q Did they take you to the same room that they took Priscilla to?

A We were taken to the same room first, but they separated us.

Q Did they take you then to another room?

A Yes.

Q And was anyone in this room when you got there?

A No.

Q Was the room furnished in any way?

A No.

Q Can you tell the members of the Commission just what this Japanese did after he got you in this room?

A He tried to pull my dress off and I told him not to because I was sick. So he just lifted my skirt, and when he saw that I was in menstruation he just kicked me.

Q Tell the Court whether or not he tried to make an examination himself to see whether you were menstruating.

A Not the first one.

Q After that did he let you go back to your room?

A Yes. He brought me back.

Q And did any other Japanese come to your room that night to take you out?

A I had hardly time to sit down when another came and grabbed me.

Q Where did he grab you?

A Arm.

Q Was he armed?

A He had a bayonet.

Q And did he force you to go with him?

A Uh-huh, yes.

Q And where did he take you?

A He took me to a room on the fifth floor.

Q And tell the Commission what he did.

A He did the same as the first one, but he didn't believe. So he took a piece of cotton and stuck his finger in, and when he saw that it was really that, he just let me go by myself.

Q Were you taken out of the room any more that night by any of the Japanese?

A No more. The Jap left me by myself and I went to my mother.

Q You didn't go back then to the room where the group of girls was?

A No more.

Q And after that first night at the Bay View Hotel were you armed or molested by the Japanese?

A No more.

Q Did you see any girls harmed or molested by the Japanese?

A I didn't see, but I heard them crying.

Q Where were you when you heard them crying?

A We were on the second floor in the big room where everybody was.

Q How long did you remain on the second floor?

A Two days.

GENERAL REYNOLDS: Hold up a minute until the plane passes.

Q (By Captain Hill) Can you tell where these cries that you heard came from?

A Right from the big room.

Q From the room you were in?

A Yes.

Q Did you hear these cries at night or in the daytime?

A At night.

Q Could you tell what was going on there?

A I suppose they were raping the girls.

Q Could you tell what the girls were saying?

A They were calling their mothers and shouting.

Q Did you hear those cries each night that you were in there?

A Just the third night.

Q The third night?

A Yes.

Q And can you tell the Commission how many of those cries you heard?

A One after the other.

Q Just all night long, one after another?

A Yes.

CAPTAIN HILL: You may cross examine.

COLONEL CLARKE: None, sir.

(Witness excused)

GENERAL REYNOLDS: Major Kerr, is the testimony of the remaining witnesses merely corroborative or have you some new episodes of a similar nature?

MAJOR KERR: Sir, each one of the witnesses will identify a separate group of different number of those among them that were abused and in different ways. I believe that these witnesses have somewhat different testimony.

CAPTAIN HILL: Sirs, each of these witnesses had some particular experience themselves.

GENERAL REYNOLDS: How many more witnesses do you have?

CAPTAIN HILL: There will be six more witnesses. There will be five more witnesses, sir. Three have testified.

GENERAL REYNOLDS: Does the nature of the evidence indicate similar episodes in the same locality at the same time?

CAPTAIN HILL: In different rooms and in different hotels. The next witness was taken from the Bay View Hotel on the second day to the Alhambra Hotel, together with a group of women.

GENERAL REYNOLDS: How many more Bay View Hotel witnesses do you have?

CAPTAIN HILL: Yes, sir.

GENERAL REYNOLDS: How many?

CAPTAIN HILL: How many? There will be two more, sir.

GENERAL REYNOLDS: The Commission will forego listening to further witnesses with respect to the Bay View Hotel.

CAPTAIN HILL: Sir, one witness at the Bay View Hotel had a conversation with a Japanese officer and I should like

to have permission to put her on the stand just to relate that conversation.

GENERAL REYNOLDS: All right.

CAPTAIN HILL: She is not here right now, but I shall go ahead with the other hotels and then put her on if she comes.

VIRGINIA VELASCO

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

DIRECT EXAMINATION

Q (By Captain Hill) State your name, please.

A Virginia Velasco.

Q Can you speak up just a little louder, please?

A Virginia Velasco.

Q And how old are you?

A I am 18 years old.

Q Are you married or single?

A I am married.

Q What is your nationality?

A. I don't understand.

Q Are you a Filipino?

A I am a Filipino.

Q Where do you reside?

A I am --

Q On Alhambra Street?

A Alhambra Street in Ermita.

Q In Ermita?

A Yes.

Q Were you taken from the Bay View Hotel to the Alhambra

Hotel on February 12, 1945 by the Japanese?

A Uh-huh (affirmative).

Q Say "yes".

A Yes.

Q Can you tell the Commission how many women and girls were taken from the Bay View Hotel to the Alhambra on that day?

A The young girls were separated.

Q Were there a hundred or how many would you say were taken from the Bay View to the Alhambra?

A 200.

Q About 200?

A Yes. All young women and young girls.

Q All young women and young girls?

A Uh-huh (affirmative).

Q And when you got to the Alhambra Hotel will you tell the Commission what the Japanese did with you there?

A (No response).

Q Did they put you in a room?

A The first time the Japanese bring me in the Alhambra Hotel with 50 girls; all young girls; Spanish and Filipina girls, and I don't know what kind of other girls -- Russian. They bring them in the Alhambra Hotel.

Q Did they put all of this group of 50 girls in one room?

A No. He bring me down the stairs and bring me some food.

Q One Japanese did?

A I think that that is eight Japanese.

Q Did anyone else go with you downstairs to get food?

A No. All the girls sit down in the table and give them food.

Q They took all of the girls down?

A Two Japanese, and I think that one is an officer; three-star. I don't know what rank but he had three star.

Q And could you tell whether these Japanese at the Alhambra Hotel were soldiers or sailors or what they were?

A Oh, I think it is Marine.

Q Can you tell the Commission how they were dressed?

A They were dressed in fatigue, you know.

Q What color were their fatigue?

A I don't remember, but it is called "fatigue".

Q Did you see any insignia on their caps or uniform?

A Yes. "Anchor".

Q What time of day did you get to the Alhambra Hotel from the Bay View?

A The time they bring --

Q In the afternoon?

A No. In the night.

Q In the night?

A Night.

Q Late or early in the night?

A Early.

Q After they gave you food, then did they take you to a room upstairs?

A No. One of the Japanese, that is an officer, I think, came and select the girl. I have a short skirt and he bring me upstairs. The one guy bring me have no ears and he got a big -- What was that name?

Q A boil?

A Yes. And I think he has a sword.

Q A saber?

A Yes. He bring me in the room. The first time I go in the room and another girl go inside.

Q And what did this officer do in that room?

A Nothing.

Q Then after you had gotten to the Alhambra Hotel were you ever taken out of the room there away from the group by any of the Japanese?

A No, sir. That night, no.

Q Well, later on?

A Yes.

Q What night was that the first time?

A He just --

Q Was it the first or second night that you were in the Alhambra?

A The next night. The second night or third night. The second night.

Q Tell the Commission now about being taken out of the room by this Japanese and taken to another room. Tell the Commission what he did there.

A He did to me?

Q Yes.

A We go inside the room and I am laying down. I am sleeping. And then the Japanese told me "Wake up!" and then I said "What do you want?"

He got a flashlight and pointed at the girl and then he tickled me and then I sit down and I do like that (illustrating), and then the Japanese told me "Come on! You go with me and I bring you some food and everything you want!"

I said "I am sorry. I cannot go with you because I have got a husband".

And then the Japanese told me "Where is your husband?"

"My husband is in another department imprisoned with the other men. He is separated from me".

And then the Japanese told me: "O. K. You go with me. I will give you some food and everything you want. Clothes and everything".

I said "I am sorry. I don't like to go with you."

And then the Japanese told me "O. K. If you don't like to go with me, I'm the one to guard you. You had better come to me."

I said to the Japanese "Please!" I said "don't bring me!"

Then the Japanese told me "If you don't like to come with me, I come back and get your husband and kill him".

And then I was 'scared. I go with him.

Q Where did he take you?

A He take me in the room.

Q And did he force you to have sexual relations with him in that room?

A He don't hurt me, but I am just talking. I don't like to go. The Japanese said "If you don't like, I'm the one to guard this place".

I said "Oh, please! I got a husband."

"O. K. If you don't like, I'm sorry. I will kill your husband".

And then I go.

Q And did he have sexual intercourse with you?

A He held me, but I don't like it. That is why I am scared.

Q Was that the first night that you were at the Alhambra Hotel?

A That's the first night.

Q And after that during the time you were at the Alhambra Hotel were you harmed or molested in any way by this same Japanese?

A No.

Q By any other Japanese?

A No, I think that is the third day.

Q Afterwards?

A Yes.

Q Was that at night?

A Uh-huh (affirmative). One Japanese come -- two Japanese come around there. That's it. Two.

Q Come to your room?

A Uh-huh (affirmative).

Q Where the group of 50 women were?

A Yes.

Q And did he take you out of the room that night?

A I laid down and pretend I am dizzy. Two Japanese go inside the room and find some girl, and then I sleep and then that girl -- That Japanese wake me and then the Japanese told me "Come on, girl! You go with me!"

I said "Where?"

He said "Upstairs".

I said "I don't like to go".

Q Were you afraid not to go?

A I am afraid all the time. I am 'scared.

Q Did you go with him there?

A It is very hard to get me, but, I am sorry; I could not do nothing. That is why I didn't want to come with him.

Q And did he take you to another room in the hotel?

A Yes.

Q Did he force you to have intercourse with him?

A He held me, but I cannot do nothing. That is why.

Q And did he have intercourse with you?

A He did.

Q During the time that you were in this room in the Alhambra Hotel with these other women did you see any other girls taken out of the room?

A I see many, but I don't remember because --

Q You saw many girls taken out?

A But I don't remember who, because I got separated; in one room 50 girls or 20 girls like that.

Q Did you see the Japanese take girls out of that room every night?

A Yes.

Q Were many girls taken out?

A Oh, I don't know out of any other room. Just my room.

Q I mean out of your room.

A One night one and one night two, like that.

Q But you saw many girls taken out of the room by the Japanese?

A I saw -- I not see many.

Q How many would you say?

A Oh, one night the Japanese go there, I think that that

is an officer; he got Rosie. And one night another girl; he leave with Molly. That is a girl, a young girl. The Japanese take her. But the girls do not like it. The girls are crying and the Japanese told them "Come on! You go with me!" Then one Japanese come back and I think he is a bad Japanese. He do like that (illustrating). And even the girl is crying. That is all I seen.

CAPTAIN HILL: Cross examine.

CROSS EXAMINATION

Q (By Captain Sandberg) This Japanese who threatened to kill your husband, did he speak in Tagalog?

A No, sir.

Q What language did he speak?

A Japanese, sir.

Q Do you speak Japanese?

A You know, the Japanese say "If you don't know how to speak Japanese, you be sorry". That's why every girl learn the Japanese language.

Q Do you speak fluent Japanese?

A I not speak all; just only a little bit. That is all I understand.

Q Did this Japanese also have "anchors" on his uniform?

A I can't understand you.

Q Did this Japanese have "anchors" on his uniform?

A Yes. He have "anchors".

Q And were all the Japanese you saw similarly dressed with "anchors" on their uniform?

A That is all of them. All of them have got "anchor".

Q Do you know the difference between a Formosan and a

Japanese?

A I don't understand you.

Q Do you know what Taiwanese is?

A What is that?

Q Do you speak Taiwanese?

A Japanese.

Q Taiwanese.

A No, sir.

Q Have you ever seen a Taiwanese?

A I don't remember that. I don't remember the face. That is the same thing, I think.

CAPTAIN SANDBERG: That's all.

CAPTAIN HILL: That's all.

(Witness excused)

CAPTAIN HILL: This is the lady that I want to relate the conversation, sir.

GENERAL REYNOLDS: You will restrict it just to that part.

CAPTAIN HILL: Yes.

MARIA LUISA SOTELO

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you state your name, please?

A Maria Luisa Sotelo.

Q Will you speak a little louder?

A Maria Luisa Sotelo.

Q Where do you reside?

A Now?

Q Yes.

A 51 San Juan Street, Pasay.

Q How old are you?

A 24.

Q Are you married or single?

A I'm married.

Q What is your nationality?

A Filipino, sir.

Q You were one of the women held captive by the Japanese at the Bay View Hotel, were you not?

A I was.

Q In the early part of February of this year?

A Yes.

Q And during the time that you were in the hotel did you have occasion to have any conversations with any of the Japanese officers there in the hotel?

A I did.

Q Will you relate to the Court the conversations that you had with those Japanese officers?

A I was talking to an officer the day that they started separating the Filipino girls from the white women, and as soon as they took all the Filipino girls away I went to an officer and asked him what their idea was about separating us and asking him if we could go home. He told us that we couldn't go home because they were protecting us from the Americans. So I told him that we would rather go to our place and stay with them there. And he laughed at me and told me that they couldn't let us go home because they had orders to kill all the white women. So I begged him to do something for us, and

he said he couldn't do anything for us; that if they wouldn't kill us they would take us to the front lines and put us in front so the Americans wouldn't shoot at them. So that's all.

CAPTAIN REEL: Just a moment, please.

Sir, I shall ask that the part of the answer that had to do with the conversation with this unidentified source be stricken.

GENERAL REYNOLDS: Why?

CAPTAIN REEL: On the ground, sir, that it is hearsay; we don't know the source; we have no way of identifying, no method of cross examination. It is clearly incompetent, sir.

GENERAL REYNOLDS: The objection is not sustained.

CAPTAIN HILL: "Sustained"?

GENERAL REYNOLDS: "Not sustained".

Q (By Captain Hill) Did you know the name of this Japanese officer with whom you had conversation?

A No.

Q Do you know the name or names of any of the Japanese officers there in the Bay View Hotel?

A Yes. I knew an officer. He was a night officer.

Q What was his name?

A He told me his name was Kito.

Q And what rank did he hold, do you know?

A He wore a red band on his chest and told me he was a night officer. That is what he say. I don't know about that.

Q Did you have any conversation with him?

A Yes. I talked to him the first night we got to the Bay View.

Q Will you relate that conversation to the Commission?

A Well, when we got to the Bay View Hotel that night he took us to a room. I asked him what they were going to do with us there and he say that they were keeping us there because of the fire and things that were happening. And he -- I asked him what they were going to do with the rest of the girls and he said he didn't know. And I begged him not to let any Japanese come inside the room and take us away. And he said he couldn't help it.

Q After the first conversation with Kito did you have any further conversation with Kito? Did you later remonstrate to Kito about the treatment the girls and women had received?

A I talked to Kito all that day, several times that day.

Q That was the day following the first night at the hotel?

A Yes.

Q Just relate to the Court what you told him and what he told you on those occasions the following day.

A Well, I talked to him the next day and I was scared. And I asked him -- I always would ask him what they were going to do with us, and I told him about the things that these Japanese were doing to the young girls in that place. And he say that the officers and men, higher-ranking men out there could not do anything with the soldiers because they were fighting and they came over to that place to rest. So he said he couldn't do anything, but he would try and help us any way he could.

Q Back to the first conversation that I had you relate to the Commission, did I understand you to say that you did not know the name of the officer with whom you had that conversa-

tion?

A Yes.

CAPTAIN HILL: Cross examine.

CROSS EXAMINATION

Q (By Captain Sandberg) This officer with whom you had the conversation, do you know where he was a member of the Japanese Army or of the Japanese Navy?

A They were Marines.

CAPTAIN SANDBERG: That's all.

CAPTAIN HILL: That's all. Thank you.

(Witness excused)

MAJOR KERR: Sir, the witness who was just excused could have informed the Commission as to the total number of girls who were raped.

CAPTAIN HILL: I believe it is in the statements.

MAJOR KERR: That is all, then.

JOSEFINA RAMOS

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

DIRECT EXAMINATION

MAJOR KERR: Please be seated. Speak just as loudly as you can, so these gentlemen can hear every word you say.

Q (By Captain Hill) Will you state your name to the Commission, please?

A Josefina Ramos.

Q How old are you?

A Eighteen years old; single; house girl. 28 H. P. Santos Street, that is where I live now.

Q Were you one of the women, or girls, who were taken to the Bay View Hotel by the Japanese during the early part of this year?

A Yes, sir.

Q February, 1945?

A Yes.

Q And after you left the Bay View Hotel, were taken out of there by the Japanese, where were you taken to?

A The Bay View Hotel.

Q When you left the Bay View Hotel where did you go?

A At the Miramar Hotel Apartments.

Q How long did you remain at the Miramar?

A We stayed there for almost three days.

Q And how many women were taken to the Miramar Hotel by the Japanese from the Bay View Hotel?

A I think that is more than 60 something.

Q And where did they take you, or take this group, to, in the Miramar Hotel?

A I beg pardon?

Q Where did they take you in the hotel, to what part of the hotel?

A The second floor.

Q Did they keep this group together there?

A Uh-huh (affirmative).

Q During the time that you were there in the Miramar, did you see or know of any girls who were harmed or molested by the Japanese?

A Yes: Isabel Caro.

Q Isabel Caro?

A Yes.

Q Do you know of any other girls?

A My cousins, Corazon and Lourdes.

Q Any other girls?

A Inday, and another girl; I don't know her last name.

Q Do you have any idea of how many girls altogether in your group were harmed or molested by the Japanese?

A Around four of them.

Q Four of them?

A Yes.

Q And when you left the Miramar Hotel, what date was that?

A It was the 13th.

Q And tell the Commission where you went then.

A After we left the Miramar?

Q Yes.

A We went to the Luneta.

Q To the Luneta?

A To the Luneta.

Q And is that in the vicinity of the Bay View and the Miramar Apartments?

A Just a block.

Q When you arrived there, tell the Commission what you found.

A There were four Japanese.

Q Were there a lot of people gathered there?

A Yes.

Q And do you know why they were gathered there?

A We were gathered there because the Japanese told us to stay there.

Q In order to protect yourselves from shell fire?

A Uh-huh (affirmative).

Q And can you say how many people were there in the Luneta?

A More than 100.

Q Were they men, women and children?

A Just women and children, that is all.

Q And were most of them from the hotels in the vicinity there, do you know?

A Uh-huh (affirmative).

Q Were you harmed or molested by the Japanese there at

the Luneta?

A Yes.

Q Tell the Commission now just about what happened to you on that occasion.

A There were four Japanese, enlisted men, Marines, who went there and wanted to take girls from our room. But there was one lady by the name of Miss Linda Purganon, who knows how to speak a little Nippon-go, and she told them that if we could get a pass just to transfer and go back to our places where we used to be, but the Japanese said that if two of the girls would go with them to the officers, to the officer in charge of the passes, it would be all right for us to get a pass.

I was taking care of the baby. It was my sister's baby, and the Japanese picked on me and another girl by the name of Caridad. I don't know her last name. Then I told them I couldn't go with them because of the baby, but the Japanese said, "Just leave the baby" with my mother, and that we would stay about a few minutes, but if we wouldn't go with them they would kill us. So my mother told me to go with them.

They pulled us and brought us to a filling station. Then as we arrived there, one of the Japanese took me and brought me to a room. That was in the back part of it. He forced me down and lifted my dress -- and lifted my dress. While I was crying, begging, praying, he removed his trousers -- removed his trousers and took out his sexual organs -- (pause)

Q Did he have intercourse with you there?

A No.

Q Were you able to prevent him from having intercourse?

A Yes. I keep on struggling, twisting. I keep on struggling, twisting, but he keep on slapping my face, and he tried very hard but couldn't do anything because I keep on twisting my feet. That is all.

Q Were you able to get up then, from off the floor?

A Yes.

Q Did you go into the other room where your girl friend was?

A No. He just kicked me, and I stayed just where I was.

Q Where was your girl friend, Caridad?

A In the other room.

Q Do you know what happened to her?

A As I know, there were three Japanese who raped her.

Q Each one of these three Japanese raped her?

A Uh-huh (affirmative).

Q And were these Japanese that took you and your friend to the filling station members of the Japanese armed forces?

A Yes.

Q Do you know to which branch of the Japanese forces they belonged?

A I think they were Marines, that is all.

Q Can you describe their uniform or insignia that they wore?

A They have got a little insignia on their cap, and --

Q What kind of an insignia?

A Navy, something like that.

Q Is it an anchor?

A Uh-huh (affirmative).

Q Now, while you were in the Luneta did you see any other women or girls raped or harmed there by the Japanese?

A No.

Q Did you see any persons killed there?

A Yes. This Morales family, two kids and the mother.

Q How were they killed?

A They were brought to the other side, and they were killed there.

Q Who killed them?

A The Japanese, enlisted men.

Q How did they kill them?

A They bayoneted them.

Q By bayonet?

A Uh-huh (affirmative).

Q Do you know why they killed them?

A No.

CAPTAIN HILL: That is all.

CAPTAIN SANDBERG: No questions.

(Witness excused.)

ULIRAN PEDRO

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

MAJOR KERR: Please be seated right over here. Speak up as loudly as you can.

DIRECT EXAMINATION

Q (By Captain Hill) Will you state your name to the Commission?

A My name is Uliran Pedro.

Q And where do you live?

A At Pasong Tamo.

Q How old are you?

A I am 19 years old.

Q And what is your nationality?

A I am a Filipina.

Q And you were, in the early part of February, the 9th of February, taken to the Peralta Apartments and then to the Bay View Hotel by the Japanese, were you?

A Yes, sir.

Q And then after you left the Bay View Hotel you were taken by the Japanese to the Miramar Hotel, is that right?

A That is right, sir.

Q And what date was that?

A The date when --

Q When they took you to the Miramar Hotel.

A That was on the 10th.

Q On February 10th?

A February 10th.

Q At what time of the day was that?

A I think it is Saturday.

Q No. Was it in the day time, or in the evening, or at night?

A Night; at six o'clock.

Q And who took you to the Miramar Hotel?

A A Japanese soldier took me there.

Q One Japanese soldier?

A Yes, sir.

Q Did you learn his name?

A I don't know his name.

Q How many people were taken to the Miramar Hotel?

A There were many.

Q Would you say 100, or more or less?

A More than a hundred.

Q About 100?

A More than that.

Q Were they men, women or children?

A Women and children.

Q And what nationality were they, do you know?

A They were all Filipinos.

Q And after they took you to the Miramar Hotel what did the Japanese do with you there? Did they put you in a room?

A They put us in a room.

Q Did they put all of the group in one room, or in various rooms?

A Various rooms.

Q And how many were put in the room, where you were?

A We were about 18 or 16.

Q Sixteen or eighteen?

A Eighteen or sixteen in the room.

Q How long did you remain there in the Miramar Hotel as a prisoner of the Japanese?

A Two days.

Q Two days and two nights?

A Yes, sir.

Q And during that time were you harmed or molested by any of the Japanese?

A Yes, sir.

Q And which time was that?

A That was the night of the 10th of February.

Q That was the first night that you were there?

A Yes, sir.

Q Just tell the Commission what happened that night.

A That night when they came in the room a Japanese approached me. He took me by force. I didn't want to go out, but he had a gun with him, and I have to go with him. I was forced to go with him upstairs in a room. When we were in the room he was asking me to take off my clothes, and he wanted me to lie down on the bed. I refused, but he had a sword. He threatened to kill me.

Q Did this Japanese force you to have sexual intercourse with him?

A Yes, sir.

Q And after he had completed that what did he do with you, if anything?

A When he had completed that we stayed in that room the whole night.

Q And then the next morning did he permit you to go back to your room where the rest of the group was?

A Yes, sir.

Q During the time that you were a prisoner there in the Miramar did you see any other girls taken out of the room by the Japanese?

A Yes, sir.

Q About how many different times did you see girls taken out of the room by the Japanese?

A About four or five.

Q Just out of your room?

A Yes, sir.

Q Was that each night, or during the whole time that you were there?

A During the whole time I was there; I always see them going.

Q Did you see the same girl taken more than once?

A Yes, sir.

Q Can you give the names of the girls who were taken out of that room?

A So far as I remember, I just remember the name of Rosie.

Q Is that the only one?

A I don't know the names of the other girls.

Q And on what date were you able to make your escape from the Miramar Hotel, together with the rest of the women?

A That was the 12th of February.

CAPTAIN HILL: You may cross examine.

COLONEL CLARKE: No questions.

CAPTAIN HILL: That is all.

(Witness excused.)

GENERAL REYNOLDS: How many more witnesses?

CAPTAIN HILL: This is the last witness, sir.

ELOISA CHICOTE

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

MAJOR KERR: Please be seated over here. Please speak loudly so the Commission can hear you.

DIRECT EXAMINATION

Q (By Captain Hill) Please state your name to the Commission.

A Eloisa Chicote.

Q How old are you, Miss Chicote?

A Thirty-six years.

Q And where do you reside?

A 53 Ortega.

MAJOR KERR: Can you speak a little louder?

Q (By Captain Hill) What is your nationality?

A Spanish.

Q During the first part of February, or rather, the middle part of February, were you taken to the Manila Hotel by the Japanese?

A Yes. On the 14th we were taken from home and sent --

MAJOR KERR: Please speak a little louder. We can't hear you.

A (Continuing) -- we were sent to a little house where there were many tons of gasoline and many people, about 400 there, and they sent us, the women, about 200 women, to the Manila Hotel. We were in a room, in a big room.

CAPTAIN HILL: The Defense cannot hear.

GENERAL REYNOLDS: Won't you please talk louder?

A (Continuing) We were closed in a room, a big room. We were closed in a room, about 200 women and children, and every night they came, the Japanese came to take some women, about four or five women every night. We heard their screams every night.

Q (By Captain Hill) Did you see any of these women

after they returned to the room?

A No.

Q Did any of these women tell you what happened to them?

A No.

Q Did you ever see these women return to the room?

A Only one; a Russian woman. But she returned like an insane lady.

COLONEL CLARKE : We haven't been able to hear any of this so far.

GENERAL REYNOLDS: At the close of this witness' testimony we will have the reporter read it back.

Q (By Captain Hill) How long did they keep you a prisoner in the Manila Hotel?

A From the 14th until the 18th.

Q And during that time did you have any food or water there?

A Only what the Filipinos called "lugao." It was more water than anything. And the water was almost a green color.

Q Do you know where that water came from?

A I don't know. They told us there was no water, and they gave us green water.

Q Now, just prior to your release, were some of the Spanish and mestizo women located in a separate room?

A Yes.

Q How many of them?

A About 12 ladies.

Q And did you see the Japanese take any women out of this room?

A Only one, a young lady, a German-mestizo lady, young lady.

Q Do you know what they did with her?

A I don't know.

Q Did they take her by force?

A Yes.

Q Did you see her return?

A Yes.

Q Did she state to you, or any of the others, what had happened?

A No.

Q How long was she gone from the room?

A Some hours.

GENERAL REYNOLDS: What was that?

(Answer read.)

Q (By Captain Hill) Among the 400, about 400 women that you think were taken to the Manila Hotel, can you give the Court their various nationalities?

A There were many Chinese and Filipino women; mostly there were Chinese and Filipinos.

Q And among the women that were harmed or molested by the Japanese while you were all together in the group, can you tell the Court which nationality --

A There were some Filipinos and a young Chinese, good-looking ones, about eight or ten.

CAPTAIN HILL: You may cross examine.

CAPTAIN SANDBERG: May I ask that the last question be stricken. There is no evidence that these women had been harmed or molested, from this witness.

CAPTAIN HILL: You may cross examine.

GENERAL REYNOLDS: There is an objection.

We would like the record read back by the reporter, and we will rule on the objection.

(Record of testimony of Eloisa Chicote read by the reporter.)

GENERAL REYNOLDS: What is your objection?

CAPTAIN SANDBERG: The objection, sir, is that there is no evidence that any of these women were harmed or molested, simply that they were taken from the room.

GENERAL REYNOLDS: What is your motion?

CAPTAIN SANDBERG: The motion, sir, is that the question and answer be stricken.

GENERAL REYNOLDS: The last question and the last answer? Will you repeat that?

(The question and answer referred to were read by the reporter.)

CAPTAIN HILL: Taking them from the room, sir, by force, would be harming or molesting.

GENERAL REYNOLDS: Ask the witness if they were removed by force.

Q (By Captain Hill) The women and girls that you have testified about being taken from the room, were they taken by the Japanese by force?

A They were taken by force.

GENERAL REYNOLDS: Does Defense still wish that objection to stand?

CAPTAIN SANDBERG: Sir, I would like the record to show that the "harmred" or "molested" referred to in the question

simply refers to the fact that they were taken from the room by force.

GENERAL REYNOLDS: I think that is clear.

CAPTAIN HILL: But we can't tell; we are unable to tell what happened to them. I don't think that it is fair to put an interpretation like that on the question, or on the answer, sir.

GENERAL REYNOLDS: The matter will be considered closed.

CAPTAIN HILL: I have just one more question, please.

Q (By Captain Hill) When you were able to make your escape from the Manila Hotel, will you relate to the Court the circumstances surrounding your escape?

A On the 18th, about four o'clock in the afternoon, we heard a crash, and we feel the building all trembling like an earthquake, a great earthquake, and then a green smoke blow in the door, and then all the roof came over us, and I don't know any more. I was hurt. I had four wounds in my back. I don't know -- I fainted.

Q Were you permitted by the Japanese to leave the building?

A No.

Q Were there Japanese guards at the doors to keep the civilians in the building?

A Yes. They didn't want us to go out.

CAPTAIN HILL: You may cross examine.

CROSS EXAMINATION

Q (By Captain Reel) Do you know whether these Japanese were members of the Army or Navy, or the Marines?

A I think it was the Navy, because they had green

uniforms, dark green.

Q Green uniforms. Did you notice any other insignia, that you remember?

A No.

Q Did anyone tell you that they were Navy men?

A No. They wore like that (indicating Accused) --

Q They were not the color of these uniforms (indicating)?

A No; darker.

Q Now, on this last day of the Manila Hotel, when you heard the explosion that you just described, were there other explosions outside that you heard?

A No, only a great one, and then the smoke, the green smoke that came.

Q Was there some shelling, shooting of artillery shells going on at that time?

A No.

Q None?

A We heard the noise in our room.

Q What was that?

A We heard the noise over our room before the crash.

Q You heard a noise over your room?

A Yes. And they throw all the furniture out before --

Q Well, my question, Mrs. Chicote, had to do with whether you heard shelling, the sounds of shelling outside.

A No.

Q Did you hear that?

A No.

Q Do you remember what day this was in February, 1945?

A On the 18th.

Q The 18th day of February?

A Yes, sir.

Q Did you, on the 18th day of February, in the Manila Hotel, hear the sound of shooting outdoors?

A No. We were closed in the room.

Q You didn't hear any machine guns outside?

A No.

Q You left the Manila Hotel on the 18th of February?

A Yes.

Q Do you remember what time on the 18th of February?

A About four o'clock.

CAPTAIN REEL: That is all.

CAPTAIN HILL: That is all.

(Witness excused.)

CAPTAIN HILL: That is all of our witnesses, sir. I have some statements that I would like to introduce as exhibits.

(A statement was marked Prosecution's Exhibit No. 108 for Identification.)

CAPTAIN HILL: We offer in evidence as Prosecution's Exhibit No. 108 a statement of Zenaida G. R. Lyons relative to this case, made under oath before the investigating officer of the War Crimes Investigating Detachment.

GENERAL REYNOLDS: Has the Defense had an opportunity to study these statements?

CAPTAIN SANDBERG: No, sir, we have just received them.

GENERAL REYNOLDS: It will be considered, then, after the Defense has had an opportunity to study it.

CAPTAIN HILL: I will have each one of them marked and offered in evidence.

GENERAL REYNOLDS: You may have them marked and offered in evidence, and the decision will be made as to their admissibility after we have had a chance to look at them.

(A statement was marked Prosecution's Exhibit No. 109 for Identification.)

CAPTAIN HILL: We offer in evidence, as Prosecution's Exhibit No. 109, a sworn statement of Montserrat Iglesia Marzoni, taken under oath before an investigating officer of the War Crimes Investigating Detachment.

GENERAL REYNOLDS: It is accepted subject to the conditions stated. Both Prosecution's Exhibits 108 and 109 are accepted, under the conditions stated.

(A statement was marked Prosecution's Exhibit No. 110 for Identification.)

CAPTAIN HILL: We offer Prosecution's Exhibit No. 110, which is the sworn statement of Carmencita Veloso Ballesterus, taken under oath before an investigating officer of the War Crimes Investigating Detachment.

GENERAL REYNOLDS: The document is accepted under the conditions stated.

(A group of statements were marked Prosecution's Exhibits Nos. 111 to 116, inclusive, for Identification.)

CAPTAIN HILL: The Prosecution offers in evidence Exhibits 111, 112, 113, 114, 115, and 116, which are all sworn statements taken before an investigating officer of the War Crimes Investigating Detachment relative to the

incident under consideration. I offer them in evidence.

GENERAL REYNOLDS: They are tentatively accepted, under the conditions previously stated.

CAPTAIN SANDBERG: May we get the names on those, please, Captain?

CAPTAIN HILL: Yes.

Exhibit No. 111 is the sworn statement of Pilar Ubago Miranda;

Exhibit No. 112 is the sworn statement of Erlinda Querubin;

Exhibit 113 is the statement of Nadie Nesterenko;

Exhibit No. 114 is the statement of Lourdes Pedro;

Exhibit No. 115 is the statement of Gertrudes Narag del Casal; and

116 is the sworn statement of Pacita Tapia.

GENERAL REYNOLDS: Is there anything further?

CAPTAIN HILL: That is all, sir.

GENERAL REYNOLDS: The Commission will be in recess until ten minutes of 11:00, which is approximately an 11-minute recess.

(Whereupon, at 1039 hours, the closed session was adjourned.)

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Entiquio Antipolo	564	567		
Dr. Alfonso Pardo	568			
Dr. Antonio G. Sison	570	557	580	581
Walter K. Frankel	584	594		
Hans Luhrse	600	602		
Jose M. Cojucom	603	608	608	
Manuel Elizalde	609	611		
Benigno Toda Y. Toledo	612			
Eulogio Malibiran	616			
Eduardo De Los Reyes	622	627		
Fortunato Baredo	628			
Fred F. Canillas	632	640		

EXHIBITS

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
96		564
97		564
98		564
99		564
100		564
101		564
102		564
103		564
104		564
105		564
106		564

I N D E X (Cont'd)

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
107		564
117	566	566
118	568	570
119	571	572
120	585	585
121	604	605
122	622	623
123	638	640
124	638	640
125	641	641
126	641	641
127	641	

PROCEEDINGS

GENERAL REYNOLDS: The Commission is in session, and we will resume the hearing in open session.

CAPTAIN PACE: If it please the Commission, at the close of the last open session Prosecution's Exhibits 96 to 107 for Identification were offered in Evidence, and the Court reserved decision on that until the Defense had an opportunity to examine them.

GENERAL REYNOLDS: Is the Defense ready to make any motion?

CAPTAIN REEL: Sir, have these exhibits been numbered?

CAPTAIN PACE: Yes; on the reporter's desk, there.

CAPTAIN REEL: Sir, we don't have the numbers, so I will refer to them by name. In the first place I wish to state that we don't have any objection other than the blanket objection already made; and secondly, to call the attention of the Commission to the first question and answer on the second page of the statement of Celestina de Antipolo.

GENERAL REYNOLDS: Let us have the affidavits in question.

(The affidavits referred to were handed to the Court.)

CAPTAIN REEL: The first question and answer, and the second question and answer.

GENERAL REYNOLDS: On the second page?

CAPTAIN REEL: On the second page.

GENERAL REYNOLDS: Why is the objection entered?

CAPTAIN REEL: No objection to that, sir, but merely calling the Commission's attention to it. The only

objection is the blanket objection.

GENERAL REYNOLDS: The documents are accepted in evidence.

(Prosecution's Exhibits Nos. 96 through 107, inclusive, for Identification, were received in Evidence and so marked.)

CAPTAIN PACE: That completes the Case No. 32, the St. Paul's College case.

If it please the Commission, the Prosecution would like to now present Bill of Particulars Case No. 20, the Gajo case.

MAJOR KERR: Just a moment, please. Did we have a ruling on the statements which were offered in evidence at the completion of the Bay View case?

GENERAL REYNOLDS: I question if the Defense has had an opportunity to look them over.

CAPTAIN REEL: We have, sir.

GENERAL REYNOLDS: They will be accepted in evidence.

(Prosecution's Exhibits Nos. 108 through 116, inclusive, for Identification, were received in Evidence and so marked.)

ENTIQUIO ANTIPOLLO

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

DIRECT EXAMINATION

Q (By Captain Pace) Give your name, please.

A Entiquio Antipollo, sir.

Q Where do you live?

A I live at present -- my present address, I live at 422 Mabini Street.

CAPTAIN REEL: What was the name?

Q (By Captain Pace) Give your name, please.

A Entiquio Antipolo.

Q Where did you live in February 9, 1945?

A At that time I lived on Herran Street. The number is 422.

Q Were you a survivor of what happened at St. Paul's College on February 9th?

A Yes, sir.

Q Now, on the afternoon of February 10th, the next day, where did you go?

A I managed to -- I and my father -- the name is Dimas Antipolo; and the other two fellows, which were Angel Gajo and Feliciano Lumactud. And we managed to return to our place where we live, on Herran, 422.

Q After you returned to 422 Herran, where did you go then?

A We managed to get up to the attic of the building in order to hide from the Japanese.

Q Who was with you in the attic?

A Angel Gajo, Dimas Antipolo, my father, and Feliciano Lumactud.

Q There were four of you up there, is that right?

A Yes, sir.

Q What time did you go there?

A About two o'clock in the afternoon.

Q And what happened after that?

A One hour later I saw a Japanese soldier came inside of the house and threw a white phosphorus grenade that

caused the explosion, and that is how I get burned.

Q Where did he throw the white phosphorus grenade?

A Exactly where we were sitting, the four of us.

Q In the attic?

A In the attic, yes.

Q There were four of you there at that time, is that right?

A Yes, sir.

Q Did any of you suffer any injuries as a result of that?

A I have injuries.

(A photograph was marked
Prosecution's Exhibit No.
117 for Identification.)

Q I show you Prosecution's Exhibit No. 117 for identification and ask you if you can tell what it is.

A This is my picture taken of me by the Signal Corps Division.

Q Does that accurately represent the injuries that you received as a result of this white phosphorus grenade?

A Yes, sir.

CAPTAIN PACE: I offer it in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 117
for Identification was received
in Evidence and so marked.)

Q (By Captain Pace) Was anybody else injured by that grenade?

A Yes, sir.

Q Describe the persons and the injuries that they

received.

A Angel Gajo was badly injured, burned; he also died later in the hospital. And my father received a burn slightly in the legs.

Q Who was burned in the legs?

A My father.

Q Yes?

A And the other fellow, which his name is Feliciano Lumactud, received his burn on both two hands, and a light burn on his face.

Q Who was that?

A Feliciano Lumactud, sir.

Q All four of you were injured, right?

A Yes, sir.

Q After you got out of the house, did it burn?

A I looked back, and it started burning after I left the house.

Q Did you ever see Angel Gajo after that occurrence?

A After the explosion that was the burning of us, we managed to go outside individually, so that is the last time I saw Angel Gajo and the rest of them.

CAPTAIN PACE: That is all.

CROSS EXAMINATION

Q (By Captain Sandberg) Do you know what branch of the service these soldiers belonged to?

A No, sir, in spite of the fact that I am not interested in the Japanese.

Q You don't know whether they were Army or Navy?

A I don't know, sir.

Q Are you sure they were Japanese?

A I am sure of it.

Q Have you ever seen a Formosan?

A I beg pardon, sir?

GENERAL REYNOLDS: May I interrupt to inquire the purpose of that question?

CAPTAIN SANDBERG: Sir, it is a fact that the Navy was made up largely of Formosans and Taiwanese, and if the witness could state that they were, these particular persons, Formosans, rather than Japanese, it would tend to establish that they were Navy personnel.

MAJOR KERR: The Prosecution, sir, has not granted that most of the Taiwanese or Formosans are in the Navy.

GENERAL REYNOLDS: The question appears to the Commission to be irrelevant, and the proceedings will continue.

CAPTAIN SANDBERG: That is all.

CAPTAIN PACE: Thank you very much.

(Witness excused.)

(A photograph was marked Prosecution's Exhibit No. 118 for Identification.)

DR. ALFONSO PARDO

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

DIRECT EXAMINATION

Q (By Captain Pace) Will you give your name, please?

A Alfonso Pardo.

Q Where do you live?

A Washington Street; 1258; Manila.

Q What is your profession?

A I am a physician.

Q You will have to speak louder.

A I am a physician.

Q Were you in the practice of medicine in Manila during February, 1945?

A Yes, sir.

Q During that month did you have occasion to treat a patient by the name of Angel Gajo?

A Yes, sir.

Q Can you give the approximate date?

A February 20th, I believe, or the 22nd. I am not very sure.

Q February 22nd?

A Yes.

Q And what did you treat Angel Gajo for?

A Angel Gajo came into the hospital with several burns, very extensive.

Q Could you tell what had caused the burns?

A Well, he must have been burned by something very powerful. Maybe gasoline, maybe something like that; phosphorus, anything like that.

Q Doctor, I show you Prosecution's Exhibit No. 118 for Identification and ask if you can tell what that is?

A That is the picture of Angel Gajo.

Q Does that accurately show the injuries for which you treated him?

A Well, it shows on the uncovered parts of the body the injuries that he was admitted for in the hospital, but

covered here are also burns that do not show in the picture.

CAPTAIN PACE: I offer Prosecution's Exhibit 118 in Evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 118 for Identification was received in Evidence and so marked.)

Q (By Captain Pace) And what happened to Angel Gajo?

A He died.

Q On what date?

A Two days after his admission, more or less.

CAPTAIN PACE: You may inquire.

CAPTAIN REEL: No questions.

CAPTAIN PACE: Thank you, Doctor.

(Witness excused.)

CAPTAIN PACE: If it please the Commission, that completes Prosecution's case on Bill of Particulars No. 20.

CAPTAIN SANDBERG: If the Commission please, the Defense moves that the entire testimony of the last witness be stricken as irrelevant.

GENERAL REYNOLDS: Not sustained.

CAPTAIN PACE: If it please the Commission, the Prosecution would like to present Bill of Particulars No. 12, the fortification of the Philippine Hospital.

Doctor Sison.

DR. ANTONIO G. SISON

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

DIRECT EXAMINATION

Q (By Captain Pace) Will you give your name, please?

A Antonio G. Sison.

Q Where do you live?

A Philippine General Hospital, sir.

Q What is your profession?

A Physician, sir.

Q What position do you now have, Doctor?

A Dean of the College of Medicine, University of the Philippines, sir.

Q What position did you occupy before you were Dean of the College of Medicine?

A Director of the Philippine General Hospital, sir.

Q During the months of December, 1944, January and February of 1945, what was your position?

A Director of the Philippine General Hospital, sir.

Q During those months were you present at the Philippine General Hospital?

A Yes, sir.

Q How much of the time? How much of the time each day did you spend there?

A Oh, the whole day, sir.

(A diagram was marked Prosecution's Exhibit No. 119 for Identification.)

Q I show you Prosecution's Exhibit No. 119 for Identification and ask you if you can say what that is.

A This is a map of the Philippine General Hospital and buildings of the College of Medicine, University of the Philippines, sir.

Q Does that map accurately portray those buildings?

A Very clearly, sir.

CAPTAIN PACE: I offer this in evidence, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in Evidence.

(Prosecution's Exhibit No. 119 for Identification was received in Evidence and so marked.)

Q (By Captain Pace) Will you describe whether or not any Japanese came to the Philippine General Hospital in 1945?

A On the latter part of January, 1945, one day I found a building of the dispensary, or the out-patients department, occupied by Japanese soldiers.

Q I show you Prosecution's Exhibit 119 and ask you to look at the building marked "A".

A That is the out-patient department of Philippine General Hospital, sir.

Q Is that the building you are referring to?

A That is the building I am referring to, sir.

Q You say the Japanese were there. Will you describe what they were doing?

A They had occupied the building, and they built a small trench just in front of that building, and another one at the south entrance of the Philippine General Hospital, another small trench with machine guns inside.

Q I show you Exhibit 119 again and ask you to look at the letters "D" and "E".

A This is the south entrance, sir, where a small trench was built (indicating), and another one here (indicating),

sir, near the middle of the front of this building where they put another trench.

Q Do the letters "D" and "E" approximately show where they put those trenches?

A Yes, sir.

Q What did they put in each of those trenches?

A I could see machine gun inside. I could see the -- (pause) -- the end of the gun.

Q In each trench?

A In each trench, yes, sir.

Q You also testified, Doctor, that the Japanese had occupied the building marked "A". What do you call that? The dispensary?

A The dispensary.

Q The out-patient department?

A The out-patient department, sir.

Q And the dispensary?

A That is the same one. We call it either "dispensary," or "out-patient" department.

Q When you say the Japanese occupied that building, what did they do?

A They built a trench there, and they were living there, sir.

Q How many Japanese were living in the dispensary?

A Around 50, sir; half a company.

Q This started in, you say, late in January, 1945. How long did it continue?

A That continued until the day we were liberated by the Americans on the 17th of February, sir.

Q Did the Japanese occupy any other buildings of the hospital?

A Later on we saw soldiers going to another building that we called a dormitory for the nurses, on the north side.

Q Will you look at this map and point out the building you call a dormitory for the nurses?

A Yes, sir. This one marked "B" (indicating).

Q How many Japanese moved into that building?

A I can't exactly say the number, sir. We see them only there over in the front part of the building. How many inside, sir, I cannot tell.

Q More than one?

A More than one, sir; several of them.

Q Did the Japanese do anything or put any weapons in any other buildings near the hospital?

A Yes, sir; over at the College of Pharmacy.

Q Can you point to where they put that, on Exhibit 119?

A Along this building, sir (indicating).

Q You are pointing to the letter "C"?

A Yes, sir.

Q And did you say what they put in there?

A Oh, that was fortified by them, first and second floor.

Q What did they do?

A Machine gun and trenches there. They put their sacks of sand on the windows of the building.

Q Did you talk to any Japanese officers about what they were doing to your hospital?

A Non-commissioned officers, sir.

Q Yes?

A The day I saw Japanese in the out-patient department, or what we call the dispensary, I inquire why they are there. He said, "Well, we got the permission to occupy this building from the military governor of this district."

Q The Japanese said that he had gotten permission from the military governor?

A That is what I was told by that non-commissioned officer, sir.

Q Was the hospital at that time marked in any way to distinguish it as a hospital?

A Yes, sir. A red cross painted on top of the roofs of the buildings of the hospital, and just opposite the administration building some corrugated iron with a big red cross painted, was right in front, sir.

Q You stated that you were liberated there on the 17th of February?

A Yes, sir.

Q About what day did the fighting start in that neighborhood?

A The fighting started after the third of February.

Q Now, during that period, about how many patients and refugees did you have in the hospital?

A More than 9,000, sir.

Q Will you repeat that, sir?

A More than 9,000, sir.

Q 9,000?

A Patients and refugees, sir.

Q Will you describe the fighting which led to your

liberation, which took place in the vicinity of the hospital?

A That night we could not only hear, but see the shots, incendiary bombs and shells --

Q In the hospital?

A In the hospital, yes, sir; and for that reason several of the buildings are ruined now, on account of the shots received there.

Q Several patients --

A Several patients wounded, and a few died, sir.

Q Did the Japanese garrisoned at that house defend that area against the Americans?

A Exactly inside of the hospital, no, sir.

Q How about in the yard of the hospital?

A Yes, right in front of the hospital, that big lawn there.

Q Will you look at Exhibit 119 and point to the area you mean?

A Yes, sir. We could see them right here (indicating), all along this --

CAPTAIN PACE: Just a moment.

(Whereupon Captain Reel approached the witness stand and examined Prosecution's Exhibit No. 119.)

A (Continuing) This part (indicating), sir. This is the lawn I was saying, in front of the administration building.

Q (By Captain Pace) You are referring to the area located between the letters "A" and "B", is that right?

A Yes, sir.

Q That is the area where the driveway goes in off of

Taft Avenue?

A Yes, sir.

Q What did you say happened there?

A They were there with their guns, their rifles; sometimes standing, sometimes lying with their guns pointed to the front.

Q And it was necessary for the Americans to come in and take the hospital area by actual fighting, right?

A Yes, sir.

CAPTAIN PACE: You may inquire.

CROSS EXAMINATION

Q (By Captain Reel) When were these trenches that you told about dug?

A Two of them inside of the hospital yard, one just opposite the dispensary building, and another one just at the south entrance of the Philippine General Hospital, sir.

Q I am afraid you misunderstood, or I didn't make myself clear. The question was, when?

A When? That was on the latter part of January, sir.

Q Can you place the date a little more accurately than the latter part of January?

A I can't remember the date, but I can say very well that it was just a few days before the seige of Manila. The seige of Manila started around the 3rd of February.

Q So it would be the very last days of January?

A Yes, sir.

Q That these trenches were dug?

A Yes, sir.

Q Now, when did the Japanese live in the dispensary?

Were they living there all during the occupation?

A I didn't get that, quite --

Q Did the Japanese live in the dispensary that is marked on this plan (indicating)?

A Yes, sir.

Q During the entire occupation?

A Yes, sir.

Q And I think you said there were some machine guns and sand bags over in the University of the Philippines, on the spot marked "C" on this plan?

A Yes, sir.

Q When were those put there?

A That was there before the occupation of the dispensary, sir.

Q Before the occupation of the dispensary?

A Yes, sir, a few days before.

Q Well, didn't you tell me that the occupation of the dispensary took place during the entire Japanese occupation?

A No. I say that they came there on the latter part of January, sir.

Q Well, --

A That is what I mean by the occupation; referring only to that period of time, sir.

Q There has been a misunderstanding. Let me ask you again, sir: Did the occupation of the dispensary, which was the building marked "A" on this plan, just start at the end of January?

A Yes, sir; January, 1945, sir.

Q All right. Now, in relation to that time, I think you said the machine guns and sand bags were put over here in the University of the Philippines just before the occupation of the dispensary.

A Yes, sir; a few days before, sir.

Q So that would place that also at the very end of January?

A Yes, sir, the latter part of January.

Q And these refugees that came to the hospital, did they come there after the digging of the trenches?

A They came there during already the fighting, the siege.

Q So the trenches were already dug there and the machine guns were there before the refugees came?

A Yes, sir.

Q Do you know whether these Japanese soldiers that were there were Army or Navy?

A They belonged to the Marines, sir.

Q And how do you know that?

A By the insignia, an anchor.

Q Do you know who was the military governor that was referred to in this conversation you had?

A Yes, sir.

Q What is his name?

A His name is Leon Ginto.

Q Leon Ginto?

A Ginto, yes, sir.

Q And he was a Filipino?

A A Filipino, sir.

Q And he was in charge of the civil affairs in the City

of Manila?

A He was, I understand, appointed the military governor of this district, sir.

Q And did that position, if you know, put him in charge of the civil affairs in Manila, the civilian affairs?

A That is what I understand, sir.

Q Now, the bombs and shells that fell in the hospital area came from airplanes and artillery?

A Not from airplanes, but came from some gun. Incendiary bombs, some of them, sir.

Q Incendiary?

A Incendiary bombs, yes.

Q And these were shells that flew in from the outside?

A From the outside, sir.

Q They weren't anything that were shot off by the Japanese soldiers that were there?

A Not set off.

CAPTAIN REEL: That is all.

CAPTAIN PACE: May I ask a few more questions, sir?

REDIRECT EXAMINATION

Q (By Captain Pace) Who appointed Ginto?

A He was appointed by the President of the Republic, I understand.

CAPTAIN REEL: Sir, I will ask that that question and answer go out as not within the witness' personal knowledge.

GENERAL REYNOLDS: Objection sustained.

Q (By Captain Pace) Were there patients in the hospital at the time the Japanese came and occupied it?

A If there are patients, sir?

Q Yes.

A Yes, sir.

Q Were there patients in the hospital all during the time the Japanese were there?

A Yes, sir.

CAPTAIN PACE: That is all I have.

Thank you very much, Doctor.

CAPTAIN REEL: Could I ask the witness one more question?

RECROSS EXAMINATION

Q (By Captain Reel) Did the Japanese in any way try to prevent the refugees from coming into the hospital?

A I can say that several that arrived there, they arrived already wounded; that on their way to the hospital when their houses had been burned -- I understand that they had been machine-gunned.

Q No. My question was this: Did the Japanese at the hospital try to prevent, keep them out of the hospital?

A The order given by this non-commissioned officer was that we shouldn't receive any refugees, but sometimes they are the ones that bring the refugees, because we closed the doors of the hospital, and they knocked the door, and then when we open we find a large number of people, sometimes accompanied by some soldier, sometimes unaccompanied.

CAPTAIN REEL: That is all.

CAPTAIN PACE: Thank you, Doctor.

CAPTAIN REEL: I don't want to bother the witness, but I have some information I would like to question him about.

Q (By Captain Reel) Do I understand that -- . What position did you hold during the Japanese occupation?

A I was the director of the Philippine General Hospital and President of the University of the Philippines.

Q All during the occupation?

A On the latter part of the occupation I was appointed as president of the University of the Philippines, in October, 1943.

Q And were you also the personal physician to Mr. Laurel, who was the President of the Occupation Government?

A I was one of the physicians of President Laurel, yes, sir.

GENERAL REYNOLDS: What is the purpose of such a question?

CAPTAIN REEL: Simply to show the Commission, sir, that the witness had collaborated with the Japanese while they were here.

GENERAL REYNOLDS: That is considered wholly extraneous to the point in issue, and will be stricken from the record.

CAPTAIN REEL: It was intended, sir, to go only to the question of credibility.

CAPTAIN PACE: May I ask a question, sir? Was that question and answer excluded?

GENERAL REYNOLDS: Excluded.

CAPTAIN PACE: In its entirety?

GENERAL REYNOLDS: Yes.

MAJOR KERR: Which one, sir? The collaboration, or the personal physician?

GENERAL REYNOLDS: The reporter will read the last four questions and answers.

(Record read by the reporter as follows:

"Q. (By Captain Reel) Do I understand -- .
What position did you hold during the Japanese occupation?

"A I was the director of the Philippine General Hospital and President of the University of the Philippines.")

GENERAL REYNOLDS: That question and answer will remain.
Read the following questions and answers.

(Record read by the reporter.)

GENERAL REYNOLDS: That portion of the record will be stricken.

(Witness excused.)

CAPTAIN PACE: If it please the Commission, that completes Prosecution's case on Bill of Particulars No. 12.

MAJOR KERR: Sir, does the Commission desire that we proceed with the next case?

GENERAL REYNOLDS: The Commission will be in recess until 1:30.

(Whereupon a recess was taken until 1330 o'clock, 1 November 1945.)

AFTERNOON SESSION

(The trial was resumed, pursuant to recess, at 1330 hours.)

GENERAL REYNOLDS: The Commission is in session, and the Prosecution may proceed.

MAJOR KERR: Sir, all members of the Commission are present, the Accused and Defense Counsel are present, and the Prosecution is ready to proceed.

CAPTAIN WEBSTER: Sir, the first case is paragraph 59 of the Bill of Particulars.

Please call the first witness.

WALTER K. FRANKEL

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

DIRECT EXAMINATION

Q (By Captain Webster) Please state your name.

A Dr. Walter K. Frankel.

Q Your age?

A 56 years.

Q Your nationality?

A German Jew.

Q How long have you resided in the Philippine Islands?

A Six and a half years.

Q What was your occupation during that time?

A I am a surgeon and urologist.

Q Where were you living, Doctor, on the 12th day of February, 1945?

A In Balagtas, 176-D.

Q Is that also known as Pax Court?

A Yes, sir.

CAPTAIN WEBSTER: Will you mark that for identification?

(Sketch showing location of houses within Pax Court was marked Prosecution Exhibit No. 120 for identification.)

Q (By Captain Webster) Doctor, I hand you what has been marked Prosecution's Exhibit 120, and ask you if you will state what that is.

A Yes, that is a sketch of the Pax Court in the Balagtas Street.

Q Doctor, in which house did you live?

A I was living in 176-D; in this house (indicating).

Q Is that also numbered as 4 on that plaque?

A No. 4 in this plaque.

CAPTAIN WEBSTER: Sir, at this time I wish to offer in evidence Prosecution Exhibit No. 120.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 120 for identification was received in evidence.)

Q (By Captain Webster) Doctor, did you have any Japanese visit your home on or about the 12th day of February, 1945?

A No.

Q Who was living at your home about that date?

A In my home were living with me my wife and my sister.

Q What was your wife's name?

A The name of my wife is Gisela Frankel.

Q . And the name of your sister?

A Alice Frankel Stahl.

Q Do you recall the time that the property in Pax Court was burned?

A Yes.

Q What date was that?

A In the Pax Court it was about 4:15 in the afternoon of February 12th.

Q Will you state who came to your home about 4:15 on the afternoon of February 12th?

A Yes, sir.

Q Who?

A We were all -- We three, my wife, my sister and I, were sitting in our dining room around the coffee table, and suddenly somebody knocked at the door. A Japanese sergeant came into the house.

Q Did any more than one Japanese come into the house?

A No; only one.

Q What did that Japanese do?

A He make a sign to us to follow him, to come out. And I was the first who went out.

Q Where did you go?

A Nearly five or six steps before the entrance of my house, and then I was waiting. He let out my wife and then my sister.

Q Did any other civilians join you in the center of Pax Court in front of your house?

A At this moment I couldn't see it, only one minute later I was waiting. We have to stand, and I was waiting

until the two women came out, and then we were led in the center, and already in the center were a group of Filipinos and one family: Dr. Luhrse, his wife and his child.

Q Did any other people join the group?

A Yes.

Q Who were they?

A Justice Villa-Real, his wife, his two nieces, and also one house girl from the house in the rear of Pax Court.

Q Where did Justice Villa-Real live with reference to your home?

A He is living at the Vito Cruz. The entrance of the house is at Vito Cruz.

Q Will you state what number his home is on Prosecution's Exhibit No. 120?

A The house is Vito Cruz 176, and the house is this place here (indicating).

Q Is that No. 9?

A No. 9.

Q What did the Japanese do with those people after they were in the center of Pax Court?

A They tie our hands, of all the people from this place. They tied our hands on our backs.

Q After doing that what did they do?

A Then we were led in the house No. 168-B.

Q Of Pax Court?

A Pax Court. On the other side of the Pax Court.

Q Were all the people taken in there?

A All the people were taken in there.

Q How many Japanese were there with those people in

the center of Pax Court?

A Two officers.

Q Proceed.

A Two officers and 15 or 16 soldiers.

Q How do you know they were officers?

A I have never seen them before. They were very young men.

Q How do you know they were officers?

A Yes. From the insignia, and I was accustomed to make the difference between common soldier and non-commissioned officer and commissioned officer.

Q How were those two you thought were officers armed? What arms did they have?

A They have a saber; only sabers, the two officers.

Q How were those that you called "enlisted men" armed?

A Partly they have spears.

Q What do you mean by "spears"?

A Bamboo sticks with iron points on them. And partly they have guns and partly pistols.

Q Do you know what branch of the Japanese military forces those Japanese were in?

A I think it has been Japanese army. The officers, I am absolutely sure they have been from the army.

Q What did the Japanese do with you after they had the people tied up?

A They led us in the house No. 168-B in Balagtas Court; all of us.

Q Was that the home of Dr. Lührse?

A That is the home of Dr. Lührse.

Q What did they do with you there?

A After all the people have been in the parlor room 19, including me, we have to kneel down with the face against the wall. And I made a sign in behalf of my broken leg that I couldn't kneel down, and therefore I could lay on my left side. All the other people were kneeling down closely together in one corner.

Q Were they in sort of a semi-circle?

A In a semi-circle. And after they have knelt, then they put around this group all the furniture in the sitting room of Dr. Lührse.

Q Pardon me. Who did that?

A Two Japanese soldiers.

Q All right, sir. Proceed.

A Under the supervision of a non-commissioned officer standing in the sliding door in the house.

Q After they had piled the furniture in the center of the room what did they do?

A Two men were going upstairs with a hand grenade, and after some minutes I heard the noise of the explosion of hand grenades. And then the men came down and the non-commissioned officer has given these men a sign, and now from little bottle they were putting gasoline over the cushions, on the furnitures around us, and enflamed them. After the furniture and all those things were in flames, the non-commissioned officer took from his left breast pocket a hand grenade and make it ready, and after he has done that he threw it to this group, but not in the center of the group, but at the right side seen from

him. And at this side there was lying the Justice Villa-Real, and he was killed immediately by the shells of this hand grenade.

Q And then what happened after they threw the hand grenade?

A Yes. After that they have enflamed in the meantime with matches all the furnitures. After Mr. Justice Villa-Real has died Mrs. Villa-Real, lying beside him, jumped up and cried a Japanese word, "Tomodachi!", which means "fellow" or "friend," twice. And then from the two men, they have been upstairs and came down. One has a gun and one has a pistol. I can't remember whether the man with the gun or the man with the pistol shot her through the neck, and she fell down immediately before the staircase to the upper floor.

Q After Mrs. Villa-Real was shot, what then happened?

A Immediately after this my wife, lying on my left side, came up with her head and moved and said, "My God!"; and at this moment she got a shot through her neck and she was killed immediately, and all her blood was going over me. And the next moment Mrs. Lührse, lying on my knees, on my legs, was moving her head in this way (illustrating) and she got a shot through her head, some convulsions and then she was killed.

In this moment Dr. Lührse asked me, "Is she dead?"

I said, "Yes, she's dead." And he said, "Thank God! she is not to be burned alive."

In the meantime all the furnitures was very close to us, I think this distance (indicating distance between

witness chair and counsel table) were in full blast, and now in this moment the three Japanese, the non-commissioned officer and two men standing in the sliding door, they left. The room was full of smoke and fire and unbelievably hot.

At this moment one Filipino house girl, I'm not absolutely sure if it has been the house girl of Mr. Lührse or not, she was kneeling and I was lying on the left side. So our hands could touch each other, and she was able to free my hands. And in this moment my hands became free, I freed her hands, and said, "You jump upstairs! You are young. Perhaps you can go down from the balcony." So she and another girl jumped to their feet and they went upstairs, but they came down immediately like a living torch and collapsed before the staircase. And in this moment I took my sister. She was lying on the other side of my killed wife, and here was Dr. Lührse (indicating), and I said, "Come out! Better to be shot alive than to be burned alive!" And so we were jumping out to the sliding door, around the little porch in the garage of the house. This garage of the house was not so full of smoke like the whole place. No Japanese. I heard two small explosions, but I am absolutely not sure if they have given any attention to us. I didn't see anybody. So I was jumping through the kitchen -- through the garage to the kitchen. All the houses are absolutely identical. What is left on the right is left on the other house. So all the conveniences and all the conditions now in the house were in every house the same. And I jump in the kitchen, open the

drawer of the table, took out a kitchen knife and cut the bindings of my sister and this Dr. Lührse and his little daughter. She was -- He took her also and she jumped out alone, and she and I were not burned, but Dr. Lührse and my sister were awfully injured by the flames jumping in this moment over this barricade of the furnitures in fire around us. All the other people were burned alive.

We were standing in the garage perhaps two minutes, and then the smoke came in, and so we felt that the house will break down. And then we thought now to go over the court in the garden of the big house of the Justice Villa-Real, and we were able to go through the court. The court was absolutely filled with smoke like unto a smoke screen, and all the four double houses at the same time were enflamed by little parties of the Japanese. I have seen it in the moment we were waiting until all people were bound that in every house two or three men were going in and have thrown hand grenades and gasoline containers. And so the houses were burning all over in two minutes.

And so after we came out from the house after the murder had happened, then the whole court was full of smoke and we were able to escape along the house 168-C and D through a small gangway in the garden of the house situated in Vito Cruz 176. Firstly we took refuge in a little hole, but then Dr. Lührse said, "Oh, they must have air raid shelter in front of the big house to the Vito Cruz Street."

Q How long did you stay in the air raid shelter, Doctor?

A We were staying in the air raid shelter from the

afternoon around three-quarters to five until the next morning at three.

Q And you were rescued the next day by the American forces?

A In the afternoon around 4 o'clock the American forces came in.

Q I believe you stated that about 19 people were in the Lührse home at the time the fire started. You named Justice Villa-Real and his wife, your wife, Mr. Lührse and his daughter, together with one other person, yourself. Do you know the names of any of the other people who were in that house at that time?

A I didn't know personally all the people who were on the place. They were mostly Filipino servants working in these places, but the names is only the four members of the Villa-Real family, the Justice, his wife, his two nieces and the family Lührse, with her house girl. Only the first name is known to me, Veronica. And we three and also two Filipino lavanderas. They were working in the houses 176-B and C, but I don't know their names.

Q Were any of those people that were in there small children?

A Yes. From this 19 people were 6, and I think 4 were under 5 years.

Q Did anyone escape besides yourself, your sister, Mrs. Stahl, Dr. Lührse and his daughter Jutta?

A No, nobody.

CAPTAIN WEBSTER: You may cross examine.

CROSS EXAMINATION

Q (By Captain Sandberg) I understood you to say that you thought that these soldiers were from the army. Is that correct?

A About the soldiers I can't say anything. Three of them I do know personally. They have been some days ago in my house. It is the last day of January the Japanese in the neighborhood have made a search in all the houses for cars, and so they came for the first time in our house, and then they find out that I am a doctor. And I think it is a Friday before this murder. This murder has been Monday, the 12th. On Friday there came two men in. They were absolutely soldiers.

Q Do I understand you to say that you do know that they were from the army or that you don't know whether they were from the army or from the navy?

A I know that the two officers after the insignia, they were from the army; and the three soldiers, they have been in my house, and they were also from the army. They came with sabers and in the uniform and were known to me.

Q Just a moment. We have here your statement that there were two officers and 15 or 16 soldiers.

A Yes.

Q Do I understand you to say that so far as the two officers are concerned you are sure that they were from the army?

A Yes.

Q But that so far as the 15 or 16 soldiers were concerned you are not sure?

A Not about all.

Q Not about all?

A No, I don't know.

Q Some were from the navy?

A I can't tell. Very young men partly.

Q Did the 15 or 16 soldiers all wear the same uniform or did some wear different uniforms?

A No. Some, they have no uniforms; only green-like working clothes.

Q Some of these men were wearing civilian clothes, do I understand?

A No, no. Like men, they were working on the streets here before from the armed forces.

Q Were they wearing military uniforms?

A Yes. Military uniforms it was.

Q But you can't state definitely whether they were army or navy military uniforms?

A Not from all.

Q I see. Referring to the two officers, did you state that they were commissioned officers or non-commissioned officers?

A Commissioned officers.

Q And on what did you base that?

A From their attire. They have a uniform like every lieutenant: long saber; high boots.

Q And what was the uniform which led you to believe that they were commissioned officers? Was it the saber?

A No. I have never seen in the last months non-commissioned officers with high black boots or brown boots. I

have never seen.

Q And what led you to believe that these officers were officers of the army?

A From their uniform and their insignia.

Q What was the insignia that led you to believe that they were from the army?

A It's the color of the uniform and they have had this usual Japanese sign for an officer.

Q What was the insignia that made you believe that they were from the army? Will you describe the insignia?

A I have seen only before army officers, and they were looking in the same way as all the army officers were looking.

Q Have you ever seen a Japanese navy officer?

A Yes.

Q Do you know what kind of uniform a Japanese navy officer wears?

A Never have I seen one with a long saber.

Q You have never seen a Japanese navy officer with a saber?

A I can't remember. I don't know.

Q Is it the fact that these officers had a saber that led you to believe that they were army officers?

A Both of them, they have had sabers.

GENERAL REYNOLDS: The Commission feels that we should interrupt this line of questioning. The witness is an educated man. He has given a frank and complete statement. He has lived here during the occupation of the Japanese armed forces. He has, of course, seen daily

members of the armed forces. He has stated again and again and again his conclusion that they were members of the armed forces.

The Commission would ask the Senior Defense Counsel if it is his judgment that it is at all necessary to continue this repetition of this type of cross examination.

COLONEL CLARKE: Please, sir, the question as to whether or not he has described the uniform and to show us that he does know that they are army officers. All he says is that he saw a uniform of the army officer, and we are trying to find out how he distinguished between an army officer and a navy officer, between enlisted men, the non-commissioned officer and the other officers to see whether he does know what he is talking about.

GENERAL REYNOLDS: You may continue your examination.

CAPTAIN SANDBERG: Will the reporter please read back the last question?

(Question read.)

A Yes.

Q (By Captain Sandberg) Suppose I were to tell you that Japanese navy officers also wear sabers. Would that change your opinion of the matter?

A No.

Q Didn't I understand you to say that the only reason you distinguish that they were army officers is because they were wearing a saber?

GENERAL REYNOLDS: The Commission interrupts. He said nothing of the kind. And again I ask the Senior Defense Counsel if he wishes to continue this interrogation?

COLONEL CLARKE: Sir?

GENERAL REYNOLDS: I say we will again ask the Senior Defense Counsel if he wishes to continue this form of interrogation?

COLONEL CLARKE: We wish to determine, sir, whether he can tell the difference between the various types of officers so that we know that he knows what he is talking about, sir.

GENERAL REYNOLDS: You may continue.

CAPTAIN SANDBERG: Will the reporter please read the last question?

(Question read.)

CAPTAIN WEBSTER: I don't believe that the witness stated that. That is not my recollection. I think he had other reasons besides that.

GENERAL REYNOLDS: The witness will continue.

Q (By Captain Sandberg) Let me ask the witness this question: On what concretely did you base your conclusion that these officers were army officers?

A Because they have had the uniform of the army officers, and I have had the opportunity to see them any time.

Q Will you describe for us exactly what that uniform was?

A The uniform was the same color like the uniform over there that the gentleman has on (indicating the defendant Yamashita) in this color, this green. They have not a shirt, but the collar was closed, and here on both sides of the collar they wear the insignia of a lieutenant. Then they have, both of them, a saber at the left side, and

a long one, and then they have had also what I mentioned already: black high boots.

Q What was the color of the insignia?

A The color of the insignia, I remember only that in the middle is a red stripe and on this stripe is a little insignia, but I am not sure which it is. But if you will show me a picture I will be able to see that that is the uniform that every Japanese officer has had on here during the time I have seen him for three and a half years in the same way as I would say that he is an American officer. Now, I know how he looks. But how can I base it that he is one?

Q Is there anywhere on the uniform an "anchor"?

A I didn't see any "anchor."

Q Did you see anywhere on the uniform a "star"?

A I believe on here (indicating) in this red stripe has been a small "star."

Q What color?

A The "star"?

Q Yes.

A I see --

GENERAL REYNOLDS: The Commission again interrupts.

In the opinion of the Commission this cross examination has been carried to an absurdity, and the Commission will accept that in the mind of this witness he believed the personnel he has been discussing were members of the Japanese army.

CAPTAIN SANDEERG: Do I understand, sir, that the Commission wishes this line of questioning terminated?

GENERAL REYNOLDS: In the case of this witness, yes.

(Witness excused)

HANS LUHRSE

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

DIRECT EXAMINATION

Q (By Captain Webster) Will you please state your name?

A Dr. Hans Luhrse.

Q Your age?

A 45.

Q Your nationality?

A German refugee.

Q Your occupation?

A Chemist.

Q Doctor, you were living in Pax Court with your wife and daughter on or about February 12th of this year?

A Yes, sir.

Q And were you taken from your home out in the middle of Pax Court and tied, along with other people, and then taken back into your home?

A Yes, sir.

Q They piled furniture in the center of the floor, set fire to it; is that right?

A Yes, we were sitting in one corner of the room and the furniture around us.

Q Starting from that point, Doctor, will you describe what happened?

A We were ordered to kneel down and after we have done that they put all my furniture, as much as was left of it, in a semi-circle around us and I saw one Japanese soldier putting some gasoline or alcohol, some liquid, on and set fire

to it. After that he put the gasoline on the floor -- hand grenade on the floor and then went quick out. The hand grenade went off, but I didn't see that anybody was killed by it except my housegirl, whose knee was taken away almost. She was very near me.

After that Mrs. Villa-Real, I remember, stood up with raised hands and got shot somewhere in the heart or the head, I don't exactly remember where, and fell down right away. Then I saw the Japanese standing outside watching us so that there would be no escape. Then I told Dr. Frankel and other friends around and my wife that it would be better to be shot than burned alive and we had better stand up. With that Mrs. Frankel got up and she was shot immediately. Then my wife got up. She was sitting very near the window like this, gentlemen (indicating court reporter) and here was the window (indicating) and got shot, too. But I don't think she was dead because a little bit later I talked to her.

I beg your pardon.

And she moved her lips, but she was not dead, so I believe she was burned alive because her hands were tied. Mine were not tied anymore. The child sitting behind me untied my hands a little bit before and I believe I untied the hands of Dr. Frankel, but I am not sure whether this was Dr. Frankel. It was somebody in front of me. Then Dr. Frankel and Mrs. Stahl went up jumping through the flames trying to escape.

Then I went up, took my child under my right arm, but I fell over the furniture in the flames and I was very severely wounded. I was for many months in the hospital.

And I let my child fall into the flames. Then I picked her up again and went out!

I found Dr. Frankel in the garage. He had a knife and untied my child, which I couldn't untie; I was too nervous. From there we went to the air raid shelter in the house of Justice Villa-Real near Vito Cruz. I don't know the number of the house. Then around one or two hours later my child died of suffocation and burns. Her heart failed her. I don't know what.

Q How old was your daughter?

A She was almost 9 years old.

Q How long were you hospitalized by virtue of your burns?

A From February 13th when the Americans -- No. February 14 they brought me to the hospital and I was released from the hospital on August 16th.

Q 1945?

A 1945.

Q Mr. Lührse, would you mind showing the Commission the present condition of your leg?

A Sure! I would not mind (displaying left and right legs and left arm and left hand.)

Q Is the present condition of your legs caused by the fire set by the Japanese in Pax Court, as you have described?

A Yes, sir. I was absolutely in good health before.

CAPTAIN WEBSTER: You may cross-examine.

CROSS-EXAMINATION

Q (By Captain Reel) Doctor, do you know whether these Japanese soldiers were from the army or the navy or the marines?

A I am not sure, sir. I remember that two of them had some crossed "anchors" on the left sleeve, but not all, I believe, especially one giving orders. I suppose he was an officer. I don't know how an officer of the Japanese army looks, but I think he was one. He gave orders. He had not crossed "anchors."

Q And so far as you recollect, these soldiers and the officer looked about the same as far as their uniform was concerned as all of the other Japanese soldiers and officers that you had seen around there for the last few days?

A I think so, yes.

CAPTAIN REEL: That's all.

CAPTAIN WEBSTER: That's all.

(Witness excused)

CAPTAIN WEBSTER: Sir, that concludes that case. The next one will be under Paragraph 21 of the Bill of Particulars.

GENERAL REYNOLDS: The Commission will recess briefly to permit the audience to move forward, if they choose to do so, saving only the seats in the front row.

(Short recess)

GENERAL REYNOLDS: You may proceed.

CAPTAIN WEBSTER: Sir, Paragraph 21 of the Bill of Particulars.

JOSE M. COJUCOM

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

DIRECT EXAMINATION

Q (By Captain Webster) Please state your name?

A Jose M. Cojucom.

Q Your age?

A 48.

Q Your occupation?

A Attorney at law.

Q Where were you living on or about February 11th of this year?

A 1791 Donada.

CAPTAIN WEBSTER: Please mark this for identification.

(Map of Compound in which 1791 Donada is situated was marked Prosecution Exhibit No. 121 for identification.)

Q (By Captain Webster) I will hand you a paper which has been marked for identification as Prosecution's Exhibit No. 121. Will you please state what that is?

A I prepared that exhibit. It represents the compound where house 1791 Donada was.

Q I notice that these various blocks are lettered. Will you state what home Letter A represents?

A Letter A represents the house where Mr. Henry Daland lived on that day.

Q And Letter B?

A B is the house that belonged to Mr. Daland, but it was rented to Mr. Mendez, Mr. De la Vara, and the family of Mr. Barrena.

Q C?

A C was the garage of both houses marked A and B.

Q And Letter D?

A D represents the house of Mr. Manuel Elizalde, where I lived.

Q Letter E?

A Letter E represents the garage and stables of Mr. Elizalde.

Q I believe that that is a swimming pool; is that right?

A That was a swimming pool.

CAPTAIN WEBSTER: Sirs, at this time I would like to offer in evidence Prosecution's Exhibit No. 121.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 121
for identification was
received in evidence.)

Q (By Captain Webster) Were you at home on the 11th of February, 1945, when Japanese came into the Daland Compound?

A Yes.

Q Will you describe what took place?

A The Japanese came in from the Leveriza side. This compound had two entrances: one on Donada and one on Leveriza. The Leveriza was marked numeral 190, if I am not mistaken.

Q Will you speak a little louder, please?

A Oh, yes. The Japanese soldiers, they were in uniform. They came in about between 3 and 4 o'clock. I couldn't exactly state the time, but it was about that time. They got into Mr. Daland's house. We could see it from where I was standing. And they set fire to the house, Mr. Daland's house.

Q Did you see them set fire to it?

A No, not exactly I didn't.

Q How long did you see the fire after the Japanese went into that house?

A Oh, about 10 or 15 minutes, I would say.

Q Will you proceed, please?

A Then after they had set fire to the house, to Mr. Daland's house, they came into our compound. The two blocks where the three houses were had an entrance in between. They came through that back entrance of Mr. Elizalde's house, about 8 or 12 of them. Then they rounded up all the people that were in Mr. Elizalde's compound; about 25 people or maybe more. And they herded us into the basement of the house. Then they asked us men to step out and they removed all the jewelry we had -- watches -- the Japanese soldiers. Then they asked the ladies, the women and the children who were already in the basement, to step out. Then they set fire to our house.

When the house was already burning they told us that we could get some of our stuff, which we did. Our stuff was already in suitcases and bags, because we expected such a thing to happen, because all around the neighborhood they were setting the houses on fire.

When our house was on fire we saw a boy jump from Mr. Daland's place into our place and he was shot right there and then by the Japs. Then I saw Mr. De la Vara jump and he was fired upon, and then he fell down face up and then he died. He gave a shout and he didn't move anymore.

About 5 o'clock, an hour after they set fire to our house, the Japanese left. So I moved over to Mr. Daland's place and I saw Mr. Daland dead, face down, near a well next to his house, and I saw Mr. De la Vara also dead.

Q What was Mr. Daland's first name?

A Henry.

Q And Mr. De la Vara?

A Jacinto De La Vara.

Q And did you know the name of the boy whom you stated was shot?

A I think it was Caferino or Ceferino.

Q Were there any other persons killed?

A Yes; two more. There was a maid and a son of Mr. Daland.

Q They were killed within that same compound?

A In the same compound, yes.

Q Do you know how they were killed?

A Well, they were up on the house of Mr. Daland and as they came out of -- They set the house on fire while they were inside and they tried to break open the door. They come out through the front door, the maid and the boy. They killed them right there and they rolled down the stairs and they were burned in the house.

Q Did you see that, sir, or is that something that you heard?

A I saw them after the house was burned, I saw them under the stairs.

Q I believe you stated a number of Japanese soldiers came into the compound. Can you state whether any of them were officers?

A I couldn't, but one of them had a saber.

Q Can you state whether they were army or navy?

A They were both.

Q How do you know that, sir?

A Well, some of them had "anchors" on their caps and

some had "stars".

CAPTAIN WEBSTER: You may cross-examine.

CROSS-EXAMINATION

Q (By Captain Reel) Mr. Cojucom, were you helping the guerrillas in any way at that time?

A Not at that particular time, no.

Q But you had helped them before?

A In a way, yes.

Q And do you know whether Mr. Daland had been also helping the guerrillas?

A I don't.

Q You don't know?

CAPTAIN REEL: That's all.

CAPTAIN WEBSTER: Sir, may I ask two other questions?

GENERAL REYNOLDS: Very well.

REDIRECT EXAMINATION

Q (By Captain Webster) What did the Japanese do with the watches which you stated they took?

A Well, the first watch they took was my watch; a pocket watch. Then they took Mr. Elizalde's wristwatch, then Mrs. Elizalde's wristwatch, which was a man's watch, and in exchange they gave her a ladies' watch with some girls' name on it, and then they came to me and returned my pocket watch. Apparently they had no use for pocket watches.

Q Did they take anything else?

A No, sir.

Q Were all the people within the Daland compound civilians?

A All of them.

Q Do you know what nationality they all were?

A Well, they were Filipinos, some Spaniards.

Q Were any of them members of any military forces?

A None of them.

CAPTAIN WEBSTER: That is all.

GENERAL REYNOLDS: ~~Does~~ the Defense have anything further?

(No response)

GENERAL REYNOLDS: Very well.

(Witness excused)

MANUEL ELIZALDE

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

DIRECT EXAMINATION

Q (By Captain Webster) Please state your name?

A Manuel Elizalde.

Q Your age?

A 41.

Q Your nationality?

A Filipino.

Q Where did you live on or about February 11th of this year?

A 1791 Donada.

Q Is that within what is called the "Daland Compound"?

A Yes.

Q And you are related to Mr. Daland?

A Yes, by marriage.

Q Your father-in-law?

A No. He is my mother-in-law's brother.

Q Upon that day I understand you were visited by Japanese soldiers who caused the people to go out of the house and have them brought in the yard. Is that correct?

A Correct.

Q Will you state whom you saw the Japanese shoot within that compound on that day?

A I saw the servant who was the brother of my own servant, a girl; he was killed in my home. His name was Ceferino. He was shot right across the fence. I could also see a man called De la Vara, a Spanish citizen whom I knew very well. He was shot and killed right in our own view.

Q Those are the two you saw?

A Killed.

Q And was there anyone else killed there?

A Very many. I should think about 5 or 6.

Q Within the compound?

A Some of them died in my home a while later.

Q Can you name them?

A Mendez, a Spanish citizen, too, who was shot in the Deland compound. We took him over to my place and put him in the garage of my house.

Q What was his condition?

A Very bad. He died there the day after.

Q Did he tell you how he happened to be shot?

A Yes, he said that the Japanese shot at him. The Japanese soldiers shot at him.

CAPTAIN SANDBERG: I ask that the question and answer be stricken as hearsay.

GENERAL REYNOLDS: Will the reporter read the last

question and answer?

(Question and answer read)

GENERAL REYNOLDS: Under the circumstances, the objection is not sustained.

Q (By Captain Webster) Will you state whether the Japanese who came in the compound at the time you described were army or navy?

A Some of them were navy. Some I couldn't say. They could have been army just as well as navy from what I know of the Japanese.

Q Did you notice any insignia on their uniforms?

A They had several insignias, but I wasn't in the mood to watch.

Q Can you state whether any of them were officers?

A Yes.

Q How many were officers?

A At least two of them were.

Q What makes you think they were officers?

A They were carrying their sabers and they had several insignias here (indicating). One of them had a cap, which certainly indicated that he was not a soldier.

CAPTAIN WEBSTER: You may cross examine.

CROSS EXAMINATION

Q (By Captain Reel) The reason that you can't tell us whether these were army or navy officers, or officers and men, is because from your knowledge of the Japanese uniform you couldn't tell the difference; is that correct?

A I wouldn't say that. I would be positive that some of them were navy. I would not be positive that they were army,

although my belief is that they were.

Q I see. And so far as you know, the navy and the army uniform are practically the same?

A It isn't, sir. As far as I could make out then, the army used a lighter uniform than the navy.

Q I see. But you did see some "anchors" on the uniforms?

A I wouldn't say "anchors". They were wearing all sorts of insignia here (indicating). I don't know what they were.

Q But whatever it was made you think that they were navy?

A Those fellows were army, precisely.

Q The ones about which I am asking you is the navy. What made you think that they were navy?

A They were wearing blues.

Q Dark blues?

A I wouldn't say that they were dark blues. I would say that they were wearing blues.

CAPTAIN REEL: That is all.

(Witness excused)

GENERAL REYNOLDS: The Commission will be in recess for five minutes.

(Short recess)

GENERAL REYNOLDS: The Commission is in session. The Prosecution will proceed.

BENIGNO TODA Y. TOLEDO

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

DIRECT EXAMINATION

Q (By Captain Webster) Please state your name.

A My name is Benigno Toda Y. Toledo.

Q Your age?

A 44 years.

Q Nationality?

A Filipino.

Q Where were you living on or about February 11th of this year?

A I was living in my house in Leveriza Street, 140.

Q Where is that home with reference to the property known as the "Daland Compound"?

A That is near Mr. Daland's home.

Q Adjoining property?

A Adjoining property.

Q Did you see any Japanese at the time they entered the Daland Compound from Leveriza Street?

A Yes, sir.

Q How many entered?

A There were about 15 or 16.

Q And what did they do when they entered that compound?

A What I saw was when I was in the window of my house. I saw this Mr. Daland with his hands like this (raising hands). He was besides the gate of his compound and accompanied by one Japanese. The Japanese was calling another Japanese in the street. So they came, about 15 or 16, and they all went with Mr. Daland inside his compound.

Q What did the Japanese do to Mr. Daland?

A After that I didn't see any more.

Q Did you thereafter see the body of Mr. Daland?

A Yes, sir, I saw the body of Mr. Daland near the well;

near the well of Mr. Daland.

Q How long after that?

A That was maybe about 15 minutes -- 15 minutes or -- 15 minutes.

Q Did you see any Japanese in the property of -- Mr. De la Vara?

A Yes, sir.

Q Is that property immediately adjoining your property?

A Yes, that is the property of Mr. Daland's house, but rented by Mr. De la Vara, Mr. Mendez, and Mr. Barrera.

Q What did you see the Japanese do in that home?

A I saw these Japanese burn the house.

Q How were they burning it?

A With matches. They were taking the curtains, some pillows, and they were putting them in the fire.

Q Was the home destroyed by that fire?

A Yes, sir, the home was destroyed by that fire.

Q The same day?

A The same day.

Q Were any other homes destroyed within that compound on that same day by fire?

A Yes, sir.

Q What other homes?

A The other house of Mr. Daland was destroyed on the same day.

Q Any other homes besides those two?

A Yes, sir. The right side of my home, another neighbor; they also burned that house, too.

Q Did you assist in gathering the bodies of people within

the Daland compound?

A Yes, sir.

Q How many bodies did you collect?

A There were six bodies.

Q Can you name them?

A Mr. Daland; the son of Mr. Daland; the lavandera of Mr. Barrena; Mr. Jacinto de la Vara; Mr. Mendez; the cook of Mr. Mendez, and De La Vara's.

Q You buried those bodies?

A Yes, sir.

Q Within the Daland compound?

A Yes, sir. I buried them where I found them dead.

Q Do you know what branch of the armed forces those Japanese were in that came to the Daland compound that day?

A I don't understand.

Q Do you know whether those Japanese were army or navy?

A They were navy.

CAPTAIN WEBSTER: You may cross-examine.

CAPTAIN SANDBERG: No cross-examination.

CAPTAIN WEBSTER: That's all.

(Witness excused)

CAPTAIN WEBSTER: That concludes this case, sir.

MAJOR OPINION: If the Commission please, this case is described in paragraph 35 of the Bill of Particulars.

EULOGIO MALIBIRAN

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

DIRECT EXAMINATION

Q (By Major Opinion) What is your name?

A Eulogio Malibiran.

Q What is your age?

A 33.

Q Your address?

A At the present time I live at 320 San Lazaro.

Q Manila?

A Manila.

Q What is your nationality?

A Filipino.

Q On or about the first part, early part of February, 1945, where were you residing?

A I am residing at 1343 Leveriza Street, Malate.

Q Do you know the home of the Canillas family?

A Yes, sir.

Q Where was the home of the Canillas family with relation to your home?

A The home of the Canillas family is situated in the southern part of my home.

Q Were you neighbor to Canillas?

A Close neighbor.

Q You mean to say that your house is just next to his house?

A Next to his house.

Q Do you know if anything unusual has taken place in the Canillas home sometime during the first ten days of February, 1945?

A Yes, sir.

Q Will you please state it to the Commission?

A Well, the first night that the Japanese went out to our place, these Japanese soldiers first went to my home. They knock at the door and asked who was living that house, and I told them that I am living out there. They asked me if there were any Americans or white people around the place. I told them that I don't know. They left and they went out to the Canillas home, next door, next house. They surrounded the house of the Canillas family and two or three Japanese soldiers or Japanese navy men went inside the house. Finally I heard the breaking of furnitures and the ransacking of the house. After that all be quiet.

Q About what time was that?

A That is around 10 or 11 o'clock in the evening.

Q Can you state the date?

A Well, during that time there were lots of shelling and things like that, we are too nervous to roam around; I lost track of the date.

Q But was it during the first day, or sometime during the first ten days of February, 1945?

A Yes, sir.

Q How many Japanese surrounded the home of the Canillas family?

A Around 15 of them.

Q How many Japanese entered the house of Canillas family?

A Three,

Q While the Japanese were inside the Canillas family, did you hear, in addition to the noise caused by the breaking of the furniture, any screaming?

A That first night there is no screaming.

Q How long had the Japanese been in the house?

A Some 20 minutes.

Q What did the Japanese do, if they did anything, inside the house?

A Well, that night I practically don't know what happened, but the next morning when Mr. Felipe came --

Q What time was that?

A Around 6 o'clock in the morning.

Q Proceed.

A Mr. Felipe Canillas approached me and asked me if I can look after his two sons and two daughters that were taken out by the Japanese to the Rizal Memorial Stadium.

Q When were these children of Canillas taken out?

A That is the previous night.

Q Do you refer to the same evening when you heard the ransacking?

A Yes, sir.

Q Inside the house of Canillas family?

A Yes, sir.

Q Please proceed.

A That morning he asked me if I am going out to work in the Rizal Memorial.

Q Why? Were you working there at the time?

A I was working as a kitchen boy out at the Rizal Memorial kitchen.

Q Who were the occupants of the Rizal Memorial?

A Japanese soldiers -- Japanese navy.

Q Why do you know they were navy?

A Oh, they got their anchor insignia on their caps.

Q You mean to say that you were the assistant of the cook in the kitchen?

A Yes, sir.

Q And that kitchen was for the Japanese navy?

A Yes, sir.

Q Do you know the officer of that navy stationed at the Rizal Memorial?

A Yes, sir.

Q What was his name?

A He was Captain Susuki.

Q You may proceed.

A That morning I was hesitating to go out to the Memorial Stadium, because there are lots of shellings. By 10 o'clock in the morning the cook went out to my place and brought me out there to the Memorial. Now, in going inside the Memorial we were met by a sentry. This sentry, I happened to recognize him, because he was one of the raiding party the previous night.

Q You mean to say that he was one of the 15 Japanese?

A That went out --

Q That went to the house of Canillas?

A Canillas, yes. And he told me that all the people

that they took that night were all killed.

Q How many people were there?

A There were around 30.

Q Did you see those people?

A I saw them lined up in the streets.

Q In front of what house?

A In front of my house and the Cañillas house.

Q Were they lined up while the three Japanese were inside the house of Cañillas?

A Yes, sir.

Q On the evening of that day, after the Japanese had told you, the Japanese sentry had told you that these 30 people were all killed, had anything unusual taken place in the house of Cañillas?

A Yes, sir, there is something that happened that night. These same soldiers, or same navy men, they went out to our place again. They tried to push my door, but I put a barricade on my door and they can't enter. Then they went out to the next house again. They surrounded it, the same as the previous night, and those Japanese -- there were around four of them that went up --

Q To the house?

A To the house, Cañillas home. They began breaking furnitures, ransacking the house, and lastly I heard that one of the Cañillas daughters crying, "Mama! Oaking Dios!" as if she was in pain.

Q What does that mean?

A Well, that is, "Mother! Oh, my God!"

Q Please proceed.

A They were all running around the house; seems as though those soldiers were chasing the girls. They were screaming. And finally it be quiet again. At the same time I saw a house in front of mine was already burning, and we took shelter 'already, went out of the house.

Q How long had the Japanese been in the house of the Canillas family that evening?

A That evening around 30 minutes, 20 to 30 minutes.

Q How many times did you hear screaming or exclamations?

A Two times.

Q Were they of the same voice or different voices?

A Different voices.

Q After you saw the house in front of your home was burning, you say that you went to the shelter?

A Yes, sir.

Q Did you see the Canillas family, or any member of his family, that evening?

A During those burnings we went out to the shelter, and afterwards we went to an open area.

Q Where was that open area?

A That is around 15 meters back of my house.

Q Where was that open area in relation to the Canillas home?

A It was in back of the house.

Q Did you see Canillas there, in that place?

A I saw him sitting in a chair. He was calling names, calling the names of his son, some of the neighbors. I saw him clutching his right abdomen (indicating), in the stomach; a big wound, blood is all over, part of his intes-

tines were hanging out, protruding out of that wound.

Q How far were you away from him that morning?

A Around five meters or so.

Q What time of the morning was it?

A That is around 11 o'clock in the evening. That was nighttime, when the place was burning.

Q Did you have any conversation with Canillas?

A No, sir.

MAJOR OPINION: Your witness.

CAPTAIN REEL: No questions.

(Witness excused)

(A photostat was marked
Prosecution Exhibit No.
122 for identification.)

EDUARDO DE LOS REYES

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

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name.

A Eduardo de los Reyes.

Q Age?

A 19.

Q Address?

A 1343 Leveriza Street, Malate.

Q Nationality?

A Filipino.

Q Showing you this exhibit which has been marked for identification purposes as Prosecution Exhibit 122, will you please state to the Commission, if you know, what it represents?

A No. 1 (indicating) is the home of Felipe Canillas. No. 2 is Miss Wilson. No. 3 is Felipe Canillas. No. 4 is Benjamin Llave. No 5 is my home.

Q What number is that that you said your home was?

A No. 5.

Q And what is the number of the house of Felipe Canillas?

A No. 3.

Q Please proceed.

A No. 3 is the house of Felipe Canillas. No. 4 is the house of Benjamin Llave. No. 5 is our home. No. 6 is Zoilo Llave's house. No. 9 is the grave of Zoilo Llave, and Canillas.

MAJOR OPINION: I introduce, sir, this Exhibit 122 as a part of our evidence for the Prosecution.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No.
122 for identification
was received in evidence.)

Q (By Major Opinion) On the night of February 9, 1945, between 10 and 11 o'clock, where were you?

A I was peeping out my window.

Q Which was just, according to Exhibit 122, at the rear part of the Canillas home?

A Our house is at the west part of the Canillas home.

Q In other words, your house is west of the rear part of the Canillas home?

A Yes.

Q How far was your house from the Canillas home?

A Five yards.

Q Has there anything unusual taken place in the house of Canillas that evening?

A Well, I was peeping out our window, I heard someone knock at the door of the Canillas home, and Mr. Canillas went to the door and opened it and see that the Japanese were knocking at the door.

Q Who of the Canillas family?

A Felipe Canillas.

Q Was that the father of the Canillas children, or the head of the family?

A The father of the Canillas children.

Q And the head of the Canillas family?

A Yes, sir.

Q Is it?

A Yes, sir.

Q Please proceed.

A While Mr. Canillas opened the door the Japanese talked to him, but I didn't understand.

Q What?

A The Japanese talked -- I heard the Japanese voice talking to Mr. Canillas, but I can't understand the words. A few minutes later I saw the one Japanese strike Canillas with his bayonet in the stomach. Then after that Mr. Canillas fell down on the floor, and the Japanese went inside and searched the room. After that, I see that the Japanese are searching the room and went to the bedroom of the children. When they come out, I saw that the Japanese was holding Canillas' sisters.

Q What else?

A And then the Canillas' sisters were dragged to the Rizal.

Q How many of the Canillas' sisters?

A Two of them.

Q You saw them?

A Two of them, I saw.

Q Now, you say that Felipe Canillas was stabbed at the stomach, by bayonet?

A Bayonet.

Q Where did he fall?

A On the floor there, near the door.

Q And how about Mrs. Canillas?

A No, sir.

Q Do you know the wife of Felipe Canillas?

A Yes, sir.

Q What is her name?

A Mrs. Trinidad Canillas.

Q Did you see her that evening?

A No, sir.

Q How long had the Japanese been in the house of Canillas?

A Around half an hour, sir.

Q Did you see the Japanese leave the Canillas home?

A No, sir.

Q What did you do after you had seen all the things you have just related?

A After that, sir, I went down to the shelter.

Q Do you know this man by the name of Zoilo Llave?

A Yes, sir.

Q Do you know another man by the name of Fortunato Baredo?

A Yes, sir.

Q Did you see him that evening?

A I saw Zoilo Llave, sir.

Q What was Zoilo Llave doing when you saw him?

A While the house was burning, our neighbors, and I am taking the things in our house, I see Zoilo Llave going to the house of the Canillas, to the house of Mr. Canillas.

Q Was he accompanied or alone?

A He was alone. But suddenly I heard a shot, and I see that Zoilo Llave fell down.

Q Now, what happened after a while?

A When Zoilo Llave fell down, the Japanese came close to him and struck him with bayonets several times.

Q That evening did you see Felipe Canillas after he was stabbed?

A Yes.

Q Where?

A 50 yards away from his home.

Q Was it an open field?

A Yes, sir.

Q How did he arrive at that place?

A I just see him -- I just saw Mr. Canillas sitting on a chair.

Q Do you know who took him there?

A No, sir.

Q How far were you from him?

A I came near him, and when he called the name of my brother, my brother came to him with me.

Q What was the name of your brother?

A Ruperto de los Reyes.

Q Did he have a conversation with your brother?

A I just heard Mr. Canillas saying, "I think my sons are all gone."

Q Where is Zoilo Llave now?

A After that, I saw Zoilo Llave in the morning.

Q Did you see, after that conversation of Canillas with your brother, Canillas again? Did you see him again?

A Yes, sir.

Q How was he when you saw him?

A It was about between 5 and 6 o'clock in the morning I saw Felipe dead already.

Q Did you bury him?

A I attended the Felipe Canillas burial.

Q Where was he buried?

A 75 yards away from his home.

Q In what number on Exhibit 122 was he buried?

A No. 9.

Q Was anybody else buried with Felipe Canillas at the same grave?

A Zoilo Llave, sir.

MAJOR OPINION: That is all.

CROSS EXAMINATION

Q (By Captain Reel) Do you know whether Mr. Canillas or anybody in the Canillas house was helping the guerrillas?

A I beg pardon?

Q Do you know whether Mr. Canillas or anyone in the Canillas house was helping the guerrillas?

A No, sir.

Q You don't know?

A No, sir.

CAPTAIN REEL: That is all.

(Witness excused)

FORTUNATO BAREDO

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

DIRECT EXAMINATION

Q (By Major Opinion) What is your name?

A (Through the Interpreter) Fortunato Baredo.

Q Age?

A 26 years.

Q Address?

A 1359 Leveriza Street.

Q What is your present occupation?

A Sailor.

Q Of what boat?

THE WITNESS: "MAKDAN."

Q (By Major Opinion) Where was your residence during the early part of February, 1945?

A (Through the Interpreter) On Leveriza.

Q At the same place where you are residing now?

A Yes.

Q Do you know the Canillas home?

A Yes.

Q On what side of the Canillas home was yours?

A Other side of the street.

Q Showing you Exhibit 122 of the Prosecution, will you please indicate or read the number which will show your home.

(The witness indicated on Exhibit 122.)

THE WITNESS: No. 4.

Q (By Major Opinion) Did you enter the house of Canillas sometime during the first ten days of February, 1945, in the nighttime?

A I did not enter their home.

Q Do you know Zoilo Llave?

A Yes.

Q Did you see Felipe Canillas that evening?

A Yes, I saw him.

Q Where was Felipe Canillas when you saw him?

A The upper part of his home.

Q Was he wounded or not when you saw him?

A Wounded.

Q Were you accompanied by any person when you saw Canillas in the upper part of his home?

A Yes.

Q What was the name of your companion?

A Zoilo Llave.

Q Where were you when you saw him?

A Up in the house.

Q In the house of Canillas?

A Yes. Up in the house of Canillas.

Q You mean you were with Zoilo Llave in the house of Canillas when you saw him in the upper part of the house?

A Yes.

Q Who invited you to go to the house of Felipe Canillas?

A Zoilo Llave.

Q So on the invitation of Zoilo Llave, you went to the house of Felipe Canillas?

A Yes.

Q At what hour was that, more or less, when you went to the house of Felipe Canillas?

A About 12 o'clock, midnight.

Q What was Felipe Canillas doing when you saw him?

A He was laying down (demonstrating), at the kitchen.

Q Kitchen of the house of Canillas?

A Yes.

Q What else did you see, if you observed anything?

Please state to the Commission all that you saw.

A When I went there I saw the wife of Felipe Canillas with the head severed from the body.

Q Where was the body lying?

A I saw the body near the door of the room.

Q What room was that? Sleeping room or dining room?

A Sleeping room.

Q You say that the body of the wife of Canillas was completely severed from her body -- I mean the head of the wife of Felipe Canillas was completely severed from her body; where was the head?

A I cannot see the head.

Q So then what you saw near the door of the sleeping room was the body only of the wife of Felipe Canillas?

A Yes, sir.

Q How far was the body of Mrs. Canillas from the body

of -- from Mr. Canillas?

A About this far (demonstrating).

Q About four meters?

A About six meters.

Q Did you see other bodies inside the house that evening?

A No more.

Q Have you seen any bodies of the daughters of Felipe Canillas?

A No, only the one.

Q Who is that?

A The wife of Felipe Canillas.

Q How long did you stay in that house of Felipe Canillas?

A About two minutes only.

Q What did you do there?

A We took the body of Mrs. Canillas, placed her on the chair and carried her away, outside to the ditch.

Q In what part of the premises of the house did you carry the person of Felipe Canillas, Mr. Canillas?

A The back of our house.

Q What did you do with him there?

A We just let him sit there for the time being.

Q Was Felipe Canillas wounded?

A Yes.

Q Where was his wound?

A He has three wounds.

Q In what part of his body were the wounds?

THE INTERPRETER: He is pointing.

MAJOR OPINION: May I make of record, sir, that the

witness pointed out a wound on the stomach, on the left chest, and on the right chest of Felipe Canillas.

GENERAL REYNOLDS: Very well.

MAJOR OPINION: You may cross examine.

CAPTAIN REEL: No questions.

(Witness excused)

FRED F. CANILLAS

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

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name.

A Fred Canillas.

Q Age?

A 38.

Q Address?

A 14 Leveriza Street.

Q Nationality?

A Filipino.

Q What is your present occupation, Mr. Canillas?

A I am a civilian employee of the United States Army, an investigator.

Q Please state to the Commission if you know this Exhibit No. 122?

A Yes, sir. This is a copy of my house in relation to my father and his neighbor.

Q Will you please indicate on that Exhibit 122 where your house is?

A No. 1 is my house.

Q And your father's house?

A No. 3 is my father's house, and No. 2 is the house of Mrs. Wilson.

Q And you mean to say that your home is just across the street on Leveriza?

A Yes, sir.

Q From the home of your father?

A Yes, sir.

Q In the morning of February 9th, 1945, did you have a conversation with your father, Felipe Canillas?

A Yes, sir, about 6 o'clock in the morning. He came to my house with one of my sisters and told me that the night before the Japanese were up in the house and took my two sisters and my two brothers to the Rizal Stadium.

Q Will you please state the names of your two brothers and your two sisters that were taken to the Rizal Stadium?

A Robert Canillas, Charles, Africa and Aparro, were taken to the Stadium.

Q Did he tell you who took them to the Rizal Stadium?

A He told me it was the Japanese, but I tried to find out how he know that the boys were taken and the girls were taken to the Stadium, and he told me that he recognized some of the faces of the Japanese, the Japanese that had been coming to the house on the routine search that they used to make around the houses.

Q Did he tell you about the time when your brothers and sisters were taken?

A About 10 o'clock at night.

Q The previous night?

CAPTAIN SANDBERG: If the Commission please, the

Defense objects and asks that the last answer be stricken as double hearsay. Neither the witness nor his father knew where the persons had been taken.

GENERAL REYNOLDS: The reporter will read back the last four questions and answers.

(Record read.)

GENERAL REYNOLDS: The objection of Defense to the last question and the last answer, is that correct?

CAPTAIN SANDBERG: Yes, sir.

MAJOR OPINION: May I be allowed, sir, to answer that objection?

GENERAL REYNOLDS: Yes.

MAJOR OPINION: We maintain, sir, that this is a part of what is known in English rule of evidence, or American rule of evidence, as res gestae. Any statement which bears connection with a startling occurrence, prior to or succeeding thereto, in which legal significance is given, with reference to circumstances of the facts, may be admissible to the evidence. And that is precisely the reason why on this general rule, res gestae evidence has been founded, this special procedure of allowing it according to the regulations of the trial, sirs.

I would like to insist that the objection be not sustained.

GENERAL REYNOLDS: The Commission will withdraw to its chambers and we will take a recess until about 25 minutes of 4.

(Short recess.)

GENERAL REYNOLDS: The Commission is in session.

The objection of Defense is not sustained.

Proceed.

Q (By Major Opinion) After you had that conversation with your father, what did you do?

A I went to my father's home to see my mother, how they were taking this thing, and I saw when I got to the house -- I saw my mother and sisters crying, and I saw the whole house was practically a wreck. Every wardrobe and every trunk was open, everything was thrown all over the house, clothes, everything that was in the wardrobes there. My mother told me that they took with them the watches of my two brothers and the five watches of the five girls, and some earrings, and they took my brother's cadet Sam Browne belt.

Q What was the name of your mother?

A Trinidad Canillas.

Q What were the names of your sisters who were crying with your mother when you went to your house?

A Rosario, Elvira and Socorro.

Q What did you do after that?

A I went back to the house, and I went across several times that day trying to see if my brother would come back, and consoling my mother and sisters.

Q Did you take possession of any personal belongings of your brother Charles, who was taken with the other three to the Rizal Memorial?

A Yes, I did. Fearing that they might torture my brothers over there and make them talk, I knew my brother had a .45 army revolver in the house, and that my father

and brother were both having an unreconditioned radio operating during the three years of Jap occupation, so I went over there and got their revolver and this radio and Sam Browne belt.

Q What is that Sam Browne belt you are talking about?

A That is a Sam Browne belt my brother had as a cadet in the college, R. O. T. C. cadet.

Q You mentioned an unreconditioned radio?

A Yes, sir.

Q What do you mean by "unreconditioned radio"?

A A radio that could operate on short wave, because the Japs picked up all the radios in the city and cut off the short wave. Somehow my father was able to keep this one.

Q You mean this was one of the radios not given up to the Japanese for reconditioning?

A Yes, sir.

Q And the reconditioning was that the Japs were taking out all radio connections through short wave?

A Yes, sir.

Q From that day, did you see again your father and your mother and three sisters?

A The last I saw of my father and sisters and mother was about 6 o'clock in the evening of February 9th when I went home, because the Japs were shooting anybody that was crossing the street from their homes.

Q Do you know what happened to them after that?

A Not until the morning of February 10, when Mr. Llave, a neighbor of my father, who was with them, was able to cross the street and came to my home while we were sheltered

over there, and told me he was not sure, but he believed my father and mother and sisters had all been killed by the Japanese. That is the first news I got about them.

Q Did he tell you what was the reason for his believing that?

A Yes. He heard the neighbors, that they bury my father the night before -- early in the morning.

Q Did you manage to see your father in order to verify the information you had received?

A I tried to, but I could not cross. There was too much Japanese gun fire going on, machine gunning around the street.

Q Was anybody allowed, during that period of time, to cross the streets?

A Nobody was allowed even to stand up where we were.

Q Why?

A The Japanese snipers were all around us.

Q And what did you do then, after a while?

A I just hang around the compound, where I was with my wife and two kids, and about February 11th is when the son of Zoilo Llave came to my place, bringing me the ring of my father and telling me he was one of the boys who buried my father, and they saw my mother beheaded and the rest of the kids killed.

Q What did you do then, after having that information?

A I could not do much. I just had to hang around, because we could not move from there. The Japanese were on four sides, shooting at anything that stood up or anything that moved around.

Q Did you manage to see them?

A I did not at all. I went back to the place, to the house where my mother and family was murdered, about a month later.

Q Were you able to reach the place where the home of your father was situated then?

A Yes, sir.

Q When was that?

A Oh, it is around the first week of March.

(A photograph was marked Prosecution's Exhibit No. 123 for Identification.)

Q Showing you this photograph which has been marked as Exhibit 123 for the Prosecution, will you please state what it purports to represent?

A That is the grave of my father, Felipe Canillas.

Q Who directed the making of that grave?

A I, myself.

Q How about this exhibit --

(A photograph was marked Prosecution's Exhibit No. 124 for Identification.)

Q How about this Exhibit No. 124, do you know what it is?

A That is the ruins of the house of my father.

Q You said that this Exhibit 123 represents the grave of your father?

A Yes, sir.

Q Was that the grave of his remains?

A Yes, sir.

Q And how did you find the home of your father when you

went to see that home?

A Well, I know the place, even if it was completely wrecked, because I have lived around this neighborhood for 20 years. I know the exact location.

Q How did you find it?

A All burned down, nothing; the whole district burned down, including this house.

Q Did you find the bodies of your father, mother and sisters, among the debris?

A Yes. I accompanied -- I was accompanied by some of these boys who helped me pick up the burned roof from the house. I recovered bones of my mother and three sisters, supposed to be; bones in four different places on the grounds.

Q What was the condition of the bones that you found?

A Just burned bones; just plain bones.

Q How were you able to identify them?

A I did not identify them, only by the position of the bodies according to the boys who went to the house and told me they saw my mother by the bedroom. I found a vertebra, and bones from the feet and arms, and I found bones of two bodies in another spot about two meters away, and I found the bones of another body in the boys' bedroom, a little down there (indicating).

MAJOR OPINION: That is all, sir.

I offer as part of my evidence these Exhibits 123 and 124.

GENERAL REYNOLDS: There being no objection, the documents are received in evidence.

CROSS EXAMINATION

Q (By Captain Reel) Do you know whether your father was engaged in giving help to the guerrilla movement?

A No, sir.

Q You don't know, or he wasn't?

A No, sir.

Q You mean you don't know?

A I don't know.

Q Do you know whether your brother was engaged in giving help to the guerrillas?

A My brother was in the USAFFE, Philippine Army officer.

Q And was he a guerrilla?

A I can't tell you that; I don't know.

Q You don't know that?

A No, sir.

Q This radio that was in the house, was that a transmitting set?

A No, sir; a receiving set.

Q And was there more than one revolver in the house, that you know of?

A That I know of, I only pick up one.

Q Just one?

A Yes, sir.

Q And was the revolver loaded?

A No, but it had ammunition.

CAPTAIN REEL: That is all.

MAJOR OPINION: Sirs, that is all of our evidence in

connection with this particular case.

The Prosecution, sirs, wishes to offer as part of its evidence the sworn statements of Dolores Llave and Francisco de los Reyes, taken by the investigating examiners of the War Crimes Branch.

(The statements referred to were marked Prosecution's Exhibits Nos. 125 and 126 for Identification.)

MAJOR OPINION: The statement of Dolores Llave is Exhibit 125, and will prove, among other things, the bayoneting of Socorro Canillas while lying in bed.

The statement of Francisco de los Reyes, marked as Exhibit 126, will prove that Felipe Canillas and the second oldest daughter and two other daughters were bayoneted by Japanese soldiers.

GENERAL REYNOLDS: There being no additional objection, the documents are accepted in evidence.

(Prosecution's Exhibits Nos. 125 and 126 for Identification were received in Evidence.)

GENERAL REYNOLDS: Is the Prosecution ready to proceed?

CAPTAIN HILL: Yes, sir. I did not know you were ready, sirs.

The next incident which I shall present is the Bill of Particulars Paragraph No. 22.

Please mark this for Identification.

(Statement of Ida Braun was marked Prosecution's Exhibit No. 127 for Identification.)

CAPTAIN HILL: I desire to offer in evidence

Prosecution's Exhibit No. 127, which is a sworn statement of one Ida Braun taken by an investigating officer of the War Crimes Investigating Detachment.

GENERAL REYNOLDS: It appears to be more appropriate to the Commission to offer the affidavits after the Commission has heard the oral testimony.

CAPTAIN HILL: There will be no oral testimony in this particular incident. I have four incidents now that I desire to present in this manner.

GENERAL REYNOLDS: The Commission is unwilling to accept affidavits as the sole proof of an item in the Bill of Particulars. Therefore, unless you have witnesses to introduce, this exhibit is rejected by the Commission.

CAPTAIN HILL: Would the investigating officer who took the statement be sufficient to identify it, or do you want the witness to appear personally?

GENERAL REYNOLDS: Is there some reason why the witness cannot appear personally?

CAPTAIN HILL: We thought, sir, that we could cut down, possibly, the time that it would take to present all of these matters by presenting some of them this way.

GENERAL REYNOLDS: I think the Prosecution should consider the desirability of striking certain items. The Commission feels that there must be witnesses introduced on each of the specifications or items. It has no objection to considering affidavits, but it is unwilling to form an opinion of a particular item based solely on an affidavit. Therefore, until evidence is introduced, these particular exhibits are rejected.

MAJOR KERR: If the Commission please, we are then through for the day, because the balance of our cases for today would have been presented purely through documentary evidence. That will be true, sir, as to quite a large number of the particulars in the two Bills of Particular. It has been our understanding that under the regulations prescribed by General MacArthur statements would be admissible, and we had assumed that the Commission would receive them. So we had prepared on that basis in order to expedite the trial. We are not prepared at this time to produce any oral witnesses on any of the other cases that we had intended to take up this afternoon.

GENERAL REYNOLDS: Very well.

The Commission will stand in recess until 8:30 tomorrow morning.

CAPTAIN HILL: May I withdraw this for the time being?

(Whereupon, at 1555 hours, 1 November 1945, the trial was adjourned until 0830 hours, 2 November 1945.)

Yamashita, Tomoyuki, 1885-1946, defendant.

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

UNITED STATES OF AMERICA)

-vs-)

TOMOYUKI YAMASHITA)

) PUBLIC TRIAL
)
)
)
)
)

High Commissioner's Residence,
Manila, P. I.
2 November 1945

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

MAJOR GENERAL RUSSEL B. REYNOLDS, Presiding Officer
and Law Member

MAJOR GENERAL LEO DONOVAN

MAJOR GENERAL JAMES A. LESTER

BRIGADIER GENERAL MORRIS C. HANDWERK

BRIGADIER GENERAL EGBERT F. BULLENE

APPEARANCES:

(Same as heretofore noted)

REPORTED BY:

E. D. CONKLIN

L. H. WINTER

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Jose Carcereny Barta	645			
Rosaria Soucheiron	656			
Loreto Garboa Franco	658			
Joaquin Maranon	661			
Francisco del Rosario	665			
Francisco Lopez	667			
Helena Rodriguez	690	702		
Engracio Losa	702			
Asuncion R. Marbas	706			
Ang Be	713			
So Peng	720			
Francisco del Rosario	725			
Harlow G. Clark, Jr.	729			
Jose Manuel Maldonado	737	745	746	
Maria Elena Maldonado	747			
" " " (Cont'd)	751			
Mary Gonzales	757			
Prudencio Chicote	759			
Maria Galido V. Tan Co	763			
Umberto De-Poli	765	771	780	
Jose Balboa	782			
Manuel Egona	788			

E X H I B I T S

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
128	646	646
129	647	648
130	648	649
131	654	654
132	667	668
133	680	681
134	681	682
135	682	682
136		729
137		729
138		729
139		732
140		732
141		732
142	(Not offered)	
143	(Not offered)	
144		736
145		736
146	736	
147	750	751
148	751	752
149	752	752
150	752	753
151	753	753
152	753	754
153	754	754
154	755	755

P R O C E E D I N G S

GENERAL REYNOLDS: We will take a moment for those in the rear of the room to move forward if they choose to do so, saving only the front seats on the left.

The Prosecution will proceed.

MAJOR KERR: Sir, all the members of the Commission are present, the Accused is present together with his Defense Counsel, and the Prosecution is ready to proceed.

CAPTAIN PACE: If the Commission please, the Prosecution is ready to start on case Bill of Particulars No. 99, commonly known as the "Price House" case.

GENERAL REYNOLDS: One moment.

COLONEL CLARKE: If the Court please, the Defense requests the Commission to direct that sixteen additional copies of the record of the arraignment and sixteen additional copies of the court proceedings of each day be furnished to it.

GENERAL REYNOLDS: It will be taken under advisement. You may proceed.

CAPTAIN PACE: The first witness is Mrs. Carcereny.

GENERAL REYNOLDS: What number?

CAPTAIN PACE: 99, sir.

JOSE CARCERENY BARTA

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

DIRECT EXAMINATION

Q (By Captain Pace) Give your name, please.

A Jose Carcereny Barta.

Q In American use that would be Jose Barta Carcereny,

wouldn't it?

A That's right, sir.

Q Where do you live?

A I used to live until February 10th at Pennsylvania Avenue 552-A.

Q Where do you live now?

A In Santa Ana; Campaleros No. 46.

Q What is your business?

A I used to be in the advertising business as advertising agent.

Q Will you state again where you lived on February 10th?

A Pennsylvania 552-A.

CAPTAIN PACE: I ask that this be marked as Prosecution's exhibit next number in order.

(Photostatic copy of area surrounding Price house was marked Prosecution Exhibit No. 128 for identification.)

Q (By Captain Pace) I show you Prosecution's Exhibit No. 128 for identification and ask you if you can identify that.

A Yes, sir. This seems to be a plan of the block where my house used to be.

Q Does that accurately depict the neighborhood in which you used to live?

A Yes, sir.

CAPTAIN PACE: I offer it in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 128 for identification was received in evidence.)

Q (By Captain Pace) Will you describe where you were on February 10, 1945?

A On February 10, 1945 I was at my house, 552-A Pennsylvania Avenue. I was there with my family and about twenty friends and neighbors who had taken shelter in my house, because their homes had been burned the night before.

Q Your house is as shown by the name "Barta" on Exhibit 128; is that right?

A Yes, sir.

Q All right.

A Then about 1:00 o'clock in the afternoon we left the house because there was fire pretty close to it and we run to the Price house, which was just at the back of our home.

Q What time was that?

A In the afternoon.

CAPTAIN PACE: I ask that this be marked for identification.

(Photograph of Price house facing Colorado Street was marked Prosecution Exhibit No. 129 for identification.)

Q (By Captain Pace) Is the Price house located as shown on Exhibit 128?

A Yes, sir. That is right.

Q Now I show you Exhibit 129 for identification and ask you what that is.

A This is a picture of the Price house facing Colorado Street. No, no. Facing California Street. It is California Street.

Q The street which is in the foreground of the picture, what street is that?

A This is Colorado Street.

CAPTAIN PACE: I offer this picture in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 129 for identification was received in evidence.)

Q (By Captain Pace) All right. Where did you go after you went to the Price house?

A We went first in an alley which faces California Street. We were there for a while and then a group of soldiers came in front of the gate and placed a machine gun. It was there for about 30 or 40 minutes. One of my companions, Mr. Arrastia and another one, Mr. Ezcurra, were trying to tell or show to the Japanese that there were plenty of women and children with us.

Q Where did you say the Japanese came with the machine gun?

A Through California Street. They didn't come into the house. They were just in front of the gate pointing the machine gun towards us.

CAPTAIN PACE: I ask that this be marked for identification.

(Photostatic copy of plan of Price house was marked Prosecution Exhibit No. 130 for identification.)

Q (By Captain Pace) I show you Prosecution Exhibit No. 130 for identification and ask you what that is.

A Yes. It was --

Q Wait a minute. What is this Exhibit 130 for identification?

A This seems to be a plan of the Price house.

Q Does that accurately show the arrangements in the yard of the Price house?

A Yes, sir.

CAPTAIN PACE: I offer it in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 130
for identification was re-
ceived in evidence.)

Q (By Captain Pace) Where was the Japanese with the machine gun?

A Right in front of this gate here (indicating). Our group was here and the machine gun was right here (indicating).

CAPTAIN PACE: Will the record show that the witness is indicating the gate marked "south main gate" on Colorado Street.

Q (By Captain Pace) What happened?

A The machine gun was there for quite a while and finally the soldiers left with the machine gun and then, thinking that the place was not safe, we went into the kitchen of the house.

Q Before you go further, why did you go to the Price house?

A The Price house seemed to be the strongest building in the block. There was a large garden all around and we thought it was the safest place, because there were plenty of fires going around and, besides, plenty of pieces of burning timber falling down. We thought that it was a

good protection for all of us.

Q Is that a very substantial mansion, that house?

A Yes, sir. It is built of concrete.

Q All right. You testified that you and your group of friends went into the kitchen of the house. What time was that?

A It was probably about 3:00 o'clock in the afternoon.

Q What happened then?

A We were there until about 4:00 or 4:30 and then soon we heard noises and shouts. We looked through the windows and we saw a group of about ten or twelve Japs coming in shouting and shooting in the air.

Q Where did they come in?

A That group came through the main gate in California Street.

Q Will you point on Exhibit 130 which gate you mean?

A This one here, sir (indicating); the one marked "south main gate" in the plan.

Q On Colorado Street?

A Yes.

Q What happened after the Japanese came in?

A Then they shouted "Out everybody!". And we had to get out from the kitchen. When we were right in the garden we saw one of them pointing to the garage. On our way to the garage they started shooting with the machine gun.

Q Just a minute. Did you come out of the house?

A Out of the kitchen; yes, sir.

Q That is in back of the house; right?

A Yes, sir; in back of the house.

Q And where did you go then?

A They were pointing to the garage.

Q Garage?

A Yes, sir.

Q And you went to the garage?

A We didn't have time to reach the garage.

Q Did you start to the garage?

A They started shooting before we reached the garage.

Q And you were between the back porch and the garage when they started shooting?

A Yes, sir.

Q How many of them were in your group?

A About 25 persons.

Q Will you look at Exhibit 130 and show where your group was when they started shooting?

A Right here (indicating). We were coming down through the staircase here and on our way here (indicating).

Q You are indicating the area between the word "porch" --

A "Porch".

Q -- and the garage?

A Yes, sir.

Q What were they shooting at you with?

A I beg your pardon?

Q What were they shooting at you with?

A First they started with machine gun; then there were three officers started shooting their pistols and some of the soldiers with their rifles.

Q What did you do then?

A Well, we fell all down, most of us wounded, some killed, and we remained there for quite awhile. While we

were on the ground there they shoot twice. Then they were going around kicking the bodies. Anybody moving was bayoneted or shot at.

Q Yes.

A We were there until about 7:00 o'clock. It was already getting dark. In the meantime the Japs found some liquor in the house.

Q What time did they first shoot at you?

A It was probably about a quarter to 5:00 or --

Q And from then until 7:00 o'clock you were laying there in front of the garage?

A Yes, sir; pretending to be dead. In the meantime I could hear other people shouting and crying. One of them was one of my sons.

Q Were these other people all in your group or were there other groups in the yard?

A There were plenty of other groups in the yard.

Another group of Japs came in through the Colorado gate and they started shooting at the other people over there. I think that there were about 300 people in the yard. When we came out we saw some of them laying around the wall dead or apparently dead; others around the air-raid shelter. The Japs were also shooting at them.

Q Yes.

A Then about 7:00 o'clock, as I was telling you, they found some liquor and I think they got drunk. They started singing these kind of Japanese songs with clapping hands.

Q Where did they find the liquor?

A Where did they find the liquor?

Q Yes.

A I think there was some in the Price house because later on I was looking for water for my daughter-in-law who was dying and I found a lot of broken bottles of Japanese whisky.

Q All right. Go on.

A Then they came out shooting and singing, kicking the people around. Anybody moving was bayoneted again. That is the way they finally killed one of my sons, George. And then they urinated on our bodies. And then they found a pig roaming around. They brought the pig there and they forced the pig to run over the bodies and to lick the blood on the floor.

Q How long did this go on?

A Oh, until about, it would be 7:00 or 8:00 o'clock. It was very dark and, I tell you frankly, I couldn't consider my mind.

Q How many Japanese did you see urinate on the bodies?

A I can't tell exactly. About three of them, because one was quite close to me.

Q What happened then?

A After all this we remained there very quiet because we were afraid that at any time they would come back. Finally it was quite dark. I don't know exactly what time, maybe 9:00 o'clock. We went to the chicken coop in the back of the house and we remained there until early in the morning. Then before sunrise we left that place and most of the group went into the ruins around. We found former air-raid shelter and we went over there and we were there until the Americans liberated us.

CAPTAIN PACE: I ask that this be marked Exhibit 131 for identification.

(Photograph of rear of Price house was marked Prosecution Exhibit No. 131 for identification.)

Q (By Captain Pace) Will you look at Exhibit 131 for identification and see if you can tell what that is?

A Yes, sir. This is the picture of the back of the Price house showing at the right the garage in front of which my four sons were killed.

Q Do you see that tin building in the foreground?

A Yes.

Q Was that there then?

A No, sir; it wasn't.

CAPTAIN PACE: I offer this picture, 131 for identification, in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 131 for identification was received in evidence.)

Q (By Captain Pace) Will you give the names of the people that you know to have been killed in the Price yard during the period you have just described?

A Well, there were my children --

Q Give their names.

A Joseph Bover Carcereny; he was 25; my daughter-in-law, Dolores Bastida; their son, who was two years old, Jose Maria Carcereny; my other son, George, who was 15. I remember also of Mr. Ezcurrea, who was also killed; Mr. Enrico Arrastia. There were also two Indian gentlemen. I don't remember their

names.

Q Chandumal?

A Yes, that's right. They were from the Isadras family living just across the street. Mrs. Estela Carpi.

Q How about Doolamal?

A These two people were from the Isadras family.

Q Those were the Indians?

A Yes, sir. Mrs. Estela Carpi also.

Q These people that you have named were in your group of 25 or 30; is that right?

A Yes, sir.

Q Will you describe the shooting in the rest of the yard?

A The Jap soldiers came through Colorado Street and most of the people were around the wall. I suppose that they went over there to reach some kind of protection and they started shooting to them in the same way as they did to us.

Q In the whole yard how many people do you estimate were killed that afternoon?

A Oh, maybe 250 or 270.

CAPTAIN PACE: You may inquire.

LIEUT. COL. HENDRIX: No questions, sir.

GENERAL REYNOLDS: There were no questions by the Defense.

CAPTAIN PACE: Thank you very much.

(Witness excused)

CAPTAIN PACE: Mrs. Soucheiron.

ROSARIA SOUCHEIRON

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

DIRECT EXAMINATION

- Q (By Captain Pace) Give your name, please.
- A Rosaria Soucheiron.
- Q Where do you live?
- A 129 Legarda Street.
- Q Where did you live on February 10, 1945?
- A In Ermita. I don't know the number.
- Q What street was it?
- A Pennsylvania Street.
- Q Which one?
- A Pennsylvania Street.
- Q Between what streets?
- A (No response).
- Q You were on Pennsylvania Street between what other streets?
- A I was new there, so I can't say.
- Q All right.
- A That was not my home, you know.
- Q Do you know where the Price house is?
- A Yes.
- Q Did you go there on February 10, 1945?
- A Yes. I went there.
- Q About what time?
- A About 1:00 or 2:00.
- Q In the afternoon?
- A In the afternoon.
- Q What did you do after you got there?
- A We took shelter in the kitchen.
- Q Describe what happened after you went into the kitchen of the Price house?

A Around 6:00 o'clock there came some Japs at the door of the kitchen and knocked three times. At last we opened and came out.

Q Yes.

A They told us to go to the yard near the garage, and when we turn around they machine-gunned us.

Q Who did?

A (No response).

Q Who machine-gunned you?

A Those soldiers, but there was an officer.

Q One officer you saw?

A I saw one officer.

Q How many times did they machine-gun your group?

A Three times. First when we were starting and two when we were down.

Q And after they machine-gunned you what did you observe?

A They came three times to kill those that moved.

Q Well, --

A They came --

Q Why did they come the first time?

A They came to shoot the Carcereny -- Joseph Carcereny --

Q Why?

A (continuing) -- and his baby.

Q Yes.

A The baby was crying. And the second time they came when my niece, Mari Carmen, was crying for water.

Q Yes.

A And the third time they came when my baby sister was crying (witness sobbing bitterly).

Q Just one more question, please. How many members of your family were killed there then?

A Six.

CAPTAIN PACE: All right. Thank you very much.

COL. HENDRIX: No questions, sir.

(Witness excused)

CAPTAIN PACE: Mrs. Franco.

LORETO GAMBOA FRANCO

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

DIRECT EXAMINATION

Q (By Captain Pace) Will you give your name, please?

A Loreto Gamboa Franco.

Q You will have to speak louder, Mrs. Franco.

A Loreto Gamboa Franco.

Q Where do you live?

A 554 Pennsylvania.

Q Where did you live on February 10th?

A 554 Pennsylvania.

Q Did you go to the Price house on February 10th?

A I went to the yard of the Price house. I did not go to the house.

Q What time was that?

A 4:30.

Q What happened after you went to the Price yard?

A After 15 minutes I saw several Japanese on California Street with machine gun in their hands.

Q What did they do?

A Machine gun. They fired the machine gun.

Q Where was the machine gun?

A On the left arm.

Q Where?

A A small machine gun.

Q Where was it?

A In the left arm.

Q The Japanese was holding it on his left arm?

A Yes.

Q And who was he shooting at?

A Everybody.

Q In the yard?

A Yes.

Q How many people were in the yard, do you think?

A More than 200 people in the yard.

Q How were they located in the yard? Were they in the middle or around the walls?

A The people around the walls, scattered all around the yard.

Q How long did the Japanese shoot at you with this small machine gun?

A About 30 minutes.

Q How long?

A I do not remember how long, but it was about 20 to 30 minutes.

Q Then what did they do after they shoot at the people around the wall?

A Two Japanese went around and shot one by one.

Q What did they shoot with one by one?

A Revolver.

Q How long did that last?

A They went around four times.

Q Four times?

A Yes.

Q How many people do you think the Japanese killed in that yard?

A 200.

Q Can you give the names of the people that you know were killed there?

A The Carcereny family.

Q Yes. How many were in that family?

A There were four killed in their family.

Q All right. And who else?

A My family, four.

Q How many in your family?

A Four.

Q Four in your family?

A Yes. Ledesma, three; Nograles, one; Altavas, one.

Q One?

A One.

Q Yes.

A Manuel Tuazon; Tanguan.

Q Yes. Anybody else?

A I don't know the others.

Q How about people that were wounded? Do you know anything about those who were wounded?

A I know Joaquin Maranon; Mrs. Nograles.

Q Yes. Anybody else?

A I don't know.

Q How many of your family were killed?

A Four.

CAPTAIN PACE: You may inquire.

CROSS EXAMINATION

Q (By Col. Hendrix) Were the Japanese Army or Navy or Marines?

A Marines.

COL. HENDRIX: No further questions, sir.

CAPTAIN PACE: Thank you very much, Mrs. Franco.

(Witness excused)

CAPTAIN PACE: Mr. Maranon.

JOAQUIN MARANON

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

DIRECT EXAMINATION

Q (By Captain Pace) Will you give your name, please, Doctor?

A Joaquin Maranon.

Q Where do you live?

A At this time?

Q Yes.

A 651 Lipa Street, Sampaloc.

Q Where did you live in February, 1945?

A 552 Pennsylvania, Ermita.

Q Do you know where the Price house is?

A Yes, sir.

Q Did you go there on February 10, 1945?

A Yes, sir.

Q Describe where you went and what happened.

A In the afternoon of February 10th, because of the fire in the neighborhood of our house, I went with my wife to the house of Mr. Price at the back of my yard. At first we went into the kitchen of the house and then later with my wife we moved to the yard and rested against the wall. There we saw my house and other houses in the neighborhood under fire and after that we went into the air-raid shelter in the middle of the yard. While there and talking about the destruction we suffer, all of a sudden a girl of about 16 years old rushed inside the shelter and shouted "Japanese! Japanese!"

Q Will you look at Exhibit 130 and state whether or not the place marked "site of air-raid shelter" correctly shows where you were on that afternoon?

A Yes, sir. That is the air-raid shelter where we went inside.

Q What happened after the girl shouted "Japanese! "Japanese!"?

A A few minutes after that we heard shots and then later the Japs approached us and from the entrance of the air-raid shelter machine-gunned all those inside the shelter.

Q Yes. What happened then?

A All of a sudden I saw that several of those in the air-raid shelters were killed with their brains out -- with their skulls destroyed. Then I noticed that my face was somewhat paralyzed and I feel that blood was gushing from my face. I asked my wife whether she was wounded and I was surprised to find that she was wounded very severely in the leg.

Q Yes.

A Then the Japs lefts us and went around in the yards

shooting those that were resting outside. We heard these shots, and after that they came again and started to machine-gun those in the air-raid shelter.

Q This is the second time?

A That is the second time.

Q All right.

A What I did was to take shelter among the dead and I told my wife to lay low so that we would not be hit again. Then when they left, when it was almost dark, we started to leave the air-raid shelter and went outside of the shelter.

Q What did you see outside?

A Outside of the shelter we saw dead all around and some wounded.

Q How many dead and wounded did you see in the Price yard and the air-raid shelter?

A I could not count definitely, but to my estimate there must be about three hundred persons dead and wounded.

Q Will you give the names of any of the dead that you can identify?

A Mr. Pedro Franco and his children.

Q How many children?

A Two children.

Q All right.

A And his mother-in-law.

Q What is her name?

A Then the Carcereny children who were occupying the lower floor of my house.

Q Yes.

A] The Galans.

Q How many Galans?

A I think there are three: the wife, the child -- I mean, the son, and I think another one. There are also others like the wife of Mr. Altavas: Mrs. Concepcion Altavas.

Q Yes.

A The two servants of Mr. Carcereny.

Q Yes.

A The wife of Mr. Carcereny; the wife of Mr. Zebala.

Q Yes. Anybody else?

A Dr. Santo Domingo.

Q How about wounded?

A Wounded, there are several: Mr. Carcereny was one. I saw him on the ground wounded. And several others, but I could not give the names now.

Q How long were you in the hospital after this incident?

A I was in the hospital for two months and a half.

Q How long was your wife in the hospital?

A My wife stayed for three months and a half and is still -- when she came out she was not perfectly cured.

CAPTAIN PACE: You may cross examine.

COL. HENDRIX: No questions, sir.

CAPTAIN PACE: Thank you, Doctor.

(Witness excused)

FRANCISCO del ROSARIO

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

DIRECT EXAMINATION

Q (By Captain Pace) Give your name, please.

A Francisco del Rosario.

Q You will have to speak louder than that.

A Francisco del Rosario.

Q Your address, please?

A 1329 Anacleto.

Q What do you do for a living now? Do you work?

A Yes, sir. I work for the funeral director of the Quiogue Funeral Parlor.

Q What were you doing in the month of February 1945?

A In the month of February 1945 I was working for the firm hired by the 37th Infantry Division.

Q What were you doing for the 37th Infantry Division?

A I was supervising the burial of civilians and enemy dead.

Q In your capacity of burying the dead, did you go to the Price yard at the corner of Colorado and California Streets in Manila?

A Yes, sir.

Q What did you find there?

A I found 15 bodies in a pigpen, and about 25 bodies in the air-raid shelter, and 50 bodies scattered all over the yard. There were about six or seven in the garage.

Q What was the condition of these bodies?

A Those bodies in the pigpen were not burnt, but they

were beyond recognition, because they were already decomposed and bloated up. Those in the air raid shelter were not burned, either, but those in the garage were burnt, and also those in the yard.

Q How many bodies do you estimate you found in the Price yard?

A We buried between 90 and 100 bodies, sir.

Q Were those civilian or military personnel that you buried?

A Those were all civilian, sir.

CAPTAIN PACE: You may cross examine.

COLONEL HENDRIX: No questions, sir.

(Witness excused.)

CAPTAIN PACE: That completes the case on Bill of Particulars No. 99.

CAPTAIN HILL: May it please the Commission, the next incident to be presented will be Bill of Particulars Item No. 27, the German Club Massacre.

The first witness is Francisco Lopez.

Sir, I made a mistake. It is Bill of Particular Item 98.

GENERAL REYNOLDS: Is the Defense ready to proceed with the Item 98 in the Supplementary Bill of Particulars?

CAPTAIN REEL: Yes, sir.

GENERAL REYNOLDS: You are ready?

FRANCISCO LOPEZ

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you state your name, please, to the Commission?

A Francisco Lopez.

Q Where do you reside, Mr. Lopez?

A At 239 San Marcelino, I used to reside.

Q Where do you reside at this time?

A In Anacleto.

Q And in what business are you engaged in the City of Manila?

A I am the representative in the Philippines for Metro-Goldwyn-Mayer Pictures.

Q Where did you reside during the first part of February, 1945, with reference to the German Club Building and premises here in Manila?

A I resided just around the corner, near the intersection of San Luis Street and San Marcelino Street.

Q How far distant from the German Club would you say your residence was?

A I don't know very exactly, but approximately about 50 to 80 yards.

(A map was marked Prosecution's Exhibit No. 132 for Identification.)

Q I hand you Prosecution's Exhibit No. 132 and ask you to state what it is, if you know.

A This is an almost exact map of the district where we resided, showing the German Club, my house, the house of my mother, my aunt's house, and the other neighbors living around us.

Q Are each of the buildings around the German Club, including your home, designated in some manner on this exhibit?

A Yes, they are; all of them.

CAPTAIN HILL: I offer in evidence Prosecution's Exhibit No. 132, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 132
for Identification was received
in Evidence.)

Q (By Captain Hill) During the first part of February of this year, Mr. Lopez, were you forced, with the other members of your family, to leave your home?

A Yes, we were.

Q Why were you forced to leave your home?

A First, because of the shelling that was taking place, and then because the Japs burned our houses.

Q And on what day did you leave your home?

A Approximately -- I don't know exactly, but it was shortly after the 4th; it must have been around the 5th or the 6th.

Q And how many members of your household accompanied you at the time you abandoned your home?

A Approximately between 12 and 14, several of us.

Q And when you left your home, where did you and the other members of your household go?

A We took refuge underneath the building of the German Club.

Q Now, I wish you would tell the Commission, briefly, about this refuge under the German Club; describe it to

them the best you can.

A This refuge underneath the German Club is between three and four yards -- I mean, feet -- high, and we had to stoop down; we couldn't stand up. We either had to crawl around or sit on our -- just sit down, because it was not high enough for us to stand up, and it was a large -- probably one and a half times the size of this room, and it was all in one piece, extending the whole area of the German Club Buildings.

While these other fellows were doing that, these Japanese were out facing us with their guns pointing at us. Naturally, with 1,500 people there, approximately, there was a big commotion. Women and the kids lost their heads and started screaming, yelling "Tomadachi! Tomadachi!"

Q What does that mean?

A "Friends! We are friends!" We tried to explain we were friends, not enemies; we were noncombatants who were civilians. And then, when we saw what was coming to us, somebody -- I can't remember who -- decided that maybe we could move them by having the women, some of them who had small kids who were still suckling, sir, go out and show them; but then Mr. Ohaus, the chief of the German Community there, who had asked us to stay there all those days, and had been having us there out of pity, because we had no shelter to go to during those days -- he told us to wait, and he went out and talked to the Japanese officer who was outside, and I know he tried to explain that that was the German Club, and we were all non-combatant civilians, neutrals, taking refuge there; that there was no

reason to harm us. But they pushed him in, just the same, and when he came back, naturally, the women volunteered with the little kids, those who had small kids in their arms, to go out. But when they went out over the fire and they knelt before those Japanese soldiers and the officers, what they did is with the bayonet to stick the kids and throw them out, and right there and then they grabbed most of them by the hair, tore off their clothes, and started to abuse them.

Q That is, the women?

A The women, yes.

Q Just tell the Commission what they did to the women there.

A We, then, inside -- some shouted "Tomodachi!" -- asked for mercy, and yelled "Tomodachi! Tomodachi!", still trying to beg mercy. They still went and abused them.

I remember one particular case of a girl who, I doubt very much if she was over 13 years of age, at least 20 of them took advantage of her, and some of them went so far as to not only abuse her, but cut off her breasts and make fun of it. Most of them enjoyed it, and they had fun while doing it!

At first I thought, in that flash of a moment -- I thought that they were drunk, that there was something wrong, because I couldn't understand how a human being could do that -- cut off the breasts of a young girl after she had been abused while she was naked there. And one of them even grabbed one of them in his hand (illustrating), and making fun to the others about it, and the others

laughed!

Then after that, in three cases at least, three girls I saw that when they were through with them and they were laying there -- I doubt whether all of them were still alive, but one of them, at least, I saw that she was still heaving -- they poured gasoline on their heads and set fire only to their hair, to let them die a lingering death that way. Some of us, during that time, naturally thought it was better to go out and get shot or stabbed, rather than be burned alive and be roasted inside. We had to decide that in the flash of a moment. My mother embraced all my brothers and sisters, and told them "We might as well stay in here, because you see what they are doing outside." But the fire was getting worse and worse, and the smoke and everything was getting unbearable, and my mother kept saying "Don't go out, because it will be worse outside. If we have to die, let's die all together in here."

Then I told her, "Mother they can't do those things to me. I am a man. And if you don't mind, I prefer to go out and get it over with once and for all. I don't have the courage to be roasted alive in here. I want to go out and die like the others who have ventured to go out," the men who had been stabbed and fired at, and they were laying all sprawled around there. I don't know how many of them, but several were scattered around the club.

So she said, "If you decide that, go ahead. You have my blessing. I will see you later, probably." Then my younger brother followed me, and a next door neighbor by the name -- a next door neighbor -- and the three of us

jumped over the fires, and while I was trying to put out the fire which my clothes had caught, they shot my brother right through the heart; and my next door neighbor, they shot him right through the head. But as I was jumping around to put out the fire that my clothes had caught, especially my pants, they fired at me, but probably because I was ~~writing~~ with pain they caught me only on the left foot. Then I fell down from the pain, and I half-way fainted from the pain and the shock, all the time thinking that that was a bad dream, that it was a nightmare, that I had to wake from it; because I couldn't see how anybody, at their worst -- I hadn't heard, in the worst of horror stories or horror pictures or books, anything like that! It couldn't be possible!

And I lay there dazed. And during that time I saw more women who had ventured to crawl over the barricade and escape outside, being abused; they were all abused. And while that was done to them, like sadists, they enjoyed it and they made fun of it! That is one thing that I can never understand and never forgive!

Q Now, what kind of a floor was in this shelter?

A The floor was made of rubble and dirt, and even some strayed dead cats that had taken refuge there, and I can see the refuse, cement and other things, that had been left there probably since the building was erected.

Q And what kind of a ceiling was there on this shelter?

A Partly cement and partly wood. The wooden floor of the building was over us, and also the cement arches that were supporting the building as trusses or beams.

Q Were there any trenches dug underneath the building?

A There was one that we had dug just to be able to get in more easily from the entrance, under one of the arches.

Q Do you recall the time of day on the 5th or 6th that you and the other members of your household went to this refuge?

A Yes, sir. It was -- the first time we went there was around two o'clock in the morning, because we found out that the Japs were coming to the houses and taking the women to the church right next door.

Q Which church was that?

A San Marcelino Church. And they were abusing them, sir, so I was the first to run in to the German Club, climb over the barbed wire fence with my mother and the other women, and I went to the German Club at two o'clock in the morning and begged them to please let me hide my women among them, because I didn't want them taken to the church for the same purpose.

CAPTAIN REEL: Pardon me, please.

If it please the Commission, we move that all of that part of the answer which had to do with what the witness heard from some unidentified source be stricken.

GENERAL REYNOLDS: Will the reporter read the last question and its answer?

(Last two questions and answers read.)

CAPTAIN REEL: Sir, we ask that all of the answer except the part which was responsive to the question, namely, as to what time he went to the German Club, be stricken. I think the word "because" appears there;

starting with the word "because," and everything thereafter, we ask that it be stricken.

CAPTAIN HILL: I think it is entirely proper, sir, that he relate to the Court the reasons why he and the other members of his household sought this refuge.

GENERAL REYNOLDS: Objection is not sustained.

Q (By Captain Hill) When you arrived there at this refuge with the members of your household, can you tell the Commission about how many other civilians were in the refuge then?

A I couldn't say exactly, because it was very dark. I know there were other voices, and other people who were crawling in, but I couldn't tell you exactly how many. I know there were others, but it was so dark, and we couldn't even light a match for fear of being found out.

Q And you say that you went there on the 5th or 6th. For the few days following that, were you and the members of your household able to leave that shelter for purposes of relieving yourselves, or to get food or water?

A Yes, we were, for the most necessary things only. We used to sneak out.

Q For how long a period were you able to do that?

A Five or ten minutes.

Q I mean, for how many days did that privilege continue?

A Oh, for two or three days, that is all. I couldn't tell exactly, because those days were such to us that I couldn't count them, and I didn't have a calendar before me. It was two or three days, more or less.

Q Were you and the other members of your household

still underneath this shelter on the 10th of February, 1945?

A Yes, we were.

Q And on that date did you see any Japanese in the vicinity of the German Club Building, any members of the Japanese Imperial forces?

A Many of them.

Q How many would you say to the Commission that you saw there?

A Probably around 100 or more.

Q On this day, did these members of the Japanese Imperial forces do anything in the way of harming the civilian non-combatants that had taken refuge in this shelter?

A Yes, they did.

Q Just relate to the Commission the details of what took place there that day.

A On or about between twelve and one o'clock in the afternoon, some of us were just starting to have our lunch, whatever we had been able to get hold of to eat underneath that club, when all of a sudden some came back saying that they had been told they couldn't leave the premises under the club, not even for the most necessary things, like going to the bathroom. We were all surprised that all of a sudden they should restrict us in there, because all along we had not expected anything like that.

Then, before we knew it, and while we were commenting on it, all of a sudden a cordon of about 15 to 20 Japanese came down and knelt all around the building, facing us outside the building, but facing the openings we had all around us, just as if prepared to kill anybody who came

out of that place.

Q Let me interrupt just a moment. On the 10th, at the time the Japanese surrounded the building, can you give the Commission an estimate of how many civilians were gathered beneath the shelter?

A Approximately between 1,200 and 1,500 people.

Q Now, go ahead with your story.

A Then at the same time, while they were all around, surrounding us, some of them came down with the very stuff that we had left in the hall of the club upstairs, our clothing, packages containing some food, medicines, and those same things plus dirty rags which they picked I don't know where; they threw it down and formed with it a barricade around us, right up against the building, surrounding the openings we had through which we came in and out of. And then we saw them pour gasoline all over that barricade, and we smelled the smell of gasoline right over us, too, in the building, and in a matter of a few minutes they started putting fire to all that, and the fire started all around us.

Q Mr. Lopez, when you used the word "abused," do you mean raped?

A They were raped, absolutely.

Q And after you had gone outside of the shelter and were out there on the ground, did you see other women abused?

A Yes, I saw more of them abused.

Q Did you see other women's hair ignited?

A Absolutely.

Q What else did you see regarding these women?

A One of them was raped at least by 16 or 20 fellows, one after the other. And the others were the same way. All of them screamed for help, some were shouting, calling -- they were all Catholics -- they called on all the saints in Heaven to protect them. About that time, three American planes flew over us very, very low, and one of them yelled for help and asked, begged in the voice that was still left in her, that they drop a bomb to finish their suffering once and for all; and another one yelled, at the same time, "How about some parachutists?" She screamed and yelled for some parachutists to come down and save them, but neither parachutists or bombs came down to finish their tortures.

Q Now, when you left this shelter to go through this barricade of fire, do you have any idea how many people were underneath this shelter?

A About two-thirds of us still.

Q Two-thirds of the original group?

A Yes, sir, approximately.

Q Had the rest attempted to make their escape the same as you did?

A Yes, sir.

Q When you left the shelter was the floor, the wooden floor above you, burning?

A Yes, it was starting to burn, starting to crackle all over us.

Q Did any of that floor drop around on the ground?

A In some of the places it was starting to drop over us.

Q How long did you remain in your original position on the ground outside of your shelter, after you were shot?

A I don't know, because that was such a moment of torture and horror that I couldn't tell you. I only stayed there as long as I was trying to come back to myself, trying to figure out what I was going to do.

Q Do you think it was a matter of minutes, or several hours?

A A matter of probably several hours.

Q Were you conscious during that entire time?

A I was conscious. I came back to myself, and I was conscious enough to figure out that the only thing left for me, in so far as I couldn't get up and run, because they had shot me through the left foot, was to pretend I was dead so that they wouldn't shoot me again.

Q While you were on the ground there, near the German Club Building, did you see the building afire, and finally fall to the ground?

A Yes. I was aware that the building caught fire all around, all the woodwork of the building was on fire, and I heard my brother and my mother, and all my family, screaming inside; I have heard them and practically seen them burned alive inside, those of them that stayed.

Q Now, can you give the Commission your judgment of about how many people, how many civilians, lost their lives there at the German Club Building by gunfire, bayoneting, or by the fire from the building, on that day?

A I claim there must have been over 1,000, closer to about 1,500, including all the small kids, because all the

families from around, as they had burned all our houses -- we all had to take refuge in the only building which they hadn't taken for themselves, which was the German Club -- and most of our families had many small kids, so that including the small children, even as young as two or three months old, like some of them had, must have been as many as 1,500 people. I claim there must have been close to that.

Q Now, you have referred to the Japanese; were these Japanese that you saw around there members of the Imperial Japanese armed forces?

A Absolutely.

Q And the people who had taken refuge underneath this shelter, were any of them armed in any way?

A Yes, they were armed.

Q You mean the civilians that were underneath the shelter?

A { No, absolutely; not even a stone.

Q Did you see any of the 1,500 civilians that you have testified about in any way resist the members of the Japanese armed forces there at the German Club that day?

A None. No one resisted except -- I want to recount something else. My houseboy, when he did jump out of the fire with a small child --

Q How old was your houseboy?

A He must have been between 20 and 25.

Q Was he a Filipino?

A A Filipino.

Q And what was his name?

A A noncombatant. Bernardin Callo.

Q Go ahead and tell the Commission what you saw happen to your houseboy.

A He was carrying a small kid who was about two years old, and the Japs run after him, and one of them, who had only the arm that some of the Japs had, which was a spear at the point of a bamboo stick, with tusks coming out of it, something resembling the savages' spears which old time barbarians carried with them -- he went and stuck the kid right through with it. The father went -- and he is about the only one who put up a fight -- he fought the Jap, and I think he must have done harm, because they took it very badly on him. They grabbed him, and instead of killing him, they tied him against a pillar of my garage, and then one of them tore down his pants, and with something that I think was a bayonet they cut off his sexual organs and stuck part of it in his mouth. And then the three who were still around, they laughed and enjoyed it, just like sadists, dirty sadists, absolutely! Because they enjoyed it, and they showed it!

(A photograph was marked Prosecution's Exhibit No. 133 for Identification.)

Q Mr. Lopez, I hand you Prosecution's Exhibit No. 133 and ask you to state to the Commission what it is, if you know.

A This is a photograph of what is left, of what used to be the German Club.

Q Do you have any idea about when that was taken?

A When this picture was taken?

Q Yes.

A Sometime in the late months, after --

Q In the month of September?

A September, approximately.

Q This year?

A Yes.

CAPTAIN HILL: We offer in evidence Prosecution's Exhibit No. 133.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 133 for Identification was received in Evidence and so marked.)

(A photograph was marked Prosecution's Exhibit No. 134 for Identification.)

Q (By Captain Hill) I hand you Prosecution's Exhibit No. 134 and ask you to state what it is, if you know.

A This is a photograph of part of the German Building, German Club Building, showing an entrance, one of the archways underneath the building which we used as the easiest way to get in and out from underneath the building.

Q I call your attention to the front and left-hand side of this photograph. Is that the front porch which you testified about?

A Yes, that is the front porch.

Q And you will notice an opening on the side of that front porch. Is that one of the openings that was used by the refugees to go in and out of the shelter?

A Yes, sir.

Q And I call your attention to the other openings

along the side of the building. Were those openings likewise used as a place of ingress and egress to this refuge?

A They were.

CAPTAIN HILL: We offer in evidence Prosecution's Exhibit No. 134.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 134 for Identification was received in Evidence.)

(A photograph was marked Prosecution's Exhibit No. 135 for Identification.)

Q (By Captain Hill) I hand you Prosecution's Exhibit No. 135, and ask you to state what it is, if you know, Mr. Lopez.

A This shows the mound where I think most of the bodies that were recovered after the massacre have been buried.

Q Where is that mound, or mass grave, located?

A That is in the ground around the German Club.

CAPTAIN HILL: We offer in evidence Prosecution's Exhibit No. 135.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

THE WITNESS: May I say something else? I forgot it.

CAPTAIN HILL: Ask the Commission.

The witness --

GENERAL REYNOLDS: You may proceed.

THE WITNESS: There was one special incident that I forgot to tell you about, that I think is very important. There were two sisters of Filipino nationality who were

also with us under that building. I would rather not give their names out here, unless you need them -- I would give them in writing, then, -- because I wouldn't like the press, or anybody, to give out the news, because I know they still have very close relatives, probably in this same building, who would be very hurt and grieved to know how they died, because I only gave them an account of it in the best way I could, to just let them know that they died in that massacre, without telling them an incident that was particularly cruel.

These two sisters rushed out from underneath the building, and one of them was attacked; the younger one was attacked by several Japs right away. The other one, who is elder and much stronger, an extraordinarily large girl for her age -- she put up a fight with the others. They succeeded in tearing off her clothes, but they couldn't lay her down on the ground like the other one, like they had done with her younger sister, and because she fought tooth and nail to defend herself one of them hit her right between the head and shoulders with something I couldn't see -- in the flash of that moment I couldn't see whether it was a bayonet or something else -- but I know this: That she fell to the ground practically decapitated. Probably her head was attached by only a very little flesh, or something like that. But right after that, although she was dead, more than dead, this fellow right away jumped on her and abused that dead body; he raped her, although she was already dead.

Q (By Captain Hill) Mr. Lopez, I will ask you if there is any other incident relative to the murders at the German

Club, which you desire to relate to this Commission.

A Any other murders?

Q Any other incident which you haven't told the Commission about, that you desire to relate to them.

A Yes. After a few hours -- it must have been that I was laying there conscious that everything was going on, and after I had seen most of the building collapse in fire over my family and the other families that were in there, and their screams died out little by little, and the screams and yells of the girls around me, and their moans also died, I finally crawled to an air raid shelter that belonged to one of the neighboring houses there. It was covered, partly, with the ruins of the house that had collapsed over it.

So, thinking that was the safest place for me to hide in, I crawled inside inch by inch until I got in there, and I stayed in there. And while I was there and the night fell, others crawled in little by little. Some were women, and among them a few men; all of them hurt, either by bullet wounds, bayonet wounds, and very bad burns.

We were about in there -- that was a shelter that could take care only of about five people, sitting down. So, being ten of us, we had to squeeze in. We could hardly even sit comfortably, and every time one of us moved a little someone else would yell "Look out for my wound, my burns," so that we were all in suffering in there; ten of us, exactly.

When the next day came, and a little ray of sunshine

and light could come in through, we looked at each other and we verified that we were exactly ten.

We stayed there for two or three days. The bombs were raining around us, and we couldn't even sneeze nor cough, because the Japanese were still around us, over us, walking even right over us, but they didn't find us. We stayed very quiet. We were getting hungrier and thirstier each time, and finally when the night came again -- I think on the second day, it was -- one of us found a piece of burned iron right inside that shelter, and between all of us, when we noticed that the Japs were a little farther from us, we dug a little well which was a few inches deep by the time a little water came out of it. And that muddy water we drank to keep alive.

But on the third or fourth day a bomb or a shell fell quite close to the air raid shelter where we were hiding, so that a hole was opened, and knowing the Japanese around it would see us through it and catch us, probably, we ran out of the shelter for the first time.

Two of them were dragging me, because I couldn't walk on my feet, nor much less, still, run, because my foot had swollen up, my foot was swollen, and I could only crawl. We all run towards, first, the church, but we saw that they were right at the very tower of the church, firing towards the other side of the river. Every building around had Japanese in it, and they were all firing, seemingly towards the northern side of the river. The only place we thought they had deserted, because we didn't see any of them in it, was the neighboring

building of the St. Teresa's Academy. Some one of us yelled, "Let's run to it. They have abandoned the St. Teresa's Academy." So all of us went toward that building, but when we were about to enter it, a few yards from the main entrance, which was piled and barricaded with sand bags, we saw that all of a sudden several heads of those Japanese jumped out from under cover, and they fired at us again.

Q Did they kill any of this group of ten?

A Five fell down dead. Or, at least everybody except the two that were holding me by the hand, and who had helped me get that far. Then we naturally fell down from the shock and from the firing, we automatically and instinctively fell down with the others. The others we saw had been struck and killed. Then the two who were right beside me and had been holding me -- one, who was an old man by the name of Joaquin Navarro, a Filipino citizen, aged between probably 70 and 80 years old, and his daughter-in-law who was wounded from the massacre on the 10th, but was still alive -- both of them were lame, each one on one side of mine. They told me, while we were pretending to be dead, "This is worse than death itself. What do you say if the three of us get out and take the last chance left? Let's raise a handkerchief to them to show them that we are non-combatants, that we don't want to fight them. Let's kneel before them and just plead for mercy, that they let us go to the hospital," because my foot was getting worse and her bayonet wounds were getting unbearable, "and if they kill us, that is better than

living this way. Anyway we die of hunger or thirst, because it looks as if the Americans will take a little longer than we expected for them to cross the river and rescue us."

So I told them, "Well, if both of you are of that opinion, let's do it."

So the girl on my left-hand side, who was Mr. Navarro's daughter-in-law, she said, "I will untie the handkerchief around my burn on the left hand and I will raise it before we even get up, and as soon as I count three, let's the three of us get up and walk towards them."

And I said, "All right."

She raised the handkerchief, and they didn't fire then. She counted three, and both of them got up at the same time and were raising me up to walk with them, when the Japanese in the St. Teresa's Academy fired again, and both of them fell mortally wounded, by my side. There was blood spurting out of the neck of the girl, and old man Navarro had been hit right in the kidneys; there is where he said he felt the pain. Both of them yelled for water, they kept asking for water, but I couldn't get up; by myself, I couldn't get up.

Q How long did they live after they were shot this time?

A She died in a matter of a few minutes, and he lived, I think, a few hours, because I lay there again in agony, in mental agony, not knowing whether I should get up and let them shoot me and have it over with once and for all, and I told old man Navarro, who could still talk, "I think I will get up, even on my knees, and put up my hands, so that they will fire at me. I don't want to live. I have

lost all my family, all my possessions, my home, everything I had in the world. What is the use of living without anybody, not anything?"

And he told me, "Don't do that. When for the third time they haven't hit you, there must be a mission for you in this world" -- and there is -- "to tell the truth of what they have done to us. Try to live, just to tell whoever gets to this side from the Americans, to tell them what has been done to us. You have to live if nothing else than for that, because if you don't, as we can see you are the only survivor, maybe the only survivor on this side, the Americans will come in and believe what this Japanese wants them to believe: that in their strenuous effort to regain this side of the river, their shelling has destroyed everything and killed us," which would be a terrible lie, because the Japs had done it all ahead of the Americans coming on that side.

Q How many members of your family were killed at the German Club?

A I didn't count them, but it was my mother, my brothers --

Q How many brothers?

A Two brothers. My sister, a cousin who is just like a sister because we had just adopted her; my old aunt, my uncle, my cousins -- I don't know how many of them.

Q How many Filipino servants were killed in your house?

A Between five and six.

CAPTAIN HILL: You may cross examine.

CAPTAIN REEL: No questions.

GENERAL REYNOLDS: The Commission will be in recess
for at least ten minutes.

(Short recess.)

GENERAL REYNOLDS: The Commission will be in recess for at least ten minutes.

(Short recess)

GENERAL REYNOLDS: The Commission is in session.

The Commission has received a motion from the Chief Defense Counsel for additional copies of the record. This motion is not allowed by the Commission, but Counsel is advised that, if they wish to do so, they may apply to the appointing authority.

CAPTAIN HILL: The first witness, please.

HELENA RODRIQUEZ

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you state your name to the Commission, please?

A Helena Rodriguez.

Q Can you speak a little louder and speak for the Commission so that they can hear you.

A Helena Rodriguez.

Q How old are you?

A 21.

Q What is your nationality?

A I'm a Filipina.

Q Where do you reside?

A At present?

Q At present?

A 6 Manga Street, Santa Mesa.

Q Are you employed now?

A Yes, sir.

Q Where?

A At the General Engineer District.

Q Are you married or single?

A I am single.

Q Where were you living during the first part of February, 1945?

A At 278 Zobel Street, Ermita.

Q How far distant was your home at that time from the German Club Building?

A About a couple of blocks.

Q A couple of blocks?

A Yes.

Q Were you forced with the other members of your household to leave your home during the early part of February of this year?

A Yes, sir.

Q Will you relate to the Commission the reason and circumstances for your leaving your home?

A Well, it was on February 6th, Tuesday, that the --

Q Speak up a little louder.

A It was on February 6th, Tuesday, that the Japanese in our district ordered everybody to evacuate the place, and they told everybody that they were going to burn the place and it was very dangerous for civilians to stay there. So we were told to go south toward San Luis Street, and that is where we were heading for with all the neighbors and everybody carrying and evacuating the place. And then when we reached San Luis Street I saw my eldest brother waiting for us there because he couldn't get home. The Japanese

wouldn't allow him to cross the small bridge that was on San Marcelino Street. So my brother was staying for three days in the house of a friend of my mother, and that is where we stayed until the 8th of February.

Q And on the 8th of February where did you and the other members of your household go?

A On the afternoon of the 8th we transferred to the shelter of the German Club, because that same afternoon a shell struck the living room of the house of Mrs. Bereciarde, the house of my mother's friend. So on the afternoon of February 8th we transferred to the shelter of the German Club.

Q When you transferred to the shelter near the German Club, Miss Rodriguez, what members of your family or your friends accompanied you there?

A My mother, my four brothers.

Q And any other friends that accompanied you?

A Yes. There were two other ladies.

Q I hand you the Prosecution's Exhibit No. 132, which is a plat showing the location of the German Club and the buildings surrounding, and ask you to point out on this plat for the Commission where you and the other members of your family took refuge there in the German Club yard.

A This shelter here (indicating).

Q That is the object marked on the plat as "Air Raid Shelter" and to the left and a little below the German Club Building on this plat; is that right?

A Yes.

Q When you arrived there at this shelter on the 8th,

how many persons were in the shelter?

A Well, that afternoon there were very few people there because the other neighbors were still in their houses, but we stayed the whole night there and the next day there were more people coming in.

Q That was the day of the 9th?

A Yes, sir.

Q And how many people came to that particular shelter where you were on the 9th?

A Well, I counted them and there were around 50 persons.

Q And did all of those 50 persons, together with your family, remain there on the night of the 9th and were there on the day of the 10th?

A That's right, sir.

Q Then on the 10th of February did you see any Japanese members of the Japanese Imperial forces in the vicinity of this shelter and the German Club grounds?

A Yes. It was on the 9th we saw Japanese around.

Q When you first saw them?

A Yes, sir.

Q How many did you see there on the 9th?

A Well, I saw several of them guarding the San Marcelino Church.

Q Were there any there in the German Club grounds on the 9th?

A Yes, sir. They were walking around there.

Q Then on the 10th did you see members of the Japanese Imperial forces there in the German Club grounds?

A Yes, sir, I saw them and I spoke with them.

Q On the 10th did you see these Japanese harm or molest any of the civilians that were gathered there?

A The Japanese, you mean, were they armed?

Q Did you see any of the Japanese harm any of the civilians?

A No, sir; I didn't.

Q On the 10th?

A Well, on the morning, no. It was in the afternoon when they started killing everybody.

Q Of these 50 people that were in your shelter in the yard there, were they all civilians?

A That's right, sir.

Q Were any of them armed in any way?

A No. Nobody was armed.

Q And were they men, women or children?

A They were men, women and children.

Q Just tell the Commission what transpired there on the German Club premises on the afternoon of the 10th as you see it from the air raid shelter where you were.

A Well, it was on the afternoon of the 10th and we were inside the shelter with my mother, my two brothers. All of a sudden we heard screams and cries outside and also we heard some explosion and we didn't know what it was, and after that we saw several things lying at the entrance and exploding, and then we knew that they were hand grenades. And when the hand grenades exploded, the shelter was very small and it was filled with smoke and it made everybody cough. Well, they kept on throwing hand grenades, and I remember two people inside were hurt, and I remember there

was a baby about a month and a half there who was half dead with the smoke.

Well, everybody was crying; children were running about in confusion. There were several who pleaded "Let the children go out! Let the children go before the Japanese!" because we knew that the Japanese were "soft" on children. So they made the suggestion that several of the children go out and among them was my brother of 11 years old. So he and four other boys went out, and I don't know what happened. After that I saw my mother crying and she told me that my brother -- She said, "Your youngest brother" -- his name was Augusto -- "he is out there on the ground. He is dead. They have shot him."

Q What happened to the other four boys that left the shelter with your brother?

A They were killed, too. My mother saw them. She was near the entrance.

Q Then after that tell the Commission what happened there in the shelter.

A Well, after that more grenades landed at the entrance. There was horrible smoke that made everybody cough. And then my mother, I think she couldn't breathe anymore and I was right beside her. She went out to the entrance and she was already almost out of the shelter and she pleaded before the Japanese, and when she saw that the Japanese were going to kill her she stepped back, but she didn't have time to hide herself. And then I saw a hand grenade thrown at her and it killed her.

Q Were any other people killed at the same time as your

mother?

A No, sir.

Q Go ahead and tell the Commission what else happened there in that particular shelter.

A For the moment I just sat there and stared at her. I couldn't believe what I saw. Well, again -- So I went inside the shelter and I stayed there in the corner and I got hold of a piece of cardboard and started fanning myself, because I could hardly breathe anymore with the smoke, and then more hand grenades were thrown in, and then after that everything was quiet and everybody was quiet, too. Then a Japanese went inside with a candle --

Q Came inside of the shelter?

A Yes. He even had the nerve to ask if we had any firearms or pistols or guns, and we told him that we had nothing, that we were civilians, that we were Spanish. And you should have heard the children pleading before the Japanese, asking to have mercy on them.

Well, after that the Japanese went out -- (pause) -- and then everything was quiet for a moment, and then again I heard a very strange noise outside, something like paper burning or dried grass. And then there was another man inside the shelter. The man and I went to the entrance to see what was going on, and then we saw both entrances were covered with fire. There were many people inside the shelter. So we were trapped in with fire at both entrances. Then everybody began screaming.

Well, my sudden impulse was to jump out. The man was the first one to jump out and I followed him through the

flaming entrance to the shelter.

Q Were you burned at that time?

A Yes, that is how I got my burns.

Q Where were you burned?

A Here on the arms (indicating), there on the legs (indicating).

Q Will you show the Commission the burns that you received on your leg at that time?

A I have this one here, then another here, too, and then another on the knee (indicating). And also my face was burned, my hair, and all my arm was burned, too.

Q Did you receive any other wounds or injuries at that time?

A Yes, sir. I have shrapnel wounds in my leg.

Q Just tell the Commission where the shrapnel wounds are.

A Right here on the leg (indicating). I got those several days later.

Q You did not get those that day?

A No.

Q At the time you left the air raid shelter and ran through the fire to the entrance, do you know what happened to the other people that you left in the shelter?

A Well, yes. When we jumped out, right outside of the shelter was a foxhole and I fell into the foxhole and the man who jumped with me fell into the same foxhole, and then a little while later two other people fell on top of me. It was another girl, my companion, and the other survivor and another man.

Then we just pretended to be dead. We lay there. The Japanese were walking around, and after a while we heard screams, and I guess it was people who remained in the shelter who were being burned alive. There was screaming and crying for help. Oh, I don't know! And I had one of my brothers inside!

After that we just pretended to be dead. We didn't move at all. The Japanese were walking around. Then I guess the first man who jumped out with me, he must have been so scared that he stood up and run away. I don't know what happened to him. I think he was shot by the Japanese.

Q Did you see his body later?

A No, I didn't see him anymore.

Q Do you know what happened to the people who remained in this shelter where you were?

A I guess they were burned alive, because they were screaming. And the next day I saw the shelter and everything was burned.

Q Do you think that there were 50 people in that shelter?

A Well, a little less.

Q A little less?

A Yes, because several walked out and several were killed outside.

Q When you first went in this air raid shelter on the German grounds, did you see other people gathered in other places around the German Club?

A Yes, sir. There were many people in the shelter. The German Club, it was a very big shelter there.

Q Were you close enough to that to have an opinion as to

how many people had taken shelter underneath the German Club?

A Well, my estimate would be about 800 people.

Q Did you see the German Club Building?

A Yes.

Q Did you see it burn?

A Yes, sir; I saw it burn.

Q Did you see any people attempt to escape from there?

A No, I didn't see it because all the time we were inside the shelter and we didn't dare to go out. Sometimes I used to peek out of the entrance there. It was then when I saw the German Club burning and I saw the Japanese around.

Q When you left your particular refuge or shelter had the German Club Building burned at that time?

A Yes, sir; it was burned already.

Q And when you left the shelter did you see any dead bodies around the premises?

A Well, yes. There were dead bodies. After that there was still the man and the other girl and myself there in the foxhole, and then I guess the Japanese must have known that the man was alive, because we heard them coming towards our foxhole. The man was right beside me and I heard them talking, and then I saw how they lifted the man from the foxhole, and I guess -- There were two Japanese. They bayoneted him in the chest one after the other and I heard the slashes he received on the chest, and the man kept screaming and asking for help.

Well, my companion and I, we just laid there pretending to be dead. And so after having done with the man, they just left him lying there agonizing and I thought I was going to

be next. So I guess I said my last prayers and after a while, well, I didn't hear the Japanese anymore. It was probable they left. So we just remained there without moving, my companion and me.

Well, our foxhole was practically covered by a roofing sheet and a mattress. After a while we heard the Japanese coming toward our foxhole again. I didn't know what they were talking, but I heard them say something about "gasoline". That is what they did. They poured gasoline on the roofing sheet.

Q Did you smell the gasoline?

A Yes. They poured gasoline on the roofing sheet and on the mattress, and some of it fell on my body and my clothes.

Well, after that they set it afire. The mattress caught fire and the fire was several feet high, and it was a miracle that my clothes didn't catch any fire. So we just stayed there right under the fire for about 20 minutes. I don't know how we lost consciousness. So that is how we stayed. And then while the roofing sheet and mattress were burning, the Japanese were still around. They wanted to see if we were dead, but we just lay there and didn't move at all, just like that.

So little by little the fire was put down, but we took no chances and remained like that until dark.

Q And then were you able to make your escape from the grounds there?

A Not yet, sir. We stayed in the German Club for about four or five days. Well, when it was dark I heard voices of boys calling for someone, and then it was so dark I thought

maybe it was safe for me to look around. So I got out of the foxhole with my companion and we looked around. It was surrounded by dead bodies. Right inside the foxhole was the baby's charred body black all over. Then we saw the man. He had his chest full of holes and I saw him covered with blood, and my dress was covered with blood.

Then we heard a moan from the other foxhole. We went to the next foxhole and I saw a girl who was agonizing, asking for water. I don't know who she was, but I couldn't give her any water because I didn't know where the water was. So we saw so many dead bodies around, they were black all over and burned. Then we called them and we went to the foxhole that was right beside ours, so we asked them what happened. One of the boys was crying beside the dead body of his mother. It was there lying beside him. Then the boys told me how they were lucky to escape the Japanese. I don't know how they did it. But when we went to the foxhole of the boys we stepped on a body and we looked and saw that it was the body of the husband of my companion.

Q Could you tell how he had been killed?

A Yes, sir. He had his back full of holes, too. He was bayoneted.

Q Could you recognize any of the other bodies that you saw there?

A Yes, I saw another body that was burned, I guess. It was all black and it was a body of one of the boys who got hurt inside of the shelter, received by a grenade.

Q Did you recognize any of the other bodies there besides the two that you have mentioned?

A No. We didn't see anymore. We wanted to look further but we were afraid the Japanese would see us.

Q Will you tell the Commission how many members of your family and their names who lost their lives at the German Club Building?

A Well, I lost four brothers and my mother. My mother's name was Remedios Rodriguez. My eldest brother was Alvarez Rodriguez; the second one was Vicente Rodriguez; and then Alfonso Rodriguez, and the youngest of 11 years was Augusto Rodriguez.

CAPTAIN HILL: You may cross-examine.

CROSS-EXAMINATION

Q (By Colonel Hendrix) Would you state whether the Japanese were army, navy, or marines?

A I guess they were marines, because they had olive uniform.

COLONEL HENDRIX: That's all, sir.

CAPTAIN HILL: That is all, Miss Rodriguez.

(Witness excused)

CAPTAIN HILL: Mr. Losa.

ENGRACIO LOSA

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you please state your name?

A Engracio Losa.

Q Where do you reside, Mr. Losa?

A Now, sir?

Q Yes.

A I am residing at 6 Uli Uli Street; Aviles, San Miguel.

Q And what is your occupation or job at the present time?

A I am a harbor pilot.

Q Where did you reside during the first part of February, 1945?

A I was residing at 267 San Marcelino.

Q Where was that with reference to the location of the German Club premises?

A That's not far from the German Club. It's about two or three hundred meters.

Q Did you have occasion, together with the other members of your family, during the first part of February to go to the German Club Building?

A During the first of February? No, sir.

Q The first part? The first 10 days of February?

A Yes, sir.

Q And will you tell the Commission the occasion for you and your family going to the German Club Building?

A It was on the 8th of February in the afternoon when the shelling was active and in our shelter we thought that we couldn't stay any longer because a shell hit the roof, and naturally we had to look for another shelter. So we all decided to go out from our shelter, and finally we landed at the German Club as we knew that there were shelters on the premises.

Q Were other people in the neighborhood taking shelter at the same place at that time?

A Yes, sir.

Q And when you arrived at the German Club what part of

the building or grounds did you and your family go to?

A We went under the main building.

Q Under what part of the main building?

A That about underneath of the porch of the main building.

Q And was there a concrete ceiling over the part of the shelter that you and your family were in?

A Yes, sir.

Q You were not under the wooden part of the structure?

A No, sir.

Q How many people would you say were gathered there under the shelter of the German Club on the day that you got there?

A Approximately around not less than 500.

Q And after that did other people come to the shelter?

A Yes, sir.

Q Did they continue to come there until the 10th?

A I couldn't tell exactly, but I thought they must have come there.

Q And on the 10th do you have a judgment as to the number of people that were under the building, both in the part that you were in and the part under the wooden structure?

A I couldn't tell you exactly, but I think a little bit more than 500.

Q And were you in that shelter when the building was set afire?

A Yes, sir.

Q And what did you do when the building was set afire?

A The building was burning. I took hold of my two boys and my wife and went out of the side and went to the ruins

of the next building.

Q Are your wife and children alive now?

A No, sir; they are all dead.

Q And how were they killed?

A I can't tell you exactly because I haven't seen them, because I separated from them when there was panic all over.

Q Were they killed there at the German Club?

A Yes, sir.

Q On the 10th of February?

A On the 10th of February, 1945.

Q Do you know the names of any other persons who were killed there at the German Club on that date?

A I know several of them.

Q Will you give those names to the Commission?

A There were the Bueno family: that's the mother, Mrs. Bueno; Mr. Bueno; two daughters, and one son. The Ortez family: Mr. Ortez, Mrs. Ortez, one daughter, one son. The Levy family: Mr. Levy, Mrs. Levy, Ernesto Levy, Rene Levy, and Angela Gayaso. There were the Navarro family: Mr. Navarro, Mrs. Navarro, three daughters, his son, with a wife. The Lopez family: Mrs. Lopez, Mario Lopez, Cecelia Lopez, Bernardo Lopez, and the wife, Mrs. Lopez. I don't remember some of the names.

Q Do you have a judgment as to the approximate number of people that lost their lives there at the German Club Building on the 10th of February, 1945?

A As I told you, more than 500.

Q Were any of the civilians that you saw in your part of the shelter armed in any way?

A I haven't seen nobody armed.

Q Did you see any of the civilians there that day resist in any way the members of the Japanese armed forces?

A I haven't seen nobody.

Q Do you know who set fire to the German Club Building?

A The Japanese.

CAPTAIN HILL: You may cross-examine.

COLONEL HENDRIX: No questions.

(Witness excused)

CAPTAIN HILL: Miss Marbas.

ASUNCION R. MARBAS

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you state your name, please?

A Asuncion R. Marbas.

Q And where do you live, Miss Marbas?

A 145 Burgos Street, Cabanatuan, Nueva Ecija.

Q How old are you?

A 25.

Q What is your nationality?

A Filipino.

Q And prior to February of this year what was your profession or occupation?

A I was a practicing nurse.

Q And during the first part of February of this year where were you nursing?

A I was taking care of General Nathorst.

Q What was General Nathorst's first name?

A I don't quite remember.

Q Was he a Filipino?

A He is an American.

Q And did he live here in Manila?

A Yes.

Q Do you know what his profession or occupation was?

A He is a retired general of the Philippine Constabulary.

Q Of the Philippine Constabulary?

A Yes.

Q But he was an American?

A Yes.

Q Do you know how old General Nathorst was?

A He was 82 years old.

Q And were there other members in his family?

A His wife and daughter.

Q What were their names?

A His wife was -- I have forgotten the name. I think it was Charlotte.

Q Charlotte?

A Yes.

Q And where was the Nathorst home in February of this year?

A It was one of the Lopez Apartments near the San Marcelino Church.

Q And about how far was that from the German Club premises?

A One house was in between.

Q And were you there with General Nathorst and his family on the 8th or 9th of February, 1945?

A Yes, I was.

Q Were you and the Nathorst family forced to leave the home on that day?

A We were not forced to leave our own house, but we left it because the Japanese one night tried to enter, and we were so frightened -- all the girls --

Q Speak to the Commission.

A (Continuing) -- that we decided to leave with the Nathorst family for extra protection.

Q And where did General Nathorst and the rest of the household go?

A We went to the Castanagas house.

Q And how long did you remain there?

A For about two days. Then we took shelter in the German Club.

Q Did any others accompany your group of four to the German Club?

A The General, the mother, the daughter, and me.

Q And when you arrived at the German Club what time of the day was it?

A It was before lunch.

Q That was on the 9th of February?

A Yes, on the 9th.

Q And where did you go in the German Club Building?

A General Nathorst and myself didn't go directly to the building, but we went to the air raid shelter in the yard because the General was too weak and he would have been forced into those crowded places at once without preparing where he was to stay. The mother and the daughter prepared a place

for him and later in the afternoon about 6 o'clock we transferred him to the first floor of the German Club.

Q How long did the General and yourself remain there on the first floor of the German Club?

A The first night he stayed on the first floor and I stayed with him with the mother and daughter. The next morning we transferred him downstairs because the shelling were getting quite bad.

Q Underneath the building, you mean?

A Yes, in the shelter.

Q And then during the day of the 10th were you and the three members of the Nathorst family underneath the shelter when the building was set afire?

A We were underneath.

Q And what did you do when the building caught fire, if anything?

A In the first confusion everybody tried to rush out, but I didn't because I knew it would be quite fatal for me, and I tried to take refuge behind the mattresses that were lying about. I took refuge behind the mattresses because the first time I saw a grenade hit a mattress it exploded, just the cotton part of it. Then I took refuge behind several mattresses. Afterwards the hand grenades were thrown at me.

Q Inside the shelter?

A Yes. About six times.

Q Did you see anybody killed by those grenades?

A Not killed, but wounded.

Q How long did you remain underneath the shelter after

the building was set afire?

A I would say for about 30 minutes more.

Q And then you left the shelter?

A Yes, then I left the shelter.

Q And in leaving the shelter were you injured in any way?

A No, I just got a few first degree burns, I suppose.

Q Were you injured later that day?

A Yes, I was.

Q Tell the Commission how you were injured later that day.

A When I -- Right after I was under the German Club then, I decided to run towards the stone wall towards the church. I found a hole by the stone wall and I inserted myself in between the wall to get extra protection. I stayed about 30 minutes, and the building was burning furiously. I couldn't move or do anything to get out, because there was a sentry right at the corner and farther away.

Q Was this sentry a Japanese?

A He was a Japanese.

Q A member of the Japanese Imperial forces?

A Yes.

Q Go ahead.

A And then he took pot shots at any moving object, and I thought it would be not wise to move right then. And then after a few minutes he left the place. After a while, when he was quite far from the place he left, I went to that same spot and in a few minutes after I started looking for other sentries. I found none were about, and then I took shelter in a foxhole next to the German Club and then I pretended

that I was dead. About 30 minutes later 3 Japanese talking gaily with themselves found me and just poked at my buttocks three times. They didn't do it quickly, but they just sort of edged the bayonet little by little.

Q They bayoneted you three times?

A Yes.

Q Go ahead.

A I felt so mad and so bitter and so full of hatred that I didn't show it, I didn't scream; I just crunched my jaw and pressed my little saint and prayed so hard that I didn't give a little bit of sound. Then they thought maybe I was dead. Then later they took pieces of rags soaked in gasoline and then tried to surround my head.

Q Where did they place these rags with reference to your head?

A Near my head about this high (illustrating), near my hair.

Q On the ground near your hair?

A Yes. Then they struck several matches, but it wouldn't light. So they threw the whole box at me in disgust. Then later, after that, about 3 minutes after, they come back with the choicest part of chicken and rum and then put it right over my head, thinking that I was quite hungry and that I would grab it and drink it. But I didn't. Then after a while they left me in peace.

Q When you left the shelter underneath the German Club was General Nathorst there?

A I didn't particularly notice because there was quite great confusion and everybody was stepping on everybody,

and, you know --

Q Was Mrs. Nathorst and the daughter there?

A They tried to get out immediately and I lost track of them.

Q Was the General able physically to move about?

A He was not.

Q And do you know what happened to the General and Mrs. Nathorst and their daughter Charlotte?

A I don't know what happened to them.

Q Have you seen them since that day?

A No.

Q Have you heard anything about them since that day?

A No.

Q And the last that you saw them was underneath the shelter of the German Club?

A Yes.

CAPTAIN HILL: You may cross-examine.

COLONEL HENDRIX: No questions, sir.

(Witness excused)

MAJOR OPINION: If the Commission please, sirs, this case is called the "Shell Service Station Massacre," described in Supplemental Bill of Particulars paragraph 101.

GENERAL REYNOLDS: Is the Defense prepared to proceed with item number 101 in the Supplemental Bill of Particulars?

(No response.)

Is the Defense prepared to proceed with item number 101 in the Supplemental Bill of Particulars?

COLONEL CLARKE: Yes, sir.

GENERAL REYNOLDS: Hereafter, then, unless there is no objection by the Defense, the Commission will assume that you are prepared to proceed with any items in the Supplemental Bill.

MAJOR KERR: Sir, our practice has been and will be to notify Defense Counsel in advance of the cases in the Supplemental Bill which we desire to take up the following day.

ANG BE

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

DIRECT EXAMINATION

Q (By Major Opinion) Please give your name.

A (By Interpreter) Ang Be.

Q Age?

A 38.

Q Address?

A She lives in Soler, 34 Soler Street.

Q Nationality?

A She is Chinese.

Q Married or single?

A She is married.

Q Where were you living, or where did you reside on February 11, 1945?

A Isaac Peral Street, Paco District.

Q Do you remember the number of the street?

A She does not remember.

Q Do you know this Dee Cho Lumber Yard?

A She knows them.

Q Were you living in that yard?

A She resides in the upper apartment.

Q On 11 February 1945, between 3 and 4 o'clock in the morning, where were you?

A Between 3 and 4 she was in the air raid shelter.

MAJOR OPINION: I would like, sir, to suggest to the interpreter to use the pronoun "I" instead of "she."

THE INTERPRETER: All right. Thank you.

Q (By Major Opinion) With whom were you in the air raid shelter?

A (Through Interpreter) I was with my relatives, my immediate family, and a few persons that took refuge in our lumber yard.

Q Who were the members of your family who were with you?

A I was with my husband, my sister-in-law and brothers-in-law, and my mother-in-law.

Q Can you mention the names of your children and your

husband's name?

A My husband's name is So Ting, eldest daughter
So Shao Hsiu.

Q What was her age?

A Eldest daughter 17 years.

Q Proceed.

A The second child is a son, his name is So Shao Ching,
13 years old.

Q Who else?

A A son three years old.

Q What is his name?

A So Shao Pi.

Q While you were in the air raid shelter on that morn-
ing, has anybody visited you?

A I was with my immediate family and nobody came,
and the enemy came in.

Q How many were you inside the shelter?

A Approximately 50 persons.

Q What was the nationality of those persons?

A The greater majority are Chinese, and a few Fili-
pinos with us.

Q Has any armed force come to visit you that morning?

A The armed forces with their arms, came into the air
raid shelter.

Q Who?

A Japanese soldiers in their fatigues.

Q How many were they?

A About 15 or 16 of them.

Q Was there any officer with them?

A I saw only one officer with a sword.

Q What did these soldiers do with you?

A They did nothing except to drive us out of the air raid shelter.

Q Has any Japanese soldier gone inside the shelter where you were?

A Yes. The Japanese came into the air raid shelter.

Q How many soldiers were they?

A I saw there were only two.

Q How about the rest? Where were they?

A The rest -- as I came out, I saw the rest standing in the doorway of the air raid shelter.

Q What did the Japanese soldiers say, if they said anything to you, inside the air raid shelter?

A They said nothing, but to drive us away.

Q Did you all go out of the shelter?

A Everybody came out of the air raid shelter.

Q The 50 more or less persons who were inside the shelter?

A Nobody stayed in the air raid shelter.

Q Where were you taken?

A We were first driven out of the air raid shelter, and they made us stand at the doorway. Later on we were driven to the gasoline station nearby.

Q All of you were taken to the gasoline station?

A Everybody was taken to the gasoline station.

Q What did you do at the gasoline station?

A We were made to stand, the boys in one section and the women in another section.

Q How many were there in your section?

A More than 20. The women were more than 20.

Q How about men and boys; how many were they?

A The boys were about more than 30.

Q After you had grouped into sections, where was the female section taken?

A I personally was in the gasoline station, whereas my companions were taken to the banana trees, near to the banana trees.

Q Where were these banana trees with reference to the gasoline station?

A The banana trees were at the back of the gasoline station.

Q Was that across the street?

A It was just -- the banana trees were near the station at the corner, near the house where they stayed.

Q How many persons were taken to the banana trees?

A I have no definite knowledge of the number.

Q How about your section? Where was your section taken?

A All in all there were 12.

Q My question is, where were you taken from the gasoline station?

A We were driven to the back of our house.

Q Where was that situated?

A The house was just back of the gasoline station.

Q Has there anything happened to your section?

A Nothing happened except that a Japanese started to stab the people.

Q Who were these people? Who were these people who were stabbed by the Japanese?

A I did not see who the Japanese stabbed, but I heard the cry of my mother-in-law and the other children.

Q Where was your mother-in-law with relation to the place you were?

A My mother-in-law was about a few meters away from me.

Q Did you see her that morning?

A I saw her.

Q Was she dead or alive when you saw her?

A I saw her dead.

Q Has anybody or any member of your family been injured?

A All my immediate members were killed except myself and my little daughter.

Q What is the name of your daughter that was killed?

A Aurora is her name, So.

Q How about this son of yours, So Shao Pi?

A That is my youngest son. He is dead.

Q How old was this son of yours?

A Three years old.

Q How was his death? Who killed him?

A The Japanese.

Q How was he killed?

A The child was bayoneted -- was bayoneted four times in my presence.

Q Where was your son when he was bayoneted?

A The boy was in my arms, and the Japanese pushed him aside and stabbed him.

Q How about your other son, aged 17 years, named So

Shao Ching?

A That is my son. He was killed also.

Q Who killed him?

A The Japanese killed him.

Q Where was he when he was killed?

A He was with me.

Q How was he killed? By bayonet or gunshot?

A He was bayoneted.

Q How about this So Shao Hsiu, one of your daughters; what happened to her?

A She was also killed by the Japanese.

Q Where was she killed?

A She was with me.

Q About this Tan Yen; who was she?

A She is my mother-in-law.

Q You say that she died; where did you see her body?

A I saw her body about two meters away from the gaso-
line station.

Q Could you identify the names of the other persons killed in that location, who were not members of your family?

A There was Chua Hee, So Lue, Pedro, Maria So, Lena So, Ko Ton. Also I saw Ko Ton.

Q These names you have just mentioned were all members of your family?

A These are the people that live with us, but they are not members of my family.

Q How many persons, more or less, did you see at that location who were dead? Just give us the names.

A I saw 12. I saw 12 dead bodies.

Q Would you be able to identify and name them, if you are required to name them?

A Yes, I can identify their names.

Q Your daughter Aurora So, what happened to her, if anything happened?

A She was only slightly injured by the Japanese.

MAJOR OPINION: That is all.

CROSS EXAMINATION

Q (By Colonel Hendrix) State whether the Japanese were army, navy or marines?

A They appeared to be of the navy.

COLONEL HENDRIX: That is all.

(Witness excused)

SO PENG

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

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name.

A (Through the Interpreter) So Peng.

Q Age?

A 41.

Q Address?

A 34 Soler Street.

Q Nationality?

A Chinese.

Q Early in the morning of February 11, 1945, between 3 and 4 o'clock, were you inside a shelter situated at the Dee Cho Lumber Yard?

A I was in there.

Q How many were you in the air raid shelter?

A More than 50 persons.

Q Were they all Filipinos and Chinese?

A A few Filipinos were with us. Most of us were Chinese.

Q Have you been visited by Japanese armed forces?

A Yes, the Japanese came to see us.

Q What did the Japs do?

A They told us to go out.

Q Out of the air raid shelter?

A Of the air raid shelter.

Q What did you do when you were ordered to go out?

A We were driven out of the air raid shelter with our hands tied at the back.

Q Who tied your hands?

A The Japanese.

Q All of you?

A Men and women were all tied up except those with their babies in their arms.

Q How about the men; were they tied always with their hands behind them?

A All men were tied up.

Q As soon as you were out of the air raid shelter, what did the Japanese do with you?

A They just told us to kneel down with our hands up.

Q When did they tie your hands? Before you knelt down or after you knelt down?

A As we were driven out of the air raid shelter, we

were asked to raise our hands. When once out we were made to kneel down, then our hands were tied in back of us.

Q Please tell the Commission everything that had taken place from that occasion in which you were made to kneel down and your hands were tied behind your backs, up to the killing that has taken place.

A From the place where we knelt, we were taken to the Tabacalera Building. The men were separated from the women. Upon arriving at the Tabacalera Building the men were separated from the women. Once the men and women were separated, the Japanese started the stabbing. After stabbing the victims, we left there and our own people untied our hands, those that survived.

Q And in what part of the Tabacalera compound were the men killed?

A Within the wall of the Tabacalera fence.

Q How were the men killed, by group or all at once?

A About three or four at a time.

Q Who killed the men?

A The Japanese.

Q What happened to you?

A I was stabbed three times.

Q Where?

A Chest; right chest.

Q Who stabbed you?

A The Japanese.

Q After having been stabbed, what happened to you?

A I was stabbed three times while I was lying down, then I was weakened, but then later somebody helped me to

get up.

Q Who was that?

A A Mr. Yu Ton helped me.

Q How long have you been in that compound, the Tabacalera compound?

A About three or four hours, until the Americans came and took me to the hospital.

Q What time did they take you?

A About 7 o'clock in the morning.

Q Of that day, February 11, 1945?

A On the same day, February 11.

Q Where were you when the Americans came?

A I was inside, near the wall of the building.

Q Did you see dead bodies there in the place where you were?

A I only saw two dead bodies.

Q How about the other men?

A I did not see the others, but I saw two as I came out of the building.

Q Were you able to identify those two?

A I can identify them.

Q Do you know anything about what happened to the females and boys?

A I know that they were at the back of the gasoline station, and some of them were killed.

Q Did any member of your family die in that location?

A About three or four of my immediate members died.

Q Will you name them?

A A Mr. Cho Lin Tan, So Leng Ben, Tan Hung Chee. These

are my three immediate members.

Q How about Tan Wood?

A Those are the employees of the lumber yard.

Q Where are they now, if you know?

A Tan Wood is now dead.

Q How do you know he is dead?

A Because I saw him as I came out of the Tabacalera Building.

MAJOR OPINION: Your witness.

COLONEL HENDRIX: No questions, sir.

(Witness excused)

GENERAL REYNOLDS: The Commission will stand in recess until 1:30 this afternoon.

(Whereupon, a recess was taken until 1330 hours, 2 November, 1945.)

AFTERNOON SESSION

(The trial was resumed, pursuant to recess, at 1330 hours.)

GENERAL REYNOLDS: The Commission is in session. The Prosecution may proceed.

MAJOR KERR: All the members of the Commission are present, the Accused and Defense Counsel are present and the Prosecution is ready to proceed.

FRANCISCO del ROSARIO

Recalled as a witness on behalf of the Prosecution, having been previously duly sworn, was further examined and testified as follows:

DIRECT EXAMINATION

Q (By Major Opinion) Mr. del Rosario, you have already been sworn as a witness in previous cases; is that correct?

A Yes, sir.

Q Your profession is that of undertaker?

A Funeral director, sir.

Q Showing you this photograph marked for identification purposes 136 for the Prosecution, will you please tell the Commission who is that man photographed therein?

A This is a picture of myself taken by the Signal Corps photographer, indicating the location of graves of 5 or 6 Chinese members found in the location of the Shell Service Station. They were found along the driveway looking at this photograph to the right of it. That driveway leads up to a certain garage.

This cement which you can see that I am pointing out is about the location of the dead bodies.

Q There is shown on this Exhibit 136 concrete pavement which does not seem to be the same as other portions of the driveway that you have just mentioned. Will you please state to the Commission as to who made the pavement?

A A shell made the hole about 6 feet deep and 4 feet side. Shell had this pavement here which was formerly cemented -- you can see it is obviously not the same as the rest. It was enough room for proper burial of the 5 or 6 members of the Chinese that were found there and we put 5 or 6 in a common grave and covered them up with the same dirt that came from the hole.

Q You mean to say that you used that hole produced by a shell as common grave for various persons?

A Yes, sir.

Q How many persons were buried in that hole?

A 5 to 6, because our verbal instructions of the sanitary inspector of the 37th Division was to bury the bodies in the nearest shell hole, because the reason for burying them was to get the flies away from the bodies and prevent any diseases from spreading.

Q From what place did you get those bodies which you buried in that hole?

A They were about 5 or 6 meters away from this hole, as they were to the right of this photograph in the driveway.

Q Showing you this Exhibit 137, please state if this Exhibit 136 is found in that Exhibit 137?

A Yes, sir. The former exhibit you have just shown me is the corner of this. There is a jeep to the right of this picture here and it is about that exact location where you

can see a boy standing there and the driveway I am mentioning is to the right of this jeep at the corner of this Shell station.

Q I notice on Exhibit 136 a wall behind you. Will you be able to identify or state what portion of Exhibit 137 is this wall found?

A Yes, sir. It is exactly behind the jeep to the right, sir.

Q There is a boy or a small kid right behind the jeep and in front of this wall. You mean to say that that wall in which the boy is giving his back is the same wall presented in this Exhibit 136?

A Yes; the boy to the right, sir.

Q Will you please state from what part of Exhibit 137 you removed bodies which you buried in Exhibit 136.

A There were about 15 bodies which I found in this driveway to the right, and these bodies, 5 or 6 of them, were buried in that shell hole which I just mentioned, and the rest were buried behind the Shell Service Station to the left facing the street to the left there, as it is now a military reservation. Formerly there were banana trees located there. The rest of the bodies were buried behind those since there were trenched places dug by the Japanese. The rest of the bodies which I found, which numbered about 20, were found behind the Shell Station under the banana trees. There were men, women and children in that location either bayoneted or shot. As to the state of decomposition, we could not recognize them; they were shot by the Japanese or bayoneted. They were buried in that area nearest to the

trench holes.

Q How many bodies in all were you able to bury?

A There were about 20 in that Shell Service Station -- behind the Shell Service Station, rather; there were 15 in the driveway of the Shell Service Station; there were about 10 to 15 across the street.

Q In the area where the banana trees were found, how many bodies did you bury?

A There were about 20 there, sir.

Q All in all, how many bodies did you bury?

A I estimate from 45 to 50 bodies I got from two corners.

Q Do you happen to know where the persons whose bodies you buried came from?

A I did not know until late this month.

Q When did you come to those places to bury the bodies?

A I beg your pardon?

Q When did you go to the place?

A I went there about February 20, 1945.

Q Showing you Exhibit 138, will you please state if you know it?

A This is the gate on the corner of Marques de Comillas Street and Isaac Peral. This gate is the entrance and the location where this person is pointing at is where the bodies were supposed to have been located.

MAJOR OPINION: Sirs, I offer these three exhibits, 136 to 138, as part of the evidence for the Prosecution.

GENERAL REYNOLDS: There being no objection, they are accepted in evidence.

(Photographs hereinabove described were received in evidence and marked Prosecution Exhibits Nos. 136, 137 and 138 respectively.)

COLONEL HENDRIX: No questions, sir.

(Witness excused)

HARLOW G. CLARK, JR.

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

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name, age, address.

A Harlow G. Clark; 24 years old. Do you want my home address?

Q Yes.

A My home address is Savannah, Georgia.

Q Your present address?

A 129 Infantry, 37th Division.

Q Were you a member of the American armed forces that liberated the Isaac Peral Street?

A Yes, I was.

GENERAL REYNOLDS: A little louder, please.

THE WITNESS: Yes, I was.

Q (By Major Opinion) Were you the first Americans among the American soldiers who came to the Malate and Ermita Districts?

THE WITNESS: Will you repeat that again?

MAJOR OPINION: Will you read it, please?

(Question read)

A Yes.

Q (By Major Opinion) What was your position there in the army?

A Sergeant.

Q Do you know where the Tabacalera Cigar and Cigarette Factory is?

A Yes, I do.

Q Have you been in that place?

A Yes, I have.

Q When?

A On or about the 12th, 13th of February.

Q What year?

A Until the 15th, 1945.

Q What year was that, sir?

A '45.

Q Have you been in the premises of the Tabacalera Cigar and Cigarette Factory?

A Yes, I have.

Q Showing you this photograph which has been marked as Exhibit 139 for the Prosecution, will you please state if you know that photograph?

A Yes, I know it.

Q Where is that photograph taken?

A It is taken on the north side of Isaac Peral just in front of this tobacco factory that you were speaking of.

Q When was it taken, do you remember?

A On the 12th or 13th of February; I don't remember which.

Q By whom was it taken?

A A division photographer.

Q Where were you when it was taken?

A I was standing in back of him.

Q Did you see the bodies portrayed in that exhibit?

A Yes, I did.

Q Showing you also this photograph marked for identification purposes as Exhibit 140 for the Prosecution, will you please state if you know that photograph?

A Yes, I know it.

Q Where was that photograph taken?

A This was taken at a filling station near the old Manila Police Station on Isaac Peral.

Q By whom was it taken?

A The same photographer that took the other one.

Q Were you present when it was taken?

A Yes, I was.

Q Showing you this photograph marked Exhibit 141, please state to the Commission if you know it?

A Yes, I know it.

Q Where was it taken?

A This was taken in the filling station, too.

Q Were you present when it was taken?

A Yes.

Q Was it taken by the same photographer?

A Yes.

Q How about this Exhibit 142?

A Yes, sir, I have seen it.

Q When was it taken?

A The same photographer that took the rest of them.

Q Where was it taken?

A This was taken just in front of the cigar factory along with the first one you showed me.

Q How about this Exhibit 143?

A Yes, I have seen this. It was taken in front of the cigar factory, too, just before you cross the street to the station.

MAJOR OPINION: I offer, sir, these exhibits as part of the evidence for the Prosecution.

GENERAL REYNOLDS: There being no objection, they are accepted in evidence.

(Photographs hereinabove described were received in evidence and marked Prosecution Exhibits Nos. 139, 140 and 141, respectively.)

Q (By Major Opinion) You said that you have stayed in and around the premises of the Tabacalera Cigar and Cigarette Factory from the 12th to 15th of February, 1945?

A That is correct.

Q With respect to the dead bodies photographed in these exhibits which you have just identified, what was the condition of the bodies when you found them?

A Well, the bodies had not started to decay. I should think they had been dead over 24 hours -- 24 to 36 hours. You could recognize them if you knew the persons easily enough.

Q Could you see what was the cause of death of those bodies?

A Yes.

Q What was it?

A Bayonet wounds and some had been shot.

Q Did you find the gun shot and bayonet wounds on the bodies?

A Yes, I did.

Q Was there anything unusual that took place during the time you were around the vicinity?

A Anything unusual?

Q Yes. Any Japanese snipers?

A Oh, yes, there were Japs there.

Q Did you have an encounter with them?

A Oh, yes; I did. Just the other side of the filling station there were more dead civilians, but we couldn't reach them on account of the fire.

MAJOR OPINION: That's all.

COLONEL HENDRIX: No questions.

GENERAL DONOVAN: I would like to ask a question.

Did your unit capture any Japanese prisoners during the fighting in Manila during the latter part of February?

THE WITNESS: No, sir, not that I know of.

GENERAL DONOVAN: Did you see any dead Japanese?

THE WITNESS: Yes; quite a few.

GENERAL DONOVAN: What did they belong to, the army, navy, or marine corps, or what?

THE WITNESS: The ones that I saw, General, were some that I took to be army and some that I took to be navy, because the uniforms differ.

GENERAL DONOVAN: Thank you.

(Witness excused)

MAJOR OPINION: Sir, I offer this Exhibit 144, a sworn statement of So Luan, taken by the investigating detachment

of the War Crimes Branch. Also another exhibit, 145, a sworn statement of --

GENERAL REYNOLDS: Take them one at a time.

MAJOR OPINION: Pardon me, sir.

GENERAL REYNOLDS: The Commission finds on page 46, the first page of the document, in the fourth question, the answer thereto, a statement or series of statements which it does not wish to accept. The answer in question starts as follows: "On the morning of February 11, 1945, about 57 civilians of Chinese and Filipino nationalities, the majority of whom worked at the Dee Cho Lumber Yard, were taken by the Japanese. I did not see this because I was sleeping", and so forth. All of that part down to the statement, exclusive, which reads as follows: "After finding these persons were gone", and so forth, is excluded.

Is there further objection by the Defense?

CAPTAIN SANDBERG: We are still reading it, sir.

If the Commission please, the Defense objects to the introduction of this entire statement. At the close of yesterday's session the Commission ruled that depositions or affidavits would not be admitted into evidence as the sole proof of the specification, but would be admitted only in conjunction with testimony. In the case of the instant specification there has been testimony. However, the testimony has only been to the fact that persons were found dead. There has been no testimony as to the manner in which they met their death or as to the persons who killed them, or as to who those persons were. The basis underlying the Commission's ruling of last night must have been that depositions

of this sort do not have probative value or, in any event, do not have sufficient probative value when standing alone to support the specification. And it is submitted that if that is true, in the instant case where the testimony or proof simply went to the point of showing that there were deaths without in any way linking up those deaths with members of the Japanese armed forces, in such case the deposition must be ruled out.

MAJOR KERR: If the Commission please, if counsel's position correctly interprets the ruling of the Commission it would mean, sir, that the only written statements that we could offer in evidence after having put on oral evidence concerning a case mentioned in the Bill of Particulars would be purely corroborative, and I am sure that that was not the intention of the Commission.

GENERAL REYNOLDS: The Commission will withdraw for deliberation and stand in recess until the Commission's return.

(Whereupon a recess was taken by the Commission for the purpose of executive session.)

GENERAL REYNOLDS: The Commission wishes to inquire of Prosecution if the affidavit in question pertains to Item 101.

MAJOR OPINION: Yes, sir.

GENERAL REYNOLDS: And also to verify the fact that the taking of evidence on Item 101 has started before the noon recess.

MAJOR OPINION: Yes, sir.

GENERAL REYNOLDS: In that case, the objection is not sustained. The document is accepted, with the reservations noted by the Commission.

(Prosecution Exhibit No. 144 for identification was received in evidence.)

MAJOR OPINION: Sir, I also offer, as part of the evidence for the Prosecution, Exhibit 145.

GENERAL REYNOLDS: Is there objection by the Defense?

COL. CLARKE: To Exhibit 145? No, sir.

GENERAL REYNOLDS: There being no objection, the document will be accepted in evidence.

(Prosecution Exhibit No. 145 for identification was received in evidence.)

(A statement was marked Prosecution Exhibit No. 146 for identification.)

MAJOR OPINION: This is all, sir, of the evidence of the Prosecution in connection with this case.

CAPTAIN REEL: Sir, there was an offer of Exhibit 146, which we have not finished reading yet.

GENERAL REYNOLDS: 146 has not been offered to the Commission, so far as I know.

MAJOR OPINION: I just omitted that, sir; I did not want to present any more as evidence.

GENERAL REYNOLDS: I have here an affidavit of Mariano del Rosario; is that the one to which counsel refers?

CAPTAIN REEL: Yes, sir.

GENERAL REYNOLDS: You do not wish to introduce that?

MAJOR OPINION: We do not wish to introduce that, sir.

GENERAL REYNOLDS: The Prosecution will proceed.

CAPTAIN HILL: Sir, the next incident which we desire to present is listed in Supplemental Bill of Particulars, Paragraph 104, the Moreta house case.

JOSE MANUEL MALDONADO

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you please state your name?

A Jose Manuel Maldonado.

GENERAL REYNOLDS: A little louder, please.

Q (By Captain Hill) Where do you reside, Mr. Maldonado?

A Now?

Q Now.

A 337 Perez Street, Paco.

Q How old are you?

A 38.

Q What is your nationality?

A Spanish.

Q Where did you reside during the first part of February, 1945?

A In San Carlos Street, in a house known as "San Carlos

Apartment#.

Q Where was the San Carlos apartment house with reference to the home of Dr. Moreta?

A It was about two blocks, south.

Q Can you give the address of the Dr. Moreta house?

A Sir, it is in Isaac Peral Street.

Q To refresh your recollection, was it located at 417 Isaacs Street?

A I think so, sir.

Q Did you have occasion, during February of this year, to go to the house of Dr. Moreta?

A Yes, sir, after my house was burned.

Q Speak a little louder to the Commission.

A Excuse me; my English is a very poor.

Q Will you just repeat in detail to the Commission the incidents surrounding your going to the house of Dr. Moreta.

A Yes, sir. When my house was burned, I tried to travel with my family from my house, to go away, because it was all in flame. But the soldiers, Japanese soldiers, were in the corner with machine guns. When the house was already burned, we try, all the group -- we go into the streets very near our house. There the soldiers came again. They tried to -- I don't know -- kill, bayonet with massacre, and we were to Moreta's house to the shelter in Moreta's house.

Q Was Dr. Moreta's house standing at that time?

A Yes. It was burned already, the first floor; we stay on the first floor.

Q What time did you reach Dr. Moreta's house that day?

A At 2:00 o'clock in the morning.

Q And when you reached that house, were there other persons there?

A No, we were the first to arrive.

Q Go ahead with your story; just go ahead with your story to the Commission.

A Well, as soon as we arrived there in Moreta's house, we were going to the shelter, and we stay there for about three or four hours in the shelter. About 8:00 o'clock in the morning, early, 8:00 o'clock in the morning, two officers, Japanese officers, came, and say we needed to leave the house, and they offer a pass, write in Japanese. They invite us to go in the street, say with this pass we were safe. As soon as we arrive, my family and myself, in the corner of Florida and Padre Faura Street, one machine gun started against the house and I take my sister-in-law and my wife -- it was a little in back, the rear -- and I take her, my wife and my son, three months old -- I keep my wife and bring to the -- another shelter in the street. My sister was very hurt, all the leg cut, and after one day in the shelter they asked for water, for all the family has fever, and the soldiers smile while we asked for water. I get my son, because he was near there, and my wife, and go again to Moreta's house.

Q What date was that, that you got to Moreta's house?

A The 15th.

Q And give the names of the persons that accompanied you there to Dr. Moreta's house?

A Well, when I get to the shelter, when I go in shelter from the street in Moreta's house I was with my wife. At

the same time, my son, Felices Maldonado; Mr. Asuncion Cedrun, a girl named Pelagia -- I don't know the name -- and I think Mrs. Gonzales. We spend there in Moreta's house about one day, all the 15th and 16th. I attempted twice -- I asked permission of the soldiers to take water, to bring to my sister-in-law -- she was in the shelter -- but twice they shoot me, soon as I was in the corner. Well, I go back home to take care of my wife, and the 17th, in the morning, one soldier --

Q Let me interrupt you here just a moment. By the 17th of February, how many persons had gathered there in the Dr. Moreta house?

A Well, I think about 60 persons.

Q And were they men, women or children?

A Yes; men, women and children.

Q And were they civilians?

A All the people were civilians there.

Q Were any of them armed in any way?

A No, not at all.

Q Go ahead; tell what happened on the morning of the 17th at Dr. Moreta's house.

A On the morning of the 17th, one soldier came -- first came two soldiers. One of these was officer, and he asked for census of all the persons who lived there, were in the house. We tried to make a census, and they left. They asked for only -- (unintelligible).

THE REPORTER: Will you repeat that last?

CAPTAIN HILL: Speak louder so the Defense Counsel can hear you, please.

THE WITNESS: Later, about nine o'clock in the morning --

CAPTAIN REEL: Pardon me. There was something said we didn't get.

GENERAL REYNOLDS: The reporter will read back the last question and answer.

(Question and answer read.)

A (Continuing) They asked for photo of -- (unintelligible).

THE REPORTER: Of what?

CAPTAIN HILL: What was that?

(The witness repeated the word.)

Q (By Captain Hill) Was it a photo or a painting?

A A painting of (unintelligible).

CAPTAIN HILL: Spell that name.

THE WITNESS: Shanghai.

THE REPORTER: Shanghai?

THE WITNESS: Shanghai, in China.

Q (By Captain Hill) Do you know who owned that painting?

A I don't know -- they looked about ten minutes, and smiled; it looked like they live in Shanghai before. They talk about the river and everything. May I proceed?

A Yes, sir.

A At nine o'clock, one soldier came and asked me for womans, and I tell him that is impossible now because we are Christian and I don't give womans for a soldier. And he say, "Well, if you don't give me woman now, I will kill you." I say they can kill me, but I can't. Twice it was

the same thing, with a revolver (demonstrating). Finally I said "Well, kill me now, but I can't give you woman. One is my daughter, another my sister," and he say, "Well, if I can have no woman, give me watches, fountain pens". Well, somebody have watches or fountain pens, give to this soldier. Then he took about four watches and three fountain pens and he left. Two hours later the same soldier came with about 20 more. One of them, he was officer.

Q Were these Japanese soldiers?

A Japanese soldiers, yes, sir.

Q Were they armed? Did they carry rifles or pistols?

A Three of them have a saber, and all the rest have a revolver, rifles, and things they make with bamboo with knife on the point.

Q Did any of them have bayonets on the rifles?

A All the rifles had bayonets.

Q Go ahead and tell the Commission what happened then?

A Well, they separate the womens and men. They put the men in the bathroom. They were about 20.

Q Now, can you give the names of those men that were in the bathroom?

A Some of them, yes, sir.

Q Well, just those that you can.

A Mr. Prudencio Chicote, Mr. Luis Zabaljauregui, Mr. Carlos Garcia, and a small boy named Joaquin Gonzales, and a Mr. de la Paz, Filipino; and many Chinese and Filipinos --

Q All were men in the room?

A All men in the bathroom, less that small boy.

Q Did you see what they did with these women and children?

A Not at this moment.

Q Go ahead and tell the Commission just what happened in the bathroom.

A In the bathroom we were about five minutes, less than five minutes, and they -- excuse me. I forgot to tell you the name of my father-in-law who was there, Tirso Lizarraga. Well, they took one man -- I don't know the name -- and five minutes later, or one minute later, we heard one shot. This moment we all say "Well, they want to kill us here!" and we then tried to escape the bathroom, but in the door were two soldiers with revolvers. Later they come and they pick another man. This man was Mr. Julian. One minute later they took my father-in-law, and another one, Mr. Carlos Garcia. But two minutes after they took them they bring again in the room Carlos Garcia, with handkerchief on the eyes, and I tried to go from the bathroom but one soldier pushed me back with a rifle. I fall, and at this moment they threw the first hand grenade in the bathroom. The first hand grenade come just over me and I pushed the hand grenade with my foot (demonstrating); it exploded and I was very wounded, and then jumped to the bath -- (pause)

Q Bathtub?

A Bathtub. There were five or six persons wounded, and I heard then the noise they make against -- I don't know, like a hammer at the door (knocking), a noise like that -- how they count the time on the hand grenade, and they drop the second hand grenade. After the second hand grenade I was deaf, stunned. I think they shoot about nine hand grenades in the bathroom.

Q How many people were killed in the bathroom from these hand grenades?

A I saw many of them. I can't tell exactly the number.

Q Well, maybe it would be easier for you to tell the Commission how many survived out of the bathroom.

A About five -- I know five of the ones, we left, from the bathroom; five.

Q Were any of these five besides yourself wounded in any way?

A Excuse me, sir?

Q Were any of the five besides yourself wounded in any way in the bathroom? I mean the five that left with you?

A Yes, all were wounded. Everyone in there, in the bathroom. I stayed there in the bathroom, still deaf with the commotion, and I saw my wife who came in the bathroom to tell me the Japanese are leaving already; then she fall. I held my wife and she held me, and we go into the dining room and we stay there in the dining room for about all the afternoon.

This happened in the morning -- no, the afternoon, about 6:00 o'clock in the afternoon, when the Japanese come again and look if everybody was dead. My wife was very gone with all her front of blood, and everybody make like they are dead, you know (demonstrating). These Japanese look and they go. They repeated that about six times during the night and the next morning early.

Q Now, when you and your wife left the bathroom, you went to the dining room?

A To the dining room.

Q And did you see the dead bodies or any wounded persons in that part of the house?

A Oh yes, sir, a big pile of woman died there.

Q Women?

A Woman, women; and small boys.

Q Do you have any idea how many female bodies you saw in the dining room?

A More than 15.

Q More than 15?

A More than 15.

Q Do you have a judgment as to the number of persons that were killed in Dr. Moreta's house on the 17th of February by the Japanese?

A I think about 40 persons.

Q And you have a judgment as to the number of persons that were wounded in the house?

A All the people who were there, and I think when we were transferred to another house later everybody was wounded. Only one boy, this Gonzales, was unwounded.

Q Can you tell the Commission about how many were wounded? Was it five or six or ten?

A Well, I saw 12 person alive.

Q And were they all wounded except the 2-year-old boy?

A Yes, all except the small boy, the one 11 years old.

CAPTAIN HILL: That is all.

CROSS EXAMINATION

Q (By Col. Hendrix) Approximately how many Japanese came on each trip?

A First, before the bombs?

Q Yes.

A In the morning there come two first. They took one; later they come about twenty.

Q Can you tell the Commission whether these Japanese were in the Army, the Navy or the Marines?

A I know the Marines -- maybe I'm wrong, because I don't know -- I think the Marines have an anchor in the cap.

COLONEL HENDRIX: That is all.

CAPTAIN HILL: That is all, Mr. Maldonado.

GENERAL REYNOLDS: I don't think the witness answered the question. If so, the Commission did not understand it.

CAPTAIN HILL: Shall I have the reporter read the question back?

(Question and answer read).

GENERAL REYNOLDS: Still the witness did not answer the question. The Commission desires him to continue.

CAPTAIN HILL: Will you read the question?

(Question read)

A I saw many of the soldiers' caps with an anchor in the caps, and many of them officers -- I call officers because the only thing I know, they have two yellow bars and stars, the cap with star; one star in the caps.

COL. HENDRIX: That is all.

REDIRECT EXAMINATION

Q (By Captain Hill) How many officers did you see with stars on their caps?

A Three.

CAPTAIN HILL: That is all.

(Witness excused)

MARIA ELENA MALDONADO

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you state your name, please, to the Commission?

A Maria Elena Maldonado.

Q Face the Commission and speak to them, if you will. You are the wife of Jose Maldonado who just testified before the Commission?

A Yes.

Q How old are you?

A 22.

Q And what is your nationality?

A Spanish.

Q Where do you reside?

A 337 Perez.

Q You resided, in February of this year, with your husband in the San Carlos Apartments?

A Yes.

Q And you went with your husband, leaving the San Carlos Apartments, when they caught fire, did you, in February?

A Yes.

Q And eventually ended up at the Dr. Moreta house?

A That is right.

Q Now, do you recall the date, 17 February, 1945, when you were there at the Moreta house?

A Yes, I do.

Q Can you recall the Japanese, members of the Japanese armed forces, coming there to the house that day?

A I do, yes.

Q Now, from the time that the Japanese separated the women from the men there in the house, tell the Commission just what happened so far as the group of women were concerned?

A We were all taken into the kitchen.

Q Speak a little louder.

A We were all taken into the kitchen, and we stayed there. Some of the women got a bit nervous, so they shot two shots; one hit me here on the neck (indicating). Then one person next to me was a bit nervous and she asked for medicine, and a Jap called me out and said he would give me medicine. He took me to the hall, and as I was walking down he bayoneted me twice in the back, and I fell, and from there I saw everything that happened. I saw all

the women and children, come one by one and the same thing done to them.

Q Do you know how many women were in the kitchen?

A About 35 or 40, I guess. I am not quite sure.

Q Were there children among the group?

A Lots of children.

Q Does that number include the women and children?

A Yes.

Q And were you one of the first to be taken out and bayoneted?

A I am not quite sure. When I got into the hall, I didn't see anybody else there. So I am not quite sure.

Q Did you retain your consciousness after you were bayoneted?

A Yes.

Q And give the Commission your best judgment as to the number of women and children that you saw these Japanese bringing to the dining room and bayonet.

A I am not quite sure of the number, but about 30 or 35, I am sure. And they came in one by one and were all bayoneted, and the more they struggled the more they stuck the thing into you.

Q Prior to the time that they took any of the women out of the kitchen, did they take anything away from you?

A Oh, gold things we had.

Q Tell the Commission about that.

A They took my wedding ring off, and another ring I had.

Q Did they take personal belongings from the women in the kitchen there?

A I don't know any. I don't know any who did lose any of their things.

Q How many Japanese, how many members of the Japanese armed forces were in the house there at the time these murders took place?

A About 20.

Q And can you tell the Commission to which branch of the Japanese armed forces they belonged?

A Well, I am not very sure. Some had caps on; you could see the insignia on their hats, but others had no caps, so I don't know, really.

Q How many officers did you see there?

A One.

Q Only one?

A Yes.

Q Did you notice any insignia that he wore?

A Well, he had a white shirt on and had sort of stripes here (indicating left breast).

Q Did you notice any insignia on his cap?

A A star.

Q Did you notice any others there with insignia on them?

A Navy.

Q And they were both army and navy there in the house?

A Yes.

CAPTAIN HILL: You may cross examine.

COLONEL HENDRIX: No questions, sir.

(A photograph was marked
Prosecution Exhibit No.
147 for identification.)

DIRECT EXAMINATION (Cont'd)

Q (By Captain Hill) I hand you Prosecution Exhibit No. 147; and ask you to state what it is, if you know?

A The picture?

Q Yes.

A That is me.

Q And what does that picture show?

A Two bayonet wounds on my back, a bullet on my leg, and shrapnel in the other.

Q And are those the wounds that you received in the Moreta house?

A Plus the shot on my neck.

CAPTAIN HILL: We offer in evidence, sir, Prosecution Exhibit 147.

GENERAL REYNOLDS: There being no objection it is accepted in evidence.

(Prosecution Exhibit No. 147 for Identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 148 for identification.)

Q (By Captain Hill) I hand you Prosecution Exhibit 148, and ask you to state what it is, if you know?

A It is my young sister.

Q And what is her name?

A Rosa Marie Lizarraga.

Q Is she alive now?

A She is dead.

Q Where did she die?

A The Moreta house.

Q She was one of the victims at the Moreta house?

A She was.

CAPTAIN HILL: We offer in evidence Prosecution Exhibit No. 148, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 148 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 149 for identification.)

Q (By Captain Hill) I hand you Prosecution Exhibit No. 149 for identification, and ask you to state what it is, if you know?

A My husband's foot.

Q A picture of your husband's foot?

A Before the last operation.

Q And is that the result of the injuries which he received at the Moreta house?

A That is right.

CAPTAIN HILL: We offer in evidence Prosecution Exhibit No. 149.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 149 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 150 for identification.)

Q (By Captain Hill) I hand you Prosecution Exhibit No. 150, and ask you to state what it is, if you know?

A That is the back of Moreta's house.

CAPTAIN HILL: We offer in evidence Prosecution Exhibit No. 150, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 150 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 151 for identification.)

Q (By Captain Hill) I hand you Prosecution Exhibit No. 151, and ask you to state what it is, if you know?

A That is where part of the bodies were buried in Moreta's house.

Q That is a common grave on the premises of Moreta's house, is it?

A Yes.

Q Do you know how many bodies were buried there?

A I am not sure. I know my father was there, I think.

Q Your father is buried there and others besides him?

A Yes, lots of others.

CAPTAIN HILL: We offer in evidence Prosecution Exhibit 151, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 151 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 152 for identification.)

Q (By Captain Hill) I hand you Prosecution Exhibit No.

152, and ask you to state what it is, if you know?

A That is where my sister is buried now.

Q Anyone else buried there besides your sister?

A I think so. But it isn't the quite my sister; just a few remains of her.

Q Is that the sister whose picture you identified a minute ago?

A That is right.

CAPTAIN HILL: We offer in evidence Prosecution Exhibit No. 152.

GENERAL REYNOLDS: There being no objection it is accepted in evidence.

(Prosecution Exhibit No. 152 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 153 for identification.)

Q (By Captain Hill) I hand you Prosecution Exhibit No. 153, and ask you to state what it is, if you know?

A Dr. Moreta's house.

Q That is the ruins of Dr. Moreta's house?

A That is right.

Q From which side of the house; front or back?

A Part of the side and part of the front.

CAPTAIN HILL: We offer in evidence Prosecution's Exhibit No. 153, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 153 for identification was received in evidence.)

(A photograph was marked
Prosecution Exhibit No.
154 for identification.)

Q (By Captain Hill) I hand you Prosecution Exhibit
No. 154, and ask you to state whether what it is, if you
know?

A Dr. Moreta's house.

Q That is from another view?

A Another view.

Q Do you know which side that is from?

A One of the sides, I think.

CAPTAIN HILL: We offer in evidence Prosecution
Exhibit No. 154, sir.

GENERAL REYNOLDS: There being no objection, it
will be accepted in evidence.

(Prosecution Exhibit No.
154 for identification
was received in evidence.)

(A photograph was marked
Prosecution Exhibit No.
155 for identification.)

Q (By Captain Hill) I hand you Prosecution Exhibit
No. 155, and ask you to state what it is, if you know?

A That is part of the kitchen in Dr. Moreta's house.

CAPTAIN HILL: We offer in evidence Prosecution
Exhibit No. 155, sir.

GENERAL REYNOLDS: There being no objection, it is
accepted in evidence.

(Prosecution Exhibit No.
155 for identification
was received in evidence.)

(A photograph was marked
Prosecution Exhibit No.
156 for identification.)

Q (By Captain Hill) I hand you Prosecution Exhibit No. 156, and ask you to state what it is, if you know?

A That is the bathroom.

Q That is the ruins of the bathroom in the Moreta House?

A That is right.

CAPTAIN HILL: We offer in evidence Prosecution Exhibit No. 156, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 156 for identification was received in evidence.)

CAPTAIN HILL: You may cross examine.

COLONEL HENDRIX: No questions, sir.

(Witness excused.)

MARY GONZALEZ

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

DIRECT EXAMINATION

Q What is your name?

A My name is Mary Gonzalez.

Q And how old are you, Mary?

A I am 10 years old.

Q And where do you live?

A I live in 111 Beuncamino.

Q Do you know what it means to hold up your right hand and take an oath?

A Yes. To tell the truth.

Q To tell the truth?

A Yes.

Q That's fine! Where were you living in February, the first part of February of this year?

A I was living in San Carlos Apartment.

Q And do you know where Dr. Moreta's house is?

A Yes.

Q And did you go to Dr. Moreta's house sometime in February?

A Yes, we went.

Q Who went with you?

A My mother and my brothers and other friends.

Q And why did you go to Dr. Moreta's house?

A Because San Carlos Apartment was burned.

Q And were there other people at the Moreta house when you got there?

A No.

Q You were the first ones to get there?

A Yes.

Q And then after that did other people come to the Moreta house?

A Yes.

Q And do you remember on the 17th of February when some Japanese came to that house?

A Yes.

Q About what time of day was that?

A In the morning.

Q And where were you when they came in the house?

A We were in the salon.

Q You were with your mama?

A And other friends.

Q And what did these Japanese do to you?

A They bayoneted --

Q No. First did they take you to the kitchen?

A First they took the men and put them in line. They brought them to the bathroom and they brought the women to the kitchen. Then they called one by one.

Q Did they take you to the kitchen?

A Yes.

Q And did they take you out of the kitchen then?

A Yes.

Q Were you the first one to be taken out of the kitchen?

A No.

Q When did they take you out?

A I was almost the last.

Q And where did they take you to?
A To the dining room.
Q And what did they do there?
A They bayoneted me.
Q Show the Commission where they bayoneted you.
A Here (indicating right arm).
Q Anywhere else?
A The back.
Q How many times in the back?
A Three times.
Q And then what did you do?
A I fell down and I was fainted.
Q And then when you regained your consciousness were the Japanese still there?
A No.
Q And did you leave the Moreta house then?
A We went out at night.
CAPTAIN HILL: You may cross-examine.
COLONEL HENDRIX: No questions, sir.

(Witness excused)

PRUDENCIO CHICOTE

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you please state your name to the Commission?
A My name is Prudencio Chicote.
Q And where do you reside?
A At present?

Q Yes.

A At 53 Ortega, San Juan del Monte.

Q And how old are you?

A 31.

Q What is your nationality?

A Spanish.

Q And what is your occupation or business?

A In normal times I was a chemist.

Q What are you doing now?

A I am working for Ammunition Section Base X Headquarters.

Q Are you one of the survivors of the killings that took place at Dr. Moreta's house on February 17th of this year?

A Yes, sir.

Q Were you hurt or wounded in any way at the Moreta house on that day?

A I was wounded; yes, sir.

Q Where were you wounded?

A On the right leg, right here (indicating).

Q How were you wounded?

A By a hand grenade.

Q In which part of the house were you when you were wounded by the hand grenade?

A In the bathroom.

Q How many members of the Japanese Imperial forces did you see there in the house that day?

A When they came in they were about, I would say, 20 or 25.

Q How long did they remain in the house?

A Just how long they remain, I don't exactly remember.

It must have been about an half an hour before they committed the atrocities. It was probably about an half hour or something like that.

Q After the Japanese left, Mr. Chicote, did you have occasion to go into other parts of the house?

A Yes, I did.

Q And did you go into the kitchen?

A Yes, I did.

Q Will you describe and tell to the Commission just what you saw there in the kitchen?

A May I tell you before that that I was hurt; I was wounded; I had to walk on one leg. I tendered first aid to my nephew, Carlos Garcia, and then I said, "I will tender aid to other victims". I went to the other parts of the house and I went to the kitchen. Do you want me to tell what I saw in the kitchen, sir?

Q Yes. You don't need to mention any names, but just tell the Commission what you saw there.

A In the kitchen were three dead bodies.

Q Were they male or female?

A Female.

Q And will you describe to the Commission the condition of these bodies?

A Apparently they had been raped.

Q After you left the Moreta house did you make a list of those persons known to you to have been killed and wounded in the Moreta House?

A Yes, sir, I made it together with one other survivor, Mr. de la Paz.

Q Do you have that list with you now?

A Yes.

Q Will you take that list and read to the reporter the names of the persons that you know to have been killed or wounded there?

A Maria Luisa C. de Chicote.

Q First give the names of those that were killed.

A She is one of them. Prudencio Chicote, Jr. That is my son. Maria Rosa Lizarraga, Maria Umpad. Amparo Tolosa, Emiliano Umpad, Jr., Rosie Umpad, Pilar Julian, Vicente Julian, Teresa B. Vda. de York, Jose Samson, Tirso Lizarraga, Maria Cuevas, Carlos Garcia Buck, Pasquita Chicote de Garcia, Carmina Garcia, Alejandro Regala. Mrs. Regala. There was an old woman, the mother of Mr. Regala. Felisa de la Paz, Feliciano Dizon, Renato de la Cruz, Carlitos de la Cruz, Aurora de la Cruz, Lolita de la Cruz, Ramon Fernandez, Celina Samson, Carolina Chicote de Zabaljauregui, and Ana Mari Zabaljauregui.

Besides these I mentioned there were six more Chinese whose names I don't know, sir.

Q Now give the reporter the names of those that you know to have been wounded in the Moreta house.

A Emilio de la Paz, Emilio de la Paz, Jr., Vicente Serrano, Irene G. de Serrano, Jose Samson, Conchita . de Samson, Rosario Kabil, Florentina E. H. Gonzalez, Mary Gonzalez, Luis Zabaljauregui, Carlos Garcia, Jr., Jose' de Maldonado, Maria Elena L. de Maldonado, Tirso Maldonado, Pelagia Laraya, Emiliano Umpad, Maria Umpad, Feliciano Oxabello, and four more Chinese whose names I don't remember, and myself.

Q Now, Mr. Chicote, with reference to the three female bodies that you saw in the kitchen and about which you have testified, were these bodies bayoneted?

A Yes, sir; they were.

Q Will you tell the Commission where these bodies had been bayoneted?

A They were bayoneted in this part here; the sexual organs.

Q And tell the Commission in what manner they had been bayoneted.

A I saw one of the women had a cross bayoneted like this (illustrating); another woman had two: one here and another one here (indicating).

CAPTAIN HILL: You may cross-examine.

COLONEL HENDRIX: No questions, sir.

(Witness excused)

MARIA GALIDO V. TAN CO

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

DIRECT EXAMINATION

Q (By Captain Hill) State your name, please.

A Maria Galido V. Tan Co.

Q How old are you?

A 50 years.

Q What is your nationality?

A Filipina.

Q Do you know where the home of Dr. Moreta was located on Isaac Peral Street?

A Yes, I know.

Q Did you have occasion to go to the home of Dr. Moreta on the night of February 17, 1945?

A Yes.

Q At what time that evening or that night did you go to that house?

A Between 9 and 10 o'clock.

Q And when you got to the Moreta house what did you see there, if anything?

A When I arrived at Dr. Moreta's house I saw many Japanese. One of them had a leather strap across his shoulders to his hips and he had a long sword.

Q Did you see any dead bodies there in the Moreta house that night?

A Many I saw.

Q And did you remain there all night that night of the 17th?

A I was there the whole night.

Q During the night did members of the Japanese armed forces come to that house from time to time?

A There were many Japanese who came with flashlights.

Q And what did they do when they came with flashlights?

A They got many beautiful women and brought them upstairs.

Q Did those women who were taken out by the Japanese or taken upstairs return?

A No, they did not return.

Q After these women were taken upstairs did you hear any noise of any kind coming from the upstairs part of the house?

A They were all screaming.

CAPTAIN HILL: You may cross-examine.

COLONEL HENDRIX: No questions, sir.

(Witness excused)

CAPTAIN HILL: That is all of this incident.

GENERAL REYNOLDS: The Commission will be in recess for approximately five minutes.

(Short recess)

GENERAL REYNOLDS: The Commission is in session and the Prosecution may proceed.

CAPTAIN HILL: The next incident, sir, is Bill of Particulars No. 36.

UMBERTO De-POLI

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you state your name, please?

A Umberto De-Poli.

Q Where do you reside?

A I live at 478 Luis Francisco Street, Pasay, Rizal Province.

Q How old are you?

A 60.

Q What is your nationality?

A Italian.

Q How long have you resided in the Philippine Islands?

A 35 years.

Q Did you know Albert Delfino during his lifetime?

A Yes, sir.

Q Will you tell the Commission what official position,

if any, he held here in the Philippine Islands?

A He was the Consul of Venezuela.

Q Consul for Venezuela?

A Venezuela.

Q How long had you known Albert Delfino?

A Not less than 30 years. We used to work together in the Customs House when I arrived in the Philippine Islands.

Q You had known him for 30 years?

A At least.

Q Did you have occasion to see Mr. Delfino on the 13th of February, 1945?

A Yes, sir.

Q Will you relate to the Commission where and under what circumstances you saw Mr. Delfino on that day?

A I will. I was called by the Japanese sentry at Vito Cruz, corner of Domingo. After, he took away all the provisions I had in my basket. I was on my way to bring provisions to my wife in Malate. He took away my passport and he took away my eyeglasses.

Q Speak just a little louder and speak to the Commission.

A They took away everything I had. They slapped me left and right. I suppose it was part of their barbarity. Then they tied me up. No, they did not tie me up at that time. They brought me to the corner of Vito Cruz and Taft Avenue, where the White Dove Cafe is. There I saw right away Mr. Delfino.

Q And who was with Mr. Delfino when you saw him?

A He was talking to a lady and a young man, whom I surmized was the wife.

Q And this was at the White Dove Cafe?

A Yes.

Q On Taft Avenue?

A On the corner of Taft Avenue and Vito Cruz.

Q And were any other people with the Venezuelan Consul at that time besides those you have mentioned?

A Yes.

Q How many others?

A At least 9 or 10.

Q And was the Venezuelan Consul tied in any manner when you saw him?

A They were all tied, those that were there.

Q Tell the Commission how they were tied.

A They were tied in the back with rope on different sides and then the seven were tied together, first individually and then together with the rope. And then they tied myself with this half-an-inch thick rope very tight. It was painful. And they put me in the last row where there was a Filipino and a very distinguished looking Chinese -- No. I was the last one. Then the three Delfinos, then the Chinaman, and finally the Filipino. I was the last one.

Q At what time of the day did you first see the Venezuelan Consul there at this place that you have described?

A About 9 o'clock. I did not have any watch because they took it away from me, so I could not find out.

Q And were there any Japanese around this group of people?

A There were. There were three sentries and an officer. I mean, the three sentries brought me to the officer. The

officer inspected my passport. I had some what is called "Kickey Mouse" money. He gave it back to me, put it in my pocket and then he sent me to the White Dove.

Q Were these Japanese armed in any way?

A They had rifles and bayonets and the officer had the long sword.

Q And what did these Japanese do with this group of people, if anything?

A There they did nothing. They just started to drive us south.

Q Talk to the Commission.

A They just sent us to the right side of the Taft Avenue for about, say, a hundred or two hundred meters. All the houses there were in one compound. I remember very well there were four houses, painted more or less in a reddish color. Three of the houses had completely burned to the ground.

Q How far was this house where the group was taken to from the White Dove Cafe?

A As I say, about 200 meters.

Q And when you arrived there at that house, was it on fire?

A The house was started to be on fire. They threw on top a bucket of gasoline and then they send us upstairs in the room facing Taft Avenue.

Q Did they take the entire group upstairs?

A All the group, and they put us in front of a very tall mirror, two rows; first my row and then the other with the women and children.

Q Were all of the members of the group standing?

A All standing at that time.

Q And tell the Commission what, if anything, you saw the Venezuelan Consul do in that room?

A The Venezuela Consul started to kiss his wife and they kissed each other and say to each other endearing words, asking forgive this if during the lifetime they have said something wrong to each other -- and nothing else.

Q And what did the Japanese do then, if anything?

A From the door a little distance they started to unload their rifles.

Q You mean they started to shoot?

A From about a meter where I was. They were about a meter from me. And immediately after they shot I saw blood coming out from the shoulder of Delfino, because he was about half a foot from me.

Q From Mr. Delfino's back, you mean?

A Yes.

Q And did you see anyone else shot there by the Japanese?

A Four. Delfino, his wife, his foster-son and the Chinese. And we collapsed with them. Their weight dragged us because we were also tied with that rope.

Q Did the Japanese remain there in the room?

A When they saw that we were all on the floor they started just to beat us with the butt of their gun to see -- or their rifle, to see if we were dead or alive. Well, I played dead and I think the others did the same thing. So then they went out of the room and closed the door, leaving us there to burn alive.

Q Did they lock the door?

A They locked the door, because I know that I tried to break it down.

Q Then after these Japanese left, what did you do, if anything?

A The women started to scream. I told them, "There is no use to scream now. You had better pray." And they started to pray in Tagalog. I could see that they could not untie themselves. So I waited a little, and it is a little tragic what I say. I have been born a Catholic, but I have never been a good church-goer, but on the floor near to me there was a little statue of the Virgin Mary with the baby, and I remembered the prayer of my mother. I say, "They say you are so good. If you can do something at least for these children, please do it." Almost immediately one of the girls untied herself and she untied practically all the others.

We threw down the door, which was already burning. There was a little corridor leading to Taft Avenue. I saw outside the Japanese were very far up to the corner of Taft and Vito Cruz, and in turning around I saw that there was a border of about so wide (illustrating) and 5 or 6 meters away there was a papaya tree reaching practically the corner. I was the only one who could reach it. I went downstairs, led the papaya tree to the wall and then they all crept down.

Q And how many from that group were able to make their escape from that burning house?

A 9 or 10.

CAPTAIN HILL: I ask that this be marked for identification.

(Photograph of entrance to compound was marked Prosecution Exhibit No. 157 for identification.)

Q (By Captain Hill) I will hand you Prosecution Exhibit No. 157 and ask you to state what it is, if you know.

A That is the house of the compound where we were. The house that was burning was right here. (Indicating)

Q That is the entrance to the house?

A This is the entrance of the compound of the four houses. Two houses were on one side and two houses on the other.

CAPTAIN HILL: We offer in evidence Prosecution's Exhibit No. 157, sir.

GENERAL REYNOLDS: There being no objection, the document is accepted in evidence.

(Prosecution Exhibit No. 157 for identification was received in evidence.)

CAPTAIN HILL: You may cross-examine.

CROSS EXAMINATION

Q (By Colonel Hendrix) State how far 1609 Taft Avenue is from Rizal Stadium.

A I am not very much of an engineer with measuring, but considering the time that we took to go there I would say about two or three hundred meters, not more.

Q As a matter of fact, it is just around the corner at the street intersection?

A There is no intersection there. You mean by "intersection", Vito Cruz is not less than 200 meters from 1609 Taft Avenue.

Q There were some Japanese stationed at the Rizal Stadium?

A I could not say that. I did not pay any attention.

Q Did you ever see any Japanese over at the Stadium?

A No. I know that the Japanese were on the corner of Vito Cruz and Taft Avenue, because the officer, before he tied me, he went to go out to see what he should do with me.

Q The Japanese that came to 1609 Taft Avenue, were they the same that you have been testifying about?

A You mean those that brought us to the burning house?

Q Yes.

A I could not state.

COLONEL HENDRIX: That is all.

(Witness excused)

CAPTAIN HILL: We wish to introduce, sir, Prosecution's Exhibit No. 158, which is the sworn statement of Beatriz Teodora Amigo, taken on the 27th of June, 1945, before an investigating officer of the War Crimes Investigating Detachment.

GENERAL REYNOLDS: There being no objection, the document is accepted in evidence.

(Statement of Beatriz Teodora Amigo was received in evidence and marked Prosecution Exhibit No. 158.)

CAPTAIN HILL: I hand you Prosecution's Exhibit No. 159, which is a photograph identified in the statement, marked Prosecution's Exhibit 158, which we desire to offer into evidence.

GENERAL REYNOLDS: There being no objection, the document is accepted in evidence.

(Photograph referred to in Prosecution Exhibit No. 158 was received in evidence and marked Prosecution Exhibit No. 159.)

CAPTAIN HILL: We offer in evidence Prosecution's Exhibit 160, which is a sworn statement of Igmidio Ramos, taken before an investigating officer of the War Crimes Investigating Detachment on 7 July 1945. This is offered only for the purpose of identifying a picture which we shall seek to introduce as the next numbered exhibit; otherwise it is cumulative. Page 28, sir, is where the photograph is identified.

We will offer in evidence Prosecution's Exhibit No. 161, which is the photograph identified by the statement shown in Exhibit 160.

GENERAL REYNOLDS: There being no objection, the affidavit and photograph presently under consideration are accepted in evidence. Is there objection?

COLONEL HENDRIX: Sir, I wish to call the attention of the Commission to page 27 of this statement.

CAPTAIN HILL: Which statement is that?

COLONEL HENDRIX: Exhibit 160. It will be the fourth page.

I would like to read, sir, the question and answer appearing at the 18th line from the bottom, sir.

"Q Do you know what unit any of those Japanese belonged to?

"A I only know that they were all in the Navy."

CAPTAIN HILL: Sir, I offered only that part of the affidavit or statement showing the identification of the exhibit which followed, being Exhibit 161.

COLONEL HENDRIX: Sir, we would like for the question and answer just read to also go in with the record.

GENERAL REYNOLDS: The Commission notes the request of the Defense and grants it.

(Statement of Igmidio Ramos and photograph of bayonet wound received by Igmidio Ramos were received in evidence and marked Prosecution Exhibits Nos. 160 and 161, respectively.)

CAPTAIN HILL: That is all of that incident, sir.

The next Bill of Particular number which we desire to present is No. 41.

FLORENCIO HOMOL,

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

DIRECT EXAMINATION

Q (By Captain Hill) Will you state your name, please, to the Commission?

A Florencio Homol.

Q How old are you?

A Thirty-five years old.

Q And what is your nationality?

A Filipino.

Q Where do you reside now?

A 1200 Interior, 18G Tuazon Street, Manila.

Q And during the first part of February, 1945, where did you reside?

A 151 Balagtas.

Q And whose home was that?

A It was Mr. Fox's home.

Q And where was the Fox home with reference to the home of Mr. Carlos Perez Rubio, sir?

A Mr. Fox's house was just back of Mr. Carlos Perez Rubio's home.

Q Were you employed by Mr. Fox at that time?

A Yes, sir.

Q Do you recall on the 12th of February, 1945, any members of the Japanese armed forces coming to your quarters at the Fox home?

A Yes.

Q About what time of the day was that?

A About twelve o'clock noon.

Q And how many Japanese came there to your quarters at the Fox home?

A The first time those Japanese appeared there were only three in number.

Q And what did these three Japanese do?

A They asked for the master, and at the same time searched all the rooms of the house.

Q Did they leave after that?

A They leave for about a quarter of an hour and come back with increased number.

Q How many came back with the three?

A When they came back they were eight.

Q Eight altogether?

A Yes.

Q And were they members of the Japanese armed forces?

A Yes.

Q And what did these eight Japanese do when they returned?

A They asked us all to stand and raise our hands and

come in line, and bring me downstairs, and asked us to march to 150 Vito Cruz where Mr. Rubio's house was.

Q And how many were with you at the time you were taken into custody by these Japanese?

A All of those eight Japanese --

Q No. How many other Filipinos were with you?

A We were only three Filipinos and one Chinese.

Q And what were the names of the other two Filipinos and the Chinese?

A The Chinese was known to me only as Ambrosia, and the other two was Alfredo, and the other one is Marino.

Q And where did the Japanese take you to in the Carlos Perez Rubio home?

A We were taken to 150 Vito Cruz in Mr. Perez Rubio's house.

Q To what part of the house were you taken?

A We were taken to the back part of the house, in the garden.

Q In the garden?

A Yes. We form a line in the garden first.

Q Were there any other persons in the garden when you arrived there?

A All of Mr. Rubio's family and the servants and some other people there around the house.

Q About how many people were there at the time you arrived?

A There were about 20.

Q And what did the Japanese do with all of you there in the garden?

A When we were forming a line then with our hands up, they search us of all that we have and then order us to go upstairs.

Q Did you go up to the first floor?

A Yes, right on the first floor on the left.

Q And did the Japanese tie any of you in any way?

A No. They did never tie any one of us there.

Q When they took you from the garden into the house how many Japanese guarded you?

A There were -- . The first Japanese were six.

Q And were they armed in any way?

A They were armed with bayonets.

Q And did they have rifles?

A Yes, sir.

Q Were there any officers among that group?

A Among that group I found only two officers.

Q Two officers?

A Yes.

Q How could you tell that they were officers?

A Because whenever those Japanese who were the soldiers talked they always asked the two men what to do, and those two men always give the orders before the others do anything.

Q After the Japanese took this group into the house, tell the Commission what they did, if anything.

A We were there in the house. They search us. They took our watches, bracelets; anything that they wanted, and then after that they pick up all the rugs and everything they can find there and pile it in one room.

Q Which room in the house was that?

A It was in the hall.

Q The what?

A The hall.

Q The hall?

A Yes.

Q In the front part of the house?

A Yes.

Q And then what did the Japanese do?

A When the Japanese finish piling those rugs there they pour gasoline on those rugs and light it.

Q Did they lock the doors?

A Yes. They took the key with them.

Q And they lighted the rugs after pouring gasoline on them before they left the house, is that right?

A Yes, sir.

Q And could you see where the Japanese went after they went out of the door?

A When they left the house they went to the garden. They were divided in a group. It is Group No. 6 and 6.

Q Did they leave the premises, or did they surround the house?

A They surround the house.

Q Tell the Commission what took place inside the Rubio home after the Japanese left.

A When the Japanese left the fire was already very big and we could hardly breathe because of the smoke, and we were locked in. Mr. Perez Rubio, the owner of the house, told us it would be better to die by a single shell than to

die in the burning house. So we rushed to the door and kicked it as hard as we could. Then it opens and we rush out. We cannot see where to go on account of the fire.

Q Who rushed out with you?

A It was Mr. Rubio and her daughter.

Q "His" daughter, you mean?

A His daughter. And there was another woman, but Mr. Rubio's daughter turned back to the room where we were locked and Mr. Rubio and me proceed to escape.

Q Did you see what happened to Mr. Rubio, then, if anything?

A When I come out from the gate five Japanese met me and bayoneted me there. Then I pretended to be dead, lying flat on the ground. A few minutes later one of my companions followed me there, and the Japanese paid attention to that other fellow and hoping that I am already dead. And then I heard somebody shouting in the garden. I raised up my head and found some children and women bayoneted by other Japanese soldiers. Then for fear that those Japanese will turn back to me, I rise up and run as fast as I could. Then when I was on the back of the house I saw Mr. Rubio shouting, raising his hand, and those Japanese, about six of them, were shooting him.

Q Did you see what happened to Mr. Rubio after he was shot?

A I do not know, because I escaped already from that place where he is dead.

Q Did you see any other persons leave the house or attempt to leave the house after it caught afire?

A No, I did not see anybody.

Q How many times were you bayoneted by the Japanese?

A I have been bayoneted often times, but I was wounded four times.

Q Where are those wounds? In what part of your body?

A I have two in my back, one here and one here (indicating).

Q And were you able to make your escape from the Rubio premises without being killed by the Japanese?

A Yes. When I stand up to finally make my escape those Japanese were trying to catch me there. They shot me, but they missed, and the Japanese soldiers were coming after me, but I was able to escape them.

Q Do you know how many people were killed that day in the Perez Rubio home?

A The last time I -- . How many persons were dead with me? We were about 38, but at least five of us escaped.

Q At least five escaped?

A Yes.

Q And of that five do you know how many were wounded?

A I know there were two Joses, Ignacio, Garcia, Tamonto, and another one, but I cannot tell you the name.

CAPTAIN HILL: Take the witness.

CROSS EXAMINATION

Q (By Colonel Hendrix) Will you state if any of the Japanese about whom you have testified were Army, Navy, or Marine?

A What is that?

Q You have testified about certain Japanese coming to

these various houses, have you not?

A (No response.)

Q How were the Japanese dressed?

A They were dressed like the uniforms of Americans, not the khaki, but the other one; almost like that.

Q Did the uniforms have any certain insignia?

A I cannot tell the insignia of the soldiers who enter Mr. Rubio's house.

Q By looking at the uniform could you tell whether they were Army or Navy?

A According to one of my companions in Mr. Rubio's house he told me that they were Marine. At the time when the war start he was serving in the Navy, and this fellow told me that they are Marines.

COLONEL HENDRIX: That is all.

CAPTAIN HILL: That is all.

(Witness excused.)

JOSE BALBOA

called as a witness on behalf of the Prosecution, being first duly sworn through Interpreter Rosario F. Rodas, was examined and testified through the Interpreter, as follows:

DIRECT EXAMINATION

Q (By Captain Hill) What is your name, please?

A (Through Interpreter) Jose Balboa.

Q How old are you?

A 35.

Q What is your nationality?

A Filipino.

Q Where do you reside?

A Vito Cruz.

Q During the first part of February of this year, where were you employed?

A In the house of Perez Rubio.

Q And what was the street number of that house?

A 550 Vito Cruz.

Q What did you do for Mr. Rubio?

A Guard; night guard.

Q A night guard for his premises?

A Yes.

Q Do you recall the 12th day of February, 1945, when members of the Japanese armed forces took you from your quarters to the Perez Rubio home?

A I remember.

Q What time of the day was that?

A 10 o'clock in the afternoon.

Q How many people were taken with you in the same group to the Rubio home?

A Four.

Q And when you got to the Rubio home where did the Japanese put you?

A They locked us up in a room.

Q In what part of the house?

A In the second floor.

Q And how many were located in the room with you?

A Eight people.

Q Did you know anything about a much larger group being located in a different part of the house that day by the Japanese?

A There were many, but I did not see, because we were the ones who were locked last.

Q After you were locked in this room upstairs with the other seven people, what, if anything, did the Japanese do?

A They fired at us in the room, and they burned the room.

Q When the Japanese fired at the group in your room, did they kill or injure anyone?

A Yes, my aunt was shot and killed.

Q Was anyone else shot and killed there in the room?

A There was no other except my aunt.

Q Were all of the people that you saw there in the Rubio home that day civilians?

A They were civilians.

Q And were any of those civilians armed in any way?

A They have none.

Q Did you see any of those civilians resist the Japanese in any way?

A I did not see.

Q After the Japanese shot the one person in your room and the house was on fire, what, if anything, did you do?

A I forced the window open and fled.

Q Were you able to make your escape from those premises that day?

A Yes, I ran.

Q Were you wounded or hurt in any manner, in attempting your escape?

A Yes, on my thigh I was hurt.

Q How were you hurt on your thigh?

A By a bayonet.

Q Other than the injury which you received and the person you have told us that you saw killed, did you see any others killed or injured there at the Rubio home that day?

A Yes, I saw others.

Q How many others?

A One.

Q Who was that person?

A Perez Rubio.

Q Did you see what the Japanese did to Perez Rubio?

A I saw.

Q What did they do to Perez Rubio?

A He came from the scene of the fire. He came from the scene of the fire with his hands up. He was killed --

he was shot by the Japanese.

Q Was he killed by the Japanese?

A Yes, he was shot at five times before he fell down then.

(A photograph was marked
Prosecution Exhibit No.
162 for identification.)

Q I hand you Prosecution Exhibit No. 162, and ask you to state what it is, if you know.

A Yes, I recognize it.

Q What is it?

A The house of Perez Rubio.

Q As it stands today?

A No, not like that any more. It is already destroyed.

Q Is that a picture of the Rubio house after the fire?

A Only the posts remain.

CAPTAIN HILL: We offer in evidence Prosecution Exhibit No. 162, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No.
162 for identification
was received in evidence.)

(A photograph was marked
Prosecution Exhibit No.
163 for identification.)

Q (By Captain Hill) I hand you Prosecution Exhibit No. 163, and ask you to state what it is, if you know.

A Yes.

Q What is it?

A This is the place where Perez Rubio's son was buried.

CAPTAIN HILL: We offer in evidence Prosecution Exhibit

No. 163, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 163 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 164 for identification.)

Q (By Captain Hill) I hand you Prosecution's Exhibit No. 164, and ask you to state what it is, if you know.

A Yes, I know.

Q What is it?

A This is the graveyard of Perez Rubio.

CAPTAIN HILL: We offer in evidence Prosecution Exhibit No. 164, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 164 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 165 for identification.)

Q (By Captain Hill) I hand you Prosecution Exhibit No. 165, and ask you to state what it is, if you know.

A Yes.

Q What is it?

A This is the grave of Mr. Pahodpod.

Q Are the graves which you identified so far all graves of victims of the Japanese buried at the Rubio house, which you have testified about?

A Yes.

CAPTAIN HILL: We offer in evidence Prosecution Exhibit No. 165, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 165 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 166 for identification.)

Q (By Captain Hill) I hand you Prosecution Exhibit No. 166, and ask you to state what it is, if you know.

A This is Perez Rubio.

CAPTAIN HILL: We offer in evidence Prosecution Exhibit No. 166, sir.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 166 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 167 for identification.)

Q (By Captain Hill) I hand you Prosecution Exhibit No. 167, and ask you to state what it is, if you know.

A No, I do not know this.

Q Can you identify that as one of the bodies which you saw at the Perez Rubio home, after the fire on the 17th?

A I can only recognize Rubio.

CAPTAIN HILL: Cross examine.

COLONEL HENDRIX: No questions, sir.

(Witness excused)

MANUEL EGONA

called as a witness on behalf of the Prosecution, being first duly sworn through Interpreter Rosario F. Rodas, was examined and testified through the Interpreter as follows:

DIRECT EXAMINATION

Q (By Captain Hill) Will you state your name, please?

A (Through the Interpreter) Manuel Egona.

Q Where do you live?

A 55 Balagtas.

Q How old are you?

A 47 years.

Q What is your nationality?

A Filipino.

Q During the first part of February of this year, for whom did you work?

A I was working for the Perez Rubio.

Q After the home of Perez Rubio was burned, did you have occasion to go to those premises and see the ruins of the home?

A Yes.

Q Do you recall on what date you first went to the Rubio home after the fire?

A Yes, I remember.

Q What date was that?

A Friday.

Q What date?

A 17th of February.

Q And for what purpose did you go to the Rubio home

at that time?

A I wanted to find out if they are still alive or whatever happened to them.

Q When you got to the Rubio home, tell the Commission what you saw there?

A I saw that they were all dead.

Q Tell the Commission about how many bodies you saw there on the Perez Rubio premises?

A Yes.

Q How many?

A 28 persons in all.

Q Were you able to identify any of these bodies that you saw there?

A I recognized most of them except three. I know the rest.

Q Did you subsequently bury or help bury the bodies that were left there in the Rubio premises?

A Yes.

Q And at that time, did you make a list of the persons, of the bodies which you were able to identify?

A Yes, I did.

(A list of names was marked Prosecution Exhibit No. 168 for identification.)

Q (By Captain Hill) I will hand you Prosecution Exhibit No. 168, and ask you if that is a true and correct copy of the list of persons, the list of bodies that you were able to identify at the Rubio premises.

CAPTAIN HILL: You had better come and read it to him.

(The Interpreter read to the witness the names contained on Prosecution Exhibit No. 168 for identification.)

Q (By Captain Hill) Did you identify any bodies at the Rubio premises other than those contained on this list?

A (Through Interpreter) The three that I indicated, which I said I do not know; their names do not appear here.

CAPTAIN HILL: We offer in evidence Prosecution Exhibit No. 168, sir.

COLONEL CLARKE: May we have an explanation of the word "alive" on there, please?

q (Captain Hill) I call your attention to the name "Jose", after which appears the word "alive"; will you please explain that to the Commission?

A (Through Interpreter) I thought he was dead. When I tried to search the house, I thought he was dead because he was not there. Then I found him alive.

Q Then his name should be stricken from that list of identified bodies that you found on the Rubio premises, is that right?

A Yes.

CAPTAIN HILL: We offer in evidence Prosecution Exhibit No. 168, sir.

GENERAL REYNOLDS: There being no objection, the document is accepted in evidence.

(Prosecution Exhibit No. 168 for identification was received in evidence.)

(A statement was marked Prosecution Exhibit No. 169 for identification.)

CAPTAIN HILL: You may cross examine.

COLONEL HENDRIX: No questions, sir.

(Witness excused)

CAPTAIN HILL: We offer in evidence, sir, the sworn statement of Commander Charles Parsons of the United States Navy Reserve, taken on 4 June 1945 by an investigating officer of the War Crimes investigating detachment.

This is offered only for the purpose of identifying the photograph heretofore offered as Prosecution Exhibit No. 167. That is the photograph the witness couldn't identify.

CAPTAIN SANDBERG: If the Commission please, it doesn't appear how this statement could in any way identify Exhibit No. 167. It simply refers to a photograph listed as Exhibit "N". We don't know that it is Exhibit "N".

CAPTAIN HILL: The original exhibit which we introduced here is marked Exhibit "N".

CAPTAIN SANDBERG: The expression "Exhibit N" is written in by typewriter, is not part of the picture. In other words, there is nothing in this report which indicates that it is associated with this particular picture; it can't identify it.

GENERAL REYNOLDS: Does the Defense object to its introduction?

CAPTAIN SANDBERG: It does, sir.

GENERAL REYNOLDS: Objection sustained.

CAPTAIN HILL: That is all we have, sir, at this time.

GENERAL REYNOLDS: Are there further witnesses in this item?

MAJOR KERR: No, sir; that completes that particular

case.

GENERAL REYNOLDS: The Commission will inquire of Prosecution which items will be presented tomorrow?

MAJOR KERR: Sir, we propose to present tomorrow items number 3, 10, 74 and 77. Defense Counsel objected this afternoon, or this noon, to our taking up anything above 64.

Furthermore, we intend to take up number 48, number 50, number 51, number 97, number 53, number 52, number 68 and 15. Now, number 97 and number 68 are both, of course, above number 64; we are agreeable to eliminating, so far as tomorrow is concerned, number 97, which pertains to the Manila Cathedral. We would like to take up numbers 68, 74, 77, as they do have a direct connection to the other cases, tomorrow.

GENERAL REYNOLDS: Are you proposing that you cover all those tomorrow?

MAJOR KERR: Unless, sir, our reporters have difficulty. They are keeping up with the Commission's record, and actually getting us the record by 8 o'clock in the morning, but there are only two of them, and the others from the States did not arrive. I understand the reporters are forced to work 18 hours a day to cover the schedule.

Other than that, I propose to cover all of these cases tomorrow.

GENERAL REYNOLDS: Do all of them pertain to episodes alleged to have occurred in Manila?

MAJOR KERR: Yes, sir. Tomorrow a large part of it will be the Intramuros and Santiago incidents, which are

very large.

GENERAL REYNOLDS: Does that complete the Manila episode?

MAJOR KERR: No, sir. We have three other cases to take up on Monday, on Manila. They are major cases. Then on Monday we will take up the Provincial cases. We will complete Manila on Monday, probably Monday morning.

GENERAL REYNOLDS: Senior Counsel for the Defense has an objection to considering numbers 77, 97 and 68 tomorrow. Would you have objection to taking them up Monday?

COLONEL CLARKE: We are not prepared, sir, to take up 74, 77, 97 and 68 tomorrow, sir.

GENERAL REYNOLDS: You will be prepared Monday, sir?

COLONEL CLARKE: I am not sure, sir. We may have 97 prepared by Monday, sir.

GENERAL REYNOLDS: I will ask the Defense to make every effort to be prepared to handle it on Monday, and direct the Prosecution to delay the presentation of the items in question until Monday.

MAJOR KERR: May I point this out, sir: Number 68 covers Fort Santiago from 9 October 1944 until 10 February 1945. Number 52 covers the same subject from 10 February to 23 February. Rather than break the two apart, we will present them on Monday, too.

COLONEL CLARKE: What was that?

MAJOR KERR: Numbers 68 and 52 will be presented on Monday.

COLONEL CLARKE: We are going to try to be ready, but I don't think we will be ready by Monday. We are

trying to work this new Bill of Particulars up at nighttime, and at the same time keep on with the trial. And we are doing the best we can, sir.

GENERAL REYNOLDS: I am sure you are. The Commission will accord you every opportunity to prepare yourself, but it does ask, if it is reasonably possible, to prepare it by Monday.

MAJOR KERR: Sir, may I inquire of Defense Counsel whether or not, if the Commission did not sit on Saturday afternoon, it could use that time in becoming prepared on these cases for Monday?

COLONEL CLARKE: It will help us out. We may have it ready.

MAJOR KERR: That would assist the reporters, I know.

GENERAL REYNOLDS: Well, the Commission will not commit itself on early closing tomorrow afternoon; it wishes to get on with the case as rapidly as possible.

However, for the benefit of everyone, announcement will now be made that from the time the Commission recesses tomorrow afternoon there will be no sessions until 8:30 Monday morning, and you may plan accordingly.

Are there any other matters of business that either Prosecution or Defense wishes to bring up?

(No response.)

The presiding officer would like to see the Senior Counsel for the Defense and Senior Prosecutor briefly.

The Commission will stand in recess.

(Whereupon, at 1625 hours, 2 November 1945, the trial was adjourned until 0830 hours, 3 November 1945.)

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE-CROSS</u>
Jose Cabanero	796	802		
Federico P. Davantes	804	811		
Natividad Bonifacio	812			
Aquilino Rivera	818			
Benjamin Urrutia	822 826			
Ricardo Esquerria	829	836		
Go Hong	842	848		
Cayetano Ladgameo	848			
Julietta Milanes	853	862		
Francisco del Rosario	864			
Ignacio B. Lizo	869	876		
Benigno del Rio	881	892		
Nicanor Jacinto	893	895		
Fermin Miyasaki	900	906		
Narciso Lapus	912			

E X H I B I T S

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
170		802
171		802
172		818
173	820	
174	826	827
175	827	828
176	828	829
177	839	840

E X H I B I T S (Cont'd)

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
178	840	840
179		844
180		845
181		845
182		847
183		847
184		848
185		852
186		852
187		856
188		857
189		858
190		859
191		859
192		868

PROCEEDINGS

GENERAL REYNOLDS: The Commission is in session. The Prosecution may proceed.

MAJOR KERR: Sir, all the members of the Commission are present, the Accused and Defense counsel are present, and the Prosecution will proceed.

CAPTAIN CALYER: If the Commission please, the next incident to be presented is referred to in Bill of Particulars No. 48, and is known for convenience as the "Paco Massacre."

Jose Cabanero.

JOSE CABANERO

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A Jose Cabanero.

Q Where do you live, Mr. Cabanero?

A At the present time I am living at 494 New Antipolo.

Q In February, 1945, where did you reside?

A F. Munoz Street.

Q On or about the 10th of February, 1945, did you have an experience with some Japanese?

A Yes, sir.

Q Will you tell the Commission what happened?

A Between two o'clock -- between two and three o'clock in the afternoon of February 10th my brother, Felicissimo Cabanero, and my cousin, Jose Dicini, and myself, were digging out our shelter, when suddenly a group of Japanese

soldiers with fixed bayonets approached us.

Q Let me stop you there, please. How do you know that they were soldiers?

A (No response.)

Q How do you know that they were soldiers?

A They were dressed up in the uniform with the fixed bayonets.

Q Were there any markings on those uniforms?

A Well, the ordinary -- the ordinary uniform of the soldier.

Q All right. What happened?

A Camouflage netting.

Q What happened after that?

A The officer -- they were accompanied by an officer, and the officer called out, "Kura!" When we looked up we saw that the officer was there, and he says, "You fellows work! You work! Follow us! You work!"

So we followed the soldiers, and we were taken to an alley not far away on Remy Street.

Q What happened there?

A When we reached the place group after group came.

Q About how many men were taken to that place altogether?

A There were more than 200, and we were all assembled. There were more than 200.

Q What happened after the group was assembled?

A We were assembled within the two streets: the San Isidro Street, and Munoz Street. We were brought near the brook on the same street. There we found another

group of around 150.

Q And what happened there?

A We saw that those who were ahead of us had their hands tied up at our back.

Q Were you also tied?

A We were immediately tied when we reached the place.

Q Then what happened?

A Then there was heavy shelling at that place. We were moved back to the place where we were first assembled on the alley between Dart Street and Munoz Street.

Q Did there eventually come a time when you were assembled in an open field?

A I beg your pardon?

Q Did there eventually come a time when you were all assembled in an open field?

A Yes, sir.

Q Will you tell the Commission what happened at that point?

A When we were assembled there was heavy shelling, and feeling, perhaps, that some of us may get loose, might escape, we were brought back.

Q Yes. And what happened?

A Nothing happened there.

Q Did there come a time when the Japanese took men from your group?

A Not then yet; not until after we were back.

Q Did there eventually come a time when that happened?

A Immediately after.

Q All right. Will you explain that, please?

A When we were assembled back to the place where I just stated, that is, in the alley between Dart Street and Munoz Street, they started pulling us up one at a time at the corner of Munoz Street, and that one was sent to a group where we heard a shot. Every time a fellow goes there he is shot, or at least we hear a shot -- a rifle shot.

Q Did any of those men who were taken return to the group?

A Return, never.

Q After several men had been taken did there come a time when you were called from the end of the line?

A I was finally called.

Q What happened at that point?

A But before I was called I managed to unloose my bonds and I had my hand half-way slipped from the bonds, but I never pull it out because I might arouse the attention of the sentries. So when my turn was called I stood up, turned around, and walked towards the brook. Around the corner there was a sentry, and at that point I slipped out my hands and dashed for freedom, zig-zagging as I went. I knew that sentry there where I turned around would shoot me, as in fact he did. He did shoot me.

Q Did he hit you?

A I was fired at twice: one from that sentry and another one from the group. But they missed me.

Q Then what happened?

A Unfortunately at the cross-section of the road where I was leading to there was a Japanese officer.

Q How do you know he was an officer?

A Well, he had the saber with him, and in all appearance he is an officer. An officer always carries a saber.

Q What happened?

A That officer is seeing me running from the group, and knowing that I escaped from the bunch, angled me with his saber in hand. I managed to side-step him, and I was able to outrun him for a little distance, but he overtook me with his long saber, and he hit me right at the back of my neck, and I stumbled down, face down, this way (illustrating). He approached me and with both hands gave me another blow with his saber. Here it is (indicating back of neck), four inches, one inch thick.

Not content with that he gave me a kick with his heavy boots while I was lying face downward, and that made me roll, and when I was facing upwards he gave me another blow right across the face, cutting my nose across like that (indicating). He almost hit my eye. He gave me two blows right over my ear, and he took off part of my ear. That is how I got this (indicating right ear).

When I was hit the second blow on my face I rolled down the grass. There he chased me -- he followed me, rather, and with the saber pointed downwards gave me two saber thrusts. I was laid prostrate, this way, and the saber thrust hit right here, and another one, as you can see (indicating). It went in there and came out here (indicating). Another one here (indicating). Do I have to show it?

Q You may if you wish, if the Commission will permit.

A There is another one went through there (indicating).

Not long afterwards the officer left, believing me dead. He left me for dead. And before I lost consciousness I grabbed my wound right at the back of the head. That was the one that was bothering me, and it was the one that was oozing more blood. I grabbed it as strong, as tightly as I could, to have it stop bleeding. Finally I lost consciousness, and when I came to it's about ten o'clock in the evening. I found myself with my eyes already closed because of the blood, coagulated blood, and I had to scrape the dried blood out of my eyes little by little and looked around. I found a sentry close by, and I had to wait until he turned the corner, and then when he turned the corner, with the remaining strength I had, I pulled myself with both hands and feet, clutching at the grass, until I reached the place where my family was. There they immediately pulled me in, washed my wounds, and bound it with clean cloths, and I remained in the shelter for three days, bleeding, without any medical attention.

Q I show you a photograph marked for identification as Prosecution's Exhibit 170, and ask you to state what that is.

A It is a picture of myself.

Q Showing what?

A Showing that I had a wound.

Q Wounds on the back of your head?

A On the back of my neck and in my ear and arm.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of wounds of witness was received in evidence and marked Prosecution's Exhibit No. 170.)

Q (By Captain Calyer) I show you another photograph marked for Identification as Prosecution's Exhibit 171.

A Yes, sir.

Q I ask you to state what that is.

A That is a picture of myself, the front view, showing that I had a wound right across my face; also in the arms. This is taken in the hospital.

Q Are the wounds shown in this exhibit and the previous exhibit the wounds which you sustained at the hands of the Japanese?

A Yes, sir.

CAPTAIN CALYER: I offer this picture in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of front view of witness showing wounds was received in evidence and marked Prosecution's Exhibit No. 171.)

CAPTAIN CALYER: You may examine.

CROSS EXAMINATION

Q (By Colonel Hendrix) You stated that the Japanese had on an ordinary uniform.

A Yes, sir.

Q Will you describe what that uniform consisted of?

A It is a light green uniform.

Q Did you notice any insignia on the uniform?

A I don't quite remember.

Q Do you recall any anchors on the uniform or the caps of any of the Japanese?

A Neither.

Q You stated that one of the Japanese was an officer?

A Yes, sir.

Q Can you explain why you thought that Japanese was an officer?

A Well, he had a saber with him.

Q Did he have on a Sam Browne belt?

A I beg your pardon?

Q What kind of belt was supporting the saber?

A Well, it's one of those thick belts.

Q Did the belt have a strap leading over the shoulder?

A Yes, sir.

COLONEL HENDRIX: That's all.

CAPTAIN CALYER: The witness is excused.

(Witness excused.)

CAPTAIN CALYER: Mr. Davantes.

FEDERICO P. DAVANTES

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A My name is Federico P. Davantes.

Q Where do you reside, Mr. Davantes?

A I used to reside at 1170 F. Munoz Street.

Q When did you live there?

A 1932.

Q Were you living there in February, 1945?

A Yes, sir.

Q Were you one of the group taken to an open field by the Japanese on the 10th of February, 1945?

A Yes, sir.

Q Will you tell the Commission what happened to you at that time?

A At about three o'clock on that date the Japanese officer and soldiers knock at our door. My wife let the officer come in, and I met him right at the hallway. As he approached the table where I was standing he take off his revolver, put it on the table, and talked to me in Japanese and English this way --

Q Please tell us not what happened at your home, but rather, what happened after you got to the field.

A I beg your pardon?

Q Tell us what happened after you got to the field.

A To the field?

Q Yes. You were taken to a field, were you not?

A Oh, yes. We were taken to the bank of a river and tied our hands behind our backs, this way (illustrating).

Q What happened?

A And from there, when all our hands were tied, we were taken back to Remy Street, and there we were lined up and told to squat, and the lineup, I think, was four by four.

Q Then what happened?

A And from there we were told by the guards what it is going to be. We were going to be taken to some place for forced labor, and sometimes they would give us cigarettes, telling us that we should not be afraid, because nothing would happen to us.

Q Mr. Davantes, when you came to the point where you were assembled in the open field and you were taken from the line of men, what happened at that point?

THE WITNESS: I beg your pardon, sir?

CAPTAIN CALYER: Read it, please.

(Question read.)

A When we were lined up on Remy Street, it was about five o'clock when they started taking ten men at a time from one end.

Q And from the other end?

A Well, when we were about half were taken they started taking from the other end one at a time.

Q Which end were you on?

A I was on the river end.

Q I beg your pardon?

A I was at the river end.

Q Was that the end from which they took them ten at a time, or singly?

A Singly, sir.

Q About how many men had been assembled altogether?

THE WITNESS: Will you read that, please?

(Question read.)

A I figure out about 200 of them -- 200 of us.

Q (By Captain Calyer) Were there any women in the group?

A No, sir.

Q As they took the men singly from your end of the line did there come a time when you were taken from that line?

CAPTAIN SANDBERG: If the Commission please, the Defense objects to the extent to which the Prosecution is leading the witness. He is virtually testifying for the witness.

CAPTAIN CALYER: If the Commission please, I am simply trying to get the witness to come to the point that I want him to discuss.

GENERAL REYNOLDS: The objection of counsel is sustained. However, to reach the meat of the situation, there is no great objection to --

CAPTAIN CALYER: That is what I am trying to do, sir.

Q (By Captain Calyer) What happened after you had been lined up?

A After we had been lined up, about five o'clock they

started taking men from one end --

Q Just a minute, Mr. Davantes. You have told us about that already. Will you please come to the point where something happened to you?

A Well, when I was taken out of the line the Japanese guard came over to me and says, "'Shun!'", with his gun, telling me to stand up. And of course I stood up, and he showed me where I would go.

I approached a Japanese officer with saber in his hand. When I approach him I pleaded for mercy, in Japanese, saying, "Tomadachi! Tomadachi! Kodomo takusan!"

Q You say this person was a Japanese officer. How do you know that?

A He had a saber with him, and a revolver, too.

Q Did you notice his uniform?

A Yes, sir.

Q Were there any marks on it?

A Why, he was wearing cap with one star in front of it, and wearing boots.

Q You say a cap with a star on it?

A Yes, sir.

Q Yes. What happened after that?

A When I pleaded with him for mercy he just take off his saber and say, "Ugh! Ugh!," pointing towards me to the river. Well, I kept on walking. I passed by another guard. When I was approaching him he took out his bayonet and tried to play with the grass, and when I was about two feet from him he showed me the place where to go: towards the river.

Q Did you eventually get to the bank of the river?

A I pleaded with the guard, the same Japanese guard.

"Camaraderie! Tomadachi! Kodomo takusan!"

Q What does that mean?

A As far as I can understand, that means, "Friend!

I got too many children!"

That is all I could say in English.

Q What happened when you got to the river?

A Well, I keep on walking, and near the bank of the river I saw the Japanese with gun in front of us, this way (illustrating). I don't know what he was doing with it. When I approached him I pleaded him with the same words: "Tomadachi! Kodomo takusan!"

He goes, "Ugh! Ugh!," and he tried to shoot me, and he motioned me, to me, to kneel down.

Well, I walk around him this way (illustrating), and when I step on the bank of the river I slip.

Q Yes. And what happened?

A And I fell in the river.

Q What happened after you fell in the river?

A I fell down on top of those already dead and some are still waiting.

Q Go on.

A My foot up to ear had sunk and my head was on top of water lily, which allowed me to breathe. I pretended to be shot, and I heard the wailing of the rest of the friends that were waiting. I noticed that anyone that wails, the Japanese guard would shoot at them again.

"Bang!," like that.

Q Had you been shot at this point?

A I didn't feel it, sir. When I was falling down he shot at me.

Q Yes. Go ahead.

A When I noticed that everyone that wails, the guard would shoot them again, and I stopped wailing. The water lily where my head was sunk, and I could not breathe any more. I attracted the attention of the guard, and when I looked around this way (illustrating), trying to see what the guard was doing, when my head was that way I could see him. Another shot was coming to me. "Bang!" So what I did, because I noticed then that if I was still at the same place I would be shot, I kicked against the wall and I dived this way, with my hands tied (illustrating), and when I came up for breath in the river there were water lilies that would give me protection. So I came up for breath, and I think the water lilies moved and I had another shot, and then I made another dive. When I came up for breath again he shot at me again, and there I was already about in the middle of the river. The water was neck deep here (indicating). I stayed there thinking I was safe enough because of the water lilies that were about two feet from the surface of the water.

Q Did you eventually get out of the water?

A At midnight I crossed the other side of the river.

Q And you did get out of the water?

A Yes.

Q Subsequently did you return to that area?

A Yes, sir.

Q When you returned what did you see?

A When I return I saw dead bodies lying all around the place where I came from.

Q How many?

A I estimate about 200.

Q In what condition were those bodies when you saw them?

A Well, I really didn't investigate, because of the odor, and the place itself.

Q Were you able to notice anything about them?

A I noticed some of the heads were cut off.

Q Were you --

A That is what I see.

Q Were you able to identify the bodies that you saw?

A Yes, sir.

Q Will you tell the Commission whose bodies you saw that you could identify?

A I remember among the dead bodies were Major Pollard of the Philippine Army; Miguel Bonafacio; Doctor Celestino Capilla; Jose Cala.

Q Any others that you can remember?

A Engracio Santos; Dick Milarde; Ricardo Caballero.

I think that is all that I can remember.

Q Did you receive any wounds yourself?

A Yes, sir.

Q Will you describe those?

A Just here (indicating).

Q Other than that you received no wounds?

A No, sir.

CAPTAIN CALYER: You may examine.

CROSS EXAMINATION

Q (By Colonel Hendrix) You stated that you saw a star on the Japanese officer's cap?

A Yes, sir.

Q Describe what insignia was on the lapel of the officer's uniform.

A I don't remember, sir.

Q Can you state what insignia was on the sleeve?

A I don't remember, sir.

Q Do you recall any insignia on the shoulder of the officer's uniform?

A No, sir; I can't recall.

Q You mentioned the officer had a saber. How was that saber supported?

A Saber? It has got -- I don't know how you call that -- two parts. One is where you put the saber in.

Q At what side of his body was the officer wearing the saber?

A On the left side, sir.

Q That was fastened to a belt?

A Yes, sir.

Q And there was a strap leading over the shoulder from the belt?

A Yes, sir.

COLONEL HENDRIX: That's all.

CAPTAIN CALYER: The witness is excused.

(Witness excused.)

CAPTAIN CALYER: Natividad Bonifacio.

NATIVIDAD BONIFACIO

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A Natividad Bonifacio.

Q Where do you live, Miss Bonifacio?

A 1175 F. Munoz.

Q In February, 1945, where were you living?

A In 1175 F. Munoz.

Q On or about the 10th of February did some Japanese come to your house?

A Yes.

Q I beg your pardon?

A Yes.

Q Will you tell the Commission what happened?

A Three Japanese went to our house. I mean, this house is an apartment house that we transferred as they took this house in 1175 and buried a machine gun nest. So we had to transfer.

Q Where did you go then?

A To 1146 Dart.

Q What happened at that address?

A Two Japanese went to our place and took my father and two brothers-in-law and a friend.

Q Will you tell the Commission the names of those men, please?

A I beg your pardon?

Q Will you tell the Commission the names of those men?

A They were Miguel Bonifacio, my father; my two brothers-in-law, Major Charles Pollard and Marcelo Javier; and a friend, Ricardo Baja.

Q Do you know where they were taken?

A Yes.

Q Where?

A They were taken, I should say, a hundred yards from our place near the railroad tracks, and near the river, too, I should say.

Q Do you know what happened to them at that place?

A They were beheaded.

Q Have you ever seen them since?

A I saw them when I took the bodies of my father and brothers-in-law.

Q When did you see those bodies?

A February 14th. February 14th.

Q And in what condition were they at that time?

A Their bodies were decomposed.

Q Will you explain particularly about the body of Major Pollard?

A His ears were cut, and so was his nose, and his eyes were taken off.

Q I beg your pardon?

A His ears were cut off and his eyes were taken out, and with his nose, too. And there was a cut on his neck.

Q Did you see the Japanese that came to your house?

A Yes.

Q Do you know what branch of the service they belonged to?

A I think they belonged to the Marines.

CAPTAIN CALYER: You may examine.

COLONEL HENDRIX: No questions.

(Witness excused.)

CAPTAIN CALYER: If the Commission please, I offer in evidence a sworn statement of a witness, Godofredo G. Rivera, whom I have been unable to secure to testify in person. This statement is a part of the official report of the investigation of this case.

GENERAL REYNOLDS: Will you read it so we will all hear it?

CAPTAIN CALYER: I might state for the Commission's information that the purpose of this statement is simply to show one of the methods by which men of this group were treated. He is one of the group similar to the witness Davantes, who was taken singly from one end of the line and was shot.

Do you wish to have the whole statement read?

GENERAL REYNOLDS: Read the statement. It is quite long. It will save the time of the Commission.

The Prosecution may read only the key points, the things to which you want to call attention.

CAPTAIN CALYER: The witness' name is Godofredo G. Rivera, 31 years of age, of Filipino nationality, residing at Santa Lucia Street, San Fernando, Pampanga. He was living at 1177 Dart Street, Manila, and on or about

the 10th of February, 1945, he lived at 684 Extramadura.

About three o'clock in the afternoon of February 10th he was taken with his brother, Doctor Alfredo Rivera, his nephew, Aquilino Rivera, and his brother-in-law, Amando Tancuaco.

Now, quoting from the statement:

"The Japanese told us that we had to go and dig trenches for them. We came out of the house to go with them, and as soon as we got outside, our hands were tied behind us. They marched us off east from our house to an open field about 200 meters away. We saw already other captured Filipinos tied up, numbering approximately 250. The Japanese had them grouped together in a squatting position. The American planes were flying overhead at this time, so the Japanese took us to a nearby place where there were a lot of houses, trees, and bushes. We were lined up in one long row in a squatting position. About 5:00 o'clock in the afternoon of that day, the Japanese began to take the Filipino male civilians away in groups of ten from the opposite end of the line from where I was squatting. I heard later that all of those that they took away from that end of the line were beheaded, but I didn't see this. On our end of the line, the Japanese took us one at a time and took us to a place about twenty meters away and made us kneel down facing the sun and then shot us with a rifle. I was

kneeling on a bank, and the moment I was hit by a bullet, I toppled over the bank down into some water. I was unconscious for a time, but later revived and opened one of my eyes and the Japanese were still there waiting for another victim. I pretended I was dead so that the Japanese would not shoot me again. When it became dark, and after they had shot all of us, the Japanese left the place and then I began to crawl back and got to my home.

Then he details what happened after that with reference to his escape.

"Q Will you describe the wound you received when you were shot by the Japanese?

"A The bullet entered the back of my neck and came out the cheek on the right side of my face and it fractured my jaw."

Later he was asked:

"Q Can you give the names of any of those that you saw shot?"

His answer is:

"My brother, Arturo Rivera, and my brother-in-law, Amando Tancuaco, were shot and killed by the Japanese on February 10, 1945, but I did not see them killed.

"Q Do you know if the Japanese shot or wounded any other Filipino civilians at that time?

"A After the Japanese left I saw approximately 120 dead Filipino civilians in the immediate

vicinity. Some had been shot and some had been beheaded."

Those were the chief points to the statement with reference to what happened at that place.

I should like to call the Commission's attention to one other question and answer:

"Q Do you remember anything that was said by the Japanese before, during, or after you were shot?

"A There was one Japanese who went to the place where we were grouped. He had a sore foot. He told us that Americans and Filipinos are friends; Japanese and Filipinos, no. That was all I understood."

CAPTAIN SANDBERG: The Defense would like to read what the Defense regards as the key portions of the statement.

CAPTAIN CALYER: If the Commission please, may we have a ruling as to whether this statement is in evidence?

GENERAL REYNOLDS: We will hear the Defense.

CAPTAIN SANDBERG: On page 3, starting with the fourth question and answer from the top:

"Q How many members of the Japanese military forces did you see on the 10th of February, 1945?

"A There were approximately 20.

"Q To what branch of service did they belong?

"A They belonged to the Japanese Marines.

"Q How did you know this?

"A Well, by their uniform and besides the talk was that the marines were the ones who defended the city.

"Q Will you describe their uniform?

"A It was green in color, and they had an anchor on their collars, and also an anchor on Their hats."

GENERAL REYNOLDS: There being no further objection, the document is accepted in evidence.

(The statement referred to was received in evidence and marked Prosecution Exhibit No. 172.)

AQUILINO RIVERA

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A Aquilino Rivera.

Q How old are you?

A 17 years old.

Q Can you speak louder, please?

A 17 years old.

Q Just speak toward the Commission.

A Seventeen years old, sir.

Q In February, 1945, where were you living?

A 1177 Dart, Paco.

Q On about the 10th of February, 1945, did you have an experience with some Japanese?

A Yes, sir.

Q Will you tell the Commission what happened?

A About three o'clock in the afternoon, Japanese soldiers took us from our houses.

Q Whom did they take?

A Arturo Rivera, Amando Tancuaco, Nicolas Musni, and Godofredo Rivera.

Q Where were you taken?

A We were taken around 100 yards from our house. There were many people.

Q How many people were there?

A Around 12 or 15.

Q And where were you taken?

A They march us one block away from our house, where there were people held.

Q How many people were there at that point?

A Around more than 100.

Q What happened to you?

A They tied us at our backs, and they took our valuables and told us to stay the place where we were now.

Q Did anything happen to you personally after that?

A Yes, sir.

Q Will you tell the Commission what that was?

A They took me from the place where they take the people one by one, and march me near a fish pond, and make me kneel.

Q Near a fish pond, you say?

A Yes, sir. They make me kneel on the brink of the fish pond. The Japanese cut me on my neck with a saber.

Q What happened to you?

A After that, when I regained consciousness and moved my head up, they hit me with a bayonet in my cheek.

Q Where were you struck with the saber?

A On my neck.

Q Will you show the Commission, please?

(The witness rose and exhibited back of his neck to the Commission.)

Q Where was the other wound?

A Right on my cheek.

Q Will you indicate that to the Commission?

(The witness exhibited his cheek to the Commission.)

Q And did you ultimately escape from that area?

A Yes, sir, after the Japanese were gone.

Q Did you go back to that place at a later time?

A Back to the fish pond, sir?

Q Yes.

A No, sir.

(A sketch was marked
Prosecution Exhibit No.
173 for identification.)

Q I show you a sketch marked for identification as Prosecution Exhibit No. 173, and ask you if that fairly represents the area which you have been talking about?

A Yes, sir.

Q I call your attention to certain spots marked with the letters "F", "P", and ask you what they represent?

A The fish pond.

Q Can you indicate on this diagram the point where you received your wounds?

A Yes, sir (indicating); the one with the "FP".

Q Did you see any bodies lying at other places in the area?

A Yes, sir.

Q Are those places indicated on here?

A Yes, sir.

Q By what mark?

A "FP."

Q Pardon?

A "FP."

CAPTAIN CALYER: I offer this sketch in evidence.

GENERAL REYNOLDS: Where is the mark that indicates the dead bodies?

(Captain Calyer indicated on Prosecution Exhibit No. 173 for identification.)

GENERAL REYNOLDS: There being no objection, the document is accepted in evidence.

(Prosecution Exhibit No. 173 for identification was received in evidence.)

CAPTAIN CALYER: You may examine.

COLONEL HENDRIX: No questions, sir.

(Witness excused)

BENJAMIN URRUTIA

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A My name, sir? Benjamin Urrutia.

Q Where do you live?

A Singalong, 1151.

Q Where were you living in February, 1945?

A Singalong Street.

Q On the 10th of February, 1945, did you have an experience with some Japanese?

A Experience? I do not have experience.

Q Did you see some Japanese on that day?

A I have seen, sir.

Q Will you tell the Commission what happened?

A I was cooking something in the afternoon, around 2 o'clock in the afternoon, and I needed sugar, so I went in my sister's house to take some sugar, and I have seen a Jap standing in the corner from our house. When I came back, and the sugar I was putting in where I was cooking, I just hear that he was calling me down. So I went down, and he searched my pockets and told me to go with him, that I was forced to labor, I was going to work.

Q Where did they take you?

A To the church.

Q Did there come a time when you were taken to a field?

A After that we were taken to a field.

Q What happened after that?

A They had a long rope, and cutting it into short pieces, about (demonstrating) -- I don't know -- about six inches, maybe; and started tying our hands in the back, and after that they told us to stay there in that field and kneel down there.

Q How many men were there?

A I think there were more than around 200.

Q What happened after that?

A After that, when we were all sitting around there, a shell struck besides our place where we were staying.

Q Yes?

A And the Japanese started shooting around, and after that they told us to move and told us to go to the street.

Q Did there come a time when you were separated from the group?

A When I was separated? We were brought then -- they brought us to Singalong Street, I think 1186, the number of the house, and there was a hole, a big wall and a hole. There was a hole. And they let us stand up in a long file. There were two Japanese; they had their pistols in their hands. And after that, when we were standing beside the hole in the wall, a Japanese from the inside of the house came up with some straps in the hand and put the strap on the face of the first one and told him that the Japanese --

Q Where were those straps placed?

A On the face, the eyes.

Q Yes?

A And told him the Japanese and the Filipines were friends. He said, "Tonodachi!" And after that he hold in the shoulder and brought him past to the hole, and I didn't know what happen. And after that the same Jap came out from the hole, put a strap on my eyes and told me the same thing: "The Japanese and Filipines are very good friends," and hold me in the shoulder and pass through the hole. When we were walking, I just received a hard blow in the face. When I fell down, there was a big hole where there were bodies moaning already; some, I think, were suffering. When I fell down, when I was there with them, blood came out from my nose and mouth. I could not breathe.

Q What happened at that point?

A At that point -- after that they started throwing high explosives; hand grenades, I think.

Q Where were those explosions?

A Hand grenades.

Q Where were the explosions?

A Inside the hole, sir.

Q Inside the hole?

A Inside the hole.

Q Did you receive any wounds?

A I received a wound in the arm (indicating), and here in the leg (indicating).

Q How were you wounded?

A What, sir?

Q How were you wounded?

A How was I wounded? By hand grenade, sir.

Q What happened after that?

A And after that I heard five shots, pistols, and they started about maybe around two or three minutes -- I could tell that they were shoving dirt and covering us. When they were covering us I could not breathe any more because the dirt was going inside my mouth, so I just had to swallow my blood with the dirt in my mouth.

Q Were there other people in the hole still alive at that time?

A Yes, sir. They were moaning and --

Q What happened after that?

A After that, they cover us with sand, and I could not breathe any more. So I did to my own self -- I did start moving around (demonstrating), because I cannot resist any more -- because I could not breathe any more, and I was suffering, and I did start moving around, and finally took my head out, and I thought I was blind because I saw it was dark around; it was dark already, it was night, almost dawn. I put my face to the side (demonstrating) to take off the strap, and finally the strap went down and I got a scratch in the face, and I look around and there was no Japanese around any more, and I did start moving around with my hands tied in the back, and finally I had to pull my leg -- when I pull my other leg I could hardly pull it because a body was laying my leg, so I had to kick the other one just to pull my leg, and finally I took off and ran under the house. And I see some bodies still around, and I just run under

the house -- I, myself. I was trying to cut the rope on my hands, at my back.

Q After you got out of the hole, about how many bodies did you see in the area?

A I could not see, but they are all piled up, and I think there were around 40 to 50; 40 or more.

CAPTAIN CALYER: You may examine.

COLONEL HENDRIX: No questions, sir.

GENERAL REYNOLDS: The Commission will be in recess for at least five minutes. Upon the reopening of the Commission, the audience may move forward, saving only the front seats.

(Short recess.)

GENERAL REYNOLDS: The Commission is in session. The Prosecution will proceed.

(A photograph was marked
Prosecution Exhibit No.
174 for identification.)

DIRECT EXAMINATION (Cont'd)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution Exhibit 174, and ask you to state what that represents.

A This is the place where we were brought. There is the hole in the wall (indicating).

Q Indicating a spot on the right side of the photograph. Will you describe more particularly the appearance of that hole in this picture?

A This place besides the creek; around there, sir (indicating).

Q Will you indicate to the Commission the hole in the

wall?

(The witness indicated on Prosecution Exhibit No. 174 for identification.)

Q Is there anything unusual about that now, different from the way it was when you were taken there?

A No -- but it is closed; the hole of the wall is covered. It is closed. And I can see there the place where we were brought, in the corner.

MAJOR KERR: Will you speak louder, please?

CAPTAIN CALYER: I offer that in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 174 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 175 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit No. 175, and ask you to state what that is.

A That is my picture, sir.

Q What does it show?

A The wound in my arm and my leg.

Q What are the marks on the leg in this picture?

A Hand grenade, sir.

Q What are the marks on the leg?

A Plaster; this one (indicating), sir.

Q Yes?

A It was plaster, sir.

GENERAL REYNOLDS: What was it?

THE WITNESS: Plaster, sir. The doctor put on plaster.

Q (By Captain Calyer) Bandage, you mean?

A Yes, sir.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 175 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 176 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution Exhibit 176, and ask you if you can state what that is.

A This is friend of mine, Pablo Martinez.

Q What is his name?

A Pablo Martinez.

Q Was he with you on that day?

A Yes, sir. I saw him there when we were brought there to the street.

Q Did you see him after he had been wounded?

A Yes, sir.

Q Do you know how he received the mark that appears in that picture?

A Saber, sir.

CAPTAIN CALYER: If the Court please, I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No.
176 for identification
was received in evidence.)

CAPTAIN CALYER: You may examine.

COLONEL HENDRIX: No questions, sir.

CAPTAIN CALYER: The witness is excused.

(Witness excused)

CAPTAIN CALYER: Ricardo Esquerria.

RICARDO ESQUERRA

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A Ricardo Esquerria.

Q Where do you live?

A 1378 San Andres Street, Malate.

Q In February, 1945, where were you living?

A I was at 1378, same address.

Q On the 10th of February, 1945, did you have an experience with some Japanese?

A Yes, sir.

Q Will you explain to the Commission what happened?

A (Pause) It was on that day, a memorable day for me, February 10, in the morning -- I will begin in the morning. A troop of soldiers, American soldiers -- Japanese soldiers, came to my place begging me for food. We gave them all what we have. We even gave the food that we are going to eat the next morning. But instead, in the afternoon, I was at home with my family, and two soldiers -- and might be an officer -- came at

home and asked me to go with them.

"Why," I said.

"You are an undertaker; you bury dead, and you better come with us and work with us to bury dead."

Then my children beg me not to go with them, but how? I want also to help a little for my neighborhood. Then this Japanese forced me to go with him, and there I went.

CAPTAIN REEL: We can't understand any of this over here, sir.

GENERAL REYNOLDS: Would you like to have the record read back?

CAPTAIN REEL: Yes, sir.

GENERAL REYNOLDS: Will the reporter read the last answer?

(Answer read.)

GENERAL REYNOLDS: Is the public address system not working?

CAPTAIN REEL: No, sir; I think it is loud enough. I think it is his difficulty with the English language. We can't understand him.

CAPTAIN CALYER: Will you try to speak slowly and distinctly, please, so that the Commission and Defense Counsel may hear your story?

THE WITNESS: Yes, sir.

Q (By Captain Calyer) Now, you say that some soldiers came to your house?

A In the morning.

Q How do you know they were soldiers?

A Because that is the color; they are dressed in all khaki.

Q Did you notice any marks on their uniforms?

A Some with their swords, with their sabers, and some with guns. Some have a rather -- on their clothes -- perhaps they are retreating.

CAPTAIN REEL: Will the reporter read the last part of the answer? Just after "perhaps."

(Record read as follows:)

"-- perhaps they are retreating."

Q (By Captain Calyer) Did you know any of these Japanese who came to your home?

A What hour? In the morning?

Q Yes.

A I don't know then.

Q What happened later in the day?

A Later in the day, about 5 o'clock in the afternoon they came to me. When we went away to the place where they ordered me to go, the Japanese officer even gave me a cigarette, because he usually and frequently come at home.

Q Did you know that Japanese officer?

A Yes, sir.

Q What was his name?

A His name -- I know him by the name of Yamamoto.

Q Do you know what branch of the service he belonged to?-

A As far as he told me, he is a lieutenant.

Q And what branch of the service?

A In the army.

Q He told you that?

A Yes, sir. He is in the army.

Q All right. Now, will you proceed with your story of what happened?

A As soon as we get to that small road -- that is San Pedro, what we call -- I saw plenty of men sitting down with their hands --

Q About how many men did you see?

A About 300 or more; 350.

Q Were there any soldiers in that group?

A Yes, sir.

Q What kind of soldiers?

A They are all army, Japanese soldiers.

Q Well, among the Filipinos who were assembled there, were there any soldiers?

A Well, I didn't pay an eye about them, because I was very nervous at the time; I even don't want to look at their faces.

Q What happened?

A Then the moment when we reached there, we were two -- I don't know the name of the other companion. When I was there a Japanese -- he is soldier -- he tied my hands back.

I said, "Why?" Well, they just tied me up. I had a pass in my pocket, and I told the Captain, "Pass! Pass! Tomodachi!", I said. Then the officer got the pass from my pocket and read it. After reading it, he threw it out.

"Why? That very good pass," I say, "O. K. O. K.," I say. Then the other officer get the pass and read it. After that he came near me and brought out a pistol in his hand and told me, "Your pass is good. You very good man," he said, "but you die."

"Why?", I said.

"Order," he said, "order from high officer; kill you, all you." Because he speaks a little English.

CAPTAIN REEL: If the Commission please, we ask that the last part of that answer go out as hearsay from an unidentified source.

GENERAL REYNOLDS: Objection not sustained.

Q (By Captain Calyer) Go ahead, please.

A Then another officer came and counted all the men. Then they laughed. He said, "Takusan, takusan." They say the word in Japanese; as far as I understand, that is "too many," they said.

GENERAL REYNOLDS: Will you read the answer?

(Answer read.)

Q (By Captain Calyer) What happened after that?

A Then we were told to stand, ten of us, we were told to stand, about ten of us, counted in files of ten. We were brought to a certain place in the house. That is as far as I remember. That is 1195 Singalong.

Q What happened on 1195 Singalong?

A As we reached the place, I saw there were four soldiers waiting at the door. As we reached the balcony -- the veranda, I mean -- some soldiers, some Japanese, are striking on the floor, or fixing something

on the floor. I got a peep in that room, and I saw that they were making hole in the floor. That is the second story building.

Q What happened after that?

A After that, another Japanese came and tied our eyes with wide clothes.

Q Yes, what then?

A But I was -- I said, "Why?" I even want to take it off. Then, after a few minutes, I was taken inside.

Q What happened then?

A They told me -- they even assist me to kneel in front of that hole, and then in a few moments I just felt a struck in my back.

Q Where?

THE WITNESS: (Exhibiting his back towards the direction of the Accused) You, first! See the scar!

Q After you were struck in the neck, what happened?

A I don't know any more until I woke up. Then I was under the house. Then I saw my companions -- they were two -- already near me, and one whom I recognized was Teodoro Valdez. I called him, even. "Teodoro!", I say, and pulled his head -- his feet, I mean, and I saw that his head was separated from his body. Then, because I was very weak and blood runs on my clothes on my breast, then I said to myself, "There will be plenty more to be killed," I said. Then I went to a certain place in the corner, just to protect myself from the ones who will fall.

Q Were there others?

A Plenty of them; until about 8 o'clock, when I woke again, I saw more and more. Frequently they were struck and fall in that hole.

Q About how many did you see?

A About 300 of them.

Q Did you eventually get out of that room?

A I waited until everything was finished. I heard those Japanese drinking, laughing, shouting, and they even say, "Banzai! Banzai!"

(Addressing the Accused:) What do you mean by

"Banzai"?

Q Did you get out of the room?

A Yes, sir.

Q How did you get out?

A I see, myself -- I needed to step on those dead bodies in order to get out of the place. First, I went and peeped in that hole and see that there are no more Japanese; they went out. Then as I get out, and step from that hole out, then I went to the kitchen, and then from that kitchen I jumped through a high wall, about four meters high. Then I crawled up until I reached home.

It is about 11 o'clock.

Q Now, will you tell me about how high the ceiling of the room in which you were lying was?

A It is about three meters.

Q And is it that ceiling in which the hole had been cut?

A Yes, sir.

Q Did I understand you to say that when you got out

you climbed up the pile of bodies?

A Yes, sir.

Q When you got to the top of the pile, where was the hole?

A When I got to the top of the bodies the hole was up here to me (indicating waist). And under the house, up to the corner, there are plenty of men.

CAPTAIN CALYER: You may examine.

CROSS EXAMINATION

Q (By Captain Reel) This hole that you told us about; was that a shell hole?

A Pardon?

Q This hole in the ceiling that you just told us about, was that a shell hole?

A Shell hole, you mean?

Q Yes.

A No. It is a wooden hole.

Q I see. You don't know what made the hole there?

A That is a room, "sala", what we call. They cut the wood and make in the form of a hole.

Q I see. Now, I think you told us that you had a friend, a Japanese officer named Lieutenant Yamamoto; is that right?

A Yes, sir.

Q He was a pretty good friend of yours?

A He was a pretty good friend of mine when he asked something to me, but he never give.

Q Now, let us go back and just answer the question. How long had you known Lieutenant Yamamoto?

A One month.

Q Did he live at your house?

A No, sir. He frequently visit me there, go to my place.

Q He frequently visited your place. Where did you meet Lieutenant Yamanoto?

A At home.

Q At your house?

A My house.

Q So it started when he visited your house?

A Yes, sir.

Q Now, do you speak Japanese?

A I understand something.

Q You do understand Japanese?

A A little.

Q And you could understand Lieutenant Yamanoto when he talked to you?

A Because he can speak a little English, too.

Q Well, did he speak to you in English, or did he speak to you in Japanese?

A He speak English and Japanese mixed together.

Q And you could understand both English and Japanese?

A Some words in Japanese; but he cannot explain in English, that is what I can't understand.

Q Can you talk in Japanese?

A Some, sir.

Q Do you know what is the Japanese word for "pass"?

A "Pass"? They don't call that -- they just call it "pass" in English.

Q They use the English word. I see. Now, when did Lieutenant Yanamoto have this conversation with you in which he told you that he was in the army?

A Just before -- just the first day when he came home, came at my house.

Q The first day. Did he explain why he came to your house that first day?

A My house is a funeral home, is at the corner on San Andres, and there in our place usually Japanese soldiers guard the whole road, and he was the one ordering them. That is why he usually stayed our place, because we are in the corner.

Q Now, how long before the incident that you described, the 10th of February -- how long before that did you have this conversation with Lieutenant Yanamoto?

A Well, just in the afternoon.

Q The afternoon of that day?

A Yes, sir.

Q And that is the day he said, "I am in the army"?

A No, sir.

Q Well, I am asking about the conversation, when he told you he was in the army; how long before the 10th of February was that?

A It was about four weeks ago.

Q Four weeks before that?

A Yes, sir.

Q What kind of insignia did Lieutenant Yanamoto wear?

A He wear boots, first; he has a long saber. In his collar there are stars here (indicating).

Q How many?

A Two stars, with a stripe behind the stars. That is why -- and I ask him, "What insignia do you have?" He said, "Teniente," he said, "Teniente." That is Tagalog; "teniente," that means "lieutenant."

Q It is "lieutenant"?

A Yes.

Q What kind of a belt did he wear?

A A leather belt, as wide as that (demonstrating).

Q And did he have a strap from the belt through his shoulder strap?

A Sometimes he wear them; sometimes he doesn't.

Q Sometimes he wore one of the straps up through his shoulder strap?

A Yes, sir.

Q What is the business name under which your undertaking establishment operates?

A Victoria Funeral Home.

Q Victoria?

A Funeral Home.

CAPTAIN REEL: That is all.

(A photograph was marked
Prosecution Exhibit No.
177 for identification.)

REDIRECT EXAMINATION

Q (By Captain Calyer) I show you this photograph marked Prosecution Exhibit 177, and ask you to state what that is?

A This my picture.

Q How did you receive the scar shown in that picture?

How did you receive the scar?

A By the struck of a saber.

Q On the 10th of February?

A Yes, sir.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 177 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 178 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit 178, and ask you if you will state who that is.

A This is Angel Manalili.

Q Was he with you on the 10th of February?

A I saw when he was struck by the saber, on that same day.

Q Where?

A In that same place, 1195 Singalong.

Q You saw the wound he received?

A He received three wounds.

Q Does this picture fairly show his condition?

A Yes, sir.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 178 for identification was received in evidence.)

CAPTAIN CALYER: Any other questions of this witness?

CAPTAIN REEL: No questions.

CAPTAIN CALYER: The witness is excused.

(Witness excused)

CAPTAIN CALYER: If the Commission please, the next witness that I would call is one Eugene Bayot, for whom a subpoena was issued but the officer attempting to serve the subpoena has just informed me that he has been unable to get the man at this time, but will be able to get him at a later date. This particular witness is of some importance to the Prosecution's case and I should request an opportunity to present the testimony of that witness at some later date when he is available.

GENERAL REYNOLDS: Very well.

GO HONG

called as a witness on behalf of the Prosecution, being first duly sworn, was examined and testified as follows through Interpreter Pacifico S. Gojunco:

DIRECT EXAMINATION

- Q (By Captain Calyer) What is your name?
- A Go Hong.
- Q Where do you live?
- A Paco.
- Q Where did you live in February, 1945?
- A In Paco.
- Q On the 10th of February, 1945 did you have an experience with some Japanese?
- A On February 10th, Saturday, I was caught by the Japanese.
- Q Were there any other persons with you?
- A We were 18 caught by the Japanese.
- Q What nationality?
- A All Chinese.

Q Will you tell the Commission their names, please?

A Go Hong.

Q That is you?

A Chang Bin Siong, Sy Sing Chiat, Sy Sing In, Sy Chi Chan, Sy Kiy, Lim Che, Go Che, Ku Chun, Ku Che, Ong Tiong, Ong Kien, Chua Suan, Su Bon Chok and Su Bon Chit. There are three persons whose name I don't know but I will recognize them if I see them.

Q Where were those eighteen Chinese taken?

INTERPRETER COJUNCO: I beg your pardon, please?

CAPTAIN CALYER: Where were those eighteen Chinese taken?

A They were all taken to a house in Singalong.

Q What happened there?

A They were first tied up with rope ten by ten and ten by ten. They were led into a place where they were slaughtered.

Q How many of those eighteen are still alive?

A Only four are alive.

Q Who are they?

A Sy Kiy, Ong Tiong, Sy Chi Chan.

Q What happened to the others?

A They were slaughtered.

Q About how many bodies did you see at this house that you describe?

A The number of people brought to the house was over 20, including the children and women.

Q What house are you talking about now?

A The house was a two-story house. The people were led

upstairs and their clothes were torn and they were slaughtered ten by ten.

Q Do I understand you to say that there were women and children there?

A Only males were taken over ten years of age.

Q Did you receive wounds yourself at that place?

A Yes. I had a wound on my neck four inches wide, two inches deep, the doctor told me.

Q Will you show it to the Commission, please?

A (Displaying back of neck).

Q I show you a photograph marked for identification Prosecution's Exhibit 179 and ask you to state what that is.

A This picture is my picture.

CAPTAIN CALYER: All right. I offer the picture in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of witness Go Hong was received in evidence and marked Prosecution Exhibit No. 179.)

Q (By Captain Calyer) I show you another photograph marked Prosecution Exhibit 180 and ask you if you know who that is.

A I know the person but I don't know his name.

Q Did you see him in the group on the 10th of February?

A I know this person leave Singalong.

Q Did you see him with the group on the 10th of February?

A He was the first to escape. He was the first to.

escape. I saw him.

Q Had he been wounded before that?

A Of course. He was wounded and he could not walk.

Q Does this picture show the wound?

A Yes. On the neck I can see.

CAPTAIN CALYER: I offer the picture in evidence.

GENERAL REYNOLDS: There being no objection it is accepted in evidence.

(Photograph of survivor was received in evidence and marked Prosecution Exhibit No. 180.)

Q (By Captain Calyer) I show you a photograph marked Prosecution Exhibit 181 and ask you if you know who that is.

A I know this person also leave Singalong and he was the companion of the first man.

Q Did you also see this man on the 10th of February?

A Yes. I saw him caught by the Japanese.

Q Does this picture show the wound that he received?

A Yes. I can see it in the picture on the back of his head.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is objected in evidence.

(Photograph of another survivor was marked Prosecution Exhibit No. 181 and received in evidence.)

Q (By Captain Calyer) I show you a photograph marked Prosecution Exhibit 182 and ask you if you can state who that is?

A This man's name is Ong Tiong.

Q Was he with you on that day?

A I came out from the air-raid shelter with him.

Q Was he one of the men whom you described as a survivor of the eighteen Chinese?

A Yes.

Q Do you know how he received the scar shown in the picture?

A His wound is also on his neck -- on the back of his neck.

Q How did he receive it?

A He was one of those persons beheaded, but I did not see how he was beheaded. But he was one of our group.

CAPTAIN SANDBERG: I ask that the witness' answer be stricken. It is hearsay.

GENERAL REYNOLDS: Will you read back the question and the reply thereto?

(Question and answer read).

GENERAL REYNOLDS: The objection is sustained.

Q (By Captain Calyer) Do you know by whom this man shown in Exhibit 182 was wounded?

INTERPRETER GOJUNCO: Am I to interpret?

CAPTAIN CALYER: Yes.

INTERPRETER GOJUNCO: I beg your pardon, please.

CAPTAIN CALYER: Will you read that question?

(Question read)

A He was wounded by the Japanese, because I was there.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of another survivor was received in evidence and marked Prosecution Exhibit No. 182)

Q (By Captain Calyer) I show you a photograph marked for identification Prosecution's Exhibit 183 and ask you to state who that is.

A He was one of our group. His name is Sy Kiy.

Q Was he also wounded by the Japanese?

A Yes.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of another survivor was received in evidence and marked Prosecution Exhibit No. 183.)

Q (By Captain Calyer) I show you a photograph marked Prosecution Exhibit 184 and ask you to state who that is.

A I know this man. He was formerly in the market selling beef.

Q Do you know his name?

A I know the person but I do not know his name.

Q Was he in the group on the 10th of February?

A I saw he was tied by the Japanese, but he was not one of our group.

Q You mean that you were taken before he was?

A He was taken later.

Q But he was a member of the group that was tied?

A They were behind us but we were in one line.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is

accepted in evidence.

(Photograph of another survivor was received in evidence and marked Prosecution Exhibit No. 184.)

CAPTAIN CALYER: You may examine.

CROSS EXAMINATION

Q (By Col. Hendrix) State whether the Japanese were Army, Navy or Marines.

A They were Navy, because they wore green clothes.

COL. HENDRIX: That's all, sir.

CAPTAIN CALYER: The witness is excused.

(Witness excused)

CAPTAIN CALYER: Cayetano Lagdameo.

CAYETANO LAGDAMEO

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A I beg your pardon, sir.

Q State your name, please.

A Cayetano Lagdameo.

Q Speak louder so these men will hear you.

A I am 19 years old, sir.

Q On the 10th of February, 1945 where were you living?

A In Singalong.

GENERAL REYNOLDS: Louder. You will have to talk louder. Where were you living?

THE WITNESS: In Singalong, sir.

GENERAL REYNOLDS: Is that microphone working?

CAPTAIN CALYER: I believe so.

Q (By Captain Calyer) On the 10th of February, 1945 did you have an experience with some Japanese?

A I beg your pardon, sir.

CAPTAIN CALYER: Will you read it, sir?

(Question read)

A I was playing, sir, --

GENERAL REYNOLDS: Talk louder.

A (continuing) I was playing, sir, in the house of Mrs. Milanese, and Japanese came and took -- We were about ten of us there and then they took us in a row of houses near Remy Street. Then they put us all together, tie our hands and put us under the house.

Q Did there come a time when you were taken to a house on Singalong Street?

A 2:00 o'clock, sir.

Q What happened there?

A They told us that we are going to work for them. Then they give us rice.

Q What happened?

A Then afterwards they take us to Remy Street in a field there and they tie us and put us in a house.

Q Did they take you to a house on Singalong Street?

A I beg your pardon, sir.

Q Did they take you to a house on Singalong Street?

A Yes, sir.

Q What happened there.

A Then they tie us and put us in a line; then took ten by ten.

Q Yes. What happened?

A Afterwards they bring us near to Singalong Street, near the railroad, and then they bring me to the house and put a strap on my eyes. Then they took us in the room and pushed me on my shoulder, then strap me.

Q Did you see any of the Japanese who did this?

A Yes, sir.

Q Will you describe their appearance?

A He was about six-footer and with a flag in the center here.

Q What was on his head?

A A flag with the Rising Sun.

Q A "flag"? Is that what you are saying?

A Yes, sir.

Q Go ahead. What did he do?

A They cut -- I was hit by, I don't know; it was -- I think it was iron. When I was hit, then I pulled the strap from my eyes and I saw one of my friends was bayoneted.

Q Who was that?

A It was Milardi.

Q How many bodies did you see in the vicinity of that house?

A I beg your pardon, sir.

Q How many bodies did you see in the vicinity of that house?

A About a hundred, sir.

Q Did you see any other Japanese around that area?

A Yes, sir.

Q Did you notice any marks on the uniforms of any of

them?

A Yes, sir.

Q What were they?

A It was green, sir.

Q Did you notice any marks on the uniform?

A Yes, sir.

Q What?

A Red, white -- Red and in between there is white, sir, between three "stars".

Q Any other markings?

A Yes, sir. They have a saber and they have a leather belt here, sir.

Q And any markings on their hat?

A I don't remember, sir. It was a "star", sir. One star.

Q Where were you wounded?

A Here, sir (indicating right shoulder).

Q Will you show the Commission?

A (Displaying back of neck)

Q Will you be seated? I show you a photograph marked Prosecution Exhibit 185 and ask you if you can state what that is.

A I beg your pardon?

Q What is that?

A Picture.

Q Of whom?

A Of me.

CAPTAIN CALYER: I offer the picture in evidence.

GENERAL REYNOLDS: There being no objection, it is

accepted in evidence.

(Photograph of witness was received in evidence and marked Prosecution Exhibit No. 185.)

Q (By Captain Calyer) I show you a photograph marked Prosecution Exhibit 186 and ask you if you can tell who this is.

A This is Felix Plata..

Q Was he with you on that day?

A Yes, sir.

Q Was he also wounded?

A Yes, sir.

Q Does that picture show the wound he received?

A (No response).

Q Does that picture show the wound he received?

A Yes, sir.

CAPTAIN CALYER: I offer it in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of Felix Plata was received in evidence and marked Prosecution Exhibit No. 186.)

CAPTAIN CALYER: You may examine.

COLONEL HENDRIX: No questions, sir.

GENERAL REYNOLDS: The Commission will be in recess for approximately five minutes.

(Witness excused)

(Short recess)

GENERAL REYNOLDS: The Commission is in session. The Prosecution will proceed.

JULIETA MILANES

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A My name is Julieta Milanés, sir.

Q Where do you live?

A I live at 1159 Dart Street, Manila.

Q How old are you, Miss Milanés?

A I am 17 years old.

Q On the 10th of February, 1945 did some Japanese come to your house?

A I beg your pardon, sir?

Q On the 10th of February, 1945 did some Japanese come to your house?

A Yes, sir. There were two Japanese who came to our house and they take my father and my brother when we were taking our lunch. It was 1:00 o'clock in the afternoon and they took my father and brother.

Q What were your father's and brother's names, please?

A When they --

Q Will you give the names, please?

A Names of what, sir?

Q Your father and your brother.

A My father's name is Arsenio Milanés and my brother's name was Orlando Milanés.

Q Do you know where they were taken?

A Yes, sir.

Q Where?

A When the Japanese came to our house they took my father and brother and they took them to Remy Street, and there their hands were tied at the back.

Q Did you see that?

A Yes, sir.

Q Where were you at the time?

A It was about 5:00 o'clock or 5:30 in the afternoon when we look on the dark street, and we saw my father -- I mean, Remy Street -- tied up with my brother and some of our neighbors.

Q What happened at that time as far as you were concerned?

A And while they are standing there we screamed and shout and called my father and my brother, but one of the officers, I think, tried to get a pistol and shot us, and we were still lucky that we turn our back and the bullet shot in the corner of the wall. That is why we were not shot. And after that we didn't look any more and we just sort of cross the dark street. After that we didn't see any more where they were taken.

Q Have you seen your father or your brother since that time?

A When the Americans arrived Monday afternoon, the next morning was Tuesday, and we tried to look for my father. But we first went to the river and we saw lots of bodies there in that place.

Q About how many?

A I beg your pardon, sir?

Q About how many?

A Well, in my estimation I saw about 30, because I don't

know how many dead bodies there are in the bottom of the river.

Q These that you saw were where?

A I beg your pardon, sir?

Q Where were the bodies that you saw?

A They were about 30; 30 bodies or more.

Q Where were they?

A They were at the river.

Q Did you later go to some other place?

A Yes, sir.

Q Where?

A After I have been from this river I went to Singalong Street where I looked for my father, and it was 1186 house located on Singalong.

Q What did you see there?

A I saw dead bodies, and in my estimation there were 30 -- 30 dead bodies.

Q Where did you see those dead bodies?

A In the house which is surrounded by walls.

Q What condition were they in?

A And then after going there I didn't see my father nor my brother.

Q Just a minute, please. Will you answer my question? In what condition were those bodies?

A I beg your pardon, sir?

Q In what condition were those bodies?

A They were all decayed already.

Q Were they on the ground?

A And then after that --

Q Just a minute, please. Will you answer the question?
Were they on the ground?

A I beg your pardon, sir.

Q Were those bodies lying on the ground?

A Yes, sir. They were lying. Some of them were buried
just not so deep.

Q How many groups did you see buried?

A There were about four groups in that place where I
saw dead bodies.

Q And then did you go to some other house?

A I went to just the same street.

Q Singalong Street, 1195. That was the house where
there was a beheaded man.

Q What did you see there?

A I saw dead bodies piled and there were about two
hundred or more.

Q I show you a photograph marked for identification
Prosecution's Exhibit 187 and ask you if you know who that
is.

A Yes, sir. This is Fidel Marino.

Q Was he one of the group taken by the Japanese that
day?

A One of the men beheaded. Yes, sir.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is
accepted in evidence.

(Photograph of Fidel Marino
was received in evidence
and marked Prosecution
Exhibit No. 187.)

Q Just a minute, please. Will you answer the question?
Were they on the ground?

A I beg your pardon, sir.

Q Were those bodies lying on the ground?

A Yes, sir. They were lying. Some of them were buried
just not so deep.

Q How many groups did you see buried?

A There were about four groups in that place where I
saw dead bodies.

Q And then did you go to some other house?

A I went to just the same street.

Singalong Street, 1195. That was the house where
there was a beheaded man.

Q What did you see there?

A I saw dead bodies piled and there were about two
hundred or more.

Q I show you a photograph marked for identification
Prosecution's Exhibit 187 and ask you if you know who that
is.

A Yes, sir. This is Fidel Merino.

Q Was he one of the group taken by the Japanese that
day?

A One of the men beheaded. Yes, sir.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is
accepted in evidence.

(Photograph of Fidel Merino
was received in evidence
and marked Prosecution
Exhibit No. 187.)

Q (By Captain Calyer) I show you a photograph marked Prosecution Exhibit 188 and ask you if you know who that is.

A This is Vicente Alcid, sir.

Q Was he also one of the group?

A One of the group, sir.

CAPTAIN CALYER: I offer this photograph in evidence.

(Here followed remarks physically stricken from the record by order of the Commission.)

GENERAL REYNOLDS: Proceed.

CAPTAIN CALYER: If the Commission please, I believe I offered an exhibit which has not been accepted in evidence.

GENERAL REYNOLDS: Let me see it. Is it numbered?

CAPTAIN CALYER: Yes, sir. It is numbered on the back. 188, I presume.

GENERAL REYNOLDS: Does the Defense identify Prosecution's Exhibit 188?

CAPTAIN CALYER: I believe there was no ruling on that last exhibit offered.

GENERAL REYNOLDS: The person is wearing a cap with a paper.

There being no objection, it is accepted in evidence.

(Photograph of Vicente Alcid was received in evidence and marked Prosecution Exhibit No. 188.)

Q (By Captain Calyer) I show you another photograph, Prosecution's Exhibit 189, and ask you if you know who that is.

A This is Magtal. I forget the first name, sir.

Q I show you this paper and ask you if it will refresh

your recollection.

A This is Ubaldo Magtal.

Q Was he a member of the group taken by the Japanese?

A Yes, sir.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of Ubaldo Magtal was received in evidence and marked Prosecution Exhibit No. 189.)

Q (By Captain Calyer) Miss Milanes, do you know whether the bodies that you saw at the various places that you have described were bodies of civilians?

THE WITNESS: I beg your pardon, sir?

CAPTAIN CALYER: Would you read it, please?

(Pending question read)

A Yes, sir. I saw one of our neighbors whose name is Adriano Salinga. I saw his body in Singalong Street which is 1195.

Q Were all of the bodies that you saw civilians?

A Yes, sir.

Q Have you made a list of the names of persons who were wounded on the 10th of February by the Japanese?

A I have all the list here.

Q Will you give me the names of those people?

A The names of the persons wounded are: Vicente Alcid, 1178 Dart, Singalong; Fidel Merino, 1189 Dart, Singalong; Cayetano Lagdameo; Felix Plata, 1118 Dart Street, Singalong; Ubaldo Magtal, 1107 Dart, Singalong; Adolfo Papica, 1107 Dart, Singalong; Tito Urrutia; Ricardo Esquerria, 1378 San

Andres; Angel Manalili, 1441 San Andres; Virginio Suarez, 1029 Anakng Bayan; Romarico Portiza; Maxino Pingal; Sy Chia; Leonardo Espiritu; Sy Chuan.

Those are the names of the men wounded.

Q I show you a photograph marked Prosecution's Exhibit 190 and ask you who that is.

A I can't tell you who it is, but if I see the face I may know.

Q I show you this statement and ask you if that refreshes your recollection.

A Yes. Adolfo Papica.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of Adolfo Papica was received in evidence and marked Prosecution Exhibit No. 190.)

Q (By Captain Calyer) I show you a photograph marked Prosecution Exhibit No. 191 and ask you if you know who that is.

A I forget the name of this person, sir.

Q Will this refresh your recollection?

A Virginio Suarez.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of Virginio Suarez was received in evidence and marked Prosecution Exhibit No. 191.)

Q (By Captain Calyer) Miss Milanes, did you also make

a list of the names of persons killed on that day by the Japanese?

A I beg your pardon, sir?

Q Did you also make a list of the persons killed by the Japanese on that day?

A Those not living, sir?

Q Those not living.

A Yes, sir. I have a list of those. Shall I have to read them, sir?

Q Will you tell me those names?

A Regino Alcid, Alfredo Malit, Manuel Montano, Ricardo Montano, Artenio Montano, Alberto Inacay, Filimon de los Reyes, Lauro Dico Velarde, Estanislao Balleta, Simporiano Espena, Pedro de Chun, Balbino Talatala, Florencio Morillo, Ricardo Sisneros, Pedro S. Pangilinan, Lauro S. Factora, Francisco Lapira, Adriano Salinga, Apolonio Mabanta, Zoilo Oredina, Diogracias Santos, Benjamin Santos, Fausto Par-subigan, Placido Boado, Jose Santiago, Basilio Estacio, Bolando Estancio, Apolinar Ortega, Marcelino de los Santos, Rubin Williams, Agustin Islamado, Pedro Cruz, Calixta Baja, Guillermo David, David Canicosa, Miguel Bonifacio, Lauro Villarta, Carlos Pollard, Jose Herman, Jr., Marcelo Javier, Arsenio Escudero, Jr., Vinancio Calvitaza, Wong, Lu Yat, Chong, Crisanto Fernin, Marciano Cubic, Polinar Cortez, Ricardo Caballero, Ricardo Baja, Pascual C. Cala, Jose Cala, Castillo, Valentin Yabot, Cancoza, Alfonso Eglecias, Fausto Eglecias, Angel Serrano, Alberto Tomboc, Fernando Boado, Eugenio Balleta, Francisco Aniban, Sebastian Sabas, Antonio Nanija, Rosario Canlas, Ricardo Baja, Benito, Mr. and Mrs.

Esquerria, Mercedes de Ocampo, Tomas de Ocampo, Encarnacion Cortez, Jose Nava, Florencio Malabaq, Azucena Rebelleza, and Bruno Rebelleza.

Those are the list that I have here, sir.

Q Where did you obtain that list?

A I beg your pardon?

Q Where did you obtain that list?

A I got this list from those widows that are our neighbors, because when Mr. Cannon came to my house he told me that they were looking for those whose husbands were persecuted. Then I began to go from house to house, our neighbors, and ask them if they have a member of the family who were killed, and they gave me the names of those who were killed.

Q And --

A And then I begun listing the names, and the investigators told me to take the address, the names and the age.

CAPTAIN CALYER: You may examine.

CAPTAIN SANDBERG: The Defense requests that the witness' testimony as to the list of persons killed be stricken from the record. The list is pure hearsay. It is not within the witness' knowledge. It does not state any of the circumstances, either place or date of the death. The Defense would have no objection to the witness testifying to facts that are within her knowledge, but it is apparent that the witness does not have any such knowledge.

To illustrate this point, I should like to have the witness, now that her recollection has been refreshed, to give that entire list without the use of that document.

GENERAL REYNOLDS: It will not be necessary. The objection of the Defense will be sustained.

CAPTAIN CALYER: If the Commission please, may I be heard?

This witness does not have personal knowledge of the death of these individuals named. That is true. However, under the rules the Commission may accept such testimony if it sees fit, and I submit that the reason why the evidence was offered is simply that this witness of her own volition obtained this information from the persons in the neighborhood. The same testimony might be presented to the Commission by calling all of those persons, but in the interests of expedition we felt that it was better to offer it in this form.

GENERAL REYNOLDS: The objection of the Defense is sustained.

CAPTAIN CALYER: Thank you. The witness is excused.

COL. HENDRIX: No questions, sir.

CROSS EXAMINATION

Q (By Captain Sandberg) I show you Prosecution's Exhibit No. 187.

A This is Fidel Merino, sir.

Q You testified that you saw him "beheaded"; is that correct?

A No, sir.

Q You stated for the record that you saw him "beheaded".

A I didn't see this person.

CAPTAIN CALYER: There is no such testimony.

CAPTAIN SANDBERG: We may have misheard, if you please.

THE WITNESS: I didn't see this person after he was "beheaded", because at that time the Japanese don't allow anybody else to be walking the streets or anywhere else. But at the time when Mr. Cannon came -- the Americans came I saw them with wounds like this and they went to the hospitals, and I met them when the Americans arrived.

CAPTAIN SANDBERG: If the Commission please, it may be that we did not hear the testimony correctly, but I would request that the reporter read back the witness' testimony with reference to this exhibit. *Commission*

GENERAL REYNOLDS: The witness accepts that the witness did state "beheaded" and also there was probably language difficulty. The picture itself is sufficient as to the injury received.

Is that not acceptable to the Defense?

CAPTAIN SANDBERG: The substance of the Defense's point is that this witness apparently uses the term "beheaded" to refer simply to being "hit on the head". We wanted to clarify that, if that is in fact the case, because it is obvious that this person was not beheaded.

GENERAL REYNOLDS: Yes.

CAPTAIN CALYER: Any further questions?

COLONEL HENDRIX: No further questions.

CAPTAIN CALYER: The witness is excused.

(Witness excused)

FRANCISCO del ROSARIO

recalled as a witness on behalf of the Prosecution, having been previously duly sworn, was examined and testified further as follows:

MAJOR KERR: You testified before in this proceeding, did you not?

THE WITNESS: Yes, sir.

MAJOR KERR: I will remind you that you are still under oath.

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A My name is Francisco del Rosario.

Q And your residence?

A 1239 Azcarraga Street.

Q Your occupation?

A Funeral director, sir.

Q Did you have occasion to go to 1195 Singalong Street in February, 1945?

A Yes, sir. It was not in February, though; it was March 20, 1945, that we were informed that there were bodies located in this residence. We went over there and we found a big number, great number of bodies burned, and about a total numbering about two hundred persons. We estimated the amount of two hundred, since there were found approximately two hundred skulls. We could not say whether they were killed or beheaded or whether it was due to their burning, that the heads came off. But I counted the number of dead bodies; there were about 200.

Q Did you see any dead bodies at any other place in

that vicinity?

A Yes, sir. It was by the river there, kind of small river -- we call it "estero" here in Manila, and there were about -- I couldn't say exactly, but I estimated about 30 dead bodies in the river. That small river is filled with water lilies, and these dead bodies were lying down on top of this water. They had been soaked in water about a month from that time, and they were just coming apart. These dead bodies we moved out from the river, we fished them out. Their hands were tied behind their backs, leading up to the neck. We pulled them by a hook; we used a hook to pull this string leading up to the neck, to pull them out of the river. Since they were in a bad state of decomposition, we could not do otherwise with the rest, and since it was all filled with water lilies we couldn't find their exact location, couldn't find whether they were under or on top; but there were some more dead bodies which came from that river, because I saw crosses in the field in that sector, marked with crosses, and I understand that those bodies came from that river, taken out by the members of their own families.

CAPTAIN CALYER: You may examine.

COLONEL HENDRIX: No questions, sir.

(Witness excused)

CAPTAIN CALYER: If the Commission please, the testimony in this case has shown that there were a large number of persons killed and another substantial group of persons wounded. In the interests of saving time, and in order to establish the names of persons known dead and the persons

known wounded, the Prosecution offers in evidence the official report of the War Crimes Branch made to the Judge Advocate General in Washington with relation to this case, particularly that part containing the list of names of named dead and wounded.

GENERAL REYNOLDS: The Commission will withdraw to its chambers for deliberation, and stand in recess until 1:30 this afternoon.

(Whereupon a recess was taken until 1330 o'clock, 3 November 1945.)

AFTERNOON SESSION

(The trial was resumed, pursuant to recess, at 1330 hours.)

GENERAL REYNOLDS: The Commission is in session.

Prior to the noon recess, the Commission took under advisement an official document that was offered by the Prosecution. Other than the standing objection which counsel have, do they have further objection to this document or do they wish to point out the significant passages therein?

COLONEL HENDRIX: Yes, sir. We have further objection, sir.

We object to this document, because it is an investigation and report of the opinion of the War Crimes Branch, and it contains on page 1 a summary of evidence; page 15, a discussion and conclusion; page 16, it renders an opinion, and on page 16 it makes certain recommendations. We object to this document going in evidence, because it renders opinions and because it has in it hearsay and, no doubt, hearsay upon hearsay, and it describes and refers to a sketch of a "Death Chamber" on page 14, and the names as submitted are names, apparently, gathered by the investigating officer.

We object to the document going in, on those grounds.

Now, sir, the witness that was on the stand, a Miss Julieta Milanes, had a list of certain names that she has gathered, and we made a motion that those names be stricken, and we feel that this particular document should likewise not be allowed in evidence.

GENERAL REYNOLDS: The ruling of the Commission is that the document will be accepted in evidence.

The Prosecution may proceed.

CAPTAIN CALYER: May I have that marked, sir, as Exhibit 192?

(The statement was received in evidence and marked Prosecution Exhibit No. 192.)

CAPTAIN CALYER: If the Commission please, that will complete the testimony with regard to this particular incident, with the exception of the one witness whom we have not yet been able to obtain, and which you gave us permission to present at a later time.

GENERAL REYNOLDS: Very well.

COLONEL HENDRIX: Sir, since this document has now been admitted by the Commission, I wish to call the attention of the Commission to page 14, under paragraph 5. I will read, sir:

"Nearly every one of the witnesses agreed that the Japanese who committed these murders and attempted murders were marines and were described as wearing green uniforms with an anchor on their collars and hats."

And according to one witness they were all navy, "I mean, because at the time, the army had all gone and left the navy in charge."

Further, sir, on page 16, "Recommendations: A. The perpetrators of these offenses, including Captain Sato and Nakahara and Yamamoto, whose ranks and first names are unknown, if and when ascertained, be tried for murder and attempted murder."

The reason I call that recommendation to the attention of the Commission is that no where in this document is there

a recommendation that the Accused in this case be tried for the incidents that are set out in this report.

GENERAL REYNOLDS: The comments of defense with respect to the document in question are noted by the Commission.

CAPTAIN WEBSTER: Sir, this case is contained in Paragraphs 3 and 10 of the Bill of Particulars.

IGNACIO B. LIZO

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

DIRECT EXAMINATION

Q (By Captain Webster) Please state your name.

A Ignacio B. Lizo.

Q Your age?

A 36.

Q Your nationality?

A Filipino.

Q Did you have an occasion to be arrested by the Japanese during December, 1944?

A Yes, sir.

Q Do you recall the date?

A December 21, at exactly between 1 -- between 12 and 1 in the morning.

Q And where did the Japanese take you?

A They took me first -- I was -- they took me first in the truck. Then after loading me in the truck, after mangling and manhandling me in my house, giving me the water cure, they brought me to the truck, because they could not get anything from me. Later on they wanted me to tell them who were the ones throwing the flares at night whenever the air-

planes passes at night, the American planes.

Q May I interrupt a minute: Where did they take you in the truck?

A To Cortabitarte and Mabini, the garrison.

Q Is that the garrison commonly called the Cortabitarte Garrison?

A Yes, sir.

Q Can you state the location of that garrison?

A Is it right on the corner of Mabini and Cortabitarte, going to the compound as far as Mabini.

Q Do you know what headquarters that was?

A That was a Japanese military garrison, which, I believe, the way I understood, it is headquarters of Kempei Tai, the military police.

Q Will you state what they did to you at the Cortabitarte Garrison?

A During the first two nights they did not touch -- they did not give me -- even touch me a single bit. But on the third night they called our names, and then very early in the morning they started questioning us. Then we started -- we went out of the room, they tied us, and they started telling me to tell them what I know about the underground movement in the city. I just kept on -- but natural, to be silent; you cannot just talk like that. I just kept on telling them I do not know anything about any underground movement, because I am afraid of implicating my companions, so I just kept on silent until they gave me the works. The first time they tried to give me the -- not exactly the water cure, but they tried to place me, because I do not

talk, and there was a raid -- they took me again to the closet and it is quite an easy punishment, but even then anybody may laugh at it, but they let me down to my waist (indicating), they put me there in the closet and they put my face in the toilet, then put their feet on my head. Later on they took me away, they put me outside and they just take the water pump -- I mean, the rubber hose, and they pump my face just to clean the waste in my face.

Later on they put me again in the cell. Then the next day they called for my name again. Later on they changed their mind; they left me stay. Instead they took some of my companions inside of the cell.

But later on, then, the next day, about 9 o'clock they took me out to go with the others, so many of them, and that is the time when they started whipping me and they really gave me the real works. That is, the water cure, the whipping, and jujitsu.

Q Mr. Lizo, will you explain what you mean by "the water cure"?

A The water cure -- I mean, there are two kinds of water cure that they gave me. First, in the house. In the house they just put -- they tied my mouth with a piece of towel, then three or four, maybe about six of them were on top of me, and they pitcher or -- they just pour water in my mouth and my nose. I surely cannot breathe, and they are holding your hands and standing over you.

That was one kind of water cure they gave me, in the house. But the other water cure they gave me in the garrison itself is different.

Q What kind was that?

A They tied my hands together, with my two feet, and then they threw me in the big bathtub of the house of Dr. Ranos -- that is the garrison -- and they left me there inside until I could not move any more. Whenever I popped my head off the water, they just pushed with their feet until you could -- until you have already swallowed it so you cannot swallow. Then when you cannot move any more, they take you off and start getting water out of your stomach again.

Q How long did they keep that up at one time?

A The first time that they gave me the water cure, it took them one hour, from about 12:30 to 1:30, something like that.

Q How long did this other kind take?

A The other time they started from the morning, about 10 up to 12:30. They dip you, they take you out; they dip you, they take you out. When they could not get anything from you, they just -- maybe they are tired already -- they just take you back to the cell, then wait for another time again they will take you again out.

Q Now, did they have any other methods of mistreating you?

A The other method that they have given me only there is these whipping with a BX wire. The BX wire is sort of wiring you want to insulate the wires, the house, made of steel. Then they try to whip you with that.

Q Will you describe how they whipped you?

A The instrument that they used is almost a meter. Then they start whipping you, then it coils around your body until

they get tired of whipping you. When you do not answer him properly again, they do you another stuff: They make the jujitsu to you.

Q Describe that, if you will, please.

A The jujitsu that they do to you is just take hold your hands, then throw you to the ground again (demonstrating), then when you are ready up again, take you to the other side and give you the other works on the other side.

Q How many times did they do that to you?

A Maybe for half an hour.

Q During the time that they were beating you with this BX wire, were you tied in any way?

A Only my two hands, at the back.

Q How were they tied?

A Tied by the back (placing hands behind back).

Q How many times were you given the water cure altogether, at the Cortabitarte Garrison?

A At the Cortabitarte Garrison, one time, but it was a very long time, from 10 to almost 12:30.

Q How many times were you beaten at the Cortabitarte Garrison?

A Once.

Q How long did you stay at the Cortabitarte Garrison?

A From the night that I went there, they took me there, up to the 29th, when they released me in the afternoon.

Q The 29th of December, 1944?

A Yes, sir.

Q Did you, while there, see any other people mistreated in any manner?

A I did not exactly see them treated badly, but I have seen them from inside our cell with their bodies practically mangled. They could hardly move, they could hardly walk, with blood on their heads and blood on their knees.

Q How many people did you see out there in that condition?

A I have seen Sally Escarella, I have seen Mrs. Mencarini, I have seen Daleo, I have seen Captain Espero, in those conditions. The rest I have seen coming in outside our cell, but not bleeding, but with a scar -- with whipping marks on their body and on their faces.

Q Did you see any women at that garrison?

A I have seen Sally Escarella, a lieutenant in the Philippine Army; I have seen Pasita Arzaga; I have seen sister Trinitas of the Mary Knoll Sisters; I have seen Mrs. Enriquez, an American lady; also treated very badly. I have seen Mrs. Mencarini.

Q What was the condition of the lady you have described as Mrs. Escarella?

A Mrs. Escarella, the way I have observed her in the cell when I got there to the garrison, I have seen black marks on her hands, showing signs that she has been very tightly tied, and I have seen her with marks in the neck which really shows that she was hung by the neck.

Q What kind of marks?

A It was rope marks in the neck.

CAPTAIN REEL: If the Commission please, we ask that that remark relative to the witness's supposition or interpretation of what might have happened be stricken.

GENERAL REYNOLDS: Will you read back the question and answer?

(Question and answer read)

GENERAL REYNOLDS: Objection not sustained.

Q (By Captain Webster) Were you at the garrison when this lady left there?

A I beg pardon?

(Question read)

A Yes, sir.

Q When did she leave?

A I believe she was taken out from the garrison about three days before I left the place, before I was dismissed.

Q Do you know where she went?

A I do not exactly know, but the way I figure out, she was taken for a ride, a long ride.

CAPTAIN REEL: Sirs, we will ask that that also be stricken from the record, that last answer.

GENERAL REYNOLDS: The last statement will be deleted from the record.

Q (By Captain Webster) Do you know the names of any of the Japanese who questioned you at Cortabitarte Garrison?

A Corporal Harada.

Q Do you know what branch of the Japanese military forces he was in?

A He is connected with the Cortabitarte Military Garrison.

Q Did any officers take part in the questioning or mistreatment of you?

A In my house it was Lieutenant Nakano, the chief, himself,

of the garrison was there. There were about 15 of them that gathered to my house, and my house was surrounded by several military police.

CAPTAIN WEBSTER: You may cross-examine.

CROSS-EXAMINATION

Q (By Captain Reel) You didn't see Mrs. Escarella hung by the neck, did you?

A I did not see Mrs. Escarella hung by the neck.

Q All right. Now, after all this that occurred at the garrison, or at any time during all this, did you tell the Japanese, did you answer, give them any of the information they wanted?

A I beg pardon?

(Question read)

A No, sir.

Q (By Captain Reel) And do you know whether any of the others who were there gave them any information?

A I do not, sir.

GENERAL REYNOLDS: The Commission interrupts to inquire the purpose of this line of questioning.

CAPTAIN REEL: Sir, that will lead up to the questions that are to come, relative to the guerrilla activities of the persons who were apprehended.

GENERAL REYNOLDS: Does Defense believe that that has any bearing on the questions at issue?

CAPTAIN REEL: The Defense believes that it is necessary to give the Commission the complete picture.

GENERAL REYNOLDS: Very well. Proceed.

Q (By Captain Reel) Were you engaged in giving aid to

the guerrillas?

A Every time a guerrilla outfit comes to my office, I used to give them a couple of hundred pesos, two hundred pesos, something like that.

Q Did that occur quite often?

A Beg pardon?

Q Did that occur quite often?

A Very often.

Q Did you send up any flares when the American planes came?

A No, sir.

Q But did you know who did that?

A We just see it in the evening, whenever there is an American plane coming at night; we could just observe that there are flares shooting in the air.

Q Yes. Now, without stating any names, do you know the persons who sent up those flares?

A I do not know the persons shooting those flares.

Q Now, of the persons whom you saw, whose names you have given to the Prosecution, at the garrison, do you know whether they were engaged in aiding the guerrillas?

A I only learn about their giving aid to the guerrillas when we were there inside already.

Q They told you that?

A They did so, some of them.

Q And I think you said there was one guerrilla lieutenant there?

A Yes, sir.

Q Now, were you dressed in a uniform?

A No, sir.

Q Were any of the others dressed in uniforms?

A Nobody, sir, because when I came inside most of us were in short pants, or -- we were just dressed in any way we were taken from the house. Some were in plain polo shirts.

Q And the guerrilla lieutenant, did that person have a uniform on?

A The girl? You refer to Sally Escarella?

Q Is that the guerrilla lieutenant?

A Yes, sir, the lieutenant.

Q Did she wear a uniform?

A No, sir.

Q Or any distinguishing mark showing she was a guerrilla?

A No, sir.

Q I believe you told us on direct examination that your reason for not answering the questions of the Japanese was that you did not wish to implicate your companions.

A Yes, sir.

Q Is that correct?

A Yes, sir.

Q And what did you mean by that?

A My companions -- you must understand that in my office I had Mr. Carlos Natividad, as my secretary-treasurer of my office, and as such I know very well that he is a judge advocate of the guerrilla outfit in Rizal. In fact, he was beheaded; and the way I figure out, he was killed, with his father, his brother, his cousin, with Mayor Natividad of his home town; the entire Natividad family were killed.

Q They were alive at the time you were in the garrison, and that is why you didn't want to implicate them, is that correct?

A They were still alive. Later on, when I went out, I found out that they were all dead.

Q Now, by not implicating them, you mean you didn't want to tell the Japanese of any guerrilla activities that went on in your office, is that correct?

A Yes, sir.

CAPTAIN REEL: That is all.

MAJOR KERR: If the Commission please, the Prosecution moves at this time, sir, that all of the questions of Defense Counsel relating to guerrilla activities in connection with this witness, or any other person, and all of the answers of this witness thereto, be stricken; on the grounds that it is entirely immaterial whether or not the persons tortured were guerrillas or had any guerrilla connections. I believe it is well settled, sir, that it is a violation of the Law of War to torture even a guerrilla.

GENERAL REYNOLDS: The comments of Prosecution are accepted by the Commission, but there seems to be no reason for excluding the statements from the record. They will be allowed to remain.

The Defense will confine its cross-examination to adhere to points that are material to the issue. Some of the matters referred to are recognized by International Law as being clearly outside the scope of modern civilization.

CAPTAIN REEL: Sir, we don't state that the rules of land warfare, the rules of International Law, permit of

torture; but we do state that the rules of International Law and rules of land warfare do permit of actual execution of proved guerrillas, where there has been, as here, a complete surrender.

Now, relative to the question of torture, as I stated when I began the cross-examination, we feel it is necessary for this Commission to get the full picture here, and the fact that there were guerrilla activities certainly throws some light on the occurrences that have been brought out in the evidence.

GENERAL REYNOLDS: Very well.

(Witness excused)

MAJOR KERR: If the Commission please, the interpreter whom we desire to use now has not been heretofore sworn. Therefore, with the Commission's consent, I shall proceed to swear the interpreter.

(Whereupon Jesus E. Villa-Real was sworn as interpreter.)

BENIGNO DEL RIO

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

DIRECT EXAMINATION

- Q (By Captain Webster) Please state your name.
- A Benigno del Rio.
- Q Your age?
- A 39 years.
- Q Your nationality?
- A Spanish; Filipino citizen.
- Q Were you placed under arrest by the Japanese during December of 1944?
- A Yes. December 23rd, 1944.
- Q Where were you taken by the Japanese?
- A To the espionage branch of the Japanese Military Police Headquarters located at Cortabitarte and Mabini Streets, Manila.
- Q Is that what is commonly known as the "Cortabitarte Garrison"?
- A Yes, sir.
- Q Do you know what branch of the military forces operated that garrison?
- A Yes, the military police.

Q How long did they keep you at that garrison?

A Seven days.

Q Will you describe to the Commission in your own words what the Japanese did to you while you were there?

A On December 25th, at half past eleven, they call me, and they ask me to tell the truth, and they told me that I am an officer of the American intelligence division. I denied it. And then they told me, if I am not telling them the truth, they are going to keep me that night.

Well, I denied that I am an intelligence officer, because it wasn't true. Then they tie me in my back with an electric wire and then brought me to the garden of that home and lay me down on the ground, tie my two feet, and then one Japanese was standing on my foot, another one here on my leg, and another one was sitting on my stomach, another one on my chest, and another was pulling my head straight (illustrating). And then they began to pour me water with a bottle of, I think, one litre. In the meantime three or four M. P.'s began to --- They began to put cigarette butts on my back, partly on my back, because I was laying down, and on my hands. Then after the second bottle they began to jump on my chest and my stomach and asking me if I know Ernest Johnson. I told him that I don't know him. It wasn't true because I never met him in my life or I never hear his name. So they pour me with more bottles. I think up to 12 or 13 bottles they poured in me. And then I cannot resist because my heart was beating very, very fast, and I cannot resist that water, because I was

drowning.

So I told them that I will tell the truth. And then they pour me three more bottles, and after a while I told them lie, because, really, I don't know the name of that American. I never saw him in my life.

After a while they released me, and two or three M. P.'s told me to go to the cell, but before I had been for five minutes sitting down on one empty box two or three Japanese M. P.'s had been hitting me with sticks on my neck. They told me that that night they are going to kill me because I was an American spy. That was December 25, 1944, about 12 o'clock, and I think that half an hour was my torture.

Q How long did this so-called "water cure" last at that time?

A Half an hour.

Q Did you thereafter receive the water cure?

A No.

Q Did you thereafter receive any other mistreatment by the Japanese?

A Yes, yes. The next day.

Q What did they do at that time?

A At that time they tie my hands on my back again, and they ask me if I was the chief of the Spanish Communists in the Philippines. I denied it, because I told them that my father lost in this war more than two million pesos. So how can a rich man be a Communist? It is true that we have been sympathizers of the Republicans in the war in Spain, but we are not Commu-

ists.

So they told me that the Spanish Consul in the Philippines was the one to denounce me, and the Spanish Consul cannot lie, that the one to be lying was I.

Then with a baseball bat they began to hit me in my head, but before they make me kneel down, and they began to hit me five times, and then another question. I denied that I was a Communist, neither the chief of the Communists of the Spanish Colony, because I am a Filipino citizen, and the only thing that I have done here before this war is to write articles against Franco and against the Axis and for democracy, because I have been raised in a democratic country and I read many books on the United States. So I am a true democrat.

They hit me again, up to 25 times. They nearly make me knock out, because it was terrible the pain I have. And then they were convinced that really I cannot be a Communist.

So another two M. P.'s told me to go to the cell. And that was all for that day.

Q How long did that beating and questioning last?

A An hour.

Q Did they thereafter mistreat you?

A Yes. The next day on the 27th.

Q What did they do to you on that day?

A They tie me again and they ask me if I am helping guerrillas. I told them, "Yes, it was true; I give them money once." They insist, and I told them to read a paper that they take from my hand the night they arrested me.

That paper was prepared by me a year before -- one and a half years before, and an anonymous letter threatening my life if I was not helping the guerrillas. And when I told them that paper was in the office of the Military Police, the torturer go to the office and took that paper, and probably they were convinced that it was the truth, and they asked me that if another day some guerrillas are going to my home to ask me for money, they gave me two telephoné numbers to call them as soon as possible and tell the men who come for the money. And that was all for that morning.

Q Did they mistreat you that morning in any way?

A Well, they tie my hands and my feet and lay me down on the floor and cover me with a mattress, I think one-inch, and they began to jump -- two of them, the interpreter and the torturer, the one who was asking me the questions.

Q You mean they were jumping on you?

A Yes, on my body.

Q And how long did that last?

A 20 minutes, I think.

Q And after that is when you told them that they had this paper, or was that before?

A No. That was -- that was before they took that paper.

Q Did they thereafter mistreat you in any way at that garrison?

A Well, that night they call me at nine and they tie on my left or right hand an electric wire and they plug

into the light of that room, and when they intend to open the electric light -- Well, first they asked me about Johnson again, and I was lucky that night, because a few minutes after they hear the noise of an airplane. So they pulled the wires and told me to go to the cell, and then later on to the shelters. But unfortunately that was not an American airplane, but a Japanese airplane. They were mistaken.

Q Did they thereafter mistreat you in any way, Mr. del Rio?

A No. That was the last time.

Q While they were questioning you were there any Japanese officers present?

A Well, the investigator and the one who tortured me was a Japanese officer. Harada is the name.

Q What did you say his name was?

A Harada.

Q Do you know his rank?

A I think it was a corporal.

Q Did you see anyone else mistreated at the Cortabitarte Garrison?

A Yes; two or three times. It was Colonel Pastor Martelino of the U. S. Army. I saw him from a window. He was hanged. The first time I saw him he was hanged from the feet.

Q What was he hanged to?

A They hang first the feet, and the head was toward the floor, and then two Japs hitting him with a piece of electric wire.

Q How long did they keep that up?

A Well, I saw that for three minutes, because I was going to be tortured that night. I think that it was the second day.

Q And did you see this same person mistreated at another time?

A Yes, the second day.

Q Will you describe that, please?

A Well, also I saw in the window that the Pastor Martelino was tied on his back and pulled with a rope, and he was hanged for one or two minutes, and then they drop him to the floor. He told me after that he was dropped to a small tank of water, and they left him, as he told me, two or three minutes -- yes, two or three minutes after -- and they questioned him.

Q Did you see them drop him more than once?

A Well, it was only for two minutes, because, as I told you before I have that chance when they called me to be questioned and tortured.

Q Did you see anyone else mistreated or tortured at that same garrison?

A No. Only Pastor Martelino.

Q Who?

A That Colonel of the U. S. Army.

Q The same man. Did you observe the condition of any of the other people there at the garrison?

A Yes. I have seen Salud Escarella, a woman who had been tortured several times. I saw the scars on the neck and the hands and on the chest also.

Q Anyone else?

A Yes. Ben Arzaga, a boy of ten years.

Q What did they do to that ten year old boy?

A They tortured him.

CAPTAIN REEL: May we have the witness instructed by his counsel to state what he saw and what he heard?

Q (By Captain Webster) Did you see the ten year old boy tortured?

A No. I saw him after.

Q What marks or bruises, if any, did he have on his body when you saw him afterwards?

A He had some marks on the chest, probably made with cigarette butts.

CAPTAIN REAL: Sir, I will ask what "probably occurred" according to the testimony of the witness be stricken from the record.

GENERAL REYNOLDS: The objection is sustained, and that part of the statement after the statement of "burning" will be stricken.

Q (By Captain Webster) What other marks did you see on this ten year old boy's body?

A I seen on the hands, both hands, because he had been tied with electric wires.

CAPTAIN REEL: The same objection, sir.

Q (By Captain Webster) Will you just state what you saw with reference to any wounds on the boy's body?

A I know positively that those wounds are made by cigarette butts and by electric wire, because I have the same marks on my body.

CAPTAIN REEL: Sir, I will ask that that go out.

GENERAL REYNOLDS: Very well. That remark will be stricken from the record.

CAPTAIN WEBSTER: Was that stricken, sir?

(No response.)

Q (By Captain Webster) Were the marks that you saw on the boy's body similar to the marks that you had on your own body?

A Exactly the same.

Q Did you observe the wounds or marks on any other person?

A Yes. I have seen Mr. Lizo; I have seen the wounds on Pastor Martelino; I have seen the same marks on a Chinese, whose name is Vicente Dy; I have seen the same marks on Enrique Albert; I have seen the same marks on Angustias Mencarini, a woman; I have seen the same marks on Julia Enriquez, an American woman married to a Filipino; I have seen the same marks on Braulio Espejo, Captain of the USAFFE, and I have seen the same marks on other companions whose name I don't remember now.

Q Did you see Dr. Enriquez at the garrison?

A Yes, he was close to me.

Q Did you observe any marks or wounds on him?

A Yes.

Q Would you describe what you saw on him?

A I saw the marks of the electric wires, not only on the hands, but also on the chest and on the back, because he had been beaten.

Q I believe you mentioned a Mrs. Enriquez. Do you mean his wife?

A Yes. His wife was there and the son, Jose Enriquez, Jr.

Q While there at the garrison did you hear any noises that led you to believe that people were tortured?

A Almost day and night.

Q What noises did you hear?

A I heard the screaming in English, in Tagalog, Spanish, Pampango, and many dialects.

Q Did you hear the voices of women?

A I hear several times at least for whole days.

Q Did you hear any voices that you thought were children?

THE WITNESS: Excuse me. I don't hear.

CAPTAIN WEBSTER: Will you read the question?

(Pending question read.)

A Yes. The voice of Ben Arzaga, that boy of ten years old.

Q (By Captain Webster) Mr. del Rio, you mentioned an U. S. Army officer who was there, and I did not clearly understand whether you gave his rank as a corporal or colonel. Will you clear that point for me?

A A corporal. Harada. He was the one who tortured me.

Q A Japanese corporal?

A A Japanese corporal.

CAPTAIN WEBSTER: You may cross examine.

CROSS EXAMINATION

Q (By Captain Sandberg) You have stated that the Japanese told you that you had been denounced by the Spanish Consul. Is that right?

A Yes, sir.

Q Do you have any reason to believe that this is true, that the Spanish Consul denounced you to the Japanese?

A Yes, sir. Because on the afternoon when I was released, a few minutes before I was freed, the chief or captain of that place called me, and his first question to me was if I know who was the one to denounce me to the M. P.'s. So I told him, "Yes, it was the Spanish Consul." "Ah! So you know who was the one that denounced you?"

"Yes."

"And why?"

"Well, because, well, your man told me that."

Then he answered me, "It is true, and now I like to question you about some Spaniards."

Q Did you know the Spanish Consul personally?

A I never saw him in my life.

Q Do you know what charge the Spanish Consul made against you?

A In 1942 he denounced me to the military police because I wrote many articles against the Axis and against Franco, and I saw him in the hall, in the place where I had been arrested for two months.

Q Well, do you know what was the charge he made against you in 1944?

A As the investigator told me, he denounced me as being the chief of the Spanish Communists in the Philippines.

Q Now, did the Japanese make any charge against you?

A Well, they told me if I was a Republican or a sympathizer of the Republican cause in Spain I must be a Communist.

Q Did the Japanese charge you with being a guerrilla?

A Yes. They charged me.

Q Did they ask you whether you had ever given any assistance to the guerrillas?

A Yes. They asked me.

Q And what was your answer?

A Well, my answer was that once I gave 100 pesos to the guerrillas, and they laughed at me, because they told me that that was a very small amount.

Q What, in fact, was the assistance that you had given to the guerrillas?

A During those three years of war I have given to the guerrillas more than a hundred thousand pesos, medicines, quinine, iodine, and I also gave them for a newspaper or small magazine one mimeograph, paper, ink, and one bicycle to distribute that newspaper.

Q Was the guerrilla organization to which you gave this money? The Hukbalajap?

A No. It was not the Hukbalajap. And, really, I don't know what the guerrillas are then, because since the first day I refuse to know anything about the guerrillas, because I had been arrested in 1942, and I know that the Japanese are shadowing me, and I don't like to be seen with anyone connected with the guerrillas.

Q Well, now, is the contribution of 100,000 pesos the only assistance you gave to the guerrillas?

A And the medicines.

Q And the medicines?

A And the mineograph and the bicycle and other things I don't remember now.

Q When you gave this sum of money to the guerrillas, was it your intention that this sum should be expended for the purpose of killing Japanese?

A Exactly. That was my purpose.

CAPTAIN SANDBERG: Exactly. That is all.

GENERAL DONOVAN: You stated that the people who tortured you were military policemen. Were they army, navy, marine corps or what?

THE WITNESS: Army.

GENERAL DONOVAN: That's all.

GENERAL REYNOLDS: Do you wish to ask further questions?

(No response.)

CAPTAIN WEBSTER: The next witness.

(Witness excused)

GENERAL REYNOLDS: The Commission will be in recess for approximately five minutes.

(Short recess)

GENERAL REYNOLDS: The Commission is in session. The Prosecution will proceed.

NICANOR JACINTO

Called as a witness on behalf of the Prosecution, being first duly sworn, was examined and testified as follows through Interpreter Jesus E. Villa-Real as follows:

DIRECT EXAMINATION

Q (By Captain Webster) Please state your name

A Nicanor Jacinto.

Q Your age?

A 59 years.

Q Your nationality?

A Filipino.

Q What is your profession?

A Medical.

Q How long have you been engaged in that profession?

A 34 years.

Q Were you put under arrest by the Japanese in December of 1944?

A Yes, sir.

Q On what date?

A 23rd of December.

Q And where were you taken by the Japanese?

A To Cortabitarte.

Q Was that the Japanese Military Police garrison?

A Yes, sir.

Q Were you mistreated by the Japanese while at that garrison?

A Yes, sir.

Q Please state very briefly how you were mistreated.

A On the 25th of December in the afternoon I was asked to sit on the ground in the garden in the residence of Dr. Ronas, with my niece, and a Japanese with leather shoes was seated in front of me. And he kicked me with his shoes on my two legs for about three hours. On the following day in the same garden of Dr Ronas, with a piece of bamboo stick they had been beating me all around my

body for more than two hours. On the 27th, in one of the rooms of the house I was then beaten on the face for about two hours until I thought my teeth were taken away and my mouth was pouring blood.

Q With what did they beat you on the face?

A With the hands.

Q How long was the bamboo stick which you stated they beat you with?

A It's about two and a half inches wide; the width of the bamboo stick.

Q And how long?

A About two meters long.

Q When were you released from the Cortabitarte Garrison?

A On December 29, 1944.

CAPTAIN WEBSTER: You may cross examine.

CROSS EXAMINATION

Q (By Colonel Hendrix) Did anyone denounce you to the Japanese?

A I don't know.

Q Did you take any active part in assisting the guerrillas?

A No, sir.

Q Did you contribute any funds to the movement of the guerrillas?

A No, sir.

CAPTAIN REEL: Wait a minute. What was the word before "directamente"?

INTERPRETER VILLA-REAL: "Directly."

COLONEL HENDRIX: Sir, we would like for the inter-

preter to give literal translation of the word the witness just used.

INTERPRETER VILLA-REAL: The witness means he did not actually give directly contribution. He might have given a contribution through someone, but with his statement he means he did not directly or personally give the contribution.

CAPTAIN WEBSTER: Sir, I move that that be stricken from the record as to what the interpreter believes he said. We would like to have in the record what the witness actually said.

COLONEL HENDRIX: Will you excuse me, sir? We would like also for the witness to explain what he means.

GENERAL REYNOLDS: Let's strike all of that from the record, and the Commission will ask the question itself.

Did the witness give any funds or assistance to the guerrilla movement indirectly?

(Question translated to the witness by the interpreter.)

INTERPRETER VILLA-REAL: He did not give a direct answer, sir.

GENERAL REYNOLDS: The Commission considers the discussion immaterial to the case, and let us proceed.

COLONEL HENDRIX: Ask the witness in what manner he did give any assistance to the guerrillas?

(Question translated to the witness by the interpreter.)

THE WITNESS: (Through the Interpreter) I have some real estate in the provinces, and according to my care-

takers there some of the properties have been taken by the guerrilleros.

COLONEL HENDRIX: Will the reporter read back the last question.

(Question read.)

COLONEL HENDRIX: Will you state that question to the witness, please. (Addressing the Interpreter.)

THE WITNESS: (Through the Interpreter) I have said that inasmuch as the province of my real estate have been taken by the guerrillas, I have contributed in that form to their cause.

Q (By Colonel Hendrix) Have you given any medical treatment to any guerrillas?

GENERAL REYNOLDS: The Commission interrupts to say that in no sense are we trying this witness, and it is unable to see what possible bearing the questions could have on the case.

COLONEL HENDRIX: Sir, we feel that in view of the fact the witness did infer that he had indirectly given some assistance we would just like to know what that was, whether it was major or great or whether it was of material assistance or professional.

GENERAL REYNOLDS: For the purpose of discussion, suppose it was extremely material and very, very great assistance, indeed. What possible connection would it have on the case?

COLONEL HENDRIX: Then, sir, we come back to the statement made by Captain Reel a few minutes ago: that guerrillas in the eyes of international law are criminals

themselves, and that as such they can be executed. We do not say that they can be mistreated and tortured until they are finally dead.

MAJOR KERR: Nor, sir, can they be mistreated or tortured at all.

GENERAL REYNOLDS: It is on the last point that the Commission raises the issue. We devoted a good bit of time to such line of questioning. The Commission grants that in the eyes of the rules of land warfare and international law guerrillas, if captured, can be tried and sentenced, but under no condition can they be tortured.

The Commission desires that the Defense do its best to acquaint us fully with all the facts bearing on the case, but questions the necessity of this approach. Let us submit that he might indeed have helped the guerrillas.

COLONEL HENDRIX: Sir, may I make this remark: that assuming for argument's sake the witness was a guerrilla, an arrest by the Japanese might have been and could have been a legal arrest; that in questioning this particular witness by the Japanese such third degree procedure and methods might have been administered to this particular witness, maybe others, to try to obtain information from them, because probably they were guerrillas, or indirectly aided guerrillas, and that in a way may explain our position.

GENERAL REYNOLDS: Unless the Defense is suggesting to the Commission that torture and third degree is a proper defense of the Accused in this case, which

I am sure you do not mean to do, why, still it would be immaterial to the presentation of the case.

COLONEL HENDRIX: Sir, we have no further questions to ask the witness, but we do not believe in third degree tactics. However, in view of the fact that the witness was arrested, and in view of the fact that he was arrested, as we see it, because he indirectly aided the guerrillas, we take the view that this mistreatment was probably by virtue of the fact that he had been arrested.

GENERAL REYNOLDS: The Commission accepts all that. The only point at issue is the propriety of torture, which for centuries back has been condemned by civilized nations, and, hence, could not be a defense. The arrest may indeed have been well founded and the questioning well founded. I believe the Defense understands that. We appreciate your zeal and effort to inform the Commission of the facts.

COLONEL HENDRIX: Yes, sir.

CAPTAIN WEBSTER: That is all.

(Witness excused)

FERMIN MIYASAKI

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

DIRECT EXAMINATION

Q (By Captain Webster) Please state your name.

A Fermin Miyasaki.

Q Your age?

A 26.

Q Your nationality?

A Filipino citizen.

Q Are you a Filipino citizen of Japanese descent?

A Yes, sir.

Q Were you born and reared in the Philippine Islands?

A Yes.

Q Were you employed in any capacity by the Japanese between October of 1944 and December of 1944?

A Yes, in the Southern Manila Branch of the Military Police.

Q And where was that Southern Branch of the Japanese Military Police located?

A It was located in Fort Santiago, and in October it was transferred to Cortabitarte.

Q Was that the MP garrison commonly known as the "Cortabitarte Garrison"?

A Yes.

Q In what capacity were you employed by the Japanese at that garrison?

A I was employed as interpreter.

Q What languages did you translate?

A I translated both English and Tagalog.

Q I believe that you are now held at the New Bilibid Prison. Is that correct?

A Yes.

Q Who was the commanding officer of the Japanese Military Garrison which we have referred to as the Cortabitarte Garrison?

A The commanding officer was Major Tohei.

Q What branch of the Japanese Military forces was he in?

A It was called the Southern Manila Branch of the Japanese Military Police.

Q During your work as an interpreter, were you present during the questioning of any civilians?

A Yes, in some of them.

Q Will you state to the Commission what methods the Japanese used at that garrison in questioning civilians?

A The most common used method was to tie both hands of the person being questioned behind his back, and to hang him on a piece of wood extended to the ceiling, and beat him up.

Q Well, what was the other popular method used?

A And the other one was the so-called "water cure." They tie up the person to be questioned, lay him flat on his back, put a piece of cloth over his mouth and nose, and pour water, usually from a water hose.

Q How long did they usually give a person the water cure?

A From one to two hours.

Q And the beatings which you have described?

A From one to three; in some cases more.

Q Would they give those treatments to various individuals

a number of times?

A Yes.

Q How many times have you seen civilians given the water cure at that garrison?

A I saw about 30 of them.

Q During what period of time was that?

A From October to December, 1944.

Q How many times did you see people beaten as you have described?

A I saw about 50 of them.

Q Were any of them women?

A I remember two women.

Q Do you recall their names?

A One of them was Mrs. Sally Escarella. I don't remember the other one.

Q Were there any children at that garrison mistreated in your presence?

A I don't remember any children.

Q About how many people went through the Cortabitarte Garrison in this interview which you have described, during the time in which you were there?

A I think no less than 400.

Q Were they all civilians?

A They were all civilians.

Q During the questioning of these people were any officers present?

A Most of the cases, none; sometimes there were officers.

Q Do you know, or did you know a Dr. Jose Enriquez?

A Yes, sir.

Q Did you see him at the Cortabitarte Garrison?

A Yes, I saw him.

Q Did you see any other members of his family?

A I saw his son and his wife and his daughter.

Q Were you present during the questioning of any of the Enriquez family?

A Yes, I took part in the questioning of Dr. Jose Enriquez and his son.

Q What treatments did they give Dr. Enriquez and his son?

A I didn't see Dr. Enriquez being hung up and beaten up, but I saw him given the water treat.

Q By "water treat," you mean water cure?

A Yes, sir.

Q Did you see them do anything to his son?

A His son was given the same method.

Q What did they accuse Dr. Enriquez of?

A They accused him of being a member of the guerrilla unit.

GENERAL REYNOLDS: The Commission will interrupt to say that we will proceed without the charges lodged against Dr. Enriquez.

CAPTAIN SANDBERG: Will the Commission repeat that last statement? We didn't hear the last statement of the Commission.

GENERAL REYNOLDS: In effect, we stopped at the last question, which again sought to inquire on charges lodged against Dr. Enriquez.

Q (By Captain Webster) Do you know what was done to

Dr. Enriquez?

A I heard that Dr. Enriquez' son and his wife were killed.

Q Who told you that?

A One of the military police who went to the execution.

Q Where did it --

CAPTAIN SANDBERG: I ask that the last answer of the witness be stricken as being purely hearsay and a matter not within the personal knowledge of the witness. We object to it.

GENERAL REYNOLDS: Objection not sustained.

Q (By Captain Webster) Where did this Japanese MP tell you that?

A At the garrison.

Q The Cortabitarte Garrison?

A Yes, sir.

Q And how long after the so-called execution did he tell you that?

A It was between either the next day or two or three days later.

Q Did you, while at that garrison, meet a General Polocarpio?

A Major Polocarpio.

Q Major? When was he brought to that garrison?

A Sometime late in November or early in December, 1944.

Q What did the Japanese do to him?

A He was executed.

Q When was he executed?

A Around the 10th of December.

Q In what year?

A 1944.

Q How did you find out that he was executed?

A I was also told.

Q By whom?

A By one of the military police who went to the execution.

CAPTAIN SANDBERG: Same objection. I ask that the answer be stricken as not within the knowledge of the witness.

GENERAL REYNOLDS: Objection is not sustained.

Q (By Captain Webster) Now, was the method of questioning the people who came there, as you have described, continued with every person that came there?

A Most of the persons were given the third degree.

Q Were they given the third degree until they confessed to what the Japanese wanted them to confess to?

A Yes, sir. Some of them did not confess.

Q Were you at any time, during December of 1944, among those who were called into a group in the Cortabitarte Garrison?

A I beg pardon?

(Question read)

A Yes, sir.

Q When were you so called?

A There was two occasions that I remember: On December 8th, the day when the war was declared, we had a ceremony there; and on another occasion, when the garrison received a word of commendation from General Yamashita on the work that they had done in suppressing guerrilla activities.

Q When was it that General Yamashita commended the Cortabitarte Garrison for the fine work they had done?

A I don't exactly remember the date, but it was sometime early in December.

Q 1944?

A 1944.

Q Who called you together in that group?

A There was a notice given to us to gather in the morning.

Q And who put up the notice?

A I don't know who put up the notice, but it was put on the bulletin board.

Q And then who presided at the meeting which was held?

A The commanding officer, Major Tohei.

Q Will you describe what Major Tohei did at that meeting?

A He read the commendation given by General Yamashita.

Q Were you one of the group that was so assembled?

A Yes, sir.

Q Did you see that commendation?

A Yes, sir, I saw it.

Q Who had signed that commendation?

A It was signed "Yamashita, Tomoyuki".

CAPTAIN WEBSTER: You may cross-examine.

GENERAL REYNOLDS: The Commission will grant a recess to the Defense, unless you are ready to proceed.

CAPTAIN SANDBERG: No, it isn't necessary, sir, if the Commission will indulge us for 30 seconds.

CROSS-EXAMINATION

Q (By Captain Sandberg) Now, you stated that you are

at present in confinement at New Bilibid Prison, is that correct?

A Yes, sir.

Q Isn't it a fact that you are now being held there in confinement pending charges for treason against the Philippine Government?

A No, I am confined there as an internee.

Q Repeat that please.

A As a civilian internee, in protective custody.

Q Isn't it a fact that charges have been filed against you for treason?

A As far as I know, there is no charge filed against me.

Q Have you discussed your testimony with the Prosecution before this hearing?

A May I have that read?

(Question read)

A Sometime before.

Q Has any promise been made to you that in consideration of your testifying, you will be given light treatment in connection with the charge?

A None whatsoever.

Q Now, you have testified that during the time that you were at this Military Police Station, 400 civilians passed through there, is that correct?

A Yes, sir.

Q And you testified also that 50 civilians were subjected to third degree methods, is that correct?

A I saw 50 of them, but I think all of them were subjected to the same method.

Q I didn't ask you what you thought; I asked what you saw.

A I saw 50, around 50.

Q Now, this letter that was read at the meeting -- I understand that you are an interpreter?

A Yes, sir.

Q Are you familiar with the Japanese language?

A Yes, sir.

Q And you read this letter?

A I just saw the signature.

Q You didn't see the body of the letter?

A I saw the first part and the signature.

Q Which part of the letter didn't you see?

A I began reading it, but I didn't continue, and I looked at the signature.

Q You say you read only the first part?

A Yes, but it was read to us in the ceremony.

Q Now, what did the letter say; what did the part of the letter which you read say?

A It said, that "As Commander-in-Chief of the Armed -- of the Japanese Armed Forces in the Philippines, I commend the Southern Manila Branch of the Military Police for the activities in suppressing the guerrilla activities in various parts around Manila."

Q Now, you speak Japanese, you said?

A Yes, sir.

Q What was the word in the letter which you now say was "guerrilla"? Will you give it to us in Japanese?

A Gerira.

Q What was the Japanese word?

A It was "gerira".

Q It was "guerrilla" in the letter?

A Yes, sir.

Q And the rest of the letter was in Japanese?

A It was in Japanese.

Q Is there such a word in the Japanese as "guerrilla"?

A They don't pronounce it "guerrilla"; it is pronounced "gerira".

Q Is there such a word as "guerrilla" in the Japanese vocabulary?

A I think there is.

Q Suppose I were to tell you that there is no such word as "guerrilla" in the Japanese vocabulary; would that change your answer?

A No. That word is commonly used.

Q And you stick by your statement that the word used in the letter was "guerrilla"?

A Yes, sir.

Q Did this letter refer to this particular garrison?

A Yes, it referred to the particular garrison.

Q How did it describe the garrison which it referred to?

A It commended it for its arrest and suppression of the guerrilla activities in San Pedro, Makati, Guadalupe, Maysilo and Rizal.

Q And which of those was this garrison?

A The Southern Branch of the Military Police.

Q Well, that is not one of those you just mentioned.

A They arrested guerrillas from San Pedro, Makati,

Guadalupe, Maysilo, and Rizal.

Q But your particular garrison was not referred to in this letter?

A The Southern Manila Branch of the Japanese Military Police was referred to in the commendation.

Q Was your garrison the only one in the southern district of the Military Police?

A Yes.

Q Didn't that include Fort McKinley?

A Beg pardon?

Q Didn't that denomination include the garrison at Fort McKinley?

A I don't know, sir.

Q You don't know, then, whether this reference in the letter included only your garrison or other garrisons?

A It included only the Southern Manila Branch.

Q Were you a paid employee of the Japanese during this period?

A Yes, sir.

GENERAL DONOVAN: When did you cease to work for the Japanese?

THE WITNESS: On January 9, 1945.

GENERAL DONOVAN: During the time that you were employed there, what branches of the services were identified?

THE WITNESS: The Japanese Military Police.

GENERAL DONOVAN: What?

THE WITNESS: The Japanese Military Police.

GENERAL DONOVAN: What were they, army, navy, marine corps?

THE WITNESS: Army, sir.

GENERAL REYNOLDS: Does the Prosecution have further questions?

CAPTAIN WEBSTER: No, sir.

(Witness excused)

CAPTAIN WEBSTER: Sir, that concludes that case.

GENERAL REYNOLDS: In that case, the Commission will be in recess for approximately five minutes.

(Short recess)

GENERAL REYNOLDS: The Commission is in session. The Prosecution will proceed.

CAPTAIN PACE: If it please the Commission, the Prosecution is now prepared to present the evidence in Bill of Particulars Nos. 15 and 25. The Commission will note that those are both broad charges involving the devastation of Manila and the murder and maiming of the population of Manila. The Prosecution's evidence at this time, the small portion which I will present to prove these two charges, will present the broad plan conceived by the Japanese High Command, being headed by Yamashita, to prove the plan of executing the murders and destruction of property involved in these two charges, and will present a few instances of the destruction of property in a one particular locality; it being impossible, of course, to present all the mass of evidence that would be necessary to prove all of the destruction.

However, the Prosecution intends to rely, in proving both of these counts, on the cases which have been presented which have shown the killing of human beings and the

destruction of property, and also the cases which will be presented to the Commission which involve these two elements.

Mr. Lopus.

NARCISO LAPUS

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

DIRECT EXAMINATION

- Q (By Captain Pace) Give your name, please.
- A Narciso Lopus.
- Q What is your address?
- A My present address now is Munting lupa, Rizal.
- Q Where?
- A Munting lupa.
- Q Whereabouts?
- A I am a political internee there, sir.
- Q In New Bilibid Prison?
- A Yes, sir.
- Q How old are you?
- A 59, sir.
- Q How long have you been at New Bilibid Prison?
- A Since February 21, 1945, sir.
- Q You have a right to refuse to testify to any matters which would incriminate you; do you understand that?
- A Yes, sir.
- Q You have a right to refuse to testify to anything; do you understand that?
- A Yes, sir.
- Q Has anybody connected with the Prosecution of this

case ever promised you anything in return for testifying?

A Nothing.

Q Have you ever been told that you would receive any consideration in the political charges which may be preferred against you, if you do testify in this case?

A No, sir.

Q Have you ever been told that the Prosecution in this case would do anything in your behalf?

A No, sir, no promise at all.

Q You are willing to testify freely --

A Voluntarily, sir.

Q You say you are a political internee?

A Yes, sir.

Q How did you become associated with activities which caused you to become an internee?

A I was a private secretary of General Artemio Ricarte.

Q When did you first meet General Ricarte?

A Since my young years, sir, during the Philippine, Spanish and American Revolution.

Q What was General Ricarte's title, and what did he do in the early nineteen hundreds?

A His rank, military rank in the revolutionary army was Captain General.

Q Was he a Philippine General?

A Yes, sir.

Q What happened to him?

A Well, the Philippine Army in those days -- I mean, the Philippine Revolutionary Army -- was divided into two divisions. The boundary of the division was the Pasig River.

The northern part of the Pasig River, from the northern bank up to Aparri, was called the Northern Division, under the command of General Antonio Luna.

And the southern bank of the Pasig River, up to Mandaluyong, was called the Southern Division under the direction or the jurisdiction of General Ricarte.

Q Now, was General Ricarte captured by the Americans?

A Yes, sir, he was captured in 1901.

Q What happened to him after the Americans took him?

A When they captured him, he was exiled, together with some 80 Philippine patriots, to Guam.

Q What happened to him in Guam?

A He was there until General Aguinaldo surrendered and made a proclamation to the fact that the armed forces of the revolutionary armies should surrender, should cease the armed resistance. Many of those, of course, who were exiled in Guam, they submitted to the sovereignty of the United States, except General Ricarte and Apelario Mabini.

Q What happened to Ricarte when he refused to take the American oath of allegiance?

A Well, when they brought them back here from Guam, together, Ricarte and Mabini, Mabini, due to the physical impossibility -- he was a paralytic, sir -- he swore allegiance to the American sovereignty. Ricarte refused to swear allegiance, and he was exiled then to Hong Kong.

Q How long was he in Hong Kong in exile?

A Well, that was the first exile -- in that year 1903, but he came back as a stowaway in the same boat. He came back to the Philippines with the purpose of establishing a

second revolution here, but he was capture, and he was brought to the court and was convicted for conspiracy and rebellion. He was convicted for six years in Bilibid Prison.

Q After he served his six years in New Bilibid for conspiracy, what happened to him?

A Well, they asked him, sir, to swear allegiance. He refused again, so he was exiled again to Hong Kong in 1910.

Q How long did he stay in Hong Kong the second time?

A From 1910 to the outbreak of the First World War in 1914, when the English Government ordered that all political exiles in the English territory should get out. Ricarte was one of those affected, and he moved to Japan in that time, 1914.

Q Then how long did he live in Japan?

A Since then up to 1941. At the outbreak of the Second World War he lives in Japan, in Yokohama.

Q Between 1914 and 1941, what did he do in Japan?

A Well, he was there as a professor of Spanish in a college in Tokyo. At the same time, he was taking charge of some Spanish correspondence of different import and export houses to the Latin American countries.

Q And while he was there, did he become acquainted with the high officials in the Japanese Government?

A Yes, sir. He is one of the few Filipinos that got the best relationship with the highest ranking officers of the government of Japan, and also the military elements.

CAPTAIN REEL: Sir, we will ask that the answers, the last two questions and answers, be stricken as hearsay.

What this general did and whom he knew in Japan are not within the personal knowledge of this witness.

CAPTAIN PACE: If it please the Commission, I can show that this witness saw General Ricarte in Japan, if the Commission desires.

CAPTAIN REEL: I submit it still isn't within the personal knowledge of this witness.

GENERAL REYNOLDS: Objection is not sustained.

Q (By Captain Pace) Did you have occasion to visit General Ricarte in Japan?

A Yes, sir, from 1922 up to 1930, I had the privilege to visit him about five times.

Q You had conversations with him about what he was doing there each time you visited him?

A Of course, we always had some conversation about the Philippine problem, Philippine independence, about the Filipinos.

Q During the time that Ricarte was in Japan, did he continue his labors toward the obtaining of the Philippine independence?

A Yes, sir.

CAPTAIN REEL: Sir -- pardon me. We object to that. Apparently this answer is going to be based on conversations, we can gather from the previous question and answer; inasmuch as it is apparently based on conversations, we object to it.

GENERAL REYNOLDS: Not sustained.

Will the reporter read the last question?

(Question and answer read)

Q (By Captain Pace) Were you also associated in that

movement?

A Yes, sir.

Q What other political affiliations and pursuits were you engaged in during the period of time which we are talking about?

A Well, at that time, sir, I was not affiliated with any definite political parties, but, of course, I used to write lots of articles, and I deliver some lectures and speeches about the Philippine independence campaign.

Q Who did you write for?

A Well, mostly I wrote for the press, sir.

Q Were you also active in writings concerned with Left Wing and labor movement activities?

A Yes, sir.

Q Now, when did General Ricarte next come to the Philippines?

A He came on December 18, 1941.

Q Where did he land?

A He landed in Aparri.

Q In what capacity did he come here?

A According to the papers and documents he had shown me -- I think he had shown me only those papers, because he had no confidence in anybody and he took me to his confidence as his own son. He was commissioned -- I mean, sent here as a special envoy by the Minister of War, who was then the Prime Minister, at the same time, with Premier Tojo. He was sent here as a special envoy to help in the pacification campaign of the Philippine Islands, and at the same time prepare the ground for the Philippine independence; and I

understand also, in those papers that he had an understanding with Premier Tojo that as soon as the Philippine independence was established, he was going to be the head of State.

Q Did he come with his title of General?

A Yes, sir.

Q Who was his immediate superior?

A Well, of course, as I understood, it was the Minister of War.

Q In the Tokyo Government?

A Yes, sir.

Q Under Tojo?

A Yes, sir.

Q Was he responsible or in any way under the Japanese High Command in the Philippines?

A Well, in a way; not directly, but under -- in a certain way he was also under the supervision of the Japanese Imperial Forces High Command in the Philippine Islands.

CAPTAIN REEL: Sir, we ask that the last answer be stricken again, based apparently on hearsay, and this time we don't even know what kind of hearsay.

GENERAL REYNOLDS: Will the reporter read the last question and the last answer?

(Question and answer read)

GENERAL REYNOLDS: The objection is sustained and the Commission will inquire of Prosecution the purpose of it?

CAPTAIN PACE: The Prosecution intends to prove, through this witness, certain conversations, certain directions,

that were issued by this Accused to General Ricarte; and in order to place these conversations in their correct light, so that they will appear to be reasonable and probable under the circumstances, it is necessary to show the relationship between Ricarte and Yamashita, whether one was a subordinate of the other, whether they were equals, or what the status between them was, sir.

CAPTAIN REEL: Sir, any such evidence would be completely incompetent. The Prosecution has just stated that the evidence intends -- the so-called evidence he intends to bring in now, is evidence apparently from the mouth of this witness as to what another man told him as to what a third man said. I submit, sir, that is beyond all the realm of competence.

GENERAL REYNOLDS: The Prosecution will continue.

CAPTAIN REEL: Sir, may the record show that a definite objection was made and not sustained?

GENERAL REYNOLDS: The record will always show that.

CAPTAIN REEL: Thank you, sir.

Q (By Captain Pace) Who was Ricarte responsible to?

A He was responsible to the Minister of War in Tokyo.

Q This testimony of yours, you have stated, have you not, is based upon orders and records that you saw in the possession of Ricarte, which purported to be official Japanese documents?

A Yes, sir.

Q Now, what was Ricarte's relation to the people's government in the Philippines?

A Well, he was sort of a liason between the Japanese

highest commander and the Filipino people and the Philippine
Government.

Q The management of civilian affairs in the Philippines?

A Yes, sir.

Q Who was the leading Filipino?

A Well, it was lately the President of the Philippine Republic under the Japanese. That was Laurel.

Q Who was superior? Laurel or Ricarte?

A In accordance with the conception of the Japanese there as I have experienced and witnessed, they put Ricarte above all the living Filipinos in the Island; they took him as No. 1 Filipino.

CAPTAIN REEL: I don't mean to interrupt the answer. I am going to ask that it be stricken. I did not mean to interrupt the witness. I thought the witness was through.

GENERAL REYNOLDS: Proceed.

Q (By Captain Pace) Go ahead.

A In fact, in one of those conversations when I was present General Nagasaki, who was then the Director of the military administration in Luzon, I remember very distinctly that he said in the course of the conversation -- He said to General Ricarte "You are not a human being. You are God, because", he said, "you could not endure so much suffering for over 40 years if you are a human being".

Well, that is the general conception they have, most of the higher-ranking Japanese on General Ricarte.

CAPTAIN REEL: I am going to ask that the answer be read back. We have had it in several parts.

GENERAL REYNOLDS: The last answer and the last question will be read. The last question and the full answer.

(Question and answer read)

CAPTAIN REEL: Sir, that answer started "according to the conception of the Japanese". First of all, in the first part of that answer we have the witness attempting to give not anything he knows of personal knowledge but his conception, his idea and his conclusion about something. Later on in his answer he apparently states, or I think he is intending to state, the grounds of that conception. And that is hearsay: a statement of General Nagasaki, about whom we do not know, to this General Ricarte saying simply "You are a God because you can endure hardship".

I say in all reasonableness that entire answer is incompetent and should be stricken.

CAPTAIN PACE: If it please the Commission, even in a court of law under the strictest rules this testimony could go in because it is the type of testimony that a witness has to give based upon discussions and opinions drawn from his affairs in public life.

GENERAL REYNOLDS: The objection of the Defense Counsel is not sustained.

THE WITNESS: Can I continue, sir?

Q (By Captain Pace) You were active in the public life of the Philippines during the Japanese occupation; is that right?

A Yes, sir.

Q You were very familiar with everything that went on in the political circles here?

A Yes, sir.

Q Also in the military circles; is that right?

A In a way, sir.

Q These answers that you have given are based upon discussions you have had with many people; is that right?

A Yes, sir.

Q Will you describe in detail what Ricarte's duties were in the Philippines during the Japanese occupation?

A In the first place, General Ricarte's role in the Philippine Islands during the Japanese occupation was to help in the pacification all over the country. He has delivered speeches, lectures, and helped all those Filipinos who needed the help, particularly those who have been arrested all over the country by the military police of the Japanese Army, and also many of those civilians who needed some certain documents, credentials, some sort of a safe conduct so that they can move from one place to another in their daily pursuit of their life in order not to be molested by the military elements all over the country. Ricarte furnished them more than one hundred thousand of those credentials all over the country, and if I did not lose all my records now on account of the burning of my house I could produce more than ten thousand of those copies of the cases who have been arrested and taken by the military police of the Japanese Army and were helped by General Ricarte through his signature and my work.

CAPTAIN REEL: Sir, we ask that that answer with all of its various ramifications go out. The original question had to do with the "role" that this particular man was playing. There is no evidence as to how the witness arrived at his conclusions. They are obviously hearsay, obviously incompetent.

CAPTAIN PACE: If it please the Commission, the witness

has already testified that he was Ricarte's private secretary and that, I presume, is where he gets his information.

CAPTAIN REEL: Sir, I do not think counsel for the prosecution may make a presumption for the witness.

GENERAL REYNOLDS: The objection is not sustained.

Q (By Captain Pace) When did you go to work for Ricarte?

A It was -- I went to work with him officially as a private secretary after I was paroled by the military police.

Q Under what circumstances were you paroled?

A You see, sir, in 1942 at the beginning of the first quarter of 1942, I was still in the evacuation in my province, Pampanga. I heard that Ricarte was looking for me and I tried my best to come to Manila, and I reached Manila by the middle of March of the same year.

Well, since then I look for him and I found him in his residence and I used to go to his place once in awhile until June 16th of that year I was arrested by the military police of Fort Santiago on the charge, apparently, according to the case that they brought against me, of espionage and sabotage in favor of the socialist guerrillas in Pampanga. They brought together those things because I was co-founder of the Socialist Party in the Philippines before and I was one of the prominent members of that party, and in 1931, '32 and '33 I used to write in the press condemning the party in power and its conduct and the Manchurian incident, and they brought together all those articles.

Q Were you sentenced to death by the Japanese?

A Yes, sir. I was sentenced to death by the military police on June 19, 1942 and such sentence was confirmed by

the court-martial of Fort Santiago in the same month, 22nd of June.

Q How did you get out of that death sentence?

A When they pronounced the sentence the court-martial chairman was Captain Khoki. He told me after a while -- He said "There is a way out if you want to spare your life."

I asked then, "What is it, sir?"

"Well," he said, "you have to pledge that you have to cooperate to the end with General Ricarte and sign that pledge."

CAPTAIN REEL: Sir, the same objection to that last testimony.

GENERAL REYNOLDS: And what is the nature of the objection?

CAPTAIN REEL: Again we have hearsay two times removed in this case.

GENERAL REYNOLDS: Not sustained.

Q (By Captain Pace) Go ahead.

A And I asked the chairman of the court-martial what kind of cooperation he was asking. I told him that if it was against my conscience the kind of cooperation that was asked of me, I preferred to be executed. And the chairman answered me and said, "The cooperation we are asking of you is that you have to help General Ricarte, you have to stick to him to the end. You know," he said, "that the mission of General Ricarte was to help in the pacification of the Philippines. You have to stay with him to the end. But don't fool us," he said, "because if you sign now that pledge and then you have to evade and go to the mountains,

when we get you we will execute you summarily, and if we don't get you we will get all your families, the members of your family".

They asked me all the members of my family, my children, my sisters, my brothers, my nephews, and my nieces.

Q Had Ricarte interceded for you with the Japanese after you were sentenced?

A On the morning of that June 22nd after I was released I found out that Ricarte has been in Fort Santiago in the morning, because I was released between 3:00 to 4:00 o'clock in the afternoon.

Q And you went to work with Ricarte?

A Yes, sir.

Q Who worked for Ricarte?

A Well, we were two secretaries, sir. One is a Japanese secretary by the name of Lieutenant Colonel Ota. He was in charge of the Japanese affairs of Ricarte and also acting as liaison officer in military matters between Ricarte and the high command in the Philippines.

Q Who appointed Ota?

A According to the papers he showed me, his appointment was approved by the Minister of War. It was then Premier Tojo.

Q He was not appointed by the Japanese High Command in the Philippines?

A No, sir.

Q And he was responsible to Ricarte rather than the high command?

A Yes, sir.

Q Who else worked there?

A Well, I was one of those -- of the secretaries. I was the private secretary taking charge of all the Philippine affairs of General Ricarte and also serving as a liaison to the Philippine government and General Ricarte.

Q And then he had a Japanese Lieutenant Colonel who was his secretary in military matters and liaison between him and the High Command in the Philippines; is that right?

A Yes.

Q And he had another secretary, which was you, who was in charge of civilian affairs and his liaison to the Laurel government?

A Yes, sir.

Q And what did you do in your job?

A Well, I had to write all the communications, mostly to the Commander of the different military garrisons, particularly about those arrested people; and also to write those credentials; some communications also to the Philippine officials of the Philippine government, and I had to help sometime personally those persons to go to the offices of the Philippine government.

Q Did you personally have authority to help people or did you interview them and present the matters that came to your attention to General Ricarte?

A Well, when General Ricarte was here in Manila, he was not in the province, as a rule the procedure followed by my office was to bring always to General Ricarte first the person who is asking his help before I do the papers or draw the documents, and whatever he says, he directs me

or orders me, I have to do it.

Q I see. Were you working in this same capacity when Yamashita came to the Philippines for the second time?

A Yes, sir.

Q When was that?

A I remember it was in October before the landing of the American forces in Leyte.

MAJOR KERR: What year?

THE WITNESS: 1944.

Q (By Captain Pace) In what capacity did he come to the Philippines?

A Well, General Ricarte, at the beginning of --

CAPTAIN REEL: We object to that question. This witness can't possibly know of his personal knowledge.

GENERAL REYNOLDS: Will you restate the question, please? (No response)

Will the reporter read that question?

(Question read)

GENERAL REYNOLDS: And the answer before.

(Answer read)

GENERAL REYNOLDS: The Commission does not clearly understand the nature of the objection.

CAPTAIN REEL: Sir, the question was, In what capacity did General Yamashita come to the Philippines? This witness, not being General Yamashita, cannot answer or, not being somebody who sent General Yamashita, there is nothing in this witness' personal knowledge which would enable him to answer such a question.

GENERAL REYNOLDS: Before receiving an answer to that.

question, the Prosecution will explore to see whether or not the witness is in position to answer the question, and then we will decide the point.

Q (By Captain Pace) General Ricarte was your immediate superior, was he not?

A Yes, sir.

Q And it was one of General Ricarte's duties to maintain liaison contact with the Japanese High Command in the Philippines?

A Yes, sir.

Q Would it have been possible for him to perform his duties unless he knew who was the High Command in the Philippines?

A I think it would not be possible to do that, because --

Q Did he have occasion to --

CAPTAIN REEL: Pardon me. The witness was answering when you interrupted him. The last word was "because".

Q (By Captain Pace) Go ahead.

A -- because he could not possibly know who he was until he knows definitely who is the man in charge in the Philippines.

Q With whom did Ricarte deal on important matters?

A He always deal with the High Command, sir.

Q By the "High Command" you mean the Commander-in-Chief?

A They call it then the highest command of the Imperial Japanese Forces.

Q Did you have very close contact with him many, many times?

A Yes, sir.

Q Did Lt. Col. Ota have occasion to have dealings with the Japanese High Command every day?

A Yes, sir. He was the direct liaison of General Ricarte to the highest commander of the Japanese Imperial Forces in the Philippines.

Q And after having conversations with Ota and after having conversations with Ricarte, are you prepared to say in what capacity Yamashita was in the Philippines?

A Yes, sir.

CAPTAIN REEL: Apparently the answer now to be elicited is based upon conversations having to do with something not even within the personal knowledge of those who made the statements. We object to it, sir.

GENERAL REYNOLDS: The Commission rules that the question may be answered. The objection is not sustained.

Q (By Captain Pace) In what capacity did Yamashita come to the Philippines?

A The conversation I had with General Ricarte the last time of the arrival of General Yamashita here, he was the highest commander of the Imperial Japanese Forces in the Philippine Islands.

Q Do you refer to the time when he came in October, 1944?

A Yes, sir.

Q During the period between October, 1944 and December 31, 1944 did Ota and Ricarte continue to deal with Yamashita as the Commander-in-Chief of the Japanese forces in the Philippines?

A Yes, sir.

Q After Yamashita came here did Ricarte see him?

A Yes, sir. About four or five days after the last arrival of General Yamashita in the Philippines in October, 1944 General Ricarte told me -- He said --

(Remainder of answer physically stricken from the record by order of the Commission.)

GENERAL REYNOLDS: The Commission interrupts and directs that the last statement be deleted from the record.

CAPTAIN PACE: Yes, sir.

Q (By Captain Pace) Refrain from any comments on what Ricarte told you about Yamashita concerning events which happened prior to his coming to the Philippines in October of 1944. Do you understand that?

A Yes, sir.

Q I asked you earlier, did Ricarte see Yamashita after he came here in October?

A Yes, sir.

Q Will you describe the circumstances?

A Well, he told me that he was called --

CAPTAIN REEL: Sir, may we at this point have the last question and answer that is coming and request that, if this answer is to be based on what Ricarte told him, it be stricken, that it not be allowed to be answered. If the Prosecution seeks to elicit information as to what this witness saw and he was present at any such meeting, then we do not object to what he saw when he was present at a meeting. But I think that that should be made clear before the question is put to the witness.

GENERAL REYNOLDS: There have been so many objections

from the Defense under the hearsay rule that the Commission is impelled to inquire whether Defense contends that all hearsay evidence, regardless of its nature, is normally excluded from any court of law.

CAPTAIN REEL: Sir, we do contend that hearsay evidence, properly hearsay, is excluded in any court of law. There are certain exceptions to the hearsay rule, which is merely to say that in those particular cases it is not hearsay. But wherever there is hearsay it is excluded in a court of law and, as we, I believe, pointed out in a motion made the very first day of this hearing on the 29th of October, the rules of evidence that in our opinion are to apply here under the Articles of War and Acts of Congress are the rules of evidence applicable to the Federal District Court.

In addition, however, I want to say this, sir: we have not objected to a good deal of hearsay that has gone in because we felt that in most cases it was immaterial and not prejudicial, but in this particular case we have a peculiarly aggravated form of hearsay. It is double hearsay and we certainly do object to having it enter here.

GENERAL REYNOLDS: The Commission declines to rule on a question and its answer prior to hearing it.

Proceed.

CAPTAIN PACE: I will withdraw that question at this time.

Q (By Captain Pace) Where is Ricarte?

A According to the information, he died already in the mountain province in the month of August this year.

CAPTAIN REEL: Sir, we will ask that that answer be stricken. It is based on "according to the information." We don't even know what the information was.

THE WITNESS: I got --

CAPTAIN REEL: If Ricarte were dead, that can be shown in the proper way, but not through information that this witness says he had.

GENERAL REYNOLDS: The objection of counsel is not sustained.

Q (By Captain Pace) Did Ricarte have occasion to see Yamashita after Yamashita came to the Philippines in October, 1944?

A Yes, sir.

Q When was that?

A It was five -- four or five days after the arrival of General Yamashita in October, 1944.

Q And how did he come to go to see General Yamashita?

A Well, you see, sir, every afternoon -- I have to describe first the way how General Ricarte confided to me many things that were very important. Every day I have to go to the house of General Ricarte in the afternoon to report my work of the day, and in the morning coming to my office downtown I have to pass also to his house to receive orders, and at night.

Q Excuse me. Where was your office?

A It was downtown.

CAPTAIN REEL: Just a moment. If that is the end of that answer, sir, we ask that the answer be stricken.

GENERAL REYNOLDS: The reporter will read the question and the answer.

(Question and answer read.)

CAPTAIN REEL: Apparently the witness did not finish, and what he gave was not responsive. I will withdraw my objection. I merely ask that the answer given be stricken as not responsive.

What I was driving at, sir, I think is quite apparent. The witness is going to base whatever he says on confidences and conversations, as he calls them, with General Ricarte. We submit, sir, that those are inadmissible.

CAPTAIN PACE: If it please the Commission, we are still trying to show the relationship between this witness and Ricarte, because it will later prove important in conversations between this witness and Ricarte, and the likelihood and the credibility of the idea that these conversations took place, and their contents, are dependent upon the personal relationship between this witness and Ricarte.

GENERAL REYNOLDS: The Commission understands that counsel has lodged an objection against the admissibility of the answer given to the last question. The objection is not sustained.

Q (By Captain Pace) Before you continue, where was your office?

A It was in down town, sir, on Carriedo.

Q And where was Colonel Ota's house?

A It was in the Samanillo Building.

Q And where did General Ricarte conduct his affairs?

A He had his house in Pasay.

Q Was it necessary for you and Ota to make frequent trips to Ricarte's house?

A Yes, sir. Every day we have to go there.

Q The question was whether or not Yamashita saw Ricarte in October, 1944.

CAPTAIN REEL: Sir, so that this matter may be straightened out and we shall not have to be getting mixed up on objections here, the question just asked was a definite question as to whether General Ricarte saw General Yamashita. Now, there is no basis in that question as to what is the basis of the witness' information. If the witness was present at any such meeting, we have no objection to his testifying. Apparently, gathered by the statements and answers that he has made thus far, he is going to testify entirely on the basis of conversations of General Ricarte. To prevent a continued objection which will only take up time, I shall now ask that the record show that the Defense has a standing objection to all evidence based on any conversation that this witness had with General Ricarte, and particularly on any conversation that this witness had with General Ricarte as to what a third party might have said.

GENERAL REYNOLDS: The Commission will recognize a standing objection by the Defense to all forms of hearsay evidence, but the Commission declines to rule in advance upon the admissibility or non-admissibility of any

anticipated question.

Proceed. There is one other thing. The Commission feels that this evidence is properly admissible, but in any case, whether covered by the blanket statement as made, if the Defense feels that a statement is not properly admissible the Commission not only invites, but directs the objection be stated.

Q (By Captain Pace) Four or five days after Yamashita arrived in the Philippines in October of 1944 did Ricarte see him?

A Yes, sir.

Q Will you state under what circumstances Ricarte went to see Yamashita?

A He was called.

Q How.

A By Yamashita, through the Japanese secretary, Mr. Ota.

Q How was he called through Ota?

A By personal message, sir. In fact, on the eve of that night of his going to Yamashita General Ricarte told me he was going to see Yamashita, and I asked him what was the point. He told me, "I have to talk first," he said, "to General Yamashita about the" -- . What I have heard him said, he has a general order in the Philippines --

Q This was the night before Yamashita went --
CAPTAIN REEL: Sir?

A That's the night.

CAPTAIN REEL: Just a moment.

I understand, sir, from your previous statement, that the time to raise the objection would be now, after the answer to the question is in. We do object and ask that it be stricken from the record.

GENERAL REYNOLDS: The point is considered important.

Place the microphone where it can be effective, and the reporter will read slowly and clearly the last question and the answer thereto.

(Question and answer read.)

GENERAL REYNOLDS: The objection of counsel is not sustained.

Q (By Captain Pace) This conversation with Ricarte took place on the evening before Ricarte went to see Yamashita?

A Yes, sir.

Q Where did it take place?

A In the house of General Ricarte at Pasay.

Q Where were you the following morning?

A Well, I was at his house in the following morning, because he --

Q Never mind "because." You were at his house?

A Yes, sir.

Q Were you in Ricarte's house when he left?

A Yes, sir.

Q What time did he leave that morning?

A Before ten o'clock, sir, in the morning.

Q Were you in his house when he returned?

A Yes, sir. I waited for him, because I wanted to know the news about his interview with General Yamashita.

Q And at what time did General Ricarte return?

A It was in the afternoon, sir.

Q Will you describe and relate exactly what Ricarte said when he returned to his house?

CAPTAIN REEL: Objection to that question.

GENERAL REYNOLDS: Not sustained.

A Yes, sir. General Ricarte, as soon as he arrived from the conference with General Yamashita, he said, "Lapus, this is terrible!" I told him, "Why, General?"

He said, "There is a general order issued by General Yamashita all over the commanders of the military posts in the Philippine Islands to wipe out the whole Philippines, if possible."

I asked him, "Why, General?"

"Because General Yamashita," he said, "was very sore. He said to me," he said, "before the first stage of the war we, the Japanese," he said, "-- we did not take the Filipinos as enemies, because we considered their political status as only an instrument to the American people. That is why they fought us. But now," he said to General Ricarte, "we take the Filipinos 100 percent as our enemies, because all of them, directly or indirectly, they are guerrillas, or helping the guerrillas," according to revelation from General Ricarte to me. That is why he said, "In a war with the enemies we don't need to give quarters. The enemies should go."

Q Did Ricarte say anything --

CAPTAIN REEL: Pardon me. I ask that the answer be stricken as hearsay -- double hearsay.

GENERAL REYNOLDS: The objection is not sustained.

Q (By Captain Pace) Did Ricarte say anything else that Yamashita told him at this meeting?

A Well, he said, sir, this: The revelation of Ricarte told me that Yamashita was going to move all the troops of the Japanese forces in the mountains of Montalban, San Mateo, Bosoboso, and going to the mountains in Antipolo and put there the heavy guns, and also they will put there the airplanes they have. They said that they have plenty of airplanes. And then they will let the Americans come into Manila, and as soon as the Americans come in they will make a movement of considerable force, and there will be blanket bombing, and if they wipe the Americans that will enter Manila, there will come to Manila the Japanese forces, and there will not be a single Filipino living in the City of Manila.

CAPTAIN REEL: I ask that that be stricken, sir, for the same reason.

GENERAL REYNOLDS: Not sustained.

Q (By Captain Pace) Was there a holding force to be left in Manila?

A Yes, sir. He also revealed -- . General Ricarte said that Yamashita told him that they were going to leave only here enough forces to be the key forces near to the American forces, and he had instruction also to destroy Manila, particularly the most populated and commercial district of the City.

CAPTAIN REEL: We ask that that be stricken for the same reason.

GENERAL REYNOLDS: Not sustained.

Q (By Captain Pace) Did Ricarte tell you anything else?

CAPTAIN REEL: Objection to the question; the same reason.

GENERAL REYNOLDS: The Prosecutor will frame the question so that a specific answer with respect to it may be had.

Q (By Captain Pace) You mentioned a general order that Yamashita told Ricarte he had issued, is that right?

A Yes, sir.

Q Will you tell what Ricarte told you Yamashita said that general order contained?

CAPTAIN REEL: The same objection, sir.

GENERAL REYNOLDS: The objection is not sustained.

A Well, Ricarte revealed to me, sir, that the order of Yamashita was this, to all the commanders of the military posts all over the Philippines: that whenever the Americans succeeded in landing at certain points, and the population gives signs of pro-American movement or actions, the whole population of that part or place or town or barrio should be wiped out.

Q Did Ricarte tell you --

CAPTAIN REEL: I ask that that be stricken.

GENERAL REYNOLDS: Not sustained.

Q (By Captain Pace) Did Ricarte tell you anything else that took place at this meeting between Yamashita and himself?

CAPTAIN REEL: The same objection, sir.

GENERAL REYNOLDS: The Prosecutor will phrase his question so more definite answers will be elicited.

Q (By Captain Pace) Did this order apply to all the forces in the Philippines?

CAPTAIN REEL: The same objection, sir; hearsay.

GENERAL REYNOLDS: Not sustained.

A Yes, sir.

Q (By Captain Pace) You have spoken of an order, and you have also spoken of a plan. Were those two separate things?

A Well, the plans correlated with the order, of course. There was a definite relation to the strategy that have to do with relation to that order.

Q The destruction of property and the defense of Manila, was that part of the order or part of the plan?

CAPTAIN REEL: The same objection. The witness is being asked, may I point out, not only hearsay, but this time it is hearsay four degrees removed: an order; Yamashita; Ricarte; and the witness.

GENERAL REYNOLDS: Will the reporter read back the question?

(Question read.)

GENERAL REYNOLDS: The objection is not sustained.

CAPTAIN PACE: Will you answer the question, please?

A It was part of the order, because it correlates with the order. This order was also corroborated. This order of destruction of particularly Manila was corroborated later. Ota, in one of our conversations, when I was pleading to him, I said, "This is inhuman." I told him --

Q You are speaking of a later conversation now, are you not?

A Yes, sir.

CAPTAIN REEL: Sir, whatever conversation it was, if that is the end of the question, we ask that it be stricken.

GENERAL REYNOLDS: The objection of counsel is not sustained.

Q (By Captain Pace) What was Ricarte's appearance when he returned home that day?

A He was in tears, sir. He told me, "Lapus, I am very, very sorry." He said, "I fail because Yamashita was very determined not to change his order of massacre."

CAPTAIN REEL: I will ask that everything in that answer after the word "tears," be stricken.

GENERAL REYNOLDS: The reporter will read the question and read back the answer clearly and distinctly.

(Question and answer read.)

GENERAL REYNOLDS: The objection of counsel is not sustained.

Q (By Captain Pace) After this visit in October was there a second visit by Ricarte to Yamashita?

A Yes, sir.

Q When was that?

A It was ten days after the first visit, sir.

CAPTAIN REEL: Sir, if that answer is based on the same hearsay, which it apparently is, there is no evidence that the witness was there, and we ask that it be stricken.

GENERAL REYNOLDS: Not sustained.

Q (By Captain Pace) Will you tell how Ricarte happened to go to see Yamashita ten days after the first visit?

A Yes, sir.

CAPTAIN REEL: The same objection.

GENERAL REYNOLDS: The objection is not sustained.

A (Continuing) Yes, sir. He went to Yamashita also. One of the purposes is this trying to stop that order of massacre in all the Philippine Islands, and secondly, because they were talking about the plan of Yamashita to move the general headquarters to Baguio and to bring Ricarte, or to convince Ricarte to be in Japan.

CAPTAIN PACE: All right.

CAPTAIN REEL: Sir, even if the question is not objectionable, the answer is, and we ask that it be stricken.

GENERAL REYNOLDS: The objection is not sustained.

Q (By Captain Pace) Did Ricarte go to see Yamashita?

A Yes, sir.

Q Were you at his house when he left?

A Yes.

Q Were you at his house when he returned?

A Yes, sir.

Q What time did he leave?

A He leave before ten o'clock.

Q What time did he get back?

A He got back after twelve o'clock, sir.

Q Where was he seeing Yamashita these first two times?

A The first two times Ricarte told me that he saw Yamashita in the house of President Quezon in Pasay.

Q What was Yamashita using the house of President Quezon for?

CAPTAIN REEL: Objection for the same reason.

GENERAL REYNOLDS: Not sustained.

A According to the revelation Ricarte told me, it was one of the residences used by Yamashita.

CAPTAIN PACE: All right.

CAPTAIN REEL: I move that that answer be stricken upon the ground that it is hearsay. In addition to the objection to the question, the answer is clearly based on hearsay. The question might have been based on some knowledge that this witness has. The answer clearly is not.

GENERAL REYNOLDS: Objection is not sustained.

Q (By Captain Pace) What did Ricarte say when he got back from this second visit to Yamashita?

CAPTAIN REEL: Objection.

A Well, --

CAPTAIN PACE: Wait a minute.

A (Continuing) -- he told me --

CAPTAIN REEL: The same objection.

GENERAL REYNOLDS: Again the Commission cannot rule in advance of hearing the answer.

CAPTAIN REEL: At this time, sir, I am objecting to the question as calling for hearsay. That has been the basis of the objections to the questions.

CAPTAIN PACE: If it please the Commission, --

CAPTAIN REEL: I was about to say, sir, that is the basis of the objection to the question, as distinct from

the motion to strike the answer.

CAPTAIN PACE: If it please the Commission, this is not a trial before a jury, where anything which might be prejudicial has to be kept from the triers of fact. This is a military commission which is entitled to listen to things without constant interruption and, after hearing them, deciding whether to give them weight or not. I submit that this witness is entitled to tell his story without interruption.

CAPTAIN REEL: Sir, we --

GENERAL REYNOLDS: The Commission will now speak.

This is a most unusual witness, who is alleged to have been present behind the lines of our enemies at a time when we could not possibly obtain the evidence in the ordinary sense. I will ask the senior Defense counsel if he feels that the objection to this evidence on the grounds of hearsay rule is a sound objection.

COLONEL CLARKE: I do, sir. We have not ourselves admitted that hearsay is admissible in this particular military commission. As a basis of one of our motions our contention is that in this particular Commission, they are bound by the rules of the courts back in the United States, the District Courts. There has been nothing said by the President of the United States which would change those rules, and therefore that is the basis for our argument before, and it is the basis upon which we make these objections.

GENERAL REYNOLDS: Does the senior counsel contend that under no circumstances hearsay evidence may be

accepted in a court?

COLONEL CLARKE: Under no circumstances, sir, except in those cases where exceptions are made to the hearsay rule.

GENERAL REYNOLDS: The current objection is not sustained.

Q (By Captain Pace) What did Ricarte tell you when he returned from his second visit to Yamashita?

A Well, I asked him, sir, what was the situation of the order; if he talked it over with Yamashita. He told me, "I talked it over again, but Yamashita told me he could do nothing; that the order was given and he was sorry." He said, "War is war, and the enemy should not be given quarters."

CAPTAIN REEL: Sir, I ask that that be stricken.

GENERAL REYNOLDS: In order that we not interrupt and delay the trial, as is being done, the Commission reverses itself and states that unless there is an objection on a new point, the Commission will assume that there is an objection in all cases.

Q (By Captain Pace) Was there a third visit between Ricarte and Yamashita?

A Yes, sir. It was about the middle of November, sir, 1944.

Q Did you see Ricarte when he returned from that visit?

A Yes, sir.

Q What did he say?

A He said, when I asked him what was the important

matters about his visit -- he said that they talked it over, in the first place, the trip that they are going to do, Ricarte and his Japanese secretary, to Baguio, and then they talk over also the matter about the -- they talk about the transfer of the Philippine Cabinet under Laurel.

Q Where to?

A I beg your pardon, sir?

Q Where to?

A To Baguio.

Q Yes.

A And I asked General Ricarte if he talk over again to General Yamashita his order, because it involves the lives of my countrymen. I could not help it.

Q Yes.

A And I told Ricarte -- I said, "General, you have to do the best you could, because it involves the life of our countrymen." And he told me, "I did everything." He said, "I appealed to the heart of this man, but he has no heart," he said. "He would not listen," he said. He said, "The order was given and he could not change it."

Q Was there a fourth meeting between Yamashita and Ricarte?

A The fourth meeting was routine about the trip, and about bidding goodbye to Yamashita regarding the work he left.

Q When was that meeting?

A Well, I think that was about the half of December, 1944.

Q You mean after the 15th of December?

A Yes. Something like that, sir.

Q Did you talk to Ricarte about that meeting when he returned?

A Yes, sir. He told me that he was going to Baguio on the 31st of December.

Q Who was going?

A Ricarte and Ota. And he told me also that Yamashita and his staff will go to Baguio and Laurel will follow after a few days.

Q When was Yamashita going?

A He told me that he was going very soon after that conversation. I do not know exactly. I do not remember exactly the date, sir.

Q Soon after the 15th?

A Yes, sir.

Q When was Laurel going?

A Laurel, if I am not mistaken, sir, went there on the 25th or 26th of December.

Q When was Ricarte going?

A He left Manila there on the 31st of December, 1944.

Q Is what you have just testified to what Ricarte told you Yamashita said?

A I beg your pardon?

Q You have just testified to certain matters. Is that what Ricarte told you Yamashita said at the fourth meeting?

A Yes, sir. I believe Ricarte, all what he was, because I never experienced any lie from that man for the long years that we have been related, sir.

Q Did Yamashita leave Manila?

A He left on the 3rd.

Q Who assumed command of the military area?

A Ota told me that if I wanted to go, he delegated it to the chief of staff and the assistant chief of staff of Yamashita.

Q Who was that?

A General Muto, and then Colonel Usumochiya.

Q Were they to maintain Japanese Army headquarters in Manila?

A Yes, sir. They had the headquarters, of course, in Manila.

Q And after Yamashita left did Ota continue to carry on his military business with the high command with the headquarters which had been left behind in Manila?

A Yes, sir.

Q Where were you when the Americans came?

A I was in one of the barrios of Pasig Rizal.

Q When did the Americans get there?

A They got there, if I am not mistaken, about the 14th of February.

Q Ricarte had left you behind, is that right?

A Yes, sir.

Q You closed your office?

A Yes, sir, I closed my office when he left.

Q When was that?

A Well, it was in December 31st.

Q Were you interned?

A I was interned on the 21st of February, 1945, sir.

Q After you had these conversations with Ricarte about the plans of the Japanese high command did you give your friends any warning?

A I beg your pardon?

Q Did you warn your friends as to the plans of the Japanese?

A Yes, sir. I told Ota after our conversation with Ota, after I could not persuade Ota to intervene with the high command in the name of humanity, I was convinced that there was no hope. And I risked even my life. I know if they caught me that I was spreading that news, they would cut my neck. I went to my friends, and I told them secretly that this order is going to be carried out, and that they should get out of Manila, because it is a sure death, I told them.

CAPTAIN PACE: You may cross examine.

GENERAL REYNOLDS: Before the Defense starts to cross examine you may have the option of cross examining now, or upon the resumption of the Commission's hearings on Monday morning, as you prefer.

CAPTAIN REEL: Sir, inasmuch as it is growing late, our cross examination may take a considerable length of time and we would request Monday morning to start.

GENERAL REYNOLDS: The Commission will stand in recess until 8:30 in the morning, Monday next.

(Whereupon, at 1645 hours, 3 November 1945, the trial
was adjourned until 0830 hours, 5 November 1945.)

18 981
Yamashita, Tomoyuki, 1885-1946, defendant. 2

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

UNITED STATES OF AMERICA)

-vs-)

TOMOYUKI YAMASHITA)

) PUBLIC TRIAL
)
)
)
)

High Commissioner's Residence,
Manila, P. I.
5 November 1945

Met, pursuant to adjournment, at 0835 hours.

MEMBERS OF MILITARY COMMISSION:

MAJOR GENERAL RUSSEL B. REYNOLDS, Presiding Officer
and Law Member
MAJOR GENERAL LEO DONOVAN
MAJOR GENERAL JAMES A. LESTER
BRIGADIER GENERAL MORRIS C. HANDWERK
BRIGADIER GENERAL EGBERT F. BULLENE

APPEARANCES:

(Same as heretofore noted.)

REPORTED BY:

E. D. CONKLIN
L. H. WINTER

I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Narciso Lopus (resumed)		952	1055	
Joaquin S. Galang	1058	1070	1092	
Dominador Santos	1094	1098		
Armando Alvarez	1101			
Vicente Arias	1106	1110		
Claude B. Patrick	1113			

EXHIBITS

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204	1122	1122
205	1122	1123
206	1123	1123

P R O C E E D I N G S

GENERAL REYNOLDS: The Commission is in session.
The Prosecution will proceed.

MAJOR KERR: Sir, all the members of the Commission are present, the Accused and Defense Counsel are present, and the Prosecution will proceed.

NARCISO LAPUS

the witness on the stand at the time of adjournment, having been previously duly sworn, was further examined and testified as follows:

CROSS EXAMINATION

Q (By Colonel Clarke) Mr. Lapus, you stated that you received no promises for any testimony which you might give in this case; is that correct?

A I beg your pardon?

Q You stated that you received no promises from anyone for any testimony which you might give in this case?

A No promises at all, sir.

Q What?

A No promises at all, sir.

Q Did you at any time contact any person with the request that they give you some immunity if you would testify?

A No, sir.

Q Did you contact any person in the CIC?

A No, sir. I sent a letter to the Chairman of the Honorable Commission to offer my testimony on this case because I believe I hold secrets relating to this question.

Q So you did make a request to some person to be

permitted to testify?

A I beg your pardon, sir?

Q So you did make a request to some person to be permitted to testify in this case?

A I sent a letter to the Chairman of the Commission, sir.

Q Offering your services?

A Offering my services to testify voluntarily.

Q In return for what?

A For nothing, sir.

Q You stated that you have known or did know General Ricarte for many years. When did you first meet the General?

A When I was very young yet.

Q When?

A That was in 1901.

Q How old were you?

A I am about 60 years now, sir.

Q How old were you then?

A I will be 60 years in March.

Q How old were you in 1901?

A I was about 14 years.

Q Where did you meet the General then?

A He was the Commander-in-Chief of our Division, sir.

Q Of what?

A He was the Commander-in-Chief of the Division that I belonged to as a revolutionary soldier.

Q Were you a member of that Division?

A Yes, sir.

Q And what was your rank?

A I was only private.

Q You met the General when you were a private?

A I did not meet him, but he was the Commander-in-Chief of our Division.

Q Were you personally acquainted with him then?

A I beg your pardon?

Q Were you personally acquainted with him then?

A We were not allowed to meet personally the Commander-in-Chief, as you know the military discipline would not allow that.

Q So that you did not know him intimately in 1901?

A I beg your pardon, sir?

Q So that you did not know him intimately in 1901?

A I have seen him very often as a soldier in this Division.

Q When did you first meet him to speak to him?

A I beg your pardon?

Q When did you first meet him to speak to him?

A I met him first personally -- I made a contact with him in 1922, sir.

Q Where was that?

A In Japan.

Q And what was the contact that you made? Why did you make the contact?

A I made a travel, the first travel I made when I went to the United States in 1922 and in my trip we had to stop in Yokohama and I went to give my respects to him.

Q That is the first time that you met General Ricarte?

In 1922?

A That was the first time I met him personally, but before that we had been exchanging correspondence on most every month.

Q So that you corresponded with General Ricarte?

A Yes, sir.

Q On what subjects?

A I beg your pardon, sir?

Q On what subjects?

A Oh, about the national problem; about Philippine independence.

Q And then in 1922 when you paid your respects to the General what did you talk about?

A We have talk several topics, sir. Among them is the Philippine campaign of independence.

Q And were you interested in the Philippine campaign for independence?

A I beg your pardon, sir?

Q Were you interested in the Philippine campaign for independence?

A I did not get that.

Q Were you interested in the Philippine campaign for independence?

A Yes, sir.

Q And in what capacity were you interested in this campaign? Were you an organizer or were you one of the members or what?

A As a Filipino I was interested in the freedom of my country, sir.

Q Was there an organized movement at that time?

A I beg your pardon, sir?

Q Was there an organized movement at that time for Philippine independence?

A I did not get you right, sir.

Q Was there an organized movement for Philippine independence?

A It was a political movement, of course.

Q Who headed that?

A The several parties in the Philippines.

Q And what relation did General Ricarte have with that campaign?

A Well, he was some sort of moral supporter of the campaign.

Q He was not actively engaged in that campaign at that time?

A He was not engaged in that at that time because he was in a foreign country, sir.

Q How long was General Ricarte in Japan?

A Well, he has been there as far as I know since 1914 at the outbreak of the first World War.

Q When did he leave the Philippines?

A The first time he left the Philippines was when he was exiled in 1903 and then the second time after the expiration of his convictions, it was in 1910.

Q Did he return to the Philippines between 1910 and 1941?

A No, sir.

Q Where did he live during that period of time?

A After 1914 he was in Hongkong, sir.

Q What did he do while he was in Japan?

A I beg your pardon, sir?

Q What did he do while he was in Japan?

A Well, he was there as an exile and as for living he was teaching in a college in Spanish in Japan.

Q What subjects did he teach?

A Spanish, sir.

Q What languages does General Ricarte speak?

A He speaks Spanish, English, Tagalog, Pampanga, and Ilocano and Japanese.

Q How well did he speak Japanese?

A Well, I am not an authority, sir, about that, but as far as I know he showed me lots of writing in Japanese.

Q Did he read it to you?

A I beg your pardon?

Q Did he read it to you?

A Even if he read it to me I could not understand, sir.

Q Did the General ever confide in you how well he could speak Japanese?

A Yes. He told me he speaks it.

Q Did he ever tell you how well he could speak it?

A He never told me that because he knows I am no authority on that subject.

Q You were his secretary?

A I beg your pardon?

Q You were his secretary?

A I was the private secretary.

Q Did you accompany the General anyplace where he

spoke in Japanese?

A No, sir. I have never been brought by him in the campaign he made about speaking, especially when he was accompanied by Japanese.

Q He was accompanied by Japanese?

A Yes, sir.

Q Do you know whether or not General Ricarte had an interpreter at that time with him when he spoke Japanese?

A I know when he was in his house he had his grandson, a small boy about 13 years who was brought up in Japan and educated there. That boy spoke better as regard to General Ricarte's -- spoke better in Japanese than Tagalog.

Q The boy spoke Japanese?

A Yes, sir. And in other gatherings he had an interpreter in Spanish who was acting as his official secretary: Mr. Ota.

Q Who was that?

A Ota.

Q Who was he?

A He was the official secretary of General Ricarte -- Japanese official secretary.

Q What rank did he hold?

A Well, as I remember he was, they say, Lieutenant Colonel.

Q Who said?

A General Ricarte.

Q General Ricarte said he was a Lieutenant Colonel?

A He told me, sir.

Q Did you ever see Mr. Ota?

A I beg your pardon?

Q Did you ever see Mr. Ota?

A Yes, I used to see him most every day.

Q And do you know from the times that you have seen him whether or not he was a Lieutenant Colonel in the Army, Navy or Marine Corps?

A At the time I saw him in uniform, I am not familiar with the insignias of all these Japanese military ranks -- The time I have seen him in uniform with saber when he went to Japan in nineteen thirty -- 1943 when General Ricarte was called to Japan. Colonel Ota accompanied him and I bid them goodbye at the airfield, and that was the time I saw Ota in full regalia of his military uniform.

Q He wore a saber at that time?

A Yes, sir. He had a saber and he had his insignia.

Q What else did he have on his uniform? You said "full regalia".

A I beg your pardon, sir?

Q You said that he was in "full regalia".

A Yes, sir.

Q What else did he have on his uniform?

A Well, he had the complete uniform of a military man.

Q Did he wear a cap or a hat?

A Yes, sir.

Q Will you describe that?

A Well, the usual cap they use, that officers of the Japanese have.

Q So he had the usual cap?

A Yes, sir; the officers.

Q Any markings on it?

A I did not pay any attention about the mark or anything else.

Q Did he wear any ribbons on his breast?

A I beg your pardon?

Q Did he wear any ribbons on the breast of his uniform?

A I think I saw some insignia on his breast or collar or something like that.

Q And you saw then Lieutenant Colonel Ota dressed in a Japanese officer's uniform?

A Yes, sir.

Q You stated that when General Ricarte was in Tokyo he became acquainted with the high officials of the Japanese government.

A Yes, sir.

Q How do you know that?

A Well, I have seen lots of highest officers coming from Tokyo here. In fact, when Premier Tojo came here in 1943 the first man he called was General Ricarte. All the highest ranking officers, including those highest advisors of the Emperor, they come here and visit him, like General Minami, the old man Oshu. All the advisors of the Emperor, they all come to him, and all the Generals. I have seen lots of Generals visiting him and giving their respects to General Ricarte.

Q When?

A During the Japanese occupation here.

Q Does that have anything to do with the high officials he became acquainted with in Japan? Do you know whether he knew them in Japan or whether they came down here and they

met him down here?

A Some of them they came here, sir, and when he went to Yokohama last time he brought to me lots of pictures. According to him they were the Ministers of War and Vice-Ministers of War and some of the higher-ranking officers of the Japanese staff.

Q According to whom?

A I beg your pardon, sir?

Q According to whom? According to General Ricarte? Did he tell you that?

A I beg your pardon, sir?

Q Did General Ricarte tell you that these pictures were pictures of high officials in Japan?

A Yes, sir. And corroborated by Ota.

Q What is that?

A Yes, sir. And corroborated by Lieutenant Colonel Ota.

Q Did you see the pictures?

A Yes. I have seen the pictures. They brought here copies of them.

Q Would you recognize any of the faces on the pictures?

A I don't know the highest-ranking officials because I am not acquainted with all this highest-ranking in Japan. I only know the high-ranking officers who visited his home when he was in his house.

Q Were there any officers' faces on those pictures?

A I beg your pardon, sir? I don't get you, sir.

Q You met these officers who came to his home?

A Yes, sir.

Q Where was his home?

A In Pasay.

Q Did you see any of their faces in this picture that General Ricarte showed you?

A I saw the picture of Mr. Oshu, the old man with the beard who attended the declaration of the Philippine Republic.

Q Any others?

A Well, that's one of the pictures that I recall now, sir.

Q Do you recall any others?

A I don't recall the others, because the others I don't see they came there.

Q So nobody in the picture that you saw then came to General Ricarte's house; is that correct?

A That is Mr. Oshu, sir.

Q Other than Mr. Oshu.

A He went to his house to give his respects after General Ricarte gave his respects to him.

Q Were any of the high officials whom you say were shown on the picture out to General Ricarte's house at any time?

A As far as I know, those pictures that he showed me, I only recall the picture of Mr. Oshu.

Q You never saw any of the other officers then or other persons in the picture at General Ricarte's home?

A I don't get you correctly, sir. I beg your pardon.

Q Did you see anybody whose face was shown in that picture other than Mr. Oshu at General Ricarte's home in Pasay?

A I don't quite remember, sir, all the pictures. Only I have seen the picture in the papers of some of those highest

officers -- they publish them -- that they belong to the Japanese Cabinet.

Q These pictures in the paper did not belong to General Ricarte, did they?

A I beg your pardon, sir?

Q These pictures in the paper did not belong to General Ricarte, did they?

A That picture -- What?

Q The pictures you saw in the paper --

A Yes, sir.

Q -- did they belong to General Ricarte?

A No; no, sir.

Q So that all the time you were with General Ricarte you met high officials and knew them?

A I did not meet them. I only saw them there, because General Ricarte never introduced me to the highest-ranking officers of the Japanese Army because it was not the custom and it was not included in the routinary discipline of the Army of Japanese to introduce a man who is not with the same rank, sir.

Q What was your rank?

A I have no rank but a private secretary.

Q Did you see General Ricarte between the years 1910 and 1941?

A I beg your pardon, sir?

Q Did you see General Ricarte between the years 1910 and 1941?

A Several times, sir.

Q How many times?

A No, I can't count because it is too much.

Q Do you have any idea how many times you saw him?

A I cannot give you exact counting, sir, because during the Japanese occupation I can count most every day I was with him.

Q Did you see General Ricarte before he came back to the Philippines while he was in Japan?

A The last time I saw him in Japan it was in 1930, sir.

Q And how many times had you seen General Ricarte in Japan?

A Five times, sir.

Q What were the occasions for these visits with General Ricarte?

A I beg your pardon, sir?

Q What were the occasions for these visits to General Ricarte?

A My visits, sir?

Q Yes.

A Well, mostly I have to pass by. When I get off of the boat instead of going to other place I go to him and sometime I take my lunch in his house instead of taking it in other places. And during the course of my stay we talk lots of things about the Philippines, remembering sometimes about the revolution, about the campaign for independence, about the people he knew, his friends and so on.

Q So that these visits were incidental to some trip you were taking which took you through to Tokyo, at which time you stopped to see the General to pay your respects?

A He was not in Tokyo, sir. He was in Yokohama.

Q All right. In Yokohama.

A Yes.

Q Where were you going on these trips?

A I beg your pardon, sir?

Q Where were you going on these various trips?

A I used to go to America, sometimes back to the Philippines. Two times I went around the world.

Q Were you on an official trip or were you on your own?

A I was on my own; private business, sir.

Q In what business were you?

A I was in the import and export business.

Q Do you know who paid General Ricarte while he was in Japan and at the University?

A I don't know exactly who paid, but he told me only that he was paid so much a month as a professor in Spanish.

Q During the time that General Ricarte was in Japan, did he continue his interest in the Philippine independence movement?

A I beg pardon, sir.

Q During the time that General Ricarte was in Japan, did he continue his interest in the Philippine independence movement?

A Yes, sir.

Q To what extent?

A Well, to support the campaign, not actively, but he used to write some statements, letters, to his friends, encouraging those people he knows that they were working for the Philippine freedom.

Q Did you write any articles on Philippine independence?

A Yes, sir.

Q Did you write any articles concerning any other subjects?

A Other subjects, too, like labor movements, socialist movement, woman suffrage, and all the topics; I don't remember exactly now, because I wrote lots of things during many years.

Q What political party were you affiliated with?

A I belonged to the Opposition Party.

Q Which one?

A In the Opposition.

Q When did you join that party?

A Since I was young, sir.

Q And do you still belong to that party?

A I resigned since 1938.

Q You resigned in 1938?

A Yes, sir.

Q Did you ever belong to the Socialist Party?

A Yes, sir; I was co-founder of the Socialist Party in the Philippines.

Q Did you ever belong to the Democratic Party?

A Yes, sir.

Q Did you ever belong to the Nationalisto Party?

A I never belonged to that party, sir. That was the governmental party.

Q What was that?

A The party of the government people, the Nationalisto Party.

Q What other parties did you belong to?

A I belonged to the Opposition Party, sir.

Q Any others?

A Then they changed the name, they make it "Popular Front".

Q Any others?

A That is all the parties.

Q Now, over what period of time did you belong to the various parties?

A From 1907, sir.

Q Until when?

A Until 1938.

Q You belonged, then, to approximately four or five or six different political parties during that time?

A Always in the Opposition, because they have change sometimes, the names, and they consolidated sometimes.

Q Did you switch your allegiance from one party to another?

A No, sir. It was always in the Opposition, because sometimes, for instance, the Socialist Party, the Democratic Party, and other parties, they fused like a Popular Front; they are different groups, but they belong to the same Opposition Party.

Q How many of these parties were anti-United States?

A I beg pardon, sir?

Q How many of these parties were anti-United States?

CAPTAIN PACE: If it please the Commission, I object to that question unless it is rephrased to show the meaning of "anti-United States". I believe that is ambiguous, as stated.

Q (By Colonel Clarke) How many of these parties worked against the interests of the United States and in the interests of Philippine independence?

A They are interested in the Philippine independence, but I don't recall they are against the interests of the United States.

Q Did you ever write any articles on the United States and its relation to the Philippine Government?

A I wrote about the Philippine independence, advocating Philippine independence.

Q In your articles were you anti-United States?

A I never antagonized the United States.

Q You never what?

A I never antagonized the United States. I wrote on the independence subject all the time.

Q Well, did you in any of your articles say anything detrimental to the policy of the United States in relation to --

A I don't recall, sir, unless my advocacy for independence is harmful to the interests of the United States.

Q Do you remember anything that you wrote in those articles relating to the Philippines, in relation to the United States?

A It was all related to the United States, because the Philippine independence was linked to the United States.

Q Did you state in any of those articles that your view was that the Philippines were for the Asiatics?

A I beg pardon?

Q Did you make any statements in your articles that in your opinion the Philippines should be for the Asiatics?

A I don't recall, in those articles about independence, that I made any connection about the Asiatics, if you mean in "Asiatic" about the considerations of the Japanese.

Q But you don't remember anything in the articles; you don't remember anything you wrote in the articles?

A I don't recall I connected that matter with the Philippine independence, sir.

Q But you do remember things that happened back in 1901, with relation to General Ricarte; things that happened in 1922, 1930, but you can't remember this?

A That is a well distinct date, sir.

Q Which date?

A That date that I recall General Ricarte, because it was one of the dates that a man sometimes engraves in his

memory, that cannot be erased.

Q Which date is that, now?

A That is the first time I have seen General Ricarte.

Q In 1922?

A No, sir.

Q When?

A In 1901.

Q That is the first time you saw him?

A Yes, the first time I saw him, when I was very young.

Q Now, when did General Ricarte return to the Philippines?

A I beg pardon?

Q When did General Ricarte return to the Philippines?

A Well, in the first place, he return here secretly in 1903, after his exile to Hong Kong on the first time, and the second time he return here in 1941.

Q When did you meet General Ricarte after his return in 1941?

A I beg pardon?

Q When did you meet General Ricarte after his return in 1941?

A About the middle of March, 1942.

Q Nineteen what?

A 1942, the middle of March of 1942.

Q About six months after he returned, or about five months after he returned?

A No, sir, he returned only here in December, I met him in March of the next year; that is not six months.

Q Well, four months. But you did meet him immediately when he came to the Philippines?

A No, sir, I did not meet him, because I was in the evacuation in my province.

Q How did you come to meet him in March, 1942?

A Well, I came to Manila in March, because I received some news that General Ricarte was looking for me.

Q And did you come direct to Manila and report to General Ricarte?

A I came to Manila and I did not know where he was, I have to look for his place, because in those days the situation in Manila was very delicate, and I had to go to several sources to find out how I could get in touch with him.

Q And how did you get in touch with the General?

A Well, I have to find some friends to show me how could I go there, because in those days the only mention of General Ricarte's name, they take you as a spy and they take you to the Japanese, so I have to be very careful.

Q And you were careful not to be seen with General Ricarte, because the Japanese might pick you up as a spy, is that right?

A Yes, sir.

Q And why would the Japanese pick you up as a spy because you went to see General Ricarte when, according to your statement, General Ricarte was a god of the Japanese?

A I beg pardon?

(Question read)

A Well, in those days, all those who were looking for General Ricarte, they considered as pro-American, as a spy.

Q They said what?

A In those days, most of those who were looking for General Ricarte were considered as a spy of the Americans.

Q As I understand, then, anyone who went to see General Ricarte in those days was considered pro-American by the Japanese?

A Yes, it was suspected all the time like that.

Q Who told you that?

A Well, I have confirmed myself, because I was submitted to rigid investigation before I got to the house of General Ricarte.

Q And why, if he were the god of the Japanese, would anybody be considered pro-American who went to see the General?

A I beg pardon?

COLONEL CLARKE: Will you read the question, please?

(Question read)

A Because precisely they know that Ricarte is very good friend of the Japanese, and all those who wanted to see him they suspect them of something they wanted to do with Ricarte.

Q When you came to Manila, then, you located General Ricarte, is that it?

A I located through the efforts of some friends.

Q Now, you had heard before you came to Manila that General Ricarte was looking for you?

A I received news that he was asking for me, looking for me.

Q From whom did you receive that news?

A Those people who come from Manila to the provinces.

Q Did they know where General Ricarte lived?

A I beg pardon?

Q Did they know where General Ricarte lived?

A They know that he was living in Manila, and the first

time they told me he was living the Avenue Hotel, Rizal Avenue.

Q The General was looking for you and sent for you?

A He did not send, precisely, but I received the news.

Q You received the news, and then you came down to look for him?

A I like to come down for the first time I received the news, but it was very hard to get to Manila in those days. They have to secure the passes, and so on, so you can't move from one place to another.

Q Did you finally locate General Ricarte?

A Yes, sir.

Q Then what?

A Well, I went to him and -- before I reach his house I was submitted to investigation by Japanese.

Q You were what?

A Investigated me first, before they let me go to his house; they examined me; they look all my body (demonstrating), to see if I have some arms, something like that.

Q Did they investigate your political affiliations, too?

A No, sir. They asked me how did I know General Ricarte, and so on; investigate my personal condition, how did I know, when I knew him, and so on.

Q Did you tell them that the General was looking for you?

A I told them that I had received news that the General was looking, was asking for me.

Q What did they say to that?

A Well, one of my companions who accompanied me to the house of General Ricarte had a pass, had a pass signed by General Ricarte. When they show that pass, they stop the investigation and let us go to his house.

Q So he permitted you to go into the General's house?

A I beg pardon?

Q So they permitted you to go into the General's house?

A Yes, sir.

Q What happened after you got in there?

A Well, when I went up there I said hello with him, and he told me he was looking for me and told me I was the first man he was looking, I was the first man in his thoughts, "but I thought you was dead. Nobody could give your whereabouts".

Q So that the General was looking for you above every other person in the Philippine Islands?

A I beg pardon?

Q The General said he was looking for you above any other person in the Philippines?

CAPTAIN PACE: I object to that question. I don't believe it is a correct quotation of what this witness has said, sir.

COLONEL CLARKE: I will phrase it in his own words.

Q (By Colonel Clarke) The General said you were the first man in his thoughts?

A Yes, sir.

Q That he was looking for you?

A Yes, sir.

Q And did he tell you why?

A He did not explain to me why.

Q Then what happened?

A Well, we talk over what was his plan, that is all; we talk many topics, and after a while I have to go, because the General had many visitors then, and I went away.

Q So you conversed on many subjects during that time?

A We took in general topics.

Q Did the General tell you why he had been looking for you?

A Well, we did not discuss that, because I was there only -- just presumed he wanted to see me, because we didn't see a long time.

Q So he was looking for you as the first person in his thoughts, for some mission, for some reason?

A That is what he told me, because you see, sir, my relation to General Ricarte is some sort of a spirit, deep, because when General Ricarte was about to starve in Japan in 1931, I was responsible to raise the public help to save him from starvation. And in 1923 when he was in Japan, in the earthquake, when he everything lost, I was also the one who invited my friends in the Philippines -- I send them telegrams and letters to make a drive to help General Ricarte. And General Ricarte never forgot those gratitudes. He was so good Catholic, Christian, that whatever good to him he would never forget it. And I think he took me as one of the Filipinos who had helped him.

Q And in this help to the General, did you raise funds for his support?

A I beg pardon?

Q Did you raise funds in the Philippines for the General's support in Japan?

A To help in his predicament.

Q Did you raise funds?

A Yes, sir; publicly, through the press, public contribution all over the country.

Q And you were the leader in the raising of funds?

A Yes, sir. I was the secretary-treasurer of the National Committee to help Ricarte in his predicament in Japan.

Q You were experienced, then, in the raising of public funds for public purposes?

A I beg pardon?

Q Were you experienced in the raising of public funds for public purposes?

A I was in business, sir; I was then in business.

Q You were? But you knew how to get the money from the public for certain purposes, is that correct?

A Not for all the purpose. I don't know what you mean, but in that purpose, at least, I knew how to do it, because I had asked the help of the press, and the press, all the press in the Philippine Islands, helped me.

Q Had you ever raised any funds before?

A No, sir.

Q Well, then when did you become the secretary to General Ricarte?

A Officially, sir, I became secretary, private secretary to General Ricarte, after the parole of the military police in Fort Santiago -- I mean, the Japanese military police.

That was in June of 1942. After that month he appointed me as a private secretary in writing.

Q Did he ask you at the first meeting, to become his secretary?

A He did not tell me so, but he asked me to help him.

Q What did you say?

A Well, of course, I do not refuse.

Q Did you accept?

A I accepted in a way.

Q What kind of a way?

A In a way I have to help him parttime, because I could not help him without -- I mean, neglecting my personal interests, as I know working with Ricarte you cannot live as you want to in those days, because he is a man of ideals, and puritan, and he does not care about materialistic.

Q You placed your personal interests above this interest that you had in the Philippine independence and in General Ricarte?

A I did not do that, sir.

Q Didn't you just say that the reason you only helped parttime was because of your own personal interests?

A Well, I did not put above my interests. I worked with him as a parttime; I help him. If I put my interests above that question, I would not accept those things even partially.

Q So that the Philippine independence movement, then, was not -- did not rank with your own personal interests, is that correct?

A I beg pardon?

CAPTAIN PACE: I object to that. The witness stated he was working on both his personal livelihood and the Philippine independence.

GENERAL REYNOLDS: Objection not sustained.

Proceed.

COLONEL CLARKE: Will you answer that?

Will you read the question?

(Question read)

A Not precisely. You cannot work on the independence if you not work also for your living. How could you work without living? So I have to dedicate also part of my time for my living, and most of the time for the cause of independence.

Q What was your business at that time?

A In the war I lost everything, sir. Before the war I was in business of import and export, and I also had a private school, vocational school.

Q Were you operating the school at this particular time that you went to see General Ricarte?

A No, sir. It was already gone by the war, the ravages of war.

Q Were you still engaged in the export and import business?

A When I met Ricarte?

Q Yes.

A No, sir.

Q Then what business did you have that you had to take care of?

A I beg pardon?

Q What business did you have that you said that you had to take care of your own personal business, rather than go with General Ricarte as his secretary?

A I had to make my living, try to sell this and this, try to make money this and that. In those days you could not fix any definite business during the Japanese, because everything was controlled by them.

Q What did you make and sell?

A Well, sometime I happened to grab a piece of real estate and sell it there and make a little profit.

Q Anything else?

A Sometime I get some jewelry, I can make a little money; I sell it and make a little profit.

Q Anything else?

A Sometime clothing.

Q What kind of clothing?

A Second-hand clothing.

Q Anything else?

A Well, those are the three items that I remember.

Q Did you have any rice?

A I beg pardon?

Q Did you sell any rice?

A No, sir.

Q Did you sell any foodstuffs?

A No, sir.

Q Were you implicated in any black marketing at that time?

A No, sir.

Q Do you know of black marketing being carried on at

that time?

A I know they carried a black market in those times.

Q So you were not in any way connected with the black market?

A I beg pardon, sir?

Q You were not connected with the black market?

A No, sir.

Q Was your son?

A Well, my son was engaged in buying and selling.

Q Buying and selling what?

A I don't know.

CAPTAIN PACE: If it please the Commission, I don't see what bearing this witness's son's occupation has on the credibility of this witness.

GENERAL REYNOLDS: Does Defense Counsel press the question as material to his cross-examination?

COLONEL CLARKE: Yes, sir.

GENERAL REYNOLDS: You may proceed.

Q (By Colonel Clarke) Was your son arrested for black marketing?

A I beg pardon?

Q Was your son arrested for black marketing?

A Never, sir.

Q He never was arrested by the Japanese?

CAPTAIN PACE: If it please the Commission, I don't believe that an arrest or investigation affects the credibility of any person, particularly a second person and not the witness.

GENERAL REYNOLDS: It is the desire of the Commission

the Defense Counsel have wide latitude in his cross-examination. The objection is not sustained.

You may proceed.

(Question read)

A He was investigated several times by the military police.

Q (By Colonel Clarke) Was he ever placed in confinement?

A He was taken, if I remember, two times by the military police on some charges. They link him to the activities of the guerrillas, that he was giving money and giving support to the guerrillas movement.

Q What were the other arrests for?

A Beg pardon, sir?

Q Why was he arrested the second time?

A For the same charges, sir.

Q When was it?

A Well, it was -- I think in 1944.

Q Did you make any effort to have your son released from confinement?

A Yes, sir, of course.

Q In 1944?

A Yes, sir.

Q And he was in confinement?

A I beg pardon?

Q He was in confinement due to activities against the Japanese government?

A He was arrested and investigated by the military police of the Japanese army on the charge of giving aid to the guerrillas.

Q That is the only charge that he was ever arrested on?

A There are also some -- I think some linking about the revolver used by somebody who killed certain agents of the military police, and they link him that revolver that was used to kill that Japanese agent of the military police; it belonged to my son.

Q So what steps did you take to have your son released from confinement? Whom did you see?

A I see first Colonel Ota.

Q Why didn't you go to General Ricarte?

A I did not want to go first to General Ricarte until I asked Ota, because Ota was the liason to the Japanese, and I brought, of course, the matter to General Ricarte.

Q You didn't go to the General because you didn't want to bother him?

A I beg pardon?

Q You didn't go to the General because you didn't want to bother him? Is that it?

A No, sir. I wanted to go first to Ota, because that was the right step; I have to go to his secretary when it is a matter connected or related to the Japanese people, or the military Japanese people.

Q Weren't you such an intimate friend and in the confidence of the General to the extent that you could have gone to the General yourself?

A I beg pardon, sir?

(Question read)

A Yes, sir. My plan was first to go to Ota, because I wanted to rush the matter. I know that they might harm my

son and I wanted Ota to take immediate action, the same night, the same day he was arrested, and after a while I went to General Ricarte and I told him about the matter. I asked his help, and he told me to tell Ota to come to his house and he will give him personal instructions about this case of my son.

Q Would you say that the procedure was to go to Lieutenant Col. Ota first, in order to get to the General?

A No, sir, that was not my purpose. My purpose is to save time, so Ota could call the kempei tai garrison in order to advise them that was my son, they would not harm him, they would not hit him or would not do what they used to do with the other arrested people.

Q You were interested in having your son released, weren't you?

A Of course.

Q In the shortest possible time?

A Of course.

Q And you believed then that Lieutenant Colonel Ota had more influence with the Japanese Government than General Ricarte?

A No. I did not say that, sir.

Q Why didn't you go to the general first, then?

A Of course I went at the same time, because if I go first to General Ricarte he has to tell me also to go to Ota, and it would be a waste of time. So I went to Ota to save time.

Q So then you went to Mr. Ota first in order to save time?

A Yes, sir.

Q Wasn't it a fact that at that particular time you had been forbidden to go to the house of General Ricarte by the general?

A I beg your pardon, sir?

Q At that particular time hadn't you been forbidden to go to the general's house by General Ricarte?

A No, sir.

Q He never forbid you to come into his home all the time you were associated with him?

A No, sir.

Q Well, after you became the secretary of General Ricarte you stated that you learned that he was an agent of the Japanese War Minister. Is that correct?

A I didn't say he was an "agent," sir.

Q What was it?

A He was a special envoy.

Q A special employee?

A A special envoy to help in the pacification of the country and to prepare the ground for Philippine independence.

Q How did you know that he was a special employee?

A Because he read me into Spanish the papers which he carried translated by Mr. Ota, those documents.

Q And what did he read you from these documents?

A That General Ricarte was a special envoy by the Minister of War to help in the pacification of the Philippines, and to prepare the ground for Philippine independence.

Q Was that written in Japanese?

A The original was written, but it was translated by Mr. Ota into Spanish.

Q So that it was necessary for the general to have it translated into Spanish so he could understand?

A So I could understand, sir.

Q Do you speak Spanish?

A Yes, sir. I write, speak.

Q Do you read Spanish?

A Yes, sir. I was educated in Spanish.

Q So that you read the Spanish translation?

A Yes, sir. I read it and I know it.

Q And what type of paper was this document on?

A Well, it was white paper, sir.

Q Just plain white paper?

A Well, some sort of a difference than the ordinary paper.

Q How was it different?

A Pardon?

Q How was it different?

A Well, it is in a way thicker.

Q What?

A Thicker.

Q Thicker.

A The color is in a way different from the ordinary paper. It has a seal of this Japanese seal. I don't know; I cannot read it. It was a red seal.

Q A red seal?

A Yes, sir.

Q How was it different from ordinary paper?

A Well, in color and the thickness.

Q What was the color?

A It is not exactly pure white. It is not crystal white. It is not like that. It has some different color.

Q Well, what was the color?

A I cannot describe it exactly, sir, because I am not an expert in coloring and about papers.

Q So that you saw it, but you can't say the color. All right. What did you read in that document?

A Well, the document contains about the object, the purpose of the sending of General Ricarte as a special envoy of the Minister of War of Tokyo.

Q It was signed by whom?

A It was signed by Tojo.

Q It had a seal on it?

A That is the seal that was explained to me. "This

is the seal of the Minister of War."

Q And Lieutenant Colonel Ota had translated that into Spanish from Japanese?

A Yes, sir; for me.

Q Did you see him translate it?

A No, I did not see him, but I know the Spanish of Ota, I know how he speaks, how he writes; I know his mode and way of speaking and writing in Spanish; I know it was his translation..

Q But you did see the Japanese document in a Spanish translation?

A General Ricarte showed me the original in Japanese and also let me read the translation of Ota.

Q And that translation was prepared by Lieutenant Colonel Ota?

A Yes, sir.

GENERAL REYNOLDS: I wish to interrupt and declare a recess for approximately ten minutes.

(Short recess.)

GENERAL REYNOLDS: The Commission is in session. Counsel will proceed.

Q (By Colonel Clarke) You went to work for General Ricarte because you were promised that the death sentence would not be executed if you did work for the general?

A That is what the implication of the parole that they made me sign, sir.

Q What do you mean, "implication"? Didn't you have a direct statement?

A That was one of the main conditions of the parole..

They made me sign I have to stick as aid to General Ricarte.

Q Why were you sentenced to death?

A I was taken by the military police at Fort Santiago on the charge of espionage and sabotage in favor of the Socialist Guerrillas of Pampango.

Q After you were taken to Fort Santiago --. Is that it?

A Fort Santiago.

Q You were taken at Fort Santiago, is that correct?

A Yes, sir.

Q Were you tried by any court of any type, military court or anything else?

A The first there, I was tried by about 14 sets of investigators of military police, and in the 22nd of June I was brought to a military court-martial presided over by Captain Koki.

Q How many members were on that court-martial?

A There were three, sir.

Q Who were the members?

A I remember Captain Koki and Captain Kikusaki, and he was, according to what they told me -- he was a lieutenant, the other fellow.

Q So that the court was composed of three members, presided over by a captain?

A Yes, sir.

Q After you had been tried and sentenced to death?

A Yes, sir. First I was tried by the military police and sentenced to death by the military police, which sentence was confirmed by the court-martial.

Q What type of court was this?

A I beg your pardon, sir?

Q What type of court did the military police use?

A The military police, they have no court. They are composed of a group of investigators, and then at the end of the six days' grilling they sentenced me -- I mean, at the end of four days' grilling they sentenced me to death.

Q They "sentenced" you, or did they recommend that you be tried and, if found guilty, sentenced to death?

A After that they just brought me to a court-martial and the sentence was confirmed.

Q Did the court-martial pass a sentence on you after you got before it?

A I beg your pardon, sir?

Q Did the court-martial pass a sentence of death after you came before the court-martial?

A When I was in front of the court-martial Captain Koki made me stand up and he pronounced the sentence of death.

Q How soon after the sentence had been confirmed was the proposition made to you that you could save your life if you were to perform some work for the Japanese?

A When I was standing before the court-martial, then those members of the court-martial, they were talking in Japanese. I did not understand. I think they were talking 15 or 20 minutes. And after that Captain Koki told me, "There is a way out. If you want to spare your life, there is a way out."

Then I asked him, "What is it, sir?"

And he told me, "Well, you have to sign a pledge pledging your cooperation to General Ricarte to the end."

Q What did you say?

A I asked him, "What kind of cooperation?" I told him, "Because if the cooperation you ask me means against my conscience and my convictions, I prefer to be executed."

Well, Captain Koki replied to me and said, "You know the mission of General Ricarte in the Philippines. He has to help in the pacification of the country, and you have to cooperate with him. You have to stick to him to the end."

After that he told me, "But don't you try to fool us. After you sign this and you try to evade and go to the mountains, because if we get you we will execute you summarily, and if we don't get you, all the members of your family will be executed without investigations."

And continuously they asked me the names, addresses of my families, my children, my brothers, my sisters, my nephews, and my nieces.

Q But before you were arrested by the Japanese you had been working part time for General Ricarte, hadn't you?

A I beg your pardon, sir?

Q But before you were arrested by the Japanese you had been working part time for General Ricarte?

A Yes, sir. Part time. I help him with part time work without any compensation at all.

Q And were you being paid at that time by the general?

A No, sir.

Q What were you doing at that time when you were working for the general? What was your position then?

A Well, the same work that I work after that, as I stated heretofore.

Q You knew then the type of work that the general was engaged in in the Philippines?

A Well, the majority of the work that he has done, of course I knew it.

Q Then when you were offered an opportunity to save your life they told you that you would have to pledge to cooperate to the end with General Ricarte?

A Yes, sir.

Q And you asked the chairman of the court-martial, "What kind of cooperation are you asking?"

A Yes, sir.

Q Was there anything to lead you to believe that General Ricarte was engaged in any type of work which would be against the Japanese and against your conscience?

A I took the precaution, perhaps, that they might force me to do something that I didn't like. For instance, if they tried to ask my help, or to be working with the military forces of Japan, I would not like to work with them.

Q Was General Ricarte doing any of those things?

A I beg your pardon, sir?

Q Was General Ricarte engaged in anything like that?

A No, sir; he was not engaged. That is why I wanted to be definite, and I wanted to be sure and positive that I wasn't going to be used as a tool for the --

Q But the pledge that you were to make was that you were to cooperate with General Ricarte and not to do anything else, wasn't it?

A No, sir. I was to cooperate with General Ricarte in the work for the Filipinos.

Q Right.

A For the Filipinos.

Q Right. And you were not to pledge to do anything other than that, were you, if you were to be released?

A That is what I had in mind. I preferred to be executed if they forced me to work with them as a spy or as an agent.

Q Didn't they tell you that is one of the conditions of the pledge?

A They told me that I have to stick and help General Ricarte in his work of pacification.

Q What had you been doing before that, sir?

A Pardon?

Q What had you been doing for General Ricarte before that time, sir?

A Which time, sir?

Q Before they offered you the opportunity to save your life.

A Well, I was working for my living, and at the same time helping, part time, General Ricarte.

Q And you knew the type of work that General Ricarte was engaged in?

A I know not all, because I did not have the chance to do all what he wanted me to do.

Q Then he didn't take you into his complete confidence as to all the work he was doing; is that correct?

A Before my parole I believe he did not take me in full confidence yet.

Q Did he take you into his confidence at all before your parole?

A Before my parole I think he had some mental reservation about my loyalty to him and the Filipinos' resistance.

Q Mental what?

A Mental reservation.

Q Mental reservation as to your --

A As to my loyalty to American cause and Filipino underground resistance.

Q And with that mental reservation --

A That was, I believe, the mental reservation of General Ricarte to me.

Q Nevertheless he showed you a document from the Japanese Government appointing him to work for the War Minister?

A He did not show me that, sir. He showed me that at a later date. He showed me at a later date that document. He did not show me right away that document.

Q And you did not know at the time you met the general in March that he was appointed, according to your story --

A I didn't know exactly. I didn't know officially until he showed me the latest time that document.

Q So you did not see the document then, until after you had been released from confinement?

A A long time yet after my release. He did not show me immediately after my release.

Q And your statement, then, is that you didn't see it until after your release --

A I beg your pardon, sir?

Q And your statement, then, that you didn't see it until after your release from confinement, is true?

A I beg your pardon, sir.

Q Your statement that you didn't see it until after your release from confinement is true?

A I beg your pardon, sir, I didn't get your question.

Q Your statement that you did not see this document until after you were released from confinement is true?

A Yes, sir. He did not show me this document until after awhile of my being investigated at Fort Santiago.

Q You presumed that the general had mental reservations concerning your loyalty, is that correct?

A That is what I presumed he had mental reservation about my loyalty.

Q Yet you visited him five times in Japan during the years 1922 to 1930, is that correct?

A Yes, sir.

Q You had discussed the Philippine cause with him at those meetings?

A Yes, sir.

Q And when the general came to Manila you were the first man in his thoughts?

A Yes, sir.

Q To help him in his assignment?

A That's what he told me.

Q And yet he had mental reservations as to your loyalty, is that right?

A General Ricarte has a sort of Japanese trait in his way of thinking. This Japanese have -- you know, they are tricky. They never tell you the truth. Even if they treat you like a friend, they always have something in your back. That is the way that General Ricarte thought, also. Even if he showed me so much confidence at the beginning, I always saw that he has something he was always doubting, especially this important matter.

Q So you then believed he had mental reservations. Do you think that that was within the character of the general, to doubt any man whom you were looking for in the beginning, the first man?

A I did not believe in that way. Only I believe on account of his relationship with the Japanese, on account of his long years in Japan, he became more or less Japanese in custom and everything.

Q Do you think, then, that the general, when he had these mental reservations, was tricky?

A I did not say he was tricky, but I said the Japanese were tricky. He has some of that way of thinking to other people, especially on fundamental matters like these.

Q And didn't you state that due to the long time that General Ricarte spent in Japan, that he picked up the tricky traits of the Japanese?

A In a way he has some of these Japanese traits in

his way.

Q And those traits aren't honorable, are they?

A I beg your pardon, sir?

Q And those traits aren't honorable, are they?

A In our point of view they were not, but to them they were very honorable.

Q Now you have changed your opinion of General Ricarte, haven't you?

A I beg your pardon, sir?

Q You have changed your opinion of General Ricarte?

A I never change my opinion of General Ricarte.

Q Didn't you state on Saturday that you had never experienced any lie from that man, "for the long years that we have been related together"?

A Yes, sir. He never lied to me.

Q That he was honorable, and an upright man.

A I beg your pardon, sir?

Q That he was an honorable and an upright man?

A He is very honorable in the matter of personal integrity, honesty, personal convictions, and consistency. I think he is No. 1 Filipino.

Q And he can be all that even though he were imbued with the traits of the Japanese which, according to your statement, are tricky and lying?

A No, sir.

CAPTAIN PACE: If the Commission please, he is not quoting the witness correctly.

GENERAL REYNOLDS: The objection is well founded. The Commission advises counsel to rephrase the question.

COLONEL CLARKE: May we have it read back?

GENERAL REYNOLDS: The reporter will read the question back,

(The answer referred to was read by the reporter, as follows:

"A General Ricarte has a sort of Japanese trait in his way of thinking. This Japanese have -- you know, they are tricky. They never tell you the truth. Even if they treat you like a friend, they always have something in your back. That is the way that General Ricarte thought, also. Even if he showed me so much confidence at the beginning, I always saw that he has something he was always doubting, especially this important matter.")

COLONEL CLARKE: I submit that the question was in line with the answer, sir.

GENERAL REYNOLDS: The objection is not sustained.

You may proceed.

Q (By Colonel Clarke) Was it generally known between March and June that you were working for and with General Ricarte part time?

A Yes, sir.

Q Was General Ricarte held in good repute by the Japanese?

A I beg your pardon, sir?

Q Was General Ricarte held in good repute by the Japanese?

A Yes, sir. He was taken by the Japanese as No. 1

Filipino.

Q No. 1 Filipino. And you were working for and with him? You were arrested three months later for sabotage and espionage?

A Yes, sir.

Q Were you ever arrested by the military police after that time?

A I beg your pardon, sir?

Q Were you ever arrested by the military police after that time?

A I was not, sir, but I was called several times to Fort Santiago to explain some papers signed by General Ricarte about those passes, about credentials. Like, for instance, once they caught 158 credentials signed by General Ricarte in Pampango, and all of those were guerrillas, and they called me several times at Fort Santiago to explain. But General Ricarte told me -- he told me, "Whenever my name appears in a paper I sign, tell the military police or the military authorities that I assume responsibility and they should call me, not you."

Those questions several times arose, and I was the object of asking questions in Fort Santiago, and in all the military police garrisons after that.

Q So that the only time that you were called to the military police headquarters after you were released was in relation to the "passes," as you call them, that General Ricarte signed, is that correct?

A Yes, sir.

Q Were you ever called by the military police for the commission of any other offense?

A No, sir.

Q Were you ever called by the military police in relation to some offense which embodied a woman?

CAPTAIN PACE: I object to this question. Arrest does not go to the credibility of a witness. Counsel is basing all of these hundreds of questions upon information and belief. If it were a mere fishing expedition it would be all right; but these countless questions on these matters stated by an eminent officer give credence to the questions and to the idea even though the witness denies it. And I do request that counsel refrain from asking such questions unless they are based on information.

GENERAL REYNOLDS: Does counsel consider that question material to your cross examination?

COLONEL CLARKE: Yes, sir.

GENERAL REYNOLDS: You may proceed.

COLONEL CLARKE: What was that last question?

(Question read)

A Exactly a woman; no, sir.

Q (By Colonel Clarke) Were you ever called by the military police for the commission of any offense or alleged commission of any other offense?

A When they investigated me about espionage and sabotage they mix certain matters, that I had certain affairs with woman, because the Japanese have that custom. When they investigated they investigated everything about your private life, where you were born and everything in your life.

Q That investigation was at the time you were charged with espionage?

A Yes, sir.

Q In June, 1943?

A Yes, sir. They mix in that --

Q 1942.

A They mix that in that question of espionage and sabotage.

Q From that time on after your release you never were investigated by the military police again for any offense or alleged offense?

A I was investigated but I was not held. Several times I was investigated on account of these papers that General Ricarte was issuing.

Q Were the military police then investigating your actions and General Ricarte's actions?

A They asked me questions about papers signed by General Ricarte in several instances, because some of those papers -- or the holders of those papers found out by the military police that they were guerrillas.

Q They were what?

A Members of the guerrillas activities.

Q So that the military police then doubted the papers signed by General Ricarte?

A They did not question me about General Ricarte. They were imputing to me the blame because they told me I was responsible because General Ricarte did not know those people personally as certified by General Ricarte.

Q Then they did not believe that you were carrying out the work for which you were released from confinement?

A Yes, sir. They believed that I was sabotaging General Ricarte.

Q And you, whose loyalty was doubted by the military police, --

A Pardon, sir?

Q You, whose loyalty was doubted by the military police, --

A Of course.

Q -- received a commutation or, rather, I suppose a pardon of that life sentence to go to work for General Ricarte?

A Yes, sir. That was one of the -- That was the main condition of my parole. But all the time I was under surveillance. They were watching me. In fact, they told

me when I moved from one place to another -- They told me if I have to move from one place to another I had to report to Fort Santiago.

GENERAL REYNOLDS: There was one answer made while the plane was overhead. The Commission could not hear. Will you read back the question during that period?

(Questions and answers read)

GENERAL REYNOLDS: You may proceed.

Q (By Colonel Clarke) When you were questioned and quizzed as to the safe-conduct passes which had been issued by General Ricarte -- Is that correct?

A I beg your pardon, sir.

Q You were questioned and quizzed by the military police concerning the safe-conduct passes signed by General Ricarte?

A Yes, sir.

Q "No. 1 Filipino"?

A Yes, sir.

Q The man who came from Japan by direction of Tojo and the man who was the god of the Japanese, his loyalty was doubted by the military police?

A They never doubted General Ricarte but they doubted me, because they presumed that all those credentials, all the papers were my work and only I made Ricarte sign blindly. That is what they pursue.

Q Oh. You had General Ricarte sign a paper without reading it; is that it?

A I beg your pardon, sir?

Q You had the General sign the safe-conduct passes without reading them?

A Many of them. He had confidence in me and that is why many of those papers, sometimes he just signed them when I presented them.

Q But the military police didn't have confidence in you; is that correct?

A They have no confidence in me, of course.

Q But you received your life from the Japanese? They took you to General Ricarte to work with General Ricarte, yet they doubted you; is that correct? They had no confidence in you at all?

A I beg your pardon, sir?

Q The Japanese had no confidence in you at all?

A They had no confidence in me at all. That is why I was under continuous surveillance.

Q Now we will come back to some of these statements that General Ricarte made to you. Was it shown in these "papers", as you call them, that there was an understanding between General Ricarte and Premier Tojo that as soon as the Philippine independence was established he was to be the head of the state?

A That's why General Ricarte told me that as soon as the Philippine independence is established he was to be the head of the state.

Q What do you mean by "the head of the state"?

A The first man in the government.

Q The President?

A Something like that. Dictator or President or whatever it is.

Q Dictator?

A I think that was the original plan that they had agreed.

Q Who had?

A According to General Ricarte's revelation to me that he was asked before he left Tokyo in a banquet Tojo offered him -- he was asked what kind of government he was going to form in the Philippine Islands, and General Ricarte revealed before him that he was thinking to establish here a dictatorial form of government.

Q What kind?

A A dictatorial form of government.

Q He was identified with the independence of the Philippines --

A Yes, sir.

Q -- and democracy under an independent government, was he not?

A Independent government but a form of dictatorial government.

Q When the Philippine independence was established what happened to that promise of Premier Tojo?

A They used him to accept the presidency of the Philippine Republic, but General Ricarte revealed to me that he was not inclined to accept because the Japanese, he said, they were doublecrossing him.

Q Yet --

A He declined and he recommended Laurel instead.

Q Yet his agreement with the Premier of Japan when he came here was that something that he wanted, was to be the head of the Philippine independent government as a dictator?

A Yes, sir.

Q And he refused it when it was offered to him?

A Yes, sir. That was the original plan, but when he came here he found out what kind of independence the Japanese are giving. He thought it was not independence at all and he thought it was a double-cross. That is why he declined. "Under the circumstances I will not accept the position", he said.

Q And independence under a dictator would be different than that under the Japanese?

A Pardon?

Q And his idea was that as a dictator there would be more independence under the dictator than under the Japanese?

A The dictatorial form of government he want, it would be under the independent government of the Philippines but without the dictations of the Japanese.

Q But with the dictation of Ricarte?

A I beg your pardon?

Q But with Ricarte as a dictator not controlled by the Japanese?

A Yes, sir. That was the original plan in the mind of Ricarte.

Q Ricarte refused to swear allegiance to the United States throughout the period of 1903 on, didn't he?

A From the time of the revolution.

Q Always having in mind that some day he could head the Philippine government?

A He never told me that.

Q Oh, he didn't tell you that. And when he had an

opportunity to head the Philippine government he turned it down?

A Turned it down because it was against the form of government he was planning in his own way. He found out that this independent government given by the Japanese was not independence at all. It was what you call a "puppet".

Q What was the date of the Philippine independent government?

A I beg your pardon, sir?

Q What was the date of the organization of the Philippine independent government?

A In October 14, 1943.

Q General Ricarte having been offered the position as head of the state as dictator refused to accept because of what?

A Because the government they were offering, it was not in conformity with the government he had in mind in his ideas. He believed that this independence given by the Japanese was not independence at all, as he saw the rulings of the administration here during the Japanese occupation.

Q So then the independence was foreign to his ideas of what the independence should be?

A His idea was it should be a complete and absolute independence.

Q And he did not believe that the Japanese would give them that?

A He did not believe on account of the facts he had seen here during the Japanese occupation. It was not

independence at all.

Q And how did he know that on the 14th of October, 1943?

A Well, he know from the experience, because he was a member of the council of the state and the executive commission under Vargas. He know about the doings of the government and he know that everything done there must be dictated by the Japanese people and Japanese administration.

Q And yet he continued to work for the Japanese government after he was convinced that the Japanese government would not give independence to the Philippines in which he was interested?

A He tried at the last moment to change their ideas. That's why the motive of his continuance. That's why when he left on December, 1944 when I asked him "General", I said, "are you going to Tokyo?" he answer me "No", he said. "Now that I fail to my people because this man Yamashita refuse to cancel that general order of massacre and destruction of the Philippine -- now that I fail", he said, "to my duty to my country, at least I'm going to die here. I am going to share the fate of my people. I cannot do anything any more to the Japanese because it is too late and I cannot do nothing because I am a virtual prisoner of them".

That is what he confided to me when he went to Baguio.

Q When was that?

A He said "I am not going to Tokyo".

Q When was that?

A In 1944.

Q When did General Ricarte leave Manila for the last

time?

A It was in December, 1944.

Q What was his mission?

A He told me he was going to Baguio.

Q For what purpose?

A He said that he was going to be there because the High Command wanted him to be there.

Q Was he going up there to make any speeches as he had made before?

A He did not tell me offhand.

Q But he was going up with the Japanese High Command, as you say?

A That's what I said.

Q Working the same as he had been working before after he had learned of this so-called "general massacre order"?

A He did not tell me anything about the work that he was going to do.

Q What reason did General Ricarte give for agreeing to accept the head of the state at the time the Philippine independence was established? What reason did he give you that he had agreed with Tojo that he would take it?

A I did not get you, sir.

Q What was the reason for saying that he would take the head of the state back in 1941 if Philippine independence was established?

A He thought that he could establish a government of his ideals.

Q He had discussed those ideals at the time he agreed to come down here on that work; is that correct?

A I believe in the brief banquet they gave him he could not have the time to discuss the details. They discussed only the general form.

Q But he did not come down with the idea that at the time of the Philippine independence he could and would establish a dictatorship under him according to his ideals?

A Yes, sir.

Q And the Japanese had changed the type and form of that dictatorship?

A I think that's what his conviction. That's why he refused later to accept any position, official position in the Philippine government offered by the Japanese government authorities.

Q Do you know whether or not he had been told in the beginning by Tojo that he would be free of any Japanese control if and when he became the head of the state?

THE WITNESS: I beg your pardon, sir?

COLONEL CLARKE: Will you read it?

(Pending question read)

A At least that was the tendency of the revelation of General Ricarte or the understanding that he had with Tojo. That is what he mean when he explained to me that he had a sort of understanding with Tojo.

Q So he learned then later on that Tojo did not keep his word?

A I beg your pardon?

Q He learned later on that Tojo was not keeping his word in the form of government which should be established, that Tojo and the Japanese were double-crossing him?

A Yes, sir.

Q And he continued to work for and in the interest of the double-crossers?

A He could not do otherwise, sir. He was virtual prisoner of the Japanese.

Q In answer to the last question, you stated that after October 14, 1943, General Ricarte was a prisoner of the Japanese, did you?

A He was a virtual prisoner, not the same as prisoner -- but virtual prisoner; he was under them. He could not do anything but to do what they wanted him to.

Q Now, you stated on Saturday that General Ricarte was responsible, indirectly, to the Japanese Imperial Forces High Command in the Philippines, is that correct?

A Yes, sir.

Q Who was the Philippine High Commander in the Philippine Islands?

A Well, there were several from the beginning of the occupation. The last one was General Yamashita.

Q Who were the various High Commanders, chronologically?

A The first, as far as I know, was General Homma, General Kanaka, and after that General Kuroda, and General Yamashita.

Q General Yamashita came here at what time?

A The last time he came here, as far as I remember, was in October, before the landing of the American forces on Leyte in late 1944.

Q And he came here as the Japanese High Commander in the Philippines on that date, is that correct?

A I beg pardon, sir?

Q And when he came, he came in as the Japanese High Command?

A He was the highest commander, as far as General Ricarte told me; he was the highest commander of the Imperial Japanese armed forces in the Philippine Islands, and that includes everything.

Q And you are sure of that?

A That is what General Ricarte told me.

Q But General Ricarte knew what he was talking about, never told lies, and therefore that was the truth when he told you that, was it?

A He told me -- I believe what he told me.

Q He believed what he told you?

A As far as I was concerned, I don't doubt the word of Ricarte when he told me that Yamashita was the highest commander of all the Imperial Japanese armed forces in the Philippine Islands, including everything, that is, navy, air and army.

Q And General Ricarte told you that?

A Yes, sir.

Q And General Ricarte was in a position to know everything about the Japanese setup in the Philippines?

A As I understood, he was taken in confidence by the highest commander here.

Q So therefore he knew whether or not General Yamashita was the highest commander of the Japanese forces in the Philippines, including the navy and air force and other unattached troops?

A Yes, I think that is what he mean.

Q Did you ever hear or did General Ricarte ever tell you or mention a supreme southern command in Luzon?

A No, sir, he told me that there was a supreme high commander in the southern region; they call it the southern region, that belongs -- all the Asiatic region in Asia. That was, he said, Count Terauchi.

Q Was that command functioning in the Philippines?

A I think the division of Yamashita was under the strict supervision of that command.

Q You think now that he was under somebody else, he wasn't the high command?

A He was the highest commander here, but in the southern region, Terauchi was the highest commander, sir, according to General Ricarte, sir.

Q Do you know whether Count Terauchi was ever in Manila?

A He has been here sometime.

Q Do you know where he lived when he was here?

A He lived in the house of Quezon before Yamashita arrived.

Q Before Yamashita what?

A Before Yamashita arrived in the Philippines, arrived in the Philippines the last time in 1944.

Q Did he live there after Yamashita came to the Philippines?

A I don't believe so, because I think, according to General Ricarte's revelation in our conversation, when Yamashita came here Terauchi was no more in the Philippine

Islands.

Q You don't know whether he was here after Yamashita came?

A I cannot be sure, but only I depend on the revelation or information given to me by General Ricarte, because he was the only man. Very few Filipinos who knows the movement of the high command --

Q That information --

CAPTAIN PACE: Pardon me, Colonel; you are interrupting the witness.

COLONEL CLARKE: I am sorry.

Q (By Colonel Clarke) That information was that General Yamashita was the highest commander in the Philippines?

A Yes, sir.

Q Now, you have testified on Saturday, in answer to a question by Captain Pace, that your testimony was based upon orders and records that you saw in the possession of General Ricarte, which purported to be official documents?

CAPTAIN PACE: What page is that, sir?

COLONEL CLARKE: 919.

A I testified about the mission of General Ricarte here, based on those documents that he showed me.

Q So that was the only testimony that you have given, which is based on documents and orders that you saw; it was on his mission?

A It was his mission, his appointment by the Minister of War.

GENERAL REYNOLDS: The Commission interrupts. It will

take a brief recess, and ask that during the recess the Counsel consider how much further cross-examination is probable. The Commission feels that it is liberal in permitting the Defense to cross-examine the witness and is willing to permit additional cross-examination; however, there is some limit to the time we can grant for this purpose. So in the period of the recess, please go over carefully what essential parts are still uncovered, so we may economize on our time.

We will be in recess for at least five minutes.

(Short recess)

GENERAL REYNOLDS: The Commission is in session. Counsel may proceed.

Q (By Colonel Clarke) Now, you stated in your testimony before that General Ricarte had several meetings with General Yamashita?

A Yes, sir.

Q How many meetings?

A The latest meeting -- as far as I recall, four times.

Q Four times. When and where was the first meeting?

A The first time and the second time, in accordance with the revelation told to me by General Ricarte, was in the house of Quezon.

Q The house of whom?

A The house of President Quezon, in Pasay.

Q When was the first meeting?

A It was four or five days after the arrival of Yamashita in the Philippines, in October, 1944.

Q General Yamashita arrived on what date?

A Well, I don't know exactly the date, sir, but I think he arrived here before the landing of the American forces in Leyte in 1944, in October.

Q The early or the latter part of October?

A It was in the early part, I think, sir.

Q So that the first meeting, then, was sometime in the first two weeks of October, 1944?

A Between that, more or less.

Q Now, who was at that meeting?

A Beg pardon, sir?

Q Who was present at that meeting, besides General Yamashita and General Ricarte?

A General Ricarte told me that he was with Ota and General Yamashita, and I don't know who were the other Japanese.

Q At what time of the day was the meeting held?

A General Ricarte left his house before 10 o'clock in the morning of that first day he went to Yamashita.

Q Left before 10?

A Before 10 in the morning.

Q What time was the meeting?

A Well, it is presumably about 10 o'clock. He --

Q What time was it over?

A Beg pardon?

Q What time was the meeting over?

A General Ricarte came back to his house in the afternoon, after that.

Q So presumably the meeting lasted from 10 o'clock until the afternoon, is that correct?

A No, not 10:00 o'clock in the afternoon.

Q Until the afternoon?

A Until the afternoon, after he came back.

Q Didn't the General tell you what time he was to meet with General Yamashita?

A He told me always, he said 10:00 o'clock in the morning he have to go there.

Q And did he tell you what time the meeting broke up?

A Well, I didn't ask him that question any more, after it was -- (pause).

Q Now, under what circumstances did General Ricarte go to meet General Yamashita for the first time?

A Well, I stated in my statement on Saturday, it was for the purpose of discussing a certain general order, and also giving his respect to General Yamashita.

Q Discussing what?

A Certain general order issued by General Yamashita about the destruction and the massacre of the Philippine Islands.

Q And to pay his respects to General Yamashita?

A Yes, sir.

Q Who told you that it was to discuss this general order?

A I beg pardon, sir?

Q Who told you that the purpose of the meeting was to discuss the general order?

A That was General Ricarte.

Q Did the General go on his own initiative, or was he sent for by General Yamashita?

A He was sent through Colonel Ota to go to the place of

General Yamashita, to discuss this matter.

Q And General Ricarte, then, was directed by Colonel Ota to report to General Yamashita?

A He was not directed, sir; he was requested.

Q Requested?

A Yes, sir.

Q To report to General Yamashita?

A To go to General Yamashita because General Yamashita has to see him.

Q And the purpose that he was called to see General Yamashita was to pay his respects and to --

A Discuss --

Q (Continuing) -- to discuss a general order?

A Yes, sir; that is what he told me.

Q What general order? You are talking about the general order before he went there?

A This general order of Yamashita of the destruction of the Philippine Islands and massacre the civilian population of the Philippines.

Q And who told General Ricarte about that order?

A Beg pardon, sir?

Q Who told General Ricarte about that order?

A I believe he had it from Colonel Ota.

Q You mean you believe that Colonel Ota told the General that there had been an order issued?

A Yes, that is it.

Q When?

A I cannot tell you the date, but I think as soon as Yamashita came up here. That is why I think he was sent

here, as Yamashita was considered the iron-hand man of Japan, and they consider him the most ruthless general for his cruelty and sanguinary action in Singapore, as the orderer of the massacre in Singapore; they sent him here to crush the Philippine resistance movement and to finish the Filipinos whom they believed had betrayed Japan in this war.

Q And that was General Yamashita's reputation in Japan; is that correct?

A That is according to General Ricarte.

Q Now, when did Colonel Ota tell General Ricarte about this order?

A I do not know the date when he told it.

Q Was it one or two days after General Yamashita arrived, or was it three or four days, or five days?

A I cannot fix you the date, sir. I am afraid it is very hard to fix, but it is previous to the visit of General Ricarte to Yamashita.

Q So it is previous to the fifth day after the General came here?

A Yes, sir.

Q Now, when did you first learn of the existence of this order?

A Beg pardon?

Q When did you first learn of the existence of this order?

A At the eve of the first visit of General Ricarte to Yamashita in October, 1944, when he told me, he said, "Lapus, Yamashita is here. I am afraid," he said, "something terrible will happen to the country."

I asked him, "Why, General?"

"You know," he said, "this man is very cruel. He is sanguinary. He is a very hard man, and I am afraid he is going to repeat the history of Singapore in the Philippine Islands."

Q Now, when was this second meeting?

A I beg pardon, sir?

COLONEL CLARKE: Strike that last question, if you will, please.

Q (By Colonel Clarke) Who was present at the time General Ricarte told you what had happened at the meeting with General Yamashita?

A We were only two, in his private room upstairs.

Q Nobody else present?

A Nobody.

Q This order, you stated, was to the effect that all the people would be wiped out in Manila; is that correct?

A I beg pardon?

Q The order directed all of the Filipinos to be wiped out, those in Manila?

A Yes, sir. That was presumably the contents of the general order of massacre and destruction of the Philippines.

Q When was this carried out?

A As soon as the Americans come, if they notice some movement in a certain spot, any action of hostility of the Filipinos, or some sign to the American landing forces, they will be massacred in those places, destruction.

Q Where?

A In any spot where the Americans land, particularly

Manila. Manila was particularly mentioned to be destroyed totally, if possible.

Q So that in every spot in which the Americans had control, the Filipinos then were to be massacred by the Japanese soldiers?

A That is as far as the order, as far as General Ricarte told it to me.

Q Where was the second meeting, and at what time did it take place?

A Well, the second meeting, sir, was ten days after the date of the first meeting, and according to Ricarte it was also done in the same place where was had the first meeting.

Q Who was present at that meeting?

A Also Ricarte, Yamashita and Ota, and he did not tell me who were the others.

Q Did you know that Ota was there?

A Always.

Q Why?

A He had to be; the aide-de-camp, official secretary and liaison and interpreter of Ricarte.

Q Now, you are sure that Colonel Ota is or was a colonel in the Japanese army?

A General Ricarte told me he was given the military rank of lieutenant colonel to give dignity to his position as secretary and aide-de-camp to Ricarte.

Q Did he wear a uniform?

A Sometimes.

Q The uniform of the Japanese army officer?

A Yes, sir. Sometimes I have seen him, when they went

to Japan in 1943.

Q Now, what transpired at the second meeting between General Yamashita and General Ricarte, as told to you by General Ricarte when he returned?

A He told me that one of the topics they discussed -- because on the first meeting, when I learn about that order, I requested General Ricarte to do his utmost, in the name of humanity, to stop or do his best, if possible, to cancel that order, through supplication to General Yamashita. And he told me that they discussed that matter and Yamashita did not want to change it, and that Yamashita showed him that the Filipinos wanted the Americans to come here in the Philippines.

"Well," he said, "they will not see them anymore." And I asked General Ricarte, "What is the meaning?" He said, "They are going to be wiped out, so the Americans will come here without Filipinos."

Q Now, what other topics did they discuss?

A I did not ask the other topics, because I was not interested, sir; I was only interested in that general order because it affects the lives of my people and my country.

Q You knew everything concerning General Ricarte's activities; General Ricarte regarded you as a confidante, and he came back and told you everything that had happened?

A As far as to several important matters he confided to me. I think I was one of those very, very few people, sir, if not the only one, he confided in big matters, secret matters of state, that he never confided even to his wife.

Q What do you think they discussed then?

A Beg pardon?

Q What do you think they discussed at the second meeting?

A Well, one of the topics was the general order.

Q That is right; now, what else?

A I don't know more.

Q Do you know whether General Ricarte had other business with General Yamashita, other than these orders?

A He did not tell me nothing about other business, sir.

Q He just told you about the orders?

A Beg pardon?

Q He just told you about the order?

A Yes, sir. In the second meeting -- I beg your pardon, sir --

Q All right.

A I think General Ricarte told me also that they discussed the plans of the retreat of the Japanese forces to the mountains of Montalban, Bosoboso, San Mateo, Antipolo, to put there all the soldiers from Batangas, Cavite, Laguna, Manila, and to put all their heavy cannons in these mountains and reserves of airplanes, and let the Americans come in Manila; they put some little force here, serving as a snare for the Americans; as soon as they come here, they will make a general movement (demonstrating), a scissor movement and crush the Americans here, and they are going to make a blanket bombing of Manila, and if they succeeded in coming and wiping out the American forces they would come back to Manila and they will wipe out the whole Manila, including the whole population, without leaving a single person.

Q According to this order, that you state General Ricarte said General Yamashita issued, did you state that that order directed that the people of Manila should be wiped out after the American forces came?

A I beg pardon, sir?

Q Didn't the order direct that the Filipinos would be wiped out after American forces arrived in that particular area?

A Yes, sir, in that particular precisely Manila; after they have beaten the American forces, if they succeeded in beating them, they will come to Manila and finish the Filipinos, because they considered them as guerrillas, enemies; that is the phrases Ricarte told me that Yamashita told Ricarte.

Q Then according to that statement, it was not to be before the Americans came that the Filipinos were to be massacred, but was to be after the Japanese had retaken the territory?

A No, in certain -- in general ways, sir, the order was as soon as the Americans come, but in Manila they were trying to avenge their grudge against the Filipinos, particularly the population of Manila; they take them as one hundred per cent guerrillas, or directly or indirectly of the guerrillas, to the Japanese, all the population of Manila; that is, of the City of Manila, to finish the whole population of Manila, destroy the whole city.

Q This plan, then, changed the order which had previously been referred to in that respect, is that correct?

A Beg pardon?

Q This plan that you talk about now made a change in the direction contained in the order which you spoke about a while ago?

A No, there is no change, sir. It is a part of the general order, it is correlated with the general order, only it speaks a little bit with emphasis on the particular matter in Manila.

Q You mean it was a part of the general order?

A It was part of the general order.

Q But you didn't remember it as well as you remembered the general order a few minutes ago, did you?

A The general order was to the massacre of the population and destruction of the Philippine Islands.

Q When?

A That was the first order.

Q When was the massacre to take place?

A I beg pardon?

Q When was the massacre to take place?

A Well, that order has to take place as soon as the Americans landed in the Philippines, any spot where they land there is an order if they notice any movement or hostile movement or any sign of movement, or an American flag is displayed, the order is to wipe out the population of that spot or place or town, city, or province.

Q Now, can you tell me why General Yamashita told all this to General Ricarte?

A I beg pardon, sir?

Q Can you tell me why General Yamashita would call in General Ricarte and tell him all these things?

A Because General Ricarte was bringing up to him that question, and besides, General Ricarte is the only Filipino in whom they have confidence, the Japanese, including the highest officers in the Japanese government, because they believe he is the only true friend they have in the Philippine Islands, on account of his non-surrender, non-recognition of American sovereignty and the American flag. They only believed he is the only sincere friend they have. That is why they took him in confidence, all the highest officers of the Empire; they were friends of General Ricarte -- even Toyama, the man behind the throne of Japan, was a very good friend of Ricarte's.

Q So the information was given, then, between friends; as a good friend of the Japanese, of Yamashita, therefore he was given the information rather than any other person in the Philippines?

A In a way, in an official way, because Yamashita knows the rule of Ricarte here in the Philippine Islands, and he knows that Ricarte -- they take him as number one Filipino.

Q Did he then, having called Ricarte to his residence -- did he want Ricarte to help him in carrying out the general order?

A Beg pardon?

Q Did he want to get Ricarte's help in carrying out this general order?

A No, Ricarte never told me that. On the contrary, I think Yamashita wanted to make some point on Ricarte of his failure of making the Filipinos to swear in favor of Japan; I think that was the object of Yamashita telling him

this, to make suffer more Ricarte.

Q Now, when was this third meeting?

A Beg pardon?

Q When was the third meeting?

A Well, it was about the middle of November, 1944, if I am not mistaken.

Q Where was that meeting held?

A Well, they set in the general headquarters of Yamashita.

Q Where was that?

A You see, these Japanese, you can never learn where they have an office. Yamashita comes here and nobody knows but Ricarte and Laurel, no Filipinos know that; you can never tell, sometimes where his office was. In fact, in those days it was probably among very few circles in the Filipinos that they say the headquarters of Yamashita was the Agricultural Building. The other says it was in Manila Hotel, at the penthouse, Yamashita, the others said it was some place outside of Manila. They are very secretive, these people. They never --

Q But the meeting was held at General Yamashita's headquarters?

A That is what Ricarte told me.

Q You don't know where that was?

A I don't know.

Q General Ricarte didn't know where it was, or he would have told you?

A He knew it, but I did not ask him where.

Q You asked the general questions, then, instead of him coming back and telling you the things that happened?

A I did not think that -- because I was interested in that general order, I could not state why, only because it affects the life of my people and my country.

Q Who was present at this meeting?

A I never asked him about the others, but Ota and Yamashita and Ricarte, and, I think, some of his assistants.

Q Whose assistants?

A I don't know. Ricarte never told me.

Q Whose assistants? General Yamashita's assistants?

A General Yamashita's assistants.

Q Now, General Ricarte went to the meeting and came back and told you what happened, is that correct?

A Yes, sir.

Q What happened?

A Well, I asked him what was the main point of discussion. He told me one of the points was discussed about the moving of the staff of Yamashita to Baguio, and also the invitation of Ricarte to move to Baguio, and also he revealed to him the transfer of the Cabinet

of Laurel to Baguio; and I asked him, I said, "Did you not relate to General Yamashita about that order?"

"Aw," he said, "Yamashita is a hard man. I could not convince him, and he told me that the order is there and he would not change it, and I tried to appeal to him, even I appealed to his sentiment; I appealed to his heart, but this man has no heart, has no soul," he said.

Q After the meeting, General Ricarte came back and told you about the discussion of the movement to Baguio, an invitation for him to go to Baguio, a transfer of the Laurel government; he never mentioned the order or the effect of the order until you asked him about the order?

A Yes, sir, I asked him.

Q He had forgotten all about the order at the time he got back to you?

A I beg pardon?

Q He had forgotten all about the order until you recalled it to his mind?

A Perhaps he did not recall right away, until I called his attention about that.

Q That is right; you had to call his attention to it?

A I beg pardon?

Q You had to call his attention to it before he mentioned it?

A Precisely, I was interested in that subject.

Q Who was present when General Ricarte told you about this meeting?

A He never talk about this matter with other people. He always confide to me secretly in his house, because

General Ricarte never discuss important matters in the presence of other people, particularly when he wanted to convey to me certain matters of state of importance, like this.

Q So that on any of these meetings, or on any important subject, you were the confidante of General Ricarte; he talked to you alone, he talked to you in private and told you these things?

A Yes, sir, because he told me they are military secrets.

Q They are what?

A Military secrets.

Q And then there was nobody present, so that -- did you ever see any or hear any of these things at the meetings yourself? Were you there?

A I beg pardon?

Q Were you at any of the meetings?

A I never been brought to the Japanese confidence, because Ota has control in that matter.

Q Oh, your testimony is based upon what a dead man told you in private, with nobody else around to hear what was said?

A He told me that, he was not dead yet; he was alive.

Q Where was this fourth meeting?

A Beg pardon?

Q Where was the fourth meeting?

A It was in the house of Quezon, according to Ricarte's revelation.

Q When?

A It was five or four days after the arrival of Yamashita in the Philippines in October, 1944.

Q Is that the fourth meeting?

A That was the first.

Q No, the fourth?

A Oh, the fourth, you mean? The fourth was in December, 1944.

Q Where?

A I did not ask where.

Q What happened at that -- who was present at that meeting?

A As far as I know, as far as Ricarte told me, there were only Ota and some of the assistants of Yamashita, and Yamashita. They discussed routinary matters about the transfer to Baguio, about the invitation of the High Command -- or the persuasion of the High Command to Ricarte to move to Japan or Tokyo, and Ricarte refused to go to Japan, and he told him, as he failed in his efforts to cancel, to make Yamashita cancel and stop that order, at least he was going to have that privilege to share with his people, to die here in this country. He wanted to die here; that is why he did not want to move to Japan, despite the offer of everything, airplane transportation and facilities to send him to Japan; he refused to go.

Q So that this meeting was held sometime in December, concerning the movement to Baguio?

A Yes, sir; and also a discussion about the meeting -- the transfer of Laurel's Cabinet.

Q Did General Ricarte have any other meeting with

General Yamashita than those four?

A As far as I know after that, I could not tell you, because Ricarte left for Baguio on the 31st of December.

Q General Ricarte would tell you of every meeting he had had with General Yamashita, or intended to have?

A I asked him several times; I was interested all the time on that general order. I could not sleep sometimes; sometimes I feel like depressed, you know. In fact, I told him several times with tears, I said, "Why don't you do everything, General?" Even to Ota, the secretary, when Ota told me in Samanillo Building, he said, "Lapus, you, the Filipinos, are traitors to Japan." I told him, "Why?" "You know," he said, "the High Command has order, a general order, to finish the Filipinos, to destroy Manila, to kill the people of Manila," because the High Command said this, he said, "The Filipinos want the Americans to come back to the Philippines. Well, they will not see them, because Yamashita," according to Ota's corroboration of the declaration of Ricarte, he shoot that order all over the Philippines to all the commanders of the military posts, to wipe out the Filipinos, destroy the properties, particularly Manila. When I asked him, I said, "This is a crime Ota. Why don't you do your best," I said. I said, "This is a crime against humanity. You are going to have condemnation," I said, "by history on that."

He said, "Lapus, for that your neck is going to be cut. You know," he said, you are under parole from Fort Santiago. I can send you right away to Fort Santiago and have you executed." I told him, I don't

care for my life. I don't care," I said, "as long as you can stop that order, as long as you can do your best to stop that order, because what is one life?" I said, "You told me, 'Lapus, life is nothing; duty is everything.' I have the same conception in that matter, and my life is only one. If you could save the millions of lives," I said, "gladly I will offer my life, and even ten times. I don't care," I said, "for Fort Santiago." I even defied him. I said, "Why don't you bring me to Fort Santiago?" He said, "I am not going to do that, because your life is very important to General Ricarte."

COLONEL CLARKE: May we have the answer read?

(Answer read.)

COLONEL CLARKE: We move that the answer be stricken, sir, as not responsive to the question asked the witness.

GENERAL REYNOLDS: Not sustained.

COLONEL CLARKE: In addition, sir, it is new hearsay brought in to corroborate old hearsay.

GENERAL REYNOLDS: Not sustained.

The Commission will now interrupt and state that cross examination is now well in its third hour, and asks Counsel to explain to the Commission specifically what additional information is sought from the witness.

COLONEL CLARKE: We wish to get from the witness, sir, additional information as to certain statements which he had already made, to show whether or not, by the statements already made, he can bring into this picture certain persons who were present or supposed to be present at these times; to show whether his statements as made Saturday

are the truth or not, to attack the credibility of the witness, sir.

GENERAL REYNOLDS: But you have no specific points in mind to develop?

COLONEL CLARKE: Yes, sir.

GENERAL REYNOLDS: He has stated over and over again whom he believes has attended these meetings.

COLONEL CLARKE: Sir?

GENERAL REYNOLDS: I say, the witness has stated over and over again in the case of each meeting, whom he believes attended the meetings.

COLONEL CLARKE: Yes, sir.

GENERAL REYNOLDS: Would anything be gained by asking the witness such questions again?

COLONEL CLARKE: Not on these particular meetings, no, sir. I want to know if he knows about any other meetings.

GENERAL REYNOLDS: The Commission will continue to be tolerant, but we do feel that this has gone on about long enough.

Proceed.

Q (By Colonel Clarke) Do you know whether or not General Yamashita and General Ricarte met at Malacanan back in October, 1944?

A What, sir?

Q Did General Yamashita and General Ricarte meet at Malacanan, at a dinner, a Laurel reception, back about the 20th or 22nd of November, 1944?

A Met at --?

Q At Malacanan.

A I don't recall that, sir.

Q What?

A I don't recall that, sir.

Q Do you know whether or not there was a meeting between General Yamashita and General Ricarte in December of 1944, at Fort McKinley?

A I remember that last meeting they had, before General Ricarte went to Baguio; it was in December, 1944.

Q So you have told us, then, about all the meetings that you know about; these four meetings; is that correct?

A Yes, sir, because I was interested in those four meetings.

Q And there could not have been any other meeting that you would not have known about, in your capacity as a confidential secretary of General Ricarte?

A In all those things I was interested; I was interested particularly in this order, sir. That is why I was very much anxious to know what happened at those meetings.

Q How intimately did you know Lieutenant Ota?

A I beg pardon?

Q How intimately did you know Lieutenant Colonel Ota?

A Very intimately, sir, on account of we are in the same service. He is official secretary of General Ricarte, Aide-de-camp and liaison, and I, as the Filipino private secretary in Filipino affairs. Of course, we have to have team work in all those works that Ricarte distribute among us, and we talk almost every day.

Q When did you first meet Mr. Ota?

A Beg pardon?

Q When did you first meet Lieutenant Colonel Ota?

A I met him first in 1942, in the house of General Ricarte.

Q Where?

A In 1942, in the house of General Ricarte.

Q And where was that house?

A The first house of General Ricarte was at the corner of Park Avenue and Loreta Street, Pasay.

Q Did you ever meet Lieutenant Colonel Ota before that time at the Bayview Hotel?

A I did not, sir.

Q You never met him at the Bayview Hotel?

A I never met him before that.

Q When you first met the Colonel, what was the conversation had between you and him?

A In the first meeting we had -- you know, the Japanese, they never talk much, particularly if they do not know you yet. That is the nature of the -- General Ricarte introduced me, he did not talk much, just, "How do you do;" that is all.

Q Did you request Colonel Ota to make any intercession on your behalf with General Ricarte, the first time you met Ota, regarding this movement of the General's, of General Ricarte?

A I did not get exactly the point, sir.

Q Did you make any overture to Lieutenant Colonel Ota, at the time you first met him, in which you requested him to use his good offices in having General Ricarte

placed?

A We did not discuss anything about that, sir.

Q Did you ever accompany General Ricarte on any of the tours that he made, speaking for the movement for the independence of the Philippines?

A I beg pardon?

Q Did you ever accompany General Ricarte on any of these speaking tours, when he went to Baguio and various places?

A During the Japanese occupation I did not go to him on his speaking tour. He was always accompanied by Ota and some military elements. The Japanese never trusted any Filipino for Ricarte; they kept him as a treasure, they don't want him to be mixed in all the Philippines.

COLONEL CLARKE: We ask that that be stricken as a prejudicial comment, not responsive to the question.

GENERAL REYNOLDS: Not sustained.

Q (By Colonel Clarke) Do you know the patriotic movement of the Makapili?

A I have no knowledge about that, sir.

Q You had no knowledge whatsoever of that particular movement?

A No, sir.

Q Was General Ricarte interested in that movement?

A He has association with Benigno Ramos, with which I had nothing to do, because Benigno Ramos and myself were political enemies.

Q Do you or do you not know the object of that movement?

A I don't know, sir.

Q Do you or do you not know who was associated with General Ricarte in that movement?

A Ricarte never brought up to me that matter, because he know that I could not get along with Benigno Ramos.

Q Do you know whether or not Pio Duran was a member of this movement?

A I beg your pardon, sir?

Q Do you know whether Pio Duran was a member of this movement?

A I did not get the other party.

Q Pio Duran.

A Pio Duran? Well, I heard that Duran was one of the high founders of that organization.

Q Do you know whether or not Ramos was a member of that group?

A I heard about it. I read in the papers, sir, that he was the supreme commander of that.

GENERAL REYNOLDS: The Commission interrupts to ask counsel the purpose of this line of questioning.

COLONEL CLARKE: Sir?

GENERAL REYNOLDS: What is the purpose of this particular line of questioning?

COLONEL CLARKE: The purpose of this line of questioning is to show that they had meetings, and that at one of these meetings, which is not discussed by this witness, this was discussed with General Yamashita, and that this was not told to him and that he was not in the full confidence of General Ricarte, and that General Ricarte after having talked with General Yamashita was affiliated with the patriotic movement to get laborers to work for the Japanese; that after this meeting he tells nothing about 100,000 pesos that were given to this triumvirate for that purpose under the patriotic

movement.

MAJOR KERR: Sir, the witness has already stated that he knows of no other meetings. The matter referred to by Defense Counsel might more properly be brought up in their own case in chief rather than through further cross examination of this witness.

COLONEL CLARKE: At the time the question was asked the witness volunteered the statement that he and the General didn't have anything to do with Ramos, who was a member of this triumvirate; that the witness knew nothing about Ramos; that they were "political enemies."

GENERAL REYNOLDS: Proceed.

Q (By Colonel Clarke) Did you yourself raise any money for the benefit of this patriotic movement?

A I beg your pardon, sir?

Q Did you raise any money for the benefit of this patriotic movement in which Duran, Ramos and Ricarte were engaged?

A I told you I had nothing to do with it. I told you that I had nothing to do with it. How could I raise any money for it if I had nothing to do with it?

Q The General did not say anything about that to you?

A Not at all, sir. The General did not talk to me about this thing.

Q Did you collect any moneys whatsoever for any activity in which General Ricarte was concerned?

A In what sense do --

Q Did you raise any money or collect money from people within the city on the basis of a movement in which

General Ricarte was concerned?

A No, sir.

Q Did you ever use General Ricarte's name in order to collect moneys from any person?

A No, sir.

Q Didn't General Ricarte forbid you to enter his house for three weeks on account of that fact?

A I beg your pardon, sir?

Q Didn't General Ricarte forbid you to enter his house and you were forbidden for a period of three weeks to come in because you used his name to collect moneys for that purpose?

A That is not true. There is nothing true about that. That is the first time I heard that.

Q Do you remember a rally on the 8th of December, 1944, which was held to start off this patriotic movement?

THE WITNESS: I beg your pardon, sir?

COLONEL CLARKE: Will you read it, please.

(Pending question read.)

CAPTAIN PACE: May I interrupt to inquire to what movement you refer?

COLONEL CLARKE: To this Makapili movement.

CAPTAIN PACE. I submit to the Commission that the witness has already said he doesn't know anything about this organization.

GENERAL REYNOLDS: The objection is sustained. There has been sufficient discussion of that point.

COLONEL CLARKE: The answer to the question is that he read about it.

Q (By Colonel Clarke) Did you read about this meeting in the paper?

A I beg your pardon, sir?

Q Did you read about the rally on the 8th of December, 1944?

GENERAL REYNOLDS: The Commission interrupts, and let us consider that phase closed. We will ask the Counsel to state what other subjects on cross examination you have in mind and the purpose thereof. We are near now the end of the third hour of cross examination.

COLONEL CLARKE: The purpose, sir, was to elicit certain information. The offer we made to prove is that on this particular date, 8 December '44, at a meeting to start off the Makapili organization Ramos, Ricarte and Duran were present at the rally with General Yamashita.

GENERAL REYNOLDS: Is there any question in the mind of Counsel with respect to the answer of the witness that he knows nothing about it?

COLONEL CLARKE: He said he read it in the papers.

CAPTAIN PACE: There is no testimony to that effect, sir.

COLONEL CLARKE: I believe he started to answer the question when he was stopped.

GENERAL REYNOLDS: Ask him the question. You may ask that question.

Q (By Colonel Clarke) Do you remember of a rally held on the 8th of December, 1944, which was the opening of that Makapili movement held in the Legislative Building?

A I read it in the papers, sir. It was public notice

all over.

Q What did you read concerning that meeting? Did you read who was there?

A I have seen the picture of Yamashita, Ramos, Duran, Laurel and Ricarte.

Q And Ricarte. At this meeting?

A That's it.

COLONEL CLARKE: May we have a five minute recess now, sir?

MAJOR KERR: Sir, may I inquire how much longer Defense Counsel intends to continue the cross examination so that we may arrange accordingly with respect to our witnesses for this afternoon's session?

COLONEL CLARKE: I shall not take much more time after we have a chance to go over it, if we get a five minute recess.

MAJOR KERR: You say you "will" or "will not"?

COLONEL CLARKE: "Will not."

GENERAL REYNOLDS: So that you may prepare your case thoroughly in order that you may handle it in an expeditious manner, we will recess until 1:30 this afternoon.

(Whereupon a recess was taken until 1330 o'clock, 5 November, 1945.)

AFTERNOON SESSION

(The trial was resumed, pursuant to recess, at 1330 hours.)

GENERAL REYNOLDS: The Commission is in session. The Prosecution may proceed.

MAJOR KERR: Sir, all members of the Commission are present, the Accused and Defense Counsel are present, and the Prosecution will proceed.

GENERAL REYNOLDS: How much longer will the Defense require in the cross examination of this witness?

COLONEL CLARKE: The cross examination, sir, will be approximately fifteen or twenty minutes.

GENERAL REYNOLDS: Proceed.

NARCISO LAPUS

the witness on the stand at the time of recess, was further examined and testified as follows:

CROSS EXAMINATION (Continued)

Q (By Colonel Clarke) Mr. Lapus, in September 1944 did General Ricarte write and cause to be published an article favoring the declaration of war by the Philippine government upon the United States?

THE WITNESS: I beg your pardon? I didn't get the point clearly, sir.

COLONEL CLARKE: Read it.

(Pending question read)

A I don't remember, sir.

Q (By Colonel Clarke) You don't remember?

A I don't remember if he wrote an article or if he delivered a speech.

Q Did he either write an article or deliver a speech to that effect?

A I cannot point exactly which one, whether it was an article or a speech.

Q Do you know of any other movement in which General Ricarte was implicated?

A I beg your pardon, sir?

Q Do you know of any other movement which General Ricarte organized about that time?

A I don't know that he has organized any other movement.

Q Do you know of an independent movement which was organized after the declaration of war to raise a volunteer corps of Filipinos to fight against the United States?

A I heard in the paper that they had formed an organization; not General Ricarte. He was beneath Ramos and Duran.

Q That was Ramos and not Ricarte, according to you?

A I beg your pardon, sir?

Q That was Ramos and not Ricarte?

A Not Ricarte but Ramos and Duran. And, according to the information of all that was published in the paper, because he never approached me about those things. He knew that we had trouble between Ramos and myself, and Ricarte took care not to tell me anything about Ramos since we have been associated during the Japanese occupation.

Q Weren't General Ricarte and Ramos together in all these movements?

A Well, this movement, sir, it was by Benigno Ramos. I think they forced General Ricarte, the High Command, to be advisor of what they call "movement" -- you call it

"movement".

Q Didn't General Ricarte and Ramos work together?

A I beg your pardon?

Q Didn't General Ricarte and Ramos work together during this period?

A No, sir. It seemed the relation of Ricarte and Ramos was some sort of an advisor of Ramos, because I think General Ricarte knows that Ramos has some sort of radical idea. He wanted to coup the government. He wanted, I think, to make a coup d'etat, overthrowing Laurel and the Philippine government, and Ramos, he did not like to do that. And so he accepted the position as advisor.

Q Didn't you say this morning that you saw a picture in the paper where Ramos, Ricarte, Yamashita and Laurel were all together at a meeting?

A They were in that picture of the declaration of what you say was published in the press. They put all their picture there.

Q And that picture was published in connection with the organization which was to furnish labor for the Japanese forces?

A I cannot tell you exactly what it was, but I can tell you it was in the press. It is a public notice. They know that.

Q Did General Ricarte have an office on Taft Avenue?

A I beg your pardon, sir?

Q Did General Ricarte have an office on Taft Avenue?

A It wasn't an office. It was the headquarters of that Army that was organized by Ricarte in accordance with

the argument with Laurel to help Laurel maintain peace and order and also guard Malacanan.

Q When was that office opened?

A I beg your pardon?

Q When was that office opened?

A Oh, it was opened lately -- the latest part of November.

Q 1944?

A Yes, sir.

Q After the declaration of war?

A After Laurel had declared war.

Q And what was this organization then that General Ricarte had and for which he used this office?

A This organization, before it was created General Ricarte had conferences with Laurel, and when he came back he told me "Lapus," he said, "I speak to Laurel. He told me he wanted to quit and he said I must assume the power. I said 'Don't get out as president, because I am going to help you'.

"I'm helpless. There is nobody here to maintain peace."

The saboteurs had gone to the mountains and we were arrested by the military police.

So General Ricarte said "I am going to help you maintain peace and order. I am going to organize some sort of an organization to help the police work." That is why he intended to organize that peace army of the Philippines.

Q "Peace army"?

A Peace army of the Philippines.

Q Wasn't that in fact a volunteer corps which was to help fight the armies of the United States?

A No, sir.

Q You say it was a "peace army"?

A No, sir. That was a peace army. That had nothing to do with the war. It had a role of police duty.

Q But it was after the declaration of war that this Army was organized?

A I beg your pardon?

Q It was after the declaration of war that this army was organized or attempted to be organized?

A It was organized after the declaration of war of Laurel government.

Q Were you interested in that movement?

A I was not interested. I was connected with Ricarte. Whether I like it or not I have to be there.

Q Did you go to the Malacanan to request that money and rice be furnished to this organization?

A Ricarte appointed me as his executive secretary of the organization in charge of the administration. One of the duties is to get the rice and the funds and other material for the peace army of Malacanan, from Laurel.

Q And did you get them?

A I got them.

Q What became of this movement?

A It was in the process of organization, then suddenly came this. It was not -- It was not even organized full because, I remember, we had only about 60 or 67 recruits. We had not even started.

Q Who were these recruits?

A I beg your pardon?

Q Who were these recruits? What type of men were they? Army officers? Old army officers?

A No. They were volunteers from the masses.

Q Were they mostly revolutionary generals?

A No, sir.

Q This movement then disbanded; is that it?

A I severed my connection from that organization on January 30th, when I resigned, because I have to evacuate. The military police was after me and I had to get out.

Q So you severed your connections with the organization before it disbanded?

A I beg your pardon?

Q You severed your connections with the organization before it disbanded?

THE WITNESS: I did not get it clearly, sir.

COLONEL CLARKE: Read it.

(Question read)

A Yes, sir.

Q (By Colonel Clarke) Do you know then what became of the organization after you left?

A I didn't know, but when I came back here I went directly to the CIC. I didn't know any more what happened.

Q You went directly to whom?

A On February 21st the CIC took me for protective custody.

Q What date?

A February 21st.

Q Is it a fact that this organization which was known as a volunteer corps later became the Makapili?

A No, sir. This has nothing to do with the Makapili. This is -- This army of the Philippines has nothing to do with that. This is an entirely different organization. This is for police work, to maintain peace, to help Laurel and help him to guard Malacanan.

Q Where did General Ricarte have his home?

A I beg your pardon?

Q Where did General Ricarte have his home?

A I didn't get you.

Q Where did he live?

A Oh. He live -- When he was here in Manila he live in Pasay.

Q Who lived in the house with him?

A His wife.

Q Anybody else?

A And his grandson.

Q Anybody else?

A And the servants.

Q Did General Ricarte have any daughters?

A I beg your pardon?

Q Did General Ricarte have any daughters?

A Daughters?

Q Yes.

A He had daughters but they didn't live with him.

Q Where did they live?

A They live in the province of Cavite.

Q How many?

A He had three daughters.

Q When did General Ricarte go to Baguio?

THE WITNESS: I beg your pardon, sir?

COLONEL CLARKE: Read it.

(Question read)

A It was on the 31st of December, 1944.

Q (By Colonel Clarke) Did Mrs. Ricarte and a grandson accompany him to Baguio?

A No, sir.

Q Where did they go?

A They were left in the house.

Q You stated that you informed some of your friends of the proposed massacre; is that correct?

THE WITNESS: I beg your pardon, sir?

COLONEL CLARKE: Read it, please.

(Question read)

A Yes, sir.

Q (By Colonel Clarke) Who were those friends? What are their names?

A Some of them I remember. Pedro Vera, and another I remember is Colonel Jose Guido, and one of them was General Villeneuve; the other was Mr. Garillo, and I don't remember the others.

Q Were there many more?

A I think I informed about a couple of dozen -- my intimate friends.

Q About 24 of your intimate friends?

A Yes, sir.

Q Nobody else?

A Well, I told them they have to spread that secretly; they have to be careful, because if the Japanese will catch them they will be finished.

Q When General Ricarte left did he give you any instructions as to what was to be done with his wife and grandson in the event this alleged massacre were to take place?

A He never gave me any order about his family because he knows that his wife was very stubborn. Nobody could control that wife. Even himself, he could not control her.

Q You stated that you wrote a letter volunteering to testify at this trial, did you not?

A Yes, sir.

Q To whom did you write it?

A To the Honorable Chairman of this Honorable Commission, sir.

Q Which Commission?

A This Commission; this War Crimes Commission.

Q War Crimes Commission?

A Yes, sir.

Q When did you write that letter?

A I think I wrote the 10th of this month.

Q The 10th of what?

A The 10th of October.

Q When were you taken into protective custody?

A I was taken on February 21, 1945, sir.

Q So between February 21, 1945 and the 10th of October you mentioned this to no one? You offered to testify at no trial of any person until the trial had been in the

papers; is that correct?

A I didn't mention this because this is a secret confided to me by a man that I have only to divulge this at the right moment.

Q What secret?

A This is a secret confided to me by General Ricarte and I wanted to use it in favor of my country when the moment comes like this, for instance.

Q But you didn't tell anybody beforehand?

A I went to the CIC.

Q You didn't tell the CIC about anybody when you first were taken into protective custody?

A I didn't tell them because they didn't ask me.

Q Did they ask you when you wrote the letter or did you write the letter and volunteer to testify?

A I didn't write a letter to the CIC. I wrote a letter here to the Honorable Commission of War Crimes.

Q Who is that? Oh, the War Crimes Commission?

A Yes, sir.

Q When you wrote that letter what did you think? Did you have any hope that through that letter and your volunteering to testify your testimony would help you or any member of your family that is in jail?

A I didn't think of myself when I wrote that letter, sir. I have only one thing in my mind: to serve the justice and to help my country to be redressed of all these crimes committed by this man according to the facts that I have in my possession. I wanted to serve justice, that's all.

Q So this letter was written, then, with no thought of

your own safety or of your own advantage? There was no hope whatsoever that you would be treated leniently if you testified?

THE WITNESS: I beg your pardon, sir? I didn't get the question.

COLONEL CLARKE: Read it.

(Question read)

A I did not have nothing in mind about that. I just thought about my duty to my country, to my people and as I wanted to see that man punished, the cruelest man that ever produced history. I wanted him to be punished in accordance with the facts I have, and I am giving these facts so that that man will be punished.

Q Have your tendencies been anti-American?

A I beg your pardon?

Q Have you been anti-American?

A I have never been anti-American. I have been pro-independent all my life. If in my campaign for pro-independence they took it for anti-American, it is not my fault.

Q Didn't you challenge Nicholas Roosevelt to a duel if he ever set foot in the Philippines?

A I challenged that man because he wrote insults about my race. And I belong to that race. That does not mean that I was anti-American. Even in any nation there is some bad and good people, and I am always against those bad people no matter who he is.

COLONEL CLARKE: That is all.

REDIRECT EXAMINATION

Q (By Captain Pace) Ricarte hated the Americans, didn't he?

A Beg pardon?

Q Ricarte hated the Americans, didn't he?

A Exactly, no. He likes to be free and independent, and he did not like that this country be subjected by any other power.

Q Well, he was violently opposed to the American policy in regard to the Philippines, is that right?

A That is right; he did not swear, sir.

Q That is the reason the Japs had confidence in him, wasn't it?

A That is what they thought, because he was the only living Filipino that never surrendered to the American sovereignty, and they thought they could swear him and use him as their instrument?

COLONEL CLARKE: If the Court please, we ask that the last question be stricken, due to the fact that Prosecution's Counsel is leading his witness.

CAPTAIN PACE: I submit, sir, that is proper on redirect examination on matters brought out by Defense.

COLONEL CLARKE: Not to that extent, putting the words in his mouth.

GENERAL REYNOLDS: Will the reporter read the question and answer?

(Question and answer read.)

GENERAL REYNOLDS: That question does not appear to be material, and the objection is not sustained.

Now the Commission inquires of Prosecution: What is the purpose of this line of questioning?

CAPTAIN PACE: Yes, sir. There were many things brought out in cross examination -- I beg your pardon -- there were a few things brought out on cross examination which I do believe need clarification.

GENERAL REYNOLDS: We will accord the Prosecution a very few moments to bring them out.

Q (Captain Pace) What language did Ricarte speak? Do you remember testifying about that this morning?

A When he talked to some people, especially foreigners, they talked -- the foreigners -- in their own language, and he wanted to use his own language; that is, Tagalog, because he prides himself to have his own language.

Q When he talked to the Japanese, what language did he speak?

A Well, when he was with Ota, he used Spanish, because Ota was the translator in Spanish; but when he was in his home, he used his grandson as translator in Tagalog.

Q You say Ota, among his other duties, was an interpreter?

A Interpreter in Spanish.

Q You testified earlier today that persons who went to see Ricarte were carefully scrutinized because they were suspected of being spies; can you explain that?

A Yes. At the beginning of 1942, when I came to Manila, all persons that were asking for Ricarte, they were well investigated and scrutinized by the Japanese, because they were all scrutinized and investigated,

because they suspected them as a spy.

Q By "spy" what do you mean?

A Spy. They suspected as a spy of Ricarte, because they want too much the person of Ricarte.

Q You mean there were many people who disliked Ricarte?

A No, because they believe Ricarte was a friend of the Japanese; they believed that some Filipinos might do harm to Ricarte.

Q Is that the reason they investigated anyone before they let them see Ricarte?

A I think that is one of the reasons.

Q Now, you testified also this morning that you were tried by some Japanese investigations. Will you describe that trial?

A You mean, sir, in Fort Santiago?

Q Yes.

A Well, on June 16, 1942, on about 11 o'clock in the morning, I was taken by the military police --

Q Never mind that. Just describe the trial.

GENERAL REYNOLDS: The Commission will interrupt and terminate this part of the examination, and ask if there are any questions by Defense on these interrogations?

COLONEL CLARKE: None, sir.

GENERAL REYNOLDS: Let us, then, dismiss this witness.

CAPTAIN PACE: Very well, sir. There is one thing, though: If the Commission has had an opportunity to read the record, it is not clear when Yamashita left Manila. On page 948 it says he left after the 15th, and

on page 949 it says that he left on the 3rd.

GENERAL REYNOLDS: You may clarify that point by suitable questions.

Q (By Captain Pace) Will you tell when Yamashita left Manila?

A He left on the 23rd of December for Baguio.

CAPTAIN PACE: Thank you.

(Witness excused)

JOAQUIN S. GALANG

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

DIRECT EXAMINATION

Q (By Captain Pace) Give your name, please.

A Joaquin S. Galang.

Q Where do you live?

A (Through the Interpreter) In Muntin Lupa.

Q Where in Muntin Lupa?

A In New Bilibid Prison.

Q Why are you in New Bilibid Prison?

A They suspect me to be a collaborator.

Q Have any charges been preferred against you yet?

A I do not know of any.

Q Do you understand that you have a right to refuse to testify in this case, on any matter which might incriminate you?

A Yes.

Q Do you understand that some of your testimony given under oath here is apt to have a detrimental effect upon

the charges against you if you are brought to court?

A I do not care. I will just tell the truth.

Q Has any member of the Prosecution section, or any member of War Crimes, made any promise whatsoever to see that you receive any favor or consideration as a result of your testimony here?

A Nobody, no.

Q You are still willing to testify?

A Yes, because it is my duty.

Q Did you know General Ricarte?

A Yes.

Q How did you meet General Ricarte?

A In his house in Pasay.

Q What occasion did you have for meeting General Ricarte?

A Because of the case of my two children who were in prison in O'Donnell; two of my children fought in Bataan.

Q Your two sons were prisoners of war in O'Donnell, being held there as such by the Japanese?

A Yes.

Q Did you have a third son who also fought in Bataan?

A Yes.

Q What happened to him?

A One of them, because he was tortured by the Japanese, escaped and went to Bayombong.

Q Where are your three sons today?

A One of them is a "bensionado" in the army. He is in Maryland, Aberdeen.

Q What was that?

A One of them is a "bensionado" of the army, and he is at present in Maryland, America.

Q What rank does he hold in what army?

A Maybe the Philippine army, because he belonged to the Philippine army.

Q What rank?

A At first he was just a lieutenant, but then since he ~~became~~ a guerillero on October 3, 1943, he was raised to captain.

Q Where are your other two sons?

A One of them is in Bayombong, Luzon; one of them is in the signal company, Mandaluyong. I have two sons-in-law; both of them are guerrilleros. They are the husbands of my two daughters.

Q What do the two sons do? You testified you have one son in the Philippine army who is now in Aberdeen, Maryland. You testified you have two more sons here in the Philippines; are they in the army?

A They are serving the army.

Q What ranks do they hold?

A One is a second lieutenant; he is in Bayombong. One of the others -- the other one is also there, and he is a captain in the guerrillas.

GENERAL REYNOLDS: The Commission interrupts to inquire whether this interesting family history is relevant to the purpose for which we are assembled.

CAPTAIN PACE: I have finished it, sir. I didn't intend to have it take so long. It was introduced for the purpose of bearing on the character of this witness,

his family.

GENERAL REYNOLDS: And it is all finished?

CAPTAIN PACE: Yes, sir.

GENERAL REYNOLDS: Proceed.

Q (By Captain Pace) Now, you went to see Ricarte in regard to your two sons who were held by the Japanese in O'Donnell, is that right?

A Yes.

Q Why did you go to Ricarte?

A I heard that General Ricarte is the most influential Filipino with the Japanese, and that he has the fame of being able to take out or release prisoners from Camp O'Donnell.

Q Did he get your two sons out?

A Yes.

CAPTAIN REEL: Just a moment, sir. We object to that question, unless there is some ground stated for the witness' information. He is being asked what somebody else did, and certain circumstances which we don't know anything about.

CAPTAIN PACE: If the Commission desires, I can go into the details of the release of the two boys from O'Donnell, but it will take some time.

GENERAL REYNOLDS: The objection is not sustained. Proceed.

Q (By Captain Pace) Did Ricarte get your two boys out of O'Donnell?

A Yes.

Q After that, did you have occasion to go and see

Ricarte many times?

A Yes. First, because I want to extend to him my personal gratitude or thanks. Then, too, many of my friends heard of what he had done for me, that is, releasing my two sons, and many of these friends have also sons who are in O'Donnell, and they asked my help to go and see Ricarte about it; and also, not only for the prisoners in O'Donnell, but for the people who were kept and tortured in the garrison.

CAPTAIN REEL: Sir, we will ask that all of that after the word "yes" go out, as not responsive to the question; certainly the last part is not responsive.

GENERAL REYNOLDS: Will the reporter read the question and answer?

(Question and answer read.)

GENERAL REYNOLDS: Not sustained. Proceed.

Q (By Captain Pace) Did you become friendly with General Ricarte?

A Yes, a very good friend.

Q Did you visit his house from time to time socially?

A It all depends upon the people who come and approach me for help. There were times when I was in his house every day, and there were times when I went there only twice a week, and there were even times when I went there only once a week. It all depends upon the needs of my friends.

Q Did you go to his house to parties and social gatherings?

A Yes, in every social gathering that there is in

General Ricarte's house I attended: His wife's birthday, for example; his birthday, or any birthday of the Ricarte family, and any other social occasions as Bonifacio Day, Rizal Day, and I go there like a member of the family.

Q Now, were you at Ricarte's house sometime in December, 1944?

A Yes, about the third week of December, 1944.

Q Will you tell who was there that day?

A The one that I saw there was General Ricarte, his wife, and a granddaughter of 12 years old.

THE WITNESS: Grandson.

THE INTERPRETER: Grandson. A correction.

Q (By Captain Pace) What time of day was this?

A (Through the Interpreter) On or about 5 o'clock in the afternoon.

Q Did anyone else come to the house after that?

A I went there with three names of people who were in the Far Eastern, kept as prisoners, and I went there to supplicate to him to have these people out.

Q Did anybody else come to the house after you got there?

A Yes, there were.

Q Who?

A General Yamashita.

Q Had you ever seen Yamashita before that day?

A No.

Q Have you ever seen him since?

A After that, I did not see him any more.

Q Is General Yamashita in the court room?

A Yes.

Q Will you point him out?

(The witness indicated towards the Accused.)

A That man with the eye glasses.

(Whereupon the witness left the stand and was taken to the table of the Defense.)

CAPTAIN PACE: Will you point to Yamashita?

(The witness pointed.)

CAPTAIN PACE: Will the record show that the witness indicated the Accused in this case, Yamashita.

Q (By Captain Pace) What happened after Yamashita came to Ricarte's house?

A (Through the Interpreter) He was offered a seat, and as soon as he entered General Ricarte, the wife of General Ricarte and myself stood, bowed at him with all respect.

Q Yes. What happened then?

A After that, General Ricarte winked at me and told me to get near him, and he whispered to my ear to go and get my grandson.

CAPTAIN REEL: Sir, we will ask that that be stricken as hearsay. And may I say, for the purpose of avoiding future objections, we should like to have a standing objection such as was allowed yesterday to hearsay, conversations by persons as told to this witness; that such things be excluded. In other words, that our objections to such conversations stand without our making the objection in each instance.

GENERAL REYNOLDS: Very well.

CAPTAIN PACE: If it please the Commission, it is not

hearsay, and if it is, it is an exception to the hearsay rule, any conversation which takes place in the presence of a person who is being tried for that crime, if he engages in that conversation, and that is what this witness is purported to tell.

GENERAL REYNOLDS: The objection is not sustained.

CAPTAIN REEL: Sir, do I understand the objection is to be considered a standing objection, or are we to object each time?

GENERAL REYNOLDS: The objection may be and will be considered a standing objection.

Q (By Captain Pace) What happened after Yamashita came into the room?

A General Ricarte wanted me to get his grandson, so that he could interpret conversation between the two.

Q Did the grandson come?

A Yes, because I was the one who called him. I gave him a small chair between them.

Q How old is the grandson?

A About 12 years old.

Q Where was he raised?

A According to General Ricarte's wife, he was raised in Japan.

Q What language did he speak?

A He speaks Japanese very well and also Tagalog because they use Tagalog in the house.

Q Will you describe how the persons in the room were seated?

A Let us suppose this is the round table. This is the table. General Yamashita is in this place and General Ricarte here, and the child is here. And I went where the wife was to help her prepare something in case to present to General Yamashita.

Q There were just three people seated at the table at that time?

A Yes.

Q Had anyone come into the house with General Yamashita?

INTERPRETER RODAS: What is the first word, please?

CAPTAIN PACE: Had anyone come into the house with General Yamashita?

A (Through the Interpreter) When he came in he was alone and then when he left I saw he had companions in the car.

Q Where was the car?

A In front of the house of General Ricarte.

Q How was Yamashita dressed?

A In woolen suit; about greenish woolen suit with closed collar and three stars near the neck.

Q Anything else?

A I can't tell any more because I did not scrutinize him as I went to help in the kitchen.

Q Did he have a saber?

A Yes, sir.

Q You didn't know who he was at that time, did you?

A When he was coming we all look the way he was coming from and then we heard a knock and then General Ricarte said he is General Yamashita.

Q The man that you are talking about who came to the house is that same individual that you just now pointed out in this court room?

A Yes, and no other.

Q Did you come back to this room from the kitchen?

A After a few minutes after I prepared hot tea and cakes on a platter I very respectfully placed this platter on the table and then stood near the door.

Q How far were you from Yamashita?

A Not even two meters.

Q What took place in that room then?

A The child continued to interpret for the two.

Q What did they say?

A When he came in the child told me that General Yamashita said that "All Filipinos are guerrillas and even the people who are supposed to be under Ricarte".

MR. SANDBERG: Read the last answer, please.

(Answer read)

Q (By Captain Pace) Was he talking to you or was he interpreting for Ricardo?

A (Through Interpreter Rodas) For the two, but I heard because I was only very near and I was waiting for them to order me around.

Q .Then the nephew made this statement to Ricarte or did

he make it to you?

A About what?

CAPTAIN PACE: What?

INTERPRETER RODAS: He is asking, About what?

Q (By Captain Pace) The statement regarding "all the Filipinos (being) guerrillas".

A (Through Interpreter Rodas) According to my understanding this is what General Yamashita told General Ricarte as being interpreted by the grandson in Tagalog.

Q Was anything else said that afternoon?

A General Ricarte answered that "Nobody has the fault for the Filipinos turning guerrillas except the Japanese who get their food from them and they are the beastly Japanese, the ones who torture them".

Q Was anything else said?

A After General Ricarte said that General Yamashita said "Let us not talk about this any more. I know what really is happening".

Q What else was said?

A He said "The Filipinos were treacherous in the Philippines and hence our enemies are the Filipinos", according to the interpretation of the grandson.

GENERAL REYNOLDS: The Commission would be more satisfied with the interpretations if the interpreter would cause the witness to pause so that you won't have to carry such a long statement in your mind.

INTERPRETER RODAS: Yes, sir.

Q (By Captain Pace) What other conversation did you hear?

A (Through Interpreter Rodas) General Ricarte through the interpretation of the grandson said "I would like to take this occasion to ask you again for you to revoke your order to kill all the Filipinos and to destroy all the City".

Q What did Yamashita say?

A He stood. He was very angry. He was frowning. You could see it in his face and his hands were clinched, and he said "An order is an order, is my order. The order is my order. And because of that it should not be broken or disobeyed. It ought to be consumed happen what may happen".

Q What happened then?

A And then he left and he was accompanied by General Ricarte to the stairs.

Q You didn't see him after that; is that right?

A Only now.

Q You said some cake and tea had been brought into the room. What happened to that?

A They each took a sip of tea and then they lay down the cups and they did not touch it any more.

Q Who was present in the room during the conversations which you have just described?

A General Ricarte, General Yamashita, myself and the child.

CAPTAIN PACE: You may inquire.

GENERAL REYNOLDS: The Commission will be in recess for ten minutes.

(Short recess)

GENERAL REYNOLDS: The Commission is in session. The Defense will proceed.

CROSS EXAMINATION

Q (By Captain Sandberg) How long have you been in jail?

A (Through the Interpreter) From the 17th of February of this year I was taken by the military police.

Q And you have been in jail since February 17th of this year until this time?

A From February 17th to June 12th I was in Bilibid.

Q And where were you after June 12th?

A After June 12th we were transferred to New Bilibid in Muntinlup.

Q And you have been there ever since?

A Yes.

Q When did you first tell this story to the American authorities?

A What story?

Q The story you have told the Commission this morning.

A The story that I just related now?

Q That very story.

A I have not told anybody yet about this story.

Q Do you mean to say that your testimony this morning in court is the first time you have ever told this story to anyone?

A Not yet.

Q You mean to tell us that you haven't told this story to the Prosecution before this afternoon?

A Yes, I told them. I thought you said to the people in Bilibid.

Q My question was very clear. I asked you if you had ever told this story to any person before this afternoon.

When did you tell this to the Prosecution?

A I did not tell a story. I told them I was going to testify against General Yamashita about the massacre of the Filipinos and the destruction.

Q When did you tell the Prosecution that?

A I told them that I was going to declare against the order -- about the order of General Yamashita's massacre of the Filipinos and the destruction.

Q My question was, When did you tell the Prosecution that? The date?

A When we saw each other.

Q That is very illuminating.

CAPTAIN PACE: I object to counsel criticizing the witness instead of asking questions.

CAPTAIN SANDBERG: If you please, sir, I am not criticizing the witness. I am trying to get responsive answers.

GENERAL REYNOLDS: The Commission would like to know if this is relevant to the cross examination. What is it you are trying to show?

CAPTAIN SANDBERG: It is, sir. We think it is of the utmost pertinence and direct relevancy. Where a witness has been in custody since the first of the year and doesn't tell his story to anyone or the Prosecution until he sees an opportunity eight months later, we think it bears directly upon his credibility as a witness.

GENERAL REYNOLDS: You may proceed.

CAPTAIN SANDBERG: Thank you.

Q (By Captain Sandberg) I want to repeat the question.

When did you tell the Prosecution this story?

A Last night; not the whole story but only the gist.

Q Do I understand that last night was the first occasion upon which you told this story to the American authorities?

A Yes.

Q In other words, then, you told this story to the Prosecution after you read in the press of the testimony of Mr. Lopus; is that correct?

A No. I do not rely on that. I have my own knowledge of the things.

Q But you knew last night that Mr. Lopus had testified on Saturday, didn't you?

A Yes, I know.

Q And you didn't tell this story, then, to anyone of the American authorities until after you learned and had read the details of Mr. Lopus' testimony?

A No. It is not because of that. This is the only opportunity I have of telling the truth. Otherwise I should have told it even before this or maybe sometime in the future when the opportunity presents itself.

Q Why didn't you tell this story during the eight-month period during which you have been in confinement?

A There was no chance or opportunity for me to tell this story. In Bilibid we cannot even write letters.

Q Haven't you received visits from investigators while you have been in Bilibid who have asked you about the activities for which you are being held there?

A When I was taken to Bilibid on the 17th of February,

1945 a member of the CIC came to see me and I talked to him for fifteen minutes. I was investigated for fifteen minutes but I cannot explain because it was not allowed, because he did not allow me to explain.

Q Do you mean to tell us that you tried to tell this story to the CIC investigator of the United States Army and that he wouldn't permit you to tell it?

A No, I don't mean to say that; but maybe he was hungry and I was very hungry at that time, so that we didn't have any chance to talk to each other. And from that time on he didn't see me any more.

Q In other words, then, you didn't tell the story at that time because you were both hungry?

A No. He did not allow me to explain. He didn't give me a chance to explain, to prove his charges that I am a collaborator. I am not.

Q What is the name of this investigator?

CAPTAIN PACE: If the Commission please, I don't like to interrupt but I don't see any purpose in pursuing this investigation by the CIC any further. It is news to me if it is their duty to get evidence against war criminals.

CAPTAIN SANDBERG: If it please the Commission, we feel that it is of vital importance that this witness didn't reveal this so-called "story" until after he heard and read the testimony that appeared before this Commission on Saturday, and we wanted to get the full details of it.

CAPTAIN PACE: Sir, I further object to counsel saying that this witness read this testimony in the newspapers. He has not so testified. The only thing in the record concerning

that has come from counsel.

CAPTAIN SANDBERG: The witness stated that he knew of the testimony.

GENERAL REYNOLDS: You may proceed along this line for an additional very brief period.

CAPTAIN SANDBERG: Thank you.

We have you for about eight months being unable to tell about this story.

Can we have an answer to that last question?

(Question read)

A No, I do not know. He did not tell me his name. He is a lefthanded fellow.

Q (By Captain Sandberg) All right. Now we have you trying for eight months to tell this story and being unable to. Will you tell us the circumstances under which you were finally able to tell it?

A I read it in the papers that there is such thing as the War Crimes Commission so that the war criminals can be tried, and one of these is General Yamashita. I who know something about him, it is my duty and as a help to the administration that I should declare or witness whatever I know about the case, because it is my duty.

Q When did you first learn about the existence of the War Crimes Commission?

A I really cannot tell. It may be about three weeks now. And I learn it from the papers. Maybe on or around October 10th of this year when I read it.

Q On October 10th, then, you learned about the existence of the War Crimes Commission. When did you first

do anything about telling this story?

A When Mr. Lopus read about the existence of the War Crimes Commission he wrote a letter addressed to the War Crimes Commission with the permission of the Director of Prisons, Eriberto Misa.

Q Now I asked you, What did you do?

A They did not answer his letter. Then he wrote again on the 16th.

Q Well, I asked you what you did.

A What I did was this: I told Mr. Lopus that if his letter is accepted, that for him to include my name and I will declare in the name of justice, and so that we can help in the administration.

THE WITNESS: Of justice.

THE INTERPRETER: Of justice.

Q (By Captain Sandberg) Then you told this story to Mr. Lopus?

A (Through the Interpreter) No, I did not.

Q You never told Mr. Lopus what you knew?

A No, I did not, because this is one thing that should not be told even to my own sisters and my family. I did not tell.

Q Did Mr. Lopus tell you what he knew?

A No.

Q You just told each other that you knew something, but you didn't tell each other what you knew?

A Yes.

Q Now, do I understand you to say that when you spoke to the Prosecution, you didn't even tell the Prosecution the story; is that correct?

A I did not tell them the case. All that I told is that I shall testify against General Yamashita about the massacre and destruction of Manila.

CAPTAIN PACE: Well, if the Commission please, I believe this would be helpful if some word other than "Prosecution" were used. I don't think the witness understands. If he would ask him if he told the story to Captain Pace --

CAPTAIN SANDBERG: I think the witness understands. Captain Pace is a member of the Prosecution.

CAPTAIN PACE: I will ask him myself, if you don't want to.

GENERAL REYNOLDS: You may proceed.

Q (By Captain Sandberg) Now, you did tell me you held back from the Prosecution these details. Did the Prosecution indicate any curiosity as to the details?

A No.

Q The Prosecution didn't want to know exactly what were the circumstances that you knew about in connection with General Yamashita?

GENERAL REYNOLDS: The Commission will interrupt. We want to give every opportunity to Defense to attack the credibility of the witness, which apparently you are doing, and the Commission is willing to listen to that, wants to know every detail which may bear upon it, but it is not clear that this is getting to that point. What is the purpose of this line of questioning as to how the Prosecution got the information, how much they got, and all of that? Will you explain?

CAPTAIN SANDBERG: Yes, sir, I shall be glad to. We have here a witness who, for eight months, cupped this story to his bosom, apparently, his own story, and didn't tell it to anyone. He was in several prisons, with the possibility of a charge against him of treason, which carries with it the death sentence. He is in that position, and so is the former witness, Mr. Lopus. They apparently are good friends, were good friends in prison.

and had discussions with each other. The witness testifies, in fact, that they talked to each other, and each of them tells the other that they know something about General Yamashita, but they don't tell each other what they know.

Then we have Mr. Lopus writing a letter to the Commission and offering to testify. He has never told this story before to anyone, although as a political internee in prison, not only has he an opportunity to tell these stories, but, in fact, it is the enthusiastic and eager desire of C. I. C. and other governmental agencies to get these facts; yet he has never told them. We feel, if the Commission please, the story this witness has told, even so far on the stand, combining in the elements of complete secrecy in his own self interests, disqualifies him as a competent witness before this Commission. And we feel that the same fact is true as to the previous witness, Mr. Lopus.

In addition to that, we have the witness expecting us to believe that when he talks to the Prosecution last night, he tells the Prosecution -- gives them the same deal that he gives Mr. Lopus: That he knows something about General Yamashita, but he won't tell, and he tells the Prosecution that he won't tell the Prosecution. And furthermore, the Prosecution, according to his statements, isn't even interested to know what he is trying to testify to here today.

We submit that that is a fantastic situation. That is why we wanted to get the details of this discussion with the Prosecution.

CAPTAIN PACE: Sir, I submit that it is even more

fantastic to conduct this line of questioning until it is established that this man knows what the Prosecution is.

GENERAL REYNOLDS: The Defense will proceed.

Q (By Captain Sandberg) Now, did I understand you to say that in your conversation with the Prosecution last night, the Prosecution didn't even ask you as to the details of your testimony today?

A (Through the Interpreter) No, they did not have any interest.

Q So that your testimony before this Commission this afternoon is the first time that Captain Pace ever heard the story that you told?

A Last night I told him the gist, but not the details.

Q Now, when you told us today the details, did you tell us everything?

A Maybe there are some details that I missed, but what I want to say I have said. And what I want the people to know. Maybe I have missed some details, but the real thing that I want to show, I have related.

Q Now, you haven't left out anything important, though?

A I cannot remember now.

Q You mean that there may be some important details that you don't remember?

A None that I want to say, but maybe there are some details that I have not said yet.

Q Well, is your memory clear on this?

A Very clear.

Q So that you do remember everything that occurred?

A For me, whatever I want to say, I have already said.

Q Well, I know that what you want to say you have already said, but I didn't ask you that. I asked you if you have said everything that you remember.

A All those that I should declare, I have already said.

GENERAL REYNOLDS: It seems to the Commission that what the witness tried to tell you was that there might be unimportant details that he hadn't stated, but he had covered all the material facts, and he answered the question. I believe it is time-consuming and unnecessary, but if you have material things to continue, why, by all means do so.

CAPTAIN SANDBERG: Well, that was the answer, sir, that I wished to elicit from the witness: Namely, that he had stated here every substance and important fact.

GENERAL REYNOLDS: Well, our point was that he had said that over and over again. So if the point is settled, why, O. K.; we will go on.

Q (By Captain Sandberg) Now, have you told us everything that was said in that room?

A I cannot remember the rest, because that has been long ago.

Q But you have told us all that you remember?

A Yes.

Q Now, what was the exact date of this incident?

A I cannot really tell the fixed date, but it is sometime before the 20th of December.

Q What day of the week was it?

A I cannot remember.

Q What was the time of day?

A In the afternoon.

Q What time in the afternoon?

A Maybe around 5 o'clock in the afternoon.

Q Now, how was the weather? Was the weather clear or cloudy?

A I cannot remember. I could see the people, still a little bright.

Q You don't remember whether the weather was clear or not?

A I do not remember.

Q Well, were you in the custom of traveling around the city freely in Manila, around the 28th of December, in view of the danger of air raids at that time?

CAPTAIN PACE: I object to that question, if the Commission please. There is no evidence in this record that this witness drove around the City of Manila on the 28th of December.

GENERAL REYNOLDS: The objection is not sustained, but the Commission must inform Counsel that we will have to get on with this, with the more important points in the cross examination. Really, these questions seem to have little bearing upon the credibility of the witness.

CAPTAIN SANDBERG: If you please, sir, in explanation of that question, it is a known fact that in Manila at that time the air raids were of such severity that no one went outdoors unless they had to during the daytime.

GENERAL REYNOLDS: Very well.

MAJOR KERR: Sir, is the Counsel asking the Commission to take judicial knowledge of that?

CAPTAIN SANDBERG: No, I am not, sir; it is simply an explanation.

GENERAL REYNOLDS: The question will be answered.

(The question was asked the witness by the interpreter.)

A (Through the Interpreter) I only walk from my house to Pasay. There was no transportation then.

Q (By Captain Sandberg) Now, when General Yamashita came into the room, did General Ricarte seem surprised to see him?

A I was the first one who saw him, and then they followed looking at him, and then he told me he is General Yamashita.

Q Now, will you answer my question as to whether General Ricarte evidenced any surprise at seeing him?

A I did not see, because we were placed like this: I am here (indicating), first, then they were on my back (indicating), and so when I looked through a window I was the first -- when I went through the passageway, I was the first one to look, and they followed where I look; so I did not see.

Q So that as far as you know, General Ricarte wasn't surprised at the visit?

CAPTAIN PACE: I object to that statement. That isn't what the witness said.

GENERAL REYNOLDS: The objection is sustained.

Q (By Captain Sandberg) Now, did General Ricarte greet General Yamashita cordially?

A Yes, like a friend and a famous man.

Q He greeted him like a friend, is that correct?

A He was greeted like a famous general.

Q And this occurred on the 28th of December, 1944?

A I did not say that.

Q Well, didn't you testify that it occurred approximately around the 28th of December?

A No. Before the 20th of December, 1944.

Q How much before?

A Maybe two or three days before.

Q So that several days before the 20th of December, 1944, this occurred?

A Yes.

Q Now, did General Yamashita come into the room alone?

A In the solid, yes, alone; in the solid.

Q Now, you testified that you looked out of the window and you saw some people in the car, is that correct?

A When they left, I saw that he has some companions in the car.

Q Now, how many companions were there in the car?

A I did not see how many, because there were some branches of trees and balustrades of the window that covered the window. I guess so, that there were people in the car.

Q But there were no people when General Yamashita left the house -- there were no people who were outside of the car?

A No, I did not see that.

Q There was no guard around the house?

A It may be that there was, but I did not see. He being a General, it may be that there was; but I did not see because I did not look.

Q You testified, though, that when you looked out you saw several people in the car, but you did not testify that you saw anyone outside; isn't that correct?

A Yes, I saw people in the car, but I did not scrutinize their faces so far.

Q When General Yamashita came into the room he was not accompanied by a staff officer?

A He did not have any companion.

Q Well, an aide?

A No, there was none.

Q In this conversation did I understand you to say that General Yamashita said that he was going to kill every person of the Filipino race?

A That's not what I said, but I heard that he said it, through the interpreter, the child.

Q Did he make any exception of General Ricarte?

A I do not know about that.

Q Did he make any exception of you?

A I do not know.

Q You didn't hear him make any such exception; is that right?

A No; just that he was going to kill the Filipinos.

GENERAL REYNOLDS: The Commission will announce a recess of approximately ten minutes.

(Short recess)

GENERAL REYNOLDS: The Commission is in session. The Defense may proceed.

Q (By Captain Sandberg) Is it your testimony before this Commission that General Yamashita in the presence of strangers, and Filipinos at that, stated that he was going to kill every Filipino?

A He told it to General Ricarte, and I knew it because the child interpreted.

Q And do you mean to tell us that General Yamashita comes to this conference to tell about a massacre of an entire race and didn't even bring an interpreter with him?

A I do not have any idea about him. All that I am telling here is what I heard through the child. This is not my own idea. All that I said is what I heard through the child interpreter.

Q And the only interpreter there was a twelve-year-old child?

A Yes, about twelve years old.

Q Tell us what happened in the room after General Yamashita left.

A Nothing else. They all returned to their seats and I said goodbye to them because it was getting late. And here is what happened: When General Yamashita left, General Ricarte went to his seat. I told him, "Have a seat", and he said, "That man (referring to Yamashita) has no heart and has no god".

Q And then what happened?

A I told him, "It is getting late, General, and thank you for having received me. It is getting late. I am going

home now."

Q And that was all that was said after General Yamashita left?

A Yes. I left already. It was getting dark. I have to walk from Pasay to Dapitan near Quezon City.

Q Do you mean to tell us that you had just heard that a race of seventeen million people was going to be exterminated and you didn't even discuss it?

A I cannot give my own opinion because it is not my idea. It is not my own idea. It is not what I said.

Q I didn't ask you what your opinion was. I asked you whether you wanted the Commission to believe that after hearing a high-ranking General of the Japanese army saying that he was going to wipe out and exterminate every Filipino, you never said anything about it to the people in that room?

A The child said only that the Filipinos are going to be killed and massacred.

Q That was when he was interpreting what General Yamashita said, was it?

INTERPRETER RODAS: That was what the child said.

CAPTAIN SANDBERG: All right, withdraw that.

Q (By Captain Sandberg) So you then left the room and because it was getting late you went home. How long after that were you in Manila?

A No, I did not leave. I was taken on the 17th of February by the military police and taken to Bilibid.

Q In other words, then, you were in Manila from this time shortly before the 20th of December all the way through the time of your arrest on the 17th of February?

A No. We only transferred from Dapitan No. 1436 to Tondo on Gerona Street No. 1236.

Q Both of those addresses are in Manila?

A Yes.

Q So that you moved after hearing about this massacre and you moved from one place in Manila to another; is that correct?

A No. Yes. That's one of the courses.

Q Why didn't you run for your life to get away from this proposed massacre?

A Yes. I already went to hide in that place.

Q You went to hide in Manila?

A Yes. That is somewhere near Quezon City.

Q And you were hiding there?

A I chose that place because it is a good place. There was a chance for us to go to the province if the Japanese happened to get near it or to the mountains.

Q Now, did you tell anybody about this conversation that you overheard?

A Yes. I said -- I told this to many, to my friends to whom I have confidence, and also to my relatives.

Q Well, at the beginning of this examination, I asked you if you had ever told this story to anyone until you sat on that stand, and you said that this was the first time that you were telling that story.

CAPTAIN PACE: I object to that question. The questions that you asked this witness pertained to the time, the eight months, during which he was interned.

CAPTAIN SANDBERG: If the Commission please, I think that the question was not so limited.

GENERAL REYNOLDS: The other questions, however, asked at that time, as I recall, dealt with the period since his arrest, and their nature was why had he not disclosed them to some constituted authority; is that not your understanding of it?

CAPTAIN SANDBERG: My recollection, sir, is that my original questions were general, and asked whether or not he had told it to any persons; and then subsequently I referred to questions asked of constituted authority, and my recollection is that the witness testified that he had never told anyone, in answer to both questions.

GENERAL REYNOLDS: Considering the answer to that one question, I believe you are right, but the series of questions, as I recall them, dealt with the statements he may or may not have made after his arrest. We are perfectly willing to have it hunted up, but I have the feeling

that you may agree.

CAPTAIN SANDBERG: It is my impression, sir, that the first question was general and referred to any statement by him at any time -- which I understand is your impression also.

GENERAL REYNOLDS: Yes. If you wish, we will read it back. We would have to read back the whole series, however. If you wish to do so --

CAPTAIN SANDBERG: That is a matter for the Commission to decide.

GENERAL REYNOLDS: The reporter will find and read back the several questions involved.

(The record was read by the reporter beginning on page 1070, with:

"Q When did you first tell this story to the American authorities?"

to the answer: "Not yet," on the same page.)

GENERAL REYNOLDS: The key question on which I based my statements was asked and answered a little while back:

"When was the first time you told this story to American authorities?"

Then everything else builds up, or did in my mind.

Now you may go on.

(The record was read further by the reporter.)

GENERAL REYNOLDS: Is there need for any more?

CAPTAIN SANDBERG: No, sir, that is enough.

GENERAL REYNOLDS: That is enough. It seems to the Commission that the witness was justified in believing

that your question related to narrating the story to American authorities. Is that not it?

CAPTAIN SANDBERG: I will accept that, sir.

Q (By Captain Sandberg) Now, give us the names of the people to whom you told this story?

A (Through the Interpreter) I cannot tell all of them because they are many, but the first one is Salvadore Cibug; Benedicto Galang -- that person has a barber shop, and all the people in that barber shop I told the story to. Atieno Inchoski; he lives in San Sebastian. Michael Enriques -- and there are many more, and if I will tell all it will take a lot of time.

Q How many would you estimate that you told, very roughly?

A Maybe I told it to around 100 people, and I also told them to tell it to their friends so that the people can escape.

Q Now, if the fact is that you told it to 100 people, and you tried to get the story broadcast, why did you tell us earlier in your testimony that you considered it a secret?

A I don't know if it is the interpreter who made the wrong interpretation. What I want to say is --

(The witness added to his answer.)

CAPTAIN SANDBERG: Let the interpreter finish.

If the Commission please, I would ask that the Commission instruct the interpreter to interpret what the witness said and not permit the witness to interrupt.

GENERAL REYNOLDS: Will the interpreter finish; then

the witness resume.

A (Through the Interpreter) I don't know if it is the interpreter who made the wrong interpretation, but what I wanted to say is that I did not tell the story until I had an opportunity to.

Q (By Captain Sandberg) Well, didn't you tell us this morning --

(The witness continued with his answer.)

THE INTERPRETER: He said, "I thought you were referring to the story that happened, or the conversation that happened between General Yamashita and General Ricarte." He says, "Now, I thought it is about the story of my spreading the story that I heard."

Q (By Captain Sandberg) Now, just a minute. You stated this morning that the story of the Yamashita situation you regarded as a secret; isn't that right?

A (Through the Interpreter) Please understand that the conversation between General Yamashita and General Ricarte is a secret that I kept, and waiting for an opportunity like this to tell. Now, my spreading the news to the people, I made.

Q You regard this as such a secret that you wouldn't tell Mr. Lopus?

A We did not understand each other. I thought what you were referring to is my preferring or putting up my charges before the duty; is what you are referring to as the secret.

CAPTAIN SANDBERG: We understand.

Q (By Captain Sandberg) Now, did you ever see General

Ricarte after this incident?

A No. No, I don't remember if I have seen him or not.

Q Did you know that General Ricarte left Manila on the 30th of December, to go on a speaking tour for the Japanese?

CAPTAIN PACE: If the Commission please, I am convinced that there is no testimony in the record that Ricarte did leave Manila on the 30th of December.

CAPTAIN SANDBERG: If the Commission please, that is why I am asking the question of the witness.

GENERAL REYNOLDS: The question will be answered.

A (Through the Interpreter) What year was that, you are referring to?

Q (By Captain Sandberg) December 30, 1944.

A No, I do not know. I heard that General Ricarte left Manila on December 31, 1944.

Q Now, as a final question, just how did you get in touch with the Prosecution last night?

A They paid a visit there, the place where we sleep.

Q You didn't contact the Prosecution yourself?

A It has been my wish a long time ago to declare, and so I told Mr. Lopus if his letter is going to be answered, to include me as one of the witnesses.

CAPTAIN SANDBERG: That is all.

CAPTAIN PACE: One question, sir.

REDIRECT EXAMINATION

Q (By Captain Pace) Were you picked up by two American army officers at New Bilibid Prison on Friday, November 2, this year?

A Yes.

Q And were you put in the witness stockade here at the Governor's Residence at that time?

A Yes.

Q And did I come and talk to you last night about the testimony that you have given in this case?

A No.

Q Did I see you last night?

A Yes.

Q Did I talk to you?

A I am the one who talked to you.

GENERAL REYNOLDS: The witness may be excused.

(Witness excused.)

DOMINADOR SANTOS

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

DIRECT EXAMINATION

Q (By Captain Pace) Give your name, please.

A Dominador Santos.

Q You will have to speak louder.

A Dominador Santos.

Q Where do you live?

A No. 5 Cuesta, Manila.

Q What is your occupation?

A I am the deputy chief of the Detective Bureau, Manila Police Department.

Q In the early part of February, 1945, what was your occupation?

A I was the executive officer of the North Sector, Manila Police Department.

Q Did you see anything unusual happen on the morning of February 4, 1945?

A Yes, sir.

Q Will you describe it?

A Between 9 and 10 A.M. on February 4th while I was going to the office and the police station I saw a truck on Reina Regente Street, near Soler, stop in front of a building. Six Japanese soldiers left the truck and entered the building. Being suspicious that something may happen, I stopped and make observation for about 20 minutes. There was a sudden explosion and a fire. I did not proceed to my office anymore and I returned home.

Q I show you Prosecution's Exhibit No. 193 for identification and ask you if you can tell what that is?

A This is the place (indicating).

Q What is the whole paper?

A This is a map, sir.

Q Are you familiar with the area which that represents?

A I am familiar with the area, sir.

Q Does that accurately represent that area?

A Yes, sir.

CAPTAIN PACE: I offer it in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 193
for identification was received in evidence.)

Q (By Captain Pace) Will you point out on there the Singer Building about which you are talking?

A Right there, sir (indicating).

CAPTAIN PACE: Let the record show that the witness is indicating the letter "A".

Q (By Captain Pace) How long after the Japanese went into the Singer Building did you see and hear the explosion?

A About 20 minutes, sir, I heard the explosion.

Q Had the Japs left?

A Before the explosion the Japanese left.

Q What happened after the explosion?

A There was a fire, sir.

Q Did you return to that building after that?

A I was already -- The following day, Monday, February 5th.

Q What was the condition of that building and the other buildings in that block?

A They were all burned.

Q I show you Prosecution's Exhibit No. 194 for identification and ask you to tell me what each of these four pages is.

A This is a picture of the building behind the Singer Building.

Q It is a rear view of the Singer Building?

A Yes, sir.

Q Is that the way it looked after the fire?

A After the fire this is the way it looked.

Q Look at the next picture. What is that?

A This shows the picture of the Co Poe Building.

Q Is that the way it looked after the fire?

A Yes, sir.

Q Look at page 3.

A This is the picture of the Singer Building as it appears after some remodeling.

Q What remodeling has been done that shows in that picture that was not present after the fire?

A The roof and these windows, sir. They were not in that position when the fire ruined the place.

Q Look at page 4.

A This is the remodeled picture, also.

CAPTAIN PACE: I offer Exhibit 194 in evidence, sir.

GENERAL REYNOLDS: There being no objection, this is accepted in evidence.

(Four photographs of Singer Building and block were received in evidence and marked Prosecution Exhibit No. 194.)

Q (By Captain Pace) Was there any military fire that landed in that area at the time you saw the Japanese carrying something into the Singer Building?

A There was no artillery fire, sir.

CAPTAIN PACE: You may inquire.

CAPTAIN REEL: Could I have that last question read back, please?

(Question read)

CAPTAIN REEL: And the answer.

(Answer read)

CAPTAIN REEL: I will ask that that be stricken, sir. There was no testimony by this witness that he saw the Japanese carry anything into the building. It is a deliberately-framed question. We object to it and we ask that the question and answer be stricken.

CAPTAIN PACE: If Counsel were right I will agree with him. To make certain I will be sure to get something in the record at this time which I thought was already there.

GENERAL REYNOLDS: There seems to be agreement that the question and answer be stricken.

Q (By Captain Pace) What did the Japs do when they drove up in front of the Singer Building in a truck?

A They were bringing dynamites.

Q Where did they bring the dynamite?

A They took the dynamites inside the building.

Q And did they come out then?

A They came out.

Q Did they bring the dynamite out with them?

A They did not bring anything when they went out.

Q Were any artillery projectiles landing in that vicinity at the time you saw the Japanese do this?

A There was not.

CAPTAIN PACE: You may cross-examine.

CROSS-EXAMINATION

Q (By Captain Reel) Had there been artillery fire during that day?

A I beg your pardon?

(Question read)

A There was no artillery fire, sir.

Q (By Captain Reel) No artillery fire in the area in the vicinity of the Singer Building shown as "A" on this plan, Exhibit 193, on the 4th day of February, 1945? Is that your answer?

A Yes, sir. That is no lie. There was no artillery fire.

Q Were there some airplanes flying above the area?

A I did not observe airplanes flying during that time.

Q I show you the second picture of Prosecution's set of pictures on Exhibit 194, and ask you if this is not the damaged fuselage of an airplane in the lower lefthand corner.

A That is not.

Q Answer loud so he can hear.

A It seems to me that that is not an airplane fuselage.

Q And what do you think it is?

A That might be some -- some military -- military objects that are being left by the Japanese.

GENERAL REYNOLDS: Will you point out to the Commission that which you refer to?

CAPTAIN REEL: This instrument here, sir, on the second picture in the lower lefthand corner.

Q (By Captain Reel) How far away from the Japanese were you standing when you saw them go in the building?

A I was approximately at a distance of about 50 meters.

Q 50 meters. And at a distance of 50 meters, you saw how many Japanese go in?

A Six Japanese.

Q And what did they carry? What was the shape of the article they carried?

A They were carrying somewhat round objects.

Q And from 50 meters away you identified that round object being carried by six Japanese as dynamite, is that correct?

A Yes, sir.

Q Do you know what the Japanese were using the Singer Building for?

A I don't know what they are using that for, but that is the time that -- Before that time there was a Japanese sentinel in front of the building.

Q There was a Japanese sentinel in front of the building. Do you know whether they had naval stores in that building?

THE WITNESS: I beg your pardon?

(Question read.)

A I don't know.

Q (By Captain Reel) What branch of the service were these Japanese in that went in there, if you know?

A They are infantry men.

Q And how did you know 50 meters away?

A Because they were wearing leggings and puttees.

Q And because they were wearing leggings, you assumed that they were infantry men; is that right?

A Yes, sir.

Q And that was the only way you identify them, because of the leggings?

A Because of the leggings and the uniform that they are wearing.

Q Leggings and the uniform. Did you see the "anchors" on the uniform?

THE WITNESS: What is that?

(Question read.)

A I see the uniform.

CAPTAIN REEL: Repeat the question.

(Question again read.)

A (Continuing) Anchors? I saw the uniform of the Japanese soldiers.

Q (By Captain Reel) Could you see any insignia of an "anchor" on that uniform?

A (No response.)

Q Do you know what an "anchor" is?

A Oh! I did not see any "anchor."

CAPTAIN REEL: No further questions.

CAPTAIN PACE: Thank you very much.

(Witness excused.)

CAPTAIN PACE: Mr. Alvarez.

ARMANDO ALVAREZ

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

DIRECT EXAMINATION

- Q (By Captain Pace) Give your name, please.
- A Armando Alvarez.
- Q Where do you live?
- A (Through the Interpreter) 2296 Juan Luna, Tondo.
- Q Where did you work in February, 1945?
- A At the Bank of the Philippine Islands.
- Q What did you do on February 5, 1945?
- A Between four and five o'clock on the afternoon of that day we were all ordered out by the guards, I, my companions, my wife and two children.
- Q Ordered out of the Bank of the Philippines Building?
- A Yes.
- Q Where did you go then?
- A Opposite the Bank of the Philippine Islands.
- Q Did you see anything unusual happen?
- A During the whole midnight nothing unusual happened except we heard shots being fired. The following morning, four o'clock, we were ordered out of the Bank of the Philippine Islands.
- Q What did you see then?
- A When we were ordered out, I first evacuated my two children, and with me is a guard, and we went to the opposite side. I took my children to Dasmariñas Street

and stopped at the corner of Rosario and Dasmariñas, and left my children there under the care of my companions; also the guard.

Q Did you see anything happen?

A When I returned to take my wife, I saw that all our property was scattered, and I saw on the other side a group of Japanese soldiers. Because I want to find out what this Japanese soldiers will do, I tried to recover my property and the articles they had scattered, slowly.

Q What did the Japs do?

A The Japanese were trying to break down door, but when they could not, they break down the glass windows.

Q The door of what building?

A The door of the Bank of the Philippine Islands.

Q Will you point out the location of the Bank of the Philippines Building on Exhibit 193?

(The witness indicated on Prosecution's Exhibit No. 193.)

CAPTAIN PACE: Let the record show the witness indicated the letter "G".

Q (By Captain Pace) What did they do after they broke the window?

A They were trying to break down the door again, but they could not because there is iron bar. I heard a voice order, give command, and I saw a soldier scurry away in the direction of Dasmariñas. He came back carrying rags. The soldier laid the rags in front of two cans of gasoline. One soldier pour gasoline on the rags, and with the help of the other soldiers they began throwing

the rags inside the edifice. When they finished throwing the rags inside the edifice, one soldier ran away carrying a long pole. At the tip of the pole seemed to be rags tied, and it smelled with gasoline. He went directly to an edifice adjacent to the bank, which is burning; he dipped the tip of the pole where is the fire that was lit, and he came back to the edifice of the Bank of the Philippine Islands and threw that pole with the burning tip inside, and suddenly fire spurted out as far as the door where the Japanese stood, so the Japanese ran away. I ran away to help quickly my wife, gather those things we had left, went back to the place where my two children were, took them, and we went away.

Q Was there anything on the end of the pole that he took across the street to set fire to?

A Yes, a white -- looks white. It is considered rags.

Q Was the Bank of the Philippine Islands burning when you left?

A Yes, the whole down part was burning.

Q Did you return in about a week?

A The following morning I tried to return, but I was prevented by the guards. I went back after one week and I found out the whole place was scorched, burnt down.

(A photograph was marked
Prosecution Exhibit No. 195
for Identification.)

Q I show you Prosecution's Exhibit 195 for Identification and ask if you can describe what the first page of that exhibit shows.

A Yes. This part is burned (indicating).

Q What is that a picture of?

A Picture of the Bank of the Philippine Islands.

Q Is that the way it looked when you returned and saw it?

A Exactly the appearance, after one week.

Q Will you look at page 2 and state what that is?

A This is the remains of the Bank of the Philippine Islands.

CAPTAIN PACE: I offer Exhibit 195 for Identification in Evidence, if it please the Commission.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution's Exhibit No. 195 for Identification was received in Evidence and so marked.)

CAPTAIN PACE: You may inquire.

CROSS EXAMINATION

Q (By Captain Reel) How many floors did the Bank of the Philippine Islands have?

A Two stories: one down- and one upstairs.

Q And was the entire building occupied by the bank?

A Yes.

Q And do you know whether the Japanese kept their funds, or any of their funds, in that bank?

A No.

GENERAL REYNOLDS: I don't understand --

Q (By Captain Reel) Were there some vaults in the basement of that bank?

GENERAL REYNOLDS: I don't understand --

A Yes, there are iron vaults.

GENERAL REYNOLDS: You asked if the Japanese kept funds in that bank. I did not understand whether the witness meant to answer he did not know, or that they had no funds in the bank. Will you clear that up?

CAPTAIN REEL: I will straighten that out, sir.

Q (By Captain Reel) When you answered the question relative to funds in the bank, did you mean by your answer that you don't know whether they have funds in there?

A Yes. But what I know is the Japanese Mickey Mouse money.

GENERAL REYNOLDS: Well, is it correct, then, when he said the Japanese did have --

CAPTAIN REEL: Did have funds in that bank.

GENERAL REYNOLDS: They did have. Very well.

Q (By Captain Reel) One more question: Did you see whether these Japanese were Army or Navy soldiers?

A I cannot tell exactly, but what I know, they are Japanese soldiers with caps.

Q Did you see any insignia of anchors on them?

A At that time it was very dark. I cannot tell.

CAPTAIN REEL: That is all.

CAPTAIN PACE: Thank you very much.

(Witness excused.)

GENERAL REYNOLDS: The Commission will stand in recess for just a short time, three or four minutes.

(Short recess.)

GENERAL REYNOLDS: The Commission is in session, and the Prosecution will proceed.

GENERAL REYNOLDS: You asked if the Japanese kept funds in that bank. I did not understand whether the witness meant to answer he did not know, or that they had no funds in the bank. Will you clear that up?

CAPTAIN REEL: I will straighten that out, sir.

Q (By Captain Reel) When you answered the question relative to funds in the bank, did you mean by your answer that you don't know whether they have funds in there?

A Yes. But what I know is the Japanese Mickey Mouse money.

GENERAL REYNOLDS: Well, is it correct, then, when he said the Japanese did have --

CAPTAIN REEL: Did have funds in that bank.

GENERAL REYNOLDS: They did have. Very well.

Q (By Captain Reel) One more question: Did you see whether these Japanese were Army or Navy soldiers?

A I cannot tell exactly, but what I know, they are Japanese soldiers with caps.

Q Did you see any insignia of anchors on them?

A At that time it was very dark. I cannot tell.

CAPTAIN REEL: That is all.

CAPTAIN PACE: Thank you very much.

(Witness excused.)

GENERAL REYNOLDS: The Commission will stand in recess for just a short time, three or four minutes.

(Short recess.)

GENERAL REYNOLDS: The Commission is in session, and the Prosecution will proceed.

VICENTE ARIAS

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

DIRECT EXAMINATION

Q (By Captain Pace) Give your name, please.

A Vicente Arias.

Q You will have to speak louder than that. Where do you live?

A (Through the Interpreter) 211 Carriedo Street.

Q Are you the owner of the Arias Building?

A Yes, sir.

Q Will you look at Prosecution's Exhibit 193 and point out where your building is located?

(The witness indicated on Prosecution's Exhibit No. 193.)

CAPTAIN PACE: Let the record show that the witness is indicating the building -- or the block south of Rizal Avenue, and just to the east of the foot of Rizal Avenue, on Carriedo Street.

Q (By Captain Pace) On the morning of February 5, 1945, did you see anything unusual?

A Yes.

Q What was it?

A On about eleven o'clock in the morning a group of Army men set fire to the north of Carriedo Street.

Q What Army did they belong to?

A The Japanese Army.

Q Will you indicate on Exhibit 193 where you saw the

Japanese setting fires?

A The fire was set on the corner of Carriedo Street and Escolta, thereafter at the corner of Escolta and Rizal Street. From there they set fire to the building occupied by the Romanach music firm. The next building they set fire to was the one occupied by the Music Association, at the corner of Estero Cegado and Carriedo. The next was the Roces Building at the corner of Rizal Avenue and Carriedo.

CAPTAIN PACE: Will the record show that the witness has indicated the buildings on the north side of Carriedo Street, beginning with the unnamed street north and south at the extreme right of the photograph, and he pointed all the way along on Carriedo Street on the north side until he reached Rizal Avenue, to the point marked "L".

Q (By Captain Pace) Will you point out on this exhibit where the Roces Building is?

A It is where the letter "A" is shown.

Q You have mentioned the Romanach Music Store; is that correctly indicated by the letter "M" on this sketch?

A No, sir; it is in front.

Q You mean it is on the north side of the street, instead of on the south side as it is shown here?

A Yes, sir, it is in the north.

Q Now, will you describe how the Japanese set the fires in these five blocks that you have described?

A They started by breaking down the doors of the buildings at the corner of Carriedo, and they poured gasoline and set fire. And they continued with the same

procedure, with the other buildings.

(A photograph was marked Prosecution Exhibit No. 196 for Identification.)

Q Will you look at Prosecution's Exhibit No. 196 and tell what pages 1 and 2 show?

A The photograph I have before me shows the building on the corner of Estero Cegado and Carriedo, where the Romanach business was. The second photograph is of the same building.

Q What are those shacks that appear in the picture?

A One of the buildings is the one occupied by the night club, and the other buildings were occupied by other businesses.

Q Were the shacks that appear on pages 1 and 2 on the exhibit there after the fire, or have they been built since?

A It is after the fire that they were built.

Q And immediately after the fire were any buildings left in the area which you have described?

A The northern part of the night club building.

CAPTAIN PACE: The witness is indicating a concrete structure in the background of the second page of the exhibit.

Q (By Captain Pace) Look at pages 3, 4, 5, and 6, and tell what they are.

A They show part of the building of Roces and the other buildings that were right by the fire.

CAPTAIN PACE: I offer this, Exhibit 196 for Identification, in Evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 196 for Identification was received in Evidence and so marked.)

Q (By Captain Pace) The buildings which you have described were all on the north side of the street, is that right?

A Yes, sir.

Q Your building is on the south side of the street;
right?

A Yes, sir.

Q Did anything happen to your building?

A Yes, sir. It has been partially set on fire.

Q During the hours which you observed the Japanese
doing this, was any artillery being fired into the area
which you described?

A No, sir.

CAPTAIN PACE: You may inquire.

CROSS EXAMINATION

Q (By Captain Reel) Did your building catch fire from
the others?

A A part of the building -- . A part of the fire that
burned my building was through the flames on the other
buildings.

Q Yes. Nobody set fire to the building you were in?
Nobody deliberately set fire to the building that you were
in?

A Yes, sir. The lower part of the building was set on
fire.

Q Was that deliberately set on fire by somebody, or
was that fire started by flames coming from the other
buildings?

A It was deliberately set on fire.

Q How many floors did the building have that you were
in?

A Four floors.

Q And was the Japanese Navy using some of that space?

A Those that set a military outpost at the corner of Rizal and Carriedo Streets were the ones who occupied the building.

Q Were these other buildings that you saw destroyed also occupied by military forces?

A The Roces Building was occupied by the Navy, and the other buildings were not.

Q Do you know what the other buildings were used for?

A The other buildings were not occupied by the Japanese military, but were occupied by their owners and some leases.

Q And were the other buildings warehouses?

A No, sir, they were not warehouses.

Q Did they have storage space in them?

A I don't believe they had warehouse space.

Q What floor of your building were you on when all this occurred?

A On the third floor.

Q And did you stay there and watch all those fires being set?

A We stayed until about three o'clock in the afternoon when we were only able to go out.

Q Did you leave your building before it started burning?

A No, sir.

Q So you were in the building when it was on fire?

A Yes, sir.

Q And was there pretty heavy fighting going on in the vicinity of these burning buildings at that time?

A There was no fire.

Q Didn't you hear any machine guns?

A No, sir, I didn't hear anything of a machine gun sound, but there was a machine gun at the lower part of my building, but I believe it was not used.

Q Did you see the American forces that day?

A Yes, sir. I saw only an American soldier at the corner of Plaza Goiti and Rizal after about ten o'clock in the morning.

Q And that was before these fires were set?

A Yes, sir.

Q Didn't you see some more American soldiers after ten o'clock in that area?

A No, sir. It was until after three o'clock in the afternoon at when we saw in the middle of Rizal Avenue some more Americans.

Q Yes. And by 3:30 in the afternoon that area was pretty well in the hands of the Americans, wasn't it?

A I don't believe the area was well controlled by American forces at that time, and there was no fire.

Q So that whatever American soldiers got there got there without a battle, is that right?

INTERPRETER GOJUNCO: Would you please repeat that?

CAPTAIN REEL: So that whatever American soldiers got there got there without a battle, is that correct?

A Yes, sir; without any resistance.

CAPTAIN REEL: That's all.

CAPTAIN PACE: Thank you, Mr. Arias.

(Witness excused.)

CLAUDE B. PATRICK

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

DIRECT EXAMINATION

Q (By Captain Pace) Give your name, please.

A Claude B. Patrick.

Q Speak up.

A Claude B. Patrick.

Q What work do you do?

A I am an investigator in the office of the War Crimes Branch.

Q What is your rank in the American Army?

A First lieutenant.

Q And in connection with your work have you gone to various portions of the business district in Manila and caused photographs to be taken at designated buildings?

A Yes, sir; I have.

CAPTAIN PACE: At this time the Prosecution offers in evidence Exhibit 197 for identification, the sworn statement of Angel Dionzon.

GENERAL REYNOLDS: Does this affidavit pertain to the testimony of this witness?

CAPTAIN PACE: It describes a building, sir, which this witness caused photographs to be taken of, and I will offer the photographs in evidence if the statement is accepted.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

CAPTAIN REEL: Well, sirs, so far as the Defense is

concerned, we shall not object to the photographs without having the necessity of this exhibit that has just been offered in evidence. If its only purpose is to identify photographs, it is unnecessary. We shall not object to the offering of the photographs.

CAPTAIN PACE: If it please the Commission, this statement is offered to prove that on February 4th four Japanese soaked sacks in gasoline and threw them into the China Bank Building, and then they lit it by throwing a grenade in the building, and that this caused a fire.

CAPTAIN REEL: Sir, I believe the Commission addressed the question to counsel as to what was the connection between this statement he now seeks to introduce and this witness. My understanding was that it was to lay the foundation for the introduction of photographs. That being so, this statement is unnecessary. We shall not object to the introduction of the photographs. We fail to see any connection between this statement and this witness.

CAPTAIN PACE: The photographs won't be particularly illuminating unless there is some evidence to show what the buildings were in the condition that these photographs show them to be in.

GENERAL REYNOLDS: The document will be accepted.

(Affidavit of Angel Dionzon
was received in Evidence and
marked Prosecution Exhibit
No. 197.)

Q (By Captain Pace) Lieutenant Patrick, will you look at Prosecution's Exhibit 198 for Identification and describe what each of the four pages of that exhibit

represents?

A The first photograph is a view of the fourth floor, one corner of it.

The second is also a picture of the fourth floor, the stairway.

The third picture is the exterior view of the China Bank Building.

The fourth one is the north side of the China Bank Building.

Q All four pages represent the views in and around the China Bank Building; right?

A That's right.

Q They correctly portray the way that looked?

A Yes, sir.

Q Will you indicate on Exhibit 193 the location of the China Bank Building?

A The China Bank Building is a building designated by the letter "C".

CAPTAIN PACE: I offer the pictures in evidence as Prosecution's Exhibit 198, sir.

GENERAL REYNOLDS: There being no objection, they are accepted in evidence.

(Four photographs of China Bank Building were received in evidence and marked Prosecution Exhibit No. 198.)

CAPTAIN PACE: At this time I offer Prosecution Exhibit 199 for identification in evidence. It is the sworn statement of You Cheng Pho, taken by investigators of the War Crimes office.

GENERAL REYNOLDS: There being no objection, it will be accepted in evidence.

(Prosecution Exhibit No.
199 for identification
was received in evidence.)

CAPTAIN REEL: Sir, relative to this statement, in addition to our standing objection to the statements and depositions, may we point out that on this line of testimony there has been certain cross examination which has brought out certain facts relative to the use to which these buildings were put. In this case we have a statement put in of a witness who makes certain remarks relative to the use of the buildings, and because it is a statement we are denied the privilege of cross examination. Cross examining the witness now on the stand would, of course, be useless.

We wish to object to this statement on those additional grounds.

GENERAL REYNOLDS: Your objection is based on the fact that you are unable to determine the use to which the building was placed?

CAPTAIN REEL: Yes, sir, and because the man who makes the statement makes certain remarks and statements in there, relative to what he thinks were the reasons why the buildings were picked out -- I think he said because they were concrete --

GENERAL REYNOLDS: Would you point out the particular

statement to illustrate your point, please?

CAPTAIN REEL: Yes, sir. Sir, 11 lines from the bottom of the first page of the statement, which is number 4, the witness says "bombs were not placed in every building, but it seems that the concrete ones were picked out." And further, at the top of the next page the witness says, "So far as I know, the Crystal Arcade Building had no military value." Those are both subjects on which cross examination might be illuminative.

CAPTAIN PACE: I submit, sir, that the Defense is in position to call witnesses and prove whatever they desire about these buildings, or to introduce statements to that purpose.

GENERAL REYNOLDS: Well, the Commission will strike out the sentence at the top of the page which is numbered 5, actually the second page in the document, which reads as follows: "So far as I know, the Crystal Arcade Building had no military value," and if the Defense wishes, the Commission will strike out the sentence on page 4, or the first page of the document, which reads, "Bombs were not placed in every building, but it seems that the concrete ones were picked out." With those exceptions, the document is accepted in evidence.

(A photograph was marked
Prosecution Exhibit No. 200
for identification.)

Q (By Captain Pace) I ask you to look at Prosecution Exhibit 200 for identification, and describe what the first four pages of that are.

A The first photo shows the front of the Yutivo Sons

Hardware Company. The second one is also a picture of the front of the building, and also one side. The third picture is one of the top floor. The third one is a photo of the rear part of the Yutivo Hardware Company. The fourth photo is a view of the west wall of the Arcade Building, Crystal Arcade Building. The fourth one is a view of the front of the Arcade Building. The next one is a view of the east side of the building.

Q How many pictures have you of Yutivo?

A There are four pictures of Yutivo.

Q The first four pages of the Yutivo Hardware, is that right?

A That is correct.

Q What are the remaining ones?

A The first picture is a view of the westwall of the Crystal Arcade Building. The second or the fifth picture -- the sixth picture, is a view of the front of the Crystal Arcade Building. That is on Escolta Street. The seventh picture is a view of the east wall of the Crystal Arcade Building. The eighth picture is a view of the interior of the Arcade Building. The ninth picture is a view of the northwestern corner of the Crystal Arcade Building. The tenth photo is a view of the front of the Arcade Building. The eleventh picture is a view of the interior of the Crystal Arcade Building. The twelfth is a view of the east side of the Crystal Arcade Building. The thirteenth picture is a view of the interior of the building.

Q Will you indicate on Exhibit 193 the location of Yutivo Building and the Crystal Arcade?

A The building is designated by the letter "I".

Q Which building?

A The Crystal Arcade Building, on Escolta Street.

Q How about Yutivo Hardware?

A The Yutivo Hardware Building is designated by the letter "F".

CAPTAIN PACE: At this time I offer Prosecution Exhibit 200 for identification in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No.
200 for identification
was received in evidence.)

(A statement was marked
Prosecution Exhibit No.
201 for identification.)

CAPTAIN PACE: At this time I offer another sworn statement in evidence, Prosecution Exhibit No. 201 for identification.

GENERAL REYNOLDS: We will ask the Defense if there are statements they wish to call to the attention of the Commission especially?

CAPTAIN REEL: No, sir; just the blanket objection.

GENERAL REYNOLDS: There being no additional objection, the document is accepted in evidence.

(Prosecution Exhibit No.
201 for identification
was received in evidence.)

CAPTAIN PACE: If it please the Commission, this statement is offered for the purpose of discussion of the Kiasco Habanera Building at 27 Escolta Street, and the Cu Unjien Building, 103 Escolta, and the destruction of

these two buildings caused fires which burned every building on the north side of Escolta between Nueva and T. Pinpin Streets.

(A group of photographs was marked Prosecution No. 202 for identification.)

Q (By Captain Pace) I show you Prosecution Exhibit 202 for identification, containing eight pages. Will you identify those?

A The first picture is a view of the south side of the Cu Unjien Building. The second picture is also a view of the south side of the Cu Unjien Building. The third picture is a view of the southeast corner of the Cu Unjien Building. The fourth picture is a view looking west from the Cu Unjien Building towards T. Pinpin Street, one block down. The fifth picture is also a view looking west from the Cu Unjien Building to T. Pinpin Street. The sixth building is a picture of the north and east walls of the Philippine National Bank Building. The seventh picture is a view of the east wall of the Philippine National Bank Building. The eighth picture is a view or partial view of the west wall of the Philippine National Bank Building.

Q What street are those buildings on?

A Escolta Street.

Q Which side of Escolta?

A The Cu Unjien Building is on the north side of Escolta.

Q How about the bank building?

A The bank building is on the south side of Escolta.

Q Where is 27 Escolta?

A 27 Escolta is the corner which is designated by the letter "H".

Q On the pictures you have been shown, it portrays the area generally between the area "H" and the letter "K"?

A That is right.

CAPTAIN PACE: At this time I offer Exhibit 202 for identification in evidence, sir.

GENERAL REYNOLDS: There being no objection, they are accepted in evidence.

(Prosecution Exhibit No. 202 for identification was received in evidence.)

(A statement was marked Prosecution Exhibit No. 203 for identification.)

CAPTAIN PACE: At this time I offer Prosecution Exhibit 203 for identification in evidence. It is the statement of Michael Goldenberg, taken by the investigators of the War Crimes office and sworn to by the deponent.

GENERAL REYNOLDS: Is there any particular statement which the Defense wishes to invite attention to?

CAPTAIN REEL: No, sir, there is no additional objection. We wish to call the Commission's attention to the dates on which these statements that are introduced within this line of questioning were taken; merely pointing out that they are since the beginning of this hearing, since the arraignment, sir.

GENERAL REYNOLDS: Well, I don't see quite what you mean, but I grant that that is the case.

CAPTAIN REEL: Well, sir, there are statements relative to the branch of service that the various operatives were engaged, were members of, and we wish to point out

that the statements were taken after the arraignment in this case and after the subject was a matter of general discussion.

GENERAL REYNOLDS: There being no additional objection, the document is accepted.

(Prosecution Exhibit No. 203 for identification was received in evidence.)

(A group of photographs was marked Prosecution Exhibit No. 204 for identification.)

Q (By Captain Pace) I show you Prosecution Exhibit No. 204 for identification, and ask you to identify each of the three pages of that exhibit.

A The first picture is a view of the Chun Sing Building. It is also a view of the two buildings adjoining to the west. The second picture is a view of the Chun Sing Building. The third picture is a view looking east toward the Chun Sing Building.

CAPTAIN PACE: I neglected to state that the statement of Mr. Goldenberg was offered to prove the burning of the Chun Sing Building by Japanese carrying a five gallon can of gasoline.

At this time, we offer Exhibit 204 for identification in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 204 for identification was received in evidence.)

(A statement was marked Prosecution Exhibit No. 205 for identification.)

CAPTAIN PACE: At this time, we offer Prosecution Exhibit No. 205 for identification in evidence.

GENERAL REYNOLDS: Is there any particular statement to which Counsel wishes to invite attention?

CAPTAIN REEL: No, sir.

GENERAL REYNOLDS: There being no additional objection, the statement is accepted in evidence.

(Prosecution Exhibit No.
205 for identification
was received in evidence.)

CAPTAIN PACE: Sir, this last exhibit was offered to prove the destruction of the Goldenberg Building and the Fernandez Building by the Japanese.

(A group of photographs
was marked Prosecution
Exhibit No. 206 for
identification.)

Q (By Captain Pace) I show you Prosecution Exhibit No. 206 for identification, and ask you to describe each of the pages which it contains.

A The first photo is a view of the remains of the Goldenberg Building. The second picture is a view of the south wall of the Fernandez Building. The third photo is a view of the corner of the Fernandez Building, also the front of it. It is a corner building.

CAPTAIN PACE: I offer Exhibit 206 in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No.
206 for identification
was received in evidence.)

CAPTAIN PACE: You may inquire.

CAPTAIN REEL: No questions.

(Witness excused.)

GENERAL REYNOLDS: We will stop here; we will take no further witnesses tonight.

The Commission has an announcement to make. In the proceedings of 1 November, 1945, in the presentation concerning item number 22 of the Bill of Particulars, starting on page 641 in the record and continuing through page 643, the Commission ruled against the receipt of affidavits or depositions proffered by the Prosecution, on the grounds that they were not substantiated even in part by oral testimony.

After further consideration, the Commission reverses that ruling and affirms its prerogative of receiving and considering affidavits or depositions, if it chooses to do so, for whatever probative value the Commission believes they may have, without regard to the presentation of some partially corroborative oral testimony.

Therefore, the Commission directs the Prosecution again to introduce the affidavits or depositions then in question, and other documents of a similar nature which the Prosecution stated had been prepared for introduction. The Commission will rule upon the introduction of each of these affidavits according to their merits, as they are introduced.

We shall be in recess until 8:30 tomorrow morning.

(Whereupon, at 1735 hours, 5 November 1945, the trial was adjourned to 0830 hours, 6 November, 1945.)

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

UNITED STATES OF AMERICA)

-vs-)

TOMOYUKI YAMASHITA)

) PUBLIC TRIAL
)
)
)
)
)

High Commissioner's Residence,
Manila, P. I.
6 November 1945

Met, pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

MAJOR GENERAL RUSSEL B. REYNOLDS, Presiding Officer
and Law Member

MAJOR GENERAL LEO DONOVAN

MAJOR GENERAL JAMES A. LESTER

BRIGADIER GENERAL MORRIS C. HANDWERK

BRIGADIER GENERAL EGBERT F. BULLENE

APPEARANCES:

(Same as heretofore noted)

REPORTED BY:

E. D. CONKLIN

L. H. WINTER

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

UNITED STATES OF AMERICA

PUBLIC TRIAL

-vs-

TOMOYUKI YAMASHITA

High Commissioner's Residence,
Hawaii, P. I.
8 November 1945

Met pursuant to adjournment, at 0830 hours.

MEMBERS OF MILITARY COMMISSION:

MAJOR GENERAL RUSSELL I. REYNOLDS, Presiding Officer
and Law Member

MAJOR GENERAL LEO ROYOVAN
MAJOR GENERAL JAMES A. BESTER
BRIGADIER GENERAL MORRIS C. HANAWAY
BRIGADIER GENERAL ROBERT F. BULLIEN

ATTORNEYS:

(Same as heretofore cited)

REPORTED BY:

L. N. WINTER
F. B. SOWELL



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I N D E X

WITNESSES

	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Gilbert B. Ayres	1126	1127	1128	1128
Benita Lahoz	1131	1150		
Sister Nelly de Jesus Virata	1151			
Rosalinda Andoy	1161			
Rosa Calalang	1169			
Sgt. Graciano Castro	1172			
Luis Gallent	1182	1192		
Sancho Enriquez	1193	1203		
Juan D. Palada	1206	1211		
1st Lt. Frank J. Shideler	1212	1215		
Major Gilbert B. Ayres (Recalled)	1218	1229		
Major Frank J. Middelberg	1234	1240		
Eugene Bayot	1242			
Father Belarmino de Celis	1247	1269		

E X H I B I T S

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
208		1180
209	1212	1213
210	1213	1214
211	1214	1215
212	1215	1215
213		1223
214		1224
215		1225
216		1225
217		1227

EXHIBITS (Cont'd)

<u>PROSECUTION EXHIBIT NO.</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE</u>
218	.	1228
219	1243	1244
220	1245	1247
221	1249	
222		1267
223	1267	1267
224	1267	1268
225	1268	1268

P R O C E E D I N G S

GENERAL REYNOLDS: The Commission is in session. The Prosecution will proceed.

MAJOR KERR: Sir, all the members of the Commission are present, the Accused and Defense Counsel are present, and the Prosecution is ready to proceed.

Before proceeding, however, I should like to point out two errors in the record. On page 603, line 6, the word "crosses" should read "crossed", and on page 642, line 9 --

GENERAL REYNOLDS: Hold it just a minute. 603?

MAJOR KERR: Line 6. The word "crosses" --

GENERAL REYNOLDS: Should be what?

MAJOR KERR: "Crossed". Page 642, line 9, the word "matter" should read "manner".

Sir, the Prosecution and Defense stipulate at this time that these changes may be made.

GENERAL REYNOLDS: Very well.

CAPTAIN PACE: Major Ayres.

MAJOR AYRES: Major Ayres reporting as a witness, sir.

MAJOR GILBERT B. AYRES

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

DIRECT EXAMINATION

Q (By Captain Pace) Give your name, rank, organization.

A Gilbert B. Ayres; major, Headquarters 37th Infantry Division.

Q What was your assignment, Major, during January and February of 1945?

A I was the assistant G-2 of the 37th Division.

Q Were you in the operation which resulted in the liberation of Manila?

A Yes, sir.

Q Where were you during that operation?

A Well, most of the time at the Division C.P. which moved around, depending on the tactical situation.

Q In your capacity as assistant G-2 were you familiar with the artillery missions of the Division Artillery and to some extent the Corps Artillery?

A Well, to a limited extent as to the general objectives of the Artillery.

Q I show you Prosecution Exhibit 193 in evidence and ask you if the American Artillery fired any missions into the area shown on that sketch.

A There were no artillery missions fired north of the Pasig River at any time.

Q By the American Artillery?

A By the 37th Division Artillery and by the Corps Artillery, to the best of my knowledge.

CAPTAIN PACE: You may inquire.

CAPTAIN REEL: May we have your indulgence for a few moments, sir.

CROSS EXAMINATION

Q (By Captain Reel) Will you tell us, sir, whether in your capacity as G-2 of 37th Division you had access to the records of G-2 of the 14th Corps?

A Yes, sir. We used to see the G-2 periodic reports daily.

Q And would you be able to identify certain material that appeared in those records and clarify it?

A I could probably identify some of the reports; yes, sir.

Q I am reading to you an extract from page 85 of the M-1 operations document of the 14th Corps. Are you familiar with that document?

A Is that the report after action or is that the operations order?

Q That is the report after action.

A I have not seen 14th Corps Report after action.

Q And you are not familiar with that?

A No, sir.

CAPTAIN REEL: No other questions, sir.

REDIRECT EXAMINATION

CAPTAIN PACE: May I ask one more question, sir.

Q (By Captain Pace) Do you know whether or not the Japanese strongly defended the area immediately north of the Pasig River?

A There was no very strong defense north of the Pasig River.

CAPTAIN PACE: Thank you.

RE CROSS EXAMINATION

Q (By Captain Reel) But did the terrain and situation that you found north of the Pasig River indicate a hasty withdrawal on the part of the war troops that had been there?

A Yes. There was some indication that they had gotten out of there rather rapidly.

Q Was there any mortar fire from the American side in that area?

A To the best of my knowledge we dropped no mortar fire in that area.

Q Was there any air bombardment?

A That is, no air bombardment immediately preceding our arrival. Now, some time before we may have bombed in the area, but I wouldn't know about that specifically.

Q Were areas immediately south of the Pasig River subject to artillery fire?

A At what time?

Q At any time.

A Subsequent to February 7th, yes, sir.

Q Any before that?

A On the 6th but not before the 6th.

Q Was there any aerial bombardment prior to the 6th of February south of the Pasig River?

A To my knowledge, none that we had gotten ourselves.

Q But you had --

A We were not permitted to use any air support south of the Pasig River.

Q But you wouldn't have any information relative to any aerial bombardment of the various Air Forces?

A By any of the strategic Air Forces bombardment I would have no knowledge of it.

Q Do you have in your possession a captured Order No. 43 dated 3 February from the Imperial Naval Defense Command relative to action north of the Pasig River?

A No. I do not have such an order in my possession.

Q Does the office of G-2 of the 37th Division have such an order?

A Any orders of that type we would have transmitted to higher headquarters had we captured them.

Q And do you know whether or not you did capture such an order?

A I don't recognize the number.

Q Well, if I tell you, sir, that the M-1 operations on the part of the 14th Corps states that there was captured Order No. 43 dated 3 February from the Imperial Naval Defense Command relative to demolitions north of the Pasig River, does that refresh your recollection as to whether any such order was captured?

A No, sir; it does not.

CAPTAIN REEL: That's all, sir.

FURTHER REDIRECT EXAMINATION

Q (By Captain Pace) Major, there was an order, was there not, put out by Corps that no artillery or tactical air support would be used north of the Pasig River; is that right?

A Yes, sir; we received such an order.

CAPTAIN PACE: Thank you.

CAPTAIN REEL: Nothing further.

(Witness excused)

CAPTAIN PACE: If it please the Commission, that completes a partial presentation on the part of the Prosecution of evidence in support of the Bill of Particulars Nos. 15 and 25.

MAJOR OPINION: If the Commission please, these two cases, which will be tried jointly, are known as "Santa Rosa College" described in Bill of Particulars, Paragraph 50, and "Santo Domingo Church," Bill of Particulars, Paragraph 53. In view of the close connection between the two cases, we submit them for trial to the Commission.

Mrs. Lahoz.

BENITA LAHOZ

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

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name.

A Mrs. Benita Lahoz.

Q Age?

A 31.

Q Address?

A Nurses' Home, Psychopathic Hospital.

Q Nationality?

A Filipina.

Q Where did you reside during the early part of February, 1945?

A I was in Intramuros.

Q What part of Intramuros did you reside in?

A San Juan de Dios Hospital.

Q When did you reside in that hospital?

A The early part of January.

Q Can you state the date, more or less?

A Well, I have been working there ever since. That is why we had been residing there the early part of January,

because of the forced labor. I cannot remember very well the date.

Q With whom did you reside?

A With my husband, who was a doctor in the San Juan de Dios Hospital.

Q Was your husband holding any position in the hospital?

A He was the resident physician in the hospital.

Q During the early part of February, 1945, was he holding any other position in addition to the one that you have stated?

A In the early part of February, you mean?

Q Yes.

A Well, he was appointed as acting director, because the director of the hospital was not there anymore.

Q On or about 2 or 3 February, 1945, did you try to get out from the Intramuros, you and your husband and your family?

A That was February -- (pause).

Q Yes, February.

A The 2nd?

Q Or 3rd.

A No, because we were not able to go out anymore, because the bombing started on February 2.

Q But did you have any intention of going out?

A We really intended to go out that time, because it was Sunday the next day, but we were not able to go out anymore.

Q Were you prevented by sentries from going out?

A Yes, because there were sentries all throughout the

gates of Intramuros.

Q On 3 or 4 February, 1945, did you hear any blastings in and around Intramuros?

A Around Intramuros, yes; it was the blasting of all the bridges across the Pasig River.

Q Do you mean to say that the Jones, Santa Cruz Bridge --

A Yes.

Q And the Ayala Bridge?

A Yes, and Quezon Bridge.

Q On 4 February, 1945, were you notified by a prison guard, I mean by a neighborhood guard, with reference to an order received from the City Hall?

A Yes.

Q What was that order?

A He told us that there was an order from the City Hall that all windows should be closed, and anybody who tried to peep would be shot, because they might be suspected that they are enemy or spy or something.

Q Did that guard tell you whose order was that?

A No, he just told that he came from City Hall, and being a neighborhood leader in Intramuros he had to notify us in the hospital.

Q On 5 February 1945 were you visited by two Spanish women in the hospital?

A They are not exactly visitors, but they tried to seek refuge to the hospital.

Q Did they tell you anything about the order, or any incident?

A They told us that that night all the men were taken

and the women were left in their houses, so they tried to come to the hospital, thinking that it would be safer for them to stay in the hospital.

Q Did they say where the men were taken to?

A They didn't exactly tell us where the men were taken.

Q Did they mention anything to you about Fort Santiago?

A I think -- yes, I think I remember that.

Q Did they mention to you anything about Santa Rosa?

A No, they did not tell us about it.

Q On 6 February, did you have any Japanese visitor in the hospital?

A Yes, a group of them came to us maybe around 20 to 25 Japanese.

Q Were there any officers with them?

A There was a medical officer, and I think one was a -- I don't know if he is a colonel or what of the army, who was stationed near the hospital; that was the Muralla.

Q What did he do in the hospital?

A They tried to inspect the hospital.

Q Did he ask permission from anybody with respect to the inspection of the hospital?

A They tried to ask my husband, then they asked my husband to go with them around the hospital.

Q Did he inspect the hospital?

A They inspected all the hospital and forced open all the closed rooms.

Q What was the purpose of inspecting the hospital?

A They said that after the inspection -- they told my husband that they received a message that the hospital was

trying to communicate with the Americans, that that is why their gun emplacement in Muralla was being the target.

Q The target of what?

A Of the shelling of the Americans.

Q Did they inspect the hospital?

A They inspected the hospital.

Q Did they find anything?

A Unfortunately they didn't find anything.

Q You say that there was among the officers, one officer who appears to be a medical officer. How do you know he was a medical officer?

A Because he told us that he was a doctor.

Q Did they tell you their rank?

A No, but I think he was an officer.

Q To what unit did he belong, if you know?

A I think they are in the army, Japanese army.

Q Now, please state, Mrs. Lahoz, anything that happened or took place since that date up to the date of 17 February, 1945. Please state to the Commission.

A It was February 6 when this group of Japanese officers and some soldiers came to the hospital. They tried to inspect the hospital, and even forced open all our private rooms, thinking that we had some radio communication with the Americans. That is why they tried to be very strict in inspecting our place. Even the antenna of the Sisters of San Juan de Dios, they thought it was working but they saw that it was not connected. So they told my husband to make a list of all the employees and all the nurses and all the patients, because we are under -- we are like

prisoners, and we cannot go out of the place without telling them. Then later in the afternoon, the fire in Intramuros already started, then this Japanese came back to us and he ordered us to prepare some medicine and food-stuffs and be ready to evacuate to Santa Rosa College. That was the ruins of Santa Rosa College. Then about 4 o'clock we started to go out of the hospital, and then the fire was already coming towards us. Then we went to Santa Rosa College. When we were there it was already about 7 o'clock; it was very dark --

Q Just a minute, please; pardon me. You say that you were ordered to evacuate. By whom were you ordered to evacuate?

A By the Japanese soldiers who came to us.

Q Was the evacuation for all the personnel, patients, interneers of the hospital?

A We don't know, because when we went to Santa Rosa we saw the civilians there already.

Q At the time you were ordered to evacuate, how many more or less patients, interneers, medical attendants, nurses and doctors, were living in the hospital?

A We were more than 100, I suppose; more than 100.

Q And when you were ordered to evacuate, you then went out of the hospital?

A Yes.

Q Were all the patients also taken out of the hospital in pursuance of that order of evacuation?

A Not all of the patients, because we could not carry them all. The weak ones were left and were burned in the

hospital.

Q How many patients were left in the hospital which you could not carry?

A About five of them.

Q Do you remember the names of them?

A I can't remember the names.

Q How did you know they were five?

A Because we already know that they were bed patients.

Q Did you ask the permission of the Japanese officer in command of evacuation to take out those five patients from the hospital?

A No. It was this -- before they told us to evacuate, they did not allow the patients to be carried, but my husband tried to plead with them to please allow even those who could walk, so that those that were not able to walk were left there and they were burned.

Q All right. Please proceed. When you were already in the Santa Rosa College, what incidents have taken place?

A When we were in Santa Rosa College -- that was February 6, in the afternoon -- there were already fires all over the place, and then we tried to seek shelter, but every now and then the Japanese would come to us and try to drive us away, but we cannot do anything; we have to stay inside. And then the next day -- that was February 7 -- we had to cook our breakfast early in the morning, so we tried to get water outside of Santa Rosa College. When I went outside I saw still two men tied on one of the posts near the warehouse. I don't know what that warehouse is, near Santa Rosa College --

Q How far was that post from Santa Rosa College?

A It is just the next block.

Q More or less how many meters?

A It was around about 10 meters from the gate of Santa Rosa College.

Q On what side of Santa Rosa College, as you enter Santa Rosa College?

A It is on the left side.

Q Do you know the Domingas Building, or the Gutierrez Building?

A I think it is the Gutierrez Building. I don't know very well the place there in Intramuros.

Q You mean to say only the next house immediately from the Santa Rosa College?

A Yes.

Q Please proceed.

A And then I saw that there were two men still tied and still half burning, and then we went to take water -- in coming back, I saw in the -- is that a street? No, it is not a street; that little plaza near Santo Domingo Church, the one in the back. There is a small plaza there.

Q Postigo Street, or Solana Street?

A It is in front of the YMCA, Navy YMCA, before. There is a plaza there, with an acacia tree. Then I saw several men tied with their hands at the back and without any clothes. And then I went back to Santa Rosa College to cook our breakfast --

Q Now, on 8 February, 1945, did the Japanese visit Santa Rosa College?

A February 8?

Q Yes.

A Yes, a group of them visited, including that medical officer that I saw that went to investigate in the hospital.

Q What time did they visit?

A That was about maybe between 9 and 10 o'clock in the morning.

Q What did he do there?

A They tried to see around if all the hospital persons are dead, and then afterwards they told my husband that they would have to get the internees.

Q Did they get the internees?

A They got all our internees.

Q When was that?

A That was February 8.

Q What time more or less?

A Between 9 and 10 o'clock in the morning.

Q Who were the internees taken out from the Santa Rosa College?

A One was Mrs. Ada Aplin, Mr. Leo Gump, Mr. Huebch, Mr. Kenneth Huebch, Mr. Benson, Father Von Russell, Mr. Mitchell, and there was another one -- I cannot remember his name.

Q What was the nationality of these persons you have mentioned? Were they foreigners or Filipino?

A They were foreigners.

Q Do you know where these persons were taken to?

A My husband tried to ask them where they would be taken, but they said they just take them somewhere and just

don't worry about them.

Q Specifically, you mentioned these names, Kenneth Huebch --

A "Huebch" is the pronunciation.

Q What was his nationality?

A He was an American.

Q How about this Mrs. Ada Aplin; what was her nationality?

A I think, so far as I can remember, she said she was French, born in France.

Q How about this Mr. Edgar Christensen? What was his nationality?

A Well, he was a civilian -- (pause)

Q How about this Leo Gump?

A He was an American.

Q And Father Von Russell?

A I don't know exactly the nationality.

Q Mr. Mitchell?

A American.

Q Among these internees who were taken out from the hospital, were there Filipinos?

A No, none of them.

Q Do you know Mr. Cuevas?

A He was Spanish, I suppose.

Q Was he taken too?

A He was taken with us. They thought he was an American.

Q How about this Mr. Benson?

A He is an American.

Q Were all these persons just mentioned internees who

were taken out of the hospital?

A Yes.

Q Now, please proceed. What happened after a while?

A That was -- (pause)

Q After these internees were taken by the Japanese, what did they do with them, if you know?

A We don't know what they did, but they just took them out and --

Q After they had taken these internees, what did the Japanese do in the ruins of Santa Rosa College?

A They go there once in a while to see us.

Q On February 14, have you been visited by a Japanese officer who was drunk?

A Yes.

Q What did he do?

A That was February 14 about 3 o'clock in the afternoon. He just came inside, and he ran after us with his bayonet, and we can't do anything but just run around that compound, because we cannot go out; otherwise we are going to be --

Q Would you say that he was chasing everybody inside the Santa Rosa College?

A Everybody, yes.

Q What happened with him afterwards?

A I don't know, but he just happened to go out, and then after that another officer came and asked --

Q Just a minute, please. Did that drunken Japanese officer fall down while he was chasing you?

A Yes.

Q Was he wounded or injured?

A I think he was wounded.

Q Now then, you saw that a Japanese officer came after a while?

A Yes.

Q When that Japanese officer came, was this drunken Japanese officer still there inside?

A No, he was not there anymore.

Q What did this Japanese officer do?

A He tried to ask us if anybody tried to hit this drunk officer, because he left us the cover of his bayonet inside the ruins.

Q What was the answer to that question?

A Well, we said we don't know, because he was drunk and he used to fall because he was chasing us; he used to tumble down.

Q On February 17, 1945, about 2 o'clock in the morning, what happened in the Santa Rosa College ruins?

A About 2 o'clock we heard shouts of women outside. I mean outside, because it is a little bit far from our house where we take shelter. Then afterwards one of our attendants came to us and he said, "Doctor, you are wanted by the Japanese."

Q The name of that attendant?

A I can't remember exactly what is her name, but she was one of our attendants. And then after that, I tried to wake up my husband and told him that the Japanese were here, trying to ask for him, so he put on his shoes right away, then he called his other companions and they went outside. And after that we did not see each other anymore, because

they were taken out of the ruins already.

Q When did that take place?

A February 17, about 2 o'clock in the morning.

Q Was your husband with companions or was he alone?

A He was with his companions.

Q What were the names of the companions?

A Doctor Noriega, who is another resident in our hospital, and Doctor Corrales, who is a private practitioner, a dentist who tried to seek refuge in the hospital, and three other attendants, boy attendants.

Q Do you know Mr. Urrutia?

A Yes.

Q What was he?

A He was the husband of one of our patients.

Q Was he an attendant or --

A He volunteered as an attendant during the -- when we were there in Santa Rosa already.

Q How about this Conrado Pili?

A He is a patient, but he volunteered as an attendant also.

Q And you said that the six of these persons, including your husband, were taken out. Who was that Japanese officer who took them out of the college? Was he the same one who has been visiting your place?

A No, I think they belonged to the navy, because they had a different uniform, black -- something like black -- and they had long beards.

Q Did not the Japanese tell those persons taken out by them where they were taking them to?

A No, they didn't tell us anything.

Q Now then, did your husband and his companions come back?

A No, only Mr. Urrutia was able to come to the Santa Rosa.

Q When did he come to Santa Rosa ruins?

A He came the next morning already, about 7 o'clock in the morning.

Q Was Mr. Urrutia wounded or unscratched?

A He was wounded. He had three bayonet wounds in the buttocks.

Q Did you have an opportunity to see him and talk to him?

A Yes, I was able to talk to him.

Q Where?

A In the ruins already.

Q Of Santa Rosa College?

A Santa Rosa College.

Q What conversation did you have with him?

A I asked him where they were taken, and he said that they were --

Q Speak a little louder; face the Commission.

A I asked him where they were taken, and he told me that they were taken to Santo Domingo Church. That is just in front of Santa Rosa College. And then I asked him also if he saw how my husband died, and he said, "Yes, I saw him, and he was bayoneted and he died instantly. Then afterwards, they bayoneted me also in the back and I fell because I fainted and they thought I was dead already, so they did not

come to bayonet me again." So that next morning he was able to crawl to Santa Rosa College and ask for treatment and give him water.

Q What did you do after you received this news from Mr. Urrutia, with respect to the death of your husband?

A Well, I tried to ask a favor from that Japanese by the name of --

Q Wait a minute, please. Did you yourself, or send somebody else to ascertain the death of your husband?

A That day I asked one of our attendants.

Q What was her name, or what was the name?

A I forgot the name.

Q Was it a female or male?

A A female attendant, because we had no more male at that time. I asked her to please go around and see if she can trace any blood or something that -- or she can see that they are all there inside the Santo Domingo Church, because I suspected already that they must be there, because before that we heard that several persons were killed inside the Santo Domingo Church.

Q And what did that female attendant do after she was requested by you?

A She went to Santo Domingo Church, then when she came back she told me, "Yes, Mrs; your husband is there. He is dead."

Q And on the 19th day of February, 1945, what did you do with regards to the body of your husband?

A I tried -- I asked the favor from that Lieutenant Takahashi to please accompany us to Santo Domingo Church to

take the body and be buried.

Q Who is that Lieutenant Takahashi?

A He was a frequent visitor to Santa Rosa College. He said he is an officer in the army.

Q Was he a pure-bred Japanese or a half-bred Japanese?

A He told us that his mother was a Filipina and his father was a Japanese.

Q Did he speak Tagalog or in English?

A He can speak Tagalog and English.

Q Was he sympathetic to you and to the hospital internees and patients?

A Not exactly sympathetic, but if we ask him something he tried to do also what he can for us.

Q You say you asked him for permission to bury your husband?

A Yes.

Q Did he grant that permission?

A He told us to wait and he will ask first his high officer, and then later on he came back and he told us to go with him.

Q And did he come back?

A Yes.

Q As promised?

A He did.

Q Were you given permission to bury your husband?

A Yes, we were.

Q What did you do then, after a while?

A On the 19th, in the morning, he came back and then he told us to bring along about 15 women with us to help in

burying our dead, so we went out and we took the body of my husband and the rest of his companions to be buried. Then after that he told us to bury all the dead that were dead near the compound of Santo Domingo, and we saw around 30 dead women and children. One was beheaded; one of the women that we saw was beheaded. She was around 20 to 25 years old.

Q You say one woman was beheaded?

A Yes.

Q Was her head entirely cut off from her body?

A Yes, it was separated from her body. And then we saw another woman that was with her clothes raised until the waist and her legs all swollen and her part was still bleeding. Then after that, we tried to bury all those dead --

Q You say that her "part" was bleeding?

A Yes.

Q Will you please state more specifically? You mean to say that her genital organs --

A Yes.

Q -- were oozing blood?

A Yes, her genital organs was oozing blood.

Q Was it wounded?

A I can't see, because it was swollen already.

Q Please proceed.

A Then after that, we tried to bury all the dead. We just put them inside the dugouts that were built by the Japanese around the compound of Santo Domingo. And after that, they told us to go back in the ruins.

Q How many bodies, more or less, were buried by you and

your companions that day?

A Oh, we buried around 30 bodies, women and children.

Q Were there still bodies still unburied when you left the premises?

A I don't know exactly if there were still bodies.

Q You mentioned about Santo Domingo Church; will you please state to the Commission how far was Santo Domingo Church from Santa Rosa College?

A It is just right in front of Santa Rosa College.

Q The entrance, the main entrance of the Santo Domingo Church -- to what building was it facing?

A It was facing the main street in Juan Luna, the main entrance of Santo Domingo.

Q On the right side of the Santo Domingo main entrance, in going out from the church, where was Santa Rosa College?

A On the right side.

Q Now, please proceed. After you had returned, what did you do?

A We stayed in the ruins. We stayed in the ruins for almost a week after that.

Q And Japanese visited you again during that time?

A Oh, they come now and then, especially at night.

Q Did they take out some women from the ruins of Santa Rosa College?

A They took several women already, and then they take by families.

Q Were there shelters inside the Santa Rosa College?

A Not exactly shelter, but those huts that were built by the women with galvanized iron.

Q Were there any females wounded inside Santa Rosa College ruins?

A Yes, there were many wounded.

Q Who wounded them and where were they wounded?

A They were wounded -- during that night that my husband was taken, there were several wounded, that were bayoneted also. They came to us for treatment, about ten of them, with bayonet wounds.

Q At the time your husband was taken, and his companions were taken, by the Japanese, how many Japanese were there?

A Where?

Q From Santa Rosa College ruins?

A I don't know exactly how many Japanese were there.

Q Were there many?

A I think so, because every now and then different groups come inside Santa Rosa.

Q Was there any Japanese officer with the group?

A Yes, that Takahashi was also there.

Q To what unit did this Takahashi belong?

A He said he was the artillery.

Q Was he an army officer or a navy officer?

A Army officer.

MAJOR OPINION: That is all. You may cross-examine.

GENERAL REYNOLDS: The Commission will be in recess for approximately 10 minutes.

(Short recess)

GENERAL REYNOLDS: The Commission is in session.

Proceed.

CROSS EXAMINATION

Q (By Captain Sandberg) Was there any shell fire in Intramuros?

A There was continuous shelling.

Q There was shell fire?

A Yes.

Q Did you notice that the shelling was causing fires to start?

A Yes.

Q In the latter part of January did you hear that the Japanese were urging the civilians residing in Intramuros to leave that place?

A No. We did not hear anything like that.

Q During that time did the Japanese distribute rice to members of the civilian population?

A Do you mean when we were in Santa Rosa College?

Q Before that.

A No. They did not distribute any rice in Intramuros.

Q Do I understand that they distributed rice after you were in Santa Rosa College?

A When we were in Santa Rosa College this Takahashi tried to give us several sacks of rice to be given to the civilians.

Q And he did give you several sacks of rice?

A Yes, he did.

Q And you received no rice prior to that time?

A No.

Q Were you in Intramuros on the 25th of February?

A I was not there any more.

Q When did you leave Intramuros?

A February 23rd.

Q How did you get out?

A We were taken by the American soldiers across the river already.

Q On the 23rd of February?

A Yes.

Q While you were in Intramuros do you recall hearing a broadcast from the Americans to the Japanese inside Intramuros?

A No, we didn't hear anything.

Q I mean not a radio broadcast but loud speakers which broadcast an appeal to the Japanese to surrender.

A No, we didn't hear anything.

Q You say that the Japanese you saw were members of the Navy?

A Those that took my husband, I suppose, were from the Navy because they wore different uniforms. They wore black -- black suits and they had long beards.

CAPTAIN SANDBERG: That's all.

(Witness excused)

SISTER NELLY de JESUS VIRATA

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

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name, age and other personal circumstances.

A My name is Sister Nelly de Jesus Virata, Sister Nurse of San Juan de Dios Hospital.

Q Age?

A 33 years old.

Q Address?

A My address is in 277 General Solano, San Miguel, Manila, Singian Clinic.

Q Nationality?

A Filipina.

Q Where were you residing on 7 February 1945 and prior to there?

A I was in Intramuros in San Juan de Dios Hospital.

Q You were then a Sister Nurse of that hospital during that time?

A Yes, sir.

Q And you were taken to the Santa Rosa College by order of the Japanese officers of the Japanese armed forces?

A Yes, sir. They went there early in the morning and ordered us to leave the hospital.

Q And you left the hospital?

A We didn't leave at once the hospital. We stayed the whole day then. They told us that only the employees of the hospital must leave the hospital, leaving the patients behind; but we fight for it. We told them that we were in that place not for anything but the patients.

Q How many patients were there there at the time?

A There were all around more than 120 in the hospital patients.

Q I am just speaking about patients alone. How many

more or less were there?

A I think the patients are around 90.

Q 90?

A Yes, sir.

Q And how about the hospital attendants? How many were there?

A We have more than 45 hospital attendants; between 45 and 50.

Q How many resident physicians were there in the hospital?

A We had two medical physicians, one dentist and one chemist.

Q How many patients who were foreigners?

A We had six in all national patients; I mean to say, those white patients.

Q Were there any internees in the hospital?

A There were internee patients. They came from Santa Tomas College.

Q Because of the order that was given to leave the hospital did you take all these patients, internees?

A We tried our best to bring them all, only in my department there were four bed patients left behind.

Q Were they tubercular patients?

A They were all tubercular patients.

Q What was the condition of their health at the time you left the hospital?

A They were all weak because they lacked food and medicines.

Q All of you left the hospital, did you?

A We did except the four bed patients that I have in my ward.

Q Can you name those four bed patients?

A I can't exactly now remember their names, but they are three males and one female.

Q You say that they were left there when you left the hospital?

A We didn't intend to leave them. We came back purposely for them because we wanted to carry our patients along with us. We carried two patients on our shoulder, but the Japanese in guard of the hospital didn't allow us to enter any more.

Q What happened with them?

A They were burned alive.

Q How do you know that?

A Because the next day after the hospital was burned we came back to look for something that we could get for the use of other emergencies. We found them all dark like charcoal, as a sign that they are burned.

Q When did you arrive at the ruins of Santa Rosa College?

A We arrive on the evening of February 6th between 5:30 and 6:00 in the evening.

Q What happened in the Santa Rosa College, if anything happened, while you were in that college?

A Leaving the hospital of San Juan de Dios we were guided by the Japanese to that ruin of Santa Rosa College and we were told to stay there. We were begging the guide if we could leave Intramuros, but he said we cannot and we have to stay inside. So we were taken and we stayed in the

ruins of Santa Rosa College.

Q While you were in Santa Rosa College did the Japanese take any group of persons who came from the San Juan de Dios Hospital?

A They did. They did come and they took -- First of all, it was noontime of February 8th. They took all our internee patients.

Q How many were they?

A They were seven in all.

Q Were they foreigners or Filipinos?

A They were all foreigners.

Q Showing you this statement marked Prosecution's Exhibit 207 for identification, will you please state if you know that statement?

A Yes, sir. I know this.

Q Whose statement is that?

A That is my statement.

Q There are lists of names of internee patients, attendants and helpers of the hospital numbering 40. Will you please read silently these names and tell if you still remember that they were forming a part of the group of evacuees of the San Juan de Dios Hospital?

CAPTAIN REEL: Sir, with due deference to the Commission and solely for the protection of the Defense, we wish to object to this. This witness is on the stand and counsel is attempting apparently to use a statement of the witness who is on the stand and through this indirect method putting portions of that statement into the record. We object to that, sir.

MAJOR OPINION: Sirs, we don't specifically know what is the legal objection of Defense Counsel.

GENERAL REYNOLDS: Is it your purpose merely to give her this list to enable her to refresh her memory?

MAJOR OPINION: No, sir. This exhibit will entirely be submitted as part of our evidence, but the question speaks exclusively on the listed names of patients and hospital attendants as well as interneers to refresh the memory of the witness, because it is her own statement given at a time when she had a fresh recollection.

GENERAL REYNOLDS: Do you propose to introduce the entire statement?

MAJOR OPINION: Yes, sir.

GENERAL REYNOLDS: We see no particular benefit to having her do it twice. Do you have some reason for doing so?

MAJOR OPINION: Sir, it is only for the purpose, as I said, of identifying names. That's why our question exclusively refers to the names listed on it.

CAPTAIN REEL: Sir, may I point out that the Commission has already ruled on this question in the case of a previous witness where a similar attempt was made and the Commission quite correctly ruled it out.

GENERAL REYNOLDS: If you are just seeking to refresh her memory there is no objection. You may proceed.

MAJOR OPINION: Yes, sir. That is the purpose, sir. Will you read the question, sir?

(Question read)

Q (By Major Opinion) Specifically, please, referring

to page 2 of Exhibit 207 on the upper portion of said page there is a list of names of internee patients, their ages and their nationalities. Were they taken out of the Santa Rosa College wings?

A Yes, sir. They were all taken out on the noontime of February 8, 1945.

Q By whom?

A By the Japanese.

Q Who were the Japanese?

A With an officer and four soldiers.

Q Do you know where they were taken to?

A We were not told where they were taken, but they were taken out of the wing of Santa Rosa College.

Q In the lower part of page 2 of said exhibit there is also a list of names of attendants and helpers of the hospital. You have just read their names. Will you please tell the Commission if the persons named therein had been taken out also from Santa Rosa College wings?

A These persons were all our hospital boys and helpers. They were all taken on the 10th of February, 1945.

Q At what time?

A In the morning after breakfast.

Q By whom?

A By the Japanese with an officer also. We asked the Japanese where they will be taken and they told us that they will use them only to dig up their trenches, but the whole day pass --

Q What trenches, please?

A The trenches of the Japanese. That's what they answered.

Being in charge of all the male patients I was interested what was going to be done to my patients. So I take the pain of asking the Japanese officer where those patients will be taken, because some of them are weak, some of them have vomited blood. But yet they were all taken instead.

Q Did you see these persons after a while?

A They didn't come back any more with the exception of the two patients, a Chinese and a Filipino, who came back the next day early morning around 5:00 o'clock.

Q What were their names?

A They came to me running with bayoneted wounds in their body. I asked them where they had been, because the Japanese took them. That was the day before they came. And they told me that they were all locked up in Fort Santiago, distributed in the different cells; some were bayoneted and others were burned. I don't know the rest they said.

Q After the conversation you had with these two patients what happened in the Santa Rosa College?

A The Japanese every now and then used to visit the vicinity. Sometimes they used to come from tents to tents, because we have no buildings at all. We used the galvanized iron in the buildings as our tents. We can't do anything. We have to submit. And then on the 17th of February at midnight our medical doctors were taken.

Q Who were the names? Who are they?

A They were Dr. Manuel Lahoz, being the chief physician, supposed to be the chief physician at the time; Dr. Cecilio Noriega, another assistant; Mr. Luis Urrutia, a dentist; Dr. Leandro Corrales and Lazaro Cordero, and one patient,

Mr. Conrado Pili.

Q Did you see them after a while?

A We saw them but they were dead, with the exception of Mr. Luis Urrutia who came to us the next day groaning with wounds in his body.

Q Did you help to bury the bodies of these physicians you have just mentioned?

A I did.

Q Did you see any other bodies besides the bodies of the hospital doctors or attendants?

A We saw plenty. We saw women and children dead, lying dead among the ruins of Santa Domingo Church.

Q Did you see any woman whose dress was raised up to the waist?

A We did see it.

Q How many women?

A Several.

Q On the 10th of February, 1945 did you see any civilians hanging by the neck from an electric light post?

A I saw four civilians, male. Some are naked, others were only in short carsoncillos, we call it. They were all hanging from the post dead.

Q Was it an electric post?

A No. They were tied by the rope. The post that they use is the electric post.

Q Were they still living or dead when you saw them?

A They were dead already when I saw them.

Q Did you see who hung them?

A I didn't see. I saw them only hanging.

Q On the 12th of February, 1945 did you see any Filipino civilians stripped of their clothing?

A Yes, sir. We were -- It was around 9:00 o'clock in the morning. I was accompanied by some girls and one sister. We were digging water in a dugout. It is not a well but it is a dugout where we could get some water for our drinking. On our way we saw two male civilians being overtaken by Japanese officers. They were caught, they were undressed, and then their hands were tied at the back and they were tied to the post of one of the burning buildings on the right side of the ruins of Santa Rosa College.

Q What happened to these two?

A They were burned alive.

Q How do you know that?

A We were there. We were watching until they were finished burning.

Q Was there any Japanese soldier?

A Yes, sir. They were watching with a fixed bayonet

Q Were the two Filipinos able to get out from the place of burning?

A They were not able because they were tied. Their hands were tied at the back, their body; their chests were tied to the posts.

MAJOR OPINION: That's all. We would like to introduce in evidence Exhibit 207.

CAPTAIN REEL: Sir, we object. We understood that when the examination was permitted to continue after our last objection counsel for the Prosecution stated in answer to a question from the Commission that the purpose of using

the statement was merely to refresh the witness' recollection. We object to the introduction of this statement, Sirs.

MAJOR OPINION: Sirs, please, our offer is just that 207 as a part of our testimony in support of the listed names.

CAPTAIN REEL: That is precisely what we object to. Apparently it is now stated that this is not offered merely to refresh the witness' recollection.

GENERAL REYNOLDS: Is there anything in this document which is material and which has not been covered by oral testimony of the witness?

MAJOR OPINION: Nothing, sir.

GENERAL REYNOLDS: There seems, then, to be no necessary purpose to its introduction and it is therefore excluded from the record.

MAJOR OPINION: That's all.

CAPTAIN REEL: No questions.

(Witness excused)

MAJOR OPINION: That concludes our evidence in so far as Bill of Particular No. 50 is concerned.

GENERAL REYNOLDS: Does the Defense have any cross examination?

CAPTAIN REEL: No questions.

ROSALINDA ANDOY

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

DIRECT EXAMINATION

MAJOR OPINION: Do you believe in God?

THE WITNESS: Yes.

MAJOR OPINION: Do you confess?

THE WITNESS: Yes.

MAJOR OPINION: Do you know that to tell a lie is a sin and it is punished by our Lord that you may be sent to jail?

THE WITNESS: Yes.

Q (By Major Opinion) What is your name?

CAPTAIN REEL: Sir, before we begin may we know upon what items of the Bill of Particulars this testimony is to be offered?

MAJOR OPINION: 53, sir.

GENERAL REYNOLDS: 53?

MAJOR OPINION: Yes, sir.

GENERAL REYNOLDS: Very well.

Q (By Major Opinion) Your name?

A My name is Rosalinda Andoy.

Q Age?

A 11.

Q Where do you reside?

A Torres Refugee Home.

Q Before Intramuros was burned where were you living?

A I was in our home.

Q Where was that?

A 53 Magallanes Street.

Q Intramuros?

A Yes, sir.

Q When did you leave your house on 53 Magallanos?

A I cannot remember.

Q Was it in the afternoon or in the morning?

A In the afternoon.

Q Where did you go?

A (No response)

Q Was that near a cathedral?

A At the church; Manila Cathedral.

Q Who ordered you to leave your house and go to the Manila Cathedral?

A The Japanese.

Q Did you go to the Manila Cathedral as ordered by the Japanese?

A Yes, sir.

Q Were you accompanied or alone?

A We were many.

Q Who were your companions?

A We were many. My mother, my father, and my aunties.

Q Did you have any brothers there?

A No, sir.

Q Sisters?

A No, sir.

Q And at what time did you arrive at the Manila Cathedral?

A It was during the afternoon, but I cannot remember the time.

Q Was it dark or clear day yet?

A Still quite clear.

Q How many days did you stay in the Manila Cathedral?

A Only one day.

Q From the Manila Cathedral where were you taken?

A At the Santa Rosa Church.

Q Please repeat again the answer. My question is, where were you taken from the Manila Cathedral?

A At Santa Rosa.

Q When did you arrive in Santa Rosa? Was it night time or day time?

A In the afternoon.

Q Who were your companions?

A Our entire family.

Q How about your father, was he with you?

A He was no more with us.

Q Why? Where was your father?

A He was killed by the Japanese.

Q Where was your father when he was killed?

(The witness began to weep.)

Q Where was your father when he was killed?

A He was killed in Fort Santiago.

Q From where was he taken?

A At the church, the Manila Cathedral.

Q When you were assembled with your mother and aunts in the Manila Cathedral?

A Yes.

Q From the Santa Rosa College were you taken out?

A Yes.

Q Where were you taken?

A We were taken to Santa Rosa College.

Q My question is, were you taken out from Santa Rosa College?

A Yes.

Q Where were you taken?

A We were ordered to go to Santo Domingo.

Q Who ordered you?

A The Japanese.

Q How many were these Japanese?

A I could not count them.

Q How many of you were taken to Santo Domingo?

A The entire family.

Q What happened while you were being taken to Santo Domingo?

A Our homes were burned.

Q Now, you say that you were taken out of Santa Rosa College and marched to Santo Domingo. Why were you taken out from that college and led to Santo Domingo?

A Because the houses of the village were already burned.

Q What happened in Santo Domingo when you arrived at that place?

A Right away we were thrown some grenades.

Q By whom?

A The Japanese.

Q Were you able to enter into the Santo Domingo Church as you were being led to that place?

A No more.

Q Did the Japanese tell you how to enter Santo Domingo?

A No.

Q Were you grouped by the Japanese?

A Yes.

Q Did the Japanese tell you how many must compose a

group?

A . No.

Q Did the Japanese tell you only three of you would get into the Santo Domingo Church?

A No, sir.

Q Where is your mother now?

A She is no more.

Q Why?

A She was killed by the Japanese.

Q Where was your mother when she was killed?

A Right there at Santo Domingo.

Q Inside or outside of the church?

A Inside.

Q How do you know she was killed by the Japanese?

A She was beside me.

Q How about you, were you wounded?

A Yes, sir.

Q Who wounded you?

A The Japanese.

Q With what weapon were you wounded?

A Bayonet.

Q How many wounds did you sustain?

A Thirty-eight wounds.

Q Who was the companion of your mother when she was bayoneted?

A We were three, including me.

Q What was the name of the third one?

A Salin.

Q Now, you say that you have sustained 38 wounds.

On what parts of your body were you wounded?

A In different parts of my body.

Q On your left arm did you sustain any wound?

A Yes, sir.

Q Will you please show to the Commission that left arm and tell the Commission how many wounds there are?

A (Exhibiting left arm) Ten wounds.

Q And how about your right arm, did you sustain any wound at that time?

A Yes, sir.

Q Do you have any scars on that arm?

A Yes, sir.

Q How many?

A Four.

Q Will you please show the Commission that right arm?

(The witness exhibited her right arm.)

Q Were you wounded in the chest?

A Yes, sir.

Q Will you please show the Commission the scars on your chest?

(The witness raised her dress and exhibited portions of her body.)

Q Did you count how many scars there are?

A I cannot remember now.

Q All right. On your abdomen did you suffer any wound?

A Yes, sir.

Q Will you please show to the Commission the scar of

your wound on the abdominal portions, region?

(The witness exhibited scars on her abdomen.)

Q As a result of that wound in your abdominal region, did your intestines protrude, or come out?

A Yes, my intestines came out.

Q Did you suffer any wound in your back?

A Yes.

Q How many wounds were there?

A Only one, sir.

Q Will you please show the Commission that wound in your back?

(The witness exhibited her back.)

Q And your legs, how many wounds did you sustain?

A Five, sir.

Q Before your mother died did she tell you anything?

A Yes, sir.

Q What did she tell you?

A She cautioned me to be always good.

Q Did she tell you that she was dying then?

A Yes, sir.

Q Where did you sleep that night?

A At Santo Domingo.

Q By the side of your mother?

A Beside my mother.

Q Was she dead already then, when you slept with her?

A Yes, sir.

Q Now, when did you get out from the Santo Domingo Church?

A Already in the morning.

Q While you were inside Santo Domingo Church and by the side of your mother, did you see any child tossed up in the air and received with the bayonet as it came down?

A Yes, sir.

Q Did you know who that boy or baby was?

A Yes, sir.

Q What was the name of the baby?

A Totoy.

Q How old was the baby?

A About three months, sir.

Q Who tossed him up in the air?

A The Japanese.

Q Who received him with the bayonet?

A The Japanese also.

Q The same Japanese who threw him up?

A Yes, sir.

Q Was the boy wounded?

A Yes, sir.

MAJOR OPINION: That is all.

CAPTAIN REEL: No questions.

(Witness excused)

ROSA CALALANG

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

DIRECT EXAMINATION

Q (By Major Opinion) Please state your name.

A (Through the Interpreter) Rosa Calalang.

Q Age?

A Thirty-two.

Q Address?

A 2462 Tindalo Street.

Q On the 14th of February, 1945, were you in Santo Domingo Church?

A Yes, sir.

Q Do you know Doctor Corrales?

A Yes, sir.

Q Did you see him in that place?

A Yes, sir.

Q Did you see him while he was wounded?

A We didn't see, but we saw him wounded, dead beside us.

Q Did you hear him utter a word at that time?

A Yes, sir.

Q What was he saying?

A "Please help me, rest my head. I could hardly breathe. Please help me, rest my head; I could hardly breathe."

Q Did you see him after awhile when he was dead -- or alive, still alive?

A I saw him dead already.

Q In the following morning of that day did you see a man tied to a post of a burning warehouse?

A Yes, sir.

Q Was he male or female?

A A male.

Q Was he dead?

A Already dead.

Q Who hanged him, do you know?

A The Japanese.

Q How do you know?

A I saw them.

Q When he was being hanged did you see the Japanese hang him?

A Yes, sir.

Q Did you see another man tied at the elbow, also hanging to a tree?

A Yes, sir.

Q Was he female or male?

A Male.

Q How old was he?

A He was in his teens, about 18.

Q Did you see any Japanese push a man toward a burning building?

A Yes, sir.

Q Do you know that man?

A No, sir.

Q Do you know the mother of that man?

A I know the mother of that man.

Q What happened with that man who was being pushed to the burning place?

A He died.

Q Of burning, or of wounds?

A He died because of burn.

MAJOR OPINION: That is all.

CAPTAIN REEL: No questions, sir.

(Witness excused.)

MAJOR OPINION: That concludes our evidence, sir, with respect to these charges in 53.

GENERAL REYNOLDS: That concludes your evidence on Items 50 and 53?

MAJOR OPINION: Yes, sir.

GENERAL REYNOLDS: The Commission will be in recess for approximately ten minutes.

(Short recess.)

GENERAL REYNOLDS: The Commission is in session. The Prosecution may proceed.

SERGEANT GRACIANO CASTRO

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

CAPTAIN CALYER: If the Commission please, we are now about to present testimony with reference to the items covered by Bill of Particulars No. 52 and Supplemental Bill of Particulars No. 68, both commonly referred to as "Fort Santiago."

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

CAPTAIN REEL: Sir, might we have a moment to check on this Particular that is in the new Bill?

GENERAL REYNOLDS: You may.

CAPTAIN REEL: If the Court please, on 68 we have not yet prepared for that particular specification.

GENERAL REYNOLDS: The Prosecution is reminded the Commission directed there be coordination between the Prosecution and Defense with respect to the Bills of

Particular to be handled by date, so that this would not happen.

MAJOR KERR: Sir, I have been submitting a list to counsel for the Defense each day, concerning these cases which we intend to take up. These cases were on yesterday's list, that we did not reach yesterday; I had an agreement with counsel that this would be taken up. The two particulars both relate to Fort Santiago. One covers one period, and the other covers the end of that period on to the period covered by the change.

GENERAL REYNOLDS: When was notice given to counsel that Item No. 68 would be covered yesterday?

MAJOR KERR: I don't recall now, sir. I thought it was on last Saturday, was it not?

COLONEL CLARKE: We received a list marked "Monday, 5 November 1945," at which time I told Major Kerr I would check it over and then check up with him. We haven't had time to do that, sir. We came in late on it, then we ran into this Lopus witness on Saturday and we spent all the week-end working on that particular witness' testimony. We haven't had time to take any of these that are marked in this list: 68, 97, 77, 89, and 100.

MAJOR KERR: Well, sir, if the Commission so desires, we will take these cases up at a later time, although I am frank to say that there is a limit to the delay that we can bear on this. We can go ahead with other cases that are in the original Bill of Particulars.

GENERAL REYNOLDS: Is there any reason why you cannot proceed with No. 52?

MAJOR KERR: Well, sir, that breaks the case exactly in half, and I think it would be confusing to the Commission, and it would be unsatisfactory to the Prosecution to handle the case in that manner. We would like very much to present it all at one time.

COLONEL CLARKE: If the Court please, these Bills of Particular are broken in that way. Had they been in the original bill, we would have been ready for them, sir.

GENERAL REYNOLDS: How long now has the defense had this Supplemental Bill of Particulars? Is it not ten days?

COLONEL CLARKE: Friday before the 29th, sir.

GENERAL REYNOLDS: In order to avoid a condition such as this, the Commission authorized counsel two additional assistants. Have they been utilized?

COLONEL CLARKE: Sir? Yes, sir.

GENERAL REYNOLDS: In order to avoid a condition such as this the Commission authorized counsel two additional assistants. Have they been utilized?

COLONEL CLARKE: Yes, sir. One has been. The other one reported in and went to the hospital that afternoon, sir.

GENERAL REYNOLDS: The Commission would have provided a substitute.

COLONEL CLARKE: If the Commission please, I don't know whether you realize or not that we have been working on this night and day. We don't have time to do anything. When this man went into the hospital on us we found it out late that night. We sent the other man out to work and we haven't had time to request anybody to replace him. These men are not lawyers. They are taking the statements as best they can. They cannot take them as fast as some of the Defense Counsel would take them. If we were given a certain amount of time we would be ready and prepared to go through the entire testimony at that time, sir.

GENERAL REYNOLDS: The Commission will insist that counsel have adequate time to prepare the Defense and we are most eager to proceed expeditiously. If we eliminate

the two items you have placed before us for presentation today, do you have other witnesses with which you can proceed?

MAJOR KERR: Yes, sir. It does handicap us but we will proceed, sir. We had not anticipated doing so now, but we can do so.

May we inquire, sir, as to when the Defense will be ready to proceed with these other cases? Frankly, sir, it took the War Crimes Commission some three months to investigate these matters and I cannot conceive of the Defense undertaking a similar investigation with any less period of time.

GENERAL REYNOLDS: Let the Commission answer that. We realize the tremendous task which we placed upon the Defense and with which they are faced and it is our determination to give them the time they require. We ask that no time be wasted and we feel confident that you will not waste any, and we will see to it that you get time to prepare your Defense.

COLONEL CLARKE: Yes.

GENERAL REYNOLDS: Therefore the Prosecution is directed to proceed with other items.

MAJOR KERR: Could we have an understanding at this time as to when we may take up Fort Santiago?

COLONEL CLARKE: Which is that? Which number?

CAPTAIN CALYER: These two.

MAJOR KERR: I might say, sir, that we have American officers who are scheduled to leave with a Division, we understand very soon, who are essential witnesses in this

case. I should like to put it on just as soon as Defense Counsel can be prepared to their own satisfaction.

GENERAL REYNOLDS: The Commission is rather of the impression that you ought to be able to proceed with one item today. It may not be the smoothest way of presenting it, but the Commission can separate the two and later link them together. What would be the objection to proceeding with the first item today?

MAJOR KERR: Sir, the only thought was to avoid confusion and to make a continuous and clearer record. However, if it is the Commission's preference we would be very glad to proceed now with that portion of the Fort Santiago incidents which relate to or are covered by 52. We are prepared to do that now, sir.

COLONEL CLARKE: Satisfactory to us, sir.

GENERAL REYNOLDS: Proceed with Item 52.

CAPTAIN CALYER: If the Commission please, I would like to point out that Item 52 covers the latter part of the period which would have been presented with those items under consideration at this time.

Q (By Captain Calyer) Will you state your name, please?

A Graciano Castro.

Q How old are you?

A I am 32 years old, sir.

Q What is your position at the present time?

A I am Sergeant in the Philippine Army, sir.

Q Located in Manila?

A (No response)

Q Are you stationed in Manila?

A G-2 Section, Headquarters, Philippine Army, sir; APO 501.

Q I show you a document consisting of three pages marked for identification as Prosecution's Exhibit 208 and ask you if you can state what that is. First, the first page.

A This is the sketch of Fort Santiago, sir.

Q What is the second page?

A The second page is the index or the legend of the sketch, sir.

Q And the third page?

A The third page is the continuation of the details of the said sketch, sir.

Q By whom was that sketch made?

A This sketch, sir, was made by me.

Q Upon what information did you act when you drew that sketch?

A The information was gathered from my little stay in Fort Santiago for two days. A very great help was gotten by Captain Torres of G-2 Section and Lieutenant Salagisten who supplied maps and who told me he stayed there for seven months.

Q Did you also use a handbook?

A I also used -- I was also given a map which contains the City of Manila wherein the Fort Santiago is identified.

Q Does that sketch truly represent the condition of Fort Santiago as it was in February of this year?

A According to information, sir, according to those

who had been confined in the said place, Fort Santiago, this represents the place during 1944.

CAPTAIN CALYER: If the Commission please, I offer Exhibit 208 in evidence.

GENERAL REYNOLDS: There being no objection, it is --

CAPTAIN SANDBERG: If the Commission please, Defense Counsel has no objection to the first page, which is a chart of Fort Santiago. However, the second and third pages are most improper and we are indeed surprised that the Prosecution has offered them. Under the guise of a "legend" the Prosecution is attempting to put into evidence matters that have not yet been proved and may not be proved. I call the Commission's attention to the second page, sixth line from the top. It is most improper to offer this type of evidence. And I call the Commission's attention further to the fourth paragraph, subdivision (E).

GENERAL REYNOLDS: We will interrupt and let us handle these item by item.

In "(2)" at the top of the page in question we will exclude all except the words "Investigation Room" from the first and second lines.

CAPTAIN REEL: And subdivision (B).

Do I understand, sir, that you are excluding the entire second subdivision except those words?

GENERAL REYNOLDS: "(2)" will read as follows:

"Quarters - Cells - Investigation Room".

In the line which begins with a "B" the words "Water-Cure-Torture" are excluded.

In the line starting with a "G." the words

" & Torture Room" are excluded.

In "(4)" of the same page the matter within the parenthesis is excluded which reads as follows: "(Where alleged 3 assailants of Pres. Laurel were tortured to death)".

Also in "(4)" and the line starting with "E!" the words "Torture Chamber" are excluded.

CAPTAIN CALYER: If the Commission please, to save the time of going through the rest of this legend I shall be satisfied to withdraw the legend and offer only the sketch.

CAPTAIN SANDBERG: That is agreeable.

GENERAL REYNOLDS: That is agreeable. The entire legend is excluded from the exhibit in question, but the Prosecution is cautioned to make thorough check of these documents to be sure that such matters which are clearly not proper to be attached to an exhibit are excluded.

MAJOR KERR: Sir, may the record show that the Prosecution voluntarily withdraws that portion of the proffered exhibit which consists of a legend and that we may at a later time seek to re-introduce that portion.

GENERAL REYNOLDS: The comment of the Prosecution is noted by the Commission.

CAPTAIN CALYER: If the Commission please, may we have a ruling on the offer of the sketch itself?

GENERAL REYNOLDS: The sketch is accepted in evidence.

(Sketch of Fort Santiago was received in evidence and marked Prosecution Exhibit 208.)

CAPTAIN CALYER: You may examine.

CAPTAIN SANDBERG: No questions.

(Witness excused)

CAPTAIN CALYER: Luis Gallent.

LUIS GALLENT

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please.

A Luis Gallent.

Q Where do you live?

A In Nagtahan Street, 78.

Q In February, 1945, where did you live?

A In Wall City. I live in 88 Postigo, Intramuros.

Q Sometime in the early part of February, 1945, did you have an experience with some Japanese?

A Yes, sir; we did.

Q Will you tell the Commission what happened beginning at about 5 February 1945?

A Early in the morning the Japanese came into the house and they wanted to find out if we had anything in the house.

Q What happened?

A They searched all the house and they wanted to take us, but they talk about it and finally they didn't get us. My brother was taken over to Fort Santiago at that time until next day they didn't bother any more.

Q Did there come a time when the Japanese returned to your house?

A I beg your pardon?

Q Did there come a time when the Japanese returned to your house?

A Yes. On the next day we were advised we had to go

over to the cathedral.

Q By whom were you so advised?

A We received the first advice by the man in charge of Wall City.

Q Who was he?

A Mr. -- I can't remember right now his name.

Q What did you do as the result of that information?

A As the result of that information we asked a favor to stay in our house, because according to these people there was going to be street fighting. I was advised by the gentleman not to stay in the house because it was quite dangerous, but finally he decided to let us in the house.

We moved to the neighbor's house. It was pretty heavy house. And while we were having our supper a Japanese came in and told us to go straight to the cathedral. He did not allow us to bring anything over to the cathedral.

Q Did you see that Japanese?

A I beg your pardon?

Q Did you see that Japanese?

A Yes, sir; I did.

Q Do you know what branch of the service he belonged to?

A No. I don't remember exactly.

Q Did you go to the cathedral?

A We went to the cathedral.

Q About how many people were assembled there?

A About from three thousand to five thousand, including women and children at that time.

Q Were they all civilians?

A All civilians.

Q Did there come a time when that group was divided?

A In the next morning we spent the whole night in the cathedral, and early the next morning before we had our breakfast the Japanese came in and assembled all the men in the outside of the church. Then he told us that we were going to work for the families to get some water. We stayed the whole day assembled until late in the afternoon.

Q What happened in the afternoon?

A Later in the afternoon they took us -- Instead of going to forced labor they took us to Fort Santiago.

Q How many were taken to Fort Santiago?

A From 2000 plus.

Q What happened after you got to Fort Santiago?

A They search us, they took everything we had, and they put us in different cells. In a cell of those were about 60 to 80 people inside. We couldn't sit down because it is too crowded.

Q How many people were in the cell in which you were confined?

A From 60 to 80 people in each.

Q All right. What else happened?

A We stay like that for almost half the night. Early in the morning they came up and take out 20 of the men inside the cell.

Q Were you included in that group?

A I was included when they were taking me outside, but they started counting on the outside, but I was turned back to the cell again.

Q Do you know what became of those others who were

taken away?

A We never heard from them any more.

Q You then went back to your cell; is that correct?

A Yes, sir.

Q What happened after that?

A After that we stay almost early in the morning. We had about from 40 more. The cell was so crowded we could not sit down any more. We had to stand.

Q Can you tell me the names of any people who were taken to Fort Santiago with you?

A My brother and my father, Mr. Felix Arlegui, Mr. Iturre, Mr. Fernandez, Luis and Alfredo, two brothers, Mr. Garcia, Fernando, and Mr. Garcia, Francisco.

Q Will you proceed to tell me what happened at the time that this additional group was put in your cell?

A Then we stay all crowded up there. We couldn't move any more until two days, without getting any water or any food.

Q What happened after that?

A After that one of the boys, a Spanish boy who was with us, he got so sick because of the conditions that he lay down. We called the sentry to give us some things to provide this boy with because he was so dizzy, and finally there was a soldier who brought inside a coconut shell of water. But we were not able to give it to the boy because everybody was so thirsty they jump all over it.

Q What sanitary facilities were provided in the cell?

A We had a little hole in the cell. That was the only thing we had.

Q What happened later in that day?

A Later in that day they took us -- After this gentleman came over at the place we were taken over to a new cell. We were only Spanish in the new cell that we were taken.

Q How many of them were you in that cell?

A About 9.

Q What happened after that?

A After that we lay down the whole night up to the next day. Nothing of importance came during that time.

Q On the following day what occurred?

A On the next day the sentries came in and pick us four and we were taken over to the fire station in Wall City to get some food.

Q What food was that that you were to get?

A That food was the food that the families were bringing. The families were bringing that food several days before.

Q And did you get any food?

A We had a few things that the Japanese left us, but no water.

Q When you say "things that the Japanese left us," what do you mean?

A I mean rice and dried fish and stuff like that.

Q Had these packages been prepared by your families?

A Yes. The packages were prepared by the families, but the best of them were not in there.

Q You mean to say that they had been opened when you got them?

A Yes, sir; they were.

Q After you got that food where did you go?

A After we got that food we went back to Fort Santiago.

Q And what happened then?

A Then the sentries told us to put this all food mixed up together and give to the boys. We didn't have any plates or things like that, so we provided one of an old book in Fort Santiago and we split it up and every page we use as a plate. We had two or three spoons.

Q How much food did each of you get as a result of that?

A The result of that, we got two or three spoons with a coconut shell of water.

Q Was that the only food you had while you were there?

A That was the only food we had in the place.

Q What happened after that?

A After that it was almost dark. Then we heard one of the boys shouting. There was a fire next to us.

Q Just a minute.

A Yes.

Q Before that did anything happen with reference to your cell?

A Not that I remember right now.

Q With reference to the door of your cell?

A Oh. Well, the Japanese came in and they started tightening all the doors of the cells.

Suddenly we saw a fire in one of the buildings perpendicular to our place.

Q Was there any fire in your building at that time?

A Not at that time.

Q What happened after that?

A After that one of the boys in the cell started shouting

that maybe they were going to put fire in our building. We conciliated him and the fire in about half an hour or an hour was out.

Q What happened after that in your cell?

A After that in my cell there was a couple of sacks of rice. The Japanese came in and told us to take out that rice. They untied the door and we wanted to bring the sacks down, but one of the sentries kicked one of the boys and shook him up and put him back in the cell, and he only told us to throw it away on the outside.

Q Was that done?

A That was done.

Q Was the door closed after that?

A The door was closed after that and tied up like it was before.

Q What happened next?

A Next the sentries went out, all of them, from the corridor and put the potlatch in the main gate.

Q About how many men were in the cell block altogether?

A In the cell were about 5000 people in all of them.

Q What happened after that?

A After that, suddenly we saw some of the sentries coming in and they all wear uniform, with helmets, and everything, and they started bringing some of these gasoline drums inside the building.

Q What did they do?

A When they put the drums, entered it through the corridor, and with his bayonet they make a hole in the drum and they spread all of the gasoline all around the building.

Q And then what?

A Then they suddenly put a torch and all the building was on fire.

Q And you were still in that building?

A We were still in that building and still in the cell.

Q What happened when the fire started?

A When the fire started we wanted to get out of that place through the door, unlock it; but we couldn't. There was shooting on the outside. We were not able to approach to the door. We took with another boy and we break two of the bars from the window, We try to escape, every one of us except two.

Q When you say "every one of us" you mean the ones in your own cell?

A Yes, the ones in my own cell.

Q And who were the two who did not get out?

A Mr. Iturre and Mr. Felix Arlegui.

Q What happened to those of you who did get out of the cell?

A Through all of us we reached another corridor and we wanted to look for some place to run away of the building.

Q Did you see other people in that corridor?

A Plenty of people.

Q About how many?

A About 3000 in that place.

Q And what happened after that?

A From that place we were running from one place to the other trying to see an escape to go out of the building.

We were not able to find it until three or five minutes running from one place to the other.

Q Did anything happen while you were running around these corridors?

A Many of the people die, especially one of them is my father.

Q And how did they die?

A The people all look like crazy and everybody was running from one place to the other. Some parts of the building were falling down on the heads of the boys and trying to get help from the others, he was pushed down and everybody step on him.

Q Was there any firing going on at that time?

A Plenty of fire already.

Q I think you misunderstood. Were there any shots fired?

A Oh, yes. Between the corridors, between the cells there were about three corridors. The Japanese on the end of the corridors were trying to shoot at the people crossing them.

Q With what weapon?

A With machine guns and rifles.

Q Did some of you succeed in getting out of the building?

A Some of us succeeded to get out of the building.

Q How did you get out?

A Through a window that was left open. This window was passing through a garage and in this garage there was installed four machine guns and a field rifle.

Q About how many got out through that window?

A I don't remember exactly the name.

Q Were shots fired at that time?

A Plenty of shots were fired.

Q By whom?

A By the Japanese.

Q Where were they located?

A They were located almost at the opposite part of the window.

Q Was your brother still with you at that time?

A My brother was still in the window, but when he saw those Japs over there he was frightened and finally I convinced him to jump, but maybe he was unable to do it.

Q Have you ever seen him since?

A I have never seen him any more.

Q What did you do?

A I cross up to the end of the garage and climb to the wall.

Q And after that what?

A After that I was trying to come down the wall. It was fixed up with nail wires. I tried to get away from that place, go down through the wall. Finally, I had a cut in my hand and I wanted to clean it on my trousers. While at the moment I was doing that a boy was shot on the top of the wall and fall on my back.

Q And what happened as a result of that?

A As a result of that I remain unconscious for a few seconds, but after that I was able to swim the river.

Q Just a moment, please. Were you injured when that

boy fell on your back?

A I was with a back fracture.

Q All right.

A Then I didn't cross the river. I just waded a little by going out from the Fort place. I remained there until the next morning because it was very dangerous to cross the river at that time. Many of the boys asked me to cross the river with them, but I was afraid like it happened --

Q All right. Just a minute, please. Did you eventually get across the river?

A Yes, sir; I did.

Q And were you eventually taken to a hospital?

A Yes, sir; I was.

Q How long did you remain in the hospital?

A A month and a half.

Q What treatment were you given?

A I was given a back fracture treatment.

Q What specifically was done to you?

A Oh. I was taken over to the Santo Tomas Hospital first.

Q Were you put in a cast?

A Yes, I was in a cast for a month and a half.

CAPTAIN CALYER: You may examine.

CROSS-EXAMINATION

Q (By Captain Sandberg) Do you know whether or not these soldiers were members of the army, navy or marines?

A I cannot tell it exactly. The only thing I know is they wear a khaki uniform with soldier's helmet and everything.

CAPTAIN SANDBERG: That's all.

CAPTAIN CALYER: All right. Thank you very much.

(Witness excused.)

CAPTAIN CALYER: Sancho Enriquez.

SANCHO ENRIQUEZ

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, please?

A Sancho Enriquez.

Q Where do you live?

A Now I live in 1138 Dapitan Street, Sampaloc, Manila.

Q How old are you, Mr. Enriquez?

A 49.

Q What is your occupation?

A I am working as a supervisor of schools in the Department of Instruction.

Q In February, 1945, where were you living?

A I was living in 188 Cabildo, Intramuros.

Q On the 5th of February, 1945, did you have an experience with some Japanese?

A Yes, sir.

Q Will you tell the Commission what happened at that time?

A In the afternoon of February 5, 1945, Japanese soldiers came to our house, rounded every man, woman and child living in my block and those living in the blocks adjacent to mine, and drove us away from our homes and herded us in the Manila Catholic Cathedral.

Q Did there come a time when the men were separated from

the women in the cathedral?

A Yes, sir. That was the following day.

Q Where were the men taken?

A We were taken to Fort Santiago direct from the cathedral.

Q Were you confined there?

A For three days and two nights and a half, because we escaped the last night.

Q How large was the cell in which you were confined?

THE WITNESS: Pardon me?

CAPTAIN GALYER: Read it, please.

(Question read)

A About 8 feet x 8 feet.

Q What was its construction?

A The walls were made of wood, the floors were made of wood, the bars were made of wood, too.

Q Was there an iron fence in the vicinity?

A This cell where I was in was in a long barrack. This barrack was divided into cells. Outside the barrack there was an iron fence. So my cell was in -- In front of my cell I could see an iron fence.

Q How many men were in that cell with you?

A We were 32.

Q What sanitary facilities were provided?

A There was none. We used this as our sleeping room and as our toilet room. In fact, we were so many in the cell we haven't even enough -- I mean, we haven't even enough sitting space. After the second day most of us slept in the cell standing on our feet leaning against each other. Many

of us collapsed the morning of the second day because of fatigue, hunger or nausea.

Q What provision was made so far as food is concerned?

A In my cell we haven't received any.

Q What about water?

A Neither water. We were clamoring for water, but we didn't get a drop.

Q On the afternoon of the second day did something unusual happen?

A Yes, sir. In the afternoon of the second day we were taken out of our cells and we were told to line up in front of this iron fence which was near our cell, which was in front of our cell. In front of the iron fence we were lined up and were taken to an open space. This open space was cemented; I mean, it is made of concrete. There was a box in the open space. We were told one by one to stand on this box and to face the fence. There was an iron fence on one side of the space -- not an iron fence. Pardon me. It was a fence made of galvanized iron sheets. We were told to stand one by one on the box and to face this fence made of galvanized sheet, and as we stood here we heard a voice from inside the fence that said either one of these two words "Room! Back!" Luckily I was one of those who were told to go back.

Q Where did you go then?

A I was sent back to my line near my cell and we were afterward taken into our cell, to the former cell where I was in.

Q Were you able to see the person who uttered those

words?

A No, sir. I think we call that the "magic voice". I think I saw it through a hole in the fence. He saw us in a hole through the fence.

Q Did you see what happened to those who were told "Room!"?

A Yes, sir. We were still in the court in this open space when those people who were told to go to the room the moment the voice came "Room!" Japanese soldiers started slapping this man, kicked him and shoved him into a room, then tied their hands behind their backs.

Q What happened after that?

A After that we were already in our -- We were sent back to my cell.

Q From your position in the cell were you able to see this room that you have mentioned?

A Yes, sir. I could see the room and this open space that I spoke of. I would like to speak about this open space because this is -- Our cell had a vantage position because it faced squarely the open space. Every crevice in our cell, every opening between bars and between doors that were warped were filled with eager eyes from inside the cell. First we heard a dialogue from the room. The first one who spoke was a Japanese. He said "Gerira Ka?"

Q What does that mean?

A "Are you a guerrilla?" I think that is the meaning of that. And the multitude shouted "No!" for a long time. Then we heard three shots. That silenced the crowd.

Q What happened after that?

A After that three men at a time were taken out of the room by Japanese soldiers. These men were blindfolded and their hands were tied behind their backs.

Q What was done with them?

A From my cell -- Before this I would like to say that before this it was already getting dark, so there were two Japanese soldiers that brought in two lanterns of the jet-type lanterns. They brought in two lanterns. Let's see! Two Japanese soldiers, one lantern each in their hand. Then they placed this lantern on the pavement, on the cement pavement. Then they went away. They came back. The one was bringing a stool and empty kerosene cans and the other was bringing with him a bucket and many empty kerosene cans. These men came out of the room by threes, they one by one -- I saw a Japanese soldier holding a sort of a two-pointed prong the ends of which looked as if they had just been removed from a hot furnace. They removed the blindfold one by one from these men and then placed these two-pointed prongs before their eyes about six inches away. Then they blindfolded the men again. I call this man "victim" so that I will not make a mistake.

After these victims were blindfolded again and their hands already tied on their back, they were made to kneel before that stool under which there was a bucket. Then I saw a Japanese soldier -- Not soldier now. This was not one dressed like a soldier but he had a cap wearing that of a soldier and he had a heavy weapon in his hand. He swung this weapon and dropped it on the neck of each victim.

Q What sort of weapon?

A I couldn't exactly tell what it was. I couldn't tell whether it was a saber, but I think it was sort of a heavy weapon, heavier than a saber. I saw heads on the pavement -- fallen heads. Some of the heads were dangling from their bodies. Then here were Japanese soldiers grabbed these corpses and grabbed these corpses passed in front of our cells to a place in the corner near Santa Clara, which we could not see because it was beyond our line of vision.

Q About how many men did you see treated in that manner?

A From 100 to 120 or 30. It took them about three hours to finish that execution. I would like to tell about this execution --

Q Just a minute, please.

A Yes, sir.

Q After these bodies were taken out of your range of vision, did anything else occur with reference to those men?

A I saw the fallen heads; I mean the --

Q After the bodies were taken away, you could no longer see them, could you?

A I couldn't see those bodies, because they were far beyond our reach, our eyes' reach.

Q Did you hear anything?

A We heard shots after that. What the shots were for, I could not tell. But I would like to tell of a very pathetic occurrence that happened in my cell. While the execution was going on, there was silence in all the cells. Suddenly there was a boy in my cell that screamed out loud. He said, "Tatay! Tatay!", which in English means, "Father! Father!", he says. Then he turned to us and said, "That is my father. They are killing my father." We tried to convince the boy that was not his father, but it seems that our words were futile, because nothing could assuage his anguish. He knew his father. So he screamed and screamed again, until at last our door -- the door of our cell was opened and he was dragged.

out, and that was the last we saw and heard of him.

Q Now, on the third day, were there other men brought into the cell block?

A On the third day, in the afternoon of the third day -- that was about 5:30 P. M., meridian time, because we were following that time, which was one hour ahead; it was already getting twilight. At 5:30 there was a group of men that entered the gate. We could see them from our cell. Their hands were tied behind their backs. Two of these men were priests; I could tell that, judging by the robes they wore.

Q What was done with those men?

A These men were placed inside this fence, the iron fence in front of our cell. It just happened to be the Filipinos -- these people were home guards, the Filipinos were home guards, and one of these home guards I recognized his voice, and I shouted from the cell; I said, "When are we going to leave the cell? When are we going home?" Then he answered. He said, "No, you are not going home, this is our end."

Q And what happened after that?

A After that the cells were opened by the Japanese guards, and they doused gasoline from buckets in our cells, in my cell; but judging from the shouts of the other people in the other cells, I believe they did the same there.

Q What did you see after that?

A After that the cells were set on fire.

Q By whom?

A By the Japanese, naturally.

Q And what happened?

A There was a stampede in my cell before the fire reached there. The fire started from one corner of the barracks, before the fire reached our cell there was a scramble toward the ceiling, and those who reached the ceiling ahead of me broke open a sheet of iron roofing, and most of us inside that cell were helping each other, lifting and pushing, and I was swung and thrown through this opening in the roof down to the ground.

Q At the time you were able to get out of the cell, were there still other people in the building?

A There were still people that we heard shouting inside the building, for help; cries that sounded like cries in agony, shouting for help, but we couldn't help. We wanted to escape from where we were.

Q Did that fire spread throughout the building?

A When I left the cell I remember there was already a cloud of heavy smoke that was hot. That is why everybody tried to leave the room, but the cell was not -- my cell was not yet on fire then.

Q After you got out through the ceiling, what did you see on the outside?

A There were those fugitives outside. Now, we were not yet free when we left the cell. There was still a high stone wall to scale, and to reach the stone wall there was an open space again. On one side of the open space there was a group of Japanese, armed Japanese soldiers carrying rifles and one machine gun. I have

seen my companions trying to cross this open space toward the wall, toward the stone wall; most of these companions fell on the ground, hit by bullets. When the fire ceased a while, I started crawling; all the rest of my companions were running.

Q Just a minute, now. What was the condition of these other people whom you saw running across the open space?

A Some of these men were on flames, were aflame like human torches, and then they fell flat, face down in the middle of the space, in the middle of that intervening space between the barracks and the stone wall.

Q Did you eventually get over the wall?

A Luckily, I was able to scale that wall by just inserting my fingers and my toes in the crevices, but when I reached the top of the wall there was -- at the top of the wall was full of barbed wire, crisscrossed with barbed wire. I have to crawl like a caterpillar below and under these barbed wire until I reached the edge of the wall facing the Pasig River.

Q Then what happened?

A Then I jumped into the Pasig River, feet first, and instead of landing in the water I fell on a mound of grass along the banks of the Pasig. It was here that I realized that I was naked. I forgot to tell that, that when we were doused with gasoline most of us removed our clothing, so that when I jumped from the top of the wall down to the water is when I realized that I was naked, and I found that my body was bleeding, full of cuts, probably from the barbed wire which I crossed on top of

the wall.

Q Were you later able to get across the river?

A Yes, sir, about 2 o'clock in the morning, until the fire inside the fort subsided. Then we, under cover of darkness, we swam, with a group of other fugitives whom I met along the bank of that river, and we reached the other bank at about dawn, near the Anda landing.

CAPTAIN CALYER: You may examine.

CROSS EXAMINATION

Q (By Captain Sandberg) Now, when the Japanese rounded up every man, woman and child, did they say what was the purpose of that rounding up?

A Not to us.

Q Now, how long were you confined in Fort Santiago?

A Let's see -- we were taken from February 6th, 7th, on the evening of the 8th we escaped.

Q Were you taken there on the 6th?

A I stayed there on the 6th, in the morning, slept there on the 6th, slept on the 7th; on the 8th is when we were burned.

Q Now, did the Japanese give you any food during that time?

A We have not received in our quarters food, but we saw food outside from the bars, and we were shouting for food. It didn't reach our cell.

Q Did they give you any water?

A No, sir.

Q You mean that during this entire period you had no water?

A No water and no food. That is, my case.

Q For three days you had no water?

A For three days we had no water and no food.

Q Now, when these men were lined up on the box, what were the words you heard coming from the hole in the wall?

A "Room! Back!"

Q Those were the exact words?

A "Room," one word. The other word was, "Back."

Q Now, who were those words addressed to?

A There was a Japanese soldier that held a lighted candle in front of our face, before our face like that (demonstrating), and it was addressed probably to these other soldiers lined up behind the men standing on the box, who, after they said the word, "Room," his hands were tied behind his back and he is taken back to the room -- I mean, he is taken to a room.

Q These words, then were addressed to Japanese soldiers?

A Yes, sir.

Q Are you telling us that this magic voice, as you described it, was talking in English to Japanese soldiers?

A It was English, but it sounded as though it came from a Japanese,

Q In other words, it was a Japanese speaking with an English accent?

A Yes, because the "room" sounded like "doom."

Q But you are quite sure that these were two Japanese, one talking to the other, and yet they talked in

English?

A Pardon me?

Q I say, you are quite sure that what we have here is one Japanese talking to another Japanese, and yet we find them talking in English; is that correct?

A Well, that is the word that I heard, "Room" and "Back."

CAPTAIN SANDBERG: That is all.

(Witness excused)

GENERAL REYNOLDS: The Commission will recess until 1:30 this afternoon.

(Whereupon a recess was taken until 1330 o'clock, 6 November 1945.)

AFTERNOON SESSION

(The trial was resumed, pursuant to recess, at 1330 hours.)

GENERAL REYNOLDS: The Commission is in session.
The Prosecution will proceed.

MAJOR KERR: Sir, all the members of the Commission are present, the Accused and Defense Counsel are present, and the Prosecution will proceed.

CAPTAIN CALYER: Mr. Palada.

JUAN D. PALADA

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

DIRECT EXAMINATION

Q (By Captain Calyer) What is your name?

A Juan D. Palada.

Q How old are you, Mr. Palada?

A 36 years old.

Q Where do you live?

A I am living now in Welfareville, Mandaluyong.

Q In February, 1945 where did you live?

A Intramuros.

Q At what address?

A (No response).

Q On what street?

A Anda. 100 Anda.

Q Were you one of a group taken from that neighborhood to the Manila Cathedral on the 5th of February?

THE WITNESS: What, sir?

CAPTAIN CALYER: Will you read it?

(Question read)

A Yes, sir.

Q (By Captain Calyer) Will you tell the Commission what happened there?

A On the morning of February 6th, 1945 all men were lined up to Fort Santiago.

Q About how many men?

A About two thousand men.

Q Were you one of those taken to Fort Santiago?

A Yes, sir.

Q After you arrived at Fort Santiago what happened?

A They put us in a room about twenty feet square.

Q How many of you were placed in that room?

A About a hundred.

Q What conditions did you find there?

A Without food or water.

Q Were there any sanitary facilities provided?

A What, sir?

Q Toilet?

A Toilet?

Q Was there a toilet there?

A Yes, sir.

Q Where?

A At the corner.

Q What sort of toilet?

A At the corner of the room, both sides.

Q Would you describe it, please?

A About this wide, like this (illustrating).

Q Just a hole in the floor, you mean?

A Yes, sir.

Q Was there any ventilation in the room? Any windows?

A There is a small -- just a small window in the wall.

Q And you stayed there how long?

A What, sir?

Q How long did you stay in that room?

A I stay one day.

Q What happened in the evening of that day?

A What did you say?

Q What happened that evening?

A At the sunset they brought us out.

Q How many of you?

A All of those in the room.

Q All of you who were in the room?

A Yes, sir.

Q When they took you out where did they take you?

A They let us stand in front of the walk.

Q What happened there?

A Somebody said "room!"

Q Somebody said what?

A Somebody said "room!" and then say "Back!"

Q Where were you taken? What did they say to you?

A I was taken from the room.

Q And what happened when you were taken from that room?

A When the room is filled up the Japanese soldier came and took his bayonet and beat it on our head.

Q Did he say anything to you?

A What, sir?

Q Did he say anything to you?

A Yes, sir. He say "You're a guerrilla" and "Robber" and "You want the rescue of the Americans to come."

Q What happened after that?

A After that he brought us out two by two again and when there was about twelve I went out, too, and that is the time they tied our hands behind our backs.

Q And what did they do to you?

A And they brought us again to the room.

Q What happened then?

A And when we were in the room men were crying because of the way they tie our hands.

Q Did there come a time when they again took you outside?

A After a while they took us again two by two outside.

Q Who was taken out with you?

A Reymundo Victorio.

Q And what happened to Reymundo Victorio?

A We pass by the table and they took all the belongings from our pocket. When we were outside they bayoneted Reymundo Victorio.

Q Where did that happen?

A In a yard at Fort Santiago.

Q In a yard?

A Yes, sir.

Q Will you describe that yard a little more particularly, please?

A The yard was like a pit and they let us lay on the ground and bayonet us.

Q Did you actually see Reymundo Victorio bayoneted?

A Yes, sir.

Q By whom was he bayoneted?

A He was bayoneted at the back.

Q By whom?

A What, sir?

Q Who did it?

A A Japanese soldier bayoneted him at the back.

Q Where were you?

A And he fall down.

Q Where were you at that time?

A I was near him.

Q And what happened after he was bayoneted?

A They took me, too, and bayoneted me in my back.

Q And what happened to you after you were bayoneted?

A When I was bayoneted I fell on the face and I roll, and I fell down on the dead bodies and I rolled myself over the dead bodies.

Q About how many bodies did you see there?

A About 500, sir.

Q Did you see or hear anything after you landed in the pit?

A When I was in the pit a Japanese soldier went around to see if he can see the body, how many were alive, he will shoot or bayonet them again.

Q And you saw that done?

A Yes, sir.

Q Did you eventually get out of the pit and escape from Fort Santiago?

A After that an hour I escaped from that place.

CAPTAIN CALYER: You may examine.

CROSS EXAMINATION

Q (By Captain Reel) Do you know whether these Japanese were soldiers, sailors or marines, or what they were?

A I think they are soldiers, sir.

Q Why?

A Because on their cap I saw a star.

Q How long did you stay in Intramuros?

A About eleven years.

Q No. I mean after this happened how long did you stay there?

A Ah! I stay one day only in Fort Santiago.

Q Were you in Intramuros as distinct from Fort Santiago?

Did you stay in Intramuros after that?

THE WITNESS: What is it, sir?

CAPTAIN REEL: Read it.

(Question read)

A No, sir. I stay -- when I escape from Fort Santiago I stayed outside the wall for 44 days.

Q Did you hear the announcement made by the American Army from the north side of the Pasig River to the forces defending Intramuros made over loudspeakers?

A No, sir.

Q Do you understand Japanese?

A Not so much, sir.

CAPTAIN REEL: That's all.

CAPTAIN CALYER: All right. You may go.

(Witness excused)

FIRST LIEUTENANT FRANK J. SHIDELER

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name and grade, please?

A Frank Shideler, First Lieutenant.

Q Where are you stationed, Lieutenant Shideler?

A At present GHQ, AFPAC.

Q In February, 1945, where were you stationed?

A Regimental Headquarters, 129th Infantry.

Q On the 24th of February, or thereabouts, did you have occasion to take some pictures at Fort Santiago?

A Yes, sir. A sergeant took the pictures, and I supervised him.

(A photograph was marked
Prosecution Exhibit No.
209 for identification.)

Q I show you a photograph marked for identification as Prosecution Exhibit 209, and ask you if you were present when that picture was taken?

A Yes, sir.

Q What does it represent?

A It represents some dead civilians.

Q Found where?

A Who were found outside of a small building south of Fort Santiago, near the wall.

Q Do you remember the names of the streets?

A No, I don't recall those.

Q I show you Prosecution Exhibit No. 208, and ask you if you can point out on that exhibit where this building is that you have referred to?

A (Indicating) It is right around in this area right here.

Q Will you point that out so the Commission may see?

A Right in this corner (indicating).

CAPTAIN CALYER: Indicating an intersection of the street marked "Santa Clara" with the unnamed street at the lower portion of the sketch.

If the Commission, please, I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection it is accepted in evidence.

(Prosecution Exhibit No. 209 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 210 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution Exhibit 210, and ask you if you were present when that was taken?

A Yes, sir.

Q What does that photograph represent?

A It represents dead civilians inside the building that the other picture shows were in front of the building.

Q You mean this is the interior of the same building that you just referred to?

A Yes, sir.

CAPTAIN CALYER: If the Commission please, I offer

this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 210 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 211 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution Exhibit No. 211, and ask you if you were present when that picture was taken.

A Yes, sir.

Q What does it represent?

A It represents dead civilians inside a cell, and that was in Fort Santiago.

Q I again show you the sketch, Prosecution Exhibit 208, and ask you if you can point out on that sketch where that cell that you now refer to was located?

A Approximately right up in this area (indicating).

Q Indicating the building marked "2", and at which end of that building?

A Now, there was a pathway we came up there (indicating), and there was just a cell on the side.

Q To the left or right?

A It would be on the left -- it would be on the right.

Q In the neighborhood marked "G"?

A Yes, right there.

CAPTAIN CALYER: If the Commission please, I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is

accepted in evidence.

(Prosecution Exhibit No.
211 for identification
was received in evidence.)

(A photograph was marked
Prosecution Exhibit No.
212 for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution Exhibit 212, and ask you if you were present when that was taken?

A Yes, sir.

Q What does it represent?

A It represents another view of the preceding picture.

Q Taken where with reference to the previous picture?

A Well, it was taken approximately at the same spot.

However, this one was with the camera nearer to the door.

CAPTAIN CALYER: If the Commission please, I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No.
212 for identification
was received in evidence.)

CAPTAIN CALYER: You may examine.

CROSS EXAMINATION

Q (By Captain Sandberg) What division is the 129th Infantry a part of?

A 37th.

Q And did the 129th Infantry participate in the battle for Fort Santiago?

A Yes, sir.

Q Was that a hard fought battle?

CAPTAIN CALYER: If the Commission please, I object to this line of questioning. It certainly is not a proper cross examination on the testimony elicited on direct.

GENERAL REYNOLDS: The Defense may proceed.

(Question read.)

A I was not present at the place where the battle was fought. I was back at the Regimental C. P. at the time.

Q Do you know how long the battle for Fort Santiago took?

A I believe they started at 8 o'clock on the morning of the 23rd.

Q And ended when?

A As I recall, it was secure that afternoon sometime.

Q Now, in the course of the battle in and around Fort Santiago, did the United States armed forces use flame throwers?

CAPTAIN CALYER: I object to that, if the Commission please. That is not proper cross examination.

GENERAL REYNOLDS: The objection is sustained, primarily on the grounds that the witness has stated he was not in the area of the battle.

CAPTAIN SANDBERG: Well, if the witness had actual knowledge of the conditions, I believe it would be proper. I would like to ask the witness one or two questions as to his knowledge, in view of his connection with the Regimental C. P. of the facts of the battle.

GENERAL REYNOLDS: Very well. Proceed.

Q (By Captain Sandberg) What was your position at the Regimental C. P.?

A I was a liaison officer.

Q And as liaison, did you have knowledge of the course of the battle?

A Yes, sir, in a general way.

Q Did you also have knowledge of the methods that were being used by the American forces to reduce the fort?

A In general, yes, sir.

CAPTAIN SANDBERG: May I continue, sir?

GENERAL REYNOLDS: Yes.

Q (By Captain Sandberg) Do you know whether the American forces used flame throwers to reduce Fort Santiago?

A I know they used flame throwers.

Q Do you know whether they poured gasoline down into the holes of the fort and ignited them?

A I heard that. However, this was after I was up there.

Q Do you know whether any Japanese soldiers were killed within Fort Santiago by being burned to death?

CAPTAIN CALYER: If the Commission please, I fail to see any relevancy of this line of questioning to the testimony now before the Commission.

CAPTAIN SANDBERG: If you please, sir, this is in direct relation to the pictures that have just been introduced by the Prosecution, showing civilians who were burned to death.

CAPTAIN CALYER: I beg your pardon. There is no

testimony at this point that there is any contention that these people were burned to death.

CAPTAIN SANDBERG: We believe the pictures speak for themselves.

GENERAL REYNOLDS: The Defense may proceed.

Q (By Captain Sandberg) Do you know if any Japanese soldiers were found within Fort Santiago burned to death?

A As I understood, they burned quite a number of them that were inside the walls and tunnels.

Q Now, are you familiar with a broadcast that was made by the American forces to the Japanese within Intramuras on the 25th of February, calling upon them to surrender?

A No, sir.

CAPTAIN SANDBERG: Thank you.

CAPTAIN CALYER: Is that all?

Thank you very much, Lieutenant.

(Witness excused)

MAJOR GILBERT B. AYRES

recalled as a witness on behalf of the Prosecution, having been previously duly sworn, was examined and testified further as follows:

MAJOR KERR: You testified previously at this proceeding, have you not?

THE WITNESS: Yes, sir.

MAJOR KERR: I will remind you you are still under oath.

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, grade and organization, please?

A Gilbert B. Ayres, Major, Headquarters 37th Infantry Division.

Q Were you a part of the 37th Infantry Division in February, 1945?

A Yes, sir, I was.

Q Did you enter the City of Manila with that division?

A Yes, sir.

Q When you came into the City of Manila, by what troops were you met?

A You mean enemy troops?

Q Yes, sir.

A Well, by the Manila defense force, the overall garrison.

Q Was that an army or navy group?

A Well, that was a heterogeneous force composed of both army and navy units.

Q As you first approached the city, from which direction did you come?

A We came from the north, slightly to the west of north.

Q And what troops did you encounter first?

A Well, to the northwest of the city, in the Obondo Dampalit-Malabon area, we ran into the troops there that were part of the Kobayashi Heidan, known as the "Gyoro Fishing" battalions.

Q And what branch of the service did they belong to?

A They were army units.

Q Do you know who commanded them?

A I believe it was a Colonel Noguchi.

Q Were they part of the Manila defense forces?

A Yes, sir.

Q As you continued into the city, what other units, if any, did you meet?

A Further into the city, particularly south of the Pasig River, they were largely a heterogenous force, composed of both army and navy units. It is pretty difficult to say any unit in particular.

Q When did the battle for the City of Manila begin?

A We crossed the Pasig River on the 7th of February. However, we entered the city from the north on the 3rd of February.

Q And your entrance on the 3rd of February, then, I presume, was the beginning of the action here in Manila?

A Yes, that would be the beginning.

Q Did there come a time when you entered Fort Santiago?

A Yes. We entered Fort Santiago on the 23rd of February.

Q And were you with the first echelon to go in?

A No, sir, I was not.

Q How soon after the first group had entered Fort Santiago did you arrive there?

A I did not go into Fort Santiago myself until the 24th.

Q When you went there on the 24th did you have occasion to observe various points around Fort Santiago?

A Yes, sir, I did.

Q I show you Prosecution's Exhibit 209 and ask you if you can tell what that is.

A That is a body of a dead Filipino which we found outside of a small building on the corner of, I believe it was, Arzobispo Street and Santa Clara Street.

Q Is there more than one body shown in that picture?

A There are three bodies shown in the picture: one in the immediate front and two to the rear. The two to the rear are covered with blankets.

Q Beyond those bodies to the rear does the picture show anything else?

A Well, directly in the far rear of the picture there is a small building directly on the corner of these two streets that I named. You can see it in the rear of the picture, with an iron gate standing open.

Q Did you enter that building on the 24th of February?

A Yes, sir, I did.

Q I show you Prosecution's Exhibit No. 210 and ask you what that is.

A That is a picture of the interior of that small building on the corner of the two streets that I mentioned.

Q When you went into the building what did you see?

A There were approximately 15 dead Filipinos on the floor, a large quantity of clothing and other items being strewn about.

Q Were they civilians?

A They were civilians.

Q Were there marks on the bodies?

A Yes, sir. On some of the bodies there were marks indicating that they may have met their death through small arms fire or through grenades, or possibly bayonet wounds.

Q Were any of the bodies burned at the time you were there?

A No, sir. The bodies were not burned, and all of the clothing and other paraphernalia showed no effects of having been burned.

Q I show you a photograph marked for identification 213 and ask you if you can state what that is.

A That is the inside of a part of the wall. I think it is the west wall of Fort Santiago.

Q Does that picture show the building to which you were recently referring?

A Yes, sir. At the extreme left, in the rear of the

photograph the rear end of that building is visible.

Q Is that the building just beyond what appears to be a white fence?

A Yes, sir, that is the building.

CAPTAIN CALYER: If the Commission please, I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of west wall of Fort Santiago was received in evidence and marked Prosecution Exhibit No. 213.)

Q (By Captain Calyer) I show you a photograph marked for identification Prosecution's Exhibit 214 and ask you to state what that is.

A That is the outside of the Intramuros. I believe that is the west wall, the outside of that same area.

Q The area shown in the preceding picture?

A Yes, sir.

Q Referring for a moment to that previous picture, Prosecution's Exhibit No. 213, I call your attention to these archways and ask you if they appear in this picture in the same condition as they were when you saw them in February of '45.

A No, sir. There is actually very little similarity. At that time there were earthworks in front of these, sand bags were piled up high in front of these, and there was considerable rubble on what now appears to be a roadway in front of these caves.

Q Do you know for what purposes those caves were used?

A They were used for storage. At the time I was there there were some Japs inside, and there was some combat going on in the area.

CAPTAIN CALYER: If the Commission please, I offer this photograph as Prosecution's Exhibit No. 214 in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of outside of Intramuros west wall was received in evidence and marked Prosecution Exhibit No. 214.)

Q (By Captain Calyer) Major, do you know whether there were Filipinos confined in any of those caves?

A In those caves along there I do not know whether there were any Filipinos confined or not.

Q I show you a photograph marked for identification Prosecution's Exhibit No. 215 and ask you to state what that represents.

A That is the view from the top of the wall around Fort Santiago. It would be the west wall looking generally northeast.

Q Let's get these directions straight. I show you again the sketch, Prosecution's Exhibit 208, and ask you if you will point out on the sketch about where this picture is taken from.

A This picture would be about in this general area in here (indicating).

Q In the neighborhood of the Figure 27?

A Yes, sir.

Q And looking in which direction?

A Well, looking in this direction here; (indicating) well, it is looking practically directly east.

Q Is that the interior of the fort?

A Yes, sir.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph from top of wall around Fort Santiago was received in evidence and marked Prosecution Exhibit No. 215.)

Q (By Captain Calyer) I show you a photograph marked for identification Prosecution's Exhibit No. 216 and ask you to state what that is.

A That is the inside of the west wall of Fort Santiago.

Q Will you point out on the sketch, Prosecution's Exhibit No. 208, the section of the wall which that represents?

A It would be the section right along in here (indicating).

Q In the area marked "D", is that where you mean?

A That would be approximately the locality running in this direction (indicating).

CAPTAIN CALYER: The Prosecution offers this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of inside of west wall of Fort Santiago was received in evidence and marked Prosecution Exhibit No. 216.)

Q (By Captain Calyer) I show you a photograph marked for identification Prosecution's Exhibit 217 and ask you to state what that is.

A That would be the extreme south portion of this west wall where it turns and bears to the east.

Q Let's again get directions straight here. Will you point out on the diagram the spot shown in that picture?

A It would be approximately in here (indicating).

Q And the wall to which you refer is the wall coming in this direction (indicating)?

A Right along in there (indicating), yes, sir.

Q Which is in a westerly direction and then turns?

A Well, turns southeast.

Q Is it correct, then, to say this picture shows the northwest corner of the wall?

A That's right.

Q Where is the spot shown by that picture with reference to the preceding exhibit?

A That would be then at the extreme west portion thereof.

Q With reference to the preceding exhibit, Prosecution's Exhibit No. 216, where does this picture fit?

A Well, this would be away over to the left on this picture.

Q At the left of the Exhibit 216?

A Extreme left, yes, sir.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of extreme south portion of west wall was received in evidence and marked Prosecution Exhibit No. 217.)

Q (By Captain Calyer) Major, while you were in Fort Santiago did you have occasion to observe something in the area represented by Prosecution's Exhibits 216 and 217?

A Yes, sir, I did. On the 24th of February I went up onto the top of that wall, which at that time was covered with a considerable mass of rubble. On the west portion of that wall was a small hole in the top leading down inside. I went down inside of that wall down some stairs that were partly burned away and on a short incline and then came to a large cavernous space down there.

Q I show you a photograph marked Prosecution's Exhibit 218 for identification and ask you to state what that is.

A Well, that is a photograph of this cavern which I saw down at the foot of that incline.

Q Calling your attention to what appears to be an opening at the center of that photograph, can you state what that opening is with reference to Prosecution's Exhibit No. 217?

A That would be the opening at the extreme rear of this opening.

Q Do you mean that the opening shown in 218 is the same hole shown in 217?

A No, sir; it is the opposite end.

Q But it is the same hole?

A Yes, it is the same hole.

CAPTAIN CALYER: I offer this photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Photograph of cavern at foot of incline of wall was received in evidence and marked Prosecution Exhibit No. 218.)

Q (By Captain Calyer) Major, when you entered that room on the 24th of February was there any opening at that time?

A No, sir. The opening had been closed up with what looked to be rice straw bags filled with earth. The opening was completely blocked up.

Q When you got into that room what did you observe?

A On the floor of that room there were piled a considerable number of bodies.

Q Were you able to distinguish the condition of the bodies?

A Decomposition was pretty bad, and it was impossible to determine any marks on the bodies. They had apparently been dead for some little time.

Q Had the bodies been burned at that time?

A There was no evidence that they had been burned at that time.

Q Were they later?

A I believe that they were burned later as a sanitary precaution.

Q And do you know by what method?

A By pouring oil, gasoline, in there from the top.

Q Do you know of any other time when that method was used at Fort Santiago?

A Yes, sir. I believe there was one other occasion when that was done.

Q When was that?

A Well, this was somewhat later than February 24th at the time that I was there.

Q Was that done also for sanitary purposes?

A Yes, sir.

Q There was no such action as that during the fighting, was there?

A No, sir.

CAPTAIN CALYER: You may examine.

CROSS EXAMINATION

Q (By Captain Reel) Major, where were you during the fighting for Intramuros?

A Well, at the time the assault on Intramuros was made, the morning of February 23rd, I was at the Division C. P.

Q So that you did not see the actual assault taking place?

A That is correct.

Q And you would not know of your personal knowledge what methods were used in the assault?

A From my personal observation I would not know what methods were used.

Q Yes. And the same is true, is it not, when you described for us the troops that were met upon entering Manila? You did not actually see them?

A I didn't actually see the troops, no, sir.

Q And when you give us your testimony you are relying on what you have been told, or what you have learned from

outside sources other than your own observation?

A No, sir. In such cases it was from my own observation, through the interrogation of prisoners of war, through the examination of captured documents taken from enemy dead, and from various installations.

Q But you are telling us what you learned from other sources, namely, prisoners of war, documents, or other persons, and not what you saw, isn't that correct?

A Correct.

Q When you went to Intramuros, I think you said on the 24th of February, did you see the bodies of any dead Japanese military forces?

A Yes, sir, I did.

Q And were there a large number of them?

A In Intramuros proper there were not a very large number that I saw.

Q Where was the large group that you saw?

A On the 24th of February, sir.

CAPTAIN CALYER: If the Commission please, I don't recall the witness testifying yet that he had seen a large group of dead.

CAPTAIN REEL: I am now asking him, sir, whether he did.

CAPTAIN CALYER: Then that is not the proper form of question, if the Commission please.

GENERAL REYNOLDS: The Defense may proceed.

CAPTAIN REEL: I shall rephrase the question so that there will be no question about it.

Q (By Captain Reel) Sir, did you see a large number

of enemy dead on the 24th of February?

A No, sir, I did not.

Q Did you at any time in your researches there in that area?

A In Intramuros at no time did I see a large number of enemy dead.

Q Well, where did you see the largest group of enemy dead that you did see at any time in Manila?

A In the vicinity of the Paco Railroad Station, for one place.

Q Yes.

A Harrison Park.

Q Any in the immediate vicinity of Intramuros, if not in Intramuros itself?

A In the Finance Building, which I believe is in the immediate vicinity of Intramuros.

Q Legislative Building?

A I did not go into the Legislative Building.

Q The City Hall?

A At the time I went into the City Hall there were very few dead enemy right in the City Hall. There were many outside of the building, however.

Q Post Office?

A Yes, many in the Post Office.

Q Do you know whether there were any Japanese prisoners of war taken who had been in Intramuros?

A Yes. I believe we got some prisoners of war who had actually been in Intramuros.

Q And how many, can you tell?

A I don't recall how many.

Q It is true, is it not, however, that most of the Japanese military force in Intramuros was annihilated?

A Yes, sir.

Q When you went to Intramuros did you see the effect of the American artillery and trench mortar fire?

A Yes, sir.

Q And can you tell us just briefly what was the severity of that?

A Well, the destruction of that was considerable. Many of the buildings had been completely demolished.

Q Yes. I think you told us when you were on the stand before that you were with G-2.

A Yes, sir.

Q 37th Division?

A Yes, sir.

Q It is true, is it not, that prior to the final reduction of Intramuros the American forces north of the Pasig River issued a proclamation over loud speakers to the men who were defending Intramuros?

A I believe that was done; yes, sir.

Q And are you familiar with the proclamation that was issued?

A I read it at the time that it was issued.

Q Yes. Do you remember whether or not it began as follows: "Attention all officers and men of the Imperial Japanese Navy"? Do you remember that?

A (No response.)

Q There was no mention in that proclamation relative

to the persons to whom it was directed of any group except "Imperial Japanese Navy," isn't that correct?

A I do not recall that the message was directed specifically at the Imperial Japanese Navy. That particular phrase is one that is commonly used to the officers and the soldiers of the Imperial Japanese forces, or Navy, or Army, but I don't recall that it was specifically Navy.

Q Perhaps a little more of this will refresh your recollection. Do you recollect whether or not that proclamation being addressed to the Imperial Japanese Navy made certain derogatory remarks relative to the Japanese Army?

A No, sir, I do not recall that.

Q I will just read one short portion to see if this refreshes your recollection from the proclamation that was issued to the forces defending Intramuros and addressed as "Officers and Men of the Imperial Japanese Navy":

"Your Army was going to attack from Novaliches, and then they were going to attack from Montalban and Marquina. They did neither. The Army was going to silence our artillery from the north. In each hour our artillery fires on you with ever-increasing fury."

Do you remember?

A Yes, sir.

Q And so far as you remember, is that a correct statement of a part of that proclamation?

A As far as I remember, sir, yes.

CAPTAIN REEL: That's all.

CAPTAIN CALYER: Thank you very much, Major.

(Witness excused.)

MAJOR FRANK J. MIDDELBERG

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

DIRECT EXAMINATION

Q (By Captain Calyer) Will you state your name, grade, and organization, please?

A Frank J. Middelberg; major, 129th Infantry.

Q Were you with the 129th Infantry in February, 1945?

A Yes, I was.

Q Did you come into the City of Manila with that unit?

A Yes, I did.

Q When did you enter the City?

A February 4th.

Q What troops were met when you entered the City?

A Enemy troops?

Q Yes, sir.

A I don't know the identification of them, but they should have been Army troops.

Q Well, were they?

A From the documents, interrogation reports, translations sent down to us by the division, yes.

Q Were you also with the 129th when an assault was made upon Intramuros?

A Yes, I was.

Q And when was that assault?

A That assault was made on the 23rd of February.

Q Did you enter Intramuros on that day?

A Yes, I did.

Q What troops did you find in Intramuros?

A I found both Army and Navy troops.

Q In Intramuros did you have occasion to observe any dead bodies of civilians?

A Yes, I did have occasion.

Q Will you describe the spot where you saw such a group?

A On the 23rd of February, inside Intramuros -- in fact, inside Fort Santiago, in a small concrete room of a large building which was destroyed, there were dead bodies inside this room; I would judge about 40. They were stacked up one upon the other, I would judge about four deep in spots.

Q I show you Prosecution's Exhibit 208 and ask you to point on that sketch to the spot where that building was located.

A The incident which I speak of now was located in a small squared-off area here which is marked with an "R" (indicating).

Q On the building marked "6", is it?

A On the building that is marked "6", yes, and approximately in the corner where the "R" is at.

Q What was the condition of the bodies which you saw at that place?

A These bodies had been dead for some time, and the hands of the top row of victims were tied behind their backs, and there were bullet holes in the rear of their heads, and some had bayonet wounds in their back.

Q Had the bodies been burned up to that time?

A These bodies were not burned.

Q Did you also see bodies at some other point?

A Yes. In a dungeon in the same vicinity there was another group of bodies.

Q Will you show on Prosecution's Exhibit No. 208 the location of the dungeon to which you now refer?

A The location of the dungeon was in the vicinity of the Numeral "2" (indicating).

Q And on which end of that building?

A That would be on the northeast end of the building.

Q In the vicinity of the letter "G"?

A Yes; between "F" and "G" there (indicating). In that general locality.

Q Will you describe what you saw there?

A This particular dungeon room had two steel doors, solid steel doors, which were bulged inwardly slightly, and we forced these open, and right directly behind the two steel doors was sort of a steel cage.

Q Just a minute, please. What was the condition of the doors, other than the fact that they were bulged?

A There was a bolt which was in place and fastened in place by a wire.

Q Yes. Then you say inside the door was what?

A Inside the door about two feet inward was this steel cage, you might call it, or prison.

Q Will you describe your experiences and your observations when you opened those doors?

A Well, it was quite a job opening the doors. We finally kicked them in, and then, upon kicking the doors in, there was a terrific stench came out which sort of knocked us back a bit, but upon venturing my head into

this door entranceway, you could see very plainly right there, grouped around the steel cage, a number of dead bodies. These bodies were piled around the door to this cage. It seemed as if they had been fighting to get out and that's where they were stopped.

Q About how many bodies did you observe in that spot?

A I would judge about 25.

Q In the entire area there in that dungeon how many did you observe?

A Well, in the entire dungeon I would estimate probably close to 300.

Q Were those bodies the bodies of civilians?

A Yes, sir. The bodies that I could observe were bodies of civilians.

Q Were you able to tell the sex?

A Of one; the person immediately in front, by the door, was a woman.

Q I show you Prosecution's Exhibit No. 211 and ask you to tell what that is.

A This picture shows the two steel doors thrown inward and the immediate view that reached the eye upon looking through the doors.

Q Does it also show the bolt to which you refer?

A Yes. It shows both the bolt and the wire which held the bolt into position.

Q Will you point out in that picture the body which you say was that of a woman?

A It is this body on the floor there (indicating).

Q The one at the extreme bottom of the picture?

A Yes.

Q I show you Prosecution's Exhibit No. 212 and ask you to state what that is.

A This is further inside this dungeon, which you can see by going further into the room itself.

Q And is that the condition in which you found that dungeon when you first opened those doors?

A Yes.

Q Had there been shelling in that vicinity?

A Yes. On the assault upon Intramuros there was direct fire artillery brought.

Q Could you tell from your observation of those bodies how they had met their death?

A Well, there were no visible signs that I could observe of the bodies being mutilated. However, they were in there, and in my opinion the bodies were placed in there alive and the victims starved to death.

Q Had they been disturbed at all by the shell fire?

A No. They couldn't possibly have been disturbed by the shell fire.

Q Do you know what happened to those bodies afterward?

A No, I do not.

Q I show you Prosecution's Exhibit 216 and ask you if you know what that is.

A This is a view of the north wall of Fort Santiago.

Q Calling your attention to the door shown at the extreme right of that photograph, did you at any time on the 23rd go in that door?

A No, I did not.

Q Do you know what was inside?

A Well, there were a few dead Japs in there.

Q Do you know how they had been killed?

A I believe it was by grenade fire.

Q Did you have occasion to interrogate prisoners who were captured at Fort Santiago?

THE WITNESS: Will you repeat that question?

CAPTAIN CALYER: Will you read it, please?

(Question read.)

A No, I did not.

Q (By Captain Calyer) Did you have occasion to interrogate prisoners captured anywhere in Intramuros?

A No, I did not.

Q Do you know whether there were prisoners captured in Fort Santiago?

A In our sector I don't recall capturing any prisoners.

CAPTAIN CALYER: You may examine.

CROSS-EXAMINATION

Q (By Captain Sandberg) What was your capacity with the 129th Infantry Regiment?

A I was Regimental S-2.

Q In that capacity, were you acquainted with the course of the battle at Fort Santiago?

A Yes, sir, I was.

Q If I were to say to you that the Japanese forces within Fort Santiago set fire to the Fort and then evacuated it, would that be a correct statement of what happened?

A I would say not.

Q If I were to say that the Japanese made a last-ditch stand inside of Fort Santiago, would that be a correct statement?

A Insofar as that the troops remaining in Fort Santiago did, yes.

Q Now, those troops who remained in Fort Santiago fought to the last ditch?

A Yes, they did.

Q And what were the methods that the American forces used to reduce the Fort?

A They reduced the Fort by the use of hand grenades, white phosphorus grenades, flame throwers, bazookas, direct tank fire; and I heard later that oil and gasoline was placed into the dungeon and ignited by the WP grenades.

Q And was that done during the battle?

A Well, during the mopping up stage.

Q Now, when you came into Fort Santiago, did you find any persons who had been burned to death as a result of the

ignited gasoline?

A No, I did not.

Q Would you say that that method was not an effective method?

A Well, the point was that I was taken out of the picture on the 24th, and these dungeons, they were burning at that time. And also, at that time when I left it was impossible to get into the inside because of the heat.

Q I see. So that your knowledge is simply limited to the methods used and not as to the effect of the method?

A Absolutely yes.

Q Now, did you in your capacity as Regimental S-2 know what units of the Japanese military forces had defended Intramuros?

A I don't recall them now.

Q Are you familiar with the M-1 report, 14th Corps?

A I have read it, yes.

Q Do you recall reading in the M-1 report of the 14th Corps that the personnel in Intramuros was personnel of the Japanese navy?

A Naval personnel were mentioned as part of the troops defending there, but I don't know if that was the only statement that was made.

CAPTAIN SANDBERG: That is all.

GENERAL REYNOLDS: The Commission will be in recess for approximately 10 minutes.

(Short recess)

GENERAL REYNOLDS: The Commission is in session. The Prosecution will proceed.

CAPTAIN CALYER: If the Commission please, that concludes the testimony with reference to Bill of Particulars Item No. 52. With the permission of the Commission, I would like to call at this time a witness in the Paco case that we discussed the other day, and which at that time you said might be called later. He is here and is ready to testify.

GENERAL REYNOLDS: Which item in the Bill of Particulars was it?

CAPTAIN CALYER: That was Item 48, sir.

GENERAL REYNOLDS: You may go ahead.

CAPTAIN CALYER: Eugene Bayot.

EUGENE BAYOT

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

DIRECT EXAMINATION

Q (By Captain Calyer) What is your name?

A Eugene Bayot, sir.

Q Where do you live?

A At present, sir?

Q Yes.

A Mandaluyong, sir.

Q How old are you?

A 21, sir.

Q In February, 1945 where were you living?

A On Dart Street, sir.

Q Were you one of a group taken by the Japanese on the 10th of February to a house at 1195 Singalong Street?

A Yes, sir.

Q What happened to you there, just briefly?

A I was taken by the Japanese on February 10th, and taken to a street, over on Ramos Street --

Q Never mind that. Just tell me what happened at the house on Singalong Street.

A A Japanese squad came up and took me for forced labor, and brought me to this Ramos Street and tied me up.

Q Now, what branch of service did the Japanese belong to who took you from your home?

A I think they were the Taiwan, sir; navy.

Q When you got to 1195 Singalong Street, what happened?

A There I was blindfolded and my shirt stripped off.

Q What was done to you?

A We were one by one taken to a room, and they behead all the men over there, sir.

Q Were you one of those who were struck?

A Yes, sir.

Q Did you receive a wound at that time?

A Yes, sir.

Q Will you show it to the Commission, please?

(The witness exhibited his neck to the Commission.)

(A photograph was marked
Prosecution Exhibit No. 219
for identification.)

Q (By Captain Calyer) I show you a photograph marked for identification as Prosecution's Exhibit No. 219 and ask you to tell what that is.

A That is me, sir.

Q What does that picture show?

A That is the scar of the saber wound.

CAPTAIN CALYER: I offer the photograph in evidence.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 219 for identification was received in evidence.)

Q (By Captain Calyer) After you were wounded, what happened to you?

A I stay in the corner for a while, sir, and --

Q Where?

A In that small house there.

Q On the same floor on which you were struck?

A The first floor, sir.

Q Is that the same floor on which you were struck?

A No, sir. I was in the downstairs, sir.

Q How did you get down there?

A First I was brought to the room, then there I was cut by a saber and I was kicked twice in my back, then I fell down.

Q Through the hole?

A Yes, sir.

Q How long did you remain in that room on the first floor?

A About 10 minutes, sir.

Q How long did you stay there altogether?

A Downstairs?

Q In that room on the first floor, downstairs.

A Five hours, sir.

Q While you were there, did you have an opportunity to observe the conditions both in that room and in the room above you?

A Yes, sir.

Q How were you able to see?

A When I was downstairs, I crawled to a corner and I did my best to take off the rope from my hands and put my blindfold off.

Q You took the blindfold off?

A Yes, sir.

Q And from your position, were you able to see what was going on?

A Yes, sir.

Q What sort of troops were those whom you saw in the house on Singalong Street?

A Some army men and some were navy, sir.

Q How could you tell that some were army?

A By the uniforms, sir.

Q What, particularly?

A The navy is white, green uniforms, sir.

Q And what about these whom you say were army?

A They were brown and with stars on their hats, sir.

Q You saw some with stars on their hats?

A Yes, sir.

(A sketch was marked
Prosecution Exhibit No. 220
for identification.)

Q (By Captain Calyer) I show you this document marked for identification as Prosecution's Exhibit 220, and ask you to state what that is.

A It is this death chamber at 1195 Singalong Street, sir.

Q Who drew that?

A I did, sir.

Q Does that correctly represent the situation as you saw it on the 10th of February, 1945?

A Yes, sir.

CAPTAIN CALYER: If the Commission please, I offer this sketch in evidence.

CAPTAIN REEL: Sir, we object to this sketch as improper. It is not a photograph; it is simply this witness's own drawing; his testimony takes care of any of that sort of thing.

GENERAL REYNOLDS: The Prosecution is asked to develop the circumstances and timing of the preparation of this drawing to a greater extent.

CAPTAIN CALYER: Do you mean, sir, the time when the drawing was made, or the period during which the witness was able to observe what he later drew?

GENERAL REYNOLDS: The time when the drawing was made.

CAPTAIN CALYER: If the Commission please, the exhibit itself bears the date.

Q (By Captain Calyer) I will ask the witness when that drawing was made.

A March 25, sir.

Q Of what year?

A 1945, sir.

CAPTAIN REEL: What was the answer?

CAPTAIN CALYER: March 25, 1945.

GENERAL REYNOLDS: I will ask the reporter to read back all the statements that the witness has made with respect to this exhibit.

(Record was read)

CAPTAIN CALYER: If the Commission please, I might ask one other question.

Q (By Captain Calyer) At the time you drew this sketch, was your recollection of what you had seen on the 10th of February still clear and fresh in your mind?

A Yes, sir.

Q Is the sketch as you drew it an exact representation of what you had seen on the 10th of February?

A Yes, sir.

GENERAL REYNOLDS: The document is accepted in evidence.

(Prosecution Exhibit No. 220
for identification was
received in evidence.)

CAPTAIN REEL: No questions.

CAPTAIN CALYER: Thank you. That is all.

(Witness excused)

MAJOR KERR: Sir, the next cases we will take up are known as the St. Augustine Church cases and the McKinley Plaza air raid shelter massacre. They are Nos. 60, 61, 62, 63, and 64 in the original Bill of Particulars.

We call as the first witness, Father Belarmino de Celis.

Father, you understand English, do you not?

FATHER BELARMINO DE CELIS: Yes.

MAJOR KERR: But you do not speak it clearly, is that correct?

FATHER BELARMINO DE CELIS: Not clear.

FATHER BELARMINO DE CELIS

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

DIRECT EXAMINATION

- Q (By Major Kerr) Will you state your name?
- A (Through the Interpreter) Father Belarmino de Celis.
- Q Where do you reside?
- A In the St. Augustine Convent in Intramuros.
- Q What is your nationality?
- A I am a Spanish.
- Q And your age, please?
- A 37 years.
- Q What is your occupation?
- A I am a priest, Catholic.
- Q Connected with what organization, what church in particular?
- A Order of the Augustinians.
- Q Are you connected with the St. Augustine's Church in Manila?
- A I am connected with the St. Augustine Church, because it is the church of the Augustinian Fathers, and I have been residing there for all the time that the Japanese have been staying here.
- Q What is your position with the St. Augustine's Church?
- A I am what they call the supply officer.
- Q How long have you lived at the St. Augustine Church?
- A From the year 1939.
- Q That building is located within the Intramuros section

of Manila, is it not?

A Yes, sir.

Q Is a convent connected with the St. Augustine's Church?

A The convent is related to the St. Augustine Church, and the convent is built with the St. Augustine Church.

Q How long ago was the church and the convent built?

A The edification was constructed in the year 1989.

MAJOR KERR: Will you read that answer?

(Answer read)

THE INTERPRETER: Well, 1599.

MAJOR KERR: 1599; is that correct?

THE WITNESS: Yes.

(A sketch was marked Prosecution Exhibit No. 221 for identification.)

Q (By Major Kerr) I hand you what has been marked for identification as Exhibit No. 221, and ask you what that is?

A It represents the lower part of the convent and the Church of the Augustinians which I have just mentioned.

Q Where on that sketch is the church portion of the compound represented?

A It is the part that is shown along Gral Luna Street.

Q Then it is the large open area at the top of the sketch, is that correct?

A Only the church.

MAJOR KERR: If the Commission please, at this time I offer in evidence this sketch, as Exhibit 221.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 221
for identification was
received in evidence.)

Q (By Major Kerr) Father, were you at that church on the 5th of February, 1945?

A Yes, sir.

Q What happened at that time at the church?

A On February 5, 1945, the Japanese put together all the majority of the inhabitants of Intramuros, inside the church.

Q The Japanese then caused to be brought to the St. Augustine Church, a large number of civilians from the Intramuros, is that correct?

A Yes, sir.

Q Approximately how many men, women and children came to the church at that time?

A I estimate the number to 6,000.

Q Did that include women and children?

A All of them are included, women and children.

Q Where, in the church or the convent, did these 6,000 people stay?

A They were on all the parts, or most of the church and the convent, inasmuch as they were numerous. They were all around the interior part of the convent and church, and even in the patios.

Q Were they crowded there?

A Too crowded.

Q Did they bring with them food or other personal possessions?

A As they were forced there by the Japanese at the last

hour, they were not able to take with them anything.

Q Did some of them bring baskets or articles of clothing with them?

A Yes, sir, some of them brought enough clothings.

Q How long did those people remain in the church and convent?

A Up to the 23rd of February, 1945, the women and children.

Q Then the women and children stayed within the church from February 5th to February 23rd, is that correct?

A Yes, sir.

Q How long during that time did you remain in the church?

A I remained there up to February 7, 1945. On February 7, 1945, I was taken to Fort Santiago, where I remained up to February 9, 1945, and from February 9, 1945, I was returned back to St. Augustine Church up to February 18, 1945.

Q Were other priests, or were lay brothers also in the church while you were there?

A We were a total of 40 fathers and priests of different orders.

Q Were there also some Catholic sisters in the church during that time?

A There were 10 Mothers from St. Isabel's College.

Q Did you see members of the Japanese armed forces in or around the church during that time?

A Every day since we were taken there, we had guards of the Japanese forces.

Q Were the people permitted to go outside the church?

A After they have been turned inside the convent and the church, no one was allowed to go out.

Q While you were in the church and convent, did you see any people mistreated by members of the Japanese armed forces?

A I have seen no mistreatment.

Q Did you see any women abused?

A Various cases.

Q Please describe that mistreatment of women, without giving any names.

A During the nights, the young ladies were taken to the rooms of the Fathers, and sometimes out of the convent, to abuse them.

Q Who took these young ladies up to these rooms?

A The Japanese.

Q Did you see that yourself?

A I saw it more than once.

Q Did the girls involved ever tell you what happened?

A They never mentioned, because it is natural that they were saving their own honor.

Q While you were in the church, Father --

CAPTAIN REEL: Just a moment.

May we now ask, sir, that any testimony as to what occurred as to these girls be stricken from the record? There isn't even a basis for hearsay; it is purely imagination.

MAJOR KERR: That is all he testified to, is what he saw; and certainly the Commission is interested in

that.

GENERAL REYNOLDS: The last question and the last answer will be stricken from the record.

CAPTAIN REEL: Sir, our objection did not go to the last question and the last answer. I believe the last question and answer show that this witness was not told what occurred. That we do not object to. He testifies that he saw these girls leaving the room with the Japanese, but what we do ask is that anything this witness has testified to that occurred not in his sight, that he was not even told about, that any such testimony be now stricken.

GENERAL REYNOLDS: I believe a striking of the last question and the last answer accomplishes exactly that. If there is any doubt about it, we will have it read back.

Will the reporter read the questions and the answers concerning this subject?

(The record was read by the reporter, beginning with:

"Q While you were in the church and convent, did you see any people mistreated by members of the Japanese armed forces?"

and ending with:

"A They never mentioned, because it is natural that they were saving their own honor.")

GENERAL REYNOLDS: I believe the ruling is adequate: that the last question and the last answer will be stricken.

CAPTAIN REEL: Sir, may we request, please, that the last question and answer stay in? Our objection was not addressed to the last question and the last answer. Our objection was addressed to the opinion evidence given by this witness which he heard not in his presence and what he was told about it. We earnestly desire the last question and last answer to stay in, but it was the previous question relative to his opinion that we ask be stricken.

MAJOR KERR: I submit, sir, that the answer of this witness may be judged by the Commission for itself.

GENERAL REYNOLDS: The Commission has ruled that the last question and the last answer will be stricken. The Prosecution will proceed.

Q (By Major Kerr) Father, while you were in the church did the Japanese at any time provide any food for the six thousand people there?

A They never gave anything. On the contrary, they always got whatever they were able to get from them.

Q Do you mean the Japanese came in and took food away from the people?

A Exactly that. They got into the convent and got whatever food the people had with them, and for that purpose they once asked the people to go out of the convent.

Q What happened when they asked the people to go out from the convent?

A They were held in the ruins of Intramuros for about three or four hours and in the meantime they have been

searching all them and taking part of the food that they found with the people.

Q Who were doing these things, that is, taking the food and searching the people?

A The Japanese.

Q Did the Japanese provide any medical care or medicine for those six thousand people?

A They never gave anything.

Q How did the people get along without food?

A Eating the roots and the grasses that were around, and many died of hunger.

Q Did you help to bury any of those who died with hunger?

A Certainly. We have buried all those that died in the gardens of the convent.

Q Do you recall about how many people died there in the church or convent?

A I don't remember exactly the number, but they were numerous. Some of them died of hunger, some sickness, and the others because of hand grenades.

Q Where did those hand grenades come from?

A From the shots, and some of them I believe were from the shots made by the Americans. I cannot be sure of the true facts about it.

Q What happened to you on the 7th of February?

A On the morning of February 9, 1945 the Japanese ordered us all out of the convent and the church -- ordered all the men; only all the men.

Q How many men did they order out of the church and

compound?

A I estimate them to be about two thousand.

Q About two thousand men. Did that include the Spanish priests and lay brothers?

A Everybody is included in the figure; priests and civilians.

Q What happened then, Father?

A Outside of the convent and the church they ordered the men to form lines by four and they held us there for half an hour receiving the shells from all directions, and the Japanese went to hide while they gave orders to us not to move and should anyone be found moving he would be shot.

Q Was that area under shell fire at that time?

A Completely under fire.

Q Where did the Japanese take you from there?

A Without telling us anything or where they were bound to they have taken us through the streets in Intramuros and we ended up at Fort Santiago.

Q How many Japanese soldiers or how many men in uniform were with you when you went to Fort Santiago?

A About ten or twelve.

Q Were any Japanese officers among them?

A I don't know. I don't remember if there was any officer.

Q Were all of these two thousand men taken to Fort Santiago civilians?

A I have already said that they were priests and civilians.

Q What happened at Fort Santiago?

A Once they are in Fort Santiago they search us again.

Q Did they take from you any of your personal possessions?

A Before entering the cells of Fort Santiago we were all searched one by one and taken from us all personal possessions we had with us.

Q Did they take any personal possessions away from you?

A They have taken away all personal belongings, including the watch, my money and everything I had with me.

Q Did they ever return any of that to you?

A They never returned anything.

Q How long were you at Fort Santiago?

A From February 7, 1945 in the morning up to February 9, 1945 in the afternoon.

Q During that time did you have any food?

A In the first night that I have been in on February 7, 1945 I have been given something. Thereafter I never was given anything.

Q What happened to you at Fort Santiago?

A We were first put all together and thereafter the Spaniards were separated from the Filipinos.

Q What did they do with the Spaniards?

A We were taken to a smaller room and were left there isolated from the rest.

Q How many Spaniards were there together there?

A 140 more or less, including all the priests.

Q Do you know what happened to the rest of the two thousand men who went there from St. Augustine Church?

A On February 9, 1945 when we were released we saw some

of them that they were still there. Thereafter we never knew anything about them.

Q When did you leave Fort Santiago?

A In the afternoon of February 9, 1945.

Q How many men left there with you?

A All those that were separated from the Filipinos; all the Spaniards, and we were about 140.

Q Father, when you went from St. Augustine Church to Fort Santiago had Intramuros area been destroyed?

A When we were taken to Fort Santiago Intramuros was still intact.

Q When you returned from Fort Santiago to St. Augustine Church was the Intramuros area still intact?

A When we were released that afternoon we saw that Intramuros was completely wrecked down.

Q Where did you go from Fort Santiago?

A We were taken back to St. Augustine Church.

Q How long did you remain at St. Augustine's Church?

A Up to the afternoon of February 8, 1945.

Q While you were at the church was any part of the church compound destroyed by fire?

A During all the time that we were secluded in Fort Santiago all the building of the convent and the roof of the church was burned.

Q Did you at any time see the Japanese install any guns?

GENERAL REYNOLDS: We will stand in recess for approximately ten minutes.

(Short recess)

GENERAL REYNOLDS: The Commission is in session.
The Prosecution will proceed.

MAJOR KERR: Will the reporter read the pending question, please?

(Pending question read)

MAJOR KERR: I shall complete it.

Q (By Major Kerr) -- in the church or convent?

Now will you read it, please?

(Question read)

A On February 12, 1945 they installed two machine guns within the circuit of the convent.

Q Did you see them fire those machine guns?

A I have seen them fire every day for about two days -- for eight days.

Q Where did they take you on the 18th of February?

A On February 18, 1945 the Japanese ordered all the men to gather inside the church. Once inside the church we were ordered to form lines by twos from the altar to the front gate. All the men were taken to the church, including the wounded and the sick.

Q How many were there altogether?

A The number of men that were put together in the church amounted to 132.

Q Where did you go from there?

A From the church we were taken through the ruins of Intramuros to a warehouse at the back of the convent of Santa Clara.

Q Who took you from the church to that warehouse?

A The Japanese.

Q Were there any officers among those Japanese?

A There was at least one who was giving the orders.

Q How were the other Japanese armed?

A All of them were armed with their guns and the bayonets on and with hand grenades in their hands.

Q Were any men at all left at the church at the time they took you to the warehouse?

A In the convent were left the wounded and the sick.

Q Name some of those who were left in the convent.

A Father Manuel Canseco, who is the Superior of all Augustinian Fathers; Franciscan Father who had dysentery at the time; Mr. Miguel Blanco, also sick of the dysentery.

Q Father, will you please tell the Commission what happened at the warehouse?

A Once inside the warehouse these officers told us not to worry about anything and that there was nothing wrong that would happen to us and that after two or three days we were going to be returned to our homes.

Q Were you returned to your homes?

A I came back to my home after I had escaped from their position.

Q How long were you at the warehouse?

A From February 18th to February 19th; about 24 hours.

Q Where did you go from the warehouse?

A In the night of February 9, 1945 one of the Japanese officers entered the warehouse. Thereafter he told all of the Spaniards to go out to the street to take us in a safer place.

MAJOR KERR: One moment, please. What is the date the interpreter gave?

THE REPORTER: February 9, 1945.

Q (By Major Kerr) What was the date of that again, Father, when you left the warehouse?

A February 19, 1945.

Q All right. Proceed, Father, please, and explain what happened from the time you left the warehouse until you returned finally to your home.

A Once on the street the Japanese ordered us to get in line by the side of the wall. Then they told us that they were taking us to a safer place. They put us in groups of 70 and the first group of 70 was separated from the other group. A friend was with me in the first group of 70 and we were marched with the group through Aduana Street. Across the Aduana Street we were taken to General Luna.

Then a group of Japanese came out of Fort Santiago. They rounded us and we were told that we had to get into shelter for our safety and they advised us to get into the shelter that was located at the corner of Aduana and General Luna.

Q Was that an air-raid shelter?

A It was an air-raid shelter of the Japanese.

Q I hand you what has been marked for identification Prosecution's Exhibit No. 222 and ask you whether or not that correctly shows the location of the air-raid shelter which you have just mentioned.

A The side where the raid shelter is marked in the

map with No. 1.

Q That was in the foundation of the old Governor's palace, was it not?

A In the very same place of the foundation of the palace of the Governor.

Q How many air-raid shelters were there there?

A I never have been there before and I just saw that time about three.

Q How many men were with you when you reached the air-raid shelters?

A About 70.

Q Were all of those civilians?

A No. We were priests and civilians mixed all together.

Q Now, Father, will you tell what happened from that point after you reached the air-raid shelters?

A Once after we were ordered inside the shelter we were left there for about a half an hour.

Q How many were put in the shelter?

A All of those of the first group, or about 70.

Q Proceed, please, with your experience from that time.

A The shelter was profound enough and big enough. Nevertheless, because we were 70 we were too crowded. We were then praying and preparing for our souls because we knew more or less what would happen next, and in half an hour while we were talking inside hand grenades fall inside the shelter. The shelter had two or three holes for the respiration and through those holes the hand grenades were thrown in.

The confusion inside was terrible and we were

colliding each other inside, each one trying to escape. Everybody was shouting and asking for help and we were all trying to run for liberty through the entrance. But a group of Japanese were waiting for us outside with their guns and bayonets and all those who intended to escape were at the spot fired. I myself was wounded by the hand grenades and I fell down inside the shelter and lost consciousness. After that we notice that the entrance of the shelter was being closed with some stones on the ground. They enclosed all the holes, and by that all those of us who were still living inside were buried alive.

Just as soon as I gained consciousness the first thing I did is to bandage my wounds because I was then very wounded. Then I thought of escaping from that place if it was possible. For that I approached the entrance which they have just closed, and in trying to open the entrance with my fingers and nails I was able to put a hole. Through that hole I breathed all the night. In the following morning a Japanese came to look inside and just as I notice I hide, and then he fired several shots through the hole I open and close that hole thereafter. After a moment I again approach the hole when I believe that the Japanese was no longer there for the purpose of reopening the hole, and through hard work I was able to open the hole.

Q What were the conditions of the other men in the shelter at that time?

A Many died inside the shelter, and the rest were shouting for help and asking for water.

Q Proceed, please.

A During the following day I continued breathing through that hole, but inasmuch as that hole was not big enough to permit the size of a man to get through it, I opened another hole. All this time I had to be lying over dead men and wounded people. In the night of February 22, 1945, unable already to bear the smell of the dead and the wounded and the hunger that I was feeling, I decided to escape, and I got out of that shelter in the night of February 22, 1945, after staying there for about 72 hours. I have been without eating nor drinking for five days. Then I helped a friend who was near me get out of the shelter.

Q What was the name of that friend, please?

A Rocamora.

Q Was Mr. Rocamora injured?

A He was very much injured.

Q Were any of the other men in the shelter at that time still alive?

A I could not easily distinguish, but not a sound could be heard any more.

Q What happened when you crawled out of the shelter?

A Stumbling down through the streets, I went from that place to the plaza.

Q What time of the day was this?

A It was about 12 o'clock midnight of February 22,

Q By "the plaza", do you mean McKinley Plaza?

A Exactly the same.

Q How did you go from the air raid shelter to the plaza; did you walk or did you roll?

A Rolling, because by then I didn't have enough strength with me.

Q Where did you go from the plaza?

A We went across, rolling also, from Juan Street to the Bureau of Justice Building.

Q Will you please explain, Father, where you went from there until finally you were rescued by the American forces?

A From that place, Fergusson, I went rolling to the Department of Justice Building.

Q Will you proceed from there?

A After resting a while at the Bureau of Justice, I went to the Convent of Santa Clara. At the entrance of Santa Clara I met the Fathers who were waiting to be taken to the Convent of St. Augustine. I told them I was a priest, and I asked them for food and water, but they replied that they had nothing because the convent was all wrecked now. They also told us that there were Japanese with them, and for fear that I would be seen by the Japanese I escape again. Then I returned to the Bureau of Justice. After resting a while, I decided to go around the lower part of the building to look for food or drink. In going around the building, I got into a latrine without noticing it. There I drank water. Then I look for a container, and I took some water to

my friend; who was also in the Bureau of Justice Building.

Q That is Mr. Rocamora?

A It was Mr. Rocamora.

Q Were you and Mr. Rocamora finally rescued by the American forces?

A We were liberated by the American forces.

Q How badly wounded were you, Father?

A I hurt my head, my face, my arms, badly wounded, and the biggest wound I had was in my body. And because of the sound of the hand grenades, I lose my sense of hearing.

Q Do you remember how many hand grenades were dropped down into the shelter through the air vents?

A I don't know how many, but I know there were many.

Q Were you and Mr. Rocamora the only men who escaped from the air raid shelter?

A From the shelter only myself and Mr. Rocamora were able to escape. I saw no one else.

Q Have you ever seen again any of the other men you knew who were in the large shelter with you?

A I never saw anyone.

Q How many men altogether were in that shelter?

A I don't know exactly the number, because it was dark, and I estimate the amount to be 70.

MAJOR KERR: At this time, sir, I offer in evidence as Exhibit 222 the sketch which was previously identified by this witness and marked for identification as Exhibit 222.

GENERAL REYNOLDS: Without objection, it is accepted in evidence.

(Prosecution Exhibit No. 222 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 223 for identification.)

Q (By Major Kerr) Father, I hand you what has been marked for identification as Prosecution Exhibit 223, and ask you to state what that is.

A The photograph shows a gentleman pointing to the shelter from which I was able to escape.

Q Are you that gentleman?

A Yes.

MAJOR KERR: Sir, I offer in evidence as Exhibit No. 223 the photograph just identified.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 223 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 224 for identification.)

Q (By Major Kerr) I hand you what has been marked for identification as Exhibit 224, and ask you what that is.

A The photograph shows another shelter that was near the one I was put in.

Q That is one of the three air raid shelters you mentioned previously?

A Yes, sir, and in which some of the Spaniards were

also ordered in.

Q Were you present when this photograph was taken?

A I was present.

MAJOR KERR: Sir, I offer in evidence as Exhibit No. 224 the photograph just identified.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 224 for identification was received in evidence.)

(A photograph was marked Prosecution Exhibit No. 225 for identification.)

Q (By Major Kerr) Father, I hand you what has been marked for identification as Exhibit 225, and ask you to state what that is.

A The photograph represents the three shelters I have just mentioned. The two smaller ones are seen, and the other one is the bigger one.

Q On which side? The left side of the photograph is the shelter where you were?

A It was in the shelter that is shown in the center.

MAJOR KERR: Sir, I offer in evidence as Exhibit 225 the photograph just identified.

GENERAL REYNOLDS: There being no objection, it is accepted in evidence.

(Prosecution Exhibit No. 225 for identification was received in evidence.)

Q (By Major Kerr) Father, will you name some of the men who were in the shelter with you and who, so far as you know, did not survive?

A Those who survive were only myself and Mr. Rocamora.

Q Will you name some of those who did not survive?

A Father Melencio Polo, Father Anselmo Pinera, Father Pinedo, Father Herman Biurrun, Mr. Iguazuza -- I don't remember the other names.

Q The Fathers whom you have named, were they Augustinian Fathers?

A The ones I mentioned were Augustinians.

Q Did you ever see those men again?

A Never.

Q If they had survived would they have come back to the St. Augustine's Church?

A Certainly.

Q During the experiences which you have just related, Father, were you dressed as you are now?

A I was dressed in the way I am dressed at the present, until the time I was taken to the air raid shelter, but inside there I had to take off the uniform, because with it I had to bandage my wounds.

MAJOR KERR: Your witness.

CROSS EXAMINATION

Q (By Captain Reel) Now, as I understand it, the first half hour that you were in the air raid shelter nothing happened, is that correct?

A True.

Q And then somebody threw some hand grenades. Did you see who threw the hand grenades?

A Being inside the shelter, I could see -- I could not see the one who threw the grenades.

Q Yes; and after the grenades were thrown, somebody closed up the entrance to the shelter, is that correct?

A Also true.

Q And you couldn't see who was closing the entrance to that shelter, is that correct?

A I could not see who was closing the entrance, but I was able to see that it was the Japanese who was at the entrance at the time we escaped.

THE WITNESS: No.

A (Through the Interpreter) Before closing the entrance, someone fired inside the shelter, and I saw that they were Japanese.

Q Where did you see these Japanese firing into the shelter?

A At the entrance of the shelter.

Q Will you tell us whether they were army or navy or what branch of service they were in?

A I cannot tell whether they belong to the army or the navy.

Q Well, any of the Japanese that you saw during any of those procedures that you have told us about, starting with 5 February, can you tell us whether any of them were army or navy?

A I could not distinguish.

Q Now, during all this period that you have been relating to us, is it true that there was shelling going on?

A Almost continuously there were shelling.

Q Yes, and did some of these shells start fires?

A All the buildings were already wrecked down; the shelling did not set fire.

Q Well, didn't the shelling destroy some of the buildings?

A When I got out of the shelter, I saw all the buildings already wrecked now, and I didn't see the effect of the shellings.

Q Well, before you went into the shelter, didn't you see the shelling sometime between the 5th of February and the time you went into the shelter on the 18th of February?

A I could not see, because we were all secluded in the Augustinian Convent without being allowed to come out.

Q Well, didn't you tell us on direct examination, Father, that at one time you were with some other persons, exposed to shell fire?

A When we were taken out of the convent to be taken to Fort Santiago.

Q Yes, and at that time you saw shelling going on, is that right?

A Certainly.

Q Now, isn't it true that the church, St. Augustine's Church, is a very solid, well-built building?

A Certainly.

Q And it is much more able, better able to withstand the ravages of shellfire than the houses in Intramuras, is that true?

A Also true.

Q And is that also true of the warehouse the Father

described?

A To what warehouse do you refer?

Q The warehouse to which the Father referred in his testimony, when he said they were put into a warehouse.

A That warehouse is of too weak walls, and I don't know -- (pause) -- without any -- (pause) -- ceiling.

CAPTAIN REEL: Without any ceiling?

THE INTERPRETER: Yes.

Q (By Captain Reel) Just one more question, Father. When you were first in St. Augustine Church, I think you testified that some girls were taken out of the room and later came back. It is true, is it not, they did not tell you what had happened?

A (Through the Interpreter) They never told us anything.

CAPTAIN REEL: That is all.

MAJOR KERR: That is all with this witness, sir.

(Witness excused)

GENERAL REYNOLDS: The Commission will be in recess until tomorrow morning at 8:30.

(Whereupon, at 1630 hours, 6 November, 1945, the trial was adjourned until 0830 hours, 7 November 1945.)