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Transcripts of Evidence Court No R 37
Trial of 1st Lt Kitamura

R 37

CASE FOR THE PROSECUTION

Prosecutor tenders statutory Declaration of MA NA FAI with statement annexed which is admitted in evidence read, marked Exhibit 'A', signed by the President and annexed to the proceedings.

Prosecutor produces Exhibit 'B' to declaration of Lt. A. Sprilyan of 31/51 Australian Infantry Bn (AIF) referred to in para 5 of the declaration of MA NA FAI. Exhibit examined by the court

Prosecutor tenders statutory declaration of CHAN KAI with statement annexed which is admitted in evidence, read, marked Exhibit 'B', signed by the President and annexed to the proceedings.

Prosecutor tenders statutory declaration of LEUNG KAN with statement annexed which is admitted in evidence, read, marked Exhibit 'C', signed by the President and annexed to the proceedings.

Prosecutor tenders statutory declaration of SO KAM with statement annexed which is admitted in evidence, read, marked Exhibit 'D', signed by the President and annexed to the proceedings.

Prosecutor tenders statement of LEUNG CHEUNG, admitted in evidence, read, marked Exhibit 'E', signed by the President and annexed to the proceedings.

Prosecutor tenders ~~xxxxxx~~ interrogation of accused which is admitted in evidence, read, marked Exhibit 'F', signed by the President and annexed to the proceedings.

CASE FOR THE PROSECUTION IS CLOSED.

DEFENDING OFFICER:

Submit no case to answer.
Statements in themselves reveal prima facie case.
Case rests on Sec 9(1) of Act.
Does not argue statement do not appear on the face, authentic.
Statements must be "of assistance in proving or disproving the charge".
"Assistance" must be construed in favour of the accused.
Statements are at most corroboration.
There must be oral evidence which statements may support.
Until oral evidence given statements cannot be received.
Sec 9(1) must be construed in favour of the liberty of the subject.

PROSECUTING OFFICER

A charge has been made. It is to be proved. Usual method is by oral evidence with exhibits and statements. Any particular statement does not prove the charge. Together they establish a case they are mutually assisting

JUDGE ADVOCATE

Statements admissible and have been admitted without objection - War Crimes Act Sec 9(1).
The question raised by the Defending officer depends on interpretation of Sec 9(1) and Regulation 11.
The key is "assistance"
Who is the document or statement to assist?
Obviously it is to assist the Court, not assist other evidence.
Case an entirely documentary evidence may be a prima facie case.
If the court finds that the evidence in the documents does not make a prima facie case, submission will succeed.
If the court considers the documents provide evidence of a prima facie case, defence must explain.
Refers to Regulation 11.
A Documentary case for the prosecution may provide a prima facie case.

THE COURT CLOSES TO CONSIDER THE SUBMISSION.

THE COURT RE-OPENS.

PRESIDENT: The Court does NOT uphold the submission.

The accused being duly sworn is examined by Defending Officer through interpreter Hattori

Guided by my conscience I swear to tell the truth without withholding anything whatsoever and also I will not add anything besides the truth.

My full name rank and unit is Navy Lt. Kenichi Kitamura of 2nd Special Naval Landing party ~~xxxxxx~~ of the Yokuska Naval Base.

DEFENDING OFFICER: shos statement to accused.

That is my signature. That has been read over to me by interpreter and it is true and correct.

Defending officer tenders statement which is read, admitted ~~inxx~~ evidence marked Exhibit G signed by the President and annexed to the proceedings.

I have read the certificate attached to my statement before the court and say that that is not correct. I was asked to sign the whole of the statement that I had made as being correct. There was one portion which was not right. ~~xxxxxxx~~ That was the first time that I had seen the statement since I ~~xxx~~ made it, that is to say on 30th March 46. On 30th March 46 I did endeavour to make a request to ~~explain~~ this statement. ~~xxxxxxx~~ I was told that a competent Japanese interpreter would be coming shortly and that you can make the request at that time. I have not had an opportunity of explaining that statement except in court today.

CROSS EXAMINED.

Q. When the statement was read over. Were you not told that it was not a question of whether the statement was correct or not but just whether those were the questions asked and the answers given.

A. When that statement was made I stated that ~~the~~ part was not right.

Q. ~~xxxxxxx~~ Were you not asked whether the statement was a correct record of the questions and answers irrespective of the truth or otherwise of those answers.

A. Yes, but it is slightly wrong.

Q. Were you asked who ordered the execution at the interrogation.

A. Yes, I was asked that.

Q. And did you give the answer "Soeda (Naval Capt) ordered the execution (now in 10 area)

A. Yes.

Q. Were you also asked "xxxxxxx" you ordered the execution of Wu Kan".

A. Yes. The answer that I gave was that I conveyed the orders from Soeda to my subordinates.

Q. So you did not answer "Yes I did".

A. I did not give that answer.

Q. When did the commanding officer order that people found stealing were to be executed.

A. It was towards the end of 1944 and it was repeated each month.

Q. Repeated how.

A. When all officers in charge were assembled at a meeting then it was given to them verbally.

Q. Did you tell Ma Nai Fai to tell the Chinese that they were to receive the same punishment for stealing.

A. I told him that "please be careful that such incidents will not recur"

Q. Did you say that if they did the Chinese would be executed.

A. I did not add anything.

QUESTION BY JUDGE ADVOCATE.

- Q. In your opinion was the order of Capt Soeda a lawful one.
A. No, I did not think so. I believe it was issued to maintain order and discipline.

QUESTION BY DEFENDING OFFICER BY LEAVE OF COURT

- Q. ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
Would a Japanese junior officer in the Japanese Navy be compelled to obey an order by the senior Japanese officer to tell the Chinese that they would be executed if they stole ~~XXXXXX~~ food.
A. The situation at Nauru was serious in that I was compelled to ~~XXXX~~ obey this order.

NO FURTHER QUESTIONS.

Evidence is read over to witness who does not desire to correct same.

I swear that I have told the truth without adding anything.

北村 謙一

Defending officer calls Nakayama.

Nakayama being duly sworn is examined by Defending Officer through interpreter Sattori.

Guided by my conscience I swear to tell the truth without withholding anything whatsoever and also I will not add anything besides the truth.

中山洋臣

My full name rank and unit is Lt. Comd Hiroomi Nakayama of 52th ^{naval} Garrison unit.

Defending Officer shows statement to witness.

This is my signature. The statement has been read over to me in Japanese and this is true and correct.

Defending officer tenders statement which is read, admitted in evidence marked Exhibit H, signed by the President and annexed to the proceedings.

I heard that Sato was punished for killing the Chinese Wu Kam. I heard that noone gave the orders for Sato to execute this chinese.

CROSS EXAMINED BY PROSECUTING OFFICER.

Q. Ma was the only interpreter of Chinese on the Island wasn't he.
A. Yes, the only good interpreter was Ma. There were others too.

Q. And any orders given to the Chinese would be given through Ma.
A. Yes.

Q. Was this order about executions ever put into writing.
A. No, it was not in writing.

Q. All that was done was that it was passed down from the senior officers to the subordinate officers.
A. Yes, that is correct.

Q. Did you see this execution.
A. No, I did not.

Q. Did Kitamura speak to you about it.
A. The following day I heard that Sato had killed the Chinese.

Q. Did the accused tell you that he had been present at the execution.
A. ~~xxx~~ He did not say that he was there, but he did telephone about it.

RE EXAMINED BY DEFENDING OFFICER

Q. ~~xxxxxx~~ Did the accused tell you when he had first heard of the execution.

A. I don't remember if he mentioned any time or not. When the telephone call came I was not in but the telephone message was taken down by one of my men and then the telephone message was communicated to me later.

Q. Did ~~xxxx~~ the accused subsequently tell you about the execution of the Chinaman.

A. Yes, I did hear it from the accused.

Q. What did the accused tell you.

A. The points that I can remember is that he told me on that occasion. Petty officer Saito got drunk and through some mistake he killed this Chinese and the other point is Saito was given 45 days heavy confinement as punishment.

QUESTION BY JUDGE ADVOCATE.

- Q. Had the Chinese Wu Kam stolen provisions just prior to his death.
A. I heard that he stole frequently. I was not there in the unit itself so I would not know, but I heard that he had.
- Q. Was Saito obeying orders in executing Wu Kam or was he not.
A. ~~or~~ I would think that he had the general order in mind but do not think that anyone gave him the specific order to execute Wu Kam.
- Q. Exactly what was the order that Soedo gave.
A. ~~He~~"Anybody caught stealing would be shot to death."
- Q. Who was authorized to carry out the execution or order it to be carried out.
A. All commanding officers would make a thorough investigation and then receive the instructions of the highest commander. Each commander would refer to the next senior commander.
- X. ~~XXXXXXXXXXXXXXXXXXXX~~
X.
Q. What was Saito's rank.
A. It was the Navy equivalent to Sgt.
- Q. Did the accused tell you whether he had been present at the execution of Wu Kam.
A. I did not hear of it.
- Q. What were the ^{relative} ~~relative~~ positions of yourself and the accused at this time:
A. I was a Lt. at the time and I think Kitamura was a first Lt.
- Q. Were you and he in the same unit or sub unit.
A. I was quite separate from the accused.

DEFENDING OFFICER BY LEAVE.

- Q. Was the accused under your command.
A. I had no direct command over him.

BY COURT

- Q. Which is the senior rank in the Japanese Navy, Lt. or 1st Lt.
A. The Lt. is senior.

Evidence is read over to witness who does not desire to correct same.

I swear that I have told the truth without adding anything.

中山洋臣

Sano
~~being~~ being duly sworn is examined by Defending Officer through
interpreter Hattori.

R37-7
Sheet No 8

that I will tell
Guided by my conscience I swear ~~that I will tell~~ the truth without
withholding anything whatsoever and also - will not add anything besides
the truth.

佐野 猛 男

I am Petty Officer ~~Saito~~ Takeo of 67 Naval Garrison Unit.

Defending officer shows statement to witness.

That is my signature. The statement has been translated to me in
Japanese and it is true and correct.

Defending officer tenders statement which is read, admitted in evidence
marked Exhibit J signed by the President and annexed to the proceedings.

I heard that Saito was punished for killing Wu Kam.

NO CROSS EXAMINATION BY PROSECUTING OFFICER.

JUDGE ADVOCATE

- Q. What was the offence with which Saito was charged and punished.
A. He was charged with killing Wu Kam and the punishment I think was
1 1/2 months ~~heavy~~ confinement.

Evidence is read over to witness who does not desire to correct same.

I swear that I have told the truth without adding anything.

佐野 猛 男

JUDGE ADVOCATE SUMS UP

Definition of murder - Archbold p 859.

Definition of manslaughter - Archbold p 859.

If there was a killing and it was not accidental, unintentional or provoked the court may imply malice. See MML p 129 para 44.

As to the interrogation of the accused tendered by the prosecution (Exhibit F) see MML p 100 on the admissibility of confession. The object is to ensure that such a confession is true.

If a man passes on an order to kill and a subordinate carried it out strictly in accordance with the order, the man giving the order may be held responsible for the killing.

If an order is obviously unlawful, the person carrying it out cannot escape liability on the ground that it was done owing to the exigencies of the service.

If the subordinate after receiving an order, killed a man the person giving the order would not be responsible if the subordinate went beyond the order in doing the killing.

On the question of hearsay I refer the court to MML p 91

I refer the Court to Regulation 11 of the Regulations under the War Crimes Act.

The Court must be satisfied beyond reasonable doubt.

V
Lord
20/10

At 1040 hrs Court is closed to consider finding.

At 1100 hrs Court re-opens.

PRESIDENT

The court find Kitamura Kenichi NOT GUILTY of the charge.

SIGNED at RABUL this 9th day of April 1946.

Dickland

Capt. Judge Advocate.

Phoy

Lt. Col President.

Subsidiary 'A' R37-15
John W. ...
Manda

STATUTORY DECLARATION.

MA NAI FAT...of...NAURU ISLAND...Central Pacific

Do hereby solemnly and sincerely declare:-

1. Between 8 November and 28 November 1945, I was questioned at NAURU ISLAND by an Australian Army Officer whom I now know to be Lt. A. Sprilyan of 31/51 Australian Infantry Battalion. (A.I.F.)
2. Later a typed copy of the questions and answers was read over to me and I signed it.
3. The typed questions and answers are a true record of the questions I was asked and the answers I gave, and these answers are the truth.
4. At FAURO ISLAND, I inspected several parades of Japanese who had come from NAURU ISLAND and I identified the following:-

Lt. Comdr. NAKAYAMA

1st. Lt. KITAMURA Kenichi

Heise TORIWUMI

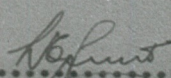
5. The photographs annexed to the declaration of Lt. A. Sprilyan of 31/51 Australian Infantry Battalion (A.I.F.) and marked with the letters "B", "S", and "C" are photographs of the Japanese known to me as NAKAYAMA, STAMURA and TORIWUMI respectively, and so referred to in the record of questions and answers signed by me.

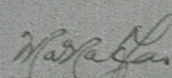
AND I MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1911.

SUBSCRIBED AND DECLARED BY MA NAI FAT.

In the Field on the eleventh day of December, One Thousand Nine Hundred and Forty-five.

Before me


.....Capt.
AUSTRALIAN MILITARY FORCES


.....

36
31/51 Aust Inf Bn (AIF).
NAURU FORCE.

R37-11
27 Nov 45.

INVESTIGATION OF JAPANESE WAR CRIMES
ATROCITIES TO CHINESE, NAURU.

Case of WU KAM, C.C. 1762, EXECUTED, 5 MAY 1945.

Witness:

MA NAI FAI, Chinese Interpreter.

About two months before he was executed he fell from a coconut tree while collecting toddy in BUADA. The tree had been damaged by bombing and broke under him, so that he fell and was badly injured. He was six weeks in bed, when the Japanese sent a doctor to see him once, who gave him no treatment but told him to rest.

After six weeks he was able to walk, with the aid of a stick. Those not working received no food ration and we could give him only a little.

After one or two weeks more he went out to the farm and stole a pumpkin. He was caught as he couldn't run. The Japanese brought him back to the office of the farm, of which STAMURA was the officer in charge. He was a lieutenant (3 stars) a young officer about 25. He ordered that WU KAM should be executed.

WU KAM was executed in front of the office, and then the Japanese called to the Chinese to take him back to his house. Next day they told me to bury him.

- Q. Did you see the body ?
A. Yes. Next morning in his house. There was a cut about 5 inches long up the back of the neck, a deep cut, so that I think the Japanese must have used a sword. The neck was not severed.
- Q. Who notified you ?
A. STAMURA.
- Q. Would this case have been referred to higher HQ before STAMURA ordered the execution ?
A. I know that STAMURA ordered the execution. He said that this man had stolen a pumpkin in the farm last night and he had given orders for his execution. STAMURA told me to warn the Chinese that if they did the same thing they would receive the same punishment.
- Q. Were there any Chinese who witnessed the execution ?
A. No, it was Saturday, and a Japanese celebration day, and the Chinese finished work earlier.
- Q. Do you know the Chinese who took the body to WU KAM's house ?
A. Yes.
- Q. What unit was this ?
A. HOMBUNOJO, taken from the SEKAIDAI some time before and now directly under SCEDA's HQ. STAMURA was previously secretary to KISIMOTO, 2 i/c NAURU. When he went to the farm he had two star rank, but after two or three months he was promoted to three star rank.
- Q. Was there any order regarding stealing pumpkins ?
A. I never heard of any.

+ *Ma Nai Fai*

Ma Nai Fai

STATUTORY DECLARATION

R37-12
Exhibit B
Jelly - 4 cc. Prescribed

I, CHAN KAI, Chinese of NAUHU ISLAND, Central Pacific

Do hereby solemnly and sincerely declare:-

1. Between 8 November and 28 November 1945, I was questioned at NAUHU ISLAND by an Australian Army Officer whom I now know to be Lt. A. SPRILYAN of 31/51 Australian Infantry Battalion (A.I.F.)
2. Later a typed copy of the questions and answers was read over to me and I signed it.
3. The typed questions and answers are a true record of the questions I was asked and the answers I gave and those answers are the truth.
4. At NAUHU ISLAND I inspected several parades of Japanese who had come from NAUHU ISLAND and I identified the following:-

Warrant Officer HETAKIYAMA Yosutake

Paymaster 1st. Rank SATO Heibei

5. The photographs annexed to the declaration of Lt. A. SPRILYAN of 31/51 Australian Infantry Battalion (A.I.F.) and marked with the letters "R" and "E" are photographs of the Japanese known to me as HETAKIYAMA, and SATO respectively.
6. I also identified the following:-

Heiso TORIYUMI

Whose photograph is annexed to the declaration of Lt. A. SPRILYAN and marked with the letter "C", and known to me as TORIYUMI and so referred to in the record of questions and answers.

AND I MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1911.

SUBSCRIBED AND DECLARED BY

CHAN KAI

In the Field on the eleventh day of December, One Thousand Nine Hundred and Forty Five.

Before me
Signed by
and before me

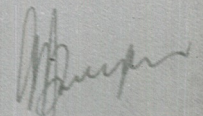
陳佳

- 11 -
Re: WU KAM

R37-13
27 Nov 45.

Witness:

CHAN KAI, Chinese coolie, B.P.C. employee.

- Q. Do you know the Chinese WU KAM ?
A. Yes.
- Q. What happened to him ?
A. He was executed.
- Q. Tell what you know of the execution ?
A. SHIMATA Heiso went over to my house -
- Q. At what time was this ?
A. About 7 o'clock in the afternoon.
He told me one Chinese was executed and to go out and take his body back. Then four Chinese went to the office together with SHIMATA as told. When we arrived at the spot where the body was lying HORIUCHI was there beside the body. He gave each of the four of us a smack on the face. STAMURA, HORIUCHI, and SHIMATA, were beside the body.
- Q. What happened after you were smacked on the face ?
A. HORIUCHI told us that WU KAM attempted to steal a pumpkin in the farm and also told us that No. 1. STAMURA gave orders for the execution. SANO told us to take the body back to WUKAM's house.
- Q. What did you do ?
A. LEUNG CHEUNG and LEUNG KAN were the cousins of WU KAM and I went to their house and told them to carry the body to their house.
- Q. What was the condition of the body when you found it ?
A. Both his hands were tied up behind his back, and he was lying on the ground.
- Q. Was his head severed ?
A. Yes, he had a deep cut on the right hand side behind the ear.
- Q. How deep was it ?
A. After the body was brought back to the house I looked and saw the cut was very deep.
- Q. Do you know if any Chinese saw the execution ?
A. I don't know.
- Q. How far were you away when SHIMATA came to you ?
A. My house was the nearest to the office - 50 or 60 yards away.
- Q. Did you hear anything ?
A. I heard - before WU KAM was executed - that he attempted to steal a pumpkin, and I heard the Japanese beating him but I was afraid to come out of my house.
- Q. Did you hear this, or did someone tell you ?
A. I heard with my own ears.
I did not know it was WU KAM at first. I was in my house when I heard someone being beaten outside the office.
- 

I heard the Japanese ask WU KAM why he had gone down to the farm and attempted to steal a pumpkin. I knew then that it was WU KAM because he was crying and I knew his voice.

- Q. Was he beaten before he was executed ?
A. Yes, I didn't see it, but I heard it.
- Q. What did it sound as though they were using ?
A. I heard WU KAM crying but I don't know whether the Japanese used a pole or a stick.
- Q. Did you recognize any of the Japanese voices talking to WU KAM ?
A. No.
- Q. Were you in your house ?
A. Yes.
- Q. Was it dark then ?
A. It was beginning to darken.
- Q. Why didn't you go outside and see what was going on ?
A. I was afraid.
- Q. What was the next thing you knew after you heard WU KAM crying ?
A. I heard nothing after WU KAM was beaten. About 15 minutes later SHIMATA came to my house.
- Q. Was there anyone else in the house at the time ?
A. Yes, TSO KAM (now at OCEAN ISLAND).
SO KAM.
- Q. Did they go over to the body then ?
A. Yes, as soon as SHIMATA told us.
- Q. When was the last time you saw WU KAM alive ?
A. I had not seen him for a long time, our houses were a long way apart.
- Q. Who was the commander of that area ?
A. STAMURA.
- Q. Do you know who actually killed WU KAM ?
A. I couldn't tell actually but when I arrived at the body HORIWUCHI told me that No. 1. ordered the execution.
- Q. Did any of the Japanese there have a sword ?
A. No.
- Q. Was the cut made with a sword or a bayonet ?
A. I don't know.
- Q. Did you see any weapons there ?
A. No.

陳佳

[Handwritten signature]

Exhibit C R37-15
J. Edgar Hoover
Memorandum

Do hereby solemnly and sincerely declare:-

1. On 27 November and 28 November 1945, I was questioned at NAURU ISLAND by an Australian Army Officer whom I now know to be Lt. A. SPRILYAN of 31/51 AUSTRALIAN INFANTRY BATTALION (A.I.F.)
2. Later a typed copy of the questions and answers was read over to me and I signed it.
3. The typed questions and answers are a true record of the questions I was asked and the answers I gave, and those answers are the truth.
4. At FAURO ISLAND I inspected several parades of Japanese soldiers who had came from NAURU ISLAND, and I identified the Japanese Officer 1st. Lt. KITAMURA Kenichi.
5. The photograph annexed to the declaration of Lt. A. SPRILYAN and marked with the letter "S" is a photograph of the Japanese referred to above and called "STAMURA" in the record of questions and answers signed by me.

AND I MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act.1911.

SUBSCRIBED AND DECLARED BY LEUNG KAN.

In the field on the eleventh day of December One
Thousand Nine Hundred and Forty-five.

Before me

.....Capt.
AUSTRALIAN MILITARY FORCES

梁爽

R37-46
27 Nov 45.

Witness:

LEUNG KAN, C.C. 530. Chinese coolie, B.P.C. employee.

- Q. What was your job during the Japanese occupation ?
A. One of the gardeners working in BUADA for the Japanese.
- Q. When did you finish your job there ?
A. I worked there for 2 1/2 years up to the time of the arrival of the Australians.
- Q. Do you know a Chinese named WU KAM ?
A. Yes.
- Q. What was his work under the Japanese ?
A. He was working on the farm until he was executed by the Japanese.
- Q. How do you know he was executed ?
A. Some of the Chinese told me that he was executed.
- Q. Who told you ?
A. CHAN KAI.
- Q. When was the last time you saw WU KAM alive ?
A. About one hour before he was executed.
- Q. Did you see him executed ?
A. No.
- Q. Did you see the dead body of WU KAM ?
A. Yes.
- Q. What were the circumstances ?
A. I was told to take the body back to the house, by CHAN KAI.
- Q. Do you know who ordered CHAN KAI ?
A. No.
- Q. What was the condition of the body ?
A. He was cut on the right hand side of the head from the cheek down to the back of his neck. The neck was not severed.
- Q. Was there much blood ?
A. Yes, on the ground.
- Q. Where was the body ?
A. In the open space about twenty yards from the office.
- Q. Were there any soldiers there when you went to pick up the body ?
A. Only one soldier was supervising the cleaning up of the blood.
- Q. How many Chinese were there cleaning up ?
A. I saw two Chinese there. After I took the body back to the house I saw three more go there, making five in all. SO KAM and CHAN KAI were two of them.
- Q. Did you recognize the Japanese soldier ?
A. SHIMATA Heiso.
- Q. Do you know why WU KAM was executed ?
A. He was accused of stealing a pumpkin from the farm.
- Q. Do you know if there are any Chinese who actually witnessed the execution?
A. I don't think any Chinese were actual eye-witnesses.
- Q. Did you see WU KAM arrested ?
A. No.

Re; ³⁵⁻WU KAM.

P37 17

Witness: LEUNG KAN (2):

- Q. What was the first time you knew of WU KAM's death ?
A. When CHAN KAI called me.
- Q. What was the name of that unit ?
A. HOMBUN NOJO.
- Q. Who was the commanding officer ?
A. STAMURA.
- Q. How far away was your house ?
A. 500 yards.
- Q. Did you see STAMURA there when you went over ?
A. Yes, STAMURA was in the office.
- Q. Did you hear who executed WU KAM ?
A. STAMURA I think.
One Japanese working on the farm told me that he did the execution. He was HORIWUCHI Heiso of HOMBUN NOJO.
- Q. How did the conversation arise ?
A. He told me that one Chinese who stole pumpkins from the farm was executed, and he was the one who did it.
- Q. Why did he tell you that ?
A. He must have wanted to frighten me.
- Q. Can you recognize him now ?
A. Yes.
- Q. Was there any punishment laid down for stealing ?
A. No.

++

梁
康

[Signature]

Exhibit D. R37-18
So Kam
Witness

STATUTORY DECLARATION

I, So Kam, Chinese Employee of British Phosphate Commissioners of NAURU ISLAND, Central Pacific.

Do hereby solemnly and sincerely declare:-

1. On the ^{fourty sixth and} ~~fourty sixth~~ day of November 1945, I was questioned at NAURU ISLAND by an Australian Army Officer whom I now know to be Lt. A. SPRILYAN of 31/51 Australian Infantry Battalion (A.I.F.)
2. Later a typed copy of the questions and answers was read over to me and I signed it.
3. The typed questions and answers are a true record of the questions I was asked and the answers I gave, and these answers are the truth.

AND I MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1911.

SUBSCRIBED AND DECLARED BY So Kam

At the Office of the Administration of NAURU ISLAND this sixteenth day of December, One Thousand Nine Hundred and Forty Five.

Before me

John G. D. V.
.....
ADMINISTRATOR.

So Kam
His X mark
Witness: Paul Harris
.....

- 13 -
Re: WU KAM

R37-19
27 Nov 45.

Witness: SO KAM, C.C. 1280, Chinese coolie.

- Q. What do you know about the death of WU KAM ?
A. He was executed for stealing pumpkins.
- Q. Tell me what you know ?
A. I was chatting in CHAN KAI's house one night when a Japanese came to the house and told us to take the body of WU KAM back to his house because he was executed for stealing a pumpkin.
- Q. Who was he ?
A. SHIMATA.
We went over to the office and saw WU KAM lying on the ground dead.
- Q. About what time of night was this ?
A. About 7 in the evening.
- Q. How long had you been in the house prior to SHIMATA coming in ?
A. For about half an hour before SHIMATA came.
- Q. Did you hear anything unusual before SHIMATA came ?
A. I heard someone crying for help, but I didn't know who he was.
- Q. What did you do ?
A. We did nothing but stayed in the house.
- Q. You didn't try to find out what the crying was ?
A. I knew that Chinese were sometimes beaten, and I knew that we must stay in our house because we could do nothing.
- Q. What condition was the body in ?
A. There were two cuts in the head, both on the right side, one above the ear and one below, running back from the cheek to the neck.
- Q. Were there any Japanese soldiers there ?
A. Yes, I saw STAMURA, SANO, and SHIMATA.
- Q. Do you know who actually killed WU KAM ?
A. No.
- Q. Was anyone holding a weapon ?
A. No.
- Q. Was the body freshly dead ?
A. Yes, it was still bleeding.
- Q. What did you do with the body ?
A. SHIMATA told me to take the body back to WU KAM's house.
- Q. Who carried the body back ?
A. Myself, and LEUNG CHEUNG.
- Q. Did the Japanese say anything else beside the order to carry the body back ?
A. No.
- Q. Was any punishment laid down for stealing pumpkins ?
A. No.
- Q. Who was the commander there at that time ?
A. STAMURA.
- Q. Did the Japanese slap you across the face when

SO KAM (2):

A. you came up to the body ?
No.

Q. Did you see the Japanese slap anyone else ?
A. I saw them slap some Chinese.

Q. Did you see anyone else there beside STAMURA, SHIMATA,
and SANO ?

A. Yes, there were two others standing on the side.

Q. Do you know HORIUCHI ?

A. Yes, he was there.

Q. Do you remember HORIUCHI saying anything to the
Chinese as they approached the body ?

A. I don't remember it.

Q. Do you know who ordered the execution ?

A. No.

+

X

Re: WU KAM.

27 Nov 45. R37-21

Witness:

LEUNG CHEUNG, C.C. 305, Chinese coolie, B.P.C. employee.

- Q. What was your job while the Japanese were here ?
A. I was for six months in the carpenters' shop, then put to growing pumpkins in BUADA.
- Q. How long were you there ?
A. Up to the time the Australian forces arrived.
- Q. Do you know the Chinese WU KAM ?
A. Yes.
- Q. What happened to WU KAM ?
A. He was executed.
- Q. How do you know he was executed ?
A. CHAN KAI told me.
- Q. Where were you at the time of the execution ?
A. In my house 300 yards away.
- Q. Did you see him executed ?
A. No.
- Q. When was the last time you saw him alive ?
A. About two hours before I heard that he was executed.
- Q. Where was it you saw him ?
A. In my house. We lived in the same house.
- Q. Where did WU KAM go after you saw him ?
A. WU KAM told me he was going to have a bath and he went in the direction of the farm. That was the last I saw of him.
- Q. What were the words CHAN KAI said when he came up to you ?
A. He said that WU KAM was executed by the Japanese and told me to go out and bring back the body. I got a stretcher and went down to the office, where I found the body about twenty yards from it.
- Q. How was WU KAM ?
A. I found a deep cut on the head of WU KAM on the right side of the neck.
- Q. Were there any Japanese there when you picked up the body ?
A. I saw two Japanese there - SANO Heiso
SHIMATA Heiso.
- Q. Did you see any officers there ?
A. Yes.
- Q. Who ?
A. I saw STAMURA sitting in the office.
- Q. What were the two serjeants doing ?
A. They told the other Chinese boys to clean up the place.
- Q. What did you do then ?
A. Put WU KAM on the stretcher and took him home.
- Q. Was WU KAM working about the time this happened ?
A. No.
- Q. Why not ?
A. He fell from a coconut tree and was hurt.
- Q. Do you know why WU KAM was executed ?
A. No.
- Q. Do you know who performed the execution ?

- A. No.
- Q. Who was in charge of that area at that time ?
- A. STAMURA, known to the Chinese as San Lup Sing meaning "Three Stars".
- Q. What was the unit ?
- A. SCEDA's Unit, HOMBUN NOJO.
- Q. Do you know if any Chinese witnessed the execution ?
- A. No.

+ 31
長

[Handwritten signature]

(CHINESE COURT)

Exhibit E-37-23
Jury - 1st
Mural

Disappearance of LEE SOW on or about 21 Mar 45 and death of WUKAN.

1st Lt KITAHARA KENICHI interrogated with the assistance of the interpreter Sgt FARRELL, TIS, on 5 Dec 45 states:

- Q. Were you in charge of HOMBUN NOJO in March?
- A. Yes.
- Q. Do you know Chinese named LEE SOW?
- A. No.
- Q. Do you remember a Chinese who disappeared and a search was instituted to find him?
- A. No I do not remember.
- Q. Was SANO TAKEO a member of your unit?
- A. Yes.
- Q. Was SATO HEIBEI?
- A. No he was in HQ.
- Q. Were you in charge HOMBUN NOJO in May this year?
- A. Yes.
- Q. Do you remember Chinese WUKAN?
- A. Yes.
- Q. What happened to him?
- A. One night I was drunk and I went to bed. SAITO SHICHIGORO was also drunk and he came in and told me he had beheaded WUKAN.
- Q. Where is SAITO SHICHIGORO?
- A. He is dead. He died on the way from TOROKINA to the compound.
- Q. Who ordered the execution of WUKAN?
- A. SOEDA (Naval Capt) ordered the execution (now in 10 area)
- Q. You ordered execution of WUKAN?
- A. Yes I did.
- Q. Whom did you tell to execute WUKAN.
- A. I told SAITO to execute WUKAN.
- Q. Why did you kill WUKAN?
- A. Because he stole some cabbages and pumpkins.
- Q. You realize that you murdered this man?
- A. Yes.

What is the punishment in Japan for murder?

A. Death

I certify that this interrogation was read through to 1st Lt. KITAMURA Kenichi at RABOUL on 30 Mar 46 and he agreed and admitted that it is a correct record of the questions asked and his answers given at the interrogation.

W. E. B. Smith

Disappearance of LT SAW 20 Mar 45 (Contd) with the

Exhibit G R37-25
Bryson
President

Lt. KENICHI KITAMURA states:-

I was a 1st Lt. of the Japanese Navy belonging to the Second Special Landing Party of the YOKOSUKA NAVAL BASE and was ordered to be officer in charge and the management of gardens by the Commanding Officer of our Party.

In my interrogation which was made by the authorities on 5th December 1945, I find some differences from the fact. They are as follows:-

In those days Captain HISAYUKI SOEDA was the Commanding Officer of the NAURU ISLAND Naval Garrison. He gave orders that anyone who stole provisions would be executed. NAURU ISLAND was a solitary island surrounded on all sides by the Allies in that supplies of provisions and naval stores were stopped for a long time. Without produce from our own gardens, we would have nothing to eat. But often provisions were stolen and maintenance of discipline and order could not be maintained. The order of my Commanding Officer previously mentioned was conveyed to all my subordinates of which SHICHIGORO SAITO was one of them. But the fact is mistranslated in my statement of December 5, 1945 as if I ordered the killing of UKAM. When UKAM fell down from a coconut tree, I requested a doctor in my unit to diagnose him and after the examination by the doctor it was only a slight internal bleeding case, therefore no special medicament was given. The affected part was given a stupe (wet pack) as treatment in that after a short while he recovered completely. It is true that SHICHIGORO SAITO killed UKAM. Because UKAM was a habitual offender of stealing and on that particular occasion he had stolen some pumpkins and other provisions, UKAM was killed by SAITO as penalty without my knowledge. As SAITO killed UKAM without authority from his superior officers, he was ordered to heavy confinement for one month and a half (45 days). After he served this punishment, I ordered him to change his post to the Commanding Unit's intendance section. Not only workers, but Japanese were also punished under similar conditions. For instance, towards the end of June 1944, SATO and OTAKE both civilians attached to the Navy were executed by shooting because they had stolen some provisions belonging to the Navy's Intendance unit. Three other civilians attached to the Navy were also killed on the spot when they were found thieving provisions. About October 1944, a Petty Officer named IWANAMI stole some coconut juice belonging to the 3rd Company and was killed. As NAURU ISLAND was surrounded by the Allies and supplying of provisions completely stopped, the situation was serious as far as food was concerned and therefore discipline and order had to be maintained in order to stave off death. Captain SOEDA in his order stated that those who carried out executions would not be punished.

北村 謙
Lt. Kenichi Kitamura

I hereby certify that the above translation is true and correct.

S. Hattori

Exhibit H R57-26
J. H. H. H.
Present

Witness Lt-Commander HIROOHI NAKAYAMA states:-

Captain HISAYUKI SOEDA who was the Commanding Officer of the Naval Garrison at NAURU ISLAND gave orders that anyone who stole provisions would be given the death penalty. Because NAURU ISLAND was a solitary Island surrounded on all sides by the Allies, there was a shortage of provisions and other naval stores which gradually decreased and order and discipline could not be maintained. SHICHIGORO SAITO killed a Chinese named UKAM who was a habitual offender of stealing. He took provisions without permission from his superior officers. When UKAM fell down from a coconut tree, he was diagnosed by the Naval Doctor, and after examination it was decided that a wet pack for the affected party would be the most suitable medical treatment. He soon recovered after this type of treatment. The foregoing statement is true and correct.

中 山 海 軍
Lt-Comdr HIROOHI NAKAYAMA

I hereby certify that the above translation is true and correct.

J. H. H. H.

Exhibit J
Page 28 R37-27
John Brantley

Witness TAKEO SANO (Petty Officer) states:-

SHICHIGORO SAITO who killed UKAM had bad drinking habits thus causing failures from such drinks. On May 15th 1945 which was the anniversary day of our unit a party was held. It was on this day that SHICHIGORO SAITO got drunk as usual and killed UKAM. This was not an order from superior officers as no orders would be issued on an anniversary day. Under the influence and power of drinks he killed. I state that the foregoing evidence is ~~xxxx~~ a fact.

佐野 泰夫
Petty Officer TAKEO SANO

I hereby certify that the above is a true and correct translation.

[Signature]