

Stickney - redirect

correct?

A This is true.

MR. BIERMAN: I have no further questions.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

THE COURT: Call your next witness, please.

THEREUPON--

JOSEPH M. BOYETTE,  
called as a witness on behalf of the Government,  
having first been duly sworn, was examined and  
testified as follows:

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Joseph M. Boyette,  
3660 Northwest 16th Street. Supervisor in the marine  
office for the United States Customs.

DIRECT EXAMINATION

BY MR. KLEIN:

Q Mr. Boyette, did you bring any documents with you here today?

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OFFICIAL COURT REPORTER

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Boyette - direct

A Yes, I did.

Q Are those documents that you have brought kept in the regular course of business of the Customs Bureau?

A Yes, sir. They are the entry papers of various vessels.

Q And are you the custodian of these documents?

A Yes, sir.

Q Were these taken from the place where they usually were kept?

A Yes, they were.

MR. KLEIN: I offer this into evidence.

BY MR. KLEIN:

Q How many sets do we have all together?

A Five.

MR. KLEIN: I offer them as Exhibits 10, 11, 12, 13 and 14.

MR. BIERMAN: They are of different things.

THE COURT: Five sets of different documents?

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There are not five sets of anything going to be offered or received in evidence if they are the same thing. There is only going to be one.

MR. GREENSPAHN: I would object to this. There is no showing as to what it is or what it is for or what its materiality or relevancy is. I do not know what it is.

THE COURT: I do not know what they are.

MR. GREENSPAHN: I do not, either. That is why I suggest that they are not admissible at this point.

MR. KLEIN: As to the foundation for admissibility, we will connect some on the basis of relevancy and materiality through this witness and through others.

MR. GREENSPAHN: That is not the way it is done. The rules of evidence are quite clear. You do not put something in evidence and then link it up and then show that it is relevant or material.

THE COURT: What do these documents relate to?

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THE WITNESS: These are the entry papers--the Customs entry papers--for some vessels we have a subpoena for.

BY MR. KLEIN:

Q Mr. Boyette, would you explain what these documents are that you have brought with you today?

A They are the Customs entry papers for five different vessels.

Q What five vessels are they?

A The British motor vessel GRANWOOD; the Japanese motor vessel ASAKA MARU; the Japanese motor vessel MIKAGESAN MARU; the British motor vessel CARIBBEAN VENTURER; and the Polish motor vessel POLANICA.

Q Would you explain how those documents came into the possession of the United States Customs Bureau.

A These papers are required to be filed on behalf of the master of the vessel. They are required by law under the Tariff Act.

Q What is the requirement of the Customs Bureau in connection with those documents? What do

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they require?

A Well, we require that the master or his agent fill them out. The master signs them before a notary or Customs officer, swears to the truth of these documents.

Q What information is the master required to give?

A Well, he must give his name, the flag, the name of the ship, where he is from, the date of arrival and the date of departure from his last port.

Q What does the Customs Bureau require from the master in that connection?

A We require that these papers, plus his registry, his load, his load line and, if needed, a certificate of inspection if he is carrying passengers. In other words, the other papers of the vessel, the registration of the vessel.

Q Then what is done with these papers after that?

A His registration papers are given back to him. The papers that he fills for the Customs

Boyette - direct  
entry are held in our files.

Q Are there any other records of the registration of these vessels kept by the United States besides these?

A We have no other records of them once we have examined them and given them back and checked them against his papers. We give them back.

THE COURT: All right. I will admit them in evidence subject to them being connected up. I will give the defendants an objection.

MR. GREENSPAHN: May it please the Court, the basis for the objection not only is the materiality and relevancy that is lacking, but it is also the hearsay characteristics of these instruments which are not subject to cross examination and which are not properly admitted.

THE COURT: Well, if they are introduced under the Shop Book Rule, that is an exception to the hearsay doctrine. So the objection would be of no validity at this point.

MR. GREENSPAHN: If it please the Court, may I argue the point not in the presence of

Boyette - direct

the jury but to the exclusion of the jury?

THE COURT: All right, ladies and gentlemen. I will have to ask you to excuseus for a few minutes. The same instructions, of course, will be applicable.

(Thereupon the jury was excused, pursuant to which the following proceedings were had out of the presence of the jury:)

MR. GREENSPAHN: Your Honor, I respectfully submit that these are not within the purview of the Shop Book Rule; that the testimony of the gentleman on the witness stand is that the instruments that are received by his bureau are made by the captain or executive officer of the vessel that presents them in this port. The questions are asked by the United States Customs Bureau, but the answers to those questions are by written documents made by the master or the officer or the executive in charge of the vessel.

I can perhaps draw an analogy to hospital records. It is really not that far removed

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from it. The statements of the physicians within a hospital record are hearsay.

THE COURT: First of all, they are all official records, as I understand the testimony of the witness, that are required to be made out by law.

MR. KLEIN: They are required by statute.

THE COURT: Pursuant to that legal requirement, they are then given to the Coast Guard. It then becomes a part of the Coast Guard's permanent records, which they keep and, in truth and fact, are the only records that they keep. So I will overrule your objection.

Bring the jury in, please.

MR. GREENSPAHN: You mean the Bureau of Customs, your Honor?

THE COURT: Yes, sir.

(Thereupon the jury was returned to the courtroom, pursuant to which the following proceedings were had:)

THE COURT: All right, sir. The



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Government may proceed.

BY MR. KLEIN:

Q I am going to hand you what is now marked into evidence as Government's Exhibits Nos. 10, 11 and 12. I will get the other two for you shortly.

With regard to each one of those, would you explain where the registry of that vessel is indicated.

THE COURT: Does not that document show the registry of the vessel and where it is docked, the port?

MR. KLEIN: I think it requires a little explanation, your Honor. It does not exactly speak for itself.

THE COURT: All right. I want very little, because I do not want anything that the jury can look at and understand without a lot of testimony.

THE WITNESS: On the master sheet, we require that they state the flag of the vessel. On this particular one (Exhibit 10) it is the British motor vessel GRANWOOD.

Boyette - direct

BY MR. KLEIN:

Q All right. What is the registry?

A The registry, as indicated by the captain, is British.

THE COURT: Is there anything that you have about that that the jury could not understand by looking at that?

THE WITNESS: No, sir. It is marked there.

THE COURT: All right, sir. Let's move on.

MR. KLEIN: Nothing further of this witness.

THE COURT: All right. Cross examination.

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q When you receive the statement of the master of the vessel or the captain of the vessel, what verification, if any, do you require from him?

A We check the papers against the registry of the vessel or whatever indication he has

Boyette - direct/cross  
of nationality, or the certificate of inspection, the  
load line certificate; in other words, the  
registration papers of the vessel which are returned  
to him.

Q Where was the point of registry of the  
GRANWOOD, if you know, sir?

A I don't know, sir. We checked them  
and gave them back.

Q Based upon your training and  
experience, are there laws within the British Empire--  
Great Britain--requiring, as we have for our domestic  
vessels, a particular form of registration procedure?

MR. KLEIN: Your Honor, I am going to  
object to that. He is asking a question of law that  
is beyond the scope and knowledge of the witness.

THE COURT: I do not know. I will  
permit this witness to answer the question if it has  
any relation to Customs and his duties. Other than  
that, I do not want him to express any legal opinions.

THE WITNESS: Sir, as I understand,  
the question is, have I seen the British registration?  
Is that what you mean?

Boyette - cross

BY MR. GREENSPAHN:

Q No. I am asking you if in the course of your training and experience you have become aware of the fact that there are laws in Great Britain requiring registration procedures to be employed by any flagship.

A Yes, sir. They have laws where they issue registers.

Q Do you rely entirely, then, sir, on the statements made by the master of the vessel without verifying, through the British Empire or other foreign countries, as to whether their requirements as to registration have been met?

A No. Our regulations say you shall verify the flag of the vessel and the registration from the certificate of registration which is presented with the master's papers.

Q Do you have indicated in these records the date of the certificate of registration to which you refer?

A No, sir. We do not put on the papers the date of registration. It appears in some cases

Boyette - cross

on the master's papers, but we don't ourselves write down the date or place of registration.

Q I am not familiar with your papers and I do not want to waste the Court's time thumbing through them. Is there a place in the papers relative to, for instance, the motor vessel GRANWOOD where there can be located the reference to the registry of the vessel by the captain or by some other person?

A May I see it?

Q Yes, sir.

A On this particular one, there is. It is on our standard inward foreign manifest and it contains a statement by the master as to where the registration occurred. This is the only inward foreign manifest which we attach.

Q Is this form, the inward foreign manifest, to which you referred also attached to each and every of the other exhibits that have been placed in evidence in this cause?

A I will have to look at them. There are various forms of inward manifests. I will have to look at them. I can't tell you without looking.

Boyette - cross

Q Is the form of the master's oath on entry of vessel from foreign port the same on each of these--that is, in the form alone, not in the entries that are made?

A Yes. This is a standard customs form.

Q There is nothing that I see on this master's oath that indicates the registry of the vessel. Is that a correct statement?

A It indicates the flag.

Q It indicates the flag but it does not indicate the registry. There is a difference, is there not, sir?

MR. KLEIN: Your Honor, he is arguing with the witness. I object to the question.

THE WITNESS: I don't quite understand. I am not trying to be difficult. A register is a document. Just as you have a register for your car or a register for anything else. This the captain or his agent will show you, but you must give it back. We don't have those.

BY MR. GREENSPAHN:

Q Do you make any notations of the

Boyette - cross

matters and things that are set forth on the registry or on the registration that is given to you for your inspection?

A No, sir, we do not. We check them and if they agree, we do not.

Q And you check them only as to whether they appear to be valid forms to you without any verification or corroboration from the place or the point of registry, is that correct?

A That's correct, sir.

MR. GREENSPAHN: Your Honor, I am sorry to take this time, but I have not seen this document before.

BY MR. GREENSPAHN:

Q How long have you occupied your present official capacity with the Bureau of Customs?

A I have been with the Bureau of Customs twenty-six years, and in my present capacity about twelve.

Q During that period of time have you had occasion to personally inspect the registry of vessels of foreign origin that come into our ports?

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Boyette - cross

A Yes, sir. During that period I have inspected any number of them.

Q In the event that you are not satisfied as to the presentation of documents in that regard, will you turn a vessel back to international waters?

A No, you would not. Where the registry is in doubt, you would normally ask the captain for further verification. In other words, if for some reason you felt that the register was in doubt.

Q What would bring about the doubt in your mind as the examining officer as to the validity of the registration? Use your past experience as a basis for that.

A If it were a photocopy, possibly, or an illegible copy; if it was defaced or perhaps the absence of a registry; something of this type. Occasionally you have a vessel where the registry may show the place and you can't read it, this type of thing. Then I would have to have some other verification from him.

Q Have you, sir, in the course of your



Boyette - cross

occupation, been confronted with situations where the validity of a registry has been questioned by you and where you have sought further corroboration of it?

A Very, very rarely, but it has happened.

Q It has happened?

A Yes.

Q Do you recall, sir, with particular reference to each of these several exhibits that you brought with you today whether or not there was any question as to the validity of the registry in your mind or any of your officers' minds at the time?

A No, sir. There was no indication on any of those that there was any doubt. They were accepted in each case on the basis of the document presented.

MR. GREENSPAHN: That is all I have, your Honor. I would like to reserve the right to recall this witness and have his assurance that he will not leave the jurisdiction of this Court.

THE COURT: All right, sir. You may. Redirect?

MR. KLEIN: No redirect, your Honor.

THE COURT: All right, sir. You may step down. You are subject, however, to being recalled by counsel for the purpose of asking you further and additional questions relating to the documents you have identified.

(Witness excused)

THE COURT: Call your next witness, please.

THEREUPON--

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

THE CLERK: Please state your full  
name, address and occupation.

THE WITNESS: My name is Jose Pinson.

THE COURT: You are going to have to  
talk a lot louder than that. You are going to have  
to talk loud enough so that the last man down there  
can hear you, that lawyer can hear you and this  
lawyer over here can hear you. So just shout out.

Start all over again.

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Pinson - direct

THE WITNESS: Yes, sir. My name is Jose Pinson. I was with the U. S. Customs at San Juan, Puerto Rico.

DIRECT EXAMINATION

BY MR. BIERMAN:

Q Mr. Pinson, how long have you been employed by the Customs Bureau?

A Employed with whom?

Q With Customs.

A With Customs? Since 1954.

Q Sir, did you bring with you any documents, any papers?

A Yes, sir, I have some documents here with me.

Q Will you give those to me, please?

A Yes, sir.

MR. BIERMAN: Will you mark this for identification, please, Mr. Clerk?

(Thereupon the document referred to was marked for identification as Government's Exhibit No. 15.)

Pinson - direct

BY MR. BIERMAN:

Q I show you Government's Exhibit No. 15 for identification and ask you, sir, whether these documents are kept in the regular course of the business of the Customs Bureau.

A That's correct, sir. This is the document presented by the master of the vessel in the regular course of the entrance of the vessel at Customs.

Q Is it the ordinary course of business for you to keep this?

A That's correct, sir.

Q Did you, sir, remove these from the place where they are kept or did you have them removed under your control?

A This is under my control.

Q Are you the custodian of these documents?

A Yes, I am the custodian of those documents.

Q Are these filed with the Customs Bureau at or about the time that they are made out?

Pinson - direct

A That's correct, sir.

Q What do these documents relate to, sir?

A These documents relate to the formal entry of the vessel when the vessel enters any port in the United States.

Q What vessel, sir, do these particular documents relate to?

A This is the Spanish motor vessel COROMOTO.

Q On these documents, sir, is the registry of this vessel reflected in any way in any place?

A Well, we have information on those documents that shows the registry of the vessel, where the registry was issued and when the vessel was built.

MR. BIERMAN: Your Honor, I would offer Exhibit No. 15 into evidence pursuant to connection up for materiality.

THE COURT: All right, sir.

MR. GREENSPAHN: Objection to relevancy

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Pinson - direct

and as to hearsay, sir.

THE COURT: The objection is overruled. The document will be admitted into evidence as Government's Exhibit No. 15 subject to being connected up.

(Thereupon the instrument referred to was received in evidence as Government's Exhibit No. 15.)

BY MR. BIERMAN:

Q Would it be clear, sir, to a person looking at the documents what registration the vessel had? Would he be able to find that?

A That's correct, sir.

MR. BIERMAN: I have no further questions.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q Did you receive the master's oath from the master of the motor vessel COROMOTO, sir?

A That's correct, sir.

Q Did you receive it in the English or

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Pinson - cross

Spanish language?

A English language, sir.

Q Was he fully conversant in the English language?

A (No response)

Q Do you understand the question?

A Pardon?

Q Was the captain or the master of the COROMOTO fully conversant in the English language?

A Well, those documents were presented by the local agent of the vessel.

Q Did you, sir, speak with the captain or master of the vessel?

A I didn't.

Q Did you receive from the captain or the master of the vessel the master's oath on entry made in this instance relative to the COROMOTO?

A That's correct.

Q Did you receive it directly from the master or did you receive it from some third party?

A From the master or the local agent of the vessel.

Pinson - cross

Q Do you know if the master's oath was prepared by the agent or by the master of the vessel COROMOTO?

A That document is supposed to be prepared by the master of the vessel.

Q Do you know, sir, whether the master of the vessel spoke the English language?

A I don't know, sir.

Q Looking at the form of the master's oath, I note that there is an indication of the oath having been administered to the person who signed the master's oath under the designation as "Customs Delegation Order No."--and something else--I don't know what that is. I can't read it. But I would ask you, sir, if you can explain it for me, the signature or the identifying mark that purports to be the attesting officer's mark.

A Yes. This is the signature of the master of the vessel and this oath was taken by the inspector of the Customs at the time he was making the entry of the vessel on board the vessel.

Q So then this was received by Customs at



Pinson - cross

the time of the preliminary entry of the vessel and was received directly from the captain?

A That's correct.

Q Not the agent?

A That's correct.

MR. GREENSPAHN: I would ask that the same reservation and privilege in this instance be granted as I did with the last witness. I must study these exhibits before I can properly interrogate on them.

THE COURT: All right. I shall expect you to complete any cross examination you may have of this witness tomorrow morning. I do not propose to keep him here for an indefinite period.

MR. GREENSPAHN: I understand. There may be none, sir. But I would like to look at them.

THE COURT: I will give you until tomorrow morning at which time you may proceed further if you so desire.

MR. GREENSPAHN: Thank you, sir.

REDIRECT EXAMINATION

BY MR. BIERMAN:

Pinson - redirect

Q Are there any other records in the United States or in Puerto Rico of the registration of this boat?

A Well, you will find there on the first page of that manifest information regarding the registration of that vessel.

Q That would be the only place, is that correct?

A That is the only place.

MR. BIERMAN: I have no further questions.

THE COURT: All right, sir. Thank you. You may step down, but you will have to stay here tonight and come back in the morning and we will see if there is any further examination or cross examination. You may step down for tonight.

(Witness excused)

MR. BIERMAN: We have no further witnesses for today, your Honor.

THE COURT: Ladies and gentlemen, I have indicated that I would recess at four o'clock to give everybody who has not had an opportunity to

vote an opportunity to vote. But it looks as if at this point we have run out of witnesses. So I am going to recess until nine o'clock tomorrow morning. And I am going to change the place of this trial from this courtroom to the North Courtroom.

Does everybody know where the North Courtroom is? It's the courtroom directly behind here. I think you will find it more comfortable and you will be able to hear a lot better, and I believe that we can have a little more satisfactory trial if it is in the North Courtroom rather than here. So if you will report a little bit before nine o'clock in the morning we will get started promptly at nine.

Now, during the recess the instructions that I have given you, of course, are still applicable. Is there anyone on the jury who does not understand those instructions?

(The jury indicates in  
the negative.)

THE COURT: Is there anyone on the jury who is not willing to abide by those instructions?

(The jury indicates in  
the negative.)

THE COURT: All right, ladies and gentlemen. Having received your assurance that you understand the instructions and that you will abide by them, you may be excused until a little before nine o'clock tomorrow morning, at which time you will report to the North Courtroom.

Gentlemen, this trial will be recessed until nine o'clock tomorrow morning to be resumed in the North Courtroom.

(Thereupon at 3:35 o'clock p.m.,  
the hearing was recessed to  
reconvene on Wednesday,  
November 6, 1968, at 9:00 o'clock  
a.m.)

. . . .

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MIAMI, FLORIDA

Thursday, November 7, 1968

(The hearing resumed,  
pursuant to prior recess,  
in the North Courtroom,  
pursuant to which the follow-  
ing proceedings were had:)

THE COURT: Ladies and gentlemen of  
the jury, I am sorry I had to inconvenience you  
yesterday, but there was not very much I could do  
about it.

When I left here after I excused you,  
I went home and had a fever of 102-1/2, and the  
doctor just would not let me come to work. So I had  
to stay off.

But that brings up another problem  
that I am going to leave entirely up to you. It is  
something you do not have to decide at this time.  
Normally Monday would be a holiday. So what I am  
going to do is this: I am going to leave it to you,  
and during your recesses you can discuss it and then  
you can tell me, if you will, possibly at the end of  
today so that the parties can make their preparations

whether or not you want to work Monday or whether you do not. If the majority of you decide that you would rather continue with this case Monday, we will go right on with it. I realize that an extra day means a great deal to you in your own personal affairs, and I do not want to be arbitrary about the matter. But I leave it to you when you get together. That is the first problem you have had to decide in this case, and that is whether or not you want to take Saturday and Sunday off and start again Monday or whether you want to take Saturday, Sunday and Monday off; and I will abide by whatever a majority of you tell me you wish to do. So if you will consider that and discuss it some time during the day and come to some conclusion, let me know this afternoon by the time we quit and we will proceed by whatever the majority of you decides.

All right, gentlemen. Is the Government ready to proceed?

MR. MORRIS: Yes, sir.

THE COURT: Is the defense ready to proceed?

MR. GREENSPAHN: Yes, sir.

THE COURT: All right, sir. The Government may call its next witness.

MR. MORRIS: As I recall, Mr. Pinson was on the stand for cross examination. I have no further questions.

MR. GREENSPAHN: I do have some further questions.

THE COURT: There are two witnesses that counsel for the defense asked to be retained subject to call, with the intention possibly of asking further questions after he had an opportunity to examine some documents which had been introduced into evidence. And I had told counsel that he could recall them if he so desired, to ask them further questions about it. So you may proceed accordingly.

MR. GREENSPAHN: Thank you, sir.

Is Mr. Pinson in the courtroom?

(No response)

MR. GREENSPAHN: Your Honor, I will certainly agree to waiting until he comes and let the Court proceed with the rest.

THE COURT: Do you desire to cross examine the witness at this time?

MR. GREENSPAHN: No, sir. I would release that witness at this time.

THE COURT: All right, sir. If you will proceed and call him when he comes in.

MR. GREENSPAHN: Thank you.

MR. MORRIS: I will call Mr. Paul John Longley.

THEREUPON--

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

THE CLERK: Please state your full name, address and occupation.

THE WITNESS: Paul John Longley,  
L-o-n-g-l-e-y. Address: 10410 Lone Tree Lane,  
Apartment D, Dallas, Texas. I am manager of the  
bookkeeping bureau in Dallas with Western Union.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Mr. Longley, how long have you been  
in your present position?

A Since November 1, 1967.

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Longley - direct

Q How long have you been employed by the Western Union Telegraph Company?

A Since July 16, 1936.

Q Mr. Longley, did you bring some records with you from Western Union?

A Yes, sir.

Q May I see those, please?

A (Producing documents)

MR. MORRIS: Will you please mark these as a Government's exhibit for identification?

(Thereupon the documents referred to were marked as Government's Exhibits 16 and 17 for identification.)

BY MR. MORRIS:

Q Mr. Longley, I show you Government's Exhibit for Identification No. 16 and ask you whether you can identify it, sir. Just say yes or no, please, sir.

A Yes, sir.

Q And Government's Exhibit No. 17?

A Yes, sir.

Longley - direct

Q With respect to both these documents, Mr. Longley, are these documents kept in the ordinary course of business of your office?

A Yes, sir. The exhibit on the message is. The other one is kept in our central office.

Q But within your company?

A Yes, sir.

Q And is it the ordinary course of business for these documents to be kept in your branch?

A Yes, sir.

Q Are you a custodian of these records?

A Yes, sir.

Q Were they taken from the place where they are usually kept?

A Yes, sir.

Q Were these documents made at or about the time that they purport to have been made?

A Would you repeat that, please?

THE COURT: The question was, were they made out at or about the time the dates appearing on them?

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Longley - direct

THE WITNESS: Yes, sir.

BY MR. MORRIS:

Q Can you explain any markings or symbols or are you prepared to explain any markings or symbols which may not be readily apparent?

A Yes, sir.

Q I will ask you to do that, if you will.

A Yes, sir.

Q There are several markings on here which do not appear to be readily explainable to the ordinary person. Would you please explain those various symbols?

A Yes. Up in the upper left-hand corner there is a symbol or number DB068. That is the telegraph company's identification number of message traffic that is transmitted into Mexico City. That is on our Mexico City Channel D with the "B" symbol. That goes in on Channel B.

The next number just below is AA004. That is the number that is recorded on the message in our receipt from Atlanta. That is a relay message

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Longley - direct  
from Atlanta, Georgia.

The next symbol is SSB35A. That means  
the Atlanta transmission received from Miami.

The next number is MZA219, which is  
the number and symbol of the Miami transmission at  
Miami, Florida.

Then the next is MEX. That is the  
symbol that we put on there indicating that it is  
going to Mexico. The 55 NL means that it is a night  
letter, which means it is a deferred traffic with 55  
chargeable words therein, and the "PD" means it is  
a paid message. And then "MIAMI FLO, June 6, 1968."

Q I notice there is a stamp down here,  
sir.

A This is the telegraph company's  
standard practice. It reads "Dallas copy, skeleton in  
file, bookkeeping bureau" and the date and the clerk  
who removes it from the files.

When we remove a revenue message or  
any other message from our telegraph files, we must  
put something in there to show that it has been  
removed. So we stamp this on here, remove the

Longley - direct  
original and then we put the date and the initials  
of the clerk who removes it from the files.

Q Could you explain how this message  
is received and handled in your office?

A Yes. In the bookkeeping department,  
this is a monitor copy or copy received from the  
original transmission through the Dallas traffic to  
Mexico. This comes down to our bookkeeping bureau  
for abstracting with the Mexican Government.

Q What does abstracting mean?

A It means on certain traffic they bill  
us their proportion of the tolls, stuff that is  
originating in the United States. We collect on it,  
so they abstract us for their proportion of telegraph  
tolls.

Q Can you determine, from examining this  
document, whether or not that message was sent,  
according to your records?

A Yes, it was.

Q I show you Government's Exhibit No. 1  
and ask you what connection, if any, there is  
between those documents.

Longley - direct

A This would be identified as the original filing and this is the relay.

Q How are you able to determine that?

A This has the 219 on it, and has the date of June 6, and it's on the "A" channel. It went out of Miami.

Q Are there any message numbers or anything else of that nature on there which would identify it?

A No. The number of words, 55, and the time stamp and the signature. And it is filed as a night letter.

Q I show you Government's Exhibit for Identification No. 16 and ask you whether or not you can identify that document.

A This is a traffic or central office number sheet. As these messages come in on our automatic equipment, they must be switched to other channels or other places. This message here came in from Atlanta. This is the Atlanta, Georgia, "AA" circuit number sheet. So this message was received and transmitted or switched to Mexico City as No. 4,

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which I have up here on the top, the second number from the top "AA004."

MR. MORRIS: Your Honor, I offer Government's Exhibits 16 and 17 in evidence.

MR. GREENSPAHN: May it please the Court, there is no relevancy to either one. Accordingly, objection is made. And Government's Exhibit No. 17 for identification is repetitious. It merely repeat that which is already in evidence in Government's Exhibit 1.

MR. MORRIS: I believe it shows further evidence that the message was transmitted, your Honor.

THE COURT: As I understand it, Exhibit No. 1 shows that it was--the message it purports to be was transmitted by the local operator, and this man testified that, as I gather, this message was received from the Atlanta office as a relay message and sent from the Dallas office into Mexico City where it was supposed to go.

MR. GREENSPAHN: Also if I may call to the Court's attention--and I will cross examine

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about it--but there seems to be appended an insertion on this No. 17 for identification which has not been explained.

THE COURT: Well, that is a matter of cross examination. The objection will be overruled. The document will be admitted into evidence.

(Thereupon the instruments referred to were received in evidence as Government's Exhibits Nos. 16 and 17, respectively.)

MR. MORRIS: I have no further questions.

THE COURT: All right, sir. Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q I notice that on Government's Exhibit No. 17, the message itself, there are insertions in longhand and apparently penned in.

A Yes, I put on there.

Q May I ask, sir, why that was penned in?

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Longley - cross

A This is a message, and I was requested, as manager of bookkeeping, to provide this message to my headquarters office in Dallas. It came out of the June 6th message file. So in order for them to identify that this message was filed June 6th or relayed June 6th, I wrote in the June, 1968, figure.

Q Did you personally, sir, remove this from the June 6th file?

A Yes. This is my initial here. I removed it on September 26th.

Q Is there any identifying feature on the telegram itself or at least on your copy of it that would indicate the date other than your notation that it was subsequently made?

A No, except the 6th, and that is in the local business for the June 6th business. We file all of our messages by dates--in June or July or whatever they happen to be.

Q Is there any indication on here as to the typewritten portion as to the month or the year in which this purportedly was transmitted?

A No.

Longley - cross

Q There is only the statement of "Miami, Florida" with the abbreviation for "Florida" and then the number six after it, is that right?

A Yes.

Q Now, with reference to Government's Exhibit No. 16, will you show me, sir, the relevant portion of this exhibit relevant to this matter and these--

A This is the number here that is associated with this. In other words, this is the Atlanta channel. The number sheet for Dallas showing what telegrams were received from Atlanta during this time. This number here is identified with this. In other words, on our automatic equipment--we don't see this. This comes in automatically on our tape equipment, and the machine that picks up this number has the number that was put on the message in Atlanta, and that is what we received in Dallas.

Q I notice that there are what appear to be modifications and alterations on Government's Exhibit No. 16; that some of it appears to be in graphite pencil and the others in pen and others in a

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Longley - cross

green color.

A There are several switching operators that sign these, this number sheet. In other words, this means here that No. 3 and No. 4--this would mean that this message--"X" is our Mexico City channel. It means that the operator, the switching operator, switches it to a Mexican channel, which happens to be "D" and this corresponds with this. She puts her initials here when she signs out. And these are all routings to various points in the United States on messages that are received from Atlanta through the automatic switching system.

Q It would appear, then, that on the date of June 7, which this exhibit refers to, there were several, many sendings and relays to Mexico itself, noting that there are several Xs in the column for the place to which the transmission is made, is that correct?

A Yes.

Q Now, sir, finally, I note up on top of the printed portion "Channel and Circuit" is written "AA."

Longley - cross

A That's right.

Q Would you explain to us what that "AA" is?

A The first "A" means Atlanta. The second "A" means the "A" channel. In other words, they might have several circuits out of Atlanta going to various places or to Dallas. So they have an "A" channel or "D" channel. This happens to be on the "A" channel.

Q Is this the normal and customary manner of transmission from Miami, Florida, to Mexico City, for instance; that is, from Miami to Atlanta and then from Atlanta to Dallas?

A The ordinary and normal relays for messages from Miami go into Atlanta. That is their normal switching center. And then they would be switched to Dallas for relay to Mexico City over our regular circuits.

Q Sir, when did you first become aware of the fact that the telegrams which this purports to be a copy of had been, in fact, sent?

A You said when did I?

Longley - cross

Q Yes. When did you first personally become aware of that fact?

A At the time that I was requested to extract that from the files was the first time I ever saw the message.

Q That would be, then, the date that is indicated on the face of it?

A Yes. I think that says September 29, does it not?

Q September 26.

A September 26th.

MR. GREENSPAHN: I have no further questions.

THE COURT: All right, sir. Is there any redirect?

MR. MORRIS: No, sir.

THE COURT: May this witness be excused?

MR. GREENSPAHN: Yes, sir.

THE COURT: Thank you, sir. You may be excused.

(Witness excused)

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Popolato - direct

THE COURT: Call your next witness.

THEREUPON--

ALPHONSO L. POPOLATO,

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

THE CLERK: Please state your full  
name, address and occupation.

THE WITNESS: Alphonso L. Popolato,  
153-27 73rd Avenue, Flushing, New York. I am an  
assistant investigation and adjustment clerk.

DIRECT EXAMINATION

BY MR. MORRIS:

Q Where are you employed, Mr. Popolato?

A I am employed for RCA Global  
Communications at 60 Broad Street, New York City.

Q How long have you been so employed?

A Nineteen years.

Q Mr. Popolato, what relationship, if  
any, does your firm have with the Western Union  
Telegraph Company?

A We are a connecting company who

Popolato - direct  
transmits international radiograms to all parts  
throughout the world.

Q Mr. Popolato, did you bring some  
documents with you?

A I did. This is the message that was  
requested by the subpoena.

MR. MORRIS: Will you please mark this  
as Government's Exhibit 18 for identification?

(Thereupon the instrument referred  
to was marked as Government's  
Exhibit No. 18 for identification.)

BY MR. MORRIS:

Q Mr. Popolato, I show you Government's  
Exhibit No. 18 for identification and ask you whether  
you can identify it.

A Yes, sir. This is a Western Union or  
original message which was tubed to our communications  
in New York by Western Union from their cable depart-  
ment in New York.

Q Sir, is that document one which is  
kept in the regular course of business by your firm?

A Yes. This is one of the copies that

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we are required to hold for six months.

Q And is it an ordinary custom and course of business for your company to keep this type of record?

A Yes. We are required by the Federal Communications Commission to maintain our records for six months.

Q Are you a custodian of that record?

A Yes, sir. In matters of this type where inquiries are made concerning messages which we handle, I am a custodian of them.

Q Did you take that document from the place where it is usually kept in your company?

A Yes, I did.

Q Is that document one which was made at about the time that it purports to have been made?

A Yes.

Q Would you please explain the process by which that document is received by your company and what is done with it.

A Western Union's cable department in New York tubes the message to our central telegraph



Popolato - direct

office. Upon receiving it, we impose the time we received it on the back of the message.

Q Then what happens?

A Then it goes to a router who imposes an office reference number which is in red on the upper right-hand corner, and he also imposes a rubber stamp for the routing of the message. And he indicates by letter symbols, by determining what the destination is, he will put some letter symbols which will be recognized by the computer or automatic relay into the destination.

Q In the performance of your job, Mr. Popolato, are you required to be familiar with markings and symbols used by Western Union Telegraph Company on their wire transmissions?

A Yes.

Q Could you explain any markings or symbols on that document which are not readily apparent?

A Well, the time stamp in the upper right-hand corner would indicate to me that--"CD" is the cable department of Western Union. And they clock

Popolato - direct

these messages in to indicate the time that they received it in New York.

5-2

Q I notice the letters "QRC" stamped on there. What does that mean?

A "QRC" are the letters imposed at the Western Union Cable Department prior to its tubing to us to indicate the specific carrier, RCA.

Q Will you go on to the next line and explain those symbols, please?

A Upon receiving this message, we would clock it in to indicate the time we received it in our central telegraph office and we would impose the office number "WXB2904" in red so that we have some type of an office control prior to its release and to be able to account for each message for that particular day. It is also rubber stamped. It is formatted so that when it gets to an operator, he will be able to type up all these symbols on tape.

Q Will you explain those particular items? I notice starting here we have the number 58. Will you explain what those numbers mean?

A This is a reperforator number which is

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automatically imposed by Western Union at their  
Atlanta relay.

Q Next we have some letters that are in  
there in pencil.

A Well, that is the routing information  
that our router would put there to indicate the  
specific point. These letters would be recognized by  
the computer and automatically relay them to the  
destination.

Q What is the destination indicated  
there?

A ENMD.

Q What does that mean, sir?

A That is the routing for messages  
terminating in Madrid.

Q Go ahead. How about the "HL"?

A The "HL" will indicate the class of  
service--night letter--and it is followed by "URNX"  
which would indicate the originating point inside the  
USA.

The "062" would indicate the number of  
words in the message.

Popolato - direct

Q By examining that document, can you determine the date that it was received by your firm?

A Yes. On the back we imposed the time group of June 7, 1:52 a.m.

Q Now, I notice a red stamp here beginning with "W." What does that mean?

A The "WXB" is the number that we impose in our office to indicate that it is a night letter, No. 2904.

MR. MORRIS: I will offer Government's Exhibit for Identification No. 18 in evidence.

THE COURT: All right, sir.

MR. GREENSPAHN: Objection as to relevancy and materiality, and it is repetitious evidence.

THE COURT: All right, sir. The objection is overruled. The document is admitted in evidence as Government's Exhibit No. 18.

(Thereupon the telegram referred  
to was received in evidence as  
Government's Exhibit No. 18.)

Popolato - direct

BY MR. MORRIS:

Q Mr. Popolato, I show you Government's Exhibit No. 2 and Government's Exhibit No. 18 which you have just identified and ask you what connection, if any, you are able to determine exists between those documents.

A Well, on this document I see a red number imposed on it--"066."

Q Yes, sir?

A And that would indicate it is a number imposed by a local branch office.

Q What else? Is there any other indication that these messages are in any way connected?

A Well, the reference number on our copy "MZA" would indicate--and the "066" indicates it is a message from Miami, Florida.

Q Do you notice any relationship between the dates, sir?

A Yes. On the copy that we have it reads the 6th of June, and the copy clocked in at the office accepting that message is also June 6.

Q And the address, sir?

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Popolato - direct

A It is the same and the same class of service.

Q And the address is the same, sir?

A Right.

MR. MORRIS: You may inquire.

THE COURT: Cross examination?

CROSS EXAMINATION

BY MR. GREENSPAHN:

Q A moment ago you were asked to identify or to describe the purpose of the number "066" that appears on Government's Exhibit No. 2. You indicated that indicates that it is from Miami. How is that or how do you know that that indicates that the telegram is from Miami?

A Well, this number is imposed by the accepting branch office, and this is the type of number that appears. I associated that number with the original message.

Q In what regard did you associate that number with the message that is now Government's Exhibit No. 18?

A The "MZA 066."

Popolato - cross

Q And you presume that the "066" indicates a Miami transmission?

A Yes.

Q Now, sir, what did you indicate that the printed and what appears to be a stamped date in the upper right-hand corner indicates?

A That is a stamp imposed at the cable department of Western Union in New York City.

Q I see.

A That shows the time and the receipt that the cable department got it, yes.

Q What time is indicated?

A 1:13, June 7.

Q Is that a.m. or p.m., sir?

A A.M.

Q Now, sir, as far as RCA is concerned, your employer, is there any study made of the transmissions that are received from Western Union during the course of the normal workday, or are they automatically transmitted out of the country without any intervention by anybody at RCA?

A There is no intervention by anybody at

Popolato - cross

RCA.

Q Are your operators or your transmitters bilingual, those that transmit messages in a language other than English?

A We have numerous people from various nationalities who work for RCA.

Q Do you know, in this instance, who transmitted the messages or the message that you identified as Government's Exhibit No. 18?

A No, but it can be determined. Well, I should point out--the first step, when we receive this message, it goes to a router, as I indicated, and he stamps the time that he received it over the tubes and imposes the "WXB" number.

Q Now, I note finally that there are some pencil markings on the face of Government's Exhibit No. 18. For instance, a particular portion of it is underlined.

A Yes.

Q Who did that?

A That would be done by the router.

Q For what reason?



Popolato - cross

A For each page of transmissions for overseas telegrams there should be 50 words per page. And this would run into a two-page transmission. They count them off in fifties.

Q Over in the right-hand margin there is a looping mark made by a pencil. What identification has that?

A That is the signature of the operator who perforated the tape for overseas transmission.

MR. GREENSPAHN: I have nothing else. Thank you.

THE COURT: Redirect?

MR. MORRIS: No redirect, your Honor.

THE COURT: Thank you very much, sir. You may be excused.

(Witness excused)

THE COURT: Call your next witness, please.

Pinson - cross

THEREUPON--

JOSE PINSON,

having previously been duly sworn, resumed the stand and testified further as follows:

THE COURT: Will you please state your name for the record, sir?

THE WITNESS: My name is Jose Pinson.

CROSS EXAMINATION (resumed)

BY MR. GREENSPAHN:

Q Mr. Pinson, the other day you brought with you the records of the motor vessel COROMOTO. Do you recall that?

A I recall that.

Q And the voluminous records that you brought with you concerned themselves with a master's oath and a customs inward form manifest for more than one date, did they not, sir? In other words, the several entries made by the COROMOTO into the port at San Juan?

A The manifest I brought to you yesterday pertained to just one entry of the vessel.

Q One entry?

Pinson - cross

A For September 9.

Q Now, that being the case, I would show you the exhibit and ask you to direct your attention to the large paper first in the exhibit indicated as "Inward Foreign Manifest" and I would ask you with particular regard to the notation made as to the registry of the vessel to describe particularly what has been written there and what deletions, alterations or modifications have been made of the entry.

A This manifest was presented to the marine section of the United States Customs, together with the registry of the vessel. At the time the marine officer was making the entry of the vessel, on checking the information shown on the inward manifest against the documents presented for inspection, he noticed that the registry was issued at Madrid instead of Barcelona, and he made the correction to show Madrid. Also the date of the issuance of that document was shown as the 17th of February, and he made the next correction to show that the correct date of the issuance of that document was April 10, 1965.

Pinson - cross

Q Now, sir, who made the original entry of "Barcelona, Spain" in the entry of February, 1965, in that pertinent portion relating to the registry of the vessel?

A Those entries were made by the master or the representative of the master.

Q In other words, the master or his representative gave you an incorrect registry and date of registry of the vessel?

A That's correct.

Q And that was ultimately altered not by the master but by the port inspector or by the port inspector's agent at the port?

A That's correct.

Q And the alterations were written in upon the face of the inward foreign manifest by the customs officer and not by the master?

A It was made by the customs officer.

Q You were not the customs officer who made the alterations, were you, Mr. Pinson?

A I was not.

Q Now, sir, in going through these

Pinson - cross

voluminous records, I note there are what are referred to as cargo manifests. What are cargo manifests, briefly?

A A cargo manifest is in the form prescribed by the Bureau of Customs to show all the cargo on board a vessel arriving in the United States.

Q And I also note that there is what is referred to as a provision manifest. What is that, sir?

A May I examine that manifest in order to tell you what that is, because I can't remember that.

Q Yes, sir. What I am going to do is, with the Court's permission, just remove that portion of it.

A That is the manifest for intransit cargo. Let me correct that. This provision manifest is the stores manifest of all the stores the vessel has on board at the time of arrival at the port of San Juan. These are the stores of the vessel.

Q This is for the use of the crew and the officers of the ship?

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Pinson - cross

A That's correct.

Q Are these records that you have brought with you the original records that are retained by the Customs Bureau at San Juan, Puerto Rico?

A That's correct.

Q Based upon your study of these records, what was the nature of the cargo and the purpose of the vessel COROMOTO?

MR. BIERMAN: I object to the line of questions as irrelevant to the issues of whether or not it was a foreign vessel.

THE COURT: I do not think it is material, Mr. Greenspahn.

MR. GREENSPAHN: All right, sir. I will proceed.

BY MR. GREENSPAHN:

Q On the provision manifest I note that there are listed several machineguns and pistols for the use of the crew and the captain.

A That is for the use of the master and the crew of the vessel.

Pinson - cross

Q This was a cargo ship?

A That was a cargo ship, sir.

Q Not a ship of war?

A No, sir.

Q Finally I note on the back of the last page of these records written by someone--and I don't know who--the words "Santa Marta." Will you explain that to me, sir?

A May I check the manifest, sir?

Q Yes, sir.

A That shows that this cargo on this page is destined to Santa Marta.

Q Where is that, sir?

A Colombia.

Q And is that the only page of the entire thing that has any notation other than the facts that you have already established for us?

A Yes, sir.

MR. GREENSPAHN: Thank you.

Your Honor, I would respectfully move to strike the entirety of the exhibit. The basis of my motion is that it now becomes manifest that

alterations were made with regard to the registry, point of registry and the date of registry; that the captain's declarations were made erroneously and falsely and that a person other than the captain or the master of the vessel made an entry upon the face of the customs records reflecting what it purports to reflect as to the registry of the vessel.

THE COURT: Objection overruled.

MR. GREENSPAHN: Thank you, sir.

MR. BIERMAN: We have no redirect, your Honor.

THE COURT: May this gentleman be excused?

MR. GREENSPAHN: Yes, sir.

THE COURT: All right, sir. You may be excused and go back. And give my congratulations to Mr. Ferre.

THE WITNESS: Thank you. I'll be very happy to do that.

(Witness excused)

MR. BIERMAN: The Government's telegram portion of the case is complete, and we would request permission to publish the translations to the jury at



this time.

THE COURT: All right, sir.

MR. GREENSPAHN: Is this going to be a literal translation or a common sense translation?

MR. BIERMAN: We will be glad to give them both.

THE COURT: He can publish either or both. And if he publishes only one, I'll give the defendants the privilege of publishing the other at the time he concludes.

MR. BIERMAN: Government's Exhibit No. 1, ladies and gentlemen of the jury, is this Western Union telegram addressed to Licentiate Gustavo Diaz Ordaz, Palace of the Government. The translation, which is in evidence as Government's Exhibit 1A, reads as follows in the sense translation:

"Because petitions of the Cuban people have been ignored, we are obliged to send a military ultimatum to your government to suspend all commerce with the Communist Regime of Cuba STOP If you do not do this, you alone will be responsible for having

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Mexican ships and planes dynamited  
 STOP To avoid future regret, do not  
 make the big mistake of underestimating  
 this warning from Cuban Power STOP"

And it is signed "Ernesto, General  
 Delegate of Cuban Power." It is dated June 6, 1968,  
 and the destination is "Mexico, D.F."

The literal translation is as follows:

"Neglectful case of petitions Cuban  
 people obliges us ultimatum of war to  
 your Government that it suspend all  
 commerce with Communist regime Cuba  
 PERIOD Not to do thus you will be solely  
 responsible that Mexican ships and planes  
 blow up dynamited PERIOD To avoid future  
 lamentations do not commit big mistake  
 underestimating this warning Cuban Power  
 PERIOD"

It is signed "Ernesto, General Delegate  
 Cuban Power."

Government's Exhibits Nos. 2 and 2A  
 are a Western Union telegram addressed to General  
 Francisco Franco, Madrid, Espana. The sense

translation is as follows:

"Because petitions of the Cuban people have been ignored, we are obliged to send a military ultimatum to your government to suspend all commerce with the Communist regime of Cuba STOP If you do not do this, You alone will be responsible for having Spanish ships and planes dynamited STOP To avoid future regret, do not make the big mistake of underestimating this warning from Cuban Power STOP."

And it is signed "Ernesto, General Delegate of Cuban Power." This is dated June 6, 1968.

The literal translation of it reads as follows:

"Neglectful case of petitions Cuban people obliges us ultimatum of war to your Government that it suspend all commerce with Communist regime Cuba PERIOD Not to do thus you will be solely responsible that Spanish ships and planes blow

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up dynamited PERIOD To avoid future lamentations do not commit big mistake underestimating this warning Cuban Power PERIOD"

And it is signed "Ernesto, General Delegate Cuban Power."

No. 3 is--

THE COURT: Is it any different from the others?

MR. BIERMAN: It is, your Honor.

THE COURT: All right. You may read it then.

MR. BIERMAN: Government's Exhibit No. 3 is a Western Union telegram addressed to Sir Harold Wilson, London, England. The sense translation is as follows:

"British freighter 'Granwood,' owned by shipping company, exploded May 5, 20 miles southeast of Key West, has hidden the fact that it was dynamited in an act of sabotage by anti-Castro Cubans STOP The British government has said nothing STOP We want you to know that this is the

initial punishment by the heroic Cuban people of the British government which trades with the Castro tyranny STOP You will have to pay with much British blood for your opportunist attitude inspired by financial gain without any respect for peoples who are fighting for liberty which you only know how to defend with gold STOP"

It is signed "Ernesto, General Delegate of Cuban Power."

The literal translation is as follows:

"Shipping company owning British freighter 'Granwood' COMMA blown up May 5 20 miles southeast of Key West has hidden dynamiting in sabotage realized by anti-Castro Cubans PERIOD You should know this is initial punishment by heroic Cuban people of British government which trades with tyranny of Castro PERIOD You will have to pay with much British blood for your opportunist attitude inspired by financial gains without respecting peoples who fight for liberty which you only know

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how to defend with gold PERIOD"

THE COURT: All right. Call your  
next witness.

MR. BIERMAN: The Government calls  
Ricardo Morales Navarette.

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