START
UNITED NATIONS ARCHIVES
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REEL

no.

169
index of contents
### TRANSCRIPTS OF PROCEEDINGS AND DOCUMENTS OF THE INTERNATIONAL MILITARY TRIBUNALS FOR THE FAR EAST (TOKYO TRIALS):

**Defense Statement and Documents**
- Document Nos.: 2943 - 3120
- PAG-3/2.3.5.

**Judgement**
- PAG-3/2.3.6.
- Part A: Chapter I - Part B: Chapter VIII
  - (page 1 - 1136)

**Notes:**

Chapter I - III of the mimeographed Judgement explain the establishment of the Tribunal, justify its jurisdiction and cite the national agreements binding on Japan since 1905. Chapter IV - VIII describe the dominance of the Japanese military and its preparation for war, aggression against China, Exploitation of Manchuria, the Pacific War, and conventional war Crimes.

----- END OF REEL No. 169 -----
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770 BASKET ROAD
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STATEMENT
on behalf of TÔGÔ SHIGENORI

I OF OPEN THE EVIDENCE on behalf of Tôgô Shigenori. We have chosen so far as possible to present it, for the Tribunal's greater convenience, under 8 general divisions: Connection with German affairs, and with Russian; British and American relations and the Pacific war; war-time diplomacy; the ending of the war. The division will be very imperfect, since a witness often testifies to a diversity of matter. As to each of these heads, evidence will be offered to establish substantially the following state of facts.

To the Japanese-German relations, Tôgô's attitude was always that they should not be such as to damage Japan's relations with other countries—specifically the U.S.A., the United States and the British Empire. Unsympathetic to the Anti-Comintern Pact from its conception, and laboring to weaken and soften it; so obstinately opposed to a tripartite alliance that for his opposition he was transferred from his ambassadorship in Berlin; he was the Cassandra of the Nazi decade.

With the Soviet Union he always maintained that cordial relations were of prime importance; and the account of his career gave him an opportunity to see carried out almost completely the policy which he early formulated and for which he was simply absurd. He successfully managed the negotiations for the sale and transfer of the Soviet interest in the Chinese Eastern Railway; he attained, for the first time in the history of Soviet-Japanese relations, a beginning of border-demarcation; and his work as ambassador in Moscow had all but resulted in the conclusion of a non-aggression pact when he was recalled. Throughout the Pacific war, then he was in office, he stressed the cardinal importance of maintaining the Soviet-Japanese peace and friendly relations.

With British and American affairs, Tôgô had little direct connection prior to becoming Foreign Minister in October 1941. Then he had an opportunity to work for improvement of those relations—he had for example persuaded the authorities to negotiate for an agreement with Britain concurrently with execution of the Anti-Comintern Pact; he had opposed the Japanese Navy's stand on naval disarmament as likely to impair good relations with America and Britain; and he became Foreign Minister with the hope of salvaging those strained relations. Concerning his connection with the Pacific war through his service in the Tôgô Cabinet—which may readily be conceived to be intended as the graveness of the charge against Dr. Tôgô here—it will appear that, being in no governmental position, he was called upon by the new premier whom he knew but casually to accept the post of Foreign Minister. This post he accepted only after having obtained an unequivocal commitment that the new Cabinet would work sincerely for the success of the Japanese-American negotiations, and that the Army would acquiesce. Thereafter, as laborer under conditions of extreme difficulty at a double task; on the one hand, attempting to save the Japanese-American negotiations and relations, long since strained almost irretrievably; on the other, persuading the military High Command, in the Liaison Conference where the matter was managed and their voices was predominant, to permit him to make the attempt.

It proved an impossible task. The United States, unwilling to accept the concessions which it had been possible to make, served in the form of its note of 29 November that all Japanese concerned regarded as an ultimatum. The choice was between surrender of the national position as a power, perhaps endangering the national existence, and war in self-defence. That was the choice; and it was no choice. War was decided upon; Foreign Minister Tôgô, having opposed war to the last, was compelled to agree that war must be taken up in self-defence.

Then the question arose of the formalities for commencement of war. Dr. Tôgô again had to overcome High Command opposition, to insist that the usual
I am OPENING THE EVIDENCE on behalf of Tōgō Shigenori. We have chosen so far as possible to present it, for the Tribunal's greater convenience, under four general divisions: Connection with German affairs, and with Russian; British and American relations and the Pacific war; war-time diplomacy; the ending of the war. The division will be very imperfect, since a witness often testifies to a diversity of matters. As to each of these heads, evidence will be offered to establish substantially the following state of facts.

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With the Soviet Union he always maintained that cordial relations was of prime importance; and the account of his career gave him an opportunity to see carried out almost completely the policy which he early formulated and for which he unselfingly worked. He successfully managed the negotiations for the sale to communism of the Chinese Eastern Railway; he attained, for the first time in the history of Soviet-Japanese relations, a beginning of border-demarcation; and his work as ambassador in Moscow had all but resulted in the conclusion of a non-aggression pact then he was recalled. Throughout the Pacific war, then as in office, he stressed the cardinal importance of maintaining the Soviet-Japanese peace and friendly relations.

With British and American affairs in Tōgō had little direct connection prior to becoming Foreign Minister in October 1941. Then he had opportunity, he worked for improvement of these relations—he had for example persuaded the authorities to negotiate for an agreement with Britain concurrently with execution of the Anti-Comintern Pact; he had opposed the Japanese Navy's stand on naval disarmament as likely to impair good relations with America and Britain; and he became Foreign Minister with the hope of salvaging those wrecked relations. Concerning his connection with the Pacific war through his service in the Tōgō Cabinet—which may readily be conceived to be intended as the gravamen of the charge against Mr. Tōgō here—it will appear that, being in no governmental position, he was called upon by the new Premier whom he knew but casually to accept the post of Foreign Minister. This post was accepted only after having obtained the unequivocal commitment that the new cabinet would work sincerely for the success of the Japan-United States negotiations, and that the Army would acquiesce. Thereafter he labored under conditions of extreme difficulty at a double task: on the one hand attempting to save the Pacific negotiations and relations, long since strained almost irretrievably, on the other, persuading the military High Command, the Liaison Conference, where the matter was managed and where their voice was predominant, to permit him to make the attempt.

It proved an impossible task. The United States, unwilling to accept the concessions which it had been possible to make, served in the form of its note of 28 November that all Japanese concerned regarded as an ultimatum. The choice was between surrender of the national position as a power, perhaps endangering the national existence, and war in self defence. That was the choice; and it was no choice. As decided upon; Foreign Minister Tōgō, having opposed war to the last, was compelled to agree that arms must be taken up in self-defence.

Then the question arose of the formalities for commencement of war, Mr. Tōgō again had to overcome High Command opposition, to insist that the usual
procedure of notification be followed. He was authorized by the Meisen Conference to serve upon the United States Government a notification of termination of negotiations. The question of the time for serving it was settled by the High Commission, who assured the Foreign Minister that the time proposed would allow a sufficient interval before the initiation of hostilities. It was thus agreed, and orders went out for notification in Washington at 1 P.M. of 7 December through mismanagement in Washington; however, the notice was in fact served more than an hour late, and well after the attacks on American and British territories were under way.

With war in progress, there was little for diplomacy to do; from that little, much was obstructed by creation of the Greater East Asia Ministry, as a result of differences of opinion on the other basic policies, Foreign Minister Togo resigned from the cabinet on 1 September 1942, less than eleven months after entering it. Already before that he had been almost heir to bring about an end to the war. The opportunity came then in April 1945 when recalled from retirement by the Premier-Designate, Admiral Suzuki, and was again offered the Foreign Affairs portfolio—and again on imposed conditions, this time, that the cabinet should be the one to end the war. His efforts throughout the short life of the Suzuki cabinet were devoted to that end, which was achieved primarily through those efforts on 15 August 1945.

It is submitted that this proof will demonstrate that the role of Togo Shigeru, so far from being that of a conspirator for aggression, and throughout his career bore that of opposition to militarism and to the consequences which he foresaw could result from it.
太平洋戦争を通じて東郷氏は現職に在る時は常に日本を平和と友好関係の基盤性を強調していた。英米との間には直接の関係に就ては東郷氏は一九四一年十月外務大臣に就任する迄、英米・日本合同防衛協定を締結するに際しての交渉の適切に従わぬのであり、東郷氏は防衛協定と共に英米との外交においては破壊的態度を取ることなく、交渉の過程に於ける東郷氏の主張に反して、英米両国との関係を絶した態度として太平洋戦争期に於いては発揮されなかった。
この内閣の意思を反映した都市計画は、この目的に向けた全県の主要都市を優先的に計画すべきである。

この内閣の意思に反する地方都市計画は、この目的に向けた全県の都市計画と不一致である。
Foreign Consulates
1. American Consul.-Gen.
2. Belgian Consul.-Gen.
5. German Consul.-Gen.
6. Italian Consulate.

Leading Banks
Bank of China (9) Hankow Road
Bank of Chosen (Szechuan Road)

Bank of Communications (The Bund)
Central Bank of China (The Bund)
The Chartered Bank of India, Australia and China (The Bund)
Hongkong and Shanghai Banking Corporation (The Bund)
Mitsui Bank (Canton Road)
National City Bank of New York (Kiukiang Road)
Yokohama Specie Bank (The Bund)
Nederlandsch Indische Handelsbank (Kiukiang Road)

Hongkew
International Settlement
Japanese Naval Club
Japanese Attache's Office
Japanese Stadium

Nantao
Pootung

at present. Some of the more important ones have not been inserted due to lack of space in the crowded district.
Map of Shanghai

Note: Reproduced here is a map of Shanghai with names of main points which are prominently figured in everyday news.
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

- vs -

ARAKI Jodo, et al

- Defendants -

AFFIDAVIT

SHIBAYAMA KENSHIRO

Having first duly sworn an oath as on the attached sheet, in accordance with the procedure prevailing in my country, I hereby depose as follows:

1. I testify herein about my relations with the accused Umezu.

From January 1932 to May 1933, for about one and a half years, the accused Umezu was the Chief of the General Affairs Department of the General Staff, in which office I also served as a member. From August 1933 to December 1934, for about one and a half years, he was the Commander of the China Garrison and I was the Assistant Military Attaché in Peking, subject directly to his guidance. From March 1937 to May 1939, for more than a year, he was Vice-Minister of War and I was the Chief of the Military Affairs Section in the War Ministry. From August 1934 to July 1935, when he was the Chief of the General Staff, I was Vice-Minister of War.

2. Concerning the accused Umezu's relation with the Manchuria Incident. At the time of the Manchuria Incident he was the Chief of the General Affairs Section of the General Staff. However, he had taken office only one month before the outbreak of the Incident, and his section had nothing to do with operations or policies. Therefore, he was not in a leading position in connection with the settlement of the Manchuria Incident, the policies for Manchoukuo or the withdrawal from the League of Nations. I was then in charge of business relating to Manchuria; but I never received directions from him in connection therewith.

3. I state now what I know concerning his attitude toward China. When he was the Commander of the China Garrison, I served in Peking.

He had sympathy and understanding toward China, and always warned his men not to face China with a superiority complex and not to interfere in the internal affairs of China. In March 1934, a little after he arrived at Tientsin, a strike happened in the Kailan mines, in which Chao Tah-chung and others agitated the workers. Mr. Tilton of the mining company visited Commander Umezu, and said to him: "It is suspected
that behind the agitators there are Japanese military officers and roughs. If this is true, I hope the Garrison will regulate them. Then General Umezu immediately ordered that such activities be prohibited, to the company's appreciation.

I state hereby the accused Umezu's relations with the China Incident. At the time the China Incident broke out, he was the Vice-Minister and assisted the Minister, holding firmly to the non-expansion policy and exerting his efforts to realize the policy all the while. At that time, since I was the Chief of the Military Affairs Section, I was familiar with the intention of the Vice-Minister. On the night of 8 July, when it was reported that the troops at the front were going to make a night attack on Yien-Ping, he called me and ordered me to investigate the truth at the General Staff and to advise the General Staff that the attack should be given up, since it would be contrary to the national policy if it was true. I did so.

Furthermore, the then Commander of the Garrison, Lieutenant-General Tashiro died of illness, and Umezu consulted me about his successor. Since he liked to have the most moderate and fair man, I recommended Lieutenant-General Katsuki, which recommendation was approved by the Minister after Umezu's agreement.

He also dispatched me, in company with Lieutenant-General Nakajima, the Chief of the General Affairs Department of the General Staff, to Tientsin in order to convince them of the non-expansion policy, when we met Commander Katsuki and conveyed the policy to him with solemnity.

OATH

In accordance with my conscience I swear to tell the whole truth, withholding nothing and adding nothing.

Shibayama Konshirō (seal)

On this 25th day of January, 1947
At Tōkyō

Deponent: Shibayama Konshirō

I, Miyata Mitsuo, hereby certify that the above statement was sworn to by the deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date
At Tōkyō

Witness: Miyata Mitsuo (seal)

Translation Certificate

I, Nishi Haruhiko, of the defense, hereby certify that I am conversant with the English and Japanese languages, and that the foregoing is, to the best of my knowledge and belief, a correct translation of the original document.

Tokyo 25 January 1947
Nishi Haruhiko
(Extract from Exhibit 870)

Extract from
"First Table Top Total War Maneuvers" -- Page 1.

Circulation

Supervisor of the Exercise (Signed) Iimura
Assistant Supervisor of Exercise (Signed)
Horiba, member of the staff (Signed)

Conditions of 3rd Term Exercise
and Prosecution of the Exercise

Supervisory Branch of
Table Top Maneuvers

Custody /s/ Matsuda, Chiaki (seal)
Assistant Supervisor
Extract from Exhibit 870

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Assistant Supervisor
(Extract from Exhibit 870)

"First Table Top Total "war Maneuvers"--Page 2.

Sokien No. 7
Part I
No. 5 of 12 copies in all

Appointed Receiver

Natsuda, member of the Institute.

Keeping Secret

Secret to all except those participating in maneuvers

Management

Shall be returned after the end of maneuvers.
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

-vs-

ARAKI Sadae, et al

- Defendants -

AFFIDAVIT

KOTANI ETSUO

Having first duly sworn an oath as on the attached sheet, in accordance with the procedure prevailing in my country, I hereby depose as follows:

(Q1) Were you a staff officer of the Kwantung Army around September 1942?

(A1) Yes.

(Q2) What sort of duties had you as a staff officer of the Kwantung Army?

(A2) I was attached to the 2d Section, and I was in charge of intelligence.

(Q3) Did you know the operations plans of the Kwantung Army?

(A3) I have neither seen the documents nor been told or shown the contents of them.

(Q4) In the Kwantung Army, was it not true that the men who were engaged in the intelligence services were never shown the operations plans?

(A4) The duty of those engaged in intelligence services was to collect the necessary information for making up the operations plans in consideration of all possible cases, and to offer them to the Commander-in-Chief as references for operations. They, however, were neither consulted regarding the operations plans which had already been determined, nor shown them at all. I thought that was in the nature of the plans themselves, and never requested to be shown them.

(Q5) Were you dispatched to the Mongolia Stationary Army around September 1941?

(A5) Yes, I was.

(Q6) What was the purpose of that?

(A6) Mainly, the purposes were consultation on intelligence and inspection of the circumstances of Eastern Inner Mongolia.

(Q7) Were there any conferences on the operation matters?

(A7) No, not at all. I had neither knowledge of nor duty concerning operations plans. I could not do such a thing, even if it were a temporary duty.
(Q8) What kind of consultation was had on intelligence?

(A8) It was a conference for necessary agreements on the alterations of the intelligence-collection areas in charge of both armies.

(A9) It happened quite often, that a staff officer would come or go to or from the Kwantung Army or the Mongolia Stationary Army, did it not?

(A9) Yes.

OATH

In accordance with my conscience I swear to tell the whole truth, withholding nothing and adding nothing.

Kōtani Etsuo (seal)

On this 10th day of December, 1947
At Tokyo

Deponent: Kōtani Etsuo

I, Ikeda Sumihisa, hereby certify that the above statement was sworn to by the deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date
At Tokyo

Witness: Ikeda Sumihisa (seal)

Translation Certificate

I, Nishi Haruhiko, of the defense, hereby certify that I am conversant with the English and Japanese languages and that the foregoing is, to the best of my knowledge and belief, a correct translation of the original document.

Nishi Haruhiko (seal)

Tokyo
12 December 1947
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

vs.

ARAKI Sadao, et al

- Defendants -

AFFIDAVIT

OGOSHI KUNJI

Having first duly sworn an oath as on the attached sheet, in accordance with the procedure prevailing in my country, I hereby depose as follows:

1. I served in the 5th Section of the staff of the Kwantung Army from September 1941, and subsequently, after Major-General Ikeda was removed from his position as Chief of the 5th Section in July 1942, I succeeded him and was the Chief of the Section until March 1943.

2. The 5th Section was newly established in September 1941. The duty of the section was to study how to make easier the operations of troops by arranging the rear areas of army according to the operation of an army. In the past, in the army the military supply organization was to take charge of the administration of occupied zones. The system and methods of administration were not studied in peace-time; but it is quite necessary to study the administration of occupied areas in peace-time, parallel with the drawing up of the plans of operation. Thus, I was told, the study came to be carried out.

3. In September 1941, an instruction was given by the General Staff to the Kwantung Army to the effect that the study of administration of occupied zones was to be made and that plans should be presented accordingly. Then the studies were put under way. This instruction was kept in the headquarters of the Kwantung Army; after the surrender, however, I do not know what became of it. The main purpose of these studies was investigation of measures necessary to be taken to maintain public peace and order in the rear of the operational armies and to smooth their operations. The tentative plan was accomplished around March 1942, as the result of the study. Since the plan was not a complete one, it was sent to the operations section of the Kwantung Army and for reference to the General Staff. We did not obtain the approval of the Commander-in-Chief of the Kwantung army, since it was not complete.

4. At the same time I left the section the section was abandoned.
OATH

In accordance with my conscience I swear to tell the
true truth, withholding nothing and adding nothing.

Ôgoshi Kenji (seal)

On this 8th day of January, 1948
at Tokyo

Deponent: Ôgoshi Kenji

I, Ikeda Sumihisa, hereby certify that the above
statement was sworn to by the deponent, who affixed his
signature and seal thereto in the presence of this witness.

On the same date
at Tokyo

Witness: Ikeda Sumihisa (seal).

Translation Certificate

I, Nishi Haruhiko, of the defense, hereby certify that I
am conversant with the English and Japanese languages and that
the foregoing is, to the best of my knowledge and belief, a
correct translation of the original document.

Nishi Haruhiko (seal)

Tokyo
8 January 1948
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

- vs -

ARAKI Sadao, et al

- Defendants -

APPEAL

HATTORI MAEHIRO

Having first duly sworn an oath as on the attached sheet, in accordance with the procedure prevailing in my country, I hereby depose as follows:

1. I am an ex-major of the Japanese army. I am living in Tokyo, Shinjuku-ku, Shimochiai, 2-Chome 804.

I served in the headquarters of the Kwantung Army as a cipher officer at the time when the Kantokuen started in 1941. Later I was transferred to the cipher section of the General Staff Office, in September 1942.

2. I am acquainted with Matsuura Kusuo, having had connection with him on our businesses. I have neither seen operations plans, nor been shown the contents of them by my superiors. As to the Kantokuen, I am entirely ignorant of the contents of the plan. I know, however, that the Kwantung Army was reinforced at that time. I have no recollection whether I ever talked with Matsuura relating to this problem. At that time, however, there were various rumors among young officers; I might, therefore, have talked with Matsuura about these rumors. I never told Matsuura anything concerning the contents of either operations plans or the Kantokuen; I could not have, because I did not know them.

3. The conferences of the cipher clerks at the General Staff Office used to be held every year as a custom.
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST
THE UNITED STATES OF AMERICA, et al
- vs -
MATSU Sadao, et al
- Defendants -

AFFIDAVIT
TAKAKURA TADASHI

Having first duly sworn an oath as on the attached sheet, in accordance with the procedure prevailing in my country, I hereby depose as follows:

I, Takakura Tadashi, was born in February 1903, and reside now in Tokyo, Bunkyō-ku, Otsukanana-Machi No. 57. I was appointed chief of the Agriculture Section of the Agriculture Ministry of Manchoukuo in October 1941. I was transferred to the post of chief of the Planning Section of the General Affairs Board in July 1943. In May 1945, upon a change in the official system, my post was changed to Vice-Chief of the Planning Bureau of the General Affairs Board, which I retained until the Japanese surrender.

(1) During my tenure of office as Chief of the Agriculture Section of the Agriculture Ministry, I participated in the drawing up of the 2d 5-year plan of industrial construction. The basic ideas of this 2d 5-year plan were almost the same as that of the 1st 5-year plan, the stabilization of the national welfare and the completion of the defence-power. And from the viewpoint of the actual result of the 1st 5-year plan, the security and the stabilization of the national welfare of Manchoukuo especially were taken up as the most important among the ideas, and the promotion and the development of light industries which had as their purpose the supply of material for daily use of the people and the improvement of agricultural production were assigned in the plan equal importance with the parts relative to heavy industry and transportation and communication.

However, at the time when this plan was established, unexpectedly the Pacific War occurred, and it became impossible to execute the plan as it was. And since supplies of materials from Japan became gradually more difficult, while Japan's demands for imports of agricultural products, steel, aluminum and coal had increased accompanying the progress of the war, the necessary reinforcement of production was made by making up plans for increase of production in each year according to the change of the situation as mentioned above. However, practically it was difficult to fulfill Japan's requirements to some extent, and at the same time to reinforce the power of national defence of Manchoukuo and to increase the production of material for national welfare. Thus, in the end, we took measures to keep and stabilize the national welfare and to accept the requests of Japan by risking even the decrease of the power of national defence, which also the staff officers of the Kwantung Army who had responsibility for co-defence of
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

-vs-

ARAKI Sadao, et al

- Defendants -

AFFIDAVIT

YATOKI NACHIRO

Having first duly sworn an oath as on the attached sheet, in accordance with the procedure prevailing in my country, I hereby depose as follows:

1. I am an ex-major of the Japanese army. I am living in Tokyo, Shinjuku-ku, Shimochiai 2 Chome 8-chō.

I served in the headquarters of the Kwantung Army as a cipher officer at the time when the Kantokuen started in 1941. Later I was transferred to the cipher section of the General Staff Office, in September 1942.

2. I am acquainted with Matsuura Kusuo, having had connection with him on various business. I have neither seen operations plans, nor been shown the contents of them by my superiors. As to the Kantokuen, I am entirely ignorant of the contents of the plan. I know, however, that the Kwantung Army was reinforced at that time. I have no recollection whether I ever talked with Matsuura relating to this problem. At that time, however, there were various rumors among young officers; I might, therefore, have talked with Matsuura about these rumors. I never told Matsuura anything concerning the contents of either operations plans or the Kantokuen; I could not have, because I did not know them.

3. The conferences of the cipher clerks at the General Staff Office used to be held every year as a custom.
OATH

In accordance with my conscience I swear to tell the whole truth, withholding nothing and adding nothing.

Hattori Naohiro (seal)

On this 7th day of January, 1948
At Tokyo

Deponent: Hattori Naohiro

I, Ikeda Sumihisa, hereby certify that the above statement was sworn to by the deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date
At Tokyo

Witness: Ikeda Sumihisa (seal)

Translation Certificate

I, Nishi Haruhiko, of the defense, hereby certify that I am conversant with the English and Japanese languages and that the foregoing is, to the best of my knowledge and belief, a correct translation of the original document.

Nishi Haruhiko (seal)

Tokyo
8 January 1948

-2-
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al -vs- AKIKI SADAOR, et al - Defendants -

AFFIDAVIT

TAKAKURA TADASHI

Having first duly sworn an oath as on the attached sheet, in accordance with the procedure prevailing in my country, I hereby depose as follows:

I, Takakura Tadashi, was born in February 1903, and reside now in Tokyo, Bunkyo-ku, Otsukanana-Machi No. 57. I was appointed chief of the Agriculture Section of the Agriculture Ministry of Manchoukuo in October 1941. I was transferred to the post of chief of the Planning Section of the General Affairs Board in July 1943. In May 1945, upon a change in the official system, my post was changed to Vice-Chief of the Planning Bureau of the General Affairs Board, which I retained until the Japanese surrender.

(1) During my tenure of office as Chief of the Agriculture Section of the Agriculture Ministry, I participated in the drawing up of the 2d 5-year plan of industrial construction. The basic ideas of this 2d 5-year plan were almost the same as that of the 1st 5-year plan, the stabilization of the national welfare and the completion of the defence-power. And from the viewpoint of the actual result of the 1st 5-year plan, the security and the stabilization of the national welfare of Manchoukuo especially were taken up as the most important among the ideas, and the promotion and the development of light industries which had as their purpose the supply of material for daily use of the people and the improvement of agricultural production were assigned in the plan equal importance with the parts relative to heavy industry and transportation and communication.

However, at the time when this plan was established, unexpectedly the Pacific War occurred, and it became impossible to execute the plan as it was. And since supplies of materials from Japan became gradually more difficult, while Japan's demands for imports of agricultural products, steel, aluminum and coal had increased accompanying the progress of the war, the necessary reinforcement of production was made by making up plans for increase of production in each year according to the change of the situation as mentioned above. However, practically it was difficult to fulfill Japan's requirements to some extent, and at the same time to reinforce the power of national defence of Manchoukuo and to increase the production of material for national welfare. Thus, in the end, we took measures to keep and stabilize the national welfare and to accept the requests of Japan by risking even the decrease of the power of national defence, which also the staff officers of the Kwantung Army who had responsibility for co-defence of
Manchoukuo well understood. A reason for taking such measures was also our faith in the existence and effect of the Russo-Japanese Neutrality Pact.

The above matters are instanced by the following concrete facts. First, the production of arms in Manchoukuo was the construction of training planes for Japan's needs, and production of guns and bullets mainly for the use of the Manchoukuoan forces. As for planes in 1941, the actual result of the construction of training planes was 784, and the total amount of gun production was around 25,000,000 Yen, which figures show that the production of arms was quite small. Second, the actual results of the production and distribution of steel, iron, aluminum, and coal were that internal consumption accounted for the much greater part, and that the acquisitions of the Kwantung Army, except for aluminum, were of very small proportions.

(2) The Kwantung Army never issued any order at all with respect to the policies of the Manchoukuoan Government. There was the custom of liaison and preliminary conference between the Kwantung Army and the Manchoukuoan Government, regarding important policies which had connection with the national defense or policies which required conference with the Japanese Government.

From the viewpoint of defense, the Kwantung Army made in written form proposals of some abstract matters to the Manchoukuoan Government; such cases, however, were very rare. While the government took up and put into practice the matters proposed when they were proper and there were no difficulties accompanying their realization.

(3) I was often told by Mr. Takebe, Chief of General Affairs, that Commander-in-Chief of the Kwantung Army Umezu was quite careful toward the U.S.S.R. relations and wished that the government staff members would avoid so far as possible any action which might irritate the U.S.S.R. In such circumstances, after his taking office in Hsinking the border between Manchoukuo and the U.S.S.R. was quite calm and trouble there greatly decreased.
In accordance with my conscience I swear to tell the whole truth, withholding nothing and adding nothing.

Takakura Tadashi (seal)

On this 7th day of January, 1948
at Tokyo

Deponent: Takakura Tadashi

I, Ikeda Sumihisa, hereby certify that the above statement was sworn to by the deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date
at Tokyo

Witness: Ikeda Sumihisa (seal)

Translation Certificate

I, Nishi Haruhiko, of the defense, hereby certify that I am conversant with the English and Japanese languages and that the foregoing is, to the best of my knowledge and belief, a correct translation of the original document.

Nishi Haruhiko (seal)

Tokyo
9 January 1948
CERTIFICATE

I, Miyama Yōzō, the Chief of the Archives Section of the 1st Demobilization Bureau, certify that the two following documents are not in the custody of the 1st Demobilization Bureau, they having been destroyed at the time of surrender.

1. Military Administration Plan of the Kwantung Army (Test Plan), March 1942.

2. Notification, "A Study of Military Administration Shall Be Made", from the Vice-Chief of the General Staff to the Chief of Staff of the Kwantung Army, August 1942.

31 October 1947 Tokyo

Chief of the Archives Section
1st Demobilization Bureau

Miyama Yōzō (seal)

I certify that the above signature and seal were made before me, on the same day at the same place.

Miyata Mitsuo (seal)
CERTIFICATE

I, Miyama Yōzō, the Chief of the Archives Section of the 1st Demobilization Bureau, certify that the two following documents are not in the custody of the 1st Demobilization Bureau, they having been destroyed at the time of surrender.

1. Military Administration Plan of the Kwantung Army (Test Plan), March 1942.

2. Notification, "A Study of Military Administration Shall Be Made", from the Vice-Chief of the General Staff to the Chief of Staff of the Kwantung Army, August 1942.

31 October 1947 Tokyo

Chief of the Archives Section
1st Demobilization Bureau

Miyama Yōzō (seal)

I certify that the above signature and seal were made before me, on the same day at the same place.

Miyata Mitsuo (seal)
CERTIFICATE

1, Miyama Yozo, Chief of the Archives Section of the 1st Demobilization Bureau, certify that the two following documents are not now in the custody of the 1st Demobilization Bureau:

1. Summary of the speech of the Chief of Staff of the Kwantung Army to the Kwantung Army troop commanders conference held 26 April 1941.

2. Summary of the speech of the Chief of Staff of the Kwantung Army to the Kwantung Army troop commanders conference held 5 December 1941.

8 January 1948

Chief of the Archives Section
1st Demobilization Bureau

Miyama Yozo (seal)

I certify that the above signature and seal were made before me on the same day at the same place.

Ikeda Sumihisa (seal)
Extract from Exhibit No. 688

Extract from

Noriyama, Member of Staff

"Plan for Establishment of Greater East Asia Co-prosperity Sphere (Draft)"

(Secret)

Made by the Research Institute of Total War.

Number

Series No. 45

Document Number No. 20

Date Jan. 27, 1942

Number of Copies made 150

Disposition To be kept in the Institute. Outside of the Institute to be returned as soon as through.
This study was carried out by the members of the institute, pointing and guiding the general course it should pursue, regarding the essentials in the establishment of the Greater East Asia Co-Prosperity Sphere, with the main object of educating the students. Because of the limited time or other reasons, some parts of the contents are precise and detailed, and others are not. Especially the mutual relations of each part are not thoroughly looked into and requires further study and corrections.

But for the time being it has been printed to serve it as material for future research.
Q. What reasons did HATA, Shunroku put forward to support his views?
A. I don't know by what concrete motives the military circles were guided.
Q. But you discussed this matter with HATA, Shunroku?
A. I did not discuss this matter with HATA. I only know that general opinion held by military circles was that my Cabinet was weak.
Q. It is improbable that there were no discussions on this matter between you, as a Premier and HATA, as a Minister of War, the more so because among other reasons which led to HATA's resignation, were the misunderstandings with you as a Premier. Please revive in your memory the contents of your talks with HATA, Shunroku.
A. I cannot remember now the contents of talks which took place between the Minister of War and myself, at that time, but I can tell you about general vein of the army thought. The military circles at that time demanded a conclusion of a treaty between GERMANY and JAPAN and Minister of War HATA, Shunroku was unable to resist this pressure.

* * * * * * *
Q. Who among the members of your Cabinet was particularly insistent on conclusion of treaty with GERMANY?
A. Among the members of my Cabinet, nobody insisted on the necessity of concluding a treaty with GERMANY.
Q. What about HATA, Shunroku?
A. HATA did not express his personal opinion but that of the Army. At that time nobody spoke openly about conclusion of alliance with GERMANY and HATA also did not openly express his opinion.
Q. How then could you understand each other?
A. HATA did not talk concretely about treaty with GERMANY, but I understood well that the atmosphere in the army was very favorable for conclusion of treaty between JAPAN and GERMANY.
Q. If HATA did not speak a single word about that how then did you know that atmosphere in the army was very favorable for the conclusion of a military alliance between JAPAN and GERMANY?
A. I knew that army held the opinion that it was necessary to have an alliance with GERMANY even at the time when HATA's Cabinet was actively advocating the conclusion of this alliance. Therefore, although HATA did not talk to me in any definite form about this matter, I, nevertheless, knew the feelings of the army.
Q. Perhaps H.M.T. was also against the conclusion of this alliance?

A. I cannot say exactly whether H.M.T. was against this alliance.

Q. It is improbable that H.M.T. did not define his position on the question of conclusion of a treaty with GERMANY during all the time he was in your Cabinet. The question of the conclusion of a treaty was debated at the conference of four Ministers as well as at the meetings of Cabinet. On what side was H.M.T. during the debates of this question?

A. When my Cabinet was in power the question of the conclusion of treaty between JAPAN and GERMANY was not debated either at the meetings of Cabinet itself or at the conferences of four Ministers and H.M.T., therefore, had no opportunity to officially express his opinion on this question.

* Excerpt from TPS Doc. 3555 (Excerpt from Exh. 3831)
昭和四六年五月十五日末向先政問書按華

問

昭和四六年五月十五日末向先政問書按華

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答
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Unltd States of America

- vs -

S. KAMBARA
YUSU HAMABU
RYUS I OKADA
SOTOJIWO WASHIDA

PUBLIC TRIAL

VOL.: V
PAGES 458-479

SAPPORO, CHITA.

DAY: 1 MAY 1946

SOTOJIWO TATSUDA

one of the accused was called as a witness on his own behalf.

QUESTION BY THE COURT

Q. Captain Tatsuda, this morning at the beginning of this testimony you stated that at the execution you read to the fliers a statement prepared by Ito, addressed to Ooka. What was the contents of that statement?
A. The contents were an order that by order of the Commander of the 13th Army, the following persons were to be executed.

Q. Did the order -- the communication, name the persons?
A. There was one to each person.

Q. What persons were named?
A. The three were Hallmark, Farrow and Spatz. (p. 479)
SHIGERU SHIDDA
YUSU OKIIDA
SASUKE TAKASUI

PUBLIC TRIAL

VOL. V
PAGES 429 TO 455

SHANGHAI, CHINA.
D.I.T. 1 MAY 1946

one of the accused, took the stand in his own behalf.

1. That is your name?
   A. Sawada Shigeru.

2. That is your rank in the Japanese Army?
   A. Lieutenant General.

3. When you left Shanghai in May 1942 for the front, did you
   leave anyone in command at Shanghai? (p. 429)
   A. I request two officers from the Supreme Headquarters to take
      care of the work in the Headquarters of Shanghai; that which
      concerned the law I left it up to Colonel Ito.

4. Did they have authority to use your chop on documents while
   you were away?
   A. Yes.

5. General, how long were you away at the front?
   A. I believe I returned to Shanghai on the 17th of September 1942.

6. Did you know that the Doolittle fliers were to be tried at
   Shanghai prior to your departure for the front?
   A. I did not think about this.

   You did not know or --

   A. I did not know anything about this.
Exhibit No. 1

(Excerpt from Ex. 3334)

Q. Did you receive any messages or any orders or any other communications regarding the Doolittle fliers and the trial while you were at the front?

A. I had not received anything.

Q. Then you had not heard anything about the Doolittle fliers or the military tribunal prior to the time that you returned to Shanghai on September 17th?

A. Yes.

Q. Now, General, before you left for the front did you appoint a pool of judges to sit on court-martials? (p. 430)

A. They were appointed in ordinary times approximately several chief judges and over ten judges, and if there were anything and they needed any new judges, they would soon replace them from the judges on the list, that had been appointed for always.

Q. Did General Ito select Takeo and Okada for the Doolittle tribunal?

A. General Ito selected them and appointed them in my name.

Q. Then you returned to Shanghai you say that was the first time you heard of the military tribunal for the Doolittle fliers. At this time did General Ito go over the whole trial with you?

A. Yes, that is right.

Q. What did General Ito tell you in regards to this trial when you returned to Shanghai?

A. He related to me what had happened in the court and the result of the trial. (p. 431)

Q. Did you give Colonel Ito authority to send the decision of the military tribunal of the Doolittle fliers to Tokyo?

A. In my opinion I wished to report it myself to the Supreme Commander but as I was absent Colonel Ito sent it directly to Tokyo. (p. 433)

Q. Is there anything, General, that you want to tell this Commission at this time in regard to the charges against you or in regard to anything in regard to the Doolittle trial?

A. Yes, I have.

Q. Explain it.

A. The trial of the Doolittle fliers was ordered by Tokyo and it was not tried under my order. Those regulations used for the trial was established by Tokyo also. Concerning their treatment, it also was awarded by Tokyo. (p. 436)
Def. Doc.

Ko.

2995 - 3 - "exhibit

No.

(Excerpt from Ex. 3834)

Did you know the senior officer in Shanghai during the period April 1, 1942, to October 1, 1942?

* * * * *

Now, you want the Commission to believe that you never went back in that prison to see what was going on back there and the prison was only 300 meters from your office?

In regard to the Doolittle fliers, their treatment was a little different from prisoners of war because the war ministry ordered us to treat them as war criminals but not prisoners of war.

Then you knew how they were being treated when they were back there, didn't you?

Colonel Ito made a report to me that they were treated as suspects of war criminals of the Japanese.

Did you do anything about their treatment? Did you try to improve it any?

I didn't give any orders.

Did you give the order to treat them as war criminals?

There was an order from the war ministry that they were to be treated as suspects of war criminals.

The treatment of the prisoners was carried out under your command responsibility, wasn't it?

Yes.

And when General Ito—anything General Ito did, he did at your command or under your command responsibility, didn't he?

Because Ito acted for me, whatever he has done is my responsibility.

And whatever Hako and Okada did is your responsibility, isn't it?

Whatever my subordinates have done is my responsibility. (p. 441)

And whatever Kata did was your responsibility? Major Kata?

Yes. (p. 442)

* * * * *

And that prison of his was about 300 meters from your office in the same compound, wasn't it?

It was an unimportant place and I misunderstood about it.

How is it where all prisoners were confined who were tried before your military courts, wasn't it?

Yes.

And there was a lot of foreign prisoners back there, wasn't there?

Yes.

And you knew they were back there, didn't you at the time they were there?

I knew.
(Excerpt from Ex. 3834)

Q. And you knew that kind of treatment they were getting back there, didn't you?
A. Yes, I knew. (p. 463)

Q. Then on August 29, 1942 you were the commanding general in command of the 13th army, is that correct?
A. Yes.

Q. And the trial held there that day was held under your authority, is that correct?
A. Yes.

Q. Then you came back in September you stated that you approved the record of trial that General Ito brought to you, is that correct?
A. Yes, that is true.

Q. And you did that personally by putting your chap on this record of approval, is that correct?
A. Yes.

Q. Now General, this record of trial was never sent to Tokyo was it - the actual record itself?
A. The document which I signed was kept in the headquarters, but was never sent to Tokyo.

Q. And your headquarters only sent a radio report to Tokyo of the results of the trial, isn't that correct?
A. I was explained so by Ito.

Q. Then isn't it a fact that you were the only one that actually approved the record of trial? (p. 466)
A. I signed it as the commanding general of the military tribunal.

Q. And at the time you signed it it called for death for all eight of the fliers, didn't it?
A. Yes.

Q. Then General, you could have either approved the record of trial, the conviction, or have disapproved the record of trial at that time, couldn't you?
A. Yes.

Q. How you told the Commission that you went up to Hankow and told General Kato that you thought the sentence was too severe, is that correct?
A. Yes.

Q. Was this after you had approved the sentence, the record of trial?
A. Yes, that is after I approved these sentences.

Q. Well, did you think the sentences were too severe when you approved them?
A. I had that feeling.
Tell, why did you approve them then if you thought they were too severe?
At that time Tokyo demanded that the prosecutor request the death penalty and therefore I could not change the sentence. (p. 447)
Tell, the fact is you didn't do anything to change the sentence, did you General?
Ordinarily I have no authority to change the sentence and at that time I was informed to wait for the orders from Tokyo so I could not do anything about it.
How then you went up to see General Hata up at Hankin what did you say and what did he say about this Doolittle case?
I told them that the sentences imposed upon the eight fliers are death and I feel sorry for them, for the fliers. To that General Hata said, "I feel the same way but since the orders are to wait for the approval of Tokyo, we have to wait." (p. 448)

Then why did you approve the sentence? Why didn't you just leave it alone?
In this trial the judges give the sentences and these sentences were immediately sent to Tokyo in a form of a statement and I was just between the two parties and I could not do anything but to sign it since I thought this was proper.
Then you thought the sentence was proper, didn't you, that is why you approved it?
Yes. (p. 450)

Did you talk to Shinonoura about the Doolittle case?
I transmitted the report to Shinonoura. What did you tell him about it? Did you tell him you were still sorry for the boys?
I told him there would be the final orders from Tokyo, to wait for it.
What did he say to that?
He said, "I fully understand."

How General Senda, the court was appointed under your jurisdiction, is that correct?
That is the truth. And the case was referred to the court under your authority, is that correct?
That was ordered in my name but I did not directly order. But you were responsible for the army at that time, is that right?
Yes.
And the members of this Commission, the court, the prosecutor, were all working for you at that time and their acts were committed under your authority, is that right?
Then whatever they did was done under your own personal responsibility, isn't that right?

I am the commanding general of the military tribunal, therefore I hold responsibility as commanding general. (p. 452)

* * * *

**EXAMINATION BY MILITARY COMMISSION**

By Lt Col Barry) General Saaveda, I call your attention to the testimony of General Ito last Wednesday, the 3rd of April wherein the General said to this effect that a report of the trial on the 23rd of August 1942 was sent by telegram to Tokyo through London and that on or about the 29th or 30th of August a written report was sent to Tokyo. I ask you whether you know what was in that report?

That written document was the verdict of the military tribunal.

Is that all it was?

Text is all. (p. 456)

* * * *

**RE-CROSS EXAMINATION**

* * *

General, isn't it true that the entire record of that trial remained in the headquarters of the 15th army until Major Inoue came here from Japan in 1946 to get the record and take it back to Japan?

They ought to have been kept there.

They should have been kept there. You mean in the headquarters, 15th army?

The headquarters. (p. 456)
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10
OKADA RYUICHI was called as a witness on his own behalf.

Q. Were you at one time a member of the 13th Army in China?
   A. Yes. (p. 401)

Q. In August of 1942, what duties were you performing in the Army?
   A. I was serving as one of the members of the staff.

Q. Were you appointed in August 1942 to a military tribunal for the trial of the Doolittle fliers?
   A. Yes. (p. 402)

Q. What did Major Hata tell the court?
   A. I do not know the exact words that he did say but he first mentioned the names of the eight fliers, then named the various evidences and questioning of the fliers and said that it is evident that they are guilty in view of military law therefore I request that the penalty be death sentence, that was said in his closing argument.
Before the
MILITARY COMMISSION
Convened by the
COMMANDING GENERAL
United States Army Forces
CHINA

UNITED STATES OF AMERICA

- vs -

SHIGEJU SHIRAI
YUSUKE MINO
EYUSHI OKADA
SOTOJI MASUMI

PUBLIC TRIAL

VOL. VII

PGS 376 TO 396

SHANGHAI, CHI...

D.J. 1 MAY 1946

* * * * *

**YUSHI WAKO**

was called as a witness on his own behalf.

* * * * *

Q. Are you one of the accused in this case?
A. Yes. (p. 376)

* * * * *

Q. Did hate say anything else?
A. The acts of the eight fliers are in accordance in violation of the military law of the China Expeditionary Forces. The prosecutor requested the death penalty on the fliers. (p. 384)

* * * * *

Q. Was a report - Did the court make any report of its decision?
A. A telegram was sent to the Grand Imperial Headquarters through Honshu Supreme Headquarters.

* * * * *

Q. What did that report say?
A. It was concerned to the decision of the death penalty of the eight fliers.

* * * * *

Q. Why was a report sent to Tokyo concerning the trial?
A. To have an order to report it. An order was received to report the decision of the court immediately.

* * * * *

Q. Did that order also say to withhold any action on the sentence of the court?
A. Yes.

* * * * *

Q. Did Tokyo take any action on the report rendered to it?
A. Instructions were sent from Tokyo to execute three fliers and reduce the other penalties for life imprisonment for five fliers. (p. 385)
as the United States Government advised that you had sentenced those boys to death?

An order was received from the Grand Imperial Headquarters that all the matters concerning this case was to be conducted by the Grand Imperial Headquarters and the 13th Army has no authority to announce anything. (p. 396)
この文書は日本語で書かれています。内容が理解できなければ、翻訳サービスをご利用いただくことをおすすめします。
デフドックエンターテイメント

東京大本営

東京大本営

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東京大本営
SHOSHI ITO
called as a witness on behalf of the defense. (p. 308)

Q. (By Major Dwyer) State your name, rank, organization and 
army?
A. Name is Ito, Shoshi, rank is Army Judicial Major General,
(p. 309)

Q. During the summer and fall of 1942 where were you assigned?
A. Judicial Department, 13th army of the China Expeditionary 
Force.

Q. Where was the Judicial Department located during that 
period of time
A. It was in Shanghai, China.

Q. Were you head of the judicial department?
A. Yes. (p. 311)

Q. Was a report of this trial made to Tokyo?
A. Yes.

Q. Was that report made immediately after the trial?
A. They telegraphed Tokyo through Hanking and a written report 
was sent to Tokyo later.

Q. Then was this written report sent to Tokyo?
A. It was a letter of August 29 or 30th. (p. 327)
答問答問答

八月廿九日裁判庭

何故此ノ報告ハ裁判記録デアリマシタカ

私共ハ参議院ヲ於テ裁判ヲ受ケテ居リマシタ

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三ニ七頁
5. Before the trial, the commanding general of the 13 Army had received specific instructions from the Grand Imperial Headquarters, through the Expeditionary Army in China Headquarters, "to relay news of the verdict to the Chief of Staff immediately, in order that the Grand Imperial Headquarters might make official announcement of the punishment meted out to the American airmen". Accordingly, the moment the trial was ended, the commanding general of the 13 Army relayed the verdict to the Grand Imperial Headquarters through the Expeditionary Army in China Headquarters.

As a consequence, on 10 October 1942, 13 Army Headquarters received orders from the Chief of Staff of the Grand Imperial Headquarters, via headquarters of the Expeditionary Army in China, to the effect that the death sentence of Lieutenant HUIHAKU*, Second Lieutenant FUKUO* (T.N. Presumably FUMRO.), Sergeant SUKATSU* (T.N. Presumably SMTSUZ.) were upheld, and the date of execution set at 15 October 1942; while the sentence of the remaining five were commuted to life imprisonment with the stipulation that since those five had been declared war criminals, they were to be accorded treatment separate from that given the usual prisoners of war.
6. On the basis of the foregoing order, on 15 October, Colonel Ito, upon receipt of an order from Lieutenant General SHO.UMA ( ), who succeeded Lieutenant General SHI.ADA, issued instructions for the execution of Lieutenant LI.ULAU and the other two. (p. 4)

* * * * *

I contend that those to be held truly accountable for this affair are those connected with the Grand Imperial Headquarters, the Ministry of War, and the Military Police Headquarters. It was they who instigated the enactment of this law, making it retroactive in order to fit it to past offences; and through the medium of a military tribunal mete out punishment. (p. 5)
Prosecution's Transcript

Exhibits No. 27 and 28
Statement of Shigido, Shigeto:

Q. Were you in charge of the 18th Army at the time the fliers were court-martialed?
A. I was the commanding general of the 18th Army when the fliers were court-martialed.

Q. What did you have to do with the appointment of the court?
A. I was the one who appointed the court.

Q. Did you appoint the court that tried the men in Shanghai?
A. Yes. (P. 1)

Q. Is it true that the finding was forwarded to the War Ministry in Tokyo after the trial was held, for the approval of the War Minister?
A. Under the regulations, all the reports of that sort have to be forwarded to higher headquarters in Tokyo.

Q. Were you in command of the 18th Army at the time the fliers were executed at Kiangnan Military Prison in October of 1942?
A. At that time I was relieved of my duties as commanding general of the 18th Army and was back in Tokyo.

Q. Who was the commanding general of the 18th Army in October 1942?
A. Shiogawa. (P. 2)

Q. Who was Chief of Staff of the 18th Army? Was it Karakawa?
A. Karakawa was the Chief of Staff.
Q. Do you know where General Shimonura is now?
A. *I think he is in Tokyo right now.

Q. He was the commanding general in October 1942 when the Doolittle Fliers were executed.
A. Yes, he was the commanding general of the 13th Army at that time.

Q. Did General Shimonura order the execution of the fliers?
A. Under the results of the trial, Shimonura issued the orders to execute those prisoners. During the execution he was the commander of the 13th Army.

Q. Was the Hanghwan Military Prison under your jurisdiction?
A. I had authority over Hanghwan.

Q. Did you give any specific instructions as to how those prisoners were to be treated?
A. *When they were first captured, we were told to return them to Tokyo and then we were told to have them tried in Shanghai. We tried them under our jurisdiction and they were found guilty of killing civilians and they were turned over to the Komatai, so I didn't have anything to do as to how they were to be treated. Any specific details about this incident, if you look through the files of the Imperial Headquarters I am sure you could find records of the trial.*

Q. Hasn't it a fact that you appointed the court that tried the men?
A. That is right.

Q. Under Japanese military law, doesn't the general who appoints the court approve the sentence that the court gives?
A. Under the military law, I have responsibility for the trial, but due to the fact that I was away from Shanghai at the time of the trial I put Ito in charge.

Q. Did Colonel Ito approve of the sentence given the fliers?
A. Ito transmitted the findings of the court to headquarters in Tokyo and Tokyo gave the jurisdiction to execute the fliers. Under our regulations, we cannot pass any judgments ourselves. Our policy is to pass the findings of the court and report the findings to headquarters, and headquarters will give instructions as to what the penalty will be.*

Q. When did you take over command of the Japanese 13th Army in China?
A. I took command of the 13th Japanese Army from 1 December 1940 to October 8, 1942.

Q. Who succeeded you on October 8, 1942?
A. Lieutenant General Shimamura took over command from October 8, 1942.

Q. Did you exercise court martial jurisdiction over the Shanghai Area in 1942?
A. Yes, they must have done it. September 7, 1942, up till September 17, 1942, that is this time I was at the front, so my assistant had my "chop," and did the work for me.

Q. Did you give him authority to do it for you?
A. During my absence they had my authority to use my "chop," but when I got in, the Doolittle Case, I didn't know anything about it but orders came from Tokyo, but anyway I will be held responsible for this trial.

Q. Do you feel you were responsible because you were commanding general?
A. Yes.

Q. Do you assume responsibility for the death sentences imposed on the Doolittle Airmen?
A. They had an order out that the 13th Japanese Commander was to inform Tokyo Imperial Headquarters regarding the trial and sentence given to the fliers, and the Tokyo Imperial Headquarters were to settle the case for them.

Q. The court was approved by your Headquarters, wasn't it?
A. Yes.

Q. The sentence of death imposed by the court was approved by your Headquarters.
A. The commanding General of the 13th Japanese Army had no power to change the court sentence.

Q. You approved the sentence didn't you?
A. Yes. (p. 1)
検察官長法廷日二十七号第二十八号原ポ

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（裁判命令）
UNITED STATES OF AMERICA

VS.

SHIGEHI SAKAI

YUSU MIKOKO

YUSU NAKADA

SOTOJIRO TATSUWA

PROSECUTION'S TRANSCRIPT EXHIBIT NO. 29

STATEMENT OF MIKOKO, Yusuo

Q. Were you appointed a member of a court-martial that tried the Doolittle fliers?
A. Yes, I was appointed.

Q. Who appointed you on the court?
A. My appointment was from the commander of the 13th Army, but he received the orders from the Imperial Headquarters.

Q. Were you the law member on the court?
A. Yes, I was one who judged. (p. 1)

Q. Did you see any orders that came from Tokyo on the case?
A. Yes I did. I saw the message that was transmitted to the headquarters that came down to the 13th Army Headquarters.

Q. Was that message received prior to the trial?
A. That law was passed after those prisoners were caught. The law was passed previous to the trial.

Q. Did you get specific instructions to find the fliers guilty?
A. I had no specific instructions. (p. 3)

Q. Do you know who approved the sentence of the court?
A. They were to report the findings of the court to the Imperial Headquarters.

Q. Do you have any other statement you wish to make about the case?
A. No. (p. 4)
Q. Was this report a record of trial?
A. It was a written statement of sentence.

Q. Why was it necessary to send this report to Tokyo?
A. We received an order from the Chief of Staff saying that -- asking us the time finding was made a written statement of sentence be sent Tokyo immediately.
このページは、対象の言語（日本語）が確認できませんでした。
鍵が裁判所へ裁判ノ判決ヲ承認スルヲノ要請ヲ行ふナ命令ヲ受ケマネント（三頁）

別ニ特別ナ命令ヲ受ケマネントカ

理君ヘ此ノ件ニ就テ何ニカ他ニ問へシタイ事ガアリマスカ

別ニ御懐ノニマサン（四頁）
六、前流ノ指令ニ基キ十月十五日伊藤大佐ハ澤田中尉ノ後任タル下附中

死藤執行ノ指令ヲ受シテ

アッテリマシテ

酒シテヲ副ヲ退去ノ犯罪ヲ退用サテノ

此ノ法律ヲ制定ヲ当ヲ敬メヲカラヲ退及サテノ宣戦ヲ

長者ノ
8 Oct 1942

On this day, orders were issued for the change in command of the 13 Army. Lt Gen SHIGEU SAWADA was in SHANGHAI at the time, while Lt Gen SHIBUURA, commandant of the Army General Staff College up to this date, was in Saitama province, engaged in maneuvers which had been going on since 1 Oct. However, he was immediately recalled to Tokyo and assigned as Army commander.

9 Oct 1942 - Lt Gen SHIBUURA makes courtesy call to Imperial Headquarters. (p. 1)

Up to this day (9 Oct) Lt Gen SHIBUURA absolutely had no connection with this incident. Therefore, he asked for a more detailed explanation and was given the following answer by the Chief of the General Staff:

"This affair has been thoroughly investigated and the final decision has been made in Tokyo. As a result, there is nothing that SHANGHAI or HANKING can do about this decision except carry it out. As to the details and procedures of the trial, you can get a report from the one responsible at the time, when you reach SHANGHAI." (p. 2)
I, as the Minister of War at the time of the trial of the 'Doolittle Fliers' who attacked the Japanese mainland on 18 April 1942, attest to the following facts for Lt Gen SADA Shigoro:

1. That the aforementioned PO.s were tried in Shanghai by order of the CHU-O (I do not clearly recall whether or not it was by order of the Grand Imperial Hqs or the Minister of War. Whenever CHU-O is used in the following sentences, the above meaning will apply).

2. That the basic regulations governing this trial were issued by the CHU-O; that upon receipt of those regulations, the Army CG must not deviate from such regulations.

3. That eight (8) PO.s were sentenced to death was reported to the CHU-O.

4. That the sentences of five (5) of the aforementioned eight (8) PO.s were mitigated by the graciousness of the Emperor who exercised his supreme authority.

5. That the aforementioned special favor of mitigation and the approval of the execution of the death sentence for the remaining three (3) were issued by the CHU-O.

6. That the President of the Court (Judge) alone has the authority to pass any sentence; that the Army CG has no authority to void or to mitigate such sentences;...
私が、平成四年十二月十五日、裁判所に提出した証拠を基に、裁判をするため、

（裁判員）

東京都裁判所

平成四年十二月十五日
Before the MILITARY COMMISSION
Convened by the CO-ORDINATING GENERAL
United States Army Forces
CHIN.

UNITED STATES OF AMERICA

- vs -

SHIGERU SAJADA
YUSUKE WAKO
RYUCHI OKADA
SOTOJIRO TATSUTA

PUBLIC TRIAL

VOLUMES III

PAGES 227 TO

SHANGHAI, CHIN.

DATE 1 JULY 1946

* * * * *

Prosecution's Transcript Exhibit No. 33
Statement of TATSUTA, Sotojiro

* * * * *

Q. Who signed the order for executing the Doolittle Fliers?
A. The judges in the court they approved it, and they can
sentence anybody to death, and the sentence can be carried
out only by the court right away. The same day. This
being a major case the Chief Prosecutor took it over to
the Commanding General of the 13th Army.

Q. Who was that?
A. Lt. General Sawada.

Q. What did Lt. General Sawada do?
A. Lt. General Sawada told them to inform the Imperial Army
Headquarters at Tokyo regarding the sentence. Later through
the kindness of his Majesty the Japanese Emperor, five were
given life sentence and three were sentenced to be executed.
Then the orders came from Tokyo that five were given life
and three to be executed. He, Lt. General Sawada, issued
orders to the Chief Prosecutor to carry out the sentence of
three to be executed and five to be life imprisonment.

(p. 1)
軍司令官、Estado Imperial Japanese Armyの名の許で、この案件の決行命令を発した。「五名の両親、元 Laird」侵略者、東京本部、特務課長に報告する。陸軍の命令が来るまで、陸軍の実行命令を発した。
Q. What was your official title and position with the Japanese Army during the period 1 August 1942 to 15 October 1942?
A. Major-General August 1, 1942 to October 15, 1942, Chief of Staff of 15th Army.

Q. What was done by the Japanese 13th Army with relation to these fliers in August 1942?
A. On instructions from Tokyo the fliers were placed before a court-martial. (p. 1)

Q. Were the results of the trial forwarded to Imperial Headquarters in Tokyo?
A. Two or three times I reported to Imperial Headquarters in Tokyo about what punishment to give the fliers.

Q. Did you request this information from Imperial Headquarters prior to the trial or after the trial?
A. After the trial but before a final verdict was issued. (p. 3)
Q. Who ordered the ashes of the fliers to be placed in the International Funeral Home in Shanghai under assumed names?
A. Army Headquarters.

Q. What Army Headquarters?
A. The 13th Army.

Q. Why was that order given?
A. Customarily the Japanese soldiers are taken care of likewise so that was why they were placed there.

Q. Why were they placed there under assumed names?
A. They changed their names because upon orders from Tokyo they were instructed not to reveal the place of execution, and that is why they changed their names.

Q. Did Gen. Shinomura receive this order from Tokyo and did he carry the order out in Shanghai?
A. Yes sir. (p. 4)

Q. There were five fliers whose sentences were commuted to life imprisonment. Do you know why these sentences were commuted?
A. Special orders came from Tokyo not to execute the five others. I think it was on the Emperor's orders.

Q. Do you have any statement you would like to make in connection with this case?
A. I can tell you this case was a very important case so I reported everything to Imperial Headquarters and asked their opinion and instructions what to do and carried out the directions of the Imperial Headquarters. (p. 5)
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行ッタノアナルノハソコトガ出不来マス。（五頁）
On the 4,... I met Foreign Minister Hirota, he stated:

"I desire to hear the opinions of the Army and Navy from an official standpoint through the War and Navy Ministers. Both the Army and the Navy authorities, especially those of the Navy, fear that the circumstances will inevitably reach their worst in 1936. Such being the case, our present task is to determine how to avoid this crisis. There is no alternative but to meet this problem by diplomacy. My opinion is that since we feel, as the result of the Manchurian affair, the effects of international reactions, it is necessary to conduct our response to those effects peacefully. First of all we must improve public opinion so as to deal with the Japanese-American problem peacefully. We must set up a basis for this atmosphere. By hearing both Ministers' (War and Navy) intentions and also by speaking to the Finance Minister, I want to exert my efforts to get an agreement between us on this problem. The views of the Finance Minister and myself are in complete agreement."
西国寺原田日記百図

四年六月九日

外務大臣に会った為に陸軍の先づその立場からの合の名を考えて居るやうだが、如何にすればならば真の悪の場合のないやうにすることが出来かし亦外交に依って亦より遠が

自分を発見してみた。何し外務大臣の意を聞く必要あっても無く東京に於て先づ対米問題は民間の生気をよくして行きたまえと

つ努力して見たい。
I met the Foreign Minister and asked him about the Chinese Eastern Railway negotiation. "In other words, negotiations were being carried on very slowly. Regarding the Disarmament Conference in London, the disarmament plan had been drafted, but the United States and Great Britain could not openly oppose the plan submitted by Japan. It appears that the United States and Great Britain are changing their course toward a political standpoint. Entirely apart from this problem, the Ministry is trying to bring about a rapprochement between Japan and Britain. It would not come right out and make an alliance, but it was going to form something like a Four-Power Pact. At the present time Ambassador Intrudire was making approaches to the British Government. Those invested with full powers had been given instructions to 'suppress gradually the question of disarmament, and to take a calm attitude to the end.'

It appeared that they were carrying out their instructions. These plans of rapprochement with England were of the utmost secrecy and were not even discussed in the Cabinet meetings."
On August 3, Matsudaira, Chief Secretary to the Lord Keeper of the Privy Seal, told me that on August 2 the Chief of the General Staff proceeded to the Palace and said to the Emperor that the Army would send the troops as far as the Taotung line but would not extend the battlefield farther than that.
When I met the Lord Keeper of the Privy Seal at his residence, he said: "Lt. (jg) Oyama was killed. Thus, at Shanghai no settlement was made and there is grave concern because the issue has come to be of considerable magnitude. I think the settlement of this issue is very difficult."

On the night of the 13th, an extraordinary session of the Cabinet was held and it lasted until about 1:50 in the morning. Later Premier Konoye said: "The Navy Minister was highly excited and he shouted at Minister of Finance Kaya without listening to Kaya's financial explanation. Finally, it was decided to issue a proclamation, and as the Foreign Minister reviled the wording and phrasing of the proclamation, the session finally ended about 1:50 of the following morning."

When I met the Foreign Minister that afternoon, he said: "The fact is that Kao Tsung-Wu visited Ambassador Kawagoe and calling attention to the dilemma of the Chinese, said: "It is unsatisfactory to leave matters as they are. We would like to have something done about it in the near future.""

However, the obviously mentioned Shanghai Incident broke out. There are individuals in China and Japan who are saying "The assassination of Lt. (jg) Oyama and the rousing of considerable excitement in Shanghai were caused by the increased number of Japanese warships and the increasing of the number of Japanese marines to 3,000. However, under such circumstances, the increase of personnel is only natural, and I believe it was actually inevitable."

From Consul Gen. Okamoto a message came saying: "Somehow I would like to see Shanghai kept free of the devastation of war." It would not be right for Japan to increase the number of warships, as I mentioned before, but that cannot be helped. Thus, instructions were
issued to Councillor Hidaka, and further negotiations are being carried on. Further, the Commander-in-Chief of the Third Fleet has asked for more Army troops. Though we dispatched the troops we have resorted to diplomatic efforts thus far. If we should announce the issuing of the mobilization order, then the situation would be troublesome. So, at yesterday's Cabinet meeting, it was decided that this is what Foreign Minister said. That evening Gen. Terauchi came and said: "This present Cabinet is pretty weak. As there are a number of movements, we must make this Cabinet strong and have him carry on for a long period." Hirota is weak. The War Minister is unsteady, so he is no good." Konoye also said: "At the Cabinet meeting on the night of the 13th, the Navy Minister became very much aroused and shouted at Kaya. Since then, the Navy has become very vigorous in its actions." On the 17th I dined with Ambassador Arita at Kuwana and conversed with him on various matters. Ambassador Arita said: "At the request of the Foreign Minister Hirota, I was, as a private individual, first of all to go to North China. Since I was to go to Shanghai, I was to be a sort of a diplomatic advisor for the commanders while I was travelling about Peiping and Tientsin." I thought it was a very good course of action for the present situation. It seems that Arita has decided to serve the country well.
Errata Sheet
D.D. 3014, 1924
(Hi ROTA)

[Handwritten text]

翻訳文書により

第三種類行「てある」から

第四種類行「とある」

との間に「———」

の誤り
万で已にも言ふべき、三人千に仰したりしれども、何しりありなり。枝へ之や兵火を視けりか、同をせか言ふなりにえすべきやうにしりけり。と云つて来て居處す。かたと云ふことと、内聞を交ふはずかし、内聞のみて従へたる殖り出は、内聞内聞の内聞にせか、今日立つ刃をやくか、やくかたならば行動を出せば、云ふことと、時は然し火日本に、けり。
この間三月の頃の開成は大分稀観大臣のたびに、少々の外交の相談、手伝いを行ったり歩いたが、その中には、上達の王御がも始んだ者として、一応以来懸命に、非常に強く感じた。と直

有田大使は、在日外務大臣、夫々に食事をして色々話を開いたから、有田大使は、在日外務大臣の手伝いを行ったり歩いたが、その中には、上達の王御がも始んだ者として、一応以来懸命に、非常に強く感じた。と直
Thus, instructions were issued to Councillor Hidaka, and further negotiations are being carried on. Nations such as England, America, France and Italy have said to Councillor Hidaka: "Since Shanghai is an international settlement, declare it an open city." Of course, Japan wishes to avoid Shanghai and the pact to cease fighting is still in effect in Shanghai. If China goes in accordance with that pact -- in other words, if China observes the pact -- this incident would not have occurred as it did. Though some advocate the withdrawal of troops or acting as the interested nations suggest, such actions cannot possibly be taken now. So I (Foreign Minister) said to Ambassador Kawagoe: "Fly to Nanking and open negotiations," but it seems that he hasn't left yet. Furthermore, the Commander-in-Chief of the Third Fleet has asked for more Army troops. Since we have resorted to diplomatic efforts thus far, our actions now may be misconstrued as having some sort of design if we send troops.
昭和十二年八月十三日
二西九日

西園寺

昭和十二年八月十三日
二西九日

西園寺

昭和十二年八月十三日
二西九日

西園寺
Chapter 251 (13 October 1937)

The British Ambassador said: "On the whole, I think it is a very rational plan. However, England does not want to touch on ideological problems, so in this respect anti-communist clauses are unfavorable. Therefore, how about handling this anti-communist clause by special methods such as the conclusion of a secret Sino-Japanese pact?" He made this sort of suggestion.

---

--- On the morning of the 2nd, --- I met the Foreign Minister at his official residence. He said: "The British Ambassador said: 'England is willing at any time to act as an intermediary, but isn't it possible for the Japanese Government to make the proposal?' I said 'If the Nanking Government seems ready to comply, we would like to make definite overtures. However, I wish you would negotiate with Nanking saying that certain reliable sources instructed you to do so. Please do not say that the Foreign Minister said such things.' The British Ambassador replied: 'If I say it is from reliable sources, it will be of no use. I will not be able to negotiate with him unless I tell him that you said so.' I replied: 'This is just my opinion, so you may use the name of Hirota. Please say that Hirota requested you to do this.' Later, the British ambassador said: 'According to reports from Nanking, they say that Chiang Kai-shek is ready at any time to carry out negotiations. The only thing is that it is difficult for the Chinese to propose this matter.' I said: 'If China has such preparations, Japan can send an unofficial representative and meet somewhere around Shanghai with the Chinese representative. It is sufficient if England opens the negotiations, but it will be bad if she should stand in the forefront and intervene as a third party. It is disagreeable to have interference from the League of Nations and the Nine Power Conferences and
I would like to have just the understanding of England. Of course, Japan has no monocentric desires concerning rights and so forth in China.

Upon watching the subsequent doings of the League, the English representatives said at the minority committee: "This problem is said to concern just two countries. However, there is a great amount of foreign interests involved, so let us create a minority committee." They have created an atmosphere which strives for Sino-Japanese cooperation, but Europe is still unfamiliar with Far Eastern matters so it was their intention not to interfere with the cooperation of Japan and China. This seemed to be the result of Ambassador to Japan Craigie's efforts, and China will never respond unless England is pulled towards our side. There are some people in Army circles who say that we should openly request the mediation of United States. It is permissible to request the open mediation of United States when the request which is made of England fails, but I do not believe that it is such a time."
昭和二年十月
十一日
林百五十
田

近衛寺辰田日記
昭和十二年十月
十一日
林百五十
田

それから英大使は一連の於て倹めても合理的な要求だと思ふ。
イギリス共体議会に於ては英大使は一連の於て倹めても合理的な要求だと思ふ。
イギリス共体議会に於ては英大使は一連の於て倹めても合理的な要求だと思ふ。
日本の大使が話した。南京からは蒋介石の手信、何許でも用意がある。なお、非公式に日本から人を出しというか、何れか、彼は言ふようなことをやっている。と云ふことであった。で、支那大使館の蒋情報の様子を記して実話に立てして所領第三観の議論の大畑を有するか。抑、それからは言ふやうなことをやっている。日本は支那に対して倒れはるかに話をつつであるから、南仏に於て南方を接近せしめる様を空気を造つて見よう。.ali 

後日、外務省の様子を見上げても占拠の義理は無論ない。彼といふか小英大使館で、此の関係は二階間とやうに感じられる。に於いても矢矧、日大使館のクレギエイの労力かあつたか、豊かうけゐけば支那は到底動くものか。
共の云ふような事でありました。尚滅田外務大臣の如きものを伊太利駐在の田田大使に言つても防共は防共の云ふような事でありました。
Irrotta Sheet

Def. Doc. [3016]

Line 2

"25 October, 1937" should be read as

"3 November, 1937--chapter 25"
I returned on the 2nd. At noon I had lunch with Arita and
Matsudaira, Yoshimasa. At that time Arita said that anti-British movement
was very strong and that great caution was necessary. I instructed them to
talk to the heads of the spinning industry who were anti-British and show
them the advantages and disadvantages by having Inukai talk to Miyajima,
Seijiro and by having Ikeda talk to Tsuda, Shingo. — — — —
Miyajima, Seijiro, and others said that if that was the opinion of the
Government, they would of course stop it.
"We have got an understanding with the other side that the terms will vary with the change of the war situation, but the junior officers of the Army, entirely ignorant of such circumstances, said that the fault was with Hirota who had too early confided our real intentions to the other side. We are annoyed to have the members of the General Staff, including Kagesa, threatening clamorously since yesterday that Hirota should be killed, or apprehended. Just at noon on December 8, the War Minister came and said that he would dine with the Prime Minister Konoye. When he told it to the War Minister, the latter said that he would tell the Chief of the Second Section beforehand to keep it secret, for it would be troublesome if the middle-class officers should hear about it. Already at that time, however, the junior officers, including Kagesa, of the General Staff and the War Ministry were exceedingly angry to learn it."

After that I went back home, and about half past four, I called again at the official residence of the Minister of the Navy. As I spoke of the above-mentioned matter in the presence of the Minister and the Vice-Minister of the Navy, they both answered to the following effect: The fault was rather with the Army. Both the Army and the Navy once wanted to cease war as soon as possible, when the General Staff was so intent on a peace move through the medium of Major-General Ott, the military attaché to the German Embassy at Tokyo, that it pressed the Foreign Ministry for negotiation. Since then, the negotiation has been continued by the Foreign Minister. As I have repeatedly stated, the Army, Navy and Foreign Ministers have once a week dined together to talk about diplomacy and arrived at a mutual understanding. Accordingly, nothing should happen so long as the Army is well controlled. We will argue for the Foreign Minister that such a hitch has..."
taken place because the Army failed to inform the Foreign Ministry, even if through the medium of the Prime Minister, of the change of the operations plans according to the change of the war situation, in order to keep a close communication with the diplomatic authorities. So we ought not to reproach the Foreign Minister only.

At any rate, Foreign Minister Hirota has previously sought an understanding with the other side that we might present new terms, so there is no objection to submitting newly stronger terms. The fact is, those who wanted to attack and exclude Hirota took this opportunity to cause trouble, in spite of the fact that there was no question whatever because we have an understanding with the other side that the above-mentioned terms corresponded to the then situation and that the former would vary according to the change of the latter. The Lord Keeper of the Privy Seal was also angry at the embarrassing attitude of the Army toward the present problem on diplomacy.
When I spoke to the Foreign Minister by phone on the 13th morning, he said: "As the Chinese Government failed to accept the proposal (determined by the Japanese Government), the Council held in the presence of His Majesty arrived at a decision to launch into the alternative plan." The foregoing was related to the German Ambassador and his reply was: "To be sure, there is nothing more that could be done under the circumstances. I shall explain it in details to the Ambassadors and Ministers of all nations."
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA,

et al

vs

ARAKI, Sadae, et al

Having first duly sworn on oath on attached sheet, and in accordance with the procedure followed in my country, I hereby depose that I have answered Attorney KUSANO, Hysichiro's questions as follows:

1. Do you know that on August 25-29, 1938, SATO, Chief of Press Section of the War Ministry, delivered a lecture at the Chief of Prefectural Police Conference in the Home Office?

A. Yes, I do. When conferences of Chiefs of Prefectural Police were held at the Home Office, people from various circles were often requested to give lectures on the current questions of importance. It is in accordance to this circumstance, I think, that Colonel SATO, Chief of Press Section of the War Ministry, was invited by the Police Bureau of the Home Office to give a lecture on the occasion of the said conference of Prefectural Police Chiefs concerning the actual state of the China affair, so that the police chiefs might be able to dispel the rumors running by making use of the information thus given.

2. Did you prepare this document (Ex. 270/2235) yourself? If so, tell us how you prepared it, and especially how accurate the statement is.

A. I am no stenographer. However, during the session of the conference above referred to, two lectures, I believe, if I remember right, were given. These lectures did not necessarily agree with each other, it seems to me. After the lectures were given, I jotted down roughly about 100 pages, which, I am inclined to think, I arranged in about 50-60 pages.
The fact is, Colonel SATO spoke very fast and I remember finding it extremely hard to take memos of what he said. The present document was not subjected to Mr. SATO's review, and so fearing that there may be something that may not exactly accord with his speeches, I attached at the beginning of the present document a note saying - "the responsibility for the wording of the document rests with the witness."

Such is the case as far as I remember of the time.

On this 22nd day of January, 1948
at Tokyo.

Deponent: KUMAGAI, Jure (SEAL)

I hereby certify that the above signature and seal were affixed hereto in the presence of the witness.

On the same date.
At the same place.

Questioner & Witness: KUSANO, Hiroichiro

OATH

In accordance with my conscience, I swear to tell the whole truth, withholding nothing and adding nothing.

KUMAGAI, Jure (SEAL)
The fact is, Colonel SATO spoke very fast and I remember finding it extremely hard to take memos of what he said. The present document was not subjected to Mr. SATO's review, and so fearing that there may be something that may not exactly accord with his speeches, I attached at the beginning of the present document a note saying - "the responsibility for the wording of the document rests with the witness."

Such is the case as far as I remember of the time.

On this 22nd day of January, 1948 at Tokyo.

Deposent: KUMAGAI, Juro (SEAL)

I hereby certify that the above signature and seal were affixed hereto in the presence of the witness.

On the same date,
At the same place,

Questioner & Witness: KUSANO, Hyoichiro

OATH

In accordance with my conscience, I swear to tell the whole truth, withholding nothing and adding nothing.

KUMAGAI, Juro (SEAL)
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

UNITED STATES OF AMERICA, et al
- vs -

'Neill, Sadao et al

Sworn Deposition

Deponent: -- TSUI, Iwane

Having first duly sworn an oath as on attached sheet
and in accordance with the procedure followed in my country
I hereby depose as follows.

Early in January 1938, when I was Commander of the
Central China area Army at Shanghai, I sent a message, through
Messrs. OKA, Hisashi and LI Tseh-i, to SUNG Tse-wen, the
head of the Chinese financial clique, urging him to make efforts
to bring about a peace movement between China and Japan.

SUNG Tse-wen was brother-in-law to Mr. CHUNG Kai-shek.
The SUNG Clique and the CHUNG Regime, closely united with each
other, formed the backbone of the Kuomintang.

I returned to Japan in February of the same year. In
my speeches on the Great East Asia Principle at
various places including Nagoya. In these speeches I said:

- 1 -
"While we must on one hand ask the Chinese to reflect on their past attitude, we must on the other hand be ready to make sacrifices in keeping China to reconstruct herself. We must not, however, demand anything in return for such services. It would be senseless to occupy China by force. We must not harbor any territorial economical or political ambition."

Thus, I was devoting myself in a movement for improving the Sino-Japanese friendship as well as restoring peace in East Asia. (DD/2501)

In those days I never advised the central army authorities that we should not deal with Chiang Kai-shek.

On this 27 day of Jan. 1948

At Tokyo

DEPONENT: MIYATSUI, Iwane (seal)

I, ITO, Kiyoshi, hereby certify that the above statement was sworn by the Deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date

At Tokyo

Witness: /S/ ITO, Kiyoshi (seal)
Oath

In accordance with my conscience I swear to tell the whole truth withholding nothing and adding nothing.

/S/ [Signature]

[Seal]
対

豊木 貞夫 兵査

読

松井 石根
同日於

立寄人

伊藤

清
Doc. No. 3025

Excerpt from Saionji-Kerada Memoria.

Chapter 46
(2 July 1932)

On the 29th, a news reporter came and said that it is incessantly rumored that War Minister ARAKU stated to the Premier the Army's firm view concerning the Manchuria and Mongolia problem, and that the Premier is greatly vexed.

I phoned the Premier, saying: "I heard this sort of story", but the Premier said: "That is absolutely untrue. I once asked War Minister ARAKU's detailed opinion on this matter. I called him again for further confirmation of his opinion, however, he did not express any strong opinion on this matter."
原田日記第四十六齢ヨリ抜萃

昭和七年七月二日

夫で廿九日に新聞記者達が来て荒木陸軍大臣は語る語る強硬な意見を総理大臣に述べて総理大臣は非常事件に就て陸軍

つて尋ねた後が総理は一切対してそんな話がありませんが一と言

強いて強硬とか何とか云ふ話も何も別にな一

荒木陸軍大臣は絶対的問題に就て語る際

述べた事があるに托し今日のことは

強いて強硬とか何とか云ふ話も何も別にな一

の荒木陸軍大臣は総理大臣に述べて総理大臣は非常事件に就て陸軍

つて尋ねた後が総理は一切対してそんな話がありませんが一と言

強いて強硬とか何とか云ふ話も何も別にな一

荒木陸軍大臣は絶対的問題に就て語る際

述べた事があるに托し今日のことは
As the Treaty revision year 1936 is approaching, according to the plan of the Army and Navy for cooperative action in constructing national defense, we must complete the national defense plan before that period. In other words, although we intend to settle international affairs by diplomacy, since it may fail or the situation become serious, we must complete defensive preparations, lest we should be paralysed or be underrated by foreign countries. In this sense, these plans are to perfect military preparations, and by no means, to start an aggressive war. I think that the previous conference tentatively agreed upon a national defense system designed for defensive purposes only.
原田日記 第百一巻より

昭和八年十月十四日

防戦的防備と云ぶことに大体決定したと云ふ事は前の論議から見れば然々
Then on August 1st I met the Navy Minister, at which time he said: "A secret agreement has been made between the Naval General Staff and the Army General Staff. First of all, we must, as far as possible, avoid war with Russia and the United States. And to withdraw from the League of Nations would be wrong."
昭和七年九月四日

戦定が平和を付けた。先つ第一に戦定を兼ねた

から国際連盟脱退は不可である

軍事的命令部と親本部の間には秘密の
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

UNITED STATES OF AMERICA et al

- vs -

AKAHI, Sadao et al

KAHABE DEPOSITION

Deponent: KAHABE, Torashiro

Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in my country, I hereby depose as follows:

I, KAHABE, Torashiro, state under oath as follows:

1. My present address is Jindai-mura, Kitatama-gun, Tokyo.

2. I was stationed in Berlin from 1 December 1938 until February 1940 as Military Attaché of the Japanese Embassy. My rank at that time was Major-General. Mr. OSHIMA was Ambassador from October 1938 until October 1939.

3. As in Japan the telegraphic codes of the War Ministry, the Navy Ministry and the Foreign Office were completely different from each other, it was technically impossible for the General Staff to send directly telegrams to the Japanese ambassadors in foreign countries. Therefore, if
telegrams were exchanged between the General Staff and the Ambassador, it must have taken place through me as Military Attaché.

4. In about January or February 1939 no telegram was sent from the Deputy Chief of the General Staff to Ambassador stating that the supreme authority of diplomacy is rested in the Emperor, as appears in Exhibit No. 3795 A.

5. In about January or February 1939, no telegrams were exchanged between Ambassador and the General Staff, secretly from the Foreign Office, concerning the question of strengthening the Anti-Comintern Pact.

6. With respect to negotiations for a Japan-Germany-Italy treaty, I as the Military Attaché never submitted a draft of a treaty to the German Foreign Office as mentioned in the Exhibit No. 3801 A. Moreover, during my sojourn in Berlin no draft of a treaty was sent to me from the War Ministry or the General Staff in Tokyo. Of course I was never ordered to submit such a draft to the German Foreign Office.

On this 23 day of Jan. 1948

at Tokyo.

DEFENDANT: /s/ KAWABE, Tora Hiro (seal)
Bef. Doc. # 3029

I, SHIV'ANOUCHI, Tatsuki, hereby certify that the above statement was sworn by the Deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date,
at the same place.

Witness: /s/ SHIV'ANOUCHI, Tatsuki (see

OATH

In accordance with my conscience I swear to tell the whole truth withholding nothing and adding nothing.

/s/ MAEBAE, Torashiro (seal)
Saionji-Harada Memoirs
Chapter 326 (p. 2529-32)
Date of Entry - 23 May 1939

Since the Navy Minister and the Premier had met on the morning of the 15th, I asked Foreign Minister ARITA about it. ARITA said: "The Navy Minister was asked: 'How is the situation now in the Navy?' The Navy Minister answered: 'It is as steady as it has been from the beginning. There is no room for compromise in the Navy.' The War Minister said: 'I like the reply withheld for two or three days more.'"

Foreign Minister ARITA also told me: "The Premier asked me to come over to his room after the Cabinet meeting so I went. He said: 'I hear the American Ambassador is leaving on the 19th and I would like to have him take my message to the President.' The message is to the effect of: 'Japan would like to maintain the peace in Europe together with the United States. Therefore, Japan
would like to contribute toward the settlement of the disputes as soon as possible. About this (message), I would like to send it as the message of the Premier with further study. The Premier did not mention anything about the strengthening of the Anti-Comintern Pact, so I did. He said just about the same thing that we heard from the Navy Minister. The Premier also said that he did not know what to do because the Navy will not compromise at all."

At noon on the 16th, I (FARADA) invited the American Ambassador and the Counselor (Embassy) together with their families for a little farewell party at the Sagano. At this party, the American Ambassador (J. C. Crow) told me: "When I meet the President of the United States, he might ask me, 'What does Japan demand of United States?, what attitude does Japan want United States to take in the China problem?, what should United States do to keep in pace with Japan?', I have no material
on hand to answer these questions. What do you suggest?" I (YAPADA) told him: "All right. Before you meet the Foreign Minister on the 19th, I will convey your desire to Foreign Minister ARITA. When you meet him, I will convey your desire to Foreign Minister ARITA. When you meet him, I will try to arrange it so that you get satisfactory answers." The Ambassador was very pleased and said: "Will you do that for me, please?"

As soon as I returned, I talked over the phone with ARITA. ARITA said that he just heard the same story from the Premier this noon. Furthermore, he had to listen to the lecture (by the Premier) of the peace with United States.

Later, I heard from the American Counselor (DCOMAN) that the Premier had sent a 'renin' (ex-politician) with a message saying that he (Premier) desired to see DCOMAN. It seems as if the Premier wanted to meet him because
DOOMAF can speak Japanese. At any rate he said he will meet with the Premier in a few days. So I told him to explain the general trends of the world frankly and openly. I called up ARITA and told him of these circumstances. ARITA said that the Premier was asking about DOOMAF, but I think it is cancelled now. Instead, I am to convey the message to the (American) Ambassador. However, I thought it to be very disagreeable for the Premier to use such a 'ronin' to convey and discuss important diplomatic problems.

A few days later, I unexpectedly ran into DOOMAF on the street. He said: "The date for my meeting with the Premier has been set as the coming Tuesday, the 23rd." ARITA's guess was wrong and DOOMAF said: "I will let you know of the results of our meeting."

On the morning of the 18th, GREW met with Foreign Minister ARITA. ARITA said: "I've considered about three problems and talked about
it today with GREW. First of all, a matter which is mentioned frequently; the real intention of the Japanese Government for the establishment of a new order in East Asia is not to be misconceived. For example, there are rumors of the monopolization of China by Japan or that Japan will excel European influences for the development of trade and economy. In order to destroy such rumors, I explained to him emphatically that Japan has no such intentions at all, and that Japan will protect the existing rights and interests of the other nations in China and will not hinder the economic activity of the United States and the European nations.

Secondly, United States will be in error to establish a national policy with the impression that Japan joined the totalitarian nations by entering the Anti-Comintern Pact. Unless the United States clearly recognizes that Japan is not joining the totalitarian nations, it will cause trouble for each other
in the event of deciding on a national policy. I want you to understand this point thoroughly. I hope to consider everything on the basis of peace and the goodwill toward the United States.

"Thirdly, concerning the matters of the islands along the southern coast of China and Hainan Island, there is apt to be the misunderstanding that Japan possesses the ambition to invade the South Seas and consequently, there are many who think that the Philippine Islands, Guam and Hawaii are in danger. Therefore, I fear that this may create an undesirable atmosphere in Japan-American relations. In case the American Government desires to know the policy of the Japanese Government, especially in this matter, the Japanese Government is ready to hold a conference at any time. GREW understood everything and returned aboard a ship which sailed that evening."

The Foreign Minister added the following to the American Ambassador as the message of
the Premier. It is not desirable to have a
war started in Europe. Though there are the
prints Germany and Italy should refrain from,
it is also believed that there is room for
consideration on the part of England and
France. It is I presumed that the United
States also believes in preventing war;
Japan also entertains the same belief.
In such circumstances, especially when both
of us are outside of the Europe circle,
there is room and bases for mutual cooperation
to preserve the peace. Those were added by
the Foreign Minister and was sent to the
President of the United States and the
Secretary of State as the message of the Premie.
昭和十四年五月二十三日
西園寺原田日記抄

海軍大臣と総理と十五日の午前に会ったので、真相子を有田外務大
臣から聞いたので、海軍大臣に、海軍の真実の状況は、最初から一切不動である、

 reopen
デルマーラは、一言だけ言った義子は数日下に話す Rit と言った。矢張り習いの習慣とは違った。で、

理と第三に、そのようにしてデルマーラは、十八日。朝、デルラは有田外務大臣を訪れていて、矢張り習いの習慣とは違った。で、

「お子さん、いるの。」と、デルマーラについて、矢張り習いの習慣とは違った。で、

「お子さん、いるの。」と、デルマーラについて、矢張り習いの習慣とは違った。で、
At noon, SHIRATORI, MATSUMURA and I had lunch at the Okume Hotel and since it was a farewell party for SHIRATORI, we conversed leisurely. When we meet each other, SHIRATORI talks, comparatively speaking, extremely intelligently. He was grieved because there was no prominent figures in the Foreign Ministry. SHIRATORI said: "I will leave for Italy on the 10th of November." I said: "Anyway, instead of becoming the Foreign Minister now, I think it is better for yourself and for the public, if you went to Europe for 2 or 3 years and gained some experience."
それから正午白鳥と松平と三人で会名で食事をして、白鳥の道別辞と附記で廻る話をする。廻に角外務省に人物のないことを聞いて居ったから、それから白鳥も十一月に到いて来ると、廻に角今外務大臣になるよりもし、二三年前並ばで一つ大いに廻いて来ると、かかる者たちを召上りを話して、（それから四時前に・・・）
DEFENSE SUMMATION

on

PERSONAL RESPONSIBILITY

JUSANO, Hyoichiro
OKAMOTO, Toshio
Mr. President and Members of the Tribunal,

1. The object of this summation is to analyze the alleged criminal responsibility of all the defendants from the point of view of modern criminal law.

The Chief Prosecutor said in his opening statement as follows:

"Since the usual definition of murder in civilized countries is the intentional killing of a human being without legal justification, we should perhaps see what constitutes legal justification. This justification is usually limited to the defense of one's person or property or, perhaps, in the case of an execution, that he was merely carrying out the order of a properly constituted court." (1)

The question of legal justification is, of course, important, but such can be understood only when the question of "intention" is taken into consideration at the same time. Unfortunately, however, the Chief Prosecutor left the latter entirely out of his discourse, as if the criminality of the defendants' intention is taken for granted.

2. Even in the case where an act has come within the purview of certain conditions defining a crime and was done without any cause of legal justification, mentioned by the Chief Prosecutor, still the person who committed the act will incur no criminal responsibility, unless

(1) Tr. 425
three more requirements are fulfilled: that is, (a) he has been mentally competent to take such responsibility, (b) the act was committed with criminal intent (as a rule) or through criminal negligence (in exceptional cases), and (c) there existed, at the time of commission of the act, a possibility of expecting him not to commit such an act. I shall hereunder consider the said three requirements seriatim.

3. In reference to the defendants in the present trial, it will not be necessary to dwell upon their mental competency to take responsibility for their acts, except the case of OKAWA. There is no doubt that each of them has had "the competency to discern the illegality of his conduct or to act according to his discernment of illegality of the conduct". (2)

4. As to criminal intent and negligence, Professor Sayor deplores in his treatise on "Mens Rea":

"It is almost hopeless to give an accurate definition of the term mens rea because of the diversity of its construction in judicial decisions and theories." (3)

In view of this remark, I wish, first of all, to determine the basis of my argument by briefly reviewing legislations of those countries which have adopted the most up-to-date principles of criminal law.

(2) Article 10, Swiss Criminal Code
"No act done without criminal intent shall be punished, except in the case where it is otherwise provided specifically by law."

Paragraph 3 of the same article reads:

"Ignorance of law cannot be invoked to establish the absence of criminal intent, but the punishment may be reduced in consideration of the extenuating circumstances."

The said Paragraph 1 is the codification of the maxim: "Actus non facit rem nisi ratio sit rei", while the said Paragraph 3 is the embodiment of the saying: "Ignorantia juris non excusat." Moreover, the said Paragraph 1 is derived from Article 77, Paragraph 1, of the old Japanese Criminal Code, which was almost similar in the wording, and the said Paragraph 3 is a modification of Article 77, Paragraph 4, of the old code. Since Article 77 of the old code provided in the case where he committed a crime without knowing the facts which constitute the crime, the term "criminal intent" has been construed by the majority of judicial decisions as "knowledge of facts which constitute a crime".

(4) "No act done without criminal intent shall be punished except in the case where its punishment is provided specifically by law or regulations."

(5) "Ignorance of law or regulations cannot be invoked to establish the absence of criminal intent."
6. According to this interpretation, criminal intent is established where the person in question knew the facts which constituted the crime, i.e., his act and the natural and probable consequence thereof, but, when such knowledge is once proved, it is not necessary to further enquire whether or not he was aware of the illegality of his act. As the result of this interpretation also, mistake of fact is sharply divided from mistake of law. In the former case, criminal intent is entirely precluded. In the latter case, while mistake of criminal law does not preclude criminal intent, mistake of non-criminal law does so preclude, on the presumption that mistake of non-criminal law is nothing but mistake of fact. For illustration of this interpretation, a judgment of the Japanese Supreme Court is quoted as follows:

"When a person destroyed the seal and markings of attachment affixed to an attached object in the mistaken belief that the attachment had lost its effect by his payment of debt, his intention to commit the crime (of Article 96 of the Criminal Code) is precluded." (6)

7. In the above-mentioned case, there is no doubt that the act was committed by mistake of civil law. Can we, however, so hastily conclude as to say that the act was done without knowledge of the facts which constitute the crime? Is it not more natural to construe that criminal intent is precluded, not because mistake of civil law has brought about ignorance of facts which constitute the

crime, but because, in spite of the offender's knowledge of such facts, mistake of civil law has amounted to ignorance of illegality of his act?

Professor Heftor of the Zurich University, after discussing the theories and judicial decisions in Switzerland upon the subject of criminal intent, remarks as follows:

"Illegality is the essential element in the conception of crime. It does not matter whether it is expressly stated as legal constituent of each crime. If we couple this principle with another that criminal intent must be related with every factor of a crime, we cannot but arrive at the conclusion that the criminal must be conscious of the illegality of his action. To deny this is to surrender to the tyrannical force which bullies mistake of law. In this connection, a brief explanation will be required. Consciousness of illegality of one's act does not mean the knowledge of his acting contrary to certain provisions of law. — — — It is quite unnecessary that he should be aware of any particular norm of criminal law. It is necessary, however, that his idea as lawyer, i.e., his sense of law, should inform him that he is committing an act which is not permissible. — — — Only when a person has such consciousness of illegality, may he be adjudged guilty on the ground that his act was done with criminal intent. The axiom of no punishment without responsibility"
crime, but because, in spite of the offender's knowledge of such facts, mistake of civil law has amounted to ignorance of illegality of his act?

8. Professor Haftor of the Zurich University, after discussing the theories and judicial decisions in Switzerland upon the subject of criminal intent, remarks as follows:

"Illegality is the essential element in the conception of crime. It does not matter whether it is expressly stated as legal constituent of each crime. If we couple this principle with another that criminal intent must be related with every factor of a crime, we cannot but arrive at the conclusion that the criminal must be conscious of the illegality of his action. To deny this is to surrender to the tyrannical force which bulittles mistake of law. In this connection, a brief explanation will be required. Consciousness of illegality of one's act does not mean the knowledge of his acting contrary to certain provisions of law. -- -- -- It is quite unnecessary that he should be aware of any particular norm of criminal law. It is necessary, however, that his idea as laymen, i.e., his sense of law, should inform him that he is committing an act which is not permissible. -- -- -- Only when a person has such consciousness of illegality, may he be adjudged guilty on the ground that his act was done with criminal intent. The axiom of no punishment without responsibility
demands this. Though it will seldom happen in the
commission of a crime, in the case where a person
had no knowledge of his act being contrary to his
duty and not permissible and where the impossibility
of having such knowledge is actually proved in
consideration of his whole personality, it is a
shame to adjudge him guilty, however light the
punishment may be." (7)

Professor Haftor further contends:

"All attempts are futile to make distinction
between mistake of fact and mistake of law. Much
more so, between mistake of criminal law and
mistake of non-criminal law. It is too difficult
to draw a line between the two. From the view-
point of criminal responsibility, mistake as to
the criminal nature of one's act must be taken into
consideration. In the case where an abductor did
not know the age of the abducted girl, or where a
person was not aware of the fact that he was
harboring a murderer, or where a school teacher
mistakenly exercised his right of discipline, --
no criminal intent should be recognized, if his
bona fides is proved beyond reasonable doubt. On
the other hand, we need not consider his mistake in
the punishable nature of his act, or its legal nature,
e.g. whether larceny or embezzlement, or the
degree or conditions of punishment, or the existence
of certain requirements of legal proceedings, etc." (3)

(7) Haftor: "Löhrbuch des Schweizerischen Strafrechts",
allg. teil, 1926, S. 117, S. 118.
10. The above-mentioned case of abduction will be illustrated by R. V. Prince of 1875 in England. Prince had abducted from her father a girl under the age of sixteen; but in the belief, on adequate grounds, that she was eighteen, in which case the abduction would not have been a crime. The great majority of the judges agreed, however, in the view that "an intention to do anything that is wrong legally", even as a mere civil tort and not as a crime at all, would be a sufficient mens rea. Some judges went even beyond this; laying down a view, according to which there is a sufficient mens rea wherever there is "an intention to do anything that is wrong morally", even though legally it be quite innocent, both criminally and civilly. (9) Although Professor Sayor criticizes this case as having confused and unsettled the law more than any other upon the subject, (10) can we not interpret the said opinions of the English judges as their recognition of the knowledge of illegality to be the essential factor of mens rea?


11. This idea will become more clear if we look into the question of negligence. According to Professor Kenny, "the mere fact that there was some degree of negligence on the parent's part will not suffice. There must be a wicked negligence, a negligence so great as to satisfy a jury that the prisoner did not care whether the child died or not." He remarks further that "when motorists are sued in civil actions for negligence, the verdict is usually against them, but is rarely so in prosecutions of them for manslaughter. There must be a wicked negligence — such disregard for the life and safety of others as to deserve punishment." It follows, therefore, that negligence, punishable under criminal law, is not a simple carelessness, but must be wicked or blameworthy. In this sense, it may be said that the difference between criminal intent and criminal negligence is only a matter of degree of knowledge of illegality.

12. In my submission, the above-mentioned views of the English jurists are the positive side of a principle of the modern criminal law, that is to say, that mens rea should be determined by the presence of knowledge of illegality; while the said opinion expressed by Professor Hafter forms the negative side of the same principle, that is to say, that mens rea will be precluded in the absence of knowledge of illegality. If we read again, with this consideration in mind, the maxim of Ignorantia juris non excusat, it will mean: (a) a person shall be punished for his act, if he was aware of the illegality of his act, in spite of his ignorance of law, (b) even in the case where he was not aware of the illegality of his act, he shall be punished, if he was negligent in having been unaware of the illegality.

of his act and if such negligence is blameworthy, and (c) in the case where he was not negligent or, if negligent, not sufficiently blameworthy for such negligence in having been unaware of the illegality of his act, he shall not be punished, even though he had knowledge of the facts which constitute a crime.

14. Professor Radin remarks as follows:

"mens rea in English law was never held to mean that ignorance of criminal law was an excuse. In the German common law down to the end of the 19th century, the rule was error juris non excusat. Under the influence of Fenerbeck, the excuse was later actually admitted for several decades with the result that there was in a sense reaction, which has restored the old rule in modern German law. In France, exceptions are made in very unusual circumstances. The German Code, however, provides that where there is a mistake of law the punishment may be decreased or even abrogated altogether. In fact, many of the continental theorists are in favor of abrogating or at least modifying the generally prevailing old rule, and some of the recent drafts of penal codes provide for milder punishment."

14. In stating this, Professor Radin must have had in mind the draft of the Swiss Criminal Code in 1918. However, almost every legislation of the later date provides that mistake of illegality may be the ground not only for the reduction but for the exemption of punishment. It is true that Article 18 of the said Swiss draft recognized only mitigation in the case of mistake of illegality. But

(14) "If a person committed a crime in the belief that he had a right to do the act, punishment may be reduced."
the actual Criminal Code, promulgated in 1937, provides in Article 20 as follows:

"Where a person committed an act with a good reason to believe that he had a right to do the act, punishment may be reduced or remitted at the discretion of the judge." (15)

15. Looking back to the Chinese Tentative Criminal Law which existed prior to 1928, Article 13, Paragraph 2, provided as follows:

"Ignorance of law cannot be invoked to establish the absence of criminal intent, but punishment may be mitigated by one or two degrees in consideration of the extenuating circumstances."

The above was amended by the old Criminal Code of 1928, Article 28 of which read as follows:

"Ignorance of law shall not discharge any person from criminal responsibility; provided however that punishment may be reduced by one half in consideration of the extenuating circumstances."

Now, the present Chinese Criminal Code, which has come into force since 1935, provides in Article 16 as follows:

"Ignorance of law shall not discharge any person from criminal responsibility; provided however that punishment may be reduced in consideration of the extenuating circumstances. In the case where a person believed that his act was permissible by law and where there was a good reason for him so to believe, punishment may be remitted."

(15) This Article 20 of the Swiss Criminal Code follows literally the provisions of Article 17 of the Swiss Military Criminal Law of 1927.
The above changes in Chinese law clearly demonstrate the gradual transition from the formal interpretation of ignorance of law to the real understanding of the principle of non-conscience of illegality.

16. The reason why I have in the above discussed at length this rather elementary principle of criminal law is because Professor Kenny maintains that a mistake of law, even though inevitable, is not allowed in England afford any excuse for crime. He states:

"The utmost effect it can ever have is that it may occasionally, like drunkenness, rebut the existence of the peculiar form of mens rea which some particular kind of crime may require. Thus larceny can only be committed when a thing is stolen without even the appearance of right to take it; and, accordingly, a bona fide and reasonable mistake, even though it be of law — like that of a woman who glean corn in a village where it is the practice to do so — will afford a sufficient defense. Similarly a mortgagor who, under an invalid but bona fide claim of right, demeases the fixtures in the house which he has mortgaged, will not be guilty of 'malicious' damage. Apart, however, from such exceptional offences, the rule which ignores mistakes of law is applied with rigour."

17. On the other hand, he remarks:

"But I know of no reported decision which extends this rule to mere municipal bye-laws. Both in England and in the United States (Porter v. Maring, 62 N.Y. 240) a

(16) Kenny: On. Cit. pp. 69-70

- 11 -
judge would require legal proof of a bye-law before enforcing it. Should the law attribute to ordinary people a greater legal knowledge than to the judge?" (17)

Admitting that this Honorable Tribunal might take judicial notice of the fact that there is a large body of international law, known at different times and by different writers as the "common law" or "general law" or "natural law" of international law, I respectfully submit that it is a law less clear and definite than a national law and that acts in contravention of international law are deemed by any national law not sufficiently blameworthy to incur criminal responsibility, except in a few cases. According to Professor Kenny, it is expounded as follows:

"The student must bear in mind that, though it is sometimes said that 'International Law is part of the laws of England,' this is true only in that loose historical sense in which the same is also said of Christianity. But an indictment will not be for not loving your neighbor as yourself. Equally little will it be for trading in contraband or war, or for the running of a blockade. Both those acts are vitiated by International Law with the penalties of confiscation; but neither of them constitutes any offence against the laws of England, or is even sufficiently unlawful to render void a contract connected with it." (19)

The above submission will be opposed by the contention that international law is a law sui juris and can punish any act, which it deems fit upon the ground entirely

(18) Mr. Keenan, Opening Statement, T. 405-6
In my earlier essay I pleaded to have it recognized that International Law was the product, however imperfect, of that sense of right and wrong, of the instincts of justice and the humanity which are the common heritage of all civilized nations. This has been called for many years 'Natural Law'; perhaps in modern days it is simpler and truer merely to refer to it as flowing from the instinctive sense of right and wrong possessed by all decent men, or to describe it as derived from the principles common to all civilized nations. This is, or ought to be, the ultimate basis of all law. (20)

In other words, even though "the source of International Law must ** be sought elsewhere than in the acts of a national law-making authority," (20) it must have a foundation in the instinctive sense of right and wrong, common to all law. It must not be the law of the mighty or the conqueror.

19. The heretofore accepted definition of "international law" is that it governs relations between independent States. (21) It has been a matter of common sense to understand that: "Public international law is the body of rules which control the conduct of independent States in their relations with each other. It is altogether different in its nature from law in the narrower sense of the word, namely, law capable of judicial enforcement, for that.

(20) T. 407-8
implies a force superior to both the litigants or disputants; and as independent States have no recognized common superior, the rules by which their conduct is governed are incapable of enforcement except by war.\(^{(22)}\)

Even the Chief Prosecutor admits that "the personal liability of these high ranking civil officials is one of the most important, and perhaps the only new question under international law to be presented to this Tribunal."\(^{(20)}\)

According to the Chief Prosecutor, it is said that the prosecution will "show that each and every one of the accused named in this indictment played an important part in these unlawful proceedings; that they acted with full knowledge of Japan's treaty obligations and of the fact that their acts were criminal."\(^{(24)}\)

In my submission, here lies the fallacy of his contention, for knowledge of treaty obligations is entirely a different question from knowledge of criminality of their acts. No modern national law would punish an individual for any breach of contract, whether be it intentional or unintentional. No international law has ever criminally punished an individual for any breach of treaties except perhaps in cases of the so-called conventional war crimes and pirates. Even then, the prosecution admits that "the Hague Convention nowhere designates such practices as criminal, nor is any sentence prescribed, nor any mention made of a court to try and punish offenders."\(^{(25)}\)

\(^{(22)}\) Byrne's Law Dictionary, 1923, n. 487
\(^{(23)}\) T. 436
\(^{(24)}\) T. 422
\(^{(25)}\) T. 39,007
21. Evidence adduced either by the prosecution or by the defense has definitely established the fact that all the defendants did their level best to carry out whatever treaty obligations they had to deal with in their respective capacities, not because they were aware of their criminal responsibility for not doing so, but because they wanted to keep the sanctity of the treaty itself. Any breach of treaty obligations, alleged by the prosecution, has been proved to have resulted from inevitable but unforeseen circumstances. All acts of the defendants, as indicted before this Tribunal, were done in pursuance of the laws of their country. If Professor is right in saying that "it is necessary that his idea as laymen, i.e., his sense of law, should inform him that he is committing an act which is not permissible," how could the defendants have been informed by their sense of law that their acts were not permissible under international law? at the same time when their very sense of law was telling them that their acts were permissible under their national law?

22. The learned judge in the McNaughton case stated as follows:

"We are of opinion that, notwithstanding the party accused did the act complained of with a view, under the influence of insane delusion, of redressing or avenging some supposed grievance or injury, or of producing some public benefit, he is nevertheless punishable according to the nature of the crime committed, if he knew at the time

(26) See Para. 9 supra
of committing such crime that he was acting contrary to law, by which expression we understand to mean the law of the land." If there was any conflict between the law of the land and international law, the judges would not hesitate to answer the preponderance of the former. So would the defendants. But what I wish to emphasize is that not only the defendants had legal justification for their acts under their national law, but they honestly reasonably believed that their acts were justified under international law.

23. The prosecution contends, in its summation upon conspiracy, as follows:

"If he was in office at that time, allowed his scruples to be overruled, and continued in office, we submit that quite clearly he should be convicted, and that in a moral point of view his case is at least as bad as that of one who had no such scruples." (28)

And it maintains, in its summation upon individual responsibility, in particular, of a cabinet minister, that:

"He always had alternative of resigning instead of casting his affirmative vote for, or expressing his acquiescence in an aggressive measure. If he did not resign despite his personal convictions because he felt it more important that he or the Cabinet continue in office, he is legally just as responsible and morally more responsible than an all-out proponent of the aggressive policy, since he deliberately chose to approve the policy.

(28) T. 39,057
"with full cognizance and conviction of its evil." (29)

24. Such an accusation misses the mark entirely, so far as the defendants are concerned. During the period of the indictment, i.e., from January 1929 to September 1945, 17 Cabinets rose and fell, the average life of a Cabinet being only one year. How can we expect any consistent national policy, either aggressive or defensive, under these circumstances? The trouble with the defendants is not that they clung to their prominent posts despite their personal convictions, but that they foresook such posts too readily, because of their sensitiveness to political responsibility, to carry out their policies. Did or should their sense of law inform them, at the time of their resignation, that they would be also responsible criminally under international law, if they did not resign? No sane man, even the most learned scholar of international law, would dream of such a fantasy, but the will be the only conclusion to be drawn from the logic of the prosecution. Whatever may be the case, the evidence adduced before the Tribunal has proved that the defendant believed that their acts were permissible both by the law of their land and by the laws of nations and that they had good reasons so to believe. Even if they are to be adjudged by an ex post facto law as criminally liable under international law, their punishment should be remitted, should the principle embodied in the aforesaid Article 1 of the Chinese Criminal Code (30) be adopted.

(29) T. 40, 56/5
(30) See Para. 12, supra
25. Leaving aside for a moment the question of international law, I should like to discuss briefly the principle of criminal responsibility, which requires the existence, at the time of commission of an alleged offence, of a possibility of expecting the offender not to commit such an act. Article 34 of the Swiss Criminal Code of 1937 is the best illustration of this principle and provides as follows:

"No person shall be punished for his act done in order to avert any impending and otherwise unavoidable danger to his right, in particular, to life, body, liberty, honor or property, if he is not responsible for the occurrence of such danger and if it is impossible to expect him to abandon his endangered right in view of the circumstances".

26. Article 57 of the Japanese Criminal Code reads as follows:

"No person shall be punished for his act inevitably done in order to avert any impending danger to his or any other person's life, body, liberty or property, if the evil arising out of his act does not exceed the degree of evil which he tried to avert; provided however that punishment as to the act in excess of such degree may be reduced or remitted in consideration of the extenuating circumstances".

The underlying thought of this provision is the same as that of the Swiss Code above referred to, i.e., criminal responsibility shall not be attributed to the case where it is impossible to expect a person to avert the evil by anything short of the commission of the offence in question.

27. Professor Kenny states as follows:

"The defence of necessity, however, can only be important where, as in capital offences, there is a proscribed minimum of punishment. For in all other cases every English judge would take the extremity of the offender's situation into account, by reducing the sentence to a nominal penalty. Yet where immediate death is the inevitable consequence
of abstaining from committing a prohibited act, it seems futile for the law to continue the prohibition, if the object of punishment be only to deter. For it must be useless to threaten any punishment, the threat of which cannot have the effect of deterring. Hence, perhaps, it is that in the United States the defence of Necessity seems to be viewed in favor (31).

Although it may not be so prevalent as in continental countries, the English defence of Necessity is based, in the final analysis, on the same principle as mentioned above in reference to Swiss and Japanese laws.

28. As a further application of this principle, I refer to Article 105 of the Japanese Criminal Code, which provides as follows:

"In the case where a crime mentioned in this Chapter (i.e., harboring a criminal or suppression of evidence) is committed by a relative of a criminal or "fugitive for the benefit of the criminal or the fugitive, punishment may be remitted".

The harboring or suppression of evidence by a parent or a wife for the benefit of his or her child or her husband is, indeed, an inevitable manifestation of humanity, as expressed by Confucius in his Analects that "the true justice exists where a father conceals for the sake of his child and a child for his father". It would be unreasonable and against human nature to expect him to act otherwise. A similar kind of law is found in England. If a husband who has committed a crime is received and sheltered by his wife, she is not regarded by the law as becoming by such "bare reception" an accessory after the fact or a participator in his treason; for she is bound to receive him. (32)


But a husband enjoys no similar exception when he assists a felonious wife; he becomes accessory to her felony (Kenny: Op. Cit. p. 89).
29. As another example of the same principle, Article 76 of the old Criminal Code of Japan provided as follows:

"A person, who has performed his official duty under his superior's order, shall not be punished".

The present Criminal Code has deleted such a provision on the ground that it is included in Article 35, which reads as follows:

"No act is punishable, which is done in accordance with the provisions of law or regulations or in pursuance of a legitimate business".

It corresponds to Article 32 of the Swiss Criminal Code of 1937 which provides as follows:

"Any act, which is required by law or by an official or business duty or permitted or declared not punishable by law, is neither felony nor misdemeanour".

30. In the Chinese Tentative Criminal Law, there was no such provision, but in Article 35 of the old Chinese Criminal Code of 1928, it was provided:

"No act is punishable, which is done in the course of an official duty under the order of one's superior officer".

Then, in Article 21 of the present Chinese Criminal Code of 1935, Articles 34 and 35 of the old Code are combined as follows:

"No act is punishable, which is done in accordance with law or regulations.

"No act is punishable, which is done in the course of an official duty under the order of one's superior officer, except the case of a person who has known clearly the illegality of such order".

The said Article 21, Paragraph 2, of the Chinese Code implies obviously the following two points:

Firstly that no crime will be constituted by any act of a subordinate done under a legal order of his superior, and secondly that a subordinate shall not be held
responsible for any act done under an illegal order of his superior, unless the subordinate knew clearly the illegality of the order.

31. In this connection, the French Criminal Code provides in Article 327 as follows:

"Murder, wounding or assault committed under the provisions of law and ordered by a lawful authority shall constitute neither felony nor misdemeanor."

And in Article 114, it is provided:

"A public official, agent or employee of the government shall be deprived of his civil rights in the case where he has ordered or committed any arbitrary act, or any act inimical to the individual liberty or to the civil rights of one or more citizens or to the Constitution."

"If, however, he proves that he has acted under the order of his superiors concerning matters within their jurisdiction, in which matters he is bound to the superiors by a chain of subjugation, he shall be exempted from punishment, etc."

32. In reference to criminal responsibility of a subordinate, Professor Donnedieu de Vabres enumerates three points of view: (a) The theory which maintains the irresponsibility of a subordinate on the ground that he is not allowed to criticize the legality of his superior's orders; (b) the so-called "la theorie des bâtonnets intelligents", prevalent in the courts of the United States (33), which have repeatedly refused to recognize any such irresponsibility at all on the ground that a subordinate has the right (and duty?) to criticize the legality of his superior's orders; and (c) the theory which admits mitigation of punishment in the case where the content of such order was apparently legitimate and its formality was satisfactory.

(33) Kenny: Op. Cit. p. 73
(34) Donnedieu de Vabres: "Traité élémentaire de droit criminal", 1837, pp. 246-247. He seems to agree with the third view.
33. According to Professor Kenny, the official British Manual of Military Law admits it to be still "somewhat doubtful" (Ch. VIII, par. 95) how far a superior officer's specific command, even not obviously improper, will excuse a soldier from acting illegally. (35) Compared to such legislation, the said Chinese Criminal Code (Article 21, Paragraph 2) sweeps away any doubts by stating that punishment will be imposed only upon a subordinate who has acted with a clear knowledge of illegality of his superior's order. It follows, therefore, that in case there existed any ambiguity as to illegality of the order, he shall not be responsible, even if he carried out the order. Since the basic principle of officialdom lies in the chain of command and subjugation, especially in the case of the army and navy, it is according to the thinking of Chinese law, unreasonable to expect him to act contrary to his superior's order, even when he was not quite sure of its being either legal or illegal.

34. On the other hand, Professor Liszt contends that "so long as the absolute binding power of a superior's order is acknowledged by law, such an order will preclude the illegality of his subordinate's act done in accordance therewith", on the ground that "an act done in pursuance of one's duty is never illegal" (36). This contention is erroneous, because since the superior is held responsible for the execution of his illegal order, "the punishment cannot be linked with a legal act" (37). If the superior's order is illegal, we have to admit that the subordinate's act is also illegal. However, the impossibility of expecting him to act other-

(37) J. E. Mayer: "Der allgemeiner Teil des deutschen strafrechts", 1915, s. 334.
wise will escape him from any viciousness or blameworthiness and hence from any criminal responsibilities.

35. According to Professor Sayer, "the concept of blameworthiness or moral guilt is necessarily based upon a free mind voluntarily choosing evil rather than good; there can be no criminality in the sense of moral shortcoming, if there is no freedom of choice or normality of will capable of exercising a free choice." (38)

The Nuremberg Judgment ruled that "the true test...is not the existence of the order, but whether moral choice was in fact possible." (39) In my submission, these words are nothing but the enunciation of the principle of impossibility of expectation (Nichtzweckbarkeit).

(39) Nuremberg Judgment, p. 16,881
The Nuremberg Judgment has brought this principle of criminal law into the field of international law. The relevant provisions of law considered by that Tribunal are articles 7 and 8 of its Charter which in combination correspond to article 6 of the Charter governing this honorable Tribunal. The difference between the said provisions of the two charters is that while in the Nuremberg Charter the official position of defendants, whether as heads of states or responsible officials in government departments, shall not be considered as freeing them from responsibility or mitigating punishment, and only the fact that they acted pursuant to order of their government or of their superiors may be considered in mitigation, the Tokyo Charter provides that both their official positions and the fact that they acted pursuant to order may be taken into consideration, if the Tribunal determines that justice so requires.

Now, the prosecution contends in its summation as follows:

"The defendants may be divided into three categories: (1) those defendants who had the ultimate duty or responsibility for policy formation fixed by the law of Japan; (2) those defendants, although they do not have the ultimate duty or responsibility, had the duty or responsibility for policy formation in a subordinate or intermediate capacity fixed by the law of Japan; and (3) those defendants who, although they had no duty or responsibility fixed by the law of Japan, have by their acts and that which placed themselves on the policy making level and are therefore chargeable with responsibility in fact."
As to the defendants of the first category, I have already shown in the above that their acts, done in accordance with the law of Japan and in the honest and reasonable belief that such acts would also be justified under international law, preclude any knowledge of illegality and, therefore, their punishment should be remitted. (41)

38. It is further submitted that under such circumstances as existed during the period of 17 years since 1928, no man could have acted otherwise than what the defendants did, should he have been placed in their stead. It was, indeed, humanly impossible for them to stop successive explosions of the long pent-up national sentiments, either at home or abroad. It was also humanly impossible for them to carry out direct control and supervision over numerous subordinates in remote corners of Manchuria, China and elsewhere. In short, can we expect them to exercise their authority and care to such an extent as to turn the tide of national destiny and to prevent the inevitable consequences of sanguine hostilities?

39. As to the defendants of the second category, there was in Japan the so-called Regulations for the Duty of Government Official, (42) which provided as follows:

"Article 1. Government officials shall, pledging their allegiance and assiduous services to His Majesty the Emperor and the Emperor's Government, obey laws and orders and discharge their respective duties."

(41) See Para. 21, supra.
(42) Ex. 3510, T. 34,706.
"Article 2. Government officials shall, with respect to their duties, observe the orders of their superior officials to whom they are assigned, provided however that they may express their opinions to such orders."

In the case of military men, a more special and vigorous duty was imposed upon them for the observance of their superior’s orders. Those who opposed or did not comply with such orders were severely punished as guilty of the crime of defiance under the Army Criminal Code (Arts. 57-59) or the Navy Criminal Code (Art. 55-57).

40. In any case, once a decision or an order was given by his superiors, a civil official or military officer was not allowed to act contrary thereto, whatever his personal opinion might have been. To expect him to act otherwise was, indeed, impossible. Even the Ministers of State and Commanders-in-Chief of various armies and fleets were, in that sense, subordinates to the Emperor. If an Imperial Sanction was issued, they could do nothing but obey it. That is why the Chiefs of Army and Navy General Staffs exercised a great influence not only in military affairs but in political matters by having direct access to the Throne.

41. Even if we assume, for the sake of argument, the existence of some criminal responsibility either under international law or under national law upon somebody in the political or military circles of Japan, it is impossible to attribute such responsibility to any person or body of persons, because in
the 20th century Japan nobody has ever succeeded in obtaining a single post, much less power in the Government, by plots, revolutions and other unlawful means, such as seen in the history of Germany after the First World War. All plots and attempts of revolution were either nipped in the bud or suppressed. By whom? By the very defendants who now stand in the dock. Every one of them was appointed to his post in due course of his career and in pursuance of the laws and customs of Japan. None of them exceeded his authority or was negligent of his duties, prescribed by the regulations of his office. It is true that they belonged to the higher grade in the hierarchic structure of Japan, but it is also shown by evidence that there was no Hitler, no Mein Kampf, no Nazi Party or criminal organization among them.

As to the defendants of the third category, whatever popularity and influence they had were derived not from governmental or military sources, but from ordinary citizens at large. They never were powerful enough to be able to force their will upon the politics of Japan. All they could do was to voice the people's sentiments in opposition to the then prevailing bureaucracy. Perhaps they dreamed about the Great East Asia Co-Prosperity Sphere and Asia for Asians, but their talks were puerile compared to the nation-wide movement of anti-foreignism in China. If the latter was not treated as an international crime even by the Lytton Report, why should the former be so condemned? If freedom of thought is
to be one of the human rights under national law, why should international law try to stop it?

\[43\] The underlying thought of the prosecution in thus accusing the defendants of the above-mentioned three categories is that a state is a fictitious existence, to which no criminals responsibility can be attributed.\[43\] The Chief Prosecutor declares that:

"Nations as such do not break treaties, nor do they engage in open and aggressive warfare. The responsibility always rests upon human agents."

and also that:

"All governments are operated by human agents, and all crimes are committed by human beings. A man’s official position cannot rob him of his identity as an individual nor relieve him from responsibility for his individual offenses."

Such a thought follows the maxim:

"Societas delinquere non potest",

but according to Professor Kearny,

"it is now settled law that corporations may, in an appropriate court, be indicted by the corporate name, and that fines may be consequently inflicted upon the corporate property."

\[43\] Prosecutor Jackson: "The Case Against the Nazi War Criminals," 1946, P.82.

\[44\] Mr. Koenan, Opening Statement, T.473.

\[45\] Mr. Koenan, T.434-435.

In England, the Interpretation Act, 1889 (52 and 53 Vict. c. 63, §2) provides that in the construction of every statutory enactment relating to an offence, whether punishable on indictment or on summary conviction, the expression 'person' shall, unless a contrary intention appears, include a body corporate. In the United States, the Criminal Code of New York of 1882 (Article 13) provides that in all cases where a corporation is convicted of an offence for the commission of which a natural person would be punishable with imprisonment, as for a misdemeanor, such a corporation is punishable by a fine of not more than five hundred dollars, as for a felony by a fine of not more than five thousand dollars. The Criminal Code of California of 1901 (Article 26a) provides that corporations are capable of committing crimes in the same manner as natural persons. This legislation is explained by a text book as follows:

"Under the theory that a corporation is an artificial being, invisible, and existing only in contemplation of law, it was doubted whether a corporation could be guilty of crime. The modern view tends to regard a corporation as a reality, a group of human beings, authorized by law to act as a legal unit, endowed for some purpose with legal personality."(l7)

And further:

"Where conduct is sanctioned by the directors or officers in whom the corporate powers are vested, their intent should be considered the intent of the corporation. Such persons are more than agents for a natural principal. They embody and exercise the mental element essential for corporate action."(l8)

(l8) Ibid., p. 140.
45. There is no doubt that a State is a juristic person under either national law or international law, while a corporation is such under national law. If a corporation, which is nothing but a body of persons bound by a certain economic or social tie, can be a reality, competent to bear criminal responsibility, why cannot a State be more real and more competent than a corporation? Hackworth states as follows:

"The terms state and nation are frequently used interchangeably. The term nation, strictly speaking, as evidenced by its etymology (nasci, to be born), indicates relation of birth or origin and implies a common race, usually characterized by community of language and customs. The term state—a more specific term—connotes, in the international sense, a people permanently occupying a fixed territory, bound together by common laws and customs into a body politic, possessing an organized government, and capable of conducting relations with other states."49

46. A corporation has no territory nor people, over which it can exercise its sovereignty, nor any natural affinity to bind them together, except a certain specific purpose which may be changed or given up at any time. On the other hand, a State is a foreordained existence and follows a course, which no single man, not even the seventeen cabinets in succession within seventeen years, can change or give up. A shareholder may sell out his shares of a corporation whenever he likes to do so, but the defendants could not back out from their duties imposed by

their State. Any international obligations are executed or miscarried not only in the name of the State but by the predestined course it takes. If it is defeated in a war, indemnities will be paid or territory be ceded. Are not such measures punishment for its responsibility under international law? Admitting that the sovereignty of a State should be subject to international law, it is respectfully submitted that no responsibility under international law should be attributed directly to any individual because of the following grounds.

47. The Japanese Law No. 125 of 1947, called as the State Redress Law (Article 1), provides as follows:

"If a public official entrusted with the exercise of the public power of the State or of a public entity has, in the conduct of his official duties, inflicted illegally with intent or through negligence any damage on other person or persons, the State or the public entity concerned shall be under obligation to make compensation therefor.

"If in the case referred to in the preceding paragraph the public official has perpetrated the act intentionally or through gross negligence, the State or the public entity concerned shall have the right to obtain reimbursement from the said public official."

The above provisions of the Japanese law are introduced for the purpose of democratization of the Japanese legal and political systems, but they do not recognize any direct claim against an official by an afflicted party for any damage inflicted illegally in the course of the official's duties.
the provisions of the regulations respecting the Laws and Customs of War on Land shall, if the case demands, be liable to pay compensation and that it shall be responsible for all acts committed by persons forming part of its armed forces. According to the judgment of *In re Piracy Jure Gentium*, 1934, it is expounded as follows:

"With regard to crimes as defined by international law, that law has no means of trying or punishing them. The recognition of them as constituting crimes, and the trial and punishment of the criminals, are left to the Municipal Law of each country." 52

51. It is respectfully submitted, therefore, that even if the defendant had been guilty of a criminal intent or of gross negligence in carrying out their official duties, all the accepted authorities upon international law would not recognize any direct responsibility upon them vis-a-vis foreign States or foreigners. How can international law impose any responsibility upon those who have done their duties in accordance with the laws of their land and in the honest and reasonable belief that their acts were also in conformity with the prevailing rules of international law?

In this connection, I should like to refer to the Statute of the Permanent Court of International Justice (Article 38), which provides:

"The Court shall apply:

1. International conventions, whether general or particular, establishing rules expressly recognized by the contesting States;"

Def. Doc. #3037

Defense Summation on Personal Responsibility

Errata No. (No. 2)

| Line | Insert between the two lines: "its paragraph
| 3 | 2 that: "No person shall be punished in,"
The sentence should read: "Since Article 77 of the old code provided in its paragraph 2
| 3 | that: "No person shall be punished in the
case where he committed a crime without knowing the facts which constitute the crime," ---
| 9 | "Natural Law" should be "Natural Law."
| 16 | First line of Note (27) "McNaughten's Case" should be "McNaughten's Case."
| 17 | At the end of the line, insert "17".
| 3 | At the end of the line, insert "was".
| 23 | "Expectation" should be "expectation".
| 23 | "criminals" should be "criminal".
| 34 | "Gentium" should be "Gentium".
| 35 | "legislators" should be "legislations"
| Before the first line of Note (54) | Insert: "(53) Mr. Keenan, T. 459."
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<td>12</td>
<td>&quot;Fenerback&quot; should be &quot;Feuerbach&quot;.</td>
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<td>&quot;contraband or war&quot; should be &quot;contraband of war&quot;.</td>
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<td>&quot;vitiated&quot; should be &quot;visited&quot;.</td>
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<td>&quot;Professor&quot; should be &quot;Professor Hafter&quot;</td>
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<td>&quot;McNaughton's&quot; should be &quot;McNaughten's&quot;.</td>
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<td>&quot;ebiously&quot; should be &quot;obviously&quot;.</td>
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<td>Last line of Note (37) &quot;strafrechte&quot; should be &quot;strafrechts&quot;</td>
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<td>29</td>
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<td>Last line of the text Insert: &quot;In other words, wherever a director's act is deemed to have been done for the interest of his corporation, his intention being also to act on its behalf, such act will be absorbed by the corporation and become its act, losing the identity of any individual's act&quot;.</td>
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<td>30</td>
<td>13</td>
<td>&quot;nasei&quot; should be &quot;nasci&quot;.</td>
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Defense Summation on Personal Responsibility

Errata Sheet (No. 3)

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<td>8</td>
<td>Note (11)</td>
<td>Insert &quot;n. 123&quot; after &quot;n. 122&quot;.</td>
<td>&quot;p. 65a&quot; should be &quot;p. 65b&quot;.</td>
<td>&quot;pp. 77-78&quot; should be &quot;pp. 77-78&quot;.</td>
<td>&quot;Professor Kenny&quot; should be &quot;Professor Kenny&quot;.</td>
</tr>
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<td>12</td>
<td>Note (17)</td>
<td>&quot;p. 65a&quot; should be &quot;p. 65b&quot;.</td>
<td>&quot;p. 65a&quot; should be &quot;p. 65b&quot;.</td>
<td>&quot;pp. 77-78&quot; should be &quot;pp. 77-78&quot;.</td>
<td>&quot;Professor Kenny&quot; should be &quot;Professor Kenny&quot;.</td>
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<td>Note (31)</td>
<td>&quot;pp. 77-78&quot; should be &quot;pp. 77-78&quot;.</td>
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The first line of the first Errata Sheet should read:

<table>
<thead>
<tr>
<th>Page</th>
<th>Line</th>
<th>Note (11)</th>
<th>Note (17)</th>
<th>Note (31)</th>
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<tbody>
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<td>12</td>
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裁判長並に裁判官各位

個人責任論

昭野 昭一郎

(1) 本裁判の目的は近代刑法の実地より全被告に対し訴追されている則

責任の問題を検討するにあたります。

首席検察官は其の掌頭陈述に於て次のごく述べられました。曰く「文明

國に於ける殺人罪の普通の定義は、法律上の正當性なくして故意に人を殺

めたもの。此の正當性は、身体若しく財産を防衛する場合又は、恐らく

は、法律上の補助だとして裁判所の命令を単に執行した刑官の場合に通常

限られてゐる」。と云ふ法律上の正當性の問題は元より重要であるが、

大體は全時に「意図」の問題を考慮に入れてのみ理解出来るものであります。

遺憾に心なことが多い。首席検察官は後者を全く論議の外に置かれ、殆ど被告
等の犯意は当然の如くにされて居ります。

（記録四=五頁）

然下り、成る行為にして一定の客観的犯意構成要件に該当し、而かも
首席検察官の志は、次の如き法律上正當性の存しないものに付て、
着に刑事責任を認むるにし、（行為者）責任能力を有してゐたこと、
（行為）

の行為が故意（要則）又は過失（例外）に出たものである。此

の三要件を更に必要とするのであります。此の三要件に付て、

以下逐次に

検討して見たいと考えます。

（三）本件被告に関すごは、大変の場合を除き、彼等の責任能力を顧る必要

はありますまい。各被告が行為當時より、自己、行為、不法ナルコトヲ

識スル能力スハ其、行為ノ不法ナルコトヲ辨識シテ行為スル能力

ヲ有
三要件を必要とするものに耐えないが、これに属するものには判例、学説の一致を倣すること、したがって、
である。これについては、大同法会に於て、
の犯意とは何であるか、判例学説の一致を倣すること、したがって、
を決定して置きたいと存じます。
刑法第三百十九条に規定して居ます。右第二項は「犯罪ヲ構成スノ」「減軽スルコトヲ得」ニテ定義セラレ、

第三項は「法律ノ不明ハ者ヲ疑セリ」とする説ヲ表現したものであります。

更に、右第三項は旧法第七七条第一項（四）ニ恒コ様ノ辞句ヲ受けて

用したものでありますが、現行法の第三項は旧法第七七条第三項（四）

ヲ修正ヲ致シテ

ヲ知ラズシテ犯シタル者ハ其ヲ論セスリと規定してゐるところから、判

例ノ多くハ「罪ヲ犯ス意ヲ有ノ」ヲ罪ヲするべき事實ヲ知ルとはところから、判

と解したのであります。

（四）罪ヲ犯ス意ヲ有ノ所為ハ其ヲ論セスリハ、但法律規則ノ於テ別ニ

ヲ行ヲラザルヲ以テ罪ヲナシト為スコトヲ得スル。
意識化したのでなければ、ならばと少なからぬ結論を拒否する訳には行かない。このこと、否
を異せんと試みることは、法律の違法性を観るべき努力に屈服する
ことである。確実な証明は確か揵に必要である。違法性の意識
の法律規則の違反をするために知るの意味ではない。刑罰法規の個
々規範に付つ行為者が何等知ってきる必要はない。刑罰的で
即ち法律感覚として彼が許される行為をはすものであることを告げる
よりはあるのである。この違法性の意識が存する場合には於てのみ
判官は犯罪を故意に行ふたるの故を以て何罪の判断を下すことが出来る。彼
のこと（責任を負わねば刑罰なし）の公理が要求する。犯罪の實行に際
して極めて稀に起きることではあるが、行為者が自己の行為の義務違反で
あることに、許されざることの意識を有せざる者に、彼の全人格からして右
意識を削き得ざるものが現実に立証し得られた場合に於ては、彼に有罪

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裁判を下すことは最低の刑を以下としても一個の刑である（乙）と読んでいます。

（乙）ハフメルの論文。論文（法律）教科書

総論　一九二六年　一九三七

の錯誤と罰罰法典の錯誤とを区別せんとする一切の試は維持すべきからそのものである。厳格の一線を効するとはむずかしい。責任の立場からすれば行為者に於て自己の行為の犯罪的特質に付て錯誤したことを知らざりし場合、行為者心に謀反犯人を隠匿すると立つことを知らざりし場合、教員が自分の有する裁量権で錯誤したる場合、あり、此等によく各種の錯誤の場合に於て行為者に著の善意があることが異議なく在証せられたる場合に於ては裁判官は断じて故意を認め得ならぬ。之に反して行為者に於て自己の行為の可罰性
法律上の性質——経済的又は横領罪——に付けて、裁判刑罰の程度や処罰条件に付けて、訴訟条件の存在等に付けて錯誤したりすること。

(ハンハフテム、前掲、一四四頁)

右に掲げられた誘拐の証例は英法に於ける一八七五年のプリンス被告事件により具体化されます。プリンスという男が十六又未満の女を十八又

事件に於て具足化されます。プリンスという男が十六又未満の女を十八又

と信じて其の父親の下に誘拐したのです。同質十八又であれば誘拐は

罪になりません。又、彼が断く信じるには相當の理由がありました。然る

に、判事の大多数は「法律上悪イトコロ何事カラ為ス意志」即ち犯罪に

非ずる私法上の不法行為でさへも附す意味ありば犯罪計成するとの見解

に贅成し、更に若干の判事達は、判事上民事又は合合法的とするも違徳に

悪イトコロ何事カラ為ス意志」あらば犯意充分ありとの見解を立てたの
罰せられる価値がある程、他人的生命安全を無視したと云ふ邪悪な過失が
なければならぬからである。と、軽いと説かれてもある。

故意とは過失と区別して行ける違法性により支配されるもので、
一方の専門家では、邪悪の認識を欠く場合には違法を阻害するものと
とることもある。此等の两者を以て、再び法律を知らざる者、
行行為の違法性を意識して居た限り、違法を知らざる場合でも違法に
する。
日本の刑法第三八条第一項
レデイン改憲後の様にすべて削ります。
即ち、英法に於ける犯罪
は刑法の不法が着眉であることを意味するものと考えられてゐたが、
ドイツ普通法に於ては、第十九世紀の末葉まで、失継、原則は英法律に
如く、資格マズルともかくことにあつて、處分フォイエルバッハの影響で著詰
る五六十年の久さきに亘り詰詰せられることが多あった結果、近代のドイツ
の刑法に言へる趨勢を確立せしむると云ふ失継的な反動を起させることと
の間違いないと言へることを、

の減軽のみを認めている過ぎたのでしたが（表）一九三七年に公布せられた現行刑法は第二十七条に於て、行為者の十分なる理由、下記行為を為

ツ権利アリ特信ジタルトキハ・裁判官八自由裁量ヲ依リテ其ノ刑ヲ減軽シ

又ハ免除スルコトヲ得）と規定したのであります（表）

〇〇処刑法第ニ十七条ハ一九二〇年の pall 刑法第十七條ノ規定ス

文字通り踏襲したものである

〇〇処刑法第ニ十七条ハ一九二〇年の pall 刑法第十七條ノ規定ス
テ遺性注①要除スルスト法
但し其ノ情節ニ因リテ本刑ノ二分ノテ
法ハ其ノ第十六條ニ於テ法律ヲ知ラザルニ因リテ刑事責任ヲ免除スルコトヲ得
若シ法律ノ許可スル所ナリ自ヲ信じ且ソ正當ノ理由アルモノハ其ノ刑ヲ免除スルコトヲ得
上ニ指し示すものであります
英國ニ於テハ法律ノ錯誤ヲ犯し不可避の場合をも罪ノ容認となリテケ周り
教授ガ去るる居らふからであります
即ち法律ノ錯誤ノ有無ヲ断定シ難之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ易之ヲ
の存在を、時に否定するように止まる。偏在は、物を取り上げる権利の見せ掛けさへもなくして之を取る時に行われるのであるから、善意にした相手を
出ある錯誤は、それのが法律上のものでも、例へは村の慣習で券を切り取
ることに行われて労力の役に役立たず農婦の如く、充分元籍の根拠となる。
損害保証法者因、損害に入れる自分の家業造作を、誤った然し善意の権利
行便として破壊した場合には、彼は「善意」の毀損罪を犯すことにならぬ
然ら、斯様に例外的犯罪を除いて、法律の錯誤を無視する法則は重んに
実施されてある。と述べて居ります（大）
（ヘヤ取引、前掲、六月一七号頁）
（特に他方於に於けるケーニン案模は、此の法則を尊ぶる公共団体の細則に未
及ばざるを云々判例は聞いたことがない。英国でも米国でも（ポーター）
对ウアリング事件）
経年、六月卒三五〇頁）判事は右細則を認めると前に共

なぜ彼女に会いたくないのですか？
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(3) 首席検察官に依れば、検察側は本文公訴状に指名された被告等の何れもが不法なる此等の所業に重大なる役割を演じ、日本の条約義務及び彼等の行為が犯罪である事実を熟知の上行動したこと立証するであろう。「二

実際に云びのんでは、兹に検察側論拠の誤りがあると思います。何とな

ければ、条約義務の認識と行為の違法性の認識とは全く別個の問題であるか

とに拘らず、えを處罰して居りません。国際法に於ても條約違反に付き個

人を刑事的処罰したことは、先ず所謂普通戦争犯罪と海賊の場合を除き

未だ置いてないのである。それ故に、海牙条約は共の何処にも断くの如

く行為を犯罪なりとして処罰せることなく、又犯罪者を裁判し處罰する為

と検察側が認められてゐる通りであります。
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部位。それと同時に如何にしてその法律感覚が右行為は国際法に於て許

それらもとのなりと告げることが出来ますか

(三十) 上述(九)参照

(三十) マウゼン事件に於ける裁判達は次の様な意見を述べました。

元告が或る架空の若情又は損害の救済若くは報復するとかは公共の
利益を害すとか云ふ狂的妄想の為め行為した場合、若し犯行當時彼が法
違反することを知ってゐなければならない、目的の如何に拘らず虚罰せられる。故
で法と云ふは国際法のことを意味するのである。そして、若し犯行當時彼が法
と国際法とに食ひ違いないれど、此の裁判達達は前者の優越を主張するに足
で違しないでありき。被告等もし然りと存じます。然し若し私を強調した
ののみならず、国際法に於ても之が正当観されるものと善意且安當に信じて
是認したと云ふ意味に於て、彼等以上の道徳的責任を有することになる。つ

（三九）（論断されている。）

（三九）記録三九○七十六

（三九）記録三九○五三一五

（三九）斯様な非難は彼等に関する限りに於て全く外れものと云はぬ、

ばなりません。公訴状の期間、即ち一九二八年一月より一九四五年九月に

至る迄に於て、十七の内閣が出来たり崩れたりしました。一内閣の平均壽

命数は唯の一年であります。期かる状況の下にあって、侵略にせら防禦に

せら一貫せら國策を期待し得るでありませうか。それれば、被告等の難点は

彼等が其の信念に拘らず高位にしがみついてモノと云ふことではない、憲

ら共の政策を実行するに政的責任感が強過ぎて余りに大きく職を棄

てたとくに存するのであります。彼等が辞職する時に於て、若し辞職しに

3
国際法上の刑事責任をも厚かず、何と彼等の法律感覚を見つめばならぬか、或は答げねばならなかったのでありましや

（三）国際法上の問題は今暫く之を置き、刑事責任を生ぜんがためには、行為
得しと定めて居りますが、此の規定の土台となる思想も前記瑞西刑法と全
いく、問発されても係る罪を犯さずして危難を避けることを期待することが
不可能な場合には刑事責任を問はないと云ふにあります。

(注) ケニ・教授曰く、「然らば急急避難の辯護は、死刑の課せられてゐる
犯罪の如く、刑の最低限の定めある場合のみ重要である。他の他の場合
に於て必ずしも死刑を加へることを居るからである。とは云へ、
避せられた行為をさる其結果
として必然的に死が差し迫ると云ふ様子場合、若し科刑の目的が犯罪予防
であうや、盖し何等の刑を以て威嚇しても、その威嚇が予防の效果を
得ないものは役に立たないからである。多分此の理由により、米国では
緊急避難の辯護に質疑を表すものが多い様である」。
重罪又ハ軽罪ニ非ズールフ云フニ於テ該当するものであります。

<1>

中國の暫行新刑律に対する此の種の規定がなかったのでありますか。

<2>

一九三五年の新刑法第三五條では「所屬上級公務員命令ヲ依ルノ職務上ノ行為ハ罰セズ」と規定させられ次で一九三五年の現行刑法第二一一條に於て旧法第三四條及び第三五條を併せて次のもじ規定が設けられました。

即ち、「法令ニ依ルノ行為ハ罰セズ」と云ふのであります。この中ノ刑法第二一一條第三項が次の一ヲ意味スルことは明白でありませぬ。即ち、其ノ一ハ違法ヲ犯上公の命令に依ル下

不実のものでない時においてこの有った違法行為を如何なる程度まで行わるか。
(三) リスト、独造刑法教科書、第三〜三三版、一九一九年

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ニュルベルヒの判決は、刑法上の此の原則と国際法の分野にまで及ぶのであります。彼の裁判におけるこの原則は、関係法規は、その条例第七条及び第八条で、それ等は統合して当裁判所条例第六条に該当するものであります。両条項における此等の規定は見られる差異は、ニュルベルヒ条例の場合、国際法の民法たると政府各省の責任官吏たるを問わず被告等の公的支配が政府又は上官の命令によって行動した事実のみが軽減の理由と看做させず、唯、被告が正義の要求にかなふものと判定する場合軽減の理由となろとならざるに拘らず、被告が当裁判所の論告に於て、「被告は次の三種に分類することができる（/z*）」と答え、検察官は、被告の論告に於て、「被告は次の三種に分類することができる（/z*）」と答え、検察官は、被告の論告に於て、「被告は次の三種に分類することができる（/z*）」と答え、検察官は、被告の論告に於て、「被告は次の三種に分類することができる（/z*）」と答え、検察官は、被告の論告に於て、「被告は次の三種に分類することができる（/z*）」と答え、検察官は、被告の論告に於て、「被告は次の三種に分類することができる（/z*）」と答え、検察官は、被告の論告に於て、「被告は次の三種に分類することができる（/z*）」と答え、検察官は、被告の論告に於て、「被告は次の三種に分類することができる（/z*）」と答え、検察官は、被告の論告に於て、「被告は次の三種に分類することができる（/z*）」と答え、検察官は、被告の論告に於て、「被告は次の三種に分類することができる（/z*）」と答え、検察官は、被告の論告に於て、「被告は次の三種に分類することができる（/z*）」
かつ責任を有していた者が
(1)最終の義務又は責任を有していた者
に対して義務又は責任を有していた者
(2)日本の法律の規定をなすために
(3)日本の法律の規定をなすために
義務又は責任を有していた者を
自分自身を政策の遂行と同一水準に置き、したがって、第一種に属する被告に関しては、
べき被告に（略）と云ばれて居ります。第一種に属する被告に関しては、
日本の法律に従う又国際法に於ても正当性を認められると
為された被告の行為は違法性を認定し、従って刑を免除すべき即
ことであることを既に論述致しました。
連続的爆発を留めることには人間的に不可能でした。又、満洲中国他の遠
隔地に於ける多数の下層に対し直接なら指揮監督をなすことも人間的に不
可能でした。要するに被告等に対して、国家的違命の狂騒を随例に返し
又、血腥戦闘の不可避の結果を豫防しうる程度に彼等の権力と注意とを
行使せんことを望むのは、人間として余りなことではないせんか。

(三) 亦、第二課の被告に関しては、日本に於て官吏行政命令を相必要
し、第二課、官吏八其職務=行本属長官ノ命令ヲ遵守スベシ。但命令ニ於
テ
の規定であります。軍人の場合に於ては軍に特別厳格な公務の義務が課せられ、上官の命令に反抗し又は服從せざるものは陸軍刑法（第五條乃至第七條）に依り抗命罪として厳重な処罰を受けるべきならぬものであります。

（略）
法廷謹第三五月一號記録三四〇〇三頁
軍の文官も、文官、軍官も、彼の私的意見はともあれ、之に反抗する行為をなすことなく行動することとは、不可能でありました。何にせよ、一旦命令が決定され、又は命令が発せられた場合には、之に反する行為をなすことを彼に期待するのは、誠に不可能でありました。国務大臣又は各軍又は艦隊司令官と雖も、此の意
味にとっては天皇の下僚でありましたが、若し奉勅命令が下されなければ、彼等は之に従ふ外、途はありません。故に直接上級さなし得る陸軍参謀総長又は海軍軍令部長が軍事上のなりは、政治上にも多大の勢威をもってゐる理由は兹に存するのであります。故に議論の為め、日本の政界又は軍部の誰かに国際法上の内部法に
より刑事責任が存在するとは想定しても、その箇人又はその団体に刑事責任を
帰属しうるか否か及びことに於て不可能に近いのであります。それは直
し二十世紀の日本に於てはオーストリア大戦後の独逸の歴史に見られる、如き陰謀
革命他の合法手段によって向くも政府内に勢力を得たものがないところで
官職の一つへも寄るに成功したものがいないからであります。総ての
陰謀や革命の計画は未前に防止されしもので、島は鎮圧されしました。誰かええ防
止又は鎮圧したかといへば、現在此処に控へてゐる被告たちはだのへでありま
す。彼等は何れも本の経歴の当然の結果として且日本の法律及び慣習をば
其の職に任ぜらるたるものであります。彼等の何れも本の職の定さる権限
を越えたとか義務を怠ったとか云ふものはありません。えども彼等は日本
の政治的構成に於て上層部に属してゐたことは確かでありますが、同時に
証拠の示す所によれば、彼等の下にヒットラートも果てば、彼等が闘争し
の記もなく、ましこナチの如き独裁官も存してゐなかつたのでありますが、
さかに、オツルに属する被告に関しても、彼等の有してゐたいくかくの
人質や勢力は政府や軍部から得たものでなく、一般市民より由来したものの
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内容：

...
常に入団と玄関行きに在る（図四）とし、又凡ゆる政治は入団の手
に依って行はれ、絶対の犯罪も入団に依って犯される。個人の公的
と云ふものは彼を依って個人だろをことし失はしめるものでない（図十五）
の個人的不法行為に対する責任から通じさせるものでない。入団（図十五）
とさせめております。斯く考へ方をつ法人には犯罪能力なしという法
得を科せらるると云ふことは既に法律の定まるところである（図十四）と
云へませ居ります。

（図十三）

キーナン氏　記録四三四　四三五頁

（図十四）

キーナン氏　記録四三四　四三五頁

（図十五）
(四十六) ケリー  前掲  六五 六六頁

(四十七) 英国に於ては、一八八九年解観例（ウィクトリア）五ニ至五三年度

(四十八) オーストラリア

(四十九) に於ては、一八八九年解観例せらるべく、責任問題に於ては、一八八九年の解観例せらるべく、

(五十) 法（オーナー三條）が、凡て法人にしても自然人にもとすべく、法人にせらるべく、

(五十一) 十六以下之、罰金に処せとし、一九三一年のカルフォルニア刑法（オーナー六條）に就きては、

(五十二) 教科書に依ては、刑を立法は次第に、法人は、一人の権利的存在で、眼に見えず。唯法

(五十三) シャル判事の言を雖は、法人は、一人の権利的存在で、眼に見えず唯法
罪責に対するすべきものたり故には疑はせらるたるものであった。

近代の説は法
上の一個体とし、行為することを法律によって権能づける如くして居る人間の
一體と為す傾向にあらず（四十七）と説き、更に一行為が法人の権力の歸
屬する取締役又は役員に依って認可されたものなるときは、取締役又は役
員の意思は法人の意思と看做さるべきものである。法人の取締役又は役員
は自然人なる法人に対する代理人以上者である、彼等は法人に同化し、
而して法人の活動に必要なる心的要素を供給するもあらじ（四十八）
と述べて居ります。
十目。夫今，学园，园园，园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园园園园园园園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園園园。
法人は、その主権を行使し得る土地を保持することなく、自然的近似性をも持っている。何等でも、変更は拝表し、得る特種の目的を存すのみである。然に、べきや、住民に次いで起った十七の内閣しか、もしくは何人と雖ら、既に七年間に相次いで起った十七の内閣であり、それを変更し拝表することを得るか、た適当を辻するものである。被合等は其の国家に労を費やせり、これの義務は国家の名の下に依り、みならる。国家の運命的に行われた道が依って履行せり、何れに違背せらるるものである。若し国家が戦後に敗北せれり、国家の責任に於ける国家の責任に対する刑罰ではなかったかであろうか。


じく、損害賠償の責に任ねるかであろう。然らば此の法則は、外國に於て外
裁判所に訴訟が提起されるなら、被告は、行為が英國政府の行為として、
国内裁判所が判定し得る。もし
数の場合、若し裁判所が其の裁判を認めるなら。損害を受けた外國人は、自
の所属国政府を通じて外交
他の手段により英國政府に裁判を求めるもの

他の有名なビュロン対デンベン事件、エクスチェーター事件を例にとり、い
的原則は、一八四八年

(五十) 控訴事件
(五二) 二七二、ニ二二、ニ七二、ニ七五頁。ハツ

ヲノ) フィンク内務大臣事件に於て、原告は一九四四年十月前、
の書籍等であっても、その財産の没収及び使用人の拡張並に追放によ
する損害賠償を敗北政府に請求し、その理由の一つとして、一九四八年八月
六日の敗北政府閣議決定が、戦争及び交戦状態にある国の侵略に対し敗北
政府の軍事裁判官に依頼したのは無効であると申立てました。敗北政府の
裁判所のライオノー裁判所は右損害賠償の請求を棄却し、理由として、閣
議決定は敗北と独自との交戦状態に基づいて行われたものであると、宣戦
書告は敗北を法的行為であることを従って、敗北の有する権限は戦争状態
にある他の当事者に為されてもよいであるとした裁判所の行為は法的
法家に依る行為である。裁判所の行為の是の故に敗北政府は敗北に為され
る訴訟原因をも厳格にされたことを言及したのであります（十五巻）。

（五十一）敗北政府裁判所訴状第十五巻（一九四四年十一月～一九四五
年八月）
この場合、この国家行為に関する原則は、民事たると刑事たるとを問わず、異なる者があリません。一九七七年海牙戦争条約の前文（序三条）に依り、交戦者に依り、陸戦法規慣習に関する規定を侵すもののは必要に応じて賠償の責を負うべく。その軍隊を構成する人員により為される総ての行為に付き賠償の責任について、判決によれば、つ國際法ににより定めらるた犯罪を審理し処罰することを国際法として其の手段を有してゐる。此等が犯罪を構成するとの認定及び犯人の審理並に処罰は各國の国内法に依るところであるからあるし（十五ニ）

（十五ニ）

控訴事件、五八六節

（ハツクハックス）
一巻
三八頁に引用

（委）さるば、預りに、彼等が共の公務執行につき故意又は重過失の罪あ
りとするも、共の法上の通説は絶え、彼等が外国又は外国人に対し如何な
う責任も直接に負ふものとは認めたいものである。然ならば、国法に従

又、國際法の現行法規に合致させることが実実妥当に確信して公務を執行
した彼等に、どうして國際法上の責任が課されるものであるか。
所が、衡平法上の趣旨をよりじり判決を為すコトヲ妨ケナイと云ふものであります。

若し先例なきに拘らざけ（五十三）如何にして此等の被告を其の公務

とし為むたる行為に付、我が国上直接に裁判せられたらぬものである

ならば、裁判簡は文明国ニヨリ認メラレタ法律ノ一般原則ノ、

に於ける上述の基本的原則ヲ、考慮に入れたらざりつつ、

私の念

願であります。ホルツフニス教授はつ原発人は文明国ニ似てゐるところ批評

さし、古代の刑法と今日の国際法を比較されいてゐます。

当法院により、

適用させられべき国際法は、近代理文明国ノ刑事立法により発展せしめられ

た法律感覚に決して背反しつからものでありますことを私は確信するものであ

リます。

以上
Section XVIII
Protocol Relative to the Extension of the Term of Validity of the Agreement against the Communist International

1) The Circumstances Leading to the Conclusion of the Protocol

The agreement concluded on 25 November 1936 at Berlin between Japan and Germany, that is the so-called Anti-Comintern Pact, was joined by Italy as an original signatory on 6 November 1937. Hungary, Manchoukuo and Spain also participated therein afterwards. Article III of the Pact had fixed its term of validity to be five years, and stipulated that the contracting Powers should, prior to the expiration of that term, come to an understanding as to the form of cooperation between them thereafter. Inasmuch as the term was to expire on 21 November 1941, it had been expected that the contracting Powers would hold consultation with respect to the handling of the Pact.

In the meantime, the German Foreign Minister revealed, to Foreign Minister Matsuoka who visited Germany in March 1941, the desire on their part to have the term of the Anti-Comintern Pact extended. On 24 October, the German Ambassador at Tokyo, in accordance with the instructions of his home Government, officially proposed to extend the term of validity of the Anti-Comintern Pact by five years. And again on the 27th of the same month, the Italian Ambassador at Tokyo also conveyed to the Japanese Government that the Italian Government was of the same opinion as the German Government.

The Japanese Government, upon investigating the desires of the German and Italian Governments, considered it proper to open negotiations for the extension of the term of validity of the Pact, in consideration of the fact that even today, five years after its conclusion, the necessity is still keenly felt for cooperation for defence against the Communist destruction, which constitutes the object of the Anti-Comintern Pact. And on 30 October, the reply of the Foreign Minister was given to the German and Italian Ambassadors at Tokyo to the effect that the Japanese Government agreed to the commencement of the negotiations for the extension of the term of validity. It was decided, at the same time, that negotiations concerning particulars should be made at Berlin. After that, our Ambassador at Berlin negotiated with the German and Italian sides, and obtained the final draft. Further a proposal was made, under joint signature of the three original signatories, Japan, Germany and Italy, to Hungary, Manchoukuo and Spain, to extend the term of validity of the present Anti-Comintern Pact. The sanction of the respective Powers being obtained, the Protocol
Chapter 364
4 June, 1940

The Emperor is said to have instructed the Imperial Household Minister: "Nakatsu" is a candidate for the position. However, because of the London Treaty, and the fact that he was the President of the Minseito for a long time, there may be obstacles because the feeling against him will not abate. Komojo is also a likely candidate, but he has too many men around him. Besides this, there is a necessity for him to actually lead political parties in the future and I believe that we should refrain from bringing him up at this time. Murayama appears to keep confidences well, but the Genro will, in all probability, object to this. I believe that Kido would be suitable, but he is young and it "would be very regrettable if it should cost him his political future."

The above was the opinion of the Emperor. I was summoned by the Imperial Household Minister at 10:00 p.m. of the 30th, and he said: "I wonder which one Prince Satonji would select, or perhaps there are
Protocol Relative to the Extension of the Term of Validity
of the Agreement against the Communist International

1) The Circumstances Leading to the Conclusion of the Protocol

The agreement concluded on 25 November 1936 at Berlin between Japan and Germany, that is the so-called Anti-Comintern Pact, was joined by Italy as an original signatory on 6 November 1937. Hungary, Manchoukuo and Spain also participated therein afterwards. Article III of the Pact had fixed its term of validity to be five years, and stipulated that the contracting Powers should, prior to the expiration of that term, come to an understanding as to the form of cooperation between them thereafter. Inasmuch as the term was to expire on 25 November 1941, it had been expected that the contracting Powers would hold consultation with respect to the handling of the Pact.

In the meantime, the German Foreign Minister revealed, to Foreign Minister Matsuoka who visited Germany in March 1941, the desire on their part to have the term of the Anti-Comintern Pact extended. On 24 October, the German Ambassador at Tokyo, in accordance with the instructions of his home Government, officially proposed to extend the term of validity of the Anti-Comintern Pact by five years. And again on the 27th of the same month, the Italian Ambassador at Tokyo also conveyed to the Japanese Government that the Italian Government was of the same opinion as the German Government.

The Japanese Government, upon investigating the desires of the German and Italian Governments, considered it proper to open negotiations for the extension of the term of validity of the Pact, in consideration of the fact that even today, five years after its conclusion, the necessity is still keenly felt for cooperation for defence against the Communist destruction, which constitutes the object of the Anti-Comintern Pact. And on 30 October, the reply of the Foreign Minister was given to the German and Italian Ambassadors at Tokyo to the effect that the Japanese Government agreed to the commencement of the negotiations for the extension of the term of validity. It was decided, at the same time, that negotiations concerning particulars should be made at Berlin. After that, our Ambassador at Berlin negotiated with the German and Italian sides, and obtained the final draft. Further a proposal was made, under joint signature of the three original signatories, Japan, Germany and Italy, to Hungary, Manchoukuo and Spain, to extend the term of validity of the present Anti-Comintern Pact. The sanction of the respective Powers being obtained, the Protocol
was signed by the above-mentioned six Powers.

Simultaneously, secret official notes were exchanged to abrogate the agreement annexed to the Anti-Comintern Pact.

Translation Certificate

I, Nishi Haruhiko, of the defense, hereby certify that I am conversant with the English and Japanese languages and that the foregoing is, to the best of my knowledge and belief, a correct translation of the original document.

Nishi Haruhiko (seal)

Tokyo
29 January 1948
The Emperor is said to have instructed the Imperial Household Minister: "WAKATSUKI" is a candidate for the position. However, because of the London Treaty, and the fact that he was the President of the Minseito for a long time, there may be obstacles because the feeling against him will not abate. KONOYUF is also a likely candidate, but he has too many men around him. Besides this, there is a necessity for him to actually lead political parties in the future and I believe that we should refrain from bringing him up at this time. MURVUMURA appears to keep confidences well, but the Genro will, in all probability, object to this. I believe that KIDO would be suitable, but he is young and it would be very regrettable if it should cost him his political future.

The above was the opinion of the Emperor. I was summoned by the Imperial Household Minister at 10:00 p.m. of the 30th, and he said: "I wonder which one Prince SATONJI would select, or perhaps there are
some other persons. Please go to Okitsu immediately tomorrow morning." I had some opinions of my own and there was a necessity to gain the opinions of others. Therefore, I asked for the opinions of KONOYF, MATSUDAIRA, Admiral OKADA and the like, and the point on which they all agreed was that KIDO would be the safest. KIDO was well acquainted with matters within the Imperial Household and also with recent political conditions. I met the Premier and asked his opinion on the matter and he replied: "There is no objection to KIDO."

I went to Okitsu from Shizuoka on the Tsubame on the 31st and immediately met the Prince. When I relayed the message of the Emperor to the Prince, he said: "Due to the fact that I have just recovered from an illness and am quite well on in years, there have been many recent issues on which I am not well informed. Although this is inexcusable, I cannot make a reply. Please say this and apologize for me. This is not a reply, but if they are to seek a man, how about IKKI or OKADA?" I (HARADA) then said: "You previously said that this was such an important matter that I should not repeat your opinions to anyone. If
it is so important, how about expressing your thoughts on this subject to the Emperor?" The Prince, however, remained adamant.

Later, at around 3:00 p.m. I called the Imperial Household Minister and conveyed this fact. The Imperial Household Minister replied: "You are quite correct. Accordingly, I shall visit the Lord Keeper of the Privy Seal and consult with him personally. After that I shall learn the views of the Emperor and I shall call you again. Wait for the call."

At a little past 7:30 a.m., there was a call from the Imperial Household Minister. He said: "The Lord Keeper of the Privy Seal said that he recommends KIDO to succeed him. I am of the same opinion. When I reported this fact to the Emperor, he gave his approval and said that he has confidence in KIDO. However, the Emperor added that there might be some opposition and to ask the opinion of SAIONJI. Therefore, ask the Prince of this matter."

I went to the Prince's place after 8:00 p.m. and conveyed the message of the Imperial Household Minister. The Prince said: "The original method of going about this matter seemed very irresponsible, so although
it is a very painful matter, I trouble you. The fact is that there is nothing more excellent than to have a predecessor recommend a successor, then have that person endorsed by a Minister who should be in favor of him (in other words, the Imperial Household Minister) and then gain the approval of the Emperor. I am very satisfied and there is absolutely no objection on my part." Therefore, I immediately called the Imperial Household Minister and asked him to convey this message to the Emperor. The Imperial Household Minister was quite happy and said: "I intend to speak to the Premier tomorrow morning (June 6th), and also to KONOYU who is the President of the Privy Council. After this, I intend to have the investiture. Please stay at Okitsu until the ceremonies are over."

Therefore, I waited in Okitsu. The following day, the Imperial Household Minister conferred with KONOYU over the phone and he was of the same opinion. The Premier also agreed. Accordingly, KIDO was summoned directly by the Imperial Household Minister and KIDO replied that he would give an answer after consulting with KONOYU. As a result of this conference, KIDO accepted and the investiture was safely concluded.
日本非営利法人 慈愛同業団体
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団体事務所（日本法人名）
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どうか

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Excerpt from Saionji -- Harada Memoirs:

Chapter 333 18, July 1939

KIDO said: "The Ministers of Home Affairs heretofore, have haphazardly suppressed things there are many instances when they have backfired and trouble issued. I (KIDO) am planning to let things take their course and then boldly suppress them."
Excerpt from Saionji-Harada Memoirs
Chapter 259
27 December, 1937

On the 23rd, I went to Okitsu and submitted to the Prince the reports of my above-mentioned interviews. The Prince said: "Is this 'German Mediation' to be carried on by the German government or by some German individuals? Moreover it seems that we should definitely punish the responsible for the bombardment of the British ship as it would likely open up for us a favorable way for subsequent diplomatic negotiations." The Prince was also greatly concerned about the reasons for and the manner of hurrying through these peace negotiations.
No. 2931.  

ABC, Kiyotane,  
Age: 78.  
483 Narimine-Sanchome, Suginami-ku,  
Tokyo.

Name of disease: Cancer of the stomach.

Note: The patient has been laid up since March, 1947, on account of the said disease. The condition has become worse since the middle of October, 1947, accompanied with considerable debility. Even a slight movement of body will cause an attack of cerebral anaemia. Walking is extremely difficult.

It is absolutely necessary for him to be in bed and treated accordingly.

The above is hereby certified.


FURUDA, Yoshiaki, M. D.

156 Higashida-machi, Minohme,  
Suginami-ku, Tokyo.
東京都杉並区成宗三丁目西八番地

昭和二十三年三月一日

東京都杉並区東田町二丁目二〇六

医師

昭和二十三年三月一日

東京都杉並区東田町二丁目二〇六

医師
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

UNITED STATES OF AMERICA et al

--vs--

ARAKI, Sadao et al

SWEARING DEPOSITION

Defendant: MACHIMURA, Kingo

Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in my country I hereby depose as follows:

I, MACHIMURA, Kingo, do solemnly swear as follows:

1) I took the tenure of office of the Chief of Metropolitan Police Bureau under the SUZUKI Cabinet from April 6, 1945 to August 16, 1945.
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

UNITED STATES OF AMERICA et al

-vs-

ARAKI, Sadao et al

SWORN DEPOSITION

Deponent: MACHIMURA, Kingo

Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in my country I hereby depose as follows.

1) I, MACHIMURA, Kingo, oath and say as follows:

1) I took the tenure of office of the Chief of Metropolitan Police Bureau under the SUZUKI Cabinet from April 6, 1945 to August 16, 1945.
2) Marquis FIDO's activities in restoring peace and terminating the war were especially spectacular. I was in a position to know this as I was Chief of the Metropolitan Police at that time. In the midst of an atmosphere which prevailed among young army officers and the rightist groups, surcharged with jingoism, calling for fighting to the bitter end, Marquis FIDO invoked Imperial intervention in conjunction with Prime Minister SUZUKI and restrained the Army so as to accept the Potsdam Declaration thereby terminating the hostilities and restoring peace. This was clearly discerned by me and others who called on Marquis KIDO from time to time to submit reports on the growing tense situation.

3) From information received by me from my subordinates in my official capacity I know Marquis FIDO was looked upon as the progenitor of peace moves by jingoists who abortively attempted to assassinate him twice. Being responsible as I was for the maintenance of peace and order in Toky.
as Chief of Metropolitan Police, I felt called upon by my official duty to take every precautionary measure for the protection of Marquis FIDO. Since August 9, 1945, therefore, I detailed additional police guards to the official and private residences of the Marquis, increasing the number from 20 to 20.

4) There was the SANYO Kaisen, an intransigent patriotic league in the Jingoists who advocated a suicidal policy of engaging the invading Americans in a decisive battle in the Japanese homeland, opposed to Japan's surrender. SURIKATE, Ippo, SURIKATE, Fujio, MIYAZAKI, Soikichi, and more than ten other members of the intransigent body regarded Marquis FIDO, then Lord Keeper of the Privy Seal, as the prime mover of peace moves and on August 10, 1945, posted handbills at several places near the major stations of the electric railway in Tokyo, containing inflammatory inscriptions such as "Drown with the Japanese Padraig!" and "Put FIDO to death!" SUYAMA, MIYAZAKI and five other members of the same group early on
as Chief of Investigation Police, I felt called upon by my official duty to take every precautionary measure for the protection of Marquis FIDO. Since August 9, 1945, therefore, I detailed additional police guards to the official and private residences of the Marquis, increasing the number from 20 to 25.

4) "There was the SONYO Tenchukai, an intransigent patriotic league in the Imperialists who advocated a suicidal policy of engaging the invading Americans in a decisive battle in the Japanese homeland, opposed to Japan's surrender. SURIKATSU, Ippo, SURIKATSU, Fujio, MIYAZAKI, Seikichi, and more than ten other members of the intransigent body regarded Marquis FIDO, then Lord Keeper of the Privy Seal, as the prime mover of peace moves and on August 1st, 1945, posted handbills at several places near the major stations of the electric railway in Tokyo, containing inflammatory inscriptions such as "Down with the Japanese Pedaglacies" and "Put FIDO to death!" MIYAZAKI, MIYAZAKI, and five other members of the same group early on"
the morning of August 15, 1945 stormed Marquis KIDO's private residence. They injured Policeman ASO with a Japanese sword, but they failed in their attempted assassination of Marquis KIDO.

5) Again early in the next morning, that is, August 16, 1945 a gang of four ruffians attacked the residence of Dr. WADA, Toroku at Shinsaka Machi, Akasakaku, Tokyo where Marquis KIDO used to stay at times. Fortunately however, Marquis KIDO was away from the residence on that day, so that the attempted assassination failed and the Marquis escaped safely.

6) Twelve of the group fled and made a tea-house on top of Atago Hill their base of operations. The police threw a cordon around the hill at 4:30 A.M. August 18, 1945 in efforts to round them up. For fear, however, that the police might have to pay heavy sacrifices as these terrorists were possessed of ample hand-grenades, it was decided to lay siege to the hill. During the siege, the terrorists were advised to surrender voluntarily on several occasions, but they would not follow the advice. At 5:30 A.M. August 22nd, therefore their arrests...
were attempted to be forcibly carried out in the midst of a storm by shooting an intimidating fire. After offering some resistance, however, they all committed suicide by throwing hand-grenade at their feet. Two of the twelve terrorists ran the siege when it was laid on August 18 and attempted to flee; but they were immediately put under arrest. One of the remaining ten was knocked down unconscious by the blast of a hand-grenade which he flung at his feet in an attempt to commit suicide together with his comrades. When he regained consciousness, he attempted to flee, but was immediately apprehended.

7) In addition to those three terrorists, who were arrested, SURIDATE, Ippo, SUIYAMA, Hidokichi and MIYAZAKI, Soikichi, leader of the terrorist group who did not take part in the Atago Hill incident were also apprehended. As the result of their examination, it transpired that this band of would-be assassins were acquainted with Majors HATANAFU, TAJIMA and SHIROKI, owing to the fact that their leader SURIDATE, Ippo was a non-regular
member (shokutaku) of the Military Affairs Section of the Military affairs Bureau in the War Ministry and further that they frequently visited the Military affairs Section and obtained information on the movements of court officials and Senior Statesmen close to the Throne.

On this 28 day of Jan. 1948
At I.M.T.F.St.

DEponent: MACHIMURA Kingo (seal)

I, KIDO Takahiko, hereby certify that the above statement was sworn by the Deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date
At the same place

Witness: /s/ KIDO Takahiko (seal)
OATH

In accordance with my conscience I swear to tell the whole truth withholding nothing and adding nothing.

/s/ MACHUMA Ringe (seal)
自 分 源 我 國 行 未 邦 万 方 式 從 先 別 頭 通 製 宣 語 他 他 他
Japan, 6 November 1941, 10:50 P.M.
Arrived, 7 November 1941, 17:50 o'clock
No. 2354 of 6/11
Most Urgent

Foreign Minister Togō, to whom I have spoken about the
sudden dispatch of ambassador Kurusu to Washington, explained
to me that ambassador Admiral Nomura had asked for the dis­
patch of an experienced professional diplomat to support him
in the present difficult situation. In the press and world
publicity optimistic comments have been made in connection with
this dispatch. He does not share this optimism, because the
differences of opinion between Japan and the United States are
very great. He regretted that he could not inform me of the
details of the Kurusu instructions now. But he wanted to sum
up his personal guesses as to the future in this way, that an
intensification of the cooperation with Germany and Italy could
soon become necessary.

I replied to the Foreign Minister that ambassador Kurusu
must certainly have received the direction also to express the
warning which the Japanese Government had in view against
Roosevelt's going further upon the way of aggression. Togō
declared upon this that he had examined the matter in the mean­
time and confirmed that the delivery of the declaration contained
in the speech prepared by his predecessor had been given up.
(7 groups mutilated or failed, correction is asked) He had
taken notice of the German desire, but he had to take into
account the general situation at the moment. More important
than a mere warning addressed to America, the effect of which
seemed doubtful to him, would be a firm attitude of Japan, and
this attitude is expressed also in the instructions to Kurusu.
Strict limits are set to him, so much he could tell me, for his
negotiations in the United States, which he could not overstep.

The dispatching of Kurusu has been decided only recently,
as I learned confidentially and as is proved also by his over­
hasty departure. In the long-drawn-out discussions in the
Cabinet, about which I have reported, an idea prevailed that
what is designated as the last attempt should be made for a
peaceful agreement with the United States. The proponents of
the understanding have certainly in mind to gain time, even if
little time, by doing so, and to win a moment of rest for the
coming session of the Diet.

The acceptance of the mission by Kurusu suggests that he
has not regarded this undertaking as altogether hopeless, even
if the instructions contained restrictions on the negotiations
in substance (above all on the China question) and also in time.
The fact that the Privy Council met, with the Emperor presiding,
for a twenty-minutes session before his dispatch further shows
that the Government had a need to protect itself. That the
press brought out the fact that Kurusu had played apparently an
important role in the conclusion of the Tripartite Pact, is also
indicative in this direction. As the Army and the Navy would
hardly be, as heretofore, in a position to accept demands pre­
-
Translation Certificate

I, Matsumoto Kaoru, of the defense, hereby certify that I am conversant with the English and Japanese languages and that the foregoing is, to the best of my knowledge and belief, a correct translation of the original document.

Matsumoto Kaoru (seal)
Tokyo
2 February 1948

CERTIFICATE OF ORIGIN

I, Yale Maxon, Chief of the Document Division, IPS, hereby certify:

1. That I am Chief of the Document Division of the International Prosecution Section, GHQ, SCAP, and as such have possession, custody, and control of originals or copies of all documents obtained by the said Section.

2. That frames 60819, 60820, 60821, being 3 sheets of a photostatic copy of a telegram from Ambassador Ott, dated 6 Nov. 1941 and contained in IPS Document 4072, were received by the IFS from the Office of the Chief of Counsel of the Nuremberg War Crimes Trials.

/s/ Yale Maxon
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

UNITED STATES OF AMERICA, et al

-vs-

ARAKI, Sadao et al

Sweorn Deosition

Deponent: YamaZaki, Iwao

Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in my country I hereby depose as follows.

I, YamaZaki, Iwao make oath and say as follows:

1) I, YamaZaki, Iwao served from January 1940 to July 1940 as Chief of the Police Affairs Bureau in the Home Ministry.

2) As Chief of the Police Affairs Bureau in the Home Ministry, it was my responsibility to preserve law and order throughout Japan and it was part of any duties to try and prevent anticipated incidents from arising and in the event that they did occur.
to take necessary steps to subdue them. In order to accomplish this effectively, it was necessary that I keep myself well informed of various movements among the civilian populations and to ascertain the opinions and purposes of various group I constantly received information from my subordinates in connection with these matters. While I was serving as Chief of the police affairs bureau in the Home Ministry, the so-called July 5th incident occurred in July, 1940. From information I received I ascertained that the July 5th incident was plotted by more than 30 members of a rightist reformist group, led by and in attempts to assassinate those whom they regarded as pro-American and pro-British advocates of the status quo or liberals. This group believed these proposed victims were obstructing its projected national reform. The plot was timed for before daybreak, July 5, 1940, but due to advance information we had received, the assassinations were prevented and all of the plotters were rounded up just when they were leaving their base of operation, fully armed with hand-grenades, revolvers, Japanese swords, and various other weapons.

- 2 -
this tire Marquis KIDC was the Lord Keeper of the Privy Seal. The "etropolitan Police investigated these would be assassins and found out that the target of their attempted assassinations included the following:

(1) Prime Minister YCNMI, as representative of the Government.

(2) Mr. YUASA, Kurashi, former Lord Keeper of the Privy Seal; Admiral CKADA, ex-Premier; Baron HARA, Kumeo; Count "AKING, former Lord Keeper of the Privy Seal; Marquis KIDC, Lord Keeper of the Privy Seal and "T. "ATSHUAI, Tsuneo, Minister of the Imperial Household, as representatives of the Senior Statesmen.

(3) "T. "ACHILA, leader of the "inseito Party and four other as representatives of the political parties. The would be assassins were duly tried, convicted and sentenced to prison terms. Additional police protection for the above mentioned proposed victims was provided for a period of time after this event.

On this 2nd day of Feb. 1948

At Tokyo

DECLARING: /S/ YAZAKI, Iwao (seal)
Def. Dec. # 5055

I, KILC, Takahiko, hereby certify that the above statement was sworn by the Deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date
At same place.

Witness: /s/ KILC, Takahiko (seal)

CATH

In accordance with my conscience I swear to tell the whole truth withholding nothing and adding nothing.

/s/ YAMAZAKI, Isao (seal)
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"Excerpt from "Harada Saionji Memoirs" Chapter 10 (14 Sept. '31)

On the whole, the two had come to a general accord.

The Finance Minister desires the postponement of the year of commencement of the Army reorganization project. The year of completion of the project will be the same as originally planned, but by postponing the year of commencement, he plans somehow to cope with the financial difficulties involved.

It appears that the Army is much perplexed with the fact that promises made by a given Cabinet may be made as a scrap of paper each time by a succeeding Cabinet when changes of Cabinet take place.
法廷

昭和六年九月十四日

補足

検察官文書第三七〇〇号

補足

元来大体に於て両者の意見は先ず合致して来たのであるが差手年度を多少変して賄ふ。で完成年度に就ては同じであらゆるのだれども差手年度を延して賄って此財政の解決の期に何とかやり遂りたいとも斯くならば大々の希望であったのであるが今日此内閣の時に出来なならば題く差手して期になければ、ならぬと云ふのを宣示部内に要求であった。
Certificate

I, Chief of the Document Section of the Demobilization Bureau of the Welfare Ministry, hereby certify that documents of the former War Ministry were deposited in our custody for filing and safekeeping; I further state that the following document is not found in our files.

A document, sent from the overseas Minister Yosio, Kunikaki to the Vice-Minister of War Yamawaki, Yasutaka in the beginning of May 1939 declaring his opinion against the conclusion of Japanese-German-Italian Tripartite pact.

On this 2nd day of February, 1948

/S/ Yoshiyama Yozo (seal)
Chief Document Section,
Demobilization Bureau,
Welfare Ministry

I certify that the above signature and seal were affixed hereto in the presence of this Witness.

On the same date,
at the same place.

Witness: /S/ Takagi, Kazuya (seal)
昭和十四年五月、内務大臣小城國昭三公卿等、文部、内務、外務省各文書、昭和二十三年二月二日

厚生省後院局文書課長

立會人

高木一也

Haraichi Shigemori

昭和十四年五月、内務大臣小城國昭三公卿等、文部、内務、外務省各文書、昭和二十三年二月二日

厚生省後院局文書課長

立會人

高木一也

Haraichi Shigemori
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

UNITED STATES OF AMERICA et al

-vs-

ARAKI, Sadao et al

SWQRT DEPOSITION

Dependent: IWAGURO, Hidoo

Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in my country I hereby depose as follows.

In May 1939 when I was in the above position, I was sent by the Vice-minister of War, Lt. Gen. YAMAWAKI to call upon the Overseas Minister, Gen. KISIO, at his official room.

My mission was to ask to mediate between the War and Navy Ministers who were at variance as to whether or not a Japan-Germany-Italy Alliance
Correction should be made as follows: --

4 line, page 1.
Delete "... above position", and insert instead,
"position of the Chief of the Military Affairs
Section in "Military Affair Bureau, War Ministry", 
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

UNITED STATES OF AMERICA et al

-vs-

ARAKI, Sadao et al

SWQRI DEPOSITION

Docent: INAGURO, Hidoo

Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in my country I hereby depose as follows.

In May 1939 when I was in the above position, I was sent by the Vice-minister of War, Lt. Gen. YAMASAKI to call upon the Overseas Minister, Gen. KOISO, at his official room.

My mission was to ask to mediate between the War and Navy Ministers who were at variance as to whether or not a Japan-Germany-Italy Alliance
should be concluded. In reply to my visit, a few days later Overseas Minister KOISO sent his personal secretary, to said Vice-Minister YAMASHITA who brought with him the General's letter. This letter stated that KOISO was opposed to such an alliance and that therefore he could not mediate between the two ministers.

On this 28 day of Jan. 1948
At Tokyo

DEPOSITION: IWAGURO, Hideo (seal)

I hereby certify that the above statement was sworn by the Dependent, who affixed his signature and seal thereto in the presence of this witness.

On the same date
At Tokyo

Witness: /s/ SANKENJI, Shoji (seal)

OATH

In accordance with my conscience I swear to tell the whole truth withholding nothing and adding nothing.

/s/ IWAGURO, Hideo (seal)
Correction should be made as follows:

4 line, page 1.

Delete "... above position", and insert instead,

"position of the Chief of the Military Affairs
Section in "Military Affairs Bureau, War Ministry", 
Errata Sheet (KOISO)

Correction should be made as follows. —

14 line, page 2
"whether" should be read "either".

12 line, page 6
After "as stated above", insert, "I".

17 line, page 12
After "misrepresentation", insert, "also it is inconceivable for the reason set in page 2 of Def. Doc. 3057".

4 line, page 13
After "In other words, the matter ...", insert, "could only".
Ambassador Shigemitsu sent home a message as follows: "This country is very conservative: the attitude of the Soviet Commissariat for Foreign Affairs towards diplomatic representatives is to treat this as a very small incident, and the public in the Soviet Union is very cool and indifferent. A cool handling of the incident in Japan also is desirable."
Ambassador Shigemitsu sent home a message as follows: "This country is very conservative; the attitude of the Soviet Commissariat for Foreign Affairs towards diplomatic representatives is to treat this as a very small incident. And the public in the Soviet Union is very cool and indifferent. A cool handling of the incident in Japan also is desirable."
重光大使は本日は米国での日常生活に在外使臣に対処するソビエトの外務省本局の人々を会って命じて基調し日米でも協調に取引してくると言って来た。
Ambassador Shigemitsu sent home a message as follows: "This country is very conservative; the attitude of the Soviet Commissariat for Foreign Affairs towards diplomatic representatives is to treat this as a very small incident. And the public in the Soviet Union is very cool and indifferent. A cool handling of the incident in Japan also is desirable."

Chapter 28a, August 5, 1938
CERTIFICATE

I, MIURA, Kazuichi, hereby certify that I can read, write and speak the English and the Japanese language, and have translated into English

"Excerpt from the Saionji-Karasawa Memoirs, Chapter 284, August 5, 1938,"

accurately and faithfully.

(Signed) K. Miura.

Tokyo, February 2, 1948.
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

UNITED STATES OF AMERICA, et al

- vs -

ARAKI, Sadao, et al

SWORN DEPOSITION

Deponent: KOISO, Kuniaki

Having first duly sworn an oath as on attached sheet and in accordance with the procedure followed in my country, I hereby depose as follows:

1. With regard to the HARADA Diary (Court Exhibit 3150) and my relations with HARADA.

Before replying to the evidence tendered by the Prosecution during their rebuttal as being related to me, I should like to state certain matters which I consider to be necessary in connection with the HARADA Diary and my relations with HARADA.

I first became acquainted with HARADA about 1930 and since then met him several times. I know that from before the time I came to know him he was active as a private secretary to Prince SAIONJI, purveying to the Genro information about the political world and that he continued to perform that function up to the Prince's death.

- 1 -
However, I also knew that besides HARADA, one NAKAGAWA, Kojuro, who was long in the service of Prince SAIONJI as private secretary was in charge of all the personal affairs of the prince. Although I have forgotten whose information it was, I had occasion to receive the following report about HARADA:

"Although HARADA is in his mind secretly contending against private secretary NAKAGAWA to win the favor of Prince SAIONJI, there is no controversy of any kind between the two because NAKAGAWA is a splendid character who is exceedingly indifferent about such a thing. But it is certain that the Prince does not trust HARADA very much."

Such being the case, although I met HARADA whenever he requested an interview, not once have I ever requested a meeting on my part nor have I ever given him information whether at the orders of my superiors or on my own initiative.

Until about the summer of 1947, I had no knowledge that HARADA had kept a diary. When informed that there were entries in the diary relating to me, I borrowed from my counsel excerpts of such entries and carefully read through them. As a result, I noted the following defects in the entries insofar as they related to me:

a. That most of them are hearsay.

b. That they are highly flavored with dogmatic imagination, surmise, and speculation.

c. That the contents of proceeding and following entries contain contradictions.

d. Although difficult to judge whether they are the result
of willful intent or mental defect, that the motives of the interview, the place of the interview and the contents of conversations are distorted and falsified.

e. That entries relating to the army and to me reflect his personal emotional likes and dislikes.

I shall now refute on the basis of facts all the evidence tendered by the prosecution from the HARADA Diary, allegedly as having some connection with me, as entirely lacking in reliability.

2. With regard to the evidence in Court Exhibit 3756-A to the effect that although the accused MINAMI, the then War Minister, and Finance Minister INOUYE had made an agreement between them on a plan for reform of military organization of the army, it was overthrown because of opposition by the then Director of the Military Affairs Bureau, the accused KUSISO.

In April 1931, at the time he assumed the office of War Minister, the accused MINAMI, in view of public opinion, decided upon a policy to reduce the army and created the Committee for the Study of Reform of Military Organization with War Vice Minister SUGIYAMA, Gen, as chairman, the task assigned to the committee being the study and formulation of a concrete plan for the reduction of the army. I, then Director of the Military Affairs Bureau of the War Ministry, was appointed as one of the members of the committee.

In my affidavit (Court Exhibit 3375) which was read before the Tribunal on 31 October 1947, I stated: "about the time of the
outbreak of the Manchurian Incident in September of the same year, a proposal was under consideration to further reduce our peacetime strength of 17 divisions by reducing and changing the Imperial Bodyguard Division to simply the Imperial Bodyguards and abolishing the two divisions of Utsunomiya and Kyoto." This was as a result of discussions by this committee. This fact is proof that War Minister MINAMI and the members of the Committee together made efforts for the materialization of the plan for the reduction of the army and, at the same time, refutes the authenticity of the entry in the HARADA Diary, Court Exhibit 3754-B, to the effect that the Kokuhonsha, in concert with the army, was engaged in obstructionist maneuvers against reduction of the army. It also serves as evidence to deny HARADA's statement about the activities of the Kokuhonsha.

To carry out the plan for the reduction of the army by two and a half divisions, initial expenses of a considerable sum was necessary for the transportation of troops and military goods, the replenishment of equipment and materials required for the mechanization of army units to be transferred, the new creation of a part of the barracks and storehouses accompanying the mechanization of army units, the payment of money grants to troops to be reduced and disbanded and travel expenses to their homes, etc. Because of this, the army's budget in the early stage of the execution of the reduction plan increased as compared with normal years.
As Finance Minister, INOUE was a leader of the Minseito Party, it was his desire to have the Minseito Cabinet get the nominal credit for effecting the reduction of the army, but at the same time to push on at the burden of the next cabinet the troublesome problem of effectuating the army reduction plan with all the initial expenses it entailed. With this idea, he proposed to the War Minister MINAMI that because of financial circumstances, he would like to have the period of execution of the plan postponed to the next fiscal year. War Minister MINAMI gave his approval to the effectuation of the reduction plan, but stated he would give a definite reply with regard to the question of the time for the effectuation later after getting the views of the administrative departments in charge of the matter and left Finance Minister INOUE, the chairman of the committee, and sought his views on the proposition.

Now the committee, while it desired the materialization of the mechanization of the army as soon as possible, had already unanimously agreed that upon adoption of the army reduction plan it was essential that its effectivation be commenced at the beginning of next year at the latest not only because the contents of the plan might gradually leak out if its effectivation were postponed with a consequent harmful effect on the officers and men of the army,
but also because in the light of bitter experiences in the past, the effectivation of the plan would in all likelihood be retarded by frantic movements by members of the House of Peers and the House of Representatives, in alignment with the officials and the public in their political constituencies, to keep the army units in their localities for the purpose of maintaining local prosperity. This being the case, SUGIYAMA, the chairman of the committee, replied to the inquiry from War Minister MINAMI to the above effect. It is needless to say that as a member of the committee I also was an earnest advocate of immediate effectivation of the adopted plan for army reduction. However, as the direct report was made by Vice Minister SUGIYAMA, the committee chairman, as stated above, I at no time expressed my opinions directly to the War Minister.

The above being the actual situation, I and the director of the Intendence Bureau were the advocates of immediate effectivation of the army reduction plan and Finance Minister INOUE whom HARAI supported was, on the contrary, an advocate of postponement of the plan.

Although HARADA's statements are distortions based upon emotional likes and dislikes, yet even then if one thoroughly reads the passages which precede and follow this Court Exhibit one can clearly perceive therein a part of the actual facts of the case which I have related. Notwithstanding this, because the
prosecution have tendered to the Tribunal as evidence only such parts as would appear unfavorable to the accused, the Tribunal is apt to have been given the opposite impression as if I prevented the effectuation of the army reduction plan and I feel it especially necessary to call the Tribunal's attention to this fact.
With regard to the evidence contained in Court Exhibit No. 3801-E to the effect that on 8 May 1939 I had an interview with HARADA at my request at his relative's house and that I said that unless the Tripartite Alliance was not concluded the officers and men at the front would not be pacified.

This exhibit, as my counsel, Mr. Brook, pointed out to the Tribunal on 22 January 1946, is only a short passage excerpted from the HARADA Diary, the contents of which taken alone creates the misunderstanding that they constitute my views. The facts are otherwise. By noting the words "it was a usual pot expression" in the entry which follows the passages in this exhibit and by proper construction of the Japanese text, it is obvious that they were not my views.

Moreover, the entry continues to say, "General IGOISO was saying almost the same thing." Although "almost the same" is an ambiguous expression, because it creates the impression that I too was an alliance advocate, I shall now give a true account of what actually took place at the interview to prove that the subject of the discussion was not the pro and con of an alliance and to show that this exhibit is valueless.

Although I do not clearly recall the exact date, it is a fact that I met HARADA in the early part of May 1939. However, this interview did not take place at my request. At first HARADA proposed a talk with me over dinner, but I declined the invitation explaining that I was extremely busy. However, since he strongly insisted that I consent to an interview by all means saying that he did not mind if it was after I had finished...
my work, I reluctantly consented and, after I completed my work for the
day and had dinner went to the place designated by H.R.D. at about 8:30 p.m.
The meeting place was not the home of his relative as he records in the
entry accepted as a Court Exhibit, but residence of Mr. YASUMI, Kamesaburo,
in Takanawa, Shinagawa Ward (Tokyo). Although this has no direct bearing
on the issues of this Trial, I mention this because, even though it may not
be known wherein H.R.D.'s true intentions lay in fabricating the motive
and the place of the interview, I believe that it would serve the purpose
of discrediting this entry.

When at the outset of the meeting I asked H.R.D. what the purpose of
the interview was, he replied, "To ask your opinions regarding the
HITANUM message." I had actually no knowledge of what he called the
"HITANUM message" and so I asked him for his explanation and learned for
the first time the general outline of what it was. However, I was never
able to judge from the very beginning the real meaning of its contents.

H.R.D. then continued to ask me, "I want to ask your opinion whether,
in the event a Tripartite Alliance is concluded on the basis of the
HITANUM message and if Germany and Italy commenced war with England and
France, Japan would come to participate in the war?" Whereupon I replied,
"Putting aside the pro and con of concluding an alliance as a separate
question, if the HITANUM message really provides, as you explain, armed
assistance by Japan within possible limits and, moreover, if Japan, in
the event Germany and Italy commenced war with England and France, effectuated
armed assistance to Germany and Italy, should it not be interpreted as
meaning nothing more and nothing less than war participation?" and thus
gave expression to my construction of the so-called "Hirano message".
Upon hearing my view, Hirano, his face somewhat flushed with excitement,
denounced the attitude of the Army favoring conclusion of an alliance
and repeatedly argued that even in case it should be concluded in accord­
ance with the "Hirano message" Japan should never participate in war.
I did not venture to defend what was alleged to be the Army's attitude
and I withheld expressing to loose-tongued Hirano my own personal views
which I had always held opposing the conclusion of an alliance. Instead
I asked him what Prince Sanjo's views were on the pro and con of an
alliance. Whereupon he replied that the Prince was not a person who
expressed his own views lightly and continued repeatedly to extol the
Prince's prudent attitude.
Since there appeared no further business in addition to what we
talked about as described above, I took leave at about 10:30 p.m.
Comparing the actual circumstances which I have related above with
Court Exhibit No. 3801-B, the contents of the Harada Diary is funda­
mentally at variance with the facts. Especially if one refers to an
entry in Chapter 321 of the diary (18 April 1939), it is clear that he
had been informed by someone and had known that I was opposed to the
Tripartite Alliance. Yet, despite this fact, the Prosecution may be
believed to have come to suspect whether I was not an alliance advocate
because of an alleged contradictory entry such as is given in this exhibit.
Notwithstanding the fact that I had inquired about Prince Saionji's views and Harada had praised the Prince's attitude as I have stated above, there is no mention about the Prince in the entry following the one contained in this exhibit; the contents of our conversation have been altered and it consists of a defense of the attitude of Lord Keeper of the Privy Seal Yusa which I least expected. This is clearly a conspicuous example of Harada distorting and fabricating the contents of conversations and shows how little credibility, if any, the diary has.

What I further wish to state to the Tribunal is that although the Prosecution said (transcript page 37813), "... he never expressed his views on the subject on any other occasion except one, when in May 1939 at the request of the War Vice-Minister he was asked to help to restore friendly relations between the War and Navy Ministers who had offered their views concerning the contents of the conclusion of the alliance, I have never expressed my private views on the pro and con of the alliance to Harada, as I have mentioned above. In addition, I stated in my affidavit (Court Exhibit No. 3375) at No. 21 of the original: "With regard to this question, neither at any cabinet meeting which I attended nor at any other meeting which I can recall. In consequence of the fact that the word "meeting" was mistranslated in English as "occasion", it may possibly be that this invited the misunderstanding of the Prosecution, and I call the Tribunal's attention to the fact that if there had been no such misunderstanding, this exhibit might not have been tendered."
4. With regard to Court Exhibit No. 366-A, pertaining to a character comment about me purported to have been made by the accused ARAKI, I do not know whether or not the contents in this exhibit represent the expressions of the accused ARAKI. Furthermore, with regard to the comment on my character, "KOISO is a person who has power and enthusiasm, but he has no set opinions and deals only in intrigues and trickery", it is not for me to say anything except that it may serve me as food for self-reflection. However, I must solemnly refute with proof such a false statement, whoever may be its author, and which can be taken as a basis for the comment on my character, that I advocated the use of counterfeit paper currency at the Cabinet Meeting or that I sent the kempei to China and Manchuria in plain clothes.

That I ever advocated such a thing as the use of counterfeit paper money when I was Minister of Overseas Affairs, whether at a cabinet meeting or on any other occasion is completely groundless and there is no room for doubt that it was a misunderstanding of some kind or a misrepresentation.

If the statement that I dispatched the kempei (military police) to China and Manchuria disguised in plain clothes is to serve as a pretext for casting aspersions at me, since as Minister for Overseas Affairs I had no connection at that time with the Kempei Tai, then we must assume that the period is confined to a time when I as director of the Military Affairs Bureau or Vice Minister of War was in a position to give advice on kempei matters. Supposing this refers to such a period of my career
I spoke of this to *Hata*, then there can be no mistake that it was at a time when *Aoki* (who would never under no circumstances permit anything of the kind) was not in the post of War Minister. In other words, the matter concerns a period of one year and four months extending from August 1930, prior to the outbreak of the Manchurian Incident, to 12 December 1931, shortly after that outbreak, while serving as director of the Military Affairs Bureau under two Ministers, *Uchiki* and *Minami*.

As the Tribunal is already well aware with regard to the relative strength of Japanese and Chinese troops in Manchuria at that time, the strength of the Japanese forces just before the outbreak of the incident was only 10,400 as compared to that of the Chinese who had 220,000 men. Even after adding the troops which crossed the border from Korea soon after the outbreak of the incident the total strength did not come up even to 15,000. For this reason the Kwantung Army reported the serious lack of combat troops and expressed the earnest desire that if it was possible to send reinforcements from the Japanese homeland, they wanted the dispatch of even one more combat soldier instead of military police. That was the actual situation. Furthermore, in North China, where a Japanese garrison including military police was stationed, there was only a minor disturbance in Tientsin in November 1931, but other than that tranquility prevailed generally and there was no request for additional military police.

Such being the case, there was not even a single occasion which gave any rise to a need to dispatch to Manchuria and China any reinforcement of military police guised in civilian clothes to conceal them from the public.
eye, either immediately before or after the outbreak of the Manchurian Incident. Furthermore, regardless of whether or not there was any order from the War Minister, no such steps were ever carried out.

Thus, as I have offered proof in refutation, this exhibit, founded upon falsification, constitutes a malicious character evidence against me. In view of the ruling of the Tribunal that it will not accept character testimony as evidence, I respectfully ask that this exhibit be stricken out.
eye, either immediately before or after the outbreak of the Manchurian Incident. Furthermore, regardless of whether or not there was any order from the War Minister, no such steps were ever carried out.

Thus, as I have offered proof in refutation, this exhibit, founded upon falsification, constitutes a malicious character evidence against me. In view of the ruling of the Tribunal that it will not accept character testimony as evidence, I respectfully ask that this exhibit be stricken out.
With regard to erroneous evidence in Court Exhibit No. 3757-4 that the accused KINAMI dispatched TATEKAWA to Mukden.

As there is no reference to me in this exhibit the exhibit itself does not bear on me in any way. However, the Prosecution notwithstanding the fact that the reason itself which they gave in explaining the tender contained contradictions, ventured to mention my name and stated as follows:

"... Minami while admitting that Tatekawa was sent to Mukden by the General Staff and that he had talked with him before he went, denied that he or as far as he knew, Koiso had anything to do with his selection or that he entrusted Tatekawa with a letter or order from the Emperor or anybody else."

In view of this statement of the Prosecution, I offer the following refutation:

Because TATEKAWA was a division chief in the Army General Staff office only his direct superior, the Chief of Staff, could order his selection and dispatch and it was a matter which permitted of no interference by anyone else. This fact is clear from the testimony of the accused MINAMI and of the witness KAWABE. That the matter was carried out in that very manner as a fact was testified to by me in my affidavit.

I believe the fact that the Prosecution recognized in its explanation of their reason for the tender that TATEKAWA was dispatched by the Army General Staff was a result of their coming to understand the principle mentioned above. Yet, notwithstanding it, the Prosecution, on the one hand, offered an excerpt from
the HARADA Diary, just as it is, containing the erroneous information that MINAMI had dispatched TATEKAWA and, on the other hand, gave an explanation to the effect that KOISO of the War Ministry could interfere in or ignore the right of command of the Chief of the Army General Staff, all of which I am at a complete loss to understand.

The Prosecution's grounds for explaining that KOISO had something to do with the selection of TATEKAWA may have been found in a passage in an entry following the one in the Exhibit, but in the last sentence the words 'it seems' are used. The Tribunal's attention is called to the fact that in the Japanese language the expression "it seems" means "one's own surmise and speculation", and the value is even lower than hearsay which has no evidential value.

In short, the fact that the contents of this Exhibit and those of related entries in the HARADA Diary are confused and incoherent and filled with many incomprehensible statements is due to nothing else than that he, HARADA, was ignorant of the system of the chain of command within the army to begin with, as well as other matters relating to the army. Especially the fact that HARADA used the expression "it seems" is proof that of all the surmise and speculation which his entries contain he admits his lack of confidence in what he put down in this one.

I absolutely did not interfere in the selection and dispatch of Major General TATEKAWA, a matter which under the chain of
command, could not be done without arbitrarily violating the
authority of the Chief of the Army General Staff.

6. With regard to Court Exhibit No. 3754-B in connection with
the character and purpose of the KOKUHONSHA

Through this Exhibit, an entry in the HARADA Diary, the
Prosecution represented the Kokuhonsha as an extreme rightist
organization which, in concert with the army, engaged in
maneuvers against the army reduction question and tendered it
to the Tribunal on the grounds that it was not an organization
such as I described in reply to questions from Prosecutor Pixel
during my cross-examination in November 1947.

Moreover, there is no relation between the character and
purpose of the Kokuhonsha and my statement in reply to Prosecutor
Pixel's questions, for, as it is clear from my reply at the time
on page 32,275 of the Transcript, I did not know the purpose of
the Kokuhonsha because no one ever informed me about it and,
although I stated that I regarded the magazine Kokuhon as
providing instructive data with which to understand the true
nature of Japan and the Japanese people, I did not refer to the
character of the Kokuhonsha.

Again, as it is clear in page 32,274 of the Transcript, I
became a member of the Kokuhonsha when I was a regimental com-
mander in the provinces for the purpose of subscribing to its
magazine and only on one occasion attended a lecture meeting
Def. Doc. 3066

sponsored by it and so I do not have the qualification to speak of the character and purpose of this society with any confidence and responsibility. However, as I am familiar with the actual circumstances attending the question of army reduction, having been directly concerned with the business administration of the matter and knowing that no outsider was permitted to interfere in its study and deliberations, as I have described in section two of this affidavit, if HARADA's falsified statement that the Kokuhonsha, in concert with the army, maneuvered against the army reduction question applies to the period when I held office in the War Ministry, then I positively deny that it is true.

In short, this exhibit was tendered by the Prosecution to show what they claim to be the character of the Kokuhonsha by distorting my reply to Prosecutor Fixel and the exhibit itself does not concern me. This fact is also clear by the statement made by Mr. Warren, counsel for the accused HIRANUMA on 16 January 1948 (Transcript page 37, 564).
On this 30th day of January 1948
at I.M.T.F.E.

DEPONENT: KOISO Kuniaki (seal)

I, Sanmonji Shohei, hereby certify that the above statement
was sworn by the Deponent, who affixed his signature and seal
thereeto in the presence of this witness.

On the same date
at the same place.

Witness: /s/ Sanmonji Shohei (seal)

O A T H

In accordance with my conscience I swear to tell the whole
truth, withholding nothing and adding nothing.

/s/ Koiso Kuniaki (seal)
Errata Sheet (KCISO)

Correction should be made as follows:

14 line, page 2
"whether" should be read "either".

17 line, page 12
after "misrepresentation", insert, "also it is inconceivable for the reason set out in paragraph 2 of Def. Doc. 3059".

4 line, page 13
after "In other words, the matter ...", insert, "could only".
Correction should be made as follows:

14 line, page 2

"whether" should be read "either".

17 line, page 12

After "misrepresentation", insert, "also it is inconceivable for the reason set out in paragraph 2 of Def. Doc. 3059".

4 line, page 13

After "In other words, the matter ...", insert, "could only".
内容缺失
軍需品を輸送する際、軍需品の輸送に関する諸事情を考慮し、輸送の効率を高めるため、軍需品の輸送方法を検討する必要がある。輸送方法の選択は、便益性、安全性、経済性を考慮したうえで決定されるべきである。
次に敵兵を法華経に用じて日本軍、支那兵、イタリア軍、フランス軍、英国軍、アメリカ軍、ソビエト軍に送った。二〇〇四月ニヘノラガダ日本の陸海軍各部編年史レマス南シチノガノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガダノラガ达
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検定反応ノ為ノアリトシテ故ニ検定セラレタル監査

ハ原田私ノ年頭メテ原ヨトノヲ先立テ原田日記及原田私トンノ巻

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テ
昭和廿三年
十一月三十日
於市

氏名
正

昭
第十三回中華ノノノノノノ事務三〇ニ格ゲラレテキル様ナキゲ

【アルゴルイトハ事務三〇ニニ格ゲラレテキル様ナキゲ】
Mr. MAZAKI's Affidavit (In refutation of Exhibits Nos. 3769, 3770 and 3777)

1. I was Vice-Chief of the General Staff from January, 1932 to June, 1933, and Inspector-general of Military Education from January, 1934 to July, 1935.

2. I was shown Exhibit No. 3777, an excerpt from HARAIDA's memoirs which says that Premier OHIDA at that time told Mr. HARAIDA that I and I advocated annexation of Manchuria from the first. This is not so and is a misrepresentation. The account also says that 1st Division Commander YANAGAWA was engaged at the official residence of the Minister of War. The War Minister in those days was not ARAI, but Gen. YASHI.

3. I don't know on what basis Mr. OHIDA told such a thing or why Mr. HARAIDA misunderstood us and wrote such a thing. ARAI, YANAGAWA and I were absolutely opposed to any aggression or annexation from our very ideology. When ARAI was Minister of War, I Vice-Chief of Staff and YANAGAWA Vice-Minister of War, active militarism was advocated in some quarters of society. We regretted this and vigorously opposed it as much as possible.

4. I also read Exhibits No. 3769 and excerpt from HARAIDA's memoirs, where he said that freedom of speech was repressed because of the pressure of the Army. It is true that some of the lowest officers of the Army were extremely nervous of public opinion, but ARAI himself favored freedom of speech. Being Vice-Chief of the General Staff I was clearly in a position to know this fact as ARAI and I often discussed this principle and I also had an opportunity to observe his execution of this (ARAI's principle) notably his leniency and tolerance toward those who spoke ill of him personally.
On this 30 day of January 1948
At S.M.G.Y., S.M.G.Y.-H.Q.,
TOKYO, JAPAN.

DEPONENT: Jinsēburo M.Z.KI

I, Yutèka SUG.H.R., hereby certify that the above statement was sworn by the Deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date
At the same place.

Witness (signed)  SUG.H.R., Yutèka (seal)

OATH

In accordance with my conscience I swear to tell the whole truth withholding nothing and adding nothing.

Jinsēburo M.Z.KI  (seal)
受領者は昭和七年一月より同八年六月まで真次氏長官九月より

氏は昭和七年一月より同八年六月まで真次氏長官九月より

昭和七年一月まで改選続位でありました。昭和七年一月より同八年六月まで真次氏長官九月より

昭和七年一月で改選続位でありました。昭和七年一月より同八年六月まで真次氏長官九月より

昭和七年一月から同八年六月まで真次氏長官九月より
私は多量の書籍を以て居るのを見た者がありましょう
大な素養を以て居る彼自身の悪口を云った者に売って得

任方正しく実行にて可否を示せとの者で思うか否か否かを言されて

私は原田日記からの接続法延誤三十六九^に原田が言葉の抑圧

の旨如く自由が廃迫されたを直ぐに居座が成して居るのを驚み立ちたる下級

にされを議論すべきが居なるが居るか否か否かを言

私は原田日記からの接続法延誤三十六九上に原田が言葉の抑圧

の旨如く自由が廃迫されたを直ぐに居座が成して居るのを驚み立ちたる下級

にされを議論すべきが居なるが居るか否か否かを言

私は原田日記からの接続法延誤三十六九上に原田が言葉の抑圧

の旨如く自由が廃迫されたを直ぐに居座が成して居るのを驚み立ちたる下級

にされを議論すべきが居なるが居るか否か否かを言
右ハ誓約書人ノ面前ニテ誓約ヲ書ク且ツ誓約ヲ捺印シタルコトヲ謹ヘ

同日 於同所

立約人

原 裕

昭和二十三年（一九四八年） 六月 三十日 於世田谷区世田谷一ノ一六八

供記者 真 婦 三郎
Defence

INTERNATIONAL MILITARY TRIBUNAL FOR THE Far East

THE UNITED STATES OF AMERICA, et al

- vs -

KEN SADAKO, et al

- Defendants -

AKITA, I.-V.E.

STEVEN F. RUMIKO

Having first duly sworn on oath as on the attached sheet, in accordance with the procedure prevailing in my country, I herewith declare as follows:

1. I entered the Foreign Ministry in 1913, serving as Vice-Minister from October 1941 to September 1942. During that period I discharged the usual administrative functions of vice-minister, and was familiar also with the business of the Ministry in general, and with the Japan-American negotiations in particular.

2. I have annex Exhibits 3,336 and 3,337, being circular telegrams of 12 and 25 November 1941 respectively, from the Foreign Ministry to subordinate ministers and consuls advising the state of the Japan-American negotiations. I can testify from my experience in drafting and sending such messages on Foreign Ministry section chief, bureau director and vice-minister, and my experience in receiving their secretaries and counselors of embassy and minister, that it is customary to give in such missives only general and simplified explanations of the state of current business, for the information of the diplomatic service at large. It was never the practice of the Japanese Foreign Ministry during my 34 years of service, nor do I know from conversations with friends in other national diplomatic services, as it the custom in other diplomatic services, to disclose in such cases the state of secret and grave diplomatic negotiations currently in progress.

- 1 -
On this 3rd day of February 1938
at Tokyo

DEFENDANT: /S/ NISHI, Harubiko (seal)

I, NISHI, Harubiko, hereby certify that the above statement was sworn by the Defendant, who affixed his signature and seal thereto in the presence of this witness.

On the same date
at the same place

Witness: /S/ SHICABU, Motobumi (seal)

OATH

In accordance with my conscience I swear to tell the whole truth, withholding nothing and adding nothing.

/S/ NISHI, Harubiko (seal)
Defendants -


Having first duly sworn on oath as on the attached sheet, in accordance with the procedure prevailing in my country, I hereby declare as follows:

1. I entered the Foreign Ministry in 1918, serving as Vice-Minister from October 1941 to September 1942. During that period I discharged the usual administrative functions of vice-minister, and was familiar also with the business of the Ministry in general, and with the Japanese-American negotiations in particular.

2. I have seen Exhibits 3, 356 and 3,337, being circulars of 23rd and 29th November 1942 respectively, from the Foreign Ministry to ambassadors, ministers and consuls advising the state of the Japanese-American negotiations. I can testify from my experience in drafting and sending such messages to foreign ministers, and experience in receiving the reports and counsels of ambassador and minister, that it is customary to give in such cases the very general and simplified explanations of the state of current business, for the information of the diplomatic service at large. It was never the function of the Japanese Foreign Ministry during my 54 years of service, nor was I known from conversations with friends in the national diplomatic service as it the custom in other diplomatic services, to disclose in such cases the details of secret and grave diplomatic negotiations currently in progress.
I. In my experience, moreover, it has been common practice in the course of particularly important negotiations for the Foreign Ministry to issue to its representatives abroad such instructions as have virtually fixed a proposal in "the event of further concessions in this matter". As examples of this practice, I remember that on the two occasions during my service in Korea when there were grave difficulties over the fisheries agreements—in 1928-29, and again in 1935-36—instructions frequently came to us to the effect that such-and-such a proposal was Korea's "last word" on the subject, or that there was "no alternative".

Upon my return to Tokyo in 1938, I saw the other side of the picture, that is, responsible of section chiefs in the Commercial Bureau for sending such instructions. Again the same situation occurred in 1932, when our representatives were instructed during the tariff negotiations with China and other countries that further concessions could not be made. In each of these instances further concessions were indefinitely by the Japanese side, even after the giving of such instructions.

II. During the Japanese-American negotiations of 1941 the instructions sent in the exhibits here referred to, as well as such others of similar nature as were sent, were drawn in accordance with this practice in matters of importance, and also because of the situation of the Foreign Minister, himself, and the bureau and section chiefs concerned, of making clear to our diplomatic representatives the gravity of the situation and the necessity for taking a firm stand, which it was felt by us they would be in a better position to do if they were so instructed. As I know of my own knowledge, there was never at any time in the Japanese-American negotiations prior to the meeting of the United States side on 20 November any Japanese proposal which was "final" or "last" in the sense that it might not be made the object of further concessions in the event of any indication's covering that the other party had such a desire for agreement that the making of such concessions might lead to the successful conclusion of negotiations. The Foreign Minister frequently told me that he desired to reserve the right to receive further concessions, if the United States would show any conciliatory attitude which would give him grounds to urge that course.
DEN. NO. 22069

On this 3rd day of February 1948
at Tokyo

DEPOINIT: /S/ NISHI, Heruhiko (seal)

I, NISHI, Heruhiko, hereby certify that the above
statement was sworn by the Deponent, who affixed his
signature and seal thereto in the presence of this witness.

On the same date
at the same place

Witness: /S/ SHICIDA, Motobru (seal)

OATH

In accordance with my conscience I swear to tell the
whole truth, withholding nothing and adding nothing.

/S/ NISHI, Heruhiko (seal)
昭和十八年九月、

外交文書に基づき、日本政府は当時、

三月に、

外交文書を受け取りました。文書は、

大使館における外交官が、

私には、

前掲の

外交文書の

内容を

申し上げることに

決めた。
私の経験からして特に重要で外交交渉において最も重要な真実を講義した場合に於いて本件に就いての意見の重視を務めたのが本件についての上記を察して居ます。又一九五九年の私の講義に於いても同様に幾多の誤解の発生を伴うか一九三九年の講義に於いては戦時論の観点に基づいて居る今日の講演に於いては特に注意を要するものであると興味深いものである。
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

-vs-

ARAKI Sadao, et al

- Defendants -

AFFIDAVIT

HÖGEN SHINSAKU

Having first duly sworn an oath as on the attached sheet, in accordance with the procedure prevailing in my country, I hereby depose as follows:

1. In 1941 I was assigned to the Second Section of the European-Asiatic Bureau, and served as a secretary of the Foreign Ministry, acting as interpreter of all conversations between Foreign Minister Tōgō and German Ambassador Ott during October and November 1941.

2. Memoranda of the conversations referred to in the preceding paragraph were prepared by me immediately after each conversation, and after being (in most cases) submitted to the Foreign Minister for his corrections were recopied in form for filing. I do not now, of course, remember the details of each conversation, but I do retain the memory of the general outlines thereof.

3. I have been shown exhibit 3,835, purporting to be a record from the Foreign Ministry files of the conversation between the Foreign Minister and Ambassador of 27 October 1941. This memorandum is not in my handwriting, but the contents of the first 7 pages (in the Japanese copy through the second paragraph of page 4 of the English) conform to my memory of the conversation, which I interpreted. The last page, however, dealing with the dispatch of Ambassador Kurusu to Washington, contains matters not discussed at that time. The first knowledge which I had of the dispatch of Ambassador Kurusu was after his departure from Tokyo on 5 November, having never heard of the matter before, either at a conversation with Ott or elsewhere. I remember that the matter was discussed between the Foreign Minister and Ambassador Ott, who had asked for an interview, on the following day—that is, 6 November—as is shown by the Ambassador's report, Defence Document 3,053, which I have been shown and identify as a correct report of the general subjects discussed at that time, though incorrect in particulars. The last page of Exhibit 3,835 is a page of the Foreign Ministry memorandum of this conversation.
In accordance with my conscience I swear to tell the whole truth, withholding nothing and adding nothing.

Hōgen Shinsaku (seal)

On this 3rd day of February 1948
At Tokyo

Deponent: Hōgen Shinsaku

I, Shichida Motoharu, hereby certify that the above statement was sworn to by the deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date
At Tokyo

Witness: Shichida Motoharu (seal)

Translation Certificate

I, Shichida Motoharu, of the defense, hereby certify that I am conversant with the English and Japanese languages and that the foregoing is, to the best of my knowledge and belief, a correct translation of the original document.

Shichida Motoharu

Tokyo
1st February 1948
It was the Soviet Union -- not the Nazis -- which sought the 1939 nonaggression pact that led to Germany's invasion of Poland.

Moscow's price was the secret slicing of Europe into Nazi and Soviet spheres.

The Communists completed Poland's destruction and gobbled up Baltic and Rumanian territories even more rapaciously than the Nazis expected.

The Russians repeatedly applauded German conquests in both East and West.

Moscow was even ready to join the "anti-Comintern" Axis if its price was met.

Because Hitler balked at Stalin's price, the Germans, not the Russians, broke off the beautiful friendship.

What the documents did not show was that Nazi Germany's eventual collapse left a vacuum in Eastern Europe which enabled the Soviet Union not only to achieve its original aims there but to far beyond them.

A digest of the documents, together with a chronology of events that surrounded them, follows:

The Headlines, March 14, 1939: Nazi Germany Occupies Bohemia-Moravia and Slovakia, Completing Destruction of Czechoslovakia begun at Munich.
The Russian Ambassador (Alexei Larokeloff) stated approximately as follows: Russian policy had always moved in a straight line. Ideological differences of opinion . . . . did not have to prove a stumbling block with regard to Germany . . . . There exists for Russia no reason why she should not live with us on a normal footing. And from normal, the relations might become better and better.
ノックの影響で、ポーランドはその上に設けていたソヴィエトに倒れた。ドイツの一方、ナチスは彼らの絶対的な勢力を保持していた。ソビエトの代わりに、ドイツとナチスとの二つの合団
と、ナチスが統治するようになる
目的の高さを

ナチスがスタンチリンの代わりに

ドイツは

この文章に示されていない文脈は、ナチスドイツの侵略的活動によっ
て Flatten の目的を達成のためならず、それ以上の進出を可能ならしめたと
いう事実である。
The Russian Ambassador (Alexei Lerckaloff) stated approximately as follows: Russian policy had always moved in a straight line. Ideological differences of opinion . . . did not have to prove a stumbling block with regard to Germany . . . . There exists for Russia no reason why she should not live with us on a normal footing. And from normal, the relations might become better and better.
Memorandum by Dr. Ernst Joergermann, Under State Secretary in German Foreign Office, June 15, 1939

(The Bulgarian Minister called to report confidentially that Georgei Astakhoff, Russian charge in Berlin, had confided the following:) The Soviet Union faced the present world situation with hesitation. She was vacillating between three possibilities, namely the conclusion of a pact with England and France, a further dilatory treatment of the pact negotiations, and a rapprochement with Germany. This last possibility, with which ideological considerations would not have to become involved, was closest to the desires of the Soviet Union . . . . If Germany would declare that she would not attack the Soviet Union or that she would conclude a non-aggression pact with her, the Soviet Union would probably refrain from concluding a treaty with England.
ドイツ外相次官エルンスト・ウェルマン博士の一九三九年六月十五日附覚書に依つてソビエトハソビエトからソ連の現状に変えてルイの意思を示すに至るべきである。従厄に最も近いものである。
Excerpt from State Department Publication of Nazi Foreign Office Documents

Urgent secret Telegram from Count Friedrich W. von der Schulenburg, German Ambassador to Moscow, June 29, 1939

I pointed out (to Molotoff) that we would welcome a normalization of the relations between Germany and Soviet Russia. Molotoff replied that . . . . the foreign policy of the Soviet government was, in accordance with the pronouncements of its leaders, aimed at the cultivation of good relations with all countries, and this of course applied — provided there was reciprocity — to Germany too.
I pointed out (to Molotoff) that we would welcome a normalization of the relations between Germany and Soviet Russia. Molotoff replied that... the foreign policy of the Soviet Government was, in accordance with the pronouncements of its leaders, aimed at the cultivation of good relations with all countries, and this of course applied -- provided there was reciprocity -- to Germany too.
デフレ、ドロップ072-2

中沢外務官文書

ソビエト連邦駐日大使フリードリヒ・フォン・デンケ

モスクワ駐日総領事

1939年6月22日付

シューレンベルク

旧日本総領事

1939年6月22日付
I request that you call upon Herr Molotoff personally and communicate to him the following: The ideological contradictions between National Socialist Germany and the Soviet Union were in past years the sole reason why Germany and the U.S.S.R. stood opposed to each other in two separate and hostile camps. The developments of the recent period seem to show that differing world outlooks do not prohibit a reasonable relationship between the two states, and the restoration of cooperation of a new and friendly type . . .

The Headlines, August 16, 1939: German Demands for Danzig and Polish Corridor Threaten German-Polish war.
Molotoff states) that the Soviet Government warmly welcomed German intentions of improving relations. . . . . He was interested in the question of how the German Government was disposed to the idea of concluding a nonaggression pact with the Soviet Union, and further, whether the German Government was prepared to influence Japan for the purpose of improvement in Soviet-Japanese relations . . . . and whether a possible joint guarantee of the Baltic States was contemplated by Germany.
Urgent telegram from Ribbentrop to Schulenburg, August 16, 1939

The points brought up by Herr Molotoff are in accordance with German desires.
不十分に理解を深める研究を進めることで、
数の解釈をさらに高めることが出来ます。

(図)

図の解釈は、以下のようになります。
Very urgent secret telegram from Schulenburg, August 19, 1939

The Soviet nonaggression pact draft reads as follows:

Both high contracting parties obligate themselves to desist reciprocally from any act of violence and any aggressive action whatsoever toward each other, or from an attack on each other either individually or jointly with other powers.

Postscript. The present pact shall be valid only if a special protocol is signed simultaneously.
Very urgent telegram from Adolf Hitler to Joseph Stalin, August 20, 1939

I sincerely welcome the signing of a new German-Soviet commercial agreement as the first step in the reordering of German-Soviet relations. The conclusion of a non-aggression pact with the Soviet Union means to me the establishment of a long-range German policy. Germany thereby resumes a political course that was beneficial to both states during by-gone centuries . . .

I accept the draft of the non-aggression pact that your foreign minister, Herr Molotoff, delivered.
Very urgent secret telegram from Stalin to Hitler, Aug. 21, 1939

The assent of the German Government to the conclusion of a nonaggression pact provides the foundation for eliminating the political tension and for the establishment of peace and collaboration between our countries.

The Headlines, August 23, 1939: Germany and Russia Sign Nonaggression Pact
Very secret memorandum of conversation between Stalin, Molotoff, and Ribbentrop, in Moscow, August 23, 1939

The Reich foreign minister observed that the anti-Comintern pact was basically directed not against the Soviet Union but against the Western democracies . . . . Herr Stalin interposed that the anti-Comintern pact had in fact frightened principally the City of London and the small British merchants. The Reich foreign minister concurred and (quoting a joke among Berliners, added:) "Stalin will yet join the Anti-Comintern pact" . . . .

Herr Stalin spontaneously proposed a toast to the Fuhrer, as follows: "I know how much the German nation loves its Fuhrer; I should therefore like to drink to his health" . . . . Herren Molotoff and Stalin drank repeatedly to the nonaggression pact, to the new era of German-Russian relations, and to the German nation . . . . Herr Stalin addressed to the Reich foreign minister words to this effect: "The Soviet Government takes the new pact very seriously. He could guarantee on his word of honor that the Soviet Union would not betray its partner,"
一九三六年六月二十三日アドルフ・ヒットルはリーベルン公館の前でドイツ党の指導者たちに、ソビエト連邦に対して好意的な態度を示すようにと述べた。
モートン氏とソーゲリヒ氏の事件同も益を成した。ソーゲリヒ氏は、ソーゲリヒ氏は不可逆性の高いソーゲリヒ氏の断頭刑の

すると、それと故の家に宛立した人々に返すべき。
In the event of a territorial and political rearrangement in the areas belonging to the Baltic States (Finland, Estonia, Latvia, Lithuania), the northern boundary of Lithuania shall represent the boundary of the spheres of influence of Germany and the U.S.S.R. . . . (In Poland) the spheres of influence of Germany and the U.S.S.R. shall be bounded approximately by the line of the rivers Narew, Vistula, and San. The question of whether the interests of both parties make desirable the maintenance of an independent Polish state and how such a state should be bounded can only be definitely determined in the course of further political developments . . . . With regard to Southeastern Europe attention is called by the Soviet side to its interest in Bessarabia (the northeastern province of Romania).

The Headlines, September 1, 1939: War! Nazis Invade Poland. Two Days Later, Britain and France Declare War on Germany.
一九三九年八月二十三日モスクワに於てリッペントロップ、モロトフの署名させるイラク不可侵密約定条約

パルチツク議院（フィンランド、エストニア、ラトビヤ、リトア

～ハマニに属する地域に於ける領土上政治上の再編順の合意に於り

～ソ連北端一線の境界線を示すものとする。ソ

サング川の線で限られる。兩国軍事の防害に基づき独立ポーランド国を

維持するのみが果して望ましいかどうかと云ふ事実所くの如き敵には

如何なる国境線が引かれるべきかという問題は将来の政治的変態の

Dof, Doo5078-L

Exn,
Very urgent telegram from Schulenburg,
September 9, 1939

I have just received the following telephone message from Molotoff: "I have received your communication regarding the entry of German troops into Warsaw. Please convey my congratulations and greetings to the German Reich Government."
結論
一九三九年九月九日
彼の党委員長を訪問した。

(署名)

宛名：

件名：
Very urgent, strictly secret telegram from Schulenburg, September 10, 1939

(Kolotoff) stated that the Soviet Government had intended to take the occasion of the further advance of German troops to declare that Poland was falling apart and that it was necessary for the Soviet Union, in consequence, to come to the aid of the Ukrainians and the White Russians (living within the old Polish borders).
I request that you communicate the following to Herr Molotoff at once . . . . "We assume that the Soviet Government will take a hand militarily, and that it intends to begin its operation now. We welcome this. The Soviet Government thus relieves us of the necessity of annihilating the remainder of the Polish Army by pursuing it as far as the Russian boundary."
リッペントロップ元シューレルベルク元駐箚大使

ソビエト連邦に関する通知

ソビエト連邦政府が日本政府に対して

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ソビエト連邦政府が日本政府に対して
Very urgent secret telegram from Schulenburg, September 17, 1939

Stalin received me at 2 o'clock at night . . . . and declared that the Red Army would cross the Soviet (Polish) border this morning at 6 o'clock along the whole line.

The Headlines, September 17, 1939: Red Army Invades Poland, Completing Her Destruction.
Very urgent, strictly secret telegram from Schulenburg, Sept. 25, 1939

Stalin stated . . . . he considered it wrong to leave an independent Polish rump state. He proposed (that) all the Province of Lublin and that portion of the Province of Warsaw which extends to the Bug should be added to our share. In return, we should waive our claim to Lithuania . . . . If we consented, the Soviet Union would immediately take up the solution of the problem of the Baltic countries in accordance with the protocol of Aug. 23 and expected in this matter the unstinting support of the German Government.
スターリンは敗残ボルシロンド独立国を築き上げようとしていた。彼はループリン南方部及びパクに及ぶバルシロド地方の一部を放棄する
という大仮出をされたベニヤであると断言した。その代わりにはリトアニアに対する

一九三九年九月二十三日

一九三九年九月二十二日

一九三九年九月二十八日
Declaration of the German and Russian Governments by Ribbentrop and Molotoff
September 28, 1939

(After partitioning Poland and allotting Lithuania to Russia in accordance with Stalin's proposal above, the two governments) mutually express their conviction that it would serve the true interests of all peoples to put an end to the state of war existing at present between Germany on the one side and England and France on the other . . . . Should, however, the efforts of the two governments remain fruitless, this would demonstrate the fact that England and France are responsible for the continuation of the war, whereupon (Germany and Russia) shall engage in mutual consultations (on) necessary measures.
Confidential letter from Ribbentrop to Molotov, Sept. 26, 1939

I have the honor to acknowledge receipt of your letter (stating) "that the government of the U.S.S.R. is willing . . . . . . to promote by all means the trade relations and the exchange of goods between Germany and the U.S.S.R." . . . . . . The German Reich in turn will take the necessary steps for this purpose.
原告が、被告を被告に、会社の名称の主張を提出した。
被告は、被告を被告に、会社の名称の主張を提出した。

インタビュートップにより、被告は、被告に、会社の名称の主張を提出した。

一九三三年九月二十一日
Very urgent, strictly secret telegram from Schulenburg to Ribbentrop, March 30, 1940

All our observations . . . confirm that the Soviet Government is determined to cling to neutrality in the present war and to avoid as much as possible, anything that might involve it in a conflict with the Western powers. This must have been one of the main reasons why the Soviet Government broke off the war against Finland.

The Headlines. April 9, 1940: Germany Overruns Denmark and Attacks Norway, Beginning Conquest of the West.
私方の見解は全て「ソビエト政府は現在、中立を遵守することに決めた」と声明する。لاقاتにおいて中立を遵守するのであれば、この声明は正しい。
Very urgent, secret telegram from Schulenburg, April 9, 1940

(After being informed of the German invasion of Denmark and Norway) Molotoff declared that the Soviet Government understood the measures which were forced upon Germany. The English .... had disregarded completely the rights of neutral nations. In conclusion, Molotoff said literally: "We wish Germany complete success in her defensive measures."
For some time we have observed in the Soviet Government a distinct shift which was unfavorable to us (with regard to visas, German nationals, naval bases, and oil and grain shipments). I suspect that the tremendous clamor of our enemies and their sharp attacks on neutrals -- particularly on the Soviet Union -- and on neutrality in general were not without effect upon the Soviet Government, so that it feared being forced by the Entente into a great war for which it was not prepared. (But a conversation with Molotoff April 9 revealed) that the Soviet Government had again made a complete about-face . . . . Herr Molotoff was affability itself, willingly received all our complaints and promised relief. . . . I was completely amazed at the change. In my opinion there is only one explanation for this about-face: our Scandinavian operations must have relieved the Soviet Government enormously.
Very urgent telegram from Schulenburg, June 18, 1940

Molotoff . . . expressed the warmest congratulations of the Soviet Government on the splendid success of the German armed forces. Thereupon, Molotoff informed me of the Soviet action (of military occupation) against the Baltic States. He added . . . that it had become necessary to put an end to all the intrigues by which England and France had tried to sow discord and mistrust between Germany and the Soviet Union in the Baltic States.

The Headlines, June 22, 1940: Collapse of France Leaves Britain Alone Fighting Germany.
Very urgent telegram from Schullenburg,  
June 23, 1940

Molotov made the following statement to me today: The solution of the Bessarabian question brooked no further delay. The Soviet Government was still striving for a peaceful solution, but it was determined to use force, should the Rumanian Government decline a peaceful agreement. The Soviet claim likewise extended to Bucovina, which had a Ukrainian population.
…”
Very urgent secret telegram from Schulenburg, July 13, 1940

On instructions from Stalin, Molotoff gave me a memorandum of this conversation (between Stalin and Sir Stafford Cripps, then British Ambassador to Moscow). Cripps (said): The British Government was convinced that Germany was striving for hegemony in Europe and wanted to engulf all European countries. This was dangerous to the Soviet Union as well as England. Therefore both countries ought to agree on a common policy of self-protection against Germany... The British Government was of the opinion that unification and leadership of the Balkan countries for the purpose of maintaining the status quo was rightly the task of the Soviet Union... The interests of the Soviet Union in the (Turkish) Straits must be safeguarded.

Stalin's answers are given as follows:... He did not see any danger of the hegemony of any one country in Europe and still less any danger that Europe might be engulfed by Germany... Stalin was not of the opinion that Germany military successes menaced the Soviet Union and her friendly relations with Germany... In Stalin's opinion no power had the right to an exclusive
role in the consolidation and leadership of the Balkan countries. The Soviet Union did not claim such a mission either. . . . The Soviet Union was in fact opposed to the exclusive jurisdiction of Turkey over the Straits.
英国外務省第三〇二〇〇年六月十三日
ニューレンプルグ

スターリンの命によりモロトフは余に次の旨を（スターリンと）

交わされた。一の援助を手交した。クリップスは日う、英国外務

国を支しの事には共同政策を採る事を求める事が多い。それ故両国

に対する目的の事に共同政策を採る事に要する事に要する事となる

英国外務省に要する要になる要になる。それ故南北両国

ソビエトのなすべき仕事である。又（トルコ）

海峡に於けるソビエト
利益は保障されない」と云ふ意見である。

徳川・内閣の答は左の如きものであった。「彼は欧州に於て

ガリリの関係を巡る模様は如何なる国もバルカン諸国に於て

ソ連はそのような使命の姿

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Very urgent secret telegram from
Schulenburg, Sept. 1, 1940

(Commenting on the Hitler-Mussolini arbitration redrawing
the Hungarian-Rumanian frontier, Molotoff said:) This violated
existing agreements and conflicted with assurances the Soviet
Government had received from Germany regarding questions of
common interest to both countries. The present case involved two
of the Soviet Union's neighbors, where she naturally had interest...
Draft Agreement between Tri-partite powers and the Soviet Union

In the Three-Power Pact of Berlin of September 27, 1940, Germany, Italy, and Japan agreed to oppose the extension of the war into a world conflict with all possible means and to collaborate toward an early restoration of world peace.  

The Soviet Union declares that it concurs in these aims and is on its part determined to cooperate politically in this course.  

Germany, Italy, Japan, and the Soviet Union undertake to respect each other's natural spheres of influence.
ドイツイエートは、この流れがついて来勢するに威力するにほどない。ソユーズイエート及びソヴイエトソビエトに反対するが宜しい。ソユーズイエートは、ソビエトに反対すると、ソユーズイエートを競合する。
Draft of Secret Protocol No. I to Proposed Agreement:

...Germany declares that, apart from the territorial revisions in Europe to be carried out at the conclusion of peace, her territorial aspirations center in ... Central Africa. Italy declares that, apart from the territorial aspirations center in ... Northern and Northeastern Africa. Japan declared that her territorial aspirations center in the area of Eastern Asia to the south of the Island Empire of Japan. The Soviet Union declares that its territorial aspirations center south of the national territory of the Soviet Union in the direction of the Indian Ocean.
Draft of Secret Protocol No. 2 to Proposed Agreement:

......The Soviet Union would be granted the right of unrestricted passage of its navy through the Straits at any time, whereas all other powers except the other Black Sea countries, but including Germany and Italy, would in principle renounce the right of passage.
Very Urgent, Strictly Secret Telegram from Schulenburg, November 26, 1940 (Stoloff stated):

"The Soviet Government is prepared to accept the draft of the Four-Power Pact . . . subject to the following conditions: (1) Provided that the German troops are immediately withdrawn from Finland, which, under the compact of 1939, belongs to the Soviet Union's sphere of influence . . . (2) Provided that . . . a mutual-assistance pact (is concluded) between the Soviet Union and Bulgaria, which geographically is situated inside the security zone of the Black Sea Boundaries of the Soviet Union, and by the establishment of a base for land and naval forces of the U.S.S.R. within range of the Bosporus and the Dardanelles by means of a long-term lease. (3) Provided that the area south of Batum and Baku in the general direction of the Persian Gulf (presumably including Iran and Iraq) is recognized as the center of the aspirations of the Soviet Union . . .
ソヴェト政府は左記陰線の下に「ロシア蓄積国」に伴うフィンランドより攻め軍

ロシアと陽面のソ連国境線のソ連占領国によりブルガリヤとの

日ソ軍を含むイランとイ

ソヴェト政府は左記陰線の下に「ロシア蓄積国」に伴うフィンランドより攻め軍

ロシアと陽面のソ連国境線のソ連占領国によりブルガリヤとの

日ソ軍を含むイランとイ
Top Secret directive for Operation Barbarossa, issued by Hitler rather than accept Molotov's conditions above, Dec. 18, 1940.

The German armed forces must be prepared to crush Soviet Russia in a quick campaign even before the conclusion of the war against England...

The Headlines, Dec. 29, 1940: President Roosevelt declares the United States must become the "Arsenal of Democracy."
EXCERPT FROM STATE DEPARTMENT PUBLICATION OF NAZI FOREIGN OFFICE DOCUMENTS (Page 4)

Very Urgent Telegram from Ribbentrop to Schulenburg, February 27, 1941:

(Inform Molotoff that) Bulgaria will accede to the Three-Power Pact (and that) reports in our possession concerning British intentions in Greece have forced the government of the Reich to take further security measures forthwith, making necessary the shifting of German troops to Bulgarian soil.
Very urgent secret telegram from Schulenburg,
March 1, 1941:

Molotoff ... received my communication with great gravity. (He said) the Soviet Union had repeatedly stressed its special interest in Bulgaria ... Consequently it could not remain indifferent in the face of Germany's last measures in Bulgaria.
Very urgent secret telegram from Schulenburg.
April 4, 1941:

Molotoff just summoned me to the Kremlin to inform me (that) the Yugoslav Government had proposed, . . . the negotiation of a treaty of friendship and nonaggression, and the Soviet Government had accepted the proposal, . . . I replied to Molotoff that in my estimation the moment chosen by the Soviet Union for the negotiation of such a treaty had been very unfortunate.
モルトフは常時、私とクレムリンへ呼び出しこうコスラヴィア政府を
した皆を私に伝えた。

しかしモルトフは常時、私をクレムリンへ呼び出し、クスラヴィア政府を
にした皆を私に伝えた。

モルトフは常時、私をクレムリンへ呼び出し、クスラヴィア政府を
にした皆を私に伝えた。
Very urgent, state secret telegram from Ribbentrop to Molotoff, April 6, 1941:

Please call on Herr Molotoff... and tell him that the government of the Reich had felt itself compelled to proceed to military action in Greece and Yugoslavia.

The Headlines, April 6, 1941: GERMANY BEGINS BLITZKRIEG CONQUEST OF GREECE AND YUGOSLAVIA.
Very urgent telegram from Schulenburg to Ribbentrop, April 6, 1941

After I had made to Molotov the communications prescribed, he repeated several times that it was extremely deplorable that an extension of the war had thus proved inevitable after all.
Very urgent secret telegram from Schulenburg, 
May 7, 1941:

Stalin has taken over the chairmanship of the Council of People's Commissars in place of Molotoff and thereby has become head of the government of the Soviet Union... The reason for it may be sought in the recent mistakes in foreign policy which led to a cooling off of the cordiality of German-Soviet relations, for the creation and preservation of which Stalin had consciously striven.
新華社 北平 三〇七三〇

一九五一年五月七日

當局以英皇宮為首都的言語御立，將著英皇宮的意義，亦為所

政事的最接近的國事中所見出者。
Very Urgent, State Secret, radiogram from Ribbentrop to Schulenburg. June 21, 1941:

... The government of the Reich declares that ... The Soviet Government, contrary to the obligations it assumed, (1) has not only continued, but even intensified its attempts to undermine Germany and Europe; (2) has adopted a more and more anti-German foreign policy; (3) has concentrated all its forces in readiness at the German border. Thereby the Soviet Government has broken its treaties with Germany and is about to attack Germany from the rear, in its struggle for life. The Führer has therefore ordered the German armed forces to oppose this threat with all the means at their disposal.
Letter From Hitler to Mussolini, June 21, 1941.

Months of anxious deliberation and continuous nerve-racking waiting are ending in the hardest decision of my life . . . Since the liquidation of Poland, there is evident in Soviet Russia a consistent trend, which, even if cleverly and cautiously, is nevertheless reverting firmly to the old Bolshevist tendency to expansion of the Soviet state . . . I have decided . . . to put an end to the hypocritical performance in the Kremlin . . . Since I struggled through to this decision, I again feel spiritually free. The partnership with the Soviet Union, in spite of the complete sincerity of the efforts to bring about a final conciliation, was nevertheless often very irksome to me . . . I am happy now to be relieved of these mental agonies.
ロシアの革命以来、巧妙に且つ効果的に行われたが、ソ連は今、この問題を抱える各国のポリシーヴェルキイ的立場に於いては常に一歩を進めるのが目的である。この決定はクレムリンの政策的進歩を示すものであり、これからの進歩的努力により遂げられる余裕を今確信である。
I, YOICHIRO KIDO, being duly sworn, do depose and say on my conscience that the following is true.

From 16 January 1940 to 21 July 1940, I was Prime Minister of Japan. I was also Navy Minister in the Koiso Cabinet; in 1945 Navy Minister in Suzuki Cabinet.

(2) At about the time of the Senior Statesmen's conference on October 17, 1941, it was thought that if TOJO were appointed Prime Minister he would first try to work out diplomatic relation with the United States before he would resort to war.

I know that at that time Marquis KIDO was of the opinion that TOJO was not recommended as Premier with the intention of initiating war with the United States. Furthermore General TOJO controlled the Army.

In December 1941 after the Japanese nation got the Imperial Rescript on the initiation of the war with the United States, nobody in Japan would talk about restoration of peace. This was only natural because every one wanted to do his best to execute the war and be patriotic. On the surface of things officially those people who held important positions in govern-
(1) I, GH. I., Kihara, being duly sworn, do depose and say on my conscience that the following is true.

From 16 January 1940 to 21 July 1940, I was Prime Minister of Japan. I was also Navy Minister in the Koiso Cabinet; in 1945 I was Navy Minister in Suzuki Cabinet.

(2) At about the time of the Senior Statesmen’s conference on October 17, 1941, it was thought that if TOJO were appointed Prime Minister he would first try to work out diplomatic relation with the United States before he would resort to war. I know that at that time Marquis KIDO was of the opinion that TOJO was not recommended as Premier with the intention of initiating war with the United States. Furthermore General TOJO controlled the Army.

In December 1941 after the Japanese nation got the Imperial Rescript on the initiation of the war with the United States, nobody in Japan would talk about restoration of peace. This was only natural because everyone wanted to do his best to execute the war and be patriotic. On the surface of things officially those people who held important positions in govern-
conference and nobody at it advocated peace. After the
conference I spoke with Marquis KIDO about the plan and
he said it was so poor that he thought it impossible to
continue the war and that something must be done to
restore the peace. He was waiting for the right time
and I got the impression that he was urging the Cabinet
to do something about it. He was one of the first and
foremost advocates of the restoration of peace.

On the 3rd day of June, 1948
at 1545 Fujimida, Fuguro.

J. O. . T. Y. 114). J. (131

I, Jito, Teiko, hereby certify that the above
statement was sworn by the Deponent, the affixed his signa-
ture and seal thereto in the presence of this witness.

On the same date
at the place.

Witness: /s/ Hito, T. (seal)

C.S.

In accordance with my conscience I swear to tell the
whole truth withholding nothing and adding nothing.

/s/ 101.1, Y. (seal)
(1) I, YOSHIKAZU KITASAWA, being duly sworn, do depose and say on my conscience that the following is true.

From 16 January 1940 to 21 July 1940, I was Prime Minister of Japan. I was also Navy Minister in the Koiso cabinet; in 1945 Navy Minister in Suzuki cabinet.

(2) At about the time of the Senior Statesmen's conference on October 17, 1941, it was thought that if TOJO were appointed Prime Minister he would first try to work out diplomatic relation with the United States before he would resort to war.

I know that at that time Marquis KIDO was of the opinion that TOJO was not recommended as Premier with the intention of initiating war with the United States. Furthermore General TOJO controlled the army.

In December 1941 after the Japanese nation got the Imperial Rescript on the initiation of the war with the United States, nobody in Japan would talk about restoration of peace. This was only natural because everyone wanted to do his best to execute the war and be patriotic. On the surface of things officially those people who held important positions in govern-
moment including. All could not talk about such things publicly but on the other hand intimate friends talked about ways of restoring peace and criticism of the war as being foolish. These things happened but on the surface nothing officially could be said.

Under such circumstances I remember having talks with Marquis Kido when we told one another frankly that this was a very awkward position and a foolish situation and we discussed what we could do about restoration of peace. From the beginning Marquis Kido had the same idea as I had about the war. The most important thing was what would be the proper time to start to talk about the restoration of peace. If peace talk was started too early it wouldn't work. I had such conversations from the beginning with Marquis Kido and he was very much concerned about this.

After May 1945 I remember more definitely various talks I had with him about the restoration of peace. On or about June 5, 1945 a special bureau for the investigation of the natural war resources presented a plan concerning the way to continue the war. This plan was brought up at an Imperial Conference. Marquis Kido did not attend this
conference and nobody at it advocated peace. After the conference I spoke with Marquis AIDO about the plan and he said it was so poor that he thought it impossible to continue the war and that something must be done to restore the peace. He was writing for the right time and I got the impression that he was urging the Cabinet to do something about it. He was one of the first and foremost advocates of the restoration of peace.

On this 3 day of May 1946
at 1545 Fujimidai, Fuguro.

I, IRIU, Teshiko, hereby certify that the above statement was sworn by the Deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date
at the place.

Witness: /s/ AIDO, Teshiko (seal)

I, IRIU, Teshiko, hereby certify that the above statement was sworn by the Deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date
at the place.

Witness: /s/ AIDO, Teshiko (seal)

In accordance with my conscience I swear to tell the whole truth withholding nothing and adding nothing.

/s/ IRIU, Teshiko (seal)
自分従我行ノハル方式ニミハイテ割ノ通リ官ヲ接シタル

上ノ如ク供達致シマス
右の如く立上人ノ所持ニテ官署且ツ名ヲ捺印シタルヲ認付

上陽ニ於テ

昭和廿三年（昭和十八年）二月三日

供進者

内

光

立上人

木戸家彦
Diagnosis

Name: Yonei, Mitsunaga.
Age: 68.
Address: No. 1,545 Fujimidai, Meguro Ward.
Name of Disease: High Blood Pressure.

The patient, suffering from the above disease, had an attack of suspected uremia on Jan. 23. It is necessary for him to take rest for the time being.

Feb. 3, 1943

Doctor: Igarashi, Tadao (seal)
No. 1552 Fujimidai, Meguro Ward, Tokyo.
I was Minister of Education in both Prime Minister's Cabinets from December, 1931 to May, 1934. Therefore while Mr. T. H. was Minister of War in both Cabinets, I was in the same Cabinets as one of his colleagues.

2. Minister of War T. H. and Finance Minister T. H. were confidential with each other and they often had discussions in Cabinet meetings. I remember one meeting during the period of our association, although I am not sure, at this time, of the date but I know it was a meeting for the completion of the budget where Mr. T. H. said "as soon as the armaments are completed the Contingent Group (he meant the Army and the Navy) turns bellicose:"
Mr. T. H. said "What do you mean? That the Army demands the completion of the minimum defensive armament to be able to avoid war, not the one of such extent as would enable it to initiate war against other countries. Furthermore I have tried to make the Army His Majesty's Army based on morality by Germanizing them and as I have often explained this to you I ask you to retract what you have just said." Then there was a sudden interruption of talk.

3. Mr. T. H. often said he was opposed to suppression of speech. In those days some quarters of the Army were nervous about the then current situation. Mr. T. H. would tell the Prime Minister what he had heard as rumors about the Army and I remember on one occasion he asked Mr. T. H. to cooperate with him in his endeavor to quell the over zeal of the young officers.

4. On reading some part of H.R.D.'s memoirs, I know his description is not accurate. It contains much of his own wishful narration and Cabinet meeting are not always faithfully reported in these memoirs.

5. At the conference held in the middle of March, 1932, a decision was reached not to make immediate recognition of Manchukuo, but the reason for this decision was not because it was feared to be in act of violating the Nine Power Treaty, but because they came to an agreement that it would not be too late to make the recognition after seeing the further development of the situation of Manchukuo which was difficult to foresee at that time.
6. Mr. Minister M. I. was thoroughly in favor of international cooperation and was not an advocate of isolationism.

At the cabinet meeting regarding our withdrawal from the League of Nations, the Mr. Minister did not make any active utterance. He left all the deliberations to the Foreign Minister but he was always counselling him to observe international treaties.

7. In a preparatory talk about the proposal of the Russo-Japanese Non-aggression Treaty, no cabinet member opposed it. But we hesitated to comply with it at once, as we could not fully understand the Soviet's true intention, for in those days the 3rd International's anti-Japanese activities were vigorous. We decided in such a way as to comply with the proposal after various opinions were exchanged between Japan and Russia. Mr. M.I. had no opinion different from that of any other cabinet member about it so he did not make any special utterance at the conference.
In accordance with conscience I swear to tell the whole truth, withholding nothing and adding nothing.

H. TOY. II. Ichiro (sar1)

On this 30th day of January, 1946
At Honolulu, Territory

Deponent: H. Toy. II. Ichiro (sar1)

I, Tsuchiuk Torubki, hereby certify that the above statement was sworn to by the deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date
At Honolulu, Territory

Witness: Tsuchiuk Tsuchiuk (sar1)
滋賀流氏自大兼と高倉大兼を大臣とし、何하거나信長し合って唐尙氏は、

しかし田中氏の入念な、左右に、同じく田中氏の足を切って、

（抄）
(2)
日ソ不可侵協約の条文、非公式的相談の時にに誰でも反対はあり

に條々意見を交換して後でもよいではないかと云ふ位の話であり

に回答した、兎木氏も他の同僚と異った意見を持ちつて答せんとした

別の関係で特別の連絡もありませんでした

(3)
日 本国

昭和元年十一月四日

国 南

大本営
I, MAEDA, Minoru, upon being duly sworn, depose as follows:

1. From 15 Oct., 1940 to 15 May 1942, as chief of the 3rd Section of the Naval General Staff, I was in charge of collecting and arranging all information with reference to the Navy. The rank I held then was Rear-Admiral.

2. During my tenure of the above-mentioned office, we of the Navy were never informed, directly or indirectly, by the German Govt., by Ambassador Ohira, our Naval Attaché to the Embassy in Berlin nor by any other Naval Personnel stationed
in Germany, of any such intentions as to use submarine to massacre crews of merchant vessels, or to kill the surviving crew of such vessels that were sunk by submarines, by shooting or otherwise. In addition, the Navy never received any report from anybody to the effect that Ambassador OSHIMA had such talks with Hitler concerning the killing of crew members in the manner as stated in the above.

3. I shall further add, that during my tenure of office of the above, I never heard anything discussed as to the intention on the part of the Japanese Naval Central Authorities to adopt such measures in killing crews as in the foregoing, nor ever received any information that the Japanese Navy committed such acts.

On this 4th day of Feb., 1948
At Tokyo

DEponent: Capt. Minoru (seal)

I her by certify that the above statement was sworn by the Deponent, who affixed his signature and seal thereunto in the presence of this witness.

On the same date
At Tokyo

Witness: (signed) SHIMANOUCHI, Tetsuki (seal)
in Germany, or any such intentions as to use submarines to massacre crews of merchant vessels, or to kill the surviving crew of such vessels that were sunk by submarines, by shooting or otherwise. In addition, the Navy never received any report from anybody to the effect that Ambassador Oshima had such talks with Hitler concerning the killing of crew members in the manner as stated in the above.

3. I shall further add, that during my tenure of office of the above, I never heard anything discussed as to the intention on the part of the Japanese Naval Central Authorities to adopt such measures in killing crews as in the foregoing, nor ever received any information that the Japanese Navy committed such acts.

On this 4 day of Feb., 1948
At Tokyo

Defendant: Major, Minoru (seal)

I herewith certify that the above statement was sworn by the Defendant, who affixed his signature and seal thereto in the presence of this witness.

On the same date
At Tokyo

Witness: (signed) Shimonomachi, Tetsuki (seal)
Oath

In accordance with my conscience I swear to
tell the whole truth, withholding nothing and omitting
nothing.

[Signature]

[Initials] Minoru
Translated by Defense Language Branch

Diagnosis

Name: Matsuoka, Chikao
Address: No. 6, 251 Hiroshiba, Katase-cho, Fujisawa

Name of Disease: Stomach Ulcer

Contracting stomach ulcer on Jan. 9, 1949, the patient is on a medical treatment, and needs to take one month's rest in bed.

Date: Feb. 3, 1949

Doctor: Matsuda, Isadzo (c/o)

No. 2340 Katase-cho, Fujisawa
Diagnosis

Name: MATSUMOTO, Shisco
Address: No. 2, 931 Hiroshimae, Katese-cho, Fujisawa.

Name of Disease: Stomach Ulcer

Contracting stomach ulcer on Jan. 7, 1949, the patient is not under medical treatment, and needs to take one month's rest in bed.

Date: Feb. 3, 1949
Doctor: M. TSUKI, Iosho (seal)
No. 2940 Katese-cho, Fujisawa
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

- vs -

OKI Sadao, et al

- Defendants -

AFFIDAVIT

SHIBAYAMA TAKUSHI

Having first duly sworn an oath as on the attached sheet, in accordance with the procedure prevailing in my country, I hereby depose as follows:

1. From March 1937 to July 1, 1938, I occupied the post of Chief of the Military Affairs Section of the "War Ministry," my function being that of handling business relating to China affairs, (I being the section chief concerned), such as liaison business, with respect to policies, between the "War Ministry" and the front troops, all of which went through my hands.

2. I have been shown Exhibit 3,269, from which it appears that Vice-Minister Umezu was reported to have gone to China, taking the outline of the decision of the Imperial Conference. This is quite incorrect. Other matters referred to in the same document likewise are not true—as for example that Commander Terachuchi requested the visit of the "War Minister" or Vice-Minister to Tientsin. It is true that Vice-Minister Umezu went to China at that time; however, his trip was made in the following circumstances.

3. The Japanese Government had at that time decided upon a policy of undertaking through German Ambassador Trautmann negotiations with Chiang Kai-shek for peace between Japan and China. On order of the War Minister I drew up, working with Director of the Foreign Ministry Bureau of Eastern Asiatic Affairs Tsuboi and Chief of the 1st Military Affairs Section of the Navy Ministry Hoshina, a plan for the peace negotiations. The Government meanwhile carried on discussions with Trautmann.

4. Since it was feared that some disturbance might occur among the soldiers at the front if the plan was realized, it was considered that it might be better if a preliminary understanding could be reached at the front. To carry out this intention of the War Minister, it was decided that the Vice-Minister, Lieutenant General Umezu, should be dispatched to the China front. I was ordered to accompany him.

5. We left Tokyo on January 9, 1938, visited Tientsin, Peking, Changsha, Kweichow, Pei-tung, Shihchiachwang and Tsinan, conveying the intention of the central Army authorities mostly to Army and division commanders. There was nothing conveyed to anyone in China of any such intention as it suggested in Exhibit 3,269, of not dealing with Chiang Kai-shek. We had in fact obtained agreement of the commanders in the field to the intention of the central authorities, mentioned above, of attempting to make peace with Chiang through the medium of Trautmann, and were ready to return to Japan, convinced that no disturbance would occur among the forces in the field when on January 16 the "Konoe Declaration" of "no further negotiation with Chiang Kai-shek" was issued, entirely nullifying our work.
Oath

In accordance with my conscience I swear to tell the whole truth, withholding nothing and adding nothing.

Shibayama Kenshiro (seal)

On this 4th day of February, 1948
At Tokyo

Deponent: Shibayama Kenshiro

I, Ikeda Sumihisa, hereby certify that the above statement was sworn to by the deponent, who affixed his signature and seal thereto in the presence of this witness.

On the same date
At Tokyo

Witness: Ikeda Sumihisa (seal)

Translation Certificate

I, Nishi Haruhiko, of the defense, hereby certify that I am conversant with the English and Japanese languages and that the foregoing is, to the best of my knowledge and belief, a correct translation of the original document.

Nishi Haruhiko (seal)

Tokyo
6 February 1948
THE HITLER-STALIN DRAMA AS REVEALED IN THE SECRET NAZI DOCUMENTS

The Story of the Fateful Years: 1939-1941

One of the most fateful periods of our times emerged from history into headlines last week when the United States Department of State published a 362-page paper-covered volume, "Nazi-Soviet Relations, 1939-1941." This volume is made up of records and documents of the German Foreign Office which were captured in the closing months of the war. What follows is a reconstruction of the history of the period, based on the documents and including salient quotations from them.

By JOHN DESMOND and ALLAN TAYLOR

In the spring of 1939 war was in the air. For six years Hitler had been attacking the "degenerate" democracies of the West and even more vehemently Soviet Russia and Communism. For six years he had been on the march in a bloodless (for the Nazis) conquest of Europe. Austria and Czechoslovakia had been overrun; Poland, the Reichsfuehrer had decided, was next on the list. Hermann Goering, Hitler's fat but energetic Air Reichsmarshal, boasted that the German Air Force is the terror of our opponents, and it will remain so.

Hitler had allies.

In Italy Il Duce was boasting that British power in the Mediterranean was forever broken. In 1936 he had added Ethiopia to the Italian Empire. He had just incorporated Albania into the Italian state. He shouted from the Palazzo Venezia: "We regard peace as a catastrophe for civilization and mankind."

In Spain Generalissimo Francisco Franco, newest of the dictators, had just snuffed out, with German and Italian aid, the last resistance of the Loyalist Government.

(One paragraph omitted)
Together these four nations represented only 225,000,000 persons -- one-ninth of the world's population -- but the world situation favored them. England was just beginning to rearm; France was torn by internal dissension and her military, although numerous, was outmoded. The United States was still strongly isolationist and was beset by domestic problems. Russia's course was uncertain.

Eight months earlier -- in the late summer of 1938 -- there had seemed to be a chance of a solid front among these nations against aggression by Germany -- and Germany's partners.

In September, 1938, Britain's aging Prime Minister, Neville Chamberlain, went to Munich to confer with Hitler, Mussolini and the French Premier. There the deal was made that gave Germany the Sudetenland (and paved the way for Hitler's occupation of all Czechoslovakia the following March). Chamberlain returned to London to proclaim "peace for our time."

Throughout this period there was one great enigma -- Soviet Russia. There were two theories as to the motives of the men in the Kremlin; one, that the Russians, motivated by fear that the Western Powers had given Hitler the "green light" at Munich to attack Russia; would try to come to terms with Germany; the other, that Stalin would take advantage of the tension in Europe to realize Russian Communist and nationalist-imperialist aims. According to this theory Russia would make a deal with Hitler and divide up Eastern Europe.

Hatred of Russia

Hitler had come to power and solidified his hold with the battlecry of "Down with the Communists." He had stated his glowing hatred for Russia in "Mein Kampf": "Never forget that the rulers of present-day Russia are common blood-stained criminals; that they are the scum of humanity."

But now Hitler was ready to play with "the devil" to realize his aims. He had already set a tentative date for the invasion of Poland. He and his military advisers -- like all German militarists in modern times -- lived in dread of a two-front war. An alliance with Russia would eliminate that threat.

Thus -- in the spring of 1939 -- the conditions were ripe for a rapprochement between the two most powerful Continental nations.

THE PACT

At this critical point in the early spring of 1939 the British sent a mission to Moscow to negotiate a defensive alliance against Germany. The talks were protracted, and although no progress was made, there was no sign that the Russians had other plans in mind. Yet it was at this crucial moment that Moscow put out its first cautious feeler to Germany, and thereby started the
dramatic diplomatic reversal that is now revealed in full detail in the German documents.

On April 17 the Russian Ambassador in Berlin called on Baron Ernst von Weizsaecker, Prussian State Secretary of the German Foreign Office. The Russian, Weizsaecker wrote in a memorandum, cautiously dropped a hint that "there is no reason why she (Russia) should not live with us on a normal footing."

The remark was seized upon by the German Foreign Office as a comment of potentially great importance. But Germany waited for a surer clue to Russia's change of mind.

The great clue came suddenly and dramatically on May 3. The Russian newspaper Pravda announced the appointment of a new Foreign Commissioner. Maxim Litvinov, the "old internationalist" who had negotiated Russia's entrance into the League of Nations and championed the alliance with the West, was out. Vyacheslav M. Molotov, bourgeois-born but an old-line Communist, was in.

The counselor of the German Embassy in Moscow wired home: "Molotov (no Jew) is held to be the most intimate friend and closest collaborator of Stalin."

There followed weeks of wary jockeying on both sides, Joachim von Ribbentrop, the former champagne salesman who became Hitler's Foreign Minister, took command of the German moves. Goering later said sneeringly of Ribbentrop that he was a Foreign Minister "who knew France only through wine and England through whiskey." Ribbentrop was known to refer to himself as Hitler's "loudspeaker," but he was an opportunist and he sensed the possibility of the greatest diplomatic coup of his career.

Interview with Molotov

On May 20, at Foreign Office direction, the German Ambassador to Russia, Count Friedrich Werner von der Schulenburg, called on Molotov. Schulenburg was regarded as one of the best trained and equipped of the German diplomats. In the weeks to come he was to be the principal negotiator. He found Molotov cold. Schulenburg reported to the Foreign Office, "Molotov had apparently determined to say just so much and no more. He is known for this somewhat stubborn manner."

In the meantime Molotov was still conferring with the British but the conversations were at arms' length. A few days later Schulenburg wired his Government, "We must be extremely cautious as long as it is not certain that possible proposals from our side will not be used by the Kremlin only to exert pressure on England and France."
Still there was no decisive turn. Through July the talks went on. Hitler's tirades against Poland increased anxiety in an already jittery world. Then, early in August, the tempo quickened. The date was drawing close for his "settlement" with Poland.

On Aug. 14 Ribbentrop sent a long and detailed memorandum to Schulenburg. It instructed him to make an urgent appeal to Molotov for a speedy agreement. Schulenburg carried out his orders. Reading from Ribbentrop's instructions, Schulenburg told Molotov, "The crisis which has been produced in German-Polish relations by English policy * * * (makes) a speedy settlement of German-Russian relations desirable.

Soviet Consent

Four anxious days followed. Hitler, ever distrustful of the Russians, fumed; he feared a z tremendous blow by the Russians. On Aug. 18 Ribbentrop again sent Schulenburg to Molotov with the urgent instructions, "The Fuehrer considers it necessary that we be not taken by surprise by the outbreak of a German-Polish conflict while we are striving for a clarification of German-Russian relations."

There was a vague note of warning to Russia in the instruction. Apparently Molotov missed it the same day when he conferred with Schulenburg. The interview was inconclusive. But half an hour after Schulenburg left Molotov he was called back to the Kremlin. Molotov said a Russian draft of a non-aggression pact was ready. Schulenburg could only assume "that Stalin had intervened." At any rate, it was agreed that Ribbentrop should come to Moscow on Aug. 23.

The conferences began early in the evening of Aug. 23 and lasted far into the night. This was the gist of Ribbentrop's report to Hitler:

Many subjects were covered — Japan, Italy, Turkey, England, France and the Anti-Comintern Pact. There was general agreement on most points. For example, Stalin agreed with him that "England was weak and wanted to let others fight for its presumptuous claim to world domination." They laughed over the fright the Anti-Comintern Pact had given "the City of London and the small British merchants." He (Ribbentrop) told a Berlin joke to the effect that "Stalin will yet join the Anti-Comintern Pact." Stalin laughed long. There were many toasts: "To Hitler, to Stalin, to the continued friendship of Germany and Soviet Russia."
The next day the world was stunned when a joint communique announced a ten-year non-aggression pact. The way had been cleared for Hitler's attack on Poland.

Secret Protocol

What was not announced but was equally significant was a secret protocol - The Protocol of Aug. 23. This was a document which divided Eastern Europe into Russian and German spheres.

The division between the spheres was a line running from the Baltic to the Black Sea and splitting Poland in halves. Everything east of this line was to be in the Russian sphere. In the north Russia was given a free hand in the Baltic States of Estonia, Latvia and Finland. In the south Russia was to get Bessarabia, which had been annexed after World War I.

Everything west of that line was in the German sphere - though there was no clear definition of the Balkan hegemony, which was later to be a sore point.

The Protocol said: "The question of whether the interests of both parties make desirable the maintenance of an independent Polish state and how such a state should be bounded can only be definitely determined in the course of future political developments." Until the final decision was made, Russia was to occupy Eastern Poland, Germany Western Poland.

In the pre-dawn of Sept. 1, Hitler personally issued the orders sending his troops into Poland. Two days later Britain and France declared war on Germany. The greatest war of history was on.

THE PARTITION

The sweep of the German armies across Poland was swift; swifter than the Germans themselves thought possible. The world saw the first demonstration of Blitzkrieg. On Sept. 3 Ribbentrop wired Schulenburg: "We definitely expect to have Poland beaten in a few weeks. * * * Please discuss this at once with Molotov and see if the Soviet Union does not consider it desirable for Russian forces to move at the proper time against Polish forces."

A week later German vanguards entered Warsaw and Russian incredulity gave way to belief and apprehension. On Sept. 10 Molotov saw Schulenburg again, and the German Ambassador sent home this message: "Molotov (said) that Soviet Government was taken completely by surprise by the unexpectedly rapid German military successes."
Then, M. T. turned to political aspects of the pending military action against Poland. He told Schulenburg that the Soviet Union would have to make some excuse "to make the intervention of the Soviet Union plausible to the masses and at the same time avoid giving the Soviet Union the appearance of an aggressor." The Russian then said, Schulenburg reported, "The Soviet Government * * * intended * * * to declare that Poland was falling apart and that it was necessary for the Soviet Union * * * to come to the aid of the Ukrainians and White Russians 'threatened' by Germany."

Now the time for action by Russia was at hand. At 2 A.M., Sept. 17, Stalin summoned Schulenburg to the Kremlin and told him that "the Red Army would cross the Soviet Border at 6 A.M. this morning." Russia took over the eastern half of Poland.

The Russians seemed eager to settle the Polish business as rapidly as possible. On Sept. 27 Ribbentrop arrived in Moscow. The conferences continued through the morning of Sept. 29.

In the agreements the Russians seemed to have the best of the bargain. The secret protocol of Aug. 23 was put into effect, with exceptions provided for in a new "Secret Protocol of Sept. 28." Under the new protocol Lithuania was transferred from the German to the Russian sphere, and in compensation there was an adjustment of the new Russian-German frontier in Poland in Germany's favor.

Moreover, the Russians, in a formal declaration, gave Germany moral support for her coming "peace offensive." The declaration said: "In case of continuation of the war, the Governments * * * shall engage in mutual consultations with regard to necessary measures."

Ribbentrop returned to Berlin not entirely satisfied with the Moscow settlements. But this dissatisfaction was tempered by the hope that - with the vaguely hinted prospect of a Russian-German alliance - the "peace offensive" might be successful. There would be time later to deal with Russia.

For Russia, the Moscow talks had paid off handsomely. The Russians had added thousands of square miles to their territory. They had a free hand - which they were soon to take advantage of - in the Baltic. They had restored much of the Polish territory they had lost in World War I. Finally, in case Germany turned on them, they were in a better position for defense than they had been before.
The first phase of Russian-German cooperation was over. As the second phase began there were signs of suspicions on both sides. Germany went ahead with her plans to talk and propagandize the West into submission. Russia began the systematic effort to make the most of her Baltic sphere, and Germany viewed her moves with distrust.

On Oct. 3, 1939, when Molotov proposed a gesture toward Lithuania, under the Secret Protocol of Sept. 28, Schulenburg said: "Molotov's suggestion seems to me harmful, as in the eyes of the world it would make us appear as 'robbers' of Lithuanian territory, while the Soviet Union figures as the donor."

Russia made demands on Finland for bases and territory. Finland rejected them. Russia invaded Finland on Nov. 30. Germany was silent. In France and England some saw a chance to aid the Finns and thus start an offensive that eventually might be turned against Germany. Volunteers were recruited, funds were raised. There was talk of an Anglo-French expedition to help Finland. Germany was not displeased, because these developments seemed likely to curb the Russians, at least temporarily.

Campaign in Finland

Over the winter the Russians made little headway against the Finns. The Russian losses were heavy, the Finns' relatively light. There were contemptuous reports that Germany was growing lukewarm toward her partner. On March 12, 1940, Finland surrendered.

On April 9 Schulenburg told Molotov of the invasion, that morning, of Scandinavia. Schulenburg's report of the conversation said: "Mr. Molotov said literally: 'We wish the Germans complete success.'"

By the end of April the Scandinavian conquest was virtually over, Hitler was ready for his next move. On the morning of May 10 Schulenburg again called on Molotov and informed him of the invasion that morning of the Lowlands, "because of the impending Anglo-French push on the Ruhr region by way of Belgium and Holland."

The Nazi Blitzkrieg against the West amazed the world. In early June the British made their heroic evacuation of Dunkerque. On June 10 Italy entered the war - "the stab in the back" Roosevelt called it. The Russians were plainly scared. They had
counted on a long campaign in the West. Now Hitler seemed on the verge of complete victory and Russia might be his next target.

On June 14 Weizsäcker at the Foreign Office wired Schulenberg at Moscow this confidential message:

Secret Report.

"From a strictly secret source with which you are acquainted it has come to our knowledge that the Soviet Minister in Stockholm, Frau Kollontai, recently stated to the Belgian Minister there that it was to the common interest of the European powers to place themselves in opposition to German imperialism."

During the German drive the Russians had collected final dividends on the Protocol of Aug. 23, 1939. Lithuania, Latvia and Estonia were fully incorporated into the Soviet Union. Bessarabia was detached from Romania and added to Russia.

Now in the summer and early autumn of 1940, came the "Battle of Britain" when Hitler tried to bomb England out of the war.

The Kremlin watched intently. Would Hitler try to invade England? If not, where else were the destructive energies of his fighting machine to be employed? Russia speeded up her industries, strengthened the Red Army and consolidated her gains against the day of need.

By mid-September, 1940, it was clear that the air blitz against Britain had failed. Hitler turned his eyes back again to the East. On Nov. 13, an event of great significance took place.

On that day Molotov and Hitler had a fateful meeting in Berlin. Germany had long pressed for the Molotov visit, partly because it was considered a required diplomatic courtesy in return for Ribbentrop's two trips to Moscow the year before. It was Molotov's first journey outside of Russia. It was his first and last meeting with Hitler. Apparently there had been little preparation for the conference. Hitler wanted Molotov to sign a four-power treaty - Germany, Russia, Italy and Japan - to divide up the world. Molotov balked. He was afraid of a double-cross by any or all of the other three.

The conference was a failure. Molotov and Hitler did not get along either diplomatically or personally. Later the clever von Papen declared that it was at this meeting that Germany lost the war.
As 1940 drew to its end Hitler stood victorious in the west, but he had not eliminated Britain. What if Russia then turned against him? He was still haunted by the spectre of a two-front war.

In his massive Berlin Chancellery and his eyrie at Berchtesgaden he pondered the alternatives, reached a decision. He would smash Russia while his hands were still free in the west.

On Dec. 18, 1940, he issued a top secret "Fuehrer's Directive" for Operation Barbarossa, one of history's most grandiose military plans. It was a project aimed at the destruction, with some help from Finland and Rumania, of the Red Army along a 2,000-mile front, and the occupation of all Russia west of the Volga. The time was not set. Great secrecy was enjoined. "It is to be considered of decisive importance," warned the directive, "that the intention to attack is not discovered."

Before the blow could be launched it would be necessary for Hitler to guard his southern flank by strengthening Germany's position in the Balkans. In Moscow there was growing suspicion over Hitler's plans.

On Jan. 17, 1941, Schulenburg sent this report of a statement by Molotov: "According to all reports available here, German troops in great numbers were concentrated in Rumania and ready to march into Bulgaria, Greece and the Straits. There was no doubt that England would try to forestall the operations ** The Soviet Government regarded it as its duty to call attention to the fact that it would consider the appearance of any armed forces on the territory of Bulgaria and the Straits as a violation of the Security interests of the U.S.S.R."

Ribbentrop replied through the Foreign Office: "It is the unalterable intention of the Reich Government not under any circumstances to permit English military forces to establish themselves on Greek territory."

Events in the Balkans were drawing rapidly to a crisis. Rumania, Hungary and Bulgaria were already in the German camp, and the Nazis were fast slipping their net around Yugoslavia. But in March 27 the Yugoslav revolution swept from power the subservient government of Prince Paul. The Yugoslavs were ready to fight for independence.
Hitler and the World

At this time Hitler, with his long-range plans of smashing Russia and going on to world power, began negotiations with Japan. On March 27 he began a series of conversations in Berlin with dapper Japanese Foreign Minister Yosuke Matsuoka. Hitler urged the Japanese to take aggressive action and promised to fight Russia and the United States if either became involved in war with Japan. A memorandum of the conversations revealed the line he took:

"Germany was watching the Soviet Union closely and - this Matsuoka should realize clearly - she was prepared for any eventuality. Germany would not provoke Russia; but if the policy of Stalin was not in harmony with what the Fuhrer considered to be right, he would crush Russia."

On April 4 Moscow sprang a surprise, Molotov summoned Schuleenburg and informed him of a Russian-Yugoslav friendship and non-aggressive pact to be signed immediately. He quoted Molotov to this effect: "In its decision * * * the Soviet Government had been actuated solely by the desire to preserve peace. It knew that in this desire it was in harmony with the Reich Government, which was likewise opposed to an extension of the war."

"I replied to Molotov," wrote the German Ambassador, "that in my estimation the moment chosen by the Soviet Union for the negotiation of such a treaty had been very unfortunate. * * * The policy of the Yugoslav Government was entirely unclear, and its attitude * * * toward Germany was challenging."

Two days later the German war machine struck at both Greece and Yugoslavia. Schuleenburg was directed to inform Molotov of the strokes, giving the usual excuse of the danger of British invasion of the Balkans. He reported to Berlin the effect of the news:

"After I had made to Molotov the communications prescribed he repeated several times that it was extremely deplorable.* * *

Showdown at Hand.

The time for unmasking was near. From this point on there was a rapid deterioration in even the outward aspects of partnership. Soon Russia was protesting sharply over alleged violations by German planes of the Soviet boundary. In turn the German High Command complained to the Foreign Office of "almost daily" border violations by Soviet planes.
By this time the eight weeks of special preparations allotted in the Fuehrer's secret directive for war with Russia were already under way. Rumors mounted of Russian and German troop concentrations along the borders. Spring turned into fateful summer.

On June 22, 1941, came the dramatic climax to the diplomatic subterfuges of the two-year "partnership." Ribbentrop directed Schulenburg to see Molotov at once and present him a declaration.

It contained a point-by-point indictment of Russia for various alleged infractions of the non-aggression agreement, including subversive activities against Germany, the spreading of Soviet military might westward whenever possible and attempts to marry bolshevism further into Europe.

Order to Attack

In summation, it stated:

"The Fuehrer has therefore ordered the German Armed Forces to oppose this threat with all the means at their disposal."

At dawn the next morning the armed might of Germany - 180 divisions - launched Hitler's great drive into the fastnesses of Russia. The great drama of slaughter and destruction that in the end was to bring death to Hitler and ruin to Germany had begun.

But at the time the Fuehrer seemed to have little doubt of a successful outcome. In a letter to Il Duce he assessed the situation optimistically, though frankly admitting he had embarked on a tremendous task. He had at last done something he had long wanted to do.

"In conclusion," he wrote, "let me say one more thing, Duce. Since I struggled through to this decision, I again feel spiritually free. The partnership with the Soviet Union, in spite of the complete sincerity to bring about a final conclusion, was nevertheless often very irksome to me, for in some way or other it seemed to me to be a break with my whole origin, my concepts, and my former obligations. I am happy now to be relieved of these mental agonies."
Eugen Ott rose to Major General and from Assistant Military attaché to military attaché and finally to ambassador, Sorge's access to the best German information in Japan became established. Ott found Sorge's information and advice invaluable and needless to say the 4th Bureau in Moscow, through Sorge, found Ott's information even more invaluable. With the passage of years Ott came to show his official documents quite freely to Sorge, to exchange views and to keep him informed. Similarly, the Military Attaché, the Air Attaché, the Naval Attaché and the Gestapo chief attached to the Embassy from 1940, Colonel Joseph Meissinger, came to trust and rely on Dr. Richard Sorge. Only the Naval Attaché seems to have doubted him, and not on any suspicion of Soviet loyalties but because he didn't like him. Naturally, it took many years for Sorge to arrive at this incredible position of trust at the German Embassy, but by 1939 he had covered the full route. After the outbreak of the European war Ott designated Sorge as press attaché of the embassy, putting him on the German payroll, and giving him the strength of official position. Most mornings after Sorge had pounded out the press releases on the progress of the war in Europe, he joined the ambassador over late breakfast. Sorge had much to give the ambassador in the way of Japanese gossip and fact, and in turn the ambassador had much to tell Sorge. He showed Sorge the instructions from home and his proposed replies. Having the ambassador's example, he did the other chief members of the mission, the officer closest to Dr. Richard Sorge, Soviet Spy, being none other than Colonel Meissinger of the Gestapo. On occasion Sorge memorized the essentials of these documents and conversations, and sometimes he recorded the documents with his ever present camera. Like de Vouketch he was an incorrigible amateur camera enthusiast.

After 1939, with his office at the German Embassy, and in effect a part of that embassy's intelligence organization, Sorge's position was perfect for learning everything about Japan, its capacities and intentions, that was known to Japan's ally, Germany. There was much unknown to the German allies, however, and this information Sorge had to gather in other ways. After the signing of the Tripartite Pact on 27 September 1940, however, the Japanese Army and "avy General Staff discussed their problems far more freely with appropriate members of the German Embassy.

 treatment of information by different organizations, and the importance of maintaining secure channels of communication. It also highlights the critical role of intelligence gathering and the challenges faced by agents in gaining trust and access to high-level information.
As Colonel Eugen Ott rose to Major General and from Assistant Military attache to military attache and finally to ambassador, Sorge's access to the best German information in Japan became established. Ott found Sorge's information and advice invaluable and needless to say the 4th Bureau in Moscow, through Sorge, found Ott's information even more invaluable. With the passage of years Ott came to show his official documents quite freely to Sorge, to exchange views and to keep him informed. Similarly, the Military Attache, the Air Attache, the Naval Attache and the Gestapo chief attached to the Embassy from 1940, Colonel Joseph Meissinger, came to trust and rely on Dr. Richard Sorge. Only the Naval Attache seems to have doubted him, and not on any suspicion of Soviet loyalties but because he didn't like him. Naturally, it took many years for Sorge to arrive at this incredible position of trust at the German Embassy, but by 1939 he had covered the full route. After the outbreak of the European war Ott designated Sorge as press attache of the embassy, putting him on the German payroll, and giving him the strength of official position. Most mornings after Sorge had pounded out the press releases on the progress of the war in Europe, he joined the ambassador over late breakfast. Sorge had much to give the ambassador in the way of Japanese gossip and fact, and in turn the ambassador had much to tell Sorge. He showed Sorge the instructions from home and his proposed replies. Having the ambassador's example, he did the other chief members of the mission, the officer closest to Dr. Richard Sorge, Soviet Spy, being none other than Colonel Meissinger of the Gestapo. On occasion Sorge memorized the essentials of these documents and conversations, and sometimes he recorded the documents with his ever present camera. Like de Voukelitch he was an incorrigible amateur camera enthusiast.

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These embassy officials in Riki asked Sorge for his opinions. Indeed, Sorge was one of the primary architects of that Axis Pact. General Ota had felt so indebted to Sorge for his work in the development of the Tripartite Pact that he intended to have Sorge present at the official signing in Tokyo: Hitler's special representative, Dr. Heinrich Stahmer, who had come ever from China to complete the treaty, however, objected, and Sorge was not present. Stahmer had a suspicion of Sorge's integrity. At most he must have been jealous of sharing credit with a relatively unknown and minor figure. There is nothing more ironical in the history of the Sorge ring, however, than Sorge's part in bringing on the Tripartite Pact which inevitably hastened the war and Ozaki Hozumi's part, related later, in establishing the Imperial Rule Assistance Association.

(pages 24-25)
Defense Document 3019

**********Ott was out of sympathy with the Nazi pro-
gram, but he went along with the orders from his
government. He had only arrived in Japan in 1933,
being transferred out of Germany by higher ranking
officers who feared for his safety in the Nazi purges
then under way. Whatever Ott knew or thought about
Germany he knew almost nothing about Japan, and he was
delighted to find in his new friends Richard an extra-
ordinary fund of information on things Japanese, and
on Japanese politics and trends, as well as sage advice.
When Ott made his next grade and was stationed in Tokyo
his friendship with Sorge deepened and their meetings
came to be more and more frequent**********

(p. 20)
サイドン、オットデ数剣を少しに長り米過在を戒ず
より長々と居ぎり、オットデの師を

告げた。オットデは定見を

し、長々と居めて

るためとして

る
ソルゲは日本側ゴシップと猿飛の方山に於て大笑に帰る所\nは多くあり。それに黒に於て大笑もソルゲに語る事は多數に常\n合わせた。彼はソルゲに未記よりの告合と彼の周則風景を示し\nた。大便の内に遊ぶ大笑顔の彼の主要な人々にと収入り。ソル\nゲートのスパイハルド・ソルゲ将士は、彼の風俗を示し\n更にゲスターブのマインスカール大佐其人であった。ソルゲは彼\n放さなかったカメラを以てそれらを撮影した。また時にはその楽器を\nデ・ヴォーゲリツナの如く彼も藝人服影狂であつた。
昭和十四年以後、ドイツ大使館に勤務した事務官が持ち帰った軍事情報を基に、この資料が作成された。

1. よく知る敵の仕事
2. 何故、ドイツがこれにかかる情報
3. 特に日本に、何本の情報が、使ったか、
4. 并し昭和十一年九月二十七日には、
   三面機密が、発表して、以後は、
   何本の情報が、
5. どうして、
6. 知る敵の仕事
7. 何故、ドイツがこれにかかる情報
8. 特に日本に、何本の情報が、使ったか、
9. 并し昭和十一年九月二十七日には、
   三面機密が、発表して、以後は、
   何本の情報が、
外交関係三〇八六

外交関係三〇八六

外交関係三〇八六

外交関係三〇八六

外交関係三〇八六
ナットン・カトウェツにたたえ、彼の仕事にたいして、彼はきょうを示すべき事をしたり、また如何をかうを考えてみたかつた。
Sorge Report for USSR - German Pact: The European picture was very clear in the spring of 1939. The USSR had a choice of negotiations either with the Anglo-French or the Germans. After they had learned from Sorge that the Germans had proposed to Tokyo, with the support of Ambassador General Oshima Hiroshi, an alliance directed against the USSR and Great Britain, but that the Cabinet, the navy and the Zaibatsu were all opposed to such an alliance and had blocked it, the Soviet Government itself entered into the famous, and disastrous, non-aggression pact with Nazi Germany in August 1939. It will be recalled that it was the signature of this pact, securing Hitler's eastern frontier, which precipitated the second world war by the invasion of Poland.

At the time of the "Nomonhan Incident," in the summer of 1939, when the Red Army and the Japanese Kwantung Army engaged in a full-scale, local war, the Red Army was able to learn Japan's intentions. They learned what units were being dispatched from what parts of Manchuria, as well as what reinforcements would come from Japan. Above all, they learned that the Japanese Government did not intend to exploit this incident, but intended to settle it locally, and the Russians conducted themselves accordingly. Aside from his sources in Tokyo, Sorge was able to get a good on-the-spot report from de Voukelitch who as a correspondent was taken to Nomonhan as the guest of the Japanese Army. The Japanese assessment of their lessons at Nomonhan, especially their need to mechanize all their forces and develop armored divisions on the German model, was transmitted by Sorge on the basis of information gathered both by the German Embassy and by Miyagi.

Sorge sent a reliable account of Japanese output of munitions, aircraft and motorcars, along with the report on the factories making these materials as well as iron and steel on 16 February 1940. From time to time, he brought these figures up to date. In August 1941 he reported on Japanese petroleum resources, a top secret bit of information of the most vital importance in estimating both Japanese war plans and capabilities. He reported that there was in storage in Japan sufficient petroleum for a two year's use by the navy, half a year by the army and half a year by the nation at large. His sources were the German Embassy and Miyagi.
Defense Document

**** a. Sorge Reveals Way For USSR - German Pact: The European picture was very clear in the spring of 1939. The USSR had a choice of negotiations either with the Anglo-French or the Germans. After they had learned from Sorge that the Germans had proposed to Tokyo, with the support of Ambassador General Oshima Hiroshi, an alliance directed against the USSR and Great Britain, but that the Cabinet, the navy and the Zaibatsu were all opposed to such an alliance and had blocked it, the Soviet Government itself entered into the famous, and disastrous, non-aggression pact with Nazi Germany in August 1939. It will be recalled that it was the signature of this pact, securing Hitler's eastern frontier, which precipitated the second world war by the invasion of Poland.

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1941 was the crucial year. After earlier general reports, on 20 May 1941, Sorge flashed the urgent warning that the Reichswehr would concentrate from 170 to 190 divisions on the Soviet frontier, and on 20 June would attack along the whole frontier. The main direction of the drive would be toward Moscow. It will be recalled that this attack did occur on 22 June. Naturally, thereafter, the answer to the question of Japanese attack from the east became the most vital mission of the Sorge ring. All questions, whether of Japanese-American relations, the war in China or internal politics were subordinated to answering that basic question. Without a sound answer the Red Army could not draw on their Far Eastern Army for use in the west, and, as the event showed, only a massing of limitless reserves made possible the stopping of the violent German thrusts.

Sorge could not come by the answer immediately, partly because it had not been decided definitely by the responsible Japanese authorities. Naturally, Ambassador Ott was urging the Japanese to enter the war and distract the Russians on their eastern frontier. Sorge was able to report on 2 July, immediately after the Imperial Council of that date, that the Japanese Government had decided to push southward into French Indo-China and seize various bases. Meanwhile, while adhering to their neutrality treaty with the USSR, in view of the possibility of war with the Soviet Union, they would mobilize their whole forces. Late in July Sorge reported that a few troops from the Tokyo-Osaka areas had been sent south, but that to advance into Thailand and Malaya they needed 300,000 men. So far there were only 40,000 men in Indo-China.
ソルゲ、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた、ソルゲの派生の研究を進めた。
一九四一年は決定的な年であった。
防軍ソヴィエト圏に一九〇乃至一九〇師団を集結し、庶して六月二十日には全戦線にて攻撃の梁に出ずるである。先そして主としてキスコの方角へ向って進撃するであろう。とふも急務に警戒がソルゲー軌にとつて最も重大な使命となっているのであった。
日常経済のことでありと中立に於ける戦争又は国内の政治に於ますことで、この真実の発見を期することを出来なたのかどうしたとの、対立の激しい反対を示してゐるやうに、それは在日軍の名を是正しに来の和解であった。
ソルゲはすぐに返答をうけなかった。それは一つにはこの問題にかんがみ日本はその全力を動員することに決定した旨を報告す

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"タイ及びマレイに進撃するためには三十分の兵力を発する必要がある
と述べた。
General Douglas MacArthur
Supreme Commander for the Allied Powers
Tokyo, Japan

Dear General MacArthur:

"Mr. Ohta of the Central Liaison Office, Imperial Japanese Government, acting in behalf of Japanese suspects who expect to be indicted and tried as major war criminals, appeared at a conference of the Judges of the International Military Tribunal for the Far East now in Tokyo to present certain requests for the services of British and American lawyers to be associated with Japanese counsel for the defendants in the forthcoming trials.

The suggestion of Mr. Ohta that the services of American or British lawyers, in association with the Japanese lawyers representing the defendants, will be necessary to an adequate defense and a fair and impartial trial of those accused is in accord with the views of the members of the Tribunal that all reasonable facilities be made available to defendants for their adequate defense and a fair trial. We consider the request for American and British lawyers as a reasonable one that should be granted.

The splendid record of American lawyers who have served in various capacities in previous trials of war criminals and the practical difficulties presented in securing British lawyers lead us to the conclusion that the appointment of lawyers from the United States will substantially satisfy the request for Anglo-Saxon counsel and the reasons urged in support thereof.

The Judges therefore suggest that American counsel be made available in Tokyo to meet the need for supplementing the Japanese Counsel for the accused by Anglo-Saxon counsel and that it is desirable these Counsel arrive in Tokyo at the earliest possible date to avoid undue delay. I, therefore, request that as soon as possible you set in motion the machinery necessary to gather together lawyers of suitable experience and qualifications who may be provided to Japanese defendants. An appropriate number should be secured to furnish at least one American lawyer for each defendant to be tried.

Yours sincerely,

EHN
Acting President
Mr. Justice E. H. Northcroft

CERTIFIED TRUE COPY

/s/ Roland J. Schwartz
ROLAND J. SCHWARTZ
Captain, TC
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Mr. Justice F. H. Northcroft  
Acting President  
International Military Tribunal for the Far East

Dear Mr. Justice Northcroft:

The suggestion of Mr. Ohita that British and American lawyers be associated with Japanese counsel to defend major Japanese war criminals charged before the International Military Tribunal for the Far East has my full approval.

The administrative and transportation problem will be much simplified by obtaining personnel for this purpose from the United States. To that end and to avoid delay, on February 21, 1946, the Judge Advocate General's Department in Washington was requested to select from Army, Navy or civilian personnel fifteen to twenty attorneys of suitable experience and qualifications to act as a panel from which might be drawn by selection or by Court appointment counsel for defendants charged. On March 7, 1946, the Judge Advocate General's Department advised that arrangements were being made to send fifteen defense attorneys, principally civilians, sufficient military personnel not being available.

Today a requisition has gone to the Judge Advocate General in Washington to increase from fifteen to twenty-five the number of lawyers to be sent, they to be of suitable experience and qualifications to assure the Japanese defendants proper representation and adequate defense. Appropriate travel priority will be provided to insure the presence of these attorneys in Tokyo at the earliest possible moment.

Sincerely yours,

(Drilled) Douglas MacArthur  
DOUGLAS MacARTHUR

CERTIFIED TRUE COPY

/s/ Roland J. Schwartz  
ROLAND J. SCHWARTZ  
Captain, TC
ERRATA SUZUKI

p.2005 3090

編集者文芸第三〇九〇


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129②を30迄と訂正いたします。
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DEFENSE SUBMISSION OF KENJI DOIHARA

Page 19
In the 3rd paragraph in the 2nd line thereof the word "robing" should be "roving".

In the next line thereunder, the word "to" should be changed to "for" and the following word which is spelled "centuries" should be changed to spell "centuries".

Page 20
The last 4 words appearing on the bottom of the page that is "while in the office" should be stricken.

Page 22
In the 2nd line of the 2nd paragraph, the comma appearing between the words "hardly" and "worthy" should be stricken.

Page 23
In the 9th line from the bottom of the page there should be inserted between the words "Lukden" and "significance" the following words: "by Dohihara is" so that it will read: "* * the Mayoralty of Lukden by Dohihara is significant * *"

In the 3rd line from the bottom, a quotation mark should be placed immediately following the word "city".

Page 24
In the 10th line the comma following the word "Dohihara" should be deleted.

Page 29
In the 5th line from the bottom of the page the word "spend" should be changed to "spent".

Page 35 and 36
The last 4 words on page 35, that is, "with Fu-Yi after the" should be followed by the insert at the top of page 36 of the following words: "alleged kidnapping. As a so that it will read: "* * * Fu-Yi after the alleged kidnapping. As a matter of fact * * *"
Page 38 In the 1st paragraph in the 8th line from the bottom of the paragraph the word 'such' appears 2 times. The 2nd one should be deleted.

Page 40 In the 7th line of the 2nd paragraph there appear the following letters: "Seccept". The letter 's' should be deleted so that the word appears, "accept".

Page 42 In the 2nd paragraph on page 42 in the 10th line appear the words: 'Published a telegram'. The punctuation mark should be changed so that 3 asterisks appear after the word "telegram" followed by a quotation mark. The 3 quotation marks appearing at the beginning of the 11th line should be deleted.

Page 43 In the 4th line from the bottom the 3rd word should be change to read, "USUAL-TUNG".

Page 51 In the 8th line from the top of the page, the comma appearing after the word 'evidence' should be deleted.

Page 56 In the 2nd line from the bottom, the 3rd word in the line should be changed from 'on' to 'in'.

Page 74 In the 5th line of the 2nd paragraph the word "THE" should be changed to "TEH" and in the 9th line of the same paragraph the word "CHIN-TEH-CHUN" should be changed to "CHIN-TEH-CHUN".

Page 75 In the 8th line from the bottom of the page the last word should be changed from 'send' to "sent" and in the following line the word "to" appears twice. One of them should be deleted.

Page 76 In the 2nd line on the page the last 4 words in the line, that is 'be seen to be' should be deleted and the word "is" inserted in their place.
In the 7th line from the bottom of the page the word 'autonomous' is misspelled and should be corrected.

In the 9th line from the top of the page the word 'matter' should be changed to 'manner'.

In the 8th line from the top of the page immediately following the words, 'with him' a period should be inserted.

In the 2nd line of the page there should be inserted between the last 2 words the word 'in' so that the last 4 words in the line will read: 'towards appearing in the * * *

In the 10th line on page 5 the word 'end' should be changed to 'our'.

- 3 -
Delete "(BE 4)" in first line.

Page 3

Last word on page is "of".

Page 4

9th line from bottom, 3rd word in line is "prior".

Next to last line, change "to" to "no".

8th line from bottom, delete comma after the word "Ordinances".

Page 7

The indication of footnote "(b)" should follow the word "effective" in 5th line of fourth paragraph. Delete "(b)" from following line.

Page 8

4th line from top of page, the word after "address" should be "went".

In same paragraph, 3rd line from bottom change "and" to "on".

Page 10

Footnotes should be amended to read "October 20, 1947" instead of "1948".

Page 22

Delete "26" before second paragraph.

Delete the numbers "27" and "28" in footnotes.

Page 21

11th line from bottom, the word following "they" should be "know".

Page 27

12th line from bottom after "outright nonsense" indicate footnote "(c)".

Add footnote as follows:

"(a) Pros. Sum. Per. 88, P. F 10."

Page 28

12th line from bottom, delete last word on line so sentence will read "****out of office until December 1940****"
Page 1: Delete "(DE 4)" in first line.

Page 2: Last word on page is "of".

Page 4: 9th line from bottom, 3rd word in line is "prior".

next to last line, change "to" to "no".

8th line from bottom, delete comma after the word "Ordinance".

Page 7: The indication of footnote "(b)" should follow the word "effective" in 5th line of fourth paragraph. Delete "(b)" from following line.

Page 8: 4th line from top of page, the word after "address" should be "went".

In same paragraph, 3rd line from bottom, change "and" to "an".

Page 15: Footnotes should be amended to read "October 20, 1947" instead of "1948".

Page 27: Delete "28" before second paragraph.

Delete the numbers "27" and "28" in footnotes.

Page 31: 11th line from bottom, the word following "they" should be "know".

Page 37: 12th line from bottom after "outright nonsense" indicate footnote "(c)".

Add footnote as follows: "(a) Pros. Sun. Par. F8, P. F 10."

Page 48: 12th line from bottom, delete last word "in" line so sentence will read "out of office until December 1940".
ERRATUM SHEET
DEFEND: SHIZUKU
HIICHIRO HIRANUKA

Page 1  Delete "(BE 4)" in first line.

Page 3  Last word on page is "of".

Page 4  9th line from bottom, 3rd word in line is "prior".

      Next to last line, change "to" to "no".

      8th line from bottom, delete comma after the word "Ordinances".

Page 7  The indication of footnote "(b)" should follow the word "effective" in 5th line of fourth paragraph. Delete "(b)" from following line.

Page 8  4th line from top of page, the word after "address" should be "went".

      In same paragraph, 3rd line from bottom change "end" to "on".

Page 15 Footnotes should be amended to read "October 20, 1947" instead of "1948".

Page 27 Delete "28" before second paragraph.

      Delete the numbers "27" and "28" in footnotes.

Page 31 11th line from bottom, the word following "they" should be "know".

Page 37 12th line from bottom after "outright nonsense" indicate footnote "(a)"

      Add footnote as follows:

Page 43 12th line from bottom, delete last word in line so sentence will read "out of office until December 1940"
In 2nd paragraph, third line down, delete the name after "1941" and continue the sentence with the following:

"... when Togo was recommended as Prime Minister."
| 頁 | 行 | 件
|---|---|---
| 四四 | 四三 | 一
| 四二 | 四一 | 一
| 一一 | 二 | 一
| 三 | 五 | 〇

左ノ通り訂正

発送文書第三○八號

平沼が--九四一年

def人かなる通り

平沼が--九四一年

にかなる通り

平沼が-九四一年

に明かなる通り

平沼が-九四一年

正

誤

最終解釈

表
Draft Sheet

F. 47  4th line -------------- Insert "not\after "would".

P. 82  5th line from bottom - Change "c" to "f".

P. 109  1st line -------------- Insert "planned" between "for" and "war".

F. 116  2nd line -------------- Change "way" to "war".
<table>
<thead>
<tr>
<th>質問</th>
<th>司令官</th>
<th>海軍署</th>
<th>陸軍署</th>
<th>書類</th>
<th>件目</th>
</tr>
</thead>
<tbody>
<tr>
<td>15行</td>
<td>1行</td>
<td>3行</td>
<td>23行</td>
<td>2行</td>
<td>4行</td>
</tr>
<tr>
<td>表面</td>
<td>質問</td>
<td>司令官</td>
<td>海軍署</td>
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<td>23行</td>
<td>2行</td>
<td>4行</td>
</tr>
</tbody>
</table>

正

誤
ERRATA No. 2

KIDO's Summation

1. Page 139, Para. 165, eliminate last two sentences.
On page 10, line 1, please insert the words "requested by the Prosecution to be" between the words "was" and "changed."
北条

一九四五年三月十日

前々日ドイツと日本との間で紫金山盟誓及びこれ上の為以上の盟誓がなかったという事数

（原稿内はマーシャル元帥報告）外務及び太平洋に於ける

並びに一頁及び

一頁よりの改訂）
このドイツの努力はなかったかったが日本の方も同様であった。