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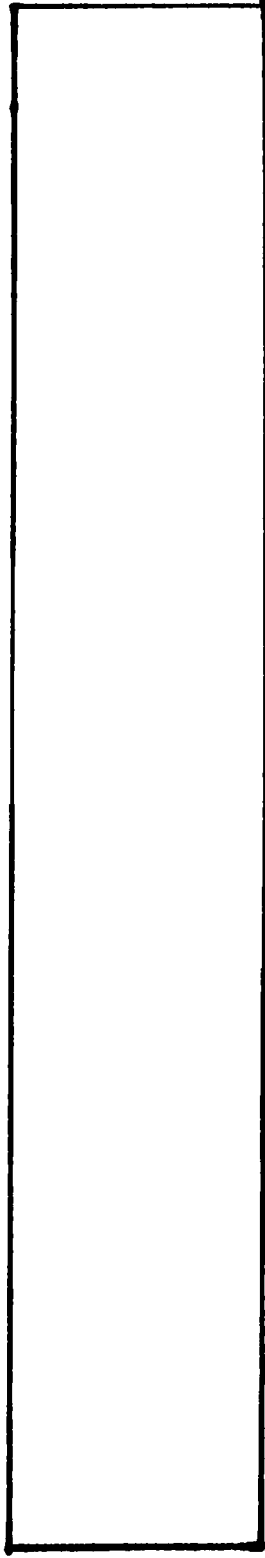
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PROGRAMME

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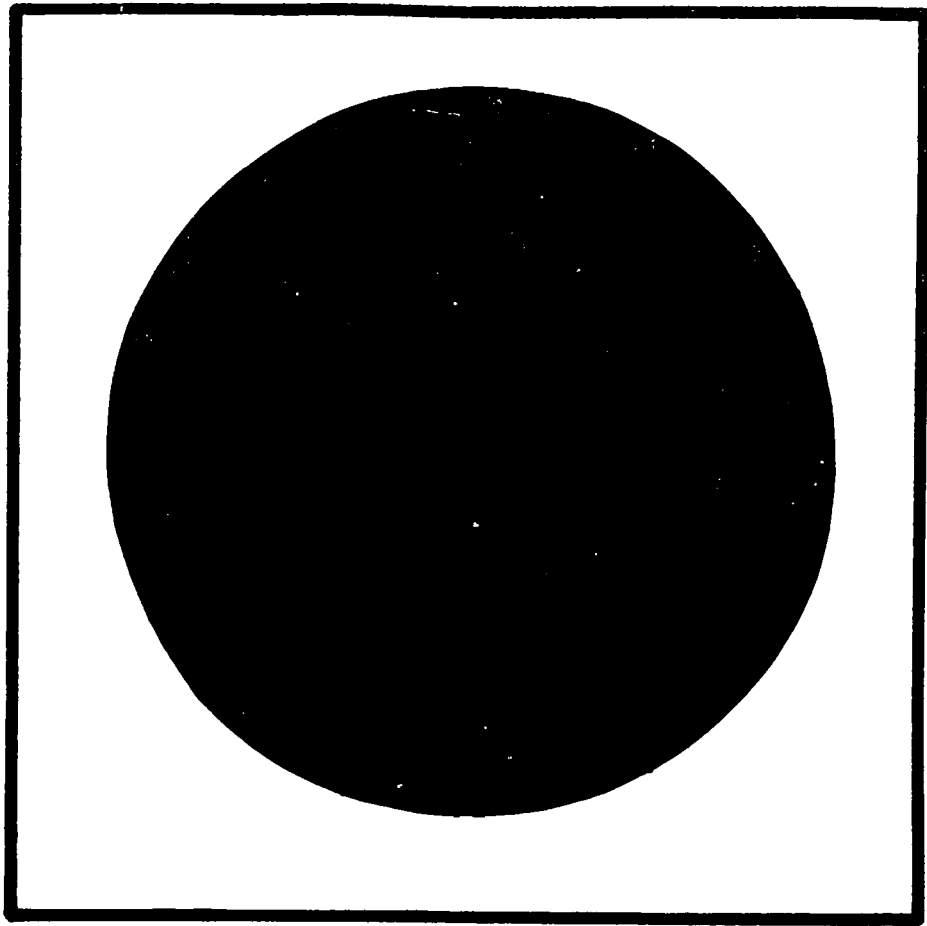


PAG - 3

REEL

no.

169

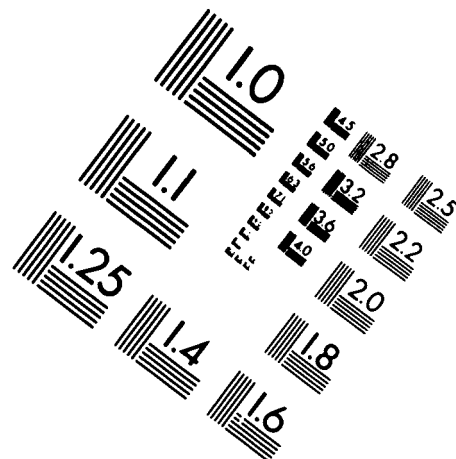
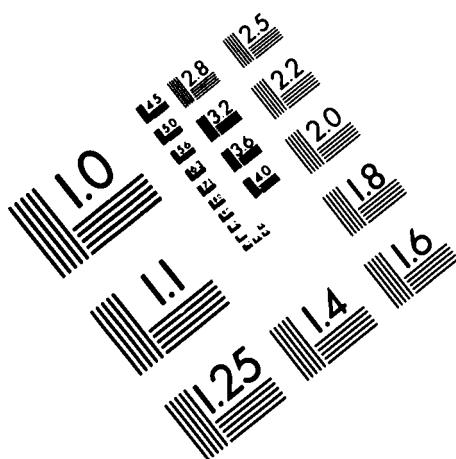


**index
of
contents**

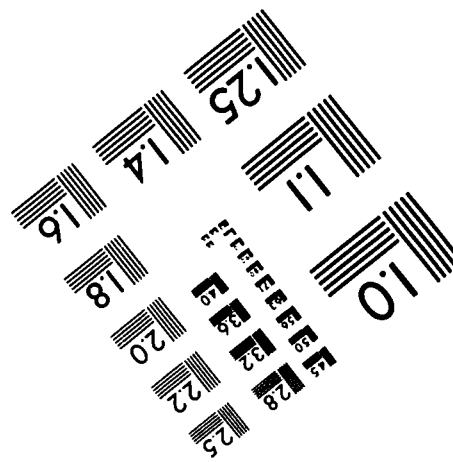
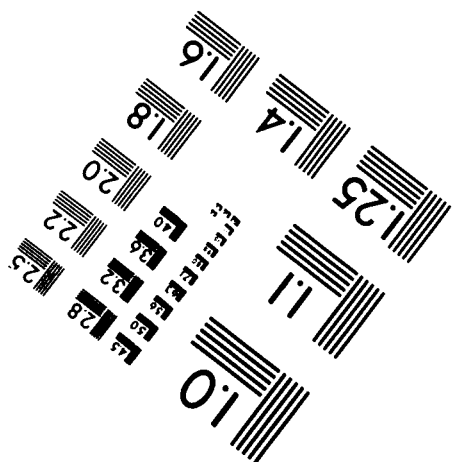
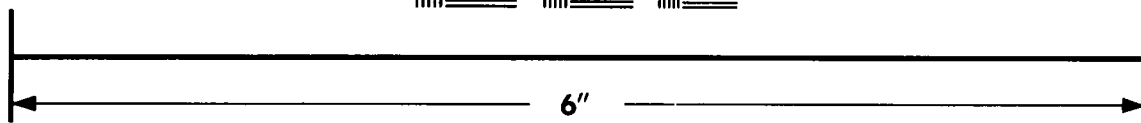
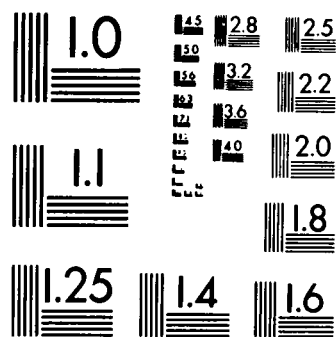
| INDEXING DATA | | CODE NO. |
|---------------|---|----------|
| PERIOD | <p>UNITED NATIONS WAR CRIMES COM MISSION (UNWCC) Member Governments, other National Authorities and Military Tribunals.</p> <p>PAG-3/2.3.5.:453 and PAG-3/2.3.6.:454-455</p> | |
| 1 Nov. 1948 | <p>Transcripts of Proceedings and Documents of the International Military Tribunals for the Far East (Tokyo Trials):</p> <p><u>Defense Statement and Documents</u> PAG-3/2.3.5.</p> <p>Document Nos.: 2943 - 31 20</p> <p><u>Judgement</u> PAG-3/2.3.6.</p> <p>Part A: Chapter I - Part B: Chapter VIII (page 1 - 1136)</p> <p>Notes:</p> <p>Chapter I - III of the mimeographed Judgement explain the establishment of the Tribunal, Justi- fy 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.</p> <p>----- END OF REEL No. 169 -----</p> | |

REDUCTION

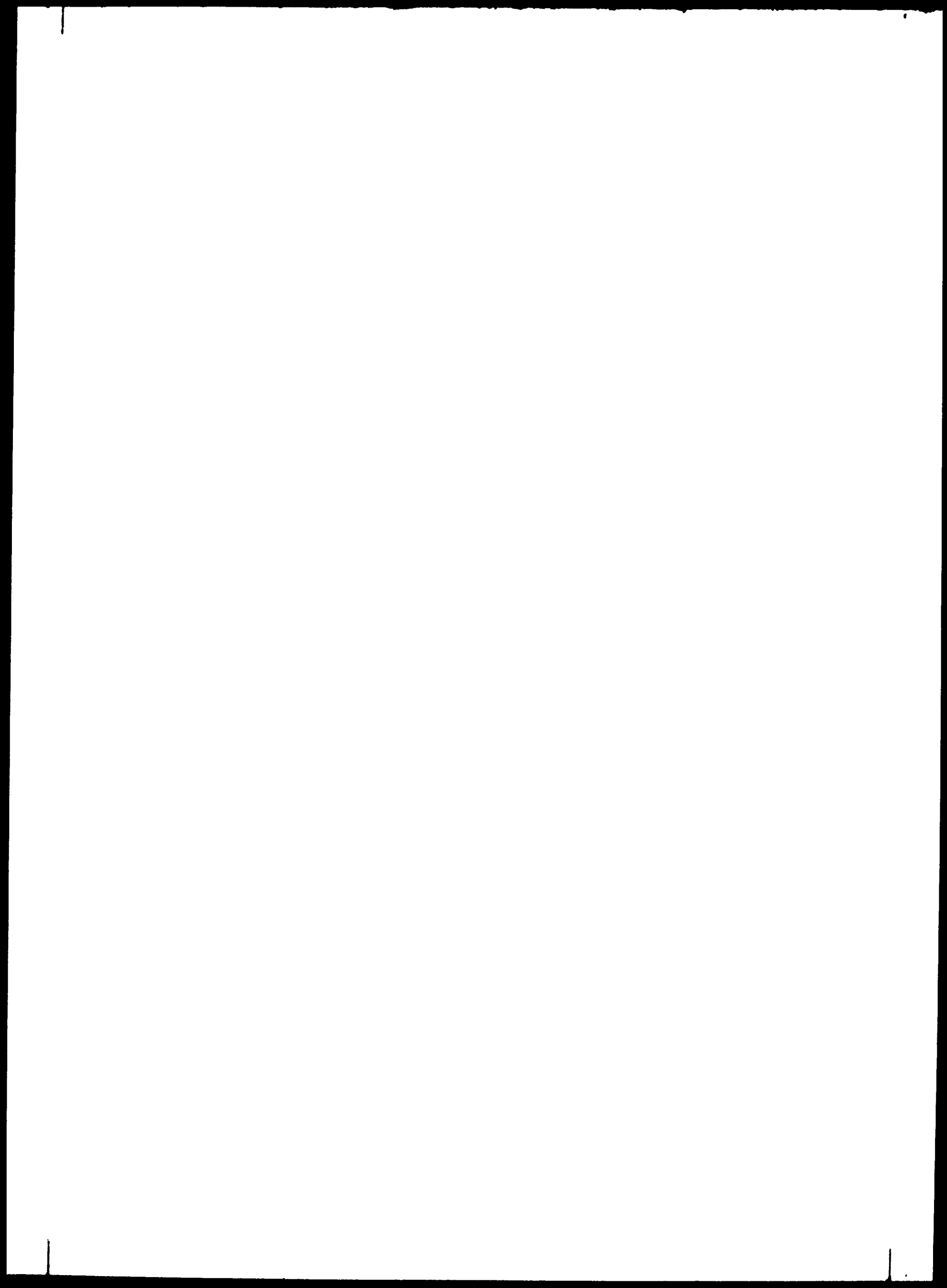
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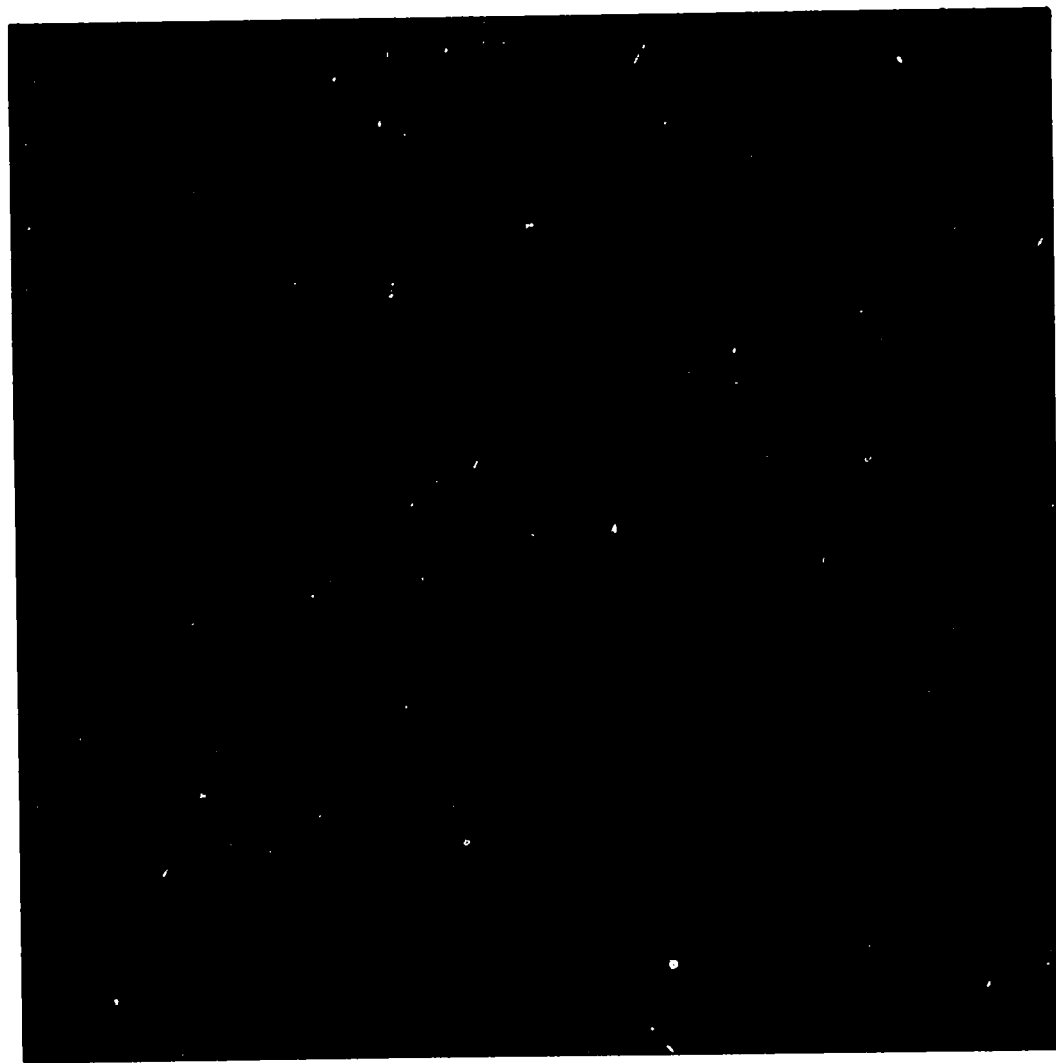


**IMAGE EVALUATION
TEST TARGET (MT-3)**



PHOTOGRAPHIC SCIENCES CORPORATION
 770 BASKET ROAD
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OPENING STATEMENT

on behalf of TŌGŌ SHIGENORI

I TO OPEN THE EVIDENCE on behalf of Tōgō Shigenori. We have chosen so far as possible to present it, for the Tribunal's greater convenience, under a few 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.

To and Japanese-German relations Mr Tōgō's attitude was always that they should not be such as to damage Japan's relations with other countries--specifically the U S R, 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 was of prime importance; and the accident of his career gave him opportunity to see carried out almost completely the policy which he early formulated and for which he unceasingly worked. He successfully managed the negotiations for the sale to Manchukuo 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, when he was in office, he stressed the cardinal importance of maintaining the Soviet-Japanese peace and friendly relations.

With British and American affairs Mr 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 Tōjō 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 he accepted only after having obtained the unequivocal commitment that the new cabinet would work sincerely for the success of the Japanese-American 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 Japanese-American negotiations and relations, long since strained almost irretrievably; on the other, persuading the military High Commands, in 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 26 November what 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 Tōgō, having opposed war to the last, was compelled to agree that arms must be taken up in self-defence.

When the question arose of the formalities for commencement of war, Mr Tōgō again had to overcome High Command opposition, to insist that the usual

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procedure of notification be followed. He was authorized by the Hiroson 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 Command, 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 subtracted by creation of the Greater East Asia Ministry. As a result of differences of opinion on this and other basic policies, Foreign Minister Tōgō resigned from the cabinet on 1 September 1942, less than eleven months after entering it. Already before that he had been planning how to bring about an end to the war. The opportunity came when in April 1945 he was recalled from retirement by the Premier-Designate, Admiral Suzuki, and was again offered the foreign affairs portfolio--and again he 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 Tōgō Shigenori, so far from being that of a conspirator for aggression, was throughout his career been that of opposition to militarism and to the consequences which he foresaw could result from it.

冒頭陳述

東郷茂徳の辯護を始めます。法廷の便宜の爲我々は出来得る限り證據を小曾の項目に分けて提出します。即ち、法廷關係、露西亞關係、英米關係及太平洋戦争、戦時外交、及終戦であります。

但し證人は在々各般の事項に亘つて証言するので石の分類は不完全であります。石各項目に就て證據は主として次の諸事項を明らかにしやうとするものであります。

日露關係に就ては東郷氏の態度は常に日露關係が日本と他の諸國に於て、英、露の諸國との關係を悪化せしむる如きものであつてはならぬと言ふことであります。防共協定に就ては當初より之に同意を有せず之を弱化する事に努力しました。三國同盟には強く反感を覚け、其結果終に注進大使の地位を追はれたのであります。東郷氏はナチス時代のカサンドラであつたのであります。

露米關係に就ては東郷氏は冷治友好關係維持を以て最も重要なりと爲しました。東郷氏は其の態度を論じ其の夙に立派し其實現に努力した政策を殆ど完全に實現することか出来ませんでした。

東郷氏は東支關係を緩衝邦より三洲に賣却す交渉に成功し、國境難定問題に就て初めて成功を収め、又注進大使として不可信條約の締結に殆ど成功した時、朝を命ぜられたのであります。

太平洋戦争を廻り東郷氏は現職に在る時は常に日露間の平和と友好關係の重要性を強調しました。

英米兩國との關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殆んど直接の關係を持ちませんでした。但し機會ある毎に日本と英米との關係の改善に努力しました。東郷氏は防共協定と共に英米との協定に就て關係當局を説得し、海軍軍縮問題に就ては米英兩國との關係を阻害することなからしむる爲海軍側の主張に反対し、又外務大臣に就任しては破綻に瀕した外交の調整に努めたのであります。東郷氏が東郷内閣の外相として太平洋戦争に關係した點は幾いもなく觀察側の主たる訴追であるが、東郷氏は當時自職から退いて居た處迄と東郷氏を知らない新首相から入閣を求められたのである。

此の入閣は新内閣は日米交渉の成功の爲に眞剣に努力すべく三軍も之に反対せずとの明確な保證を取付けた後初めて東郷氏は受諾したのである。東郷氏は甚だ固執な準備の下に二つの事を急したのである。即ち一は久しく悪化して信疑に瀕して居た日米交渉及び日米關係を解決せんと努力したること、二は此の懸念を扱つた遠征會議に於て統帥部の努力が甚だ弱かつたのであるが日米交渉及び日米關係の爲の努力を急し従つて統帥部を説得したることである。

然し乍ら東郷氏の使命は不可能なものであつた。米國は争し得へかりし
譲歩を爲すを欲せず、日本側の總ての關係者が最後通牒と認めたる一月
二十六日の電書を手交した。日本としては其の大體としての地位を認養
し其の存在すら危殆に瀕するに甘んずるか或は自衛の戦争に訴へるか
一を擧げざるを待ざる立場に迫られたのであるが、實際其の間擧げざる
余地はなかつたのである。斯して戦争は決定された。東郷氏は最後迄
争に反逆したか終に自衛の爲武器を執ることに賛成せざるを待なかつた、
のである。

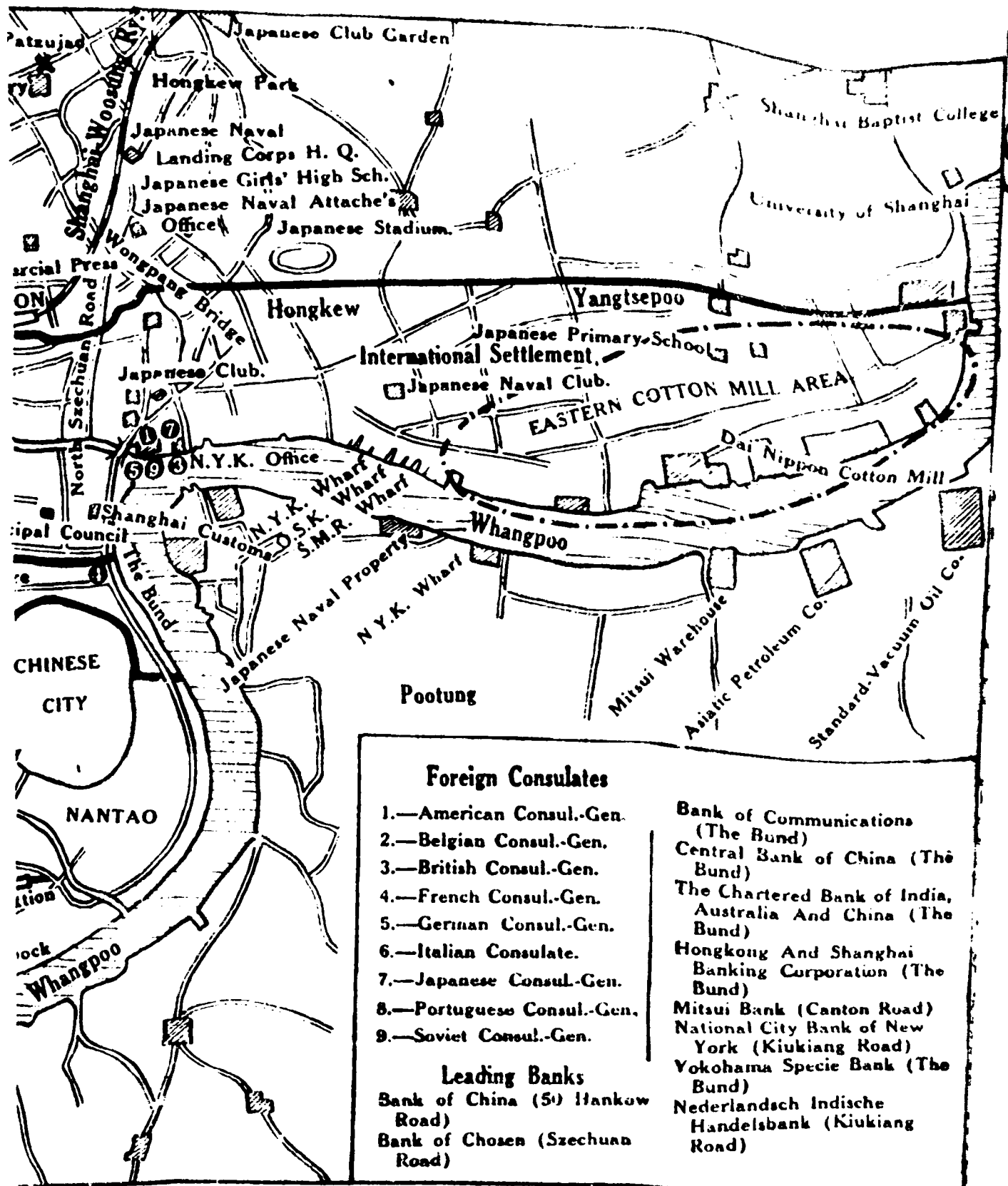
戦争開始の手續の問題の起つた時、東郷氏は通常の通告の手續を執ることを主張し、此の都合にも統帥部の反対と取合なければならなかつた。東郷氏は連絡會議に於て米製政府に對し交渉打切りの通告を爲すことを認められた。通告手交の時間には統帥部に限り定められたが統帥部は東郷氏に對し其の時間には交渉開始の時間との間に充分の余裕あることを保證した。

かくして十二月七日午後一時に手交のことに打合せられ、其旨命令されたのである。但し實際に手交されたのは華盛頓に於ける事務の手續のみで僅り一時間以上も遅れ、米英兩国の領土に攻撃が加へられてから後になつたのであつた。

戦争開始後は外交の余地は減少したが其の上大東亞省の設置に依り其範圍は一層減少した。

此の間に並に包の良否政策の問題に對しての意見の不一致から東郷氏は一九〇二年九月一日外務大臣の職を辭したが、既に其辭職の前から東郷氏は戦争修結の方策を考へて居た。一九〇五年四月東郷氏は大命を拜した鈴木大將から再び外務大臣として入閣を求められた此の場合にも東郷氏は入閣の條件を討し、其の條件は鈴木内閣が戦争を修結せしめると云ふことであつた。

鈴木内閣の短い期間、東郷氏は此の目的の爲に全力を盡し、遂に主として其の努力に依り、一九四五年八月十五日比の目的は達成されたのである。東郷氏は東郷茂徳氏の反制に受命の爲の共同謀議者のそれではなく、遂に生真主義を其の原見し得べき結果に反対したことであつたと云ふことを示すであらうことを茲に述べる次第である。

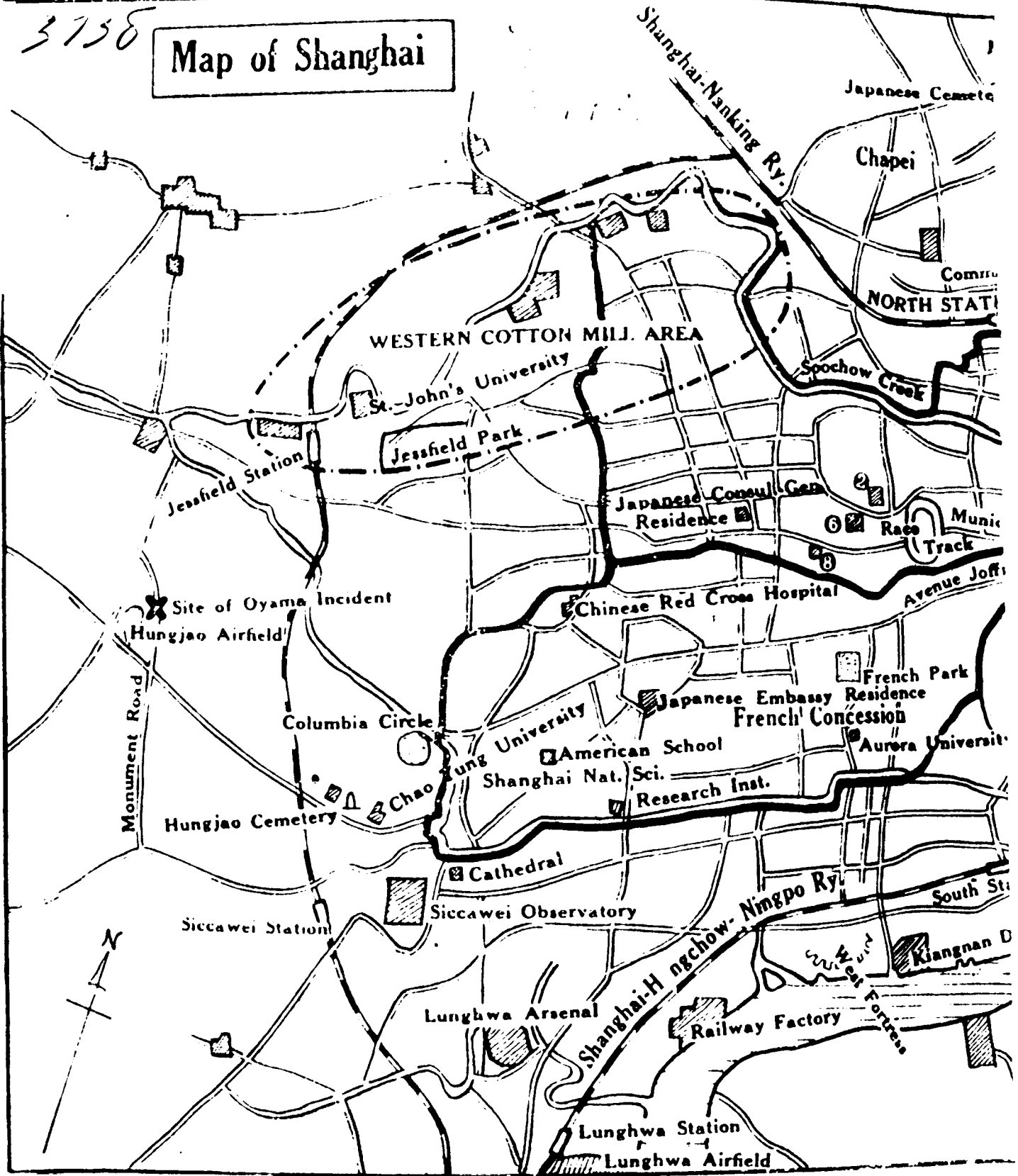


- | Foreign Consulates | |
|--------------------------------|---|
| 1.—American Consul.-Gen. | Bank of Communications (The Bund) |
| 2.—Belgian Consul.-Gen. | Central Bank of China (The Bund) |
| 3.—British Consul.-Gen. | The Chartered Bank of India, Australia And China (The Bund) |
| 4.—French Consul.-Gen. | Hongkong And Shanghai Banking Corporation (The Bund) |
| 5.—German Consul.-Gen. | Mitsui Bank (Canton Road) |
| 6.—Italian Consulate. | National City Bank of New York (Kiukiang Road) |
| 7.—Japanese Consul.-Gen. | Yokohama Specie Bank (The Bund) |
| 8.—Portuguese Consul.-Gen. | Nederlandsch Indische Handelsbank (Kiukiang Road) |
| 9.—Soviet Consul.-Gen. | |
| Leading Banks | |
| Bank of China (5) Hankow Road) | |
| Bank of Chosen (Szechuan Road) | |

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

3758

Map of Shanghai



Note: Reproduced here is a map of Shanghai, with names of main points, which are prominently figuring in everyday news

(Umezū)

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST
THE UNITED STATES OF AMERICA, et al

-vs-

ARAKI Sadao, et al

- Defendants -

A F F I D A V I T
SHIBAYAMA KENSHIRŌ

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 Umezū.

From January 1932 to May 1933, for about one and a half years, the accused Umezū was the Chief of the General Affairs Department of the General Staff, in which office I also served as a member. From August 1943 to December 1944, 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 1938, 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 1944 to July 1945, when he was the Chief of the General Staff, I was Vice-Minister of War.

2. Concerning the accused Umezū'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 Umezū, 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.

h. 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 Kenshirō (seal)

On this 25th day of January, 1947
At Tōkyō

Deponent: Shibayama Kenshirō

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

極東國際軍事裁判所

亞米利加合衆國其他

對

荒木貞夫其他

宣誓供述書

供述者 柴山 兼四郎

自分機我國ニ行ハルル方式ニ從ヒ先ツ別紙ノ通り宣誓ヲ爲シタル上
次ノ如ク供述致シマス

一 海津校告ト私トノ關係ニツキ申述ベマス
 昭和七年一月ヨリ昭和八年五月迄約一ケ年毎半年報告ハ
 總務部部長トシ私ハ部員トシテ共ニ該本部ニ於テ勤初シマ
 昭和八年八月ヨリ昭和九年十二月迄ノ約一年毎半年報告ハ支那駐
 屯地司令官テアリ私ハ北京駐在ノ大校館附武官テアツテ私ハ海津
 司令官ノ直接指揮ヲ受ケマシタ。 一 昭和十三年五月迄一
 年毎半年報告ハ 一 昭和十三年五月迄一 年毎半年報告ハ
 官テアリ私ハ 一 昭和十三年五月迄一 年毎半年報告ハ
 昭和十一年八月ヨリ昭和十二年七月迄毎半年報告ハ 一 昭和
 十二年八月ヨリ昭和二十二年七月迄毎半年報告ハ 一 昭和
 十三年八月ヨリ昭和二十三年七月迄毎半年報告ハ 一 昭和
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 十五年八月ヨリ昭和二十五年七月迄毎半年報告ハ 一 昭和
 十六年八月ヨリ昭和二十六年七月迄毎半年報告ハ 一 昭和
 十七年八月ヨリ昭和二十七年七月迄毎半年報告ハ 一 昭和
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三 傳譯報告ノ到又態度ニ付テ申述ベマス

又告カ又部在屯三司令官タリシトキ私ハ北京ニ勤勤シテオリマシ
タ。彼告ハ又部側ニ同情ト見解トヲ持チ彼處ニ以テ處ンダリ内
政ニ干渉スルコトナキ事絶エズ部下ヲ戒シメテ居リマシタ。私モ
應々其訓示ヲ受ケテオリマシタ。

昭和九年三月傳譯報告ガ天澤三司令官トシテ着任向セナク加來炭
礦ニ退大甲等ガ労働者ヲ煽動シ罷業ヲ起シタ事件ガ起リマシタ。
向來礦ノ「ナルト」ノ一氏ハ勸洋司令官ノ許ニ至リ「今罷業ノ
由智ノ背後ニ日本ノ浪人ヤ耳人ガアルトノ疾アリ若シ野蠻トセバ
一ニ於テ取締ラレタシト申出マシタ。傳譯司令官ハ直ニ取
ツ命ジマシタノテ成績留置者カラ懲罰セラレマシタ。

四 傳譯報告ト又部對峙ニ付テ申述ベマス

又部ニ對峙初盤當時報告ハ二二大目トシテ三三大目トシテ不
主語ヲ整時シ終結之ガ實況ニ勞力シマシタ。當時私ハ其部長デ
アリマシタカラ三三大目ノ意圖ハヨク知ツテ居リマシタ。七月八
日夜現地即家ガ宛平城ヲ夜襲スルトノ情報ガアツタトキ彼告ハ
ラ呼ビ謀本部ニ付テ真相ヲ知メ事案ヲアレバ強硬ニ反スルカラ
中止シタ方ガヨイト謀本部ニ注意セヨトノ事ヲ私ハソノ處ニ

探リマシタ。
 又官時又那証屯耳司令官田代中尉ハ病没シマシタガ其ノ後任ニハ
 最モ穩健中正ナ人ガヨイト云フコトデ私ハ彼告ノ語同ニ應ヘ香月
 中尉ヲ推シマシタガ彼告ノ同意ヲ經テ大臣モ承認サレマシタ。
 中尉ヲ見ニ小費入方針ヲ徹底セシムル爲私ヲ診察本部事務部長中
 尉見中尉ニ隨行セシメ大洋ニ派遣シ香月耳司令官ニ嚴肅ニ中尉
 不實大方針ヲ傳起セシムルノ處直ヲ探ラレマシタ。

Def, Doof?

右ハ當立會人ノ面前三テ宣誓シ且ツ署名捺印シタルコトヲ證明シマ
ス

同日於

立會人 宮田 允 雄 印

供 述 者 柴 山 兼 四 郎 印

昭和二十二年（一九四七年）二月二十五日 於東京

112-2157

宣 誓 書

其心ニ從ヒ眞實ヲ起ベ何事ヲモ誤秘セズ又何事ヲモ加セザルコト
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署名捺印 柴 山 兼 四 郎 印

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Ref. Doc. # 2965-A

Exh. No.

Translated by
Defense Language Branch

(Extract from Exhibit 870)

Extract from

"First Table Top Total War Manoeuvres" -- Page I.

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 Manoeuvres

Custody /s/ Matsuda, Chiaki (seal)

Assistant Supervisor

Ref. Doc. # 2965-A

Exh. No.

Translated by
Defense Language Branch

(Extract from Exhibit #70)

Extract from

"First Table Top Total War Manuevers" -- Page I.

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

Supervisary Branch of
Table Top Manuevers

Custody /s/ Matsuda, Chiaki (seal)
Assistant Supervisor

DEF. DOC. #2965-B

(Extract from Exhibit 870)

Extract from

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

Sokien No. 7

Part I

No. 5 of 120 copies in all

Appointed Receiver

Matsuda, member of the
Institute.

Keeping Secret

Secret to all except those
participating in maneuvers

Management

Shall be returned after the
end of maneuvers.

Ex-7228

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

-vs-

ARAKI Sadao, et al

- Defendants -

A F F I D A V I T

KOTANI ETSUO

IN TO ROOM 361

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.

(Q9) 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 -

A F F I D A V I T

OGOSHI KENJI

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 whole truth, withholding nothing and adding nothing.

Ōgoshi Kenji (seal)

On this 8th day of January, 1948
at Tokyo

Deponent: Ōgoshi 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 -

A F F I D A V I T

HATTORI NAOHIRO

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 Chōme 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.

-1-

REC
RM TO ROOM 301

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

-vs-

ASAKI Sadao, et al

- Defendants -

A F F I D A V I T

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

Ex 3729

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

-vs-

ARAKI Sadao, et al

- Defendants -

A F F I D A V I T

MATTONI NAOHIRO

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 Chōme 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.

-1-

REC'D
TO ROOM 301

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

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

-vs-

ARAKI Sadao, et al

- Defendants -

A F F I D A V I T

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 1944, 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 of 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 defence or policies which required conference with the Japanese Government.

From the viewpoint of defence, 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.

Def. Doc.# 2974

OATH

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

EX 3733

EX. 3732

Def. Doc. 2975

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)

TO ROOM 361

EX 3733

Def. Doc. 2975

Ex. 3732

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.
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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)

TO ROOM 361

EX 3733

Def. Doc. 2976

CERTIFICATE

I, Miyama Yōzō, 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 15 December 1941.

8 January 1948

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.

Ikeda Sumihisa (seal)

EX. 3733

2907-A
Def. Doc. # 2964-A

Exh. No. 3719

Translated by
Defence Language Branch

(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. |

FILE COPY
RETURN TO ROOM 361

Translated by
Defence Language Branch

Excerpt From the Original Draft of the Establishment of the Greater
East Asia Co-Prosperity Sphere: Page 1

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.

ALL COPY
RETURN TO ROOM 361

Excerpts from the Interrogation of YONAI, Mitsumasa
Conducted 15 May 1946. (Exhibit # 3831)

- 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 hold the opinion that it was necessary to have an alliance with GERMANY even at the time when HIRANUMA'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 HATA was also against the conclusion of this alliance?

A. I cannot say exactly whether HATA was against this alliance.

Q. It is improbable that HATA 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 HATA 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 HATA, therefore, had no opportunity to officially express his opinion on this question.

* Excerpt from IPS Doc. 3333 (Excerpt from Exh. 3831)

一九四六年五月十五日米内光政訊問書拔萃

問 畑俊六ハ彼ノ見解ヲ支持スル爲メニ如何ナル理由ヲ述ベマシタカ。

答 私ハ軍部が如何ナル具體的功績ニ依リ勳カサレテ居ツタカ存ジマセン。

問 然シ貴下ハ此ノ問題ヲ畑俊六ト論議シタノデセウ。

答 私ハ此ノ問題ヲ畑ト論議シマセンデシタ。私ハ陸軍部ノ一般ノ意見ハ

私ノ内閣ガ弱体デアルト云フ事シカ知リマセン。

問 此ノ問題ニ關シ首相タル貴下トは相対タル畑トノ間ニ討論ガ無カツタト

云フ事ハアリ得ベキ事デアリマセヌ、畑ノ辭職ノ原因トナツタ也ノ

理由ノ中ニ首相タル貴下トノ間ニ誤解ガアツタトスレバ猶更デス。ド

ウゾ畑俊六トノ談話ノ内容ヲ思ヒ出シテ下サイ。

答 私ハ當時首相ト私トノ間ニ交サレタ談話ノ内容ヲ今思ヒ出セマセンガ

陸軍ノ思潮ノ大體ノ筋道ハ貴下ニ申上ゲラレマス。

當時ノ軍部ハ日匈間ニ於ケル條約締結ヲ要求シテ居リ、陸軍大臣畑俊六ハ此ノ壓迫ニ反抗スルコトハ出来マセンデシタ。

。。。。。。。。

問 貴下ノ内閣ノ關係ノ中デ畑俊六ノ條約締結ヲ誰ガ特ニ主張シマシタカ。

答 私人ノ關係ノ中デ畑俊六ノ條約ヲ主張シタ者ハ居リマセンデシタ。

問 畑俊六ハドウデシタカ。

答 畑ハ自己個人ノ意見ヲ陳ヘルコトヲセズ陸軍ノ意向ヲ述ベマシタ。當時誰モ畑俊六トノ同盟締結ヲ公然ト申ス者ナク、畑モ亦彼ノ意見ヲ公然ト申シマセンデシタ。

問 ソレナレバドウシテオ互ヒノ思フ處ガ分ツタノデスカ。

答 畑俊六トノ條約ニ關シテハ畑ハ具體的ニハ語リマセンデシタ。然シ私ハ軍部内ノ空氣ガ日匈間ノ條約締結ニ非常ニ賛成デアルト云フ事ガヨク分リマシタ。

問

若シ畑ガソレニ就テ一言モ言ハナカツタトシタラ然ラバ如何ニシテ貴下ハ軍部ノ空氣ガ日獨軍事同盟ノ締結ニ贊成ナル事ガ日獨軍事同盟ノ締結ニ贊成デアル事ガ分ツタノデスカ。

答

私ハ平沼内閣ガ積極的ニ此ノ同盟締結ヲ主張シテ居ツタ時ニ既ニ軍部ガ如述ト同盟ヲ結ブコトヲ必要トスル意見デアルコトヲ知リマシタ。故ニ此ノ同盟ニ關シ畑ガ何等具體的ノ形デ私ニ語ツタコトハアリマセ

問答問

多分畑モ此ノ同盟締結ニハ反對ダツタノデセウネ。

私ハ畑ガ此ノ同盟ニ反對デアツタカドウカハハツキリトハ申セマセン。

畑ガ貴下ノ内閣ニ居ツタ間中如述ト條約締結ノ問題ニハスル自分ノ立

場ヲ閃ラカニシナカツタト云フ事ハアリ得ベキコトデハアリマセン。

條約締結ノ問題ハ如述デハ勿論、四相會議デ論議サレテ居リマス。此

ノ問題ノ討議中畑ハドチラノ側ニ與シマシタカ。

答

私ノ内閣ガ政權ヲ取ツテ居リマシタ時ハ日獨條約締結ノ問題ハ閣議デモ四相會議デモ論議サレタコトナク、從ツテ知俊六ハ此ノ問題ニ關シ職務上彼ノ意見ヲ述ベル機會ハアリマセンデシタ。

Def. Doc. No. 2994 (Excerpt from Ex. 3834) Exhibit No.

EXCERPT FROM THE RECORD OF THE TRIAL
UNITED STATES OF AMERICA vs SHIGERU SAZADA, et al

Before the
MILITARY COMMISSION
Convened by the
COMMANDING GENERAL
United States Army Forces
CHINA

UNITED STATES OF AMERICA :
:
-vs- :
:
SHIGERU SAZADA :
YUSUKE SAHO :
RYUNJI OKADA :
SOJOJIRO TATSUTA :

PUBLIC TRIAL

VOLUME V

PAGES 458 TO 479

SHANGHAI, CHINA.

DATE 1 JULY 1946

* * * * *

SOJOJIRO TATSUTA.

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

* * * * *

QUESTIONS BY THE COURT

COLONEL BERRY:

- Q. Captain Tatsuta, 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)

法廷ニ依ル訊問

ベリ
大佐

龍田大尉、今朝本證言ノ當初、實下ハ死刑執行ノ際飛行士選ニ伊藤

ニ依リ起草サレタル大岡宛ノ文章讀ミ聞カセタト云ヒマシタ。其ノ

文章ノ内容ハ如何ナルモノデシタカ

内容ハ第十三軍司令官ノ命令ニ依リ左記ノ者ヲ死刑ニ處スベシト云

フ命令デアリマシタ。

其ノ命令一通牒ハ人名ヲ云フテアリマシタカ

ソレソレ各別ニアリマシタ

如何ナル人々ノ名前ガ擧ゲラレテアリマシタカ

ハルコーク、フアロー、スバツデアリマシタ

×

×

×

×

(四七九)

EXCERPT FROM THE RECORD OF THE TRIAL
UNITED STATES OF AMERICA vs SHIGERU SAWADA, et al

Before the
MILITARY COMMISSION
Convened by the
COMANDING GENERAL
United States Army Forces
CHINA

UNITED STATES OF AMERICA :

-vs-

SHIGERU SAWADA :

YUSUJI IMAI :

RYUJI OKADA :

SOTOJIRO MATSUDA :

PUBLIC TRIAL

VOLUME V

PAGES 429 TO 455

SHANGHAI, CHINA.

DATE 1 MAY 1946

* * * * *

SHIGERU SAWADA

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

* * * * *

Q. What is your name?

A. Sawada Shigeru.

Q. What is your rank in the Japanese Army?

A. Lieutenant General.

* * * * *

Q. 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.

* * * * *

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

A. Yes.

Q. General, how long were you away at the front?

A. I believe I returned to Shanghai on the 17th of September 1942.

* * * * *

Q. 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.

Q. You did not know or --

A. I did not know anything about this.

Q. Tell, when was the first time that you know that the Doolittle fliers were tried by the Military Tribunal of the 13th Army?
A. I heard it when I returned from the front.

Q. Had you received 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 Shan hai 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 these judges on the list, that had been appointed for always.

* * * * *

Q. Did General Ito select Wako and Okada for the Doolittle tribunal?
A. General Ito selected them and appointed them in my name.

Q. When 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)

* * * * *

CROSS EXAMINATION

* * * * *

- Q. General, were you the senior officer in Shanghai during the period April 1, 1942, to October 1, 1942?
A. Yes,--or in the Army. (p. 437)

* * * * *

- Q. 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?
A. 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.
- Q. Then you knew how they were being treated when they were back there, didn't you?
A. Colonel Ito made a report to me that they were treated as suspects of war criminals of the Japanese.
- Q. Did you do anything about their treatment? Did you try to improve it any?
A. I didn't give any orders.
- Q. Did you give the order to treat them as war criminals?
A. There was an order from the War Ministry that they were to be treated as suspects of war criminals.
- Q. The treatment of the prisoners was carried out under your command responsibility, wasn't it?
A. Yes.
- Q. And when General Ito--anything General Ito did, he did at your command or under your command responsibility, didn't he?
A. Because Ito acted for me, whatever he has done is my responsibility.
- Q. And whatever Naka and Okada did is your responsibility, isn't it?
A. Whatever any subordinates have done is my responsibility. (p. 441)
- Q. And whatever Hata did was your responsibility? Major Hata?
A. Yes. (p. 442)

* * * * *

- Q. And that prison of his was about 300 meters from your office in the same compound, wasn't it?
A. It was an unimportant place and I misunderstood about it.
- Q. Now that is where all prisoners were confined who were tried before your military courts, wasn't it?
A. Yes.
- Q. And there was a lot of foreign prisoners back there, wasn't there?
A. Yes.
- Q. And you knew they were back there, didn't you at the time they were there?
A. I knew.

(Excerpt from Ex. 3834)

- Q. And you knew what kind of treatment they were getting back there, didn't you?
A. Yes, I knew. (p. 443)

* * * * *

- Q. Then on August 23, 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. When 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 chop 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. 446)
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. Now you told the Commission that you went up to Hanking and told General Hata 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.

4

- Q. Well, why did you approve them then if you thought they were too severe?
- A. At that time Tokyo demanded that the prosecutor request the death penalty and therefore I could not change the sentence. (p. 447)
- Q. Well, the fact is you didn't do anything to change the sentence, did you General?
- A. Ordinarily I have no authority to change the sentence and at that time I was informed to wait the orders from Tokyo so I could not do anything about it.
- Q. Now when you went up to see General Hata up at Hanking what did you say and what did he say about this Doolittle case?
- A. 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)

* * * * *

- Q. Then why did you approve the sentence? Why didn't you just leave it alone?
- A. 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.
- Q. Then you thought the sentence was proper, didn't you, that is why you approved it?
- A. Yes. (p. 450)

* * * * *

- Q. Did you talk to Shinomura about the Doolittle case?
- A. I transmitted the report to Shinomura.
- Q. What did you tell him about it? Did you tell him you were still sorry for the boys?
- A. I told him there would be the final orders from Tokyo, to wait for it.
- Q. What did he say to that?
- A. He said, "I fully understand."
- Q. Now General Savada, the court was appointed under your jurisdiction, is that correct?
- A. That is the truth.
- Q. And the case was referred to the court under your authority, is that correct?
- A. That was ordered in my name but I did not directly order.
- Q. But you were responsible for the army at that time, is that right?
- A. Yes.
- Q. 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?

- A. They were not directly ordered but they were ordered under my name.
- Q. Then whatever they did was done under your command responsibility, isn't that right?
- A. I am the commanding general of the military tribunal therefore I hold responsibility as commanding general. (p. 452)

* * * * *

RE-EXAMINATION BY THE COMMISSION

- Q. (By Lt Col Berry) General Sawada, 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 23th of August 1942 was sent by telegram to Tokyo through Hanking 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?
- A. That written document was the verdict of the military tribunal.
- Q. Is that all it was?
- A. That is all. (p. 454)

* * * * *

RE-CROSS EXAMINATION

* * * * *

- Q. General, isn't it true that the entire record of that trial remained in the headquarters of the 13th army until Major Inoue came here from Japan in 1944 to get the record and take it back to Japan?
- A. They ought to have been kept there.
- Q. They should have been kept there. You mean in the headquarters, 13th army?
- A. The headquarters. (p. 455)

6

等田 茂

部下 姓名ハ

海守ノ
 一等入
 海田
 茂ハ
 八月廿九日
 自巴ノ
 五月五日
 八月廿九日

中隊上等五
 月五
 日
 日
 日

中隊上等五

月五

日

海守ノ

一等入

海田

茂ハ

八月廿九日

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 五月五日
 八月廿九日

八月廿九日

自巴ノ

五月五日

八月廿九日

等田 茂

部下 姓名ハ

海守ノ

問 日本陸軍ニ於ケル貴下ノ階級ハ
答 中将アリマス

問 貴下ガ一九四二年五月上海ヲ離レテ前線ニ向ツタ時、貴下ハ上海ニ誰
カ指揮ヲ取ル者ヲ置イテ行キマシタカ、(四二九頁)

答 私ハ上海ノ司令部ノ事務ヲ管掌スル為メ最高司令部カラ二名ノ將校ヲ
要求シ、法律ニ關スル事ハ伊藤大佐ニ委セマシタ

問 貴下ガ不在中貴下ノ印ヲ書寫ニ使用スル制限ヲ其等ノ者ハ持ツテ居タ
ノデスカ

答 シウデアリマス
問 將軍、貴下ハ前線ニドノ位居ラレマシタカ

答 私ハ一九四二年九月十七日ニ上海ニ戻ツタト思ヒマス

問 貴下ハ貴下ガ前線ニ出發シレル前ニドウリットル飛行士隊ガ上海ヲ
判ニ付セラレル事ニホツテ居ツタノヲ知ツテキマシタカ

答 此ノ事ニ就テハ考ハマセンデシタ

問 同ラジナカツタノデスカ、ソレトモ

イ

答 此ノ事ニ就テハ河モ知リアセンデシタ
 問 サヤウ、第十三軍ノ軍律會議ニ依リドウリツトル飛行士薩ガ裁判ニ附
 答 セラレタ事ヲ費下ガ最初ニ知ツタ時ハ何時デシタカ
 問 私ハソノ事ヲ前線カラ戻ツタ時聞キマシタ
 答 賢下ガ前線ニ居ラレタ時ドウリツトル飛行士及ビ裁判ニ關シ何等カノ
 通牒命令若クハ向カ他ノ通信ヲ受ケヌツテ居ラレマシタカ
 問 何モ受ケ取ツテ戻リマセンデシタ
 答 然ラバ賢下ハ費下ガ九月十七日上舞ニ展ラレタ時ヨリ以前ニハドウリ
 ツトル飛行士ノ軍律會議ニ關シテハ河モ門イテ清ラナカツタノデスネ
 答 サヤウテアリアス
 問 サナ將軍、費下ガ前線ニ就カレル麗ニ賢下ハ軍法會議ニ列スベキ判士
 ノ一團ヲ任命シマシタカ、(四三〇頁)
 答 平時凡ソ敵名ノ判士長ト十名以上ノ判士ガ任命サレテ居リ河カ事ガア
 ツテ新シイ判士ヲ必要トスレバ當時任命サレテ名簿ニノツテ居ル判士
 ト高チニ交代サセタモノデシタ
 問 伊藤將士ハ和光ト岡田ヲ飛行士裁判ノ爲メ撰ンダノデスカ
 答 伊藤將士ガ彼等ヲ機ビ私人名ヲ撰等ヲ任命シマシタ

A

問 貴下が上海に歸ツタ時其ノ時ガドウリツトル飛行士ノ軍法會議ノ事ヲ聞
 イタ最初デアルト貴下ハ云フテ出ラレマス。此ノ時ニ伊藤將軍ハ貴下ト
 共ニ全書理ヲ査査シタノデスカ

答 ハイ其ノ類リデアリマス

問 上海ニ貴下ガ戻ラレタ時、此ノ裁判ニ關シ伊藤將軍ハ貴下ニ何ト云ヒマ
 シタカ

答 彼ハ法廷ニ起ツタ事及ビ裁判ノ結果ヲ私ニ語リマシタ。(四三一頁)

x x x x x

五

問 貴下ハ伊藤大佐ニドウリツトル飛行士ノ軍法會議ノ判決ヲ東京へ送ル
 答 議決ヲ與ハマシタカ

私ノ見解デハ私ハソレチ最高司令官ニ自分デ報告シタカッタノデスガ
 私ガ不在ノ爲メ伊藤大佐ガソレチ置長東京へ送ツタノデアリマスへ
 (四三三頁)

問 將軍、貴下ニ對スル訴追事項ニ關シ若クハドウリツトル飛行士ニ關シ

答 何事ニモアレ此ノ軍事委員會ニ云ヒ反イト思フ事ガ何カアリマスカ

問 ソレチ聲明ナサイ
 答 ドウリツトル飛行士ノ裁判ハ東京ニ既リ命令サレタノデアツテ、私ノ

命令下ニ裁判ガ爲サレタノデアリマセン、裁判ニ使用サレタ規則モ

答 亦東京デ作ラレタノデアリマス
 彼等ノ取扱ニ關シテモ東京ニ既リ指圖セラレタノデアリマス

反對訊問

x
x
x
x
x



問 將軍、貴下ハ一九四二年四月一日ヨリ一九四二年十月一日ニ至ル期間、
上海ニ於ケル先任將校デアリマシタカ
答 ハイ、エー陸軍ニ於テデアリマス (四三七頁)

X X X X X X X X

問 サテ貴下ハ常委員會ニ、貴下ハ其處ノ狀況觀察ノ爲メ拘禁所ハ二處ト
行カナカッタ、シカモ拘禁所ハ貴下ノ官廳カラ僅カ三百メーターデアツ
タ、ト云フ事ヲ信ジテ賞々殿イノデスネ

答 ドウリツトル飛行士ニ關シテハ、其ノ取扱ハ、陸軍省ガ是等ノ者ヲ戰爭
犯罪人トシテ取扱ヒ俘虜トシテ扱フベカラズト我々ニ命令シマシタノデ
俘虜トハ少シク相違シタノデアリマス

問 然ラバ貴下ハ彼等ガ其處ニ居ツタ時彼等ガ如何ニ扱ハレテ居ツタカ知ツ
テ居ルノデスネ

答 伊藤大佐ハ私ニ彼等ハ日本ノ戰爭犯罪人容疑者トシテ扱ハレテ居ルト云
フ報告ヲ致シマシタ
問 彼等ノ取扱ニ就テ貴下ハ如何ニ思フヤ
答 シヤウトシマシタカ

問 私ハ何等命令ヲ發シマセンデシタ
答 貴下ガ彼等ヲ戰爭犯罪人トシテ取扱フ命令ヲ發シタノデスカ



答 陸軍省カラ是等ノ者ハ戦争犯罪人容疑者トシテ取扱フベキデアルトノ命
 令ガアリマシタ
 同 囚人ノ取扱ハ貴下ノ指揮責任下ニ於テ行ハレタノデスネ
 答 サウデアリマス
 同 而シテ伊藤將士ハ伊藤將士ノ爲シタ事ハ何事モ貴下ノ命令若クハ貴下ノ
 指揮責任ノ下ニ爲シタノデスネ
 答 伊藤ガ私ノ代理テ事ヲ行ヒマシタノデ、彼ノシタ事ハ何事モ私ノ責任デ
 アリマス
 同 和光ト岡田ガシタ事ハ貴下ノ責任デアリマスネ
 答 誰ニヨラズ部下ノシタ事ハ私ノ責任デアリマス（四四一頁）
 同 而シテ畑ノシタ事モ貴下ノ責任デアリマシタネ、畑少佐ノシタ事ハ、？
 答 サウデアリマス（四四二頁）
 同 x x x x
 同 而シテ畑ノ拘禁所ハ同ジ構内ノ貴下ノ官廳カラ約三百メートルデアリマ
 シタネ
 同 重禁デナイ場所デシタノデ私ハソレニ就テ誤解シテ居リマシタ
 同 サテソレガ貴下ノ法律會議テ裁判サレル囚人ガ凡テ拘禁サレテ居ル處デ
 シタネ

答

サウデアリマス

問

其處ニハ外國人ノ囚人ガ澤山居リマシタネ

答

サウデアリマス

問

ソシテ貴下ハ、ソレラノ者ガソコニ居ルコトヲ彼等ガ其處ニ居ル當時

答

御在ジデシタネ

問

知ツテ居リマシタ

答

而シテ貴下ハ如何ナル種類ノ取扱ヲ彼等ガ其處デ受ケテ居タカ御存ジ

問

デシタネ

答

ハイ私ハ知ツテ居リマシタ(四四三頁)

問

ソレカラ一九四二年八月二十八日ニ貴下ハ第十三軍ノ司令官デアリマ

答

シタ、ソレニ違ヒハアリマセンネ

問

サウデアリマス

答

而シテ其日其處デ行ハレタ裁判ハ貴下ノ權限ノ下ニ行ハレタ、ソレニ

問

違ヒアリマセンネ

答

サウデアリマス

問

貴下ガ九月ニ戻ツテ來ラレタ時貴下ハ伊藤將軍ガ貴下ノ許ニ時ツテ來

答

タ裁判ノ記録ヲ承認シタト述ベマシタ、ソノ通りデスカ

答

サウデス、ソレガ事實デス

問

而シテ貴下ハ此ヲ承認ノ書類ニ貴下ノ印ヲ捺シテ固自身ヲ承認チシタ、

答

ソレニ違ヒアリマセンネ

問

サウデス、サテ將軍、此ノ裁判記録ハ決シテ東京へ送ラレナカッタノデスネ、實際

答

ノ記録自体ハ?

問

私ノ署名シタ書類ハ司令部ニ保管ハサレマシタガ東京へハ決シテ送ラレ

答

マセンデシタ

問

而シテ貴下ノ司令部ハ唯裁判ノ結果ノ報告ヲ東京へ無線テ報告シタノミヨ

答

デシタ、ソレデ間違ヒハアリマセンネ

問

私ハ伊藤ニソウ説明サレマシタ

x

x

x

x

x

問

ソレテハ裁判ノ記録ヲ實際ニ承認シタノハ賈下丈トイフ事テハナイ
デシヤウカ(四四六頁)

答

軍部裁判ノ司令官トシテソレニ署名致シマシタ

問

ソウシヤ賈下カソレニ署名シタ時書類ハ八名ノ飛行士ニハ皆死刑ニ
要求シアアツタノデシタネ

答

サウデアリマス

問

ソレテハ將軍兵ノ時裁判ノ記録有非ノ決定ヲ承認スルカ、或ハ裁判
ノ記録ニ承認ヲ與ハナイト云フコトガイツレテモ出来タワケテハナ

イテスカ

答

サウデアリマス

問

サア、賈下ハ東京ヘ行キ宣告カ余リ嚴シクギルト賈下カ思フト畑入

答

將ニ話ランタト本委員等ニ云ハレマシタ。ソノ通りテスカ
サウデアリマス

問 此ノ録ハ貸下カ宣言或判記録ヲ承認シタ後デアリマシタカ
答 ソウテス其レハ私カ此録ノ宣言ヲ承認シタ後デアリマス
問 ソウ、貸下カ共レ無ノ宣言ヲ承認シタ時裁シキニ適ルト考ハマシタ
カ
答 私ハ其ノ懐ナ感情ヲ持テマシタ
問 ソレヲハ貸下ハ宣言カ余リ威シ過ギルト思ツタナラバ何故ニ其レモ
答 ヲ承認シマシタカ
問 其ノ時東京ハ俄キカ死刑ヲ求メマシタ。其ノ爲メ私
答 ハ宣言ヲ變ハルコトハ出来マシタ(四四七頁)
問 ソウ、テハ貸下ハ宣言ヲ變ハルコトニハ何ニモ裁カシナカツ
答 タノテシタ。將且、
問 通河私ハ宣言ヲ變更スル何事ノ權限ナク又其ノ時ハ東京カラノ命令
答 タ待ツ權執行カアリマシタノテ其レニツイテハ何スルコトモ出来マ
シマシタ



問
サア。貴下ハ東京ニイツア知入將ニ習ツタ時ドウリツトル號飛行工
ノ件ニツキ何ント貴下ハ云ヒマシタカ又畑大將ハ何ント云ヒマシタ

答
私ハ皆ニ八名ノ飛行士ニ謀ンタ宣告ハ死刑ナアリ飛行士達ニハ氣ノ

毒ニ私ハ思フト云ヒマシタ具レニ對シ畑大將ハ「私ハ貴下ト同ジ様
ニ感ジマスカ命令ハ東京ノ承認ヲ待ツ可シトアリ私共ハ待マナケレ
バナラヌ」ト云ヒマシタ（四四八頁）

× × × × × × × × × ×

問
ソレヲ如何ナル理由ヲ具ノ宣告ヲ承認シタノナンタカ何故宣告ラ

ダ可達シテ正カナカツタノアツタカ

答
此ノ裁判ニ於テハ或判官ハ宣告ヲ與ハソウシテ此等ノ宣告ハ直チニ

等類トシテ東京ニ送フレマシタソウシテ私ハ丁度兩者ノ間ニ立ツテ
居リ私ハ之レカ適宜ナルト考ヘタカラ耳レニ署名セサルヲ待マデ
ンナシタ

問 答 問 答 問 答 問 答

ソウシテ此ノ事件ハ其下ノ権限ヲ法廷ニ廻サレタ。ソレガ正シイデスカ

ソウシテ私ノ名義ヲ命令アレマシムガ私ハ直接ニ命令シマセンテシム

然シ其下ハ當時車ニ對シ責任ハアリマシタ。ソレガ正シイデスカ

ソノ通りアリマス

ソウシテ其ノ時此ノ任務ニ對スル諸員及判官等ハ皆其下ノ爲ニ

ヲ行ヒ居リ其ノ人達ノ行爲ハ其下ノ權限ノ下ニナサレタソレガ正シ

イテスカ

此等ノ人々ハ直接ニ命令ヲ出サレタノテハアリマセンガ私ノ名義ノ

下ニ命令アレタノデシ

ソレテハ其等ノ人々カナンタルコトハ何ンテモ其下ノ司令ノ責任ノ

下ナサレマシム。ソレナ同趣ヒアリマセンカ

私ハ其等裁判所ノ司令官アリ故ニ司令官トシテ責任ヲ取リマス

× × × × × × ×

問

答 佐官ニ依ル等同

(ペリ)中佐ニ依ツア)澤田將重。私ハ去ルル月三日水曜日ノ研東

將重ノ發言ニ真下ノ任原ヲ引キ度イト思ヒマスソレニ將重ハ一九四

二年四月廿八日或判ノ報告ヲ電報テ南京ヲ通ジテ東京ニ送達シ八月

廿九日廿日頃書面ノ報告ヲ東京ニ送附シタ趣意ヲ述ベマシメ私ハ

貴下ニ尋ネマスカ其ノ報告ニ何ニカ認メアツタカ知ツアマスカ

其ノ等類ハ且申或判所ノ判決ニアリマシメ

其レ丈ヲアツタマス

其レ丈ヲアリマス

反尋問ニ就イテ

將重。其ノ或判ノ記録全部ハ并上少佐カ此處ハ一九四四年ニ日本カ

ラ取リニ來テ其レヲ日本ニ持テ歸ヘラントシタ迄第拾參五司令部ニ

ラ取リニ來テ其レヲ日本ニ持テ歸ヘラントシタ迄第拾參五司令部ニ

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答 問 答

| | | | | | |
|---|-----|-----|-----|-----|-----|
| × | 其ノ | 味スル | 記録ハ | 其レハ | アツタ |
| × | 司令部 | ノ | 其處ニ | 其處ニ | タノ |
| × | テス | テス | 保官 | 保官 | トハ |
| × | | 不 | サル | サル | 遅ヒ |
| × | (| | ル | ル | マス |
| × | 第四 | | 可 | 可 | カ |
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EXCERPT FROM THE RECORD OF THE TRIAL
UNITED STATES OF AMERICA vs SHIGERU SHIMADA, et al

Before the
MILITARY COMMISSION
Convened by the
COMMANDING GENERAL
United States Army Forces
CHINA

UNITED STATES OF AMERICA :
:
-vs- :
:
SHIGERU SHIMADA :
YUSUKE KAWANO :
RYUJI OKUDA :
SOTOJIRO MATSUO :

PUBLIC HEARING

VOLUME IV

PAGES 401 TO 404

SHIMAZU, CHIEF.

DATE 1 MAY 1946

* * * * *

OKUDA RYUJI

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 a view of military law therefore I request that the penalty be death sentence. That was said in his closing argument.

PROCEEDINGS FROM THE TRIAL OF THE MILITARY COMMISSION
UNITED STATES OF AMERICA vs SHIGERU SAKADA, et al

Before the
MILITARY COMMISSION
Convened by the
COMMANDING GENERAL
United States Army Forces
CHINA

UNITED STATES OF AMERICA :
:
-vs- :
:
SHIGERU SAKADA :
YUSUJI MIKO :
RYUNOSUKE OKADA :
SOTOJIRO TANISUE :

PUBLIC TRIAL

VOLUME IV

PAGES 376 TO 394

SEANGHAI, CHINA.

DATE: 1 MAY 1946

* * * * *

YUSUJI MIKO

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 Mata 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 Nanking 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)

* * * * *

3. Was the United States Government advised that you had sentenced these boys to death?
4. 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. 394)

問、實下ハ本事件ニ於ケル被告ノ一人テスカ
答、サウテアリマス（三七六頁）

問、畑ハ何カ他ノ事ヲ云ヒマシタカ
答、八飛行士ノ行爲ハ支那派遣軍ノ軍律違反ニ該當シマス。檢事ハ當

該飛行士達ニ死刑ヲ求刑致シマシタ（三八四頁）

問、報告ガ否、法廷ハ其ノ判決ノ報告ヲシマシタカ
答、南京最高司令部ヲ通ジテ大軍官ニ電報ガ打タレマシタ

問、其ノ報告ハドウ云フ事テシタカ
答、ソレハ八飛行士ノ死刑ノ判決ニ懸スルモノテシタ

問、本裁判ニ關シテ東京へ何故報告ガ送ラレタノテスカ
答、我々ハソレヲ報告セヨトノ命令ヲ受ケテ居リマス。法廷ノ判決ヲ

即時報告セヨトノ命令ガ受テサレテ居リマシタ

問、其ノ命令ハ又、法廷ノ判決ニ奉ク如何ナル行爲モ差控ヘルヤウ
ニト云フテアリマシタカ

答、サウテアリマス

問、東京ハ届ケラレタ報告ニ基キ何カ致シマシタカ

答、東京カラ三名ノ飛行士ヲ死刑ニ處シ他ノ刑罰ヲ五飛行士終身刑

ニ減輕セシト云フ指令が出マシタ

問、是等ノ少年達ニ賁下達ガ死刑ノ判決ヲ云渡シタ事ニツイテ合衆

國政府ハ通知サレマシタカ

答、大本營カラ此ノ事件ニ關スル凡テノ事、埃ハ大本營ノ指令ニ依ル

ベク第十三章ハ何等通告ヲ爲ス制限ヲ有セストノ命令ヲ受ケテ居

リマシタ(三九四頁)

EXCERPT FROM THE RECORD OF THE TRIAL
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Convened by the
COMMISSARY GENERAL
United States Army Forces
CHINA

UNITED STATES OF AMERICA :
:
-vs- :
:
SHIGERU SAKADA :
YUSEI WAKO :
RYUHEI OKADA :
SOTOJIRO TATSUTA :

PUBLIC TRIAL

VOLUME IV

PAGES 309 TO 328

SHANGHAI, CHINA.

DATE 1 JULY 1946

* * * * *

SHOSHI ITO

called as a witness on behalf of the defense. (p. 308)

* * * * *

Q. (By Major Dryer) 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. When was this written report sent to Tokyo?
A. It was a letter of August 29 or 30th. (p. 327)

在 中 國 合 衆 國 陸 軍 司 令 官 ノ 召 集 ニ カ、ル 軍 事 委 任 會 ニ 於 テ
亞 米 利 加 合 衆 國 對 澤 田 茂 其 ノ 他 ノ 裁 判 記 録 ヲ リ ノ 抜 粹

| | | | |
|---------------------------|-------------|-------------|---------|
| 米 國 對 | 澤 田 光 一 君 | 龍 岡 田 隆 平 君 | 外 次 郎 茂 |
| 第 四 卷 三 〇 九 頁 ヲ | リ 三 二 八 頁 | | |
| 中 國 上 海 一 九 四 六 年 五 月 一 日 | | | |
| × | × | × | × |
| 人 ト シ テ 出 頭 セ シ メ ラ ル | (三 〇 八 頁) | | |
| × | × | | |

公 判

問 答 問 答 問 答 問 答 問 答 問 答 問 答 問

（ドワイア少佐ニ依ル）姓名階級所屬部並ニ軍隊名ヲ述ベナサイ
 姓名ハ伊藤庄司階級ハ陸軍法務少將デアリマス（三〇九頁）
 一九四二年ノ夏及ビ秋ハ何處ヘ配屬サレテ居リマシタカ
 支那派遣軍籌給參軍ノ法務部デス
 此ノ期間中法務部ハ何處ニ在リマシタカ
 中國ノ上海ニアリマシタカ
 貫署ハ法務部々長デシタカ
 ハイ、ソウデアリマシタ（三一頁）
 此ノ裁判ノ報告ハ東京ヘ爲サレマシタカ
 ハイ、爲サレマシタ
 其ノ報告ハ裁判ノ後直チニ爲サレマシタカ
 裁判所ハ南京ヲ通ジテ東京ニ電報ヲ打チマシタソウシテ書面ノ報告
 ガ後ニ東京ヘ發送セラレマシタ
 此ノ書面ノ報告何日東京ヘ發送ニナリマシタカ

答 問 答 問 答

八月廿九日附カ卅日附ノ手紙デゴザイマシタ (三二七頁)
此ノ報告ハ裁判記録デアリマシタカ
其レハ判決ノ書狀デアリマシタ
何故此ノ報告ヲ東京ニ送ル必要ガアツタノデシタカ
私共ハ參謀總長カラ判決ガナサレタ時ハ判決ヲ書狀ニテ直チニ東京
ヘ發送スル様命令ヲ受ケテ居リマシタ

EXCERPT FROM THE RECORD OF THE TRIAL
UNITED STATES OF AMERICA vs SHIGERU SAADA, et al

Before the
MILITARY COMMISSION
Convened by the
COMMANDING GENERAL
United States Army Forces
CHINA

UNITED STATES OF AMERICA :
:
-vs- :
:
PUBLIC TRIAL
SHIGERU SAADA :
YUSEI WAKO :
RYUHEI OKADA :
SOTOJIRO MATSUDA :

VOLUME II

PAGES 191 TO _____

SWINGHAI, CHINA

DATE 1 MAY 1946

* * * * *

Prosecution's Transcript Exhibit No. 25
Statement of MAT, Itsuro

* * * * *

The following is a detailed account of the nature of my duties at the time of the trial, and my version of my part in this affair. (p. 1)

* * * * *

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 HORUJUN*, Second Lieutenant FUJURO* (T.N. Presumably FURRO.), Sergeant Sufatsu* (T.N. Presumably SPATZ) 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 SHINOBU () who succeeded Lieutenant General SAKADA, issued instructions for the execution of Lieutenant HONBU* 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 retractive in order to fit it to past offences; and through the medium of a military tribunal mete out punishment. (p. 5)

辯護訓書證第二九九九號
法廷證第 號

亞米利加合衆國對澤田茂其他ノ裁判記録ヨリノ拔萃
在中國ノ合衆國陸軍司令官ノ召集ニカ、ル軍事委員會ニ於テ
米國對 澤田 茂

和光ユ一セイ 公判
岡田 隆平
福田 外次郎

第二卷一九一頁ヨリ 頁
中國上海 一九四六年五月一日

檢察官側法廷證第二十五號附本

畑 逸郎 陳述

左記ハ裁判當時ニ於ケル私ノ職務ノ性質及ビ本事件ニ關スル私ノ立場
ノ詳細ナル説明ニアリマス(第一頁)

エ
エ
エ
エ

英裁判ノ前ニ第十三軍司令部ハ支那派遣軍司令部ヲ通ジ大本營ヨリ
「大本營ガ米國飛行士ニ對スル處罰ノ公表ヲ爲スニ依リ判決ニ關スル
ル報道ヲ速カニ參謀總長ニ通知スベシ」トノ特殊ノ指令ヲ受ケテ居
リマシタ。之ニ從ヒマシテ裁判ガ終リマシタ瞬間ニ第十三軍司令官
ハ支那派遣軍司令部ヲ通ジマシテ判決ヲ通知致シマシタ。

其ノ爲メ一九四二年十月十日支那派遣軍司令部ヲ通ジ左記ノ意味ノ
命令ヲ第十三軍司令官ハ大本營ヨリ受ケタノデアリマス。即チホル
マク中尉フアロ少尉（翻譯者註 *Farrow*）ナラン一スバツ軍曹（翻
譯者註 *Spact* ナラン）ニハ死刑ガ要求サレ、執行期日ハ一九四
二年十月十五日トナツテ居リ、且余五名ノ者ノ判決ハ終身禁錮ニ減
殺サレ、是等ノ五名ハ爭訟罪人ト宣告サレタノデアアルカラ通例ノ
任職ニ與フベキ取扱トハ別項ノ取扱ヲ與フベシトノ條項ガ附セラレ
テアリマシタ。

(Excerpt from Ex. 3834)

PROCEEDINGS FROM THE RECORD OF THE TRIAL
UNITED STATES OF AMERICA vs SHIGERU SAKUDA, et al

Before the
MILITARY COMMISSION
Convened by the
COMMANDING GENERAL
United States Army Forces
CHINA

UNITED STATES OF AMERICA :

-vs-

SHIGERU SAKUDA.
YUSUKE IMAI.
RYUHEI OKUDA.
SOTOJIRO MATSUMA.

PUBLIC TRIAL

VOLUME III

PAGES 213 TO

SHANGHAI, CHINA.

DATE 1 MAY 1946

* * * * *

Prosecution's Transcript Exhibits Nos. 27 and 28
Statement of SAKUDA, Shigoru

* * * * *

- Q. Were you in charge of the 13th Army at the time the fliers were court-martialed?
- A. I was the commanding general of the 13th 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. Isn't 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 13th Army at the time the fliers were executed at Kiangwan Military Prison in October of 1942?
- A. At that time I was relieved of my duties as commanding general of the 13th Army and was back in Tokyo.

- Q. Who was the commanding general of the 13th Army in October 1942?
- A. Shinomura. (p. 2)
- Q. Who was Chief of Staff of the 13th Army? Was it Karakawa?
- A. Karakawa was the Chief of Staff.

- Q. Do you know where General Shimomura is now?
A. In all probability 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 Shimomura order the execution of the fliers?
A. Under the results of the trial. Shimomura issued the orders to execute those prisoners. During the execution he was the commander of the 13th Army.

* * * * *

- Q. Was the Langhavan Military Prison under your jurisdiction?
A. I had authority over Langhavan.
- Q. Did you give any specific instructions as to how these 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 Kempatai, 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. (p. 3)

* * * * *

- Q. Wasn'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 of 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. (p. 4)

* * * * *

- 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 Shimomura took over command from October 8, 1942.
- Q. Did you exercise court martial jurisdiction over the Shanghai Area in 1942?

- Q. Yes, they must have my "chop". From May 7, 1942, up till September 17, 1942, between 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 act 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 fliers?
- 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 appointed 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)
- 5

織請司家禮儀三〇〇一號
法 庭 庭 庭

左 中 日 合 衆 興 業 公 司 會 社 石 橋 一 力 力 事 務 員 會 於 於

興 業 公 司

澤 田

茂

和 光

ユ ー セ イ

岡 田

隆 平

公 判

龍 田

外 次 郎

記 録 第 二 卷 二 一 三 頁 ヨ リ

具 迄

中 日 上 海 二 於 於 一 九 四 六 年 五 月 一 日

X X X X X X X

檢察官任法廷記第二十七號第二十八號原本

澤田 茂陳述

X X X X

問 飛行士達が軍法會議ニ附セラレタ當時貴下ハ第十三軍ヲ指揮シテ居

マシタカ

答 私ハ飛行士達ガ軍法會議ニ附セラレタ時第十三軍司令官デアリマシ

タ

問 法廷諸員任命ニ關シテハ貴下ハ何ヲシマシタカ

答 私ガ法廷諸員ヲ任命致シマシタ

問 貴下ガ上海デ此ノ人々ヲ裁判シタ法廷諸員ヲ任命シタノデスカ

サウデアリマス

X X X X

問 裁判ガ開カレタ後判決ガ陸軍大臣ノ承認ヲ得ル爲メ陸軍省ヘ送ラレ

タ事ハ事實デアリマスカ

Dof Doo

答 規則ニ從へバ其ノ種ノ報告ハ凡テ東京ノ上級司令部へ届ケラレル事
ニナツテ居マシタ
問 一九四二年十月江島陸軍刑務所ニ於テ處刑サレタ時費下ハ第十三軍
ヲ指揮シテ居一シタカ
答 當時私ハ第十三軍司令官ヲ兼ゼラレ東京ニ戻ツテ居リマシタ
問 一九四二年十月ノ第十三軍司令官ハ誰デシタカ
答 下村デアリマシタ(二頁)
問 第十三軍ノ參謀長ハ誰デシタカ、^{カラ}香川デシタカ
答 香川ガ參謀長デシタ
問 貴下ハ下村將軍ガ今何處ニ居ラレルカ知ツテキマスカ
答 恐ラク唯今ハ東京ニ居ラレルデセウ
問 彼ハドウリツトル飛行七連ガ處刑サレター一九四二年十月ニハ司令官
デアリマシタカ
答 サウデス彼ハ其ノ時第十三軍司令官デアリマシタ

問

答

問

答

問

答

問

答

下村將軍が飛行士達ノ處刑ヲ命令シタノデスカ

答 是等ノ捕虜ニ基イテデアリマス。下村ハ是等ノ捕虜ヲ死刑ニスル命

令ヲ發シマシタ。處刑ノ際彼ハ第十三軍ノ司令官デアリマシタ

問 江邊陸軍刑務所ハ首下ノ管轄區域内デアリマシタカ

答 是等ノ捕虜ニハ命令權ガアリマシタ

問 是等ノ捕虜ノ如何ニ扱フベキカニ關シ貴下ハ何カ特ニ命令ヲ下シ

マシタカ

答 彼等ガ最初捕ヘラレタ時我々ハ彼等ヲ東京ニ戻スヤウ命ジラレ、其

後ニ至ツテ上海デ裁判ニ附スルヤウ命ジラレマシタ

問 我々ノ裁判權ノ下デ我々ハ彼等ヲ裁判ニ附シ而シテ彼等ハ非戦同員

殺害ノ罪アル事ガ分リマシテ憲兵隊ノ方ヘ廻サレマシタ、故ニ彼等

ノ取扱ニ關シテハ私ハ何等ノ關係アリマセン。此ノ事件ニ關スル特

ニ悉曲ノ點ニ就テハ大本營ノ記録ヲ御覽ニナレバ本裁判ノ記録ヲ御

見附ケニナルト信ジマス(三頁)

| | | | | |
|--|--|-------------------------|--|-------------------------------------|
| <p>答</p> <p>アリマス</p> <p>カラ他ニ出張シテ居ツタ真ニ依リマシテ私ハ伊豫ニ擔當サセタノデアリマス</p> <p>軍法デハ私ハ裁判ニ對シ責任ガアルノデスガ其ノ裁判當時私ガ上海</p> | <p>問</p> <p>日本ノ軍法デハ法廷ノ判決ヲ其法廷諸員ヲ任命シタ時軍ガ承認ヲス</p> <p>ルノデハアリマセンカ</p> | <p>答</p> <p>サウデアリマス</p> | <p>問</p> <p>長等ノ人々ヲ裁判シタ法廷諸員ヲ貴下ガ任命シタコトハ事實デスカ</p> | <p>X</p> <p>X</p> <p>X</p> <p>X</p> |
|--|--|-------------------------|--|-------------------------------------|

44

答 問

伊藤大佐ハ飛行士ニ與ヘタ判決ヲ承諾シマシタカ
 伊藤ハ法廷ノ判決ヲ東京ノ司令部ヘ移送シ、而シテ東京側ハ飛行士
 處刑ノ極限ヲ與ヘタノデアリマス。我々ノ規則デハ秒々自身デ判
 決ヲ爲ス事ハ出來マセン。我々ノ方針デハ法廷ノ判決ヲ下シ其ノ
 判決ヲ司令部ニ報告シ而シテ司令部ガ如何ナル州ニ處スベキカニ就
 テ命令ヲ下スノデアリマス（四頁）

X X X

答 問

貴下ガ支那ニ於ケル日本ノ第十三軍ノ指揮ヲ收ツタノハ何時デスカ
 私ハ一九四〇年十二月一日カラ一九四二年十月八日迄第十三軍ノ指
 揮ヲシマシタ

答 問

一九四二年十月八日ニ誰ガ貴下ノ後任トアリマシタカ
 一九四二年十月八日カラ下村中將ガ指揮ヲシマシタ
 一九四二年ニ於テ貴下ハ上海地區ニ於テ軍法會議ノ裁判ヲ行使シ
 マシタカ

6

答問 答問 答問

ラ如定スルコトニナツテ居リマシタ
 ニ報告スル事ニナツテ居リ而シテ東京大本營ハ彼等ノ爲メ此ノ事件
 本裁判及ビ飛行士ニ與ヘタ判決ニ關シ第十三号司令官ハ東京大本營
 飛行士ニ選シタ死刑ノ宣告ノ爲メニ責任ヲ取ルノデスカ
 サウチアリマス
 貴下ハ司令官タルノ故ニ以テ責任ガアルト思フノデスカ
 角私ハ此ノ裁判ニ關シテハ進ンデ責任アリトサレマセウ
 ハ私ハ何モ知ラス唯東京カラ命令ガ來マシタノミデアリマスガ兎ニ
 マス、然シ私が戻リマシテタトキ、ドウリツトル事件、ソレニ就テ
 私ノ不在中彼等ガ私ノ印ヲ用ヒル私ノ機限ヲ有シテ居ツタノデアリ
 貴下ノ代理ラスル機限ヲ彼ニ與ヘタノデスカ
 私ノ蒙僚ハ私ノ印ヲ持チ私ノ代リニ職務ヲ取リマシタ。
 シマシタ。ソレニハ私ノ印ガ入リマス。一九四二年五月十日カ
 ラ一九四二年九月十七日迄、此ノ期間内ハ前線ニ在リマシタノデ

答 問 答 問 答 問

法廷諸員ハ賈下ノ司令部ニ依リ任命サレタノデシタネ
サウデアリマス
法廷ノ與ヘタ死刑ノ宣告ハ賈下ノ司令部ニ依ツテ承認サレタノデシタ
日本ノ第十三條ノ司令官ハ法廷ノ判決ヲ變更スルカハ符ツテ戸リマセ
ン
賈下ハ判決ヲ承認シタノデスネ
サウデアリマス

EXCERPT FROM THE RECORD OF THE TRIAL
 UNITED STATES OF AMERICA vs SHIGERU SAMUDA, et al

Before the
 MILITARY COMMISSION
 Convened by the
 COMMANDING GENERAL
 United States Army Forces
 CHINA

UNITED STATES OF AMERICA :

-vs-

SHIGERU SAMUDA

YUSUJI WAKO

RYUHEI OKADA

SOTOJIRO TATSUTA :

PUBLIC TRIAL

VOLUME III

PAGES 215 TO _____

SHANGHAI, CHINA.

DATE 1 MAY 1946

* * * * *

Prosecution's Transcript Exhibit No. 29
 Statement of WAKO, Yusue

* * * * *

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.

辯護側書證第三〇〇二號
法廷證第 號

亞米利加合衆國對澤田茂其ノ他ノ裁判記録ヨリノ拔萃
在中國合衆國陸軍司令官ノ召集ニカ、ル軍事委任會ニ於テ

米 國 對

澤 田 茂

和 光 ユーライ 公 判

岡 田 隆 平

龍 田 外 次 郎

第 三 卷

二 一 五 頁 ヨリ

中 國 上 海

一 九 四 六 年 五 月 一 日

× × × × ×

檢察側法廷證第廿九號謄本

和光ユウサイノ陳述

Def. Doo, #3002

答問 答問 答問 答問 答問 答問

其ノ法律ハ捕虜ガ捕ハレタ後ニ出サレマシタ。又其ノ法律ハ審
其ノ傳達文ハ審理ノ前ニ受領シマシタカ
ハイ。見マシタ。第拾參軍司令部ニ傳達サレタ文書ヲ見マシタ
此ノ件ニ關シ東京カラ來タ命令ヲ見マシタカ
ハイ。私ハ裁判官側ノ一員デアリマシタ（一頁）
貴君ハ裁判所ノ法務員デアリマシタカ
ラ命令ヲ受ケタノデアリマシタ
私ノ任命ハ第拾參軍司令官ガ致シマシタガ同司令官ハ大本營カ
誰レガ貴君ヲ裁判官ニ任命シマシタカ
ハイ。任命ザレマシタ
貴君ハドウリツトル號飛行士ヲ審理シタル軍法會議ノ一員トシ
テ任命サレマシタカ

| | | | | | |
|---|----|---|---|---|---|
| 答 | 問 | 答 | 問 | 答 | 問 |
| イ | 賈 | 數 | 誰 | 別 | 理 |
| エ | 君 | 判 | ガ | ニ | 前 |
| 、 | ハ | 所 | 裁 | 特 | ニ |
| 別 | 此 | ハ | 判 | 別 | 出 |
| ニ | ノ | 表 | 判 | ナ | サ |
| 御 | 件 | 判 | ノ | 命 | レ |
| 座 | ニ | ノ | 判 | 令 | タ |
| イ | 就 | 決 | 決 | ハ | ノ |
| マ | イ | ヲ | ヲ | 受 | デ |
| ヤ | テ | 大 | 承 | ケ | ア |
| ン | 何 | 本 | 認 | マ | リ |
| (| ニ | 營 | シ | ヤ | マ |
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|) | ニ | 告 | カ | シ | |
| | 陳 | ス | 御 | タ | |
| | 述 | ル | 存 | (| |
| | シ | 答 | ジ | 三 | |
| | タイ | デ | デ | 頁 | |
| | 事 | シ | ス |) | |
| | ガ | タ | カ | | |
| | アリ | | | | |
| | マス | | | | |
| | カ | | | | |

Def Doc No. 302

六、前流ノ指令ニ基キ十月十五日伊藤大佐ハ澤田中將ノ後任タル下村中

尉一ヨリ命令ヲ受取スルヤホルマク中尉仲二名ノ

死抽執行ノ指令ヲ發シマシタ(四頁)

X X X X X

未事件ニ對シ眞ニ責任アリトセララルベキ人々ハ大本營陸軍管及び憲兵司

令部ニ關係セル人々デアルト私ハ主腦致シマス。

此ノ法律ヲ過去ノ犯罪ニ適用スル爲メ效力ヲ遡及サセ、官憲を諒ヲ

通ジテ刑罰ヲ適用サセテ、此ノ法律ヲ制定ニ至ラシメタノハ是等ノ

人々デアリマシタ

EXCERPT FROM THE RECORD OF THE TRIAL
 UNITED STATES OF AMERICA vs SHIGERU SANADA, et al

Before the
 MILITARY COMMISSION
 Convened by the
 COMMANDING GENERAL
 United States Army Forces
 CHINA

UNITED STATES OF AMERICA :

-vs-

SHIGERU SANADA
 YUSUJI WAKO
 RYUHEI OKUDA
SOTOJIRO MATSUDA :

PUBLIC TRIAL

VOLUME III

PAGE 301

SHANGHAI, CHINA

DATE: 1 MAY 1946

* * * * *

Defense Transcript Exhibit No. 10
 Affidavit by General SHIMOMURA, Sadamu - 8 March 1946

* * * * *

8 Oct 1942

On this day, orders were issued for the change in command of the 13 Army. Lt Gen SANADA was in SHANGHAI at the time, while Lt Gen SHIMOMURA, 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 SHIMOMURA makes courtesy call to Imperial Headquarters. (p. 1)

* * * * *

Up to this day (9 Oct) Lt Gen SHIMOMURA 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)

(Excerpt from Ex. 3834)

EXCERPT FROM THE RECORD OF THE TRIAL
UNITED STATES OF AMERICA vs SHIGERU SAKADA, et al

Before the
MILITARY COMMISSION
Convened by the
COMMANDING GENERAL
United States Army Forces
CHINA

UNITED STATES OF AMERICA :

-vs-

SHIGERU SAKADA :
YUSUJI WAKO :
RYUHEI OKADA :
SOFOJIRO TATSUJI :

PUBLIC TRIAL

VOLUME III

PAGE 276

SHANGHAI, CHINA.

DATE 1 MAY 1946

* * * * *

Defense Transcript Exhibit 8
Statement by TOJO, Hidoki

* * * * *

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 SAKADA Shigeru:

1. That the aforementioned POWs 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 these regulations, the Army CG must not deviate from such regulations.

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

4. That the sentences of five (5) of the aforementioned eight (8) POWs 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;....

(p. 1)

辯護國制等證
法廷證 第

第三〇四號

亞不里川百不河河澤出茂具ノ他ノ裁判記録ヨリノ抜粹
在巴爾台飛河河魚司令官ノ口集ニカカル宜發任置ニ於テ
太田 澤 出 茂
和光 ユーメイ
岡 出 隆 平
山 外 次 郎

公判

第三卷
中 上 編

二七六頁ヨリ
一九四六年五月一日

辯護國制等證
法廷證第八編本英機墜機

私ハ一九四二年四月十八日日本本エテ攻襲シタルドワリツトル號飛行士
ノ裁判ノ時ノ陸軍大臣トシテ澤出中尉ノ爲メ次ノ事實ニ就キ證言ヲ致シ
マス

一 上記ノ法律ハ中央ノ命令ニテ上級ノ裁判ニ附セラレマシメ（私ハ此ノ命令ハ大本營ノ命令カ以テ且入員ノ命令テアツタカテ明確ニハ思ヒ起スコトハ出来マセン次ノ又中テ中央トイフコトハ上記ノ意味ヲ使用セシマス）

二 此ノ法律ハ規定スル根本ノ規定ハ中央テ發布シマシメソウシテ此等ノ規定ヨリ受領スル體ユハ軍司令官ハ斯カル規定ヨリ選脱スルコトヲ得マセン

三 右八名ノ法律ハ死刑ニ判決セラレタ中央ニ報告セラレマシメ

四 上記八名ノ法律ノ中五名ノ宣誓ハ入營ヲ行使サレル陸下ノ御召ニ依ツテ執行セラレマシメ

五 上記ノ死刑ノ特別ノ恩赦ハ残り三名ノ死刑宣告ノ執行ノ許可ハ中央ニ依ツテ行ハレマシメ

六 裁判長ノミカ先決ヲ與フル權限ヲ有シテ是リ、且司令官ハ判決ヲ無効ナラシメ又ハカナル判決ノ輕減ヲナス權限ヲ有シマセン

EXCERPT FROM THE RECORD OF THE TRIAL
UNITED STATES OF AMERICA vs SHIGERU SAWADA, et al

Before the
MILITARY COMMISSION
Convened by the
COMMANDING GENERAL
United States Army Forces
CHINA.

UNITED STATES OF AMERICA :
:
-vs- :
:
SHIGERU SAWADA :
YUSUJI WAKO :
RYUENI OKADA :
SOTOJIRO TATSUTA :

PUBLIC TRIAL

VOLUME III

PAGES 227 TO

SHANGHAI, CHINA.

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)

EXCERPT FROM THE RECORD OF THE TRIAL
UNITED STATES OF AMERICA vs SHIGERU SAWADA, et al

Before the
MILITARY COMMISSION
Convened by the
COMMANDING GENERAL
United States Army Forces
CHINA

Def. Doc. #3005

Exh. No. -----

法廷 證節 號
每段側書證第三〇〇五號

亞米利加合衆國對澤田茂其ノ他ノ裁判記録ヨリノ拔萃
在中國合衆國陸軍司令官ノ召集ニカ、ル軍事委任會ニ於テ
米 國 對 澤 田 茂
ワ コ ー ユ ー サ イ

岡 田 隆 平
齋 田 外 次 郎

公 判

第 三 卷

二 二 七 頁 ヨ リ

中 國 上 海

一 九 四 六 年 五 月 一 日

檢 察 側 法 廷 證 節 第 卅 三 號 層 本

齋 田 外 次 郎 陳 述

證 節
計 ガ ド ウ リ ツ ト ル 號 飛 行 士 ヲ 處 刑 ス ル 命 令 ニ 對 名 シ マ シ タ カ

Def. Doc. #3005

答

裁判所ノ裁判官ガ其レニ承認ヲ與ヘマシタソウシテ裁判官ハ何
人ニテモ死刑ノ宣告ヲ與フルコトガ出來マシタ
ソウシテソノ宣告ハ直チニ裁判所ニ依ツテノミ執行スルコトガ
出來マシタ。同日デス之ハ重要事件デシタノデ検事長ハ第十三
軍司令官ノ許ヘ持ツテ行キマシタ

問

澤田中將デアリマシタ

答

澤田中將ハ何ニラシマシタカ

問

澤田中將ハ判決ニ關シ裁判所ニ東京ノ大本營ニ報告ヲスル様ニ
命ジマシタ其ノ後日本ノ天皇陛下ノ好意ニ依リ五名ハ終身刑ヲ

答

三名ハ死刑ヲ宣告サレマシタソレヨリ東京カラ命令ガ來マシテ

問

五名ハ終身刑又三名ハ死刑トナリマシタ。ソウシテ澤田中將ハ
検事長ニ三名ヲ死刑ニ處シ、又五名ハ終身刑ニ處スル宣告ヲ執行
スル様命令ヲ發シマシタ。

EXCERPT FROM THE RECORD OF THE TRIAL
UNITED STATES OF AMERICA vs SHIGERU SAWADA, et al

Before the
MILITARY COMMISSION
Convened by the
COMMANDING GENERAL
United States Army Forces
CHINA

UNITED STATES OF AMERICA :
:
-vs- :
:
SHIGERU SAWADA :
YUSUJI MATSUO :
RYUJI OKADA :
SOTOJIRO MATSUO :

PUBLIC TRIAL

VOLUME III

PAGES 306 TO

SHANGHAI, CHINA

DATE 1 MAY 1946

* * * * *

Defense Transcript Exhibit No. 13
Statement of KARAKAWA, Yasuo

* * * * *

- Q. Please state your name.
A. Yasuo Karakawa.
- 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 13th 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)

辯護側書證第三〇〇六號
法廷證第 號

亞米利加合衆國對澤田茂其他ノ表判記録ヨリノ拔萃
在中國ノ合衆國陸軍司令官ノ召集ニカ、ル軍事委員會ニ於テ
米 國 對 澤 田 茂

新 光 二 十 七 日
岡 田 隆 平
薛 田 外 次 郎

公 判

記録第三卷三〇六頁ヨリ 頁迄

中國上海ニ於テ一九四六年五月一日

辯護側牘本法廷證第十三號

唐 川 ヤスヲ陳述

問 貴下ノ姓名ヲドウゾ云フテ下サイ

| | | | | |
|---|---|---|---|---------------------------|
| <p>問 答</p> <p>二 三 回 私 ハ 飛 行 士 達 ニ 與 フ ベ キ 處 罰 ニ 關 シ 東 京 大 本 營 ニ 報 告 シ</p> | <p>答</p> <p>裁 判 ノ 結 果 ハ 東 京 大 本 營 ニ 送 達 サ レ マ シ タ カ</p> | <p>問 答</p> <p>一 九 四 二 年 八 月 中 是 等 ノ 飛 行 士 ニ 關 シ テ 日 本 第 十 三 軍 ニ 依 リ 如 何 ナ ル 事 ガ 爲 サ レ マ シ タ カ</p> <p>東 京 カ ラ ノ 指 令 ニ 基 キ 飛 行 士 達 ハ 軍 法 會 議 ニ カ ケ ラ レ マ シ タ</p> <p>(一 頁)</p> | <p>問 答</p> <p>一 九 四 二 年 八 月 一 日 ヨ リ 一 九 四 二 年 十 月 十 五 日 ニ 至 ル 期 間 内 ノ 日 本 陸 軍 ニ 於 ケ ル 貴 下 ノ 職 名 及 地 位 ハ 何 デ ア リ マ シ タ カ</p> <p>一 九 四 二 年 八 月 一 日 ヨ リ 一 九 四 二 年 十 月 十 五 日 ニ 至 ル 間、 第 十 三 軍 參 謀 長、 少 將、</p> | <p>答</p> <p>唐 川 ヤ ス ヲ</p> |
|---|---|---|---|---------------------------|

マシタ

問 費下ハ此ノ大本營カラノ報告ヲ裁判前ニ請求シタノデスカ裁判
 後ニ請求シタノデスカ

答 裁判後デアリマスガ最終ノ決定ガ發テラレル前デアリマス
 × × × ×

問 飛行士達ノ骨ヲ變名デ上海ノ國際陸軍醫院ニ置ク様ニ命令シタノハ
 許デスカ

答 陸軍司令部デアリマス

問 何處ノ軍司令部デスカ

答 第十三軍デアリマス

問 其ノ命令ハ何故爲サレマシタカ

答 慣習上日本ノ兵士モ同様ニ扱ハレテ居リマシタノデ其處ニ置カ
 レタノデス

| | | | | | |
|--|---|---------|---------|----------|------------------------------|
| 答 | 問 | 答 | 問 | 答 | 問 |
| 東京カラ他ノ五人ヲ死刑ニヤヌヤウニト云フ特別ノ命令ガ届キ マシタ。私ハソレハ天皇陛下ノ御命令ニ基イタモノト思ヒマス | 終身刑ヲ宣言サレタ捕虜ガ五人居リマシタ。何故是等ノ判決ガ 減輕サレタカ賈下ハ御存ジデスカ | ソウデアリマス | 行ツタノデスカ | フワケデアリマス | 下村將軍ハ東京カラ此ノ命令ヲ受ケテソシテ其ノ命令ヲ上海デ |
| × | × | × | × | × | × |
| × | × | × | × | × | × |
| × | × | × | × | × | × |
| × | × | × | × | × | × |

問 答

此ノ事件ニ關シ何カ陳述シタイト思フコトガアリマスカ
此ノ事件ハ非堂ニ重大ナ事件デアリマシタカラ私ハ凡テヲ大本
營ニ報告シ意見ヲ訊キ初ヲ爲スベキカ指令ヲ乞ヒ大本營ノ命令
ヲ行ツタノデアル！早スコトガ出來マス。(五頁)

SAIONJI-HARADA MEMOIRS

Chapter 100 (9 October 1933)

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."

西園寺原田日記百回

八年十月九日

四日―――廣田外務大臣に會つた處―――陸海軍の先づその立場からの
各大臣の意向を聞きたい、―――で陸海軍とも―――殊に海軍は最悪の場
合のみを考へて居るやうだが、如何にせば然らば其最悪の場合を來
ないやうにすることが出来るか即ち夫が外交に依つてやるより途が
ないのである。―――
自分は滿洲問題の結果即ち國際的に反動を動した其影響を受けるの
であるから之を靜穩に導くことが必要であつて先づ對米問題には民間
の空氣をよくして行きたいと思ふ其下地を造らねばならない。まあ
自分も出来るだけ一つ兩大臣の意向も聞き大藏大臣にも話し充分一
つ努力して見たい。で大藏大臣とは全然意見が一致して居る

Def. Doc. #5011-G (Revised)

S/IONJI-HARADA MEMOIRS

Chapter 155 (14 November 1934)

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 Matsudaira 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."

Defense Document 3013-D

SAICHIJI-HARADA MEMOIRS

August 4, 1937 - 247

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 Paoting line but would not extend the battle-field farther than that.

SAIONJI-HARADA MEMOIRS

Chapter 249 (20 August 1937)

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 revised 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 previously 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 them 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 (Harada) 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, 3035
(HI ROTA)

正 誤 表

第 二 頁 第 七 行 「てゐる」 から 「尙 第 三 継 添 ー ー」 と の 間 に 「ー ー ー ー」
を 挿 入 の 事

~~第 五 行 「四 大 臣 等」 は 「内 大 臣 等」 の 誤 り~~

因國寺原田日記 昭和十六年八月廿日 第二四九回

十三日朝内大臣と私邸で會つた。山中尉が殺された。それで上灘で話かつかなくなつて結局元つ相管に大臣に仕掛なすのになりかけて非常に心配して居るが元來此終局が非常に難しいと思ふ。。

十三日夜臨時會議があつて夜中の一時五十分頃までかゝつた。で近衛總理の話によらると「非常に海軍大臣が共黨して賀屋大藏大臣が怒鳴りつけて内閣政上の説明なんか殆んど聞かなかつた」と云ふやうな争であつて「結局は十分頃済んだ」と。

其の干俊外務大臣に會つた。川越大使が高宗武が初ねて来て文部卿の普城が話へて結局「比島」は凶々、陸軍何にかして貰ひ度い」と言ふ話であつた。

願が列の上灘が變か起つて來た。上灘を相當に利殺したのは直達が増派されて。

陸戦隊を三千に増したりした事か原因だ」といふ事を支那でも言ひ日本側
 でも言ふ人かある。けれども然しあの場合増員することか當然であつて、
 已むを得ない事情にあつたと思はれる。で岡本總領事は「上海をどうかし
 て兵火に見舞はれないやうにした」と云つて来て居つたか然し又日本の
 方か車道をさつさ言つたやうに増したのか悪いと云ふこともあるけれども
 之は致し方かない。で日高参事自には訓令を叫して尙引續き交渉をさせ
 てゐる。尙第三艦隊司令長官は「陸兵をおくるやうに」と云つて来たけれど
 ども兵は出しても同は外交的には努力しようとして今送來たので、ある程
 の望みがあるやうにも思へるか今「若し動員令を出す事を發表するとすれば
 五月五日から陸日の四日までは安んずるに「動員令は」すかこれは發表したい
 」。五月五日以上は外務大臣の話であつた。
 十五日寺内大将かやつて来て「どうも内閣か場い。いろんを運動かあるか
 らやつぱり此の内閣を強くして長くやつて貰はなければならんといふ話で
 「廣田か場い。陸軍大臣かどうもからふらして駐日だ」といふ話であつた。

十七日「此間十三日の晩の同議は不分海軍大臣の興奮して、賀屋を怒鳴り
行けて居つた」といふ話をして「あれ以来海軍が非常に強くなつた」と首
相は語つてゐた。
昭和十二年八月十七日有田大使と桑名で食事をして色々話を聞いたか有田
大使は廣田外務大臣に頼まれて個人の資格で元づ成初北平に行つて北平天
津あたりを歩いてゐる中に上海に行くので司令官達の一種の外交の相談相
手に行く様子を話してゐた。自分は現在の爲に非常によい母だと思つた。
有田も非常に一玉懸命に御公する心算で行く決心らしい。

SATOMI-HARADA MEMOIRS

Chapter 249 (20 August 1937)

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.

西園寺原密日記

二四九頁

昭和十二年八月十三日

で、日高参事官には訓令を出して尙ほ引渡さ交渉をさせて居る、で、
 美米参事官の書函が「上海は武蔵野市であるから兵火の及ばないや
 うにしる」と云ふことを日高参事官に言つて来て居るけれども元來
 日本としては勿論懸けたいのであるが、上海には停戦協定が未だ存
 立して居つて其協定に支那が従へば——言葉を取へて言へば支那が
 其協定を守れば斯の如き事は發生しないのである。で、對立の交戦
 が出來ないやうに「兵を急げ」とか或は「關係國の申渡で行け」と
 か言ふけれども到底さう言ふ事は出來ない。で、川越大使には「飛
 行機で南京に行つて交渉しろ」と言つてやつたけれども未だ行か
 ないやうである。尙第三艦隊司令長官は「急兵をおくるやうに」と言
 つて來たけれども兵は出して尙ほ外交的には努力しようとして今
 迄來たので、ある種の言があるやうに思へるが、今若し勅令を出
 す事を發表すると事態が五月廻いから昨日の函達では要するに「勅
 令は出すがこれは發表しない」と言ふことに決めて——

SAICHI-MARADA MEMOIRS

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 foreground 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 monopolistic 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."

原田寺原田日記 昭和十二年十月十三日 第二百五十一回

それから英大使は「大體に於て極めて合理的な要求だと思ふ。イギリスとしては何神向題には觸れ度くないから、さう云ふ建前から言へば防共と云ふ問題に鳥渡困る。だから防共に関しては特別な方法で日支直接交渉といふやうな事をやつたらどうだといふやうなサゼツションをして居つた。

二日朝「――」外務大臣に會つた處が「イギリスの大使は何時でも仲介の勞を執るが日本政府から申出することは出来なかつた。來たから「東京か聞くやうならばこつちも此を決めたいが、ある辭かを筋から「――」と言つて東京に通じて貰ひたい。外務大臣が斯う言つたとか言ふ事は出る」と言つた處が「辭かを筋では困る、やつはり君が言つたと云ふ事ではないと新にならな」と英國の大使が言ふので「それなら自分だけの考で言ふので、廣田の名前を使つて宜しい。結局廣田から聞いたと云ふ事で言づけてくれ」と云ふ事でやつた處が、其

後英國大使の話した南京からは蒋介石の方は何時でも用意がある、支那側からは言ひ出しにくいのが一、一、一と云ふことであつた。支那が真用意があるならば、非公式に日本から人を出し支那からも人を出して上海あたりで會はして貰ひ度い。電に角英國は糸口だけにつてくれ、け好いので表に立つて所請第三國の介入といふこと、たると困る又九ヶ條條約とか聯盟とかか彼是言ふやうな事も困るが英感だけに話して居ることにした。それから又日本は支那に對して例へば利益についていとも何にしても獨占的な考は無論ない。此といふことを話しておいた。其後聯盟の様子を見て英感代表が小敷委員會で此の問題は二國間といふのだけれども他國の利益が多分に入つて居るから、聯盟は小委員會を造つて見ようといふので、日本と支那と兩方を接近せしめる様を空気を造つて、尙ほ東洋のことに就ては爭奪に於て歐羅巴は明るくないのであるから少くとも兩方の接近するのに邪魔になるやうなことはしないといふ空気を造つて居つたのも矢張り日大使のクレイギーの努力があつたやうに感ぜられて、英感を引つ張つて置かなければ支那は到底動くもの

ではたい——————————————————————————————
「アイギリスあたりで非常に空気の悪いのは當然のことであつて、香港を見
ても彼の海軍の封鎖で以つて日用の魚が入らないといふやうな情況である
と云ふような事であつた。尙廣田外務大臣の話し「イタリ」と日本と防
共のみならず更に軍事情報の如きものを伊太利駐在の堀田大使に言つて置いた
協定だけで宜しい」と云ふことを伊太利駐在の堀田大使に言つて置いた」

Errata Sheet
(Hirota)

Def. Doc. #3016

Line 2

"25 October, 1937" should be read as

"2 November, 1937-----chapter 25"

SAIONJI-HARADA MEMOIRS

25 October 1937

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.

Exh. No.

Doc. Doe, 3016

西園寺原田日記

十二年十一月三日 二百五十四回

二日に自分（原田）は歸つて来て、有田・松平・藤昌と三人で食事をして其時に有田が矢張り「排英運動が非常にひどい、諒程注意を要する」と云ふことでおつたから一感大驚を以て官島橋次郎氏に、それから池田氏に頼んで津田信吉氏に云ふ風に紡績調子の排英の巨頭達中に先づよく利害得失を詰すやうに言つて置いた。昨日外遊大臣がいろんな官費家をお茶かたんに呼んで話した時に「其排英運動は今非常に困る、殊に今イギリスを以て外に支那との間に入つてくゝれる國はなほいんぢからずそんな事を言はれては政府として困る。それは結局に於て何時かイギリスと戦はなければならん。或は矢張り御かたがたればならぬの時に時があるかも知れないけれども、今そんな事を言ふ事は以ての外のことだ、殊に今外交上さう云ふ事をやられては政府として困る」と云ふ事を言つた。云ふが、官島橋次郎等は「そんなやうな考へは無論とさう」と言つて居つた。云ふが、



添綴詞文書三〇一五一〇

和文本文第二行「一九二三年」は「一九二二年」の誤り

添綴詞文書三〇一六

和文本文第三行「昨日外務大臣がいろんを演説す」以下
政府として用ゐる「まで」の誤り

「英國大使の語した」は「英大使の語した」の誤り
第三頁第三行
尙岡田外務大臣の語に 以下削除のこと

1

辯護詞文書三〇一五一〇

和文本文第二行「一九二三年」は「一九二二年」の誤り

辯護詞文書三〇一六

和文本文第三行「昨日外務大臣がいろいろお尋ねを承りました」以下

政府として困るにまで削除の事

「英日大使の話しした」は「英日大使の話しした」の誤り
第三頁第三行
尙廣田外務大臣の語に 以下削除のこと

SAICHOJI-HARADA MEMOIRS

December 6, 1937

"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 has too early confided our real intention 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 attache 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.

SAIONJI-HATADA MEMOIRS

Chapter 260 (19 January 1937)

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, Sadao, et al)

SWORN DEPOSITION

Deponent: KUMAGAI, Juro

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

1. Q. 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 rumours running by making use of the information thus given.
2. Q. 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.

Def. Doc. No. ³⁰²⁰ ●●● (cont.)

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, 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)

Def. Doc. No. ³⁰²⁰ ●●● (cont.)

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."

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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 -

ARAKI, Sadao et al

Sworn Deposition

Deponent ; -- MATSUI, 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. OKADA, 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. CHILING Kai-shek. The SUNG Clique and the CHILING Regime, closely united with each other, formed the backbone of the Kuomintang.

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

DEF. DOC. #3024

"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 To Kyo

DEPONENT: MATSUI, 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 To Kyo

Witness: /S/ ITO, Kiyoshi (seal)

DEF. DOC. #3024

OATH

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

/S/ MATSUI, Iwane(seal)

極東國際軍事裁判所

亞米利加合衆國 其他

對

荒木貞夫 其他

宣稱供述書

係述者 松井石根

自分儀我國ニ行ハルル方式ニ從ヒ先ツ別紙ノ通り宣稱ヲ爲シタル上次ノ如ク供述致シマス

私は昭和十三年一月初め頃、上海に於て中支那方面軍司令官在任中、岡田尚氏
李澤一氏等を紹介して、中國財閥の巨頭宋子文氏に對して日華和平促進運動の爲
めに奮起を促しました。

宋子文氏は蔣介石とは義兄弟の關係で、而して宋財閥と蔣政權とは表裏一体
となつて中國の國民黨の中心勢力を形成して居りました。

私は同年二月歸國して、五月名古屋其地に於て、大亞細亞主義の講演をして、
日本は中國に對して、反省を求むるに共に中國の復興を支援する爲めに犠牲を

拂ふべきである。併し犠牲の報酬を求めてはならぬ。武力によつて中國の領土
を占領しても河を渡るならぬ。領土の露骨の政治的野心を抱いてはならぬ。と

述べて只菅日華の親善、東洋の平和を促進する運動をして居りました。(講談
側文警第 二五〇一號)

私は決してその頃、軍の中央部に對して蔣介石の相手になる勿れと進言したこ
とはありません。

昭和二十三年（一九四八年）一月廿七日 於

供述者 松井 石根

右ハ當立會人ノ面前ニテ宣誓シ且ツ署名捺印シタルコトヲ證明シマス

同日 於

立會人 伊藤 清

Do f, Doo, 3024

宣
誓
書

良心ニ從ヒ眞實ヲ述ベ何事ヲモ黙秘セズ又何事ヲモ附加セザルコトヲ
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署名捺印
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Doc. No. 3025

Excerpt from Saionji-Harada Memoirs.

Chapter 46
(2 July 1932)

On the 29th, a news reporter came and said that it is incessantly rumored that War Minister ARAKI 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 ARAKI'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."

原田日記第四十六回ヨリ抜萃

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滿蒙問題に就て陸軍の強硬な意見を總理大臣に述べて總理大臣は非常に非常に困つて居る夫から自分は總理に電話で「斯う云ふ風な話がありますか」と言つて尋ねた處が總理は「いや對じてそんなことはない寧ろ今日のは荒木陸軍大臣に具体的問題に就ての意見を一邊聞いたことがあるけれども尙確めようと思つて此方から聞きたいので呼んだのであつて強いて強硬とか何とか云ふ話も何も別にない」

Doc. No. 3627

Excerpt from Arionji-Harada Memoris.

Chapter 101
(14 October 1933)

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.

Def. no. 3027

原田日記第百一回より抜萃

昭和八年十月十四日

軍部が共同して國防計畫を立てることにより三六年の條約改訂の時期も
 近いから其前までに所謂防禦的軍備が調はなければならぬ言換へれば外
 交をするにしても夫で失敗した時に万一まゐり何とか云ふ場合に矢張り
 扱けるやうでは困るから外國からもみくびられないやうに防禦的軍備を
 調へて置くことは非常に必要である其意味に於て軍備を充實させると云
 ふので決して積極的に此方から戰爭を仕掛けると云ふ國防ではなくつて
 防禦的國防と云ふことに大体決つたと云ふ事は前の會議から見れば段々
 明確にことになつて居ると忌へる

Doc. No. 3028

Excerpt from Saionji-Harada Memoris. .

Chapter 50
(4 September 1932)

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.

原田日記第五十回より抜萃

昭和七年九月四日

夫から八月一日に海軍大臣に逢つた處が一軍令部と參謀本部の間に秘密の協定が出来た。先づ第一に露國とも米國ともなるべく戦争は避ける様々夫から國際聯盟脱退不可である

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

UNITED STATES OF AMERICA et al

-vs-

ARAKI, Sadao et al

SWORN DEPOSITION

Deponent: KAWABE, 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, KAWABE, 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

Def. Loc. # 3029

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 OSHIMA 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 OSHIMA 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.

DEFONENT: /s/ KAWABE, Torashiro (seal)

Def. Doc. # 3029

I, SHIMANOCHI, 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/ SHIMANOCHI, Tatsuki (see

OATH

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

/s/ KAWABE, Torashiro (seal)

Def. Doc. #3030

Exh. No.

Saionji-Harada Memoire
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. Grew) told me: "When I meet the President and^f 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

Doc. Dec. #3030

on hand to answer these questions. What do you suggest?" I (HARADA) 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 (DCCOMAN) that the Premier had sent a 'ronin' (ex-politician) with a message saying that he (Premier) desired to see DCCOMAN. It seems as if the Premier wanted to meet him because

Def. Doc. #3030

DOOMAN can speak Japanese. At any rate he said he will meet with the Premier in a few days. So I (HARADA) told him (DOOMAN) 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 DOOMAN, 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 DOOMAN 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 DOOMAN 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

Def. Doc. #3030

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 expel European influence 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

Def. Doc. #3030

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

Def. Dec. #3030

the Premier. It is not desirable to have a war started in Europe. Though there are the points 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 European circle, there is room and bases for mutual cooperation to preserve the peace. These 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 Premier.

西園寺原田日記抜萃
第三百二十六回
昭和十四年五月二十三日

「海軍大臣と總理と十五日の午前には曾つたので、其様子を有田外務大臣から聞くと、海軍大臣に、海軍の其後の様子はどうか、と言つて経過を聞いたので、海軍大臣としては「最初から一切不動である、海軍側としては何等讓歩する余地はない」と云ふ話であつた、尙ほ海軍大臣は「二三日返事を留保してくれ」と云ふことであつた由である。」

それで有田外相の話に依ると「閣議の後で總理大臣が自分の室に來て呉れと云ふから行つた處がアメリカ大使が十九日に歸國するさうだが、その前に自分のメツセージを大使館に傳えて貰ひ度い、それは日本は米國と共に歐羅巴の平和の爲めをいやうに維持したい。で一日も遅く紛争の解決に貢獻したいと思ふ、といふ話をして居つたそれに就ては尙ほ自分もよく考へて總理のメツセージとして言はう

上

Def. Doc. #3030

と思ふけれども一方の防共強化の問題に就ては總理として何も話
 をなかつたから自分の方から話を引出した處が矢張以上述べたや
 うな海軍大臣から聞いた通りのことを言つて居つた。さうして海
 軍は少しも諷らないんで困ると總理は言つて居つた」と云ふこと
 であつた。

それから十六日の臺に自分は嵯峨野に米國大使及び參事官を家
 族と共によんで聊かはかりの送別會をした、其時にアメリカ大使
 が自分に言ふのに「自分がアメリカに歸つて大統領に會つた時に
 日午は一体何をアメリカに要求して居るのか又支那に對する問題
 に就てアメリカはどうか云ふ態度を執れば好いか日本と步調を揃へて
 行くにはどうかすれば好いか」と云ふことを聞かれた時に自分は今
 自分の手になんにも材料を持たない一体どうすれば好いのだ」と
 云ふ話であるから「宜しい、それなら十九日に外務大臣に會ふま
 でに自分は有田外務大臣によく眞下の氣持を通じてさうして有田
 と眞下と會つた時に或程度まで眞下が満足出来るやうに努力して
 見やう」と云ふ話をした處が大使も非常に喜んで「是非一つ頼む

「と云ふことであつたから自分ぬ歸つてから直ぐ有田と電話で話した腕が、有田は恰度總理から今日晝、先刻言つたやうな話を聞かされた。又對米平和論を一席聞かされて云々と云ふ話をして居つたので、恰度遠然さう云ふことになつて居つたが向ほ後からアメリカ參事官に聞くと或る浪人が總理の意を受けてドクマンと會ひ度いと總理が言つて居ると言ふ話と會ふことになつて居つた。それは恐らくドクマンは日平語が出來る爲に總理が話して見たのと云ふ氣が起たらしひので數日中に日取を決めて總理と會ふ」と言ふことでめつたから率直に世界の天勢を説いて思ひ切つて總理へ話してやれと言つて置いたが、其筆柄も自分ぬ即座に有田に、かういふ繼續があると言つて電話で話した處が有田はどうりで總理はドクマンなんかのこととを此間聞いて居つて其話を取止めになつて自分が總理のメツセージを大使に言へばそれで濟むんぢやないかと言つて居つたが然し鬼に角總理がさう云ふやうな浪人なんかを使つて大争な外交の聖柄を取交いで話させると云ふことが甚だ訝しな話でめつて本筋から言へば洵に面白くないと自分ぬ思つた。

數日後に偶然途中でドウィマンに會つたら、「來週ノ火曜、即廿三日に總理と會ふことになつた」と言つて居つて、矢張有田の想像とは違つた、で、ドウィマンは、「會つた謙子は又貴下に話さう」と言つて居つた。

十八日朝、グルーが有田外務大臣を訪ねていろいろ話したので、有田から話して「グルーには自分も其後三つの問題を考へて、今日それをグルーに話した」と言つて居つた、先づ第一は同時も言ふことだけども、東亞の新秩序に對する日本政府の眞意、これは誤解のないやうに、例へば支那大陸を日本のみで占領しよう、とか、貿易とか經濟、即ち發展に關して歐羅巴の勢力を驅逐するやうないろんなデマがあるから、此デマを粉碎する爲に、何處までも日本にはさう云ふ意思は毛頭ない、既存の三國の權益を擁護し、尙無論從來通り日本は支那に於ける穀米の經濟活動を決して妨げるとい、と云ふことをよく説いて置いた、第二に防共協定は、日本が全体主義國家に加入するものなりとして、アメリカがその前提に於て國策を立てると、非常な間違ひになる、日本は決して全体主義國家に加入するものではない、と云ふことにはつきり認識して置いて貰へないと、國策の前提を誤るとは互に困ることになるから、此點はよく諒承して貰ひたい、何處までも日米間の親善平和の基としを行きたいと思ふ、第三は支那滿洲島、或は海南島等の件に關聯して、稍ちよれば世間では日本が南洋侵略の野望があると云ふやう

Def. Doc. # 3031

Seionji-Harada Memoire
Chapter 297 (p. 2299) (Corrected)
Date of Entry - 16 Oct. 1938

At noon, SHIRATORI, MATSUDAIRA and I had lunch at the Kuwana 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."

西園寺原田日記抜萃

第二百九十七回

昭和十三年十月十五日

「それから正午白鳥と松平と三人で薬名で食事をして、白鳥の送別會といふ事でゆつくり話して見たが、白鳥は替つて話をすれば比較的に懐めて筋の分つた話をする。鬼に角外務省に人物のなれことを訊いて居つたさうして白鳥も「十一月十日には變つてイタリヤに行つて来る」と云ふから、それから自分は「まあ、鬼に角今外務大臣になるよりも、二三年歐羅巴で一つ大いに遊いて来る方が、個人の爲にも亦公の爲にも好いと思ふ」と云ふやうな話をして、（それから四時に・・・）

Def. Doc. No. 3037

DEFENSE SUMMATION
on
PERSONAL RESPONSIBILITY

MUSANO, Hyoichiro

OKAMOTO, Toshio

DEFENSE SUMMATION ON PERSONAL RESPONSIBILITY

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 Sayer deplors 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.

5. Article 38 of the present Japanese Criminal Code provides in Paragraph 1:

(2) Article 10, Swiss Criminal Code

(3) Sayer: "Mens Rea", Harvard Law Review, Vol. 45, 1931-32, p. 974.

"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 reum nisi mens sit rea", 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⁽⁴⁾ is a modification of Article 77, Paragraph 4, of the old code.⁽⁵⁾ 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

(6) Judgment of Feb. 22, 1926, by the Second Criminal Division, Supreme Court. Report, Criminal, Vol. V, p. 97.

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?

3. Professor Hafter 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 belittles 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 layman, 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

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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⁾

9. Professor Hafter 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 viewpoint 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 punishability 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."⁽⁸⁾

(7) Hafter: "Löhrbuch des Schweizerischen Strafrechts", allg. teil, 1926, S. 117, S. 118.

(8) Hafter: Op. Cit. S. 184.

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 Sayer 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?

(9) Kenny: "Outlines of Criminal Law", 14th Ed., 1933, pp. 41-42.

(10) Sayer: Op. Cit. p. 1025

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."⁽¹¹⁾

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."⁽¹¹⁾

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,⁽¹²⁾ 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

(11) Kenny: Op. Cit., p. 122

(12) Japanese Criminal Code, Article 38, Paragraph 3.

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.

13. 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 Fenerback, the excuse was later actually admitted for several decades with the result that there set in a sharp reaction, which has restored the old rule in modern German law. In France, exceptions are made in very unusual circumstances. The Norwegian 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."⁽¹³⁾

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.⁽¹⁴⁾ But

(13) Radin's "Intent" in Seligman's Encyclopaedia of the Social Sciences, Vol. VIII, p. 129.

(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-cognizance 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 gleans 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, damages 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."⁽¹⁶⁾

17. On the other hand, he remarks:

"But I know of no reported decision which extends this rule to mere municipal by-laws. Both in England and in the United States (Porter v. Waring, 69 N.Y. 250) a

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

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,⁽¹⁸⁾ 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 these 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 sufficientl unlawful to render void a contract connected with it."⁽¹⁹⁾

18. 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

(17) Kenny: Op. Cit. p. 68, Note 4

(18) Mr. Keenan, Opening Statement, T. 405-6

(19) Kenny: Op. Cit. pp. 324-325. As to the question of trading with the enemy, see P. 335, Note 1.

different from ~~the~~
by Lord Wright and quoted by the ~~International Court of Justice~~
follows:

"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 ages '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

(21) The S. S. Lotus (France v. Turkey), Permanent Court of International Justice, Sept. 7, 1927, Cited in Hackworth: "Digest of International Law," 1940, Vol. I, p. 2.

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, p. 487

(23) T. 435

(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 layman, i.e., his sense of law, should inform him that he is committing an act which is not permissible,"⁽²⁶⁾ 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 judges in the McNaughton's 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 laws by which expression we understand to mean the law of the land."⁽²⁷⁾

If there was any conflict between the law of the land and international law, the judges would not hesitate to answer the superiority 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 further 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 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

(27) McNaughton's Case, 1843, cited in "Mishner's 'Leading Cases on Criminal Law,' 3rd Ed., 1935, p. 31.

(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 1928 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 that 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 14 of the Chinese Criminal Code (30) be adopted.

(29) T. 40, 551-5

(30) See Para. 15, 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 prescribed minimum of punishment. For in all others every English judge would take the extenuation 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 a 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⁾

(31) Kenny: Op. cit. pp. 77-78

(32) Kenny: Op. cit. pp. 73-74

But a husband enjoys no similar exemption 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 1957 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 baionettes intelligentes", 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
(34)
apparently legitimate and its formality was satisfactory.

(33) Kenny: Op. Cit. p. 73

(34) Donnedieu de Vabres: "Traite elementaire de droit criminel", 1937, 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-

(35) Kenny: Op. Cit. p. 73

(36) V. Liszt: "Lehrbuch des Deutschen Strafrechts", 21-22 aufl., 1919, § 35, s. 146.

(37) H. E. Mayer: "Der allgemeine Teil des deutschen Strafrechts", 1915, s. 334.

wise will exempt him from any wickedness or blameworthiness and hence from any criminal responsibility.

35. According to Professor Sayer, "the conception 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 (Nichtzumutbarkeit).

(38) Sayer: Op. Cit. p. 1,004

(39) Nuremberg Judgment, p. 16,881

36 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.

37. 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 statements placed themselves on the policy-making level and are therefore chargeable with responsibility in fact."⁴⁰

⁴⁰ T. 10, 542-3.

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. 34,003.

"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.

42. 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 Asiatics, 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."⁽⁴⁴⁾

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 responsi-
bility for his individual offences."⁽⁴⁵⁾

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 corpo-
rate property."⁽⁴⁶⁾

(43) Prosecutor Jackson: "The Case Against the Nazi
War Criminals," 1946, P.82.

(44) Mr. Keenan, Opening Statement, T.473.

(45) Mr. Keenan, T. 434-435.

(46) Kenny: Op. Cit., pp. 65-66.

44. In England, the Interpretation Act, 1889 (52 and 53 Vict. c. 63, S.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 in the language of Chief Justice Marshall '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." (47)

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." (48)

(47) Clark and Marshal: "A Treatise on the Law of Crimes", 4th ed., 1940, pp. 140-143.

(48) 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 (nasei, 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

49. Hackworth Op. Cit., Vol. I, p. 47

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;

52. A. C. 586, 589; cited in Hackworth, Op. Cit. Vol. I, p. 38

Defense Summation on Personal Responsibility

Errata sheet (No. 2)

| <u>Page</u> | <u>Line</u> | |
|-------------|------------------------------------|---|
| 3 | 17-18 | Insert between the two lines: "its paragraph 2 that: "No person shall be punished in," The sentence should read: "Since Article 77 of the old code provided in its paragraph 2 that: "No person shall be punished in the case where he committed a crime <u>without knowing the facts which constitute the crime," ---</u> |
| 13 | 9 | "Natrual Law" should be "Natural Law." |
| 16 | First line of Note (27) | "McNangton's Case" should be "McNaughten's Case." |
| 17 | 4 | at the end of the line, insert "17". |
| " | 3 | at the end of the line, insert "was". |
| 23 | 13 | "Expection" should be "expectation". |
| 23 | 6 | "criminals" should be "criminal". |
| 34 | 6 | "Gentiums" should be "Gentium". |
| 35 | 23 | "legislators" should be "legislations" |
| " | Before the first line of Note (54) | Insert: "(53) Mr. Keenan, T. 459." |

Defense Summation
on
Personal Responsibility

Errata Sheet

| <u>Page</u> | <u>Line</u> | |
|-------------|---------------------------|---|
| 1 | 12 | "Fenerback" should be "Feuerbach". |
| 12 | 19 | "be" should be "lie". |
| " | 20 | "be" should be "lie". |
| " | 20-21 | "contraband or war" should be "contra- band of war". |
| " | 22 | "vitiated" should be "visited". |
| 15 | 12 | "Professor" should be "Professor Hafter" |
| " | 21 | "McNaughton's" should be "McNaughten's". |
| 22 | 4 | "ebicously" should be "obviously". |
| | Last line of Note (37) | "strafrechte" should be "strafrechts" |
| 29 | Last line of the text | Insert: "In other words, whenever 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 corpora- tion and become its act, losing the identity of any individual's act". |
| 30 | 13 | "nasei" should be "nasci". |

Defense Summation on Personal Responsibility

Errata Sheet (No. 3)

| <u>Page</u> | <u>Line</u> | |
|-------------|-------------|--|
| 8 | Note (11) | Insert "p. 123" after "n. 122". |
| 12 | Note (17) | "p. 68" should be "p. 69". |
| 19 | Note (31) | "pp. 77-78" should be "pp. 78-79". |
| 28 | 22 | "Professor Kearny" should be "Professor Kenny". |

The first line of the first Errata Sheet should read:

| <u>Page</u> | <u>Line</u> | |
|-------------|-------------|-----------------------------------|
| 9 | 12 | "Fer bach" should be "Feuerbach". |

個人責任論

草野豹一郎
岡本 敏男

裁判長並に裁判官各位

(一) 本辯論の目的は近代刑法の見地より全被告に對し訴追されてゐる刑事責任の問題を檢討するにあります。

首席檢察官は其の冒頭陳述に於て次の如く述べられました。曰く、「文明國に於ける殺人罪の普通の^{定義}主義は、法律上の正當性なくして故意に人を殺すと云ふことであるから、我々は何か法律上の正當性を構成するかを考へねばならぬ。此の正當性は、身体若くは財産を防衛する場合又は、恐らくは、適法に構成せられる裁判所の命令を單に執行して行刑官の場合に通常限られてゐる」といふ。法律上の正當性の問題は元より重要であります。夫れは全時に「意思」の問題を考慮に入れそのみ理解出来るものであります。遺憾なことに、首席檢察官は後者を全く論議の外に置かれ、恰も被告

等の犯意は當然の如くにされて居ります。

(二) 記録四二五頁

(二) 然らば、或る行為にして一定の客觀的犯罪構成要件に該當し、而かも首席檢察官の公はれる如き法律上正當性の存しないものにつて、其の行為者に刑事責任を認むるには、(イ)行為者が責任能力を有してゐたこと、(ロ)其の行為が故意(原則)又は過失(例外)に出たものであること、(ハ)行為者に對し行為の當時斯かる行為を爲さめことを期待し得る可能性が存したことの三要素を更に必要とするのであります。此の三點に付て、以下逐次に検討して見たいと存じます。

(三) 本件被告に關しては、大川の場合を除き、彼等の責任能力を顧る必要はありません。各被告が行為當時より「自己ノ行為ノ不法ナルコトヲ辨識シテ行為スル能力」(三)を有識スル能力又ハ其ノ行為ノ不法ナルコトヲ辨識シテ行為スル能力」(三)を有

して居たことは疑ありません。

(三) 瑞西刑法第十條

(四) 故意と過失の点に付き、セイヤー教授が其の犯意論に於て、「メンスレアに正確な意義を附せんとせんか、判例學說の一致を見ざることに、失望に堪へたり」(三)とまで慨嘆して居られることに鑑み、私は先づ、刑法上の最新原則を採用して國々の立法を若干簡單に一瞥し、私の論據とするところを決定して置きたいと存じます。

(三) セイヤー「メンスレア」ハーグド法律評論 第四十五卷(一)九三—一三三頁

(五) 現行日本刑法第三八條は第一項に於て「罪ヲ犯ス意ナキ行為ハ之ヲ罰セズ、但法律ニ特別ノ規定アル場合ハ此限ニ在ラズ」とし、第三項に於て「法律ヲ知ラザルヲ以テ罪ヲ犯ス意ナシト爲スコトヲ得ズ。但情狀ニ因リ其

して居たことは疑ありません。

(三) 瑞西刑法第十條

(四) 故意と過失の点に付き、セイヤー教授が其の犯意論に於て、「メンスレアに正確な意義を附せんとせんか、判例學說の一致を見ざることを、失望に堪へたり」(三)とまで慨嘆して居られることに鑑み、私は先づ、刑法上の最新原則を採用して國々の立法を若干簡單に一瞥し、私の論據とするところを決定して置きたいと存じます。

(三) セイヤー「メンスレア」ハーグード法律評論 第四十五卷 八一—九三—三二手 九七四頁

D. D. # 3037

(五) 現行日本刑法第三八條は第一項に於て「罪ヲ犯ス意ナキ行為ハ之ヲ罰セズ、但法律ニ特別ノ規定アル場合ハ此限ニ在ラズ」とし、第三項に於て「法律ヲ知ラザルヲ以テ罪ヲ犯ス意ナシト爲スコトヲ得ズ、但情狀ニ因リ其

刑ヲ減輕スルコトヲ得」と規定して居ります。右第一項は「犯罪ヲ構成スル爲ニハ意思ト行爲ガ伴ハネバナラヌ」との格言を法文化したものであり、第三項は「法律ノ不知ハ宥恕セズ」とする諺を表現したものであります。更に、右第一項は旧刑法第七條第一項(四)と殆ど全様の辭句を受継いだものであり、又、現行法の第三項は旧法第七條第四項(五)を修正採用したものであります。而して旧法第七條第二項が「罪トナルベキ事實ヲ知ラズシテ犯シタル者ハ其罪ヲ論ゼズ」と規定してゐたところから、判例が多ければ「罪ヲ犯マノ意」を罪と見るべき事實を知ること以外ならぬと解したのであります。

(四)「罪ヲ犯ス意ナキノ所爲ハ其罪ヲ論ゼズ、但法律規則ニ於テ別ニ罪ヲ定メタル者ハ此限ニアラズ」

(五)「法律ヲ知ラザルヲ以テ犯ス意ナシト爲スコトヲ得ズ」

(六) 此の解釈に依れば、犯意の成立するには、罪となるべき事實、即ち行為及それから生ずる自然的結果の認識を必要とするも、其の認識が証明される以上、行為の違法性を意識したかどうかを探究する必要はないとせられるのであります。而して此の解釈の歸結として、事實の錯誤は法律の錯誤より峻別され、前者に於ては犯意を全く阻却するも、後者の中、刑罰法規の錯誤は犯意を阻却せず、非刑罰法規の錯誤のみが結局は事實の錯誤に外ならぬとの推定により、犯意を阻却すると云ふのであります。此の解釈の適例として左の如き日本大審院の判例があります。即ち「并濟三因り差押ノ効力ヲ失ヒタリト誤信シ、差押物件ノ封印、差押標示ヲ損壞シタルトキハ、本罪（刑法第九六條）ノ犯意ヲ阻却ス」と云ふのであります（六）。

(六) 大正十五年三月二二日大審院第二刑事部決定（判例集、刑、第五卷九七頁）

1 つの原則を以てするにあらば、行為者に於て自己の挙動の違憲性に付ては、
 意は犯罪の構成要件に當する一切の要素に關係を有するに依りて、
 此の原則に附加するに、此の原則に付するに、
 論じられた「違憲性は犯罪概念の要素である」といふ個々の法律構成要件
 について大體のハ、テラに於ける犯罪に關する學說判例
 と解するの必要はありませぬ。
 其の行為の許されることと違憲性を認めざることを認めざるにあり
 なく、寧ろ、罪を犯す行為の性質の認識を分て、民事法規の誤解
 誤解の引いて罪を犯す行為の性質の認識を犯すにありて、
 簡單に述べさせしむ。右の場合に犯罪の阻却せらるる所以は、民事法規の
 違ふありませぬ。然るに、罪を犯す行為の性質の認識を犯すにありて、
 (七) 右の場合に於て、行為の性質の誤解に於てあることは、

意識したのでなければならぬと去ふ結論を拒否する誤には行かぬ。このことを否定せんと試みることは、法律の錯誤輕視の恐るべき勢力に屈服することである。簡單な説明は洵に必要である。違法性の意識は行為者が一定の法律規則に違反することを知るの意味ではない。……、刑罰法規の個々の規範に付て行為者が何等知つてをる必要はない。併し行為者の素人考、即ち法律感覺として彼が許されざる行為をなすものであることを告ぐる必要はあるのである。……、此の違法性の意識が存する場合に於てのみ、裁判官は犯罪を故意に行ひたるの故を以て有罪の判決を下すことゝ出来る。このことを「責任なければ刑罰なし」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、許されざることの意識を有せざりし上、彼の全人格からして右意識を有し得ざりしことが現實に立証し得られた場合に於ては、彼に有罪

判決を下すことは最低の刑を以てしても一個の恥辱である」(七)と説いて
みます。

(七) ハフテル、瑞西刑法教材書、總論、一九二六年、一一七頁

(八) 更にハフテル教授は、「事實の錯誤と法律の錯誤、進んでは非刑罰法規
の錯誤と刑罰法規の錯誤とを區別せんとする一切の試は維持すべからざる
ものである。嚴格に一線を劃することはむづかしい。責任論の立場からす
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は顧慮せ
られねばならぬ。誘拐犯人が被誘拐少女の年齢を知らざりし場合、行為者
が謀殺犯人を隠匿すると云ふことを知らざりし場合、教師が自己の有する
懲戒権を錯誤したる場合、……此等すべての各種錯誤の場合に於て行為
者の善意なることが異論なく立証せられたる場合に於ては、裁判官は断じ
て故意を認めなければならぬ。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——竊盜罪なりや又は横領罪なりや——に付て、刑罰制裁の程度や處罰條件に付て、訴訟條件の存在等に付て錯誤したることは、之を顧慮する要はない(ハ)と主張されてゐます。

(ハ) ハフテム、前掲 一八四頁

(十) 右に掲げられた誘拐の設例は英國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。プリンスといふ男が十六文未滿の少^ヤを十八文だと信じて其の父親の下より誘拐したので、眞實十八文であれば誘拐は罪になりません。又、彼が斯く信ずるには相當の理由がありました。然るに、判事の大多數は、「法律上悪イトコロノ何事カラ爲ス意思」即ち犯罪に非ざる私法上の不法行為でさへも存す意思あらば犯意を構成するとの見解に賛成し、更に若干の判事達は、刑事上民事上共に合法的とするも「道徳上悪イトコロノ何事カラ爲ス意思」あらば犯意充分なりとの見解を立てたの

であります。(九) セイヤー教授は此の事件を評して、犯意の問題に関する近來のどの事件よりも一層法律を不安混乱に陥らしめたものと云つてゐますが。(十) 英國判事達の右の意見を以て、違法性の認識が犯意の本質的要素なることを彼等が承認したものであると解することは出来まいでせうか。

(九) ケニー、刑法概論、第十四版、一九三三年、四一―四二頁

(十) セイヤー 前掲、一〇二五頁

(十一) 叔、此の考へ方は過失の問題を研究するとき、更に明となります。ケニー教授に依れば、「親の方に幾分の過失があつたと去ふ事實だけでは充分でない。子供が死なうか死ぬまいが、まはぬとする親の態度を陪審員が認める程、重大な過失、即ち邪悪な過失がなければならぬ」(十一)とし、又、「自動車運転者が民事事件で過失を訴追される場合、大抵敗訴するものであるが、過失殺人の刑事訴追を受けたときは然らざることが多い。即ち處

罰せられる價值がある程、他人の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」(十一)と説かれてゐます。されば過失が刑法上
罪と云ふには、單なる不注意に止まらず、邪悪であり、非難さるべきもの
がなければなりません。此の意味に於て、故意と過失との區別は行為の違
法性に対する認識の程度に過ぎないと云へませう。

(十) ケニー 前掲 一三二頁

(十一) 前記英法學者達の見解は現代刑法の一原則の積極面、即ち犯意は違法
性の認識により決定せられるとするものであり、ハフテル教授の意見は全
一原則の消極面、即ち違法性の認識を欠く場合には犯意を阻却すとすも
のであります。此等の考へ方を以て、再び「法律ノ不知ハ宥恕せず」(十二)
との格言を讀むならば、それは、(イ)行為者が行為の違法性を意識して居た
限り、法規を知らざりし場合でも處罰し得ること、(ロ)行為の違法性の意識

を以て、場合でも、其の意識を以てたことに過失があり、之が非難されるべき時には處罰し得ること、而してい罪となるべき事實の認識を倣令持つてみたとしても、違法性の意識を以て、其の以てたことに過失がなかつた場合又は過失ありとするや之を非難するに足らざる場合には處罰せられぬことを意味するであらう。

(五) 日本刑法第三八條第一項

レイデイン教授は次の様に述べて居ります。即ち、「英法に於ける犯意は刑法の不知が宥恕であることと意味するものと考へられてゐなかつた。ドイツ普通法に於ては、第十九世紀の末葉まで、矢張、原則は「法律ノ不知ハ宥恕セズ」と云ふことであつた。處がフオイエルバッハの影響で宥恕が五六十一年の久しきに亘り許容せられることとなつた結果、近代のドイツの法律は古い規則を復活せしむると云ふ尖銳的な反動を起さしめることと

行った。フランスに於ては極めて稀有な事情の下に認められたに過ぎない。
 然しソールウェー法典は錯誤の存するところには刑が輕減せられ得るに止
 らず、全然免除せられ得ることをも規定してゐる。事實、大陸の學者の多
 くは一般に普及して居る昔からの原則を廢棄するが^{か又は}少くとも制限するこ
 とに賛意を表してゐる。而して若干の最近の刑法草案は刑の輕減を規定し
 て居る^(五)と云はれました。

^(五) レイデイン、犯意論、セーリックマン社會科學百科辭典、第八
 卷、一八九頁

^(六) レイデイン教授が斯く云はれるに付ては、一九一八年の瑞西刑法草案
 を考へてゐられるに違ひありません。然乍ら其の後の立法例は殆ど例外な
 く違法性の錯誤を以て刑の減輕に止らず、刑の免除を招來するものと規定
 して居ります。如何にも瑞西草案第十八條は違法性の錯誤に付いて單に刑

の減輕のみを認めたるに過ぎなかつたのでしたか(五)一九三七年に公布せられた現行刑法は第二十條に於て「行為者が十分ナル理由ノ下ニ行為ヲ爲ス權利アリト信シタルトキハ、裁判官ハ自由裁量ニ依リテ其ノ刑ヲ減輕シ又ハ免除スルコトヲ得」と規定したのであります(十五)。

(五)「行為ヲ爲スノ權利アリト信シテ犯罪ヲ行ヒタル者ハ其ノ刑ヲ減輕スルコトヲ得」

(五) 瑞西刑法第二十條は一九二七年の全國單刑法第十七條の規定を文字通り踏襲したものである

(五) 一九二八年以前に行はれてゐた中國暫行新刑律まで遡つて見ますと、其の第十三條第二項は「法令ヲ知ザルハ故意に非ズト爲スコトヲ得ズ。但シ其ノ情節ニ因リテ一等或ハ二等ヲ減ズルコトヲ得」と規定してゐました。が、一九二八年の旧刑法第二八條で右を修正し、「法令ヲ知ラザルニ因リ

テ刑事責任ヲ免除スルコトヲ得ズ。但シ其ノ情節ニ因リテ本刑ノ二分ト一ヲ減輕スルコトヲ得」となし、更に一九三五年より實施された現行中國刑法は其の第六十六條に於て、「法律ヲ知ラザルニ因リテ刑事責任ヲ免除スルコトヲ得ズ。但シ其ノ情節ヲ按ジテ其ノ刑ヲ減輕スルコトヲ得。若シ法律ハ許可スル所ナリト自ラ信ジ且ツ正當ノ理由アルモノハ其ノ刑ヲ免除スルコトヲ得」と致しました。中國法に於ける斯くの如き沒遷は法令の不知に對する刑式的解釈より違法性の不意識に對する本質的理解への漸進的移行を明瞭に指し示すものであります。

(去) 以上に於て私が此の初歩的とも見られる刑法原則を叙述した所以は、英國に於ては法律の錯誤が假令不可避の場合でも罪の宥恕とならぬとケニ一教授が去はれて居るからであります。即ち「法律の錯誤の有し得る最大の効果は、酈酌の場合と全く、特種の犯罪に於て必要な特別形態の犯意

の存在を、時に否定するに止まる。竊盜は、物を取り上げる権利の見せ掛
けさへおぼなくして之を取る時に行はれるのであるから、善意にして相當理
由ある錯誤は、それが法律上のものにせよ、例へば村の慣習で麥を刈り取
ることになつてゐた所で刈入をした農婦の如く、充分な辯護の根拠となる。
抵當權設定者が、抵當に入れた自分の家の造作を、誤つた然し善意の權利
行使として破壊した場合には、彼は「**悪意**」の毀損罪を犯すことにならぬ。
然らば、斯様な例外的犯罪を除いて、法律の錯誤を無視する法則は嚴重に
賞施されてゐる」と述べて居ります(十六)

(英) ケニー、前掲 六九一七〇頁

(七) 然し他方に於てケニー教授は、「此の法則を單なる公共團體の細則にま
か及ぼさうと云ふ判例は聞いたことがない。英國でも米國でも(ポーター
對ウアリング事件、紐育、六九卷二五〇頁) 判事は右細則を認める前に其

の立証を求めらるであらう。されば、法律の立前として、判事以上の法律知識を一般人に望むのはどうであらうか」と説いてゐます(十七) 當裁判所が國際法上の普通法又は一般法若くは自然法と時により學者によつて稱せられる大きな法的存在のあることを顯著なる事實として認められると致しましても(十八)それは公共團體の細則よりも更に不明瞭不確定な法律であり、而して國際法違反の行為は若干の場合を除き、國內法に於て刑事責任を惹起する程、非難さるべきものとは考へられてゐないことを主張したいと存じます。ケニー教授に依れば「國際法は英國法の一部である」と時に去はれてゐるけれども、それは基督教に付いて全様の言がなされる如く漠然とした歴史的意味に於てのみ眞實であることを注意せねばならない。汝自身を愛するが如く汝の隣人を愛せざりしとて起訴せられることはないといふ様に、戰時禁制品を貿易したり、封鎖を潜つたりしても訴追せられるこ

とはない。此等の行為は國際法に於て没收の刑が課せられてゐるけれども、英國法に於ける犯罪を構成せざるのみならず、之に関連する契約を無効ならしめる程には不法と見られてゐないのである」と(十五)

(十七) ケニー 前掲 六八頁註四

(十八) キーナン氏 冒頭陳述、記録四〇五―六頁

(十九) ケニー 前掲 三三四―三三五頁

(六) 右の主張に對しては、國際法は、獨自の法であり、國內法と全く異なる見地より如何なる行為をも任意に處罰することが出来ると云ふ反對論があるものでありませう。然るに、首席檢察官の引用せられるライト卿の言に依れば、余の前論文に於て國際法は如何に不完全なりと雖も、全文明國の共同的傳説たる善惡の觀念及び正義人道の本能より生れ出たものであることを認むる様に論述した。それは長い間『自然法』と呼ばれてゐたが、今日に於て

は、凡ゆる紳士の有すべき善悪の本能的觀念より流れ出るもの又は凡ゆる文明國に共通なる原則より由來するものと去つた方が簡單であり眞實に近いであらう。之は總々の法律の最終的基礎であり、又さうでなければならぬ」とあります(三十) 換言すれば、「國際法の根源は國內的立法者の行爲以外に求めねばならぬ」(三十一)としても、それは總々の法律に共通なる善悪の本能的觀念に根據を有さねばならぬのであります。それは強者の法、征服者の法であつてはならぬのであります。

(三十) 記録四〇七一頁

(九) 從來採用せられてゐた「國際法」の定義は獨立國家間の關係を支配するものであつた。(三十一) 箇人に関するものではありませんでした。即ち常識上の問題として、「國際公法は獨立國家相互間の關係に於ける其等の國家の行爲を律するものである。それは狹義の法、即ち執行力をもつ法とは本

10
質的に異なる。蓋し執行力は訴訟當事者に優越する力を意味するのであるが、
獨立國家は各國に共通な優越者を認めてゐないからである。従て彼等の行
爲を律する法規は戦争^{以外}に執行すべき手段を有しない(三十一)と理解さ
れてゐました。首席検察官がさへ、「此等高位の文官達の個人的責任といふ
ことは、本法廷に提出される國際法上の最も重大な問題の一つであり、且
つ恐らく其の唯一の新しい問題であらう」と認めて居られます。

(三十一) ロータス號(佛國對土耳其)國際司法常設裁判所判決 一九
二七年九月七日、ハックワース、國際法輯覽、一九四〇年第一
卷三集に引用

(三十二) バーンズ法律辭典、一九三三年、四八七頁

(三十三) 記録四三五頁

(三) 首席檢察官に依れば、檢察側は、本公訴狀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、日本の條約義務及び彼等の行爲が犯罪である事實を熟知の上行動したことを立證するであらう。(三十四)と云ふのですが、茲に檢察側論據の誤りがあると思はれます。何となれば、條約義務の認識と行爲の違法性の認識とは全く別個の問題であるからであります。近代の國內法に於ては、契約違反は故意によると然らざるとに拘らず、之を處罰して居りません。國際法に於ても條約違反に付き個人を刑事的處罰したことは、先づ所謂普通戰爭犯罪と海賊の場合を除き、未だ嘗てないものであります。それでさへ「海牙條約は其の何處にも斯くの如き行爲を犯罪なりとして指摘することなく、又犯罪者を裁判し處罰する爲め課刑の定めもなければ法廷の問題に関する言及もないのである」(三十五)と檢察側が認められてゐる通りであります。

(二十五) 記録四二二頁

(二十六) 記録三九〇の七頁

(三) 檢察側又は辯護側より提出された證據に依れば、全被告は其の各別の地位に於て處理すべき條約義務に付き全力を盡し之を實行せんと努めたことが明白に立證せられました。それは彼等が全力を盡さざる場合に刑事責任を生ずることを認識したからではなく、條約それ自体の神聖を維持せんことを欲したからであります。檢察側の主張する條約義務違反の何れもは、不可避不測の状況より生じたことが立證されました。当法廷に起訴された被告行爲の總ては、彼等の國法に従つて爲されたものであります。若し「行爲者の素人考、即ち法律感覺として彼が許されざる行爲をなすものであることを告ぐる必要」ありとするハフテル教授の言が正しければ(二十六)被告等の行爲は國內法により許されたるのなりと彼等の法律感覺が告

ける時、それと公時に如何にして其の法律感覺が右行爲は國際法に於て許されざるものなりと告げることが出来ませうか。

(ニ十六) 上述(九)参照

(ニ) マクノーテン事件に於ける判事達は次の様な意見を述べました。

「被告が或る架空の苦情又は損害を救済若くは報復するとか或は公共の利益を齎すとか云ふ狂的妄想の爲め行爲した場合、若し犯行當時彼が法に違反することを知らぬならば、目的の如何に拘らず處罰せられる。茲で法と云ふのは國內法のことを意味するのである」と(ニ十七)。若し國內法と國際法とに食い違ひがあれば、此の判事達は前者の優越を主張するに躊躇しないであらう。被告等も然りと存じます。然し乍ら私が強調したいことは、被告等が彼等の行爲につき、國內法による正當性を有してゐたのみならず、國際法に於ても之が正當視されるものと善意且正當に信じて

のたと云ふ事実であります。

(三十七) マクノーン事件、一八四三年、ウイルシヤー、刑法

判例集、第三版、一九三五年、三一頁

(三十三) 檢察側は共同謀議に関する其の論告に於て、「若し彼が當時奉職中で

あり良心の咎めを押し付けることを許してまで職に留つてゐたならば、

彼は明かに有罪とせらるべく、且つ道義上より見るも斯かる良心の咎め

なき者同様罪惡を犯してゐると云はねばならぬ」(三十八)とし、又、箇人責

任殊に閣僚に関する論告に於て、「彼は侵略手段に賛成投票するか又は黙

従を示す代りに何時でも辞職することが出来たのである。若し彼の個人的

信念にも拘らず、彼又は其の内閣が繼續在職する方を重要なりとして辞職

しなかつたならば、侵略政策に全力を傾けて居つた主謀者達と同等の法律

的責任を有すべく、罪惡を充分認識し確信しながら右政策を故意に選んで

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」
(三九)と論断されてゐます。

(二十八) 記録三九〇五七頁

(三十九) 記録四〇五五四―五頁

(三) 斯様な非難は被告に関する限りに於て、全く的外れたものと云はねばなりません。公訴狀の期間、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。一内閣の平均壽命は唯の一年であります。斯かる状況の下にあつては、侵略にせよ防禦にせよ一貫せる國策を期待し得るべきではありません。されば、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ゐたことではなく、寧ろ其の政策を實行するには政治的責任感が強過ぎて余りにたゞやく職を棄つたところに存するのであります。彼等が辭職する時に於て、若し辭職し

なかつたならば、國際法上の刑事責任をも負ふことになるぞと彼等の法律感
覺が告げたのでありませうか。或は告げねばならなかつたのでありませう
か。正氣であるかぎり、國際法の大學者と雖も斯かる荒唐無稽なことを夢
見るものはないでせう。然し檢察側の論理より生ずる唯一の結論はさうな
るのであります。何れにせよ、當法廷に提出された證據は、被告等が其の
行爲の國內法及び國際法上の正當性を信じたこと、又、斯く信ずるに妥當
な理由を有してゐたことを證明しました。たとへ彼等が或る事後法により
國際法上刑事責任ありと判定されねばならぬとしても、前記中國刑法第十
六條に（三十）表現せられる原則が採用されるならば、彼等の刑は免除せら
るべきものであります。

（三十） 上記第十五項参照

（三） 國際法の問題は今暫く之を置き、刑事責任を生ぜんがためには、行爲

者に對し行爲の妨に於て期かる行爲を爲さぬことを期待し得る可能性の存在を要するとする原則に付て簡單な説明を試みたいと存じます。一九三七年の瑞西刑法第三四條は此の原則を最も良く表現して居ります。即ち、何人ト雖モ自己ノ權利ニ特ニ生命、身體、自由、名譽、財産ヲ急迫ニシテ他ニ避クル方法ナキ危難ヨリ救フ爲メ爲シタル行爲ハ其ノ危難が行爲者ノ責ニ歸スベキモノニ非ズ且其ノ際ノ事情ニ照シテ其ノ者ニ脅威セラレタル權利ヲ拋棄センコトヲ期待シ得ザリシモノナルトキハ之ヲ罰セズとの規定であります。

(三六) 日本刑法第三七條は「自己又ハ他人ノ生命、身體、自由若クハ財産ニ對スル現在ノ危難ヲ避クル爲メ已ムコトヲ得サルニ出デタル行爲ハ其行爲ヨリ生ジタル害其避ケントシタル害ハ程度ヲ超エザル場合ニ限り之ヲ罰セズ。但其程度ヲ超エタル行爲ハ情狀ニ因リ其刑ヲ減輕又ハ免除スルコトヲ

得しと定め、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く同じく、問擬されてゐる罪を犯さずして、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せう。

(三七) ケニー教授曰く、「然乍ら緊急避難の辯護は、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にのみ重要である。其の場合に於て英國の判事は何れも犯人の己むを得ざりし立場を斟酌し名義的な刑を言渡すに違ひないからである。とは云へ、禁せられたる行為をやらぬ結果として必然的に死が差し迫ると云ふ様な場合、若し科刑の目的が犯罪予防の爲めのみならずならば、行為の禁止を法律が継続しようとしても無駄であらう。蓋し如何なる刑を以て威嚇しても、その威嚇が予防の効果を遂げ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、米國では緊急避難の辯護に賛意を表するものが多い様である」と(三十二)。英國に於け

る緊急避難の辯護は大陸諸國の如く流布されてゐないかも知れぬとしても
究局に於ては、瑞西法、日本法に付て前述した原則と全一の根據に立つも
りであります。

(三十一) ケニ一、前掲、七七一七八頁

(天) 更に、此の原則適用の例として、日本刑法第一〇五條を引用致します。
全條に於て、「本章ノ罪（即ち犯人藏匿又は證據湮滅）ハ犯人又ハ逃走
者ノ親族ニシテ犯人又ハ逃走者ノ利益ノ爲メニ犯シタルトキハ其ノ刑ヲ免
除スルコトヲ得」とあります。親なり妻なりが其の子又は其の夫の爲め
に爲^付藏匿行為若くは證據湮滅行為は人情已むに已まねずいて爲すところま
あつて、孔子も論語に於て「父ハ子ノ爲ニ隱シ子ハ父ノ爲ニ隱ス。直キコ
ト其ノ中ニ在リ」と云つてゐる位であります。斯かる行爲に出でざること
を波に期待するは、全く人情に反する無理な注文であるからであります。

之と全球な法律は英國にも存在してゐます。即ち、若し罪を犯した夫が妻により藏匿されたとしても、「單なる庇護」のみでは、妻は事後幫助者或は重罪共犯者とならざれど、蓋し妻は夫を迎へ入れねばならぬからであります。(三十三)

(三十三) ケニー 前掲、七三—七四頁

然乍ら、重罪犯人たる妻を庇護する夫は斯様な免除を受けず、^{徒從} 徒犯となる(ケニー 前掲、八九頁)。

(三九) 同一原則の今一つの例として、日本旧刑法第七六條は「本属長官ノ命令ニ從ヒ其職務ヲ以テ爲シタル者ハ其罪ヲ論ゼズ」と定めてゐましたが、現行法は之が第三五^條の「法令又ハ正當ノ業務ニ因リ爲シタル行爲ハ之ヲ罰セズ」とする規定に包含せられると解して之を削除しました。右規定は一九三七年の瑞西刑法第三二條が「法律又ハ公務上若クハ業務上ノ義務が命

ズル行爲又ハ法律ガ許サレタルモノ若クハ處罰セザルモノト明言セ行爲ハ
重罪又ハ輕罪ニ非ズ」と云ふ所に該當するものであります。

(三) 中國の暫行新刑律に於ては此の種の規定がなかつたのであります。が
一九二八年の舊刑法第三五條では「所屬上級公務員ハ命令ニ依ルノ職務上
ノ行爲ハ罰セズ」と規定せられ、次で一九三五年の現行刑法第二十一條に
於て旧法第三四條及び第三五條を併せて次の如き規定が設けられました。
即ち、

「法令ニ依ルノ行爲ハ罰セズ。」

所屬上級公務員ノ命令ニ依ルノ職務上ノ行爲ハ罰セズ。但シ明カニ命令
ノ違法ヲ知ル者ハ此ノ限りニ在ラズ。」

と云ふのであります。此の中國刑法第二一條第二項が次の二点を意味す
ることは明白であります。即ち、其の一は適法なる上官の命令に依る下

官の行爲は何等の犯罪を構成しないと云ふことであります。其の二は違法なる上官の命令に依る下官の行爲は、下官が命令の違法性を明かに認識せぬ限り、之を處罰すべからずと云ふことであります。

(三) 此の点に関し、佛國刑法は第三二七條に於て「正當ナル官憲ニ依リ指令セラレタル殺人、傷害及び没打ハ重罪ヲモ輕罪ヲモ構成スルコトナシ」とし、第一一四條に於て

「官吏、政府ノ職員若ハ傭員ニシテ專横ナル行爲又ハ個人ノ自由若クハ市民ノ公權或ハ憲法ノ侵害スベキ行爲ヲ命ジ又ハ爲シタルトキハ公權剝奪ノ刑ニ處セラルベシ」

但シ服從ノ義務アル上官ノ管轄事項ニ付キ其ノ命令ニ從ヒテ爲シタルコトが證明セラレタルトキハ其ノ刑ヲ免除ス云々

と規定して居ります。

(三三) 下官の刑事責任に關し、ドンヌデイウド、グーブル教授は凡そ三説あることを挙げて居られます。第一説は下官に上官の命令の適否を批判することを許さずとする立場から下官の無責任を主張するものであり、第二説は上官の命令の適否を批判する権利（或は義務？）ありとの理由で下官の無責任を屢々繰返し否定して來た米國判例（三三）の如き所謂「知慧の劍」説であり、第三説は其の命令が適法な内容を有するものと見られ且つ形式上の要件を備へて居たときは刑の輕減を認むべしとするものであります（三四）

(三三) ケニー 前掲、七三頁

(三四) ドンヌデイウド、グーブル、刑法綱要、一九三七年、二四

六一二四七頁。彼は第三説に左袒されてゐる様である。

(三五) ケニー教授に依れば、英國軍事法規提要は、上官の特定命令が明かに

不當なものでない時に於て之に従つた兵卒の違法行爲を如何なる程度まで
 宥恕するか。まだ「多少の疑義」ありとしてみゐる（第八章第九五條）そう
 であります。（三三五） 斯様な立法に比較して、前記中國刑法（第二一條第二
 項）は上官の命令の違法性を明かに認識して行爲せる下官のみを處罰すると
 定め、總ての疑義を一掃したのであります。されば、若し命令の違法性に
 つき何等かの疑問があれば、之を實行したとしても責任はないと云ふこと
 になります。蓋し命令服従を本義とする吏道、殊に陸海軍の場合に於て、
 上官の命令が適法なりや違法なりや下官としてはつきりせぬときと雖も、
 其の命令に反する行爲を下官に期待することは、中國法の考へ方に從へば
 、無理だからであります。

（三三五） ケニー、前掲、七三頁

(四) 地方に於て、リスト教授に依れば、「部下に對する上官の命令は、法規が命令の絶對的拘束力を承認するものなる限り、部下に對し、命令に基いて爲された行爲の違法性を阻却するものである」とされ、其の理由として、「義務に適合する行爲は断じて違法たり得ない」と云はれてゐますが、(三十六)、違法命令を發した上官が其の命令の実行につき責任を負ふものである以上、「刑罰が適法な行爲に結びつけられることはあり得ない」(三七)、故に、其の論は謬つてゐると云はねばなりません。上官の命令が違法ならば、下官の行爲も亦違法であることを認めねばなりません。但し下官に斯かる行爲を爲さざることを期待することが不可能である爲め、下官には邪悪性も非難可能性もなく、其の刑事責任を免除するものと解するのであります。

(三七) マイヤー、独逸刑法總則、一九一五年、三三四頁。

(三五) セイマー教授に依れば、非難に値すること、道徳上罪あることと云ふ觀念は、必要的に善より惡を有意的に選ぶところの自由意思に根柢づけられて居る。若し選択の自由即ち自由な選択を行ふことを得る意思の常規性がないならば、道徳的欠陥を意味する犯罪性は存在し得ない。(三八)とされ、ニユルンベルヒの判決も亦、「刑ノ減輕事由ノ真ノ判断標準ハ命令ノ存在ニ非ズシテ事實ニ於テ道徳上ノ選択が可能ナリシマ否マニ存ス」(三十九)と断ぜられて居りますが、私の考へでは、此等の言は何れも期待可能性の原則の表明に外ならぬのであります。

(三八) セイマー、前掲、一〇〇四頁

(三十九) ニユルンベルヒ判決書、一六八八頁

(三六) ニュルンベルヒの判決は刑法上の此の原則を國際法の分野にまで齎したのであります。彼の裁判に於て考慮された關係法規は其の條例第七條及び第八條で、それ等は併合して當裁判所條例第六條に該當するものであります。兩條例に於ける此等の規定に見られる差異は、ニュルンベルヒ條例の場合、國家の元首たると政府各省の責任官吏たるとを問はず被告等の公的地位は其の責任を解除し又は課刑を輕減するの理由と看做されず、唯、被告が政府又は上官の命令に従つて行動した事實のみが輕減の理由と看做されるに反し、東京條例に於ては公的地位及び命令遵守事實の兩者共に、裁判所が正義の要求にかなふものと判定する場合輕減の理由となるところに在ります。

(三七) さて、檢察側は其の論告に於て、「被告を次の三種に分類することが出来る。即ち(一)日本の法律の定むる所に依り政策々々に對する最終の義務

又は責任を有してなる被告、(二)最終の義務又は責任を有してゐなかつたけれども、日本の法律の定むる所に依り従的又は中間的資格に於て政策々定に對する義務又は責任を有してゐた被告、(三)日本の法律の定むる所に依り義務又は責任を有してゐなかつたけれども其の爲したる行動及び声明により自分自身を政策々定者と同一水準に置きしため事実上責任を負はせらるべき被告」(三十九)と云はれて居ります。第一種に屈する被告に關しては日本の法律に従ひ又國際法に於ても正當視されるものと善竟且妥當に信じて爲された彼等の行爲が違法性り認識を阻却し、從て刑を免除せらるべきものであることを既に論述致しました。

(四十) 記録第四〇五四—三頁

(三十八) 加ふるに、一九二八年以來の十七年間に存在してゐた様な状況の下に於て、何人と雖も假りに被告等の中、何れかの代りに其の任に當つたなら

ば、被告の實際になしたと反對のことはやり得なかつたであらうと云ふことを申立てます。實に被告等として内外に於ける永年鬱積した國民感情の連續的爆發を留めることは人間の不可能でした。又、滿洲中國其他の遠隔地に於ける多数の下僚に對し直接なる指揮監督をなすことも人間の不可能でした。要するに、被告等に對して、國家的運命の狂瀾を既倒に返し又、血腥い戰鬥の不可避的結果を豫防し得る程に、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ありませんか。

(三九) さて、第二種の被告に關しては、日本に於て官吏服務紀律(四五)といふものがあります。即ち、第一條 凡ソ官吏ハ天皇陛下及天皇陛下ノ政府ニ對シ忠順勤勉ヲ主トシ法律命令ニ從ヒ各其職務ヲ盡スベシ。

第二條 官吏ハ其職務ニ付本屈長官ノ命令ヲ遵守スベシ。但命令ニ對シ意見ヲ述ブルコトヲ得レ

20
との規定であります。軍人の場合に於ては更に特殊嚴格な奉公の義務が課せられ、上官の命に反抗し又は服従せざるものは陸軍刑法（第五七條乃至第五九條）、海軍刑法（第五五條乃至五七條）に依り抗命罪として嚴重な處罰を受けねばならなかつたのであります。

（四三） 法廷證第三五一〇號 記録三四〇〇三頁

(平) 何れにせよ、一旦上官が決定をなし又は命令が発せられた場合には、文官も軍人も其の私的意見はともあれ之にそむく行動をとることは許されなかつたのであります。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。國務大臣或は各軍又は艦隊司令官と雖も、此の意味に於ては天皇の下僚であります。若し奉勅命令が下されるならば、彼等は之に従ふ外、途はありません。されば直接上奏をなし得る陸軍參謀總長又は海軍軍令部長が軍事上のみならず政治上にも多大の勢威をもつてゐた理由は茲に存するのであります。

(平) 假りに議論のため、日本の政界又は軍部の誰かに國際法或は國內法による刑事責任が存在すると想定しても、どの箇入又はどの團體に右責任を歸屬せしむるかと云ふことになるかと不可能に近いのであります。それは蓋し二十世紀の日本に於てはオ一次大戰後の独逸の歴史に見うる、如き陰謀

革命其他の不法手段によつて何人も政府内に勢力を得たものがないどころか、官職の一つさへも得るに成功したものがなからであります。総ての陰謀と革命の計畵は未前に防止されるか或は鎮圧されました。誰が之を防止又は鎮圧したかと云へば、現在此処に控へてゐる被告たちなのであります。彼等は向水も其の経歴の当然な結果として且日本の法律及び慣習に従ひ其の職に任ぜられたものであります。彼等の向水も、其の職の定むる権限を越えたとか義務を怠つたとか去ふものはありません。之より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したが、同時に証拠の示す所によれば、彼等の中にヒットラーもなければ、「我が闘争」の記もなく、ましてナチの如き独裁党も存してゐなかつたのであります。

(三) さて、才三種に属する被告に關しては、彼等の有してゐたいくはくの人氣や勢力は政府必軍部から得たものでなく、一般市民より由來したもので

D. D. # 3037.

であります。彼等は日本の政治上に其の意思を強行し得る程、勢威を得たことは一度もなかつたのです。せいぜい、当時羽振をきかしてゐた官僚に反抗せんとする輿論を反映した位のことでした。或は彼等として大東亜共栄圏とか亜細亜人の亜細亜とかを夢見てゐたかも知れませんが、中國に於ける全國的排外運動に比較すれば兒戯に類する議論に過ぎません。若し後者がリットン報告によるも國際的犯罪として取扱はれないならば、何故前者のみを非難すべきでせうか。若し言論の自由が國內法に於ける人権の一つであるならば、何故、國際法は之を抑止せんとするものでせうか。

(四) 前記三種の被告たちを訴追せんとする檢察側の考へ方を基礎付けてゐるものは、國家が擬制的存在であり之に刑事上の責任を歸するわけに如何とする理念であります。(四十三)。首席檢察官によれば、「國家自体は條約を破るものがなく、又公然たる侵略戦争を行ふものでもない。責任は

常に人間と云ふ機関に在るし(四十四)とし、又「凡ゆる政治は人間の手に依つて行はれ、総ての犯罪も亦人間に依つて犯される。個人の公的地位と云ふものは彼をして個人たることを失はしめるものでもなければ、又彼の個人的不法行為に対する責任から遁れさせるものでもないし(四十五)と云はれてゐます。斯かる考へ方は「法人には犯罪能力なし」とする法諺に従つてゐるのでありませうが、ケニー教授に依れば「今日に於ては、法人が法人の名の下に所轄裁判所へ起訴せられ、その結果法人財産に対し罰金を科せられると云ふことは既に法律の定むるところであるし(四十六)と云はれて居ります。

(四十三) ジマクソン検事、マナチ戦犯事件、一九四六年、八二頁

(四十四) キーナン氏、冒頭陳述、記録四七三頁

(四十五) キーナン氏、記録四三四―四三五頁

(四十六) ケニ、前掲、六五―六六頁。

(四) 英國に於ては、一八八九年解釈例^條（ウイクトリア、五二乃至五三年度、オ六三号、オ二條）が、起訴又は即決処分により処罰せらるべき犯罪に關する成文法の解釈に當つて、「人」なる語は反対の意思の現はれざる限り、法人を含むものとすと定め、米國に於ては、一八八二年の紐育刑法（オ十三條）が、凡そ法人にして自然人に付き自由刑のみに該すべき罪に因り処罰せらるべき場合、輕罪なるときは五百弗以下、重罪なるときは五十弗以下の罰金に処すとし、一九〇一年のカリフォルニア刑法（オ二六條）も、法人は自然人と同様に犯罪を為す能力ありと定め居ります。教科書に依れば、斯かる立法は次の如く説明されてゐます。即ち、「マーシャル判事の言を藉れば、法人は、可一個の擬制的存在で眼に見えず唯法律の思考にのみありうるものである」とする理論の下に於ては、法人が

罪責に任すべきものなりや否やは疑はれぬたものであつた。近代の學說は法人を目的として、一個の實在とし、或る目的の爲めに法人格を與へられ、法律上の一個体として行為することを法律によつて権能づけられて居る人間の「團」と做す傾向にある（四十七）と説き、更に「行為が法人の権力の歸屬する取締役又は役員に依つて認可されたものなるときは、取締役又は役員の意味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たる本人に対する代理人以上の者である。彼等は法人に同化し、而して法人の法動に必要な心的要素を供給するものである」（四十八）と述べて居ります。

（四十七） クラーク、マーシャル 「刑法論」 第四版、一九四〇年

一四〇—一四三頁

（四十八） 全前、一四〇頁

(五) 法人が國內法に基き法人格を有するに對し、國家が國際法及び國內法に依り法人たることは疑いなくあります。或る經濟的又は社会的結合によつて出来上つてゐる團體に過ぎない法人が實在であり、刑事責任を執り得るものならば、何故に國家が法人以上に實在であり能力を有するものではあり得ないものでせうか。ハックワーズに依れば、「ステート及びネーションと云ふ言葉は屢々同義に用ひられてゐるが、嚴格に云へば、ネーションの語は其の語原へ生れる」が示す通り、發生又は起原の關係を云ふ。言語及び習慣の共通社会により通常特徴付けられてゐる同一民族を意味する。ステートの語は更に特別の意義として、國際的に、一定の領土を永続的に占有し、共通の法及び習慣により政治團體を結集し、組織的政府を有し、他國との交際をなすことの出来る人々の一團を云ふと（四十
九）。

(四十九) ハッフワース 前掲、ヤ一卷、四七頁。

(四) 法人は其の主権を行使し得る土地も人民も有することなく、比等を結合する自然的近似性をも持つてゐず、唯、何時でも変更又は抛棄し得る特種の目的を存するのみである。然るに、國家は運命付けられた存在であり、何人と雖も、例へば十七年間に相次いで起つた十七の内閣でさへも、之を變更し抛棄することを得なかつた道程を辿るものである。株主は其の好きな時機に於て法人の株を賣却することが出来るが、被告等は其の國家により課せられた彼等の義務より逃げ出すことは出来なかつたのである。國際的の義務は國家の名の下に依るのみならず、國家の運命的に定められた道程に依つて履行せられ、或は違背せられるのである。若し國家が戰爭に敗れれば、償金を支拂ふか領土を割讓することになる。斯様な措置は國際法に於ける國家の責任に対する刑罰ではないのでせうか。國家の主権が國際法

の制約下にあるとしても、國際法に於ける責任は如何なる箇人にも直接に歸屬せしむべきではないと云ふことを次の理由により主張するものであります。

(甲) 一九四七年日本法律第一二五号、即ち國家賠償法と称するもの(ハヤ一
條)は次の如く定めて居ります。即ち、

「國又は公共團體の公権力の行使に當る公務員が、その職務を行うにつ
いて、故意又は過失によつて違法に他人に損害を加えたときは、國又は公
共團體が、これを賠償する責に任ずる。

前項の場合において、公務員に故意又は重大な過失があつたときは、國
又は公共團體は、その公務員に對して求償権を有する。」

と云ふのであります。之は日本の法律及び政治制度を民主化せんとする
目的のための立法されたものであります。然も、公務員がその公務執行に

際し違法に與へた損害に付き、被害者より右公務員に対する直接の請求権を認め居りません。此の解釈は、全法附則が一九四七年十月二十七日以降、公証人法才六條、戸籍法才四條、不動産登記法才十三條、及び民事訴訟法才五三二條を廢止した事實により確認することが出来ます。此等の規定は、公証人、市町村長、登記官吏又は執達吏がその故意又は重過失により損害を受けた者に対する直接の責任を定めたものであります。

(笑) 他方に於て、一九二一年のジョンストン対ペドラー事件に関する英國上院の判決に際し、フィンリー子爵は次の如く述べ居ります。即ち「英國にも愛蘭にも適用せらるべき我が國の既定法として、身体財産に対する不法行為に付ては、不法行為者は皇帝の命により之が為さしめたと云ふ抗弁を出すことは出来ず、皇帝は不法行為をなすを得ず、又不法行為上の訴追をさしめることがないのである。然し、一為さしめた者が、他の一般私人と全

じく、損害賠償の責に任ずるのである。然乍ら此の法則は、外國に於て外國人に対し為された行為の場合に、制限を受ける。若し斯かる場合英國の裁判所に訴訟が提起されるなら、被告は、行為が英國政府の命により為されたこと、又は行為の後、英國政府が之を追認したことの抗弁をなし得る。此の場合、その行為は國家の行為として、國內裁判所が判定し得ないものと看做されるのである。損害を蒙つた外國人はその所屬國政府を通じて外交其他の手段により英國政府に救済を求めねばならぬ。此の原則は一八四八年の有名なビュロン対デンマン事件（エクスチエカー、二卷一六七頁）により確立されてゐる（一五十一）と云ふのであります。

（五十） 控訴事件、二卷、二六二、二七一、二七二、二七五頁、ハツクワース、前掲、オニ卷、一六頁に引用。

（五） フィンク対内務大臣事件に於て、原告は一九一四年十月前、埃及カイ

の書籍尙であります。その財産の没収及び使用人の捕縛並に追放による損害賠償を埃及政府に請求し、その理由の一つとして、一九一四年八月六日の埃及政府閣議決定が、英國と交戦状態にある國の侵略に対し埃及の防衛を英軍司令官に依頼したのは無効であると申立てました。埃及混合裁判所のカイロオーストラリア裁判所は右損害賠償の請求を棄却し、理由として、閣議決定は埃及と独逸との交戦状態に基いて為されたものであること、宣戦布告は法律上、主権の行為であること、主権者の有する右権限は其の國務大臣により行使せらるること、従つて、右決定は之を為すべき権限ある唯一の当局者により為されたものであること、法律上、此の種の行為は「國家の行為」と称せらる、原則として之より生ずる損害に關しては賠償を求めざる訴訟原因となり得ないことを言渡したのであります（五十一）。

（五十一） 埃及混合裁判所報告十五卷（一九二四年十一月—一九二五

年十月)、八二頁 國際法英國年鑑(一九二五年)、二一九頁、ハック
ワース、前掲、オニ卷、一九頁に引用。

(平) 此の國家行為なる原則は、民事たると刑事たるとを向はず、異なる筈が
ありません。一九〇七年海牙オ四條約の前文(オ三條)に依れば、交戦者
にして陸戦法規慣習に關する規定を侵すものは必要に應じ賠償の責に任ず
べく、その軍隊を構成する人員により為さるる總ての行為に付き責を負ふ
ことになつてゐます。一九三四年の「國際法上の海賊に關する」事件の判
決によれば、「國際法により定められた犯罪を審理し処罰することは國際
法として其の手段を有してゐない。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國內法に委ねられてゐるものである。」(五十二)
と云はれて居ります。

(五十二) 控訴事件、五八六頁、五八九頁、ハックワース、前掲、オ

一卷、三八頁に引用。

(五) されば、假りに、被告等が其の公務執行につき故意又は重過失の罪ありとするも、國際法上の通説は總て、彼等が外國又は外國人に対し如何なる責任をも直接に負ふものとは認めないのであります。然らば、國法に従ひ、又國際法の現行法規に合致せることを眞実妥當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せられるのでありませうか。茲に於て、國際司法常設裁判所條例(オ三八條)を引用したいと存じます。即ち、「裁判所ハ、左ノモノヲ適用スル。(一) 訴訟當事國ニヨリ明カニ認めラレタ法規ヲ設定セル特殊又ハ一般ノ國際條約。(二) 法トシテ認めラレタ一般慣習ノ証拠トシテノ國際慣例。(三) 文明國ニヨリ認めラレタ法律ノ一般原則。(四) オ五七條ノ規定ニ從ヒ、法則決定ノ補助手段トシテ、各國ノ最高學者等ノ判例及ビ學說。右ノ規定ハ、當事者が合意セル場合、裁判

所が衡平妥當の趣旨ニヨリ判決ヲ為スコトヲ妨ゲナイレ と云ふのであります。

(手) 若し先例なきに拘らずへ五十三)如何にしても此等の被告を其の公務として爲したる行為に付き、國際法上直接に裁判せぬはならぬものであるならば、裁判所は「文明國ニヨリ認めラレタ法律ノ一般原則」殊に刑法に於ける上述の基本的原則を、考慮に入れて載きたいと云ふのが、私の念願であります。ホルツワース教授は「原始人は文明國に似てゐる」と批評さし、古代の刑法と今日の國際法とを比較さしめてみますが、当法廷により適用せらるべき國際法は、近代文明國の刑事立法により發展せしめられた法律感覺に決して背反しないものであらうことを私は確信するものであります。

以上



The Treaty Bureau,
Foreign Ministry

December 1941

Report of Activities
For the Year
1941

Excerpted from p. 46

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 coöperation between them thereafter. Inasmuch as the term was to expire on 24 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 coöperation 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

Excerpt from Satonji-Yarada Memoirs,

Chapter 364

4 June, 1940

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. KONOYE 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. HIRANUMA 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

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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

Excerpt from Satomi-Harada Memoirs,

Chapter 364

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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

DEF. DOC. #3042

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 KONOYE, 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

DEF. DOC. #3042

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 p.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

DEF. DOC. #3042

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 KONOYE 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 KONOYE 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 KONOYE. As a result of this conference, KIDO accepted and the investiture was safely concluded.

西園寺原田日記 第三百六十四回抜萃

昭和十五年（一九四〇年）六月四日

さうして陛下は宮内大臣に

「若槻なども一人の後補者だけれども、若槻に就てはロンドン條約と長生民政黨の總裁であたと云ふことで反對黨の氣持が何時迄も解けない、と云ふことが邪魔になりはせんが又近衛は好いが少うし大勢いろいろな者がつさ過ぎてゐるのと、更に將來實際政黨を運営

する必要があるので今晩に内大臣にもつて來ることは差控へたいと思ふ。

平沼は機密は守るやうだがどうも之は與澤がとても賛成はすまい。

木戸は目分は好いと思ふが少し若いし將來の政治的生命を失はせても可哀想だがどんなものだらうか。

これだけが陛下の御言葉で「これ等に就て誰を西園寺公は好いと思ふか。又これ以外に人が

あるかどうか、」と云ふので宮内大臣から三十日の午後十時に自分

Prof. D. 03042 Kxh. No

西園寺原田日記 第三百六十四回抜萃

昭和十五年（一九四〇年）六月四日

さうして陛下は宮内大臣に
「若槻なども一人の後備者だけれども、若槻に就てはロンドン條約
と長年民政黨の總裁であたと云ふことで反對黨の氣持が何時迄も解
けない、と云ふことが邪魔になりはせんが又近衛は好いが少うし大
勢いろいろな者がつさ過ぎてゐるのと、更に將來實際政黨を運営
する必要があるので今晩に内大臣にもつて來ることは差控へたいと
思ふ。平沼は機密は守るやうだがどうも之は興津がとても賛成はす
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あるかどうか、」と云ふので宮内大臣から三十日の午後十時に自分

は呼ばれて其話をされ、「因朝でもすぐ兵庫に行つてくれ」と云ふことであつたので其前から後編者に就てはいろいろ考もあり、又い
ろんな人の意見も聞かなければならないので、近衛とも話し松平と
も、或は岡田大将なんかの意見も聞いて見た處がやはり斷ずる處は
、木戸が一善無難だと云ふことになり又宮中のことも相管知つて居
り、因朝の最近の事情にも精通して居るので、やはり木戸が好いと
云ふことになつて居つたのであるけれども、總理大臣にも一應會つ
て此を聞いて見た處が「木戸で兵符はない」と云ふことであつた。
三十一日の燕で自分は兵庫から兵庫に行つて直ちに公爵に御目にか
かつて陛下の御旨の筋を傳へた處が「自分は病後でもあり御存知の
通り老病で近頃頗る事情に疎くなつた點もあつて、洵に申語ないけ
れども此御下向には無答致しかねる」と言つて御座りしる。
同は之は無答ではないが、若し人を求めたら一木或は岡田の如きは
どうか一

それから自分は此節から申上げて公卿も、大事なことであるから自分の意見は人に言ふな、と云ふお話であつた位重大に思つて居られたんだから、何とか陛下に言つても此處國でお考を言はれたらどうかと公卿にお話したがどうしても言はれないので、自分は午後三時、宮内大臣に其由を電報で傳へた。ところが「御尤もだ」と云ふ。此つて自分の方はこれから内大臣を勅ね、皇太后御病床でお候の上陛下の御様子伺つて、其上再び電報するからそちらに待つてゐてくれ」と云ふ話であつた。すると午後七時半過ぎに再び宮内大臣から電報がかつて「言は内大臣は、後任者として不戸を電報する。自分はやはりどうも木戸よりないと云ふから同意である、で此由を陛下に言上げた。陛下も木戸には御信任があり、宜しい、と云ふ。此石で御可がある。だが「これに御意はないか一應百圓寺に訊け」と云ふお話であるから公卿に其由を傳へて一つ御意見を請いてくれ」と云ふのであつた、自分は八時半過ぎに公卿の御座に於て宮内大臣からの話を

其邊傳へると公使は「どうも最初のもつて行き方が無責任なやり方だから少し氣の毒だったが知らせてやったは今言つて来たやうに先づ前任者が後任者を推薦し副官をすべき大臣がそれに同意し（即ち宮内大臣）閣下が御可になれば、これ位結ぶことはない。自分は非常に満足で決して異存のありよう筈はない」と云ふ公使の言辭であつたから自分は其由を電ぐ閣下に申上げてくれるやうに宮内大臣に電話した。宮内大臣も非常に喜んで「昨日（六月一日）の午前中に電報にも話し又近衛野郎長である近衛にも話した。午後には任式をする心算だ」と云ふ返事。「その任式の折々まで其邊にゐてくれ」と云ふ返事で自分もそのつもりで待つてゐた。ところが其翌日、宮内大臣は電報で近衛と打合せた。近衛が同意であり、近衛も之に同意である。近衛と近衛の上御返事を「と云ふのであつたがその結果木戸はお受けすることになつた。其午後三時に無事任式を成り行はせられ、木戸は内大臣に就任することになつた。

Lef. Dec. # 3043

Excerpt from Saionji -- Harada Memoirs:

Chapter 333 18, July 1939

KIDO said: "The Ministers of Home Affairs heret
fore, 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.

Doc. No. #3043

西園寺原田日記

第三三三回抜萃

昭和十四年（一九三九年）七月十八日

嘗て今までの内務大臣は、大體に於て中途半端な處で彈厭するもんだから、何時もそれが後で爆發して困つた例が多いから、まあ緩めるだけ一つ留めて置いてさうして何時か思ひ切つて彈厭するつもりで居るんだ。

Def. Doc. 3044

Exh. No.

Translated by
Defense Language Branch

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 responsables 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.

Def. Doc. " 3046 -B

DIAGNOSIS

No. 2931. ABC, Kiyotane. Age: 78.
483 Narimune-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 a 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.

Feb. 1st, 1948.

FURUDA, Yoshiaki, M. D.

156 Higashida-machi, Nichome,
Suginami-ku, Tokyo.

Def, Do 3046, B

第二九三一號

診 斷 書

東京都杉並區成宗三丁目四八三番地

安 保 清 禎

當七十八年

一、病 名

胃 癌

附記、右記疾病ニヨリ昭和二十二年三月ヨリ臥床中ナレド同年十
月中旬ヨリ病狀惡化シ衰弱甚ダシク輕度ノ運動ニヨリテモ腦貧
血ヲ起シ歩行困難ナルヲ以テ絶對臥床療養ヲ必長ト認ム
右及診斷候也

昭和二十三年二月一日

東京都杉並區東田町二丁目一五六

醫學博士

醫師 福 田 義 明 (印)

Translated by
Defence Language Branch

DEF. DOC. #3049

Exh. No.

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.

I, MACHIMURA, Kingo^{take} 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.

-)

Translated by
Defense Language Branch

DEF. DOC. #3049

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I, MACHIMURA, Kingo^{to be} 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.

-)

DEF. DOC. #3049

- 2) Marquis KIDO'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 KIDO 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 KIDO 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 Tokyo

DEF. DOC. 73049

as Chief of Metropolitan Police, I felt called upon by my official duty to take every precautionary measure for the protection of Marquis KIDO. 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 SOMO Doshikai, an intransigent patriotic league of 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. SURIDATE, Ippo, SURIDATE, Fujio, MIYAZAKI, Seikichi, and more than ten other members of the intransigent body regarded Marquis KIDO, 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 Badoglio!" and "Put KIDO to death!" SUYAMA, MIYAZAKI and five other members of the same group early on

DEF. DOC. 73049

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DEF. DOC. #3049

the morning of August 15, 1945 stormed Marquis KIDO's private residence. They injured Policemen 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

DEF. DOC. #3049

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, SUYAMA, Hidekich and MIYAZAKI, Seikichi, leading member 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 HATANAKA, TAJIMA and SHIROKI, owing to the fact that their leader SURIDATE, Ippo was a non-regular

DEF. DOC. #3049

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.E.

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)

DEF. DOC. #3049

OATH

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

/s/ MACHIMUNA Kingc (seal)

Def. Doc. 3049

Exh. NO

次ノ如ク供述致シマス
自分儀我國ニ行ハルル方式ニ從ヒ先ツ別紙ノ通り宣審ヲ爲シタル上

宣 審 供 述 審

供 述 者 町 村 金 五

荒 木 貞 夫 其 他

對

亞 米 利 加 合 衆 國 其 他

極 東 國 際 軍 事 裁 判 所

- 私、町村金五ハ宣誓ノ上左ノ通り陳述ス。
- 一 私ハ長年各部ノ長トシテ内務省ニ勤務セリ。私ハ昭和廿年四月六日ヨリ八月十六日迄鈴木内閣ノ下デ警視總監トシテ勤務セリ。
 - 二 私ハ當時警視總監タリシ故之ノ間ノ消息ヲ知悉セルモノナルガ終戦ノ際ニ於ケル侯ノ活動ハ殊ニ眼瞶マシク、軍中堅層ノ一部之ニ呼應スル一部右翼團體ノ徹底抗戦ノ空氣ノ中ニ在リテ鈴木首相ト相提携シテ遂ニ御望斷ヲ仰ギテ軍部ヲ抑ヘテ「ボツダム」宣言ヲ受諾シ終戦ヲ招來スルニ至リシコトハ當時ノ逼迫セル情勢ノ報告ノ爲ニ訪問セル私等ニモ明確ニ看取シ得タルトコロナリ。
 - 三 私ガ職務上得タル報告ニヨリ私ハ一部國內ノ主戦派ガ和平工作ノ主謀者ハ木戸内大臣ナリシト、二回ニ亙リ同侯ノ暗殺ヲ企テタルモ、其ノ目的ヲ達セザリシコトヲ知レリ。當時私ハ警視總監トシテ木戸侯ノ身邊ノ警戒ヲ嚴ニスルノ要アルヲ認メ、一九四五年

四

八月九日以來自邸、私ニ警戒員ヲ二名カラ二十五名ニ増派シタリ
 終戦ニ反對シ本土ニ米軍ヲ迎ヘテ自殺的決戦ヲ試ミントスル主
 戦派ノ中ニ尊攘同志會ナルモノアリ。此ノ團體ニ屬スル摺建一甫
 摺建富士夫、宮崎清吉等十數名ハ和平工作ノ主動者ハ木戸内大臣
 ナリトシ、一九四五年八月十三日東京都内省線附近敷ケ所ニ入
 ドリオヲ斃セシ一或ハ一木戸ヲ誅セヨト記シタル不穩文書ヲ貼付
 ケ、須山、宮崎等七名ハ木戸内大臣ヲ暗殺スル目的ヲ以テ手榴彈
 拳銃、日本刀ヲ携ヘテ一九四五年八月十五日早曉、赤坂區新坂町
 所在木戸侯私邸ヲ襲撃シ同邸ヲ警戒中ナリシ巡査ト争鬪シ、麻生
 巡査ニ日本刀ヲ以テ斬付ケタルモ、暗殺ノ目的ヲ達セザリシモノ
 ナリ。

五 更ニ翌一九四五年八月十六日早曉再び四人組ノ暴漢ガ木戸侯ノ假宅タル赤坂區新坂町所在和田小六博士邸ヲ襲撃シタルガ其時木戸内大臣不在ナリシ爲暗殺ノ目的ヲ果サズ逃走シタルモノナリ。

六 右ノ一派十二名ハ逃亡シ芝區製石山々頂ノ茶屋ニ立籠リ居ルコトヲ探知シ、一九四五年八月十八日午前四時半山頂ヲ包圍シテ遂捕セントシタルモ犯人等ガ手榴弾ヲ豊富ニ所持セル爲警官ノ犠牲大ナルベキヲ慮リ、包圍態勢ノ儘持久戦ニ入り數回武器ヲ抛棄シテ任意出頭ヲ勸告シタルモ應セズ、遂ニ八月二十二日午前五時半暴風雨中ニ威嚇發砲ヲ試ミツツ檢挙ヲ決行セル處、多少抵抗ノ後一齊ニ各自手榴弾ヲ自己ノ胸下ニ投付ケ自殺ヲ遂ゲタリ。十二名ノ中二名ハ八月十八日ノ包圍後除ヲ脱シテ下山セルヲ以テ之ヲ遂捕シ一名ハ手榴弾自殺ノ際急風ニ投ゲ倒サレテ人尋不省ニ陥リ、覺醒後逃走ヲ企テタルモ之ヲ遂捕シタリ

七 右三名ノ外愛宕山ノ山籠ニ加ハラサリシ右ノ一派ノ首領株ナル招建一甫、須山秀吉、宮崎清吉ヲ遂捕シ之等ノ者ヲ取調べノ結果此ノ暗殺團ハ招建一甫ガ陸軍省軍務課ノ囑託ナリシ關係ヨリ畠中少佐、田島少

Doc. No. 3049

佐、白木少佐等ノ軍人ト相繼リ、屢々軍務ヲ訪問シテ官中ノ重臣
ノ行動ニ關スル情報ヲ得ツツアリシ事實判明セリ

昭和二十三年（一九四八年）一月二十八日 於

供 述 者

極東軍事裁判所ニ於テ

町 村 金 五

右ハ富立管人ノ面前ニテ宣誓シ且ツ署名捺印シタルコトヲ証明シマス

同 日 於 同 所

立 管 人 木 戸 孝 彦

Der. Doc. #E049

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TELEGRAM
(Secret Cipher V)

Tokyo, 6 November 1941, 10:50 P.M.
Arrived, 7 November 1941, 17:50 o'clock

No. 2354 of 6/11

Most Urgent!

Secret!

Foreign Minister Tōgō, 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 dispatch 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. Tōgō declared upon this that he had examined the matter in the meantime 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 presented by the United States regarding China, I should like to judge the chances for these important gestures also to be doubtful.

Ott

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

C E R T I F I C A T E

O F O R I G I N

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 IPS from the Office of the Chief of Counsel of the Nurenburg War Crimes Trials.

/s/ Yale Maxon

Translated by
Defense Language Branch

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

UNITED STATES OF AMERICA et al

-vs-

MIKI, Sadao et al

SWORN DEPOSITION

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 my 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 groups. 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 MUYEDA, Torao and KAGEYAMA, Masaharu in attempts to assassinate those whom they regarded as pro-American and pro-British advocates of the status quo or liberalists. 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. at

this time Marquis KIDO was the Lord Keeper of the Privy Seal. The Metropolitan Police interrogated these would be assassins and found out that the target of their attempted assassinations included the following:

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

(2) Mr. YUASA, Kurahei, former Lord Keeper of the Privy Seal; Admiral OKADA, ex-premier; Baron HARADA, Kumao; Count MAKINO, former Lord Keeper of the Privy Seal; Marquis KIDO, Lord Keeper of the Privy Seal and Mr. MATSUDAIRA, Tsuneo, Minister of the Imperial Household, as representatives of the Senior Statesmen.

(3) Mr. NISHIDA, leader of the Minseitō Party and four others 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

DEPONENT: /s/ YAMAZAKI, Iwao (seal)

Def. Doc. # 3055

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 same place.

Witness: /S/ KIDO, Takahiko (seal)

CATH .

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

/S/ YAMAZAKI, Iwao (seal)

概中門際軍費裁判所

亞米利加合衆國 其他

對

荒木貞夫 其他

宣稱供地者

供地者 山崎 隆

自分修我國ニ行ハルル形式ニ從ヒ先ヅ別紙ノ通り宣稱ヲ爲シタルト
次ノ如ク供地致シマス

余山崎殿ハ官邸トテノ御リ陳述ス

一 余ハ山崎殿ハ四月十五下一月。此月迄内務省警保局長ニ在職セリ

二 内務省警保局長タリシ余ノ職務ハ全口ニ於ル治安維持デアリ、且

責任ヲ未盡ニ防止シ又テノ防止ノ爲ニ必要ナ措置ヲトルコト、又

余ノ任務ノ一部ナリ。カ。ル任務達成ノ爲民明ニ於ケル一般情勢

ヲ管ニ知悉シ且諸団体ノ動向、目的ヲ諒解シアルコトガ必要ニシ

余ハ余ノ部下ヨリ斯ル内容ニ關スル情報ヲ常ニ入手シアリタ

余ガ内務省警保局長ニ在職中昭和十五年七月所關ヒ。五年任アリ

情報ニ依リ余ノ知レル處アハ同意件ハ前田虎雄ヨ影山正治等ヲ指

導キトスル。三十余名ノ有線革新陣營ノ血盟的一團ガ國家革新ノ實

現ノ爲ニテガ阻害者タル氣英米の現狀維持者、又ハ自由主義者ト

目サル。昔ノ一軍ニ附設セント昭知十五下七月五日本明化ノ一團

ガ手榴彈。銃銃、日本刀其他多数ノ武器ヲ準備シ正ニ出發決行ニ

移ラントセルヲ入手セル情報ニ依リ探知シ、未だ檢査シタル事件ナリ。當時木戸侯ハ内大臣タリ。警視廳ハ之等ノ暗殺事件ヲ取直ベソノ暗殺ノ目標ハ之ノ如クナルコト判明セリ

1 政府代表トシテ米内首相

2 臣代表トシテ溝邊前内府、岡田元首相、原田熊雄男、牧野元内府、木戸内府及松平宮内

3 財閥代表トシテ池田成勲外二名

4 政黨代表トシテ町田民政黨總長外四名等ナリ

犯人達ハ十分ニ殺罰サレ有罪トナリテ刑罰セリ。ト是ノ目標タリシ人々ニ對シテハ一定加刑罰ヲ附シタリ。

昭和二十三年十一月四日

於

東京目黒区洗足一丁目

供進者

山

崎

殿

貴立會人ノ面前ニテ宣誓シ且ツ署名捺印シタルコトヲ證明シマス

同日於同所

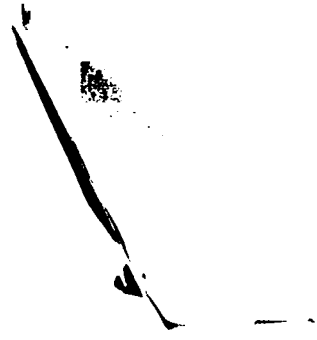
立會人

木戸孝彦

其心ニテハ良言ヲ述ベ何事ヲモ黙秘セズ又何事ヲモ附加セザルコト

宣 言 書

署名捺印 山崎 巖



Def. Doc. # 3056

(IPS Doc. 3150 -- 10)
(Fhx. 3756 -- A) Supplement

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.

檢察側文書第三一五〇號一〇
法廷證 第三七五六號 A

補足

總譯側文書第三〇五六號

昭和六年九月十四日

陸軍々部ト西園寺公 第十回ヨリノ抜萃

で元來大體に於て兩者の意見は先づ合致して來たのであるが着手年度を
多少延して貰ふ。で完成年度に就ては同じであるのだけれども着手年度
を延して貰つて此財政の難關の時に何とかやり終りたいといふのが大
陸軍の希望であつたのであるけれども陸軍では元來「内閣が何時變る
やら分らない。内閣の變る度に約束を反古にされては困ると言ふのが眼
目らしいので今日此内閣の時に出來るならば儘ぐ着手して貰はなければ
ならぬ」と云ふのが陸軍内の要求であつた。

Def. Doc. # 3058

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 Koiso, Kuniaki to the Vice-Minister of War Yamawaki, Masataka 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)

證明書

自分ハ厚生省復員局文書課長ノ職ニ居ル者ナル處茲ニ舊陸軍省ノ書類
ハ整理保存ノ爲當局ニ於テ保管シテ居ル事並ニ左記書類ハ現存保管書
類中ニハ存在シテ居ナイコトヲ證明シマス。

記

一 昭和十四年五月初拓務大臣小磯國昭ヨリ陸軍次官山崎正隆宛日須伊

三國同盟締結反對意見ノ開陳ニ關スル文書

昭和二十三年二月二日

厚生省復員局文書課長 美山 要藏

右署名捺印ハ立會人ノ面前ニテ爲サレタルコトヲ證明ス。

同日於同所

立會人 高木 一也

Translated by
Defense Language Branch

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

UNITED STATES OF AMERICA et al

-vs-

ARAKI, Sadao et al

SWORN DEPOSITION

Deponent: IWAGURO, Hideo

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. 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

Def. Doc. # 3060 (Revised)

Exh. No.

6, Feb. 1948.

Errata Sheet (KCISO) -- English text only

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",

Translated by
Defense Language Branch

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

UNITED STATES OF AMERICA et al

-vs-

ARAKI, Sadao et al

SWORN DEPOSITION

Deponent: IWAGURO, Hideo

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. 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

DEF. DOC. #3060

should be concluded. In reply to my visit, a few days later Overseas Minister KOISO sent his personal secretary, to said Vice-Minister YAMAWAKI 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

DEPONENT: IWAGURO, Hideo (seal)

I 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/ SANMONJI, Shohai (seal)

OATH

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

/s/ IWAGURO, Hideo (seal)

Def. Doc. # 3060 (Revised)

Exh. No.

6, Feb. 1948.

Errata Sheet (KCISO) -- English text only

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".

Def. Doc. # 3060

Exh. No.

Errata Sheet (KOISO)

Correction should be made as follows. --

14 line, page 2

"wether" 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".

Def. Doc. #3060

Exh. NO

ノ 自分 儀 我國 ニ 行 ハルル 方式 ニ 從 ヒ 先 ヲ 別 紙 ノ 通リ 宣 審 ヲ 爲 シ タル 上 次
如 ク 供 述 致 シ マ ス

宣 審 供 述 審

供 述 者 岩 井 謙 雄

極 京 國 際 軍 事 裁 判 所

亞 米 利 加 合 衆 國 其 他

對

法 定 責 任 其 他

岩畔豪雄口述

一九三九年（昭和十四年）五月私が軍務局長時代陸軍次官山
島中將の使者として當時拓務大臣であつた小磯大將を拓務大臣室に
訪問致しました。

用件は當時日獨伊三同盟締結問題に關し陸相海相間に意見が一致
しないので之が調停を依頼したのであります。

然るに私が拓相を訪問して数日経つてから小磯拓相は其秘書官を山
島次官の許に遣し書面を以て回答して参りました。其内容は小磯が
三島同盟に反對なること及之が故に陸海兩相の調停は出来ぬと云ふ
ことでした。

Def. Doc. #3060

昭和二十三年（一九四八年）一月二十八日

於 東京都大塚區
田園調布二丁目七八九

供 述 者 岩 井 森 雄

右ハ當立會人ノ面前ニテ宣誓シ且ツ署名捺印シタルコトヲ證明シマス

同日於同所

立 會 人 三 文 字 正 平

Def. Doc. 号3060

良心ニ從ヒ眞實ヲ述ベ何事ヲモ試秘セズ又何事ヲモ附加セザルコトヲ
誓フ

宣

誓

誓

署名捺印

岩

時

豪

雄

證 明 書

余、三浦和一ハ英語及ビ日本語ヲ讀ミ聲キ且ツ書スモノトシテ
 一四國寺原出口記第ニ八四号、一九三八年八月五日レ
 ノ英譯文ヲ正確且ツ誠實ニ作成セラルコトヲ茲ニ聲明ス

昭和二十三年二月二日

於東京

三 浦 和 一

Def. Doc. #3005

Exh. 7

EXCERPT FROM THE SHIGEMITSU MEMOIRS

CHAPTER 284, August 5, 1938

Ambassador Shigemitsu sent home a message as follows: "This country is very conservative: the attitude of the Soviet Commissariat for Foreign Affairs ^{foreign} 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."

Doc No 3065

EXH NO

茲 記 三 十 三 點 二 月 二 日

於 泉 京

一 記 三

、 矣 難 又 國 寺 一 矣 註 之 於 出 且 之 誠 實 二 八 作 成 於 泉 京
今 三 三 記 一 矣 註 之 於 出 且 之 誠 實 二 八 作 成 於 泉 京
矣 難 又 國 寺 一 矣 註 之 於 出 且 之 誠 實 二 八 作 成 於 泉 京

A

Def. Doc. #3000

Exh. #

EXCERPT FROM HIS SHIGEMITSU-HAYASHI MEMOIRS

CHAPTER 224, August 5, 1938

Ambassador Shigemitsu sent home a message as follows: "This country is very conservative: the attitude of the Soviet Commissariat for Foreign Affairs towards ^{foreign} 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."

證 明 書

余、三浦和 一ハ 英語及ビ 日本語ヲ 讀ミ 寫キ 且ツ 書スモノトシテ
 一四國寺 原出口 記 二八四 年、一九三八 年八月五日
 ノ 英語文ヲ 正確且ツ 誠實ニ 作成セラルコトヲ 茲ニ 證明ス

昭和二十三年二月二日

於東京

三 浦 和 一

西園寺原田日記第二八四章抜粹

昭和十三年八月五日

重光大使は本國は極めて遺憾的で在外使臣に對するソヴィエットの外務省の態度は非常に之が小事件の如く取扱つて居る。さうしてソヴィエットの本國の人心は極めて冷静で區調で日本でも冷靜に取扱つてくれと言つて來た。

Def. Doc. #3000

Exh. #

EXCERPT FROM THE SAITOMI-KAWADA MEMOIRS

CHAPTER 224, August 5, 1938

Ambassador Shigemitsu sent home a message as follows: "This country is very conservative: the attitude of the Soviet Commissariat for Foreign Affairs toward ^{foreign} 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."

C E R T I F I C A T E

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-Harada 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.

However, I also knew that besides HARADA, one NAKAGAWA, Kōjuro, 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 preceding and following entries contain contradictions.
- d. Although difficult to judge whether they are the result

Defense Doc. 3066

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 INCUYE 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 KOISO.

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

Defense Doc. 3066

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.

Defense Doc. 3066

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 as 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 War Minister then called Vice Minister SUGIYAMA, 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,

Defense Doc. 3066

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 Intendance Bureau were the advocates of immediate effectivation of the army reduction plan and Finance Minister INOUE whom HARADA 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

Defense Doc. 3066

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 effectivation of the army reduction plan and I feel it especially necessary to call the Tribunal's attention to this fact.

Def. Doc. #3066

3. With regard to the evidence contained in Court Exhibit No. 3801-B 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 1948, 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 pet 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 KOISO 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. YAMASHITA, 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 HIRANUMA message." I had actually no knowledge of what he called the "HIRANUMA 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 HIRANUMA 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 HIRANUMA 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

Def. Doc. #3066

meaning nothing more and nothing less than war participation?" and thus gave expression to my construction of the so-called "HIRANUMA message". Upon hearing my view, HARADA, 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 accordance with the "HIRANUMA 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 HARADA my own personal views which I had always held opposing the conclusion of an alliance. Instead I asked him what Prince SAIONJI'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 fundamentally 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.

Def. Doc. #3066

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 YUASA 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 37,813), " . . . 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.

Def. Doc. #3066

4. With regard to Court Exhibit No. 3806-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 advise on kempei matters. Supposing this refers to such a period of my career

Def. Doc. #3066

and that ~~MIKI~~ spoke of this to ~~Harold~~, then there can be no mistake that it was at a time when ~~RAKI~~ (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, ~~UGAKI~~ 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 tranquillity 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 disguised in civilian clothes to conceal them from the public

Bef. Doc. #3066

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.

Bef. Doc, #3066

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Def. Doc. 3066

5. With regard to erroneous evidence in Court Exhibit No. 3757-A that the accused MINAMI 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

Def. Doc. 3066

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

Def. Doc. 3066

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 Fixel 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 Fixel'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 commander 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).

Def. Doc. 3066

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 thereto 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)

Def. Doc. # 3066

Exh. No.

6, Feb. 1948

Errata Sheet (KCISO)

Correction should be made as follows: --

14 line, page 2

"wether" 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".

Def. Doc. # 3066

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東京口談 早稲穀判所

亞米利加合衆口其他

對

荒木貞夫其他

宣誓供述卷

供述者 小 義 田 昭

目分 供述口ニ行ハルル方式ニ從ヒ先ヅ別紙ノ廻リノ宣誓ヲ肩シタル上次ノ
如ク其ノ政シマス

一原田日記（法廷證三一五〇）及原田ト私トノ關係ニ就テ

檢察官反駁段階中私ニ關係アリトシテ法廷ニ提出セラレタル證據ニ對シ反證ノ爲陳述スルニ先立テ原田日記及原田ト私トノ關係ニ就キ必要ナリト思垂セラル、事項ニ付陳述致シマス。

私ハ一九三〇年頃初メテ原田ヲ知り其後數回國會致シマシタガ彼ハ私ガ彼ヲ知リマシタ以前カラ西園寺公ニ對スル政界情報ノ提供ノ義務トシテ活動シ向公ノ死去スル迄務メシテ居タコトヲ承知シテ居リマス。

然シ私ハ原田ノ外ニ中川小十郎トイフ人が古クカラ西園寺公ノ秘書トシテハ公ノ身邊一切ヲ經營シテ居タコトヲ承知シテ居リマシタ。

然ルニ、誰ノ話デアツタカハ失念シマシタガ原田ニ關シ次ノ様ナ報告ニ接シマシタ。

原田ハ心中切カニ西園寺公ヨリノ遺囑ヲ中川秘書トシツテ居ル

D. f. Doc. no. 3066

ガ中川秘書ハ此通至極恬淡ナ立派ナ人物ナルガ爲中川、原五、兩
者間ニハ何ノ紛争モナイガ公ガ原五ヲ左邊信用シテ居ラレヌコト
ハ慥カデアアル。

以上ノ事情ニ依リ私ハ原五カラ申入ガアツタ場合ハ面會モシマシタ
ガ、私カラ進デ面會ヲ求メタコトハ一度モナク、又上司ノ命令或ハ私
ノ發意ニ基キ彼ニ情報ヲ提供シタコトモアリマセヌ。

私ハ原五ガ日誌ヲ記述シテ居タトイフコトニ就テハ一九四七年夏頃
迄全く知りマセンデシタガ其日記中ニ私ニ關係スル記事モ記述シテ
アルトノコトデ辯護人カラ私ニ關係スル記事ノ拔萃ヲ借受ケ一應通
悉シマシタ其結果私ハ私ニ關係アル記事ニ關スル限り其記事ニハ次
ニ掲グル映像ガ存在シテ居ルコトニ氣付キマシタ。

- a 大部分ハ傳聞デアルコト
- d 病的想像慮測ガ多少ニ加味サレ居ルコト
- e 前後ノ記事内容ニ矛盾ノ存スルコト

時軍務局長デアツタ私モ委員ノ一人ニ任命サレマシタ。
一九四七年十月三十一日當法廷ニ於テ喚ミ上ゲラレマシタ、私ノ
宣誓供述書（法廷證三三七五）中ニ「滿洲事變勃發ノ前後ニ於テ
モ平時兵力十七師團ノ内近衛師團ヲ親衛隊ニ改編縮少スルノ必
都宮及京都ノ兩師團ヲ廢止スルコトニ就テモ研究中デアリマシタ」
ト述べテ置キマシタノハ此審議會ニ於ケル審議ノ結果デアリマシ
テ此事實ハ南滿洲大臣及審議委員ガ共ニ軍備案具體化ノ爲努力シ
テ居タコトヲ切詰ルモノデアリマスト同時ニ此事ハ又前項ノ法廷
證三三七五B部テ原田日記中ニ在ル國本社ハ陸軍ト連繫シテ軍備
ニ妨害的策動ヲシテ居タト云フ記述ヲ覆ス反證デアツテ私ガ原田
ノ國本社行動記事ヲ非認スル證據トモナルノデアリマス。

右ニ師團半軍縮案實行ノ爲ニハ軍隊並軍需品ノ輸送移動、軍隊ノ機械化ニ要スル器材ノ整備、軍隊機械化ニ伴フ一部兵營倉庫等ノ新設、縮減軍隊ノ解散ニ伴フ將兵ノ賜金、歸郷旅費等相當額ノ初度費ヲ要スル爲軍縮案實施ノ初期ニ於ケル陸軍豫算ハ例年度ニ比シ増額ヲ見ル事情ニ在リマシタ

而シテ井上大藏大臣ハ民政黨ノ幹部デアリマシタノデ民政黨内閣ニ於テ軍縮ヲ實施セシメ導タト云フ名目上ノ功績ヲ把握スルト共ニ初度費ヲ要スル軍縮案ノ實施着手ト云フ厄介ナ問題ハ之ヲ次期内閣ノ負擔ニ押付ケヨウト云フ考カラ南陸軍大臣ニ對シテハ財政上ノ都合上實施期ヲ後年度ニ繰リ延バシ度旨提議シタノデアリマシタ、之ニ對シ南陸軍大臣ハ軍縮ノ實施ニハ之ニ承諾テ即ハマシタガ實施着手期ノ問題ハ尙事務當局ノ意見ヲモ徵シタ上追テ離答スベキ旨ヲ述ベテ井上大藏大臣ト別レ審議委員長杉山次官ヲ招致シテ其意見ヲ徵シマシタ

初テ審議委員會ニ於テハ軍隊ノ機械化ハ成ルベク早キ實現ヲ希望シテモリマシタ外一方軍縮着手ヲ繰リ延バス時ハ其間ニ自然、案ノ内容ガ部外ニ漏洩シ

功結果ハ單ニ軍隊將兵ノ士氣ニ惡影響ヲ及ボスノミナラズ、貴衆兩院議員ガ自己選擧地盤ニ於ケル地方、民、ト結ビ當該地方ノ繁榮維持ノ爲軍隊存置運轉ニ狂奔シ之ガ爲軍縮ノ實行動モスレバ濫漕ヲ議スコトノアル若キ既往ノ經驗ニ鑑ミ軍縮案ガ決定ノ上ハ晩クトモ翌年初頭カラ實行ニ著手スルコトガ必要デアルト云フ意見ニ一致シテマシタノデ杉山委員長ハ兩院軍大臣ノ諮詢ニ對シ此旨ヲ申シタノデアリマス。審議ノ委員ノ一人デアツタ私モ亦熱心ナル軍縮決定案ノ即行論者デアツタコトハ謂フ迄モアリマセヌ。然シ直接軍大臣ニ對スル答申ハ前述ノ通り委員長杉山次官ガ當ツタノデ私ヨリ直接軍大臣ニ意見ヲ申出シタコトハアリマセヌ。

府狀ハ以上ノ通りニシテ私ハ經理局長ハ軍縮案即行論者デアリ反對ニ原田ノ支持スル井上大藏大臣ハ軍縮案ニ延べ論者デアツタノデアリマス。

原田ノ記述ハ愛憎的感情ヲ以テ曲筆セラレテハアリマスガ、ソレデモ尙本法廷記者ノ前後ヲ通讀スレバ私ノ陳述シマシタ真相ノ一端ガ明瞭ニ判明シテ法ルニ拘ラズ檢察官ハ被告ノ爲不利ラシク見ユル記事ノ一端丈チ再證トシテ法

証ニ提出シテ得リマス爲法廷ヲシテ私ガ公約案ノ實行ヲ阻止シタモノノ謀ニ
反對ナ印象ヲ懷カシムル嫌ノアルモノニナツテ居ルノデアリマス、私ハ此點

ニ對シ時ニ法廷ノ注意ヲ喚起致シタイノデアリマス。

三、法廷等三八〇一B一九三九年五月八日私ガ原田ニ面會ヲ申込ミ彼ノ親戚宅

ニ於テ會見シ三國同盟ヲ締結セザレバ歐戰ノ將士ガ爾得シナイト云ツタト記
述セラレタル證據ニ就テ

本法廷等ハ一九四八年一月二十二日一ブルツクスー辯護人ヨリ指摘シマシタ
通り原田日記中ノ僅カナ一節丈ヲ摘萃シ證據ノ内容ガ恰モ私ノ所說デアツタ
クニ誤解セシムルモノデアリマスガ事實ハ左様デアリマセヌ、此證據ニ續
ク日記ノ中ニハ一節ニ常套語デアツタト記シテアルノ見テモ日本文ノ解釋
上カラモ私ノ意見デナイ事ハ明デアリマス然シ日記ノ記事ハ與ニ之ニ續イテ
一小説大將モ同ジ談トコトヲ云ツテ居ツタト揭ゲデアリマス、此一同ジ談
ト一ト云フ文字ハ曖昧ト表現デアリマスガ、矢張私ガ同盟締結論者デアツタ
後ト印象ヲ與ハテ得リマスノデア會見ノ内容ハ同盟可否論者ニ就テデハ十カッ

タコトヲ立證スル爲會見ノ實際經過ヲ陳述シテ本法廷證ノ無價值ナルコトヲ
證明致シマス
月日ハ明確ニ記載シマセヌガ一九三九年三月三日上司私ハ原田ニ面會シタコト
ハ疑有デアリマス然シ此面會ハ私ノ懇請ニ出タモトテハナク最初晚餐時ニ懇
談シタイトノ原田ヨリノ申出ガアリマシタノニ對シ私ハ繁忙ノ故ヲ以テ耐絶
シマシタ然シ用済後ニテモ等支ナキニ付是非可會チ承引シテ貰ヒ度イトノ強
テノ申入レガアリマシタノテ私ハ已ム得ズ之ヲ承知シ用済後夕食ヲ了リ午後
八時三十分頃田指定ノ場所ニ出向キマシタ

以上ノ間答ノ外左シタル事件モナイ様子ナノデ私ハ午後十時三十分頃
辭去シタノデアリマス。

以上ノ實際經過ト相違シ其日記三二一回(一九三九年四月十八日)
容ハ根本的ニ事實ト相違シ其日記三二一回(一九三九年四月十八日)
ノ記事ニ於テ私ガ三二回盟締結反對論者デアツタコトヲ誰人カラカ
キ知ツテ居タコトガ明ニ説ハレルニ拘ラズ本誌ニ示サルル如キ芳
盾セル記述ガアリマスノデ檢察官ヲシテ私カ同盟締結論者ニアラザル
ヤヲ疑ハシムルニ至ツタモノト思ハレマス。

又前記ノ如ク私ハ原田ニ對シ西園寺公ノ意見ヲ質問シ原田亦同公ノ感
度ニ付賞讃的談話ヲ致シテ居タニ拘ラズ本誌ニ載ク日記ノ記事ニ
ハ西園寺公ノ事ニハ何等憐ルルコトテク結ノ内容ヲ變更シテ益ク私ノ
豫測シテ居ナカツタ湯淺内大臣ノ態度ヲ辯護シタ記事ヲ載セテ居リマ
ス、是ハ明カニ原田カ對談ノ内容ヲ歪曲、創作セル顯著ナ一例デアリ
マシテ、日記ニ信憑性ナキコトヲ立證スルモノデアリマス。

尙法廷ニ申上ゲ度キコトハ該察官ノ本廷提出ノ理由トシテ「小
ハ三三同盟問題ニ對シテハ山脇直次官及平沼首相ニ反對意見ヲ披
シタコトカアル以外如何ナル場合ニモ意見ヲ表明シタコトナシト證言
シ居ルニ拘ラズ、原因ニ對シ此ノ如ク意志表示ヲナセシニアラズヤ」
ト該證シマシタカ前述證シマシタ通り原因ニ對シテモ同盟締結可否論
ニ就テハ私見ヲ披瀝シテ悉リマセヌ加之私カ先ニ提出シタ宣誓供述書
(法廷證三三七五)原文第二十一ニハ「コノ問題ニ就テ私カ出席シタ
間限ヤ私カ記憶スル如何ナル他ノ場合ニ於テモ」ト記シテアリマス、
然ルニ此旨合 (Misapprehension) ト云フ文字カ其辭ノ際場合 (Occasion)
ト誤譯セラレテアル結果該察官ノ誤解ヲ招イタモノデアラウト思ハレ
マス、若シ此誤譯カナカツタナラバ恐クハ本廷提出ハ提出サレナカツ
タデアラウト云フコトニ法廷ノ注意ヲ喚起致シマス。

四 法廷證三八〇六A、被告荒木が表明シタト纏セラル、私ニ對スル人格

證言ニ對テ。

本法廷證ノ内容が長シテ被告荒木ノ表明ニ係ルモノナリヤ否ヤハ、私
ノ圖知スル所デアリマセヌ。又一カモアリ熱モアルガ定見ノナイ哇、
横謀衝動ヲ興トスル所謂辯論ガレ屑デアアルト云フ私ノ人格ニ對スル結
論的批判ニ對シテハ自己反省ノ弊ニ供スル以外證明ノ限リデアリマセ
ヌ、然シトガラ其結論的批判ノ裏付ケトモ見ルベキ藤澤証言ノ行使ヲ
圖證ノ席トテ提唱シタトカ又憲兵ニ法被ヲ着セテ前四ヤ文部ニ派遣シ
タトカ云フ證據ナ言證ニ對シテハ誣人ノ言證タルヲ圖ハズ其意ニ反駁
立證セネハナリマセヌ。

平沼内閣ノ拓務大臣時代ニ圖證ノ席トタルト他ノ如何ナル場合タルヲ
圖ハズ私ガ藤澤証言ノ行使ヲ提唱シタト云フ様ナコトハ全然無稽無根
ノコトデアリマシテ則カノ誤解又ハ誤聞ナルコト疑フノ余端ガアリマ
セヌ。

次ニ憲兵ニ法被ヲ着用セシメテ滿洲、支那ニ派遣シタト云フコトヲ私ヲ
誹謗スル口實トスルナラバ自分ガ拓務大臣デアツタノデ憲兵隊ニハ關係
ナイソコデ其時期ハ恐ラク私ガ憲兵問題ニ携ルコトノ出来タ軍務局長又
ハ次官在職間ニ限ラレマス而シテ若シコノ事ガ假リニ被告荒木カラ原因
ニ話サレタモノトスレバ斯様ナコトヲ絕對ニ許ス管ノナイ荒木ガ陸軍大
臣ノ職ニ就イテ居ラナカツタ時期デアルニ相違アリマセヌ、換言スレバ
私ガ宇垣、白二代ノ大臣ノ下デ軍務局長ノ職ニ在ツタ一九三〇年八月以
降一九三一年十二月十二日迄即滿洲軍總動發直前、直後ノ一年間ヶ月間
ノコトデアツタ事ニナリマス。然ルニ其當時ノ在滿日華兩門ノ兵力關係
ハ既ニ法廷ニ於テ明白ニナツタ通り中門別兵力二十二萬ニ對シ日本別兵力
ハ軍總動發直前ニ於テハ僅カニ一萬四百餘軍總動發直後朝鮮ヨリ越境ノ兵
力ヲ加ヘテモ尙一萬五千ニ充タナカツタ爲メ軍總動發直後朝鮮ヨリ越境ノ兵
力ヲ倍ゲ若シ日本内地カラノ増兵ガ可能デアルトラバ憲兵等ヲ送ルヨリ

ハ一丘デモ多クノ戦闘兵ノ増派ヲ切望シテ皆々言状デアリマシタ。又
憲兵ヲモ含ム日本陸軍ノ駐劄シテ皆々北支那ニ於テハ一九三一年十一
月天濠ニ小規模ノ騷擾事件ガアリマシタ。外一般ニ靜謐ヲ保持シ憲兵増
員ノ必要等ヲ訴ヘタコトハ全然アリマセンデシタ。從ツテ滿洲事變勃
發ノ直前直後其時局ノ眼ニ際レテ法被ヲ着用サセタ憲兵ヲ滿洲支那ニ
増派セネバナラヌ様ト必要ニ直面シタコトハ一回モナク又陸軍大臣ノ
命令ノ有キヲ固ハズ此ノ如キ處置ヲ實施シタコトハ何對ニアリマヒタ
以上所陳立證シマシタ。ヨリ本法廷議ハ所傳ナ言證ヲ背負トシタ。私ニ
對スル惡言ナ人格證言デアリマス、人格證言ハ證據トシテ採擇セヌト
云フ法廷ノ定メニ從ヒ本法廷議ノ抹殺ヲ固クヒスル次第デアリマス。

本法廷野三七五七A叙告用か遠川ヲ奉天ニ派遣シメト云フ誤レル證據ニ既
テ

本法廷野中ニハ私ニ懸レタ旨所ハアリマセヌ又ニ廷野夫レ自レハ私ニ
ハ何ノ關係モアリマセヌ、然レテ俄祭目ハ本野證出ノ理由説明中頃遠夫
レ目レニ矛盾カ旨マレテ居ルニ判ラズ敢テ私ノ名ヲ被ゲテ次ノ如ク起ハ
テ居リマス

一用ハ遠川カ參事本部ヨリ奉天ニ派遣サレタコトヲ〇〇〇〇容認シナカフ
〇〇〇〇小沢カ遠川ノ入選ニ何等カノ關係ガアツタコトヲ〇〇〇〇否定シ

ケル

假テ此點ノミニルア反証ヲ以テ述ビマス

遠川ハ參事本部ノ部長テアリマシメカ故ニ彼トモ定シテ彼ヲ出張サセルコ
トハ遠川ノ本ノ取目タル參事部長ノミカ命令シテ出ルコトヲアツテ他ノ誰
人ノ容喙ヲモ許サナイ事ヲ行フアツタコトハ有テ自及河邊證言ニ明テアリ
事又其ノ判リニ實施セラレタコトハ私ノ官報口候等ニ明記シテアリマ
ス

檢察官カ書證提出ノ預白説明ニ於テ遠川ハ其本部ヨリ派遣セラレタモ
 ノテアルコトヲ定認シテ居ルノハ前記ノ原則ヲ認明シテ結果テアルト信
 ジマス。然ルニモ河ラズ一方ニ於テ遠川ハ前カ派遣シタノテアルト云フ
 簡短ツマ原出口記ヲ其証トシテ法廷ニ是出シ且又陸軍省ノ者テアツ
 タ小沢カ參謀總長ノ命令信ニ谷塚又ハ之ヲ無用シタル被テ意味ノ説明ヲ
 傾進シテ居リマス。コトハ私ノ認明ニ苦ム所テアリマス。
 陸軍省カ小沢ハ遠川ノ人ニ例キルノ事案ガアツタト云フコトヲ説明ニ
 使用シタ根拠ハ法廷ノ記ニ載ク原田日記ノ一節ヲ引用シタノテアリ
 マセウガ其ノ記ニ「宋文ニ「フンイ」ト云フ字ヲ使用シテアリ又此又
 字ハ本誌「第一節中ニモ二圖所使用セラレテ居リマス。而シテ「フ」
 「ン」イ「ト」云フ文字ハ「フ」ニ似テ少キ傳聞アリモ更ニ價値ナキ「フ」自ラノ意
 象應別ケアル「ト」云フ意味ノ口本詰テアルコトニ法廷ノ注意ヲ喚起シマ
 ス。莫スルニ本誌「及之」ニ「遠川」原田日記ノ記ニ内容ガ支離滅裂ニ
 シテ不可解ノ點多キコトハ幸元原田カ陸軍省ノ指專命令ノ系統ヲ始メ

バ 法廷證三七五四B 函本社ノ注宿目的ニ就イテ
本法廷證ハ檢察官ガ原由日記ヲ援用シ函本社ハ石原ノ表タルモノニ
シテ眞實ト運筆シ草摺問題ニ對シテモ策動シテ唇ヲ函体デアルト爲
シ私ガ一九四七年十一月一フイタセル一檢察官ノ訊問ニ對シ答辯シ
タルガ如キ函体ニアラズト云フ説明ヲ理田トシテ法廷ニ提出セラレ
タモノデアリマス
然ルニ函本社ノ注宿目的トフイタセル一檢察官ノ訊問ニ對シ答辯
シマシタ私ノ眞述トノ間ニハ何等ノ虚偽モアリマセン何トナレバ私
ノ當時ノ答辯ハ記録三二二七五頁ニ明カナル如ク函本社ノ目的ニ就
イテハ誰カラモ虚偽カサレタコトガナイカラ知ラヌ、然シ雜誌函本ハ
自本及日本人ノ眞ノ發ヲ諒得サセル爲有益ナル資料デアルト爲察シ
タト述ベタノテ函本社ノ注宿目的ニハ言及シテ唇ヲヌカラテアリマ
ス。

又記録三二二七四頁ニ明カナル如ク私ハ地方ニ於ケル師隊長時代ニ於テ雜誌編輯ノ爲其曾良ト爲ツタ一人テ僅本社ニハ講演會ガ催サレタ時一度出席シタコトガアル又テアリマスカラ同社ノ経営目的ニ關シ自信ト責任トラ以テ陳述スル資格ハ有リマセン然シナガラ前段陳述致シマス通り私ハ一五年續業初ニ直接携ハリ且其研究審議ニ對シテノ部外ノ誰人ヲモ容喙サセアカツタ實狀ヲ承知シテ居リマス、ノテ原田ガ彼一流ノ曲筆ヲ以テ國本社ガ三黨ト進業シ其續業問題ニ策動シタト云ツテ居ル記述ガ若シ私ノ逕直省在職期間ニ適用セラル、モノナラバ明確ニ之ヲ否認致シマス

要スルニ本法廷證ハ檢察官ガ私ノ「フイクセル」一檢察官ニ對スル答辯ヲ監査用シテ國本社ノ在任立證ノ爲法廷ニ提出シタモノデアリマシテ登録夫レ目録ハ私ニハ關係ガアリマセヌ、此等ハ一九四八年一月十六日被告平治ノ辯護人「ワールレー」氏ノ陳述ニ依ツテモ明ニサレテ居リマス。

昭和廿三年一月二十九日八年一月三十日於市ヶ谷法廷

供 証 者 小 塚 昭

右ハ當立會人ノ目前ニテ宣誓シ且ツ署名捺印シタルコトヲ證明シマス

同 日 於 同 所

立 會 人 三 又 字 正 平

Def. 000. 3066

良心ニ従ヒ眞實ヲ逞ベ何事ヲモ誤秘セズ又何事ヲモ漏加セザルコトヲ

宣
誓
書

(署名)

小
説
目
録

Def. Doc. #3066

Exh. No.---

如ク其ノ致シマシ
目分儀同ニ行ハルル方式ニ從ヒ先ツ別紙ノ通りノ宣誓ヲ所シタル上次ノ

宣誓供述書

荒木貞夫其他

等

亞米利加合衆國其他

東京區警署裁判所

送者 小 説 目 昭

一 原田日記（法廷證三一五〇）及原田ト私トノ關係ニ就テ

檢察官反駁段階中私ニ關係アリトシテ法廷ニ提出セラレタル證據ニ對シ反證ノ爲叙述スルニ先立テ原田日記及原田ト私トノ關係ニ就キ必要ナリト思案セラル、事項ニ付陳述漢シマス。

私ハ一九三〇年頃初メテ原田ヲ知り其後數回會致シマシタガ彼ハ私ガ彼ヲ知りマシタ以前カラ西園寺公ニ對スル政界情報ノ提供ヲ密書トシテ活動シ向公ノ死去スル迄勸告シテ居タコトヲ承知シテ居リマス。

然シ私ハ原田ノ外ニ中川小十郎トイフ人が古クカラ西園寺公ノ密書トシテハ公ノ身邊一切ヲ擔當シテ居タコトヲ承知シテ居リマシタ。然ルニ、誰ノ話デアツタカハ失念シマシタガ原田ニ關シ次ノ様ナ報告ニ接シマシタ。

原田ハ心中切カニ西園寺公ヨリノ遺囑ヲ中川密書トシツテ居ル

D. f. Doc. no. 3066

ガ中川秘書ハ此函至極恬淡ナ立派ナ人物ナルガ爲中川、原西、兩
者間ニハ何ノ紛争モナイガ公ガ原田ヲ左邊信用シテ居ラレヌコト
ハ髓カデアル。

以上ノ事情ニ依リ私ハ原田カラ申入ガアツタ事合ハ面會モシマシタ
ガ、私カラ進デ面會ヲ求メタコトハ一度モナク、又上司ノ命令或ハ私
ノ發意ニ基キ彼ニ情報ヲ提供シタコトモアリマセヌ。

私ハ原田ガ日誌ヲ記述シテ居タトイフコトニ就テハ一九四七年夏頃
迄全く知りマセンデシタガ其日記中ニ私ニ關係スル記事モ記載シテ
アルトノコトヲ辯明人カラ私ニ關係スル記事ノ抜萃ヲ借受ケ一應通
覧シマシタ其結果私ハ私ニ關係アル記事ニ關スル限り其記事ニハ次
ニ掲グル決断ガ存在シテ居ルコトニ氣付キマシタ。

a 大部分ハ傳聞デアルコト

d 獨斷的想像臆測ガ多分ニ加味サレ居ルコト

u 前後ノ記事内容ニ矛盾ノ存スルコト

故意カ病的ノ快活ノ結果カハ判明シ難キモ會見ノ動機場所及會
話ノ内容等ガ歪曲偽作サレタモノノ存スルコト
。遺草及私ニ誦スル記事ハ彼個人ノ愛憎的感情ノ反映シタモノガ
多イコト

以下原五日記中ヨリ私ニ何等カ關係アリトシテ檢察側ヨリ松尾ニ莫
出セラレタ證據ハ總テ信 注ナキコトヲ事實ヲ基礎トシテ反證致シ
マス。

ニ法廷三三七五六A被告南ガ時ノ遺草大臣トシテ井上大塚大臣トノ
間ニ遺草々制改革案ニ就キ一應ノ協定ヲ遂ケタガ當時ノ草務局長
被告小坂等ノ反對ニ依リ覆サレタト云フ證據ニ就テ
被告南ハ一九三一年四月遺草大臣就任ト共ニ與旨ニ依リ遺草々
少方針ヲ決定シ遺草次官杉山元ヲ委員長トスル草制改革審議委員
會ヲ設置シ遺草々制ニ就スル具體案ヲ立案審議セシメマシタガ當

時軍務局長デアツタ私モ委員ノ一人ニ任命サレマシタ。
一九二七年十月三十一日當法廷ニ於テ觀ミ上ゲラレマシタ、私ノ
宣書供述書（法廷證三三七五）中ニ「滿洲事變勃發ノ前後ニ於テ
モ平時兵力十七師團ノ内近衛師團ヲ親衛隊ニ改編縮少スルノ外宇
都宮及京都ノ兩師團ヲ廢止スルコトニ就テモ研究中デアリマシタ」
ト述ベテ直キマシタノハ此參議會ニ於ケル審議ノ結果デアリマシ
テ此事實ハ南滿總督大臣及參議委員ガ共ニ軍備案具體化ノ爲努力シ
テ居タコトヲ切詰ルモノデアリマスト同時ニ此事ハ又前項ノ法廷
證三七五四B部テ原田日記中ニ在ル國本社ハ陸軍ト連繫シテ軍備
ニ妨害的策動ヲシテ居タト云フ記述ヲ覆ス反證デアツテ私ガ原田
ノ國本社行動記事ヲ非認スル證據トモナルデアリマス。

右ニ師團半軍縮案實行ノ爲ニハ軍隊並軍需品ノ輸送移動、軍隊ノ機械化ニ要スル器材ノ整備、軍隊機械化ニ伴フ一部兵營倉庫等ノ新設、縮減軍隊ノ解散ニ伴フ將兵ノ賜金、歸郷旅費等相當額ノ初度費ヲ要スル爲軍縮案實施ノ初期ニ於ケル陸軍豫算ハ例年度ニ比シ増額ヲ見ル事情ニ在リマシタ

而シテ井上大藏大臣ハ民政黨ノ幹部デアリマシタノデ民政黨内閣ニ於テ軍縮ヲ實施セシノ導タト云フ名目上ノ功績ヲ把握スルト共ニ初度費ヲ要スル軍縮案ノ實施着手ト云フ厄介ノ問題ハ之ヲ次内閣ノ負擔ニ押付ケヨウト云フ考カラ南陸軍大臣ニ對シテハ財政上ノ都合上實施期ヲ後年度ニ繰リ延バシ度旨提議シタノデアリマシタ、之ニ對シ南陸軍大臣ハ軍縮ノ實施ニハ之ニ承諾スルハマシタガ實施着手期ノ問題ハ尙事務當局ノ意見ヲモ徵シタ上追テ確答スベキ旨ヲ述ベテ井上大藏大臣ト別レ審議委員長杉山次官ヲ招致シテ其意見ヲ

徴シマシタ

シテ審議委員長ニ於テハ軍隊ノ機械化ハ成ルベク早キ實現ヲ希望シテモリマシタ外一方軍縮着手ヲ繰リ延バサ時ハ其間ニ自然、案ノ内容ガ部外ニ漏洩シ

功結果ハ單ニ軍隊將兵ノ士氣ニ惡影響ヲ及ボスノミナラズ、貴衆兩院議員ガ
 自己選定地盤ニ於ケル地方民同ト結ビ當該地方ノ繁榮維持ノ爲軍隊存直運
 動ニ狂舞シ之ガ爲軍隊ノ定行動モスレバ滯滞ヲ議スコトノアル若キ既往ノ經
 験ニ鑑ミ軍縮案ガ決定ノ上ハ晚クトモ翌年初頭カラ實行ニ著手スルコトガ必
 要デアルト云フ意見ニ一致シテマシタノデ杉山委員長ハ兩院軍大臣ノ諮問
 ニ對シ此旨ヲ申シタデアリマス。審議ノ委員ノ一人デアツタ私モ亦熱心ナ
 ル軍縮決定案ノ即行論者デアツタコトハ謂フ迄モアリマセヌ。然シ直接大臣
 ニ對スル答申ハ前述ノ通り委員長杉山次官ガ當ツタノデ私ヨリ直接陸軍大臣
 ニ意見ヲ申出シタコトハアリマセヌ。
 官狀ハ以上ノ通りニシテ私ト經理局長ハ軍縮案即行論者デアリ反對ニ原田ノ
 支持スル井上大藏大臣ハ軍縮案ニ延べ論者デアツタノデアリマス。
 原田ノ記述ハ愛憎的感情ヲ以テ曲筆セラレテハ存リマスガ、ソレデモ尙本法
 廷野記者ノ前後ヲ追及スレバ私ノ陳述シマシタ真相ノ一端ガ明瞭ニ判断サレ
 ルニ拘ラズ檢察官ハ被告ノ爲不利ラシク見ユル記事ノ一端丈ヲ再誌トシテ法

種ニ提出シテマシマス爲法廷ヲシテ私ガ以テ結案ノ實行ヲ阻止シタモノノ様ニ
反對ナ印象ヲ懷カシムル嫌ノアルモノニナツテ居ルノデアリマス、私ハ此點
ニ對シ特ニ法廷ノ注意ヲ喚起致シタイノデアリマス。

三、法廷等三八〇一B一九三九年五月八日私ガ原田ニ面會ヲ申込ミ彼ノ親戚老
ニ於テ會見シ三國同盟ヲ締結セザレバ歐戰ノ將士ガ耐得シナイト云ツタト記
述セラレタル證據ニ就テ

本法廷等ハ一九四八年一月二十二日「ブルックス」海護人ヨリ指摘シマシタ
通り原田日記中ノ僅カナ一節丈ヲ摘萃シ證據ノ内容ガ恰モ私ノ所說デアツタ
クニ誤解セシムルモノデアリマスガ事實ハ左様デアリマセヌ、此證據ニ續
ク日記ノ中ニハ「常ニ常套語デアツタ」ト記シテアルノ見テモ日本文ノ解釋
上カラモ私ノ意見デナイ事ハ明デアリマス然シ日記ノ記事ハ更ニ之ニ續イテ
「小磯大將モ同ジ様ナコトヲ云ツテ居ツタ」ト揭ゲテアリマス、此「同ジ様
ナ」ト云フ文字ハ曖昧ナ表現デアリマスガ、矢張私ガ同説締結論者デアツタ
事ナ印象ヲ與ハテマシマスノデア見ノ内容ハ同門可否論者ニ就テデハナカツ

タコトヲ立證スル爲會見ノ實際經過ヲ陳述シテ本法廷證ノ無價値ナルコトヲ
證明致シマス
月日ハ明確ニ記載致シマセヌガ一九三九年三月上司私ハ原田ニ面會シタコト
ハ事實デアリマス然シ此面會ハ私ノ懇請ニ出ヌモトデハナク最初晚餐時々懇
談シタイトノ原田ヨリノ申出ガアリマシタノニ對シ私ハ繁忙ノ故ヲ以テ謝絶
シマシタ然シ用済後ニテモ差支ナキニ付是所會ヲ承引シテ貰ヒ度イトノ福々
テノ申入レガアリマシタノテ私ハ已ム得ズ之ヲ承知シ用済後夕食ヲ了リ午後
八時三十分頃吉田指定ノ場所ニ出向キマシタ

スル通り日本ハ可能ノ範圍ニ於テ武力援助ヲ爲スト規定セラレテ居リ
謂カモ獨伊ガ突如ト關係シタ際ニ日本ガ獨伊ニ對シテ武力
助ヲ與施シタトテラバ是レ収モ直サズ以テアルト解スベキデハナイ
カト答ヘ所謂平沼メツセージナルモノニ對スル解釋論ヲ表明シマシ
タ之ニ對シ原田ハ多少昂奮ノ面持ニテ同盟締結論ヲ唱ヘル隨軍ノ態度
ヲモ非難シ且ツ復令平沼メツセージニ依リ同盟ガ成立シタ場合ニ於テ
モ決シテ參戰スベカラズト云フコトヲ繰リ返ヘシ論ジテ居リマシタ。
私ハ敢テ隨軍ノ態度ナリト稱セラルルモノヲ辯護モ致シマセンシ又據
テカラ私ノ持論デアツタ同盟締結反對論ヲモ口ノ極キ原田ニハ表明ス
ルコトヲ差控ヘマシタ、其代リ彼ニ對シ同盟締結ノ可否ニ關スル西口
寺公ノ意見ヲ訊キマシタ。
原田ハ之ニ對シ西口寺公ハ極々ニ自己ノ意見ヲ吐露スル人デナイト答
ヘ且ツ公ノ慎重ナル此種態度ニツキ繰返シ贊成的說明ヲ以ケテ居リマ
シタ。

以上ノ調査ノ外左シタル要件モナイ様子ナノデ私ハ午後十時三十分頃
辭去シタノデアリマス。

以上ノ實際經過ト密延證三八〇一Bトヲ對照致シマスト原田日記ノ内
容ハ根本的ニ事實ト相違シ其日記三二一回(一九三九年四月十八日)
ノ記事ニ於テ私ガ三二回盟締結反對論者デアッタコトヲ誰人カラカ
キ知ツテ居タコトガ明ニ曉ハレルニ拘ラズ本延證ニ示サルル如キ芳
盾セル記述ガアリマスノデ檢察官ヲシテ私カ同盟締結論者ニアラザル
ヤヲ疑ハシムルニ至ツタモノト思ハレマス。

又前記ノ如ク私ハ原田ニ對シ西園寺公ノ意見ヲ質問シ原田亦同公ノ思
度ニ付賞讃的談話ヲ致シテ居タニ拘ラズ本延證ニ續ク日記ノ記事ニ
ハ西園寺公ノ事ニハ何等觸ルルコトナク話ノ内容ヲ變更シテ全く私ノ
豫想シテ居ナカッタ湯淺内大臣ノ思慮ヲ辯護シタ記事ヲ載セテ居リマ
ス、是ハ明カニ原因カ對談ノ内容ヲ歪曲、創作セル顯著ナ一例デアリ
マシテ、日記ニ信憑性ナキコトヲ立證スルモノデアリマス。

曰法廷證三八〇六A、被告荒木が表明シタト稱セラル、私ニ對スル人格
證言ニ就テ。

本法廷證ノ内容ガ長シテ被告荒木ノ表明ニ係ルモノナリヤ否ヤハ、私
ノ固知スル所デアリマセヌ。又一カモアリ熱モアルガ定見ノナイ唯、
横謀衝效ヲ專トスル所謂獨ガレ屋デアルト云フ私ノ人格ニ對スル結
論的批判ニ對シテハ自己反省ノ資ニ供スル以外證明ノ限リデアリマセ
ヌ、然シトガラ其結論的批判ノ裏付ケトモ見ルベキ(確證)証言ノ行使ヲ
固辭ノ席トデア提唱シタトカ又憲兵ニ法被ヲ着セテ尚四ヤ文部ニ派遣シ
タトカ云フ所稱ナ證言ニ對シテハ誰人ノ證言タルヲ問ハズ其黨ニ反駁
立證セネハトリマセヌ。

平沼内閣ノ拓務大臣時代ニ口部ノ席トタルト他ノ如何ナル場合タルヲ
問ハズ私ガ(確證)証言ノ行使ヲ提唱シタト云フ様ナコトハ全然無知無畏
ノコトデアリマシテ例カノ誤謬又ハ誤聞ナルコト疑フノ余地デアリマ
セヌ。

次ニ憲兵ニ法被ヲ着用セシメテ滿洲、支那ニ派遣シタト云フコトヲ私ヲ
誹謗スル口實トスルナラバ自分ガ拓務大臣デアツタノデ憲兵隊ニハ關係
ナイソコデ其時ハ恐ラケ私ガ憲兵問題ニ撈ルコトノ出来タ軍務局長又
ハ次官在職間ニ限ラレマス而シテ若シコノ事ガ假リニ被告荒木カラ原因
ニ話サレタモノトスレバ斯様ナコトヲ絕對ニ許ス筈ノナイ荒木ガ陸軍大
臣ノ職ニ就イテ居ラナカツタ時期デアルニ相違アリマセヌ、換言スレバ
私ガ宇垣、白二代ノ大臣ノ下デ軍務局長ノ職ニ在ツタ一九三〇年八月以
降一九三一年十二月十二日迄即滿洲軍變勃發直前、直後ノ一年四ヶ月間
ノコトデアツタ事ニナリマス。然ルニ其當時ノ在滿日華兩國ノ兵力關係
ハ既ニ法廷ニ於テ明ニナツタ事リ中則兵力二十二萬ニ對シ日本則兵力
ハ軍變勃發直前ニ於テハ僅カニ一萬四百餘名僅勃發直後朝鮮ヨリ越境ノ兵
力ヲ加ヘテモ尙一萬五千ニ充タナカツタ爲メ軍ハ著シク戰鬪兵力ニ下
凡ソ告ゲ若シ日本内地カラノ増兵ガ可能デアラバ憲兵等ヲ送ルヨリ

ハ一兵デモ多クノ戦闘兵ノ増派ヲ切望シテ片々言状デアリマシタ。又
憲兵ヲモ含ム日本陸軍ノ駐劄シテ片々北支那ニ於テハ一九三一年十一
月天濠ニ小規模ノ騷擾事件ガアリマシタ。外一般ニ靜謐ヲ保持シ憲兵増
員ノ必要等ヲ訴ヘタコトハ全然アリマセンデシタ。従ツテ滿洲軍備動
發ノ直前直後其期間ノ限ニ際レテ法被ヲ着用サセタ憲兵ヲ滿洲支那ニ
増派セネバナラヌ據ル必要ニ直面シタコトハ一回モナク又陸軍大臣ノ
命令ノ有ルヲ固ハズ此ノ如キ處置ヲ實施シタコトハ固對ニアリマヒタ
以上反駁立證致シマシタ。而リ本法廷證ハ片々言状ヲ背景トシタ私ニ
對スル惡言ナ人格證言デアリマス。人格證言ハ證據トシテ採擇セヌト
云フ法廷ノ定メニ從ヒ本法廷證ノ抹殺ヲ固ヒスル次第デアリマス。

五法廷野三七五七A 叙告前か遠川ヲ奉天ニ派遣シメト云フ誤レル證據ニ既

ア

本法廷野中ニハ私ニ觸レタ箇所ハアリマヤ又ニ法廷野夫レ自叙ハ私ニ
ハ何ノ關係モアリマヤ、然シ俄祭官ハ本野野出ノ理由説明中眞証夫
レ自叙ニ矛盾カ旨マレテ居ルニ例ラス敢テ私ノ名ヲ掲ゲテ次ノ如ク述ハ
テ居リマス。

一南ハ遠川カ參事本部ヨリ奉天ニ派遣サレタコトヲ〇〇〇〇容認シナカフ
〇〇〇〇小沢カ遠川ノ入選ニ例證カノ證據カアツタコトヲ〇〇〇〇百定シ

メ

假テ此點ノミニルテ反証ヲ以テ述ビマス。

遠川ハ參事本部ノ部長ナリマシメカ故ニ彼レ起定シ彼ヲ出職サヤルコ
トハ遠川ノ本島政府タル參事部長ノミカ命令シタルコトナアツテ他ノ誰
人ノ容認モモ計サナイ事ナリ。又河邊證言ニ明テアリ
シ事久其ノ辨リニ實施セラレタコトハ私ノ官報口供等ニ明記シアアリマ
ス。

檢察官カ發證走出ノ理由說明ニ於テ遠川ハ多ク本部ヨリ派遣セラレタモ
 ノテアルコトヲ定認シテ后ルノハ前記ノ原則ヲ認明シテ結果テアルト信
 ジマス。然ルニモ河ラズ一万ニ於テ遠川ハ前カ派遣シタノテアルト云フ
 簡短ツ々原出口記ヲ其証トシテ法廷ニ是当シ且又種直省ノ者テアツ
 タ小沢カ參謀總長ノ命令權ニ谷塚父ハ之ヲ無効シタル被テ意味ノ說明ヲ
 與テシテ后リマス。コトハ私ノ認明ニ苦ム所テアリマス。

檢査官カ小沢ハ遠川ノ人ニ此ノ間寺カノ關係カアツタト云フコトヲ說明ニ
 使用シタ根據ハ法廷ノ記ニ複ク原田日記ノ一節ヲ引用シタノテアリ
 マセウカ其ノ記ニ「末文ニ「フンイト云フテ字カ使用シテアリ又此又
 字ハ本誌ニ「フンイト」即中ニモ二面所使用セラレテ后リマス。而シテ「フ
 ンイト」云フ文字ハ「フンイト」ト云フ意味ノ口本詰テアルコトニ法廷ノ注意ヲ喚起シマ
 家應則テアルト云フ意味ノ口本詰テアルコトニ法廷ノ注意ヲ喚起シマ
 ス。與スルニ本誌ニ「フンイト」ト云フ意味ノ口本詰テアルコトニ法廷ノ注意ヲ喚起シマ
 シテ不可解ノ點多キコトハ幸見出カ時島部内ノ指導命令ノ系統ヲ始メ

其他ノ事情ニ至シテ無知無識ニアツタ結果ニ外ナリマセヌ。殊ニ原因ガ一ツ
ンイレト云フ又子ヲ使ハルコトハ懲戒ノ多分ニ包蔵スル記中ニ
於テモ收リ分ケ取ニ於テモ自信ナキ記中ナルコトヲ自由シテ居ル
テアリマス。

私ハ指揮命令ノ系統ヲ承リ參謀總長ノ職權ヲ侵サズバ實行スルコトノ由
來又遠川少將ノ如き通陸國ニ谷本シメコトハ細部ニアリマセヌ。

ハ 法廷證三七五四 B 國本社ノ注格目的ニ就イテ

本法廷證ハ檢察官ガ原田日記ヲ渡用シ、本社ハ石原ノ被タルモノニ

シテ、直ト連奉シ、草積問題ニ對シテモ、策動シテ居タル國体デアルト爲

シ私ガ一九四七年十一月「フイクセル」一檢察官ノ訊問ニ對シ答辯シ

タルガ如ク、國体ニアラスト云フ説明ヲ理田トシテ法廷ニ提出セラレ

タモノデアリマス

然ルニ國本社ノ注格目的ト「フイクセル」一檢察官ノ訊問ニ對シ答辯

シマシタ私ノ源述ト、國ニハ何時ノ關係モアリマセン、何トナレバ私

ノ當時ノ答辯ハ記録三二二七五頁ニ明カナル如ク、國本社ノ目的ニ就

イテハ誰カラモ秘カサレタコトガナイカラ、知ラヌ、然シ、雜誌國本ハ

日本及日本人ノ真ノ姿ヲ諒サセル爲有蓋ナル資料デアルト、蓋察シ

タト述ベタノ、テ、國本社ノ注格目的ニハ言及シテ居ラヌカラテアリマ

ス。

又記録三二七西員ニ明カナル如ク私ハ地方ニ於ケル
 於テ雜誌編輯ノ爲真實良ト爲ツタ一人ヲ望ム社ニハ
 當時一慶尚席ソタユトガアル又テアリマスカラ同社ノ
 自任トシテ以テ陳述スル資格ハ有リマセシ然シテナ
 カラ前段以テ自任トシマス遠リ私ハ一筆無情乘初ニ直
 接ハリ且其筋先審議ニ對シテ知シテ居リマス
 子原田ガ彼一流ノ曲筆ヲ以テ國本社ガ三筆ト連繫シ
 臺詞同趣ニ成動シタト云ツテ危ル訛述ガ若シ私ノ遠
 直省在職期間ニ適用セララル、モ
 ノナラバ明確ニ之ヲ否認致スマス
 又スルニ本依恣意ハ檢察官ガ私ノ一ツイクセル一檢
 察官ニ對スル答辯ヲ望函復用シテ國本社ノ在宿立證ノ
 爲法廷ニ提出シタモノデアリ
 ヲツテ登壇夫レ目録ハ私ニハ關係ガアリマセヌ、此等
 ハ一九四八年ニサレテ居リマス。

Def. Doc. #3066

昭和廿三年一月三十日於市ヶ谷法庭

供 証 者 小 嶋 昭

右ハ當立會人ノ面前ニテ宣誓シ且ツ署名捺印シタルコトヲ證明シマス

同 日 於 同 所

立 會 人 三 又 字 正 平

Def. Doc. # 3066

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Doc. No. C36
Errata Sheet (KOISO)

正 誤 表

第 十 三 頁 後 ノ 行 ニ 正 ノ 文 ヲ 附 加
「 又 新 ル コ ト ハ 諸 君 文 書 三 〇 三 九 號 二 頁 ニ 記 ガ ラ レ テ キ ル 様 ナ 理 デ
諸 君 考 ヘ モ 及 バヌ コ ト デ ア リ マス 」

Def. Doc. No. 3067

On this 30 day of January 1948

At SETAGAYA, SETAGAYA-KU,
TOKYO, JAPAN.

DEPONENT: Jinsaburo MIZUKI

I, Yutaka SUGAHARA, 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) SUGAHARA, Yutaka (seal)

OATH

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

Jinsaburo MIZUKI (seal)

Def, Doc, 3067

Exh, NO,

極東國際軍事裁判所

亞米利加合衆國 其他

荒木貞夫 其他

官署供送書

供送者 眞崎 三郎

自分發投ニ行ハルル方式ニ從ヒ先ツ別紙ノ通り官署ヲ爲シタル
上ノ次ノ如ク發送致シマス

一 私は昭和七年一月より同八年六月まで謀次長昭和九年一月より

十年七月まで教育総長でありました

二 私法廷議第三七七七七號原田日記の一事なるものを示されました

それによると當時の両日成理が原田氏に私及荒木等最初より瀟湘併

呑者だといふて居ります之れは間違つて居ります記事に於る御

川第一加田長が首軍大臣官邸に詰めかけて居ると誓てあります

時の陸軍大臣は荒木ではなく林大將であります

三 原田氏が何を意味として語したか又原田君が如何に誤解して記述

したか知りませんが私始め荒木も御川も何れも大それた言合だの

言合だのといふ事には平素の記念から御川に反論し荒木が首軍大

臣私が謀次長御川が首軍次官の時も何もすれば世間には武力で

御の言も出るのを遠慮とし武力之に反論して来たのです

又原田日記法廷議三七六九三七七〇も見ましたが原田の末葉の

所には御の尖鋭化して居た所もありませんが荒木の言を自由

に任せ正しきま行にて可否を示せとの記者で悪口や反論を言はれても會て之れに干渉したことはありません事第三者が面がゆいと忌ふた位でありました

私け又原田日記からの校法廷證三七六九一▲に原田が軍部の抑壓の爲言論の自由が壓迫されたと書いてあるのを讀みました一記下級將校中には與論に對して時に刺戟が尖鋭化して居るものもあつた事は事實ですが荒木自身は言論の自由に密成でありました私は恐謀次長であり荒木と此の同題に就ては異々話し合ひましたから此う云ふ事は良く居る立物にあつたのです
私は亦荒木が之れを實行し殊に彼自身の悪口を云つた者に對して覺大な雅量で以て對して居るのを見た事があります

Def, Doc, 3067

昭和二十三年（一九四八年）一月三十日 於

供 証 者 眞 崎 基 三 郎

世田谷區世田谷一ノ一六八

右ハ當立會人ノ面前ニテ宣誓シ且ツ署名捺印シタルコトヲ證明
シマス

同日 於 同 所

立 會 人 菅 原 裕

Def, Doc# 3067

良心ニ是ヒ眞實ヲ述ベ何事ヲモ欲スセズ又何事ヲモ附加セザルコト
ヲ望フ

官
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姓名捺印

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△

DEF. DOC. #3069

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

- vs -

IRVING SODAO, et al

- Defendants -

A F F I D A V I T

NESEI HARUHIKO

Having first duly sworn on oath as on the attached sheet, in accordance with the procedure prevailing in my country, I hereby depose 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 Minister in general, and with the Japanese-American negotiations in particular.

2. I have seen Exhibits 3,336 and 3,337, being circular telegrams of 12 and 25 November 1941 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 as Foreign Ministry section chief, bureau director and vice-minister, and my experience in receiving them as secretary and councillor of embassy and minister, that it is customary to give in such messages 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 24 years of service, nor as I know from conversations with friends in other nations' diplomatic services--as it the custom in other diplomatic services, to disclose in such cases the details of secret and grave diplomatic negotiations currently in progress.

DIF. DOC. #3069

On this 3rd day of February 1948

at Tokyo

DEPONENT: /S/ NISHI, Haruhiko (seal)

I, NISHI, Haruhiko, 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/ SHICRIDA, Motcheru (seal)

OATH

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

/S/ NISHI, Haruhiko (seal)

DPE. DOC. #3069

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

- vs -

J. R. H. Sados, et al

- Defendants -

A R T H U R D A V I T

WISSEI HARUHIKO

Having first duly sworn on oath as on the attached sheet, in accordance with the procedure prevailing in my country, I hereby depose 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 3,336 and 3,337, being circular telegrams of 12 and 25 November 1941 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 as Foreign Ministry section chief, bureau director and vice-minister, and my experience in receiving them as secretary and councillor of embassy and minister, that it is customary to give in such messages 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 24 years of service, nor as I know from conversations with friends in other nations' diplomatic services--was it the custom in other diplomatic services, to disclose in such cases the details of secret and grave diplomatic negotiations currently in progress.

Def. Doc. # 3060

7. 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 "our virtually final proposal is ..." or "we cannot make further concessions in this matter". As examples of this practice, I remember that on the two occasions during my service in Moscow when there were grave difficulties over the fisheries agreements--in 1925-23, and again in 1932-30--instructions frequently came to us to the effect that such-and-such a proposal was Japan's "last word" on the subject, or that there was "no alternative". Upon my return to Tokyo, in 1928, I saw the other side of the picture, being responsible as section chief in the Commercial Bureau for reading such instructions. Again the same situation occurred in 1933, 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 in fact made by the Japanese side, even after the giving of such instructions.

8. During the Japanese-American negotiations of 1941 the instructions sent in the exhibits above 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 intention of the Foreign Minister, myself, 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 convinced of it. As I know of my own knowledge, there was never at any time in the Japanese-American negotiations prior to the receipt of the United States note of 26 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 appearing 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 secure further concessions, if the United States would show any conciliatory attitude which would give him grounds to urge that course.

DYF. DOC. #7069

On this 3rd day of February 1948

At Tokyo

DEPONENT: /S/ NISHI, Haruhiko (seal)

I, NISHI, Haruhiko, 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/ SHICHIDA, Motoharu (seal)

OATH

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

/S/ NISHI, Haruhiko (seal)

Def, Documents

Exh,

遠東國際軍事裁判所

亞米利加合衆國其地

製

荒木貞夫其地

宣... 洪... 通... 書...

供... 通... 者... 國...

禁

自分義兵團ニ行ハルル方式ニ從ヒ先ヅ別紙ノ通り宣誓ヲ爲シタル上
次ノ如ク供進致シマス

Def, Documents

Exh,

遠東國際軍事裁判所

亞米利加合衆國其他

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荒木貞夫其他

宣官供述

供述者西

自分儀我國ニ行ハルル方式ニ從ヒ先ヅ別紙ノ通り宣官ヲ爲シタル上
次ノ如ク供述致シマス

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 候と候にて通訓取場年通付先

Def, Doc 2806

Exh,

遠東國際軍事裁判所

亞米利加合衆國其他

斐

荒木貞夫其他

宣 告 供 述

供 述 者 西

券

自分義氣國ニ行ハルル方式ニ從ヒ先ツ別紙ノ通り宣誓ヲ爲シタル上
次ノ如ク供述致シマス

一 私は一九一八年外務省に入り一九四一年十月から一九四二年九月迄外務次官でありました。次官在任時代私は次官としての通常の職務を承し省務一般特に日米交渉に就てよく承知して居ました。

二 私に法廷證第三八三六號及第三八三七號即ち一九四一年十一月十二日及二十五日付外務省發在使臣宛の日米交渉に就て説明した電報を見ました。

私は外務省の課長、局長及次官として斯る電報を起草或電し、又大使館書記官、参事官及公使として斯る電報を受領した経験から斯る電報は在外使臣一般に對する情報として其の時々の問題の概略のみを簡単に傳へる習はしてゐたことを証言出来ず。私の過去二十四年間の外務省勤務を通じてみても外務省が運行中の重要外交交渉案件に就て斯る電報で其の機密の詳細を傳へる様なことは決してなかつたし、又外國の同僚から聞いた所からしても何處の國でも其の外務省斯ることをすると云ふことは聞いたことば

ありません。

三、私の経験からして特に重要な外交交渉に於て外務省が其の出先の代表に對し「我方の事實上の最後提案は云々」とか「本件に付我方は此の上讓歩する能はず」と云ふ様な訓令を出すことは普通のことでありました。例へば一九二五年乃至二八年及一九三八年乃至三九年の私の莫所料正動時代漁業協約問題が危視に類した場合は其の何れの場合にもこれ々々の提案は本件に關する日本の「最後」の言葉であるとか「最早や他に讓歩の余地なし」とか云ふ訓令を屢々受領したことを記憶します。一九二八年本省に戻つて通商局長の主管課長として本件交渉に就ての本省側の取次振を知つて居ます。又一九三三年支那其の他の國との關稅交渉に於て出先に對し「此の上の讓歩は不可能なり」との趣旨の訓令を發したことを知つて居ます。右の如き場合に於て斯る訓令の發出後本側では實際にそれ以上の讓歩をして居るのであります。

Dr F, Doo'soor

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右ハ當立會人ノ商標ニ于宣變シ且ツ署名捺印シタルコトヲ認明シ

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亥印

昭和二十三年（一九四八年）二月三日 於東京

Def, Doof 3000

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述ベ何事ヲモ欺秘セズ
又何事ヲモ附加セザルコト

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5

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

-vs-

ARAKI Sadao, et al

- Defendants -

A F F I D A V I T

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 interpreted 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.

TH

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
4 February 1948

Defense Document 3072-A

Excerpt from State Department Publication
of Nazi Foreign Office Documents
(Page)

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.

新聞文三〇七三一A

公夢 ナチス

ドイツのポーランドを侵襲したものは、ナチスではなく、一九三九年の全日露戦争を欲してゐたソヴィエトがであつた。モスコの代表は結局にナチスとソヴィエトとの二つの勢力を分断することであつた。ナチスがポーランドの領土を完了しナチスが占領したよりも一歩進んでバルチック及びルーマニアを併合した。ロシアはドイツが東部国境に侵襲し三ヶ月を待たずにソヴィエトは入られぬならば既にモントペルソンに侵襲した。ヒトラーがスターリンの代表を攻撃し始めたのを以て、ドイツ人

Document 3072-1

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

Memorandum by Baron Ernst von Weizsacker,
State Secretary in German Foreign Office,
April 17, 1939

The Russian Ambassador (Alexei Merekaloff) 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.

英領文書三〇七二一A
ナチス暴行文書

（第一頁）

ドイツのポーランド侵襲を遂行したものは、ナチスではなく、一九三九

年の不可逆的協約を欲してゐたソヴィエトである。ソヴィエトとの二つの協定

モスコワの代表は必死覚悟に、協定をナチスとソヴィエトとの二つの協定

に分割することであつた。協定を完了しナチスが開始したよりも一

共産主義者はポーランドの侵襲を完了しナチスを許容した。ロシア

の侵襲の方法を以てバルチック及びビルマニヤを許容した。ロシア

はドイツがその侵襲に於て占められた領土に對して三三三三を返つた。モ

スコワは若しその代表が突入せられるならば既ニミンテルンに對して

する用意を遂行してゐた。ヒットラーがスターリンの代表を攻撃せしむるの故を以て、ドイツ人

——ロシヤ人ではない——がこの美しき友情の絆を断切つたのであつた。この文書に示されてゐない事実は、ナチスドイツの偶発的崩壊によつて東部ヨーロッパには穴が開き、而して、これがソヴィエト聯邦をして所期の目的を達成のみならず更にそれ以上の進出を可能ならしめたといふ事であつた。並に本文書を中心とする諸事件の年表を附した本文書特製は次の通りである。

一九三九年三月十四日附。標題。
ノルマ、ドイツ、ポヘミア、モラヴィア及びヒスロヴァキアを占領す。チ
ノリスロバキヤの完全版圖ミюнヘンに始まる。

Document 3072-1

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

Memorandum by Baron Ernst von Weizsacker,
State Secretary in German Foreign Office,
April 17, 1939

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文藝三〇七二一B

ナチス共産党

一九三九年四月十七日 ドイツ 外務大臣 エルンスト・フオン

ワイツアツカ

ロシヤ大連へアレクセー・メレコロフは大連の行く所だ。ロシヤの
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 に、さういふ田舎の、正當の立場から、さういふ田舎の、正當の立場から、

Defense Document 3072-C

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

Memorandum by Dr. Ernst Joermann, 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.

Exh. No.

譯後文書第三〇七二號

國務省公表ナチス外務省文書

抜萃一頁

ドイツ外務次官エルンスト・ウエルマン博士の一九三九年六月十五日附覽書

ヘルガリア公使來訪ヘルリン駐在ロシア代理大使ゲオルキー・アスタコフ氏から左の通り密談があつた旨極秘裡に報告があつた。ソビエツトは世界の現状に面して態度を決し、次の三の可能性について何れをとらうかと迷つて居る。即ち英佛と協定を結ぶ事、協定の締結に於ける従来のハツキリしない交渉を今後もし続ける事及び對獨再接近の三點である。此對外接近は思想上の點は別としてもソヴェツトの希望に最も近いものである。

msc Document 207-11

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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.

譯後傳文書第三〇七二號一。

國務省公表ナチス外務省文書

抜萃一頁

M x h · No

ドイツ外務次官エルンスト・ウエルマン博士の一九三九

年六月十五日附覺書

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ヘルガリア公使來訪ヘルリン駐在ロシア代理大使ゲオルキー・アスタコフ氏から左の通り密談があつた旨極秘裡に報告があつた。ソビエツトは世界の現状に面して態度を決し兼ね、次の三の可能性について何れをとらうかと迷つて居る。即ち英佛と協定を結ぶ事、協定の締結に於ける従來のハツキリしない交渉を今後も続ける事及び對獨再接近の三語である。此對於英佛は思想上の話は別としてもソヴエツトの希望に最も近いものである。

若しドイツがソビエツトを攻撃しない事又はソビエツトと不可侵條約を
締結するならばソビエツトは恐らく英露と條約を締結するを見合
せるであらう。

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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
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countries, and this of course applied -- provided there was
reciprocity -- to Germany too.

辯護又審三〇七二一D

ナチ外務省又審中國務省布告披露

モスコウ駐在獨逸大使フリードリツヒワフオンデル
シユーレンベルグ伯至急秘密電報一九三九年六月二十九日付

(モロトフに對し)獨ソ關係の平常化を歓迎する旨を指摘したところ、モロトフの返答は、ソビエト政府の對外政策は、その首腦部の發表に從て總ての國家との親善關係を形成するを目的とする、而して、此は勿論、ドイツも又吾に對して同様に親善を望むとするれば、ドイツにも適用される、と言ふことであつた。

Defense Document 3072-E

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

Most urgent telegram from German Foreign
Minister Joachim von Ribbentrop to
Schulenburg, August 14, 1939

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.

Document Number 3072-F

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

Very urgent secret telegram from
Schulenburg, August 16, 1939

(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.

備置例文書第三〇七二號一頁

日清省公表ナチス外務省文書抄萃

(頁)

一九三九年八月十六日附

シユールンベルグ陸軍急電

Doc, Doc, #3072-1

ソゾイエト政府はドイツの國際關係改善の意圖を大いに歓迎する(とモロトフが云つてゐる)。・・・。彼はドイツ政府がソ不可侵條約締結についてこの程度の意向をもつてゐるか、且又、前政府が日ソ關係の改善の爲に日本を動かす用意があるか否か、・・・。又、ドイツがバルト諸國の共同保障を考慮してゐるか否か、の點に興味をもつてをった。

Defense Document 3072-G

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

Urgent telegram from Ribbentrop
to Schulenburg, August 16, 1939

The points brought up by Herr Molotoff are in accordance
with German desires.

Def. Doc. # 5072-C

Exh. no

参事文書 第三〇十二號

政府公報ナチス外務省公報

(頁)

一九三九年八月十六日、リツベントロツプイ
シユールンベルグを至冠

モロトフ氏の疑念はドイツの希望に添ふものである。

Ref. No. Document 3072-H

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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.

加害者及び被害者(三〇十二) H

戦時省公務ナチス外務省文書抜萃

(一頁)

一九三九年八月十九日附

シュエーデンブルグ領事館宛電

證據不可得條終直捷な左記の通りである。

自給給食は相互に相互に押しつけて暴力的及び侵略的行動をなし或は、早
に又或は他の手段と併用して手続にして攻撃を仰へぬことを無断す
る。

是白

本館定規特別の請定が同時に尋ねられたる事に基づいて勢力を生ずる。

Defense Document 3072-I

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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 nonaggression pact that your foreign minister, Herr Molotoff, delivered,

議院文書第三〇七二號一I

國務省公表ナテス外務省文書抜萃

第 頁

一九三九年八月二十日附アドルフ・ヒットラー發デヨセフ・スタ
ーリン宛至急電

獨ソ新通商條約の締結は獨ソ關係調整の第一歩として余の衷心から
喜ぶ處である。ソビエツト不可侵條約を結んだ事は余にとつては長
期に亘る我國策の確立を意味するものである。
ドイツは之によつて過去數世紀間兩國にとつて有益であつた政治的
常道を回復した譯である。余は貴國外相モロトフ氏の手交せられ
た不可侵條約草案を受諾する。

Defense Document 3072-J

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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

Def. Doc. # 3072-J

Exh. #

辯護文書第三〇七二番一丁

國務省公表ナチス外務省文書 城 萃

第 頁

一九三九年八月二十一日付スターリン宛

ヒットラーへ復原秘至電

ドイツ政府が不可侵條約の締結に同意せらるゝを事は實に我兩國間の政治的緊迫
を除去し和平と協力を確立する基礎となるものである。

一九三九年八月二十三日附、ドイツ不可侵條約に署名す。

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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."

文藝 雑誌 (賞)

一九三九年八月二十三日モスコを於けるスターリン、モロトフ及び
 リツペントコフ等の演説はドイツ語の訳大要が天竺を以て
 約に依りソヴィエト共産主義を論議したものではなく、
 演説としてスターリンと述べた。

スターリン氏は演説の中心としてロンドン市とイギリスを小
 説の文藝を論じたと言及なさんだ。ドイツ語の訳大要を以
 て演説し、(ベルリン人の演説でいふのである)「スター
 リン氏は演説の中心としてロンドン市とイギリスを小

説の文藝を論じたと言及なさんだ。ドイツ語の訳大要を以
 て演説し、(ベルリン人の演説でいふのである)「スター
 リン氏は演説の中心としてロンドン市とイギリスを小
 説の文藝を論じたと言及なさんだ。ドイツ語の訳大要を以
 て演説し、(ベルリン人の演説でいふのである)「スター
 リン氏は演説の中心としてロンドン市とイギリスを小

1939年8月23日

「モロトフ氏とスターリン氏は不可侵條約の爲、協ソ連の時代の爲
又ドイツ軍の爲何人も益を成した。ドイツは協ソ連の大敵を成した。即ち
スターリン氏は下記のように我々の事をドイツに考へる同政府はソヴイニト
「ソヴイニト政府は新條約を非常に重大に考へる同政府はソヴイニト
「協ソ連は其の相手として我々を必要としないといふ言葉を永遠にする事が出來
るであらう。」

Defense Document 3072-L

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

Secret additional protocol to German-
Russian nonaggression pact, signed in
Moscow by Ribbentrop and Molotoff,
August 23, 1939

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 Rumania).

The Headlines, September 1, 1939: War! Nazis Invade Poland. Two Days Later, Britain and France Declare War on Germany.

辯設側文書三〇七二一L

國務省公表ナチス外務省文書抜萃 (頁)

一九三九年八月二十三日モスコに於てリツベントロツプ、モロト

フの署名せる獨蘇不可侵條約秘密附屬議定書

バルチック諸國 (フィンランド、エストニヤ、ラトビヤ、リトア
 ニヤ) に屬する地域に於ける領土上政治上の再整備の場合には、リ
 トニア北部國境線は獨ソ勢力國の境界線を示すものとする。
 (ポーランドに於ては) 獨ソ勢力國は略スナル川、ビストラ川
 サン川の線で限られる。兩當事國の利害に基き獨立ポーランド國を
 維持する事が果して望ましいかどうかと云ふ事又新くの如き國には
 如何なる國境線が引かれるべきかといふ問題は將來の政治的發展の

Dof, Doo#5072-L

經過に於てのみ明瞭に決定され得る。東南ヨーロッパに關してソ
ヴィエトはそのベツサラビヤ(北地万)に於ける利益に注目すべき
である。

標題、一九三九年九月一日附 戦争。

ナチス、ポーランドを侵略す、二日後、英佛は獨乙に宣戦を布告す。

Reference Document 3072-11

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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."

Ref. No. 3072-1

W. H. No.

外務省文書三〇七二一
ナチス外務省文書

抜萃()

シユールンベルグ

一九三九年九月九日

一日 余は今左記モロトフよりの電話通信を受信した。「余は在米のワルリー使
入に於ける貴殿の通知を受取つた。ドイツ聯邦共知政府に余の祝詞と疾
疹を傳達されんことを乞ふ」

Defense Document 3072-K

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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

(Golotoff) 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).

Ref. No. 3072-N

Ref. No.

譯語側文書三〇七二一N

國務省公表 ナチス外務省文書

抜萃 (頁)

シユールンベルグ參至急秘電報

一九三九年九月十日

「モロトフ」はソヴェト政府は、獨軍が更に前進する機會を利用し
てポーランドは分裂しつつあり、且その新米ソヴェト獨邦がウクラ
イナ人及び白系ロシア人(獨ポーランド國境に在住)を助けることが
必要となつて來ると、宣言せんと企圖してゐると述べた。

Defense Document 3072-0

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

Very urgent, strictly secret telegram
from Ribbentrop to Schulenburg, Sept. 15,
1939

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."

海軍省文書三〇七二一。

外務省公文書

文書部

(

ナチス外務省

頁)

リツペントロツプ發シユールンベルグ宛至急秘密電報

一九三九年九月十三日

余頃新下記左記の如くモロトフ氏に直ちに遷避するよう懇請する
 「我々はソヴァイエト政府が軍事的に参加しをして進今その作戦を断絶
 すると恐ふ。我々はこれを以て逃避する。ソヴァイエト政府は、新しくしてロ
 シヤ出現まで我々がポーランド政府を遷避し全滅する必要を、我々
 から省いて呉れらる。」

Defense Document 3072-P

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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.

Def. Doc. #3073-3

Mich. no

辯 証 書 三〇七二一 P

匯 密 符 公 署 ナ チ ス 外 務 省 文 書 披 察

シ ュ イ ツ 領 事 館 秘 書 長 報

一 九 三 九 年 九 月 十 七 日

ス タ ー リ ン 伍 夜 中 の 二 階 床 を 訪 見 し た。

そ し て 赤 軍 伍 今 日 六 階 登 床 死 の 死 体 づ づ け づ け (ボ ー ラ ン ド) 監 獄 を

守 護 守 衛 せ ら れ ち ぬ。

一 九 三 九 年 九 月 十 七 日 附 赤 軍 博 一 ラ ン ド 死 体 入 入 し、 之 迄 完 全

從 屬 表 せ し む

Defense Document 3072-w

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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.

海軍部文書三〇七二一〇

陸務省發表ナチス外務省文書 抜 奉

Exh. 4

一九三九年九月二十五日

（ 頁 ）

ミユールレンベルグ發至急極秘電報

一九三九年九月二十五日

Def. Doc. 3072-2

スターリンは敗殘ポーランド獨立國を其のままにして置くことは誤りである
と述べた。彼はルブリン地方全部及びバクに及ぶワルソー地方の一部を我
我に割譲されるべきであると提議した。その代り我々はリトアニアに對する
我々の主張を撤回すべきである。若し我々が同意すれば、ソヴィエト聯邦は
直ちに、八月二十三日の議定書に従つてバルチツク諸國同盟の解決策を講ず
るであらうし、この同盟に關してドイツ政府の良りない援助を期待する。

File No Document 3072-R

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

Declaration of the German and Russian
Governments by Ribbentrop and Molotov
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.

國務省發表ナチス外發省文書 檢 奉

リツベントロツア、ヒロトフによる

ドイツ及ロシヤ政府ノ宣言

一九三九年九月二十八日

（ポーランドが分割し、上記スタリソフの提議に従ひロシヤはルトアニアを割譲した。後で、兩國政府は「相互に、一方ドイツ他方がイギリスフランス間に残存する戦半状態に終止符を打つことには、もとベテカ國民の利益の利益に役立つてからうといふ所信を披瀝した。」

併し若し兩國政府の努力が無益であつたなら、この事はイギリス及びフランスは是れ非道義の責任者であるといふ事をも證明するであらう。」ここに於て（ドイツとロシヤ）は必要なる手段につき相互協議をなす。

and: Declassify 1074-S

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

Confidential letter from Ribbentrop
to Molotoff, Sept. 28, 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.

總領事文書 三〇七二一S

政務省公報ナチス外務省文書改訂
リツベントコツプよりモロ、フ寮譯卷

一九三九年九月二丁八口

会は左記内容の賛成を以て手した。

（即ち）「ソワイエト共和國政府は進んで「ソワイエト共和國」のソ連の至商關係及び其の交々を是非共認進させらるる」
ドイツ共和國政府は「此の自由の争に必要なる方針を講ずるであらう」

Defence Document 3072-T

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page)

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.

海軍部文書三〇七二一丁

國務省公表ナチス外務省文書 設

奉

(頁)

リッペントロップ宛、ミーレンベルグヨリノ
至危険秘電報

我方の調停は全て、ソヴィエト政府は現在カカス争に於ては中立を固守すること
と、又出来得る限り西部諸国との衝突にソヴィエト政府自体が参込まれるや
いな事は避けることに決定したと推察する。これは河故ソヴィエト政府がフ
インランドで討つる戦を中止したのかといふ主なる理由の一つであつたにち
がひない。

標丁 一九四〇年四月九日

ドイツはデンマークを蹂躙しノールウェイを攻撃し、西部征復を開始す。

Defense Document 3072-U

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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."

№ 22 h • II o

文藝 文藝三〇七二〇

ナチス外務省公文書に於ける本國對外省公表
文藝よりの執筆 頁

シユールンブルグ至慈惠密秘報

一九四〇年四月九日

№ 22 • P o c 3 0 7 2 - U

（秘）のデンマーク及ノルウエーは海軍の通報ありたる後、ソ連政府は、復
返に返面せられ、秘が探らざるを得ざるに到つた手裏を了するとモロ
トフは宣言した。
英：は：：中立の権利を完全に無視した。
精論としてモロトフの言つた言葉通りを誌せ、一我らは公衆がその
手裏に於て完全な成功を収める事を希望する。

Defense Document 3072-V

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

Memorandum from Schulenburg, April 11, 1940

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 affiability 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.

Defense Document 3072-W

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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.

辯護文書第三の七二號一〇

ナチ外務省文書に關する山游省公表よりの抜奉

頁

シユールンブルグ發至急報

一九四〇年六月十八日

モロトフは・・・獨乙陸軍の大勝利に對してソ聯政府の深厚なる祝辭を送った。更にモロトフはバルト諸國に對するソヴィエトの行動（東部占領に關する）について余に語つた。

彼はバルト諸國に於ける獨乙とソ聯の間に不相と疑念の種を蒔かうとしてある英國及びフランスのすべての陰謀を細つ事が必要となつて来たと附け加へた。

見出し、一九四〇年六月二十二日 フランスの倒壊は英國をして、獨乙に獨乙と戰ふことを余感なくす。

Defense Document 3072-X

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

Very urgent telegram from Schulenburg,
June 23, 1940

Molotoff 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.

Def. Doc. #3072 X Bzh.no

雜譯文書 第三〇七二號一X

ナチ外務省文書に於ける國務省公表よりの沿革

頁

シュートレンブルグ 至急報

一九四〇年六月二十三日

モロトフは本日余に對し左の如く述べた。

「我らベアラビアン問題の解決は、これ以上の遅延を許さない。ソヴェエト政府は尙も平和的解決に努力してゐる。しかし、特にルーマニア方面の平和的解決に反對するならば兵力を用ふる事に決定してゐる。又同様にソヴェエトの要求は、ウクライナ人の住むブコヴィナに充てられる。」

Defense Document 3072-Y

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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

Defense Document 3072-Y

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.

辯説文書第三〇七二一Y

ナチ外務省文書に關する國務省公表よりの抜萃

頁

シルーレンブルグ發 至急報

一九四〇年六月十三日

スターリンの命により、モロトフは余に此の會談（スターリンと當時のモスコフ駐劄英國大使スタンフォード・クリツプス卿との間に交はされた）の覺悟を手交した。クリツプス（曰く）、英國政府は獨乙が、歐洲の政治的支配權獲得に努力してゐる事並びに全歐洲諸國を其の掌中に収める欲望を持つてゐる事を確認した。此は、英國にとつてもソ聯にとつても同様危険な事である。それ故兩國は獨乙に對する自衛の爲に共同政策を採る事を協定しなければならぬ。英國政府は現状維持の爲にバルカン諸國の統一と之が指導とは正しくソ聯のなすべき仕事をあり。又（トルコ）海峡に於けるソ聯の

利益は保障されねばならない、と云ふ意見である。

スターリンの答は左の如きものであつた。彼は歐洲に於て如何なる國が政治的支配權を握るが如き危険は存在しないとして、獨乙によつて、歐洲が其の掌中に握られる様な危険は無いと見てゐる。スターリンは獨乙陸軍の勝利がソ聯及びソ聯と獨乙との友好的關係を恐成するものではないといふ意見であつた。スターリンの意見は如何なる國もバルカン諸國の團結と指導に關して獨占的役割を演ずる權利を持たない。ソ聯はそのヤリな使命の要求もない。ソ聯は海峽に關するトルコの獨占的支配權に反對するといふのである。

10.13 E 111 2074-2

Excerpt from State Department Publication
of Paris Foreign Office Documents

(Page

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.

Defense Document 3073-C

Excerpt from State Department Publication
of Nazi Foreign Office Documents

(Page

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

第三十三七三。

第三十三七三。

(頁)

一九三九年九月二十七日、ベルリンの三國公報に於てドイツ、イタリ

及び日本は出づる限り、世界平和の維持に努力すること、互に反論し、早期の交渉、この協定に附して、互に努力すること、互に反論し、且、ソヴィエト國に於ては、互に努力すること、互に反論し、且、ドイツ、イタリ、日本及びソヴィエト國は、相互に當然の努力を尊重することを約束す。

Defense Document 3073-D

EXCERPT FROM STATE DEPARTMENT PUBLICATION OF
NAZI FOREIGN OFFICE DOCUMENTS (Page

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.

従来中の勝進 第一號議定書草案

十 一 一 一 獨乙は薩利海峽の據置行すべき歐洲の領土修正とは別にその
 領土的意欲は中央アフリカに集中することを宣言する。イタリイは別に
 その領土的意欲は北部及び真北アフリカに集中することを宣言する。日
 本はその領土的意欲は日本を帝國の南に富る真亞地域に集中することを
 宣言した。ソ連はその領土的意欲は印度洋の方向に富るソ連領土の南
 部に集中することを宣言する。

Defense Document 3073-F

EXCERPT FROM STATE DEPARTMENT PUBLICATION
OF NAZI FOREIGN OFFICE DOCUMENTS
(Page

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.

De 2.000 000 30 73 一

海軍例文書三〇七三一四
海軍省代表ナチス外務省文書

海軍

(頁)

提出される協定は第二號議定書第一章第一一〇條に於て、
何時でも停戦に於ける海軍の無制限の運送を許すべしとあるが、一方の
海軍省は海軍省代表ナチス及びイタリアを含む他の全ての国は、原則
として海軍省を放棄すること。

Defense Document 3073-F

EXCERPT FROM STATE DEPARTMENT PUBLICATION OF
NAZI FOREIGN OFFICE DOCUMENTS (Page

Very Urgent, Strictly Secret Telegram from Schulenburg,
November 26, 1940L (Molotoff 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 Bosphorus 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. . .

海陸三〇七三F

外務省公表ナチス外務省文書抜萃（頁一）
一九四〇年十一月二十六日 シュノーレンブルグ發信

至急 返秘請報

エロトフ聲明

ソヴェート政府は左記諸條許の下に（一）日露草案を受諾する用意がある

る。

（一）一九三九年の協定によりソ連の勢力圏に属するフィンランドより領土を

即時撤退すること

（二）ソ連と地理的ソ連黒海境界線のソ連保護地帯内にあるブルガリヤとの

間に長期に亘りボスフォラスとダーダネルスの範圍内にソ連の軍艦を

駐在させる事によりて、互に協定を締結すること

（三）バツムとバクの南方、即ち印度洋の方向に在る一方（おら）イランとイ

ラクを合戦一がソ連軍隊の中心と認められること。

Defense Document 3073-G

EXCERPT FROM STATE DEPARTMENT PUBLICATION
OF NAZI FOREIGN OFFICE DOCUMENTS (Page

Top Secret directive for Operation Barbarossa,
issued by Hitler rather than accept Molotoff'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."

Defense Document 3073-H

EXCERPT FROM STATE DEPARTMENT PUBLICATION OF
NAZI FOREIGN OFFICE DOCUMENTS (Page

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.

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文書三〇七三一五

ナチス外務省文書抄本

一九四一年二月二七日

リツベントロツプ線シュレンブルグ宛三急電報

(モロトフに通告せよ)ブルガリアは三週同盟を承諾するであらう又ギリシヤに於ける英米の意圖に對し、我々の得たる報達はドイツ政府として其に對して安全万全を斷せしむ、ブルガリア領土へのドイツ軍の移動を必要ならしめた。

(頁)

Defense Document 3073-I

EXCERPT FROM STATE DEPARTMENT PUBLICATION OF
NZI FOREIGN OFFICE DOCUMENTS (Page

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.

文部省文書三〇七三一

公使ナチス外務省文書抄本（ 頁）

一九三一年三月一日

シエレンブルグ侯爵ニ送る書翰

モロトフはソビエトの通達を全く反響に受けた。ソビエトはブルガリアに對する苛酷の決心を度々強固して来た。ソビエトはブルガリアに於けるドイツの最後手段に直衝して、ソビエトは到底無慈悲心であることは疑念ない。ソビエトは「ベター」

Defense Document 3073-J

EXCERPT FROM STATE DEPARTMENT PUBLICATION OF
NAZI FOREIGN OFFICE DOCUMENTS (Page

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.

文書三〇七三―J

國務省公表ナチス外務省文書 抜萃(一) 頁一

一九四一年四月四日

シユレンブルグ様 秘密至急冒報

モロトフは先刻、私をクレムリンへ召喚し、ユーゴスラヴィア政府が
 北書及び侵略條約の交渉を提議した事、及びソ連政府がその提議を承諾
 した事を私に通告した。一一一一一一一一
 私はモロトフに對し、自分の考へではソ連時がかかる條約の交渉の爲に選
 んだ時は誠に遺憾に耐へないと答へた。

Defense Document 3073-K

EXCERPT FROM STATE DEPARTMENT PUBLICATION OF
NAZI FOREIGN OFFICE DOCUMENTS 1790

Very urgent. state secret telegram from Ribbentrop to
Schlenker, 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.

Doc. No. 3073-K

外務省文書三〇七三―K

外務省公表 ナチス外務省文書 第三

(一) (二)

一九四一年四月六日

リツベントロップ・シュレーンブルグ宛公式電文

モロトフ氏を訪問して返きたハリー・ソとしてドイツ軍政府はギリ
シヤ及びユーゴスラヴィアに於て、余儀なく軍事行動に出なければ
ならないと考へたと被電傳へて下さい。

一九四一年四月六日 標題
ドイツ、ギリシヤ及びユーゴスラヴィアの電報三紙を指す

Defense Document 3073-L

EXCERPT FROM STATE DEPARTMENT PUBLICATION OF
NAZI FOREIGN OFFICE DOCUMENTS (Page

Very urgent telegram from Schulenburg to Ribbentrop,
April 6, 1941:

After I had made to Molotoff the communications prescribed, he repeated several times that it was extremely deplorable that an extension of the war had thus proved inevitable after all.

Defense Document 3073-74

EXCERPT FROM STATE DEPARTMENT PUBLICATION OF
NAZI FOREIGN OFFICE DOCUMENTS (Page _____)

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.

外務省文書三〇七三十一日

ナチス外務省文書

抄本一頁一

一九四一年五月七日

シュローレンブルグ發信至志電報

シロ！リンはモロトフの代りとして人民委員曾々長を引き續ぎそれに依
て、ソ連政府の首長となつた。その理由は、スターリンが、そ
の意圖と目的に意圖的に努力した。その關係の無密さを送つて冷却せしめ
た。外交政策の最近の誤謬の中に見出される。

Defense Document 3073-N

EXCERPT FROM STATE DEPARTMENT PUBLICATION OF
NAZI FOREIGN OFFICE DOCUMENTS (Page

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 intensi-
fied 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.

整理 三〇七三 N

省公表ナチス外 省文警外群 (頁)

一九四一年六月二十一日リベントロップ後シヨーレンブルグ宛

電文 乙とソ連は官言する……ソ連政府は約束した義務に反して、
乙とバルト州を奪へんとする努力を凝らすのみならず、
乙とバルト州を奪へんとする努力を凝らすのみならず、

Def. Doc. 10000

同様に反動的外交政策を執つて來てゐる。

その兵力を東部に集中して待機させてゐる。これによりて
ソ連政府は乙との條約を破り、その生存の爲の抗争中の乙を管
理より攻撃せんとしてゐる。この故に蘇聯は乙軍に對してあらゆる
手段を悉してこの脅威に對抗することを命じたのである。

Defense Document 3073-0

EXCERPT FROM STATE DEPARTMENT PUBLICATION OF
NAZI FOREIGN OFFICE DOCUMENTS (Page _____)

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.

總論 三〇七三―〇

省公表ナチス外 省文書収率（頁）

一九一一年六月二十一日ヒトラー發ムソリーニ宛書簡

不安なる熱慮と連年の「經破毀の何ヶ月かは今や余の一生に最も
苦しき決意に及びつゝ、ある・・・

ドイツランドの清寧以來、巧妙に且つ「政治的ではあるが、ソ連（赤）
の進路を固る昔のボルシェヴィキ的傾向に「乎として續く、開始
一貫せる傾向がソ連に必然としてある。余はクレムリンの「高善的
「進路に・・・結末をつける決心をした。この決定中余は「心だか
ら「及び「精神的自由を「認じてゐる。最後の「和議を「歸らさんとする全
く「眞心たる努力にも「向らずソ連との「連は「幾々「固る「退却であつた
これら「的苦悶より救はれて余は今「幸福である

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al }
- vs - } AFFIDAVIT
YOSHIKAZU KONO, et al }

(1) I, YOSHIKAZU KONO, 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-

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

| | | |
|-------------------------------------|---|-----------|
| THE UNITED STATES OF AMERICA, et al | } | AFFIDAVIT |
| - vs - | | |
| YOKI, Sadao, et al |) | |

(1) I, YOKI, Mitsumasa, 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-

Def. Doc. # 8074

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 this 3 day of Feb. 1948

at 1545 Fujimidai, Neguro.

DEPONENT: YONAI, Mitsumasa (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 same place.

Witness: /s/ KIDO, Takahiko (seal)

O.S.H

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

/s/ YONAI, Mitsumasa (seal)

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al }
 - vs - } AFFIDAVIT
 YAMAGATA, Sadao, et al }

(1) I, YAMAGATA, Mitsumasa, 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-

Def. Doc. # 6074

ment including KIDO 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

Def. Doc. # 3074

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 this 3 day of Jan. 1948

at 1545 Fujimidai, Meguro.

DEPONENT: YONAI, Mitsumasa (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 same place.

Witness: /s/ KIDO, Takahiko (seal)

C.TH

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

/s/ YONAI, Mitsumasa (seal)

Def, Doc, 3074

極東國際軍事裁判所

亞米利加合衆國 其他

荒木貞夫 其他

官署供進書

供進者 米 内 光 政

自分發我國ニ行ハルル方式ニ依ヒ元ツ別紙ノ通り官署ヲ爲シタル
上次ノ如ク供進致シマス

極東國際軍事裁判所

亞米利加合衆國 其他

荒木貞夫 其他

官署供送者

米 内 光 政

自分發我國ニ行ハルル方式ニ依ヒ元ツ別任ノ通り官署ヲ爲シタル
上次ノ如ク供送致シマス

私、米内光政ハ茲ニ醫ヲ立テ、其途ヲ爲シ、以下ノ叙述ガ良キナル旨ヲ良心ニ托ケテ説言ス。

米内光政

一 弘化昭和十五年（一九四〇）一月十六日ヨリ同年七月廿一日迄ハ首相デアツタ。又小磯内閣、海相モ勤メタ。ソシテ昭和廿年（一九四五）ニハ鈴木内閣ノ海相及昭和廿年（一九四五）ニハ東久通内閣ノ海相デアツタ。

二 昭和十六年（一九四一）十月十七日ノ重臣會議ガ開カレタ當時、一般ニハ右シメズガ首相ニ任ゼラレ、バ彼ハ戦争ニ訴ヘルヨリ先ニ、先ツ米内トノ外交ニ懸ラ計ル事ニ専念スルデアラウト考ヘラレテ居タ。私ハ木戸侯ガ東條ハ米内ニ對シ戦争ヲ開始スル無クテ以テ首相ニ推薦セラレタノデハナイト言フ能ク其當時有ツテ居タコトヲ承知シテ居ル。ソレバカリデタク東條大將ハ米内クモ陸軍ヲ統制シテ居タノデアアル。

昭和十六年（一九四一）十二月米國ニ對スル宣戰ノ大詔ガ下サレタ後ニ於テ
 ハ、日本國民全テ平和克復ニ就テ語ラウトスルモノハ居ナカツタ。至テノ人
 ヲガ戰爭完遂ニ全カラ盡サントシ、又愛國者タラント欲シテ居タノデアアルカ
 ラ、之モ亦當然ノコトデアアル。政府ノ要意ニアル人々ハ表面的ニ、公ニ話ス
 事ニハ行カトカツタガ、一方内輪デハ平和克復ニ就キ語り、戰爭ガ屬屬ラシ
 イト云フ批評ヲ加ヘテ居タノデアアル。斯ウ言ツタ事實ハ然シ表面的ニハ何等
 公ニ語ラレテ居ナカツタ。
 新ル狀況下ニアツテ私ハ屢々木戸侯ト互ニ忌憚ナク新リシタ状態ハ誠ニ苦シ
 イ立場デアリ、又織カシイ状態ダト語り合ヒ、又平和克復ニ就イテ我々ハ如
 何ナル手ヲ出ツベキカラ考シタ事ヲ記憶シテ居ル。戰爭ニ就キ當初ヨリ木戸
 侯ハ私ト向シ意見ヲ持ツテ居タ。最モ重要ト事ハ平和克復ノ口火ヲ切ルノハ
 如何ナル時機ガ最良デアアルカト言フコトデアツタ。若シ時ヲ向早デアツタト
 ナラバ成功シトカツタデアラウ。私ハ斯ウシタ事ヲ始メカラ木戸侯ト話シテ
 シテ居タシ、木戸侯モ之ニ代イテ非常ニ迷惑シテ居ラレタノデアアル。

昭和廿年（一九四五）五月以降私ハ木戸侯ト平和克復ニ就イテ種々談合シタ
コトラ一層明確ニ記憶シテ居ル。昭和廿年（一九四五）六月五日頃戦争資源
調査ノ特別ト調査機関カラ戦争準備ニ就テノ計畫ガ作ラレ、之ハ御前會議ニ
提出サレタ。木戸侯ハ此ノ會議ニ於テ平和ヲ唱フモ、ハ誰モ居ナカッ
タ。會議終了後、私ハ木戸侯ト右ノ計畫ニ就テ話シ合ツタガ木戸侯ハ、其ノ
計畫ハ余リニ貧弱ナルノデ戦争準備ハ其モ不可成デアリ、平和克復ノ爲ニ
何カノ手ガ打タレネバナラナイト語ツタ。
侯ハ彼ノ熱スルノヲ待ツテ居タノデアツタ。ソシテ私ハ木戸侯ガ内閣ニ對シ
和平工作ニツイテ何等カ爲スベク促シテ居ラレタ如キ印象ヲ受ケテ居タ。
木戸侯ハ平和克復論者ノ第一人者デアツタ。

Def. Doc. #3074

昭和二十三年（一九四八年）二月三日 於

目黒區富士見町一五〇五

供 憑 者 米 内 光 政

右ハ登記立合人ノ原種ニテ保管シ且ツ姓名捺印シタルコトヲ証明
シマス

同 日 於 同 所

立 合 人 木 戸 学 彦

Doc. JJC 3074

良心ニ從ヒ美ヲ辨ベ何事ヲモ以テ之ズ又何事ヲモ附加セザルコトヲ
言フ

三
書
卷

卷之三
米
内
六
段

Def. Doc. #3075

Exh. No.

Diagnosis

Translated by
Defence Language Branch

Name : YONAI, Mitsumasa.

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: IONURA, Tadao (seal)

No.1552 Fujimidai,
Meguro Ward, Tokyo.

Def, Doc# 3075

診 斷 書

目黒區富士見台一五四五
米 内 元 政
(六十九歳)

一病 名 高血壓症

右ノ疾病ヲ有シ一月二十八日假性尿毒症發作アリタルヲ以テ營分
ノ間安靜療養ヲ必要トス

右 診 斷 候 也

昭和二十三年二月三日

醫師 五百藏 只 雄
東京都目黒區富士見台一五五二番地

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al)
- vs -) AFFIDAVIT OF
FRANKI et al) WITNESS

1. I was Minister of Education in both IWANO and SATO Cabinets from December, 1931 to May, 1934. Therefore while Mr. FRANKI was Minister of War in both cabinets, I was in the same cabinets as one of his colleagues.
2. Minister of War FRANKI and Finance Minister TATEKAWA 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 certain, at this time, of the date but I know it was a meeting for the compilation of the budget and where Mr. TATEKAWA said "As soon as the armaments are completed the Military Group (he meant the Army and the Navy) turns bellicose:" Mr. FRANKI said "What do you mean? What the army demands is 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 de-Prussianizing 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 cessation of talk.
3. Mr. FRANKI 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. TATEKAWA would tell the War Minister what he had heard as rumors about the Army and I remember on one occasion he asked Mr. TATEKAWA to cooperate with him in his endeavor to quell the over zealousness of the young officers.
4. On reading some part of HIRADA's memoirs, I know his description is not accurate. It contains much of his own wishful narration and cabinet meetings are not always faithfully reported in these memoirs.
5. At the cabinet 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 an act of violating the Nine Power Treaty, but because they came to an agreement that it would not be too late if they made the recognition after seeing the further development of the situation of Manchukuo which was difficult to foresee at that time.

7
C.O. 3076

6. War Minister RIKI 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 War 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. RIKI had no opinion different from that of any other cabinet member about it so he did not make any special utterance at the conference.

1
100 # 3000
OATH

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

HATOYAMA Ichiro (seal)

On this 30th day of January, 1948
at Monoyama, Atami City

Deponent: Hatoyama Ichiro (seal)

I, Hsueck Tokusaki, 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 Monoyama, Atami City

Witness: Hsueck Tokusaki (Seal)

20

0921000 3 076

源東國際學藝雜誌

藍米加加合奈山 真也

譯

荒不貴夫 真也

三田侯選書

侯選書 湯山 一 三

自分機投書ニ行ハルル方式ニ從ヒ先ヅ別紙ノ通り重疊ヲ爲シタル上
ノ如ク供送致シマス

三浦木氏は言の威迫には反割であると言つて居ました。時隨
 軍方面の一面では時局に對して神懸が立つて居ました。高橋武はよ
 く時局に對する噂を聞いては、皇軍大臣にそれを告して居ました。
 一度荒木氏が高橋氏に向つて若い將校達の行き過ぎた熱心さを感
 めたいから加力して下さいと言つて居ると、高橋氏を電えて居ます
 原田日記の一篇を見ました。記事が正確でありませぬ。原田氏
 の等望的記事が含まれて居り、同様の内容では心算し、眞相を傳え
 て居させぬ
 三浦木氏の同、は昭和七年三月中旬の頃、即時承認反割に決
 定されました。それが九ヶ箇條の憲法からと云ふ理由ではなく
 て、三浦木氏がどう發見するか、或は出来ぬから其成行を積めた上で
 承認しても遅くないと云ふ意見が一致したからであります

六 荒木 首相は徹底した國際協調主義者で孤立論者ではありませんでした
した 國原 柳 盟 脱 退 の 時 の 閣 議 で も 陸 軍 大 臣 は 何 等 積 極 的 の 發 言
は し ま せ ん で し た 一 切 の 研 究 は 外 務 大 臣 に 委 せ て 唯 國 際 條 約 を
遵 守 す る よ う に 念 を 押 し て 居 ま し た
七 日 ソ 不 可 侵 條 約 の 提 案 の 非 公 式 の 相 談 の 時 に は 誰 れ も 反 對 は あり
ま せ ん で し た が 當 時 第 三 イン ター の 對 日 活 動 が 露 骨 で あ っ た 時 で
ソ 柳 の 眞 意 の 諒 解 が 出 來 な い て 皆 閣 僚 は 躊 躇 し ま し た が 日 ソ 相 互
に 種 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
ま し た 荒 木 氏 も 他 の 閣 僚 と 異 っ た 意 見 は 持 っ て 居 ま せ ん で し た
別 に 閣 議 で 特 別 の 發 言 も あり ま せ ん で し た

Def, Doc# 3076

昭和二十三年（一九四八年）一月三十日 於熱海市祇山

供 述 者 鳩 山 一 郎

右ハ當立會人ノ面前ニテ宣誓シ且ツ署名捺印シタルコトヲ證明シマス

同 日 於

立 會 人 連 岡 高 明

Def, Doc# 5 076

宣 誓 書

良心ニ從ヒ眞實ヲ述ベ何事ヲモ欺秘セズ又何事ヲモ加減セサルコト
ヲ誓フ

署名捺印 鳩 山 一 郎

5
8

DEF. DOC. #3079

Exh. No.

Translated by
Defense Language Branch

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

-vs-

ARAKI, Sadao et al.

SWORN DEPOSITION

Deponent: MAEDA, Minoru

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 OCHIMARU, our Naval Attaché to the Embassy in Berlin nor by any other Naval Personnel stationed

DEF. DOC. #3079

in Germany, of 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

DEPONENT: MAEDA, Minoru (seal)

I her by 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: (signed) SHIMANOCHI, Tetsuki (seal)

DEF. DOC. #3079

in Germany, of 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 Control 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

DEPONENT: MAEDA, Minoru (seal)

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

On the same date
At Tokyo

Witness: (signed) SHIMANOUCHI, Tetsuki (seal)

DIF. IOC. #5079

Oath

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

SAJ De. Minoru (ceel)

5

REF. DOC. 45031

Exh. No.

Translated by
Defense Language Branch

Diagnosis

Name : MATSUJIMA, Shikao

Address : No. 2,971 Higashikawa, Kotase-cho,
Fujisawa.

Name of Disease: Stomach Ulcer

Contracting stomach ulcer on Jan. 2, 1948,
the patient is now under medical treatment, and
needs to take one month's rest in bed.

Date : Feb. 3, 1948

Doctor : MATSUI, Yoshio (doc1)

No. 2340 Kotase-cho, Fujisawa

REF. DOC. 45081

Exh. No.

Translated by
Defense Language Branch

Diagnosis

Name : MATSUSHIMA, Shikao

Address : No. 2,931 Higashihara, Kotase-cho,
Fujisawa.

Name of Disease: Stomach Ulcer

Contracting stomach ulcer on Jan. 2, 1948,
the patient is now under medical treatment, and
needs to take one month's rest in bed.

Date : Feb. 6, 1948

Doctor : MATSUI, Ioshio (Seal)

No. 2840 Kotase-cho, Fujisawa

Def. nos. 3081

Exh. no

診 察 書

住所 藤澤市片江町東邊二九三一和地
氏名 松島 茂夫

病 名 胃 潰瘍

右 胸 脇 部 痛 症 下 加 急 中 夜 間 全 然 一 夕 臥 床

診 察 手 続

右 診 察 手 続

昭和二十三年二月六日

藤澤市片江町二八〇
松島 茂 夫

藤澤市片江町二八〇

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA, et al

- vs -

NAKI Sadao, et al

- Defendants -

A F F I D A V I T

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. From March 1937 to July 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 Terauchi 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. By order of the War Minister I drew up, working with Director of the Foreign Ministry Bureau of Eastern Asiatic Affairs Ishii 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 9 January 1938, visited Tientsin, Peking, Changchiakow, Taiyuanfu, 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 16 January the "Konoe Declaration" of "no further negotiation with Chiang Kai-shek" was issued, entirely nullifying our work.

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

Shibayama Kenshirō (seal)

On this 4th day of February, 1948

At Tokyo

Deponent: Shibayama Kenshirō

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

Def. Doc. No. 3085

Excerpt from article in The New York Times, 25 January 1941

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 "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.

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(one paragraph omitted)

Strength of the Aggressors

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

Def. Doc. No. 3085 (cont.)

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-born 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."

Def. Doc. No. 3085 (Cont.)

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 rebuff 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."

Def. Doc. No. 3085 (Cont.)

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 much 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 to 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."

Def. Doc. No. 3635 (cont.)

Then Molotov 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.

Def. Doc. No. 3235 (cont.)

THE COOPERATION

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 wired: "Molotov's suggestion seems to me harmful, as in the eye 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

Def. Doc. No. 3087 (cont.)

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 Weizsaecker at the Foreign Office wired Schulenburg 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 Kollontay, 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 Rumania 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. 12, 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.

Def. Doc. No. 3785 (cont.)

THE BREAK

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 in Greek territory."

Events in the Balkans were drawing rapidly to a crisis. Rumania, Hungary and ~~xxx~~ Bulgaria were already in the German camp, and the Nazis were fast slipping their net around Yugoslavia. But on 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 Fuehrer considered to be right, he would crush Russia."

On April 4 Moscow sprang a surprise. Molotov summoned Schulenburg and informed him of a Russo-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, "the 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. Schulenburg 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.

Def. Doc. No. 3089 (cont.)

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 carry 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."

EXCERPT

***** (1) German Contacts Established: 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.

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 Navy General Staff discussed their problems far more freely with appropriate members of the German Embassy.

BACKGROUND

***** (1) German Contacts Established: 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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(page 24)

Defense Document X-26

These embassy officers frankly asked Sorge for his opinions. Indeed, Sorge had been a primary architect of that Axis Pact. General Ott 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 over from China to complete the treaty, however, objected, and Sorge was not present. Stahmer had no 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 3086

*****Ott was out of sympathy with the Nazi program, 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 extraordinary 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*****

(page 20)

二五例文三〇八六 改定

一 問乙のとの等立

オイゲン、オット大佐は少長に昇り次郎階在武官より陸軍武官、終に大
 佐となるに従つてゾルデの日本に於ける長率尉乙例階級待遇の差が相立
 した。オットはゾルデの階級と待遇を同等とし、ゾルゲを以てのモス
 コウ階級も勿論オットの待遇を一律享受したのである。年月の経る
 に従ひ、オットは意見を交換し待遇を均へていくため、初めて自由に公文
 書をゾルゲに示すに至つた。

D. 11 3086

ゾルゲは日本側ゴシツブと真相の方面に於て大役に得へる所は多くあり、それに應じて大佐もゾルゲに語る事は多量に持合せた。彼はゾルゲに本誌よりの指令と彼の調査履歴を示した。大使の所に働つて大佐の他の重要な人々と取入り。ソソヴェートのスパイ、リハルド・ゾルゲ博士に最も連絡を官吏はゲスタポのマイシニング大佐其人であつた。ゾルゲは此等文書と會談の要旨を暗記した。また時にはその身証を放さなかつたカメラを以てそれら文書を撮影した。ゾルゲはデ・ヴァーケリツチの如く彼も素人撮影狂であつた。

昭和十四年以後、ドイツ大使館に事務所を持ち、事實上ドイツ大使館情報部
の一部となつたゾルゲの位置は、當時日本の同盟國であつたドイツに於て知
り得る限りの日本に關する情報、特に日本の能力と意圖の如きは、臭き
出まのに最も完全なるものであつた。併し同盟國ドイツにも分らない事が澤山
あつた。ゾルゲはこれらの情報に他の方法で入手しなればならなかつた。
併し昭和十五年九月二十七日に三國同盟が成立して以後は、日本の陸海軍の
主務部は、ドイツ大使館の適當な館員とらつと自由に種々の同盟を討議する
やうになつた。

々

辯護詞文書三〇八六

此等大使館員は率直にソージに意見を述べた。實にソージは三國同盟の主要なる計畫者であつた。オット將軍は三國同盟を締結する迄にソージの努力を非常に多として居たので東京に於いて正式訓令の時ソージは出席させる積りで居た。然し同條約を完成する爲めから來たヒットラーの特別使者ハインリッヒ・スターマー博士が反對した爲にソージは出席しなかつた。スターマーはソージの誠實なる事を疑ふ疑はなかつた。結々比較的無名で或るでない人物と功を共にすることに嫉妬心を起した位に過ぎない。然しソージの歴史に於いて今次戦争を必然的に早めた三國同盟を締結させたソージの役割と幾日大政翼賛會を締結する上に話した尾崎秀實の役割は皮肉なものである。

Des. No. 3086

………オットーはナチ黨の活動には共鳴しなかつたが、許し
の命令に依りて行動して行つた。………八年前に日本に赴きし
たのであり、それは、………管轄されてきたナチ黨の正の中に入るつ
ては、安全を欠づかつた、彼の上級者がドイツ国外に彼をのがれさ
す手段としてであるつた。

O. O. 3086

オットーがドイツに居し、如何なる事を知り、また如何なる事を考へてゐたにせよ、彼は日本に居いては矢んど何の準備知識も持つてゐなかつた。而して彼の新しい見地はリヒアルトゾルゲから日本に居し、事官を知識を興へられ、且その時局や一般の世向に居し、豹へられるところか多く、また賢明な助言を興へられることを喜んだ、オットーが并程し、昨日ドイツ大使と会つた時、彼とゾルゲとの交際、益々親密となり二人は一杯、度々會合するやうになつた。

Defense Document 3087

EXCERPT

***** a. Sorge Pays Key For USSR - German Pact: The European picture was very black 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 Japanese 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 3087

EXCERPT

***** a. Sorge Passes Word For USSR - German Pact: The European picture was very black 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 border, 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.***

(Pages 49-50)

一九三九年と、赤軍と日本の關係、赤軍と日本放逐を
 行つた所、赤軍のモントハン等情の際に赤軍は日本の意圖する所を知る事か
 来た、赤軍は日本の如何なる地方から如何なる部隊が派遣され、如何な
 る部隊が日本より到着するかを知る事か出来た。
 赤軍はソ連は日本政府は此の事件を利用する意圖のない事、そして此の事
 實を地方的に解決する意志である事を知つた、そしてソ連はこの意志に
 従つて行動した。
 ソルゲは東京に於ける情報員、赤軍以外に日本軍の秘密としてノモンハ
 ンに於て待たれた情報の集積、これ凡ての真実を知悉式に秘蔵すること及
 甲長しを詮議させる必要を察知した事か、赤軍大佐能及官場より来た情報
 を秘蔵としてソルゲから進報された。

ソージは一九四〇年二月十六日日本の軍需品、航空機、及び自動車製造高に關する責任ある記事を、鐵、銅鑛並びに上記の材料を生産せる工場に關する報告書と共に送つた。彼は屢々此等の數字を時宜に通ずるものとした。一九四一年八月日本の戰爭計畫、戰爭能力を知る上に最も重大なる極秘の情報である日本の石油資源に關して報告した。彼は日本には海軍に於いて二年間國庫に於いて半年間國庫に於いて半年間使用するだけの石油が貯蔵してある事を報告した。彼の一按に於いて半年間使用するだけの石油が貯蔵してある事を報告した。彼の情報の出所は獨逸大使館並びに宮城であつた。

一九四一年は決定的な年であつた。
一九四一年五月二十日の早期一般報告の後、ゾルゲから、ドイツ國防軍はソヴェト國境に一七〇乃至一九〇師團を集結し、而して六月二十日には全戰線に、つて攻撃の舉に出づるであらう。(そして主としてモスコの方角へ向つて進撃するであらう)といふ至急警告が打電された。
事實この攻撃が六月二十二日に發生したことを想出されるであらう。そこで自然、東方からの日本軍の攻撃に關する問題の答をうることにゾルゲ一黨にとつて最も重大な使命となつてきたのであつた。

日米關係のことであらうと中國に於ける戦争又は國內の政治に關することであらうと、仲の總ての世題はこの根本世題の答を待て後の世題であつた。この世題の完全な答を待すしては亦其はその答を西方に刺すことには出來なかつた。そして畢竟か示してゐるやうに、無息の豫備兵を集合することによつてドイツの熾烈な突入を阻止することか出來たのであつた。

ソルゲはすぐには返答をうけえなかつた。それは一つにはこの問題が未だ責任ある日本間邊の最終的を決定を経てゐなかつたためでもあつた。オットー大使は勿論日本側を動かして参戦させ、ソヴィエト軍をその東部戦線において擾亂させるやうに奔走してゐた。遂に七月二日、その日行はれた御前會議の直後、ソルゲは日本政府が印に前進して幾つかの基地を占領することに決定した旨を報告することのできた。またソ聯との中立條約を守る一方、對ソ戦の可能にかんがみ日本はその全力を動員するであらうと考へられた。

七月末ゾルゲは東京及び六段地区から若干の部隊が南方に送られたが、
ライ及びマレイに進撃するためには三十萬の兵力を要する旨を自じ
その當時印度支那駐屯兵力に空蕩に過ぎなかつた。

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

APO 500, Tokyo
March 15, 1946

General Douglas MacArthur
Supreme Commander for the Allied Powers
Tokyo, Japan

Dear General MacArthur:

Mr. S. 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

海軍備文書三〇八八號一A

總司令部

聯合軍最高指揮官

海軍陸隊軍務裁判所

東京 A.P. 310

一九四六年三月十三日

聯合軍最高指揮官

ダクラス マツカーサー元帥

日本、東京

マツクアーサー元帥閣下

日本海軍陸隊軍務裁判所（移送）のS. 太三氏は、將來通譯を以て
A. 氏を證人として起訴するべき日本の（移送）若し若し代表して、
來るべき証人を起すたが、被告の日本に證人と合供すべき米海軍陸隊士
の證人を起請するたので、現在東京にある海軍陸隊軍務裁判所の裁判官
官職に出席しました。

被告を代表する日本側辯護士と合意すべき米英兩國辯護士の盡力が
 被告を十分に辯護する爲にも且又公平無私に説く爲にも必要である
 との、太田氏の提案は、被告を十分に辯護する爲にも且又公平に説
 く爲にも筋の通つた便宜を出來る文被告のたのむに許るべきである
 との裁判官の見解と一致します。米英兩國辯護士は、この行はたも
 のでありますから許可されるべきものと我々は思考致します。

今迄の裁判官の色々な質問で參與した米英兩國辯護士の素直しい記録
 と英艦辯護士獲宥の實際的困難とに鑑み米英兩國辯護士の任命が米英兩國
 辯護人依頼反それと支持する理由を十分に満足させるものと我々は結
 論する次第であります。

故に、被告の日本側辯護人の補充を英米兩國辯護人によつて行う
必要に慮ずるために米國の辯護人を東京において採用すること、及
不當な遅延をさけるために出来る丈速かにこれら辯護人が東京に到
着すること（が望ましいこと）を裁判官は提議致します。

故に、日本の被告につけることによる適當な經驗と資格を持つ辯
護士を集めるのに必要な機構を費下が出来ると速かに設立されんこ
とをお願い致します。

裁判される被告一人に對して少くとも一人の米國辯護士をつける爲
には相當な入金を確保しなければなりません。

証 真

E、H、ノースクロフト

裁判長代理

裁判官 E、H、ノースクロフト

眞の寫なることを證明す

ローランド、J、シユワルツ署名
ローランド、J、シユワルツ
陸軍技術大尉

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS

19 March 1946

Mr. Justice F. H. Northcroft
Acting President
International Military Tribunal for the Far East

Dear Mr. Justice Northcroft:

The suggestion of Mr. Ohta 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,

(Signed) Douglas MacArthur
DOUGLAS MACARTHUR

CERTIFIED TRUE COPY

/s/ Roland J. Schwartz
ROLAND J. SCHWARTZ
Captain, TC

辯護側書類第三〇八八號一B

總司令部

連合軍最高司令官

一九四六年三月十九日

東京國際軍事裁判所長代理 邦事F・H・ノースクロツト氏

ノースクロツト判事殿

極東國際軍事裁判ニオイテ告サレタル主要日本戦争犯罪者ノ辯護ノ

為英國及米國ノ辯護士ト日本人辯護人ヲ函力セシメルトイフ太田氏ノ

是項ニハ予モ衷心ヨリ賛成スルトコロデアル

合衆國カラコノ目的ノタメノ人員ヲ等レバ管理上又選給上ノ困難ハ頗

ル簡單ニナルデアラウコノ目的ノタメ及辯護ヲ選ケルタメニ一九四六

年二月二十一日「ワシントン」ノ法律家（？）デハ海軍、海軍又ハ兵

隊人ノ中ヨリ十五名カラ二十名マデノ審員トシテ適當ヲ經テ資格

ヲ具ヘタ辯護士ヲ選ビソノ中カラ選抜又ハ裁判所ノ任命ニヨツテ告示

ERRATA SUZUKI

ref. doc# 3090

辯護士文書第三〇九〇號

鈴木貞一最終辯論

1122

日本文第一一頁六行目

13 以下 68 迄の項目を

120) 以下 67) 迄と訂正願います。

正

誤

表

辯護側書類第三〇八八號一B

總司令部

總合軍最高司令官

一九四六年三月十九日

東京國際軍事裁判所長代理 邦事F・H・ノースクロツト氏
ノースクロツト判事殿

御東國際軍事裁判ニオイテ告テサレタル主要日本戦争犯罪者ノ辯護ノ
爲英國及米國ノ辯護士ト日本人辯護人ヲ両力セシメルトイフ太田氏ノ
是案ニハ予モ衷心ヨリ賛成スルトコロデアル
合弁ニカラコノ目的ノタメノ人員ヲ等レバ管理上又退給上ノ困難ハ頗
ル簡單ニナルデアラウコノ目的ノタメ及辯延ヲ避ケルタメニ一九四六
年二月二十一日「ワシントン」ノ法律案（？）デハ陸軍、海軍又ハ空
間人ノ中ヨリ十五名カラ二十名マデノ 審員トシテ適當ヲ經テト資格
ヲ具ヘタ辯護士ヲ選ビソノ中カラ辯檢又ハ裁判所ノ任命ニヨツテ告示

サレタ被告ノ一人ヲ疾走スベキコトヲ依頼サレタ、一九二六年三月七日法廷(?)ハ軍醫ヲ有スル員ハ充分ニ得ラレナイ爲原期トシテ民間人カラナル十三名ノ辯護人ヲ送ル準備ノ出来タ事ヲ報告シタ

本日、送ラレル辯護人ノ數ヲ日本人被告ヲ正當ニ代表シ且充分ニ辯護ノ出来ルヨウ適當ナ經費ト資格ヲ有スル辯護士十五名カラニ十五名ニ増加スルヨウ要請シタ、コレヲ辯護人が出来ルダケ早く東京ニ到着スルヨウ適當ニ旅行費ヲ貸付ルヘララウ

敬 具

姓名 ダグラス マツカーサー

ダグラス マツカーサー

被告ノ辯シナルコトヲ證ス

姓名 ローランド シュワルツ

ローランド シュワルツ

TC 大尉

ERRATA SUZUKI

ref. no. 3090

辯証例文書第三〇九〇號

鈴本貞一最終辯論

1122

正

誤

表

日本文第一一頁六行目

13 以下 68 迄の項目を

12⑥ 以下 67⑥ 迄と訂正願います。

登記別文書第三〇九一號

正設表

畑俊六長終辯論

訂正願マス

頁

三三一

三三五

三九

三四

三五

四二

四六

四八

五三

八一

八五

八六

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誤

五十五ノ多致ノ訴因

ノニ基キ

非スト強キ言辭

見ルノモヨイ事デス

一七頁

檢察長

檢察長

檢察則ニ對ニ争ハ

レルモノデハアリマ

センデシタ

全部

命令又此等ノ

本裁判ヲ通シテ檢察

官見ハ今ヤ有テトナ

ツタ其ノ談話ニ於テ

シ氏ハ對シキトナ

辯論セザルニ

ヲ得テ有リマス

率直ニ

様ニ突如直シタ

突如直前

登壇全部ノトヨリ

マズルナラバ

正

五十五ノ訴因ノ過半ニ及ンデ

ノ考ニ基キ

非ストノ強キ言辭

見ルノモヨイ事デス (二八九

一七頁)

主席檢察官

主席檢察官

檢察則ノ異議ナシニ通リマシ

タ

削除

命令又型ニハマツタ

本裁判ヲ通シテ檢察則ハ主張

セラレタル共同談話中ノ凡テ

ノ共犯關係カラ天皇ヲ仰テ

ル旨ヲ明白ニ致シマシタ。今

ヤ清名トナツタ本裁判長ト

對話ニ於テキナシハ

辯論セザルヲ得ザルニ

ヲ得テ有リマス

削除

様ニ突如直シタ

突如直前

削除

削除

Def. Doc. No. 3091

Ref Doc No 3071

一七八
一三三
一三〇
一三五
一三六
一四二
一四五
一四七
一四八
一五〇
一六六
一六七
一六八
七〇

八行
二
承終行
承終行
承終三行
六
一
五
修三ヨリ
二
承終
五
修ヨリ
四
修ヨリ
七

誤
次ノ國軍省ニ於ケル
爲メニ
海軍大臣 海軍士官
現約
以學伴心
ソレ故語々一以下
恩恵シ得ナイコトガ
後ハ
補給ノ任ニヨツテ
武政書
抄書
受取ツタ
海禁例發信
海禁例ノ承認
作以果以
郵政ニモアレソノ
陸軍ヲ見出シタ體裁

正
次ノ國軍省ニ於ケル彼ノ委任
者及ビ他ノ者ノ任命ヲ推薦ス
ル
海軍大臣
現授
以學伴心
無除
恩恵シ得ナイコトヲ
後ハ
補給ノ任ニ當リ後ノ後烟中
海軍司令官ノ命ニヨツテ
武政書
抄書赤木
受取ツタ
海禁例本發信
海禁例ニ對シテ反對詢問中ノ實
問中ニマサニ海禁例ノ承認
作以地裁
郵政ニモアレソレト
陸軍ヲ見出シテ居リマス之レ
ノ體裁ニ對シテ體裁

Doc. No. 3091

| | | | |
|-----|-----|--------|----------|
| 頁 | 一七三 | 終行 | 支那派遣軍及外地 |
| 一八六 | 一 | 英文一七六迄 | スルコト留來セシ |
| 一八八 | 三 | 終行 | 我々ノ側ニ |
| 一九〇 | 三 | 終行 | 廿八日迄ノ交渉 |
| 一九三 | 四 | 終行 | 送ラレタコトガ |
| 一九三 | 二 | 終行 | 行ハレシトシタ |
| 一九三 | 三 | 終行 | コトハ |
| 一九三 | 二 | 終行 | コノコトニツイ |
| 一九三 | 三 | 終行 | テ一以下全部 |
| 一九三 | 三 | 終行 | 運給ヲシタトイフ |

誤

| | | |
|-----|--------------|-------------|
| 正 | 支那派遣軍及外地 | 支那派遣軍及外地 |
| 及外地 | リマス其レハ一内地院在單 | スルコトハ出來セシト言 |
| 削 | ツタノラ歴私ハ知ツテ居ル | ノミデス |
| 削 | 我々ノ爲ニ | 廿八日迄アリマス |
| 除 | 送ラレタコト右命令ハ裁判 | ガ |
| 除 | 行ハレシトスルモノデアリ | マツタガ以上ハ |
| 削 | 運給ヲシタトイフ | 運給ヲシタトイフ |

三三四

三三三

三二九

三二七

三二四

三二三

三三〇

三〇七

三〇六

三〇三

三〇二

三〇〇

頁

| | |
|--------|-----|
| 四行目終挿入 | 三〇〇 |
| 一行目 | 三〇二 |
| 終ヨリ二行目 | 三〇三 |
| 十一行目 | 三〇六 |
| 終ヨリ三行目 | 三〇七 |
| 三行目 | 三〇七 |
| 六行目 | 三三〇 |
| 城終行 | 三三〇 |
| 城終行 | 三三三 |
| 四行 | 三二四 |
| 八行目 | 三二七 |
| 終リヨリ四行 | 三二九 |
| 終リヨリ五行 | 三三三 |
| 六行目 | 三三三 |
| 終ヨリ七行目 | 三三三 |
| 十一行 | 三三三 |
| 終ヨリ四行 | 三三三 |
| 終ヨリ六行 | 三三三 |
| 二行 | 三三三 |
| 六行 | 三三三 |
| 七行 | 三三三 |
| 終ヨリ五行 | 三三三 |
| 十行目 | 三三三 |

| | |
|----------|------|
| 文證 | 三八三頁 |
| 此ノ体 | 三八三頁 |
| 獨逸 | 三八三頁 |
| 外國式 | 三八三頁 |
| 事實 | 三八三頁 |
| 申シ上ゲテ安ンジ | 三八三頁 |
| テ引下リテ安ンジ | 三八三頁 |
| 助言 | 三八三頁 |
| 職タル | 三八三頁 |
| 檢察側自体ノ證人 | 三八三頁 |
| 證人テアリマシタ | 三八三頁 |
| 殘虐行爲ハ | 三八三頁 |
| 欺 | 三八三頁 |
| 事務總長 | 三八三頁 |
| 支那 | 三八三頁 |
| 欺初論告 | 三八三頁 |
| 援行爲 | 三八三頁 |
| 最結論告 | 三八三頁 |

| | |
|----------|-----|
| 正 | 三三三 |
| 任命シタノデモナ | 三三三 |
| ク判決ヲ | 三三三 |
| 反證 | 三三三 |
| 此ノ件 | 三三三 |
| 獨逸 | 三三三 |
| 外國式 | 三三三 |
| 事實 | 三三三 |
| 以テ安ジテ | 三三三 |
| テ安ジテ御ノ | 三三三 |
| 御ノ | 三三三 |
| 御明 | 三三三 |
| 致シマ | 三三三 |
| 進言 | 三三三 |
| 職ハ | 三三三 |
| 檢察側ノ證據 | 三三三 |
| 證人ニ成ルモノ | 三三三 |
| アリマシタ | 三三三 |
| 殘虐行爲モ | 三三三 |
| 欺 | 三三三 |
| 事務總長 | 三三三 |
| 支那 | 三三三 |
| 汪 | 三三三 |
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| 汪 | 三三三 |
| 汪 | 三三三 |
| 汪 | 三三三 |
| 援行爲 | 三三三 |
| 最終論告 | 三三三 |

Def. Doc. No 3091.

| 頁 | 行 | 誤 | 正 |
|-----|----------------|-----------|------------------------|
| 二四〇 | 終ヨリ四行目 | 新任航空總監 | 新任航空總監相並ビニ新任航 |
| 二四三 | 三行目 | 故意 | 故意 |
| 二四六 | 二行目 | 國民 | 同氏 |
| 二四八 | 終ヨリ五行目 | 全テ | 凡テ |
| | 終ヨリ四行目 | 却下ノ申立 | 公訴棄却ノ申請 |
| 二五二 | 六行目 | イフコトダケテスネ | イフコトダケテスネ |
| 二五五 | 終リノ行參 長ヨリ投入 | | 短電報テアル事ガ分リ マスモイホン天佐 |
| 二五六 | 一行 | 送達記録 | 送達記録 |
| 二五七 | 三行 | 上海停泊所 | 上海停泊收容所 |
| 二五八 | 六行目 | 其ノ原因 | 其ノ抗議ノ原因 |
| | 終ヨリ四行目 | 司令官ガ維持 | 司令官ガ軍紀維持 |
| 二六一 | 七行目 | DD六〇 | DD六一 |
| | 終ヨリ二行目 | 三一三二 | 三一三二 |
| 二六二 | 終ヨリ七行目 | 電誌 | 電誌 |
| 二六四 | 終ヨリ六行目 | 陸軍大臣タリ | 陸軍大臣タリシヨ |

| 頁 | 行 | 誤 | 正 |
|--|---|--|---|
| 63 61 60 57 56 55 54 // 51 // 48 46 // 25 // 20 15 // 14 13 12 11 11 10 10 9 8 5 4 2 | 16 4 13 4 9 6 10 1 13 10 13 7 3 2 1 18 14 1 9 9 17 3 3 2 14 1 8 6 5 | <p>口角池を飛してみ合ふ</p> <p>巻頭</p> <p>第一、次歐洲大戰なる</p> <p>則ち亞細亞民族</p> <p>人種平等</p> <p>協調なる</p> <p>己む能はざる</p> <p>あらゆる文化</p> <p>達せしむと説いた</p> <p>苟も</p> <p>拘らず</p> <p>拘らず</p> <p>明白にも</p> <p>削除</p> <p>削除</p> <p>知巳のきを以て</p> <p>老年の退役身</p> <p>神原</p> <p>この區區</p> <p>右上海米領事</p> <p>左邊ことが</p> <p>捨ひたる</p> <p>(起しなかつたなら)</p> <p>(レディーバード號事件其他)</p> <p>四行目以下</p> <p>一行目より八行目迄</p> <p>十三行目以下</p> <p>戦場の土</p> <p>奉公</p> | <p>口角池を飛して啜み合ふ</p> <p>巻頭</p> <p>第一、次歐洲戦争の</p> <p>則ち則ち亞細亞民族</p> <p>人種平等</p> <p>協調する</p> <p>己む能はざる</p> <p>あらゆる文化</p> <p>達せしむと説いた</p> <p>苟も</p> <p>拘らず</p> <p>拘らず</p> <p>明白に</p> <p>削除</p> <p>削除</p> <p>知巳のきを以て</p> <p>老年退役の身</p> <p>神原</p> <p>この地區</p> <p>在上海米領事</p> <p>左邊なことが</p> <p>捨ひたる</p> <p>削除</p> <p>削除</p> <p>全部削除</p> <p>全部削除</p> <p>十三行目以下五行を削除</p> <p>戦場の土</p> <p>奉行</p> |

正誤表

辯護士文書第三〇九六號

松井石根遺稿終辯論

| 頁 | 行 | 誤 | 正 |
|----|----|----------------|-------------|
| 2 | 5 | 口角池を飛してみ合ふ | 口角池を飛して啜み合ふ |
| 4 | 6 | 巻頭 | 巻頭 |
| 5 | 8 | 第一回 | 第一回 |
| 8 | 1 | 第一次歐洲大戦なる | 第一次大戦の |
| 9 | 14 | 則に亞細亞民族 | 則に則り亞細亞民族 |
| 10 | 2 | 人種平等 | 人種平等 |
| 10 | 3 | 協調なる | 協調する |
| 11 | 3 | 己も能はざる | 己も能はざる |
| 11 | 17 | あらゆる文化 | あらゆる文化 |
| 12 | 9 | 達せしなと説いた | 達せしむと説いた |
| 13 | 9 | 荷も | 荷も |
| 14 | 1 | 拘らず | 拘らず |
| 15 | 14 | 明白に | 明白に |
| 20 | 1 | 削除 | 削除 |
| 25 | 2 | 削除 | 削除 |
| 48 | 7 | 知巳の多きを以て | 知巳の多きを以て |
| 48 | 13 | 老年の逸役身 | 老年逸役の身 |
| 48 | 13 | 柳原 | 柳原 |
| 51 | 1 | この區區 | この地區 |
| 55 | 13 | 右上海米領事 | 在上海米領事 |
| 55 | 10 | 左様ことが | 左様なことが |
| 56 | 10 | 拾ひたる | 拾ひたる |
| 56 | 6 | (起しなかつたなら) | 削除 |
| 55 | 9 | (レディーバード號事件其他) | 削除 |
| 57 | 4 | 四行目以下 | 全部削除 |
| 60 | 13 | 一行目より八行目迄 | 全部削除 |
| 61 | 4 | 十三行目以下 | 十三行目以下五行を削除 |
| 63 | 16 | 戦場の土 | 戦場の土 |
| | | 奉公 | 奉行 |

正誤表
 藤田文書第三〇九六號
 松井石根長終辯論

REVISION LIST

| | | | | | | | | | | | | | | | | | | | |
|----|----|---------------|----|----|-------|----------------|-----|-----|-----|-------------------------|---------------|------|------|--------------|--------------|-----|-----|--------|---------------|
| 99 | 94 | 86 | 56 | 38 | 30 | 131 | 125 | 122 | 119 | 116 | 115 | 110 | 105 | 102 | 98 | 77 | 76 | 69 | 64 |
| 5 | 13 | 6 | 4 | 11 | 9 | 11 | 2 | 15 | 6 | 7 | 10 | 6 | 4 | 13 | 12 | 6 | 14 | 2 | |
| | | 言はれぬ 法律の責任 | | 絶体 | 官民を被害 | 以上を以て 官民を被害 | 即断定 | 相像 | 陳福費 | 證言は、その 我等の「感謝する次第である | 我々の「感謝する次第である | 参査せよ | 各大使館 | 報生原而 のとして | 報生原而 のとして | の外交 | の外交 | 危害を加ふる | 況してや一行動したのである |

| | | | | | | | | | | | | | | | | | | |
|------|----------------|-------|--|----|-------|------|----|----|-----|------|----|------|------|--------|--------|----------|-----|--------|
| 全部削除 | 言はれぬ 法律上の責任 | 一行半削除 | 四行目以下へ左記文章を挿入す 「松井大將はレオパード號又は ハネー城の攻撃について責任は ない、然しこの挿話については 本論第三節に於て詳論するで らう」 | 絶對 | 官民の被害 | 全部削除 | 即断 | 想像 | 陳福費 | 證言せる | 削除 | 参査せよ | 各大使館 | 報生原として | 報生原として | 十二行目以下削除 | の外交 | 危害を加ふる |
|------|----------------|-------|--|----|-------|------|----|----|-----|------|----|------|------|--------|--------|----------|-----|--------|

誤

正

DEFENSE SUMMATION OF KENJI DOIHARA

*Page 5 (see last item)

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 'centurics' 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 'Mukden' and 'significance' the following words: "by Dohihara is" so that it will read: "* * the Mayorality of Mukden 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 The last 4 words on page 35, that is, .
and 36 'with Pu-Yi after the" should be followed by the insert at the top of page 36 of the following words: 'alleged kidnaping. As a' so that it will read: "* * * Pu-Yi after the alleged kidnaping. 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: "Saccept". 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 astericks 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, 'HSUAI-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 "TEL" should be changed to "TEH" and in the 9th line of the same paragraph the word "CHIN-THE-CHUN" should be changed to "CHIN-TEH-CHUN".
- Page 75 In the 8th line from the bottom of the page the 1st 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.

Page 77 In the 7th line from the bottom of the page the word "autonomous" is misspelled and should be corrected.

Page 78 In the 9th line from the top of the page the word "matter" should be changed to read "manner".

Page 79 In the 7th line from the top of the page immediately following the words, "talk with him" a period should be inserted.

Page 87 In the 3rd 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: "receptor appearing in the * *"

*
Page 5 In the 10th line on page 5 the word "and" should be changed to "four".

Comment 6)

正 誤 表
詳愛別文卷第三一〇四號
日獨伊三國同盟
左ノ通り訂正シマス

オー、カンニングHAM

| | | |
|----|---|-------|
| 頁 | 行 | 訂正 |
| 一 | 一 | 終より二 |
| 三 | 二 | |
| 四 | 一 | 一四 |
| 五 | 一 | 十一十三 |
| 五 | 二 | 十四一十六 |
| 十二 | 二 | |
| 十二 | 五 | 一六 |
| 十四 | 一 | |

表題に「」を附す

「本事件に關する」、

(ナチ、ロシヤ關係文書一九四八年

一月二十二日)

削除

「その判決後」、

「浴せしめようとした」削除

「尙早判例ではあります、それが既に行はれた

以上、今や吾人は歴史の、待つ必要はないの

であります」を訂正

「促進」を「黙認」と訂正

「即ち」を「あります」削除

表題に「」を附す

削除

| | | | | | |
|-----|----|-------|----|-------|-----|
| 二四 | 二一 | 二〇 | 一八 | 一七 | 頁 |
| 八一十 | 七 | 十一一十四 | 一 | 四一七 | 行最終 |
| | 最終 | | 最終 | 五十六 | |
| | | | | 四 | |
| | | | | 二 | |
| | | | | 八一九 | |
| | | | | 七一二 | |
| | | | | 十二一十五 | |

- 「ドッツ日記一六頁」削除
- 「たゞとの」、、、削除
- 「なまねのであります」削除
- 「は認めます」を「吾々は認めません」と訂正
- 「ベルリンに」、、、(ドッツ日記一五二頁)削除
- 「然し」、、、「不可能でありました」削除
- 「各国は」、、、「四日のことでもあります」削除
- 「マロシ」削除
- 「ウインストン」、、、「(モズリー演説)削除
- 「が、ロシアとしては」、、、「(一月二十五日)」削除
- 「のあつた」を「のなかつた」と訂正
- 表題に三、を附す
- 「今迄欧州で」、、、「のであります」削除
- 「我判官各位」を「我々」と訂正
- 「本協定の」、、、「のであります」削除

| | | |
|-----|--|--------------------------|
| 頁三三 | 行一 | 表題四、を附す |
| 三四 | 最終より二 | 表題の三、を削除 |
| 三六 | 二 | 表題の四を削除 |
| 四〇 | 十二、十三 | 「しかし」、 「それたのです」削除 |
| 五一 | 六以下 | 「同時に」以下削除 |
| 五二 | 十一、十二 | 削除 |
| 六一 | 終りに「日本國、 獨逸國及伊太利國は前記 條項が三締約國の各 と「ソヴェエト」聯邦との 間に現存する政治的状態に 何等の影響をも及ぼさざる ものたることを承認す」を 附加 | |
| 七八 | 三 | 「と言ふのは」、 「ためでありませぬ」削除 |
| 八一 | 二、四 | 表題に八、を附す |
| 八四 | 最終 | 「證據によれば」、 「分りませぬ」削除 |
| 八五 | 全數削除 | 削除 |
| 八六 | 一、六 | 「例へばチトー」、 「ました」 |
| 八七 | 一 | 削除 |

| | | | |
|---|-----|---|-------|
| 頁 | 八八 | 行 | 最終 |
| ・ | 八九 | ・ | 一 |
| ・ | 九二 | ・ | 一 |
| ・ | 九四 | ・ | 十三と十四 |
| ・ | 九六 | ・ | との間に |
| ・ | 九九 | ・ | 十四 |
| ・ | 一〇〇 | ・ | 七 |
| ・ | 一〇三 | ・ | 十四 |
| ・ | 一〇四 | ・ | 一 |
| ・ | 一〇五 | ・ | 十三以下 |
| ・ | 一〇七 | ・ | 八 |
| ・ | 一〇八 | ・ | 七 |
| ・ | 一〇八 | ・ | 十三以下 |
| ・ | 一〇八 | ・ | 三及四 |

- 「第四でありませうか」を「第四は何でありませうか」に訂正
- 「六次に」を「此處で我々は」に訂正
- 「七」を削除
- 「六、檢察官提出の行違文書の分派」を挿入
- 「八」を削除
- 「九」を削除
- 「兩者間」の前に「七、會意の缺如」を挿入
- 「十二」を削除「八、濫殺性の缺如」を挿入
- 「之に反し」、。「ありました」削除
- 「日本は」以下削除
- 「最高權威」の次に「の一人」を挿入
- 「として第一人者」を削除
- 削除
- 表題に九、を附す
- 削除

| | | | | | | | | | | | | | | | |
|---|----|----|----|----|----|----|----|----|-----|-----|-----|-----|-----|-----|-----|
| 頁 | 一三 | 一四 | 一五 | 一六 | 一七 | 一八 | 一九 | 二〇 | 二一 | 二二 | 二三 | 二四 | 二五 | 二六 | 二七 |
| | 三行 | 四行 | 五行 | 六行 | 七行 | 八行 | 九行 | 十行 | 十一行 | 十二行 | 十三行 | 十四行 | 十五行 | 十六行 | 十七行 |
| | 十一 | 十六 | 最終 | 最終 | 最終 | 最終 | 最終 | 最終 | 最終 | 最終 | 最終 | 最終 | 最終 | 最終 | 最終 |

「オイゲン、オット」。。「主張をします」削除
「と余彼の」を「並に裁判所が一皮に」と訂正
「に對して」。。を「を採用すること」を拒否し
「免れば」。。を「に任み」と訂正
「彼の情報は」以下削除
「(註一)」以下削除

削除
「さうして」。。削除
「續きました」。。削除
「そして」。。削除
「する迄」。。削除

| | | | | | | |
|---|---|---|----|---|----|---|
| 一 | 一 | 一 | 一 | 一 | 一 | 一 |
| 三 | 三 | 三 | 三 | 三 | 三 | 三 |
| 五 | 四 | 三 | 三 | 〇 | 九 | 八 |
| 六 | 三 | 一 | 十四 | 行 | 十一 | 行 |
| | | | 以下 | 一 | 以下 | 一 |
| | | | | 三 | | 二 |

刪除
 刪除
 刪除
 刪除
 刪除
 題記十一を附す

Der Doc 3106

139 135 132 126 92 80 61 9 8 3 頁

11 9 7 16 4 10 1 4 5 3 行

麻葉

二組

昂書

訴訟

新章

變化

人口作
シ得又現存スル
ノ改正ガ單ニ否定

關係

地方

誤

辯譯側文書第三一〇六號
廣田弘毅最終辯論 正 誤 表

麻葉ヲ削除ス

二組

昂書

事件

新章ヲ削除

責任

人口作
シ得又現存スル
ノ改正ガ單ニ否定

關係

地方

正

188 176 168 167 157 153 152 148 141

4 8 14 17 1 3 1 13 13

第十五節

文往スルナラハ

第十四節

勅令。

勅令。

實際的見地ノカフ

第十三節

第十二節

參事總長

第十六節

文往トスルナラバ

第十五節

勅令

勅令

「ノ」ヲ削除ス

第十四節

第十三節

參謀總長

ERRATA SHEET
 DEFENSE SUMMATION
 KIICHIRO HIRANUMA

- Page 1 Delete "(EE 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 16 Footnotes should be amended to read "October 20, 1947" instead of "1948".
- Page 28 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 "knew".
- Page 37 12th line from bottom after "outright nonsense" indicate footnote "(a)".
 Add footnote as follows:
 "(a) Pros. Sum. Per. F8, P. F 10."
- Page 48 12th line from bottom, delete last word on line so sentence will read, "***out of office until December 1940***"

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Hironaka errata sheet continued:

Page 65 In 2nd paragraph, third line down,
delete the comma after "1941" and
continue the sentence with the follow-
ing: "** when Togo was recommended
as Prime Minister."

| 頁 | 行 | 誤 | 正 |
|---|---|-------------------|--------------------|
| 一 | 三 | 閣員 | 閣員 |
| 一 | 二 | 施設 | 施設 |
| 三 | 〇 | 揮シ | 押シ |
| 四 | 五 | 「フアシステイ」 | 「フアシステイ」 |
| 四 | 三 | 廿三日ニ締結サレタコト、及日獨交渉 | 廿三日ニ締結サレタ、日獨交渉 |
| 五 | 五 | にかなる通り | にかなる通り |
| 六 | 一 | 平沼が一九四一年 | 平沼が東條を首相に推薦した一九四一年 |
| 六 | 五 | 決議之を | 決議文を |

正誤表

辯護側文書第三一〇八號

平沼 駿一郎

最終辯論

左ノ通り訂正願マヌ

Def. Doc. No. 3110

ERRATA SHEET

WMA, Olinori

- P. 47 4th line ----- Insert "not" after "would".
- P. 82 5th line from bottom - Change "c" to "E".
- P.109 lest line ----- Insert "planned" between
"for" and "war".
- P.116 2nd line ----- Change "way" to "war".

| | | | | | | |
|-------------------|------------------|-----------------|------------------|-----------------|-----------------|---|
| (110) 15頁 行 | (108) 1頁 行 | (89) 3頁 行 | (42) 13頁 行 | (17) 9頁 行 | (15) 2頁 行 | 頁 |
| 潜水艦艇 | 大海指示 | 司令官 | 問題が | 陸海軍参謀部 | 情報部長 | 誤 |
| 潜水艦艇 | 大海指 | 指揮官 | 問題を | 陸海軍統帥部 | 海軍々令部の情報部長 | 正 |

正 誤 表

辯護側文書第三一一三號

第五卷太郎波終辯論追加

左ノ通り訂正願マス

3119

N-10

ERRATA No. 2

KIDO's Summation

1. Page 139, Para. 165, eliminate last two sentences.

Def. Doc. No. 5117

ERRATA SHEET NO. 3

Summation for Kido, Koichi

On page 10, line 1, please insert the words "requested
by the Prosecution to be" between the words "was" and "changed."

北米合衆国、コロンビア区

一九四八年三月十日

北米合衆国元帥たる私、デヨード・シー・マーシャルは方式に従ひ宣誓の日本東京に於て開廷中の極東国際軍事裁判所の命により合衆国其他對英、貞夫其他の裁判事件甲の被告大島浩の辯護人たより提出せられたる質問に對する答辯として以下の通りお答へ致します。

問「ドイツと日本との間に緊密な戦時上の連絡關係がみつたといふ證據も無し」といふ活動を生んだ考察の主なものをお話し下さい

(括弧内はマーシャル元帥報告「歐洲及び太平洋に於ける勝利」一頁及二頁よりの抜粋)

答 眞珠灣攻撃に就て日本がドイツに對し事前の通告をなしたといふ證據は見たことがありません。

歐州と太平洋との兩戰場間には非常な距離があります。兩戰場間に適合軍の兵力及物資を移動するに要する軍隊移動技術上の要素と長い時間とから見て、戰時的連絡調整から得られる報酬の一部を獲得する爲に極軸國間の緊密な連絡調整をとる必要はありませんでした。一そんな事をしなくとも一同じ効果は連合國隊に合衆國の注意と物力とを二分する事によつてなせられたのです。

例へば、豪州師團はエチプトから轉送せられ、ニウジールランドの物資は歐州戰場に來なくなり、英國及印度の兵力は印度に足望を確し、しかも印度は英國の増援を受けました。合衆國物資の分割された相當の事はよく知れ渡つた事であり、更に説明する必要はありません。かような結果を達すべき連絡調整には殆んど何の相談も計畫も必要とせず、自動的に行はれたのです。

- 嚴密な調停の缺如は次の順序により指示されております。
- (A) 一九四一年十二月七日に日本はドイツ國に對し開戦の意圖あることを通告したかどうかの問題
- (B) ドイツ國はソ連と戦争状態に入つていたのであつて米國とは戦争状態に入つていなかったものであります。従つて嚴密な調停には日本のソ連に對する背面攻撃について考慮すべきことを含むべきであつたのであります。
- (C) 日本は補給に向つて米國貨物兵器を輸送するソ連船舶へ米國よりソ連に引渡されたもの一大部分のものに對して嚴正な中立態度を維持いたしました。
- (D) 日本はバルマ以西に對する攻撃をすれば連會軍列の資材を歐洲よりその方面に一層流通せしめたいと思つた時に於いてもその方面の攻撃を最大限度に押し進めたのであります。
- (E) 通報及び作戦情報に關して嚴密な協力が行われたという證據は一つも私の眼に止つておりません。

デブトのスイズ地境に於けるドイツの主なる勢力は、それは中東を
破壊し、ソ聯邦を南部に衝いてゐたかも知れないのであるが、日本の
態度に壓迫を加へんとする點に充分協力したてでありませう。しかし
このドイツの努力はなされなかつた又日本の努力も同様であつた。