

INTERNATIONAL MILITARY TRIBUNAL

FOR THE FAR EAST

TRANSCRIPT OF PROCEEDINGS

2 MARCH 1948

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001715

DAVID NELSON SUTTON

2 MARCH 1948

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Tuesday, 2 March 1948

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

The Tribunal met, pursuant to adjournment,
at 0930.

Appearances:

For the Tribunal, all Members sitting, with
the exception of: HONORABLE JUSTICE LORD PATRICK,
Member from the United Kingdom of Great Britain, not
sitting from 0930 to 1600; HONORABLE JUSTICE I. M.
ZARYANOV, Member from the USSR., not sitting from 0930
to 1200.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese
to English interpretation was made by the
Language Section, IMTFE.)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except ARAKI, HIRANUMA, HIROTA, and UMEZU, who are
5 represented by counsel. The Sugamo Prison surgeon
6 certifies that they are ill and unable to attend the
7 trial today. The certificates will be recorded and
8 filed.

9 With the Tribunal's permission, the accused
10 KIMURA will be absent from the courtroom for the
11 entire morning conferring with his counsel.

12 Mr. Vote.

13 MR. VOTE: Continuing with the TOGO summation
14 at paragraph 29:

15 On 26 November, Ambassadors NOMURA and
16 KURUSU informed the accused that there was no hope
17 that the United States would accept the Japanese
18 proposal "B" in its entirety, and that the negotia-
19 tions would certainly break down.^{a.} The only way
20 which could possibly at this stage be of any help was
21 to have President Roosevelt send a personal telegram
22 to the Emperor of Japan. This would clear the air and
23 if NOMURA and KURUSU would have a little more time
24

25 WW-29. a. Ex. 1189, T. 10418;
Ex. 2249, T. 16196.

1 they could take the initiative to propose the es-
2 tablishment of neutral countries in the South Pacific.
3 For this, they requested the accused's authorization.
4 After receiving this telegram, the accused discussed
5 it with both TOJO and SHIMADA, as well as with the
6 accused KIDO. He never reported this proposal to the
7 Emperor, although he was received in audience in the
8 morning of 28 November after discussing the matter
9 with KIDO only a few minutes before. ^{b.} The accused
10 contends that he was not in a position to report this
11 proposal to the Emperor as he and the War and Navy
12 ministers had no confidence in the plan, although he
13 admitted that it was a matter that came within his
14 competence. ^{c.} Valid reasons for keeping this infor-
15 mation from the Emperor do not exist. NOMURA and KURUSU
16 knew, and clearly stated, that the Japanese proposal
17 would not be accepted and that unless special measures
18 were taken war would be inevitable. The accused
19 himself, when he refused to act upon the plan, knew
20 that the United States had definitely rejected the
21 last Japanese proposal and that the negotiations would
22 be broken off. ^{d.} The Emperor was known to be desirous
23 of peace but the government had decided on war.
24

25 WW-29. b. T. 26064-5; T. 35707; Ex. 1206A, T. 10505.

c. T. 35818-25.

d. T. 26064-5; Ex. 1193, T. 10442.

1 Consequently, the accused, while reporting to the
2 Emperor on the situation, deliberately omitted to
3 make any mention of this.

4 WW-30. The same day that NOMURA and KURUSU
5 made this last effort, they were received by Secretary
6 of State Hull, who told them that he had thoroughly
7 examined the Japanese note of 20 November and fully
8 consulted the other countries concerned, but that
9 unfortunately it was impossible to agree to the
10 Japanese views. Instead he offered another proposal
11 containing the views of the United States Government.
12 NOMURA, in transmitting this proposal, informed the
13 accused that he had clearly expressed that the American
14 proposal would not be acceptable to the Japanese
15 Government.^a He could see no more prospect whatso-
16 ever of coming to an agreement within the time limit set
17 by the accused. He advised him that, as he had never
18 set an ultimatum or spoken of any time limit to the
19 American authorities, it would be necessary to
20 terminate the negotiations in one way or another
21 before taking freedom of action. Otherwise Japan would
22 be blamed for prolonging the negotiations while pre-
23 paring for military action and for starting hostilities
24 WW-30. a. Ex. 2952, T. 26065; Ex. 12451, T. 10815.
25

b.

1 while the negotiations were still in progress. The
2 fear expressed by NOMURA in this telegram was well
3 founded. The action he warned against was exactly the
4 action the conspirators were now going to take. Im-
5 mediately after the receipt of the American answer of
6 26 November, sometime during the day of 27 November,
7 the Foreign Ministry started studying how to proceed.
8 The defense witness YAMAMOTO under cross-examination
9 stated that various drafts were submitted to him at
10 that time by his subordinates. c. One of these, exhibit
11 d. 2975, was personally studied and amended by him.
12 The draft, as amended, stated that negotiations should
13 not be broken off but that it should be the main pur-
14 pose for the time being to continue them and to guard
15 against revealing the real intentions of Japan to the
16 United States. For this purpose, Ambassador NOMURA
17 and KURUSU should be instructed to state that they
18 were awaiting instructions and in the meantime ask
19 numerous questions concerning the latest American
20 proposal and request further reconsideration on the
21 part of the United States. The Japanese reply should
22 put the blame for discontinuance of the negotiations
23 on the United States, but Japan should not
24

25 WW-30. b. Ex. 2949, T. 26054.
c. T. 26307; T. 26319.
d. T. 26297-9.

1 give the impression that the negotiations would be
2 broken off. The witness insisted that this amended
3 draft, which was later typed out,^{e.} was never shown
4 to the accused and that it did not form the basis for
5 further Japanese actions.^{f.} Apart from the fact,
6 however, that this document embodied the ideas of
7 the one man who was next to the accused in charge of
8 negotiations,^{g.} all the evidence in this case clearly
9 shows that every step taken by Japan in the negotia-
10 tions from this day onwards was completely in accord-
11 ance with the measures set out in this document with
12 one exception. The exception is that the draft sup-
13 posed that Japan would make a reply to the United
14 States prior to the opening of hostilities. This
15 reply should put the blame for future discontinuance
16 of negotiations on the United States but should not
17 give the impression that Japan was going to break off
18 the negotiations. In reality, when the Japanese
19 reply was finally delivered, it was intended to be
20 Japan's last word and it was not delivered prior to,
21 but after, the opening of hostilities.

22
23 WW-31. The accused contends that after the
24 receipt of the United States' note of 26 November,

25 WW-30. e. Ex. 2975A, T. 26,322.

f. T. 26,300-2; T. 26,319.

g. T. 26,303, 26,319, 26,340.

1 it was clear to himself and to the other members of
2 the Liaison Conference that the United States was no
3 longer interested in any compromise and that the only
4 way open to Japan, which was now asked to give up the
5 gains of her years of sacrifice, was the way of self-
6 defense. He states that he considered resignation
7 but that he decided to stay on as he had still not
8 given up all hope that the United States would re-
9 consider and, if they would not, that he could only
10 agree that Japan must wage war.^{a.} Consequently, the
11 Liaison Conference during the afternoon of 27 November
12 unanimously decided to go to war,^{b.} a decision which
13 was still to be formally confirmed by the Imperial
14 Conference. With regard to the accused's defense
15 that he still hoped for reconsideration on the part
16 of the United States Government, it is pointed out
17 that no effort was made to convince the United States
18 Government that the Japanese Government considered the
19 note of 26 November as forcing war upon Japan. On
20 the contrary, the subsequent instructions to the
21 Ambassadors in Washington all aimed at giving the
22 United States the impression that the negotiations
23 would not be broken off and that war was not

24 WW-31. a. T. 35706-10.

25 b. T. 35710, T. 36359.

1 imminent.^{c.} The Ambassadors were indeed ordered to
2 ask in general vague terms reconsideration on the
3 part of the United States, but the bare contents of
4 the telegrams and telephone conversations on this
5 subject^{d.} would make it transparently clear, even if
6 it were not expressly stated in YAMAMOTO's own outline
7 for the future negotiations, that this was only another
8 attempt to disguise Japan's real intentions. The
9 statement of the accused that he hoped for and, in
10 fact, attempted to reach a diplomatic settlement after
11 27 November^{e.} cannot be considered other than as a
12 deliberate falsehood. The accused argues that the
13 prosecution's contention, that from 27 November the
14 negotiations were continued because Japan was not
15 ready to open hostilities, cannot be true because the
16 difficulty facing him was always not to gain time but
17 to restrain the military authorities from opening
18 hostilities immediately.^{e.} He omits to state, however,
19 that war cannot be started from one day to another and
20

21 ~~WW-31~~. c. Ex. 1191, T. 10430; Ex. 1193, T. 10442;
22 Ex. 1194, T. 10444; Ex. 1195, T. 10449;
23 Ex. 1200, T. 10473; Ex. 1208, T. 10516;
24 Ex. 1212, T. 10526; Ex. 1213, T. 10528;
25 Ex. 2951, T. 26059.
WW-31. d. Ex. 1194, T. 10444; Ex. 1195, T. 10449.
Ex. 1200, T. 10473; Ex. 2951, T. 26059.
WW-31. e. T. 35713.

1 that long before this time it had been decided that if
 2 hostilities were to be opened it would be on 8 December
 3 1941, not earlier and not later. ^{f.} Until that date
 4 the negotiations had to continue and were continued.

5 WW-32. Immediately after the receipt of
 6 the American reply of 26 November, a beginning was
 7 made with the drafting of the final note, which was
 8 completed except for the last part, containing the
 9 notice of the termination of negotiations, by

10 ^{a.} 30 November. On 28 November the cabinet approved

11 the decision of the Liaison Conference of the previous

12 day to go to war. ^{b.} The same day the cabinet decided

13 to put the newspapers on a wartime basis for the

14 fulfilment of their national mission as an organ of

15 the state, ^{c.} and to set up a new secret committee,

16 the sixty committee, within the cabinet under the

17 chairmanship of the president of the planning board

18 to draw up the plans for the economic exploitation of

19 the southern regions which were now to be occupied. ^{d.}

20 On 29 November, the senior statesmen were called

21 together to receive such information as the govern-

22 ment was prepared to disclose, ^{e.} and the accused

24 WW-311 f. Ex. 809, T. 10347-9.

25 WW-32. a. T. 26308-9.

b. T. 35911.

c. Ex. 1192, T. 10438.

d. Ex. 1331, T. 11944.

e. Ex. 1196, T. 10452;

T. 29260, T. 29285;

T. 29307.

1 explained the breakdown of the Japanese-American
 2 negotiations. ^{f.} Later, the elder statesmen reported
 3 their views to the Emperor. ^{g.} Finally, on 1 December,
 4 the Imperial Conference was called to give formal
 5 sanction to the decision to go to war with the United
 6 States, Great Britain, and the Netherlands. ^{h.} On
 7 this occasion again the accused explained how the
 8 negotiations had failed. ^{i.}

9 WW-33. On the basis of the Imperial Con-
 10 ference decision of 5 November, the Liaison Conference
 11 had decided on 13 November that if war was inevitable,
 12 Germany and Italy would be approached immediately to
 13 insure their participation in the war against the
 14 United States and to conclude a "no separate peace"
 15 treaty with them. ^{a.} Soon after this the Japanese
 16 General Staff submitted a request along these lines
 17 to the German Military Attache and on 21 November, the
 18 German Foreign Minister sent instructions to the
 19 effect that Germany was prepared to enter into a "com-
 20 mon war" agreement with Japan. ^{b.} On 28 November, the
 21 German Foreign Minister once again stressed Germany's
 22 willingness to fight by the side of Japan to the
 23

24 ~~WW-32.~~ f. T. 29308; h. Ex. 588, T. 11941.
 25 g. Ex. 1196, T. 10452. i. Ex. 2955, T. 26074.
 WW-33. a. Ex. 878, T. 8994; Ex. 1169, T. 10333, T. 36344.
 b. T. 24643-7; Ex. 601, T. 6637; Ex. 602, T. 6639.

1 accused OSHIMA, who immediately informed the accused
2 TOGO.^{c.} On 30 November, the latter replied to OSHIMA
3 that the negotiations with the United States had now
4 failed and that he should immediately inform Hitler
5 and Ribbentrop and tell them that war might break out
6 any moment. The United States had demanded that
7 Japan refrain from assisting Germany and Italy in
8 case the United States became involved in the European
9 war and this clause alone made any agreement impossible,
10 as the Tripartite Pact had been the cornerstone of
11 Japan's policy throughout the negotiations. Japan
12 would now move southward but did not intend to relax
13 pressure against the Soviet Union and would fight
14 that country in case she joined with the United States
15 and Great Britain in hostilities against Japan.^{d.} On
16 2 December, OSHIMA replied that he had met Ribbentrop
17 for preliminary discussions and that strenuous efforts
18 were made to contact Hitler.^{e.} The same day the
19 accused instructed his consular and diplomatic estab-
20 lishments on the American continent to start burning
21 all but two of their telegraphic codes, as well as all
22 secret documents, in preparation for an emergency
23 situation.^{f.} On 3 December, the Japanese Ambassador
24

25 WW-33. c. Ex. 603A, T. 6643.

c. Ex. 802, T. 7974; Ex. 1199, T. 10469.

e. Ex. 605, T. 6654.

f. Ex. 1222, T. 10524.

1 in Rome reported that in accordance with the accused's
2 instructions of 30 November he had met Mussolini who
3 had assured him that Italy would declare war on the
4 United States when Japan did and was willing to join
5 the "no separate peace" treaty.^{g.} On 4 December, the
6 accused instructed the authorities in Manchukuo that
7 it had been decided that Manchukuo would for the time
8 being not participate in the war but would regard
9 Great Britain, the United States, and the Netherlands
10 as de facto enemies.^{h.} The same decision was taken
11 as regards the Chinese puppet Government of Wang Ching-
12 wei.^{i.} Final instructions covering the "no separate
13 peace" treaty were sent by the accused to OSHIMA on
14 6 December,^{j.} in this manner completing all diplomatic
15 preparations for Japan's alliance in the coming war.
16

17 WW-34. g. Ex. 606, T. 6656; Ex. 607, T. 6660.

18 h. Ex. 1214, T. 10530.

19 i. Ex. 1219, T. 10538.

20 j. Ex. 805, T. 7981.

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WW-34. After the Imperial Conference of
1 December, final meetings of the Liaison Conference
were held on 2, 3, 4, and 6 December^{a.} to make last
arrangements for the war and to discuss the formal
notification which was to be given of the opening of
hostilities.^{b.} Much controversy has arisen among the
defendants themselves as to what exactly transpired at
these meetings. The exact details of this controversy
need not concern us here, since the final outcome
adopted in accordance with the proposal of this accused
was to give a formal notice in an ambiguous form to be
delivered immediately prior to the attack. As to the
form of this notification, this accused must bear the
prime responsibility. It may be true that the text of
the final note was approved by the Liaison Conference
and that its contents were generally reported to the
cabinet without opposition.^{c.} However, the record of
this trial is void of any suggestion that, had the
accused submitted a differently worded document, it
would have encountered serious opposition from either
the Liaison Conference or the cabinet. The witness
YAMAMOTO stated that in one of his first drafts he
inserted a clause reserving freedom of action for

(WW-34. a. T. 26,145.

b. T. 26,093-7; T. 35,714.

c. Ex. 1207A, T. 10,509; T. 26,096; T. 35,721.)

1 Japan, but that this was later omitted. He further
2 stated that he continually discussed the proposed text
3 with the accused. ^{d.} The accused OKA and the witness
4 SHIBA testified that when the Navy Ministry, prior to
5 the Liaison Conferences in which the final note was
6 discussed and approved, received a draft copy from
7 the Foreign Office, there was no mention in it of
8 any reservation or war declaration on the part of
9 Japan. ^{e.} OKA further testified that he proposed to the
10 Foreign Ministry that a reservation regarding freedom
11 of action be inserted and had asked at the Liaison
12 Conference when the final note was discussed why this
13 was not done. He then was told by YAMAMOTO that in
14 the circumstances this was unnecessary. ^{f.} YAMAMOTO, on
15 his part, denies this, ^{g.} but does not deny that in the
16 Foreign Ministry draft which was sent to or discussed
17 with other ministries any reservation as to freedom of
18 action was included nor, indeed, that this draft was,
19 except for details, in any way different from the final
20 note as later sent to the United States. ^{h.} The accused
21 himself does not deny the fact that the final text was
22 essentially the same as the text drawn up under his

24 (WW-34. d. T. 26,314-6.
25 e. T. 33,400-2; T. 33,321-2.
f. T. 33,400-2.
g. T. 35,563.
h. T. 26,096.)

1 supervision and that he, who, as Foreign Minister, was
2 responsible for taking the necessary action in accordance
3 with international law approved it. ^{i.} Even though the
4 other government members agreed to the text submitted
5 by him, it was not within their competence to decide
6 if this notification was sufficient under international
7 law. The assertions of the accused that this final
8 note was tantamount to a declaration of war, or even
9 that he so considered it, because it was a rejection
10 of the American note of 26 November, which was unques-
11 tionably an ultimatum, must fail. ^{j.} In the first place,
12 this was admitted by the Japanese themselves. ^{k.} In the
13 second place, his fellow accused TOJO clearly stated
14 that it was not until this trial that he knew that the
15 United States Government, through interception of radio
16 messages, had knowledge of the fact that Japan's
17 proposal of 20 November was considered by Japan as final
18 or that Japan regarded the American note of 26 November
19 as an ultimatum. ^{l.} Lastly remains the simple question,
20 that if it was really intended, using the witness
21 YAMAMOTO's own language, ^{m.} to let the United States
22 perceive Japan's real intentions, then why not state
23 (WW-34. i. T. 35,721, T. 36,100.
24 j. T. 35,719-20.
25 k. Ex. 1270A, T. 11,313.
l. T. 36,360-1.
m. Ex. 2975, T. 26,297; Ex. 2975A, T. 26,324.)

1 clearly and unequivocally that Japan would now resort
2 to war? In the light of these facts, the German
3 Ambassador's information concerning the discussions in
4 the Foreign Ministry about the notification to the
5 United States Government^{n.} may well be given credit in
6 spite of the assertions of the accused.^{p.}

7 WW-35. The exact time on which the final
8 notification to the United States should be delivered
9 was left by the Liaison Conference to the decision of
10 the accused, together with the High Command. This was
11 done and the time for delivery first agreed on was
12 12:30 p.m., Washington time, and was later changed to
13 1:00 p.m., Washington time.^{a.} The evidence on behalf
14 of the accused points out that he had no idea as to
15 how long before the opening of hostilities this would
16 be but that he agreed after being assured that it would
17 be sufficiently in advance.^{a.} To this, it can only be
18 stated that it was his responsibility as one of the
19 three persons appointed by the Liaison Conference to
20 decide upon this matter, and that -- if he agreed with-
21 out knowing the time which would elapse between the
22 serving of the notification and the attack -- he did
23 not discharge himself of this responsibility by simply

24 (WW-34. n. Ex. 608, T. 6662.

p. T. 35,736.

25 WW-35. a. T. 26,097, T. 26,126-133, T. 35,716, .

T. 35,721-2.)

~~accepting the assurances of others that this time~~

1 would be sufficient. Apart from the fact, however,
2 that the time for the delivery of the final note was
3 a matter which could not be sensibly discussed without
4 knowledge of the time and place of the attack, there
5 is other evidence to show that the accused was better
6 informed than he desires us to believe. Immediately
7 after the first news of the success of the attack on
8 Pearl Harbor had been received, he was informed of this
9 by the accused OKA by telephone at four o'clock in the
10 morning, ^{b.} and there is no evidence to show that this
11 telephone call one hour after the time set for the deliv-
12 ery of the note evoked any surprise. Then the accused
13 TOJO stated that when the accused came to see him with
14 President Roosevelt's message, he mentioned that it
15 was already too late because at that very same time
16 the Japanese planes were taking off from the carriers. ^{c.}
17 Finally, the Foreign Ministry acted for the military
18 authorities in obtaining military information regarding
19 the Pacific area in general and Pearl Harbor in par-
20 ticular just before the outbreak of war. Specific
21 details about barrage balloons and torpedo nets, as
22 well as the number of American warships in Pearl Harbor
23
24 (WW-35. b. Ex. 3647; T. 35,927.
25 c. T. 36,411.)

1 from day to day were cabled to the Foreign Ministry.^{d.}
2 The defense has introduced evidence to show that this
3 information, although generally collected by the
4 Foreign Ministry through the espionage activities of
5 its organization abroad, did not actually pass through
6 the hands of the accused himself.^{e.} It was admitted,
7 however, that this information would pass through the
8 hands of the bureau chiefs, the highest officials in
9 the ministry under the minister and the vice-minister.^{e.}
10 It is the contention of the prosecution that it does
11 not make any difference whatsoever as to the guilt
12 or innocence of this accused whether he did or did not
13 know in advance of the exact hour and place of the
14 initial attack. It is sufficient that he did know
15 there was to be an attack within a short time after the
16 hour fixed for the delivery of the note.

17
18 WW-36. With regard to the delivery of the
19 final note and the reasons why it was not delivered at
20 the time decided upon by the Liaison Conference, much
21 evidence has been introduced which it is considered
22 unnecessary to review in detail here. It is pointed
23 out, however, that the last part of the final note was

24 (WW-35. d. Ex. 1256, T. 11,209; Ex. 1257, T. 11,210;
25 Ex. 1258, T. 11,211; Ex. 1261, T. 11,216;
Ex. 1262, T. 11,220; Ex. 1263, T. 11,221.
Ex. 1264, T. 11,224; Ex. 1330, T. 11,938.
e. T. 26,106-7; T. 26,202; T. 35,941.)

1 delayed by the Foreign Ministry in Tokyo for about 15
2 ^{a.} hours. If after that everything had gone exactly
3 according to plan, the note might have been delivered
4 at the arranged time, but the danger that things might
5 not develop as was intended was not considered, in spite
6 of the repeatedly-expressed strong feelings of the
7 Emperor on this subject. ^{b.} The exact role played by the
8 defendant TOGO in the drafting and delivery of the
9 final note has been fully discussed in paragraphs
10 G-134-137, G-141-143, G-146, and G-152 of the General
11 Summary.

12 WW-37. On 6 December, Washington time,
13 President Roosevelt decided to make one more effort to
14 avert war by sending a personal appeal to the Japanese
15 Emperor. ^{a.} This telegram arrived in Tokyo at noon
16 December 7, Tokyo time. ^{b.} The circumstances under which
17 the delivery of the telegram to Ambassador Grew was
18 delayed until 2230 that evening have been dealt with
19 elsewhere and will not be repeated here. The defense
20 has introduced evidence to prove that the accused and
21 the Foreign Ministry authorities had no hand in this
22 delay and that the accused did not know of the contents
23 of President Roosevelt's personal message before he
24

25 (WW-36. a. T. 26,190.

b. T. 36,390.

WW-37. a. Ex. 1221, T. 10,542.

b. Ex. 1222, T. 10,544.)

received it officially from Ambassador Grew.^{c.} In view
1 of his refusal to consider the proposition made by
2 NOMURA and KURUSU to the same effect some ten days
3 earlier or even to report this proposition to the
4 Emperor, when there still was time, it makes no dif-
5 ference whether the accused knew or not. The appeal
6 by the President would not have been acceded to or even
7 acted upon by him even if it had not been received too
8 late. That TOGO fully knew of this message long before
9 its delivery to him by Grew has been fully shown in
10 paragraphs G-138-139 of the General Summary and para-
11 graph JJ-81 of the KIDO Summation, to which the Tri-
12 bunal is respectfully referred. When Ambassador Grew
13 finally received the message he immediately requested
14 an interview with the accused and met him at 0030 on
15 8 December. After some hesitation, the accused agreed
16 at least to present the message to the Emperor.^{d.} By
17 this time, he knew that the Japanese attack was bound
18 to take place within a few hours, but made no mention
19 of this to the American Ambassador. He did, however,
20 call on both KIDO and TOJO, who both agreed that he
21 should see the Emperor and both agreed to the evasive
22 reply which the accused had drawn up.^{e.} The events of
23

25 (WW-37. c. T. 26,166-70.

d. Ex. 1224, T. 10,551.

e. T. 35,727-9; 35,828; 880-2; 35,900-1.)

that night have been discussed in detail in the cross-
1 examination of this accused^{f.} and are also clearly set
2 out in exhibit 3647,^{g.} so they will not be repeated here.
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(WW-37. f. T. 35,825-9; T. 35,869-923.
g. T. 35,923-31.)

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1 WW-38. As it had previously been planned that
2 the accused would receive the American and British
3 Ambassadors after the outbreak of war to notify them of
4 Japan's final note,^{a.} Ambassador Gres received a request
5 to visit the accused in the early morning of 8 December.
6 When he arrived, he was handed a copy of the final note
7 and informed of the reply of the Emperor to President
8 Roosevelt's personal message as drawn up by the accused.
9 No mention whatsoever was made of Japan's attack and of
10 war having broken out.^{b.} The accused contends that he
11 ~~thought~~^{c.} that Grew was aware of this, but this is
12 patently untrue as must be clear from the contents of
13 the conversation between them and the accused's answers
14 under cross-examination.^{d.} It is only confirmed by the
15 fact that later in the morning a Foreign Ministry
16 official called at the United States Embassy and read
17 the official announcement that hostilities had been
18 opened.^{e.} Immediately after Ambassador Grew had left,
19 the British Ambassador was received and was also handed
20 a copy of the final note. Again no mention was made of
21 war having broken out until an official declaration of
22 war was delivered later in the day.^{f.} This was the first

24 (WW-38. a. T. 26172-3.
25 b. Ex. 1224, T. 10551; Ex. 3647, T. 35923-31.
 c. T. 35942-6.
 d. Ex. 3647, T. 35923; T. 35942-6.
 e. Ex. 1224, T. 10551.
 f. Ex. 1236, T. 10673.)

1 notice to the British Government that Japan was in any
2 way contemplating attacking Great Britain. The defense
3 of this accused is that as the United States and Great
4 Britain were closely co-operating and the United States
5 was representing Great Britain in the negotiations with
6 Japan, it had not been considered necessary to notify
7 the British Government either of a breaking off of the
8 negotiations or of a declaration of war,^{g.} it being
9 sufficient to terminate the negotiations with the
10 United States in Washington about an hour before the
11 attacks on British territory in South Asia were to be
12 started.^{h.} The third country against which hostilities
13 were opened on 8 December, the Netherlands, was never
14 notified at all, either before or after the outbreak of
15 war. The accused's contention that no hostilities were
16 contemplated and that it was intended to avoid entering
17 into belligerency with the Netherlands need not even be
18 discussed here.^{i.} The fact that this country was not
19 notified was not due to any oversight or delay, but
20 simply because it did not fit with Japan's strategic
21 plans.^{j.} In the light of these actions of the accused,
22 his assertions that he at all times made efforts to com-
23 ply with international law can only be disregarded.

24 (WW-38. g. Ex. 1207-A, T. 10509, T. 35731-2.
25 h. T. 35848-52.
i. T. 35752.
j. Ex. 1241, T. 10690.)

WW-39. In the early morning of 8 December,
1 the declaration of war against the United States and
2 Great Britain was approved by the Privy Council. The
3 accused was present and gave the necessary explanations.^a
4 At noon the Imperial rescript declaring war and signed
5 by all members of the Cabinet was issued.^b The same
6 day the accused OSHIMA informed the accused that Germany
7 would issue an official declaration of war on the
8 United States at once.^c On 10 December, the Privy
9 Council approved the formal conclusion of the proposed
10 "no separate peace" Pact which provided for a joint
11 prosecution of the war by Japan, Germany, and Italy until
12 complete victory was attained, while after victory had
13 been won, the three countries would collaborate in
14 establishing a new world order. The accused once again
15 spoke for the government.^d The Pact itself was signed
16 the next day in Berlin.^e

18 WW-40. Now that war had broken out the scope
19 of the accused's duties as Foreign Minister was consider-
20 ably restricted. However, he continued to support Japan's
21 plans and actions with the development of her initial
22 conquests. His statements to the Japanese Diet on
23

24 (WW-39. a. Ex. 1241, T. 10690.
25 b. Ex. 1240, T. 10685.
c. Ex. 1242, T. 10701.
d. Ex. 1266, T. 11303; Ex. 1267, T. 11305.
e. Ex. 51.)

a.

22 January 1942 cannot leave room for doubt in this regard. The prosecution does not find it necessary to discuss the allegations made in the accused's testimony concerning his attitude towards the conquered nations in East Asia.

b.

The assertions of the accused concerning his attitude on this subject are no different from what his fellow accused and the defense in general will have us believe. As evidence of his different position on this subject, he points out that he resigned from the cabinet on 1 September 1942 because he refused to agree to the plan to set up the Greater East Asia Ministry.

c.

However, his testimony concerning the reasons for his opposition shows that it was not Japan's war aims which he opposed but the method by which Japan's conquests were to be secured. The proposed measure would in his opinion antagonize the population of the regions dominated by Japan; in the middle of the war administrative changes should be avoided as this would distract from the urgent prosecution of the war; finally he did not wish to see the authority of the Foreign Ministry restricted even more than was already the case due to wartime conditions.

d.

This is confirmed by defense witness YAMAMOTO, who

(WW-40. a. Ex. 1338-A, T. 12027; Ex. 1271, T. 11339.

b. T. 35746-56.

c. T. 35755.

d. T. 35758-9.

1 testified that the Foreign Ministry was not opposed to
2 the purpose for which the Greater East Asia Ministry
3 was to be set up but that it was thought that it was
4 wrong to create a separate ministry instead of entrust-
5 ing all functions to the Foreign Ministry.^{e.} The actual
6 circumstances surrounding the resignation of the accused
7 will not be discussed here. It is pointed out, however,
8 that if it were true, as the accused will have us be-
9 lieve, that he strongly desired the overthrow of the
10 TOJO Cabinet, it was entirely within his power to do so.
11 His statement that he finally decided to resign person-
12 ally, so as not to cause annoyance to the Emperor,^{f.}
13 can hardly carry much weight in view of all that had
14 gone on before.

15 WW-41. When the accused rejoined the Govern-
16 ment in April, 1945,^{a.} the war had turned against Japan.
17 Germany was on the verge of collapse and it was clear
18 that Japan would lose the war. The only question which
19 could remain at the time was whether Japan should try to
20 seek for peace or whether she would continue the war to
21 the bitter end. The defense asserts that when the
22 accused joined the cabinet he had chosen the first
23 course and agreed to enter the cabinet on the under-
24

25 WW-40. e. T. 18047-52.

f. T. 35761.

WW-41. a. Ex. 127, T. 790.)

standing that this would be done. ^{b.} Even if this were
 1 so it would prove nothing in his favor, but is not
 2 correct. The evidence in this case does not show that
 3 the Japanese Government made any attempts for peace un-
 4 til ^{c.} the beginning of July, 1945. Previous to that
 5 Japan was still resolved to fight on and in the Imperial
 6 Conference of 8 June 1945, it was officially decided
 7 that the war would be continued to the bitter end, ^{d.} a
 8 fact which was partially admitted by the accused himself, ^{e.}
 9 although in his direct testimony he completely ignored
 10 it. ^{f.} It was only at the end of June that the decision
 11 of that Imperial Conference was reversed and it was
 12 agreed to ask for peace. ^{g.}

14 WW-42. Not until 12 July 1945 did the accused
 15 instruct his Ambassador in Moscow to inform the Russian
 16 Government that Japan was desirous of terminating the
 17 war. ^{a.} The peace which Japan was seeking was, of course,
 18 a peace on terms. The accused made it very clear that
 19 Japan would rather fight to the bitter end than sur-
 20 render unconditionally. What the conditions would be
 21 it was difficult to decide and, therefore, it had been

23 (~~WW-41~~) ^{b.} Ex. 3640-4A, T. 35597; Ex. 3641; T. 35596;

Ex. 3642. T. 35605, T. 35779-80.

24 c. Ex. 2696, 2697, T. 23587.

d. T. 31146.

e. T. 36110-11.

f. T. 35783.

g. T. 31161-3.

25 WW-42. a. Ex. 2696, 2697, T. 23587.)

1 decided to send Prince KONOYE to Russia for direct
2 personal negotiations. ^{b.} This plan, however, came to
3 nothing as very shortly thereafter the allies issued
4 the Potsdam Declaration, asking for Japan's surrender. ^{c.}
5 As a result of this, as well as of the Russian entry
6 into the war and the prospective destruction of the
7 Japanese homeland, it was finally decided to accept the
8 Potsdam Declaration on 14 August 1945. ^{d.} Three days
9 later the Cabinet, of which the accused was a member,
10 resigned and he left office for the last time. ^{e.}

11 WW-43. Concerning the countless crimes com-
12 mitted against prisoners of war and civilians of enemy
13 countries under the power of Japan, the accused takes
14 the position that for this matter no responsibility can
15 devolve upon him, because the care and supervision of
16 these prisoners and the general administration of the
17 countries occupied by Japan were entrusted to other
18 government departments, the only duties of the Foreign
19 Ministry in connection with this subject being to
20 function as a Liaison and transmission agency vis-a-vis
21 the outside world. His claims amount in substance to
22 this: whether he did or did not know of the widespread
23 murder, starvation, and ill-treatment to which the
24

25 (WW-42. b. Ex. 2699, Ex. 2700, Ex. 2701, T. 23588.

c. Ex. 2, T. 109.

d. Ex. 5, T. 109.

e. Ex. 127, T. 790.)

1 nationals of enemy countries were subjected by Japan
2 was no matter which concerned him; whether the solemn
3 assurance given by him on behalf of the Government of
4 Japan to the Governments of the Allied countries were
5 consistently and flagrantly violated was not his
6 responsibility; and whether the actual policies of the
7 Japanese Government were openly and directly in contra-
8 diction to Japan's treaty obligations and solemn pledges
9 was outside the scope of his duties. ^{a.} The falseness
10 of these claims must be immediately apparent. As a
11 member of the government and a cabinet minister alone,
12 the accused would be responsible for the general
13 policies of his government even if he, as Foreign
14 Minister, had had no further direct connection with this
15 matter. But as it was, his responsibility is a far
16 greater one. On the one hand, it was he who gave the
17 assurances on the part of Japan -- which would assist in
18 ensuring the safety and good treatment of Japanese in
19 enemy hands, a matter coming under the responsibility of
20 the Foreign Minister ^{b.} -- while on the other hand he, by
21 giving evasive replies to Allied protests and inquiries,
22 by denying the facts brought thereby to his attention,
23 or by simply ignoring them and not replying at all,

25 (WW-43. a. T. 35768-76.

b. Ex. 76, T. 684; Ex. 3845, T. 38174;
T. 27133; T. 35775.)

1 condoned and assisted the commission of the crimes now
2 charged against him. The responsibilities of the
3 Foreign Ministry in this matter are clearly set out in
4 exhibit 3845,^{c.} giving the regulations for the
5 establishment of a new bureau within the Ministry to
6 attend to the business regarding Japanese nationals in
7 enemy countries and enemy nationals under the juris-
8 diction of Japan. It is true that this bureau did not
9 commence its duties until 1 December 1942, but the same
10 functions which it was charged with were previously
11 handled by the Treaty Bureau of the Foreign Ministry.^{d.}
12 The mere fact that for the proper discharge of his
13 duties the accused had to seek the co-operation of
14 other government departments in collecting the infor-
15 mation, or the granting of permission for visits and
16 inspections necessary for the fulfillment of Japan's
17 international obligations is certainly no defense which
18 is tenable.^{e.} It is contended by the prosecution that
19 apart from his responsibilities as a Cabinet Minister
20 for Japan's general policies, the Foreign Minister is
21 directly responsible for ensuring that in the treatment
22 of enemy subjects under the power of Japan, Japan's
23 international obligations are fulfilled and that in the

24
25 (WW-43. c. T. 38174.
d. T. 27133; T. 27140; T. 27147.
e. T. 35771.)

1 case of the accused the responsibility is double heavy
2 because it was he who had given for Japan the solemn
3 assurances which were never kept or intended to be kept.

4 WW-44. Although nowhere directly stated, it
5 is inferred in the defense of this accused that, apart
6 from not being responsible in any case, he was also un-
7 aware of the actual policy which was being followed and
8 of the crimes which were committed.^{a.} We request that
9 any such contention be rejected outright by this Tri-
10 bunal. In the general summation on this subject, it
11 has been clearly demonstrated that even if the accused
12 did not know or try to obtain this information directly
13 from Japanese sources, he was well informed of all that
14 happened through the many Allied protests which were
15 addressed to him and the Allied broadcasts which came to
16 his notice, as he himself admits.^{b.} The details of this
17 have been fully set out in Part VI of Appendix B to the
18 general summation and will not be repeated here. It is
19 pointed out, however, that his assertions that during
20 his first term of office the question concerning ill-
21 treatment of prisoners of war did hardly arise is not
22 based on fact.^{c.} As early as 14 February 1942, for
23 instance, the United States lodged protests against the
24

25 (WW-44. a. T. 27152-3; T. 35770-6.

b. T. 35771.

c. T. 35771.)

1 treatment by Japan of American nationals in the Philip-
 2 pines, ^{d.} to which the accused replied by a simple
 3 denial, ^{e.} a denial which was easy to make as he also
 4 refused to allow any third party the right to inspect
 5 prisoners of war and internee camps in occupied terri-
 6 tories, notwithstanding the strong demands made in this
 7 respect by the United States and other countries. ^{f.} The
 8 reason given by him was that the Japanese Government
 9 had established the principles of not recognizing any
 10 representation of interests in occupied territories and
 11 that, therefore, ^{g.} no visits would be allowed to camps in
 12 those regions. The accused himself does not deny that
 13 when he resumed office in April, 1945, the protests
 14 had grown enormously in number and remained for a great
 15 part unanswered. ^{h.} Protests and repeated protests,
 16 answers to which had not been given for many months or
 17 even years, came in almost daily. ^{i.} A particular case

- 19 (WW-44. d. Ex. 1470, T. 12789.
 20 e. Ex. 1472, T. 12791.
 21 f. Ex. 1474, T. 12797; Ex. 1475, T. 12795;
 22 Ex. 2016-A, T. 14729-30; Ex. 2016 (parts 1-7),
 23 T. 14733.
 24 g. Ex. 2016-A, T. 14730; Ex. 2016 (parts 8-9),
 25 T. 14733.
 h. T. 35772.
 i. Ex. 1486, T. 12817; Ex. 1487, T. 12818; Ex.
 2016-A, T. 14744-6; Ex. 2016 (parts 61, 62,
 63, 65, 67, 70, 71, 73), T. 14733; Ex. 2022
 (parts 19, 21, 22), T. 14784-90; Ex. 2025-A,
 T. 14835; Ex. 2025 (parts 8-9), T. 14833;
 Ex. 2052, T. 15014; Ex. 2053, T. 15016;
 Ex. 2059, T. 15051; Ex. 2061, T. 15053;
 Ex. 2064, T. 15062; Ex. 2083, T. 15102;
 Ex. 2084, T. 15103; Ex. 2103, T. 15178;
 Ex. 2107, T. 15200; Ex. 2108, T. 15202.)

1 in point concerned the fate of the American personnel
2 captured on Wake Island. The first protests and in-
3 quiries concerning the matter had been addressed to the
4 accused during his first term as Foreign Minister. ^{j.} No
5 satisfactory explanation having been given yet in 1945 --
6 and indeed none being possible -- it was brought to the
7 accused's attention that by now the Japanese authorities
8 had had three years to inform themselves on the matter
9 and comply with their obligations. ^{k.} Far from showing
10 any improvement the situation deteriorated steadily
11 during the last months of the war. On 14 June 1945,
12 the Swiss Minister went so far as to address the Foreign
13 Ministry in the strongest of terms, stating that the
14 Allied Governments insisted on replies to their demands
15 for information about prisoners or for amelioration of
16 their conditions, but that in spite of the many requests
17 to the Minister for Foreign Affairs he, the Swiss
18 Minister, had not received any reply which would enable
19 him to transmit any information. The many protests made
20 by him remained unanswered or received unsatisfactory
21 answers. The British Government insisted on knowing if
22 the Japanese Government had modified its policy concernin
23
24 (WW-44. j. Ex. 2034, T. 14932; Ex. 2039, T. 15001;
Ex. 2040, T. 15002.
25 k. Ex. 2052, T. 15014; Ex. 2053, T. 15016.)

1 the treatment of prisoners of war. He, the Swiss
2 Minister, would be extremely embarrassed to reply, but
3 the Foreign Ministry knew as well as he that the situ-
4 ation had perhaps never been as bad as during the last
5 six months.
6

7 Further details are not here necessary. The
8 policy of the Japanese Government was never changed un-
9 til after the final surrender. The accused knew what
10 the policy was and what its results were. He made no
11 efforts to change the policy, but, on the contrary, took
12 an important part in its execution, thereby condoning
13 and approving it.

14 WW-45. It is respectfully submitted that by
15 the evidence in this trial the facts alleged by the
16 prosecution in relation to the accused TOGO have been
17 established and that the charges made against him in
18 the Indictment have been substantiated.

19 (A portion of the summation, which
20 was not read, is as follows:)

21 As regards this part of the prosecution's
22 summation, the evidence relating more particularly to
23 each of the Counts in the Indictment, under which the
24 accused is charged, has been discussed in the paragraphs
25 enumerated below. It must be borne in mind, however,
(WW-44. 1. Ex. 2016, part 70, T. 14734.)

1 that in order to avoid needless repetition facts of more
2 general application, which have been dealt with extens-
3 ively in the general parts of the prosecution's summation,
4 have on the whole been omitted or are most briefly re-
5 ferred to in the above.

6 Count 1: Paragraphs 2-42.

7 Count 2: Paragraphs 4, 7, 25, 33, 40.

8 Count 3: Paragraphs 4, 6, 7, 15-18, 21-26,
9 33, 40.

10 Count 4: Paragraphs 2-42.

11 Count 5: Paragraphs 2-42 (particularly 5-7,
12 10, 14-18, 23-24, 27, 33, 39, 40)

13 Count 6: Paragraphs 4, 6, 7, 15-18, 21-26,
14 33, 40.

15 Counts 7-14: Paragraphs 12-42.

16 Counts 15, 16: Paragraphs 15-18, 23-25, 28,
17 32, 40.

18 Count 17: Paragraphs 4, 5, 9, 10, 14, 33,
19 27, 40.

20 Counts 20-22 and 24: Paragraphs 32-39.

21 Count 26: Paragraph 9.

22 Count 27: Paragraphs 4, 7, 25, 33, 40.

23 Count 28: Paragraphs 6, 7, 15-18, 21-26, 33, 40.

24 Counts 29-32 and 34: Paragraphs 32-42.

25 Count 36: Paragraph 9.

Counts 37-43: Paragraphs 32-39.

Count 51: Paragraph 9.

Count 54 and 55: Paragraphs 43, 44.

- - -

MR. VOTE: Mr. Fixel will follow for the
prosecution.

THE PRESIDENT: Colonel Fixel.

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(The following portion of the summation, not read, is copied into the transcript as follows:)

TOJO, Hideki

I. CHARGES AGAINST TOJO.

XX-1. TOJO is charged in the Indictment under Counts 1-5, as a conspirator in a plan to secure military, naval, political and economic domination of East Asia, of the Pacific and Indian Oceans, and parts of China; in Counts 6-17, for planning and preparing a war of aggression and a war in violation of international law, treaties, agreements, and assurances against China, the United States of America, the United Kingdom, Australia, New Zealand, Canada, India, the Philippines, Netherlands, France, Thailand, U.S.S.R., and China; in Counts 18-26, for initiating a war of aggression and a war in violation of international law, etc., against China, the United States of America, the Philippines, the British Commonwealth of Nations, France, Thailand, the U.S.S.R., the Mongolian Peoples Republic; in Counts 27-36, for waging a war of aggression; in Counts 37-44, for conspiring, ordering, causing or permitting the murder and unlawful killing of members of military or naval forces and civilians of the U.S.A., Philippines, Britain,

1 Netherlands and Thailand; in Counts 48-52, for
2 unlawfully causing or permitting attacks on the
3 City of Changsha; the City of Hengyang; the Cities
4 of Kweilin and Liuchow; the territories of Mongolia
5 and the U.S.S.R.; in Counts 53-55, for conspiring to
6 violate the laws of war in reference to P.O.W. and
7 for recklessly failing to observe his legal duty
8 to take adequate steps to secure observance and
9 prevent breaches thereof.

10 - - -

11 MR. FIXEL: May it please the Tribunal,

12 II. TOJO'S MILITARY AND CIVIL POSITIONS.

13 (a) His duties on Army General Staff,

14 1931-1933.

15 XX-2. TOJO occupied positions of responsibility
16 which were directly connected with the acts, events,
17 and occurrences, which are charged as offenses in the
18 Indictment. On August 1, 1931, he became Chief of the
19 First Section of the Army General Staff, and remained
20 on the General Staff for upwards of two years. ^{a.} At
21 that time, NINOMIYA was Vice Chief of the General
22 Staff and TATEKAWA was Chief of the Second Section
23 of the General Staff. These two together with others

24 XX-2. a. T. 791
25

1 were conspirators in the March Incident, ^{b.} and
2 TATEKAWA was the person who was sent to Mukden by
3 the General Staff with specific instructions to
4 stop impulsive movements of the Kwantung Army prior
5 to the Mukden Incident and who failed to take any
6 action to do so after his arrival in Mukden, because,
7 as he later admitted, he did not desire to stop it. ^{c.}
8 As TOJO was in charge of army overseas operations
9 when the Mukden Incident occurred, and during the
10 subsequent seizure of Manchuria and the North China
11 provinces; the setting up of the Regency; and the
12 first use of force by Japan to gain its overseas
13 expansion, he must be charged with responsibility for
14 what took place, as the First Section, or Operations
15 Section, ^{d.} had charge of Japan's seizure of control
16 of Manchuria by the Kwantung Army during the period
17 following the Mukden Incident. Without TOJO's approval,
18 no military movements could have taken place in North
19 China or Manchuria and no supplies could have been
20 furnished with which to carry on military operations.
21 TOJO thus became a part of the conspiracy to extend
22 Japan's overseas control by using military force in
23 Manchuria.
24

25 XX-2. b. Ex. 179-F, T. 1927-8
" c. T. 2006; 2505-7
" d. Ex. 1983-A, T. 14,594

(b) His duties while Chief of Staff of
Kwantung Army.

XX-3. From 21 September 1935 when TOJO was made Commander of the Kwantung Police and Chief of the Police Affairs Section of the Kwantung Bureau^{a.} until 1 March 1937 when he was appointed Chief of Staff of the Kwantung Army, a position he held until May 30, 1938,^{b.} TOJO assisted in carrying out the overall purpose of Japan in controlling the political, economic and cultural life of Manchukuo. The record shows that in 1934, General TADA officially reported to the Commanding General of the Kwantung Army, that through an advisory system which he had set up, the Kwantung Army had gained complete control of the Manchukuoan Army as well as the local and central government in Manchukuo.^{c.} In view of the importance of the Kwantung Army in the conspiracy while TOJO was in charge of the Military Police and while Chief of Staff of the Kwantung Army in 1937-8, he aided and abetted the initiation of, and the waging of a war of aggression against China, in violation of international law.

XX-4. While he was Chief of Staff of the

XX-3. a. T. 791
" b. T. 793
" c. Ex. 3378-A: T. 32,357-72

1 Kwantung Army,^{a.} TOJO was openly referred to as one
 2 of the five members of the "Niki Sansuke",^{b.} a
 3 disagreeable expression used by the Japanese in
 4 referring to the five important Japanese figures in
 5 Manchuria.^{c.} It was during this time that the Marco
 6 Polo Bridge Incident broke out on 7 July 1937^{d.} and
 7 it was this event that precipitated the long China
 8 war. On 9 June 1937, almost a month before this
 9 Incident occurred, TOJO telegraphed the Vice War
 10 Minister and Vice Chief of General Staff that he was
 11 convinced that if Japan's military power permitted it,
 12 a blow should be struck at the Nanking regime.^{e.} TOJO's
 13 explanation of his action in sending this telegram
 14 shows his utter contempt for upholding the integrity
 15 of agreements entered into by Japan. It is his claim
 16 that the underlying reason for making the recommendation
 17 to strike a blow at China, was to relieve the tense
 18 situation resulting from the menace of the Chinese
 19 Communist Party which publicly professed to fight
 20 against Japan, and to protect the Japanese residents
 21 in the area exposed to imminent danger, as assaults
 22 on their lives and properties were expected momentarily.
 23

24 XX-4. a. T. 793
 25 " b. T. 36,575
 " c. T. 36,576
 " d. T. 2326
 " e. Ex. 672, T. 7336-7, T. 22,026-7, T. 36,173-4

1 It was his belief, he said, that mere appeasement would
 2 only aggravate the Chinese and he therefore recommended
 3 armed force to settle the matter. His action was
 4 violative of the agreements of Japan under which
 5 international disputes would be settled by pacific
 6 means, and it also points to his future course in
 7 the negotiations with the United States, where he
 8 adopted a dogmatic, arbitrary attitude in reliance
 9 on military power.

10 LL-5. In the same telegram in which TOJO
 11 recommended striking a blow at the Nanking Regime,^{a.}
 12 he said that such action would rid Japan of the menace
 13 at its back, in view of military preparations against
 14 Soviet Russia. TOJO also had a plan, which he submitted
 15 to UMEZU, the then Vice Minister of War, in December
 16 1937, to strengthen aeronautical meteorological
 17 services in the Mongolian areas, "in preparation for
 18 a war with Soviet Russia,"^{b.} and from the "standpoint
 19 of the China Incident."^{c.} He also recommended extending
 20 the term of military service of troops in Manchuria.^{d.}
 21 He also advised the Vice Chief of the General Staff
 22 and the Vice War Minister of the scheduled establishment

24 LL-4. f. T. 36,174-5
 25 LL-5. a. Ex. 672, T. 7336-7
 " b. Ex. 719-1, T. 7560-1
 " c. T. 7562
 " d. T. 7563

1 of anti-Soviet fortifications to be made in 1938
 2 and 1939.^{e.} The witness TAKABE, who from 1935 through
 3 1938 held the office of Chief of the Administrative
 4 Section and then Chief of the Kwantung Territory
 5 Bureau,^{f.} testified that TOJO endeavored to carry
 6 out military measures directed against the Soviet
 7 Union, by using Kwantung Army Special Maneuvers in
 8 Manchukuo for that purpose.^{g.} Later, on cross-
 9 examination, TAKABE tried to explain that TOJO's
 10 actions were "offensive defensive" in nature but
 11 such a shift in his testimony is at variance with his
 12 previous assertion that the military measures taken
 13 were directed at the Soviet through the ruse of
 14 maneuvers. That such maneuvers were not merely
 15 "offensive defensive" as claimed, is clearly disproved
 16 from the plans for aggression against the U.S.S.R.,
 17 as shown by the evidence of witnesses and documents
 18 introduced by the prosecution.^{g.}

19 XX-6. That aggressive action against the
 20 Soviet was contemplated is also apparent from a
 21 recommendation made to the War Minister by General
 22 UEDA on 24 January 1938, Commander of the Kwantung
 23

24 XX-5. e. T. 7565
 " f. T. 31,841
 " g. Ex. 3371, T. 31,840-1
 25 " g. T. 7331-3; Ex. 696, T. 7452

1 Army, while TOJO was Chief of Staff, entitled "General
 2 Outline of Administration, a Guide to the Establishment
 3 of a new China",^{a.} in which it was said: "We shall
 4 respect the wishes and conventions of the native
 5 people exclusively, (meaning Chinese), and make them
 6 contribute to the preparation for the fast approaching
 7 war with Soviet Russia."^{b.} This indicates that the
 8 Chinese were to be coerced and forced to take part
 9 in the preparation for a war, whether they wanted to
 10 or not, thus arrogating to Japan, the control over a
 11 people who had a sovereignty of their own.

12 XX-7. TOJO knew or should have known of
 13 these plans to wage war, as he was a participant in
 14 the measures adopted to carry them out, while Chief
 15 of Staff of the Kwantung Army, and later as Vice
 16 War Minister and War Minister.

17 (c) TOJO's responsibility for acceleration
 18 of war program while Vice War Minister.

19 XX-8. From May 30, 1938, to July 22, 1940,
 20 on which date TOJO became War Minister,^{a.} TOJO held
 21 many important positions closely connected with the
 22 acceleration of Japan's preparation for war on a vast
 23 scale. On May 30, 1938 he became Vice War Minister,
 24

25 XX-6. a. Ex. 762, T. 36,753

" b. T. 36,753-4

XX-8. a. T. 795

a position he held until December 30, 1938. ^{b.} On 3
 1 June 1938, he became Chairman of the Army Munitions
 2 Council; ^{c.} on June 11, 1938, he became Japan's
 3 representative on the Japan-Manchukuoan Joint Economic
 4 Committee; ^{d.} on June 13, 1938, he became a member of
 5 the Central Air Defense Committee; ^{e.} on June 15, 1938,
 6 he became a member and Councillor of the Planning
 7 Board; ^{f.} on June 18, 1938, he became Chief of the
 8 Army Air Headquarters; ^{g.} on December 10, 1938, he
 9 became Inspector General of the Army Air Forces; ^{h.}
 10 and on February 24, 1940, he became Temporary Supreme
 11 War Councillor. ^{i.}
 12

13 XX-9. Nine months after the outbreak of
 14 the Marco Polo Incident, TOJO was appointed Vice War
 15 Minister, by KONOYE, after UMEZU demanded such
 16 appointment as a condition for the Army's consent to
 17 the selection of ITAGAKI as War Minister. ^{a.}
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19 XX-10. During TOJO's incumbency as Vice
 20 War Minister, while ITAGAKI was War Minister, the
 21 following major events took place in Japan having
 22 as their objective the consolidation of Japan's economic

23 XX-8. b. T. 30,253
 24 " c. T. 793
 25 " d. T. 793
 " e. T. 793
 " f. T. 793
 " g. T. 793
 " h. T. 794
 " i. T. 794

XX-9. a. T. 30,094

1 and military strength, for the purpose of achieving
2 world power by military force:

3 (a) compulsory military training was
4 introduced in Japanese schools, aimed at inspiring
5 a militaristic and ultra-nationalistic spirit in
6 the students; ^{a.}

7 (b) plans for national mobilization for
8 military purposes were put in operation with great
9 energy throughout the Japanese economy; ^{b.}

10 (c) a closer alliance with Germany was
11 urged; ^{c.} as well as discontinuance of participation
12 in the international enterprises carried out through
13 the League of Nations except Japan's mandatory rule
14 of the South Seas Islands; ^{d.}

15 (d) the Five Ministers' Conferences of
16 31 October 1938 provided in detail for Japanese
17 supervision of military affairs, foreign relations,
18 economic matters, religion and education in China. ^{e.}

19 XX-11. By reason of TOJO's concurrent
20 position of Chairman of the Army Munitions Council
21 during this particular period of regimentation for
22 war; ^{a.} and also his concurrent position as member

23
24 XX-10. a. T. 1102-3
" b. T. 8373; 8301; 8303; 8306,7; 8312; 8339-50;
25 " 8373; 8380; 8382-88.
" c. T. 6056-71
" d. T. 3642
" e. Ex. 3739, T. 37,315
XX-11. a. T. 793

1 and Councillor of the Planning Board,^{b.} whose purpose
 2 it was to make the universal plans for the economy
 3 of Japan according to the policies decided upon,^{c.}
 4 he must be held responsible for the planning of
 5 aggressive war. As Vice Minister of War he should
 6 be considered responsible for the undeclared war
 7 against the USSR and the Mongolian People's Republic
 8 in the Nomanghan area in 1939. Later, while Premier
 9 he stated that Japan aimed at the seizure of Soviet
 10 territory up to Lake Baikal.^{d.}

11 III. TOJO'S RELATION TO UNLAWFUL AERIAL
 12 BOMBARDMENT IN CHINA.

13 XX-12. Inasmuch as TOJO was Chief of the
 14 Army Air Headquarters for a period of time from
 15 June 18, 1938, and Inspector General of Army Air
 16 Forces from December 10, 1938 to 22 July 1940, he is
 17 chargeable with knowledge of, and responsibility for
 18 the "lengthening list of instances in which, as a
 19 result of air raids by the Japanese forces, American
 20 properties, although clearly marked and the location
 21 thereof previously reported with accompanying maps to
 22

- 23 XX-11. b. T. 793
 24 " c. T. 8612
 25 " d. Ex. 3858, T. 38,423-4

1 the Japanese authorities," had been damaged and in
 2 some cases destroyed. a.

3 XX-13. The matter of unlawful aerial
 4 bombardment had been brought to the attention of Japan
 5 time and again. a.

6 XX-14. In his affidavit, a. TOJO failed to
 7 comment on these appalling events, which were a prelude
 8 to more heinous crimes, and it may be assured therefore
 9 that he did nothing as Inspector General of the Army
 10 Air Forces to stop these unlawful bombardments, by
 11 way of recommendation, or that he even took the
 12 occasion to investigate the same. From this lack of
 13 showing it may be inferred that TOJO condoned the
 14 illegal actions of the Air Forces, and in doing so
 15 he became a party thereto by ratification, waiver, or
 16 consent.

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 20 XX-12. a. Ex. 985, T. 9560-2
 21 XX-13. a. Ex. 988, T. 9568; Ex. 969, T. 9497-9;
 22 Ex. 971, T. 9503-4; Ex. 974, T. 9537;
 23 Ex. 975, T. 9538-9; Ex. 976, T. 9540-1;
 24 Ex. 980, T. 9554-5; Ex. 988, T. 9568-71
 25 XX-14. a. Ex. 3566, T. 36,171

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IV. TOJO'S CONNECTION WITH THE FALL
OF THE YONAI CABINET.

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XX-15. The YONAI Cabinet fell on 21 July 1940. TOJO testified that the fall of the Cabinet resulted from its inability to dispose of matters swiftly in view of the "complex and changing international situation and the equally difficult and changing domestic situation."^{a.} He said he believed the temporary fall of France shortly before, had its effect on the Far East,^{b.} and he testified that it appeared as if the United States was about to enter the war.^{c.} He would not admit that the General Staff of the Army was the cause of the downfall of the Cabinet,^{d.} although he admitted that "outwardly" this may be regarded as the cause, and he said that the failure of the YONAI Cabinet to take advantage of the turn of events in the European war was only a "one sided" reason for its fall.^{e.}

XX-16. HATA, one of the accused, then War Minister,^{a.} informally proposed TOJO as his successor to the Emperor, in a procedure regarded by the Emperor as over-hasty and "out of order," as Prince

XX-15.

- a. T. 36578.
b. T. 36578.
c. T. 36579.
d. T. 36581.
e. T. 36582.

XX-16.

- a. T. 36602.

1 KONOYE was still in the midst of forming a Cabinet
2 and had not yet accepted TOJO for the post.^{b.} Whether
3 the procedure surrounding HATA's recommendation of
4 TOJO was regular or irregular, the record shows that
5 HATA, who recommended TOJO, for the all-important
6 position of War Minister, caused the downfall of
7 the YONAI Cabinet, by reason of his view that a "new
8 structure from a very broad point of view" might be
9 promoted and so that Japan would not "idly" lose an
10 "opportunity which may never come again."^{c.}

11 XX-17. Six days after HATA's demand for
12 the resignation of the YONAI Cabinet, TOJO was sitting
13 with KONOYE, MATSUOKA, and YOSHIDA, planning rapproche-
14 ment with the Axis Powers,^{a.} and twelve days later,
15 as a member of the second KONOYE Cabinet, he partici-
16 pated in the formation and promulgation of the
17 Outline of Japan's Basic National Policy^{b.} and "Gist
18 of Main Points in regard to dealing with the situa-
19 tion to meet the change in World Conditions,"^{c.} which
20 will be seen, cast the die for Japan to accomplish
21 her subsequent movements by force in collaboration
22 with the Axis aggressionists.
23

24 XX-16.

25 b. T. 36603-4.
c. T. 28939-40.

XX-17.

a. Ex. 537, T. 6261.
b. T. 36182.
c. Ex. 1310, T. 11794.

V. TOJO'S ACTS WHILE WAR MINISTER IN
THE KONOYE CABINET.

XX-18. During TOJO's period of service as War Minister in the KONOYE Cabinet, from 22 July 1940 to 18 October 1941,^a he had a position of "political responsibility."^b During his incumbency the following national policies were decided upon, namely (1) An Outline of the Basic National Policy^c which was a Cabinet decision dated 26 July 1940;^d (2) Gist of main points in regard to dealing with the situation to meet the change in world conditions^e which was a Liaison Conference decision dated 27 July 1940; (3) The Tri-Partite Pact which was signed on 27 September 1940,^f after its approval by the Four Ministers' Conference,^g the Imperial Conference,^h the Privy Councilⁱ and the Cabinet;^j (4) Decisions of the Imperial Conference of 13 November 1940 outlining a solution of the China Incident;^k (5) An outline of policies toward French Indo-China and Thailand^l dated 30 January 1941.

XX-18.

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| a. T. 795. | g. T. 36189. |
| b. T. 36176. | h. T. 36191. |
| c. Ex. 541, T. 6271; | i. T. 36192. |
| Ex. 1297, T. 11714. | j. T. 36195. |
| d. T. 36182. | k. T. 36206. |
| e. Ex. 1310, T. 11794. | l. Ex. 3658, T. 36231. |
| f. T. 36194. | |

1 XX-19. These policies and measures, com-
2 mitted Japan to rely on military power as a means of
3 securing her aims, and caused her to drift steadily
4 toward regimentation of her whole national life,
5 centering in the military, in addition to aligning
6 her to Germany and Italy, whose disgraceful actions
7 in respect to people of peaceful neighboring countries
8 had already made them outlaws, and a stench in the
9 nostrils of law-abiding nations.

10 (a) General Features of the National Policy.

11 XX-20. TOJO said that the objective of the
12 Outline of Basic National Policies and the Gist of
13 Main Points, contemplated the settlement of the China
14 Incident and the avoidance of war with America and
15 Britain, while preserving the sovereignty and self-
16 existence of Japan.^a He said that it was the fore-
17 most aspiration of the new Cabinet "in which he was
18 War Minister, to establish an enduring peace and a
19 higher degree of prosperity in the Far East, and that
20 such policies did not contemplate in the slightest
21 degree territorial ambitions and economic monopoly."^b

22 XX-21. TOJO asserted that he believed
23 Japanese-American relations should be improved, and
24

25 XX-20.

a. T. 36182.

b. T. 36182.

1 he proposed doing this by "Japan taking a resolute
2 position,"^a although he explained on cross-examination
3 that by this he only meant that Japan should not take
4 a servile position in the diplomatic negotiations.
5 TOJO's approach to this difficult problem is highly
6 reminiscent of his recommendation to UMEZU in 1937,
7 that Japan should give the Nanking Regime a heavy blow,
8 in order to secure peaceful relations with China. It
9 was that sort of procedure which brought on the China
10 war, then still unsettled, after three years. At the
11 same time, with full knowledge of the damage already
12 done to Japan by the China Incident, he again recom-
13 mended a similar attitude toward the United States,
14 well knowing that war between the United States and
15 Japan would be suicidal, and every effort should be
16 made to prevent it.^b

17 XX-22. TOJO testified that he believed Japan
18 could extricate herself from world isolation by joining
19 hands with Germany and Italy,^a well knowing that
20 Germany and Italy were at war with Great Britain, and
21 that by aligning Japan with Britain's enemies, Japan
22 would eventually be drawn into the war.^b

24 XX-21.

25 a. T. 36186.
 b. T. 36186.

XX-22.

 a. T. 36185.
 b. T. 36188; 36645.

(b) Renovation of Internal Affairs.

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XX-23. TOJO testified that the basic national policy comprehended a renovation of the internal administration so as to "permit of the demonstration of the highest potentialities and powers of the nation";^{a.} a renovation of the educational system so as to supplant the emphasis on materialism by spiritual values,^{b.} and to save the students from a tidal wave of communism;^{c.} a reformation of the Diet so that it would represent the will of the people of Japan;^{d.} and the establishment of a block economy with Japan, Manchukuo and China acting autonomously^{e.} so as to collaborate against the economic blocs in other parts of the world.^{f.} Included in such bloc with Japan were to be French Indo-China, Thailand, the Netherlands East Indies,^{g.} and the Malayas.^{h.}

XX-24. On the surface, some of these recommendations seem harmless but fitted into the scheme of Japan's program, they lose the aura of beneficence, and assume as was really intended, military significance. The renovation of the internal administration was aimed at securing unquestioned obedience of all the

XX-23.

a. T. 36628.
b. T. 36629.
c. T. 36631.
d. T. 36632.

e. T. 36635.
f. T. 36636.
g. T. 36637-8.
h. T. 36639.

1 people so that war aims could be carried out. To
2 accomplish this, all political parties were abolished
3 and replaced by the Imperial Rule Assistance Associa-
4 tion, in which all Japanese were members and assisted
5 in the various functions of the Government.^{a.} The
6 plan and aim of this organization was against the
7 spirit of the Constitution and contrary to the
8 structure of the State and the will of the Emperor^{b.}
9 because it created a super-political machine, which
10 was dominated by the top leaders who, thus in effect,
11 became dictators. State Minister KONOYE explained
12 this in a statement before the Budget Committee on
13 8 February 1941 where he said: "This movement
14 sprung up out of the necessity of establishing a
15 strong national defense organization of the state. . .
16 It is a truly totalitarian national movement . . .
17 organized for the purpose of pushing forward such a
18 national movement."^{c.}
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25 XX-24.

a. T. 17742.

b. Ex. 3172, T. 28545.

c. Ex. 2362, T. 18132.

1 XX-25. Thus, it is seen that national reno-
2 vation of the internal administration only meant the
3 regimentation of all the people in one organization,
4 to carry out the orders of the top fascist dictators.

5 XX-26. Likewise, renovation of the educa-
6 tional system was not aimed at supplanting materialism
7 by spiritual values, as is claimed by TOJO, but in
8 reality was adding materialism to materialism by incul-
9 cating in students ultra-nationalism, blind devotion
10 to authority, belief in Japan's ambition of being
11 dominant in Asia, belief in Japan's superiority and
12 divine mission and belief in the necessity of military
13 aggression, if necessary, to accomplish that mission.^{a.}
14 To realize these strictly material objectives there
15 were perceptible increases in the amount of time devoted
16 in schools in Japan to conditioning marches and maneuvers
17 which included maneuvers in open terrain, street fight-
18 ing, bayonet drill and the firing of weapons.^{b.} Further-
19 more, students were taught that war was productive
20 and that Japan's destiny was to rule the Far East and
21 then the world and that the nation's progress required
22 the students to be prepared for war.^{c.} The mere state-
23 ment of what was done to "spiritualize" the educational
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25 XX-26. a. T. 830-6
 b. T. 826
 c. Ex. 130, T. 943

1 system shows that the reverse of what is now claimed
2 was accomplished by the renovation of the same.

3 (c) Establishment of Bloc Economy.

4 YY-27. The aim of establishing a bloc economy
5 with various Far Eastern countries was but a blind for
6 securing necessary war materials with which to build
7 up Japan's war potential. Having already secured con-
8 trol of Manchukuo through inner guidance and a vast
9 organization of advisors^{a.} and being in possession of
10 most of China, Japan now sought southward expansion,
11 having greedy eyes on the "treasure-house" in that
12 vicinity where there was said to be 200 times as much
13 coal, gold, silver, iron and petroleum as in all of
14 China.^{b.} To secure these treasures, Japan not only
15 wanted to bring French Indo-China and the Netherlands
16 into a peaceful economic bloc, as is asserted, but
17 plans were made to use military force, if necessary,
18 to secure domination of the southern regions. TOJO knew
19 or should have known of this, as it was discussed by
20 the army, navy, and Foreign Offices on 12 and 16 July
21 1940, six days before he became War Minister.^{c.} He
22 also knew or should have known that during the period
23 February to June 1940 while the Japanese Foreign Office
24

25 YY-27. a. Ex. 3378, T. 32357-72
b. Ex. 2215, T. 15819
c. Ex. 527-8, T. 11,699

1 was piously asserting that it entertained no territorial
2 ambitions in the East Indies and any suspicion that it
3 intended to proceed against the East Indies was un-
4 founded,^{d.} the Japanese Foreign Minister refused to
5 agree with a United States proposal on 27 June 1940 to
6 maintain the status quo in the Pacific, on the ground
7 that it would "be inadvisable at this time to have
8 Japan's activities including those in the Netherlands,
9 restricted."^{e.} It was also during the early part of
10 1940 that Japan made demands on the Netherlands East
11 Indies for virtually unrestricted economic privileges^{f.}
12 and at the same time was sounding out Germany as to its
13 attitude in regard to a movement south.^{g.}

14 YY-28. In view of such hostile actions toward
15 sovereign powers in the South Pacific, all the talk
16 about the establishment of a bloc economy, intimating
17 such economic bloc was to be by mutual agreement and
18 for mutual advantage, is wide of the mark and not
19 sustained by the evidence in the case. The real pur-
20 pose of the bloc was to bring the southern countries
21 within Japan's economic sphere so that she could secure
22 the much needed basic raw materials which had to be
23 obtained from new sources following the cessation of
24

25 YY-27. d. Ex. 1014, T. 11,685-6
e. Ex. 1295, T. 11,708-9
f. Ex. 1309-A, T. 11780-2
g. Ex. 517-9, T. 11698-9

1 supplies from the United States. This is borne out
2 by a Cabinet decision of 3 March 1940 in which it was
3 decided to adopt an economic policy in connection
4 with diplomacy toward the United States, whereby Japan
5 would be freed from reliance on the United States as
6 soon as possible for such materials as scrap iron,
7 petroleum, electrolytic copper, molybdenum, and vanad-
8 ium.^{a.}

9 XY-29. In sum and substance, the proposed
10 economic bloc was only a scheme devised by Japan to
11 secure raw materials urgently needed by her, and to
12 implement this she proposed to use force ultimately,
13 if necessary, unless she could get what she wanted
14 through threats and coercion. The methods used and the
15 false cloaking of the plan under the garb of an economic
16 movement and the ends used to accomplish the same stamp
17 this project as a violation of the Nine Power Pact.

18 THE PRESIDENT: We will recess for fifteen
19 minutes.

20 (Whereupon, at 1045, a recess was
21 taken until 1100, after which the proceedings
22 were resumed as follows:)

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24 XY-28. a. Ex. 1007, T. 9635-42
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~~MARSHAL OF THE COURT:~~ The International
1 Military Tribunal for the Far East is now resumed.

2 MR. FIXEL: (Reading Continued)

3 (d) Demands on Netherlands East Indies.

4 XX-30. While TOJO was War Minister in the
5 KONOYE Cabinet, efforts were made by Japan to bring
6 the drastic demands against the East Indies to fruition.
7 These demands were made in the middle of August 1940,^a
8 and contemplated the entry of Japanese nationals into
9 the Dutch East Indies, and infiltration into enterprises
10 and investments by Japanese nationals in the East
11 Indies for the development and utilization of its
12 resources. In addition, Japan demanded that the
13 Dutch East Indies cut off relations with Europe and
14 become a member of the East Asia Co-Prosperity Sphere,
15 and that Japanese be afforded the same treatment as
16 citizens of the Netherlands Indies in the Dutch Indies.^b

17
18 XX-31. A casual examination of the demands
19 which were made indicate that they fairly bristle
20 with the threat of force. That they caused more than
21 slight uneasiness on the part of the East Indies and
22 its friends is not too difficult to understand. They
23 were such that no self-respecting sovereign entity would

24 XY-30

25 a. Ex. 1311, T. 11708-802; T. 11804-7
b. T. 11811-2

1 comply with, namely, to surrender its lands; its
2 properties, its indicia of autonomy, as demanded,
3 without being forced to do so by military might.
4 Incidentally, the real meaning of Japan's East Asia
5 Co-Prosperity Sphere and the proposed economic bloc
6 also becomes clearly delineated when viewed through
7 the conditions for membership sought to be imposed
8 on the Netherlands East Indies.

9 XX-32. While this prelude to war was being
10 enacted, TOJO was War Minister, and had a definite
11 responsibility for bringing matters to such an impasse,
12 His responsibility is in no wise diminished on the
13 theory advanced, that Japan required raw materials
14 and required collaborators. Such a vacuous reason
15 could never be admitted as an excuse for taking away
16 the property or rights of another nation by force
17 and intimidation.

18 (e) The Tri-Partite Pact.

19 XX-33. The Tri-Partite Pact was another item
20 which TOJO said fell under the "Outline of the Basic
21 National Policy", and "Gist of Main Points", which
22 specified the strengthening of political ties with
23 Germany and Italy.^a

24 XX-33

25 a. T. 11795; 36189

1 TOJO viewed the pact as a means of extricating Japan
2 from world isolation and "place her in an impregnable
3 position."^b He made perfectly clear in his testimony
4 that there had been considerable discussion concerning
5 such a Pact before it was presented officially to the
6 Cabinet, and that he attended the Liaison and Imperial
7 Conferences on 19 September 1940 at which an agreement
8 based on the decision reached at the Four Ministers'
9 Conference of 4 September was confirmed, approving a
10 Pact.^c Thereafter, the Imperial Conference likewise
11 approved, followed by the Privy Council and Cabinet
12 taking similar action.

13 XX-34. TOJO said that it was his "sincere
14 belief that the purpose of the treaty was to improve
15 the international position of Japan and therefore would
16 operate as a factor in the solution of the China
17 Incident, as well as in preventing the spread of
18 the European war to East Asia."^a He said the treaty
19 was considered as a means of defending the country
20 against the onslaughts of the "have" nations (thus
21 echoing Hitler's lies), and to aid in finding a way

22 XY-33

23 b. T. 36185

24 c. T. 36190

25 YX-34

a. T. 36194

1 to survive under the prevailing international situation,
2 He said the reference in the Pact to Japan's position
3 of leadership meant that Japan was a "trail blazer"
4 or a "guide" and that it did not mean that she was to
5 dominate or subjugate any other country, and that the
6 members of Greater East Asia held each others' terri-
7 torial integrity and sovereignty inviolable.^b When
8 making this bland statement he must have had a slight
9 lapse of memory in connection with the attempted
10 "rape" of the Netherlands East Indies in August 1940,
11 as a condition of it becoming an equal member of this
12 Prosperity Sphere.

13 XX-35. It is interesting to note that at the
14 meeting of the Investigation Committee of the Privy
15 Council and Cabinet when the Tri-Partite Pact was under
16 consideration, discussion was had centering around a
17 probable war in which Japan would be involved if the
18 Pact were adopted. Some of those present seemed to feel
19 that the proposed Alliance would bring on a war with the
20 United States.^a In view of this, TOJO, as War Minister,
21 was asked about petroleum reserves. In answering, TOJO
22 stated that the Army had a sufficient supply of oil on
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24 XY-34

b. T. 36195

25 XY-35

a. Ex. 552, T. 6350-90; 36645

1 hand to cover operations for some time to come^b and he
2 also said that he felt no concern in respect to the
3 number of personnel "since the manpower needed" by the
4 Army in "the war against America will be comparatively
5 small in number."^c On cross-examination he vaguely
6 remembered that such a matter may have been brought up,
7 but he recalled no details of this all important subject.^c
8 The mention of these matters illustrates the point that
9 TOJO as a responsible official of Japan, knew that in
10 doing so he was embarking Japan upon a new military
11 adventure. This is the only logical conclusion to be
12 deduced from the discussions as to Japan's military
13 reserves in connection with adoption of the Pact.

14 XX-36. The impression that TOJO seeks to
15 leave in connection with the Tri-Partite Pact is that
16 MATSUOKA virtually threw the Pact unexpectedly at the
17 government officials and that they were required to
18 consider the matter hurriedly without too much time
19 to spare. This is deduced from TOJO's testimony
20 which is to the effect that "MATSUOKA was in complete
21 charge of all negotiations leading up to the signing
22 of the Treaty;^a that he (TOJO) only knew in a general

23 XX-35

- 24 b. T. 6365
25 c. T. 6367
d. T. 36646

XX-36

- a. T. 36188

1 way what it was all about,^b and that his participation
2 was merely in his capacity as War Minister. This state-
3 ment is only partially true, as the record shows that
4 as early as 20 July 1940, just prior to the time TOJO
5 became War Minister, Woermann cabled the German Foreign
6 Office concerning a meeting of KONOYE, MATSUOKA, TOJO
7 and YOSHIDA, which concerned the drawing up of an
8 authoritative foreign policy program, including
9 rapprochement with the Axis Powers.^c Other telegrams
10 thereafter, spelled out the hope of the Four Ministers
11 (including TOJO) for Japanese-German friendship and
12 cooperation,^d and even a supplication that Germany
13 might scatter about a few crumbs for Japan in the
14 "new apportionment of the world."^e To say the least,
15 the Pact could not have come as a great surprise to TOJO
16 as he himself was an instigator thereof, no doubt
17 desiring to climb on the bandwagon of Germany, after
18 Hitler's sweeping victories over prostrate France and
19 blitzed London. That is unquestionably why TOJO asserted
20 in his affidavit that the Pact would put Japan in "an
21 impregnable position."^f His testimony, on cross-examina-

23 XX-36

24 b. T. 36544

c. Ex. 537, T. 6261

d. Ex. 542, T. 6277

e. Ex. 543, T. 6282

f. T. 36185

1 ation, that he had not made up his mind on an alliance
2 with Germany on 26 July 1940, when the outline of
3 Japan's basic national policy was decided,^g is
4 completely refuted by his participation in the meeting
5 prior to that date at which rapprochement with Germany
6 was decided upon, as above set forth.

7 XX-37. TOJO cannot now claim, however, he was
8 not warned of the utter foolishness of collaborating
9 with Hitler and Mussolini, because ISHII warned all
10 of the conferees, prior to action by the Privy Council
11 in the Tri-Partite Pact, that Hitler was a "character
12 of no little danger," who considered alliances
13 "expedient" and to be broken when occasion demands,^a
14 and that "Germany and Italy should not be trusted too
15 much" because the "national character of Germany is
16 such as would suck the blood of others."^b

17 XX-38. Despite such warnings, the Pact was
18 put through on the grounds of expediency^a and what
19 proved to be a stumbling block in the Japanese-United
20 States negotiations came into force 27 September 1940,
21 with TOJO's full approval. Such approval was given
22 despite the fact that TOJO knew the general plan of

23 XX-36 g. Ex. 541, T. 36585

24 XX-37 a. T. 6387

25 b. T. 6388

XX-38 a. T. 6388

1 Hitler's "new order";^b and knew that Germany had invaded
2 Holland;^c and knew that Hitler had marched into
3 Austria and Czechoslovakia;^d and knew of the invasion
4 of Norway;^e and knew about the persecution of the Jews.^f
5 None of these matters, however, seemed to cause much
6 disturbance to TOJO's mental processes. Answering the
7 question whether he thought Hitler's action in invading
8 various countries was aggression, he testified that
9 Hitler's actions would have to be judged by history.^g
10 In this vague and irresponsible manner, he became a
11 bedfellow of the German crowd of lawbreakers and
12 murderers, thereby rejecting the friendship of the
13 United States and Britain.

14 (f) Stationing Troops in North
15 French Indo-China.

16 XX-39. TOJO considered that under the "Gist
17 of Main Points in regard to dealing with the situation
18 to meet the changes in world conditions," mentioned
19 above, one means of solving the China Incident was to
20 sever the coalition between Chungking and America and
21 Britain. To bring this about, the Supreme Command
22 urgently requested the dispatch of Japanese forces to

23 XX-38

24 b. T. 36545
25 c. T. 36548
d. T. 36548-9
e. T. 36549
f. T. 36550
g. T. 36549

1 Northern French Indo-China to prohibit passage of
2 supplies through French Indo-China to the Chiang
3 regime.^a Therefore, toward the end of September 1940,
4 while War Minister in the KONOYE Cabinet, TOJO and the
5 Supreme Command, arranged the stationing of troops in
6 northern French Indo-China.^b Although an agreement
7 for this action was arranged between MATSUOKA and Henry
8 (for Vichy France)^c authorizing the stationing of
9 Japanese troops in a specified area,^d in order to
10 cut the Chiang line of supplies, the real purpose of
11 Japan's movement is found in a Cabinet decision of
12 3 September 1940,^e under which Japan secured virtual
13 control of Indo-China's economy.^f

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22 XY-39

- 23 a. T. 36198
24 b. T. 36197
25 c. T. 36200
d. T. 36200
e. Ex. 3688, T. 36709
f. T. 36710; 36716, 36718

1 XX-40. On 16 April 1941, the Army and Navy
2 Imperial Headquarters established a policy that it
3 intended to occupy bases in the southern part of
4 French Indo-China "needed for a military advance
5 into the Netherlands Indies;"^a and on 6 May 1941,
6 treaties of residence, navigation, and customs were
7 concluded between Japan and French Indo-China, giving
8 Japanese nationals equal rights with nationals of that
9 country.^b

10 XX-41. Thus, while TOJO was War Minister
11 the pattern of aggression gradually unfolded. Under
12 the cloak of providing protection, mutual advantage,
13 and preservation of sovereign rights, Japan demon-
14 strated its real intentions of dominating lesser en-
15 tities by threats or actual force. The real purpose
16 of entry into Indo-China was fraudulent, as the
17 underlying intent was to secure a foothold for sub-
18 sequent domination and exploitation, and to use it
19 as a springboard for an attack on the Netherlands
20 East Indies.^a

22 VI. TOJO'S VIEWS ON THE NINE POWER TREATY
23 AND WAR IN GENERAL.

24 XX-40. a. T. 11,753
25 b. T. 7140; 7159

XX-41. a. T. 11,755

1 XX-42. On cross-examination, TOJO gave his
2 views on the subject of whether war was a crime, and
3 also on the Nine Power Treaty. As to the latter, he
4 asserted that since the Nine Power Treaty had come
5 into effect, changes had taken place in East Asia;^a
6 the China Incident had broken out; the world economic
7 situation had changed from that of free trade to one
8 of bloc economy; and the fact that the Soviet Union
9 was not a signatory to the Pact had a grave bearing
10 both on the position of Japan and that of China.^b He
11 said the reason Japan did not request the interested
12 nations to hold a conference to consider modification
13 of the Treaty, was because Japan felt that the main
14 signatories to the Pact showed a hostile attitude
15 toward Japan, and that the situation presented many
16 difficult problems.^c Certainly, none of the matters
17 mentioned justified the unilateral action taken by
18 Japan, which in effect committed the Nine Power
19 Treaty and others of a similar nature to the waste-
20 basket. The real view of TOJO on the sanctity of
21 treaties is found in a statement made by him before
22 an Investigation Committee of the Privy Council on

24 XX-42. a. T. 36,793
25 b. T. 36,794
 c. T. 36,795

18 August 1943,^d where he said: "International law should be interpreted from the viewpoint of executing the war according to our own opinions."

XX-43. While this statement was made by TOJO after the Pacific war had broken out, it nevertheless reflects his attitude that International Law and International Agreements have no sanctity and may be nullified unilaterally solely on the grounds of expediency, when they impede the aspirations, desires or views of one of the parties.

XX-44. As for TOJO's views on war, he said^a that he did not agree that war was a crime, but he did agree that wars have an unfortunate effect upon the people, and that the effect is the same for the victor or the vanquished.

XX-45. The views of TOJO on the inviolability of treaties make his views on wars understandable.

VII. THE U. S. - JAPANESE NEGOTIATIONS.

(a) TOJO's part in the resolution adopted by the Imperial Conference on 2 July 1941.

XX-46. TOJO was War Minister in the second KONOYE Cabinets from 22 July 1940 to 16 July 1941 and

XX-42. d. Ex. 1275, T. 11,367

XX-44. a. T. 36,569

1 from that date to October 1941 in the third KONOYE
2 Cabinet.^a During this period, especially commencing
3 9 April 1941, negotiations were carried on with a
4 view to adjust Japanese-American relations.^b He, as
5 War Minister, on 30 June 1941, explained to the
6 Supreme War Council the fast changing external con-
7 ditions^c and discussion had between TOJO and KIDO
8 on 28 June 1941, aiming at strengthening the Imperial
9 General Headquarters. Arrangements were made for
10 the Imperial General Headquarters to meet every day
11 in the Palace.^d On 2 July 1941, a resolution was
12 adopted by the Imperial Conference, in which TOJO
13 participated as War Minister,^e defining the policy of
14 the Empire to be to push southward; abide by the Tri-
15 Partite Pact; and carry out his "schemes against
16 French Indo-China and Thailand^f and secretly prepare
17 arms against the Soviet Union." With such aggressive
18 objectives, the KONOYE Cabinet was headed for the
19 shoals.
20

21 XX-46.

- 22 a. T. 795
23 b. Ex. 1059, T. 9851; Ex. 1060, T. 9863;
24 Ex. 1061, T. 9866; Ex. 1070, T. 9891;
25 Ex. 1071, T. 9904; Ex. 1083, T. 9964;
Ex. 1085, T. 9982; Ex. 1092, T. 10,005
c. Ex. 2246, T. 16,173
d. Ex. 1098, T. 10,037
e. Ex. 779
f. Ex. 538, T. 6567-9

1 (b) Rise and fall of the third KONOYE
2 Cabinet.

3 XX-47. The shake-up of the second KONOYE
4 Cabinet effected no changes in major policies. KONOYE
5 who was desirous of concluding the Japanese-U.S.
6 negotiations with success, asked for a personal
7 meeting with President Roosevelt so that frank
8 opinions could be exchanged "on broad lines."^a
9 Opposing this action, TOJO took the view that "the
10 interview was fraught with difficulties from the out-
11 set, and seemed doomed to failure."^b TOJO, in his
12 testimony, omitted to state that he threw cold water
13 on the proposed meeting by telling KONOYE that if
14 such meeting were held, the existing diplomatic rela-
15 tions of the Empire, which were based on the Tri-
16 Partite Pact, would unavoidably be weakened, and at
17 the same time, a considerable domestic stir would be
18 created. For these reasons, he told KONOYE he did not
19 consider the meeting "a suitable move."^c It is no
20 wonder that in view of the practical veto of the
21 proposal by TOJO, no meeting was consummated, even
22 though the minimum requirements of the United States
23 were of an extremely mild nature.
24

25 XX-47.

a. T. 36, 269-70

b. T. 36, 270

c. Ex. 2866, T. 25, 771

d. T. 36, 291; 36, 270

1 XX-48. So, notwithstanding KONOYE's desire
2 for peace, TOJO made it clear that Japan had become
3 so bound to the Axis that rather than withdraw from
4 the Tri-Partite Alliance, it would risk a war with
5 the United States. He further refused to concede
6 the withdrawal of troops by Japan from China.^a

7 (c) Imperial Conference Decision of
8 6 September 1941.

9 XX-49. The grave deadlock in the U. S. -
10 Japanese conversations induced the convening of the
11 Imperial Conference on 6 September 1941,^a at which
12 a plan entitled "Execution of the Empire's Policy,"
13 was adopted, providing for mobilization of manpower,
14 requisitioning of shipping; refitting of vessels; a
15 determination to go to war with the United States
16 and Britain in November 1941, unless the situation
17 could be sooner solved;^b and an operational plan in
18 case of war.^c TOJO in an interrogation^d said that
19 the main question to be decided "was that of war or
20 peace and what attitude should be decided upon in
21 either case." It was also decided to continue negoti-
22 ations with America until the middle "ten days of
23 October" and that "both peace preparations and war
24

25 XX-48. a. T. 36,268

XX-49. a. T. 36,271

b. T. 36,281-2

c. T. 36,283-9

d. Ex. 1136A, T. 10,220

preparations would be pushed.^e

(d) Resignation of the third KONOYE
Cabinet.

XX-50. Prior to the resignation of the third KONOYE Cabinet, negotiations with the United States were stalemated and a meeting was held on 12 October 1941 at Prince KONOYE's house to discuss the adjustment of diplomatic relations between the United States and Japan. At this meeting TOJO called for "great resolution" since he saw "no hope for arrival at an understanding between Japan and the U.S.A.," and on TOJO's advice it was agreed by those present, namely, the War, Navy and Foreign Ministers and President of the Planning Board, in connection with Japanese-American relations, that Japan should not change its policy of stationing troops in China, or in other policies connected with it, and that Japan should not entertain anything that might affect the result of the China Incident. Having these points in mind, it was decided that it should be found out whether negotiations could be successful within the time set by the High Command and when that had been ascertained, the matter should be settled through diplomacy and all operational

XX-49. e. T. 10,221

1 and after KONOYE sent KIDO a message that "TOJO
2 would be better if guarantee of peace is obtained."^e

3 At an ex-Premiers' Conference it was decided on
4 KIDO's suggestion that TOJO should have the addi-
5 tional position of War Minister.^f On 18 October
6 1941, TOJO held the positions of Prime Minister,
7 Home Minister, War Minister, President of China Af-
8 fairs Board, and Supreme War Councillor.^g

9 XX-53. In giving his reasons for the fall
10 of the Third KONOYE Cabinet, TOJO sought to explain
11 why he adopted his irreconcilable attitude toward
12 the U. S. negotiations, claiming that while there
13 was "a slight sign of mutual concession" in the
14 reply of Secretary Hull on 2 October 1941,^a the Army
15 General Staff held the view that the Washington
16 Government was "entirely without any inclination to
17 give and take;"^b that America had virtually refused
18 a personal meeting of the responsible chiefs of the
19 two countries;^c that to continue the conversations
20 longer would result in Japan being imposed upon by
21 America's dilatory policy;^d that instantaneous and
22 entire evacuation in China would produce nothing but
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24 XX-52.

25 e. T. 10,271
f. Ex. 1154, T. 10,291
g. Ex. 128, T. 791;
Ex. 1155, T. 10,293

XX-53.

a. T. 36,297
b. T. 36,297
c. T. 36,300
d. T. 36,301

1 Chinese contempt and a China Incident III would be
2 the result; and that loss of prestige would be
3 keenly felt in Manchuria and Korea.^e

4 XX-54. TOJO summed up his reasons for the
5 resignation of the Third KONOYE Cabinet as follows:^a

6 (1) "Measures had not proceeded as yet to a point in
7 the American-Japanese negotiations to enable us to
8 ascertain whether or not there was a hope of settling
9 the matters diplomatically." (2) "Determination of
10 the Navy to go to war was uncertain." In previous
11 testimony on interrogation, 11 February 1946, he
12 stated that the theoretical reason for the fall of
13 the KONOYE Cabinet on 17 October 1941, was because
14 he, (TOJO) favored war with the United States. He
15 also on that occasion said the following: "at that
16 time I felt, as War Minister, that the opportune time
17 for fighting was in danger of being lost and the
18 Imperial Conferences had set the middle ten days of
19 October as the limit for waiting for a favorable
20 diplomatic break."^b

22 XX-55. It seems that TOJO's reasons for the
23 fall of the Third KONOYE Cabinet after he accomplished

24 XX-53. e. T. 36,301-2

25 XX-54. a. T. 36,307

b. Ex. 1153A, T. 10,290

1 its fall were entirely different than while he was
2 bringing the fall about. While the structure was
3 toppling, he took the arbitrary view that Japan could
4 not make "one concession" in so far as withdrawing
5 Troops was concerned. ^a The insistence by TOJO on
6 this unbending attitude and the position he took
7 favoring war with the United States is what broke the
8 KONOYE Cabinet and made TOJO Premier.

9 (e) Further U. S. negotiations under TOJO,
10 before Pearl Harbor.

11 XX-56. When TOJO took up the reins dropped
12 by KONOYE he received instructions from the Emperor
13 to study "in broad and deep bases the situation at
14 home and abroad, without being particular about the
15 decision reached in the Imperial Conference on Sep-
16 tember 6." This was what was subsequently known as
17 the "back to blank paper" or "clean slate message of
18 the Emperor." ^a

19 XX-57. TOJO testified he felt that this was
20 an imperative direction of the Emperor and he "firmly
21 resolved that it must be accomplished without fail." ^a
22 However, he was hardly seated as Premier, charged
23 with this all-important mandate by the Emperor, when
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25 XX-55. a. T. 10,262
XX-56. a. T. 36,309
XX-57. a. T. 36,311

1 events took place which stamp his utterances and
2 resolves with insincerity, and show that no bona fide
3 effort was made by him to wipe the slate clean and
4 make firm efforts to achieve peace in the Pacific.

5 XX-58. TOJO testified,^a that after the
6 formation of his Cabinet, the Government, with the
7 cooperation of the Supreme Command, immediately went
8 into deliberations which were mainly concerned with
9 national strength, foreign affairs and military mat-
10 ters, except strategic problems.^b That such state-
11 ment is not true is readily seen from typical matters
12 considered by the Liaison Conference prior to 5
13 November 1941, when plans A and B were agreed upon
14 by the Imperial Conference.

15 XX-59. At the Liaison Conferences, which
16 were supposedly held to consider non-strategic prob-
17 lems, the following strictly strategic problems were
18 considered at meetings held on or about 30 October
19 1941: (1) The degree of cooperation to be expected
20 from Germany and Italy in case of the outbreak of war
21 against Britain, America and the Netherlands; (2)
22 whether Japan could expect Germany and Italy to begin
23 war by intensifying the attack on American vessels

24 XX-58.

25 a. T. 36,316
 b. T. 36,316

1 and warships in the Atlantic, thereby diverting
2 America in its landing operations on the British
3 mainland;^a (3) help expected from Germany and Italy
4 by the advance of German and Italian forces to the
5 Near East, Central Asia and India;^b (4) Germany's
6 intensified attack upon Britain after she had con-
7 solidated her occupied areas and established a new
8 order in Europe;^c (5) whether Japan's opponents
9 could be restricted to the Netherlands or to Britain
10 and the Netherlands in case of Japan's southward ad-
11 vance;^d (6) German winter operations toward Africa,
12 the near East and Central Asia;^e and danger in giving
13 the opponents time for preparation.^f

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22 XX-59.

- 23 a. T. 11,929
24 b. T. 11,930
25 c. T. 11,930
d. T. 11,931
e. T. 11,934-5
f. T. 11,934-5

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1 XX-60. At the same time every emphasis was
2 being laid on, and strict attention paid to, the view
3 of the Supreme Command that from a strategic as well
4 as a meteorological aspect, November was the most
5 suitable period for operations, although requisite
6 operations could be carried out in December even though
7 difficulty of landing operations would increase. ^{a.}

8 XX-61. In view of the intense study given
9 by the Liaison Conference to strategic situations and
10 problems from 17 October 1941 to 5 November 1941, it is
11 ridiculous for TOJO now to claim that he and his asso-
12 ciates were re-examining the United States-Japanese
13 dispute apart from the implications and movements inci-
14 dent to the outbreak of hostilities. All through TOJO's
15 affidavit covering this period ^{a.} there are such phrases
16 as "determination to go to war . . . in the event of
17 failure of those negotiations;" ^{b.} "operational prepara-
18 tions shall be commenced;" ^{c.} "the most important problem
19 of all was the procurement of liquid fuel;" ^{d.} "to halt
20 the major part of military production was something
21 that the Army and Navy, engaged in the China Incident,
22 could not countenance. Therefore, to adopt a policy of
23 patience and perseverance under such impediments was
24

25 (XX-60. a. T. 36322)

c. T. 36317

(XX-61. a. T. 36316-329

d. T. 36319)

b. T. 36317

1 tantamount to the self-annihilation of our nation;"^{e.}
2 "rather than await extinction, it were better to face
3 death by breaking through the encircling ring and
4 find a way for existence."^{f.}

5 XX-62. Some of the above statements are
6 reminiscent of Hitler's exhortations, used to invoke
7 the sympathy of those ignorant of his real ambitions.
8 The talk of encirclement is entirely borrowed from
9 Hitler. The timetable for commencement of war within
10 practically one month after TOJO assumed office shows
11 that TOJO did not and could not have examined the
12 United States-Japanese negotiations from a "clean slate"
13 basis. The fact is no change in the situation was
14 made except a deadline was set for the surrender of
15 the United States of America, to TOJO's insensate
16 desire for more and more control over sovereign na-
17 tions in the Pacific. Therefore his actions preceding
18 5 November 1941 call for no sympathy. He, in fact,
19 violated a solemn trust imposed upon him by the Em-
20 peror, when he was invested with the highest government
21 position in the Empire, by knuckling down to the Supreme
22 Command, and by superimposing his views over and above
23 the welfare of eighty million Japanese.

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25 (XX-61. e. T. 36321
f. T. 36321)

VIII. TOJO's Responsibility for the Decisions
of 5 November 1941, and the Commencement
of War

(a) The decisions of 5 November 1941.

XX-63. The Liaison Conferences which were held from the time TOJO became Premier until 5 November 1941, when the Imperial Conference decided the policy toward the United States, England and the Netherlands, consumed only 47 days, and as has been shown, discussion centered primarily on Japan's ability to carry on a war, rather than settling outstanding issues peacefully. The theorem adopted was that war was the only alternative. Thus, although the Emperor directed that the problem be considered on a "clean slate" basis, the pattern pursued was exactly the same as was followed prior to TOJO's selection as Premier. TOJO himself admitted in his interrogation of 12 March 1946^a that when he undertook the work as Premier, he followed the policy of 6 September. To say the least, this was not starting with a "clean slate." Nor could any substantial results in the negotiations be expected, since the Premier who was ordered to disregard the 6 September decision, adopted that decision in its most important points, namely that war had to be the (XX-63. a. Ex. 1158-B, T. 10308)

1 alternative, and that a deadline for the commencement
2 of war had to be set. Thus, TOJO, as the top man in
3 the administration guided the action taken which shortly
4 led to war. His actions fix his responsibility in this
5 connection.

6 XX-64. The Imperial Conference on 5 November
7 1941 approved the "A" and "B" plans for submission to
8 the United States. The "A" plan^{a.} was first to be pre-
9 sented and the "B" plan^{b.} was to be used as a last
10 resort.^{c.}

11 XX-65. TOJO's claim on cross-examination that
12 Japan was endeavoring to settle matters diplomatically
13 with the "United States, and that Plans 'A' and 'B'
14 were in fact not Japan's last word,^{a.} but were only
15 transmitted in appearance as final proposals as a
16 'diplomatic step,' and were in the nature of 'horse
17 trading' and 'bargaining,'"^{b.} is so contrary to the terms
18 of the instruments and contrary to instructions issued
19 in connection therewith and communications in reference
20 thereto, that it deserves little credence. For instance,
21 TOGO advised NOMURA as early as 2 November 1941 that
22 the final decision to be reached on 5 November "will
23

24 (XX-64. a. T. 10324-6

b. T. 10343-4

c. T. 36348)

25 (XX-65. a. T. 36702

b. T. 36699)

1 be our government's last effort to improve diplomatic
2 relations";^{c.} on 4 November Tokyo wired Washington
3 that the counter-proposal to be sanctioned on 5 Nov-
4 ember "is our last effort." "Both in name and spirit
5 this counter-proposal of ours is, indeed, the last . . .
6 This time we are making our last possible bargain."^{d.}
7 In transmitting the proposal TOGO told NOMUKA that
8 proposal B was the "absolutely final proposal"^{e.} and
9 the government's final step^{f.} and in talking to the
10 British Ambassador on 11 November 1941 TOGO told him
11 that the Imperial Government had already submitted its
12 final proposal to the United States.^{g.}

13 XX-66. The claim of TOJO now that Japan was
14 in a conciliatory mood after 5 November 1941, and was
15 honestly and sincerely endeavoring to negotiate through
16 diplomatic agencies, and had not said the final word,
17 is contrary to the written evidence before the Tribunal.
18

19 (b) Delivery of Japan's Final Note.

20 XX-67. In answer to Secretary's Hull's note
21 of 26 November 1941 Japan sent its final note to the
22 United States indicating that negotiations for settle-
23 ment of pending issues was no longer possible. This

24 (XX-65. c. Ex. 1163, T. 10316
25 d. Ex. 1164, T. 10318-21
e. Ex. 1170, T. 10344
f. T. 10345
g. Ex. 1174, T. 10354)

1 note was approved by the Cabinet, but the final text
2 was the responsibility of TOJO and TOGO.^{a.} At the Im-
3 perial Conference of 30 November 1941 the Emperor
4 repeatedly asked that they make certain that the note
5 be delivered before the outbreak of hostilities.^{b.}

6 This is the note which was delivered on 7 December
7 1941 while Pearl Harbor was being attacked. Conclu-
8 sive proof that TOJO had made up his mind to carry
9 out the plans for war in the Pacific is his reaction
10 to the last minute appeal by President Roosevelt to
11 the Emperor, where this urgent, personal, and last
12 minute effort was made by President Roosevelt to stop
13 the impending struggle. TOJO when advised of this mes-
14 sage expressed the view that it was too late to make
15 any changes in the plans. This of course is entirely
16 contradictory of the position taken by the responsible
17 defendants that orders to the fleet at Pearl Harbor
18 could be countermanded at any time prior to the time
19 set for attack.

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21 XX-68. TOJO testified on interrogations that
22 by reason of the final note Japan felt she was free to
23 act; that responsibility in connection with delivery
24 of the note was with the Foreign Minister; but that

25 (XX-67. a. Ex. 1202-A, T. 10482
b. Ex. 1201-A, T. 10480)

1 he and the Cabinet all studied the question, and had
2 concluded there was nothing in any treaty or inter-
3 national law which would preclude an attack by Japan
4 on the United States and Britain after delivery of the
5 note.^{a.} Furthermore, TOJO said he had studied the
6 Hague Convention, and the Kellogg-Briand Pact, and con-
7 cluded that Japan was not bound by them because she
8 was acting in self-defense.^{b.}

9 XX-69. Despite the fact that the Japanese
10 final note had been agreed to long before 6 December
11 it was only on that day that TOGO advised NOMURA that
12 the Japanese Government would reply to Hull's note of
13 November 26. He also advised NOMURA that the reply
14 might be delayed until 7 December, and the exact time
15 for presenting the same would be telegraphed later.^{a.}
16 He cautioned NOMURA to keep the memorandum strictly
17 confidential by "absolutely avoiding the use of typists,
18 etc., in its preparations."^{b.} Finally TOGO telegraphed
19 NOMURA to present Japan's reply to the Secretary of
20 State, if possible, at 1 p.m. on the 7th of December.^{c.}

22 XX-70. As the Japanese reply was set for
23 delivery approximately at the time the Pearl Harbor

24 (XX-68. a. Ex. 1204-A, T. 10492
25 b. Ex. 1205-A, T. 10501)
25 (XX-69. a. Ex. 1216, T. 10534
b. Ex. 1217, T. 10536
c. Ex. 1218, T. 10537)

1 attack occurred, the plan to carry out such an under-
2 taking without due notice failed to conform to estab-
3 lished international procedures pertaining to the com-
4 mencement of hostilities, and violated international
5 treaties, agreements and assurances to which Japan was
6 a party signatory.

7 XX-71. In an interrogation,^{a.} TOJO admitted
8 that he was the one primarily responsible for the at-
9 tack on Pearl Harbor and the United States and British
10 possessions, but he said that the Cabinet was jointly
11 responsible, and as Senior Member he was the one
12 "chiefly responsible."^{b.} He maintained that the Army
13 Chief of Staff and the Navy Chief of Staff also bore
14 responsibility.^{c.} TOJO also admitted he knew of the
15 attacks at Malaya, Hongkong and the Philippines,^{d.} and
16 he approved them all.^{e.}

17 XX-72. After these attacks had been made,
18 and in a panicky effort to formalize the events which
19 had occurred, an Imperial Rescript was issued by Japan
20 on 8 December 1941, declaring war on the United States
21 and the British Empire.^{a.}

22 (XX-71. a. Ex. 1243-A, T. 10705
23 b. T. 10706
24 c. T. 10706
25 d. T. 10707
 e. Ex. 1243-A, T. 10708)

(XX-72. a. Ex. 1240, T. 10706-88)

IX. TOJO and the Greater East Asia Co-ProsperitySphere.

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3 XX-73. TOJO admitted that one of the remote
4 causes of Japan's war with the United States was inter-
5 ference with Japan's plans for a Greater East Asia.^{a.}

6 He said that the establishment of the East Asia sphere
7 was one of the nation's ideals and it was desired to
8 establish such sphere "by peaceful means."^{b.} In fact,

9 one of the main reasons in directing the war was stated
10 by TOJO in a speech before the 79th session of the Diet
11 on 22 January 1942 to be not only to secure strategic
12 points in Greater East Asia and to bring areas con-
13 taining important resources under Japan's control,^{c.} but

14 to establish the Greater East Asia Co-Prosperity
15 Sphere. He said that the purpose of establishing this
16 sphere came "from the great spirit of Japanese founda-
17 tion" and that the new order would be based "on
18 morality."^{d.} Later, in the same talk, TOJO forgot

19 for the moment the spiritual and moral motives activa-
20 ting Japan in this great undertaking and explained
21 what was really in the mind of those who sponsored
22 this enterprise. He said: "In constructing this

24 (XX-73. a. T. 36567

b. T. 36537

c. Ex. 1338-B, T. 12035

d. T. 12036)

1 (meaning the sphere) we have a mind to bring under
2 our power those areas which are absolutely indispen-
3 sable for the defense of Greater East Asia and to
4 deal with the others properly in accordance with tra-
5 ditions and culture of every race, and the changes of
6 war situations." ^{e.}

7 XX-74. At the same session of the Diet referred
8 to above, TOGO also spoke and confirmed the predatory
9 ambitions of Japan in connection with the East Asia
10 sphere. He said that the aim of the war was the es-
11 tablishment of the Greater East Asia Co-Prosperity
12 Sphere, and "it is natural that the areas absolutely
13 necessary for the defense of East Asia must be grasped
14 by Japan." ^{a.} Putting the views of TOJO and TOGO to-
15 gether, it becomes apparent that the real nature of the
16 Greater East Asia Co-Prosperity Sphere was to bring
17 the countries to the south under the power and control
18 of Japan and then exploit them.

19 XX-75. It is perfectly clear that this so-
20 called spiritual and moral undertaking was at best a
21 cover for the seizure and control by Japan of the
22 valuable sovereign lands to the south, and such control
23 was to be secured by force if necessary.

24 (XX-73. e. T. 12037-8)

25 (XX-74. a. T. 12031-2)

1 XX-76. The plans for creation of a vast
2 number of tributary nations became the real reason
3 why Japan embarked on the war rather than the alleged
4 reason that she was obliged to fight in self-defense.

5 XX-77. TOJO accepted the concept of seizure
6 by force of such sovereign countries and territories
7 as would contribute important resources to Japan. All
8 the fatuous talk about co-prosperity and friendly econ-
9 omic and cultural relations is ridiculous when viewed
10 through the speeches he made in which he expressly
11 said that such areas as were needed would be brought
12 under Japan's control. His speeches in this behalf
13 portray him as a military aggressor.

14 XX-78. Therefore, although in his testimony
15 he says that the object of the policy "was swiftly to
16 establish the stability of the Far East"^{a.} and that
17 it aimed merely at "economic cooperation" between
18 neighboring countries,^{b.} which aims were pursued by
19 "peaceful methods"^{c.} his earlier observations, made
20 while the policy was being put into effect, completely
21 refute the beneficent framework with which he now seeks
22 to surround the project, and his subsequent acts are at
23 odds with the effort now made to stamp this project as

25 (XX-78. a. T. 36426
 b. T. 36427
 c. T. 36428)

d. idealistic. For instance, in order to show how
nicely the "sphere" worked under Japan's guidance,
TOJO cites the Burma-Japan alliance of 1 August 1943^{e.}
in which Japan "promised to assign to Burma part of the
Japanese occupied territory with which the people of
Burma had had a close racial association." This indeed
would appear to be generous of Japan were it not that
she was passing over to Burma someone else's property
and not her own. Next, TOJO cites that the Japanese
Government recognized the independence of the Philip-
pines.^{f.} TOJO says that he himself went to the Philip-
pines in May 1942 and observed the spirit of the people
and assisted them in promoting the plan for establishing
an independent nation.^{g.} He fails to show, however,
that Japan was at that time in military occupation
of the islands and that Japan's dealings necessarily
were with those friendly to Japan and not with the rank
and file of Filipinos whose property had been destroyed
and whose countrymen had been murdered or otherwise mis-
treated by the invading Japanese armies. He also cites
the treaty of "friendship" between Japan and Thailand
and the protocol which guaranteed reciprocal cooperation

(XX-78. d. T. 36429

e. Ex. 3676, T. 36450

f. T. 36456

g. T. 36456

1 in "friendly relations and intimate economic relations,"^{h.}
2 but he fails to mention that while he was War Minister,
3 on 21 November 1940, the second Four Ministers' Confer-
4 ence decided to help Thailand gain control of Probang
5 and Pakuse, provided Thailand agreed to Japanese de-
6 mands,^{i.} namely, that Thailand furnish rice and other
7 important raw materials to Japan, and to separate from
8 Britain. In the same agreement it appears that Japan
9 used the Thailand situation as a means of stimulating
10 the French Indo-China problem by playing off Thailand
11 against Indo-China, thus killing two birds with one
12 stone.^{j.} In addition, in return for the concessions
13 made to Japan the treaty provided that Japan would re-
14 turn to Thailand the four Malayan provinces of Perulis,
15 Kedah, Kerantan and Trengganu out of the former Siamese
16 territory of Malay, and the two Shan provinces of Ken-
17 tung and Monpang then under occupation by Japanese
18 troops.^{k.}
19
20
21
22

23 (XX-78, h. T. 36456
24 i. Ex. 618-A, T. 6873
j. Ex. 618-A, p. 15
25 k. Ex. 3681, T. 36458)

1 XX-79. TOJO's explanation that his under-
2 standing was that the parcelling out of the territory
3 of a sovereign nation between two major powers, was
4 according to international law, and that the treaty
5 between Japan and Thailand was concluded at a time when
6 war was going on, lacks justification legally or other-
7 wise for the action which was taken.

8 X. TOJO's responsibility as to Prisoners of
9 War and Civilian Internees.

10 (a) Extent of TOJO's assumption of responsibility

11 XX-80. TOJO in his testimony assumes respon-
12 sibility for the following (1) treatment of prisoners
13 of war after internment at Detention Camps established
14 by the Ministry of War, or the treatment of civilian
15 internees interned in the war zones, except for China.
16 This includes war prisoners employed in the construction
17 of the Burma-Siamese Railway. As to this classification
18 he assumes administrative responsibility as Minister of
19 War for the period from the beginning of the Pacific
20 War up to 22 July 1944.^{a.} (2) He assumes administrative
21 responsibility incumbent on the Supreme Command as
22 Chief of the General Staff, from February 1944 to July
23 1944.^{b.} Under this category are included such cases as
24 (XX-80. a. T. 36413, Ex. 1980A, T. 14558.
25 b. T. 36413.)

1 involved the treatment of prisoners of war during the
2 period of their transportation to prisoner of war camps
3 established by the Minister of War, and also included
4 the occurrences which took place on the Malay Peninsula,
5 and on the Bataan Peninsula.^{c.} (3) He also assumes
6 administrative responsibility as Minister of Foreign
7 Affairs in connection with protests of foreign countries,
8 or through the International Red Cross during the period
9 1 September to 17 September 1942.^{d.} (4) He also
10 assumes administrative responsibility, as Minister of
11 Home Affairs, from 8 December 1941 to 17 February 1942,
12 in relation to treatment of civilian internees in Japan
13 proper.^{e.} He also assumes political responsibility
14 as Prime Minister and concurrently as War Minister for
15 matters relating to the promulgation of the POW punish-
16 ment law.^{f.}

17 (b) Procedures adopted as War Minister.

18 XX-81. As War Minister, he says he gave
19 orders prohibiting maltreatment and imposition of
20 forced labor on prisoners of war or civilian internees
21 or inhabitants in occupied territories,^{a.} and directed
22 they be treated with humanity according to the principles
23

24 (XX-80. c. T. 36412
25 d. T. 36413-4
e. T. 36414
f. T. 36414)

(XX-81. a. Ex. 1965, T.36414)

b.
of international law and regulations. He asserted
1 that War Minister instructions were issued directing
2 the behavior of all army officers, soldiers and civilian
3 employees of the Army at the front. c. He explained
4 that in March 1943 the disciplinary law for prisoners
5 of war was amended. d. This amendment became necessary,
6 he said, for the reason that the existing law was
7 enacted at the time of the Russo-Japanese war, and
8 conditions prevailing in World War II were vastly
9 different from those in former wars, namely, in the
10 complexity of racial differences among prisoners of war,
11 the variations in their nationalities, and particularly
12 the number of prisoners of war involved. The changes
13 made, however, were not in TOJO's opinion, in conflict
14 with the Geneva Protocol. e. They related mainly to
15 crimes of violence, insubordination against prisoners
16 of war supervisors, the crime of escape, mass conspiracy,
17 breach of parole, assault and intimidation, formation
18 of bands for the purpose of killing, wounding, in-
19 timidating, insulting or insubordination against
20 prisoners of war supervisors. f.

22 XX-82. It is to be noted that TOJO's actions

23
24 (XX-81. b. T. 36415
c. T. 36415
25 d. T. 36417
e. T. 36418
f. T. 36418)

1 did not fit his words. While TOJO was War Minister,
2 on 1 March 1942, a telegram was directed to the Vice
3 War Minister from the Chief of Staff, Korean Army,
4 requesting the internment of 1,000 British and 1,000
5 American prisoners of war in Korea "as it would be
6 very effective in stamping out the respect and admira-
7 tion of the Korean people for Britain and America...."^{a.}
8 This request was approved by the Minister of War
9 (TOJO).^{b.} Later, these prisoners on arrival were
10 "exposed to public show"^{c.} and were transported through
11 Fusan, Seoul and Jensen along roads lined by about
12 120,000 Koreans and 57,000 Japanese bystanders.^{d.}

13 XX-83. British prisoners of war in Rangoon
14 in July 1942 were also degraded, being forced to clean
15 the city streets, thus needlessly hurting the dignity
16 of soldier prisoners, contrary to the prisoners of war
17 code.^a

18 XX-84. As for TOJO's claim that he gave
19 orders prohibiting forced labor by prisoners of war,
20 this seems to be contrary to his instructions of
21 30 May 1942,^{c.} delivered to the Commander of the
22 Zentsuji Division, in which he said; "The present
23

24 (XX-82. a. Ex. 1973, T. 14512

b. T. 14512

c. T. 14526

d. T. 14522)

(XX-83. a. Ex. 2022, T. 14754)

(XX-84. a. Ex. 1960, T. 14423)

1 situation of affairs in this country does not permit
2 anyone to be idle doing nothing but eating freely.

3 With that in view, in dealing with the prisoners of
4 war, I hope you will see that they may be usefully
5 employed." Again on 25 June 1942, in an address
6 delivered to the newly appointed chiefs of prisoners
7 of war camps, TOJO said that the labor and technical
8 skill of prisoners must be fully utilized for the
9 replenishment of production, and contribution rendered
10 toward the prosecution of the Greater East Asiatic

11 War." ^{b.} On 7 July 1942, TOJO issued instructions to
12 the newly-appointed commanders of prisoner of war camps,
13 in line with what he had told them in his oral address.

14 The instructions included the following: "not let them
15 remain idle even for a single day," also "supervise them
16 rigidly;" also "utilize most effectively their manpower
17 and technical abilities." ^{c.} This was followed in

18 October 1942 with a decision providing that labor may
19 be imposed on officers and non-coms although the same
20 is prohibited under Article 1 of prisoner of war Labor
21 regulations (Army Note No. 139, September 10, 1904). ^{d.}

22 In the same month, the War Minister (TOJO) approved an

23 (YX-84. b. Ex. 1962, T. 14426-7
24 c. Ex. 1963, T. 14429
25 d. Ex. 1961, T. 14425)

1 application of the General Staff of the Eastern District
2 Army, to permit prisoners of war to work in various
3 ports and other places, loading and unloading cargo,
4 constructing canals, and in munition factories for
5 "expanding production."^{e.}

6 XX-85. In an interrogation on 25 March 1946,
7 TOJO admitted that he was aware of the fact that the
8 United States and Britain had warned Japan that it
9 would be held responsible for violations of the conven-
10 tions and rules of war. He said the only complaints
11 coming to him about treatment of prisoners of war were
12 in connection with food. Atrocities he said were not
13 brought to his notice at all.^{e.} He admitted that if
14 these atrocities were true, treaties had been violated.^{b.}
15 He admitted that complaints by the United States and
16 Great Britain were taken up at the bi-weekly meeting
17 of the Prisoners Bureau.^{c.} He, himself, upon hearing
18 of rumors of mistreatment of prisoners of war at Bataan,
19 in the course of a trip to the Philippines, inquired
20 of the Chief of Staff, WACHI, who informed him that the
21 Bataan "march" was due to lack of transportation and
22 there were no cases of atrocities.^{d.} This inquiry was

23 (XX-84. e. Ex. 1967, T. 14484-8)

24 (XX-85. a. Ex. 1980C, T. 14562

25 b. T. 14563

c. T. 14565

d. Ex. 1980E, T. 14566)

1 made on 5 May 1943 whereas the "Bataan March" took
2 place early in 1942.^{e.}

3 XX-86. In an interrogation on 26 March 1946,
4 TOJO said, that since the end of the war, he read
5 about the inhumane acts committed by the Japanese
6 Army and Navy personnel. He said that such acts were
7 not the intention of those in authority. He said "we
8 did not even suspect that such things had happened. . .
9 such acts are not permissible in Japan . . . the
10 character of the Japanese people is such that they
11 believe that neither Heaven nor Earth would permit
12 such things."^{a.}

13 XX-87. If such were the beliefs of TOJO
14 after the events had taken place, the evidence shows
15 that he did not hold such views when the atrocities
16 were taking place. He must have known that prisoners
17 of war were being treated illegally because complaints
18 on such matters were under consideration at bi-weekly
19 meetings of the Prisoners' Bureau, as he admitted.^{a.}
20 He is not absolved from actual responsibility merely
21 because he would forward a protest to the responsible
22 Army Command when it came in, and then "presume" that
23 investigations were made;^{b.} nor is he absolved from
24

25 (XX-85. e. T. 14566)

(XX-86. a. Ex. 1981A, T. 14575-6)

(XX-87. a. T. 14565

b. Ex. 1981B, T. 14579)

1 actual responsibility by assuming that the Commander
2 in the field would take measures and send a report back
3 to the War Minister.^{c.} TOJO's failure to properly check
4 the rumors and complaints is demonstrated by his failure
5 while there to discuss with the Chief of Staff of the
6 Army in the Philippines, various rumors of the suffer-
7 ing that prisoners experienced during the "Bataan
8 March."^{d.} He admitted that he did not talk to the
9 Chief of Staff of the protest of the United States
10 Government to Japan, that the prisoners, on that march,
11 were beaten, bayoneted and shot. He said he did not
12 talk about those things because he thought that if the
13 responsible army commander knew about those things he
14 would take appropriate measures if things were contrary
15 to international law.^{e.} Nor did he inquire whether any
16 action whatsoever had been taken in these matters.^{f.}

17
18 XX-88. The reason assigned by him for his
19 failure to make inquiries to ascertain whether the
20 complaints made by the United States were justified
21 was that the "responsible commander had the authority,"
22 and he "relied upon him."^{a.} It is submitted that the
23 duty of a War Minister and concurrently a Prime Minister
24 (XX-87. c. Ex. 1983B, T. 14597
25 d. T. 14585
e. T. 14587
f. T. 14587)
(XX-88. a. T. 14587)

1 extends beyond reliance on a presumption that some
2 other official is doing his duty especially where a
3 determination must be made whether formal protests from
4 another nation are justified or not. The explanations
5 made by TOJO of his actions show either condonance of
6 the illegal treatment of prisoners of war, or a failure
7 to understand his responsibilities, which imposed on
8 him overall supervision of the actions of his sub-
9 ordinates.

10 (c) Regulations for punishment of enemy
11 fliers.

12 XX-89. TOJO testified that penalties for
13 those violating wartime laws and regulations during an
14 air-raid, were provided for in a Vice War Minister's
15 communication in July 1942 following the invasion of
16 the Tokyo area by the Doolittle fliers on 18 April
17 1942.^{a.} He said that it was concluded that all such
18 cases should go to trial to determine whether or not
19 particular acts constituted violations of international
20 law or regulations.^{b.} He testified that this became
21 necessary to prevent atrocities by aerial bombardment
22 in the future, as well as to prevent rigorous treatment
23 to plane crews by troops on the spot out of hatred for

24 (XX-89. a. T. 36419
25 b. T. 36419)

c.
 them. It is his claim that the Doolittle fliers
 1 were all tried by a court established in Shanghai
 2 and while eight were sentenced to death he secured the
 3 commutation of the death penalty of five of the
 4 prisoners.
 d.

5 XX-90. TOJO was unable to state whether the
 6 order to impose severe punishment on the fliers was
 7 issued over his name or by Imperial Headquarters, but
 8 he said "no matter who issued it, I am responsible for
 9 it."
 f.
 10 The only connection the Emperor had with the
 11 matter was that, after sentence of the eight fliers to
 12 death, TOJO discussed the matter with him and recom-
 13 mended that the Emperor commute the death penalties
 14 from eight to three, it being "decided that only the
 15 three who had killed primary school students would
 16 receive the death penalty."
 b.

17 XX-91. In explanation of the action taken to
 18 establish a procedure for trial of fliers who raided
 19 Japan, he said in an interrogatory of 29 March 1946,
 20 that the raid of 18 October 1942 was not against troops,
 21 but against non-combatants, primary school students,
 22 and so forth, and that is why trials were ordered.
 b.

23 (XX-89. c. T. 36419 (XX-91. a. Ex. 1984A, T.14599-604
 24 d. T. 36420) b. T. 14600)
 25 (XX-90. a. T. 14602
 b. T. 14602-3)

1 He said that the bombing was a great shock to the public,
2 and "feeling ran very high."^{c.} This theory, that the
3 Doolittle fliers knowingly or intentionally engaged
4 in indiscriminate aerial bombardment of non-combatants
5 and school children, was shown in this trial to have
6 been based on certain confessions extracted from some
7 of the fliers, after they were subjected to cruel and
8 inhumane torture, this branding the confessions as
9 having no probative value.^{d.}

10 THE PRESIDENT: We will recess until half
11 past one.

12 (Whereupon, at 1200, a recess was
13 taken.)
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25 (XX-91. c. T. 14601
d. Ex. 3834A, T. 38030)

AFTERNOON SESSION

1
2
3 The Tribunal met, pursuant to recess, at
4 1330.

5 MARSHAL OF THE COURT: The International
6 Military Tribunal for the Far East is now resumed.

7 THE PRESIDENT: Colonel Fixel.

8 MR. FIXEL: (Reading)

9 (d) Atrocities in Connection with Construction
10 of the Thailand-Burma Railway.

11 XX-92. TOJO admitted in his testimony that
12 he agreed to the employment of prisoners of war in con-
13 nection with work on the Burma-Thai railway. He says
14 that the railway route lay at a great distance behind the
15 front lines and that there were no military operations
16 in progress in that area at the time, and that the
17 district was not an uncommonly unhealthy one for that
18 area.^{a.} It was his assertion that Japanese soldiers were
19 employed side by side with the prisoners of war and that
20 the latter were treated equally with men of other and
21 stronger nationalities, and that there "was not ever
22 the faintest thought in our minds that this type of
23 employment would even be challenged as prohibitive under
24 international standards."^{b.} He said that in May 1943,
25

(XX-92. a. T. 36,421.
b. T. 36,422.)

1 when he was informed of deficiencies in sanitary
2 conditions and treatment of prisoners of war engaged
3 in the work, he dispatched General HAMADA, Chief of
4 the Prisoners of War Control Section, and a number of
5 expert surgeons there from the Medical Bureau, and
6 subsequently a company commander who had dealt unfairly
7 with the prisoners was court-martialed, and the
8 Commanding General, Railway Construction, was relieved
9 from duty.^{c.}

10 XX-93. In an interrogation, 25 March 1946,^{a.}
11 TOJO admitted that he and his assistants had made
12 investigations many times in connection with mistreat-
13 ment of prisoners of war on the Burma-Thai Railway.

14 XX-94. WAKAMATSU, a witness, testified that
15 he had made an inspection of the Burma-Siam area
16 around July or August 1943,^{a.} and reported the results
17 to the Chief of Staff, General SUGIYAMA, and the Vice-
18 Chief of Staff, General HATA, (not a defendant in this
19 case). This inspection was made because reports had
20 been received that "the physical condition of the
21 prisoners of war was poor, and that the death rate was
22 very high." He also heard that cholera was epidemic.
23 During the course of his inspection he observed many
24

25 (XX-92. c. T. 36422.

XX-93. a. Ex. 1980-E, T. 14565.

XX-94. a. Ex. 1989, T. 14633-6.)

1 cases of dysentery and beri-beri among the prisoners
 2 of war. He also found that the feeding "was not satis-
 3 factory, the quantity and quality being below the
 4 required standard." ^{b.} He said that "many deaths of
 5 prisoners of war resulted from the building of this
 6 road." There were not enough trucks and the truck roads
 7 had been washed out. Therefore, more men were used to
 8 make up for a deficiency in trucks. ^{c.}

9 XX-95. Other evidence shows that no hospitali-
 10 zation was provided the sick; ^{a.} no anesthetics or
 11 instruments were provided for operations; ^{b.} the prisoners
 12 of war lived in indescribably filthy conditions; ^{c.} that
 13 they suffered an average loss of weight from 70 to 80
 14 pounds; ^{d.} and that Australian mortality was 44% and
 15 British deaths were 59% among the POW. ^{e.}

16 (e) Widespread Atrocities During TOJO's
 17 Regime.

18 XX-96. It would serve no useful purpose to
 19 enumerate the widespread acts of brutal, inhuman and
 20 atrocious conduct by Japanese troops during the time
 21 TOJO was War Minister and Premier. ^{a.} TOJO had more than
 22

23 (XX-94. b. T. 14634. c. T. 14635-6.
 XX-95. a. T. 13064. d. T. 13071.
 24 b. T. 13073. e. T. 13069.
 c. T. 13061-4; 13091-4; 13084-7.
 25 XX-96. a. T. 11539-43; 11583; 13172-5; 13187;
 13193; 13425; 13488; 13510-11; 13515-8;
 13525; 14053; 14057; 14977-15000.)

1 administrative responsibility as he acknowledges. He
2 had actual and direct responsibility, because he per-
3 mitted such things to continue to happen after he knew
4 or should have known what was being done.

5 XI. TOJO's Guilt Under the Counts of the
6 Indictment.

7 XX-97. The facts which establish TOJO's guilt
8 under the respective counts may be found as indicated:

9 Counts 1-5 - in par. II.

10 Counts 6-17 - in par. IV, V, VI, VII, VIII, IX.

11 Counts 18-26 - in par. IV, V, VI, VII, VIII, IX.

12 Counts 27-36 - in par. IV, V, VI, VII, VIII, IX.

13 Counts 37-43 - in par. X.

14 Counts 48-52 - in par. II (B) (C), III.

15 Counts 53-54 - in par. X.

16 With the permission of the Court, Colonel
17 Ivanov will continue for the prosecution.

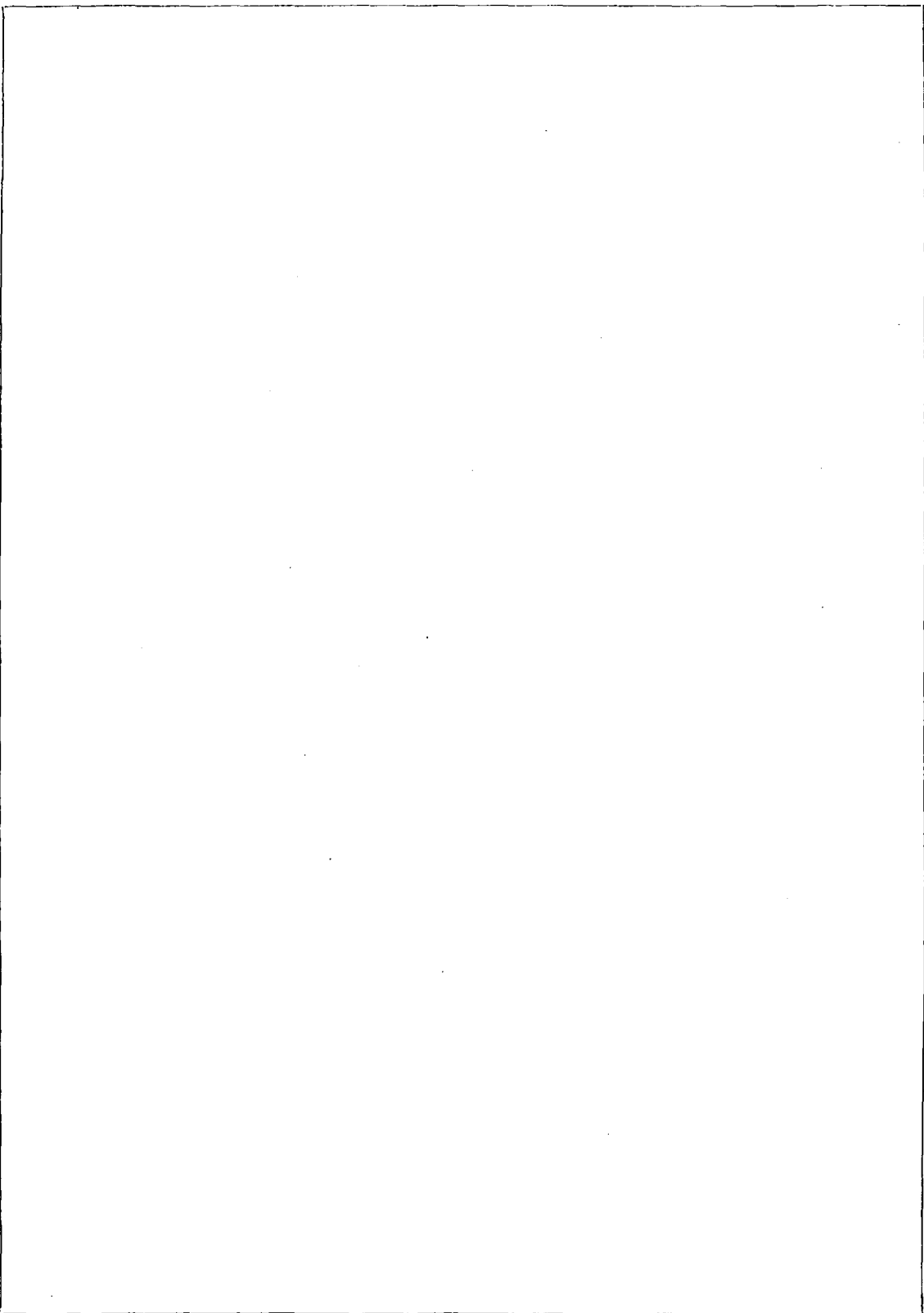
18 THE PRESIDENT: Colonel Ivanov.

19 COLONEL IVANOV: If the Tribunal please, I
20 shall now read the summation of the case against the
21 accused UMEZU, Yoshijiro.

22 UMEZU, Yoshijiro.

23 YY-1. Charges against UMEZU, Yoshijiro are
24 contained in the following counts of the Indictment:
25 1-19; 26-32; 34; 36; 44-51; 53-55.

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1. Biographical Outline.

1 YY-2. UMEZU was born on January 4, 1882. He
2 started his military career in 1904 as a sublieutenant.
3 In 1905 he was promoted to lieutenant and for services
4 in the Russo-Japanese war he was decorated with the
5 5th Class of the Order of the Golden Kite. In the years
6 1908 and 1909 UMEZU was a student of the Military Staff
7 College. During almost all the subsequent years until
8 1928 UMEZU was an officer of the Japanese General Staff.
9 Several times he went overseas. In 1913 he was in
10 Germany. During World War I, from 1915 until 1917
11 he resided in Denmark. In 1919 he made an official
12 tour of Europe and subsequently until 1921 he was
13 Military Attache in Switzerland supervising the activi-
14 ties of Japanese residents. In 1924 he was promoted
15 colonel. In 1926 he was appointed section chief of the
16 General Staff Office and held this office until 1928.
17 Throughout the period of time covered by the Indictment
18 UMEZU held responsible positions in the Japanese Army
19 and in the government. From 1928 until August 1930 he
20 held the post of Chief of the Military Affairs Section,
21 Bureau of Military Affairs, War Ministry, whereupon he
22 was promoted to major general and for a year commanded
23 the 1st Infantry Brigade. From 1 August 1931 to
24 1 August 1933, UMEZU held the office of Chief of the
25

1 General Affairs Department of the Army General Staff,
2 and, later, for seven months he was attached to the
3 General Staff Office. From March 1934 until 1 August
4 1935, UMEZU, then a lieutenant general, commanded the
5 Japanese Army stationed in China, whereupon he was a
6 divisional commander in Japan proper until March 1936.
7 From 23 March 1936, through 30 May 1938, he held the
8 post of Vice-War Minister in three cabinets. During
9 the same period of time UMEZU concurrently held the
10 positions of a councilor of the Manchurian Affairs
11 Bureau (cabinet), a member of the National Resources
12 Investigation Council, a member of the Steel Industries
13 Investigation Commission, a member of the Automobile
14 Manufacturing Business Commission, a member of the
15 Liquid Fuels Commission, a member of the Science Research
16 Committee and a member of the Temporary Committee for
17 the Regulation of Funds. He was also Chairman of the
18 Army Munitions Investigation Council, acting Chief of
19 the Army Arsenal, a councilor in the Planning Board and
20 a member of the Cabinet Information Bureau. In 1938
21 he was a member of the Establishing Committee for the
22 North China Development Company and the Central China
23 Development Company. From May 1938 until 7 September
24 1939, he was Commander of the 1st Army in China. From
25 7 September 1939 until 18 July 1944 UMEZU was

1 Commander-in-Chief of the Kwantung Army and Envoy
2 Extraordinary and Ambassador Plenipotentiary in Man-
3 chukuo. In August 1940 he was promoted to general.
4 From 18 July 1944 UMEZU held the post of Chief of the
5 Army General Staff until he signed the Instrument of
6 Surrender on September 2, 1945. UMEZU was decorated
7 with several orders, valuable gifts and other awards.
8 In March, 1936, he was promoted to the 1st Rank of the
9 Higher Civil Service. In September 1943, he was awarded
10 the 3rd Court Rank of the Senior Grade.^{a.}

11 II. The 1st Stage of UMEZU's Activities.

12 YY-3. While holding the post of Chief of the
13 Military Affairs Section, Bureau of Military Affairs,
14 War Ministry (1928-30), UMEZU was in charge of the study
15 of general problems of the so-called "national defense"
16 of Japan, military research and also the ideological
17 preparation of the population for war and military
18 affairs pertaining to Manchuria and China.^{a.} Naturally,
19 these problems were of vital interest to the conspirators
20 and determined UMEZU's active participation in the
21 conspiracy.

22 YY-4. As Chief of the General Affairs Depart-
23 ment of the General Staff (1931-1933) UMEZU was in charge

24 (YY-2. a. Ex. 129, T. 798-803.

25 YY-3. a. Ex. 129; Ex. 74, T. 504; T. 582; T. 583;
T. 15,859.)

1 of army personnel and organization matters as well
2 as problems of mobilization.^{a.} As the head of one of
3 the most important divisions of the General Staff Office,
4 UMEZU took an active part in ensuring the conduct of
5 military operations for the seizure of Manchuria
6 which were commenced and accomplished during precisely
7 the same period. For services in the "incident"
8 (1931-34) UMEZU was decorated with the Order of the
9 Double Rays of the Rising Sun, and with the 1st Class
10 of the Order of the Sacred Treasure.^{b.}

11 YY-5. In 1932 while UMEZU was Chief of the
12 General Affairs Department, the Japanese General Staff
13 adopted the decision to accomplish war preparations
14 against the U.S.S.R. by the beginning of 1934.^{a.} As
15 testified by the witness KASAHARA, Yukio, section chiefs
16 of the General Staff discussed this problem at that
17 time and planned to increase Japan's armed forces in
18 order to execute this decision.^{b.} Being in charge of
19 army organization and mobilization problems,^{c.} UMEZU
20 was directly concerned with this stage of the Japanese
21 aggression against the U.S.S.R.

22 (YY-4. a. Ex. 78, T. 589.

b. Ex. 129, T. 801.

23 YY-5. a. Ex. 702, T. 7510, 7515.

24 b. Ex. 129; Ex. 2670; T. 23196; T. 23232.

25 c. Ex. 78, T. 389.)

III. UMEZU's Activities in North China.

1 YY-6. As Commander of the Japanese Army in
2 China with Headquarters in Tientsin (March 1934-August
3 1935) UMEZU concentrated his efforts on the accomplish-
4 ment of the next objects of the conspiracy, to-wit:
5 further extension of Japan's domination in China;
6 separation of China's northern provinces; and the estab-
7 lishment of a pro-Japanese puppet regime in North China.
8 The witness TANAKA, Ryukichi, testified that Commander
9 of the Japanese Army in North China UMEZU, as well as
10 Commander-in-Chief of the Kwantung Army MINAMI, initiated
11 the autonomous movement in North China for the purpose
12 of establishing an "autonomous" regime in Mongolia and
13 other provinces in North China which was virtually tan-
14 tamount to separation of the five Northern Chinese
15 Provinces (Hopei, Shangsi, Shantung, Chahar and Suiyuan)
16 from the Nanking Government in order to place them
17 entirely under Japanese control.^{a.}
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(YY-6. a. T. 2026, 2027, 2028, 2034, 2035.)

YY-7. In the middle of May 1935, two Chinese
 1 were murdered by unidentified persons in the territory
 2 of a Japanese concession in Tientsin. Taking advan-
 3 tage of this incident, Chief of Staff of the Japanese
 4 forces SAKAI, who was directly responsible to UMEZU,
 5 visited General HO of the Chinese Army and stated that
 6 the Japanese Army regarded these killings as acts
 7 of provocation and, threatening to take drastic
 8 measures, demanded a change in command of the Chinese
 9 forces and the withdrawal of the Chinese police and
 10 local party organizations from Hopei. The Chinese
 11 Nationalist Government substantially satisfied these
 12 demands.^{a.} Nevertheless, on 29 May 1935 UMEZU again
 13 dispatched his Chief of Staff SAKAI, to General HO^b
 14 demanding that the Chinese troops be withdrawn and
 15 anti-Japanese activities be discontinued and threaten-
 16 ing that the Japanese Army would take unrestricted
 17 actions should these demands not be satisfied.^{c.}

YY-8. These demands, made in the form of an
 20 ultimatum were published by the press.^{a.} The press
 21 also carried the news of UMEZU's order for the cancella-
 22 tion of the dispatch of troops to Japan (scheduled for
 23 15 July 1935) in view of a "critical situation".

YY-7. a. Ex. 194, T. 2954-76.

b. Ex. 2491, T. 20786.

c. Ex. 194, T. 2276.

YY-8. a. Ex. 3241, T. 29489; T. 29496, 29504-5, 29531.

b.
existing." In the entry in his diary dated 30 May
1 1935 the accused KIDO pointed out that demands lodged
2 against China were very extensive and that China,
3 according to SHIGEMITSU's estimate, was in no condi-
4 tion to oppose the claims of the Japanese Army. ^{c.} Thus,
5 UMEZU, taking advantage of the weakness of China which
6 was unable to oppose the Japanese demands and being
7 supported by the threat of the Japanese bayonets,
8 grossly violated China's sovereignty.
9

10 YY-9. On 1 June 1935, UMEZU conferred with
11 War Minister HAYASHI and Commander-in-Chief of the
12 Kwantung Army MINAMI in Hsinking. ^{a.} It is beyond
13 any doubt that this conference was devoted to co-
14 ordination of action in regard to the extension of
15 Japanese aggression in China and to exerting further
16 resolute pressure upon the Nationalist Chinese Govern-
17 ment. On 9 June 1935, upon the conclusion of negotia-
18 tions with General HO, the press published a statement
19 made by UMEZU to the effect that Japan's further ac-
20 tions would depend on the sincerity of the Chinese in
21 granting the Japanese "requests." ^{b.}
22

23 YY-10. On 10 June 1935, the ultimatums
24 lodged against China by Commander of the Japanese

25 YY-8. b. Ex. 2206-A, T. 15778. c. Ex. 2192, T. 15733.
YY-9. a. Ex. 2206-A, T. 15777; T. 19986, T. 29488-90.
b. T. 15779.

1 Army in North China UMEZU were satisfied. On this
2 occasion the "Ho-UMEZU Agreement" was concluded pur-
3 suant to which Chinese troops were transferred into
4 other areas, the activities of the local party organiza-
5 tions in Hopei were discontinued and the anti-Japanese
6 movement was banned. The capital of Hopei was trans-
7 ferred to another town.^{a.}

8 YY-11. This was corroborated by the witness
9 John Goette, who testified that the Chinese troops had
10 satisfied the demands of the Japanese military authori-
11 ties who threatened that they would otherwise ship
12 more troops to China and establish a regime of military
13 occupation there.^{a.} Another witness, Ching Te-chun,
14 testified that there was no anti-Japanese movement in
15 North China at that time.^{b.} Consequently, an allusion
16 thereto served merely as a pretext for Japan's aggres-
17 sive actions. Needless to say, even if there had been
18 such a movement, it would have given no right to UMEZU
19 and other Japanese imperialists to intervene in internal
20 affairs of the Chinese sovereign state.

22 YY-12. As a result of the "Ho-UMEZU" Agree-
23 ment, Japan established complete control over the
24 provinces of North China. There had been created all

25 YY-10. a. Ex. 194, T. 2276; Ex. 2491, T. 20787.
YY-11. a. T. 3746-48; T. 3809-10-11. b. T. 2480.

1 prerequisites for the establishment of a military
2 base by the Japanese Army in North China for the
3 purpose of invading Central China. In June 1935, a
4 minor incident occurred in Chahar with four Japanese
5 officers. DOHIHARA, who had arrived in Tientsin where
6 UMEZU was Commander of Japanese troops, took advantage
7 of threats and pressure employed by the Japanese Army
8 and on June 27, 1935, concluded an "agreement" with
9 General Chin Te-chun, thereby securing a withdrawal of
10 Chinese troops and the accomplishment of some other
11 measures in Hopei favorable to Japan.^{a.} Subsequently,
12 in November 1935, the Japanese set up an autonomous
13 puppet regime in Eastern Hopei,^{b.} and demanded that
14 independence be granted to the Hopei-Chahar Political
15 Council to reorganize it later into an autonomous
16 government of North China.^{c.}

17 YY-13. In the summer of 1935 during UMEZU's
18 stay in Tientsin, Japanese military aircraft made
19 flights and landings around Peiping and Tientsin.^{a.}
20 As Commander of Japanese troops in North China until
21 August 1935, UMEZU should be held responsible for these
22 violations of China's sovereignty.
23

24 YY-12. a. Ex. 199, T. 2311-17; Ex. 2489, T. 20755.

b. Ex. 210, T. 2701-3; Ex. 211, T. 2704.

25 c. Ex. 199, T. 2315.

YY-13. a. Ex. 213, T. 2708.

IV. UMEZU's activities in the War Ministry.

1
2 YY-14. During his tenure of office as Vice-
3 War Minister in 1936-38, UMEZU, as well as the staff
4 of his subordinates in the War Ministry, took part in
5 the working out of drafts and in subsequent implementa-
6 tion of the most important decisions of the Japanese
7 Government aimed at the extension of aggression. By
8 30 July 1936 the War and Navy Ministries had worked out
9 the draft of a decision concerning "the Basis of
10 National Policy."^{a.} On the same day, the basic
11 principles of national policy set forth in that
12 document were approved by the Prime Minister, the
13 Foreign Minister, the Navy and War Ministers, and by
14 the Minister of Finance.^{b.}

15
16 YY-15. On 7 August 1936, the Conference of
17 Five Ministers (including the War Minister) adopted
18 a decision on "The Basic Principle of National Policy"^{a.}
19 and on the same day the Conference of Four Ministers
20 (which also included the War Minister) adopted the
21 resolution entitled "Foreign Policy of the Empire."^{b.}

22 YY-16. The resolution entitled "The Basic
23 Principle of National Policy," in particular provided

24 YY-14. a. Ex. 977, T. 9542-7; b. Ex. 978, T. 9548.
25 YY-15. a. Ex. 216, T. 2720; b. Ex. 704, T. 7523, 7878.

1 for war preparations and envisaged expansionist policy
 2 against China, the Soviet Union, Great Britain, and
 3 the U. S. A.^{a.}

4 YY-17. The resolution entitled "Foreign
 5 Policy of the Empire" called for making China anti-
 6 Soviet and pro-Japanese and provided for some other
 7 hostile steps against the U. S. S. R. as well as for
 8 realization of full cooperation between Japan and
 9 Germany.^{a.}

10 YY-18. In the same year (1936) Japan's co-
 11 operation with Germany and Italy resulted in the con-
 12 clusion of the Anti-Comintern Pact,^{a.} an international
 13 conspiracy of aggressors directed against freedom-
 14 loving nations and, primarily, against the U. S. S. R.
 15 As Vice-War Minister, UMEZU took an active part in the
 16 conclusion of this pact and took steps to include
 17 Manchukuo therein,^{b.} and also to establish a secret
 18 air route between Japan and Germany.^{c.} For his personal
 19 services in the conclusion of the Anti-Comintern Pact
 20 UMEZU was decorated.^{d.}

21
 22 YY-19. After the resignation of Prime Minis-
 23 ter HIROTA on 23 January 1937, General UGAKI was

24 YY-16. a. Ex. 216, T. 2727-28.

YY-17. a. Ex. 704, T. 7523-4, 7878.

25 YY-18. a. Ex. 36, T. 499. c. Ex. 770, T. 7871.

b. Ex. 242, T. 2997, 3000-1. d. Ex. 129, T. 802.

1 authorized to form a new cabinet. However, the
2 reactionary circles of the Japanese military considered
3 his nomination undesirable in the conditions of 1937
4 and they frustrated the formation of his cabinet. As
5 may be seen from a document of the Japanese Home Minis-
6 try, Vice-War Minister UMEZU stated on 27 January 1937
7 that the army was against UGAKI for reasons not to be
8 disclosed. ^{a.} UMEZU's notice sent to the Ex-Soldiers
9 Organization is the same in effect. ^{b.} The only reason
10 could be that at that moment UGAKI's nomination was
11 considered inadequate from the standpoint of the prose-
12 cution of the aggressive policy of the Japanese
13 imperialism, one of whose agents was UMEZU, a party
14 to the conspiracy. It is characteristic that as a
15 representative of the most reactionary factions of the
16 Japanese military UMEZU invariably remained Vice-War
17 Minister in the cabinets of HIROTA, HAYASHI, and
18 KONOYE (1936-38), which consistently promoted the aims
19 of the aggressive conspiracy.
20

21 YY-20. In the prosecution of the conspiracy
22 the program for the accomplishment of Japan's large-
23 scale preparations for expansionist warfare was of

24 YY-19. a. Ex. 2208-D, T. 15798-800.
25 b. Ex. 2208-E, T. 15800-3.

1 paramount importance. ^{a.} As Vice-War Minister UMEZU
 2 played an active role in the working out and in the
 3 execution of this program. UMEZU's personal partici-
 4 pation in the activities of the National Resources
 5 Investigation Council, in the Steel Industries Inves-
 6 tigation Commission, in the Automobile Manufacturing
 7 Business Commission and in the Liquid Fuels Commission
 8 helped to put the main Japanese industries on a war
 9 footing and ensured military and economic preparations
 10 for wars of aggression. As Chairman of the Army
 11 Munitions Investigation Council and Chief of the Army
 12 Arsenal, ^{b.} UMEZU concentrated in his own hands the
 13 regulation of all army supplies and, primarily,
 14 armaments and ammunition supply.

15 YY-21. The top-secret telegram of Chief of
 16 Staff of the Kwantung Army TOJO, dated 9 June 1937,
 17 and addressed to UMEZU, contains an analysis of the
 18 situation in China from the standpoint of Japanese war
 19 preparations against the U. S. S. R. TOJO thought it
 20 most advisable to deliver the first blow against the
 21 Nanking Government thereby eliminating a menace in
 22 the rear of the Kwantung Army. ^{a.} The actions taken
 23 YY-20.
 24 ^{a.} Ex. 842, T. 8264-70; Ex. 841, T. 8261-63;
^{b.} Ex. 129, T. 798-803. T. 18312-13.
 25 YY-21.
^{a.} Ex. 672, T. 7336-7.

1 by UHEZU pursuant to this program can be easily
 2 determined from facts. It is well known that on
 3 July 7 and 8, 1937, i. e., less than a month after this
 4 telegram, the Japanese troops struck a blow against the
 5 Nanking Government. ^{b.} Thereupon, during the year 1937
 6 the Japanese troops seized Nanking, the capital of
 7 China, and occupied the capitals of the following
 8 provinces: Shangsi, Chantung, Chahar, Hopei, and Sui-
 9 yuen. ^{c.} In 1938 Japan's undeclared aggressive war
 10 against China continued, and the Japanese Army occupied
 11 more Chinese provinces. ^{d.}

12 YY-22. As Vice-War Minister, UHEZU is
 13 responsible for the preparation and prosecution of the
 14 undeclared aggressive war against China during the
 15 years 1937-38. He was directly concerned with the
 16 mobilization and the dispatch of Japanese troops to
 17 China. ^{a.} According to an estimate of the Chinese
 18 Government, the strength of the Japanese Army in
 19 China as of September 1937, amounted to 350,000.
 20 The witness TANAKA admitted that in October 1937
 21 there were 15 Japanese Divisions in China. ^{b.} The
 22 witness SHIBAYAMA, Kaneshiro, testified that in
 23 YY-21. b. Ex. 198, T. 2326-7; Ex. 58, T. 3299-3300.
 24 c. Ex. 254, T. 3430. c. Ex. 254, T. 3430-32.
 25 YY-22. a. Ex. 2582, T. 21986; Ex. 2488, T. 20678-82;
 Ex. 3260, T. 29690; Ex. 2582, T. 21996.
 b. Ex. 58, T. 3306; Ex. 2488, T. 20685.

1 January 1938, he accompanied Vice-War Minister U'EZU
2 on an inspection tour of the battle lines in North
3 China.^{c.} In the documents of the Japanese Foreign
4 Ministry presented to the Tribunal there is an entry
5 which discloses that early in 1938 following an
6 Imperial conference Vice-War Minister U'EZU went to
7 China to transmit the conference decisions to the
8 commanders of the Japanese occupation forces operating
9 in China.^{d.}

10 YY-23. On 11 October 1937, U'EZU and the
11 staff of his subordinates in the War Ministry pre-
12 pared "Views Concerning the Attitude of the Empire
13 toward Arbitration or Intervention by America,
14 European Powers or the League of Nations in the
15 Sino-Japanese Incident." It was pointed out in
16 these "Views" that Japan would forcibly block any
17 intervention or pressure by third powers until she had
18 achieved her object in her military campaign against
19 China. The document discloses that the War Ministry
20 proposed special measures to be taken in order to
21 avoid any impression that Japan was anxious to bring
22 the incident to a settlement.^{a.} That shows with

24 what persistence U'EZU and other conspirators strove

25 YY-22. a. Ex. 3178, T. 28630. d. Ex. 3269, T. 37245-6.
YY-23. a. Ex. 3268, T. 37237-8.

1 to effectuate their aggressive plans. The decision
2 adopted on this program by the War and Navy Ministries
3 and the Ministry of Foreign Affairs on 22 October
4 1937^{b.} shows that the principles worked out with
5 UMEZU's participation were being translated into
6 reality.

7 YY-24. For his meritorious service during
8 the China Incident, UMEZU was awarded the Second Class
9 of the Order of the Golden Kite.^{a.}

10 YY-25. UMEZU studied and took action on
11 the basis of "The Outline of the Policy for the
12 Establishment of a New China," submitted to the War
13 Ministry by the Commander-in-Chief of the Kwantung
14 Army on 24 January 1938. This document called for
15 the transformation of China into a nation with a puppet
16 government dependent on Japan and for making the
17 population of "the new China" contribute to preparations
18 for war against the Soviet Union. Inner Mongolia and
19 Hsinkingang were regarded as bases for invading the
20 Mongolian People's Republic.^{a.}

22 YY-24. a. Ex. 129, T. 798; Ex. 2292, T. 16259.

23 YY-25. a. Ex. 762, T. 7839, p. 4. of Ex.

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1 YY-26. UMEZU's role and participation in
2 military preparations for Japan's aggressive war against
3 the Soviet Union considerably increased while he held
4 the post of Vice-War Minister, and was concurrently
5 a member of the Bureau of Manchurian Affairs headed
6 by the War Minister. It may be seen from the evidence
7 relating to this period of UMEZU's activities which I
8 have cited previously, and it is further corroborated
9 by documents from the War Ministry Diary,^{a.} which
10 incontestably establish the fact that UMEZU did
11 everything in his power to contribute to the increase
12 of the Kwantung Army forces and to the construction
13 of various military objectives in Manchuria, preparing
14 her as a military base for the invasion of Soviet
15 territory by Japanese troops.

16 YY-27. Secret documents, two of which were
17 signed personally by UMEZU, disclose that in 1938 he
18 took drastic measures to increase the strength of the
19 Kwantung Army by extending military service for troops
20 stationed in Manchuria.^{a.}

21 YY-28. UMEZU dealt with problems pertaining
22 to the construction of fortified areas in Manchuria
23 in the vicinity of the Soviet frontier. TOJO

24 YY-26. a. Ex. 719-A, T. 7560-5
25 YY-27. a. Ex. 719-A. T. 7564-5

1 communicated with him with reference to the measures
 2 for the execution of the plan of this construction
 3 scheduled for the years 1938 and 1939.^{a.}

4 YY-29. UMEZU also handled matters relating
 5 to the establishment of meteorological observation in
 6 the Chahar area and in Mongolia for the purpose of
 7 military operations vis-a-vis the U.S.S.R. and China.^{a.}
 8 The secret plan of the Kwantung Army Headquarters
 9 drafted in December 1937 and submitted to the War
 10 Ministry provided for a special strengthening of
 11 aeronautical meteorological service in preparation
 12 for hostilities against the U.S.S.R.^{b.}

13 YY-30. During the years 1936 and 1937 the
 14 War Ministry organized and conducted military-
 15 topographical investigation and a lengthy meteorological
 16 observation of various areas of the Soviet Kamchatka
 17 Peninsula for the purpose of landing operations.^{a.}

18 YY-31. Vice-War Minister UMEZU was responsible
 19 for the disbursement of the special secret fund. In
 20 particular, he contributed money out of this fund to
 21 right-wing politicians^{a.} for the purposes of bribery

22 YY-28. a. Ex. 719-A, T. 7565-6

23 YY-29. a. Ex. 719-A, T. 7561-2

24 YY-29. b. Ex. 719-A, T. 7560-1

24 YY-30. a. Ex. 721-A, T. 7568-9

25 YY-31. a. Ex. 3690, T. 36,855-9

1 in the interests of the conspirators. On 8 March
 2 1938, UMEZU personally received 150,830 yen from the
 3 Secret Funds of the Manchurian Incident.^{b.} On 13
 4 April 1938, UMEZU approved the transfer of 700,000
 5 yen from the Secret Funds of the Manchurian Incident
 6 to Chief of Staff of the Kwantung Army, TOJO, and at
 7 the same time 77,800 yen were transferred to UMEZU.^{c.}

8 YY-32. On 30 May 1938, at UMEZU's suggestion,
 9 Lieutenant General TOJO was appointed Vice-War Minister,
 10 while UMEZU received a new appointment.^{a.} Thus, in
 11 1938 the responsible position of the conspirator UMEZU
 12 was taken over by another conspirator, TOJO.

13 V. UMEZU in the Kwantung Army in Manchuria.

14 YY-33. From September 7, 1939 to July 18,
 15 1944 UMEZU was Commanding General of the Kwantung
 16 Army and Japan's Ambassador to Manchukuo.^{a.} In that
 17 period, under UMEZU's command were concentrated
 18 Japanese armed forces for the realization of one of
 19 the main and immediate objectives of the conspiracy-
 20 invasion of the Soviet Union and the seizure of eastern
 21 territories of the U.S.S.R. UMEZU in his capacity as
 22 Commanding General of the Kwantung Army concentrated
 23 full power in Manchukuo. As a participant of the
 24

25 YY-31. b. Ex. 2212, T. 15,811
 " c. Ex. 2209, T. 15,804
 YY-32. a. Ex. 3300-A, T. 30,094
 YY-33. a. Ex. 129, T. 802

1 conspiracy, he secured for the Japanese ruling
 2 imperialist clique full political, military and economic
 3 domination of Manchuria for the purpose of further
 4 extension of aggression on the continent and in the
 5 South Seas Area. Utilizing the rich resources of the
 6 country, UMEZU made the development of her industry
 7 and agriculture dependent upon the military interests
 8 of Japan and by means of the unbridled exploitation
 9 of the Manchurian population which was deprived of
 10 all rights transformed Manchuria into a colonial
 11 appendage to the war economy of Japan and into a
 12 military base against the U.S.S.R.

13 Aggression against the Soviet Union

14 YY-34. UMEZU's appointment as Commanding
 15 General of the Kwantung Army was brought about by
 16 the defeats suffered by the Kwantung Army in the
 17 course of the undeclared aggressive war waged by
 18 Japan against the U.S.S.R. and the Mongolian People's
 19 Republic in the Khalkhin-Gol river area in the
 20 summer of 1939.^{a.} The Japanese Government and the
 21 High Command removed his predecessor, General UEDA,
 22 from the post of Commanding General of the Kwantung
 23 Army,^{b.} as he was unable to ensure the realization

25 YY-34. a. Ex. 3857, T. 38,368; T. 38,370;
 Ex. 760, page 4; Ex. 2621, T. 22,601
 " b. T. 22,655; T. 4170; Ex. 762, (page 4 of the
 Ex.) T. 7839; Ex. 212, T. 2705; Ex. 273,
 T. 3679-82; Ex. 274, T. 3689; Ex. 761-1, T. 7830-1;
 Ex. 760-A, T. 7828-9.

1 of the contemplated aggressive plans. UMEZU, due
2 to the experience he gained during his previous
3 activities in China, in the War Ministry and in
4 the General Staff, fully conformed to the qualifications
5 required for that post. However, the situation in the
6 autumn of 1939 was regarded by Imperial Headquarters
7 as unfavorable for the conduct of direct military
8 operations. Time was necessary for gaining strength
9 and for a more thorough preparation for the invasion
10 of the territory of the U.S.S.R. and the Mongolian
11 People's Republic. All the activities of UMEZU
12 were devoted to that. At the beginning of UMEZU's
13 stay in Manchuria the fighting in the Khalkhin-Gol
14 river area was still going on, and the Kwantung Army
15 was transferring troops for further operations in
16 September 1939. The hostilities ceased only on
17 September 16, 1939.^{c.}

18
19 YY-35. Being Commanding General of the
20 Kwantung Army, UMEZU from 1939 to 1944 directly
21 supervised the drawing up of operation plans and the
22 carrying out of all other military preparations for a
23 war of aggression against the Soviet Union. In 1939
24 and 1941 the basic strategic idea of the Japanese

25 YY-34. c. Ex. 767, T. 7849; Ex. 2621, T. 22,600-1;
T. 22,655; T. 23,071; Ex. 2659, T. 23,099.

1 command with regard to the plan of a war with the
2 U.S.S.R. was to concentrate main forces of the
3 Kwantung Army in Eastern Manchuria and capture the
4 principal centers of the Soviet Maritime Province.^{a.}

5 YY-36. In 1940, in accordance with UMEZU's
6 instructions, the Chief of the Harbin Special Service
7 Organ under UMEZU held a conference of his officers
8 and gave them directives as to the changes in sabotage
9 activities against the Soviet Union in order to raise
10 their efficiency. His directive also provided for
11 measures relating to the guidance of the Russian
12 whiteguards and to training from their midst personnel
13 for the administration of the Soviet territory proposed
14 to be occupied by the Kwantung Army.^{a.}

15 YY-37. On April 26, 1941, UMEZU held a
16 conference of the Kwantung Army formation commanders
17 at which the Japanese-Soviet Neutrality Pact was
18 appraised as a diplomatic step made to strengthen
19 the alliance of the Axis powers. At that conference
20 it was pointed out that the conclusion of the Neutrality
21 Pact did not entail any changes in the preparation
22 for military operations against the U.S.S.R.^{a.}

23 YY-35. a. Ex. 834, T. 8096, 8111; Ex. 2415, T. 19,554
24 YY-36. a. Ex. 736.A, T. 7662-3
25 YY-37. a. Ex. 3701, T. 36,908-12

1 YY-38. At the beginning of June 1941,
 2 UMEZU in his conversation with Prince Urach said
 3 that the Tripartite Pact was the unchangeable basis
 4 of Japanese foreign policy and that Japan's attitude
 5 towards the Neutrality Pact with Soviet Union must
 6 undergo a change just as soon as the hitherto existing
 7 German-Soviet relations undergo an alteration.^{a.}

8 YY-39. At the Imperial Conference of July 2,
 9 1941, a decision was reached to take measures for a
 10 secret preparation of war with the Soviet Union and
 11 to solve the so-called "northern problems" by the
 12 use of arms, should the conditions of the German-
 13 Soviet war progress favorably to Japan.^{a.}

14 YY-40. The realization of that decision
 15 was the main mission of the Commanding General of
 16 the Kwantung Army, UMEZU. Numerous evidentiary docu-
 17 ments offered to the Tribunal establish the fact that
 18 UMEZU favored a close military alliance with Germany
 19 against the U.S.S.R. and that he, together with
 20 War Minister TOJO and Chief of the General Staff
 21 SUGIYAMA, Gen, was an author of the "Kantokuen" plan
 22 and prepared the Kwantung Army in 1941-2 for invading
 23 Soviet territory.^{a.}
 24

25 YY-38. a. Ex. 1086, T. 9987

YY-39. a. Ex. 779, T. 7904; T. 7960-1

YY-40. a. Ex. 838 (page 17 of the Ex.) T. 8172;

Ex. 242, T. 2997-3000; Ex. 770, T. 7871;

Ex. 3701, T. 36,908-11; Ex. 1086, T. 9987

YY-41. In July 1941, Imperial Headquarters
 1 instructed the Commanding General of the Kwantung
 2 Army that the purpose of the "Kantokuen" was to
 3 strengthen the preparedness of the army against the
 4 U.S.S.R.^{a.}

YY-42. The reports from Tokyo to Berlin
 6 of the German Ambassador and the military attache in
 7 Japan show the military preparations of Japan in 1941
 8 for a surprise attack against the U.S.S.R. and the
 9 important part played in those preparations by the
 10 Kwantung Army under General UMEZU.^{a.}

YY-43. As a result of the measures taken
 13 under the "Kantokuen" plan, the numerical strength
 14 of the Kwantung Army under UMEZU more than doubled,
 15 and by the beginning of 1942 increased to 1,100,000
 16 men. The number of tanks in the army increased to
 17 1000, aircraft to 1500 and pieces of ordnance to 5000.^{a.}
 18 UMEZU gave instructions to TAKEBE, Chief of the General
 19 Affairs Department of the government of Manchukuo. with
 20 regard to the full effectuation of the measures provided
 21 for by the "Kantokuen" plan as to the supply of
 22 provisions to the Kwantung Army, etc.^{b.}

- 23
 24 YY-41. a. Ex. 2676, T. 23,329-30
 YY-42. a. Ex. 797, T. 7962; Ex. 798, T. 7965-6
 25 YY-43. a. Ex. 834, T. 8101; Ex. 838, T. 8169; Ex. 706,
 T. 7532-3; T. 32,064
 " b. Ex. 3371, T. 31,840; Ex. 670, T. 8079-80

1 YY-44. On September 16, 1941, UMEZU
 2 himself signed a directive with regard to the
 3 additional training of Russian interpreters according
 4 to the "Kantokuen" plan.^{a.}

5 YY-45. The time for an attack against the
 6 Soviet Union was considered to be so near that in
 7 September 1941, under UMEZU's supervision the 5th
 8 section studying the occupation regime for the Soviet
 9 territories to be occupied by the Kwantung Army was
 10 formed in Kwantung Army Headquarters.^{a.} In the
 11 spring of 1942 UMEZU sent a group of officers headed
 12 by Major-General IKEDA, Chief of the section engaged
 13 in studying the occupation regime on the Soviet
 14 territories, for the special purpose of studying the
 15 experience of the occupation regime on the southern
 16 territories seized by that time. That section in the
 17 Kwantung Army Headquarters continued its work up until
 18 1943.^{b.}

19 YY-46. On December 5, 1941, UMEZU held a
 20 conference of Kwantung Army formation commanders at
 21 which it was proposed that the continually carried on
 22 preparation for military operations against the
 23

24 YY-44. a. Ex. 832, T. 8080-1

25 YY-45. a. Ex. 3371, T. 31,840; T. 31,933-4; T. 36,946,
 T. 37,149-50

b. T. 37,150-4; T. 31,933-4; Ex. 3730, T. 37,136-7.

1 Soviet Union be completed, the study of the military
 2 position of the U.S.S.R. be intensified and the
 3 symptoms of the so-called turning point for active
 4 operations be speedily determined.^{a.} It is clear
 5 that what is meant here is UMEZU's intention to
 6 determine as precisely as possible the time in the
 7 Soviet-German war most favorable for the invasion
 8 of Soviet territory by the Kwantung Army.^{b.}

9 YY-47. The operational plan of aggressive
 10 war against the U.S.S.R. which was drawn up in 1942
 11 and remained in force until the spring of 1944 was
 12 signed by UMEZU, Commanding General of the Kwantung
 13 Army.^{a.} Detailed testimony concerning the contents
 14 of that plan is contained in the affidavits of the
 15 witnesses, General KITA, Lieutenant-Generals KUSABA
 16 and MURAKAMI, Major-General MATSUMURA, Tomokatsu,
 17 and General, Staff Officer SEJIMA, Ruizo, submitted
 18 to this Tribunal.^{b.} The latter three were cross-
 19 examined and fully corroborated their testimony.
 20

21 YY-48. Evidence was offered to the Tribunal
 22 containing the detailed data about the construction
 23 of a military base in Manchuria for an attack against

24 YY-46. a. Ex. 3700, T. 36,902-4
 " b. Ex. 636, T. 7963-4; Ex. 808, T. 7987;
 25 " Ex. 830, T. 8071-4; Ex. 801-A, T. 7971-2
 YY-47. a. Ex. 836, T. 8144
 " b. Ex. 836, T. 8141-4; Ex. 834, T. 8099-8100;
 Ex. 835, T. 8128-35; Ex. 838, T. 8167-8;
 Ex. 722, T. 7576.

1 the U.S.S.R. UMEZU played a leading role in that in
 2 the course of almost a decade when he from 1936 to
 3 1938 was Vice-War Minister, and from 1939 to 1944
 4 Commanding General of the Kwantung Army and then
 5 Chief of the General Staff until the surrender. It
 6 will suffice to refer to some of these data to see
 7 what dimensions military construction assumed in
 8 Manchuria in the course of those years. From 1936
 9 to 1945, 5,364 kilometers of new strategic railways
 10 providing the military base with communications directed
 11 against the U.S.S.R. were built in Manchuria.^{a.} During
 12 the same period were built: 15 airbases, 73 airfields
 13 and 178 landing grounds,^{b.} 10 new fortified areas
 14 and more than 4000 permanent fortifications,^{c.} 290
 15 military dumps,^{d.} and new barracks which could accomodate
 16 over 40 divisions.^{e.} The testimony given by a number
 17 of witnesses confirms these data about the construction
 18 in Manchuria of a military base against the U.S.S.R.^{f.}

19 YY-49. In June 1943 Major-General DOI, Akio,
 20 Chief of the Information Department of the Kwantung
 21 Army who was directly under UMEZU's command and took

22 YY-48. a. Ex. 712, T. 7547-9; Ex. 838, T. 8170-2
 23 " b. Ex. 713, T. 7551
 24 " c. Ex. 714, T. 7552-3
 25 " d. Ex. 715, T. 7555
 " e. Ex. 716, T. 7556-7
 " f. Ex. 699, T. 7571; Ex. 722, T. 7576

his orders, held a conference in Harbin at which
 1 directives as to sabotage activities against the
 2 U.S.S.R. and the Mongolian People's Republic were
 3 given. The document of this conference entitled:
 4 "The Directions in Relation to the Guidance of the
 5 White Russians" called for the employment of white-
 6 guards, regardless of whether they were men or women
 7 or whether they wished it or not, for the war with the
 8 Soviet Union, and especially for the secret war with
 9 the Soviet Union.^{a.} The tasks and methods of subversive
 10 activities against the Soviet Union and the Mongolian
 11 People's Republic are set forth in another document.^{b.}
 12 The secret "Plan for Carrying out the Training of
 13 White Russian Youth in the Special Immigration
 14 Settlements" prepared by the Harbin Special Service
 15 Agency pertains to the same period of time. It
 16 provided for a large-scale training of personnel to
 17 be used in subversive activities against the U.S.S.R.
 18 The funds for this training were appropriated from
 19 Japan's national budget.^{c.}

21 YY-50. In the time when UMEZU was Commanding
 22 General of the Kwantung Army (1940-43) the number of
 23

24 YY-49. a. Ex. 738, T. 7669
 " b. Ex. 740, T. 7670-1
 25 " c. Ex. 739, T. 7669-70

1 violations of the borders of the Soviet Union by
2 the Japanese agents was constantly increasing. In
3 1940 the number of violations of Soviet borders
4 by the Japanese officers and men amounted to 59;
5 in 1941 -- 136; in 1942 -- 229; in 1943 -- 414 cases.
6 In the same period Japanese aircraft violated the
7 Soviet borders 56 times in 1940, 61 in 1941, 82 in
8 1942, 119 in 1943 and 171 times in 1944.^{a.}

9 B. Japanese Domination of Manchuria.

10 YY-51. UMEZU in his capacity as Commanding
11 General of the Kwantung Army was guaranteed that he
12 could fully dominate Manchukuo.^{a.} UMEZU made use of
13 that to realize the objectives of the criminal conspiracy
14 with regard to Manchuria as well as in preparing aggression
15 against the Soviet Union and also for the further
16 expansion of the Japanese aggression in China and
17 its extension to the South Seas areas.
18
19
20
21

22 YY-50. a. Ex. 750, T. 7774-5.
23 YY-51. a. Ex. 241, T. 2975
24
25

1 YY-52. The witness Henry Pu-Yi, former
2 Emperor of Manchukuo, testified that practical activities
3 of UMEZU, Commanding General of the Kwantung Army, was
4 aimed at transforming Manchuria into a Japanese colony.^{a.}
5 The Japanese imperialists wanted first to enslave Man-
6 churia, then China proper, East Asia and then the whole
7 world.^{b.} Under UMEZU the Emperor of Manchukuo had in
8 fact no power and no rights. Pu-Yi testified about
9 the Japanese that "on paper, in order to cheat the
10 people the world over, they make Manchukuo look as if
11 it is an independent state. But in actuality Manchukuo
12 was being administered by the Kwantung Army."^{c.} The
13 Emperor of Manchukuo had no right to interfere with
14 financial and military matters, no right to appoint
15 civilian and military officials.^{d.} According to Pu-Yi
16 the Japanese Chief of the General Affairs Department of
17 the Government of Manchukuo had more power than the
18 Chinese Prime Minister.^{e.}

19 YY-53. The witness, TAKEBE, Rokuzo, Chief of
20 the General Affairs Department of the Government of
21 Manchukuo testified before the Tribunal that the ad-
22 ministration all over the country was in the hands of
23

24 (YY-52. a. T. 4002-4.
25 b. T. 4012.
c. T. 3991.
d. T. 3990-1.
e. T. 3993.)

1 the Japanese. The Japanese Vice-Ministers were actual
2 supervisors in the ministries of Manchukuo. Those Vice-
3 Ministers were under the Chief of the General Affairs
4 Department who in turn was directly subordinated to the
5 Commanding General of the Kwantung Army UMEZU.^{a.} The
6 witness confirmed that the main purpose of the occupation
7 of Manchuria was the establishment of a military base on
8 the continent directed mostly against the Soviet Union
9 and China.^{b.}

10 YY-54. Under UMEZU the realization of the
11 second half of the plan of industrial development of
12 Manchukuo was completed in which special stress was laid
13 upon the exploitation of resources of the country neces-
14 sary for the prosecution of the war and for satisfying
15 the needs of Japan.^{a.} The same military aims were also
16 pursued by the second plan of the industrial development
17 of Manchukuo drawn up under UMEZU in the course of the
18 Pacific war.^{b.}

19 YY-55. In 1941 after Germany attacked the
20 Soviet Union a system of compulsory labor of the popu-
21 lation for military purposes was introduced in Manchuria
22 on UMEZU's initiative.^{a.} The witness Pu-Yi testified

23 (YY-53. a. Ex. 3371, T. 31837-9;

24 b. Ex. 670, T. 7582.

25 YY-54. a. Ex. 446, T. 5071.

b. Ex. 670, T. 7583; Ex. 454, T. 5178;
Ex. 471, T. 5347.

YY-55. a. Ex. 670, T. 7585-6.)

1 about that as follows: "That was at the time when
2 General UMEZU was there. People at the age between
3 eighteen and forty-five were required to render labor
4 service to the Japanese and to the Japanese Army. This
5 enslaved the people of Manchuria and colonized Manchuria.
6 These people were used for opening highways and digging
7 mines" ^{b.} and also for the preparation of Japanese arma-
8 ments. ^{c.} The Chinese workers were in terrible condition.
9 They received insufficient and almost uneatable food;
10 lived in bad quarters; the sick received no medicines;
11 and if they left their jobs they were severely punished. ^{d.}

12 YY-56. Under the Commanding General of the
13 Kwantung Army UMEZU the immigration of the Japanese to
14 Manchuria was carried out and their lots of land were
15 either confiscated from the Manchurian peasants for a
16 small compensation or without any compensation and the
17 peasants themselves were evicted and had to settle on
18 uncultivated land. ^{a.}

19 YY-57. UMEZU, as Commanding General of the
20 Kwantung Army, bears the responsibility for the
21 atrocities perpetrated by the Japanese soldiers and the
22 soldiers of the army of the puppet government against
23 the Chinese in the province of Jehol in August, 1941,

24 (YY-55. b. T. 4037.
25 c. T. 4038.
d. T. 4039.

YY-56. a. T. 4033, T. 4035-6.)

when during one night over 300 families were murdered
1 under the pretext of looking for guerillas and the
2 village Siduti in the Pingchuan district was completely
3 burned down.^{a.} Punitive expeditions in Jehol Province
4 organized by the Kwantung Army Command took place also
5 in 1942-43.^{b.}

6 YY-58. UMEZU bears the responsibility for
7 the drug traffic in Manchuria, as everything connected
8 with poppy growing and the distribution of opium was
9 under the control of the Kwantung Army. In the budget
10 of Manchukuo for 1943 the revenue from the drug traffic
11 amounted to 110 million yen, as compared with 20 million
12 yen in 1936,^{a.} and 30 million yen in 1937.^{a.}

14 YY-59. The Commanding General of the Kwantung
15 Army, UMEZU, paid great attention to the matters of
16 ideological and military preparation of the people of
17 Manchuria for wars of aggression. That purpose was
18 served by the Concordia Society established by the Japa-
19 nese imperialists. That organization preached the
20 racial ideology, the "new order" and the domination by
21 the Japanese of Asia and of the whole world, and was
22 also the center of propaganda of Japanese militarism.
23 UMEZU actually supervised the activities of this
24

25 (YY-57. a. Ex. 360, T. 4656.

b. Ex. 3725, T. 37117.

YY-58. a. Ex. 386, T. 4750-1; T. 4040-3; Ex. 2461-A,
T. 20306; T. 20348-9.)

a.
 organization. He was an honorary councillor of the
 1 Concordia Society. After the reform of the Concordia
 2 Society in 1941 had been carried out, the governors of
 3 the provinces were appointed chiefs of provincial head-
 4 quarters of the Concordia Society. They were repeatedly
 5 instructed by UMEZU. b. In October, 1941, UMEZU attended
 6 the 8th All-Manchurian Congress of the Concordia Society.
 7 To attend that congress which was held after Germany
 8 had attacked the Soviet Union, representatives of White
 9 Russian emigrants were invited for the first time. c. In
 10 accordance with UMEZU's instructions, the Concordia
 11 Society co-operated with the Kwantung Army in trans-
 12 forming Manchuria into a military base for a war against
 13 the U.S.S.R. Special combat groups "Sempodan" were
 14 organized in the Concordia Society for operations in the
 15 rear of the Soviet Army. d.

YY-60. In February, 1942, UMEZU participated
 18 in the sessions of the Extraordinary All-Manchurian
 19 Congress of the Concordia Society and in his speech con-
 20 taining directives pointed out that the objective of the
 21 East Asia war was to expel the influence of Great
 22 Britain and the U.S.A. from East Asia, to establish the
 23 "new order" and to carry out the ideas of "Hakko-Ichiu."

25 (YY-59. a. Ex. 731, T. 7605; Ex. 3371, T. 31839-40.
 b. Ex. 3853, T. 38276.
 c. Ex. 731-A, T. 7608-9.
 d. Ex. 670, T. 7600, Ex. 699, T. 7597-8.)

1 UMEZU regarded Japanese victories in the Pacific War as
 2 a great step towards the establishment of the "new
 3 order in Asia."^{a.}

4 YY-61. In 1940, on UMEZU's order, Pu-Yi, the
 5 Emperor of Manchukuo, visited Japan and received there
 6 the treasures of Shintoism. After that, according to
 7 UMEZU's instructions, Shintoism was declared the
 8 national religion of Manchukuo and a refusal to follow
 9 it entailed imprisonment.^{a.}

10 C. UMEZU's Role in the Pacific War.

11 YY-62. At the end of November, 1941, the
 12 Command of the Kwantung Army was advised by wire that
 13 Japan was preparing for a war with the U.S.A.^{a.} In
 14 accordance with UMEZU's instructions, the following
 15 were prepared and published on December 8, 1941, on the
 16 day of the outbreak of the Pacific War:

17 a) Manifest of the Emperor of Manchukuo about
 18 Manchurian assistance to Japan;

19 b) Declaration of the Government of Manchukuo
 20 which stated that the people of Manchuria had to assist
 21 Japan in the war against the U.S.A. and England;

22 c) The statement of the Concordia Society
 23 Central Headquarters about its full support of the
 24

25 (YY-60. a. Ex. 731-A, T. 7610-12.

YY-61. a. T. 4005-4017; T. 4170-71, T. 4274-77.

YY-62. a. Ex. 3699, T. 36897.)

b.
Government.

UMEZU took all measures to ensure that the progress of the Pacific War be favorable for Japan and that the South Seas area be occupied.^{c.}

YY-63. UMEZU bears the responsibility for the illegal temporary courts-martial trying the cases of the prisoners of war operating in the Kwantung Army and for the illegal sentences they handed down on the prisoners of war of the Allied Armies.^{a.}

YY-64. UMEZU also bears the responsibility for the mistreatment of the prisoners of war in the POW camps in Manchuria. As a result of undernourishment, unbearably heavy work, and poor medical care, many prisoners of war died of exhaustion and various diseases.^{a.}

VI. UMEZU in the Japanese General Staff.

YY-65. From July 18, 1944, to September 2, 1945, UMEZU was Chief of the Japanese General Staff,^{a.} and as one of the main leaders of the conspiracy bears the responsibility for all the measures taken when he directed the activities of the General Staff connected

(YY-62. b. Ex. 731-A, T. 7610, T. 4286; T. 36950-1; Ex. 3853, T. 38274.

c. Ex. 454, T. 5178; Ex. 731-A, T. 7610-12; T. 36955, T. 4121-22.

YY-63. a. Ex. 1998, T. 14689.

YY-64. a. Ex. 1905-A, T. 14187-8; Ex. 1906-A, T. 14187-8; Ex. 1912-A, T. 14192;

Ex. 1913-A, T. 14193.

YY-65. a. Ex. 129, T. 802-3.)

1 with the continuation for over a year of a war of
2 aggress, on in the South Seas area and in China.

3 YY-66. After the statement of the Prime
4 Minister, KOISO, at the beginning of April, 1945, about
5 his resignation and about the necessity of reorganizing
6 the Cabinet in the prevailing war situation, Chief of
7 the General Staff UMEZU during the conference with KIDO
8 emphasized the necessity of forming such a Cabinet which
9 would co-ordinate its actions with the desires of the
10 army to wage war until the end. UMEZU proposed to KIDO
11 his plan of forming a wartime Cabinet.^{a.}

12 YY-67. In November, 1944, when UMEZU was
13 hold'ng the post of Chief of the General Staff, Japa-
14 nese troops invaded Kweilin and Liuchow (China). UMEZU
15 bears the responsibility not only for the invasion it-
16 self, but also for the atrocities committed by the
17 Japanese military in the Kweilin district, Liuchou and
18 other districts of China in 1944-45.^{a.}

25 (YY-66. a. Ex. 1282, T. 11390-2.
YY-67. a. Ex. 352-359, T. 4651-4655.)

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1 YY-68. UMEZU in his capacity as Chief of the
2 General Staff and one of the leaders of the Imperial
3 Headquarters bears the responsibility for the instruc-
4 tions and orders of the War Ministry (March 1945), in
5 violation of treaties, assurances, laws and customs
6 of war with regard to the regime for prisoners of war,
7 providing for the extraordinary measures which in-
8 cluded the utilization of prisoners of war for work
9 in the areas subjected to air raids.^{a.}

10 YY-69. UMEZU as Chief of the General Staff
11 bears the responsibility for numerous cases of execu-
12 tion without trial and after illegal trials of flyers
13 taken prisoner, cases which took place on the ter-
14 ritory of Japan proper in 1945 and for tolerating
15 atrocities against prisoners of war.^{a.}

16 YY-70. UMEZU as Chief of the General Staff
17 also bears the responsibility for the mistreatment
18 of prisoners of war and for tolerating atrocities
19 against them on the part of the Japanese army, not
20 only in Japan herself, but also on territories
21

22 YY-68.

23 a. Ex. 2012, T. 4719-21; Ex. 2013 (not read);
24 Ex. 2014, T. 14723-4; Ex. 1978, T. 14543-48.

25 YY-69.

a. Ex. 1994, T. 14674-76; Ex. 1995, T. 14679-80;
Ex. 1921, T. 14205-8; Ex. 1922, T. 14209-11;
Ex. 1923, T. 14212-8; Ex. 1924, T. 14218-9.

occupied by the Japanese army.^{a.}

1
2 YY-71. During the surrender of Japan, when
3 Chief of the General Staff, UMEZU, was in Tokyo,
4 all secret documents and archives of the General
5 Staff were burned for the purpose of concealing the
6 traces of the committed crimes. Among the destroyed
7 documents were the documents relating to the direction
8 of the war, the mobilization and operations plans,
9 records of the meeting of the Supreme Council for
10 directing the war and other secret document.^{a.}

11 VII. Defense evidence.

12 YY-72. The defense in offering evidence
13 about the accused UMEZU mostly dealt with his
14 activities in North China, in the War Ministry and
15 in the General Staff and was carefully trying to
16 forebear from mentioning his activities when he held
17 the post of Commanding General of the Kwantung Army
18 as well as from mentioning all matters connected
19 with the charge brought up against UMEZU as to his
20 preparing and planning aggression against the U.S.S.R.
21 and his participation in the conspiracy. All the

22 YY-70.

- 23 a. Ex. 1917-1932, T. 14198-14233;
24 Ex. 1936-1949, T. 14236-14255.
25 Ex. 1951, T. 14257.

YY-71.

- a. Ex. 742, T. 7676, 7683.

1 evidence offered by the defense consists, with a few
2 exceptions, of testimony given by witnesses most of
3 whom either were under UMEZU and participated them-
4 selves in the planning, preparation and perpetration
5 of aggression against China, the Soviet Union, the
6 United States of America, Great Britain and other
7 countries or were on close terms with UMEZU. Those
8 witnesses are people who are very much interested in
9 the verdict with regard to UMEZU and their testimony
10 can by no means be regarded as objective, the more so
11 as it directly contradicts the facts.

12 YY-73. Defense witnesses ISHIKAWA and
13 SHIBAYAMA were obviously biased in describing UMEZU's
14 role in the events in China in 1935 which led to the
15 Ho-UMEZU agreement. ISHIKAWA, for instance, testified
16 that in April 1934 UMEZU allegedly had told him:

17 "I would rather prefer being called a fool
18 during my stay than having trouble with China." But
19 even this witness testified that UMEZU had told him
20 that he had sent Colonel SAKAI, his Chief of Staff,
21 to meet the representatives of the Chinese government
22 and submitted to them the terms among which were the
23 withdrawal of Chinese troops and local party organiza-
24 tions from North China districts in which were
25

Japanese residents.^{a.}

1 Does not this alone show that the conflict
2 with China in 1935 was in fact brought about by the
3 actions of UMEZU which constituted a serious inter-
4 ference in the internal affairs of the Chinese republic?
5 ISHIKAWA contends that those terms were allegedly
6 voluntarily accepted by the Chinese general Ho who
7 carried them into effect at his own discretion. Later
8 on ISHIKAWA recalled that Colonel SAKAI allegedly
9 criticized UMEZU because the latter gave up the policy
10 of violence and putting military pressure on the
11 Chinese. The witness "forgets" that UMEZU's demands
12 were an ultimatum and that they were made with a
13 threat that the Japanese army in North China would
14 take unrestricted measures.^{b.} But it simply was not
15 necessary to effectuate that threat at that time as
16 the ultimatum was accepted. There is no doubt that
17 one could not speak of any "voluntary" acceptance of
18 the ultimatum by the Chinese side. How can it be
19 explained that the testimony of this witness is at
20 variance with the established facts? The reply to this
21 may be found in the admission of the witness that he
22 was on intimate terms with UMEZU.^{c.} In the course of

25 YY-73.

a. Ex. 2491, T. 20783-7.

b. Ex. 194, T. 2275.

c. Ex. 2491, T. 20784.

1 a very short cross-examination of the witness
2 SHIBAYAMA, it was established that he as far back
3 as December 1934 had left North China to occupy his
4 new post, and therefore his testimony about the
5 events of 1935 which he knew only from hearsay have
6 absolutely no value for the Tribunal.^{d.}

7 YY-74. The defense tried to exaggerate the
8 part played by SAKAI and to belittle the role of
9 UMEZU in the events of 1935 in North China. However,
10 the entry in the SAIONJI-HARADA diary of June 24,
11 1935, an excerpt from which was offered by the
12 defense, confirms that SAKAI, Chief of Staff of the
13 Japanese army in North China, did not act without
14 permission while conducting the negotiations with
15 the representatives of China, but acted in accordance
16 with UMEZU's instructions.^{a.} The fact of General
17 SAKAI having been convicted and executed in 1946 for
18 acts of aggression against China^{b.} shows how heavy
19 were the crimes committed by him in accordance with
20 the direct instructions of the accused UMEZU.
21

22 YY-75. Defense witnesses AYABE, Kentaro,
23 YAMAMOTO, Moichiro, NISHIO, Toshizo, OKADA, and

24 YY-73.

d. T. 20780.

25 YY-74.

a. Ex. 3693-A, T. 36884.

b. Ex. 3694, T. 36885.

1 Nathan made an attempt to give a favorable character-
2 ization of UMEZU's activities while he held the post
3 of Vice War Minister (1936-1938).^{a.} Those personal
4 opinions of UMEZU expressed by his former friends
5 and colleagues are not relevant to the issues in this
6 case. If we turn to facts we shall see that even the
7 facts given in the testimony of these witnesses speak
8 against UMEZU. The witnesses AYABE, Kentaro, YAMAMOTO,
9 Moichiro and NISHIO, Toshizo, made an attempt to
10 contend that UMEZU's convictions were that the army
11 should be far from political life and that he
12 allegedly took measures to that effect.^{b.} However,
13 one of these witnesses YAMAMOTO, Moichiro, former
14 secretary to UMEZU in the War Ministry, testified
15 that UMEZU in his capacity as Vice-Minister was
16 responsible for the distribution of money from the
17 secret fund and admitted that the money from that
18 fund had been paid out to various politicians includ-
19 ing the right-wing politicians.^{c.} It is quite obvious
20 that that was a system of organized bribery of the
21 politicians in the interests of the conspirators.

22 YY-75.

- 23
24 a. Ex. 3689, T. 36843; Ex. 3690, T. 36851;
Ex. 3691, T. 36865; T. 18312-13;
25 Ex. 3695, T. 36887.
b. Ex. 3689, T. 36843-45.
c. Ex. 3690, T. 36851-9.

1 Another witness, NISHIO, Toshizo, confirmed that there
2 was strong opposition against UGAKI in the High Com-
3 mand, and if UGAKI had formed the Cabinet in January
4 1937, the situation in the army would have been such
5 that it would have been impossible to avoid disturb-
6 ances.^d Does not this also show how the army leaders,
7 including UMEZU, interfered in politics and in the
8 selection of candidates for the post of the Prime
9 Minister, resorting to such a convincing argument as
10 "military force."

11 YY-76. The witnesses IIMURA, Minoru, and
12 YAMAMURA, Haruo, tried to reduce UMEZU's participation
13 in the undeclared aggressive war waged by Japan in
14 1939 against the U.S.S.R. and the Mongolian People's
15 Republic in the Khalkin-Gol River area to the peaceful
16 settlement of the "incident," as the hostilities
17 ceased soon after UMEZU's arrival to occupy the post
18 of Commanding General of the Kwantung Army. However,
19 the Tribunal is already aware that the Japanese troops
20 ceased hostilities not because of the peaceful inten-
21 tions of the new Commanding General, but as a result
22 of the defeat of the Japanese troops by the Soviet and
23 Mongolian forces and that the cessation of hostilities

25 YY-75.

d. Ex. 3691, T. 36866-9.

1 led to the preparation of a new and stronger attack
2 of a wider scope under UMEZU's guidance. These
3 witnesses as well as the witnesses KASAHARA and
4 KOZUKI tried to substantiate the peaceful intentions
5 which UMEZU allegedly had with regard to the Soviet
6 Union by stating that in their opinion due to the
7 arrival of UMEZU in the Kwantung Army the situation
8 on the borders with the Soviet Union became normal.^{a.}
9 the witness IIMURA overdid it when he contended that
10 not a single incident took place on the border in
11 the course of five years when UMEZU was in the Kwan-
12 tung Army.^{b.} The testimony given by these witnesses
13 contradicts the established facts. It will suffice
14 to point out that under UMEZU the number of violations
15 of the Soviet border was increasing from year to year,
16 and in 1943 reached the culminating point -- 414 cases.
17 Such a number of violations did not take place under
18 any predecessors of UMEZU in the post of Commanding
19 General of the Kwantung Army.^{c.} During the cross-
20 examination of the witness IIMURA, it was established
21 that he gave testimony on a matter about which he knew
22 nothing.^{d.}

24 YY-76.

- 25 a. Ex. 2679, T. 23396-23402. b. Ex. 2679, T. 23400.
Ex. 2680, T. 23416-8. c. Ex. 750, See YY-50.
Ex. 2670, T. 23203. d. T. 23405.
Ex. 2683, T. 23458-60.

1 YY-77. Defense witnesses, as a rule, avoided
2 testifying about the large-scale military preparations
3 which were constantly carried on by UMEZU for a war of
4 aggression against the Soviet Union, and if they men-
5 tioned them they tried to belittle their scope and show
6 them as "defensive" measures. That was done, for
7 instance, by the witness IIMURA, who admitted that the
8 Kwantung Army Headquarters had plans for the construc-
9 tion of airfields and airbases and that a small number
10 of them had already been built, but that that had
11 allegedly been done for self-defense.^{a.} The Tribunal
12 is already aware what a great number of military objec-
13 tives for an attack on the Soviet Union were built in
14 Manchuria under UMEZU and there is no need to enumer-
15 ate them again.^{b.}

16 YY-78. The witness KASAHARA testified that
17 the plan of operations against the U.S.S.R. for 1942-
18 1943 provided for an offensive operation in the southern
19 areas of the Maritime Province and for a seizure of
20 Soviet air-bases, but explained that that was allegedly
21 planned also for the purpose of defense.^{a.} During
22 the cross-examination, KASAHARA was exposed as an

24 YY-77. a. Ex. 2684, T. 23,473-4

 b. See YY-48.

25 YY-78. a. Ex. 2670, T. 23,190--23,208

author of a proposal for an aggressive war against the
 b.
 Soviet Union.

YY-79. The same fate also befell the witness
 TAKEI, Seitaro during his cross-examination when he
 contended that the Kwantung Army allegedly had to main-
 a.
 tain normal relations with the Soviet Union. At
 the same time this witness had to identify a document
 exposing UMEZU and showing that UMEZU in December 1941
 gave instructions in accordance with which the Kwantung
 Army had to be ready for an attack on the Soviet Union
 b.
 and was only awaiting an opportune time.

YY-80. Two Japanese defense counsel, IKEDA and
 OGOSHI, former subordinates of UMEZU, were produced
 as defense witnesses. Both of them tried to make the
 a.
 position of UMEZU easier in this trial. However,
 they failed to do that and during cross-examinations
 had to confirm the incontestable facts showing UMEZU's
 preparation of aggression against the U.S.S.R. Those
 facts also included the study of the occupation regime
 for the Soviet territories planned to be seized by the
 b.
 Kwantung Army.

YY-81. Defense witnesses TAKEI, Seitaro,
 and TANAKA, Ryukichi, tried to contend in their testi-

YY-78. b. T. 23,217; Ex. 2671, YY-80. a. Ex. 3708, T.36,942-
 T. 23,218-25 44; Ex.3730, T.
YY-79. a. Ex. 3699, T.36,897 37,136-7
 b. T. 36,898-905 b. T.36,946; T.37,136

1 mony that UMEZU allegedly was not an advocate of the
2 Pacific war. ^{a.} That contention is refuted by the
3 prosecution's evidence proving what an important part
4 UMEZU played in the conspiracy and in the preparation
5 of the whole Japanese army for war and showing the
6 measures which he took during the war.

7 YY-82. Defense witness INOUE, Tadao, former
8 secretary of the Chief of the General Staff made an
9 attempt to substantiate by "objective" reasons the
10 allegedly poor information of the leaders of the General
11 Staff regarding the outrages perpetrated against the
12 prisoners of war and the civilian population at the
13 fronts. According to him, from the end of 1944 and
14 through 1945 the war situation was such that communica-
15 tion with the troops was maintained by radio and was
16 confined to operational information. ^{a.}

17
18 Strange and absolutely untrustworthy are the
19 attempts of these defense witnesses and their like to
20 shield UMEZU, who occupied the post of Chief of the
21 General Staff, by naive allegations that UMEZU alleged-
22 ly had not been aware of the mistreatment of prisoners
23 of war not only at the fronts, but also in Japan herself.

24 YY-81. a. Ex. 3699, T. 36,896-7; Ex. 3703, T. 36,924-5;

25 T. 36,917-8

YY-82. a. Ex. 3704, T. 36,927-8

VIII. Conclusion

1
2 YY-83. The evidence offered by the prosecution
3 has established that UMEZU participated in a conspiracy
4 against peace during the whole period covered by the
5 Indictment and that all his practical activities as
6 one of the leaders of the conspiracy aimed at the
7 establishment by Japan of her military, political and
8 economic domination in the areas of East Asia, Pacific
9 and Indian Oceans, and at the perpetration of aggres-
10 sion against the freedom-loving nations of China, the
11 Soviet Union, the U. S. A., Great Britain and other
12 countries. UMEZU held most important posts in the army
13 at all the stages of the development of the criminal
14 conspiracy and directly supervised the planning, prep-
15 aration and waging of aggressive wars and thus commit-
16 ted the heaviest crimes against peace and humanity.
17 All the counts of the Indictment on which UMEZU is
18 charged have been substantiated by the prosecution's
19 evidence.

20
21 (The following was not read:)

22 This evidence may be found in the following
23 sections:

	<u>Counts</u>	<u>Sections</u>
1	1 - 5	I, II, III, IV, V, VI,
2	6 - 17	I, II, III, IV, V, VI
3	18 - 19	II, III, IV
4	26	V
5	27 - 28	II, III, IV, V, VI
6	29 - 32, 34	V, VI
7	36	V
8	44 - 51	II, III, IV, V, VI
9	53 - 55	V, VI
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Your Honor, this concludes the prosecution's case.

THE PRESIDENT: We will recess for fifteen minutes.

(Whereupon, at 1445, a recess was taken until 1500, after which the proceedings were resumed as follows:)

INTRODUCTORY STATEMENT

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Mr. President and Members of the Tribunal:

We stand poised at the conclusion of a most ambitious undertaking, consuming many months of arduous labor during which this great international body has with singular patience endured the difficulties and unavoidable delays inherent in these proceedings. We of the Japanese defense section are keenly aware and most deeply appreciative of the kind and gracious indulgence, assistance and guidance of this Tribunal which has been constant even to the minutest details. We are also most grateful to this Tribunal, the Supreme Commander and the other authorities in having made available to the accused and to us the invaluable assistance of our learned American colleagues. Mr. President and Members of the Tribunal, the expression of such sentiments may be most unusual but the record of this unprecedented trial would be amiss without their inclusion.

The Chief Prosecutor in the closing address stated that we have come to the "closing of the gates." If I may be permitted, I should say that we are come to the "opening of the gates" to the rule of reason and law. The vista to be opened must sound in the universality of human morality, justice and law and

1 must accord with the lessons and teachings of history
2 and all human experience. That great task is not alone
3 the simple determination of guilt or innocence of
4 these accused; it is the charting for ourselves and
5 our future generations the path to a world of peace
6 and justice in which the dignity of man will prevail.

7 1. The World Crisis and Unrest of the Far
8 East.

9 Since the dawn of history there has been
10 war. War is a reality, and belongs to one of the
11 most serious and dangerous phenomena in human so-
12 ciety. To exterminate war no effective means has
13 yet been established in international law or in inter-
14 national relationship. Various methods have been
15 devised one after the other to prevent the occurrence
16 of wars between nations through agreements, security
17 pacts, or by forming leagues, but practically none
18 of them proved to be effective. Great has been the
19 effort of international law scholars to terminate war,
20 but it is to be deeply regretted that no fruitful
21 result has yet been achieved so far.

22 It has been stated that a war of aggression
23 constitutes an international crime, but no world law
24 can be found which gives the definition of the aggres-
25 sive war. Nor has there been any international

1 agreement with which a judgment can be passed on an
2 actual case of aggression at the International Court.

3 Not a few wars have been fought between
4 modern civilized countries, but almost none of them
5 were really desired by the parties concerned. Wars,
6 especially those between sovereign powers, are un-
7 desired wars, but in actuality it was not possible
8 to avoid them. In nature we find destructive forces,
9 such as storms, floods, earthquakes and eruptions of
10 volcanoes, and in human history we can find their
11 parallels and one of the greatest of which is war.
12 On June 4, 1946, at the Far Eastern International
13 Military Tribunal, the Chief of Counsel of the prose-
14 cution asserted in the opening statement:

15 "Mr. President, this is no ordinary trial,
16 for here we are waging a part of the determined
17 battle of civilization to preserve the entire world
18 from destruction. This threat of destruction comes
19 not from the forces of nature, but from the deliber-
20 ate planned efforts of individuals, as such and as
21 members of groups who seem willing to bring the world
22 to a premature end in their mad ambition for domina-
23 tion."
24

25 This statement gives us much food for study
and comment. When a matter as to the existence of

1 a certain act on the part of a defendant has been
2 taken up, a mere analytical treatment of the case
3 and then combining the results cannot be considered
4 convincing enough from the theoretical point of view.
5 War is essentially a phenomenon in human society,
6 but it also has a characteristic which demands a
7 treatment from the angles of sociology as well as
8 from those of social-jurisprudence. We also cannot
9 disregard a phase of its nature which requires
10 biological approach. Even though it is not a kind
11 of physical force, if it can be often observed as un-
12 avoidable occurrence arising out of social relation-
13 ship and biological existence of human life, we must
14 frankly recognize it as a force, like physical force
15 of nature, which is sometimes beyond human control.
16 The Chief-Prosecutor further stated in his opening
17 statement:

18 "The leading nations of the world, by suc-
19 cessive agreements and treaties took another defin-
20 ite step in the evolution of international law, after
21 the close of World War I, by specially declaring:
22 "A war of aggression constitutes an international
23 crime." That statement was made a part of the Geneva
24 Protocol for the pacific settlement of International
25 Disputes and was signed by the representatives of

1 forty-eight nations. This was followed in the Eighth
2 Assembly of the League of Nations in 1927 by a unani-
3 mous resolution -- unanimous in almost the same
4 language. Japan was a signatory of both of these
5 instruments."

6 The above opinion represents a conventional
7 view taken by some of the scholars of international
8 law. It is, however, far from being a real step for-
9 ward to the direction of eradicating war to establish
10 eternal peace, by solving the problem from the
11 essential nature of the law. As advocated by
12 Grotius, the establishment of international juris-
13 prudence based on justice is the first prerequisite
14 of peace. If we ignore this prerequisite and aim
15 at gaining one-sided solution by limiting our con-
16 sideration to facts which tolerate positive as well
17 as negative approaches, no amount of our efforts
18 will enable us to grasp the true foundation of
19 international peace. Unless we have basic elucidation
20 of the nature of war, the judgments of individual
21 cases will only complicate the matter.
22
23
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1 The Chief Prosecutor's following passage in
2 his opening statement compels our attention in its
3 significant import:

4 "No one needs even a slight reminder to realize
5 that wars in our time are quite different from those of
6 old. Today, and far more important still, tomorrow
7 and forever hereafter, wars can be nothing other than
8 total war. Today and tomorrow all wars have no limit
9 of space or territory. This problem of peace, which
10 has ever been the desire of the human race, has now
11 reached a position of the crossroads. For the
12 implements of destruction that we already know of even
13 in what might be called primitive development, have
14 reached such proportions that only the human imagin-
15 ation at its highest development is fit to cope with
16 the realities. Our question, Mr. President, at the
17 crossroads is now literally an answer: 'To be or not
18 to be.'" (T. 386, 387)

19 Winston S. Churchill writes in his book, "The
20 World Crisis", published in 1923, as follows:

21 "The vials of wrath were full; but so were
22 the reservoirs of power. From the end of the Napoleonic
23 Wars and still more after 1870, the accumulation of
24 wealth and health by every civilized community had been
25 practically unchecked. Here and there a retarding

1 episode had occurred. The waves had recoiled after
2 advancing; but the mounting tides still flowed. And
3 when the dread signal of Armageddon was made, mankind
4 was found to be many times stronger in valour, in
5 endurance, in brains, in science, in apparatus, in
6 organization, not only than it had ever been before,
7 but than even its most audacious optimists had dared
8 to dream." ("The World Crisis" by the Rt. Hon.
9 Winston S. Churchill, First Lord of the Admiralty,
10 1911 to 1915, Charles Scribner's Sons, New York,
11 1923, p. 4)

12 There is no room for doubt that in 1923 the
13 world was much in a state as depicted by Mr. Churchill.
14 Now, after the World War II, is it possible for people
15 to think of such matter with more complacency? As a
16 matter of fact, the defeated nations are hardly pressed
17 for their efforts to gain security of peace for the
18 future. Mr. Churchill's words can be said as a warn-
19 ing to the world with the 16th Chapter of the Revel-
20 ation. It was a great reality indeed. If the trend
21 of the human race, and the opposing world powers were
22 such in 1923, the world was then compelled to find
23 iteself in an irresistible swift current sweeping
24 ceaselessly toward war, rather than to promote peace
25 by restraining war. Mr. Churchill predicted a very

1 critical situation on the eve of the next war, when
2 he entitled the second chapter of his book as "Mile
3 Stones to Armageddon" and quoted the following words
4 of Cicero:

5 "Enmities which are unspoken and hidden are
6 more to be feared than those which are outspoken and
7 open." (Cicero)

8 In Europe and in America, scholars and states-
9 men were alike in giving warning to such probability,

10 In ancient Japan as well as in ancient China,
11 there existed great periods of peaceful culture.

12 I feel the necessity of touching on this, being
13 greatly moved by the profound statement of Mr. Chief
14 Prosecutor urging us to further our investigation
15 of war. Among the defendants there are some who
16 are finding the spring of their thought in those
17 ages. The most perfectly preserved literature from
18 such period of China is the Book of Chau Yi or the
19 Book of Change. The Book of Chau Yi indicates the
20 way to peace. Putting aside the consideration of
21 absolute peace, we find in the book devices prepared
22 to prevent the occurrence of war. If we read
23 "Kua" of "Shih" in the book, and go up to "Kua"
24 of "Surg" and "Kua" of "Hsu", and again further up
25 to "Kua" of "Pi", we are led to imagine the world

situation before World War II, Churchill's statement
1 can be interpreted from his quotation of Armageddon from
2 the Revelation as implying supernaturally grave signif-
3 icance of war. In the Book of Chau Yi, however, it is
4 possible to interpret it from natural causes as well as
5 supernatural. In it the World War constitutes progres-
6 sive steps taken by the world from "Chi-chi" (past)
7 to "Wei-chi" (future) in the cosmic movement. With
8 Boutroux, war is strife of combined forces of thought
9 and action. With Crile, it is revolutionary manifest-
10 ation of human destiny involved with its moral, social,
11 educational and political systems. And again with
12 Churchill, it was observed as a situation comparable
13 with the milestones to Armageddon.
14

15 Even though such war is labeled aggressive
16 and condemned as crime when judged by the sequence
17 of aggression and defense, or whatever might be
18 the decision made at the conferences of the inter-
19 national jurists as to its nature, it does not fol-
20 low, as a problem of criminal theory, that it can
21 furnish authoritative ground upon which it is pos-
22 sible to inflict punishment on those who carried
23 out lawful duties within sovereign states. Since
24 the time Churchill wrote his book, the world situa-
25

1 tion has been driving many small and large countries
2 into undesired war, through their complicated inter-
3 national relationships. They have been deprived even
4 of the freedom to avoid wars. Consequently all groups
5 of large and small states alike are equipped with
6 armaments, which are available at moment's notice
7 against possible enemies. So it is not without
8 reason to assert that we are in the midst of revolu-
9 tionary processes.

10 At the same time we must recognize that re-
11 markable efforts have been directed to seek peace.
12 The first step was made with the idea of forming a
13 League of Free Nations, motivated by the noble
14 ideal to make World War I "the war to end war",
15 and its influence was strongly felt in the Orient.
16 When the League of Nations was organized Japan
17 joined it, believing the peace of the world should
18 be established on the basic principles of free-economy
19 and democracy. The United States did not join the
20 League, but other participating countries put great
21 expectation in the League.
22

23 During the period of seclusion for 260 years
24 under the TOKUGAWA Shogunate, Japanese were a peace-
25 ful race living within islands. Japan, however,
opened its country for foreign intercourse by the

1 persuasion and pressure brought by the various
2 countries of Europe and America. The flag of the
3 Rising Sun was first raised in 1854, when agree-
4 ments were signed with Britain, America and Russia.
5 Through the MEIJI Restoration Japan had been allowed
6 to go forward as an independent nation. This can be
7 regarded as reformation for Japan, and revolutionary
8 for the world situation. Especially the introduction
9 of the revolutionary spirit from the United States
10 and France gave fresh spiritual impetus to modern
11 Japan.

12 The spirit and reality of the American and
13 French Revolutions profoundly affected the MEIJI
14 Restoration in Japan. Again Japan could not and can
15 not stand aloof from the impact of the new revolutionary
16 movements which have been sweeping the western nations
17 in the past few decades. The eruptive stages leading
18 up to the French Revolution was described by Thomas
19 Carlyle very masterly, but its scale was not big enough
20 to depict the succeeding stages of revolutionary
21 changes in the world which developed into World War II.
22 The problem of peace now at the crossroads, as
23 warned by the Chief Prosecutor, can be seen tossed
24 among the heavy waves of revolution. Japan has not
25 been second to any other country in its enthusiasm

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1 Japan participated in the Washington Conference,
2 the Anti-war Treaty, and the Disarmament Conference in
3 London, and has been faithful in concurring with other
4 powers in the joint effort to maintain peace. Even
5 when Japan faced the closed-door policy of the American
6 continents, to a certain extent, and also the refusal
7 against Japan's peaceful advance toward the Asiatic
8 Continent, she preserved her perseverance and tolerance.
9 She has been most eager to keep the stipulations of
10 agreements, pacts and security treaties. But she
11 could not but feel the encroaching of the world
12 powers upon her, which pressed her back step by step
13 into her own island Empire. Since her emancipation
14 from her seclusion, Japan did not forget to maintain
15 her independence, small as she was, by following the
16 lead of new cultures in Europe and America. The
17 Japanese people have been strong in defending justice,
18 and second to none in valuing the spirit of humanity,
19 and they had to stand resolutely to maintain peace,
20 as a small nation, in the midst of the vortex of
21 revolution and at the cross-currents of Western
22 civilizations. Under such circumstances civil officials,
23 military officers as well as statesmen of Japan were
24 dismayed to find themselves in a tight position in
25 which deciding their own course of action, with their

own free will, was not possible.

1 With the complication of foreign affairs,
2 the independence of Japan, and the existence of the
3 Japanese people has hourly been exposed to crisis.
4 It has been said that in 1935 the number of inter-
5 national agreements throughout the world reached
6 no less than twenty-five thousand, but they could
7 not relieve the general unrest of the world. William
8 McDougall warned of the chaotic conditions of the
9 world viewed from the political and economic problems
10 of Europe. He disapproved as ill-founded the views
11 maintained by Spengler, who wrote on the downfall
12 of Western civilization and published a pessimistic
13 view in 1921. Not much difference, however, can be
14 found between these two scholars in their heated
15 arguments directed against the unrest felt in Western
16 civilization. McDougall dealt with economic problems
17 in his book World Chaos, in which he asserted that in
18 order to restore the balance of our civilization, in
19 order to adjust our social, economic and political
20 life to the violent changes which physical science
21 has directly and indirectly produced, we need to have
22 far more knowledge (systematically ordered or scien-
23 tific knowledge) of human nature and of the life of
24 society than we yet have in Europe. (William McDougall's
25

1 "World Chaos," Kegan Paul, Trench, Trubner & Co.
2 Ltd., London 1931, p. 59) As an actual case he
3 presented the economics and commented on the points
4 which he felt doubtful. In dealing with this economics,
5 which has the longest history and the most notable
6 schools among other branches of sciences, and also
7 the closest relationship with our daily life, he
8 said:

9 "Will any one affirm that Economics
10 is a science: that it is anything more than
11 a frightful mass of statistics and highly
12 questionable theories? The supreme test
13 of a science is its power of prediction.
14 It would be too much to say that the pre-
15 dictions of the economists are always wrong;
16 is it not merely because, among a multitude
17 of predictions, some must hit the mark ac-
18 cording to the law of chance?" (Ibid. p. 70)

19 It has been the subject of frequent warnings
20 by the informed people of the world, that revolutions
21 in economics, industry, science and politics are
22 striving in their own ways in this troubled world.
23 They are, however, far from being successful in
24 realizing the termination of war. Could there be
25 any significant reason for this failure?

1 War is treated as the most important national
2 affair by any independent sovereign state, and other
3 affairs such as economics, industry, science, and
4 politics are marshalled to contribute to prepared-
5 ness for war. Once a war breaks out between powers
6 several millions of lives and several billions of
7 wealth will be exposed to destruction. It is usually
8 the case that the endeavours to find peaceful settle-
9 ment are repeated to the last minute. Consequently
10 even though an ultimatum becomes only a matter of
11 formality, the opposing country is never left in a
12 defenseless state.

13 If we could go a step further than a League
14 or United Organization, and form a body of peaceful
15 free people, with the strong support of the leading
16 sovereign powers of the world, we could probably stop
17 war. But is it really effective to terminate war
18 by inflicting punishment, by new law, on those people
19 who were engaged in an inevitable war or hostile
20 action, as responsible persons in a state or in an
21 international relationship? And again, is it really
22 a desirable step toward the establishment of peace
23 by adding new punishment to those people who acted
24 legitimately at the exigencies of their own state
25 according to their responsibilities in diplomatic and

administrative service, outside the military purpose?

1 About aggressive war, if the judgment is made only
2 by the victorious nations against the defeated nations
3 it is nothing but a one-sided decision.
4

5 Unlike the case of Cortez's conquest of the
6 American Indian, or Pizarro's attack on the coast of
7 South America, in the present world, countries enter
8 into agreements and treaties and confront each other
9 with considerable armaments. There is possibility
10 of resorting to hostile actions, when no amicable
11 settlement can be reached in the difference of the
12 interpretation of agreement or treaty. Another
13 possibility is the hostile action caused by the
14 collision between territorial guards or garrisons even
15 if one party was forced, by defect, to own their
16 action as aggression, that cannot satisfy the require-
17 ment of judicial justice. As a lawsuit according to
18 judicial justice, victorious nations as well as
19 defeated nations must be judged alike as defendants.
20 No other way will satisfy the requirement of justice.
21 In warfare victors are not exception to commit
22 slaughter and destruction. Not a few examples might
23 be cited in which the number of those committed by
24 the victor exceeded those of the defeated. Various
25 countries enter into agreements and treaties with

1 each other to ensure their independence and existence,
2 which is based on the fundamental requirement of jus-
3 tice of the human race. When this fundamental justice
4 becomes the standard of judgment in dealing with the
5 international cases and troubles, a fair and dependable
6 investigation can be expected by the parties con-
7 cerned. We must admit, however, that there exists
8 struggle for existence internationally as well as
9 individually.

10 Nobody likes war. It has to be exterminated
11 sooner or later. Is it not possible to make war it-
12 self a crime? When we do not make war a crime, and
13 make war of aggression a crime, with its accompanying
14 actions such as planning, preparation, starting and
15 execution of war itself, and if this be recognized
16 as the principle of international jurisprudence, then
17 it is imperative that the discrimination between
18 aggressive war and non-aggressive war be definitely
19 indicated. Such a vague phrase as "for the execution
20 of the national policy" does not show any definite
21 demarcation, and "deliberated war", fails to carry a
22 precise sense, as no country is without fully prepared
23 armaments against possible enemies. When Manchuria
24 was called "the life line" of Japan, there was another
25 expression which regarded the Rhine as the life line of

1 North America. In short, when all large and small
2 countries are opposing each other for their independence
3 and existence, and when it is possible for any oppos-
4 ing nations to prepare openly for the conflict for
5 their existence, there can be no one-sided preparation
6 which will make that particular nation an aggressor.

7 Japan has been eager to introduce culture
8 from other countries. She also placed emphasis on
9 diplomatic relation, and strived to observe, most
10 conscientiously, agreements and treaties entered
11 into with other nations. As it was right after the
12 opening of our country, undesirable misunderstanding
13 apt to be entertained by the reactionists was much
14 feared. Ratification of treaties was given different
15 treatment from the enactment of internal laws, and
16 the former was rested in the authority of the sov-
17 ereign. Japanese nationals were given the right to
18 travel to other countries, and also right of residence
19 and commerce, but it was not until 1898 that extra-
20 territoriality was finally abolished. At the time
21 of starting the Sino-Japanese War, Japan had not
22 reached the stage of waging aggressive war. The
23 same thing can be said for the Russo-Japanese War.
24 Through this period Japan's action was recognized
25 by international treaties, and she recovered good-

1 neighborly relationship with China and Russia; this
2 has been a historically established fact with general
3 approval. Since then radical changes have been
4 brought about in the international relationship of
5 the world, but Japanese diplomacy has continued its
6 efforts to promote justice and peace, which fact is
7 evident from the formation of the Anglo-Japanese
8 Alliance, and the action taken by Japan at the time
9 of World War I, taking side with the Allied Powers
10 including France, America and Britain. For the
11 International Court at the Hague, Japan showed con-
12 tinued support motivated by a peace-loving spirit.

13 Militarism is not an inherent trait in
14 Japanese, and only acquired in comparatively recent
15 years, by following the examples shown by Western
16 nations, as pointed out by Bertrand Russell. We
17 have no counterpart of imperialism in Japan, al-
18 though we have "O-do" or royal sovereignty, which
19 has a very ancient tradition.

20 II. Justice and Responsibility.

21 The establishment of justice is one of the
22 greatest issues of today. When Justice is clearly
23 defined throughout the world, the problem of respon-
24 sibility will also be solved rightly. In the present-
25 day world, for good or for evil, and independent

1 sovereign state sets limits to her people in their
2 relation with other countries. Justice within a
3 country is, therefore, made real as a function of
4 individual citizens in the structure of the nation,
5 and that constitutes the order of the state. When
6 individuals belonging to such a state face a critical
7 and pressing international situation, and take cer-
8 tain actions required by the function they assume
9 in the state on the conviction that their state is
10 exposed to danger which jeopardizes her independence
11 and existence, such actions can hardly constitute
12 criminal offenses.

13 In ancient times Japanese culture sought
14 the simple and peaceful life. It sought the truth of
15 human existence and action in the simple life --
16 something which closely resembles the moral precepts
17 expounded in Lao-Tze's Tao-Teh-King of ancient China.
18 As this Chinese philosopher said, "Chien-su-pao-p'u"
19 or "Simple views, and courses plain and true" is the
20 essence of the peaceful and simple life, and the
21 realization of truth itself. After JINMU-TENNO, the
22 first Emperor, the Japanese culture departed from this
23 primitive simple life and proceeded into a new and
24 politically more complicated stage. The Nippon Shoki
25 or the Chronicle of Japan was completed in 720 A.D.,

1 which corresponds to the 1,380th year after the
2 Accession of the Emperor JINMU, and it means that the
3 history of the era of that first Emperor was written,
4 in classical Chinese, 1,380 years after his time. In
5 this Chronicle an edict of the Emperor JINMU was
6 recorded, a part of which reads:

7 "Found the Capitol embracing the
8 universe, and make a house by covering the
9 eight ties (which reach to all sides)."

10 "Hakko-I-u", which is found in the records of
11 this Tribunal, represents the Emperor's edict in a
12 shortened form, and only means "to make a house" and
13 does not signify to exercise control or reign over
14 someone.

15 Sometimes "Hakko Ichi-u" is used, as re-
16 corded in the evidence, instead of "Hakko I-u."
17 "Ichi-u" means one house, and this restrictive ad-
18 dition of figure "one" may seem to signify the as-
19 similation of plural figures into a unit. But in
20 reality it means that a vast area is spontaneously
21 developed into a house, and is a figurative descrip-
22 tion of the diffusion of peace far and wide. Origin-
23 ally, this "Hakko Ichi-u" was not a Japanese expres-
24 sion, but was introduced from China. The authoritative
25 source of this phrase "Hakko" or "Pa-hung" in Chinese.

1 can be cited in the "Huai-nan-tzu", a classic in
2 China, which is a kind of encyclopaedia, written about
3 two centuries B.C. at the beginning of the Ch'in
4 Dynasty, when their thought and literary forms had
5 already attained a certain degree of elaboration.

6 The Chronicle of Japan is a history compiled by
7 Imperial mandate making use of such literary embel-
8 lishment from China to record the events and achieve-
9 ments during the eras of the Emperor JINMU and others.

10 After that time other instances are found in which
11 this phrase "Hakko" was used through the Six Dynasties
12 and the Sui and Tang Dynasties, in China. These two
13 Chinese characters do not signify the simple life, but
14 they come to mean peaceful life of the countless
15 masses of the people.

16 Some of the defendants tried to explain the
17 ideal of the modern usage of "Hakko Ichi-u" or
18 "Hakko I-u", and these words can only mean the
19 diffusion of peace, and not territorial aggrandize-
20 ment, which may result in a negation of the heritage
21 of the simple life so inherent in the Japanese culture.
22 throughout the ages. This phrase "Hakko" or "pa-hung"
23 has another source in the Book of Chou Yi, in which
24 a phrase "pao-huang" is found in "Kuo-92" of "T'ai".
25 Hus-Shi-Chi, a Chinese scholar in the Ch'ing Dynasty,

1 interpreted this phrase "pao-hung" as embracing vast-
2 ness, and vastness signifies the zeal of a sage for
3 peace. In Chinese "huang" means "hung" (both pro-
4 nounced "ko" in Japanese) so it is possible to say
5 "pa-huang" or "Hakko" in Japanese, which means a
6 vast and all-embracing peaceful mind, and has no room
7 for territorial ambition in it.

8 In the chapter of Hsi-tzu-shang-ch'uan in
9 the Book of Chau Yi is found a passage: "Yi-chien
10 erh T'ien-hsieh-chih-li-te-i", which means, "with
11 simplicity the truth under the heaven can be
12 elucidated," and closely resembles in significance
13 the passage from Lao Tze, "Chien su pao p'u" (simple
14 views, and courses plain and true) as quoted above.
15 The second characters of these two passages are
16 frequently combined into one phrase and form "chien-
17 su" or "Kan-so" in Japanese, with the meaning of
18 "simplicity". This thought of the Yin and Chou
19 Dynasties in China agrees with the ideal of Ancient
20 Japan. If we add purity to it, the result will reach
21 to the high standard set by Jesus in the Sermon on the
22 Mount, "Blessed are the pure in heart, for they shall
23 see God." Japanese Shintoism is said to have the
24 same central thought. The Nippon Shoki or the Chronicle
25 of Japan was completed in the 4th year of Yoro during

1 the era of the Emperor GENSHO (720 a.d.), when the
2 study of Chinese characters in Japan had made a con-
3 siderable advance, and the Chinese characters, then,
4 served as the treasure-house to store the spirit of
5 Japanese tradition. We can understand from such
6 historical background why the writer used a Chinese
7 phrase "pa-hung" ("Hakko") from the Huai-nan-tzu, to
8 describe that simple and fresh culture. The "Hakko"
9 describes the ideal of "O-do" or royal sovereignty
10 as it does in the books of Lao-Tze and the Chau Yi.
11 In the "Yuan-teo-hsun" the opening chapter of the
12 Huai-nan-tzu, the various aspects of Ancient China are
13 discussed. According to the physics of that time
14 heaven was considered round; and the earth square. In
15 that chapter a phrase "pa-huang chiu-yeh" ("Hakko
16 Kyuya"), of which, according to a commentator, "Pa-
17 Huang" means eight connecting cords of the heaven,
18 and "chiu-yeh" (Kyuya) represents the eight directions
19 and the center. In the same chapter is also found
20 a passage, "Wei yu-chou erh change san-kuang" (Con-
21 necting together "yu" and "chou" - universe; and make
22 clear "san-kuang" - the sun, the moon and the stars).
23 A commentator annotated that "yu" stands for the
24 four directions and above and beneath, "chou" for the
25 past, present and future. Accordingly "yu" (Japanese

1 pronunciation "U") or its combination "i-u" (to form
2 or make a "U") corresponds to Kant's idea of time and
3 space as forms of intuition and is far from having
4 any relation with the ideas of territory or subjugation.
5 According to Japanese renderings "Hakko" is
6 also read as "amenoshita" and "U" as "i-c". In the
7 evidence presented to the Tribunal the former is
8 literally translated into "world", and the latter
9 into "roof" or "family", but these should not be
10 interpreted in the literal sense, and require thorough
11 understanding of their thought significance, which
12 means propagation of peace, without having any con-
13 notation of aggression.

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1 According to the documentary evidence, there
2 might be some defendants, who used this "Hakko ichi-u"
3 consciously, with the background of the ancient thought
4 in mind; or there might be some who resorted to this
5 as a slogan to express the ideal of peace common to
6 the ancient and the modern world.

7 The advocacy of the co-prosperity sphere of
8 To-a (East Asia) or of Greater Asia, is the advocacy
9 of a cultural ideal and thought. It is a peaceful
10 thought and a humanitarian ideal which stresses the
11 idea of co-existence. In "O-do" the idea of "bellum
12 omnium contra omnes" as asserted by Hobbes, is non-
13 existent. One hundred and seventeen years before the
14 compilation of the Chronicle of Japan, Prince Shotoku's
15 "Seventeen-Article Constitution" was established in
16 604 A.D. which was the crystallization of the idea of
17 peace then existing. To cultivate the peaceful idea,
18 Japan introduced Confucianism in the reign of Emperor
19 Ojin, and in the reign of Emperor Kimmei (552 A.D.)
20 Buddhism came to Japan. In my belief Nestorian
21 Christianity also came to Japan, and it is believed
22 that it was partly assimilated into Buddhism and partly
23 into Shintoism. These were religions which emphasized
24 the peaceful thought, and Shotoku's "Seventeen-Article
25 Constitution" is an important document which codified

such ideals of peace.

1 I must refrain from going further into this
2 important aspect of the case, but I wish to emphasize
3 that the idea of the Greater East Asia Co-Prosperity
4 Sphere is nothing but the ideal aiming to establish
5 the independent existence of Asia, culturally and
6 economically, based on the idea of peace which orig-
7 inated in Asia, and flowed into Japan for consummation.
8 The terminology is comparatively new, but its basic
9 idea can be traced back to 1926, when the All-Asia
10 Society was founded by Japanese people to promote a
11 movement to awaken Asiatic races. This was understood
12 as the movement for the freedom and peace of the Asiatic
13 race rather than for the Japanese people. In 1928 we
14 find such expression as the Doctrine of the Greater
15 Asia (Dai-Ajia Shugi). The Doctrine of the Greater
16 Asia, promoted by Sun-wen, the leader of the Chinese
17 Revolution, had practically the same contents as the
18 above.
19

20 As stated above, the Prince Shotoku adopted
21 the ideals of peace developed in India, China and
22 Japan in his "Seventeen-Article Constitution." The
23 figure 17 constitutes the combined number of 9 for
24 heavens and 8 for earth in Ancient China, and symbol-
25 izes the harmonious order of heaven and earth. The

Meiji Constitution followed the forms of European
1 examples, but in spirit it was founded on the ideal
2 of peace of Japan. Kentaro KANEKO, a private secretary
3 of Hirobumi ITO, was sent to America and European coun-
4 tries with the draft of the constitution, to seek
5 criticisms of experts and scholars. KANEKO used his-
6 torical expression in explaining the draft, but what
7 he meant by history was not historical records or
8 annals of successive events. What he meant was, prob-
9 ably, the true aspect of the revelation of the ideal
10 of peace, since the foundation of Japan, through the
11 successive developments in her internal and interna-
12 tional relationships.

14 III. Peace and Wang-Taoism.

15 In 1925 I had an occasion to submit to Euro-
16 pean academic circles an essay on Wang-tao and Pa-tao
17 (Royal Sovereignty and Authoritative Sovereignty) as
18 a reference in the study of world peace. I should
19 like to append it to the present chapter as defense
20 data. It is a breif entitled "Comparative S_udy of
21 Wang-tao and Pa-tao," with special reference to:
22 I. On the Royal Path (the whole), and II. On the
23 Pa-taoism and the Law therein (from the beginning
24 to the end of the Pa-taoism in the age of the Chou
25 dynasty).

1 In view of the fact that the International
2 Military Tribunal for the Far East, unlike a national
3 judicial trial, is the only one for realizing the lofty
4 ideals of world peace and justice in the future, de-
5 fense counsel must not forget that as evidence for the
6 defendants' acts, not merely punishable factors, but
7 the question as to how the defendants should be treated
8 in connection with their responsibilities as official
9 and private persons is involved.

10 Evidence for the character of each defendant
11 is not permitted, nor is it absolutely necessary. On
12 the other hand, it must be made clear what kind of
13 culture the defendants generally have acquired and at
14 what level of international life they stand. Their
15 qualification for observing international law must
16 also be investigated.

17 Students of international law who strive for
18 peace have come to pay attention to the fact that
19 merely assuming as the object of international law
20 a nation or state as a mere group of people will
21 hardly hasten the realization of peace; therefore,
22 the individual should be made the object of inter-
23 national law. An anti-war pact is no doubt a device
24 by them. So is the book by Otfried Nippold of Zurich,
25 Switzerland another instance of this. He says:

"They have recently given the new name
1 of a democratic international law in the
2 form which I have here described as a work
3 worth striving for. This name is not im-
4 proper. The true international law aims at
5 the control of rights and nothing else is
6 really democratic according to its essence.
7 It comes from the idea of equality of states
8 however small or great. It has no room for
9 imperialistic attempts. It places right
10 above might and fights against militarism."
11 (Formation of International Law After the
12 World War. Zurich. 1917.)

13
14 However, the peace efforts of the groups of
15 great and small nations in the world failed to realize
16 the ideal of equal rights, and preparations on the part
17 of international law for preventing the second World
18 War were still incomplete.

19 Nevertheless, the rule of law (right) over
20 power (might) and the ideal of equal rights are related
21 to the idea of liberty and equality which existed about
22 the time of the French Revolution. The present moment
23 has seen further progress; as an ideal, the tendency
24 is to shift from establishing justice for the individ-
25 ual on the basis of sincerity and virtue to the process

1 of realizing peace. May not international law de-
2 velop, no more as an indirect one addressing the people
3 across the barriers of the state, but as peoples' law
4 or world law immediately securing the free sustenance
5 of each individual? Cold war, economic war, or mili-
6 tary war, or military war motivated by a hostile senti-
7 ment must be renounced. In this respect the newness
8 or oldness of an idea is not to be judged from the
9 modernity or antiquity of its age.

10 I am of the opinion that Wang-taoism may be
11 styled the forerunner of Nippold's idea. This and
12 the newest type of democracy have considerably ap-
13 proached each other. Most of the defendants are
14 men of the Wang-tao-ist culture. Unless the question
15 of criminal responsibility be investigated with
16 this point in view, may I not say it will go astray?

17 Further details of Wang-taoism I shall leave
18 to the data appended for reference. As my reason why
19 the defendants' responsibility could not be called to
20 account, I will now quote a few lines from Will Durant's
21 "Adventures in Genius." As Confucius' system of cul-
22 ture, Durant has selected a chapter from Tai-hsiao
23 (Higher Education).
24

25 "The illustrious ancients, when they
wished to make clear and to propagate the

1 highest virtues in the world, put their
2 states in proper order. Before putting
3 their states in proper order, they regu-
4 lated their families. Before regulating
5 their families, they cultivated their own
6 selves. Before cultivating their own selves,
7 they perfected their souls. Before perfect-
8 ing their souls, they tried to be sincere
9 in their thoughts. Before trying to be
10 sincere in their thoughts, they extended
11 to the utmost their knowledge. Such inves-
12 tigation of knowledge lay in the investiga-
13 tion of things, and seeing them as they
14 really were. When things were thus inves-
15 tigated, knowledge became complete. When
16 knowledge was complete, their thoughts be-
17 came sincere. When their thoughts were
18 sincere, their souls became perfect. When
19 their souls were perfect, their own selves
20 became cultivated. When their own selves
21 were cultivated, their families became
22 regulated. When their families were regu-
23 lated, their states came to be put into
24 proper order. When their states were in
25 proper order, then the whole world became

1 peaceful and happy." (Adventures in Genius,
2 Simon and Schuster, New York 1931, p. 6-7)

3 This is the primer of Wang-*taoist* pacifism.

4 The defendants have been under the influence
5 of one of the greatest thinkers of twenty-five centuries
6 ago. They are innocent men who act and live under
7 reason. It is inconceivable that they conspired to
8 commit the wrongs alleged in the Indictment, or that
9 if set free they would conspire aggressions again and
10 again.

11 THE PRESIDENT: Have you completed what you
12 have to say?

13 DR. UZAWA: This is the conclusion, sir.

14 THE PRESIDENT: We will adjourn until half-
15 past nine tomorrow morning.

16 (Whereupon, at 1600, an adjournment
17 was taken until Wednesday, 3 March 1948, at
18 0930.)
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